

TOWN OF TIVERTON  
ZONING BOARD OF REVIEW  
MINUTES

September 3, 2014

The following petitions were received and were heard by the Tiverton Zoning Board of Review on Wednesday, September 3, 2014 at 7:00 p.m. at the Tiverton Town Hall, 343 Highland Road.

Members present: Chairwoman Lise Gescheidt, David Collins, John Jackson, Richard Taylor, Wendy Taylor Humphrey and Alan Doucet (alternate).

Also present were: David Petrarca, Town Solicitor and Mary Ann Escobar, Court Reporter.

1. A petition has been filed by Lach Investments, LLC by Gregory Lach, Member, of Tiverton, RI requesting a variance to Article V Section 1 of the Tiverton Zoning Ordinance in order to convert an existing garage to a mixed use building containing one residential unit and one commercial unit located at 2354 Main Road, Tiverton, RI being Plat 310 Lot 152 on Tiverton Tax Assessor's maps closer to the side yard setback than allowed in a General Commercial zoning district.

**DECISION:** Attorney Scott DeMello appeared before the board representing Lach Investments. Attorney DeMello stated that currently there is a mixed residential use building on the property, an office downstairs with an apartment above it. He also stated that there is an existing garage on the property which would be the subject of this variance. The petitioner wishes to take the existing garage and convert it into an office space with a residential unit above it, also. The new building would be 24 by 24 but would remain in the same exact location as the garage.

The Board questioned Mr. DeMello if there was any reason why they couldn't just move the building fourteen feet toward the main structure and eliminate the need for a variance. Mr. DeMello stated that if they moved the building closer, it would be too congested and too close to the other building. When questioned by the Board, Mr. DeMello agreed this would be a complete teardown, the new structure would have a basement and expand in footprint size from approximately 250 square feet to 576 square feet plus have a second floor.

Ms. Taylor Humphrey made a motion to deny the variance stating that they have not proven a hardship. She did not see any special circumstances due to the land or surrounding area. Ms. Humphrey also stated that the petitioner knew when he purchased this property that it was non-conforming. Mr. Taylor added to the motion stating that he believes this would be considered an expansion of a non-conforming structure. Mr. Collins seconded the motion. The Vote was unanimous. Voting to deny were: Ms. Gescheidt, Mr. Jackson, Mr. Taylor, Ms. Humphrey, and Mr. Collins.

2. A petition has been filed by Cellco Partnership d/b/a Verizon Wireless c/o McLane Law Firm, Ryan J. Swartz, Esquire requesting a special use permit to Article IV Section 5.d. of the Tiverton Zoning Ordinance in order to construct a 150' telecommunications tower for the installation of wireless telecommunications equipment by applicant and to

promote collocation for other wireless carriers located at 500 Eagleville Road, Tiverton, RI being Plat 205 Lot 104 on Tiverton Tax Assessor's Maps and located in an Industrial zoning district.

**DECISION:** Attorney Ryan Swatz appeared before the board representing the petitioner along with Ms. Carol Holahan. Ms. Holahan explained to the board the reasoning why there is a need for a cellular tower at this particular site. Ms. Holahan stated that this is a 4.2 acre site in an industrial zone owned by Peter and Karen Corr. They are wishing to build a 150 foot tower with 12 antennas along with a 50' by 50' enclosure to protect the support equipment associated with the tower.

Ms. Holahan stated that under the Telecommunications Act of 1996 that every Carrier licensed by the FCC has an affirmative obligation to close coverage gaps within its service territory. She stated that there definitely is a coverage gap in the Tiverton area based upon research by their radio frequency team, stating there have been many dropped calls and poor service and they believe this location will close that coverage gap.

Ms. Holahan stated that there are six tests that she believes Verizon has met under Article 14. They are as follows:

(1) the proposed structure will be essential and/or desirable to the public convenience and welfare and that this structure will enhance the public convenience and public welfare by improving services for the citizens of Tiverton and Emergency Services,

(2) that the proposed structure will not be detrimental to public health, safety or morals, that this structure will promote health and safety,

(3) that the proposed structure is compatible with neighboring uses. Ms. Holahan stated that this property is a zoned industrial use,

(4) that the structure will not create a nuisance in the neighborhood, nor hinder or endanger pedestrian or vehicular traffic. Ms. Holahan explained that once this site is up and running, there will be minimal traffic to this site. Only once or twice a month a technician will visit the site to make sure all the equipment is functioning properly.

(5) that the structure has adequate provision for services. Ms. Holahan stated that the proposed site will cause no impact on the water, sanitary sewer or fire protection.

(6) that it is compatible with the Comprehensive Plan. Ms. Holahan believes that Section 7 which addresses services and facilities and Section 10 which addresses effecting economic development in the Comprehensive Plan are both areas where this proposed tower is consistent with the Comprehensive Plan

The Board felt that the opening statement from Ms. Holahan was not sufficient to prove all of the above mentioned six tests that were recited by Ms. Holahan. The Board requested that Verizon bring in their experts so they may question them and have them

explain in detail why this structure should be in this particular area, why it has to be 150 feet in height and to further explain more technical aspects of the tower and its antennas.

Mr. Collins made a motion to continue this hearing until next month. Mr. Taylor seconded. The Vote was unanimous. Voting to continue this hearing were: Ms. Gescheidt, Mr. Jackson, Mr. Taylor, Ms. Humphrey, and Mr. Collins.

### 3. Administrative Matters

**Review and Approval of Minutes.** Mr. Taylor made a motion to approve as written the minutes for April 2nd and May 13<sup>th</sup>. Mr. Jackson seconded. The Vote to approve was unanimous. Voting were: Ms. Gescheidt, Mr. Jackson, Mr. Taylor, Ms. Humphrey, and Mr. Collins.

Mr. Jackson made a motion to approve the minutes from August 6. Mr. Collins seconded. The Vote was 4-1. Voting were: Ms. Gescheidt, Mr. Jackson, Ms. Humphrey, and Mr. Collins. Mr. Taylor abstained from vote, as he was not at the August meeting.

4. Elections: Lise Gescheidt was elected as Chairwoman  
David Collins was elected as Vice Chairman  
Richard Taylor was elected as Secretary

**Review of pending legal issues.** Mr. Petrarca requested a motion be made to amend the agenda for informational purposes only to discuss pending legal issues. Mr. Jackson so moved on the motion. The Board unanimously agreed. Mr. Petrarca stated there is a pending appeal regarding Site Ready. He will inform the Board at the next meeting if there is any new information regarding this matter.

6. Adjournment. Mr. Collins made a motion to adjourn. Mr. Jackson seconded. The Vote to adjourn was unanimous.

The Board adjourned at 8:04 p.m.

C E R T I F I C A T E

I, Mary Ann C. Escobar, Registered Professional Reporter, and Commissioner for the State of Rhode Island, do hereby certify that the foregoing pages 1 through 4 are complete, true and accurate to the best of my knowledge, skill & ability.

I further certify that I am not interested in the event of the action.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 15th day of September, 2014.

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Mary Ann C. Escobar, RPR

My Commission expires: September 30, 2016.

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