**LAYTONSVILLE BOARD OF APPEALS**

**MEETING MINUTES**

**June 6, 2022 – 7:30 p.m.**

**Roll Call**

A meeting of the Laytonsville Board of Appeals was called to order by Chair Cecere at approximately 7:33 p.m. Board Members Foster, Kerns, Ols, and Ryan were present.

**Minutes**

The minutes for the Board of Appeals Meeting of April 4, 2022, were submitted. A motion was made by Chair Cecere and seconded by Member Foster to approve the minutes. The motion passed unanimously.

**Attendees**

Mr. Michael Eanes, President, Laytonsville Volunteer Fire Department (Applicant)

Mr. Brian Kline, J B Kline Landscaping (Applicant)

Mr. Jody Kline, Esq.; Counsel for Mr. Brian Kline, 200-B Monroe Street, Rockville, MD

Mr. Charles Hendricks, Chair, Laytonsville Historic District Commission

Mr. Shannon Allcock, Co-owner of 6720 Olney-Laytonsville Road, Laytonsville, MD

Ms. Joy Jackson, Assistant Clerk, Laytonsville Town Hall

Ms. Kim Emswiler, Assistant Staff Member, Laytonsville Town Hall

Ms. Nadine Hasevoets-Tarwater, Secretary

**Old Business**

None.

**New Business**

Special Exception Applications (SE-02-22 and SE-03-22) submitted by Mr. Michael Eanes, President of the Laytonsville Volunteer Fire Department (LVFD) and Mr. Brian Kline, J B Kline Landscaping.

Chair Cecere made a motion to open the hearing for Special Exception Applications SE-02-22 and SE-03-22 which was seconded by Member Foster.

***Hearing***

Chair Cecere began the hearing by outlining the procedures and administering the swearing in oath to all those providing testimony.

Chair Cecere requested Mr. Eanes to present his request for a Special Exception.

Mr. Eanes explained to the Board that Crown Castle who is the management company of the monopole located at 21400 Laytonsville Road, Laytonsville, MD (Laytonsville Volunteer Fire Department property), has received a request from Dish Network to utilize the monopole and to place additional equipment.

Chair Cecere asked questions relating to the type of new equipment which would be installed, it’s visibility from the street, whether the County had been contacted, and if an engineer’s report was available.

Mr. Eanes immediately sent an email contacting the engineer’s report to all members of the Board.

Member Foster indicated that the special exception given to LFVD is to be reviewed every two years, and noted that there was a gap in the procedure. He also voiced his concern regarding the potential additional weight the equipment might have on the monopole.

Chair Cecere indicated that due to COVID and the election of a new president for LFVD, the processed had been overlooked and requested Mr. Eanes to confirm that no new changes or additional equipment to the monopole was undertaken during that time period.

Mr. Hendricks, Chair, Historical District Commission (HDC), pointed out that under the Town’s ordinance, the HDC would also need to approve changes to the monopole since it is located within the historic district. However, he noted that a letter from Crown Castle addressed to Montgomery County, dated April 9, 2022, stated that Section 6409 of the Spectrum Act, mandates that state and local governments must approve any eligible facilities request for the modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. In accordance with the papers submitted, the modifications requested by Dish Network through Crown Castle would not substantially change the physical dimensions of the monopole. Meaning the Town does no have the right to question these changes. However, should Crown Castle initiate major changes to the monopole in the future, they would need the approval of both the Board of Appeals and the Historic District Commission.

A discussion followed regarding the potential weight the new equipment might pose to the monopole, the integrity of the structure, and FCC requirements.

Mr. Henricks cited the checklist contained in the Crown Castle letter regarding “Criteria for Towers Outside the Public Right of Way.” The list includes the following:

* Does the modification increase the height of the tower by more than the greater of: 10%; or, the height of an additional antenna array plus separation of up to 20 feet from the top of the nearest existing antenna?
* Does the modification add an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet or more than the width of the tower structure at the level of the appurtenance, whichever is greater?
* Does the modification involve the installation of more than the standard number of new equipment cabinets for the technology involved or add more than four new equipment cabinets?
* Does the modification entail any excavation or deployment outside the current site by more than 30 feet in any direction, not including any access or utility easements?
* Does the modification defeat the concealment elements of the eligible support structure?
* Does the modification violate conditions associated with the siting approval with the prior approval the tower or base station other than as specific in 47 C.F.R. Subsection 1.6100(c)(7)(i)-(iv)?

