

The North Strabane Township Zoning Hearing Board met in regular session on Wednesday, January 13, 2010 at 7:00 P.M. at the Municipal Building, located at 1929 Route 519, Canonsburg, PA.

Attending this session

W. Patric Boyer
Richard Murphy
Robert Shader
Peter Elish
Steve Bilko

Also attending this session

Roger Gaydos, Solicitor
Paulette M. Moyar, Stenographer

REORGANIZATION FOR 2010 Motion by Bilko, seconded by Shader to keep officers and meeting day and time the same as 2009. Motion carried, all members present voting yes. W. Patric Boyer will be Chairperson, Richard Murphy will be Vice Chairperson, Robert Shader will be Secretary, and the meetings will be held the first Wednesday of each month, as needed, at 7:00 P.M.

APPROVAL OF MINUTES OF DECEMBER 2, 2009 HEARING FOR SPRINT PCS Motion by Boyer, seconded by Murphy to table approval of the minutes of December 2, 2009. Motion carried, all members present voting yes. This is a continuation of the application of Sprint PCS, requesting a special exception for antennas to be located on an existing building at 84 Lumber, 1019 Route 519, Eighty Four, PA. The hearing has been closed and this is for decision-making purposes.

Boyer Now, I understand everybody has submitted their memo or brief. We got one from Mr. Grab. Lou Siyufy submitted one. They will be marked as exhibits. We got a letter from Gateway Engineers. I don't know whether you have seen that or not.

Michael Grab I have not.

Boyer Do you have a copy for them to take a look at? To be honest with you, it just says that you have complied with all the provisions of 1303.14.

Grab Okay.

Boyer Technical requirements. That's all it says. It doesn't offer any assessment as to the propriety of your request or not. I'll have that marked as an exhibit as well. the Board received a memo from its solicitor, which is not part of the

record. It was for our use only. All the testimony has been taken. We've received all your information. We've received your briefs and memos. Has everybody had an opportunity to review the information? If not, you can take 10 minutes to do that.

Elish Let's take a minute.

Boyer Let's take a minute. Whatever it takes.

Shader In the meantime, Pat, do we need to administer an oath for anything subsequent?

Boyer We'll have to do it for...well, we might as well do it while we're doing it here. Is there anybody who's going to offer any testimony or information concerning any matters to the hearing this evening? Are you going to offer anything, Lou?

Siyufy I have a few things to say.

Boyer Okay. Stand up. Who else is going to offer, on the second application?

Grab If I could, Board Members. Mr. Siyufy, are you going to offer testimony, because the record's closed.

Boyer The record's closed.

Siyufy No, I'm simply going to object to submission of your rebuttal, because at the last hearing, we agreed to submit a brief about the ambiguity, but we did not agree to submit a rebuttal. So I just wanted to make sure, for purposes of the record tonight that that rebuttal not be considered.

Boyer Well, he did that rebuttal in response to, I guess you got a copy of the solicitor's memo.

Grab Yes, on Monday we got a copy of the solicitor's memo, and I just wanted to provide a response to the Zoning Hearing Board on Sprint's position with regard to the issues raised by Mr. Gaydos that hadn't previously been raised. You're right, we hadn't specifically discussed presenting a rebuttal to that kind of memo, but I wasn't clear at that time that there would be a memo issued by the Zoning Hearing Board solicitor.

Boyer Mr. Siyufy, you've not had an opportunity to review the solicitor's letter?

Siyufy No, I've reviewed the solicitor's letter, but I have not reviewed that rebuttal.

Boyer Okay, we'll take the rebuttal for what it's worth, and we'll mark that as an

exhibit to the

Siyufy Can I at least get on the record that I object.

Boyer Sure.

Siyufy Thank you.

Boyer That's fine.

ADMINISTER OATH At this time the oath is administered, followed by a brief period of silence for Members to review the materials submitted.

