

ZONING BOARD OF REVIEW

Barrington, Rhode Island

October 18, 2007

APPLICATIONS: #3434, 3439, 3440, 3441 and 3442

MINUTES OF THE MEETING:

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

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

At 7:02 P.M. Mr. Kraig opened the meeting, and proceeded to hear the following matters. At 8:25 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 #3434, Cheryl Ouellette and Daniel Cloutier, 21 Walter Street, Barrington, RI 02806, applicants and owners, for permission to construct a shed; Assessor's Plat 22, Lot 58, R-10 District, 21 Walter Street, Barrington, RI 02806, requiring a dimensional variance for side yard setback and rear yard setback.

Present: Cheryl Ouellette and Daniel Cloutier, 21 Walter Street, Barrington, RI

There was no one in the audience to speak for or against this application.

The following exhibits were submitted to the Board:

- Site plan with delineated setbacks
- Pictures (12) of the existing site conditions

The applicants explained that upon re-measuring the property for the site plan, they discovered that the shed would be 3' from the side property line and 3' 2.5" from the rear property line. Mr. Cloutier went on to explain that the proposed location was the only logical location for the shed due to the existing fence, garage, garden and patio.

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

Mr. Bacher did not vote on this matter due to the fact that he was absent from the prior meeting.

DISCUSSION:

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

- The applicant provided detailed plans which showed that the shed was not as close to the property line as originally thought
- The proposal is characteristic of the surrounding neighborhood
- The property has a very compact yard with an existing fence, garden and patio
- The proposal will have a very low impact on the surrounding neighborhood

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.

Continuation of Application #3439, Christopher A. Soutter, 20 Briarfield Road, Barrington, RI 02806, applicant and owner, for permission to construct detached garage/workshop; Assessor's Plat 26, Lot 321, R-25 District, 20 Briarfield Road, Barrington, RI 02806, requiring a dimensional variance for height of accessory structure.

Present: Christopher A. Soutter, 20 Briarfield Road, Barrington, RI
Kevin Farrell, contractor, K&S Builders

In the audience:

- Bob Ryan, Barrington Conservation Commission

The Chairman indicated that at the prior hearing on this application, the Board had been unable to understand exactly how the garage had come to be too high, and Mr. Soutter had requested a continuance to bring his contractor to the next meeting to explain what had happened. Mr. Farrell explained that the garage had become over sized due to a series of oversights during construction. These oversights were:

1. Due to water issues, additional base materials were needed for the foundation, thus raising the foundation height approximately 3-6 inches
2. Flood venting – which was not part of the original plans – was added to the foundation. The flood venting had to be placed above ground level, and so a further addition to height resulted
3. The first floor was built 9'5" high, as opposed to the 8'6" shown on the drawings
4. There was approximately a 6-9 inch increase in the second floor joists and flooring to incorporate the double sills
5. The ceiling height on the second floor increased from 6' to 6'6"
6. The roof pitch increased from 4 -12 to 5 -12

The Board asked the applicant if he was aware of the height increases as the project progressed, and he replied that he was not aware of the scope of the problem and stated that the additional height was of no benefit to him. Mr. Speaker noted that when the original garage plan had been reviewed, a height of over 19 feet had been requested; however, he had advised Mr. Soutter that the garage could not exceed 18 feet. It was not until inspection that Mr. Speaker found the height limits were exceeded.

Mr. Ryan stated that a few years ago this homeowner had been before the Conservation Commission for an issue relating to wetlands jurisdiction, and while it had not been noted on this application, he requested that the application be forwarded to the Conservation Commission for an environmental impact determination. Mr. Speaker said that Ms. Strong, former chairman of the Conservation Commission, had been out to the site during the prior garage application and had determined it was beyond the wetland setback requirement. Ms. Letendre stated that Board could not refer this application to the Conservation Commission. Mr. Kraig ruled that the matter would not be referred back to the Conservation Commission.

Ms. Letendre also reminded the Board that they must consider the application on its merits as if the garage had not been built yet.

VOTE: Mr. Freel moved to deny the application. Ms. Carlotto seconded the motion and it carried unanimously (5-0).

Mr. Bacher did not vote on this matter due to the fact that he was absent from the prior meeting.

DISCUSSION:

The Board members stated that considering all of the testimony and written evidence presented, the applicant had failed to meet his burden of proof on a number of the requirements for the granting of the relief requested. Specifically, they were in favor of denying the application for the following reasons:

- Nothing about the unique characteristics of the land caused the hardship
- The hardship is a direct result of the prior action of the applicant
- The relief requested is not the least relief necessary; in fact the applicant had stated he gained no benefit from the additional height
- The applicant did not demonstrate that he would not be able to utilize his single-family home without this garage
- There was no persuasive evidence submitted that the oversights and omissions were done by accident

REASON FOR DECISION:

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

Application #3440, Pat Houghton, 173 Matthewson Road, Barrington, RI 02806, applicant and owner, for permission to construct wood deck and pergola; Assessor's Plat 25, Lot 62, R-25

District, 173 Mathewson Road, Barrington, RI 02806, requiring dimensional variance for front yard setback and for being within 100' of a coastal feature.

