

ZONING BOARD OF REVIEW

Barrington, Rhode Island

August 18, 2016

APPLICATIONS #3852, #3854, #3855 and #3857,

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, Dave Rizzolo and Ladd Meyer.

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

At 7:07 P.M., Mr. Kraig called the meeting to order.

MINUTES OF THE PREVIOUS MEETING:

The approval of the July 27, 2016 minutes was deferred until the September 15, 2016 meeting.

Continuation of Application #3852, Dale & Martha Wallick, 28 Clarke Rd., Barrington, RI, applicants and owners, for permission to construct a 2nd floor addition, attached garage and sunporch. Assessor's Plat 27, Lot 7, R-25 District, 5 Hampden St., 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. Dennehy is recused from this application.

Present: Anthony DeSisto, Esq., 450 Veterans Memorial Parkway, East Providence, RI
Martha Wallick, applicant
Stephen Murgo Sr., Professional Land Surveyor, 19 Kinnicut Ave., Warren, RI
David Boyce, Conservation Commission
Frank Lee, mail carrier for the Town of Barrington

Mr. DeSisto said that this is the last house on Hampden Street that hasn't been renovated. The Wallicks desire to renovate their house and add a structure to the rear, depicted in the plans, which is less than 100' from the Palmer River.

During the course of the applicant's presentation and questions by the Board, a number of issues arose:

- Despite two appearances before the Conservation Commission, there is no report from that Commission and several issues remain. The Board would like the applicant to appear before the Conservation Commission again, with surveyed plans, and obtain a clear report.
- Three different sets of plans have been presented to the Board, and the Board is not able to reconcile the information contained on them. The Board would like a clear, definitive set of

plans showing surveyed distances and the current and proposed impervious surfaces.

- It has been suggested that the existing house might be torn down rather than renovated and added to – the Board would like a clear choice between these two options since the Board’s decision process differs depending on which course is being pursued.
- The closest distance between both the existing structure and the proposed structure and the water body is not clear: there appear to be man-made indentations into the land area, which may constitute the closest point of the water body. The Board would like clarification from either CRMC, case law or another precedent clarifying this issue.

In view of these issues, and recommendation from the solicitor, the applicant requested that this matter be continued until the September meeting of the Board, with the understanding that the applicant also appear before the Conservation Commission that month.

MOTION: Mr. Freel made a motion to continue this application to the September 15, 2016 meeting with the requirement that new plans must be submitted to the Building Official ten (10) days prior thereto. Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

Continuation of Application #3854, Christine & Jeffrey Barton, 29 Meadowbrook Dr., Barrington, RI, applicants and owners, for permission to extend existing deck and cover portion of existing and new deck. Assessor’s Plat 32, Lot 466, R-25 District, 29 Meadowbrook Dr., Barrington, RI, requiring dimensional relief for rear yard setback and exceeding lot coverage.

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

Mr. DeSisto, representing the applicants, said that he was not present at last month’s meeting when the applicant represented herself. A question had been raised as to whether the adjacent lot, also owned by the applicants, was merged with the subject lot. Mr. DeSisto entered into the record the Board’s decision in application #3779, granting unmerger of the lots.

Ms. Barton explained that they would like both to increase the square footage of the deck and put a roof over part of it. Mr. DeSisto distributed four pictures of the existing deck, Exhibits A1 through A4. The existing deck is seven feet wide but the crank-out windows reduce the usable area. With three small children, one with special needs, they need added space to have a sitting area and space for a table and chairs adequate for five people.

The Board noted that, in weighing lot coverage, it considers that while they are in R-25 Zone, their lot is just over 10,000 square feet. However, the Board is concerned about the size of the deck and the degree of incursion into the back yard setback. The applicant indicated that they had considered other locations for extending the deck but that none was practicable.

The applicant offered to reduce the depth of the proposed deck by two feet, resulting in an added seven feet and a total depth for the deck of fourteen feet. This would result in the deck being no closer than 20.5 feet from the property line.

MOTION: Mr. Freel made a motion to approve this application on the condition that the proposed deck be no closer than 20 1/2 feet (20' 6") from the rear property line.

Mr. Dennehy seconded the motion and it was unanimously approved (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 an approximately 10,000 square foot lot in an R-25 zone. If this lot were in an R-10 zone the proposal would be compliant both in terms of lot coverage and back yard setback; 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 nothing to suggest that this is the case; 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 there is nothing to suggest that this will be a resulting impact; D) that the relief to be granted is the least relief necessary because this is the only practicable place to put the deck and the revised deck size appears appropriate in view of the applicant's needs. 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 the applicant demonstrated a clear need for additional deck space.

Application #3857, Aseel Al-Sinayyid, 85 Sowams Rd., Barrington, RI, applicant and owner, for permission to install a freestanding sign on the southwesterly corner of property. Assessor's Plat 30, Lot 141, NB District, 305 Sowams Rd., Barrington, RI, requiring a dimensional variance to install a freestanding sign.

Present: Aseel Al-Sinayyid, applicant
Mohanad Al-Chalabi, husband of applicant
Anthony DeSisto, Esq., 450 Veterans Memorial Parkway, East Providence, RI
Frank Lee, mail carrier for the Town of Barrington

In the audience: Virginia Mead, Ridgewood Rd., Barrington, RI

The applicant would like to erect a free-standing sign closer to the road because the store is set back quite a distance and the sign on the store façade is not readily visible to people driving by. The applicant stated that several neighbors had spoken in support of the sign at the Technical Review Committee (TRC) meeting. The sign would be in a corner of the parking lot, set back far enough from the street so as not to block pedestrians or bicyclists, and not be a hazard to cars using the parking lot.

The Chair noted that at its July 7, 2016 meeting, the TRC approved the application with the requirement that certain conditions be met. The applicant agreed to abide by the conditions and clarified that while the sign approved by TRC is 5 feet across and 2:1/2 feet in height, the top of the sign, including posts, is four feet high.

Members of the Board noted that they had not been able readily to see the store when driving by, had been unaware of the store despite using the Kent Street shopping center diagonally down the street, and that the sign for the Montessori school, adjacent to the subject property, appeared larger and about the same distance from the street.

Objections: The Chair noted that the record, presented to the Board, contained emails objecting to the application from Mohamad Freij, 326 Sowams Rd., Barrington, RI and George Promades, 332 Sowams Rd., Barrington, RI.

Approval: The Chair also noted an email of approval from Claudia Gordon, no address provided.

The Board asked the applicant if he had considered having a sign affixed to the building but at a right angle to it for increased visibility, and expressed concern about a sign in the parking lot obstructing vehicles. The applicant indicated that the building was set too far back from the street for a wall-mounted sign to work, and distributed additional photos, **Exhibits A-1 through A-5**, showing the store and the location of the proposed sign, and stated that it would not be in the way of vehicles

Mr. Lee stated that he has been a letter carrier on Sowam's Road for 16 years, delivering to this building, that there has been a sign in the parking lot in the past, that he had never hit the prior sign nor had he seen any children hit that sign, that you cannot see the sign on the building from the street, that the view of the building is partially blocked by a large tree when approaching from the south, and that he has encountered individuals in the immediate neighborhood looking for a store of the nature of the applicant's store and not knowing it was there.

Ms. Mead said that she is in favor of this sign. She drove down the road and said that a person can easily drive right by this store without seeing it because it sits back from the road.

MOTION: Mr. Freel moved to approve this application, incorporating the Technical Review Committee's conditions in their July 7, 2016 TRC Minutes, as follows:

1. The sign will be at least four feet from the street right of way, within a generous planting bed, and facilitating easy access to parking and circulation.
2. The outside edge of the bed shall be at least three feet from the sign on all sides.
3. BUT six-inch curb/edging shall be "required" and not "suggested" as TRC commented.

Mr. Dennehy seconded the motion and it was unanimously approved (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-97C have been met:

(1) The zoning lot on which the freestanding sign will be located is accessible by automobile and contains off-street parking for the principal use(s).

