

# ZONING BOARD OF REVIEW

Barrington, Rhode Island

May 21, 2009

**APPLICATIONS: #3515, 3526, 3527, 3528, 3529, 3530 &3531**

## MINUTES OF THE MEETING:

At the call of the Chairman, Thomas Kraig, the Board met with Larry Bacher, Mark Freel, Neal Personeus, Ian Ridlon and Stephen Venuti.

Also present were Building Official Robert Speaker and solicitor Andy Teitz.

At 7:06 P.M. Mr. Kraig opened the meeting and the Board proceeded to hear the following matters. At 7:10 P.M. the meeting was temporarily adjourned in order to sit as the Zoning Board of Appeals. At 8:02 P.M. the Zoning Board of Review reconvened and heard the following matters. At 12:10 A.M. the public participation portion of the meeting was closed and the Board proceeded to deliberate and vote on those applications it had heard that had not been continued.

**Continuation of application #3515, Montessori Centre of Barrington, 303 Sowams Road, Barrington, RI 02806, applicant and owner, for permission to expand day care/private school; Assessor's Plat 30, Lot 64, Neighborhood Business Zone, 303 Sowams Road, Barrington, RI 02806, requiring a Special Use Permit.**

Present: Joelle Sylvia, attorney for the applicant, DeSisto & Feodoroff, 450 Veterans Memorial Parkway, Suite 10, East Providence, RI  
Rey Ann Garcia-Mills, owner, 303 Sowams Road, Barrington, RI  
Todd Chaplin, engineer, Mount. Hope Engineering, 1788 GAR Highway, Swansea, MA  
Paul Baynon, traffic engineer, RAB Professional Engineers, Inc., 10 Ross Simons Drive, Cranston, RI  
John Revens, attorney for abutting neighbors, Revens, Revens & St. Pierre, 946 Centerville Road, Warwick, RI

The following items were submitted as exhibits by Ms. Sylvia:

- Color site plan dated 4/7/09
- Letter to Alan Corvi from Mount Hope Engineering, Inc. dated 5/13/09

Ms. Sylvia opened by introducing Ms. Garcia-Mills, who explained that her center focuses on young childhood education, currently for children three to six years old. With the proposed expansion, she would be able not only to increase the total number of children from 30 to 60, but she would also be able to host children as young as 18 months. The hours of operation are 8:30 a.m. to 4:30 p.m., with staggered drop off and pick up times as well as assorted half and full-day students.

Ms. Sylvia introduced Mr. Baynon, who noted that he had completed the traffic study; he reviewed the parking plan as well as the drop off plan. It was his finding that the staggered drop off program worked well and it did not have a significant impact on the traffic of the surrounding area. It was his

opinion that the proposed increase in the number of students would have no significant impact on the traffic in the area.

Mr. Revens cross-examined Mr. Baynon, questioning whether the 19 spaces shown on the site plan were adequate, noting that during the drop off period, several of those spaces would be unavailable for parking. Mr. Revens asserted that the parking plan was insufficient. It was also noted by a member of the Board that he had observed that snow removal/storage had proven very difficult during the past winter as there was not additional space on site to hold the snow overflow.

**VOTE:** Mr. Freel moved to continue the matter to the June 18, 2009 meeting. Mr. Personeus seconded the motion and it carried unanimously (5-0).

**Application #3526, Angie Lim, 3557 86<sup>th</sup> Street, Jackson Heights, NY 11372, applicant, Cobra Realty, 3 Lee Ann Drive, Barrington, RI 02806, owner, Kee Aree, LLC, 3557 86<sup>th</sup> Street, Jackson Heights, NY 13372, lessee, for permission to open a restaurant; Assessor's Plat 24, Lot 59, Business District, 156 County Road, Barrington, RI 02806, requiring a Special Use Permit.**

Present: Bruce Cox, attorney for the applicant, Sleprow, Sleprow & Associates,  
1481 Wampanoag Trail East Providence, RI  
Angie Lim, 3557 86<sup>th</sup> Street, Jackson Heights, NY  
John Hall, architect, 103 High Service Avenue, North Providence, RI

