

Town of Lincoln
Zoning Board of Review
100 old River Road, Lincoln, RI
Minutes of July 6, 2020 Meeting

Present: David DeAngelis- Chairman, Kazem Farhoumand, Lori Lyle- Vice Chairperson, Stephen Kearns, Frank Spezzano, John Mancini, Town Solicitor Ben Ferriera

Excused: Charles Ruggerio,

Minutes

June minutes approved

Applications:

The Lodge Pub & Eatery, 40 Breakneck Hill Road, Lincoln, RI – Application for Dimensional Variance for front setback relief for the construction of a deck on a commercial business located at 40 Breakneck Hill Road, Lincoln, RI.

AP 25, Lot 44

Zoned: RA-40

Chairman: Continuance from last month to build a deck on an existing commercial building, a restaurant that is The Lodge at 40 Breakneck Hill Road in Lincoln. The proposed deck is going to be 24 feet from the front property line and 40 feet is required, therefore, the applicant is seeking the difference, which is 16 feet of relief in the front. The proposed deck is going to be 71 feet from the rear property line, in which 75 feet is required, therefore, the applicant is seeking the difference of 4 feet and a rear relief for the proposed depth if the property meets all of the lot coverage regulations. Recorded in receipt of site plan from surveyor Darveau. Previously existing building a non-conforming structure, we should be able to encompass previously non-conforming calculations.

As I see it there will be no rear relief needed with the new calculations, asks Zoning Official Hervieux if correct.

Zoning Official Hervieux: That is correct with the site plans that were issued today, dated July 2nd, 2021 only two places will need relief. First for the deck, 11.2 feet from the front property line, 40 feet is required therefore 28.8 feet relief in the front is required, second place is the existing building in the South East corner of the building 17.1 feet from front 40 feet from the front is required, 22.9 feet of relief is required from the South East corner of the existing building.

Chairman: Let the record indicate that based on the site plans marked as exhibit one, we will update the amount of relief that is requested regarding this application. There will be no rear relief required and there will be a request for 28.8 feet of front relief for the deck and 22.9 feet of relief for existing building for the South East corner.

Chairman asks if there are any questions for the applicant or contractor at this time.

Applicant is sworn in, contractor is sworn in.

Member Kearns: Asks if there is additional parking required by expanding the number of patrons at the restaurant.

Applicant: Don't believe so there is plenty of parking on both sides, the existing parking will be pushed back.

Member Kearns asks Zoning Official Hervieux if the applicant meets requirements for parking.

Zoning Official Hervieux: Yes, it was looked at previously, there is ample amount of parking even if there were parking spots removed.

Chairman: Additional capacity of about 40.

Applicant: Adding a much better area for handicap individuals, with better walkway and more seating.

Chairman: Mentions the requirement for number of patrons versus amount of parking.

Zoning Official Hervieux: One car lot to every four seats, and one for each employee.

Chairman: Asks if there are any other questions?

Member Mancini: The survey was received after the 10 day limit, should there be a motion to accept it.

Chairman: Covered it when it was indicated as exhibit 1.

Applicant: The surveyor was hired right away but it took time with the state.

Any other questions?

Town Solicitor Ben Ferriera: Asks about questions from the public.

Vice Chairperson Lyle: Will the tables be fixed to the deck or will you be able to add more?

Applicant: They will not be permanent, and will use what they had last year.

Chairman: Together with the document and what we heard from last month, I will read the review from the Technical Review Committee. Members of the Technical Review Committee reviewed the submitted plans and application seeking a Dimensional Variance seeking front setback relief for the construction of a deck on a commercial business. This application is actually a remodel and slight enlargement of an existing deck for a restaurant. The Planning Board recommends Approval of this Dimensional Variance. The Planning Board feels that the application presents the least relief needed. The Planning Board feels that granting the dimensional variances will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan. With that read into the record is there anyone from the public present to speak on this application. Let the record indicate no one from the public has come out to speak in regards to this application.

