

ZONING BOARD OF REVIEW

Barrington, Rhode Island

JANUARY 21, 2010

APPLICATIONS: #3556 and 3557

MINUTES OF THE MEETING:

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

At 7:02 P.M. Mr. Kraig opened the meeting. At 7:43 P.M. the Board proceeded to deliberate and vote on application #3557. At 7:54 P.M. the Board began hearing application #3556, and began to deliberate and vote on that application at 10:10 P.M.

Election of Chairman

Mr. Freel nominated Thomas Kraig as Zoning Board Chairman. Mr. Venuti seconded the motion and it carried unanimously.

MINUTES OF THE PREVIOUS MEETING:

A motion was made by Mr. Freel and seconded by Mr. Venuti to accept the December 17, 2009 Zoning Board of Review minutes as written. The motion carried unanimously (5-0).

Application #3557, Lisa Browning, 359 Rumstick Road, Barrington, RI 02806, applicant, Barrington Congregational Church, 461 County Road, Barrington, RI 02806, owner, for permission to host a Farmer's and Artisan's Market; Assessor's Plat 21, Lots 12 and 13, R-25 District, 461 County Road, Barrington, RI 02806, requiring a Special Use Permit as well as relief for a sign in a Residential Zone.

Present: Lisa Browning, 359 Rumstick Road, Barrington, RI

There was no one present to speak for or against this application.

Ms. Browning explained that the Barrington Congregational Church is seeking to host a Farmer's Market from 9:00 A.M. to 12:00 P.M. on Saturdays beginning in May. The market will be located in front of the Fellowship Hall / Education Building, and may be relocated inside due to inclement weather. The market will consist of vendors selling items they have grown, created or crafted - no resale of items will be allowed. The Farmer's Market will be limited to the area defined on the application; Ms. Browning indicated that if it is successful, they might seek to expand. The Board advised Ms. Browning that if they wished to expand in the future, they would need to return for further relief.

Waste disposal will be minimal as all vendors will be required to remove all items, including their waste; it was noted that there is an existing dumpster on the grounds. Pest control is not expected to be an issue; Ms. Browning noted that she would have the committee overseeing the market look into the issue further. When the market is outside there will be no restrooms available; when the market is held indoors there are facilities available.

All vendors are required to hold the appropriate permits/licenses and all prepared food must have received Health Department approval. No electricity or heaters/ovens will be available on the site. There are not currently any traffic control plans in place, but it was noted that the Park & Ride lot adjacent to the site, which is owned by the Church, should provide ample parking for the market.

- MOTION:** Mr. Freel moved to approve the application with the following conditions:
- The temporary event signage be located no closer than 8 feet from the sidewalk, and that bottom of the sign shall be no higher than 18” from the ground
 - The use is limited to fruit, vegetables and accessory/incidental uses and artesian wares
 - No retail prepared food by outside vendors to be sold
 - Vendors must be responsible for waste disposal
 - The Church’s committee responsible for the market will investigate pest control options
 - If the venue is to expand, the applicant would need to return to the Board
 - The applicant must follow all state regulations applicable to the operation

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

DISCUSSION:

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

- The Farmer’s Market will be a benefit to the community
- The proposal is consistent with §185-8A and §185-9
- The conditions imposed will insure waste and pest control
- The Farmer’s Market will only be operational Saturday morning, having a temporary impact on the area, and being in operation when other uses at the location are minimal

REASON FOR DECISION:

It was the judgment of the Board that the applicant has demonstrated that the standards in Section §185-73 have been met: A) The applicant has demonstrated that the public convenience and welfare will be substantially served; B) The applicant has demonstrated that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan; C) The applicant has demonstrated that 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) The applicant has demonstrated that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

Additionally, it was the judgment of the Board that the applicant has demonstrated that the applicable standards in Section §185-76 have been met, specifically §185-76 (1), in that a completely conforming sign would permit no sign for the Farmer’s Market, which would result in overwhelming damage to the operation of the market.

Application #3556, TD Bank, c/o Revens, Revens & St. Pierre, 946 Centerville Road, Warwick, RI 02886, applicant, Ruggiero 231 Realty Trust, 1 Nayatt Point Court, Barrington, RI 02806, owner, for permission to construct a bank branch with remote drive-through facilities; Assessor’s Plat 23, Lot 252, Business Zone, 231 County Road, Barrington, RI 02806, requiring a

Special Use Permit for a drive through, for exceeding the maximum number of parking spaces and relief from the loading space requirement. Dimensional relief has been requested for exceeding front yard setback, from the Sign Standards for wall signs and freestanding signs, as well as being within 100 feet of the wetlands overlay district.

Before this matter began, at 7:50 P.M., Mr. Freel excused himself from the meeting.

Present: John Revens, Revens, Revens & St. Pierre, 946 Centerville Rd, Warwick, RI 02886
Larry Decker, Construction Project Manager, TD Bank, Burlington, VT
Bob Vanasse, transportation engineer, Vanasse & Associates, 10 New England Business Center Dr., Andover, MA
Matthew Hyatt, LEED architect, Bergmeyer Associates, 51 Sleeper St., Boston, MA
Chris Nowicki, project manager, Bergmeyer Associates, 51 Sleeper St., Boston, MA
Peter Scotti, real estate valuation, Peter Scotti & Associates, 246 Hope Street, Providence, RI
Joshua Swerling, P.E., Bohler Engineering, 352 Turnpike Road, Southborough, MA

In the audience:

Todd Aldridge, 99 Markwood Drive, Barrington, RI

The following exhibits were submitted for the record:

- Petition from the abutters in support of the application
- Resume for Mr. Swerling
- Resume for Mr. Hyatt
- Corporate/Corporate Qualifications for Vanasse & Associates, Inc.
- Corporate for Mr. Scotti
- Report of findings prepared by Mr. Scotti

Mr. Revens opened by explaining that his client, TD Bank, is proposing to construct a 3,851 square-foot building at County Road and Markwood Avenue, a 40,615 square-foot, Business-zoned site. The building will be a "LEED Certified" structure. There will be 30 off-street parking spaces and a remote three-lane drive-through service with a canopy. The proposed structure will be oriented toward County Road, with the closest portion of the structure located 10.8 feet from the County Road property line. The building will be set back 44.8 feet from Markwood Drive, beyond the 15-foot maximum front yard setback in the Business zone. Within this Markwood Drive setback is an existing 20-foot-wide drainage easement held by the State.

The site has two front yard setbacks - on County Road and Markwood Drive, both of which will serve as access points to the bank. Both access points would allow for two-way traffic. There are 30 proposed parking spaces, which exceeds the maximum allowed for commercial properties fronting County Road.

The proposed drive-through canopy is 36.9 feet from the easterly property line and the drive-through lanes provide stacking for five cars in the first lane, and three for the two additional lanes, complying with town standards.

A landscaped buffer will be provided along the easterly property line. The buffer will include a six-foot-tall board-on-board fence along this property line. Additionally, the unpaved area adjacent to the neighboring service station to the south will include a lawn area and a honey locust tree; shrubs and a honey locust tree are proposed in the area along the County Road frontage, and shrubs and honey locust trees are proposed along Markwood Drive.

A bioretention area has been proposed along the southeasterly corner of the property, stretching north toward Markwood Drive. It was noted that the proposed changes would improve the overall storm water carrying capacity. Also, the lighting plan includes one one-headed and three two-headed light fixtures to light the parking lot and drive-through area; the lights will be designed, placed and oriented so as to minimize light spillage onto adjacent properties, although there will be some spillage onto the commercial property to the south, but no spillage onto the residential property to the east.

The proposed signage includes a TD Bank sign of 17.6 square foot on the Markwood Drive side of the brick façade of the building, a 15.07 square foot TD Bank sign above the entryway on County Road, and a freestanding monument sign to the north of the County Road driveway entrance. The signs on the buildings both exceed the 15 square feet maximum requirement and the freestanding sign may require relief due to design of its base.

The applicant explained that TD Bank's motto is "America's Most Convenient Bank" and it offers more than standard bank services, including real estate closings, a kid zone, a fax/copy/shred center, and a penny arcade for cashing in change. The bank is also dog-friendly, with biscuits available. Hours of operation would be approximately 8:00 AM - 8:00 PM, Monday through Friday, 9:00 AM - 3:00 PM on Saturday and 11:00 AM - 3:00 PM on Sunday. There is also an ATM on-site, accessible 24 hours a day. It was noted that there was some discussion about relocating the RIPTA bus stop to in front of the Bank, although that is not part of this application and will not figure in the Board's consideration.

Mr. Revens noted that he has approached the abutting neighbors and provided them with information packets about the project. The plan has been through the Technical Review Committee, where changes have been made to create the proposal before the Board. The Planning Board has granted Development Plan Review approval and has recommended that the Zoning Board approve the requests for a special use permit and for dimensional relief. Additionally, the Conservation Commission has reviewed the proposal and has no objections.

MOTION: Mr. Dennehy moved to approve the application as follows

A motion is made to approve Application #3556, TD Bank, applicant, Ruggiero 231 Realty Trust, 1 Nayatt Point Court, Barrington, RI 02806, owner, for permission to construct a bank branch with remote drive-through facilities, Assessor's Plat 23, Lot 252, Business Zone, 231 County Road, Barrington, RI 02806, requiring a Special Use Permit for a drive through, for exceeding the maximum number of parking spaces and relief from the loading space requirement, and requiring dimensional relief for exceeding the front yard setback, from the Sign Standards for wall signs and freestanding signs, and for being within 100 feet of the wetlands overlay district.

In accordance with Sections 185-17, 185-69 and 185-71 Dimensional Variance, in accordance with Sections 185-8.1, 185-73, 185-75, 185-76, 185-78, and 185-85 Special Use Permit, in accordance with Section 185-97 Sign Standards, and Section 185-173 and 185-174, a Special Use Permit and Dimensional Variance are hereby granted by the Board based upon the following findings of fact and conclusions of law.

Findings of Fact:

1. The site is Barrington Assessor's Plat 23 Lot 252, contains approximately .93 acres of land, and is located on the east side of Country Road at the intersection with Markwood Drive. The property is zoned Business (B) and banks are a permitted use in Business (B) districts. Permitted uses with drive through service require a Special Use Permit.
2. The building will be a 3,800 square foot, "LEED Certified" structure and there will be 30 off-street parking spaces and a remote three-lane drive-through service with a canopy.
3. The lot has two front yards. The building will be oriented toward County Road, with the closest portion of the structure located 10.8 feet from the County Road property line. The building will be set back 44.8 feet from Markwood Drive, beyond the 15-foot maximum front yard setback in the Business zone.
4. The site would be accessed from County Road, shifting the existing driveway entrance to the south, with a second access point from Markwood Drive. Both points would allow for two-way traffic.
5. The proposed 30 parking spaces exceed the maximum allowed for commercial properties fronting County Road.
6. The proposed applicant seeks relief from the loading space requirement.
7. The proposed drive-through canopy is 36.9 feet from the easterly property line and the drive-through lanes provide stacking for five cars in the first lane, and three for the two additional lanes, complying with town standards.
8. A portion of the lot is within 100 feet of a wetland. Neither the building nor the remote drive canopy area within 100 feet of the wetland. The edge of the pavement for the driveway for the remote teller stations would be approximately 85 feet from the edge of the wetland.
9. A landscaped buffer along the easterly property line is provided. The buffer includes a six-foot tall board-on-board fence along this property line. Additional landscaping is provided adjacent to the neighboring service station to the south along the County Road frontage and along Markwood Drive.
10. The proposed signage includes a TD Bank sign (17.6 square feet) on the Markwood Drive side of the brick wall, a TD Bank sign above the entryway on County Road (15.07 square feet), and a freestanding monument sign to the north of the County Road driveway entrance.
11. The proposed drainage plan would improve the storm water quality.

