

ZONING BOARD OF REVIEW

Barrington, Rhode Island

July 23, 2014

APPLICATION #3767, 3768 & 3769

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 were Solicitor Andrew Teitz, Assistant Solicitor Amy Goins, and Secretary Audra Raleigh.

At 7:05 P.M. Mr. Kraig called the meeting to order.

MINUTES OF THE PREVIOUS MEETING:

MOTION: Mr. Rizzolo made a motion to approve the minutes of the June 19th meeting. Mr. Freel seconded the motion and it carried unanimously (5-0).

Application #3768, Andrea McDonough, 33 Marlborough St, Unit 1, Boston, MA 02116, applicant, and Bradford Faxon, Jr., 144 Westminster Street, Providence, RI, owner, for permission to construct a 10 foot fence at the north and south ends of a proposed tennis court to be located on the easterly side of the lot, Assessor's Plat 5, Lot 028, R-40 District, 85 Nayatt Road, Barrington, RI 02806, requiring height variance for allowable maximum height of a fence.

Mr. Rizzolo recused from this application.

Present: Stephanie Federico, Anthony DeSisto Law Associates, LLC, 450 Veterans Memorial Pkwy, Ste 103, East Providence, RI 02914

Lynn Small, architect, specializing in tennis court design

Brian Sullivan, Sloane & Walsh, LLP, Three Center Plaza, Boston, MA 02108

Ms. Federico explained the proposed plan for the tennis court proposed on the property. Ms. Small introduced all the details of the plan, including fencing, lighting, drainage and vegetation, as well as the reasons behind the decisions made in the plan. The applicant's representatives indicated that the proposed ten foot height for the fence was standard for a tennis court. Ms. Federico advised that the attorneys, on behalf of the applicant, had already spoken to the neighbors and the applicant had agreed to certain limitations on use of the tennis court.

The following people spoke with respect to the application:

Sam Chase, 95 Nayatt Road, Barrington, RI 02806

He noted his bedroom is about 200 feet from the proposed tennis court and feels that the

proposed lights and their poles to illuminate the court would change the feel of the neighborhood. He also objects to the noise at night, saying that he does not feel the existing trees will block the lights and noise. He notes that he has a tennis court on his property with no lights and says if he knew this proposed court would have lights, he would never have signed the agreement from the attorneys. At this point, he withdrew his support of this application.

Dana Gaebe, Gaebe & Kezirian, 1445 Wampanoag Trail #115, Riverside, RI 02915

He stated that he would like the stipulations that are in the agreement with the neighbors incorporated in the decision by the Board

William Carr, 93 Nayatt Road, Barrington, RI 02806

He would like the agreement with the neighbors go with the property, and not just be applicable to the applicant. He also suggested there be a landscaping plan to minimize the noise and light pollution.

Ms. Small noted that the lights have a hood which forces the light to shine directly downward. Ms. Federico also noted that as a matter of right, tennis courts are a permitted use, as is lighting. In addition, the applicant indicated that they work late and being able to play tennis in the evening is essential to their use of the court. The purpose for coming to the Zoning Board is solely to obtain a variance for the height of the fence on two sides of the tennis court, which is four feet above the permitted fence height.

Mr. Teitz noted that lights up to 35 feet are allowed.

At 8:19 p.m., the public portion of the hearing was closed.

- MOTION:** Mr. Freel made a motion to approve this application with the following conditions:
- 1) The tennis court surface and resulting topographical disturbances of the existing lawn will be constructed to pitch or direct any natural or man-made runoff in a westerly direction. The court surface will have a pitch of .83% which calculates as a 6 inch slope across the 60 foot court in a westerly direction; the applicant will construct a permanent six inch high berm on the easterly side of the tennis court trailing off to the west at the southernmost point of the court;
 - 2) use and lighting of the tennis court will be limited to 7:00 AM to 10:30 PM; the lights may not be turned on more than 20 minutes prior to use of the court and may not to be left on for more than 20 minutes after use of the court;
 - 3) the tennis court lighting will be AeroPro high performance, full cutoff sports lighting that minimizes light spillage and will not cause an illumination nuisance to the east / southeasterly abutting property;
 - 4) use of the specific lights as presented by the applicant with this application and limited to 4 poles at 22 ft. in height.

Mr. Dennehy seconded the motion and it carried unanimously (5-0).

DISCUSSION:

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

- The applicant proactively spoke with the neighbors and came to agreement to certain terms prior to coming to the Board.

- The applicant was amenable to the stipulations put forward by the Board and the attorneys representing the neighbors.
- The applicant is asking for only 2 sides of the court to exceed the height requirement for the fence.

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.

Mr. Dennehy left the meeting at 8:28 PM. The Board thanked him for coming back from his vacation to hear this application.

Application #3767, Arnold & Mary Robinson, 34 Hawthorne Avenue, Barrington, RI 02806, applicants and owners, for permission to construct porch roof over portion of existing deck, Assessor's Plat 25, Lot 160, R-25 District, 34 Hawthorne Avenue, Barrington, RI 02806, requiring dimensional relief for side yard setback.

Present: Arnold Robinson, 34 Hawthorne Avenue, Barrington, RI 02806

Mr. Robinson indicated that the existing deck was built without permits by the prior owner and was built within the side yard setback. He wishes to enclose the porch due to it being too hot and because they have a son who has severe reaction to bug bites (see enclosed letter from doctor). He plans to go under the floor joists and run screen to minimize bug exposure. Mr. Robinson did extensive research regarding other homes in the neighborhood and found 8 other properties with similar screened porches. His design does not expand the existing footprint; it is simple in form and aligns with the current walls. He also determined that there is no other place on the property that would be feasible to place the porch.

There were three people in the audience who supported this application:

Duncan Colley, 32 Hawthorne Avenue, Barrington, RI
Jane Donnelly, 37 Hawthorne Avenue, Barrington, RI
Robert Wart, 8 Olive Lane, Barrington, RI

Additionally, there were letters of support received for this application as well.

The public portion of the hearing was closed at 8:50 p.m.

MOTION: Mr. Blasbalg made a motion to approve the existing deck, which encroaches on the setback requirements, as well as adding the proposed porch onto the deck footprint. Mr. Freel seconded the motion and it carried unanimously (5-0).

DISCUSSION:

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

- The applicant did extensive research of the surrounding areas to ensure his design fit the character of the neighborhood.
- The applicant was proactive in looking into other scenarios for the outside space.
- The applicant proposed a simple design, aligning with the existing walls, and did not increase the footprint of the space.

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 #3769, Carlson Interests and Investments, LLC, 70 Mohawk Trail, Charlestown, RI, 02813, applicant and owner, for permission to demolish existing house and build a new single family home at 17 Colonial Avenue, Barrington, RI 02806, Assessor's Plat 28, Lot 209, R-10 District, 17 Colonial Avenue, Barrington, RI 02806, requiring dimensional relief for front and side yard setbacks.

Present: John Shekarchi, 132 Old River Rd, Lincoln, RI 02865
Ed Pimentel, AICP, 26 Avon Road, Cranston, RI 02905
Terry Harrington, Bridgeview Construction, 7 Fifteenth Avenue, Warwick, RI

Mr. Shekarchi came to the Zoning Board a few months ago to get relief for rehabilitation / improvements to this property and it was granted. However, in the course of working on the house, it was determined by the current contractor that the house is not suitable for rehabilitation. The owner would like to demolish the house and build a new house. They would like to balance the new house on the lot, thus needing a one foot variance on each side of the proposed new house. They have eliminated the front and rear yard variances (see attached page 5 for comparison of existing condition versus proposed). They have eliminated the accessory structure (shed) as well.

Currently, there is no basement, no functioning bedrooms, and it is not structurally sound. The existing footings would not be adequate to support an improved house. The applicant is making the new building more conforming than the existing structure.

There was one person in the audience who spoke in favor of this application.
John DeAngelis, 7 Colonial Avenue, Barrington, RI 02806

Mr. DeAngelis stated that all of the houses in the area are built on cinder blocks without full footing / basement support; he does not believe the existing house can be salvaged. He is in favor of this application.

At 9:22 p.m., the public portion of this hearing was closed.

MOTION: Mr. Freel made a motion to approve this application. Ms. Henderson seconded the motion and it carried unanimously (5-0).

DISCUSSION:

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

- Typically, the Board does not grant variances for tear downs, however, in this case, they feel it is different due to the facts that:
 - The amount of relief requested is minimal
 - An effort was made to remediate the existing structure, which apparently is in such a state of deterioration as to make rehabilitation impossible
 - It is a modest living space

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 9:40 P.M. Mr. Dennehy seconded the motion and the meeting was adjourned.

Respectfully submitted,

Audra Raleigh, Secretary
Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor