

EAST BERLIN BOROUGH COUNCIL
128 Water Street
East Berlin, PA 17316

Conditional Use Hearing - Chesapeake Towers

February 25, 2013

A Conditional Use Hearing was held before the East Berlin Borough Council February 25, 2013, at the East Berlin Borough Hall. The hearing was opened with the Pledge of Allegiance at 7:00 PM.

Members Present: Vice President James LeVan; Roberta Teal; Charles Eisenhart; Richard Cashman; and Andrew Raymond

Members Absent: President Charles Krall; and Donald Dixon

Also Present: Solicitor Matthew Battersby; Stenographer Deborah Zepp; Secretary/Treasurer Darlene McArthur; Suzie Myers; Mike Cook; Susan Hess; Debbie Shearer; Perry Shearer; David Woodward; Rita Linebaugh; Earl Linebaugh, II; Leslie Deardorff; and David Richards

Attending for Chesapeake Towers, LLC - James Strong, Attorney for the Applicant; Donald Carpenter, Carpenter Consulting Group; Brian Seidel, Seidel Planning & Design; and Mark Rubin, RF Services, Inc.

Vice President LeVan stated that tonight's hearing will serve as a public comment period for the Conditional Use application received from Chesapeake Towers to lease a portion of a tract of Borough-owned property located in the Mixed Use District of East Berlin Borough. Solicitor Battersby stated that the Conditional Use application would be Borough Exhibit No. 1 and inquired if proof of publication of tonight's hearing was available as Borough Exhibit No. 2. Ms. McArthur stated that proof of publication would be provided. In response to Solicitor Battersby's inquiry regarding notice to adjoining property owners, Zoning Officer Robert Thaeler responded that not all notices were sent prior to the minimum seven-day notice period. Solicitor Battersby stated that tonight's hearing would be continued to another date to allow for any additional comment, but that all those present would be allowed to speak this evening. An inquiry was made from an unidentified attendee asking if tenants of the adjoining property owners were notified. Solicitor Battersby responded that only property owners were notified as required and may inform their tenants if they wish. It was noted that the hearing was advertised in the newspaper as well.

James Strong identified himself as attorney for the applicant and submitted Chesapeake Tower Exhibits No. 1 through No. 9 including an application to place a telecommunications tower at 240 Zinn Avenue in the Mixed Use District. Attorney Strong cited the land uses allowed per the Borough's Zoning Ordinance in the Mixed Use District including telecommunications towers.

Donald Carpenter of Carpenter Consulting Group was sworn in by Ms. Zepp. Mr. Carpenter stated his experience in site development and reviewed the plans for the tower site to include a one hundred eighty foot (180') self-supporting tower to hold up to six (6) carriers. The structure of the self-supporting tower was described as less visually intrusive and would be a flat matte gray color. The utilities would be accessed from the rear (west side) of the property. Mr. Carpenter noted that approval was obtained from DCNR to allow the tower on Project 70 land. Chesapeake agrees to allow the public to use the access road at Sunday Alley to be gated at the tower compound. The road will be compact stone with one (1) culvert crossing to allow drainage. Setbacks for the compound will be one hundred forty-six feet (146') from the front (east), nine hundred thirty-four feet (934') from the rear (west), and four hundred seven decimal five feet (407.5') from the side (south). There will be two (2) parking spaces in the compound which will be accessed approximately one (1) time per month. A fence will surround the compound at a height of seven feet (7') with and additional one foot (1') of barbed wire.

Mark Rubin of RF Services, Inc. was sworn in by Ms. Zepp. Mr. Rubin reviewed his expertise in electrical and computer engineering and explained his research in locating a potential area lacking service through radio frequency analysis, which may be addressed by the use of a tall structure or a constructed tower. Mr. Rubin described the chosen location as being a good size (1,500 residents), having two (2) state highways (popular commuter roads), and unreliable in-building coverage. Mr. Rubin reviewed his process of analysis and presented a map showing unreliable areas for calls and wireless data. The first objective of the project is to the Borough, with the second objective to the travelers on Routes 194 and 234. Mr. Rubin described his difficulties with reception inside of Sidney Restaurant, and stressed the importance of 911 calling ability on wireless telephones and the need for fast speed data. Attorney Strong inquired of other tall structures in the area. Mr. Rubin stated that there are up to seven (7) wireless facilities within a five (5) mile radius but the signal will not travel far enough to assist in this pocket of in-building unreliability. It was noted that two (2) reasonably tall structures exist with no wireless communications on either. A fifty foot (50') water tower near Park Avenue is too short to cover the southern area, and a sixty foot (60') silo near Primrose Lane would only support one (1) carrier. Mr. Rubin stressed the need for an overlap area and mentioned the proposed tower in Abbottstown. Attorney Strong inquired of the tower height of one hundred eighty feet (180') as the minimum to meet the objective. Mr. Rubin stated that the height of the tower is needed to allow for multiple carriers to co-locate at ten foot (10') spacing on the tower. Attorney Strong inquired if the antennas will cause radio interference. Mr. Rubin responded that it would not interfere and is compliant with the FCC (Federal Communications Commission). Attorney Strong inquired of FAA (Federal Aviation Administration) compliance. Mr. Rubin responded that the tower is FAA complaint.

Brian Seidel of Seidel Planning & Design was sworn in by Ms. Zepp. Mr. Seidel explained his experience in land use planning and referenced the tower as a permitted use in the Mixed Use District. Mr. Seidel presented a site suitability report describing the site, use, applicable zoning requirements, aerial photo, and a detailed specific location. It was noted that all the zoning criteria are met. Attorney Strong inquired of any negative impacts of the project. Mr. Seidel stated that the only true negative impact is the appearance of the tower to the residents east of the site. Mr. Seidel explained that the lattice-style structure has less mass, blends into the landscape, and will be a neutral color. Attorney Strong inquired if the site is within one thousand feet (1,000') of the designated historic district. Mr. Seidel stated that the site is more than one thousand six hundred feet (1,600') from the designated historic district. Richard Cashman referenced the monopole tower base as six feet (6') to eight feet (8') in diameter and inquired of the footprint of the lattice structure. Mr. Seidel stated there would be ten feet (10') to twelve feet (12') between the base feet which would be only three inches (3") to four inches (4") in diameter, allowing a more transparent structure. There was some discussion of the size of the compound needed for monopole or lattice towers.

All Chesapeake Exhibits were admitted to Ms. Zepp. Solicitor Battersby inquired if any adjoining property owners wished to make comment.

Rita Linebaugh of 313 Abbottstown Street was sworn in by Ms. Zepp. In response to Mrs. Linebaugh's inquiry, the access point was confirmed as Sunday (Zinn) Alley. Mrs. Linebaugh stated that she is not concerned with the aesthetics of the tower, but is concerned with the health risks of possible radiation emissions in a densely populated area. Mr. Rubin stated that East Berlin has a relatively low density population and noted that many medical facilities have these same transmitters. Mr. Rubin stated that urban areas will have hundreds or thousands of transmitters in close proximity where in a rural area, they are miles apart. Mr. Rubin again reviewed the FCC study and reiterated that the transmitters are under what is safe even if transmitting one hundred ninety (190) times more signal. Mrs. Linebaugh again stated her concern of safety and referenced articles she has been reading. It was noted that if compliance is established as safe, there can be no further inquiry. Mrs. Linebaugh inquired of the tower's effect on property values. Attorney Strong stated that he is not an appraiser, but in consideration of the need for cellular coverage, the tower could be a bonus. Solicitor Battersby noted that supposed effect on property values is not a consideration in the allowance of conditional use, and asked if any other Borough residents would like to make comment.

David Richards of 202 Beaver Street was sworn in by Ms. Zepp. In response to Mr. Richards' inquiry regarding the tower setback from the neighboring property, Mr. Carpenter responded that the structure is one hundred forty-six feet (146') from the front. Mr. Richards voiced his concern that at one hundred eighty feet (180') in height, the tower could fall on the buildings east of the compound. Mr. Richards questioned Mr. Rubin on his method of measuring signal strength. Mr. Rubin stated that the signal strength was measured, tested, and corroborated. In response to Mr. Richards' inquiry of the reason for redaction of the agreement as a submitted exhibit, Mr. Seidel responded that only the financial terms of the agreement were redacted.

Susan Hess of 508 Beaver Street was sworn in by Ms. Zepp. In referencing Mr. Rubin's difficulty with cell coverage inside of Sidney Restaurant, Mrs. Hess stated that she has Verizon service and has no problem. Mr. Rubin stated that Verizon has superior coverage in this area except to the south, and that his difficulty was with AT&T service. Mrs. Hess repeatedly asked who contacted Chesapeake Towers to come to East Berlin Borough, asserting that someone from the Borough requested the cell tower. It was noted that the representatives attending this evening's hearing are not directly employed by Chesapeake Towers, but are offering their technical expertise on behalf of the proposed project. Mr. Rubin responded to specific technical inquiries from Mrs. Hess regarding the use of microwaves. Mrs. Hess requested the specifics of the financial terms of the agreement for the placement of the tower. Solicitor Battersby stated that financial terms of the agreement are not a part of the Conditional Use approval process, but the agreement is a public document and may be inspected at the Borough office.

David Woodward of 412 W. King Street was sworn in by Ms. Zepp. Mr. Woodward referenced a stake he observed near the proposed site in Kuhn's Woods and inquired of its proximity to the tower. Mr. Carpenter stated that he performed a site inspection but was unsure of the stake in question. In response to his inquiries, Mr. Woodward was informed that no trees will be removed and that the placement of the tower would not interfere with the proposed rail trail. It was also noted that the access road could be beneficial to the rail trail. In response to Mr. Woodward question regarding the dead spot in transmitter coverage, it was noted that the nearest tower north of town would not correct the in-building reliability issue.

Michael Cook of 104 Branch Circle was sworn in by Ms. Zepp. Mr. Cook inquired who would be responsible for construction and maintenance of the access road. Mr. Carpenter stated that the tower company was responsible for the access road. Regarding Mr. Cook's inquiry of property tax on the tower facility, it was noted that the property as owned by the Borough is tax exempt.

As adjoining property owner notices were not delivered in a timely manner, this evening's Conditional Use Hearing is continued to 6:00 PM on March 27, 2013 at the Borough Hall. Council exited the Hearing at 8:18 PM..

Respectfully submitted,

Darlene McArthur
Secretary/Treasurer of Borough Council