

**Planning Commission
Meeting Minutes
June 16, 2014**

ATTENDANCE: Pete Reich, Ray Ryan, Larry Souder, George Jack, Director of Planning & Zoning Mary Ann Skilling and Planning & Zoning Coordinator Dianna Battaglia.

Meeting called to Order at 6:31 p.m.

APPROVAL OF MINUTES:

Approval of the May 19, 2014 Planning & Zoning Meeting minutes will be tabled until the next meeting due to quorum not in attendance.

NEW BUSINESS:

Recommendation to Board of Appeals: SE2014-01 Special Exception – request by Cellco/Verizon Wireless to construct cell tower; PROPERTY OWNER: Community Fire Company of Perryville, Inc.; APPLICANT: Cellco Partnership dba Verizon Wireless; LOCATION: 920 Principio Furnace Road, Perryville, MD 21903; Tax Map 801, Parcel 0196, Zoned R-2.

Mr. Jonathan Jordan, attorney for Verizon Wireless introduced representatives: Mr. Cuce, partner in the law firm, Ms. Coyle, site acquisition representative for Verizon Wireless, Mr. Fischer, radio frequency engineer consultant for Verizon, Mr. Williams with the Community Fire Company of Perryville and the landlord for this site, Mr. Sidel, land planning expert, and Mr. Miller, civil engineer, to answer questions and we'll focus on the outstanding issues. We had met with the Town before the formal application and received a copy of the Staff Report last week for the proposed one-hundred ninety (190) foot tower. Right now Verizon has its antennas on a hundred ninety (190) foot tower owned by Crown Communications, on Amtrak right-of-way at 644 Broad Street. Verizon needs to decommission the antennas on that tower and move them to this new tower for various issues we're going to get into later. In order to do that we need to get a Special Exception from the Board of Appeals and we're also asking for a variance from the setback requirement. One of the requirements is the height of the tower is the setback distance from every property line. So in order to meet the one-hundred ninety (190) foot setback from Ikea Road the tower would have to move out near the picnic pavilion and would then interfere with flight patterns and planned expansion for the parking area. There are mature trees around three sides of the property and screened by the building in front. There are industrial type properties (across the road) and some residential but there are mature woodlands so we don't think that the setback is an issue. We submitted our application with a signed and sealed report from a civil engineer which states that the structure is safe in this location. If the tower were to fail it wouldn't tip over like a tree or fall down upon itself so the setback for the height of the tower is no longer necessary. In fact there are three other sites we looked at in the Town that do not have the same setback, maybe fifty (50) feet or less from the property line. The main issue that we have with the current location in the Amtrak right-of-way is that we have eagle and osprey nests on the antennas, with some photographs to show what we're talking about. The problem that we have is the season for eagles is December 15 through August 15 and the season for osprey is April 1 through August 31 unless the birds are on the property. If the birds are on the property it doesn't matter whether it's in season or out season, you can't touch their habitat. That has been an issue for us and we have ten (10) plus year old technology on that tower because we haven't been able to get on that site to upgrade our

equipment to the latest technology because of the seasons and the inability to touch the site when it's either in season or the birds are on the site. To make matters worse our landlord, Crown Tower, and their landlord, Amtrak has about a two (2) year review process before they would allow us to get on the site and the odds of getting through that process and having it fit within the bird window is next to impossible. So the idea is for Verizon to build a tower and then have control of the site for the bird issue, to work around the birds and as an added side bonus we can generate revenue for the fire company.

Mr. Brian Williams, member of the board of directors for the Perryville Volunteer Fire Company, stated the fire company uses the property mainly for the banquet hall and the picnic pavilion. The property is bordered with a slight knoll and (center section) has been graded and compacted for parking lot expansion. If the tower would be placed out in the middle it would interfere with the expansion of the parking lot and also this area is used for landing of the helicopter, it is quicker in an emergency to request an air lift. We don't tell the helicopter where to land or how to come in, they do it on their own and prefer to land into the wind and take off into the wind. They come in and circle and whichever way the wind is blowing they can get the angle to come down to the parking lot. When they take off it's the same thing, they try to take off into the wind, so if the tower is out in the middle it's going to cut down the amount of area available to use. The property floods along the road and west side at the stream so with the floodplain area the tower wouldn't work in that area.

