

**MINUTES OF
SPRING GARDEN TOWNSHIP ZONING HEARING BOARD
July 20, 2020**

CALL TO ORDER: The monthly meeting of the Spring Garden Township Zoning Hearing Board was held on Monday, July 20, 2020 as a Virtual Meeting on Zoom. Vice-Chairperson Michelle Poole called the meeting to order at 6:05 p.m. and announced this is the first ever Virtual meeting held by the Zoning Hearing Board.

Present:	Michelle Poole	Evan Gabel, Esq., Zoning Solicitor
	Ann Luciani	Karen Meister, Key Reporters
	John Porter	Linda Keller, Zoning Officer
	Michael Barton (6:45 pm)	7 persons were in the audience

PUBLIC COMMENT PERIOD: None

APPROVAL OF MINUTES: The minutes of the December 19, 2019 meeting were tabled for approval because there were only 3 members present at this time of the meeting, and two of the members were not on the Board at that time.

#125-01-20: New Cingular Wireless PCS, dba AT&T Mobility, has applied for a Variance to Section 310-9 of the Spring Garden Township Zoning Ordinance to construct a small cell antenna facility to be installed on a replaced steel light pole situated in the parking lot of 910 S. Richland Avenue, York, PA, owned by Evandale Crist Family, LTD Partnership Rutters. A Variance is also requested to the performance standards to Section 310-51.A(10) regarding setbacks, Section 310-51.A(11) regarding landscaping and Section 310-51.A(25) regarding fencing. The property is in the Commercial zone.

Witnesses present and sworn in:

- Christopher Schubert, Esq., Riley, Riper Hollin & Colagreco
- Raisa Simchak, Network Building & Consulting LLC
- Andrew Petersohn, P.E., Radio Frequency Engineer
- Gary Lucas, Project Engineer, Network Building & Consulting LLC
- Douglas Cowan, Project Manager & Agent, Network Building & Consulting LLC
- Michael Oser, Network Building & Consulting LLC

Atty. Schubert noted that there appeared to be no public interest or participation for this application and requested that he present the case and have the witnesses confirm the testimony. Mr. Porter requested that each witness present their own testimony.

Atty. Schubert presented the basis for the application for a small cell facility. Since the Spring Garden Township Zoning Ordinance does not address small cell facilities, this request is being considered as a new cell tower. The performance standards typically required for a Special Exception will also be addressed. The property is located at 910 S. Richland Avenue known as the Rutter's convenience store. The request is to replace an existing steel light pole in the parking lot with a higher pole and an antenna on top.

Mrs. Luciani asked what the current and proposed heights of the pole in question is. The existing pole is 27 ½' high, and the new pole would be 44 ½' high with an antenna on top (for a total of 50' height overall). There are

existing telephone poles and lines in the area along Indian Rock Dam Road, but antennas cannot be attached to existing power lines.

Mrs. Luciani also noted her concern with the location of the pole beside a retaining wall in the parking lot. She questioned the stability of the new pole being knocked over by a car going through the fence, or what prevents it from tumbling over. She noted there is a lot of traffic in this parking lot and in the area in general. Atty. Schubert indicated they will have a professional engineer testify to the stability of the pole and the possibility of installing some bollards if required.

She also indicated there is a helipad across Indian Rock Dam Road and what assurances are provided that this high pole will not be an interference to the flight path. Atty. Schubert stated they have FAA approval and certificate the 50' height will not interfere.

Mrs. Luciani asked if they researched for other locations to place this facility. Andrew Petersohn offered expert opinion that they followed the FCC standards to find a suitable location that would provide viable service, both for coverage and capacity. They researched the existing macro sites and discovered the lack of capacity and coverage because of the significant drain on the network with the Rutter's store and the college nearby. The calculations revealed that in early 2022 the network would be exhausted. So they decided to start the process as early as possible to provide adequate service to the AT&T customers. This small cell site would improve coverage for this busy area. Mr. Petersohn stated the facility will be in compliance with the FCC emissions and exposure limits and presented an FAA determination that there will be no hazard to air navigation.

Mr. Porter questioned the latitude and longitude information provided in each of the documents, and it was confirmed the information is appropriate for the documents and property affected.

After further review of the coverage map, Mr. Porter asked why this is not placed on the college campus? Mr. Petersohn stated they are looking to off-load capacity for the convenience store area. There are no other small cell sites being considered at this time.

Mrs. Luciani said she believes the site should be relocated in the York College west campus parking lot. Mrs. Poole reflected on what the engineer had said already about the location of the antenna in the parking lot of the college in relationship to the need to service the Rutter's clients.

Gary Lucas, a licensed engineer, presented a site plan and details on the steel pole, which will comply with state and local codes.

Performance standards for a Special Exception were also discussed. Since this application is a variance, the applicant wanted to address the standards anyway. Fencing is typically not required around parking lot standards and is not necessary around this pole. It serves no purpose and does not provide any greater security. Sites are monitored remotely 24/7 and maintenance is provided on a quarterly basis or for emergency situations. There will be no signs posted, only FCC warning labels. No noise, odors, or glare will be generated, and no adverse impact on the public safety and welfare.

Mrs. Luciani asked about the existing vacuum station and garage can. Both units will not need to be relocated. The setback from the new pole to the property line will be 9'.

Mr. Porter asked if this application was approved, does this include the future antenna for 5G service? Atty. Schubert stated yes it would, but they would be willing to remove the 5G antenna at this time as a condition of approval.

Mrs. Luciani asked about an alternate site. Ms. Simchek stated they had contacted Dr. Ken Martin from York College, but had very little response. As a result, AT&T decided to move on for further site selection.

Mr. Porter questioned what "reasonable maintenance" requirements are. Mr. Oser replied that the maintenance of the pole structure, lights and electric are the responsibility of the landlord. The antenna and equipment are to be handled by AT&T.

There were no further witnesses. Atty. Schubert moved for the admission of Exhibits A-1 through A-16 into the record.

Motion Mrs. Poole/ second Mr. Barton to approve the Variance to Section 310-9 as requested, along with the Performance standards in Section 310-51.A (10), (11), (25). 2-Yes (Poole & Barton), 2-No (Luciani & Porter). Motion denied.

Atty. Schubert asked when the Decision will be completed in order to appeal to Federal Court. Atty. Gabel responded that the Board has 45 days to prepare the decision.

OTHER BUSINESS: None

ADJOURNMENT: The meeting was adjourned at 9:05 p.m.

Submitted by,
Linda S. Keller, Zoning Officer