

Town of Lincoln

Zoning Board of Review

100 Old River Road, Lincoln, RI

Minutes of March 6, 2012 Meeting

Present: David DeAngelis-Chair, John Bart–Vice Chair, Mark Enander, Lori Lyle, John Barr, Anthony DeSisto, Esq. (Town Solicitor)

Excused: Barry Nickerson, Ronald Del Vecchio

Minutes

Motion made by Member Bart to approve Minutes from the February 2012 meeting as presented. Motion seconded by Member Enander. Motion carried by all present.

Applications

YMCA of Pawtucket, Inc., 660 Roosevelt Avenue, Pawtucket, RI/MacColl YMCA, 26 Breakneck Hill Road, Lincoln, RI – Application for Special Use Permit for additional signage at property located at 26 Breakneck Hill Road, Lincoln, RI.

AP 25, Lots 58, 68, 69 and 71 Zoned: RA 40

Represented by: Robert Cioffi, Executive Director YMCA

Quorum from February meeting not present to hear application. Application continued to the April 2012 Agenda.

**Motion made by Member DeAngelis and seconded by Member Enander to continue the application to the April 3, 2012 agenda
Motion carried by all present.**

Peter J. DiPaola, 32 South Eagle Nest Drive, Lincoln, RI – Application for Dimensional Variance seeking rear setback relief for an existing accessory structure.

AP 40, Lot 95 Zoned: RA 40

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

Attorney Shekarchi informed the Board that applicant was out of state and requested the application be continued to the April 3, 2012 agenda.

Motion made by Member Barr and seconded by Member Bart to continue the application to the April 3, 2012 agenda Motion carried by all present.

Richard D. Ptaszek, 23 Doire Road, Cumberland, RI – Application for

Use Variance to legalize existing three-family home located at 408 Old River Road, Lincoln, RI.

AP 39, Lot 109 Zoned: RL 9

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

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

Attorney Shekarchi stated Use Variance request is an allowed continued use. Applicant purchased the property October 1998 as a three-family unit. House has been a three-family unit for twenty years and there are no violations on record for that use. Property was grandfathered as a three-family in 1991. Submitted into the record as Exhibit #1 correspondence dated 9/5/91 from then Chairman William Reid, Jr. allowing a Viti variance that would allow Raymond Forcier to convert a basement into a studio apartment on Assessor's Plat 39, Lot 109. House was moved from Route 146 to its current location in 1987 when the property was taken by eminent domain for construction of Route 99. Recent title search could not give exact location of property on Route 146 before it was moved. Property continues to be used as a three-family unit and complies with the Town's Comprehensive Plan.

Submitted into the record as Exhibit #2 property card from the Tax Assessor's office showing it as a three-family unit. Also submitted

into the record as Exhibit #3 tax records showing property as three-family when it was moved.

Witness

Edward Pimentel, Expert Land Use & Planning

Exhibit #3 dates back to 1987 when house was moved onto an existing foundation. There has been a three-family structure at this site for many years and was a three family prior to being moved. There is a four family to the left and a two family to the right at the present location. Historical records do not show exact date when the house was moved. There was an application in the past before the Zoning Board to convert to a three-family but was withdrawn possibly because the property was already zoned for a three-family. The Technical Review Committee gave a positive recommendation with a condition that the property meet all building codes.

Witness

Richard Ptaszek, Applicant

When he closed on the property the Property Sale Agreement stated it was sold and marketed as a three-family unit. There are three electric panels at the site and billed as separate units. There is also adequate parking. He has refinanced the property twice in the past with no problems with the title but it is being questioned with the current refinancing.

Attorney DeSisto stated it has been difficult establishing that this is a

non-conforming use. More information should be available somewhere other than what the applicant found in Town records. Maybe the Building Official during that time period would be able to provide an affidavit to answer some questions the Board has so they can render correct relief on the application. Chairman concurred with the Town Solicitor. He did not feel the Board was in a position to render a decision based on what was being presented. Any decision rendered by the present Zoning Board will carry with the property in the future. Perhaps the applicant could contact a utility company like Valley Gas or the electric company that would show the number of units being serviced in the past at this location.

Attorney Shekarchi requested the application be carried to the April agenda so they could look further into the records to clarify some of the concerns of the Board.

Motion made by Chairman DeAngelis and seconded by Member Lyle to carry the application over to the April agenda. Motion carried by all present.

