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CITY OF WARWICK
ZONING BOARD OF REVIEW
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WARWICK ZONING BOARD OF REVIEW
MINUTES OF THE AUGUST 9, 2016 MEETING

A regular hearing of the Warwick Zoning Board of Review was held on Tuesday, August 9, 2016 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 Chairman Donald Morash.

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

Donald Morash, Chairman
Richard Corley, Vice Chairman
Mark McKenney
Julie Finn
Paul Wyrostek
Everett O'Donnell
Beverly Sturdahl

Also present: Diana Pearson, Asst. City Solicitor
Richard Crenca, Warwick Planning Department
Amy Cota, Secretary
Debra Hafferty, Secretary
Mary Ellen Hall, Stenographer

The Chairman declared a quorum.

The Chairman asked for a motion to approve the minutes from the July 12, 2016 hearing. A motion was made by Mark McKenney, seconded by Everett O'Donnell and passed unanimously by the Board that the minutes be accepted.

The Chairman asked if there were any petitions to be withdrawn or continued.

The Chairman advised that Petition #10402 of Cheryl Starkey, 1330 Warwick Neck Ave., was being continued to the September 13, 2016 meeting due to clarification on their

drawings and the elevation plans on the proposed screened porch. Everett O'Donnell made a motion to continue the Petition, seconded by Beverly Sturdahl and passed unanimously by the Board that the Petition be continued to the September 13, 2016 meeting.

Petition #10399

Ward 9

105 Charlotte Drive

The petition of Philip McAndrew, 25 Red Barn Lane, East Greenwich, RI, for a request for a dimensional variance to raze pre-existing legal two-family dwelling and reconstruct a new two-family dwelling, subject property being an existing non-conforming lot, having less than required frontage, lot width, front setback, side setbacks, rear setback and coastal feature set-back (105 Charlotte Dr, Warwick, RI, Assessor's Plat 201, Lot 133), zoned Residential A-15.

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

K. Joseph Shekarchi, Esq. was present representing the petitioner.

Mr. Shekarchi stated he had a chance to speak with Mr. Crenca this afternoon, and states the petitioner has no objections to the stipulations. Mr. Shekarchi introduced a memo prepared as petitioner's exhibit #1, by the Engineer regarding what they are asking relief from tonight.

Mr. Shekarchi states the petitioner purchased this home as an existing two family home, and he would like to bring the property into more conformance, and increase the height of it. He would like to upgrade the dwelling to make it a beautiful home, but also because of the federal flood regulations. As the dwelling will be raised higher it will be more in compliance, hence the flood insurance will be obtainable at a reasonable cost.

Mr. Shekarchi stated Mr. Eric Wishart prepared a chart and the section they are asking relief from is 403.8 regarding the demolition of the property. He states the area is existing, and they aren't changing it. The frontage is existing, they are not changing it. The front/side setback is currently 18 feet, they will be increasing the setback to 25 feet. The side yard setback is currently 13 feet, they will be increasing it to 15 feet. The only additional relief they are asking for is the side setback on the West side of an additional 4 feet, which would be a slight increase as to what is existing now. In addition to that, the rear yard setback & the Coastal Feature setback will be increasing as well, bringing both more into conformance. The height and landscape are within the required code. The property will be an owner occupied home.

Christopher Arner, Architect, 94 Bliss Rd., Newport, RI, was present to testify on behalf of the applicant and sworn in by the Chairman.

Richard Corley stated there were two different stamped DEM plans, one date October 2015 and the other date January 2016, attached to the plan that was the existing conditions. Mr. Corley asked if the DEM approval was based on the plans that are being proposed tonight. Mr. Shekarchi stated yes, the approvals from the state agencies are for the same size, same location site plan that they are proposing this evening. Mr. Shekarchi stated they have an approval from ISDS and a preliminary CRMC approval. Mr. Shekarchi states this is a property on the waterfront, it's multi-jurisdictional, they have a lot of other approvals to get, hence Mr. Crenca's recommendations, CRMC approval, and they have been working collaboratively with the other state agencies. They have been transparent, showing their plans to them, getting their input. The plan proposed tonight is something that has been recommended and/or approved by other state agencies.

The Chairman asked what the makeup of the houses in the area is. Mr. Shekarchi stated he would let the owner, Philip McAndrew answer the question.

Philip McAndrew, 25 Red Barn Lane, East Greenwich, RI, was sworn in by the Chairman.

Mr. McAndrew stated the current setup of the dwelling is a primary house and a small apartment. The setup of the new establishment will be a primary house and a small apartment. He states he does not want more than one individual or a couple to share that space, he does not want a family in there. The Chairman asked if it will be a one bedroom and the petitioner stated yes, one bedroom. Richard Corley asked if the garage was attached or detached, and if the bedroom was above the garage. The petitioner stated the garage is attached, but the garage does not exist anymore, it is now the apartment. Mr. Shekarchi stated this was approved by the Zoning Board several years ago.

The Chairman asked Mr. Shekarchi if they had spoken to any of the neighbors. Mr. Shekarchi stated, yes their Architect has spoken to one neighbor across the street. The petitioner stated he was invited in and had a long chat with the neighbors on the right, as you're looking out on the water, and they are very excited. The neighbor's only request was that they not side the house with plastic, the petitioner states they are going to go with shingles. The petitioner states he has left documentation at a total of three neighbors houses, two out of the three weren't home that day, but he left plans, information, phone number and email if they had any questions.

The Chairman asked if there was anyone in opposition or in favor of the petition, There being none, Richard Corley stated that with the stipulations of the Planning Board, the brand new home will certainly enhance the neighborhood and the upgrading of the septic

system will certainly be an improvement. The upgrade of this home will lift the values of the surrounding homes, and as stated by the Planning Board, it does meet one of the goals of the Comprehensive Plan, that is to have all the septic systems upgraded in places that do not have sewers. The design has been proposed is unique to the characteristics of the land and the relief that is being sought is reasonable, he made a motion to grant this variance, seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED with Stipulations.

Petition #10400

Ward 6

96 Wilson Avenue

The petition of Craig Barone, 96 Wilson Avenue, Warwick, RI, for a request for a dimensional variance to remodel an existing detached garage and add a second floor for storage only, subject garage having less than required rear yard setback. (96 Wilson Ave, Warwick, RI, Assessor's Plat 375, Lot 119), zoned Residential A-7.

The petitioner Craig Barone, 96 Wilson Ave, Warwick, RI, was sworn in by the Chairman.

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

The petitioner stated they are looking to add a little storage to their existing garage. He states this is the last piece of the puzzle to their remodel. They have remodeled the home over the past few years. The petitioner also states the reason for the added storage is he has had an illness this past year, he has had to close his business and has very limited space at the home now. The storage addition will give them ample space for what they need.

The petitioner states he has spoken to Bill Carosi, in the Building Department, who has been helping him in the process of doing the proper drawings and constructing the addition to code, which includes fireproofing the back wall. The petitioner states they are happy to do what is necessary to make sure the addition will be constructed within all codes.

Everett O'Donnell asked the petitioner if this space will be used for rental space. The petitioner stated, absolutely not, this is his home and he hopes to be there for a very long time. He has no desire to do anything but simply storage.

The Chairman asked the petitioner what the height of the addition would be. The petitioner stated 18'-11".

Everett O'Donnell asked the petitioner if there will be any plumbing. The petitioner stated there is no plumbing there.

The Chairman stated the only persons this could affect would be the neighbors in the back. He asked the petitioner if he has spoken with them. The petitioner stated he has spoken with his neighbors around him just recently, and says he believes everyone is happy for them because it is a little bit run down, and they want to clean it up to make it look like the rest of the home.

The Chairman asked if there was anyone in opposition or in favor of the petition.

Susan Bergeron, 106 Wilson Ave., Warwick, RI, was sworn in by the Chairman.

Ms. Bergeron stated she was there in favor of Mr. Barone's project. She states they are great neighbors, and the property was a mess before they moved in. They have done a beautiful remodel of the house, which has improved the property and the neighborhood. Ms. Bergeron states she is in favor of this project and has lived at her property for 28 years, and they are really looking forward to Mr. Barone getting started on this garage project.

Richard Corley states the before and after pictures of the remodel is certainly quite impressive as to what the petitioner has done to the property. He has addressed all the questions concerning the additional space that is needed for storage, that is in no way something that can be converted into a residential part of the home.

