

# Pine Grove Township

## Planning Commission

### Regular Meeting with a Public Hearing

26520 CR 388, Gobles, MI 49055

June 21, 2021 6:00 p.m.

1. **Call to Order:** Meeting called to order at 6:00 p.m. by Chairperson Kehoe
2. **Roll Call: Present:** Kehoe, Hill, Marculis, D., Richardson, Brown, Yaple, Marculis, K.

**Others Present:** Rebecca Harvey, AICP  
Bear Priest, KABA  
Derek McGrew, Parallel Towers/AT&T  
Craig McGrew, Parallel Towers/AT&T  
Brad Fowler, Mika Meyers PLC

3. **Approval of Agenda:** *Motion made by Kehoe, supported by Richardson, to approve the Agenda for June 21, 2021 with the addition of #3 Fencing under Old Business. All yes, motion carried.*
4. **Approval of Minutes:** *Motion made by Yaple, supported by Hill, to approve the Minutes of the Meeting for April 19, 2021. All yes, motion carried.*
5. **Public Comment on Non-Agenda Items:** None
6. **New Business:**
  1. **Public Hearing:** *Special Land Use Permit for a Communications Tower, Owner Jacqueline M. Drobny Trust, 33169 Baseline Road, Allegan, MI to allow the construction of a new Wireless Communication Facility including a tower to be constructed by the Applicant, Parallel Towers III, LLC, on land leased from the Jacqueline M Drobny Trust. Parcel # 08-15-006-004-01 and requesting a waiver of the maximum height of 120 feet to 202'6" with appurtenances.*

### OPEN PUBLIC HEARING: 6:03 p.m.

Chair Kehoe stated that the purpose of the Public Hearing is to consider the Special Land Use Application. Kehoe stated that the order of the hearing will be: Explanation of the request that was received by the board, review the presentation of the Staff Report, comments from the Applicant(s), questions by the Planning Commission and then the floor will be opened for public comment with a 5-minute limit per speaker. Kehoe stated that when everyone from the public has had a chance to speak, the public hearing will be closed and the Planning Commission will then deliberate and make a motion to approve, deny, or approve with conditions.

Bear Priest, Pine Grove Township Zoning Administrator, stated that he received an application from Parallel Towers III, LLC to build a 200' plus 2'6" appurtenances, tele-communications tower to be located on land leased by them from the Jacqueline Drobny Trust on Baseline Road. Per Article 8.24 C of the Pine Grove Township Zoning Ordinance, the minimum setback is the tower height, which is 202 feet, 6 inches, which is the same distance to the closest side property line, which meets the standard, and the front/back setbacks more than meet the standard for 8.24 C (5). Priest stated that Parallel Towers have agreed to the standard of a 6 foot, black or green chain link fencing and have requested to use barbed wire fencing at the top of the fencing which meets 8.24 C (10). Bear Priest stated that 8.24 C (4); the maximum height of a tower shall not exceed 120 feet unless the applicant can prove the necessity for the extra height for reasonable communication by the applicant and collocation by other entities. Parallel Towers III LLC has provided a letter from an industry expert stating that the requested height is required to support the equipment they plan to have collocation on

the tower. Priest stated that he has made contact with AT&T and they do plan to move equipment onto this tower if it is approved. Priest confirmed with AT&T that they are currently at a height of 166 feet off the ground on another nearby 180-foot tower. Parallel Towers III LLC provided an Enlarged Site Plan ZD2 which shows new landscaping if required per 8.25 C (2). Priest stated that the PC can dictate what type of landscaping they require. Priest stated that Parallel Towers plan to have an unobstructed 12-foot-wide gravel access road, and have provided a sample of a long-term maintenance plan, as well as a structural plan, sealed by an engineer that meets the structural integrity. Kehoe stated that he was not clear on 8.24 D, Removal of Unused or Obsolete Facilities; if that was presented in the application. Kehoe and Richardson both stated that they believed the applicant on a prior approved tower was required to obtain a bond or a provision that addressed the event that the tower and/or equipment became obsoleted and no longer used and did not see anything in this application. Priest stated that this proposed tower has no on-site storage, only a generator. Priest stated that Parallel Towers III LLC are not requesting a land division, they are looking at leasing the land. The lease is not set as they are looking for approval before setting up a lease. Priest stated that the application meets the ZO requirements and if a division of land is required, that they will have to meet the minimum requirement of 2 acres with 150' in width. Priest stated the applicant is not looking at that option, but rather a lease structured in a way to meet that standard.

Derek McGrew stated that he is representing Parallel Infrastructure and AT&T and proposing a 202'6" monopole at 33169 Baseline Road in the AG District. McGrew stated that they meet or exceed all setbacks in all directions and are proposing, in addition to the fencing, landscaping all the way around the tower. McGrew stated that he had heard there were complaints regarding another tower that did not have landscaping around the fenced enclosure. McGrew stated that he was able to get Bear Priest in contact with the proper people to have that situation resolved. McGrew stated that he was aware that there was opposition to this tower project and had representation for SBA in attendance at this meeting. Mr. McGrew stated that SBA's goal is to prevent or delay approval for this tower so that AT&T would have to sign an additional 5-year lease agreement with SBA, which is quite costly to AT&T. McGrew stated that AT&T has already stated that they will lease with Parallel Towers III LLC if they get approval to construct the 202'6" tower. McGrew stated that is why SBA waited until Friday to submit a 59-page opposition to the project, leaving them one day to read the document and prepare for tonight's meeting. McGrew stated that along with the application, they have provided coverage maps which show the increased coverage, due to the taller tower request. McGrew stated that a 120-foot tower is not tall enough for the allowance for collocation as the locations have to have 10 feet of separation. The first one would be at 115 feet, second one at 105 feet, 95, 55 and then you start getting down to the tree line and a signal cannot get through the trees. McGrew stated that they have also provided a sworn statement from AT&T Engineer Ahsan Ahmed Ansari and AT&T Director of Network Planning Tim Brenner talking about the economic hardship and why AT&T does not want to be on the SBA tower any more. McGrew stated that AT&T is doing this all over the country, finding any way to get off the SBA's towers. McGrew stated that there are 3 major companies in the industry, that is American, SBA and Crown Castle and AT&T is willing to work with two of them. McGrew stated that AT&T has worked for years to negotiate a contract with SBA. McGrew stated that what other companies are doing is to sign a Master Lease Agreement, however, SBA is unwilling to sign a Master Lease Agreement with AT&T. McGrew stated that the other application documents that have been provided are the Maintenance Program and an Environmental Assessment Study. McGrew stated that the tower facility meets all the special land use criteria as stated in the application. McGrew stated that he wanted to go over some of the points that the SBA opposing counsel was going to go over during their time. McGrew stated that the first part of the opposition document talks about the Trowbridge Township ordinance on wireless towers, which has no bearing in Pine Grove Township, so he would not even bother discussing that. McGrew stated that the opposition document mentions that the setbacks are not met. McGrew stated that he confirmed with Bear Priest today that actually the lightning rod is not considered part of the structure, therefore it does meet the standard in two ways, that way and that the 204 foot was a typo in the application. Chair Kehoe asked Mr. McGrew to limit his comments to his application and how it meets the standards and not the opposition document from SBA. McGrew stated that in the Pine Grove Township Zoning Ordinance, towers are considered essential services even though they have to follow the special land use requirements. Kehoe stated that specifically in regards to the maximum height and collocation, our ZO 8.24 C (4) Maximum Height states "Higher wireless communications support structures and antennas may be

