

BOARD OF APPEALS

April 2, 2025

County Administration Building, 100 W. Washington St., Meeting Room 2000, Hagerstown, at 6:00 p.m.

AGENDA

AP2025-004: An appeal was filed by The Tower LLC for a special exception for proposed 199 ft. monopole commercial communication tower. Variance from the setback minimum required for a commercial communication tower to a dwelling from 399 ft. to 329 ft. Variance from the setback minimum required for a commercial communication tower to the Rural Village District from 399 ft. to 291 ft. on property owned by Boonsboro First Hose Fire Co. and located at 3417 Rohrsersville Road, Rohrsersville, Zoned Preservation. **-GRANTED**

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Katie Rathvon at 240-313-2464 Voice, 240-313-2130 Voice/TDD no later than March 24, 2025. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

The Board of Appeals reserves the right to vary the order in which the cases are called. Please take note of the Amended Rules of Procedure (Adopted July 5, 2006), Public Hearing, Section 4(d) which states:

Applicants shall have ten (10) minutes in which to present their request and may, upon request to and permission of the Board, receive an additional twenty (20) minutes for their presentation. Following the Applicant's case in chief, other individuals may receive three (3) minutes to testify, except in the circumstance where an individual is representing a group, in which case said individual shall be given eight (8) minutes to testify.

Those Applicants requesting the additional twenty (20) minutes shall have their case automatically moved to the end of the docket.

For extraordinary cause, the Board may extend any time period set forth herein, or otherwise modify or suspend these Rules, to uphold the spirit of the Ordinance and to do substantial justice.

Tracie Felker, Chairman

Board of Zoning Appeals



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Boonsboro First Hose Fire Co.
5 Saint Paul Street
Boonsboro MD 21713

Appellant: The Towers LLC
750 Park of Commerce Drive
Suite 200
Boca Raton FL 33487

Property Location: 3417 Rohrersville Road
Rohrersville, MD 21779

Description Of Appeal: Special exception for proposed 199 ft. monopole commercial communication tower. Variance from the setback minimum required for a commercial communication tower to a dwelling from 399 ft. to 329 ft. Variance from the setback minimum required for a commercial communication tower to the Rural Village District from 399 ft. to 291 ft.

Appellant's Legal Interest In Above Property:

Owner:	No	Contract to Rent/Lease:	Yes
Lessee:	No	Contract to Purchase:	No
Other:			

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance: Table No. 3.3(1) R. & 4.22 A:2

Reason For Hardship: See justification statement

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Fire Station **Proposed Use:** Commercial Communication Tower

Previous Use Ceased For At Least 6 Months: **Date Ceased:**

Area Devoted To Non-Conforming Use - **Existing:**
Proposed:

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 12 day of March, 2025.

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND

My Commission Expires **NOVEMBER 07, 2025**

Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2025-004

State of Maryland Washington County, To Wit:

On 3/12/2025, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Saul Ewing LLP and made oath in due form of law as follows:

Saul Ewing LLP will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 04/02/2025, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 03/18/2025 and will remain until after the above hearing date.

Saul Ewing LLP

Sworn and subscribed before me the day and year first above written.

Notary Public

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND

MY COMMISSION EXPIRES NOVEMBER 07, 2025

My Commission Expires

Seal





WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P: 240.313.2430 | F: 240.313.2431 | Hearing Impaired: 7-1-1

BOARD OF ZONING APPEALS

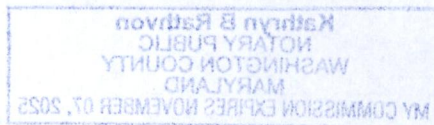
ATTENTION!

Posting Instructions

The premises **MUST** be posted in accordance with the following rules:

1. The sign must be posted a minimum of fourteen (14) days prior to the public hearing. Section 25.51(c) Property upon which the application or appeal is concerned shall be posted conspicuously by a zoning notice no less in size than twenty-two (22) inches by twenty-eight (28) inches at least fourteen (14) days before the date of the hearing.
2. The sign must be placed on the property within ten (10) feet of the property line which abuts the most traveled public road.
3. The sign must be posted in a conspicuous manner not over six (6) feet above the ground level, and affixed to a sturdy frame where it will be clearly visible and legible to the public.
4. The sign shall be maintained at all times by the applicant until after the public hearing. If a new sign is needed or required, please contact the Plan Review Department at 240-313-2460.
5. An affidavit certifying the property will be posted for the minimum of fourteen (14) days prior to the public hearing date.

Proper posting of the sign will be spot checked by the Zoning Inspector. IF SIGN IS NOT IN COMPLIANCE, IT MAY RESULT IN RESCHEDULING OF THE HEARING.





BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired:

7-1-1 WWW.WASHCO-MD.NET

Appeal for Variance

Appeal is hereby made for a variance from a requirement of the Washington County Zoning Ordinance as follows:

Location 3417 Rohrsersville Road, Rohrsersville, MD 21779

Appellant's present legal interest in above property: (Check One)

☐ Owner (Including Joint Ownership) ☐ Lessee ☒ Contract to rent/lease

☐ Contract to Purchase ☐ Other _____

Specify the Ordinance section and subsection from which the variance is desired:

Ordinance § 4.22(A)(2)

Specify the particular requirement(s) from which a variance is desired in that section or subsection:

The Applicant is requesting two variances: (1) a reduction of the setback of a monopole from an existing dwelling; and (2) a reduction of the setback fro a monopole from the RV district.

Describe the nature and extent of the desired variance from Ordinance requirements: listed above:

The proposed monopole will be 329 feet from the nearest dwelling, requiring a reduction of the setback by 70 feet. The monopole will be 292 feet from a parcel zoned RV, requiring a reduction of the setback by 108 feet.

Describe reason(s) why the Ordinance requirement(s) in question would result in peculiar and/or unusual practical difficulties to or would impose exceptional or undue hardship upon the owner of the property if the requested variance were not granted:

See attached Statement of Justification by the Applicant

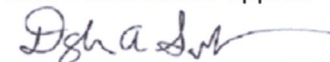
Provide Detailed Explanation on Separate Sheet

Has any previous petition or appeal involving this property been made to the Board?

☐ Yes ☒ No

If yes, list docket number(s): _____

I hereby certify that I have, to the best of my knowledge, accurately supplied the information required for the above referenced appeal.



Signature of Appellant

Douglas.Sampson@saul.com

Email of Appellant

Saul Ewing LLP, 1001 Fleet Street, 9th Floor,
Baltimore, MD 21202

Address and of Appellant

410-332-8661

Phone Number of Appellant

This appeal form is to be used to assist the customer in gathering the information necessary to submit an application. However, the application shall be processed in person.



BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired: 7-1-1

WWW.WASHCO-MD.NET

Appeal for Special Exception

Appeal is hereby made for a special exception under the Washington County Zoning Ordinance as follows:

Location 3417 Rohrsersville Road, Rohrsersville, MD 21779

Appellant's present legal interest in above property: (Check One)

☐ Owner (Including Joint Ownership) ☐ Lessee ☒ Contract to rent/lease

☐ Contract to Purchase ☐ Other _____

Use Proposed: Telecommunications Facility with 199' monopole

Zoning Ordinance section and subsection(s) providing for proposed use: _____

Ordinance § 4.22

If filing functionally similar to a principal permitted use or special exception use, please list the use and describe the use similarities:

See attached Statement of Justification by the Applicant

Provide Detailed Explanation on Separate Sheet

Has any previous petition or appeal involving this property been made to the Board?

☐ Yes ☒ No

If yes, give docket number(s): _____

Additional comments, if any: The Property is owned by the Boonsboro Fire Department, which has authorized the Applicant to file this application. The proposed 199' monopole will provide new and improved emergency and non-emergency wireless services in this area of Washington County.

I hereby certify that I have, to the best of my knowledge, accurately supplied the information required for the above referenced appeal.

Signature of Appellant

Douglas.Sampson@saul.com

Email of Appellant

Saul Ewing LLP, 1001 Fleet Street, 9th Floor,
Baltimore, MD 21202

Address of Appellant

410-332-8661

Phone Number of Appellant

This appeal form is to be used to assist the customer in gathering the information necessary to submit an application. However, the application shall be processed in person.



Washington County MARYLAND

BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that Saul Ewing LLP and Site Link Wireless, LLC
is authorized to file an appeal with the Washington County Board of Appeals for
a Special Exception and two Variances to build a 199' telecommunications facility on property
located on property owned by the Boonsboro F.D. at 3417 Rohersville Road, Rohersville, Maryland 21779
The said work is authorized by _____
the property owner in fee.

PROPERTY OWNER

THE FIRST HOME COMPANY OF BOONSBORO
Name 3417 ROHERSVILLE ROAD
Address ROHERSVILLE MD 21779
City, State, Zip Code
GEORGE A MCHELF
Owner's Signature

Sworn and subscribed before me this 10 day of MARCH, 2025.

Kenneth J. Adkins
Notary Public

My Commission Expires: 7-8-2027

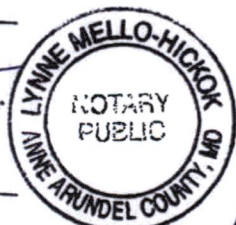
AUTHORIZED REPRESENTATIVE

Douglas A. Sampson, Saul Ewing LLP
Name
1001 Fleet Street, 9th Floor
Address
Baltimore, MD 21202
City, State, Zip Code
Shap
Authorized Representative's Signature

Sworn and subscribed before me this 12th day of March, 2025.

Lynne Mello-Hickok
Notary Public

My Commission Expires: 9/7/25



My Commission Expires 9/7/25

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired: 7-1-1

**Appeal for a Special Exception and Variances
to Construct a 199' Monopole Telecommunications Facility
at 3417 Rohrsersville Road, Rohrsersville, Maryland 21779**

Adjacent Parcel Mailing List

Owner(s)	Parcel ID	Mailing Address
Alice Orzechowski Scott Mitchell Hoyman Jr.	08-009146	20312 Townsend Road, Rohrsersville, MD 21779
Mark Layton	08-002703	20327 Townsend Rd., Rohrsersville, MD 21779-1250
Kody Lucero Kimberly Kerdthap Lucerdo	08-013462	3443 Rohrsersville Rd., Rohrsersville, MD 21779-0000
Pamela Denise Shaw Loren Eugene Shaw Jr.	08-003246	20331 Townsend Rd. Rohrsersville, MD 21779-1250
Kody Lucero Kimberly Kerdthap Lucerdo	08-014019	3443 Rohrsersville Rd. Rohrsersville, MD 21779
Carl L Palmer Jr. Destinee L Palmer	08-012830	20402 Gap Ct. Rohrsersville, MD 21779-0000
Jeffrey A. Hutzell Joann Hutzell	08-013322	3345 Gapland Rd. Rohrsersville, MD 21779-1206
Jeffrey A. Hutzell Joann Hutzell	08-005087	3345 Gapland Rd. Rohrsersville, MD 21779-1206
Alice Orzechowski Scott Mitchell Hoyman Jr.	08-005117	20312 Townsend Road, Rohrsersville, MD 21779
Pleasant Valley Baptist Church	08-011982	3346 Gapland Rd. Rohrsersville, MD 21779-1205
Charlotte J Mullendore, et al Elizabeth A. Nemanic	08-006709	1141 Chaucer Dr. Greensburg, PA 15601
Odella Diane Hagan Jones	08-007721	3416 Gapland Rd. Gapland, MD 21779-1207
Fitzgerald Family Revocable Living Trust James F. Fitzgerald, Trustee	08-012814	3452 Kaetzel Rd. Rohrsersville, MD 21779-1225

