

Town of Lincoln

Zoning Board of Review

100 Old River Road, Lincoln, RI

Minutes of January 4, 2011 Meeting

Present: Jina Karampetsos, Mark Enander, David DeAngelis, Barry Nickerson, Lori Lyle, Anthony DeSisto (Town Solicitor)

Excused: John Bart, Bernard McNamara

Minutes

Minutes for the September and October, 2010 meetings continued to the February 2011 agenda for approval.

Correspondence: None

Members Lyle and DeAngelis to sit on all applications.

Applications:

David & Sharon Acciardo, 27 South Eagle Nest Drive, Lincoln, RI – Application for Dimensional Variance seeking side yard relief for the construction of an addition

AP 40, Lot 98 Zoned: RA 40

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

Chair stated she was concerned about the site plan attached to the application as it was not stamped and surveyor's name was not indicated. John Hoyle, Jr., consultant for applicants, replied that Earl Marsh had prepared the plans. Mr. Hoyle informed the Board that the plans attached were from a survey done in 1997 and was obtained from the Building Inspector's office. Chair replied she was concerned because the measurements listed needed to be accurate for the Board to render a Decision.

Applicants addressed the Board stating they want to construct three additional bedrooms, one bathroom and recreation room. The family has grown with 3 children and the additional space is needed. Chair inquired why not place addition to rear of property. Applicant replied does not go with the flow of the house and would need to demolish existing deck and patio.

Chair stated the application did not include an existing floor plan. Applicant replied existing rear deck is 20'x30' and steps down to another deck. Existing lavette will be turned into a hallway to access addition. Chair asked applicant if they would entertain continuing the application so they could return with a full floor plan of the house and proposed addition; proper stamped survey and photos of other homes in the area. Mr. Hoyle replied he had original stamped plans at his office.

Witness:

John Hoyle, Jr. – Consultant to Applicants

He is familiar with the property. Land behind the house is not suitable for the addition. There is an existing two level deck at the rear of the property and area behind the garage is existing one level. Adding a second floor to the right side of the house would be directly above existing master suite and secondary bedrooms. Catwalk connects to the foyer. Better to group the bedrooms and convert closets into a hallway. No second floor bathroom is planned. Proposed addition will be 16'x20'. Addition will be 26' high and lower than the height of the existing house (30 feet). Applicant is seeking 14' side yard setback relief. Siding, windows and roofing of addition will match existing house. Submitted into the record site plan as Exhibit #1.

Chair read into the record Technical Review/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 dimensional variance seeking side yard setback relief for the construction of a two story addition. 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. The applicant did not offer any compelling reasoning for their request within their application. The Board questioned why the applicant did not propose an addition in the

backyard of the property which would not require a variance. Also, the submitted package does not include a full floor plan or a professionally developed and stamped site plan according to State law. The Planning Board feels that the current 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.

Motion made by Member Nickerson to approve the application seeking 14 feet side yard relief stating:

- 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. Applicant merely wants to add more living space for the family.**
- 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. There are other homes in the area that will be similar in size.**
- 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 to approve seconded by Chair Karampetsos.

Motion to Amend made by Member Nickerson to approve a 14 foot side yard setback from the northeast corner and 5 foot side yard setback from the northwest corner. Motion to amend seconded by Chair Karampetsos. Motion carried with a 5-0 vote.

T-Mobile Northeast LLC, 960 Turnpike Street, Canton, MA/Cox Communication, Inc., 9 JP Murphy Highway, West Warwick, RI – Application for Special Use Permit for the installation of three wireless communications antennas on existing tower structure located at 1320 Eddie Dowling Highway, Lincoln, RI.

AP 40, Lot 17 Zoned: BL 05

Represented by: Edward Pare, Esquire

Attorney Pare has represented T-Mobile on previous applications before this Board. Area Planning Concern Committee has reviewed the application. Attorney Pare submitted into the record as Exhibit #1 a new set of stamped plans for the Board to review.

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

Proposed antennas will be placed on an existing Cox Communication

tower. T-Mobile wants to place three antennas at the 140' height (tower is 165' tall). There will be a co-axle cable connecting to the equipment cabinets at the base of the tower. Photos included in the application showed the tower as it currently exists. Area Planning Concern Committee approved the application at its 11/30/10 meeting.

Witness:

Dinesh Dasani, Radio Frequency Engineer for T-Mobile

He has appeared before other Rhode Island Boards and has been qualified as an expert witness. Witness designs networks for T-Mobile. Motion made by Member Enander and seconded by Member Lyle to accept Mr. Dasani as an expert witness in the field of radio frequency. Motion carried with a 5-0 vote.

Mr. Dasani presented to the Board a computer simulated map showing existing coverage and proposed extension of coverage in the area to include Routes 146, 295 and 99. The site will be unmanned and serviced once per month for maintenance purposes.

