

DECISION OF THE TIVERTON ZONING BOARD OF REVIEW

Applicant: Bruce and Colleen Galletly
Address: 255 Riverside Drive
Plat/Map 302/189
Zoning District R-40
Relief Sought: Dimensional Variance

Bruce and Colleen Galletly, hereinafter referred to as the Applicants, seek a dimensional variance pursuant to Article VII, Section 4 of the Tiverton Zoning Code. The applicants are owners of a pre-existing, non-conforming residential lot located in a R-40 zone which requires a minimum 40,000 square foot lot. The non-conforming lot consists of 3,920 square feet. Under the current Tiverton Zoning Code, a maximum building lot coverage of 25% is allowed. The current lot coverage exceeds the lot coverage by 4% for a total of 29%. The applicants seek to expand a proposed deck on the property by an additional 68 square feet which would increase the total lot coverage to 30.71%. The deck will be enclosed for an additional living area.

In support of the application, the applicants submitted an application to the Zoning Board dated November 30, 2020 that included drawings and plans entitled "Galletly Residence Addition" dated September 29, 2020.

Mr. Galletly appeared before the board on January 6, 2021 and testified that he was seeking a dimensional variance in order for him to expand the deck of his residence and that without the relief sought, Mr. Galletly would create a ten-inch gap between one side of the deck and the existing bathroom on the west facing line that is about a 10 inch inset. Mr. Galletly informed the Tiverton Zoning Board by making the deck lines and existing footprint contiguous and in alignment, an additional 68 square footage is needed. He further testified that by being able to connect to the existing bathroom and eliminating the gap allows for maximum use of the interior living space.

Two neighbors to the Galletlys, Mr. Steve Durkee of 259 Riverside Drive and Matthew Pichette of 243 Riverside Drive, both testified under oath that they did not oppose the application.

Under R.I.G.L. 45-24-31 (66)(ii), a dimensional variances is defined as:

Permission to depart from the dimensional requirements of a zoning ordinance, where the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations. However, the fact that a use may be more profitable or that a structure may be more valuable after the relief is granted are not grounds for relief.

In granting a variance, the Zoning Board of Review, shall require that evidence to the satisfaction of the following standards is entered into the record as noted below:

- (1) That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in § 45-24-30(a)(16);

The Board finds that the lot in question is already non-conforming as a matter of right and that the lot coverage and existing footprint of the residential structure which abuts a body of water is a unique characteristic that makes alternative relief difficult.

- (2) 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 lot in question is a pre-existing, non-conforming lot as a matter of right and the lot coverage already exceeds the maximum lot coverage. The relief sought will allow the owner to eliminate a ten-inch gap as shown on the submitted plans submitted in support of the application.

- (3) That 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; and

Testimony from the applicants' two neighbors revealed that they did not oppose the relief sought and the expansion of the deck by 68 square feet would not alter the general character of the neighborhood. The Board further finds that the granting of the relief will not impair the intent or purpose of the zoning code or the comprehensive plan.

- (4) That the relief to be granted is the least relief necessary.


The applicant is seeking to add a mere 68 square feet on a deck that will allow them to close a ten-inch gap in the proposed deck plan if the relief were not granted. The evidence further supports this finding as the foot print of the existing house will not be expanded beyond its current configuration.

- (5) In granting a dimensional variance, 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. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief.

The Board finds that if the relief is not granted, the applicant will be forced to redesign the proposed addition and the deck for a mere ten-inch gap.

Therefore, based on all of the testimony and submissions to the Tiverton Zoning Board including the all representations as noted in minutes of the Tiverton Zoning Board of Review dated January 6, 2021 which are incorporated by reference, a motion was made by the Chairman Gescheidt, seconded by Member Jackson to APPROVE the request for a DIMENSIONAL VARIANCE which is GRANTED with the following members voting in the affirmative:

Ms. Gescheidt, Mr. Collins, Mr. Jackson, Ms. Hilton and Mr. Alzaibak (5 to 0)



Ms. Lise Gescheidt, Chairwoman

Date: 1/19/2021

CERTIFICATION

I Julie Barrett certify that I sent a true copy of the within decision, by regular mail, postage prepaid, to the applicant on the 29th day of January, 2021.
2021

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