

ZONING BOARD OF REVIEW MINUTES
Tuesday November 25, 2014 Meeting 7:00 pm
Town Council Chambers, Town Hall

Present: Richard Land, Chair; Renu Englehart, Vice-Chair; Ashley Cullion, Christopher Mulhearn, and Barry Golden (Alternate).

Absent: Jody Sceery.

Staff: Lea Anthony Hitchen, Assistant Town Planner; and Peter Clarkin, Town Solicitor.

Mr. Land, Chair of the Board, called the meeting to order at 7:00 PM and introduced the members and staff present. He then read the Board's procedures into the record. Each person addressing the Board will first state his or her name and address for the record. The applicant and his or her legal representative will present the case and witnesses may be called to testify. Such testimony must be relevant to the application. Expert witnesses will be sworn in and there will be no prejudgment as to the expertise of any witness. Pictures, diagrams and other documents given to the Board as evidence will be appropriately marked as exhibits and will be retained by the Board for the record. Upon completion of the applicant's presentation all other persons wishing to offer evidence in favor of the application may then do so one at a time. Following that all persons wishing to offer evidence against the application may then do so one at a time. It is asked that comments are confined to the zoning matter being heard and that repetitive remarks are avoided. Cross examination or rebuttal may be allowed if the Board feels it would be appropriate and useful. All questions from the floor will be directed through the Chair only. After all relevant facts have been heard the Chair will call for a motion; the Board will then discuss the motion and the Chair will call for a vote. During the discussion among voting Board members, the Board will not accept and new and further testimony unless it is specifically requested by a Board member. The Board will make every attempt this evening to render a decision. The written decision will be recorded in the Town Clerk's Office as soon as possible following the approval of the minutes of the meeting.

Zoning Board of Appeal Hearings – 7:00 PM

- 1. River Stone Group LLC** for property located at 69-75 Main Street; being Map 85 A.P. 1 Lot 235 (Zoned Commercial Downtown, CD-1). The Applicant seeks Dimensional Variances under Article VI of Chapter 260 of the Town Code; Zoning Ordinance, Off-Street Parking Regulations, Section 260-20 Required Off-Street Parking Spaces; Section 260-22 Parking Lots In or Near Residential Areas; and Section 260-24 Off-Street Loading Areas. The Applicant plans to convert first floor retail space to a restaurant and the change of use necessitates relief since there is a lack of on-site parking and dimensional non-conformities already exist. **(Continued from the October 28, 2014 ZBR hearing.)**

Motion by Mr. Mulhearn to continue the hearing to January 27, 2015.
Seconded by Ms. Englehart.

VOTE: 5 – 0.

- 2. Jason D'Aguanno** for property located at 150 Shippeetown Road; being Map 78 A.P. 12 Lot 215 (Zoned Residential, F-1). The Applicant seeks a Dimensional Variance from Chapter 260 of the Town Code; Zoning Ordinance, Section 8(F) pertaining to the siting of accessory structures. The Applicant seeks to construct a shed within the front yard in the building envelope.

Ms. Gina D'Aguanno and Mr. Jason D'Aguanno, applicants and owners of the property, represented the application. Ms. D'Aguanno explained she is looking to construct a 12'x14' garden shed in the front of the property where there is an existing concrete pad. She advised the Board that there is no backyard per se as it is all ledge land and not possible to install a shed. Ms. D'Aguanno asserted she and her husband have two children under the age of two, have an inground pool and no storage facility therefore the shed is a necessity. She explained that nobody surrounding the property would be able to visually see the shed except for one neighbor, Jill and Chris Saint,

who submitted a letter with the application, stating they have no objection to the proposal.

Ms. D'Aguanno submitted an additional letter from Mr. Robert Vespia of 155 Shippeetown Road, directly across from the subject property, who also did not have any issues with the application (marked as Exhibit 1).

Ms. Cullion questioned whether the shed would be visible from the roadway. Ms. D'Aguanno stated no as the front of the property is thick with vegetation and woods. She described the shed as being custom, 7' tall with a pitched roof to match the house.

Mr. Land noted that in order to be granted a dimensional variance the following must be met:

The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and not due to the physical or economic disability of the applicant.

The hardship is not the result of any prior action by the applicant and does not result primarily from the desire for greater financial gain.

Granting the request will not alter the general character of the surrounding area or impair the purpose or intent of the Zoning Ordinance or Comprehensive Plan.

The relief to be granted is the least relief necessary.

The hardship suffered by the owner if the variance is not granted shall amount to more than a mere inconvenience, which shall mean there is no other reasonable alternative to enjoy a legally permitted beneficial use of one's property.

Mr. D'Aguanno commented that the subject property is wider in front and narrower in back and with the location of the house there is simply no room in the side setback to construct a shed. Furthermore, he added that with

ledge, stone and a hilly topography there is no space in the rear to properly install a shed. The one spot that will not interfere with the setback on the property is in front on the concrete pad.

Ms. Englehart commented that she is familiar with the property as she lives nearby and is aware of the ledge in the backyard.

With no further questions from the Board, Mr. Land opened the hearing for public comments.

With no public comments Mr. Land asked for a motion.

Motion by Ms. Englehart to approve the application as submitted. Seconded by Mr. Mulhearn.

VOTE: 5 – 0.

3. **Nelson Niles** for property located at 136 Spring Street; being Map 85 A.P. 2 Lot 171 (Zoned Residential, R-10). The Applicant requires a Dimensional Variance from the allowable maximum height for construction of a detached garage. Chapter 260 of the Town Code, Zoning Ordinance, Table 2 – Table of Dimensional Regulations by Zone sets forth a maximum height of 15 feet for accessory structures. The Applicant is requesting to increase the garage height to 18' feet.

Motion by Ms. Cullion to continue the hearing to January 27, 2015.
Seconded by Mr. Golden.

VOTE: 5 – 0.

4. **Gregory M. Dantas** for property located at 15 Valley Road; being Map 23 A.P. 17 Lot 112 (Zoned Residential, R-10). The Applicant requires a Special Use Permit to accommodate an accessory family dwelling unit (in-law apartment) on the property. Chapter 260 of the Town Code, Zoning Ordinance, Section 9C(2) and Table 1 of the

Zoning Ordinance, Table of Permitted Uses by Zone, establish the provision for such accessories to be permitted by special use permit.

Mr. Gregory M. Dantas of 15 Valley Road, owner of the property, represented the application. He stated he purchased the property in the year 2000; it was constructed in 1955 with an in-law apartment before any of his issues being relevant. He noted that he has continued to use the property as a single family with an in-law for his father who is no longer living and now his mother currently resides in the in-law unit. Mr. Dantes asked for permission to continue using the property as a single family house with an in-law.

Mr. Dantas explained the issue arose when he applied for a veteran's refinance loan; the property is listed as a two-family from a revaluation standpoint and he has to prove that the property conforms to acceptable Town standards; a two-family home is not allowed in an R-10 zone. He noted the structure was built as a 2-family, it has been used as a 2-family for many years but he was not asking for it to be used as a 2-family; he was simply requesting for it to be used as the way he uses it - single-family with an in-law.

Mr. Land noted that in order to be granted a special use permit the following must be met:

The public convenience and welfare will be substantially served.

The proposed development will be in harmony with the general purpose and intent of this ordinance and the comprehensive plan.

The proposed development will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community.

The granting of the special use permit will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

Mr. Land stated the application is a mere formality.

With no comments from the public, Mr. Land called for a motion.

Motion by Mr. Mulhearn to approve the application as submitted. Seconded by Ms. Cullion.

VOTE: 5 – 0.

Zoning Board of Review Business

1. Minutes: Review/action on the minutes of the October 28, 2014 meetings.

Minutes tabled until January 27, 2015 meeting.

2. 2015 Meeting Schedule

With no questions or comments, the 2015 meeting schedule was unanimously approved and will be posted to the RI Secretary of State by Ms. Hitchen.

With conclusion of all business, there was a motion by Ms. Englehart, second by Ms. Cullion to adjourn at 7:15 PM. Motion supported 5-0.

Minutes respectfully submitted by:

Lea Anthony Hitchen,
Assistant Town Planner

For more information, please refer to the recording available in the Planning Department.