

Town of Lincoln
Zoning Board of Review
100 Old River Road, Lincoln, RI
Minutes of June 6th, 2023 Meeting

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

Excused: Charles Ruggerio

Minutes: May Minutes

Correspondence: Chairman: One piece of correspondence to Zoning Official Hervieux regarding the third application hold off until that application.

Applications:

Motion to accept May minutes: Motion made by Member Mancini Second by Secretary Farhoumand.

**Moanalua Associates c/o The Discovery Group, 10 Plain St. Suite 100, Providence, RI 02903-
Application for Dimensional Variance for front setback relief for the constructions of a commercial pergola on a commercial and office space located at 1525 Old Louisquisset Pike., Lincoln RI 02865.**

AP 19, Lot 18

Zoned: BL-0.5

Chairman: This application represents a request for a Dimensional Variance to construct a pergola. The applicant is proposing to construct a 13'x23' pergola on the side of an existing commercial retail building. The proposed pergola is 12.5' from the front property line which 25' is required. Therefore, the applicant would need **12.5'** of front relief on the proposed pergola. The property meets the other requirements of the BL-0.5 zone which it is located in.

Jason Cisco sworn in- owns the property. Plan to install pergola for the coffee shop

Alicia Decastro- sworn in. Owner of the coffee shop.

Chairman: Pergola 12.5 ft. for from the front property zoning is supposed to be 25 ft. 12.5 ft. front relief for the construction.

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.

Cisco: The uniqueness of the property there are a lot of angles and property lines. Elevation- the stores are sunk down from the road way the elevation goes down into the property. ADA, parking and sidewalk are some issues with this property. Where the outside seating is for ADA access it has to be sunken in some to be a flat area. The curve around the outside seating is to prevent water from coming in and to have handicap access. Access to turn around with a wheelchair with about 12 ft. of space in the area. The pergola will not close in the area but cover it. Provide shade.

Secretary Kearns: The area now where the patio is, is lower?

Cisco: Correct, it is level with the inside. It is level but lower than the road way.

Member Mancini: Is this going to be free standing or attached to the building?

Cisco: Attached to the building on one end the farthest end towards the road way there will be two 12 inch concrete sonotubes with 6 in posts. Stick out a little for safety purposes.

Member Mancini: How far away from the glass?

Cisco: roughly 6-12 inches above the glass.

Secretary Kearns: what will be under?

Cisco: Chairs and tables, seating. Umbrellas they tip over, having seating outside people enjoy outside.

Secretary Kearns: ADA access?

Cisco: Both entrances are ADA accessible, this side is used much more because it is wider. Easier for people.

Secretary Kearns: Will there be a delineated walkway from table to doors so the chairs don't get in the way.

Cisco: No delineation but there is enough room.

Chairman: Who represents the plaza?

Cisco: I, Alicia owns the coffee shop.

Chairman: Can you give us some details on the pergola?

Cisco: Pressure treated, aged 6 months and then paint to match the facade of the building. For the first year or so we would have to wait to paint.

Chairman: What is the width of the sidewalk? The seating area?

Cisco: 12 ft. We're going right to the edge, not encompassing the entire outdoor seating because of the angles. To make it look nice we just put it information of the windows and make it rectangular.

Secretary Kearns: There is a slight pitch to the roof? Drainage will pitch right past the curb?

Cisco: It is open right now but with a cover it would be pitched. If we were to add a cover it would be pitched to go to that drain.

Secretary Kearns: A joist going across, and something going the other way.

Cisco: correct- cross hatched. It is designed to cover or not.

Member Farhoumand: Confused by the packet before and after pictures?

Cisco: It was remodeled 2 years ago, the after is what it looks like now.

Member Farhoumand: This cannot drain out to the road.

Cisco: Out to the back and planters in the front. Installed curb stops to convert the water to the crushed stone.

Member Farhoumand: Do you have larger size of the plan?

Cisco: Do not have a larger size. The plan was submitted online.

Member Farhoumand: The blue line property line?

Cisco: The blue line is the property line. The pergola is 12.5 ft. coming out from the building and the building is 22 ft. 4-5 ft. off the property line. The pergola is encroaching 100% in the setback area.

Member Farhoumand: the back side would be 2.5 ft.

Cisco: Yes the front would be encroaching more due to angles.

Chairman: Questions zoning official with the numbers and distances. With updated measurements.

Member Farhoumand: distance from utility box?

Cisco: Yes we are 10 ft. away from utility box.

Member Farhoumand: need to show that on the plan so everyone knows

Chairman: Questions tony on where we are to progress.

Attorney DeSisto: Does the pergola go to the end of the patio?

Cisco: It goes off 4 inches from the end of the property. If you consider the curb it is 4 inches, if you don't consider the curb it's to the end.

Attorney DeSisto: Condition any grant that it be no closer to the lot line than the existing curb and patio.

Chairman: Attached to the building?

Cisco: Yes.

Chairman: Would that make a difference?

Attorney DeSisto: No it is attached and part of the structure.

Zoning Official Hervieux: No because it is a commercial building.

