

WARWICK ZONING BOARD OF APPEALS
MINUTES OF THE APRIL 8, 2014 HEARING

A special hearing of the Warwick Zoning Board of Appeals was held on Tuesday, April 8, 2014 at 6:00 P.M. in the Warwick City Council Chambers, Warwick City Hall, 3275 Post Road, Warwick, Rhode Island. The meeting was called to order by Acting Chairman, Richard Corley.

The Secretary called the roll and noted the following members present:

Richard Corley, Acting Chairman
Everett O'Donnell
Attilio Iacobucci

Alternates: Paul Wyrostek
Julie Finn

Donald Morash was absent
Beverly Sturdahl was absent

Also present: Diana Pearson, Esq., Assistant City Solicitor
Robert Sgroi, Assistant City Solicitor
Richard Crenca, Warwick Planning Department
Carol Chevalier, Secretary
Mary Ellen Hall, Stenographer

The Chairman opened the hearing at 6:30 P.M.

Appeal #10114 Ward 9 4014, 4022 & 4036 Post Road

The appeal of 3844 Post Road, LLC, 1536 Division Road, LLC, & Richard Miga, Jr., 4000 Post Road, Warwick, RI, for an appeal of the Warwick Planning Board's decision on March 12, 2014, denial of a Major Land Development Project/Subdivision seeking Master Plan Approval to demolish three (3) existing buildings and construction of a 74 bed, four story, assisted living facility. Requiring a special use permit in an Office zone and relief for building height, easterly side of Post Road (4014, 4022 & 4036), Warwick, RI, Assessor's Plat 235, Lots 11, 12, 13 & 271, zoned Office.

Diana Pearson stated that the Board is to hear the grounds for the appeal and this is not a new case and no new evidence can be presented.

Richard Corley stated that the extent is the grounds for the appeal.

John Revens, representing the appellant was present.

He stated that there was a staff report presented at the Planning Board hearing and that the applicant met all of the requirements. He stated that in the transcript there is not a shred of evidence that what was presented was not satisfactory. Five of the nine members vote to approve two recused and one did not appear. They stated that there was not enough information and the record was not covered. He stated that he had witnesses at the hearing and there is no question that was not answered and was enough information presented. He stated that there were objectors present at the hearing. He stated that the record was thorough and the recommendations and decision reflect that. It stated that the petitioner had to go back to the Planning Board and that he did not want to. He thought everything was covered properly in his report and he cannot say that he did not meet the standard. He presented drainage plans architectural plans. He stated that there was more of a debate about the architecture of building.

Patricia Reynolds, Warwick Planning Department, was present.

She stated that two members abstained from voting and stated that there was not enough information and they did not ask what the questions were.

John Revens stated that they met the burden and that the Board should act like a judge and look at the record.

Mr. Revens then requested that the appeal be held to the end of the regular agenda as it may take a while to hear.

The Chairman then stated that they will proceed to the regular hearing and hold the appeal to the end.

WARWICK ZONING BOARD OF REVIEW
MINUTES OF THE APRIL 8, 2014 MEETING

A regular hearing of the Warwick Zoning Board of Review was held on Tuesday, April 8, 2014 at 6:00 P.M. at Warwick City Hall, in the Warwick City Council Chambers, 3275 Post Road, Warwick, Rhode Island. The meeting was called to order by Chairman Donald Morash.

The Secretary called the roll and noted the following members present:

Richard Corley, Acting Chairman
Everett O'Donnell

Attilio Iacobucci

Alternates: Paul Wyrostek
Julie Finn

Donald Morash was absent
Beverly Sturdahl was absent

Also present: Diana Pearson, Esq., Assistant City Solicitor
Robert Sgroi, Assistant City Solicitor
Richard Crenca, Warwick Planning Department
Carol Chevalier, Secretary
Mary Ellen Hall, Stenographer

The Chairman declared a quorum. The Chairman asked if there were any petitions to be withdrawn or continued.

The Chairman stated that the following petition would not be heard this evening and would be heard at the May 13th hearing.

Petition #10091

Ward 3

2381 Post Road

The petition of Joni Auto Rentals, Inc., P.O. Box 7368, Warwick, RI, & Melvin's Tire Pro's, 2381 Post Road, Warwick, RI, for a request for a use variance to remove a 42 square foot portion of existing freestanding ground sign and construct a new 24.76 square foot Led digital sign, existing sign legal non-conforming, westerly side of Post Road (2381), Warwick, RI, Assessor's Plat 344, Lots 62 & 64, zoned General Business.

The Chairman stated that due to the lack of quorum they would hold the voting on the minutes from March 11, 2014 hearing until the next meeting.

The Chairman called the first petition.

Petition #10119

Ward 5

256 Warwick Neck Ave.

The petition of JoAnn Galli, 135 Garden City Drive, Cranston & Richard Patenaude, 25 Grand Avenue, Warwick, RI, for a use variance and dimensional variance to occupy existing building and subject property for a landscaping business & landscaping and garden supply sales, existing building having less than required front yard and side street setbacks, parking spaces having less than required setback, less than required landscaping and landscape buffer, proposed material storage bins having less than required setback from residential zone, southeasterly corner of Warwick Neck Avenue (256) & Oakside Street, Warwick, RI, Assessor's Plat 357, Lots 284 & 287, zoned Residential A-40.

K. Joseph Shekarchi, Esq., representing the petitioner was present.
Richard Patenaude, petitioner, was also present.

Richard Crenca, Warwick Planning Department, read recommendations into the record.

The attorney for the petitioner stated that his client has no problem with the stipulations. The attorney stated that the proposed use would be for a landscaping operation. The subject property contains a vacant building formerly occupied as a day care operation. He stated that the councilman for the area is in favor of the proposed use and the stipulations presented. The property has been vacant for seven years. He stated that there is a day care located across Warwick Neck Avenue and the area cannot support another day care. He presented two exhibits to the Board.

Petitioner's Exhibit #1 - Letter from the Warwick Neck Improvement Association
Petitioner's Exhibit #2 - Letter from Abutter

Mr. O'Donnell stated that the petitioner reached out to the neighbor's and there were no objections. With that statement he made a motion to approve the petition. The motion was seconded by Attilio Iacobucci and passed unanimously by the Board that the petition be GRANTED with stipulations.

Robert Sgroi was legal counsel for the Board for the following petition.

Petition #10118

Ward 9

225 Potowomut Rd.

The petition of the City of Warwick, Warwick Fire Department, 111 Veterans Memorial Drive, Warwick, RI, for a special use permit and dimensional variance to construct a 9,425 square foot fire station on subject property, subject property having less than required landscape buffer, westerly side of Potowomut Road (225), Warwick, RI, AP 213, Lot 8, zoned Residential A-7.

David D'Amico, engineer, was present.
Warwick Fire Chief Edmund Armstrong, was also present.

Richard Crenca, Warwick Planning Department, read recommendations into the record.

The engineer described the current site conditions and proposed plan the Board.

Steven Guglielmo, Architect, was present.

He described the design of the proposed fire station and the necessity of the design.

The Chief stated that he hopes to be operational by March or April of 2015.

The engineer described the site plan and the relief requested.

Diana Pearson, was present in favor.

She stated that she lives directly behind the proposed fire station and she is in favor of the proposal.

Mr. O'Donnell stated that the fire station is for public safety and they agreed with all of the stipulations. With that statement he made a motion to approve the petition. The motion was seconded by Attilio Iacobucci and passed unanimously by the Board that this petition be GRANTED with stipulations.

Diana Pearson was legal counsel for the remainder of the hearing.

Petition #10115

Ward 9

65 Lawndale Dr.

The petition of Robert & Janet Simas, 65 Lawndale Drive, Warwick, RI, for a request for a dimensional variance to construct a 23' x 28' detached two story garage on the subject property, proposed garage having less than required side yard setback, westerly side of Lawndale Drive (65), Warwick, RI, Assessor's Plat 203, Lot 227, zoned Residential A-10.

Richard Crenca, Warwick Planning Department, read recommendations into the record. Robert Simas, petitioner, was present.

He stated that the neighbor next door passed away and he presented a letter from the neighbor's son stating that he has no objection to the petition. (Petitioner's Exhibit #1) He stated that he met with the planning department staff. The garage would be used for storage and he has hobbies, photography, gardening etc. (Petitioner's Exhibit #2 – rendition)

Mr. Wyrostek stated that the proposed garage is a welcome addition. The property is attractive and it would be a welcome addition to the neighborhood. With that statement he made a motion to approve the petition. The motion was seconded by Attilio Iacobucci and passed unanimously by the Board that this petition be GRANTED with stipulations.

