ZONING BOARD OF REVIEW
Barrington, Rhode Island
MARCH 18, 2010

APPLICATIONS: #3561, 3562, 3563, 3564 and 3565

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 was solicitor Nancy Letendre.

At 7:05 P.M. Mr. Kraig opened the meeting. The Board proceeded to hear the following matters. At 10:24 P.M. the public participation portion of the meeting was closed and the Board proceeded to deliberate and vote on the applications it had heard.

Application #3561, Charles Dowler, 62 Massasoit Avenue, Barrington, RI 02806, applicant and owner, for permission to construct an attached garage and addition; Assessor's Plat 32, Lot 172, R-10 District, 62 Massasoit Avenue, Barrington, RI 02806, requiring dimensional relief for side yard setback.

Present: Charles Dowler, 62 Massasoit Avenue, Barrington, RI

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

Mr. Dowler explained that he is seeking to build a small addition and a one-car garage. There had originally been a detached garage; however, it had been torn down as part of an earlier project. The proposal will create an expanded kitchen and an office will be built behind the garage. Due to the configuration of the lot, the proposed location is the only logical location for the addition and the garage will be utilizing the existing driveway.

The applicant has requested a 16-foot garage (15' interior) in order in to allow enough room to accommodate mid-size cars/pick up truck with adequate space to open the doors.

MOTION: Upon a motion by Mr. Freel, with a second by Mr. Venuti, the Board unanimously (5-0) granted the application.

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

- The lot is not a perfect rectangle - the lot bumps out
- The proposed location is the most logical location
- The requested size of the garage is not unreasonable given the size of today's cars
- The function of a garage is more than just storage of a car; it also utilized for 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 #3562, Ernest E. Ryden, Jr., 22 Spicer Lane, Osterville, MA 02655, applicant and owner, for permission to construct two-story single-family house with a single car garage; Assessor's Plat 32, Lot 237, R-10 District, Arvin Avenue, Barrington, RI 02806, requiring dimensional relief for front yard setback as well as being within 100' of the wetlands overlay district and being within 100' of a wetlands/water body.

Present: Ernest E. Ryden, Jr., 22 Spicer Lane, Osterville, MA
Joelle Sylvia, attorney for the applicant, DeSisto & Feodoroff, 450 Veterans Memorial Parkway, Suite 10, East Providence, RI
Richard Lipsitz, engineer, Waterman Engineering Co., 46 Sutton Avenue, East Providence, RI 02914

In the audience:
Jay Romano, Barrington Conservation Commission
James Wojtyto, 112 County Road, Barrington, RI
James Piquette, 6 Arvin Avenue, Barrington, RI
Michael Brady, 6 Plymouth Drive, Barrington, RI
Glen Modica, 8 Plymouth Drive, Barrington, RI
Michael Friedland, 25 Brookfield Avenue, Barrington, RI

The following exhibits were submitted for the record:
- 2002 Superior Court Decision
- 8/25/93 Barrington Times Article
- 12/3/09 CRMC Preliminary Determination
- Photos of area property

Before testimony began, Mr. Kraig read into the record the letter from the Conservation Commission opposing the application as well as a letter in opposition to the application.

Ms. Sylvia opened by explaining the history of the application, noting that the owners had owned the property since 1970, prior to the 100-foot setback regulation. They had applied to build a home on the property in the past; however, they had not moved forward with the project. In 2002 the Superior Court reviewed the Board's 1996 decision to deny, and remanded the matter to the Board for rehearing and a decision meeting the criteria set forth by the court. However, no further action was taken in response to the court's decision until the filing of this new application.

Ms. Sylvia stated that the current proposal has a smaller footprint than the earlier one, proposing a 42' x 24' home on an 11,000 square-foot lot. At the request of Coastal Resource Management (CRMC) the house has been pushed very close to the front yard setback in order to place the building as far from the wetland as possible. However, this change will require dimensional relief for front yard setback in addition to the relief needed for proximity to the wetlands and water body.

