

Tax Map/Block/Parcel
No. 51-18-36
Case 5657

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPELLANT: TriStar Investors, Inc., c/o David Bruening
470 Streets Run Road, Suite 300
Pittsburgh, PA 15236

ATTORNEY: Clark R. Shaffer

REQUEST: An appeal of the Zoning Administrator's decision regarding the replacement of an existing tower.

LOCATION: The site is located at 440 Warfieldsburg Road, Westminster, MD 21157, on property zoned "A" Agricultural District in Election District 7.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-188

HEARING HELD: August 28, 2012

FINDINGS AND CONCLUSION

On August 29, 2012, the Board of Zoning Appeals (the Board) convened to hear the request for an appeal of the Zoning Administrator's decision regarding the replacement of an existing tower. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

David Bruening, General Counsel for TriStar Investors, Inc. testified for the company. A cell tower was legally constructed at the site in 1984. The lease for this tower will expire in approximately one year on July 1, 2013. When the lease expires its owners are required to dismantle the tower within 60 days. TriStar Investors, Inc. will have the right to provide cell tower services on July 1, 2013 at or near the same location. The company would prefer to use the existing tower if those agreements with the present owner can be reached. However, if an agreement cannot be made with the present tower owner, then the company would like to construct its own tower in close proximity to the present tower. The current tower and the replacement tower would be about 300 feet in height. The company would retain the current providers using the tower when its lease started. The company's priority is that there be no lapse in service to the providers.

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Mark Uminski testified at the hearing. He was accepted as an expert in the areas of citing and operation of cell towers. He testified that the present tower was a part of a network of cell towers. If the current tower were to disappear, there would be a hole in the network. Therefore, there would be interruptions and disruptions in service. The current tower is used by BGE, Verizon, Sprint, T-Mobil and AT&T. The county has promoted co locations with cell towers so that more than one carrier could utilize one tower. Therefore, the total number of towers in the county could be reduced. The new tower would be approximately 26 feet from the existing tower.

Jay Voight, Zoning Administrator, testified before the Board. Although all cell towers currently need approval of the Board, such approval was not necessary in 1984 when the tower was originally constructed. There is currently nothing in existing law to address replacement towers.

Suzanne Barnette is a neighbor to the existing tower. She wanted assurances as to what TriStar Investors, Inc. could and could not do. She considered the company as big business and she was not comfortable with what big business had to say. Company officials said that the tower would be the same at one point, then at another point someone stated that there would be space on the new tower for more providers to be added to it.

In considering the testimony and evidence comprising the record, the Board finds no indication that a replacement tower as requested would unduly affect residents of adjoining properties, the values of those properties, or public interests. One public interest is to reduce the number of towers in the county and that end is accomplished by co locating providers on the same cell tower. The Board was convinced that granting permission for a replacement tower was warranted, if necessary, as long as there was full compliance with Section 223-15(9) of the Zoning Code and any other laws pertaining to towers.

August 29, 2012
Date


Richard J. Simmons, Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Article 66B, Section 4.08 of the Annotated Code of Maryland Rules of Procedure.

Pursuant to Section 223-192C of the County Code, this approval will become void unless all applicable requirements of this section are met. Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.