

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS

(Case No. 11368)

A hearing was held after due notice on April 7, 2014. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a special use exception to place a communications tower.

Findings of Fact

The Board found that the Applicant was seeking a special use exception to place a communications tower. This application pertains to certain real property located 1,500 feet northwest of Route 24 (John J. Williams Highway) on the northeasterly side of Piaffe Lane 0.4 mile southwest of Road 297 (Mount Joy Road); said property being identified as Sussex County Tax Map Parcel Number 2-34-29.00-29.00. After a hearing, the Board made the following findings of fact:

1. The Board found that the Office of Planning & Zoning received no letters regarding to the Application.
2. Petro Tsoukalas, Andrew Petersohn, and Sue Manchell were sworn in to testify about the Application and that John Tracey, Esquire, presented the Application on behalf of the Applicant.
3. The Board found that the Applicant submitted exhibits to the Board to review.
4. The Board found that Mr. Tracey stated that the Applicant is requesting a special use exception to place a telecommunications tower.
5. The Board found that Mr. Tracey stated that the proposed tower will be 145 feet tall with a five (5) feet lightning rod at the top.
6. The Board found that Mr. Tracey stated that there is not much development in the area but there is a Royal Farms nearby; that there are no variances being sought.
7. The Board found that Mr. Tracey stated that, to be licensed by the Federal Communications Commission (FCC), the Applicant must provide reliable coverage.
8. The Board found that Mr. Tracey stated that the proposed tower will fill a gap in coverage in the area.
9. The Board found that Mr. Tracey stated that there are more devices such as iPads and tablets which use the network and increase the load capacity.
10. The Board found that Mr. Tracey stated that the increase in usage of devices using the network has the effect of limiting the coverage area of a network.
11. The Board found that Mr. Petersohn testified that he is a radio frequency ("RF") engineer tasked with finding solutions to cellular problems in the area.
12. The Board found that Mr. Petersohn testified that he reviewed the map of the area and the Verizon coverage area.
13. The Board found that Mr. Petersohn testified that many devices use the mobile network and that he anticipates that additional devices such as household appliances will use a mobile network in the future.
14. The Board found that Mr. Petersohn testified that capacity is being pushed to its limit and there is no end in sight for the increase in demand for coverage.
15. The Board found that Mr. Petersohn testified that there is an existing capacity issue at a nearby facility.
16. The Board found that Mr. Petersohn testified that the proposed tower will help give continuous coverage along Route 24 where a coverage gap currently exists.

17. The Board found that Mr. Petersohn testified that coverage in the area is not reliable and that the proposed tower will improve in-building coverage issues in nearby residential areas.
18. The Board found that Mr. Petersohn testified that the proposed tower will off load coverage from other nearby facilities that are exhausting their load capacity.
19. The Board found that Mr. Petersohn testified that the proposed tower will provide greater in building and in vehicle coverage.
20. The Board found that Mr. Petersohn testified that the proposed tower RF emissions are 410 times less than the FCC maximum standards.
21. The Board found that Mr. Petersohn testified that he used worst case assumptions in calculating the RF emissions from the proposed tower and that the RF emissions are well-below the FCC safety threshold even in the worst-case scenario.
22. The Board found that Mr. Tracey stated that the proposed tower will meet all setback, screening, and fencing requirements.
23. The Board found that Mr. Tracey stated that there will be a fifty (50) feet by fifty (50) feet fenced-in compound area at the base of the tower.
24. The Board found that Mr. Tracey stated that a stone and gravel driveway will be added to lead to the facility.
25. The Board found that Mr. Tracey stated that all requirements under County Code Section § 115.194.2 have been met and are addressed in the reports submitted to the Board.
26. The Board found that Mr. Tsoukalas testified that there will be generator in the proposed shelter and that Verizon Wireless has always installed generators at their tower sites in case of power outages.
27. The Board found that Mr. Tracey stated that the proposed tower will not substantially adversely affect the uses of the adjacent and neighboring properties.
28. The Board found that Mr. Tracey stated that the absence of opposition to the Application supports this proposed tower.
29. The Board found that Mr. Tracey stated that the closest neighboring residence is 560 feet away.
30. The Board found that Mr. Tracey stated that trees and open space are near the proposed tower.
31. The Board found that two (2) parties appeared in support of the Application.
32. The Board found that no parties appeared in opposition to the Application.
33. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, the Board determined that the application met the standards for granting a special use exception because the use does not substantially affect adversely the uses of adjacent or neighboring properties. The Applicant also demonstrated that it met the requirements under Sussex County Code Section § 115.194.2 for a telecommunications tower. The Applicant submitted a site plan and appropriate documentation demonstrating compliance with § 115.194.2.
 - a. The Applicant submitted documentation showing that existing structures within a two (2) mile radius of the Property were unavailable for collocation.
 - b. The Applicant substantiated a need for the tower on the Property. Testimony presented demonstrated that the proposed tower will help fill a gap and coverage and will lessen the burdens on other nearby towers which are approaching their load capacities due to an increased demand for services.
 - c. The Applicant demonstrated that the proposed tower will be designed to accommodate at least two (2) additional PCS / cellular platforms.
 - d. The proposed tower will be set back from adjoining property lines by a minimum of one-third (1/3) the height of the tower.
 - e. Pad sites, ground equipment structures, and guy wires shall be surrounded by a minimum six (6) feet tall fence as shown on the documentation submitted by the Applicant.
 - f. The Applicant demonstrated that the tower shall have warning lights placed every fifty (50) feet of elevation and that the tower shall meet all

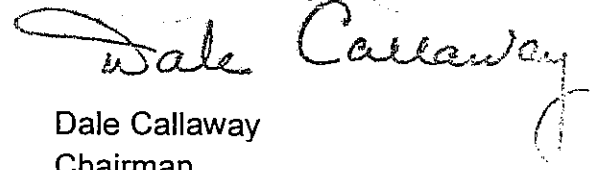
applicable requirements of the Federal Communications Commission and the Federal Aviation Administration.

The Board granted the special use exception application finding that it met the standards for granting a special use exception for a communications tower.

Decision of the Board

Upon motion duly made and seconded, the special use exception application was approved. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to approve the special use exception application.

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 May 6, 2014