Discussion continued regarding if anyone talked to the Maryland State Police Aviation Division for any concerns regarding the one-hundred ninety (190) foot tower to continue using the site for medevac. Mr. Williams explained the medevac lands where it wants to, we don't tell them where to land. It is an optimum place to land: wide open, no obstruction, power lines off to the sides, with a flight path in and out.

Mr. Jordan indicated I tried to cover why we're moving the antennas, why we don't need to be more than fifty (50) feet from the property line, and for the same reasons the fire company has asked us to request a variance from the landscaping requirements. There are thick trees on three sides of the tower and then you have the building, with more trees screening the residential area. You mentioned having some questions about the tower structure and falling versus crumpling. There is a tower owned by Sprint on Cedar Corner Road and a variance was obtained for a setback of twenty-eight (28) feet from the road, approved by the County. The Town owns the land so the Town was part of the application.

Mr. Andrew Miller, from Advantage Engineering and a registered engineer in the State of Maryland, stated in terms of the strength of the tower overwhelmingly the issue we should talk about is the building codes, which are there to protect residents and the people of the surrounding area. They have safety factors set up that towers do not fall, specifically monopoles. If you google monopole failures most of them have to do with fires within them which comes from construction, they don't spontaneously combust. But in terms of a monopole use fall range, they're designed in several manners: most of them are slip jointed so the bottom joint fits within the top one and they can design them to have different strengths so that if the controlling component of the tower, say it could be the center section, of a one-hundred ninety (190) foot tower and the controlling component is the middle section, essentially if a failure becomes a reality the pole will fold in half. Therefore, there may be no fall range. This is something that could be requested of the tower manufacturers. Initially they chose not to use a slip jointed pole, they can use a flange pole that have bolts at each level to separate the sections and again, they can design the different sections to be the controlling component so if a tower reaches that failure point that's the component that will fail and will reduce the fall radius from one hundred ninety (190) feet to half. Half the height of the

pole is realistic because if you go anywhere below half that section falling over will hit the ground. So half the height of the pole is what is considered for a reduced fall zone. Typically the foundations are poured with anchor bolts and then bolted to the structure. Plan diagram shows the ice bridge section which is simply a mechanism of support for the coax going through the shelter to the monopole. The ice bridge has nothing to do with the monopole itself or its strength. The monopole is simply a tapered eighteen (18) sided shell and there will be no additional structures inside of it. No structural members are in the pole, made up of a shell with no guide wires. It is a cantilevered structure that is only supported at the base. Typically, there is a base plate, the pole is welded to that base plate and that base plate will sit on the anchor bolts so the load transfer goes: monopole, base plate, anchor bolts, down to the foundation. Stress or failure wouldn't be detected with a sensor, it would be a matter of sizing the steel of the different sections, the center section, when we run the analysis typically when a pole is designed, and it is designed to one hundred percent (100%). And that 100% point would be a minimal of the pole whereas the sections above and below could be much lower percent possibly, ninety (90), eighty (80), or even seventy (70). So that when it reaches that 100% point, the most stress point is that center section to keep it from folding over at the base. Winds are a factor but that's what the building code is designed for, to resist the winds that are typically seen in this area. With the recent severe storms, even Hurricane Sandy, none of them have come close to the code required winds during the analysis. Many towers were in the path and none failed.

Mr. Souder commented birds, eagles and ospreys are everywhere here, and you can't change the existing tower now to make the changes needed but as soon as that new structure is up the birds are coming. What do you do to eliminate them?

Mr. Miller replied the mounts that are proposed are more low profile type of configuration, what we call t-arms, so you have a single arm radiating out from the tower and then a single member perpendicular that will support the antennas. There will be no grating or platform where they can land.

Discussion continued regarding the possibility of collapse and who is responsible. Verizon will own the tower and will pay taxes on the leased section of property. In addition, Amtrak has the rail line there that is used for substantial freight traffic as well as commuter. Amtrak should know there is a tower going up there as well as IKEA, just for their information. Not necessarily about the height of the tower but any possibility of interference with electronics in the system. Also the surrounding property owners should be informed of any kind of development to let them know something is going up there.

Mr. Jordan stated we'll explain why we think fifty (50) feet is a safe distance from the road, but getting back to the liability issue, typically governmental entities aren't sued for approving something. If you approved me to build a house and I don't build it properly and it falls in, you can't be held responsible for that. The other thing is everyone has insurance, Verizon has insurance, and the fire company has insurance.

