

ZONING BOARD OF REVIEW

Barrington, Rhode Island

August 19, 2010

APPLICATION: #3575, 3585, 3586, 3587, 3588, and 3589

MINUTES OF THE MEETING:

At the call of the Chairman, Thomas Kraig, the Board met with Mark Freel, Ian Ridlon, David Rizzolo and Stephen Venuti. Peter Dennehy arrived as advised at 8:10 p.m.

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

At 7:08 P.M. Mr. Kraig opened the meeting and the Board proceeded to hear the following matters. At 9:45 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 #3575 Thomas and Cynthia Breen, 8 Christine Drive, Barrington, RI 02806, applicant and owners, for permission to construct a garage; Assessor's Plat 31, Lot 90, R-25 District, 8 Christine Drive, Barrington, RI 02806, requiring relief for front yard setback, exceeding lot coverage, and for an accessory building less than 5' from the house.

Present: Thomas Breen, 8 Christine Drive, Barrington, RI

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

Mr. Breen explained that since the June meeting he has had his property surveyed, reduced the overall size of the garage and shifted it back towards the rear yard. The new proposal is for a 24' x 28' garage, located 9.1' from the house, eliminating the need for relief for an accessory building less than 5' from the house. The garage has been shifted back 4' towards the rear yard, locating it 2 feet from the existing concrete pool walkway. Mr. Breen explained that 2 feet was the absolute minimum distance he could locate the garage from the pool apron in order to allow for the foundation work to occur without disturbing the walkway.

Additionally Mr. Breen said he has spoken with Ernest Kinzie, a neighbor who had originally objected to the proposal, and Mr. Kinzie no longer objected to the revised proposal.

MOTION: Mr. Venuti moved to approve the application. Mr. Freel seconded the motion and it was approved 5-0.

DISCUSSION:

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

- The applicant had responded to the concerns of the Board by reducing the size of the garage and relocating it
- The applicants need additional storage, thus an oversized garage is necessary
- The proposed location is the most logical location for the structure

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 #3585, Marco and Jennifer Uriati, 1 Tall Pines Drive, Barrington, RI 02806, applicant and owners, for permission to maintain six-foot fence along Tall Pine Drive; Assessor's Plat 36, Lot 132, R-25 District, 1 Tall Pine Drive, Barrington, RI 02806, requiring relief for a six-foot fence within the front yard setback.

Present: Marco Uriati, 1 Tall Pines Drive, Barrington, RI

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

Mr. Uriati opened by explaining that when he had the fence installed by the fence company, they had assured him that it was in compliance with town requirements. It was not until he received a Violation Notice that he became aware that the fence height was an issue. He desires a 6-foot fence because there is a pre-existing koi pond on the property that is 4' deep and his insurance company has noted that it could be considered a hazard. Mr. Speaker noted that the Town requires any swimming pool that is 2' deep or greater be protected by a fence with a minimum height of 5'. Mr. Uriati noted that while it is not a swimming pool, it still presents a drowning hazard.

It was noted that the fence is not a solid fence - it is an ornamental metal fence with vertical slats spaced wide enough so as to create the image of openness. The fence is over 100' from the nearest corner, and the style of the fence creates less of a hindrance for visibility than most other styles. It is Mr. Uriati's intent to continue that style of fence around the corner of the property where the existing wooden fence is situated, going as far as where it meets the 6-foot stockade fence begins.

MOTION: Upon a motion by Mr. Ridlon, with a second by Mr. Freel, the Board unanimously (5-0) approved the six-foot fence, continuing to where the six-foot stockade begins. The following condition was made:

- The fence must be the same as the current metal fence and cannot be altered

DISCUSSION:

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

- The fence will provide safety protection for the fish pond
- The fence style does not affect visibility; compared to other fences the Board has considered in the past that are close to a street, the style has the least impact on visibility and the appearance of the neighborhood
- The style and height of the fence is complementary to the style of the house and yard

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 #3586, Gary Mulcahy, 90 Boyce Avenue, Barrington, RI 02806, applicant and owner, for permission to remove shed and construct a two-car garage; Assessor's Plat 34, Lot 14, R-10 District, 90 Boyce Avenue, Barrington, RI 02806, requiring dimensional relief for setback from Teed Avenue.

Present: Gary Mulcahy, 90 Boyce Avenue, Barrington, RI

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

Mr. Mulcahy explained that when he had originally planned his home, the plans had included a two-car garage; however, he was not able to build the garage at the time, so he had placed a shed where he intended to place a garage in the future. He is now seeking to build the garage, removing the shed.

Mr. Mulcahy noted that his property is a corner lot, and that along the section of Teen Avenue adjacent to his property, the street right-of-way is wider than is the norm, extending 20 feet from the paved portion of Teed Avenue. As a result, there is a 30-foot space from the edge of the proposed garage to the pavement. Mr. Mulcahy stated that the garage was designed to be in line with the existing house, and that if he were to shift the garage farther from Teed Avenue and into his back yard, it would get closer to the existing pool. He asserted that the proposed location is the most logical and practical location for the garage.

MOTION: Mr. Freel moved to grant the application with the following condition:

- The garage must be no closer than 5 feet from the property line as shown on an existing or new survey

Mr. Ridlon seconded the motion and the Board unanimously (5-0) voted to grant the application.

DISCUSSION:

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

- The garage will appear to be set back 30 feet from the roadway
- The proposal is in conformity with the characteristics of the surrounding neighborhood
- The lot issues are unique due to the right-of-way

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 #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.

Mr. Rizzolo and Mr. Venuti needed to recuse themselves from this matter; therefore there was not a quorum of Board members to hear the matter.

MOTION: Mr. Freel moved to continue the matter to the September 16, 2010 meeting. Mr. Ridlon seconded the motion and it was unanimously (5-0) continued.

Application #3588, Nathaniel and Julie Taylor, 2 Beaumont Street, Rumford, RI 02916, applicants and owners, for permission to construct an auxiliary apartment; Assessor's Plat 17, Lot 356, R-10 District, 20 Lincoln Avenue, Barrington, RI 02806, requiring a Special Use Permit.

Present: Nathaniel Taylor, 2 Beaumont Street, Rumford, RI

In the audience:

Elizabeth "Bonnie" Warren, Barrington Historical Society

Mr. Taylor explained that he has recently purchased the property at 20 Lincoln Avenue and is seeking to renovate the house and create an auxiliary apartment for his parent's use. He reviewed the standards in §185-73 and demonstrated how his proposal complied with those standards including the following notes:

- The property is a single-family home
- The two bedroom apartment will be less than 20% of the total of 3600 square feet of living space and the apartment will total approximately 700 square feet
- It will be located on the first floor with two means of egress
- The home will be occupied year-round
- The three-car garage and four-car drive way will provide ample parking for all occupants

- The house has public sewer and water which are on the same meter as the main house
- There are no existing non-complaint issues at the property

Additionally, Mr. Taylor noted that the Comprehensive Community Plan encourages this type of increase in Elderly Housing.

Ms. Warren spoke in support of the application, reviewing the history of the house as a home with an in-law apartment. She said that this home, and its use since the 1800's, is of historic importance to Barrington.

MOTION: Upon a motion by Mr. Freel, with a second by Mr. Venuti, 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 applicant clearly demonstrated the proposal's compliance with the requirements
- The proposed use is supported in the Comprehensive Community Plan

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section §185-73 have been met: 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.

Additionally, the standards contained in §185-143 have been met. That, A) An auxiliary apartment is located entirely within or attached to an owner-occupied single-family dwelling, which dwelling contains no less than 2,000 square feet of living space. The auxiliary apartment occupies no more than 40% of the total living space of the dwelling, exclusive of the basement, and contains no less than 450 square feet, and no more than 900 square feet of living space. The residence has no more than one such apartment, B) The auxiliary apartment is not located above the second floor, and the auxiliary apartments has at least two means of egress, C) The auxiliary apartment is designed for year-round occupancy for family members as defined in § 185-5, D) The lot or parcel of land on which the residence containing the auxiliary apartment sits has the minimum area and setbacks prescribed for the district in which the dwelling is located, E) The auxiliary apartment is connected to the sewer system of the Town of Barrington, and to the water system of the Bristol County Water Authority. F) One parking space for each bedroom in the auxiliary apartment is provided in addition to the minimum required for the original dwelling, G) Exterior alteration of the existing dwelling structure conform to all zoning regulations, including setback and height restrictions, and H) The auxiliary apartment and the original dwelling are represented as fully complying with all applicable state and local codes, ordinances and regulations.

Application #3589, Chris and Jennifer Wiseman, 11 Boxwood Court, Barrington, RI 02806, applicants and owners, for permission to construct a 20' x 30' two-story garage addition; Assessor's Plat 24, Lot 245, R-25 District, 11 Boxwood Court, Barrington, RI 02806, requiring relief for being within 100' of a wetlands/waterbody.

Present: Ron Eaton, contractor, Capitol Building & Design, Swansea, MA

In the audience:

Cyndee Fuller, Barrington Conservation Commission

The following item was submitted as an exhibit:

- Plot plan from DPW showing the drainage routes around the property

Mr. Eaton explained that his clients are seeking to add a stall to an existing one-car garage with a “bonus room” addition above the garage. He noted that upon applying for the permit Mr. Speaker had advised him that if the property was within 100 feet of the wetlands, he would need a variance; therefore, he began the application process. However upon further research he has found that there are five drainage routes on the property; therefore, he believes that the ‘wetlands’ may actually be ‘storm water drainage’ rather than actual wetlands.

Ms. Fuller noted for the record that the Conservation Commission felt that the proposal was not the “least relief necessary” as the proposed structure could be moved further away from the wetlands. Additionally, the owners had recently purchased the home; therefore, they were aware of its size limitations at the time.

The Board suggested Mr. Eaton return with official wetlands delineation, so that it could be ascertained whether relief was truly needed or not. They also suggested the applicants provide a floor plan so that the Board would be able to determine if a different layout that would intrude less upon the wetlands buffer would be feasible.

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

MINUTES OF THE PREVIOUS MEETING:

A motion was made by Mr. Venuti and seconded by Mr. Ridlon to accept the July 15, 2010 Zoning Board of Review minutes as written. The motion carried unanimously (5-0).

ADJOURN:

There being no other business, Mr. Ridlon moved to adjourn at 9:26 P.M. Mr. Freel seconded the motion and the meeting was adjourned.

Respectfully submitted,

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