

Town of Lincoln
Zoning Board of Review
100 Old River Road, Lincoln, RI
Minutes of May 2nd, 2023 Meeting

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

Excused:

Minutes: April Minutes

Correspondence:

Applications:

Motion to accept April minutes: Motion made by Member Mancini Second by Secretary Kearns.

Kenneth R. Catallozzi, 7 Kirkbrae Dr., Lincoln, RI 02865- Application for Special Use Variance to install a residential size ground mount solar array in rear of yard of home on single family residential located at 7 Kirkbrae Dr., Lincoln RI 02865.

AP 32, Lot 41

Zoned: RS-20

Applicant sworn in Kenneth Catallozzi

Chairman: Application for a special use permit to allow a ground-mount residential solar installation in a RS-20 zone.

Chairman: Special User Permit has standards that This Board looks at Reads standards for 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.

Kenneth Catallozzi: Single family home on one acre lot. Want to be more energy efficient and generate own electricity. I have space in the back of my property and it wouldn't effect neighbors. It is 30ft X 30 ft. and 5 ft. of the ground. Already have a contract company that is ready to proceed.

Chairman: Why not on roof?

Applicant: Knows multiple people (3 good friends) with solar on their roof and they have leak problems. Who is responsible for repairs on the roof?

Chairman: what is this going to leave you for backyard space?

Applicant: 202 ft. on one side it will take 30 ft. away.

Chairman: Fencing? Exact footprint of all structure/ equipment?

Applicant: Fencing is already existing. I need 6 ft. offset Total 36ft. EW/NS

Chairman: Visible from front or either side?

Applicant: Not from front. Maybe from one neighbor but I will put up arborvitaes, the rear is state property.

Chairman: Spoken to neighbor?

Applicant: The neighbor is not here anymore the property is vacant.

Chairman: How about to the rear?

Applicant: Rear is State Property.

Vice Chairperson Lyle: Adding additional vegetation?

Applicant: Yes.

Vice Chairperson Lyle: Does it generate any noise?

Applicant: It does not generate noise.

Member Ruggerio: Is there a power pack the solar will be running to?

Applicant: Yes. There is an existing she, the shed is going to be moved to the North of the array, power will be kept in there will be underground trenches to bring line to the house and added to the electrical panel.

Member Mancini: Any obstructions with trees that would overshadow?

Applicant: there were trees there and I have eliminated them all winter long. We have done the tracking of the sun online.

Member Ruggerio: Existing fence in the back? Behind the shed? Where is the existing fencing in regards to the shed?

Applicant: It is behind it. On all sides, the entire yard is fenced. I have a pool, and with regulations I have to have a fence.

Member Ruggerio: It is along all the sides?

Applicant: The entire back yard is fenced. It is black wire fencing, designed so you can't see it.

Chairman: Property to the rear is State? I don't see that on the abutter's list notices.

Applicant: When I went to the website to get the abutters there was no identification of who would be on that as an abutter, only residential abutters. Think it is State. Trees have fallen from the back onto my fence and state took care of it. My understanding is it is State.

Chairman: is there an issue with the abutter's identification and not being notified?

Attorney DeSisto: I am looking at the bottom of the assessor's map and I don't see assessor plat and lot there.

Zoning Official Hervieux: The property backs up to RT 295, they don't have any lot numbers. The system won't pick up. State owns land but there are no plat and lot because it is continuous. I don't think there would be an issue.

Attorney DeSisto: Technically there is a notice issue, the State does own 295- they are an abutter.

Applicant can proceed at own risk, it is a very minor risk that the State may object. If the State later on objects, but it would void grant and would have to return. It is a minor risk that the State would object.

Member Farhoumand: Never seen the State object to something like this, if it is on their own property.

Chairman: We are trying to achieve either yes/no for these standards I read earlier. Standard 3- neighbor's usually come out to speak about the application. We put value on what the community says on projects. You said this wasn't visible from the front, the side you will put arborvitaes, but the back is the State- if it is and that is right-of-way and it can't be occupied by people, it should not be an issue. With advice from the solicitor I have to ask you a question, continue with the risk, would you like to continue to next month or continue and try to contact DOT to speak.

Attorney DeSisto: it would continue but the State would just get notice.

Chairman: Who would you like to proceed?

Applicant: Would like to keep going tonight.

Attorney DeSisto: If the State does object that would void anything granted tonight.

Member Ruggerio: Would there be a need for a Special Use Permit if it was on the roof, rather than ground?

Attorney DeSisto: If it was on the roof it would be permitted by use.

Zoning Official Hervieux: Correct-

Chairman: Any other issues/suggestions from the people you know with solar arrays?

Applicant: Not anything either way ground verses roof. I don't want on roof, I have to get my roof replaced it is 17 years old for \$30,000 plus \$30,000 for the solar. I don't want to spend that money. I would rather have it on the ground.

Secretary Kearns: Did the solar company installing say "we won't put it on the roof unless you replace the roof"?

Applicant: That was their suggestion.

Secretary Kearns: That was their suggestion not requirement?

Applicant: Suggestion, but I here was leak then I would be on my own.

Chairman: Asks Zoning Official Hervieux, he standard two about meeting the criteria and regulations is that correct that most of those would be covered during permitting and inspection process? Safety barriers and signage.

Zoning Official Hervieux: Yes in the building permit, still would have to follow Zoning Code and Building Code. Only standard that would come into play Zoning Code verses Building Code is that the Building Code does not require 6ft fence around the grounds.

Vice Chairperson Lyle: How did you determine amount of solar power?

Through RI Energy they take a three year average of your usage and mine is 13 kilowatts and they allow 25 % overage fro you usage but I expect usage to increase by buying electric vehicle and the charging ports and converting to splits so we are using more electrical than gas power.

Chairman: Finding that the special use permit is consistent with the Comprehensive Plan, and with the condition that the applicant demonstrate compliance with the performance standards for ground mounted residential solar photovoltaic installations in Zoning Code §260-19 to mitigate any safety and visual concerns, the TRC voted (5-1, Mr. Gagnon voted nay) to recommend that the Planning Board make a positive recommendation on this application to the Zoning Board of Review.

No public comment.

Motion to be made with the knowledge of a risk to the property to the rear owned by the State.

Member Ruggerio: Makes motion to approve the Special Use Permit authorized by 260-19AA allowable use. I don't think it would change the area given the efforts to make it less visible and it is on the owner's property. It is in conformity to 260-19AA won't impact the Ordinance or the Comprehensive Plan.

Motion Second by Secretary Kearns. All in favor.

Special Use Permit granted.

Joseph and Beverly Iovini, 2 Bittersweet Lane, Lincoln, RI 02865- Application for Dimensional Variance for front setback relief for an addition of a roof over front door on a single family residential located at 2 Bittersweet Lane, Lincoln, RI 02865.

AP 43, Lot 130

Zoned: RS-20

Chairman: The applicant has 24.68 ft. from the front 30ft is required they are seeking 5.32 ft. of front relief. This is an application for dimensional relief to allow a front door overhang/portico over the front steps to encroach 5.32' into the 30' front setback in a RS-20 zone.

Scott Partington: On behalf of the applicant- sworn in. The property is in the RS- 20 so there is a 30ft setback requirement. We have about 20,000 for the lot size the house is a little over 700 sq. /ft. two story and the basic reason is to put a portico over the front stairs of the house. We submitted photos with the application.

Chairman: Reads standards for a Dimensional 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. 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.

Secretary Kearns: I have paper work that says void? First two pages have information but no signatures, and then there are two more pages signed?

Zoning Official Hervieux: Info was missing originally, submitted application not signed but left the one that was signed in there. Just to show the property owner still wants to go forward.

Scott Partington: I initially when I looked at this I thought it was going to be a variance from something jutting out from the structure and that isn't the case, Mr. Hervieux helped me out. With respect to the

standards I will be glad to address them verbally. With the unique characteristics, it isn't unique that it is a single family lot.

Chairman: Year of the home?

Applicant: 10 years old.

Joe Iovini- applicant sworn in. not the original owner.

Chairman: You bought the house as is, you did not construct it. Not you want to enhance it.

Scott Partington: Conformity to the neighborhood, we are asking for less relief- it is a single family home.

Chairman: We didn't see rendering, testimony that it will be the same material / color as what is already there.

Scott Partington: Sent renderings in design photos- for what it will look like.

Chairman: Don't have it in the packets.

Attorney DeSisto: Less relief to accomplish project goals. Need to demonstrate that it is covering what it needs to but nothing beyond.

Chairman: Need dimensions.

Scott Partington: 8x10ft; front stairway concert steps.

Chairman: Speak about what will be there versus what is there now.

Applicant: *Shows pictures to The Board* Will maintain the shingle roof look, white in color. Will not extend past the platform. Intent is to cover just the top landing. For Amazon delivery drop offs.

Member Mancini: Drove by house and think the addition would look great.

Vice Chairperson Lyle: Drove by, neighbors have overhangs and would the pillars and the overhang would the lights on either side stay there or go under?

Applicant: They (the lights) would stay on the side.

Secretary Kearns: Remember gutter.

Applicant: Yes.

Chairman: Read TRC report finding that the special use permit is consistent with the Comprehensive Plan, and with the condition that the applicant demonstrate compliance with the performance standards for ground mounted residential solar photovoltaic installations in Zoning Code §260-19 to mitigate any safety and visual concerns, the TRC voted (5-1, Mr. Gagnon voted nay) to recommend that the Planning Board make a positive recommendation on this application to the Zoning Board of Review.

No public comment

Chairman: Motion to approve the Dimensional Variance of 5.32 ft. of relief. Standard 1- Testimony to enhance property and shelter front entrance, not any economic disability. Standard 2- not prior action of the applicant, he was not the person who built the house. Subsequent to original build, existing home not financial gain. Standard 3- Will not change characteristics of the neighborhood. This is the third Dimensional Variance we have granted on this street. The house across the street has an overhang. Standard 4- Less relief necessary. The extension will be further out enough for coverage but no further than what is needed. Standard 5- if denied, it wouldn't allow weather protection or beautification of home. **Motion Second by Member Ruggerio. All in favor.**

Dimensional Variance granted.

Zoning Official Hervieux: There are three Dimensional Variances for June.

Chairman: Three Dimensional Variances for June. May not be there in August – August date is August 8/1, will not be able to make it. We can move the date or continue with schedule without me.

Zoning Official Hervieux: Can't really tell right now. We will do the best to schedule to other meetings, if someone were to come in it is hard to push out three months.

Member Mancini: When we approve a variance or a special use does it die or go on and on, approving specific items that are older and nothing has happened. For example for the doggie day care it has been three/four years.

Attorney DeSisto: When you get the Special Use Permit and the Dimensional Variance it is recorded in the Land evidence records. If the applicant timely does the application that is it, it runs with the land. However if they don't it lapses. Special Use and Dimensional Variance lapse for one year, if within the one year you ask for more time you get it, but if it lapse you have to reapply.

Motion to adjourn meeting made by Member Ruggerio, Second by Secretary Kearns. All in favor.