

**Town of Lincoln
100 Old River Road, Lincoln RI
Zoning Board of Review**

June 2, 2009 Minutes

Present: Jina Karampetsos Chair, David Gobeille, Lee Blais, John Bart, David DeAngelis, Attorney Joelle C. Sylvia (Town Solicitor Office)

Absent: Raymond Trabulsi

Minutes

Motion made by Member Bart to accept the May 5, 2009 minutes as presented. Motion seconded by Member Blais. Motion carried with a 5-0 vote.

Correspondence

No correspondence.

Applications:

Omnipoint Communications, Inc. a wholly owned subsidiary of T-Mobile USA, Inc., 15 Commerce Way, Suite B, Norton, MA/Lincoln Country Club, 31 Dexter Rock Road, Lincoln, RI – Application for Use Variance for the operations of a telecommunications tower on property located at 31 Dexter Rock Road, Lincoln.

AP 22, Lot 47 Zoned: CR 1

Omnipoint Communications, Inc. a wholly owned subsidiary of T-Mobile USA, Inc., 15 Commerce Way, Suite B, Norton, MA/St. Lincoln Country Club, 31 Dexter Rock Road, Lincoln, RI – Application for Dimensional Variance for height relief and setback relief the operations of a telecommunications tower on property located at 31 Dexter Rock Road, Lincoln.

AP 22, Lot 47 Zoned: CR 1

Member Blais addressed the Board stating he needed to recuse himself from hearing these applications. Member Blais stated he received an "ex parte" communication from Mr. Flynn who is a member of the Lincoln Town Council. The letter he received from Mr. Flynn reflected his views on the application which is the ex parte communication leading to his recusal. As a result, a quorum was not present and Chair continued the application to the July 7, 2009 agenda.

Lincoln Development, LLC, 222 South Manoa Road, Havertown, PA – Request for extension of decision rendered on March 5, 2008 on a Special Use Permit for an assisted living facility on George Washington Highway.

AP 31, Lot 38 Zoned: BL 5

Lincoln Development, LLC, 222 South Manoa Road, Havertown, PA –

Request for extension of decision rendered on March 5, 2008 on a Dimensional Variance for an assisted living facility on George Washington Highway.

AP 31, Lot 38 Zoned: BL 5

Attorney Brochu addressed the Board and requested both applications be incorporated into one. Attorney Joelle Sylvia from the Town Solicitor's office stated that these applications were not necessary as the project had received Final Plan approval and had been rerecorded in the Land Evidence records. Attorney Brochu concurred and asked that the applications be withdrawn from the evening's agenda.

Bala & Jayne Sundaram, 16 Harris Avenue, Lincoln, RI – Application for Dimensional Variance seeking front and side yard setbacks for the construction of an addition. Continued from March 3, 2009 meeting

AP 27, Lot 34 Zoned: R 40

Applicant submitted correspondence into the record as Exhibit #3 asking that the application be continued to the December 2009 agenda.

Motion made by Motion Gobeille to continue the application. Motion seconded by Member Bart. Motion carried with a 5-0 vote.

Town of Lincoln, RI, 100 Old River Road, Lincoln, RI –Application for

Special Use Permit for the construction of the Lincoln Senior Center on property located at 152 Jenckes Hill Road, Lincoln, RI.

AP 44, Lot 161 Zoned: RA 40

Represented by: Albert V. Ranaldi, Jr. AICP, Administrative Officer to the Planning Board

Chair read standards into the record that need to be met for a Special Use Permit.

Five years ago the Town had a facilities audit done resulting in \$5million improvements for all municipal buildings. A bond was placed on ballot and approved by town residents. The existing senior center needs \$1.5 million in renovations to bring it up to standards. The town hired an architectural design team to design a new senior center which will be one story, 11,000 square feet with 70 parking spaces and an exterior activities area for use solely by seniors. Activity rooms will be located on the southeastern side of the building. Proposal meets all criteria for a special use permit. The center will be opened daily from 9:00am to 3:00pm. A conference room will be available for town municipal meetings and will not be rented out for other functions. Lighting at the site will programmed to scale down at night. If approved, construction will start in the fall of 2009 and should be minimally evasive to the neighborhood. Detention basins will be installed and building will be 600 feet from the street and new middle school is located next door. Two senior buses will provide transportation and five employees and volunteers

will be there daily. There is a separate entrance from the middle school that is 24 feet wide. A walking path and bocce ball court will be built in the future.

Chair read Planning Board recommendation into the record:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of the Special Use Permit for the construction of the Lincoln Senior Center on property located at 152 Jenckes Hill Road. The current property is approximately 30 acres of vacant forested land. The site plans and application specifically details the proposed location of the building and its parking. The applicant proposes to keep as much of the parcel of land in its naturally forested state. The Senior Center is proposed to be located approximately 600 feet into the property. The Planning Board feels that due to the large size of the property, the existing forested buffer around the building and the unique nature of the building's use, the applicant presents a realistic and thoughtful site layout that meets the intent of the zoning and would not be detrimental to the neighborhood.

Opposed

Robert Bell

Proposed 70 parking spots in an RA 40 zone does not conform to the area next to the Middle School and wetlands.

Motion made by Member Blais to approve the Special Use Permit stating:

- That the Special Use is specifically authorized under this Ordinance**
- That the Special Use meets all the criteria set forth in this Ordinance authorizing such special use**
- That the granting of the Special Use will not alter the general character of the surrounding area**
- That the granting of the Special Use will not impair the intent or purpose of this Ordinance nor the Lincoln Comprehensive Plan**

Motion to approved seconded by Member Bart. Motion carried with a 5-0 vote.

Omnipoint Communications, Inc. a wholly owned subsidiary of T-Mobile USA, Inc., 15 Commerce Way, Suite B, Norton, MA/St. Jude Church, 299 Front Street, Lincoln, RI – Application for Use Variance for the operations of a telecommunications tower on property located at 301 Front Street, Lincoln.

AP 10, Lot 57 Zoned: RL 9

AP 9, Lots 1/2/3/4/5/6/7

Omnipoint Communications, Inc. a wholly owned subsidiary of T-Mobile USA, Inc., 15 Commerce Way, Suite B, Norton, MA/St. Jude Church, 299 Front Street, Lincoln, RI – Application for Dimensional Variance for height relief and setback relief the operations of a telecommunications tower on property located at 301 Front Street, Lincoln.

AP 10, Lot 57 Zoned: RL 9

AP 9, Lots 1/2/3/4/5/6/7

Represented by: Edward Pare, Esquire

Chair read into the record standards that need to be met for a Use Variance and Dimensional application

Applicant is an FCC licensed corporation seeking relief for the installation of three wireless antennas on a church steeple. Antennas are 72 inches long, 13 inches wide, 4 inches deep and textured to match steeple. One antenna will be located on each side of the steeple with a 911 GPS antenna in the crown. Coaxial cables will be inside the church basement. Submitted into the record as Exhibit 3 photo of the air conditioner unit and Exhibit 2 an Affidavit from radio frequency expert with attached resume.

Witness

Mohammed Abraham

Motion made by Member DeAngelis to accept Mohammed Abraham

as an expert witness. Motion seconded by Member Gobeille. Witness displayed to Board members a map showing existing and deficient coverage area. What applicant is proposing will provide full coverage and complies with state and federal requirements under the 1996 Telecommunications Act. He stated it is important to maintain coverage they need 20% overlap and need to update constantly for customer service.

Attorney stated the federal Telecommunications Act trumps state law and a gap in coverage is considered a hardship. The Town cannot prohibit the use, uniqueness is the height of the church and this is the least intrusive alternative. There has been an existing gap in the area since 1995. Emissions from the antennas are regulated by the FCC and cannot overlap other carriers in the area. The equipment in the church basement will be serviced monthly.

Chair asked what relief applicant was asking for. Russell Hervieux, Zoning Official informed the Board that they are seeking side yard relief of 32.6 feet. The 911 antenna projects above the roof line and relief is needed out of an abundance of caution.

Attorney closed by stating battery backup will be on site but no generator. Hardship is the church is located at a unique site with steeple height needed to fill gap coverage. What applicant is proposing will not alter the general character of the area and avoid construction of new tower by utilizing the steeple. There is no other

alternative for coverage and this is the least intrusive means to fill gap area.

Chair read into the record Planning Board recommendations on both applications:

Members of the Technical Review Committee visited the site and reviewed the submitted project plans and application. The Planning Board recommends Approval of this application. The proposed project represents the installation, operation and maintenance of a wireless communications facility on the property. The applicant is proposing to install color and texture coordinated telecommunication antennas onto the church steeple. All other equipment will be located within the existing church facility. Based on a site visit, the Planning Board feels that the applicant presents a realistic site layout that meets the intent of the zoning with special consideration given to the Article 11.A.7.14. The Planning Board feels that the telecommunication installation will not be detrimental to the surrounding residential neighborhood. The Planning Board feels that the use variance will not alter the general character of the surrounding area and will not impair the intent or purpose of the zoning ordinance, nor the Comprehensive Plan.

The proposed dimensional height variance is to clear up the pre-existing nonconformance of this parcel of land. This lot and existing building was platted and developed before present day zoning regulations. The proposed use will not extend above the

existing height of the steeple. The Planning Board recommends Approval of this application. The Planning Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Opposed

James Spooner

He inquired why is it necessary to install antennas on church towers – why not utilize municipal properties. Felt churches are non-profits and should not be compensated. He is opposed to destroying the character of the community.

Opposed

Robert Bell

Asked if any Board members were associated with the applicant? Chair replied no one on the Board had any financial interests in the application and would recuse themselves if they did.

Motion made by Member Blais to grant the application for Use Variance and Dimensional Variance seeking 32.6 feet relief from the west side; 23.4 feet height relief for the main antenna and 3 panel antenna; and 35.6 feet for the 911 antenna. He further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a**

physical or economic disability of the applicant.

- **The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- **The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- **The relief requested is the least relief necessary.**
- **The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property.**

Motion seconded by Chair Karampetsos. Motion to approve both applications carried with a 5-0 vote.

Motion made by Member Gobeille to adjourn the meeting. Motion seconded by Member Bart. Motion carried with a 5-0 vote.

Respectfully submitted,

**Ghislaine D. Therien
Recording Secretary**