# ZONING BOARD OF REVIEW

## Barrington, Rhode Island
## August 20, 2009

**APPLICATIONS: #3515, 3540, 3541, 3542, 3543, 3544 & 3545**

**MINUTES OF THE MEETING**:
At the call of the Acting Chairman, Neal Personeus, the Board met with Larry Bacher, Mark Freel, Ian Ridlon, David Rizzolo and Stephen Venuti.

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

At 7:06 P.M. Mr. Personeus opened the meeting and 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 deliberated and voted upon the open matters.

**Continuation of application #3515, Montessori Centre of Barrington, 303 Sowams Road, Barrington, RI 02806, applicant and owner, for permission to expand its use as a day care/private school; Assessor's Plat 30, Lot 64, Neighborhood Business Zone, 303 Sowams Road, Barrington, RI 02806, requiring a Special Use Permit for expansion of use as well as for relief from parking requirements contained in Article XV of the Zoning Ordinance.**

Due to a lack of quorum of attending members, this matter needed to be continued.

**VOTE**: Upon a motion by Mr. Freel, with a second by Mr. Venuti, the Board voted unanimously (5-0) to continue the matter to the September 17, 2009 meeting.

**Application #3540, R&S Development, 237 Harris Road, Smithfield, RI 02817, applicant, Mabel Schroder, 78 Middle Highway, Barrington, RI 02806, owner, for permission to construct a 12' x 15' sunroom addition; Assessor's Plat 16, Lot 49, R-25 District, 78 Middle Highway, Barrington, RI 02806, requiring a dimensional variance for rear yard setback.**

Present: Arthur Johnson, R&S Development, 237 Harris Road, Smithfield, RI

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

Mr. Johnson explained that the homeowner had an existing 9' x 15' atrium that had begun to rot and mildew. The homeowner is seeking to build a small three-season sunroom with a full foundation in order to better utilize the space. Existing doors and windows in the house restrict the location of the sunroom, and the new structure will be 12' x 15' in size, encroaching an additional three feet on the rear yard setback.

**VOTE:** Mr. Freel moved to approve the application. Upon a second by Mr. Ridlon the Board unanimously (5-0) voted to grant this application.

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

- The existing building is structurally unsound and needs to be replaced
- The proposed location is the most logical location
- The infringement on the setback 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 #3541, Glaser Investment Holdings, Inc., 32 Highland Avenue, Barrington, RI 02806, applicant and owner, Gerald and Yuriko Glaser, 32 Highland Avenue, Barrington, RI 02806, Lessee, for permission to construct second-story addition; Assessor's Plat 25, Lot 461, R-25 District, 12 Stratford Road, Barrington, RI 02806, requiring a dimensional variance for rear yard setback.**

Present: Gerald and Yuriko Glaser, 32 Highland Avenue, Barrington, RI
Scott Weymouth, architect, 79 Alfred Drown Rd, Barrington, RI

In the Audience:
Helen Tjader, 15 Eton Road, Barrington, RI

The applicants explained that the property they own at 12 Stratford had been utilized as rental property, however they are now seeking to reside there. They would like to build a second-story addition to create a study for their books and music projects, however they may convert the space to a bedroom for an aging parent in the future.

Mr. Weymouth stated that he has selected the proposed location for the addition because it would be the most aesthetically pleasing as well as the most logical location. The applicants had considered finishing space in the basement, however the basement is damp and would not be appropriate for their desired use.

Mr. Personeus noted that the Board was in receipt of a letter in opposition from Helen and Richard Tjader. Ms. Tjader explained that they are objecting to the proposal because they feel the addition would overlook their backyard and infringe upon their privacy and diminish the resale value of their home. They also feel very strongly that there are other potential locations for the addition that would not require zoning relief and hope the applicants would consider alternative proposals.

**VOTE:** Mr. Bacher moved to approve the application. Mr. Freel seconded the motion, however upon further discussion with the Board, Mr. Freel decided to withdraw his second. Without a second, Mr. Bacher's motion failed.

Mr. Venuti moved to deny the application. Mr. Ridlon seconded the motion and the application was denied with a 4-1 vote.

**DISCUSSION:**
The Board members stated that they voting to deny the application for the following reasons:

- The owner's hardship was not defined
- The proposed location may not be the best solution
- An abutting neighbor will suffer a loss of privacy
- The proposal does not satisfy the "least relief necessary" standards, nor the "more than a mere inconvenience" standards
- There are other potential locations to achieve a similar space that would not require zoning relief

Mr. Bacher stated he was opposed to denying the application for the following reasons:

- The addition would not encroach any further on the setbacks than the existing house
- The proposed addition is the best presentation to the neighborhood
- The owners are contending with unusual lot constraints
- The proposed location is the most logical location for the addition

**REASON FOR DECISION:**
It was the judgment of the Board that the standards in Section §185-69 have NOT been met. Those standards are: A) that the hardship from which the applicant seeks relief is not 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 not least relief necessary. Additionally, the standards for a dimensional variance set forth in Section §185-71 have NOT been met because the applicant has not proved that the hardship to be suffered by the owner, absent granting the relief, would not amount to more than a mere inconvenience.

