

Town of Lincoln
Zoning Board of Review
100 Old River Road, Lincoln, RI
Minutes of March 7th, 2023 Meeting

Present: David DeAngelis- Chairman, Lori Lyle- Vice Chairperson, Secretary Stephen Kearns, John Mancini, Kazem Farhoumand, Attorney DeSisto

Excused: Frank Spezzano, Charles Ruggerio

Minutes: February Minutes

Correspondence:

Applications:

Member Mancini: Motion to accept February minutes, Second by Vice Chairperson Lyle.

Move Windmoeller and Hoelscher Corp. 23 New England Way, Lincoln, RI. 02865- Application for Dimensional Variance for front setback relief for addition and parking relief on property located at 23 New England Way, Lincoln, RI. 02865. - to be heard second. Lea and Kristine Donovan, 16 Sir Charles Rd., Lincoln, RI 02865- Application for a Dimensional Variance for side setback relief for construction of a garage addition on a single family dwelling located at 16 Sir Charles Rd., Lincoln, RI 02865. – To be heard third. Valley View Towing, Inc., 73 Wilna Street., Providence, RI 02904- Application for Special Use Permit for auto repair facility with storage of tow trucks located at 1208 Smithfield Ave., Lincoln, RI 02865.- to be heard last.

Sharon, William and Amanda Lima, 78 Prospect St., Manville, RI 02838- Application for Use Variance for change of existing commercial accessory building from office to dog grooming on a single family with commercial building located at 365 Great Rd., Lincoln RI 02865.

AP 09, Lot 057

Zoned: RL-9

Sharon Lima sword in, William Lima sworn in.

Chairman: This application was continued from the February 7, 2023 meeting for a legal clarification. This application represents a request for a Use Variance to convert and existing nonconforming office space to a nonconforming dog grooming business. The applicant is proposing to purchase a property which currently is a mixed use property of professional office and a single family residential. The applicant would like to convert the professional office to a dog grooming business, by appointment only. Issue is the folks who were here last month and sat in on your application are sick tonight so we cannot hear, or go on with the application because the same people need to be here, because we started it last month. To include the Town Solicitor who was here last month is also not here. We suggest to put a place holder on the application for April but I believe that probably within a week someone will reach out to you with a definitive answer to where your request falls, and whether you need to be here or not. We don't have five people here tonight who were also here last month. I need you to ask me to come back in April so we can put you on the calendar, however in a week Zoning Official Hervieux will reach out to you to let you know if you need to come back.

Cannot put any testimony on the record. Because we don't have a quorum.

Member Mancini: Does this building and the residential share the same lot? Applicant- yes

Member Mancini: And you want to purchase both? Applicant- yes

Sharon Lima: Requests a contingency to next month's meeting.

Chairman presents motion to continue to next month. All in favor. Continued to next month's meeting April 4th 2023.

Windmoeller and Hoelscher Corp. 23 New England Way, Lincoln, RI. 02865- Application for Dimensional Variance for front setback relief for addition and parking relief on property located at 23 New England Way, Lincoln, RI. 02865.

AP 28, Lot 149

Zoned: ML-0.5

Chairman: This application represents a request for a Dimensional Variance to construct an addition and for parking. The applicant is proposing to add two additions to an existing building, one of which encroaches into the front setback. The proposed addition is 11.66' from the front property line which 50' is required. Therefore, the applicant would need **38.34'** of front relief for the proposed addition. The property would still be within the FAR requirements. The property, with additions, requires 78 parking spaces for this use. The applicant is proposing to have 51 parking spaces. Therefore, the applicant would need parking relief of **27** spaces.

John Shekarchi: Sworn in. Existing building, would like to expand. Own all abutting property and the cul-da-sac.

Chairman: Reads in standards: 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.

Pimentel sworn in. This triggered a major land development project for the Planning Board and resulted in a positive advised recommendation. We have achieved that first stage and constancy with the Comprehensive Plan. When we talk about front yard and parking- the portion is manufacturing we are expanding parking to accommodate the increasing employment for the office space. We have a constraint in the back with the wetlands, a nice natural buffer. The easement situated to the North which we cannot encroach on.

John Shekarchi: Easement is the benefit of the Town of Lincoln

Pimentel: oriented the additions to the interior layout, encroaching the wetland and the easement.

Constraints on the property and the existing operations this was the best resolutions. Front yard setback to be consistent, but there are no further developments, so there won't be any inconsistencies. Interactions with vehicles, this controls only their needs.

Secretary Kearns: Could that road be extended down past the cul-da-sac?

John Shekarchi: Do not believe with the wetlands.

Secretary Kearns: And the applicant could sell that land?

Pimentel: Yes

Chairman: what is the request?

Pimentel: We don't need as much parking, so variance and the front setback.

Chairman: add to the building and take away parking?

Pimentel: Adding parking, but not as much as we are required. Regulations mandate 78, but we want 51.

Paul Carlson: Sworn in. The existing building is 20,000 sq. /ft. presently there are 39 spaces on the North and West side of the property and currently 32 employees not all those are on the premise. Those current spaces are not all utilized. Eliminate approximately 12 to create room for the addition. Required for existing building for parking is 78 spaces, the variance is 51. At most there are 48 personnel within this are, but not within the building itself.

Vice Chairperson Lyle: currently 32 employees, 17 onsite and 15 off site? Then it will grow to 28 onsite?

Andrew Wheeler: Sworn in. 30-35 people throughout the year in the office at one time. We feel that the increase within the next 10 years will bring us to 100-120 employees. 51 parking will be sufficient for the number.

Secretary Kearns: Would it be possible to expand across the street.

Paul Carlson: predominate wetlands across the street.

Andrew Wheeler: It is not a through road and it is our property we could have parking along the road need be.

Member Farhoumand: The brown is the addition? what's the purpose of the easement.

John Shekarchi: Sewer easement
Cannot build over it?

John Shekarchi: No, that was a condition of The Planning Board. We can park over it, and have liability to the easement to work on.

Paul Carlson: It is a drain easement to the wetlands. The two lines you are seeing are the wetland buffers. Drainage easement.

Member Farhoumand: The two lines on the lower line for the wetlands?

Paul Carlson: Buffer for the wetlands.

Pimentel: Under 260-23; front yard setback is 50 ft. at the far NW corner it will be at 11.66 ft. / 38.34 ft. variance. And the off street parking under 260-31A, need of 78 proposed 51 variance 27. Burdens 260-64A we talked about hardship, it is a unique structure (easements, wetlands, existing building). Second 260-64B no prior acting of the applicant we didn't create wetlands, no finance gain it is a growing business. 260C will not alter, I did my surrounding analyses it will not alter. It is the least relief necessary nothing else works. Mere inconvenience; if this would be denied the business couldnt grow.

John Shekarchi: dimensional request is not due to a physical economical disability to the applicant.

Pimentel: This is true.

Architect Kyle Drummer: Due to the existing office space in the NW corner to align with that we already have there we upgrade and add new space. We created as much of a sufficient space we can. The biggest aesthetic is the new identity to the building, we aim to look new and welcoming, with modern material. The warehouse on the east side adjacent to the existing to allow for the operational. This is the least request necessary. Continue with the same material for one unified facility.

Member Farhoumand: why not two stories?

Kyle Drummer: Due to the space it is cost prohibited with the footprint provide. The additional steel and elevation.

Member Farhoumand: To the right, what are the green lines near the warehouse?

Paul Carlson: New drainage structures

Member Farhoumand: 51 spaces and you need more, where would you put more?

Paul Carlson: we could extend to make 4-5 spaces, we can get into the buffer but would need variance from RIDEM

Member Farhoumand: Three spaces for handicap, is this to code.

Paul Carlson: Yes.

TRC Recommendation: Finding that the relief requested is consistent with the Comprehensive Plan, would not have a negative impact to any other property owners, and that the relief is justified based on the existing circumstances/uses on the subject site, the TRC unanimously (5-0) recommends that the Planning Board make a positive recommendation on this application to the Zoning Board of Review.

Public Portion: no public.

Motion to accept application by Chairman, second by Secretary Kearns. All in favor.

Lea and Kristine Donovan, 16 Sir Charles Rd., Lincoln, RI 02865- Application for a Dimensional Variance for side setback relief for construction of a garage addition on a single family dwelling located at 16 Sir Charles Rd., Lincoln, RI 02865.

