ZONING BOARD OF REVIEW

Barrington, Rhode Island

January 18, 2007

APPLICATIONS: #3358, 3363, 3328 (extension), 3394, 3395, 3396 and 3397

MINUTES OF THE MEETING:

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

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

At 7:05 P.M. Mr. Kraig opened the meeting and proceeded to hear the following matters. At 9:55 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.

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.

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

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

Mr. Kraig read into the record the Conservations Commission's recommendation to approve the application with the condition that construction debris and equipment be contained on the east side of the house.

The applicants explained that they own a small cottage. They are looking to demolish the porch and construct a garage with a home addition on the second floor. The addition would be used to create two bedrooms to replace the single bedroom that their two children currently use.

The proposed two-car garage has been designed to allow Mr. Portugali to back his truck and the trailer attached to the truck into the garage so it would no longer need be stored in the driveway. Mrs. Portuglai explained that it is their intent to utilize craftsman style details on the garage in order to make it more attractive and less "industrial" looking. They noted that they have spoken to the neighbor who would be most affected by the changes and said that she was in favor of the proposal.

The Board expressed concern with the overall size of the proposed garage, noting that it was not "the least relief necessary" and would create excessive overall lot coverage. The applicants stated that they would be willing to scale back the dimensions of the garage. The Board also informed the applicants that they would like to see a representation of the craftsman elements that they plan on using, as the proposal before them was very plain and presented a structure with a very commercial look, not a residential one.

The applicants requested a continuance in order to re-work their proposal

VOTE: Mr. Personeus moved to continue the application to the March 15, 2007 meeting. Ms. Carlotto seconded the motion and it carried unanimously.

Application #3398, Robert Maclea III, 254 Waseca Avenue, Barrington, RI 02806, applicant and owner, for permission to construct a 736 square-foot second floor, a first floor mudroom, a wrap around porch, and a rear deck; Assessor's Plat 23, Lot 231, Neighborhood Business Zone, 254 Waseca Avenue, Barrington, RI 02806, requiring a dimensional variance for side yard setback.

Present: Robert Maclea III, 254 Waseca Avenue, Barrington, RI

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

Mr. Maclea stated that the house is currently a one-bedroom residence. He is looking to expand the house and create a deck in order to make the house more appealing, as he is planning on selling it. He intends to keep the structure a residence and the overall effect of these changes will create a more residential feel and reduce the commercial appearance currently observed there. The living space would increase from approximately 1,300 square feet to approximately 2,000 square feet.

The Board noted that the proposed deck was quite large and asked the applicant if he would be willing to reduce the overall size if the deck. He said that he would be amicable to that.

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

- The proposed deck in the rear of the house must be no closer to the property line on the west than the existing building structure

The Board also noted that they are granting additional relief allowing the front of the house to be located more than fifteen (15) feet from the road

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

- The house is situated in a non-standard way
- The existing house is a very small, one-bedroom structure
- The proposed changes are in keeping with other homes in the area
- There were no objectors to the application

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 #3400, Michael and Marybeth Mongeon, 174 Church Street, Barrington, RI 02806, applicants and owners, for permission to erect a 6-foot fence, construct a shed, and rebuild deck; Assessor's Plat 22, Lot 122, R-10 District, 174 Church Street, Barrington, RI 02806, requiring relief for 6-foot fence within 25 feet of a roadway, front yard setback, side yard setback, and exceeding lot coverage.

Present: Michael and Marybeth Mongeon, 174 Church Street, Barrington, RI

In the Audience:
Andrew & Louise Lombardi, Foote Street, Barrington, RI
Stephen Saracino, 184 Church Street, Barrington, RI

The objectors submitted the following items as exhibits:
- Presentation of Objectors
- Four (4) photos of the site conditions

It was noted fro the record that this matter was before the Board due to a Zoning Violation because the work had been done without permits and zoning relief was also required. The Board was instructed to consider the application as if none of the structures had yet been built.

The applicants addressed the shed first. They explained that they need the shed for storage of lawn equipment. The shed is currently 5 feet and 2 feet from the property line, however it was noted that if the structure were to remain located there it would need one-hour fire rated walls and there can be no windows facing the property lines. The applicants stated that they would be willing to relocate the shed if necessary.

Regarding the fence, Mr. Mongeon explained that there had been shrubs along the property line, and he replaced the shrubs with a six-foot fence. There is a Democratic Club located behind their property and they need a six-foot fence in order to give more privacy to their property.

The deck has been increased from 8' x 5' to 7' x 14' in order to accommodate a grill and a small table and chair set. This area also serves as the main egress from the home. They had originally stored lawn equipment under the deck, however the area gets very wet and did not create a good environment for these items, thus necessitating the shed.

The objectors then spoke, noting that the Mongeons had not followed proper process, they had not applied for the proper permits or zoning relief when constructing the fence, deck and shed and stated that the hardship the applicant was facing was due to a situation that they had created themselves.

Mr. Saracino went on to express concern that the fence might not be wholly located on their property, but rather a portion of the fence may be on Town-owned land. He also expressed concern that the water runoff from the deck drained towards his property.

VOTE (1): Ms. Gennaro moved to approve the application for the fence and the shed with the following conditions:

- The shed must be located no closer than 3'1" from all property lines
- All proper permits and inspections must be obtained

Mr. Personeus seconded the motion and it passed unanimously (5-0).

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

- The applicants have shown a need for privacy from the Democratic Club
- The fence does not obstruct neighbor's views
- The house in character with 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.

VOTE (2): Ms. Carlotto moved to approve the application for the deck with the following condition:

- All proper permits and inspections must be obtained

Mr. Personeus seconded the motion and it passed unanimously (5-0).

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

- The deck cannot be located elsewhere due to lack of egress
- The deck is of modest size and is a reasonable use for the space
- The property is very narrow

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 #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 overly district.

Present: William Watson, One Arrowhead Avenue, East Providence, RI
William Conley, Attorney, 670 Willet Avenue, East Providence, RI
Greg Snyder, Architect, 217 Angel Street, Providence, RI
Joe McHugh, Wetlands Biologist, Natural Resources, Inc.

In the Audience:
John Carr, 46 Upland Way, Barrington, RI
Kenneth Macksound, 282 Middle Highway, Barrington, RI

Mr. Macksound submitted the following item as an exhibit:
- Complaint filed with the Rhode Island Superior Court for Adverse Possession

Mr. Kraig read into the record the Conservations Commission's disapproval of the site plan.

Mr. Watson and Mr. Snyder explained that Mr. Watson is looking to construct a 3,500 square foot, three bedroom, single-family home on his property, which is currently undeveloped. They noted that the area of the property that was outside the 100' wetlands overlay district setback was a small corner of the property which they were unable to contain the structure to, therefore the house has been designed in order to comply with the DEM setback regulations. It was noted that the proposal included plantings that would help reduce the impact on the wetlands, creating a better barrier. The house has been on an angle to make the best use of a pond view across the street. It was noted that the applicant is willing to change the driveway to a porous material as well as the area surrounding the pool.

Mr. Watson noted Mr. McHugh's qualifications as a Wetlands Biologist. Mr. Personeus expressed concern the site disturbance up to the buffer zone. Mr. McHugh then explained that they were applying erosion controls and they would be utilizing the plantings as a buffer and native vegetation would remain at the edge of the site. The wetland area has been flagged and there is also a culver running through it.

Mr. Carr stated that he supports the application noting that it would be an improvement to the site.

Mr. Macksound opposes the application and noted that he currently has an Adverse Possession case with Mr. Watson.

The Board members questioned if the structure could be rotated and/or relocated to create less of an impact on the wetlands overlay district. They also noted that while the structure was well designed architecturally, they were found it difficult to deem it the "least relief necessary".

Mr. Conley requested the matter be continued to the next meeting in order to revise the plans.

VOTE: Mr. Bacher moved to continue the application to the March 15, 2007 meeting. Ms. Carlotto seconded the motion and it carried unanimously (5-0).

Application #3402, David and Hope McGarty, 37 Clarke Road, Barrington, RI 02806, applications and owners, for permission to construct a new home while living in existing home, existing home to be demolished upon completion of new home; Assessor's Plat 5, Lot 57, R-40 District, requiring a variance to allow a second home on a single-house lot.

Present: David McGarty, 37 Clarke Road, Barrington, RI

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

Mr. Kraig read into the record a letter from Arnold-Peter Weiss, an abutting neighbor, expressing his concerns with the potential to split the lot or maintain two houses on one lot.

Mr. McGarty explained that they have purchased the home on 14 Cedar Avenue and they would like to demolish the home to build a new structure on the other side of the lot. Upon selling their residence at 37 Clarke Road they will have the funds available to finance the project, however needing a place to live during construction they hope to leave the existing house on the property until the construction project is completed. It is not the applicant's intent to leave both structures on the property, and will demolish the old house once a Certificate of Occupancy has been issued.

VOTE: Mr. Bacher, with a second by Ms. Gennaro, moved to grant a temporary use variance for two houses on one lot with the following condition:

- The first house must be demolished within two (2) years of issuance of the Building Permit or ninety (90) days from the issue of the Certificate of Occupancy, whichever is sooner.

The Board voted unanimously (5-0) to grant this application.

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

- The end result of this proposal will be an improvement to the neighborhood
- The situation will be temporary

REASON FOR DECISION:
It was the judgment of the Board that the standards in Section §185-73 have been met: 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; D) It will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

Application #3403, Charles Dowler, 62 Massasoit Avenue, Barrington, RI 02806, applicant and owner, for permission to construct an addition and a garage; Assessor's Plat 32, Lot 172, R-10 District, requiring dimensional relief for side yard setback.

Present: Charles Dowler, 62 Massasoit Avenue, Barrington, RI

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

Mr. Dowler explained that he is looking to add a bathroom on the first floor and expand the garage so that it will properly fit his cars, noting that currently he cannot open his car doors.

VOTE: Mr. Personeus moved to grant the application. 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 applicant only needs 6 inches of relief
- The applicant needs a sufficiently sized structure
- The proposed location is the only logical place to place it

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.

Discussion – Zoning Board Rules of Procedures.
This matter was moved to the March 15, 2007 meeting.

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

This matter was moved to the March 15, 2007 meeting.

MINUTES OF THE PREVIOUS MEETING:
A motion was made by Mr. Personeus and seconded by Ms. Gennaro to accept the January 18, 2007 Zoning Board of Review minutes with changes. The motion and carried unanimously.

ADJOURN:
There being no other business, Mr. Bacher moved to adjourn at 11:00 P.M. Mr. Personeus seconded the motion and the meeting adjourned.

Respectfully submitted,

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