**Statement of Justification in support of application for a Special Exception and Variances
to Construct a 199' Monopole Telecommunications Facility
at 3417 Rohrsersville Road, Rohrsersville, Maryland 21779**

Applicant: The Towers, LLC
750 Park of Commerce Drive, Suite 200
Boca Raton, Florida 33487
561-948-6367

Property Owner: Fire Co. Boonsboro Fire Hose
5 Saint Paul Street
Boonsboro, Maryland 21713-1319

Representatives: Douglas A. Sampson, Saul Ewing LLP
1001 Fleet Street, 9th Floor
Baltimore, MD 21202
(410) 332-8661
Douglas.Sampson@saul.com

Rick Novak, Site Link Wireless, LLC
(443) 622-1744
RNovak@sitelinkwireless.com

Address: 3417 Rohrsersville Road, Rohrsersville, Maryland 21779
Jurisdiction: Washington County, Maryland
District: 08
Parcel Tax Acct #: 013454
SDAT Property Info: Map 0084, Grid 0001, Parcel 0329
Lot Size: 7.26 Acres
Zoning: P (Preservation)
Current Use: Exempt Commercial – Fire Station
Proposed Height: 199' (195' monopole, with 4' lightning rod)

Pursuant to the Washington County Zoning Ordinance (the “Ordinance”) §§ 4.22, 25.56 and 25.6, The Towers, LLC d/b/a Veritcalbridge (“Applicant”), by its agents Saul Ewing LLP and Site Link Wireless, LLC, hereby requests approval for a new telecommunication facility that includes a 199' monopole (the “Facility”) on a portion of property located at 3417 Rohrsersville Road, Rohrsersville, Maryland 21779, Tax ID# 08013454 (the “Property”). A telecommunications facility is permitted in the P (Preservation) Zoning District with a Special Exception. *See* Ordinance, Table No. 3.3(1). The Applicant is requesting two Variances: one from the 399-foot setback requirement from the nearest dwelling, and another from the 399-foot setback requirement from a property zoned RV (Rural Village).

The Applicant respectfully requests a determination by the Washington County Board of Zoning Appeals that the Facility is in substantial compliance with the Ordinance and is authorized for a Special Exception with two variances from setback requirements. This document and attached Exhibits provide justification for the Facility, and a summary of how and why this

proposal conforms with the Ordinance. This package and additional or clarifying evidence, to be presented at a public hearing, provide the legal and factual support to approve this Special Exception with Variances.

EXHIBITS

- Exhibit 1: Verizon Wireless Letter of Intent
- Exhibit 2: Existing Verizon Wireless Coverage Map
- Exhibit 3: Verizon Site Selection Engineering Statement
- Exhibit 4: Proposed Verizon Coverage Map with Facility
- Exhibit 5: Map of Existing Verizon Facilities within Washington County
- Exhibit 6: Site Plans in 8.5" x 11"
- Exhibit 7: Engineering Certification Letter
- Exhibit 8: Photo Simulations of Proposed Monopole
- Exhibit 9: Affidavit of Co-Location

I. Verizon's Goals and the Need for Improved Wireless Services

Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless") has committed to locate its telecommunications antennas on the proposed Facility. (See Verizon Wireless Letter of Intent as **Exhibit 1**). Verizon Wireless is licensed by the Federal Communications Commission ("FCC") to provide wireless telecommunications services in Washington County, Maryland. The Facility will add and improve emergency and non-emergency wireless and broadband services in Washington County, without adverse impacts to the surrounding area.

Verizon Wireless has a significant need to improve the delivery of emergency and non-emergency wireless and broadband services to residents, businesses and commuters in this area of Washington County. (See Existing Coverage Radio Frequency Propagation Map attached as **Exhibit 2**). The site of the proposed Facility was chosen to improve wireless services in Rohrsersville and Gapland. (See Verizon Site Selection Engineering Statement attached as **Exhibit 3**). The proposed Facility will add and improve wireless and broadband services and ensure adequate overlapping coverage between and among existing coverage areas. (See Proposed Verizon Coverage Map attached as **Exhibit 4**). The Facility will add and improve wireless broadband services and coverage capacity in and around Park Hall, MD and Augusta, MD, particularly along U.S. Route 67. (See Ex. 2). Ultimately, the proposed Facility will allow residents, visitors, businesses and emergency personnel of Washington County to experience adequate wireless services, better quality calls, and diminished dropped calls, and enhanced first responder services.

In particular, the Boonsboro Fire Department wants the new Facility to improve wireless and broadband services for first responders. The Fire Department has expressed that wireless coverage is inadequate in this portion of Washington County, which leads to failed or dropped calls by people who may be in need of emergency assistance. The improved wireless and broadband services will also enhance the Fire Department's own communications infrastructure to respond to emergency situations.

II. The Property and Current Use

The Property is owned by the Boonsboro Fire Department, which has authorized the Applicant and its agents to pursue a Special Exception, Variances, and any other zoning relief, building permits, or applications required for the Facility. The Property is home to Station 8 of the Boonsboro Fire Department. The Property is zoned Preservation (P) and is currently an exempt commercial use as a fire station. A telecommunications facility is permitted in the P Zoning District with a Special Exception. *See Ordinance, Table No. 3.3(1).*

The Property is an ideal location for the Facility given its location and zoning district. The Property is a non-residential use in the middle of an area of residential and agricultural zoning districts, predominantly composed of single-family homes and farmland. Locating the Facility on the Property will bring new and improved wireless and broadband services to the area, without burdening a privately owned residential or agricultural property. (*See Ex. 4, Proposed Coverage Map*). The Property is in close proximity to nearby residential areas in need on new and improved emergency and non-emergency wireless services.

The 7.26-acre Property is developed with a fire station building with garage space for emergency vehicles and surface parking. The Facility will be located adjacent to the existing building, with the building between the Facility and the nearest dwelling to the northeast. The Property is screened by mature trees to the south and southeast as well as significant mature trees across Rohrsersville Road to the west. The Facility will be located in an area along Route 67 and in close proximity to nearby homes, with buffering from nearby woodlands and topography. The tree cover existing around the Property on adjacent properties will further minimize the need for additional screening.

The Applicant and Verizon Wireless searched for existing towers or structures that could provide viable co-location for Verizon Wireless's antennas. Co-locations are preferred locations and are much less expensive to bring online. The Applicant determined, and Verizon Wireless confirmed, that there are no nearby existing telecommunications facilities, water tanks, utility distribution structures, or tall buildings suitable to co-locate telecommunications antennas and to meet Verizon's coverage needs. This area of Washington County is predominantly flat farmland, other agricultural uses, and single-family homes, making the availability of tall structures suitable for co-location of telecommunications antennas infeasible.

Verizon already has antennas located on the two closest existing telecommunications towers, which can be seen to the north and south of the proposed Facility on the existing coverage map. (*See Ex. 2; see also map of existing Verizon facilities within Washington County is attached as Exhibit 5*). With no viable co-location opportunity, Verizon Wireless determined that a new tower was required. The Applicant determined that the Property was viable from a technical perspective (*i.e.*, radio frequency), a zoning perspective (*i.e.*, preferred use on an exempt commercial use in a heavily agricultural and residential area and compliant with all regulations), and from a landowner perspective (*i.e.* a land owner willing to lease space). Verizon Wireless further determined that 199 feet is the minimum height of the Facility to both meet Verizon Wireless's coverage objectives, and to provide viable co-location opportunities for other wireless providers. Verizon Wireless determined that the ideal height to maximize coverage objectives was 250 feet. However, Verizon Wireless lowered the targeted height to comply with zoning

regulations and minimize the necessary variances required. However, if the height of the monopole were to be reduced further, it would not allow Verizon Wireless to meet its coverage goals. (See Exs. 2 & 4). It would also be much less likely that other wireless providers (such as AT&T and T-Mobile) would co-locate on the Facility, because the height of available co-location opportunities would be too low to be viable. If the height of the proposed Facility is reduced, other providers may need new towers – rather than co-locating on this Facility – to bring their own wireless and broadband coverage to this area.

III. The Proposed Telecommunications Facility

The Facility consists of a 199' tall monopole (195' pole, with a 4' lightning rod) within a 50' x 50' (2,500 square feet) equipment compound surrounded by an 8' tall fence (7' chain link fence with barbed wire on top). (See Site Plan attached as **Exhibit 6** at C-2 and C-3). The monopole will allow Verizon Wireless to locate its antennas with a centerline of 190' above ground level (AGL) and will accommodate up to three future carriers to locate antennas at 180' AGL, 170' AGL, and 160' AGL. (See Ex. 6 at C-3). The Facility will be built on already graded land on the parcel and will be adjacent to the existing fire house building which will minimize the amount of land disturbance. The Facility will utilize and expand the existing utilize paved accessway to access the Facility and reduce the impervious surface. (See Ex. 6 at Z-3).

As discussed below, the Applicant is seeking two variances from setback requirements: one from the 399-foot setback requirement from the nearest dwelling, and another from the 399-foot setback requirement from a property zoned RV (Rural Village). The Facility is setback greater than the proposed height of the monopole from every nearby property and dwelling. The Facility is setback 356 feet from the P Zoned parcel to the west, 292 feet from the RV zoned parcel to the south, 215 feet from the P Zoned parcel to the east, and 370 feet from the P Zoned parcel to the north. (See Ex. 6 at C-1). Further, the closest off-site dwelling is 329 feet from the Facility. (See Ex. 6 at C-1).

The Applicant's engineer certified that the tower will be designed such, that in the unlikely case of a catastrophic failure, the tower would fall within a radius of 150 feet and would pose no risk to adjacent properties or buildings. (See Engineering Certification Letter attached as **Exhibit 7**). The Facility will be unmanned, free of public facilities, and only require occasional visits (about 1 visit per quarter) from a technician for routine inspections and maintenance. The Facility will have no impact on traffic. The Facility will have no adverse impact on the health, safety, or welfare of residents or workers in the area. The Facility will be free of odors, fumes, light, glare, and noise.

The Applicant conducted a visual impact survey on February 22, 2025. (See Photos and Photo Simulations attached as **Exhibit 8**). A large balloon filled with helium was raised at the location of the proposed Facility to the proposed height of 199 feet. The weather was clear with calm winds. The technician drove around the surface streets surrounding the Property and took photos on the balloon from the most visible locations. Throughout most of the radius, the balloon was not visible. The Applicant created five simulations of the tower from the five most visible locations identified. (See Ex. 8). Based on the balloon fly and attached simulations, the Applicant determined the Facility will not have a significant visual impact on the surrounding area.

IV. Requested Variances

The Applicant is requesting two variances from the setback requirements of Ordinance § 4.22(A)(2): (1) a reduction of the 399' setback (199' tower height, plus 200') from an existing dwelling; and (2) a reduction of the 399' setback (199' tower height, plus 200') from the RV zoning district.

The Facility meets all of the setback requirements set forth in Ordinance § 4.22(A)(1). The proposed monopole is set back from all adjacent property lines a distance equal to or greater than the height of the proposed monopole (199'). The proposed monopole is setback 356' from the nearest property line to the west; 370' from the nearest property line to the north; 215' from the nearest property line to the east; and 292' from the nearest property line to the south.

