ZONING BOARD OF REVIEW
Barrington, Rhode Island
July 16, 2009

APPLICATIONS: #3515, 3525, 3527, 3529, 3537, 3538, 3539

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

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

At 7:12 P.M. Mr. Kraig opened the meeting and the Board proceeded to hear the following matters. At 7:31 P.M. the public participation portion of the meeting was temporarily closed and the Board proceeded to deliberate and vote on the first two items. The public participation portion of the meeting was re-opened at 7:50 P.M. to hear the remaining items. At 8:55 P.M. the public participation portion of the meeting was once again closed and the remaining matters that had not been continued were deliberated and voted upon.

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.

Before the matter began, Mr. Ridlon recused himself.

Present: Anthony DeSisto, attorney for the applicant, DeSisto & Feodoroff, 450 Veterans Memorial Parkway, Suite 10, East Providence, RI
John Revens, attorney for abutting neighbors, Revens, Revens & St. Pierre, 946 Centerville Road, Warwick, RI

Mr. Kraig noted that he had received word from a Board member who had been unexpectedly delayed and would be unable to attend the evening's meeting. Therefore, due to the lack of quorum of attending members, this matter needed to be continued.

VOTE: Mr. Freel moved to continue the matter to the August 20, 2009 meeting. Mr. Venuti seconded the motion and it carried unanimously (5-0).

Continuation of application #3525, The Icon Companies, 1418 Elmhurst Road, Elk Grove Village, IL 60007, applicant, Joseph R. Paolino/ACP Shopping Center Associates, LP, 76 Dorrance Street, Providence, RI 02903, owner, CVS Pharmacy #210, 180 County Road, Barrington, RI 02806, lessee, for permission to add three 12-inch non-illuminated lettersets with gooseneck light fixtures, exceeding permitted square footage; Assessor's Plat 24, Lot 107, Business District, 180 County Road, Barrington, RI 02806, requiring a Special Use Permit

Before this matter began, Mr. Freel and Ms. Letendre recused themselves.

Present: Kristin Barkett Petty, Robert, Carroll, Feldstein & Pierce, Providence, RI, attorney for the applicant

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

Ms. Petty explained that the CVS store at 180 County Road has recently expanded and is seeking to increase their signage. The current conditions make that portion of the building, facing the larger parking area adjacent to the store, look vacant; the proposed signage and lighting would indicate that CVS occupies the space as well as provide additional lighting for the parking area and walkway. The following three signs were proposed:

- Drive-Thru Pharmacy
- Beauty
- Photo

The signs will consist of 12-inch, non-illuminated letters with gooseneck light fixtures, matching the style of the existing signage in the plaza.

Mr. Kraig noted that at the February 12, 2009 Technical Review meeting, the Committee moved to recommend the proposed signage as depicted.

VOTE: Upon a motion by Mr. Personeus, with a second by Mr. Ridlon, 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 proposed signage will provide better identification for the store and an improvement for the building
- The signs will be consistent with the other signs in the shopping plaza
- The Technical Review Committee has recommended approval
- The additional lighting will be a safety benefit for the plaza

REASON FOR DECISION:
It was the judgment of the Board that the applicant has demonstrated that the standards in Section §185-73 have been met: A) The applicant has demonstrated that the public convenience and welfare will be substantially served; B) The applicant has demonstrated that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan; C) The applicant has demonstrated that 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) The applicant has demonstrated that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

Additionally, the applicant has demonstrated that the establishment of the sign, which is nonconforming by size, will result in a clear visual improvement to a site, and the location and illumination of a sign in a nonconforming manner is necessary to achieve its intended visual effect.

Continuation of application #3527, Jason and Heather Erler, 176 Foote Street, Barrington, RI 02806, applicants and owners, for permission to construct a garage 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.

Mr. Kraig read into the record a letter from John Bolton, attorney for the applicant, requesting the application be withdrawn without prejudice.

VOTE: Upon a motion by Mr. Freel, with a second by Mr. Venuti, the Board voted unanimously (5-0) to withdraw the application without prejudice.

Continuation of application #3529, Sue Andrade/Meridian Custom Homes, 1 Richmond Square, Providence, RI 02906, applicant, Antonio Palazzo, 71 Hardy Hill Road, Lebanon, NH 03766, owner, for permission to construct a single-family home; Assessor's Plat 23, Lot 199, Neighborhood Business Zone, Waseca Avenue, Barrington, RI 02806, requiring dimensional relief for front yard setback and side yard setback.

