

**TOWN OF PARMA PLANNING BOARD
MARCH 1, 2007**

Members Present:

Chairman
Executive Secretary

Ed Fuierer
Jack Barton
Bob Pelkey
Rick Holden
Tod Ferguson

Members Absent:

Tim Harner

Public present: Paul Castelli (Cricket Communications), Dave Hennon (SBA), Kyle MacCallum (Crown Castle), Carm Carmestro (TB), Keith O'Toole, Mary Depasquale, Bill Depasquale, Joseph Reinschmidt (TB).

Meeting started: 7:03 pm

NEW BUSINESS

1880 North Union Street Site Plan

Dave Hennon presented to the Board a site plan to add antennas for a co-locator to this existing cell tower. Mr. Hennon stated that the new equipment is proposed to be added to this 180' tower at 150' and T-Mobile will be adding equipment cabinets in the existing fence area on a 10'x16' platform. The antennas are standard panel antennas.

Jack Barton asked if the new "tenant" will be placing a generator for back up power. Mr. Hennon stated that at this time the "tenant" has no plans for placing a generator at the site. In an extreme emergency they would bring in a portable generator which would be removed after the power was restored.

The Board had a discussion as to whether they felt that this plan needed to be sent out to any referral agencies for their review and comments. The Board felt that because no changes were being made to the drainage or grade of the site it did not need further review.

Mr. Barton stated that the applicants did get the needed approval from the Zoning Board of Appeals at their February meeting for a modification to the Special Use Permit.

A motion was made by Rick Holden and seconded by Bob Pelkey to grant final approval for this site plan as presented. Motion carried unanimously 5-0 (Tim Harner absent).

1086 Ogden Parma Town Line Road Site Plan

Paul Castelli presented to the Board a site plan to add antennas for a co-locator to this existing cell tower. Mr. Castelli stated that the new equipment is proposed to be added to this 150' tower at 100' and that Cricket Communications will be adding equipment cabinets in the existing fence area on a 4' x 8' platform. That antenna will be a six panel antenna and that they did a structure analysis on the tower and they will have to do upgrades to the tower so that it will support the new equipment.

Rick Holden asked if they will be changing the outward appearance of the tower. Mr. Castelli stated no.

Tod Ferguson asked if they will be placing generators for back up power. Mr. Castelli stated no, that the

1086 Ogden Parma Town Line Road continued:

the equipment has battery back ups and in an extreme emergency they will bring in portable generators.

The Board had a discussion as to whether they felt that this plan needed to be sent out to any referral agencies for their review and comments. The Board felt that because no changes were being made to the drainage or grade of the site it did not need further review.

A motion was made by Tod Ferguson and seconded by Bob Pelkey to grant final approval for this site plan as presented. Motion carried unanimously 5-0 (Tim Harner absent).

222 Burritt RoadSite Plan

Paul Castelli presented to the Board a site plan to add antennas for a co-locator to this existing cell tower. Mr. Castelli stated that the new equipment is proposed to be added to this 90' tower at 80' and that Cricket Communications will be adding equipment cabinets in the existing fence area on a 4' x 8' platform. That antenna will be a six panel antenna and that they did a structure analysis on the tower and the existing tower is adequate to sustain the additional load of these antennas.

The Board had a discussion as to whether they felt that this plan needed to be sent out to any referral agencies for their review and comments. The Board felt that because no changes were being made to the drainage or grade of the site it did not need further review.

Keith O'Toole asked if he could address the Board regarding this proposal. Chairman Ed Fuierer stated that this was not a Public Hearing but the Board was willing to allow Mr. O'Toole to speak.

Mr. O'Toole stated that he represented Mary and Bill Depasquale who lived next door to this site. Mr. O'Toole presented to each Board member a letter that he prepared regarding this application and dated March 1, 2007, along with a copy of the site plans for the cell tower dated 6/11/1997.

