

ZONING BOARD OF REVIEW

Barrington, Rhode Island

JUNE 17, 2010

APPLICATION: #3573, 3574, 3575, 3576, 3577, 3578, 3579 & 3580

MINUTES OF THE MEETING:

At the call of the Chairman, Thomas Kraig, the Board met with Peter Dennehy, David Rizzolo and Stephen Venuti. Mark Freel arrived at 7:38 P.M. and Paul Blasbalg arrived at 8:17 P.M., each as anticipated.

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

At 7:38 P.M. Mr. Kraig opened the meeting and the Board proceeded to hear the following matters. At 9:55 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.

Application #3573, Richard Schultz, 5 Stone Tower Lane, Barrington, RI 02806, applicant and owner, for permission to construct a 26' x 38' outbuilding; Assessor's Plat 11, Lot 81, R-40 District, 5 Stone Tower Lane, Barrington, RI 02806, requiring relief from previous Zoning Board setback requirements and for exceeding maximum height of a detached structure.

Present: Richard Schultz, 5 Stone Tower Lane, Barrington, RI

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

Mr. Schultz explained that he is proposing an out-building to accommodate a home gym and recreational room. They cannot accommodate these needs in the house, as the basement is damp and cannot be finished. Mr. Schultz is before the board for relief from the 18-foot height requirement as well as the setback requirements set forth in a 1962 Zoning Board decision requiring a 50-foot setback. The proposed setbacks will comply with today's requirements.

Mr. Schultz has spoken with his neighbors and they have stated that they were in support of the proposal. Mr. Kraig read into the record a letter from Frank Lingard expressing his support for the proposal.

The Board questioned the applicant's need for the proposed 21-foot height of the structure. Mr. Schultz explained that he was seeking to match the height of the main house, feeling that it would be more aesthetically pleasing. The Board questioned if aesthetics alone met the "least relief necessary" requirement, inasmuch as the applicant could not provide any additional rationale for exceeding the height requirement.

MOTION #1: Mr. Freel moved to approve the side yard setback requirement, thereby removing the requirement set forth by the Board in 1962. Mr. Rizzolo 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 unique and the homeowner has limited options within the existing house
- The basement is wet and therefore unable to serve the needs of the homeowners
- The structure would comply with the current Zoning setback requirements
- The rationale that apparently lay behind the 1962 decision – that since this was an interior lot, that side of the property should be treated as a front yard for setback requirements – no longer appeared to be relevant
- There was no objection from the surrounding neighbors

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. Freel moved to deny the request for relief from the height requirement without prejudice, so that the homeowner could reapply if a sufficient rationale for the height variance were developed. Mr. Venuti seconded the motion and it carried unanimously (5-0).

DISCUSSION:

The Board members stated they opposed approving the application for the following reason:

- The requested relief was not the least relief necessary
- The homeowner was unable to demonstrate a hardship if the relief were not to be granted

REASON FOR DECISION:

It was the judgment of the Board that the following standard in Section §185-69 has NOT been met: D) that the relief to be granted is the least relief necessary.

Application #3574, Russell and Roseanne Wallis, 9 Walnut Road, Barrington, RI 02806, applicants and owners, for permission to unmerge lot 139 into two lots; Assessor's Plat 23, Lot 139, Neighborhood Business District, 119 Anoka Avenue, Barrington, RI 02806, requiring permission to unmerge recorded lots of record.

Present: Russell Wallis, 9 Walnut Road, Barrington, RI
Anthony DeSisto, attorney for the applicant, DeSisto & Feodoroff, 450 Veterans Memorial Parkway, Suite 10, East Providence, RI

In the audience:

Nicholas Calitri, 548 Reed Avenue, Barrington, RI

Mr. DeSisto opened by explaining that Mr. Wallis' property at 9 Walnut Road had originally been two 7,500 square-foot lots that had been merged under the Ordinance. Currently there is a house on what had been the east lot, but no house on what had been the west lot. They are seeking to unmerge the lots, re-creating the original two lots. It was noted that Wallis Seafood, owned by Mr. Wallis' brother, utilizes a portion of the western lot as a method of egress. The applicant stated that he would be open to a condition of approval allowing for an easement across the property to allow continued access for Wallis Seafood.

Mr. DeSisto went on to state that in considering the properties within the vicinity of the subject property, one would find five properties at 5,000 sq. ft., two at 6,000, three at 7,500, one at 9,000 and eight at 10,000 or greater. Therefore, the proposed unmerger would remain "within the general characteristics of the surrounding neighborhood".

Mr. Calitri spoke about the history of the property, expressing concern that an over-sized house might be built on the western lot if it were unmerged; however, he noted that he did not object to any structure whatsoever being built there, as a modest-sized house would obscure the view of the back of Wallis Seafood, which would be beneficial to Mr. Calitri.

MOTION: Upon a motion by Freel, with a second by Mr. Rizzolo, the Board voted 4-1 to grant the application, with Mr. Dennehy dissenting.

DISCUSSION:

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

- The applicants have satisfied the standard that the lots, unmerged, will be within the general characteristics of the surrounding neighborhood
- Any new structure would be constrained by the Ordinance; anything beyond what is permitted by the regulations would need to come before the Zoning Board

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

- He viewed the determination of the surrounding neighborhood differently, and the lots immediately adjacent to the property were all at least 10,000 square feet

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, D). It will not substantially or permanently injure the appropriate use of the property in the surrounding area or district and the standards in §185-29 have been also been met: that the lots, as unmerged, will be of a size generally in conformance with the size of developed lots in the immediate vicinity, and such relief shall not be subject to the one-year expiration from the date of granting by the Board.

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 80, 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 and Cynthia Breen, 8 Christine Drive, Barrington, RI

In the audience:

Ernest Kinzie, 7 Christine Drive, Barrington, RI

Ted Nirenberg, 10 Christine Drive, Barrington, RI

The applicants stated that they had purchased the property in April and are currently in the process of renovating the property in order better to accommodate their family's needs. They are converting the existing garage into bedrooms; therefore, they are seeking to construct a new, detached two-car garage. They are proposing a 28' x 30' garage to accommodate two cars and allow for additional space for storage, as storage space is very limited within the home. The structure will have two garage doors in the front, one garage door in the rear, a door facing the house side and windows around the structure. The garage will be set forward from the existing house in order to accommodate an existing swimming pool the applicants are seeking to rehab. The applicants informed the Board that a pool company had advised them that the existing, filled-in-with-dirt pool was probably restorable, and in order to maintain its structural integrity, they would have to site the foundation for the garage at least six feet from the pool.

Mr. Kinzie expressed concern regarding the impact of the new structure on the neighborhood, stating that he feels it is too large and too close to the front yard. Mr. Kinzie felt that the proposed garage would negatively impact him and the surrounding neighborhood. Mr. Nirenberg also spoke in opposition to the proposal, noting that his view would be obstructed; he also noted that there is some question as to the lot line since the side yard fence is located on his property, not the Breen's. Mr. Nirenberg noted that he would not object to a smaller garage that is in line with the house.

The Board stated that they were struggling with the "least relief necessary" requirement, as the proposed structure exceeded the size 24' x 24' garage that is commonly proposed, and the position of the doors and windows appear inconsistent with the large size being intended to accommodate additional storage. The Board also noted that there was concern with the proper location of the lot lines, both on the side and rear of the property; the Board suggested that the applicants have the property surveyed before continuing review of the proposal. The Board also suggested that the homeowners place stakes in the ground where they are proposing to place the garage, so that the Board and neighbors can get a feel for the impact of the garage. The Board also felt that some sense of the interior layout of the garage, as well as reconsideration of the placement of the doors, would assist in establishing that a large size was intended for storage.

MOTION: Mr. Freel moved to continue the application to the August 19, 2010 meeting with the following note:

- The applicants must submit the survey, place the stakes and notify the Secretary a minimum of 10 days prior to the August meeting.

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

Application #3576, Daniel and Jennifer Sullivan, 2 Brick Pond Drive, Barrington, RI 02806, applicants and owners, for permission to remove portion of existing deck and stairs and replace with screened porch and new stairs; Assessor's Plat 24, Lot 269, R-25 District, 2 Brick Pond Drive, Barrington, RI 02806, requiring relief for being within 100' of a wetland/waterbody.

Present: Jennifer Sullivan, 2 Brick Pond Drive, Barrington, RI
Scott Weymouth, architect, 14 Imperial Place, Providence, RI

In the audience:
Jay Romano, Barrington Conservation Commission

The following exhibit was submitted for the record:

- Architectural drawings showing the proposed pitched roof

The applicants explained that they are seeking to construct a screened porch so that they may enjoy the backyard without being troubled by mosquitoes. They are proposing to utilize the space currently occupied by a deck and add an additional 163 square feet to the existing footprint. The proposal initially showed a flat roof; however, they would prefer a pitched roof better to accommodate snow loads.

Mr. Kraig read into the record the favorable recommendation of the Conservation Commission and Mr. Romano did not have any further commentary. Mr. Kraig also read into the record a letter from the Barrington Land Conservation Trust in opposition to the proposal, noting concerns that there may be future potential to build on top of the structure and further encroach on the wetlands. The applicants assured the Board they had no plans to do so. Finally, Mr. Kraig read into the record a letter from Leslie Godfrey, an abutter at 4 Brick Pond Drive, expressing concerns regarding tree removal and requesting that the property be surveyed. The applicants stated that they would not be removing any additional trees, nor would they be encroaching on any of the setback restrictions.

MOTION: Mr. Venuti made a motion to approve the proposal with the following condition:
➤ Appropriate sediment erosion controls (silt fence, hay bales) must be in place during all soil disturbance activities (i.e., installation of new pier footings) occurring as part of construction
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 owners are unable to enjoy their yard and deck due to excessive mosquitoes
➤ They are proposing to utilize an existing deck by screening in and roofing over a portion of it

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 #3577, Donald Marino, 44 Massasoit Avenue, Barrington, RI 02806, applicant and owner, for permission to construct a 16' x 30' in-ground pool; Assessor's Plat 32, Lot 177, R-10 District, 44 Massasoit Avenue, Barrington, RI 02806, requiring relief for setback from a paper street and for being within 100' feet of a wetlands/waterbody.

Present: Donald Marino, 44 Massasoit Avenue, Barrington, RI

In the audience:

Jay Romano, Barrington Conservation Commission

The following exhibit was submitted for the record:

- Letter from Oasis Pools, LTD.

Mr. Kraig read into the record a letter from the Conservation Commission recommending approval. Additionally, the Conservation Commission had noted in its report that there was some yard waste and debris located to the side of the owner's yard on Town-owned property. Mr. Marino has agreed to remove the material.

Mr. Marino explained that he is seeking to construct a 16' x 30', five-foot deep, in-ground, kidney-shaped pool with no diving board. The proposed pool would be located 15' from the adjacent paper street, which placement allows for another 44' to the wetlands. He is seeking 10' of side yard relief in addition to proximity to wetlands.

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

- Recommendation for approval is for saltwater pool only with no chlorine use.
- Contractor is to manage pool emptying; pool discharge is not to be released to property or adjacent water body.
- Material placed around proposed pool must be pervious, such as crushed gravel or pavers in a sand base with no underlying impermeable material. No impervious material, such as poured concrete, shall be used around the proposed pool.
- Appropriate sediment erosion controls (e.g., silt fence, hay bales) must be in place during all soil disturbance activities occurring as part of construction.

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:

- There was no opposition to the proposal
- The proposed location is the only logical location for the pool
- Appropriate environmental controls are being implemented

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 #3578, Douglas and Catherine Brownlow, 66A Governor Bradford Drive, Barrington, RI, applicants and owners, William and Jill Caskey, 66 Governor Bradford Drive, Barrington, RI 02806, owners, for permission to tear down and re-build shed; Assessor's Plat 9, Lots 19 and 266, R-25 District, 66 and 66A Governor Bradford Drive, Barrington, RI 02806, requiring relief for replacing an existing, non-conforming structure that straddles two property lines.

Present: Douglas Brownlow, 66A Governor Bradford Drive, Barrington, RI
Jill Caskey, 66 Governor Bradford Drive, Barrington, RI

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

Mr. Brownlow explained that there is an existing shed that was placed prior to when the property was split into two lots. It is over 50 years old and in need of replacement. The shed straddles the property line and is utilized by both homeowners, with a dividing wall inside the shed, allowing each access to his own side. They are seeking to replace the shed in kind. The location of the shed is the most logical location, and to remove it and place two new sheds with appropriate setbacks would create a hardship for both property owners. The Board noted that the shed was not visible to anyone off the properties.

MOTION: Upon a motion by Mr. Venuti, with a second by Mr. Rizzolo, the Board unanimously (5-0) approved this application with the following condition:
➤ There will be no extension or expansion from the existing footprint

DISCUSSION:

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

- They are proposing to replace an existing structure
- There will be no impact on the surrounding neighborhood

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, D). It will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

Application #3579, Sheila and John Quigley, 59 Linden Road, Barrington, RI 02806, applicants and owner, for permission to enclose existing deck as a screened porch; Assessor's Plat 29, Lot 196, R-25 District, 59 Linden Road, Barrington, RI 02806, requiring relief for being within 100' of a wetlands/waterbody and for being within 100' of the wetlands overlay district.

Present: Sheila and John Quigley, 59 Linden Road, Barrington, RI

In the audience:

Jay Romano, Barrington Conservation Commission

The applicants stated that they are seeking to build an enclosed porch over an existing deck to create protection from mosquitoes. They will be remaining within the existing footprint and will not be removing any trees.

Mr. Kraig read into the record a letter from the Conservation Commission noting that they did not have a quorum of voting members for this matter at their June meeting; however, none of those attending had any concern regarding the application.

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:

- They are remaining within the existing footprint
- Relief from the mosquitoes is an understandable rationale for the project
- There was no objection to the application

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 #3580, Bob Dehart, 5 Anthony Road, Barrington, RI 02806, applicant, Esme DeVault and John Schieffelin, 35 Spring Avenue, Barrington, RI 02806, owners, for permission to construct an 8' x 22' porch with 3'6" x 4' steps with landing; Assessor's Plat 1, Lot 137, R-10 District, 35 Spring Avenue, Barrington, RI 02806, requiring relief for front yard setback as well exceeding lot coverage.

Present: Bob Dehart, 5 Anthony Road, Barrington, RI
John Schieffelin, 35 Spring Avenue, Barrington, RI

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

The following exhibit was submitted for the record:

- Photo of existing conditions

The applicants explained that they are seeking to create a small porch; however, they are constrained by their 4,000 square foot lot. The porch will not be encroaching on the front setback any farther than the existing house does – it is the existing house that presents the front yard issue. The porch would not be heated.

The Board questioned the homeowner about the fact that the proposal would block driveway access to the “garage”, and Mr. Schieffelin explained that they do not utilize the garage for cars; rather it is used as a storage shed and the drive is currently blocked with garden stones.

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

DISCUSSION:

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

- The lot is small and the proposal is modest in size, and the addition will be in keeping with the neighborhood
- The driveway access to the garage is not used
- The porch would conform with the existing house

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. Dennehy and seconded by Mr. Freel to accept the May 20, 2010 Zoning Board of Review minutes with changes. The motion carried unanimously (5-0).

ADJOURN:

There being no other business, Mr. Freel moved to adjourn at 10:50 P.M. Mr. Venuti seconded the motion and the meeting was adjourned.

Respectfully submitted,

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