

Town of Lincoln

Zoning Board of Review Minutes

October 4, 2005 Meeting

Present: Raymond Arsenault, Kristen Rao, Gabriella Halmi, Arthur Russo, Jr., Nicholas Rampone, Jim King, Town Solicitor Mark Krieger

Miscellaneous

Chairman Arsenault informed the Board that Member Russo resigned his position on the Board as a full time member and has accepted a position as an alternate member. Member King resigned his position as an alternate member and is now a full time member.

Minutes

Chairman Arsenault stated there were two items in the September 2005 Minutes which needed clarification. First error was on page 1 regarding a Motion to continue the Litmanovich application to the October agenda – secretary did not list what the Motion was. Second item was on page 8 on the Jaworski denial, it did not state why the application was denied and could the Secretary check her notes. Attorney Krieger informed secretary that on page 4, name of developer is Ralph Branca not Earl Branca. Chairman Arsenault informed the Board that acceptance of the September minutes would be continued to the November agenda to afford the secretary time to review her notes and make the changes to the Minutes.

Correspondence

On the Jaworski matter, applicant has appealed the Board's denial of his application to the Superior Court.

Applications

John Picozzi, 1571 Lonsdale Avenue, Lincoln, RI – Special Use Permit for the operation of an office within the home.

AP 4, Lot 64

Zoned: RG 7

Applicant not present. Chairman Arsenault set application aside for hearing later in the evening.

Alan Costantino, 10 Dennell Drive, Lincoln, RI – Dimensional Variance for side yard setback for the construction of a 2-car garage.

AP 42, Lot 77

Zoned: RS 20

Applicant not present. Chairman Arsenault set application aside for hearing later in the evening.

Harry Myers, 3 Myers Drive, Lincoln, RI – Dimensional Variance for side yard setback for property located at 297 Angell Road, Lincoln RI.

AP 45, Lot 243

Zoned: RS 20

Chairman Arsenault read into the record standards that needed to be met for a Dimensional Variance.

Applicants told the Board that the Town requested they file an application for a Dimensional Variance because the lot is a pre-existing, non-conforming lot of record. Applicants want to bring the lot into conformance with the present zoning regulations. They want to change the layout of one of the lots. Applicant wants to combine Lot 243 with Lot 364 so half the lot will be on Myers Drive. The farm has been at this location since the 1800s and the existing road was built after the house was constructed. They want to change the layout of the property and run the lot back towards Angell Road. There is a single family dwelling on the property.

Chairman Arsenault read in the record Planning Board recommendations:

The proposed dimensional variance is to clear up the pre-existing nonconformance of this parcel of land. This lot was platted before present day zoning regulations. The Planning Board recommends Approval of this application. The Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Motion made by Member King to grant a 9.51 front yard setback stating:

- Hardship from which the applicant seeks is due to the unique characteristics of the subject land and not due to the general**

characteristics of the surrounding area and not due to a physical or economic disability of the applicant

- Hardship is not the result of any prior action or the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- Granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Comprehensive Plan.**
- Relief requested is the least relief necessary.**
- Hardship amounts to more than a mere inconvenience.**

Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Miguel & Elizabeth Simao, 11 Riverside Drive, Lincoln, RI – Dimensional Variance for front yard setback for the construction of a second story and farmer’s porch.

AP 13, Lot 92

Zoned: RL 9

Chairman Arsenault read into the record standards that needed to be met for a Dimensional Variance.

Applicant wants to add a second floor and farmer’s porch onto existing house which will wrap around the house on the Park Boulevard side. He is seeking relief on three sides of the property. Attached plans showed that addition would have no windows on the left side but he intends to put some in. First floor will stay as is.

Applicant not sure what height of structure will be once addition completed. Attorney Krieger informed applicant that he would need a further variance for every foot over 25 feet. To calculate side yard variance, Board needs to know what the height of dwelling will be with the addition of a second floor. Garage will be attached to the existing house. Applicant showed the proposed plans to his neighbors and received positive feedback. The proposed porch depth is the same as an existing portico. Porch will bring house in line with other homes in the area.

Chairman Arsenault asked why not sell the house and move. Applicant replied he moved into the neighborhood 5 years ago, likes the area and wants to stay where he is. It would cost too much money to purchase another home. Chairman stated what applicant is proposing will change the character of the neighborhood and he is uncomfortable going forward with the application without knowing what the height of the house will be with the addition because it could double the size of the house.

