

WARWICK ZONING BOARD OF REVIEW
MINUTES OF THE JUNE 9, 2015 MEETING

A regular hearing of the Warwick Zoning Board of Review was held on Tuesday, June 9, 2015 at 6:00 P.M. at Warwick City Hall, in the Warwick City Council Chambers, 3275 Post Road, Warwick, Rhode Island. Donald Morash, Chairman, called the meeting to order.

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

Donald Morash, Chairman
Richard Corley, Vice Chairman
Everett O'Donnell
Mark McKenney

Alternates: Julie Finn
Paul Wyrostek

Absent: Beverly Sturdahl

Also present: Diana Pearson, Esq., Assistant City Solicitor
Richard Crenca, Warwick Planning Department
Carol Chevalier, Secretary
Mary Ellen Hall, Stenographer

The Chairman entertained a motion to accept the minutes for the May 19, 2015 hearing. A motion was made by Richard Corley, seconded by Mark McKenney and passed unanimously by the Board that the minutes be accepted as presented.

The Chairman declared a quorum. The roll was called. He then asked if there were any petitions to be WITHDRAWN or CONTINUED.

Petition #10218

Ward 7

Anthony Avenue

The petition of Ann Marie Hennessey & David Rothermel, 15 Anthony Avenue, Warwick, RI, for a request for a dimensional variance to construct a 28' x 40' single-family dwelling on

subject property, subject property being an undersized non-conforming lot, westerly side of Anthony Avenue, Warwick, RI, Assessor's Plat 367, Lot 120, zoned Residential A-7.

Sanford Resnick, representing the applicant was present.

He stated that he is requesting that the petition be continued to the July 21st hearing date. They are trying to resolve some title issues.

There was a neighbor present Andrea Sousa.

The Chairman stated that the petitioner needs a clear title to proceed.

Ms. Sousa stated that she was told the property would only be sold if the variance went through.

The Chairman stated that she could oppose at the July meeting.

Mr. Corley made a motion to continue the petition to the July meeting. The motion was seconded by Everett O'Donnell and passed unanimously by the Board.

Appeal #10216

Ward 8

Tanner Avenue

The appeal of Ellen Flanagan Polo Et al, 100 Tanner Avenue, Warwick, RI, for an appeal of the Warwick Planning Board's decision for Final Approval of a Minor Subdivision heard by the Warwick Planning Board on February 11, 2015, proposing to subdivide (1) one existing lot to create (5) five lots; (1)one lot with an existing building, the Warwick FOP with related parking, fronting on Kettle Street and Tanner Avenue; and (4) four new conforming lots for the development of single-family dwellings fronting on Tanner Avenue, subject property is located at 95 Kettle Street and Tanner Avenue; identified as Assessor's Plat 246, Assessor's Lot 211, Warwick, RI, zoned Residential A-10.

The Chairman announced that the appeal #10216 has been WITHDRAWN.

He stated that letters had gone out to the abutters letting them know it was WITHDRAWN.

Petition #10217

Ward 5

30 Webb Avenue

The petition of David Hurd, 30 Webb Avenue, Warwick, RI, for a request for a dimensional variance to extend front stairs and construct a portico (roof over stairs) with less than required front yard setback, southerly side of Webb Avenue (30), Warwick, RI, Assessor's Plat 335, Lot 323, zoned Residential A-7.

David Hurd, 30 Webb Avenue, petitioner, was present.

He stated that he would like to extend the front of the house and construct a portico.

Mr. O'Donnell stated that it is a straight forward petition.

Mr. Corley stated that it is a modest request for setbacks and there were no objectors. With that statement he made a motion to approve the petition. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED.

Petition #10203

Ward 6

Haswill Street

The petition of Carol A. Ranucci, Trust, 24 Dan Street, Warwick, RI, for a request for a dimensional variance/use variance/special use permit, to construct a 22' x 22' garage on subject property, subject property does not contain a principle use, proposed garage having less than required front and rear yard setbacks, subject property being an undersized non-conforming lot, easterly side of Haswill St., Warwick, RI, Assessor's Plat 361, Lot 260, zoned Residential A-40.

Richard Crenca, Warwick Planning Department, read recommendations into the record.

Carol Ranucci, petitioner, was present.

