

ZONING BOARD OF REVIEW

Barrington, Rhode Island

March 15, 2007

APPLICATIONS: #3399, 3401, 3405, 3406 and 3407

MINUTES OF THE MEETING:

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

Also present were solicitor Andy Teitz and Robert Speaker, Building Official.

At 7:03 P.M. Mr. Kraig opened the meeting, which proceeded to hear the following matters. At 8:55 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.

Continuance of application #3399, Roni and Maria Portugali, 18 Leslie Avenue, Barrington, RI 02806, applicants and owners, for permission to construct a two-story garage addition; Assessor's Plat 13, Lot 79, R-10 District, 18 Leslie Avenue, Barrington, RI 02806, requiring relief for front yard setback, side yard setback, exceeding lot coverage, and being within 100 feet of a wetlands/water body.

Before this matter was heard, Mr. Freel recused himself.

Present: Roni & Maria Portugali, 18 Leslie Avenue, Barrington, RI

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

The following item was submitted as an exhibit:

- Exhibit 1 – Letter of support from Tim and Katrina O'Connell

Mr. Kraig noted that the applicant had supplied the Board with revised plans and he invited the applicants to review the changes. The applicants explained that they have reduced the size of the garage by ten feet (increasing the distance from the street by ten feet), and they have proposed an exterior stairway in order to reduce the commercial appearance of what would otherwise be a long, relatively uninterrupted wall. It was also noted that while with the revision to the plans, the front of the garage would be 35-feet from the front property line, there was a proposed pergola that extended four feet from the facade, creating a need for a 31-foot front yard setback request.

VOTE:

Ms. Carlotto moved to approve the application with the following conditions:

- The area from the 34-foot to the 31-foot front yard setback can only be occupied by a pergola, not by any other type of structure
- The building must follow the revised drawings submitted to the Zoning Board, dated 2/3/07 by Solley Design, as closely as possible
- The applicants must comply with the Conservation Commission request that construction debris and equipment be contained on the east (street) side of the house.

Ms. Gennaro 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 applicants revised their plans as requested by the Board
- The applicants need to be able to securely store their vehicles
- The proposed changes are attractive and in keeping with the neighborhood
- The home is small and the applicants need more space
- The lot is small and the request is the least relief for what they need

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.

Continuance of application #3401, William Watson, One Arrowhead Avenue, East Providence, RI 02915, applicant and owner, for permission to construct a single-family home; Assessor's Plat 19, Lot 277, R-25 District, Upland Way, Barrington, RI 02806, requiring relief for being within 100 feet of a wetlands/water body and for being in a wetlands overlay district.

Present: William Watson, One Arrowhead Avenue, East Providence, RI
William Conley, attorney, 670 Willet Avenue, East Providence, RI
Joe McHugh, Wetlands Biologist, Natural Resources, Inc.

In the audience:

Doug Materne – Barrington Conservation Commission

The following item was submitted as an exhibit:

- Exhibit 1 – Arial view of property demonstrating drainage lines

Mr. Kraig noted that the applicant has supplied the Board with revised plans for the structure. Mr. Watson explained that in response to the Board's comments, the house has been moved 15-feet to the

east and 22-feet to the south, in order to comply more closely with zoning requirements by being as far from the wetlands as was practicable on this site. More of the drainage will now flow towards the street, not the wetlands. The overall size of the home has been reduced, the center entryway has been removed and the garage has been relocated and attached to the house. The grassland area between the proposed house site and the wetland will be changed to a vegetative buffer, and the pool has been moved to be perpendicular to the house and thus farther from the wetland, and there will be an additional vegetative buffer by the patio. The patio area would consist of patio blocks with space between the blocks to allow for better drainage. The Board asked if the applicant would be willing to pitch the patio so that any splash over would not drain towards the wetlands. Mr. Watson agreed.

