

ZONING BOARD OF REVIEW

Barrington, Rhode Island

May 19, 2016

APPLICATIONS #3841, #3842, #3843, #3844, #3845 and #3846

MINUTES OF THE MEETING:

At the call of the meeting by the Chairman, Thomas Kraig, the Board met with Mark Freel, Peter Dennehy, Paul Blasbalg, David Rizzolo, and Ladd Meyer.

Also present were Assistant Solicitor Amy Goins, Building Official Bob Speaker and secretary Mary Ann Rosenlof.

At 7:03 P.M., Mr. Kraig called the meeting to order.

MINUTES OF THE PREVIOUS MEETING:

MOTION: Mr. Rizzolo made a motion to approve the April 21, 2016 minutes as written. Mr. Freel seconded the motion and it carried unanimously (5-0).

Application #3844, Peter and Gail Lund, 129 Massasoit Ave., Barrington, RI, applicants and owners, for permission to construct a 2-story single family home with 2-car garage and storage under living space. Assessor's Plat 33, Lot 252, R-10 District, 129 Massasoit Ave., Barrington, RI, requiring dimensional relief for construction within 100' setback from wetlands/water bodies and a special use permit for proposed construction within 100' of Wetlands Overlay District.

Present: Anthony DeSisto, Esq., 450 Veterans Memorial Parkway, East Providence, RI

Mr. DeSisto requested a continuance of the application to the June 16, 2016 meeting to allow the applicants to amend their plans to address concerns raised by the Conservation Commission.

MOTION: Mr. Freel made a motion to continue the application to the June 16, 2016 meeting. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

Continuation of Application #3841, Lynn Palmieri, 15 Broadview Rd, East Providence, RI, applicant and owner, for permission to construct a single family home, attached garage, shed and patio. Assessor's Plat 23, Lot 149, NB District, 0 Anoka Ave. (south side of Anoka at the corner of Prince's Hill Ave. and Anoka Ave.), Barrington, RI, requiring dimensional relief for construction within 100' setback from wetlands/water bodies and a special use permit for proposed construction within 100' of Wetlands Overlay District.

Mr. Meyer is recused from this application.

Present: Anthony DeSisto, Esq., 450 Veterans Memorial Parkway, East Providence, RI
Lynn Palmieri, applicant

Mr. DeSisto noted the changes in the plans since the previous hearing; 1) the pool was eliminated, 2) the dwelling is 15' from the Anoka property line, 3) the structure is located 84.1' from the wetlands, 4) plans are now included for the rain garden/swale, and 5) a bump-out for fireplace chimney is included.

There was discussion of whether certification of the completion of the rain garden in accordance with the plans should be required. The Board decided upon a condition that the land surveyor's firm provide a letter to the Town stating that the rain garden was constructed in accordance with the plans provided to the Board at this meeting.

There was discussion regarding the setback requirement for the shed, an accessory structure in the NB District. Ms. Goins stated that for a structure of 120 square feet or less, there is no requirement and the proposed 3' is conforming.

MOTION: Mr. Rizzolo moved to approve the dimensional variance portion of the application subject to the following conditions set forth in the Conservation Commission's report.

1. Appropriate erosion control features (e.g., silt fence/hay bales) must surround all areas where soil disturbance will occur prior to and during all soil disturbance. No storage of excavated soil on the property; must be removed.
2. All construction materials and equipment must be stored street side and away from water features.
3. An in-ground pool is not included in recommendation for approval.
4. After the rain garden has been installed, someone from the firm of David Gardner and Associates who designed and did the calculations for the rain gardens will provide a letter to the Town stating that it has been installed per all the design elements.

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 because the site is in close proximity to a wetland and the applicant has moved the house as far from the wetland as practicable and has taken prior recommendations by the Board into account; 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 because there is no evidence that they are looking for greater financial gain and the hardship is that they are in close proximity to the wetland and is not the result of the applicant's action; 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 because this neighborhood is mixed use and everything presented is keeping with the character with the neighborhood; D) that the relief to be granted is the least relief necessary because the house has been moved as far away from the wetland as practicable. 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 because a house could not be constructed without some relief.

