

July 8, 2013

The Union County Board of Adjustment met in regular session on July 8, 2013 at 7:00 p.m. in the Union County Government Center, 1st Floor Board Room, 500 N. Main Street, with Chairman Bill McGuirt presiding.

BOARD MEMBERS PRESENT: Bill McGuirt, Chairman
Darren Greene, Vice Chairman
Mark Tilley
Rick Davis
Louis Philipi

ALTERNATES PRESENT: Jennifer Stewart
Douglas Hutton

ALSO PRESENT: Richard Lee Jenson, Land Use Administrator
Bill Sturges, Board Attorney

Chairman Bill McGuirt called the meeting to order at 7:00 p.m. and declared a quorum.

This being the organizational meeting, Mr. McGuirt relinquished the gavel so that Board Attorney Bill Sturges could conduct the election of a chair and vice chair.

Mr. Sturges opened the floor for nominations for chairman. Mark Tilley nominated Bill McGuirt. There were no further nominations. Rick Davis made a motion to close nominations; seconded by Mark Tilley. The motion carried.

Mr. McGuirt was elected Board of Adjustment Chairman by unanimous vote.

Mr. Sturges opened he floor for nominations for vice chairman. Bill McGuirt nominated Darren Greene. There were no further nominations. Rick Davis made a motion to close nominations; seconded by Mark Tilley. The motion carried.

Mr. Greene was elected Board of Adjustment Vice Chairman by unanimous vote.

PUBLIC HEARING:

“Special Use 2013-005” - American Tower Corporation requesting a “Special Use” under Section 54, 180E and Appendix I of the Union County Land Use Ordinance to construct a 199’ telecommunications tower and related equipment. Located near 5365 Army Road, being on Tax Map 01-144-012B; presently zoned RA-40.

Mr. McGuirt inquired as to whether there were any requests for continuances. There were none.

Mr. McGuirt asked Mr. Lee Jensen if the petition was complete. Mr. Jensen stated that the petition was complete.

Mr. McGuirt asked if any board member had a conflict of interest with this agenda item. It was determined there were no conflicts of interest.

Mr. Jensen presented the following staff analysis:

Property Owner: Ralph Tuner

Petitioner: American Tower Corporation

Location: Army Road just north of Highway 218 (01-144-012B)

Request: To construct a 199' telecommunications tower and related equipment.

Summary:

This petition seeks approval to construct a 199' telecommunications tower and related equipment.

Existing Zoning:

North

The area to the north is zoned RA-40.

East

The area to the east is zoned RA-40.

South

The area to the south is zoned RA-40, B-4, and LI.

West

The area to the west is zoned RA-40.

Subject Property

The petitioned property is currently zoned RA-40.

Existing Land Use

North

The area to the north consists of low density residential development and agricultural uses.

East

The area to the east consists of low density residential development and agricultural uses.

South

The area to the south consists of low density residential development, agricultural uses, and some limited commercial and industrial uses.

West

The area to the west consists of low density residential development and agricultural uses.

Subject Property

The subject property currently has a single family dwelling and several accessory structures.

Proposed Land Use

The Union County, North Carolina 2025 Comprehensive Plan calls for this area to develop as low density residential 0-1 dwelling units per acre.

Mr. Jensen stated that he received one telephone call but did not have the opportunity to return the call because the recording cut off before the caller left his telephone number.

Mr. McGuirt inquired whether the application meets all the requirements of the land use ordinance. Mr. Jensen stated that it did.

Mr. McGuirt requested that all those who wished to testify be sworn and the witnesses were sworn.

Tom Johnson, Attorney for American Tower, presented evidence on consumer demand for cell phones and the need for more cell towers. He testified about the suitability of the location for the cell tower and submitted supporting documents into evidence.

Mr. Johnson moved that the application and supporting documents be admitted into evidence.

Graham Herring stated that he was a resident of Raleigh, North Carolina, a licensed commercial real estate broker in North Carolina and South Carolina and has testified as an expert witness before this board previously as well as in multiple jurisdictions in Union County. He stated that he had looked at the property and in his opinion it is an excellent site and would not create any diminution of property value or adverse impact on the area where it will be located and that he had submitted documentation to the planning department to support that opinion.

Mr. Herring was tendered and received as an expert witness.

Mr. Johnson moved the following exhibits into evidence and they were received.

#1A- Application

#1B –Sheet C1 of tower plans

#2 – Sheet C2 of tower plans

- #3 – Sheet C3 of tower plans
- #4 - Impact Statement
- #5 - RF Report
- #6 - power point presentation
- #7 – Power of Attorney

Mr. Herring and Mr. Johnson answered questions asked by Beverly Moore-Rowe. Roger Smith, Judy Smith, Judy McClellan and Jim McClellan.

The applicant offered no further evidence.

