CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES
June 17, 2015

A Regular Meeting of the City of Dover Board of Adjustment was held on Wednesday, June 17, 2015 at 9:00 A.M. with Chairman Sheth presiding. Members present were Mr. Hufnal, Colonel Ericson, Mr. Keller, Mr. Senato, and Chairman Sheth.

Staff members present were Mrs. Townshend, Mrs. Purnell, Mr. Cook and City Solicitor Nick Rodriguez.

APPROVAL OF AGENDA

Mr. Hufnal moved to approve the agenda as submitted, seconded by Mr. Senato and unanimously carried 5-0.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF APRIL 15, 2015

Mr. Keller moved to approve the meeting minutes of April 15, 2015 as submitted, seconded by Mr. Hufnal and unanimously carried 5-0.

OPENING REMARKS CONCERNING DEVELOPMENT APPLICATION

Mrs. Townshend, Director of Planning and Community Development stated that the meeting would be conducted in accordance with the agenda. There are two items (new applications) on the agenda under New Business. The application file will be read, and the floor will be opened for questions of the applicant by the Board and for public testimony. If the Board needs to consult the City Solicitor they will adjourn to discuss legal matters. If the applicant must leave, they can contact the Planning Office at 736-7196 to learn of the Board's decision. A formal notice of the decision will be mailed to the applicants. Approved variances expire after one year if the approved project has not commenced.

All public notice for the new application on the agenda today was completed in accordance with code requirements. The meeting agenda was posted in accordance with Freedom of Information Act requirements.

NEW BUSINESS

Applicant #V-15-08

1255 College Park Drive. Cellco Partnership dba Verizon Wireless has applied to the Board of Adjustment for a variance from the requirements of Article 4 § 4.16 of the *Zoning Ordinance* pertaining to maximum permitted building height in order to allow construction of a 158 foot telecommunications tower and associated facilities. Subject property is zoned M (Manufacturing Zone). The Tax Parcel is ED-05-067.00-02-12.06-000. The owner of record is Bay Developers Inc.

Mr. William Cook Exhibits for the record: Staff Report and plans submitted by the applicant. The legal notice was published in the Delaware State News on June 7, 2015, and the public was notified in accordance with the regulations.

Mr. Cook gave a brief overview of the application.

Chairman Sheth questioned if there was any member present who had a conflict of interest and there was none.

Representative: Mr. Jonathan Jordan, Attorney; Mr. W. Jeffery Nagorny, Project Engineer; Mr. Paul Dugan, RF Engineer.

Exhibits were distributed.

Mr. Paul Dugan was sworn in by Mr. Rodriguez.

Questions/Answers
The applicants made a presentation in a question and answer format with Mr. Jordan, the attorney, posing questions to Mr. Dugan, the engineer:

Questions – Mr. Jordan
Answers – Mr. Dugan

Q. Mr. Jordan asked Mr. Dugan to explain what he does for Verizon.
A. Mr. Dugan stated that he was an Independent Radio Frequency Consultant Engineer specializing in design and performance of radio frequency teller communication systems.

Q. Are your credentials summarized in tab 4 of the binder?
A. Yes

Q. Is Verizon Wireless licensed by the FCC (Federal Communication Commission) to provide telecommunication service to the City of Dover and surrounding areas?
A. Yes

Q. Does the license appear in tab 5 of the binder?
A. Yes

Q. Explain the factors that lead Verizon Wireless to conclude that the proposed monopole is necessary at the proposed location.
A. The function of the radio frequency engineer is the on-going design and performance of the wireless telecommunication system with the explosion of smart phones and hand held devices that are sold in stores today. Verizon Wireless has had to keep up with the explosive tremendous growth in data applications. For that reason they have to maintain adequate coverage and capacity to the area that they are licensed to serve.

Q. Explain this state and why the state cannot get by with a 35 foot tower, but instead needs a 150 foot tower with an 8 foot lighting rod.
A. The proposed facility subject to this application is needed primarily for capacity reasons. The existing sites in the vicinity of the proposed site location are “in exhaust” and are in need of offloading of traffic to relieve sectors that are currently over loaded in some sections of the City

of Dover. The proposed facility provides 4G LTE coverage and capacity relief to a heavily traveled northwest section of the City of Dover in the vicinity of the Delaware State University including sections of College Road and State College Road, McKee Road (Route 15), Scarborough Road, and other adjoining roads in the community. The proposed facility is a capacity offload site which will provide necessary traffic offloading from the two sites identified on the propagation exhibits as DOV-RACEWAY LIQUORS (gamma sector) and DOV-FOX HALL (beta sector). The DOV-RACEWAY LIQUORS site is serving Delaware State University which is currently in exhaust and the DOV-FOX HALL site is facing the City of Dover. That sector is in need of capacity exhaust.

