

ZONING BOARD OF REVIEW MINUTES
Tuesday, November 22, 2016 Meeting 7:00 pm
Town Council Chambers, Town Hall

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

Absent: Melody Alger (Alternate).

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

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 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 Review Hearings – 7:00 PM

Mr. Land recused himself from this matter and left the dais. He turned the meeting over to Vice-Chair Englehart.

- 1. Sara Doherty** for property located at 50 Somerset Street; Map 85 A.P. 3 Lot 261 (Zoned Residential, R-10). The Applicant seeks Dimensional Variances from Table 2 of Chapter 260 of the Town Code; Zoning Ordinance, Dimensional Regulations by Zone which sets forth the side yard setbacks. Additionally, the Applicant seeks relief from Article V, Section 260-14 Nonconforming by Dimension. The Applicant seeks to construct an addition on the west side of the existing structure which constitutes as intensification to the legal nonconforming property.

Ms. Sara Doherty of 50 Somerset Street represented the application. She explained the project entails adding a 300 s.f. addition to the west side of the existing home and partially wrap around the rear of the structure. She asserted the addition will include a kitchen, pantry, closet, mudroom and dining room. The new addition will sit 6.9' from the property line and will need 3.1' of relief.

Mr. Englehart noted the home is in a well-established older neighborhood and a project such as this is a typical request for those residents who need additional space.

No questions from the Zoning Board.

Ms. Englehart opened the hearing for public comments. None noted.

With no further questions Ms. Englehart asked for a motion.

Ms. Sceery motioned to approve the application as submitted. Mr. Golden seconded the motion.

Ms. Englehart stated 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.

No discussion on the motion.

VOTE: 5 – 0.

Mr. Land returned to the dais.

2. Sean & Linda Hevenor for property located at 15 Beechcrest Road; Map 69 A.P. 12 Lot 8 (Zoned Farming, F-1). The Applicant seeks a Dimensional Variance from Table 2 of Chapter 260 of the Town Code; Zoning Ordinance, Dimensional Regulations by Zone. The Applicant is requesting to construct an addition to the existing structure which will not comply with the western rear setback requirement.

Mr. Sean Hevenor, owner of the property and Mr. Karl Sauerbrey, architect for the project, represented the application.

Mr. Sauerbrey submitted three exhibits for the presentation, those exhibits marked as follows:

Exhibit A: Declaration & Bylaws of Blueberry Hill Estates Homeowner's Association;

Exhibit B: Site Plan showing existing ledge in front of the existing structure; and

Exhibit C: Abutter Approvals, those abutters who have verbally & provided written approval for the Hevenor project.

Mr. Sauerbrey explained the subject home and property was the original home to what became Blueberry Hill Estates and is part of the Blueberry Hill Estates homeowners association. He pointed out in the homeowners declaration, marked as Exhibit A, that the living area of any dwelling to be constructed on any parcel shall be not less than 3,500 square feet. Each dwelling shall have a private, attached garage constructed for not less than three vehicles. Mr. Sauerbrey noted the existing home does not have a garage and therefore does not currently meet the bylaws. He also went into the history of the home and its relationship to the current owners.

Mr. Sauerbrey advised that the existing home is positioned in an irregular layout where the front façade does not face Beechcrest Drive. He reviewed numerous locations for the addition but due to an existing leachfield on the east side of the house and a severe amount of ledge (as shown in Exhibit B) on the north side he came to the conclusion the best location for an addition would be the west side of the house.

Mr. Sauerbrey indicated the proposed addition to the west side of the house includes the construction of a 3-season room and 3-vehicle attached garage which will encroach the required 45' rear setback line by 11.2'.

As shown in Exhibit C, Mr. Sauerbrey stated the applicant has received two verbal approvals for the project from neighboring abutters as well as two abutters who provided written documentation that they have no objections to the application.

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

Mr. Richard Bliven of 324 Shippeetown Road stated he reviewed the plans and has no objection to the application.

Mr. Land asked for a motion on the application.

Mr. Mulhearn motioned to approve the application as submitted. Seconded by Ms. Sceery.

Mr. Land stated 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.

Mr. Land felt the applicant has satisfied the standards.

VOTE: 5 – 0.

3. Phillip Calvin & Sharon Minor for property located at 157 Middle Road; Map 63 A.P. 9 Lot 72 (Zoned Residential, R-30). The Applicant requires a Special Use Permit to accommodate a detached accessory family dwelling unit on the property. Chapter 260 of the

Town Code, Zoning Ordinance, Section 9(C)(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. Phillip Calvin and Ms. Sharon Minor of 157 Middle Road, owners of the property, represented the application. Ms. Minor explained the existing space they would like to convert to an “in-law” unit is currently being used as an office. She testified the space located behind the garage, which used to be a chicken coop, was renovated and converted to usable space by the former owner of the property. Ms. Minor asserted they are seeking the necessary approval to allow the space to be converted to an in-law apartment for their aging parents.

