

**BEFORE THE ZONING HEARING BOARD OF  
SCHUYLKILL COUNTY**

**RE:** Request for a Special Exception by Celco Partnership d/b/a Verizon Wireless.

**BEFORE:** Daniel Daub<sup>1</sup>, Scott Thomas, Mary Jo Moss, and Dave Ambrose. Members of the Schuylkill County Zoning Hearing Board ("Board").

**MINUTES OF HEARING**

Name of Applicant	Cellco Partnership d/b/a Verizon Wireless 4642 Jonestown Road, Suite 200 Harrisburg, PA 17109
Location of Subject Property	0 Mill St. / Third St., Auburn Borough Schuylkill County, Pennsylvania UPI: 39-05-001.001
Owner of Property	German Eldership Church of God 1814 Chestnut Street New Ringgold, Pennsylvania 17960
Zoning Classification	(CR) Conservation Residential District
Date of Hearing	July 9, 2015
Place of Hearing	Courtroom #5 Schuylkill County Courthouse Pottsville, PA
Appearances (for Board)	Shane H. Hobbs, Esq.
Appearances (Applicant)	Richard M. Williams, Esq. 600 Third Ave. Kingston, PA 18704-5815
Applicant's Witnesses	Shawn Paul; Jim Rodgers;
Protestants	None

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<sup>1</sup> Dan Daub was absent for the final decision rendered on August 6, 2015, but was present for the hearing and testimony presented on July 9, 2015.

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**RE:** Request for a Special Exception by Cellco Partnership d/b/a Verizon Wireless.

**FINDINGS OF FACT**

After hearing all interested parties and consideration of the evidence presented, the Board finds as follows:

1. Cellco Partnership d/b/a Verizon Wireless (“Applicant”) initiated this hearing by applying for a Special Exception with the Zoning Office of Schuylkill County.
2. Applicant proposes a Commercial Communication Tower Facility (“Tower”) consisting of 150’ self-support tower (with 5’ lightning rod) having an overall height of 155 ft. as well as an 11.5 ft. x 16 ft. prefabricated equipment shelter to be located within a 50’ x 50’ lease area on the subject property (“Property”), situated at 0 Mill St. / Third St., Auburn Borough, Schuylkill County, Pennsylvania, UPI: 39-05-001.001.
3. The Property is owned by German Eldership Church of God, with a mailing address of 1814 Chestnut Street, New Ringgold, Pennsylvania, 17960.
4. The Property is located in a CR Conservation Residential District under the Schuylkill County Zoning Ordinance (“Ordinance”).
5. The Applicant is seeking relief from Article 3, Section 306.D.2.b and Article 4, Section 402.A.16, of the Ordinance.
6. Public notice of the Hearing was given by advertisement and published in the Pottsville Republican Newspaper; the first publication was made no more than 30 days from the date of Hearing, and the second publication was made not less than seven days from the date of the Hearing.
7. Notice of the Hearing was given by mail to the interested parties.
8. Notice was also posted on the affected tract of land and the Property at least one week prior to the hearing. Copies of the notice are being made part of the record, together with the original copy of the Application.
9. Applicant’s attorney, Richard M. Williams, Esquire, provided introductory testimony as it applies to the proposed use of the Property, and further testified how such use would be compliant with Federal and State regulations.
10. Shawn Paul, Radio Frequency Expert, and Jim Rodgers, Site Acquisition Consultant, (Applicant’s “witnesses”) testified on Applicant’s behalf.

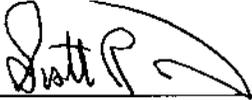
11. The witnesses offered into evidence several documents and exhibits illustrating the radio frequency broadband area as well as the site proposal, all of which are accepted and made part of the record.
12. The witnesses further testified that the broadband signal strength in the Auburn area and the immediate surrounding areas will significantly increase with the construction of the Tower, which will ultimately provide better service to customers.
13. The signals produced by the Tower will not cause any type of health concern or hazard to the residents of the community.
14. The proposed tower would be in compliance with any and all Federal Aviation Administration ("FAA") regulations.
15. The Applicant testified that, if the proposed Tower is no longer in active use, it shall be removed within six months after the discontinuance of use.
16. There were no objections made by any interested parties.

#### CONCLUSIONS OF LAW

1. The Board is empowered with exclusive jurisdiction to hear and render decisions in Special Exception requests filed with the County. § 111.D.4 & § 116.
2. A Commercial Communications Tower is a permitted Special Exception Use within a Conservation Residential district under the Ordinance. § 306.D.2.b.
3. A Commercial Communications Tower as a principle use must comply with additional requirements set forth in the Ordinance. § 402.A.16.
4. The Board finds all of Applicant's witnesses as being credible; that the proposed use will not cause societal hazards or pose significant risk to public health and safety, and that Applicant has found no other suitable tall structures in the vicinity which would suffice to permit co-location.
5. The Applicant has satisfied the criteria under Section 116 of the Ordinance by a preponderance of the evidence.
6. The proposed construction and use of the Tower demonstrates compliance with the requisite criteria set forth in Article 4, Section 402.A.16.
7. The Board finds that the Applicant has satisfied its burden to justify the award of the Special Exception request consistent with its application.

**DECISION**

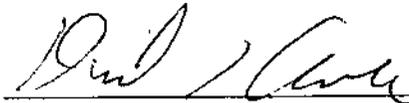
AND NOW, this 6<sup>th</sup> day of August, 2015, the Board **GRANTS** the Special Exception request by Cellco Partnership d/b/a Verizon Wireless, and directs the Zoning Officer to approve a permit that is consistent with this decision and Applicant's application.



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**SCOTT THOMAS**, Vice Chairman



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**MARY JO MOSS**, Member



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**DAVE AMBROSE**, Member