

Jorge O. Elorza
Mayor

Marc Greenfield
Chair



Zoning Board of Review

RESOLUTION NO. 2021-12

May 7, 2021

IN RE: Application for Dimensional Variance
 (Lot Area for a 2-family dwelling)

PROPERTY: Tax Assessor's Plat 123, Lot 189
 827 River Avenue

OWNER/
APPLICANT: Rise Realty LLC/Joseph Colaluca
 566 Smith Street
 Providence, RI 02908

COUNSEL: John J. Garrahy, Esq.
 2088 Broad Street
 Cranston, RI 02905

On April 14, 2021, the within matter came before the Zoning Board of Review (the "Board") for a duly noticed public hearing¹ on the request by the Owner & Applicant (the "Applicant") for a dimensional variance for the above-designated Property. The following members of the Board were present throughout the hearing: Acting Chair Wolf, Ms. Maniotes, Ms. Rodriguez, Mr. Strother, and Mr. Mitchell. Mr. Scott sat as a non-voting alternate. Chair Greenfield was absent from the meeting.

¹ The April 14, 2021 Zoning Board of Review public hearing was conducted via the online platform "Zoom;" it was a virtual public hearing authorized by Governor Raimondo's Executive Order 20-05 dated March 16, 2020.

WHEREAS, the Applicant sought relief from Article 4, Table 4-1 of the Providence Zoning Ordinance of November 24, 2014, as amended (the "Ordinance"), to construct a 2-Family Dwelling on a lot with 3,860 sq. ft. where 4,000 sq. ft. are required; and

WHEREAS, prior to the hearing, the members of the Board individually made inspections of the Property and of the surrounding neighborhood; and

WHEREAS, Attorney John Garrahy presented the application and the testimony of Mr. Joseph Colaluca, Applicant; and Mr. Peter Casale, code consultant; and

WHEREAS, there were no written objections to the application, and the Board heard oral testimony from Attorney William Delaney on behalf of Mr. & Mrs. Couvertier of 833 River Ave, and of Ms. Adrienne Mangum of 834 River Ave; and

WHEREAS, the Board received, and the Chair read into the record, the April 14, 2021 recommendation of the Department of Planning and Development ("DPD") recommending the granting of the dimensional variance.

NOW, THEREFORE, after consideration of the application, the testimony, and all the evidence of record, upon motion by Ms. Rodriguez, seconded by Ms. Maniotes, the Board voted unanimously (5-0) to APPROVE the application for a dimensional variance.

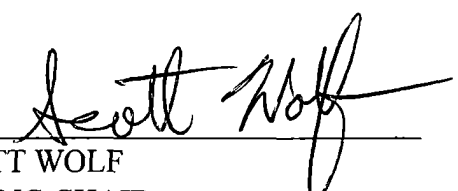
**THE BOARD HEREBY MAKES THE FOLLOWING
FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

1. The Property is located in an R-2 Residential Zoning District and consists of a vacant lot of 3,860 sq. ft., which is 40-foot wide by 96.5-foot deep.
2. Table 4-1 of the Ordinance requires 4,000 sq. feet of lot area to construct a 2-Family Dwelling on a lot with 3,860 sq. ft. where 4,000 sq. ft. are required. Accordingly, the lot area of 3,860 sq. ft. is within 10% of the lot area required to construct a 2-family dwelling.
3. Prior to applying for a dimensional variance, the Applicant requested an Administrative Modification for the relief required pursuant to Ordinance Section 1903. The Zoning Official made a positive determination as required by Section 1903.C.2. Upon notice to abutters, and receipt of an abutter's objection, the Administrative Modification was denied, and the Applicant was required to apply to this Board for a dimensional variance.
4. The Board heard testimony from Attorney Delaney, representing the abutter who had objected to the Modification Request. Mr. Delaney indicated that the abutter's concerns had been addressed and that the abutter no longer objected to the dimensional variance. The Board further heard testimony from an abutter that the properties in the immediate proximity were mostly single-family dwellings.

