

MINUTES OF SPECIAL MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61801

DATE: October 3, 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

MEMBERS ABSENT: Frank DiNovo, Larry Wood

STAFF PRESENT: Connie Berry, Susan Burgstrom, John Hall

OTHERS PRESENT: Andy Fitz, Harriet Cox, Lyle 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 with two members absent.

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 - None

5. Continued Public Hearing - None

New Public Hearings

Case 950-V-19 Petitioner: **Lyle and Harriet Cox, via agent Victoria Cox** Request: **Authorize a variance for an existing 5-acre lot in lieu of the maximum allowed 3 acres in area for lots with soils that are best prime farmland, per Section 5.3 of the Champaign County Zoning Ordinance.**

Location: **A 5-acre lot in the Southeast Quarter of the Southwest Quarter of the Southwest Quarter of Section 25, Township 22 North, Range 7 East of the Third Principal Meridian in Brown Township, commonly known as the residence with an address of 512 CR 3100N, Fisher.**

Mr. Elwell informed the audience that Case 950-V-19 is an Administrative Case and as such, the County allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask

1 for a show of hands for those who would like to cross-examine, and each person will be called upon. He
 2 requested that anyone called to cross-examine go to the cross-examination microphone to ask any
 3 questions. He said that those who desire to cross-examine are not required to sign the witness register
 4 but are requested to clearly state their name before asking any questions. He noted that no new
 5 testimony is to be given during the cross-examination. He said that attorneys who have complied with
 6 Article 7.6 of the ZBA By-Laws are exempt from cross-examination.

7
 8 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign
 9 the witness register for that public hearing. He reminded the audience that when they sign the witness
 10 register, they are signing an oath. He asked the audience if anyone desired to sign the witness register
 11 and there was no one.

12
 13 Mr. Elwell asked the petitioners if they would like to make a statement regarding their request.

14
 15 Ms. Harriett Cox, whose address is 512 CR 3100N, Fisher, stated that they reside on the subject property
 16 which consists of five acres, and three or more of those acres are planted in soybeans. She said that when
 17 her husband’s father passed away and the estate was settled, there was only so much farmland that could
 18 be divided between the three sons, and part of the will was that Lyle Cox would inherit the homestead
 19 that was sitting on the subject five acres. She said that their daughter purchased the home which is next
 20 door and she purchased it from Lyle’s mother and father many years ago, and at that time their attorney
 21 indicated that they were required to have five acres, and that is what they created. She said that in 2005,
 22 after both of Lyle’s parents had passed, they followed suit and had Moore Surveying split out five acres
 23 so that the attorney knew how much of the cropland was to be equally divided amongst the three sons.
 24 She said that the subject regarding the size of their parcel was not apparent until their daughter petitioned
 25 for a cell tower on her property.

26
 27 Mr. Elwell asked the Board if there were any questions for Ms. Cox, and there were none.

28
 29 Mr. Elwell asked the audience if anyone desired to cross-examine Ms. Cox, and there was no one.

30
 31 Mr. Elwell asked the audience if anyone desired to sign the witness register and present testimony
 32 regarding this case, and there was no one.

33
 34 Mr. Elwell closed the witness register.

35
 36 Mr. Elwell asked the Board how they would like to proceed.

37
 38 **Mr. Randol moved, seconded by Ms. Lee, to move to the Finding of Fact for Case 950-V-19. The**
 39 **motion carried by voice vote.**

40
 41 **FINDINGS OF FACT FOR CASE 950-V-19:**

42
 43 **From the documents of record and the testimony and exhibits received at the public hearing for**
 44 **zoning case 950-V-19 held on October 3, 2019, the Zoning Board of Appeals of Champaign County**
 45 **finds that:**

46

1 **1. Special conditions and circumstances DO exist which are peculiar to the land or structure**
 2 **involved, which are not applicable to other similarly situated land and structures elsewhere**
 3 **in the same district.**

4
 5 Mr. Randol stated that special conditions and circumstances DO exist which are peculiar to the land or
 6 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
 7 the same district because the lot was created in 2006 by the *Illinois Plat Act* and the County’s Zoning
 8 Department was not involved in the process.

