

**King and Queen County  
Board of Zoning Appeals  
Minutes  
April 19, 2010**

**MINUTES  
BOARD OF ZONING APPEALS  
APRIL 19, 2010**

The Board of Zoning Appeals (BZA) of King and Queen County met in the King and Queen County Courts and Administration Building on April 19, 2010, at 6:00 P.M., with public notice having been published in the *Tidewater Review* and *Rappahannock Times* and written notice mailed to interested parties, as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended. The following Board members and staff were present:

Pamela Ashley  
Robert Taylor  
James Dabney

Donna Sprouse, Assistant Zoning Administrator

**IN RE:  
CALL TO ORDER**

Mr. Taylor called the meeting to order. Mrs. Sprouse determined that there was a quorum present with three members. (Pamela Ashley, Robert Taylor and James Dabney were present)

**IN RE:  
APPROVAL OF AGENDA**

A motion was made by Mrs. Ashley to approve the agenda as presented. Approval of the agenda was ratified by all saying "Aye".

*Voting For: Ashley, Taylor, Dabney  
Voting Against: None*

**IN RE:  
APPROVAL OF MINUTES**

A motion was made by Mrs. Ashley to approve the March 15, 2010 minutes as written. Approval of the minutes was ratified by all saying "Aye".

*Voting For: Ashley, Taylor, Dabney*

*Voting Against: None*

*Abstain: None*

**IN RE:  
NEW BUSINESS**

**VARIANCE**

**VAR10-02, King & Queen County, C/o American Tower Corporation**

**Applicant:** American Tower Corporation

**Agent:** Barber Acquisitions, LLC – C/o Jack E. Barber

**Subject:** The Planning and Zoning Department received an application to the Board of Zoning Appeals (“BZA”) on March 15, 2010 from Jack E. Barber on behalf of American Tower corporation, requesting a variance from Zoning Ordinance, Article 5, Table 5.1, Minimum Dimensional Regulations for Primary Zoning Districts & Article 8, Section 3-174, “Setbacks and Separation” reducing the set back distance a tower must be from any existing off-site residential structure.

**Premises:** The property is located just behind 216 Allens Circle, County Tax Map No. 1624-54R-35 in the Stevensville Magisterial District.

Mrs. Sprouse noted that Mr. Barber (on behalf of American Tower Corporation) is requesting a Variance (concurrent with a Conditional Use Permit & Level 3 Site Plan request to allow for the replacement of an existing radio communications tower) from Zoning Ordinance, Article 8, Section 3-174, “Setbacks and Separation” reducing the set back distance a tower must be from any existing off-site residential structure. The tower will be 575’ from the closest existing off-site residential structure. American Tower Corp. is requesting a 25’ variance from the 600’ setback requirement. There is also a request for a variance from Zoning Ordinance, Article 5, Table 5.1, “Table of Minimum Dimensional Regulations for Primary Zoning Districts,” to allow a 172 foot right side yard setback vs. the required 300 foot side yard setback allow a 55 foot rear side yard setback vs. the required 300 foot side yard setback.

Pursuant to Zoning Ordinance, Title II, Article 5, Table 5.1, the height of any such tower shall be no greater than the distance from the base of the structure to the nearest property line. Pursuant to Zoning Ordinance, Title II, Article 8, Section 3-174, Setbacks and Separation, Towers must be set back a distance equal to 200 percent of the height of the tower from any existing off-site residential structure and in no case less than 400 feet.

Mrs. Sprouse stated that considering this request is a replacement communications tower, and is critical infrastructure for public safety and the welfare of the citizens of King &

Queen County, this request is considered essential. The existing tower is approximately 200' tall and the proposed tower will be 300' tall. This height increase and location is required in order to have this tower "speak" to its neighboring towers.

She added, that the location of the proposed tower will be moved back further away from the road and placed within an open field area surrounded by mature natural vegetation (*trees*). The compound will be surrounded by evergreens such as Leland Cypress. This new tower location has received support from the Historical Society and Immanuel Church. They have expressed their support in letters to the State Historic Preservation Office (SHPO) in reference to their requirements. The church stated that they were glad to see that the old tower will be removed and the new tower will be placed further back off the road near the tree line.

Mrs. Sprouse explained that the County's radio equipment will be located at the top of the tower so it will increase the effectiveness of communications in the County. As it stands presently, the Sheriff's deputies receive radio coverage with portable radios in approximately 10% of the County. She added that this new system will increase their coverage to 95%. The new towers will also vastly increase the radio coverage for the Fire Departments, improving their safety while fighting fires. The Rescue Squads will also benefit with the increased ability to speak to the Dispatchers, each other, and in their requests for additional manpower.

Mr. Taylor opened the public hearing and asked if there was anyone in the audience to speak either for or against the project.

