

# ZONING BOARD OF REVIEW

Barrington, Rhode Island

April 16, 2009

**APPLICATIONS: #3515, 3520, 3521, 3522, 3523, 3524 & 3525**

## **MINUTES OF THE MEETING:**

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

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

At 7:07 P.M. Mr. Kraig opened the meeting and the Board proceeded to hear the following matters. At 8:15 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.

**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.**

Mr. Kraig read into the record a request from Mr. Revins, attorney for the abutters, requesting the matter be continued to the May meeting. The Board was also in receipt of a letter from counsel for the applicant acknowledging the continuance.

**VOTE:** Mr. Freel moved to continue this matter to the May 21, 2009 meeting. Mr. Personeus seconded the motion and it carried unanimously (5-0).

**Continuation of application #3520, Roger Miller, 350 Sharon Park Drive, H150, Menlo Park, CA 94025, applicant, Alfred Farina and Vincent Farina Jr., 4 Nayatt Point Court, Barrington, RI 02806, owners, for permission to demolish existing single-family home and construct new single-family home; Assessor's Plat 5, Lot 112, R-40 District, 4 Nayatt Point Court, Barrington, RI 02806, requiring relief for front yard setback as well as being within 100 feet of a wetlands/waterbody.**

Mr. Kraig read into the record a request from Ms. Sylvia, attorney for the applicant, requesting the matter be withdrawn.

**VOTE:** Mr. Personeus moved to withdraw the application. Upon a second from Mr. Freel, the matter was unanimously (5-0) withdrawn.

**Application #3521, Lorenzo Lucas, architect, 4 Tallwood Drive, Barrington, RI, 02806, applicant, Peter Dennehy, 36 Hanson Road, Barrington, RI 02806, owner, for permission to add a garage with a second floor studio and extend the porch; Assessor's Plat 34, Lot 130, R-10**

**District, 36 Hanson Road, Barrington, RI 02806, requiring relief for being within 100 feet of a wetland/waterbody.**

*Before the matter began, Mr. Rizzolo recused himself.*

Present: Lorenzo Lucas, architect, 4 Tallwood Drive, Barrington, RI  
Peter Dennehy, 36 Hanson Road, Barrington, RI

In the audience:  
Jay Romano, Conservation Commission

Mr. Dennehy began by explaining that he has owned the house since 1978 and it is lacking a garage. He wants to build a two-car garage with a second floor addition above it in order to provide more space for his family, and to provide his grown children and grandchildren a place to stay when they come to visit. There will be a breezeway connecting the garage/addition to the existing house. While the proposed structure will be less than 100 feet from Hundred Acre Cove, construction of the addition on the non-water side of the property is impossible. The proposed addition will go no closer to the water than the existing deck does.

Mr. Kraig read into the record a report from the Conservation Commission regarding their concerns about the proposal, and their suggestion to shift the proposed garage forward to bring it further from the water. Mr. Romano, speaking on behalf of the Conservation Commission, stated that there was approximately 8 feet of space that could allow for “wobble room” to create additional distance from the wetlands, by moving the garage closer to the front of the property and the street.

The applicants were not amenable to the Conservation Commission’s suggestion because on-street parking is unavailable and they need as much space as possible in the drive for overflow parking. Additionally, they felt that a shift of a few feet would have little or no impact on the wetlands, and the current proposal keeps the proposed garage lined up with the front and the back of the existing house. To move the structure farther forward would create a less desirable appearance, especially since that aspect of the building is what is first seen when coming down the street. The applicants will accept the Conservation Commission’s suggestion to install drywells and ensure that all runoff is aimed to the front of the property, away from the wetlands.

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

- All run off must be directed to the south side of the property and dry wells be installed
- All construction equipment must be staged on the street side of the property
- Use of standard erosion controls during construction

Mr. Personeus seconded the motion and it carried 4-1, with Mr. Venuti dissenting.

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

- Shifting the proposal closer to the street will have no meaningful environmental impact
- The structure has been designed with a positive design aesthetic
- All construction will be above the base flood elevation
- There was no neighborhood opposition to the proposal

Mr. Venuti stated that he was opposed to approving the application for the following reason:

- Moving the garage four feet toward the street would lessen any potential impact on the wetlands

**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 #3522, St. James Lutheran Church, 49 Middle Highway, Barrington, RI 02806 applicant and owner, for permission to construct new entrance and new enclosed stairway and exit; Assessor's Plat 14, Lot 188, R-10 District, 49 Middle Highway, Barrington, RI 02806, requiring a Special Use Permit.**

Present: Ed Tanner, Building Committee Chairman, 49 Middle Highway, Barrington, RI  
Robert Olsen, architect, 374 Congress Street, Suite 300, Boston, MA

The applicants explained that the proposed expansion to the footprint will allow the building to better serve the needs of the church as well as the community groups that also use the property, as well as accommodating changes to bring the existing building up to current fire code and ADA accessibility requirements. In addition to the changes to the building, the parking lot will be stripped and one curb cut on County Road will be removed in order to better control the traffic flow.

