

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

The Charlestown Zoning Board of Review held a regular open meeting on Tuesday, May 19, 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, Alt. #1
Scott Northup, Alt. #2
David B. Provanca, Alt. #3

Also present were, Robert Craven, Asst. Solicitor, Caroline Dion, Stenographer and Ellen Hefler, Clerk.

Pre-roll

Everyone present will attend the June 16, 2009.

Minutes

The Minutes of the April 21, 2009 meeting were approved as written.

Mr. Rzewuski called the first petition.

Petition #1131A Jeffrey L. and Nancy B. Matthews

Requesting a Dimensional Variance under Article VI, Section 218-33 A(2) to remove and replace a Single Family Dwelling in accordance with the FEMA program construction guidelines closer to property lines than allowed in an R2A Zone. Premises located at 133 Ocean View Avenue, Charlestown and is further designated as lot 82 on Assessor's Map 2.

Richard A. Greene, president of Richard A. Greene & Associates, Inc., explained the existing and proposed condition. He reviewed the DEM OWTS application for a system that was approved and installed previously. The applicant has chosen Surfside as the front lot line. Therefore Oceanview Avenue becomes a sideline.

There ensued discussion on the front line designation.

Mr. Greene added that they had asked for a continuance last month to address concerns of an abutter. He asked to make an oral amendment to item #13 on application relative to the area of setback. They are allowed 38', they are requesting 8.86', the request relief is 29.14', based on the revised plan dated 5/04/09. He further explained the petition. The new structure as proposed will be more conforming by the granting of the variance. The lot coverage will be slightly smaller. He reviewed the revised site plan dated 5/04/09.

The height of the structure will be well within the allowed height. The house could not be moved further because of the sand filter septic system in accordance with DEM's regulations. He entered the history of the septic system as exhibit #1 and reviewed same.

Mr. Dreczko asked if the house was moved further from the lot line, would he need additional relief.

Mr. Greene agreed that he would.

John Franzen Architect for the applicant, was sworn and reviewed the proposed changes to the house. He explained the existing and proposed house layout. He reviewed the changes from the original house and the first proposal to accommodate the concerns of the Schulteis's.

There ensued discussion.

Mr. Rzewuski questioned the square footage.

Mr. Franzen stated the first floor is about the same. The second floor has a deck, but most of the changes are to make the house code compliant.

Mr. Rzewuski asked if the lot coverage was being reduced almost 1%.

Mr. Greene stated that was correct. He asked that the Board grant the application.

Mr. Walter Schulteis, abutter to the subject property, was sworn and read a statement into the record. He stated that he had no objections to the plans as submitted, but if there are any changes to any part of the plan he wanted to be involved in the plan review process and asked that the Board stipulate that he be involved in the approval of any permits.

Mr. Craven stated that the Schulteis's has a right to rely on the plan submitted. If there are changes, the Building Inspector would be involved. If there are changed in the plan, related to the variance granted, the applicant would have to come back to the Board for additional relief.

There ensued discussion.

Mr. Dreczko commended the owner for altering the design to accommodate the Schulteis's concerns. He added that there is no protection of ocean view. The applicant twisted the addition, and modified the design but there is no right to air space over a neighbor's property.

Mr. Craven agreed.

There ensued discussion.

Mr. Schulteis stated that both houses are quite close to the property line at that location.

Mr. Meyer pointed out that the existing house is closer to the lot line than that proposed.

There ensued discussion.

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. Meyer moved that petition #1131A Jeffrey L. and Nancy B. Matthews requesting a Dimensional Variance under Article VI, Section 218-33 A(2) to remove and replace a Single Family Dwelling in accordance with the FEMA program construction guidelines closer to property lines than allowed in an R2A Zone be approved as amended. Premises located at 133 Ocean View Avenue, Charlestown and is further designated as lot 82 on Assessor's Map 2.

Mr. Dreczko seconded the motion.

The Board felt that the hardship from which the applicant seeks relief is due to the unique character of the land and building and not the general characteristics of the surrounding area and is not due to the physical or economic disability of the applicant. The hardship from which the applicant seeks relief is not the result of any prior action of the applicant or owners and does not result primarily from the desire to realize greater financial gain. It is the least relief necessary and not contrary to the public interest and welfare. The granting of the requested variance will not alter the general character of the area, in fact it will improve the surrounding areas and will not impair the intent and purpose of the ordinance. The applicant has shown great compassion and consideration for the neighbor with the design, home positioning, and based on the testimony of Mr. Greene and plans presented, the shape of the existing lot makes it difficult to meet the setbacks. I think they have done a good job making it the least relief possible. Lot coverage is being reduced by nearly 1% from what is existing. This design will make the house more conforming with FEMA and zoning regulations of today. The applicant has done an exemplary job addressing the concerns of the neighbor. The new building is less intrusive by dimension than the original building. The hardship and reason that the building can not be moved is because of recently installed OWTS system as installed as approved by the state.

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

THE PETITION WAS GRANTED UNANIMOUSLY.

Mr. Rzewuski called the second petition.

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.

Kenneth Nelson, Builder and Brian P. Hughes applicant were sworn and explained the requested relief. Mr. Hughes reviewed the location of the house on the adjoining property.

Mr. Nelson explained the layout of the existing house and the need for the requested relief. There is a considerable bank that needs to be cut back to put on this addition. There ensued discussion.

Mr. Rzewuski asked for a floor plan of the house.

There ensued further discussion on the existing house, the proposed addition and minimizing the relief sought.

Mr. Nelson stated that it is mostly topographical. The owners need an entrance to the home without going up a slope on the front or rear to enter the house.

Mr. Rzewuski asked for existing and proposed floor plans to show need for the proposed addition and amount of relief.

Mr. Meyer asked that they consider an addition that is more conforming.

There ensued discussion.

Mr. Hughes stated that they would like a bathroom for the children could use without coming in and going through the house.

There ensued discussion.

Mr. Nelson stated that a reduction of more than 2' would render the space unusable.

There ensued discussion.

Mr. Hughes asked for continuance.

Mr. Meyer moved that the petition be continued to June 16, 2009.

Mr. Dreczko seconded the motion.

THE BOARD UNANIMOUSLY CONTINUED THE PETITION TO JUNE 16, 2009.

Mr. Rzewuski called the third petition.

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.

Mr. Rzewuski asked for proof of mailing.

Simon Brighenti, attorney for the applicant stated that they did not have certified receipts. It was done by the applicant but they could get the information.

Mr. Craven explained notice requirements.

Mr. Brighenti requested continuance to June 16, 2009 to verify or notice abutters.

Mr. Dreczko moved that the petition be continued to June 16, 2009.

Mr. Meyer seconded the motion.

THE BOARD UNANIMOUSLY CONTINUED THE PETITION TO JUNE 16, 2009.

Mr. Rzewuski called the fourth 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.

Mr. Brighenti stated that like the last petition he would request continuance to June 16, 2009 to verify or notice abutters.

Mr. Dreczko moved that the petition be continued to June 16, 2009.

Mr. Meyer seconded the motion.

THE BOARD UNANIMOUSLY CONTINUED THE PETITION TO JUNE 16, 2009.

Mr. Rzewuski called the fifth petition.

Petition #1135 Kenneth Chrostowski

Requesting a Dimensional Variance under Article VI, Section 218-33 A(2) to construct an addition closer to property lines than allowed in an R20 Zone. Premises located at 30 East Burdick Street, Charlestown and is further designated as Lot 234 on Assessor's Map 9.

Mr. Chrostowski was sworn and explained the petition and the reason for the design and location.

There ensued discussion.

Mr. Crostowski stated that they would be willing to move the front stairs. The proposed addition will be set back about 1' from the existing house.

There were no objectors present.

Mr. Dreczko moved that the public hearing be closed.

Mr. Northup seconded the motion.

There ensued discussion.

Mr. Meyer moved that petition #1135 Kenneth Chrostowski requesting a Dimensional Variance under Article VI, Section 218-33 A(2) to construct an addition closer to property lines than allowed in an R20 Zone be approved. Premises located at 30 East Burdick Street, Charlestown and is further designated as Lot 234 on Assessor's Map 9.

Mr. Dreczko seconded the motion.

The Board felt that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject structure and land. The hardship is going to improve the overall neighborhood. The granting of the least variance will not alter the general character of the neighborhood or impair the intent or purpose of the ordinance.

The relief to be granted is the least relief necessary and not contrary to the public interest and welfare of the community. The footprint of the existing home and the fact that it was constructed prior to zoning, leaves the applicant with no choice but to construct the addition to the left of existing home. It is not coming any closer to the front setback than the existing home. Should he move the existing front steps, it will make a non-conforming property less nonconforming. The room size is reasonable, in my opinion, with a covered porch to protect and shelter people into the new entry way. The lot configuration and septic system have impacted the location of the new construction. The applicant has shown the requested relief is the least relief necessary. The current living quarters offer no room for a living room in the structure and therefore need the expansion.

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

THE PETITION WAS GRANTED UNANIMOUSLY.

Mr. Rzewuski called the sixth petition.

Petition #1136 John and Alma Dorn

Requesting a Dimensional Variance under Article VI, Section 218-32 A & C, Dimensional Regulations Table 32.1 to remove and replace a Single Family Dwelling closer to property lines and higher than allowed in an R20 Zone. Premises located at 80A Pond Street, Charlestown and is further designated as Lot 164 on Assessor's Map 9.

Margaret Laurence, attorney for the applicant, explained the history of the property and the relief sought.

John Dorn was sworn and explained the history of their purchase of the property. They plan to install a water holding tank in the basement because other wells in the area have been contaminated with salt water.

There ensued discussion.

Lorine Foley was sworn and explained the reason for the added height is so that the mechanicals will be above the flood zone requirements.

There ensued discussion.

Mr. Dreczko asked why a 6 and not a 5 pitch.

Ms. Foley stated that it works better for this design.

Ms. Laurence asked if there was any place to cut the height.

Ms. Foley considered other designs and this is the least relief necessary.

There ensued further discussion.

Ms. Laurence stated that DEM had limited the OWTS to a one bedroom system. This is not an unreasonable request.

Mr. Dreczko questioned the floor plan and the ability to move some of the utilities to the first floor. He feels that he could reduce the height of the house to 30'.

Ms. Laurence asked to have a few minutes to confer with her client and allow the Board to hear another case.

Mr. Rzewuski stated that they would hear the next petition.

Petition #1137 Louis Grande

Requesting a Dimensional Variance under Article VI, Section 218-33 A(2) to construct an addition closer to property lines in an R3A Zone. Premises located at 136 Scapa Flow Road, Charlestown and is further designated as Lot 44 on Assessor's Map 26.

Louis and Michelle Grande were sworn and explained the petition. They submitted 4 photos as exhibit #1A, B, C, D to show the drop off from the deck. 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.

Mr. Dreczko moved that petition #1137 Louis Grande requesting a Dimensional Variance under Article VI, Section 218-33 A(2) to construct an addition closer to property lines in an R3A Zone be approved. Premises located at 136 Scapa Flow Road, Charlestown and is further designated as Lot 44 on Assessor's Map 26.

Mr. Northup seconded the motion.

The Board felt that from a safety standpoint, the applicant stated and showed pictures of the boulder retaining wall that needs to be left in place and the pictures clearly show steps and foundations in the rock wall keeping the earth in place so that would not be altered for safety concerns. He stated that he would put lattice around the bottom to prevent children for crawling under it after it is built. From an enjoyment standpoint, certainly going from a 10'x3' walkway to a modest 14'x13' deck isn't asking for much. The hardship from which the applicant seeks relief, is due to the unique characteristics of the rear yard 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 and purpose of the ordinance. The applicant requested rear variance of 3', which is least relief necessary. I did have some questions but the photos presented helped answer those questions.

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

THE PETITION WAS GRANTED UNANIMOUSLY.

Mr. Rzewuski called the eighth petition.

Petition #1138 Michael Gray for Charles and Barbara Gray

Requesting a Dimensional Variance under Article VI, Section 218-32, Table 32.1 Dimensional Regulations to construct an addition closer to property lines in an R40 Zone. Premises located at 111 Old Shannock Road, Charlestown and is further designated as Lot 11 on Assessor's Map 28.

Michael Gray was sworn and explained the relief sought and the reason for the location of the addition.

There ensued discussion on the well location.

Mr. Gray stated that they have a 4 bedroom cesspool approved by the Town. He stated that his neighbor does not oppose the proposed addition.

Mr. Dreczko asked questioned the windows.

Mr. Gray differed to architect.

John Patrick Walsh, Architect stated that the two windows off bedroom #1 are egress windows.

There ensued further discussion on the house design.

Mr. Gray submitted a letter from Peter Fouley, Jr. in favor of the application as exhibit #1 and a photo of the Existing Garage Corner with Home/retaining Wall beyond – Looking Northeast as exhibit #2.

There ensued discussion.

Mr. Dreczko asked if the proposal was for an apartment or just an addition.

Mr. Gray stated just an addition.

There were no objectors.

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 #1138 Michael Gray for Charles and Barbara Gray requesting a Dimensional Variance under Article VI, Section 218-32, Table 32.1 Dimensional Regulations to construct an addition closer to property lines in an R40 Zone be approved. Premises located at 111 Old Shannock Road, Charlestown and is further designated as Lot 11 on Assessor's Map 28.

Mr. Dreczko seconded the motion.

The Board felt that the hardship is not the result of any prior action of the owner and does not result primarily from the desire of the applicant to realize greater financial gain. The granting of the requested variance will not alter the characteristics of the surrounding area. That the relief to be granted is the least relief necessary to meet the applicant's request. He was diligent in answering all the questions that we had and I think it will add to the community and the neighborhood. The only area that I could see that could have been modified was to take the patio area and move the addition closer to the existing home, which would mean losing the egress window in the bedroom creating an unsafe condition. Additionally, positioning of the proposed structure relative to the layout of the lot and the fact that only 75 square feet, plus or minus of the addition will encroach on the side setback, I believe that it is due to that unique characteristic of the subject land and the positioning of the existing structure, which would make it the least relief necessary and not contrary to the public interest and welfare. The applicant has shown needs for and addition to the existing structure and a variance to the side setback of 6' due to the needs of his family to add space.

