

ZONING BOARD OF REVIEW

Barrington, Rhode Island

June 21, 2007

APPLICATIONS: #3404, 3419, 3422, 3420, 3423, 3424, 3425

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 Andrew Teitz and Robert Speaker, Building Official.

At 7:05 P.M. Mr. Kraig opened the meeting, which proceeded to hear the following matters. At 8:53 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 #3404, William Conley, 76 Maple Street, Warren, RI 02885, applicant, Jim Mancini, Warren, RI 02804, lessee, for permission to erect additional signage; Assessor's Plat 23, Lot 306, Business District, 280 County Road, Barrington, RI 02806, requiring relief for exceeding the allowable number of signs.

Present: There was no one present to speak for this application; Mr. Speaker noted that he had received a voice mail from the applicant stating that he would not be able to attend.

It was noted that the applicant has failed to comply with the conditions agreed to at the May 17, 2007 meeting, at which time the applicant had agreed to resolve all outstanding zoning violations by June 21, 2007. It was further noted that this matter has repeatedly been continued, and that this is not the first time that the applicant has failed to appear.

VOTE: Mr. Personeus moved to deny the application on the ground that the applicant has failed to meet his burden of proof with respect to the application, having presented no evidence at the hearing. Mr. Freel seconded the motion and it carried unanimously (5-0).

Continuation of application #3419, Mattissa, LLC, 17 Willow Way, Barrington, RI 02806, applicant and owner, for permission to construct a two-story addition; Assessor's Plat 3, Lot 96, R-25 District, 17 Willow Way, Barrington, RI 02806, requiring relief for being within 100' of a wetlands overlay district.

Before the matter was heard Mr. Personeus recused himself, and Ms. Gennaro voted in his stead.

In the audience:

Cyndee Fuller, Barrington Conservation Commission

Anthony DeSisto, attorney for abutting neighbors, One Turks Head Place, Providence, RI

Linda Seere, wetlands biologist, Applied Biosystems, Inc.

The Chairman noted that he was in receipt of a letter from the applicant requesting the matter be withdrawn. It was also noted that the Board was in receipt of a letter from the Conservation Commission, as well as two other letters, one from Sandra Wyatt on behalf of the Allen's Cove Neighborhood Coalition, as well as another neighbor citing concerns with the proposal.

In order to gain some understanding of the application and the request that it be withdrawn, the Chairman asked Ms. Fuller to present the position of the Conservation Commission. Ms. Fuller stated that there had been some question as to the distance of the proposed project from the wetlands, so the applicant had a wetlands biologist walk the property with several members of the Conservation Commission and they agreed that the area in question was outside of the 100-foot setback. Therefore, the Conservation Commission did not have the jurisdiction to render advice to the Board; however, the Conservation Commission felt strongly that there were potential problems with further development of the site.

Mr. DeSisto, representing the Fines of 15 Willow Way, explained that Ms. Seere, the wetlands biologist engaged on behalf of the Fines, has found, in her preliminary review, that the property is within the 100-foot setback. Mr. DeSisto also had a letter from Joseph Pitcherelli, Barrington DPW, regarding the flooding problems on Willow Way, and a letter from Michael Sousa, Fuss & O'Neil, regarding the drainage problems in the area. Mr. DeSisto asserted that the Zoning Board does not have adequate information to determine if the proposal is within the 100-foot setback; therefore, he is objecting to the withdrawal.

Mr. Teitz explained that it was not within the Zoning Board's jurisdiction to determine if the proposal is within the setback or not. When a building plan is submitted it will be the Building Official's responsibility to make that determination, at which time a party may object and appeal his determination. The matter before the Board is a request to withdraw an application and that is the only matter the Board must consider.

Mr. DeSisto responded that he was objecting to the withdrawal because the applicant had stated in its written request that they are withdrawing the application because the Conservation Commission has determined the proposal to be outside of their jurisdiction. Mr. DeSisto wanted the opportunity to show that his client has found it to be within the setback. He wanted it noted that withdrawal of the application does not represent a determination by the Board with respect to the distance from the wetlands.

VOTE: Mr. Freel moved to withdraw the application with no findings or inference of jurisdiction or non-jurisdiction. Ms. Carlotto seconded the motion and it carried unanimously (5-0).