Present: Sue Andrade, Meridian Custom Homes, 1 Richmond Square, Providence, RI
Chris Kelly, Meridian Custom Homes, 1 Richmond Square, Providence, RI
Shawn Ensworth, InSite Engineering Service, LLC, 1539 Fall River Avenue, Seekonk, MA

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

Mr. Kraig read into the record a letter from DPW director Alan Corvi noting his review of the proposal. It was also noted that the applicant has supplied the Board with a revised site plan and a storm water report prepared by InSite Engineering.

Mr. Personeus suggested that if the water table is too high for dry wells, the applicant should direct the roof drain leaders toward the drainage pipe, thereby mimicking the existing site conditions.

VOTE: Mr. Freel moved to approve the application, as depicted on the revised drawings received July 18, 2009, with the following conditions:

- If the water table precludes the use of the proposed galleys, the roof drain leaders must be directed toward the drainage pipe in the front of the property
- The pipe with check valve, depicted on plans received on July 18, 2009, must be installed

The comments from Alan Corvi, in his memo dated July 15, 2009 were also incorporated into the motion. 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 applicant is installing a new pipe with check valves, which will prevent back up onto the street
- The proposed location is the only logical location for the house

- The applicant has proposed a reasonably sized house and would not be able to build a functional house without some form of relief

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.

After this matter was completed at 7:50 P.M., Mr. Personeus excused himself from the meeting.

Application #3537, Sydney Montstream-Quas, 45 Annawamscutt Road, Barrington, RI 02806, applicant and owner, for permission to remove and rebuild a single-story garage; Assessor's Plat 3, Lot 79, R-10 District, 45 Annawamscutt Road, Barrington, RI 02806, requiring a dimensional variance for rear yard setback.

Present: Sydney Montstream-Quas, 45 Annawamscutt Road, Barrington, RI
Scott Weymouth, architect, 79 Alfred Drown Road, Barrington, RI

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

The following exhibits were submitted for the record:
- Letter of support from John Wilcox, 105 Alfred Drown Road, Barrington
- Letter of support from Virginia Williamson, 97 Alfred Drown Road, Barrington
- Letter of support from Jodi and Doug Kelsey, 49 Annawamscutt Road, Barrington

The applicants explained that they are seeking to rebuild the existing garage, which needs to be demolished due to rot and infestation problems. They have proposed utilizing the existing location because if they were to attempt to comply with the setback requirements, mature trees would need to be removed. Additionally, the house is a historic home and the proposed location for the garage is best suited to the historic nature of the home.

Mr. Kraig read into the record three letters of support for the application, submitted as exhibits by Ms. Montstream-Quas.

VOTE: Mr. Ridlon moved to approve the application. Upon a second by 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 lot and the existing structures are where they are; there is not a lot of room to maneuver the building and the relief requested is minor
- The applicant is essentially a rebuild - the increase in footage will make it easier to build

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 #3538, Kevin Hennessey, 7 Ragnell Road, West Greenwich, RI 02817, applicant, Katherine S. Morse, 20 Elm Lane, Barrington, RI 02806, owner, for permission to construct a six-foot fence and a shed; Assessor's Plat 5, Lot 55, R-40 District, 20 Elm Lane, Barrington, RI 02806, requiring a dimensional variance for setbacks.

Present: Katherine and Lonnie Morse, 20 Elm Lane, Barrington, RI

In the audience:
Greg and Kay Flanagan, 482 Washington Road, Barrington, RI

The applicants explained that they are seeking to build a six-foot vinyl fence along the rear of their property, which abuts Washington Road. The fence would provide the family's young children and pets with security from the busy road and the six-foot height would provide privacy from both vehicular and pedestrian traffic. It was noted that a four-foot fence would not require a variance; however, they would prefer a six-foot fence.

Additionally, the applicants are looking to build a shed to store outdoor furniture and yard tools. The proposed location is the most logical location for the shed and it was noted by the Board that in order to comply with the required setbacks, the shed would end up in the middle of the yard, inhibiting the functionality of the back yard.