Secretary Kearns: we try to get dimensions as exact as we can.

Chairman: I like Attorney DeSisto's condition.

Member Farhoumand: That can be changed though with new owners. I would rather have dimensions.

Cisco: We can get an as-built as part of the final permit. The surveyor can give it to you.

Zoning Official Hervieux: there is an exact dimension of the pergola. Even if the curb is moved those are the dimensions.

Cisco: 12.5x23- the entire structure.

Secretary Kearns: what's the very limit distance to curb?

Cisco: 4.5 inches- it is a decorative piece that hangs off the top.

Chairman: TRC report- Based upon the findings that the granting of the relief would be consistent with the Comprehensive Plan and the character of the village center, and finding that the relief is minimal because it is maintained within the footprint of an existing outdoor seating area, the TRC unanimously (5-0) recommends that the Planning Board forward a *positive recommendation* on this application to the Zoning Board of Review.

Public portion- no public testimony.

Motion to approve Dimensional Variance made by Chairman.

1. Is there a hardship due to unique characteristics of land that is not any physical or economic disability? Existing outdoor seating area on a raised curb already heard testimony it will aid in ADA access and aid for shade and inclement weather 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. Prior action: this building was constructed before applicant opened the business, this will better serve the customers. 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. Exact size of the outdoor seating. 5. For a Dimensional Variance is there a hardship that's more than a mere inconvenience, which results in you needing this variance. Denying it would deny a safe ADA access area and we would also be denying the application would also deny the potential of the business to flourish.

Conditions: The pergola once constructed be no closer than the existing patio and raised curb and the exact dimensions from property line needs to be submitted to town to be added to the variance. The pergola cannot extend 12.5x23.

Motion Second by **Secretary Kearns:** All in favor.

Dimensional Variance Granted

Artur J. Silva Jr., 12 Sylvia Lane, Lincoln, RI 02865- Application for Dimensional Variance for side setback relief for the construction of an addition on a single family residential located at 149 Jenckes Hill Rd, Lincoln, RI 02865.

AP 26, Lot 20

Zoned: RA-40

Chairman: This application represents a request for a Dimensional Variance for the construction of an addition to a single family home. The applicant is proposing to construct an addition to the rear and right side of an existing single family home. The proposed addition northeast corner is 14.6' from the side property line which 34.5' is required. Therefore, the applicant would need **19.9'** of side relief on the northeast corner of the addition. The proposed addition northwest corner is 22.8' from the side property line which 34.5' is required. Therefore, the applicant would need **11.7'** of side relief on the northwest corner of the addition. The proposed addition southwest corner is 27.1' from the side property line which 34.5' is required. Therefore, the applicant would need **7.4'** of side relief on the southwest corner of the addition. The person residing in this area must be 62 years of age or older and an affidavit must be recorded to that affect before a final inspection is granted. The property is well within the lot coverage requirements even with the addition.

Attorney Peter Petracca and Code Consultant Peter Casale sworn in.

Artur Silva Sworn in.

Clarification this is a home, not an in-law. Attached to existing house.

Attorney DeSisto: Is this a duplex? Or addition.

Petracca: An addition.

Chairman: Reads in 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.

Petraca: Existing 730 sq. / ft. structure wanting a 1583 sq. /ft. addition. In need of setback relief due to nature of the structure of the land.

Casale: Non conformity shape of lot and house. Neither lot nor the house is oriented to be square with the street. Lot is non- conforming. The addition is on conforming setback, addition would provide angles. The addition adds more room interior. With the addition, we are looking for 14.5 ft. setback relief and 27.1 ft. on the right, due to the unique qualities on the property.

Chairman: What year was the house built? Did the applicant purchase the existing house?

Casale: No idea when it was built. It was purchased this way.

Secretary Kearns: What is in the back?

Applicant: Secondary structure with garage.

Chairman: Current size of house there now? People living in the house?

Petraca: 730 sq. /ft., bought in December. Not living there yet.

Vice Chairperson Lyle: Reason for the addition?

Casale: To provide additional bedroom and bathroom. Bedrooms for the grandkids, flip the kitchen.

Vice Chairperson Lyle: Main entrance, but adding whole master bedroom?

Casale: Yes, in the back.

Petraca: Want to have enough space for the grandchildren to come over

Member Mancini: The addition is two times larger than the existing house.

Secretary Kearns: Consider tearing the house and rebuild from scratch?

Member Farhoumand: Why not build closer to the road?

Casale: Not preferred for noise from road. The way it is set up the bedrooms are in the front of the house.

Member Farhoumand: Just not preferred.

Chairman: 730 sq. /ft. right now, the addition 1 level? Total footprint? And it fits in the surrounding area?

Casale: 2313 sq. /ft. single story. Healthy mix of 1 and 2 story dwellings in surrounding area. 6.7% with the addition it will be at 10.7%.

Secretary Kearns: Includes garage?

Casale: Yes.

Member Farhoumand: The other parts of the house are in conformance, they look closer. Non-conforming.