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

The applicants explained that they are seeking to open a 54-seat Thai food restaurant at 156 County Road, located behind the existing Ace Hardware store. There will be a small bar set up for beer and wine service; however, there is no seating at the bar. The restaurant would be open 11:30 P.M. to 10:00 P.M. Sunday through Thursday, and on Friday and Saturday it would remain open until 10:30 P.M. Meat deliveries would occur at 3:00 P.M. on Mondays and Fridays and the Thai food deliveries will be at 4:00 P.M. on Tuesdays and Thursdays. While a dumpster pick up schedule has not yet been set, it will not occur in the early or late hours of the day; it will be on a weekday afternoon.

The site has more than adequate parking to meet zoning requirements, with 13 spaces required for the restaurant patrons, three spaces for the employees and four for the second floor apartments. Delivery vehicles would enter via the Ace Hardware entrance.

Mr. Kraig noted that the plan and the signage had received a favorable recommendation from the Technical Review Committee, and the project had received a favorable Development Plan Review from the Planning Board.

**VOTE:** Mr. Freel moved to grant the application with the following condition:  
➤ The applicant shall consult with the Administrative Officer on the type of bike rack to be installed to ensure a "lockable" type of bike rack is provided as discussed by the Planning Board  
Upon a second from Mr. Personeus, the Board voted unanimously (5-0) to approve the application.

**DISCUSSION:**

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

- The proposed use would provide a service to the community
- The proposed use is appropriate for the location
- There was no one who spoke in opposition to the proposal

**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.

**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.**

Present: John Bolton, attorney for the applicant  
Jason Erler, 176 Foote Street, Barrington, RI  
Andrew Tiplady, contractor, 50 Wallis Avenue, Barrington, RI  
George Cataldo, realtor

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

The applicants explained that they are seeking to demolish the existing garage and construct a new detached garage with a second-floor accessory "in-law" apartment. They are seeking a detached structure as opposed to an attached one because of the configuration and elevation of the main house. The Board noted that it would be very difficult to approve the plan as presented as there are other options available to the applicants which would require less relief, thereby making the "least relief necessary" requirement difficult to prove. The applicants responded by requesting the matter be continued in order to revisit their plans.

**VOTE:** Mr. Freel moved to continue the matter to the June 18, 2009 meeting. Mr. Personcus seconded the request and it passed unanimously (5-0).

**Application #3528, Sandra Norris, 90 Martin Avenue, Barrington, RI 02806, applicant and owner, for permission to construct an addition; Assessor's Plat 34, Lot 66, R-10 District, 90 Martin Avenue, Barrington, RI 02806, requiring dimensional relief for setback from Boyce Avenue.**

Present: Sandra Norris, 90 Martin Avenue, Barrington, RI

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

Ms. Norris explained that she is seeking to construct an addition to her home, increasing the overall footprint as well as creating a second-story. It was noted that the portion of the project that increases the footprint did not encroach on the setbacks; however, a portion of the second floor that is to be built over the existing footprint will be within the existing encroachment on the Boyce Avenue setback requirement. The house is two feet from the lot line; however, there is an additional 10 feet to the pavement.

The existing house is 720 square feet and is on a corner lot, and the proposed changes have been designed in the only logical locations. The new space would incorporate two 9'x 9' bedrooms and a hallway, allowing additional space for the family.

**VOTE:** Mr. Personeus moved to grant the application. 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 lot is a very small corner lot
- The addition could not be pushed behind the house due to the configuration of the existing house; the proposed location is the most logical location for the addition
- The house will not encroach any further on the setback than the existing house does
- The proposal will have the least overall impact on 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.

**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, 1 Richmond Square, Providence, RI  
Alex Mitchell, contractor, Richmond Square, Providence, RI

In the audience:  
Harry Palagi, 60 Anoka Avenue, Barrington, RI

The applicants plan to build a two-story 26' x 30' single-family home. They noted that the need for front yard relief was caused by the Neighborhood Business zone requirements – they propose to build farther from the front property line than is permitted in that district. Additionally, without side-yard relief they would only be able to construct a home that was 20-feet wide, which is impractical. The proposed house is within the characteristics of the other homes in the area.

The Board expressed concern with the potential for drainage problems on that lot, noting that there appears to be an existing drainage area within the proposed footprint, as well as what appears to be a drainage pipe draining from the property. The Board requested more information on the overall impact of the construction on the drainage for the area, and Mr. Palagi expressed his concern with the potential for water/drainage problems as well. The applicants requested the matter be continued in order to allow them to gather additional information regarding drainage.

**VOTE:** Mr. Freel moved to continue the matter to the June 18, 2009 meeting. Mr. Personeus seconded the motion and it carried unanimously (5-0).

**Application #3530, Andrew Marshall, 111 Chestnut Street, Fairhaven, MA 02719, applicant, Derek and Julia Texeira, 75 Lincoln Avenue, Barrington, RI 02806, owners, for permission to construct a garage and breezeway addition; Assessor's Plat 19, Lot 64, R-10 District, 75 Lincoln Avenue, Barrington, RI 02806, requiring relief for being within 100 feet of a wetlands/waterbody.**

Present: Derek and Julia Texeira, 75 Lincoln Avenue, Barrington, RI  
Andrew Marshall, contractor, 111 Chestnut Street, Fairhaven, MA

In the audience:  
George and Beatrice Gallipeau, 76 Lincoln Avenue, Barrington, RI

The applicants explained that they are seeking to build a two-car garage with additional storage space above it. The proposed location is the most logical placement for the garage. It was noted that when the house was originally built, fill was used to elevate the house; no additional fill would be needed – the garage would be sited within the existing grading of that portion of the property. Also, the garage would be constructed so as to minimize the impact on the wetlands.

Mr. Kraig noted that the Conservation Commission has given this application a favorable recommendation with conditions.

Mr. & Mrs. Gallipeau spoke in support of the application.

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

- Use of erosion controls during construction, with additional hay bales placed along the north side of the excavation
- All driveway paving to be made of pervious material and/or construction
- Vegetative bank on property towards water with slope-stabilizing native plants

Mr. Personeus seconded the motion and the Board vote 4-1 to approve the application, with Mr. Bacher dissenting.

**DISCUSSION:**

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

- The lot is long and narrow, limiting possible locations for the garage
- No extra fill will be brought in
- The desire for a garage is a reasonable one
- The abutting neighbors spoke in support of the application; there were no objectors

**DISCUSSION:**

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

- The proposal would result in excessive encroachment on the environmentally sensitive area

**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 #3531, Jason Peitte, 15 Edgewood Drive, Barrington, RI 02806, applicant, K&M Realty, 360 Callahan Road, North Kingston, RI 02852, owner, for permission to open a deli/convenience store; Assessor's Plat 2, Lots 105, 118 and 124, Neighborhood Business District. 187 Washington Road, Barrington, RI 02806, requiring a Special Use Permit.**

Before this matter began, Mr. Personeus recused himself. Additionally, Mr. Ridlon disclosed that he has a relative who is an abutter to the proposed project.

Present: Jason Peitte, 15 Edgewood Drive, Barrington, RI

In the audience:

Gregory Graustein, 186 Washington Road, Barrington, RI

Mr. Peitte explained that he is seeking to open a deli/convenience store on Washington Road in a space where a deli had previously existed. He would like to expand the deli business to include some convenience items including milk and bread better to serve the needs of the neighborhood. Mr. Peitte may also carry cigarettes, Keno and lottery items.

Mr. Graustein spoke in support of the application; however, he expressed concern with the limited parking situation.

**VOTE:** Mr. Freel moved to grant the application. Upon a second from Mr. Venuti, 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 deli use has already been approved
- The proposal will serve the needs of the mixed-use area
- The proposed use will not have a substantial impact on the parking situation

**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.

**MINUTES OF THE PREVIOUS MEETING:**

A motion was made by Mr. Freel and seconded by Mr. Personeus to accept the April 16, 2009 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 12:32 A.M. Mr. Ridlon seconded the motion and the meeting was adjourned.

Respectfully submitted,

Valerie Carroll, Secretary  
Thomas Kraig, Chairman  
cc: A. Teitz, Solicitor