She stated that the structure would contain a garage on the first floor and storage on the second floor. She would like to have water and electricity to the structure. There would be a bathroom on the first floor. Her husband has collectible he would like to store in the structure. They live on Dan Street. They would also be storing a boat in the structure.

Mr. O'Donnell asked what the purpose of the bathroom is for.

Mrs. Ranucci stated that her husband has medical issues and they would like to make it easier for him.

Mr. McKenney asked if they own any of the abutting property.

Mrs. Ranucci stated that she owns the subject property and her husband owns the abutting property.

The Board and the petitioner discussed runoff and drainage issues.

Mr. Corley stated that the plan does not depict a garage door.

The Chairman stated that the structure does not look like a garage. He suggested that she request a continuance and revisit the plan and try to come up with a design that looks more like a garage than a dwelling.

Mrs. Ranucci requested that the petition be continued for a month.

Mr. Corley made a motion to continue the petition for a month. He stated that the petitioner should speak to someone regarding the plans and address the issue of the garage door and the driveway. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that this petition be CONTINUED for one month.

Rhae McPhail, 8 Bayonne Avenue, was present in objection.

The Chairman stated that she will be the petition has been continued for a month and she will receive a notice of the new hearing date.

Petition #10222

Ward 8

375 New London Avenue

The petition of The Narragansett Electric Company, d/b/a National Grid, 40 Sylvan Road, Waltham, MA, for a request for a special use permit and dimensional variance to construct an electric substation on a portion of the subject property, with substation equipment to be installed within a 0.8 acre fenced substation yard, to have barbed wire fencing and fencing higher than allowed for said substation, to have substation structures higher than allowed, southeasterly side of New London Ave. (375), Warwick, RI, Assessor's Plat 253, Lot 54, zoned Residential A-40.

The Chairman stated that there has been a request to open the hearing for the petition of Narragansett Electric there is a representative that would like to testify and needs to attend the budget hearing at the State House. We will then close the petition and reopen the hearing as scheduled on the agenda.

George Watson, Esq., representing the petitioner, Narragansett Electric Company, was present.

He stated that he was not opposed to opening the hearing.

Representative Patricia Serpa, 194 Kimberly Lane, District 27, West Warwick, RI, was present and stated the following.

Representative Serpa stated that she attended the meetings at the Valley Country Club with the condominium residents. She explained her concerns and the concerns of her constituents to the Board.

Mr. Watson stated that he would respond the comments during the presentation.

Petition #10219

Ward 7

35 Veterans Memorial Drive

The petition of Trinity Project, LLC, 2789 Post Road, Warwick, RI, for a request for a dimensional variance/use variance/special use permit to have a digital sign on subject property, proposed sign having less than required front yard setback, proposed sign being higher and larger than allowed, northerly side of Veterans Memorial Drive (35), Warwick, RI, Assessor's Plat 245, Lot 213, zoned General Business.

Mr. Morash recused himself from the petition.

Mr. Corley became Acting Chairman, Paul Wyrostek became the voting member.

Robert Flaherty, Esq., representing the petitioner, was present.

Dr. Kenneth Rudman, petitioner, was also present.

Richard Crenca, Warwick Planning Department, read recommendations into the record.

Mr. Flaherty stated that his client bought the old Coastway Credit Union building on Post Road in Apponaug. He stated that the sign would be in the same location and of the same configuration as the existing sign. The proposed sign would be digital. The City does not allow digital signs. The technology is common and is not new. The new sign would be state of the art. The petitioner stated he would be willing to repair the existing sign but he is not sure if the parts can be ordered because the sign is older. He is not sure if the sign structure itself is to code. The relief requested is for the setback and size of the sign.

There was much discussion between the Board and the applicant. There was an agreement reached regarding stipulations for the approval.

A motion was made by Mr. McKenney, seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED with the stipulations as agreed upon.

Petition #10220

Ward 3

1556 Post Road

The petition of Post Road Car Wash, Inc., 200 Charles Street, Providence, RI & Cumberland Farms, Inc., 100 Crossings Boulevard, Framingham, MA for a request for a dimensional variance to locate air pump and vacuum tower within front yard building setback and front yard landscape buffer, southeasterly corner of Post Road (1556) and Lincoln Avenue, Warwick, RI, Assessor's Plat 310, Lots 286, 287 & 442, zoned General Business.

Mr. Morash became the Chair and Mr. Corley became the voting member.

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

Gregory Avenia, PE, Garafalo & Assoc., was also present.

The attorney stated that the applicant received approval from the City Council for a zone change on the property and constructed a new Cumberland Farms facility on the property. At the time of the original plan the plan depicted the vacuums and air pumps to be located in front of the building. The location became a tripping hazard for customers. The hoses were being left across the sidewalk area. The proposal is to relocate them to the right side property line. The relief requested is from the right side street property line.

Mr. Corley stated that the air hose would have been a hazard. With that statement he made a motion to approve the petition. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED

Petition #10214

Ward 8

315 Commonwealth Ave.

The petition of Jake and Mindy White, 336 Sowams Road, Barrington, RI for a request for a special use permit/dimensional variance/use variance to create/expand off street parking area on subject property, subject property located in residential zone, subject property having less than required landscape buffer, parking lot buffer, less than required setbacks for parking, less than required aisle width, subject property containing medical office building, westerly side of Commonwealth Ave. (315), Warwick, RI, Assessor's Plat 260, Lot 72, zoned Residential A-15

Mr. Morash recused from voting. Mr. Corley became Chair and Mr. Wyrostek became the voting member.

Richard Crenca, Warwick Planning Department, read recommendations into the record.

K. Joseph Shekarchi, representing the petitioner was present.

Mr. Shekarchi described to the Board the plan. He gave the history of the property to the Board. The current owner needs additional parking to attract tenants for the building. Prior to the present owner the second floor was converted to offices without the proper building permits. The second floor has since been closed and is for storage. He described the current parking conditions to the Board and explained the new plan. A large portion of the building is empty and the owner needs to be able to rent the space.

Jake White, petitioner, was present.

He stated that the trees were planted by the prior owner and they shadow the abutting house and they will be placing a privacy fence along the property line.

Russell Crossman, Crossman Engineering, was present.

He explained the plan to the Board and the need for the configuration of the lot and the location of the parking area.

The Board discussed at length with the petitioner and the attorney the proposed plan.

Mr. Corley made a motion to grant the petition. He stated that the parking is needed it is a hardship. He has been there as a patient and the parking is strained. The contour of the land the proposed location is the only area to construct the parking lot. The motion was seconded by Everett O'Donnell and passed by a four (4) to one (1) vote (Mark McKenney voted to deny) that the petition be GRANTED.

Petition #10221

Ward 6

875 Oakland Beach Ave.

The petition of James Rengigas, 9 Mathew Drive, Johnston, RI, for a request for a dimensional variance to demolish existing structures on subject property and construct a 32' x 28' one story building (with 4' x 32' overhang) to be occupied for fast food restaurant operation, proposed building having less than required front yard and side yard setbacks, dumpster having less than required setback from residential zone, outside seating having less than required side yard and front yard setbacks, less than required setbacks for parking, less than required landscaping and landscape buffer, westerly side of Oakland Beach Avenue (875), Warwick, RI, Assessor's Plat 375, Lot 437, zoned General Business.

Robert Flaherty, Esq., representing the petitioner, was present.

James Rengigas, Petitioner, was also present.

Mr. Flaherty stated that the petitioner reconfigured the plan and submitted a new application. There is a substantial change to the plan. The petitioner is still requesting to knock down the house and construct a restaurant. The property has been in the petitioner's family since the 1930's. The difference between the first application and the current application is the parking relief. The petitioner is no longer seeking relief from the required number of off street parking spaces. The building has been reduced by 33%. The building is 900 square feet and there are 18 spaces provided. The building would be 32' x 28' one story structure with a 4' x 32' overhang. The relief requested would be for the front side yard setbacks and the dumpster from the open space district from the rear yard. Relief is requested from the parking setbacks and landscaping. At the prior hearing there were two expert witnesses presented and there would be no adverse effect. Robert DeGregorio and Paul Bannon testified at the last hearing.

Mr. Morash stated that this hearing is to determine if there is a substantial change and if the application can be reheard within the one year time frame. The building has been reduced and the parking relief has been reduced. There are 18 parking spaces. There is no relief requested from the number of off street parking spaces.

Mr. O'Donnell agreed that there is a substantial change.

John DeSimone, representing the abutting property owner stated that the Board is abusing their discretion and that there is not a change from the original plan that was denied by the Board.

Mr. Corley stated that the petitioner has done a lot of work since the last application and it is a totally different application. They are back before the Board with a new plan different configuration. It is a less intense use of the land.

