

ZONING BOARD OF REVIEW

Barrington, Rhode Island

November 18, 2010

APPLICATION: #3597, 3600, 3601, 3602, 3603, 3604, 3605, 3606 and 3607

MINUTES OF THE MEETING:

At the call of the Chairman, Thomas Kraig, the Board met with Peter Dennehy, Mark Freel, David Rizzolo and Stephen Venuti. Ian Ridlon arrived at 7:08.

Also present was solicitor Andrew Teitz and Building Official Robert Speaker.

At 7:06 P.M. Mr. Kraig opened the meeting and the Board proceeded to hear the following matters. At 9:12 P.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 # 3597, Eileen Eklund, 1 Edgewood Drive, Barrington, RI 02806, applicant and owner, for permission to allow six cars on premises; Assessor's Plat 16, Lot 123, R-25 District, 1 Edgewood Drive, Barrington, RI 02806, requiring a Special Use Permit.

Present: Eileen Eklund, 1 Edgewood Drive, Barrington, RI

Mr. Teitz explained that after the October meeting, he reviewed the Zoning Ordinance and rendered an interpretation of the ordinance that made the original violation moot. Therefore, this application is now also moot.

MOTION: Mr. Freel moved to dismiss this application. Mr. Venuti seconded the motion and it carried unanimously (5-0).

Application #3600, Rachele Cambria, 30 Fairway Drive, Barrington, RI 02806, applicant, David Cambria, 30 Fairway Drive, Barrington, RI 02806, owner, for permission to construct a 6' cedar fence along Riverside Drive; Assessor's Plat 25, Lot 217, R-25 District, 30 Fairway Drive, Barrington, RI 02806, requiring a dimensional variance for a 6' fence in the front yard setback.

Present: David & Rachele Cambria, 30 Fairway Drive, Barrington, RI

In the audience: Ralph Barton, 23 Riverside Drive, Barrington, RI

The applicants explained that when they purchased the property four years ago, the back yard was overgrown. They have since cleaned up the overgrowth and installed assorted landscaping. They now desire a six-foot fence in their rear yard. However, the house is on a corner lot; therefore, the yard in question is considered to have street frontage, creating a four-foot fence requirement. They are requesting a variance to build a six-foot green cedar fence in order to provide additional privacy as well as to create a safer play environment for their young children.

The applicants noted that they have approached the neighbors across from their “rear” yard, who would be most affected by the proposal, and they had no objections. Mr. Barton also spoke in support of the application.

The Board questioned if a six-foot fence would be “the least relief necessary”, since the safety issues could be resolved with a four-foot fence, which is allowed under the Zoning Ordinance.

MOTION: Mr. Venuti moved to deny the application. Mr. Freel seconded the motion and it carried 4-1, with Mr. Ridlon dissenting.

DISCUSSION:

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

- The hardship could be corrected with a four-foot fence
- Due to the layout of the home and yard, a six-foot fence would not be able to provide the owners with the privacy they are seeking
- The proposal would present a long wall of fence along Riverside Drive
- There are natural landscaping options for privacy that the applicants could consider

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

- There were no objectors to the proposal
- The fence would provide privacy from walkers and the neighbors across the street
- The proposal is within the character of the surrounding neighborhood

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; D) that the relief to be granted is the least relief necessary.

Application #3601, Carlos Macedo, 85 Upland Way, Barrington, RI 02806, applicant and owner, for permission to install a 6’ fence; Assessor’s Plat 20, Lot 122, R-25 District, 85 Upland Way, Barrington, RI 02806, requiring a dimensional variance for a 6’ fence in the front yard setback.

Present: Carlos Macedo, 85 Upland Way, Barrington, RI

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

Mr. Macedo explained that his property is a corner lot located across the street from the DPW/Recycling Center on Upland Way. He is seeking to construct a 6-foot fence on a portion of his rear yard in order to provide some privacy, noting that because of the height of the DPW trucks and facility, a four-foot fence would not be sufficient. He noted that it is not his intent to run the fence along the entire back yard.

MOTION: Upon a motion by Mr. Freel, with a second by Mr. Rizzolo, the Board unanimously (5-0) approved the proposal.

DISCUSSION:

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

- The property overlooks the DPW; therefore, the fence will not be impacting a residential neighborhood
- The lot is oddly shaped
- The proposed fence is modest in size as it relates to the frontage.