12. The proposed lighting plan would result in no spillage onto the residential properties.
13. Applicant presented testimony from Josh Swerling of Bohler Engineering. Mr. Swerling was recognized as a duly qualified engineer. Mr. Swerling described the plans and details of the proposed development. He rendered his opinion that the granting of the requested relief would not have any substantial adverse impact on access, parking, loading, drainage, and wet lands, with respect to lighting, or on the health, safety or welfare of the neighborhood. Mr. Swerling further testified as to the need for the requested dimensional relief, and that the requested relief is the least relief necessary.
14. Applicant presented testimony from Robert Vanasse of Vanasse & Associates Inc. He was recognized as a duly qualified traffic engineer. Mr. Vanasse submitted a Traffic Impact Assessment and presented testimony relative to that study. Mr. Vanasse described the findings in his assessment, the access and circulation patterns on the proposed development and the traffic conditions in the area. Mr. Vanasse rendered his opinion that the granting of the requested relief would not have any substantial adverse impact on the access and circulation patterns, traffic or the health, safety or welfare of the neighborhood. Mr. Vanasse also testified as to the need for the parking and loading relief and that the requested relief is the least relief necessary.
15. Applicant presented testimony from Peter Scotti. Mr. Scotti was recognized as a real estate appraiser. Mr. Scotti testified as to the general characteristics of the surrounding area and rendered his opinion that the granting of the requested relief would not be detrimental to the surrounding property value or uses and would not alter the general characteristics of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the comprehensive plan of the town. Mr. Scotti testified that based on his experience and expertise, the granting of the requested relief was the least relief necessary in order to use the property for the proposed use.
16. Applicant presented testimony from Matthew Hyatt of Bergmeyer Associates. Mr. Hyatt was recognized as an architectural expert. Mr. Hyatt gave testimony as to the signage and building design. He rendered his opinion that the proposed signage was consistent with signs in the banking industry, that the building, signage and landscaping is compatible with buildings and site characteristics of the surrounding area that the approval of the development would be consistent with the goals and policies of the zoning ordinance and the comprehensive plan. Mr. Hyatt rendered his opinion that the granting of the requested relief would not have any substantial adverse impact on the health, safety or welfare of the neighborhood. Mr. Hyatt also testified as to the need for the relief and that the requested relief is the least relief necessary to avoid significant damage to the business.
17. Applicant presented testimony from Larry Decker a representative from TD Bank. Mr. Decker gave testimony as to the unique characteristics of the LEED Certified TD Bank Branch proposed for this site.

Decision re Section 185-17:

Upon careful consideration, the Board finds:

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1. Dimensional Regulations Table, Maximum Front yard. The Barrington zoning ordinance provides for a maximum front yard set back of 15'. The site has two front yards: along Country Road and Markwood Drive. The front yard set back on Country Road meets the 15' maximum. The proposed set back on Markwood Drive is 48.4'. Under Article XIV section 185-72 B., a dimensional variance and Special Use Permit can be issued together. The Board finds that relief from this dimensional requirement is appropriate and is granted.

Decision re Section 185-69 and 185-71:

Upon careful consideration, the Board finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and not to the general characteristics of the surrounding area and not due to the physical or economic disability of the applicant;
2. The applicant's hardship is not the result of any prior action of the applicant and does not result primarily from the desire the Petitioner to realize greater financial gain;
3. The granting of the requested variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan;
4. The relief granted is the least relief necessary to avoid hardship, the denial of which would amount to more than a mere inconvenience.

Decision re Section 185-8.1:

Upon careful consideration, the Board finds:

1. That the Special Use permit including three (3) remote drive through teller windows will not alter the unique characteristics of the land, nor will it in any way interfere with the use and enjoyment of the surrounding neighbors.

