

FERGUSON TOWNSHIP ZONING HEARING BOARD
Regular Meeting
Tuesday, November 21, 2017
7:00 pm

I. ATTENDANCE

The Zoning Hearing Board held its regular meeting on Tuesday, November 21, 2017 at the Ferguson Township Municipal Building. In attendance were:

Board:

Michael Twomley—Chairman
Karen English—Vice Chair, absent
Swamy Anantheswaran—Secretary, absent
Michael MacNeely
Susan Buda
Charles Farrell—Alternate
Marc Friedenbergl—Alternate , absent
Irene Miller—Alternate

Staff:

Jeffery Ressler, Zoning Administrator
Jeffery Stover, ZHB Solicitor

Others in attendance included: Marcella Bell, Recording Secretary; Ray Stolas, Planning & Zoning Director; Ruth Cooper, Resident; Heidi Nicholas, Gulfstream Equity Partners; Al Pringle, Gulfstream Equity Partners; Joe Perotti, SBA II, LLC and Cellco Partnership; Nathan Mischler, SBA II, LLC and Cellco Partnership; John Sepp, PennTerra Engineering; and Albert Drobka, Gulfstream Equity Partners

II. SWEARING IN OF THOSE THAT WISH TO TESTIFY

Five people stood to be sworn in.

Mr. Twomley stated that Ms. Miller and Mr. Farrell will stand in as core members.

Ms. Ruth Cooper spoke about her concerns during the citizens' input period. She stated that as of 3:00 p.m. today, the last posted minutes of the Zoning Hearing Board was June 27, 2017. Ms. Bell stated that as she mentioned at the last Zoning Hearing Board meeting, she cannot have the Zoning Hearing Board minutes posted on the website until the Zoning Hearing Board secretary signs them. She pointed out that the secretary has not been present at the last few meetings; therefore, the minutes have not been signed and posted. Ms. Cooper wondered what could be done about the issue of not having the Zoning Hearing Board meeting minutes signed in a timely manner. Mr. Twomley acknowledged her comments and let her know that someone would be in touch with her.

III. GULFSTREAM EQUITY PARTNERS—REQUEST FOR A VARAINCE

Mr. Ressler stated that the property that is the subject of this hearing is located at 431 Science Park Road, State College, PA, tax parcel 24-433-27B-0000. The property is owed by Gulfstream Equity Partners and located in the Industrial Research District (IRD). The applicants are proposing to construct an office building and are proceeding through the land development process. During the plan review process, it was discovered that the parking calculations for the basement area were not provided on the plans. The Zoning Ordinance in Chapter 27-809.1.A.B requires that off-street parking for an office use be provided at a ratio of 1 parking space per 250 square feet of gross floor area. The gross floor area is defined in the Zoning Ordinance as the sum

total of the floor areas of all floors of a building as measured from the exterior walls, inclusive of hallways, restrooms, and other space ancillary to the proposed use. Ancillary is defined as 1. Subordinate, subsidiary. 2. Auxiliary, supplemental. The proposed building will have a basement that will include parking, mechanical rooms, storage areas, and an exercise room. The Zoning Ordinance requires that parking be provided for the basement mechanical rooms, hallways, storage areas, and exercise rooms as these areas are ancillary to the office use. The applicants are requesting a variance to the parking requirements be granted to not provide for 14 parking spaces for the exercise room in the basement. There have been previous variances granted for this property including parking within buffer area side setback and a variance to permit vehicle overhang to be separated by five feet of landscaping adjacent to pedestrian and bicycle access. Mr. Twomley asked for testimony from Mr. Sepp.

Mr. Sepp presented Exhibit A, the land development plan that was submitted for Science Park Plaza. Exhibit B shows the floor plans of the building. Mr. Sepp clarified that the locker room and the exercise room square footage was not included in the calculations for parking requirements. Exhibit C shows an illustration of the proposed building from behind. Exhibit D shows an illustration of the proposed building from the parking garage entrance. Mr. Sepp explained that the exercise room is a private amenity for employees of the building and not for public use. During the planning process, the exercise room was an extra amenity that was added to the basement based on the geometry of the parking stalls. He further explained that the same tenant that parked in the parking stall to go to work will be using the same parking stall for them to go to the exercise room. Mr. Sepp stated that there is no need for extra parking to use the exercise room.