MOTION: Mr. Rizzolo moved to approve the special use portion of the application incorporating all of the previous factual notations.

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 § 185-73 have been met: A) that the public convenience and welfare will be substantially served; there will be no negative impact on the public and this has been evidenced by the Conservation Commission's review of the project; B) that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan because this area of town is mixed use – commercial / residential - and the proposed use is residential; 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 because all necessary steps have been taken to reduce any harm to the wetland; 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, except as specifically permitted by the relief granted by this approval: A) All new structures and expansions, paved areas and land disturbances will be set back at least 100 feet from the wetland edge, from which relief is granted; B) The proposed project will not obstruct floodways in any detrimental way, or reduce 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.

Application #3842, George & Beth Glanvill, 23 Walnut Rd., Barrington, RI, applicants and owners, for permission to replace a deck with a larger deck with steps. Assessor's Plat 17, Lot 183, R-10 District, 23 Walnut Rd., Barrington, RI, requiring dimensional relief for rear yard setback and exceeding maximum lot coverage.

Present: George & Beth Glanvill, applicants

Ms. Glanvill explained that they would like to enlarge their existing 4'x8' deck to a 12'x12' deck to accommodate her mother-in-law who experiences discomfort inside when central air-conditioning is on. They would like to be able to have a table, chairs, grill and lounge chair on the deck.

In response to the Board's question whether the deck could be wider and less deep, so as to lessen the need for relief, it developed that there is a bulkhead, not shown on the plans, and that the calculation of the lot coverage is unclear, together with uncertainty as to the setbacks from the front property line and the back property line, since the plans are hand-drawn and the applicants do not know the basis for the various measurements.

The Board concluded that accurate plans and dimensions were needed for its decision and suggested that this application be continued to the June 16, 2016 meeting. The applicants should provide exterior dimensions for the shed, the house and the proposed deck, and correct setbacks for the house measured from the property line and not the street. The Board also asked the applicants to consider alternative dimensions for their proposed deck such as 10'x14' or 10'x16' in order to require less relief.

MOTION: Mr. Freel moved to continue this application to the June 16, 2016 meeting and asked the applicant to provide revised plans satisfying the elements noted above at least 10 days before that date. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

Application #3843, Craig Crawford, 38 Middle Highway, Barrington, RI, applicant and owner, for permission to allow mixed use of existing private residence with psychotherapy office, including the construction of bathroom and portable ramp. Assessor's Plat 16, Lot 180, R-25 District, 38 Middle Highway, Barrington, RI, requiring a special use permit for professional home office.

Present: Craig Crawford, applicant

Mr. Crawford desires to move his psychotherapy practice into his residence, requiring a special use permit. He described his areas of specialty and general background information of his experience and practice which was included as an attachment to the application.

Mr. Crawford further explained his proposal as follows:

1. This will be a solo practice and he will not share or rent space to another therapist.
2. He will create an ADA accessible bathroom and Mobile/Modular Ramp for wheelchair accessibility. This will be stored in the garage and be assembled only when needed. Handicap access needs to be via the front door since the side door is not wide enough and the grade would be too steep to that door. A picture of a portable ramp was submitted as Exhibit A.
3. The proposed bathroom is off of the waiting area. Patients would walk through the hallway to get to the office. The house has an open floor plan and the clients would have access to the kitchen but it would not be the path that they would take to get to the office. Mr. Speaker said that the kitchen would not have to be ADA compliant but the bathroom, hallway and doorway would have to be. He also noted that you need 32" clear for a doorway to be ADA compliant.
4. All fire codes will be satisfied.
5. He will provide two parking spaces in the existing driveway. His car will be in the garage. There will be no street parking and no more than 2 cars in the driveway at one time.
6. There should be no impact to the neighborhood concerning noise, traffic or parking.
7. Practice would routinely see approximately 25-30 clients per week, Monday 8:00 a.m. - 8:00 p.m. (to accommodate patients who work during the day), Tuesday through Friday 8:00/9:00