Chair read into the record Technical Review/Planning Board 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. The proposed project represents the installation, operation and maintenance of a wireless telecommunications facility attached to an existing tower

structure. The supporting equipment will be located at the base of the existing tower. The 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 commercial 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 or Comprehensive Plan.

Chair read into the record Area of Planning Concern Committee recommendation:

Members of the Area of Planning Concern Committee visited the site and reviewed the submitted plans and application. The APC held a public meeting with the applicant on November 30, 2010. The proposed project represents the installation, operation and maintenance of three wireless telecommunications antennas on the existing tower structure located at 1320 Eddie Dowling Highway, Lincoln, Rhode Island. The supporting equipment will be located at the base of the existing tower. Based on a site visit, submitted application, 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. Several APC members characterized the surrounding neighborhood's land use as industrial and noted that a telecommunication tower already exists on the site. 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.

No opposition present.

Motion made by Member DeAngelis to approve the application 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. The antennas will be located on an existing tower.**
 - That the granting of the Special Use will not alter the general character of the surrounding area. Antennas will be located in an industrial/commercial site.**
 - That the granting of the Special Use will not impair the intent or purpose of this Ordinance nor the Lincoln Comprehensive Plan.**
- Application received approval from the Technical Review Committee and the Area Planning Concern Committee.**

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

Vicki Casto, 90 Grandview Avenue, Lincoln, RI – Application for Dimensional Variance seeking relief for the construction of a second story to home that is non-conforming by dimension.

AP 8, Lot 111 Zoned: RS 12

Chair read into the record standards that need to be met for a Dimensional Variance. Chair was concerned that the site plan was not stamped or signed for accuracy.

Witness:

John Hoyle, Jr. – Consultant to Applicants

Mr. Hoyle informed the Board that the original site plan from 1956 was at his office but was old and delicate. Applicant has photos of the existing layout and the property is smaller than originally thought. He found no evidence that the property lines have changed since 1956. The house belonged to applicant's grandfather.

Chair informed witness and applicant that the Technical Review Committed recommended denial of the application based on what was submitted. Chair would be willing to accept testimony based on the submitted site plan or continue the application to the February agenda so witness/applicant could search town records. Witness replied that he copied the plat card on file and deed was original as was the site plan. Mr. Hoyle further informed the Board stating the house is very small at 1,272 sq.ft and the applicant needs to expand and add approximately 800 sq.ft to accommodate the family. There will be a total of 5 bedrooms, 2 full baths on the second floor and one bath on the lower level. They are only seeking side yard relief and no front yard relief is required. Submitted into the record photos of the

existing house as Exhibit #1 and correspondence from neighbor in favor of application as Exhibit #2. Neighbor hand-delivered letter to applicant. Rear of the property slopes downward with an existing pool and that is the reason for expanding up and not outward.

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 Planning Board recommends Denial of the application for a dimensional variance seeking relief for the construction of a second story to home that is non-conforming by dimension. The Board would like to point out to the Zoning Board that the application does not identify the amount or location of the variances needed to correct the pre-existing non-conforming setback dimensions or any new dimensional variances needed. 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. The applicant did not offer any compelling reasoning for their request within their application. Also, the submitted package does not include a professionally developed and stamped site plan according to State law. The Planning Board feels that the current 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. Applicant requested continuance of the

application to the February agenda.

Motion made by Member Lyle to continue the application to the February agenda to address Board concerns and return with documentation. Motion seconded by Member Nickerson. Motion carried with a 5-0 vote.

Patrick & Jennifer Canole, 22 Great Road, Lincoln, RI – Application for Dimensional Variance seeking relief for side yard setback for construction of partial shed dormer on rear of house.

AP 9, Lot 145 Zoned: RL 9

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

Applicants want to add a second floor bathroom of the back of the house above an existing bathroom on the first floor. Exterior and roofing will match existing house. Addition will not be visible from the street.

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 is to clear up pre-existing non-conforming variances of record. The proposed second floor shed dormer will not

increase the existing house footprint. The Planning Board recommends Approval of this application. The Board feels that the proposed design and layout of the proposed addition will not change the original footprint of the house. 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.

Motion made by Member Lyle to approve the Dimensional Variance relief for 9.8 feet north side; 4.7 feet north side; 3.4 feet south side garage; and 2.7 feet north side 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. Addition is solely for bathroom access.**
- 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. Applicant only wants to add a second floor bathroom.**
- 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. Addition will match existing exterior siding and roof shingles.**
- The relief requested is the least relief necessary. Application is solely to add a bathroom.**

- **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. Addition is convenience to access second floor bathroom**

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

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

Meeting adjourned at 8:31 p.m.

Respectfully submitted,

Ghislaine D. Therien

Zoning Secretary