Present: Pat Houghton, 173 Mathewson Road, Barrington, RI
Leone Smets, architect, 57 Bluff Road, Barrington, RI

In the audience:

- Bob Ryan, Barrington Conservation Commission

The following exhibit was submitted to the Board:

- Revised site plan

Ms. Smets explained that Ms. Houghton has lived in the house for 38 years and she wants to construct a 31' x 9' deck on the front of the house so that she can enjoy the view and sunshine. There are existing shrubs that would be removed; they are planning on putting in new shrubs in front of the deck and the construction will be consistent with the character of the neighborhood.

Mr. Kraig noted that the Conservation Commission had recommended not approving the proposal. Mr. Ryan explained that they were opposed to the application because it was not the most sensitive use of the property and it will take three to five years for the new shrubs to achieve the same drainage benefit as the existing shrubs. He suggested that the deck be located on the south side of the house. Mr. Ryan also stated that the application was incorrect because according the field card there was an accessory bedroom in the garage, which was not noted on the plans.

The applicant replied that while there had been a variance granted for the bedroom, it had never been constructed due to an illness in the family. The homeowner has since been to the Tax Assessor and had it removed from the records. The Board questioned the relevance of the garage to the deck proposal, and Ms. Letendre noted that the garage had no bearing on the application.

The Board asked if vegetation would need to be removed if they were to locate the deck to the south, and Ms. Smets said, yes, they would need to remove some vegetation and she also noted that it would create a side lot issue and would not provide the benefits that the applicant desired.

VOTE: Mr. Freel moved to approve the application with the following conditions:
➤ Standard erosion controls must be in place during construction
➤ The homeowner must plant new landscape shrubs in the front of the proposed deck
Mr. Personeus 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 desired deck would not be feasible in another location
- The applicant was proposing the least intrusive construction possible
- There is a road and additional vegetation between the property and the water body
- The proposal will not be intrusive to the neighborhood

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 #3441, David and Sheila Butera, 66 Fales Avenue, Barrington, RI 02806, applicants and owners, for permission to construct a single family house; Assessor's Plat 11, Lot 36, R-40 District, 6 White Birch Lane, Barrington, RI 02806, requiring dimensional relief for front yard setback.

Present: David and Sheila Butera, 66 Fales Avenue, Barrington, RI
Scott Weymouth, architect, 79 Alfred Drowne Road, Barrington, RI

There was no one in the audience to speak for or against this application.

The following exhibits were submitted to the Board:

- Site plan
- Plot plan showing abutting lots

The applicants began by explaining that in 2005 they had purchased a small bungalow and at that time the Board had granted the applicants permission to extensively remodel the house, recognizing that it might be beyond the salvage stage. Once construction began, it became necessary to demolish the entire structure and now they are seeking to rebuild. During this process, the power lines that had run over the property had been repositioned underground, well behind where the prior structure had been, but as it turns out, now right behind where the proposed new house would be. There were objections from the neighbors regarding rebuilding within the existing footprint, so Mr. Butera has prepared the proposed new location for the structure. The new proposed house has been pulled as far back from the front yard setback as possible without interfering with the location of the power lines.

VOTE: Upon a motion by Ms. Carlotto, with a second by Mr. Personeus, the Board voted unanimously (5-0) to approve this application.

DISCUSSION:

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

- The applicant had moved the proposed house as far back as possible
- The proposal is an improvement over the original proposal
- Due to the unique lot, the applicant is working with unusual setback requirements
- The proposed setback is appropriate for the location
- The proposal will give the area a more open look

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 #3342, John and Melissa Brum, 230 Whipple Avenue, Barrington, RI 02806, applicants and owners, for permission to construct skylights and a second floor dormer addition; Assessor’s Plat 22, Lot 405, R-10 District, 230 Whipple Avenue, Barrington, RI 02806, requiring dimensional relief for front yard setback.

Present: John and Melissa Brum, 230 Whipple Avenue, Barrington, RI
Dean Martineau, contractor, 195 Brightridge Avenue, East Providence, RI

There was no one in the audience to speak for or against this application.

The applicants explained that the existing house is a small cape with sloped ceilings that have a maximum height of 6’4”, making it difficult for Mr. Brum to navigate. The dormer addition would be utilized for a bathroom, and the location for the dormer was chosen because of its proximity to the stairs in the center of the house. It was noted that they would be remaining within the existing footprint of the house.

VOTE: Mr. Personeus moved to approve the 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 proposal remains within the existing footprint
- The proposal will not exceed the maximum height requirement
- The house is located where it is, and that location will not be changed
- The applicants are trying to utilize the existing house

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.

Review of proposed revised Zoning Board application.

Mr. Freel moved to continue this matter to the November 15, 2007 meeting. Mr. Personeus seconded the motion and it carried unanimously (5-0).

MINUTES OF THE PREVIOUS MEETING:

A motion was made by Mr. Freel and seconded by Mr. Personeus to accept the September 18, 2007 Zoning Board of Review minutes with corrections. The motion was carried unanimously (5-0).

A motion was made by Mr. Freel and seconded by Mr. Personeus to accept the September 18, 2007 Planning Board of Appeals minutes as written. The motion was carried unanimously (5-0).

ADJOURN:

There being no other business, Mr. Bacher moved to adjourn at 9:33 P.M. Mr. Freel seconded the motion and the meeting adjourned.

Respectfully submitted,

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