9
 10 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**
 11 **sought to be varied WILL prevent reasonable or otherwise permitted use of the land or**
 12 **structure or construction.**

13
 14 Ms. Lee stated that practical difficulties or hardships created by carrying out the strict letter of the
 15 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
 16 structure or construction because their impression was that they needed five acres, but they have
 17 approximately three acres in agricultural production that is not actually used for the residence.

18
 19 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT result**
 20 **from actions of the applicant.**

21
 22 Mr. Randol stated that special conditions, circumstances, hardships, or practical difficulties DO NOT
 23 result from the actions of the applicant because the lot was created in 2006 with the *Illinois Plat Act* and
 24 did not require zoning approval. If they had to rebuild, and the variance was not granted, they would
 25 have to rezone the property.

26
 27 **4. The requested variance IS in harmony with the general purpose and intent of the**
 28 **Ordinance.**

29
 30 Mr. Randol stated that the requested variance IS in harmony with the general purpose and intent of the
 31 Ordinance because there would be no changes to the land uses and structures on the existing property.

32
 33 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
 34 **detrimental to the public health, safety, or welfare.**

35
 36 Ms. Lee stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
 37 detrimental to the public health, safety, or welfare because there would be no changes to the land uses
 38 and structures on the existing property.

39
 40 Mr. Randol stated that there have been no objections from the township highway commissioner or the
 41 fire protection district.

42
 43 **6. The requested variance IS the minimum variation that will make possible the reasonable**
 44 **use of the land/structure.**

45
 46 Mr. Randol stated that the requested variance IS the minimum variation that will make possible the

1 reasonable use of the land/structure because there are no changes to be made to the land, homestead, or
2 buildings.

3
4 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**

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

8
9 **Ms. Lee moved, seconded by Mr. Randol, to adopt the Summary of Evidence, Documents of**
10 **Record, and Findings of Fact, as amended. The motion carried by voice vote.**

11
12 Mr. Elwell entertained a motion to move to the Final Determination for Case 950-V-19.

13
14 **Ms. Lee moved, seconded by Mr. Randol, to move to the Final Determination for Case 950-V-19.**
15 **The motion carried by voice vote.**

16
17 Mr. Elwell informed Mr. and Mrs. Cox that currently the Board has two members absent; therefore, it is at
18 their discretion to either continue Case 950-V-19 until a full Board is present or request that the present
19 Board move to the Final Determination. He informed the petitioners that four affirmative votes are required
20 for approval.

21
22 Mr. and Mrs. Cox requested that the present Board move to the Final Determination for Case 950-V-19.
23 She asked if the variance is approved, would it stay valid after they have passed away, because their daughter
24 would like to reside on the property at that time. She asked if the home was destroyed by fire or a storm,
25 could they rebuild it, because they were given the impression that they could not.

26
27 Mr. Elwell explained that the variance would allow the home to be rebuilt.

28
29 Ms. Cox stated that, if that is the case, they would appreciate the Board’s approval of the variance.

30
31 **FINAL DETERMINATION FOR CASE 950-V-19:**

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33 **Ms. Lee moved, seconded by Mr. Randol, that the Champaign County Zoning Board of Appeals finds**
34 **that, based upon the application, testimony, and other evidence received in this case, that the**
35 **requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the authority granted**
36 **by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**
37 **Champaign County determines that:**

38
39 **The Variance requested in Case 950-V-19 is hereby GRANTED to the petitioners, Lyle and Harriet**
40 **Cox, to authorize the following variance in the AG-1 Agriculture Zoning District:**

41
42 **Authorize a variance for an existing 5-acre lot in lieu of the maximum allowed 3 acres in**
43 **area for lots with soils that are best prime farmland, per Section 5.3 of the Champaign**
44 **County Zoning Ordinance.**

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46 Mr. Elwell requested a roll call vote.