Casale: We went to the closest point which is 22 ft. I agree with you.

Member Farhoumand: We try to clean up everything at once.

Casale: The entire left side is not in conformance. The front left corner would be less than 35ft. judging by the survey.

Chairman: Anything previously nonconforming we would grant relief for those as well. Should this go forward and be approved a condition should be sent to Zoning Official Hervieux of those dimensions to be recorded as well.

Member Farhoumand: Do you have final copy, this says draft.

Chairman: Who is living there full time?

Petraca: Two right now.

Secretary Kearns: They will make corrections upon the survey and send to Zoning Official Hervieux?

Chairman: Yes

Chairman: TRC Report: Based upon the findings that the granting of the relief would be consistent with the Comprehensive Plan and the character of the area, and finding that the thin nature of the lot and the location of the existing home practically eliminate compliant alternatives, the TRC unanimously (5-0) recommends that the Planning Board forward a *positive recommendation* on this application to the Zoning Board of Review.

Public Comment- No.

Petraca: Notice for the record correction on application owner is Artur Silva Sr. not Artur Silva Jr.

Chairman: Motion to approve application 1. Is there a hardship due to unique characteristics of land that is not any physical or economic disability? The unique undersized lot unique shape/ angles. There is no other way due to the unique condition. 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 ought the home this way, this was the way the house was when it was purchased 3. Granting of the variance will not alter the general character of the neighborhood. There are other homes in this area, mix of all different sizes. 4. What is asked of the Board is reasonable and least relief necessary. It is a modest size addition. 5. For a Dimensional Variance is there a hardship that's more than a mere inconvenience, which results in you needing this variance. If it wasn't approved the applicant wouldn't be able to provide area for extended family/ grandkids.

Condition- the dimensions get submitted to Zoning Official Hervieux for the relief for the previously non-conforming.

Motion second by Member Mancini. All in favor.

Dimensional Variance Granted

Edgewood Developer LLC., 58 Merrick Street, Rumford, RI 02916- Application for Dimensional Variance for lot width relief for one lot of a three lot subdivision vacant lot located at New River Rd, Lincoln, RI 02865.

AP 34, Lot 20

Zoned: RS-20

Chairman: This application represents a request for a Dimensional Variance lot width relief on a new lot to be subdivided. The applicant is proposing to subdivide one lot into three lots with one of the lots with lack of adequate lot width. Lot #3 is proposed to have 116.40' of lot width which 120' is required. Therefore, the applicant would need 3.6' of lot width relief to create this new lot. The other two lots meet the dimensional requirements. This plan has received conditional master plan approval from the Planning Board. 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.

Ed Pimentel sworn in. Shekarchi sworn in.

Applicant Fred Ferland.

Chairman: Right now vacant one lot?

Shekarchi: Yes.

Chairman: Wishing to divide into three. New River Rd.?

Shekarchi: Yes.

Pimentel: Yes, given the density and surrounding land use, we thought 3 frontage lots.

Secretary Kearns: how many lots the other way

Pimentel: 7 lots, but strange lot cuts and unique angles.

Member Farhoumand: Questions on site map.

Chairman: TRC REPORT- Based upon the findings that the granting of the relief would be consistent with the Comprehensive Plan and the character of the surrounding area, would not undermine the intent of the zoning code and is minimal in nature, the TRC voted (4-1, Mr. Hervieux voted nay) to recommend that the Planning Board make a *positive recommendation* on this application to the Zoning Board of Review.

Public Comment:

Dianne Ducharme: Lives at Handy Pond. This is the same developer. Several deformities with the development. Never came back to fix the defects. Board took \$42,000 to take care of the property.

Judy Kearns: Handy Pond. Developer left the property with debris/ trash and left in poor conditions. No problem with first two lots, but the third is very close as an abutter to Handy Pond.

Rosemary Graves: Reiterate above. Unit 29 is the far end unit, closest/ effective to proposed property. Property was left with dumpster/tires/ building materials. Took months to complete landscape of property.

Patricia and Gary Belanger: Interested in purchasing the two lots, one for them and the sister and her husband. Heard about the development in the Valley Breeze.

Chairman: Any town perspective of the publics concerns.

Zoning Official Hervieux: With this project there was not many complaints. Other than the firetrucks not having enough room- the fire department took care of that.

Attorney DeSisto: The decision cannot be based on the developer's track record.

Susan Brescheia: Public comment (came to meeting late) same concerns are the other public comments. Concerns with the developer.

Shekarchi: We will 100% follow all inspection regulations.

Secretary Kearns motion to approve application. Second by Member Mancini. All in favor.

Dimensional Variance Granted

Comprehensive Plan Steering Committee Representative: A memo has been sent in by the Town Planner to get member of the Zoning Board to participate in the update of the Comprehensive Plan.

Chairman: Secretary Kearns will take the lead on it; alternative Member Farhoumand in case. If neither can make it Member Spezzano will step in. Next meeting is July 11th.

Motion to adjourn meeting made by Vice Chairperson Lyle, Second by Member Spezzano. All in favor.