Richard Corley moved to grant the petition with the stipulations of the Planning Board, seconded by Beverly Sturdahl, and passed unanimously by the Board that the petition be GRANTED WITH STIPULATIONS.

Petition #10401

Ward 3

5 Euclid Avenue

The petition of Wayne Michaels, 5 Euclid Ave., Warwick, RI, for a request for a dimensional variance to construct a 12' x 16' three season room on existing deck, subject property having less than required corner side yard/side street (Water Road) setback (5 Euclid Ave., Warwick, RI, Assessor's Plat 340, Lot 364), zoned Residential A-7.

Richard Corley has filed a Statement of Conflict of Interest, pursuant to R.I. General Laws, Section 36-14-6, indicating that he believes he would be able to participate fully, objectively and in the public interest regarding the matter. If he recused himself there would not be a quorum and he did not feel he would not be fair in the procedure.

Christine Michaels, 5 Euclid Ave., Warwick, RI, was sworn in by the Chairman.

Wayne Michaels, 5 Euclid Ave., Warwick, RI, was sworn in by the Chairman.

The Chairman thanked Wayne Michaels for his services.

The petitioner, Christine Michaels, states they would like to construct a three season room. She states her husband is retired and disabled, and they just want to enjoy their backyard.

The Chairman asked if the yard was all fenced in. Christine Michaels stated yes, it was fenced in.

Everett O'Donnell asked if they were asking for only 5 feet relief. The petitioner stated yes. The three season room is being constructed on a deck that already exists.

The Chairman asked if they have spoken with any neighbors. Ms. Michaels stated yes, none of them seemed to have a problem.

The Chairman asked if there was anyone in opposition or in favor of the petition.

Dori Yates, 56 Haven St., Warwick, RI, was sworn in by the Chairman.

Ms. Yates states she is a neighbor in the back. She says they are great neighbors and their yard is impeccable.

Everett O'Donnell moved to grant the petition, seconded by Mark McKenney and passed unanimously by the Board that the petition be GRANTED.

Petition # 10403

Ward 6

Sheffield St.

The petition of S & S, LLC, 2289 Flat River Rd., Coventry, RI for a request a dimensional variance & use variance to construct a 30' x 36' single family dwelling with attached deck, proposed dwelling & deck having less than required setback to the coastal feature, subject property having less than required frontage (Sheffield St., Warwick, RI, Assessor's Plat 376, Lot 16.

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

David Campanella, Esq. was present and representing the petitioner.

Kevin Moran, Registered Civil Engineer, Diprete Engineering, 2 Stafford Ct., Cranston, RI, was sworn in by the Chairman.

Kevin Moran, was accepted as an expert witness. A motion was made by Everett O'Donnell, seconded by Beverly Sturdahl and passed unanimously by the Board.

David Campanella, Esq. states this matter was heard and approved back in 2007, and the previous two owners have passed away. Mr. Campanella states they are here with essentially the same petition that was brought before this board in 2007 and approved. The conditions that the Planning Board has proposed are virtually the same conditions that were presented back in 2007.

The Chairman asked where the cul-de-sac would go.

Kevin Moran stated the summary was a good and accurate summary as far as the history. Mr. Moran has been involved with this property since 2005 with the original owners, Leo Fontaine and his wife. The project has started and stopped a number of times. Mr. Moran stated William Blake picked the project back up again in 2014. Mr. Moran stated at the time they met with the City. The plan did evolve and change a little bit. He states they have a valid CRMC permit for the original plan approved by the Zoning Board, because it's been frozen based on Legislation that has been passed in Rhode Island. Mr. Moran states this CRMC is still valid. Mr. Moran states there were still some conditions of Zoning to be satisfied, and they met with the prior owner and the Planning Department staff, he believes the meeting was with William DePasquale and possibly Lidia Cruz, and also Eric from Engineering was in attendance, as was the Zoning officer or Building Official.

