

**Town of Lincoln
100 Old River Road, Lincoln RI
Zoning Board of Review**

August 5, 2008 Minutes

Present: Jina Karampetsos, Raymond Arsenault, Gabriella Halmi, Kristin Rao, Arthur Russo, David Gobeille, and Town Solicitor Anthony DeSisto

Excused: John Bart

Minutes

Motion made by Member Russo and seconded by Member Arsenault to accept the July 2008 Minutes as presented. Motion carried with a 5-0 vote.

Applications:

Residences at Stone Creek, Break Hill Development, Inc., 145 Phoenix Avenue, Cranston, RI – Comprehensive Permit recommendation to Planning Board for an age restricted development on Breakneck Hill Road

AP 20, Lot 15 Zoned: RS-20

Al Ranaldi, Town Planner addressed the Board stating the Planning Board was asking for a Zoning Board recommendation on this

application for low and moderate income housing. Applicant is seeking to build 70 residential condominiums, 18 of which will be dedicated to affordable housing. They are proposing 26 duplexes and 6 three unit condominiums in an RS 20 zone which allows single family detached housing. Town water and sewer will be provided. Density for RS 20 is 2.63 units per acre and applicant is seeking 5.26 units per acre. Applicant is at master plan stage before Planning Board. Technical Review Committee has addressed all issues. Applicant is also seeking rear yard relief. Lincoln is currently at 7% compliance with affordable housing and do not meet the 10% requirement.

Attorney DeSisto told the Board they have three choices before them: 1. make a recommendation to the Planning Board; 2. make a negative recommendation with the information before them; and 3. make no recommendation. This is not a mandatory procedure for the Zoning Board but just makes a recommendation and sends it to the Planning Board.

- Chair was concerned about a use variance. RS 20 does not allow for single family attached and there is no traffic study for the Board to review. Other than the request before them there is no other information for them to review. No traffic study has been presented and asked if the area is designed low-moderate income.**

- Member Russo stated there is not enough information before this Board for them to make a proper recommendation to the Planning**

Board.

- **Member Arsenault asked why this was before the Board for a recommendation with little info except a site design.**
- **Member Halmi was concerned about additional traffic**

Al Ranaldi, Town Planner replied stating the application is obligated to appear before the Planning Board to address concerns and not the Zoning Board.

Witness

John Mancini, Attorney for Opposed

He is concerned about the procedural aspect of the application stating the process should be reviewed by the Town Council for approval. Waivers are variances and the developer needs to rationale the proposed plan. The Comprehensive Permit application is an issue before this Board.

Opposed

Michael Conway, Breakneck Hill Road, Lincoln, RI

He was under the impression the Board would be reviewing traffic and runoff studies. He lives adjacent to the site and has a water runoff problem causing flooding. Feels this will result in additional water runoff. A traffic study was done the second week of July when area traffic is not heavy. This is a scenic roadway and 70 units will not fit into the area. He and several neighbors have septic system

with well water and no town services.

- Member Halmi stated asking the Zoning Board for an opinion without information for review is impossible for providing a recommendation. The Board does not know what the traffic study showed and are not sure what the location of the site is.**
- Member Arsenault concurred adding the development is not in compliance with out zoning standards**
- Chair was concerned about a waiver from single family to multi family. A development of this size could have serious impact on the neighborhood. Information before the Board does not support a recommendation to the Planning Board.**

Member Halmi made a motion to submit a negative recommendation as the information presented for review is inadequate and feels this development would double the density and traffic impact for town services and increase drainage and flooding issues. This project does not seem to fall into Comprehensive Plan designated area. Motion seconded by Member Russo and carried with a 5-0 vote.

Enrico & Tracy DiGregorio, 23 Business Park Drive, Smithfield, RI – Dimensional Variance application seeking height relief from 35 feet to 56 feet for the construction of a single family residence on property located on Paddock Drive, Lincoln, RI.

AP 42, Lots 228 Zoned: RA 40

Chair read into the record standards that need to be met for a Dimensional Variance application.

New plans shows house plans have been scaled back. Submitted into the record new abutter list as Exhibit #1.

Witness

Edward Pimentel, AICP, Pimentel Consulting, 26 Avon Road, Cranston, RI

Submitted into the record resume as Exhibit #2 and his report as Exhibit #3. Motion made by Member Arsenault to accept Mr. Pimentel as an expert witness. Motion seconded by Member Gobeille and carried with a 5-0 vote.

He did an analysis and found the area has stately homes some of which exceed the town's height requirement. Applicant has merged lots 227 and 228 into one lot 228 for a total of 103,556 square feet. Property has an existing detention pond and only relief they are seeking is for height relief.

Witness

Enrico DiGregorio, Owner and Applicant

He has owned the lot for one year and this will be their home with no intentions of sale. Dirt used during construction will be used to fill in the detention pond and elevate the water table and they have received Department of Environmental Management approval. Applicants

have hired a landscape architect to prepare plans to accommodate the scale of the house. They have scaled down the plans originally submitted to this Board three months ago.

Witness

Justin Minda, Architectural Designer

He has been in his profession ten years and has designed 80 residential projects. He did the first set of plans and also the scaled down plans (did the plans and drawings attached to the application). House is long and narrow and he has designed other homes in the neighborhood.

Submitted into the record:

Exhibit 4A – Elevation study

Exhibit 4B – Neighborhood plan showing abutters

Exhibit 4C – Footprint of abutter homes

Exhibit 4D - East/West and North/South site plans showing topography of property

Exhibit 5 - Plantings/Landscaping plan

Bedrooms will be located on the top level of the house.

Chair 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 the application for a dimensional variance.

The Planning Board feels that the application does not meet any of the standards for relief of a dimensional variance as presented in the Zoning Ordinance. More specifically, the Planning Board feels that the site plan and application does not represent the least relief necessary and is not due to the unique characteristics of the subject land. The house is not built at this time. Therefore, the board feels that the applicant should have designed the house within the Zoning regulations. The Planning Board feels that the dimensional variance will alter the general character of the surrounding area and will impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.

Planning Board did not have the revised plans for review prior to writing their recommendation.

No opposition present.

Member Arsenault made a motion to approve 11.2 feet height relief stating:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- 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.**

- **The 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 Lincoln Comprehensive Plan.**
- **The relief requested is the least relief necessary.**
- **The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

Motion seconded by Member Russo. Motion carried with a 4-1 vote.

Charles Bishop, 30-32 Walker Avenue, Lincoln, RI – Special Use Permit to maintain existing five unit and add two additional units to property located at 30-32 Walker Avenue, Lincoln, RI.

AP 3, Lot 171 Zoned: RG 7

Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI

This application has been continued twice. Applicant was asked to return this evening with new plans which he submitted into the record as Exhibit #5. Chair read into the record correspondence dated June 4, 2008 from Richard Wiebe, 28 Walker Avenue, Lincoln, RI.

Witness:

Charles Bishop, Applicant

Existing house has lot depth of 100 feet and the proposed duplex will sit back 75 feet. He has added a gable to the plans to match the

existing 3 family. A small roof has also been added over the front door. The side of the house will look like a front entrance when entering by the driveway and the two family structure will be partially obscured. House will not be visible until directly in front of it. He intends to live in the duplex with his family. An existing maple tree will remain on site. Existing house was built in the 1900s and he feels the proposed duplex will fit into the neighborhood which consists of legal non-conforming homes. He meets all the requirements and burdens for this application. They are also willing to install a fence prior to the construction as requested by one of the neighbors. The footprint remains the same except for a new roof and porch overhang. There are no water issues with the current foundation and the 3 proposed on site drainage pits will absorb excess water.

Opposed:

Richard Wiebe

He stated the June minutes omitted part of his testimony and submitted his proposed written testimony into the record as Exhibit #6. Member Arsenault informed Mr. Wiebe that the minutes are a condensed version of the meeting and that his full testimony was recorded by the stenographer so that nothing was omitted from the record.

Attorney Shekarchi for the record objected to Mr. Wiebe reading his proposed testimony into the record verbatim and that only testimony about the new plans should be heard. Chair informed Mr. Wiebe that he would only be allowed to address new information before the

Board and that nothing could be addressed regarding information presented at the July meeting.

The applicant has the largest footprint in the neighborhood and the current proposal for a seven unit development would not fit in. The drawings have not changed from the last meeting and do not conform to the neighborhood. If approved, the Board would be setting a dangerous precedent.

Opposed:

Mr. Gilbert, 34 Walker Avenue, Lincoln, RI

He was hoping for something more. The plans do not look like they have changed. He purchased his home one year ago and did not attend the last meeting.

Chair 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 the Special Use Permit for the construction of two additional units to the property located at 30-32 Walker Avenue. While the Board feels that the application addresses the standards for a Special Use permit, there are several site design items that the Board has concerns over. If approved, these items will be reviewed at the building permit stage. The following items are of concern. The zoning ordinance calls for screening of the parking areas from the abutting property. No screen was shown on the

submitted plans. The Board has serious concerns about the proposed drainage system. This system and all supporting documentation will be carefully reviewed before a building permit can be issued. The front porch of the existing building must be removed. The plans do not show the lot width. This measurement must be documented and reviewed against the zoning ordinance.

Discussion:

- Chair stated the only changes to the plan were made to the street side with a gable roof and overhand at the door entrance.
- Member Arsenault visited the site hoping for a design more compatible to the area. The comprehensive plan for the Saylesville area is for improving existing properties, maintain the existing density, and discourage projects out scale for this area. He finds the applicant has not met the requirements.
- Chair agrees with Member Arsenault. She drove by the site and feels proposal will alter the general character of the neighborhood. Renderings do not look like they have changed.
- Member Russo also drove by the site and through the neighborhood. He was looking for more dramatic changes to the plans.
- Member Halmi felt it was important to have green space for the children living in the units and recreational use. If the plan were approved thought it would look like city space.

Motion made by Member Russo to deny the application stating:

- That the Special Use is specifically authorized under this Ordinance
- That the Special Use meets all the criteria set forth in this Ordinance authorizing such special use
- That the granting of the Special Use will alter the general character of the surrounding area
- That the granting of the Special Use impairs the intent or purpose of this Ordinance nor the Lincoln Comprehensive Plan

Motion seconded by Member Halmi. Motion to deny carried with a 5-0 vote.

Jose & Aurora Almeida, 201 Broad Street, Cumberland, RI – Special Use Permit to remove existing building and construct a five unit residential building on property located at 1683-1685 Lonsdale Avenue, Lincoln, RI. AP 5, Lot 26 Zoned: RG 7

Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI

Attorney stated applicants wished to withdraw their application without prejudice.

Motion made by Member Arsenault to accept withdrawal of the application without prejudice. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Daniel & Jennifer Moulico, 9 Cabot Street, Lincoln, RI – Dimensional

Variance for front and side yard setbacks and lot width relief.

AP 10, Lot 166 Zoned: RL 9

Represented by: Scott Partington, Esquire, 2176 Mendon Road, Cumberland, RI

Applicant is seeking 9.3 foot side yard, 11.4 foot front yard and 25 foot lot width relief. This is a 5,000 square foot pre existing non conforming lot. Applicants want to add a second story on the existing house.

Witness

Jennifer Moulico, Applicant

They want to expand the existing house to accommodate the family.

Witness

Michael Darveau, Land Surveyor & Home Designer

He has designed the plans for the second story. First floor will not change. Applicants want to remove an existing sun porch and expand with a new one at the rear of the property removing. Deck at the rear of the house will be removed. Area is largely residential. Submitted into the record letter dated August 5, 2008 from Joseph & Jennifer Ryan, 5 Cabot Street, Lincoln stating they have no objection to proposed construction Jennifer Moulico stated she witness their signatures.

Chair read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The proposed dimensional variances for a front and side yard setbacks and lot width are to clear up the pre-existing nonconformance of the existing house. This record lot and house was platted and built before present day zoning regulations. The proposed application will not change the existing footprint of the house. The applicant has proposed to build a second story onto the existing house. The Planning Board recommends Approval of this application. The Planning 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 Halmi to approve the application for 25 foot lot relief, 11.4 foot front yard and 9.3 foot left side relief.

Russell Hervieux, Zoning Official addressed the Board stating what applicant was seeking was 11.2 foot front yard and 7.5 foot south side, and 1.85 foot sun porch relief on the south side.

Member Halmi amended her motion to approve 25 foot lot relief, 11.2 foot front yard and 7.5 foot south side relief and 1.85 foot sun porch relief on the south side stating:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to**

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

- 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.**
- The 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 Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

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

Roland Montigny, 59 Main Street, Albion, RI – Dimensional Variance seeking front and side yard setbacks for the construction of an addition on property located at 21 Ledge Way, Lincoln, RI.

AP 33, Lot 66 Zoned: RL 9

Represented by: Mark Krieger, Esquire, 132 Old River Road, Lincoln, RI

Applicant wants to construct a 11'x10' addition to square off the back of his property. Addition will not encroach on the rear or side of the property.

Chair read into the record correspondence dated July 1, 2008 from Joseph Roszkowski, Attorney stating he had authorization to sign the application on behalf of the Roland E. Forand Trust

Witness

Roland Montigny, 59 Main Street, Albion, RI

He has a purchase and sale agreement in place with the Forand Trust for the property and has lived in Albion 78 years. Mr. Montigny has been in the construction business since 1957. The house was built in 1948. He submitted plans of the proposed addition into the record as Exhibit #1 and photos of the property as Exhibit #2. Addition will have a laundry room to the left side of the house squaring off the building. Neighbors across the street came before this Board last year with a similar proposal. He intends to brick the front of the house and vinyl side the rest of the house. Cannot expand to the side because that is where the boiler is located.