- a.m. - 2:00 p.m. Sessions are by appointment only and there will be no walk-in appointments.
8. Clients not requiring handicap accessible entrance would enter the office from the side door off the driveway.
 9. Treatment population ranges from young adult to senior and are primarily individuals and couples. There will be no group therapy or group meetings held at the house.
 10. In his 20+ years of practice, he has not found his patients to be dangerous or others at risk after patients left his office.
 11. No signs identifying the practice would be posted other than one at the entrance either on the door or on the side of the door, which would be acceptable for a Professional Home Office

Mr. Crawford said that that the primary reason for this proposal is to be more available to his children and to accommodate possible changes in future school starting and dismissal times. It will also help to alleviate the increasing costs of maintaining both a home and a separate office.

MOTION: Mr. Freel moved to approve the application with the condition that this is a solo practice and Mr. Crawford will not employ, share or rent a space to another therapist at this property. Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

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 since there is no evidence that there will be any negative impact; B) that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan, because a home office is permitted by special permit in this zone; 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 since there will be almost no effect on the community; D) that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district because the home office will be barely visible.

Application #3845, Paolino Properties, 100 Westminster St., Providence, RI, applicant, and ACP Shopping Center Assc., LLP, 76 Dorrance St., Providence, RI, owner, for permission to replace the existing freestanding directory sign at the Barrington Shopping Center with a larger freestanding directory sign. Assessor's Plat 24, Lot 107, B-District, 184 County Rd., Barrington, RI, requiring dimensional relief for exceeding maximum area and height of sign.

Mr. Freel is recused from this application.

Present: Anthony DeSisto, Esq., 450 Veterans Memorial Parkway, East Providence, RI
 Arthur Lima, Paolino Properties, 100 Westminster St., Providence, RI
 Shane Brackett, Paolino Properties, 100 Westminster St., Providence, RI
 Ronald Dion, Dion Signs, 1075 High St., Central Falls, RI

Mr. DeSisto corrected the narrative that was attached to the application: the number of sign spaces approved by the Technical Review Committee (TRC) is for (19) tenants rather than (14) tenants as set forth in the first paragraph of page 1 of the narrative.

Mr. DeSisto explained that this matter had gone before the TRC twice and this application reflected the TRC's input. Relief is needed for height and the face (area) of the sign.

The tenants of the Shopping Center want a listing on the directory sign so as to gain visibility – the current sign provides space for a small portion of the tenants. Even with the sign size / layout approved by TRC, not all of the tenants can be accommodated but nineteen is a great improvement over the number of tenants that can be listed on the current sign.

Mr. Dion said that following the discussions with TRC, the sign has a height of 11'7" (8' allowed), and the area of the sign is 49.7 sq. ft. (32 sq. ft. allowed).

The greatest benefit from the new sign will be for motorists to view this sign when they are stopped at the traffic light or moving slowly through the town's traffic. Because of the three traffic lights in the immediate vicinity of the shopping center, there is a lot of stop-and-go traffic making it easy for motorists to read the business names on the sign safely and not be a distraction to motorists. The setback of the sign will remain the same as the existing sign and will not be an obstruction for motorists exiting the center.

In response to questions from the Board, the following information was provided:

1. There is a benefit to the town and the tenants in having a visible sign that includes the tenant's names. The fronts of most of the businesses are not visible from the road and having their names on the signs would have a measurable impact on them.
2. The applicant went through a series of options/proposals for different designs (colors, size, etc.) with TRC and this was the only one that was acceptable to TRC.
3. It is typical for a directory sign to have the name and street number of the shopping center on top and of substantial size, even if not all of the store names can be displayed.
4. The stores shown on the plan are examples and do not show which tenants will be on the sign.
5. In response to the concern that the majority of the facades in the shopping center are "brick" based, Mr. DeSisto said that TRC wanted the base of the sign to be to match the stone wall in front of the church across the street. It was noted that there are plans to build a stone wall for sitting while people are waiting for the bus, etc.
6. The width of the existing sign is 5'6", plus the exterior supporting poles, and the width of the proposed sign is 7' with the poles on the inside.
7. The new sign will be externally lit with 2 spotlights, the same as the existing sign .

