

DONALD G. MORASH, JR.  
CHAIRMAN



SCOTT AVEDISIAN  
MAYOR

**CITY OF WARWICK**  
**ZONING BOARD OF REVIEW**  
WARWICK, RHODE ISLAND 02886  
(401) 921-9534

**WARWICK ZONING BOARD OF REVIEW**  
**MINUTES OF THE MAY 8, 2018 MEETING**

A special hearing of the Warwick Zoning Board of Review sitting as the Warwick Planning Board of Appeals was held on Tuesday, May 8, 2018 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  
Beverly Sturdahl  
Mark McKenney  
Everett O'Donnell  
Fred Sarno

Alternates: Julie Finn  
George Shuster

Also present: Peter Ruggiero, City Solicitor  
William DePasquale, Jr., Warwick Planning Department  
Patricia Reynolds, Warwick Planning Department  
Susan Baker, Warwick Planning Department  
Amy Cota, Secretary  
Mary Ellen Hall, Stenographer

The Chairman Donald Morash, stated he was recusing himself from Petition #10529, the Appeal of the Planning Board's Decision for the property located at 1160 Post Road, Warwick, RI.

The Vice-Chairman, Mark McKenney called to order the hearing for Appeal #10529.

Mark McKenney asked the City Solicitor, Peter Ruggiero, to explain the Zoning Board's role in connection with this appeal.

Mr. Ruggiero stated this is a court of review tonight. This Board has to review the Planning Boards actions. If they believe the Planning Board acted correctly, followed the law, and took all the necessary procedures according to their rules and regulations, they can overturn this appeal and deny it. If they feel the Planning Board didn't follow the law and didn't follow their rules or regulations, they can overturn that decision, and remand it back to the Planning Board for the entry of that Order.

Mr. Ruggiero ended his explanation in saying that anyone is welcome to testify, but they need to limit their testimony to the question of whether the Planning Board followed the law and the rules correctly. He also stated no new testimony will be taken or considered, and if any new testimony is presented, it will be stricken from the record.

Vice-Chairman Mark McKenney then called on the Planning Department Director, William DePasquale, Jr. to outline their position.

William DePasquale, Jr., Director of the Planning Department, read a memo into the record for the Board.

Mr. DePasquale ended his comments by stating the Planning Board was consistent with RIGL 45-23-60 (1) which found the proposals size, scale and height to be unlike anything in the area whose setback was an intrusion into the abutting residential neighborhood, which are conditions that are inconsistent with the City's Comprehensive Plan, which calls for protecting and supporting existing residential neighborhoods.

K. Joseph Shekarchi, Esq., and John O. Mancini, Esq. were present and representing the applicants.

Attorney Shekarchi stated there was no expert testimony regarding any of the objector's position. The testimony at the hearing surrounded around the daycare center, and clients of the daycare, and children of the daycare coming forward asking not to close their daycare, all irrelevant to the land use petition before the Planning Board.

Mr. Shekarchi stated they had numerous meetings with the Planning Department regarding the size, scope and location. He stated they had two lengthy architectural presentations at the request of the Planning Department so they could choose the better of them.

John O. Mancini, Esq. was present as co-counsel. He defined RIGL 45-23-60 and stated the Planning Board made a clear procedural error and the decision itself fails to show they didn't meet the five requirements under RIGL 45-23-60.

He stated the Board's roll tonight was defined by RIG 45-23-70, as their roll is very limited and their opportunity to review the evidence is also constrained. They cannot go outside the corners of the evidence that was presented before the Planning Board and the record of the Planning Board. This Board needs to decide whether that decision follows

RIGL, specifically 45-23-60. This is important because this is the umbrella for which the Planning Board is obligated to render a decision, and believes the Planning Board did not take into account the five elements they were required to do.

Attorney Mancini stated they believed the decision of the Planning Board rendered is clear error, and also procedural error because He stated the decision itself is defective because it does not make any written findings, as it is required to do.

Attorney Mancini stated the decision of the Planning Board makes no reference to RIGL 45-23-61, it does not say the project is inconsistent with the Comprehensive Plan, nor does it identify any specific provisions of the Comprehensive Plan which are noted to be inconsistent with the project.

Attorney Mancini stated the Planning Board's sole role was to allow the applicant to proceed with his conditional Master Plan approval, and obtain the necessary approval by the Zoning Board for a special use permit, at which point the Zoning Board would exercise its rights and obligations under the Zoning Ordinance to be sure it met the five different elements. One of which is compatibility of uses. He stated the Planning Board took emphasis on the fact that the use was not compatible with the surrounding area or surrounding uses, but that is not one of the standards that the Planning Board is to determine at the Master Plan stage, whether this use is compatible with the surrounding uses. That is not what 45-23-60 indicates.

Attorney Mancini stated the environmental obligations of this property would exceed what is currently there, because the applicant would be required to meet a higher DEM standard than that of what was in place at the time of the original development. He stated there is no evidence in the decision by the Planning Board that supports a finding that this project could have a negative impact.

He stated the subdivision that is proposed would not result in the creation of individual lots, and clearly the Planning Board can't find that this subdivision in any way would be a constraint, because it is existing.

He stated the final component of 45-23-60 is that all proposed land developments and subdivisions lots have adequate access to a public street. The proposed development has access that is existing.

Attorney Mancini stated there was no expert testimony provided that supported the Planning Boards decision or the objections to the project. Rather the applicant had presented the only expert testimony.

With this evidence at hand, the Planning Board then rendered a decision that stated they found this project to be generally inconsistent. He stated the Board's findings don't follow the statutory scheme that requires the Planning Board to make a decision by following RIGL 45-23-60.

He stated there is violation of due process, and that comes about from various Planning Board members who indicated they referred to social media, emails or phone calls, outside of the public hearing realm, which is very concerning because it is not the process. The process is to take place in a public meeting.

He stated they believe there is more than adequate evidence in this instance, for the appellant body, to reverse the decision of the Planning Board. A decision under 45-23-70 must be reversed because it is filled with prejudicial procedural error, clear error and a lack of support by the weight of the evidence in the record. This is a text book case for an appeal and may also be a text book case for attorney's fees and other penalties as a result of a failure on the Planning Board to not only follow the evidence of the record, or its own Planning staff recommendations.

Peter Ruggiero, asked if the Planning Board record, with the entire application, was filed with the clerk of the Board, if all the records were dually filed, and if everyone was in agreement. Attorney Mancini responded yes to all.

Vice-Chairman Mark McKenney asked Director William DePasquale, Jr., if he was still in agreement with his staff's findings.

Mr. DePasquale stated as he mentioned in his comments, when the Planning Department begins the process with the developer, and as he mentioned in his memo, usually with an initial meeting with the community. He stated it's not unusual that the Board, after listening to testimony, has a different view than what the Planning Department considers.

Mr. DePasquale stated on the record, there is an email dated June 26, 2017, from him to the petitioner that states his department's opposition to storage units in a general business zone, and next to residential communities. It discusses his feelings and thoughts about storage units, but also that it needs to fit in with the community. This began a process, he was hoping, would be more collaborative with the neighborhood.

He stated the Planning Department felt it was an aesthetic approval to this plaza would be something that was embraced. However, he believes the proposal of the structure being 30% larger and 120' closer than the existing structure was inconsistent with Comprehensive Plan, as noted in their decision.

He stated he supports his staff's findings for the need for an upgrade to the plaza, but it has to be the right size for the community. He stated while they do support many aspects of the petitioner's proposal, they have gone on record from the beginning for having questions about the footprint of this proposed storage facility.

Attorney Mancini stated the record before the Board fails to not only show the discussion of the Planning Board and how they relate to RIGL 45-23-60, but also how they relate to specific provisions of the Comprehensive Plan, to show there in fact is a discrepancy between this proposed project and the Comprehensive Plan. Rather the decision is very

clear, it was denied on two points.

One is Article one, section 1.1.1 and secondly it also found the proposal to be generally inconsistent with the following purposes of the Zoning Ordinances, which is to promote a high level of quality and design of the development of private and public facilities.

Mr. Mancini stated one of the Planning Board members they stated they voted in rejection, citing inconsistency with the neighborhood, saying there are more suitable places in the city for storage use, which is not the standard for Master Plan review.

He stated as the Appellate Body, they have to put themselves in the procedural mindset of the Planning Board, and the process in which the applicant is following. At the Master Plan level the standard of review is not a determination of compatibility of uses that lies with the special use permit before the Zoning Board.

Therefore the Planning Board made an error in not allowing them to proceed to the next level of review, so they could address areas of compatibility. He stated the Planning Board incorrectly and illegally cut the process short by a defective decision.

Mark McKenney asked Mr. DePasquale if he was still in agreement with respect to his staff's finding, and if they would agree the findings were based on facts. Mr. DePasquale responded, no, and there are some facts no one can argue distance, height or setbacks. The Comprehensive Plan are very different on an interpretative understanding of what is consistent with the community. He stated he is not talking about the use intruding into the neighborhood. He stated that use is not in the general character of the neighborhood. He stated the proposed three story structure out of character for the area.

Mr. DePasquale stated it is very interesting to him, over the past thirty years the Planning Department has given great recommendations to two Boards, and never have they ever said, we're just going to listen to the Planning Department without listening to the testimony of the people. It's presumptuous to believe that seven Board members listening to the testimony of very passionate people, believed they didn't do anything, other than determine whether or not a three-story building that is 44,000 square feet, on a pond was something other than being more than what is consistent with limiting commercial intrusion into a residential neighborhood as listed in the Comprehensive Plan or protecting the quality of a neighborhood. The interpretation of what an intrusion into a residential neighborhood, is highly dependent on the neighborhood in which it is located.

Mark McKenney stated he is trying to determine how the Planning Board had a basis for finding that the project as proposed, is out of scale, and he is not seeing any facts to back that up, set forth in the decision, and there are supposed to be specific findings of fact set forth. Perhaps that is more for Mr. Mancini to address.

Mr. Mancini stated the decision can't determine the findings are supportive by evidence, because they don't point to any. The Planning staff determined that it got it wrong in its

memorandum and is now referring the Board to section 12.5 which talks about intrusion into residential neighborhoods, but that's not in the record, it isn't what the Planning Board made as a finding or conclusion. The Planning Board may have discussed it, but there is nothing in the evidence that tips that balance to the side of denial.

Mr. Mancini stated this Board of Appeals needs to determine if the Planning Board utilized the proper legal procedural legal standard when it rendered a decision. In their opinion and argument, it does not. It doesn't mention RIGL 45-23-60, and doesn't outline the findings it's supposed to be made under 45-23-60. It never makes specific points and relevant references to the Comprehensive Plan for its denial. What it does do, is it leapfrogs its authority and enters into the realms of the Zoning Board, by making findings that are compatible with the special use permit, and whether or not the uses are compatible with residential. That is something that has to be determined by the Zoning Board not the Planning Board.

Mr. Mancini believes the decision rendered by the Planning Board is 100% subjective. He stated perhaps the Board was moved by testimony. They aren't saying the Board can't take into consideration the testimony of the neighborhood, but they have to do it within the confines of the law, and the experts. That is where the deficiency lies with this decision. They didn't follow the law that is clear error.

Mark McKenney asked why it isn't sufficient as a finding of fact to say that the project is out of scale. Why is it not sufficient to say that the project is detrimental to private enterprise?

Mr. Mancini replied there are two reasons. One is, it is insufficient to make a conclusion that says a project is out of scale. The Zoning Ordinance gives us the proper scale and determined by the dimensional requirements. To simply state it's out of scale and inconsistent with the neighborhood is too generic.

Everett O'Donnell asked if there was any expert testimony. Mr. Mancini replied there were five expert witnesses who were presented by the applicant.

Fred Sarno asked if he heard correct that the project is 30% larger than the existing building. Mr. Mancini responded that is correct, and stated it is allowed within the zoning ordinance regulations. It's a redevelopment of an existing footprint.

