

Town of Lincoln

Zoning Board of Review

100 Old River Road, Lincoln, RI

Minutes of April 3, 2012 Meeting

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

Minutes

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

Applications

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.

Application continued from the March agenda. Chairman DeAngelis read into the record standards that need to be met for a Dimensional Variance.

Edward Pimentel stated it was his opinion that the application for Dimensional relief may not be necessary. Submitted into the record as Exhibit #1 Town of Lincoln Land Development and Subdivision Regulations. The lot is irregularly shaped fronting on Eagle Nest Drive with a right of way. The property does have adequate frontage and is over 100 feet from other residences.

Property has five boundary lines and fronts on Route 99. To relocate accessory structure is an inconvenience. There are other homes in the neighborhood with accessory structures. Submitted into the record as Exhibit #2 four page Neighborhood Analysis of homes in the area. Application needs 7.58 feet rear yard relief. There will be no negative impact to the surrounding properties.

Applicant has two options – move part of the structure or the entire structure which has been in place for ten years.

Russell Hervieux, Zoning Official informed the Board applicant is here as a result of a violation notice which resulted in an illegal accessory structure on the property. The garage is the only legal structure on the property. All other structures on site are illegal. No permits were pulled for the other structures. Other sheds on site were built in 1998.

Submitted into the record as Exhibit #3 history of other structures on site.

Chair read into the record Planning Board/Technical Review Committee recommendations:

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 seeking rear yard setback relief for the construction of an existing accessory structure. The existing accessory structure was constructed without a building permit. The submitted plans also show four other accessory structures on the property. An additional structure is in the middle of construction was not shown on the plans. A review of the applicant's building file determined that only one accessory structure was constructed with a building permit.

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. The applicant did not offer any compelling reasoning for their request within their application. The submitted site plan clearly shows that the applicant has sufficient room within the property setbacks to locate accessory structures. The Planning Board feels that the current site plan and application does not represent the least relief necessary and is not due to the unique characteristics of the subject land.

Motion made by Chairman DeAngelis to deny the application for Dimensional Variance stating:

- **The hardship from which the applicant seeks relief is not due to the unique characteristics of the subject land or structure. Accessory structure was illegally constructed.**
- **The granting of this variance will alter the general character of the surrounding area and impairs the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- **The relief requested is not the least relief necessary.**
- **The hardship does not amount to more than a mere inconvenience. It is the property owner's responsibility to pull the proper permits.**

Motion to deny seconded by Member Enander. Motion carried by all present.

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

Chair read into the record standards for a Special Use Permit.

Applicant submitted redesigned plans for entrance signage. New signage fits in more with historic area by adding colonial moldings. Only the writing on the entrance sign will be illuminated.

Dana Newbrook who is the landscape architect for applicant informed the Board the applicant will be planting “thunja” trees as a buffer for the neighbors. The trees will be 8 feet tall and planted 12 feet apart with a 30 inch girth. Thunja trees are related to junipers.

Chair read into the record Planning Board/Technical Review Committee recommendations stating many of the issues in their recommendation have been addressed by applicant.

Members of the Technical Review Committee visited the site and reviewed the plans and the application for a special use permit for additional signage at property located at 26 Breakneck Hill Road. The submitted application is for a total of sixteen signs of various sizes and located throughout the property. The Planning Board recommends Approval with Conditions. The condition of approval is that no sign shall have LED lighting or any lighting similar to LED, will not scroll messages, and will not flash. The Planning Board feels that due to the historic nature of this roadway and due to the fact that Breakneck Hill Road is designated as a “Scenic Highway” by the State of Rhode Island, that any sign that will be seen from travelers along this road should be discrete in nature. The Planning Board paid special attention to sign #1 and sign #16. Sign #1 is proposed to be “internally lighted”, while sign #16 is proposed to be “internally lighted” and their program announcements to be “lighted lettering”. A full explanation of what “lighted lettering” means was not provided in the application. Therefore, the Planning Board made the above condition of approval. The Planning Board would like to bring to the

Zoning Board's attention that the application does not contain any measurements of the proposed signage. Enforcement of this application, if approved, will not be possible without these measurements. The Planning Board recommends that this information be provided to the Zoning Board and made part of the official record of approval.

Motion made by Vice Chair Bart to approve the application for Special Use Permit for additional signage with a conditions that: buffer planting of trees are to be six feet apart and enforced by the Building Official; only the lettering on the signage will be lit. Motion seconded by Chairman DeAngelis who also stated that the trees must provide an adequate privacy screen to the boundary lines; no signage will be flashing or scrolling. 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 submitted into the record Affidavits numbered

Exhibit #1, #2 and #3 for Edward Pimental, Attorney Shekarchi and Richard Ptaszek indicating they researched records to try and obtain additional information regarding status of site. Attorney Shekarchi stated he conducted a field title search and found no evidence in Town records. He did find an application for the Zoning Board dating back to 1991 and spoke with Douglas Vaughan who remembered moving homes when Route 99 came through. The house was a three family prior to it being moved.

Witness

Richard Ptaszek, Applicant

Applicant checked with National Grid who informed him all utilities were there when he took ownership in 2000. He also spoke with the prior owner who moved the house back in the late 1980s. Department of Transportation has no records but prior owner informed applicant that he applied for all permits and site was inspected by the Town.

Attorney Shekarchi informed the Board that all records that he researched showed it was a three unit when it was taken by eminent domain and moved to the current site. Meters at the site shows electric and gas sticker on the meters when serviced back in 1988.

Chair read into the record Planning Board/Technical Review Committee recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board

recommends Approval with Conditions of this application for a use variance to legalize and existing three (3) family housing unit. The Planning Board feels that the surrounding neighborhood is made up of a variety of housing units ranging from single family homes to three family homes. The use variance will not change the appearance of the house. The Board finds that the application will legalize an existing use. As a condition of approval, the Planning Board recommends that the property owner brings the existing housing unit up to current three family building codes. The Planning Board feels that granting the use variances will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Motion made by Chairman DeAngelis to approve the application and based on the evidence presented the use variance does not apply as this is a prior non-confirming legal three family structure.

- 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 subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the Zoning Ordinance.**

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

Anthony DiPardo & Carole Marquis, 4 Alern Way, Lincoln, RI – Application for Dimensional Variance seeking side and rear yard relief for the construction of an addition.

AP 29, Lot 139 Zoned: RA-40

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

Existing house is 22'x32' with two small bedrooms. Applicants just had a baby and need additional living space. Applicant plans to remove existing siding and replace with cedar shingles. There are other two story homes in the area and the footprint of the property is not changing. Will meet Town codes once completed. Applicants need 31.3 feet rear and 3.7 feet side yard relief.

Chair read into the record Planning Board/Technical Review Committee 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 side and rear yard setbacks

for the construction of an addition. The Board feels that the proposed location of the new addition will not substantially change the existing footprint of the house. The applicant proposes to build a second story over the existing house and garage. The Planning 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.

Motion made by Member Lyle to grant 3.7' of side relief on the northwest corner; 31.8' of rear relief on the northeast corner; and 150' for lot width relief. She 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.**

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

American Beauty Signworks, 345 Providence Street, Woonsocket, RI/Wake Robin Associates LLC, 2 Wake Robin Road, Lincoln, RI – Application for a Special Use Permit requesting additional signage for Lincoln Urgent Care located on Route 116, Lincoln, RI.

AP 28, Lot 151 Zoned: BL 0.5

Represented by Oscar Hancock, Employee of Applicant

Vice Chair Bart recused himself from this application. Member Del Vecchio sat with full privileges.

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

Mr. Hancock informed the Board that applicant needs more recognition for the Urgent Care Center on Route 116. Potential patients cannot see the sign when coming down Route 116 and they want to reinstall a sign on an existing monument at the entrance. There is an existing sign on the building.

Chairman informed applicant that he is concerned because the application before the Board is lacking required information and the language is sparse. Member Enander asked if the proposed sign was in compliance. Russell Hervieux, Zoning Official stated the sign dimensions were 49.6 square feet when the applicant filed an

application for the building permit and they were informed they could not have two signs. Member Barr also stated there is usually a plot plan attached to applications but the one before them this evening did not have a site plan or plot plan. Chairman De Angelis informed applicant that the Board is lacking information and cannot render a Decision. He further recommended the application be continued to the May agenda and applicant return with a site plan, photos of the existing sign on the building with dimensions and a statement addressing the standards for the requested application. He further stated the applicant cannot have more than 64 square feet of total signage. Applicant agreed to a continuance.

Motion made by Member Nickerson to continue the application to the May agenda. Motion seconded by Member Del Vecchio. Motion carried by all present.

Motion made by Member Enander and seconded by Member Nickerson to adjourn the meeting. Motion carried by all present.

**Respectfully submitted,
Ghislaine D. Therien
Zoning Secretary**