Boyer Let the record reflect that the Board has had an opportunity to review all the briefs and memos marked as an exhibit and submitted by the parties. Do we have a motion?

MOTION FOR SPRINT PCS Boyer I'll make a motion that we deny the application of Sprint for special exception relative to the communication antenna proposed for the 84 Lumber location.

The basis for the decision is that under the definitions contained in the Ordinance, a communication tower is defined as a free standing structure containing communication antennas or antennas attached to a building. Sprint contends that there exists an ambiguity with regards to this definition and an application of Section 1303.14 which, according to Sprint, states that a communication antenna may be attached to a building without complying with the communication tower special exception requirements of Section 1303.15. These requirements include a co-location situation.

It is believed that the overall intent of the Supervisors was to create a situation where the construction of multiple communication towers can be avoided where appropriate.

It is believed that Section 1303.14 of the Ordinance was intended by the Supervisors to apply to private or limited use communication antennas used by fire and police departments or private companies for use solely by their own personnel. The Sprint antenna, though it is intended for private use by 84 Lumber, due to its configuration, can be used as a signal distribution facility for the public traveling on Route 519 or in adjacent areas. Since it can be used in this way, it is not a private or limited use antenna, but a public and commercial antenna envisioned by the communication tower definition. Therefore, the communication tower special exception requirements apply. Sprint has not satisfied these requirements, especially the requirement of co-location. For those reasons we deny the application.

Elish Second.

Motion carried, all members present voting yes.

Grab

Thanks for your time, Board Members. We appreciate your careful consideration.

APPLICATION OF ANGELO QUARTURE

This is an application of Angelo Quarture, 259 Johnson Road, requesting a special exception to Section 401, C, d., for a comparable use not specifically listed.

Location is lower part of property that has been used as industrial/commercial. Lot size is 18+- acres. Present use is storage. Zone district is A-1. Proposed use is storage and shop to lease.

Mr. Quarture believes the application should be approved because: "The original zoning was industrial. The Township changed it to A-1, which the property adjoins industrial and commercial zoning. The property has been used as industrial for the past 100 years. I want to bring business into the Township and raise tax dollars with improvements".

The following are the names and addresses of owners of property within 300 feet:

- Thomas and Margaret Whalen 31 McBride Road
- D. Fuchs Enterprises 750 Holiday Dr., Bldg. 9, Ste. 570, Pgh
- Interstate 79 Associates 4839 Campbell's Run Rd., Pgh
- James Cargnoni 5432 Collett Road, Shortsville, NY
- Patty Augier 29 Lindley Road
- Rob Pecharka 31 Lindley Road
- Rob Kobert, Jr. 33 Lindley Road
- George Lyon 37 Lindley Road
- Gerald Carter 41 Lindley Road
- Larry Rosenwald 45 Lindley Road
- Doug Pastore 49 Lindley Road
- James Penrose 59 Lindley Road
- Pauline Dziak 56 Lindley Road
- Michael Kerr 50 Lindley Road
- Frank Pintar 60 Lindley Road
- Frances Whitefield 65 Lindley Road
- Joseph Orbin 75 Lindley Road
- Ray Morrow, Jr. 1243 Missouri Dr., Concord, CA
- Marcia Jewell 128 Lindley Road
- Joseph Maricco 399 Lariat Dr., Cbg.
- Robert Mickle 267 Johnson Road
- Kenneth Trussell 261 Johnson Road

Katharine Stayduhar
Maronda Homes, Inc.
Estate of Carol McGill
Nancy Speaker
Louis Sauer

63 McBride Road
202 Parkwest Dr., Pgh

101 McBurney Road
85 Lindley Road

What follows is not a verbatim transcript of the hearing for Angelo Quarture, but rather a summary.

Mr. Quarture offered the following information:

He gave an historical overview of the property and its development. Boyer asked if Quarture has been before the Board previously. He stated no.

Moyar stated this property has been before the Board in the past. She explained that before the current zoning ordinance, there was split zoning on this parcel. With the adoption of the current ordinance and zoning map, the zoning was changed to all A-1. The front portion is a legal non-conforming use.

