



Town of North Kingstown, Rhode Island

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ZONING BOARD OF REVIEW May 9, 2017

The regular meeting of the North Kingstown Zoning Board of Review was held in the Municipal Offices Meeting Room, located at 100 Fairway Drive, North Kingstown, RI at 7:00pm on Tuesday, May 9, 2017.

The following members were present:

***John V. Gibbons, Jr.
Elaine Lemieux
David McCue
Patricia Siegmund
Randy Wietman***

Absent were: Joseph Bambara and Robert O'Neill.

Also in attendance: Matthew Callaghan, Town of North Kingstown, Solicitor; Maura Harrington, Town of North Kingstown, Supervising Planner; and Gary Tedeschi, Town of North Kingstown, Building Official.

J. Gibbons called the meeting to order and explained the proceedings as follows:

The applicant and/or their representative(s) will be asked to come forward, be sworn in, and asked to give a brief explanation of their application.

The Board will then ask questions of the applicant and/or their representative regarding the application before opening the floor to public comment. After all comments have been heard, the public portion of the meeting will be closed, and discussion will be returned to the Board.

Decisions of the applications are typically rendered the same evening; however, continuances may occur if more information is needed for a determination.

There is a twenty (20) day appeal period once a decision has been recorded in the Town Clerk's Office. No building permits may be granted until after the appeal period has passed. J. Gibbons explained that in some instances, a decision may be "fast-tracked" and approved prior to the next meeting.

Meeting minutes and a decision to each petition are recorded in the Town Clerk's Office as well as posted on the Town's website.

J. Gibbons asked if the Agenda for the meeting had been posted on the Rhode Island Secretary of State's website; M. Harrington answered that it had.

The Board adheres to a 10:00pm curfew.

J. Gibbons introduced the Board members and staff present at the meeting.

MINUTES

J. Gibbons asked the members if they had a chance to review the minutes from the meeting held on April 11, 2017.

R. Wietman made a motion to approve the minute of the April 11, 2017 meeting. E. Lemieux seconded. All approve. (5-0). Motion carried.

J. Gibbons stated that the first application up for review would be moved on the Agenda as the representative for the RI Farm Bureau Land Trust is running late from another location.

1st Application: Application of David B. Seabury, 114 Buena Vista Drive, North Kingstown, RI 02852 for a dimensional variance from front setback requirements to allow for the construction of front porch to the existing dwelling in accordance with Section 21-Article IV: Dimensional Regulations: Table 2A: Residential Districts of the Zoning Ordinance located at 114 Buena Vista Drive, North Kingstown, RI 02852 (AP89-34) zoned Village Residential (VR).

Applicant's portion: David B. Seabury of 114 Buena Vista Drive, North Kingstown, RI was sworn in. The applicant has submitted a request for a dimensional variance to expand his outside living space to include an 8 x 20 covered porch. He stated the structure would include an A-frame type roof which will blend in to the pitch of the roof of current dwelling. A contractor will be doing the work on the project.

R. Wietman asked what type of footings would be used on the structure which Mr. Seabury stated they would be cement footings as indicated on the plans. R. Wietman also asked for verification that the structure would be just a covered porch with no walls. Mr. Seabury agreed.

R, Wietman and E. Lemieux stated that they both had visited the neighborhood in question to look at similar homes to ensure the structure would be in keeping with the character of the

neighborhood. Both Board members agreed that it does. It was noted that one neighbor had come in to the planning office to review the plans and had no issues. It was also noted by Mr. Seabury, that to his knowledge, no neighbors have any abutment questions with the construction.

M. Harrington stated that the required setback on a subdivision road is 25'. The proposed works as stated will be positioned 14.3' from Buena Vista Drive, and therefore requires a 10.7' relief from this boundary.

J. Gibbons asked if there were any questions, comments, opposition from the audience. There being no response, J. Gibbons made a motion to return discussion to the Board. E. Lemieux seconded. Motion carried.

Findings:

Board makes the following findings of fact for the requested dimensional variance:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not the general characteristics of the surrounding area, and is not due to a physical or economic disability of the applicant. The current proposal is for a porch addition measuring 8' x 20' to the front of the existing dwelling located at 114 Buena Vista Drive, Plat 089 Lot 34. The applicant is constrained on this lot due to the triangular configuration of the lot, with two fronts, which each require a 25' setback.
2. 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 hardship is the result of the land configuration and 2 frontages and 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.
3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based. There are many similar houses in this neighborhood, with similar reduced front setbacks. The proposal will therefore not alter the general character of the area.
4. The relief to be granted is the least relief necessary. The relief to be granted is the least relief necessary based on the hardships on site and the location of the existing house. To construct a porch to the front of the existing dwelling as presented is the least relief necessary.

