

WARWICK ZONING BOARD OF REVIEW
MINUTES OF THE DECEMBER 8, 2015 MEETING

A regular hearing of the Warwick Zoning Board of Review was held on Tuesday, December 8, 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: 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 from the hearing of November 10, 2015. A motion was made by Everett O'Donnell, seconded by Mark McKenney and passed unanimously by the Board that the minutes be accepted.

The Chairman asked if there were any petitions to be withdrawn or continued.

Petition #10355

Ward 5

14 Alden Avenue

The petition of Marisa Almon, 14 Alden Avenue, Warwick, RI, for a request for a dimensional variance to demolish existing non-conforming detached garage and construct a new 24' x 26' garage (attached) with second story above (total 27' x 32' addition), proposed addition/garage having less than required front yard, front/corner side yard and side yard setback, subject property being an undersized non-conforming lot, southeasterly corner of Alden Avenue (14) and Mayflower Avenue, Warwick, RI, Assessor's Plat 356, Lot 320, zoned Residential A-15 (formerly Residential A-7).

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

Marissa Almon, petitioner, was also present.

Richard Crenca, Warwick Planning Department, stated that the department has no objection but would like the Board to consider two stipulations. That the second floor no be used for a living unit or an accessory dwelling unit and that the petitioner obtain approval from CRMC prior to a building permit being issued.

The attorney stated that there is an existing garage on the property that encroaches onto the City right of way. The petitioner proposes to demolish the garage and reconstruct the garage. The garage would be constructed on the petitioner's property. The upper level of the garage would be used for the petitioner's art studio. She spoke to the neighbors and there were no objections.

Mr. Corley made a motion to grant the petition with the two stipulations presented by the Planning Department. It is a modest request and improves the quality of life for the petitioner. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED with stipulations.

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 and less than required side yard setback (interior property line abutting lot 443 – owned by applicant), 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 the petition was continued from last month. They are seeking variances for their deck it does not comply with the side yard and side street setback. They are looking to replace a deck that is in disrepair. It does not meet the setback from an interior lot line abutting their own property. They are looking to extend the deck to wrap around the house.

The petitioner presented photo's to the Board and they were marked as Petitioner's Exhibit #1.

Mr. Corley made a motion to grant the petition. He stated that the petitioner owns the land. The yard is landscaped. There is no one in objection. The petitioner owns all four lots and he understands why the petitioner would want to keep the lots separate. The motion was seconded by Beverly Sturdahl and passed unanimously by the Board that the petition be GRANTED.

Petition #10218

Ward 7

Anthony Avenue

The petition of Ann Marie Hennessey & David Rothermel and Zarrella & Assoc., LLC, 2 Olson's Way, East Greenwich, RI for a request for a dimensional variance to construct a 28' x 40' ranch style 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.

Jeff Caffrey, Esq., representing the petitioner, was present.

Gerry Zarrella, Jr., petitioner, was also present.

Edward Pimentel, Land Use Expert, was present. (Motion was made by Richard Corley, seconded by Everett O'Donnell and passed unanimously by the Board).

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

Mr. Caffrey stated that the property is a pre-existing lot of record platted in 1912. They cannot change the configuration of the lot. The lot was sold and his client owns it he purchased it about 30 days ago. They are o.k. with the stipulations and the footprint will meet all of the setbacks.

Gerry Zarrella stated that they were originally going to do the two story dwelling and decided a ranch style would be similar to the homes in the area. It will be a shot gun ranch. He worked with DLR to look for a smaller plan. There would be two off street parking spaces provided for the dwelling.

Edward Pimentel described his report to the Board and presented photo's and the report as Petitioner's Exhibit #1.

Mr. O'Donnell stated that he feels the size is OK for the area.

Mr. Wyrostek stated that he concurs with Mr. Pimentel and the new dwelling is more in keeping with the area.

The Chairman read a letter into the record from Mary Ellen Hall.

Andrea Sousa, 26 Anthony Avenue, was present in objection.

She stated that she had a petition signed by the neighbors. She stated that the variance should not be granted if for profit. There are other undersized lots in the area and is afraid it would set a precedent. She was concerned about the two abutting lots that are owned by the City. She was not sure if the petitioner tried to purchase those two lots also. She was concerned about vehicles being parked on the street. She read the petition into the record and the petition was marked as Objector's Exhibit #1.

The Chairman stated that the zoning requirements changed through the years and it was not fault of the petitioner's.

