

HOUMA BOARD OF ADJUSTMENT
Official Proceedings
of
May 17, 2021

Government Tower
Council Meeting Room

The Chairman, David Tauzin, called the May 18, 2021 meeting of the Houma Board of Adjustments to order at 5:05 p.m.

1. Pledge of Allegiance: Mr. Matthew Chatagnier
2. Upon Roll Call, those members present were Mr. Matthew Chattagnier, Mr. David Tauzin, Mr. Pete Konos and Mr. Willie Newton
Also present was Mr. Christopher Pulaski, TPCG Planning Director and Mr. Gary Williams, Attorney at Law.
Absent were: Mrs. Natalie Lirette and Mr. Joe Harris.
3. ANNOUNCEMENTS: David Tauzin requested that speakers respect time limitations regarding speaking. He asked those speakers to be brief, and if they are just speaking to agree with previous statements that they say that to save time.
4. Approval of Minutes of April 19, 2021.
MOTION was made by Mr. Matthew Chattagnier; **SECONDED** by Mr. Willie Newton to **APPROVE** the minutes of the April 19, 2021 meeting.

ROLL CALL VOTE:

YEAS: Newton, Chattagnier, Konos

NAYS: NONE

ABSTAINED: None

NOT VOTING: Tauzin

5. Old Business:

- a. Structure Variance; Rear yard setback variance from required 25' to 19'-8" for new construction located at 175 Juliana Way.

Chair recognized Mr. Ken Rembert who stated that he was representing Coastal Home Builders and that they wish to construct a home at this address. In order to build the home according to specs, a small back yard variance is needed.

Chair declared opening of public hearing.

There being no one present to speak, Matt Chatagnier made the MOTION to close public hearing, seconded by Mr. Willie Newton. MOTION passed unanimously.

Chair recognized Mr. Christopher Pulaski who stated that the applicant is requesting a rear yard setback variance from required 25' to 19'-8" for new residential construction in a R-1 zoned district. The lot is in a cul-de-sac which makes the lot depth shallow and an odd shape which would result in a portion of the house to extend into the 25' rear setback. Applicant (who is also the developer of the subdivision) has received similar setbacks in the past for other lots in the same subdivision for the same or similar reasons. For this reason, staff feels that the exception would not seem to alter the essential character of the district.

This application was TABLED by the Board at the April 19th meeting since there was no representative for the applicant in attendance.

A site visit was performed and all property owners adjacent to and within a 250' radius of the subject property have been notified. Staff received one call regarding the request. Staff recommends **APPROVAL** of the request.

MOTION was made by Willie Newton, **SECONDED** by Matt Chatagnier to **APPROVE** request.

ROLL CALL VOTE:

YEAS: Newton, Chattagnier, Konos

NAYS: NONE

ABSTAINED: None

NOT VOTING: Tauzin

6. New Business:

a. Structure Variance: Side yard setback from 15' to 12.8' for new residential construction located at 513-H Gabasse St.

Chair recognized Mr. Joey Yesso, contractor, who stated that he was requesting a side yard variance in order to build another unit attached to his on Gabasse St.

Chair declared opening of public hearing.

There being no one to speak on this matter, a **MOTION** to close public hearing was made by Pete Konos, **SECONDED** by Willie Newton. Motion passed unanimously.

Chair recognized Mr. Chris Pulaski who stated that the applicant is requesting a side yard setback variance from the required 15' to 12.8' for new residential construction in a MS zoned district.

Applicant wishes to build an additional residential townhome at this location. This would be the eighth and final townhome constructed on the property. Since this is a corner lot, the side yard requirement is 15'. Since the side of the property is very narrow, and in order to satisfy the specifications of the construction and aesthetics, applicant is requesting a variance.

The townhome will be constructed in a style similar to the other units except that the orientation will be both on Gabasse and Wood Street frontages with the portion facing Gabasse consisting of an interior courtyard surrounded by a brick privacy wall. The wall will be 20' from the front property line, but the actual structure is approximately 35' from the front property line. The rear of the structure is approximately 38' from the rear property line. With these excesses in distance, Sec. 28-73(b) allows for the structure to exceed the height max of 35' by an additional foot to 36' without the need for a variance. Many of the structures along Wood Street in the immediate vicinity pre-date zoning and are 12' or closer to the property line along Wood Street therefore the variance will not alter the essential character of the district in which it is located. The encroachment is well outside of the sight triangle so views at the intersection will not be compromised.

A site visit was performed and all property owners adjacent to and within a 250' radius of the subject property have been notified. Staff received one call for more information regarding the request.

Staff recommends APPROVAL.

MOTION to **APPROVE** was made by Mr. Matt Chattagnier, **SECONDED** by Mr. Willie Newton.

ROLL CALL VOTE:

YEAS: Newton, Chattagnier, Konos

NAYS: NONE

ABSTAINED: None

NOT VOTING: Tauzin

b. Special Exception: Proposed 100' monopole cell tower and associated 40X40' fence enclosure located at 1276 St. Charles Street.

Chair recognized Mr. Jon Leyens, New Orleans, LA. Who stated that he is representing this application. Mr. Leyens gave a brief presentation explaining the purpose and necessity of placement of the tower.

Chair opened public hearing.

Chair recognized Mrs. Bonnie Burns who discussed her concerns regarding health issues, competition between cellular companies and voiced her objection of the tower being placed at this location.

Chair recognized Mr. Robert Landry who voiced his objection of the tower being placed at this location.

Chair recognized Mr. Billy Stark who stated that he opposes the tower at this specific location.

Chair recognized Mr. Joey Yesso who asked if the tower was necessary since he receives service fine without 5G.

Chair recognized Mrs. Debra Macinville who stated that she agrees with all of the speakers and their objections to the tower.

Chair recognized Councilman Darrin Guidry who explained that when this issue was brought before the BOA earlier that he asked Verizon to try to find alternate locations. He commended Verizon for doing so, explaining that the property owners were not interested in selling the land to Verizon for a tower. He voiced his concern that the residents seem not to be satisfied that 5G does not affect health, safety and welfare issues.

Chair recognized Mr. Jon Leyens who presented a remote statement from Verizon Representative, Mr. D.J. Killian, who stated that cell service is saturated in this area and Verizon wants to offer better service here.

A **MOTION** was made by Mr. Willie Newton, **SECONDED** by Mr. Matt Chatagnier to CLOSE public hearing. Motion passed unanimously.

Chair recognized Mr. Chris Pulaski who stated the applicant is requesting a Special Exception for a proposed 100' monopole cell tower and associated 40' x 40' x 8' wooden fence enclosure near the rear of property in a C-3 zoned district.

A similar application was made in 2020 and the Houma Board of Adjustment voted to deny the Special Exception at their meeting in July 2020 citing health and safety concerns as identified in the conditions and criteria for approval of Special Exceptions in Section 28-178(f)(3)(h) of the Terrebonne Parish Code of Ordinances.

Wireless facilities and telecommunication towers are a permitted use in C-3 zoning. Section 28-73(a) further stipulates that these towers are exempt from the height requirement provided that they obtain approval from the Board of Adjustment in order that such board may set such reasonable terms and conditions as may be necessary for the protection of adjacent property and uses. The proposed location is along a major commercial corridor and there are no structures within the 100' radius except for the existing convenience store/gas station on the same property. The monopole is designed to collapse onto itself in a catastrophic event and the 40'x40'x8' wooden fence enclosure is intended to contain the pole sections as well provide a secure location for the support equipment. The applicant has made a presentation outlining the need for the facility. In 2020, Staff contacted the Parish's engineer, Leo Hozenthal with MS Benbow & Associates, and after reviewing the packet he concluded that the proposed location will provide the additional capacity that the applicant is seeking. Mr. Hozenthal also examined the alternative location (behind truck stop casino/Concord Shopping Center) that Councilman Darrin Guidry and others from the public had suggested and felt that it too would serve the purpose of additional capacity should the applicant consider this location. The applicant took this advisement into consideration and contacted the property owner(s) but they were not interested.

The improvement of this type of communication infrastructure serves to support the public safety, and welfare by improving the communication between emergency services as well as the general public. The proposed tower is a macro tower and although it may be outfitted with equipment to carry a variety of equipment including but not limited to 5G antennas, it is not considered a small cell wireless facility. The FCC sets standards by which all telecommunication and wireless facilities must operate by way of Declaratory Rulings and issuance of reports which outlines these standards and what levels are acceptable to maintain the health and safety of the public. This is set forth and monitored at the Federal level. Section 332(c)(7) of the Communications Act preserves state and local authority over zoning and land use decisions for personal wireless service facilities, but sets forth specific limitations on that authority. Specifically, a state or local government may not unreasonably discriminate among providers of functionally equivalent services, may not regulate in a manner that prohibits or has the effect of prohibiting the provision of personal wireless services, must act on applications within a reasonable period of time, and must make any denial of an application in writing supported by substantial evidence in a written record. The statute also preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, assuming that the provider is in compliance with the Commission's RF rules.

Section 28-178(f)(3)(e) states: *That the exception will not alter the essential character of the district in which is located the property for which the exception is sought;* (Mr. Pulaski submitted a copy of this section to each board member)

Although not in an Overlay District, Saint Charles Street is a major commercial corridor with decorative utility poles and streetlights. Stealth treatment is a common occurrence amongst wireless facilities. In this instance, some of the concerns have to do with the aesthetics. To that

point, Board members may want to consider a condition of approval that would require that the applicant modify the proposed monopole to incorporate stealth design such as:

- a) Modify design to mimic cypress or another native tree type (see attached Exhibit A)
- b) Change color of monopole to green to match boulevard streetlight colors

All public notice requirements have been met. Staff has received 2 emails and 1 phone call pertaining to the request. All communication received was in objection to the tower at this location. The majority of the concerns were centered on the health effects and impacts of wireless facilities with a number of sources and articles regarding the deployment of 5G technology.

Staff recommends **APPROVAL**.

After a brief discussion Mr. Matt Chatagnier made the **MOTION** to deny the application on the ground that it did not meet the criteria stated in Parish Code of Ordinances Sec. 28-178 € (3) (h) which states that that the exception will not adversely affect the public health, safety or welfare or the master plan.

Lacking a **SECOND**, motion died.

After a brief discussion, Mr. Willie Newton made a **MOTION, SECONDED** by Pete Konos, to **TABLE** until next BOA meeting to allow more time for board members to deliberate and review all aspects of this special exception request.

ROLL CALL VOTE:

YEAS: Newton, Chattagnier, Konos

NAYS: NONE

ABSTAINED: None

NOT VOTING: Tauzin

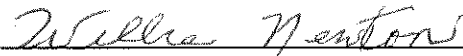
7. Next meeting date: June 21, 2021 at the Government Tower, second floor Council Meeting Room.

8. BOA Comments: Discussion regarding meeting start time After a brief discussion amongst the board members the 5:00 time was decided to remain to better guarantee a quorum.

9. Public Comments:

10. Adjourn: **MOTION** was made by Mr. Willie Newton, **SECONDED** by Mr. Matt Chatagnier to adjourn. **MOTION** passed unanimously.

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Mr. Willie Newton, Secretary