Q. Can you explain exhaust?
A. The facility is at the level of data that is carrying during the system busiest hour and it is currently at a level that it is denying service or service degraded where speed has slowed down significantly.

Q. Why do we need to exceed the 35 foot height limitation?
A. The taller the structure height of the antenna height above ground, the larger the footprint. The antenna needs to have a line-of-site visibility to the handle subscriber devices to provide service. The taller the structure the more coverage it provides and more capacity off load to the adjacent sites. The 150 feet is necessary in order to provide the sufficient amount of traffic offloading from the two (2) sectors that are currently in need of traffic and capacity relief and to provide the level of in-building coverage that Verizon is seeking to that immediate area.

Q. Is it true that the current state of coverage and service in this particular area is not up to Verizon standards?
A. Mr. Dugan concurred.

Q. Are your findings summarized in the report of tab 7 that was prepared?
A. Yes

Q. Will the proposed installation comply with all the applicable FCC (Federal Communication Commission) admissions and safety standards and did you prepare a report at tab 8?
A. Yes. I prepared a radio frequency electromagnetic field exposure certification to certify that the proposed facility complies with the FCC (Federal Communication Commission) exposure limits and guidelines that are put forth to protect the health and safety welfare of the public. Verizon Wireless provides the upper limit operating parameters in antenna configuration and calculations are based on the FCC (Federal Communication Commission) prescribed methodology to determine what is the upper limit ground level exposure anywhere near the base of the proposed facility. The conclusion of the report is that the upper limit exposures are hundreds of times below what is considered safe levels of electromagnetic field.

Q. Explain the safety and interference of report (tab 7 and tab 8).
A. Mr. Dugan furnished a non-interference certification which is a discussion of how the facilities co-exist in the community with no detrimental impact to existing radio frequency systems.

Q. Referring to tab 3 which states that Dover Air Force Base had no objection to the tower. Did Mr. Dugan look into the FAA (Federal Airways & Airspace) issues and is that summarized in exhibit 9?
A. Yes, exhibit 9 is a FAA Screening Certification with an airspace report screen that includes a database of all public and private airspace registered facilities in the nation. It determines whether it meets the criteria to require filing with the FAA (Federal Airways & Airspace). Dover Air Force Base is the closest air facility in this area and the report states that the structure height does not meet the criteria to require filing with the FAA based on location and height, and proximity to the nearest air facility.

Q. Would the proposed installation comply with all compliable federal requirements and radio frequency engineering standards?
A. Yes.

Q. Mr. Dugan in your professional opinion is the proposed facility in this location at this height necessary for the efficient operation and provision of wireless services to the proposed serviced area?
A. Yes.

Q. Mr. Dugan in your professional opinion if Verizon Wireless was unable to build a 150 foot tower with an 8 foot lightning rod at this location would it be at a competitive disadvantage?
A. Yes.

Responding to Chairman Sheth's question regarding the exhaust and a particular time that service could not be provided at the present condition (example: Nascar race), Mr. Dugan stated certain hours of the week are considered busy hours such as Friday afternoon rush hour, often weeknights after 9pm, usage goes up during certain hours of the day. The exhaust normally happens when it hits 100% of its capacity. Therefore, this is when it slows down or is suspended because of the level of traffic on the system. During Nascar Race and special events Verizon Wireless puts up (in some cases) temporary sites to handle additional capacity for those peak loads. Verizon is seeking to (in addition to putting up temporary sites) strategically are building sites in certain sections of the city. There are a few sites planned in order to off load traffic. When there is a special event at Dover Downs is the worst time.

Responding to Chairman Sheth's question whether the engineer had worked with other competitors, Mr. Dugan stated yes.

Responding to Chairman Sheth's question whether other competitors had the tall tower in this area, Mr. Dugan stated that he has done work for the other carriers, but he was not familiar with their needs in this area. They are all dealing with the challenges of keeping up with the additional capacity of special events and the metropolitan area such as the City of Dover and keeping up with the coverage of capacity requirements of this city. The users of this city are demanding on their networks.

Responding to Chairman Sheth's question if the tower was built 150 feet tall how long would the tower provide service (next 2 or 5 years), and if they would come back again for additional

footage and if a 110 feet would serve the same purpose, Mr. Dugan stated that 110 feet would not meet the objectives because if it was forced to be reduced the tower would require more facilities in the future to provide service to the customers. This site will provide a complete solution to the area that it is serving which is the northwest section of the city. Therefore, 150 feet will provide service to approximately ½ to 1 mile in all directions from the proposed facility location.

Responding to Chairman Sheth's question whether Mr. Dugan had any supporting technical research, Mr. Dugan stated that the exhibit presented is a certified independent evaluation proposed facility. The objectives were outlined in terms of coverage and capacity. The objectives were explained in terms of what will be achieved, why the height cannot be reduced, and why the 150 feet is the minimum height to fulfill those objectives, all the existing tall structures within a ½ mile of the proposed facility location there are no existing tall structures within a ½ mile that are available to Verizon Wireless. Verizon sought location on a water tank and the owner of the water tank would not make it available to Verizon.

Mr. Dugan stated that this structure provides co-location opportunities, for all the other carriers. They have master agreements to allow for co-locations between the carriers.

Colonel Ericson stated that he understood the coverage that the 158 feet would be ½ mile to 1 mile, but questioned if it was at 110 feet what would be the mileage. Mr. Dugan stated that it would be somewhat less than that. It would probably be roughly 75 to 80 percent of full coverage.

Responding to Colonel Ericson's question whether it would cover the other substations that they were trying to change data with and if it was tall enough, Mr. Dugan stated that it needs to be a certain height to absorb traffic sufficiently. If it was lower it would not absorb a sufficient amount of traffic. The antenna height is 150 feet with an 8 foot lightning rod.

Responding to Colonel Ericson's question if AT&T came to Mr. Dugan and would like to put up antennas and work together using the pole, would Mr. Dugan work with AT&T, Mr. Dugan stated yes.

Responding to Mr. Keller's question whether Mr. Dugan had explored or looked at other isolated single sites, Mr. Dugan stated that the site acquisition people look for existing structures first. Where existing tall structure are not available, or a sufficient height, or not in a target area then the site acquisition people have to seek a new antenna support structure where they are not available. As he could not speak on what other sites might have been considered, but Mr. Dugan believes that the proposed location is a very benign application considering the buffering of the industrial and commercial nature of the property. It is buffered with much vegetation that is backed up to a railroad track. Mr. Dugan was not aware of any residential homes in the vicinity. It is very well suited for this application from that respect.

Responding to Mr. Keller's question whether Mr. Dugan was aware of any requirements for clear or safety fall zones in the reality of a 150 foot structure coming down, Mr. Jordan stated that the Civil Engineer would be able to answer the question.

Responding to Mr. Hufnal's question since they were close to high tension lines whether the towers would interfere with radio signals, Mr. Dugan stated no.

Responding to Mr. Senato's question whether Mr. Dugan currently had other Verizon towers within the city limits, Mr. Dugan stated yes.

Responding to Mr. Senato's question of the difference of the range of the other towers (the nearest tower) Mr. Dugan stated that the site to the southwest is a little over a mile. As he referred to the bottom of design report (tab 6) he stated that all the towers are listed in the immediate vicinity of the structure. It identifies all of the adjacent facilities.

Responding to Mr. Senato's question whether the height of the towers in the adjacent facilities were listed on the design report (tab 6), Mr. Dugan stated yes.

Responding to Mr. Senato's question about the range of signal between DOV-FOX HALL-127' and DOV-DOVER DOWNS-125', Mr. Dugan stated that the range that each site will cover is function of many variables, not just the height of the antenna, such as the density of customers using the facility at any given time, demographics, frequency of propagation, vegetation, etc. The facility may be shorter in height, but they may be covering more customers because they may be in a denser area.

Responding to Mr. Senato's question whether the request for a higher tower was due to the location and the non-density and less of a population area, Mr. Dugan concurred.

Responding to Mr. Senato's question whether Verizon needed a higher tower to spread out to reach the outer edges of the northwest section of Dover, Mr. Dugan concurred and stated that you would reach to the Delaware State University buildings and to provide in-building coverage. There is also a residential or retirement community to the southwest. Every structure and site has different objectives in terms of how much area it is serving.

Responding to Mr. Senato's question of the longevity of the tower; Mr. Dugan stated that he did not anticipate needing another structure within a mile of the proposed facility location. There will be other need of other areas in the city. This tower is only serving a small area up to 1 mile in radius from the proposed facility location.

Responding to Mr. Senato's question of what period of time he would need to put up another tower in close proximity of the tower ½ or 1 mile down the road, Mr. Dugan stated that he could not project the future needs, but he did not see a need for a new facility in the immediate area within the next five (5) years within a ½ mile from this facility.

Mr. Jordan stated that he did not think that anyone could predict the explosion and data caused by everyone getting smartphones and using internet on their phones. It has been a 50,000 percent increase in the last few years.

Responding to Mr. Jordan's question to Mr. Dugan whether each site is designed considering all the factors, topography and surrounding areas and the rest of the Verizon network, and is the

height of each site based on the particular factors specific to this project; Mr. Dugan stated yes. The height necessary for this facility is a function of where all the other sites are located it has to fill in a specific area (like a jig saw puzzle). The facilities work together to create a network in order to provide seamless services to their users in the area.

Responding to Chairman Sheth's question whether Del Tech was a part of the study, Mr. Dugan stated that is likely served by what is identified as DOV-NORTH DOVER structure which is a 195' lattice tower at 2030 North DuPont Highway. It is likely closer to that facility and well served by that existing tower.

Mr. Hufnal stated that Del Tech would be going through another expansion very soon as he was not sure if it was covered by the proposed tower or another tower.

Mr. W. Jeffery Nagorny was sworn in by Mr. Rodriguez.

Exhibits

Questions/Answers

Questions – Mr. Jordan
Answers – Mr. Nagorny

Q. Mr. Jordan asked Mr. Nagorny if he has visited the subject property.
A. Yes

Q. Can you talk about the zoning district and the surroundings?
A. It is the M (Manufacturing District) the particular part of the district as indicated on the site plan (tab 12) cul-de-sac at the end of College Park Drive. Running approximately north-south is the existing railroad right-of-way. The parcel is on the southern end of the cul-de-sac and the proposed location is in the south west corner of that particular parcel. The particular parcel is fully overgrown with trees and low growth vegetation. It is on the end of a cul-de-sac which is basically a light industrial development. It is a very appropriate location for this facility.

Q. Is it true that telecommunications towers are permitted in every zoning district as a public utility use?
A. Yes.

Mrs. Townshend clarified that within the Manufacturing Zone public utility uses are a Conditional Use which is subject to Conditional Use by the Planning Commission.

Q. Can you briefly describe what Verizon Wireless plans to build?
A. Yes. Verizon Wireless proposing a 150' tall monopole structure which is basically a single shaft. It is normally constructed in two or more sections. It is brought to the site and lifted with a crane. It would have an 8' lightning rod on top and Verizon would be mounting their antennas on a platform that is attached to the top of the tower (referring to exhibits 12, Z-1, Z-2, and Z-3). Typically the number of antennas or platform is constructed with three (3) sectors. Currently we

are looking at four (4) antennas per sector for a total of twelve (12) antennas. The center line of the antennas would be 150'. The top of the antenna would be at 153'. The top of the lightning rod would be at 158'. The power and fiber lines would run up on the inside of the monopole and would not be visible on the outside. He also gave a brief overview of the compound plan (fence compound 40x40 feet). Electric power and telephone lines are brought into the site to feed the tower. The ground equipment is the brains of the operation. This is the reason they need a building on the ground to house all of the information and equipment. The facility will be surrounded by a 6' fence with a 12' access gate tied into the existing driveway entrance. The driveway will also be improved. The site is approximately 1 acre.

Q. Can you explain the setbacks of the tower from the property line regarding safety?
A. Yes. The towers are designed to never fail. The towers are designed by a manufacturer in accordance with the current code ANSI-TIA-EIA (American National Standard Institute/ Telecommunication Industries of America – Electronic Industries Association) standard 222-G2. They reference various criteria for design of the structure (including wind loads). Typically in the east coast it is designed for a maximum wind load of 90mph and as you get closer to the coast it increases to 120-130mph. The towers are also designed at the connection point of the various sections it can be designed as a weak point in the structure so that sections break off and fold over. From the property line adjacent to the railroad tracks 130' it is still safe if the tower was to fall over.

Responding to Mr. Senato's question whether 90-95mph was the standard wind factor, Mr. Nagorny stated yes. The American Society Civil Engineers has a Design Standard 7-05 which has been updated to 7-2010 and they have detailed information on the appropriate design wind speed for various areas of the country.

Responding to Mr. Senato's question whether if at the 90mph (hitting at 195mph) speed the top portion would go first (the way that it has been constructed rather than the entire tower), Mr. Nagorny stated yes.

Mr. Nagorny stated that typically the foundation for a tower such as this would be a 4 to 5 foot diameter concrete caisson pier that would go down 25' to 30'.

Responding to Mr. Keller's question whether the access way to the structural site would be paved, Mr. Nagorny stated that it is shown as gravel. There is currently debris around the area. Under the vegetation is old asphalt. They will prepare the access drive with gravel unless otherwise stated for the reason that long term stand point gravel does not need the care and maintenance as asphalt. The gravel is also positive in terms of storm water run-off. They plan to grade and gravel the access drive.

Responding to Mr. Keller's question regarding plan sheet Z-2 if the proposal was an 8' high chain link fence with three (3) strand barbed wire for security perimeter of the structural facility, Mr. Nagorny concurred.

Responding to Mr. Keller's question whether he was aware of any security, fencing, or barrier on the easterly property line of the site, mainly the line that parallels to the railroad tracks right of

way, Mr. Nagorny stated as he referred to the exhibit that he was not sure, but believed that there is fencing along the railroad. He stated that it would be a function of the railroad and their security issues.

Mr. Nagorny stated that although Verizon, AT&T, and others are still bidding towers the majority of the work that Advantage Engineers has to do is upgrading and changing out the antennas. For example, at Delaware Technical and Community College if they see growth and expansion with the existing nearby tower it may be a simpler enough solution that they upgrade the antennas that are currently there. Originally cell towers were all for voice communication, but now the bulk of the antennas are going on for data because it takes a lot more bandwidth for Youtube videos, internet access, etc. Therefore; Verizon and others are exchanging and upgrading the antennas to increase the efficiency and coverage of the service.

Chairman Sheth questioned if there was any member present who had a conflict of interest with the case and there was none.

Chairman Sheth opened a public hearing and after seeing no one wishing to speak closed the public hearing.

Chairman Sheth questioned if there was any additional correspondence for the record. There was none.

Mr. Hufnal moved to approve application V-15-08 based upon the testimony given today to include Staff recommendations and Advisory Comments. Mr. Senato seconded the motion and unanimously carried 5-0.

Applicant #V-15-09

615 Ridgely Street. Clara Ridgley Properties LLC has applied to the Board of Adjustment for a variance from the requirements of Article 4 § 4.16 of the *Zoning Ordinance* pertaining to maximum permitted building height and minimum required setbacks in order to allow construction of a 125 foot telecommunications tower and associated facilities. Subject property is zoned IPM (Industrial Park Manufacturing Zone). The Tax Parcel is ED-05-076.08-01-01.00-000. The owner of record is Clara Ridgley Properties LLC.

Mr. William Cook Exhibits for the record: Staff Report and plans submitted by the applicant. The legal notice was published in the Delaware State News on June 7, 2015, and the public was notified in accordance with the regulations.

Mr. Cook gave a brief overview of the application. He also stated that the application was in the IPM Zone with a different height requirement than the previous application. The height in the IPM Zone is set according to the distance that the building is setback from the property lines. There were notes made in the report regarding the site plan that was submitted. The setback request was based on the center of the tower structure, but the correct method to do the calculation would be from the edge of the tower. The setback request should be 20 feet and the information is summarized in a table on page 3 of the report.

Mr. Senato wanted clarification regarding page 2 of the report requesting variances and whether there were two (2) separate variance requests, Mr. Cook stated yes.

Responding to Mr. Senato's question whether the two (2) separate variance request should be combined into one (1) or separate, Mrs. Townshend stated that the Planning Office has always allowed the variance to be combined as one (1) on the application in the past. The Planning Office has never required multiple applications for two (2) related variances. The variance can be split in the terms of the motion.

Mr. Cook stated that the proposed tower and associated compound (referring to page Z-2 compound site plan and elevation) a portion of the compound that is proposed crosses over onto the adjacent property. At the current time both properties are under common ownership. It does not impact the variance request, but later on in the Site Plan process there is requirement for documentation of agreements between the property owners.

Responding to Mr. Senato's question whether the two (2) properties are common and what would happen if one of the properties was sold, Mr. Cook stated that it is for the private properties to resolve. Mrs. Townshend stated that there are multiple ways it can be resolved. It can be done through an easement, lot line adjustment, or moving the equipment so that it is not crossing property lines. It is not something directly related to the variance request, but it is an issue that will need to be addressed as they move into the Site Plan and building permitting processes.

Responding to Colonel Ericson's question whether the first Advisory Comment should be disregarded, Mrs. Townshend stated that it is not an issue that needs to be addressed, but wanted to make sure that the applicant was aware.

Colonel Ericson asked for clarification regarding the variance request and what exactly is being recommended for the changes "allow a 17 foot reduction in the side yard setback to permit construction 23 feet from the property line," Mr. Cook stated that it was the request as stated on the application from the applicant and it was based on the applicant site plan on page Z-2. The applicant incorrectly measured the setback distance from the property line to the center of the pole.

Responding to Colonel Ericson's question of how he would recommend the change, Mr. Cook stated that you could measure to the outside of the pole, not to the center. Mrs. Townshend stated that it is a 20 foot reduction in the side yard and a 105 foot in the height. Therefore; it would be a 105 foot variance in height. Mr. Cook stated that as noted in the report it is an Industrial area with a different zoning. There is another shorter cell tower nearby. The addition of another tower would not be out of character for the properties and its surroundings. In terms of the placement for the proposed tower on the property, the Planning Office felt that the variances to allow the tower to be constructed in the corner of the site was more compatible in order to bring the towers closer together. In doing so, it would keep the visual impacts of proposed use in one place.

Responding to Colonel Ericson's question whether the towers were both communication towers, Mr. Cook stated yes.

Responding to Colonel Ericson's question whether the towers were combined going to one tower, Mr. Cook stated no.

Chairman Sheth questioned if there was any member present who had a conflict of interest with the case and there was none.

Representative: Mr. John Tracey, Attorney; Young Conaway Stargatt & Taylor LLP, Mr. Andrew Peterson, Radio Frequency Engineer, DBM Engineering.

Mr. Tracey stated that for ease of conversation unless the Board of Adjustment objects he would like to move into the record the testimony at the prior hearing regarding the basics of cell towers construction and the uses of cell towers.

Chairman Sheth stated that it would make sense.

Responding to Chairman Sheth's question whether during the discussion if he noticed the change in the numbers, Mr. Tracey stated yes and he planned to summarize the numbers in the outset of his application. He stated that he agreed with Mr. Cook statements.

Mr. Tracey stated that in the IPM there is not necessarily a height limitation such that in or of itself 125 foot tower does not violate the height limitations of the zoning district; it is the fact that they are asking the tower to be 20 feet from the property line which in turn puts a 20 foot setback on the tower which in turn then creates the need for the height variance. If it was 100-105 feet further into the property they would not any variances.

There are several reasons the applicant seeks to locate the tower in the particular location. The properties are owned by the same individual in different entity LLC's. The proposed and existing towers are owned by completely different companies. Verizon Wireless is not on the existing tower. Verizon is not in this location at the moment. They are not able to locate on the existing tower for two (2) reasons. The height that was needed to make the system work is not available on the existing tower; the available height was roughly 40-50 feet lower than what is needed. Secondly, the existing compound for the tower cannot be expanded to handle the equipment that would be necessary on the ground to support the Verizon Wireless antennas as noted in his submission and as repeated by the Department in their submission. The existing tower is boxed in by existing wetlands, existing buffer areas attached to the wetlands, existing drive aisles, and existing easements to bring power and other utilities into this area. Since it cannot be expanded this is the reason the applicant is looking for the additional tower nearby.

Mr. Andrew Peterson was sworn in by Mr. Rodriguez.

Mr. Peterson stated that their application from a Radio Frequency prospective is not a whole lot different than the prior application. They have capacity issues in the area and the site that surrounds the area is in a state of capacity exhaustion and as testified earlier by Mr. Dugan that when the system is busy during the peak times they are unable to handle all of the data requests in particular and the data through put (network) then slows down and then there are inconveniences. If they do not address the capacity issues that cause inconveniences it will get

worse over time and lead to voice calls that will no longer go through. More critical data applications such as police and 911 communications could deteriorate or fail because there is data exhaustion on the network. They have coverage issues in the area when they talk about strong and in-building coverage. There is signal in the area if you are out on the street or driving in your vehicle. When you enter glass and steel buildings, office buildings or densely built residential areas you will have signal issues. People expect their devices to work regardless of their location, and more users are using devices at home and in buildings.

If you look at things from a strong and building service perspective there are surrounding sites that are on air serving Verizon customers. Mr. Peterson gave an overview of maps 3 & 4 as to where they would be adding more reliable and strong in building services. The signal level will be able to penetrate steel and glass structures, office buildings, etc. They will be off loading traffic from the surrounding structures that are currently in the state of exhaustion over stress.

Exhibits

Questions/Answers

Questions – Mr. Jordan
Answers – Mr. Peterson

Q. Could you discuss the purpose of off-loading?
A. The other sites have sectors (array of antennas that point into the area from the surrounding sites). The sites are overburdened due to carrying excess traffic during peak times. By providing another site it will be another access point for Verizon Wireless subscribers to get to any of the services that Verizon Wireless offers. If the Verizon Wireless subscriber is closer to the new facility rather than one of the other surrounding sites, they will get service from the new facility and the traffic that they generate will be served.

Mr. Jordan stated that Mr. Anderson's report talks in detail about the other sites as well as the explosions in the need for the services.

Responding to Chairman Sheth's question whether it was possible that a bigger tower could absorb the smaller tower so that you do not need the two (2) towers, Mr. Peterson stated that this tower is designed for co-location purposes. If there was a failure with the other tower or a desire to move over they could co-locate onto this structure. The structure is being designed with co-location availability and the compound is being designed with co-location expansion ability.

Responding to Mr. Hufnal's question why the 20 foot reduction was needed when there looks like there is enough space for the tower to be moved back, Mr. Peterson stated the compound will be moved to be exclusively on the one property. In the design the fence line was followed in terms of laying out the compound. It is about a 5 foot shift which will be made. In terms of working with the landlord when locating one of these structures they try to locate it in a place where it creates the least interference with the property. If the tower is moved 20 feet in any direction out then you are moving it more into the property which puts it in the area of drive isle of potential parking. By tucking the tower the proposed area allows them to preserve the

landlord's utility of the property while putting this structure in an area that is compatible with what is existing.

Responding to Mr. Senato's question whether one of the Verizon Company was private and the other corporate, Mr. Peterson stated that they are the same entity.

Responding to Mr. Keller's question whether the site will be on Clara Ridgley property LLC parcels, because otherwise he did not have anything relating to the All Safe Mini Storage LLC. Mr. Peterson concurred and stated that it was the same individual Mr. Henry Mast.

Responding to Mr. Keller's question whether Mr. Henry Mast was present, Mr. Peterson stated no.

Responding to Mr. Keller's question whether Mr. Henry Mast was the manager of both LLC's, Mr. Peterson concurred.

Mr. Peterson stated that it was just an oversight in tracking the fence line, but there is no problem in moving everything to ensure that this facility will be on one property (Clara Ridgley property). There will be an access easement across the storage facility to get to the proposed facility.

Mr. Keller noted that with any proposed motion if it is advisable to require the site location as to the one distinctive tax parcel number and ownership of Clara Ridgley to ensure that nothing arise between possible approval today and ultimate siting through the next various steps that apparently have to take place for Planning Office approvals.

Mr. Peterson stated that they were fine with Mr. Keller notation, however; Mrs. Townshend indicated if for some reason it was not resolved they would have to give the Planning Office an easement agreement allowing it to be there or make a lot line adjustment. He stated that they are fine with however the Board of Adjustment and Staff wants to handle it. They will make the slight shift to make sure everything is on one (1) property.

Chairman Sheth opened a public hearing and after seeing no one wishing to speak closed the public hearing.

Chairman Sheth questioned if there was any additional correspondence for the record. There was none.

