

# ZONING BOARD OF REVIEW

## Barrington, Rhode Island

September 18, 2008

**APPLICATIONS: #3486, 3499(Appeal), 3500, 3501, 3502**

### MINUTES OF THE MEETING:

At the call of the Chairman Thomas Kraig, the Board met with Larry Bacher, Margaret Carlotto, Mark Freel, Gale Gennaro and Neal Personeus. Ian Ridlon arrived at 7:15.

Also present were Building Official Robert Speaker and solicitors Nancy Letendre and Matthew Oliverio.

At 7:10 P.M. Mr. Kraig opened the meeting and the Board proceeded to hear the following matters. At 9:00 P.M. the public participation portion of the meeting was closed and the Board proceeded to deliberate and vote on the remaining application.

**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.**

Present: -William Landry, Blish & Cavanaugh, Providence, RI – attorney for the applicant

Mr. Landry requested the matter be continued to the November 20, 2008 meeting.

**VOTE:** Mr. Personeus moved to continue the application to the November 20, 2008 meeting. Mr. Freel seconded the motion and it carried unanimously (5-0).

**#3499, Appeal of Pauline Stiness from a Determination of the Building Official Regarding an Application for a Zoning Certificate, Assessor's Plat 4, Lots 50 and 53, R-10 District 40 Appian Way, Barrington, RI 02806.**

Present: William Landry, Blish & Cavanaugh, Providence, RI – attorney for the applicant  
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Nancy Letendre, Ursillo, Teitz, & Ritch, Providence, RI – attorney for  
**Building Official,** Robert Speaker

Exhibits presented by Mr. Landry:

- Color coded plat map
- 1869 Annawanuck Plat
- Warranty Deeds for Lot 49, Lot 66, Lot 67 and Lot 68
- Aerial Photographs/GIS Photos of the area
- Deeds and historical descriptions for the properties from 1878 forward

Mr. Landry opened by stating that they ~~appellant is~~ are appealing the determination of the Building Official that the lot on 40 Appian Way is non-conforming because it lacks frontage on a street. It is Mr. Landry's position that the lot does in fact have adequate frontage on Appian Way. He cited the deed description of "Two lots of land on the easterly side of Appian Way." Mr. Landry noted that this part of Appian Way was a private street, not accepted by the Town.

Mr. Speaker explained that his decision was based on the recorded plat, not the Assessor's map or deeds. The recorded plat does not show an extension of Appian Way; rather it lists the area of land in question as 'Park'. He noted that the Tax Assessor confirmed that the plat maps were not legal records; the recorded plat is the legal record.

Mr. Landry countered that the 1938 plat map shows where the pattern of the road would be. He stated that the intent was to have the road continue through with a small, landscaped "park" area on the other side. ~~We~~ He noted that there currently is a driveway and the house has an Appian Way address. He went on to note that no one has title to the "park" area. Also the lots in question are taxed as two separate lots. In closing Mr. Landry stated that the only logical conclusion was that the two lots have frontage on Appian Way.

**VOTE:** Mr. Freel moved to grant the appeal, overturning the decision of the Building Official, stating that lots 50 and 53 on Assessor's Plat 4, R-10 District, are considered conforming lots of record capable of supporting single-family residences conforming to the setback for an R-10 zone. 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:

- All of the historic evidence presented shows that the lots in question have frontage on Appian Way, which is a private way that has historically been recognized as a road, with addresses and homes fronting both sides of Appian Way.
- The surrounding houses front on Appian Way
- The 1929 deeds and the 1869 plat map support the appeal.