Mr. Moran read a letter that was submitted to Lidia. The letter states they met in 2014 with the Planning, Zoning, Building and Engineer Departments. When they met, they spoke about some modifications to the Sheffield St. Originally they showed a cul-de-sac with some easements across part of the lot because there is physically not enough right-of-way, Sheffield Street is a very narrow road. What came out of the meeting was to make some modifications, implement some drainage improvements, that weren't already on the plan. They modified the grades a little bit in the cul-de-sac, added some pavement to give them a little more room for snow plowing. The long of the short is even 42 feet they couldn't turn a fire truck around, they would back up the road either way.

Mr. Moran states that the plan in front of the Board tonight has evolved a bit. He states it is their understanding that it would be an Administrative review and wouldn't have to go to the full Planning Board. Mr. Moran states if they can condition any approval tonight, if it goes that way and meet the staff and/or Planning Board as necessary, just to give them that option. Mr. Moran states they will have to modify their CRMC Assent as it does not reflect the exact new plan. The house didn't change, the driveway or the deck didn't change, and all these are the same as in 2007. We introduced a swale off the edge of Sheffield Street to try to pick up that water into a bio-retention area, so again they did try to incorporate some of those elements from 2007 and improve the water quality somewhat before it hits that coastal marsh to the South of us.

The Chairman asked Mr. Moran if the fire trucks have to back up to get out. Mr. Moran stated yes, they have to back up to get out. The Chairman stated he doesn't see any room for a cul-de-sac. Mr. Moran states the other thing they put together, that wasn't part of the record they submitted here, which may be an oversight on his part, we had given an operation amendments plan that deals with some of the drainage elements that are on the private property, essentially putting that responsibility on, which isn't much, on the homeowner, so the operation maintenance plan identifies the property owner, at the time, it was William Blake, as the responsible party essentially for these improvements, the infiltration area along the house, and then the bio-retention area and the swale that's on the private property.

Mr. Moran states this is an unusual case. The property has 180 feet of frontage, most of it is in the marsh. They have about 45 feet frontage, the zoning district requires 60 feet.

Everett O'Donnell states the Coastal setback requirement is 50 feet, but on the plan, it is blank. Mr. Moran states they are proposing the setback at 29.3 feet, which triggers a variance of 30.7 feet. Another variance they are requesting is for frontage, they have 45 feet of frontage that is improved, they have 180 feet, but all in wetland. Coastal will never give them an approval to do anything in there. The last variance request is for the residential use. Mr. Moran brought in an aerial reference of the site location. He states there is a marina to the South, but there is no way to extend Sheffield Street and build off that waterfront business use. The area they are proposing the dwelling is a residential neighborhood, there are really no businesses there. There are other marina's around it, but not really tied into this specific neighborhood.

Richard Crenca stated just about all the conditions they had proposed, plus conditions which were approved in 2007, stated their plans had advanced to a great degree. The one issue that is still outstanding is the cul-de-sac at the end of Sheffield Street. Mr. Crenca stated he has spoken with the City Engineer and the Fire Marshal asking about the 42' requirement that was required back in 2007. Both stated that the cul-de-sac is still too small for the trucks the Fire Department has. Unfortunately if you look at the plan, making the cul-de-sac any bigger is going to basically eat up most of that property. Mr. Crenca stated they are open to any solution, whether it's a cul-de-sac, or a hammerhead, some type of turn-around that would allow an emergency vehicle to get in there and get out. Mr. Crenca stated that while they weren't crazy about a 42 foot diameter cul-de-sac, 100' diameter cul-de-sac being the minimum requirement, you can't fit a 100' diameter cul-de-sac in there.

The Chairman asked if that was part of the Planning Board stipulation. Mr. Crenca stated yes, they kept the same stipulation as in 2007 because he believes, in his opinion, it's better than the alternative of not doing anything. But, if there is another alternative the applicant can propose that the Fire Marshal and City Engineer would be happy with, they certainly can still work with them on that.

Mr. Crenca suggested if the application is approved, they can leave the 42' requirement in there, but allow the applicant to continue working with the City Engineer and the Fire Marshal to see if there is a better solution to that.

Everett O'Donnell asked if that is normal to have the petitioner provide the cul-de-sac, and who will own it. Mr. Crenca stated it will be a City street, an extension of Sheffield Street.

Julie Finn asked if anyone who builds on a dead end street is required to do a cul-de-sac now. Mr. Crenca stated if you were to build on a dead end, they would require a cul-de-sac for emergency vehicles to get in and out. Mr. Crenca stated for a street extension that is a dead-end they would require a cul-de-sac.