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The roll was called as follows:

Anderson – yes	DiNovo – absent	Lee – yes
Randol – yes	Wood – absent	Elwell – yes

Mr. Hall informed the petitioners that they have received an approval of their request.

Case 952-S-19 Petitioner: **Mastec Network Solutions LLC, with Chairman of the Board Jose Mas and Board members Jorge Mas, Ramon Mas, Jose Sorzano, Juilia Johnson, and Robert Dwyer, via agent Andy Fitz, Zoning and Permitting Office for Mastec Network Solutions, and property owner Calvin Mohr. Request: Authorize the construction and use of a commercial cellular tower with a height of 263 feet as a Special Use in the AG-1 Agriculture Zoning District, with the following waiver: Authorize a waiver for a commercial cellular tower with a height of 263 feet in lieu of the maximum allowed 200 feet, per the Illinois Counties Code (55 ILCS5/5-12001.1, effective 7/13/12). Location: A 60-acre tract in the East Half of the Northwest Quarter of the Northeast Quarter and the Northeast Quarter of the Northeast Quarter of Section 32, Township 17 North, Range 10 East of the Third Principal Meridian in Raymond Township and commonly known as the farmland at the Southwest corner of the intersection of CR 100N and CR 2000E.**

Mr. Elwell informed the audience that Case 952-S-19 is an Administrative Case and as such, the County allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a show of hands for those who would like to cross-examine, and each person will be called upon. He requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions. He said that those who desire to cross-examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. He noted that no new testimony is to be given during the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross-examination.

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. He asked the audience if anyone desired to sign the witness register and there was no one.

Mr. Elwell asked the petitioners if they would like to make a statement regarding their request.

Mr. Andy Fitz, agent for Mastec Network Solutions, LLC, whose address is 1351 E. Irving Park Road, Itasca, Illinois, stated that they are working with AT&T and are proposing to construct a 263 foot telecommunications facility in the southern vicinity of Champaign County, located one mile northwest of the Village of Longview on County Road 100N. He said that the proposed tower would provide cellular coverage to an approximate area that is 10 miles in circumference. He said that AT&T currently has towers to the north of Sidney and to the west near Pesotum, but currently there is no coverage in the area of the subject property. He said that radio frequency engineers have determined that this cellular tower needs to be 263 feet so that there are no gaps in coverage between the existing towers that are located to the north and west. He said that this tower would be able to co-locate three additional cellular carriers and will be outfitted with AT&T’s Firstnet Technology, which is a federally funded grant that

1 AT&T was awarded. He said that this is a \$6 billion dollar nationwide program that arose out of a
2 recommendation from the 911 Commission, which basically recognized that there is no dedicated
3 broadband network for first responders and 911 providers. He said that in the event of a large scale
4 emergency, those first responders are competing with the public for existing bandwidth and spectrum on
5 the existing cell tower. He said that Firstnet technology resolves the issue of competing for bandwidth
6 because it provides a secure and seamless network.

7
8 Mr. Elwell asked the Board and staff if there were any questions for Mr. Fitz.

9
10 Ms. Lee stated that it is her understanding the 5G does not require cell towers, so why is this being
11 proposed, rather than 5G.

12
13 Mr. Fitz stated that 5G is only a term for Fifth Generation, and it is being deployed in some areas of the
14 country on utility poles in dense urban areas, but it is just the latest technology that can be deployed on
15 macro sites as well on cell towers. He said that 5G itself is just the technology and the structure that it is
16 on can be on top of water tank, cell tower, or a utility pole, but small cells are primarily installed in
17 dense urban areas where the macro sites that they have can't keep up with the demand and can keep up
18 with the additional capacity.

19
20 Ms. Lee asked Mr. Fitz if they plan to propose similar towers in other rural areas of the county.

21
22 Mr. Fitz stated that when the radio frequency engineers are designing their network, they identify an area
23 where they have either a coverage or capacity gap, and once they have identified that, they have many
24 different vendors that work for them and they basically award a certain number of sites within a search
25 ring, which is a set of geographic coordinates, latitude and longitude. He said that after being awarded
26 that search ring, which is between one-half and one mile, they are tasked with finding a suitable landlord
27 that will work with them, and then obtain any governmental approvals. He said that his company does
28 not have any other proposed sites in Champaign County, but that is not say that they are not building or
29 planning other sites.

