



LOWER NAZARETH TOWNSHIP

ZONING HEARING BOARD

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Zoning Hearing Board

Manouel Changalis, Chairman
Michael Gable, Vice Chairman
Zachariah Cobrinik
Daniel Cortright, Alternate
Michael Gaul, Alternate

Zoning Hearing Board Minutes October 28, 2014

Chairman Manny Changalis called the meeting to order at 6:30 p.m. Also in attendance: Board Member Zach Cobrinik; Alternate, Michael Gaul; Zoning Hearing Board Solicitor, April Cordts; and Lori Seese, Planning & Zoning Administrator. Board Member Mike Gable and Alternate Daniel Cortright were not present.

MINUTES

Approval of the September 23, 2014 minutes was moved by Zach Cobrinik and seconded by Mike Gaul. The motion carried.

There were no items of discussion under CORRESPONDENCE.

HEARINGS

ZA2014-07 – Lewis F. Lengyel

The advertisement for the hearing was read aloud and all parties who would testify in the hearing were sworn. Present for the Application: Lewis F. Lengyel, Applicant and Joseph Piperato, Esq.

Lori Seese advised the Board that between the time of Mr. Lengyel's application and the hearing this evening, Lower Nazareth Township has entered into an agreement with Verizon to place a cell tower on Township property, approximately a half mile away. Lori provided maps showing all proposed cell locations. Lori also read into the record a letter dated October 28, 2014, sent by Attorney Gary Asteak to advise the Board that the Township had entered into a lease agreement with Verizon and the township's proposed tower complies with the 3-mile requirement of the Zoning Ordinance, in comparison to the tower proposed by Mr. Lengyel. Mr. Piperato objected to presenting this information because the tower is not in existence.

Richard Lemanowicz, representing CIG Wireless, requested to enter his appearance as a co-applicant status. Mr. Lemanowicz then also objected to this information being entered into the record.

Lori Seese noted that the purpose of providing this information is to simply let the Board know that the circumstances have changed since the appeal was filed. Attorney Cordts stated their objections were noted.

Mr. Piperato questioned Lewis F. Lengyel, Applicant, who lives at 685 Daniels Road. The property in question is adjacent to his primary residence. Lewis J. Lengyel, his father, is a joint owner of the property. Mr. Lengyel and his father co-own the farm, approximately 11 acres, located in the agricultural zoning district. The use is permitted by right in the Agricultural zoning district.

Exhibit A-1, Revised Site Plan, prepared by Lewis Lengyel was entered into the record. A discrepancy was brought up about the height of the tower and the proposed setbacks as depicted in the application.

Brian Seidel, Landscape Architect, noted that the tower would be 160 feet above grade.

Mr. Piperato reviewed the requirements of a commercial communication tower with Mr. Lengyel. Mr. Lengyel stated the screening will be 6-foot arborvitae, 10 feet on center. Building plans will be prepared as required by the building code when the time comes. The tower would be painted to blend with surrounding environment, probably a galvanized brown, similar to the color painted on surround electrical towers.

Calculation of other towers in the township related to the 3-mile distance requirement was discussed.

Exhibit #A-2, Cell Tower Location Chart, a 5-page document, was entered into the record. The first tower listed was the Topping tower and the second was the Nazareth Borough Municipal Authority (NBMA) tower. Using a FCC registration site, Mr. Lengyel obtained locations for other towers in the township which showed the Topping tower is 3.17 miles from his location, and the NBMA tower is 2.89 miles. The distance between the topping tower and the NBMA tower is 2.75 miles. Zach noted that this exhibit and Lori Seese's exhibit are in agreement. The variance requested from the 3-mile requirement would be 3.6%, or 580 feet. Zach inquired if the tower could be moved to another location on the property to allow the minimum relief required. They could relocate the tower to the south-southwest corner.

Lewis Lengyel testified that he has a signed agreement with the tower company, dated February 2011. The original agreement was with Liberty Towers, which was acquired for CIG Towers. It has taken this long to get the agreement modified. The agreement is contingent upon obtaining all municipal approvals.

Mr. Lengyel stated that he had a casual conversation with Lori Seese approximately 2 years ago that he was looking into locating a cell tower on his property. Lori Seese clarified that the conversation was limited to zoning regulations, what would be required, etc. Mr. Lengyel did not file an application nor did he indicate that he had a signed contract.

Mr. Lengyel testified that he filed a zoning permit on August 11, 2014. A denial was issued by Lori Seese on September 12, 2104.

