

# ZONING BOARD OF REVIEW

## Barrington, Rhode Island

**September 16, 2010**

**APPLICATION: #3584, 3587, 3590, 3591, 3592, 3593, 3594, 3595 and 3596**

### **MINUTES OF THE MEETING:**

At the call of the Chairman, Thomas Kraig, the Board met with Paul Blasbalg, Peter Dennehy, Mark Freel, Ian Ridlon, David Rizzolo and Stephen Venuti.

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

At 7:04 P.M. Mr. Kraig opened the meeting and the Board proceeded to hear the following matters. At 11:55 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 #3584, YMCA of Greater Providence, 371 Pine Street, Providence, RI 02903, applicant and owner as to lots 206 & 243, (Town of Barrington, 283 County Road, Barrington, RI 02806, owner as to lot 96) for permission to renovate and expand existing building and create an additional building; Assessor's Plat 27, Lots 96, 206 and 243, OS-A District, 70 West Street, Barrington, RI 02806, requiring a special use permit as well as dimensional relief for front yard setback, side yard setback and lot coverage.**

Before this application began, Mr. Ridlon recused himself.

Present: Joshua Berlinsky, attorney for the YMCA, Darrow Everett, One Turks Head Place, Suite 1200, Providence, RI  
Joe Martino, Greater Providence YMCA  
David Prengaman, Vision Architects  
David Taglianetti, VHB  
Robert Clift  
Louis Federichi

In the audience:

Mark Zawatsky, 13 Half Mile Road, Barrington, RI

At the opening of the hearing, Mr. Kraig noted that while this matter is a continuance, no evidence was presented at the prior meeting, and therefore it is commencing from the beginning.

Mr. Berlinsky explained that the Greater Providence YMCA is proposing to demolish approximately 21,000 square feet of the existing YMCA facility for the development of an expanded building providing space for a larger pool, a new gymnasium, a new fitness room and other elements. The two-story gymnasium / fitness center portion would remain, as would the outdoor pool located to the southeast of the main building.

The YMCA is proposing to redevelop and expand the existing parking lot nearest the State-owned bike path; the Town owns a portion of the parking lot. West Street, a Town street located between the building and the main parking lot, would be improved with two-way traffic up to Veteran's Park, transitioning to one-way in front of the building. A section of Town land, part of Veteran's Park, would be used to provide emergency vehicle access to the west side of the gymnasium/fitness center building.

Additionally, the outdoor basketball court would be eliminated to create 52 parking spaces. The pool building adjacent to the outdoor pool would be eliminated to accommodate the expanded building, parking and access. A "future parking" area is designated on the plan on Town-owned land located to the south and east of the bike path. A central walkway would be extended through the parking lot from the north edge of the Town parking lot adjacent to the bike path. No sidewalk is proposed on West Street, nor is the Y proposing improvements in the area of the baseball field or park entrance.

The proposal gained Master Plan approval from the Planning Board in May 2010; however, one of the conditions of approval is that they are granted a Special User Permit as well as dimensional relief for the following:

- Dimensional relief for front yard setback – 50' required/28' requested
- Dimensional relief for side yard setback – 25.5' required/10' requested
- Dimensional relief for lot-building coverage – 18% required/26% requested

Mr. Zawatsky, an abutting neighbor, stated that he was opposed to the proposal for a number of reasons, including the following:

- The overall size of the demolition, the increase in building size and the total percentage of impervious surfaces relative to lot area.
- The "deals" that would be needed between the Town and the YMCA.
- The environmental impact of the project.
- The use is not permitted in that zone.
- The proposal represents an increase in an existing non-conformity, which has not been justified
- Egress will be through the parking lot, which is inappropriate
- The storage of trash and chemicals on site is not appropriate
- Applicant has taken over / cut down trees on Town property
- Where is the dumpster, and how does that affect parking
- Applicant proposes to keep the third pavilion, which was not approved by the Planning Board
- Pool water has been discharged into the Town-owned Conservation area that abuts the site.

Mr. Zawatsky had additional information he wished to present; however, due to time constrictions, the Board was compelled to continue this matter, directing Mr. Zawatsky to provide any additional materials to Ms. Carroll no less than 10 days prior to the October meeting so that it may be distributed to the Board for review. The existing record that was presented with the Planning Board of Appeal record will also be submitted for the record as part of this presentation.

**MOTION:** Mr. Freel moved to continue this matter to the October 21, 2010 meeting. Mr. Venuti seconded the motion and it carried unanimously (5-0).