There was no one from the audience to speak for or against the application

**VOTE:** Mr. Bacher moved 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 proposed additions will permit the church building to better serve its communities
- The applicants are seeking to bring the building up to fire safety and ADA requirements
- The applicants are not seeking to add programs or increase the capacity of the church
- The applicants have been a good neighbor to the community and will continue to serve the community's needs
- The proposed changes will have no negative impact on the neighborhood

## **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 #3523, Bill Conti, 17 Joy Street, Barrington, RI 02806, applicant and owner, for permission to rebuild garage and construct addition; Assessor's Plat 22, Lot 543, Neighborhood Business Zone, 17 Joy Street, Barrington, RI 02806, requiring relief for exceeding lot coverage, side yard setback, front yard setback and for being within 100' of a wetlands/waterbody.**

Present: Bill Conti, 17 Joy Street, Barrington, RI

In the audience:

Jay Romano, Conservation Commission

The Board determined that the application was significantly different from the application heard at the February 19, 2009 meeting, permitting the Board to consider the application at the present time.

Mr. Conti explained that in response to the comments from the Board at the previous meeting, he had redesigned his proposal. He is still seeking to remove the existing garage and replace it with a new garage; however, this garage will remain within the footprint of the current garage and the addition is now behind the garage. The proposed two-car garage will be 18 feet wide with small, high windows facing toward Brick Yard Pond and the Bike Path. The windows are designed to discourage theft and allow Mr. Conti to utilize the walls for storage. The proposed addition will not bring the structure closer to the front yard line, and only inches closer to the side yard line.

Mr. Kraig noted that the Conservation Commission has recommended approval of the proposal with conditions, including dry wells. Mr. Personeus noted that dry wells would make little to no difference in this proposal because of a very high water table.

## **VOTE:**

Mr. Personeus moved to grant the application with the following conditions:

- Use of standard erosion controls during construction with specific protection of catch basins along southern side of property by wrapping of silt fence/hay bales
- No disturbance of off-site trees

Mr. Bacher 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 has responded to the Board's concerns
- This is the best way to reconfigure the house and avoid a tear down
- The addition is 95 feet from the water

- The lot and house are both very small, offering few options for expansion; any increase in footprint would increase lot coverage
- There is a large area of permanent open space next to the property

**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 #3524, Brie Fanning, 25 Lorraine Street, Barrington, RI 02806, applicant and owner, for permission to raise main roof, add second-story dormer, add bath and expand rear deck; Assessor’s Plat 10, Lot 82, R-10 District, 25 Lorraine Street, Barrington, RI 02806, requiring dimensional relief for lot coverage, front yard setback, side yard setback and rear yard setback.**

Present: Brie Fanning, 25 Lorraine Street, Barrington, RI  
 Stephen Fanning, 305 South Main Street, Providence, RI 02903

There was no one from the audience to speak for or against the application

The applicants began by explaining that they had originally received approval for a somewhat larger addition in June of 2005. However, they had not been able to proceed with the project at that time. The new proposal has reduced the size of the addition, resulting in less lot coverage than had been originally approved.

The addition will create more space for Ms. Fanning’s growing family and will not encroach on the street. The second story addition will remain within the existing footprint; the only element that would be outside the current footprint would be the deck, which is in the rear of the property.

**VOTE:** Mr. Freel moved to grant the application. Upon a second from Mr. Personeus 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:

- The new proposal is smaller than the one previously approved
- The proposed deck is modest in size, and to make it appreciably smaller would adversely affect its usefulness
- The lot is very small and the applicant needs addition space for the family
- The proposal is consistent with the other properties in the neighborhood
- There were no objections from the abutting property owners

**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 #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. Bacher and Mr. Freel recused themselves.*

Due to the recusals, this matter needed to be continued due to lack of quorum.

**VOTE:** Upon a motion by Mr. Personeus, with a second by Mr. Venuti, this matter was unanimously continued to the June 18, 2009 meeting.

**MINUTES OF THE PREVIOUS MEETING:**

A motion was made by Mr. Freel and seconded by Mr. Personeus to accept the March 26, 2009 Zoning Board of Review minutes as written. The motion carried unanimously (5-0).

A motion was made by Mr. Freel and seconded by Mr. Bacher to accept the March 26, 2009 Zoning Board of Appeals minutes as written. The motion carried unanimously (5-0).

**ADJOURN:**

There being no other business, Mr. Freel moved to adjourn at 8:50 P.M. Mr. Personeus seconded the motion and the meeting was adjourned.

Respectfully submitted,

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