She also noted that the wetlands have been flagged, showing that the house will be 35 feet from the wetlands edge; the proposal also includes a 10-foot buffer of undisturbed land. Additionally, when the road was originally constructed, fill was been brought in and placed on the lot, resulting in a substantial area of disturbed soil. Once construction of the house is complete, part of the area that was previously filled in will be returned to a more natural state utilizing plants approved by the CRMC. Roof runoff will be directed to drywells and the driveway will be constructed from pervious materials. The end result will be better drainage conditions than currently exist on the property. The proposal will have no impact on the storm water that currently flows down the road to a drainage point adjacent to the property.

The neighbors who spoke in opposition to the proposal expressed concern with flooding and drainage issues affecting the street, and the impact of the construction on wildlife, such as ducks. Concerns were also raised regarding the proposed location of the house, being so close to the street and one side of the property. It was the consensus of those opposed that the house would be too close to the street, and therefore not in keeping with the general character of the neighborhood. There were also questions regarding the overall impact, both fiscally and environmentally, on the surrounding properties. Some neighbors noted that they would not be opposed to a house located further from the road, while others felt that no construction should be permitted on the property.

MOTION: Mr. Freel moved to approve the request for dimensional variance, in accordance with the site plan prepared by Waterman Engineering dated September 11, 2009, sheet 2 of 3, with the following conditions:

- Adequate erosion control must be in place prior to and during installation (hay bales/silt fences)
- The driveway must be constructed of a pervious material
- All storm water runoff must be directed to drywells

Mr. Venuti seconded the motion and a vote was held:

Mark Freel – Yea
Thomas Kraig – Yea
Ian Ridlon – Abstain
David Rizzolo – Nay
Stephen Venuti – Yea

The motion did not receive the required minimum of four votes and failed.

Due to the fact that the first motion failed, there was no motion made regarding the request for a Special Use Permit.

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

- Granting the front yard relief would provide the least impact on the wetlands
- Siting the house as far from the wetland as feasible, and therefore close to the road, was requested by CRMC, creating the best possible buffer for the wetlands
- There will be an additional eight feet from the edge of the property to the street
- The application would remain subject to further oversight and future approval by CRMC
- If the setback relief is not granted the owners will not be allowed to build on their property

Mr. Rizzolo stated that he was opposed to granting the application for the following reason:

- The front yard setback is in conflict with the general characteristics of the surrounding neighborhood

Mr. Ridlon indicated that he did not feel that he had enough information upon which to make a decision.

Application #3563, Jason Haas, 50 Teed Avenue, Barrington, RI 02806, applicant and owner, for permission to construct a 20' x 20' second floor addition; Assessor's Plat 34, Lot 24, R-10 District, 50 Teed Avenue, Barrington, RI 02806, requiring dimensional relief for front yard setback, side yard setback and exceeding lot coverage.

Present: Jason Haas, 50 Teed Avenue, Barrington, RI
Alicia Dupree, Rumstick Road, Barrington, RI

In the audience:
Leslie Olsen, 54 Teed Avenue, Barrington, RI
Joelle Sylvia, attorney for Ms. Olsen, DeSisto & Feodoroff, 450 Veterans Memorial Parkway, Suite 10, East Providence, RI
Sheryl Huntington, associate of Ms. Olsen

The following exhibits were submitted for the record:

- Rendering of proposed addition
- Photos of existing conditions

Mr. Haas explained that he has owned the property at 50 Teed Avenue for eight years; however, his family is growing and they need additional space to accommodate the family. He had previously petitioned the Board to demolish the existing house and place a modular home on the lot. He subsequently withdrew that proposal. His new proposal is to construct a second-story addition over the existing home as well as to extend the back of the house with a two-story addition, removing the existing deck.

The front of the addition would be no closer to the street than the existing house and the lot coverage would increase from approximately 23% to approximately 26%, slightly greater than the 25% lot coverage maximum for the zone. The total living space in the home after the additions are complete would be 2,592 square feet.

Mr. Kraig read into the record three letters in opposition to the application. The Board expressed some concern regarding the fact that the land had not been surveyed and noted that there may be an issue with the distance from the front of the house to the property line. Mr. Speaker explained that he would require proof of the lot lines before he could issue a building permit.

Ms. Sylvia and Ms. Olsen expressed their concern regarding the lot coverage as well was the overall size of the house and its impact on the neighborhood. Ms. Olsen felt that the proposed house would have a strong negative impact on her yard as well as the overall value of her house. Ms. Huntington spoke in support of Ms. Olsen's views.

MOTION: Mr. Rizzolo moved to deny the application without prejudice. Mr. Venuti seconded the motion and it carried unanimously (5-0).

DISCUSSION:
The Board members stated they were denying the application without prejudice for the following reasons:

- The applicant had not demonstrated that the requested relief was the least relief necessary; without floor plans for the proposal, the Board could not adequately evaluate the need for the relief
- The overall scale and mass of the proposal, as viewed from the street, would be greater than the general characteristics of the surrounding area

REASON FOR DECISION:
It was the judgment of the Board that the applicant has not demonstrated that he has met the following requirements in Section §185-69: 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; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive Plan; D) that the relief to be granted is the least relief necessary. Additionally, the standards for a dimensional variance set forth in Section §185-71 have NOT been met because the applicant has not proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

Application #3564, Andrew and Cynthia Prete, 19 Bowden Avenue, Barrington, RI 02806, applicants and owners, for permission to construct an in-ground pool; Assessor's Plat 33, Lot 108, R-10 District, 19 Bowden Avenue, Barrington, RI 02806, requiring relief for being within 100' of a wetlands water body as well as being within 100' of the wetlands overlay district.

Present: Andrew Prete, 19 Bowden Avenue, Barrington, RI
Don Quinn, Crystal Clear Pools, 140 Penbroke St., Kingston, MA

In the audience:
Jay Romano, Barrington Conservation Commission

The following exhibits were submitted for the record:

- Revised site plan
- Photo of proposed location

Before testimony began, Mr. Kraig read into the record the Conservation Commission's recommendation for approval of this application.

The applicants explained that they are seeking to install a patio and a 32' x 12.5' in-ground pool that will be 5'10" deep. The pool will have a salt cartridge filter and any drainage will be taken off site. The applicants are flexible on the location of the pool, noting that the original proposal was to locate the pool one foot from the house, with a patio on the far side of the pool, in order to keep the pool as far as possible from the wetlands. Mr. Speaker advised that the Building Code would require the pool to be located a minimum of five feet from the house and the applicants stated that they would be happy to switch the location of the pool and the patio so that the patio would be next to the house, followed by the pool. The proposed building envelope for the project would remain the same, which would be approximately 30 feet from the wetlands edge.

Mr. Romano expressed his concern that this revised proposal was different from the proposal that the Conservation Commission had reviewed; therefore, he could not present a favorable recommendation from the Conservation Commission without additional review.

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

- Adequate erosion control must be in place prior to and during installation (hay bales/silt fences)
- Any walkways, patio, etc. placed around the pool must be constructed of permeable materials (gravel, pavers)
- No pool discharge to the wetlands or otherwise on site is allowed

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 lot is largely wetlands; there is no place for a pool that is not within 100 feet of the wetlands; however, the applicant has done everything possible to locate the pool as far from the wetlands as possible
- The pool is for their own use, not for greater financial gain
- The pool has been designed to have little to impact on the neighborhood
- 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.

Application #3565, Sowams Nursery, Inc., c/o Michael and Joseph Silveira, 84 Sowams Road, Barrington, RI 02806, applicants, Joseph Silveira, 84 Sowams Road, Barrington, RI 02806, owner, for permission to change sign; Assessor's Plat 28, Lot 246, R-25 District, Sowams Road, Barrington, RI 02806, requiring relief for sign in an R-25 District.

Present: Michael Silveira, 84 Sowams Road, Barrington, RI

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

Mr. Silveira explained that they are seeking to replace the existing sign with a larger, 3' x 5' white and green sign in the same location. The sign would be supported by two poles and be 7'5" from the ground. Mr. Kraig noted that the Technical Review Committee has recommended approving the proposed sign.

MOTION: Mr. Freel, with a second by Mr. Ridlon, moved to grant this application. Upon a vote of 5-0, the motion carried unanimously.

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

- The sign gives great visibility and information about the items for sale
- The only reason the sign is before the Board is because it is in the R-25 zone

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.

MINUTES OF THE PREVIOUS MEETING:
A motion was made by Mr. Venuti and seconded by Mr. Ridlon to accept the February 18, 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 11:51 P.M. Mr. Ridlon seconded the motion and the meeting was adjourned.

Respectfully submitted,

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