30
31 Ms. Lee stated that the reason why she asked the question is because a resident in South Homer
32 township informed her that they were approached by a company to install a similar tower, but the
33 contract stated they would not remove the structure when it was no longer in use. She asked Mr. Fitz to
34 indicate the type of language included in their contract with the landlords regarding decommissioning.

35
36 Mr. Fitz stated that it is standard lease language that if the tower is abandoned or ceases to be used, it
37 will be removed.

38
39 Ms. Lee stated that she does not know who the vendor was, but after carefully reading the contract over
40 and over again, they rejected the contract, although another landowner has agreed to allow the proposed
41 structure.

42
43 Mr. Fitz stated that whether or not it would be included in the lease, it is commonly made a condition of
44 approval by the municipality, and that language is included in a lot of Zoning Ordinances. He said that if
45 a tower is abandoned or decommissioned, the responsible company is required to remove it.

46

1 Ms. Lee asked if the tower is only for first responders and not regular cellular phone usage.
2
3 Mr. Fitz stated no, FirstNet is only one technology on the tower, as it can accommodate several different
4 technologies. He said that Firstnet is an actual antenna and is only for first responders and on the
5 platform, there is an antenna array that can accommodate up to 12 antennas and each one can
6 accommodate multiple radios and technologies.
7
8 Ms. Lee stated that during a similar case she indicated her concern regarding the number of towers that
9 are this high in the County and their possible interference with aircraft.
10
11 Mr. Fitz stated that they are required to file with the Federal Aviation Administration (FAA), and they
12 are required to issue a no hazard to air navigation, and that is commonly done on all of these towers.
13
14 Mr. Anderson stated that he is rather new to the Board and most of the variances that he has been
15 involved in were for side, rear, and front yards, or lot area, but a request such as this could be life
16 threatening. He said a tower at the requested height and on the flight path could be an impediment for
17 crop dusters at night and could be very confusing for the pilot. He said that it is possible that one of the
18 antennas could go astray and send out a frequency that interferes with the pilot's aviation equipment and
19 overwhelm the airplane. He asked Mr. Fitz if there was any data regarding these types of accidents
20 occurring and the tower company being sued for these types of impediments or interference.
21
22 Mr. Fitz stated that any tower over 199 feet is required to be lit with a strobe light that is clearly visible.
23 He said that he is aware, by anecdotal conversations, of one incident where a guy tower, which is a very
24 tall and thin tower with guy lines coming off of it that are held down by large caissons, which are
25 literally the wires that hold the tower up. He said that companies can no longer construct a monopole, or
26 in this case, a self-support or lattice pole, over 350 feet, and they must construct a guy tower, and some
27 of those towers are very tall. He said that he is aware of hearing about one instance where a crop duster
28 ran into the guy lines and the pilot was killed, but the proposed tower is not that type of tower and is not
29 at that height, and it will be lit. He said that in terms of the variation, state statute basically gives AT&T
30 or any other carrier the right to build a tower, but they have to base the height on the population of the
31 county, 180,000 people or more or 180,000 people or less. He said that Champaign County happens to
32 be a county that is 180,000 people or more, so the cellular company is permitted by right to construct a
33 tower up to 200 feet. He said why the statute was written like that is unknown to him.
34
35 Mr. Anderson asked why 200 feet.
36
37 Mr. Fitz stated that, as he said, it is unknown to him why the statute was written like that. He said that if
38 Champaign County was less than 180,000 people, they would have the right to build a tower up to 350
39 feet, with a building permit. He said that he does not know why the state legislators created that
40 distinction, but perhaps they wanted to give more control to more populated areas of the state.
41
42 Mr. Anderson stated that the Propagation Plots map included in the packet indicates a distinction of the
43 white areas where more towers could be constructed. He asked why this Board would be required to
44 grant a variance every time when a tower of this type of height is proposed, when the standards could be
45 changed to fit the needs of the cellular companies.
46

