

ZONING BOARD OF REVIEW MINUTES

Tuesday March 25, 2014 Meeting 7:00 pm

Town Council Chambers, Town Hall

Present: Joseph Russolino (Chair), Jennifer Fairbank (Vice-Chair), Renu Englehart, Richard Land, Jody Sceery and Ashley Cullion (Alternate).

Absent: Stephen Zubiago (Alternate).

Staff: Lea Anthony Hitchen, Assistant Town Planner; Wayne Pimental, Building Official; and Peter Clarkin, Town Solicitor.

Mr. Russolino, 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.

Mr. Russolino informed the public that the Once Upon A Time zoning application has been withdrawn by the applicant and the final application on the agenda for William Ross will be continued.

Mr. Russolino also stated that Mr. Land will recuse himself for the Ocean State Veterinary Services application therefore Ms. Cullion will vote on that matter.

Zoning Board of Appeal Hearings – 7:00 PM

1. **Brian Morris** for property located at 55 Greene Street; being Map 75 A.P. 3 Lot 5 (Zoned Residential, R-10). The Applicant seeks Dimensional Variances under Table 2 of Chapter 260 of the Town Code, Zoning Ordinance, Dimensional Regulations by Zone; and Article V, Section 260-14 Nonconforming by Dimension. The Applicant seeks to construct an addition to the existing structure which constitutes as an intensification to the legal nonconforming property.

Mr. Brian Morris of 14 Somerset St. and Mr. David Riganese of DLR Dimensions represented the application. Mr. Riganese explained the original home was built in the 1800s with a poorly constructed later one-story 12'x12' rear addition added on. He noted that the proposal is to remove the later rear addition and rebuild a new addition on the same 12'x12' footprint – that particular structure is only one story whereas the rest of the house is 1 ½ stories; the request is to make that section of the addition be 1 ½ stories as well. Mr. Riganese explained that unfortunately that section of the structure is nonconforming with regard to setbacks. He confirmed that the remaining portion of the addition is in compliance with setback requirements and the Zoning Ordinance.

Mr. Russolino queried to whether the HDC had made any specific recommendations or changes to the original submitted plan. Mr. Morris asserted the HDC had made several recommendations and changes that both he and Mr. Riganese incorporated into the updated plan. He added that at the most recent HDC meeting he had received conceptual approval

of the overall building design and the only remaining step is final plan approval which will be about materials to be used. Mr. Riganese stated that the HDC never had any concern about the setbacks as their issues were about the aesthetics and design of the structure.

Ms. Englehart asked about the walk-out basement. Mr. Riganese described the rear of the existing structure and the addition will be an extension of the existing structure. She also confirmed whether the HDC approved the removal of the rear addition. Mr. Riganese asserted that the HDC has approved the removal of the rear addition.

Ms. Englehart questioned the total square footage of the home when complete. Mr. Morris verified that the home will be just over 2,800 s.f. when finished.

With no further question from the Board Mr. Russolino opened the hearing for public comments.

Mr. Roger Sokolosky of 65 Greene Street, the immediate abutter to the west, questioned the existing size of the structure. Mr. Morris confirmed the house is about 1,400 s.f. Mr. Sokolosky asserted his biggest concern was the left side elevation due to that side being closest to his home – the large change in elevation of that back piece would interfere when he looks out his upstairs window and would no longer be able to see Main Street. Mr. Sokolosky had sketched out where he thought the addition would be located and thought his view would be blocked. (He submitted his rendering which was marked as Exhibit A.) He reiterated that his main concern is that the Applicant is taking a historical home, doubling it in size and blocking the view from his property.

Mr. Riganese, Mr. Morris and Mr. Sokolosky converged on their own discussion – Mr. Riganese tried to explain how the new addition would be positioned and that it would not affect Mr. Sokolosky's view – he asserted that the existing structure is 30' deep and the addition is 12' deep; the new addition will not go beyond the 12' footprint.

Ms. Fairbank asked for clarification that the HDC has approved the design schematic of the structure. Mr. Riganese confirmed the HDC had conceptually approved the design of the home.

Mr. Land questioned if all the Applicant wanted was to increase the height of the original back addition (not knock it down) would it require a variance request. Atty. Clarkin inferred that the Applicant would only have needed a variance if the height exceeded the allowed height; he added the Applicant still would need HDC approval, but not zoning.

With no further questions, Mr. Russolino asked for a motion.

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

Mr. Land commented that the Applicant could get around doing what they want to do very easily by simply going up with the addition and later coming back to the Board to add on a bigger addition if structurally it was sound; it seems like a significant improvement to the property but it also seems like a reasonable request.

Ms. Englehart agreed with Mr. Land's comment and noted that the existing structure is in poor condition. She stated that she has sympathy for the neighbor but his view is not in the Board's purview.

VOTE: 5 – 0.

2. **SCHB, LLC** for property located at 3461 South County Trail; being Map 5 A.P. 18 Lot 58 (Zoned Manufacturing/Light Industry Office, M/LIO). The Applicant seeks Dimensional Variances under Table 2 of Chapter 260 of the Town Code, Zoning Ordinance, Dimensional Regulations by Zone; and Article VI Off-Street Parking Regulations, Section 260-25(D)2. The Applicant requests to enlarge the existing parking area into the side yard setback.

Attorney Matthew Callaghan with offices located in North Kingstown represented the Applicant. He explained a revised/corrected site plan has been prepared due to a typographical error on the plan picked up by the Planning Department – he passed out plans to the Board indicating the correct number of parking spaces. (Mr. Russolino marked the plan as Exhibit A.)

Mr. Jeffrey C. Hanson, P.E. of Millstone Engineering with offices located at 250 Centerville Road, Warwick, (submitted his resume as Exhibit B for the record). Mr. Hanson explained the proposal is an for additional 21 parking spaces; there are 24 proposed spaces on the southern property line but there is also a loss of three parking spaces in order to gain access to the new parking area – therefore the net increase is 21 spaces. Mr. Hanson summarized the zoning of the property testifying the parcel either met or was within the required zoning requirements and setbacks. With respect to the south setback line, Mr. Hanson advised the Board there is in excess of 40 feet presently where the proposed new parking is proposed which is the location of where the Applicant is requesting a 38 ½' variance.

Mr. Hanson explained that the front area, in between the existing building and South County Trail, is comprised of the existing stormwater control, drainage basin as well as the onsite wastewater treatment system that services the building therefore that area is unusable for parking. On the north side of the building he advised the terrain is also unusable for additional parking due to an existing swale that drains into the stormwater facility; furthermore the grades are not conducive for the expansion of parking. He added that the area is all ledge. Mr. Hanson confirmed there is no other justifiable location to construct the additional parking spaces on the property.

Atty. Callaghan commented the Staff report had concern regarding moving the two light poles closer to the south property line which could spread light onto the adjacent property or impair the dark skies principles. Mr. Hanson verified that he did not see a problem with adjusting the poles or replacing the heads in order to meet the requirements; he would certainly do so in order to meet the dark skies principles.

With respect to Mr. Raymond Pezzullo's correspondence regarding a soil erosion plan, Mr. Hanson agreed to and had no issues with submitting and obtaining a Stormwater Management and Soil Erosion and Sediment Control Plan Permit (Soil Erosion Permit) from the DPW/Building Department prior to any site construction and or alteration. Mr. Hanson also confirmed that he did not have any other issues with any other recommendations in the Staff Report.

Mr. Hanson testified that to the best of his knowledge the existing conditions are due to the unique characteristics of the property and was not created by the Applicant; he added that the terrain and slopes on the property have always been in existence. He felt as though that the granting of this request would not change the character of the neighborhood or adjacent properties in any respect considering the general area is commercially zoned. He also noted that the least amount of relief is being requested with respect to the current demand being put on the parking lot at this time and thought that it would be more than a mere inconvenience if the Applicant is not granted the relief being requested.

Mr. Russolino asked if there has been any consideration for the abutter on the south side (Tarbox Motors). Atty. Callaghan stated that specific question will be addressed with the owner of the property who will speak next.

Ms. Fairbank referred to the Staff Report and noted that the Planning Department finds that the parking requirement for office uses to be appropriate and adequate therefore the question arises to whether the current tenant's scheduling practices are a cause of the parking problem. Additionally Staff is further concerned with if the current tenants move out of the building then there may be too much parking. She asked the Applicant to address why there is a parking problem and what the expectations are going to be for the future. Ms. Fairbank also queried about the west side of the property as to whether or not the additional parking can be located there; specifically a cost issue or it physically cannot be constructed in that location.

Mr. Hanson explained there is a significant cost involved to remove ledge as well as permitting issues with RIDEM regarding swales that run along and

drain the groundwater underneath the ledge. To answer Ms. Fairbank's question, he said physically it can be done but it would be cost prohibitive to do so.

Mr. John Greim, a managing partner of SCHB, LLC since 2007 explained the property is a medical office building with the main tenant being South County Hospital. He noted the building is a total of three floors with each floor being 10,000 s.f. in size. Mr. Greim advised the Board that the building was completed being constructed in November 2008 and did not reach its full occupancy until November 2012 which is the time when the parking problems began.

Mr. Greim testified that he had met with "Ed" (Mr. Edward Tarbox) prior to submitting a zoning application and showed him the conceptual plans and DEM approvals to which he had exception to the plan. Atty. Callaghan also verified for the record that a certified mailing of the hearing was sent to Tarbox and he spoke with Attorney John Revens who represents Tarbox who indicated they would not be coming to the meeting and did not have any objections to the proposal.

Mr. Greim explained there are 12 different suites in the building, 11 suites are occupied by South County Hospital. He noted three of the suites are an urgent care, a lab space and an imaging (x-ray) suite which do not require patient scheduling; all have a patient walk-in component.

Mr. Greim stated he takes pride in this particular building as it is located at the southern entry to East Greenwich. He noted that where he is asking to put the additional parking spaces the area is a flat grassy unimproved area where patients tend to park when all the existing spaces are being used. He asserted that in bad weather situations and people with medical conditions, people that have to park on the grass create safety issues.

Ms. Fairbank noted that 11 of the 12 leases are with South County Hospital; she questioned if all leases are under the same terms and wondered what the terms of the lease are; i.e. all one lease for the 11 suites or 11 separate leases. Mr. Greim confirmed there is a master lease with subleases to which there is approximately 5 years left on the master lease.

Ms. Englehart asked the reasoning behind the need for more parking spaces. Mr. Greim believes that health care has changed in that many people no longer have primary care physicians and will go to an urgent care facility for their primary care.

Ms. Englehart questioned the busiest time of the day as she has been by the subject property on various times of the day and has seen empty parking spaces. Mr. Greim noted that the tenant has hired a shuttling service which shuttles employees from the site to an off-site location to park. When asked whether it is mainly the employees or patients using the spaces, Mr. Greim stated that it is a combination of both since it is a very successful building that has numerous medical practices and many patients that come thru over the course of a particular day.

Ms. Englehart commented that she has seen doctor offices start off with three doctors and grow to six or seven doctors working in a particular suite. She asked if there is a limit to the number of doctors that are allowed to practice in the building and/or suite. Mr. Greim noted there are many doctors that practice in the building, some are per diem, but that is not something that can be capped. Ms. Englehart asked how many employees are being shuttled. Mr. Greim verified that it depends on the day but approximately 10 employees.

Mr. Land queried to whether if it would be fair to say that in five years if the Urgent Care suite is out if it is likely all the other suites would move out too with the exception of the unrelated tenant. Mr. Greim explained that currently the building is “synergistic” where all the practices feed off of each other; the Urgent Care is a driver for the other practices within the building. He added that patients that go to the Urgent Care doctors typically get referred to one of the other offices within the building, i.e. that patient may also get blood work done from the lab or get an x-ray from the imaging suite. He suggested that the imaging suite is critical to the success of the building.

Ms. Sceery asked if the lease is specific to the number of parking spaces per suite. Mr. Greim stated the number of parking spaces are based on the

zoning requirements; the lease does not break down the number of parking spaces each suite gets.

Atty. Clarkin asked if there was any thought to the use of valet parking or stacking vehicles in certain areas of the parking lot. Mr. Greim noted his tenant has thought of a number of ways to alleviate the parking problems; the route they took was the shuttling service as a “stop/gap” measure until DEM and zoning approvals were obtained to move forward with the construction of the additional parking.

Mr. Land stated that it just occurred to him that his law firm represents South County Hospital; he apologized for not recalling this earlier, and recused himself for the remainder of the hearing.

Ms. Englehart asked if permission is granted from the Board who will be allowed to park in the additional spaces. Mr. Greim stated the additional parking spaces will be for general parking. She questioned if the shuttle service will continue to run. Mr. Greim noted the goal would be to end the shuttle service so that burden would not be on the tenant.

When asked by Atty. Callaghan if Mr. Greim has ever seen vehicles parked presently in the driveway, he answered yes and that he was concerned that they would start parking on South County Trail which would become a severe safety issue. Mr. Greim added that if the additional spaces are added the potential safety issue would be diverted.

Mr. Russolino advised that there is a serious encroachment in his opinion. He added that not knowing what could be developed next door he is having a hard time approving the application as submitted.

Mr. Hanson explained the parking setback presently is 45' and the new setback would be 1 ½' which would diverge away from the property boundary to 12'. Mr. Russolino commented that there does not appear to be enough room for a vegetative buffer. Atty. Callaghan noted that a vegetative buffer most likely could not be added at the 1 ½' setback but there is plenty of room in the other setback areas. Mr. Russolino still thought the area was

tight; he asked if there was any way to reconfigure the space in order to provide more buffer.

Ms. Cullion asked if the Applicant researched installing angled parking or reconfigured the existing spaces on site in order to get additional parking. Mr. Hanson stated the existing layout is the most efficient layout for the facility. Ms. Cullion suggested that if the spaces are switched to an angled configuration on the southern side the buffer could be increased. Mr. Hanson agreed that it would increase the buffer but it would reduce the number of parking spaces.

Ms. Englehart asked if all the spaces that are being proposed are really needed. She found it hard to believe the Applicant did not see this issue coming. Mr. Greim asserted he did not see the parking problem coming; he reiterated that it took four years for the building to become completely occupied, it was then he realized there was a problem.

Mr. Russolino suggested the Applicant continue the application in order to come back with a revised plan that possible reduces the number of spaces and increases the buffer as he has issues with the plan as submitted. Ms. Sceery agreed with Mr. Russolino in order to avoid a denial.

Atty. Callaghan agreed to do whatever the Board suggests but was interested to know what the Board was looking for considering the next application was for a very similar situation. Mr. Russolino recommended the Board would like to see a mature vegetative strip along the southern property line to protect the abutter.

Ms. Hitchen suggested as a compromise to eliminate the five spaces closest to the southern property line which would allow for space to install a vegetative buffer. Mr. Russolino acknowledged that he liked that idea and would agree to that as long as there was a condition that the Planning Department approved the landscape plan.

Ms. Englehart also liked the idea of removing the five most southern spaces.

Mr. Russolino noted he was more comfortable with a continuance. Ms. Hitchen stated with a continuance the hearing will not be heard until May 27th.

Mr. Greim stated that time is extremely critical and would agree to take the five southern proposed spaces out and would agree to make a vegetative buffer that is agreeable to the Zoning Board and Planning Department.

Atty. Callaghan stated that there is no objection to eliminating the five parking spaces and working with the Planning Department to create a satisfactory vegetative buffer.

Mr. Russolino was still apprehensive to approving the plan and thought it might be best to continue the application but was willing to hear from the other Board members.

Both Ms. Fairbank and Ms. Englehart were satisfied to see the elimination of the five southern most proposed parking spaces.

Mr. Russolino opened the hearing for public comments. With no public comments he asked for a motion.

Ms. Englehart made a motion to approve the amended parking plan, which eliminates the five southern most proposed spaces and as a condition upon approval the landscaping plan shall be submitted for approval by the Planning Department and shall reflect an attempt to maximize screening of the new parking area. Furthermore the lighting plan shall be submitted for review and approval by the Planning Department. Such plan shall show lighting impacts confined to the site and not spilling onto any adjacent property. Such lighting shall adhere to the “dark skies principles” and shall not shed upward. Seconded by Ms. Sceery.

Mr. Russolino commented that based on the revised modification he will be voting in favor of the application.

VOTE: 5 – 0.

3. Cari Orsi of Pare Corporation representing Ocean State Veterinary Specialists for property located at 1480 South County Trail; being Map 71 A.P. 10 Lot 377 (Zoned Manufacturing/Light Industry Office, M/LIO and Planned Development, PD). The Applicant seeks Dimensional Variances under Table 2 of Chapter 260 of the Town Code, Zoning Ordinance, Dimensional Regulations by Zone; and Article VI Off-Street Parking Regulations, Section 260-25(D)2. The Applicant requests to enlarge the existing parking area into the side yard setback and the proposed conditions exceed the Planned Development zone's maximum lot coverage.

Ms. Cari Orsi, P.E. of Pare Corporation represented Ocean State Veterinary Specialists. She submitted two exhibits, one being a letter of support from the northern abutter, Boulders Lending Trust, and a revised site plan that reduces the number of parking by 10 spaces.

Mr. Russolino marked the Boulders Lending Trust letter as "Exhibit A" and the Revised Site Plan as "Exhibit B."

