

Clearwater Township
Planning Commission
Special Meeting of December 28, 2018

Call to Order, Pledge of Allegiance:

Chair Backers called the meeting to order at 7:07 p.m., and opened with the Pledge of Allegiance.

Backers explained that this special meeting is called solely for the purpose of the public hearing on a cell tower special use permit application and no other business will be conducted at this meeting. We intend to conduct this meeting in a manner as orderly as possible.

Roll Call of Members and Recognition of Visitors:

Commissioners present: Backers, Cassasa, Fields.

Commissioners absent: Eldridge, Von See.

[Three members of the commission constitute a quorum.]

Township officials: Zoning Administrator Parzych.

Public: Dan Dalton; Mike Bieniek; Lynne Buday; Ben Herrick; Melvin R. Cooke; Gregory & Kimberly Hanlin; Gary Hanlin; Jason Williams &, Claire Walters; Jim & Dee Bary; Gary, Kelly, & Joseph Stosio; Carol Backers.

Township attorney: Bryan Graham

Approval of Agenda:

Chair Backers reiterated the statement that this meeting is for the sole purpose of a public hearing and no other business will be conducted at this meeting.

MOTION by Casassa, second by Backers, to accept the agenda as presented. Motion carried.

Call for Disclosure of Conflicts of Interests:

All commissioners present declared no conflicts of interests.

Public Hearing on Special Use Permit Application from Mr. Mike Bieniek, AICP, of LCC Telecom Services (Agent for Tillman Infrastructure), to erect a 170' telecommunications tower in Clearwater Township at 5378 Townline Rd, Williamsburg, MI 49690.

Chair Backers opened the public hearing at 7:14 p.m. He announced the subject and summarized the procedures to be followed.

Zoning Administrator Parzych – stated that there was some mix-up in communications and procedures with regard to this project, but that we have all the information that we need for the cell tower, and that the applicant is present to respond to any additional questions we have. Chair Backers asked “did you receive a copy of this letter sent to the planning commission but addressed to you?” Parzych replied that he had read the letter. Backers asked Parzych whether he had visited the site. Parzych responded that he had not, but he had driven by the site and observed what he needed to see. Backers asked if there was anything in particular about the application that needed to be brought to the attention of the Planning Commission. Parzych

responded that there was nothing special in the application, that it was a standard application for a cell tower, and that we could simply go through the procedural steps for the hearing. Secretary Fields asked whether we now had an administratively complete application, and if so, of what date.

Township Attorney Graham – offered initial explanatory and procedural comments. Before the Commission is a Special Use Permit Application. Under Michigan’s Zoning Enabling Act, and according to the township’s Zoning Ordinance, the Commission must decide whether to recommend approval or denial to the Township Board, which body ultimately makes the decision. The decision must be based on three sets of standards found in the Zoning Ordinance:

1. The general standards for a special use permit (Section 24.03)
2. The standards relating specifically to telecommunication towers (Section 24.09)
3. The site plan review standards (Section 28.06)

The decision has to be based on specific findings of fact, and according to the required standards of review. Under Michigan’s ZEA, because this is a cell tower, the law requires that the township make a final decision within 90 days of receiving a complete application. In the materials submitted is my letter of December 20, 2018, to the applicant advising him of specific deficiencies in his application, making it administratively incomplete. Those deficiencies have now been corrected and the application is complete as of Wednesday, December 26, 2018. Thus, the township’s 90-day period for deciding this matter began on December 26, 2018.

As people address the issues of this tower, they must address the standards. It is not sufficient to declare that it is a good idea or a bad idea. Evidence must be related to the standards.

There was a communications mix-up and the tower is substantially complete. Michigan law is clear that an administrative error does not bind the township. The township can still administer its ordinance, which is what tonight’s process is. When dealing with something that comes after the fact, my legal advice is that you must judge the matter as though the ground were vacant. You should not hold it against the applicant that, in fact, the tower was prematurely constructed, nor should you take the position that since the structure is already in place, the applicant should not be required to tear it down. You must judge the matter based on the standards. If the tower complies with the standards in its present location, fine. If it does not comply with the standards in its present location, you address that in your recommendation to the Township Board. I don’t want to see the fact that the tower exists used in one way or the other.