**Application #3500, Brendan Provost, 85 Rogers Avenue, Barrington, RI 02806, applicant and owner, for permission to replace existing front porch; Assessor's Plat 12, Lot 255, R-10 District, 85 Rogers Avenue, Barrington, RI 02806, requiring a dimensional variance for front yard setback.**

Present: -Brendan and Jennifer Provost, 85 Rogers Avenue, Barrington, RI

In the ~~Audience~~ audience:

William Oehlkers, 80 Rogers Avenue, Barrington, RI

The applicants explained that their current entryway was built in 1925 and is in a state of disrepair and they are looking to replace it. The current structure is 5'x 6' ~~;~~ ; however, it is not large enough to accommodate the swing of the door with people standing on it in the entryway. They would like to add

an additional 1.5', which would ~~bring the new porch to~~ 16' 9.5" from the property line. It was noted that there was an additional 5'-6' from the property line to the paved street.

The applicants corrected the application, noting that there would not be stairs at the front of the porch; the grade is such that a step would not be needed. There will be stone ~~stairs~~ steps on the garage side.

Mr. Oehlker stated that he supports the application and feels that it would be within the character of the neighborhood.

**VOTE:** Upon a motion by Ms. Carlotto, with a second from Mr. Freel, the Board unanimously (5-0) approved the application.

**DISCUSSION:**

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

- The proposal will be an improvement to the home and neighborhood
- The proposal is modest
- The setback encroachment is in keeping with the character of 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 #3501, Bob DeHart, 5 Anthony Road, Barrington, RI 02806 applicant, Peter and Marguerite Armstrong, 4 Hearthwood Drive, Barrington, RI 02806, owners, for permission to construct a 14' x 14' deck with stairs; Assessor's Plat 35, Lot 159, R-25 District, 4 Hearthwood Drive, Barrington, RI 02806, requiring a dimensional variance for rear yard setback.**

Present: Bob DeHart, 5 Anthony Road, Barrington, RI  
Marguerite Armstrong, 4 Hearthwood Drive, Barrington, RI

In the audience:  
Ernest Graustein, 4 Candy Court, Barrington, RI

The applicants explained that they would like to construct a 14' x 14' deck where there is currently a brick patio that is in some disrepair. The house is currently set back so that it is 23' from the rear property line; however, the rear yard abuts 30' of Town-owned property ~~on~~ abutting Candy Court.

Mr. Graustein stated that he is the neighbor that would be most affected by the deck and he supports the proposal.

**VOTE:** Mr. Freel made a motion to grant the application. 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 existing brick patio is not functional
- ~~There~~ portion of the applicant's property for which relief is requested abuts Town-owned land that is maintained by the homeowner
- The neighbor most affected supports the proposal

**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 #3502, Brandon Bassett, 28 Baron Road, Barrington, RI 02806, applicant and owner, for permission to construct a two-story addition with a second-floor deck; Assessor's Plat 29, Lot 115, R-10 District, 28 Baron Road, Barrington, RI 02806, requiring a dimensional variance for exceeding lot coverage.**

Present: -Brandon Bassett, 28 Baron Road, Barrington, RI

In the audience:

Andrew Tiplady, 50 Wallis Avenue, Barrington, RI

Mr. Bassett stated that he currently has a 16' deck on the rear of his house. However, because his family has grown significantly, he ~~is seeking to enclose~~ wants to replace the deck ~~and convert it into~~ with a two-story addition to create additional bedrooms and living space. Additionally, he would like to put a 4' deck to on the second floor to increase the visual appeal of the structure. The deck will be located ~~very close~~ within the setback from ~~to~~ the property line, ~~however it was noted that there is an additional 10' easement next to the property.~~ It was noted that ~~in addition,~~ the lot coverage would increase from 27.6% to 30.66%.

Mr. Tiplady stated that he supports the application.

**VOTE:** Ms. Carlotto made a motion to approve the application. 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 owner's family has grown
- The deck will provide architectural interest
- There is support for the proposal from the neighbors

**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.

**MINUTES OF THE PREVIOUS MEETING:**

A motion was made by Mr. Freel and seconded by Ms. Carlotto to accept the August 21, 2008 Zoning Board of Review minutes with changes. The motion carried unanimously (5-0).

**ADJOURN:**

There being no other business, Mr. Bacher moved to adjourn at 9:30 P.M. Mr. Personeus seconded the motion and the meeting was adjourned.

Respectfully submitted,

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