

ZONING BOARD OF REVIEW

Barrington, Rhode Island

September 17, 2015

APPLICATIONS #3814, #3815, #3816, #3817, #3818, 3819

MINUTES OF THE MEETING:

At the call of the Chairman, Thomas Kraig, the Board met with Paul Blasbalg, Peter Dennehy, Ladd Meyer, David Rizzolo and Mark Freel (arrived at 8:25)

Also present were Assistant Solicitor Amy Goins (departed at 9:24), Solicitor Andy Teitz (arrived at 9:20), Building Official Bob Speaker and secretary Mary Ann Rosenlof.

At 7:02 P.M., Mr. Kraig called the meeting to order.

MINUTES OF THE PREVIOUS MEETING:

MOTION: Mr. Rizzolo made a motion to approve the August 20, 2015 minutes as written. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

Application #3814, Frederick Almeida, 65 Bay Spring Ave., Barrington, RI, applicant, and Anoka Real Estate, LLC, 65 Bay Spring Ave., Barrington, RI, 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 structure. Assessor's Plat 23, Lots 121 and 122, R-10 District, 23 Anoka Ave., Barrington, RI, requiring a special use permit to unmerge lots.

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

Mr. Ryan explained that although Lots 121 and 122 had not been "merged" on the assessor's map when the Town of Barrington adopted 185-27, legally the two substandard lots were merged under 185-27 to create a merged, 10,000 square foot lot. Currently, there is a single family dwelling on Lot 122, the original lot, and Lot 121 is undeveloped. For almost 20 years, Lot 121 has been taxed as a buildable lot.

This application seeks to unmerge the lots to their original property lines. The existing family dwelling on Lot 122 will not be altered. As indicated on the attachment to the application, a 5,000 sq. ft. lot would be of a size like the majority of developed lots in the vicinity.

Mr. Almeida stated that the new structure he plans to build on Lot 121 would be a ranch style home with no second floor, no garage, and would meet all setback and coverage requirements for the R-10 district. In addition, according to survey, the existing structure will meet all of the required setbacks.

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

DISCUSSION:

- There is no adverse effect on the public
- The lots, as unmerged, will be of a size similar to that of other developed lots in the immediate neighborhood.
- The proposed structure would fit within the character of the neighborhood

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 § 185-73 have been met: A) The public convenience and welfare will be substantially served; B) It will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan; C) 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) 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 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.

Application #3815, Mario Andreozzi, 14 Vineyard Ln., Barrington, RI, applicant, and owners Shaun & Jennifer Gaus, 9 Owings Stone Rd., Barrington, RI, for permission to add a family room/bedroom. Assessor's Plat 25, Lot 474, R-25 District, 9 Owings Stone Rd., Barrington, RI, requiring dimensional relief for front yard setback, minimum lot area, and maximum lot coverage.

Present: Mario Andreozzi, contractor and applicant
Shaun Gaus, 9 Owings Stone Road, Barrington, RI, owner

Mr. Andreozzi explained that Mr. & Mrs. Gaus have 4 school age children and would like to expand their home by adding a two story addition to the back, south side of their home. The addition would extend approximately 4' 6" beyond the existing footprint on the south side of the house.

Mr. Andreozzi submitted Exhibit A consisting of 2 pages; 1) a project explanation and 2) a drawing of the proposed addition.

Following questioning of the applicant, a number of Board members indicated that they did not feel that this design meets the Zoning standard for the *least relief necessary* and made suggestions as to how the addition, if moved to the north, would require little or no relief. In the alternative, the deck could be reduced in size to accommodate this change. Noting concern by the owner that the shift to the north might adversely affect the bathroom window, the Board suggested that it might be willing to consider a redesign that required less relief rather than 4' 6" requested.

The Board suggested that they revise their plans and continue the application. The applicant requested a continuance to the October 15, 2015 meeting.

MOTION: Mr. Blasbalg made a motion to continue this application to the October 15, 2015 meeting. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

Application #3816, Louis Jendza, 85 Boyce Ave., Barrington, RI, applicant and owner, for permission to rebuild home due to fire damage and add 2nd floor addition. Assessor's Plat 34, Lot 44, R-10 District, 85 Boyce Ave., Barrington, RI, requiring dimensional relief for maximum lot coverage, rear yard setback, side yard setback, and for construction within 100' setback from wetlands/water bodies.

Present: Louis Jendza, applicant & owner, 85 Boyce Avenue, Barrington, RI
Manual Alves, contractor, 6 Harvest Hill Road, Westport, MA

In the audience: Alexandra Pournaras, 5 Teed Avenue, Barrington, RI
Ron Russell, 15 Teed Avenue, Barrington, RI
Gordon Hutton, 99 Boyce Avenue, Barrington, RI

Mr. Jendza explained that he needs to rebuild his home due to fire damage. The existing home will be demolished and he will build on the same footprint. Currently, he has 2 bedrooms on the first floor that face the street and he would like to add a 2nd floor with 3 bedrooms with the master bedroom facing 100 Acre Cove.

