

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NORTHEAST PENNSYLVANIA :
SMSA LP, d/b/a VERIZON WIRELESS, :
 :
Plaintiff, :
v. :
THE SMITHFIELD TOWNSHIP BOARD :
OF SUPERVISORS, :
 :
Defendant. :

3:17-CV-1521
(JUDGE MARIANI)

ORDER

AND NOW, THIS 15th DAY OF JANUARY, 2020, for the reasons set forth

in the accompanying Memorandum Opinion, **IT IS HEREBY ORDERED THAT:**

1. Defendant Smithfield Township Board of Supervisors' Motion for Summary Judgment (Doc. 21) is **DENIED** with respect to Plaintiff Northeast Pennsylvania SMSA LP, d/b/a Verizon Wireless's "substantial evidence" claim under the Telecommunications Act ("TCA") (Count I) and state law zoning appeal under the Pennsylvania's Municipalities Planning Code ("MPC"), 53 Pa. Stat. and Cons. Stat. Ann. §§ 10101, *et seq.* (Count III).
2. Plaintiff Northeast Pennsylvania SMSA LP, d/b/a Verizon Wireless's Motion for Summary Judgment (Doc. 26) is **GRANTED** with respect to its "substantial evidence" claim under the TCA (Count I) and its state law zoning appeal under the MPC (Count III).

3. Plaintiff Northeast Pennsylvania SMSA LP, d/b/a Verizon Wireless's "prohibition of service" claim under the TCA (Count II) is **DISMISSED AS MOOT WITHOUT PREJUDICE**.
4. Judgment is hereby entered **IN FAVOR OF PLAINTIFF** Northeast Pennsylvania SMSA LP, d/b/a Verizon Wireless and **AGAINST DEFENDANT** Smithfield Township Board of Supervisors on Counts I and III.
5. Defendant Smithfield Township Board of Supervisors **SHALL GRANT** Northeast Pennsylvania SMSA LP, d/b/a Verizon Wireless's Application for a conditional use related to the construction of the cell tower. In so doing, Defendant Smithfield Township Board of Supervisors, to the extent it desires, may attach reasonable conditions thereto regarding the cell tower's lighting and controlled collapse as it indicated in its decision (see Doc. 27-23, at 20).
6. The case is **REMANDED** to the Smithfield Township Board of Supervisors for the purposes of compliance with paragraph 5 of this Order.
7. The Clerk of Court is directed to **CLOSE** this case in the District Court for the Middle District of Pennsylvania.



Robert D. Mariani
United States District Judge