ZONING BOARD OF REVIEW
Barrington, Rhode Island
DECEMBER 17, 2009

APPLICATIONS: #3553, 3554 and 3555

MINUTES OF THE MEETING:
At the call of the Chairman, Thomas Kraig, the Board met with Paul Blasbalg, Peter Dennehy, Mark Freel, Ian Ridlon, David Rizzolo and Stephen Venuti.

Also present was solicitor Nancy Letendre.

At 7:03 P.M. Mr. Kraig opened the meeting. The Board proceeded to hear the following matters. At 8:25 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 #3553, Lorenzo Lucas, 4 Tallwood Drive, Barrington, RI 02806, applicant, Mr. & Mrs. Stephen Ashworth, 5 Woollett Court, Barrington, RI 02806, owners, for permission to extend kitchen and add screened porch; Assessor's Plat 25, Lot 436, R-25 District, 5 Woollett Court, Barrington, RI 02806, requiring dimensional relief for rear yard setback.

Before this matter began, Mr. Dennehy and Mr. Rizzolo recused themselves.

Present: Lorenzo Lucas, 4 Tallwood Drive, Barrington, RI
Stephen and Hazel Ashworth, 5 Woollett Court, Barrington, RI

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

The applicants explained that in the 1970's an addition had been made to the house; however, the design of the kitchen was no longer functional. They are seeking a modest addition in order to improve the functionality of the kitchen and to create a dining area that will be on the same level as the kitchen: currently, there is a step down in the kitchen area which they view as presenting problems as they get older. Additionally they are seeking to create a screened-in porch over a portion of an existing deck; the porch will be outside of the setback requirement.

It was noted that the exiting deck encroaches on the setback requirement. The applicants plan to replace the deck woodwork, and it was noted that because it was a replacement, the deck would require relief to be granted as part of this application.

Additionally it was noted that the owners have spoken to the abutting neighbors and they have no objections to the proposal.

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

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

- Due to the way the house was situated on the lot, there would be no way to accomplish an addition without requiring relief
- The addition is necessary for the functionality of the kitchen
- The existing deck has begun to rot and needs replacement; the replacement will occupy the current footprint

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 #3554, John Buffum, 450 Nayatt Road, Barrington, RI 02806, applicant, John Buffman and Angie Salem, 450 Nayatt Road, Barrington, RI 02806, owners, for permission to use existing accessory building as guest living quarters; Assessor's Plat 24, Lot 268, R-25 District, 450 Nayatt Road, Barrington, RI 02806, requiring a Special Use Permit.

Present: John Buffum, 450 Nayatt Road, Barrington, RI

In the audience:
Mary Beth and David Frye, 91 Rumstick Road, Barrington, RI
Lloyd Edwards, 1 Jones Circle, Barrington, RI
Margaret Mello, 15 Appian Way, Barrington, RI

The following items were submitted as exhibits:

- Craigslist ad dated August 30, 2008
- Partial Minutes of the September 19, 1996 Zoning Board hearing

Mr. Buffum began by explaining that he has recently purchased the property at 450 Nayatt Road, which has a single-family home on it as well as an accessory building. Mr. Buffum would like to use the accessory building as a guesthouse, a use allowed in an R-25 zone; however, he lacks the required 40,000 square feet required for an accessory building in the R-25 zone. He stated that he has six children and when his in-laws come to visit, they usually stay a week or two, and to house his in-laws in the residence would be very difficult. He asserted that the building would be used strictly for short-term guests and it is not his intent to rent the building, nor will he install a kitchen in the building.

Mr. Speaker noted that there had been some issues with the property prior to Mr. Buffum's ownership. Mr. Speaker explained that when the current single-family house was being built, the property owner

had lived in the accessory building, with the intent of removing the building once the home was complete. However, once the home was finished owner petitioned to keep the accessory building after removing the kitchen, and permission was granted.

More recently, the previous owner had installed a kitchen in and made numerous other improvement to the accessory building without permits, and had illegally rented the building to a tenant. The Building Official's office was notified and upon inspection notices of violations were served. The tenant was evicted and the kitchen was removed. There are no longer any violations at the property.

Mr. Buffum once again asserted that it is not his intention to rent the property, nor does he intend to install a kitchen. He intends to use it for short-term overnight guests.

