A regularly scheduled Zoning Board of Appeals Meeting was held on Thursday, August 11, 2016, at 1:00p.m., City Hall, 419 Fulton Street, Room 400, with Chairperson Richard Russo presiding.

Staff Member Madeline Wolf swore in the new Zoning Board of Appeals Commissioner, Laith Al-Khafaji.

**ROLL CALL**

The following Zoning Board of Appeals Commissioners were present: Laith Al-Khafaji, Ed Barry, Jerry Jackson, Richard Russo, Nathan Wagner, Zachary Oyler – 6. Absent: Mark Anderson – 1.

Staff Present: Shannon Techie, Sonni Williams, Madeline Wolf

**MINUTES**

Commissioner Barry moved to approve the minutes for the meeting held on June 9, 2016; seconded by Commissioner Oyler.

The motion was approved unanimously viva voce vote 6 to 0.

**REGULAR BUSINESS**

**CASE NO. ZBA 3021**

Petitioner Sean O'Connell, on behalf of Cellco Partnership d/b/a Verizon Wireless, appealing the Site Plan Review Board’s decision regarding the denial of a consolidated application for a zoning certificate and building permit, for the collocation of wireless communication antennas, for the property located at 2112 N Linn Street (Parcel Identification No. 14-33-378-019 & 14-33-378-020), Peoria, Illinois (Council District 2).

Senior Urban Planner, Shannon Techie, Community Development Department, read Case No. ZBA 3021 into the record and presented the appeal. Ms. Techie provided the property characteristics, background of the case including the timeline of events regarding the request, and the summary of the appeal as outlined in the memo.

Site Plan Review Board deferred to the action of the City Council and denied the consolidated application for a zoning certificate and building permit (administrative request through the Site Plan Review Board) on June 8, 2016, based on Appendix B, Article 3.3.d.(1).(b), ‘notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an application that is in conflict with the historic nature or character of a neighborhood or historical district’.

Site Plan Review Board recommended affirmation of the Site Plan Review Board’s decision on June 8, 2016, regarding the denial of the consolidated application for a zoning certificate and building permit based on the City Council decision on April 26, 2016, and the provision in Appendix B, Article 3.3.d.(1).(b), ‘notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an application that is in conflict with the historic nature or character of a neighborhood or historical district.’

Sean O’Connell, petitioner, referred to and quoted the findings from the Site Plan Review Board in the document dated February 23, 2016 (the Site Plan Review Board Analysis in Attachment F of the Agenda Packet, page 82). Mr. O’Connell referred to Section 3.3.b.2.g. Mr. O’Connell argued the Site Plan Review Board had two (differing) reviews and questioned the conflicting statements in the Ordinance.

Sonni Williams, Deputy Corporation Counsel for the City of Peoria, explained the application process for collocation of wireless communication antennas requests in the City of Peoria. The Site Plan Review Board’s previous findings prior to June 8, 2016, was not binding to the Site Plan Review Board’s decision on June 8, 2016 because two different applications were reviewed. The appeal before the ZBA if from the June 8, 2016
Site Plan Review Board’s decision. Ms. Williams said the Zoning Board of Appeals should presume the Findings of Fact by the Site Plan Review Board for June 8, 2016, are correct and recommended the commission review the standards in Appendix B, Section 2.3.d(4). The City recommended and requested affirmation of the Site Plan Review Board’s decision to deny the petitioner’s application heard by the Site Plan Review Board on June 8, 2016.

Chairperson Russo requested the petitioner speak to the provision and how it was misinterpreted in an effort to make the appropriate Findings of Fact.

Sean O’Connell explained the misinterpretation was in the Ordinance, Section 3.3.b.2.g., which exempts the collocation of a wireless communication tower on an existing structure from review; therefore, the provision the Site Plan Review Board used to reject Verizon Wireless’ application was not applicable to the application.

Ms. Williams, referred to Section 3.3.b.2. and reviewed the specific situations in which the Ordinance should be exempt. Ms. Williams quoted Section 3.3.b.2.g., “The City shall encourage such use by permitting collocations, which results in a height increase of less than ten (10) percent of the existing support structure, subject to administrative review.” Ms. Williams said the Ordinance must be read in full to understand the legislative intent.

Commissioner Barry requested additional details regarding the communication from Councilman Grayeb that was included in the Agenda Packet.

In response to Commissioner Barry, Ms. Williams said in the e-mail correspondence Councilman Grayeb mentioned he would not invite the applicant to a Neighborhood Association meeting; Councilman Grayeb did not mention Verizon Wireless would be denied an opportunity to appeal the decision by the Site Plan Review Board.

Ms. Williams noted the provision under Wireless Telecommunications Facilities Siting Ordinance, Section 3.3.g., “Administrative review of the proposed collocation or modification shall be conducted by the Site Plan Review Board upon receipt of a complete application and application fee.” Ms. Williams said City Council would have revised the Ordinance if City Council did not support the Ordinance the way it was written.

Staff Member Madeline Wolf swore in the public.

Kenneth Albert, a concerned citizen, was not in support of businesses near the subject property.

In summation, Sean O’Connell referred to Section 3.3.b.2.g., and said, “subject to administrative review,” was misleading. Mr. O’Connell said conditions may be applied under administrative review, such as setbacks and electrical review. Mr. O’Connell said if the use was permitted within the zoning district, the applicant had the vested right to be approved in the State of Illinois. Mr. O’Connell recommended the Zoning Board of Appeals review the two letters he submitted to the Zoning Board of Appeals prior to making a decision.

With no further interest from the public to provide public testimony, Chairperson Russo closed the Public Hearing at 1:31p.m.

Discussion:
Chairperson Russo read the Findings of Fact for Appendix C, Section 2.7.5. Commissioners unanimously responded False to A, “The provision in question is unclear and an interpretation is necessary to determine the intent and application of the provision.” Commissioners unanimously responded False to B, “The Zoning Administrator or SPRB misinterpreted the provisions of this chapter.”

Motion:
Commissioner Barry made a motion to affirm the decision of the Site Plan Review Board; seconded, by Commissioner Oyler.
The motion to deny the appeal request was approved by roll call vote.
Nays: None.

**CITIZENS' OPPORTUNITY TO ADDRESS THE COMMISSION**
There was no interest from the public to provide public testimony at 1:35p.m.

**ADJOURNMENT**
Commissioner Barry moved to adjourn the Zoning Board of Appeals Meeting; seconded by Commissioner Oyler.

The motion was approved unanimously viva voce vote 6 to 0.

The Zoning Board of Appeals meeting adjourned at approximately 1:35p.m.

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Shannon Techie, Senior Urban Planner

Madeline Wolf, Development Technician