

LIVONIA JOINT ZONING BOARD OF APPEALS
January 22, 2024

Present: Chairman M. Sharman, R. Bergin, D. Major, J. Prato, CEO Adam Backus, Zoning Compliance Assistant Julie Holtje.

Excused: M. Thompson, Attorney J. Campbell.

AGENDA: ***(1) Accept and approve the meeting minutes of Nov 6 & 20, 2023***

(2) Verizon Wireless/Hemlock Fair – 7370 Fair Street, Hemlock, NY

Chairman Mike Sharman brought the meeting to order at 7:00 p.m. and opened with the Pledge of Allegiance.

Chairman Mike Sharman asked if everyone reviewed the meeting minutes from November 20th, 2023. The Board agreed they had, and a motion was made to approve the minutes. M/2/C (J. Prato/R. Bergin) Carried: 4-0.

(2) Verizon Wireless/Hemlock Fair – 7370 Fair Street, Hemlock, NY

PLEASE TAKE NOTICE that the LIVONIA JOINT ZONING BOARD OF APPEALS will hold a public hearing on Monday, **November 20, 2023**, at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York, to consider the application of Bell Atlantic Mobile / Verizon Wireless for a Conditional Use Permit pursuant to Section 150-102 A of the Zoning Code of Livonia. The Conditional Use Permit is for the construction of a 95’ wireless communication facility with a 4’ lightning rod per Section 150-33D (2), Public Utility, and to be located **at 7370 Fair Street (Hemlock Fair)**, Tax parcel # 84.14-1-1.1 in the Town of Livonia, NY, and is Zoned Agricultural Residential Conservation District (ARC-5). This application is on file in the Livonia Building and Zoning Department in the Livonia Town Hall, 35 Commercial Street, Livonia, New York, for public review. All interested parties will be heard at this time.

Chairman Mike Sharman asked Jeffrey Twitty, Attorney from Nixon Peabody, representing Bell Atlantic/Verizon Wireless, to come forward to discuss the Cell Tower application.

Jeff Twitty:

- explained that the Planning Board issued their SEQR Negative Declaration following the ZBA’s issuance of the Conditional Use Permit, so to keep in line with New York State procedure, the CUP should be regranted.
- Showed the updated site plan that included the four conditions that the Boards had stipulated.
- Informed the Board that there has been a supply issue with 10’ vinyl fence and that they propose to use wood instead.

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Discussion:

- Backus stated that he believes that wood meets the intent and that height was the important factor.
- The Board agreed that solid wood meets the intent and might be sturdier. Discussion about the 10' fence concluded that a solid wood 10' fence would be a suitable replacement.

Chairman M. Sharman:

- The Board recognizes that the Conditional Use Permit approval is invalid because the coordinated SEQR review had not yet been completed by the Planning Board when the ZBA took action to approve the CUP, which was a jurisdictional defect.

D. Major made a motion to recognize the Planning Board's SEQR review and final determination for a Negative Declaration on December 11, 2023, and accept that the review and those findings in satisfaction of the ZBA's obligation to satisfy the requirements of SEQR.

M/2/C (D. Major/J. Prato) Carried 4-0.

Accepting the final Site Plan approval by the Livonia Joint Planning Board on December 11, 2023 which included the Zoning Board's recommendations, R. Bergin made a motion to approve the Conditional Use Permit for the 95' Wireless Communications tower with a 4' Lighting Rod and related equipment. M/2/C (R. Bergin/D. Major) Carried 4-0.

Chairman Mike Sharman asked for a motion to adjourn the Livonia Joint Zoning Board Meeting at 7:14 p.m. M/2/C (J. Prato/M. Sharman). Motion carried: 4-0

Respectfully submitted,
Julie Holtje