

**HOWARD COUNTY BOARD OF APPEALS
BA 14-005C, AT&T - MINUTES
DECEMBER 22, 2015**

Board Members Present:

James Howard, Chairperson
Genevieve Walker-Lightfoot
John Lederer
James Walsh

Board Members Absent:

Steven Hunt

Staff: Barry Sanders, Esq. & Charity Respass, Recording Secretary

Attorneys:

Gregory Rapisarda, Esquire, Attorney for AT&T Mobility

On Behalf of the Opposition

Larry Greenblatt
Kevin Collins

Closing Arguments (limited to 20 minutes each side) given by:

- Greg Rapisarda, attorney for AT&T Mobility, Petitioner
- Kevin Collins & Larry Greenblatt, Opposition

Record closed at 7:52 p.m.

WORKSESSION BY BOA TO DELIBERATE ON BA 14-005C, AT&T:

Chairperson Howard: Refers to the Conditional Use Criteria under Section 131.0.N.14.b., Communication Towers, from the Howard County Zoning Regulations. Of the 9 specific criteria listed, he proposes that (2) through (9) are met. The Board agrees and is left to discuss Criteria (1) and the general criteria.

Mr. Lederer agrees that AT&T has met the specific criteria (2)-(9). He is concerned about the proximity to Mr. Patel's property and home with regard to the tower itself and the overall intensity of the site with regard to a Rural Residential community - intensity of the use and size and placement of it and the proximity to Mr. Patel's property (about 205 feet from his house). Mr. Patel has a large piece of property, but his home is in close proximity to the property line. Concerning Ashley Knolls community, not quite sure there is enough visual impact to show

there is a greater adverse effect there than it would be elsewhere in the zoning district, but does think there is a greater impact on Mr. Patel.

Mr. Howard & Walsh feels the visual impact is fine under 131.0.N.14.b(1) . Mr. Walsh also agrees that the Ashley Knolls community is not adversely affected above and beyond the normal with respect to the tower.

Mr. Walsh is concerned about utility uses under 131.0.N.56 (Public Utility Uses), which was not addressed in the Technical Staff Report. Discussion by Board Members and Board's Attorney Barry Sanders about whether the Board should analyze the criteria from 131.0.N.56, which is not before the Board, and determines that the Board should meet the criteria from the Section that this case was filed under – 131.0.N.14.

Ms. Walker-Lightfoot: Other alternative sites were identified and discussed and ruled out for various reasons. Agrees after voluminous testimony, the impact wasn't any greater on this property than the impact on other properties in the same zone.

Discussion by Board to consider the Hearing Examiner's conditions imposed in her D&O. Discussion: clarification of Hearing Examiner condition concerning low profile and flush mounted – contradictory - can't both do.

AT&T Representative: The only option for ATT is low profile, and we would have asked the Hearing Examiner to clarify that...

Jim Walsh: Suggests saying “shall be designed in accordance with Exhibit No. ____” As far as number 2, stick with “as per the exhibit____, the sign shall be in standard conformance with that particular exhibit” rather than get into things that were not presented to us, that may or may not have been in the record or somebody referred to it in passing in a footnote.

James Howard: Moves to grant the conditional use subject to the plans as submitted and continued compliance with all applicable regulations,
Seconded by Jim Walsh

Barry Sanders clarifies: Vote on the amended petition, petitioner's exhibit number 38, the amended petition of AT&T, the commercial communications tower conditional use in an RR-DEO district pursuant to 131.0.N.14 of the Howard County Zoning District.

John Lederer: Deny
James Walsh: Grant
Genevieve Walker-Lightfoot: Grant
James Howard: Grant

Adjourned 8:35 p.m.