

# BARRE TOWN DEVELOPMENT REVIEW BOARD MINUTES FOR SEPTEMBER 9, 2020

The Barre Town Development Review Board held a public hearing on **Wednesday, September 9, 2020** beginning at 7:00 p.m. in-person at 149 Websterville Road, by teleconference and zoom video conferencing.

## **MEMBERS**

Mark Reaves, Jon Valsangiacomo (Zoom) , Chris Neddo and Craig Chase (alternate)

## **MEMBERS ABSENT:**

Jim Fecteau, Cedric Sanborn, Charles Thygesen, Sr., and Angela Valentinetti

## **STAFF PRESENT**

Chris Violette and Cindy Spaulding (Zoom)

## **OTHERS PRESENT:**

Russell and Pamela Austin, and Jeff Olskey (Zoom)

## **CHANGES TO THE AGENDA:**

No changes to agenda

## **APPROVE MINUTES**

*Mr. Neddo made a MOTION to approve the July 8, 2020 minutes with as written, Mr. Chase seconded the motion. Four voted in the affirmative.*

*Mr. Chase made a MOTION to approve the July 15, 2020 (Special) minutes with as written, Mr. Neddo seconded the motion. Four voted in the affirmative.*

## **WARNED PUBLIC HEARINGS**

Request by Russell & Pamela Austin for a 2' variance of side yard setback to allow for the construction of an attached deck and handicap ramp, which as proposed will be 23' from the left side property line when 25' is required by the Barre Town Zoning Bylaw. Property is located at 735 Graniteville Rd; parcel ID: 018/047.00; zoned Industrial; V-20000004.

Consultant: None

Date: September 3, 2020

## **STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE, PLANNING OFFICER**

This is a warned public hearing for the purpose of hearing a variance request in accordance with Article 7, section 7.9 of the Barre Town Zoning Bylaw whereas it was determined prior to the applicant filing a building permit request that the proposed project will not meet setback.

There is a second variance request (V-200000005) for the same parcel but as a separate application.

The subject parcel is located on Graniteville Road in an industrial zone that requires a 25' side yard setback. The existing use of the parcel is residential (single-family dwelling) on .2 acre of land.

Several years ago, Mr. and Mrs. Austin constructed an attached deck and handicap ramp. The deck in question, is attached to another but long existing deck. These improvements were done without a building permit. It recently came to my attention that these structures had been built and no permit obtained. After reviewing what had been built and informing the Austin's a building permit was going to be necessary, it was clear after a recent survey by their neighbor, that the ramp part of the project would not meet setback. I informed the Austin's they would have to seek a variance.

Based on the Austin's written testimony, the need for the deck and attached ramp are for siblings that have handicaps. Also based on their testimony, the location chosen was the most practical and really the only place to build the deck and ramp that would not interfere with their driveway and parking lot. I concur with both statements.

The ramp is what is closest and is what necessitates the variance. The ramp ends up being 23' from the left side property line when 25' is required in the industrial zone. Mr. and Mrs. Austin are looking for a variance of 2' on the left side property.

At .2 acres, the Austin's parcel is substandard with regard to size in an industrial zone. The minimum lot size is 2.0 acres, but this parcel existed long before zoning was ever thought of. In fact, the entire situation is not great but all grandfathered. There are two houses on what totals .4 acres and the driveway access to both is shared right down the middle. Until recently knowing exactly where property lines where was a bit difficult or relied on information being handed down from previous owners. Also, as you'll note, the Austin's parcel is a bit irregular with 30' of road frontage but a much wider irregular rear property line.

Mr. and Mrs. Austin submitted a narrative addressing the 5 variance criteria and answered yes to all. The narrative is included in your packets.

Below are the five criteria and a summary of Mr. and Mrs. Austin's responses and comments that I may add.

**1) Are there unique physical circumstances or conditions as to:**

- a. Irregularity, narrowness or shallowness of lot size or shape;**
- b. Exceptional topography or physical conditions peculiar to a particular property;**
- c. Unnecessary hardship due to the above?**

The Austin's state that yes it is the only appropriate location for the deck and handicap ramp any other place would block the driveway or parking area.

I would add that "a" as previously noted is especially true for this criterion.

**2) Are there physical circumstances or conditions that prevent conformity to zoning regulations; And, a variance is necessary to enable "reasonable use" of the property?**

The same answer was given in previous question.

I would add that there are likely many physical circumstances that prevent the deck and attached handicap ramp to have been built in conformance.

**3) Is it true that no unnecessary hardship was created by the applicant?**

Answer Yes. I would add that as mentioned above this situation was created many years ago and the applicant other than constructing the deck and ramp did not create the parcel or its configuration.

**4) Is it true that a variance will not:**

- a. alter the essential character of the neighborhood?**
- b. substantially or permanently impair appropriate use or development of adjacent property?**
- c. reduce access to renewable energy sources?**
- d. be detrimental to the public welfare?**

Answer: Yes, to a-d. I would add that while the neighbor to the Southeast looks over the ramp, it is still approximately 50' from the neighbor's house. That the deck and ramp are customary in residential neighborhoods. That is necessary to allow access to the house by some, and that it is not detrimental to the public welfare.

**5) Is it true the variance represents the minimum deviation from regulation and plan to provide relief?**

Answer yes. It was the only place to put the deck and ramp as the property is not large enough to place it.

I would add that it is likely the only place the ramp could have gone. The only caveat is that had a permit been obtained at the time of construction, maybe a bit of a modification could have been made to satisfy setback. But also, at the time I'm not sure the exact property line was truly understood.

**SUMMARY, RECOMMENDATIONS & CONDITIONS:**

In the end it is an unfortunate situation, but it is likely that the ramp is or close to the minimum deviation possible. The ramp has been used for handicap access and the applicant states there is still a need. I believe based on the criteria above the threshold has been met for a variance to be issued.

Another important note, I believe, is that this applicant and anybody that lives nearby is subject to a greater setback than anybody in any other zone where a residential use is allowed or grandfathered except low density. Because this is an industrial zone, the Austin's are subject to the 25' setback whereas just up or down the road the zoning is very high density and the setback would be 10'.

I recommend approval of this 2' variance, allowing a 23' setback of left property line, allowing the applicant to apply for a building permit to correct the record for the previously constructed deck and handicap ramp.

I suggest the following condition:

- 1) The Austin's apply for a building permit for the deck and handicap ramp

**COMMENTS/MOTION**

Mr. Violette provided an overview and his recommendations as outlined above.

Mr. Valsangiacomo asked if there were anyone else present to speak to the request. There were no one else present.

Mr. Reaves went over the five variance criteria with the applicants, Pam Austin answer all five questions in the affirmative.

*On motion by Mr. Neddo, seconded by Mr. Chase, the Development Review Board approved the request by Russell & Pamela Austin for a 2' variance of side yard setback to allow for the construction of an attached deck and handicap ramp, which as proposed will be 23' from the left side property line when 25' is required by the Barre Town Zoning Bylaw. Property is located at 735 Graniteville Rd; parcel ID: 018/047.00; zoned Industrial; V-20000004 with condition to apply for a building permit. All members voted in the affirmative. Subject to the condition recommended by the Zoning Administrators.*

**APPLICANT: Austin/ Variance**

**Request by Russell & Pamela Austin for a 10' variance of side yard setback for the construction of a wood privacy/sunscreen attached to an existing deck, allowing for a 15' right side property line setback when 25' is required by the Barre Town Zoning Bylaw. Property is located at 735 Graniteville Rd; parcel ID: 018/047.00; zoned Industrial; V-20000005.**

Consultant: None

Date: September 8, 2020

**STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,**  
**PLANNING OFFICER**

This is a warned public hearing for the purpose of hearing a variance request in accordance with Article 7, section 7.9 of the Barre Town Zoning Bylaw whereas it was determined prior to the applicant filing a building permit request that the proposed project will not meet setback.

There is a second variance request (V-200000004) for the same parcel but as a separate application. The deck referred to below is not the same deck that was part of the previous variance application but is attached to it.

The subject parcel is located on Graniteville Road in an industrial zone that requires a 25' side yard setback. The existing use of the parcel is residential (single-family dwelling) on .2 acre of land.

Mr. and Mrs. Austin have constructed a simple "privacy and sun" screen on top of their long existing deck. These improvements are intended to be temporary, removable in the winter, but were done without a building permit. Upon review of the project for the previous, variance these small structures came to my attention. After reviewing what had been built and informing the Austin's a building permit was going to be necessary, it was clear based on the layout of the two side by side lots as noted below, the wood structure cannot meet setback. I informed the Austin's they would have to seek a variance.

Based on the Austin's written testimony, the need for screening is to allow them to sit on their deck and have relief from the sun. I believe privacy comes in to play as well as the neighbor's house is very close.

At .2 acres, the Austin's parcel is substandard with regard to size in an industrial zone. The minimum lot size is 2.0 acres, but this parcel existed long before zoning was ever thought of. In fact, the entire situation is not great but all grandfathered. There are two houses on what totals .4 acres and a single driveway provides access to both. The property line runs right down the middle of the driveway. Also, as you will note, the Austin's parcel is a bit irregular with 30' of road frontage but a much wider irregular rear property line.

Mr. and Mrs. Austin submitted a narrative addressing the 5 variance criteria and answered yes to all. The narrative is included in your packets.

Below are the five criteria and a summary of Mr. and Mrs. Austin's responses and comments that I may add.

**1) Are there unique physical circumstances or conditions as to:**

- a. Irregularity, narrowness or shallowness of lot size or shape;**
- b. Exceptional topography or physical conditions peculiar to a particular property;**
- c. Unnecessary hardship due to the above?**

The Austin's state that yes, it is the only appropriate location.

I would add that "a" as previously noted is especially true for this criterion. The lot is small and close to the neighboring house and the right-side property line which runs down the center of the shared driveway is only 15' from the edge of the deck, the house itself is much closer.

**2) Are there physical circumstances or conditions that prevent conformity to zoning regulations; And, a variance is necessary to enable "reasonable use" of the property?**

The same answer was given in previous question.

I would add that there are likely many physical circumstances that prevent the screening to have been built in conformance.

**3) Is it true that no unnecessary hardship was created by the applicant?**

Answer Yes. I would add that as mentioned above this situation was created many years ago and the applicant, other than constructing the screening, did not create the parcel or its configuration.

**4) Is it true that a variance will not:**

- a. alter the essential character of the neighborhood?**
- b. substantially or permanently impair appropriate use or development of adjacent property?**
- c. reduce access to renewable energy sources?**
- d. be detrimental to the public welfare?**

Answer: Yes to a-d. I would add that while the neighbor to the North is very close the deck attached to the house has been there for many years and is a reasonable use and customary in residential neighborhoods.

**5) Is it true the variance represents the minimum deviation from regulation and plan to provide relief?**

Answer yes.

I would add again that the main deck has been there for a long time, is a reasonable use and adding the screening is important for the applicant and infringes no more than what is already there. Even if the Austin's had acquired a permit before they built the screening they'd be in the same position and the same variance would be necessary.

**SUMMARY, RECOMMENDATIONS & CONDITIONS:**

This is a minor issue whereas the Austin's main back deck has existed for a long time. There is no way for it or the screening to meet setback given the proximity to the common boundary between these two houses and the shared driveway. It is my opinion that no additional impact is being created. I believe based on the criteria above the threshold has been met for a variance to be issued.

Another important note, I believe, is that this applicant and anybody that lives nearby is subject to a greater setback than anybody in any other zone where a residential use is allowed or grandfathered except low density. Because this is an industrial zone, the Austin's are subject to the 25' setback whereas just up or down the road the zoning is very high density and the setback would be 10'.

I recommend approval of this 10' variance, allowing a 15' setback of right property line, allowing the applicant to apply for a building permit to correct the record for the previously constructed wooden screening atop the existing deck.

I suggest the following condition:

- 1) The Austin's apply for a building permit for the screening.

**COMMENTS/MOTION**

Mr. Violette provided an overview and his recommendations as outlined above.

Mr. Reaves went over the five variance criteria with the applicants, Pam Austin answer all five questions in the affirmative.

***On motion by Mr. Neddo, seconded by Mr. Chase, the Development Review Board approved the Request by Russell & Pamela Austin for a 10' variance of side yard setback for the construction of a wood privacy/sunscreen attached to an existing deck, allowing for a 15' right side property line setback when 25' is required by the Barre Town Zoning Bylaw. Property is located at 735 Graniteville Rd; parcel ID: 018/047.00; zoned Industrial; V-20000005. with condition to apply for a building permit. All members voted in the affirmative. Subject to the condition recommended by the Zoning Administrators.***

**SUBDIVISION**  
**CONCEPTUAL**

Mr. Valsangiacomo mentioned he would have a conflict of interest for the proposed subdivision, due to this was a conceptual discussion, he would stay to meet the quorum requirements of the meeting.

Mr. Olesky (Agent for Jay Carr) presented a conceptual proposed residential subdivision site plan located at 6 Tanglewood Drive. The subdivision would involve the creation of seven new lots in addition to the existing one for a total of eight lots.

Discussion highlights:

- Town's ROW extension on Tanglewood drive to be extended with 50 wide access and utility easements on several properties to allow for access to utilities connections
- Upgrade existing culvert
- Access and frontage concerns, how many shared accesses and would they meet zoning requirements.
- Potential pump stations for water/wastewater as to have no impact on wetlands in area
- Extension of Town road? Wants to keep at a minimum.
- Potential crossing in Class II wetlands (minimal impact)
- Road frontage for lots off Tanglewood Drive
- Lot directly off of West Cobble Hill Road is lacking sufficient road frontage

Mr. Violette suggested a zone change may be in order to allow for less road frontage and smaller lot size. A zone change request would go to the Planning Commission.

**ADJOURN:**

*A MOTION was made by Mr. Neddo, to adjourn the meeting. Mr. Reaves seconded the motion and the Board voted unanimously to adjourn the meeting at 7:55 p.m.*

Respectfully submitted,

Cindy Spaulding, Clerk for DRB

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Mark Reaves, Chair

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Jon Valsangiacomo, Vice Chair

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Cedric Sanborn

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Jim Fecteau

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Craig Chase (Alternate)

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Angela Valentinetti

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Chris Neddo