

**Tax Map/Block/Parcel
No. 12/21/265**

**Building Permit/Zoning
Certificate No. 99-1776**

Case 4417

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPLICANT: Sprint PCS
6905 Rockledge Drive, Suite 300
Bethesda, Maryland 20817

ATTORNEY: John T. Maguire, Esquire
Hollman, Hughes, Finch & Maguire
189 East Main Street
Westminster, Maryland 21157

REQUEST: A request for a conditional use for a 250 foot tall telecommunications tower and up to 5 equipment cabinets, all enclosed within a 50 foot by 50 foot fence; a variance to reduce the required 258 foot setback from the western lot line to 78 feet; and a variance to reduce the required 258 foot setback from the southern lot line to 206.5 feet.

LOCATION: Located at 1211 Cherrytown Road on property zoned "A" Agricultural District in Election District 3.

BASES: Article 4, Section 4.11(c)(2) and Article 4, Section 4.11(c)(2)(a)(b); Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: July 26, 1999

FINDINGS AND CONCLUSION

On July 26, 1999, the Board of Zoning Appeals (the Board) convened to hear the application of Sprint PCS for a conditional use for a 250 foot tall telecommunications tower and up to 5 equipment cabinets, all enclosed within a 50 foot by 50 foot fence; a variance to reduce the required 258 foot setback from the western lot line to 78 feet; and a variance to reduce the required 258 foot setback from the southern lot line to 206.5 feet. The site is located at 1211 Cherrytown Road on property zoned "A" Agricultural District in Election District 3. A consolidated hearing of Cases 4416 and 4417 was held due to the similarities in the conditional use applications. The Board's findings and conclusions in Case 4417 are as follows.

The Applicant, Sprint PCS, was represented by John T. Maguire, Esquire. The testimony of Mr. Ryan Conaway, a radio frequency engineer with Sprint PCS, and Mr. Al Ott, site acquisition specialist with Sprint PCS, and Mr. Timothy D. Burns, project manager with Pond & Company is summarized as follows. Sprint PCS currently does not have wireless phone coverage in Carroll County. Sprint PCS purchased frequency for the Carroll County area from the Federal Communications Commission (FCC). Sprint PCS performed an analysis of the target service area and developed a plan for areas where Sprint PCS antennas and towers would be located. Three sites were identified within the search ring for the location of the tower and Sprint PCS selected the 1211 Cherrytown Road site as the most appropriate geographically and the least intrusive to neighboring residences. APC Realty and Equipment Company, LLC, a subsidiary of Sprint PCS, has entered into a lease agreement with the property owner, Silver Run Poultry, Inc. The lease term is five years with four - five year renewal options. If the lease is terminated or expires, Sprint PCS must remove the tower and return the site to its original condition. There is a chicken farm in operation at the location. A 250 foot tall, self-supporting telecommunications tower made of galvanized steel with a 37 foot base and supporting structures enclosed in a 50 foot by 50 foot fenced compound will be located at the location. The tower will be located southwest on the property near the existing manure pool that supports the chicken farm. The placement of the tower in this area has been determined the most appropriate considering the existing home and poultry buildings. The installation of a tower at this location necessitates the request for the two variances to the south and west of the site. The tower will be constructed to meet Federal, State, and local industry standards. The chain link fence around the compound will be seven feet high with one foot of barbed wire at the top. A landscape buffer will be installed around the compound. The site has existing electrical connections. An generator and a 250 gallon propane storage tank will be located at the site for back up power in the event of an electrical power outage. Lights will be placed on the tower in compliance with the FCC regulations. The lights on the tower are designed to cause little or no impact on residents in the area. The site will be inspected by once a month. The number of antennas on the tower will not exceed nine.

Mr. Terrence W. McPherson, MAI, SRA, an appraiser, testified as follows. He performed a market study of the relative values of homes and lots in proximity to telecommunications towers 250 feet in height or taller in the following subdivisions: Furnace Hills, Westminster, Maryland; Riggs Meadows, Cooksville, Maryland; and Valley Ridge Subdivision, Frederick, Maryland. Mr. McPherson found that there was no discernable difference in pricing of lots or houses that are located near telecommunications tower sites. Further, he found that the proposed lattice type commercial telecommunications tower and associated equipment on the subject property will have little or no impact on surrounding property values. Communication towers and telephone/electric poles are becoming more numerous and accepted by the home buying marketplace.

Mr. Alton J. Dutterer, whose property adjoins the west side of the site, testified against the request. He was concerned that if the variance to the west side of the site was granted, the tower would be too close to his property resulting in unsafe conditions should the tower collapse onto his property. Mr. Dutterer also testified that the tower may negatively impact the value of his property. Mr. Ray Owens testified that his mother owned property near the proposed use and he considered her property to be more suitable for the tower location.

The Board makes the following findings of fact with regard to this case. The Applicant has proven a need for the telecommunications tower to provide wireless phone service to its customers. The proposed use is appropriate at this location and it will not generate adverse effects greater than those ordinarily associated with this particular use irrespective of its location with the Zone. The public safety will not be jeopardized by this use. The values of property around the proposed site will not be adversely affected. The Board hereby grants the conditional use for a 250 foot tall telecommunications tower and up to 5 equipment cabinets, all enclosed within a 50 foot by 50 foot fence. In addition, the Board may grant a variance where strict compliance with the terms of the Zoning Ordinance would result in practical difficulty or undue hardship. The Board finds that the existence of the manure pond on the site creates unique hardships and difficulties with regard to overall use of the property and placement of the antennas and a variance from the strict terms of the Ordinance is warranted. Thus, a variance to reduce the required 258 foot setback from the western lot line to 78 feet is granted; and a variance to reduce the required 258 foot setback from the southern lot line to 206.5 feet at 1211 Cherrytown Road on property zoned "A" Agricultural District is granted.

8/6/99
Date

Karl V. Reichlin
Karl V. Reichlin, Chairman

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August 4, 1999