

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

The Charlestown Zoning Board of Review held a regular open meeting on Tuesday, July 21, 2009 at 7:00 PM at the Charlestown Town Hall, 4540 South County Trail, Charlestown, Rhode Island.

Members present: Michael Rzewuski
Raymond Dreczko
Ronald Crosson
William Meyer
Scott Northup, Alt. #2
David B. Provanca, Alt. #3

Also present were, Robert Craven, Asst. Solicitor, John J. Matuza, Building Official, Caroline Dion, Stenographer and Ellen Hefler, Clerk.

Pre-roll

Everyone present will attend the August 18, 2009 except Ron Crosson.

Minutes

The Minutes of the June 16th and 29, 2009 meeting were approved as written.

Mr. Rzewuski called the first petition.

Petition #1141 Roberta Mulholland, Esq. for Charlestown Fire District

Requesting a Special Use Permit and Dimensional Variance under Article XIX, Section 218-158 B, Article XII, Section 218-61 (I), Required Parking, Section 218-62, (H) (2)(a) and (b) Landscaping standards, to construct a fire station with fewer parking spaces and fewer trees in a Traditional Village and Historic Village District with a Mixed Use Overlay. Premises located at Old Post Road, Charlestown and is further designated as Lots 13-1 and 13-2 on Assessor's Map 12.

Ms. Mulholland, attorney for the applicant stated that the granting of the site plan from the Planning Commission decision is on their agenda for tomorrow, July 22, 2009 and asked that the special use and variance hearing be set down for hearing August 18, 2009.

Mr. Crosson moved that the petition be continued to August 18, 2009.
Mr. Dreczko seconded the motion.

THE BOARD UNANIMOUSLY CONTINUED THE PETITION TO AUGUST 18, 2009.

Mr. Rzewuski called the second petition.

Continuation of petition #1133 Omnipoint Communications, Inc. for Leroy and Joan M. Grinnell

Requesting a Use Variance and Dimensional Variance under IV, Section 218-26 to install a Telecommunication Tower in a C2 Zone. Premises located at 3964 South County Trail, Charlestown and is further designated as Lot 43-6 on Assessor's Map 29.

A letter was received from Omnipoint Communications, Inc. asking that the petition be continued for 60 days.

Mr. Crosson moved that the petition be continued to September 15, 2009.
Mr. Meyer seconded the motion.

The Chairman asked that any new information be submitted to the Zoning Office by September 1, 2009 so board has time to consider those items.

THE BOARD UNANIMOUSLY CONTINUED THE APPLICATION TO SEPTEMBER 15, 2009.

Mr. Rzewuski called the third petition.

Petition #1134 Omnipoint Communications, Inc. for John O. and Mary Jo Matson

Requesting a Use Variance and Dimensional Variance under IV, Section 218-26 to install a Telecommunication Tower in a C1 Zone. Premises located at 805 Alton Carolina Road, Charlestown and is further designated as Lot 26 on Assessor's Map 28.

A letter was received from Omnipoint Communications, Inc. asking that the petition be withdrawn.

Mr. Crosson moved that the petition be withdrawn without prejudice.
Mr. Northup seconded the motion.

THE BOARD UNANIMOUSLY WITHDREW THE PETITION WITHOUT PREJUDICE.

Mr. Rzewuski called the fourth petition.

Continuation of petition #1132 Brian P. and Linda M. Hughes

Requesting a Dimensional Variance under Article VI, Section 218-33 A(2), Table 32.1 to construct an addition to an existing Single Family Dwelling closer to property lines than allowed in an R2A Zone. Premises located at 15 Ridge Road, Charlestown and is further designated as Lot 7 on Assessor's Map 20.

Mr. Northup apologized to the applicant for arriving late last month and resulting in a continuance.

Mr. Rzewuski stated voting members deciding this petition would Messrs. Provancha, Northup, Meyer, Dreczko and Rzewuski.

Margaret L. Hogan, attorney for the applicant, explained the history of the property and the revised plan. It will include a bump out on rear of garage that needs no relief. She entered a sheet with 3 photos as exhibit #1.