The following testified in opposition:

Beverly Moore-Rowe stated that she grew up in Union County, was raised on farm, that generations of her family had lived in that community and that she doesn't think a cell phone tower will enhance the community but instead will be detrimental. She stated that a cell tower will be unsightly. She read a statement opposing the tower.

Roger Smith stated that he has lived on Army Road for 30 years and offered into evidence 12 photographs of the area where the cell tower will be located. (The photographs were marked as Smith Exhibit #1 and received into evidence.). He stated that in his opinion the tower would be an eyesore and the pictures show what constructing the tower on the site will disrupt.

A brief recess was taken.

Judy Smith testified about the beautiful area and stated she'd rather have a chicken house next to her than the tower. She is also concerned about the health impact it will have on the children at New Salem Elementary School; that she doesn't think enough research has been conducted to know whether there is a health impact. Mr. McGuirt and Mr. Sturges explained that State and Federal law prohibits the Board of Adjustment's consideration of the health impact on the surrounding area

Judy McClellan stated she recognized the need for cell towers, but when she looks out her door, the cell tower will be in full view and will be an eye sore and that she objected to the location.

Jim McClellan stated in his opinion the cell tower would devalue the surrounding property.

There was no further evidence by the opponents.

Faye Starnes Hinson stated that she is power of attorney for Ralph Turner and presented documentation for Board's information. The Power of Attorney was marked Petitioner's #7 and received into evidence.

The application was marked Exhibit 1A.

There was no further evidence for the petitioner and Mr. Johnson moved for approval of the petition.

The public hearing was closed and the board deliberated. Mr. Tilley made a motion to approve the petition; seconded by Mr. Davis. The motion carried unanimously.

PUBLIC HEARING

“Special Use 2013-006” - American Tower Corporation requesting a “Special Use” under Section 54, 18E and Appendix I of the Union County Land Use Ordinance to construct a 199’ telecommunications tower and related equipment. Located near 4319 Hwy 218, being on Tax Map 01-225-014B; presently zoned RA-40.

Mr. McGuirt required whether any board member has a conflict of interests and determined there were no conflicts of interest.

Lou Philippi made a motion to hear the petition; seconded by Mark Tilley; the motion carried.

No one requested a continuance of the hearing for this petition.

Mr. Jensen presented the following staff analysis:

Property Owner: Michael and Shirley Rushing

Petitioner: American Tower Corporation

Location: Highway 218 just east of Morgan Mill Rd. (01-225-014B)

Request: To construct a 199’ telecommunications tower and related equipment.

Summary

This petition seeks approval to construct a 199’ telecommunications tower and related equipment.

Existing Zoning

North

The area to the north is zoned RA-40 and B-4.

East

The area to the east is zoned RA-40.

South

The area to the south is zoned RA-40.

West

The area to the west is zoned RA-40 and B-4.

Subject Property

The petitioned property is currently zoned RA-40.

Existing Land Use

North

The area to the north consists of low density residential development and agricultural uses.

East

The area to the east consists of low density residential development and agricultural uses.

South

The area to the south consists of low density residential development and agricultural uses.

West

The area to the west consists of low density residential development, agricultural uses, and some limited commercial uses.

Subject property

The subject property currently has a single family dwelling and several accessory structures.

Proposed Land Use

The Union County, North Carolina 2025 Comprehensive Plan calls for this area to develop as low density residential 0-1 dwelling units per acre.

Mr. Jensen answered questions posed by the board members.

The following exhibits were introduced into evidence:

#1 Application; #2 Impact Statement; #3 C-1; #4 C-1A; #5 C-2; #6 C-3; #7 Power Point.

Mr. McGuirt swore all witnesses who wished to testify.

Tom Johnson, attorney for American Tower Corporation gave evidence using a power point presentation as to the location of the tower on the parcel. He stated that other governmental agencies will be reviewing the application and all requirements will have to be complied with.

Mr. Graham Herring was accepted as an expert witness based on documents attached to the application and his appearance in the previous hearing. Mr. Graham stated he personally inspected the site and stated in his opinion there was no significant impact, adverse influence or diminution of value.

Wanda Clontz stated that she was not opposed to the petition but asked if radio frequencies would be monitored; Mr. Johnson responded that they would and explained that the Federal Communication Commission monitors them and elaborated on the subject.

There were no other questions or evidence.

It was determined that the application is complete and that it complies with all the land use ordinances.

The public hearing was closed and the board deliberated.

Darren Greene made a motion to approve the petition; seconded by Mr. Tilley. The motion passed unanimously.

Mr. McGuirt noted that the time was nearing 10:00. Mark Tilley made a motion to extend the meeting time past 10:00; seconded by Rick Davis. There was no discussion. The motion carried.

PUBLIC HEARING

“Special Use 2013-004 - American Tower Corporation requesting a “Special Use” under Section 54, 180E and Appendix I of the Union County land Use Ordinance to construct a 199’ telecommunications tower and related equipment. Located near Belk Mill Rd., being on Tax Map 03-180-002D and 03-180-002; presently zoned RA-40.