Mr. McKenney stated that the new facts did not change his mind the application could have been brought the same way in the past.

Mr. Corley stated that there are new facts and it is within the discretion of the Board.

Mr. Pimentel who was an expert witness at the last hearing for the objector stated that the application is the same and the standards are the same throughout the state and the application is seeking the same relief.

Mr. Morash stated that the opposition would be noted and asked for a vote to reconsider the application at the next available hearing.

Mr. Corley stated that it would be a whole new hearing with new testimony. The previous testimony would not be applicable because it is a new application.

Mr. Corley made a motion to approve the reconsideration. There are new facts and less relief requested. The motion was seconded by Everett O'Donnell and passed by a four (4) to one (1) vote (Mr. McKenney voted against rehearing the application) that the application be reheard at the next available hearing.

Petition #10222

Ward 8

375 New London Avenue

The petition of The Narragansett Electric Company, d/b/a National Grid, 40 Sylvan Road, Waltham, MA, for a request for a special use permit and dimensional variance to construct an electric substation on a portion of the subject property, with substation equipment to be installed within a 0.8 acre fenced substation yard, to have barbed wire fencing and fencing higher than allowed for said substation, to have substation structures higher than allowed, southeasterly side of New London Ave. (375), Warwick, RI, Assessor's Plat 253, Lot 54, zoned Residential A-40.

George Watson, Esq., representing the petitioner, was present.

He described to the Board the relief requested.

Mr. Crenca stated that he would defer his comments until after the public portion.

Daniel McIntyre, 40 Sylvan Road, Waltham MA, was accepted as an expert witness in the field of engineering (Motion was made by Everett O'Donnell, seconded by Richard Corley and passed unanimously by the Board)

He stated that he has been with National Grid for over thirty years. He explained the plan to the Board and the need for the variances. He described to the Board the conditions of the current substation and the need for the new substation. He presented a power point presentation outlines the entire plan. He outlined the buffers and proposed setbacks to be placed on the site to minimize the impact on the abutting residential properties. He stated to the Board that there may be blasting involved in the construction process. The height of the fence and the proposed barbed wire are required by the National Safety code. He described the noise levels coming from the proposed substation.

Tony Agresti, 41 Spring Street, New Providence, NJ, was recognized by the Board as an expert witness in noise control and noise mitigation. (Motion was made by Everett O'Donnell, seconded by Julie Finn and passed unanimously by the Board)

He explained to the Board his findings.

Thomas Sweeney was recognized as an expert in the field of real estate (Motion was made by Everett O'Donnell, seconded by Richard Corley and passed unanimously by the Board.) Mr. Sweeney presented a report to the Board (Petitioner's Exhibit #1) He described to the Board the findings in his report.

Joseph Gallucci, Councilman Ward 8, was present at the hearing and spoke in opposition to the petition.

William Bailey, 1700 Scenic Drive, Maryland, was accepted as an expert witness in the field of Bioelectric Magnetics (Motion was made by Everett O'Donnell, seconded by Julie Finn and passed unanimously by the Board.) He described his resume to the Board. He explained his findings to the Board.

Neighbors present who spoke in objection:

Leo Maynard, 350 New London Avenue
Scott Amore, 439 & 441 New London Avenue, Warwick, RI
Angela Schullman, 351 New London Avenue
Robert Miles, 245 Country View Drive
Edward Houle, 351 New London Avenue

There was additional discussion between the Board, the experts and the attorney.

Mr. Crenca posed questions to the petitioner and requested some stipulations be placed on the project of the Board saw fit to approve the petition.

Mr. Corley made a motion to approve the petition. He stated that the fence height is necessary for safety concerns and it is the National Standard. There is an increased need to upgrade the substation. The Artic station was built in the 1940's and needs to be replaced. The new facility would be state of the art. That all of the stipulations from Planning be incorporated into the decision. That there be noise monitoring one a year for three years after the substation goes online. The motion was seconded by Mark McKenney and passed by a four (4) to one (1) vote (Julie Finn voted to deny) that the petition be GRANTED with stipulations.

The Chairman adjourned the hearing at 11:40 P.M.

BY ORDER OF THE ZONING BOARD OF REVIEW, WARWICK, RHODE ISLAND
Donald G. Morash, Jr., Chairman