Mr. Miller indicated it is relatively common for a fifty (50) foot setback and that is driven by several things: the inherent safety of the building code and the requirement for these mass communication devices that everybody has. We discussed the reasons why it can't go towards the interior of the property and I don't like to call them crumbling poles but a reduced fall radius structure is certainly one hundred percent (100%) applicable in this case and there should be no problem getting a structure design to meet the criteria. This is something that is across the U.S. and tower designers and manufacturers are meeting the need with these types of specialized structures. The design hasn't been ordered yet and both types perform the same function. Typically they prefer stacking

poles just because it allows a smooth surface on the interior to run the coax. When you put flange plates and such you end up with a step design inside which makes it hard. We need to submit design plans when we go for building permit.

Question was raised why Verizon doesn't want to use the Cedar Corner tower, but Mr. Jordan indicated they were only using that as an example that it doesn't have setbacks. The provided documentation explained the new tower would handle the downtown area, to provide better service and reaching the customers in this part of town. A location further up at the high school would not be the best way to reach the customers in this area.

Mr. Jordan explained this area is the closest site available to the existing pole, to replicate that. Whether or not we have other sites, this is a replacement site but it doesn't rule out the possibility of another site. I don't have all my facts but I think Verizon is looking at the site the Town owns.

Ms. Coyle indicated they are looking at the site on Cedar Corner and the tower is owned by SBA. It used to be the abandoned water plant, approximately one hundred twenty (120) feet, and that would be in addition to this. It is located in the County so we would be going through them.

Discussion continued that two towers would provide better service to the citizens of this area rather than just having one tower up there or one tower down here. The County has a provision in their regulations for new towers to consider existing towers and build on. Existing towers already have permission and they are grandfathered and could expand to greater heights. Another option would be on the water tower at I-95 but Verizon is not looking at that site.

Mr. Jordan commented whatever the other sites are, this particular site is the closest and would be an upgrade and I think there will still be a need for other towers.

Questions were asked what the statistics of cell tower failures were but Mr. Miller does not have that information. It is the tower manufacturer's line of business and they perform full scale tests on a regular basis and that's how they've come up with their base line designs. Mr. Jack commented that although testing is done on full size towers by the manufacturers, it doesn't provide confidence as they're not going to waste money. In addition, there are tens of thousands if not hundreds of thousands, of towers across the country so it's not just an estimate as we have real life examples.

Mr. Miller responded the way the industry typically works is the designer and the manufacturer are not the same company so the designer is holding the manufacturer to the standard that is set forth in the design and vice versa. In addition to monopoles there are additional types of towers, self-support towers, which are what Verizon is currently on, and guide towers that are slender structures that are supported by guide wires. Those are less safe because of the amount of work that is needed on them and I won't say on a regular basis but a guide tower recently fell in West Virginia while it was under construction. So monopoles, while they are shorter structures, when possible they are the preferred structure.

Ms. Skilling presented the Staff Report (attached separate). This is a request for a Special Exception and Verizon is also requesting a variance to two of the conditions of Section 165, which is something the Board of Appeals will have to address. Condition #2 requires a minimum ten (10) foot landscape strip around. There are some trees and shrubs from the people across the street but visually a lot of people just don't like the towers, and I refer to them as visual clutter. So does it or will it provide any type of landscape cover, probably not, it's a high fence but it would help as far as meeting that condition. We just did this with Delmarva Power across on Otsego Street and

required landscaping around their fencing. Condition #3 requires a setback of one foot for every one foot in tower height, and it should meet the requirement. Also in the report, I thought it was a generator outside of the fenced area but it is actually a transformer. I'd like to know if in fact that transformer has to be outside that and who requires it to be there, or not. The other thing, the fire company is tax-exempt but this area would have to be re-allocated for assessment, which I understand it's already been done, so the actual assessment provision has already been taken care of prior to getting the Special Exception. To clarify, the first condition, structures to be located at least two hundred (200) feet from an existing dwelling, by definition the pavilion is not considered a dwelling, under the Zoning Ordinance. So there are no dwellings within two hundred (200) feet, even if they move it away further into that field. As far as the floodplain is concerned, there are certain things you cannot put in the floodplain. The whole west side of this property is open and it does get wet but it wouldn't interfere with potentially any landing unless the trees are going to be a problem. So the conditions that have to be met and to get a variance is going to be difficult if they can't demonstrate to the Board of Appeals so it's up to them to make a decision, whether in fact they can meet the conditions as a variance to the requirements. It is very difficult to meet because you have to submit findings to that effect. So the recommendation from you is what you want to consider and I've suggested a recommendation in the report.