Mr. Hughes who was previously sworn, explained the layout of the existing home, the proposed addition and other designs considered.

There ensued discussion.

Ms. Hogan explained that they will be losing a bedroom on the first floor to add this space.

There ensued further discussion on the house layout.

Ms. Hogan stated that the adjoining lot is heavily wooded and would not be able to see this addition. There would be no visual or audible impact on that property.

Rosemary Howbrigg, abutting property owner, was sworn, stated that the addition would be closest to her property, spoke in favor the application and that her house would be over 200' from the proposed addition. She strongly suggested that the petition be approved.

There were no objectors present.

Mr. Dreczko moved that the public hearing be closed.

Mr. Northup seconded the motion.

THE BOARD UNANIMOUSLY CLOSED THE PUBLIC HEARING.

There ensued discussion.

Mr. Dreczko moved that petition #1132 Brian P. and Linda M. Hughes requesting a Dimensional Variance under Article VI, Section 218-33 A(2), Table 32.1 to construct an addition to an existing Single Family Dwelling closer to property lines than allowed in an R2A Zone be approved. Premises located at 15 Ridge Road, Charlestown and is further designated as Lot 7 on Assessor's Map 20.

Mr. Northup seconded the motion.

The Board felt that the hardship comes from the fact that a mudroom is necessary for the enjoyment of the property. When he puts a garage on, which is necessary to protect them against the elements in inclement weather, bringing in groceries, and entering and exiting the home. The front door, in my opinion is on enough of a slope that it would not get a lot of use. I am satisfied that the stairway inside would be a bit of an inconvenience to walk through a greater portion of the home to use the existing stairwell which would be not as easy to use to bring in groceries vs. the proposed new addition. If it were not because the lay of the land and the way that the existing foundation was built,

I may have a different opinion. Given that it already exists, I believe that the hardship from which the applicant seeks relief is due to unique characteristics of the land and structure and it would be the least relief necessary and not contrary to the public health, safety, morals and general welfare. I would like to thank the applicant for being patient when I asked for the floor plans so that I could see the true hardship and the least relief necessary and that the applicant had no other avenue. The neighbor fully supports the application and feels that that addition will enhance the property. The hardship is due to the unique character of the property.

VOTE: Dreczko – aye Northup – aye Meyer – aye Provancha – aye Rzewuski - aye

THE PETITION WAS GRANTED UNANIMOUSLY.

Mr. Rzewuski called the fifth petition.

Petition #1142 Arlene and Irwin Birnbaum

Requesting a Dimensional Variance under Article V, Section 218-28 to construct an addition closer to property lines than allowed in an R2A Zone. Premises located at 80 Sanctuary Road, Charlestown and is further designated as Lot 87 on Assessor's Map 17.

Irwin Birnbaum was sworn, explained the petition and the proposed addition. There ensued discussion.

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. Meyer moved that petition #1142 Arlene and Irwin Birnbaum requesting a Dimensional Variance under Article V, Section 218-28 to construct an addition closer to property lines than allowed in an R2A Zone be approved. Premises located at 80 Sanctuary Road, Charlestown and is further designated as Lot 87 on Assessor's Map 17. Mr. Crosson seconded the motion.

The Board felt that the requested relief will not alter the general character of the surrounding area or impair the intent and purpose of the ordinance. That the requested relief is the least relief necessary and not contrary to the public interest and welfare. The hardship from which the applicant seeks relief is due to the unique character of the subject land or structure and not the general characteristics of the surrounding area and is not due to a physical or economical disability of the applicant. Granting the requested relief will not alter the general character of the surrounding area or impair the intent or purpose of this ordinance. The addition will be no closer to the existing westerly property

line and for all intent and purposes, the same holds true to the rear. The applicant's requested relief is for a dimensional variance to convert a part-time residence to full time and he needs a small addition for additional space.

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

THE PETITION WAS GRANTED UNANIMOUSLY.

Mr. Rzewuski called the sixth petition.

