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PLEASANT GROVE CITY  
BOARD OF ADJUSTMENT MINUTES  
July 16, 2015

**7:00 P.M. BOARD OF ADJUSTMENT MEETING**

**Present:** Chair Frank Johnson, Vice Chair Sterling Wadley, Pat Ellington, Stephanie Green, Milt Fugal, Gail Christiansen and Dustin Phillips

**Staff:** City Planner Royce Davies, Planning Tech Barbara Johnson

Chair Frank Johnson welcomed those present and called the meeting to order at 7:00 p.m. It was confirmed that there had been no ex parte contact between Members of the Board and the parties being heard and no bias had been formed by any of the Members. Chair Johnson welcomed Dustin Phillips as a new member of the Board of Adjustment.

**MOTION:** Board Member Christensen moved that the Board of Adjustment APPROVE the agenda as written. Board Member Ellington seconded the motion. The Board Members unanimously voted “Aye”. The motion carried.

**ITEM 1:** Public Hearing to Appeal the Decision made by the Planning Commission on March 12, 2015. **NORTH FIELD.**

**Applicant: Pete Simmons, Verizon Wireless**

City Planner, Royce Davies, presented the staff report and explained that Verizon Wireless applied for a Conditional Use Permit for a cellular tower, which was heard by the Planning Commission on March 12, 2015. The Planning Commission denied the cell tower in the proposed location at Manila Elementary School. Mr. Davies explained that Verizon had been searching for a new location and made several attempts to collocate with Sprint on a tower in Manila Park. Verizon received no response from Sprint on the subject of collocation, so they chose to pursue a tower at the elementary school. Mr. Davies confirmed that the application met all of the requirements of the Code, yet it was still denied. The findings for the denial were as follows:

1. There is no conclusive evidence as to whether there are health concerns.
2. There are potential alternative sites that should be explored.

- 1           3. The health, safety, and welfare of school children playing at recess next to the facility,  
2           right next to the tower.  
3
- 4           4. The aesthetics of the tower and its potential negative impact to property values in the  
5           area.  
6

7 Mr. Davies stated that the Board of Adjustment would be able to determine if these reasons were  
8 substantial enough to deny the application. He gave a brief overview of the conditional use permit  
9 process and criteria for denial. A conditional use is a permitted use with conditions placed upon it to  
10 mitigate potential negative impacts. To deny a conditional use permit, the City must be able to  
11 prove that there is substantial evidence showing that the use is detrimental to the health, safety, and  
12 general welfare of persons residing in the vicinity or injurious to the properties in the vicinity. Mr.  
13 Davies stated that another reason for denial of this particular use would be if the applicant has not  
14 made a good faith effort to mount the antenna on an existing structure or public property.  
15

16 Mr. Davies stated that according to Code the City cannot deny a conditional use permit based on  
17 possible changes to the market value of real estate. The federal code also has its own restrictions on  
18 what a City can do in terms of communication towers. A denial must be in writing with substantial  
19 evidence to support it and the City cannot deny a communication tower based on the environmental  
20 effects of the radio frequency (RF) emissions.

21 The City provided written notice to the applicant in the form of meeting minutes and a Report of  
22 Action that a denial had taken place. Substantial evidence was not presented to support the  
23 findings for the denial. Mr. Davies reiterated that the applicant had been working with Sprint to  
24 collocate. He then presented a map of the cell tower locations in Pleasant Grove.  
25

26 Board Member Wadley asked if there was a Verizon cell tower located in the City already and it  
27 was confirmed that there was one near the rodeo grounds in an industrial area.  
28

29 In response to a question from Board Member Fugal, Mr. Davies confirmed that the application  
30 met all of the requirements.  
31

32 Melissa Reagan, an attorney with Truman & Howard, was present representing Verizon  
33 Wireless. Also present were Pete Simmons, Site Consultant for Verizon and the person who  
34 prepared the application, Candy Miller, Verizon Real Estate Specialist, and Craig Skinner,  
35 Construction Engineer.  
36

37 Ms. Reagan assured the Board that Verizon had done all that they could to comply with all of the  
38 City Code requirements for the conditional use permit. Included in the application were plans  
39 and drawings of the proposed facility and a property owner's affidavit. Verizon has also  
40 obtained approval from the Alpine School District to enter into a Lease Agreement for property  
41 at the elementary school and a copy of the resolution was attached to the appeal paperwork. Ms.  
42 Reagan expounded on the concerns surrounding the RF emissions of the proposed tower and  
43 stated that in order to obtain and maintain a license from the FCC, Verizon must comply with the  
44 regulations outlined in the Federal Code. Attorney Reagan also pointed out that the Planning  
45 Commission expressed concern for the school children but only specified the ability of children  
46 to climb the fence surrounding the tower or kick a ball into the facility. She argued that Verizon

1 addressed those two concerns by designing a flat eight-foot fence that would be locked at all  
2 times. The principal and janitor would have access.

3  
4 Mr. Simmons confirmed that school representatives informed him that the proposed area was not  
5 well used and although the children have access to the area, it is not heavily used.

6  
7 Ms. Reagan addressed property values, and reiterated that this cannot be the basis for a denial or  
8 approval of a conditional use permit. There was also no evidence presented by the Planning  
9 Commission to substantiate the depletion of property values in the area. Ms. Reagan further  
10 explained what Verizon tried to achieve colocation at the Sprint tower in Manila Park. She  
11 stated that they approached Sprint but were given the run around for six months before they  
12 decided to pursue the elementary school location. After the application was denied, they again  
13 attempted to contact Sprint and went four months without an answer. Verizon even paid them  
14 \$4,000 for the application for a structural analysis to make sure colocation was possible on the  
15 tower. Originally, Sprint informed them the analysis had failed, but when Verizon requested a  
16 copy of the study they were told that the analysis hadn't been done yet. They recently  
17 discovered that Clear Wire is still the entity on the tower and T-Mobile and Sprint both have  
18 applications to collocate. Ms. Reagan declared that they had exhausted this alternative and need  
19 to pursue the new location at the school.

20  
21 Mr. Simmons discussed his meetings with the school district and the Manila Elementary  
22 Principal. Ms. Reagan informed the Board that she compiled a timeline of their communications  
23 with Sprint along with copies of all the emails exchanged and provided them to the Board.

24  
25 Mr. Skinner, the Senior Construction Engineer for Verizon, commented on the safety precautions  
26 taken in designing the facility. The fence would be eight feet high, which is normally only a six  
27 foot requirement, and constructed out of concrete blocks. The area would be fully secured, with  
28 the principal and janitor having access when needed. He also confirmed that a Verizon engineer  
29 would always be available for emergencies.

30  
31 Board Member Wadley asked if there had ever been an incident with a tower located at a school  
32 or church. Mr. Skinner was not aware of any. In response to a question raised by Chair Johnson,  
33 it was reported that it will take about 45 days to construct the tower. There was discussion  
34 regarding construction and the beginning of school, and Mr. Skinner commented that they would  
35 be able to change their construction hours to work around the school schedule.

36  
37 Ms. Reagan thanked the board for their time in reviewing this case. She also mentioned the  
38 money from the lease of the cell tower goes back to Manila Elementary.

39  
40 Chair Johnson asked if a neighborhood chairman was present. The chair was no present.

41  
42 Nancy Sorensen, the Manila Elementary School Principal, explained that she had been in contact  
43 with the School District regarding the application and their response has been positive. She also  
44 confirmed that the money from the lease would be given to the school and used to promote  
45 science, math, and technology.

1 Chair Johnson opened the public hearing.

2  
3 Nick Varney expressed gratitude for Verizon's willingness to fund their elementary school and  
4 stated that funds are a consistent problem for schools and parents.

5  
6 Natalie Ramison asked for clarification concerning the RF (Radio Frequency) emissions and if  
7 health concerns can be considered. Chair Johnson clarified the issue and stated that legally they  
8 cannot.

9  
10 Jill Skoy argued that there was evidence regarding the negative effects of radiation from cell  
11 towers and cell phones. She presented research from the Cancer Society, specific studies on RF  
12 exposure, and quotes from professionals. She did not feel it was appropriate to use children as  
13 guinea pigs with something they are still learning more about. The RF studies are ongoing, but  
14 the results were not favourable. Mrs. Skoye stated that money should not outweigh the safety of  
15 the children.

