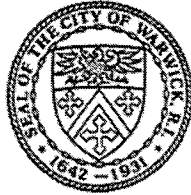


DONALD G. MORASH, JR.
CHAIRMAN



JOSEPH J. SOLOMON
MAYOR

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

WARWICK ZONING BOARD OF REVIEW
MINUTES OF THE OCTOBER 8, 2019 MEETING

A regular hearing of the Warwick Zoning Board of Review was held on Tuesday, October 8, 2019 at 6:00 P.M. in the City Council Chambers, Warwick City Hall, 3275 Post Road, Warwick, Rhode Island. The meeting was called to order by Chairman Donald Morash, Jr.

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

Present:	Donald G. Morash, Jr. – Chairman Salvatore Deluise Paul DePetrillo Beverly Sturdahl George Shuster - Alternate Julie Finn – Alternate
Absent:	Everett O'Donnell – Vice-Chairman
Also present:	Peter Clarkin Esq., City Solicitor Daniel Geagan, Warwick Planning Department Amy Cota, Secretary Mary Ellen Hall, Stenographer

The Chairman asked if there were any petitions to be WITHDRAWN or CONTINUED.

K. Joseph Shekarchi, Esq., stated they are withdrawing Petition #10627, for 246 Center-ville Road, and will file at a later date.

Beverly Sturdahl made a motion to withdraw the petition, seconded by Paul DePetrillo and passed unanimously by the Board that the petition be withdrawn.

The Chairman called the first petition.

Petition #10621

Ward 9

4520 Post Rd.

The petition of Four Twenty Corp., 164 Centerville Rd., Warwick, RI, requests a dimensional variance to subdivide one lot to create two new lots. Parcel "B" containing an existing single family dwelling. Parcel "A" proposing to construct a new 24' x 34' single family dwelling with a 5' x 24' covered front porch and an 8' x 12' rear deck. Seeking dimensional relief for both parcels having less than required frontage and lot width. Assessor's Plat 220, Lot 233, Parcel "A" & Parcel "B", zoned Office (O).

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

Attorney Revens stated this property is located in an Office zoning district, and the area is a mix of residential and office uses.

The petitioner received Master Plan approval to subdivide one lot to create two new lots. There is an existing single family dwelling on one parcel. The petitioner is proposing to construct a new single family dwelling on the second parcel. The petitioner is seeking dimensional relief for both parcels having less than required frontage and lot width.

The Chairman asked if there was anyone present in opposition or in favor of the petition. There being none, George Shuster made a motion to approve the petition. He stated the petitioner already received Master Plan approval, and he believes this will be an improvement. The motion was seconded by Beverly Sturdahl, and passed unanimously by the Board that the petition be GRANTED.

Petition #10622

Ward 5

113 Pender Ave.

The petition of Off Course Properties, 36 Timber Trail, Coventry, RI 02816, requests a dimensional variance to construct a new 26' x 34' single family dwelling with a 4' x 13' covered front porch and a 10' x 12' rear deck. Subject property being an undersized non-conforming lot. Assessor's Plat 355, Lot 370, zoned Residential A-7.

Christopher Maselli, Esq., was present and representing the petitioner.

Daniel Geagan read the stipulations into the record.

The petitioner demolished the existing single family dwelling, prior to receiving Zoning Board approval to construct a new single family dwelling on an undersized lot.

The Chairman asked if there was anyone present in opposition or in favor of the petition. There being none, George Shuster stated the new dwelling will be an improvement to the neighborhood, and made a motion to approve the petition, seconded by Paul DePetrillo, and passed unanimously by the Board that the petition be GRANTED.

Petition #10623

Ward 4

58 Edgemere Ave.

The petition of Cathal Brown, 58 Edgemere Ave., Warwick, RI, requests a dimensional variance to construct a 9.33' x 12.67' screened porch to the side of the existing dwelling, and a 4.42' x 1.67' bump out for a new fireplace. Proposed screened porch having less than required front yard setback. Proposed fireplace bump out having less than required front and side yard setbacks. Assessor's Plat 336, Lot 254, zoned Residential A-40.

Cathal Brown, Petitioner, 58 Edgemere Ave., was present and sworn in by the Chairman.

The petitioner stated he would like to construct a sunroom addition and a bump-out addition for a new fireplace.

The Chairman asked if there was anyone present in opposition or in favor of the petition. There being none, George Shuster made a motion, stating the house is small, and they could use the additional space, seconded by Beverly Sturdahl, and passed unanimously by the Board that the petition be GRANTED.

