

Tax Map/Block/Parcel
No. 40-01-504
Case 5873

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPLICANT: TowerCom VI, LLC
1010 Colony Park Drive, Suite 4001
Cumming, GA 30040
And
Michael Stout
1850 Gablehammer Road
Westminster, MD 21157

ATTORNEY: NB+C
c/o Alexandra Bull
6095 Marshalee Drive, Suite 300
Elkridge, MD 21075

REQUEST: A request for a conditional use for a proposed telecommunication facility to consist of a 195' tall monopole with a 4' lightning rod located at the top, twelve (12) Verizon Wireless panel antennas to be installed at a proposed height of 195', a 12' X 20' equipment platform and standby generator to be located within a 60' X 60' fenced in compound which will be located at the base of the tower and surrounded by landscape plantings, and a variance to reduce the required access driveway width from 18' to 12'.

LOCATION: The site is located at 1850 Gablehammer Road, Westminster, Maryland on property zoned "A" Agricultural in Election District 6.

BASIS: Code of Public Local Laws and Ordinances, Sections 158.039 (B) and 155.078 (C).

HEARING HELD: October 28, 2015

FINDINGS AND CONCLUSION

On October 28, 2015, the Board of Zoning Appeals (the Board) convened to hear the request for a conditional use for a proposed telecommunication facility to consist of a 195' tall monopole with a 4' lightning rod located at the top, twelve (12) Verizon Wireless panel antennas to be installed at a proposed height of 195', a 12' X 20' equipment platform and standby

generator to be located within a 60' X 60' fenced in compound which will be located at the base of the tower and surrounded by landscape plantings, and a variance to reduce the required access driveway width from 18' to 12'. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Alexandra N. Bull testified on behalf of the applicant. She completed the multiple page application for the hearing in the file. The purpose of the telecommunication facility is to increase the wireless telecommunication signal coverage in the area of the proposed facility, including areas in the vicinity of Gablehammer Road, Hampstead Mexico Road, and Manchester Road. The subject property was selected because it is a large parcel with enough space to meet all required setbacks for the tower, and it is centrally located within the targeted search area or coverage goal area. The proposed tower meets all of the setbacks required in Chapter 158 of the Carroll County Zoning ordinance. She stated that the tower would be able to accommodate at least five different carriers. There is also a proposal to include landscaping around the compound area in order to provide screening to conceal the equipment in the compound. The application included propagation maps which showed the existing coverage in the area without the proposed tower and the proposed coverage with the proposed tower at Gablehammer Road in Westminster, Maryland. The application also included photo simulations. The only structure in the vicinity of the proposed site is a telecommunication structure located at the corner of Route 27 and Route 482. This tower is in the shape of a cross. The cross is no longer a viable collocation option due to structural capacity and limited interior space for collocation of antennas. She stated that there would be no lights on the top of the tower because the tower was lower than the 200' that would require such lights.

Construction of the facility would be from sixty to ninety days. Once the construction of the facility was completed the facility would be maintained remotely, and there would only be approximately one trip per month to the facility.

She mentioned studies that demonstrated that a tower such as this did not have a negative impact on neighboring property values.

She stated that the tower at the Coon Club location did not service the area designed to get the increased coverage by the proposed tower.

There is a June 8, 2015 "To Whom It May Concern" letter in the Board's file that is from a representative of Verizon Wireless. In that letter Verizon Wireless was in support of the tower at this location and noted its intent to place an antenna at about the 190' level of the tower.

Paul Dugan, the president of Millenium Engineering, P.C., testified in the field of radio frequency engineering and civil engineering. He is a licensed engineer. He testified that he worked on thousands of cell tower matters. Mr. Dugan also testified that there was a significant gap in coverage in the area. In various ways he also indicated that the coverage was not reliable. He stated that Verizon was targeting the southern section of District 6 Manchester, Maryland. The proposed cell tower site was supposed to address this gap in coverage. He noted that Verizon could not use any other towers to avoid constructing the proposed tower in order to meet its needs.

He explained that he performed his own independent investigation before stating that the proposed site was appropriate. He first had to make the determination that there were no other colocation areas for Verizon to utilize. He added that there were no existing tall structures in the area that could provide colocation.

The County requires colocation of carriers on a cell tower. In fact the applicant must state that the proposed tower will be made available to future users, when possible as stated in Zoning Code Section 158.039 (C) (7).

He noted that Verizon held an FCC license to serve the residents of Carroll County. As a license holder, Verizon is obligated to provide reliable services in those areas where it holds a license. The reliability that Verizon must demonstrate was not present at the proposed location. He stated that this location was particularly suited for a tower.

He explained that with the construction of the proposed site a valuable benefit would be given to the community. The service would contribute to public convenience and necessity.