Ms. Orsi explained that Exhibit B, the new revised site plan that shows 10 less spaces than what was previously submitted in the packet was based on further discussions with the owner and the identification of the future needs of the facility. She asserted there were two main reasons for the additional parking – one is to bring the site up to compliance with the current zoning ordinance in terms of parking requirements (an additional 25 parking spaces); and there is a plan for a future building addition. Ms. Orsi commented the building addition is not part of the request but it is serving to plan for the future – the proposed addition is to be located at the end of the existing structure which will end up in the loss of some existing parking spaces. She explained that as part of the future plan and future addition the proposal is to add additional spaces for a total of 66 new parking spaces.

Ms. Orsi verified the relief that is being requested is for the parking on the side setback from the northern property line; there is an existing condition that has been previously approved where parking is within 5

feet of that property line. She noted that the proposed parking will be within 7' and 11' from the property line which will be buffered as it is in the existing condition with vegetation according to the town regulations. Ms. Orsi stated the second relief being requested is for coverage – the lot is split between two zones so for each zone the lot coverage is met however the total lot coverage is 54 percent which is over the Planned Development district requirement for coverage. She noted that the request is more of a precaution where it is being brought to the Board's attention but the application does meet each component for each zoning district. Ms. Orsi explained that the reasons for the relief are that if the project were worked within the confines of the setbacks/building envelope it would make any addition unfeasible due to the configuration of the lot. She added the request is for no specific financial gain and it is to simply service the clients and the additional need for parking on the property. She advised the project will match the general characteristics of the land with the existing setbacks and the request is the least amount necessary as she and the applicant have taken a hard look to identify what is exactly needed on the site. In summary Ms. Orsi commented that the relief is needed as a matter of continuing the daily operations by providing parking and for the building addition in the near future.

Mr. Russolino asked if the Applicant is aware of Staff recommendations and conditions. Ms. Orsi answered that she was aware of the Staff conditions.

Ms. Englehart questioned the number of parking spaces that will be lost due to the building expansion and whether the relief will take care of the additional parking for the addition. Ms. Orsi commented that the plans are still in the works but it will be approximately 14 parking spaces that will be lost and the intent is to only have to seek relief once.

With no further questions from the Board, Mr. Russolino opened the hearing for public comment. With no public comment he asked for a motion.

Motion by Ms. Fairbank to approve the application with the following conditions; the East Greenwich Department of Public Works shall

review and approve final site plan engineering, especially as it pertains to grading and drainage, stormwater management, and erosion and sediment control; a final landscaping plan shall be submitted for approval by the Planning Department and such plan shall reflect an attempt to maximize screening of the new parking area; and a lighting plan shall be submitted for review and approval by the Planning Department. Such plan shall show lighting impacts confined to the site and not spilling onto any adjacent property. Such lighting shall also adhere to the “dark skies principles” and shall not shed upward. Seconded by Ms. Sceery.

Mr. Russolino commented that the Applicant has met all the relevant standards and he will be voting in favor of the application.

VOTE: 5 – 0.

4. William J. Ross for property located on a land-locked vacant parcel adjacent to New London Turnpike; being Map 67 A.P. 13 Lot 34 (Zoned Farming, F-2). The Applicant seeks a Use Variance from Table 1 of Chapter 260 of the Town Code; Zoning Ordinance, Permitted Uses by Zone. Additionally, a Dimensional Variance is also being sought from Table 2 of Chapter 260 of the Town Code; Zoning Ordinance, Dimensional Regulations by Zone. The Applicant is requesting to construct a 6,000 s.f. corporate headquarters for an excavation and property maintenance company as well as a 4,000 s.f. animal shelter on the property which is not a permitted use and currently does not comply with the minimum frontage requirement. **(Continued from the February 25, 2014 meeting.)**

Mr. Russolino stated the Applicant has requested to continue the application. He asked for a motion to continue.

Motion by Ms. Fairbank to continue the application. Second by Ms. Englehart.

VOTE: 5 – 0.

Ms. Hitchen confirmed there is no ZBR meeting in April due to school vacation and Passover. The next meeting is May 27, 2014.

Mr. Russolino acknowledged that this evening would be Ms. Fairbank's last meeting after serving on the Zoning Board for 10 years. He thanked her for the service and support as she was a major contributor to the Board and it has been greatly appreciated by all.

Zoning Board of Review Business

1. Minutes: Review/action on the minutes of the February 25, 2014 meetings.

Motion by Ms. Sceery to approve the February 25, 2014 minutes. Second by Ms. Fairbank. Motion supported 5 – 0.

With conclusion of all business, there was a motion by Ms. Sceery, second by Mr. Land to adjourn at 8:10 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.