| Page | | |
|--|---|---|
| | | Page 3 |
| | 1 MR. MIX: | We will discuss it when we get to it. |
| WEXFORD COUNTY PLANNING COMMISSION | 2 MR. MITC | HELL: So it's for discussion? |
| REGULAR MEETING | 3 MR. MIX: | Yeah. |
| SEPTEMBER 10, 2014 - 7:00 P.M. | 4 MR. WIGO | INS: I'm sorry, what was the location? |
| | 5 MR. MIX: | 29 Road and M-115. |
| Wexford County Services Building | 6 MR. GREE | N: Okay. Mr. Chairman? |
| 401 North Lake Street | 7 MR. WIGO | |
| Cadillac, Michigan | 8 MR. GREE | N: The representatives from Verizon were |
| | 8 | ke a change to the public hearing order. |
| BOARD MEMBERS PRESENT: | 8 - | explain what they are asking for, if |
| Corey Wiggins, Chairperson David Middaugh | 11 you'd like. | |
| David Stoutenburg Gordon Mitchell | | IINS: Okay. |
| Beverly Monroe Michael Mix | 3 | Y: Sure, I'll address that. My name is |
| ALSO PRESENT: | | m an attorney representing Verizon |
| Michael Green, Zoning Administrator | | received a copy of your agenda this |
| Robert LaBelle, attorney for Verizon | | ve were just looking through it and it |
| Stephen Estey, attorney for Verizon | a | unorthodox on remand to have the public |
| Bob Przybylo, Verizon Dinyar Buhariwalla, RF engineer for Verizon | 8 | • |
| Dinya Bunanwana, Kr engineer for venzon | | before the applicant had an opportunity to |
| Wendell Johnson, attorney for the Wilsons | 2 · · · · · · · · · · · · · · · · · · · | sition on remand. So I don't have a |
| | | public comment obviously, but we were |
| Decementation Kethlers Tallels CCD 4601 | | testing that we have the ability to go |
| Reported by: Kathleen Tulick, CSR 4601 Certified Shorthand Reporter | 8 | commission and explain our position. |
| 231-946-8086 | 5 | INS: Okay. So we want to switch |
| | 24 7(a)(iii) and (i | |
| | 25 MR. ESTE | Y: Mm-hmm. |
| Page | | Page 4 |
| 1 Cadillas Mishigan | 1 MR. WIGO | INS: And change that to okay. |
| 1 Cadillac, Michigan | Ś. | ROE: I believe there's a correction under |
| Wednesday, September 10, 2014 - 7:00 p.m. 3 | | ake sure everybody has that. |
| | 8 1 | SINS: Mike, the special use permit number, |
| 4 MR. WIGGINS (chairperson): Okay. It is 7:04. | 8 | ly change? Are we still at 14-002? |
| 5 I'll call the meeting to order. Can we have a roll 6 call, please? | | • • |
| I D PAU DIEASE/ | | N' Let's see let me check on that L've |
| | | N: Let's see, let me check on that. I've |
| 7 MR. GREEN: Okay. Mix? | 7 got the file rig | ht here. My folder says it's |
| 7 MR. GREEN: Okay. Mix? 8 MR. MIX: Here. | 7 got the file rig8 SUP14-002. | ht here. My folder says it's |
| 7 MR. GREEN: Okay. Mix? 8 MR. MIX: Here. 9 MR. GREEN: Monroe? | got the file rig SUP14-002. MR. ESTE | ht here. My folder says it's Y: I believe that's correct. |
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| · 1 | Page 5 | | Page 7 |
|--|---|--|---|
| | MR. WIGGINS: All those in favor? | 1 | motion carried by 3 to 1 roll call vote with Wiersma |
| 2 | BOARD MEMBERS: Ayes. | 2 | voting against. |
| 3 | MR. WIGGINS: Opposed? | 3 | So I did talk to the prosecuting attorney to make |
| 4 | (No response) | 4 | sure that we could do this. He assured me at least to |
| 5 | MR. WIGGINS: Okay. So moving on to the approval | 5 | his best knowledge based on his read of the ordinance |
| 6 | of the June 11, 2014 minutes. | 6 | that it was okay to come back here and re-hear this. |
| 7 | MR. MIX: I make a motion we approve the June 11 | 7 | So I've also talked to representatives of Verizon |
| 8 | meeting minutes as written. | 8 | about the possibility or told them there's the option |
| 9 | MR. MITCHELL: Support. | 9 | of re-applying with a clean application or just |
| 10 | MR. WIGGINS: So was that Mitchell support? | 10 | re-application for the same one, because I did not find |
| 11 | MR. MITCHELL: Correct. | 11 | any ordinance section that said that they cannot. |
| 12 | MR. WIGGINS: Moved and seconded. All those in | 12 | MR. WIGGINS: That they cannot re-apply? |
| 13 | favor say aye. | 13 | MR. GREEN: Right. There's nothing that gives |
| 14 | BOARD MEMBERS: Ayes. | 14 | them a time limit or a time freeze for them to come |
| 15 | MR. WIGGINS: Opposed? | 15 | back again. |
| 16 | (No response) | 16 | MS. MONROE: Is this a re-apply or |
| 17 | MR. WIGGINS: Hearing none, the motion passes. | 17 | MR. GREEN: This is the remanding. We're doing |
| 18 | Mike, do we have correspondence not related to public | 18 | what the Zoning Board of Appeals asked us to do and |
| 19 | hearings? | 19 | we're just taking it back again. So, and that's why |
| 20 | MR. GREEN: No, I don't have anything. | 20 | the number is the same as it was before just to |
| 21 | MR. WIGGINS: Any other business, number 6? | 21 | indicate that it's the same application. |
| 22 | MR. GREEN: No. | 22 | MS. MONROE: I have a question for Corey. When we |
| 23 | MR. WIGGINS: Okay. Moving on to item number 7, | 23 | have a tie like that what's the usual |
| 24 | old business. Special use permit number 14-002, | 24 | MR. WIGGINS: When you have a tie on a motion? |
| 25 | Verizon Wireless, tax ID number 2310-32-1201, Colfax | 25 | MS. MONROE: Mm-hmm. |
| | Page 6 | | Page 8 |
| | | 1 | |
| 1 | Township; a request to erect a 300-foot wireless tower | 1 | MR. WIGGINS: The motion dies. |
| 1 2 | Township; a request to erect a 300-foot wireless tower and equipment shelter. Zoned agricultural/ | 1 2 | |
| | and equipment shelter. Zoned agricultural/ | | MR. WIGGINS: The motion dies. |
| 2 | and equipment shelter. Zoned agricultural/ residential. This is a special use permit that was | 2 | MR. WIGGINS: The motion dies. MS. MONROE: I didn't know that. |
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3 (Pages 9 to 12)

| | Page 9 | | Page 11 |
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| 1 | PSUP14-002; there's a site PSUP14-003, which was | 1 | this board, which means that I think the ZBA upheld |
| 2 | approved by this Planning Commission and not appealed | 2 | your decisions or at least in reverse, your decisions |
| | to the ZBA; and then there was finally PSUP14-004, | 3 | as to all other issues on the actual application. And |
| 3 | which was also approved by this commission, appealed to | 4 | |
| 4 | | 3 | those issues were limited to whether the applicant |
| 5 | the ZBA, and the ZBA upheld that appeal, and that's now | 5 | presented evidence of alternate locations to be |
| 6 | the subject of a federal lawsuit. | 6 7 | considered for the tower, whether the applicant |
| 7 | All three of the applications that were before you | * | addressed the particular height of the tower and the |
| 8 | were approved by the Planning Commission. And Verizon, | 8 | need for that height, and whether the reduction of the |
| 9 | obviously, believes that this commission looked at all | 9 | setbacks was an appropriate decision by this Planning Commission. |
| 10 | of the evidence, concluded that there was not | 10 | |
| 11 | substantial evidence in the record as a basis to deny | 11 | There was an additional piece of evidence that was |
| 12 | any of the applications and that your decision was | 12 | presented by the appellant to this Zoning Board of |
| 13 | correct. | 13 | Appeals. I don't know if it's been submitted to this |
| 14 | When we appeared before the ZBA on the two | 14 | board or not, but it was a letter from an attorney from |
| 15 | applications that were appealed we informed the ZBA | 15 | out of state, from Washington I believe, that you may |
| 16 | that your decision should, in fact, be upheld and that | 16 | or may not have seen it or it may or may not come up |
| 17 | your decision was correct, and that there was no | 17 | tonight. It's dated July 17, 2014. |
| 18 | evidence to the contrary that was submitted that would | 18 | The only thing I would note for this Planning |
| 19 | be a sufficient basis in law to reverse it. | 19 | Commission with respect to that letter is it isn't |
| 20 | The Planning Commission obviously I'm sorry. | 20 | evidence. It was submitted by an attorney not licensed |
| 21 | The Zoning Board of Appeals, obviously, disagreed with | 21 | in the State of Michigan. It's a self-serving letter |
| 22 | us on one site and upheld the appeal, and, again, | 22 | effectively on behalf of the appellant. It's hearsay, |
| 23 | that's the subject of a current federal lawsuit. The | 23 | and the individual that wrote it was not present at the |
| 24 | second site, which is this site that's before you | 24 | Planning Commission proceedings, didn't review the |
| 25 | tonight, was remanded to the Planning Commission for | 25 | transcripts, wasn't present at the ZBA proceeding |
| | | | |
| | Page 10 | | Page 12 |
| 1 | Page 10 further consideration. | 1 | |
| 1 2 | | 1 2 | Page 12 |
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| | Page 13 | | Page 15 |
|--|---|--|---|
| 1 | substantial amount of information that you heard, a | 1 | PUBLIC VOICE: Are you backing out? |
| 2 | substantial amount of information that you weighed and | 2 | MR. MITCHELL: I don't believe there's a conflict |
| 3 | reviewed, and then you rendered your decision. | 3 | on this board. |
| . 4 | The ZBA did not have the benefit, unfortunately, I | 4 | MR. MIX: I have none. |
| 5 | think of viewing all of that information at the time. | 5 | MR. WIGGINS: Mike, do you want to put that to a |
| 6 | And the member from the Planning Commission that was | 6 | vote? |
| 7 | also a member of the ZBA recused themself. So there | 7 | MR. GREEN: Okay. Sure. |
| 8 | was not the benefit of that person even to put that | 8 | MS. MONROE: Do you need a motion? |
| 9 | information before the ZBA. | 9 | MR. WIGGINS: Yes. |
| 10 | So it's unfortunate that at least that one site | 10 | MS. MONROE: I make a motion that the conflict is |
| 11 | where the appeal is upheld is now the subject of a | 11 | not substantial. |
| 12 | federal lawsuit. We're hoping that that can be | 12 | MR. STOUTENBURG: Support. |
| 13 | resolved, but it's nothing that this Planning | 13 | MR. MITCHELL: Second. |
| 14 | Commission did. This Planning Commission correctly | 14 | MR. GREEN: Okay. I'm sorry, excuse me for a |
| 15 | approved the application. That suit was filed against | 15 | minute. |
| 16 | the Zoning Board of Appeals for what we feel was an | 16 | MS. MONROE: 1 have a quick question. |
| 17 | error in law relative to their decision to uphold the | 17 | MR. WIGGINS: Let's get a vote on the motion |
| 18 | appeal. | 18 | first. |
| 19 | So we will ask you at the end of our presentation, | 19 | MR. GREEN: So I have a motion by Monroe, support |
| 20 | obviously, to affirm the decision you previously made | 20 | by who? |
| 20 | and continue to approve the application. | 21 | MR. STOUTENBURG: Me. |
| 22 | The last thing I would point out is the one site | 22 | MR. GREEN: Okay. And that there was no |
| 22 | that was not appealed, which is what we call our site | 23 | substantial conflict. |
| 23 | 3027 but it's actually your number PSUP14-003, had | 23 | MS. MONROE: Yes. |
| 24 | virtually all the same issues that you are going to | 25 | MR. GREEN: Okay. Okay. Thank you for waiting |
| | | | |
| | | | |
| | Page 14 | | Page 16 |
| 1 | hear tonight, and this Planning Commission approved | 1 | for me. Okay. You want a roll call on that? |
| 1 2 | hear tonight, and this Planning Commission approved that site, it was not appealed, and it's a final site | 2 | for me. Okay. You want a roll call on that? MR. MIX: May I ask a question before we vote? |
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| | Page 17 | | Page 19 |
|--|---|--|---|
| 1 | table; correct? | 1 | site plan review is part of the special use permit. So |
| 2 | MR. MITCHELL: So a yes vote would keep him here, | 2 | in part we're addressing the decision, and in part |
| 3 | and a no vote would not. | 3 | we're not. |
| 4 | MR. GREEN: Yes. Okay. All right. Mix? | 4 | But, anyway, the wording in 11.7, which is the |
| 5 | MR. MIX: Yes. | 5 | site plan review article, says that "the appeal board |
| 6 | MR. GREEN: Monroe? | 6 | shall determine if there exists a significant reason to |
| 7 | MS, MONROE: Yes. | 7 | have the Planning Commission re-examine the site plan. |
| 8 | MR. GREEN: Middaugh? | 8 | If the board sends the application back to the Planning |
| 9 | MR. MIDDAUGH: Yes. | 9 | Commission they also send a detailed record of their |
| 10 | MR. GREEN: Stoutenburg? | 10 | finding reasons," and so that's why you have the |
| 11 | MR. STOUTENBURG: Yes. | 1 1 | minutes with you, but that's for site plan review. |
| 12 | MR. GREEN: Mitchell? | 12 | Tony felt comfortable at least giving us the |
| 13 | MR. MITCHELL: Yes. | 13 | go-ahead for this meeting to do so. I don't know if |
| 14 | MR. GREEN: Wiggins? | 14 | that meant that he was totally sold that this was, this |
| 15 | MR. WIGGINS: I abstain. | 15 | wording gives us the go, but |
| 16 | MR. GREEN: Okay. Just want to make sure. Okay. | 16 | MR. WIGGINS: I guess that's not necessarily my |
| 17 | MR. WIGGINS: Okay. With that said, I can tell | 17 | concern. My concern is whether we are limited to |
| 18 | you, to put the public's mind at ease, it has no | 18 | certain aspects of our review or if the whole thing was |
| 19 | influence on my vote one way or the other. | 19 | sent back to us |
| 20 | MS. MONROE: My quick question was, maybe I should | 20 | MR. GREEN: No. |
| 21 | ask Mike Green, but could we ever see those | 21 | MR. WIGGINS: for review. |
| 22 | transcripts? | 22 | MS. MONROE: Shouldn't our information have |
| 23 | MR. WIGGINS: Yeah. Mike, were those ours or did | 23 | included this letter that was |
| 24 | we have the reporter there? | 24 | MR. GREEN: Actually, if I can back up in that |
| 25 | MR. GREEN: No, they were not ours. I believe | 25 | paragraph. |
| | | | |
| | Page 18 | | Page 20 |
| 1 | _ | 1 | Page 20 MS. MONROE: Okay. |
| 1 2 | Page 18 they were Verizon's. MR. ESTEY: That's correct. | 1 2 | - |
| | they were Verizon's. | | MS. MONROE: Okay. |
| 2 | they were Verizon's. MR. ESTEY: That's correct. | 2 | MS. MONROE: Okay. MR. GREEN: If I may, it says when there's an |
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| 25 passing out some supplemental information. This is all 25 In this particular area there are no existing | 12 13 14 15 16 17 18 19 20 21 22 23 24 | sent it back. It's a remand to consider the application. MR. WIGGINS: My thought is along those same lines, and since we have no clarification, it was just sent back according to the minutes on remand, so we will go ahead and proceed as if we're looking at this for the first time, unless there's any objection to that from the board. Okay. So back over to Verizon I guess. MR. GREEN: Right. MR. PRZYBYLO: Okay. Great. If you don't remember me from before, my name is Bob Przybylo and I represent Verizon Wireless. My colleague, Rob, is | 12 13 14 15 16 17 18 19 20 21 22 23 24 | It's always our preference to co-locate on an existing tower wherever possible. It is an issue of speed the market for us. We can get our antennas up and on the air faster in most cases if we co-locate on existing structures, whether it be a water tank, whether it be an existing building, whether it be an existing tower. If there is not an existing structure in the area that meets our coverage objectives or our engineer's coverage criteria, then we have no other choice but to build a structure to get the appropriate height for the antennas that we need to meet those coverage objectives. |

7 (Pages 25 to 28)

| 1 | Page 25 | | Page 27 |
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| | | | - |
| 1 | towers that meet our coverage objectives. So with that | 1 | 200 feet, so the FCC will require it to be lighted. |
| 2 | I'll roll into more specifics as we talk about Section | 2 | I've been in many hearings where residents have |
| 3 | 3(A)(7), special land use permits, subsection B, | 3 | voiced concern about the lighting, about, you know, |
| 4 | towers, and we go through sub-item 1, all of these | 4 | lighting glaring into their bedrooms and being kept up |
| 5 | issues were addressed in the last meeting. If we go | 5 | at night. We do use a new flash technology type |
| 6 | down to subsection G, my letter refers to all of these | 6 | lighting system. It's not the old lighting that you |
| 7 | items that they want a description, that the county | 7 | see on old towers where the light cascades 360 degrees |
| 8 | wants a description of compliance, the first one being | 8 | all over the place. The new lighting technology is the |
| 9 | 4(C), and that would be Exhibit A of your packet. This | 9 | lighting beam is a horizontal beam. So it doesn't |
| 10 | is a list of all of the existing Verizon Wireless cell | 10 | cascade down below the height of the lighting on the |
| 11 | sites in the county. | 11 | tower, and we will be using that technology in this |
| 12 | If you can see, there are five existing sites in | 12 | particular site. |
| 13 | the county. Four out of those five sites are | 13 | The next item is item F. That refers to state and |
| 14 | co-locations on existing towers. We co-located on an | 14 | federal requirements. The only thing that I would say |
| 15 | existing monopole tower. We co-located on a water | 15 | about that is that Verizon Wireless's facility will |
| 16 | tower in Haring Township, which is probably what Mr. | 16 | comply with all federal, state and local laws, rules |
| 17 | Wiggins was referring to. We co-located on an AT&T | 17 | and regulations. I mean, we're bound by that and we |
| 18 | monopole. We co-located on a self-support tower owned | 18 | will honor that. |
| 19 | by American Tower, and then we did build one what we | 19 | The next is subsection G, the building codes. |
| 20 | call raw land, one new site, and that was on Wexford | 20 | Again, Verizon Wireless will comply with all applicable |
| 21 | County property, at the Wexford County Road Commission | 21 | building codes and standards not only from the county |
| 22 | property. | 22 | but from the state as well, and we will be bound by the |
| 23 | So I point that out just, again, to reiterate that | 23 | requirements in this section. |
| 24 | co-location is our first, our first choice whenever | 24 | The next subsection is J. J refers to franchises |
| 25 | possible, whenever it is feasible for us to do that. | 25 | and our rights to be here. We do have an FCC license |
| | Bacc. 26 | | Page 28 |
| | Page 26 | | - |
| 1 | The next item is $3(A)(D)$. That item refers to | 1 | that we purchased that gives us the right to provide |
| 2 | aesthetics of the tower. It talks about the painting | 2 | wireless communication service in Wexford County. And |
| 3 | and color of the equipment on the ground, as well as | 3 | we will be happy to provide a copy of that license or |
| 4 | screening from public rights-of-way. The existing | 4 | licenses if the county deems that necessary as a |
| 5 | or the proposed tower I should say will be a galvanized | 5 | condition of approval. |
| 6 | | 8 | |
| | steel finish, which is what the ordinance requires. | 6 | The next item is subsection L. L refers to |
| 7 | The equipment building will be of an aggregate beige | 6 7 | The next item is subsection L. L refers to signage. The only signage on the tower is what's |
| 7 8 | The equipment building will be of an aggregate beige finish. The backup emergency power generator is the | 6 7 8 | The next item is subsection L. L refers to signage. The only signage on the tower is what's required by us by the FCC. There won't be any signage |
| 7 8 9 | The equipment building will be of an aggregate beige finish. The backup emergency power generator is the steel painted beige, a noncorrosive beige color. The | 6 7 8 9 | The next item is subsection L. L refers to signage. The only signage on the tower is what's required by us by the FCC. There won't be any signage on the tower. There won't be any signage on the fence |
| 7 8 9 10 | The equipment building will be of an aggregate beige finish. The backup emergency power generator is the steel painted beige, a noncorrosive beige color. The backup emergency power propane tank is just a plain and | 6 7 8 9 10 | The next item is subsection L. L refers to signage. The only signage on the tower is what's required by us by the FCC. There won't be any signage on the tower. There won't be any signage on the fence that's advertising saying, you know, come get a Verizon |
| 7 8 9 10 11 | The equipment building will be of an aggregate beige finish. The backup emergency power generator is the steel painted beige, a noncorrosive beige color. The backup emergency power propane tank is just a plain and simple white. | 6 7 8 9 10 11 | The next item is subsection L. L refers to signage. The only signage on the tower is what's required by us by the FCC. There won't be any signage on the tower. There won't be any signage on the fence that's advertising saying, you know, come get a Verizon phone, "Can You Hear Me Now." There will be no |
| 7 8 9 10 11 12 | The equipment building will be of an aggregate beige finish. The backup emergency power generator is the steel painted beige, a noncorrosive beige color. The backup emergency power propane tank is just a plain and simple white. We did not propose any landscaping at this site | 6 7 8 9 10 11 12 | The next item is subsection L. L refers to signage. The only signage on the tower is what's required by us by the FCC. There won't be any signage on the tower. There won't be any signage on the fence that's advertising saying, you know, come get a Verizon phone, "Can You Hear Me Now." There will be no advertising. The only signage is what's required by |
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| 7 8 9 10 11 12 13 14 15 16 17 18 19 20 | The equipment building will be of an aggregate beige finish. The backup emergency power generator is the steel painted beige, a noncorrosive beige color. The backup emergency power propane tank is just a plain and simple white. We did not propose any landscaping at this site due to the fact of its location from the public right-of-way. We are approximately 750 feet setback from the public right-of-way. The property that we are on is surrounded by tall mature trees in all four directions. So even along 24 Road there is a huge line of mature trees. If you've visited the site you can see that. So the fact of us being able to screen the site back 750 feet is really moot, because it's | 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 | The next item is subsection L. L refers to signage. The only signage on the tower is what's required by us by the FCC. There won't be any signage on the tower. There won't be any signage on the fence that's advertising saying, you know, come get a Verizon phone, "Can You Hear Me Now." There will be no advertising. The only signage is what's required by us by law. The next item is sub-item M, buildings and support equipment. Again, this just talks about, this talks about the equipment or refers to 3(A)(8), and some specifics about what is required about the setbacks of the equipment, the equipment buildings, and we will comply with all of those items of that section. The next item, then we go to Section |
| 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 | The equipment building will be of an aggregate beige finish. The backup emergency power generator is the steel painted beige, a noncorrosive beige color. The backup emergency power propane tank is just a plain and simple white. We did not propose any landscaping at this site due to the fact of its location from the public right-of-way. We are approximately 750 feet setback from the public right-of-way. The property that we are on is surrounded by tall mature trees in all four directions. So even along 24 Road there is a huge line of mature trees. If you've visited the site you can see that. So the fact of us being able to screen the site back 750 feet is really moot, because it's screened from the existing public right-of-way. | 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 | The next item is subsection L. L refers to signage. The only signage on the tower is what's required by us by the FCC. There won't be any signage on the tower. There won't be any signage on the fence that's advertising saying, you know, come get a Verizon phone, "Can You Hear Me Now." There will be no advertising. The only signage is what's required by us by law. The next item is sub-item M, buildings and support equipment. Again, this just talks about, this talks about the equipment or refers to $3(A)(8)$, and some specifics about what is required about the setbacks of the equipment, the equipment buildings, and we will comply with all of those items of that section. The next item, then we go to Section 3(A)(7)(B)(4), which is where we start to get into the |
| 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 | The equipment building will be of an aggregate beige finish. The backup emergency power generator is the steel painted beige, a noncorrosive beige color. The backup emergency power propane tank is just a plain and simple white. We did not propose any landscaping at this site due to the fact of its location from the public right-of-way. We are approximately 750 feet setback from the public right-of-way. The property that we are on is surrounded by tall mature trees in all four directions. So even along 24 Road there is a huge line of mature trees. If you've visited the site you can see that. So the fact of us being able to screen the site back 750 feet is really moot, because it's screened from the existing public right-of-way. The next item is sub-item E. That refers to | 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 | The next item is subsection L. L refers to signage. The only signage on the tower is what's required by us by the FCC. There won't be any signage on the tower. There won't be any signage on the fence that's advertising saying, you know, come get a Verizon phone, "Can You Hear Me Now." There will be no advertising. The only signage is what's required by us by law. The next item is sub-item M, buildings and support equipment. Again, this just talks about, this talks about the equipment or refers to $3(A)(8)$, and some specifics about what is required about the setbacks of the equipment, the equipment buildings, and we will comply with all of those items of that section. The next item, then we go to Section 3(A)(7)(B)(4), which is where we start to get into the meat of probably what we're going to really discuss |
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| 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 | The equipment building will be of an aggregate beige finish. The backup emergency power generator is the steel painted beige, a noncorrosive beige color. The backup emergency power propane tank is just a plain and simple white. We did not propose any landscaping at this site due to the fact of its location from the public right-of-way. We are approximately 750 feet setback from the public right-of-way. The property that we are on is surrounded by tall mature trees in all four directions. So even along 24 Road there is a huge line of mature trees. If you've visited the site you can see that. So the fact of us being able to screen the site back 750 feet is really moot, because it's screened from the existing public right-of-way. The next item is sub-item E. That refers to | 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 | The next item is subsection L. L refers to signage. The only signage on the tower is what's required by us by the FCC. There won't be any signage on the tower. There won't be any signage on the fence that's advertising saying, you know, come get a Verizon phone, "Can You Hear Me Now." There will be no advertising. The only signage is what's required by us by law. The next item is sub-item M, buildings and support equipment. Again, this just talks about, this talks about the equipment or refers to $3(A)(8)$, and some specifics about what is required about the setbacks of the equipment, the equipment buildings, and we will comply with all of those items of that section. The next item, then we go to Section 3(A)(7)(B)(4), which is where we start to get into the meat of probably what we're going to really discuss |

8 (Pages 29 to 32)

| Page | 31 |
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| 1 | adjoining lot line of the parent parcel, that's | 1 | talks about statement of co-location. We have |
| 2 | 3(A)(7)(4) sub A. Prior to that in the setbacks column | 2 | provided, again, we talked about it at the first |
| 3 | it also says that, halfway through the sentence, | 3 | meeting, that we have provided this letter as a |
| 4 | "however, that the Planning Commission may reduce the | 4 | condition of approval. We have provided a letter in |
| 5 | standard setback requirements if the goals of this | 5 | this packet from the real estate manager for Verizon |
| 6 | ordinance would be better served." | 6 | Wireless here in the State of Michigan that the tower |
| 7 | As a part of your packet 1 have attached in here | 7 | will be designed for two additional carriers, so for a |
| . 8 | Exhibit B, which is what we would consider a fall zone | 8 | total of three. So there will be the ability for |
| 9 | letter. This is a already stamped by a licensed | 9 | co-location. |
| 10 | engineer in the State of Michigan that describes in the | 10 | The next section, subsection I, talks about the |
| 11 | unlikely event that this self-support tower fails that | 11 | backhall network. We bring fiberoptic cable to every |
| 12 | it's designed to fall upon itself or fold over, if you | 12 | one of our cell sites. So whoever the fiberoptic |
| 13 | will. In the unlikely event that there's a | 13 | provider is in this area, there's usually more than |
| 14 | catastrophic failure at the base of the tower this | 14 | one, we will bid that work out to them from their |
| 15 | tower is designed to fall within 300 feet. Our setback | 15 | nearest demark, and then we will award that bid to |
| 16 | from the closest property line is 300 feet. So by the | 16 | them, and then they will be the one that provides that |
| 17 | ordinance we do meet the setback definition. | 17 | backhall. |
| 18 | The next item is Section $3(A)(5)$, separation. In | 18 | So the short answer is, we don't have that |
| 19 | this section it refers to Table 1 where it talks about | 19 | information now but we would be happy to provide it |
| 20 | the separation from the tower to any offsite uses or | 20 | once that bid is won, if you want to make that a |
| 21 | zoned land. In this particular case it's really the | 21 | condition of approval. |
| 22 | first item that's the issue where it talks about single | 22 | The next is subsection J, which talks about the |
| 23 | family or two family residential units. The ordinance | 23 | suitability of existing towers or structures for |
| 24 | requires 200 feet or 300 percent of the tower, | 24 | alternative technologies. That would refer us to |
| 25 | whichever is greater. In this particular case it would | 25 | Exhibit D, which, again, these are propagation maps. |
| | | | Example D, man, again, more are propagation maps. |
| | D | | |
| _ | Page 30 | | Page 32 |
| 1 | be 300 percent, which would be 900 feet. Again, in the | 5 | There's also a letter here from our RF engineer, who's |
| 2 | be 300 percent, which would be 900 feet. Again, in the separation section it does give the ability for the | 2 | There's also a letter here from our RF engineer, who's on his way. He's running late because of bad weather |
| 2 3 | be 300 percent, which would be 900 feet. Again, in the separation section it does give the ability for the Planning Commission to reduce that separation | 2 3 | There's also a letter here from our RF engineer, who's on his way. He's running late because of bad weather in the Detroit area. He got a slow start. |
| 2 3 4 | be 300 percent, which would be 900 feet. Again, in the separation section it does give the ability for the Planning Commission to reduce that separation requirement if it feels the ordinance would be better | 2 3 4 | There's also a letter here from our RF engineer, who's on his way. He's running late because of bad weather in the Detroit area. He got a slow start. But these propagation maps show, the first one |
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| 2 3 4 5 6 | be 300 percent, which would be 900 feet. Again, in the separation section it does give the ability for the Planning Commission to reduce that separation requirement if it feels the ordinance would be better served. Again, if you remember at the first meeting we had | 2 3 4 5 6 | There's also a letter here from our RF engineer, who's on his way. He's running late because of bad weather in the Detroit area. He got a slow start. But these propagation maps show, the first one shows the network as it stands today, and you can see on the top it says "before plots." The next one shows |
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9 (Pages 33 to 36)

| | D-++ 22 | Demo 35 |
|---|---|---|
| | Page 33 | Page 35 |
| 1 operating right now based on data that's real-tim | | ow need three sites. But you can see |
| 2 that we're getting from our cell sites. | 8 | T site there's very limited green, there's |
| 3 What you see in green is what we would call | 3 not that much | blue, and there's a whole lot of red, and |
| 4 optimum coverage, that's in-building coverage, | your 4 if you compare | e that to our site that we're proposing |
| 5 car, outdoors, that is 100 percent coverage. In t | e 5 you can see the | ere's a lot more green and a lot more |
| 6 perfect world we would want this whole map to | e all 6 blue. So that e | explains the plots. |
| 7 green. If you were in an urban area this map we | ild be 7 Again, we h | have a letter that we provided that's |
| 8 all green. | N | f the document from our RF engineer who |
| 9 If you step away from the green the next leve | 9 in their analysi | s determined that 300 feet is the |
| 10 would be a blue coverage, and I would consider | reen to 10 minimum heig | ht necessary for us in this particular |
| be 100 percent coverage. Blue would be your n | 8 | et the coverage objectives. |
| 12 of coverage, if you will, and I would equate that | 2 | e gist of what I had to say, and, |
| 13 percent coverage. We have good coverage in th | | appy to answer questions for you, and |
| 14 It's not the optimum coverage that we want, but | - | |
| 15 would provide 75 percent of what I would call a | 8 | LLE: I'm going to talk about just shortly |
| 16 rate on making calls and transferring data and u | 我 | about before with regard to the |
| 17 data on your phone. | - % | ations Act. I do want to make comment on |
| 18 If you step down in the red is what I would c | | ss that Bob talked about. |
| 19 50 percent success rate in the red. You would h | - | ng is those propagation maps in your |
| 20 50 percent success rate of making calls and of | Bi (1) | re not the guesses of an RF engineer. |
| 21 transferring data using your phone for data purp | 2010 B | d on hard data and computer modeling by |
| 22 And the white would be no coverage. | S | has 20 years experience in the field as |
| 23 PUBLIC VOICE: Excuse me, who can get c | | frequency engineering degree. This is |
| 24 MR. MITCHELL: No, sir, you can't talk. | | in which is someone making assumptions. |
| 25 MR, PRZYBYLO: So the white would be w | | |
| | | |
| | Page 34 | Page 36 |
| | | - |
| 1 consider no coverage, okay, from our netwo | | I thing I wanted to note is we were |
| | the second | I thing I wanted to note is we were a fall zone in terms of in the unlikely |
| 2 standpoint. | c 1 The second 2 talking about a | - |
| standpoint. Now, to say all this, there's also a caveat, | c1The second2talking about a03event of the factor | a fall zone in terms of in the unlikely |
| 2 standpoint. 3 Now, to say all this, there's also a caveat, 4 say in the white someone could say I'm stand | c1The second2talking about a03ng in that4amazingly unl | a fall zone in terms of in the unlikely illure of the tower. That is an |
| standpoint. Now, to say all this, there's also a caveat, say in the white someone could say I'm stand white and I can make a call. We're not saying | c1The second2talking about a03ng in that4amazingly unlg that you5For example, i | a fall zone in terms of in the unlikely ilure of the tower. That is an ikely event. Towers, in fact, stay up. |
| standpoint. Now, to say all this, there's also a caveat, say in the white someone could say I'm stand white and I can make a call. We're not sayin would never make a call. What we're saying | c1The second2talking about a03o3ng in that4amazingly unlthat you55For example, iis your6Hurricane Kat | a fall zone in terms of in the unlikely ilure of the tower. That is an ikely event. Towers, in fact, stay up. If you look back on the information about rina you'll find that the only thing that |
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10 (Pages 37 to 40)