The Zoning Board shall require that evidence be entered into the record of the proceedings showings showing that:

1. N/A
1. In granting a dimensional variance, the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief. The hardship suffered by

the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience as he would not have the full and beneficial use of his property.

In the opinion of the Staff, the following condition should be made for any approval of this application of the Zoning Board of Review:

1. That all construction is done in strict conformance with the submitted site plan dated 04/14/17, unless minor modifications are agreed administratively by the Planning Department.

E. Lemieux made a motion for the application of David B. Seabury of 114 Buena Vista Drive, North Kingstown, RI, Plat 089 Lot 34, looking for relief under Chapter 21, Article IV. Dimensional Variance Table 2A: Residential Districts (5), and Section 21-306 (a)(1) be approved for 10.7' relief from the required setback of 25' on a subdivision road as the proposed works as stated will be positioned 14.3' from Buena Vista Drive. R. Wietman seconded. With there being no further discussion, the motion carried. (5-0)

E. Lemieux made a motion to fast track the application of David B. Seabury of 114 Buena Vista Drive, North Kingstown, RI, Plat 089 Lot 34. R. Wietman seconded. With there being no further discussion, the motion carried. (5-0)

2nd Application: Application of RI Farm Bureau Land Trust to Appeal the Notice of Violation (NOV) dated December 27, 2016 in accordance with Section 21-17: Administrative Procedures for Appeals to the Zoning Board of Review for the filing, grading, or transferring material from off site in excess of twenty (20) cubic yards within a groundwater overlay located at 100 Pleasant Valley Road, North Kingstown, RI 02852 (AP129-002) and zoned General Business (GB). (Continued from March 28, 2017 meeting).

Applicant's portion: John C. Revens, Jr., (legal counsel for RI Farm Bureau Land Trust) of Revens, Revens, & St. Pierre, 946 Centerville Road, Warwick, RI was sworn in. Mr. Revens apologized to the Board and those present for being late.

Following proper channels, this appeal was submitted on January 27, 2017 in response to a Notice of Violation received by the RI Farm Land Trust (RIFLT) on December 28, 2016 for activities being carried out on site without receiving required approvals.

J. Revens gave a brief history of the property in question stating that the land was originally purchased by RIFLT at the end of a cul de sac, Plat 129, Lot 002 located at 100 Pleasant Valley Road, North Kingstown, RI in order to build a headquarters for the organization. Over time the RIFLT changed their mind and the vacant lot became a dumping ground for others.

He noted the 300 yards of loam from Tarbox has been stockpiled with the intention of regrading the property and then adding a fence to eliminate future dumping. He is requesting an exception to the Town requirement of a special use permit indicating that the RIFBLT's intentions are to make the property better, not for any other motive. He also indicated that a request for a special

permit was not submitted due to the fact that the loam was only to be on site during the winter months, not for an extended period of time.

After extensive discussion, it was determined that J. Revens could not speak for his clients, but would discuss with them the possibility of completing the regrading, seeding, and placement of a secure, appropriate height fence around the property by the end of June, 2017. He noted that there is not Executive Director at RIFBLT at this time, and that the work would most likely be dependent upon volunteers. The type of fence, appropriate height and material will be discussed with client; he could not commit to type at this time.

G. Tedeschi agreed that if the parties would come forward and make necessary improvements to the property, Notice of Violation could be dismissed. M. Callaghan stressed that this was more an issue of compliance, not punishment. He visited the property and noted there is currently no debris there. It was confirmed that there is nothing buried on the property. G. Tedeschi will visit property once work has been completed to make a final determination.

M. Callaghan recommended no action be taken at this time, and discussion was opened to the public.

J. Gibbons asked if there were any questions, comments, opposition from the audience. There being no response, R. Wietman made a motion to return discussion to the Board. E. Lemieux seconded. Motion carried.

M. Callaghan recommended leaving this item open until the next Zoning Board of Review meeting with the expectation of RIFBLT complying by that time. M. Harrington noted the next meeting is scheduled for June 27, 2017. J. Revens agreed that this was a reasonable time period barring any inclement weather.