Mr. Speaker advised that § 185-36 *Involuntary interruption*, allows a structure to be built with the same degree of nonconformance that existed prior to destruction by fire. The applicant is before the Board because he is proposing to build a 2nd story addition which requires a dimensional variance.

The Board expressed concern that adding a second floor to the a bump-out portion on the east side, which is very close to the property line at approximately 3' 4", creates a fire safety issue and does not fit the character of the neighborhood. The neighbor on that side is also very close to their property line. The Board questioned if a 2nd floor addition over the bump-out satisfies the requirement of the least relief necessary.

The Board noted that the Conservation Commission approved this application regarding a home to be built on the same first floor footprint.

Tom Wegner & Chris Morton of 63 Boyce Avenue, Barrington, RI had submitted a letter to the Board in full support of this application.

Ms. Pournaras approves this application for the full two-story home.

Mr. Russell expressed approval of this application and whatever the Board decides for the bump-out.

Mr. Hutton indicated that the Board had allowed him to build a two-story home and that he approves this application.

In recognition of the Board's concern, the applicant requested a continuance to the October meeting.

MOTION: Mr. Blasbalg made a motion to continue this application to the October 15, 2015 meeting. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

Mr. Freel arrived at 8:25, after application #3816 began.

Application #3819, Steve Thys, 150 Nayatt Rd., Barrington, RI, applicant, and Rhode Island Country Club, 150 Nayatt Rd., Barrington, RI, owner, for permission to add a 106' x 42' building, move gasoline AST and diesel AST to same location, add 20' x 80' material storage bins, complete paving, and add loft inside existing building. Assessor's Plat 6, Lot 001, RE District, 473 Middle Highway, Barrington, RI, requiring dimensional relief for maximum height of structure and a special use permit for accessory use (golf course). The application seeks an amendment to a special use permit that was granted by the Board on December 18, 2014.

Present: Stephen Carlotti, partner, Hinckley Allen, 100 Westminster Street, Providence, RI
Tom Hall, President, RI Country Club, 150 Nayatt Road, Barrington, RI
Steve Thys, course superintendent, RI Country Club, 150 Nayatt Road, Barrington, RI

This application is before the Board to "amend" the approval granted in December 2014 to permit the building of the maintenance building in a new location and seek a height variance for that building.

Mr. Carlotti explained that the consulting engineer had not followed the correct flood hazard map, and to comply with the correct map, the building had to be moved to a new location because of flood elevation concern. The new proposal would move the building from the south of the existing maintenance building to the north of it. It is also further away from the nearest residence and in a wooded area. The gasoline AST and diesel AST would be moved to the same location.

In order to fit the equipment in the building, it needs to have a height of 22 feet. The total structure would be 27 feet because of a 5 foot elevation of the floor level to get to the flood zone level. This height relief is for this building only.

Mr. Carlotti stated that they are withdrawing their request for the 20' x 80' storage bins.

At 9:20 p.m., the public participation portion of the hearing was closed.

DISCUSSION:

- This is a valid use of the property given what is already there
- This location relative to the neighbors is farther away than was the original proposal
- Given the location of this building inside this compound, this height is not a concern because it is not in a neighborhood and will be dwarfed by the height of the surrounding mature trees
- This will be an improvement of the interior traffic flow within the site
- A substantial portion of the relief they are seeking is necessitated by the flood plain condition

MOTION: Mr. Freel made a motion to approve the special use permit portion of this application. Mr. Rizzolo 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.

MOTION: Mr. Freel made a motion to approve the dimensional variance portion of this application as it relates to height. Mr. Rizzolo 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 #3817, David Pomfret, 174 Maple Ave., Barrington, RI, applicant and owner, for permission to add a shed. Assessor's Plat 23, Lot 77, NB District, 174 Maple Ave., Barrington, RI, requiring dimensional relief for side yard setback and rear yard setback.

Present: David Pomfret, applicant and owner

In the audience: Ralph Carlone, 31 Pinehurst Road, Riverside, RI
Fred Almeida, 152 Lincoln Avenue, Barrington, RI

Mr. Pomfret explained that the property behind him had belonged to his uncle who had a barn used for storing bicycles and equipment. The property was recently sold and he has to build a shed for the equipment, and the only place other than the front yard to put a shed is in the back corner of the property. Meeting the required setbacks is not feasible because that would put the shed almost into his daughter's bedroom.

The Board asked why he is asking to locate the shed just 3 feet from the property line versus something further away, but not necessarily the required 15 feet. Mr. Pomfret said that there is only 23 feet from the back of the house to the property line and he wants to maintain somewhat of a backyard.

Mr. Speaker indicated that the shed would have to be fire-rated if it is 5 feet or less from a property line and there can be no openings (windows or doors) if it is within 3 feet.

Mr. Pomfret said that he would be willing to locate the shed 5' from the rear property line and 3' from the side yard property line with a fire-rated wall.

Mr. Carlone, Mr. Pomfret's uncle, approves this application and noted that there is a bulkhead jutting out from the back of this property, taking up more of the back yard.

Mr. Almeida, who owns property in the back of this property, approves this application.

At 9:46 p.m., the public participation portion of the hearing was closed.

DISCUSSION:

- The majority of the Board did not feel that there was sufficient reason to place the shed closer than 5’ to either of the property lines.
- The applicant justified the proposed size for the since he does not have a garage

MOTION: Mr. Blasbalg made a motion to approve the application with a minimum of 5 feet on both the back and side yard. 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 #3818, Mattissa, LLC, 91 Algonquin Rd., Fairfield, CT, applicant and owner, for permission to add a deck and 2nd floor bedroom. Assessor’s Plat 3, Lot 96, R-25 District, 17 Willow Way, Barrington, RI, requiring dimensional relief for side yard setback and for construction within 100’ setback from wetlands/water bodies and a special use permit for proposed construction within 100’ of Wetlands Overlay District.

Present: Mark Rapp, Architect, 9 Simmons Road, Little Compton, RI

In the audience: Eric Mitnick, 58 Third Street, Barrington, RI

Mr. Rapp explained that he is building a new, replacement deck and needs the following relief: (i) construction within the Wetland Overlay District; (ii) side yard setback relief, and (iii) relief of 1’ 6” for construction within 100’ of wetlands/water bodies. The side yard relief is for six feet, but the proposed deck is no closer to the side yard than the old deck. The relief for the 1’ 6” is due to an error in design calculations, and to change that small corner of the deck would adversely affect the entire deck because the design of the bridge portion of the deck is centered on the doors that come out of the dining room; there is a design element and symmetry to the location of the deck and sliding the “bridge” further down to get outside of the variance would put things off quite a bit.. Because of the proximity of his house to the Wetland Overlay District, any construction on the house would require relief from that requirement.

The Board noted that this application was approved by the **Conservation Commission** in that: No change to building footprint proposed; new proposed deck will suspend from the second floor; the proposed addition is no closer to the east and south wetlands than existing structure, and largely outside of the 100 foot setback to the west and probably north (although provided figure did not show this). They also noted **Conditions of Approval:** 1) During all soil-disturbing work) e.g., placement of piles), erosion control features must be in place between the work zone and any surface water feature; 2) No storage of soil on-site is allowed; any removed soil must be removed from the site on day of

excavation; 3) All construction material and equipment must be stored in the garage or on the paved street away from water.

Mr. Mitnick had certain questions as to the location of the proposed changes and the procedure that would be involved were the applicant seek to make changes in the future. He indicated that he does not oppose the application.

At 10:15 p.m., the public participation portion of the hearing was closed.

DISCUSSION:

- With respect to the dimensional relief, the side yard relief maintains the current distance from the side yard, and the 1' 6" relief for distance from wetlands/water bodies is de minimus and not to grant it would substantially, adversely affect the project
- The Conservation Commission approved this application

MOTION: Mr. Freel made a motion to approve the dimension relief portion of the application for the 1' 6" wetlands/water bodies relief and for 6' relief from the side yard setback. 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.

MOTION: Mr. Rizzolo made a motion to approve the special use permit portion of 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 § 185-174 have been met, taking into full consideration the report of the Conservation Commission, that the application minimizes, to the degree possible, any negative impacts to the wetlands values described in § 185-170, and meets the following development standards: B) The project will actually remove an obstruction from the floodway and it will increase the net capacity of the site and adjoining properties to retain floodwaters; C) The proposed project will not cause any sedimentation of wetlands, and will include all necessary and appropriate erosion and sediment control measures; D) The proposed project will not reduce the capacity of any wetland to absorb pollutants; E) The proposed project will not directly or indirectly degrade the water quality in

any wetland or water body; F) The proposed project will not reduce the capacity of any wetland to recharge groundwater; G) The proposed project will not degrade the value of any wetland as a spawning ground or nursery for fish and shellfish or habitat for wildlife or wildfowl.

ADJOURN:

There being no other business, Mr. Kraig moved to adjourn at 10:25 p.m. and the meeting was adjourned.

Respectfully submitted,

Mary Ann Rosenlof, secretary
Thomas Kraig, Chairman

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