AP 21, Lot 10

Zoned: RS-12

Kristine Donovan: Sworn in.

Chairman This application represents a request for a Dimensional Variance to construct an addition. The applicant is proposing to add a second garage stall addition to the left side of the existing house. The proposed garage is 15.8' from the side property line which 20' is required. Therefore, the applicant would need 4.2' of side relief for the proposed garage. The house has an existing nonconforming side setback issue. This issue was handled at a previous variance hearing however the project was never constructed. Therefore, out of an abundance of caution it should be handled here again. The existing house is 15.24' from the side lot line on the north side which 20' is required. Therefore, the applicant would need 4.76' of side relief on the north side of the existing house. The property is well within the lot coverage limits even with the proposed addition. Reads in standards .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.

Kristine Donovan We have a single garage stall with a single drive way. If we park two cars it has to be one in front each other. We want to increase the garage stalls to two, we would like more off street parking. Existing garage attached to the house so we have to go this way we can't go any other place. It only makes sense to go here.

Robert Marshall Contractor: Sworn in. Proposed garage is 24x22- two car garage. Signal stall right now is 12x20. Average size of a two car garage use to be 24x24 but it has grown with the sizes of cars to 26x26, in their condition the cars are smaller and the lot size is sloped to the backyard. They are going a little bit smaller than the new average. Standard vehicles SUV is 26x26, but this one will be 24x22.

Secretary Kearns: It says 24x24 on the plans?

Robert Marshall Contractor: We changed the depth because it would have taken too much of the backyard.

Member Mancini: what is going to go above the garage?

Robert Marshall Contractor: Open storage right now. We want to make same roofline to make it not look like an addition.

Member Mancini: Are you adding or merging, chart shows one large door?

Robert Marshall Contractor: one door, we have to remove a portion of the breezeway and remove the existing foundation because it is 18 inches deep and it is supposed to be 40 inches. Building the breezeway back.

Chairman: what year did you buy the house, and when was it built?

Kristine Donovan: 2012, maybe 1952.

Chairman You're having a hardship not result of your prior action. What types of homes are on your street, 1-2 car garages?

Kristine Donovan: Yes mostly two.

Chairman: If you were to be denied you would be stuck with a single garage with a single lane driveway.

Kristine Donovan: Yes, with three cars. Neighbors let us park in their driveway.

Member Farhoumand: What's the existing distance from existing house and property line? 28.8 ft. I come up with 17.76 relief.

Chairman Garage side or North side?

Member Farhoumand: Garage

Robert Marshall The closest point is no longer the closest point because we changed the measurement. The 28.8 ft. to the existing garage is only 20ft deep, we are making it 22 ft. which changes the end point. Not parallel to the property line.

Vice Chairperson Lyle: Same material to match?

Kristine Donovan Yes.

Chairman reads TRC Recommendation: Based on the findings that the proposal is consistent with the Comprehensive Plan, is in character with the surrounding area, and would not be detrimental to the nearest abutter, the TRC voted 5-0 to recommend that the Planning Board make a positive recommendation on this application to the Zoning Board of Review.

Public portion:

John Barr: positive outlook on the application, supportive of the added garage area. States applicants are good neighbors.

Karen Scorpio: fully supports application.

Member Mancini: Motion to approve application, for the addition of the garage and to bring the previously existing nonconforming structure into compliance. Second by Secretary Kearns
All in favor

Valley View Towing, Inc., 73 Wilna Street., Providence, RI 02904- Application for Special Use Permit for auto repair facility with storage of tow trucks located at 1208 Smithfield Ave., Lincoln, RI 02865.

AP 7, Lot 86

Zoned: BL-05

Chairman: This application represents a request for a Special Use Permit to operate a commercial off street parking facility. The applicant is proposing to continue operating an auto repair facility which currently exists, by Special Use Permit granted, and add the storage of five (5) tow trucks to this property. The storage of the tow trucks would be allowed by SUP under section 260-16D "Commercial off street parking" with conditions.

Joseph Raheb for the applicant: This location was a service station over 70 years. The applicant operates out of Providence currently, and wants a second building to work out of. He will not be bringing vehicle back to the property, no auto body work onsite. Right now he had right to park one but wants to park more (5). Strictly parked at night. The building is not functioning any more it has been vacant for a month.

Chairman: Applied under 260-16D: also included maintained accessory outdoor maintenance and storage, applying under D garage or open lot primarily for commercial passenger vehicles. No gas pumps, automotive repairs.

Raheb By granting the Special Use permit you are not granting us to have automotive repairs because of the grandfathered use.

Chairman: Does the fact you are applying under 260-16D, indicate there will be no automotive repairs.

*Conversations among which section would suit best for the application

260-18B- service industry, 260-14G: current use, not service station, 260-16D: Is the request.

Mark Krieger: Does Chair suggest different section?

Secretary Kearns: No longer gas pumps here?

Raheb No, no gas pumps no sales of gas, no impound lot.

John Santos- Applicant: Sworn in. We do about 30 tows a day, none of them will be brought back to us. Will not be storing the cars overnight in the lot. Young son graduating he will be the one operating the

service station. I cannot accurately answer how many will be there overnight- we will be a new business. No storage for third parties.

Samantha Durand: Real estate broker. Will not alter the surrounding area.

TRC Recommendation: Finding that the special use permit request is inconsistent with the Comprehensive Plan and the intent of the Zoning Code, and finding that the proposed use could have a negative impact on the surrounding area, the TRC voted 5-0 to recommend that the Planning Board make a **negative recommendation** on this application to the Zoning Board of Review.

Public Portion:

Jose Monterio- bank loaner in approval/ supportive of the application. In support of new businesses.

John Birchell- No objections. Lives across the street.

Chairman: Read the standards: 1. The use is permitted in the exact subsection in the ordinances. 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, arrays in the neighborhood. 4. The Special Use conforms with the Comprehensive Plan and Zoning Ordinances.

Vice Chairperson Lyle: Motion to deny application. Concerned with auto repairs and bringing in tow trucks, cannot control the number of vehicles. Never talked about the lighting. The altering of the neighborhood with super industrial vehicles. Where the truck will be parked won't conform to the neighborhood. The Special Use conforms to the Comprehensive Plan, we heard from the Planning Board it does not conform. Concerns with safety.

No Second to deny.

Conflicting motion to approve application by Secretary Kearns. Given this is authorized in the chapter in the subsection 260-16-C to allow the vehicles to be parked there. The use will only be for parking during the evening, at use during the day elsewhere for towing. No cars are being brought back to the location for storage. The use for the repair shop, the location was used as a repair shop for 60-70 years. Will not be altering because it will be the same as it was in the past. The comprehensive plan for this location is mixed use, this will not impede on the character of the neighborhood. It will be an improvement of the existing structure. From the view of economic development it will be a positive impact and encouraging new businesses and employment. Conditions: cars overnight would only be for the repair portion and only with registrations and up to date inspection stickers (renewed or current).

Second by Member Mancini with conditions

Member Farhoumand: Questions on the grandfathered portion. Cannot have two Special Use. Once you come here the grandfathered portion goes away?

Council: If there is a change in use (Service to transportation) the change in use would eliminate the nonconforming unless the change complies with the ordinance.

Vice Chairperson Lyle: Repairing and storing. Looking for off street parking now. It's the commercial off street parking.

Council: Nonconforming to an additional use.

Secretary Kearns The use is continuing so why does that have to change it is the same use?

Council Expanding the uses.

Council In a review of the ordinance 260-66/67 the do not prohibit the two Special Uses.

Chairman: What he is saying is that two special uses can be granted for the same property. Are these flatbed type tow trucks? How long?

John Santos- Applicant Flat bed, 30 ft.

Chairman Motion from Secretary Kearns to approve with Second by Member Mancini, further information is now on the table.

Secretary Kearns amended original motion and added request approval to 260-16D (stated incorrect subsection). Member Mancini withdrew second. No change in original motion but add request approval for applicant to operate repair shop under additional Special Use 260-14G (bringing to compliance) - which allows for automobile services. No sales of gas. Second by Member Mancini.

Member Farhoumand- Aye

Member Mancini- Aye

Secretary Kearns- Aye

Vice Chairperson Lyle- Nay

Chairman- Aye

Motion to adjourn made by Member Mancini, Second by Secretary Kearns.

All in favor.