

**Town of Lincoln**

**Zoning Board of Review**

**100 Old River Road, Lincoln, RI**

**Minutes of January 5, 2016 Meeting**

**Present: David DeAngelis-Chair, John Bart, Lori Lyle, Stephen Kearns, John Barr, Mark Enander, Robert Oster, Town Solicitor Anthony DeSisto**

**Minutes**

**Motion made by Member Kearns to accept the December 1, 2015 Minutes as presented. Motion seconded by Member Bart. Motion carried by all present.**

**Correspondence**

**None**

**Applications**

**William Carcieri Jr., 1 Elden Court, Lincoln, RI – Application for Dimensional Variance seeking rear setback relief for the construction of an addition.**

**AP 42, Lot 91 Zoned: RA 40**

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

**Existing house is 3,440 sq.ft. and proposed addition 1,600 sq.ft. Theater room will be a theatre room with a wet bar and office. Property is a corner lot and applicant's parents live in the home. House was built in 1991 and is a 3 bedroom single level home.**

**There are other homes in the area that are 5,000-7,000 square feet. Applicant is moving in with parents with a wife and children and need the additional space to hold family functions. The lot is just less than one acre. Applicant needs 28 feet rear relief. Applicant also needs 2% coverage relief as he is over by 661 square feet. Exterior of addition will match existing house.**

**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 for the construction of an addition. The Technical Review Committee feels that the requested variance is excessive and that the site plan and application does not represent the least relief necessary. In addition, the applicant does not offer a compelling reason for the need for an addition and does not demonstrate that the requested relief is due to the unique characteristics of the subject land. Member Barr stated he is familiar with the area and applicant's argument before the Board has merit.**

**Chairman stated that the Technical Review Committee is not privy to testimony presented before the Board. Parents built the home for themselves and want to stay in the home. Applicant needs spillover room for family get-togethers.**

**Chairman read into the record correspondence (Exhibit #1) from Gregory Mercurio, 20 Riata Drive, Lincoln, RI in favor of the application.**

**No opposition present.**

**Motion made by Chairman to approve the application seeking 28 feet rear relief and 2% lot coverage relief. 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. Property is a corner lot and applicant wants to move into the house with his wife and children.**
- 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. Property is not being sold and will remain in the family.**
- 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. There are other homes in the area that are the same size as the home with the addition.**

- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience.**

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

**E2SOL LLC, 5600 Post Road, Unit 114-262, East Greenwich, RI/Roger Bonin, 2 Foxx Drive, Lincoln, RI – Application for Special Use Permit to allow a ground mounted photovoltaic system on a residential property located at 2 Foxx Drive, Lincoln, RI.**

**AP 26, Lot 13 Zoned: RA 40**

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

**Applicant is the owner of the applicant and wants to install solar panels in the rear yard for his personal use. The house is small and over one hundred years old and sits on approximately 1.5 acres. There are trees behind the house where the panels would be located and cannot be seen from the street. Access to the panels is through his property. Panels will generate approximately 10,000 kilowatts of energy.**

**Witness**

**Anthony Baro, E2SOL Representative**

**There are no batteries to operate the panels. Panels will be connected to National Grid for credits. Panels pivot to the location of the sun and tracks the sun from sunrise to sunset and do not generate any noise.**

**Applicant stated there is a small barn and garage on the property. The panels and pole are ten feet high and fold flat at night. Fencing is not required for the panels and he will follow all codes .He does have any people who come onto the property which sits at the end of a long driveway. There is a group home located across the street from the house. There are no hazardous chemicals in the system – it is an inert system.**

**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 Special Use Permit for the installation of a ground mounted residential scale photovoltaic system on a residential property located at 2 Foxx Drive, Lincoln, RI. According to the submitted plans, the proposed ground mounted solar array system will be located in the rear of the property.**

**The Technical Review Committee recommends Approval of this Special Use Permit according to the submitted plans and application. The proposed special use is specifically authorized in the Zoning Ordinance and the application has successfully addresses the**

**requirements set out in §260-19(AA): Renewable Energy – Residential Scale Facility. The Technical Review Committee feels that granting this 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 approve the application with a condition that the system not breach higher than 15 feet and applicant cannot sell any of the generated power. He further stated:**

- That the Special Use is specifically authorized under this Ordinance**
- That the Special Use meets all the criteria set forth in this Ordinance authorizing such special use**
- That the granting of the Special Use will not alter the general character of the surrounding area**
- That the granting of the Special Use will not impair the intent or purpose of this Ordinance nor the Lincoln Comprehensive Plan**

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

**John Mark Andreoni, 11 Lakeview Road, Lincoln, RI - Application for a Use Variance to convert a former horse barn into a dog boarding kennel for property located at 1064 Great Road, Lincoln, RI.**

**AP 24, Lot 25 Zoned: RS 12**

**Applicant wanted to amend his application as he felt he needed a Special Use Variance and not a Use Variance. Attorney DeSisto read into the record 260-14-H and informed applicant that a kennel is not a permitted use. Applicant is looking at 260-8 which applies to livestock and not a kennel. Kennels are treated differently from livestock. Chairman informed applicant that is more fitting as a Use Variance as originally applied.**

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

**Applicant wants to convert a horse barn on the premises to a non-aggressive dog care kennel and will meet all Department of Environmental Management requirements. No new building will be built and the 11 horse stalls will be converted to enclosures for the dogs. Neighbors are 500 feet from the building. Dogs will have constant supervision with an outdoor area for exercise. Applicant purchased the property November 2015 and wanted to be compliant. Dogs will also be confined to a barn and fenced in area. There may be up to twelve drop off/pick up ups per day and the driveway can accommodate cars entering and leaving the premises. The dogs will be pre-screened to avoid any aggressive animals. DEM defines space needed per dog in a kennel and barn will max out at 30 dogs. Animal waste will be contained. Barn will be heated and air conditioned.**

**Chairman addressed applicant and informed him they need to**

**address all five standards for application to be approved. He needs to convince the Board that the land and structure cannot yield any beneficial use if not granted.**

**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 Use Variance to convert a former horse barn into a dog boarding kennel for property located at 1064 Great Road, Lincoln, RI. The Technical Review Committee recommends Denial of the application for a Use Variance to convert a former horse barn into a dog boarding kennel for property located at 1064 Great Road, Lincoln, RI. The Technical Review Committee feels that the application does not meet the standards for relief of a use variance as presented in the Zoning Ordinance and does not offer a compelling reason for the need for use variance.**

**In Favor:**

**Marion Filippi, 1092 Great Road, Lincoln, RI**

**She operates a horse boarding facility. This is the best use of the property and feels dogs will be kept under control.**

**Eugene St.Pierre**

**He lives across the street from applicant and feels there is far enough roadway to abate the barking that may come from the site. Feels it is**

**a good idea for the location.**

**Opposed:**

**James Marusak, 1071 Great Road, Lincoln, RI**

**He has lived across the street from the site for 30 years and disagrees with the proposed use. He knew the former owner and enjoyed looking at the horses in the field saying livestock do not bark. Feels the barn can be used for purposes other than a kennel. The proposed use does not conform to the ordinance and Comprehensive Plan.**

**Michael Paul, 1066 Great Road, Lincoln, RI**

**He abuts the property. Has lived there for 16 years and feels proposed use will affect his property values. It is a quiet area and feels dogs barking will take away the quietness of the area.**

**Kevin McPeak**

**Has lived in the area for 18 years and feels traffic and noise will affect the peace and quiet of the area.**

**Kathleen Marusak**

**Has lived across the street for 30 years and opposes the new use of the property.**

**Paul Zangari, 1065 Great Road, Lincoln, RI**

**Is there a Plan B if the application is denied?**

**Dan Bethel**

**How will refuse be removed from the site? Will there be a dumpster?  
Sound travels – concerned about the barking noise.**

**Terrence McManus**

**His father helped build the barn in question. If the application is approved afraid it will become a nightmare. What are the neighbor's options?**

**Attorney DeSisto stated if the Variance is granted it remains with the land until it is abandoned. It will also be recorded in the Town Clerk's records.**

**Witness:**

**John Andreoni, Applicant's son**

**He lives in the house at the site. If no one complains about other noises why would the neighbor complaint about barking 300 feet from the road.**

**Applicant understands the neighbor's overwhelming concern about the noise. It was his error purchasing the property to set up a kennel.**

**He is not sure what to do if the application is denied and does not want to develop the land and may dispose of the property or explore other options.**

**Motion made by Member Bard to deny the application. Motion seconded by Chairman to deny the application. Motion denied with a 5-0 vote with Members Bart, DeAngelis, Barr, Kearns and Lyle also voting to deny the application.**

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

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