Member Farhoumand: Motion to approve The application is to build a deck on an existing commercial building, a restaurant that is The Lodge at 40 Breakneck Hill Road in Lincoln. The applicant is proposing to reconstruct and enlarge an outdoor deck of an existing restaurant. The proposed deck will be 11.2 feet from the front property line at the South East corner, 40 feet is required, with relief of 28.8 feet needed, secondly the existing building is 17.1 feet from the same property line 40 feet is required with 22.9 feet of relief needed. The 5 standard for a Dimensional Variance is read.

1. Is there a hardship due to unique characteristics of land that is not any physical or economic disability?
2. Is that there's a hardship that results and it's not from any prior action of yourself, and it does not result from the desire to realize any greater financial gain.
3. Granting of the variance will not alter the general character of the neighborhood.
4. What is asked of the Board is reasonable and least relief necessary.

5. For a dimensional variance is there a hardship that's more than a mere inconvenience, which results in you needing this variance

Motion to **approve** by Member Farhoumand, Seconded by Member Kearns.

Vice Chairperson Lyle: Aye

Member Mancini: Aye

Member Kearns: Aye

Member Farhoumand: Aye

Chairman: Important to note that it is more than a mere inconvenience, votes aye.

Application for a Dimensional Variance has been granted.

Nicole and Andrew Van Clove, 700 Great Rd Lincoln, RI – Application for Use Variance seeking modification of Use Variance granted in 1989 that does not allow any additional kitchens within the dwelling for property located at 700 Great Rd Lincoln, RI.

AP 20, Lot 003

Zoned: RS-20

Chairman: An application for a Use Variance which will modify an existing Use Variance to add a kitchen to the property, to modify an existing Use Variance to add a kitchen. Applicant wants to add a second kitchen to a mixed use property. Property received a Use Variance on February 7th 1989 to allow the applicant to construct a domestic living area in an existing dwelling with no separate kitchen facility from the main dwelling. Applicant wishes to modify the 1989 decision, to add a kitchen. This falls in Vice Chairperson Lyle's district. Chairman reads into record standards for a Use Variance

1. Is there a hardship due to unique characteristics of land that is not any physical or economic disability?
2. Is that there's a hardship that results and it's not from any prior action of yourself, and it does not result from the desire to realize any greater financial gain.
3. Granting of the variance will not alter the general character of the neighborhood conforms with the Comprehensive Plan and Zoning Ordinances..
4. What is asked of the Board is reasonable and least relief necessary.
5. Does applicant show evidence that the subject's land cannot yield any beneficial use and conforms with the Zoning Ordinance.

Applicants are sworn in.

Member Kearns: Asks what use was granted in 1989

Vice Chairperson Lyle: It was needed to construct a domestic living area, without a kitchen.

Applicant: It was built for those who were taking care of the property to stay on the property for the previous owner

Zoning Official Hervieux: The condition was put on the original Use Variance.

January 1989 stated they wanted to use the single family premise and use it as a two family residence to alter the large garage to provide a domestic living unit. Applicants went to a hearing and in February, the Zoning Board made a decision, due to the evidence that there will not be a second kitchen, it is an extension of use. In order to

have a dwelling there are certain rooms that are needed. By removing the kitchen it allowed for approval for extra living space.

Member Mancini: questions if there was a bathroom

Zoning Official Hervieux: By removing the kitchen it removed the two family house

Chairman: how much gravity should the previous application hold?

Town Solicitor Ben Ferriera: Treat it as a new application

Member Mancini: What constitutes a separate residence?

Zoning Official Hervieux: You are allowed a second kitchen but with mixed elements as a living area (more than 70 sq. /ft.), bedroom, bathroom and kitchen it meets the definition of a dwelling unit.

Member Mancini: This applicant is just looking to add a kitchen it should be separate from the Use Variance that was approved prior, unless they have plans for separate dwelling unit

Zoning Official Hervieux: Adding a kitchen would complete the dwelling unit.

Applicant is looking to make a separate recreational place for their two children and add a kitchen in order to not go back and forth to the main home.

Vice Chairperson Lyle: Asks how far the existing kitchen from the second building is.

Applicant: 50-75 feet from existing structure

Chairman: So it is an entirely separate structure? What is in it now?

Applicant: Everything has been demoed, the whole space will be open, and there will be no bedrooms, only bathrooms. It is 4,800 sq. /ft., with top floor and bottom floor.

Chairman: Goes over standards and intentions of applicants.

