

Town of Lincoln

Zoning Board of Review

100 Old River Road, Lincoln, RI

Minutes of January 2, 2018 Meeting

Present: David DeAngelis-Chairman, Stephen Kearns, Lori Lyle, John Barr, Mark Enander, John Bart, Attorney Anthony Desisto

Excused: Robert Oster

Minutes

Motion made by Member Kearns and seconded by Member Enander to approve the November 2017 Minutes.

Correspondence

None

Applications

Thomas McNulty, 573 Mendon Road, Cumberland, RI – Application for Dimensional Variance seeking rear setback relief for the construction of a new house located at Leslie Way, Lincoln, RI.

AP 44, Lot 240 Zoned: RA 40

Represented by: Eric Brainsky, Esquire

Applicant requested the application be continued to the February 6,

2018 agenda.

Motion made by Chair to continue the application to the February 2018 agenda. Motion seconded by Member Bart. Motion carried by all present.

William M. Davies Career and Technical H.S., 50 Jenckes Hill Road, Lincoln, RI – Application for Use Variance to install ground mount solar for power and education of students.

AP 43, Lot 16 Zoned: RA-40

Applicant requested the application be continued to the February 6, 2018 agenda.

Motion made by Vice Chair Bart to continue the application to the February 2018 agenda. Motion seconded by Member Kearns. Motion carried by all present.

Chantal Faucher, 20 Lena Street, North Providence RI – Application for Dimensional Variance seeking side setback relief for the construction of a new house to be located at 36 Lakeview Avenue, Lincoln, RI.

AP 17, Lot 49 Zoned: RS-12

Represented by: Attorney Roger Ross

Attorney for applicant requested the application be continued to the

February 6, 2018 agenda.

Motion made by Chairman to continue the application to the February 2018 agenda. Motion seconded by Member Bart. Motion carried by all present.

George L. Jackvony Jr. and Kelli Jackvony, 128 Grandview Avenue, Lincoln, Rhode Island – Application for Dimensional Variance seeking side setback relief for the construction of a new home located at 126 Grandview Avenue, Lincoln, Rhode Island.

AP 8, Lot 123 Zoned: RS-12

This application represents a request for a Dimensional Variance for the construction of a new home. The applicant constructed a new home and requires side setback relief because of the height of the home. In RS-12 the side setback is required to be 20' or greater unless the house is over 25' tall then the requirement is 25' under section 260-22(a). According to the submitted as-built survey plan the house is 26.23' high. The corner of the house in the southwest corner is 20.64' from the side property line which 25' is required. Therefore the applicant would need 4.36' of side relief on the southwest corner. The corner of the house in the northwest corner is 20.38' from the side property line which 25' is required. Therefore the applicant would need 4.62' of side relief on the northwest corner. The corner of the house in the northeast corner is 20.01' from the side

property line which 25' is required. Therefore the applicant would need 4.99' of side relief on the northeast corner. The plan meets the lot coverage limit.

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

Applicant built house with intention of it being their retirement home and pulled all permits prior to the start of construction. Because of the grade of the property setback relief is required and that is why they are here before the Board. Height of the new construction is in excess of 25 feet. Home has already been built and applicants are residing there without a certificate of occupancy. Applicant served as the general contractor for the property which is allowed by the Town. There is an active building permit in place.

John House

House Designer

Plans submitted to the Town showed the required 25 foot height and were properly scaled and accurate. A topographical plan was never done and the lot is narrow. Excavator at the site did not follow the submitted plans as presented to them. Adjusted plans were submitted to the Engineering Department and lot is not under DEM jurisdiction. Town Engineer looked at the pit for water runoff and informed applicant the pit needed to be enlarged.

Chairman read into the record Planning Board/Technical Review Committed recommendation.

No one present in favor of application.

Opposed:

Sharon Mariscal, 124 Grandview Avenue, Lincoln, RI

Roof height of the house is so high she cannot see over it. Submitted photo of site before construction as Exhibit #1 and after construction as Exhibit #2. She called the Town upon return from vacation and informed them she was surprised about the roof height. Met with Building Official who informed her she should be speak with the Zoning Official (Russell Hervieux).

Toussant Leclerc

He has not seen any documentation which shows the exact height of the house. Why does the building permit stating height is 32 feet.

Chair asked what they would like done to resolve the roof height situation. She stated possibly erect a fence or plant evergreens.

Attorney Jenkins who represents the above stated exact height is conflicting. Perhaps a land survey which reflects exact height of the roof.

Submitted into the record correspondence dated February 22, 2017 from Attorney Scott Levesque as Exhibit #3. Also submitted into the record correspondence from the Town to Attorney Michael Kelly as Exhibit #4.

Edward Parent, 122 Grandview Avenue, Lincoln, RI

He saw entire construction of the house and does not feel the roofline fits into the neighborhood. Erecting fencing or a buffer could be an option.

General Comment:

Lives across the street for past 22 years. Does not care about the roofline. Applicant is a good neighbor and this was an honest mistake.

Russell Hervieux, Zoning Official explained to Board members how roof height is established. There is still a pending Certificate of Occupancy on the property.

Attorney Anthony Desisto (Town Solicitor) informed the Board they need to use the standards to make a determination. One of the issues they need to address is the hardship issue. If the application is denied applicant can appeal the decision and take it to Superior Court. They Board can place conditions on their approval.

Motion made by Member Lyle to approved the application seeking 4.36' of side relief on the southwest corner; 4.62' of side relief on the northwest corner; and 4.99' of side relief on the northeast corner with a condition that vegetative barrier at boundary line be kept and maintained at a height of 10 feet. 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. Property is uniquely shaped.**

- **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. This will be applicant's retirement home.**

- **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. Motion carried by all present.

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

Respectfully submitted,
Ghislaine D. Therien
Recording Secretary