

ZONING BOARD OF REVIEW

Barrington, Rhode Island

December 18, 2008

APPLICATIONS: #3504, 3507, 3508, 3509, 3510, 3511, 3512 & 3513

MINUTES OF THE MEETING:

At the call of the Chairman, Thomas Kraig, the Board met with Larry Bacher, Margaret Carlotto, Mark Freel, Neal Personeus and Ian Ridlon.

Also present were Building Official Robert Speaker and solicitor Nancy Letendre.

At 7:03 P.M. Mr. Kraig opened the meeting and the Board proceeded to hear the following matters. At 9:50 P.M. the public participation portion of the meeting was closed and the Board proceeded to deliberate and vote on the applications it had heard.

Continuation of application #3504, Jason Haas, 50 Teed Avenue, Barrington, RI 02806, applicant and owner, for permission to tear down existing building and construct a 40' x 24' single-family home; Assessor's Plat 34, Lot 24, R-10 District, 50 Teed Avenue, Barrington, RI 02806, requiring a variance for front yard setback as well as exceeding lot coverage.

Mr. Kraig read into the record a letter from the applicant requesting this matter be withdrawn.

VOTE: Mr. Freel moved to withdraw the application. Upon a second by Ms. Carlotto, the Board unanimously (5-0) withdrew the application.

Mr. Kraig advised the meeting that in view of the substantial public interest in application #3513, that matter would be heard next, out of the normal order.

Application #3513, Jason Piette, 15 Edgewood Drive, Barrington, RI 02806, applicant and lessee, Stephen and Kelly Crawford, 17 Chapman Lane, Barrington, RI 02806, owners, for permission to open a day care center; Assessor's Plat 34, Lot 155, R-10 District, 50 Martin Avenue, Barrington, RI 02806, requiring a Special Use Permit as well as relief for a six-foot fence within 30 feet of a roadway.

Before the application began Mr. Ridlon recused himself and Mr. Personeus disclosed that he had had a prior relationship with the applicant at a childcare facility, which Mr. Personeus believed would not affect his ability to consider the matter impartially.

Present: Jason Piette, 15 Edgewood Drive, Barrington, RI

The following exhibits were submitted:

- Letters in support of Mr. Piette's proposal
- Revised site plan

- Petition in opposition to the proposal

Mr. Piette opened by explaining that he has been in the day care business for over 13 years. He is seeking to convert an existing two-family house into a daycare center for 12-18 children, ranging in ages from 3 - 7. The program would cover preschool through after-kindergarten care, and be open 8:00 a.m. to 5:30 p.m. Monday through Friday. Mr. Piette would have at least one and possibly two additional employees. There would be a fenced outdoor play area, with planned outdoor playtime in the morning and in the afternoon.

The Board noted that, based on the building size, the business would require four parking spaces, plus one space for every two employees. This would bring the parking requirement to a total of five or six spaces. Mr. Piette explained that he had a circular driveway that could be utilized for a drop-off program. However, the Board felt that the Planning Board should review the parking situation. The Board also felt that the DPW and Fire/Safety should review the proposal and provide commentary as well. Also, the business will need to be defined as either a Day Care or a Preschool, and noted that a Preschool is not an allowable use in a residential neighborhood. Additionally, Mr. Speaker noted that because the building was changing uses, it would need to comply with new and additional code requirements.

Based on the lack of necessary information in the application before it, the Board felt that it could not make a decision on the application as presented. The Board directed the applicant to section §185-73 of the Zoning Ordinance, which highlights the requirements for Development Plan Review, and noted that Mr. Piette would need to go before the Planning Board for Development Plan Review. They explained that he would need to address at least the following elements:

- Parking plan
- Landscaping requirements
- Traffic study
- Definitive use of Gibbs Lane
- Any additional material required by the Planning Board

There were abutting neighbors in the audience; however, they were advised to withhold their comments until the next meeting that considers this application, as the application may change significantly due to Planning Board requirements.

VOTE: Mr. Personeus moved to continue the application to the March 19, 2009 meeting. Mr. Freel seconded the motion and it carried unanimously (5-0).

Application #3507, Amy and Timothy Gorman, 1 Hickory Lane, Barrington, RI 02806, applicants and owners, for permission to extend family room and construct a two-car garage; Assessor's Plat 14, Lot 152, R-10 District, 1 Hickory Lane, Barrington, RI 02806, requiring a dimensional variance for setback from Ormand Drive.

Present: Amy & Timothy Gorman, 1 Hickory Lane, Barrington, RI

There was no one from the audience to speak for or against the application

The applicants explained that they are seeking to extend their living room and add a two-car garage in order to create more living and storage space for their family. It was noted that their house did not

have a basement or an attic; therefore, storage was a much-needed commodity. The lot is triangular, making expansion within the required setbacks a near impossibility. Mr. Gorman also noted that the existing shed would be coming down if the application were approved.

The Board asked if the applicants had considered other layouts, a smaller design, moving the proposed garage closer to Hickory Lane, or even moving the driveway to Ormand Drive. The applicants responded that the proposed layout was the most logical layout given the existing deck and interior layout. They have tried to keep the addition within the characteristics of the neighborhood and would like to keep their driveway on Hickory Lane because it is a quieter street, making it a safer choice. The Board noted that while they understood the reason for the applicant's request, they were having trouble proving that the current proposal met the "least relief necessary" requirement.

VOTE: Mr. Freel moved to grant the application with the following condition:
➤ The lot coverage cannot exceed the maximum allowed lot coverage for an R-10 district (25%).
Upon a second by Ms. Carlotto, a vote was held. The motion failed with a 2-3 vote.

DISCUSSION:

The Board members who supported the motion stated that they were in favor of approving the application for the following reasons:

- The lot is a corner lot, requiring two front yard setbacks
- The applicants are somewhat constrained by the oddly-shaped lot
- The relief requested is not excessive

The Board members who were opposed to the motion stated that they were against approving the application for the following reasons:

- The request does not fit within the standards of "least relief necessary" – there appear to be a number of other approaches to accomplish substantially what the applicants seek, but with a far lesser impact on setbacks
- The garage could be relocated, turned, or moved forward in order to reduced the overall impact on Ormand Drive

Application #3508, Brueggers Enterprises, Inc. 159 Bank Street, Burlington, VT 05401, applicant and lessee, S.T.A. Associates, Inc., 33 H Kent Street, Barrington, RI 02806, owner, for permission to renovate building: Assessor's Plat 23, Lot 109, Business District, 1 Waseca Avenue, Barrington, RI 02806, requiring a Special Use Permit.

Present: John Hall, architect, 103 High Service Avenue, North Providence, RI

There was no one from the audience to speak for or against the application

Mr. Hall explained that since the Board initially granted approval for a changed use at One Waseca Avenue, the tenant has changed to Brueggers Bagels, which had postponed the project. The original approval period has elapsed, thereby requiring reapplication for a Special Use Permit. Mr. Hall noted that the application is virtually the same as the original, although the hours of operation will change to 6:00 a.m. to 9:00 p.m. Additionally, he has verified the site dimensions and they have changed slightly due to an error in the prior site plan. They will have a total of 30 parking spaces available. Mr. Hall

also noted that the proposal would be done in two phases. The first phase will be the Brueggers Bagels portion and the second phase will be completed for a coffee beverage partner to be determined later.

Mr. Bacher expressed a concern that the restaurant may be considered a fast food establishment. Mr. Hall assured him that it was not intended as a take-out establishment – their objective is to encourage people to sit and eat in as well as attract foot traffic in the area.

VOTE: Mr. Freel moved to grant the application with the following condition:
➤ Phase 2 of the project must be consistent with the use shown in the application (a coffee beverage establishment)
Ms. Carlotto seconded the motion and it carried unanimously (5-0).

DISCUSSION:

The Board members stated that they were in favor of approving the application for the following reasons:

- The application meets the criteria for a Special Use Permit
- The applicant has shown that the use will not be fast food
- The proposed usage is an appropriate usage of the space within the Business district

REASON FOR DECISION:

It was the judgment of the Board that the applicant has demonstrated that the standards in Section §185-73 have been met: A) The applicant has demonstrated that the public convenience and welfare will be substantially served; B) The applicant has demonstrated that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan; C) The applicant has demonstrated that it will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community; D) The applicant has demonstrated that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

Application #3509, Lorenzo Lucas Architect, 4 Tallwood Drive, Barrington, RI, 02806, applicant, Chris Cuzzone, 261 Lincoln Avenue, Barrington, RI 02806, owner, for permission to construct a single-family house; Assessor's Plat 5, Lot 72, R-40 District, 2 Lighthouse Lane, Barrington, RI 02806, requiring a variance for being within 100 feet of the wetlands and the wetlands overlay district.

Present: Lorenzo Lucas, architect, 4 Tallwood Drive, Barrington, RI
Chris Cuzzone, 261 Lincoln Avenue, Barrington, RI

In the audience:
David Boyce, Barrington Conservation Commission

Mr. Kraig read into the record a report from the Conservation Commission recommending disapproval of the application.

The applicants explained that they are seeking to construct a single-family home, noting that there is a restrictive covenant requiring that no house be built in this development at a size less than 2,400 square feet. The original intent had been to bring in fill to bring the area up to elevation 16'; however, they

would like to build the house raised above the level of the back yard in order to avoid the need for excess fill.

The Board noted that this lot was in a Class 1 wetlands area and there were a lot of concerns with the proximity to these wetlands as well as concerns with rainwater runoff post-construction. The Board stated that it would be possible to locate this house further from the wetland by moving the building envelope, noting that they were not comfortable approving a house this close to the wetlands. The Board also expressed concern about the size of the proposed house, since a smaller footprint would require less setback relief.

VOTE: Mr. Freel moved to continue this application to the March 19, 2008 meeting in order to afford the applicant an opportunity to consider alternate approaches to the project and to go before the Conservation Commission again. Mr. Personeus seconded the motion and it carried unanimously (5-0).

Application #3510, Ed and Carolyn Smith, 18 Fairway Drive, Barrington, RI, 02806, applicants and owners, for permission to relocate a six-foot fence and install a pool; Assessor's Plat 25, Lot 223, R-25 District, 18 Fairway Drive, Barrington, RI 02806, requiring a dimensional variance for a six-foot fence within 30-feet of the front lot line.

Present: Ed Smith, 18 Fairway Drive, Barrington, RI
Christopher Seger, Yard Works, 1309 Warwick Avenue, Warwick, RI

There was no one from the audience to speak for or against the application

The applicants explained that they are seeking to move an existing fence in order to place a pool in the yard. The proposed pool location is the only logical location for the pool. The current fence is already closer to the street than would ordinarily be permitted, and the shift will create a more open backyard. It was also noted that the pool pump and the AC unit would have landscape screening around them.

VOTE: Ms. Carlotto moved to grant this application. Upon a second by Mr. Freel, the Board voted 4-1 to approve the application, with Mr. Personeus dissenting.

DISCUSSION:

The Board members stated that they were in favor of approving the application for the following reasons:

- The lot is oddly shaped
- A fence is required for protection around the pool
- The front yard is curved along Fairway Drive and the fence will track that curve.

Mr. Personeus stated that he was opposed to approving the application for the following reason:

- The proposal is not the least relief necessary

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section §185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant; B) that 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; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive Plan; D) that the relief to be granted is the least relief necessary. Additionally, the standards for a dimensional variance set forth in Section §185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

Application #3511, Loredana Lister, 50 Watson Ave, Barrington, RI 02806, applicant, Stephen and Loredana Lister, 50 Watson Ave, Barrington, RI 02806, owners, for permission to construct new covered entryway and steps; Assessor's Plat 7, Lot 21, R-25 District, 19 Payne Road, Barrington, RI 02806, requiring dimensional relief for setback from Payne Road.