Petition #10116

Ward 1

43 Whitin Ave.

The petition of Lori Wayss, 99 Moccasin Drive, Warwick, RI, for a request for a dimensional variance to legalize 54 square foot addition constructed on existing single-family dwelling, said addition having less than required side setback, existing dwelling and subject property legal non-conforming, westerly side of Whitin Avenue (43), Warwick, RI, Assessor's Plat 293, Lot 124, zoned Residential A-7.

Lori Wayss, petitioner, was present.

She stated that she purchased the house for her daughter and granddaughter to live in. There was an addition constructed on the house by her daughter's boyfriend and his father. She was told

that all of the necessary permits were obtained. Then there was a violation letter issued. The addition was put on in July of 2013. Side yard setback relief is needed.

Petitioner's Exhibit #1 - Amended Site Plan

Mr. Wyrostek stated that the petitioner is here to set the record straight and correct the issue. With that statement he made a motion to approve the petition. The motion was seconded by Julie Finn and passed unanimously by the Board.

Petition #10117

Ward 1

18 Edgeknoll Avenue

The petition of Javier Rico, 70 Albert Avenue, Cranston, RI, for a request for a dimensional variance to construct an 18' x 28' two-story garage on subject property, said garage having less than required front yard and side yard setbacks, easterly side of Edgeknoll Avenue (18), Warwick, RI, Assessor's Plat 303, Lot 105, zoned Residential A-7. (Previously approved 6/15/10 Petition #9837 for single story garage)

Javier Rico, petitioner, was also present.

Richard Crenca, Warwick Planning Department, read recommendations into the record.

He stated that he was approved in 2010 to construct an 18' x 18' garage attached garage. At the time he requested a single story garage. He now wants to construct a second story on the garage for storage. There is no change to the requested relief.

The Chairman read a letter into the record from an abutting owner. Petitioner's Exhibit #1.

Paul Wyrostek stated that the request is reasonable and that there is no change to the footprint. There are no objections and the garage is tasteful. The petitioner agreed to all of the stipulations. With that statement he made a motion to approve the petition. The motion was seconded by Attilio Iacobucci and passed unanimously by the Board that the petition be GRANTED with stipulations.

Petition #10120

Ward 3

60 Minnesota Avenue

The petition of Industrial Ventures, LLC, 1 James P. Murphy Highway, West Warwick, RI, & Rojas Auto Service, LLC 1 Plympton Street, North Providence, RI, for a request for a special use permit and dimensional variance to occupy a portion of the existing building for vehicle repair and service, existing building having less than required front yard and side yard setback, subject property having less than required setbacks for parking, less than required aisle width, less than required landscaping and landscape buffer, easterly side of Minnesota Avenue (60), Warwick, RI, Assessor's Plat 309, Lot 249, zoned Light Industrial.

Francis Parisi, Esq., representing the petitioner was present.
Pedro Rojas, petitioner, was also present.

Richard Crenca, Warwick Planning Department, read recommendations into the record.

The attorney stated that his client has no objections to the stipulations presented. He described the proposed use to the Board and explained all of the relief requested. He stated that there would be no interior or exterior changes.

Mr. Rojas described his current operation and proposed operation to the Board.

Mr. O'Donnell stated that the City welcomes new businesses. The units have been vacant for several months and the petitioner agreed to all of the stipulations. With that statement he made a motion to approve the petition. The motion was seconded by Julie Finn and passed unanimously by the Board that this petition be GRANTED with stipulations.

Petition #10121

Ward 4

108 Airport Rd.

The petition of Patricia Smith, Steven Clarke Trustee & Bruce Smith, 108 Airport Road, Warwick, RI for a use variance and dimensional variance to convert garage of existing residential home to an insurance office, house to remain residential, existing dwelling having less than required front yard, side street and rear yard setback (residential zone), parking spaces smaller than required with less than required setback, less than required aisle width for parking area and less than required driveway width, proposed sign being larger than allowed, southwesterly corner of Airport Road (108) and Granger Court, Warwick, RI, Assessor's Plat 320, Lot 44, zoned Residential A-7.