The nearest property to the south is zone RV (Rural Village) and is setback 292 feet from the proposed monopole. Per Ordinance § 4.22(A)(2), the required setback from the RV district is the height of the tower plus 200 feet (399'). The Applicant requests a variance reducing the required setback from the RV district by 107 feet from 399 feet to 292 feet. The nearest dwelling is 329 feet from the proposed monopole. Per Ordinance § 4.22(A)(2), the required setback from any dwelling is the height of the tower plus 200 feet (399'). The Applicant requests a variance reducing the required setback from a dwelling by 70 feet from 399 feet to 329 feet.

Due to the shape of the parcel and close proximity of the RV district to the south, there is no place on the Property where the proposed Facility can meet all required setbacks in Ordinance § 4.22(A)(2). The location of the proposed Facility was chosen to be adjacent to the existing fire station, which limits the area of disturbance and reduces visual impact on the surrounding area. (*See Ex. 8*). The Applicant considered alternative locations on the parcel, but no location would have completely eliminated the need for at least one variance. The Applicant considered moving the location to eliminate one variance (i.e., move the facility closer to the RV district to maximize distance from the dwelling, or vice versa). However, after conversations with the Washington County Zoning Coordinator, it was determined it would be preferred to locate the Facility to maximize the distance from all properties, rather than to move the Facility for the benefit of one property owner and to the detriment of the other.

The Applicant also considered reducing the height of the tower in order to meet the setback requirements. However, the height of the tower would need to be reduced to below 125 feet, which would not meet Verizon's coverage goals and would not allow for viable co-location opportunities for other providers. 199' (195' pole with 4' lightning rod) was determined to be the lowest height to provide Verizon with meaningful wireless coverage and capacity and to provide viable co-location opportunities for other wireless providers. In essence, reducing the height of the monopole would significantly reduce the efficacy of the provided coverage and would likely necessitate additional towers in the area to provide adequate wireless coverage and capacity.

The Facility will still have setbacks at least the height of the tower from all adjacent properties and the nearest dwelling. An engineer has certified that, in the unlikely event of a catastrophic failure, the proposed monopole would fall within a radius of no more than 150 feet – with no portion of it leaving the bounds of the Property. (*See Ex. 7*). The requested variances meet

the spirit of the Code to reduce the impact on nearby properties, while providing reliable emergency and non-emergency wireless services in Washington County – including viable co-location opportunities to eliminate the need for additional facilities. The requested variances comply with the variance standard set forth in Ordinance § 25.56 as specifically set forth below:

Section 25.56 Variances

A variance may be granted by the Board upon a showing of criteria of practical difficulty or undue hardship described below respectively:

A. Practical Difficulty

1. Strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

- **Applicant's Response:** A telecommunications facility is permitted in the P (Preservation) district with a special exception. Due to the shape of the parcel and the RV zoning district for an adjacent property there are increased setback requirements for a telecommunications facility for this parcel not required for other parcels. There is no location on the property where the proposed Facility could meet all setbacks and, therefore, not require at least one variance. The Applicant considered moving the location to eliminate one variance while increasing the other requested variance relief (i.e. moving the facility closer to the RV district to maximize distance from the dwelling, or vice versa). However, after conversations with the Washington County Zoning Coordinator, it was determined it would be preferential to locate the Facility to maximize the distance from all properties, rather than to move the Facility to the benefit of one property owner and to the detriment of the other.

2. Denying the variances would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and

- **Applicant's Response:** Requiring strict compliance with the Code would cause substantial injustice to the Applicant and would likely eliminate the proposed Facility from ever being built. There is no location on the Property where the Applicant can proceed without any variances. The only way to reduce or eliminate the variances would be to reduce the height of the proposed monopole by half. The requested height is necessary to bring necessary emergency and non-emergency wireless services to this area of Washington County.

Even with a reduced height of the Facility, it is likely at least one variance would be necessary. Regardless, the Applicant cannot reduce the height of the proposed tower without significantly reducing the efficacy of the wireless coverage and capacity needed for this site by Verizon. Reducing the height would eliminate viable co-location opportunities, in aversion to the spirit of the Ordinance which requires the Facility to be designed for co-location for other wireless providers.

To avoid the need for any variance the height of the Facility would need to be reduced so much as to render it useless for the proliferation of wireless services. If the variances are denied, the Facility will not be viable and is unlikely to be built.

3. *Granting the variance would observe the spirit of the Ordinance and secure public safety and welfare.*

- **Applicant's Response:** Granting the requested variances would observe the spirit of the Ordinance. All adjacent properties except one are zoned P (Preservation). The proposed Facility meets the setback requirements from the P district. The Facility will be set back in excess of the monopole's height from all adjacent properties and nearby dwellings. The requested variances would also allow the monopole to be of adequate height to allow for viable co-locations for other wireless providers consistent with Ordinance § 4.22(A)(6). This area of Washington County has a significant need for improved emergency and non-emergency wireless services. (See Exs. 2 & 4). Bringing necessary emergency and non-emergency communications services to the area provides a significant benefit to secure public safety and welfare.

B. Undue Hardship

1. *Strict compliance with the Ordinance would prevent the applicant from securing a reasonable return from or to make reasonable use of the property; and*

- **Applicant's Response:** Strict compliance with the setback provisions of Ordinance § 4.22(A)(2) will likely prevent the Applicant from building the Facility. The requested height is required to bring adequate emergency and non-emergency wireless services to this area of Washington County. A reduced height would not meet Verizon's coverage needs and would render co-location opportunities moot. If the variances are denied, the Facility is unlikely to be built.

2. *The difficulties or hardships are peculiar to the property and contrast with those of other property owners in the same district; and*

- **Applicant's Response:** The Property is unique in that it is home to the Boonsboro Fire Department. It provides a location for a Facility on a parcel that has a non-residential use surrounded by other residential properties. Locating the Facility on the fire department's Property will increase emergency and non-emergency communications for the community including the first responders located at the Property. It also provides a location that is a public use, rather than imposing the burden on a privately owned parcel. There is no location on the Property where the Applicant can proceed without any variances. While other parcels in the area may meet the required setbacks, they would be privately owned, would need a willing landlord, and would not have the same non-residential use. The Property is unique given its location in the area that needs coverage, a public non-residential use, and first responders who desperately want increased wireless coverage in the area so they may better perform their responsibilities.

3. *The hardship is not the result of the applicant's own actions.*

- **Applicant's Response:** The hardship is not the result of the applicant's actions. The Applicant choose a location to minimize the variance requests and reduce the burden on adjacent properties to the maximum extent. The Property is unique in that there is no location on the Property where the proposed Facility could be located to meet all of the required setbacks.

V. **Compliance with Washington County Zoning Ordinance**

Section 4.22 Commercial Communication Towers

No permit to construct a tower may be issued unless the applicant demonstrates to the Planning Commission, or where applicable, to the Board of Zoning Appeals, need for the tower and that the applicant has exhausted all alternatives to constructing a tower. Applicants are required to prove need by:

a. *demonstrating via statement or other evidence that, in terms of location and construction, there are no existing towers, buildings, elevated tanks or other structures able to provide the antenna platform required.*

- **Applicant's Response:** Generally, it is much more efficient and less expansive to co-locate a telecommunications facility on an existing tower, building, or structure than to build a new tower or monopole. New builds are a last resort when no existing infrastructure will meet wireless coverage needs. The Property is located in the center of a significant gap in adequate wireless and broadband coverage. (See Ex. 2). There are no existing towers in the area on which Verizon is not already co-located. (See Ex. 5). The Applicant conducted a search for any tall structures or buildings that could meet Verizon's coverage needs. However, this area of Washington County is not heavily developed with tall structures and is primarily rural farmland and land in the P (Preservation) district. The Applicant investigated the land within a mile radius and found no suitable structures for co-location. Absent such structures, it was determined a new tower or monopole was necessary to provide new and improved wireless coverage in this area.

b. *providing evidence, including coverage diagrams and technical reports, demonstrating that co-location on existing sites is not technically possible in order to serve the desired need.*

- **Applicant's Response:** There is a significant need for coverage in this portion of Washington County. (See Ex. 2). Verizon is already located on the two closest existing towers to the proposed coverage area. (See Ex. 5). The proposed Facility will significantly improve wireless coverage and capacity in this area of Washington County. (See Ex. 4). The Applicant investigated the land within a mile radius and found no suitable structures for co-location. Absent such structures, it was determined a new

tower or monopole was necessary to provide new and improved wireless coverage in this area.

A. Design requirements

In addition to the applicable requirements for a site plan as specified in Section 4.11, the applicant shall provide the following information as part of the site plan submittal. These provisions shall apply to towers in all districts where permitted as a principal permitted or special exception use:

- 1. Subject to a minimum setback of a distance equaling the total height of the tower and equipment. The setback shall be measured from the base of the tower to the boundary line of the property owned, leased, or controlled by easement by the applicant.*
- **Applicant's Response:** The Facility meets the setback requirements). The proposed monopole is set back from all property lines a distance equal to or greater than the height of the proposed monopole (199'). The setbacks from adjacent property lines are as follows:
 - West- 356 feet
 - North- 370 feet
 - East- 215 feet
 - South- 292 feet
- 2. Subject to a minimum distance requirement of a distance equaling the height of the tower and equipment plus 200 feet from the RT, RS, RU, RM and RV districts or the nearest part of any existing dwelling, school, church, or institution for human care, in any other district.*
- **Applicant's Response:** The Applicant is requesting two variances. The Applicant requests a variance reducing the required setback from the RV district by 107 feet from 399 feet to 292 feet. The nearest dwelling is 329 feet from the proposed monopole. The Applicant requests a variance reducing the required setback from the RV district by 70 feet from 399 feet to 329 feet.
- 3. Subject to a minimum setback from all overhead transmission lines of a distance equaling two times the height of the tower and equipment.*
- **Applicant's Response:** There are no overhead transmission lines in the immediate vicinity. The Facility is setback from all overhead transmission lines at least two times the height of the Facility (199').
- 4. Subject to a height not to exceed 200 feet. Measurement of tower height shall include the tower structure itself, the base pad, and any other equipment attached thereto which extends more than twenty (20) feet over the top of the tower structure itself. The tower height shall be measured from grade.*

- **Applicant's Response:** The total height of the Facility will be 199 feet, which includes a 195-foot monopole with a four (4) foot lightning rod. Verizon's antennas will be located at a height of 190 feet above ground level.

5. *Proposed towers shall meet the following minimum separation requirements from existing towers or towers which have been issued a permit but are not yet constructed.*

(a) *Monopole towers shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred and fifty (750) feet.*

- **Applicant's Response:** The nearest tower or monopole is more than 750 feet away.

6. *All towers shall be designed for co-location, which shall mean the ability of the structure to allow for the placement of comparable equipment for other carriers. An application for a tower shall be accompanied by an affidavit from the applicant stating that one ten (10) foot space on the proposed tower will be specifically reserved for use by the County, and that other spaces will be made available to other future users, when possible.*

- **Applicant's Response:** The Applicant has provided an affidavit of compliance with this provision. (See Affidavit of FCC Compliance and Tower Co-Location attached as Exhibit 9). The Applicant will reserve one ten-foot space for use by the County and will have space to accommodate up to three additional wireless providers.

7. *Fencing shall be provided around the base of the tower and any associated equipment buildings.*

- **Applicant's Response:** The 50' x 50' compound will be surrounded by a 7-foot-high chain link fence topped with barbed wire as an anti-climbing device for a total height of 8 feet. (See Ex. 6, Site Plans at C-2).

8. *All sites shall be identified by means of a sign no larger than two square feet affixed to the fence identifying the entity using the site and shall provide the telephone number of a contact person in the event of an emergency.*

- **Applicant's Response:** The Applicant acknowledges and will comply with this provision.