Applicant's agent, Mr. Jack Barber introduced himself and stated that County hired American Tower to install the 2 proposed radio towers and conduct the co-locations for their emergency radio equipment.

Mr. Kevin Schools, a citizen located in the Newtown District and Chief of Upper King & Queen Fire Department, approached the Board and stated that it is very important that the approval be granted for the two radio towers. He added that there have been cases before where the fire departments, rescue squads and police personnel was not able to communicate to each other or dispatch and that the new radio system is greatly needed. Mr. Schools stated that he had a deputy friend that was shot at and she could not reach dispatch for assistance.

Mr. Bud Swanson, a citizen locate in the Shanghai District and member of the Lower King & Queen Fire Department, approached the Board and stated that he too is in support of the radio system and both tower sites.

Mr. Curtis Bundy, an adjoining property owner of the Newtown tower site in the Newtown District, stated that he approves of the request.

After hearing no other comments from the audience, Mr. Taylor closed the public hearing.

After no additional comments were made among the Board, Mr. Taylor stated that he would accept a motion to either approve or deny the variance request. He reminded the Board that should they not approve the request, they must state their reasons why. Mr. Dabney made a motion to approve the Variance request as submitted, seconded by Mrs. Ashley. Mr. Taylor asked Mrs. Sprouse to take a vote.

*Voting For: Ashely, Taylor, Dabney*

*Voting Against: None*

*Abstain: None*

*The request was approved by a unanimous vote.*

## **VARIANCE**

### **VAR10-03, Frances G. Fogg, C/o American Tower Corporation**

**Applicant:** American Tower Corporation

**Agent:** Barber Acquisitions, LLC – C/o Jack E. Barber

**Subject:** The Planning and Zoning Department received an application to the Board of Zoning Appeals (“BZA”) on March 15, 2010 from Jack E. Barber on behalf of American Tower corporation, requesting a variance from Zoning Ordinance, Article 8, Section 3-174, “Setbacks and Separation” reducing the set back distance a tower must be from any existing off-site residential structure.

**Premises:** The property is located behind 8770 Newtown Road, County Tax Map Parcel No. 1632-77R-691 in the Newtown Magisterial District.

Mrs. Sprouse noted that Mr. Barber (on behalf of American Tower Corporation) is requesting a Variance (concurrent with a Conditional Use Permit & Level 3 Site Plan request to allow for the construction of a radio communications tower) from Zoning Ordinance, Article 8, Section 3-174, “Setbacks and Separation” reducing the set back distance a tower must be from any existing off-site residential structure. The tower will be 505.2’ from the closest existing off-site residential structure. American Tower Corp. is requesting a 95’ variance from the 600’ setback requirement.

Pursuant to Zoning Ordinance, Title II, Article 8, Section 3-174, Setbacks and Separation, Towers must be set back a distance equal to 200 percent of the height of the tower from any existing off-site residential structure and in no case less than 400 feet.

Mrs. Sprouse stated that the proposed tower is critical infrastructure that is required for public safety and the welfare of the citizens of King & Queen County. The location of the proposed tower will be located within an enclosed area of natural mature vegetation/trees.

Mrs. Sprouse explained that the County’s radio equipment will be located at the top of the tower so it will increase the effectiveness of communications in the County. As it

stands presently, the Sheriff's deputies receive radio coverage with portable radios in approximately 10% of the County. She added that this new system will increase their coverage to 95%. The new towers will also vastly increase the radio coverage for the Fire Departments, improving their safety while fighting fires. The Rescue Squads will also benefit with the increased ability to speak to the Dispatchers, each other, and in their requests for additional manpower.

Mr. Taylor opened the public hearing and asked if there was anyone in the audience to speak either for or against the project. He then noted that the audience had already spoke in favor of both properties but asked if they had any additional comments for the Board for this site.

After hearing no comments from the audience, Mr. Taylor closed the public hearing.

After no additional comments were made among the Board, Mr. Taylor stated that he would accept a motion to either approve or deny the variance request. He reminded the Board that should they not approve the request, they must state their reasons why. Mr. Dabney made a motion to approve the Variance request as submitted, seconded by Mr. Taylor. Mr. Taylor asked Mrs. Sprouse to take a vote.

*Voting For: Ashely, Taylor, Dabney*

*Voting Against: None*

*Abstain: None*

*The request was approved by a unanimous vote.*

**IN RE:  
BOARD MEMBER COMMENTS**

Mr. Taylor stated that this is a good thing for the county and is glad to see the requests approved. Mrs. Sprouse explained to members of the audience that they will once again receive another public hearing notice for May 10, 2010 for approval request of a Conditional Use Permit & Level 3 Site Plan for each site.

**IN RE:  
ADJOURN**

Mr. Taylor stated he would entertain a motion to adjourn the meeting. A motion was made by Mrs. Ashley. Adjournment was ratified by all saying "Aye".

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Robert Taylor, Chairman