

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61801

DATE: July 25, 2019

**PLACE: Lyle Shields Meeting Room
1776 East Washington Street**

TIME: 6:30 p.m.

Urbana, IL 61802

MEMBERS PRESENT: Tom Anderson, Ryan Elwell, Marilyn Lee, Jim Randol, Larry Wood

MEMBERS ABSENT: Frank DiNovo

STAFF PRESENT: Connie Berry, Susan Burgstrom, John Hall

OTHERS PRESENT: Kristian Olson, Phillip VanNess, Lyle Cox, Harriet Cox, Lee Roberts

1. Call to Order

The meeting was called to order at 6:30 p.m.

2. Roll Call and Declaration of Quorum

The roll was called, and a quorum declared present.

Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. He reminded the audience that when they sign the witness register, they are signing an oath.

3. Correspondence

None

4. Approval of Minutes: June 13, 2019

Mr. Elwell entertained a motion to approve the June 13, 2019, minutes.

Mr. Wood moved, seconded by Mr. Randol, to approve the June 13, 2019, minutes.

Ms. Lee stated that the June 13th minutes includes the Board's discussion regarding the draft March 14th minutes, but staff made no corrections due to this discussion. She said that she did not make a motion for an LRMP Study Session on April 11th and she opposed the final vote. She said that she is concerned that the audio system for the Lyle Shields Meeting Room is not working properly, and she does not blame staff for any errors in transcription because it is not their fault if the system is faulty. She said that she plans to send a letter to each County Board member emphasizing that they need to install a better audio system so that staff does not have to work so hard in hearing the Board's discussions and motions. She said that she plans to inform the County Board that within the last year her real estate taxes have increased over \$2,000, and she

1 will go into detail further in her letter. She said that a new audio system cannot be that large of an expense
2 for the County and the County Board should consider it.

3 Mr. Elwell asked the Board if there were any additional comments, and there were none.

4
5 Mr. Elwell asked Ms. Lee if there were any required revisions to the June 13th minutes.
6

7 Ms. Lee stated that she does not believe that the minutes reflects all discussions, but she was informed in an
8 email from staff that she should not waste time, so she won't. She said that the email indicated the
9 following: "I do not feel it is necessary to take up time in tonight's meeting discussing what was and was not
10 said, since we had that discussion at the last meeting."
11

12 Ms. Burgstrom noted that she sent the email to Ms. Lee and was only referring to the March 14th minutes,
13 because they were thoroughly discussed at the June 13th meeting.
14

15 **The motion carried with one opposing vote.**

16
17 **5. Continued Public Hearing - None**

18
19 **6. New Public Hearings**

20
21 **Case 949-V-19 Petitioner: Uniti Towers with officers Kenneth A. Gunderman, President and CEO;**
22 **and Mark A. Wallace, CPA Executive Vice President, CFO & Treasurer; Daniel L. Heard, Executive**
23 **Vice President, General Counsel & Secretary; Blake Schuhmacher, Chief Accounting Officer, Vice**
24 **President & Controller; Michael Friloux Sr., Vice President & Chief Technology Officer; Ronald J.**
25 **Mudry, Sr., Vice President & Chief Revenue Officer; and Directors Jennifer S. Banner, Scott G.**
26 **Bruce, Francis X. Franz, Kenneth A. Gunderman, and David L. Solomon; via agent Trena Prewitt,**
27 **Buell Consulting, and property owner Victoria Cox. Request: Authorize the construction and use of a**
28 **commercial cellular tower with a height of 267 feet as a Special Use in the AG-1 Agriculture Zoning**
29 **District, with the following waiver: Authorize a waiver for a commercial cellular tower with a height**
30 **of 267 feet, in lieu of the maximum allowed 200 feet, per the Illinois Counties Code (55 ILCS 5/5-**
31 **12001.1 (effective 7/13/12)). Location: A 3.22 acre tract in the Southeast Quarter of the Southwest**
32 **Quarter of the Southwest Quarter of Section 25, Township 22 North, Range 7 East of the Third**
33 **Principal Meridian in Brown Township commonly known as the vacant lot east of the residence with**
34 **an address of 514 CR 3100N, Fisher.**

35
36 Mr. Elwell informed the audience that Case is an Administrative Case and as such, the County allows
37 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a show
38 of hands for those who would like to cross-examine, and each person will be called upon. He requested that
39 anyone called to cross-examine go to the cross-examination microphone to ask any questions. He said that
40 those who desire to cross-examine are not required to sign the witness register but are requested to clearly
41 state their name before asking any questions. He noted that no new testimony is to be given during the
42 cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
43 exempt from cross-examination.
44

45 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign the
46 witness register for that public hearing. He reminded the audience that when they sign the witness register,
47 they are signing an oath. He asked the audience if anyone desired to sign the witness register and there was

1 no one.