Julie Finn asked if the street extends past the lot. Richard Crenca stated the street comes up to a certain portion of the lot, and then stops. Julie Finn asked if the petitioner doesn't extend the street, just enough to put a driveway in, does he still need to put in a cul-de-sac. Mr. Crenca stated the improved portion of the street will extend past the property, to satisfy having the amount of property on an approved City street, I believe that was the issue. Basically the issue right now it's an undeveloped lot, we have a portion of the asphalt that continues past the lot and to get in and out of there, they are looking for a cul-de-sac.

Richard Corley stated it appears from his viewing of the map there is four or five homes on Sheffield Street currently that do not have the benefit of a cul-de-sac for rescue or fire and this undeveloped lot that the owner is attempting to get a home built on, on land that was originally zoned for Waterfront Business. Presumably the only businesses around there are marinas, but it never has been used for that purpose. Mr. Corley stated he understands they want a safer way for people to be serviced on Sheffield Street. Mr. Corley stated if they deny the petition, there are already existing houses and the only way to service them, is to drive down the street and then back up. If we grant the use for residential, and the sticking point is to be a cul-de-sac. It appears, looking at the map there are four undeveloped lots across the street from the petitioners that are undersized, non-conforming pre-existing lots. They are wet lots.

Everett O'Donnell asked what would happen if they approved it without the cul-de-sac. Richard Crenca stated if you approve it without the cul-de-sac, you run the risk of a new house being built there, along with the other buildings on the road, and not being able to get emergency vehicles out of there. Richard Crenca stated they have a petition that is a use variance, it's not allowed by right. In fact in 2007 when this Board did approve the cul-de-sac, to improve the situation, that by approving the use variance for a house including the cul-de-sac, it would improve the situation and allow for emergency vehicles to better get out of there. Mr. Crenca said it will not be perfect, but it will be a lot better than a dead end.

Richard Crenca stated if a cul-de-sac was not the answer, there might be other answers, a hammerhead turn, that might fit better, might take up less of the petitioner's property, that would improve the problem.

Julie Finn asked Mr. Crenca what a hammerhead turn was. Mr. Crenca stated it was like a T that you could pull in and back into the other end of the T and go out, basically a 3 point turn.

Everett O'Donnell asked if the City and the Fire Department would accept something like that. Mr. Crenca stated he spoke with the Fire Department, and a 42" cul-de-sac really doesn't solve their problem, but they are open to other possibilities.

Richard Crenca stated his recommendation; if the Board sees fit to approve this, approve the cul-de-sac, but leave it open for the petitioner to work with the City Engineer and the Fire Marshal on an alternative to that cul-de-sac.

Everett O'Donnell asked Attorney David Campanella if the petitioner would agree to that. Mr. Campanella stated they are willing to meet with City to work out an agreeable solution.

Richard Crenca stated the plan as presented in bringing that in front of the City Engineer and the Fire Marshal, in their opinion, it will not work at all. There is no way they will be able to get their vehicles in there and turn around. Mr. Crenca states they went back to the cul-de-sac that was approved in 2007 as the minimum improvement.

The Chairman asked if there was anyone in opposition or in favor of the petition. There being none, Mark McKenney moved to grant the petition subject to the stipulations set forth by the Planning Department, and in addition to the first stipulation, that is the petitioner shall apply to the Planning Board for a street extension that will include the cul-de-sac with a diameter of no less than 42'. Mr. McKenney suggests they add to that, subject to an alternative, to be worked out and agreed upon with the Planning Department and the City Engineer. With that, the agreement of the petitioner to accept the other stipulations, the use of this property for the purpose that was originally set forth, a marina or other waterfront use is effectively precluded by the circumstances, and for that reason, it is appropriate for them to grant the use variance, seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED WITH STIPULATIONS.

A motion was made by Everett O'Donnell, seconded by Beverly Sturdahl and passed unanimously by the Board that the meeting be adjourned at 7:04 P.M.

BY ORDER OF THE ZONING BOARD OF REVIEW, WARWICK, RI

Donald G. Morash, Jr. Chairman

