

Armada Township

ZONING BOARD OF APPEALS

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ZONING BOARD of APPEALS

Minutes

May 27, 2015

7:00 p.m.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVE / AMEND AGENDA
5. APPROVAL OF MINUTES: April 8, 2015
6. PUBLIC HEARING: Variance Application/Verizon Wireless
7. NEW BUSINESS
8. OLD BUSINESS: Variance Application/Verizon Wireless-70920 Coon Creek Rd.
9. PUBLIC COMMENTS
10. ADJOURNMENT

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1. **Call to Order:** Chair Hicks called the meeting to order at 7:05 p.m.
 2. Chair Hicks led the audience in the **Pledge of Allegiance**.
 3. **Roll Call:** Members Present: Chair Hicks, Xagoraris, Goetzinger, and Kehrig. Members Absent: Kappa. Also present: Christine White, Recording Secretary
 4. **Approve/Amend Agenda: Motion made by Kehrig, seconded by Xagoraris, to approve the agenda as presented. All ayes: Motion Carried.**
 5. **Approval of Minutes: Minutes from April 8, 2015. Motion made by Xagoraris, seconded by Kehrig to approve minutes from April 8, 2015 as presented. All Ayes: Motion Carried.**
 6. **Public Hearing: Motion made by Kehrig, seconded by Xagoraris to open the Public Hearing at 7:08 p.m. All Ayes: Motion Carried.** Chair Hicks went over the procedure of the public hearing, and confirmed the receipt and adequacy of the publication of notice.

Mr. Steven Esty attorney for Verizon Wireless presented the variance request. He reviewed the last meeting where the variance was tabled, and discussed the options they went through to get them here tonight. In November they were seeking about an eight hundred feet variance, now they are seeking an approximate three hundred feet variance. The responses from the criteria from November have not changed. They believe they are even stronger than when they applied back in November because of the reduced variance. Mr. Esty believes that the setback is extreme for a rural area. He feels it imposes a difficulty and hardship in this particular area. The land owner did not create this situation. There is no one particular location on this parcel where the owner could place the tower under the current setback requirements. This is not unique to this property. Many of the properties in this area face this practical difficulty because of the setback issue. Due to this fact they want to have the ability to put the tower on their property and receive the money from the lease. This property is in a situation that is adversely impacted by the setback as are many in the area. There is good justification under Michigan Law and

the township ordinance to relax the standards to allow for the tower. It does not confer any special privileges, because many of the properties in this area would have to come before the board for a setback variance. There are a couple of properties that do not, and they were unable to secure any agreement with Verizon. They do not have the option of placing the tower on said properties. Mr. Esty believes this precludes wireless coverage from this particular area. The Telecommunications Act says ordinances cannot have the effect of prohibiting coverage in an area. Apparently another variance is required because of the configuration of the parcel. He feels it magnifies why the variance should be granted. He would like the board to grant both variances. Delay is denial. He believes it would prejudice the applicant.

Member Kehrig commented that the second variance was not advertised and not included in the public notice and therefore we cannot grant that variance. It was the applicant's responsibility to include the information for the second variance. The ordinance is clear, from any road way.

Bob Przybylo from Verizon presented a map of the area showing all the parcels within their target area. It has a $\frac{3}{4}$ of a mile circumference. He went through each large parcel where the tower would fit the set-back requirement. He stated various reasons as to why they could not place the tower on those particular sights. Which included owner's not being interested, building in a floodplain, and ITC not allowing tower's on their property. Member Kehrig questioned some of the large parcels within the circle that would meet the setbacks. The parcel that is in question is much smaller and is surrounded by small parcels and is at the outer most edge of the circumference. They pointed out they would like to be directly in the center. They are closer to the most populated area of their circumference. DTE has leasing rights to towers. They will allow colocations on the ITC property. ITC will not allow a new tower on their land. Member Goetzinger asked about building in the floodplain and if it was cost prohibitive. The applicant responded that it is not good business to build in a floodplain.

Chair Hicks asked for public comments and the following comments were made:

Dan Dyer, 71168 Heritage Lane was opposed to the tower. Thirty percent of the requirement is not met. Believes setback was to keep them out. Wants the tower kept out of the area.

Kathy Hartsig, 70717 Coon Creek Rd., questioned why the 1000 feet setback was created. Her belief is that it is because of the rural setting, not an urban area. She also questioned the floodplain area because the creek runs near there, and why other owner's turned it down.

Laurie Ford, 70809 Coon Creek Rd., lives in one the three houses across the street and does not want it, and currently has Verizon service and it works just fine.

Leona Milas, 20411 33 Mile Rd., opposed to plan, it is a massive piece of steel and feels that it will depreciate the property values. She has AT & T and has no problem with service. She questioned how many platforms will be put on the antenna, if tax breaks would be given, and if it will emit a sound. She feels it will interfere with the rural atmosphere and asked the board to protect the residents that they do not want it. This parcel is not suited for this project.