Applicant: Entertaining purposes, no intentions to commercialize.

Member Kearns: What use does this fall under?

Town Solicitor Ben Ferriera: From a single family which is allowed in this area, to a two family which is not allowed in this area.

Member Kearns: But the applicant's intention is to leave a single family but provide more usage, questioning the variance that should be applied for.

Applicant: There is no bedroom, only bathroom

Town Solicitor Ben Ferriera: There could be a bed put in place for next owner

Chairman: Conditions could be put in place.

Zoning Official Hervieux: They are starting from scratch and do not need to Use Variance.

Applicant: There are no walls

Member Farhoumand: Questions the proposal of the amount of bathrooms.

Applicant: For pool purpose, changing and showering, privacy.

Zoning Official Hervieux: Asks for a moment with the applicant, based on the review from the Town Solicitor, suggests the applicant withdraw from application under the condition when there is a building permit issued, it is issued with the condition there are no defining bedrooms. This will not be a two family dwelling unit, it would still be a single family home.

Applicant: Requests to withdraw applicant and handle needs through building permit process.

Zoning Official Hervieux: Asks Board to withdraw without prejudice.

Vice Chairperson Lyle: Motion to withdraw application, based on facts that there will be no bedrooms and applicant will go through building permit process.

Seconded by Member Mancini

Member Kearns: Aye

Member Mancini: Aye

Vice Chairperson Lyle: Aye

Member Farhoumand: Aye

Chairman: Aye

Application withdrawn.

Robert S. Jensen and Denise R. Jensen, 9 Old Jenckes Hill Rd, Lincoln, RI.

Application for a Special Use Permit seeking to convert three family residential into a four family residential on property located at 61 Spring Street, Manville, RI 02838.

AP 37, Lot 125

Zoned: RG-7

Robert S. Jensen and Denise R. Jensen, 9 Old Jenckes Hill Rd, Lincoln, RI.

Application for a Dimensional Variance seeking lot width and parking relief to convert three family residential into a four family residential on property located at 61 Spring Street, Manville, RI 02838.

AP 37, Lot 125

Zoned: RG-7

Chairman: Two applications, application for a Special Use Permit seeking to convert three family residential into a four family residential. Applicant claims to have vacant unit which would make this property from three units to four units Zoning requires Special Use permit to be required under 260-9C. The property lacks the lot width and area for four unit residential therefore are also asking for a Dimensional Variance, the property lacks the lot width and the appropriate amount of parking. The property has 65 feet of lot width and 90 feet is required for the four unit, therefore 25 feet lot width of relief is required. The property has 4,995 sq. /ft. of land area and because they want to be recognized as a four unit, 11,500 sq./ft. is required therefore, the difference of 6,505 sq/ft of relief is required. Code requires two parking spaces for every unit, therefore the site plan only shows six off street parking, if the applicant wants it to be a 4 unit eight spaces of parking would be required.

Member Kearns: Motion to combine applications 2110 and 2109.

Motion second by Member Mancini

Motion approved by all.

Attorney for applicant: There are eight parking spaces, this structure from the late 80's was an eight unit with a bar, a fire damaged most of the building, reduced by one floor removed bar and converted it to a four unit. At the time it was converted, the applicant was told there was no need to go back in front of the Board because it is grandfathered as a 6 unit with a bar. When the relief was granted, the applicant was told all he needed was to obtain required parking spaces and did not think he needed to go back in front of the Board. The four unit has been in place for the past 20 years and taxed as a four unit, and converted as a permanent easement

Chairman: read into the record the standards for both applications

Dimensional Variance standards read into record first

1. Is there a hardship due to unique characteristics of land that is not any physical or economic disability?
2. Is that there's a hardship that results and it's not from any prior action of yourself, and it does not result from the desire to realize any greater financial gain.
3. Granting of the variance will not alter the general character of the neighborhood conforms with the Comprehensive Plan and Zoning Ordinances..
4. What is asked of the Board is reasonable and least relief necessary.
5. Does applicant show evidence that the subject's land cannot yield any beneficial use and conforms with the Zoning Ordinance.

Reads the standards of a Special Use Permit.

1. The use is permitted in the exact subsection in the ordinances that it's permitted in.
2. The Special Use Permit meets all the criteria in the zoning ordinance such as parking and lighting and various use regulations.
3. The Special Use Permit will not alter the general character of the neighborhood.
4. The special use conforms with the Comprehensive Plan and Zoning Ordinances.

Chairman: Asks what is it now?

Applicants Attorney: It is a four unit.

Chairman: Asks what is in where the bar was?

Attorney: Two apartments, two on the first floor and two on the second

Chairman: Asks what is in the fourth unit?

Attorney: People, it is zoned as a 3 unit but taxed as a 4 unit.

No documentation for the assumption of gaining the extra parking was all that was needed to be obtained and did not need to go back in front of the Board.

Chairman: Asks how many electrical meters are on the property?

Applicant: 5, one for each apartment and one for the building

Applicant sworn in by Chairman.

Chairman: There are four tenants and each is paying their electric bill.

Applicant: yes, also for gas there are five gas meters, and a fire alarm system from 10-12 years ago. At that point it was a four unit. Section 8 required the alarm system.

Member Kearns: How many bedrooms in the apartments?

Applicant: There are 2 three bedrooms, a 2 bedroom and a 4 bedroom.

Member Kearns: What are the rents roughly?

Applicant: \$800, \$1200 for the four bedroom.

Member Kearns: Asks if they are here because of the parking?

Applicant: When it was first purchased, the zoning was changed and because it was being brought down to a 4 unit from a 6 unit, parking was a question. Applicant was granted the 3 unit and was told verbally when the other two parking spaces were obtained they could turn it into a 4 unit. Parking was obtained from the adjacent property in the back. Did not own the property but purchased it in 2007. Only agreement to use the parking, no legal/formal documents. Legal right to park there because of the easement now.

Member Kearns: Questions the Dimensional Variance

Zoning Official Hervieux: Clarifies that the Dimensional Variance came in because of the Special Use. Making the fourth legal requires the Dimensional Variance regardless if it was "grandfathered" in.

Chairman: What are the addresses of the property?

Applicant: 61 Spring Street.

Chairman: And the town is taxing you as a four unit?

Applicant: Yes.

Member Kearns: Manville is a very dense area, the building does not stick out as unusual in Manville. Not seeing anything as concerning to me.

Chairman: If this board did not approve the application, what are the only options for the applicant- to throw a tenant out and have a vacant apartment?

Applicant: four families have been living there for all this time.

Chairman: Any upgrades done since 1987?

Applicant: constantly upgrading kitchens and heating systems.

Member Kearns: Those units are affordable housing and we need more of that in Manville/ Lincoln.

Chairman: Any other questions for the applicant?

Edward Stachurski- appraisal expert sworn in
Looked at neighborhood and evaluated it.

Member Kearns: Many other four units, and larger units it is not unusual for a multi-unit in this area.

Edward Stachurski: There is a three unit and five unit across the street from this property, going up the street is a 6 unit.

Chairman: Any questions.

Chairman reads into record TRC report. Members of the Technical Review Committee reviewed the submitted plans and application seeking a Dimensional Variance seeking lot width and parking relief to convert three family residential into a four family residential on property located at 61 Spring Street, Manville, RI 02838. According to the applicant's attorney, the building was originally a four unit mixed-use unit - three family dwelling units with a bar establishment on the ground level. The building was converted to four residential dwelling units. No documentation was found in the property's building file. The applicant is seeking a Dimensional Variance seeking lot width and parking relief in order to legalize the current configuration of the building. The Planning Board recommends Approval of this Dimensional Variance seeking lot width and parking relief. The Planning Board feels that the application presents the least relief needed. The Planning Board feels that granting the dimensional variances will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan. Members of the Technical Review Committee reviewed the submitted plans and application seeking a Special Use Permit seeking to convert three family residential into a four family residential on property located at 61 Spring Street, Manville, RI 02838. According to the applicant's attorney, the building was originally a four unit mixed-use unit - three family dwelling units with a bar establishment on the ground level. The building was converted to four residential dwelling units. No documentation was found in the property's building file. The applicant is seeking a Special Use Permit seeking to convert a three family residential into a four family residence. The Planning Board recommends Approval of this Dimensional Variance seeking a Special Use Permit. The Planning Board feels that granting the Dimensional Variances will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Chairman: Ask if there is anyone in the community who wishes to be heard on this application, let the record indicate there is one member here David Hart who will not speak in regards to this application.

