

Dover Township
Zoning Hearing Board
December 18, 2013

Chairman Donald Bubb called the meeting to order at 7 p.m. Members present: Jeffrey Edmonds, Jane Ginter, Phillip Brown. Absent: Steve Barkdoll and alternate Neil Hoffstott. Also present: Zoning Officer Georgia Sprengel, Solicitor Mike Craley, Stenographer Tammy Rinehart, Recording Secretary, and 12 citizens.

I. Minutes

Motion by Ginter, second by Brown, to approve the minutes of the meeting of August 21, 2013. All members voted aye; motion carried.

II. Zoning Case

A. ZHB 13-4, Charles and Carol Richards/Cellco/Verizon – 2730-A Emig Mill Road.
Requests for Variances, Sections 27-404.2 and 27-502.2.A

The Zoning Officer and seven members of the audience were sworn in.

Attorney James Strong was present on behalf of Verizon Wireless. Currently, Verizon has capacity and coverage issues in Dover Township, and this request aims to help address this problem.

This parcel is 116.5 acres in the R-1 Zone and is used for agricultural purposes; this use (cell tower) is permitted in the Conservation, Industrial, and the Commercial districts, but not the R-1 zone. For purposes of this application, sites in neither the Conservation, Industrial, or Commercial zone provided an appropriate coverage area. The applicant will use the existing access and will be 1091' from Emig Mill Road. The area is heavily wooded with dense vegetation. The site involved will include a 50 x 50' leased area, enclosed by an 8' high board-on-board fence; not chain link, so one can't see through it. This type of fence provides extra security. Within the fenced area will be a 161' monopole, with antennae mounted on the top, and an equipment shelter.

Variance requested: to permit the use in the R-1 Zone (residential areas provide strongest demand on network).

Variance requested: height of proposed fence; 4' fence is permitted in the front yard. Side yard, 6' high fence permitted. They feel that the distance from the road and to the western property line will preclude anyone from seeing the fence.

Kevin Hughes, Arionda LLC, was present to testify. He is a site acquisition consultant. Mr. Strong presented a packet of Exhibits to which he and Mr. Hughes referred. Also on the site will be an emergency generator. Most of the access will be from the existing access drive, and the applicant will extend this drive with a stone driveway to the facility. It was noted that there are no actual photographs of the site, which might have been helpful. They will clear just the 50' x 50' area for the building plus any area needed for the access drive.

Christina Grim, 2767 Emig Mill Road, lives directly in front of the area, and she feels that the area is not actually densely vegetated. Will the tower be in the woods? Yes, it will be surrounded by the woods.

Patrick Duggan, 2530 Wilapa Drive, confirmed that neither of the representatives will be living nearby.

Kenneth Farrell, CMC Engineering 2215 Kimberton Road, Kimberton, Pennsylvania, spoke next. He confirmed the details of the proposed structure, monopole, emergency generator, and external above-ground propane tank. He pointed out that there are large trees surrounding the property, with lots of smaller trees and underbrush to further screen the facility. He noted that the facility will be quite a distance from all property lines. He feels that the combination of the trees, underbrush, and the fence will sufficiently screen the site improvements from view. This will be an unmanned facility, with someone coming on-site every four to six weeks for about 30 minutes. The exterior lighting will be a 70-watt light bulb above the door for security reasons. This light will not be visible because of the fence. This facility meets the requirements for setbacks and minimum lot size.

How often will there be a propane delivery? Perhaps once or twice a year, depending upon how often the power goes out. The generator runs automatically once a month for about a half an hour, to test it, on Wednesdays at 11 a.m. It will not be heard from any property line. Mr. Brown asked for clarification on the location and number of the trees surrounding the site. Mr. Strong noted that if the Township would like further screening, the applicant will provide it.

Andy Petersohn, dBm Engineering, P.O. Box 165, Fairview Village, Pennsylvania, spoke next. He asserted that this site is an optimal location for this tower to improve coverage. He noted that the Weigelstown facility is close to being overloaded, with the anticipated decrease in coverage/service to occur in February 2014; the proposed facility will certainly reduce the load on that tower.

