

Town of Lincoln
Zoning Board of Review
100 Old River Road, Lincoln, RI
Minutes of August 1st, 2023 Meeting

Present: Lori Lyle- Vice Chairperson, John Mancini, Secretary Stephen Kearns, Frank Spezzano, Kazem Farhoumand, Council

Excused: David DeAngelis- Chairman, Charles Ruggerio

Minutes: July Minutes

Correspondence: In relation to an application, will discuss then.

Applications:

Motion to accept July minutes made by Member Mancini; Second by Secretary Kearns.

Vice Chairperson Lyle: Millers Application moved to the third on the agenda.

Jason Lucier, 3 Pine St., Manville, RI 02838- Application for Dimensional Variance for rear setback relief for the construction of an addition on an existing single family home located at 3 Pine St., Manville, RI 02838

AP 35, Lot 11

Zoned: RL 9

Vice Chairperson Lyle: Jason Lucier switched to the first application being heard. This application represents a request for a Dimensional Variance for the construction of an addition. The applicant is proposing to construct an addition to the left side of an existing single family home to square off a bump out. The property is located in the RL-9 zoning district. The proposed addition is 24.0' from the rear property line at the northwest corner which 27.5' is required. Therefore, the applicant would need **3.5'** of rear relief on the northwest corner of the proposed addition. According to the plan there are some nonconforming dimensions on the existing house. The existing house is 13.9' on the northeast corner which 27.5' is required. Therefore, the applicant would need **13.6'** of side relief on the northeast corner of the existing house. The existing house is 23.3' on the southeast corner which 27.5' is required. Therefore, the applicant would need **4.2'** of side relief on the southeast corner of the existing house. The property meets the lot coverage requirements even with the addition.

Applicant sworn in.

Jason Lucier: We have a one story with an addition wants to add a handicap bathroom for disabled wife.

Vice Chairperson Lyle: Number of people living there?

Jason Lucier: Wife, daughter part time and myself,

Secretary Kearns: Familiar with property, minor addition very little impact on neighbors and visible aspect. Reason being here because you're improving your house, hardship is no due to financial disability. This is not because of any other reason but the unique qualities of the house. 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. This is just for the need of new bathroom3. Granting of the variance will not alter the general character of the neighborhood. Very minor, plans well drawn out 4. What is asked of the Board is reasonable and least relief necessary. Very small addition couldn't do any other way 5. For a Dimensional Variance is there a hardship that's more than a mere inconvenience, which results in you needing this variance. Couldn't adjust dimensions otherwise.

Member Farhoumand: What are the black circles on the plan?

Jason Lucier: Blueberry bushes

Vice Chairperson Lyle: **TRC summary** Based upon the findings that the granting of the relief would not have negative impacts to the surrounding area and is consistent with the Comprehensive Plan, the TRC unanimously (7-0) recommends that the Planning Board forward a *positive recommendation* on this application to the Zoning Board of Review.

Public comment: no one from the public spoke

Secretary Kearns: Motion to approve application request for a Dimensional Variance for the construction of an addition. The applicant is proposing to construct an addition to the left side of an existing single family home to square off a bump out. The property is located in the RL-9 zoning district. The proposed addition is 24.0' from the rear property line at the northwest corner which 27.5' is required. Therefore, the applicant would need **3.5'** of rear relief on the northwest corner of the proposed addition. According to the plan there are some nonconforming dimensions on the existing house. The existing house is 13.9' on the northeast corner which 27.5' is required. Therefore, the applicant would need **13.6'** of side relief on the northeast corner of the existing house. The existing house is 23.3' on the southeast corner which 27.5' is required. Therefore, the applicant would need **4.2'** of side relief on the southeast corner of the existing house. The property meets the lot coverage requirements even with the addition. In terms of relief Vice Chairperson Lye read. Application complied with all standards, motion to approve, second by Member Mancini. All in favor.

Marco and Erika Loreda, 30 Smith St., Lincoln, RI 02865- Application for Special Use Permit to add four residential units to a two unit residential property for a total of six residential units located at 11-13 Gardiner Ave, Lincoln, RI 02865

AP 1, Lot 83

Zoned: RG 7

Vice Chairperson Lyle: This is for both a Special Use Permit and Dimensional Variance. This application represents a request for a Special Use Permit to add four residential units to a property that has an existing two unit residential. The applicant is proposing to construct (2) two family houses on a property that has an existing two family home on it. It was determined that this request would require a minor land development application from the Planning Board. The applicant is in that process and would have to acquire a preliminary plan approval from the Planning Board before this application could be heard by the Zoning Board. Therefore, the applicant is asking for a continuance. This application represents a request for a Dimensional Variance to add four residential units to a property that has an existing two unit residential. The applicant is proposing to construct (2) two family houses on a property that has an existing two family home on it. It was determined that this request would require a minor land development application from the Planning Board. The applicant is in that process and would have to acquire a preliminary plan approval from the Planning Board before this application could be heard by the Zoning Board. Therefore, the applicant is asking for a continuance.

Attorney Shekarchi: The Zoning Official and I came to a conclusion to as to continue after adding things to the plan. We would like to appear before the Planning Board.

Zoning Official Hervieux: Attorney Shekarchi filed into my office the proper correspondence to continue to the October meeting.

Motion to continue both the Special Use Permit and the Dimensional Variance to the October meeting.

Motion made by Secretary Kearns and Second by Member Mancini. All in favor.

Millers Properties, LLC, P.O. Box 22002, Lincoln, RI 02865- Application for Special Use Permit to construct a four unit residential building on vacant land located at Lonsdale Ave, Lincoln, RI 02865.

AP 4, Lot 36

Zoned: RL 9 (zone change pending RG-7)

Vice Chairperson Lyle: This application represents a request for a Special Use Permit to construct a four unit residential dwelling. The applicant is proposing to build a four unit residential dwelling with associated parking. The property was recently rezoned from RL-9 to RG-7. The property meets the dimensional criteria for a four unit residential in the RG-7 zone. Multi-family housing is an allowed use in the RG-7 zone with a Special Use Permit under section 260-9C.

John Shekarchi: For the applicant Patrick Miller. Applicant is here to answer any questions. Unique piece of property, to get zone change very hard. This met all requirements under case law. The Town Planner and the TRC were all supportive of it. The original zone didn't allow for multi-use. The surrounding properties are all new zone. This was the odd one out. In Pimentel's report it met all requirements.

Vice Chairperson Lyle: Why did you need to change the zone? Hwy did you just keep two?

John Shekarchi: Four unites would fit in the neighborhood and fit the comprehensive plan.

Vice Chairperson Lyle: Special Use 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.

John Shekarchi: All those standards were met in Pimentel's report.

Patrick Miller: Fits in with surround area. Parking was met, grade change etc. all met.

Member Farhoumand: Sewer?

John Shekarchi: Difficult to find sewer, unable to locate.

Zoning Official Hervieux: New sewer doesn't extend to this lot, the older one is very old DEM agreed and septic was designed.

Steve Andrews- Engineer: Shows plans. Odd shaped lot, site primarily grass. Back goes into the river, wetlands flagged. Four unit's proposed. 12 total parking spots, three per unit. Storm water pond doesn't over flow. Did not need storm water disturbance from DEM. Approved septic design by DEM. Will tie into Lincoln Water. Waiting for new survey, old company didn't keep survey after 10 years. Only waiting on DEM permit and survey.

Vice Chairperson Lyle: Concerned on it abutting the Blackstone and the wetlands. Concerns on the closeness to the narrows. Surprised no environmental analysis.

John Shekarchi: Wasn't the case when we got septic approval from DEM.

Steve Andrews- Engineer: 100 ft. buffer from the wetlands.

Member Farhoumand: vacant lot?

Steve Andrews- Engineer: Yes, vacant.

Member Farhoumand: Never anything there?

Steve Andrews- Engineer: No.

Member Farhoumand: Does it slope to the contaminated area? Is it lower than your lot?

John Shekarchi: Yes, much lower.

Steve Andrews- Engineer: Slopes back, no run offs.

Discussion of environmental issues with the adjacent lot

Patrick Miller: Conditions of the lot are gravel, which were not soil tested.

Vice Chairperson Lyle: TRC report; Based upon the findings that the granting of the special use permit for the proposed multifamily use would be consistent with the Comprehensive Plan and the surrounding area and is consistent with the Comprehensive Plan, and based on the positive findings made for the land development plan and change of zone, the TRC unanimously (7-0) recommends that the Planning Board forward a *positive recommendation* on this special use permit application to the Zoning Board of Review.

Public comment: Judith Hadley: Outfall pipes?

Steve Andrews- Engineer: No the pond is designed to withhold a 100 year storm.

Judith Hadley: Site line on Lonsdale Ave? Problematic with Lonsdale Ave and trees makes line of site hard.

Steve Andrews- Engineer: We will trim the trees back.

Judith Hadley: Ball field was closed due to gas leak, any test pits?

Steve Andrews- Engineer: No, just for the sewer.

Judith Hadley: Deer habitat will be lost, force them into Lonsdale Ave.

George Hadley: Trash was dumped down there, the ball field closed due to leaking gas. Against the zone change.

John Shekarchi: Applicant doesn't want any health concerns. Can have a condition if we find soil issues report immediately.

Steve Andrews- Engineer: If there is a "super fund" site next door and it was studied a restriction would have been placed- completely following the contamination. It would have been investigated.

Vice Chairperson Lyle: Parking?

John Shekarchi: Garage and side.

Vice Chairperson Lyle: Buffer, on Lonsdale Ave?

John Shekarchi: Yes, draining area?

Vice Chairperson Lyle: Lighting?

John Shekarchi: Lighting on units, at building permit time.

Vice Chairperson Lyle: motion to move forward. Based on standards approve the application. Heard testimony tonight. The parking is more that required, they will have lighting. Waiting for DOT approval. Special Use Permit doesn't alter neighborhood. Town will be notified if soil test comes back contaminated.

