

## PLANNING COMMISSION

Be it remembered that the Oxford Planning Commission did meet in special session on Monday, April 29, 2013 at 5:00 p.m. in the City Hall Courtroom with the following members present:

Michael Harmon, Chairman  
John Bradley  
Dr. Watt Bishop  
Hayden Alexander  
Darryal Whittington  
Mark Huelse

Tim Akers, City Planner  
Katrina Hourin, Assistant City Planner  
Bart Robinson, City Engineer  
Paul Watkins, Attorney

1. **Call to Order.** The meeting was called to order by Chairman Harmon.
2. **Approval of the Agenda.** Chairman Harmon asked if there were any changes to the agenda. There were none.

There being no questions or comments from the public or the Commission, motion was made by Commissioner Bradley and seconded by Commissioner Alexander to approve the agenda.

All present voting aye. The agenda was approved.

3. **Public Hearing for Case #1708 – Request for a thirty-eight (38’) foot cell tower setback variance for property located at 2201 University Avenue in a (NB) Neighborhood Business zoned district (Board of Adjustment)**

**Planner’s Comments:** Nova Towers was granted a special exception for a 100 foot tall monopole cell tower on March 11, 2013 by the Oxford Board of Adjustment. Subsequent to the approval, representatives from the neighborhood approached the city to object to the location of the cell tower. After numerous discussions between the city, neighborhood representatives and Nova Towers, Nova Towers and AT&T have agreed to erect a flag pole designed cell tower. However to provide the needed coverage, the flag pole tower will have to be 120 feet tall violating Section 158.05 of the Land Development Code requiring that a cell tower not be located within a distance twice the height of the tower. The original monopole tower was to be 100 feet tall and within 202 feet of the nearest residence. The flag pole designed tower will be 120 feet tall and require 240 feet of separation from the nearest residence therefore requiring a 38 foot variance from Section 158.05 of the Land Development Code.

Variations from the terms of the Land Development Code may be granted after the applicant demonstrates:

- a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- c. That the special conditions and circumstances do not result from the actions of the applicant; and
- d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

Further the Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure and that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

**Recommendation:** Due to the unique characteristics of the flag pole designed cell tower and granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, staff would recommend approval of a 38 foot variance from Section 158.05 #2 of the Land Development Code with the condition that the variance applies only to the construction of a 120 foot flag pole design cell tower.

Andy Rotenstreich was present on behalf of Nova Towers, LLC and AT & T to request a thirty eight (38') foot variance in order to construct a flag pole cell tower, which has been agreed upon by AT & T, the City of Oxford Planning Staff, and those in the neighborhood whom came forth with concerns.

Mayor Patterson informed the Commission that the City was pleased with the compromise that Nova Towers, LLC and AT & T had made in order to accommodate the concerns of the neighborhood. Mayor Patterson stated to the Commission that other possible sites had been reviewed but none meet the required coverage provided by the proposed location.

Mr. Arnold Pegues, 179 Pegues Road, representative of the neighborhood and homeowner, informed the Commission that the neighborhood was still in some opposition of the tower location but they were more receptive to the current flag pole design.

Chairman Harmon asked for further question or comments from the Commission or Public, there being none, Commissioner Bradley made a motion to approve the thirty eight (38') foot variance. The motion was seconded by Commissioner Whittington.

Chairman Harmon called for a vote and the results were as followed:

Commissioners Bishop, Whittington, Alexander, Harmon, Huelse, and Bradley voting aye.

With unanimous affirmative vote the motion was approved.

There being no further business to come before the Commission, Chairman Harmon adjourned the meeting.