

EVERETT O'DONNELL
VICE-CHAIRMAN



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CITY OF WARWICK
ZONING BOARD OF REVIEW
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WARWICK ZONING BOARD OF REVIEW
MINUTES OF THE FEBRUARY 9, 2021 MEETING

A regular hearing of the Warwick Zoning Board of Review was held on Tuesday, February 9, 2021 at 6:00 P.M. via Zoom Webinar. The meeting was called to order by Vice-Chairman Everett O'Donnell.

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

Present: Everett O'Donnell – Vice Chairman
Salvatore Deluise
Paul DePetrillo
George Shuster – Alternate
Julie Finn - Alternate

Absent: Beverly Sturdahl

Also present: David Petrarca, Esq., City Solicitor
Daniel Geagan, Warwick Planning Department
Amy Cota, Secretary

The Vice-Chairman asked if there were any petitions to be WITHDRAWN or CONTINUED, there being none he called the first petition.

Petition #10689

Ward 7

58 Viewesta Rd.

The petition of Haley & Michael Sweeney, 58 Viewesta Rd., Warwick, RI, requests a dimensional variance to construct a 3' x 20' closet addition to the existing non-conforming dwelling. Proposed addition having less than required setbacks to the front & corner/side yard (corner lot). Assessor's Plat 367, Lot 358, zoned Residential A-7.

Haley & Michael Sweeney, Petitioners, 58 Viewesta Rd., Warwick, RI, were present and sworn in by the Vice-Chairman.

The petitioners stated they moved into a 1950's cape a few years ago and the closets were quite small. They are proposing to construct a 3' x 20' bump-out closet addition.

The Vice-Chairman asked if the closet space would be big enough. The petitioner stated they are simple people, they don't need a walk-in closet, just more storage space.

The Vice-Chairman asked if they spoke with their neighbors. They stated a few of their neighbors were on watching the meeting via Zoom.

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

Petition #10682

Ward 9

4372 Post Rd.

The petition of Jennifer A. Phillips & William R. Fitts, Jr., 4372 Post Rd., Warwick, RI, and Arpin International Group, Inc., 99 James P. Murphy Highway, West Warwick, RI, requests a special use permit to have more than one non-residential use on a lot. The mixed use will consist of office, retail and service uses within the existing structure. Assessor's Plat 221, Lot 27, zoned Office (O).

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

Jennifer Phillips, Petitioner, 11 Pine Hollow Rd., West Warwick, RI, was present and sworn in by the Vice-Chairman.

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

Everett O'Donnell, Vice-Chairman asked the petitioner if they are in agreement with the stipulations. The petitioner replied yes.

Attorney Revens stated the subject property is being leased by his client now, but she is interested in purchasing it. The property was previously occupied by the Arpin Company for many years. The petitioners are before the Board tonight because they have been leasing space to a yoga studio and a tea shop for years without the proper approvals.

The petitioner stated her envision is to eventually bring together a wellness collaborative. She relocated from Main Street in East Greenwich last year and sought this building out because she felt it could meet the needs of her envision. She works with some special populations, specifically end of life planning, working with oncology patients and family

members impacted by cancer, and with that, her scope has become quite broad. She likes to incorporate all types of intervention from different forms of animal therapy, gardening, movement, and her overall goal with helping her patients was to make this location a community treasure that would be accessible to most people.

Ms. Phillips stated they had a small run of the tea shop being open, and they made some errors opening during Covid-19, and they proceeded in a direction without realizing they were breaking any rules by opening the tea shop without the proper approvals

The petitioner stated they are very friendly with their neighbors. There are residential condominiums that abut this property on both sides, and they have gatherings with these neighbors. She stated it turned out to be something great. The property has a large front yard with a big front porch that has rocking chairs with ample parking for anything they engage in.

George Shuster asked attorney Revens to make clear which of the uses they are seeking to have approved tonight.

Attorney Revens stated the only ones they can seek approval for tonight are the ones that were advertised, which were the retail and the service use. Julie Finn confirmed with Mr. Revens that the Board will not be voting on the greenhouse or any animals tonight. Mr. Revens stated that was correct, the petitioners will come back before the Board at a later meeting to address those additional uses.

George Shuster confirmed the uses before the Board tonight are Use Code #401 - barbershop/beauty salon, #425.1 - other service use, and #501- specifically for the tea shop only.

George Shuster stated in the brief time the tea shop was open, he and his wife went there. They thought it was run well by the petitioner's children. He has always felt that Warwick could use a little bit of draw from the popular places we all go to in East Greenwich and to share some of that little north of the border, is great. He stated he admires what they are doing, but he does have some hesitation about some of the proposed uses that are not before the Board tonight, but that is not in tonight's decision.

