

# **ZONING BOARD OF REVIEW**

**Barrington, Rhode Island**

**January 19, 2012**

**APPLICATIONS: #3656, 3657, 3658 and 3659**

## **MINUTES OF THE MEETING:**

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

**Also present was solicitor Andrew Teitz and Building Official Robert Speaker.**

**At 7:04 P.M. Mr. Kraig opened the meeting and the Board proceeded to hear the following matters. At 8:55 P.M. the public participation portion of the meeting was closed and the Board proceeded to deliberate and vote on applications it had heard**

### **Election of Chairman and Vice Chairman**

**Mr. Freel nominated Thomas Kraig as Chairman. Mr. Blasbalg seconded the motion and it carried unanimously (5-0).**

**Mr. Venuti nominated Mark Freel as Vice Chairman. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).**

**Application #3656, David Rebello, 15 Blossom Road, Westport, MA 02790, applicant, Alka Naithani, 154 Promenade Street, Barrington, RI 02806, owner, for permission to construct second floor addition above garage/mudroom; Assessor's Plat 12, Lot 73, R-10 District, 154 Promenade Street, Barrington, RI 02806, requiring relief for being within 100' of a wetlands/waterbody.**

**Present: David Rebello, 15 Blossom Road, Westport, MA  
Alka Naithani, 154 Promenade Street, Barrington, RI**

**In the audience:**

**Leslie Weeden, Barrington Conservation Commission  
Ron Mowry, 150 Promenade Street, Barrington, RI**

**The following item was submitted as an exhibit:**

**&#61656; Google Earth picture of site**

**The applicants explained that they are seeking to build a second-story addition within the existing footprint of the home. They need the space for an additional bedroom and an additional bathroom in order better to accommodate the needs of the family. It was noted that they were not seeking any dimensional relief other than relief for the wetlands setback.**

**The Conservation Commission, as well as Mr. Mowry an abutting neighbor, spoke in support of the application.**

**MOTION: Mr. Venuti moved to approve the applications with the following conditions:**

**&#61656; Adequate erosion control measures to be utilized during construction,**

**&#61656; Construction materials to be stored at the side or front of the structure away from the wetland resource and demolition/construction waste to be removed promptly**

**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:**

**&#61656; The proposal is modest in scale and is entirely within the footprint of the existing home**

**&#61656; There will be no impact on the wetlands post-construction**

#### **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 #3657, Gina Perry, 47 Roosevelt Drive, Bristol, RI 02809, applicant and lessee, Kathleen and Carl Luther, 233 Waseca Avenue, Barrington, RI 02806, owner, for permission to open a bakery; Assessor's Plat 23, Lot 196, Neighborhood Business District, 233 Waseca Avenue, Barrington, RI 02806, requiring a Special Use Permit.**

**Present: Gina and John Perry, 47 Roosevelt Drive, Bristol, RI**

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

**The applicants explained that they are seeking to occupy a portion of the building at 233 Waseca Avenue in order to create a bakery. Their focus will be on cakes, cupcakes and deserts that will be baked on premises. The business plan is for counter service only; there will be no tables for dining in. The 13 parking spaces on the property will be adequate to serve both businesses, as is the on-site dumpster. There will be no deliveries during business hours with this business;**

**therefore, traffic will be able to flow around the building.**

**The Board noted that past proposals for the site have raised neighborhood concern regarding parking within the front right-of-way; however, no parking spaces are marked in the front nor are they part of the parking count. If there is a problem with people parking in the right-of-way, it is an enforcement issue for the Town, not the burden of the business owner.**

**MOTION: Upon a motion by Mr. Freel, with a second from 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:**

**&#61656; The proposed use is consistent with the other uses in the area**

**&#61656; The parking plan will effectively service this site**

**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 #3658, Timothy and Jill Lukens, 291 Narragansett Avenue, Barrington, RI 02806, applicants and owners, for permission to construct an 8' x 8' shed and a 6' x 4'7" shed; Assessor's Plat 1, Lot 289, R-10 District, 291 Narragansett Avenue, Barrington, RI 02806, requiring a dimensional variance for sheds within 5' of the primary structure, sheds within the side yard setback, as well as for exceeding lot coverage.

Present: Timothy Lukens, 291 Narragansett Avenue, Barrington, RI

In the audience:

Irene Urban, 289 Narragansett Avenue, Barrington, RI

The following items were submitted as exhibits:

&#61656; Survey plan for lot 290

&#61656; Photos of existing conditions

&#61656; GIS map for 289 Narragansett Avenue

Mr. Lukens explained that he had installed the 8' x 8' shed approximately four years ago, not realizing he would need a building permit. He erected the 6' x 4'7" shed about nine months ago. This shed would not require a building permit; however, it would be

required to meet building & fire code requirements. These errors were brought to his attention when a neighbor submitted a complaint to the Building Official.

The larger shed is used for bikes and toys, while the smaller shed is used for lawn equipment. Mr. Lukens has placed the sheds in the most logical location in order to preserve the back yard for his children's play space, including a playhouse and a tire swing.

Ms. Urban stated that she had concerns with the location of the sheds, as they directly impact her property and creates concern as a fire hazard. Ms. Urban also noted that there may be an issue with the property line. The Board noted that property line disputes were not within the Zoning Board's purview.

The Board noted that they were struggling with the "least relief necessary" standards, as there could be other locations for the sheds that would have less impact on the neighborhood. They encouraged the applicant to consider other options for locating the sheds.

**MOTION:** Upon a motion by Mr. Freel, with a second by Mr. Venuti, this matter was unanimously (5-0) continued to the February 16, 2011 meeting.

Application #3659, Gregory J. Snider, 217 Angell Street, Providence, RI 02906, applicant, Chandler K. Willett, 2 Angell Street, Suite 3,

**Providence, RI 02903, owner, for permission to add new living room, screened porch, master bath, gable, portico and enlarge garage; Assessor's Plat 10, Lot 90, R-40 District, 2 Hoffman Lane, Barrington, RI 02806, requiring dimensional relief for front and rear yard setbacks.**

**Present: Danielle Willett, 2 Angell Street, Suite 3, Providence, RI**

**Gregory Snider, architect, 217 Angell Street, Providence, RI**

**David Butera, contractor, 425 Maple Avenue, Barrington, RI**

**In the audience:**

**Azhar and Penny Mustafa, 275 Rumstick Road, Barrington, RI**

**The applicants explained that they are seeking to add approximately 1,000 square feet of space to the house and garage, as well as to create better flow and function for the existing space within the home.**

**When planning began it had been assumed that the Rumstick Road façade would be utilized for the front yard setback requirements; however, upon review it was determined that Hoffman Lane was the front yard, showing that the existing home was already non-conforming.**

**Mr. Snider reviewed the proposal, noted that the spaces that would require zoning relief would be the rear of the garage as well as the proposed screened porch. The Board indicated that it was struggling to see the hardship from which they were seeking relief, as well as**

**why the proposal is the least relief necessary. Members indicated that from the materials presented, the applicant did not appear to be meeting its burden of proof.**

**Mr. & Mrs. Mustafa, an abutting neighbor, expressed interest in learning more about the proposal and the applicants agreed to meet with them and review the plans.**

**MOTION: Mr. Freel moved to continue this matter to the February 16, 2012 meeting. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).**

**Discussion/Decision regarding the order of hearing applications**

**Mr. Blasbalg suggested that the Board consider changing the order in which applications are heard. Rather than the current 'first come, first served' order, he suggested hearing all residential applications first, and then hearing any commercial applications after the residential presentations. This way the residential applicants would not be burdened with sitting through potentially length commercial presentations.**

**Members of the Board felt that this placed an undue burden on the commercial applicants, noting that they often have professionals on hand to present testimony who are paid on an hourly basis.**

**Additionally, not all commercial presentations are lengthy, and not all residential presentations are brief. Therefore, Mr. Blasbalg's intent may not be well served by changing the order. The Board decided to leave the order of applications based on the current 'first come, first served' system.**

**MINUTES OF THE PREVIOUS MEETING:**

**A motion was made by Mr. Freel and seconded by Mr. Rizzolo to accept the December 15, 2011 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 9:25 P.M. Mr. Venuti seconded the motion and the meeting was adjourned.**

**Respectfully submitted,**

**Valerie Carroll, Secretary**

**Thomas Kraig, Chairman**

**cc: Andrew Teitz, Solicitor**