Mr. Materne stated that the Conservation Commission felt that the applicants had made significant positive changes to the plans. Therefore, the Conservation Commission recommends approving the plan dated 3/1/07; however, the Commission has requested that impervious patio around pool be reduced by 10% and that the vegetative buffer plants be moved from the proposed island location within the patio area to the edge of the patio. Mr. Conley explained that the buffer had been placed in the proposed location because of its relationship to the rear entrance – a buffer on the west edge of the patio would be directly in line with the exit from the house to the pool area. Because of this aspect of the design, and because drainage will be largely between the patio blocks, the Board did not accept the Conservation Commission's two additional requests.

Mr. McHugh offered Exhibit 1 for the record, and explained that the wetlands fed into Volpe Pond via a culvert. He showed how the relocated house would drain away from the wetlands, noting that the vegetative buffer would be helpful in reducing the impact on the wetlands as well as providing protection for the wildlife there.

The Board then discussed the adverse possession claim, of which it had been informed at the prior hearing on the matter, with the applicants. Mr. Conley explained that in the event that the claim is not decided in the applicant's favor, it would have no impact on the setback to the home; however, if the Board requests it they would be willing to relocate the vegetative buffer plantings so that they would continue to be located on the Mr. Watson's property.

VOTE:

Mr. Bacher moved to approve the application with the following conditions:

- The "Narrative of Biological Impact" report, prepared by Natural Resource Services, Inc., dated March 1, 2007, be attached to the approval, with the understanding that the property will be developed as described in that report
- The pool filter flushes may not be drained into the wetland
- The pool must be filled and drained via a service truck
- The area around the pool must be made of a pervious material / blocks with space between them
- The patio area around the pool must be pitched to drain back toward the pool
- The driveway must be constructed of a pervious material
- The shrubs in the contested area must be planted no later than the time of the issuance of the Certificate of Occupancy
- The trees in the contested area must be planted within three years of the issuance of the Certificate of Occupancy

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 hardship of the lot's configuration requires the relief requested
- The home is well designed and will be complementary to the neighborhood
- The applicant has revised his plans in order to be more compliant to the wetlands restrictions
- The proposed house is an appropriate size for the parcel of land

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 #3404, William Conley, 76 Maple Street, Warren, RI 02804, applicant, Jim Mararci, 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.

The applicant did not appear. The Board was advised that the applicant had been served with a notice of zoning violation in December 2006 as a result of the installation of a sign without permission, and the applicant had subsequently entered into a letter agreement pursuant to which the applicant was given permission to install a temporary sign, with conditions. The agreement included a deadline set to allow time to obtain zoning approval. The Board directed the Secretary to advise the applicant that he had failed to appear for the hearing on his application, and find out what the applicant planned to do. The application was tabled pending resolution of these questions.

Application #3405, Chris and Sudi Digiovanni, 46 Clarke Road, Barrington, RI, 02806, applicants and owners, for permission to demolish existing addition and construct a two-story addition and rebuild and expand existing garage; Assessor's Plat 7, Lot 34, R-25 District, 46 Clarke Road, Barrington, RI 02806, requiring a dimensional variance for side yard setback.

Present: Chris and Sudi Digiovanni, 46 Clarke Road, Barrington, RI
Scott Weymouth, architect, 79 Alfred Drowne Road, Barrington, RI

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

The following item was submitted as an exhibit:

- Exhibit 1 – Revised Plans dated 3/14/07

Mr. Kraig noted that the Board was in receipt of a letter from Stephen and Robyn Malone supporting this application.

The applicants explained that they needed to expand their current home in order better to accommodate their growing family. They are proposing to remove the cantilevered addition and construct a more traditional two-story addition with a foundation. It was noted that they were also expanding the garage; however no zoning relief was required for that project. The applicants stated that they are willing to maintain the vegetative buffer as requested by the Malone's.