Mr. Jordan indicated the area to the west, there are wetlands in here and is shown on the plan, the floodplain area, there is a pavilion here so we think in light of the fall zone issue and the fact there are three other towers in the town that are setback less than fifty (50) feet: two towers in the Amtrak right-of-way and the one on Cedar Corner. None of those three towers have this two hundred foot setback, there are trees around, we have a fence around the compound and as far as the landscaping we could put privacy slats on the fence. We think the trees on the three sides and the building screen that out pretty well, not to mention the trees up here, so I'm not really sure what other landscaping would make sense. The more landscaping we put in right around the compound means less property for the fire company to use as their parking area and any other uses they may need on the property, and would be part maintenance issue for them. So we talked earlier about the flight patterns and the parking lot expansion and we believe these are justifications for the variances we requested and there's no harm in it. To me it makes sense to keep that away from the picnic pavilion and away from any of the outbuildings and the fire station. We talked about the safety issues. There's really no reason for the setback and no harm in granting us the variance, same with the landscape, and we talked about why we need to move off of the existing tower. I guess the one thing that came up that I didn't address earlier is the transformer.

Mr. Miller replied it is industry standard that the transformer is on the outside of the compound for ease of access for the power companies. If they would ever need to shut down power immediately they wouldn't have to worry about a gate and a lock, they want their access. Additionally they require at least six foot clearance on all sides for them to be able to work safely.

Ms. Skilling commented one other point of clarification, I know it has been said three towers in town but none of those towers are in corporate limits. Just want to emphasize that, they are not in corporate limits, they are on Amtrak and/or maybe the VA property and Cedar Corner is in the County.

Mr. Jordan indicated the reason I brought up that particular site was a variance was obtained from Cecil County. They also require a setback from the property line for the height of the tower but allowed a variance to put it twenty-eight (28) feet from the road. And because the Town owns the property they were part of the process.

Discussion continued regarding helicopter landings, with no fixed flight path, and landing is based on the weather conditions at that moment. It doesn't matter where the tower is located, it will interfere with flight patterns. Even though it's set off of the center of the property the pilot has to make a decision when coming in based on winds. Although it is preferred to land in the parking lot for ease of transferring patients from an ambulance, there is an option to land on the grass to the west.

Mr. Jordan explained helicopter pilots do have to consider everything up in the sky but the point was putting it in the center of the property puts it right in the thick of things and by setting it off to the side it's not quite as burdensome when you're trying to fit everything. The tower will have a light at the top at night.

Discussion continued regarding the possibility of moving the location forty-five (45) feet west, with immediate impact to future plans of the fire company. For safety concerns, we should consider the ninety-five (95) feet setback, mid-pole and failure, for some kind of conservative barrier, that at least we considered breakage at the half point.

Mr. Miller responded the current position was founded upon our conversations with Verizon and the fire house. They wanted as little intrusion to their future parking space as possible which is why the position is where it is now. I don't want to speak for the fire company but to say moving it forty-five (45) feet inward would help the fall zone issue however it would inhibit other factors that go into this site design.

Ms. Skilling reminded the board your guidance is to provide comments for the Special Exception, whether you believe it should meet the requirements, because the actual variance approval is handled by the Board of Appeals. And the variance request wasn't clear because they said any other potential variance that would be needed, and I don't know what the other would be.

Mr. Jordan replied we don't have anything particular in mind but if in the course of the staff review we forgot something else, that is what we were thinking of. There's nothing specific that we have. I don't recall being in front of this particular body before but typically we do see Planning Commissions make recommendations on whether they feel a variance is warranted or not. I don't know if there is a prohibition against that.

Ms. Skilling responded no, they can do that but the ultimate goal is to have findings at the Board of Appeals to see whether you can meet these conditions and if this board believes there is a possibility of meeting those conditions they could make a recommendation.

