

Town of Lincoln

Zoning Board of Review

100 Old River Road, Lincoln, RI

Minutes of September 1, 2015 Meeting

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

Excused: Lori Lyle, Robert Oster

Minutes

Motion made by Member Barr to accept the August 2015 Minutes as presented. Motion seconded by Member Kearns. Motion carried by all present.

Correspondence

None

Applications

Clayton & Marissa Roth, 24 Parker Street, Lincoln, RI – Application for Dimensional Variance seeking side setback relief for an addition above an existing garage.

AP 16, Lot 90 Zoned: RL 9

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

This application represents a request for a Dimensional Variance for an addition. The applicant applied for and received a building permit for a “bath remodel”. An inspection noted that an addition was built over the existing garage. The Zoning Official placed a stop work order on the project until a proper permit could be approved. The contractor claimed that the Building Official had verbally given approval to this addition. However the Building Official merely gave permission to repair rotten wood on the garage roof. The applicant discovered that dimensional relief would be required for this addition. The northeast corner of the garage/addition is 5.21’ from the side property line which 15’ is required. Therefore the applicant would need 9.79’ of side relief on the northeast corner. The northwest corner of the garage/addition is 4.92’ from the side property line which 15’ is required. Therefore the applicant would need 10.08’ of side relief on the northwest corner. The survey also shows that the existing enclosed porch is 38.62’ from the rear property line, on the southeast corner, which 40’ is required. Therefore the applicant would need 1.38’ of rear relief on the southeast corner of the existing enclosed porch. The plan meets the lot coverage standard.

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

Witness

James Pimentel, AICP

This is a single family structure which is non-conforming with a porch

located at the rear of the property. House on site was constructed around 1950 and purchased by applicant in 2013. A permit was originally pulled to modify a second floor bathroom but a decision was made to expand over the existing garage. Applicant should have come before the Board for the extension over the garage. House is cape style with upstairs bedroom. When the house was originally built no provision was made for growth. Neighbors are present in support of what is being proposed. There are other homes in the area with living space over the garage. Facing the house, the proposed expansion is to the left over the garage. Submitted into the record pulled permit as Exhibit #1. Chairman read into the record description of work to be completed indicated on the building permit.

Witness

Clayton & Marissa Roth, Owners

After searching online they hired a contractor off of Angie's List. They also consulted with other contractors. It was their intent to only renovate the bathroom but it turned into a project to expand over the garage. Cost for the entire project including a new roof was \$38,000. Applied for a building permit on 4/30/15 and construction started in May. They thought contractor has pulled all required permits.

Witness:

Joseph Clark, Contractor

He was asked to provide a bid for the bathroom renovation – provided bid for bathroom and expansion over the garage. Pulled a permit and

started work on the bathroom. Has been doing construction for 25 years. He will do whatever has to be done to correct existing situation. Owners did not know they needed to come before this Board prior to construction. Understands he needs to pull a new permit to finish construction. Has not pulled any plumbing or electrical permits yet.

Member Bart asked if any complaints/findings were filed against him and he replied yes. Attorney DeSisto asked if he had any architectural plans for the addition and he replied there were plans but they were not stamped by an engineer. Attorney DeSisto stated the Board needs to see any existing plans or layouts of the construction. Member Bart stated less relief would be required if applicant were to build out on the left hand side of the house.

Witness

Russell Hervieux, Zoning Official and Roger Pierce, Building Inspector

Mr. Hervieux stated that when he drove up he noticed the addition and someone pulling plywood and stopped and spoke with the workmen,

Mr. Pierce concerned about the depth of the existing house foundation to make sure the garage could hold an addition above the garage for the integrity of the structure. The fire department also needs to check for carbon monoxide.

Mr. Hervieux issued a stop work order on the property and Mr. Pierce needs to see approved addition plans to make sure construction meets codes. If the application is approved needs to make sure structurally sound.

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 seeking a side yard setback relief for an addition above an existing garage. The Planning Board recommends Denial of this application. The project description does not offer any reasoning for requesting this dimensional variance. The submitted site plan shows that the applicant has undeveloped land within the existing setbacks on the other side of the house. The application does not explain why an addition could not be constructed on this side of the house. Therefore, the Planning Board fees that the applicant does not present the least relief needed

In favor:

Nicholas & Kathleen McCarthy

Live at 2 Birch Lane. They have no issues with the proposed addition and they would be the neighbors most impacted.

Ron Taillon

He faces the property and has no issues with the proposed project.

Dorothy Siebert

Lives across the street and has no issues with the proposed project.

Janice S.

Lives to the left of the property. When house was built in 1949 the lot was split at that time. Has no issues with the proposed project.

No opposition present.

Attorney DeSisto stated there are technical issues that need to be resolved. The Town of Lincoln has a stake if this is granted. The Board could grant a motion to approve with conditions that all necessary permits be pulled and plans be sent to the Building Inspector for review and a structural engineer's report also be submitted for his review.

Member Kearns was impressed that neighbors came and testified for approval of this application. Applicants will incur costs for a survey, stamped drawings and a surveyor's report.

Motion made by Member Enander to approve 15' side property relief; 9.79' of side relief on the northeast corner; northwest corner of the garage 15' is required; 10.08' of side relief on the northwest corner; 1.38' of rear relief on the southeast corner of the existing enclosed

porch with conditions that all required permits be obtained and a structural survey/report be submitted to the Building Inspector from a Structural Engineer for his review. 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 to approve seconded by Member Barr. Motion carried with a 5-0 vote.

Jonathan Paine, 1 Wilbur Road, Lincoln, RI/Gabriel Saback, 6 Ducarl Drive, Lincoln, RI – Application for Dimensional Variance seeking side setback relief for the construction of an addition for property located at 6 Ducarl Drive, Lincoln, RI.

AP 23, Lot 127 Zoned: RS 20

This application represents a request for a Dimensional Variance for an addition to the left side of an existing house. The applicant proposes to construct an addition that would expand a bedroom and turn a bathroom into a handicap accessible bathroom. The plan also calls for a handicap ramp which does not require setback relief by law. However the Board may want to consider granting relief for a clear title and allowing a future owner to convert the ramp into a deck which does have to meet the setbacks. The proposed addition is 17.16' from the side property line which 24.64' is required. Therefore the applicant would need 7.48' of side relief on the proposed addition.

The proposed ramp is 14.23' from the side property line which 24.64' is required. Therefore the applicant would need 10.41' of side relief for the proposed ramp. The existing house has some nonconforming dimensional issues. The existing house is 19.33' from the side property line which 24.64' is required. Therefore the applicant would need 5.31' of side relief on the existing house. The existing deck is 15.47' from the side property line which 24.64' is required. Therefore the applicant would need 9.17' of side relief on the existing deck. The plan meets the lot coverage requirement.

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

Applicant is a wheelchair confined veteran. He obtained a grant from

the Veterans Administration to bring the house handicap compliant. The master bathroom needs to be made wheelchair accessible and bump out the house nine feet. He also needs a second egress alongside the house to a wheelchair ramp and that needs a variance for the left side of the property. Would be agreeable to a condition that when the house is sold in the future the ramp would be dismantled and the door removed. Property also has a walk out basement

Attorney DeSisto asked if the door were to be removed would it be an egress issue. Russell Hervieux, Zoning Official replied no. A single family house need front door egress. This is a safety issue for this applicant. This Board could place a condition if the property were sold the door would need to be removed.

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 seeking a side yard setback relief for the construction of an ADA accessible master bathroom addition. The Planning Board recommends Approval of this application according to the submitted plans and application. According to the submission, the applicant wishes to enlarge his existing master bathroom and create a second means of egress that would be ADA compliant. Presently, the existing house has only one ADA compliant means of ingress and egress. The Planning board

feels that the applicant presents the least relief needed. The Planning Board feels that granting 5th the side yard dimensional variance will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Opposed:

Titen Shah, 4 DuCarl Drive, Lincoln, RI

He is a neighbor of the applicant. Distributed to Board members photos of homes in the neighborhood as Exhibit #1 and #2. The photos depicted area homes and his home next door to applicant. He is concerned about applicant's home encroaching close to his property once the ramp is installed. Inquired by applicant could not construct the ramp to the rear of his property. Could an architect design a better location? The feels the addition will not look good from the street. He is a structural engineer and feels there are better options than placing the ramp at the side of the house. Applicant could put a gable roof on the house to avoid snow and ice buildup and the architect should be able to come up with other solutions.

Raymond Bernard

He lives across the street. Also inquired why applicant could not locate the ramp to the rear of his property

Chairman also asked about locating to the back of the house. What are other options that could be explored? Applicant replied roof pitch is an issue and would result in an L-shaped bathroom which

would be difficult for applicant to navigate.

Member Barr asked if applicant were to build out back was any thought given to remodeling and expanding the existing bathroom. Could possibly move the walls front to back? Chairman stated the grant has been in place for 2 years. Would applicant agree to continue the application to the October agenda and return with reworked plans or have someone present to show the Board other options to address concerns of neighbors and Board members. Applicant requested a continuance.

Motion made by Chairman to continue the application to the October agenda. Motion seconded by Member Bart. Motion carried by all present.

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

Respectfully submitted,

Ghislaine D. Therien

Recording Secretary