**Continuation of Application #3587, Loren and Teresa Yoder, 36 Primrose Hill Road, Barrington, RI 02806, applicant and owners, for permission to construct a two-story addition; Assessor's Plat 16, Lot 166, R-25 District, 36 Primrose Hill Road, Barrington, RI 02806, requiring dimensional relief for side yard setback.**

Before this matter began Mr. Rizzolo and Mr. Venuti recused themselves.

Present: Loren Yoder, 36 Primrose Hill Road, Barrington, RI  
Scott Weymouth, architect, 14 Imperial Place, Providence, RI

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

The applicants explained that they are seeking to construct a two-story addition; the first floor will be a two-car garage and the second floor will have a bedroom and a bath. They will need 4'6" of relief to build the proposed structure. It was noted that the abutting properties have two-car garages; therefore, the proposal is within the characteristics of the surrounding neighborhood. Mr. Yoder also stated that he was spoken to his neighbors and no one has any objections.

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

**DISCUSSION:**

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

- The proposal is modest in scale
- The addition works with the current flow of the home
- It fits with the character of the neighborhood

**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 #3590, Jay Romano, 15 Belton Drive, Barrington, RI 02806, applicant and owner, for permission to construct a storage shed; Assessor's Plat 16, Lot 111, R-25 District, 15 Belton Drive, Barrington, RI, requiring dimensional relief for rear yard setback.**

Present: Jay Romano, 15 Belton Drive, Barrington, RI

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

Mr. Roman explained that he has a small house with a single-car garage and is need of more storage space for his family. He had begun to construct a shed, with the assumption that his lot was in an R-10 zone, as the lot is 17,000 square feet. However, upon applying for a building permit, he learned that he is in an R-25 district. Therefore, the shed does not comply with the setback requirements.

Mr. Romano is seeking to build a 12' x 16' shed and has selected the location based on the existing location of the play area, garden and a large tree, which impedes moving the shed further from the backyard property line. If the shed were located within the setbacks, it would render a large section of his yard unusable.

**MOTION:** Mr. Freel moved to approve the application. Upon a second by Mr. Venuti, the Board unanimously (5-0) voted to grant this application.

**DISCUSSION:**

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

- The proposed location is the most logical location for the structure
- The applicant has demonstrated a need for additional storage

**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 #3591, James Skeffington, c/o 450 Veterans Memorial Parkway, Suite 103 East Providence, RI 02914, applicant and owner, for permission to create a minor subdivision; Assessor's Plat 5, Lot 139, R-40 District, Southwinds Lane, Barrington, RI 02806 requiring dimensional relief for insufficient frontage.**

Before this matter began, Mr. Freel recused himself.

Present: Anthony DeSisto, attorney for the applicant, 450 Veterans Memorial Parkway,  
East Providence, RI 02914  
Shawn Martin, engineer, Fuss & O'Neil, Providence, RI

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

Mr. DeSisto opened by explaining that in 1994 Mr. Skeffington had received approval to create a four-lot subdivision with a standard road. However, over time the property has been deemed an historical landscape by the RI Preservation Society and Mr. Skeffington is seeking to maintain the

existing trees by creating a subdivision with a private roadway. This proposal gained Preliminary Plan approval from the Planning Board in June of 2009, with the following condition:

*“The applicant shall receive approvals from the Zoning Board of Review for all of the required relief, including but not limited to the location of the garage within the street right of way (dimensional variance), and insufficient street frontage for Lots 138 and 139 of Assessor’s Plat 5.”*

Therefore, the application is before the Zoning Board to receive relief so they may proceed with the revised subdivision. It was noted that less fill will be required, fewer trees would be removed, snow removal would be handled via a private agreement among the parties and the road meets the minimum requirements for the Town fire vehicles.

**MOTION:** Mr. Ridlon moved to approve 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 subdivision has received previous approval; the changes would lessen environmental impacts
- The landscape is historic
- The proposal is in keeping with the character of the neighborhood
- Denial would have an adverse impact on the area
- The proposal is within the spirit of the Comprehensive Community Plan.

**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 #3592, 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; Assessor’s Plat 23, Lot 91, Business District, 74 Maple Avenue, Barrington, RI 02806, requiring a Special Use Permit.**

Present: Jean Robertson, 57 Water Way, Barrington, RI

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

Mrs. Robertson explained that they are proposing to convert a residential structure into a business for food service establishment on the first floor; modeled after the classic ‘mom & pop old-

fashioned soda/ice cream shop, and the second-floor will be utilized as a single-bedroom apartment. A new parking lot with perma-turf, a pervious surface, is proposed at rear of the building with access via a ten-foot-wide drive to the west of the building. A rain garden will be located in the rear of the property and the total runoff from the property will be reduced by 50%.