1 Mr. Fitz stated that if the Champaign County would rather have shorter towers, then the County will
2 have more towers constructed, because when they are trying to cover a large geographical area that is not
3 heavily populated, they have to go higher. He said that the lower the tower, the smaller geographical area
4 that is covered for service. He said that the propagation maps are an easy way to look at it visually,
5 because the hole for coverage is obvious and this tower will fill the need. He said that less than half of
6 the households in the United States rely on a landline any more, and cellular phones are becoming the
7 public's primary means of communication and that is extremely important during a health and safety
8 issue. He said that when someone tries to make a 911 call, if they do not have good coverage, their call
9 could get dropped or there could be a delay. He said that society is going in the direction of cellular
10 service and after Hurricane Sandy came into New York, the landline company indicated that they were
11 not going to rebuild the infrastructure for landlines because it is old technology.

12

13 Mr. Anderson stated that in ten years, this type of service could be outdated by satellite.

14

15 Mr. Fitz stated that he does not agree, but it is possible. He said that there are satellite phones, but they
16 are extremely expensive because of the technology required to use a satellite.

17

18 Mr. Anderson stated that the larger governments in the County should change their regulations, rather
19 than requiring companies to come before this Board for approval of each individual tower, especially if
20 there are going to be an abundance of these types of towers in the near future.

21

22 Mr. Fitz stated that he does not believe that every tower will be before this Committee for approval,
23 because staff plans to bring the ordinance into line with the State statute. He said that if he can come
24 before this Board and argue why he needs the height of 263 feet for the proposed tower, and that
25 argument is so that there is not a gap in coverage, then the State statute does not set the bar very high as
26 to why he requires that height.

27

28 Mr. Anderson stated that the argument could also be that it makes more sense to build one tall tower
29 rather than a lot of small ones. He said that an area could have effective service with a lot of small
30 towers, rather than one tall tower, but another argument would be that it is less expensive to build a tall
31 tower that is less intrusive aesthetically.

32

33 Mr. Fitz stated that most ordinances have in their objectives that they encourage co-location. He said
34 that no one indicates in their ordinance that they want to have as many cell towers as possible, so you
35 want to attempt to limit the proliferation of towers in your county, but setting an arbitrarily low height
36 will have more towers.

37

38 Ms. Lee asked if Mr. Fitz is referring to only AT&T not having coverage, or is he talking about Verizon
39 and other cellular companies not having coverage.

40

41 Mr. Fitz stated that he represents AT&T, but there are no other towers in this area. He said that he cannot
42 speak for Verizon, Sprint, or T-Mobile, etc. regarding their coverage areas.

43

44 Mr. Elwell asked if at some point, could Verizon piggyback on the proposed tower.

45

46 Mr. Fitz stated yes. He said that there is room for three additional carriers that could co-locate their

1 antennas on this cellular tower.

2
3 Mr. Elwell asked Mr. Fitz to confirm that other than Firstnet, there could also be three co-locaters which
4 could open three other cellular carriers into this area.

5
6 Mr. Fitz stated yes. He said that Verizon, Sprint, and T-Mobile could come in and co-locate their
7 antennas and equipment on this tower.

8
9 Mr. Elwell stated that he is a licensed pilot, not a private pilot, and he mostly flies in the agricultural
10 area, and these towers are clearly marked on every sectional and there are minimums that fixed wing
11 aircraft can fly at, but helicopters are a little different, and the minimum is 75 feet. He said that safety
12 wise these are all over the country and you do see some accidents, but they are very few and far in
13 between; therefore, if a Board member is hinging their vote one way or the other due to safety, this is
14 very planned out and the pilots are educated, and the sectional maps have very evident information
15 regarding tower locations.

16
17 Ms. Lee stated that her deceased husband was a licensed pilot and he had books which were updated all
18 of the time, thus she is very aware of the education that the pilots receive, but she is still concerned with
19 the crop dusters because they do fly lower than 75 feet.

