

HEARING EXTENSION AGREEMENT
SEE PAGE 3

Roland Bartl

From: jamesvaleriani [jamesvaleriani@comcast.net]
Sent: Wednesday, October 04, 2006 1:35 PM
To: Roland Bartl
Subject: RE: Verizon Wireless; 820 Main Street

Hi Roland: Thanks for the additional reply and we'll be present at the planning board hearing on the 24th. I'll be back in touch with you on the conflict of interest concerns, most likely early next week.

Sincerely,

Jim V.

*James A. Valeriani
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From: Roland Bartl [mailto:rbartl@acton-ma.gov]
Sent: Wednesday, October 04, 2006 1:13 PM
To: jamesvaleriani
Subject: RE: Verizon Wireless; 820 Main Street

Jim:

Sorry, I forgot that in my earlier response.

I can assure you that your request for a hearing continuation will be honored and accepted. The Board has always been generous with continuation requests, except when things were just dragging out into oblivion. And, they have never held a hearing in the absence of the applicant. Here it is only the first such continuation and above all you are accommodating with it the Planning Board's own problems and time needs to deal with it's quorum issues. How could they ever say no. Really, this is not a problem. The hearing will be opened and then continued without discussion of the subject matter to October 24th, time to be set. The only thing that will come up down the road if continuations pile up, is the need to also agree on extension of the decision deadline. But, we are not there yet to need it. I will forward this to the Chairman in case he wants to chime in.

Regards -

*Roland Bartl, AICP
Town Planner, Town of Acton
472 Main Street
Acton, MA 01720
978-264-9636*

-----Original Message-----

From: jamesvaleriani [mailto:jamesvaleriani@comcast.net]
Sent: Wednesday, October 04, 2006 10:31 AM
To: Roland Bartl
Subject: RE: Verizon Wireless; 820 Main Street

Hi Roland: Thank you for the reply. I'll continue to review this with my client and I presume that the Planning Board members will continue to review and discuss the matter with you and Town Counsel. Given the complexity of the matter and the additional time it may take to determine any conflict of interest

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concerns, at this time I would like to get your confirmation and the confirmation of the Planning Board Chairman that the hearing scheduled for October 10th will be "opened" but with no testimony given and that it will be immediately continued to October 24th and that neither I nor my client would be required to attend on October 10th.

Thanks for your continued attention to this matter.

Sincerely,

Jim Valeriani

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From: Roland Bartl [mailto:rbartl@acton-ma.gov]
Sent: Tuesday, October 03, 2006 5:50 PM
To: jamesvaleriani
Subject: RE: Verizon Wireless; 820 Main Street

Dear Mr. Valeriani:

Thank you for your letter below. As you requested, I am attaching a quote from Broadcast Signal Lab. We got it most recently (July 10, 2006) when we solicited it for the T-Mobile application in a different locale also currently before the Board. I trust this will do.

Your suggestion that you would not object to the two Planning Board members sitting on the Board for the subject hearing does not include, as we discussed, a waiver of appeal to any Planning Board action on the basis of these gentlemen's property interest or potential conflict of interest. In fact, as I write this, I become convinced that such a waiver should be in a more legal format than e-mail and signed by an authorized Verizon agent in the presence of a notary public attesting that the action is the undersigned's free will. I'd hate to be so picky about this, but I am sure you as an attorney fully understand the importance of this formality. As soon as I have this document from you I will present the option to the two respective Board members.

Regards,

*Roland Bartl, AICP
Town Planner, Town of Acton
472 Main Street
Acton, MA 01720
978-264-9636*

-----Original Message-----

From: jamesvaleriani [mailto:jamesvaleriani@comcast.net]
Sent: Tuesday, October 03, 2006 3:52 PM
To: Roland Bartl
Subject: Verizon Wireless; 820 Main Street

Dear Mr. Bartl:

This memo follows our brief telephone conversations on Monday and Tuesday on the concern held by two Planning Board members that the proximity of their residences to the subject property at 820 Main Street may involve some type of review or disclosure under the Conflict of Interest Law (MGL Chapter 268A).