It was determined no board member had a conflict of interest and that the petition was complete.

Mark Tilley made a motion to hear the petition; seconded by Rick Davis. No discussion. The motion carried.

There was no request for a continuance of the hearing.

Mr. Jensen presented the following staff analysis:

Property Owners: Rick and Denise Pigg

Petitioner: American Tower Corporation

Location: Corner of Belk Mill and Ervin Thomas Rd. (03-180-002 & 03-180-002D)

Request: To construct a 199' telecommunications tower and related equipment.

Summary

This petition seeks approval to construct a 199' telecommunications tower and related equipment.

Existing Zoning

North

The area to the north is zoned RA-40.

East

The area to the east is zoned RA-40

South

The area to the south is zoned RA-40

West

The area to the west is zoned RA-40.

Subject Property

The petitioned property is currently zoned RA-40

Existing Land Use

North

The area to the north consists of low density residential development and agricultural uses.

East

The area to the east consists of low density residential development and agricultural uses.

South

The area to the south consists of low density residential development and agricultural uses.

West

The area to the west consists of low density residential development and agricultural uses.

Subject Property

The subject property currently has a single family dwelling and several accessory structures.

Proposed Land Use

The Union County, North Carolina 2025 Comprehensive Plan calls for this area to develop as low density residential 0-1 dwelling units per acre.

The petitioner's exhibits were marked.

- #1 - Application
- #2 - C-1
- #3 - C-2
- #4 - C-3
- #5 - Power Point

Tom Johnson, attorney for American Tower Corporation, presented evidence in the form of a power point presentation and answered questions.

Mr. Graham Herring was accepted as an expert witness based on documents attached to the application and his appearance in the previous hearing. Mr. Graham stated he personally inspected the site and stated in his opinion there was no significant impact, adverse influence or diminution of value.

There was no further evidence by the petitioner and no evidence presented in opposition.

It was determined that the application was complete and that the application complies with the applicable land use ordinances.

The board deliberated.

Mr. Greene made a motion to approve the petition; seconded by Mr. Davis. The motion carried unanimously.

PUBLIC HEARING

“Special Use 2013-003” - American Tower Corporation requesting a “Special Use” under Section 54, 180E and appendix I of the Union County Land Use Ordinance to construct a

199' telecommunications tower and related equipment. Located near 2513 Hwy. 218, being on Tax Map Y8-093-00801; presently zoned RA-40.

It was determined no board member had a conflict of interest and that the petition was complete.

Darren Greene made a motion to hear the petition; seconded by Mark Tilley. No discussion. The motion carried.

No one requested a continuance of the hearing for this petition.

Mr. Jensen presented the following staff analysis:

Property Owner: Patsy Hyatt

Petitioner: American Tower Corporation

Location: Highway 218 (Y8-093-008-01)

Request: To construct a 199' telecommunications tower and related equipment

Summary

This petition seeks approval to construct a 199' telecommunications tower and related equipment.

Existing Zoning

North

The area to the north is zoned RA-40 and/or is located within the jurisdiction of Fairview.

East

The area to the east is zoned RA-40.

South

The area to the south is zoned RA-40 and B-2.

West

The area to the west is zoned RA-40 and is located within the jurisdiction of Fairview

Subject property

The petitioned property is currently zoned RA-40.

Existing Land Use

North

The area to the north consists of low density residential development and agricultural uses.

East

The area to the east consists of low density residential development and agricultural uses.

South

The area to the south consists of low density residential development and agricultural uses.

West

The area to the west consists of low density residential development and agricultural uses.

Subject Property

The subject property currently has a single family dwelling and several accessory structures.

Proposed Land Use

The Union County, North Carolina 2025 Comprehensive Plan calls for this area to develop as low density residential 0-1 units per acre.

Mr. Jensen answered questions posed by the board members.

The petitioner's exhibits were marked.

#1 - Application

#2 – Sheet C-1 of tower plans

#3 – Sheet C-2 of tower plans

#4 – Sheet C-3 of tower plans

#5 - Power Point

#6 - FAA Approval

Tom Johnson, attorney for American Tower Corporation, presented evidence in the form of a power point presentation and answered questions.

Mr. Graham Herring was accepted as an expert witness based on documents attached to the application and his appearance in the previous hearing. Mr. Graham stated he personally inspected the property and stated in his opinion there was no significant impact, adverse influence or diminution of value.

There was no further evidence by the petitioner and no evidence presented in opposition.

It was determined that the application was complete and that the application complies with the applicable land use ordinances.

The board deliberated.

Mr. Davis made a motion to approve the petition; seconded by Mr. Greene. The motion carried unanimously.

The meeting adjourned at 10:45 p.m.