

ZONING BOARD OF REVIEW
February 13, 2018

The regular meeting of the North Kingstown Zoning Board of Review was held in the Municipal Offices Meeting Room, located at 100 Fairway Drive, North Kingstown, RI at 7:00pm on Tuesday, February 13, 2018.

The following members were present:

John V. Gibbons, Jr.

John Marth

David McCue

Patricia Siegmund

Randy Wietman

Absent were: Elaine Lemieux (new member) and Robert O'Neill

Also in attendance were: Maura Harrington, Town of North Kingstown, Supervising Planner, James M. Callaghan, Town of North Kingstown, Town Solicitor.

J. Gibbons called the meeting to order and explained the proceedings as follows:

The applicant and/or their representative(s) will be asked to come forward, be sworn in, and asked to give a brief explanation of their application.

The Board will then ask questions of the applicant and/or their representative(s) regarding the application before opening the floor to public comment. After all comments have been heard, the public portion of the meeting will be closed, and discussion will be returned to the Board.

Decisions on the applications are typically rendered the same evening; however, continuances may occur if more information is needed for a determination.

There is a twenty (20) day appeal period once the decision has been recorded in the Town Clerk's Office. No building permits may be granted until after the appeal period has passed. J. Gibbons explained that in some instances, a decision may be "fast-tracked" and approved prior to the next meeting.

Meeting minutes and a decision to each petition are recorded in the Town Clerk's Office as well as posted on the Town's website. J. Gibbons asked if the meeting had been advertised properly. M. Harrington stated that it had.

The Board adheres to a 10:00pm curfew.

MINUTES

J. Gibbons asked members if they had an opportunity to review the minutes from the meeting held on December 12, 2017.

R. Wietman made a motion to approve the minutes of the December 12, 2017 meeting as presented. D. McCue seconded. Motion carried. (5-0)

OLD BUSINESS

M. Harrington referenced emails provided with the meeting package regarding the application of Patricia C. Henry & Josiah D. Rich of 21 Boylston, Providence, RI 02906. This application is for a special use permit for construction of a garage with living space on the second floor consisting of a bedroom and bathroom positioned between the principal structure and Sauga Avenue. Applicant is also requesting dimensional variances from front side setback requirements for the proposed accessory structure in accordance with Article XII: Miscellaneous Provisions – Section 21-311: Land nonconforming by area or other dimensional regulations (f) and Section 21-329: Location of Accessory Uses & Structures and Article IV: Dimensional Regulations, Table 2A: Residential Districts (5) & Section 21-206(a)(1) Setback and Corner Clearance of the zoning ordinance located at 81 Sauga Avenue, Plat 142, Lot 28 and zoned Village Residential (VR).

This application was originally reviewed at the December 23, 2017 meeting, continued to the January 23, 2018 meeting, and the February 13, 2018 meeting. The applicant has been asked to:

- Meet with the Planning Department to discuss modifications to the plan
- Meet with the abutter which had objections to the plan

M. Harrington stated that the applicant was unable to complete these tasks and was therefore requesting another continuation to the March 13, 2018 meeting. A written request was made on behalf of the applicant and been circulated to Planning Staff and Zoning Board members. The Board members present were asked if they would be available for this meeting to again review the application. They all indicated that they would.

A motion was made by R. Wietman to continue the application of Patricia C. Henry & Josiah D. Rich of 21 Boylston, Providence, RI 02906 to March 13, 2018 for a special use permit for construction of a garage with living space on the second floor consisting of a bedroom and bathroom positioned between the principal structure and Sauga Avenue. Applicant is also requesting dimensional variances from front side setback requirements for the proposed accessory structure in accordance with Article XII: Miscellaneous Provisions – Section 21-311: Land nonconforming by area or other dimensional regulations (f) and Section 21-329: Location of Accessory Uses & Structures and Article IV: Dimensional Regulations, Table 2A: Residential Districts (5) & Section 21-206(a)(1) Setback and Corner Clearance of the zoning ordinance located at 81 Sauga

Avenue, Plat 142, Lot 28 and zoned Village Residential (VR). P. Siegmund seconded. Motion carried. (5-0)

NEW BUSINESS

1st Application: Application of Gerald Pozniak and Lisa M. Miller, 23 Mark Read Road, Cross River, NY 15018 for a special use permit for location of an accessory structure (garage) proposed to be located between the principal use or structure and street right of way in accordance with Chapter 21-329. Location: Plat 19, Lot 66 located at 170 Champlin Road, Saunderstown, RI 02874. Parcel Size: 25,886 sq. ft. Existing Land Use: Residential Single Family Home. Existing Zoning: Neighborhood Residential (NR).

Applicant's Portion:

Amy N. Sonder, Land Surveyor – Easterbrooks & Associates, 2505 Boston Neck Road, Saunderstown, RI 02874 was sworn in representing the applicants.

A. Sonder stated that her clients were unable to attend this evening's meeting as they live out of state.

She stated that the applicants are seeking a special use permit to construct a garage in their front yard noting there is not another location on the property for this structure. The original proposal was for a 24 x 26 garage; however, there was a drainage easement issue resulting in the final plans changing to a 18 x 26 garage.

It was also noted for the record that every effort will be made to maintain the trees that are on the lot, not only for aesthetic reasons, but they also provide a good buffer for the structure. R. Wietman questioned the effects of the garage on the roots of the trees; however, this was another reason for downsizing from 24 x 26 to 18 x 26 and the roots should not be effected by the construction with this change.

A. Sonder also noted that because the primary dwelling does not have a basement and sits on a slab, this garage will also provide storage for the applicants with an attic and pull down stairs.

