

**BLENDON TOWNSHIP
ZONING BOARD OF APPEALS
MINUTES
January 23rd, 2023**

- 1. Call to order:** At 7:00 pm Chairman Bruce Costen called the meeting to order.
- 2. Roll call:** Present; Dave Hovingh, Bruce Costen, Randy Glass, Brett Huizenga & Barry Eisenga.
- 3. Also Attending**
 - a. Kurt Gernaat – Fire Chief
 - b. Andrew Moore – Township Planner
 - c. Approximately 40 residents were present
- 4. Approval of the Agenda:**
 - Motion by Dave Hovingh, supported by Brett Huizenga to approve the agenda as presented.
Motion carried - unanimous.
- 5. Approval of Meeting Minutes from 8-29-2022**
 - Motion by Dave Hovingh, supported by Brett Huizenga to approve the minutes of the August 29, 2022, Zoning Board of Appeals meeting.
Motion carried - unanimous.
- 6. Zoning Board of Appeals annual business.**
 - a. Election of Officers
Motion by Dave Hovingh, supported by Brett Huizenga to keep Officer appointments the same as last year. (Costen as Chair, Hovingh as Vice Chair, and Glass as Secretary).
Motion carried – unanimous.
 - b. Future Scheduled Day / Date for meetings
Motion by Dave Hovingh supported by Randy Glass to keep ZBA meetings scheduled for the 4th Monday of the month.
Motion carried – unanimous.
- 7. New Business - Cellco Partnership Variance – Leland Calloway representing the applicant**
 - A. Motion to open public hearing
 - Motion by Dave Hovingh, supported by Barry Eisenga to open the public hearing. Motion carried - unanimous.
 - Chairman Costen opened the public hearing.
 - B. Entertain applicant’s petition
 - Chairman Costen had the Applicant explain their request for a variance and the factual basis that they believed substantiated their request.

Attorney Leland Calloway representing the applicant reviewed the request. They are seeking a variance from the 100’ maximum tower height limitation to be the same as other nearby towers in the area. Noted that they are only discussing the height of the tower, and nothing else. All other topics would be addressed at the Planning Commission meeting if the variance request is approved. The applicants are looking to close the “coverage gap” in the area and this tower is necessary for that.

Callaway stated that the municipal property seems to be preferred by the zoning ordinance, and this 100' requirement is unique and doesn't apply to other properties. They think that the 100 feet limitation represents a practical difficulty.

Callaway stated that the Telecommunications Act stated that a regulation cannot prohibit personal wireless services, and they cannot treat towers or companies differently if they are providing functionally equivalent services. He stated that a 100' tower required by the zoning ordinance doesn't "close the gap" at all, and they would not even bother with it. 197' is best and they don't want to light it. A denial of the variance would be the equivalent of prohibition. The municipal property is the best location for the ordinance and the best for filling the gap.

He stated that the tower would be located on non-residential property, behind trees, and 500 feet off the road. The tower would be a monopole and is intended to buckle in the middle. Stated that the Verizon towers don't fall in any conditions (hurricanes, car strikes, winds, etc.). They try to limit the view and impact. This would be behind an existing stand of tall trees.

Costen asked about the distance to overlap. Callaway stated that the distance of coverage is about 3 miles. Usually, a little bit less.

Eisenga asked about collocation. Callaway said he would prefer to use other towers, but there is nothing in the area that covers this zone. The proposed tower must cover this location, or very close to it.

Eisenga noted that the Tower at Rush Creek Park is 1.3 miles away. Callaway said if you moved it you would encroach on the coverage zone of other towers which causes destructive interference. They don't want to put up towers if they don't have to because towers are expensive and they would rather collocate, but they can't make collocation work in this instance.

Eisenga asked about the maps and how it relates to "bars" on your phone. Callaway said that their measurements are more accurate on the ground. Callaway also said that more and more people are moving to cell phones. Most emergency calls come from cell phones.

Callaway stated that generators are tested once a month for an hour. They run about as loud as a vacuum cleaner. Otherwise, the generator would only run in an emergency. They also have batteries in certain equipment which obviates the need for a battery. Batteries are usually only in urban areas, and a generator is proposed for this site.

Glass asked about what is driving the need. Callaway said it was triggered by in-the-field measurements from engineers but is not sure otherwise. Tower needs are often driven by complaints. They also find dropped calls on towers in certain sectors to help with call volume issues. This will be a residentially used tower. If not on township property, then it could go elsewhere, but the Township property is best.

C. Entertain public comment – Costen opened the floor for public comments

1. Larry VerHage – 5222 Rosewood Ln. He was a former Blendon Township supervisor. He also provided a letter to the ZBA earlier in the week. Said this was only about the height and if they meet the variance standards of 16.06. Their duty is to the ordinance of the township, not the FCC or the MZEA. There is case law relative to variance standards, and they have to apply them. If they miss any of those four standards the variance cannot be approved. The variance should be denied because it doesn't meet any of the standards. Also, the hardship is not regarding the land. The applicant has not offered anything that meets the standards.

