



Division of Development Administration and Review

City of Pittsburgh, Department of City Planning

412 Boulevard of the Allies, Second Floor

Pittsburgh, Pennsylvania 15219

ZONING BOARD OF ADJUSTMENT

Date of Hearing: September 4, 2025
Date of Decision: October 20, 2025

Zone Case: 107 of 2025
Address: Wagner Street
Lot and Block: 32-N-1
Zoning Districts: P
Ward: 16
Neighborhood: Carrick

Request: Construction of monopole telecommunication tower

Application: BDA-2025-06857

Special Exception	Section 911.02	Communication Tower, Class B
Variance	Section 911.04.A.13(c)(1)(iii)	Communication towers shall be set back a minimum 300' from an R-zoned lot, 83' setback proposed

Appearances:

Applicant: Shawn Gallagher, Sonny Pieper, Mike Hrycko, Bryce Pickens

Opposed: David Leister, Amanda Linder

Findings of Fact:

• **Description of the Subject Property**

1. The Subject Property is an unaddressed parcel, identified as Parcel No. 32-N-1, in Carrick, proximate to the City's border with Mount Oliver Borough.

2. The parcel has an irregular shape, with frontages on Wagner Street and Bruner Street (also identified as "Laughlin Avenue Extension"). Its area is approximately 3.31 acres.

3. Most of the parcel is within a P (Parks) District, and a small portion of the southwestern edge of the site, along Bruner Street/Laughlin Avenue Extension, is within an R1D-H (Residential One Unit Detached High Density) District. The right-of-way separates the Subject Property from other parcels in the R1D-H District.

4. The grade of the site has a gradual downward slope beginning at the Bruner Street/Laughlin Avenue frontage, with a steeper slope towards the Wagner Street frontage. The parcel is currently vacant and heavily vegetated.

5. The rear yards of parcels used for single-family houses with Laughlin Avenue street addresses, within the R1D-H District, are directly across Bruner Street/Laughlin Avenue Extension from the Subject Property. The house on the parcel with the street address of 418 Laughlin Avenue (Parcel No. 32-N-71) fronts onto Bruner Street/Laughlin Avenue Extension.

- **The Proposed Communications Tower**

6. Crown Castle USA, Inc., the Applicant here, proposes to construct a 180' high monopole wireless communication tower on the Subject Property.

7. As proposed, the communication tower would be set back 53' from the Bruner Street/Laughlin Avenue Extension property line and, including that 30' right-of-way, a minimum of 83' from the nearest parcels within the R1D-H District on the opposite side of the right-of-way.

8. The Applicant intends to secure the communication tower with an 8' high fenced enclosure and to provide landscaping in compliance with the Code's landscaping and screening standards.

9. The Applicant indicated that it would lease spaces on the proposed communication tower for up to four wireless carriers.

10. The Applicant explained that the proposed communication tower is intended to replace an existing communications tower, which is located on property that the Housing Authority for the City of Pittsburgh owns at 240 Bonifay Street, approximately 0.19 mile away from the Subject Property.

11. The existing communication tower on the Bonifay Street property currently provides space for the wireless carriers T-Mobile and Verizon and is to be decommissioned.

- **Evidence Presented in Support of the Request**

12. Sonny Pieper, a Crown Castle Site Development Program Manager, testified about Crown Castle's operations and the company's communication tower relocation program.

13. Mr. Pieper explained that the Housing Authority declined to extend the lease for the existing Bonifay Street tower, and that the construction of the proposed tower is intended to maintain coverage for T-Mobile and Verizon wireless services for the area.

14. Mike Hrycko, a Crown Castle radio-frequency engineer, presented an analysis of the change in coverage for T-Mobile and Verizon that would result from the relocation of cellular equipment from the Bonifay Street tower to the proposed tower. He explained that locating equipment on the proposed tower is necessary to maintain service in the area when the Bonifay Street tower is decommissioned.

15. Mr. Hrycko explained that the ground elevation of the Bonifay Street tower is 60' higher than the location proposed for the tower on the Subject Property, and that the height of the

proposed tower is the minimum that would allow the wireless carriers to maintain coverage consistent with the existing coverage, with equipment on the Bonifay Street tower.

16. Bryce Pickens, a site acquisition and development manager with Telecom Site Management, provided testimony for the Applicant about the process of selecting the proposed site and explained that the Subject Property is the only viable location that had been identified for a tower to replace the Bonifay Street tower.

17. Mr. Pickens presented a series of renderings of the proposed tower from different vantage points, to depict the visual impact of the proposed tower, as compared to the Bonifay Street tower.

18. Only one of the renderings depicts the proposed tower as viewed from a point in the immediate vicinity of the Subject Property. That rendering demonstrates that the proposed tower would be highly visible to the immediate area but also indicates that a utility line with overhead wires is proximate to the site. The existing Bonifay Street tower is also visible.

19. Mr. Pickens testified that, because of the topography of the Subject Property and the height/elevation necessary for the wireless systems to provide the needed coverage, the 83' separation from the lots lines of the R-zoned parcels on the opposite side of Bruner Street/Laughlin Avenue Extension is the minimum that would allow for a viable facility.

20. Mr. Pickens also explained that if a monopole communication tower was to experience a structural failure, it is designed to collapse onto itself. For the proposed 180' tower, the fall radius would be approximately 56'. Mr. Pickens submitted a site plan which depicts a 56' fall radius and indicates that the fall radius includes a limited portion of the Bruner Street/Laughlin Avenue right-of-way, beyond the Subject Property's property line. The site plan also indicates that all of the nearby residential parcels or structures are outside of 56' fall radius and all are at a higher elevation than the proposed tower site.

21. The Applicant submitted a summary of a geotechnical report which describes the subsurface conditions of the Subject Property and explained that a full soil report complying with the standards of Appendix I: Geotechnical Investigations, ANSI/EIA-222-E, as amended, would be submitted to the City to document and verify the design specifications of the foundation as part of the building permit process.

22. The Applicant submitted an RF Safety and NIER Analysis Report, which states that the proposed tower would comply with all of the Federal Communications Commission ("FCC") standards for safety levels with respect to human exposure to radio frequency electromagnetic fields.

23. The Applicant submitted evidence of the structural integrity of the proposed tower, which accounts for ice hazards and Category 2 Hurricane force winds, in accordance with applicable building standards.

24. The Applicant submitted a NEPA (National Environmental Policy Act) Environmental Compliance Checklist that was prepared in accordance with Section 106 of NEPA.

- **Opposition to the Request**

25. Amanda Linder, one of the owners of the 418 Laughlin Avenue property, appeared at the hearing to express her concerns about the proposed tower. Ms. Linder also submitted an email that summarizes her objections. Ms. Linder questioned why a new communications tower would be necessary; the validity of the asserted 56' fall radius and 83' setback from R-zoned parcels; the stability of the soil on the Subject Property, due to garbage fill and slag; and the visual impact of the proposed tower. She also noted her concerns regarding the potential health effects from exposure to radio frequency emissions.

26. John Linder, the other owner of the 418 Laughlin Avenue property, submitted his concerns regarding the proposed tower, noting in particular the limited evidence related to its visual impact from the immediate vicinity and concerns regarding the structural integrity of the proposed tower. Mr. Linder also noted concerns regarding possible health effects.

27. David Leister, on behalf of the owners of another Bruner Street property, provided testimony and exhibits regarding potential safety hazards from the tower, including structural failure and falling ice and debris. He questioned whether the tower could be built in another location and suggested conditions that might be appropriate for the proposed use.

28. The objectors' testimony and evidence seemed to assume that the Bonifay Street tower would remain in place and would be a viable alternative to the new tower proposed.

29. Several other nearby residents submitted written testimony in opposition to the request.

- **Post-Hearing Submission**

30. The Applicant submitted proposed findings of fact and conclusion of law on September 9, 2025 and the record closed as of that date.

Conclusions of Law:

- **Controlling Federal Legislation and Zoning Code Provisions**

1. When Congress adopted the Telecommunications Act of 1996, it stated that the primary purposes of the act were "to reduce regulation and encourage rapid deployment of new telecommunications technologies." *Cellco P'ship v. White Deer Twp. Zoning Hearing Bd.*, 74 F.4th 96, 100 (3rd Cir. 2023), quoting *Reno v. ACLU*, 521 U.S. 844, 857 (1997).

2. Congress preserved local zoning authority over the placement and construction of communications facilities. The Act states, however, that local regulation cannot have the "effect of prohibiting" the provision of wireless services and that a local board cannot deny an application for placement or construction of a wireless communications facility on the basis of environmental effects of radio frequency emissions, to the extent that the facility complies with the regulations of the FCC. 47 U.S.C. § 332(c)(7).

3. In *Cellco*, the court held that a zoning decision might be consistent with local zoning requirements and state law but that the federal law prohibits local zoning boards from effectively prohibiting the provision of wireless services. 74 F.4th at 106.

4. The Telecom Act requires that any decision to deny a request to place, construct or modify a wireless service facility must be in writing and supported by substantial evidence contained in a written record. 47 U.S.C. § 332(c)(7)(B)(iii); see also *Ogden Fire Co. No. 1 v. Upper Chichester Twp.*, 504 F.3d 370, 379 (3d Cir. 2007).

5. Generalized speculations of concerns regarding aesthetics and property values do not rise to the level of substantial evidence required under Pennsylvania law or the Telecom Act. See, e.g., *Ogden Fire Co. No. 1*, 504 F.3d at 389-90; *Omnipoint Corp. v. Zoning Hearing Bd. of Pine Grove Twp.*, 181 F.3d 403, 409 (3d Cir. 1999); see also *Marquise Inv., Inc. v. City of Pittsburgh*, 11 A.3d 607, 616 (Pa. Commw. Ct. 2010).

6. Consistent with the provisions of the Telecom Act, the City of Pittsburgh adopted provisions of the Zoning Code that allow for communications towers in almost every zoning district, as either a special exception or conditional use, subject to a number of criteria.

7. The Code defines “communication tower” as “a structure on which radio frequency transmitting and/or receiving antennae are located or which serves as such an antenna itself, including accessory buildings and equipment. Radio frequency is that portion of the electromagnetic spectrum that contains AM, FM, two-way radio, cellular telephone, television and microwave transmissions.”

8. A “Class B” communication tower is one with a height between 81 and 180 feet. The Communication Tower, Class B use is permitted in both R1 and P Districts as a special exception, subject to the criteria set forth in Section 911.04.13.c.

9. The Section 911.04.13.c criteria include:

- A minimum 50’ setback from any existing or planned right-of-way;
- A minimum 300’ setback from “the lot line of any adjacent R-zoned lot is occupied by one (1) or more dwelling unit;”
- The proposed height must be necessary for the facility to function;
- Co-location on an existing structure or tower is not possible;
- A fence with a height of at least 6 ½’ must be constructed around the tower with a locked access gate;
- Existing vegetation will be preserved and trees must be planted along the exterior of the fence;
- The facility must comply with the FCC standards for non-ionizing electromagnetic radiation; and
- The tower cannot be illuminated unless required by the FAA or FCC.

10. Section 922.07.D sets forth the review criteria that the Board is to consider for special exceptions.

- **Legal Standards for Consideration of a Request for a Special Exception**

11. Under Pennsylvania law, a special exception is a form of a permitted use. A use that is permitted as a special exception “evidences a legislative decision that the particular type of use is consistent with the zoning plan and presumptively consistent with the health, safety and welfare of the community.” *Allegheny Tower Assoc’s., LLC v. City of Scranton Zoning Hearing Bd.*, 152 A.3d 1118, 1123 (Pa. Commw. Ct. 2017), citing *Greth Dev. Grp., Inc. v. Zoning Hearing Bd. of L. Heidelberg Twp.*, 918 A.2d 181 (Pa. Comm. Ct. 2007); see also *Cogan Properties, LLC v. East Union Twp. Zoning Hearing Bd.*, 318 A.2d 981 (Pa. Commw. Ct. 2024) and *Bray v. Zoning Bd. of Adj.*, 410 A.2d 909 (Pa. Commw. Ct. 1980). By designating a use as a “special exception,” the governing body has determined that the use is one that is appropriate in the zoning district, subject to the criteria that the governing body has established for the use. *Cogan*, 318 A.3d at 986, quoting *Siya Real Est., LLC v. Allentown City Zoning Hearing Bd.*, 210 A.2d 1152, 1157 (Pa. Commw. 2019); see also Robert S. Ryan, *Pennsylvania Zoning Law and Practice*, § 5.2.6.

12. In *Cogan*, the Commonwealth Court reiterated the rules regarding the initial duty to present evidence and the burden of persuasion in special exception cases, as set forth in *Bray*. *Cogan*, 318 A.2d at 989. The applicant has the initial duty to present evidence that its proposal complies with the specific criteria delineated in the ordinance. *Id.*, citing *Bray*, 410 A.2d at 912-13. If the applicant demonstrates compliance and/or the ability to comply with all of the specific criteria, any objectors must attempt to prove, to a high degree of probability, that the proposed use would generate adverse impacts on the health, safety and welfare of the community in a manner not normally generated by the type of use at issue and not anticipated when the governing body established its list of uses permitted by special exception. See, e.g., *Cogan*; *Bray*, 410 A.2d at 911; *Archbishop O’Hara’s Appeal*, 131 A.2d 587, 596-97 (Pa. 1957); *Broussard v. Zoning Bd. of Adj.*, 907 A.2d 494 (Pa. 2006). Speculation of possible harm is not sufficient to meet the objectors’ burden.

- **Legal Standards for Consideration of a Request for a Dimensional Variance**

13. Section 922.09.E sets forth the general conditions the Board is to consider with respect to variances. The criteria for determining whether to grant a variance include: 1) whether unique circumstances or conditions of a property would result in an unnecessary hardship; 2) whether the property could be developed in accordance with the Code’s requirements to allow for its reasonable use; 3) whether the applicant created the hardship; 4) whether the requested variance would adversely affect the essential character of the neighborhood or the public welfare; and 5) whether the variance requested is the minimum variance that would afford relief with the least modification possible. See *Marshall v. City of Philadelphia and Zoning Bd. of Adj.*, 97 A.3d 323, 329 (Pa. 2014); *Hertzberg v. Zoning Board of Adj. of the City of Pittsburgh*, 721 A.2d 43 (Pa. 1998), citing *Allegheny West Civic Council v. Zoning Bd. of Adj. of the City of Pittsburgh*, 689 A.2d 225 (Pa. 1997).

14. In *Hertzberg*, the Court recognized that a less restrictive standard is appropriate for dimensional variances, which require only for a reasonable adjustment of the zoning regulations to accommodate a use of property that is permitted. *Hertzberg*, 721 A.2d at 47-48. The applicant for a dimensional variance must still demonstrate some unique condition associated with property and a hardship that would result from strict enforcement of the dimensional requirement.

- **Requested Relief**

15. The Applicant seeks a special exception for a Communications Tower, Class B, on a property that is partially within two zoning districts, P and R1, where the use is permitted as a special exception. The Applicant demonstrated its compliance and/or ability to comply with the criteria for the use, as set forth in Section 911.04.A.13.c, with the exception of the 300' separation provision, from which the Applicant seeks a variance.