J. Gibbons asked if there were any questions, comments, or opposition from the audience.

Abutters, Christin Boyabar and Pamela Salvanti were sworn in.

Residents both stated that they were in attendance because they received the required letter regarding the proposed construction and were interested in learning more. They live in the two houses on the hill above said property.

R. Wietman stated that the construction of the garage will not impair either's view in any way as their properties are located substantially higher than the proposed structure.

A. Sonder reviewed the plans with both residents and neither had any objections.

M. Harrington noted that one abutter to the property did visit the Planning Department and was concerned about sight lines and the existing trees. She stated that all questions were answered to the resident's satisfaction, and A. Sonder was also informed of this resident's concerns.

There being no further public comment, a motion was made by R. Wietman to close public comment and return discussion to the board. P. Siegmund seconded. Motion carried (5-0).

Findings:

The applicants are seeking to construct a detached garage that will be located between the existing dwelling and Champlin Road. The North Kingstown zoning ordinance under Section 21-329 requires the location of accessory structures that are positioned the principal structure and a street right of way to obtain a special use permit. The lot is unique in that it has a private access road which runs through the eastern portion of the lot and there is also a 15' North Kingstown drainage easement at this location. The lot is nonconforming in terms of lot size as it is less than 40,000 sq. ft., and is afforded reduced setbacks in accordance with Section 21-311 (f)(2). This reduces side yard setbacks to 15' for lots between 10,000-30,000 sq. ft. Front setback remains 25' and rear setback 35'.

The existing house is positioned to the rear northern boundary and is setback only 3' from this boundary, making the existing dwelling nonconforming by dimension. The proposed garage will be 18 x 26 and is proposed to be situated 63.5' back from Champlin Road. There is an existing belt of trees to the north and east of the proposed location for the garage, and its location as proposed will meet all setback requirements.

Procedural Regulations:

Section 21-13 Zoning Board of Review procedures for variances, special use permits and special permits.

In granting a special use permit, the specific findings of facts of a special use permit set forth in Section 21-15 should be met and noted in the decision of the Zoning Board of Review:

1. That the requested special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based. The proposed structure will not alter the character of the neighborhood.
2. The special use permit is reasonably necessary to serve the public convenience and welfare. The applicant has no garage at this time and with no basement, this proposed structure is the best solution.
3. The granting of a special use permit will not pose a threat to the drinking water supply. N/A
4. The use will not disrupt the neighborhood or the privacy of abutting landowners by excessive noise, light, glare or air pollutants. N/A

5. Sewer and waste disposal into the ground and the surface water drainage from the proposed use will be adequately handle on site. N/A
6. The traffic generated by the proposed use will not cause undue congestion or introduce a traffic hazard to the circulation pattern of the area. No pattern is being changed; no new tenants; simply a garage.
7. Accessory signed, off-street parking and loading area, and outdoor lighting are designed and located in a manner which complements the character of the neighborhood. N/A
8. In addition to the criteria in subsections (1) through (7) of this section, in the case of a special permit, the board shall require evidence that the requested use will have a lesser undesirable impact upon the surrounding area than the preceding nonconforming use. No preceding nonconforming use – new construction.

The Zoning Board shall require that evidence be entered into the record of the proceedings showing that the following shall be conditioned into any approval:

1. That all construction is done in strict conformance with the submitted plan dates January 23, 2018, unless minor modifications are approved administratively by the Planning Department.

A motion was made by R. Wietman to approve the application of Gerald Pozniak and Lisa M. Miller, 23 Mark Read Road, Cross River, NY 15018 for a special use permit for location of an accessory structure (garage) proposed to be located between the principal use or structure and street right of way in accordance with Chapter 21-329. Location: Plat 19, Lot 66 located at 170 Champlin Road, Saunderstown, RI 02874. Parcel Size: 25,886 sq. ft. Existing Land Use: Residential Single Family Home. Existing Zoning: Neighborhood Residential (NR). D. McCue seconded. Motion carried. (5-0)

R. Wietman made a motion to fast track the application of Gerald Pozniak and Lisa M. Miller, 23 Mark Read Road, Cross River, NY 15018 for a special use permit for location of an accessory structure (garage) proposed to be located between the principal use or structure and street right of way in accordance with Chapter 21-329. Location: Plat 19, Lot 66 located at 170 Champlin Road, Saunderstown, RI 02874. Parcel Size: 25,886 sq. ft. Existing Land Use: Residential Single Family Home. Existing Zoning: Neighborhood Residential (NR). P. Siegmund seconded. Motion carried. (5-0)

REVIEW OF SOLAR ENERGY SYSTEMS ORDINANCE AND OUTLINE OF PROCEDURES AND FINDINGS

Included in the meeting package was a memorandum from the Planning Department to the Zoning Board of Review discussing the solar energy systems ordinance adopted by the Town Council at its January 8, 2018 meeting.

M. Harrington stated that Planner Shaun Lacey was to be present at this evening’s meeting to review the new ordinance, but was unable to attend.

There was some general discussion among those present, including Richard Welch, President – Town Council; however, it was decided to delay detailed discussion until S. Lacey could be in attendance for his presentation to the board.

NOTES

- Elaine Lemieux will be returning to the Board as a new member.
- R. O'Neill will be out of town for another month.

There being no further business, the meeting was adjourned at 7:40pm.

The next meeting is tentatively scheduled for Tuesday, February 27, 2018 at 7:00pm.

Respectfully submitted,

Kristine S. Kinder,
Recording Secretary