As stated in the letter, if all questions in the above section are answered “NO,” then the modification does not constitute a substantial change to the existing tower.

Mr. Eanes confirmed that the changes are minor additions to one level of the monopole which would not affect the height or weight of the tower.

Chair Cecere confirmed that the requested changes were in keeping with the FCC regulations and requested that the following exhibits be entered into the record:

* Exhibit 1 Application
* Exhibit 2 Crown Castle Project Data Sheet
* Exhibit 3 Letter dated May 9. 2022 from Mr. Michael Eanes
* Exhibit 4 January 5, 2022, Structural Analysis Report
* Exhibit 5 Dish Wireless Pictures
* Exhibit 6 Data Sheet

There being no further questions from the Board Members, Chair Cecere made a motion to close the hearing which was seconded by Member Kerns and passed unanimously.

Chair Cecere proposed a motion to approve the application for a special exception, based on the testimony and exhibits, for a period of three years (2025) unless changes need to be made to the monopole before the end date. This would include the 2018 request for a special exception. The motion was seconded by Member Foster and passed unanimously.

A motion was made by Chair Cecere to open the hearing for Special Exception, SE-3-22, which was seconded by Member Kerns and passed unanimously.

Chair Cecere requested Mr. Brian Kline to provide a statement as to his request for a special exception.

Mr. Kline, who is the principal owner of J.B. Kline Landscaping Company, explained that he originally obtained a special exception for landscape-contractor operation at 6720 Olney-Laytonsville Road in 2020. This special exception covered the site which was the base for the crews and equipment that performed lawn mowing, mulching, tree repair, and property maintenance. The offices at 6720 Olney-Laytonsville Road would continue to be the center of corporate administration for J.B. Kline Landscaping. Mr. Kline is now requesting a special exception to create a lawn and landscaping services facility which would be housed at 6800 Olney-Laytonsville Road. Currently, the property contains a residence which would be used as administrative offices for this new service.

Chair Cecere asked for clarification regarding the nature of the landscaping construction business as well as the following items: the number of employees for this new venture; types of vehicles to be parked or used; number of customers which would visit; types of products to be stored on site; any hazardous waste; number of parking spaces needed for employees; material to be used for new driveway connecting the two properties; type of outdoor lighting; delivery times for materials to be delivered; types of heavy equipment to be stored on site; type of signage to be used; and relevant noise factors.

Mr. Kline indicated that the company has developed a specialty that involves design, construction and installation of hardscape features to enhance or upgrade the setting of employment, shopping and destination locations. He felt that there was a need to keep the two distinct functions of the company separate. In regards to the Chair’s questions, he provided the following information: there would be between 12-15 staff; vehicles would be pick up trucks typically used in the landscaping business; there might be a visit from a customer, but this would occur rarely; some paving, flag stones, or bricks might be stored but every effort is made to ship the material directly to the construction site to avoid transporting material twice; no hazardous materials will be on site; about 9 parking spaces would be needed for employees; asphalt will be used for new driveway connecting the two properties; additional outdoor lighting will be consistent with current lighting; while the operating hours remain at 6:00 a.m to 6:00 p.m., deliveries will be made between 7:00 a.m. to 4:00 p.m.; due to the nature of the landscape construction business, no heavy equipment is needed; current signage will continue to be used; due to the nature of the operation of the business, no objectionable or excessive noise, vibrations, fumes, odors, dust, glare or physical activity will occur.

Member Foster inquired as to types of screening and planting of trees in order to create a buffer between the business and neighbors.

Mr. Kline referred to the site plan which shows a row of evergreen trees, staggered in their planting format, in order to eliminate any direct views between the conjoining properties. The trees will be at least 2” caliper, 6 feet in height at the time of planting.

Member Kerns requested information regarding the parking facilities for the additional employees and additional vehicles, the traffic flow which might impact the road as well as between the properties, and the impact on the residential lots.

Mr. Kline indicated that due to the nature of the work and the need for staff members to be out in the field, parking space will be needed for nine vehicles in the front of the building. Should there be an overflow problem, there will be available parking spaces on the lot at 6720 Olney-Laytonsville Road. The plan also indicated the allocation of 12 spaces reserved for truck parking (pickup trucks, stake body trucks, and trailers). Employees using the 6800 building will enter and exit the site using the existing driveway connecting the property to Route 108. The site plan indicates that the landscape construction activities will be set away from the common property line between Mr. Kline’s property and the two residential lots.

Member Kerns also asked if all property owners were notified of Mr. Kline’s plans.

Mr. Kline confirmed that he had contacted all relevant parties.

Chair Cecere noted that Mr. Kline had worked in the past with his neighbors to create a buffer between the properties and that all parties seemed satisfied. The Board had not received any notification from any neighbors indicating that they were in disagreement with the proposed plan.

There being no further questions from the Board, Chair Cecere asked if there were any objections from the audience. No objections were raised.

Chair Cecere entered the following exhibits into the record:

* Exhibit 1 Application
* Exhibit 2 Area Map
* Exhibit 3 Neighborhood Map
* Exhibit 4 Photos
* Exhibit 5 Zoning Vicinity Map
* Exhibit 6 Proposed Site Plan
* Exhibit 7 Photos of Existing Structure
* Exhibit 8 Applicant’s Statement
* Exhibit 9 Deed
* Exhibit 10 Approval Letter

Chair Cecere made a motion that Application SE-3-22 made by Mr. Kline be approved with the following requirements:

* Applicant shall be bound by all of his testimony and exhibits of record, and by the testimony of the witnesses and representation of counsel to the extent that such testimony and evidence are identified in the Hearing’s report and in this opinion.
* Maximum of 15-18 employees be permitted on site at one time.
* House of operation will be Monday-Saturday from 6:00 a.m. to 6:00 p.m. except during periods of snow removal operation.
* There will be a limit of 3-5 customers on site at any given time.
* Vehicles limited to pickup trucks, stake body trucks, and trailers which will be parked in 12 parking spaces located in the rear of the property. Nine employees parking spaces will be provided in the front of the building (a total of 9-24 parking spaces).
* All deliveries will be made between the hours of 7:00 a.m. to 4:00 p.m.
* Tree chippers or splitters must not be used on-site with the exception of by applicant’s own property maintenance or sub-contractors.
* No materials classified as hazardous waste may be stored on the property, and no pesticides, manure, or chemicals may be stored on site at any im with the exception of fertilizer and “Ice Melt,” which must be stored in bags, within a building and off the ground. No manufacturing of mulch or compost, or selling of plants will take place on-site.
* There must be no outdoor lighting, except hat which exists in te ficinity of the residence, office building, and storag building. Parking lot to be lit by LED lights, with a downward focus.
* Signage to comply with Laytonsville Town sign ordinance for C-1 Zone.
* Trucks must be loaded and reversed in place in the afternoon to pull forward in the morning without backup beepers.
* The storage of fuel is permitted in the existing fuel station area identified, but it must be stored and maintained in accordance with all applicable federal, state, and local regulations.
* Applicant must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Applicant shall at all times ensure that the special exception use and premises comply with all applicable laws (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives, and other governmental requirements.
* Applicant to extend existing fence from property located at 6720 Olney-Laytonsville Road to property located at 6800 Olney-Laytonsville Road.
* Applicant shall plant 25-30 evergreen trees, of the arborvitae variety, for screening between Applicant’s property and neighbors. Dying and decaying trees to be removed to accommodate new trees and fence.
* Ingress and egress to the subject property will be from the existing driveway presently serving the property. That driveway provides adequate lines of sight to both the northwest and the southeast along Route 108.

The motion to approve the application with said requirements was seconded by Member Foster. The motion passed unanimously.

Chair Cecere proposed a motion that the special exception be for a period of seven years. The motion was seconded by Member Kerns and passed unanimously.

**Adjourn**

There being no further business, Chair Cecere proposed a motion to close the meeting which passed unanimously. The meeting adjourned at approximately 9:42 p.m.

Respectively submitted

Nadine Tarwater