20
21 Mr. Elwell stated that the crop dusters are still required to have the same sectional chart that he has as a
22 private pilot.

23
24 Mr. Randol stated that he would rather have one tower which is 265 feet tall, rather than 15 towers that
25 were 100 feet tall to deal with. He said that the height is required for the proposed tower in order to fill
26 in the vacant area for the emergency radio systems.

27
28 Mr. Fitz agreed.

29
30 Ms. Lee stated that she does agree with Mr. Randol's comments, especially if other carriers could co-
31 locate on the tower rather than constructing individual towers.

32
33 Mr. Elwell asked the Board if there were any additional questions for Mr. Fitz, and there were none.

34
35 Mr. Elwell asked staff if there were any questions for Mr. Fitz.

36
37 Mr. Hall stated that he appreciated the Propagation Plot map, and it is the kind of evidence that the
38 Board needs for these types of cases. He asked Mr. Fitz if requiring a Propagation Plot map would be a
39 reasonable request for future tower height request cases and is this something that companies have but
40 only need to remember to bring it to the meeting.

41
42 Mr. Fitz stated yes, and as a matter of practice, he always requests a Propagation Plot Map from the
43 frequency engineers because it justifies the need and clearly indicates where there is and isn't coverage.
44 He said that if the ordinance is to be revised, then such a map should be required.

45
46 Mr. Elwell asked the Board and staff if there were any additional questions for Mr. Fitz, and there were

1 none.

2
3 Mr. Elwell asked the audience if anyone desired to cross-examine Mr. Fitz, and there was no one.

4
5 Mr. Elwell asked the audience if anyone desired to sign the witness register and present testimony
6 regarding this case, and there was no one.

7
8 Mr. Elwell closed the witness register.

9
10 Mr. Elwell asked the Board how they would like to proceed.

11
12 **Mr. Randol moved, seconded by Ms. Lee, to move to the Finding of Fact for Case 952-S-19. The**
13 **motion carried by voice vote.**

14
15 **FINDINGS OF FACT FOR CASE 952-S-19:**

16
17 **From the documents of record and the testimony and exhibits received at the public hearing for**
18 **zoning case 952-S-19 held on October 3, 2019, the Zoning Board of Appeals of Champaign County**
19 **finds that:**

- 20
21 **1. The requested Special Use Permit IS necessary for the public convenience at this location**
22 **as identified in Finding 6. below.**
- 23
24 **2. The requested Special Use Permit is so designed, located, and proposed to be operated so**
25 **that it WILL NOT be injurious to the district in which it shall be located or otherwise**
26 **detrimental to the public health, safety, and welfare as identified in Finding 6. below.**
- 27
28 **3a. The requested Special Use Permit IS NOT REQUIRED TO conform to the applicable**
29 **regulations and standards of the DISTRICT in which it is located, per 55 ILCS 5/5-12001.1.**
30 **(effective 7/13/12).**
- 31
32 **3b. The requested Special Use Permit IS NOT REQUIRED TO preserve the essential**
33 **character of the DISTRICT in which it is located per 55 ILCS 5/5-12001.1. (effective**
34 **7/13/12).**
- 35
36 **4. The requested Special Use Permit IS NOT REQUIRED TO BE in harmony with the**
37 **general purpose and intent of the Ordinance per 55 ILCS 5/5-12001.1. (effective 7/13/12).**
- 38
39 **5. The requested Special Use IS NOT an existing nonconforming use.**
- 40
41 **6. Regarding the waiver:**
42 **a. Authorize a waiver for a commercial cellular tower with a height of 263 feet in lieu of the**
43 **maximum allowed 200 feet, per the Illinois Counties Code (55 ILCS 5/5-12001.1., effective**
44 **7/13/12) and consistent with the following considerations identified in 55 ILCS 5/5-**
45 **12001.1(h):**

1 **(A) But for the granting of a variation, the service that the telecommunications**
 2 **carrier seeks to enhance or provide with the proposed facility WILL be less**
 3 **available, impaired, or diminished in quality, quantity, or scope of coverage.**
 4

