

ZONING BOARD OF REVIEW

Barrington, Rhode Island

February 19, 2015

APPLICATIONS #3790, 3791, 3792

MINUTES OF THE MEETING:

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

Also present were Assistant Solicitor Amy Goins, 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 December 18, 2014 minutes as written. Mr. Meyer seconded the motion and it carried unanimously (5-0).

Application #3790, Linda Burton, 296 Narragansett Avenue, Barrington, RI 02806, applicant and owner, for permission to add living space above an existing garage and to construct an entrance addition between the garage and an existing single-family residence, with existing setbacks to remain unchanged, Assessor's Plat 1, Lot 281, R-10 District, 296 Narragansett Avenue, Barrington, RI 02806, requiring dimensional relief for side yard setback, rear setback, exceeding lot coverage, and setback from wetlands/water bodies.

Present: Stephanie Federico, Anthony DeSisto Law Associates, 450 Veterans Memorial Parkway, Ste. 103, East Providence, RI
Linda Burton, 296 Narragansett Avenue, Barrington, RI

In the audience: David Boyce, Barrington Conservation Commission
Robert J. Healy, Jr., attorney, 665 Metacom Avenue, Warren, RI
Janice Kelly, 295 Narragansett Avenue, Barrington, RI
Sandra Wyatt, 28 Byway Road, Barrington, RI
Dorothy Girard, 294 Narragansett Avenue, Barrington, RI

Ms. Federico stated that Ms. Burton suffers from degenerative, progressive psoriatic arthritis that has been non-responsive to treatments. Her ability to take stairs will become worse. Ms. Burton wishes to construct a small breezeway between the house and the detached two-car garage. The breezeway would be 6 feet in width and 12 feet in length, replacing a small wooden porch that has steps leading down to pavers and cement. The proposed breezeway would lead to the space now occupied by the garage - that space would be level with the first floor of the main house and would contain a large family room, permitting the construction of a first floor master bedroom in vacated space within the

main house. A new garage would be constructed beneath this new space – at grade since the property slopes down substantially at that point. This will serve to provide more living space for Ms. Burton and her two children. The current living space of the home is only 736 square feet and is substantially smaller than most homes in the surrounding area.

Mr. Boyce, Conservation Commission, stated that the Commission unanimously recommended approval of the application with the conditions noted on the approval.

Mr. Rizzolo noted that the Narrative has the correct dimensions. The plan is the most current drawing as presented, with two exceptions.

Mr. Healy opposed the application on behalf of Joan & Miguel Milage and Dorothy Girard. He argued that building up on this property would unduly impinge upon the views and privacy of the neighbors. The Board noted that it cannot take “views” into consideration. Mr. Healy cited RI General Law 45-24-40 relating to the alteration of non-conforming development. Ms. Goins cited Section §185-33 of the Barrington Zoning Ordinance, stating that if the Board grants dimensional relief, it should not be considered intensification or expansion of a non-conformance.

Ms. Kelly spoke in favor of the application and stated that the proposed change would not alter the general character of the neighborhood.

Ms. Wyatt spoke in opposition to the proposed change. She suggested that building upward would take away the privacy and light of the Girards. Ms. Wyatt also opposed the relief due to the proximity to the wetlands.

Ms. Girard opposed of the application because building up on the garage would affect her view.

It was noted that no new foundation work would be permitted under this application, and if more foundation work is needed, they would have to come back before the Board.

At 8:10 p.m., the public participation portion of the hearing was closed.

MOTION: Mr. Rizzolo made a motion to approve the application with the following conditions:

- Construction materials will be kept on the street side of the property.
- The approved footprint is portrayed on A-1; approval does not limit windows in the proposed family room. There will be one building mass with no exterior porch as is portrayed in the elevations.
- The height of the proposed structure would not exceed the height of the existing structure.

Mr. Meyers 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 proposed construction is essentially within the existing footprint.
- The addition in keeping with the character of the neighborhood

- The minimal expansion of the footprint maintains a one story building in a neighborhood of two story structures
- They are not going any closer to any side line
- The new addition would be lower than the nearby properties

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 #3791, Mohamed J. Freij, 326 Sowams Road, Barrington, RI 02806, applicant and owner, for permission to unmerge lot into two lots, one lot to contain the existing single-family dwelling, and the second lot to contain a proposed single-family dwelling, Assessor’s Plat 22, Lot 196, R-10 District, 144 Roffee Street, Barrington, RI 02806, requiring a special use permit to unmerge lots.

Present: Paul Ryan, attorney, 201 Washington Road, Barrington, RI
Mohamed J. Freij, 326 Sowams Road, Barrington, RI

In the audience: Kate Weymouth, Alfred Drowne Avenue, Barrington, RI

Mr. Ryan stated that this application is different from the one disapproved in 2013 because this application proposes that the existing house become an “affordable house” under RI Law – restricted in price, deed restricted and subject to monitoring. He stated that unmerging this parcel would satisfy a key element of the Comprehensive Plan: through such deed restriction, monitoring and appropriate pricing, existing affordable housing can count towards the 10% objective. The Plan references smaller parcels with single family houses in R-10 districts as ideal candidates for affordable housing. By approving the unmerging of Mr. Freij’s parcel and making the existing house affordable, this would become one of the 89 affordable houses that is an objective of the Plan. This proposal would not change the character of the neighborhood.

Mr. Freij outlined the design of the proposed new house and indicated that it would meet all the setback requirements for Lot #2 in the R-10 district. It would not compromise the rear yard setback for lot #1. The new house would be 1590 square feet with no garage, smaller than most houses in the area.

Ms. Weymouth stated that making an existing home affordable would move the Town one house closer to its affordable housing objective, but by then creating another home on the same lot that is not affordable; it would cancel out the advantage of making an existing home affordable.

The Board noted that none of the applicant's arguments addressed the requirement in Section §185-29 that the lots, as unmerged, be of a size generally in conformance with the size of developed lots in the immediate vicinity.

At 8:45 p.m., the public participation portion of the hearing was closed.

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

DISCUSSION:

The Board members stated they were in favor of denying this application for the following reason:

- While the application appears to meet the several criteria of Section §185-73, it would violate the clear language of Section §185-29 in that very few of the lots in the immediate vicinity are as small as the proposed lots would be, and thus the proposed lots would not be of a size generally in conformance with the size of developed lots in the immediate vicinity.

REASON FOR DECISION:

It was the judgment of the Board that the standard in Section §185-29 has not been met in that the lots, as unmerged, will not be of a size generally in conformance with the size of developed lots in the immediate vicinity.

Application #3792, Serene Pierce, 50 North 5th Street, Brooklyn, NY 11249, applicant, and Thomas R. Flanagan and E. Jenny K. Flanagan, 117 Highland Avenue, Barrington, RI 02806, owners, for permission to demolish an existing single-family residence and detached garage and construct a two-story single family residence with an attached garage, Assessor's Plat 8, Lot 50, R-10 District, 117 Highland Avenue, Barrington, RI 02806, requiring dimensional relief for front yard setback on Highland Avenue (25' required; 16' requested), front yard setback on Water Way (25' required, 16' requested), and rear yard setback along easterly property line (20' required; 9' requested).

Present: Stephanie Federico, Anthony DeSisto Law Associates, 450 Veterans Memorial Parkway, Ste. 103, East Providence, RI
Alex Mitchell, Meridian Homes

In the audience: Jenny and Thomas Flanagan 117 Highland Avenue, Barrington, RI

Ms. Federico stated that she represents applicant Serene Pierce, who could not be here, and owners Thomas and Jenny Flanagan. There is a recorded decision by the Zoning Board; #3743, in which front yard setbacks on both Highland Avenue and Water Way were approved like those sought in this application. The current residence is poorly constructed home with no foundation and restoration is not an option. The Board had approved a front yard setback on both Highland and Water Way of 16' vs. the 25' required, when it was anticipated that the Flanagans were going to demolish the existing home and rebuild a house designed for their needs in retirement. The Flanagans are no longer able to proceed with their plan. However, the applicant, Ms. Pierce, proposes a new design that is intended to meet the needs of her growing family.

Mr. Mitchell stated that in addition to the front yard setbacks previously approved, they now seek a

rear yard setback of 9' – for the chimney - the rest of the house would be 11' off the property line. Ms. Pierce's proposed plan would place the location of a new 2-car garage on the Highland Avenue side of the property to create a safe and desirable side yard for the children on the other side of the house.

Mr. Rizzolo stated that this is a very different design than that originally proposed by the Flanagans, that a house of this size should be on a larger lot, is not appropriate to a corner lot, and does not fit with the character of the neighborhood.

Ms. Flanagan stated that an attached garage would be more appealing to new homeowners.

Mr. Dennehy stated that he felt that the garage placement is consistent with homes in the immediate neighborhood.

At 9:28 p.m., the public participation portion of the hearing was closed.

MOTION: Mr. Rizzolo made a motion to deny this application. Mr. Meyer seconded the motion and the motion carried (4-1) with Mr. Dennehy opposing the denial.

DISCUSSION:

The Board members stated they were in favor of denying this application for the following reason:

- The prior application demonstrated that a house could be designed for this property that would meet the requirements of the ordinance. While reconstruction does not appear to be feasible, a less intrusive design can be achieved. Particularly since this would be a teardown / rebuild, the applicants have full leeway in designing a more conforming house. In this case, the design is not in keeping with the character of the neighborhood, nor is the relief the least necessary.

REASON FOR DECISION:

It was the judgment of the Board that the following standards in Section §185-69 have not been met: C) that granting of the requested variance will 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 not the least relief necessary.

ADJOURN:

There being no other business, Mr. Rizzolo moved to adjourn at 9:42 P.M. Ms. Henderson seconded the motion and the meeting was adjourned.

Respectfully submitted,

Mary Ann Rosenlof, secretary
Thomas Kraig, Acting Chairman

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