Continuation of application #3422, John Franchi, 311 Maple Avenue, Barrington, RI 02806, applicant, U.S. Bank National, Trustee, 425 Walnut Street, Cincinnati, Ohio 45202, owner, for permission to change a mixed use building to a two-family residence; Assessor's Plat 22, Lot 619, Neighborhood Business District, 311 Maple Avenue, Barrington, RI 02806, requiring a special use permit for a two-family residence.

Present: John Franchi, 311 Maple Avenue, Barrington, RI 02806

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

Mr. Franchi explained that he has been residing at 311 Maple Avenue intermittently for a number of years, noting that the previous owner had changed the building from a mixed-use facility to a two family residence several years ago. The property has been foreclosed and Mr. Franchi would like to purchase it; however, the bank will not approve the sale until a variance is granted for the two family residential use. The applicant does not intend to make any further changes to the property – it will continue to be used as it has been used.

VOTE: Mr. Freel moved to grant the application. Upon a second by Mr. Personcus the Board voted unanimously (5-0) to grant the Special Use Permit.

DISCUSSION:

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

- The building had already been converted by a prior owner, not by the applicant
- A two-family use is allowable in the Neighborhood Business Zone
- The change will allow the applicant to purchase the property
- The two-family use would be more favorable to the neighborhood due to parking

REASON FOR DECISION:

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

Application #3420, Gary Beadreau, Dion Signs, 1075 High Street, Central Falls, RI 02863, applicant, John St. Angelo, 33H Kent Street, Barrington, RI 02806, owner, Brooks/Rite Aid Pharmacy, P.O. Box 3165, Harrisburg, PA 17101, Lessee, for permission to replace existing signs with new signs with the new company name; Assessor's Plat 23, Lots 245, 246, 249 and 250, Business District, 236 County Road, Barrington, RI 02806, requiring relief for internally illuminated signs, exceeding the number of signs and exceeding the allowable size of signs.

Mr. Kraig read into the record a letter from the applicant requesting the matter be continued to the next meeting.

VOTE: Upon a motion by Mr. Freel, with a second by Mr. Personeus, the Board voted unanimously to continue the application to the August 16, 2007 Meeting.

Application #3423, William and Elizabeth Hagan, 10 Blanding Avenue, Barrington, RI 02806, applicants and owners, for permission to construct a 8' x 8' second-story deck over existing deck; Assessor's Plat 1, Lot 327, R-10 District, 10 Blanding Avenue, Barrington, RI, 02806, requiring relief for being within 100' of a wetlands/waterbody.

Present: William and Elizabeth Hagan, 10 Blanding Avenue, Barrington, RI

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

Mr. Hagan explained that they have an existing deck off of the first floor of his house and they would like to add a second story deck directly above the existing deck, remaining within the current footprint. Entry to this deck would be via the master bedroom. There will be no environmental impact beyond adding two new, stronger footings.

Mr. Kraig noted that the Conservation Commission was in favor of the application.

VOTE: Ms. Carlotto moved to approve the application with the following condition:
➤ Standard erosion control measures be used during construction
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 Conservation Commission was in favor of the application
- The new structure would not be any closer to the wetlands than the existing structure, being within the existing footprint
- The requested modification is small and will only be a slight change to the property

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 #3424, Christine Craun, 122 Whipple Avenue, Barrington, RI 02806, applicant and owner, for permission to construct an 18' addition on the rear of the house; Assessor's Plat 22,

Lot 273, R-10 District, 122 Whipple Avenue, Barrington, RI 02806, requiring dimensional relief for side yard setback.

Present: Christine Craun, 122 Whipple Avenue, Barrington, RI

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

Ms. Craun stated that she was seeking to extend her house back an additional 18 feet in order to create more space for her family. The new floor plan would include two bedrooms upstairs and one downstairs, along with an office and additional kitchen space. The house is already located too close to the side lot line; this would be an extension of the existing sideline of the house, going no closer than the house already is.

VOTE: Mr. Personeus moved to approve the application. Upon a second by Mr. Freel the motion carried unanimously (5-0).

DISCUSSION:

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

- The proposed addition is in keeping with the character of the neighborhood
- The lot is oddly shaped
- They are not going any closer to the lot line than the existing house
- The addition is not so large as to create a problem for the area

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 #3425, Fellini's Pizzeria, c/o Anthony DeSisto, One Turks Head Place, Suite 1010, Providence, RI 02903, applicant, STA Associates, 33H Kent Street, Barrington, RI 02806, owner, Fellini's Pizzeria, 166 Wickenden Street, Providence, RI 02903, lessee, for permission to open a restaurant/pizzeria; Assessor's Plat 23, Lots 109, 110, 111 and 112, Business District, 1 Waseca Avenue, Barrington, RI 02806, requiring a special use permit for restaurant usage as well as for additional signage.

Present: Anthony DeSisto, attorney for applicant, One Turks Head Place, Providence, RI
Gene Mancino, Project Architect
Christie Knoedler, Business Owner

In the audience:

Mark Ethridge, 53 Third Street, Barrington, RI

The following exhibits were submitted:

- Menu from the existing Fellini Pizzeria location on Wickenden Street, Providence, RI
- Revised site plan reflecting changes recommended at the 6/5/07 Planning Board meeting

Mr. DeSisto explained that his client is proposing a 55-seat pizzeria in the One Waseca building at Waseca Avenue and County Road. The applicant will install an additional window on the County Road side of the building, add awnings, and change the exterior lighting fixtures. In response to the Planning Board's request, the parking plan has been revised with the handicap spaces located closer to the entrance. Also, while not noted on the site plan, they have accepted the Planning Board's recommendation to use the Waseca entrance for ingress only and the Wood Avenue entrance for both ingress and egress; that portion of the application was revised accordingly.

The restaurant will be open from 11:00 a.m. to 11:00 p.m., with the peak business hours between 11:00 - 1:30 for lunch and 5:00 - 7:30 for dinner. They anticipate the business to be 60% in-house service and 40% take-out/delivery.

There is currently one dumpster on the property and the applicant has made arrangements to have it emptied three times a week, more often if it becomes necessary. Food deliveries will be received in the mornings, prior to opening. The Board asked the applicant if they would agree to a condition of no deliveries prior to 7:00 a.m., to which the applicant agreed.

The facility currently has one projecting sign on the Waseca Avenue side; the applicant proposes to add an additional projecting sign to the County Road side. This would be in addition to the common signage sign for the block of stores, as well as placing the business name on the awnings. The Board members agreed with the need to place a projecting sign on the County Road side; the Board also felt that the Waseca Avenue sign should be permitted to remain in order to create a consistent look with the other businesses.

Mr. Ethridge, owner of Trendy's Pizza, expressed concern about the additional volume of cars and traffic at the site, as well as the number of available parking spaces. Mr. DeSisto noted that Mr. Ethridge was not an abutting party. The Board noted that it was considering his opinions solely as those of one with experience in the pizzeria business, and since he was a potential competitor with the proposed business, would weigh his testimony accordingly.

VOTE (1): With respect to the Special Use Permit for the usage, Mr. Freel moved to approve the application with the following conditions:

- The applicant must comply with the site plan submitted 6/19/07, with the correction that the Waseca entrance be used for ingress only
- No deliveries shall be made prior to 7:00 a.m.
- The applicant must adhere to the Planning Board condition that the window on the Waseca Avenue side have fixed glazing and have modesty panels installed to match the other panels

Ms. Carlotto seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

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

Additionally the standards in §185-75 have been met. That: A) That, based upon projected use and level of activity for a given development proposal, strict application of the parking and/or loading requirements would be excessive, B) That, as a result of such relief, the proposed development will be enhanced either in terms of visual appearance or through the provision of additional amenities, such as landscaping and buffering, walkways, bicycle racks and/or street furniture; or that there is some clear public or environmental benefit, C) That the safe and proper operation of the business will in no way be compromised.

VOTE (2): With respect to the Special Use Permit for the additional projecting sign, Mr. Freel moved to grant the application with the following condition:

- The elevation of the sign on the Waseca Avenue side must be the same as that of the other signs on that side of the building

Ms. Carlotto seconded the motion and it carried 4-1, with Mr. Bacher dissenting.

DISCUSSION:

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

- The County Road sign is a reasonable request in order to make the restaurant's location visible to those proceeding on County Road
- The Waseca Avenue sign fits with the visual aesthetic of the building since the other stores in the building have like signs

Mr. Bacher stated he was opposed to the application for the following reason:

- The applicant had not provided a valid reason for overruling the Planning Board's recommendation.

REASON FOR DECISION:

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

Additionally, it was the judgment of the Board that the standards in Section §185-76 have been satisfied: That (3) the location or illumination of a sign in a nonconforming manner is necessary to achieve its intended visual effect.

After the above items were reviewed and deliberated, the public hearing was re-opened to hear the remaining matters at 9:40 p.m.

Advisory Review: Comprehensive Permit Application “Haines Park Village”, Assessor’s Plat 2, Lots 105, 118 and 124 - Construction of 11 dwelling units (three affordable); relief from certain Zoning Ordinance requirements requested, referred by Planning Board.

Present: Andrew Sholes, attorney for the applicant
David D’Amico, project engineer
Christopher Tuck, project architect

The applicants explained that currently the property has a commercial building, a residential building with three rental units, and a mixed-use building. They are proposing to keep the commercial building as is, convert the residential building from three apartments to two apartments which would be affordable, and remove the mixed-use building. In addition, they would build three two-unit buildings and one three-unit building, creating a total of eleven rental residential units and three commercial units. Of the residential units, three of them would be categorized as “affordable”. These would be the two units in the existing house as well as the middle unit of the three-unit building.

The parking requirements are 13 off-street spaces for the commercial building and two spaces per residential unit; 35 spaces would be required for the development. The proposed development would have 32 off-street spaces available, with six additional on-street parking spaces in front of the commercial building. There is the potential for additional parking in the rear of the property once an adverse possession case involving that area has been resolved. The applicants are not currently proposing any development in the contested area.

In order to proceed with the proposal the applicants would need the following zoning variances:

- Permit a 4-foot side yard setback for the four units on the north end of the property
- Permit a 15-foot rear yard setback for the three units on the rear of the property
- Permit a 12-foot side yard setback for the three units on the south of the property
- Permit the first parking spaces to be within 15 feet of the Washington Road setback
- Relief from the fence requirement – the neighboring development is constructing a wall board fence, and the applicants feel it would be redundant to have an additional fence

Mr. D’Amico reviewed the history of the proposal, noting how the site plan has changed due to various suggestions by the Technical Review Committee and the Planning Board. He explained that they have worked with the neighboring development, Sweetbriar, and the drainage for this site will drain toward Sweetbriar and connect via subsurface drainage that will empty into a detention pond. Mr. D’Amico also stated that a traffic study has been completed for the project and they have found that there will be no significant impact on the service level for the area.

Mr. Tuck explained that the new buildings have been designed in keeping with the neighborhood feel, and each unit would be slightly different. All of the new units would feature front entry porches, and there would be rear decks or patios as well. The Board asked about green space and the possibility of a playground, and he explained that there was a 40' x 30' area and a 80' x 20' area designated as green space; however, the proposed playground has been removed at the suggestion of the Planning Board in order to allow more space for parking. It was also noted that there was a town park nearby and they would be building a sidewalk/pedestrian walkway on the property.

The Board expressed the following concerns during the course of and at the conclusion of the presentation:

1. The parking seems to be stacked quite heavily to the front of the property, which may make things difficult for the residents in the rear units
2. Snow removal has the potential to be quite problematic as there is no space in the parking area to push it to
3. The overall density of the property is higher than seems desirable. The development may benefit from the removal of one of the units. The Board verified that the applicant will be presenting financial information to the Planning Board concerning the impact of the removal of a unit.
4. Despite the explanation offered for the lack of green space, it would still be desirable to have significantly more green space / play space within the property.

Advisory Review: Proposed Amendments to the Barrington Zoning Ordinance: Groundwater Protection Overlay District, referred by Town Planner.

This matter was moved to the August 16, 2007 meeting

Review of proposed revised Zoning Board application.

This matter was moved to the August 16, 2007 meeting

Update from Town Council liaison regarding May 7, 2007 Executive Session.

There was no update available at this time.

Scheduling.

The Board's secretary had ascertained, prior to the meeting, that there would not be a quorum available for the meeting scheduled for July 19. Following extensive discussion among the members of the Board, it was determined that there was no date – Monday – Thursday – during July at which a quorum could be assembled. Accordingly, it was determined that there would not be a July meeting, and the July agenda would be carried over to August, adding to the agenda such additional, later applications as could be scheduled while staying within a manageable number of matters; as of June 21, there was one additional application which, once completed, would be included in the August agenda.

MINUTES OF THE PREVIOUS MEETING:

A motion was made by Mr. Freel and seconded by Mr. Ridlon to accept the May 17, 2007 Zoning Board of Review minutes with changes. The motion was carried unanimously.

ADJOURN:

There being no other business, Mr. Bacher moved to adjourn at 10:48 P.M. Mr. Freel seconded the motion and the meeting adjourned.

Respectfully submitted,

Valerie Carroll, Secretary
Thomas Kraig, Chairman
cc: A. Teitz, Solicitor