Look at this application as if it were vacant ground; judge the plans that have been submitted according to the standards.

Michigan law also provides that if the Planning Commission finds, and the Township Board ultimately decides, that all three sets of standards are met, the township is required by law to approve the application.

If, however, the Planning Commission finds that one of the standards is not met, the Commission can recommend that the Township Board deny the application.

The decision must be based on evidence, not on personal opinions or desires. Therefore, since you have a great deal of information, including additional exhibits received tonight, and that this is a complicated issue, I make this recommendation to you: take in the evidence at this hearing, tonight, then adjourn your deliberations to a specific date and time two or three weeks hence, to give me the opportunity to prepare proposed findings of fact and provide you with options based on those findings. That way, you will have a well-documented recommendation to send to the Township Board.

Backers – thanked attorney Graham, and said he wanted to make certain everybody understands that the Planning Commission does not make the final approval, it makes a recommendation to the Township Board. If the application is complete and complies with the zoning regulations, we have an obligation to recommend approval by the Township Board, which body makes the final decision. We're not concerned with what goes on the tower at all, other than radio interference in the long run.

Applicant presents the project –

Mike Bieniek (LCC Telecom Services, Rosemont, Illinois) – introduced himself and Attorney Ben Herrick (Falk & Foster), legally representing Tillman Infrastructure. Before describing the project, Mr. Bieniek commented that he had received email confirmation from the township's Deputy Clerk that zoning was approved, and with that confirmation obtained a building permit from Kankaska County. He stated categorically that there was no intention to "do an end run around anything." Chair Backers asked Bieniek to provide that documentation to the Commission. Bieniek said he would do so.

Bieniek described the project: to erect a 170' tall, self-support lattice tower at this location in a 100' x 100' fenced lease parcel. This tower is being built on behalf of AT&T, whose antenna is currently on a 60' wood pole across highway M-72, about one tenth of a mile to the northwest of the project location. The wood pole was built in 1998 to provide coverage for the area. At that time the technology was adequate for the use of just making cell phone calls. That technology is no longer adequate for today's smart phone and Wi-Fi demands. The wood pole is no longer sufficient for AT&T to provide coverage; it does not have the capacity they need. Since it is a wood pole, it cannot be upgraded to support the equipment AT&T needs in place.

Backers asked if the new tower is built does the wooden pole go away. Bieniek replied that the Zoning Ordinance requires it because the pole would be vacated. The AT&T equipment would be taken off the wood pole and put on Tillman's tower. He further stated that AT&T does not own the wooden pole tower, American Tower does. It would be the responsibility of American Tower to remove the wooden pole. AT&T is subleasing space on that pole.

The purpose of this project is to build a cell tower to accommodate AT&T's equipment.

Bieniek turned to the propagation maps in the information packet. There's an existing coverage map and a proposed coverage map. There are four colors used in the maps: green for *very good*, blue for *good*, yellow for *fair*, and red for *marginal* coverage. He pointed out that in the existing coverage map, there is very little of the green or blue. He referred to that coverage as "in-building" type, and noted that the yellow and red indicated marginal or no cell coverage.

[Research note: per Quora (www.quora.com) IBS or In-Building Solution is a platform for a wireless system providing mobile coverage inside buildings where outside towers do not provide enough coverage, capacity, or quality.]

Commissioner Casassa asked for an explanation of the icons on the map. Bieniek explained that those icons represent other towers that AT&T is currently located on. They are all existing American Tower cell tower sites. He pointed out that the cell phone system is a network on a grid pattern. Towers are separated by about 2.5 to 2.6 miles in a rural area such as this. He stated that at the proposed site there is “really a dead spot” between two other towers along M-72, and that this tower would remedy that dead spot. Bieniek stressed the importance of improving coverage at this spot along the highway, not only for the convenience of people wanting to use their phones, but also because it supports the e-911 system. He said “AT&T is required by their license to provide coverage throughout the country. And then, this is one more step in improving their coverage so that they have ample coverage in that area.”