5 Mr. Randol stated that, but for the granting of a variation, the service that the telecommunications carrier
 6 seeks to enhance or provide with the proposed facility WILL be less available, impaired, or diminished in
 7 quality, quantity, or scope of coverage.
 8

9 **(B) The conditions upon which the application for variations is based ARE**
 10 **unique in some respect, AND the strict application of the regulations**
 11 **WOULD result in a hardship on the telecommunications carrier.**
 12

13 Mr. Randol stated that conditions upon which the application for variations is based ARE unique in
 14 some respect AND the strict application of the regulations WOULD result in a hardship on the
 15 telecommunications carrier.
 16

17 **(C) A substantial adverse effect on public safety WILL NOT result from the**
 18 **facility’s design or proposed construction.**
 19

20 Mr. Randol stated that a substantial adverse effect on public safety WILL NOT result from the facility’s
 21 design or proposed construction.
 22

23 **(D) There ARE benefits to be derived by the users of the services to be provided**
 24 **or enhanced by the facility AND public safety and emergency response**
 25 **capabilities WOULD benefit by the establishment of the facility.**
 26

27 Mr. Randol stated that there ARE benefits to be derived by the users of the services to be provided or
 28 enhanced by the facility AND public safety and emergency response capabilities WOULD benefit by the
 29 establishment of the facility.
 30

31 **(E) The design of the proposed facility IS compliant with 55 ILCS 5/5-12001.1(e).**
 32

33 Mr. Randol stated that the design of the proposed facility IS compliant with 55 ILCS 5/5-12001.1(e).
 34

35 **7. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED.**
 36

37 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings
 38 of Fact, as amended.
 39

40 **Ms. Lee moved, seconded by Mr. Randol, to adopt the Summary of Evidence, Documents of Record**
 41 **and Findings of Fact, as amended. The motion carried by voice vote.**
 42

43 Mr. Elwell entertained a motion to move to the Final Determination for Case 952-S-19.
 44

45 **Ms. Lee moved, seconded by Mr. Randol, to move to the Final Determination for Case 952-S-19.**
 46 **The motion carried by voice vote.**

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Mr. Elwell informed Mr. Fisk that currently the Board has two members absent; therefore, it is at the petitioner’s discretion to either continue Case 952-S-19 until a full Board is present or request that the present Board move to the Final Determination. He informed the petitioner that four affirmative votes are required for approval.

Mr. Fisk requested that the present Board move to the Final Determination for Case 952-S-19.

FINAL DETERMINATION FOR CASE 952-S-19:

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

The Special Use requested in Case 952-S-19 is hereby GRANTED to the applicants, Mastec Network Solutions LLC and Calvin Mohr, to authorize the following:

Authorize the construction and use of a commercial cellular communications tower with a height of 263 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 263 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 was called as follows:

Anderson – yes	DiNovo – absent	Lee – yes
Randol – yes	Wood – absent	Elwell – yes

Mr. Hall informed the petitioner that he had received an approval of his request.

Ms. Lee noted that she appreciated the assistance and information that Mr. Fitz provided to the Board during his testimony, because it helped the Board understand why there was need for the requested height.

Mr. Fitz thanked the Board.

Mr. Hall stated that staff appreciated Mr. Fitz’s patience while going through this process.

7. Staff Report

1 Mr. Elwell asked the Board to review the distributed ZBA Contact List dated September 30, 2019, and
2 requested that any changes be sent to staff.