9. *Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the Planning Commission or Board of Zoning Appeals. Towers shall not be lighted unless specifically required by the FAA.*

- **Applicant's Response:** The Applicant acknowledges and will comply with this provision. The proposed monopole will be painted a matte gray to blend into the skyline. It will not be lit.

10. *In order to protect the natural skyline, towers should be sited within areas of mature vegetation and should be located down slope from ridge lines, and toward the interior of the parcel whenever possible. Placement should only be considered elsewhere on the property when valid technical data supplied by the applicant indicates that there is no other suitable location.*

- **Applicant's Response:** The Facility is located in the center of the Property and is not near any ridgelines. There is limited vegetation on the Property, but a significant number of mature trees to the west, southwest, south and east. The area surrounding the parcel is not densely populated and has rolling topography which will assist in reducing visual impact in the area. (See Ex. 8, Photo Simulations).

11. *Towers proposed to be located within the Appalachian Trail corridor special planning area as identified in the adopted Comprehensive Plan for the County, any "AO" Antietam Overlay zoning district or "HP" Historic Preservation zoning district shall utilize stealth technology as defined in Article 28A to minimize visual impact.*

- **Applicant's Response:** The proposed Facility is not located in any of these areas.

12. *(a) A Commercial Communication Tower that is out of service for a continuous six (6) month period will be deemed to have been abandoned. The Zoning Administrator may issue a Notice of Abandonment to the Owner of the Tower that is deemed to be abandoned. The Owner shall have the right to respond in writing to the Notice of Abandonment setting forth the reasons for operation difficulty and providing a reasonable timeframe for correction action, within thirty (30) days from the date of the Notice. The Administrator shall withdraw the Notice of Abandonment and notify the Owner that the Notice has been withdrawn if the Owner provides information that demonstrates the Tower has not been abandoned.*

- **Applicant's Response:** The Applicant acknowledges and will comply with this provision.

(b) If the Tower is determined to be abandoned, the Owner of the Tower shall remove the Tower and all related equipment at the Owner's sole expensed within three (3) months of the Date of Notice of Abandonment. If the Owner fails to remove the Tower and related equipment, the Administrator may pursue legal action to have the Tower removed at the Owner's expense.

- **Applicant's Response:** The Applicant acknowledges and will comply with this provision.

B. Additional Provisions for Towers Permitted by Special Exception

In addition to the limitations, guides and standards enumerated in Section 25.6, the Board of Zoning Appeals shall consider the following provisions when considering a request for a special exception for a commercial communications tower.

1. *In those cases where a proposed tower is part of a grid or network, the applicant shall provide a map indicating the location of any existing or proposed towers in the grid or network within Washington County and within one (1) mile of the County boundary.*
- **Applicant's Response:** The Applicant has provided the required map. (See Ex. 5).
2. *The tower shall be compatible with and shall not adversely impact the character and integrity of surrounding properties. Consideration shall be given to the view shed associated with scenic and historic areas and to the use of stealth technology to minimize the visibility of the proposed tower.*
- **Applicant's Response:** The Applicant located the Facility in the interior of the Property, using nearby mature trees and rolling topography to reduce the visual impact. (See Ex. 8). The monopole will be painted a matte gray color which will help it blend into the skyline from areas where it is visible.
3. *The applicant shall submit a visual analysis which may include, photo simulation, field mock-up, elevations or other visual or graphic illustrations to determine visual impact. Consideration shall be given to views from public areas as well as from private residences. The analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable towers in the area, and shall identify and include all feasible mitigation measures.*
- **Applicant's Response:** The Applicant provided photo simulations of the proposed Facility. (See Ex. 8). The technician drove around the surface streets surrounding the Property and took photos from locations where the balloon was most visible. Throughout most of the radius, the balloon was not visible. Based on the balloon fly and attached simulations, the Applicant determined the Facility will not have a significant visual impact on the surrounding area. (See Ex. 8). The existence of mature trees surrounding the Property and rolling topography will further reduce any visual impact.
4. *The Board may include conditions on the site where the tower is to be located if such conditions are necessary to preserve the character and integrity of the area affected by the proposed tower and mitigate any adverse impacts which arise in connection with approval of the special exception.*
- **Applicant's Response:** The Applicant acknowledges this provision.

Section 25.6 Limitations, Guides and Standards

the Board shall consider any other information germane to the case and shall give consideration to the following, as applicable:

- (a) *The number of people residing or working in the immediate area concerned.*

- **Applicant's Response:** The immediately surrounding area is not densely populated and is made up primarily of residential and agricultural properties in the P and RV districts.

(b) The orderly growth of a community.

- **Applicant's Response:** The Facility is necessary for the growth of the community. There is insufficient emergency and non-emergency wireless and broadband coverage in this area. This can lead to issues for residents and commuters attempting to make calls or otherwise use their cellular devices – particularly in the case of an emergency when attempting to reach first responders. The landowner, the Boonsboro Fire Department, has expressed concerns about inadequate coverage for emergency services in the area and is in support of the proposed Facility.

(c) Traffic conditions and facilities.

- **Applicant's Response:** The Facility will be unmanned and will only be visited by technicians a few times per year. The Facility will have no impact on local traffic.

(d) The effect of such use upon the peaceful enjoyment of people in their homes.

- **Applicant's Response:** The Facility will have no effect on the peaceful enjoyment of people in their homes. In fact, it will enhance enjoyment in the homes of nearby residents who will have new and improved wireless and broadband coverage in their homes. The Facility is located in the center of the property and will have a minimal visual impact on the surrounding area. (See Ex. 8).

(e) The conservation of property values.

- **Applicant's Response:** The proposed Facility will not have any adverse impact on property values. Rather, new and improved wireless coverage in the area may make these properties more desirable from a use and enjoyment standpoint.

(f) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.

- **Applicant's Response:** The Facility will be unmanned, free of public facilities, and only require occasional visits from a technician for routine inspections and maintenance. The Facility will be free of odors, dust, gas, smoke, fumes, vibrations, glare, and noise.

(g) The most appropriate use of land and structure.

- **Applicant's Response:** This Property is an ideal location for the proposed Facility. It is a non-residential use in a heavily residential and agricultural area. The Property already provides a public benefit through the Boonsboro Fire Department, and the Facility will

further enhance emergency first responder services in the area by providing reliable and consistent wireless services.

(h) Decision of the courts.

- **Applicant's Response:** Other than existing case law establishing the standard of review for zoning applications (e.g., *Schultz v. Pritz*), the Applicant is not aware of any court decisions directly affecting this Property.

(i) The purpose of these regulations as set forth herein.

- **Applicant's Response:** The application is consistent with the letter and spirit of the Ordinance as it relates to telecommunications facilities. It brings necessary emergency and non-emergency wireless and broadband services to Washington County while limiting any adverse impacts on the surrounding community. The Facility will be located on a large, non-residential use parcel that is home to the Boonsboro Fire Department.

(j) Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches and the like.

- **Applicant's Response:** The Facility is unmanned and will not be a place for public gatherings. However, it will enhance the public use and enjoyment of the area. The Facility will provide new and improved wireless services for residents and commuters, including at the nearby Pleasant Valley Baptist Church, Pleasant Valley Park, Big Cork Vineyards, and along Route 67.

VII. Conclusion

The Applicant respectfully requests that the Washington County Board of Appeals grant the requested Special Exception and two Variances for reduced setbacks. We look forward to presenting this and additional information as necessary at an upcoming hearing, and improving the wireless services for the residents, businesses, and visitors to Washington County. If you need further information, please contact our zoning attorney Doug Sampson at 410-332-8661 or douglas.sampson@saul.com.

EXHIBIT 1



Washington County

M A R Y L A N D

BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that Saul Ewing LLP and Site Link Wireless, LLC
is authorized to file an appeal with the Washington County Board of Appeals for
a Special Exception and two Variances to build a 199' telecommunications facility on property
located on property owned by the Boonsboro F.D. at 3417 Rohersville Road, Rohersville, Maryland 21779
The said work is authorized by _____
the property owner in fee.

PROPERTY OWNER

THE FIRST HOSE COMPANY OF BOONSBORO
Name

3417 ROHERSVILLE ROAD
Address

ROHERSVILLE MD 21779
City, State, Zip Code

GEORGE A MEYER
Owner's Signature

Sworn and subscribed before me this 10 day of MARCH, 2025.

Kenneth J. [Signature]
Notary Public

My Commission Expires: 7-8-2027

AUTHORIZED REPRESENTATIVE

Douglas A. Sampson, Saul Ewing LLP

1001 Fleet Street, 9th Floor
Name

Baltimore, MD 21202
Address

City, State, Zip Code

Authorized Representative's Signature

Sworn and subscribed before me this _____ day of _____, 20____.

Notary Public

My Commission Expires:

747 Northern Avenue | Hagerstown, MD 21742 | P: 240.313.2430 | F: 240.313.2461 | Hearing Impaired: 7-1-1

WWW.WASHCO-MD.NET

EXHIBIT 2

Existing 700 Coverage



Confidential and proprietary materials for Verizon personnel and outside agencies only. Use, disclosure or distribution of this material is not permitted to any unauthorized persons or third parties except by written agreement.

EXHIBIT 3



November 14, 2024

**Statement of Certified Engineer
Site Selection and Performance Standards**

Site Name: Rohrsersville

Site Address: 3417 Rohrsersville Road, Rohrsersville, MD 21779

Latitude: 39.407965

Longitude: -77.65978

The proposed communications tower was selected by Verizon Wireless (VZW) to improve wireless coverage in Rohrsersville and Gapland, MD.

The main coverage objective is to bridge the gap between Park Hall, MD and Augusta, MD and enhance wireless coverage on US Route 67. In addition, the site will help offload existing VZW sites in the area which will in turn improve in-building coverage for residents and businesses in the area. Verizon Wireless is committed to providing state of the art wireless services that benefit your community.

Sincerely

Hamed Semati

Hamed Semati
RF Engineer – Washington/Baltimore/Virginia
10170 Junction Drive
Annapolis Junction, MD 20701

EXHIBIT 4

Proposed 700 Coverage



Confidential and proprietary materials for Verizon personnel and outside agencies only. Use, disclosure or distribution of this material is not permitted to any unauthorized persons or third parties except by written agreement.

