

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
NO SPECIFIC LOCATION OR SITE *
AREA * ZONING COMMISSIONER

Election District * OF BALTIMORE COUNTY
Councilmanic District
SBC Communications, Inc., * Case No. 98-96-SPH
d/b/a Cellular One, Petitioner

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing requesting an interpretation of the Baltimore County Zoning Regulations (BCZR). The Petition was filed by SBC Communications, Inc., d/b/a Cellular One. The Petitioner requests an interpretation by the Zoning Commissioner of Section 102.2 of the BCZR; to wit, to determine whether internal setback requirements are necessary between the different equipment buildings of a wireless transmitting and receiving facility and whether each equipment building must have its own "yard".

This somewhat unusual case was scheduled for public hearing, which was conducted on October 21, 1997. Notice of the hearing was provided to the public by way of an advertisement in The Jeffersonian newspaper on October 2, 1997. In that no specific property is at issue, there could be no sign posting in order to provide additional public notice.

Appearing at the public hearing conducted for this case, were John Hamer, Van Thompson and Rick Meeker, all on behalf of SBC Communications, Inc., d/b/a Cellular One, Petitioner. Also present in support of the Petition was Bob Morelock, with Daft-McCune-Walker. The Petitioner was represented by Karl J. Nelson, Esquire. Appearing in support of the Petition was Michael T. Wyatt and Barbara Pivec.

Counsel for the Petitioner proffered testimony and presented the issue under consideration. As is well known, the Office of the Zoning

11/16/97
M. G. G. G.

Commissioner has, over the past several years, entertained numerous Petitions filed by corporations engaged in the business of providing wireless communications services. There are a number of companies engaged in this business, including but not limited to the Petitioner, Cellular One. Other companies include AT&T Wireless, Bell Atlantic Mobile, APC (Sprint), etc.

In order to carry out their business, these corporations find it necessary to establish base stations throughout Baltimore County. Often, the companies will install wireless transmitting and receiving facilities, including antennas and related equipment, atop buildings, on water towers, or on other high structures. When such structures are not available, the corporations frequently seek approval to erect monopoles or other towers on which to locate their equipment.

These sites are needed to establish an unbroken communication network across the County. As is well known, a mobile customer of these providers will have his/her communication transferred from one site to the next as he/she travels through Baltimore County.

Wireless transmitting and receiving facilities are generally regulated within Section 502.7 of the BCZR. This section establishes specific criteria which are applicable to such uses when a special exception is required. The spirit and intent of the BCZR requires that the providers co-locate on the same structures, poles or towers. Such a co-location scheme prevents the proliferation of towers throughout the landscape in Baltimore County.

The subject Petition is brought by Cellular One, seeking an interpretation of the applicability of Section 102.2 of the BCZR, when different providers utilize the same site. Section 102.2 provides that "no yard space or minimum area required for a building or use shall be considered

as any part of the yard space or minimum area for another building or use." Citing the wording used in this section, the question is presented whether each use must maintain its own yard area and/or setbacks when co-locating on a given site. Obviously, if there is such a requirement, separate minimum yard areas and setbacks need be established for each provider.

In my judgment, such a strict application of Section 102.2 is not appropriate and not in keeping with the spirit and intent of the regulations. The equipment utilized by the communication providers basically falls within two classifications. The first is the actual antenna devices which are located atop buildings or on the monopole or tower structure. The second includes electrical equipment contained within small sheds located at the base of the tower/pole or elsewhere on the site.

In my judgment, it is clear that the zoning regulations should not be read to require different users on a single site to maintain their own yard space. The equipment installed, notwithstanding however many users are present, is all in the nature of a single wireless transmitting and receiving facility. Whether there is one antenna or fifty operated by one company or ten, the use is single in character; to wit, a wireless transmitting and receiving facility.

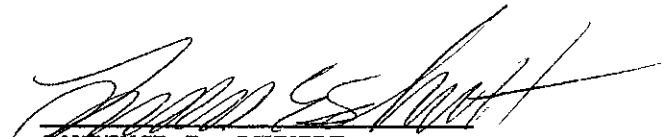
Based upon this conclusion, I am persuaded, therefore, that Section 102.2 of the BCZR is not applicable as to each separate user. Moreover, such a conclusion is entirely consistent with the spirit and intent of the BCZR. To reach a different conclusion could require separate monopoles on the same site and spread the equipment across a given property. This result is obviously contradictory to the plain meaning and intent of the BCZR.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the Petition should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 26th day of November 1997 that, pursuant to the Petition for Special Hearing filed, the requirements of Section 102.2 of the BCZR shall not be applied separately to multi-users of a single site as a wireless transmitting and receiving facility, as more fully set forth hereinabove.

