

Application for a Dimensional Variance from the Zoning Code

Rhode Island General Law §45-24-41 states that “An application for relief from the literal requirements of a zoning ordinance because of hardship may be made by any person, group, agency, or corporation by filing with the zoning enforcement officer or agency an application describing the request and supported by any data and evidence as may be required by the zoning board of review or by the terms of the ordinance.”

There are four criteria that the Zoning Board of Review will take into consideration when reviewing an application for a Dimensional Variance. Please note that all four criteria must be answered. Failure to do so may result in an application being deemed incomplete.

§45-24-41(d)(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)”:

For the allowance of equal frontage distributed to the parcels being subdivided, a dimensional variance will need to be approved. This is due to the unique shape of the lot as it abuts Carr’s Trail, not because of any physical and/or economic disability of the applicant. The proposed division line allows for proper zoning setbacks to be enforced for the applicable zoning area.

§45-24-41(d)(2): “That the hardship is not the result of any prior action of the applicant”:

Due to the large size and odd shape of the lot, this dimensional variance is being sought out. This hardship would not be due to any prior action of the applicant. To reflect current usage of the current lot and to maintain the 5-acre size lot minimum, this lot frontage variance is being requested.

§45-24-41(d)(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.”:

To complement the surrounding area, this lot is being subdivided to a ±5-acre parcel and a ±48-acre parcel. As it stands as a ±52-acre parcel, the lot is a mismatch of the surrounding area. To account for this, the frontage was split in half and in doing so, will fall slightly short of the required frontage amount, thus a 9.06% variance being requested will allow for the applicant to agree with surrounding lots who meet the 5-acre criteria of minimum sizing. This new proposed lot will be consistent with the RR-5 zoning designation as it will host a residential use, being a single family dwelling.

§45-24-41(e)(2): "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, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. 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 current parent lot is only occupied by the front 5-acres with respect to Carr's Trail. To accommodate for that by subdividing the lot into the two proposed respective parcels grants effective use of the land. To not grant this requested variance will be induce more than a simple and mere inconvenience. Having to account for roughly 47-acres of land that simply are not used, equates to more than a mere inconvenience. This subdivision is to reflect actual usage of the land and to allow for possible future development of the remaining land. Splitting the existing frontage for 2 parcels will require a dimensional variance either way, so splitting equally seemed the most reasonable. With this, allowing for development of a single-family residence on the new parcel is absolutely feasible either from Carr's Trail or Flat River Road.