

August 8, 2013

Robert and Sharon Leeming
164 Stoney Hollow Road
Tiverton, Rhode Island 02878

Re: Tiverton Zoning Board Relief, AP 915, Lot 130

Dear Mr. and Ms. Leeming:

The following is the decision on your Petition heard by the Tiverton Zoning Board of Review (the "Board") on August 7, 2013 requesting a variance from Article V., Section 2.d. of the Tiverton Zoning Ordinance to adjust a common property line between 154 and 164 Stoney Hollow Road, Tiverton, Rhode Island, at AP 925, Lot 130 (the "Premises") whereby leaving the Premises with less than required frontage in an R80 zoning district.

The petitioner and his neighbor of the adjoining property explained that for years the two property owners had mistakenly respected a property line which, when surveyed proved incorrect. The parties testified that the property line actually ran through the driveway and lawn on 154 Stoney Hollow Road. The petitioner and his neighbor both requested the Board to approve the relocated property line to better accommodate the physical conditions on the ground. The petitioner explained that due to the shape and configuration of the lot and location of the physical features no other alternative existed to accommodate his proposal for the required relief from the frontage requirements of the zoning district. No other comments 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, and after having viewed the Premises and the surrounding area, the Board, taking into consideration its knowledge and expertise and after taking into consideration all of the testimony at the public hearing, makes the following findings:

1. That the Property contains approximately 105,175 square feet of land area, more or less, and is zoned R80.
2. That the petitioner seeks to adjust a common property line between 154 and 164 Stoney Hollow Road, Tiverton, Rhode Island, whereby leaving the Premises with less than required frontage in an R80 zoning district.
3. That the proposed relief was the least relief necessary to allow for the adjustment of the property line of the Premises. No other practical alternative exists to comply with the lot frontage requirement.
4. That the surrounding area is characterized by a residential uses. The proposed lot line adjustment is compatible with the area and accommodates the existing conditions.
5. No objections were raised to the proposal during the public hearing.

Based on the foregoing and after deliberations on the application, the Board voted unanimously to grant the application for the variance, as follows:

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- a. Special conditions and circumstances 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, owing to special or peculiar site or structural conditions, literal enforcement of the provisions of this ordinance would result in an unnecessary hardship on the petitioner.
- c. The unnecessary hardship, which the petitioner seeks to avoid, has not been imposed by any prior action of the petitioner and is not based purely for monetary gain or loss.
- d. The granting of the requested variance will not alter the general character of the surrounding area or 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.
- 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.

This petition is granted by the Board with the following stipulations and conditions:

1. That this decision must be recorded in the Land Evidence Records in the Town Clerk's Office before a building permit/certificate of occupancy is issued. (Please note that the appeal period (20 days) begins when said decision is recorded and posted with the Town Clerk's Office).
2. That the relief is limited to the plans and representations made by the petitioner to the Board and that any changes to the approved plan shall not be made without approval of the Zoning Board of Review.
4. This approval shall expire one year from the date of granting of such by the board unless the applicant exercises the permission granted. The board may, upon application thereof, for cause shown and without a public hearing, grant an extension, provided that not more than one such extension for a period of six months be granted. (At present, this approval is tolled pursuant to RI General Laws until June 30, 2015.)

Present this letter to the appropriate official when applying to exercise the permission granted.

Sincerely,



Lise J. Gescheidt, Chair
Tiverton Zoning Board of Review