

ST. MARY'S COUNTY BOARD OF APPEALS

In the Matter of Telecom Capital Group, LLC
39240 Cooney Neck Road
Mechanicsville, Maryland

Case No. CUAP # 15-135-003

DECISION AND ORDER

Introduction

Telecom Capital Group, LLC (hereinafter "Applicant") filed an application for a conditional use permit pursuant to Chapter 25 of the St. Mary's County Comprehensive Zoning Ordinance (hereinafter the "Ordinance") regarding property located at 39240 Cooney Neck Road, Mechanicsville, Maryland (hereinafter the "Property").

After due notice, a public hearing was held at 6:30 p.m. on November 12, 2015, at the St. Mary's County Governmental Center at 41770 Baldrige Street in Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn and documentary evidence was received. The proceedings were recorded electronically.

Legal Standard

The Board shall not approve a conditional use unless it finds, based on the evidence, that:

1. The conditional use complies with the standards of the district in which it is to be located and standards applicable to that use;
2. The establishment, maintenance, and operation of the conditional use will not be detrimental to or endanger the public health, safety, convenience, morals, order, or general welfare;
3. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood;
4. The proposed use at the proposed location will not have adverse effects above and beyond those inherently associated with the proposed use irrespective of its location within the zoning district;
5. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;
6. Adequate measures have been or will be taken to provide ingress and egress following a design that minimizes traffic congestion in the public streets;

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7. The proposed conditional use is not contrary to the goals, objectives, and policies of the Comprehensive Plan; and
8. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located or to the special requirements established for the specific conditional use in Chapter 51.

Findings of Fact

The Property is a large agricultural lot containing two (2) single-family dwellings, four (4) barns, six (6) sheds, and a swimming pool. The Property is densely wooded and constrained by steep slopes. A thirteen (13)-foot wide paved driveway extends from Cooney Neck Road to the central portion of the Property where the residences and accessory structures are located.

The Applicant proposes to construct a monopole-style commercial communication tower on a somewhat open area in the southwest corner of the Property, at an elevation of one hundred ninety-five (195) feet above ground level. The Tower will be constructed within a gravel lease area measuring seventy feet by seventy feet (70 x 70), or four thousand nine hundred (4,900) square feet. The lease area will be enclosed by a ten (10)-foot high chain link fence to prevent accidental contact with the Tower or its equipment shelters. The lease area will be surrounded by the existing mature woods except for that portion of the site that will be cleared for the lease area and for access. The tower's design and structural capacity will support five (5) service providers, including Verizon Wireless. The County does not intend to locate antennae on the Tower as the Tower site is not needed to support its 911 service.

The Property is served by the gravel driveway extending from Cooney Neck Road. The Applicant also intends to construct an extension therefrom to access the fenced lease area housing the Tower and equipment cabinets.

The nearest property boundary is approximately two hundred eight (208) feet south of the proposed Tower, and approximately one hundred eighty-five (185) feet from the paved surface of Cooney Neck Road. The closest structure is a house on an adjacent lot, which is located approximately seven hundred thirty-five (735) feet from the Tower. Accordingly, the Tower's setbacks from all property lines exceed the Tower's height. The area surrounding the Property is thickly wooded and many of the residences are tucked among the woods.

Additional specific findings of fact are as follows:

1. There is a gap in the coverage provided by existing towers in the geographic area to be served by the proposed tower.
2. The proposed tower would provide coverage in the geographic area for which coverage is not provided by existing towers.