Petition #10625

Ward 2

739 Warwick Ave.

The petition of DT Retail Properties, LLC, 500 Volvo Parkway, Chesapeake, VA, and Sordam Development, LLC & Expo Realty, LLC, c/o Robert D'Amico, 1135 Charles St., No. Providence, RI, requests a dimensional variance for having less than required parking, less than required landscaped buffer, and less than required landscaping. Assessor's Plat 294, Lots 155-159, zoned General Business (GB).

The Chairman recused himself on this petition.

George Shuster filled in as Chairman, due to the Vice-Chairman being absent.

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

Attorney Shekarchi stated this project has received City Council approval for a zone change in March 2019, and Planning Board approval in December 2018.

The petitioner stated after receiving the proper approvals, the RI Department of Environmental Management requested they modify the site plan for more green space, and due to this required modification, the petitioner is seeking additional relief for having less than required parking, landscaped buffer and landscaping.

The Chairman asked if there was anyone present in favor or in opposition of the petition. There being none, Paul DePetrillo made a motion to approve the petition, seconded by Salvatore Deluise, and passed unanimously by the Board, that the petition be GRANTED.

Petition #10626

Ward 6

58 Andrew Comstock Pkwy.

The petition of Jennifer Pratt, 58 Andrew Comstock Pkwy., Warwick, RI, Proposing to subdivide (1) one 30,000 sq. ft. lot to create (2) two new lots; One 18,000 sq. ft. lot with a pre-existing non-conforming single family dwelling. Requesting a dimensional variance for the existing non-conforming single family dwelling having less than required front yard and side yard setback. Assessor's Plat 373, Lot 14, zoned Residential A-15.

Steven Levesque, Esq. was present and representing the petitioner.

Jennifer Pratt, Petitioner, was present and sworn in by the Chairman.

The petitioner stated she received Master Plan approval from the Planning Board to subdivide her lot to create a second lot. She is proposing to construct a new single family dwelling on the second lot, for her mother to reside in.

The petitioner is seeking relief for the existing dwelling having less than required front yard and side yard setback.

The new single family dwelling will meet all of the dimensional requirements.

The petitioner stated as part of the project, the garage that borders the lot line will be demolished prior to construction of the new single family dwelling.

The Chairman asked if she spoke with any of her neighbors. Ms. Pratt stated she spoke to quite a few neighbors.

George Shuster asked if she had received approval from the Buttonwoods Beach Association. Ms. Pratt stated she has received approval from them.

The Chairman asked if there was anyone present in opposition or in favor of the petition. There being none, George Shuster stated this is a good use for the large lot, and made a motion to approve the petition, seconded by Paul DePetrillo, and passed unanimously by the Board that the petition be GRANTED.

Petition #10624

Ward 4

61 Hoxsie Ave.

The Petition of Westbay Community Action, 205 Buttonwoods Ave., Warwick, RI, and City of Warwick, 3275 Post Rd., Warwick, RI, requests a special use permit to occupy the space as a non-profit organization, providing a multitude of community support services, and ancillary municipal offices. Also seeking a dimensional variance for having wall signs, and a free-standing sign larger than allowed by Ordinance. Assessor's Plat 320, Lot 243, zoned Residential A-7.

Paul Salera, President & CEO of West Bay Community Action, 1 Harvest Rd., Rehoboth, MA, was present and sworn in by the Chairman.

Daniel Geagan from the Planning Department read the recommendations into the record.

The petitioner, Paul Salera stated that WBCA has been a part of this community since 1966. The building they currently occupy is deteriorating. They are requesting a special use permit to occupy the building previously occupied by Randall Holden Elementary School.

He stated that 80% of the services they provide are for residents of Warwick, many single parents, and the elderly. The services they provide include heating assistance, a food pantry, educational classes, and WIC. He stated they are not a shelter, nor a methadone clinic. They provide support only for the community, and also help pay school lunches.

The petitioner stated he is hoping to start with a short term lease to be sure everything works out, and if it does work out, they would likely venture into a long term lease.

Mr. Salera stated they agree with the Planning Department stipulations. They did look at other sites to occupy but none of them were large enough or cost effective. He stated they are a non-profit.

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

The following objectors were present and sworn in by the Chairman:

Debora Juanita Pratt, owns property on Harmony Court.