16  
17 Eric Skoy asked for further information and evidence of Verizon's good faith effort to collocate  
18 with Sprint and explore other option besides the location at the school. He commented that there  
19 was a conditional use permit that was out of compliance with Sprint that should be taken care of  
20 before Verizon's application is approved. Mr. Skoye asked if Verizon could demonstrate that  
21 having a lower spot on a tower is insufficient for their needs, as indicated by Ms. Reagan.  
22 Additionally, he requested that Verizon provide more information on how they will not exceed  
23 the FCC regulations for RF.

24  
25 Tamara Ramilson commented that she taught school for 21 years and was well aware of the  
26 financial restrictions, however, the safety and health of the children is more important than  
27 money. She also conducted and presented her own research to the Board, and sited many of the  
28 same studies and professionals as Mrs. Skoye. She argued that cell phones have not been around  
29 long enough to truly understand the negative effects, and children shouldn't be part of the  
30 experiment.

31  
32 Randy Sloat gave his address as 686 West 1650 North and commented that he was present at the  
33 Planning Commission Meeting where the application was denied. He was frustrated that it was  
34 being heard again. Mr. Sloat was not convinced that a cell tower was needed in this location and  
35 he had not seen any evidence in that regard. He expressed concern regarding not only RF but  
36 electromagnetic radiation. In terms of the effect on property values, he stated that a real estate  
37 agent could give testimony about what is needed to prove that. Mr. Sloat also commented on the  
38 aesthetics of the tower and felt it was inconsistent to allow a tower at a school when they are not  
39 allowed in residential areas.

40  
41 Steve Castle identified himself as a Radiology Technologist and described radiation in relation to  
42 cell phones and cell towers. He stated that the radiation levels produced by the tower will not  
43 affect anything inside the school as it will not be powerful enough to penetrate the walls. He  
44 also stated that the gamma rays around the tower will be as strong as those received from the  
45 sun.

1 Paul Stadler gave his address as 664 West 1750 North and expressed thanks to Verizon for trying  
2 to find a different location. He understood their frustration as a result of their inability to do so.  
3 He reminded the Board that the Planning Commission recently passed a text amendment that  
4 would allow cell phone towers to be 150 feet apart rather than the previous 1,000 feet. This  
5 change is currently subject to approval from the City Council, however, Mr. Stadler felt this  
6 should be considered in the Board's decision. He also informed the Board that he had spoken to  
7 several local real estate agents regarding the effect the tower would have on property values,  
8 which would be an estimated loss of 3 to 10 percent.

9  
10 Erica Thompson presented items to consider regarding the approval of the application. First, she  
11 questioned the difference between building the tower at the school as opposed to the park, stating  
12 that their children would be affected either way. If that is the case, they may as well have funds  
13 going to the school. Secondly, she stated that Verizon is her cellular provider and her service is  
14 poor in her home, so there is a need for the tower in the proposed location.

15  
16 Mrs. Skoy added that she also has Verizon but does not experience any lack of service. She also  
17 stated that she is willing to obtain written documents from doctors for the Board.

18  
19 There were no further public comments. Chair Johnson closed the public hearing.

20  
21 Ms. Reagan addressed some of the comments made by the public, including the height  
22 requirements of the towers and the need for a tower in this location. She stated that coverage is  
23 not an issue any longer but capacity is. People need data more than they need coverage. She  
24 also commented that the Federal codes around the RF emissions are in place to protect the  
25 health, safety, and welfare of residents. Upon request, Ms. Reagan provided copies of her emails  
26 with Sprint and a timeline of their communication attempts to the Board.

27  
28 Board Member Ellington commented that the cell tower is an approved conditional use in the  
29 zone, and if their request meets all of the Code requirements, the applicant is entitled to a  
30 conditional use permit. The Board reviewed the standards of the City and State in considering  
31 the application.

32  
33 General Review Criterial of the State:

- 34  
35 1. Application complies with all applicable provision of this title, state and federal law.  
36  
37 2. The structures associated with the use are compatible with surrounding structures in  
38 terms of use, scale, mass and circulation.