2

3 Mr. Elwell asked the petitioner if he would like to make a statement regarding his request.

4

5 Mr. Kristian Olson, with Buell Consulting, stated that he was attending the meeting on behalf of Trena
6 Prewitt, who is also with Buell Consulting. He said that he is fully versed with the project because he has
7 been working with Ms. Prewitt and Uniti Towers, who is based out of Little Rock, Arkansas, regarding the
8 proposed project. He said that Uniti Towers proposes a 267-foot self-supporting tower, although
9 functionally the tower is only 255 feet tall with a 12-foot lightning rod at the top, which is hardly visible. He
10 said that there will be no antenna equipment at the top of the tower. He said that the tower is a lattice tower,
11 which is a self-supporting tower that is wider at the base and becomes narrower up to the tip, and it is a
12 common type of tower for the required height and has no guy-wires. He said that the tower is meant to hold
13 antennas for at least four wireless carriers and will be self-contained in an 80' x 80' fenced area at the base
14 that will be gated, locked and secured, which is standard installation. He said that there will be room at the
15 base for at least four wireless carriers, and currently AT&T plans to initially go on the tower and they are
16 requiring a height of 250 feet and the extent of their antenna reaches out to 255 feet. He said that the reason
17 for the requested height is a program called First Net, which is a private partnership with the federal
18 government and AT&T to build out a national network that is available during an emergency. He said that
19 this program was originated after the 911 catastrophe and other catastrophic events and sometimes there are
20 local emergencies when everyone is attempting to use their cell phone, but none of them works because
21 everyone is trying to use them at the same time. He said that the availability of First Net is mainly for first
22 responders, fire stations, police, and EMTs so that they always have wireless data and voice communications
23 during an emergency event, and there is a wireless spectrum that is reserved for that purpose and for their
24 usage. He said that over the past couple of years, AT&T has launched a nationwide expansion for First Net
25 coverage in both urban and rural areas, and the proposed tower will support that expansion and general
26 consumers as well. He said that the reason for the proposed height is the selected location and the proposed
27 height is required for AT&T to meet their coverage objective for this area.

28

29 Mr. Olson stated that, as someone who has been working with this project for some time, under the County
30 code, if the tower was 67 feet shorter and was only 200 feet, the tower would be a permitted use and no
31 public hearing would be necessary. He said that his firm went back and forth with AT&T several times
32 ensuring that the requested height was truly necessary, because if it was not, the process with the County
33 would go through much faster. He said that AT&T indicated that they absolutely needed the additional
34 height to meet their coverage objective and no compromise was an option. He said that the request is for a
35 variance from the 200 feet maximum height to a height of 267 feet for a tower that will be placed on an
36 agricultural parcel that is currently farmed and is located in a rural area outside of the Village of Fisher. He
37 said that his firm believes that this is an ideal location, and he respectfully requested the Board's approval.

38

39 Mr. Elwell asked the Board if there were any questions for Mr. Olson.

40

41 Mr. Randol asked Mr. Olson to indicate the working radius for a tower of this height.

42

43 Mr. Olson stated that it is hard to say because, depending on the topography, it varies quite a bit. He said
44 that AT&T owns spectrum licenses in several different blocks; for example, they own 700 megahertz in one
45 spectrum and 1,900 megahertz in a different spectrum. He said that in terms of wavelengths, the longer the
46 wavelength, the farther the signal reaches and the better it goes by trees, hills, etc. He said that the higher the
47 frequency, the more it gets absorbed by trees, hills, etc., but it varies a lot due to the direction of the