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4 **8. Other Business**

5 **A. Review of Docket**
6

7 Ms. Lee asked staff if there were any future similar applications on the docket from other cell tower entities.
8

9 Mr. Hall stated no.
10

11 Mr. Anderson asked staff if applicants with a similar request could just be referred to Case 952-S-19.
12

13 Mr. Hall stated that hopefully in January, the Board will see a text amendment to amend the ordinance which
14 will make these cases as simple as possible, but, due to state law requirements, there still has to be a zoning
15 case when a tower is proposed to be above 200 feet in height. He said that not only will the ZBA be
16 bothered, but the County Board will have to make the ultimate decision, and this is one of the few instances
17 when the State government did not step in and say that the cellular companies were free to build as high as
18 they desired, which is a good thing. He said that he does not believe that there will be a lot of these types of
19 cases, but at least the Board will have a process that meets the State statute and makes it as easy as possible.
20 He said that they Board will still have to go through those specific findings unlike any other zoning case.
21

22 Ms. Lee stated that the person who talked to her about the contract that indicated that the cell tower would
23 not be taken down, they read the contract carefully, and it was one reason why they decided not to do it. She
24 said that she is concerned about the fact that there is a company out there with a contract like that, and
25 people are agreeing to it.
26

27 Mr. Hall stated that Ms. Lee's concern is a valid concern, but decommissioning is not accounted for in the
28 State statute and it is not clear to him if the County can add special requirements. He said that staff could
29 pose this question to the State's Attorney, but they are going to ask him if there were any examples where
30 someone has done that. He said that this is something that staff needs to keep working on, although the
31 cellular representative here tonight testified that decommissioning in a contract makes sense, yet Ms. Lee has
32 testified that someone has indicated that not everyone does it. He said that staff will continue to investigate
33 this and it would be good to add that as a special condition, but it is not clear to him that we can. He said that
34 a municipality approving a tower probably has more leeway than an unincorporated county.
35

36 Ms. Lee stated that we have all of these uses where decommissioning is a requirement and abandoned towers
37 are not wanted in our rural areas.
38

39 Mr. Hall stated that he understands the concern, but the County can only do what the State allows it to do
40 and a significant part of the Zoning Enabling Act has a lot to do with these towers and it doesn't say
41 anything about decommissioning.
42

43 Ms. Lee stated that abandoned towers could be considered public safety issues and zoning does refer to
44 public safety issues.
45

46 Mr. Hall stated that maybe the only way that the County can deal with it, and once it becomes a nuisance

1 then we can deal with it, but it is not clear to him that a special condition can be placed on a new approval
2 but he will check in to it.

3
4 Mr. Anderson asked if other counties have similar kinds of ordinances as Champaign County.

5
6 Mr. Hall stated that they have to be a county of more than 180,000 people and the differences between
7 counties are too numerous to list. He said that he does not know if the other counties with a population over
8 180,000 people are following the State statute, but he can tell the Board that they are supposed to be
9 following the same rules.

10
11 Mr. Anderson asked how the Board is supposed to look at variances, expense wise, safety wise,
12 inconvenience wise, or aesthetically wise. He asked if the Board is supposed to tweak it here and there or be
13 in contrast with other counties.

14
15 Mr. Hall stated that when a text amendment is before the Board, then that is something that the Board could
16 ask, but remember that every county is unique, which is one of the great things about local land use
17 regulations, because it can be tailored to your needs, values and concerns. He said that he knows of no other
18 county like Champaign County, and it isn't because Champaign County is better or worse, but he doesn't
19 know of any other county like Champaign County; they are all different. He said that it is truly impossible to
20 find a truly comparable county.

21
22 Mr. Anderson stated that other counties may have better ideas than Champaign County and it would be a
23 shame to miss out on those ideas.

24
25 Ms. Lee stated that there is workshop that goes over some of these topics and it is held at Starved Rock.

26
27 Mr. Elwell asked the Board to indicate any additional absences, and there were none.

28
29 Mr. Hall reminded the Board that the next meeting is on October 17th.

30
31 **9. Audience participation with respect to matters other than cases pending before the Board**

32
33 None

34
35 **10. Adjournment**

36
37 Mr. Elwell entertained a motion to adjourn the meeting.

38
39 **Ms. Lee moved, seconded by Mr. Randol, to adjourn the October 3, 2019, meeting. The motion**
40 **carried by voice vote.**

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42 The meeting adjourned at 7:35 p.m.

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44
45 Respectfully submitted

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Secretary of Zoning Board of Appeals