**Application #3542, Jason and Heather Erler, 176 Foote Street, Barrington, RI 02806, applicants and owners, for permission to construct an addition with an auxiliary apartment; Assessor's Plat 22, Lot 352, R-10 District, 176 Foote Street, Barrington, RI 02806, requiring dimensional variances as well as a Special Use Permit.**

Present: Jason Erler, 176 Foote Street, Barrington, RI
John Bolton, attorney, Hinckley, Allen Snyder LLP, 50 Kennedy Plaza, Providence, RI
George Caldow, AICP, 62 Lakeside Drive, Coventry, RI
Scott Weymouth, architect, 79 Alfred Drown Rd, Barrington, RI

In the audience:

- Barbara McArdle, 163 Foote Street, Barrington, RI

The following exhibit was submitted for the record:

- Professional Resume for George Caldow

Mr. Bolton began by noting that they had a proposal before the board a few months ago, but after feedback from the Board that application was withdrawn. They have re-worked the proposal, taking into consideration the concerns expressed by the Board.

The applicants are proposing a 231 square foot addition with an auxiliary apartment on the second floor for Mr. Erler's mother. It was noted that they would need a special use permit for the apartment as well as relief for the following items relating to the apartment:

- The primary residence will be 1,100 square feet – 2,000 square feet required
- The auxiliary apartment will be 44% of the total living space – 40% maximum required

The apartment will share the first-floor entrance and there is a balcony outside of the proposed bedroom that would provide a secondary means of egress for the auxiliary apartment. Additionally it was noted that the driveway could accommodate four cars. Mr. Caldow also reviewed the proposal, demonstrating how the proposal conformed to the standards in §185-69.

Ms. McArdle, an abutting neighbor, spoke in support of the application.

Due to the fact that dimensional relief has been requested as well as a Special Use Permit, the vote was held in two parts:

**VOTE 1:** Mr. Freel moved to grant the requested dimensional relief. Mr. Ridlon 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 proposal is the most viable plan
- The addition will remain within the existing footprint
- The lot fronts on three streets, creating an unusual situation
- There have been no objections from the abutting 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.

**VOTE 2:** Mr. Freel moved to grant the requested Special Use Permit, noting that relief was granted previously for the dimensional variances, as required for §185-141G and relief would also be given for §185-141 A & B. Mr. Ridlon 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 proposal is the most viable plan
- The addition will remain within the existing footprint
- The lot fronts on three streets, creating an unusual situation
- There have been no objections from the abutting neighbors

**REASON FOR DECISION:**
It was the judgment of the Board that in accordance with Section §185-141, in which an auxiliary apartment in a single-family dwelling located in an R-40, R-25, R-10 or NB District may be allowed by the Zoning Board of Review as a special use pursuant to the provisions of Article XIV, each of the standards and requirements contained in §185-143 have been met. That A) An auxiliary apartment shall be located entirely within or attached to an owner-occupied single-family dwelling, which dwelling contains no less than 2,000 square feet of living space. Any auxiliary apartment shall occupy no more than 40% of the total living space of the dwelling, exclusive of the basement, and shall contain no less than 450 square feet, and no more than 900 square feet of living space. Any residence qualifying for an auxiliary apartment shall have no more than one such apartment, B) No auxiliary apartment shall be located above the second floor, and all auxiliary apartments shall have at least two means of egress, C) The auxiliary apartment shall be designed for year-round occupancy for family members as defined in § 185-5, D) The lot or parcel of land on which the residence containing an auxiliary apartment sits shall have the minimum area and setbacks prescribed for the district in which the dwelling is located. The Zoning Board of Review may grant relief from this section; provided, however, that no lot, regardless of the district in which it is located, shall be less than 10,000 square feet, E) The auxiliary apartment shall be connected to the sewer system of the Town of Barrington, and to the water system of the Bristol County Water Authority, or the successor thereto, when accessible or available to the original dwelling, F) One parking space for each bedroom in the auxiliary apartment shall be provided in addition to the minimum required for the original dwelling, G) Exterior alteration of an existing dwelling structure must conform to all zoning regulations, including setback and height restrictions and H) The auxiliary apartment and the original dwelling shall fully comply with all applicable state and local codes, ordinances and regulations.

