

Tax Map/Block/Parcel
No. 14/16/51

Building Permit/Zoning
Certificate No. 99-2105

Case 4431

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPLICANT: Sprint PCS
6905 Rockledge Drive, Suite 300
Bethesda, Maryland 20817

ATTORNEY: Richard R. Titus, Esquire
Hollman, Hughes, Finch & Maguire
189 East Main Street
Westminster, Maryland 21157

REQUEST: A conditional use for a 250 foot tall telecommunications tower, including an 8 foot lightning rod, and up to 5 equipment cabinets, all enclosed within a 50 foot by 50 foot fenced compound; a variance to reduce the required 258 foot setback from the east property lot line to 111.5 feet; and a variance to reduce the required 258 foot setback from the south lot line to 125.6 feet.

LOCATION: Located at 2815 Tracey Mill Road on property zoned "A" Agricultural District in Election District 6.

BASES: Article 4, Section 4.11(c)(2) and Article 4, Section 4.11(c)(2)(b); Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: August 31, 1999

FINDINGS AND CONCLUSION

On August 31, 1999, the Board of Zoning Appeals (the Board) convened to hear the application of Sprint PCS for a conditional use for a 250 foot tall telecommunications tower, including an 8 foot lightning rod and up to 5 equipment cabinets, all enclosed within a 50 foot by 50 foot fence; a variance to reduce the required 258 foot setback from the eastern lot line to 111.5 feet; and a variance to reduce the required 258 foot setback from the southern lot line to 125.6 feet. The site is located at 2815 Tracey Mill Road on property zoned "A" Agricultural District in Election District 6. The Board's findings and conclusions are as follows.

The Applicant, Sprint PCS, was represented by Richard R. Titus, Esquire. The testimony

of Mr. Ryan Conaway, a radio frequency engineer with Sprint PCS, and Mr. Albert E. Ott, site acquisition specialist with Sprint PCS, and Mr. Timothy D. Burns, project manager with Pond & Company is summarized as follows. Sprint PCS purchased frequency for the Carroll County area from the Federal Communications Commission (FCC). Sprint PCS performed an analysis of the target service area and developed a plan for areas where Sprint PCS antennas and towers would be located to ensure blanket coverage of the County. Three sites were identified within the search ring for the location of the tower and Sprint PCS selected the 2815 Tracey Mill Road site as the most appropriate geographically and the least intrusive to neighboring residences. APC Realty and Equipment Company, LLC, a subsidiary of Sprint PCS, has entered into a lease agreement with the property owner, Donald Hoff. The lease term is five years with four - five year renewal options. If the lease is terminated or expires, Sprint PCS must remove the tower and return the site to its original condition. There is an existing residence and a farm at the location. A 250 foot tall, self-supporting telecommunications tower made of galvanized steel with a 37 foot base and supporting structures enclosed in a 50 foot by 50 foot fenced compound is proposed for the site. The tower will be located on east side of the property. The placement of the tower is on a far corner of the site surrounded on three sides by trees. The placement of the tower in this area was determined by Spring PCS and the landlord the most appropriate considering the existing home and farm buildings, maintaining the majority of the land for agricultural use, and utilizing the wooded area of the parcel for the screening of the tower. The installation of a tower at this location necessitates the request for the two variances to the east and south of the site. Locating the tower in a different area on the 58 acre parcel would create a hardship due to the topography of the land and would adversely impact the ability to communicate with other towers. The tower will be constructed to meet Federal, State, and local industry standards. The chain link fence around the compound will be seven feet high with one foot of barbed wire at the top. A landscape buffer will be installed around the compound. The site has existing electrical connections. A generator and a 250 gallon propane storage tank will be located at the site for back up power in the event of an electrical power outage. Lights will be placed on the tower in compliance with the FCC regulations. The lights on the tower are designed to cause little or no impact on residents in the area. The site will be unmanned and inspected once a month. The number of antennas on the tower will not exceed nine.

Mr. Terrence W. McPherson, MAI, SRA, an appraiser, testified as follows. He performed a market study of the relative values of homes and lots in proximity to telecommunications towers 250 feet in height or taller in the following subdivisions: Furnace Hills, Westminster, Maryland; Riggs Meadows, Cooksville, Maryland; and Valley Ridge Subdivision, Frederick, Maryland. Mr. McPherson found that there was no discernable difference in pricing of lots or houses that are located near telecommunications tower sites. Further, he found that the proposed lattice type commercial

telecommunications tower and associated equipment on the subject property will have little or no impact on surrounding property values. He testified that communication towers and telephone/electric poles are becoming more numerous and accepted by the home buying marketplace.

Ms. Terri McIntyre and Ms. Barbara Kearns testified in opposition to the request. Both expressed concern that the communication tower would pose adverse health effects to individuals and animals in the vicinity of the proposed tower¹.

The Board makes the following findings of fact with regard to this case. The Applicant has proven a need for the telecommunications tower to provide wireless phone service to its customers and has demonstrated that co-location of the facility is not a viable option. The proposed use is appropriate at this location and it will not generate adverse effects greater than those ordinarily associated with this particular use irrespective of its location with the Zone. The public safety will not be jeopardized by this use. The values of property around the proposed site will not be adversely affected. The Board hereby grants the conditional use for a 250 foot tall telecommunications tower, including an 8 foot lightning rod, and up to 5 equipment cabinets, all enclosed within a 50 foot by 50 foot fence. In addition, the Board may grant a variance where strict compliance with the terms of the Zoning Ordinance would result in practical difficulty or undue hardship. The Board finds that the topography of the land creates unique hardships and difficulties with regard to overall use of the property and placement of the antennas and a variance from the strict terms of the Ordinance is warranted and would result in a more aesthetically pleasing facility. Thus, a variance to reduce the required 258 foot setback from the eastern property line to 111.5 feet is granted; and a variance to reduce the required 258 foot setback from the southern lot line to 125.6 feet at 2815 Tracey Mill Road on property zoned "A" Agricultural District is granted.

September 23, 1999
Date

Karl V. Reichlin
Karl V. Reichlin, Chairman

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September 16, 1999

¹ The Telecommunications Act of 1996 explicitly preempts local consideration of the environmental effects of radio emissions when making determinations as to the placement, construction, or modification of telecommunications towers. U.S.C.A. Const. Art. 6, cl.2; Communications Act of 1934, Section 332(c)(7)(B)(iv) as amended, 47 U.S.C.A. Section 332(c)(7)(B)(iv).