

Bainbridge Township, Ohio
Board of Zoning Appeals
August 5, 2010

Pursuant to notice by publication and certified mail, the special public hearing was called to order at 7:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Christopher Horn, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier.

Mr. Lamanna welcomed everyone to the special meeting of the Bainbridge Township Board of Zoning Appeals. He then explained the hearing process and swore in all persons who intended to testify.

Application 2010-14 by Geauga County, Board of County Commissioners for property at 16780 Savage Road - Continuance

The applicants are requesting a conditional use permit and an area variance for the purpose of installing a public safety wireless telecommunications tower facility, 300' self supporting tower with a 12' x 32' equipment shelter. The property is located in a R-3A District.

The zoning inspector's letter dated July 22, 2010 was read.

Ms. Laura LaChapelle of the Geauga County Prosecutor's Office and Mr. Gary Gribbens, Mr. Eric Bartholomew and Mr. Scott Hildenbrand of the Geauga County Sheriff's Department and Mr. Tom Curtain of the Geauga Park District were present to represent this application.

Mr. Lamanna stated that this application is a continuance for the purpose of providing additional information and asked the applicants to summarize the information for the board.

Mr. Eric Bartholomew testified that as requested by the board they submitted maps illustrating coverage at 195', 200', 250' and 300'. He said the blue areas indicate areas that are good so at 195' this is their basic performance (he referred to a map) and at 200' it would be virtually identical and at 250' there is only a slight improvement and if you take it up to our design height of 300' you will see a rather drastic increase in performance going up that extra 50' and overcoming some of the topographical obstacles that surround the site. He said one of the things they want to do is create what the impact to Bainbridge Township itself is and we know that we get some additional coverage in the adjoining communities and counties but what does Bainbridge get out of this. He said he will illustrate that at 195' in the southern part of the township here and 422 and they have this area where coverage doesn't meet their design criteria.

Ms. LaChapelle asked Mr. Bartholomew to explain the X's on the map.

Mr. Bartholomew said those are the sites, the existing site and the proposed site.

Mr. Murphy asked if that site exists as a cell tower or phone service.

Mr. Bartholomew referred to the map and said this site exists as a site for the county.

Mr. Murphy said so we have a tower there already and that tower is how tall.

Mr. Bartholomew said that tower is 280'.

Mr. Murphy said and it is right next to another tower in the same parking lot basically which is a cell tower.

Mr. Bartholomew said correct.

Mr. Murphy asked if it is a similar height.

Mr. Bartholomew said yes, taller than ours.

Mr. Olivier asked if that is 280'.

Mr. Bartholomew said correct and when they do their coverage prediction with Chagrin this includes the existing site and at 250' and they still have this area down here (he referred to a map).

Mr. Lewis asked Mr. Bartholomew to describe the white area and asked if that is the Geauga Lake Road kind of river valley down in there.

Mr. Bartholomew said he doesn't know every road in Bainbridge (he referred to a map) but here is the corner of the township, the red lines are the township and the county line and Geauga Lake would be right here and he believes the lake is right in this area where you see enhanced coverage, the hot spot is over water so that would be the actual lake.

Mr. Lewis asked if Chagrin Falls Park is receiving 100% coverage at 250'.

Mr. Bartholomew referred to a map and said here is Chagrin Falls Park.

Mr. Lewis asked if that is receiving 100% coverage and all up around Canyon Lakes and Chagrin River Road and Franklin and all of that.

Mr. Bartholomew said yes.

Mr. Lewis said so basically in Bainbridge it almost appears that the most dramatically impacted area that would not be receiving great service is that Geauga Lake Road valley.

Mr. Bartholomew said right and if you look at the topographical map there is a ridge that runs right along here (he referred to a map) so this hole is behind that ridge.

Mr. Murphy said he thinks it is the Aurora Branch of the Chagrin River that runs through there and then there is a hole because of the valley, not so much of a ridge, the land all falls off pretty sharply there.

Mr. Bartholomew said at 300' there is a pretty good fill and a nice continuous fill on both sides.