Mr. & Mrs. Frye spoke in opposition to the application; they are immediately adjacent to the subject property. Mrs. Frye noted that over the 18 years she was lived in her home there have been six owners at 450 Nayatt Road. She reviewed the history of the owners and stated her frustration with having to serve as a "watch dog" for the property, meaning having to report illegal activity to the Town. The Fryes introduced a portion of the minutes of the September 19, 1996 Zoning Board hearing, which permitted the second structure to remain on the property, but with language in the decision including the following conditions: "1) no overnight guests; 2) no outside business use, ." The Fryes also introduced the Craigslist ad dated August 30, 2008, showing that the property had been listed for rent, and testified that the property had in fact been rented.

The Fryes also expressed concern that by allowing a guesthouse, it could open a can of worms for various activities in the building, it could lower their property value and may create an increase in noise, waste and traffic to the area.

Mr. Buffum countered that he has approached his neighbors and explained what he was seeking, and while he understands their concerns, he believes the proposed use would be a good use of the building. He also noted that his in-laws visits would not create any more traffic, noise or waste than if they were staying within the main house.

Lloyd Edwards stated that he has no concerns with Mr. Buffum's plans; however, he is concerned about future owners of the property.

Margaret Mello spoke in support of the application.

VOTE: Mr. Venuti moved to approve the application. Mr. Ridlon seconded the motion and a vote was held:

Mark Freel – Nay
Thomas Kraig – Nay
Ian Ridlon – Yea
David Rizzolo – Yea
Stephen Venuti – Yea

The motion failed with a 3-2 vote.

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

- The structure already exists on the 27,000 square-foot lot
- It is the least relief necessary as no construction would be required
- Rearranging a large family to accommodate an extended visit constitutes more than mere inconvenience

Two Board members stated that they were not in favor of approving the application for the following reasons:

- The 1996 ruling of the Zoning Board allowing the accessory structure to remain had made it a condition that there be no overnight guests. These two members believed that this condition remained fully in effect on the property and the structure, and should continue to be respected; they saw no basis on which to lift or remove the condition under the circumstances.
- The requirements of least relief necessary and mere inconvenience have not been met
- The strong opposition of the closest neighbors raises questions as to whether the applicant has satisfied the requirements of Section 185-69 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"

Application #3555, Alfred Mello Jr., 15 Appian Way, Barrington, RI 02806, applicant and owner, for permission to construct a 200 square-foot addition; Assessor's Plat 4, Lot 75, R-25 District, 15 Appian Way, Barrington, RI 02806, requiring relief for being within 100 feet of a wetlands/waterbody.

Present: Alfred and Margaret Mello Jr., 15 Appian Way, Barrington, RI

There was no one present to speak for or against this application.

Before testimony began, Mr. Kraig noted that the Conservation Commission has recommended approval of the application with conditions.

The applicants explained that the property was originally two small cottages that had been joined together. They are seeking a single-story addition in order to create a family room. The addition will not be on the water side, nor will it block the water view for any of the abutting properties. Additionally, it was noted that the addition complies with all setback requirements; they are seeking relief because of the property's proximity to the sea wall and the water body.

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

- Standard erosion controls must be used during all construction activities
- There shall be no staging of construction equipment toward the water side of the property, all materials must be stored on the east side of the house

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:

- The dwelling is within the 200-foot setback; any construction would require relief
- The roof runoff will now be further from the wetlands
- There will be no impact on the surround area/views
- The proposed addition is modest in scale

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: 2010 Meeting Schedule
The follow are the proposed meeting dates for 2010:

January 21, 2010	July 15, 2010
February 18, 2010	August 19, 2010
March 18, 2010	September 16, 2010
April 15, 2010	October 21, 2010
May 20, 2010	November 18, 2010
June 17, 2010	December 16, 2010

The Board found no substantive conflicts with the proposed meeting schedule.

MINUTES OF THE PREVIOUS MEETING:
A motion was made by Mr. Freel and seconded by Mr. Rizzolo to accept the November 19, 2009 Zoning Board of Review minutes as written. The motion carried unanimously (5-0).

ADJOURN:
There being no other business, Mr. Ridlon moved to adjourn at 9:14 P.M. Mr. Venuti seconded the motion and the meeting was adjourned.

Respectfully submitted,

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