An August 31, 2015 letter was written by Robert P. Hunnicutt to Jay C. Voight, Zoning Administrator. Mr. Hunnicutt was retained by the county to provide a facility location analysis report. In the Conclusions and Recommendations section the following was written:

“Based on the information provided with the application, it appears that there is a need to improve Verizon Wireless’s coverage to this part of the County to meet its target signal levels for reliable services. The application supports the need for antennas as proposed to meet the stated Verizon Wireless coverage objective for this area.”

Lee Afflerback, P.E. testified on behalf of the company retained by the County to address the need for a tower. He has addressed issues with towers for more than twenty-five years. He stated that had been involved in thousands of applications for towers. He stated that the area in question had inferior service. He noted that existing structures would not solve the coverage problem. From an engineering point of view the application is in full compliance. He stated that in rural areas a tower was needed to accommodate multiple vendors. This is the industry standard. He mentioned that shorter towers are used in areas where density is high or where a tower cannot be constructed. He believed that a series of shorter towers was not feasible for this rural area. He stated that the signal level for the area in question was not adequate. With the construction of the proposed tower, there would be greater coverage, especially for the inside of buildings. The application for the construction of this telecommunication facility was as strong as other such applications in the County. He noted that the process here complied with industry standards. He recommended approval of the application.

The Bureau of Comprehensive Planning noted the following about the proposed site in its September 3, 2015 memorandum: “The request is compatible with the vision and goals for the area, as expressed in the 2014 Carroll County Master Plan.” In addition the memorandum indicated that “the tower would not have an adverse effect on the current use of the property or its surrounding environs.”

A number of witnesses testified in opposition to the proposed tower.

Jason Leister sent an October 21, 2015 email communication to the Office of Administrative Hearings. In that email he included a four page letter of opposition to the tower. He also testified at the public hearing about his opposition. He had a problem with the process used by the County. He had a problem with the nearby landowners notified by the County. He had a problem with how the site was chosen. He mentioned that the landowner that says a tower can be built on his property is the only one that benefits. All other residents would receive an eye sore with regard to looking at the tower. He further submitted that people made financial decisions based on agriculturally zoned property being used for farming.

Wayne Rill stated that he has lived in the area for sixty-nine years. He still does not own a cell phone and does not need one. He stated that Mr. Stout, the individual whose property the applicant would be leasing, would park his vehicle down on Gablehammer Road in inclement weather.

Barbara Jacobs also lives on Gablehammer Road. She has lived there for twenty-seven years. She currently has her house for sale. She believes that the construction of a tower at the proposed location will be detrimental to the sale of her property. She opposed the construction of the tower. She also raised some health concerns with regard to the tower. She noted that if the site for the tower was approved that she may no longer need a dial up service to connect to the internet.

John Meister testified in opposition to the tower site. He felt that the tower would negatively affect his property values. He also thought the tower would affect wetlands. He was concerned that at various portions of Gablehammer Road only one vehicle could pass at a time. He thought the whole road would be affected by the construction of the tower.

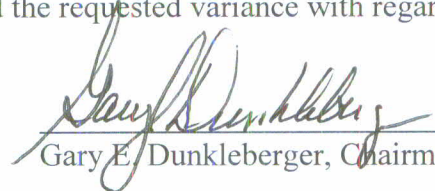
Maureen Meister testified in opposition to the tower site. She moved to the area from Howard County. She enjoyed viewing the beauty of the ridge. She stated that she would be able to see the tower from many rooms in her house. She believed that her property values would decrease because of the tower.

The Board found that once construction was completed that traffic would be minimal. There was testimony that there might be one trip to the site a month. The site would not create dust or odor. Noise would not be a problem either. The monopole would not have lighting because it was too low to accommodate the need for lights due to air traffic. The Board further found that other than the testimony of homeowners there was little if any evidence that property values would decrease as a result of the monopole at this location.

There are a number of uses in the agricultural zone that do not strictly include farming. The County zoning code allows communications towers in the Agricultural District and in the Conservation District as a conditional use. §158.039 The Board is not awarding a contract to anyone. The Board is simply performing its function of hearing and deciding upon conditional uses. The property in question would remain in the Agricultural District.

The Board was convinced that authorization of the request with regard to a conditional use was consistent with the purpose of the zoning ordinance, appropriate in light of the factors to be considered regarding conditional uses of the zoning ordinance, and would not unduly affect the residents of adjacent properties, the values of those properties, or public interests. Based on the findings of fact made by the Board above, the Board found that the proposed project would not generate adverse effects (i.e. noise, traffic, dust, water issues, lighting issues, property depreciation, etc.) greater here than elsewhere in the zone. The Board approved the conditional use requested by the applicant. The Board also approved the requested variance with regard to the road or access driveway.

29 October 2015
Date



Gary E. Dunkleberger, Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Land Use Article, Section 4-401 of the Annotated Code of Maryland.

Pursuant to Section 158.133 (H)(3) of the County Code, this approval will become void unless all applicable requirements of this section are met. Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.