Backers summarized the project as “the new tower replacing the old pole,” and asked Bieniek if that was correct. Bieniek said “yes, and it’s a significant upgrade in the coverage and capacity for that site.”

Question from Gary Stosio – is it strictly AT&T?

Bieniek explained that Tillman Infrastructure is a tower company, similar to American Tower. They make their money by renting out space on their towers to the carriers. AT&T hired Tillman to do this project, so initially AT&T will be the carrier on the tower. However, it will be open for other carriers as they come along and need service in that area.

Casassa asked if the design has space for three more carriers. Bieniek replied that it does, and that one of the reasons for choosing the self-support lattice tower is that the cabling is run up the leg of the tower, making it easier for carriers to co-locate on the tower.

Question from Greg Hanlin – asked if American Tower was aware of the Tillman project and that they would be losing AT&T as the tenant on the wooden pole. He also asked “does AT&T lose signal strength by having micro-cell towers, which is what Governor Snyder just signed into law – micro-cell towers versus a 170’ tower that is offered by their competitor?”

Bieniek responded that not only was American Tower aware, but that they are here this evening. Mr. Dalton said that was right, “we found out about it on Wednesday.”

There was then some back and forth and crosstalk in the gathering.

Bieniek addressed the question of micro-cells. He said this project is not replacing a micro-cell, this is a macro site. Micro-cells are more for urban areas, for stadiums and similar specialized areas. This is a macro site.

Those speaking in support are recognized –

Dee Bargy - stated that as the landlords, they are in support of the project.

Those speaking in opposition are recognized –

Greg Hanlin – I live at 5205 on M-72. I am adversely affected by the proposed tower. For the record, I have been an active realtor in Michigan since 2001. I am an associate broker working

under the most successful real estate brokerage in the area. I was also a state-licensed appraiser for seven years. I ask this panel to unanimously deny the issuance of a special use permit for the proposed tower based on four key findings. Number 1- the tower's location on the M-72 corridor is in clear opposition to the Clearwater Master Plan. Number 2 – the tower's location is in violation of Article 4.13 of the Clearwater Township Zoning Ordinance. Number 3 – township officials did not follow the special land use permit procedures and illegally issued a building permit. Number 4 – the applicant has already misled our township officials by telling them “the township jurisdiction does not have regulation that would pertain to the construction of a wireless telecommunication facility so long as they provide a copy of the FAA and MdoT approvals.”

According to our Master Plan and our Township Zoning Ordinance, a tower of this size and scale is not supposed to be installed along the stretches of roadway that present our best features to the public. If telecommunication towers of this size are going to be installed in our township, we should be leaning on the developer to configure them in a way that minimizes their adverse visual impact. This proposed, and illegally erected, tower does none of that. In fact, it clearly goes against the spirit and intention of our Master Plan and Zoning Ordinance. Article 4.13 of the Zoning Ordinance states: “this ordinance seeks to encourage the joint use of new and existing tower sites rather than the construction of additional towers, to encourage developers of towers and antennas to configure them in a way that minimizes their adverse visual impact.” The applicant and tower owner plan to lease space on the proposed tower to AT&T. AT&T already has an existing tower located 200 yards from this proposal, with American Tower. In accordance with Article 4, AT&T should use their existing tower if they need to improve their equipment. Article 4.13 further states that these intentions to protect residential areas from adverse impacts of towers and antennas, encourage the location of towers in non-residential areas, and consider the public health and safety of telecommunication towers. The proposed tower is located next to existing homes that, in my expert opinion, will be impacted by a significant decrease in values in the range of 30 to 50 percent due to this external influence. This panel should take into consideration the egregious errors and negligence of our Zoning Administrator, Adam Parzych, who bypassed the required special use permit when he authorized Jule Moore to send Mike Bieniek an email that said “they are good to go. Nothing more is required from the township for you to proceed,” which authorized the County Building Department to issue the building permit. I have obtained all records and emails from the County via the Freedom of Information Act, which I'll be happy to share.

When the tower was wrongfully permitted and illegally constructed without a special land use permit, Mike Bieniek and Adam Parzych stripped the Planning Commission of its oversight and denied residents of our right to public comment, although here we are today, after it was already constructed. This tower was erected in a day, and it can come down in a day. We must not jeopardize the beauty of our township, the values of our homes, and compromise the health of our residents. Thank you very much for your time and consideration.