Mr. O'Toole stated that the driveway for this cell tower is located on his client's property at 190 Burritt Road and that over the past ten years his clients have had the following problems:

1. During the winter months, the owners of the tower come in and clear the driveway to the tower with a front loader, which not only scoops up the snow but the gravel on the driveway, and then place the snow on to his client's property. So that in the spring his clients have to clean up all the gravel that has been moved from the driveway with the snow from their yard. Not only is the gravel left in their yard but the front loader digs large ruts in his client's yard which he has to repair each year.
2. That there is no gate at the road to limit access to the driveway and kids drive back there and have parties by the tower. That most towers today have access gates installed at the road and that they would like to see one installed at this site.
3. On several occasions when the family has been in their pool they have caught individuals, who have legitimate reasons to be at the tower site and some who do not have legitimate

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reasons to be on the driveway, stopping on the driveway to “watch/stare” at them in their pool and his clients find this very uncomfortable.

Mr. O’Toole then informed the Board that according to Parma Code §165.30 that the plans that are presented to the Board should include before and after conditions of the site and that these plans do not include the before and after conditions of the site and therefore are not in accordance with Parma Town Code.

That his clients, over the past ten years, have tried to deal with the owner of the tower, which has changed hands, to no avail. That this driveway has not been maintained as approved. That over the past ten years the gravel/stone has been reduced in height due to the snow removal. That he and his clients would like the Board to require the new owners of the tower to repair the driveway to the specs of a current private driveway section and topped all the way back with binder.

A discussion was held on the driveway and the exact location of the driveway.

Mr. Holden asked how the driveway got placed on Mr. Depasquale’s property and not on the property that the tower is located on. Mr. Depasquale stated that at the time Sprint came in with the plan, he adamantly opposed the proposal to put a cell tower at this location because he has plans for the future to subdivide his property and put homes on the back property for his children. And that the Town had come to him with the proposal for the cell tower owner to put a driveway on his property and forced him to accept this proposal by “strong arming him” because they told him that Sprint had a 25 million dollar lawsuit against the town.

Mr. Holden asked if Mr. Depasquale had received any money for allowing the driveway to be put on his property or if he received rent for this easement. Mr. Depasquale stated he received no money for the easement nor does he get any rent for the easement.

Kyle Mac Callum stated that he represented Crown Castle the new owners of the cell tower and that they would be happy to put in an access gate at the road come spring time.

Mr. O’Toole stated that his clients are looking for the owner’s of the cell tower to plant Austrian Pines, for privacy, between the house and driveway and maybe on the other side of the driveway to create a natural snow fence, to be placed 15 feet on center zig zagged and 15 feet off the road.

Mr. O’Toole showed pictures of the driveway and the ruts left in his client’s property. A discussion was held on the photos and what time of year they were taken. Mr. Depasquale stated that he re-grades the driveway every year because he uses the driveway also, he and his wife jog on the driveway.

Chairman Ed Fuierer asked if Mr. Depasquale had any contact with the owners of the cell tower requesting them to repair the road and his lawn. Mr. Depasquale stated that he has piles of emails between him and the cell tower owners but after awhile they just ignored him.

Mr. O’Toole again stated that he would like the Board to require the owners of the cell tower to properly

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rebuild the road to the Town's private drive section, or to the Town of Ogden's private drive section a copy of which he supplied in his letter and, as he stated, felt was a pretty good standard for a private drive, even though he was unsure of what the Town of Parma required for a private drive section. Along with requiring the owners to top coat the entire driveway and to run pines on the eastern property line before they make any decision on this application.

Mr. MacCallum stated that he will probably take a lot of flack from the home office but he will agree to place pines along the eastern property of the Depasquale's for privacy and that in the spring they will be out to repair the driveway back to the standards that were originally approved but will not agree to black top the driveway.

Mr. O'Toole again stated that he would like the Board to require the owners to black top the entire driveway. Mr. Depasquale stated that there was originally 15" of base on the driveway now there is only 5" because of the snow plowing practices.

Mr. MacCallum stated that his company will do what ever the Board deems acceptable.

A lengthy discussion was held on the paving/black topping of the driveway.

Mr. Depasquale stated that he has a two lot subdivision on his back property and was basically "told" by the Town that he had to put driveway in.

Mr. O'Toole stated that he wants to make sure that the problems are taken care of before the Town makes any decision on this application.

