

DONALD G. MORASH, JR.
SCOTT AVEDISIAN
CHAIRMAN
MAYOR



CITY OF WARWICK
ZONING BOARD OF REVIEW
WARWICK, RHODE ISLAND 02886
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WARWICK ZONING BOARD OF REVIEW
MINUTES OF THE SEPTEMBER 12, 2017 MEETING

A regular hearing of the Warwick Zoning Board of Review was held on Tuesday, September 12, 2017 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
Mark McKenney
Fred Sarno
Everett O'Donnell
Paul Wyrostek
Julie Finn

Absent: Beverly Sturdahl

Also present: Diana Pearson, Asst. City Solicitor
Daniel Geagan, Warwick Planning Department
Susan Baker, Warwick Planning Department
Amy Cota, Secretary
Ron Ronzio, Stenographer

The Chairman declared a quorum.

The Chairman stated the minutes from the July 11, 2017 and August 8, 2017 hearing would be approved at the next meeting.

The Chairman asked if there were any petitions to be WITHDRAWN or CONTINUED.

Petition #10474 - K. Joseph Shekarchi, Esq. representing the petitioner from Rocky Point Clam Shack, requested this petition be WITHDRAWN.

The Chairman called the first petition:

Petition #10473

Ward 9

3319 Post Rd.

The petition of Pawtucket Credit Union, 3319 Post Rd., Warwick, RI, request a dimensional variance to install a free-standing ground sign. Proposed sign having less than required front yard setback. Assessor's Plat 245, Lot 398, zoned General Business (GB) with a Historic overlay.

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

John T. Gannon, Esq. was present and representing the petitioner. He stated they were here for a dimensional variance to relocate their sign, which had to be removed due to the road construction.

Attorney Gannon stated the sign is the same one approved by this Board in 2006. The proposal is to place the sign 4' from the property line (10' required).

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

Petition #10478

Ward 4

12 Allard Ave.

The petition of Christopher Wheaton, 12 Allard Ave., Warwick, RI, request a dimensional variance to construct a bathroom addition to the rear of the existing non-conforming dwelling with less than required side yard setback. Subject property being an undersized non-conforming lot. Assessor's Plat 317, Lot 316, zoned Residential A-7.

Christopher Wheaton, 119 White Ave., Warwick, RI, was sworn in by the Chairman.

Mr. Wheaton stated he is looking to construct a 10' x 6' bathroom addition.

Everett O'Donnell asked if he spoke with the neighbors. Mr. Wheaton stated he did.

The Chairman stated this is a small addition, and a reasonable request.

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

Mark McKenney stated it meets the criteria and moved to approve the petition, seconded by Julie Finn, and passed unanimously by the Board that the petition be GRANTED.

Petition #10479

Ward 9

55 Charlotte Dr.

The petition of Richard Scibelli, 55 Charlotte Dr., Warwick, RI, request a dimensional variance to construct a 24' x 24' detached garage on a legal non-conforming lot. Proposed garage having less than required front yard setback & side yard setback. Assessor's Plat 201, Lot 156, zoned Residential A-15.

Richard Scibelli, 55 Charlotte Ave., Warwick, RI, was sworn in by the Chairman.

John Hoyle, Design consultant, 1052 Great Rd., Lincoln, RI, was sworn in by the Chairman.

Mr. Hoyle stated the petitioner has recently established the subject property as his permanent residence. He stated the petitioner has recognized the need for a garage to house his vehicles, especially in inclement weather. Based on the location of the existing structure and septic system, there is no other reasonable location to situate this garage.

The proposed garage will be constructed over an existing paved area for parking.

The petitioner is seeking relief from the front & side yard required setback. The detached garage meets the side yard setback for accessory structures, but requires relief for the front yard setback. The petitioner is proposing a front yard setback of 5' (30' required).

Mr. Hoyle stated the garage will be at the maximum 20' in height, 1 ½ stories, with the half story upper area being used for storage only.

