

Town of Lincoln

Zoning Board of Review

100 Old River Road, Lincoln, RI

Minutes of October 14, 2015 Meeting

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

Excused: Robert Oster

Minutes

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

Correspondence

None

Applications

Carl Benevides, 85 Industrial Circle, 15 Moshassuck Road, Lincoln, RI – Application for Special Use Permit to allow a mixture of uses including live/work units for a mill conversion project for property located at 85 Industrial Circle, 15 Moshassuck Road, Lincoln, RI.

AP 2, Lots 88 and 92 Zoned: MG 0.5

Represented by: Chris Fagan

The Technical Review Committee has met 4-5 times but could not offer a recommendation for this meeting. Chair recommended application be continued to the November agenda as the Board likes to review the TRC recommendations. The TRC is meeting on October 20th and their recommendation would be ready for the November meeting.

Motion made by Chairman to continue the application to the November agenda. Motion seconded by Member Enander. Motion carried by all present.

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

The 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.

This application was continued from the September agenda affording contractor time to return with possible alternative options. Applicant is a wheelchair confined veteran and is currently being hospitalized. He obtained a grant from the Veterans Administration to bring the house handicap compliant and has approved VA status. The master bathroom needs to be made wheelchair accessible. Once project is completed the VA will inspect the property to make sure it fits all requirements. 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. There is a cesspool/leech field at the rear of the property and contractor does not want to bring in heavy equipment. A survey was done and the property is an undersized lot.

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 5the side yard dimensional variance will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Barry Gilbert has live across the street at 7 Ducarl Drive for 50 years. He stated if there was any issue of safety applicant would not be here. There are no homes with additions on his side of the street. He does not want to see the houses close together but if there is an alternative he would like the Board to consider same.

Member Kearns asked in the future if the ramp is removed could a condition be placed that windows would be installed. Attorney Desisto stated he had concerns about something being granted to the land. Contractor stated it will 2 months to complete the renovations but could be done by the end of this year.

No one in attendance in favor of the application.

Mr. Shah addressed the Board and stated there are other options available and submitted the following exhibits: Exhibit #1 DEM Rules and Regulations which states any property with a cesspool needs RIDEM approval and needs to connect to Town sewer; Exhibit #2 emails between Mr. Paine and Mr. Shaw showing his willingness to assist Mr. Paine with options; Exhibit #3 site plan drawn by Mr. Shah's architect showing options for floor plans.

Mr. Hervieux stated DEM requires any addition which includes a bedroom which has a cesspool needs to update and connect to the sewer. The applicant is not adding a bedroom and does not need to connect. Attorney Desisto disagreed with Mr. Hervieux. Section 17.4.2 applies to increasing the footprint. Member Kearns asked if applicant needs to tie into the sewer does it make this application moot. Mr. Paine stated he was not aware of the DEM requirement to connect to sewer. Contractor stated he could find a way to raise the money to connect to sewer. Chairman stated sewers would not apply if applicant kept the interior of the home the same. Mr. Paine stated the town tie in is 9 feet and would need to meet with his excavator for cost issues.

Motion made by Member Bart to approve the application seeking 7.48' side relief off the proposed addition; 10.41' side relief for the ramp; 5.31' side relief from the existing house; 9.17' side relief from the

existing deck. Attorney Desisto stated the zoning runs only with the land and not enforceable to mandate a new owner to remove the ramp. Russell Hervieux stated the relief of 10.41' does not apply and should be removed from the Motion. Member Bart removed it from his motion but included that 7.48' side only relief is required. ADA trumps zoning. 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 Enander. Motion passed 4-1 with Members Enander, Kearns, Bart and Chairman voting aye and Member Barr voting nay.

Kenneth J. Iavarone, 7 Heritage Circle, North Providence, RI/Kenneth & Barbara Iavarone and Kenneth & Sonya Iavarone, 3 Winterberry Road, Lincoln, RI - Application for Special Use Permit to add an

accessory family dwelling unit to an existing home located at 3 Winterberry Road, Lincoln, RI.

AP 45, Lot 390 Zoned RA 40

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

Applicant wants to build a 28'x32' addition onto the right side of the house which their son owns so they can move in. They will share the same driveway and addition exterior and windows will match the existing house.

Attorney Desisto informed applicants they will need to file a renewal before this Board every five years. What is being proposed is not a two family home and the decision will be recorded.

Chairman read into the record Technical Review/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 an accessory family dwelling unit onto their existing house. The applicant took great care in the design of the proposed accessory family dwelling unit so that the entire structure 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.

No opposition present.

Motion made by Chairman to grant the requested permit. 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 Bart and carried by all present.

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

Respectfully submitted,
Ghislaine D. Therien
Recording Secretary