Petition #1143 Donald LaBelle for Shannock Water District

Requesting a Special Use Permit under Article IV, Section 218-25A to construct a Public Drinking Water Treatment and Storage Facility for Shannock and Columbia Heights in an R40 Zone. Premises located at 1639 Shannock Road, Shannock and is further designated as Lot 164-1 on Assessor's Map 28.

Donald A. LaBelle, chairman of the Shannock water system was sworn explained the petition.

Mr. Rzewuski asked if this facility would also serve parts of Richmond.

Mr. LaBelle explained the portions of town covered by this water system. He further explained the water supply and treatment facility.

Mr. Northup asked if there would be storage tanks on the property.

Mr. LaBelle stated that there would be two 8,000 gallon tanks. The water has been tested and met Department of Health requirements. The building will be 32' by 40'.

Geoffrey Marchant was sworn and stated that they had approval from the Planning Commission to subdivide the property. They did not review the building.

There ensued discussion.

Mr. Rzewuski asked where any bad water would go.

Russell Houde, Engineer was sworn and stated that it is in a wellhead protection (815) area. In event well needs to be treated, will be treated and go back into river. Have DEM approval because of proximity to river. The building enclosed by chain link fence and barbed wire. Only entrance will be lit by photo cell for safety purposes.

Mr. Matuza stated that they will need site plan review by Planning.

Mr. LaBelle stated the building will be located at a lower elevation so lights would not reach Shannock Road.

Mr. Rzewuski asked how often someone would be there.

Mr. Houde state that typical they are there once a day.

There were no objectors present.

Forrester Safford, member of the Town Council, was sworn and spoke in favor of the application because of the contamination Kenyon Mill dump site.

Mr. Crosson moved that the public hearing be closed.
Mr. Northup seconded the motion.

THE BOARD UNANIMOUSLY CLOSED THE PUBLIC HEARING.
There ensued discussion.

Mr. Crosson moved that petition #1143 Donald LaBelle for Shannock Water District requesting a Special Use Permit under Article IV, Section 218-25A to construct a Public Drinking Water Treatment and Storage Facility for Shannock and Columbia Heights in an R40 Zone be approved. Premises located at 1639 Shannock Road, Shannock and is further designated as Lot 164-1 on Assessor's Map 28.
Mr. Meyer seconded the motion.

The Board felt that the public welfare and convenience will be substantially served. It will not result in adverse impact or create conditions that will be inimical to the public health, safety, morals and general welfare of the community. The requested special use permit will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan upon which this ordinance is based. That the granting of the special use permit will not pose a threat to drinking water supplies. The use will not disturb the neighborhood or the privacy of landowners by excessive noise, light, glare or air pollutants. The lighting is minimal and is motion activated. They have all the necessary approvals for this application and the proper treatment of any bad water. There will be no sewage or traffic generated with only one visit to the site per day.

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

Mr. Rzewuski called the seventh petition.

Petition #1144 Margaret L. Hogan, Esq. for Jeffrey S. Carter Family Trust

Requesting a Dimensional Variance under Article VI, Section 218-33 A(2) Table 32.1 Dimensional Regulations to move or replace the existing dwelling closer to property lines than allowed in an R2A Zone as approved May 22, 2008. Premises located at 664 Charlestown Beach Road, Charlestown and is further designated as Lot 15 on Assessor's Map 9.

Ms. Hogan, attorney for the applicant explained the history of the property and that this was the same application that was approved by the Board May 22, 2008. The Department of Health changed the requirement for water holding tanks. They reapplied for ISDS without the need for a water holding tank. At the last meeting, the board amended the site plan and the applicant would agree to prior the conditions of the prior application positioning the house equidistant between the lot lines. She asked that the dimensional variance be approved with a 3.8' variance on each side.

There ensued discussion.

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. Craven suggested that they adopt the findings of fact in 2008 and reaffirm 1097.

Mr. Meyer moved that petition #1144 Margaret L. Hogan, Esq. for Jeffrey S. Carter Family Trust requesting a Dimensional Variance under Article VI, Section 218-33 A(2) Table 32.1 Dimensional Regulations to move or replace the existing dwelling closer to property lines than allowed in an R2A Zone as approved May 22, 2008 be approved and reaffirm the prior approval dated April 7, 2008. Premises located at 664 Charlestown Beach Road, Charlestown and is further designated as Lot 15 on Assessor's Map 9.

