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| IN RE: APPEAL OF NEW CINGULAR WIRELESS PCS, LLC d/b/a AT&T MOBILITY, RELATIVE TO A PROPERTY LOCATED AT 1521 NORTH 13TH STREET, CITY OF READING, BERKS COUNTY, PENNSYLVANIA | : BEFORE THE ZONING HEARING : BOARD OF THE CITY OF READING, : PENNSYLVANIA : : APPEAL NO. 2018-20 : : VARIANCE, INTERPRETATION : AND/OR SPECIAL EXCEPTION |
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**DECISION OF THE ZONING HEARING
 BOARD OF THE CITY OF READING**

AND NOW, this 8th day of August, 2018, a hearing having been held on July 11, 2018, upon the application of New Cingular Wireless PCS, LLC d/b/a AT&T Mobility, notice of such hearing having first been sent and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the Zoning Hearing Board of the City of Reading (hereinafter referred to as the "Zoning Board") renders the following decision:

FINDINGS OF FACT

The Zoning Board finds the following facts:

1. Applicant is New Cingular Wireless PCS, LLC d/b/a AT&T Mobility, having a mailing address c/o Christopher H. Schubert, Esquire/RRHC, P.O. Box 1265, Exton, PA 19341 (hereinafter referred to as the "Applicant").
2. The Applicant has a leasehold interest in the property located at 1521 N. 13th Street, City of Reading, Berks County, Pennsylvania (hereinafter referred to as the "Subject Property").
3. The fee simple owner of the Subject Property, Evangelical Lutheran Church of the Nativity, has granted Applicant permission to seek the requested zoning relief.
4. The Subject Property is located in the R-2 Residential Zoning District as that term and district is defined by the Zoning Ordinance of the City of Reading, as amended (hereinafter referred to as the "Zoning Ordinance").

5. Applicant has requested the following

a. a use variance from the provisions of Section 600-608.A, 600-803.B. and 600-1203(A) of the Zoning Ordinance to allow a Tower-based Wireless Communications Facility in the R-2 Residential Zoning District;

b. an interpretation on appeal that the proposed telecommunications use shall be an “allowed use” such that the area and bulk requirements established for the R-2 zoning district shall control for such use. In the alternative, Applicant applies for any required variance relief from all pertinent sections of the Zoning Ordinance relating to area and bulk requirements;

c. a variance from the “one use” restriction established by Section 600-902.A. of the Zoning Ordinance for parcels in residential districts to allow the additional use of the Subject Property for the telecommunications facility as a “Tower-based WCF”;

d. a dimensional variance from Sections 600-2301.A(1)(a) and 600-2103.A(1)(d)[3] of the Zoning Ordinance regarding setbacks of tower-based WCF’s from lots with a residential use or residential district boundary (specifically a dimensional variance of 500 feet is requested);

e. an interpretation on appeal that in order for the owner of the Subject Property, Evangelical Lutheran Church, to comply with the conditions of approval as set forth in the Decision of the Zoning Board in Appeal 2014-13 regarding the consolidation of all parcels into one deed, the church need only record a deed of consolidation;

f. a variance from Section 600-2103.A(3) of the Zoning Ordinance which requires that Tower-based WCF’s not be approved if another available structure is located within one (1) mile of the proposed telecommunications facility; and

g. any other interpretations, waivers, variances or other relief the Zoning Board may deem necessary and appropriate.

6. Applicant was represented by Christopher H. Schubert, Esquire, of Riley, Riper, Hollin & Colagreco, Exton, Pennsylvania.

7. AT&T is a provider of personal wireless services licensed by the Federal Communications Commission as a commercial mobile service provider.

8. Applicant testified the facility will consist of a decorative stealth light pole placed within the parking lot of the Subject Property which will be 33'-7" in height, and a small coffee can-shaped antenna placed at the top of the pole extending to an overall height of 36' AGL. There will also be a light standard placed on the pole at a height of about 26' AGL for use in safety lighting in the Church's parking lot. Radio equipment for operation of the facility will be placed on the pole within an enclosed shroud having a base height of about 10' AGL. No equipment will be placed on the ground.

9. Applicant testified the proposed facility will afford additional capacity coverage in AT&T's network in the vicinity of the Subject Property and is the least intrusive means of solving the capacity gap in AT&T's network.

10. Applicant testified the proposed facility is necessary in order to provide telecommunications service in accordance with its Federal Communications Commission License and the Telecommunications Act of 1996.

11. Applicant stated the telecommunication facility, a passive communications use, is a suitable and appropriate use of the Subject Property.