The Vice-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, as clarified on the record, seconded by Paul DePetrillo and passed unanimously by the Board that the petition be GRANTED WITH STIPULATIONS.

Petition #10690

Ward 1

30 Audubon Rd.

The petition of Adriana Fiore, 30 Audubon Rd., Warwick, RI, requests a dimensional variance to construct a 5' x 40' front porch on the existing single family dwelling. Proposed porch having less than required front yard setback. Assessor's Plat 304, Lot 366, zoned Residential A-7.

Adriana Fiore, Petitioner, 30 Audubon Rd., Warwick, RI, was present and sworn in by the Vice-Chairman.

Rick Cascella, representing contractor, 25 Passeonquis Dr., Warwick, RI, was present and sworn in by the Vice-Chairman.

Ms. Fiore stated she is in the process of constructing an addition to the dwelling, and she would also like to add a front porch.

Everett O'Donnell asked the petitioner if she spoke with her neighbors. She stated she has a little bit, but John has spoken to them.

Rick Cascella stated, speaking for the contractor, they have been in contact with the neighbors on both sides, and to the rear of the property, and so far everyone seems to be happy with what they are doing.

Everett O'Donnell asked if there was anyone present in opposition or in favor of the petition. There being none, George Shuster stated with the testimonial presented, he feels the front yard setback requirements in the city are somewhat antiquated in this approach, because we like front porches for people to hang out in and be part of the neighborhood, and he is in favor of relaxing those requirements for this front porch that is being proposed. The motion was seconded by Paul DePetrillo, and passed unanimously by the Board that the petition be GRANTED.

Petition #10691

Ward 3

200 Jefferson Blvd.

The petition of JB, LLC & Baxter's Jewelers, 200 Jefferson Blvd., Warwick, RI, requests a dimensional variance to construct a 50' x 80' addition to the existing jewelry store. Proposed addition having less than required front yard setback (Malbone Street), less than required parking, minimum size of parking spaces, less than required landscaping, and less than required interior landscaping. Assessor's Plat 282, Lot 75, zoned General Industrial (GI).

Daniel K. Flaherty, Esq., was present and representing the petitioners. He stated Baxter's Jewelers is requesting various dimensional variances to expand their existing jewelry store. The new addition will be utilized by the Jewelry store only and will not be used for a separate tenant.

The new addition will be for a fine watch area, a watch repair work area, a private area for customer's to try on fine jewelry, a kitchen area for the employees, and a garage which will provide better security for the delivery of merchandise.

Mr. Flaherty stated they are required to have 52 parking spaces, 42 spaces will be provided. A jewelry store is a low impact use, traffic-wise, and they feel that 42 spaces is plenty of parking. The proposed will be an upgrade to this impeccably landscaped property.

Mr. Flaherty stated the proposed addition will not alter the general characteristics of the surrounding area, or impair the intent of the Zoning Ordinance or the Comprehensive Plan.

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, seconded by Julie Finn, and passed unanimously by the Board that the petition be GRANTED.

Petition #10692

Ward 2

10 Jefferson Blvd.

The petition of American Alarms, 10 Jefferson Blvd, Warwick, RI, and 10 Jefferson LLC, 297 Broadway, Arlington, MA, requests a use variance to install (2) two LED Message Board Signs 79.2 square feet each, for a total of 158.4 square feet on the wall of the existing commercial structure. Proposed signs being prohibited by the Zoning Ordinance. Assessor's Plat 285, Lot 282, zoned General Industrial (GI).

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

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

The Vice-Chairman asked Mr. Flaherty if he had any questions about the recommendations.

Mr. Flaherty stated he does have a few issues with them. He doesn't have a problem with the sign not scrolling, or the normal stipulations. He does have an issue with the message board being totally shut off at the close of business. He would suggest that the sign remain on the same message overnight, from 10:00 p.m. to 8:00 a.m., so it won't be changing overnight, but to have them shut off it off would be losing all the benefits of having the passing traffic on Route 95.

Mr. Flaherty stated he would also ask that in the future if the building is ever subdivided for an additional tenants, that they also have the benefit of utilizing the sign to advertise their products.

Mr. Flaherty also had concerns with reducing the size of the sign to 25 sq. ft. He stated they are entitled to two feet for every one foot of wall signage. He stated this is a wall sign and the only reason they are here is for the message board component.

Mr. Flaherty also has an issue with the City recommending of granting only one of the two LED message board signs. If one was to be granted, it would be much more beneficial for his client to have the one that faces Route 95, where it would get the most exposure.