(2) There will be one freestanding sign for this individual business establishment or activity subject to the prohibitions in § **185-98**, and the buildings or structures housing the principal use(s) on a zoning lot on which a freestanding sign is located are set back at least 10 feet from the abutting street

right-of-way. The sign is in compliance with the following additional conditions:

- (a) The total area does not exceed 25 square feet.
- (b) The sign does exceed seven feet in height from ground level to the top of the sign, although signs not exceeding four feet in height are preferred.
- (c) The sign is not located closer than four feet to any street right-of-way, which, absent a survey, is assumed to be the back edge of a sidewalk along a public street, within four feet of any side property line or within 50 feet of any dwelling, nor shall it obstruct driver visibility.
- (d) The content of the signs is limited to only the building's street number, the name of the business, a business logo, the name of the building and/or product or service information.
- (e) There is no equivalent flush wall or projecting sign for the business establishment or activity because there is compelling evidence that the existing sign on the building is not visible to vehicles passing by.

(3) The freestanding sign will be incorporated in a landscaping feature, and as verified by the Town Planner, will not interfere with the way that the parking lot functions.

Application #3855, Stephen Buka & Lisa Denny, 43 Meadowbrook Dr., Barrington, RI, applicants and owners, for permission to construct a 2nd floor addition over existing family room and garage and to rebuild the front porch. Assessor's Plat 32, Lot 349, R-25 District, 43 Meadowbrook Dr., 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: Chip Muller, friend of applicants

The Board verified that Mr. Muller was authorized to act on behalf of the applicant, and not as the applicant's attorney; this application was heard at the end of the hearing in order to verify that.

Mr. Muller explained that the applicants would like to add a 2nd floor over the family room and garage. This addition will not increase the footprint of the home or the impermeable surface on the roof, which will remain virtually the same, only higher. It will not be visible to the neighbors from the south and north. There is a 10 foot right of way on the side where side yard relief is requested, so the setback is effectively over 19 feet. The closest distance to the coastal feature is 55 feet. The setback/foundation is no closer than the existing foundation and construction is only going up.

Mr. Muller said that the reason for the addition is because the applicants have 3 young children and will need more space as they grow. The house can support more square footage without impacting the footprint or increasing the amount of impermeable space.

The Board noted an email from abutter Heidi Janes, 45 Meadowbrook Drive, who expressed a concern

about the massing of the addition and requested that the Board require the owner to install a 10 foot arborvitae hedge along the width of the new structure to soften the mass of the addition and provide a privacy screen. Mr. Muller said that neither he nor the applicants have seen this email and there has been no discussion concerning this request. The Board did not want to impose this as a condition and suggested that the applicants and neighbor discuss this between them.

MOTION: Mr. Blasbalg made a motion to approve the dimensional variance portion of the application subject to the following conditions set forth by the Conservation Commission:

1. Use of appropriate erosion control measures prior to and during all soil disturbance work
2. All construction materials be stored on Meadowbrook Drive side of the property

Mr. Dennehy seconded the motion and it was unanimously approved (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 structure is existing and they are adding on within the existing footprint; 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 to that effect; 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 character with the neighborhood and is a tasteful addition that seems to fit in; D) that the relief to be granted is the least relief necessary because they are staying within the existing footprint and the request to build up rather than out is not going to harm the neighbors directly or the general characteristics of the neighborhood. 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 without approval, the hardship for the family would be insufficient space for their growing family.

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

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 in that there is no evidence to the contrary; there will be no negative impact on the public because there is nothing here to suggest that; B) that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan because this is a waterfront development and will in fact be in complete harmony with the 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 because there is no evidence to suggest that; D) that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or

district because it will enhance this property and the general district.

Additionally, the applicant has met the exemption standard, contained in § 185-175, from the requirements of § 185-174 because they are going no closer to the wetland and the report of the Conservation Commission indicates there is no potential for significant environmental impact.

ADJOURN:

There being no other business, Mr. Blasbalg moved to adjourn at 9:27 p.m. and the meeting was adjourned.

Respectfully submitted,

Mary Ann Rosenlof, secretary
Thomas Kraig, Chairman

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