Mr. Keller moved to approve application V-15-09 to include the two (2) notations made as to the 20 foot dimension from the property line and allowing for the additional 105 feet in height as to the initial request, the siting of the requested facility shall be conducted solely on City of Dover tax parcel number ED-05-076.08-01-01.00-000 Clara Ridgley Properties LLC, be it understood that there would be access over other property to avail utilization of the new Verizon Wireless facility, and based upon the testimony given, distributed exhibits, it is note that the placement of the facility will be in keeping with surrounding mixed of commercial and industrial properties, uses are in keeping with the permitted use of the IPM Zone as a public utility infrastructure, and the understanding that subsequent proposed site development plans would be evaluated by the

Planning Office and other agencies as required. Mr. Senato seconded the motion and unanimously carried 5-0.

Colonel Ericson moved to amend the motion to include that the variance request allow a 20 foot reduction, side yard setback to permit construction 20 feet from the property line and allow the structure to exceed the maximum height of 20 feet to allow for an additional 105 feet in height, the reason being because there were two measurements that was not made in the previous motion.

Mr. Rodriquez clarified that the motion as presented was correct.

Colonel Ericson stated that he would take back the amendment.

OTHER BUSINESS
DISCUSSION

Responding to Mr. Hufnal's inquiry to staff regarding the Board's concerns and volume of questions related to Industrial Park Zoning, and whether the Planning Office should look at the statutes and regulations and consider revising them to current standards, rather than looking at old ordinances that need to be updated. Should they be updated and should a joint meeting be scheduled to discuss items that the Board of Adjustment has seen that need updating, or is it something the Planning Office is already doing? Mrs. Townshend stated that the Planning Office is in the process of updating the ordinances. Last summer the Commercial Zones were updated. Staff is in the process of updating the industrial and manufacturing zones. The majority of the language is already a work in progress. Hopefully, staff can bring something forward to City Council later this year.

Responding to Mr. Hufnal's question whether the process after revision would be approval from City Council and then it would be adopted, Mrs. Townshend stated yes.

Responding to Mr. Hufnal's question whether the Planning Office had all the data the necessary data needed for the updates or if they needed Board of Adjustment input, Mrs. Townshend stated that there are probably pieces that are not addressed, but would not be addressed in those specific sections such as the signage issue which needs to be addressed in sign regulations. The Planning Office plans to eliminate the Manufacturing Zone and rezone items that are currently zoned Manufacturing to either C-3 (Service Commercial Zone) or IPM (Industrial Park Manufacturing Zone) because the Manufacturing Zone is problematic.

Mr. Hufnal stated that we will get more applications regarding towers because of the expansion of telecommunications and the businesses that are coming into Dover.

Mrs. Townshend stated that the office is using a 1999 code interpretation that deals with the poles. Exclusive of the Industrial Zone staff needs to put together an ordinance that better addresses cell towers, radio antennas, etc.

Mr. Senato stated that in the past Dover was named the tree city of the nation, but when you start to get all the poles then you will have a lot of antenna poles around the city instead of trees.

Mr. Senato also stated that last year there were 14 applications that came before the Board of Adjustment, one (1) Appeal dismissed, two (2) Appeals denied, and eleven (11) Approvals.

Chairman Sheth stated that the application process has improved and there are more qualified applicants.

Responding to Mr. Senato's question whether there was ever a time in the City when there is a discussion of antenna poles on a form of limitation; Mrs. Townshend stated that there is some literature available through the American Planning Association on how other locations have dealt with the issue. As we work on an Ordinance we will need to look at the information that is available because while we want to make sure the coverage is available and we are not too restrictive, we also need to be conscious of the character of the community and locations.

Mr. Senato stated that it was a concern as he had counted all the poles and took a survey before this meeting.

Chairman Sheth stated that the case was before the Board of Adjustment because the federal government states one thing and the Ordinance states another. In order to keep the jurisdiction the applicant must get the variance approved.

Mr. Senato stated that if it is a Christian radio station (tower) the federal government almost oversees the City Zoning Ordinance.

Mrs. Townshend stated that any ordinance developed would need to be compliant with FCC regulations.

Mr. Hufnal moved to adjourn the meeting, seconded by Mr. Senato and unanimously carried 5-0.

Meeting adjourned at 10:38 A.M.

Sincerely,

Maretta Savage-Purnell
Secretary