VOTE: Mr. Freel moved to approve the application with the following conditions:

- The applicant must comply with the revisions incorporated on the revised plans dated 3/14/07
- The vegetative buffer adjacent to the property at 42 Clarke Road must be maintained

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:

- There are family circumstances that warrant the proposed addition
- The proposal will create a more uniform design
- The revised plans require two feet less relief than originally requested
- The impact on the neighborhood is minimal

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 #3406, David and Jennifer Boland, 348 Rumstick Road, Barrington, RI 02806, applicants and owners, for permission to demolish existing garage and construct a new garage with open porch breezeway connector to house; Assessor's Plat 11, Lot 40, R-40 District, 348 Rumstick Road, Barrington, RI 02806, requiring a dimensional variance for side yard setback.

Present: David and Jennifer Boland, 348 Rumstick Road, Barrington, RI
Patrick Connors, architect - Brewster Thornton Group, 150 Chestnut Street, Providence, RI

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

Mr. Kraig noted that the applicants had been before the Board in January 2007, at which time the petition for the garage had been withdrawn without prejudice. The application before the Board was a new garage proposal, revised to reflect comments from the Board at the January meeting.

The applicants explained that the proposed garage was now aligned with the side yard property line, and would be farther from that property line than was originally proposed. They are seeking a new garage because the existing structure is not sufficient for their two cars. They have also proposed a breezeway to connect the garage to the house.

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

DISCUSSION:

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

- There is no other logical place to locate the garage
- The applicant needs a larger garage to accommodate their vehicles
- The relief they are requesting is minimal
- There will be minimal impact on the surrounding neighborhood
- The applicants were very responsive to the suggestions made by the Board

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 #3407, Jeffrey Freeman and Lynn Kearns, 8 Joy Street, Barrington, RI 02806, applicants and owners, for permission to add a room above the existing garage, replace existing fence and deck, and add a sun deck; Assessor's Plat 22, Lot 549, Neighborhood Business District, 8 Joy Street, Barrington, RI 02806, requiring dimensional variances for front yard setback, rear yard setback, and side yard setbacks.

Present: Jeffrey Freeman 8 Joy Street, Barrington
Lynn Kearns, 8 Joy Street, Barrington

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

The applicants explained that they were seeking to replace the existing fence around their property with a six-foot fence. While there is no relief needed for the fence on the rear and sides of the house, they require relief for a six-foot fence within the front yard setback.

Additionally, the applicants want to create a great room over the garage in order to increase their living space, as their children are utilizing the current basement living room.

Finally, they want to replace an existing 10' x 12' deck that is in disrepair with a 20' x 12' deck and a 16' x 10' secondary deck, which will abut a proposed pool. The Board noted that without the proposed pool location and any applicable relief requests for the pool, the application is incomplete. Additionally, the Board stated that they were struggling with a 20' x 12' deck conforming to "the least relief necessary" standard. The applicants requested the application be continued to the May meeting in order to reassess and/or complete the pool plans.

VOTE: Mr. Freel moved to continue the application to the May 17, 2007 meeting. Mr. Personeus seconded the motion and it carried unanimously (5-0).

Discussion – Zoning Board Rules of Procedures.

The Board discussed the provision to set the meeting dates for the following year. It was the Board's decision to change the date from the December meeting to the October meeting in order to coordinate with the publishing of the Town Calendar.

Mr. Freel moved to adopt the draft Zoning Board Rules of Procedures with this change. Mr. Personeus seconded the motion and it carried unanimously (7-0).

Discussion - Draft Revisions to Sign Ordinance and Development Plan Review and Related Revisions to Land Development & Subdivision Regulations.

The Board discussed the draft revisions to the Sign Ordinance, Development Plan Review and the Land Development & Subdivision Regulations. The Board stated they were amenable to the proposed changes.

MINUTES OF THE PREVIOUS MEETING:

A motion was made by Mr. Personeus and seconded by Ms. Gennaro to accept the February 15, 2007 Zoning Board of Review minutes as written. The motion was carried unanimously.

ADJOURN:

There being no other business, Mr. Freel moved to adjourn at 9:37 P.M. Mr. Personeus seconded the motion and the meeting adjourned.

Respectfully submitted,

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