16. The Applicant presented sufficient, credible evidence to demonstrate that the proposed tower would be set back more than 50' from the existing Bruner Street/Laughlin Avenue Extension right-of-way. The Applicant also presented sufficient evidence to demonstrate that the Bonifay Street tower is to be decommissioned and that the Applicant explored other opportunities for extending the lease for that site and other collocation possibilities before proposing a new tower. The Applicant intends to install an 8' fence, with a locked gate, and to provide landscaping/screening around the site. The Applicant presented sufficient evidence to demonstrate of its intent to comply with all FCC standards for radio frequency emissions. It will also be required to comply with all building code requirements for the tower, including geotechnical studies and evidence of structural integrity, before a building permit could be issued. The 56' fall zone described to the Board should be confirmed when the building code requirements are reviewed.

17. Because the Applicant cannot demonstrate compliance with the 300' separation provision on the Subject Property, the Applicant seeks a variance from it. Unlike standard setback provisions, the 300' separation provision for communication towers is measured from the location of the proposed tower, not to the property line of the tower site, but to "the lot line of any adjacent R-zoned lot that is occupied by one (1) or more dwelling unit." The 300' separation provision applies to all Communication Tower, Class B uses, which could include a range of heights from 81' to 180'. The 300' separation provision thus does not appear to be directly related to the proposed height of a tower.

18. As a dimensional requirement, the Board must consider the variance request under the less restrictive standards for a dimensional variance and must also be mindful of the federal law that prohibits local zoning boards from effectively prohibiting the provision of wireless services.

19. The Applicant presented sufficient credible evidence to demonstrate that the topography of the Subject Property is unique and uniquely situated so that a facility on the property could effectively replace the coverage that would be lost with the removal of the Bonifay Street tower.

20. The Applicant demonstrated that the 83' separation proposed would be the minimum that would provide relief. Because of the topography of the site, any increase in that distance would result in a loss of elevation, which would require a taller tower structure to provide the necessary height for the intended coverage.

21. The Applicant also presented evidence that the fall zone of the proposed 180' tower would be 56' and that, accounting for the 30' Bruner Street/Laughlin Avenue Extension right-of-way, the distance from the property line of the nearest R-zoned properties would be 83', well outside the 56' fall zone. The residential properties are at a higher elevation, which would also limit the potential impact in the event of a structural failure.

22. The proposed facility, with a reduced separation, will have a more significant visual impact on the surrounding neighborhood than the Bonifay Street tower and the other utility poles/wires in the area. However, the concerns regarding aesthetics and potential impacts on property values are not a sufficient basis, under the federal Telecom Act case law, for a denial.

23. For these reasons, based on the evidence presented and the controlling law, the Board concludes that it is required to approve the variance from the 300' separation provision and to grant the special exception for the Communication Tower, Class B on the Subject Property, subject to the conditions set forth in the Decision.

Decision: The request for a special exception pursuant to Section 911.04.A.13.c for a 180' Communications Tower, Class B use and a variance from the 300' separation provision in Section 911.04.A.13.c.1.iii is APPROVED, subject to these conditions:

- 1. An 8' fence, with locked gate, and required screening/landscaping must be installed around the site;**
- 2. As part of the building permit process, the Applicant must submit a full geotechnical report, stamped by a professional engineer, which describes the subsurface conditions of the Subject Property and verifies the design specifications of the tower foundation;**
- 3. The Department of Permits, Licenses and Inspections must verify the 56' fall radius and should require the installation of any necessary protections against potential safety hazards to surrounding properties, including falling ice;**
- 4. The Bonifay Street tower must be removed within 3 months of the date that the tower on the Subject Property is operational; and**
- 5. Following construction, continued compliance with all FCC standards is mandatory and confirmation of compliance must be provided.**

s/Alice B. Mitinger
Alice B. Mitinger, Chair

s/Lashawn Burton-Faulk
LaShawn Burton-Faulk

s/ John J. Richardson
John J. Richardson

Note: Decision issued with electronic signatures, with the Board members' review and approval.