Present: Loredana Lister, 50 Watson Ave, Barrington, RI
Patrick Connors, architect, Brewster Thorton Group Architects, LLP,
150 Chestnut Street, Providence, RI

There was no one from the audience to speak for or against the application

Mr. Connors explained that they are currently renovating the first floor at 19 Payne Road, which is at two slightly different elevations, and this has created a need to redo the front door and stairway. The proposed covered entry porch will be too close to the front yard setback, but will be set farther back from Payne Road than are the current front steps. Under the new proposal, the stairs will be redirected to lead to the driveway and a retaining wall will be built. The proposed covered porch will be approximately six feet long and in keeping with the style of the neighborhood. The lot is very wide but only sixty feet deep.

VOTE: Mr. Personeus moved to grant this application. Mr. Freel seconded the motion and it carried unanimously (5-0).

DISCUSSION:

The Board members stated that they were in favor of approving the application for the following reasons:

- The owner is constrained by the odd building envelope
- The proposal will eliminate existing elevation issues

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section §185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant; B) that 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; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive Plan; D) that the relief to be granted is the least relief necessary. Additionally, the standards for a dimensional variance set forth in Section §185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

Application #3512, John and Monika Keller, 214 Washington Road, Barrington, RI 02806, applicants and owners, for permission to construct a six-foot fence and an 8' x 12' shed; Assessor's Plat 18, Lot 250, R-25 District, 214 Washington Road, Barrington, RI 02806, requiring relief for a six-foot fence within 30 feet of a roadway and for the setbacks for the shed.

Present: John and Monika Keller, 214 Washington Road, Barrington, RI

In the audience:

Charlie Bakst, 7 Lincoln Avenue, Barrington, RI
Bob Howe, 216 Washington Road, Barrington, RI
Wind Evans, 10 Lincoln Avenue, Barrington, RI

The following exhibits were submitted for the record:

- Revised site plan

Mr. & Mrs. Keller explained that they have had on-going problems with privacy, trash, theft and vandalism at their property due to its corner location on Washington Road. The proposed fence would provide much needed privacy and protection and provide a safe area for their children to play. Additionally, they would like to have a shed to secure items such as bikes and lawnmowers. The proposed location for the shed is the most logical location because of an existing patio and an existing swing set.

Three abutting neighbors spoke in support of the application, noting that the fence would be aesthetically pleasing and would provide the Keller's with a safer yard. There was no one who spoke in opposition to the application.

VOTE: Mr. Freel, with a second by Mr. Personeus, moved to grant this application. The Board unanimously (5-0) granted the application.

DISCUSSION:

The Board members stated that they were in favor of approving the application for the following reasons:

- There is a sound rationale for placing the fence where the applicants propose
- There is neighborhood support for the proposal
- The shed will be in line with the house and is in the most logical location

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section §185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant; B) that 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; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive Plan; D) that the relief to be granted is the least relief necessary. Additionally, the standards for a dimensional variance set forth in Section §185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

MINUTES OF THE PREVIOUS MEETING:

A motion was made by Mr. Freel and seconded by Mr. Personeus to accept the November 20, 2008 Zoning Board of Review with changes. The motion carried unanimously (5-0).

OTHER BUSINESS:

It was noted that there would not be the required quorum of members available for the regularly scheduled January 15, 2009 meeting; therefore, the Board changed the meeting date to January 29, 2009.

ADJOURN:

There being no other business, Mr. Freel moved to adjourn at 10:40 P.M. Mr. Ridlon seconded the motion and the meeting was adjourned.

Respectfully submitted,

Valerie Carroll, Secretary
Thomas Kraig, Chairman
cc: N. Letendre, Solicitor