

TOWNSHIP OF DERRY
ZONING HEARING BOARD MEETING MINUTES
June 16, 2021

CALL TO ORDER

The Wednesday, June 16, 2021 Derry Township Zoning Hearing Board meeting, which was conducted via video conference (Zoom Webinar) due to COVID-19, was called to order at 6:00 p.m. by Vice Chairwoman Sandy Ballard.

ROLL CALL

Board members in attendance (*via video conference*): Vice Chairwoman Sandy Ballard; Secretary Dean Morgan; Member Michael Angello

Board members absent: Chairman Steve Seidl; Member Lindsay Drew

Also present (*via video conference*): Megan Huff, Solicitor to the Board; David Habig, Assistant Director of Community Development; Maria O'Donnell, Court Reporter

Public attendance (*via video conference*): Jamie Strong, McNees Wallace & Nurick; Eric Brinser, Rettew Associates; Matt Burtner, Network Building and Consulting

APPROVAL OF MINUTES

On a motion by Secretary Morgan, seconded by Vice Chairwoman Ballard, and a unanimous vote, the May 19, 2021 minutes were approved as written.

OLD BUSINESS

A. Adoption of Decision in the Case of Brian and Patricia Parr (2021-03)
Property location: 835 Grandview Drive, Palmyra

Vice Chairwoman Ballard read the terms of the Decision into the record as follows:

- “1. *The applicants’ request for a variance from §225-303, Table 5 regarding the side yard setback for an accessory use is GRANTED. The applicants may encroach to within 18 feet of the side property line for the proposed shed.*
2. *The applicants’ request for a variance from §225-303, Table 5 regarding the rear yard setback for an accessory use is GRANTED. The applicants may encroach to within 26 feet of the rear property line for the proposed shed.*
3. *The applicants’ request for a variance from §225-303, Table 5, Item H, regarding the maximum height of an accessory structure is GRANTED in part and DENIED in part. The applicants may construct the proposed shed to a maximum height of 24 feet.*

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4. *The applicants shall construct the improvements in strict compliance with the plans and specifications submitted to the Board during the hearing of this matter, provided, however, that if the improvements that are the subject of this hearing, as finally constructed, require less relief than granted by the Board herein, no additional relief from this Board shall be required.*
5. *Except as extended by applicable law, the relief granted herein shall be valid for one (1) year from the date hereof. In the event the applicants have not, within the time period provided herein, commenced operations, applied for a building permit relative to the improvements where permits are necessary, or constructed the improvements not requiring permits, the relief granted herein shall be deemed to have expired, and the applicants shall be required to comply with the then existing terms of the Zoning Ordinance.*
6. *Any violation of any condition imposed herein shall be a violation of the Township Zoning Ordinance and shall be enforced as provided in the Ordinance.*

On a motion made by Secretary Morgan, seconded by Vice Chairwoman Ballard, and a unanimous vote, the Decision was adopted as written. Member Angello abstained from the vote due to absence during the hearing.

On a motion made by Secretary Morgan, seconded by Member Angello, and a unanimous vote, Vice Chairwoman Ballard was authorized to execute the Decision on behalf of the Board.

NEW BUSINESS

A. Hearing in the Case of Cellco Partnership, d/b/a Verizon Wireless (2021-04)
Property location: 1215 Fishburn Road, Hershey

This property, located in the Hershey Mixed Use zoning district, is improved with a church and cemetery. The applicant is proposing to install a building-mounted communications antenna facility, including ground-mounted communications ancillary equipment located adjacent to the existing building. Relief was previously granted under Petition 2016-35 from front yard setback requirements for accessory structures and the time in which a permit or certificate of occupancy must be secured, and under Petition 2018-15 regarding an additional 1-year extension of the time in which a permit or certificate of occupancy must be secured. The applicant did not secure the necessary permits within the extended timeframe and the relief granted under Petitions 2016-35 and 2018-15 has expired. Relief is sought from front yard setback requirements for an accessory structure and the time in which a permit or certificate of occupancy must be secured.

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Eric Brinser, Rettew Associates, and Matt Burtner, Network Building and Consulting, were sworn in and gave testimony. Attorney James Strong of McNees Wallace & Nurick introduced the case and those giving testimony. The antenna will be housed inside a cupola on top of the existing church steeple, which will enclose and contain the antenna. The cupola will be constructed with materials that will complement the existing church. The proposed ground mounted ancillary building will be 25.3 feet from Fishburn Road. The existing church is located closer to the road than the proposed ancillary building at about 14 feet from the right-of-way. The location for the ground mounted facility will minimize the visual impact. Mr. Strong is also requesting a two-year time period extension for construction of the facility to begin. The proposed site is unique and would allow for additional coverage in the area. Verizon did not secure a permit prior to February 2020 and the original relief has now expired.

Member Angello questioned how far the ground mounted equipment would be from Robin Road. Mr. Strong replied that it would be 85.8 feet. Member Angello also questioned whether there is a need for a dedicated parking space. Mr. Strong replied that the space would be in compliance.

Mr. Burtner locates sites for use as communications facilities. Mr. Burtner confirmed that communications facilities are permitted to be mounted to buildings in this zoning district. Mr. Burtner further confirmed that the equipment would be shielded or enclosed and not noticeable. Barring emergency repairs, a technician would only need to visit the facility briefly about once a month.

Mr. Burtner clarified that a two-year extension is being requested to allow for funding and adherence to technology changes and approvals. The anticipation is that the construction will begin shortly; however, the applicant is requesting additional time in case complications arise to avoid another hearing for further time extensions.

Mr. Brinser is a landscape architect. Mr. Brinser stated that an 8-foot-high fence and evergreen buffer will conceal the ground mounted equipment. Mr. Brinser added that some existing paving will be removed to help lessen the impervious impact to the property.

Mr. Brinser further added that the proposed ground mounted structure would be tucked in a non-conspicuous location.

Vice Chairwoman Ballard questioned whether any other locations for the ground mounted equipment were considered. Mr. Strong stated that the original proposed location was on the other side of the church; however, the cemetery setbacks were problematic. The proposed location allows for the shorter distance between the antenna and the ground mounted equipment.

Mr. Strong stated that the proposed relief is the least amount required and further added that the improvement will not fit into the existing neighborhood with the antennas being completely concealed. The location was chosen for its ability to allow additional capacity for the area and for its ability to conceal a tower.

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No other person offered testimony.

Vice Chairwoman Ballard informed the applicant that the Board has 45 days to render a decision and if the applicant is aggrieved in any way, they have 30 days to appeal the decision.

The hearing closed at 7:10 p.m.

DELIBERATION

The Board met to deliberate in the case of Cellco Partnership, d/b/a Verizon Wireless (2021-04) and directed the Solicitor to prepare the draft decision on the case for formal action at the July 2021 meeting.

Submitted by:

Dean Morgan, Secretary