

**MINUTES**

Athens Board of Zoning Appeals

February 19, 2020

9:00 AM

Conference Room

**ROLL CALL**

**MEMBERS PRESENT**

Chairman Tom Hamilton  
John Coker  
Kenny Charles

**MEMBERS ABSENT**

Randy Heafner  
Ralph Fenton

**OTHERS ATTENDING**

Anthony Casteel  
Gene McConkey  
Nicholas Bournakel

**Approval of Minutes**

The minutes of the January 15, 2020, regular minutes were read and approved on motion by John Coker; seconded by Kenny Charles; vote – unanimous

**Old Business**

There was no Old Business to discuss.

**New Business**

Chairman Hamilton said they agreed at the last meeting to elect officers.

Mr. Casteel said yes, but they wanted to wait until they had a full Board before electing officers.

1. **Small Cells Application request for 5 tower sites** by Nicholas Bournakel from SQF, LLC. The sites vary across the city and are placed in the right of way.

Chairman Hamilton swore Mr. Bournakel in.

Mr. Casteel said they had a conference call with Nick and the pre-application meeting is required by the Code. It was a great experience. They Committee was made up of Ben Burchfield, April Johnston, and Eric Newberry because they deal mostly with right-of-way's, utilities, and everything else. They looked at every site and they took photos each

and submitted the map. This one at Old Riceville Road and Rocky Mt. Mr. Casteel talked about the meeting and how well detailed the information was that they showed them. Chairman Hamilton asked about the distance.

Mr. Casteel said you can have one every 500-feet.

Chairman Hamilton asked if the 4G means that it is the same as one of their towers.

Mr. Bournakel said they work with Metro's, the large towers. The purpose of putting these shorter 37-foot poles in various spots to fill in areas where US Cellular has coverage gaps in building out their coverage networks and 5G is something that is going to come at some point, and these will be a part of that. This is first step before they get to 5G.

Mr. Casteel said he was under the misunderstanding that it was 5G and not 4G, but it still doesn't matter, they are still the same technology.

Chairman Hamilton said our code doesn't cover 5G, just small cell.

Mr. Charles said he think it covers anything.

They discussed all the additional sites (by Star Regional Hospital, Athens City Middle School, across from Walmart where the new shopping center is, and at Dennis Street) Mr. Casteel said they were very detailed where they put them and did not block any visibility or utilities.

Mr. Casteel said none of sites were within 500-feet or 1000-feet of one another.

Mr. Charles asked if staff recommended approval.

Mr. Casteel said, yes, but there is one thing they need to discuss. They have submitted a bond letter and it has been vetted by AUB. They do not know what it entails to take them down. Basically, what they are is wood poles and he asked Mr. Newberry and they are well over that amount.

Chairman Hamilton asked if the bond was in place.

Mr. Casteel said no, one of the issues was he did not think it was fair for him to submit a bond until it was approved by the Board of Zoning Appeals. What he recommended was before any permits are issued, they have to have this bond in place. Mr. Casteel read off, "The applicant should provide a bond to cover 125% of the cost to remove tower. It really does not say when the bond has to be in their hand. It is up to the Board to decide what to do. It is Staff recommendation to do it like this.

Mr. Coker asked what the benefit was doing multiple small cells rather than a large tower away from the public eye and their streets.

Mr. Bournakel said, large cell towers are more obtrusive and affect the view of the natural landscape. They try to blend these poles into the surrounding infrastructure.

Chairman Hamilton said he thinks that is what this is combatting.

Mr. Coker did not agree.

Mr. Bournakel said the purpose is to get the coverage closer to where people are actually using it. In towns where the population density is greater that is where the benefit of these are seen more. They supplement the overall coverage provided by a tower, other than having to put up an enormous monopole/macrosite.

Mr. Casteel said this come down from the state level to them. According to state law, they have to allow it under the conditions they have now.

Mr. Charles said he does not see an issue approving this subject to, because they are not going to get the permits until they issue the bond if they approve it that way.

MOTION: To approve subject to the bond being provided before the permits are issued.

MADE: Kenny Charles

SECOND: John Coker

VOTE: Unanimous

MOTION PASSED

- 2. Small Cells Application request for 3 tower sites** by Nicholas Bournakel from SQF, LLC. The sites vary across the city and are placed in the right of way.

Chairman Hamilton asked Mr. Bournakel if these sites were chosen due to lack of service.

Mr. Bournakel said yes. They are chosen based on where the gaps are.

Chairman Hamilton asked what he would see if turned onto Fairview Road where one of the site locations will be.

Mr. Casteel went to the slide presentation to show the Commission what it would look like. He said it would be some sort of box down low, and the actual antennae would be on top of the pole.

There was some discussion while the Board was looking at the pictures presented in the slide show presentation.

Mr. Coker asked if AT&T or Verizon come along, will this pole support multiple.

Multiple members aid in unison said it will support two.

Mr. Casteel said if AT&T gets there first, then Verizon will have to put one up themselves at least 500 ft. away.

Chairman Hamilton asked if they will have to show need.

Mr. Casteel said yes.

Chairman Hamilton asked if Mr. Bournakel had to show a need.

Mr. Casteel said no, because he is the first one there. Once he gets them in place then the engineers will be able to show a coverage area. This would not apply to him because there are no coverage areas there.

Mr. Bournakel said these are designed to work with the existing coverage as well. There is already an existing signal and it is not great. This is designed to supplement what is already there a build a new coverage zone.

Chairman Hamilton said his concern is when the code was approved by the Planning Commission and sent to Council it was his understanding that they were talking about 5G stuff, which does not get into this issue of over coverage. He said they had issues with lack of or overlapping service, they did not consider when that code was approved, this would be essentially the same service as macro-tower. If US Cellular is putting this in and Verizon comes along, are they going to make Verizon show a need for their coverage.

Mr. Casteel said if they were going to put in a new code, they would have too. If they put in a pole that was 500 ft. away from the other one, they would not have to approve because they were meeting the distance tower.

Chairman Hamilton said if they want to put in a macro-tower and they are a mile away, they would not have to approve it either. If you put in a macro-tower in an area that does not have service, they do not make them show need.

Mr. Casteel said right, the only time they make them show need is if they are trying to vary the difference.

Chairman Hamilton said it seems to him you are telling a grocery store they can sell Charmin tissue, but they cannot sell Scott tissue. He thinks it is a discussion that does not concern Mr. Bournakel but it does concern them. When they make somebody show a need for a macro-tower, they are not asking them what company it is for, are they?

Mr. Casteel said it is on the application.

Mr. Charles asked if that is something the Commission would need to have a discussion about as far as what they are talking about right there.

MOTION: To approve subject to the bond being provided before the permits are issued.  
MADE: Kenny Charles  
SECOND: John Coker  
VOTE: Unanimous  
MOTION PASSED

- 3. Variance request by Donald T. "Tad" Roberts** for a seven (7) foot side yard setback variance on a parcel shown as Tax Map 0571 Group A Parcel 008.00 and addressed as 509 Ingleside Avenue zoned R-2 Medium Density Residential District.

Chairman Hamilton said Mr. Roberts had a house on Ingleside Avenue, but he does not have anywhere to park his car. He then swore Mr. Roberts in.

Mr. Casteel said Mr. Roberts lot is not only substandard in width, it is also substandard in "minimum area" for the R-2 District (Medium Density District). It is only 50 ft. wide, but they require 75 feet of width, and it is only 7500 sq. ft., when they require a minimum of 8000 square feet. It is a lot of record and it has been there for decades. When you apply the setbacks to it, it does limit his building envelop. Technically, he can only build something 20 ft. wide on the property, but they all know that you cannot have a house 20 ft. wide, especially in the Historic District. It is his opinion that when you do apply the Code, it creates a hardship on the owner, and it is no fault of his own. He inherited this and it was developed even before zoning was in place. Staff recommended that he could reduce the setbacks seven feet and allow the building to be within eight foot of the

property line. They can grant him some relief that way he can develop the lot in a way that will enhance the historical value of the property, because they do not want to do anything that is going to make it look out of place.

Mr. Coker asked if they were building a patio or a garage.

Mr. Casteel said it was a carport. There is already a garage there. What he is adding is the carport section. It would be an open-air structure.

Chairman Hamilton said they do not have unlimited power to grant a variance; he has to show there is a hardship involved. Personally, he thinks since Mr. Roberts has 50 ft. lot of record, that covers it for him.

Mr. Casteel said Mr. Roberts had to get this done before he went to the Historic Commission because he will have to have what he needs to be approved there. This variance will need to be in place.

MOTION: To approve the variance request as presented.

MADE: Kenny Charles

SECOND: John Coker

VOTE: Unanimous

MOTION PASSED

  
\_\_\_\_\_  
Tom Hamilton, Chairman