R. Wietman made a motion to continue discussion on the appeal to the Notice of Violation issued to RI Farm Bureau Land Trust of December 27, 2017 regarding grading, filling, or transferring materials from offsite in excess of 20 cubic yards within the Groundwater Overlay until the scheduled June 27, 2017 meeting of the Zoning Board of Review. At that time, it is expected the property will be property seeded, graded, and adequate fencing of appropriate material and height will have been installed. E. Lemieux seconded. With there being no further discussion, the motion carried (5-0)

3rd Application: Application of Jerry and Maria Tatarian, 154 Fairfield Drive, North Kingstown, RI 02852 for a special use permit and dimensional variances for the construction of an accessory dwelling unit in accordance with Section 21: Article III: Land Use Table: Residential (5) Accessory Dwelling Unit, Article XII: Miscellaneous Provisions: Section 21-325(7) Accessory dwelling units with relief (dimensional variances) from development standards 9 (lot size) and 10 (accessory dwelling unit size) and Article IV: Dimensional Regulations: Table 2A: Residential Districts of Zoning Ordinance located at 154 Fairfield Drive, North Kingstown, RI 02852 (AP158-207) and zoned Village Residential (VR).

Applicant's portion: Jerry Tatarian, of 154 Farifield Drive, North Kingstown, RI and Robert D. Murray, Esq., (legal counsel for Mr. Tatarian) of Taft & McSally, LLP, 21 Garden City Drive, Cranston, RI were sworn in.

R. Murray stated that the proposed 26' x 32' addition to the main structure of 154 Farifield Drive is for the in-laws of Mr. Tatarian, one of whom is ill. The Tatarians have owned the property since 2016 and it is a corner lot. In addition to the new structure, it is proposed to have a separate entrance on Blueberry Lane. The homeowners are asking for three (3) forms of relief: a Special Use Permit for an accessory dwelling, a dimensional variance regarding lot size of 3,617 sq ft , and a dimensional variance regarding gross floor area for 612 sq. ft. R. Murray noted that it is not the intention of the homeowner to utilize/occupy the unfinished lower portion of lower level of addition. This space will be used for storage only.

R. Murray stated that this proposal for an addition and requested relief is not for financial gain and is for accommodations for the homeowner's in-laws only and believes it is in conformance with the aesthetics of the neighborhood.

R. Wietman questioned the current zoning as a 4-bedroom dwelling and asked if it would now be considered 5-bedroom. It would not. The property is zoned for public water and septic as a 4-bedroom dwelling. Currently, it is being utilized as a three bedroom home.

Discussion addressed the following points:

- The characteristics of the neighborhood: by adding an additional 1600 sq. ft. to the existing dwelling, it would architecturally look like a two-family home. R. Murray and J. Tatarian feel this addition is necessary and both are amenable to making changes to suit the Town.
- R. Murray stated that the setbacks and lot coverage are met regardless of size of the structure.
- E. Lemieux questioned the closet in the room in the basement currently being used as a den. G. Tedeschi stated removing the doors and widening the doorway would eliminate this impression
- M Callaghan and R. Murray had discrepancies on how the square footage was determined and where information was pulled from. R. Murray will verify what the correct number should be as his information was gathered from the tax assessor.
- The two driveways for the property: one from Farifield Drive and the other from Blueberry Lane. G. Tedeschi stated that the Fire Marshall would need to be contacted about the feasibility of the 911 system with two address (in theory) for the same property.

Steve Najas, contractor for the addition was sworn in.

S. Najas address the following concerns:

- A single floor addition would not be in keeping with the raised ranch style, which is suitable for high water tables in this area.
- S. Najas understands that the plans give the appearance of a two-family home and is amenable to revisiting the plans to try to restructure to blend more with the neighborhood. This includes the entrance to the addition.
- The addition cannot go on to the back of the home without causing a septic relocation.
- In S. Naja's opinion, this is the least relief necessary.
- Any cuts in the square footage of the addition would affect the comfort of the home, reducing the size of living space considerably.
- E. Lemieux request possible additional landscaping to mask the size of the addition.

J. Gibbons asked if there were any questions, comments, opposition from the audience.

Marie Fontaine of 119 Fairfield Drive, North Kingstown, RI was sworn in. Ms. Fontaine stated she wanted to speak in opposition of the proposed addition. Though there is sympathy for the homeowners, she feels it would not fit in with the rest of the neighborhood. Though there are many different types of houses in the neighborhood, there are none that are the size being proposed.