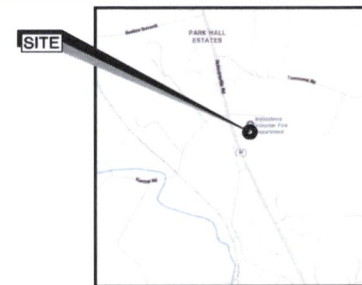
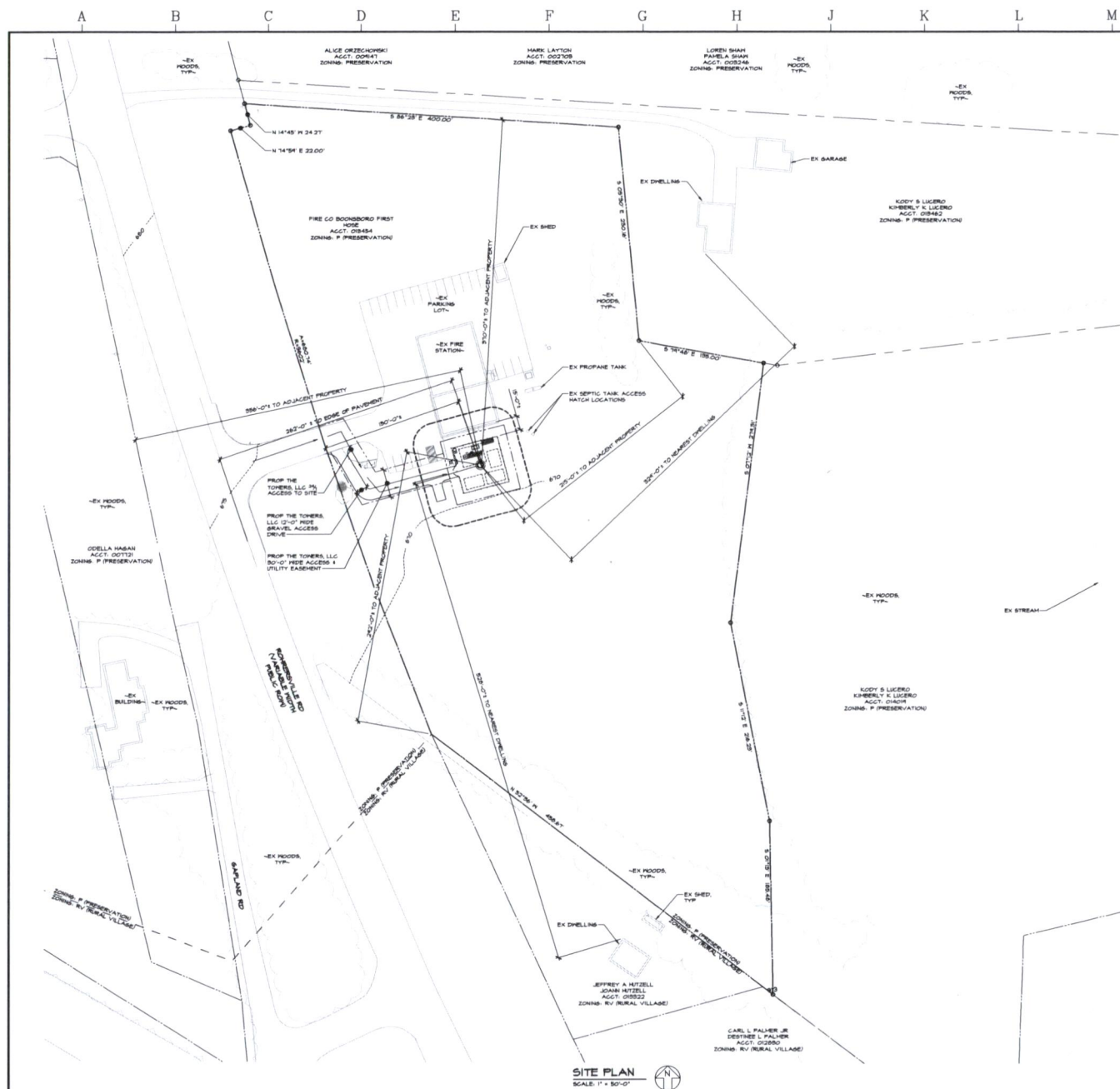
EXHIBIT 5

Washington County, MD - Verizon Site Plan



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EXHIBIT 6



VICINITY MAP
SCALE: 1" = 1000'

- [illegible]

- [illegible]



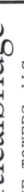
SETBACK & SITING REQUIREMENTS TABLE		
LOCATION	PROVIDED	REQUIRED
NEAREST DWELLING	30'-0"	400'
SETBACK FROM RURAL VILLAGE (RV) ZONING	24'-0"	400'
SETBACKS TO ADJACENT PROPERTIES		
NORTH PROPERTY	310'-0"	300'
EAST PROPERTY	28'-0"	300'
SOUTH PROPERTY	24'-0"	300'
WEST PROPERTY	364'-0"	300'



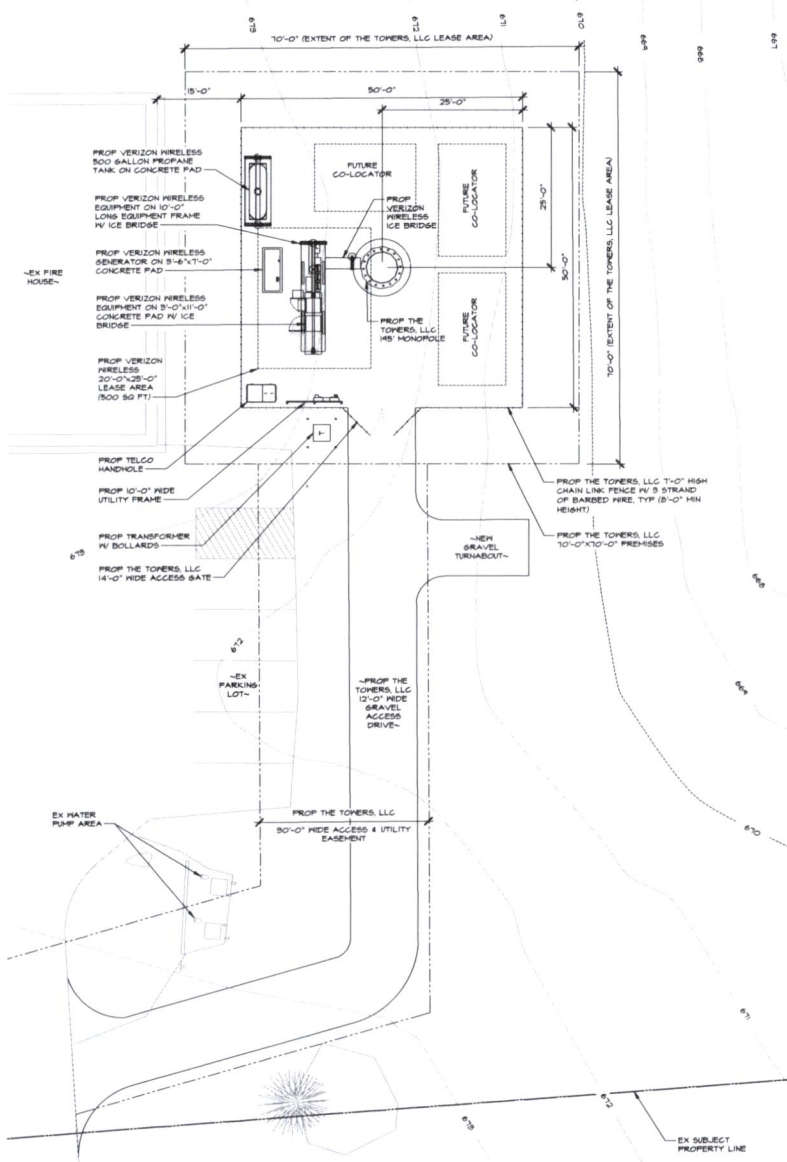
Know what's below.
Call before you dig.

PROTECT YOURSELF, GIVE THREE
WORKING DAYS NOTICE

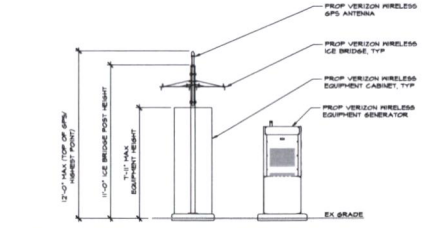
THIS DRAWING DOES NOT INCLUDE NECESSARY
COMPONENTS FOR CONSTRUCTION SAFETY. ALL
CONSTRUCTION MUST BE DONE IN COMPLIANCE
WITH THE OCCUPATIONAL SAFETY AND HEALTH
ACT OF 1970 AND ALL RULES AND REGULATIONS
THERE TO APPURTENANT.

 MORRIS & RITCHIE ASSOCIATES, INC. Chief Architect/Engineer 1839 S. Kent Avenue, Suite 400E Tempe, Arizona 85282 480-821-1360 480-821-1744 Fax		
		
PROFESSIONAL CERTIFICATION I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME OR UNDER THE AUTHORITY OF A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF MARYLAND. LICENSE NO. 17406 EXPIRATION DATE: 07/01/2028		
US-LMD-510	<h1 style="margin: 0;">ROHRSVILLE</h1> <p style="font-size: small; margin: 0;">3411 ROHRSVILLE ROAD NORTH WASHINGTON CO</p>	
<div style="position: absolute; left: 10%; bottom: 10%; width: 80%;">  <div style="position: absolute; right: -50px; top: 50%; transform: translateY(-50%); white-space: nowrap;">THE TOWERS, LLC</div> </div>		
REVISIONS		
NO.	DESCRIPTION	DATE
DESIGNED BY: BES		
DRAWN BY: CJS		
REVIEWED BY: BES		
PROJECT NO: 19041.015		
DATE: 10/15/2024		
TITLE: Site Plan		
SHEET:		
C-1		

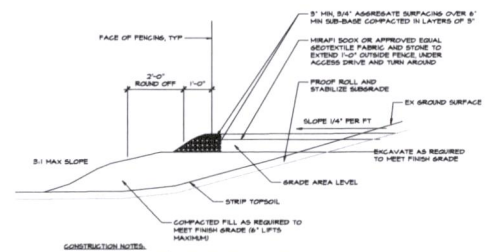
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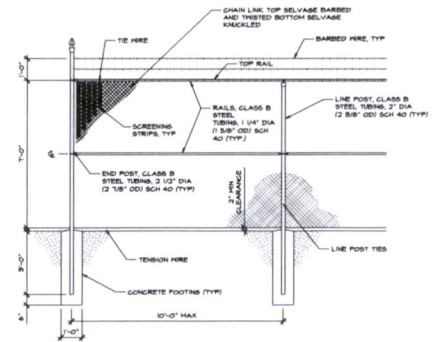
ENLARGED COMPOUND LAYOUT
SCALE: 1" = 10'-0"



CONCRETE PAD ELEVATION w/ DIESEL GENERATOR
SCALE: 1/4" = 1'-0"



LEASE AREA, ACCESS DRIVE & TURN AROUND AREA SURFACING
SCALE: 1/2" = 1'-0"



CHAIN LINK FENCE DETAIL
SCALE: 1/4" = 1'-0"

- TYPICAL HOV-3 FENCE NOTES
1. GATE POST: CORNER, TERMINAL OR RAIL POST 3 1/2" DIA (2 1/8" ODI) SCHEDULE 40 FOR GATE POSTS UP TO 10 FEET OR 12 FEET FOR DOUBLE RING GATE PER ASTH-FIBRS
 2. LINE POST: 2" DIA (2 1/8" ODI) SCHEDULE 40 PIPE PER ASTH-FIBRS
 3. GATE FRAME: 1 1/2" DIA (2 1/8" ODI) SCHEDULE 40 PIPE PER ASTH-FIBRS
 4. TOP RAIL: 1 BRACE RAIL: 1 1/2" DIA (2 1/8" ODI) SCHEDULE 40 PIPE PER ASTH-FIBRS
 5. FABRIC: 4 GA CORN WIRE SIDE 5' HIGH CONFORMING TO ASTH-FIBRS
 6. TIE WIRE: 16 GA GALVANIZED STEEL AT POSTS AND RAILS, A SINGLE WRAP OF FABRIC, TIE AND AT TENSION WIRE BY 100 RINGS SPACED MAX 24" INTERVALS
 7. TENSION WIRE: 16 GA GALVANIZED STEEL
 8. BARBED WIRE: DOUBLE STRAND 12-2 1/2" ODI TWISTED WIRE TO MATCH WITH FABRIC, 16 GA - 4 PP BARBS SPACED APPROXIMATELY 4' CENTER
 9. GATE LATCH: 1/2" DIA PLUNGER ROD WITH MESHROOD TYPE CATCH AND LOCK, KEYS ALIVE FOR ALL SITES IN A GIVEN AREA
 10. LOCAL ORDINANCE OF BARBED WIRE PERMIT REQUIRED SHALL BE COMPLIED WITH, IF REQUIRED
 11. CHAINLINK FENCE SHALL INCLUDE VERTICAL PVC SCREENING SLATS, ALL SIDED (COLOR: DARK GREEN OR BLACK)

MORRIS & RITCHIE ASSOCIATES, INC.
Civil / Mechanical Engineers
1000 N. West Avenue, Suite 200, P.O. Box 408
Towson, Maryland 21204
410-585-1300
410-585-1748 Fax

PROFESSIONAL CERTIFICATION
I HEREBY CERTIFY THAT THESE PROJECTS WERE PREPARED BY ME OR APPROVED BY ME AND THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 39003, EXPIRATION DATE 07/01/2024.

