

ZONING BOARD OF REVIEW

Barrington, Rhode Island

February 19, 2009

APPLICATIONS: #3515, 3516 and 3517

MINUTES OF THE MEETING:

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

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

At 7:08 P.M. Mr. Kraig opened the meeting and the Board proceeded to hear the following matters. At 8:00 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.

Before any matters were heard, Mr. Kraig swore in the new members - Stephen Venuti, First Alternate and David Rizzolo, Second Alternate. It was also noted that Mr. Ridlon was now a regular member.

Mr. Kraig also extended the appreciation of himself, the Board and the Town to Margaret Carlotto for her years of dedicated service to the Board. Her services have been appreciated and will be missed.

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 a letter from the applicant requesting the matter be continued to the April meeting. The Board was also in receipt of a letter from counsel for abutters advising that he would be unavailable for the April meeting and requesting May or June instead; since counsel for the applicant was not present, the Board could not act upon that second request at the present time.

VOTE: Mr. Personeus moved to continue the application to the April 16, 2009 meeting. Mr. Freel seconded the motion and it carried unanimously (5-0).

Application #3516, Gregory J. Snider, 217 Angell Street, Providence, RI 02906, applicant, Heather Kilmartin and Allyn Londregan, 26 Chapel Road, Barrington, RI 02806, owners, for permission to relocate 24' x 24' garage; Assessor's Plat 3, Lot 26, R-10 District, 26 Chapel Road, Barrington, RI 02806, requiring a dimensional variance for front yard setback.

Present: Heather Kilmartin, 26 Chapel Road, Barrington, RI
Gregory J. Snider, 217 Angell Street, Providence, RI

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

The applicants opened by explaining that there had been an existing non-conforming garage which was structurally unsound and had recently been demolished. They would like to construct a 24' x 24' detached garage. However, since their lot is a corner lot, they are dealing with two front lot setback requirements. The applicants propose a location for the garage which will align it with the new addition, so it will present better to the street, and in order to keep the backyard visually unobstructed and to provide better play space for the family. Ms. Kilmartin would also like to preserve the large tree near the proposed garage location; however, it was noted that during the construction process the root system could become damaged. Very large trees obstruct the open space / play area of other areas of the back yard.

VOTE: Mr. Freel moved to approve the application. Upon a second from Mr. Bacher, the Board voted 4-1 to approve the application, with Mr. Personeus dissenting.

DISCUSSION:

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

- The lot is a corner lot
- The proposed location is best suited for the characteristics of the neighborhood and is consistent with the surrounding houses
- The applicant desires to make the best use possible of the back yard

Mr. Personeus said he opposed the application for the following reason

- The proposal does not satisfy the “Least relief necessary” requirement

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 #3517, Bill Conti, 17 Joy Street, Barrington, RI 02806, applicant and owner, for permission to rebuild garage; Assessor’s Plat 22, Lot 543, Neighborhood Business Zone, 17 Joy Street, Barrington, RI 02806, requiring relief for side yard setback, exceeding lot coverage and for being within 100’ of a wetlands/waterbody.

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

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

Mr. Kraig read into the record the Conservation Commission’s recommendation to approve the application with conditions.

Mr. Conti explained that his existing garage had once been a carport built on a slab, and was now in a state of disrepair. He would like to demolish the garage and construct a 36' 6" x 22' combined garage and addition that would be utilized for a dining room, with storage space in the back of the garage behind the dining area, and a concrete slab / entrance ramp of approximately 4' x 6' behind the garage. The proposal would place the garage just over 2' from the lot line; however, Mr. Conti stated that was substantial open space – approximately 50' - between his property line and the paved portion of the East Bay Bike Path. Therefore, the new garage would not create the sense of being too close to the neighboring property.

The Board noted that the overall lot coverage would be increased to 34%, which is greater than the 30% maximum allowed in a Neighborhood Business Zone; however, the overall size of the lot and the house is very small, thus limiting what can be accomplished while remaining within the requirements.

VOTE: Mr. Bacher moved to deny the application. Mr. Freel seconded the motion, however the motion failed with a 3-2 vote, however, since the application did not receive a positive motion with a 4-1 or greater vote, the application was denied.

DISCUSSION:

The Board members who supported denying the proposal expressed the following reasons:

- The proposal did not satisfy the “Least relief necessary” requirement, as there are alternative ways to increase the dining area that would not infringe on the setback to the same extent
- The property is a very sensitive property as it not only abuts the Bike Path, but it is also near Brickyard Pond; therefore, the Board should be cautious about infringing on natural areas
- The Board did not want to consider the Bike Path property as land that neighbors could use as their own yards for zoning purposes
- A setback of only just over 2' for a main structure is much too small

The Board members who supported approving the application stated they in support of it for the following reasons:

- The proposal met the standards set forth in 185-65 and 185-73

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 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 NOT 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 OF DATE FOR MARCH MEETING

Upon discussion among the members of the Board, it was determined that only four of the seven members would be available for the scheduled March 19 meeting. Accordingly, the Board discussed the possibility of having the meeting on either March 26 or April 2 - the 26th being preferred if that date was feasible for the various applicants scheduled for March, with the exact date to be set once the Board's secretary had confirmed the March 26 date with the applicants. It was moved and approved to change the date to March 26 or April 2, with the secretary advising the Board and posting notice once she had confirmed the March 26 date.

MINUTES OF THE PREVIOUS MEETING:

A motion was made by Mr. Personeus and seconded by Mr. Freel to accept the January 29, 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. Personeus to accept the January 29, 2009 Zoning Board of Review as written. The motion carried unanimously (5-0).

ADJOURN:

There being no other business, Mr. Ridlon moved to adjourn at 8:35 P.M. Mr. Freel seconded the motion and the meeting was adjourned.

Respectfully submitted,

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