5. The Board finds that the relief sought is due to the unique characteristics of the subject Property because while the zoning district is designated R-2, the lot was platted at 96.5 feet in depth rather than the more typical 100 feet, resulting in the shortage of 140 sq. ft. Further, the Board considered the testimony of the DPD Staff that the fact that the lot area is within the 10% Administrative Modification range is a unique characteristic.
6. There was no evidence presented or elicited that the relief sought is due to a physical or economic disability of the Applicants.
7. The Board finds that the hardship is not the result of any prior action of the Applicants, who purchased the Property in its current state.
8. The relief is not sought primarily from the desire of the Applicants to realize greater financial gain, but rather to develop the Property in accordance with the zoning district designation.
9. The Board agrees with, and incorporates, the findings and recommendation of the DPD and likewise finds that granting the requested dimensional variances will not alter the general character of the surrounding area or impair the intent or purpose of the Ordinance or the Comprehensive Plan.
10. The substantial evidence demonstrates that the relief sought is the least relief necessary to relieve the hardship, based on the configuration and unique characteristics of the lot. The relief sought is the only relief required from the Ordinance.
11. The Board concludes that the hardship suffered by the Applicants of the subject property, if the dimensional variance is not granted, will amount to more than a mere inconvenience because the Applicant otherwise would not be able to build a 2-Family Dwelling that will otherwise be in full compliance with the Ordinance.

WHEREFORE, upon motion by Ms. Rodriguez, seconded by Ms. Maniotes, the Board voted unanimously (5-0) to APPROVE the application for a dimensional variance from the lot area requirements of the Ordinance.

By Order of the Zoning Board of Review.



SCOTT WOLF
ACTING CHAIR

NOTICE TO OWNERS/APPLICANTS:

- A SECTION 1902 OF THE ORDINANCE REQUIRES THAT ANY VARIANCE OR SPECIAL USE PERMIT GRANTED BY THE BOARD SHALL EXPIRE SIX MONTHS AFTER THE DATE OF THE FILING OF THE RESOLUTION IN THE OFFICE OF THE BOARD UNLESS THE APPLICANT SHALL, WITHIN THE SIX MONTHS, OBTAIN A LEGAL, COMPLETE BUILDING PERMIT AND PROCEED WITH CONSTRUCTION; IF NO CONSTRUCTION IS REQUIRED, THE APPLICANT SHALL OBTAIN A LEGAL BUILDING PERMIT FOR THE USE, OR A CERTIFICATE OF OCCUPANCY. DEMOLITION AND FOUNDATION PERMITS ARE NOT BUILDING PERMITS FOR PURPOSES OF THIS REQUIREMENT. NO PERMIT OR CERTIFICATE OF OCCUPANCY WILL ISSUE UNTIL THE OWNER AND/OR ITS REPRESENTATIVE COMPLIES WITH PARAGRAPH B BELOW.
- B. THE ORIGINAL RESOLUTION IS ON FILE IN THE OFFICE OF THE ZONING BOARD OF REVIEW. THE OWNER OR THEIR REPRESENTATIVE MUST OBTAIN THE ORIGINAL RESOLUTION FROM SAID OFFICE, RECORD THE RESOLUTION IN THE CITY'S LAND EVIDENCE RECORDS, AND PROVIDE COPIES OF THE RECORDED RESOLUTION TO BOTH THE OFFICE OF THE ZONING BOARD OF REVIEW AND THE DEPARTMENT OF INSPECTION AND STANDARDS.

MOTION TO APPROVE THE DIMENSIONAL VARIANCE MADE BY: Rodriguez

SECONDED BY: Maniotes

MEMBERS VOTING IN FAVOR OF THE MOTION: Rodriguez, Maniotes, Strother, Mitchell, Wolf

MEMBERS VOTING AGAINST THE MOTION: None

RECEIVED:
Providence
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John A Murphy
Recorder of Deeds