Decision re Section 185-73:

In the opinion of the Board, the proposed use and its location on the site meets each of the requirements of Section 185-73. Upon careful consideration, the Board finds:

1. The public convenience and welfare will be substantially served;
2. The proposed use will be in harmony with the general purpose of this chapter and with the Comprehensive Community Plan;
3. The granting of the Special Use will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community;
4. The granting of the Special Use will not permanently injure the appropriate use of the property in the surrounding area or district.

Decision re Section 185-75:

Upon careful consideration, the Board finds:

1. That based on the projected use and level of activity for the proposed bank, strict application of the parking and/or loading requirements would be excessive;
2. That as a result of such relief, the proposed development will be enhanced in term of visual appearance, by the provision of additional amenities and there will be a clear public and environmental benefit;
3. That the safe and proper operation of the business will in no way be compromised.

Decision re Section 185-78:

Upon careful consideration, the Board finds:

1. (D) number of parking spaces on a site located along County Road cannot exceed the minimum required number of spaces by more than 15%. The maximum number of allowed spaces is 22 spaces. The proposed number of spaces is 30. Under section 185-83 the Barrington Zoning Board of Review is authorized to grant relief by Special Use Permit.
2. Such relief is granted based on the unique characteristics of this branch.

Decision re Section 185-85:

Upon careful consideration, the Board finds:

1. (B) requires at least one loading space for any nonresidential structure over 1,000 sq. ft. Under section 185-87 the Barrington Zoning Board of Review is authorized to grant relief by a Special Use Permit.
2. Such relief is granted based on the nature of this business and infrequency of loading and unloading.

Decision re Section 185-97:

Upon careful consideration, the Board finds:

1. Wall Signs: 185-97 A(4) allows single occupant structures with frontage on two or more streets to have up to one wall sign per street frontage (not to exceed two signs) each sign not to exceed 15 sq. ft. The proposal is to have a 15.06 sq. ft. sign on the Country Road side and a 17.6 sq. ft. sign on the Markwood Drive side.
2. Freestanding Sign: 185-97 C allows one free standing sign not to exceed 25 sq. ft. and 7' in height. The proposed freestanding sign may be larger than allowed if the base is included in the computation of area.
3. Relief for the signs as set forth in the application and approved by the Planning Board is granted based on the minimal number of signs proposed and the nominal increase in size of each sign proposed.

Decision re Section 185-76:

Upon careful consideration, the Board finds:

1. The establishment of the signs in a completely conforming manner will result in significant damage to the associated business;

Decision re Section 185-173 & 174:

Upon careful consideration, the Board finds:

1. Wetlands Overlay District: special use permit and dimensional variance for the detention area and a portion of the driveway for the remote teller station located within 100 feet of a wetland.
2. Relief is granted to allow a portion of the driveway for the remote teller station to begin at a point approximately 85 feet from the edge of wetlands.

Conditions of Approval:

A landscaped buffer along the easterly property line is provided. The buffer includes a six-foot-two-inch-tall board-on-board fence, with a solid appearance to extenuate light and sound to the greatest extent possible along this property line.

Mr. Rizzolo seconded the motion and it carried 4-1, with Mr. Venuti dissenting.

SUMMARY OF REASONS FOR DECISION:

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

- The proposal is a good use of the lot
- The proposal will improve the conditions of the water run off
- The sign relief is needed for visibility and scale within the project
- A loading zone is not required for the proposed use
- The extra parking spaces are a reflection of the multiple uses of the building
- The additional setback on Markwood is the most logical configuration for the building
- The impact of the drive thru will be minimized, both by its use and the condition of approval

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

- The additional 2.6 square feet requested for the sign on the Markwood Drive side of the building was not necessary for the function of the business

ADJOURN:

There being no other business, Mr. Venuti moved to adjourn at 11:12 P.M. Mr. Dennehy seconded the motion and the meeting was adjourned.

Respectfully submitted,

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