

The Dorchester County Board of Appeals met in regular session on Thursday, March 21, 2019 in Room 110 of the County Office Building at 7:00 PM. Present were Lin Spicer, Chair, Cindy Smith, Pam Allen, Charles Dayton, Jr., Walt Gunby, Attorney and Rodney Banks, Acting Director. Absent: Elizabeth Hill and Mike Starling

An introduction was made by Chairperson Spicer, explaining the procedures of this meeting to the audience. He then asked Mr. Banks to read the first case.

**Case #2642 – New Cingular Wireless, PCS, LLC (applicant)
Charles R. Fields, Jr. (owner)**

The applicant is requesting a special exception to construct a new cellular transmission tower on property located on Hudson Road, tax map 18, parcel 28. Property contains 42 acres. RC, Resource Conservation Zoning District.

Mr. Banks read the case and all pertinent information into the record.

Gregory Rapisarda, and Christopher Burns, Saul Ewing, Arnstein & Lehr, LLP, Baltimore, MD, legal representatives for AT&T, and any other person who would be testifying in this case, were sworn in.

Mr. Spicer advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. Mr. Rapisarda advised that he would rely on his written responses and comment further.

Mr. Rapisarda reviewed the request. He noted the height of the tower is 179 ft. and meets all required setbacks. This will be a multi-carrier pole. Mr. Rapisarda noted that this parcel meets all the requirements for a communication tower under the Code as well as the special exception criteria. He also reviewed the coverage maps. He noted that the closest residence is 890 ft. from the tower.

Mr. Banks read agency comments into the record. The Department of Public Works, represented by Lane Engineering, had no comment on the plan or stormwater management. Maryland Department of Transportation (SHA) stated that since the project proposes a construction access onto MD 343, which will later be used as a maintenance road to the AT&T tower, the property owner will need to secure a district level access permit through the Cambridge Maintenance Shop. As the access crosses over a small drainage ditch, we recommend installation of a culvert pipe at the site access. Based on the information provided, the Planning Commission suggests the Board consider (1) existing landing areas for emergency services and, the impact if any this may have on those areas (2) whether this location makes the most sense to fill in coverage gaps within the Neck District.

Mr. Spicer asked if there was anyone in the audience that would like to speak in favor of the request, with no response he then asked if there was anyone in the audience that would like to speak against the request.

Chris Hauge, 5910 Heather La., Cambridge, MD stated he is not against the communication tower, just the location. He noted that the proposed site is well forested

now, however it was used for timber harvest within the last ten years and, could be harvested in the future. He reviewed several of the criteria questions used by the Board to make their decision and gave his opinion as to why this tower does not meet the criteria.

Mike McKinley, 5432 Cassons Neck Rd., Cambridge, MD advised he attended the community meeting sponsored by SmartLink and AT&T in December to find out about coverage areas. He noted that there would be very little coverage past the top of Cassons Neck Rd., including areas west of this road. Mr. McKinley presented a petition against the location of the tower; Mr. Gunby advised the Board does not accept petitions as evidence. Mr. Rapisarda also noted that every AT&T tower that is constructed now includes FirstNet which is dedicated to first responders. Mr. McKinley advised that FirstNet will not reach portions west of Cassons Neck Rd. Mr. McKinley advised the proposed location for this tower will impact the safety of residents, workers and visitors in the Neck District. He would like to see AT&T do another study to see if a different location would better serve areas to the west. He asked the Board to consider tabling this request until further studies have been done.

Alan Wright, 5942 Indian Quarter Rd., Cambridge, MD questioned why the meeting was held at Zion UM Church in Cambridge when the tower will be located in the Neck District. Mr. Rapisarda stated Zion UM Church was the closest place they could find that was available. Mr. Wright discussed the designated landing zones for emergency transport in the Neck District. He stated he had spoken with the pilot for Trooper 6 helicopter concerning impact to the landing zones due to the location and height of the tower. The pilot stated that it could have an effect on the landing zones at night or during inclement weather. Mr. Gunby asked if the proposed tower would be lighted. Mr. Rapisarda stated it will not be lighted. The FAA certification for this tower states that no lights are required and the tower will not be a hazard to air traffic at a height of 179 ft.