Chairman: Asks if there are any questions from the Board.

Vice Chairperson Lyle: Asks if there is anything else on the easement?

Applicant's attorney: Just the parking.

Town Solicitor Ben Ferriera: Because the parking is on both properties there must be a condition put in.

Applicant: It is more than fair

Chairman: no further questions.

Member Kearns: Motion to approve Dimensional Variance. The property lacks the lot width and area for four unit residential therefore are also asking for a Dimensional Variance, the property lacks the lot width and the appropriate amount of parking. The property has 65 feet of lot width and 90 feet is required for the four unit, therefore 25 feet lot width of relief is required. The property has 4,995 sq. /ft. of land area and because they want to be recognized as a four unit, 11,500 sq. /ft. is required therefore, the difference of 6,505 sq/ft of relief is required. Code requires two parking spaces for every unit, therefore the site plan only shows six off street parking, if the applicant wants it to be a 4 unit eight spaces of parking would be required. Applicant has easement for those tow parking from a neighboring lot, but required parking on the same property as the use. Standards

1. Is there a hardship due to unique characteristics of land that is not any physical or economic disability? This request has nothing to do with anything other than cleaning up some past uses of the building and bringing it up to today's standards.

2. Is that there's a hardship that results and it's not from any prior action of yourself, and it does not result from the desire to realize any greater financial gain. The applicant is trying to improve the property with no prior actions to cause this.

3. Granting of the variance will not alter the general character of the neighborhood conforms with the Comprehensive Plan and Zoning Ordinances. Many other buildings in this location.

4. What is asked of the Board is reasonable and least relief necessary. Yes

5. Does applicant show evidence that the subject's land cannot yield any beneficial use and conforms with the Zoning Ordinance. Bringing it into the standards of today.

In addition to the standards adding one condition that the easement for the parking become permanent on the property and cannot be overturned.

Chairman: Motion to approve by Member Kearns, with the condition.

Vice Chairperson Lyle: Aye

Member Spezzano: Aye

Member Mancini: Aye

Member Kearns: Aye

Chairman: Aye

Motion for Dimensional Variance Granted

Member Kearns: Motion to approve Special Use Permit. Application for a Special Use Permit seeking to convert three family residential into a four family residential. Applicant claims to have vacant unit which would make this property from three units to four units. Zoning requires Special Use permit to be required under 260-9C. Standards read

1. The use is permitted in the exact subsection in the ordinances that it's permitted in. yes under 260-9C

2. The Special Use Permit meets all the criteria in the zoning ordinance such as parking and lighting and various use regulations. Parking was addressed by providing a permanent easement for the additional 2 parking spaces bringing it to 8 lots.

3. The Special Use Permit will not alter the general character of the neighborhood. It will not because there are many similar buildings in the neighborhood.

4. The special use conforms with the Comprehensive Plan and Zoning Ordinances. The zone encourages affordable houses.

No conditions under the Special Use.

Motion to approve.

Vice Chairperson Lyle: Aye

Member Spezzano: Aye

Member Mancini: Aye

Member Kearns: Aye

Chairman: Aye

Motion for Special Use Permit granted

Discussion of application process and requirements, discussion of standard clarification for Dimensional Variance, and clarification of Zoning Board member nomenclature.

Discussion moved until the September/October meeting. Waiting for Attorney DeSisto for the educational process. Zoning Official Hervieux will provide Building Code requirements

Zoning Official Hervieux: Any comments or issues should be directed towards Zoning Official Hervieux or Attorney DeSisto not emailed to each Board Member.

Motion to move Discussion of application process and requirements, discussion of standard clarification for Dimensional Variance, and clarification of Zoning Board member nomenclature to September meeting, Seconded by Vice Chairperson Lyle. All approved.

Member Farhoumand: Idea for application stating for surveyor is required or a new process of measurement should be accepted.

Discussion can be moved further based on the number of applicants in September.

Motion to adjourn Vice Chairperson Lyle

Seconded by Member Mancini

All present voted in favor.