Michael McEntee, Esq., representing the property owners was present.
Patricia & Bruce Smith, owners were also present.

Steven Clarke, engineer and owner was present.

Michael McCaffrey, Esq., representing abutting property owner Rebecca Vickers was present.
Rebecca Vickers, abutting owner, was present and did not testify and was not sworn in.

Mr. McEntee described the proposed office operation to the Board.

Mr. Clarke described the site plan and the requested relief.

Mr. McCaffrey objected to the exhibits presented to the Board. Said exhibits listed below.

There was much discussion and testimony presented to the Board regarding the proposed office operation and the relief requested by the petitioner.

Petitioner's Exhibit #1 - Copy of Draft of New Comprehensive Land Use Plan
Petitioner's Exhibit #2 - Copy of Future Land Use Map
Petitioner's Exhibit #3 - Recommendations from Planning Department to Warwick Planning Board pertaining to Comprehensive Land Use Plan
Petitioner's Exhibit #4 - Copy of City Council Docket
Petitioner's Exhibit #5 - Resume Steven Clark, P.E.
Petitioner's Exhibit #6 - Photo of Subject property
Petitioner's Exhibit #7 - Photo of Subject property
Petitioner's Exhibit #8 - Letter from property owner 109 Airport Road

Objector's Exhibit #1 - Photo's of subject property and surrounding area

There were several neighbor's present in objection:

Francis Rotondo, 25 Granger Court
Carol Lane, 18 Granger Court
Harold Espinal, 12 Granger Court
Edward Martin, 30 Granger Court

The concerns from the neighbors were for safety of the children on the street with the traffic. Access to and from the property visibility in and out of Granger Court from Airport Road.

There were people present in favor:

Cheryl McDougall, resident of North Kingstown and client of applicant
John Fusco, client of applicant
Kevin McCrudden, client of applicant

Paul Wyrostek stated that he found the testimony of the neighbors to be credible and he also felt that the applicant did their due diligence, the signage has been addressed by several people. The parking has been addressed with the one part time employee and one agent. That the parking on the street can be taken care of with no parking signs. There will be no changes to the footprint of the building. The petitioner agreed to all of the stipulations and suggestions from the Planning Department. With that statement he made a motion to approve the petition with the stipulations of planning and to the number of employees as testified to. The motion was seconded by Attilio Iacobucci and passed by a four (4) to one (1) vote – Julie Finn voted to deny. The petition was GRANTED with stipulations.

Petition #10122

Ward 3

1689 Post Road

The petition of WJG Realty Company. LLC, 385 Hancode Street, Quincy, MA, for a request for a dimensional variance/use variance/special use permit, to have outdoor sales (ice cream) on subject property, more than one non residential use on subject property, subject property containing outdoor sales of food (Rocky Point Clam Shack), subject property having less than

required landscaping, westerly side of Post Road (1689), Warwick, RI, Assessor's Plat 322, Lot 209, zoned General Business.

John Revens, Esq., representing the petitioner was present.
Anthony Restivo, petitioner, was present.

Richard Crenca, Warwick Planning Department, read recommendations into the record.

The attorney stated that the petitioner was approved in January for the Rocky Point Clam Shack and would now like to offer ice cream for sale also. The proposal would increase the likelihood of the success of the business.

The petitioner explained the operation of the proposed business to the Board.

Mr. Crenca stated that he does not have a problem removing the stipulation for one year. He did state that he would like a one year trial on the water tanks on the property.

Mr. O'Donnell stated that there were no objections and the petitioner agreed to the stipulations. With that statement he made a motion to approve the petition. The motion was seconded by Julie Finn and passed unanimously by the Board that this petition be GRANTED with stipulations.

Petition #10102

Ward 4

26 Doris Avenue

The petition of William Ruggieri, 1 Country Club Drive, Warwick, RI, for a request for a dimensional variance to legalize setback of existing dwelling, said dwelling having less than required side yard setback, southerly side of Doris Avenue (26), Warwick, RI, Assessor's Plat 319, Lot 240, zoned Residential A-7. (Subject property part of previously approved subdivision involving subject property, stipulated per approval part of dwelling to be removed - requesting dimensional variance for portion of dwelling to remain.)

William Ruggieri, petitioner, was present.

He stated that he was unable to come up with additional land since the last meeting. He has tried to work with the neighbors and was unsuccessful.