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| | Page 37 | | Page 39 |
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| 1 | about a failure rate of any kind of significance, in | 1 | retain the discretion that you would have with regard |
| 2 | fact, virtually zero. | 2 | to use of your ordinance and establishment of your |
| 3 | With regard to the Telecommunications Act, a | 3 | ordinance and, in fact, noting that you have compliance |
| 4 | couple of things there. The first thing, the | 4 | with the ordinance, but there are certain limitations |
| 5 | Telecommunications Act is one that creates our right to | 5 | on the application of that discretion you have. |
| 6 | be able to get these licenses that Bob referred to in | 6 | Let me read you two of them. The first one said, |
| 7 | the first place. Those licenses give us the right, | 7 | "The regulation of the placement, construction and |
| 8 | which we purchased from the FCC for the purpose of | 8 | modification of personal wireless service facilities by |
| 9 | being able to provide telecommunication services within | 8 | any state or local government or instrumentality |
| 10 | an area. As part of those licenses we commit to the | 10 | thereof shall not prohibit or have the effect of |
| 11 | FCC that we will provide coverage on the greatest | 11 | prohibiting the provision of personal wireless |
| 12 | extent possible with regard to basically keeping the | 12 | services." The circumstance that was described just a |
| 13 | license as a condition to the license. So for the | 13 | few moments ago by Bob is the fact that right now there |
| 14 | process of actually getting these sites in place it's | 14 | is a prohibition, there is no personal services at this |
| 15 | not only a matter of business, it's a matter of trying | 15 | point. You don't have them. |
| 16 | to get these things in a full coverage. | 16 | If by application here, by the denial of a permit |
| 17 | The Telecommunications Act itself, if you look at | 17 | of this special land use permit in this circumstance, |
| . 18 | the legislative history behind it, you'll see that one | 18 | you keep those two poles to the north and south that |
| 19 | of the basic reasons for the existence of this in the | 19 | was discussed by Bob, that is the effect of prohibiting |
| 20 | first place was to make for nationwide coverage. There | 20 | personal wireless services. That's what I talked about |
| 21 | was an acknowledgement that with regard to our | 21 | previously. |
| 22 | liability, with regard to effectiveness and with regard | 22 | If you have a reason to deny, this is what the |
| 23 | to things like safety that cell phones were, in fact, a | 23 | Telecommunications Act says. "Any decision by a state |
| 24 | great deal better communication source than landlines. | 24 | or local government or instrumentality thereof to deny |
| 25 | And to that end, at this day more people have cell | 25 | a request to place, construct or modify personal |
| 1 | | | |
| | Page 38 | | Page 40 |
| 1 | | 1 | Page 40 wireless service facilities shall be in writing and |
| 1 2 | Page 38 phones alone with no landline at all than do not. At this point there are more homes out there that don't | 1 2 | |
| | phones alone with no landline at all than do not. At | | wireless service facilities shall be in writing and |
| 2 | phones alone with no landline at all than do not. At this point there are more homes out there that don't | 2 | wireless service facilities shall be in writing and shall be supported by substantial evidence contained in |
| 2 3 | phones alone with no landline at all than do not. At this point there are more homes out there that don't have a landline at all and rely totally on their cell phones. Homeland Security has noted the fact that these | 2 3 4 5 | wireless service facilities shall be in writing and shall be supported by substantial evidence contained in a written record." The substantial evidence standard has been, in fact, considered by a number of courts, including the |
| 2 3 4 | phones alone with no landline at all than do not. At this point there are more homes out there that don't have a landline at all and rely totally on their cell phones.Homeland Security has noted the fact that these particular cell phones constitute a strong first line | 2 3 4 5 6 | wireless service facilities shall be in writing and shall be supported by substantial evidence contained in a written record." The substantial evidence standard has been, in fact, considered by a number of courts, including the Sixth Circuit Court of Appeals, which is the one that |
| 2 3 4 5 | phones alone with no landline at all than do not. At this point there are more homes out there that don't have a landline at all and rely totally on their cell phones.Homeland Security has noted the fact that these particular cell phones constitute a strong first line of defense with regard to dealing with issues that | 2 3 4 5 6 7 | wireless service facilities shall be in writing and shall be supported by substantial evidence contained in a written record." The substantial evidence standard has been, in fact, considered by a number of courts, including the Sixth Circuit Court of Appeals, which is the one that governs the State of Michigan. It has been very clear |
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| | Page 41 | | Page 43 |
| 1 1 | Bob has already presented you with the information | 1 | supplemented the record to address any additional |
| 2 | regarding the fact that we do, in fact, comply with the | 2 | concerns that may be raised. |
| 3 | FCC's rigorous standards to us with regard to our | 3 | To the extent that there is this issue related to |
| 4 | emissions. | 4 | environmental permits and what not raised, I think that |
| 5 | I would also point out that a cell tower creates, | 5 | the case law makes clear that, you know, we don't have |
| 6 | despite the fact that you will hear the phrase | 6 | to have permits in hand when we come to you, we just |
| 7 | radiation, this is not radiation in a layperson's | 7 | have to get them to construct the site, and that's part |
| 8 | sense. What most people think of when they think of | 8 | of the permitting and approval process. And, |
| 9 | radiation is they are thinking of ionizing radiation. | 9 | obviously, if we can't get them we won't build them, |
| 10 | That's the kind of radiation that has an effect on | 10 | but there's a particular case up in New York, Lucas vs. |
| 11 | human tissue like x-rays. What we're talking about in | 11 | Planning Board, which addresses this issue, and I don't |
| 12 | this case are radio waves, and basically those are | 12 | believe that's a legitimate basis to deny an |
| 13 | non-ionizing radiation. | 13 | application before you. |
| 14 | And I'm not going to go into any more detail about | 14 | So I would reserve our opportunity I guess to |
| 15 . | it than that, other than to say you can look to the | 15 | address whatever the appellants are going to raise |
| 16 | American Cancer Society website, an independent source, | 16 | before this commission, and certainly any questions |
| 17 | which says specifically that there is no evidence | 17 | that this commission has. But, again, we feel that the |
| 18 | supporting the effect of cell towers as having any | 18 | commission made the correct decision the first time, |
| 19 | deleterious health effects. | 19 | and we would urge you to do so again. Thank you. |
| . 20 | MR. ESTEY: And I would just conclude by saying, | 20 | MR, WIGGINS: Okay. At this point I'm going to |
| 21 | you know, we believe that the initial decision, | 21 | turn it over to public comment. I'll ask that you |
| 22 | although it was only 4 to 1 I believe, of the Planning | 22 | state your name for the record, so we've got it. And, |
| 23 | Commission that affirmed this particular application | 23 | am I correct, we try to limit public comment to three |
| 24 | was correct. It saw that there was not substantial | 24 | minutes? |
| 25 | evidence in the record to rebut positions that Verizon | 25 | MR. GREEN: That is your option, but, yes. |
| NELANGUNAN AND AND AND AND AND AND AND AND AND | Page 42 | | Page 44 |
| | | 1 | |
| 1 | submitted. | 1 2 | MR. WIGGINS: And one other thing. To the extent if we can keep it limited to things that haven't been |
| 2 | I think the problem was, and I can't emphasize this enough, I think that unfortunately through | 2 | brought up. I mean, you can state you agree with |
| 3 | whatever or however it occurred the record that was | 4 | somebody. We don't need to rehash the same thing over |
| 4 5 | presented to the ZBA was incomplete, be it that all of | 5 | and over. So with that said, any public comment? Yes. |
| 6 | this didn't get into the minutes or what not. That's | 6 | MR. BARNES: Roy Barnes, I live about three- |
| 7 | why there's a court reporter here tonight. It will all | 7 | quarters of a mile down the road, and I know that |
| 8 | be in the minutes. If it's not in the minutes it will | 8 | there's a lock on it, and there's supposedly a lawsuit |
| 9 | be in the transcript. | 9 | going against it, and this is hearsay, but it gets to |
| 10 | But the point is that I don't think the ZBA would | 10 | where I have to be on one side of my house and be able |
| 10 11 | have put this back here if they had seen all of this, | 11 | to talk. I was just got on the phone tonight with |
| 12 | because I think you did your job, and I don't think | 12 | Verizon, because my internet wasn't working right, |
| 13 | that the other site would have been upheld on appeal | 13 | because it wasn't loading the way it's supposed to. I |
| 14 | and now be in a federal lawsuit if the ZBA had seen all | 14 | have a bad connection. I get it jumps from just the |
| 15 | of the evidence, because they would have recognized | 15 | towers that you see and if it's loaded down to IX, it |
| 16 | they didn't have a basis to overturn it, but I think | 16 | can be 1X to 4G in just a second, bounces back and |
| 17 | through a series of unfortunate circumstances the | 17 | forth. |
| 18 | minutes didn't fully reflect everything that was put | 18 | And there's somebody that decides that, he's out |
| 19 | before this commission. | 19 | of state or not, not out of state but almost, he's in |
| 20 | So I just want to reiterate. We think you did | 20 | Lansing, and he's got somebody that has a deal with a |
| 21 | everything right the first time. We think that you | 21 | helicopter with the sheriffs department that I have |
| 22 | appropriately approved the application. We think we | 22 | seen land next door, but is blocking this situation. I |
| 23 | submitted the evidence into the record that | 23 | don't know what his name is or nothing. But for me, I |
| 2.7 | | | |
| 23 24 25 | demonstrated that you should approve it. We think we have done that again here tonight. We have | 24 25 | don't have a whole lot of money, but I'd like to be able to not throw my cell phone across the room because |

