

ZONING BOARD OF REVIEW

Barrington, Rhode Island

October 27, 2011

APPLICATIONS: #3626, 3638, 3634, 3641, 3642, 3643 and 3644

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 Andrew Teitz and Building Official Robert Speaker.

At 7:05 P.M. Mr. Kraig opened the meeting and the Board proceeded to hear the following matters. At 10:28 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 #3626, R.J. Plante II, 540 Matunuck Beach Road, South Kingstown, RI 02879, applicant, Francine Soldi, 27 Half Mile Road, Barrington, RI 02806, owner, for permission to create a library addition; Assessor's Plat 24, Lot 172, R-25 District, 27 Half Mile Road, Barrington, RI 02806, requiring relief for being within 100;

of a wetlands/waterbody.

**Present: Anthony DeSisto, attorney for the applicant, 450 Veterans Memorial Parkway,
Suite 103, East Providence, RI**

Mr. DeSisto requested this application be withdrawn without prejudice.

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

Continuation of Application #3638, The Grapes of Wrath, Ltd. 75 Sowams Road, Barrington, RI 02806, applicant and lessee, Wild Flower Realty, 233 Waseca Avenue, Barrington, RI 02806, owner, for permission to create a Class A Liquor Store; Assessor's Plat 23, Lot 196, Neighborhood Business District, 233 Waseca Avenue, Barrington, RI 02806, requiring a Special Use Permit.

Present: Robert Healey, Jr. 75 Sowams Road, Barrington, RI

In the audience:

Leslie Feil, 260 Waseca Avenue, Barrington, RI

The following exhibits were submitted for the record:

„« Revised parking/traffic plan

„« Chart of parking width requirements for Warwick, RI

Mr. Healey began by noting that since the previous meeting he has revised his parking plan, creating angled spaces for several of the rear spaces as well as arranging for deliveries to be made only prior to business hours. The combined effect of these two changes is that traffic will flow around the building, with one side for ingress and the other of egress. The handicap spaces will remain on the right side of the building; however, there will be no parking in the front of the building. Mr. Healey is willing to place objects in the front of the building that will inhibit parking.

The proposed number of spaces, including the handicapped spaces, is 11. This would meet the requirement for 2500 square feet of retail space; however, the building slightly exceeds 2500 square feet. Mr. Healey proposes to wall off a portion of the floor space so that only 2500 square feet will be in use.

Ms. Feil noted that she was pleased that the entrance door would be in the rear of the building; however, she still was concerned with the potential for customers to park in the front and on the street. The Board suggested that because parking was not allowed in the front/street, it would be a police enforcement issue, rather than something that could be handled via the parking plan.

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

„« Deliveries must be scheduled during non-business hours

„« There will be no more than 2500 square feet of useable space

„« There will be obstacles/barriers placed in the front of the building to prevent parking in that area

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 revised plan improves the traffic flow

„« The proposal is the best solution for the unique limits of the site

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section j±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 and D). It will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

Application #3634, T-Mobile Northeast, LLC, 15 Commerce Way, Suite B, Norton, MA 02766, applicant and lessee, Cove Haven Corporation,

101 Narragansett Avenue, Barrington, RI 02806, owner, for permission to construct a wireless communications tower; Assessor's Plat 13, Lot 2, Waterfront Business District, 95 Narragansett Avenue, Barrington, RI 02806, requiring dimensional variances for height and side yard setbacks, as well as a Special Use Permit for use and reduction of the parking requirement.

Present: Martin Cohen, Network Building & Consulting, LLC, for T-Mobile, Lexington, MA

Dishant Shah, TTS Wireless, RF design for T-Mobile

In the audience:

Marilyn Tusuba, 127 Narragansett Avenue, Barrington, RI

Katherine Fairchild, 22 Allen Avenue, Barrington, RI

Glenn Cross, 29 Allen Avenue, Barrington, RI

Karienne Stovell, 21 Allen Avenue, Barrington, RI

Shay Cross, 29 Allen Avenue, Barrington, RI

Francine & Bill Vargas, 19 Leslie Avenue, Barrington, RI

Michael Keyworth, Cove Haven Marina, 35 Allen Avenue, Barrington, RI

The applicants opened by explaining that they are seeking to install a monopole, approximately 100-foot-tall, near the northerly property line of Brewer's Cove Haven Marina, and set back about 60 feet south of the property line its shares with Haines State Park located to the

immediate north. The base would be a 16' by 11' platform and contain three equipment cabinets. The platform would be raised to conform to flood zone requirements and a chain link fence would enclose the area. Three rows of antennae panels would be at the top of the monopole, which will allow for additional use by other carriers in the future. It was noted that both the Technical Review Committee and the Planning Board have recommended approval of this plan.

The Board questioned if the applicants had explored other sites. The applicants reviewed their coverage needs, current T-Mobile locations and other possible site location, including the Fountain Avenue Water Tower location suggested by the Planning Board. T-Mobile has found that no other location would be a viable solution for their coverage goals.

Several abutting neighbors spoke in opposition to the proposal, noting the following concerns:

„« Potential health impact of the radiofrequency emissions from the tower

„« Danger of the tower falling in a storm

„« Impact of lights and noise from the tower and its maintenance

„« Potential negative impact on the property values in the surround neighborhood

„« Visual impact of the tower structure

„« Potential hazard/attractive nuisance for children

The applicants countered that there will be no lights on the pole and that noise should be minimal, as T-Mobile does not use generators except in cases of storm emergencies. A small truck will handle maintenance; no large-scale equipment will be used. The pole is located far enough away from residential areas so that if it were to fall it would not fall onto the houses. Mr. Keyworth also stated that there are currently boats in the boatyard with masts that are as high as, or higher than, the proposed monopole. In his opinion the monopole should blend visually with the area.

Before deliberations began on this matter, Mr. Teitz outlined the following provisions from the FCC's Telecommunication Act. When considering an application for a transmission tower a local board cannot:

„« Consider any possible health impact from the radio waves

„« Discriminate between carriers

„« Prohibit service or create a condition that would prohibit service

In addition, the Board must act within a reasonable time period (150 days)

Mr. Teitz also noted that the Barrington Zoning Ordinance allows for towers in the Waterfront Business District.

MOTION #1: Mr. Ridlon moved to grant the Special Use Permit. 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 applicants satisfactorily demonstrated that there were no other coverage alternatives that would meet their coverage goals.

„« The Telecommunication Acts ensures that coverage needs must be met

„« The Telecommunication Act will not allow the Board to consider potential health hazards

„« The proposal will not inhibit the use of the marina or park

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section $\text{j}\pm 185-73$ 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 and D). It will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

MOTION #2: Mr. Ridlon moved to grant request for dimensional relief. 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 requested height is necessary for coverage

„« The location is necessary to keep the equipment out of the flood zone

„« The additional coverage will serve the needs of the public

„« The applicants have made a reasonable effort to minimize the impact to the surrounding area

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section $\text{j}\pm 185-69$ 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 $\text{j}\pm 185-71$ 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 #3641, Carl Benevides, 70 Tupelo Street, Bristol, RI 02809, applicant, Mr. & Mrs. Stephen Ashworth, 5 Wollette Court, Barrington, RI 02806, owners, for permission to raise kitchen 18½" on existing foundation and build new screened in porch; Assessor's Plat 25, Lot 436, R-25 District, 5 Wollett Court, Barrington, RI 02806, requiring dimensional relief for rear yard setback.

**Present: Carl Benevides, 70 Tupelo Street, Bristol, RI
Stephen Ashworth, 5 Wollette Court, Barrington, RI**

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

Before this matter began, Mr. Rizzolo disclosed that his employer has utilized the project architect on other matters.

The applicants explained that currently Mr. Ashworth has a sunken kitchen; however, in order to renovate and improve the functionality of the space, they are seeking to raise the floor by 18½" to bring it level with the rest of the home. All work will be within the existing footprint; they are not seeking to expand the encroachment. It was noted that Mr. Ashworth spoke with his immediate neighbors and no one had voiced any objections.

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

DISCUSSION:

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

„« The proposal will make the kitchen safer and more useable

„« No expansion is proposed; all work is within the existing footprint

„« There is no visual impact from the street

„« There were no objectors

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section $\text{j}\pm 185-69$ 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 $\text{j}\pm 185-71$ 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 #3642, Craig Fisher, 25 Sunset Road, Bristol, RI 02809, applicant and owner, for permission to construct a 180 sq ft ground floor addition and a 290 sq ft second floor addition; Assessor's Plat 33, Lot 124, R-10 District, 25 Riverview Drive, Barrington, RI 02806, requiring relief for being within 100' of a wetlands/waterbody.

Present: Craig Fisher, 25 Sunset Road, Bristol, RI

In the audience:

Cyndee Fuller, Barrington Conservation Commission

Before this matter began, Mr. Rizzolo disclosed that his employer has a personal relationship with Mr. Fisher and he knows the applicant socially.

Mr. Kraig read into the record the favorable recommendation of the Conservation Commission.