Mrs. Robertson stated that there was a dumpster area in the rear; however, they are considering handling the trash removal themselves and at this time she doesn't feel that deliveries would be an issue. She was unsure of the hours of operation but felt that it would open around 11:30 a.m. with the closing time flexing depending on the season. There would be 20 seats, including both tables and a counter service area.

The Board expressed concern regarding the limited parking configuration. The applicant advised that the Technical Review Board had considered the use 'mercantile', in which case the parking would have been adequate. However, it was the view of the Zoning Board, as advised by the Building Official, that the proposed use was 'food service', thereby requiring the Special Use Permit and the parking was inadequate for a food service business and the apartment. When it was noted that if the apartment were not utilized, the proposed parking would meet the minimum requirement, Mrs. Robertson offered to amend the plans and eliminate the apartment. The Board questioned how this would affect the applicant's business plan.

The Board also expressed a great deal of concern about the safety of the entrance/exit. The proposed driveway would provide for one-way access at a time, creating a situation where if one car were attempting to exit the drive at the same time as another car was attempting to enter from Maple Avenue, it would create a conflict requiring one or the other to need back up within a very limited space. Another potential hazard would be traffic backup on Maple Avenue as one car pauses, waiting to enter, while another car is trying to exit the property. The Board noted that there was the potential for the plan to be re-worked in order to provide better access and make better use of the available space for parking. There was also potential for the applicant to consider leasing additional parking from a neighboring business.

**MOTION:** Mr. Venuti moved to deny the application without prejudice. Mr. Ridlon seconded the motion and it carried 5-0.

**DISCUSSION:**

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

- The limited one-way drive way access may create a potentially hazardous traffic situation on Maple Avenue

**REASON FOR DECISION:**

It was the judgment of the Board that the standards in Section §185-69 have NOT been met: the applicant has not demonstrated (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.

**Application #3593, Michelle Phaneuf, 30 Clarke Road, Barrington, RI 02806, applicant, David Rizzolo and Michelle Phaneuf, 30 Clarke Road, Barrington, RI 02806, owners, for permission to remove existing structures and construct a new single-family residence and shed; Assessor's Plat 7, Lot 39, R-25 District, 6 Adelaide Avenue, Barrington, RI 02806, requiring dimensional relief for front yard setback, side yard setback and exceeding lot coverage.**

Before this matter began, Mr. Rizzolo recused himself.

Present: Michelle Phaneuf, 30 Clarke Road, Barrington, RI  
David Andreozzi, Andreozzi Architects, 232D Waseca Avenue, Barrington, RI

In the audience:  
Jarle Meservy, 4 Hope Lane, Barrington, RI

The applicants explained that the existing structure is in disrepair and out of scale with the neighborhood; therefore, they are seeking to remove the current home and construct a new single-family home on the property. The lot pre-dates the existing zoning regulations, creating an 8,000 square-foot lot in an R-25 district, which has created a situation where it is extremely difficult to conform to the current zoning standards.

The proposed house would have three-bedrooms, would utilize green building practices and be design in scale with the surrounding neighborhood. To accomplish this, they are seeking 10 feet of relief for the front yard setback and 5 feet of relief for the side yard setback. The lot coverage, including the shed, would be 25%, which is 5% over the requirement. The applicant noted that the proposed front yard setback was in keeping with the existing setbacks of nearby properties, and further noted that with respect to each of the elements of requested relief, the result would be an improvement over the existing situation.

Mr. Meservy spoke in support of the application, noting that the proposed home would be a marked improvement over the existing structure.

**MOTION:** Mr. Freel moved to approve the application, noting that it will include the roof overhang. 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:

- The lot is 8,000 square feet in an R-25 zone
- The proposal is an improvement over the existing structure
- The proposal is modest and within the character of the neighborhood

**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 #3594, Christine Sullivan, 122 Whipple Avenue, Barrington, RI 02806, applicant and owner, for permission to construct a pool and shed; Assessor's Plat 22, Lot 273, R-10 District, 122 Whipple Avenue, Barrington, RI 02806, requiring a dimensional variance for side yard setback.**

Present: Christine Sullivan, 122 Whipple Avenue, Barrington, RI

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

Ms. Sullivan explained that she has an existing shed behind her garage. However, she needs more storage space. She has chosen the proposed location because she cannot move the existing shed and if the proposed structure were placed further from the side yard in order to be in conformity, it would block an electrical outlet as well as the garden water supply. The new shed would be no closer to the property line than the existing garage. Mr. Speaker noted that the walls of the shed would need to have a one-hour fire rating.