39  
40 It was confirmed by Mr. Davies that the architectural designs meet the standards of the municipal  
41 code.

- 42  
43 3. The use is not detrimental to the public health, safety, and welfare.  
44

1 Upon discussion, it was determined that all safety concerns had been addressed as they could not  
2 consider RF emissions according to Federal law. The Board was satisfied with the design of the  
3 fencing in terms of safety.

- 4
- 5 4. The use is consistent with the City General Plan, as amended.
- 6
- 7 5. Traffic conditions are not adversely affected by the proposed use, including the existence  
8 of or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets.
- 9
- 10 6. Sufficient utility capacity.
- 11
- 12 7. Sufficient emergency vehicle access.
- 13
- 14 8. Location and design of off street parking as well as compliance with off street parking  
15 standards.
- 16
- 17 9. Fencing, screening and landscaping to separate the use from adjoining uses and mitigate  
18 the potential for conflict in uses.
- 19
- 20 10. Compatibility of the proposed mass, bulk, design, orientation and location of the  
21 structures on the site, including compatibility buildings on adjoining lots and to the street.
- 22
- 23 11. Exterior lighting that complies with the lighting standards of the zone and is designed to  
24 minimize conflict and light trespass with surrounding uses.
- 25

26 The Board asked Mr. Davies if any exterior lights would be installed on the tower, and he  
27 confirmed that there would not be any exterior lighting. The Board was satisfied.

- 28
- 29 12. Within and adjoining the site, impacts on the aquifer, slope retention, flood potential.
- 30

31 Based on the discussion regarding the State standards, it was determined that the application did  
32 not conflict in any way. Board Member Wadley commented that the Board of Adjustment is a  
33 judicial body rather than a legislative body. As such they are bound to follow and enforce the  
34 laws of the City and State. They do not have the power to change the rules set out. He stated  
35 that if the public has issues with the Code requirements they could apply for a text amendment  
36 with the City Council.

37

38 The Board then discussed the City standards regarding any conditional use permit, as follows:

- 39
- 40 1. A conditional use permit may be granted if the subject use will not be detrimental to the  
41 health, safety or general welfare of persons residing in the vicinity or injurious to  
42 property in the vicinity.
- 43
- 44 2. If the use will cause unreasonable risk to the safety of persons or property because of  
45 vehicular traffic or parking, large gatherings of people, or other causes;
- 46

- 1           a. The use will interfere with the lawful use of the surrounding properties;
- 2
- 3           b. The use will create a need for essential city services which cannot be reasonably
- 4           met; or
- 5
- 6           c. The use will in any other way be injurious to property in the vicinity.
- 7
- 8       3. A change in the market value of real estate shall not be a basis for the approval or denial
- 9       of a proposed conditional use.
- 10
- 11       4. If a part of a proposed conditional use is found to be contrary to the standards described
- 12       in this section, the applicant shall propose curative measures to achieve the standards
- 13       described in this section.
- 14

15 Based on the discussion regarding the City standards, it was concluded that the application met  
16 all of the standards and Code requirements.

17  
18 **MOTION:** Board Member Christensen moved that the Board of Adjustment APPROVE the  
19 applicant’s request for an appeal to overturn the decision of the Planning Commission to deny a  
20 conditional use permit for a cell tower facility at 1726 North 600 West, and APPROVE the  
21 Conditional Use Permit request, subject to the following condition:

- 22
- 23       1. The applicant will provide all documentation in regard to their dealings with Sprint.
- 24

25 Board Member Fugal seconded the motion. The motion passed unanimously.

26  
27 **Review and approval of the Board of Adjustment Minutes from May 21, 2015.**

28  
29 **MOTION:** Board Member Green moved to approve the Board of Adjustment Minutes from  
30 May 21, 2015. Board Member Christiansen seconded the motion. The motion passed  
31 unanimously.

32  
33 The meeting adjourned at 9:03 p.m.

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37 \_\_\_\_\_  
38 Frank Johnson  
39 Chair, Pleasant Grove City Board of Adjustment

40  
41  
42 \_\_\_\_\_  
43 Barbara Johnson  
44 Secretary

45  
46 Date Approved: \_\_\_\_\_