Mark McKenney asked the Board Members if they had any other questions. There being none, he asked if there was anyone else there to address the legal issues with respect to the record, pertaining to this case in support of the appeal.

Alisa Richardson, 133 Puritan Drive, Warwick, RI, was sworn in by the Vice-Chairman.

She stated she is speaking today as a Board Member of the Pawtuxet River Authority, as a Professional Civil Engineer, registered in the State of Rhode Island, with expertise in water quality and site development, and 25 years with DEM Permitting.

She stated she didn't know why they said there were no expert testimonies the night of the Planning Board meeting.

Mark McKenney stated they are not permitted to take new expert testimony tonight. He asked if she was offered as an expert witness that night. She responded she was not sworn in.

She stated she would just like to repeat what she said that night.

Mark McKenney asked if there was anyone else to speak tonight. Hearing none, Everett O'Donnell stated he doesn't find any evidence that substantiates the Planning Board's findings in regards to 45-23-60.

Julie Finn stated she agreed with Mr. O'Donnell's statement as far as the Planning Board coming to their decision, and doesn't believe the Planning Board did their due diligence.

George Shuster stating in reading the Planning Board's decision it seems the basis for their decision, a point on which they focus, is set forth properly in the decision, even if the decision neglects to state many other considerations that the Board may have taken into account. He thinks the decision could be more complete, he would say it does not fail to recite its findings, and says the reason is clear why they opposed this project for the inconsistency with the Comprehensive Plan, the phrase "out of scale" is an obvious phrase in relation to this application. It's also clear just because something conforms to height and setback requirements in a neighborhood, that doesn't mean it complies with the Comprehensive Plan. In fact if the only standard to comply with the Comp. Plan were height and setback requirements, you wouldn't have to have that review for consistency with the Comprehensive Plan.

Julie Finn stated Mr. Mancini stated the Planning Board skipped a few steps.

George Shuster stated she was correct, there can be agreement the decision is not complete enough. He asked the Solicitor Peter Ruggiero if the appeal were granted today would it go back to the Planning Board.

Mr. Ruggiero responded no, either grant the appeal and remand it back to the Planning Board. It would be deemed an approval. The Planning Board has to enter the approval, not the Zoning Board, and it would then be an approved Master Plan. They could then move forward with the relief needed for zoning.

Julie Finn asked if the neighbors would have a chance to be heard again.

Mr. Ruggiero stated yes, it would be before the Zoning Board that would need notice and advertising.

Everett O'Donnell made a motion to approve the appeal, seconded by Julie Finn and passed by a four to one vote that the appeal be APPROVED.

Beverly Sturdahl voted to approve, Everett O'Donnell voted to approve, Julie Finn voted to approve, Fred Sarno voted to deny, and Mark McKenney voted to approve.

The Vice-Chairman stated that the Board would now be sitting as the Warwick Zoning Board of Review.

The Chairman called the first petition.

Petition #10438

Ward 9

4635 Post Rd.

The petition of LTP Realty, LLC, 4614 Post Rd., Warwick, RI, request a special use permit to occupy existing building for new and used vehicles sales, with service or outdoor display. Also seeking a dimensional variance, existing building having less than required front, side and rear setback, less than required parking and less than required landscaping. Assessor's Plat 220, Lots 208 & 76 (4635 Post Rd.), zoned General Business (GB).

\*\* (Please note that this is a request for an extension only. No additional testimony will be taken.)

John C. Revens, Jr., Esq. was present for the petitioner.

Mr. Revens stated the petitioner is seeking a one year extension on their grant.

The Chairman asked if there was anyone there in opposition or in favor of the extension. There being none, Everett O'Donnell made a motion to approve the extension, seconded by Fred Sarno, and passed unanimously by the Board that the extension be GRANTED.