Chair Backers asked Mr. Hanlin if he contacted the County. He had. Backers asked whether the County had a copy of the land use permit. Mr. Hanlin replied that there is no land use permit on file, that the Building Department acted on the strength of an email that Adam gave Jule authorization to approve Mike's work. They said that they approved this under the guise of the

Tall Structure Act, which Mr. Hanlin affirms does not apply here. It does not strip the local municipality, of its authority to apply its ordinances to these towers.

Dan Dalton – of Dalton & Tomich from Detroit, representing American Tower. Learned of this meeting on Wednesday of this week. Sent in a letter to Adam, hopefully that the board has. Let me summarize the points of the letter.

First, if the current pole is insufficient we can drop and swap it and we could put a larger tower on there. We haven't been told by AT&T that it's not sufficient for coverage.

The second thing is we have a lease on that property until 2038. If the ordinance says we have to remove the pole, that could potentially put liability on the township for a taking or interest-taking condemnation claim of taking our pole.

The next thing is, when Congress passed the Telecommunications Act, it wanted collocation on towers, to avoid having carriers putting up towers all over the place.

That's what American Tower does all throughout the state of Michigan and this area – primarily to preserve the beauty and integrity of this – of the landscape and of the area.

Tillman, which is really kind of AT&T, is doing the same thing in Mayfield Township, in the Gaylord area of Otsego County, the Tawas area, Curtiss Township and Hart Township as well, putting up towers adjacent to American Towers and moving the AT&T equipment. AT&T customers are not getting better coverage or lower prices. It's an internal corporate cost control thing at AT&T.

The Zoning Ordinance, Section 24.09 A. 11, says "A tower shall not be located within 200 feet or 300% of the height of the tower, whichever is greater, of a park or public right of way, or of a single-family or multiple family dwelling." The proposed tower is 170 feet in height, so there must be a setback of 510 feet from any of the structures. Based on the tower coordinates there are three residences within 510 feet. So, therefore, based on this alone, the application must be denied.

The Zoning Ordinance requires 100 percent setback from adjoining properties. But, this tower appears to be less than 170 feet from the western property line. There is no reference to compliance with the setback in the site plan declaration that we saw, although that is possibly corrected in the new submission.

Section 24.09 A.4.a states: "Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences." The site plan shows no landscaping details, making it incomplete.

The legal description states that Frank A. Vandeputte and Sherril Vandeputte were conveyed the land in 2004, however since 2017 the land has belonged to James L and Denise Bargy, but there's no mention of the Bargys in the legal description.

Greg Hanlin – The site plan also names the jurisdiction on as Whitewater Township, and the jurisdiction Zoning Administrator as a gentleman that unfortunately passed away. It names Consumers Energy as the power provider, but should name Cherryland Electric. The gas

company is Consumers, but we don't have gas. This site plan has been fast-tracked and pushed through with no oversight.

Kimberly Hanlin – I live at 5205 M-72. I'm here before you tonight in protest of the illegal construction of the tower right next door to my home. I'm asking the panel to unanimously deny the insurance [sic] of the applicant's special land use permit. For the past 30 days, I've witnessed my husband investigate the many errors that were made by the applicant and our township's Zoning Administrator over this massive tower. December 2 was the first day that all of us in protest were made aware of this project, and we all confirmed that none of us received a public notice. According to the Freedom of Information Act issued by the County Department, the applicant was given permission by our Zoning Administrator and Deputy Clerk on June 7, via an email stating "you are good to go. Nothing more is required by the township for you to proceed." Our Zoning Administrator didn't even bother to enforce our Zoning Ordinance, which requires wireless communication towers to apply for a special land use permit under Article 4 of the township Zoning Ordinance. We are all here tonight, in protest, to protect the integrity of this beautiful area, our property values, and the health of our residents and wildlife. According to our township's Master Plan, we are here to faithfully protect these areas. My husband and I have been extremely fortunate to call Clearwater Township our home for almost ten years. We've had our dreams of raising our children in this home, so they can grow up in an environment that does not bring with it all the noise and pollution that you'd expect from the city. I never imagined that our next door neighbors could bring us such a negative impact that it would force us to leave our home. This type of tower does not belong on M-72, it belongs in an industrial area. Due to this tower, I've been forced to learn about the health impacts of the radio frequencies. I recommend that everyone here today do so as well. The risks are terrifying. I'm an expecting mother and the concerns are much greater. We are here today to ask the Commission to decline the applicant's request, to enforce the Master Plan of our Zoning Ordinance. Please, do not allow this illegally constructed tower to be permitted. Please make them tear it down, and the telecommunications company to utilize the poles that are already constructed in the immediate area. AT&T already occupies a tower at the northwest corner of M-72 and Townline Road. Our township and the M-72 corridor does not need any more negative impact. Thank you for your time.

