

**Tax Map/Block/Parcel
No. 30-21-458**

**Building Permit/Zoning
Certificate No. 99-1777**

Case 4420

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

APPLICANTS: Baughers Enterprises, Inc.
1236 Baugher Road
Westminster, Maryland 21158

Sprint PCS
Attn: Jack Andrews, Esquire
6905 Rockledge Drive, Suite 300
Bethesda, Maryland 20817

ATTORNEY: John T. Maguire II, Esquire (Attorney for Applicants)
Hollman, Hughes, Finch & Maguire
189 East Main Street
Westminster, Maryland 21157

John C. Murphy, Esquire (Attorney for Protestants)
516 North Charles Street, Suite 206
Baltimore, Maryland 21201

REQUEST: A request to install a 192 foot tall telecommunications tower and 5 ground based related equipment cabinets.

LOCATION: Located at 1236 Baugher Road on property zoned "A" Agricultural District in Election District 7.

BASES: Article 4, Section 4.11(c)(2); Ordinance 1E (The Carroll County Zoning Ordinance)

HEARINGS HELD: February 29, March 20, and April 6, 2000

FINDINGS AND CONCLUSION

On February 29, March 20 and April 6, 2000, the Board of Zoning Appeals (the Board) convened to hear the amended application of Baugher Enterprises and Sprint PCS (the Applicant), to install a 192 foot telecommunications tower with an 8 foot lightning rod and 5 ground based related equipment cabinets within a 50' by 50' enclosure at 1236 Baugher Road in Election District 7.

The Applicant is currently experiencing problems with cellular telephone coverage in Carroll County. In order to rectify the problem, the Applicant conducted an extensive search in the County to assemble a "ring" of sites for the placement of cellular towers to facilitate seamless coverage for the area. In accordance with Section 4.11 of the Zoning Ordinance, the Applicant explored the possibility of "co-locating" the cellular antennae on existing structures. For example, the existing tower on Mayberry Road owned by another entity was studied. However, there was no space on that tower at the appropriate height to meet the Applicant's needs. The Applicant finally settled on a site on the Baugher farm, which is an agricultural operation in a lightly populated area bounded by a fruit orchard. The proposed tower would be partially screened by large trees around the site, although it would be visible to its closest neighbors.

The proposed tower complies with all Federal Communications Commission regulations, including those pertaining to environmental effects and safety. It will generate no noise, traffic, dust or smoke. The nearest residence is approximately 1,706 feet from the proposed site and is well outside the potential "fall zone" of the tower. The tower may have some impact on neighboring property values due to aesthetic concerns, but no more so here as elsewhere in the zone.

The proposed tower is to be located approximately 8,600 feet from the closest point on the Carroll County Regional Airport. However, the Board heard extensive anecdotal testimony from local pilots, the Airport Manager, the Fixed Base Operator and her staff, that the proposed tower would either constitute a flight hazard or would restrict the airport's ability to expand in the future. Conversely, the Applicant presented expert testimony that the proposed tower would have no adverse impact on the operation or possible future expansion of the airport. The Federal Aviation Administration has issued a "Determination of No Hazard to Air Navigation" for the proposed tower. In addition, the proposed tower is to be located outside the Federal Airport Regulation Part 77 Surfaces Approach Area, in which towers and large structures are prohibited by Article 4, Section 4.28 of the Zoning Ordinance.

Based on the above findings, the Board makes the following conclusions. The Applicant has demonstrated a need for the proposed tower at the proposed location. Although the Protestants presented several hypothetical alternative sites, the Board is not convinced that they would be feasible or less controversial for other citizens. The Board also concludes that the tower at the proposed location would not result in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effects that would otherwise result from the proposed use located anywhere within the zone. The Board is concerned about the potential impact of the tower at this location on the Carroll County Regional Airport. The Board finds that the County and Federal Government have made an enormous investment in the Airport and it has become an important economic development tool. Therefore, in order to ensure the viability of the Airport, and to protect the public health, safety and welfare, the Board grants the conditional use with the following conditions.

The approval is expressly subject to, and will be revoked upon the receipt of any notification by the Federal Aviation Administration or its successor, that the existence of the tower approved in this case has any of the following effects:

1. Raises any existing minimum altitude standard for landing at the Carroll County Regional Airport;

2. Has a material adverse impact on the Precision Landing Approach Plan for the Carroll County Regional Airport, as now existing or as amended in the discretion of the County from time to time;
3. Has a material adverse impact on the future expansion of the Carroll County Regional Airport, either as presented during the hearing in this case or as determined by the County in its discretion in the future; or
4. Has a material adverse impact on the operations of the Carroll County Regional Airport as existing or as modified or expanded by the County in the future.

In the event of a violation of any condition, the Applicant shall, at Applicant's sole expense, remove the tower within a reasonable time after receipt of notice from the County.

5/24/00

Date

Karl V. Reichlin

Karl V. Reichlin, Chairman

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