

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

The Charlestown Zoning Board of Review held a regular open meeting on Tuesday, August 18, 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, arrived late  
Scott Northup, Alt. #1  
David B. Provanca, Alt. #2

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 September 15, 2009.

**Minutes**

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

Mr. Rzewuski called the first petition.

**Petition #1147 Metro PCS for Allan and Barrie Hill**

Requesting a Special Use Permit under Article XV, Section 218-105 to install 6 antennas on an existing telecommunication tower and up to four (4) cabinets on the ground within the existing fenced area in an R3A Zone. Premises located at 5081 Old Post Road, Charlestown and is further designated as Lot 103 on Assessor's Map 14.

A letter was read from the applicant's attorney requesting continuance to September 15, 2009.

Mr. Dreczko moved that the petition be continued to September 15, 2009.

Mr. Northup seconded the motion.

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

Mr. Rzewuski called the second petition.

**Petition #1148 Richard Lavigne for Shelter Cove Properties, LLC**

Requesting a Special Use Permit under Article XV, Section 218-95, District Use Table to expand a marina from 53 to 66 slips in a C2 Zone. Premises located at 523 Charlestown Beach Road, Charlestown and is further designated as Lot 131 on Assessor's Map 9.

A letter was read from the applicant requesting continuance to September 15, 2009.

Mr. Provancha moved that the petition be continued to September 15, 2009.

Mr. Dreczko seconded the motion.

THE BOARD CONTINUED THE PETITION TO SEPTEMBER 15, 2009.

Mr. Rzewuski called the third petition.

**Remand of petition #1122 Green Machine Bio LLC, William Green for Ross Hill Development**

Requesting a Special Use Permit under Article XV, Section 105C to erect a temporary met tower for a maximum of 24 months to study wind in a C3 Zone. Premises located at 78 Ross Hill Road, Charlestown and is further designated as Lot 14 on Assessor's Map 14.

Mr. Craven explained that this matter came before the Superior Court on appeal by the Shelter Harbor Golf Club. Mr. Green of Green Machine Bio passed away. His family and attorney have no intent of pursuing the approval, even as an asset of his estate. Shelter Harbor Golf Club has asked that the matter be dismissed and the relief granted be denied. In the event that the applicant or his heirs wish to go forward in the future, they would have to file another application.

Mr. Rzewuski asked if the property owner has any interest in this approval.

Mr. Craven stated that he has not come forward and to the best of his knowledge, the owner has no interest in pursuing the approval.

Mr. Meyer asked why this avenue was being pursued since the approval would expire after 6 months.

There ensued discussion.

Elizabeth Noonan, attorney for Shelter Harbor Golf Course, gave the clerk the Superior Court order. It was remanded with a directive to vacate previous approval.

There ensued discussion.

Mr. Dreczko moved to vacate the relief previously granted in application #1122 on remand from Judge Thompson.

Mr. Northup seconded the motion.

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

THE BOARD VOTED 4-1 TO VACATE THE RELIEF PREVIOUSLY GRANTED IN APPLICATION #1122 ON REMAND FROM JUDGE THOMPSON.

Mr. Rzewuski called the fourth 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 explained that the planning commission has the power to grant a variance from the parking. The Board at a prior meeting felt that the limited parking was not enough and stated that they could consider that.

Mr. Rzewuski asked Mr. Craven if the Board could include the evidence in application #1140 as part of the record.

Mr. Craven stated that they could.

Mr. Dreczko moved that the record in application #1140 be included as part of this petition.

Mr. Northup seconded the motion.

THE BOARD VOTED UNANIMOUSLY TO INCLUDE THE RECORD IN APPLICATION #1140 AS PART OF THIS PETITION.

Roberta Mulholland further explained.

David Lamb member of the Board of Engineers was sworn and gave a history and conclusion of the feasibility study and entered same as exhibit #1.

Mr. Frank arrived.

Mr. Lamb read the conclusion and explained the history of the acquisition of this property and the proposed Fire Station. He reviewed the boundaries of the fire district and submitted copy as exhibit #2.

There ensued discussion on the decision of location.

