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

APPLICATION: #3560

MINUTES OF THE MEETING:
At the call of the Chairman, Thomas Kraig, the Board met with Peter Dennehy, Ian Ridlon, David Rizzolo and Stephen Venuti.

Also present was solicitor Nancy Letendre.

At 7:01 P.M. Mr. Kraig opened the meeting. The Board proceeded to hear the following matter. At 8:07 P.M. the public participation portion of the meeting was closed and the Board proceeded to deliberate and vote on the application it had heard.

Application #3560, Joseph Esposito, 225 Dupont Drive, Providence, RI 02806, applicant; Emma Esposito, 246 Rumstick Road, Barrington, RI 02806, owner; for permission to subdivide property; Assessor's Plat 10, Lot 87, R-40 District, 246 Rumstick Road, Barrington, RI 02806, requiring dimensional relief for frontage.

Present: Joseph Esposito, 225 Dupont Drive, Providence, RI
John Mancini, attorney, 49 Weybosset Street, Providence, RI
John Mensinger, surveyor, 410 Tiogue Avenue, Coventry, RI
Scott Rabideau, biologist, 86 Harrisville Main Street, Harrisville, RI
Jean Lambert, engineer, 20 Maple Avenue, Jamestown, RI
Edward Pimentel, AICP, 26 Avon Road, Cranston, RI

The following exhibits were submitted for the record:
- Curriculum Vitae for John Mensinger
- Curriculum Vitae for Scott Rabideau
- Curriculum Vitae for Jean Lambert

Mr. Mancini opened by explaining that the applicants are seeking to create a two-lot subdivision in an R-40 zone on Rumstick Road. They had presented two proposals to the Technical Review Committee (TRC) and the Planning Board. The first proposal was for a "Conventional Subdivision" with a cul-de-sac that would not require zoning relief. The second proposal is for a "Low Impact Subdivision", which features a driveway shared by the two proposed parcels but has significantly less impact on drainage, less impervious surfaces and will enable 28 mature trees to be saved that would have to be sacrificed for the cul-de-sac. However, this proposal requires dimensional relief for lot frontage for the existing house, which will be on the "back lot", as the lot line needs to be placed in such a way as to provide each parcel with at least 40,000 square feet of land. This would leave the existing house with 40 feet of lot frontage as opposed to the required 180 feet.

Mr. Mancini noted that the TRC has recommended approving the Low Impact proposal and at its January 2010 meeting the Planning Board approved the Low Impact proposal, conditioned upon receiving relief from the Zoning Board.

Mr. Esposito explained that his mother has lived at the Rumstick Road property for over 30 years and it is his intent to subdivide the property to create a family compound so that he and his family can live in the new house and be close to his mother as she advances in age. Mr. Esposito asserted that there are no plans to further subdivide the property, nor does he plan to create a 'spec' house to sell upon completion, and that he would agree to a condition that there be no further subdivision. Mr. Ridlon asked if he had considered creating an in-law apartment rather than subdividing the land. Mr. Esposito explained that his mother's house has already been deeded to her adult granddaughter; therefore, an accessory apartment wouldn't be feasible long-term.

Mr. Mensinger reviewed the proposal, stating that he has completed a class one survey on the property. Parcel "A", the rear property with the existing house, will be approximately 1.8 acres and will require dimensional relief for having only 40 feet of lot frontage. Parcel "B", the proposed front property, was created with a building envelope that will not require zoning relief. The design was created to blend with the unique characteristic of the neighborhood as well as to minimize its impact on the environment.

A pervious driveway has been proposed. Mr. Venuti expressed concern about the impact of road access for the new driveway on the existing stonewall. Mr. Mensinger explained that at this point the driveway access from Rumstick Road to parcel "B" would be a proposal that might be implemented in the future but not at this time. While both the DPW and the Fire Chief feel that the shared existing driveway will be sufficient for access, the Planning Board felt that there should be space reserved for a secondary driveway in the event that either property is no longer owned by the family, thus creating a need for separate driveways.

Mr. Rabideau stated that there were no fresh or coastal waters on the property. There is a small fresh water area 75 feet to the east that is under CRMC's jurisdiction; however, it does not have a buffer zone. The Smith Cove coastal feature is 450 feet from the boundaries of this project.

