



Bethany Beach Landowners Association (BBLA)
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October 3, 2014

Sussex County Council c/o
Todd Lawson, Administrator
Sussex County Administration Office Building
2 The Circle, P.O. Box 589
Georgetown, DE 19947

Dear Mr. Lawson and County Council Members:

The Bethany Beach Landowners Association (BBLA) urges adoption by the Council of amendments along the lines proposed by the Sea Pines Village Homeowners Association (SPV) and other Sussex residents regarding Section 115-194.2 of the County code (provisions on installation of new freestanding communication towers). The proposed amendments would provide increased protection for the property values of residential homeowners and would replace the need for complex and costly litigation with certainty of outcome for all concerned.

BBLA is a voluntary association of persons owning property within the town of Bethany Beach. We currently have over 1,130 member households, including more than 335 full time residents of Sussex County. BBLA is devoted to serving the interests of local property owners, by among other things, advocacy measures that will foster and protect the unique character of Bethany beach as a "quiet resort" with a small town atmosphere attractive to families.

Under the current law, when a new communications tower such as a monopole is proposed in an area zoned residential in unincorporated Sussex County, or the tower would be within 500 feet of any residentially zoned lot, a hearing before the Board of Adjustment is required on whether to grant a special use exception for the proposed tower. Typically the issues to be resolved in such a hearing are whether the tower would have a substantial adverse impact on residential property values, whether there are existing structures available for colocation within a two mile radius of the proposed site, whether there is a need for the proposed structure to improve communications and whether the tower would pose a risk of physical damage to nearby homes..

These are complex issues, involving predictive outcomes and radio engineering science. Giant telecommunications companies such as AT&T have readily access to and can easily afford to pay persons holding themselves out as experts to testify on the company's behalf on such issues. Small groups of homeowners rarely if ever have access to such experts and few can afford to retain the experts that they do find. When both sides do present expert evidence, resolving the conflicting testimony in these "battles of the experts" is often quite challenging for the Board. Losing parties can seek judicial review but here too the cards are stacked against the homeowners. Giant companies such as AT&T can readily afford to hire lawyers to pursue litigation, including appeals if necessary to the state Supreme Court. For homeowners, on the other hand, tens of thousands of dollars in lawyers' fees is typically a staggering burden.

AT&T's bid to install a 100 foot monopole adjacent to the Sea Pines Village to the east and less than 500 feet south of a number of homes within the town limits of Bethany Beach is an apt illustration of the terribly costly burden of the current rules. The first AT&T application was filed in 2009 and five years later the matter is still not finally resolved. After holding hearings, the Board has issued three rulings over the years, the last two denying the AT&T applications. The first two rulings were reversed in court, with AT&T taking the matter all the way to the Delaware Supreme Court. Judicial review of the third ruling is still pending.

The amendments proposed by SPV would eliminate such costly and protracted proceedings and replace them with a "go-no go" rule. If the proposed tower was more than a 1,000 feet from a residentially zoned lot, for example, it could be built without a hearing. If the tower would be closer than 1,000 feet, or whatever other setback the Council adopts, the application would be denied without a hearing.

BBLA respectfully urges the County Council promptly to adopt the "go-no go approach proposed by the Sea Pines Village Home Owners Association and other Sussex residents.

Sincerely,

/s/ Michael S. Horne

Michael S. Horne, President