Brandon Visconti, 20415 Armada Ridge Rd., 1000 feet is not a hardship in the residential area. He prefers to have it in an area that has power lines. An owner who owns 40 acres at the end of Heritage Lane has never been approached and there are already overhead lines in that area. He would like to know the actual cost of building in a floodplain zone.

Gary Karolski, 20250 33 Mile Rd., suggested colocation at the Fire Department, he feels it should be a hurdle to get a variance and if this goes through the township will be opening the doors for more towers and will be setting precedence, and does believe that it will affect property values. Everyone is making money, why not us. Verizon should compensate the owners in the area that have to look at it.

Laurie Ford, 70809 Coon Creek Rd., asked if there will be a light and how tall the tower will be.

Lance Hartsig, 70717 Coon Creek Rd., stated that it is close to Armada Ridge and would be surprised if it is not in a floodplain. The creek runs right through the proposed site. He stated that proof they talked to other owner's should be provided with documentation, he feels they could be just saying that.

Kathy Hartsig, 70717 Coon Creek Rd., would also like proof that it is not allowed on in an ITC area and would like a letter presented that in fact it was turned down. Was it really explored as an option?

Jim & Muff Byrd, 79820 Coon Creek Rd., sent in a letter asking to board to please allow the variance.

Motion made by Kehrig, seconded by Xagoraris, to close the public hearing at 7:45 p.m. All Ayes: Motion Carried.

7. New Business: None.

8. Old Business: Verizon Application/Verizon Wireless-70920 Coon Creek Rd.

Member Kehrig reviewed the criteria before them that needed to be considered. How the strict enforcement of the provisions of the ordinance would cause practical difficulty and deprive the owner of rights enjoyed by all owners owning property within the same zoning district. They only have the applicant's word, no other verification that all means have been exhausted.

The conditions and circumstances unique to the property, which are not similarly applicable to other properties in the same zoning district, something has to be unique that makes it qualify for a variance. The applicant has stated that there is a gap in coverage, and this is the best and least intrusive location for their tower, to allow for seamless coverage.

The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property, these conditions, the 1000 feet setback were not created by the owner.

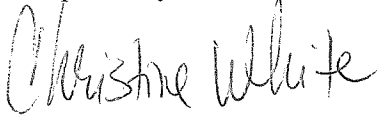
Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district, the applicant is saying it is not going to confer special privileges. In order to build the tower, there are a limited amount of parcels.

Why the requested variance will not be contrary to the spirit and intent of the zoning ordinance, they are saying it is in line with the ordinance. The purpose and intent of the ordinance does say it is to ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings, and limit inappropriate physical and aesthetic overcrowding of land use activities and adverse impact upon existing population, transportation systems, and other public services and facility needs by regulating and limiting the establishment, placement and manner of wireless communication facilities. Member Kehrig went through the ordinance, and discussed the 1000 feet setback intent. A letter from ITC would be of great importance if in fact they do not allow towers on their property. This would allow the Planning Commission to take a look at the ordinance for any necessary changes if need be. The board discussed each one of the criteria. The purpose is to protect the integrity of the neighborhoods and the character, property values and aesthetic quality of the community at large. It is a practical difficulty for the applicant, but it doesn't deprive the owner of the property rights enjoyed by all other property owners because they cannot meet the criteria either. Everyone in the area has to meet the setback requirement. There doesn't seem to be a gap in service in this particular area. ITC confirmation and verification is required. They have failed to show the board that they have exhausted all means in finding a parcel that would meet the setback. There is coverage in this area. There are other large parcels in the map they presented that would meet the setback requirements. The board does not feel that Verizon has met all of the necessary requirements. The practical difficulty is with Verizon not on the property owner's. Everyone has to meet the same criteria; the variance would confer special privileges to this one particular property if approved. A precedence would be set. The request is not thirty feet; it's a few hundred feet. The variance is too large. **Motion made by Kehrig, seconded by Xagoraris, to deny based on the excessive amount of the variance, and based on the fact that the applicant did not prove practical difficulty of the rights that are allowed other property owner's in the area, and that the variance would confer special privileges that are denied other properties and requested variance is contrary to the spirit and intent of the zoning ordinance. All Ayes: Motion Carried.**

9. Public Comments: Members from the audience thanked the board.

10. Adjournment: Motion made by Kehrig, seconded by Goetzinger, to adjourn meeting at 8:35 p.m. All Ayes, Motion Carried.

Respectfully submitted:

A handwritten signature in cursive script that reads "Christine White".

Christine White
Recording Secretary

Approved:

Gail Hicks, Chairperson

Date