

October 22, 2013

Paul and Colleen Larson
15 Vale Street
Tiverton, Rhode Island 02878

Re: Tiverton Zoning Board Relief, Plat 301, Lot 180

Dear Mr. & Ms. Larson:

The following is the decision on your Petition heard by the Tiverton Zoning Board of Review (hereinafter the "Board") on October 2, 2013 requesting a variance from Article VII, Section 4 of the Tiverton Zoning Ordinance to construct an addition to the existing dwelling on property located at 15 Vale Street, Tiverton, Rhode Island, at Plat 301, Lot 180 (the "Premises") closer to the side yard setback than permitted in a Residential 40 zoning district.

The petitioners explained through their attorney that they wished to add a garage with a bedroom to the existing dwelling on the Premises. The petitioners stated that due to the presence of slope in the area of the proposed addition, they required the requested relief. The petitioners withdrew their request for a special use permit as they did not believe such relief was needed in this instance. No other comments or objections were entered into the record of the public hearing.

After the testimony was completed at the public hearing for which due notice was given and a record kept, the Board, taking into consideration its knowledge and expertise and after taking into consideration all of the testimony at the public hearing, made the following findings:

1. That the Premises is located on land containing approximately 13,407 square feet of land area, more or less, and is zoned R-40.
2. That the petitioner seeks construct an addition to the existing dwelling for a garage with a bedroom on the top floor closer to the side yard setback than permitted in a Residential 40 zoning district.
3. That the petitioner failed to show that the proposed relief was the least relief necessary to allow for the establishment of the addition, that the relief sought was not shown to be the least relief necessary, and that the petitioners did not provide sufficient, relevant evidence into the record of the hearing to meet their burden of proof as to the standards of review for the sought after relief. Other practical alternatives are possible to better comply with the zoning district requirements.
4. Although the surrounding area is characterized by similar residential structures, the proposed addition is not compatible with the area.
5. Several area residents appeared and stated that they had no objection to the petition.

Based on the foregoing and after deliberations on the application, the Board made a motion to grant the petition. The Board voted two in favor and three opposed to grant the application for the variance (as such, the motion to approve failed), as follows:

- a. Special conditions and circumstances do exist which are special and peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same zoning district, and are not due to a physical or economic disability of the petitioner.
- b. Issuance of the requested relief will not be contrary to the public interest, and that, special or peculiar site or structural conditions exist to support a departure from the provisions of this ordinance which would result in an unnecessary hardship on the petitioner.
- c. The unnecessary hardship, which the petitioner seeks to avoid, has not been imposed by his prior action and is based purely for monetary gain or loss.
- d. The granting of the requested variance will not alter the general character of the surrounding area and impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
- e. Relief from the provisions of this ordinance is the least relief necessary to remove the unnecessary hardship.
- f. That nonconforming use of neighboring lands, structures or buildings in the same district, and permitted use of lands, structures or buildings in an adjacent district did not form the grounds for the application of this variance request.

As to the dimensional variance:

- g. That the hardship that will be suffered by the petitioner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience.

The members who voted against the motion to approve stated that they were not satisfied that another configuration of the addition was possible that would not require the sought after relief. As such, they could not find that the sought after relief was the least necessary and that the hardship was not self imposed.

This petition is hereby denied by the Board. This decision will be recorded in the Land Evidence Records in the Town Clerk's Office. (Please note that the appeal period (20 days) begins when this decision is recorded and posted with the Town Clerk's Office).

Sincerely,


Lise J. Gescheidt, Chair *by Jochi Ray*
Tiverton Zoning Board of Review

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Tiverton, R.I.
NANCY L. MELLO TOWN CLERK
Nov 04, 2013 10:11A