

July 22, 2013

Randy Santerre
104 Shove Street
Tiverton, Rhode Island 02878

Re: Tiverton Zoning Board Relief, AP 102, Lot 123

Dear Mr. Murray:

The following is the decision on your Petition heard by the Tiverton Zoning Board of Review (hereinafter the "Board") on July 3, 2013 requesting a variance from Article XIV, Section 5 of the Tiverton Zoning Ordinance to construct two additions to an existing dwelling on property located at 104 Shove Street, Tiverton, Rhode Island, at AP 102, Lot 123 (the "Premises") expanding a legal non-conforming structure which is not currently allowed in an Industrial zoning district.

The petitioner explained to the Board that he bought the Premises and did not find out that it was in an Industrial zone given the surrounding residential neighborhood and that the house on the Premises was a legal nonconforming structure until seeking to build an addition to his kitchen. The petitioner proposed to expand his current approximately 10' x 10' kitchen to 12' x 14' and 4' x 10' as shown on the proposed plan. The plan presented by the petitioner, coupled with his testimony, showed that the even with the requested relief, frontage requirements, and side yard, front yard and rear setbacks are met. Further, the proposed additions would not exceed the lot coverage. The petitioner also testified that the proposed additions to the second floor is the roof only and not for an addition to the master bedroom as shown on the original plans, though there would still be some extra space added to the master bedroom. The petitioner additionally testified that he is a professional chef and would prefer to be able use a bigger stove and bigger refrigerator. The petitioner stated that he would use the proposed kitchen for his own private, non-commercial use.

The zoning official testified that if this Premises was located in any residential zone, no relief would be necessary from the Board. However, due to the residential neighborhood, including the Premises, located in the Industrial zone, the petitioner needs relief from the Board. No individual objected to the proposal 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, makes the following findings:

1. That the Premises contains approximately 7,300 square feet of land area, more or less, and is zoned Industrial.
2. That the Premises contains a residential dwelling that pre-dates zoning, occupied by the petitioner and his family. The petitioner seeks to construct additions to the existing dwelling on the Premises expanding a legal non-conforming structure which is not currently allowed in an Industrial zoning district.
3. That the Board found the evidence helpful and supportive that the proposed improvements would have no adverse environmental consequences, would be an improvement to existing dwelling and improve conditions in the area, that the additions would not be obtrusive or out of character with the existing neighborhood and that the proposed improvements would not cause an intensification of the nonconformity. The Board found that the proposed relief was the least relief necessary to allow the petitioner to overcome the hardship created by his existing small kitchen.
4. That the testimony of the petitioner was determined credible and accurate that the surrounding area is characterized by residential use, such that the proposed additions to the dwelling structure would be compatible with the area.
5. That no objections were raised against the proposal during the public hearing.

Based on the foregoing and after deliberations on the application, the Board voted 4-1 to approve the application for the use variance, as follows:

- a. Special conditions and circumstances exist which are special and peculiar to the 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 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.

As to the use variance:

- g. Without the issuance of this use variance, the land or structure cannot yield any beneficial use since the current kitchen configuration is impracticable.

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 Board.
3. This approval shall expire one year from the date of granting of such by the board unless the applicant exercises the permission granted or receives a building permit to do so and commences construction and diligently prosecutes the construction until completed. 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 Building Inspector when applying for the necessary permits.

Sincerely,



Lisa J. Gescheidt, Chair
Tiverton Zoning Board of Review