

Zoning Hearing Board  
Lower Saucon Township  
Town Hall  
June 18, 2012

## **MINUTES**

The meeting was called to order at 7:20 p.m. by Chairman Banonis. The opening of the meeting was delayed because the stenographic reporter had not yet arrived. It was therefore decided to record the meeting electronically so that a transcript could be prepared if needed. When the stenographic reporter appeared she began to take the notes at that time; however, it was decided to record the entire meeting for the sake of continuity.

### **Roll Call**

Present at the meeting were Chairman Jason Banonis, Vice Chairman Ted Griggs, Secretary Keith Easley, and Board Member Lachlan Peeke. Board Member Austin Kunsman was absent. The Solicitor, George A. Heitzman, was also present.

### **Minutes**

The Board had before it for approval the minutes of the meeting of May 21, 2012. Mr. Peeke moved to accept the minutes as submitted. The motion was seconded by Mr. Easley and passed by a vote of 4 to 0.

### **Bills**

The Board had before it for approval a bill from the Morning Call for advertising the meeting of May 21, 2012, the Stenographic Reporter's bill for attendance at the meeting of May 21, 2012, and the Solicitor's invoice for the

month of May, 2012. Mr. Easley moved to pay the bills as submitted. The motion was seconded by Mr. Peeke and passed by a vote of 4 to 0.

**Variance Appeal of Allentown S.M.S.A, d/b/a Verizon Wireless - 07-12**

Chris Garges was sworn and testified that Applicant would like to construct a monopole wireless communications tower on land owned by PPL. There currently exists a co-location on an existing electric transmission pole on this parcel; however Applicant states that the pole cannot structurally support further co-locations. Furthermore, the existing co-location on a PPL transmission pole on the adjoining parcel also cannot structurally support an additional co-location. The proposed monopole is 110' in height, the existing pole on the parcel is 102'.

The parcel of land is located in an R20 zoning district and is currently used for a PPL substation. The property comprises 236,444 ft.<sup>2</sup>, or approximately 5 acres. The applicable section of the Zoning Ordinance dealing with the permitted uses, §180-37C, does not include the use of a communication tower. There is a tower currently on the parcel as a result of a prior grant of a conditional use.

Variances are required from sections §180-37C and §180-127.1 for a use variance to permit a communications tower, §180-127.1B(1)(a) from the requirement of a setback 1.5 times the height of the tower, §180-127.1L(2) from the requirement of written FCC approval, and §180-127.1B(3) from the requirement that the distance between two towers shall be equal to or greater than the height of the two towers.

Township Council took no action in the matter.

Attorney Catherine E.N. Durso appeared on behalf of Applicant. At the suggestion of the Board, the witnesses were sworn and Attorney Durso made an offer of proof as to the testimony of each witness. At the completion of each offer of proof, the witness affirmed, under oath, that the offer of proof was an accurate

summary of his evidence.

The first offer of proof was for James T. Rodgers. Mr. Rogers is the real estate project manager of Wireless Access Technologies, Inc. He identified Applicants Exhibits 1 through 13 as comprising the following:

Applicant's Exhibit 1 - FCC Licenses.

Applicant's Exhibit 2 - PPL Letter.

Applicant's Exhibit 3 - Letter to Airport and Response from Airport.

Applicant's Exhibit 4 - Photo Simulation.

Applicant's Exhibit 5 - Zoning Plan.

Applicant's Exhibit 6 - Verizon Wireless Shelter Specifications and MSDS Sheet.

Applicant's Exhibit 7 - Structural Certification Letter.

Applicant's Exhibit 8 - Propagation Plot Showing Existing Coverage.

Applicant's Exhibit 9 - Propagation Plot Showing Proposed Coverage.

Applicant's Exhibit 10 - Antenna Specification Sheet.

Applicant's Exhibit 11 - Non-Interference Report.

Applicant's Exhibit 12 - EMF Compliance Report.

Applicant's Exhibit 13 - FAA Screening and PA Bureau of Aviation Screening.

The evidence further showed that Applicant's Exhibit 1 comprises the FCC licenses for the site. The FCC does not actually issue written approvals, thus necessitating the variance from §180 – 127.1L(2).

Applicant's Exhibit 2 is a letter from PPL, as owner of the property, authorizing the filing of any and all necessary zoning and permit applications. Applicant's Exhibit 3 is a letter to the Lehigh-Northampton Airport Authority and their response showing no objection to the proposed power. Applicant's Exhibit 4 shows a photo simulation indicating that the proposed power will blend with surrounding trees in the area. Mr. Rogers' evidence also indicated that the tower

was placed as close to Route 78 as possible.

The next witness was Mr. Al Tope, a professional engineer, and a transmission engineer for PPL. Mr. Tope's evidence described the Verizon wireless shelter specifications including the material safety data sheet. There will be a 35' x 45' chain-link fence around the area. The variance for the setback pertains to the North property line. The tower will be 168 feet from all other property lines. It will also be 80' from the Sprint communications tower. The plan of Applicant's Exhibit 5 shows all setbacks and further shows that the tower will be 275' from the nearest tower. There are no residences in the fall zone of the tower. There are no sight triangle problems, Sand access to the site will comprise a visit once a month by a single sport utility vehicle for maintenance purposes. The construction will be in accord with all applicable industry standards.

Applicant's Exhibit 7 was identified as a structural certification letter which will be supplemented with a final plan signed and sealed by a professional engineer to be given to the Township. Finally, Mr. Tope's evidence was that the requested zoning relief is the minimum necessary to accommodate the tower.