The Chairman stated there are a lot of houses in that area that have their garages located in the front yard.

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

Robert Powers, 72 Charlotte Dr., Warwick, RI, was present and sworn in by the Chairman.

Mr. Powers stated he was in favor of the petition.

Rob Sollecito, was present and sworn in by the Chairman. He stated his address was 0 Winsor Ave., Warwick, RI, but that street address doesn't exist anymore. He lives across the street from the petitioner and was present in favor of the petition.

Everett O'Donnell stated there was no one present in objection of the petition, and moved to approve the petition, seconded by Fred Sarno and passed unanimously by the Board that the petition be GRANTED.

Petition #10480

Ward 9

17 Sidney Ave.

The petition of Jacek Danillowicz, 17 Sidney Ave., Warwick, RI, request a dimensional variance to construct a 16' x 24' detached garage on a legal non-conforming lot. Proposed garage having less than required front yard setback and coastal/wetland feature setback. Assessor's Plat 201, Lots 142 & 144, zoned Residential A-10.

Jacek Danillowicz, petitioner, was present and sworn in by the Chairman.

John Hoyle, Design consultant, 1052 Great Rd., Lincoln, RI, was present and sworn in by the Chairman.

The Chairman asked Mr. Hoyle if he was here to help the petitioner.

Mr. Hoyle stated they recently made this their permanent home.

Everett O'Donnell asked if they were asking for 4' of relief. The plan shows they are seeking only 4' of relief from the front property line.

Mr. Hoyle stated Sidney Drive is surrounded by freshwater wetlands and the coastal feature.

The Board asked what the relief was to the coastal/wetland feature was. Mr. Hoyle stated he wasn't sure what the exact setback is, but it was indicated to him he should ask for relief.

Mr. Hoyle stated they are seeking relief for a one car garage.

Everett O'Donnell asked if there were any complaints with the neighbors.

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

Robert Powers, 72 Charlotte Dr., Warwick, RI, previously sworn in, was present and in favor of the petition.

Fred Sarno made a motion to approve the petition, seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED.

The Chairman stated from time to time the Board adjusts the calendar, and presuming some of the public was there for petition #10481 and #10482, the Board was going to hold them back for a little bit to get through the rest of the calendar, before they get into what he might consider controversial ones.

The Chairman called:

Petition #10483

Ward 9

246 Centerville Rd.

The petition of Prima Deana Salon, Michael T. and Deana M. Saccoccia, 2289 Flat River Rd., Coventry, RI, request a special use permit to convert existing office space to a hair salon. Subject property being a legal conforming lot. Assessor's Plat 243, Lot 55, zoned Office (O).

K. Joseph Shekarchi, Esq. was present and representing the petitioners. Mr. Shekarchi stated the petitioners purchased the law office located on Centerville Road and would like to change the use from office to a hair salon for his wife. They are not making changes to the footprint of the building and there is plenty of parking.

The Chairman asked if they spoke with their neighbors. Mr. Shekarchi stated he believes they spoke with Washington Trust Bank.

The Chairman asked if there was anyone there in opposition or in favor of the petition. There being none, Everett O'Donnell stated it was a simple change from an office to a hair salon and moved to approve the petition seconded by Mark McKenney and passed unanimously by the Board that the petition be GRANTED.

Petition #10484

Ward 8

1134 Bald Hill Rd.

The petition of Eleven Thirty Four Bald Hill Road, LLC, C/O Roy Lacroix, PO Box 1271, West Warwick, RI, request a dimensional variance to widen an existing thirty-foot (30') curb cut to a thirty-six foot curb cut (36'). Assessor's Plat 255, Lot 26, zoned General Business (GB).

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

Mr. Shekarchi stated the application was to widen the existing driveway by six feet (6') more than the Ordinance allows. It was recommended by the Planning Department, the RI DOT and their traffic consultant to have one slightly larger entrance rather than two or

three entrances to the property for better traffic control and better flow, so they are requesting to extend it by six feet (6').

Everett O'Donnell stated it was pretty straightforward.

Fred Sarno stated before he makes a motion, it speaks loudly to the issue of the Zoning Ordinance being out of date, if State DOT says it should be and would be safer, he stated he isn't sure why it needs zoning approval either, but suggested updating the Zoning Ordinance with the City Council and the Mayor's office.

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

Petition #10485

Ward 3

25 Branch Rd.

The petition of John Tucci, 25 Branch Rd., Warwick, RI, request a dimensional variance to construct an attached two car garage. Proposed garage having less than required side yard setback. Also seeking a variance to legalize the existing non-conforming shed, having less than required side yard and rear yard setbacks. Assessor's Plat 309, Lot 254, zoned Residential A-7.

John Tucci, petitioner, 25 Branch Rd., Warwick, RI, was present and sworn in by the Chairman.

Mr. Tucci stated he would like to construct an attached two car garage and legalize the location of the existing shed.

The petitioner stated the proposed garage will have a side yard setback of 3.7' at the closest point (8' required).

The petitioner is also seeking approval to legalize the location of his existing shed.

The Chairman asked if he spoke with his neighbors.

Mr. Tucci responded yes he had. He also stated the rear of his property is wetlands and also a nursing home, his house is on a dead end street. He spoke with the neighbor next to him who offered to come to the meeting in favor of the petition, but he didn't think the neighbor needed to be here.

The Chairman asked if there was anyone there to speak in opposition or in favor of the petition. There being none Mark McKenney stated it would be a minimal change that

meets the criteria and moved to approve the petition, seconded by Julie Finn and passed unanimously by the Board that the petition be GRANTED.

Petition #10486

Ward 1

607 Algonquin Dr.

The petition of Kathleen A. Quinn, 607 Algonquin Dr., Warwick, RI, request a dimensional variance to construct a 22' x 35' second floor addition on a legal non-conforming dwelling. Proposed addition having less than required front yard & side yard setbacks. Assessor's Plat 305, Lot 59, zoned Residential A-40.

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

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

Steven Davis, contractor, 99 Blackstone Ave., Warwick, RI, was present and sworn in by the Chairman.

Mr. Brennan stated this was a simple application for a second story addition. There will be no kitchen facilities and will not have a separate entrance. The reason the petitioner is putting the application forward, is to have her aging sister move in to spend more time together as a family. The house as it currently stands is too small for two people, and this will provide her sister with a little more privacy.

Mr. Brennan stated it will not be used as a rental, they have no plans to do that, and they know if they want to rent it in the future, they will have to get the proper approvals with the City.

Mr. Brennan stated he read over the stipulations with Steven Davis. Mr. Davis has reviewed them with the applicant, and they agree with the stipulations. The relief needed is dimensional for the front and side yard setbacks. The addition is being constructed within the existing footprint of the dwelling.

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

Petition #10481

Ward 5

38 Ogden Ave.

The petition of Doris Bruno, 38 Ogden Ave., Warwick, RI, request a special use permit to have a bed & breakfast (two room rentals) in a single family dwelling. Subject property being a legal non-conforming undersized lot. Assessor's plat 380, lot 103, zoned Residential A-7.

Doris Bruno, petitioner, 38 Ogden Ave., Warwick, RI, was sworn in by the Chairman.

Ms. Bruno stated she purchased the property in 2014 with another person. Since that time, she is the only person living there. She stated she has been hosting travelers under the AIRB&B website. It's a new way and a new form of travelers staying in areas like ours.

Ms. Bruno stated she has had nothing but wonderful experiences, she hasn't had any complaints, other than one of her neighbors who has been a problem since day one.

The Chairman stated before the petitioner goes any further, the Planning Department has recommendations.