US-MD-5101

ROHRERSVILLE
SALT ROHRERSVILLE ROAD
ROHRERSVILLE, MD 21151

verticalbridge
THE TOWERS, LLC

REVISIONS	NO	DESCRIPTION	DATE

DESIGNED BY: BES

DRAWN BY: C-JS

REVIEWED BY: BES

PROJECT NO: 18041.015

DATE: 10/15/2024

TITLE: Site Details

SHEET: C-2

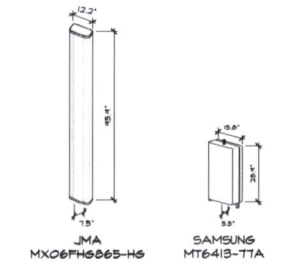
811

Know what's below.
Call before you dig.

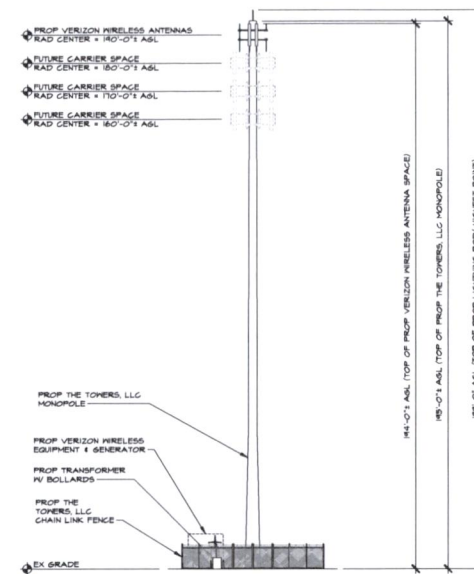
PROTECT YOURSELF, ONE THREE
MORRIS & RITCHIE ASSOCIATES

THIS DRAWING DOES NOT INCLUDE NECESSARY
CONNECTIONS TO THE EXISTING UTILITY. ALL
CONNECTIONS TO THE EXISTING UTILITY SHALL
BE THE RESPONSIBILITY OF THE INSTALLER.
ALL OF THE ABOVE ARE BASED ON THE INFORMATION
PROVIDED TO US BY THE CLIENT.

A B C D E F G H J K L M N P Q R



VERIZON WIRELESS ANTENNA DETAILS
NOT TO SCALE



MORRIS & RITCHIE ASSOCIATES, INC.
Chief / Maryland Registered
2200 N. Bart Road, Suite 400
Towson, Maryland 21204
410-885-1200
410-885-1740 Fax



PROFESSIONAL CERTIFICATION
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR SUPERVISED BY ME, AND THAT I AM A duly LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND. LICENSE NO. 20000. EXPIRATION DATE: 07/07/2026.

US-MD-5101
ROHRERSVILLE
3411 ROHRERSVILLE ROAD
ROHRERSVILLE, MD 21144

verticalbridge
THE TOWERS, LLC

NO	DESCRIPTION	DATE

DESIGNED BY: BES
DRAWN BY: CJS
REVIEWED BY: BES
PROJECT NO: 1941.015
DATE: 10/15/2024

TITLE:
Antenna Details & Elevation

SHEET:
C-3



Know what's below.
Call before you dig.

PROJECT NUMBER: 1941.015
DRAWING DATE: 10/15/2024
THIS DRAWING DOES NOT INCLUDE ANYTHING
EXCEPT THE INFORMATION SHOWN. ALL
CONSTRUCTION SHALL BE IN ACCORDANCE
WITH THE REQUIREMENTS OF THE MARYLAND
ACT OF 1941 AND ALL LOCAL ORDINANCES.
DATE: 10/15/2024

EXHIBIT 7

MORRIS & RITCHIE ASSOCIATES, INC.

ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS,
AND LANDSCAPE ARCHITECTS



January 15, 2025

Ms. Laura Hughes
The Towers, LLC
750 Park of Commerce Drive, Suite 200
Boca Raton, FL 33487-3650

Re: US-MD-5101 - Rohrsersville
3417 Rohrsersville Road
Rohrsersville, MD 21779 (Washington Co)
Latitude: 39.407964° Longitude: -77.659722°
MRA Job No. 19847.015

Dear Laura:

The purpose of this letter is to certify that the proposed 195'-0" monopole structure will be designed by the manufacturer to meet the requirements of the 2018 International Building Code (2021 IBC) and the ANSI/TIA-222-H Standard.

Per the TIA-222-H Standard, ASCE 7-16, and 2021 IBC requirements, the monopole shall be designed under the following minimum loading conditions:

TIA-222-H: 115 mph Wind (3-second gust) + No Ice
TIA-222-H: 40 mph Wind (3-second gust) + 1" Radial Ice

Note: The monopole shall also be designed to resist seismic loading per TIA-222-H in conjunction with site specific soil parameters determined from a geotechnical investigation.

In addition to the minimum loading conditions above, we note that the monopole shall also be designed by the manufacturer such that should failure of the monopole occur under extreme weather conditions, the maximum "fall zone" radius will not exceed **150'-0"** from the center of the monopole's base. While failure is extremely rare in any kind of tower, it is especially so for monopoles. The proposed monopole shall be designed by the manufacturer such that if failure were to occur, it would occur in a specific portion of the monopole to meet the maximum "fall zone" radius requirement previously defined.

We also note that in addition to the above, the monopole will be designed to support a maximum of four (4) wireless carriers.

1220-B East Joppa Road, Suite 400K, Towson, MD 21286 (410) 821-1690 Fax: (410) 821-1748 www.mragta.com

Abingdon, MD ♦ Baltimore, MD ♦ Laurel, MD ♦ Towson, MD ♦ Georgetown, DE ♦ New Castle, DE ♦ Leesburg, VA ♦ Raleigh, NC
(410) 515-9000 (410) 935-5050 (410) 792-9792 (410) 821-1690 (302) 855-5734 (302) 326-2200 (703) 674-0161 (984) 200-2103

The Towers, LLC
Re: US-MD-5101 - Rohrsersville
January 15, 2025
Page 2

Monopole design documents shall be submitted from the manufacturer as part of the Building Permit submission. If you should have any questions or require any additional information, please do not hesitate to call our office.

Sincerely,
MORRIS & RITCHIE ASSOCIATES, INC.



Brian E. Siverling, PE
Principal

V:\bg_PROJECTS\19800-19899\19847 - Vertical Bridge Projects\19847.015 US-MD-5101 - Rohrsersville\Site Information\Special Exception Docs\Rohrsersville Monopole Fall Letter.doc

EXHIBIT 8



PHOTO #1

US MD 5101 ROHRERSVILLE
PROPOSED MONOPOLE



PHOTO #2

US MD 5101 ROHRERSVILLE
PROPOSED MONOPOLE



PHOTO #3

US MD 5101 ROHRERSVILLE
PROPOSED MONOPOLE



PHOTO #4

US MD 5101 ROHRERSVILLE
PROPOSED MONOPOLE



PHOTO #5

US MD 5101 ROHRERSVILLE
PROPOSED MONOPOLE

EXHIBIT 9

Washington County
Board of Zoning Appeals
80 West Baltimore Street
Hagerstown, MD 21740
240-313-2460

1/21/2025


**Appeal for Special Exception for 199' Telecommunications Monopole at
3417 Rohersville Road, Rohersville, Maryland 21779**

AFFIDAVIT OF FCC COMPLIANCE AND TOWER CO-LOCATION

Pursuant to Washington County Zoning Ordinance 4.22(A)(6) the undersigned does hereby declare and affirm under the penalties of perjury, and agrees on behalf of The Towers, LLC d/b/a Veritcalbridge ("Applicant"), concerning the Appeal for a Special Exception to build a new telecommunications facility (the "Facility") on a portion of the property located at 3417 Rohersville Road, Rohersville, Maryland 21779 (the "Property") as follows:

1. The Undersigned is a duly appointed agent of the Applicant, and as such is authorized to give this Affidavit and bind the Applicant to this Agreement.
2. The Facility, will at all times, comply with applicable Federal Communications Commission ("FCC") standards and requirements to provide the proposed services. The antennas, as proposed and designed for this Facility, comply with all applicable FCC requirements.
3. Pursuant to Washington County Zoning Ordinance 4.22(A)(6), the Applicant certifies that it will reserve one ten (10) foot space on the proposed tower specifically for use by the County and that the Facility will have space to accommodate up to three additional wireless carriers. Cellco Partnership d/b/a Verizon Wireless has already agreed to locate its antennas on the Facility at a height of 190 feet above ground level.

The Towers, LLC d/b/a Vertical Bridge

By:  (SEAL)
090CA5179D5E453...
Matt Grugan
Director, Site Development

BZA04-02-2025 3417 Rohrsersville Road Telecommunications Tower

From Sampson, Douglas A. <douglas.sampson@saul.com>

Date Wed 4/2/2025 10:35 AM

To Rathvon, Kathryn B. <krathvon@washco-md.net>

Cc Ben Boblooch <boblooch@sitelinkwireless.com>; Rick Novak <rnovak@sitelinkwireless.com>

 2 attachments (2 MB)

55362871-v1-Boonsboro Fire Department 3417 Rohrsersville Letter of Support 3.31.2025.PDF; 55362368-v1-3417 Rohrsersville RF Exhibit 4.2.25.pdf;

WARNING!! This message originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.
Any claims of being a County official or employee should be disregarded.

Good morning Katie,

I'm looking forward to seeing you this evening. I am attaching two supplemental documents for tonight. The first is a letter of support we received from the Boonsboro Fire Department (the property's owner). They are planning to attend tonight to speak in support of the application and will have a signed copy of the letter.

The second attachment is updated radio frequency coverage (propagation) maps. These are more detailed maps showing topography and levels of coverage for the proposed facility. So, it doesn't show different coverage than the maps submitted with the application, but merely provides more detail. We will have a radio frequency engineer with us tonight to discuss the coverage issues in the area around the proposed site. He thought these more detailed maps may enhance his testimony if the Board would like to hear from him.


Let me know if you need anything else prior to this evening's hearing.