In response to a question from Mr. Twomley, Mr. Sepp clarified that the underground parking stalls are a part of the required number of parking stalls. In response to a question from Mr. MacNeely, Mr. Sepp explained that due to the geometry of the building and the underground parking stalls there was dead space, so the architect created rooms out of it—one of them being a fitness room. There was a short discussion on the Zoning Ordinance requirements for parking spaces. In response to a question from Mr. MacNeely, Mr. Sepp stated that 234 parking spaces would be required under the current Zoning Ordinance. The applicant also shares 78 parking spaces with the adjoining property owner. Ms. Buda stated that it is of her opinion that the applicant stays within the impervious coverage requirements instead of having extra parking spaces that are not needed.

A motion was made by Ms. Buda and seconded by Ms. Miller to grant the variance to Chapter 27-809.1.A.B to not require 14 parking spaces for the exercise rooms, the hallways, and the locker rooms. The motion carried unanimously.

IV. SBA II, LLC AND CELLCO PARTNERSHIP DBA VERIZON WIRELESS – REQUEST FOR A VARIANCE

Mr. Ressler stated that the property that is the subject of this hearing is located at 200 Jackson Trail, tax parcel 24-007-500-003. The owner of the property is SBA Towers II LLC., 8051 Congress Avenue Boca Raton FL 33847-1307. The property is Zoned FG

(Forest/Gamelands) and is .23 acres in size. The site measures 70' by 70'. The property is currently an existing telecommunications facility, including a telecommunications tower on the property. The existing tower and facility is non-conforming to the required setbacks in the Zoning Ordinance. The applicants are intending to construct a new telecommunications facility, including a 186' 6" tower and compound on the site. When the new tower is constructed, the old tower would be removed from the site. The existing tower and facility is non-conforming with regards to the required setbacks as listed in Chapter 27-209(4)(A) Chapter 27-209(4)(D)(iii) which require a 500 foot setback for the tower and facility from the adjacent property line. Chapter 27-209(4)(A) reads as follows: Permitted only in certain zones. No tower-based WCF shall be permitted within 500 feet of the nearest adjoining property line. Chapter 27-209(4)(D)(3) reads as follows: Minimum setbacks. The Tower based WCF and accompanying communications facility building shall comply with the requirements for the applicable Zoning District, provided that no tower-based WCF shall be located within 500 feet of the nearest adjoining property line. The proposed tower and facility location would also not comply with the required 500 foot setback. The Zoning Ordinance in Chapter 27-903. B. (2) does not permit the addition of a new non-conforming use or structure. The Zoning Ordinance in Chapter 27-903.C reads as follows: In the event that any nonconforming structure is destroyed or partially destroyed by any means to an extent of 75% or more of the market valuation of all structures and other improvements on the lot, as determined to be the fair market value as of the date of destruction, pursuant to an appraisal by a professional real estate appraiser licensed in the Commonwealth of Pennsylvania, and selected by the Board of Supervisors; such nonconforming structure and use thereof shall terminate and the lot shall be used only for conforming uses and structures, except if the use or structure is a farm use as herein defined. The applicants are requesting variances to Chapter 27-209(4)(a) and Chapter 27-209(4)(D)(3) to construct the new tower and facilities. The applicants are also requesting a variance to Chapter 27-209.F(4) to be permitted to install a lattice tower instead of the required Monopole Tower. Chapter 27-209.F.(4) reads as follows: Guy wires are not permitted. The monopole must be self-supporting.

Mr. Ressler stated that the original variance application did not include a variance to build a lattice tower instead of the required monopole tower. Attorney Stover stated that the applicant is asking for a variance for a non-conforming structure to replace it with a new non-conforming structure. Mr. Twomley added that the applicant originally only asked for a variance to the required 500-foot setback. Attorney Stover stated that he does not have an issue with the applicant proceeding forward with their new variance request if the rest of the Board was agreeable. Attorney Stover explained that the alternative option would be that the Zoning Hearing Board request the applicant to submit its new variance in writing.

The Zoning Hearing Board took an executive session from 7:32 p.m. to 7:40 p.m.

A motion was made by Ms. Buda and seconded by Mr. MacNeely for the Zoning Hearing Board to listen to testimony from the applicants this evening, but no decision on the variance would be made until the Board of Supervisors have a chance to review the changes to the variances. The motion carried unanimously.

Attorney Perotti introduced himself as the representative for SBA II, LLC and Cellco Partnership (DBA Verizon Wireless). He explained that the proposal is a 'drop and swap'—when a wireless provider has a gap in coverage, it looks for an existing tower in the area to attach antennas to; however, the tower in question is structurally failing. SBA is proposing to decommission the failing tower and construct a self-supporting lattice tower that is nearly identical to the existing tower on the property. The base of the new tower will be located approximately 29 feet from the existing tower. The current tenants located on the existing tower include WTAJ, WJAC, broadcasting, local radio, and a few other providers. The new tower will include those tenants as well as Verizon Wireless. SBA is requesting a variance to build a new lattice tower after the old lattice tower is decommissioned and a variance to the setback requirements. Currently, the new tower is being proposed 28 feet from the property line. SBA is requesting a 472-foot variance to the setback requirements. The Commonwealth of Pennsylvania owns both the property that is adjacent to the south of the property in question as well as the property itself. The nearest property line that is not owned by the Commonwealth of Pennsylvania is located 2,760 feet to the northwest. Attorney Perotti presented Exhibit 1, which included a list of the 109 property owners in the 500-foot radius of the property in question.

In response to a few questions from the Zoning Hearing Board members, Attorney Perotti explained that monopoles are typically used for telecommunications, whereas broadcasting is typically found on lattice towers since it is easier to conduct maintenance on a self-supporting tower. Attorney Perotti spoke to the structural design of the lattice tower, stating that all communication towers designed today are in compliance with telecom industry standards (ANSI standards), which are put in place for catastrophic failures. Lattice towers that are constructed today are constructed so that their weakest point is at the 50 percent mark. In a catastrophic event, the tower would bend over and fall instead of falling like a tree. The towers are constructed to withstand elements based on the location of the tower. There were questions from the Zoning Hearing Board about which direction the tower would fall, were it to happen. Attorney Perotti stated that it would depend on how the failure occurred; however, he has never seen a tower fall based on catastrophic failure in Pennsylvania. Attorney Perotti stated that the site would stay the same, 70 foot by 70 foot, staying within the compound.

In response to a question from Mr. Twomley, Mr. Ressler explained that the current Zoning Ordinance does not define lattice towers. When the Township rewrote the communication ordinance, it was purposely written to only allow monopoles. The Zoning Hearing Board would like Mr. Ressler to research why lattice towers were omitted from the current Zoning Ordinance.

Attorney Perotti added that the only difference between the old tower and the new tower is that the new tower will be six (6) inches shorter and slightly wider at the base. Attorney Stover mentioned that the property line also coincides with the county line.

A motion was made by Ms. Buda and seconded by Mr. MacNeely to continue the SBA II, LLC and Cellco Partnership DBA Verizon Wireless hearing until the December 19, 2017 hearing. The motion carried unanimously.

**V. APPROVAL OF THE MEETING MINUTES FROM THE OCTOBER 17, 2017
REGULAR MEETING**

Ms. Miller provided a few grammatical corrections to the October 17, 2017 Zoning Hearing Board minutes. Ms. Buda stated that on page five, paragraph four, it was Mr. MacNeely who suggested that applicant request a reduction for the number for required parking stalls instead of herself.

A motion was made by Ms. Buda and seconded by Mr. MacNeely to approve the corrected October 17, 2017 Zoning Hearing Board meeting minutes. The motion carried unanimously.

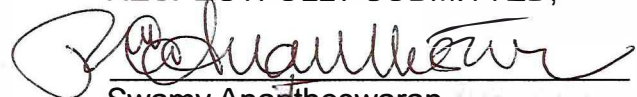
VI. ADJOURNMENT

Mr. Twomley stated that there was in error in the term lengths of the Zoning Hearing Board members. The core members should serve for five years and the alternates should serve for three years. This ensures that there is only one person up for renewal, instead of multiple members. Mr. Twomley stated that he met with Township manager, Dave Pribulka, to remedy the situation. Mr. Twomley offered to serve a six-year term to rectify the situation.

The Zoning Hearing Board members verified that there would be a quorum for the December 19, 2017 meeting.

With no further business to come before the Zoning Hearing Board the November 21, 2017 meeting adjourned at 8:19 p.m.

RESPECTFULLY SUBMITTED,



Swamy Anantheswaran,
Secretary For the Zoning Hearing
Board

Date approved by the Board: 12-19-2017