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

Ms. Bruno stated to the surprise of all her neighbors, she has been hosting since May 2017 with no disturbances, no wild parties, no noise or altercation. There was a wedding, that reached out to her and she agreed to let them stay, and that was the ice breaker with the neighbor across the street. It was obvious he was upset about parking in the wrong direction. There was hostility and words between Ms. Bruno and her neighbor.

Ms. Bruno stated she pays hospitality taxes to the State of Rhode Island and the City of Warwick. If business continues to do well, she would like to remain there and she hopes to hire employees as well.

Ms. Bruno stated it is a top of the line area for people to come and visit. She remembers one instance where people were leaving trash behind. She stated since the time she has been there, she hasn't seen a problem with parking, although she agrees they should have summer parking restrictions. She doesn't understand how, since she has been operating since May, the anticipation the neighbors have that this is going to be a party house. She has turned down college graduates from Boston University who wanted to rent the property, so she carefully selects her customers.

Ms. Bruno stated she can get a roommate, but she has a passion of expanding the vision of the people who come to visit Warwick.

The Chairman stated he appreciates her passion in this, but there are many things that come into factor. He stated the petitioner should have received a special use permit for a bed & breakfast prior to starting the business.

The Chairman stated he doesn't believe it is a compatible use for that neighborhood, and should be in a different location.

Everett O'Donnell asked the petitioner if she stays at the property and if she has done an impact study to see what affect it would have on the neighbors. Ms. Bruno responded she does stay at the property, but she hasn't had an impact study done.

Ms. Bruno stated this AIRB&B is new to Rhode Island and there are many in her particular area who are running them without permits. She stated the AIRB&B is a membership and they do their due diligence and will shut anyone down who doesn't abide by their strict rules as a host. She stated she does hope the City of Warwick will look into how many AIRB&B's are currently being operated in our neighborhoods. So if her neighbors object, she would like to request a larger study be done.

Everett O'Donnell asked about the parking on the street. Ms. Bruno stated there is no parking on the street between May 15 and September 15.

The Chairman asked the petitioner if the AIRB&B asked if she was zoning compliant. Ms. Bruno responded she was never asked that question.

Fred Sarno stated the petitioner probably could've use some zoning advice up front, and like the Chairman, he understands her passion for all of this. However, the fact is she has received two violations.

Ms. Bruno stated she understood there was one approval for a bed and breakfast in Warwick. The Chairman replied there was one approved, in part because there were no objector and it was for one room.

Mark McKenney suggested the Board is not talking about a blanket to refuse AIRB&B's. The question is whether her specific application meets the criteria required for a special use permit, and based upon the evidence so far, there is serious concern whether that has been met.

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

John C. Revens, Jr., Esq. was present and representing Lillian and William Maloney and several of their neighbors with regard to this petition.

Mr. Revens stated this property is a pre-existing non-conforming lot of record, located in a Residential A-7 zoning district which requires 7,000 square feet and 70 feet of frontage.

The lot is 5,604 square feet, 28% less land than what is required to build a single family dwelling today.

We are here tonight because the applicant was cited on more than one occasion with violating the Zoning Ordinance and we are here for the Board to make a decision tonight.

First we have an undersized lot. We also have the applicant coming in, not asking for approval, but asking for forgiveness.

Mr. Revens stated when you look at the criteria in the City's Ordinance that an applicant has to meet for a special use permit, this application doesn't meet the criteria. The applicant didn't submit the required items on the checklist.