Martbro Properties, LLC, 960 Smithfield Avenue, Lincoln, RI – Application for a Special Use Permit to convert a two family and office building to a three (3) family housing unit.

AP 06, Lot 181 Zoned: RG-7

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

Chair read into the record standards for Special Use Permit.

Attorney Shekarchi stated the applicant wants to convert first floor office space into a residential unit. Location is a legal non-conforming permitted use with ample parking. Water and sewer service available at the site.

Witness

Edward Pimentel, Expert Land Use & Planning

Location is mixed character neighborhood with 7-8 parking spaces. True rear yard will be retained and will be residential abutting residential. Relief is only needed on the dwelling and footprint will not be expanded. Unit only needs to have a kitchen area installed. Applicant wants to intensify use of the property. The use is authorized; will not alter the character of the area; and meets the Comprehensive Plan goals.

Witness

Santino Martinelli, Owner

There is a two bedroom unit on the second floor. Proposed unit will be a one bedroom. The side apartment is an efficiency unit. The first floor will be less than 1,220 square feet. There is existing plumbing in the basement for the proposed unit.

Witness

James Dusty, Certified Appraiser in RI, CT and MA.

He is familiar with the site and area. What applicant is proposing will have no negative effect on the neighborhood and will not alter the character of the area.

Chairman read into the record Technical Review Committee/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 proposed application is to convert an existing office space into a residential apartment. Two residential apartments currently exist as part of the building. Three family housing is allowed in this zoning district by special use permit. The original footprint of the building will not change. 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.

No opposition present.

Motion made by Member Enander to grant the Special Use stating:

- That the Special Use is specifically authorized under this Ordinance. There are other multi-family units in the area.**
- That the Special Use meets all the criteria set forth in this Ordinance authorizing such special use. Parking at the site will meet Town code**

requirements for multi-family.

- That the granting of the Special Use will not alter the general character of the surrounding area. Proposed unit is in line with the neighborhood.**
- That the granting of the Special Use will not impair the intent or purpose of this Ordinance nor the Lincoln Comprehensive Plan. There are other multi-family units in the area.**

Motion seconded by Member Bart. Motion carried by all present.

Martbro Properties, LLC, 960 Smithfield Avenue, Lincoln, RI – Application for a Dimensional Variance seeking lot area and side yard relief to convert a two family and office building to a three (3) family housing unit.

AP 06, Lot 181 Zoned: RG-7

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

Chairman read into the record Technical Review Committee/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 proposed dimensional variances are to clear up pre-existing nonconformities of this parcel of land. The conversion of this property to a three (3)

family housing unit will not change the existing footprint of the building. 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 Enander to grant application for Dimensional Variance. He further stated:

- 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 Barr. Motion carried by all present.

Gregory A. Sansiveri, 3 Ledgemont Drive, Lincoln, RI – Application for

Dimensional Variance seeking front and side yard relief for the construction of an addition.

AP 29, Lot 121 Zoned: RS-20

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

Applicant sought and was granted a variance in 1999 for a garage addition. Applicant wants to add a master bedroom above the existing garage. The footprint is not being extended. He has lived at this location since 1996. Exterior of addition and roof will match existing house.

Russell Hervieux, Zoning official informed the Board that applicant needs 15.5' relief from the northeast corner; 11.69' side relief from the northwest corner; 4.37' side relief from the southwest corner; and, 3.85' front relief on the southeast corner.

Chair read into the record Technical Review Committee/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 according to the submitted plans for a dimensional variance from the front and side yard setbacks for the construction of an addition. The TRC feels that the proposed location of the new addition will not change the existing

footprint of the house. The applicant proposes to build a second story over the existing garage. The Board finds that the applicant presents a realistic site layout that meets the intent of the zoning and is the least relief needed. The Planning Board feels that granting these dimensional variances will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Chair read into the record correspondence from Mr. & Mrs. Lapri (abutter) stating they had no objection to what is being proposed.

Motion made by Member Bart to grant the requested Dimensional Variance for 15.5' relief from the northeast corner; 11.69' side relief from the northwest corner; 4.37' side relief from the southwest corner; and, 3.85' front relief on the southeast corner. He further stated:

- 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. There are other homes in the area with additions over their garage.**
- 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. This is the most efficient way to expand the home.**
- **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 Barr. Motion carried by all present.

Motion made by Member Bart and seconded by Member Lyle to adjourn the meeting. Motion carried by all present.

Respectfully submitted,

Ghislaine D. Therien

Zoning Secretary