

CHARTER TOWNSHIP OF PENNFIELD

ZONING BOARD OF APPEALS

MEETING MINUTES DECEMBER 3, 2008

Chairman Ken Davis called the meeting to order at 6:30 PM.

Members Present: Ken Davis, Frank Schumacher, Lindsay Draime, Perry Beard and Jerry Robinson. A quorum was met.

Others Present: Sandra Cummings, Recording Secretary; Rob Behnke, Pennfield Zoning Administrator, Jonathan R. Crane, Civil Engineer, Allan Shepard, David Antoun, and four residents.

The meeting opened with the Pledge of Allegiance.

Public Comment:

Alice Godde, of 8631 Gorsline Road, commented that she hopes this tower request passes as she experiences a lot of "dropped calls" with her cell phone service, and hopes this would improve her reception and have less dropped calls.

Approval of September 3, 2008 Meeting Minutes:

A motion was made by Lindsay Draime, seconded by Frank Schumacher to approve the minutes from the previous Zoning Board of Appeals meeting on September 3, 2008. Motion carried.

Unfinished Business:

No unfinished business.

New Business:

A) A public hearing was held to consider a variance request from Allan and Delores Shepard, whose address is 51 Birch Hill Drive, Battle Creek, Michigan, and Tele-Site, an agent for Verizon Wireless, represented by Mr. David Antoun and Mr. Jonathan Crane, a Civil Engineer. The parcel I.D. is 13-18-018-490-40, the property being a vacant 85 acre parcel located on White Rabbit Road, and being zoned Agricultural (AG). The request is to gain relief from the required separation distance from a cell tower and a residential unit under Pennfield Township Zoning Ordinance Appendix B, Section TT, (4) *General Standards*, item G (1) (a)

that requires "a tower to be located two hundred feet, or three times the height of the tower, whichever is greater, from any single family dwelling".

Verizon Wireless proposes to construct a 195" communication tower on the west side of East Avenue North approximately 1100 feet south of the intersection of White Rabbit Road and East Avenue North on the 85 acre farm property owned by Mr. and Mrs. Shepard. The required setback of 585 feet from a dwelling cannot be met, as it would be

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only 362 feet from the nearest residential property owned by David and Jody Liggett, located at 21752 East Avenue North. Required relief would be the difference of 223 feet.

Mr. David Antoun, a representative of Tele-Site (Verizon) Wireless presented the variance request to the Board members. He indicated that the need for the tower is to increase coverage, improve service to customers, and prevent dropped calls. The tower would be constructed within a 100' by 100' fenced in area, with power lines run to it, curb cuts and a graveled access road off East Avenue North. It would be protected by an intrusion detector. The need for the variance has arisen due to several factors:

1) Verizon had approached TDS Telecom with a proposal to co-locate on an existing tower, also located on Allan Shepard's property. The request was rejected by TDS, who did not wish to engage in any communication relay other than their existing "pager style" communications, as it may negate the "lifetime lease" contract entered into with Allan Shepard's parents in the 1980's. The "lifetime lease" could be voided if other communications such as cell phone and text messaging usages were involved.

2) Even if TDS Telecom agreed to co-locate with Verizon, the TDS tower is at present structurally insufficient to accommodate them. The TDS tower is old, and would require extensive updates and improvements before co-location could occur. As stated before, TDS Telecom was not interested in updating or co-locating with Verizon.

3) Other nearby sites were inspected, measured for longitude and latitude, and rejected due to adverse topographic conditions. For example, if a new tower were placed to the back of Mr. Shepard's farm, it would have to be much taller due to a steep dip in the land, and if it exceeded 200 feet in height, it would then require a light on top to warn low-flying aircraft. Extensive filling of low-lying areas was not a cost-effective option.

4) Other sites were too far off the road, and would require power to be run over 1000 feet from the road, thereby cutting Mr. Shepard's farm in half.

5) Setback requirements are excessive and outdated, as new towers are now designed to "buckle" instead of "fall" during high wind conditions, posing less threat to adjacent structures if they get blown down in a storm.

One letter was received in the office prior to the meeting, from the owners of the structure located 362 feet from the proposed tower site, David and Jody Liggett. The Liggetts were not opposed to the plan to construct the tower. Mr. Liggett was present at the meeting and was asked by board members if he had concerns about a devaluation of his property should the tower be constructed. He indicated he had no concerns about a decrease in his property value. Mr. Antoun commented that there are many towers located in many communities and that property values are not adversely affected by them.

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Public comment was opened. Mr. Dave Geary, of 8265 White Rabbit Road, commented on the desirability of co-locating with an existing tower, the fact that he would not like to have a tower in the neighborhood with a big light on top of it, and asked if Verizon would be paying property taxes. He was assured that Verizon made every effort to co-locate with TDS and was rejected; that a light would not be required on the proposed 195 foot tower, and that Verizon would be paying plenty of taxes, in addition to leasing the 100' by 100' fenced in area from Mr. Shepard.

Public comment was closed. A question was asked by the board regarding the health risks due to the electro-magnetism of the tower. Mr. Antoun indicated that the State of Michigan verified there are no health risks linked to electro-magnetism.

A motion was made by Jerry Robinson, seconded by Lindsay Draime, to grant the variance request, with amendment by Lindsay Draime that practical difficulty had been shown to exist in the adverse topography of other sites, and that all six requirements for granting of a non-use variance had been met, per Chapter 18, Section 18.06(B) Variance Procedures. Motion carried. Roll call vote follows:

Ken Davis yes Jerry Robinson yes

Lindsay Draime yes Perry Beard yes

Frank Schumacher yes

Mr. Shepard and Mr. Antoun were advised that they will now need to come to the January 15, 2009 Planning Commission Meeting to have their request reviewed for a Special Use Permit, and if approved, their request will then be given to the Township Board Members for consideration.

Public Comment

Julia Newman, 21489 Clear Lake Avenue, was pleased that the variance was granted.

Lindsay Draime indicated he will not be seeking reappointment to the Planning Commission or Zoning Board of Appeals. He has served many years on numerous boards, and wishes to devote more time to traveling.

Ken Davis indicated that he has enjoyed working on the Board, but is also not seeking reappointment, as he has become increasingly busy with his family and job.

Perry Beard appreciates all the time and effort that Mr. Draime and Mr. Davis have devoted to the Zoning Board of Appeals. Frank Schumacher will miss the expertise that both gentlemen have brought to the Board, and Jerry Robinson has enjoyed working with the departing members.

Motion by Frank Schumacher to adjourn at 7:04 pm, seconded by Lindsay Draime. Motion carried.