Mr. Lamb stated that the majority of residences and businesses are in the area of the proposed fire station. The majority of the volunteers live in the neighborhood as well. They presented an aerial photo of the area and portion of the fire district as exhibit #3.

Richard S. Lawrence, Registered Professional Architect, gave his education and background and entered same as exhibit #4. He explained that propane tank, generator tank and dumpster pad were slightly changed. Based on previous testimony, the public welfare and convenience will be substantially served by the construction of this building to house the new firefighting apparatus as well as to maintain and attract new volunteers. It will not result in adverse impact or create conditions that will be inimical to the public health, safety, morals or general welfare of the community. Moving the fire station to this site will provide better visibility and a safer method for vehicles arriving at and equipment leaving the site. They will also be moving it further away from the intersection of Schoolhouse Road with its difficult sight lines. The proposed building will not alter the character of the neighborhood as proposed at the last hearing. The building will be located on a 2 acre lot so no impact on neighboring properties. It will be compatible with neighborhood and will not impair the intent or purpose of Zoning Ordinance and will sustain and promote the comprehensive plan which talks about maintaining and supporting the volunteer fire department. It will not affect the privacy of the neighborhood with excessive noise, glare, light or air pollutants. The Planning Commission asked that lights be minimal. The sign is new and will be similar to others in the area with no lighting at all.

Ms. Mullholland asked if there would be any problem with runoff.

Mr. Lawrence stated that they will capture the runoff from the roof and direct it to a vault reservoir for the sprinkler system.

There ensued discussion on the sprinkler and exhaust systems.

Mr. Dreczko moved that they qualify Mr. Lawrence as an expert.

Mr. Provancha seconded the motion.

**THE BOARD UNANIMOUSLY QUALIFIED MR. LAWRENCE AS AN EXPERT WITNESS.**

There ensued discussion.

Craig Carrigan, professional engineer and a Class III designer's license from RIDEM to design OWTS systems and gave his qualifications.

**THE BOARD UNANIMOUSLY QUALIFIED MR. CARRIGAN AS AN EXPERT WITNESS.**

Mr. Carrigan explained the design of the storm water management plan and OWTS, per plans and all required standards. The public welfare and convenience will be substantially served; it will not alter the character of the surrounding area or impair the intent or purpose of ordinance. He explained the OWTS and storm water drainage system and why it is the best technology available. They are not directing storm water runoff from the lot. The grass areas will take up much of the runoff.

Mr. Rzewuski asked if there would be a signal light on Post Road.

Mr. Carrigan stated that DOT is concerned that no water go out onto the state road.

There ensued discussion.

John Carter, Landscape Architect, was sworn and explained his background. He submitted his curriculum vitae as exhibit #6.

THE BOARD UNANIMOUSLY QUALIFIED MR. CARTER AS AN EXPERT WITNESS.

Mr. Carter explained the requested variance from the landscaping standards and the requirement for interior trees. The relief is necessary for space needed for a turning radius for the large equipment. The requirement of perimeter trees is not practical at this site for the same reason not practical and would not survive. Variance sought because of the size of the trucks and nature of the use and not due to any physical disability of the applicant. The hardship is not the result of any prior action of the applicant and does not result in the desire of the applicant to realize greater monetary gain. The relief requested is the least relief necessary and not contrary to the public safety and welfare. Denial of this variance would result in a maintenance headache and not much chance of survival. There ensued discussion on the vegetation proposed that complies with the ordinance.

Mr. Carter stated that there is much more than the require landscaping on the front of the lot.

Ms. Mullholland made closing arguments asked that the amended application be approved.

There ensued discussion on the Planning Commission's limiting of the number of parking spaces.

Mr. Meyer stated that he felt that it would be a real serious mistake to limit the parking below the requirements of the ordinance when they already have 40 volunteers in the district who would attend training sessions and the hope of more volunteers. It would be a gross error and very poor planning when the building will probably be used for fund raisers, community meetings and a polling place.

John Bilotta, volunteer firefighter was sworn and stated that they 20 members at this station, but there could be 40 for a meeting or training when combined with the Rte. 2 station volunteers.

Mr. Meyer asked they could have steel mesh under grass to accommodate added parking.

Mr. Carrigan stated that they could install the mesh along the east property line. The south side has the retention basin.

There ensued discussion.

Mr. Matuza stated that the Planning Commission can waive the parking requirements.

Ms. Mullholland stated that the number of parking spaces was cut down to 20 at the request of the Planning Commission. She concluded closing arguments and asked that the Board grant the relief for this permitted use in accordance with the Zoning Ordinance and the Comprehensive Plan. She added that there will be an administrative subdivision to merge the lots.

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 #1141 Roberta Mulholland, Esq. for Charlestown Fire District requesting a Special Use Permit under Article XIX, Section 218-158 B to construct a Fire Station with a footprint of 8,901 square feet in a Traditional Village and Historic Village District with a Mixed Use Overlay be approved. Premises located at Old Post Road, Charlestown and is further designated as Lots 13-1 and 13-2 on Assessor's Map 12.

Mr. Northup seconded the motion.

The Board felt that Mr. Carrigan went through great detail on the protection being given to the surface water runoff and pollutants from oils, etc. from general use. There is a cistern for the sprinkler system, the swales to protect the neighboring properties. The building in and of itself is a public convenience. Based on the testimony, there will be no adverse impact or create conditions that will be inimical to the public health, safety or welfare of the community and will not alter the general character of the surrounding area or impair the intent or purpose of the ordinance. Much of this evidence came from the appeal application #1140 in discussion of the character of the building and the breaking up of the sight lines. Mr. Carrigan testified that the drinking water will not be affected by this use. The lighting will not disturb the privacy of the abutting landowners. Sewage and waste disposal will be adequately handled on site. Traffic generated by the proposed use will not cause undue congestion due to the circulation pattern. Ms. Mulholland satisfied criteria to the satisfaction of the Board. The testimony meets all the attributes of the Zoning Ordinance with the feasibility study that a new fire station is needed and that they could not remain on existing site.

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

THE SPECIAL USE PERMIT WAS GRANTED UNANIMOUSLY.

Mr. Dreczko moved that petition #1141 Roberta Mulholland, Esq. for Charlestown Fire District requesting a Dimensional Variance under Article XII, 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 be approved. Premises located at Old Post Road, Charlestown and is further designated as Lots 13-1 and 13-2 on Assessor's Map 12.

Mr. Northup seconded the motion.

The Board felt that with respect to the bldg size in a Traditional Village District as well as the landscaping request based on the testimony of John Carter, I would not only agree but I would add that it doesn't make sense to spend money to install landscaping when it is going to be diminished by the use of the property by the oversized trucks. When we talk about mistakes, trying to conceal a Fire Station as much as possible is not in the best interest of the community. So to have that lot open to recognize it as a Fire Station and help with visibility and safety should be a requirement. The perimeter is protecting the abutter's interest with landscaping. The rest of the area in accordance with the Special Use Permit that was approved will protect the safety of the surrounding area. The hardship would be the fact that it is a fire station, which is a legally permitted use, with large equipment entering and exiting the property to be a safe haven and care for the community. The hardship is not the result of any prior action of the applicant and is the least relief necessary and not contrary to the public interest and welfare. I would hope that the landscaping has sufficient base so that cars can be parked on the landscaping. The testimony addressed the need for fewer trees than the landscaping standards. The main reason is visibility for safety. The use will enhance the area and is the least relief necessary.

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

THE DIMENSIONAL VARIANCE WAS GRANTED UNANIMOUSLY.

Mr. Rzewuski read an item from the July 5, 2009 edition of the Providence Journal about volunteer firefighters.

Mr. Rzewuski called the fifth petition.

**#1146 Margaret L. Hogan for Douglas A. Ross**

Requesting a Special Use Permit under Article XV, Section 218-87, 1 and 4 to install an Alternative/Innovative Advantex AX 20 Septic System, well and Single Family Dwelling in an R2A Zone as approved by the Board June 24, 2008. Premises located at Midland Road, Charlestown, Rhode Island and is further designated as Lot 426 on Assessor's Map 2.

Margaret L. Hogan, attorney for the applicant explained the application, submitted the site plan and explained the history of the application. She submitted the following exhibits that were submitted previously in one of the earlier applications: Dr. Urish report relative to groundwater flow, his license and degrees as exhibit 1, 2A and 2B and she asked that the board stipulate him an expert.

The Board agreed.

She submitted Ned Caswell's report and transmittal letter with conclusions and read portion of same, entering them as exhibits 3 and 4. She reviewed the relief sought and explained that this is the same as the previous application that expired in the spring. She reviewed the attributes of the ordinance for special use permit. The CRMC approval will expire in 2012.

The site plan was entered as exhibit #5. She reviewed the criteria of 218-87 and 218-25 and asked that the petition be approved as it was previously.

Mr. Rzewuski asked if there had been any improvements made on this property or the technology since the first application.

Ms. Hogan stated that in January of 2009, the Advantex system was mandated, but they had proposed had proposed that system previously.

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 #1146 Margaret L. Hogan for Douglas A. Ross requesting a Special Use Permit under Article XV, Section 218-87, 1 and 4 to install an Alternative/Innovative Advantex AX 20 Septic System, well and Single Family Dwelling in an R2A Zone as approved by the Board June 24, 2008 be approved. Premises located at Midland Road, Charlestown, Rhode Island and is further designated as Lot 426 on Assessor's Map 2.

Mr. Meyer seconded the motion.

The Board voted to approve the application adopting all the testimony and reasoning for the approval on December 7, 2007 in application #1080 which is identical except for owner's name. The information tonight and from previous application as approved OWTS shows that the information is the same with the exception that this system is mandatory now rather than voluntary as it was in December of 2007.

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

THE PETITION WAS GRANTED UNANIMOUSLY.

Mr. Rzewuski called the sixth petition.

**Petition #1149 Steve Zimmerman**

Requesting a Dimensional Variance under Article VI, Section 218-32, Table 32.1 Dimensional Regulations to enlarge an existing deck closer to property lines than allowed in an R20 Zone. Premises located at 60 East Shore Drive, Charlestown and is further designated as Lot 357 on Assessor's Map 11.



Daniel Lee, contractor representing the owner, was sworn and explained the relief sought. The current deck has four levels. He would like a larger deck with fewer levels. He showed the board a photo of the area and one of the existing decks.

Mr. Frank asked the hardship.

Mr. Lee stated that the owner wants a single level deck for his children.

Mr. Rzewuski questioned the square footage of existing deck.

Mr. Lee stated about 400 square feet and further explained the proposed.

There ensued the discussion of the 550 square feet of new deck and alternative location.

Mr. Dreczko asked why the stairs can not be relocated so that they do not need a variance.

Mr. Lee stated it makes for a nice look.

There ensued discussion of the site plan and the size of the existing and proposed deck and the location of the property line.

Mr. Dreczko asked if there was a survey to know the actual property lines location.

Mr. Meyer suggested that the property be surveyed to be certain of the amount of relief sought.

Mr. Rzewuski stated that he would like to see the deck redesigned for less variance.

Mr. Dreczko stated that he can appreciate esthetics, but to go closer to the property line than the existing deck is would be excessive. The stairs should be incorporated in the deck.

There ensued discussion.

Mr. Dreczko stated given the information thus far, his fear was that the existing deck is already close to or over the property line.

Mr. Meyer stated he would like to see a survey, markers and a drawing.

Mr. Lee stated that it would be expensive.

Mr. Rzewuski asked Mr. Lee if he understood the burden of proof and read the requirements from the Zoning Ordinance. The requirement is to prove that the relief sought is the least relief necessary and hardship, if the application is denied.

There ensued further discussion on the location of the property line and what figures were used.

Mr. Lee stated he would be back in September and that the owner would come back and explain his hardship because the Board felt that he could not communicate the hardship in an effective manner.

Mr. Craven stated that the Board should hear the case and is not in a position to tell him how to present the case. Someone needs to testify as to what hardship would incur in the event that the relief sought were not granted.

There ensued discussion.

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

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

Mr. Rzewuski asked that any new information be filed with the Building Official's Office  
by September 8, 2009.

**Discussion among members**

There ensued discussion on collocation on the existing cell tower. Mr. Rzewuski asked  
Mr. Craven if he could prepare a time line for the tower application and appeal.

**Adjournment**

There being no further business, the meeting adjourned at 9:45 PM.