

# ZONING BOARD OF REVIEW

Barrington, Rhode Island

June 20, 2013

**APPLICATIONS: #3708, #3715, #3718, #3719, #3720, #3721, #3722**

## **MINUTES OF THE MEETING:**

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

Also present was Building Official Robert Speaker, and secretary Audra Raleigh.

At 7:04 P.M. Mr. Kraig called the meeting to order.

## **MINUTES OF THE PREVIOUS MEETING:**

A motion was made by Mr. Blasbalg and seconded by Mr. Rizzolo to accept the May, 2013 Zoning Board of Review minutes as written. The motion carried unanimously (5-0).

**Continuation of Application #3708 Justin Leland, 52 Derby Road, Berlin, MA 01503, applicant; Justin & Deborah Leland, 52 Derby Road, Berlin, MA 01503, owners, for permission to demolish two homes, merge two lots and construct a single-family residence; Assessor's Plat 1, Lots 260 and 261, R-10 District, 230-234 Narragansett Avenue, Barrington, RI 02806, requiring dimensional relief for height and front yard setback.**

Mr. Kraig noted that he had received a request from the applicant to withdraw his application without prejudice.

**MOTION:** Mr. Rizzolo made a motion to withdraw this application without prejudice. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

**Continuation of Application #3715 Joseph Francis, 175 Poppasquash Road, Bristol, RI 02809, applicant and owner, for permission to construct a 26' x 46' single family home and a 24' x 24' attached garage at Washington Road (vacant lot) Assessor's Plat, 14 Lot 407, R-25 District; requiring dimensional relief for front yard setback and being within 100 feet of a wetlands/waterbody, and for being within 100 feet of wetlands overlay district.**

Present: Stephanie Federico, Anthony DeSisto Law Associates, 450 Veterans Memorial Parkway, Suite103, East Providence, RI

Joseph Francis, 175 Poppasquash Road, Barrington, RI  
Alfred Almeida, developer, 152 Lincoln Avenue, Barrington, RI 02806

Also present was Joseph Roberts, representative from the Conservation Commission.

Mr. Kraig read into the record the recommendation from the Conservation Commission, recommending disapproval of the site plan because the proposed structure would be about 20' from the wetland edge, would have a high potential to impede or alter drainage across subject and adjoining lots, the wetland delineation (about 8 years old) requires updating, and the site is viewed as unsuitable for development.

Ms. Federico stated that a like application was approved for the site in 2006, and had approval by the Conservation Commission. The time limitation on that approval has expired. Ms. Federico noted that they are working with an extremely small envelope on which to build and also seek front yard setback relief to 26' to keep the house in line with the other houses in the neighborhood. Ms. Federico also noted that they have DEM approval 2015, and the applicant is willing to adhere to the conditions set forth in the approval of the application in 2006. In addition, Mr. Francis has donated land to the Barrington Conservation Land Trust.

Mr. Almeida stated that it is difficult to build a two story house with front hall stairway at the proposed 26 foot depth for the house, and a reduction to 24 feet would be very difficult. Mr. Almeida said that the house could be reduced in width from 46 feet to 40 feet, but that it would not be the ideal size, given what the applicant wants to do with the house.

Mr. Blasbalg pointed out that the DEM approval is still in effect due to the tolling law that went into effect, and not because new approval was sought or granted.

After a brief discussion by the Board, Ms. Federico requested a continuance to the August 15 meeting.

**MOTION:** Mr. Rizzolo made a motion to continue this application to the August 15 meeting. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

**Continuation of Application #3718, Table, LLC, 23 Nayatt Road, Barrington, RI 02806, applicant and owner, for permission to construct a restaurant on the first floor of the building located at 8 Anoka Avenue, Barrington, RI 02806, Assessor's Plat 23, Lot 181, NB District, 8 Anoka Avenue, Barrington, RI 02806, requiring special use permits for restaurant and for dedicated loading zone.**

Present: Stephanie Federico, Anthony DeSisto Law Associates, 450 Veterans Memorial Parkway, Suite 103, East Providence, RI  
Dr. Peter Weiss, 23 Nayatt Road, Barrington, RI  
Craig LaPlante, 24 Anoka Avenue, Barrington, RI  
Rita Calitri, 36 Anoka Avenue, Barrington, RI  
Eliza Lawson, 201 Waseca Avenue, Barrington, RI  
Ron SanAntonio, 41 Wood Avenue, Barrington, RI  
Dorothy Corey, 207 Waseca Avenue, Barrington, RI  
Tony Ciccone, 208 Waseca Avenue, Barrington, RI

Ms. Federico stated that the applicant is seeking to open a restaurant in a newly constructed space on Anoka Avenue. She noted that all other units are rented in the building and the space the applicant is seeking to use for a restaurant is 815 square feet. She noted that they had gone before the Building

Board of Review and were approved for a variance from the code for one, unisex, handicapped accessible bathroom. Additionally, their parking plan was approved by the Planning Board.

Dr. Weiss explained the design concept for the restaurant is “green” with local flavor. The idea is “farm to table”, with more focus on being upscale and unique than “volume” business. Dr. Weiss stated that they will be pursuing a liquor license in the future, but that is merely to complement the food; there will not be a separate bar area within the restaurant. He noted that there are six parking spots allotted for the restaurant, which meets the requirement and was approved by the Planning Board. He also noted that he has a dumpster which is larger than required to avoid overflow issues.

The following people spoke before the Board in opposition to the restaurant:

Craig LaPlante, Rita Calitri, Eliza Lawson, Ron SanAntonio, Dorothy Corey, Tony Ciccone

Concerns expressed by those speaking in opposition (most of whom are direct abutters to the proposed site) included:

- Overflow of parking
- Timely trash removal with food waste
- Lack of stop sign at the corner of Wood and Anoka
- Traffic generation
- Want more peace and quiet, not less
- Possible future change in use of building, causing more noise/traffic
- Noise, dumpster emptying, early morning deliveries

In response to the concerns, Dr. Weiss stated that he has spent extra money to put garbage disposals in every apartment unit and in the restaurant to try to reduce the amount of food waste. In addition, he obtained a larger-than-required dumpster to ensure no overflow of garbage or food waste. There is no room to expand to a bigger business in the future; the Planning Board did assess traffic flow and parking before approving the proposal.

**MOTION:** Mr. Dennehy made a motion to close the public portion of this hearing. 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 applicant has taken steps above and beyond what is required to ensure the cleanliness, noise reduction and traffic flow issues brought up by the abutters.
- This is a new business being brought into Town which fits with the Town’s Comprehensive Plan.
- The Planning Board assessed and approved traffic flow and parking plans.
- It was noted that outdoor seating was not being considered at this time.

**MOTION:** Mr. Venuti made a motion to approve this application with the condition that the hours of operation be no earlier than 7:00 a.m. and no later than 10:00 p.m. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

**REASON FOR DECISION:**

It was the judgment of the Board that the standards in Section §185-73 have been met: A) that the public convenience and welfare will be substantially served; B) that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan; C) that it will not result in or create conditions that will be inimical to the public health, safety, morals or general welfare of the community and D) that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district. Additionally, the standards for nonconforming uses set forth in Section §185-74 have been met because the applicant has demonstrated each of the following: A) that it will not result in the creation of increase in any undesirable impacts related the use, such as excessive noise, traffic and waste generation; B) that the general visual appearance of the nonconforming use shall not be altered in a way so as to heighten or make more apparent its nonconformity and, where possible, shall be improved so as to be more consistent with the surrounding area; and D) that the resulting nonconforming use will be a beneficial use to the community.

Mr. Blasbalg left the meeting at 9:15 p.m.

**Application #3719 Edwin & Deborah Barton, 298 Rumstick Road, Barrington, RI 02806, applicants and owners, for permission to add a 24' x 16' deck on the rear of the house; Assessor's Plat 29, Lot 90, R-40 District, 14 Echo Drive, Barrington, RI, 02806, requiring relief for being within 100 feet of a wetlands/waterbody.**

Present: Edwin & Deborah Barton, 298 Rumstick Road, Barrington, RI

Also present was Joseph Roberts, representative from the Conservation Commission.

Mr. Kraig read into the record the recommendation from the Conservation Commission, recommending approved of the site plan for the following reasons.

The applicants were amenable to the conditions set forth by the Conservation Commission, stating that the large deck is 4-5 feet above finished grade and is a "greener" use than the lawn. They also noted that positioning the deck elsewhere would create a hardship because there would be no room to put a shed or anything.

**MOTION:** Mr. Venuti made a motion to close the public portion of this hearing. Ms. Henderson 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 are seeking less than 10 feet closer to the wetlands than the previous foundation.
- There is no other place for the deck due to the site layout.
- The deck is considered a "greener" use than the lawn.

**MOTION:** Mr. Rizzolo made a motion to approve this application. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

**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 #3720 William Fleming, 9 Baron Road, Barrington, RI 02806, applicant and owner, for permission to add a covered porch with roof in the rear of the house. Assessor's Plat 29, Lot 166, R-10 District, 9 Baron Road, Barrington, RI 02806, requiring relief for being within 100 feet of a wetlands/waterbody.**

Present: William & Patricia Fleming, 9 Baron Road, Barrington, RI 02806

Also present was Joseph Roberts, representative from the Conservation Commission.

Mr. & Mrs. Fleming explained to the Board that they would like to build a deck in the rear of the house. They had applied last September for a variance and had decided not to do it then. The way the house is currently configured, the proposed location is the only space it will fit. The owners are asking for the variance because they have no access to the current deck off the main floor of their home; they only have access from the second floor. During the presentation, the owners said they would just like a deck, not a covered porch. The owners also stated that the distance from the wetlands was different from what was listed on the original application due to an inaccurate measurement that the owner took.

Mr. Roberts, Conservation Commission, stated that the Conservation Commission had a split vote on their disapproval of the application, but it was mainly because there were discrepancies in the distance from the wetlands from the previous application to this application and the applicant was not present to explain the discrepancies. He does not believe there is significant opposition to this application on any other grounds.

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

**MOTION:** Mr. Venuti moved to close the public portion of the hearing. 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 applicants are now only asking for a deck, not a covered porch.
- The Conservation Commission appears to be accepting of the plans, since it has now been explained why there was a discrepancy in the distance from the wetlands.
- The applicants have agreed to adhere to the same conditions as the Conservation Commission imposed on their prior application.
- The proposed deck is to be constructed in the same size and shape as the plans show and is no closer to the wetlands than 49 feet.

**MOTION:** Mr. Venuti made a motion to approve this application, subject to the conditions normally imposed by the Conservation Commission and that the deck be no closer than 49 feet to the wetlands. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

**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 #3721, Gyan Pareek and Gina Costello, 499 Washington Road, Barrington, RI 02806, applicants and owners, for permission to construct a second story addition over existing single story garage; Assessor's Plat 5, Lot 68, R-40 District, 499 Washington Road, requiring dimensional relief for front and rear yard setbacks, lot coverage, and entire structure non-conforming.**

Present: Gyan Pareek & Gina Costello, 499 Washington Road, Barrington  
Scott Weymouth, architect

The applicants began by submitting to the Board signed letters from all abutters stating that the applicants have showed the abutters the architectural plans and they have no objections to the project. The following people signed the letters:

- Fred & Kay Flanagan, 482 Washington Road, Barrington
- Lonnie & Katherine Morris, 20 Elm Street, Barrington
- Mark & Cindy Canha, 32 Elm Lane, Barrington
- Ernie & Susan Humphreys, 503 Washington Road, Barrington
- Peter & Anne Craig, 24 Elm Lane, Barrington
- Roger & Susan Vandenberg, 22 Cedar Avenue, Barrington
- John & Pauline Groetelaars, 100 Nayatt Road, Barrington
- Greg & Cheryl Perry, 500 Washington Road, Barrington
- William & Susan Hatfield, 70 Nayatt Road, Barrington
- David & Hope McGarty, 13 Elm Lane, Barrington

The applicants wish to add an addition over their garage for a master suite by adding a bathroom and closets. Mr. Weymouth explained the architectural plans for the space.

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

**MOTION:** Mr. Dennehy moved to close the public portion of the hearing. 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 addition is for a master suite, adding a bathroom and closets to the existing master bedroom.
- The applicants submitted signed letters from many abutters stating they had no objections to this application.

**MOTION:** Mr. Venuti moved to approve the application. Ms. Henderson seconded the motion and it carried unanimously (5-0).

**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 #3722, Yaox Ding, 26 Allen Avenue, Barrington, RI 02806, applicant and owner, for permission to add second floor on existing first floor, Assessor's Plat 1, Lot 65, R-10 District, 26 Allen Avenue, Barrington, RI 02806, requiring dimensional relief for front yard setback.**

Present: Wei Ma, Spouse of Yaox Ding, 26 Allen Avenue, Barrington

Ms. Ma addressed the Board and stated that she would like to make her 1.5 story house into a full two-story house. She is not changing the footprint at all, but needs the additional space above as the current space on the second floor has very low ceilings on which the owners bang their heads. Ms. Ma stated that she has gone over her proposal with many designers and contractors and the chosen plan is the best use of the space.

Catherine Fairchild, 22 Allen Avenue, Barrington, spoke in opposition to this application. Ms. Fairchild is the neighbor to the immediate left of Ms. Ma and has an older, one-story beach house. She feels the proposed addition will block the sun to her house and her property will lose value and asked the Board to deny the application.

In discussion with both Ms. Fairchild and Ms. Ma, the Board determined that a two-story house would be in keeping with the feel of the neighborhood, inasmuch as the majority of the homes on the two sides of the street were already two story.

**MOTION:** Mr. Rizzolo moved to close the public portion of the hearing. Mr. Dennehy 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 house is keeping within the same footprint of the existing structure.
- The house meets all other setback and height requirements.

**MOTION:** Mr. Rizzolo moved to approve the application. Mr. Venuti seconded the motion and it carried unanimously (5-0).

**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.

**ADJOURN:**

There being no other business, Mr. Blasbalg moved to adjourn at 10:00 P.M. Mr. Rizzolo seconded the motion and the meeting was adjourned.

Respectfully submitted,

Audra Raleigh, Secretary  
Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor