

**TOWN OF CHARLESTOWN
ZONING BOARD OF REVIEW
MINUTES**

The Charlestown Zoning Board of Review held a regular open meeting on Tuesday, September 21, 2010 at 7:00 PM at the Charlestown Town Hall, 4540 South County Trail, Charlestown, Rhode Island.

Members present: Michael Rzewuski
Raymond Dreczko
Ronald Crosson
Richard Frank
Scott Northup, Alt. #1
David Provanca, Alt. #2

Also present were, Robert Craven, Solicitor, Caroline Dion, Court Reporter and Ellen A. Hefler, Clerk.

Pre-roll

Everyone present will attend the October 19, 2010.

Minutes

Mr. Dreczko made a typo correction to page 2, paragraph 2.
The minutes of the August 17, 2010 meetings were approved as corrected.

Mr. Rzewuski stated that the Board had had an Executive Session pursuant to: RI General Laws §42-46-4 & 5 (a) (2) Litigation and that no votes were taken.
A motion was made by Mr. Crosson, seconded by Mr. Dreczko and unanimously voted to seal the minutes.

Mr. Rzewuski called the first petition.

Petition #1188 Wayne and Henry Fredette for the Fredette Trust

Requesting a Special Use Permit under Article I, Section 218-5B to construct an accessory use without a principle use in an R20 Zone. Premises located at Pond Street, Charlestown and is further designated as Lot 150 on Assessor's Map 9.

A letter was received from the applicant requesting continuance to November 16, 2010.

Mr. Crosson moved that the petition be continued to November 16, 2010.
Mr. Frank seconded the motion.

THE BOARD UNANIMOUSLY CONTINUED THE PETITION TO NOVEMBER 16, 2010.

Mr. Rzewuski called the second petition.

Petition #1190 Dennis Drake for Barbara and Douglas Drake

Requesting a Dimensional Variance under Article VII, Section 218-41 Dimensional Regulations in an in an R40 Zone. Premises located at 4189 South County Trail, Charlestown and is further designated as Lot 93-10; Map 25.

The applicant was not present. Mr. Rzewuski stated that the Board would table the application until later in the agenda.

Mr. Rzewuski called the third petition.

Petition #1191 Charlestown School PTO, Stephanie Lenihan for Town of Charlestown

Requesting a Special Use Permit and Dimensional Variance under Article XI Section 218-62 A(2)(c) and 218-62 A(1)(b) to replace a free standing sign with one that exceeds the size allowed in a Municipal Zone. Premises located at 363 Carolina Back Road, Charlestown and is further designated as Lot 17 on Assessor's Map 28.

Stephanie Lenihan was sworn and explained the petition to replace the existing free standing sign. It would be digital, wireless, and have remote capability. She read a letter of support from Kevin Gallup, director of emergency management. She reviewed the possible uses of the proposed sign and added that the light output can be adjusted.

There ensued discussion on the allowable size of the sign, amount of relief sought and the newspaper advertisement.

Mr. Craven stated that all of the abutters had received notice and suggested that the chair inquire at this time if anyone was opposed to this application.

There ensued discussion.

There were no objectors present.

Mr. Craven stated that it was his opinion that there was no violation of the open meetings law. Notice is sufficient and no one here to oppose the request.

Ms. Lenihan asked that the Board to grant approval LED back lit sign. It can be made active by the school, be used by the Police Department, Emergency Management, the school principal from home and fire.

There ensued discussion.

Ms Lenihan stated that with the style of LED display, this is a standard size.

There ensued discussion.

Mr. Rzewuski questioned the need.

Ms. Lenihan stated that the only alternative would be with manually changeable letter sign. This sign will have no graphics or moving words.

Donna Fitts, principle of the school, was sworn and explained her discussion with Police Chief Shippee and Kevin Gallup. They will be able to over ride the school message in an emergency and support the petition. She spoke in favor of the petition and the value of the sign.

There ensued discussion.

Mr. Crosson moved that the public hearing be closed.

Mr. Dreczko seconded the motion.

THE BOARD UNANIMOUSLY CLOSED THE PUBLIC HEARING.

There ensued discussion.

Mr. Crosson moved that petition #1191 Charlestown School PTO, Stephanie Lenihan for Town of Charlestown requesting a Special Use Permit under Article XI Section 218-62 A(2)(c) and 218-62 A(1)(b) to replace a free standing sign with one that exceeds the size allowed in a Municipal Zone be granted. Premises located at 363 Carolina Back Road, Charlestown and is further designated as Lot 17 on Assessor's Map 28.

Mr. Northup seconded the motion.

The Board felt that in granting the Special Use Permit, the public convenience and welfare will be substantially served, the use will not disrupt the neighborhood or the privacy of abutting landowners by excessive noise, glare, light or air pollutants and that the traffic generated by the proposed use will not cause undue congestion or introduce a traffic hazard in the circulation pattern of the area. The applicant addressed all the requirements needed for a sign. The town safety committee, including the police chief and other members of the community, agreed that this sign is needed and important to the community. The light intensity can be adjusted so there is no excessive light, glare. It will not produce any sewage or be harmful to the drinking water and will avoid adverse impact to the public health, safety or welfare. The sign will be used for school purposes as well as emergency messages such as Amber alert, storm information, school closings and information about the school's use as an emergency shelter.

VOTE: Crosson – aye Northup – aye Frank – aye Dreczko – aye Rzewuski – aye

Mr. Crosson moved that petition #1191 Charlestown School PTO, Stephanie Lenihan for Town of Charlestown requesting a Dimensional Variance under Article XI Section 218-62 A(2)(c) and 218-62 A(1)(b) to replace a free standing sign with one that exceeds the size allowed in a Municipal Zone be granted. Premises located at 363 Carolina Back Road, Charlestown and is further designated as Lot 17 on Assessor's Map 28.

Mr. Northup seconded the motion.

The Board felt that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this ordinance. The relief to be granted is the least relief necessary and not contrary to the public interest and welfare, based on the evidence presented by Ms. Lenihan and Ms. Fitts.

VOTE: Crosson – aye Northup – aye Frank – aye Dreczko – aye Rzewuski - aye

THE PETITION WAS GRANTED UNANIMOUSLY.

Mr. Rzewuski stated that the Board would go back to the Drake case.

Petition #1190 Dennis Drake for Barbara and Douglas Drake

Requesting a Dimensional Variance under Article VII, Section 218-41 Dimensional Regulations in an in an R40 Zone. Premises located at 4189 South County Trail, Charlestown and is further designated as Lot 93-10; Map 25.

Dennis Drake was sworn and explained the request. He presented a site plan of the garage location if the dimensional variance were denied. The property to the rear of this lot is an abandoned State road. There is a drain on the property and placement of the building to meet the setback requirements will interrupt that drain. The driveway lines up with the building on the proposed site plan.

There ensued discussion.

Mr. Drake stated that he would need to be at least 4' from the drain.

Mr. Frank asked if he could put in a larger culvert.

Mr. Drake stated that it goes to the State property.

There ensued discussion.

Mr. Rzewuski asked what would be the least relief and why he could not meet the requirements.

Mr. Drake stated that there wasn't a reason.

Mr. Rzewuski asked why he choose this location.

Mr. Drake stated that he wanted to have the building further from his house and there would never be a building on the abandoned State highway.

There ensued discussion.

Mr. Crosson explained the burden of proof under the law and that his testimony is that there are other locations that would meet the requirements. He asked the applicant if he would like an opportunity to continue the hearing and revise the plan.

Mr. Rzewuski read the required burden of proof and asked how the proposal is the least variance necessary when he presented a plan that meets the minimum requirements.

Mr. Dreczko asked why he couldn't locate the building to the west side of the easement.

Mr. Drake stated that his neighbor's garage is against or over the property line.

Mr. Frank asked if this would be a residential garage.

Mr. Drake stated that it would and added that there was not enough room on the west side of the easement and that the building would be too far from the house for security purposes.

There ensued discussion.

The Board took a brief recess.