Mr. Crosson seconded the motion.

Mr. Craven added that this delay is not attributed to applicant in any way, shape or form.

The Board felt that the application should be granted as previously stated. The relief to be granted is the least relief necessary and not contrary to the public interest and welfare and based on findings of fact previously stated based on findings of fact dated April 15, 2008 regarding application #1097 with the note that the delay is no fault of the applicant.

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

THE PETITION WAS GRANTED UNANIMOUSLY INCLUDING THE FINDINGS OF FACT IN THE DECISION OF APRIL 15, 2008 AND TO REAFFIRM THE APPROVAL OF APPLICATION #1097.

Mr. Rzewuski called the eighth petition.

Petition #1145 Cox TMI Wireless, LLC for SBA Properties, Inc.

Requesting a Special Use Permit under Article XV, Section 218-105 B (1)(a) to install antennas and ancillary equipment on and next to the existing tower in an R3A Zone. Premises located at 5081 Old Post Road, Charlestown and is further designated as Lot 103 on Assessor's Map 14.

Scott Lacy, of Prince, Lobel, Glovsky & Tye and attorney for the applicant explained the LLC and reviewed the application to co-locate on the existing tower which is designed to accommodate 4 to 5 carriers.

Mr. Rzewuski asked where other 2 towers on his map are located.

Mr. Lacy stated at 336 Post Road, Westerly and 4901 Post Road. He added that they would be furnishing structural information to the Building Inspector with the permit.

There will be no additional lighting.

Mr. Matuza stated that the original application shows 5 sets of exterior antennas on page F1 and reviewed the same with the Board.

Mr. Rzewuski asked how many carriers are on the pole presently.

Mr. Matuza stated none.

Forrester Safford of 62 Sea View Drive, was sworn and explained that when the tower was originally proposed as a monopole with all of the carriers' equipment inside the pole and was agreed to by the applicant. The Planning Commission approved that design. He submitted a series of photos of the existing tower as viewed from some of the adjoining properties. Now there will be antennas added to it.

Mr. Matuza stated that he has the Planning Commission minutes from that meeting. The Planning Commission stated that they preferred a stealth pole, but they did not stipulate that in their decision.

Mr. Safford explained they never received notice of the first zoning application so they went to the Planning Commission with their concerns. The tower was supposed to be white and it is dark gray.

Mr. Lacy stated that a steel pole prevents transmission from inside. The pole would be wider with fiberglass on the top portion of the pole.

Mr. Matuza stated that the original petition was denied, appealed to court and remanded back to the Zoning Board for approval.

Steven DeMao was sworn, reviewed the history of the case and the lack of notice on the original application and how the tower affected property values.

Mr. Rzewuski stated that he knows of no Zoning regulation that guarantees unobstructed view of property that is owned by others.

Mr. Craven suggested that the petition be continued for a transcript of that meeting and so that he and John could research some of the terms.

There ensued discussion.

The Board asked how quickly he would use tower.

Mr. Lacy stated that he would check with his client for the next meeting.

Timothy Regan of 69 Ocean Ridge Drive was sworn and reviewed the original notice issue and stated his objections.

As a point of information, Mr. Matuza stated that there is an additional application to co-locate on this tower.

Mr. Meyer moved that the petition be continued to September 15, 2009 to receive transcript of Planning Commission meeting and asked Mr. Craven for a synopsis of court decision.

Mr. Crosson seconded the motion.

THE BOARD UNANIMOUSLY CONTINUED THE APPLICATION TO SEPTEMBER 15, 2009.

Discussion among members

Mr. Craven explained the remand of the Green Machine Bio, LLC application. It was coming back to the Board by agreement of the attorneys involved since the death of the applicant. The case was never considered by the Court. It will be on the August 18, 2009 agenda.

Adjournment

There being no further business, the meeting adjourned at 10:00 PM.