Julie Pavao, 236 Harmony Ct., Warwick, RI

Lindsey Cavanagh, 155 Omaha Blvd., Warwick, RI

Jeanna Lavault, 76 Hoxsie Ave., Warwick, RI

Kristen Healey, 10 Dolores Ct., Warwick, RI

Daniel Rayhill, 47 Cavalcade Blvd., Warwick, RI

Clara Borges, 204 Harmony Ct., Warwick, RI

Cathy Cardillo, 15 Count Fleet Ave., Warwick, RI

Jeffrey Langlois, 184 Harmony Ct., Warwick, RI

Jeffrey Mello, 241 Harmony Ct., Warwick, RI

Robert Sevigny, Jr., 31 Count Fleet Ave., Warwick, RI

Edward Nardolillo, 33 Hoxsie Ave., Warwick, RI

Raymond Irwin, 136 Harmony Ct., Warwick, RI

Kim Johnson, 41 Hoxsie Ave., Warwick, RI

Kerri Dirocco, 46 Hoxsie Ave., Warwick, RI

John Zinnah, 185 Hoxsie Ave., Warwick, RI

Joyce Grace, 85 Cavalcade Ave., Warwick, RI

Most of the objectors concerns were the traffic increase in the neighborhood, decrease in property values, the dumpster and rats, the petitioner is a non-profit business that doesn't pay taxes. They also felt this type of business doesn't belong in their neighborhood.

There was one person present in favor of the petition.

Clay Shackleton Jr., President of GW Realty, owner of Gateway Shopping Plaza, and also a resident of Betsey Williams Drive, Warwick. Mr. Shackleton had a letter he presented to the Board in favor of this petition. He stated it would be a beneficial use. He looks at the benefits of providing a positive continued use for this property, as a resident in this area. Randall Holden has outlived its usefulness by modern education standards and he commends West Bay and the City of Warwick for proposing a second life for this vacant school building. This creative use will help people in need, will not put any further stress on the school district that a residential development could cause, and it will prevent the building from falling into disrepair due to future neglect, like other former schools in the City of Warwick.

After further discussion, the Chairman stated they have heard enough testimony against this. We know it is a good program, and a good use. The location is undesirable to most of you.

Board determined it would be best to continue this petition, so WBCA could have another neighborhood meeting.

George Shuster stated the following: In his view, this doesn't start with the petition before them tonight, what troubles him is it starts with a neighborhood who has had its neighborhood school taken away from them without any plan for reuse of the property at the time. With a promise that their child is going to go to a school that is improved, even though they have to get bussed to it, where we haven't as a city followed through on that, given them the improvements, and now their kids are being bussed to a different school that isn't in great shape. The area the neighborhood is in has had traffic issues for many years that have never been properly addressed. He also had concern with, but wasn't saying the notices weren't properly delivered, he believes they probably were, but there hasn't been adequate opportunity for the neighborhood to engage with West Bay Community Action to come up with a better to start the relationship. He does believe this is the best place for WBCA to move to at this time, but he is not ready at this moment to approve the application, because there are some further things that can be sorted out. Possibly the City could give some guarantees to the neighborhood in terms of the continued use of the open space, and the playground, maybe playground improvements, which probably should have happened already. Mr. Shuster made a motion to continue this petition, for WBCA to have a neighborhood meeting to address some of those concerns, and hopefully come back with a few additional considerations that would at least make the neighborhood happier, if not happy with the petition, but also make the Board more comfortable that it's a better fit for the neighborhood. The motion to continue was seconded by Paul DePetrillo, and passed unanimously by the Board that the petition be CONTINUED.

Petition #10596

Ward 6

Glen Drive

The petition of SKJR Properties, Inc., 22 Delbonis Dr., West Kingstown, RI; Van H. Jabagjorian, 24 Becca Lane, Middleborough, MA; Scott B. Jabagjorian, 1430 Narragansett Blvd., Cranston, RI; and Brian Jabagjorian, 5 Linbrook Dr. #203, Warwick, RI, requests a dimensional variance to construct a new 24' x 34' single family dwelling on a vacant undersized non-conforming lot. Subject property having less than required lot area, and less than required frontage. Assessor's Plat 350, Lot 77 (Glen Dr.), zoned Residential A-7.

Joseph Brennan, Esq., was present and representing the petitioner.

Steve Kent, from SKJR Properties, Inc., was present and sworn in by the Chairman.

Mr. Brennan stated they were first before this Board a few months ago. The petition was continued to research a restriction noted on a previous deed, and to confirm the square footage of the survey submitted.

Mr. Brennan submitted a copy of a deed that answers the question of the restrictions, marked as Petitioner's Exhibit #1. The restrictions expired in 1940.

Mr. Brennan stated he also had Mark Boyer, a Professional Land Surveyor present to corroborate the survey done by Kirk Andrews, to testify as an expert witness.

Michael McCaffrey, attorney for the objectors, objected to Mr. Boyer testifying, stating the meeting was continued to find out about the deed restriction and the survey, not for new testimony. The attorney for the Board, Peter Clarkin and the Board members stated they don't believe there were any limits from the prior meeting on additional testimony.

