

**Town of Lincoln**

**Zoning Board of Review**

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

**Minutes of June 1, 2010 Meeting**

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

**Minutes**

**Motion made by Member Bart and seconded by Member Enander to accept the March, April and May 2010 Minutes as presented. Motion carried with a 5-0 vote.**

**Correspondence**

**None**

**Applications:**

**Paul & Susan McKenna, 34 Kilburn Avenue, Lincoln, RI – Application for Dimensional Variance seeking front, side and rear yard setbacks for the construction of an addition.**

**AP 10, Lot 293 Zoned: RG 7**

**Correspondence dated May 26, 2010 received from John Shekarchi, Attorney for applicants requesting that the application be continued**

**to the July 13 agenda.**

**Motion made by Member Bart and seconded y Member Enander to continue the application to July 13. Motion carried with a 5-0 vote.**

**Lincoln Seventh Day Adventist, 1000 Smithfield Avenue, Lincoln, RI – Application for Special Use Permit for a mixed use of church and school.**

**AP 6, Lots 183/184/400/401/418 Zoned: RG 7**

**Represented by: Paul Brule, Esquire**

**Russell Hervieux, Zoning Official informed Board members there was a notice issue with this application. Five notices were returned – one address matched Town records the other four did not. Mr. Hervieux notified applicant who resent the notices via certified mail, return receipt requested. Applicant informed the Board that three notices were signed for and the fourth was received today but he does not have the signature slip acknowledging receipt. Assistant Town Solicitor informed applicant that the radius map attached to the application was not accurate and missing some properties on the lower corner of the map thus proper notice may not have been served. Chair also stated that some elements were missing on the application such as parking and what effect mixed use might have on traffic in the area because it may intensify the existing use. A recommendation was made to continue the application to the July agenda affording applicant a chance to address concerns. Attorney**

**Brule requested the application be continued.**

**Motion made by Member Bart and seconded by Member Enander to continue the application to the July 13 agenda. Motion carried with a 5-0 vote.**

**Deborah Harrold, 453 River Road, Lincoln, RI – Application for Dimensional Variance seeking front and side yard relief for the construction of an addition.**

**AP 21, Lot 18 Zoned: RS 12**

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

**This application was continued from the May agenda allowing applicant to revise her plans. Only relief she is now seeking is 5.7 feet front relief from the existing structure. Applicant has made significant changes to the plan and the proposed addition has been downsized. Russell Hervieux, Zoning Official stated Shed #3 on the plans needs to be moved to conform to Town setback requirements.**

**Chair read into the record Technical Review Committee/Planning Board recommendation:**

**The applicant submitted a revised floor plan showing the need for only one pre-existing dimensional variance. Members of the Technical Review Committee visited the site and reviewed the revised**

plans and application. The Planning Board recommends Approval of the application for a front yard relief for the construction of an addition. The Planning Board feels that the application meets 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 represents the least relief necessary and is not due to the unique characteristics of the subject land. The Planning Board feels that the dimensional variances will not alter the general character of the surrounding area and will not impair the intent or purpose of the zoning ordinance and the Comprehensive Plan.

Motion made by Member McNamara to grant 5.7 feet front relief from the existing structure with a condition that Shed #3 on the plans needs to be moved to conform with Town setback requirements. 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. Existing structure has been at this location since construction and the issue with Shed #3 on the plans will be corrected and brought into conformance.
- 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 Member Bart. Motion carried with a 5-0 vote.**

**Henry G. Magendantz, 1896 Old Louisquisset Pike, Lincoln, RI – Application for a Dimensional Variance seeking front, rear and side yard relief to subdivide lot.**

**AP 27, Lot 81 Zoned: RA 40**

**Represented by: Vanessa Varone, Esquire**

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

**This application was continued from the May agenda. Application is based on subdivision. The State took a portion of property before he acquired it. There will be no changes to the existing footprint of the property and applicant wants to clear up pre-existing non conformities. He has also received conditional Planning Board approval.**

**Chair read into the record Technical Review Committee/Planning**

**Board recommendation:**

**Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The proposed dimensional variance for the front yard is to clear up the pre-existing nonconformance of this parcel of land. This record lot was platted before present day zoning regulations. The applicant is proposing to subdivide his property via an administrative subdivision to his neighbor. The pre-existing nonconformance of this parcel of land requires the applicant to seek zoning relief. If zoning relief was not needed, the subdivision could have simply been handled in-house by the administrative officer to the Planning Board. 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.**

**No opposition present.**

**Motion made by Chair to grant 24.7 feet front relief from the Old Louisquisset Pike side; 28.7 feet south rear side; 17.9 feet south front; 4.7 feet side relief on Wilbur Road side; and 32.2 feet front relief from the stairs. 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 home was built**

**before State relocated Old Louisquisset Pike.**

- 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. Home is existing on the lot.**
- 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 Bart. Motion carried with a 5-0 vote.**

**T-Mobile Northeast LLC, 960 Turnpike Street #28, Canton, MA/Raymond & Sonjia George, 27 Ducarl Drive, Lincoln, RI – Application for Use Variance for the installation of a wireless communication facility on a NGrid transmission tower located on the property.**

**AP 23, Lot 196 Zoned: RA 40**

**Represented by: Edward Pare, Esquire**

**T-Mobile Northeast LLC, 960 Turnpike Street #28, Canton, MA/Raymond & Sonjia George, 27 Ducarl Drive, Lincoln, RI – Application for Dimensional Variance seeking height relief for the**

**installation of a wireless communication facility on an NGrid transmission tower located on the property.**

**AP 23, Lot 196 Zoned: RA 40**

**Represented by: Edward Pare, Esquire**

**Russell Hervieux, Zoning Official informed Board there was a notice issue. Two notices were returned – one matched Town records but a handwritten notice did not. Was not sure why notice was handwritten. Recording Secretary informed the Board that the name one of the labels was not legible and she hand wrote notice addressed to “Resident, 7 Boxwood Drive, Lincoln, RI”. Mr. Hervieux notified applicant’s attorney. Address in Town records states Boxwood Drive.**

**Out of an abundance of caution Attorney Pare asked that the application be continued to the July 13 agenda.**

**Motion made by Member Bart to continue the application to June 13. Motion seconded by Member Enander. Motion carried with a 5-0 vote.**

**Assistant Town Solicitor informed the Board that under Section 260-27-(b) (7) it was not necessary to hear the application for Dimensional Variance.**

**Cox TMI Wireless, LLC, c/o Mark Cook, 66-E Concord Street, Wilmington, MA/St. James Church, 33 Division Street, Manville, RI – Application for Use Variance to attach telecommunication antenna to existing structure for property located at 33 Division Street, Manville, RI.**

**AP 37, Lot 198 Zoned: RG 7**

**Represented by: Edward Pare, Esquire**

**Cox TMI Wireless, LLC, c/o Mark Cook, 66-E Concord Street, Wilmington, MA / St. James Church, 33 Division Street, Manville, RI – Application for Dimensional Variance for height relief to attach a telecommunication antenna to existing structure for property located at 33 Division Street, Manville, RI.**

**AP 37, Lot 198 Zoned: RG 7**

**Represented by: Edward Pare, Esquire**

**Assistant Town Solicitor informed the Board that under Section 260-27-(b) (7) it was not necessary to hear the application for Dimensional Variance.**

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

**Metro PCS already has antennae at this site on the side of the steeple.**

**Proposed antennae for service will be located at the top of the church steeple inside a new cross made of fiberglass. Cox is**

launching wireless service and this is an existing location which they prefer. Cross will be eight feet tall. Will need to replace some roofing shingles with fiberoptic shingles. Maintenance equipment will be located in the church stairwell.

Chair stated there was a letter in application packet from the Historical Preservation indicating they were comfortable with the application with a condition that the old cross be removed intact and safely stored.

Chair read into the record Technical review Committee/Planning Board/Area Planning Concern Committee recommendations:

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 another installation, operation and maintenance of a wireless communications facility on the existing structure. The applicant is proposing to install fiberglass cross with telecommunication antennas built within this structure. The new cross will replace the existing cross on the church steeple. The supporting equipment will be located inside of the church building. The public will not be able to see this equipment as well as any maintenance activity that will be needed during the course of business. The Planning Board feels that this proposed 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 or Comprehensive Plan.**

**Members of the Area of Planning Concern Committee visited the site and reviewed the submitted project plans and application. The proposed project represents another installation, operation and maintenance of a wireless communications facility on the existing structure. The applicant is proposing to install a new fiberglass cross with telecommunication antennas built within this structure. The new cross will replace the existing cross on the church steeple. The supporting equipment will be located inside of the church building. The public will not be able to see this equipment as well as any maintenance activity that will be needed during the course of business. Based on a site visit, submitted applications, and the public hearing, the APC finds that the proposed telecommunication installation will not alter the general character of the surrounding area and is compatible with the neighboring land uses. Therefore, the Area of Planning Concern committee voted 5 to 0 to send a positive recommendation of Approval to the Zoning Board for their consideration.**

**Opposed:**

**James Spooner**

**Does not feel antennas should be placed on church steeples and morally has a problem with non-profits making a profit. One other wireless communication company already has an antenna on the steeple.**

**Motion made by Member Nickerson go grant the Use Variance with a condition that the existing cross on the steeple be properly stored and maintained. 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. A gap in coverage is the reason for the application.**
- 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 subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the Zoning Ordinance.**

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

**Henrique & Maria Silveira, 15 Hillside Drive, Lincoln, RI – Application**

**for Dimensional Variance seeking front setback relief for the construction of a covered porch.**

**AP 45, Lot 68 Zoned: RA 40**

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

**Applicants want to build a farmer's porch onto existing house.**

**Witness**

**John Hoyle, Jr., Designer/Consultant**

**Applicants employed a land surveyor and Board has a copy of his map/report. The new map reflects accurate lot dimensions. Chair asked if the new porch will not encroach beyond the existing stone stairway and witness replied that was correct. Witness submitted 4 page rendering and 1 page elevation map into the record as Exhibit #1. Applicants want to construct a standard farmer's porch with a central set of stairs or access. Stairs are included in the requested relief. Applicants have owned the house for 12 years. House was built in 1957 on a dead end street. In 1986 the previous owners subdivided the lot and the Town required reconfiguration of the roadway. Existing house sits 35-40 feet from edge of road. Traffic is limited to 3 houses on Hillside Drive. Applicant has also pulled an application to add a second story to the house.**

**Chair informed Mr. Hoyle/applicants that they would need to come**

before the Board with an application for Dimensional Variance to add a second story and the TRC did not see any plans or submit a recommendation for the addition. Out of an abundance of caution the application should be continued to the July agenda to afford the Technical Review Committee time to review the addition plans and render a recommendation. Russell Hervieux, Zoning Official stated the building permit for the second story was issued in error by the Building Inspection Office and applicants should have come before the Board before pulling the permit.

Mr. Hoyle stated applicant would have no problem with returning with a revised application to include second story addition plans and more accurate numbers regarding the stairs on the proposed porch. Mr. Hervieux informed him that applicant should send in an amended application with floor plans for TRC review. He also informed applicant that if the existing detached garage is more than 500 square feet they would need to ask for relief for height and size. Chair stated the Board would like the revised application to include:

- new floor plan for the proposed addition

- surveyor's map showing actual distance where the building is located within the envelope

- setback lines for the stairs

- height requirements for all structures on the site.

Motion made by Member Enander to continue the application to the July 13 agenda. Motion seconded by Member Bart. Motion carried

**with a 5-0 vote.**

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

**Respectfully submitted,**

**Ghislaine D. Therien**

**Zoning Secretary**