

Town of Lincoln

Zoning Board of Review

100 Old River Road, Lincoln, RI

Minutes of February 4, 2014 Meeting

Present: David DeAngelis-Chair, John Bart-Vice Chair, Mark Enander, Lori Lyle, Stephen Kearns, John Barr, Barry Nickerson, Town Solicitor

Minutes

Motion made by Member Barr to accept the October 2013 Minutes as presented. Motion seconded by Member Bart. Motion carried by all present.

Motion made by Member Lyle to accept the December 2013 Minutes as presented. Motion seconded by Member Nickerson. Motion carried by all present.

Correspondence

None

Applications:

Dominic Grieco, 2 King Philip Road, Lincoln, RI – Application for Dimensional Variance seeking rear setback relief and lot coverage relief for the construction of a cabana.

AP 42, Lot 113 Zoned: RA 40

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

Chair read into the record standards that need to be met for a Dimensional Variance. Members DeAngelis, Kearns, Lyle, Nickerson and Enander to sit on the application.

This application was continued from the December 3, 2013 meeting for an updated site plan and lessens the relief needed. This application represents a request for a Dimensional Variance to construct a cabana. This property currently has a large home that is under construction. The applicant has modified the original plan and is now proposing to build a 498 square foot cabana, a 386 square foot pavilion and an 800 square foot pool. The proposed cabana and pavilion are both over 6' from the rear and side property lines. A six foot minimum setback is required for accessory structures under 500 square feet. Therefore no dimensional setback relief is required. The total footprint areas of the house, cabana, pavilion and pool is 7,356 square feet which 6,368 square feet is the maximum allowed lot coverage at 15%. Therefore the applicant would need 988 square feet or 2.3% relief on lot coverage. The existing house will require an as-built survey be performed before a certificate of occupancy can be issued to confirm no other setback issues exist.

Witness

Edward Pimentel, AICP

A new application package was submitted to the Board for review which included a new survey and plan showing a pavilion and cabana. The proposed new cabana is 498 sq. ft including the overhand. The pavilion with room is 386 sq. ft. This eliminated the need for rear setback and reduced lot coverage relief from 18.9% to 17.3%.

Chairman 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 Technical Review Committee recommends Denial of the application for a dimensional variance seeking rear yard setback relief and lot coverage relief for the construction of a 800 square foot pool and a 955 square foot cabana. According to the application and plans, a rear yard setback relief is needed to accommodate the proposed location of the cabana.

The lot coverage relief is needed due to the lot coverage the proposed swimming pool and cabana will utilize. The existing 6,266 square foot house utilizes 14.75% of total lot coverage.

The Technical Review Committee feels that the application does not meet any of the standards for relief of a dimensional variance or lot coverage relief as presented in the Zoning Ordinance. The applicant did not offer any compelling reasoning for their request within their application. The Technical Review Committee 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.

Member Lyle questioned the square footage of the house on the plan versus the actual application which showed 6,392 sq. feet on the building plan. The survey plan has square footage in excess of the Technical Review Committee request of 6,266 sq. ft. Member Lyle addressed the Board stating according to her calculations, applicant would need 19.02% lot relief not 17.3%. Either the survey or the report is inaccurate.

Russell Hervieux, Zoning Official said his report was based on the most recent plan. The first plan submitted with the application showed 6,266 sq. ft. and that is where the 17.3% came in place. The Town code only allows twelve inches on an ornamental feature and owner will need to provide another plan before he can obtain a certificate of occupancy. When the permit is taken out the numbers need to be accurate.

Chair stated the Board needs to rely on the new plan and if mistakes were made the property owner needs to move forward at his own risk.

Attorney Shekarchi informed the Board that owner of the property states the overhang is twelve inches.

No opposition present.

Chairman made a motion to approve the application for 4.02% lot relief for total coverage of 19.02%. Town only allows 15% lot coverage. 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.**

Motion seconded by Member Kearns. Application denied by a 3-2 vote with Members Enander and Nickerson voting nay stating applicant had not addressed all the standards for a Dimensional Variance, specifically it is not the least relief necessary and exceeds the 15% lot coverage. Chairman and Members Lyle and Kearns voted aye stating applicant made an attempt to revise his plans and proposal would not have an impact of the neighborhood.

Julie Shekarchi, Trustee 14 Lladnar Drive, Lincoln, RI - Application for Dimensional Variance seeking lot width relief for subdivision of one

lot into two lots for property located at 14 Lladnar Drive, Lincoln, RI..

AP 19, Lot 147 Zoned: RS 20

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

**Chairman read into the record standards that need to be met for a
Dimensional Variance:**

**This application represents a request for a Dimensional Variance to
subdivide one lot into two lots. The applicant proposes to break a lot
off an existing house lot. The lot with the house on it will meet all
required setbacks. The newly created lot will have 40' of lot width
which 120' is required. Therefore the applicant would need 80' of lot
width relief on the new lot. The applicant has been before the
Planning Board and received master plan approval with conditions so
the Zoning Board can hear this application.**

**Attorney DeSisto addressed the Board stating this applicant filed an
application to subdivide before the Planning Board. One of the lots
does not meet all of the requirements. The Planning Board classified
it as a major subdivision. The created lot has insufficient frontage
could be subdivided into three lots. The Planning Board granted
master plan approval but placed conditions on the property and
requires applicant agreeing that an easement be placed on the
property so the subdivision proposal could not subdivide the
property in the future. This is a one time subdivision and the**

easement has been prepared.

Attorney Shekarchi stated when he built his house he bought the property with a deed restriction. Ten to twelve years ago, his neighbor came before this Board seeking frontage relief. He has a fifty foot right of way and will maintain the sewer lines. There is also a forty foot driveway. Sewer and water are available to the proposed subdivided lot. Attorney Shekarchi submitted into the record the following exhibits:

- Exhibit #1 – InSite Engineering letter indicating there is adequate sewer and water available**
- Exhibit #2 – Correspondence from the Lincoln Water Commission dated December 2, 2013 indicating the proposed water system is acceptable and that water can be provided to the proposed project.**
- Exhibit #3 – DEM general application form.**
- Exhibit #4 –Planning Board Master Plan approval**
- Exhibit #5 –Sewer Maintenance Agreement**
- Exhibit #6 – Notarized letters from abutters supporting the proposal**

Witness

Edward Pimentel, AICP

This is a unique piece of property and all utilities will be brought in. Applicant is creating one lot instead of three protecting the character of the neighborhood. Several lots in the area have deficient lot widths. The Technical Review Committee supported reducing the roadway from fifty feet to forty feet.

No opposition present.

Chairman 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. According to the submitted application, the homeowners can successfully subdivide their large parcel of land into four residential lots. No zoning relief would be needed to develop this subdivision which would include one reduced sized lot for the existing house, a new public roadway and associated infrastructure and three new residential lots. However, the homeowners feel that this type of subdivision is not in the character of the established neighborhood and would prefer to only create one new residential lot.

The Planning Board compared the benefits and disadvantages between the two subdivision proposals, the requirements of lot width relief, and the characteristics of the established neighborhood. The Planning Board feels that the proposed two lot subdivision and its need for lot width relief provides a realistic proposal that meets the intent of the zoning and is consistent with the established character of the existing neighborhood. The Planning Board feels that granting the lot width relief will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Motion made by Chairman to grant the application for Dimensional Variance with conditions that this property can never be subdivided after this application is granted and the sewer line will be privately maintained. 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.**

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

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

Respectfully submitted,

Ghislaine D. Therien

Ghislaine D. Therien

Recording Secretary