There was discussion between the Board, Mr. Crenca and the petitioner regarding other options.

Mr. O'Donnell stated that he makes a motion to approve the request to keep the section of the house the setback relief is minor and the petitioner should not have to spend money to tear down a portion of the house. Attilio Iacobucci seconded the motion and the petition was GRANTED by a four (4) to one (1) vote. Mr. Corley voted to deny.

A motion was made by Julie Finn to adjourn the regular hearing. The motion was seconded by Attilio Iacobucci and passed unanimously by the Board.

The Chairman opened the hearing for the Warwick Zoning Board of Appeals.

Appeal #10114

Ward 9

4014, 4022 & 4036 Post Road

The appeal of 3844 Post Road, LLC, 1536 Division Road, LLC, & Richard Miga, Jr., 4000 Post Road, Warwick, RI, for an appeal of the Warwick Planning Board's decision on March 12, 2014, denial of a Major Land Development Project/Subdivision seeking Master Plan Approval to demolish three (3) existing buildings and construction of a 74 bed, four story, assisted living facility. Requiring a special use permit in an Office zone and relief for building height, easterly side of Post Road (4014, 4022 & 4036), Warwick, RI, Assessor's Plat 235, Lots 11, 12, 13 & 271, zoned Office.

John Revens, Esq., representing the petitioner, was present.
Richard Miga, Petitioner, was also present.

They described the events up to the filing of the appeal. They described their reason for the appeal to the Board.

Mr. Miga addressed the Board and explained his opinion to the Board regarding the filing of the application to the Planning Board and the decision of the Planning Board.

Patricia Reynolds, Warwick Planning Department, was present.

She described the Planning Board hearing process and outcome of the Board.

Mr. Wyrostek stated that based on the discussion he agrees with Mr. Revens. There is nothing to support the decision on the Planning Board. Two people abstained for no reason. They didn't ask the questions they needed to ask to obtain the information they needed to make a decision. The neighbors no longer object.

Mr. Corley stated that he agrees with the first and last part. There was no additional evidence present at the hearing this evening and running out of votes was no reason for denial. Why they did not ask for more information it is not a valid reason not to make a decision. If they had asked they would have had their answers. The meeting was 2 ½ hours long and there was enough time to ask the necessary questions. Their decision is not supported by any evidence. He is not substituting his judgement and he is disappointed at the abstentions.

Mr. Wyrostek made a motion to approve the appeal, the motion was seconded by Julie Finn and passed unanimously by the Board that the appeal be GRANTED with the recommendations of the Planning Department.

Paul Wyrostek made a motion to close the Zoning Board of Appeals hearing. The motion was seconded by Attilio Iacobucci and passed unanimously by the Board.

The Chairman reopened the Zoning Board of Review hearing.

Petition #10124

Ward 9

4014, 4022 & 4036 Post Road

The petition of 3844 Post Road, LLC, 1536 Division Road, LLC, & Richard Miga, Jr., 4000 Post Road, Warwick, RI, for a special use permit and dimensional variance to demolish three (3) existing buildings and construction of a 74 bed, four story, assisted living facility higher than allowed, easterly side of Post Road (4014, 4022 & 4036), Warwick, RI, Assessor's Plat 235, Lots 11, 12, 13 & 271, zoned Office.

John Revens, Jr., Esq., representing the petitioner was present.

He described the plan to the Board and the relief requested. He described to the Board the need for the requested relief. He explained to the Board the need for the proposed height and the operation of the facility.

Sean O'Leary, Esq., representing the property owners of Sea Watch Condominiums, 4060 Post Road.

He stated that he is agrees to the stipulations and is OK with them being part of the record.

Mr. Corley stated that the stipulations should be presented to the Planning Board when the applicant appears before them again.

Mr. O'Leary agreed that the stipulations should be presented to the Planning Board.

Mr. O'Donnell stated that the petitioner is seeking relief for height and a special use permit and made a motion to approve the petition. The motion was seconded by Julie Finn and passed unanimously by the Board that this petition be GRANTED.

The Chairman adjourned the hearing at 11:45 P.M.

BY ORDER OF THE ZONING BOARD OF REVIEW, WARWICK, RHODE ISLAND

Donald G. Morash, Jr., Chairman