Claire Walters – Clearwater Township. Thank you for the opportunity to speak to you today. The reason I and a lot of us selected Clearwater Township for our home is because of its beauty. The adopted plan of 2014 in part promises to maintain these key features. And as the tower does not adhere to the intention and spirit of that plan. I'd just like to use my time to quote from our Master Plan.

Objective 1. Protect the unique scenic and natural features of the township, including water quality

The scenic features of Clearwater Township are, in large part, a reason for the significant increase in both residential and vacation population over recent years. Increases in local employment and business income have resulted from the population increase. It is important, both from the standpoint of quality of life for our residents and visitors, and from the economic benefit that these

people bring to our community, that we preserve the woodland, waterland, wetland, and farmland nature of the township. There are lengthy stretches of roadway that present our best features to the public, and that we believe should be faithfully preserved. These include the portion of M-72 that runs through the township, Rapid City Road between the DNR Skegemog Swamp trailhead and Townline Road, and Valley Road between Dundas and Wilhelm Roads.

Thank you.

Jason Williams – Clearwater Township resident. I’m here today to protest the illegally permitted tower on M-72. I think it is setting a dangerous precedent for the “build first and ask permission later” mentality. I’m going to take this time to refine what the Recreational District means.

18.01 PURPOSE

These districts are intended to promote the proper use, enjoyment and conservation of the forest, water, topographic, geologic, historic and other resources of the Township peculiarly adapted to forestry, forest industries, and recreational uses in general.

18.02 PERMITTED USES

No building or structure or any part thereof shall be erected, altered or used, or land or premises used, for any purpose other than one of the following specified uses:

18.02.A. One single-family or two-family detached dwelling on a minimum lot size of five (5) acres

18.02.A.6. All construction required herein shall commence only after a Building Permit has been obtained in accordance with the applicable County Building Code provisions and requirements.

18.02.C Home Occupations subject to the following limitations:

18.02.C.2 Structures and additions to structures visible from public roads shall be externally no different in appearance than structures throughout the Recreational District.

18.03 PERMITTED USES SUBJECT TO SPECIAL USE PERMIT

18.03.J. Telecommunication towers and facilities and alternative tower structures.

So, I’d like to point out that the proposed lease site is 100’ x 100’, which equals 10,000 square feet of land, plus the utility easement. The parcel owner and lessor has a total of 5.6 acres of land. The minimum acreage requirement in the Recreational Zoning area is 5 acres. This lease will reduce the parcel owner’s usable land to 4.83 acres, including the utility easement. Under that, this parcel should not qualify for the special land use permit under these conditions. If you approve this project that has been illegally permitted I think it becomes a slippery slope. Thank you

Lynne Buday – I live at 5300 M-72 NW. I'm opposed to the cell tower. I think it's important for this board to look at that Master Plan and what the objectives are. I think it's important to preserve the scenic features of Clearwater Township. What Mrs. Hanlin read from the Master Plan is what would have read, too. The drive along M-72 is absolutely beautiful, and when you see this tower, it's unsightly and we all have a lot of concerns about it.