Mark Boyer, Land Surveyor, 1071 Main St., West Warwick, RI, was present and sworn in by the Chairman.

George Shuster made a motion to accept Mr. Boyer as an expert witness, seconded by Salvatore Deluise, and passed unanimously by the Board, that he be accepted as an expert witness.

Mr. Boyer stated he was asked by SKJR Properties, LLC, to research and form an opinion of the westerly boundary line of the subject parcel.

He stated the pond line is delineated as the boundary on the record plat as being the property line. He stated they researched the deeds, and formed an overlay that shows what the conditions are on Little Pond. He submitted a copy of the plan and stated the black lines delineate the record lot lines on the record plat. They do not represent current ownership today, just the record lots. He stated the black dash line on the westerly boundary delineates where the boundary, based on the measurements of the record plat.

Mr. Boyer stated when there are ambiguities on the record plat and what is on the ground. When there are ambiguities on a lot, there are basic rules of title elements. They are bound to determine which calls they have to follow when recording a plat that has ambiguities. Number one on that list are natural and artificial monuments. He stated the edge of the pond is a natural and artificial monument. Surveying law when there are ambiguities, and you have distances, bearings, artificial and natural monuments. The artificial and natural monuments hold and that is case law throughout the country. The question here then is, where the boundary of Little Pond is. They researched Land Evidence and Engineering records. The only things they found in reference to elevation on Little Pond were from the 1944 and 1957 QUAD sheets that are issued by the federal government.

Attorney McCaffrey stated neither the deed or plat card reference the pond as the boundary line. The plat clearly delineates boundaries.

The following objectors were present and sworn in by the Chairman:

Mary Janice, 11 Claris St., Warwick, RI

Gail Curci, 89 Glen Dr., Warwick, RI

Sabrina Allen, no address given.

Richard Curci, 89 Glen Ave., Warwick, RI

Dennis Wong, 99 Glen Dr., Warwick, RI

There concerns were the small lot size, the difference between the square footage shown on the survey and the recorded plat, the size of the proposed dwelling, that building on the lot will add to the pollution of the pond that is already happening, & flooding.

The Chairman stated there is no evidence by anyone here relative to pollution, and they are not here to determine flooding, they are here to determine if a house can be built on, and his only concern from the last meeting was whether the restriction was a right of way for access to the pond. That has been debunked tonight.

Attorney Michael McCaffrey stated the question before the Board is what the size of the lot is. They have been provided information about what the lot size is, and a certified recorded copy of that plat, and it clearly indicates the size of the lot as 2900 square feet. The survey submitted by Mr. Andrews added an additional 864 square feet into the lot. That's an additional 23% to a lot that is a recorded lot with specific dimensions, and the record plat, or any of the deeds never mentions the boundary as being little pond. Mr. McCaffrey stated this isn't just an undersized lot, it's a grossly undersized lot. The City Comp plan wants to minimize to limit development of undersized lots, and he is requesting the Board deny this petition.

The Chairman asked if there was anyone to speak in favor of the petition.

Van H. Jabagjorian, 24 Becca Lane, Middleborough, MA, was present and sworn in by the Chairman. He stated he is one of the owners and he grew up on that property. His parents owned the house across the street from this lot, so he is familiar with the neighborhood. The house they are proposing, he would even consider buying, and that wasn't part of the deal, the deal was to sell the land if it's buildable. They obtained DEM approval to put the house on that footprint. He stated the water level hasn't changed in a long time. He believes this new dwelling would increase the value of the neighborhood, and not the opposite as others have said.

The Chairman entertained a motion. George Shuster stated the continuing dispute about the size of the lot, regardless of the size, is still a non-conforming lot. The petitioner stated they can construct a dwelling that will meet all the required setbacks. Mr. Shuster believes there are other houses in the neighborhood on comparable lot sizes, and he feels

the design of the dwelling will fit into the neighborhood. Mr. Shuster made a motion to approve the petition as presented. He stated the plan submitted shows they are able to meet the required setbacks, and they have not requested any dimensional relief. Should they need additional relief, they would be required to come back before this Board, seconded by Beverly Sturdahl, and passed unanimously by the Board that the petition be GRANTED.

The Chairman entertained a motion to approve the minutes from the September 10, 2019 hearing. A motion was made by Beverly Sturdahl, seconded by George Shuster and passed unanimously by the Board that the minutes be accepted.

A motion was made by Beverly Sturdahl, and seconded by Paul DePetrillo to adjourn the meeting at 9:30 p.m.

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

Donald G. Morash, Jr., Chairman

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