Joseph Garvin, 5907 Heather Lane, Cambridge, MD stated his house will be closer to the tower than 890 ft. as stated by Mr. Rapisarda. He advised the tower will back to his back yard and be approximately 450 ft. from his property. He pointed out that based on NAR statistics, the property value of his home will decrease with the tower being this close to his property. Using GIS measurements, Mr. Banks advised the tower would be about 700 ft. from his property. Mr. Rapisarda noted that studies on property valuation concerning a tower have drawn conclusions both negative and positive.

Bobby Jones, 904 Hudson Rd., Cambridge, MD, stated that locating the tower on the Neck District Fire Department property would benefit the fire department financially. Mr. Gunby advised the Appeals Board is unable to hold up this applicant in the hope that another applicant will do what has been discussed for several years.

Tinsley Meekins, Jr., Trappe, MD advised he has been assisting the Neck District Fire Department with obtaining a communications tower on their property. He pointed out that everyone in the audience tonight would like to see a tower located on the fire department's property. Mr. Gunby suggested that those present could write a letter to AT&T in opposition to the proposed location.

Ray Steen, 6104 Twin Point Cove Rd, Cambridge, MD asked Mr. Rapisarda why the fire department had not been selected for the tower since there is a tower on that property now. Mr. Rapisarda advised it was because the fire department is in a Village zoning district and towers are not allowed in this district. Mr. McKinley advised that he was contacted by AT&T first concerning locating the tower on the fire department property. He worked with AT&T for several months and then there was no further contact. Mr. McKinley advised they are currently working on a text amendment that would allow cell towers in the Village District under certain circumstances. He noted they would have pursued the text amendment sooner if SmartLink had continued to work with them. Mr. McKinley advised that the fire department has a 110 ft. tower on their property now, used for broadband.

Matt Matthews, 1155 Hudson Rd., Cambridge, MD advised that because the timber is not mature where the tower will be located, the tower will be seen from his front window.

John Randall, 1040 Hudson Rd. Cambridge, MD asked if his Verizon service would be covered by this tower. Mr. Rapisarda stated no, however the monopole will have room for three other carriers as well as AT&T. Mr. Randall also expressed concern about fire resistance of the tower controls because of the forested location.

Mr. Rapisarda summarized by stating the review team for Smartlink and AT&T follow the code. The property is zoned appropriately, they have a willing landlord and it meets all the criteria.

Mr. Spicer announced the end of testimony.

Mr. Dayton made a motion to have a closed session and, Ms. Allen seconded. The motion unanimously carried. The meeting was closed at 8:25 pm for discussion of criteria questions.

The meeting was reopened by Mr. Spicer at 8:35 pm and the Board began their deliberations.

At this time, each Board member explained his decisions regarding the criteria.

After all testimony, Mr. Spicer called for a motion regarding this case. Ms. Smith made a motion “to approve this request.” Seconded by Mr. Dayton and unanimously carried.

Case #2641 – Glassywing Solar, LLC. (applicant)

(a) Kimberlee Ann Bisker and Blair Martin Bisker (owner)

(b) Warwick Corp. (owner)

The application requests the following Board of Appeals approvals: (1) special exception approval of Solar Energy (Utility Scale) for the establishment of a 2MW community solar project on lands leased by Applicant along (a) 5722 Linkwood Road East (b) 5802 Heritage Road (“Project”), and (2) variance to permit construction of an eight-foot (8’) tall

security fence around the Project. AC- Agricultural Conservation Zoning District.

Mr. Banks read the case and all pertinent information into the record.

Ryan Showalter and Brendan Mullaney, McAllister, DeTar, Showalter & Walker, 100 N. West St., Easton, MD, Tim Ahrens, Clean Choice Energy, 1055 Thomas Jefferson St., NW, Washington, DC, and any other person who would be testifying in this case, were sworn in.

Mr. Spicer advised the applicant of his two options, to rely on his written responses to the criteria or comment on the responses. Mr. Showalter advised that he would rely on his written responses and comment further.

Mr. Banks read agency comments into the record. Lane Engineering reviewing the project on behalf of Department of Public Works, had no comments about the project, stormwater management and no recommendations. The Planning Commission, based on the information available, suggests the Board of Appeals make their decision based on the same guidelines that were used to make decisions on the larger solar projects.

Mr. Spicer asked if there was anyone in the audience that would like to speak in favor of the project.

Susan Olson, 1533 Global Circle, Cambridge, MD advised that she has met with some of the company representatives and believes this project is a great opportunity for the community. This project will give persons who rent or do not want solar panels on their property to have access to solar energy.

