

# ZONING BOARD OF REVIEW

Barrington, Rhode Island

May 16, 2013

**APPLICATIONS: #3707, 3708, 3710, 3711, 3712, 3713, 3714, 3715, 3716, 3717 & 3718**

## **MINUTES OF THE MEETING:**

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

Also present was assistant solicitor Nancy Letendre, Building Official Robert Speaker, and Secretary Audra Raleigh.

At 7:03 P.M. Mr. Kraig called the meeting to order.

Mr. Kraig noted that several applications were being continued until future meetings due to the applicant's request or lack of a quorum.

**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.**

**MOTION:** Mr. Freel made a motion to continue this application to the June 20 meeting. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

**Application #3714 Listerlin Associates, LLC, 89 Governor Bradford Drive, Barrington, RI 02806, applicant and owner, for permission to renovate two buildings located at 134 Maple Avenue, Barrington, RI 02806, Assessor's Plat 23, Lot 79, NB District, in the following manner: building #1 - interior renovation and the addition of a building façade on the street elevation. This will protrude approximately 3' off the building; building #2 - interior renovation, the addition of a 10' by 6' laundry room which will be constructed on an existing foundation on the rear of the house, along with a renovated deck, 134 Maple Avenue, Barrington, RI 02806, requiring a special use permit for the extension of non-conforming use, and dimensional relief for rear and side setbacks.**

**MOTION:** Mr. Rizzolo made a motion to continue this application to the July 18 meeting. Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

**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.**

**MOTION:** Mr. Rizzolo made a motion to continue this application to the June 20 meeting. Mr. Freel seconded the motion and it carried unanimously (5-0).

**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.**

**MOTION:** Mr. Rizzolo made a motion to continue this application to the June 20 meeting. Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

The Board then proceeded to hear the following matters. At 8:52 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 that had not been continued.

**Application #3707 Abby Klieman, 16 Mathewson Lane, Barrington, RI 02806, applicant; Abby Klieman and Lawrence Lasala, 16 Mathewson Lane, Barrington, RI 02806 owners, for permission to unmerge two non-conforming lots; Assessor's Plat 25, Lot 278, R-25 District, 16 Mathewson Lane, Barrington, RI, 02806, requiring a special use permit.**

*Mr. Freel recused himself prior to the reading of this application.*

Present: Peter F. Skwirz from Anthony DeSisto's office, attorney

**MOTION:** Mr. Dennehy moved to adopt the decision drafted by the assistant solicitor to deny the application. Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

Subsequent to this application, Mr. Teitz arrived and replaced Ms. Letendre as solicitor.

**Continuation of application #3713 Douglas and Jodi Kelsey, 49 Annawamscutt Road, Barrington, RI 02806, applicants and owners, for permission to construct a one story addition to the first floor bedrooms to facilitate the needs of a handicapped daughter and a caregiver. A wheelchair ramp for direct access is also planned. Assessor's Plat 3, Lot 84, R-10 District, 49 Annawamscutt Road, Barrington, RI 02806, requiring dimensional relief for a front yard setback.**

Present: Douglas and Jodi Kelsey, 49 Annawamscutt Road, Barrington, RI 02806  
Scott Weymouth, Architect

Also present: Mike & Sydney Monstream-Quas, 45 Annawamscutt Road, Barrington, RI 02806

Mrs. Kelsey began by introducing her handicapped daughter to the Board via photos (Exhibit A), as well as a letter about her (Exhibit B), read by Mr. Weymouth. Mr. Weymouth explained that it is necessary that the addition be on the front of the house because of the location of the existing

bedrooms and bathroom. The daughter's bedroom needs to accommodate her wheelchair and all of the medical equipment required for her care. Additionally, there is a full time caregiver who sometimes has overnights and needs a place to sleep in close proximity to the daughter in order to provide care to her. Mr. Weymouth stated that the plan they have developed will minimize changes to the existing house structure while providing the additional space required. Mr. Weymouth noted that pursuant to the zoning ordinance, when neighboring structures are closer to the property line than would be allowed by the dimensional table, an applicant can employ the average of the setbacks of the two adjacent structures, resulting in a required setback for this property of 20' rather than 25'. The Kelsey's are seeking 4.2 feet of relief.

Mr. Monstream-Quas addressed the Board by reading a prepared letter in opposition to the Kelsey's application (Exhibit C). They have lived at their address for 11 years and feel that the proposed addition will greatly impact their views and natural light exposure (Exhibits D & E). They submitted a letter from the neighbors also (Exhibit F). The proposed wheelchair ramp will face their home, and therefore reduce their privacy.

The Board noted that as a matter of right, the applicants could expand several feet closer to the side yard line on the side adjacent to the neighbor's property, instead of going closer to the street, but that that layout would not meet the applicant's needs as well as the proposed addition.

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

**MOTION:** Mr. Freel moved to approve the application. Mr. Dennehy seconded the motion and it carried with one opposing vote (4-1).

**DISCUSSION:**

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

- The existing house is configured in such a way that the proposed addition minimizes the changes to the existing footprint of the house.
- The owners are seeking 4.2 feet of relief in order to create a more efficient, livable space to accommodate the medical equipment required for a handicap person.
- There is space to put the addition that would not require a variance, but it would have virtually the same impact on the neighbors who are opposing the application.
- The wheelchair ramp is not subject to the zoning ordinance.

Mr. Rizzolo voted against the application because he felt that the applicant had not satisfied the requirement of 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.

**Continuation of application #3710 Jon Paul Couture, 12 Arnold Street, Providence, 02906, applicant; John and Andrea Dziuba, 7361 Southwest 165 Street, Miami, FL, 33157, owners, for permission to construct an addition to an existing single-family residence which is nonconforming by dimension; renovations will remove an existing shed and concrete patio, enlarge the existing front porch, add a second story addition and new deck for rear entry; Assessor's Plat 7, Lot 41, R-25 District, 15 Adelaide Avenue, Barrington, RI 02806, requiring dimensional relief for front and side yard setbacks and exceeding lot coverage.**

*Mr. Rizzolo recused himself prior to the reading of this application.*

Present: Scott Paddington, attorney for applicant, offices at Mendon Road  
Jon Paul Couture, 12 Arnold Street, Providence, RI

Mr. Paddington explained that after the last Zoning Board meeting, Mr. Couture reworked the plans for the house, taking into account the recommendations from the Board as well as the comments from the neighbors who were in opposition to the application. Mr. Couture presented a new plan which reduced the structure from the originally proposed two-story to a 1 ½ story structure, using dormers to accomplish the needed space. There is a slight reduction in square footage, but there is now no need to request a height variance. They are still requesting the same amount of relief, as the footprint is still essentially the same, but the new plans show a house which is more in conformance with the existing neighborhood and abutting homes. It is noted for the record that in light of the new plans proposed, two previously opposing abutters have rescinded their oppositions.

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

**MOTION:** Mr. Blasbalg moved to approve the application. 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:

- With the revisions to the plans, the proposed changes now make the house in keeping with the feel of the neighborhood, and the house, absent substantial change, does not reasonably meet the needs for year-round habitation.
- The architect submitted a substantial revision to the plans, and included the suggestions from the Board, as well as the concerns of the abutting neighbors, making the house more conforming to the existing neighborhood.
- Two previously opposing abutters withdrew their oppositions in light of the revised plans.
- The height and mass of the house were major issues before and the new plans have addressed those issues.

**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 #3711 Kaan and Laima Duru, 101 Highland Avenue, Barrington, RI 02806, applicants and owners, for permission to tear down to foundation and rebuild house with a 12' x 12' addition in the back, Assessor's Plat 8, Lot 44, R-10 District, 101 Highland Avenue, Barrington, RI 02806, requiring dimensional relief for front yard setback.**

Present: Kaan & Laima Duru, 101 Highland Avenue, Barrington, RI 02806  
Sean Solley, Solley Designs, 31 Woodbine Avenue, Barrington, RI 02806

Mr. Duru stated that he and his wife purchased the house at 101 Highland Avenue with the intention of renovating the existing structure. However, once they looked further into the structure of the house, it became clear that the building was not structurally sound, and construction of a new structure would be more practical than an attempt to restore the existing house. They were able to keep the existing foundation, which is in good shape. The proposed new house is on the existing footprint, with a 12' x 12' addition in the rear.

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

**MOTION:** Mr. Freel moved to approve the application. 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 house is utilizing the existing foundation, and the front yard setback remains the same.
- The house meets all other setback and height requirements.

