

ZONING BOARD OF REVIEW

Barrington, Rhode Island

June 18, 2015

APPLICATIONS #3806, #3807 & #3808

MINUTES OF THE MEETING:

At the call of the Chairman, Thomas Kraig, the Board met with Peter Dennehy, Mark Freel (arrived at 7:22 P.M.), Elizabeth Henderson (departed at 7:23 P.M.), Ladd Meyer and David Rizzolo.

Also present were Solicitor Andy Teitz, Building Official Bob Speaker and secretary Mary Ann Rosenlof.

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 May 21, 2015 minutes as written. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

Application #3806, Casey Henschman, 4 Barton Ave, Barrington RI, applicant and owner, for permission to remove existing garage and build new garage 8' wider and 4' deeper with 2nd story storage space and mudroom between garage and house. Assessor's Plat 27, Lot 79, R-10 District, 4 Barton Ave, Barrington, RI, requiring dimensional relief for front yard setback.

Present: Casey Henschman, applicant and owner

Ms. Henschman explained that she would like to tear down the existing, rotting garage, replace it with a new garage eight feet wider and four feet deeper, and add a mudroom. They need to expand the storage space of the house and her husband wanted the additional space to work on cars in the garage. Although the garage is going to be closer to the street than is permitted by the ordinance, it is not as close to the street as the closest portion of the house is now.

The 2nd floor space over the proposed garage will be used for storage. The existing upstairs is currently used as two bedrooms. The downstairs has no mudroom and one small closet.

At 7:15 P.M., the public participation portion of the hearing was closed.

DISCUSSION:

- The Board noted that the proposed garage is going no closer to the street than the house presently is.
- The need for added space appears to be reasonable.

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 § 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 #3807, Anoka Real Estate, Inc., 65 Bay Spring Ave, Barrington, RI, applicant, and Allen & Frances Shepperton, 1708 Sir Henrys Trail, Lakeland, FL 33809, owners, for permission to construct a single-family home, Assessor’s Plat 22, Lot 141, R-10 District, Walter St/Roffee St., Barrington, RI, requiring a special use permit to unmerge lots.

Present: Paul Ryan, Esq., 201 Washington Road, Barrington, RI
Fred Almeida, 65 Bay Spring Avenue, Barrington, RI

In the audience: Richard Conti, 31 Walter Street, Barrington, RI
George Minardi, 100 Church Street, Barrington, RI
Anthony Panarello, 78 Roffee Street, Barrington, RI

Mr. Kraig stated that in order better to understand this application, the Board has obtained copies of Allen & Frances Shepperton’s application #2537 that was presented to the Zoning Board in 1995, which requested permission to create a buildable lot for a single family home at 31 Walter Street, requiring a special use permit to unmerge lots. In essence, in 1995 four lots – 141, 142, 99 and 100 – were unmerged so that lots 141 and 142 constituted a new lot, and lots 99 and 100 constituted the second lot. The resulting lots were “renumbered”, so that 141 and 142 became new lot 141, and 99 and 100 became new lot 100.

Mr. Teitz described the documents that were included in the 1995 records:

- The complete minutes of the Zoning Review Board dated September 21, 1995
- The Decision on application
- Continuance letters dated September 22, 1995, August 18, 1995 and July 21, 1995
- A copy of the Public Hearing Notice for July 20, 1995
- Application #2537 including attachments – abutter’s list, radius map from that time, a pair of attachments: Attachment B: Site plan Proposed Lot Depicted Below, and another attachment without a label that says “Existing Lots”
- A letter of approval from the Zoning Board dated September 22, 1995 addressed to Allen and Frances Shepperton from Carol Ferrucci, secretary.

Mr. Ryan explained that the purpose of this application is to affirm that the original lots 142 and 141 are unmerged from the original lots 99 and 100, to permit construction now of a single-family home on new lot 141 (formerly lots 142 and 141). In 1995 an application to unmerge original lots 141 and 142 from original lots 99 and 100, all owned by Allen and Frances Shepperton, was granted by the Zoning Board. At that time, the Zoning ordinance required the obtaining of a building permit within 12 months of the date of approval. New lot 100 was then, and is now, a developed lot; however, no permit was applied for within the one year period after the approval for new lot 141. As a result, the special use permit expired.

Subsequently, new lot 100 was sold and is no longer owned by the Sheppertons. Since then, the Zoning ordinance was amended, removing the one year requirement for exercising the permission granted.

Mr. Teitz noted that the Board should be considering this application as if the 1995 unmerger had not occurred.

Mr. Almeida stated that he will buy new lot 141 and construct a single family home if this application is approved. The front of the house would face Walter Street; no relief is sought for any side yard, front yard or rear yard setbacks.

Mr. Ryan stated that that unmerging and building upon new lot 141 will not change the character of the neighborhood and new lot 141 is generally like the size of lots in the area.

The Chairman noted that the Board had received a letter in opposition to this application from Amiee Shelton of 28 Walter Street.

Mr. Conti questioned the unmerging of the properties and asked for clarification of the application.

Mr. Minardi spoke in opposition to this application, expressing the opinion that the proposed colonial style house would not fit into this neighborhood.

Mr. Panarello spoke in opposition to this application, expressing the opinion that the proposed colonial style house would not fit into this neighborhood.

Mr. Teitz stated that the Board cannot take the style of the house into consideration because the applicant is not seeking dimensional relief.

The Board noted that it is applying the standards of 185-73 as well as the specific standards with respect to an unmerger. Since the applicant is not seeking dimensional relief, the Board cannot take "greater financial gain" into consideration.

At 8:00 p.m., the public participation portion of the hearing was closed.

DISCUSSION:

- The lots, as unmerged, will be of a size similar to that of other developed lots in the immediate neighborhood.

- The objections raised by abutters were either an objection to any development of the property, or to the style of the proposed house, neither of which is a valid reason to deny the application.

MOTION: Mr. Freel 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 § 185-73 have been met: A) that the public convenience and welfare will be substantially served; there will be no negative impact on the public; 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; D) that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

The Board further found that the standards in § 185-29 in that the lots, as unmerged, will be of a size generally in conformance with the size of developed lots in the immediate vicinity.

Application #3808, Lee Martin, 10 Chantilly Dr., Barrington, RI, applicant and owner, for permission to maintain a 5’ fence located within the front yard setback. Assessor’s Plat 31, Lot 212, R-10 District, 10 Chantilly Dr., Barrington, RI, requiring dimensional relief for fence height restriction within front yard setback to maintain a 5’ fence vs 4’ fence as required.

Present: Lee Martin, applicant and owner

In the audience: Mrs. Martin, wife of owner and applicant

Mr. Martin explained that he purchased this house one year ago. The front of the house is on Chantilly Drive and the back of the house abuts Azalea Court. He erected a 5 foot aluminum fence without realizing that there was a 4 foot height ordinance. He is asking to lift the 4 foot height restriction to 5 feet on the Azalea Court side of his property. He noted that he is not in violation of the 30 foot setback on Chantilly Drive. His decision to erect a 5 foot fence rather than a 4 or 6 foot fence was to model it after another 5 foot fence in the neighborhood. He and his wife thought that this would be a good height for safety and security reasons because they have two young school-age children. He also noted that this is the height requirement for a fence around a pool so he thought that this would be a safe height.

Additionally, Mr. Martin would like to erect an additional 5 foot high portion of fencing on either side of the home that would serve to enclose the backyard for his children. He submitted “**Exhibit A**” to the Board which indicates his hand drawn lines of where the proposed additional fence would be installed.

Mr. Martin said that the fence is 6 feet back from the pavement. The property was surveyed and it was erected on what they considered was the property line. This is an open “see through” fence.

Mr. Meyer noted that upon driving by the property, there was an orange marker where the two corners meet and that the fence was approximately one foot onto the town property line. Mr. Martin said that he did not believe the fence was on town property.

Mr. Teitz noted that the Board can only make a decision as to the height of the fence and not whether it is on town property. If the fence is on town property, the Town may send Mr. Martin a notice to move the fence.

At 8:44 p.m., the public participation portion of the hearing was closed.

DISCUSSION:

- The fence, along with the arborvitae, looks nice, is not too visible, and fits well with the neighborhood.
- The fence does not act like a wall to the neighborhood
- This property has two front yards and not much privacy for the back yard; the fence gives the back yard some definition, which is lacking due to its unusual shape.

MOTION: Mr. Rizzolo made a motion to approve this application, as clarified and modified by the “marked up” plan; Exhibit A, provided by the applicant during the hearing. Mr. Freel seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 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. Rizzolo moved to adjourn at 8:50 p.m. and the meeting was adjourned.

Respectfully submitted,

Mary Ann Rosenlof, secretary
Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor, Amy Goins, Assistant Solicitor