1 equipment.
2
3 Mr. Randol asked if the coverage for First Net is for all of Champaign County or will more towers be
4 required to do that.
5
6 Mr. Olson stated that the proposed tower will be for the immediate area, and more towers may be required
7 for other areas that may need upgrading so that they can provide service for First Net.
8
9 Mr. Randol asked if other tower companies would be working in conjunction to provide First Net coverage
10 in other areas.
11
12 Mr. Olson stated yes.
13
14 Ms. Lee asked how far the guy-lines for the tower would be from adjacent farm fields.
15
16 Mr. Olson stated that everything is self-contained within the 80' x 80' compound. He said that there is a
17 100-foot drive that would be constructed from the road to the compound and the only things that are required
18 for the tower is power and fiber optic cable, and he is not positive if fiber optic cable is nearby. He said that
19 typically the tower site does not extend into the farm field.
20
21 Ms. Lee stated that she personally is involved in agricultural production and currently airplanes are applying
22 herbicide and insecticide; therefore, she is concerned about the conflict of a tower of this height and the
23 applicators spraying the fields.
24
25 Mr. Olson asked Ms. Lee if she was concerned about air space obstruction.
26
27 Ms. Lee stated that the applicators would need to make a terrible climb to get away from the tower versus
28 utility lines. She said that to a certain extent, there is a safety issue with allowing very tall towers in the
29 agricultural area, because the people who are applicators do have fatalities and it is amazing that there are
30 not more due to all of the obstructions that they must contend with during their spraying of the fields.
31
32 Mr. Olson stated that at a certain height, typically over 200 feet, the towers are required by the FAA to have
33 a light at the top. He said that this project did go through the typical FAA reviews and it was determined by
34 the FAA that the 267 foot tower would not be a hazard to air space in that area, but it would be required to
35 have a strobe at the top that would blink white during the day, and a slow red illumination at night. He said
36 that the advantage to the proposed tower being self-supported is that there are no guy-wire extensions.
37
38 Mr. Elwell stated that sectional charts are updated every 90 days, and when the tower is constructed, it will
39 be indicated on the aviation map, and information will be included indicating the tower height and area in
40 which it is located.
41
42 Mr. Anderson asked Mr. Olson if he knew that there was another communication tower within one-half mile
43 of the subject property and is the type that is generally seen along interstates.
44
45 Mr. Olson stated no.
46
47 Mr. Anderson asked Mr. Olson if there would be any interference issues.

1
2 Mr. Olson stated no, there should not be any interference issues, regardless of what or how many carriers are
3 on the existing towers, and for the same reason the proposed tower is built to house multiple carriers, at least
4 three but could be modified to house four. He said that typically, when you look at a tower with multiple
5 carriers, there will be antennas at different heights, and any one set at any given height constitutes one
6 carrier, and they are separated by vertical space. He said that Verizon could own one of the antennas, T-
7 Mobile on another, and AT&T on the next, but they are separated by only a few feet and do not interfere
8 because of the frequency licenses that they have obtained. He said that each is licensed to operate at a
9 different frequency and they have to strictly abide by those frequencies; if the do go outside of the licensed
10 frequency, they will be fined or lose their license, which are like gold to the carriers. He said that in the
11 urban area, antennas will be placed on buildings which could be next to each other but do not interfere due to
12 their frequency license, and the only interference that could occur would be physical blockage due to their
13 erroneous placement.

14
15 Mr. Anderson asked if Victoria Cox, the property owner, was present tonight.

16
17 Mr. Olson stated no.

18
19 Mr. Anderson asked Mr. Olson if Victoria Cox, the property owner, resided in the house next to the property.

20
21 Mr. Olson stated that Ms. Cox's home is immediately to the west of the tower site.

22
23 Mr. Anderson asked if anyone else resides along the area.

24
25 Mr. Olson stated that Ms. Cox's relatives reside in one of the nearby homes.

26
27 Ms. Burgstrom stated that Victoria Cox's parents are present tonight, and they do live in one of the homes
28 which are located west of the tower site, and next to Victoria's home. She said that there are two other
29 homes that belong to non-family members that are located west of Victoria's parents' home.

30
31 Mr. Anderson stated that he assumes the neighbors are in support of the proposed tower site since there is no
32 documentation in the mailing packet indicating any protests regarding the 267 foot tower.

33
34 Ms. Burgstrom stated yes.

35
36 Mr. Anderson asked what happens when the height limit is too high, such as 304 feet.

37
38 Mr. Elwell stated that regardless of the overall height, if a proposed tower is over 200 feet in height, the
39 petitioner would be required to apply for a Special Use Permit and request approval from this Board.

40
41 Mr. Hall stated that Mr. Anderson's question is whether there will ever be a limit to the height of any tower.

42
43 Mr. Anderson asked what dangers would be created due to the height. He said that crop dusting is only one
44 danger that has been mentioned.

45
46 Mr. Hall stated that he would assume that every foot that is constructed is not inexpensive and there is
47 probably a heavy market incentive in not constructing more tower than required. He asked Mr. Olson to

1 comment on Mr. Anderson's question. He asked Mr. Olson if the construction of towers is cheap or is there
2 a price structure that limits the height.
3 Mr. Olson stated that they like using self-supporting towers because they are very sturdy and are constructed
4 to be very strong and no guy-lines are required. He said that typically when a tower is 300 feet or taller is
5 when cellular companies would switch to a guy tower, and purely due to cost because the higher you build a
6 self-support tower, the more expensive it is to construct it as the base needs to be wider and the foundation
7 needs to be larger. He said that guy towers are skinny towers that are the same size from the bottom to the
8 top with guy-wires. He said that their construction cost is much less, although they do have a wider base and
9 wires. He said that in certain situations when there is a migratory bird zone, they must put flags on the guy-
10 wires so that the birds do not run into them, and they accommodate that requirement. He said that there are a
11 number of projects that they are working on that are located in rural Illinois and more of them happen to be
12 in counties that are of a smaller population and a height of 350 feet, whereas in a county such as Champaign
13 County, the code only allows a height of 200 feet. He said that there are several other rural locations that
14 they are looking at that happen to be in less populated counties in Illinois, and in those cases, they are
15 building 325 foot towers, and in those cases the county states that there are no additional zoning approvals
16 necessary. He said that because Champaign County is a more populous county, they want to limit the height
17 that is automatically permitted in other areas. He said that they could construct a 267-foot guy tower and it
18 would be less expensive, but it takes up more space and sometimes it is harder to obtain approval from the
19 zoning board and the landlord because a guy tower will create obstructions that the property owner will have
20 to manipulate around during crop production. He said that with the self-supporting tower, the footprint is
21 smaller, and the farmer can farm right around it, thus in every case they would rather go the easier route for
22 everyone and propose a self-supporting tower.

23

24 Mr. Anderson asked staff if there is something sacred about a maximum height of 200 feet.

25

26 Mr. Hall stated that it is not sacred, but it is written into the State statutes, and he does not know why they
27 selected a 200 feet height maximum.

28

29 Mr. Elwell asked staff if there were any questions for the petitioner, and there were none.

30

31 Mr. Elwell asked the audience if anyone desired to cross-examine the petitioner, and there was no one.

32

33 Mr. Elwell asked the audience if anyone desired to sign the witness register and present testimony regarding
34 Case 949-S-19, and there was no one.

35

36 Mr. Elwell closed the witness register for Case 949-S-19.

37

38 Mr. Elwell asked staff if there were any new Documents of Record.

39

40 Mr. Hall stated no.

41

42 Mr. Elwell entertained a motion to move to the Findings of Fact for Case 949-S-19.

43

44 **Mr. Wood moved, seconded by Mr. Randol, to move to the Findings of Fact for Case 949-S-19. The**
45 **motion carried by voice vote.**

46

47 **FINDINGS OF FACT FOR CASE 949-S-19:**

1
2 From the documents of record and the testimony and exhibits received at the public hearing for
3 zoning Case 949-S-19 held on July 25, 2019, the Zoning Board of Appeals of Champaign County finds
4 that:

- 5
6 **1. The requested Special Use Permit IS necessary for the public convenience at this location as
7 identified in Finding 6. below.**
8
- 9 **2. The requested Special Use Permit is so designed, located, and proposed to be operated so that
10 it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental
11 to the public health, safety, and welfare as identified in Finding 6. below.**
12
- 13 **3a. The requested Special Use Permit IS NOT REQUIRED TO conform to the applicable
14 regulations and standards of the DISTRICT in which it is located, per 55 ILCS 5/5-12001.1.
15 (effective 7/13/12).**
16
- 17 **3b. The requested Special Use Permit IS NOT REQUIRED TO preserve the essential character of
18 the DISTRICT in which it is located per 55 ILCS 5/5-12001.1. (effective 7/13/12).**
19
- 20 **4. The requested Special Use Permit IS NOT REQUIRED TO BE in harmony with the general
21 purpose and intent of the Ordinance per 55 ILCS 5/5-12001.1. (effective 7/13/12).**
22
- 23 **5. The requested Special Use IS NOT an existing nonconforming use.**
24
- 25 **6. Regarding the waiver:**
- 26 **a. Authorize a waiver for a commercial cellular tower with a height of 267 feet in lieu of
27 the maximum allowed 200 feet, per the Illinois Counties Code (55 ILCS 5/5-12001.1.,
28 effective 7/13/12) and consistent with the following considerations identified in 55 ILCS
29 5/5-12001.1(h):**
- 30 **(A) But for the granting of a variation, the service that the telecommunications
31 carrier seeks to enhance or provide with the proposed facility WILL be less
32 available, impaired, or diminished in quality, quantity, or scope of coverage.**
33
- 34 Mr. Wood stated that, but for the granting of a variation, the service that the telecommunications carrier
35 seeks to enhance or provide with the proposed facility WILL be less available, impaired, or diminished in
36 quality, quantity, or scope of coverage.
37
- 38 **(B) The conditions upon which the application for variations is based ARE unique
39 in some respect or, if not, whether the strict application of the regulations would
40 result in a hardship on the telecommunications carrier.**
41
- 42 Mr. Wood stated that the conditions upon which the application for variations is based ARE unique.
43
- 44 **(C) A substantial adverse effect on public safety WILL NOT result from some
45 aspect of the facility's design or proposed construction, but only if that aspect of
46 design or construction is modifiable by the applicant.**

1 Mr. Wood stated that a substantial adverse effect on public safety WILL NOT result from some aspect of the
2 facility’s design or proposed construction.

3
4 (D) There ARE benefits to be derived by the users of the services to be provided or
5 enhanced by the facility and whether public safety and emergency response
6 capabilities would benefit by the establishment of the facility.
7

8 Mr. Wood stated that there ARE benefits to be derived by the users of the service to be provided or enhanced
9 by the facility.

10
11 (E) The extent to which the design of the proposed facility reflects compliance with
12 subsection (e) of Section 5-12001.1.
13

14 The extent to which the design of the proposed facility reflects compliance with subsection (e) of Section 5-
15 12001.1.

16
17 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**

18
19 Mr. Elwell entertained a motion to approve the Findings of Fact, as amended.

20
21 **Mr. Wood moved, seconded by Mr. Randol, to approve the Findings of Fact, as amended. The motion**
22 **carried by voice vote, with one opposing vote.**

23
24 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
25 of Fact, as amended.

26
27 **Mr. Randol moved, seconded by Mr. Wood, to adopt the Summary of Evidence, Documents of Record**
28 **and Findings of Fact. The motion carried, with one opposing vote.**

29
30 Mr. Elwell entertained a motion to move to the Final Determination for Case 949-S-19.

31
32 **Mr. Randol moved, seconded by Mr. Wood, to move to the Final Determination for Case 949-S-19.**
33 **The motion carried by voice vote.**

34
35 Mr. Elwell informed the petitioner that currently the Board has one member absent; therefore, it is at the
36 petitioner’s discretion to either continue Case 949-S-19 until a full Board is present or request that the
37 present Board move to the Final Determination. He informed the petitioner that four affirmative votes are
38 required for approval.

39
40 Mr. Olson requested that the present Board move to the Final Determination for Case 949-S-19.

41
42 **FINAL DETERMINATION FOR CASE 949-S-19:**

43
44 **Mr. Randol moved, seconded by Mr. Wood, that the Champaign County Zoning Board of Appeals**
45 **finds that, based upon the application, testimony, and other evidence received in this case, the**
46 **requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted**
47 **by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:**

The Special Use requested in Case 949-S-19 is hereby GRANTED to the applicants, Uniti Towers and Victoria Cox, to authorize the following:

Authorize the construction and use of a commercial cellular communications tower with a height of 267 feet as a Special Use in the AG-1 Agriculture Zoning District.

SUBJECT TO THE FOLLOWING WAIVER:

Authorize a waiver for a commercial cellular tower with a height of 267 feet in lieu of the maximum allowed 200 feet, per the Illinois Counties Code (55 ILCS 5/5-12001.1., effective 7/13/12).

Mr. Elwell requested a roll call vote.

The roll call vote was as follows:

Anderson – yes	DiNovo – absent	Lee – no
Randol – yes	Wood – yes	Elwell – yes

Mr. Hall informed the petitioner that he has received an approval for his request and Ms. Burgstrom would assist him with final paperwork.

7. Staff Report - None

8. Other Business
A. Review of Docket

Mr. Hall asked the Board to indicate any future absences.

Mr. Wood noted that he would be absent from the second meeting in September.

9. Audience participation with respect to matters other than cases pending before the Board

None

10. Adjournment

Mr. Elwell entertained a motion to adjourn the meeting.

Mr. Wood moved, seconded by Mr. Randol, to adjourn the meeting. The motion carried by voice vote.

The meeting adjourned at 7:11 p.m.

Respectfully submitted
Secretary of Zoning Board of Appeals