

DONALD G. MORASH, JR.
CHAIRMAN



JOSEPH J. SOLOMON
MAYOR

CITY OF WARWICK
ZONING BOARD OF REVIEW
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WARWICK ZONING BOARD OF REVIEW
MINUTES OF THE MAY 14, 2019 MEETING

A regular hearing of the Warwick Zoning Board of Review was held on Tuesday, May 14, 2019 at 6:00 P.M. in the Lower Level Conference Room, 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:

Donald G. Morash, Jr. - Chairman
Everett O'Donnell – Vice Chairman
Beverly Sturdahl
Salvatore Deluise
Paul DePetrillo
Julie Finn – Alternate
George Shuster - Alternate

Also present: Peter Clarkin Esq., City Solicitor
Daniel Geagan, Warwick Planning Department
Amy Cota, Secretary
Mary Ellen Hall, Stenographer

The Chairman entertained a motion to approve the minutes from the April 9, 2019 hearing. A motion was made by Everett O'Donnell, seconded by Salvatore Deluise and passed unanimously by the Board that the minutes be accepted.

The Chairman asked if there were any petitions to be WITHDRAWN or CONTINUED.

Joseph Brennan, Esq., asked to have Petition #10596 for a dimensional variance to construct a new single family dwelling on Glen Drive to be continued until the July 9, 2019 meeting.

Everett O'Donnell made a motion to continue the petition, seconded by Paul DePetrillo, and passed unanimously by the Board that the petition be continued.

The Chairman called the first petition:

Petition #10593

Ward 2

139 Gould Ave.

The petition of Patrick Thibodeau, 139 Gould Ave., Warwick, RI, requests a dimensional variance to demolish the existing garage and to construct a 25'-10" x 22' one story detached garage in the same footprint as the existing. Proposed garage having less than required side yard setback. Assessor's Plat 286, Lot 262, zoned Residential A-7.

Patrick Thibodeau, Petitioner, 139 Gould Ave., Warwick, RI, was present and sworn in by the Chairman.

Mr. Thibodeau stated the existing garage is rotting and needs to come down. He would like to replace the existing garage with a new garage in the same location.

The Chairman asked if he spoke with his neighbors. Mr. Thibodeau said he did speak with the neighbor, and she would like to see it replaced.

The Chairman asked if there was anyone present in opposition or in favor of the petition. There being none, Everett O'Donnell stated the petitioner is rebuilding the garage in the same footprint, there were no objections from the neighbors, and made a motion to approve the petition, seconded by Salvatore Deluise, and passed unanimously by the Board that the petition be GRANTED.

Petition #10594

Ward 5

2100 Warwick Ave.

The petition of Navigant Credit Union, 2100 Warwick Ave., Warwick, RI, requests a use variance to replace a previously approved 17.33 sq. ft. LED message board sign with a new 24.77 sq. ft. LED message board on existing free-standing sign. Assessor's Plat 339, Lot 1, zoned General Business (GB).

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

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

Mr. Flaherty stated the subject property, located on the corner of Warwick Avenue and Church Avenue, received approval from the Zoning Board in 2003 for the previous tenant

to install a free-standing electronic LED message board sign. The new tenant would like to replace the existing sign with a slightly larger LED message board sign (24.77 sq. ft.).

The Planning Department did object to the sign and requested if the Board saw fit to approve the application, that stipulations be placed on the approval.

The petitioner had no objection to the stipulations.

George Shuster, stated this is the first of these LED sign applications he has been on the Board for, and although he is not voting tonight, he does have a concern that by continuing to approve these applications, even with stipulations, they have put themselves in the position for everyone that they approve, it makes it more likely that they should approve the next one, because they don't want to be unfair to the next business. For everyone that they approve, it makes it harder for the Board not to agree with the Planning Department, which frankly he agrees with on the reading of the existing Zoning Ordinance. It does trouble him to keep putting themselves in this position. He stated he is not disagreeing as an overall policy, he does believe some LED signs are appropriate in the city, but he doesn't think it's this Board's job to decide and every time they make the decision to approve one, their taking the decision away from the City Council where it should be heard.

Chairman Donald Morash stated he thinks the City Council needs to work on this, obviously the Ordinance is the Ordinance. The Zoning Board is a body that makes realistic and common sense exceptions. He stated so far the 17-18 LED signs they have approved, have had no issues, and they have a gentleman's agreement they won't allow these signs in the Village or Intermodal zoning districts. He stated these signs are a major investment for these businesses.

George Shuster stated in his view, the Ordinance we have does not allow us to make that decision, and if they just rely on people who come in to object or appeal the approval, it puts a huge burden on the person that says they need to object, the burden is on that person to carry that forward.

The Chairman stated the Building Department has a responsibility to inspect these on occasion to make sure they conform to the stipulations, when the Board approves them.