Concern was expressed about possible distraction due to the “clutter” of the new sign. Mr. Dion said that he has never heard of accidents due to motorists being distracted from reading signs.

Mr. DeSisto stated that the standards of 185-69 have been met because: a) the hardship is due to the orientation of the buildings in relation to the main street and some of the stores are more than 500' from the road; b) the purpose is to make a vibrant retail area in this town and for the shopping center to

keep its current tenants; c) the sign is in keeping with the size of the development and the stone wall is to keep in character with the surroundings across the street and takes into account future development for a stone sitting wall; d) this was the smallest sign that the applicant could use to accomplish its goals and still keep with the character of the town. Also, the standards of 185-71 have been satisfied in that by not having the visibility of their names on the sign, the tenants feel that their businesses may not be successful.

MOTION: Mr. Meyer moved to approve the application. Mr. Dennehy seconded the motion and it carried (4-1) with Mr. Blasbalg opposed.

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, because a sign of this size is fairly common for a commercial/retail space of this size and the hardship is that the store fronts of most of the businesses do not face the street; 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 because the buildings and the locations were built years ago and are a pre-existing condition. This is a unique plaza in that it is very deep and some businesses are way off the street and even the businesses that are closer to the street have very low visibility from the street because they are situated perpendicular to the road.; 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 because the sign fits fairly well in this commercial area; D) that the relief to be granted is the least relief necessary because, in order to place a reasonable number of business names on the sign, this size is 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 because an inadequate directory sign may result in future loss of tenants creating vacant spaces and a burden on the shopping center and the town. .

Application #3846, Jim & Gretchen Forrest, 25 Kilburn Ave., Lincoln, RI, applicants and owners, for permission to construct a single family home with 2-car garage & deck. Assessor's Plat 36, Lot 18, R-25 District, 9 Ferrier Ave., Barrington, RI, requiring dimensional relief for front yard setback and exceeding maximum lot coverage.

Present: Jim & Gretchen Forrest, applicants
Anthony DeSisto, Esq., 450 Veterans Memorial Parkway, East Providence, RI

Mr. DeSisto explained that during the course of construction of the house on this substandard original lot, it was determined that changes needed to be made: Mrs. Forrest's father, who has Parkinson's Disease, will live in the home with the family, necessitating a change in the size of the deck in order to accommodate his walker and wheelchair. This will exceed the lot coverage permitted in the R-25 zone by 2.8% (22.8% vs. 20% permitted) although it would be permitted in the R-10 zone. There is no residential neighbor on the deck side of this home as it abuts land owned by the Barrington Land Conservation Trust. There had previously been a home on this lot that was demolished. This will be the last buildable lot on this street.

In addition, the designer of the house misunderstood the zoning regulations with respect to whether the front steps counted in the calculation of the front yard setback. Now that they understand that the steps are included, they need 9' of relief from the front yard setback for the front steps. Following discussion about the design and dimensions of the steps and landing, the Board concluded that the size of the landing and number of steps as shown in the plan is acceptable because it is safer and also there is still a sufficient amount of a buffer in the front yard leading to the pavement.

MOTION: Mr. Freel moved to approve the 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 because this is a lot of 10,575 sq. ft. in an R-25 zone and creating dimensional restraints more appropriate to a much larger lot. It is at the end of a dead end street and the size and configuration are reasonable. Also, a family member needs accommodation for ambulation and a larger deck is a reasonable request, especially since the deck will be facing the Barrington Conservation Trust property and not be otherwise visible.; 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 because there is no indication that these are factors; 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 because this is in an R-25 zone and given the configuration of this lot on this particular street, it does not appear that these requests would be out of character with the surrounding area; D) that the relief to be granted is the least relief necessary because the variance request for the front steps is fairly minimal in its intrusion and is still 21' back from the property line and more than that from the road, and the size of the deck is reasonable under the circumstances. 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 because there is a family member who has physical needs and it is reasonable to have front steps to the house.

ADJOURN:

There being no other business, Mr. Rizzolo moved to adjourn at 10:03 p.m. and the meeting was adjourned.

Respectfully submitted,

Mary Ann Rosenlof, secretary
Thomas Kraig, Chairman

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