

ZONING BOARD OF REVIEW

Barrington, Rhode Island

September 20, 2012

APPLICATIONS: #3683, 3680, 3686, 3687, 3688, 3689 & 3690

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 as well as Building Official Robert Speaker.

At 7:04 P.M. Mr. Kraig opened the meeting and proceeded to hear the following matters. At 8:58 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.

It was noted that for applications 3683 and 3680 Mr. Freel served as Acting Chairman due to the fact that Mr. Kraig had not been present when those application had begun.

Continuation of application #3683, Francine Soldi, 27 Half Mile Road, Barrington, RI 02806, applicant and owner, for permission to construct a 24' x 40' two-story addition; Assessor's Plat 24, Lot 172, R-25 District, 27 Half Mile Road, Barrington, RI 02806, requiring

dimensional relief for being within 100 feet of a wetlands/waterbody.

Mr. Freel noted that public participation had been closed at the July 19, 2012, and that at the August 7, 2012 meeting the Board had directed solicitor Andrew Teitz to draft a decision to deny. The Board reviewed Mr. Teitz's draft decision, amending it to reflect the dates of each of the prior meetings.

MOTION: Mr. Venuti made the following motion:

The Barrington Zoning Board hereby denies the "Soldi Residence Addition" dimensional variance

application, as depicted on plans for 27 Half Mile Road in the Town of Barrington, Rhode Island, Assessor's Plat 24, Lot 172. Plan submitted by Union Studio

Architecture & Community Design. Denial is based on the following findings of fact:

Findings of Fact:

1. The applicant failed to show that any alleged hardship was due to a unique characteristic of the subject land or structure. The alleged hardship in this case was the need for a place to store her expansive book collection. There are naturally occurring wetlands on her property. The proposal was to build a 960 square-foot addition on an existing 1972 square-foot house that would result in construction

within fifteen feet of wetlands. The required setback from wetlands is one hundred feet in the Town of Barrington. The existing home is already located within 38 feet of the wetland edge. To the extent that any hardship might exist due to the presence of wetlands on the lot, such hardship is self-created by building the original house within such close proximity to the wetlands, even if allowed by law at the time at which the house was built. Furthermore, the owner has created her own hardship by using most of the "dry" land on the lot for swimming pool, patio, and a tennis court that takes up 6,870 square feet, which is bigger than the combined footprint of the house, patio and pool.

2. While the applicant has made efforts to mitigate storm water run-off, that alone does not justify allowing a structure to be built so close to wetlands. Storm water mitigation simply allows the Board to make a finding that the granting of the requested variance will not alter the general character of the surrounding area, such as by altering the wetland as required by section 185-69c. However, the applicant has not carried its burden of proof on several of the other required findings.

3. Applicant failed to show that the relief requested was the least relief necessary. Other alternatives were discussed for storing the applicant's book collection, and, though they were less desirable, they required less of a variance. For example, the patio could be removed or relocated and the addition might be built to the rear of the

existing structure, thus coming no closer to the wetland. Also, most of the area of the addition was not even used for books, but for a two-story high atrium, a wine cellar, and a "tasting table" leading to the finding that the addition could be much smaller and still contain all of the books. The Board therefore concludes that the size and location of the proposed addition would not amount to the least relief necessary.

4. The applicant failed to show that, absent relief, the resulting hardship would be more than a mere inconvenience. The result of this denial would only be the mere inconvenience of finding an alternative means to store her books, either on site or off-site as testimony indicated she does presently. Mere inconvenience has never been conclusively defined in Rhode Island and it is up to local boards to make decisions on a case by case basis, looking at the facts of individual applications. It could be more than a mere inconvenience if the owner could not make reasonable use of her property. As noted above, the owner is making reasonable use as permitted by zoning with the house, patio, pool and even a tennis court. Therefore the Board finds that denial would not amount to more than a mere inconvenience to the owner.

5. As a result, the Board cannot grant the requested dimensional variance because all of the requisite elements have not been met.