2. Doug Hoving representing son (Joel) who lives at 5183 Rosewood Ln. His lot is just east of the Township property and the fall line is very close to his property. It would be unsightly and very clearly seen and affect his property and resale value. They do not meet the standards of Section 16.06, specifically 16.06(c). Also mentioned the Rush Creek tower, which is 1 mile away and the potential interference between that and other towers, so the applicant's argument didn't quite make sense. The other three towers in the township are on AG-zoned land. He felt that the ZBA should deny the variance.
3. Dustin Radloff. 5175 Rosewood Ln. Height bothers him the most. The tower would distract his view and be an eyesore. It would detract from resale values. He wants the ZBA to deny the request.
4. Marjorie Zwak 5241 Tyler. She lives across the street from the tower. It would detract from the value of her house, and she would not like it to go there.
5. Mike Walcott 5116 Tyler. East side of Twp property. The township property is a dump, doesn't know what they will dig up. He doesn't want it. Verizon can just terminate the contract anytime they want.
6. Jerry Alberda 7270 Forest view drive. H also remembers when it was a dump. Then a ball diamond, then a soccer field, then a park. How would you ever build a park on this site in the future with a tower there? What the board does will affect everyone for the next 30 years.
7. Laci Cooper 7273 Forest View Drive. Part of the draw is the trees. The Verizon service they have there now is just fine. She doesn't see why there needs to be a tower. She wants Forest View to remain a forested view.
8. Gloria Potter 5025 Rosewood. This tower will make the area look worse. There are no problems now, and many of the coverage problems people have could be solved if they got better phones that got better reception.
9. Paul Kik 5328 Rosewood Lane. This is about money and a business wanting to grow their business. This isn't about the residents. If there is a problem in the future it will be the Township's problem. This tower is all about money and increasing market share for Verizon.
10. Larry VerHage (second time). Stated that the law is clear that they can have 100 feet. 197 feet is a huge variance from what is allowed.

D. Closure of the public hearing.

- Motion by Dave Hovingh, supported by Barry Eisenga to close the public hearing at 7:56pm.
Motion carried.

E. Township Planner Andrew Moore was asked to highlight his report to the ZBA. Moore provided two reports to the ZBA. First, he stated that the typical variance standards of Section 16.06 do not apply, as the ordinance specifically sets forth standards for this type of request in 15.05.05(i), so that will be used for the evaluation. He also reviewed his staff report that outlined each of the standards of section 15.05.05(i) and summarized his comments on each.

F. Entertain board discussion on petition

The ZBA members discussed the presentation and asked questions of the applicant. Costen feels that they are relying a lot on Verizon's propagation maps to make the decision. Costen asked Fire Chief Gernaat if there would be a benefit to emergency services if there was better cell coverage. Gernaat said yes, but it would not be a measurable improvement.

Hovingh felt that they have demonstrated that the coverage needs would be met. Huizenga agreed based on the evidence set forth in the propagation maps submitted by the applicant.

G. Entertain Board motion

1. Motions on each of the standards in 15.05.05 i. (to approve a variance at least one of these standards needs to be met)

i. For location, the applicant has demonstrated that a location within a District or location in accordance with standards of this Sub Section cannot reasonably meet the coverage or capacity needs of the applicant

- Motion by Dave Hovingh, supported by Brett Huizenga that the applicant has demonstrated that a location within a District or location in accordance with the standards of this sub section cannot reasonably meet the coverage or capacity needs of the applicant based on the maps that the applicant included with their application.
- Motion Carried 5-0

ii. For no co-location the applicant has demonstrated that a feasible co-location is not available for the coverage area and capacity needs because existing structures cannot support the facility, that co-location would result in unreasonable interference, or that reasonable financial terms are not available for co-location

- The ZBA found this standard to not be applicable

iii. For setback, the applicant has provided engineering information that documents that the tower is self-collapsing, and that the setback area provided shall accommodate the structure should it fall or break and provide a reasonable buffer in the event the structure fails

- The ZBA found this standard to not be applicable

iv. For height, the height requested is due to signal interference due to topography, tall buildings, masses of trees, or other obstructions, or would reduce the number of towers to the benefit of the township.

- Motion by Dave Hovingh and supported by Randy Glass that the height requested is not due to signal interference due to topography, tall buildings, masses of trees, or other obstructions, but could reduce the number of towers

to the benefit of the township based on the propagation maps provided by the applicant.

- Motion carried 5-0
- v. For all, the applicant has proposed means to mitigate any negative impacts through provision for future co-location, if found to be appropriate by the township, and special design of the facility and site.
- Motion by Dave Hovingh supported by Brett Huizenga that the applicant has proposed a means to mitigate any negative impacts through provision for future co-location, if found appropriate by the township, based on exhibit c letter provided by the applicant in his application.
 - Motion carried 5-0
- vi. For all, the wireless communication and accessory facilities shall be designed to be compatible with the existing character of the proposed site, neighborhood, and general area such as a steeple, bell tower, or similar form.
- Motion by Dave Hovingh and supported by Barry Eisenga that the applicant has not shown that a monopole would be visually compatible with the existing character of the proposed site, and neighborhood.
 - Motion carried 5-0

2. Motion by Dave Hovingh, supported by Bruce Costen to adopt resolution # 2023-01.01. On the motion to accept the resolution, the Chairman called the roll: Costen – Yes, Hovingh – Yes, Eisenga – Yes, Huizenga – Yes, Glass – No.

The Resolution passed and the variance is approved by a 4-1 vote.

8. Adjournment

- Motion by Dave Hovingh, supported by Barry Eisenga to adjourn
- Motion carries
- Meeting adjourned at 8:58 pm

Kurt Gernaat, Zoning Administrator, Recorder