Discussion continued as clarification for the Special Exception, Section 165 the first condition is met as there is no existing dwelling within two hundred (200) feet, per Town definition a dwelling is a structure where people are living. The other conditions: ten (10) foot landscape strip and setback of one foot for each one foot in height is recommended in the Staff Report. The board could recommend to the Board of Appeals that they meet the conditions of that section but the Board of Appeals would have to decide whether to give them the variance. The reason for the regulations was if the tower fell over you wanted to make sure it stayed on the property, not on someone else's property. It was discussed that if the technology is sound and correct and you can prove that, then the actual fall height is different and could be considered. If the pole failed at the control section and fell down, to consider a setback of ninety-five (95) feet, to move the location forty-five (45) feet more to the west. It could happen, things happen, and with that pole falling down in half it could go ninety-five (95) feet at the worst scenario. It was suggested to check with

aviation for their comments, what does this mean for a helicopter pilot. The applicant is going to have to have findings for any of the variance requests, to make sure they can meet the standards. The Planning Commission is able to provide recommendations for the requirements, but only the Board of Appeals can approve, and they will get findings and information to justify the variance requests.

Mr. Ryan stated I don't have any issue whatsoever with what they've come out with so far but I'm also going to be truthful about it when it comes time to voting I will abstain because I have a big interest in this. In general, I don't have a problem with what you propose at all.

Mr. Souder indicated all of us who live here would enjoy anything from this because it serves the town, including the fire company, and hope whatever your arrangement is it's substantial enough because obviously we're talking about moving things around down there. So I don't have any problem with the idea or with the technology. The primary thing is talking to aviation because a lot of the discussion tonight centered on the helicopter pad and whether or not it's going to be there. Once they know the pole is there they'll take that into consideration, whether it's over here or over there, and they should be included in that conversation. I have no problem with the idea as long as we address the ninety-five (95) feet as a recommendation and aviation is included.

Ms. Skilling stated we did contact the aviation division but we just haven't gotten a response from them.

Mr. Jordan commented if I can comment on the ninety-five (95) feet issue, there is another twenty-five (25) feet from the property line to the center of the road so I don't know if the board is willing to give any credit for that.

Mr. Jack responded we can't but maybe the Board of Appeals can. I have no issue with the first two conditions, but I do have an issue with the setback, for the town and for protection of whatever's around the area. I think we need to do our due diligence and if he says the pole breaks in half and it's ninety-five (95) feet I think we should say that's the worst case scenario and protect it at ninety-five (95) feet. If we include that I have no problem with recommending to the Board of Appeals a variance be considered under those conditions. To clarify the landscape strip, I don't have a problem with it unless some of you think it's needed, who's going to see it anyway. It's already got trees all around and the building in front unless the fire house would like beautification around the fence. We don't have landscaping at the Cedar Corner Road site. The setback is the only issue I have a problem with.

Mr. Reich indicated during discussion earlier they don't want the tower out any further because of the flight path and landing down there and that's what made me bring it up. I asked Ms. Battaglia to call the State Police Aviation Division. I'm not worried about the flight path but I'm more worried about the tower being there. The other problem I have is during construction of the tower structure when you're not going to have aviation lights on it, you put fifty feet on it, or even one-hundred feet on it, however it's built in sections, but what will warn the guys especially at night that it's there, unless somebody knows it's going to be there. I don't have a problem with recommending (the Special Exception) to the Board of Appeals and for them to consider the variance of the landscape strip. I agree that we should go with the forty-five (45) more feet west, to consider a variance of one-half foot setback for each one foot in height. In addition, the fire company needs to go to the Board of Appeals hearing to explain their case for the location.

Motion was made by Mr. Souder and seconded by Mr. Jack to recommend to the Board of Appeals approval of the Special Exception with consideration of variances from the standards set forth in Section 165, items 2 and 3. One abstention: Mr. Ryan. **All in Favor. Motion is Carried.**

Old Business:

Mr. Jack commented I noticed they are finishing the groundwork for Phase II at Principio Health Center and still no sidewalks.

Mr. Ryan indicated it's been discussed several times at the Commissioners meeting, with your recommendations to move the bus stop east and working with State Highway for approval, and it all has to be done by August 1st. The first occupant will probably move in but another occupant will not be able to move in until the sidewalks are done.

Adjournment:

Without objection the meeting was adjourned at 7:55 p.m.

Respectfully Submitted,

Dianna M. Battaglia
Planning & Zoning Coordinator