12 (Pages 45 to 48)

| | Page 45 | | Page 47 |
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| 1 | I got disconnected, and a \$600 cell phone to me is a | 1 | say what this gentleman said, that there was a AT&T |
| 2 | lot of money. Flying in with a sheriff department | 2 | phone in the vehicle. I guess my question is that I |
| 3 | helicopter to me is a lot of money, and trying to find | 3 | have AT&T coverage, I travel that area quite often, and |
| 4 | a way to put that where he wants to put it still, to | 4 | I have no concern with coverage on AT&T. Maybe there |
| 5 | me, I'd like to be able to make a call. | 5 | is with Verizon. |
| 6 | MR. WIGGINS: Okay. | 6 | But also being a resident in the area I can feel |
| 7 | MR. BARNES: That's all I have to say. | 7 | for these folks here who have to look at and stare at |
| 8 | MR. WIGGINS: Okay. Thank you. Anybody else? | 8 | the tower when there are other opportunities. There's |
| 9 | Yes. | 9 | 4,000 or 5,000 acres of public land in the area where |
| 10 | MR. OLIVER: I'm Terry Oliver, Selma Township | 10 | the towers would not have to be viewed by citizens that |
| 11 | supervisor, 3280 Maplewood Drive, Cadillac. I'm just | 11 | moved into that area for a reason, to escape lights, |
| 12 | here voicing my opinion on some of the constituents in | 12 | towers, things of that nature. |
| 13 | my township, and the concern is that some of these | 13 | I was just hoping that maybe the board could |
| 14 | things aren't the ordinances, they aren't complying | 14 | re-evaluate or give them an opportunity to, as was |
| 15 | with the ordinance, and all I'm asking is the board | 15 | mentioned at the appeal, to look at putting the towers |
| 16 | really think this through. Once the infrastructure is | 16 | possibly on state land, which they said could be done, |
| 17 | up there that everything is in place, and if it does | 17 | to where only people passing through that state land |
| 18 | happen that they go by the laws and the laws and | 18 | have to view the towers and not citizens that support |
| 19 | regulations, and that's a big concern of my | 19 | paying taxes in the community will have to look at and |
| 20 | constituents. | 20 | see those towers every minute that they are at their |
| 21 | so I just wanted to voice my opinion on it. I had | 21 | house. Thank you. |
| 22 | my constituents, quite a few, ask me to come here and | 22 | MR. WIGGINS: Okay. Yes. |
| 23 | voice my opinion on it. So, thank you. | 23 | MR. DONOVAN: My name is Patrick Donovan. I live |
| 24 | MR, WIGGINS: Okay. Thank you. Yes. | 24 | at 2069 South 29 Road in Selma Township. And I'm |
| 25 | MR. BOYD: Mike Boyd. I'm on the board of Selma | 25 | objecting to the issuance of a permit for the tower on |
| | | | |
| | Page 46 | | Page 48 |
| 1 | Township. I'm also here representing my constituents. | 1 | 24 Road principally because it's key to the lawsuit |
| 2 | I realize that we need cell service and we need it | 2 | that covers the proposed tower that's going to be just |
| 3 | everywhere, so we can get it. I guess my only problem | 3 | down the road from my home on 29 Road. |
| 4 | is where the placement of this tower is, I mean, with | 4 | And as I read the zoning ordinance I call your |
| 5 | all the federal forest land and stuff out there why | 5 | attention to Article 1, Section 1.3, scope, which says |
| 6 | does it have to be in someone's backyard? | 6 | that the ordinance is to be the minimum requirements, |
| 7 | And, again, they say they can't use the AT&T tower | 7 | and "whenever the requirements of the ordinance are at |
| 8 | because it's and I'm not an engineer, so I don't | 8 | variance with the requirements of other lawfully |
| 9 | know. Okay. So they can't use it, and they would have | 9 | adopted rules, regulations or restrictions or with |
| 10 | to build another tower. Well, couldn't they put the | 10 | existing easements, covenants or other agreements |
| 11 | other tower some place less conspicuous to make that | 11 | between parties, the requirements imposing the more |
| 12 | one work and so on? | 12 | restrictive standard shall govern." |
| 13 | And also, I got a question too. I'm not a lawyer, | 1,3 | Now, all I've been asking for since May 14 is |
| 1 1 4 | | 1 / | adharange to the minimum requirements of the social |
| 14 | but when the appeal was sent back isn't this supposed | 14 15 | adherence to the minimum requirements of the zoning |
| 15 | but when the appeal was sent back isn't this supposed to go to circuit court? No? | 15 | law, and that requires that 10,000 foot isolation from |
| 15 16 | but when the appeal was sent back isn't this supposed to go to circuit court? No? MR. GREEN: We've already discussed that. | 15 16 | law, and that requires that 10,000 foot isolation from an existing tower, and that requires 300 percent |
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13 (Pages 49 to 52)

| 1the Telecommunications Act, and this is not Verizon's1MR. JOHNSON: My name is Wendell Joh2act. It's an act for all the telecommunications2an attorney from Traverse City, Smith & John3companies, and I haven't heard any evidence either on3Bay Street. I'm here representing John Wilson4May 14 or this evening that says there's somewhere in4mother and daughter, owners of the property at5this proposed area for these three towers where you5the west of the applicant's property. I handled6can't make a phone call on a cell phone. It's not just6appeal that took this matter to the ZBA and go7Verizon's system.7here.8And I asked in the May 14 meeting to avoid8I have some evidence I would like to presend9redundancy of tower placement that we look at9this board. I cannot do that within three minu10co-location, and it's required by the zoning ordinance10would ask for the courtesy of additional time.11as a minimum requirement. Thank you.11applicant had nearly an hour to present their c12MR. XIGGINS: Thank you. Yes.12I'd like some special disposition, if you will, fit13MR. ZIETZ: My name is Randy Zietz, and I live on13this board. | nson, 603 n, his adjacent to |
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| 12 MR. WIGGINS: Thank you. Yes. 12 I'd like some special disposition, if you will, fi | |
| | |
| + | |
| 14 24 Road across from the proposed tower location. 14 MR. WIGGINS: How much time do you t | think you want? |
| 15 Basically, I don't like the idea of the tower being 15 MR. JOHNSON: I don't know. | |
| 16 there because I don't want to see it. I mean, that is 16 MR. WIGGINS: Okay. | |
| 17 the number one thing. I've been there 33 years. I'm 17 MR. MIX: Corey, he's an attorney. | |
| 18 there and stayed there because I like the area and I 18 MR. WIGGINS: Okay. Go ahead. | |
| 19 like the way it is. I like the partial agriculture and 19 MR. JOHNSON: Thank you. I guess initi | ially I |
| 20 forest and residential location. 20 appreciate that. I want to point out that the land | nd |
| 21 Second of all, I don't understand the absolute 21 we're talking about is residential property. Th | nis |
| 22 need to put it where they want to put it, because I 22 isn't commercial. This isn't industrial. What | we're |
| 23 have Verizon. I have good phone connection. I have 23 talking about is a drastic change of use for that | it |
| 24 the internet. I have no problem whatsoever. I do 24 area. We oppose not the towers but the location | on that's |
| agree when you drop into the valley from the area you 25 been selected for a variety of reasons. | |
| Page 50 | Page 52 |
| 1 do lose reception, I can see that point, but where I'm 1 Principally, this site violates your zon | ing |
| 2 at I'm not understanding that. 2 ordinance. This site is not, and under the | e federal law |
| 3 Earlier Bob referred to a car accident where the 3 that's been referred to tangentially here, i | is not the |
| 4 people could not use the phone. I came across that 4 least intrusive alternative location. And, | finally, |
| 5 accident probably about 15 minutes after it occurred. 5 there are available other suitable existing | towers that |
| 6 The vehicle was in a valley and it went down into a 6 are out there. | |
| 7 lower area, it was lower than the road. You know, I 7 I guess I'd like to inquire initially, bec | |
| 8 don't know that Verizon's mission should be to be able 8 see a smaller crowd here, what notice wa | is given for |
| 9 to make cell phone access 100 percent in every 9 tonight's meeting? | |
| 10 basement, corner, valley, nook, cranny, behind trees or 10 MR. GREEN: 300 feet from the prop | |
| 11 hills or anything like that. That's just my opinion. 11 within 300 feet from the property was no | utied as |
| 12 I don't know that we have to do that, that it has to be 12 required by law. | -44414-1 |
| 13 that way. 13 MR. JOHNSON: Thank you. The sta | |
| 14I do know that like three-eighths of a mile14been referred to, the federal law, that allow15located to the west of the area there's township15board full power to consider what's going | 1 |
| | |
| - F-F | |
| 17in that area that should be available. To me, I think17second and read the preservation of local18that should be looked at. It has like no neighbors to18section. It says that "nothing in this act s | |
| 19 worry about or almost none. That's all I have to say. 19 the effect of the authority of a state or loc | 1 |
| 20 Thank you. 20 government," that's and have to say. 20 government," that's you, "or instru | |
| 20 Inank you. 21 MR. WIGGINS: Anybody else? 21 thereof over decisions regarding the place | |
| 22 MR. BARNES: Possible? 22 construction and modification of persona | |
| 23 MR. WIGGINS: Let's give everybody else a run- 23 service facilities." | |
| 24 through first before we come back. 24 It goes on to list three no, four exce | ptions. |
| 25 MR. BARNES: Anybody else? 25 You couldn't freeze out all towers, and the | - |

14 (Pages 53 to 56)