Chair read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The proposed dimensional variances for the front and side yard setbacks are to clear up the pre-existing nonconformance of the existing house. This record lot and house was platted and built before present day zoning regulations. The proposed application is to square-off the house and provide an additional room which will be used to provide modern day

household amenities such as a washer and dryer. The Planning Board recommends Approval of this application. The Planning 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.

Opposed

Steven Nault

Existing garage is not as shown on plans before the Board. The plans show six feet between the garage and house but that is not correct. He went to the Building Inspector asking for verification of the plan. Once the addition is built something will need to be done with the garage because it will touch the house.

Russell Hervieux, Zoning Official stated he did get a visit from Mr. Nault and showed him the application. He cannot go onto the property to measure and did a drive by and cannot confirm six feet between the house and garage and needs to go by the plan and survey.

Opposed

Richard Beaudet, 80 Berkshire Drive

He took photos of the house and garage. He does not have any objection to the addition but is concerned about the accuracy of the submitted plans.

Opposed

Susan Breault, 80 Berkshire Drive

The plat map shows six feet to the garage and also questions the accuracy of the submitted plans.

Attorney Krieger stated the submitted plan states that there is six feet between the existing house and garage but the garage will be removed once the addition is built keeping with the code.

Chair stated Stephen Long's signature on the plan is June 20, 2006 but the plan is dated June 20, 2008. Which is correct? Attorney Krieger replied the house plans were drawn up on June 20, 2008 and he would be willing to continue the application and bring in Mr. Long to testify and address the matter. Member Arsenault replied that would be the wise thing to do out of an abundance of caution. Attorney Krieger reiterated it was applicant's intent to remove six feet of the existing garage. Member Russo also stated that because the application will be public record it would be best to continue the application and have Mr. Long correct the plans. Attorney Krieger stated the purchase and sale agreement has a contingency to expire on September 1, 2008 but the next meeting is scheduled for September 2, 2008 and does not feel it will affect the agreement.

Motion made by Member Gobeille to continue the application to the September 2, 2008 agenda. Motion seconded by Member Arsenault and carried with a 5-0 vote.

**Edward & Melanie Kilbane, 288 Broad Street, Cumberland, RI –
Special Use Permit for the construction of a single family residence
with attached accessory family dwelling unit for property located on
Anna Sayles Road, Lincoln, RI.**

AP 29, Lot 379 Zoned: RS 20

**Chair read into the record standards that need to be met for a Special
Use Permit.**

**Applicant wants to construction an in-law apartment. Parents will sell
their home and move in. Apartment will be located to the rear of the
home with a separate entrance for privacy. Driveway and garage will
have access to the apartment which will consist of a kitchen and
bath. Existing house is 2,600 square feet, addition will be 1,176
square feet for a total of 3,776 square feet of living space. Addition is
within the building envelope. Current owner of property is Mount
Moriah Lodge, 1093 Great Road, Lincoln. Lot is wooded and vacant.
Applicant will file certification papers annually with the town.**

Chair 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 the Special Use Permit for the Accessory
Family Dwelling Unit. The applicant proposes to build a new house
and an accessory family dwelling unit. The entire house site is**

located within the lot's established setback and no variances are required. The applicant took great care in the design of the proposed house and the accessory family dwelling unit so that the house will look like a single family house from the roadway. The Planning Board feels that the special use permit will not alter the general character of the surrounding area and will not impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.

Witness

James Bethel, Lodge Representative

He was asked if there was an existing purchase and sale agreement for the property and how far from Anna Sayles was it located. He replied in the affirmative about the purchase and sale agreement and stated it would sit approximately 40 feet back.

Applicant stated the house would be cape styled with no dormers. Title has been cleared on the property and judgment issued on August 5, 2008. Lot coverage is 13% with 100 feet at rear to the property line.

Motion made by Member Arsenault to approve the application stating:

- **That the Special Use is specifically authorized under this Ordinance**
- **That the Special Use meets all the criteria set forth in this Ordinance authorizing such special use**
- **That the granting of the Special Use will not alter the general**

character of the surrounding area

- **That the granting of the Special Use will not impair the intent or purpose of this Ordinance nor the Lincoln Comprehensive Plan**

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

Motion made by Member Arsenault to adjourn the meeting. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Ghislaine D. Therien

Zoning Board Recording Secretary