Mr. Drake proposed amending the plan so that the building would be moved so that it was 40' to front line and 5' from line shared with the abandoned State highway which would be 1' forward and 4' closer to the house.

Mr. Rzewuski asked why he was not moving it closer to the house to reduce the variance.

Mr. Drake stated he didn't want to put it over the drainage line.

There were no objectors present.

Mr. Crosson moved that the public hearing be closed.

Mr. Dreczko seconded the motion.

THE BOARD UNANIMOUSLY CLOSED THE PUBLIC HEARING.

There ensued discussion.

Mr. Dreczko moved that petition #1190 Dennis Drake for Barbara and Douglas Drake requesting a Dimensional Variance under Article VII, Section 218-41 Dimensional Regulations in an in an R40 Zone be granted as amended 40' to the front setback and closer to house with 5' of rear relief. Premises located at 4189 South County Trail, Charlestown and is further designated as Lot 93-10; Map 25.

Mr. Crosson seconded the motion.

The Board felt that as amended to move the proposed structure 1' closer to the front property line and far enough to south so as not to require more than 5' of relief from the rear setback. The applicant showed willingness to adjust the placement of the structure to meet the least relief necessary and not contrary to the public interest and welfare. In doing that, it will not alter the general character of the surrounding area or impair the intent or purpose of the ordinance. The applicant showed a willingness to adjust the application to request the least relief necessary for a dimensional variance.

VOTE: Dreczko – aye Crosson – aye Northup – aye Frank – aye Rzewuski - aye

THE PETITION WAS GRANTED UNANIMOUSLY.

Mr. Rzewuski called the fourth petition.

Petition #1192 Robert Valley and Nanette L. Rutledge for Robertson Jones Land Co.

Requesting a Dimensional Variance under Article VII, Section 218-41 Dimensional Table to construct a Single Family Dwelling closer to property lines than allowed in an R2A Zone. Premises located at Old Farm Way, Charlestown and is further designated as Lot 68-21 on Assessor's Map 11.

Nanette Rutledge and Robert Valley were sworn and explained the petition and that they are trying to get the best southern exposure for solar benefit. They are trying to keep the esthetics of the front of the house.

Mr. Dreczko explained the burden of proof and asked why they need the relief.

There ensued discussion.

Mr. Crosson stated that the applicant would have to present a hardship and asked if they would like to request a continuance to gather information to demonstrate hardship.

Mr. Vallely stated that the plans are done and explained the floor plan.

Mr. Dreczko asked why the house has to be at that angle and why the garage needs to be 30'x28' with a 14'x20' workshop.

Ms. Rutledge stated that they will live here year round.

Mr. Crosson stated that they could continue with the hearing, but if the request was denied they would have to wait a year. The alternative was to make a slight change a variance would not be required.

Mr. Vallely stated they were too far into the plans of the house to change it now.

Mr. Crosson stated that if the variance was denied, they will have to wait a year to come back to the Board or appeal the decision to Superior Court.

There ensued discussion.

Mr. Dreczko stated that he feels that the applicant has not met the requirements of hardship. They can physically fit that house on property without a variance.

Mr. Rzewuski read from "Zoning for Non-Lawyers" and the Viti standard.

There ensued discussion.

Mr. Vallely stated that they would have to have the house redesigned. They had the house designed before they bought the lot.

Mr. Crosson stated that because the plans are already drawn is not a hardship.

There ensued discussion.

Ms. Rutledge stated that she felt that being green was important in preserving the planet and asked if that is not good enough; they would ask that the petition be withdrawn.

Mr. Dreczko stated that they could make minor adjustments to the plan and not lose southern exposure. The testimony was that there will be no solar gain with the garage/workshop.

There ensued discussion.

Ms. Rutledge asked that the Board withdraw the application.

Mr. Crosson moved that the petition be withdrawn without prejudice.

Mr. Dreczko seconded the motion.

THE BOARD UNANIMOUSLY WITHDRAWN THE PETITION WITHOUT PREJUDICE.

Adjournment

There being no further business, the meeting adjourned at 9:50 PM.