| | Page 53 | | Page 55 |
|--|---|--|--|
| 1 | subparagraph 3 referred to by Mr. LaBelle, shall not | 1 | Mr. Wilson, are aware that there is a spring right near |
| 2 | prohibit or have the effect of prohibiting provision of | 2 | the proposed site. There's wetlands near the proposed |
| 3 | personal wireless services. You are not. You have | 3 | site. The drilling of the footings to put that tower |
| 4 | wireless service by at least two different service | 4 | in creates a potential that threatens the hydrology of |
| 5 | providers here. So that's not an issue. You have full | 5 | the entire area interfering with the natural flow. |
| 6 | power. | 6 | That's on the water, and then you've got what's |
| 7 | There is federal law does impose certain well- | 7 | going to be stored there. They are going to have their |
| 8 | defined limitations, but those limitations are | 8 | backup generators, they are going to have propane, they |
| 9 | prescribed by the governing statutes and don't | 9 | are going to have antenna materials containing PCBs, |
| 10 | interfere with your authority. So I would urge you to | 10 | all of which can run into the wetlands, causing, as Mr. |
| 11 | not give up any of the turf of your zoning ordinance | 11 | Wierenga's letter says, irreversible consequences. |
| 12 | here tonight. | 12 | Now, in that second paragraph of Mr. Wierenga's |
| 13 | Now, the initial concern we have is on a | 13 | letter he comments that he had toured the area and |
| 14 | environmental approach to what's going on. I had asked | 14 | noticed towers in other areas, and attached to his |
| 15 | for an opinion on this site from an engineering firm in | 15 | letter then are photographs of a couple towers just to |
| 16 | Traverse City, Fleis & Vanderbrink. I got a letter | 16 | demonstrate what is being considered in his mind, and |
| 17 | from a Harry Wierenga, which I would like to offer to | 17 | on the final page standing on Mr. Wilson's property he |
| 18 | the board and make some comments on. | 18 | shows what that tower is going to look like from the |
| 19 | MR. GREEN: Could I get a copy of that for the | 19 | adjacent property, and it's a pretty offensive kind of |
| 20 | file? I'd like your letter to Verizon when you get | 20 | look. It's not in the middle of nowhere. It is |
| 21 | one. | 21 | offending the neighbors that live right next door and |
| 22 | PUBLIC VOICE: Hey, Verizon needs a letter too. | 22 | throughout the neighborhood. |
| 23 | MR. LABELLE: We got it. Thank you. | 23 | We are also concerned with safety issues. You |
| 24 | MR. JOHNSON: Mr. Wierenga here in this letter had | 24 | know, the proposed site that's here on this big map |
| 25 | not been on the site because he can't get on the | 25 | down by Mike, the distances violate your own zoning |
| 644032333233300000 | | | |
| | Page 54 | | Page 56 |
| 1 | | 1 | Page 56 ordinance. It infringes both on the setbacks and on |
| 1 2 | Page 54 private property, but he viewed the property from next door. He says, "We've been requested to conduct an | 1 2 | - |
| | private property, but he viewed the property from next | 5 | ordinance. It infringes both on the setbacks and on |
| 2 | private property, but he viewed the property from next door. He says, "We've been requested to conduct an | 2 | ordinance. It infringes both on the setbacks and on the fall zone. Now, the Wexford County zoning |
| 2 3 | private property, but he viewed the property from next door. He says, "We've been requested to conduct an environmental impact assessment on the subject property | 2 3 | ordinance. It infringes both on the setbacks and on the fall zone. Now, the Wexford County zoning ordinance way back at the beginning of in the scope |
| 2 3 4 | private property, but he viewed the property from next door. He says, "We've been requested to conduct an environmental impact assessment on the subject property by the owner, Mr. Wilson. We were contacted because of | 2 3 4 | ordinance. It infringes both on the setbacks and on the fall zone. Now, the Wexford County zoning ordinance way back at the beginning of in the scope says this zoning ordinance is the minimum requirements |
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| 2 3 4 5 6 | private property, but he viewed the property from next door. He says, "We've been requested to conduct an environmental impact assessment on the subject property by the owner, Mr. Wilson. We were contacted because of our extensive experience in land planning community zoning and site plan approval for a wide range of | 2 3 4 5 6 | ordinance. It infringes both on the setbacks and on the fall zone. Now, the Wexford County zoning ordinance way back at the beginning of in the scope says this zoning ordinance is the minimum requirements for promoting the health, safety and welfare. That's what this board is all about and having to |
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| | Page 57 | | Page 59 |
| 1 | You know, the placement of this tower causes my | 1 | courts, then they can maybe use some of the federal |
| 2 | client damage to his property value, it reduces his | 2 | land then to satisfy their needs rather than taking |
| 3 | ability to use his land. If he's going to put in some | 3 | private property. |
| 4 | housing he then loses 600 feet of his land to set it | 4 | We're asking that you consider the impact on the |
| 5 | back to create his own safety zone. And you can see | 5 | adjacent property, not just the impact on the applicant |
| 6 | from the photos attached to Mr. Wierenga's letter, this | 6 | Verizon, and that you deny this application in its |
| 7 | thing is going to affect the scenic quality, one of the | 7 | entirety. And a denial coming out of this board is |
| 8 | factors this board has to consider. Again, we're not | 8 | going to have to be supported by what they say in law, |
| 9 | against the tower. We're against the location of the | 9 | substantial evidence contained in a written record. |
| 10 | tower. | 10 | Now, substantial evidence is defined to be "such |
| 11 | Furthermore, the location violates the zoning | 11 | evidence relevant in a reasonable mind might except as |
| 12 | ordinance in its distance. You have under that Table 2 | 12 | adequate to support a conclusion." I submit to you |
| 13 | a 10,000 foot minimum requirement, but the distance | 13 | that what you've heard from the neighbors here speaking |
| 14 | from the existing tower to the proposed site, as you | 14 | in opposition and the points that I have made |
| 15 | can see, is far less than the 10,000 feet. To the site | 15 | substantiate the sufficient opposition to uphold your |
| 16 | would be 8,850 feet. The furthest distance on this | 16 | zoning and deny this application. Thank you, Mr. |
| 17 | land to separate it from the proposed tower would be | 17 | Chairman. |
| 18 | 9,330 feet. Again, there is not space on this location | 18 | MR. WIGGINS: Thank you. |
| 19 | to make a legitimate siting. | 19 | MR. ESTEY: May I respond, Mr. Chairman? |
| 20 | I call your attention to your own application form | 20 | MR. WIGGINS: Yes, but let's just get one more |
| 21 | for special uses. It says everything has to be | 21 | public comment. He's been waiting. |
| 22 | harmonious, has to be harmonious to the character of | 22 | MR. BARNES: What I have seen so far tonight is I |
| 23 | the vicinity. Well, this effectively is a commercial | 23 | know round-about the one that flies a helicopter, the |
| 24 | use of this land in a residential area. It has to be | 24 | ones down the street, ones that I'm going against, I'm |
| 25 | harmonious and not hazardous or disturbing to the | 25 | not naming names, they are the ones that got the money. |
| The second second second second | | | |
| | Page 58 | | Page 60 |
| 1 | - | 1 | - |
| 1 2 | existing or future uses of the nearby land. Clearly, | 1 2 | Page 60 I don't have the money. Maybe they will give me a couple dollars to shut up, I don't know, but they get, |
| | - | 8 | I don't have the money. Maybe they will give me a |
| 2 | existing or future uses of the nearby land. Clearly, this will, when it starts using up Mr. Wilson's land. | 2 | I don't have the money. Maybe they will give me a couple dollars to shut up, I don't know, but they get, |
| 2 3 | existing or future uses of the nearby land. Clearly, this will, when it starts using up Mr. Wilson's land. And it has to be consistent with the intent and | 2 3 | I don't have the money. Maybe they will give me a couple dollars to shut up, I don't know, but they get, they get their way. My feeling, that's my own personal |
| 2 3 4 | existing or future uses of the nearby land. Clearly, this will, when it starts using up Mr. Wilson's land. And it has to be consistent with the intent and purposes of your zoning ordinance. | 2 3 4 | I don't have the money. Maybe they will give me a couple dollars to shut up, I don't know, but they get, they get their way. My feeling, that's my own personal feeling. |
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| | Page 61 | | Page 63 |
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| 1 | on. But myself, I'd just like to be able to sit and | 1 | area, and all three of these sites address different |
| 2 | talk on the phone without getting dropped and get so | 2 | concerns that the company has with the gaps that you |
| 3 | pissed off that I'm throwing it against my couch. | 3 | see on the maps that you have. I mean, before you is |
| 4 | MR. WIGGINS: Okay. All right. Thank you. Mr. | 4 | just one of them, but obviously there were two others |
| 5 | Estey. | 5 | that were part of that Planning Commission meeting. So |
| 6 | MR. MITCHELL: Before Mr. Estey's rebuttal, Mr. | 6 | the goal, obviously, is to fill in that entire area, so |
| 7 | Chair, if I could ask a question of this. | 7 | that there's adequate coverage. This is just one piece |
| · 8 | MR. WIGGINS: Sure. | 8 | of the puzzle. |
| 9 | MR. MITCHELL: It was brought up some stuff about | 9 | MR. MITCHELL: So you have plotted out different |
| 10 | going on state property and stuff, and now I see that | 10 | areas, but this was the best location? |
| 11 | your RF guy is here, what would be the impact of moving | 11 | MR. BUHARIWALLA: This was the best location, |
| 12 | said location, and I'm sure you've plotted it out to | 12 | exactly. |
| 13 | see if it would work, can you give me the rebuttal if | 13 | MR. LABELLE: Basically, moving into that area |
| 14 | you did move it, how would it affect your coverage? | 14 | would not cover the coverage gap that we're talking |
| 15 | Because I don't really know, because that's not going | 15 | about. |
| 16 | to be listed here. | 16 | MR. BUHARIWALLA: Exactly. |
| 17 | MR. LABELLE: Before Dinyar answers, it's going to | 17 | MR. MITCHELL: So moving it outside of that area |
| 18 | be both Bob and Dinyar. Bob is the one who is the site | 18 | is going in the opposite direction? |
| 19 | opposition specialist. | 19 | MR. BUHARIWALLA: Yes. |
| 20 | MR. MITCHELL: That's fine. | 20 | MR. MITCHELL: Thank you, Chair. |
| 21 | MR. WIGGINS: Could you give us your name for the | 21 | MR. ESTEY: I'd like to be brief. First, I'd |
| 22 | record? | 22 | like to address some of the legal points that were |
| 23 | MR. BUHARIWALLA: Dinyar Buhariwalla. Do you want | 陵 | raised briefly. I'm not sure who raised it. I think |
| 24 | me to spell it? | 24 | it was the opponent's counsel, but there was a mention |
| - 25 | (Laughter) | 25 | that there is other coverage in the community through |
| | | E . | |
| | Page 62 | | Page 64 |
| 1 | Page 62 MR. WIGGINS: She can get it afterwards. | 1 | Page 64 AT&T, maybe T-Mobile, and that so long as that other |
| 1 | _ | 1 2 | |
| | MR, WIGGINS: She can get it afterwards. | l. | AT&T, maybe T-Mobile, and that so long as that other |
| 2 | MR. WIGGINS: She can get it afterwards. MR. BUHARIWALLA: Okay. Sorry I'm late, but | 2 | AT&T, maybe T-Mobile, and that so long as that other coverage is sufficient you can preclude Verizon from having a tower in this particular area to cover its lack of coverage. That is not what the law is. It is |
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17 (Pages 65 to 68)

