

ZONING BOARD OF REVIEW

Barrington, Rhode Island

August 15, 2013

APPLICATIONS: #3562, #3715, #3723, #3725, #3726

MINUTES OF THE MEETING:

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

Also present were Solicitor Andy Teitz, Building Official Robert Speaker, and secretary Audra Raleigh.

At 7:00 P.M. Mr. Kraig called the meeting to order.

Mr. Venuti motioned to move the approval of the minutes to the beginning of the meeting, rather than at the end. The motion was seconded by Mr. Rizzolo and it carried unanimously (5-0).

MINUTES OF THE PREVIOUS MEETINGS:

MOTION: Mr. Venuti moved to approve the minutes of the June 20 meeting, with changes. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

MOTION: Mr. Venuti moved to continue the minutes of the July meeting, not yet available, to the September meeting. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

Continuation of application #3562, Ernest E. Ryden, Jr., 22 Spicer Lane, Osterville, MA 02655, applicant and owner, on remand from the Rhode Island Superior Court to complete proceedings from April 8, 2010; subject property located at Assessor's Plat 32, Lot 237, R-10 District, Arvin Avenue, Barrington, RI 02806. The procedure for responding to this remand will be discussed, and a vote may be taken of the alternate member serving as the fifth member of the Board.

Present: Anthony DeSisto, Anthony DeSisto Law Associates, 450 Veterans Memorial Parkway, Suite 103, East Providence, RI, attorney for applicant
Ernest Ryden, 22 Spicer Lane, Osterville, MA 02655

Mr. Teitz explained that this application was heard in March 2010. The application was denied due to a Board member abstaining from the vote, resulting in a 3 -1 – 1 vote and lacking four votes to approve. The denial was appealed and the Superior Court ruled that a member could not abstain, and the matter was remanded to the Zoning Board for a decision. There will not be a "new" hearing - the public portion of this case was closed in 2010 - and there will be no further input from the applicant,

abutters or other members of the public. Mr. Teitz explained the procedure of this case as well as who will be voting. No voting will take place during this meeting in order to afford members an opportunity to review the original proceedings. In addition to a vote by Mr. Dennehy on the request for a dimensional variance – on which the four remaining voting members of the 2010 Board have already voted, there may then be a vote on the request for a special use permit. Mr. DeSisto will get an audio DVD of the original hearing to the Board members as soon as possible.

MOTION: Mr. Rizzolo made a motion to continue this application to the September 19 meeting. Mr. Venuti seconded the motion and it carried unanimously (5-0).

Continuation of application #3723, Mohamed J. Freij, 326 Sowams Road, Barrington, RI 02806, applicant and owner, for permission to unmerge two non-conforming lots located at 144 Roffee Street and Whipple Avenue (on the south side of Whipple Avenue between South Street and Walter Street), Barrington, RI 02806, with existing dwelling to remain on first lot at 144 Roffee Street, and build a 22' x 36' single family house on "new" lot on Whipple Avenue, which will meet all minimum setback requirements; Assessor's Plat 22, Lot 196, R-10 District, 144 Roffee Street and Whipple Avenue (between South Street and Walter Street), Barrington, RI 02806, requiring a special use permit.

There is not a quorum for this case, so it will be continued to September 19, 2013.

MOTION: Mr. Venuti made a motion to continue this application to the September 19 meeting. Mr. Rizzolo 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 located on the east side of Washington Road between Promenade Street and Rogers Avenue) Assessor's Plat, 14 Lot 407, R-25 District; Washington Road, Barrington, RI 02806, 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 Frederico, Anthony DeSisto Law Associates, 450 Veterans Memorial Parkway, Suite 103, East Providence, RI
Fred Almeida, developer, Home-Glow, 2 Kenmore Court, Barrington, RI

Ms. Frederico explained that the applicant has submitted revised plans to the Board, making the house two feet less in depth and sixteen feet less in width, thereby increasing the distance from the northeast corner of the proposed construction to the wetland border (the portion that is the closest). The front yard variance requested is only due to the front steps falling in the setback area required in an R-25 district.

Mr. Kraig read into the record the recommendation from the Conservation Commission along with the conditions which are attached therein. Mr. Ianotta, representative from the Conservation Commission, explained that they had spoken to DEM, which indicated that it viewed the requested variance as not significant. The Conservation Commission voted to approve the application because it felt that the proposed house, as revised, would not have a material effect on the wetlands. The Conservation Commission feels that any treatment of the rainwater runoff is acceptable.

