

# ZONING BOARD OF REVIEW

**Barrington, Rhode Island**

**November 20, 2008**

**APPLICATIONS: #3486, 3504, 3505 & 3506**

## **MINUTES OF THE MEETING:**

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

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

At 7:08 P.M. Mr. Kraig opened the meeting and the Board proceeded to hear the following matters. At 7:30 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 an appeal of Daniel and Susan Shedd, 83 Rumstick Road, Barrington, RI 02806, from a Decision of the Planning Board; Assessor's Plat 24, Lot 239, R-25 District, 83 Rumstick Road, Barrington, RI 02806.**

Mr. Kraig read into the record a letter from William Landry, attorney for the applicant, requesting this matter be continued. As part of the grant of the continuance, the Chairman set a scheduling order of filings by the appellant no later than December 18, 2008, and any responsive filings no later than January 2, 2009.

**VOTE:** Mr. Freel moved to continue the application to the January 15, 2009 meeting. Ms. Carlotto seconded the motion and it carried unanimously (5-0).

**Continuation of application #3486, Pauline Stiness, 40 Appian Way, Barrington, RI 02806 applicant and owner, for permission to unmerge lots; Assessor's Plat 4, Lots 50 and 53, R-10 District, 40 Appian Way, Barrington, RI 02806, requiring permission to unmerge lots.**

Mr. Kraig read into the record a letter from William Landry, attorney for the applicant, requesting this matter be withdrawn.

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

**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.**

The applicant was not present. Mr. Kraig directed the Secretary to send a letter to Mr. Haas to inform him of the continuance, and to ask him to verify that he was going to proceed with the application.

**VOTE:** Upon a motion by Ms. Carlotto, with a second from Mr. Freel, the Board unanimously (5-0) continued the application to the December 18, 2008 meeting.

**Application #3505, Tracy Sutton, 77 Prospect Street, Barrington, RI 02806, applicant and owner, for permission to construct a second-floor addition; Assessor's Plat 18, Lot 67, R-10 District, 77 Prospect Street, Barrington, RI 02806, requiring a variance for front yard setback.**

Present: Tracy Sutton, 77 Prospect Street, Barrington, RI

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

Ms. Sutton explained that she is seeking to construct a small addition on the second floor of her house in order to increase the size of one bedroom. The addition would be entirely within the footprint of the existing house and it would not encroach on the side yard setback any more than the existing house currently does.

The proposal does include an exit door from the proposed expanded bedroom, with a small deck and stairs leading down to the first floor, providing a secondary means of egress from the second floor. This does not encroach on the side yard setback but would add to the lot coverage.

**VOTE:** Mr. Personeus moved to grant 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:

- Except for the stairway and associated landing, the addition will be over the existing house, and within the existing foot print
- Proposed location is the only logical location for the addition
- The house is where it is, the proposal will not create further encroachment on the setback

**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 #3506, Justin and Deborah Leland, 234 Narragansett Avenue, Barrington, RI 02806, for permission to construct a screened porch, extend existing deck, and erect a fence in the front yard; Assessor's Plat 1, Lot 261, R-10 District, 234 Narragansett Avenue, Barrington, RI 02806, requiring dimensional relief for side yard setback and exceeding lot coverage.**

Present: Justin Leland, 234 Narragansett Avenue, Barrington, RI

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

Mr. Leland explained that they are seeking to be able to create a better "outdoor living" space. Therefore, they are seeking to construct a new screened porch, create an extension to the existing deck to create a connection with the new porch, and erect a fence in the front yard. There is no relief required for the fence and it is not part of the application.

Mr. Leland explained that they wish to connect the deck with the screen porch in order to create a better, more logical flow from the kitchen exit to the deck and porch. It was also noted that the proposal will not create a further encroachment on the side yard setback; it will be a continuation of the existing line, and the house is too close to the side line. There will be a 5% increase in lot coverage; however, it was noted that the lot was extremely small, approximately 5,000 square feet in an R-10 zone. Mr. Leland also noted that he had spoken with his neighbors and his proposal will be in keeping with the characteristics of the neighborhood.

**VOTE:** Upon a motion by Mr. Freel, with a second by Mr. Personeus, the Board unanimously (5-0) voted to grant the application.

**DISCUSSION:**

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

- The applicant is only seeking relief for one foot on side line encroachment
- The impact on lot coverage is minimal
- The lot is very small in size
- The proposal remains within the characteristics of 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.

**Discussion of the Superior Court Decision re: C.A. NO. PC 07-0079, Montessori Centre Of Barrington, Inc. v. the Zoning Board Of Review for the Town Of Barrington, et al.**

The Board discussed the recent decision of the Superior Court on Montessori Centre of Barrington, Inc. V. the Zoning Board Of Review. It was noted that in keeping with the finding of the Court, members of a Board could rely on personal knowledge or expertise, but that if a member did intend to rely on such factors, it was essential that the member state with particularity the basis for the reliance, such as the time(s) of observation, the particular expertise or experience, or other relevant factors.

Ms. Letendre explained that as a result of this decision the Development Plan Review process is considered complete; however, the applicants still require a Special Use Permit for expansion of the school as well as a Special Use Permit for parking relief. It was noted that if the applicants choose to come before the Board the request would be treated as a new request, complete with proper notice.

**MINUTES OF THE PREVIOUS MEETING:**

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

**ADJOURN:**

There being no other business, Mr. Freel moved to adjourn at 8:05 P.M. Ms. Carlotto seconded the motion and the meeting was adjourned.

Respectfully submitted,

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