

Town of Charlestown Zoning Board of Review
4540 South County Trail, Charlestown, Rhode Island
Workshop Minutes
February 20, 2024 at 6:00PM

I. CALL TO ORDER: Ms. Andrew called the Workshop to order at 6:08 p.m.

II. ROLL CALL:

Mr. Abbott, Ms. Andrew, Mr. LaMontagne, Mr. Pangborn, Mr. Rettig, Mr. Rice, Mr. DeMarco, and Mr. Isabella were present.

Also present: Ms. Murray, Zoning Officer; Attorney Wyatt Brochu, Town Solicitor; and Ms. Chin DeWalt, IT. Mr. Stokes, Town Council Liaison was present at 7:15 p.m.

III. WORKSHOP with Town Solicitor regarding procedure, decision writing, standards of review and changes to State Law and Zoning Ordinance Amendments.

Attorney Brochu reviewed changes to the Rhode Island General Law, the proper procedure for decision-making and the standards of review. He explained the Board's role as a quasi-judicial board which holds hearings and makes decisions on the applications before it. He summarized the types of applications that come before the board, i.e. use permits vs. dimensional variances. The applicant has the burden of submitting sufficient evidence to sustain their burden in the form of witness testimony, personal knowledge, written correspondence, plans, and reports. An expert witness can make professional conclusions; but the factual basis can be refuted by the personal knowledge of a board member. Letters and emails do not hold the same weight because they can't be sworn or cross-examined. The Board should always refer to the Ordinance and it is recommended that the Board make notes during the hearing regarding the testimony they've heard, and reports, plans submitted. If reports submitted at the hearing are too large to consider at the time of the hearing, it is okay to continue the application to a date certain for time to review it. The board should start framing the decision in their notes. All the findings should be included in the decision. The Board should ask questions of the applicant or experts relevant to the standards of review and the evidence presented. The board can take time to deliberate upon the evidence that was presented. Staff cannot offer legal advice. Staff can only put into the decision what was put in the motion.

Attorney Brochu informed them of the recent change to State Law effecting Zoning Ordinance Article IV, Section 218-22 regarding the number of board members which constitutes a quorum and the number of voting members needed for an approval. Four (4) members are now required to hold a hearing. Three (3) positive votes are needed for an approval. If there isn't a quorum, the hearing cannot take place, which results in additional costs for re-advertisement and re-notice, along with an inconvenience to applicants, abutters, and witnesses.

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Attorney Brochu reviewed 218-24B and the changes made to State Law.

1) When determining what a hardship is, the factors to be considered might be: What on the lot is constraining? What is the size of the lot? What are the physical characteristics of the lot? Are there pre-existing issues? Are there D.E.M. requirements? Is there ledge?
2) Prior action of the applicant is infrequent.

3) In considering what is the general character of the surrounding area, it is generally not style. If a house is being proposed in a residential neighborhood, it is generally in keeping with the character. The question to ask is, is whatever the applicant is asking for going to alter the general character? The board needs to identify the hardship.

*4) Least relief is no longer a standard to be considered.

*C. (2) The change to the law seeks to expand what a mere inconvenience is. The new language states, that if a dimensional variance is not granted shall amount to more than a mere inconvenience, "meaning that the relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted".

*changes

218-23 Special Use Permits:

The changes to this section of the law are a work in progress. The purpose of the changes is to apply less subjective and more objective criteria. The board should determine if they find the expert testimony credible and state why or why they do not find a witness credible.

It is okay to continue a hearing to draft a decision or to deliberate on more complicated applications.

Written decisions are important when defending an appeal. Application of the standards and factual findings should be stated. Decision-making, however, is malleable and not entirely rote. Practicality and common sense should come into play.

Mr. Abbott asked where the Zoning Ordinance originates. Attorney Brochu explained that the Zoning Enabling Act was created for towns to draft their ordinances. The Planning Commission reviews changes for compliance with the Comprehensive Plan with the assistance of the Solicitors, the zoning office and sometimes an outside source. It is then submitted to the Town Council for adoption.

A finalized copy of the new updated Zoning Ordinance will be provided to the board members upon acceptance.

Ms. Andrew asked about the decision making process on more complicated matters.

Attorney Brochu also informed the board that under the Open Meetings Act items not on the agenda cannot be discussed. Board members cannot act outside of a meeting.

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IV. ADJOURNMENT:

A motion was made by Mr. Pangborn and seconded by Ms. Andrew to adjourn the Workshop at 7:22 p.m. Approved; 5-0

<u>Member</u>	<u>Vote</u>
Mr. LaMontagne	Approve
Mr. Abbott	Approve
Mr. Rettig	Approve
Mr. Pangborn	Approve
Ms. Andrew	Approve

Respectfully submitted,



Carol A. Nelle
Zoning Clerk

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