

BEFORE THE ZONING HEARING BOARD

TOWNSHIP OF EAST LAMPETER

IN RE: :
: :
APPLICATION OF CELLCO PARTNERSHIP : No. 2014-13
d/b/a VERIZON WIRELESS :

DECISION

I. FINDINGS OF FACT

1. Applicant is Cellco Partnership, d/b/a Verizon Wireless, 4642 Jonestown Road, Suite 200, Harrisburg, Pennsylvania 17109 ("Applicant").

2. The property which is the subject of the instant application is located at 16 Millennium Drive, East Lampeter Township, Lancaster County, Pennsylvania (the "Property").

3. The record owner of the Property is Harrisburg Area Community College, 1 HACC Drive, Harrisburg, Pennsylvania.

4. The Property is located in the Industrial District as shown on the Official Zoning Map of East Lampeter Township.

5. Notice of the hearing on the within application was duly advertised and posted in accordance with the provisions of the Pennsylvania Municipalities Planning Code ("MPC") and The Revised

Zoning Ordinance of East Lampeter Township - 1990 (the "Zoning Ordinance").

6. A public hearing was held before the Zoning Hearing Board of East Lampeter Township ("Board") on this application on April 24, 2014.

7. Testimony at the hearing was stenographically recorded.

8. Applicant was represented at the hearing by Jon Andrews, Esquire.

9. Applicant has requested: (i) a variance from Section 1301 of the Zoning Ordinance (uses permitted within the Industrial District); and (ii) a variance from Section 1927.5 of the Zoning Ordinance (screening when adjacent to a residential district).

10. Applicant operates a wireless communications service.

11. The Property is currently improved with buildings and parking areas used as and for a community college.

12. Applicant proposes to lease a 100 foot by 100 foot area (the "Leased Area") located on a portion of the Property, as more fully shown on the plans and materials submitted by Applicant.

13. Applicant proposes to construct a mono-pole within the Leased Area which will be approximately 180 feet in height.

14. Applicant proposes to install communication antennas on the mono-pole, as more fully shown on the plans submitted by Applicant.

15. Applicant will install a 50 foot by 50 foot fenced compound upon the Leased Property, which will enclose the mono-pole and an equipment shelter.

16. The compound will be enclosed with a privacy fence, 8 feet in height, utilizing a self-locking gate.

17. There will be one parking space located at the Leased Premises.

18. There will be no outdoor storage or loading/unloading areas.

19. The site will be fully automated. A technician will visit the site once or twice a month.

20. The closest residential uses are located approximately 1,000 feet from the site.

21. The mono-pole will be setback from each lot line a distance at least equal to its height, as more fully shown on the plans.

22. The proposed use will not emit obnoxious noise, glare, dust, odor, vibration, electrical disturbance or any other objectionable impact beyond the Property lines.

23. Applicant must install a facility in the geographic area of the Property to provide adequate capacity to service its customers.

24. Applicant agreed that upon abandonment of the facilities or termination of their use, Applicant shall remove its facilities within three (3) months of such abandonment or termination of use.

25. Applicant further agreed to permit co-location on its mono-pole of wireless facilities owned or operated by other wireless carriers.

26. Applicant further agreed to provide screening around its 50 x 50 foot compound.

II. CONCLUSIONS OF LAW

1. Applicant requires a variance from the use provisions of Section 1301 of the Zoning Ordinance.

2. Applicant also requires a variance from those provisions of Section 1927.5 of the Zoning Ordinance which require screening along the Property line.

3. An applicant for a variance bears the burden of proving that unnecessary hardship will result if the variance is not granted and that the grant of the proposed variance will not be contrary to the public interest. Valley View Civic Association v. Zoning Board of Adjustment, 501 Pa. 550, 462 A.2d 637 (1983); Zaruta v. Zoning Hearing Board of the City of Wilkes-Barre, 117 Pa. Commonwealth Ct. 526, 543 A.2d 1282 (1988); Pennsylvania Municipalities Planning Code ("MPC") §910.2.

4. A variance, if granted, "must be the minimum that will afford relief and will represent the least modification of the ordinance." Rogers v. Zoning Hearing Board of East Pikeland Township, 103 Pa. Commonwealth Ct. 478, 520 A.2d 922, 924 (1987); MPC §910.2(a)(5).

5. Applicant has presented evidence sufficient to establish that unnecessary hardship will result if the variances are not granted, that the grant of the proposed variances will not be contrary to the public interest, and that the variances requested are

the minimum that will afford relief and will represent the least modification of the ordinance.

6. Applicant has demonstrated compliance with the general requirements for all variances set forth in Section 2111 of the Zoning Ordinance.

7. Conditions must be imposed on the granting of the variances in order to preserve and protect the surrounding neighborhood and the purposes of the Zoning Ordinance.

III. DECISION

Based upon the foregoing findings of fact and conclusions of law, the Zoning Hearing Board of the Township of East Lampeter hereby grants the application of Cellco Partnership, d/b/a Verizon Wireless, for: (i) a variance from the use provisions of Section 1301 of the Zoning Ordinance in order to erect wireless communications facilities upon the Property in accordance with the plans; and (ii) a variance from the those portions of Section 1927.5 of the Zoning Ordinance which require screening adjacent to the Property line. The variances granted hereunder shall be subject to the following conditions and safeguards which the Board deems necessary to implement the purposes of the Zoning Ordinance and the Pennsylvania Municipalities Planning Code:

1. Applicant shall obtain all approvals and permits required by applicable laws and regulations.

2. Applicant shall at all times comply with and adhere to the evidence presented to the Board at the hearing held on as modified

and supplemented by the evidence presented at the hearing held on April 24, 2014.

3. Upon abandonment of the facilities or termination of their use, Applicant shall remove its facilities within three (3) months of such abandonment or termination of use.

4. Applicant shall permit co-location on its mono-pole of wireless facilities owned or operated by other wireless carriers.

5. Applicant shall install screening around within the Leased Area (surrounding the 50 x 50 compound), which screening shall comply with the requirements for screening of commercial and industrial uses as set forth in Section 1811.3(A) of the Zoning Ordinance.

6. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Pennsylvania Municipalities Planning Code.

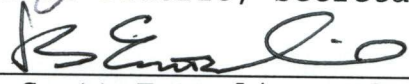
7. The approval granted by this Decision shall expire if Applicant does not obtain a zoning permit within twelve (12) months from the date of this Decision and does not complete construction of the improvements, if any, so authorized and commence the use so authorized within eighteen (18) months from the date of this Decision.

8. The foregoing Decision shall be binding upon the Applicant, its successors and assigns.

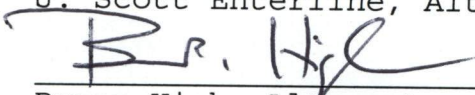
ZONING HEARING BOARD OF THE
TOWNSHIP OF EAST LAMPETER



Walter Siderio, Secretary



J. Scott Enterline, Alternate



Bryan High, Alternate

Dated and filed May 22, 2014, after hearing held on April 24, 2014.

The undersigned certifies that a copy of this Decision was served upon all parties on or prior to April 29, 2005.