Mr. Blasbalg seconded the motion to approve the decision and deny

the application, and a vote was held:

Mark Freel - Yes Ian Ridlon - Yes

Paul Blasbalg - Yes Stephen Venuti - Yes

David Rizzolo - Yes

The motion to deny carried by a vote of 5-0.

Continuation of application #3680, Patrick and Debby Perugini, 6 Ferncliff Road, Barrington, RI 02806, applicants and owners, for permission to build a front porch addition; Assessor's Plat 24, Lot 184, R-25 District, 6 Ferncliff Road, Barrington, RI 02806, requiring dimensional relief for front yard setback.

Present: Debby Perugini, 6 Ferncliff Road, Barrington, RI

John, contractor, JKL Construction

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

The applicants explained that, upon the Board's recommendation, they have had the property surveyed to better define the property edge. Upon doing so they have reduced the depth of the porch from six feet to five feet. They are seeking to create a front porch in order to provide some protection from the elements when entering and exiting the home.

MOTION: Mr. Blasbalg moved to approve the application for a 24' setback to the property line with a step. Mr. Rizzolo seconded the motion and it carried 5-0.

DISCUSSION:

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

„« The proposal will enhance the character of the neighborhood

„« The plan is well thought out and the applicants responded to the concerns of the Board, reducing the size of the structure appropriately

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.

Continuation of application #3686, Kraunelis Insurance Agency, 195 Washington Road, Barrington, RI 02806, applicant and lessee, James Tavares, 49 Bradford Street, Bristol, RI 02809, owner, for permission to operate an office without required parking: three spaces available, five spaces required, as well as for parking in the front yard setback on Bay Spring Avenue; Assessor's Plat 2, Lot 16, Neighborhood Business Zone, 195 Washington Road, Barrington, RI 02806, requiring a special use permit for parking.

Present: John Kraunelis, owner, 195 Washington Road, Barrington, RI

In the audience:

Michael Dellefratte, 93 Spring Avenue, Barrington, RI

Mr. Kraunelis reviewed his letter to the Board, explaining that he is seeking relief from the required parking at 195 Washington Road because the nature of his business does not warrant additional parking. Mr. Kraunelis is the only full-time employee and he often walks to work. His wife comes in one or two afternoons a week to do the books and there are no other employees. Mr. Kraunelis sees two to three customers a day and the appointments are spaced out in 20-30 minute intervals so that there will not be two customers in the

business at the same times. Additionally, the applicant has designed the parking to eliminate the need to back out onto Washington or Bay Spring Road, as the cars can pass around the rear of the building to exit.

The Board expressed some concern with the potential that people might park on the street in front of the building, even though it is not striped for parking. Options to prevent parking in that area were considered and the applicant stated that he was open to a condition to prevent parking along Washington Road.

Mr. Dellefratte expressed concern regarding the existing parking issues involving the businesses across the street from the applicant. He did assert that the applicant does not have any problems with parking as it relates to his business.

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

„« The applicant must create a barrier, subject to approval by the Town Planner, in order to discourage parking on Washington Road

„« The applicant must stripe the proposed parking spaces

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

DISCUSSION:

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

„« The proposal does not need the required number of spaces

„« The proposal will allow a business use in a difficult-to-fill location

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 #3687, Gail Carley, 61 Sowams Road, Barrington, RI 02806, applicant, Malcolm and Joan Kirk, 10 Lantern Lane, Barrington, RI 02806, owner, for permission to construct two-story additions on the east and north sides of the home; Assessor's Plat 25, Lot 264, R-25 District, 10 Lantern Lane, Barrington, RI 02806, requiring dimensional relief for exceeding lot coverage.

Present: Gail Carley, 61 Sowams Road, Barrington, RI

The following exhibit was submitted for the record:

„« Letter of correction to the abutting neighbors

Ms. Carley explained that there had been an error in the application,

stating that the east and north sides of the home were going to be affected; however, it is actually the west and north sides that would be affected. Ms. Carley had sent a letter to the abutting neighbors about the change; however Mr. Teitz advised that since the application had been advertised incorrectly in the newspaper, the agenda postings and with the Secretary of State, the Board would not be able to hear the matter until it was re-advertised.

