

ZONING BOARD OF REVIEW MINUTES

Tuesday, July 28, 2015 Meeting 7:00 pm

Town Council Chambers, Town Hall

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

Staff: Lea Anthony Hitchen, Assistant Town Planner; and Sarah Jette, Legal Counsel.

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 prejudice 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. Kevin Prest** for property owned by Matthew R. Olson and located at 676 South Road; being Map 10 A.P. 18 Lot 29 (Zoned F-1, Farming Residential). The Applicant seeks a Dimensional Variance from Chapter 260 of the Town Code; Zoning Ordinance, Table 2 – Dimensional Regulations by Zone. The Applicant seeks to construct an addition to the existing single family dwelling which falls partially within the front yard setback.

Mr. Kevin Prest, architect for the project, represented the owners of the property. He explained the property owners are in the process of remodeling their 1,430 s.f. 2-bedroom home which was originally built in 1956 by the late Richard Olson, father of the current owner, Matthew Olson. Mr. Prest noted Mr. Olson would like to construct an addition in order to accommodate his wife and their three children which is about 490 s.f. in dimension.

Mr. Prest explained that with regard to the design the owners requested to achieve two things – that they have a formal front entrance which would draw attention to the front door, as the existing door is not that visible. They are proposing a contemporary roof pediment/porch combination; this would extend 5' beyond the existing building. Mr. Prest added they would also like with the new addition to have the roof pediment/porch slightly forward of the existing elevation – the reason for this request is to create a more interesting front for the façade, a variation of the roof line and to also line up the interior hallways.

Mr. Prest stated the variance sought for the property changes are consistent with most of the abutter's front setbacks and the general style of the neighborhood. As a result, Mr. Olson would like to seek relief from the Zoning Board and is asking for 5' of relief from the required 60' front setback. Mr. Prest noted that although Mr. Olson did not prefer to make the average alignment argument, most of the homes in this vicinity of South Road are between 45-60' from the front setback. In closing, Mr. Prest commented the project is fairly consistent with the existing buildings on the street.

No questions from Board members.

Mr. Land opened the hearing for public comment. No comments from the public.

Mr. Land asked for a motion.

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

VOTE: 5 – 0.

2. **Michael & Elizabeth Defusco** for property located at 100 Grand View Road; Map 54 A.P. 11 Lot 285 (Zoned Residential, R-10). The Applicant requires a Special Use Permit to accommodate an accessory family dwelling unit (in-law apartment) on the property; to specifically bring an existing in-law unit into conformance. 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. Salvatore DeFusco, father of one of the applicants, Michael Defusco, spoke on the Applicant's behalf. Mr. DeFusco explained that Michael and Elizabeth DeFusco are the legal owners of the property located at 100 Grand View Road; they had entered into a sales agreement to purchase the subject property and did so with the belief at the time that the existing unit in the basement was legally constructed and was a legal use as an in-law apartment. Naively as it turned out, Mr. DeFusco noted what had actually happened for a number of years was the basement resident unit had been constructed without the knowledge of the Town of East Greenwich, local permits had never been pulled and no zoning applications had ever been made to this Board.

Mr. DeFusco went on to say that with great assistance from the Building Department, they had the Applicant pull permits for the necessary improvements and eventually the improvements were approved. No

expansion of the footprint ever occurred and nothing changed to the exterior of the structure – all of which was confined to the lower level apartment which appeared to have been there for quite some time. Mr. DeFusco added that his son and his wife purchased the home to have his mother-in-law reside in the downstairs apartment; they found out to their dismay that all this had occurred. In any event we would like to get the ZBR approval for the existing in-law unit.

Mr. DeFusco asserted that the public welfare and convenience will be substantially served if the application is approved and the existing unit will be in harmony with the Zoning Ordinance as well as with the Town's Comprehensive Plan. He felt as though the existing unit does not result or create conditions that will be unamicable to the public health, safety and welfare to the community and that granting the special use permit will not substantially injure the appropriate use of the property or area.

In summary, Mr. DeFusco commended the East Greenwich Staff for helping him through the zoning process.

No questions from Board members.

Mr. Land opened the hearing for public comment. No comments from the public.

Mr. Land asked for a motion.

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

VOTE: 5 – 0.

- 3. Steven & Kathy Basler** for property located at 150 Hemlock Drive; Map 74 A.P. 9 Lot 360 (Zoned Residential, R-30). The Applicant seeks Dimensional Variances from Table 2 of Chapter 260 of the Town Code; Zoning Ordinance, Dimensional Regulations by Zone

and Section 8(F) of the same chapter pertaining to the siting of accessory structures. The Applicant seeks to construct a 16'x14' pool cabana within the side setback that exceeds the 15' maximum height requirement.

For the record, Mr. Land disclosed he is friendly with the Basler's but did not feel there was a conflict and therefore did not recuse himself.

Mr. Steven Basler of 150 Hemlock Drive, owner and applicant, represented the application. He submitted pictures, marked as Exhibit 1, for the record.

Mr. Basler explained the dimensional variance is for a pool cabana which will look similar in style to the existing house and there will be plenty of room for a buffer for the neighbors and not be offensive to anyone. He added that the neighbors that he has talked to have all been in agreement with all that we have done thus far.

Mr. Basler confirmed originally the size of the cabana was intended to be 16'x14' but reduced it to 14'x14 in size. He advised the cabana will be next to the pool and within a landscaped area.

Mr. Basler stated he also submitted the pictures which would help better explain why he and the contractors picked that particular location for the pool cabana – he noticed the Staff report points out other possible locations for the cabana which would require less, if any, relief. Mr. Basler explained the contractors did their best to move the cabana out of the setback but simply could not do it. He noted the change in grade in the backyard is pretty significant so the cabana had to be located in the proposed location for practical reasons as well as for safety concerns.

No questions from Board members.

Mr. Land opened the hearing for public comment. No comments from the public.

Mr. Land read into the record 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 and not the general characteristics of the surrounding area.

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. Land asked for a motion.

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

VOTE: 5 – 0.

Zoning Board of Review Business

1. Minutes: Review/action on the minutes of the June 23, 2015 meetings.

Minutes tables to following meeting.

With conclusion of all business, there was a motion by Mr. Mulhearn second by Ms. Cullion to adjourn at 7:20 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.