Additionally, 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 #3543, Michael S. Lowry, 27 Stanhope Drive, Barrington, RI 02806, applicant and owner, for permission to construct a 10' x 11'9" kitchen addition; Assessor's Plat 16, Lot 151 R-25 District, 27 Stanhope Drive, Barrington, RI 02806, requiring dimensional relief for front yard setback.**

Before this matter began, Mr. Venuti recused himself.

Present: Michael S. Lowry, 27 Stanhope Drive, Barrington, RI
Ann Marie Neville, architect, 36 Morton Avenue, Newport, RI

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

The following items were submitted as exhibits for the record:

- Existing floor plan
- Proposed floor plan

Mr. Lowry opened by explaining that the existing kitchen is 5' x 11' and is not a functional space. Due to the location of the interior stairwell he cannot expand the kitchen area within the existing house, therefore he is seeking a small addition on the front of the home to house the new kitchen space with covered porches to balance off the addition. Mr. Lowry noted that he sought a plan that would be in keeping with the character of the other houses in the neighborhood.

It was noted that the proposed addition would be 6'5" from the front yard setback, however there is 43'– 44' from the front of the house to the street due to an unusually large Town-owned right of way.

**VOTE:** Upon a motion by Mr. Ridlon, with a second by Mr. Freel 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:

- Relocation of the kitchen would amount to more than a mere inconvenience
- The applicant has demonstrated a clear need for additional kitchen space
- The right of way is unusually large, creating additional green space from the front of the house

**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 #3544, Greg and Jennifer Grant, 7 High Street, Barrington, RI 02806, applicants and owners, for permission to construct an addition; Assessor's Plat 17, Lot 7, R-10 District, 7 High Street, Barrington, RI 02806, requiring dimensional relief for front and rear yard setbacks.**

Present: Greg Grant, 7 High Street, Barrington, RI

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

The following was submitted as an exhibit for the record:

- Photos of existing conditions

Mr. Grant stated that his family of five has outgrown the single bathroom in the house and would like to construct a small addition for an additional bathroom. It was noted that the property is a corner lot; therefore they have two front yard setback requirements to contend with.

Mr. Grant also noted that he had brought this same proposal before the Board two years ago, and had received the Board's approval, however they were unable to begin the project at that time and his approval had expired.

**VOTE:** Mr. Freel moved to approve this application. With a second from Mr. Bacher, the Board voted unanimously (5-0) to grant the application.

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

- The lot is small and the requested relief is modest
- The applicant has demonstrated a clear need for an additional bathroom
- The application, as presented, had been previously approved 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 #3545, Roderick Bettencourt, 18 Lorraine Street, Barrington, RI 02806, applicant and lessee, Jen Ash, 4 Nutmeg Place, Norwalk, CT 06850, owner, for permission to place 10' x 40' tent on property; Assessor's Plat 10, Lot 46, R-10 District, 18 Lorraine Street, Barrington, RI 02806, requiring dimensional relief for front yard and side yard setbacks as well as exceeding lot coverage.**

Present: Roderick Bettencourt, 18 Lorraine Street, Barrington, RI

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

Mr. Bettencourt explained that he rents the house at 18 Lorraine Street and had set up two 10' x 20' to serve as a garage/storage area to store a car as well as lawn and yard equipment. He was unaware that there were any applicable zoning or building code requirements until he received a violation notice from Mr. Speaker. He is applying for a variance in order to keep the tents up until he is able to purchase his own home.

The Board asked Mr. Speaker if there were any building code issues with the tents, and Mr. Speaker explained that there were several issues that would need to be addressed, including proof of flame proofing, which would be addressed if Mr. Bettencourt received approval to leave the tents up.

Mr. Personeus read into the record a letter from Anne Flagg, 5 Beach Road, Barrington, objecting to the proposal.

**VOTE:** Mr. Venuti moved to deny the application. Mr. Freel seconded the motion and the application was unanimously (5-0) denied.

**DISCUSSION:**
The Board members stated that they supported denying the application for the following reasons:

- The tents presented an "attractive nuisance"
- The infringement on the property line was too great
- There were additional building and fire code issues with the structures
- There was an objection from a neighbor

**REASON FOR DECISION:**
It was the judgment of the Board that the standards in Section §185-69 have NOT been met: C) that the granting of the requested variance will 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 not the least relief necessary.

Additionally, the standards for a dimensional variance set forth in Section §185-71 have NOT been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would not amount to more than a mere inconvenience.

**MINUTES OF THE PREVIOUS MEETING:**
A motion was made by Mr. Ridlon and seconded by Mr. Freel to accept the July 16, 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 9:22 P.M. Mr. Freel seconded the motion and the meeting was adjourned.

Respectfully submitted,

Valerie Carroll, Secretary
Neal Personeus, Acting Chairman
cc: N. Letendre, Solicitor