Susan Lamphere of 135 Fairfield Drive, North Kingstown, RI was sworn in. Ms. Lamphere stated she wanted to speak in opposition of the proposed addition. She sympathizes as well but does not feel the addition is in keeping with the character and scale of the neighborhood due to its size.

Maria Tatarian, 154 Fairfield Drive, North Kingstown, RI was sworn in. Ms. Tatarian expressed an understanding for her neighbors concerns; however, given the dynamics of the family still feels this addition is the best solution.

There being no further public comment, R. Wietman made a motion to return discussion to the Board. E. Lemieux seconded. Motion carried.

R. Wietman called upon the Board to vote separately on each of the three items requesting relief. Those items being:

- 1) A Special Use Permit for an accessory dwelling in accordance with Article III: Land Use Table: Residential (5) *Accessory Dwelling Unit*, Article XII: Miscellaneous Provisions: Section 21-325 (7) Accessory Dwelling Units (1,612 sq. ft.) addition to the existing dwelling to operate as an accessory dwelling unit.

Findings:

In granting a special use permit the specific findings of facts of a special use permit set forth in Section 21-15, these include:.

1. That the requested special use permit, will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based. A single floor design to the addition would not be in keeping with the raised ranch style of homes in the neighborhood. In addition, the raised ranch style is suitable for the high water tables in this area.
2. The special use permit is reasonably necessary to serve the public convenience and welfare.
3. The granting of a special use permit will not pose a threat to the drinking water supply. The proposed location of the addition takes into consideration the location of the property's septic system which is located behind the existing dwelling, and therefore there is no threat to the drinking water supply.
4. The use will not disrupt the neighborhood or the privacy of abutting landowners by excessive noise, light, glare or air pollutants.
5. Sewage and waste disposal into the ground and the surface water drainage from the proposed use will be adequately handled on site.
6. The traffic generated by the proposed use will not cause undue congestion or introduce a traffic hazard to the circulation pattern of the area. With the proposed driveway off Blueberry Lane, there will be no change in traffic pattern and any undue congestion or traffic hazards will be avoided.
7. Accessory signs, off-street parking and loading area, and outdoor lighting are designed and located in a manner which complements the character of the neighborhood.
8. In addition to the criteria in subsections (1) through (7) of this section, in the case of a special permit, the board shall require evidence that the requested use will have a lesser undesirable impact upon the surrounding area than the preceding nonconforming use. The contractor will revisit the proposed plans, specifically the entrance of addition, in order for the addition to appear less like a two-family dwelling. This will include toning down the entrance to the addition. There will also be supplementary landscaping to mask the size of the addition.

R. Wietman made a motion to approve the application of Jerry and Maria Tatarian, 154 Fairfield Drive, North Kingstown, RI 02852 for a special use permit for an accessory dwelling in accordance with Article III: Land Use Table: Residential (5) Accessory Dwelling Unit, Article XII: Miscellaneous Provisions: Section 21-325 (7) Accessory Dwelling Units (1,612 sq. ft.) addition to the existing dwelling to operate as an accessory dwelling unit. Motion is subject to conditions noted in findings. E. Lemieux seconded. Motion carried. (5-0)

- 2) Dimensional variance from the development standards of Section 21-325 (7): 9 (lot size) from Article VI: Dimensional Regulations: Table 2A: Residential Districts of the zoning Ordinance. This states that "the lot that the accessory dwelling unit is located on shall contain not less than the minimum lot size required for the principal dwelling per article IV.: The

minimum lot size for a Village Residential (VR) zone is 20,000 sq. ft. This lot has 16,383 sq. ft.; therefore, a dimensional variance of 3,617 sq. ft. would be required.

Findings:

In granting a dimensional variance the specific findings of facts of a variance set forth in Section 21-14 should be met and noted in the decision of the Zoning Board. These include:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not the general characteristics of the surrounding area, and is not due to a physical or economic disability of the applicant. The hardship from which the applicant seeks relief is based on the necessity to have proposed dwelling be the home to extended family and not due to any physical or economic disability of the applicant.
2. 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 applicant has stated that he will not realize greater financial gain with the approval of this dimensional variance. The sole purpose is to provide living quarters for extended family members.
3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based.
4. The relief to be granted is the least relief necessary.