Mr. Calvin explained there will be no exterior alterations to the building. He added the apartment will be used specifically for their parents who visit.

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

Mr. Land questioned if the Applicants understood that an in-law unit cannot be rented to a third party and not use it for income generating purposes as it has a very limited use of the property. The Applicants noted they understood.

Mr. Land asked for a motion.

Ms. Cullion made a motion to approve the application as submitted. Seconded by Mr. Mulhearn.

Mr. Land stated in order to be granted a special use permit, the following standards must be met:

The public convenience and welfare shall be substantially served.

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

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

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

No further discussion.

VOTE: 5 – 0.

4. **LCM Realty, LLC** for property located at 1337 Frenchtown Road; Map 27 A.P. 15 Lot 53 (Zoned Farming, F-1). The Applicant seeks a Dimensional Variance from Table 2 of Chapter 260 of the Town Code; Zoning Ordinance, Dimensional Regulations by Zone. The Applicant is requesting to develop a two lot residential subdivision of which “Parcel 2” is deficient of the 150’ minimum required frontage.

Mr. David Russo, P.E., from DiPrete Engineering and Mr. Curran Keough of LCM Realty, LLC represented the application.

Mr. Russo explained the matter was heard by the Planning Board earlier in the month and received Master Plan approval for a proposed 2-house lot. He asserted the application provides two yield plans – one plan calls for a three lot subdivision with a standard right of way and cul de sac and would meet all dimensional requirements. The second plan includes a two-lot subdivision creating one additional lot to be accessed from a private driveway. He noted that in this proposal relief is needed from the frontage requirement – 50’ is being provided where 150’ is required.

Mr. Russo attested the Applicant prefers to develop the land as a 2-lot project as opposed to a 3-lot subdivision. He added the project includes keeping the existing house but removing its garage. Mr. Russo implied the new house will be serviced by private utilities including water and septic.

Mr. Russo noted the abutter to the east had concerns about their driveway and there were concerns from northern abutters regarding buffering. He advised the Board that the Applicant had negotiated some additional plantings with the eastern abutter.

Ms. Sceery questioned how far away the subject lot is from Squirrel Lane. Mr. Russo said approximately 400 feet noting there is wooded area on both the subject site that will be left in its natural state and wooded area on the abutter's property. Ms. Hitchen commented there is perimeter open space in between the subject lot and the abutters to the north.

Ms. Cullion questioned what Mr. Russo meant when he referred to a no-cut buffer, meaning are the existing trees being kept in place in order for there to be a dense vegetative buffer as it is today. Mr. Russo said yes.

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

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

Mr. Land stated 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.

Mr. Land noted that the Applicant could simply build a 3-lot subdivision without seeking any zoning relief; he viewed the 2-lot subdivision as preferable particularly in light of the neighbors since they expressed concerns. He also noted in regard to the overhead aerial view which demonstrates that there is an enormous amount of cleared space so the fact that the Applicant is willing to leave a vegetative buffer only adds to the Applicant's demonstration of good faith and taking the right approach. Mr. Land said he will be voting in favor of the application.

VOTE: 5 – 0.

5. **Jennifer & Peter Carney and Michael Kacewicz** for property located at 30 Reynolds Street; Map 84 A.P. 2 Lot 155 (Zoned Residential, R-10). The Applicant seeks a Dimensional Variance from Table 2 of Chapter 260 of the Town Code; Zoning Ordinance, Dimensional Regulations by Zone. The Applicant is requesting to construct an addition to the existing structure which will not comply with the southern rear setback requirement.

Ms. Jennifer Carney of 30 Reynolds Street represented the application. She explained she would like to construct a 16'x20' family room addition to the rear of the original portion of the home; this space will extend beyond the existing kitchen and flow into the outdoor patio area. The addition will encroach into the rear yard setback by 3.1' hence being 26.9' from the rear property line where a 30' setback is required.

No questions or comments from Zoning Board members.

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

Mr. Land asked for a motion.

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

Mr. Land stated 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.

Mr. Land felt that the 3.1' of relief is inconsequential in the grand scheme of the project. He will be voting in favor of the application.

VOTE: 5 – 0.

Zoning Board of Review Business

1. Minutes: Review/action on the minutes of the October 25, 2016 meeting.

Minutes tabled to the following meeting.

Mr. Land asked for a motion to adjourn.

Mr. Mulhearn motioned to adjourn. Seconded by Ms. Cullion. Approved 5 – 0. Zoning Board of Review meeting adjourned at 7:35.

Minutes respectfully submitted by:

Lea Anthony Hitchen,
Assistant Town Planner

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