permitted, however, if necessary to achieve collocation” can you explain why you require collocation for that tower. McGrew stated that it would be impossible to say what other companies would collocate, but AT&T is going to be located on this tower if approved and McGrew stated that in order for AT&T to achieve the coverage they want, they require that height, that with the township’s topography and tree coverage, it would be impossible at the 120’ height to get the signal over the trees. If the township stuck with 120-foot towers, they would need many more towers for the same coverage due to the foliage. Kehoe ask if the company’s intent is to have multiple companies on the tower and McGrew stated that that was exactly the case, as SBA would agree, their company as well as Parallel Towers, the intent is to fill the tower with wireless carriers. Kehoe asked McGrew if the other carriers would be below AT&T. McGrew stated that there is always the possibility of extending a tower. McGrew stated that the 4 wireless carriers in this area are AT&T, Verizon, T Mobile, and unknown to most people, Dish Network is about to be a 4<sup>th</sup> wireless provider. McGrew stated that each area for a tower is different, depending on how many users, topography and foliage. McGrew stated that the more users that are using a tower, the smaller the coverage area will be as the tower can only broadcast so much power for so far; as an example, in Chicago, there are towers every 100 ft or so because there are so many users per tower and on a two-lane highway in Indiana where it is flat land and no trees, the towers are 6 miles apart as there is less obstruction for the signals and less users. Marculis asked how many carriers Parallel Towers were expecting to have on this tower for collocation. McGrew stated that Parallel Infrastructure would not build the tower if they did not anticipate 2-3 carriers, the goal would be 4. McGrew stated that they provided a color coverage area map and explained that it was estimated at a 3-mile radius of coverage. Bear Priest stated that they did an extensive study on the coverage if AT&T was to move to the new tower, was there going to be a decrease in coverage and actually it would increase the current coverage and more importantly, would significantly increase the coverage in Pine Grove Township. Kehoe stated that on the drawing, the fenced in area is 50 X 50 and McGrew stated that was correct. Kehoe stated that on the drawing, there is no landscaping plan, but on the drawing, is that what is proposed, trees planted every 4 feet and McGrew stated that was correct. Kehoe asked for any other questions. Richardson asked that the drawing showed a 50’ x 50’ fenced in area, but it was stated that they would be leasing a 100’ x 100’ area. McGrew stated that they are leasing a much bigger area in case it is needed for future use.

Chair Kehoe opened the floor for any public comment. Brad Fowler, from Mika Meyers PLC, representing SBA passed out an additional 13-page document that was provided by SBA, in addition to the 59-page document sent on Friday and inquired if everyone had received the 59-page document that was sent on Friday. Marculis stated that everyone had received the 59-page document on Friday. Fowler stated that he would not rehash everything in the letter but wanted to go over some of the comments made by the applicant and stress a couple of the reasons why SBA believes the application does not comply with the Zoning Ordinance and therefore compelling the Planning Commission to deny the application. Fowler stated that first, the reasoning for the tower has nothing to do with the need for service in the township, but has everything to do with the economic dispute between AT&T and SBA. Fowler stated that according to the SBA study that was just handed out, that the other tower that is .6 miles away and the proposed tower has within 2.3 – 2.6 miles of coverage. Fowler stated that the report analyzation was done at three different heights, 166 feet on the current SBA tower, which is where AT&T is at now, at 186 feet on the current SBA Tower, where AT&T could move to if they wanted to because it is vacant, and 195 feet on the proposed tower if it was approved and the study shows that it would be a duplication of service that the service area would be approx. the same at 186 feet on current SBA tower or the 195 feet on the proposed tower, give or take a tiny area. Fowler stated that was why Trowbridge Township requires a 2-mile distance between towers because you don’t need towers any closer together than that, especially when the SBA tower that exist is only 30 percent occupied, leaving 70 percent of the tower vacant, including the very top spot. Fowler stated that regarding the Pine Grove Township Zoning Ordinance and the reasons this application doesn’t comply, the main one being the tower height, limiting a new tower to 120 feet and you correctly asserted from your own ZO that the tower is limited to 120 feet unless you can show a need for collocation and there was nothing provided in the application as to why the additional 84 feet was needed for collocation specifically and that the purpose is say, your tower is full, and you need to collocate an additional service and you need the extra height to put the new equipment. Fowler stated that this is not the case, and there was no evidence provided as to why collation was necessary on that tower and AT&T just wants off the SBA tower because they don’t agree with the rental rates and there is an economic dispute between AT&T and SBA. Fowler stated that according to the Pine Grove Twp. ZO, the request for additional height is not applicable. Fowler stated that according to the Land

Division Act, under state law, if it is a lease for one year or more, state law treats it as a land division so based on that, this is a land division, and therefore you are required to comply with the Zoning Ordinance which requires two acres, and this is only a 2.3-acre lot so therefore it does not comply with this provision. Fowler stated that SBA is just requesting that you comply with your Zoning Ordinance. Kehoe asked for any other public comment and hearing none;

**CLOSE PUBLIC HEARING: 6:33 p.m.**

**Review Criteria: ZO 7.03 A:**

1. Board finds the size, nature and character of the use will be compatible with the other uses and buildings and structure expressly permitted with the zoning district since this is an AG district and the land will continue to be used by the land owners as a pasture, and the structure will be fenced in and landscaped.
2. Board finds that the use will be compatible with the natural environment of the area, especially since it is being built as far back from the road as the set backs allow, and will be landscaped with appropriate foliage.
3. Board finds that the use will not adversely affect the capacities of public services and facilities, and will not cause unreasonable traffic congestion or otherwise specially burden the public roads and streets in the area as it will have one 12' wide gravel driveway and a maintenance plan that provides for 1 monthly visit.
4. Board finds the use complies with all off-street parking requirements of the Ordinance and all other applicable requirements imposed by this Ordinance as it will have one 12' wide gravel driveway to the structure with a turn around at the site of the structure and a maintenance plan that provides for 1 monthly visit.
5. Board finds that the use will not in any manner be detrimental or injurious to the use or development of adjacent properties, to the occupants thereof, or to the general neighborhood as it does meet all setback required and it will continue to be used as pasture as it has in the past, and the generator does not exceed any noise levels.
6. Board finds the use will not adversely affect the public health, safety and general welfare of the community.
7. Board finds the use will be in accordance with the character and adaptability of the land at issue.
8. Board finds that the general standards hereinabove required for the allowance of such a special land use can and will, in the Planning Commission's judgement, be met at all times by the applicant.

**Review Criteria: ZO 8.24 C A Special Land Use Review Criteria**

1. Board finds the wireless communication facility is not detrimental to the public health, safety and welfare as it is as far back off the road as the setbacks allow and has a 12' gravel driveway to the structure with a turnaround at the end.
2. Board finds that the wireless communications facility is designed to be harmonious with the surrounding area as it will remain a pasture by the owner, the structure will be fenced in with black or green 6-foot chain link fence with barbed wire around the top and the fenced in structure will be landscaped with foliage and there will be a 12' gravel driveway to the structure from the roadway.
3. Board finds the wireless communication facility will comply with applicable federal, state and local standards, including requirements promulgated by the Federal Aviation Administration, Federal Communication Commission and Michigan Aeronautics Commission and will comply with all applicable building codes as the applicant stated that there will be a lighting rod and a white light during the day and a red light at night.
4. Board finds that the applicant demonstrated a justification for the proposed height of the wireless communication structure by presenting supporting documentation and sworn documentation from AT&T Engineer Ahsan Ahmed Ansari and Director of Network Planning Tim Brenner that due to their study and taking into account; 1: the physical characteristics of the frequencies allotted by the FCC to AT&T; 2: the allowable power outputs of those frequencies; 3: the AT&T mobility equipment

- specification; 4: the location of existing AT&T Mobility and other facilities; 5: the topography and building density of the area; 6: the optimum coverage using the minimum use of new tower sites, have requested the maximum height allowed for that location given all the conditions, at 202 feet, 6 inches (to comply with setback standards without a variance) to be able to lease space up to 4 wireless communication companies for collocation.
5. Board finds the wireless communication facility complies with all the setback standards.
  6. Board finds access to the wireless communication facility complies with the standards with a 12' wide gravel driveway to the structure with a turn around at the site and ample parking to provide personnel access to the structure for monthly maintenance checks.
  7. Board finds division of property is not required. There is a Michigan State Law, Land Division definition if a property is leased. Attorney Kaufman provided two different options how the applicant can meet the standard and the applicant has agreed to come to an understanding with the attorney and will probably go with the 364-day renewable lease but requests time to work this out through the township Attorney Catherine Kaufman.
  8. Board finds that there is no equipment enclosure in this project so this standard is met.
  9. Board finds the wireless communications facility meets the standard and is designed to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensures compatibility with surroundings with a grey tower, set back as far on the property from the road as the setbacks allow, with a 6' green or black chain link fence enclosure with barbed wire at the top, that will be landscaped with foliage approved by the township and will have a lightning rod with a white light during the day and a red light during the night which are required by the FAA and there will be no signs or logos visible from offsite on the wireless communication support structure.
  10. Board finds that the wireless communication facility meets the standard and will be enclosed in a 6-foot green or black chain link fence with a barbed wire at the top of the fence. The fence enclosure will be landscaped with acceptable foliage.
  11. Board finds Structural integrity standard has been met with the submitted the engineering studies and construction plans.
  12. Board finds that the standard has been met as the applicant has submitted a maintenance plan for the long term, continuous maintenance of a wireless communications facility and identified who will be responsible for maintenance and includes a method of notifying the Township if maintenance responsibilities change.

***Motion made by Kehoe, supported by D. Marculis, to approve the application for the Special Land Use Permit to Parallel Towers III LLC for a wireless communication tower based on the evidence produced during the hearing using ZO 7.03 A and 8.24 C and to approve the waiver of the maximum height limit from 120 feet to 202'6", with the special conditions that the applicant will provide a buffer of evergreen trees, planted 4 feet apart and be at least 5 feet tall at the time of planting, the condition that the applicant will comply with the fencing provisions in the ordinance, specifically being black or green chain link fencing and the PC approved barbed wire fencing at the top, the condition that the applicant will be in compliance with Article 8.24 D Removal or Unused or Obsolete Facilities, and the condition that the applicant will comply with the posting of security per Article 8.24 E (4) Security; which requires a security posted by cash, surety, or letter of credit, and the condition that the applicant will comply with the pertinent conditions of the lease or land division and will have time to work with the township attorney Catherine Kaufman to decide the best way to proceed on that.***  
***Roll Call: Kehoe – yes, Hill – yes, Marculis, D. – yes, Brown – yes, Richardson – yes, Yaple – yes, Marculis, K. – yes. All yes, motion carried.***

**7. Public Comment on Agenda Items:** None

**8. Old Business:**

- 1. Article 9.20 A Temporary Buildings – for Non-Residential Use Incidental to Construction –** after a brief discussion with Bear Priest and Rebecca Harvey, the board decided that there is no issue with this ordinance at this time.
- 2. Article 9.20 C – Recreational Vehicle –** after a brief discussion with the board, Bear Priest and Rebecca Harvey, the board decided that there is no issue with this ordinance at this time.

3. **Article 9.05 Fencing** – Bear stated fencing has been an issue recently and several residents have built taller than the allowed 4-foot fence in the front yard. Bear stated that they have three options, apply for a variance, reduce the fence to 4 feet, or remove the fence, while other options available to them are to build a berm as there is no language on berms, however, a fence cannot place on top of a berm, plant foliage, but a fence cannot be higher than 4 feet in the front yard. Bear stated that they are currently enforcing this and wanted to make sure the board was still comfortable with the present language. The board agreed that they had no issue with the ordinance at this time.

9. **Commission Comments:** Richardson stated that he has heard some talk about having Ordinance Enforcement Officer Tim Smith do enforcement strictly by called in complaints/reports as opposed to driving around and citing infractions. Richardson stated he was asking the board as citizen and tax payers, not as Planning Commission members. Kehoe stated that he believes that the Township Board should receive more information on the specific potential violations, violations that he is working on, etc. Richardson stated that he does report monthly to the board. Bear Priest stated that if you rely solely on complaint-based enforcement, you can unintendedly target, as there is only a small number of people that will call in. Bear stated that in his opinion, the Ordinance Enforcement Officer should keep a record of what roads he drives down spotting possible violations. Rebecca Harvey stated that a blend of both, as the OEO cannot drive past a visible violation and not enforce and also respond to complaints/reports of violations. Richardson stated that he gets a lot of compliance by simply stopping and talking to the home owner.

Bear Priest gave an update on Mr. Arnold DeMann and stated that has made building plans to convert part of it into a house that has been approved and he has applied for a building permit which should be ready in a week, with a condition that he has to remove any evidence of a business, signage, etc., as he did rezone from AG to Residential. The Special Use Permit for that property is null and void.

10. **Adjournment: Motion made by Kehoe, supported by Hill, to adjourn. All yes, motion passed.**

**Adjourned at 7:05 p.m.**

**Next Meeting(s): For 2021: July 12, 2021** date has been changed due to schedule conflicts

Respectfully,

*Deborah Marculis*

Deborah Marculis

Secretary, Pine Grove Twp. Planning Commission