Brooks Bridges, 116 Glenburn Ave., Cambridge, MD, attempted to have panels put on his house but was denied by the Town's Historic Committee. He took it to the Circuit Court and it was approved. He stated they are not noticeable when driving through his area.

Mr. Spicer then asked if there was anyone in the audience that would like to speak against the project.

Tracy Whitby-Fairall, 5732 Linkwood Rd, East New Market, MD advised she is a neighbor adjacent to the project and the representative for the North Dorchester Neighborhood Coalition, a group of approximately 25 residents opposed to a public utility placed in their neighborhood. The Coalition has concerns that existing woodlands proposed for screening could be used for timber harvest in the future; and the need for deeper buffering around the project. They also have concerns about the decommissioning plan. The Coalition questions whether Glassywing Solar, LLC may be part of One Energy, the company that had originally proposed a 300 acre solar project on this property several years ago. They believe that once the 23 acre project is completed, One Energy will restart the larger project. They do not think the project meets the requirements of the Comprehensive Plan, which is mainly agriculture in the North Dorchester area.

Cathy Collins, 5740 Linkwood Rd., East New Market, MD, stated she lives several hundred feet from the proposed project. She feels that North Dorchester has enough solar projects and there needs to be guidelines put in place so that these projects can be regulated.

Ryan Showalter gave a brief presentation and addressed some of the concerns. This is the first community solar project in the County. He advised that Maryland has a pilot project that allows a limited number of community solar projects within the State. Under the pilot program, only one community project is permitted on a parcel. He stated that this is not part of a multi-phase project. He advised this is the only project planned at present for this parcel of land. Mr. Showalter also gave a brief overview of how a solar system works for the new Board members.

Mr. Ahrens spoke briefly about the company and its involvement in community solar projects. He reviewed through computer presentation, Exhibit 1, "Glassywing Project Introduction". He also explained the pilot program and how the energy generated will be sold to subscribers who are Delmarva Power customers. He noted that the State has capped the number of participants for each community solar project at 350.

Mr. Spicer asked if Glassywing Solar is owned by One Energy. Mr. Showalter stated that One Energy had the lease agreement with the owners for the initial project however, the owners/operators for this project will be Glassywing Solar and Clean Choice Energy. Mr. Showalter pointed out the One Energy is not a community solar company.

Ms. Smith asked which company would be responsible for maintenance of the project and oversight through decommissioning. Mr. Showalter advised Glassywing Solar is the lessee, who will obtain site plan approvals and post bonds for this project; they will be responsible for the project.

Mr. Showalter spoke about the required bonds for the project. The County requires a Landscape Agreement and bond for installation and survival of the plantings. He explained if the plants are not surviving, Glassywing Solar will be asked to replace them and if they don't, the bond will be used to replace them. The second bond required by the County is for decommissioning of the project. When the project ends, all fencing, solar panels, racks, invertors must be removed. This bond will cover the decommissioning costs should Glassywing Solar not perform.

Mr. Showalter reviewed the proposed screening for the project. Mr. Showalter advised there is an area to the north with mature trees they would like to use as a buffer. He noted that a portion of this woodland is on the project property. Mr. Spicer pointed out that this is the area that the Coalition has concerns about should the portion of woodlands not on the subject property be used for timber harvest in the future. This area also screens the project from the scenic byway (Rt. 16).

Mr. Showalter entered "Glassywing Project Introduction" as Exhibit 1. Mr. Showalter reviewed the proposed landscape plants, Exhibit 2. He then entered "Forgesolar Glare Analysis as Exhibit 3, and briefly reviewed the report. He entered the

Maryland Historic Trust, Cultural Resources summary used for the initial larger project, as Exhibit 4. The view shed, exhibit 5, photos taken from various locations showing the different views of the project.

Mr. Spicer announced the end of testimony and the Board began their deliberations.

Mr. Spicer asked for a motion for the special exception and variance. Ms. Smith made a motion to approve the special exception and the variance, seconded by Ms. Allen and, unanimously carried.

Ms. Smith made a motion to approve the minutes of March 21, 2019 and Mr. Spicer seconded. The motion carried with Mr. Dayton and Ms. Allen abstaining.

With no further business, a motion was made by Ms. Smith to adjourn. Seconded by Mr. Dayton and unanimously carried. Time of adjournment: 9:55 PM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rodney Banks", written in a cursive style.

Rodney Banks
Executive Secretary