Doug



Douglas A. Sampson

Partner

 [\(410\) 332-8661](tel:(410)332-8661)

 douglas.sampson@saul.com

[Read my bio >>](#)

1001 Fleet Street, 9th Floor
Baltimore, MD 21202-4359

"Saul Ewing LLP (saul.com)" has made the following annotations:

+~~~~~+

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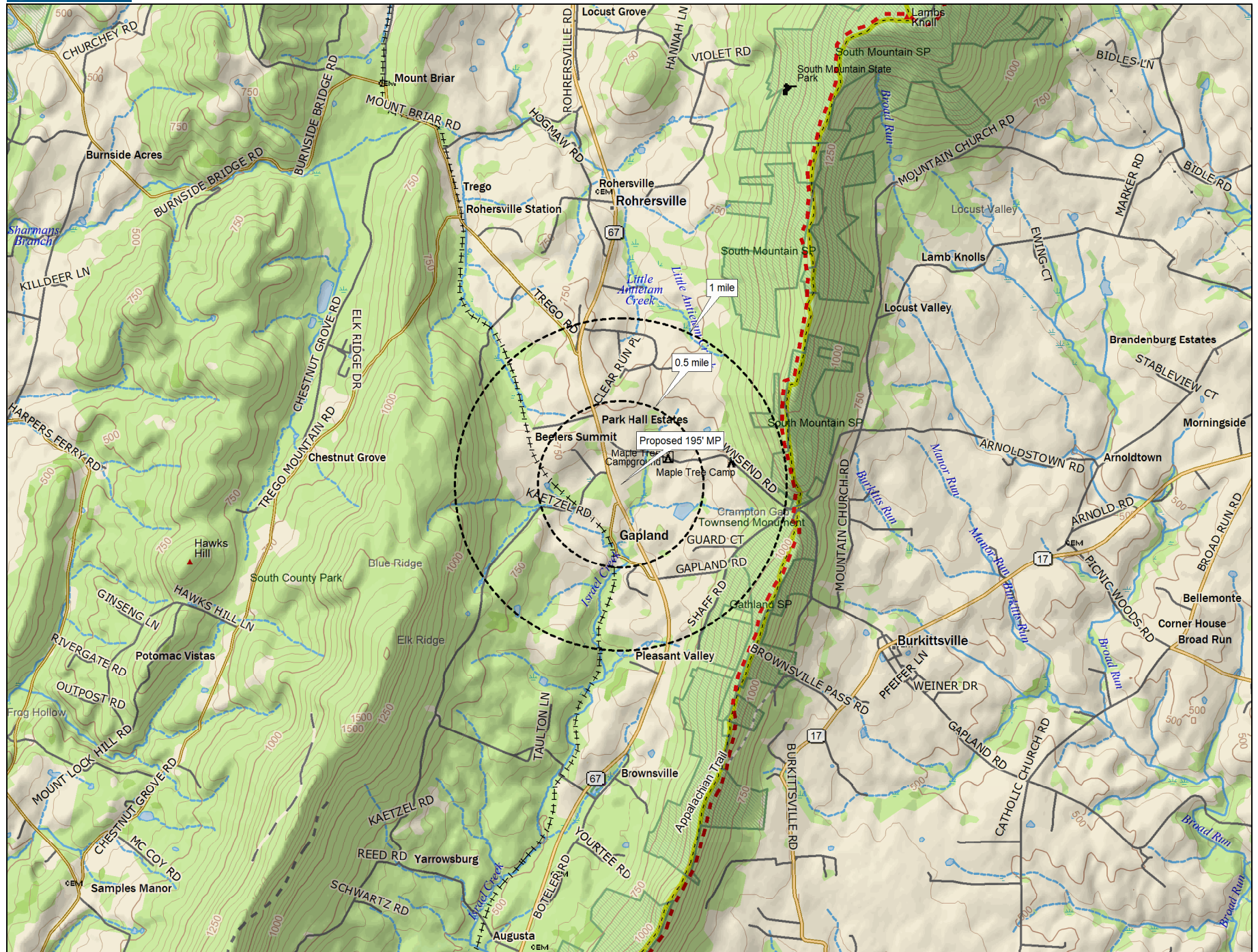
Rohrersville

Proposed Coverage

WBV Network Group
4/01/2025



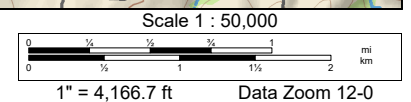
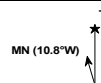
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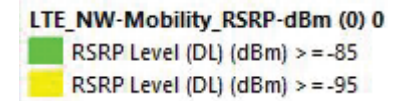
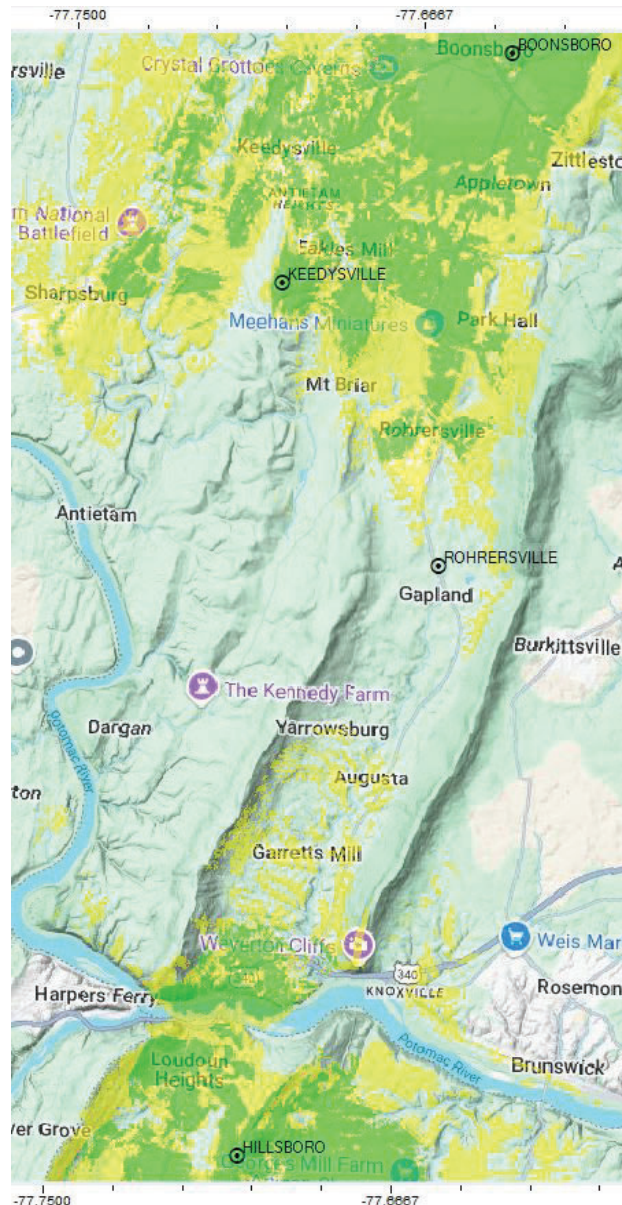
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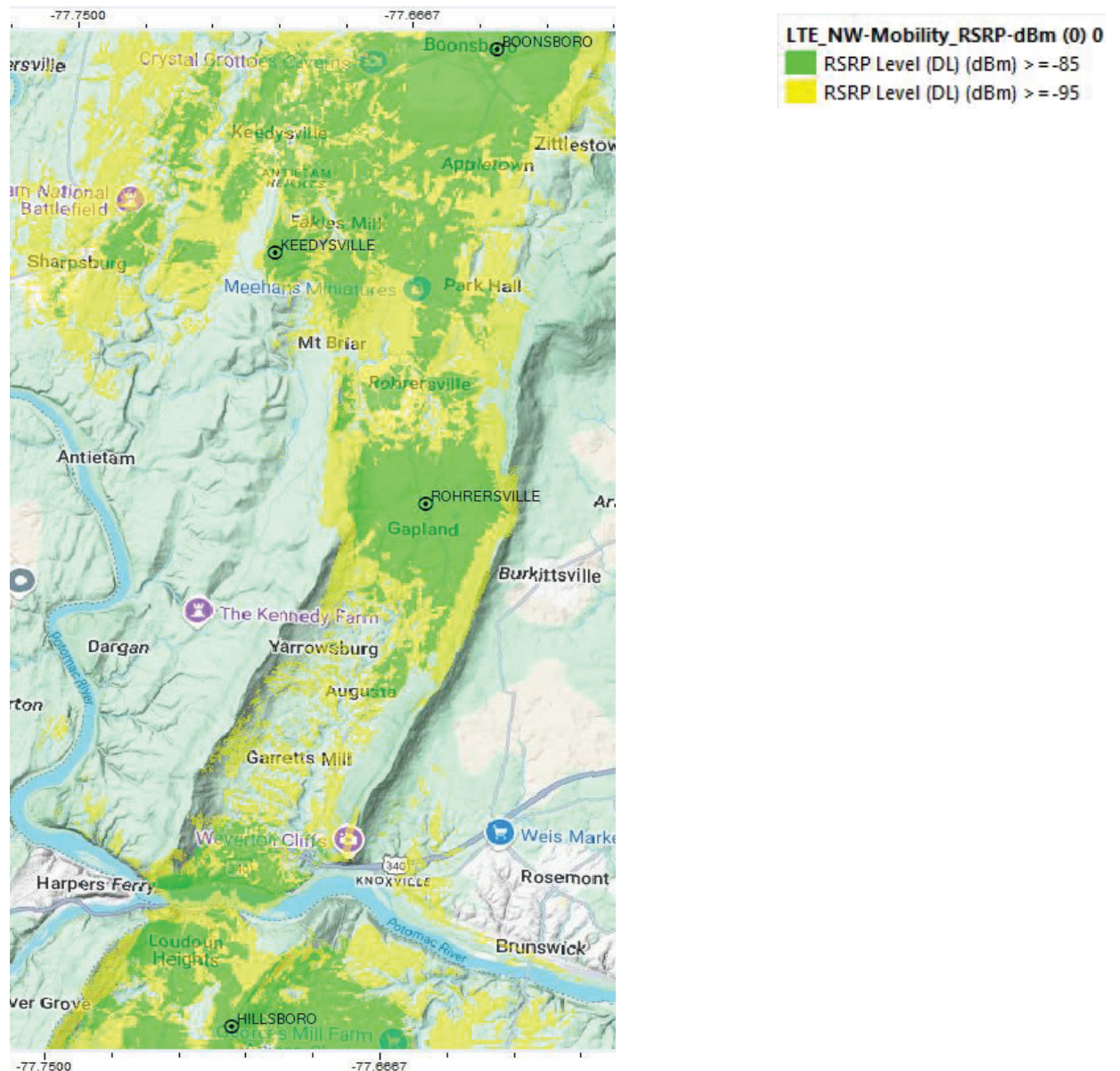
Existing 700 Coverage



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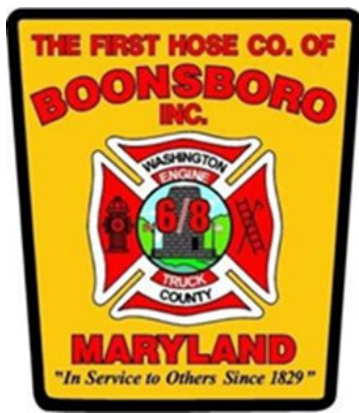
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Proposed 700 Coverage



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The First Hose Company of Boonsboro, Inc.

Boonsboro Station 6
5 St. Paul St.
Boonsboro, MD 21713
Phone: 301-432-2348
Fax: 301-432-2438

Rohrersville Station 8
3417 Rohrersville Road
Rohrersville, MD 21779
Phone: 301-432-8120
Fax: 301-432-5120

March 31, 2025

Washington County Board of Zoning Appeals

747 Northern Ave
Hagerstown, MD 21742

To the Members of the Board of Zoning Appeals,

I hope this letter finds you well. We are writing to express our strong support for the proposed installation of a communications tower next to First Hose Company of Boonsboro; Rohrersville Road, Station 8. As we are responsible for the essential services provided by our local volunteer fire department, we believe this project will provide tremendous benefits to both the department and the greater community.

