

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

The Charlestown Zoning Board of Review held a regular open meeting on Tuesday, December 15, 2009 at 7:00 PM at the Charlestown Town Hall, 4540 South County Trail, Charlestown, Rhode Island.

Members present: Michael Rzewuski  
Raymond Dreczko  
William Meyer  
Richard Frank  
Scott Northup, Alt. #1  
David B. Provancha, Alt. #2

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

**Minutes**

The minutes of the November 17, 2009 meeting were approved as written.

**Pre-roll**

Everyone present will attend the January 19, 2010.

Mr. Rzewuski called the first petition.

**Petition #1162 Jeffrey W. Ray, Esq. for Nancy I. Log**

Appealing the decision of the Building Official made November 9, 2009 under Article VI, Section 218-33 on the lot merger provision. Premises located at 92 Lauri Drive, Charlestown and is further designated as Lots 32 and 32-1 on Assessor's Map 27.

A memo was read from Jeffrey W. Ray, attorney for the applicant, asking for continuance to the January 2010 meeting.

Mr. Dreczko moved that the petition be continued to January 19, 2010.

Mr. Frank seconded the motion.

THE BOARD UNANIMOUSLY CONTINUED THE PETITION BE JANUARY 19, 2010.

Mr. Rzewuski called the second petition.

**Petition #1163 Angela Aurelio for Jennifer Stout**

Requesting a Dimensional Variance under Article VI, Section 218-33 A(2) to remove the second floor addition and reconstruct it closer to property lines than allowed in an R20 Zone. Premises located at 85 Ridgewood Road, Charlestown and is further designated as Lot 157 on Assessor's Map 13.

The Board received a request from Angela Aurelio to withdraw the application without prejudice.

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 Meyer moved that the petition be withdrawn without prejudice.

Mr. Dreczko seconded the motion.

THE BOARD UNANIMOUSLY WITHDREW THE APPLICATION WITHOUT PREJUDICE.

Mr. Rzewuski called the third petition.

**Petition #1158 Michael W. Gunter**

Requesting a Dimensional Variance under Article VI, Section 218-32 to construction additions closer to property lines than allowed in an R20 Zone. Premises located at 61 Traymore Street, Charlestown and is further designated as Lot 338 on Assessor's Map 11.

The applicant did not have certified receipts for notices to the abutters.

The Board agreed to move the hearing to later in the agenda and give the applicant an opportunity to come back with the certified receipts.

Mr. Rzewuski called the fourth petition.

**Petition #1159 David & Stefania Peterson**

Requesting a Dimensional Variance under Article VI, Section 218-32, Table 32.1 to construct a sunroom/porch closer to property lines than is allowed in an R20 Zone. Premises located at 67 Shore Drive, Charlestown and is further designated as Lot 265 on Assessor's Map 9.

David Peterson was sworn and explained the petition.

There ensued discussion as to the location of the property line and the addition.

Mr. Rzewuski questioned the need for the front deck.

Mr. Peterson stated that they needed it for a front entrance.

Mr. Rzewuski stated that there could be a landing and stairs for access without a deck.

Lorine Foley, architect, was sworn and explained that the front deck allows for cover and shade at the entrance, which is not the case on the rear deck.

There ensued discussion.

Mr. Matuza explained that because they purchased an additional lot that was added to the rear of the property increasing the overall lot size, the setback requirements were greater than other lots in the area of the same width.

Mr. Rzewuski asked for a floor plan to show the need for an addition this size.

Ms. Foley drew a floor plan and entered it as exhibit #1.

There ensued on the floor plan and house layout.

Mr. Peterson stated that the proposed addition is further from the front line than the existing house and can not be relocated because of the location of the septic system. Mr. Rzewuski was not convinced that this is the least relief necessary.

Stephania Peterson was sworn and explained the need for the added space to accommodate a dining room table to seat the whole family. There ensued discussion.

Ms. Foley stated that they could move the stairs into the deck, and it would be 30' to front line which is the same as other lots in the area have. There ensued further discussion.

The Board received a letter from Edward D. Jacynowicz in favor of the application. There were no objectors present.

Mr. Meyer 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 #1159 David and Stefania Peterson requesting a Dimensional Variance under Article VI, Section 218-32, Table 32.1 to construct a sunroom/porch closer to property lines than is allowed in an R20 Zone be approved as amended for a 10' variance. Premises located at 67 Shore Drive, Charlestown and is further designated as Lot 265 on Assessor's Map 9. Mr. Dreczko seconded the motion.

The Board felt that the hardship of the proposal as amended seeks relief due to the unique characteristics of the subject land and is not due to the general characteristics of the area. It is not due to the physical or economic disability of the applicant. The hardship is not the result of any prior action of applicant or owners and does not result primarily from the desire of the applicant to realize greater financial gain. Granting of the requested variance will not alter the general characteristics of the surrounding area or impair the intent or purposes of this ordinance. The applicant seeks no more than 10' of variance based on existing septic system, the need of a dining area and a screened or roofed porch area. They are willing to accommodate the relocation of stairs, which makes the request the least relief necessary and not contrary to the public interest and welfare.

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

**THE PETITION WAS GRANTED UNANIMOUSLY AS AMENDED.**

Mr. Gunter arrived with the certified receipts.

**Petition #1158 Michael W. Gunter**

Requesting a Dimensional Variance under Article VI, Section 218-32 to construction additions closer to property lines than allowed in an R20 Zone. Premises located at 61 Traymore Street, Charlestown and is further designated as Lot 338 on Assessor's Map 11.

Mr. Dewey Gunter was sworn and explained the proposal and the reason for the construction that has already taken place.

There ensued discussion on the construction that took place without a permit.

Mr. Dreczko questioned the replacement of the existing deck.

Mr. Matuza showed the board a plan with the areas of variance in green.

There ensued further discussion.

There were no objectors present.

There ensued further discussion on the setbacks prior to the construction.

Mr. Dreczko asked if they had taken out a permit.

Mr. Gunter explained how the deck was build.

Mr. Rzewuski stated that considering the amount of existing deck space, it was hard to meet the burden of proof.

There ensued discussion.

Mr. Meyer questioned the hardship.

Mr. Gunter stated the extra in the front is to park cars under it in the winter. The rear deck will be 10' bigger for patio furniture.

Mr. Craven stated the board is being asked to make an illegal construction legal, rather than approving a plan for construction and should consider this application as though it were not built. If the Board were to deny the application, the construction would have to be removed.

There ensued discussion on the back deck.

Mr. Rzewuski stated that it is a self created hardship.

There ensued discussion.

Mr. Dreczko asked if there had been any instance of other construction without permits.

Mr. Matuza stated that Mr. Gunter's father was before the Zoning Board in 1988 to install an in-law apartment in the garage, but had no record of other work performed without a permit.

Mr. Gunter stated that there is a very large steel beam under the front deck.

Mr. Rzewuski asked how much of the deck he could live without.

There ensued further discussion.

Mr. Rzewuski read the burden of proof from a publication entitled *Zoning for Non-lawyers*.

There ensued discussion.

Mr. Dreczko stated that because of the existing garage, the only way a neighbor to the south would be affected, would be if the garage were not there.

There ensued further discussion.

Mr. Meyer asked if the garage included an in law apartment.

Mr. Gunter stated that it was intended for his grandparents to retire but it was not constructed.

There ensued discussion.

John C. Dawson, Jr. of 16 Traymore Street was sworn and spoke in favor of the application.

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 the hearing be reopened.

Mr. Meyer seconded the motion.

THE BOARD UNANIMOUSLY REOPENED THE PUBLIC HEARING.

Mr. Rzewuski asked if he planned to enlarge the structure in the future.

Mr. Gunter stated no.

There ensued discussion.

Mr. Dreczko moved that the public hearing be closed.

Mr. Meyer seconded the motion.

THE BOARD UNANIMOUSLY CLOSED THE PUBLIC HEARING.

Mr. Dreczko moved that the public hearing be closed.

Mr. Meyer seconded the motion.

THE BOARD UNANIMOUSLY CLOSED THE PUBLIC HEARING.

There ensued further discussion.

Mr. Dreczko moved that petition #1158 Michael W. Gunter requesting a Dimensional Variance under Article VI, Section 218-32 to construction additions closer to property lines than allowed in an R20 Zone be approve to take an existing illegal structure and make it a legal nonconforming structure. Premises located at 61 Traymore Street, Charlestown and is further designated as Lot 338 on Assessor's Map 11.

Mr. Northup seconded the motion.

There ensued discussion

The Board felt that the front relief sought to be approximately 10'4.5", the side relief sought to be 9"± and the rear relief sought to be 2'10". The applicant stated that initial intent was to replace any rotted members of the deck and replace it with new. After starting the project, it became apparent that there was not much to salvage. It made more sense to construct new framework. In doing so, he ended up with a structure larger than the original, therefore creating a structure that is illegal. By granting the dimensional variance, it will be legal non-conforming status. The front deck extension will also create a more user friendly car port for storage and protection of vehicles and equipment, with the rear deck added living space and squaring off the existing footprint. The applicant understands the importance of setbacks and getting permits before construction. I believe that granting of this particular variance will not alter the general character of the surrounding area or impair the intent or purpose of the ordinance. Mr. Dreczko's words of wisdom in explaining the affect with and without the deck determined my vote to approve this application as presented.

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

THE PETITION WAS GRANTED UNANIMOUSLY.

Mr. Rzewuski called the fifth petition.

**Petition #1160 Coreen Martin**

Requesting a Dimensional Variance under Article VI, Section 218-32, Table 32.1 to construct a full second floor dormer closer to property lines than is allowed in an R40 Zone. Premises located at 741 Alton Carolina Road, Charlestown and is further designated as Lot 16 on Assessor's Map 24.

Anthony Paliotti, contractor for the applicant was sworn and explained the petition and the need for the added space.

There ensued discussion.

Mr. Rzewuski asked for proof that the added space was necessary.

Mr. Paliotti stated that the changes will give the required head room. The house was build before building codes.

Mr. Meyer questioned the height.

Mr. Matuza stated that they did not need nor had they applied for a height variance.

There were no objectors present.

Mr. Dreczko moved that the public hearing be closed.

Mr. Meyer seconded the motion.

THE BOARD UNANIMOUSLY CLOSED THE PUBLIC HEARING.

There ensued discussion.

Mr. Dreczko moved that petition #1160 Coreen Martin requesting a Dimensional Variance under Article VI, Section 218-32, Table 32.1 to construct a full second floor dormer closer to property lines than is allowed in an R40 Zone be approved. Premises located at 741 Alton Carolina Road, Charlestown and is further designated as Lot 16 on Assessor's Map 24.

Mr. Meyer seconded the motion.

The Board felt that the existing headroom is insufficient for standard living. The existing home sits closer to the front line than allowed, therefore the addition over the same footprint encroaches on that same setback. The hardship from which she seeks relief was not created by the applicant. The requested variance will not alter the general character of the surrounding area, will not impair the intent or purpose of this ordinance, would be the least relief necessary and not contrary to the public interest and welfare. I move to grant the requested relief with the caveat that it not exceed 30' in height because none of the drawings show the height. To deny the requested relief would amount to more than mere inconvenience.

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

THE PETITION WAS GRANTED UNANIMOUSLY.

Mr. Matuza pointed out that because of the lot size, the allowable height was 35'.

Mr. Rzewuski called the sixth petition.

**Petition #1161 Oyster Works LLC for Patrick Lyons**

Requesting a Special Use Permit and Dimensional Variance under Article XIX, Section 218-158B, Article IV, Section 218-25A, 218 Attachment 2, Table 32.1 to construct additions to an existing commercial building greater than 5,000 and less than 10,000 square feet and to create a lot line closer to an existing structure than allowed in TVD Zone. Premises located at 3992 Old Post Road, Charlestown and is further designated as Lots 38, 39 and 59 on Assessor's Map 13.

Patrick Lyons was sworn and explained the petition. The plan has been approved by the Planning Commission. The intent is to take outside storage and move much of it inside. Variance is needed to construct a second floor on the building which encroaches on the property lines. Also the combination of the 3 lots into 2 lots will create a lot line closer to the residential garage than allowed.

Meghan Moynihan, Architect and Andrew Baer, both of Oyster Works LLC and Anthony Nenna of On-Site Engineering Inc. were sworn and explained the existing and proposed lot lines.

Mr. Baer reviewed the ordinance requirements for a Special Use permit, the existing condition and need for a second entrance from Narrow Lane for tractor trailer deliveries.

Mr. Lyons added that the Planning Commission voted favorably on the proposal and forwarded their recommended to the Zoning Board.

There ensued discussion.

Mr. Lyons stated that they would comply with the Planning Commission decision.

Ms. Moynihan stated that the variance was for intensification of the nonconformity by the proposed second floor.

Mr. Lyons stated that they could have designed a one story building but it would have increased the mass of the building as seen from Narrow Lane which is not their intent. Todd Conklin, owner of the Surfside Motel to the rear of the property was sworn and spoke in favor of the application.

The Planning Commission submitted an advisory opinion to the Board that is in the file.

There ensued discussion.

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. Meyer moved that petition #1161 Oyster Works LLC for Patrick Lyons requesting a Special Use Permit under Article XIX, Section 218-158B, Article IV, Section 218-25A, to construct additions to an existing commercial building greater than 5,000 and less than 10,000 square feet in TVD Zone be approved. Premises located at 3992 Old Post Road, Charlestown and is further designated as Lots 38, 39 and 59 on Assessor's Map 13.

Mr. Dreczko 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 welfare of the community. That the traffic generated by the proposed use will improve the situation there, prevent congestion and eliminate traffic hazards. The testimony presented plus the approval of the Planning Commission with the conditions made the application complete.

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

**THE SPECIAL USE PERMIT WAS UNANIMOUSLY APPROVED.**

Mr. Dreczko moved that petition #1161 Oyster Works LLC for Patrick Lyons requesting a Dimensional Variance under Article XIX, Section 218-158A and Attachment 2, Table 32.1 to construct additions closer to lot lines and create a lot line closer to an existing structure than allowed in TVD Zone be approved. Premises located at 3992 Old Post Road, Charlestown and is further designated as Lots 38, 39 and 59 on Assessor's Map 13.



Mr. Meyer seconded the motion.

The Board felt that the relief requested to expand on the existing footprint with the addition of a second floor falls within the setback but is not a hardship that the applicant created and brought upon himself and would be the least relief necessary and not contrary to the public interest and welfare. Granting the requested relief will not alter the general characteristics of the surrounding area or impair the intent or purpose of the ordinance. It is the least relief necessary and not contrary to the public interest and welfare.

VOTE: Dreczko – aye Meyer – aye Northup – aye Frank – aye Meyer - aye

THE PETITION WAS GRANTED UNANIMOUSLY.

**Discussion among members**

There ensued discussion of requiring a Class A survey for applications on small lots. Mr. Craven suggested that it be put on the January agenda for discussion and give the public an opportunity to participate in discussion. There ensued discussion.

Mr. Frank asked the status of Carolina Farm.  
Mr. Craven stated that it was back before the PC as a new application.

**Adjournment**

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