



# LOWER NAZARETH TOWNSHIP

## ZONING HEARING BOARD

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### Zoning Hearing Board

Robert Hicks, Chairperson  
Manouel Changalis, Vice Chairperson  
Rick Gangewere, Board Member  
Michael Gable, Alternate  
Darin Lueders, Alternate

## Zoning Hearing Board Minutes February 22, 2011

Acting Chairman Bob Hicks called the meeting to order at 7:00 p.m. Also in attendance: Board Member Manny Changalis, Alternates Michael Gable and Darin Lueders; Zoning Hearing Board Solicitor, April Cordts; and Lori Seese, Planning & Zoning Administrator. Board Member Rick Gangewere was not present.

### REORGANIZATION

The motion to appoint Bob Hicks as the Chairperson was moved by Manny Changalis and seconded by Mike Gable. The motion carried unanimously.

The motion to appoint Manny Changalis as the Vice Chairperson was moved by Bob Hicks and seconded by Darin Lueders. The motion carried unanimously.

The motion to appoint April Cordts as solicitor to the Zoning Hearing Board was moved by Bob Hicks and seconded by Manny Changalis. The motion carried unanimously.

### MINUTES

Approval of the December 21, 2010 minutes was deferred to the next meeting due to a lack of quorum to approve the minutes.

### CORRESPONDENCE

Chairperson Bob Hicks read the following correspondence into the record:

- A. ZA2010-08 – January 24, 2011 correspondence from Attorney Emil Kantra to Attorney April Cordts requesting a continuance of hearing to February 22, 2011;
- B. ZA2010-08 – February 22, 2011 correspondence from Attorney Emil Kantra to Attorney April Cordts requesting a continuance of hearing to March 22, 2011;
- C. ZA2010-10 – Correspondence received January 19, 2011 from Anderson Daub withdrawing the application for a zoning appeal.

### HEARINGS

#### ZA2011-02 – Liberty Towers, LLC

The advertisement for the hearing was read aloud and all parties who would testify in the hearing were sworn.

Present for the Application: Crystal Fisher of Lemanowicz, LLC for the Applicant

Ms. Fisher reviewed and identified the (9) exhibits for the record. It was noted that property is located within (3) municipalities and is owned by Nazareth Borough Municipal Authority. Brian Seidel, Seidel Planning & Development, Pottstown, PA provided testimony regarding preparation of the site plan. Mr. Seidel stated that the locating the tower anywhere else on the property would infringe on the operations of the NBMA plant and would encroach a substantial area of floodplain on the property. The setback variance requested would be 86 feet to the west and 80 feet to the south. Mike Gable expressed concern locating the tower in close proximity to the railroad. Testimony was provided by Anthony Handley, Millennium Engineering, PC, Phoenixville, PA, regarding the necessity to locate a tower on this property to accommodate service needs in the area. At this time, they do not have any carriers committed however they do have the opportunity for (6) licenses. Philip Burtner, P.E., Advantage Engineers, Lansdale, PA provided testimony regarding the structural components of the tower. Tom Itterly, Chairman to the NBMA, testified that this location is the only area available on the site and other locations are dedicated to future improvements of the sewer plant.

Concern for the proximity to the railroad was discussed, along with the possibility for a Hold Harmless Agreement to remove the Township from liability if the tower would collapse.

The Applicant indicated that if the lease is terminated the pole will be removed.

#### Board Deliberation

The Board noted that if the Railroad had any concerns you would have expected them to appear; however no one appeared nor did they make any inquires on the application. The Board discussed the possibility of adding a condition to require Liberty and NBMA to enter into a Hold Harmless Agreement to release the Township from any liability from damage that may occur if the tower should fall or cause injury to surrounding properties. Attorney Cordts reminded the Board that they cannot bind the Board of Supervisors. They can only make recommendations. She did not believe that such a requirement would hold up in court.

#### Courtesy of the Floor

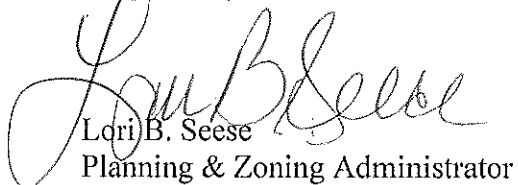
Kristina Portner, Reporter for Patch.com inquired about the life of a cell tower (100 years), if geotechnical evaluation has been performed (will be performed at the time of building design), and if the adjoining property in Palmer Township is owned by Charles Chrin (the applicant did not know).

#### Motion by the Board

The motion to approve a variance of 86 feet to the westerly setback line and 80 feet to the southerly setback line from Article 15, Section 1502.A.19 (a) and a variance to locate a tower no more than 1.2 miles to the closest tower pursuant to Article 15, Section 1502.A.19 (j), in accordance with the exhibits and testimony presented at this hearing, was moved by Bob Hicks and seconded by Manny Changalis. The motion carried unanimously. The Board further made a recommendation that the Board of Supervisors enter into a Hold Harmless Agreement with NBMA and Liberty Towers to release the Township from any liability.

The meeting adjourned at 9:00 p.m.

Respectfully submitted,

  
Lori B. Seese  
Planning & Zoning Administrator

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