Mr. Fisher explained that he is seeking to build a two-story addition in order to increase the overall living space in the home. The construction will be further away from the water than the existing structure. The only relief required is due to the home's proximity to the wetlands.

MOTION: Mr. Venuti moved to grant this application with the following conditions:

„« Erosion control measures, as proposed on the Conservation Commission recommendation, are to be in place around work areas prior to and during all soil disturbance activities

„« All construction materials are to be stored on the street side of the property.

Mr. Ridlon 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 proposal is located as far from the wetlands as possible

„« The proposal is the least relief necessary

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 #3643, Giovanni D. Cicione, 282 County Road, Suite #2, Barrington, RI 02806, applicant, STA Associates, Inc., 33H Kent Street, Barrington, RI 02806, owner, for permission for a Class A Liquor Store; Assessor's Plat 23, Lot 109, Business District, 1 Waseca Avenue, Barrington, RI 02806, requiring a Special Use Permit.

Present: Giovanni D. Cicione, 282 County Road, Suite #2, Barrington, RI

In the audience:

Leslie Feil, 260 Waseca Avenue, Barrington, RI

Mr. Cicione opened by explaining that his business plan would be identical to the plan he presented in application #3639, presented in September 2011; however, he is considering an alternate location because his original location may be considered too close to another proposed Class A establishment. However, he only plans to operate in one of the proposed locations.

Mr. Cicione reviewed the site plans for this location, noting that there was parking for 30 cars, he will be utilizing a shared dumpster with the other two occupants and deliveries will be received on the west

side of the building, away from the parking area. No exterior changes will need to be made to the building.

Ms. Feil spoke in support of this application.

MOTION: Mr. Venuti moved to grant this application. Upon a second by Mr. Freel, the Board unanimously (5-0) voted to grant this application.

DISCUSSION:

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

„« The property's prior use was supported by the parking; it should also support the proposed use

„« The proposed use is in harmony with the Comprehensive Plan

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

Application #3644, Ming Ling Yau, 94 Castle Rock Road, Warwick, RI 02886, applicant and lessee, Alfred Farina/Barrington Construction Company, 314 County Road, Barrington, RI 02806, owner, for permission to create a sushi bar; Assessor's Plat 23, Lot 292, Business District, 306 County Road, Barrington, RI 02806, requiring a Special Use Permit.

Present: Anthony DeSisto, attorney for the applicant, 450 Veterans Memorial Parkway,

Suite 103, East Providence, RI

Ming Ling Yau, 94 Castle Rock Road, Warwick, RI

In the audience:

Giovanni D. Cicione, 282 County Road, Suite #2, Barrington, RI

Before he began the presentation, Mr. DeSisto noted that the correct building size should be 1315 square feet, which would make the lot coverage calculation 14%.

Mr. DeSisto explained that his client is seeking to open a sushi restaurant, which will be open seven days a week. The business would be approximately 70% take out and 30% eat-in and Mr. Yau, will be seeking a license to serve sake. The restaurant will be open 11:00 AM -10:00 PM Monday through Thursday and 11:00 AM -11:00 AM Friday through Sunday. Three-quarters of the menu will be sushi items, while the remaining 25% of the menu will be cooked items.

There are 20 seats within the restaurant and no outdoor seating is proposed.

The parking lot has 84 spaces, which more than covers the requirements and waste will be handled via a shared dumpster on site. Deliveries will be a minimum of five days a week and occur at approximately 10:00 AM.

Mr. Cicione spoke in support of this application.

MOTION: Mr. Freel moved to grant this application. Mr. Ridlon 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 proposal is in harmony with the Comprehensive Plan

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 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. Freel and seconded by Mr. Ridlon to accept the September 15, 2011 Zoning Board of Review minutes as written. The motion carried unanimously (5-0).

Discussion of proposed Zoning Ordinance changes with regard to DEM regulations within the 100' wetlands setback.

Cyndee Fuller, of the Barrington Conservation Commission, explained that she is seeking feedback from various boards and department heads regarding changing the Zoning Ordinance in order to incorporate the DEM regulations applicable to their 50' setback to the Town's 100' wetlands setback. This would apply to any project involving a substantial amount of soil disturbance, not just construction.

The Board expressed concern with the overall enforcement of these regulations past the DEM required 50', as the Board does not currently have an officer who can enforce the regulations, nor should the Zoning Board serve as an environmental board. They also question how non-construction projects would be permitted and what levels of review would be needed.

ADJOURN:

There being no other business, Mr. Ridlon moved to adjourn at 11:33

P.M. Mr. Dennehy seconded the motion and the meeting was adjourned.

Respectfully submitted,

Valerie Carroll, Secretary

Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor