

BOARD of ADJUSTMENT



Joe Bazzoli
Board Chair
BOA@ci.moscow.id.us

Public Hearing
~ Minutes~

Aimee Hennrich
Staff Liaison
208.883.7095

<http://www.ci.moscow.id.us/354/Board-of-Adjustment>

Tuesday
August 24, 2021

7:00 PM

Council Chambers
206 E Third Street

Bazzoli called the meeting to order at 7:00 PM

MEMBERS PRESENT: Joe Bazzoli, Chair; Annette Bieghler, Steve Bush, Marshall Comstock, Mark Monson, Tim Thomson
STAFF: Jennifer Fleischman, Aimee Hennrich, Mike Ray

REGULAR AGENDA

1. Approval of August 9, 2021 Minutes

Monson moved for approval of the minutes as presented, seconded by Bush. Vote by Acclamation; Ayes: Bazzoli, Bush, Monson, Thomson (4). Nays: None. Abstentions: Bieghler, Comstock (2). Motion carried.

2. Public Hearing: City Council remand in part of a Conditional Use Permit application for a proposed 80' Wireless Communication Facility (WCF). The WCF will accommodate three carriers within a fully enclosed 800 sf lease area and would resemble a church tower per MCC 4-3-5(H)

The Board of Adjustment conducted a public hearing on this matter on March 29, 2021 and denied the Conditional Use Permit. The Conditional Use Permit was subsequently appealed to City Council at which time the Council remanded the matter in part to the Board for the inclusion of additional information into the record. Specifically, to determine whether the horizontal footprint and width of the proposed Wireless Communication Facility can be reduced in order to be less intrusive to the neighborhood and surrounding land uses and ultimately satisfy Criterion #2, of the Board's Reasoned Statement of Relevant Criteria and Standards document signed on April 7, 2021. The purpose of the public hearing is to enter this specific additional information into the record.

Hennrich presented the remand information for the Conditional Use Permit Application as described above. The Board should only consider Criterion #2 regarding harmony of the proposed use in the neighborhood and surrounding land uses, and not the other six (6) Criteria. City Council remanded the application back to the Board with specific instructions to allow more information from the Applicant about potentially changing the width and horizontal footprint of the proposed WCF. Public testimony should address the concerns surrounding harmony, as well. City Council was deliberate in saying horizontal, not vertical, because they perceived the overall mass of the tower to be an issue.

The Public Hearing opened at 7:15 PM

Kimberly Allen (applicant), Issaquah WA, introduced her colleagues: Christy Cooke, Bryan Mullen, and Aaron Bloom. The company researched how to make the tower smaller, according to the suggestion of City Council. However, 80 feet is the minimum height necessary for the proposed WCF. The applicant provided alternative examples that could potentially reduce the visual bulk of the facility, but would limit the mobility of the service antennas, and the proposed alternative #2 may not be feasible for the carriers. Alternative #3 would be painted any color the City of Moscow decides is most congruent with the surroundings. The

proposed alternative design #1 does not have a smaller footprint, but has faux windows to make it appear smaller. The applicant discussed changing the location of the proposed WCF on the Nazarene Church Campus, which ultimately is unwanted by the owners. There was a disclaimer that AT&T provided regarding service quality in the area if the WCF is approved. It is currently unknown what type of surface materials would be used in construction, as the applicant's engineers would first need to design the proposed WCF with the information the Board provided. Aviation lights would not be needed on this facility. A four-legged version of the proposed alternative design #2 could be feasible. The monopole is the most versatile design, according to the parameters of the applicant, as well as the least obstructive to service signal and visual massing.

Public comments in opposition of the proposal that were submitted before and after the packet was created were entered into the record.

David Renner, Moscow, is opposed to the WCF in regards to the character of the proposed use in a residential neighborhood. Argued that the applicant was not able to reduce the vertical nor horizontal footprint, and that the WCF is not consistent with the surrounding area. The proposed monopole design does not reflect the three tiers of antennas that would be needed.

Wayne Krauss, Moscow, a representative of the Nazarene Church, spoke in favor of the WCF, saying that the monopole design is the best. Addressed the public testimony petition in regards to the signer's locations in East Gate and not along Blaine Street. He believes that updated service is necessary, and would address an inequality in service providers coverage.

David Hall, Moscow, requested that the Board consider what the City Council's instructions were, in regards to reducing the horizontal footprint, which the applicant indicated they were unable to do. Antennas on the Rotary Water Tank are not feasible because of the structure of the tower membrane.

Kevin James, Moscow, spoke in favor of the WCF. It does not matter what the tower design would be, so long as the service was improved. Wanted the Board to consider the service impacts on the growing community.

Maury Wiese, Moscow, does not agree with the proposed location and would prefer the WCF be placed in a less residential area, which was followed by a discussion about other locations better suited for the proposed use. He did not see a need for additional service coverage in the proposed neighborhood.

Faris Paxton, Moscow, talked about the visual and functional uses of the WCF being in opposition of the harmony of the neighborhood and local community. Disagreed with the criteria and ordinances that allow WCF's to be placed in neighborhoods. Pointed out there was not an image of the proposed tower from the southern side of block.

Shirley Greene, Moscow, was in favor of the WCF and talked about how big of a role the Nazarene church played in the neighborhood. Land for the facility would be leased from the Church and the money earned would pay to repave the parking lot and maintain upkeep on the church building. She thought that wireless cellular facilities were visually and functionally similar to electrical poles.

Kerri Renner, Moscow, spoke in opposition of the tower and did not think enough significant changes had been made since the previously denied proposals, of 2018 and earlier in 2021, to warrant an approval. There was concerns about noise pollution and how a WCF would affect the character of the neighboring community. She did not concur that the tower would eventually blend in with the neighborhood, and urged the Board to suggest a different, non-residential location.

Jerry Lewis, Moscow, spoke against the proposed WCF in regards to changing the character of the neighborhood. There was concern that property values in the East Gate subdivision would decline if the

tower was approved. However, he agreed that the monopole design would be the “least worst”, if the tower had to be placed locally. At least two variances had been approved for that neighborhood, and this would make another structure that did not belong which could set a precedence for more.

Ed Eby, Moscow, a representative of the Nazarene Church, spoke about benefits of the WCF. The Church considered every location on the property, but the proposed site was the only acceptable place. He argued that the facility meets 6 (six) out of the 7 (seven) criteria, and the City has the need for more infrastructure to benefit the community. Property values would not go down in response to the tower, and sound disturbances would not be a concern.

Renee Jensen-Hasfurther, Genesee, spoke in favor of the tower. Talked about cellular service issues when in town visiting family.

Kimberly Allen (applicant), Issaquah WA, talked about the residents and neighboring community needing better service. Addressed the comments regarding how the tower would not be harmonious with the surrounding neighborhood; comparing it with the electrical poles and the Church. She again stressed that the monopole design would be the least obtrusive, visually. The diesel generators would be necessary for the facilities operations, but testing could be timed to be the least intrusive for the Church’s functions: offered to only test for an hour once a month.

The Public Hearing closed at 8:10 PM

Board members discussed the applicant’s effort to make the proposed tower more harmonious and agreed that there is a need for better cell coverage. They discussed other locations that may be more conducive to this type of facility, as they were concerned about setting precedence for approving a WCF in a residential neighborhood if the application was approved. Wireless Cell Facilities are a conditionally permitted use in all Neighborhood Business zoning districts. There was a conversation about the City Council’s directive and how the alternate design #1 does not technically meet it. The monopole design would be the best solution for the service needs in Moscow, but there was a disagreement about whether it had a smaller footprint than the original design, as the underlying structure would not have changed. The aesthetics and characters of the proposed use of the WCF were discussed.

The tower would appear taller to people further away as opposed to those who were right underneath it. The height of a power pole appears to be 40-60 feet on a standard city street. The location on the water tower at Rotary Park was discussed, as well as Criteria #2 versus the real need for more service coverage. The conversation continued about the proposed use being in harmony with the character of the neighborhood.

Monson moved to approve the monopole WCF Conditional Use Permit at 1400 E Seventh Street.

The Board talked about which designs would satisfy Criteria #2 and if any of them are congruous with the Councils direction. The Council’s purpose in remanding the decision back to the Board was discussed and the difference between a horizontal footprint and perimeter massing.

Motion dies for lack of a second.

City Council has to abide by the same seven (7) criteria as the Board of Adjustment. The Council could uphold the Board’s decision, remand the decision, or reject the decision. The Board continued to discuss the remand hearing parameters, how tall power poles and lines are, and cellular service needs. It was reiterated that there may be better locations for a WCF on an industrial or commercial site, as opposed to a Neighborhood Business in a residential area.

The seven (7) Criteria are established by City Council and they have the authority to change the Code. It is common to have a criterion in the Code regarding harmonious use for a conditional use permit. There was some discussion about special use permits and conditional use permits and the different processes for each.

Monson moved to approve the WCF Conditional Use Permit at 1400 E Seventh Street, with using either design alternate #2 or #3.

Monson restated his motion, and moved to approve the monopole WCF Conditional Use Permit at 1400 E Seventh Street, with the condition that the Applicant work with the City to choose an appropriate paint color. Thomson seconded the motion. Vote by Acclamation; Ayes: Monson, Thomson (2). Nays: Bazzoli, Bieghler, Bush, Comstock (4). Abstentions: None. Motion failed.

Thomson move to approve the Alternate Design #1 WCF Conditional Use Permit at 1400 E Seventh Street. Monson seconded the motion. Vote by Acclamation; Ayes: Monson, Thomson (2). Nays: Bazzoli, Bieghler, Bush, Comstock (4). Abstentions: None. Motion failed.

Bazzoli wanted to make it clear for the record that he wanted to approve a WCF, but Criteria #2 makes it difficult to approve the proposal. The Board discussed the possibility of City Council changing the relevant criteria. The current Criteria in City Code when an application is received is what needs to be used to review an application, regardless of if it changes during the time of processing.

Comstock moved to deny the WCF Conditional Use Permit application at 1400 E Seventh Street, because the application did not meet Criteria #2 of the Relevant Criteria and Standards. Bieghler seconded the motion. Vote by Acclamation; Ayes: Bush, Comstock, Bazzoli, Bieghler (4) Nays: Thomson, Monson (2). Abstentions: None. Motion carried.

Comstock moved for Staff to prepare the Relevant Criteria & Standards with the same language as was originally used in the first denial of the 2021 Conditional Use Permit application.

The Board discussed the verbiage and reasons to be written as part of the denial of the application. The original language used for the first denial was reviewed, and the public testimony was considered.

Comstock restated his motion, and moved for Staff to prepare the Relevant Criteria & Standards with the same language as used previously, as well as the addition of the Board's discussion during the remand hearing. Bieghler seconded the motion. Vote by Acclamation; Ayes: Unanimous (6). Nays: None. Abstentions: None. Motion carried.

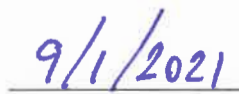
ANNOUNCEMENTS

UPCOMING EVENTS/MEETINGS

Next Public Hearing scheduled for August 30, 2021.

The meeting adjourned at 8:53 PM


Joe Bazzoli, Chair


Date