

April 4, 2012
Curtis Hall

A regular meeting of the **BUILDING AND ZONING COMMITTEE** was held tonight, Chairman Morton J. Simon, Jr. presiding. Members present were Commissioners Norris, Portner, Sharkey, and Simon. Also present was Ex-Officio Member Haywood. Staff present were Joseph Bagley, Wisler Pearlstine LLC; Patrick Duffy, Director of Engineering, Zoning and Inspections; Bryan T. Havir, Assistant Township Manager; and David G. Kraynik, Township Manager. A Public Attendance List is attached.

Mr. Haywood called the meeting to order.

1. The Zoning Hearing Board ("ZHB") Agenda for April 9, 2012, was reviewed as follows:

APPEAL NO. 3433 Appeal of New Cingular Wireless PCS, LLC, tenant by grant of easement on premises known as 36 Township Line Road, Elkins Park, PA, for the following Zoning Relief for an existing Telecom Facility:

- a. Determination that the modifications to the Telecom Facility are permitted by right in the M-3 district pursuant to Section 295-89.D of the Township Code as a telephone central, public utility building, and otherwise complies with such provisions.
- b. In the alternative, a determination that the modifications to the Telecom Facility are permitted by right pursuant to the operative and pertinent provisions of the Telecom Ordinance set forth in Chapter 271 of the Township Code, and otherwise complies with such provisions
- c. In the alternative a determination that the Telecom Facility is permitted by a validity variance as recognized by the laws of the Commonwealth of Pennsylvania.
- d. A determination that the Telecom Facility is a valid, non-conforming use of the Property, established prior to the adoption of the Telecom Ordinance. Pursuant to Section 295-227.C., a valid, non-conforming use may be extended throughout the premises (i.e., Area of the First Easement and Second Easement as applies to this Application).
- e. A determination that upgrades to the Telecom Facility are authorized on the Property pursuant to federal law, including the Pole Attachment Act 47 U.S.C. Section 224; the Telecommunications Act of 1996, 47 U.S.C. Section 253 (dealing with removal of barriers to entry) and Section 332 (dealing with regulation of mobile services) and the Middle Class Tax Relief and Jobs Creation Act of 2012, Section 6409 (dealing with modifications to existing facilities).

- f. Applicant also applies for such other interpretations, waivers and/or variances as may ultimately be required.

Present representing the applicant was Chris Schubert, Esq. Mr. Duffy reviewed the appeal including the proposal to lower the existing antennas and adding three (3) new antennas.

Mr. Schubert reviewed the history of the equipment and proposed changes including the height of the pole, equipment to be added to the ground cabinet and compound, and stated that the new ground equipment will not be higher than the height of the fencing that surrounds the equipment.

It was Mr. Sharkey's opinion that Item (f) be eliminated since it was too broad and approves equipment that has not yet been determined. Mr. Schubert agreed.

There was a public comment:

Anna Marie Felix, 32 Township Line Road, thanked the Committee for considering the elimination of Item (f). She felt that the Township should not be approving the unknown. She noted that landscaping around the equipment and compound was the responsibility of the applicant. The arborvitae have grown very high and camouflages the equipment. She asked that any damaged landscaping be replaced in-kind. Mr. Schubert agreed.

Upon motion of Mr. Simon, and unanimously approved by the Committee, the Township Engineer was directed to advise the Zoning Hearing Board that it takes no action of said appeal but if relief is granted that it be granted contingent upon the elimination of Item (f) and that all landscaping be replaced in-kind.

2. Upon motion of Mr. Haywood, and unanimously approved by the Committee, the Planning Commission Regular Meeting Minutes dated March 26, 2012, were received.

3. Upon motion of Mr. Haywood, and unanimously approved by the Committee, the Report of the Building Inspector for the month of March, 2012 was received.

4. Under Citizens' Forum:

David Cohen and David Harrower, members of the Ad Hoc Zoning Committee, presented recommendations for amending the recently adopted Age-Restricted Overlay District Ordinance. They reiterated what they presented to the Planning Commission at its March 26, 2012 meeting. Said comments are reflected in that Commission's meeting minutes.

Mr. Harrower reviewed certain verbiage changes for consistency, i.e. when referring to "homes", it should be "dwellings"; the word "of" to "or" in Section 3, Page 12; "Historic resources in the Township" to be "Historic resources on the tract", the requirement of a "by-right yield plan", the restructuring of density calculations (to be prepared by the Planning Commission), and building height of no more than 3-storeys.

It was Mr. Simon's opinion that defining steep slopes as "by-right" was not viable. Mr. Norris questioned the limit to 3-storey buildings. Mr. Harrower felt that a higher building was overpowering on small lots and to the neighbors. Mr. Harrower asked about the applicability of an active development under the current ordinance. Mr. Bagley advised that the Township would have to advertise that it is considering a possible amendment to the Ordinance in order to stop any application that may be submitted for a future development. Mr. Harrower asked the Commissioners to consider rescinding the current Age-Restricted Overlay District Ordinance. Mr. Haywood responded that they would not rescind the current Ordinance at this time.

Mr. Cohen asked that the Planning Commission Minutes dated March 26, 2012 be corrected since they state that he was present as a member of said commission, which he is not. He reiterated what he stated at said meeting. He asked the Commissioners to expedite the opinion of Ken Amey, the Township's consultant on the Ordinance, so that the process can be expedited before a development is applied for under the current Ordinance.

It was Mr. Bagley's opinion that many of the requested changes are minor except for the recommendation of "by-right", and he could prepare a draft rewriting of the Ordinance to incorporate said recommendations, and this would make it possible for a proposed amendment to the Ordinance to be advertised. Mr. Simon suggested that the suggestions also be reviewed by Mr. Amey, and the proposed amendment to the Ordinance be placed on the May 16, 2012 agenda of the Board of Commissioners. The Committee unanimously agreed.

There being no further business, upon motion of Mr. Portner, and unanimously approved by the Committee, the meeting was adjourned.



David G. Kraynik
Township Manager

as per Anna Marie Felix

PUBLIC AFFAIRS COMMITTEE MEETING, 7:30 p.m.
PUBLIC SAFETY COMMITTEE MEETING, 7:45 p.m.
BUILDING AND ZONING COMMITTEE MEETING, 8:00 p.m.
 Wednesday, April 4, 2012, Curtis Hall

PUBLIC ATTENDANCE LIST

<u>NAME</u> <i>(Please print clearly)</i>	<u>ADDRESS</u>	<u>PHONE or E-MAIL</u>
Bill Schwartz	8304 Jackson Ave	256352844
David Harrower	509 Fox Rd. Glenview	
DAVID L. COHEN	321 GERARD AVE. EP	
Steve Steinhilber	Colum Call	