Any appeal from this decision must be taken in accordance with the applicable provisions set forth in Section 26-132 of the Baltimore County Code.

LES/mmn


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

ORDERED AND FILED
DATE 11/26/97
BY [Signature]



Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

November 24, 1997

Karl J. Nelson, Esquire
Kramon and Graham, P.A.
One South Street, Suite 2600
Baltimore, Maryland 21202-3201

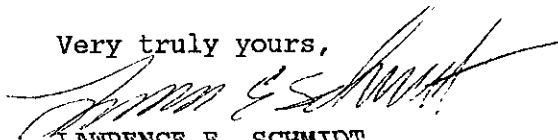
RE: Petition for Special Hearing
Case No. 98-96-SPH
Property: within Baltimore County
SBC Communications, Inc., d/b/a Cellular One, Petitioner

Dear Mr. Nelson:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Appeals Clerk at 887-3391.

Very truly yours,


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn
encl.

c: Messrs. John Hamer, Van Thompson and Rick Meeker
Cellular One, 7150 Standard Drive, Hanover, Md. 21076
c: Mr. Michael Wyatt, 404 Allegheny Avenue, Towson, Md. 21204
c: Ms. Barbara Pivec, 53 Windersal Lane, Baltimore, Md. 21234



96



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at within Baltimore County

98-96-SPH

which is presently zoned

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve ~~XXXXXX~~ 500.6 and

to have the Zoning Commissioner interpret Section 102.2 of the Zoning Regulations, to determine whether internal setback requirements are necessary between the equipment buildings of a wireless transmitting and receiving facility, and whether each equipment building must have its own "yard."

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

Karl J. Nelson, Esquire

(Type or Print Name)

Signature

Kramon & Graham, P.A.

One South Street, Suite 2600

Baltimore, Maryland 21202-3201

(410) 752-6030

City

State

Zipcode

~~XXXXXX~~ Petitioner:

SBC Communications, Inc., d/b/a

(Type or Print Name)

Cellular One

Signature

by: Michael Maus, Director of Real Estate

(Type or Print Name)

Signature

7150 Standard Drive 410-712-7810

Address

Phone No

Hanover, Maryland 21076

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Karl J. Nelson, Esquire (410) 752-6030

Name Kramon & Graham, P.A.

One South Street, Suite 2600

Address Baltimore, Maryland 21202-3201

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following date

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

9/12/97



BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No.

JLL 96

042790

DATE

9/12/97

ACCOUNT

R0016150

AMOUNT

\$ 250.00

RECEIVED
FROM:

KRAMONT GRAHAM.

FOR:

SPH (NOW RES.)

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PROCESS ACTUAL TIME

9/12/1997 9/12/1997 10:26:25

REG 1605 CASHIER BTRY DXT DRAWER 5

MISCELLANEOUS CASH RECEIPT

Receipt # 027876

OFLN

CR NO. 042790

250.00 CHECK

Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF PUBLICATION

TOWSON, MD., October 2, 1997

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Oct. 2, 1997.

THE JEFFERSONIAN,

A. Henrichson

LEGAL AD. - TOWSON

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in accordance with the provisions of the Zoning Act and Regulations of Baltimore County, on the proposed rezoning of the property identified herein as follows:

Case: 90-00-001

NO SPECIFIC LOCATION OR SITE AREA

Petitioner: SBC Communications, Inc., d/b/a Cellular One

Special Hearing: to determine whether internal setback requirements are necessary between the equipment buildings of a wireless transmitting and receiving facility and whether each equipment building must have its own yard.

Hearing: Tuesday, October 21, 1997 at 11:00 a.m., Room 407 Courts Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call (410) 887-3353.

(2) For information concerning the File and/or Hearing, Please Call (410) 887-3391.

10/074 Oct. 2 C178367



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

September 25, 1997

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 98-96-SPH

NO SPECIFIC LOCATION OR SITE AREA

Petitioner: SBC Communications, Inc., d/b/a Cellular One

Special Hearing to determine whether internal setback requirements are necessary between the equipment buildings of a wireless transmitting and receiving facility and whether each equipment building must have its own "yard".

HEARING: TUESDAY, OCTOBER 21, 1997 at 11:00 a.m. in Room 407 Courts Building, 401 Bosley Avenue.