MOTION: Mr. Freel moved to continue the application, with re-advertisement, to the October 18, 2012 meeting. Mr. Venuti seconded the motion and it carried unanimously (5-0).

Application #3688, Eric Lewis, 22 Mason Road, Barrington, RI 02806, applicant, Simin Mohajer, Geneva, Switzerland, 1206, owner, for permission to construct a six-foot fence within three feet of Martin Avenue; Assessor's Plat 34, Lot 72, R-10 District 22 Mason Road, Barrington, RI 02806, requiring dimensional relief for fence height.

Present: Eric Lewis, 22 Mason Road, Barrington, RI

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

The following exhibit was submitted for the record:

„« Picture of existing conditions

Mr. Lewis explained that he is seeking to construct a six-foot fence in order to provide a safe area for his young children to play. He noted that his home is on a corner lot that had originally been used for a convenience store and he has had issues with people parking along the side of his house and with people hanging around the area along the side of his house. Additionally, his neighbor across the street runs a pit bull dog rescue and he has had an instance where one of her dogs has jumped over his four-foot fence while chasing a cat.

The Board asked if Mr. Lewis had considered constructing a four-foot fence and installing landscaping that would create the privacy buffer he desired. Mr. Lewis explained that a six-foot fence would provide more immediate protection for his children.

MOTION: Mr. Venuti moved to deny the application. Mr. Freel seconded the application and the motion carried unanimously (5-0).

DISCUSSION:

The Board members stated they supported denying the application for the following reasons:

„« The proposal was not the least relief necessary to resolve the issues of privacy and security, as alternative solutions could achieve the same effect.

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section

§185-69 have NOT been met: 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 #3689, William Fleming, 9 Baron Road, Barrington, RI 02806, applicant and owner, for permission to construct an elevated deck and porch; Assessor's Plat 29, Lot 166, R-10 District, 9 Baron Road, Barrington, RI 02806, requiring dimensional relief for being within 53 feet of a wetlands/waterbody, where a minimum of 100 feet is required.

Present: Brent Morse, representing the property owners

It was noted that the Board was not in receipt of a letter from the applicants allowing Mr. Morse to speak on their behalf. Therefore the Board could not proceed with this matter.

MOTION: Upon a motion by Mr. Freel, with a second by Mr. Ridlon, the Board voted unanimously (5-0) to continue this matter to the October 18, 2012 meeting.

Application #3690, John and Courtney Tutalo, 53 Richmond Avenue, Barrington, RI 02806, applicants and owners, for permission to install

a six-foot fence within four feet of Richmond Avenue; Assessor's Plat 12, Lot 250, R-10 District, 53 Richmond Avenue, Barrington, RI 02806, requiring dimensional relief for fence height.

Present: Courtney Tutalo, 53 Richmond Avenue, Barrington, RI

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

Ms. Tutalo explained that she was seeking to enclose a portion of her yard in order to provide a safe area for her disabled son to play. She explained that she was altering her proposal, moving the fence further away from the front yard setback and reducing that portion of the fence to four feet, while the side yard portion of the fence would be six feet, dropping down to four feet at the last panel.

MOTION: Mr. Freel 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 in favor of approving the application for the following reasons:

„« The applicant had changed her plans and the Board felt that what she was seeking was not clearly defined

„« The need for safety was undercut by the four-foot fence in the front of the area

„« The applicant failed to demonstrate how a six foot fence would provide better protection to her son than a four foot fence

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section j±185-69 have NOT been met: D) that the relief to be granted is the least relief necessary. Additionally, the standards for a dimensional variance set forth in Section j±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.

MINUTES OF THE PREVIOUS MEETING:

A motion was made by Mr. Venuti and seconded by Mr. Rizzolo to accept the August 16, 2012 Zoning Board of Review minutes as written. The motion carried unanimously (5-0).

ADJOURN:

There being no other business, Mr. Venuti moved to adjourn at 9:42 P.M. Mr. Freel seconded the motion and the meeting was adjourned.

Respectfully submitted,

Valerie Carroll, Secretary

Thomas Kraig, Chairman

cc: Andrew Teitz, solicitor