Joe Reinschmidt stated that he or any other member of the Town did not "twisted any arms" and never told Mr. Depasquale that he had to agree to allow the cell tower to be built. That if he remembers correctly the original plans submitted for this cell tower had the access driveway on the property that the cell tower sits on but Mr. Depasquale conceded that if the driveway was built on his property, which would benefit him when he builds on the back property by having the cell tower company pay for the construction of the driveway, he would not oppose the application for the cell tower. Mr. Reinschmidt stated that he was unaware of any lawsuit by Sprint for 25 million dollars and that if Mr. Depasquale had any proof of this lawsuit he would like to see it. That in no way did he tell anyone that they had to "knuckle under" that there was some negotiation with Mr. Depsaquale but no "arm twisting" as stated by Mr. Depasquale.

Mr. O'Toole stated that they did not come to tonight's meeting to attack anyone that they just want to clean up the problem and that this was not some local home builder that is was a national "player" and that they certainly have the money to fix the problem. That they simply want the problem fixed , that his clients have been frustrated for the past 10 years and that there was a simple solution under State and Town Code, as he has presented to the Board.

After a very lengthy discussion, revisiting the previous discussions and with Mr. O'Toole making more

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suggestions as to what he feels in the proper way to deal with this situation and with the Board questioning alternative ways of keeping the Road clear during the winter so that the stone/gravel was not deposited on the Depasquale's property, the Board suggested that they table the application giving the new owner of the property and the Depasquales time to get together to discuss way to come to a reasonable agreement.

Mr. O'Toole then stated that he had heard their arguments several times and that they were here to get this site plan approved and it should not matter that the applicants were not the legal owners of the property, only lessors, that the Board had the authority to force the owners to make the changes. Mr. O'Toole then stated that "your Town requires" the applicants to show the current site conditions and the site conditions when approved, that this site doesn't work presently, that it was up to the landlord and the tenants to work out.

After a lengthy discussion about why Mr. O'Toole felt the Board should not make a motion on this application until they required the owners of the property to fix the problems that exist at the site as they requested the Board members again discussed tabling the application until the next meeting so that the owner of the cell tower and Mr. Depasquale could get together to work out a solution to this situation.

Another lengthy discussion was held on the criteria for the driveway and what standards the owners of the cell tower should be held to obtain, on the standards for a private driveway today in the Town of Parma and the fact that in the future these standards may be different and at that the time that the Depasquales come in to get their site plan approvals for those future homes they will have to conform to the standards for the driveway at that point and time.

The Board members asked Mr. Barton if any complaints had been lodged with the Town regarding this site. Mr. Barton stated that he was unaware of, at this time, any complaints from Mr. Depasquale as to the conditions of this site.

After a lengthy discussion on when the next meeting was and why the Board felt that they should give the new owners of the cell tower a chance to correct the problems **Tod Ferguson made a motion to table this application until the next meeting so that both parties had a chance to get together and discuss the issues at hand, Rick Holden seconded the motion. Motion carried unanimously 4-0 (Tim Harner absent).**

MISCELLANEOUS

There being a quorum of members present from the February 1, 2007 meeting, **a motion was made by Tod Ferguson and seconded by Bob Pelkey to accept the minutes as presented of the February 1, 2007 meeting. Motion carried unanimously 3-0 (Rick Holden and Tim Harner absent from February 1, 2007 meeting).**

The following corrections were made to the February 19, 2007 minutes:

- Page Two: 1. Paragraph Three to read: "...if there will be a utility and cross access easement..."

2. Remove “to label the footage along the driveway and” from Paragraph four.
3. Change the word “wear” to “weir” in the second Paragraph under Kirby’s.

Jack Barton passed out the Development Review Status from Larsen Engineers dated 3/1/2007.

The Board reviewed the proposal for the property at the corner of Curtis and North Avenue’s sanitary sewer extension.

Rick Holden review the meeting he attended for the Open Space Committee.

There being no further business, **a motion was made by Bob Pelkey and seconded by Tod Ferguson to end the meeting at 8:30 pm. Motion carried unanimously 4-0 (Tim Harner absent).**

Respectfully submitted,

Maureen L. Werner
Recording Secretary