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| | Page 65 | | Page 67 |
| . 1 | us, Verizon, AT&T, Sprint, et cetera, "is | 1 | issues and make determinations. |
| 2 | sufficient." | 2 | The second thing that I would point out is or |
| 3 | "The Ninth Circuit rejected the one provider | 3 | the third thing rather, is that the case law is very |
| 4 | rule," that's what that is, "and adopted a | 4 | clear that citizens' generalized expressions, while I |
| 5 | standard that considers whether a provider is prevented | 5 | understand them from an emotional perspective of |
| 6 | from filling a significant gap in its own service | 6 | aesthetics and decreases in property values and the |
| 7 | coverage. In light of the FCC's endorsement of the | 7 | like, those are not legitimate concerns under federal |
| 8 | standards used by the First and Ninth Circuits | 8 | law for this board to consider with respect to an |
| 9 | we," meaning the Sixth Circuit Court of Appeals, | 9 | approval or a denial of this application. |
| 10 | which governs the State of Michigan, " we now adopt | 10 | And I then want to now specifically turn to and |
| 11 | this approach." | 11 | address the things that Mr. Johnson raised. He started |
| 12 | In other words, if a single provider can provide | 12 | by indicating that this is a residential property. |
| 13 | in this area, that's not sufficient. Under the act an | 13 | Well, that's not a real fair characterization. This is |
| 14 | effective prohibition is created if it's in our own | 14 | an agricultural property, it's a farm, and this tower |
| 15 | coverage. One of the major reasons for the | 15 | is on a farm. There are other towers that have been |
| 16 | Telecommunications Act being adopted in the first place | 16 | approved in the community that are on similarly |
| 17 | was to encourage competition between providers. That's | 17 | situated land. So I think that's a little bit of a red |
| . 18 | not possible if the one provider rule is adopted, and | 18 | herring. |
| 19 | that's why the Sixth Circuit Court went that direction. | 19 | I also think that what he presented to you |
| 20 | MS. MONROE: When did that opinion come down, Bob? | 20 | tonight, with all due respect, was not evidence. It |
| 21 | MR. LABELLE: 2012. | 21 | was a lot of opinion testimony and his own |
| 22 | MS. MONROE: So that's not included in here; | 22 | interpretation of the ordinance, some of which, as well |
| 23 | correct? | 23 | as federal law, some of which I think was just wrong. |
| 24 | MR. LABELLE: No. | 24 | But, secondly, let's look at the letter that he |
| 25 | MR. ESTEY: Part of what we're trying to do here | 25 | submitted from this Mr., I don't know, I'll probably |
| | Page 66 | | Page 68 |
| 1 | today is affirm your decision. We don't want you to | 1 | mispronounce this, Wierenga of Fleis & Vanderbrink. |
| 2 | commit error. We want you to follow the law. All of | 2 | This letter, first of all, states by its own admission |
| 3 | what I'm trying to do is reiterate that what you did | 3 | that these pictures don't adequately describe the |
| 4 | originally was correct and that you should do the same | 4 | view. I don't know where he got these pictures of |
| 5 | thing tonight, and so all of this is directed to that | 5 | these towers. It appears that he took these towers |
| 6 | end. | 6 | from other towers. I don't know how high they are. I |
| 7 | I just want to cover a couple of points. I | 7 | don't know where they were located. I don't know what |
| 8 | respect the political officials who are here from Selma | 8 | their design standards were, but he took some towers |

8 respect the political officials who are here from Selma Township, and I appreciate their concerns. To the 9 10 extent that their concerns are related to Verizon, they can rest assured that Verizon will comply with 11 whatever the ordinance is pursuant to their approved 12 13 permits, but this site is not in Selma Township, it's 14 in Colfax. So I believe that they are referring to 15 different towers and different jurisdiction.

16 16 There was a concern raised by the resident that appealed the other site that's now the subject of the 17 17 18 18 federal lawsuit related to this scope of the ordinance 19 19 in Section 1.3. I would just indicate that that 20 doesn't apply, because there is no conflict here. I 20 21 21 mean, the PC has clear discretion under its ordinance 22 22 to review these issues and make determinations. So 23 23 it's not that this tower is in violation of the 24 24 ordinance. It's not that, you know, somehow there's a 25 25 conflict. You have clear discretion to review these

their design standards were, but he took some towers somewhere and posed them on a picture, and he wants you to believe that that's what it's going to look like on this site. There is no court in the world that would accept that as evidence. It's just flat out, and I know Mr. Wiggins is well aware of that --

MR. LABELLE: And it's the wrong kind of tower. That's a picture of a guyed tower.

MR. ESTEY: So, with all due respect, it's just deceptive, and I think it's important to point that out to this Planning Commission.

Secondly, what he does is he talks about this wetland issue, and in addition to the Lucas case, which I cited, while that's not an appropriate consideration for this commission, and we will comply with whatever wetland permits we need to get, I do want to note and point out, and we're happy to give this letter to the Planning Commission, I have one copy but we can get

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| Fage 72 additionals made, that this site is not in the wetland. affirmed tonight. 2 The wetland is 200 feet north and 300 feet south of the proposed tower. So that also is a red hering. 3 3 MR. MITCHTELL. Can we get cupy of that? MR. LABELLE: I can get you copies of this. 6 MR. LABELLE: I can get you copies of this. 5 7 MR. LABELLE: I can get you copies of this. 6 8 provided an opinion to urclient about. So, again, 7 9 piost to correct the record, the so-called evidence 9 9 to tork correct the record, the so-called evidence 9 11 this being submitted on bohalf of the opponent in this case, and really, it sounds like only one primary 11 12 the water one was realized by the DNR 11 13 doesn't hold muster. 12 14 14 wet hare submitted evidence from an RF engineer 14 wet not realy our section of our onvironmental onal dub of the size. We have submitted evidence on or providel 14 the twe rest ossith, were not incet the rectoria and doesn't hold muster. 15 the were not required by an out-of-state resident 15 text. We have submitted evidence from an RF engineer 14 tea | | | | |
|---|--|--|--|--|
| 2The welland is 200 fet north and 300 feet soulh of the proposed tower. So that also is a red herring.74MR. MITCHELL: Can we get copy of that?75MR. LABELLE: I can get you copies of fits.66MR. ESTEY: This was based on a threas that and provided an opinion to ure lient about. So, again, just to correct the record, the so-called evidence this seting submitted on babil of the goment in this care, and really, it sounds like only one primary opponent, it just does not meet the criteria and does not how they interpret we have the criteria and maps. They haven to from an RF engineers the that's haven't pub fefor you propagation maps. They haven't pub fefor you propagation that would be sufficient. They haven to third a map. They haven't pub fefor you propagation would be sufficient. They haven't pub fefor you propagation that you also submitted vidence on or privide you RF propagation maps to demonstrate that that tower you RF propagation maps to demonstrate that that tower you RF propagation maps to demonstrate that that tower a map free you.11Here they haven't pub fefor the says the "report idemifies" would be sufficient. They haven to hird a gradient elevidence is you that you as bodied co-levidence for on and a disel restriction be device production.12I want to real you a succino the says the "report idemifies" would be sufficient. They haven the they are you propagation that you alw to shold co-levidence on or privide the applicant and all of the evidence what you122You RF propagation maps to demonstrate that that tower applicant and all of the evidence what you23Those two recompound location, both taken you the substantial evidence is and the substantial evidence is and the i | | Page 69 | | Page 71 |
| 3proposed tower. So that dis is a red herring. MR. MITCHELL: Can we get copy of thit?4things, and it will come from that. One was related to the environmental concerns. Steve already mentioned the fact that wore not actually in the weal and y mentioned the fact that wore not actually in the weal and the target and provided an ophion to our client about. So, again, just to correct the record, the so-called evidence that's being submitted on behalf of the opponent in this case, and really, it sounds like only one primary consultant's report. He says the "report identifies who's here to testify. We have an RF engineer's who's here to testify. We have an RF engineer's the tart they said we should co-locate on or provided a maps. They haven't prut before you propagation that's coming in now and opponging this particular site that's comisigen in maps. They haven't presented any evidence to you that would do be sufficient. They haven't presented any evidence to you that would do be sufficient. They haven't presented any evidence to you that would ab sufficient and all of the evidence that a maps.", ". for erasion control and a dear estimation."72have is an attorney hired by an out-of-state resident that's coming in now and opponging this particular site that in dias community. You have residence to it, so if you were to weigh the evidence, what you so if you were to weigh the evidence, what you so if you were to weigh the evidence, what you so if you were to theigh that's is appropriate. All of which sengence who has testifically woreholming, frankly. The second thing I want to che kere is Mr. Johnson where that the sis and the weight the this is appropriate. All of which so if you were to weigh the evidence what the so if you were to weigh the evidence what the so if you were to weigh the evidence evidence that in | 1 | additionals made, that this site is not in the wetland. | 1 | affirmed tonight. |
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19 (Pages 73 to 76)

| | Page 73 | | Page 75 |
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| 1 | The Sixth Circuit Court of Appeals established pretty | 1 | noticed in there that the environmental, to deny on the |
| 2 | substantially in what, in fact, is the standard by | 2 | basis of environment is strictly related to the radio |
| 3 | which this substantial evidence standard has to be | 3 | frequency. It does not say whether you can deny or not |
| 4 | evaluated by this Planning Commission. That's true in | 4 | on wetlands, but it does say the radio frequency only, |
| 5 | this circumstance as well. | 5 | you cannot use that as a basis for denial. |
| 6 | MR. ESTEY: That's all I have too, Mr. Chairman. | 6 | You can deny if other service is available. You |
| 7 | MR. WIGGINS: We have a request from a couple of | 7 | can deny if there are still gaps remaining, as I |
| 8 | members of the board to take about a five-minute | 8 | understand it. It's not you are not obligated to |
| 9 | recess, so we can use the bathroom and what not. So | 9 | have 100 percent coverage everywhere. That was what I |
| 10 | unless there's an objection we're going to recess for | 10 | read out of here. I can go on, if you want. |
| . 11 | about five minutes or so. | 11 | MR. MITCHELL: Mr. Chair? |
| 12 | (From 8:43 to 8:53 p.m. off record) | 12 | MR. WIGGINS: Yes. |
| 13 | MR. WIGGINS: All right. We will reconvene at | 13 | MR. MITCHELL: In talking about the FCC ruling, |
| 14 | 8:53. What is this that was just handed out? | 14 | since I'm not an attorney, my attorney is not present, |
| 15 | MR. PRZYBYLO: That's just pictures of the | 15 | it's hard for me to make a decision based on the FCC |
| 16 | signage, the markings out there. | 16 | ruling when my layman's sense could be incorrect. I |
| 17 | MR. MITCHELL: How about the wetland document that | 17 | don't think presenting some of the FCC ruling in effect |
| 18 | you guys had that you were reading, are we still going | 18 | on this board is appropriate at this time. |
| 19 | to get a copy of that? | 19 | I think that we just need to go off of the |
| 20 | MR. LABELLE: You mean this? Yeah. Mike made | 20 | information that was given to us by Verizon, and it |
| 21 | copies of this already. | 21 | looks like they have done their due diligence with |
| 22 | MR. MITCHELL: Oh, I apologize. All I got was | 22 | bringing all the proposals to us and also the |
| 23 | this. | 23 | information, the data requirements. So bringing the |
| 24 | MR. GREEN: I've got more copies coming. You | 24 | FCC into this I don't think is necessary at this time. |
| 25 | didn't hand this one out to anyone else? | 25 | MS. MONROE: Well, it's certainly been brought in. |
| COLUMNER OF THE OWNER OF THE OWNER OF THE | | 1 | |
| | Page 74 | | Page 76 |
| . 1 | _ | 1 | - |
| 1 | MR. LABELLE: No, I just gave it to you. | 1 2 | Page 76 I just wanted to say that what the FCC rules are pretty much falls right in with our zoning ordinances. A |
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20 (Pages 77 to 80)