Ms. Sullivan is also seeking to construct an above-ground pool. The proposed location is between the existing fence and the driveway and she would like that proposed location so that there would be adequate room to open the van doors in the driveway.

The vote was held in two parts:

**MOTION 1:** Mr. Rizzolo moved to grant the application for relief pertaining to the shed. Mr. Freel 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 proposed location is the most logical location for the shed
- The shed will be going no closer to the property line than the existing garage

**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.

**MOTION 2:** Mr. Venuti moved to deny the application for relief pertaining to the pool. Mr. Ridlon seconded the motion and it carried unanimously (5-0).

**DISCUSSION:**

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

- The applicant has not proved hardship
- The pool could be built within the setback requirements
- The relief is not the least relief necessary

**REASON FOR DECISION:**

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

**Application #3595, Andrew and Jamie Triebwasser, 193 Nayatt Road, Barrington, RI 02806, applicant, James Skeffington c/o 450 Veterans Memorial Parkway, Suite 103 East Providence, RI 02914, owner for permission to create easement for garage; Assessor's Plat 5, Lot 41, R-40 District, 139 Nayatt Road, Barrington, RI 02806, requiring dimensional relief for setbacks.**

Before this matter began, Mr. Freel recused himself.

Present: Bruce Cox, attorney for the applicant, Sleprow, Sleprow & Associates,  
1481 Wampanoag Trail, East Providence, RI  
Andrew Triebwasser, 193 Nayatt Road, Barrington, RI  
Anthony DeSisto, attorney for the owner, 450 Veterans Memorial Parkway,  
East Providence, RI 02914

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

The testimony presented for application #3591 was incorporated into the record for this application as well. Mr. Cox added that the garage was around 100 years old and both parties wish to keep the structure intact. Mr. Triebwasser and Mr. Skeffington will be entering into a perpetual easement for the garage. The Board asked if the applicant would be amenable to a condition that if the structure were destroyed, it would need to be rebuilt at the property line and it could no longer cross it. Mr. Cox stated that would be acceptable.

**MOTION:** Mr. Venuti made a motion to approve with the following condition:  
➤ If the garage is destroyed or demolished it must be rebuilt at the existing property line; it could no longer cross the property lines.  
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:

- The situation is unique to these properties
- The building existed prior to the property being subdivided

**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 #3596, Tanya Ouhrabka, 160 Rumstick Road, Barrington, RI 02806, applicant and lessee, Al Mancino, 1 Palmer Lane, Barrington, RI 02806, owner, for permission to open a furniture business; Assessor's Plat 23, Lot 58, Business District, 91 Maple Avenue, Barrington, RI 02806, requiring a Special Use Permit for used furniture sales and parking relief.**

Present: Tanya Ouhrabka, 160 Rumstick Road, Barrington, RI

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

Ms. Ouhrabka explained that she has a design business that she operates from her home. She is seeking to have an office location with a studio/store front to operate her business and sell furniture items she has refurbished. The parking requirement would be five spots for the retail business and two spots for the dwelling on the second floor, creating a total requirement of seven spots. However, they are proposing six spaces. The nature of the business is by appointment only and usually no more than one customer would be there at a time; therefore, there would not be demand for seven total spaces.

**MOTION:** Upon a motion by Mr. Freel, with a second by Mr. Ridlon, the Board 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 business operates on an appointment-only basis; therefore, there will be no impediment to traffic on Maple Avenue
- The parking will be sufficient for the proposed use

**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.

**MINUTES OF THE PREVIOUS MEETING:**

A motion was made by Mr. Freel and seconded by Mr. Venuti to accept the August 19, 2010 Zoning Board of Review minutes as written. The motion carried unanimously (5-0).

A motion was made by Mr. Venuti and seconded by Mr. Blasbalg to accept the September 1, 2010 Zoning Board of Appeal minutes as written. The motion carried unanimously (5-0).

**ADJOURN:**

There being no other business, Mr. Freel moved to adjourn at 12:53 A.M. Mr. Venuti seconded the motion and the meeting was adjourned.

Respectfully submitted,

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