**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 #3712 Wen Qin Zou, 306 County Road, Barrington, RI 02806, applicant and lessee, and Barrington Construction, 306 County Road, owner, for permission to add four bistro-style tables with two seats each, outside the restaurant, Assessor's Plat 23, Lot 292, B District, 306 County Road, Barrington, RI 02806, requiring special use permit for outdoor**

**seating.**

Present: Wen Qin Zou, Sushi Express, 306 County Road, Barrington, RI 02806  
Valerie Noey, business manager for applicant

Ms. Noey stated that the applicant desires to add outdoor seating in the form of four bistro tables, with two chairs each. She noted that the restaurant predominately is a takeout restaurant and has limited space inside to accommodate people waiting for their orders without disturbing diners; also, the owner is trying to add an additional element to the restaurant. Ms. Noey responded to questions from the Board regarding business hours and screening with planters from the parking lot; the restaurant is open to 10:00 p.m. and planters are present, as are concrete stops in front of each parking spot for the safety of the patrons dining outside. The Board noted that the adjacent restaurant has outdoor seating of a similar nature and it has presented no problems.

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

**MOTION:** Mr. Freel moved to approve the application. 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 met all the requirements for outdoor seating; there is ample parking.

**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.

In addition, the standards in Section §185-107 have been met: A) that outdoor seating or display shall not block handicapped or pedestrian access; B) that outdoor seating areas shall be distinguished from parking areas by solid, uninterrupted concrete or granite curbs and landscaping which physically separates the outdoor seating area from parking; C) that there shall be at least one parking space for each four seats beyond the parking spaces required for indoor seating; D) that there shall be at least one readily visible litter barrel for every 12 seats; E) that the outdoor seating area shall be screened from parking, sidewalks and/or street by a landscaping strip, plants or fencing at least four feet in height and not more than six feet in height. All such screening materials must be secured so as not to create a hazard; and F) that all exterior elements shall be uniform and complement the colors and architecture of the adjacent buildings. Additionally, the standards for use of outdoor seating areas set forth in Section §185-108 have been met because the applicant agreed that A) employees will clear tables and monitor adjacent areas for litter on a regular schedule; B) that hours of operation will be limited to the periods from 9:00 a.m. until 10:00 p.m., Monday through Saturday, and from 12:00 noon to 10:00 p.m. on Sunday; C) that all lighting shall be focused directly on the seating area and away from abutting properties; D) that no music or entertainment, live or transmitted, shall be permitted; and E) that no advertising or promotional materials shall be applied or attached to, or otherwise included in, any exterior elements, including table umbrellas.

**Application #3716 Peter Colando, 10 Lister Drive, Barrington, RI 02806, applicant and owner, for permission to construct new shed, Assessor's Plat 32, Lot 233, R-25 District, 10 Lister Drive, Barrington, RI 02806, requiring dimensional relief for rear and side yard setbacks.**

Present: Peter and Susan Colando, 10 Lister Drive, Barrington, RI 02806

Mr. Colando told the Board that his old shed was destroyed by Hurricane Sandy. He has a 7,500 square foot lot and would like to put up a new shed, but if he met the setback requirements, his shed would be in the middle of his yard. He would like to place the shed three feet from the rear lot line; the old shed was 6' x 6'; the new shed is 8' x 12'. He is seeking rear yard relief only.

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

**MOTION:** Mr. Freel moved to approve the application, with the condition that the shed be placed no closer than three feet from the rear lot line. 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 size of the applicant's lot is such that meeting the rear yard setback will not allow for reasonable placement of the shed.

**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 #3717, Richard Brooks, 138 George Street, Barrington, RI 02806, applicant and owner, for permission to replace existing garden shed with new, larger shed, Assessor's Plat 37, Lot 52, NB District, 138 George Street, Barrington, RI 02806, requiring dimensional relief for side yard setback.**

Present: Mr. & Mrs. Richard Brooks, 138 George Street, Barrington, RI 02806

Mr. Brooks has a shed that he would like to take down and replace with a new, larger shed to house a larger lawnmower and various storage items. He explained that he has two mature trees on his property that were planted by his daughters and have significant meaning to his family, so he doesn't want to cut them down. He would like to place the shed between the two trees and is seeking a variance for side yard relief.

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

**MOTION:** Mr. Rizzolo to approve the application. Mr. Blasbalg 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:

- Placement of the shed in accordance with the setback requirements would substantially, adversely affect the applicant's use of his property and the landscaping on it.

**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.

**MINUTES OF THE PREVIOUS MEETING:**

A motion was made by Mr. Freel and seconded by Mr. Blasbalg to accept the April 18, 2013 Zoning Board of Review minutes as written. The motion carried unanimously (5-0).

**ADJOURN:**

There being no other business, Mr. Blasbalg moved to adjourn at 9:50 P.M. Mr. Rizzolo seconded the motion and the meeting was adjourned.

Respectfully submitted,

Audra Raleigh, Secretary  
Thomas Kraig, Chairman  
cc: Andrew Teitz, Solicitor