| | Page 77 | | Page 79 |
|--|--|--|---|
| 1 | MR. WIGGINS: Mr. Middaugh? | 1 | list of reasons why. |
| 2 | MR. MIDDAUGH: No, sir. | . 2 | MR. WIGGINS: Can you just summarize the reasons |
| 3 | MR. WIGGINS: Ms. Monroe? | 3 | again? |
| 4 | MS. MONROE: I can make a motion. | 4 | MR. GREEN: Yeah, go ahead. |
| 5 | MR, WIGGINS: Okay. | 5 | MS. MONROE: It does not comply with the master |
| 6 | MS. MONROE: Are you ready for a motion? | 6 | plan or the purposes of our zoning ordinances, because |
| 7 | MR. WIGGINS: Certainly. | 7 | of the negative impact on residential areas, because of |
| 8 | MS. MONROE: I would make a motion that we deny | 8 | the proximity to neighboring lots, and not meeting our |
| 9 | this on the basis of the fact that it does not comply | 9 | zoning setback rules. We did not consider a lesser |
| 10 | with the master plan or the zoning ordinance purposes. | 10 | height, which I think is something that we had the |
| 11 | It has impact on the residential areas, negative impact | 11 | option of doing, and we didn't, so I'm denying on the |
| 12 | on residential areas on the basis of the proximity to | 12 | basis of what was presented. Denying on the basis of |
| 13 | the neighboring lots. We had not considered a lesser | 13 | property values, aesthetics and the harmonious fit to |
| 14 | height, and that is a possibility. | 14 | the neighborhood. Denying because service is |
| 15 | Also deny on the basis of the effect on property | 15 | available. We are allowed to have gaps in the service. |
| 16 | values and aesthetics and the fit and whether it's | 16 | We don't have to provide 100 percent coverage. Some |
| 17 | harmonious, which is covered in our ordinances. Deny | 17 | level of wireless coverage does exist there. |
| 18 | on the basis of services available. We don't have to | 18 | We can also deny based somewhat on public |
| 19 | have 100 percent coverage. There can be gaps left. | 19 | opposition. We can deny because the wireless company, |
| 20 | Some wireless coverage is available in those areas. 1 | 20 | in my opinion, has failed to demonstrate that there is |
| 21 | know, I went out there and tested it myself with | 21 | no reasonable alternative sites for their service. I |
| 22 | Verizon. | 22 | also went on to say that we do not have a practice of |
| 23 | We can also deny on the basis of public | 23 | rejecting wireless towers. So that is not a reason for |
| 24 | opposition, and there is nothing in the evidence that | 24 | us to approve it, because we've already approved so |
| 25 | shows that we have ever had any | 25 | many of them. We do not have a practice of eliminating |
| ***** | | | |
| | Page 78 | | |
| | _ | | Page 80 |
| 1 | MR. MIX: Is this a motion or a speech? | 1 | or prohibiting services. |
| 2 | MR. MIX: Is this a motion or a speech? MS. MONROE: Yes, it is a motion. | 2 | or prohibiting services. MR. WIGGINS: Discussion on the motion? |
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21 (Pages 81 to 84)

| | Page 81 | | Page 83 |
|--|--|--|---|
| 1 | tower and equipment shelter. I would like to waive the | 1 | motion? Discussion on the motion. I have a question. |
| 2 | distance between the towers and waive the setbacks. I | 2 | Under what standard or reason are we waiving the |
| 3 | do not have the correct numbers for that. Mike said he | 3 | setback requirements of the distance between the |
| 4 | could add those in. | 4 | towers? |
| 5 | MR. GREEN: Mm-hmm. | 5 | MR. MIX: We did it in Buckley last year. |
| 6 | MR. MITCHELL: Mr. Chair, if I may add, I will | 6 | MR. WIGGINS: Is that the only reason? |
| 7 | support Mr. Mix's motion if Article 3(A) Section 2 is | 7 | MR. MIX: Well |
| 8 | also added. | 8 | MR. WIGGINS: I'm just asking, Mike. |
| 9 | MR. MIX: Can you tell me what that is? | 9 | MR. MIX: It's an arbitrary number. It's just |
| 10 | MR. MITCHELL: That's the section allowing us the | 10 | picked out of the sky, and this book was written in |
| 11 | requirement no? The one you showed me. | 11 | 1995 and a lot has happened since then. We have moved |
| 12 | MR. MIX: Oh, you are talking about that. Okay. | 12 | forward. These wireless towers are going to be going |
| 13 | MR. MITCHELL: The Planning Commission may reduce | | in closer than 10,000 feet, in some areas. We live in |
| 14 | the burden. | 14 | a county with hills and trees. So that's the reason. |
| 15 | MR. MIX: It also just says that the Planning | 15 | MR. WIGGINS: Okay. |
| 16 | Commission may waive or reduce the burden on the | 16 | MR. MIDDAUGH: It's real close to the 10,000. |
| 17 | applicant of one or more of these criteria, if the | 17 | MR. MITCHELL: We're talking 8,850. We're just |
| 1.8 | Planning Commission concludes that the goals of this | 18 | shy of 10,000 feet. I don't perceive that as being an |
| 19 | ordinance are better served thereby. | 19 | issue. |
| 20 | MR. MITCHELL: So I would request Mr. Mix to add | 20 | MS. MONROE: Does it have to go through a variance |
| 20 | Article 3(A) Section 2, also the license being | 21 | procedure? |
| 22 | necessary in my opinion would be the information that | 22 | MR. WIGGINS: I don't think so, because my |
| 23 | was provided for the wetland documentation, the FCC | 23 | understanding is the ordinance gives us the ability to |
| 24 | license, and then the RF's indications of plotability, | 24 | change setbacks if it's demonstrated there's a need to |
| 25 | and I'll support. | 25 | do so. |
| | | | |
| | | | Doco 94 |
| - | Page 82 | 1 | Page 84 |
| 1 | MR. MIX: I will add those to my motion as Mr. | 1 | MR. MITCHELL: That's my understanding as well. |
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| | Page 85 | | Page 87 |
|--|---|--|--|
| 1 | Appeals, and that's within 15 days of the final | 1 | counsel take care of it. We're not here to settle |
| 2 | decision in writing, which is the approval of the | 2 | lawsuits. |
| 3 | minutes, presumably next month. | 3 | MR. MITCHELL: If we're just in discussion right |
| 4 | MR. WIGGINS: I would like to make a formal | 4 | now, I have been advised by Mr. Hinton to see if this |
| 5 | request that we do have a meeting next month, so we | 5 | could be settled differently with Verizon, and I was |
| 6 | don't hold this up any longer than we need to. | 6 | asked by other commissioners to request that Verizon, |
| 7 | MR. GREEN: Okay. | 7 | to ask them if they would consider coming back to the |
| 8 | MR. MITCHELL: I'll support. | 8 | board with some new information and present themselves |
| 9 | MR. WIGGINS: All those in favor of the motion to | 9 | again. That's what I was told. |
| 10 | have a meeting next month to approve the minutes say | 10 | MR. STOUTENBURG: Why not let the county reach out |
| 11 | aye. | 11 | and do that? Don't make us do that. It's not a good |
| 12 | BOARD MEMBERS: Ayes. | 12 | idea. |
| 13 | MR. WIGGINS: Opposed? | 13 | MR. WIGGINS: I tend to agree. My position on |
| 14 | (No response) | 14 | that is that it almost gives the implication that we |
| 15 | MR. WIGGINS: Hearing none, the motion carries. | 15 | would be finding in favor of Verizon, if we ask them to |
| 16 | Okay. Moving on to old business, 7(b), discussion to | 16 | come back and re-apply, and that's a taint that I don't |
| 17 | turn down the Verizon tower at 29 Road and M-115. Mr. | 17 | want this commission to have. |
| 18 | Mix, I believe this was your addition. | 18 | MR. MITCHELL: Do we know why the Zoning Board of |
| 19 | MR. MIX: As we have heard, Verizon has filed a | 19 | Appeals denied their approval, their first approval, by |
| 20 | federal lawsuit against Wexford County. There's not | 20 | this board? |
| 21 | enough difference between these two towers, and Wexford | | MS. MONROE: Well, you can look in the minutes, |
| 22 | County cannot afford a lawsuit at this time. I am | 22 | you know. |
| 23 | going to make a motion to ask Verizon to reconsider and | 23 | MR. MITCHELL: 1 don't want that's, that's up |
| 24 | re-apply for that wireless tower at 29 Road and 115 in | 24 | for debate. There is no real reason. It doesn't give |
| 25 | an effort to stop this lawsuit from going on. | 25 | me anything. There's no clarity to it. I would like |
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| | Page 86 | | Page 88 |
| 1 | _ | 1 | Page 88 clarity to something that I'm supposed to look at. |
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23 (Pages 89 to 91)

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|----|---|----------|---|------|----------|
| | Page 89 | | | Page | 91 |
| 1 | MS. MONROE: No. | 1 | | | |
| 2 | MR. GREEN: Middaugh? | 2 | STATE OF MICHIGAN) | | |
| 3 | MR. MIDDAUGH: No. | 3 | COUNTY OF WEXFORD) | | |
| 4 | MR. GREEN: Stoutenburg? | 4 | | | |
| 5 | MR. STOUTENBURG: No. | 5 | I certify that this transcript, consisting of 91 | | |
| 6 | MR. GREEN: Mitchell? | 6 | pages, is a complete, true, and correct transcript of | | |
| 7 | MR. MITCHELL: Yes. | 7 | the proceedings and testimony taken in this case on | | |
| 8 | MR. GREEN: Wiggins? | 8 | September 10, 2014. | | |
| 9 | MR. WIGGINS: No. | 9 | | | |
| 10 | MR. GREEN: Okay. That's a 4 to 2 against the | 10 | | | |
| 11 | motion. | 11 12 | | | |
| 12 | 1 | 12 | KATHLEEN TULICK, CSR 4806 | | |
| 13 | MR. WIGGINS: The motion fails. Any new business, | 13 | 3434 Veterans Drive | | |
| | Mike? | 10 | Traverse City, Michigan 49684 | | |
| 14 | MR. GREEN: No. | 14 | Haverse City, Michigan 49004 | | |
| 15 | MR. WIGGINS: Any other public comment that we | 15 | | | |
| 16 | haven't already heard tonight? | 16 | September 19, 2014 | | |
| 17 | (No response) | 17 | · · · · · · · · · · · · · · · · · · · | | |
| 18 | MR. WIGGINS: Hearing none, I'll hear a motion for | 18 | | | |
| 19 | adjournment. | 19 | | | |
| 20 | MR. MIDDAUGH: So moved. | 20 | | | |
| 21 | MR. MITCHELL: Support. | 21 | | | |
| 22 | MR. WIGGINS: Moved by Middaugh, seconded by | 22 | | | |
| 23 | Mitchell. All those in favor? | 23 | | | |
| 24 | BOARD MEMBERS: Ayes. | 24 | | | |
| 25 | MR, WIGGINS: Opposed? | 25 | | | |
| | Page 90 | | | | |
| | - | | | | |
| 1 | (No response) | | | | |
| 2 | MR. WIGGINS: Thank you, everybody. We're | | | | |
| 3 | adjourned. | | | | |
| 4 | | | | | |
| 5 | (At 9:16 p.m. meeting concluded) | | | | |
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