Ms. Lambert explained that the drainage for the project has been designed to have no additional impact on the surrounding area. The driveway would be created from a pervious material and the rainwater from the new structure would be collected through downspouts that would bring the water to a small rain garden where it would be dispersed through infiltration media, such as grass. This rain garden would be approximately one-foot deep at its maximum and can be shifted during the final design phase in order to preserve as many trees as possible.

Mr. Pimentel reviewed his report of findings for the proposal, asserting that the Low Impact Subdivision proposal is more in keeping with the general characteristics of the surrounding area as well as the intent of the Comprehensive Community Plan. He noted that strict adherence to zoning requirements does not always create desirable situations. Mr. Pimentel cited both the Housing Element and the Natural & Cultural Resources Element of the updated Comprehensive Community Plan and demonstrated that the plan complied with the requirements. He also stated that the "Conventional Subdivision" approach would create an additional 12,044 square feet of additional impervious surface, would include the additional impact to the town of a public roadway, and involve the unnecessary removal of 28 mature trees.

The Board asked Mr. Mancini if the applicant would be amenable to a condition of no further subdivision of the land. Mr. Mancini said they would be.

MOTION/VOTE: Mr. Venuti moved to approve the application with the following condition:

- There shall be no further subdivision of either parcel of the property

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

DISCUSSION:

The Board members incorporated the following points from the report prepared by Mr. Pimentel into their reasons for their decision.

- The dimensional variance sought results from the applicant's desire to realize a well-designed development that has little or no impact on the surrounding neighborhood.
- The granting of a lot width / frontage variance will avoid introduction of an entirely new roadway, including all the associated maintenance-oriented concerns. Drainage will be considerably reduced and a substantial additional area will be maintained in a naturally preserved state.
- The applicant will meet all other dimensional requirements associated with the proposed development, including all dimensional criteria pertaining to the existing and proposed placement of the proposed single-family dwellings.
- The applicant has confirmed the presence of hardship and that failure to obtain the relief requested will cause the applicant to suffer hardship amounting to more than a mere inconvenience.
- The relief sought results directly from the unique attributes of the subject property. The applicant proposes a development in which one of the lots exceeds the minimum lot requirements by 1,119 square feet, and the second lot exceeds it by more than 100%. The only deviation from zoning requirements is insufficient lot width / frontage.
- The applicant did not create this uniquely configured lot, and is merely seeking permission to add an additional single-family dwelling. The Comprehensive Plan acknowledges that the majority of developable land has been exhausted, and therefore creative development is necessary to meet future resident's needs. The purpose for subdividing the subject property is not primarily to realize greater financial gain, but to enjoy full and beneficial usage of an approximately three-acre parcel.
- As previously noted, there are a number of nonconforming lots scattered throughout the Rumstick Road neighborhood, as substandard as 10,000 to 24,999 square feet. Furthermore, there are two immediate lots that have similar substandard lot width / frontage.

In regard to the issue of consistency with the Comprehensive Plan, the following elements excerpted from the Comprehensive Plan illustrate support for the proposed development.

- Pursuant to the Housing Element, the Town of Barrington has been experiencing minimal development for a number of years, averaging 21-units per year between the years of 2000 and 2007.
- Strategies & Actions: No. 1. "Preserve the character of established neighborhoods through zoning ordinance amendments and other strategies that encourage compatible scale and building mass. It has long been recognized that traditional zoning by itself is not capable of creating desirable neighborhoods."
- Land Use Element — Goals and Policies
  - Goal No. 1. "Preserve the predominant residential character of Barrington ..."
  - Goal No. 3. "Ensure that future development is compatible with adjoining land uses, the natural environment, available or planned community services and existing historic and cultural features."

- Goal No. 4. "Plan for land uses to meet the needs of the future residents of Barrington, including those for housing ... "

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. Rizzolo to accept the January 21, 2010 Zoning Board of Review minutes with corrections. The motion carried unanimously (5-0).

ADJOURN:
There being no other business, Mr. Ridlon moved to adjourn at 8:32 P.M. Mr. Venuti seconded the motion and the meeting was adjourned.

Respectfully submitted,

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