

WARWICK ZONING BOARD OF REVIEW  
MINUTES OF THE NOVEMBER 10, 2015 MEETING

A regular hearing of the Warwick Zoning Board of Review was held on Tuesday, November 10, 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  
Beverly Sturdahl  
Mark McKenney

Alternates: Paul Wyrostek  
Julie Finn

Also present: Kerri Rafanelli, 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 from the hearing of October 13, 2015. A motion was made by Everett O'Donnell, seconded by Richard Corley and passed unanimously by the Board that the minutes be accepted. (Mr. Wyrostek was the voting member)

The Chairman asked if there were any petitions to be withdrawn or continued.

The Chairman announced that the following petition was continued until the December 8<sup>th</sup> hearing.

Petition #10351

Ward 5

150 Gray Street

The petition of Harbor View Holdings Co., LLC, 150 Gray Street, Warwick, RI, for a request for a dimensional variance/use variance to construct parking area for existing golf course and clubhouse with less than required setback from the coastal feature, subject property and existing use pre-existing legal non-conforming (previously approved by the Warwick Zoning Board of

Review), southerly side of Gray Street (150) Warwick, RI, Assessor's Plat 378, Lot 157, zoned Residential A-40/P.D.R.

The Chairman announced that the following application has been WITHDRAWN. He stated that if the applicant should reapply all interested parties would be renotified.

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.

Mr. McKenney arrived and became the voting member for the evening.

Petition #10349

Ward 1

3 Colgate Street

The petition of Wilfred Guerin, 3 Colgate Street, Warwick, RI, for a request for a dimensional variance to remove and replace existing deck located at the back right corner of the dwelling and construct an additional 8' x 30' deck with less than required side street (Columbia Avenue) setback, southwesterly corner of Colgate Street (3) and Columbia Avenue, Warwick, RI, Assessor's Plat 301, Lots 432, 433, 442 & 443, zoned Residential A-7.

Wilfred Guerin, petitioner, was present.

He stated that his existing deck needs to be replaced it is in disrepair and unsafe.

There was discussion between Richard Crenca and the petitioner regarding removing the stairs from the plan because they do not meet the setback from the interior lot line. He stated that the application would have to be continued and readvertised if he wishes to keep the stairs.

The petitioner stated that he would like to continue the petition until the December 8<sup>th</sup> hearing.

A motion was made by Richard Corley, seconded by Everett O'Donnell and passed unanimously by the Board that the petition be CONTINUED until the December 8<sup>th</sup> hearing.

Petition #10350

Ward 4

178 Airport Road

The petition of John Lusher, 178 Airport Road, Warwick, RI, for a request for a dimensional variance to construct a 22.7' x 8.5' addition to the front of the existing dwelling, proposed addition and existing dwelling having less than required front yard setback, northwesterly corner of Airport Road (178) and Daboll Court, Warwick, RI, Assessor's Plat 320, Lot 14, zoned Residential A-7.

John Lusher, 178 Airport Road, Warwick, RI, petitioner, was present.

Scott McDermott, contractor for petitioner, was present.

The petitioner stated that there was a fire. The property was a rental and he will be moving in when complete. He would like to take the area where there was a porch and convert it to additional living space. He would be squaring off the house. He needs relief from the front yard setbacks. There is a detached garage that was damaged by a storm. He will be adding onto the garage and renovating it. All setbacks will be met. The relief requested is for six feet. It will be the same footprint.

Mr. Corley stated that the petitioner is rehabbing the house due to a fire. He would be squaring off the front of the house and it would not encroach any further than the existing square footage. The existing house is not habitable. With that statement he made a motion to approve the petition. The motion as seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED.

Petition #10344

Ward 9

17 Sidney Avenue

The petition of Jacek Danillowicz, 34 Punchbrook Road, Burlington, CT for a request for a dimensional variance to construct a partial second floor addition on existing dwelling (front dwelling), proposed addition and existing dwelling having less than required side yard (left) setback and coastal/wetland feature setback, to legalize in accordance with Section 401.1 (Lawfully existing or established) of the ordinance the existence of two single-family dwellings on one lot (subject property comprising of two abutting undersized non-conforming lots and merged in accordance with Section 405.2 of the Warwick Zoning Ordinance), westerly side of Sidney Ave. (17), Warwick, RI, Assessor's Plat 201, Lots 142 & 144, zoned Residential A-10.

Jacek Danillowicz, petitioner, was present.

John Hoyle, consultant for petitioner, was also present.

The petitioner stated that there are two dwellings on the subject property. He is proposing to construct a 2<sup>nd</sup> floor addition over the front dwelling for additional living space.

There was a discussion regarding the clearing of a portion of the subject property and wetland issues. The Board stated that this is a separate issue and not part of this application.

Mr. Crenca requested that a stipulation be part of the decision that CRMC approval is required prior to the issuance of a building permit.

The Secretary for the Board Carol Chevalier explained to the Board the need for the request for the two houses on one lot and stated that the petitioner wanted to make it clear on the record that the two dwelling were pre-existing and legally permitted to be on the property.

Robert Arrow, 32 Hales Avenue, was present.

He stated that his father had owned the property since 1967 and there were no issues.

Mr. Corley stated that based on the clarification of the use of the property and with the CRMC stipulation he makes 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 with stipulations.

Petition #10345

Ward 5

44 Riverside Avenue

The petition of Susan Powell & David DiPetrillo, 44 Riverside Avenue, Warwick, RI, for a request for a dimensional variance to construct a 22' x 22' garage addition with less than required side yard and front/corner side yard (Payton Avenue) setbacks, to remove, replace and relocate existing deck, said deck having less than required front yard setback (Riverside Avenue) and front/corner side yard setback (Payton Avenue), subject property being an undersized non-conforming lot, southerly corner of Riverside Avenue (44) and Payton Avenue, Warwick, RI, Assessor's Plat 355, Lot 581, zoned Residential A-7.

David DiPetrillo, petitioner, was present.

He stated that he has a general idea as to the location of his septic system and that he cannot relocate the proposed garage anywhere else on the lot. He stated that he would be connecting to sewers.

The Chairman read the letter from the abutting property owner (Mr. Duvall) into the record.

Mr. Corley stated that the relief is needed due to the unique character of the lot and it was taken into account by the petitioner. He stated that the petition made an attempt to try to relocate the garage on the lot and he found the petitioner's testimony credible. He also stated he would be tying into the sewer system. With that statement he made a motion to approve the petition. The motion was seconded by Beverly Sturdahl and passed unanimously by the Board that the petition be GRANTED.

Petition #10341

Ward 4

Spadina Ave. & Point Ave.

The petition of Darayuth Seng, 100 Elena Street, Cranston, RI, for a request for a dimensional variance to construct a 40' x 44' single-family dwelling with attached decks, proposed dwelling having less than required front yard, side and rear yard setbacks, proposed dwelling being higher than allowed, subject property being an undersized non-conforming lot with less than required frontage and width, southwesterly corner of Spadina Avenue and Point Avenue, Warwick, RI, Assessor's Plat 334, Lot 194, zoned Residential A-40.

Darayuth Seng, Petitioner, was present.

Edward Pimentel, land use expert, was accepted by the Board as an expert witness (Motion was made by Everett O'Donnell, seconded by Mark McKenney and passed unanimously by the Board)

Mr. Pimentel was speaking on behalf of the petitioner. The petitioner stated that he already purchased the property.

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

Mr. Pimentel stated that he had submitted a report as part of the application packet. He went through the report and described his findings to the Board.

Nabil Rashid, surveyor, was accepted as an expert witness by the Board. (Motion was made by Everett O'Donnell, seconded by Beverly Sturdahl and passed unanimously by the Board)

He described the plan to the Board and answered questions from the Board.

The Chairman asked if there was anyone in favor or opposition to the application.

Present in opposition:

Armand DeLuise, 28 Spadina Avenue, was present.

He had concerns over parking. He stated that the house is just too big for the lot. There are a lot of houses for sale in the area. The area consists of much smaller homes. His house was built in the 1940's. There is a lot of congestion in the area, the streets are narrow and it is worse when it snows. There are five houses on Spadina and there is not a lot of traffic in the area. He stated that he would be less objectionable to a single-story house.

Roberta Herchen, 196 Point Avenue, was present in objection.

She stated that her property directly abuts the subject property. The corner of the lot near her house is under water during storms. There is no paving there and the street is very narrow. The house is very large and high it will shadow her property and home.

Mr. Corley made a motion to approve the petition without the roof deck. He stated that the abutters said the area is congested and there are only five houses in the area. He found the testimony to have no weight. He stated that there is plenty of area for them to plow. The house would be built at hurricane level and the 1<sup>st</sup> floor is not habitable. The house is being built on 16% of the land. All of the houses in the area are being built higher because it is a hurricane zone. He does not see that the house is so out of character that it should be denied. He also stated that the stipulations from the Planning Department should be included with the exception

of stipulation #1. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED with stipulations.

Mr. Morash stated that the area is changing and the proposed structure is not out of line based on the percentage of the land being used.

