Form ZBR-DV

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)":

The hardship requiring relief is the lack of minimum frontage (225 ft in the RR2 zone) on a public right-of-way for A.P. 89 Lot 9. Lot 9 was created in accordance with the 2008 agreement between the Coventry Town Council and the landowner at the time for the donation of the land that was/is used for the Washington Oak Elementary School. The configuration of Lot 9 was necessary for the donated land/lot for the school (now A.P. 90 Lot 15) to have its frontage on Read School House Road, and the resultant hardship for Lot 9 is due to the unique characteristics of same.

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

The hardships are the result of the requirements for the configuration of the school parcel (A.P. 90 Lot 15), which takes its required frontage on Read School House Road, and which precludes the availability of frontage for the created parcel A.P. 89 Lot 9. Therefore, while the prior landowner was privy and party to the land donation to the Town that created A.P. 90 Lot 15, the applicant did not determine the lot configuration requirements for the school parcel, and by extension, the hardships for lot 9 were not the result of any prior action of the applicant.

§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.":

The variances will formalize the arrangement agreed to between the Town and the applicant for the land donation for the school, allowing for the creation four (4) single-family dwellings that are otherwise both use and dimensionally compliant with the standards for the RR2 zone. Additionally, the proposed minor subdivision and the lot developments of same shall preserve much of the existing wooded ground cover on the parcel, which shall act as vegetative screening from the surrounding area. Finally, the traffic study performed by Town of Coventry engineering and public works staff concluded that the impact of the minor residential subdivision on traffic counts and patterns in the area will be minimal. Therefore, the development will be in harmony with the general character of the surrounding area, and the granting of the requested variance to allow same will not alter the general character of the surrounding area, nor will they impair the intent or purpose of the zoning ordinance or the Town's comprehensive plan.

§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."

It is noted that the 2008 agreement between the Town Council and the prior landowner explicitly allowed for a four (4) lot residential subdivision, which is considered to be the "permitted use" of the property. Without the granting of the requested dimensional variances, the applicant will be denied the ability to develop the four (4) dwelling parcels on A.P. 89 Lot 9. This would represent a de facto rendering of A.P. 89 Lot 9 as unbuildable, and would amount to significantly more than a mere inconvenience to the applicant. The relief being requested is therefore the minimum necessary for the applicant to enjoy the permitted and agreed upon use of the property.