There is no subdivision of this property. It is all one parcel.

Quarture continued his request is to build a building that is not permitted in the A-1 regulations. He wants to lease the building to a company involved in the gas well operation. It would include a warehouse and office, including outside storage of vehicles and potentially pipe.

Boyer commented he reads the Ordinance to read this building has to be a comparable use to uses permitted by special exception in the A-1.

Moyar pointed out she met with Quarture and advised him it would be comparable use to any use permitted in the A-1 district, whether use by right, conditional use, or use by special exception or comparable uses to what is already existing on the property. In addition, Mr. Maricco's business, on the same parcel, is industrial. Quarture has outside storage, as well.

Quarture stated that previously he had stored heavy equipment on this portion of the property, as well as stone and trailers.

Boyer commented this may be a continuation of a non-conforming use, rather than a comparable use not specifically listed.

Bilko asked if any restrictions were placed when the landscaping business went in. Quarture stated he has been there since 1998, and originally there were some complaints. In the last 3 years or so, there have not been any

issues. He was asked not to begin too early in the day and not to bang tailgates, and he has tried to be a good neighbor. There were no restrictions placed, though.

Boyer asked if there any neighbors in attendance who would like to give testimony. There are several, so Boyer swore them in. The first to testify was Thomas Whalen, who resides at 31 McBride Road. He has an 18 acre parcel adjoining Quarture's property. He stated he has no objections to Quarture's plans, and continued that Quarture has been a good neighbor, and has done a fine job reclaiming the property.

Bob Kobert, 33 Lindley Road. Kobert's property looks down on Quarture's property, and wants to see where the building is proposed. Larry Rosenwald, 45 Lindley Road, also wants to look at the location for the building. After reviewing the site plan, residents appeared to be satisfied with the location of the proposed building.

Bilko asked how large the building will be. Quarture answered 80' x 265', and 22' high.

Boyer asked if the lessee could limit the outside storage to vehicles only. Quarture answered the lessee wants to use part of the property for storage of tubing.

Moyar suggested we place a condition on approval that existing and future buildings be connected to public sewage. Quarture stated he has no objection, and in fact the right of way for the sewage is on his property. Murphy stated because of the distance, Quarture is required to tap in. Moyar agreed.

Boyer asked if there are any other comments. He stated the Board has received a letter from Katharine and Stephen Stayduhar, objecting to the granting of this request, and listing their reasons. It will be marked as an exhibit.

Bilko stated he is concerned about a lighted parking lot, which would be a concern for nearby residents. Quarture stated he must go to the Planning Commission for site plan review, and the lighting will be reviewed.

MOTION FOR
APPROVAL FOR
ANGELO
QUARTURE

Motion by Bilko, seconded by Murphy to approve this, because I think it is consistent with what's been going on there all along. Addition by Boyer that this is a continuation of a non-conforming use, and an extension of a non-conforming use. Bilko added that the existing building(s) and proposed building be connected to public sewers. Addition by Boyer that the property presently being used is for warehousing/offices, and that the proposed use is for warehouse/office purposes. Though the use is being extended and continued, we find that the extension and continuance is reasonable under the

circumstances of this particular property and only this property, based on the circumstances. A condition of the approval is that the existing office and proposed office be connected to public sewage.

Motion carried, all members present voting yes.

Quarture asked what he would have to do if we wished to add another building in the future. Boyer advised he would have to come back to the Zoning Hearing Board for an expansion of a non-conforming use.

Moyar commented Quarture should develop a master plan and get that approved by the Planning Commission and Board of Supervisors.

ADJOURNMENT

Motion by Bilko, seconded by Shader to adjourn the meeting, all business being concluded. Motion carried, all members present voting yes, and the meeting was adjourned at 8:05 P.M.

W. Patric Boyer, Chairperson

Robert Shader, Secretary