The installation of the communications tower will serve as a crucial resource for enhancing the effectiveness of our fire department's operations. The tower will ensure improved communication capabilities for emergency response, which is vital for saving lives and protecting property. In addition, this tower will generate significant revenue for the department, which is largely volunteer-based and faces continual funding challenges. The additional revenue will directly contribute to covering operational expenses, purchasing necessary equipment, and improving training for the dedicated volunteers who serve our community.

We are aware that some members of the public have expressed concerns about the installation of the tower. However, we firmly believe that the benefits far outweigh any potential drawbacks. The fire department plays a critical role in public safety, and this project is an investment in the future of our community. The proposed tower's location next to the station ensures it will be appropriately situated for optimal use and have minimal impact on surrounding areas.

Moreover, the revenue generated will help alleviate the financial strain on the department, enabling them to continue providing the high level of service we have come to rely on. Given the increasing demands on emergency services and the financial challenges volunteer organizations face, we are confident that this project is in the best interest of our community's safety and well-being.

We strongly encourage the approval of this communications tower installation and ask that you consider the positive impact it will have on both the fire department and our local residents. Thank you for your time and consideration of this important request.

Sincerely,

George Meyer, President

Vern Wachter, Chief

**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

THE TOWERS, LLC

Appellant

Appeal No.: AP2025-004

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OPINION

The Towers, LLC (hereinafter “Appellant”) requests a special exception for a proposed 199-foot monopole-style commercial communications facility at the subject property. Appellant also requests variance to reduce the minimum required setback from a dwelling from 399 feet to 329 feet, and a variance to reduce the minimum required setback from the Rural Village Zoning district from 399 feet to 291 feet at the subject property. The subject property is located at 3417 Rohrsersville Road, Rohrsersville, Maryland 21779 and is zoned Preservation. The Board held a public hearing in this matter on April 2, 2025. Appellant was represented by Douglas A. Sampson, Esq. at the hearing.

This appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County and upon proper notice to the parties and general public as required.

Findings of Fact

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. Boonsboro First Hose Fire Co. is the owner of the subject property located at 3417 Rohrsersville Road, Rohrsersville, Maryland. The subject property is zoned Preservation.

2. Appellant is the contract lessee for a portion of the subject property to be

used as a commercial communications tower and is authorized to pursue this appeal.

3. The subject property consists of approximately 7.26 acres, improved by a commercial building and garage space operated as Station 8 of the Boonsboro First Hose Fire Company. The garage building houses emergency vehicles and there is surface parking surrounding the building. It is adjacent to agricultural and residential properties, with screening from trees to the south, southeast and across Rohrsersville Road to the west.

4. Appellant proposes to construct a 199-foot monopole-style commercial communications tower with a 4-foot lightning rod on top. The facility will consist of the monopole and an accessory building. It will be accessed by expanding the current access to the property and will require visits from a technician approximately four (4) times per year for routine inspection and maintenance.

5. The communications tower will be designed so that in the event of failure or damage, the fall radius would be limited to 150 feet.

6. The commercial communications facility will be located 329 feet from the nearest dwelling and 291 feet from the adjacent Rural Village zoning district.

7. The proposed commercial communications facility is intended to address a gap in coverage that exists between the mountain ridges and along what Route 67 corridor. The nearest communication towers are in Boonsboro, Keedysville and Harpers Ferry. Appellant found that data speeds were significantly slower in and around the proposed site due to blocked signals and gaps in the coverage area.

8. Due to the height, the monopole tower is not required to have a beacon for aircraft. Appellant indicated it would agree to install a beacon if that was made a condition of approval.

9. Appellant has confirmed that there are no suitable buildings, water tanks, utility structures or existing telecommunications facilities that could serve the coverage area through co-location. Verizon already co-locates on facilities located to the north and

the south of the subject property.

10. Boonsboro First Hose Fire Co. supports this project and believes it will address call drops and communication issues for the area.

11. There was opposition presented to this appeal by adjacent property owners.

Rationale

Appellant presented evidence, including expert testimony regarding the need for additional communication infrastructure in the area of the subject property. Area residents often complain of dropped connections or lack of service altogether.

Several adjacent property owners testified in opposition to the proposed project. They raised concerns about the viewshed, having to see that monopole communications tower from their homes, which are situated above the subject property. The opposition noted concerns for property values, citing that research suggested up to a twenty percent reduction in value when located near a commercial communications facility. The Board heard testimony regarding nearby historic buildings, and the rural character of the area that would be negatively impacted by the location of a communications tower at the subject property. At least one of the opposition witnesses testified that she was concerned about the health risks of such a facility located so close to homes. Lastly, the opposition raised questions about the safety of such a facility in the event of storm damage or failure, given its proximity to other properties.

Appellant called upon its engineers to respond to the concerns raised during the hearing. In its supporting documentation submitted with the application, Appellant asserted that the fall radius in the event of a catastrophic event or failure was 150 feet. Appellant's engineer testified that the fall radius was likely not to exceed 100 feet. The monopole is designed to crumple and bend over, rather than shear off at the bottom. Appellant noted that EMF emissions are closely regulated by the Federal Government and that the proposed project would fall well within the regulated limits.

Special Exception

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as “a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood.” Article 28A. In addition, Section 25.6 sets forth the limitations, guides, and standards in exercise of the board’s duties and provides:

Where in these regulations certain powers are conferred upon the Board or the approval of the Board is required before a permit may be issued, or the Board is called upon to decide certain issues, the Board shall study the specific property involved, as well as the neighborhood, and consider all testimony and data submitted, and shall hear any person desiring to speak for or against the issuance of the permit. However, the application for a permit shall not be approved where the Board finds the proposed building, addition, extension of building or use, sign, use or change of use would adversely affect the public health, safety, security, morals or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board shall consider any other information germane to the case and shall give consideration to the following, as applicable:

- (a) The number of people residing or working in the immediate area concerned.
- (b) The orderly growth of a community.
- (c) Traffic conditions and facilities
- (d) The effect of such use upon the peaceful enjoyment of people in their homes.
- (e) The conservation of property values.
- (f) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.
- (g) The most appropriate use of the land and structure.
- (h) Decision of the courts.
- (i) The purpose of these regulations as set forth herein.
- (j) Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches, and the like.

For the reasons set forth herein, the Board concludes that the special exception should be granted.

The subject property is located in a rural area and although there are residences

nearby, the population is moderate to low in the surrounding area. The subject property will continue to be used as a fire station. The testimony presented was that the proposed facility will not produce any noise, odor, gas, smoke, fumes, or vibrations upon the surrounding properties.

Although the opponents to this appeal raised concerns about property values, it was based on their belief that property values would decrease. They did not present any documentation or cite specific studies or research that would substantiate these beliefs. Common sense might dictate that residing in close proximity to a commercial communications tower is not desirable, but the same can also be true for residing in close proximity to a fire station. Depending on the intensity of its operations, the fire station could be significantly more disruptive to peace and enjoyment of one's property than having to look at a communications tower.

The Board finds that the proposed use is an appropriate use of land and/or structure. The Board recognizes there may be other appropriate uses for the property, but the proposed use is permitted by special exception. There is an inherent appropriateness to such use as deemed by the Board of County Commissioners, subject to review of the criteria to evaluate the impact on surrounding properties.

Notwithstanding the analysis pursuant to *Schultz v. Pritts* and the related appellate opinions, there are no judicial decisions directly affecting the subject property.

The proposed project is consistent with the orderly growth of the community. Appellant provided evidence and testimony of the need for the proposed communications facility to address a large gap in coverage in the area. There is no evidence that it will create dangerous traffic or other safety concerns within the surrounding area. The Board finds that the proposed use is consistent with the purpose and vision of the Ordinance.

The nearest school is Pleasant Valley Elementary which is approximately 3.8 miles away and will not be affected by this project. Although there are a number of churches

nearby, the proposed facility does not create additional traffic to the area or impact access to gatherings or events that may be held at locations in the surrounding area.

The Board notes that any use of property has some impact on the surrounding neighborhood. The test is not whether there is adverse impact, but whether the nature of the specific property or area exacerbates that impact. A monopole communications tower near residential property would have many of the same adverse effects raised by the opposition, regardless of its location in the zoning district. To the extent it is aesthetically displeasing and may affect property values, those things are not unique to the subject property herein. Rather, they are characteristic of the use in general, when located among agricultural and residential uses.

Having considered the testimony and evidence presented and having further considered the criteria set forth in the Ordinance, the Board finds that the proposed use at the subject property will have no greater “adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.” *Schultz v. Pritts*, 291 Md. 1, 15 (1981). For all these reasons, we conclude that this appeal meets the criteria for a special exception, and Appellant’s request should be granted.

Variance Requests

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship as set forth in Section 25.2 and 25.56 of the Ordinance.¹ “Practical Difficulty” may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance

¹ “When the terms unnecessary hardship (or one of its synonyms) and practical difficulty are framed in the disjunctive (“or”), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulty standard to area variances because use variances are viewed as more drastic departures from zoning requirements.” *Belvoir Farms Homeowners Ass’n, Inc. v North*, 355 Md. 259, 276 n. 10 (1999) (citations omitted)

unnecessarily burdensome; and (2) denying the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. Section 25.56(A).

Practical difficulty and undue hardship are typically the result of a property being unique. “‘Uniqueness’ of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.” *North v St. Mary’s Cnty.*, 99 Md.App. 502, 514 (1994).

Pursuant to Section 4.22(A)(2), the required setback for a commercial communications tower from the nearest dwelling is equal to the height of the tower plus 200 feet. In this case, that would make the setback requirement 399 feet from the nearest dwelling which is located on the Lucero property to the northeast. Pursuant to Section 4.22(A)(2) of the Ordinance, the required setback for a commercial communications tower from the Rural Village zoning district is also equal to the height of the tower plus 200 feet. In this case, that would make the setback requirement 399 feet from the Rural Village zoning district which is located adjacent to the subject property. Appellant is requesting variances to reduce those setbacks to 329 feet and 291 feet, respectively.

The subject property is oddly shaped and shallow, with boundary lines cut at angles and juxtaposed to adjacent properties. The existing fire station building is located toward the middle of the property and the proposed communications facility would be located in close proximity to avoid disruption to the land, and to maximize distance from the surrounding properties. The proposed location complies with the setback requirements on two (2) sides and is situated 291 feet from the Rural Village zoning district and 329 feet from the nearest dwelling. Given the shape, size and characteristics

of the subject property, there is no location where this commercial communications facility could be constructed that would avoid the need for variance relief. It is clear from the testimony that variance requests herein are the minimum necessary to afford relief and were carefully chosen to balance setback distances from all properties. The resulting setbacks are still significant and exceed the total height of the proposed tower. The Board finds that strict compliance with the setback requirements would unreasonably prevent the use of the property for a permitted purpose. Appellant cannot move the tower on the property to alleviate the setback requirements and cannot reduce the height without significantly impacting the viability and utility of the proposed facility. Therefore, practical difficulty exists, and the requested variances are both appropriate and necessary.

Accordingly, the request for a special exception for a proposed 199-foot monopole-style commercial communications facility at the subject property is hereby GRANTED, by a vote of 3 to 2. The variance request to reduce minimum required setback from a dwelling from 399 feet to 329 feet, and the request to reduce the minimum required setback from the Rural Village Zoning district from 399 feet to 291 feet at the subject property are GRANTED, by a vote of 3 to 2. The special exception and variances are granted subject to the standard condition that the use is consistent with the testimony and evidence presented during the hearing before the Board.

BOARD OF APPEALS

By: Tracie Felker, Chair

Date Issued: May 1, 2025

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.