It's totally different than the wood pole, which is back against the woodline and hardly noticeable, while this tower is a metal structure that is quite high, does really take away from some of our best features along that corridor, and we have a duty to protect that. A lot of residential owners here are in direct opposition to this cell tower being located there. It's important to look at the wireless communication towers and the ordinance that would designate where those would be located. You have general guidelines where the township has recognized the need to protect the scenic beauty of Clearwater Township from unnecessary and unusual visual interference, and to protect residential areas from potential adverse impact from the towers or the antennas, encourage location of towers in non-residential areas, minimize the total number of towers throughout the community, encourage the joint use of new and existing tower sites rather than constructing additional towers, encourage developers of towers and antennas to configure them in a way that minimizes their adverse visual impact.

There isn't any landscaping, as the American Tower representative pointed out.

I think there's a concern as well that you don't have the property owners here. You've got land-contract purchasers who, along with this telecommunications company, are petitioning before the board for this approval.

I was glad to hear the American Tower individual indicating that they could improve the tower – the pole - that they have there. That's a lot different than allowing somebody to construct this huge cell tower on this property all around us which is going to affect all of us in this room. I hope that this board does not approve this, that you deny the application.

Melvin Cooke – I'll be very brief. I drive out of my driveway and I see a tower. The applicant says that the address of that tower is on Townline Road. Well that tower is on M-72 just as sure as I'm standing here. You look out my front window, there's that tower. It is not on Townline Road. And I do not believe that this board should confirm an application to these people who are generating a thousand dollar per month income for their little chunk of ground at the expense of everybody else in this room.

Gary Stosio – I live also across the street, right next to Cooke and right next door to Lynne. I question what he said about the service. We used to have AT&T and we got great service down M-72. We've got Verizon now- and M-72 is not a problem for service in my opinion.

Rebuttal-

Ben Herrick – I'm an attorney in Michigan, representing Tillman. I'm here with Mr. Bieniek. The first thing I'd like to point out is that you understand that American Tower is proposing – he's not proposing to keep the wood pole, because AT&T is the carrier and we've got propagation maps that indicate that the service is not adequate for their FCC-required levels. So, if it's not going here, it'll go across the street, and it'll be taller because it's higher on this side of the street than it is over there.

Regarding the potential law suit that American Tower would file - the township is in no way affecting the lease between American Tower and the property owner across the street. He fails to recognize that AT&T also has a lease for tower space with American Tower on different terms and conditions and it may not go through 2038, and may be a series of 5-year increments.

Mike Bieniek – Item by item. Mr. Hanlin mentioned four findings not in accord with the Master Plan. I want to point out that your Master Plan includes all of M-72. The propagation map shows a series of cell towers all along 72. This isn't something new along that corridor. So, it's definitely not in violation of your Master Plan, because you have existing towers that are along that corridor.

The special use permit procedures were not followed. We acknowledged that at the onset and that's why we're here this evening. It was repeatedly suggested that we tried to sneak in and we circumnavigated [sic] the process. By accident, unfortunately, there was some miscommunication. We are now here doing the process.

Chair Backers interjected here to request a copy of the email received. Mr. Bieniek agreed to provide it.

Bieniek continued:

Section 4.13 – encourage joint use to minimize visual impact. That provision that Mr. Hanlin read is not actually a provision, it's a suggestion at the beginning of the section of the ordinance.

The topic of health and safety came up. I wanted to address this head-on. I'm sure you know that health and safety issues cannot be something that is discussed by the Planning Commission and the Town Board as a means of making a decision. It is an FCC regulation. They are the ones that certified that it is safe.

The drop and swap issue, as Mr. Herrick mentioned, would mean another tower. We cannot go on the existing tower. As you see on those propagation maps, the height is not sufficient, and in order to do a "drop and swap" you'd have to build a new tower.

As for the Telecommunications Act does not state anything about co-location. It was designed as a guideline for municipalities so as not to circumnavigate [sic] the process.

The lack of landscaping in the site plan. I acknowledged that we did not include landscaping, but I stated that we would include landscaping as per the requirements of the township.

Public notice – we have provided the public notice – the notice has been provided obviously because the public is here.

[some cross talk]

Property values. I've seen many appraisals done in areas where towers are built. They don't reduce the property values. Cell towers are kind of an ordinary thing to have near residential areas because you have to have cell service near residential areas. Therefore, the property values do not decrease.