Board Member Fred Sarno stated he would be recusing himself from petition #10526. Julie Finn became the voting member in his place for the following petition:

Petition #10526

Ward 1

26 Aberdeen Ave.

The petition of Centerville Builders, Inc., 164 Centerville Rd., Warwick, RI, and Pawtuxet Centerville Associates, LLC, 164 Centerville Rd., Warwick, RI, requests a dimensional variance to demolish existing dwelling and construct a new 28' x 40' single family dwelling, with a covered front porch, and a 12' x 12' rear deck. Subject property having less than required frontage and lot width. Assessor's Plat 302, Lot 274, zoned Residential A-7.



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

Attorney Revens stated there is an old cottage on the subject property that is in disrepair. The petitioners would like to tear down the dwelling and construct a new 28' x 40' single family dwelling with a front porch and a deck in the rear of the structure. He stated it would be a major upgrade to the neighborhood.

The Chairman asked if there was anyone there in opposition or in favor of the petition. There being none, Everett O'Donnell made a motion, seconded by Julie Finn and passed unanimously by the Board that the petition be GRANTED.

Petition #10542

Ward 7

38 Lockhart Ave.

The petition of RX Organics, LLC, 50 Dunnell Lane, Pawtucket, RI, and Litterio Properties, Inc., 38 Lockhart Ave., Warwick, RI, request a special use permit to have more than one non-residential use on a lot. Also seeking a dimensional variance for having less than required parking and loading. Assessor's Plat 295, Lot 329, zoned Light Industrial (LI).

Sandy Resnick, Esq. was present and representing the petitioner.

Susan Baker from the Planning Department read her recommendations into the record.

Attorney Resnick stated the petitioner is seeking a special use permit to have mixed use in the building. He stated the use itself is permitted.

The Chairman asked if there was anyone present in opposition or in favor of the petition. There being none, Mark McKenney made a motion, seconded by Beverly Sturdahl and passed unanimously by the Board that the petition be GRANTED WITH STIPULATIONS.

Petition # 10540

Ward 9

183 Charlotte Dr.

The petition of Joseph V. Palombo, 183 Charlotte Dr., Warwick, RI, request a dimensional variance to construct a second floor addition and a garage addition to the existing single family dwelling. The petitioner is proposing to construct an attached two-car garage, and a second floor addition over the footprint of the existing dwelling and the new garage. Proposed addition & garage having less than required side yard setbacks and coastal feature setback. Subject property being an undersized non-conforming lot. Assessor's Plat 201, Lot 55, zoned Residential A-15. (Previously approved by the Board on October 16, 2007).

Joseph Palombo, 183 Charlotte Dr., Warwick, RI, was sworn in by the Chairman.

Mr. Palombo stated he received approval from the Board for the same proposal back in 2007. He was unable to start the project due to the economy in 2007.

Mark McKenney asked if he was in agreement with the stipulations. Mr. Palombo responded yes he is in agreement.

The Chairman asked if there was anyone present in opposition or in favor of the petition. There being none, Everett O'Donnell made a motion, seconded by Fred Sarno and passed unanimously by the Board that the petition be GRANTED WITH THE ORIGINAL STIPULATIONS.

Petition #10536

Ward 1

49 Remington St.

The petition of John G. Sommer, 49 Remington St., Warwick, RI, requests a dimensional variance. Petitioner is renovating the existing single family dwelling and is proposing to remove the existing front porch & deck and replace in kind, construct a 13' x 22' addition in the rear of the structure, and construct dormer additions on the third floor to create living space for a second bedroom and bathroom. Proposed porch, deck and dormer additions having less than required front yard & side yard setbacks. Proposed rear addition having less than required side yard setback. Subject property being a pre-existing undersized lot. Assessor's Plat 292, Lot 344, zoned Residential A-7 with Historic overlay.

John Sommer, Petitioner, 49 Remington St., Warwick, RI, was present and sworn in by the Chairman.

Mr. Sommer stated he is renovating the existing single family dwelling and changing the layout. He would like to replace the front deck and porch in kind.

The petitioner is also proposing a 13' x 22' addition to the rear of the dwelling, and dormer additions on the third floor to create a second bedroom and bathroom. The structure will remain a single family dwelling.

The petitioner has received approval from the Warwick Historic Commission.