The Zoning Board shall require that evidence be entered into the record of the proceedings showings showing that:

1. N/A
2. In granting a dimensional variance, the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

R. Wietman made a motion to approve the application of Jerry and Maria Tatarian, 154 Fairfield Drive, North Kingstown, RI 02852 for a dimensional variance of 3,617 sq. ft. from the development standards of Section 21-325 (7): 9 (lot size) from Article VI: Dimensional Regulations: Table 2A: Residential Districts of the zoning Ordinance. This states that “the lot that the accessory dwelling unit is located on shall contain not less than the minimum lot size required for the principal dwelling per article IV.: The minimum lot size for a Village Residential (VR) zone is 20,000 sq. ft. Motion is subject to conditions noted in findings. E. Lemieux seconded. Motion carried. (5-0)

3. Dimensional variance from the development standards of Section 21-325(7): 10 (accessory dwelling unit size) states that “The maximum gross floor area of the principle dwelling, excluding areas of the structure used for parking or 1,000 sq. ft., whichever is the lesser amount.

The proposed accessory dwelling unit is 1,612 sq. ft., and would therefore require a dimensional variance for 612 sq. ft.

Findings:

In granting a dimensional variance the specific findings of facts of a variance set forth in Section 21-14 should be met and noted in the decision of the Zoning Board. These include:

5. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not the general characteristics of the surrounding area, and is not due to a physical or economic disability of the applicant. The hardship from which the applicant seeks relief is based on the necessity to have proposed dwelling be the home to extended family and not due to any physical or economic disability of the applicant.
6. 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 applicant has stated that he will not realize greater financial gain with the approval of this dimensional variance. The sole purpose is to provide living quarters for extended family members.
7. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based.
8. The relief to be granted is the least relief necessary.

The Zoning Board shall require that evidence be entered into the record of the proceedings showings showing that:

4. N/A
5. In granting a dimensional variance, the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

R. Wietman made a motion to approve the application of Jerry and Maria Tatarian, 154 Fairfield Drive, North Kingstown, RI 02852 for a dimensional variance of 612 sq. ft. from the development standards of Section 21-325(7): 10 (accessory dwelling unit size) states that “The maximum gross floor area of the principle dwelling, excluding areas of the structure used for parking or 1,000 sq. ft., whichever is the lesser amount. The proposed accessory dwelling unit is 1,612 sq. ft. Motion is subject to conditions noted in findings. E. Lemieux seconded. R. Wietman opposed. Motion carried. (4-1)

Due to the extenuating circumstances of this request, if the Zoning Board of Review decides to approve the application, the following conditions should be included:

- That all works are done in strict conformance with the submitted site plan dated March 27, 2017, and planset dated March 01, 2017, unless minor modifications are approved administratively by the Planning Department.
- A Building Permit must be obtained to establish the accessory unit and shall meet Building Code requirements.
- The owner of the property must continue to occupy at least one of the dwelling units as their residence at all times.
- An accessory dwelling unit and the principal dwelling unit shall be in the same ownership with a deed restriction recorded in the land evidence records, as appropriate, with documentation of the recording provided to the building official, prior to the issuance of a Certificate of Occupancy for the accessory dwelling unit.
- The proposed dwelling unit and accessory dwelling unit shall not exceed 4 bedrooms as per DEM approval, unless further DEM approvals are obtained.

M. Harrington noted approval is also subject to obtaining the required excavating permit as well as clearing any potential E- 911 address issues with the Fire Department/Marshall prior beginning construction on new driveway. Approval will also be subject to landscaping solutions to be placed on the front of the 154 Fairfield Drive side of the dwelling.

R. Wietman made a motion for the approval of the application subject to obtaining the required excavating permit as well as clearing any 911 issues with the Fire Department/Marshall prior beginning construction on new driveway. Approval will also be subject to landscaping solutions to be placed on the front of the 154 Fairfield Drive side of the dwelling. E. Lemieux seconded. Motion carried. R. Wietman opposed. (4-1)

M. Harrington stated that concerned parties are welcome to attend the next scheduled meeting of the Zoning Board of Review on June 13, 2017 to discuss the Board's decisions.

There being no further business, E. Lemieux made a motion to adjourn. P. Siegmund seconded. Motion carried.

The meeting adjourned at *9:15pm*.

Kristine S. Kinder,
Recording Secretary