

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS Case No. 10795 – 2011

A hearing was held after due notice on May 16, 2011. The Board members present were: Mr. Dale Callaway, Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson.

Nature of the Proceedings

This is an application for a special use exception to construct a 145 foot tall telecommunications monopole with a 5 foot tall lightning rod.

Finding of Facts

The Board found that the Applicant was seeking a special use exception to construct a 145' tall communications tower with a 5' lightning rod, on a parcel northwest of Route 1 approximately 1,650' northwest of Road 206 (Cedar Neck Road), with access through Knollac Acres. After a hearing, the Board made the following findings of fact:

1. The Applicant wishes to construct a telecommunications tower. The proposed tower will meet required setback, lighting, and other technical requirements of the ordinance.
2. During the course of the hearing, the Applicant advised that access would not be through Knollac Acres, but rather from Route 1.
3. The tower is necessary to bridge a gap in coverage currently being experienced by Verizon Wireless.
4. The Applicant's testimony indicated that it was unable to co-locate on other suitable towers or structures, and for that reason it was necessary to construct a new one. The new tower will be built in such a fashion as to allow for at least two other carriers to co-locate.
5. The tower will be located on a portion of the property not currently involved in active farming. It will be 176' from the rear property line. It will be within a 50'x50' fenced in area, with a 12'x30' equipment shelter also located within the compound area. The fence will be a solid one in order to block the view from neighboring properties.
6. From a structural standpoint, the proposed tower is designed to collapse upon itself in the event of weather-related or other failure. In addition, if the tower were to simply fall, because the Applicant is utilizing a larger setback than that required by the Code, it would be entirely upon the Applicant's property.
7. The Applicant presented persuasive expert appraisal evidence, which indicated that the tower would have no negative impact on surrounding property values. The opponents did not present any comparable evidence to the contrary.
8. The property has been actively farmed since 1949, and there is currently a 30' buffer zone between the Applicant's property and the neighboring development. It is believed that the tower is a less intrusive option for the property, which could otherwise include raising hogs, cows or other farm animals, and which would therefore produce unpleasant odors and an increase in insects.
9. Several individuals from the adjacent development testified in opposition. The testimony included that of a real estate agent to the effect that the tower would affect property values. Another individual testified that Verizon's own advertising suggests adequate coverage in the area. The testimony suggested that there are other devices which could be utilized by Verizon without the need for a new tower.
10. The Applicant submitted a frequency emissions report indicating that emissions fell well within federal limits, and as a result the Board assumed, as required by law, that there would be no health hazards associated with the tower.
11. Another individual testified in opposition, suggesting that the special use exception would open the door to future development.
12. In rebuttal, the Applicant testified that the new technology suggested by opponents can be utilized only to cover large masses of people at single locations, such as at an airport or a train station, but that the technology still requires towers.

An 80' tall silo suggested by one opponent is not high enough to bridge the gap, and was not structurally sound enough to handle the equipment necessary. The Applicant's ad does not reflect coverage for car use and traveling in the area.

13. Verizon's anticipated growth from 3G to 4G is not a factor with respect to the application. The tower will also be roughly 300' from the nearest dwelling.
14. The Board determined that the Applicant had met its burden of proving that the tower as described would not affect adversely the uses of surrounding and neighboring property.

The Board granted the special use exception, finding that it would not affect adversely the uses of neighboring and surrounding properties.

Decision of the Board

Upon motion duly made and seconded, the application was granted. The Board members voting in favor were: Mr. Workman, Mr. Mills, Mr. Callaway; voting against were: Mr. McCabe and Mr. Hudson.

**BOARD OF ADJUSTMENT
OF SUSSEX COUNTY**


Dale Callaway
Chairman

If the use is not established within one (1)
year from the date below the application
becomes void.

Date June 20, 2011