Michael Gaul inquired about what Mr. Lengyel does for his profession, stating his concern for Mr. Lengyel to prepare the plans presented. The method to prepare the plans was discussed.

Richard Lemanowicz queried Mr. Brian Seidel. Mr. Seidel stated that the requirement to move the tower if it's no longer operating and posting of security to move the tower will be satisfied. The tower would be available to emergency service providers if requested. The tower will blend into the environment. It can be painted park service brown, or galvanized steel, dull weathered grey. It can be painted if requested by the Board.

Mr. Seidel stated that technology has evolved and the towers need to be closer together in order to meet the demand. There isn't anything in the cell tower industry which requires the separation stated in Lower Nazareth's ordinance. The proposed tower is located adjacent to dense population and commercial areas which require this additional service.

Manny Changalis inquired about the heights of the other towers in the Township. Lori Seese reported that the NBMA tower is 160 feet.

Uses of the surrounding property were discussed. Mr. Lengyel's property adjoins the property to the northwest. There is another property which adjoins the property to the east of the compound which is 659 Daniels Road. The property line is 177 feet away and 200 feet to residence. To the north there is a residential use, which is approximately 750 feet away. Across Daniels Road are residential uses. To the south are light industrial type uses, i.e. mixed use warehouse buildings. To the west is a residential development, known as Trio Farms.

Mr. Piperato stated the applicant's hardship is the distance required in the ordinance.

Existing tower outside Lower Nazareth Township boundaries and their proximity to this tower were discussed. Attorney Piperato stated that our ordinance cannot control distance from outside municipalities. Lori Seese testified that she only considers properties within Lower Nazareth Township.

Mike Gaul inquired if they considered co-location on the tower at Route 248/Route 946. The Applicant could not speak to that. Brian Seidel stated that a 1.5 mile distance is a big deal in the world of telecommunications.

Deborah Alvino, 659 Daniels Road, stated concerns about the stability of the tower and the fact that there is often standing water on-site. Richard Lemanowicz stated there would be a geotechnical study submitted to confirm it meets the requirements of the PA Uniform Construction Code and that the tower is designed to meet 90 mph winds.

Shelley Recker, 682 Daniels Road, stated her support for the tower.

Deborah Alvino stated another concern regarding the proposed gas line. Lewis Lengyel has not signed anything regarding the pipeline. Deborah Alvino has also been contacted. Mr. Lemanowicz stated that the gas line would be subordinate to their agreement which was recorded in 2011.

The motion to close testimony was moved by Mike Gaul and seconded by Manny Changalis. The motion carried unanimously.

Board Deliberation

Zach stated if the Township had staked their claim and given the fact that Mr. Lengyel has recorded the agreement, he doesn't believe the township's tower has any bearing on this tower. Zach is inclined to grant as a diminimus dimensional variance with conditions. Zach suggested moving the tower as close to the western post pin as possible. He also suggested arborvitae all around the compound and requiring an increase the density of the shrubbery.

Manny Changalis agreed with Zach's suggestions.

Michael Gaul stated he wanted to see the compound moved away from the Alvino property. Setback requirements were discussed. Mike stated that he doesn't want to move the problem from one property to another. He suggested making the setbacks 190 feet from the pole to the line adjoining Trio Farms and 160 feet from the property line of Camilla Properties.

Security for the tower and paint color were discussed. Mrs. Alvino and Mrs. Recker left and were no longer present to voice an opinion on color. The Board decided to leave the color as galvanized steel finish and to be maintained in that color, or painted.

Zach stated he did not want to require the security if it had not been required on the previous application. Mike Gaul stated that if the Applicant is willing to provide it we should take them up on it. The bond would be posted to pay for removal of the pole should it be abandoned. The Applicant must provide an estimate for the removal, subject to the approval of the Township Engineer, and a bond satisfactory to the Township Solicitor.

Motion by the Board

The motion to grant a variance from provisions of 1502.A.19.j to allow the tower to be built within the 3-mile radius required by the ordinance, with conditions that in no event shall it be closer than 160 feet of Camilla Properties and 190 feet from Trio Farms, the tower shall be maintained in galvanized finish, the applicant shall supply a bond for removal of the tower in accordance with Section of 1502.A.19.h, and an arborvitae screen needs to surround all four sides of the compound, was made by Manny Changalis and seconded by Mike Gaul. The motion carried unanimously.

The meeting adjourned at 8:20 p.m. by motion of Zach Cobrinik and seconded by Michael Gaul. 8:20 p.m. The motion carried.

Respectfully submitted,



Lori B. Seese
Planning & Zoning Administrator

/lbs