Chairman read into the record Planning Board recommendation: Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Denial of this application. The Board examined the submitted plan and setback requirements and feels that the application does not meet the requirements for a dimensional

variance, does not conform to the surrounding neighborhood, and is not the least relief required.

Al Ranaldi, Town Planner addressed the Board stating he drove by the property and 99% of the homes in the area are single family ranch homes. There was one house that was two stories. He could not see the house being in compliance with other homes in the area with the proposed addition.

Chairman asked applicant if he would be willing to continue the application to the November agenda so he could address the height issue and try and make the home fit into the neighborhood. Applicant said that he was willing to return to address the Chairman's concerns and asked for a continuance.

Motion made by Member Rao to continue the application to the November agenda. Motion seconded by Member Gobeille. Motion to continue carried with a 5-0 vote.

Dimitry & Elena Litmanovich, 20 Linfield Circle, Lincoln, RI - Dimensional Variance for front yard setback for the construction of an addition at 20 Linfield Circle, Lincoln, RI.

AP 45, Lot 205

Zoned: RS 20

Represented by: Michael Horan, Esquire

Applicant came before this Board in August with an application to

construct an addition to their garage and was denied. They are back before this Board with scaled down plans for a 10'x14' addition and are now asking for a 5 foot front yard setback. Member Halmi informed Attorney Horan that this is what the Board had advised applicants to do back in August.

Chairman Arsenault read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of this application. The Board finds that the dimensional variance is consistent with the neighborhood, will not alter the general character of the surrounding area and will not impair the intent or purpose of the zoning ordinance, or the Comprehensive Plan.

Motion made by Member King to grant a 5 foot front yard setback stating:

- Hardship from which the applicant seeks is due to the unique characteristics of the subject land and not due to the general characteristics of the surrounding area and not due to a physical or economic disability of the applicant**
- Hardship is not the result of any prior action or the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- Granting of this variance will not alter the general character of the**

surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Comprehensive Plan.

- Relief requested is the least relief necessary.**
- Hardship amounts to more than a mere inconvenience.**

Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

John Picozzi, 1571 Lonsdale Avenue, Lincoln, RI – Special Use Permit for the operation of an office within the home.

AP 4, Lot 64

Zoned: RG 7

Applicant came before this Board in September and application was continued because of notice problems and lacked a radius map and site plan.

Chairman Arsenault read into the record standards that needed to be met for a Special Use Permit.

Applicant is a licensed mortgage broker and wants to set up an office in his home to sell real estate mortgages under the name Limerock Financial. He is here under Section 5.1 of the zoning regulations. Property meets the Town's parking requirements. Other than an occasional bank representative, no one will come to his home – all business will be conducted over the telephone.

Members Rao and Halmi asked applicant why he was before the

Board under Section 5.1 of the zoning regulations and not Section 2.11. Al Ranaldi, Town Planner replied that both he and the Zoning Official interpreted Section 5.1 of applicant's proposed use to fall under real estate service and guided the applicant in that direction. The Zoning Official did not interpret what his use to be as being under Section 2.11. Chairman replied that it liked the question was for the Board to decide if his application fell under Customary Home Occupation or real estate services. There was discussion among the Zoning Board members that applicant met all requirements under Section 2.11 and a reversal of the decision by Zoning Official to file under 5.1 was warranted and it was not necessary for applicant to come before this Board for relief. The proposed office space is 10'x13' and already exists in the home.

Applicant informed the Board that he did not plan on making any outside alterations and there would be no signage on the property.

Motion made by Member Rao to reverse the decision of the Zoning Official as this application falls under Section 2.11 – Customary Home Occupation and not Section 5.1 of the Zoning Regulations. Motion seconded by Member Halmi. Motion carried with a 5-0 vote.

Alan Costantino, 10 Dennell Drive, Lincoln, RI – Dimensional Variance for side yard setback for the construction of a 2-car garage.

AP 42, Lot 77

Zoned: RS 20

Applicant not present.

Member Gobeille made a motion to adjourn. Motion seconded by Member Rao. Motion carried with a 5-0 vote.

Respectfully submitted,

Ghislaine D. Therien

Recording Secretary