Mr. O'Donnell, the Vice-Chairman stated he doesn't have any issues with the signs remaining on overnight. He stated if they are going to grant one sign, he doesn't understand why they can't grant both. If it helps the business, he is all for it.

Mr. O'Donnell stated as far as the size of the sign, there are a number of them, some larger, that have been approved over the past twelve years, so he doesn't have an issue with the size of the signs they are proposing.

Mr. Flaherty stated the technology for these signs is so good, and they continue to improve. They are not distracting. Home Loan was granted approval which was similar to the scenario here. He stated they would like to work with the Board to maintain Warwick's business friendly atmosphere to this new client and he appreciates any consideration the Board may give.

Everett O'Donnell stated one sign or two signs is not going to make a difference. Given the commercial area, he feels this is where the signs belong.

Mr. Flaherty asked to have the stipulation modified to reflect any tenant of the building can utilize the sign.

Paul DePetrillo asked how many tenants are currently in the building. Mr. Flaherty stated just one right now, they occupy the entire building. He is referring to in the future if the building ever gets subdivided.

Everett O'Donnell asked if any of the Board members had any questions or comments.

George Shuster stated he continues to hold similar beliefs as the City. This project nor any other LED sign can satisfy the requirements of the Zoning Ordinance as they exist today. He is very much in favor to revisions of the Zoning Ordinance that would allow LED signs in appropriate places in the City. This is actually one of the areas of the City, Mr. Shuster would be in favor of permitting LED signs, and without the stipulations of the Planning Department because that area would be appropriate. Because the City Council has refused after various requests to do their job of amending the Zoning Ordinance, they have once again put us in this position where we are trying to impose rules that exist in the same way at the Elk's Club, across the street from a house on West Shore Road versus on Jefferson Boulevard where it is entirely commercial and literally

on the edge of Route 95. We are sort of amending the Zoning Ordinance as we go, which does two things. It creates unfairness across the applications as we decide on them, even though we are doing our best, but it also creates more and more difficulty as we go forward to figure out what's appropriate in what areas of the City. This project, with the stipulations that have been presented by the Planning Department, but amended by the Vice-Chairman, he feels again compelled to vote against this project, because he thinks the only way to get the City Council to do their job is if we start voting down these LED signs. He believes as soon as they vote one down the City Council will take this seriously and come up with a good set of rules that the Board can apply thoroughly across the City. If the Zoning Board continues to do this job for them in an imperfect way, he doesn't feel that will ever happen.

Julie Finn stated she gets what George is saying, but that is the purpose of the Board, because it's not fair to this guy now whose neighbor can have a sign but he can't, where is the fairness in that. She stated shame on the City Council for putting it on the Zoning Board, she feels the Board isn't doing their job then.

George Shuster stated they are doing their job, because there is no way this project fits into the Ordinance. We are effectively re-writing the Zoning Ordinance that we are supposed to abide by.

Julie Finn again stated shame on the City Council, it has been this way for years, and these poor people coming before the Board, and now the Board has decided to change what has been done for the past eight years. She feels like they would be picking on these people and she just disagrees.

George Shuster stated it's a tough issue for sure.

Mr. Flaherty asked if he could speak briefly as to the legal standard. He agrees it is almost an impossible standard to go with a use variance, but he has long had the opinion that he disagrees that an electronic message board is prohibited under 804.2. The language of 804.2 reads that prohibited signs are signs that move by mechanical means, and flashing or animated. This sign will not flash or move. The picture changes once every two hours. His position is, it doesn't fall clearly into that category.

The Vice-Chairman asked if there were any other questions from the Board members. Hearing none, he asked if there was anyone present in opposition or in favor of the petition.

Wells Sampson, new owner of the subject property, was sworn in by the Vice-Chairman.

He stated he is the new owner of the property and he appreciates the consideration the Board is giving this. He is looking forward to moving his business to Warwick and says this petition is very important to his business.

The Vice-Chairman entertained a motion for the petition. Julie Finn made a motion to approve the petition based on that's what they have done in the past, seconded by Paul DePetrillo and passed with a 4-1 vote, that the petition be GRANTED WITH AMENDED STIPULATIONS. (Julie Finn voted to approve, Salvatore Deluise voted to approve, Paul DePetrillo voted to approve, George Shuster voted to deny, and Everett O'Donnell voted to approve).

The Vice-Chairman entertained a motion to approve the January 12, 2021 meeting minutes. A motion was made by George Shuster, seconded by Paul DePetrillo and passed unanimously by the Board that the minutes be approved.

The meeting was adjourned at 7:00 p.m.

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

Everett O'Donnell, Vice-Chairman