The final witness was Mr. Brock Riffel who is a radiofrequency consultant employed by RF Services, Inc. Applicant's Exhibit 8 is a propagation plot showing the existing coverage, while Applicant's Exhibit 9 is a propagation plot showing the proposed coverage. Terrain is a factor in the location of the tower which becomes critical in determining the exact location. Applicant's Exhibit 10 provides the specifications for the antenna, while Applicant's Exhibit 11 shows there will be no interference with existing transmission facilities. Applicant's Exhibit 12 shows that the proposed electromagnetic emissions comply with all applicable standards. Finally, Applicant's Exhibit 13 shows the FAA Screening and Pennsylvania Bureau of Aviation Screening, and illustrates that the tower will not have to be lit, which was a concern of Township Council, as set forth in a letter to the Solicitor from the Township manager dated June 7, 2012, requesting

a condition be imposed of a written guarantee that no lights will be on the pole. There was further evidence that the NEPA regulations will be met and that there will be no adverse impact to the neighborhood.

Attorney Durso then moved all of Applicant's exhibits into evidence.

There was no one in the audience who wanted to be heard concerning the matter.

Mr. Griggs noted that, as he is a pilot, he believes that the FAA is often a bit too cavalier about approving towers that could be in the flight path of an airplane. He testified, having flown into this airport, that the approach can be a bit scary. Mr. Banonis noted that as the tower was basically nestled into the mountain, perhaps this was a factor that had been considered.

Mr. Banonis also questioned what the weight of the equipment was, in view of the assertion that adjacent towers would not be suitable.

Mr. Tope testified that the antennas were not particularly heavy, but their construction was such that they provided increased wind loading to the tower. The problem with existing poles in the area is that they are not strong enough to take the wind load.

Mr. Peeke moved, seconded by Mr. Banonis, to grant the requested variances subject to the condition that Applicant provide a written guarantee that no lights will be on the pole, and the motion passed by a vote of 4 to 0.

### **Variance Appeal of Michael & Tracy Kiefer - Variance 03-11**

Attorney Monahan appeared on behalf of Applicant and told the Board that he believed there was agreement between the Township and the Opthofs to resolve all existing issues. He stated that although Attorney Treadwell was not present on behalf of the Township, he was in agreement. The Solicitor noted that he had spoken to Attorney Treadwell and that this was in fact the case.

Attorney Monahan stated that his client believed that he was in fact going

to be conducting a permitted use, but that he was agreeable to the terms and conditions contained in the various documents to be made part of the record. He testified that his proposed height not to exceed 16' would provide best sight and noise reduction. He testified that he already has a buffer between his business and his home, which also serves to buffer his business from the Opthofs.

Mr. Kiefer, who had previously been sworn, testified that he had attempted to meet all of the Township's conditions as well as the Opthof's conditions. However, he wishes to have the buffer wall rise to a maximum height of 16 feet. Mr. Kiefer showed a number of photographs to the Board of the type of stone wall he is going to build, and testified that he does this work for other individuals and a wall such as the one he is willing to construct would normally cost between \$80,000 and \$90,000.

Attorney Monahan summarized the requested relief as comprising variances from §180-6A, §180-7, §180-19A(2)(c), §180-91B, §180-91E, §180-95A(2), §180-97A(2)(a)(1), §180-C(2)(i), §180-101, §180-95, §180-97, and §180-98C(2)(g).

Mr. Kiefer testified that the relief he is requesting is the minimum relief required and that he will in fact improve the character of the neighborhood.

Attorney Opthof then had a conference with her client and stated that it was now agreed that the buffer wall could have a maximum height of 16'. The site plan was initialed by both Mr. Kiefer and Mr. Opthof, and the various documents showing what is proposed to be done were incorporated in the record and formed a part of the motion as listed below. It was also agreed that Mr. Kiefer would lift a permit for the buffer wall and would complete construction within six months.

There was no one in the audience who wished to be heard concerning the matter.

Mr. Easley moved to grant all of the requested variances subject to the special conditions, which are integral to the granting of the variances and are to

be deemed to run with the land, of compliance with the terms of the following, all of which were made part of the record:

1. The five page memorandum by Attorney Monahan presented to the Board at the meeting of June 18, 2012, which provided a description of the use of the premises, the specific response to Zoning Officer Chris Garges' letter dated May 21, 2012, and a list of variances as to which relief was requested.
2. The letter from Zoning Officer Chris Garges to Mr. Kiefer dated May 21, 2012.
3. The letter dated June 14, 2012, from Attorney Opthof, as amended to include a maximum height of 16 feet, and further amended to provide that the buffer wall will begin between zero and 2 feet from the property line.
4. The plot plan dated December 12, 2009, as initialed at the June 18, 2012, Board meeting by Mr. Kiefer and Mr. Opthof.
5. Mr. Kiefer must lift a permit prior to beginning construction of the buffer wall.
6. Mr. Kiefer shall complete the installation of the buffer wall within 6 months of the date of this letter.

Mr. Easley's motion was seconded by Mr. Peeke and passed by a vote of 4 to 0.

### **Old Business**

There was no old business before the Board.

### **New Business**

There was no new business before the Board.

### **Adjournment**

There being no further business before the Board, Mr. Griggs moved,

seconded by Mr. Banonis, to adjourn the meeting. The motion passed by a vote of 4 to 0 and the meeting adjourned at 8:30 p.m.

Respectfully submitted,

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George A. Heitzman  
Solicitor

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