

**FALLS TOWNSHIP
ZONING HEARING BOARD
NOVEMBER 10, 2015**

Hearing commenced: 7:00 p.m.

Hearing adjourned: 10:00 p.m.

Members present: Henderson, Miles, Molle, Powers

Members absent: Brooks

Also present: Diane Beri, Planning / Zoning Clerk; Ed Neubauer, Code Enforcement Officer; Alyson Fritzges, Esquire, ZHB Solicitor; Karen Browndorf, Court Stenographer

Petition #1: Nicholas Mazzatenta, 1461 Bristol Pike, Lot #24, Morrisville, PA 19067; TMP #13-040-058; Zoned: MHC. Requesting a dimensional variance regarding the minimum distance between manufactured homes. Section 209-18 and Table 3.

Atty. Fritzges marks ZHB Exhibits 1 – 4.

Sandra Binney presents the application. We'd like to put a new mobile home in Benny's Mobile Home Park, owned by the applicant and his mother. We currently live on lot 28. Lot 24 has been vacant since September 2013 when the previous mobile was removed. This mobile would have very similar dimensions to the previous one.

Member Molle asks about the size of the mobile.

Ms. Binney states that the previous mobile was 12 ft. x 70 ft.; the new one is 14 ft. x 66 ft. They don't make the 12 ft. any longer.

No public comment.

Member Henderson makes a motion that the application of Nicholas Mazzatenta for a variance from Section 209-18 and Table 3 of the Falls Township Zoning Ordinance be GRANTED to allow the minimum distance between the manufactured homes located on lots 22, 24 and 26 at 1461 Old Bristol Pike, Morrisville, PA to be 22 ft. between each lot as opposed to the 25 ft. required, at the location depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board

Member Powers seconds the motion.

All in favor 4-0.

Petition #2: Donna and David Isgan, 87 Edgewood Lane, Levittown, PA 19054; TMP #13-026-345; Zoned: NCR. Requesting a dimensional variance to erect a fence in the secondary front yard. Section 209-37.C.3.

Atty. Fritzges marks ZHB Exhibits 1 – 4.

Donna Isgan presents the application. We would like to replace a chain link fence in the front that was installed in 1977 with a 4 ft. vinyl picket fence. We'd also like to replace the chain link fence down the Elderberry Drive side of the property with a 4 ft. chain link fence.

Member Henderson asks if there are any issues with the sight triangle.

Mr. Neubauer states that there is no issue with the sight triangle. However, we will need a letter from PECO for the easement in the back.

The Board shows Ms. Isgan where the easement is on the back of her property and the need for PECO's permission to put the fence on the easement, even though there is a current fence on the easement.

No public comment.

Member Henderson makes a motion that the application of Donna and David Isgan for a variance from Section 209-37.C(3) of Falls Township Zoning Ordinance be GRANTED to allow the erection of a 4 ft. vinyl picket fence in the secondary front yard on the property located at 87 Edgewood Lane, Levittown, PA 19054, at the location depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board. This approval is conditioned on a letter from PECO indicating their approval of the fence on their easement.

Member Powers seconds the motion.

All in favor 4-0.

Petition #3: Jesse Pontorno, 10 Thimbleberry Lane, Levittown, PA 19054; TMP #13-023-350; Zoned: NCR. Requesting a dimensional variance to erect a fence in the front yard. Section 209-37.

Atty. Fritzges marks ZHB Exhibits 1 – 4.

Jesse Pontorno presents the application. I have an irregular lot. It is similar to a corner lot, but it doesn't have a different intersecting street. Thimbleberry Lane curves around my property. What I thought was a side yard apparently is a front yard. I'd like to put a 4 ft. split rail fence, with posts 55 inches high.

Member Powers asks how far off the sidewalk will the fence be.

Mr. Pontorno states it is 2 ft. off the sidewalk.

No public comments.

Member Henderson makes a motion that the application of Jesse Pontorno for a variance from Section 209-37.C of the Falls Township Zoning Ordinance be GRANTED to allow the erection of a 4 ft. high fence in the front yard of the property located at 10 Thimbleberry Lane, Levittown, PA 19054, at the location depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board.

Member Molle seconds the motion.

All in favor 4-0.

Petition #4: Cellco Partnership d/b/a Verizon Wireless, 149 Fallsington-Tullytown Road, Levittown, PA 19054; TMP #13-013-009; Zoned: LR. Requesting variances for the installation of a wireless telecommunications facility. Section 209-50.2.B, 209-50.2.C.(3), 209-50.2.C.(14), 209-50.2.D.(11).

Atty. Fritzges states that this application was before this Board on September 8, 2015 and today we are continuing with testimony from the September hearing. Atty. Fritzges marks ZHB Exhibit 8 (posting of the property).