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

THE PETITION WAS GRANTED UNANIMOUSLY.

The Board returned to petition #1136 John and Alma Dorn

Ms. Laurence stated that the request was for 34.5' and they would like to modify the request for the rear setback variance of 16' and a 2' height relief with leeway to change design.

Loretta Raney was sworn and spoke in favor application and read a letter to the same. David Raney was sworn spoke in favor of the original application and not restrict them.

There were no objectors present.

Mr. Dreczko moved that the public hearing be closed.

Mr. Frank seconded the motion.

THE BOARD UNANIMOUSLY CLOSED THE PUBLIC HEARING.

There ensued discussion.

Mr. Dreczko moved that petition #1136 John and Alma Dorn requesting a Dimensional Variance under Article VI, Section 218-32 A & C, Dimensional Regulations Table 32.1 to remove and replace a Single Family Dwelling closer to property lines and higher than allowed in an R20 Zone be approved as amended. Premises located at 80A Pond Street, Charlestown and is further designated as Lot 164 on Assessor's Map 9.

Mr. Northup seconded the motion.

The Board felt that the petition as amended changing the requested height from 34'9½" to 32' and the rear yard setback relief of 16' will be the least relief necessary. I appreciate the applicant taking another look at the requested relief. When you look to either side of him there is 30' and 35' so 32' seems like a happy medium and reasonable.

Bringing the mechanicals into compliance with respect to flood and building code requirements is more than a reasonable request. It will certainly clean up the area and do a service to the surrounding area. The 16' is certainly a hardship due to the unique characteristic of the sizing of the land. I don't think that the granting of this request will alter the general character of area. With the modification made it is truly the least relief necessary and not contrary to the public interest and welfare. Granting the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the ordinance and will only improve the neighborhood. The hardship is due to the flood plane area and the need for drinking water in the area. The applicant did reduce the height of each floor in an effort to seek the least relief necessary. The rear setback variance is more than justified because of the OWTS, which moved the house closer to the rear lot line.

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

THE PETITION WAS GRANTED UNANIMOUSLY AS AMENDED.

Mr. Rzewuski called the ninth petition.

Petition #1139 Michael McKinley & Assoc. for Alexander Ehrlich

Requesting a Dimensional Variance under Article VI, Section 218-32, Table 32.1 Dimensional Regulations construct addition and perform renovations to an existing Single Family Dwelling closer to property lines than allowed in an R2A Zone. Premises located at 187 Warren Road, Charlestown and is further designated as Lot 6 on Assessor's Map 3.

Michael McKinley, Architect for the applicant, was sworn, amended his application, explained the petition and the need for an additional 3' on the porch to accommodate furniture. He submitted a drawing Ehrlich Residence First Floor – Existing Condition as exhibit #1. Mr. Ehrlich spoke to all his neighbors and none of them had a problem with the proposed application.

There ensued discussion on the existing and proposed conditions.

The Board suggested that he reconfigure the addition.

There ensued further discussion.

Mr. Dreczko questioned the design.

Mr. McKinley stated the need for a dining room table.

Richard Hosp 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. Meyer moved that petition #1139 Michael McKinley & Assoc. for Alexander Ehrlich requesting a Dimensional Variance under Article VI, Section 218-32, Table 32.1 Dimensional Regulations construct addition and perform renovations to an existing Single Family Dwelling closer to property lines than allowed in an R2A Zone be approved. Premises located at 187 Warren Road, Charlestown and is further designated as Lot 6 on Assessor's Map 3.

Mr. Northup seconded the motion.

The Board felt that the applicant is seeking minimal relief necessary and not contrary to public interest and welfare. The granting of the requested relief will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance and he has support of all his neighbors in the neighborhood. Mr. McKinley testified as to the need for the expansion of a screen porch demonstrating the least relief necessary to fit a table on the porch. The requested relief is due to the unique characteristics of the structure.

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

THE PETITION WAS GRANTED UNANIMOUSLY.

Discussion among members

There was discussion on scheduling the appeal of the Planning Commission's denial of the Charlestown Fire Station. All members present were available June 18, 2009 for the appeal.

Mr. Craven stated that he had spoke with legal counsel for the Omnipoint tower applications and they will be ready to proceed at the next meeting. They will attempt to fly the balloon for 21 days prior to the hearing.

There ensued discussion.

Adjournment

There being no further business, the meeting adjourned at 11:20 PM.