12. Applicant stated the proposed use will not substantially injure or detract from the use of neighboring properties or from the character of the neighborhood and the use of the properties adjacent to the Subject Property will be adequately safeguarded.

13. Applicant stated the proposed use will serve the best interest of the City of Reading, the convenience of the community, and the public welfare by making wireless telecommunications service available and will foster competition among other approved wireless providers.

14. Applicant stated the proposed use will be entirely consistent with the logical, efficient and economical extension of public services and facilities within the City of Reading, including police and fire protection.

15. Applicant stated the proposed facility will be designed in accordance with all applicable safety and industry standards and will not endanger the safety of persons or property.

16. Applicant stated the proposed use will not overcrowd the land or create an undue concentration of population.

17. Applicant stated the proposed use will not impair an adequate supply of light and air to adjacent property

18. Applicant stated the proposed facility will be fully automated and unattended on a daily basis and will be visited only for periodic maintenance or emergency repair.

19. Applicant stated the proposed use will not adversely affect transportation or unduly burden public facilities.

20. Applicant stated the requested relief is the minimum relief necessary in order for Applicant to provide wireless telecommunication services and will represent the least modification possible of the regulation in issue. The height of the telecommunications facility is the minimum height necessary to perform its function.

21. Applicant stated the telecommunications facility complies with all applicable standards established by the Federal Communications Commission.

22. Applicant stated the telecommunications facility will not cause radio frequency interference with other communication facilities located in the City of Reading.

23. Applicant stated it is licensed by the Federal Communications Commission to operate the telecommunications facility.

24. Applicant stated the telecommunications facility shall comply with all applicable Federal Aviation Administration and Commonwealth Bureau of Aviation regulations.

25. Applicant stated the surrounding neighborhood will not be subjected to objectionable noise, lighting, glare, heat, ventilation, smoke, fumes, vapors, dust, dirt, gases or radioactive or electrical disturbances. No signs or lights will be mounted on the telecommunications facility.

26. Applicant stated the telecommunications facility will be maintained in a safe manner in accordance with the requirements of the City of Reading Building Code.

27. The Zoning Board finds as a fact the proposed telecommunications facility and requested variances are in keeping with the spirit and intent of the Zoning Ordinance and will not be detrimental to the health, safety and welfare of neighboring property owners or property values.

28. The proposed relief is the minimum necessary to provide adequate telecommunications within the City of Reading.

29. There were no objections to the requested relief.

DISCUSSION

Applicant is seeking variances and/or special exceptions to install a small telecommunications facility at the Subject Property. The Zoning Board finds as a fact the proposed use is necessary to provide communications for residents of the City of Reading. The proposed location of the telecommunications facility is appropriate and will not be detrimental to the health, safety and welfare of neighboring property owners or decrease property values.

CONCLUSIONS OF LAW

1. Applicant is New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility.
2. The Subject Property is located in the R-2 Residential Zoning District.
3. Applicant seeks relief to install a small telecommunications facility on the Subject Property.
4. The Zoning Board is permitted to grant applications for variances and/or special exceptions as set forth under the relevant sections of the Zoning Ordinance.
5. In order to grant the requested relief and variances, Applicant must show it has satisfied the relevant sections of the Zoning Ordinance.
6. After reviewing the Applicant's request in detail, the Zoning Board enters the following decision:

a. Applicant is granted relief to install the stealth light pole and all related facilities as set forth in the findings of fact.

b. Applicant shall attend a One Stop Shop meeting with the building and fire inspectors to ensure compliance with all applicable building and fire code requirements.

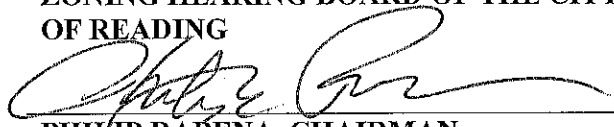
c. Applicant shall comply with all relevant building and occupancy codes and ordinances as well as the plans and testimony submitted before the Zoning Board including any conditions Applicant agreed to on the record which are incorporated herein by reference.

d. Applicant may not use, expand, alter or otherwise use the Subject Property inconsistent with the contents of this Decision without making application requesting further relief from the Zoning Board.


e. Failure to comply with any of these conditions shall mean the immediate revocation of the relief granted herein.

The decision of this Board is by a vote of 5 to 0.

ZONING HEARING BOARD OF THE CITY
OF READING



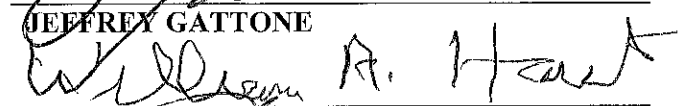
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THOMAS FOX



JEFFREY GATTONE



WILLIAM HARST



JARED BARCZ