

## **Town of Lincoln**

### **Zoning Board of Review**

**100 Old River Road, Lincoln, RI**

**Minutes of April 6, 2010 Meeting**

**Present: Jina Karampetsos, John Bart, David DeAngelis, Raymond Trabulsi, Mark Enander, Bernard McNamara, Barry Nickerson, Joelle Sylvia (Solicitor's Office).**

### **Minutes**

**Motion made by Member Enander to accept the February 2010 Minutes as presented. Motion seconded by Member Nickerson. Motion carried with a 5-0 vote.**

### **Correspondence**

**No correspondence received**

### **Applications**

**Cox TMI Wireless, LLC, 5775 Peachtree Don Woody Road, Atlanta, GA/St. Jude Church, 299 Front Street, Lincoln, RI – Application for Use Variance to attach telecommunication antenna to existing church steeple for property located at 301 Front Street, Lincoln, RI.**

**AP 9, Lots 1, 2, 3, 4, 5, 6 and 7 Zoned: RL 9**

**AP 10, Lot 57**

**Cox TMI Wireless, LLC, 5775 Peachtree Don Woody Road, Atlanta, GA/St. Jude Church, 299 Front Street, Lincoln, RI – Application for Dimensional Variance for height relief to attach a telecommunication antenna to existing church steeple for property located at 301 Front Street, Lincoln, RI.**

**AP 9, Lots 1, 2, 3, 4, 5, 6 and 7 Zoned: RL 9**

**AP 10, Lot 57**

**Represented by: Joseph Giammarco, Esquire**

**Board informed that one notice was incorrect and returned thus proper notice not served (Maria Rondeau, 65 River Road, Lincoln, Rhode Island). Attorney for applicant agreed to a continuance to the May agenda.**

**Motion made by Member Bart to continue the two applications to the May agenda. Motion seconded by Member Nickerson. Motion carried with a 5-0 vote.**

**Cox TMI Wireless, LLC, 1 Lacroix Drive, West Warwick, RI/St. Ambrose Church, 175 School Street, Lincoln, RI – Application for Use Variance to install three wireless telecommunication antenna and associated cables/radio equipment to existing church steeple for property located at 175 School Street, Lincoln, RI.**

**AP 33, Lot 003 Zoned: RL 9**

**Cox TMI Wireless, LLC, 1 Lacroix Drive, West Warwick, RI/St. Ambrose Church, 175 School Street, Lincoln, RI – Application for Dimensional Variance for height relief to attach three wireless telecommunication antennas to existing church steeple for property located at 175 School Street, Lincoln, RI.**

**AP 33, Lot 003 Zoned: RL 9**

**Represented by: Ed Pare, Esquire**

**Board informed that one notice was incorrect and returned thus proper notice not served (Kyle Wingate, 230 School Street, Albion, Rhode Island). Attorney for applicant agreed to a continuance to the May agenda.**

**Motion made by Member Enander to continue the two applications to the May agenda. Motion seconded by Member McNamara. Motion carried with a 5-0 vote.**

**Anthony Toro, 8 Bernon Drive, Lincoln, RI – Application for Dimensional Variance seeking rear yard relief for the construction of a shed.**

**AP 22, Lot 125 Zoned: RS 12**

**This application was continued from February's Zoning Board agenda so applicant could address neighbor's concerns. An agreement was reached wherein applicant will install a hedge link to obscure**

**neighbor's view of the shed on Allan Drive. The fence is artificial and resembles a natural hedge buffer. Applicant will not start work on shed until hedging is installed.**

## **Public**

**Ron Gagne, Sr., 9 Allan Drive, Lincoln, RI**

**He is an adjacent neighbor who was concerned about visibility of the shed. Spoke with applicant and they agreed on the installation of the hedge link. It is his understanding applicant will install 30 feet of fencing (20 feet along his yard and 10 feet for Mrs. Ten czar).**

**Chair reminded applicant that shed needs to be six feet from property line and she feels he has entered into a reasonable agreement with neighbors.**

**Chair read into the record recommendation:**

**Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Denial of the application for a rear yard setback dimensional variance for the construction of a shed. The Planning Board feels that the application does not meet any of the standards for relief of a dimensional variance as presented in the Zoning Ordinance. More specifically, the Planning Board feels that the site plan and application does not represent the least relief necessary and is not due to the unique characteristics of the subject land. According to the photos contained within the application and site**

**visit, the shed has already been built on the property. It appears that the construction of the shed is not finished. Therefore, the Planning Board feels that the applicant should move the shed to be within the zoning setbacks according to the Zoning regulations.**

**Motion made by Member McNamara to grant the requested relief of 5.2 feet rear yard and 4.4 foot side yard setback with a condition that the link hedge is in place before construction starts on the shed. 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 for applicant would be the need to move the shed. Applicant needs shed to store seasonal items.**
- 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. What applicant proposes conforms to the area and the proposed hedge appeases the neighbor's concerns.**
- 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 Member Enander. Motion carried 5-0 with Members Enander, McNamara, Karampetsos, Bart and DeAngelis voting aye.**

**James W. McDonnell, 4 Eastward Drive, Lincoln, RI – Application for Dimensional Variance seeking rear yard relief for the construction of a deck.**

**AP 43, Lot 126 Zoned: RS 20**

**Chair read into record standards that need to be met for a Dimensional Variance.**

**Applicant wants to extend a deck and square it off. Existing deck was converted into a three season room under a separate permit. Egress will be from three season room onto the new deck. Best location for new deck because of existing air condition units. Sunroom is now complete and enclosed – applicant decided to build deck after three season room completed.**

**Member Bart stated the Class 1 survey showed the deck was within the building envelope. Applicant replied he was not aware that a he needed 50 feet between houses and there is a slight pitch behind the property and you cannot see the three season room from the street.**

**Member Bart confirmed the addition is not visible from street.**

**Chair read into the record Planning Board recommendation:**

**Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Denial of the application for a rear yard setback dimensional variance for the construction of a deck. The Planning Board feels that the application does not meet any of the standards for relief of a dimensional variance as presented in the Zoning Ordinance. More specifically, the Planning Board feels that the site plan and application does not represent the least relief necessary and is not due to the unique characteristics of the subject land.**

**No opposition present.**

### **Discussion**

**Member Enander had doubts till he visited the site which is secluded at the rear. Member Bart also visited the site and stated there are woods and a stone wall at the rear of the house. Chair stated the location of the air condition units makes it difficult for deck placement at another location.**

**Chair asked if the front stairs were an issue. Applicant replied that the stairs were being moved to the western end of the deck down to the driveway.**

**Chair Karampetsos made a motion to grant the application for a 6.05 foot rear yard with a condition that the front stairs be moved to the western end of the deck. She 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 air condition units block the construction of a deck to the west side.**
- 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. Even if the sunroom were moved it would not resolve the issue.**
- 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 deck and three season room are not visible from the street.**
- The relief requested is the least relief necessary. Linguistics show proposed location of deck is best.**
- 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. It would be impossible to move the deck to the opposite side of the house.**

**Motion seconded by Member Bart. Motion carried 5-0 with Members Nickerson, McNamara, Karampetsos, Enander and Bart voting aye.**

**Clear Wireless, LLC c/o Prince, Lobel, Glovsky & Tye LLP, 100 Cambridge Street, Boston, MA/Robert J. Miller, 145 Higginson Avenue, Lincoln, RI – Application for Special Use Permit to install wireless antennas on existing tower on property located at 145 Higginson Avenue, Lincoln, RI.**

**AP 1, Lot 155 Zoned: ML-05**

**Represented by: Joseph Giammarco, Esquire**

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

**Applicant is a new wireless provider in the area. Six proposed antennas will be placed on an existing 122 foot monopole at 110 feet and one equipment cabinet will be on site. Antennas will be beige or gray to blend in. No generator on site and no lights added to the tower. Maintenance visits will be made once or twice per month by an employee of applicant. Existing tower is able to support the proposed installation.**

**Witness**

**Ryan Monte-de-Ramos – Has a degree in Engineering and is an expert in radio frequency (Vitae submitted as Exhibit #1). Motion made by Member Enander to accept as an expert witness. Motion seconded by Member Nickerson. Motion carried.**

**Witness presented a map to Board showing proposed coverage area.**

**Area extends north to Higginson Avenue, east to Lonsdale Avenue, south to Mineral Spring Avenue, and west to Smithfield Avenue. They have no current sites in Rhode Island but are proposing locations in Lincoln, Providence, and North Providence. Submitted Radio Frequency Affidavit into the record as Exhibit #2 and Coverage Map as Exhibit #3. Applicant is in compliance with all FCC regulations. Blue dots on coverage map indicate proposed sites in Pawtucket and Central Falls. Applicant looks to existing towers and structures to place antennas. The proposed location would provide optimal coverage for Lincoln subscribers.**

**Chair felt the Board needed more time to review the application and suggested a continuance to the May agenda. Attorney for application replied they did not want a continuance and the Board could take as much time tonight as needed to review the application. Chair asked for a recess at 8:30pm for review submitted documents. Meeting reconvened at 8:45 pm.**

**Member Bart asked if the area of coverage on the map was accurate. Witness replied they use software models to determine area of coverage but could not guarantee it was 100% accurate. Solicitor Sylvia informed the Board that the Affidavit submitted as Exhibit #2 was not notarized or marked as an affidavit. Member Enander informed witness that the map on Section 6 of the application showed the antennas on the different side of the street that what is proposed. Attorney replied that the stamped drawings were correct use to use.**

**No opposition present.**

**Chair read into the record recommendation:**

**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 for a special use permit to install wireless antennas on an existing tower on property located at 145 Higginson Avenue. All other equipment will be located within the existing fenced area below the tower. Based on a site visit, the Planning Board feels that the applicant presents a realistic site layout that meets the intent of the zoning. The Planning Board feels that the telecommunication installation will not be detrimental to the surrounding neighborhood. The Planning Board feels that the special use permit 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 Planning Board suggests to the Zoning Board that they consider granting additional special use permits based on the maximum number of telecommunication arrays that the tower was designed to accommodate. The Zoning Official can then simply issue a building permit to the next telecommunication company that wishes to locate on the existing tower. The ability to expedite a permit may encourage other companies to locate onto this existing tower.**

## **Discussion**

**Chair stated the Town of Lincoln ordinance and Comprehensive Plan prefer telecommunication companies use existing towers and structures for their antennas.**

**Motion made by Member Enander to grant the application for Special Use Permit for the installation of three panel and three dish antennas and further stated:**

- That the Special Use is specifically authorized under Ordinance 260-14-N.**
- 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. The tower is existing and will not have a detrimental effect on the neighborhood.**
- That the granting of the Special Use will not impair the intent or purpose of this Ordinance nor the Lincoln Comprehensive Plan.**

**Motion seconded by Member Bart. Motion carried 5-0 with Members Nickerson, McNamara, Karampetsos, Enander and Bart voting aye.**

**Motion made by Member Bart to adjourn the meeting. Motion seconded by Member DeAngelis. Motion carried.**

**Respectfully submitted,**

**Ghislaine D. Therien**

**Zoning Secretary**