Mr. Lewis asked Mr. Bartholomew if he is suggesting that in any of the white areas there will be no coverage at all or as you state there will be incremental coverage.

Mr. Bartholomew said there will be much improved coverage because this design is based on building coverage and certainly the rays in the vehicle mounted high powered radios work in this area but in these small areas we will have substandard coverage.

Mr. Lewis asked about the portable hand-helds so when you say substandard, he is trying to get the idea.

Mr. Bartholomew explained that when they are in these areas they may be difficult to hear or the radio will beep indicating no service.

Mr. Lewis said okay and thank you.

Mr. Bartholomew said if you go to the parcel map what they have done is taken that hole and overlaid it with the GIS and you can see some of the parcels and the details contained in the area they are trying to improve.

Mr. Gary Gribbens asked how many parcels are there.

Mr. Bartholomew said approximately 1,700 acres.

Mr. Lewis said at the 195' height.

Mr. Bartholomew said that is existing.

Mr. Lewis asked if that is the tower hole or are they segmenting the 195' hole.

Mr. Murphy said the existing coverage hole or 195'.

Mr. Lewis asked for a clarification.

Mr. Bartholomew referred to a map and said this map is zoomed into this area.

Mr. Lewis said he wanted it quantified and asked if that hole he (Mr. Bartholomew) is speaking of is 1,700 acres.

Mr. Bartholomew said correct and in the request for the additional maps they did include a tower height of 250'. He showed a map and said this illustrates the difference between 200' and 250' and it is not that critical and the last map is the existing coverage and this is coverage strictly of the existing Bainbridge site so this is basically where we are at today. He said as you can see Chagrin Falls Park really is right on the edge of having adequate coverage.

Mr. Lewis said his observation is that 195' could probably cover the majority of the uncovered area and what we are doing is we are chasing the southwest quadrant with the additional height whether it goes to 250' or 300'.

Mr. Bartholomew said right.

Mr. Murphy said if we are looking at existing coverage it would look like to him that there is no coverage at the Four Corners of Aurora, Market Place in Aurora and asked if this covers the Geauga County Sheriff Department's radio coverage or is this Bainbridge Township and does the Bainbridge Township Police Department have this exact same thing so we are now without coverage at the Market Place in Aurora.

Mr. Bartholomew said the county system is now shared by Bainbridge Fire, Bainbridge Police, Geauga County Sheriff and all of the fire departments in Geauga County use the common platform so these maps all are identical for any agency.

Mr. Murphy asked if Bainbridge Township doesn't have a separate radio frequency so when our police officers go over to Market Place in Aurora they are out of the service area.

Mr. Bartholomew said yes inside the buildings and added that Home Depot and maybe Walmart have installed booster systems in their buildings and it was strictly voluntary but in those two buildings they can get coverage in because those property owners have taken that step.

Mr. Lamanna said there have been a couple of property owners that this board has required them to do that and Parkside may have those in it as well because of the size of the building and the number of people.

Mr. George Schultz of 16759 Savage Road testified that this tower will be right up the street from him and his question is why don't we move it down to the center of that white area where they don't have coverage.

Mr. Bartholomew said there are a number of reasons and one is they are trying to maximize coverage including areas in the township, this is a shared system with all communities in Geauga County and this does provide additional benefit to the neighbors of the north. He said the areas as they go lower in elevation, the tower becomes much less effective and one of the first things they look for is areas where zoning permits towers to be located and one of those permitted areas is the high tension power line easements. He said they attempted to locate the tower as close as practical to that high tension power line easement and it is approximately 30' outside of the easement. He said there are no other permitted areas up in this area, he referred to a map) and there is a business down here where there is a monopole for a cell tower and you lose nearly 200' of ground elevation as you go down the hill.

Mr. Schultz asked if it is 200' lower behind the armory.

Mr. Bartholomew said no not behind the armory, the armory is here, he referred to a map, and behind it over here is where the tower is permitted.

Mr. Schultz said you will actually be south of the armory is what you are saying.

Mr. Bartholomew said correct and the armory is here, he referred to a map, and this would be south of that.

Mr. Schultz said what about right at the end of Savage where the high tensions cross Washington.

Mr. Bartholomew said they looked at some areas here, he referred to a map, and either there wasn't property available and there is a large portion of the Muggleton property which has conservation easements so you can't put anything on the property. He said they did investigate it but it was a non-starter but there are other considerations they need for the site and they are trying to get in the power line easement and still have reasonable access to the road for power and we are in a high tension easement but we can't use those for power, we still have to bring it in from the street. He said they did investigate several properties in this area.

Mr. Murphy asked where the access road will be.

Mr. Bartholomew said it will be off the existing First Energy right-of-way, the access road off of Chagrin.

Mr. Schultz said he assumes that is going to be in the woods to the north of the highway.

Mr. Horn said it will be to the west of the high tension wires.

Mr. Schultz asked if the park is in a conservancy.

Mr. Tom Curtain of the Geauga Park District testified that they have a conservation easement there but they don't have a restriction like the conservancy put on the Muggleton property so the board does have the ability to allow an emergency communication tower to go in on park property.

Mr. Norman Schultz of 7444 Chagrin Road said Mr. Frohring will turn over in his grave.

Mr. Curtain said Mr. Frohring was a businessman and he understood and he talked to the family Paula Frohring and Glen Frohring and they are aware of this, they know.

Mr. Murphy asked if they are okay with this.

Mr. Curtain said they didn't say one way or the other.

Mr. George Schultz said Glenn Frohring is a nephew.

Mr. Curtain said that Paula Frohring donated \$50,000.000.

Mr. Lamanna reminded the audience to address their comments to the board.

Mr. Curtain said the park district said they are not thrilled about looking at a 300' tower but understands the necessity and they are supporting it.

Ms. LaChapelle said that Mr. Eric Bartholomew of the Sheriff's Department put together a photo approximation based on the height of the tower at 300'.

Mr. Horn asked if they said the one at Haskins Road is 280'.

Mr. Bartholomew said correct and submitted a photo to the board. He said the photo was taken right at the entrance to Frohring Meadows and approximated the dimensions and height of the proposed tower onto a photo of the park. He said the picture of the tower is of similar design of their proposed tower.

Mr. Horn asked if they have seen in recent years an advancement in technology such that there is less of a necessity for the number of towers or the height of towers.

Mr. Bartholomew said virtually no. He said their systems continue to grow and demand more coverage per building and especially the western side of the county continues to grow and new developments go up. He said in areas where coverage wasn't a concern, open fields, horse farms now are sprouting developments, homes and businesses and other facilities are cropping up and we are trying our best to address them for public safety agencies.

Mr. Bartholomew continued by saying often times we are asked what about satellites or other technology and satellite technology is available, it is out there, unfortunately it is hard to do the physics of having a satellite 22,000 miles away, it doesn't work in the buildings, you have to stand outside of the building to use it and it is fairly expensive for airtime fees. He said terrestrial ray systems aren't going anywhere for a long time but we are trying to minimize some of these towers by having a shared radio system in Geauga County, we don't have every entity putting up their own towers or their own radio system, we have one system used by everyone in the county so that keeps the number of towers down. He said they have also invited the State of Ohio and the State of Ohio's users to utilize their towers and their network when in Geauga County further cutting down the number of sites needed for the State of Ohio to construct.

Mr. Norm Schultz asked what is all going on this tower.

Mr. Bartholomew said right now only the Sheriff's Office.

Mr. Norm Schultz asked right now what is all going on the tower.

Mr. Bartholomew said three omni directional antennas and two dish antennas.

Mr. Norm Schultz said but you will be renting that tower out, it's a money maker.

Mr. Bartholomew said the zoning code of Bainbridge requires them to put in enough structural strength to accommodate two additional wireless carriers. He said they have stated in the past that it is not about money for them, most tower sites do not have cellular carriers on them and if it comes down to Bainbridge BZA not wanting that, they would be more than happy to forgo that and strictly use it for their users but they have included the capability to add up to two carriers per Bainbridge Township zoning code.

Mr. Horn said he thinks if they did they would have to come back to the BZA.

Mr. Bartholomew said yes they would have to go to the BZA and they would have to go to the Park Board to negotiate that but the Bainbridge Zoning code compels them to include structural strength to accommodate at least two wireless carriers.

Mr. Olivier said that is the purpose preventing proliferation of towers throughout the township so the board would look at that and determine whether it is better to put it on the existing or another tower somewhere else.

Mr. Lamanna said to remember any revenue they get offsets their cost.

Mr. Norm Schultz said he is not worried about their costs.

Mr. Lamanna said their costs come back in your tax bill every six months.

Mr. Norm Schultz said none of the other parks, he doesn't believe, in Geauga County have a tower in them and he can't see where this tower has anything to do with nature. He said these parks have been set up strictly for the public and for nature and now they are making it commercial.

Mr. Lamanna said it is not commercial it is public use, it is a public safety use.

Mr. Horn said there are already high tension wires running through there.

Mr. Norm Schultz said they should put it someplace else, out of the park.

Mr. Lamanna said it is the park district's call, they have a board and a charter and they have gone through the process and decided. He said it is an isolated piece of property on the other side of the high tension lines right.

Mr. Curtain said right and again the park district is motivated for public safety. He said the park board is not thrilled about it but they recognize the need.

Mr. Bartholomew said the portion of the park was selected to minimize the impact to the park's use of the property. He said the board mentioned they are at a corner of the property that is landlocked between two property lines and the high tension right-of-way and they are also at the extreme corner of the property to minimize any future use of the property.

Mr. Norm Schultz said he knows the property pretty well because he has been living there for 55 years.

Mr. Murphy asked if there is a reason for adding a 16' access road gate at Chagrin Road on the existing CEI power lines because when you have a gate you are locked.

Mr. Bartholomew said that is at the request of First Energy.

Mr. Murphy said years ago they did away with gating their power lines and a friend of his is one of the guys that was snowmobiling and that is whole reason for doing away with those things.

Mr. Bartholomew said First Energy in the past would string a cable across there which is pretty dangerous. He said their gate design which was at the request of First Energy when they negotiated an easement agreement to use their access road, they requested that they install a gate. He said if the board does not want that gate and compels them not to do it then they will have to go back to First Energy and tell them they are not going to do it but that is at the request of First Energy's Property Management Division. He said the design of the gate is not just a cable strung across there, it is fairly substantial and if needed, they can put reflective tape on there to increase its visibility.

Mr. Murphy said he does not know if the board has any power to say it shouldn't be put there but he does not think that anybody in the neighborhood wants to see it there, there are maybe 500 people that he knows that walk up the power lines to get to the park from Catsden, from Chagrin Road, from the new development now and there is going to be even more down there.

Mr. Bartholomew said the gate will be placed not right at Chagrin but enough that a vehicle could pull in to unlock the gate and not having to park on Chagrin so there will be a buffer zone, there is no proposal to put any fence in so a pedestrian could walk around the gate.

Mr. Bruce Vernyi of Savage Road testified that he was here at the last meeting and spoke and he was entirely opposed to this and still does not like the idea one bit but he spent some time with the Sheriff and his deputies and they explained and answered all of his questions very graciously and he understands the need for it, he doesn't like it but he would have to say he is really not opposed to it as he was at the earlier meeting.

Mr. Murphy asked if there is any idea when the EPA report will be in, you either get EPA approval or you don't and if that is the bottom line.

Mr. Bartholomew said it is probably for their protection that they don't start construction on a site that has a potential for contamination and obviously this site is extremely low risk due to its past history never having been used for any industrial or commercial use. He said the environmental site assessment is part of their due diligence and they don't anticipate any issues.

Mr. Lamanna asked if anyone else had any questions.

Since there was no further testimony, this application was concluded.

Further discussions took place after the public hearing portion was closed.

The board discussed the application.

Mr. Lamanna said the five items that need to be addressed are rear setback, the tower height, the conditional use for the location, the above ground equipment shelter and the waiver of the bond requirements.

Ms. LaChapelle said they feel that it is a recognized conditional use in an area that is zoned residential and as far as the rear setback they are of course applying for a variance with regard to that.

Mr. Lamanna said the board just wants to make sure everything is addressed and nothing is left out inadvertently.

Ms. LaChapelle said the important issues were touched on and she feels that the testimony that was provided and the application itself, they covered all of the issues.

Mr. Lamanna said he wanted to make sure that those are the five issues that the board has to address in its decision.

Mr. Murphy said they did a great job of presenting their argument for the need for coverage at 300', 250' seems to fall short of what would appear to be a major coverage issue about a corner of Bainbridge that has quite a few properties in it as we speak and could continue to become even more dense with the Geauga Lake area and the Market Place of Bainbridge. He said when they said they were trying to reach into the valley, he did not realize they were talking about the Aurora Branch of the Chagrin River and obviously it does not look like it is covered.

Mr. Olivier said the board covered that the conditional use will require a commercial tenant to come back to the BZA.

Mr. Lamanna said the board will add that.

Mr. Horn said the zoning requires it.

Mr. Olivier said he just wants to make sure and also if it is a commercial entity that the application fee will become part of that process, whether they have to charge them and reimburse us or charge them for that cost.

Mr. Bartholomew said usually one of those carriers will apply on their own.

Mr. Lamanna said the county would have to give them authorization to apply to use its tower.

Motion BZA 2010-14 – 16780 Savage Road (Geauga County Board of Commissioners)

Mr. Lamanna made a motion to grant the applicant a Conditional Use for the purpose of constructing a wireless communication facility on the property indicated on their application which is located in a residential area.

Based on the following findings of fact:

1. The Conditional Use was granted on the basis that the applicant has demonstrated that this is the most technically suitable place for placing this tower and other aspects of granting a conditional use in this area.
2. In addition this location is immediately adjacent to, technically and feasibly as close to an existing easement for power lines and that is an approved area under normal circumstances for this type of tower so this is found to be an appropriate conditional use.

With the following condition:

1. With respect to this Conditional Use if there is to be any collocation of commercial carriers that any such collocation must be the subject of a separate application to the Board of Zoning Appeals by the party seeking that collocation.

With respect to this application the board granted the applicant the following variances:

1. A variance to the rear yard setback requirement of 11' for the facility.
2. A variance from the 195' tower height limit to 314'.
3. A variance to the requirements of Chapter 186.05 (subsection W) with respect to equipment shelters being buried.
4. A variance in waiver of Chapter 186.05 (subsection O) with regards to the posting of the cash surety bond.

Based on the following findings of fact:

1. With regards to the setback variance there is a practical difficulty because the nature and location of this particular site is located next to the power lines so it defines the location of the tower to provide ample clearance in case this tower would fall or collapse on the power lines. There is also sufficient distance on the adjacent properties that the tower will not pose a hazard to any structure on the adjacent property.
2. With regards to the height variance the applicant has provided sufficient information to demonstrate that the tower needs to be this high to provide the adequate service and this being a public safety oriented tower it is appropriate to allow it to the additional height so that there can be nearly complete coverage of the entire township area by the communications facility for Police, Fire and Sheriff.

Motion BZA 2010-14 – 16780 Savage Road (Geauga County Board of Commissioners) -
Continued

3. With respect to equipment shelters being buried the board finds that this is not feasible in this location and due to the location it is not necessary for this equipment shelter to be buried and not in contravention of the intent of this particular provision of the zoning code.
4. With regards to the posting of the cash surety bond, the applicant in this case is another governmental entity and therefore should not be required to post a bond to ensure its compliance with the maintenance requirements.
5. The board notes that the primary reason for granting all of these variances is because this is a public safety project and due to the great benefits it provides to the community as a whole, the slight detriment that it will pose to the adjacent properties or the surrounding properties are outweighed by the public service advantages and this conditional use and variances should be granted for those reasons.

Mr. Lewis seconded the motion.

Vote: Mr. Horn, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye.

Since there was no further testimony, the public hearing was closed at 7:50 P.M.

Respectfully submitted,

Christopher Horn
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier

Attested to by: Linda L. Zimmerman, Secretary
Board of Zoning Appeals

Date: September 16, 2010

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