

**Zoning Board of Appeals Minutes  
December 20, 2016**

<b>ZBA MEMBERS</b>	<b>ZBA MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>
Jim Racheff Kenneth Ying Lawrence Aronow Bryan Patchan Tom Overbey Shuan Butcher		Gabrielle Collard- Division Manager for Current Planning Rachel Depo – Assistant City Attorney Grace Bogdan – City Planner Jessica Murphy – Administrative Assistant

**I. ANNOUNCEMENTS:**

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**II. GENERAL PUBLIC COMMENT:**

There was no general public comment.

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**III. APPROVAL OF MINUTES:**

Approval of the **September 27, 2016** Zoning Board of Appeals Meeting Minutes as published:

**MOTION:** Mr. Aronow.  
**SECOND:** Mr. Patchan.  
**VOTE:** 4-0. (Mr. Butcher Abstained)

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Approval of the **November 10, 2016** Zoning Board of Appeals Field Trip Minutes as published:

**MOTION:** Mr. Patchan.  
**SECOND:** Mr. Butcher.  
**VOTE:** 5-0.

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Approval of the **November 15, 2016** Zoning Board of Appeals Meeting Minutes as published:

The commission decided to postpone approval of the minutes till the January Hearing, no motion was made.

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Approval of the **December 16, 2016** Zoning Board of Appeals Meeting Minutes as published:

**MOTION:** Mr. Butcher.  
**SECOND:** Mr. Patchan.  
**VOTE:** 3-0. (Mr. Racheff & Mr. Aronow Abstained)

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**IV. PUBLIC HEARING-SWEARING IN:**

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*"Do you solemnly swear or affirm that the responses given and statements made in this hearing before the Planning Commission will be the whole truth and nothing but the truth." If so, answer "I do".*

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**V. OLD BUSINESS:**

NONE

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**VI. NEW BUSINESS:**

**A. ZBA16-927CU, Conditional Use, 490 Monocacy Boulevard**

Ms. Collard entered the entire staff report into the record. There was no public comment.

**Planning Commission Action:**

**MOTION:** Mr. Butcher moved to approve ZBA 16-927CU based upon the findings of fact,

- 1) The proposed facility will not generate more noise, traffic, pollution, smoke, dust or other adverse impact on adjacent properties greater than that of uses permitted in the GC district, not requiring conditional use approval.
- 2) Based on the documentation supplied by the Applicant, the proposed equipment will not be a hazard to adjacent properties or constitute a nuisance because of radio interference or other potentially disruptive activity associated with the operation of the antenna.
- 3) The proposed antenna will be mounted to an existing light pole that is 24' in height. The pole is less than 24' from the public right of way of Monocacy Blvd, however, the Applicant has provided confirmation from a structural engineer that the existing pole is capable of supporting the new antenna as required under the IBC.
- 4) The documentation supplied by the Applicant demonstrates that based on the nature of the small cell technology, there are no technically suitable spaces available on an existing communications towers within the geographic area that the new site is intended to serve.
- 5) Based on the photographs provided, the Applicant has demonstrated that the proposed telecommunications facility will not have an adverse impact on the historic vistas, City gateways or other significant City landmarks.
- 6) That, per the statement from the engineer, the antenna proposed meets the radio frequency safety standards as established by the regulating agency for such antenna(s).
- 7) That the Applicant has provided approval from the Property owner to locate the facility on the Property and the Applicant has agreed to the removal of the facility per the provisions of paragraph (13)(D) of Section 866(a).
- 8) That the Applicant has provided guarantees that the telecommunications facilities will comply with the applicable local, state, and federal rules and regulations.
- 9) The Applicant has filed a letter signed by Frederick County Bank identifying its interest in the Property and granting the Applicant permission to seek the conditional use.
- 10) The proposed telecommunications facility will not exceed the maximum height permitted in residential zoning districts and has demonstrated that its appearance will make no substantial change to the area.

- 11) That the Applicant has fulfilled all of the public notice requirements mandated under Section 866(a)(13)(A-B).
- 12) That the Applicant has indicated that they will maintain the facility in good condition.
- 13) That based on the nature of the small cellular antenna technology colocation is not applicable.
- 14) That the Applicant has provided testimony indicating that co-location is not an acceptable solution to the issue and justifying the proposed site.
- 15) The Applicant has filed with the FAA

Approval is conditioned upon:

- 1) The Applicant must receive all approvals from the FAA.
- 2) In accordance with Section 312 of the LMC, *Zoning Board of Appeals Decisions*, the Applicant must receive a zoning certificate establishing the use within two years of the approval date or the approval shall become void.

**SECOND:** Mr. Aronow.

**VOTE:** 4-0.

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**B. ZBA16-925V, Variance, 422 Carrollton Drive**

Ms. Bogdan entered the entire staff report into the record. There was no public comment.

**Planning Commission Action:**

**MOTION:** Mr. Patchan moved to deny the ZBA variance 16-925V request to reduce the required interior setback of eight (8) feet by four feet seven inches (4'7") to allow the construction of an attached patio/carport 3'5" from the side property, under the powers granted to the Board by Section 203 of the Land Management Code, finding that:

1. While the requested variance is not contrary to the public interest, the lot conforms with Section 405, Table 405-1 of the LMC and as such, there are no exceptional characteristics of the lot or conditions peculiar to the property that create a situation where the strict application of the minimum interior setback standard results in an undue hardship.
2. The literal interpretation of the provisions of this Code would not deprive the Applicant of rights commonly enjoyed by other properties, as a predominant amount of the properties along Carrollton Drive do not have covered parking.
3. Granting the variance would confer special privileges to the Applicant as other properties in this district cannot encroach into the interior lot setback.
4. Granting the variance would not be in harmony with the general purpose and intent of this code, specifically Section 606(g) regarding required yards.

**SECOND:** Mr. Aronow.

**VOTE:** 4-0.

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**VII. MISCELLANEOUS**

**C. Approval of the 2017-2018 Zoning Board of Appeals Schedule**

**MOTION:** Mr. Butcher moved to approve the 2017-2018 Zoning Board of Appeals Schedule.

**SECOND:** Mr. Aronow.

**VOTE:** 4-0.

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**VIII. ITEMS ADDED TO AGENDA**

**Zoning Determinations Completed:**

- 16-805ZD, 401-405 South Jefferson Street, The Prospect Plaza
  - 16-849ZD, 530 Monocacy Boulevard
  - 16-917ZD, 1000 Columbine Drive, Apartments at Sunset
  - 16-972ZD, 1328 West Patrick Street
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**Meeting adjourned approximately 8:20 p.m.**

Respectfully Submitted,

Jessica Murphy  
Administrative Assistant

APPROVED 01/24/2017