Nicholas Cuce, Jr., Esquire, (representing the applicant) continues with testimony. At the last hearing, our site acquisition consultant (Susan Manchel), and our radio frequency engineer (Andrew Petersohn) testified. Tonight I will be presenting the testimony of our telecommunications site designer, Kenneth Farrell.

Kenneth Farrell (the site civil structural engineers) gets sworn in, states his credentials, and is accepted as an expert in the field of telecommunications site design.

Mr. Farrell states that he worked with Ms. Manchel to find a site within the search ring. We identified some properties, narrowed it to this property. We attended a site visit with Verizon and the owners and found a suitable location on the property, did the survey, did the lease exhibits so that Verizon could enter into a lease with the owners, and ultimately did the zoning drawings and exhibits that you will see tonight.

Mr. Farrell identifies an exhibit (A-17) as a photo simulation that was prepared by his office depicting what the tower would look like if it was constructed. To prepare these photo simulations we have a 4 ft. diameter balloon, we fill it with helium, and raise it to the exact elevation that the top of the tower would be. We go around to key locations where you can see the balloon and take pictures, and take it back to the office. We take another picture of a similar tower and superimpose it for the simulation. The photo simulations you see here would be an accurate representation of what would be built should the Board grant us approval. Photo simulations were done at 144 Fallsington-Tullytown Rd, Thornridge Place, Timber Lane, Twig Lane, and Penn Valley Road (school entrance), and the intersection of Penn Valley Road and Fallsington-Tullytown Road. This exhibit shows that the tower would be in the right location and the right height.

Atty. Cuce introduces Exhibit A-18 (aerial map with search ring shown).

Mr. Farrell explains this exhibit – blue shaded properties designate where a cell tower is a permitted use by conditional use. Discussion occurs about how search ring was established, and the process of elimination dealing with each potential property. Mr. Farrell also states that our ordinance does not mandate that we contact a certain amount of property owners before making a decision on the site.

Mr. Farrell states that this property is a unique property in that although zoned residential, there is nothing residential about it. It has a commercial use for a landscaping business with mulch bins, etc. This property works because the distances from the residents are good, you have existing improvements, an existing driveway, an existing stone area, and has existing utilities whereas the property just north (also zoned LR) does not. We feel this property is the better of the two because of its commercial nature, the distances from the residents, the existing driveway and improvements. This property will not require stormwater management because we are on an existing stone blacktop base.

In summary, out of all the properties that a tower is allowed as a permitted use, it was either out of the search ring, landowner said no, had environmental concerns and/or no existing improvements – that's why we think this property is the best property for this development.

Atty. Cuce asks Mr. Farrell to explain why the applicant is requesting setback variances.

Mr. Farrell states that we could position the tower on the property within the setback requirements. However, one of the things we keep in mind is that this is a commercial property and the owner is using it for a business and we are proposing our use within his business. We are allowed by ordinance to have this cell tower with another use. We are trying to tuck it into the property along the vegetation along the highway. Placing the tower there allows the owner to continue his operation unimpeded, the existing vegetation along the highway allows us to tuck it in there, and it allows us to get it further away from the residents.

Atty. Cuce asks how high the tower is.

Mr. Farrell states our ordinance allows 120 ft.. The tower is 115 ft. monopole with a 5 ft. lightning rod.

Mr. Farrell states that all of these towers are designed in accordance with the industry standard. They must be maintained to the industry standard. This tower would be designed and constructed with the industry standards.

Atty. Cuce asks how stringent the industry standards are.

Mr. Farrell states they are very stringent.

Atty. Cuce asks if the tower would be constructed in accordance with the Township's building code.

Mr. Farrell states yes.

Atty. Cuce asks Mr. Farrell to explain the antenna array that is proposed.

Mr. Farrell states there are three faces to the triangle and each face would have four antennas for total antennas of 12. The antennas are rotated so they can talk to other towers. One of the variances we are requesting is that your ordinance requires a width of 13 inches – we need a width of 14 inches for our antennas. The antennas that Verizon uses are what works within the system; plus the antennas are 8 ft. antennas – the bigger area you have the more radio waves you can collect, so that's one of the reasons Verizon uses the bigger antennas.

Atty. Cuce asks if there will be cables run from the antennas at the top of the tower down to the base of the tower.

Mr. Farrell states that is true but they will be run inside the pole. They will not be mounted on the outside.

Atty. Cuce asks how the wires connect at ground level.

Mr. Farrell states in the center of the compound is the proposed monopole. To the right of that is an equipment pad with a canopy over it and on the equipment pad is the radio equipment (looks like a small refrigerator) and inside that is the radio switching equipment that makes the cell site run. Above that is the emergency generator that is proposed for the site. The generator would switch on in types of catastrophic power loss to the site.

Atty. Cuce asks if the cabinets themselves have an internal battery back up.

Mr. Farrell states yes they do, for the short little blips that may occur from time to time. If the blip lasts longer than an hour, the generator would kick on.

Atty. Cuce asks if this is a proposed propane generator.

Mr. Farrell states yes it is. We have a proposed propane tank within the compound.

Atty. Cuce asks if the generator will be cycled.

Mr. Farrell states yes, twice a month. It will be remotely turned on and turned off, just be exercised to ensure it works.

Atty. Cuce asks if the generator is built with sound attenuating devices.

Mr. Farrell states that is correct. Your ordinance requires at the frequency we are at that the maximum sound decibel is 51. At the property line along the highway, the test results were 50.4 decibels; therefore, we are in compliance with your ordinance. By the time you get to the residential neighborhoods you wouldn't even hear it.

Atty. Cuce asks if the proposed compound will be fenced.

Mr. Farrell states yes. We are proposing a chain link fence. The compound is approximately 50 ft. x 50 ft. surrounded by the fence. Outside of the fence is landscaping. Our compound will be a stone compound and within the compound is the tower, the one parking space, the equipment, the generator and the propane tank.

Atty. Cuce asks if the placement of the tower / compound is the least intrusive to the property owner and neighbors.

Mr. Farrell states absolutely.

Atty. Cuce asks if the site is an unmanned facility.

Mr. Farrell states yes, it is an unmanned facility; it is visited by a cell technician, who has an SUV vehicle, He visits the site every 4 to 6 weeks, snaps his laptop in and does diagnostic tests, walks around to make sure everything in the compound is fine, and then leaves after about an hour. Sites like this do not create traffic, there are no employees, there is no sewer / water, no school facilities, etc. The traffic is once every 4 to 6 weeks.

Atty. Cuce asks that despite these intermittent site visits, is the site monitored remotely?

Mr. Farrell states yes, it is monitored at the network operations center 24/7, so if someone was breaking in or equipment damaged, an alarm would go off at the center. They would contact emergency personnel as well as the cell tower technician in charge of this site for him to do an assessment. There is also a sign on the front that gives the 24 hour phone number for emergency personnel.

Atty. Cuce asks about parking spaces on the compound.

Mr. Farrell states that there is one designated spot. He also states that the Township ordinance is unique in that it requires a paved surface to the compound. At this site, we have a compacted stone surface that we will blacktop.

Atty. Cuce asks if there is outdoor lighting at the facility.

Mr. Farrell states that there is couple of 70 watt floodlights that would shine on the equipment when the cell technician would get there. There is no lighting on the compound or tower.

Atty. Cuce asks if approved, Verizon would allow for co-location for other carriers, such as emergency services.

Mr. Farrell states yes.

Atty. Cuce asks if a soil report or study would be performed and provided to the Township.

Mr. Farrell states yes. We do a geotechnical analysis on the site – that would be the next phase if we receive approval. That information is used to design the foundation and the tower.

Discussion occurs on stealthing, a tree monopole and the photo simulation exhibit (A-19) showing what a tree monopole would look like at various distances.

Mr. Farrell states that this property is unique because of its shape, it does have the pond, it is near a highway, and it has some of the existing improvements. It is zoned residential but it has a non-conforming commercial use. We have tried to keep the tower as far away as possible from the residents and keep it closer to the highway.

Atty. Cuce asks if the proposed use would negatively impact the public health, safety or welfare of the residents.

Mr. Farrell states no it would not.

Atty. Cuce asks if the proposed use would impact municipal services or have any impact on traffic.

Mr. Farrell answers no.

Atty. Cuce asks if the proposed use would negatively affect the character of the neighborhood.

Mr. Farrell states no, not where it is located.

Atty. Cuce asks if the proposed use is a suitable and appropriate use for this particular parcel.

Mr. Farrell states yes.

Atty. Cuce asks if the proposed facility would be constructed and designed in accordance with all applicable safety and industry standards.

Mr. Farrell states yes.

Atty. Cuce asks if the facility's location is the least intrusive means to meet Verizon's objectives for this area of the Township.

Mr. Farrell states yes.

Board Questions

Member Powers questions Mr. Farrell about the existing high tension wires and why it was not practical to use them.

Mr. Farrell explains that in order to do maintenance, PECO has to power down the lines. They don't want antennas on structures like this because they cannot maintain them. For example, if Verizon needed to swap out antennas, they could not until PECO powers the line down for their maintenance and that might not happen for 3 years. PECO will let us use the lower voltage ones, but not the higher voltage ones, which is what is here.

Member Henderson asks that you want to put a secondary non-conforming use on the property.

Mr. Farrell says yes. We have the right site because of the commercial nature of the property, because we are furthest away from the residents and we have existing vegetation to tuck the tower into.

Member Miles asks with regard to the driveway that will be black topped -- who will maintain the driveway since the driveway will be used by the business as well as Verizon.

Mr. Farrell states that Verizon will be responsible for the driveway.

Party Status

Cindy Johnson, 302 N. Park Drive, Levittown

She questions Mr. Farrell about the photographs (A-17) and asks if he took the pictures himself, if he knows the type of lenses used, and why the power lines look to be the same height as where the balloon test was located.

Mr. Farrell stated that he did not take the pictures himself but was part of the group that was there when the balloon was floated, a digital camera was used with no removable lenses and that the pictures appear to be the same height as the power lines because the balloon is 800 ft. away.

Ms. Johnson asks about the property to the north and the wetlands.

Mr. Farrell states that the northern property showed the characteristics of wetlands and that the property was poised for development so it was eliminated.

Ms. Johnson asked about why the tower is not able to be placed closer to the ponds.

Mr. Farrell stated that the closer to the body of water, the more saturated and loose the soil becomes. Generally, you should be 50-100 ft. away. That's another consideration when we are looking at these sites.

Ms. Johnson asked if St. Joseph the Worker was contacted about placement of the tower on their property.

Susan Manchel (site acquisition consultant) answers that St. Joseph the Worker was contacted.

Patricia Crocker, 13 Twig Lane, Levittown

Ms. Crocker marks exhibits Crocker 1 – 2 (pictures of the balloon testing)

Atty. Cuce asks where the pictures were taken.

Ms. Crocker states her back yard, directly across from the proposed cell phone tower.

Atty. Cuce asks if she took the picture herself.

Ms. Crocker states no, "you guys did". I was given this picture.

Atty. Cuce asks who gave her the picture.

Ms. Crocker says D.J. Seratch, owner of the property.

Atty. Cuce objects to the photos as exhibits; Atty. Fritzges overrules for purposes of this hearing.

Ms. Crocker asks Mr. Farrell why the two pictures she has submitted were not included in the pictures he submitted.

Mr. Farrell states that Ms. Crocker's exhibit pictures were not taken by Verizon. It was probably taken from somebody's cell phone. We don't go into people's backyards. I cannot verify the authenticity of these photographs.

Jonathan Snipes, 878 W. Bridge Street, Morrisville

Mr. Snipes asks how far out of the search ring does the tower have to be before it impacts on the effectiveness of the tower. The last time the answer was no hard and fast rule.

Mr. Farrell states that Mr. Petersohn can answer that question as he is the radio frequency engineer.

Andrew Petersohn states that there is no hard and fast rule. From a radio frequency perspective, we want to be as close to the center of the search ring as possible. That is not possible here. So we attempt to get as close as we can – in this case a few hundred feet out of the search ring. Any site further away from the search ring would perform worse.

Brian Leaper, 38 Tall Pine Lane, Levittown

Mr. Leaper asks if they make invisible towers.

Mr. Farrell states no.

Mr. Leaper states so that no matter where you put this tower, some one, some where, is going to see it – correct?

Mr. Farrell states that is correct.

Mr. Leaper asks if where you are placing the tower, the least amount of residents will see it – correct?

Mr. Farrell states that is correct.

Public Comment

Opposed to the application: Patsy Crocker, Cindy Johnson

In favor of the application: Carl Colucci (19 Thornyapple), Brian Leaper, Donald Seratch, Jr. (25 Timothy Lane).

Atty. Cuce makes his closing statement.

Hearing is closed. A short recess is taken.

Member Powers recuses herself from the voting as she did not attend the September 8, 2015 hearing.

Member Molle makes a motion that the application of Cellco Partnership d/b/a Verizon Wireless for variances from the following sections of the Fall Township Zoning Ordinance be GRANTED to allow the erection of a 115 ft. high telecommunications tree monopole with a 5 ft. high lightening rod with 12 panel style antennas attached at the centerline height of 115 ft. and the installation of an equipment cabinet and standby generator to be housed on an 11 ft. x 23 ft. concrete pad enclosed by an 8 ft. high fence and served by a 10 ft. wide paved access drive and one parking space, on the property located at 149 Fallsington-Tullytown Road, Levittown, PA 19054, at the location depicted on the plans and in accordance with the testimony presented to the Zoning Hearing Board, Section 209-50.2(B)(1) to allow the telecommunications facility use in the LR (Low Density Residential) zoning district; Section 209-50.2.C(3) to allow the proposed panel antennas to be 14 inches wide rather than the required 13 inches wide; and Section 209-50.2.D(11) to allow the proposed foundation base and the proposed telecommunication tower to be set back no less than 50.5 ft. from the property line. This motion is conditioned on the installation of a tree monopole.

Member Miles seconds the motion.

All in favor 2-1, Henderson dissenting (Powers recuses).

Hearing adjourned 10:00 p.m.