The Chairman asked if there was anyone present in opposition or in favor to this petition. There being none, Everett O'Donnell stated the petitioner is asking for a minor change in the sign size, and made a motion to approve, seconded by Salvatore Deluise and passed unanimously by the Board that the petition be GRANTED WITH STIPULATIONS.

The petition of George Cancel, 31 Bakewell Court, Cranston, RI, requests a dimensional variance to construct a 44' x 40' single family dwelling with attached decks. Proposed dwelling having less than required front yard setbacks, less than required side yard setbacks, and being higher than allowed. Subject property being an undersized non-conforming lot with less than required frontage, lot width and lot area on the corner of Spadina Avenue and Point Avenue. Assessor's Plat 334, Lot 194, zoned Residential A-40.

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

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

Mr. Shekarchi stated this lot was previously approved by the Zoning Board, but with the economy bad, the approval expired. They received approval from CRMC, dated April 25, 2019. He stated the lot is small, and they are building a small house that will meet all flood requirements.

Mr. Shekarchi submitted the approval from CRMC for an extension of Assent File No. A2015-08-070, to expire July 1, 2010, marked as Petitioner's Exhibit #1.

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 to approve the petition, seconded by Paul DePetrillo and passed unanimously by the Board that the petition be GRANTED WITH ORIGINAL STIPULATIONS.

The petition of Robert Conte, DMD, 110 Cedar Hollow Rd., Wakefield, RI, requests an amendment to a previously granted special use permit & dimensional variance, to construct a 34'-2" x 29' addition to the existing non-conforming dental office. Proposed addition having less than required side yard setback from the residential zoning district. Assessor's Plat 364, Lot 195 (3274 West Shore Rd.), zoned Residential A-7.

Marlene Marshall, Esq. was present and representing the petitioner.

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

Ms. Marshall stated the applicant is proposing to construct a 990 sq. ft. addition to the existing legal non-conforming dentist office. They were before this Board back in 2004 for an expansion of the existing special use permit

Michael Russell, 680 Aquidneck Ave., Middletown, RI, was presented as a licensed engineer, and sworn in by the Chairman. Everett O'Donnell made a motion to accept him as an expert witness, seconded by Paul DePetrillo and passed unanimously by the Board that he be accepted as an expert witness.

Peter Clarkin, City Solicitor asked Ms. Marshall if she had seen the letter from the abutting neighbor. She stated she has seen it and they are happy to provide the two items the concerned neighbor has requested.

A letter from a concerned neighbor, received by the Board on May 8, 2018 was marked as Exhibit #2.

Robert A. Conte, owner of subject property, 110 Cedar Hollow Rd., Wakefield, RI, was present and sworn in by the Chairman.

The Chairman asked how many parking spaces they will lose.

Mr. Conte stated back in 2004, there was a formula presented to them based on square footage, to satisfy parking requirements, and to ensure there would be no on street parking. They will lose four spaces, but stated to date, there is no striped parking lines, people just park how they want, but there has never been an issue with people parking on the street or cars double parked, it's been very comfortable.

Daniel Geagan from the Planning Department noted for the record the subject property meets the parking requirements. They had a concern with the use and the turnover, could be an issue, which is why the Planning Department stipulated there shall be no parking on the public road.

Michael Russell, the Engineer, stated the parking lot currently isn't striped, but they are required to have 17 parking spaces, they have 25 parking spaces. dimensional requirements of the Zoning Ordinance, (25) twenty-five spaces can be placed on site with the proposed addition, (17) seventeen spaces are required, so the Planning Department is correct, they do meet the parking requirements in excess of (8) eight spaces.

The Vice-Chairman asked if the Board had any questions.

Everett O'Donnell about the concerns the neighbor had with dumpster odor the neighbor had a concern about the odor. He stated it's not so much about the dumpster, it's when it rains out and when it gets dumped, all the juice goes on the ground and that's where the smell comes from.

The Chairman asked if there was anyone there to speak in opposition or in favor of the petition. There being none, Everett O'Donnell stated the petitioner has agreed to the

stipulations, and made a motion to approve, seconded by Paul DePetrillo, and passed unanimously by the Board that the petition be GRANTED WITH STIPULATIONS.

Petition #10598

Ward 8

132 Lambert Lind Hwy.

The petition of RHB Signs/Art FX Signs, 27 Britton Dr., Bloomfield, CT; One Thirty Two Lambert Lind Hwy, 9 Ross Simons Dr., Cranston, RI; and Ross Simons, 132 Lambert Lind Hwy., Warwick, RI, requests a use variance to replace the existing free-standing sign with a new LED message board. Also seeking a dimensional variance for the proposed sign being larger than allowed, and having less than required front yard setback. Assessor' Plat 273, Lot 420 (Ross Simons), zoned General Business (GB).

Lawrin Rosen, President of ARTfx Signs, 27 Britton Dr., Bloomfield, CT, was present and sworn in by the Chairman.

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

Mr. Rosen stated he has handled all the signs for Luxury Brand Holding for the past twelve years and they have converted all the Ross Simons stores, except for this one last store, which is their last outlet.

He stated with this sign, because it is a retail outlet, it's changed once a week manually. This new sign is definitely an upgrade from the old sign, it will have the resolution of a television. They are proposing a static message, they only change it once a week now. He does not believe this sign will be a distraction.

The Chairman stated they all know his position on this, and he is only one vote. He said we are in the twenty first century, we are supposed to be a progressive City moving forward and I know we want to keep that old charm, which we agreed to do in the villages.

Daniel Geagan from the Planning Department stated the City has never allowed message boards within the Ordinance.

The Chairman stated he understands, but the other part is the distraction part. There are people on the road eating, drinking coffee, smoking, talking on the phone, and said he wasn't sure how many accidents have been related to digital signs.

The Chairman asked if the Board Members had any questions.

Everett O'Donnell asked if the sign is only going to change once a week. Mr. Rosen stated they might change it once a day or once a week. Right now they change it once a week, and if it's only once a week, that is fine with them.

Everett O'Donnell asked what the point of having the sign is, if they aren't going to change it. The Board set a standard allowing LED signs to be changed every two hours.

George Shuster stated he would like to make a point for the record, that there is no standards for the Zoning Board for these sign applications. The Zoning Board can make whatever decision it wants to on this one tonight, but he doesn't believe the decision on this application should be binding on any decision they make going forward with LED sign applications.

The Chairman said point taken.

The Chairman asked if there was anyone there in opposition or in favor of the petition. There being none, Everett O'Donnell stated these signs are here to stay. The Zoning Board set standards months ago to allow these signs to change every two hours, and made a motion to approve the petition, seconded by Salvatore Deluise, and passed unanimously by the Board that the petition be GRANTED WITH STIPULATIONS.

For Petition #10599, the Chairman, Donald Morash recused himself. Julie Finn became the voting member.

Petition #10599

Ward 3

2381 Post Rd.

The petition of Home Loan Investment Bank, FSB, 1 Home Loan Plaza, Warwick, RI, and Joni Auto Rentals, P.O. Box 7638, Warwick, RI. Petitioner proposes to reconfigure lot to provide for the redevelopment of an existing commercial building. Front portion of building (1,237 sq. ft.) to be occupied for bank use (no drive-thru), rear portion of building to be occupied for automobile sales and service. Petitioner is seeking a use variance to replace a previously approved LED message board sign. A special use permit to have mixed use within the existing non-conforming commercial structure, and a dimensional variance for the existing condition of less than required front yard setback to the building from Elaine St. and Post Rd., less than required 10' landscape buffer along frontage (Elaine St. and Post Rd.), less than required interior landscaping, less than required setback of parking spaces, less than required aisle width, and existing curb cut being larger than allowed. Assessor's Plat 344, Lots 62 & 64, zoned General Business (GB).

K. Joseph Shekarchi, Esq. and Daniel K. Flaherty, Esq. were present and representing the petitioners.

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

K. Joseph Shekarchi, Esq. stated this sign was already approved by the Board for the previous tenant. These signs cost about \$40,000, and when the tenant vacated the

property, he took the sign and relocated somewhere else. The application before the Board tonight is for the exact same size that this Board previously approved.

Daniel K. Flaherty, Esq. stated he represents Home Loan Bank. This site is the home of the former Thrifty Auto Sales and Melvin Tire Pro. They have received Master Plan approval to merge lot 64 with part of lot 62, with the remainder of lot 62 being cut off.

The automotive use was previously approved, and the bank is an allowed use. They are simply renewing all the existing dimensional variances. The property does have sufficient parking, lot area, frontage, width and depth. The proposed sign is the same exact size as previously approved.

Mr. Flaherty said they had to come back before the Zoning Board, because once they cut up the lot, it is considered an intensification, so you have to renew all the old variances. There will be substantial improvements to the subject property. They will maintain all the required parking spaces and will be adding landscape islands within the property. There is no change to the existing building footprint.

Mr. Flaherty received a letter from the abutting neighbor, David Johnston. Mr. Flaherty read the letter into the record. The email dated May 3, 2019 was submitted and marked as Petitioner's Exhibit #1.

The Vice-Chairman asked if the Board had any questions. There being none, he stated this sounds like a positive thing for the City.

The Vice-Chairman asked if there was anyone present in opposition or in favor 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 WITH STIPULATIONS.

A motion was made by Everett O'Donnell, seconded by Salvatore Deluise and passed unanimously by the Board that the meeting be adjourned at 7:10 p.m.

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

Donald G. Morash, Jr., Chairman