Mark Hartmann: it was conditioned by the Planning Board to get administrative approval.

Vice Chairperson Lyle: Condition from final decision by Planning Board. Motion Second by Secretary Kearns. All in favor

Walter ad Boqumila Marczak, 43 Mark Dr., Lincoln, RI 02865- Application for Dimensional Variance for rear setback relief for existing addition and deck located on 43 Mark Dr., Lincoln, RI 02865

AP 19, Lot 87

Zoned: RS 20

Vice Chairperson Lyle: This application represents a request for a Dimensional Variance for an addition in already constructed. The applicant constructed an approximate 13'x13' addition with two decks and stairs without a permit. The applicant had gone before the Zoning Board on March 6, 2007 for a 11'x11' kitchen addition in this same location and was denied by the Board. The addition is 39.2' from the rear property line which 50' is required. Therefore, the applicant would need **10.8'** of rear setback relief for the addition. The rear deck is 23.6' from the rear property line which 50' is required. Therefore, the applicant would need **26.4'** of rear relief for the rear deck. The property would still be well within the lot coverage limits for this zone.

Walter and Boqumila sworn in: Addition built in 2007, asking for forgiveness didn't understand the rules. Originally denied variance, Walter missed original meeting, wife came, but not very good at understanding English (they are Polish).

Secretary Kearns: Anyone recommend a continuance?

Walter Marczak: No

Member Farhoumand: What was the reason it was denied?

Boqumila Marczak: Not enough hardship.

John Shekarchi: How did the building process go?

Walter Marczak: Contractor gave good price and said he would take care of everything.

Secretary Kearns: Are you happy with the results?

Walter Marczak: Yes, absolutely, makes the home.

John Shekarchi: They're contemplating moving to Poland and selling the home.

Secretary Kearns: Denied, then went anyways and built? Did you think anything was wrong?

Walter Marczak: Thought contractor took care of it all. Not realizing it wasn't. Assessor came to assess with the taxes

Document submitted as exhibit one motion made by Vice Chairperson Lyle. Second by Member Farhoumand. All in favor.

Secretary Kearns: No one picked up on this since 2007?

Member Farhoumand: Survey? Who did the survey?

Zoning Official Hervieux: Shows survey.

Member Mancini: Are we here to prosecute them for violating the Zoning requirements or should we consider correcting the records for the future. We have to look at the addition and the records for the future.

Member Farhoumand: Thinking the same way. What would happen if we deny it?

Vice Chairperson Lyle: they would have to take it down.

Vice Chairperson Lyle: Reads TRC report; based upon the findings that the granting of the relief for the rear yard setback would be consistent with the Comprehensive Plan and the character of the neighborhood, the TRC voted (5-1, Mr. Hervieux voted nay and Mr. Gagnon was not present) to recommend that the Planning Board make a *positive recommendation* on the relief to the Zoning Board of Review.

Public:

Kenneth Zaga: Supports the addition not objection.

Mike Menachi: Supports addition

Anthony Soares: Supports addition

John Shekarchi: The backlot I use to own, sold it. The seller supports (was exposed to covid so couldn't come tonight).

Secretary Kearns: Very difficult decision, but was presented well. Concerns was encouraging building without going through the proper channels. But with testimony tonight and going to get proper records, I wouldn't object.

Mark Hartmann: Difficulties would be hardship. Court case in 2009, court looked at if there is evidence of good faith.

Vice Chairperson Lyle: Motion to approve as is. Looking at testimony. Dimensional Variance for an addition in already constructed. The applicant constructed an approximate 13'x13' addition with two decks and stairs without a permit. The applicant had gone before the Zoning Board on March 6, 2007 for an 11'x11' kitchen addition in this same location and was denied by the Board. The addition is 39.2' from the rear property line which 50' is required. Therefore, the applicant would need 10.8' of rear setback relief for the addition. The rear deck is 23.6' from the rear property line which 50' is required. Therefore, the applicant would need 26.4' of rear relief for the rear deck. The property would still be well within the lot coverage limits for this zone. 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? Unique structure of property 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. Based on testimony, was not main priority, this enhanced the property. 3. Granting of the variance will not alter the general character of the neighborhood. Surrounding area similar structures and topography 4. What is asked of the Board is reasonable and least relief necessary. Acted in good faith to come before The Board tonight- removing it would be devastating 5. For a Dimensional Variance is there a hardship that's more than a mere inconvenience, which results in you needing this variance. Heard testimony, lot of the process was grandfathered. Condition: Inspector go to property to make sure safety is up to code. Second by Member Mancini. All in favor.

Progress of the of the Comprehensive Plan Advisory Committee

Secretary Kearns: First meeting was an organizational meeting, second will be more scheduling and addressing in a specific order. Questions you can email me, it is a monthly meeting- the first Thursday of the month. It is a public meeting.

Vice Chairperson Lyle: Next meeting September 5th

Meeting adjourn motion made by Secretary Kearns. Second Vice Chairperson Lyle All in favor.