Mr. & Mrs. Flanagan stated that they strongly object to the proposal. Their property faces the Hennessey's rear yard and they feel that a fence and a shed placed on the property would have a negative impact on their property value. The Flanagan's understand the applicant's desire for safety and privacy; however they feel that the applicants could achieve those goals buy planting a hedge. Additionally, a tall hedge would conceal the back of a shed, and would have a much more positive impact on the property values for the surrounding area.

Mr. Morse responded that the proposed fence and shed would not have a negative impact on property value; in fact, they feel that the design detail of the shed and fence would positively impact the value.

VOTE #1: Mr. Freel moved approve the application for a shed as proposed, with the stipulation that the shed must be comparable to the shed pictured in the application. Mr. Venuti seconded the motion and it carried 4-1, with Mr. Rizzolo dissenting.

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

- The proposed location is the most logical location for the shed
- The logistics of complying with the setback requirements would place the shed in such a location as to impair the functionality of the back yard
- The request is a modest one, and shifting the shed a few feet one way or the other would be immaterial to the requested relief
- The proposed shed is attractive and will not have a negative impact on the surrounding neighborhood

Mr. Rizzolo stated that he objected to approving the shed for the following reason:

- Based on the size of the shed, the proposal may not be the least relief necessary

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 deny the application for a six-foot fence. Mr. Venuti seconded the motion and the motion to deny carried 4-1 with Mr. Ridlon dissenting.

DISCUSSION:
The Board members stated that they were opposed to the application for the following reasons:

- The neighbor most impacted by the fence expressed strong objections
- While the desire for security is understandable, it could be achieved by a shorter fence, which would not require zoning relief
- The applicant has other options available to provide security and privacy

Mr. Ridlon stated that he was in favor of approving the fence for the following reason:

- The difference between a four-foot and a six-foot fence is insubstantial

REASON FOR DECISION:
It was the judgment of the Board that the following standards in Section §185-69 have NOT been met: 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 and 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 has NOT been met because the applicant has not proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

Application #3539, Gerald and Adele Carlson, 81 Cove Avenue, Barrington, RI 02806, applicants and owners, for permission to construct an 11' x 12' deck; Assessor's Plat 35, Lot 70, R-25 District, 81 Cove Avenue, Barrington, RI 02806, requiring relief for being within 100' of a wetlands/waterbody, within 100' of the wetlands overlay district, exceeding lot coverage as well as relief for front yard setback.

Present: Gerald and Adele Carlson, 81 Cove Avenue, Barrington, RI

In the audience:
Cyndee Fuller, Barrington Conservation Commission

The applicants stated that they are seeking to construct a deck on the side of the house in order to provide a safer entrance for Mrs. Carlson's elderly mother. The proposed location is next to the kitchen and the applicants feel the location balances the house. Additionally, privacy screens would surround the deck.

The new deck would be four feet from the property line and the steps as proposed would end one foot from the property line. It was noted that at that location, the property abuts a paper street that is not paved at this time.

Cyndee Fuller spoke on behalf of the Barrington Conservation Commission. She explained, as outlined in a memo sent to the Board from Ed Ionata, that the Conservation Commission did not have a quorum to vote on this matter at their July 14th meeting; however, the members in attendance, as well as Ms. Fuller, have no objection to the proposal.

Additionally, it was noted that the Board received a letter from J. Robert Pesce in support of the application.

The members of the Board expressed a great deal of concern with the location of the steps so close to the property line, noting that the steps might be reconfigured to the side of the deck so as to be located farther from the property line. The Board asked the applicants if they would consider relocating the steps. Additionally, the Board noted that there was an existing entryway at that entrance, so the Board has requested that the applicant provide further information to help satisfy sections §185-69 & §185-71.

VOTE: Mr. Freel moved to continue this matter to the September 17, 2009 meeting. Upon a second from Mr. Venuti, the Board unanimously (5-0) approved the motion to continue.

MINUTES OF THE PREVIOUS MEETING:
A motion was made by Mr. Freel and seconded by Mr. Venuti to accept the June 18, 2009 Zoning Board of Appeals minutes as written. The motion carried unanimously (5-0). A motion was made by Mr. Freel and seconded by Mr. Venuti to accept the June 18, 2009 Zoning Board of Review minutes as written. The motion carried unanimously (5-0).

ADJOURN:
There being no other business, Mr. Freel moved to adjourn at 9:33 P.M. Mr. Ridlon seconded the motion and the meeting was adjourned.

Respectfully submitted,

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