A handwritten signature in black ink, appearing to read "Arnold Jablon". The signature is fluid and cursive, with the first name "Arnold" and last name "Jablon" clearly distinguishable.

Arnold Jablon
Director

cc: SBC Communications, Inc., dba Cellular One
Karl J. Nelson, Esq.

- NOTES: (1) YOU MUST HAVE THE ZONING NOTICE SIGN POSTED ON THE PROPERTY BY N/A.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



TO: PUTUXENT PUBLISHING COMPANY
October 2, 1997 Issue - Jeffersonian

Please forward billing to:

Karl J. Nelson, Esq.
Kramon & Graham, P.A.
One South Street, #2600
Baltimore, MD 21202
410-752-6030

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 98-96-SPH
NO SPECIFIC LOCATION OR SITE AREA
Petitioner: SBC Communications, Inc., d/b/a Cellular One

Special Hearing to determine whether internal setback requirements are necessary between the equipment buildings of a wireless transmitting and receiving facility and whether each equipment building must have its own "yard".

HEARING: TUESDAY, OCTOBER 21, 1997 at 11:00 a.m. in Room 407 Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

October 17, 1997

Karl J. Nelson, Esquire
Kramon & Graham, P.A.
One South Street, Suite 2600
Baltimore, MD 21202-3201

RE: Item No.: 96
Case No.: 98-96-SPH
Petitioner: SBC Communications, Inc

Dear Mr. Nelson:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on September 12, 1997.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Roslyn Eubanks in the zoning office (410-887-3391).

Sincerely,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." in a cursive style.

W. Carl Richards, Jr.
Zoning Supervisor

WCR/re
Attachment(s)





Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary

Parker F. Williams
Administrator

Ms. Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County 9-23-97
Item No. 096 JLL

Dear Ms. Eubanks:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Larry Gredlein at 410-545-5606 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

R. J. Gredlein
10 Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: PDM

DATE: 9/25/97

FROM: R. Bruce Seeley
Permits and Development Review
DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date: Sep 22, 97

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

Item #'s: 88
89
90
91
92
95
96
98

RBS:sp

BRUCE2/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management

Date: September 26, 1997

FROM: *RWB* Robert W. Bowling, Chief
Bureau of Developer's Plans Review

SUBJECT: Zoning Advisory Committee Meeting
for September 29, 1997
Item Nos. 087, 088, 089, 091, 092,
095, 096, 097, and 098

The Bureau of Developer's Plans Review has reviewed the subject zoning item, and we have no comments.

RWB:HJO:jrb

cc: File

See
10/21

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Dept. of Permits & Development Management

DATE: October 1, 1997

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: Zoning Advisory Petitions

The Planning Office has no comments on the following petition (s):

Item Nos. 95, 96, 100, 101, 103, 104 and 107

If there should be any questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3495.

Prepared by:

Jeffrey W. Long

Division Chief:

Gayle L. Kerns

AFK/JL

RE: PETITION FOR SPECIAL HEARING
NO SPECIFIC LOCATION OR SITE AREA,

SBC Communications, Inc., d/b/a
Cellular One
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 98-96-SPH

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of October, 1997, a copy of the foregoing Entry of Appearance was mailed to Karl J. Nelson, Esq., 1 South Street, Suite 2600, Baltimore, MD 21202, attorney for Petitioner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Bob Morelock

DMK, 200 E. PENNA. AVE.
TOWSON, MD 21286

John Hamer

Cellular One 7150 Standard
Drive Hanover MD 21076

Van Thompson

Cellular One 7150 Standard Dr.
Hanover MD 21076

Rick Meeker

Cellular One 7150 Standard Dr
Hanover, MD 21076



PLEASE PRINT CLEARLY

CITIZEN SIGN-IN SHEET

NAME

ADDRESS

Michael T. Wyatt

404 Allegheny Avenue
Towson MD 21204

Barbara Pivec

53 Windersal Ln
Balto, MD 21234



TYPICAL SITE PLAN W/
MULTIPLE EQUIPMENT
BUILDINGS

TO ACCOMPANY PETITION FOR SPECIAL HEARING

SCALE: 1" = 20'

9/12/07

W O O D E D

#96

98-96-SPH

N25° 44' 09" E

213.5'

207'

160'

40' SETBACK

S74° 00' 51" E 737.55'

128'

EAST SIDE EXISTING
8' HIGH CHAIN LINK
FENCE TO BE REMOVED