The Conservation and Industrial zones are too far away from the target area for service. The Commercial zone is closer, but one includes a golf course, and the other is close to residential uses of properties. The proposed facility is generally in the center of the "dead" area, which looks to be the best location for this tower.

Mr. Craley requested that any exhibits to which the applicants refer that are not in the original documents submitted for the record be marked and included as part of the record. No problem. Marked and submitted for the record were the following: Exhibit 9, Existing coverage map; Exhibit 10, proposed coverage with reorientation; Exhibit 11, reoriented coverage and commercial zones; Exhibit 12, planned and proposed coverage with reorientation; Exhibit 13, existing signal to noise ratio (SNR); Exhibit 14, planned and proposed SNR, and Exhibit 15, existing data usage.

Of note was a usage map showing average busy-hour data "through put" for current users.

How about the height of the tower and attached antennae? This is the minimum height required to provide the desired level of service. This tower will comply with the FCC's maximum levels of radio-frequency exposure; indeed, the levels associated with this tower and location is proposed to be well under those levels. The antennae will not interfere with any other users of this radio frequency spectrum. The FAA will not require lighting or marking of the facility, as the pole will not exceed 200' in height. The PA Bureau of Aviation has no objection to this proposal.

This tower could be used by Verizon's competitors, a common practice. Mr. Petersohn is unsure of any competitors' level of service or issues in this area. Most common and most cost-effective would be co-location of antennae; it is unlikely that another provider would be interested in building its own tower in this same area. Will Verizon likely request another cell tower in this area in the future to keep up with demand and use? Unknown.

Patrick Dugan asked if any other provider can just come in and put their antennae on. They don't have to go through another hearing, just a building permit with engineering specs. Was Mr. Petersohn's report "fact-checked" by an expert from the Township? Mr. Craley noted that calls into question the credibility of the evidence and the presenter. Any objector could review this evidence/report and have it checked. The ZHB is not in a position to do so. Does Verizon have any customer-complaint data to prove that people are having issues with the service/coverage? No; the proposal is partly planned to deal with the capacity issues that are anticipated by February 2014, as mentioned in the above paragraphs, relative to the Weigelstown site.

Ray Billet, 2748 Wilapa Drive, feels that this request is in conflict with the on-going advertising that asserts that Verizon's coverage is wonderful across the country. He feels that the only people who will be benefitting from this proposal are the landowners who will be receiving rental funds from this arrangement. He also feels that this tower will be an eyesore, which he will see from his front yard. Mr. Petersohn feels that more people will benefit from approval of this project, as 911 service will be enhanced.

Christina Grim spoke again, voicing her concern with property value depreciation and health risks. Mr. Petersohn is not qualified to address if towers actually affect property values, and he does feel that the health risks are addressed with the FCC regulations and rules and noted that this kind of tower is also mounted on top of hospitals and near school facilities with no ill effects.

Madelyn Shermeyer, Admire Road, noted that this property is zoned R-1; previously this area was zoned Agricultural, which means that the applicant would have been permitted to erect this tower with no request for a Variance. She noted that the property owner had nothing to do with the rezoning. She suggested that the ZHB not let the zoning of the property affect its decision on this application. She also suggested that someone from the Township participate in an upcoming FCC webinar to address concerns and the changing nature of regulations regarding cell tower locations in the near future. She feels that the Township is going to have to re-address its zoning ordinance requirements for cell towers sooner rather than later.

Mr. Strong reiterated that this site is ideally suited to this proposed tower, with the combination of the agricultural nature of the parcel and the size of the lot affording large setback areas.

The Planning Commission's recommendation was to *deny* the request due to the applicants' failure to establish a hardship for a variance. The vote was four ayes; one opposed. Motion carried. Hearing closed.

Ruling:

ZHB 13-4, Richards/Cellco/Verizon

Motion by Edmonds, second by Brown, to *deny* the application for Variances by Charles and Carol Richards/Cellco/Verizon, due to lack of unnecessary hardship and failure to show a significant gap in wireless coverage. Vote on the motion: three ayes; *Bubb opposed*. Motion carried.

III. Other Business

None at this time.

Motion by Brown, (no second), to adjourn. All members voted aye; motion carried. The meeting adjourned at 9:11 p.m.

Respectfully submitted,

Julie B. Maher,
Recording Secretary