There was one person in the audience who spoke in opposition to this application.

Susan Taylor, 40 Washington Road, Barrington, RI

Ms. Taylor handed out a spreadsheet of measurements of the distances from the “white line” of the road to fronts of other houses in the area surrounding the applicant’s property. Mr. Blasbalg noted that the Town owns the property - grass - between the road edge and the property lines, so she should subtract about 10’ from the measurements listed on the spreadsheet. She stated that even with the new measurements, the requested house is still closer to the road and much bigger than all of the other houses in the area.

Mr. Venuti made a motion to close the public portion of the meeting. Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

MOTION: Mr. Venuti made a motion to approve the application using the new plans for a 24’ x 58’ house, as well as incorporating the conditions set forth by the Conservation Commission at its August 15’ 2013 meeting. 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:

- The Conservation Commission changed its vote.
- The applicant is handling the rainwater runoff issue appropriately.
- The applicant is trying to balance the closeness to the street with the closeness to the wetlands.
- The original plans were revised to make the requested variance smaller, meeting the requirement for 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 #3725 David & Sheila Butera, 275 Nayatt Road, Barrington, RI 02806, applicants and owners, for permission to construct a 320 square foot, one-story, addition containing a side entry, mudroom and breakfast area, Assessor’s Plat 7, Lot 97, R-40 District; 275 Nayatt Road (at the corner of Watson Avenue), Barrington, RI 02806, requiring dimensional relief for front yard setback from Watson Avenue.

Present: David & Sheila Butera, 275 Nayatt Road, Barrington, RI 02806

Mr. Butera explained that they have owned the property for two years; the stock plan that was used

when the house was built does not allow for a side door entrance; currently, you enter the home through the garage or through a front door which is on the side of the house away from the driveway. He is requesting eight feet of dimensional relief from the Watson Avenue front yard setback in order to add a mudroom and breakfast area. They are currently eating at a small peninsula in the kitchen and with four people in their family, it is quite restrictive. Mr. Butera explained that it is not "standard" use to enter from the outside straight into the kitchen. He would like to have a place to eat informal meals as a family. When asked if he looked at other plans that might require less relief, he responded that he had. However, due to the location of the house on the lot, it is very hard to position an addition anywhere other than where he is proposing. Mr. Butera indicated that he would be willing to decrease the size of the addition by two feet, reducing the amount of relief required.

There was no one in the audience to speak in favor or opposition to this application.

Mr. Rizzolo made a motion to close the public portion of the meeting. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

MOTION: Mr. Rizzolo made a motion to approve this application, with the condition that the addition be no closer than 44 feet to the street, thereby granting 6 feet of relief. 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:

- The relief requested does not have an effect on anyone else.
- The applicant is willing to reduce the size of the addition by two feet, requiring less relief than initially requested.
- The house sits on a corner lot, so it has two frontage requirements, but it would still be 44' away from the street.
- Mr. Speaker had noted that the addition is farther from the property line due to the fact that the addition is not parallel to the street.

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 #3726 Alfred Mello, 15 Appian Way, Barrington, RI 02806 applicant and Margaret Mello Revocable Living Trust, 15 Appian Way, Barrington, RI 02806, owner, for permission to tear down and replace current outbuilding with a 3-car garage with second floor auxiliary living quarters and storage, Assessor's Plat 4 Lot 75, R-25 District; 15 Appian Way, requiring dimensional relief for side yard setback, for height of accessory structure, and for insufficient lot area for auxiliary living quarters.

Present: John Revens, Revens, Revens & St. Pierre, 946 Centerville Road, Warwick RI 02886,
attorney for the applicant
Anthony DeSisto, attorney for Mathew & Sarah Mederios

Mr. Revens requested a continuance to the October 17, 2013 meeting.

MOTION: Mr. Dennehy made a motion to continue this application to the October 17 meeting.
Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

ADJOURN:

There being no other business, Mr. Blasbalg moved to adjourn at 9:00 P.M. Mr. Venuti seconded the motion and the meeting was adjourned.

Respectfully submitted,

Audra Raleigh, Secretary
Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor