

**BOARD OF ZONING APPEALS**

The regular meeting of the Board of Zoning Appeals was held on Thursday, October 6, 2016 at 7:00 p.m. in the Public Safety Building located at 500 Quincy Street.

Vice President John Six called the meeting to order at 7:00 p.m.

**ROLL CALL OF MEMBERS**

**Present**

Vice President John Six  
Board Member Aron Majic  
Board Member Gia Deasy  
Board Member Michael Ragan

**Absent**

President Joe Manchin  
Board Member Ray Friend

Board Member Majic: I make a motion to excuse Board Member Ray Friend and President Manchin from the meeting.  
Board Member Ragan seconded the motion.  
Motion carried 4-0

**City Staff Present**

City Manager, Robin Gomez  
City Planner, Sandra Scaffidi  
Planning Dept. Secretary, Maria Cipolla

**APPROVAL OF MINUTES**

Vice President Six asked for a motion to approve the minutes from September 1, 2016.  
Board Member Majic motioned to approve the minutes.  
Board Member Ragan seconded the motion.  
Motion carried 4-0.

**PUBLIC HEARINGS FOR September 1, 2016**

1. The West Virginia State Police request a conditional use permit to construct a communications tower at 320 Lafayette Street that will be used exclusively for the WV State Police (Section 3.1.6). The current zoning is highway commercial (Tax Map 06-04-2.1)

Vice President Six: "Is there anyone to speak in favor of this conditional use?"

Jay Rogers, from Omni Associates: This will be a 15,000 square foot facility. It will be the WV State Police Detachment and Headquarters. They will be combining the State Police located in Shinnston and on Country Club Road, here in Fairmont. There is also a 4,400 square foot maintenance facility and the communication tower. This tower will be solely used for the WV State police. There will not be any space on it for commercial carriers.

Vice President Six: Is there anyone else to speak in favor of this?  
There were none.

**Vice President Six:** “Is there was anyone here to speak against this proposal?”

**Ronald Goodwin:** I have some questions. I am not really for or against this proposal. I own a piece of property that adjoins the property that will have the tower on it. I have no problem with the State Police having a good communication tower. We have a proposed type of tower. Is this going to meet future standards? I do not know what a conditional use permit is. I do not know what Highway Commercial zoning is. There is no highway there. Who owns the property presently? Who will own it once the police start operating from there? Also, who is going to own that property after they vacate? If we do a variance now, that variance is going to go with that property in the future, I assume, after the State Police are through with it. I think that needs to be considered. Is this tower going to be big enough? Is it the right type of tower?

**Vice President Six:** Mr. Rogers, would you like to address his questions?

**Jay Rogers:** I can answer some of his questions. Mr. Given can answer the other questions. The property is known as the Sharon Steel Custodial Trust. It is owned by the State of WV. The DEP is the trustee of this property. There is 7.95 acres that is deeded to the State Armory Board. It is not part of the Sharon Steel Custodial Trust. It was deeded out for the use of an armory. The 7.95 acres has been subdivided into 3.95 acre parcel and a 4.0 acre parcel. The building is being constructed on property owned by the National Guard. The State Police are leasing that property on a 25 year lease, with the ability to purchase. They are doing this as a lease/purchase. They will purchase the facility between 13 and 16 months after they begin to occupy it. However, they will own the tower and the garage on day one. It is just the facility that they are leasing. They have already committed to 25 years. After 25 years, it will be owned by the State of West Virginia. The tower that is being constructed is the same tower that is used across the state by the WV State Police. The contractor, Premier Construction, is out of Jane Lew. They are the state contractor that erects all of the towers for the State Police and most of the counties’ 911 systems. They have done this work before in 51 counties throughout West Virginia. It is a women, minority-owned business. The tower is going right behind the building. That way there is no loss of signal derogation. In the interior of the building, the radio dispatch room will be located by the tower outside. The entire perimeter of the State Police will be fenced. You can only gain access from the front of the building, if you are the general public. If you are not, you can only gain access through the gate with a key card.

**Sandra Scaffidi:** The Board of Zoning Appeals follows the City and Zoning Code for the City of Fairmont (Sandra read the definition for Highway Commercial zoning in the Planning & Code book). This area is not on the highway, but it is adjacent to it. It is not a walkable area. You have to use a car to go through there. As part of the Highway Commercial district, a telecommunication facility is listed as a conditional use. It must meet all the requirements in Section 4.16. That says it is to be consistent with the policies of the current zoning district and compatible with the neighborhood.

**Maria Cipolla:** Also, the variances and conditional uses granted to a property don’t transfer with the sale of a property. If the next owner needs a variance and/or a conditional use, they would have to request them from this board.

**Ed Given, GDN Wireless Telecommunications:** These towers are designed for current and future loading. The formula they use puts the towers at 60 to 80 % capacity with antennas and microwaves included. Considering this tower will only be used for their personal use, I don’t foresee any need for them to upgrade in the future. Typically, in this area, they use monopole constructions. This will be a lattice tower. You will have multiple locations on this tower for equipment.

**Vice President Six:** “Is there is a motion to close the public hearing on this request?”

**Board Member Majic** motioned to close the hearing.

**Board Member Deasy** seconded the motion.

**Motion carried 4-0**

**Vice President Six asked for the Staff report.**

**Sandra Scaffidi:** Staff supports the application for the conditional use permit to be approved. They meet the requirements set forth in Section 4.16.

**Vice President Six:** Do we have motion on the request for a conditional use?

**Board Member Ragan** motioned to approve the conditional use.

**Board Member Majic** seconded the motion.

**Motion carried 4-0**

**2. The West Virginia State Police request a variance from the City of Fairmont Planning and Zoning Code Section 4.33.3.B (Telecommunication Facilities) to permit a 190' self-support tower at 320 Lafayette to not be set back from the property line a distance equal to 125% of the total height of the tower. The West Virginia State Police also request a variance from the City of Fairmont Planning and Zoning Code Section 4.33.3.E which requires a monopole design. The applicant desires to construct a 190 foot self-support lattice tower. The current zoning is Highway Commercial (Tax Map 06-04-2.1).**

**Vice President Six:** "Is there anyone to speak in favor of this variance?"

**Ed Given:** The application is proposing construction of a 190' self-supporting tower for the purpose of supporting the WV State Police communication operations for the new WV State Police Headquarters. The tower will require a setback variance due to the tower's placement on the property. The tower's placement is dictated by the location of the communication room in the building. It will be in the closest possible proximity to the tower. The tower is to be placed immediately adjacent to that particular area of the building. Due to the proposed location of the tower, the tower will be pre-engineered in case anything should happen to cause the tower to collapse. It is engineered to collapse within the property boundaries. It actually is a smaller area than that. Due to specific mounting needs of the State Police, they will require the use of a self-supporting lattice type tower. It is a three-legged tower instead of the typically monopole construction. A lattice tower is able to hold much more than a traditional monopole tower. This will increase its capability. The FAA has given their approval on the tower's location and height. We also received approval from NEPA, SHPO, and endangered species. Results from the environmental assessments and geotechnical testing have all been favorable. This tower is an important part of the operation and facility.

**Vice President Six:** Is there anyone else to speak in favor of this?

**There were none.**

**Vice President Six:** "Is there was anyone here to speak against this proposal?"

**There were none**

**Vice President Six:** "Is there is a motion to close the public hearing on this request?"

**Commissioner Majic** motioned to close the meeting.

**Commissioner Ragan** seconded the motion.

**Motion carried 4-0**

**Vice President Six asked for the Staff report.**

**Sandra Scaffidi:** Both of the applicants came to our DRC meetings and explained their project to us. We do not believe the tower affects the health, safety, or public welfare, of the adjacent property owners. Because of the tower's collapsible design, it will not fall as a single unit. The design and close proximity to the barracks will provide additional security to the electronic equipment. Staff supports the conditional use. The tower location and design are needed for the security at the State Police barracks' communications. We feel this is a reasonable use of the land and the intent appears to be observed. The plan they presented has the least amount of conflicts with the zoning code. Staff recommends approval of both variances.

**Vice President Six** asked if there were any negative comments from City agencies.

**Maria Cipolla:** There were none.

**Vice President Six:** Is there any discussion from the Board.  
**There was none needed.**

**Vice President Six:** Do we have a motion for the conditional use to allow for the communication tower?

**Board Member Ragan** motioned to approve as submitted.

**Board Member Deasy** seconded the motion.

**Motion carries 4-0**

**Vice President Six** asked for a motion on the variances.

**Board Member Majic** motioned to approve as submitted

**Board Member Ragan** seconded the motion.

**Motion carried 4-0**

#### **DISPOSITION OF PAST CASES**

None

#### **OTHER BUSINESS**

Sandra Scaffidi reminded the Board members about the meetings we will be having for the Comprehensive Plan. The Board members were given a schedule of events.

#### **ADJOURNMENT**

**Vice President Six** asks for a motion to adjourn.

**Board Member Ragan** motioned to adjourn.

**Board Member Deasy** seconded the motion.

**Motion carried 4-0.**