I understand that the Town of Acton "abutters list" prepared by the assessor's office contains a list of all property owners within 300 feet of a subject property. This notification procedure goes beyond what is required by MGL 40A, S. 11, for the notification of "parties in interest" and is beyond what is indicated for "parties in interest" as further defined in the Planning Board's Rules and Regulations on Wireless Facilities. This additional notification effort has resulted in one planning board member receiving a formal notice of the hearing via certified mail (Board Member Reichlen at 2 Northbriar Road) even though that member is beyond the notification area required for parties in interest, leading Board Member Reichlen to inquire into any disclosure or review requirements under the Conflict of Interest Law (MGL 268A). I also understand that another board member (Chairman Niemyski) owns a residence at 2 Till Drive and, although Chairman Niemyski is beyond the notification area required for Parties-in-Interest and although he did not receive any formal certified mailing at his residence, he may also be concerned with his disclosure responsibilities under the Conflict of Interest Law, given the proximity of his residence to the subject property.

Given that both Planning Board Members are not Parties in Interest under the definitions set forth in the Zoning Statute or under the Planning Board Regulations on Wireless Facilities, I do not believe the Board Members need to recuse themselves from hearing this matter under the Conflict of Interest Law and I would respectfully request that the two members hear the petition so that a full board is seated. I understand that these two members may be discussing this further with you and that there may be additional consultation with the Town's legal counsel on this matter. In that effort, Verizon Wireless as the petitioner would be willing to have its petition formally "opened" at the next scheduled Planning Board meeting on October 10th, which is the date contained in the required legal and mailing notices, but with no testimony given, and the hearing would be immediately continued to the next hearing date on October 24th. We trust that the concerned board members will be able to resolve any concerns over any potential conflict over the next week or so and that the hearing may commence on October 24th with a full board seated for the hearing.

Also, with respect to the consultant's review fee in connection with this application, I will arrange for that fee to be made to the Town of Acton. I'd like to kindly request that the Town's Consultant (Broadcast Signal Labs) provide some type of quote on the cost/time to conduct the review effort.

Please keep me posted on this matter as necessary and please let me know if there is any other information that you may need from me at this time. Additionally, please confirm that this request to open the hearing on October 10th (with no testimony or discussion) but to immediately continue it to October 24th is acceptable to the Planning Board Chairman and that there is no need for me or the petitioner to be present on October 10th. I hope that we can speak further on this matter later this week or by Monday afternoon of next week.

I have requested a "read-receipt" on this memo to ensure that this continuance request is received in a timely fashion.

Sincerely,

Jim Valeriani

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From: jamesvaleriani [mailto:jamesvaleriani@comcast.net]
Sent: Friday, September 29, 2006 1:00 PM
To: 'Kim DelNigro'
Subject: RE: 820 Main Street

Hi Kim: Thanks for the email memo below and sorry for not responding since Wednesday (I was out all day Wed and Thu). I'll review this information with asap Verizon Wireless and I expect to get back to you with a response by later today or Monday.

Bye for now.

Jim V.

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From: Kim DelNigro [mailto:kdelnigro@acton-ma.gov]
Sent: Friday, September 29, 2006 10:17 AM
To: jamesvaleriani@comcast.net
Subject: 820 Main Street
Importance: High

Hi James,
Hope all is well.

I just wanted to touch base with you on two items that have just been discussed at last nights meeting.

First, I need to apologize for this item:

The Planning Board has decided to receive outside consultant help to advise in needs and alternatives. They have chosen Broadcast Signal Lab (which we have used previously). In result, we recommend obtaining from the applicants a deposit of \$3,000 for application review analysis.

Second:

It was brought to my attention last night at the meeting, that one of our members can't attend the 10/10 public hearing and also that two other members live close to the proposed cell tower and might excuse themselves from the agenda item, if so, we most likely will have to continue the hearing to the next meeting. But, Roland is checking with our town counsel on that issue.

I greatly apologize for any inconvenience this may cause.

Please don't hesitate to contact me!

Thank you
Kim

Please don't hesitate to contact me for any questions or concerns. Hope to speak to you soon.

Sincerely,