The Chairman asked if there was anyone present in opposition or in favor of the petition. There being none, Fred Sarno made a motion, seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED.

Petition #10537

Ward 6

Sheffield St.

The petition of S & S, LLC, 2289 Flat River Rd., Coventry, RI, requests an amendment to a previously granted petition to remove stipulations #1 and #2. Petitioner received

approval on August 9, 2016 for a dimensional variance & use variance to construct a 30' x 36' single family dwelling with a second story L-shaped deck to the rear and side of the dwelling. Proposed dwelling & deck having less than required setback to the Coastal Feature. Subject property having less than required frontage. Assessor's Plat 376, Lot 16 (Sheffield Street), zoned Waterfront Business (WB).

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

Attorney Shekarchi stated this was originally approved by the Zoning Board In 2007 and it expired. It went before the Board again, and received approval in August 2016. There were stipulations placed on the approval. The petitioner is now before the Board seeking removal of stipulations #1 & #2, which required him to receive approval from the Planning Board for a street extension that included a cul-de-sac with a diameter no less than 42 feet.

Michael Saccoccio, Petitioner, 2289 Flat River Rd., Coventry, RI, was present and sworn in by the Chairman.

Mr. Saccoccio stated when this petition was approved previously, the Fire Department only had a 42' truck. They now have a 50' truck.

Everett O'Donnell asked if the Fire Department is in agreement. Attorney Shekarchi stated an agreement was negotiated between both the petitioner and fire department. It will cost more money, but the petitioner is willing to do what is requested.

The Chairman asked if there was anyone present in opposition or in favor of the petition. Everett O'Donnell made a motion to approve, with the new plan submitted, seconded by Beverly Sturdahl and passed unanimously by the Board that the petition be GRANTED (All other stipulations shall be complied with).

Petition # 10538

Ward 1

190 Namquid Dr.

The petition of Benjamin Viti, 155 Amaral St., Riverside, RI, and Spring Green at Gaspee Point, LLC, 459 Namquid Dr., Warwick, RI, request a dimensional variance to demolish existing dwelling, and construct a new 26' x 36' single family dwelling. Subject property having more than one residential structure on a lot. Assessor's Plat 305, Lot 58, zoned Residential A-10.

Benjamin Viti, Petitioner, 12 Deer Run, Hope, RI, was present and sworn in by the Chairman.

Mr. Viti stated he bought this old cottage that is run down. He has weighed the cost of repairing the structure vs. replacing it. He is proposing to demolish the existing dwelling and construct a new 26' x 36' single family. He will also be removing the existing shed.

The subject dwelling is located on leased land containing numerous single-family dwellings.

George Shuster asked the petitioner if he had the support of Spring Green Association. Mr. Viti responded that he has received approval from the Association.

The Chairman asked if there was anyone present in opposition or in favor of the petition. There being none, Fred Sarno made a motion, seconded by Everett O'Donnell, and passed unanimously by the Board that the petition be GRANTED.

Petition # 10539

Ward 1

255 Lansdowne Rd.

The petition of Lon R. Krueger, 255 Lansdowne Rd., Warwick, RI, request a dimensional variance to construct a 10' x 14' open front porch. Proposed porch having less than required front yard setback. Subject property being an existing non-conforming lot. Assessor's Plat 307, Lot 348, zoned Residential A-10.

Richard Kuehl, Architect, 15 Shady Oak Dr., Warwick, RI, was present and sworn in by the Chairman.

Mr. Kuehl stated the petitioner is proposing to construct a 10' x 14' open front porch, but the proposed porch will not meet the required front setback.

The Chairman asked if there was anyone present in opposition or in favor of the petition. There being none, Fred Sarno made a motion, seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED.

Petition #10541

Ward 4

1959 Warwick Ave.

The petition of Sedat Ozvan & Maria B. Couto, 177 Narragansett St., Cranston, RI, request a use variance to install a new 6' x 6.5' free-standing sign on existing foundation. Proposed sign having a 1.25' x 6' LED Message board on the lower part of the sign. Also seeking a dimensional variance for having less than required front yard setback, and less than required corner/side yard setback (Royland Rd.). Assessor's Plat 328, Lot 106, zoned General Business (GB).

Frederic Marzilli, Esq. was present and representing the petitioner.

Susan Baker from the Planning Department read the stipulations into the record.

Attorney Marzilli stated the petitioner is in agreement with the stipulations. He stated this is a self-service gas station and he believes this LED message board sign is important for the business.

Everett O'Donnell asked how high the sign is from the base. Attorney Marzilli responded it is 8.6'

The Chairman asked if there was anyone present in opposition or in favor of the petition. There being none, Mark McKenney made a motion, seconded by Everett O'Donnell and passed by the Board that the petition be GRANTED WITH STIPULATIONS.

Petition #10543

Ward 2

446 Post Rd.

The petition of Alan J. Micale, P.E., Ayoub Engineering, Inc., 414 Benefit St., Pawtucket, RI, and Four Hundred Forty Six Post, LLC, P.O. Box 8652, Warwick, RI, for a special use permit to demolish the existing gas station and related structures on the parcels for the construction of a retail gas facility, with a 4,000 sq. ft. convenience store, a fast food component with a drive-thru, a 96' x 26' canopy over four (4) fuel dispensers. The petitioner is seeking a dimensional variance for having less than required front yard setbacks from the convenience store, the canopy and the drive-thru access lane, less than required side yard setback to the dumpster enclosure, and less than required front landscaped buffer. Assessor's Plat 293, Lots 4, 7 & 8, zoned General Business (GB).

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

Susan Baker from the Planning Department read the stipulations into the record.

Attorney Shekarchi stated the petitioners are in agreement with the stipulations. He stated this is a unique lot with an existing gas station that has been vacant.

Attorney Shekarchi stated this will be a state of the art structure with an electric charging station.

The petitioners have received preliminary approval through the Planning Board.

The Chairman asked if there will be a drive-thru. Attorney Shekarchi stated there will be a drive-thru with more than enough stacking space.

The Chairman asked if there was anyone present in opposition or in favor of the petition. There being none, Mark McKenney made a motion, seconded by Beverly Sturdahl and passed unanimously by the Board that the petition be GRANTED WITH STIPULATIONS.

Petition # 10544

Ward 3

2313 Post Rd.

The petition of Marval, LLC, 290 Red Chimney Dr., Warwick, RI, and Donald J. Boyle, Trustee & Susan W. Boyle, Trustee, 60 Tamarack Dr., E. Greenwich, RI, request a

special use permit to demolish existing structures and construct a new 2,400 sq. ft. car wash with outdoor vacuum spaces. The petitioner is seeking dimensional relief for having less than required front yard setback to the vacuum spaces, dumpster, pay stations and canopy. Less than required front yard & side yard setback to the dumpster enclosure, less than required interior landscaping, landscaping and parking spaces. Assessor's Plat 344, Lots 83 & 88, zoned General Business (GB).

Daniel K. Flaherty, Esq. was present and representing the petitioner.

Susan Baker from the Planning Department read the stipulations into the record.

Attorney Flaherty stated the petitioner is seeking a special use permit to construct a 2,400 square foot carwash, with dimensional relief being requested for having less than required setbacks, landscaping and parking.

Brian King, Civil Engineer, was presented to the Board as an expert witness. Everett O'Donnell made a motion to accept Brian King as an expert witness, seconded by, and passed unanimously by the Board.

After discussion about the stipulations, the Chairman asked if there was anyone present in opposition or in favor of the petition. There being none, Fred Sarno made a motion to approve with amended stipulations, seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED WITH AMENDED STIPULATIONS.

The Chairman entertained a motion to approve the minutes from the April 10, 2018 hearing, a motion was made by Everett O'Donnell, and seconded by Mark McKenney and passed unanimously by the Board that the minutes be accepted.

A motion was made by Everett O'Donnell, seconded by Beverly Sturdahl and passed unanimously by the Board that the meeting be adjourned. The meeting was adjourned at 8:53 P.M.

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

Donald G. Morash, Jr., Chairman