



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF MAY 2, 2011

The regular meeting of the Sussex County Board of Adjustment was held on May 2, 2011, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney, and staff members, Mrs. Susan Isaacs – Chief Zoning Inspector and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of April 18, 2011 as circulated. Vote carried 5 – 0.

Mr. Berl read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

PUBLIC HEARINGS

Case No. 10794 – Robert W. and Patricia Lincoln – north of Route 54, northwest of Blue Teal Road being Lot 26 within Swann Keys development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Robert and Patricia Lincoln were sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a proposed dwelling and a 6.7-foot variance from the required 10-foot side yard setback requirement for proposed steps and A/C units; that the proposed unit will measure 24'x 64'; that the variance is needed to allow for off-street parking; that they currently must park on a portion of their neighbor's property due to the location of the existing unit; that the variance will not alter the character of the neighborhood; that all existing concrete will be removed; and that they submitted pictures.

The Board found that no parties appeared in support of or in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it will not alter character of the neighborhood**. Vote carried 5 – 0.

Case No. 10795 – Cellco Partnership d/b/a Verizon Wireless – northeast of Route 1 (Coastal Highway), approximately 1,650 feet northwest of Road 206 (Cedar Neck Road), with access thru Knollac Acres.

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A special use exception to construct a 145 foot tall telecommunications monopole with a 5 foot tall lightning rod.

Mrs. Isaacs presented the case. Sue Manchell, Beverly Thawley, Pamela Bursler, Andrew Petersohn, Kenneth Farrall, and Joel DeFreytas, Jr. were sworn in with John Tracey, Attorney, and testified requesting a special use exception to construct a telecommunications monopole tower; that the proposed tower will meet all required setback and lighting requirements; that access to the tower will be from the Route 1 entrance of the property; that they will not access the tower from Thawley Lane; that the tower is needed to cover a gap in coverage; that they are not able to collocate in this area and need to construct a tower; that the tower will be available for two other carriers to collocate; that the proposed site is on a portion of the property that is not currently farmed; that the tower will be 176-foot from the rear yard property line; that there will be a 50' x 50' fenced in compound area at the base of the tower; that there will be a 12' x 30' equipment shelter within the compound area; that a proposed solid fence is proposed to block the view from neighboring properties; that the lightning rod is industry standard; that the tower is designed to collapse upon itself; that if the tower were to fall it would not fall outside the perimeter of the Applicant's property; that most fires at tower sites are caused by human error when welding; that a regional study of a Matched Pairs analysis showed no negative impact to surrounding property values near tower sites; that the property has been farmed since 1949; that there is a 30-foot buffer zone between the Applicant's property and the neighboring development; that an existing berm was removed and replaced with a chain link fence; that the tower is a less intrusive option than other farming options such as hogs, cows or other farm animals which can have intrusive odors and an increase of flies to the surrounding area; that studies done on migratory birds show that structures exceeding 200-foot in height and guidewires are what create a danger; and that the tower will not substantially or adversely affect the surrounding properties.

Laura West, Marvin Muncie, Angela Muncie, Irwin Sickler, and Komba Kpakiwa were sworn in and testified in opposition to the application and stated that the tower will substantially effect property values in the area; that real estate sales are all about location and that a property near a cell tower is not attractive to prospective buyers; that they live in the area and have no problem with their cell phone coverage; that an advertisement for the Applicant shows complete coverage in their area; that there is a radio cube being introduced to cell phone companies that

seems it eliminate the need for towers; that a study was submitted showing negative effects to property values between 1986 to 2002; that property values dropped as much as 20 percent; that they are concerned for the safety of the children in the neighborhood; that the tower site could entice children to explore or climb the tower; that the tower site creates a fire hazard; and that they submitted studies and articles to support their testimony.

Robert West, Sarah Sickler, Danielle Albanese, and Carollee Kpakiwa were sworn in and testified in opposition to the application and stated that an existing berm was removed by the

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Applicant; that some property owners have retired to this area and cannot recover from the loss of property value if the tower is constructed; that they are concerned for their families safety, bird migration, bees, and birth defects in nearby wildlife; that they feel the existing tower sites could be upgraded from 3G to 4G to correct the gaps in coverage; that they have only had 2-weeks to prepare for this case; that notices were not received until April 13, 2011; and that they submitted a petition with 190-signatures in opposition to the application.

Jesse Parsely was sworn in and testified in opposition to the application and stated that he was concerned that the special use exception will open the door for future development.

Jeffery Showell was sworn in and testified in opposition to the application and stated that there is a silo on the Applicant's property and would like to know why the Applicant could not collocate on the existing silo.

In rebuttal, John Tracey, Andrew Petersohn, and Kenneth Farrall stated that the radio cube is a great solution for large arenas, airports, stadiums, and train stations; that the cube is used to cover large masses at such locations; that the cube still needs to connect with an existing tower; that the silo is only 80-foot tall which is not high enough for adequate use and is not structurally sound to handle the equipment needed for collocation; that the ad does not reflect coverage for car use and traveling in a car through the area; that this area is not ready for 4G coverage; that the proposed tower will be built to accommodate 4G when it becomes available to the area; that a tower site costs approximately \$500,000 to construct; that the proposed tower is approximately 300-foot from the closest dwelling; and that the tower site will be completely fenced in and that they are not aware of any trespassing issues at other tower sites.

The Board found that no parties appeared in support of the application.

The Board found that 37-parties appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until May 16, 2011**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 10790 – Christopher C. Brasure – south of Zion Church Road, 300 feet east of Gum Road.

A special use exception for a billboard, a variance from the setback requirements, and a variance from the maximum square footage and height requirements.

The Board discussed this case which has been tabled since April 18, 2011.

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Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception and the variances be **denied since it did not meet the standards for granting a variance or a special use exception.** Vote carried 5 – 0.

Meeting Adjourned 9:30 p.m.