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 #3602, A. Bailey's LLC, Robert and Jean Robertson, 57 Water Way, Barrington, RI 02806, applicants and owners, for permission to create a fountain/frozen desert establishment with 20 seats; Assessor's Plat 23, Lot 91, Business District, 74 Maple Avenue, Barrington, RI 02806, requiring a Special Use Permit.

Present: Richard Kirby, attorney for the applicant, 72 Pine Street, Providence, RI
Dan Campbell, engineer, Level Design Group, 60 Man Mar Drive, Plainville, MA

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

The follow was submitted as an exhibit:

- CV for Daniel Campbell

The applicant's attorney opened by noting that the owners had been before the Board previously, but that application had been denied without prejudice due to concerns with the driveway and parking plans. Mr. Kirby requested that the testimony from the September 16, 2010 meeting be incorporated into this presentation. The Board agreed and the prior testimony was incorporated.

Mr. Kirby noted that since the prior meeting they have met with the Building Official, Town Planner and Chief of Police, and based upon the feedback received, they have revised the plan. The parking has been redesigned and one additional space has been added. The driveway will be widened to 16 feet and will be striped to allow for two-way traffic. The handicap walkway wraps around the side of the building opposite the driveway, leading foot traffic to the front door.

Mr. Campbell testified that there was sufficient stopping sight distance looking both east and west from the end of the driveway. The requirement is 150 feet; there is a sight distance of 393 feet to the west and 742 feet to the east. The Board asked if they had considered a circular driveway and the applicants responded that a circular drive would result in a reduction of site distance, the loss of one parking space and the loss of the handicap walkway. Mr. Campbell also noted that the proposed driveway was acceptable to the Police Chief and would be sufficient for emergency vehicle access.

MOTION: Mr. Venuti moved to approve the application. Upon a second by Mr. Freel, the Board voted 4-1 to approve the application, with Mr. Ridlon dissenting.

DISCUSSION:

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

- The site plan has been improved
- There is more than sufficient sight distance for the site
- The applicant has provided two-way access on the driveway
- The parking arrangement now provides more space for cars to enter, exit and turn around
- The proposed use is a sensible use for this property

Mr. Ridlon stated he was opposed to approving the application for the following reasons:

- There will still be the need for people to stop on Maple Avenue to allow for egress
- The 16-foot drive is still very narrow

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section §185-73 have been met: That 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 and D). It will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

Application #3603, Michelle Tuck, 29 Old Sugar Road, Bolton MA 01740, applicant, Joe and Jean Katrincic, 9 Old Timber Trail Pittsburgh, PA 15238, owners, for permission to construct a single-family residence; Assessors Plat 11, Lot 36, R-40 District, 6 White Birch Lane, Barrington, RI 02806, requiring dimensional relief for front yard setback and side yard setback.

Present: Michelle Tuck, 29 Old Sugar Road, Bolton MA

In the audience:

Betty Vohr & Thomas Gidley, 4 White Birch Lane, Barrington, RI
Alan Stanzler, 7 White Birch Lane, Barrington, RI
David Butera, 425 Maple Avenue, Barrington, RI

Ms. Tuck opened by explaining that the property had originally been owned by David Butera, who had demolished the original house and had begun work on a new home. In 2008 Mr. Butera sold the property to her clients, Joe and Jean Katrincic, who are seeking to retire to Barrington in order to be closer to their daughter. Since 2008 Mr. Katrincic has had some health problems that have necessitated a new, handicapped accessible design for the home. The currently proposed design will require relief for both front yard setbacks as well as side yard setback in order to accommodate the handicapped accessibility needs and two small sets of stairs, which extend slightly beyond the footprint of the prior, approved footprint. The proposed house is a two-story gambrel, sloped towards the road, with a front porch.

Ms. Vohr, Mr. Gidley and Mr. Stanzler spoke in opposition to the proposal. They noted that they had concerns due to the fact that the utilities servicing their properties were located underground and ran across Mr. Katrincic's property. They noted that they have previously had an adversarial relationship with Mr. Katrincic and are concerned that the proposed building could interfere with access to their utilities in

the future. It was also noted that there was a dispute regarding right-of-way access to the water; however, they were advised that the matter was not part of the Zoning Board's review of the proposal. The Board noted that while they understand the abutter's concerns regarding utility access, they felt the issue would be better handled by means of a legal easement rather than a Zoning condition that would be difficult to enforce.

MOTION: Upon a motion by Mr. Freel, with a second by Mr. Ridlon, the Board voted unanimously (5-0) to grant the application.

DISCUSSION:

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

- The lot is very narrow
- The proposed setback infringements are very minor and limited

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 #3604, John and Margaret Ruggieri, 173 Mathewson Road, Barrington, RI, applicants and owners, for permission to construct deck with landscaping; Assessor's Plat 25, Lot 68, R-25 District, 173 Mathewson Road, Barrington, RI 02806, requiring relief for being within 100' of a wetlands/waterbody.

Before this matter began, Mr. Freel recused himself.

Present: John and Margaret Ruggieri, 173 Mathewson Road, Barrington, RI

In the audience: Peter Kriz, Barrington Conservation Commission

The applicants explained that they recently purchased the property and desire to build new stairs in order to bring them up to code, as well as desiring to modify the existing deck. This will create a net increase of 240 square feet. It was noted that they were also installing rain and sea-side gardens. Mr. Kraig read into the record the favorable recommendation of the Conservation Commission.

MOTION: Mr. Venuti moved to grant the motion with the following conditions:

- Standard erosion controls during construction
- Maintain crushed stone on driveway expansion and under new deck
- New deck to be semi-permeable (i.e., wood slats)

Mr. Ridlon seconded the motion and it carried unanimously (5-0).

DISCUSSION:

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

- No dimensional relief is needed
- They are seeking to create safer stairs
- The applicants have taken drainage into account and provided rain/sea gardens
- There is a road between the subject property and the water body

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 #3605, David Stanley, 33 Alexander Avenue, East Providence, RI 02914, applicant, Elson Stanley, et. al., 245 Sowams Road, Barrington, RI 02806, owner, for permission to subdivide land into two lots; Assessor's Plat 30, Lot 263, R-25 and Conservation Districts, 249 Sowams Road, Barrington, RI 02806, requiring relief for lot width and frontage.

Mr. Kraig read into the record a request from the applicant to continue this matter.

MOTION: Mr. Freel moved to continue the application to the December 16, 2010 meeting. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

Application #3606, Gregory LaRoche, 6 Anderson Drive, Barrington, RI 02806 applicant and owner, for permission to construct a porch/kitchen addition; Assessor's Plat 32, Lot 342, R-25 District, 6 Anderson Drive, Barrington, RI 02806, requiring dimensional relief for rear yard setback.

Present: Gregory LaRoche, 6 Anderson Drive, Barrington, RI

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

Mr. LaRoche stated that he is seeking to create an enclosed porch so that he can enjoy his yard without the hassle from insects. The house is currently located very close to the rear yard setback, and he demonstrated that the proposed location is the only logical location for the porch.

MOTION: Mr. Rizzolo, with a second by Mr. Freel, moved to approve the application. The Board voted unanimously (5-0) to grant the application.

DISCUSSION:

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

- The house is located too close to the rear lot line currently, and the proposed porch would not go as close to the lot line as the existing house does
- This is the only logical location for a porch

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 #3607, Martha Lee, 12 Melrose Avenue, Barrington, RI 02806, applicant; Martha Lee and Michael Winitzky, 12 Melrose Avenue, Barrington, RI 02806, owners, for permission to enclose and expand existing porch; Assessor’s Plat 25, Lot 150, R-25 District, 12 Melrose Avenue, Barrington, RI 02806, requiring dimensional relief for front yard setback.

Present: Martha Lee, 12 Melrose Avenue, Barrington, RI

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

Ms. Lee explained that she is seeking to provide a vestibule to keep the cold out of her home and a covered entryway to allow access with some protection from the rain/snow. She is looking to enclose the existing covered porch and extend it out. The existing covered porch currently extends 6’6’ and with the proposed changes the extension will increase to 11’10”.

MOTION: Mr. Freel moved to grant the application. Mr. Venuti seconded the motion and it carried unanimously (5-0).

DISCUSSION:

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

- The relief request is minimal
- The homeowner desires to protect the home from the elements

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.

MINUTES OF THE PREVIOUS MEETING:

A motion was made by Mr. Freel and seconded by Mr. Venuti to accept the October 20, 2010 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 10:20 P.M. Mr. Rizzolo seconded the motion and the meeting was adjourned.

Respectfully submitted,

Valerie Carroll, Secretary
Thomas Kraig, Chairman
cc: Andrew Teitz, Solicitor