

ZONING BOARD OF REVIEW MINUTES
Tuesday, October 27, 2015 Meeting 7:00 pm
Town Council Chambers, Town Hall

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

Absent: Jody Sceery and Barry Golden (Alternate)

Staff: Lea Anthony Hitchen, Assistant Town Planner; Wayne Pimental, Building/Zoning Official; 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 any 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. Anthony & Lynda Soscia** for property located at 576 South Road; Map 11 A.P. 18 Lot 37 (Zoned Farming, F-1). 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.

With the Applicant and/or representative not being present the application was continued to the January 26, 2016 meeting.

- 2. Andrew Chagnon of Pare Corporation representing Ocean State Veterinary Specialists** for property located at 1480 South County Trail; Map 71 A.P. 10 Lot 377 (Zoned Manufacturing/Light Industry Office, M/LIO and Planned Development, PD). 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 a new 10'x10' concrete pad to hold a 770 gallon liquid oxygen tank and associated utilities to be located to the southeast of the building.

Ms. Cullion disclosed that her place of employment does occasionally work with Pare Corporation but she does not have any financial or personal interest in this project.

Mr. Land also disclosed that 3 ½ years ago a colleague of his represented OSVS in a former law firm but he does not constitute that being a conflict of interest.

Mr. Andrew Chagnon of Pare Corporation, Ms. Lindsey Machamer of Pare Engineering and Ms. Justine Johnson, owner of Ocean State Veterinary Specialists were present to represent the application.

Ms. Lindsey Machamer, the engineer for the project, requested a dimensional variance for a 10'x10' structure to be constructed within the side yard setback on the property. She noted the structure will be a 10'x10' concrete pad which will support a new oxygen storage tank. Ms. Machamer explained the subject lot being 1480 South County Trail and about 3 acres in size which is split zoned; front is zoned Manufacturing/Light Industry Office while the rear is zoned Planned Development. She asserted Pare and the owner have been before the ZBR before and within that time period there have been a number of improvements; the plan in front of you with the exception of the proposed structure represents the existing conditions on site. Ms. Machamer added that parking for the building is located to the north and east of the site.

Ms. Machamer asserted the structure being proposed is a new 770 gallon oxygen storage tank; the oxygen is used on the site in veterinary operations, specifically surgery for animals. She noted that currently portable oxygen tanks are delivered to the site when each oxygen tank reaches a low level of oxygen which at that time it is required to be taken out and replaced with a new tank in order for oxygen not to run out – this means requires oxygen to be exported and any unused oxygen be brought off the site. Ms. Machamer added that it is currently the responsibility of the staff to monitor and manage the oxygen levels and deliveries. The intent of the new structure is to increase efficiency and reduce the risk of not having oxygen on site while also having a permanent storage tank on site. She explained a truck will come onsite for refilling the permanent tank once every two to four weeks as opposed to the existing system of two to three times per week for the portable tanks. She noted the other benefit of installing the permanent tank is that it will be synced to the delivery service; when the tank has a low level of oxygen the delivery service will automatically be notified – this takes the human element out of deliveries and refilling.

Ms. Machamer described the technical details of the proposed structure which will be raised 6" off of the surrounding grade. She noted the 10'x10' pad will be preceded by another 10'x10' flush concrete pad that the delivery truck will pull up to as it is refilling the tank. She explained the structure will be located in a relatively level area of the site surrounded by a 6' high chain

link fence which is primarily for preventing any tampering with the equipment.

Ms. Machamer went on to explain the decision making involved for the location of the proposed structure; she evaluated the site for potential locations then went through a siting process focusing first outside of the building setbacks then expanding the view to the building setbacks. Some constraints that had to be taken into consideration included the continual site operations – keeping the structure outside of the existing building footprint and the existing parking footprint (including drive aisles and circulation patterns). Additionally the pad needs to be accessible and refueled by a vehicle while also meeting the National Fire Protection Association setbacks associated with the tank which include a 50’ setback from the building as well as a 5’ setback from the property line.

Ms. Machamer reviewed the inside building envelope as there are a few landscaped areas that could have been considered for the pad but those areas were eliminated due to being a component of a stormwater feature on site. Additionally areas to the east which are also landscaped are too close to parking spaces and get too far from the site pad to where the oxygen line enters the building. Expanding the view to within the building setbacks, Ms. Machamer noted that all of the areas were explored including the front of the site which proved not to be accessible for delivery trucks and is not aesthetically pleasing from the front. She noted that the area that was narrowed down to was the southerly property line noting that some of the existing features already match the characteristics of the surrounding area specifically, one of the existing accessory structures to the building (an MRI pad with trailer) was granted ZBR dimensional relief in the general location.

Ms. Machamer stated the adjacent property to the south is also zoned M/LIO (Manufacturing/Light Industry Office) as it is currently a materials/storage yard and it is 10’ in grade higher than the proposed structure’s grade which means that it will likely not impact the view from the property to the south.

Ms. Machamer addressed the standards in order to be granted the relief. 1. 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. She noted the site is relatively narrow – when 40’ setbacks are applied to the side lot lines it leaves only 96’ of width to locate structures which is a limiting factor. 2. 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. Ms. Machamer reiterated the primary intent is to continue supplying oxygen to the facility but in a way that is more efficient and more beneficial to the clientele; it is not the result of greater financial gain. 3. 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. She asserted the application is consistent with the adjacent properties and the existing features on the site and will be relatively hidden from view. 4. The relief to be granted is the least relief necessary. Ms. Machamer commented that if the pad were to be situated anywhere else it would impact the site circulation or stormwater features therefore it is the least relief necessary. 5. 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. She noted it is more than a matter of convenience – the facility is serving their clients and in order to continue to effectively serve them this is necessary for safety, for those who need the oxygen and for the efficiency of the resource.

Mr. Land opened the hearing for Board questions and comments.

Ms. Englehart questioned Ms. Machamer if she read through the staff report, specifically the staff recommendations regarding the installation of bollards around the pad. Ms. Machamer responded that it is a requirement of the NFPA to have the bollards and the bollards will be added; she welcomed the suggestion.

Ms. Englehart was curious as to how the oxygen makes it way from the tank to the building. Ms. Machamer explained there is a subsurface line buried from the tank to a mechanical room in the building.

Mr. Land opened the hearing to public comments. With no public comments Mr. Land asked for a motion.

Motion by Ms. Alger to approve the application subject to the staff recommendations. Seconded by Ms. Cullion.

VOTE: 5 – 0.

3. **David Sarazen** for property located at 16 Proctor Avenue; Map 84 A.P. 2 Lot 131 (Zoned Residential, R-10). 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 attached garage to the existing single family dwelling which falls partially within the rear yard setback.

Mr. David Sarazen, owner of the property, represented the application. He explained that he is seeking a “minor” variance in order to add a garage to an existing house that he recently purchased located in the Hill & Harbor district. Mr. Sarazan asserted that he is trying to add a 2-car attached garage to the existing structure. In order to accomplish this task Mr. Sarazan stated his architect provided a couple of different options in order to stay within the building envelope. He explained the subject parcel is a good size lot for the area but the home is not really centered on the lot so there were not too many options to construct a 2 bay separate door garage while being within the setback; the architect had to shrink the size of the plan on the right side in order to stay within the side setback while we found the garage addition to protrude out of the rear setback slightly by 2.53’ on the right corner.

Mr. Sarazan asserted he had a desire for a square garage and was not able to do it within the setback requirements. He commented the raised ranch style of the existing house does not have a basement and therefore does not provide for much storage so from a hardship standpoint the additional structure from having the corner protrude out of the building allows us to gain an extra not only four feet in the back of the garage but going upstairs also changes the roofline and creates 70 square feet of additional space upstairs and actually looks a lot nicer as opposed to having an awkward looking jog in the back of the house.

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

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 stated he believes the Applicant has satisfied the standards in order to be granted the variance.

VOTE: 5 – 0.

Zoning Board of Review Business

1. Minutes: Review/action on the minutes of the June 23, 2015 and July 28, 2015 meeting meetings.

Motion by Mr. Mulhearn to approve the minutes of June 23, 2015 and July 28, 2015 as written. Seconded by Ms. Cullion.

VOTE: 5 – 0.

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.