

ZONING BOARD OF REVIEW

Barrington, Rhode Island

August 21, 2014

APPLICATIONS #3765, 3770 & 3771

MINUTES OF THE MEETING:

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

Also present were Assistant Solicitor Amy Goins, and Secretary Audra Raleigh.

At 7:05 P.M. Mr. Kraig called the meeting to order. Mr. Kraig then swore Mr. Meyer in as a member of the Zoning Board of Review.

MINUTES OF THE PREVIOUS MEETING:

MOTION: Ms. Henderson made a motion to approve the minutes of the July 23rd meeting. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

Continuation of application #3765, Mindy Blount, 209 Washington Road, Barrington, RI 02806, applicant and owner, for permission to build a stand-alone garage with loft, Assessor's Plat 2, Lot 102, R-25 District, 209 Washington Road, Barrington, RI 02806, requiring dimensional relief for exceeding height for an accessory structure. **Please note: the applicant has requested a continuance to the September 18, 2014 meeting.

The Chairman noted that the Board has received a letter from the applicant stating her desire to withdraw her application.

MOTION: Mr. Rizzolo made a motion to accept the withdrawal of application #3765. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

Application #3770, David & Tanja Epps, 341 Nayatt Road, Barrington, RI 02806, applicants and owners, for permission to retain six-foot fence which was installed within the required 30' setback; Assessor's Plat 08, Lot 083, R-25 District, 341 Nayatt Road (at the corner of Nayatt Road and Bluff Road), Barrington, RI 02806, requiring dimensional relief for exceeding fence height in required 30' setback.

Present: Tanja Epps, 341 Nayatt Road, Barrington

Ms. Epps explained that she was not aware of the "corner rule" in zoning. Her fence was placed where it is by the pool contractor and is in the 30' setback. The applicant decided to have the required fence around the whole back yard versus just around the pool to maximize the size of their back yard, as the

house is set way back on the property. However, the original plans submitted to the building department showed a fence only around the pool. Ms. Epps noted that she desires a 6' fence instead of a 5' fence for more privacy and to deter "pool hoppers". However, the applicant indicated that she could also manage with a five foot fence.

A letter of support was received by the Board from Ms. Epps neighbor.

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

At 7:30 p.m., the public participation portion of the hearing was closed.

MOTION: Mr. Dennehy made a motion to approve the application with the condition that the fence be 5' high, not 6'. Mr. Rizzolo seconded the motion and it carried (4-1), with Mr. Blasbalg opposed.

DISCUSSION:

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

- Only a small portion of the frontage is on Bluff Road.
- There was a letter of support from the neighbor.
- The applicant agreed to accept the height of the fence at 5'.

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 #3771, Michael Winitsky, 12 Melrose Avenue, Barrington, RI 02806, applicant, and Gary Herden, 4 Belton Drive, Barrington, RI 02806, owner, for permission to unmerge lots, Assessor's Plat 17, Lot 118, R-10 District, 16 Crown Road, Barrington, RI 02806, requiring special use permit to unmerge lots.

Present: Michael Winitsky, 12 Melrose Avenue, Barrington, RI
Gary Herden, 4 Belton Drive, Barrington, RI

The applicant was advised that if this application receives approval by the Zoning Board, the applicant would need to go to the Planning Board, but there would not need to be a public hearing as part of that process. This application would be considered a minor subdivision. Typically, this type of application would go to the Planning Board first. This process for the application is because the original configuration of the parcel was four small lots, and the applicant desires to create two lots - a new configuration that had never existed before, and so the Board cannot merely "unmerge" back to the

way the parcel once had been, since it had never been like this.

Mr. Winitsky noted that if the lots were unmerged with the frontage on Howard Street, the existing house would need a 10' dimensional variance; by dividing into two lots with the new frontage along Crown Road, no relief is needed for the house, which the applicants propose to rehabilitate rather than raze. The Board asked the applicant if he had considered asking the Town to abandon the paper street so that the lots would be conforming. The applicant had considered it, but the surrounding neighbors most likely would be opposed. Mr. Winitsky noted that the neighborhood has moderate size lots; their intent is to unmerge these lots so that similar size homes can be built and would be in keeping with the characteristics of the neighborhood.

One couple spoke in opposition to the application.

Ann & James Elliott, ½ Howard Street, Barrington, RI

The Elliott's are opposed to this application and feel that the proposed unmerger is not in keeping with the feel of the neighborhood; the "unmerger" would create new construction right in front of their home, as opposed to the open space they have enjoyed.

Mr. Winitsky noted that they were trying to make the proposed house front on Crown Street so that it will be the least non-conforming to the Zoning Ordinance.

At 8:24 p.m., the public hearing was closed.

MOTION: Mr. Rizzolo made a motion to approve the application, contingent upon Planning Board approval. Mr. Blasbalg 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 reason:

- The Board felt that the decision to unmerge the lot and potentially have houses built there that were generally the same size as the rest of the neighborhood would be a much better option than to leave the lot merged and potentially have a house built there which is much bigger than the homes in the neighborhood. The two lots that would result from the unmerger would clearly be of a size generally in conformance with the size of developed lots in the neighborhood.

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 and 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. In addition, the Board found that the standards set forth in Section §185-29 have been met in that the lots, as unmerged, will be of a size generally in conformance with the size of developed lots in the immediate vicinity.

ADJOURN:

There being no other business, Mr. Rizzolo moved to adjourn at 8:30 P.M. Mr. Dennehy seconded the motion and the meeting was adjourned.

Respectfully submitted,

Audra Raleigh, Secretary
Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor