

**TOWN OF TIVERTON
ZONING BOARD OF REVIEW
DIMENSIONAL VARIANCE**

APPLICANT: Jeremy Kane
PROPERTY OWNER: Same as applicant
PROPERTY: 2029 Crandall Road
PLAT MAP 913 LOT: 103
PRESENT ZONING: R-80
PRESENT USE: Residential Single Family Home

RELIEF REQUESTED:

The applicant requests a dimensional variance of the side yard setback of 35 feet. The applicant proposes to build an attached two car garage with living space on the second floor. The plans as submitted show a side yard setback of 31 feet, which would require a 4 feet dimensional relief.

In support of the request, the applicant submitted a completed Tiverton Zoning Board Application which included a site plan, existing conditions, and a proposed floor plan for the two car garage and upstairs living space.

Zoning Board members present: Chairwoman Gescheidt, Vice Chair Collins, and members Jackson, Taylor-Humphrey, Alzaibak, and 1st Alternate Hilton. And 2nd Alternative Bishop.

The following individuals spoke as representatives of the applicant: Andrew Teitz, Esq. as counsel for the applicant, Oliva Spence, an architect, Jim Houle, an appraiser, and Todd Chaplin, P.E., Mount Hope Engineering, Inc.

Ms. Spence testified that the proposed width of the garage has been reduced to the smallest extent possible to still allow the owners to safely park two cars in the structure while still allowing some extra storage space in the rear of the garage. A single garage door is proposed to further mitigate the need for a wider structure. If the garage were to be placed on the opposite side of the house than proposed by the applicant, access to the garage would be through the current dining room. Furthermore, the location of the current driveway as shown leads directly to location of the proposed garage.

Mr. James Houle, an expert appraiser, testified that a two car garage is common in the surrounding area and that the location of the septic system on the lot on the opposite side of the house would make it difficult to locate garage in that area. He further testified that such a configuration would make the garage's placement problematic as it related to the current lay-out of the house.

Todd Chaplin, a licensed engineer, testified that while the lot contains 6 acres, the presence of wetland in the rear of the house lot makes development of an additional/garage problematic because of the necessary buffers. Mr. Chaplin explained the actual wetlands are about 110 feet or so off the back of the house. The septic system is directly behind the house and about 30 or 35 feet from that perimeter of wetlands. Mr. Chaplin further stated to try to relocate that septic

system would be very expensive and it would also start to encroach on the wetlands in the back. The property itself is very large but the wetlands are fairly extensive and run out through the west for the vast majority of the site.

Based on the following evidence which is part of the record, the Board finds that the hardship from which the applicant seeks is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding areas.

As shown on the submitted maps, the current location of the house on the lot and the location of the driveway from Crandall Road make the location of the proposed structure the most sensible given the current floor plan of the house. Access to the new garage will be through an area designated as a coat closet/entryway. The presence of a septic system and leach field on the opposite side of the house severely restricts the ability for any construction or any addition in the area.

Based on the following evidence which is part of the record, the Board finds that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

The record is devoid of any suggestion that hardship is created by the applicant. The location of the house on the lot was pre-existing at the time the applicant purchased the house along with the presence of the current driveway which naturally leads to an area where the garage is proposed. While a smaller one car garage could meet the set-back requirements, the applicant also desires extra living space above the garage to accommodate the applicant's family.

Based on the following evidence which is part of the record, the Board finds that the relief to be granted is the least relief necessary.

The applicant's original submission sought greater set-back relief, but a reconfiguration of the width of the garage has greatly reduced the need for the dimensional variance to a mere four feet. The board finds that the applicant has voluntarily taken steps to reduce the need for a greater dimensional variance, while still accommodating the applicant's desire for a two-car garage and extra living space on the second floor.

Based on the following evidence which is part of the record, the Board finds that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience.

Without the limited variance requested, the applicant would not be able to enjoy the full benefit of his property primarily because of the location of the wetlands and a pre-existing septic system that limits where an attached garage could be situated on the lot. As noted by Mr. Houle, the applicant's expert, a two-car garage is standard and a very popular feature in the neighborhood and the creation of it would not be harmful to the neighbors.

Based on the findings of fact as stated above, the entire record submitted, and applying those facts to the legal standards necessary for a DIMENSIONAL VARIANCE, a motion was made to GRANT both requests by Alziabk, seconded by Jackson.

A rollcall was taken and the following members voted AYE TO APPROVE the relief sought: .
Voting were Ms. Gescheidt, Mr. Collins, Mr. Jackson, Ms. Taylor-Humphrey and Mr. Alzaibak.

The official minutes of the meeting of November 4, 2020 are also incorporated by reference into this decision of the Tiverton Zoning Board.

Decision Approved and Accepted this 7th of ~~November~~ December 2020.

Ms. Gescheidt
Ms. Gescheidt, Chairperson, Tiverton Zoning Board

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