Petition #10352

Ward 2

1291, 1305 & 1315 Warwick Avenue

The petition of Fox Realty & YW Realty Inc., 1309 Warwick Avenue, Warwick, RI, and VSH Realty Inc. & Cumberland Farms, Inc., 100 Crossings Boulevard, Framingham, MA for a dimensional variance and special use permit to demolish existing building, existing convenience store and existing gasoline pumps and canopy and construct a new convenience store (4,200 sq. ft.) and new gasoline pumps (3 dispensers, 6 fueling positions) and a canopy (22' x 69'), the existing retail garden store/greenhouse to remain on portion of lot, proposed extension of an attached greenhouse (two uses on one lot), proposal having less than required side yard setback, less than required setback from abutting residential district, less than required landscape buffer abutting residential district, less than required frontage landscape buffer, less than required setback for parking from building, to have shared parking, southwesterly corner of Warwick Avenue (1291, 1305 & 1315) and Partition Street/Easton Avenue, Warwick, RI, Assessor's Plat 308, Lots 418, 419 & 548, zoned General Business.

James Hall, Esq., representing the petitioner, was present.

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

Mr. Hall stated that they have no objections to the stipulations with the exception of #7 with the raised cross walks and the snow plows.

Mr. Hall described the plan to the Board and the need for the proposed layout/.

Thomas Sweeney, was accepted as an expert witness in the field on real estate and presented a report to the Board. (Motion was made by Richard Corley, seconded by Beverly Sturdahl and passed unanimously by the Board.)

Petitioner's Exhibit #1 - Report

Mr. Sweeney explained the findings in his report to the Board.

Christine Baglioni, Esq., representing the abutting property owner (RLL Properties) was present.

She stated that her client has concerns for the tenants. Lighting, deliveries, trash removal and hours.

There was a lengthy discussion between the Board, legal counsel for the petitioner and legal counsel for the abutter as to the operation of the proposed facility and the layout of the proposed facility and existing business on the abutting property.

Mr. Corley made a motion to approve the petition with the stipulations with the exception of #7. He stated that the petitioner could use alternative traffic calming devices. It makes no sense with the snow plowing to have them raised. Mr. Sweeney's report addressed all of the standards for relief. He stated that there was no expert testimony from the abutters to contest the findings of the expert. There is nothing to assist in denial. It is an improvement to the property and the area and as described by the Planning Department consistent with the comprehensive land use plan. Mr. McKenney seconded the motion and stated that the evidence is clear the lighting and noise is being addressed and the City can ensure that there is a plan in place. There may be some addition deliveries but it will not be next to the apartment building it is far enough away and there is a buffer zone to alleviate the lights and the noise. The plan improves the setbacks. That there is a hardship and to move would be more than a mere inconvenience. The property needs to be modernized it is a very outdated facility. It is a better and safer layout. There would be no negative impact. The stipulations are appropriate. The motion was passed unanimously by the Board that the petition be GRANTED with stipulations.

Petition #10353

Ward 6

2574 West Shore Road

The petition of Esmond Realty Corp., 340 Waterman Avenue, Esmond, RI, and Lockwood/McKinnon Co., Inc., 79 North Main Street, Mansfield, MA for a request for a special use permit/use variance, to construct a 2,060 square foot restaurant building on subject property, to have more than one non-residential use on a lot (existing Benny's and proposed Taco Bell restaurant) to have a freestanding ground sign for proposed restaurant on abutting lot #560, southeasterly side of West Shore Road (2574), Warwick, RI, Assessor's Plat 362, Lot 35, zoned General Business, Residential A-40 & Residential A-10 & Lot 560, zoned General Business.

Robert Murray, Esq., Taft & McSally, representing the petitioner, was present.

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

Mr. Murray described the site plan and all of the relief requested to the Board.

David Lockwood, petitioner, 10 Steinbeck Place, Scituate, MA, was present.

He stated that he is president of the Taco bell franchise and they have 24 restaurants. There are two others in Warwick.

They described the site plan in detail and the operation of the restaurant.

Huseyin Sevencgil, PE, MHF Design, civil engineer, was accepted as an expert witness (motion was made by Everett O'Donnell, seconded by Richard Corley and passed unanimously by the Board)

He described the site plan to the Board and the land lease agreements.

The attorney stated that at the Planning Board meeting they presented a traffic report and there were 3 neighbors present who are not here tonight.

Mr. Corley stated that he is familiar with the property and it is a large parking lot and can accommodate the traffic. It will bring jobs to the City. It is beneficial to the economic development of the City. It is a win win situation and will bring more tax dollars to the City. He fails to see anything detrimental. There were no objections and it is a good use of the land. He cannot think of any other restaurant in the area that is offering the same type of service and made a motion to approve the petition with the stipulations. The motion was seconded and passed unanimously by the Board that the petition be GRANTED with stipulations.

The Chairman adjourned the hearing at 9:30 P.M.

(Motion was made by Mr. Corley and seconded by Mr. O'Donnell and passed unanimously by the Board).

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

Donald G. Morash, Jr., Chairman