Table 1 of the Use regulations, 107.1 allows a Bed and Breakfast for up to four guests, by special use permit, so we're here for you to decide. However the property is being advertised as renting both an RV camper located in the yard, and multiple rooms in the home. My clients have witnessed more than four guests occupying the dwelling and have endured the inconvenience, the noise, the cars and everything that goes with that. To get the special use permit and a dimensional variance, which is limited by the Ordinance when granting both a special use permit and a dimensional variance, and can only give relief for landscaping, screening, parking lot buffers, off-street parking, number of required loading spaces and signs, you can't give a special use and dimensional relief for anything else in combination under the Ordinance. The parcel before you tonight doesn't meet dimensional requirements of the Ordinance in regard to off-street parking. Pursuant to section 700 for off-street parking, the applicant's proposed use requires four (4) parking spaces based on the rental of two (2) bedrooms. They would need an additional two (2) bedrooms for the rooms that are not part of this application.

Mr. Revens stated the petitioner did not request parking relief on the application, nor was there a parking plan submitted showing the required six (6) parking spaces.

Mr. Revens stated this type of use was not contemplated when the property was constructed and it doesn't fit the characteristics of the neighborhood. The petitioner has been operating without the proper approvals. So for all of these reasons, Mr. Revens is requesting denial of this petition.

Mr. Revens submitted exhibits of how people are parking around the subject property. Objector's Exhibit #1, a picture of cars parked behind the RV the petitioner rents out. Objector's Exhibit #2, a photo of a car in the driveway, with the vehicle parked in the right-a-way with a bicycle on the back. Objector's Exhibit #3, a photo of cars parked on the lawn of the property, which is technically part of the street.

Mr. Revens thanked the Board for allowing him to speak.

The Chairman asked how many objectors were here to speak tonight. Two people responded.

The Chairman swore all the objector's in.

Lorenzo Dante, 43 Ogden Ave., Warwick, RI, was present in objection of the petition, and sworn in by the Chairman. Mr. Dante read a brief statement with his concerns.

William Maloney, 101 Burnett Rd., Warwick, RI, was present and in objection of the petition.

Mr. Maloney stated this affects him the most as he lives across the street from the petitioner. He submitted Objector's Exhibit #4, a petition with twenty-nine (29) signatures of neighbor's objecting to this petition. He also submitted Objector's Exhibit #5, eleven (11) photos which show the parking around the subject property.

Susan Towle, 47 Ogden Ave., Warwick, RI, was present and in objection of the petition.

Glen Hebert, 53 Surf Ave., Warwick, RI, was present and in objection of the petition.

Robert Marcoux, 64 Burnett Rd., Warwick, RI, was present and in objection of the petition.

David Wente, 54 Burnett Rd., Warwick, RI, was present and in objection of the petition.

Christine Sayles, 289 Narragansett Bay Ave., Warwick, RI, was present and in objection of the petition.

Teri Hebert, 53 Surf Ave., Warwick, RI, was present and in objection of the petition.

Debra Jardin, 93 Chapin Ave., Warwick, RI, was present and in objection of the petition.

Robin Stevens, 91 Priscilla Ave., Warwick, RI, was present and in objection of the petition.

The Chairman stated to let it be known there are many people here in opposition of this petition.

The Chairman asked if there was anyone there to speak in favor of the petition. Hearing none, Mark McKenney moved to deny the petition. He stated the evidence needs to show that all the criteria set forth in the subsection of the Ordinance authorizing that special use have been met. Additionally, they are specifically charged with looking at whether the special use permit, if granted would alter the general characteristics of the area or impair the intent or purpose of the Ordinance and the Comprehensive Plan for the City of Warwick. He noted that with a denial they would be not be stating they don't approve of

any AIRB&B's or B & B's. B & B's by their nature are in residential areas. This is an approved use under our Ordinance, if the criteria is met. Based on the evidence presented tonight however, it appears the criteria was not met, and that specifically pertains to the parking issues and the manner in which the impact on the neighborhood would be detrimental. He recognizes where Mr. Maloney is coming from, he doesn't think there is personal privacy issues, because we are in an area with relatively close houses. As far as noise, there will be occasions there is noise, and dogs barking. Based on the criteria, and the fact that there was no parking plan, it appears they need six spaces, which hasn't been met. Mr. McKenney stated he himself has been by the property and personally saw someone coming out of the camper, which tells him that camper is in use. Having been through that neighborhood, it is clear this use is not compatible. The extent to which the parking has become a problem, and for all the previous reasons, including what Mr. Revens and the Planning Department have stated, Mark McKenney made a motion to deny the petition at this time, seconded by Everett O'Donnell and passed unanimously by the Board that the petition be DENIED. (All Board members voted to deny this petition).

Petition #10482

Ward 5

70 Kirby Ave.

The petition of Pamela Weisenbach-Abkarian, 70 Kirby Ave, Warwick, RI, request a special use permit to have a bed & breakfast (three room rentals) in a single family dwelling. Subject property being a legal conforming lot. Assessor's Plat 382, Lot 239, zoned Residential A-40.

Pamela Weisenbach-Abkarian, petitioner, 70 Kirby Ave., Warwick, RI, was present and sworn in by the Chairman.

Gadar Abkarian, 70 Kirby Ave., Warwick, RI, was present and sworn in by the Chairman.

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

The Chairman stated the petitioner has heard the comments from the Planning Department and witnessed the previous petition.

The petitioner stated her and her husband are new to 70 Kirby Avenue, they moved five years ago from Massachusetts to start a business in Cranston. They wanted to be able to offer their families who live up North a place to visit. She stated owning a larger home is great for family but when the family members leave, they would like to make better use of the large property.

Mr. Abkarian stated approximately six months ago a friend suggested she look into AIRB&B. She did research and started her application for the special use permit with the City. Initially she was encouraged by the income potential but soon became concerned

with issues including potential booking problems, computer bugs and the headaches that would result. A few weeks ago, her mom, a former nurse suggested she reach out to traveling nurses. She has found a whole community online. So rather than an AIRB&B, Ms. Abkarian is hoping to provide longer term housing exclusively to traveling nurses and surgical staff coming to the Providence area to work at local hospitals.

The Chairman asked the petitioner if she had opened her AIRB&B. The petitioner responded no she was waiting for approval.

The Chairman asked if she spoke with her neighbors about her new plan. She stated she was nervous to speak with them about the AIRB&B. She assumed when she decided to switch to house the nurses, the neighbors wouldn't have an issue with it. Ms. Abkarian stated she didn't change the application because she thought it would fall under the same category.

Ms. Abkarian stated she would be renting three rooms to single nurses, increasing the parking by only three vehicles.

Paul Wyrostek asked what the petitioner would do if she had no responses from nurses looking to rent.

Mr. Abkarian stated they would just wait, they recognize that the neighborhood is quiet, close knit neighborhood, and that is what attracted them to it. They do understand the neighbor's concerns and it would be a challenge for them to deal with their neighbor's having an AIRB&B, so they understand their concerns.

The petitioner stated she will not be doing an AIRB&B. She would like to rent her three bedrooms on the second floor exclusively to nurses.

After discussion between the Board members, Mark McKenney stated the application should be withdrawn for an AIRB&B. He suggested the petitioner work with the Planning Department and sit down with the neighborhood.

Fred Sarno agreed with Mark McKenney and suggested the petitioner withdraw her AIRB&B application.

Mark McKenney stated there is confusion as to what category AIRB&B's should fall under. Under the definitions in the Zoning Ordinance, bed & breakfast establishments also fall under rooming house. He would suggest withdrawing the petition and go back to the drawing table and try to work out the issues, and be in touch with the neighborhood. She may find she won't have the same opposition if she explains it better.

The petitioner withdrew the petition.

Mark McKenney made a motion to withdraw the petition, seconded by Fred Sarno and passed unanimously by the Board that the petition be **WITHDRAWN**.

A motion was made by Everett O'Donnell to adjourn the meeting, seconded by Mark McKenney and passed unanimously by the Board that the meeting be adjourned at 8:00 P.M.

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

Donald G. Morash, Jr., Chairman