There was an outburst from a member of the audience. Chair Backers ruled the outburst out of order and regained control of the meeting.

Attorney Graham – with regard to co-location, if you look at the Zoning Ordinance Section 24.09 capital A.1, a, b, and c talk about existing towers. While it may not say the word “co-location,” they’re trying to rule out whether the existing towers are adequate to –

Backers – we don’t want an antenna farm

Bieniek – and I can address that

Graham – I would like you to address that, please.

Bieniek – as I mentioned, there are no existing cell towers in that area that are co-locatable. The existing tower that we are on – wood pole we are on - is inadequate to provide the coverage. As shown in those propagation maps, that is AT&T’s certification that that is the coverage in that area. As I mentioned the existing coverage shows the yellow and red and the white in that area, which represents insufficient coverage. Look to the other side, you see blues and greens filling in that area along that M-72 corridor, which is adequate coverage. So that is AT&T certifying that co-location on that existing tower/wood pole does not work. There is no close structure in that area sufficient for AT&T to co-locate on.

Backers – okay, I’m going to give each of you one more shot at this and then I’m going to shut this down.

Greg Hanlin – if we’re allowed to talk about reds blues and greens and service coverage, then I believe Gary has the right -

[Backers interrupted him and the cross talk is unintelligible]

Greg Hanlin – what this gentleman denied for us is the 5 acre minimum in a Recreational zoned area [one can hear a voice saying “that’s rubbish”] – which the ten thousand square feet reduces to 4.83 acre usable parcel, what is a utility easement –

Backers – my question would be – that’s a lease, right?

Bieniek – right, it’s not reducing the size of the actual lot. It’s usable

Backers – right, which is separate then, than ownership. It’s a separate issue. It’s a legal issue.

Dalton – if you don’t want me to talk about the coverage issue, I won’t

Backers – yes, we’re not concerned here with the equipment, we’re concerned with the tower size. What I see here is AT&T starting a fistfight between two tower companies. That’s what I see, and until we have all the legal information that preceded the erection of this tower, including the email and other items that we have to address, I know from my personal research into this that it does not meet several standards as written in our Zoning regs. So what I propose is that we adjourn this meeting, schedule another a second public hearing once we figure out what went wrong here so that we can address the issue of the tower as it sits right now.

Fields – asked Attorney Graham, if we have gathered enough information for him to prepare proposed findings of fact.

Graham – replied yes. He recommended to the Chair to close the public hearing and adjourn the deliberations to a specific time, date, and place a few weeks hence.

Backers – thanked everybody for their participation. He closed the public hearing at 8:12 p.m.

Graham – suggested we make a specific motion as to the specific time, date, and place for doing the deliberations. He recommended we give ourselves enough time to get all the evidence to him, and complete the minutes of this meeting. He will prepare proposed findings of fact for us to review, with options for us to discuss during deliberations to make our decision.

We decided that a special meeting would be appropriate, and that the twenty-first of January 2019 would be a good date for the meeting, and that publishing a special notice in the interest of transparency was a good idea.

Once again, members of the public began discussion among themselves. Chair Backers called them back to order.

There were eight notices mailed out to the owners of properties within 300 ft of the subject property.

Notice of this meeting was published in the Elk Rapids News, December 13, 2018

Review of requirements – gathering of information – any existing findings of fact

MOTION by Fields, second by Casassa, adjourn the deliberations until January 21, 2019 at 7 pm, in the Clearwater Township Community Center (aka the Little Red Schoolhouse). Motion carried unanimously.

Closing Public Comment:

There was none.

Adjournment:

MOTION by Casassa, second by Backers, to adjourn. Adjournment at 8:18 p.m.

Assignments:

- Fields – to publish notice in ER News of new meeting Jan 21 to resume deliberations.
- Fields – to gather all exhibits and forward to Attorney Bryan Graham, as well as detailed draft minutes.

Next Meeting: Regular meeting jointly with the ZBA on January 7, 2019; Special meeting January 21, 2019. Both meetings in the Clearwater Township Community Center (aka the Little Red Schoolhouse), at 7:00 p.m.

Respectfully submitted,



Tina Norris Fields
Secretary