Mr. Corley asked if the two story would be better because it would have less of an impact on the percentage of lot coverage.

Mr. Caffrey stated that the original plan was for a two story and the petitioner worked with the Planning Department and thought a ranch was a better fit for the neighborhood.

Mr. Zarrella stated that the Planning Department did request the ranch style and originally there were more people opposed to the petition than tonight.

Mr. Corley made a motion to approve the petition. The petitioner has the right to build. The question is what is the right type of house? The two story dwelling had more objections. The parking would be contained on the property. The design of the house with the gable and the front door facing the street. It would be an improvement to the neighborhood. Mr. Wyrostek stated that a three bedroom house is more of the norm than a two bed house. Once a new house it is built it does enhance the neighborhood. With the addition of the stipulations that the parking stay off Anthony Avenue to fit two cars, the driveway be made of a pervious material and the house be connected to the sewer system and to include stipulations 2-9 from the Planning Department comments. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED with stipulations.

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.

Joseph Noel, President and CEO of Harborlight Marina was present.

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

Mr. Noel presented the landscape plan and it was marked as Petitioner's Exhibit #1.

He stated that he has been working with CRMC for two years. He addressed most of the stipulations presented in his plan and has no problem complying with the rest.

Mr. Corley made a motion to approve the petition. He stated that the run off has been dealt with appropriately. CRMC's job is to protect the waterway. It is part of the stipulations of Planning

and all of the stipulations are included in the motion. That all of the lighting has to be kept within the lot. The motion was seconded by Mark McKenney and passed unanimously by the Board that the petition be GRANTED with stipulations.

Petition #10354

Ward 9

32 Alger Avenue

The petition of Jeffrey & Barbara Caswell, 32 Alger Avenue, Warwick, RI, for a request for a dimensional variance to construct an 8' x 31' two story addition to the rear of the existing legal non-conforming dwelling with less than required front yard, side yard and coastal feature setbacks, also to construct a 6' x 31' deck to the rear of the dwelling with less than required setback from the coastal feature, subject property being an undersized non-conforming lot, southerly side of Alger Avenue (32), Warwick, RI, Assessor's Plat 221, Lot 56, zoned Residential A-15 (formerly zoned Residential A-7).

Jeffrey Caswell, petitioner, was present.

He stated that he proposes to construct an 8' x 31' two story addition to the rear of the dwelling. The addition will appear to be the same height at the street side.

Mr. Corley made a motion to approve the petition. He stated that it would add to the character of the area. There are no objections. The motion was seconded by Beverly Sturdahl and passed unanimously by the Board that the petition be GRANTED.

Chairman Donald Morash recused from voting on the following petition. Everett O'Donnell recused from voting on the following petition.

Richard Corley acted as Chairman for the following petition.

Julie Finn and Paul Wyrostek were voting members on the following petition.

Petition #10356

Ward 4

Spadina Avenue

The petition of James McGowan, 90 Landon Road, Warwick, RI, for a request for a dimensional variance to construct a 24' x 36' single-family dwelling with a deck (approximately 4' x 10'), proposed dwelling having less than required front yard, side yard and rear yard setback, proposed deck having less than required side yard setback, subject property being an undersized non-conforming lot (less than required area, width and frontage) with less than required landscaped open space, westerly side of Spadina Avenue (lot to left of 69 Spadina Avenue), Warwick, RI, Assessor's Plat 334, Lot 229, zoned Residential A-40.

Richard Johnston, Esq., representing the petitioner was present.

James McGowan, petitioner, was also present.

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

Mr. Johnston stated that the area was platted in 1920 and recorded on Plat Card 274. The property is zoned Residential A-40 and is a VE 14 flood zone. There was no merger of the property with any of the adjoining lots.

He presented the following exhibits:

Petitioner's Exhibit #1 - ISDS approval

Petitioner's Exhibit #2 - Preliminary Determination Letter from Coastal

Petitioner's Exhibit #3 - Site plan

Edward Pimental, Planning Land Use expert, was present. (Motion was made by Mark McKenney, seconded by Paul Wyrostek and passed unanimously by the Board)

Mr. Pimentel read his report and findings into the record. He fielded questions from the Board members. They discussed the site plan and the proposed septic system with the Board and the petitioner.

Leslie Derrig, 84 Dundas Avenue, was present in objection.

She stated that she works for the City of Warwick Land Trust and has worked with CRMC on many occasions. She discussed the plan for the proposed dwelling and described to the Board the erosion in the area and presented photograph's depicting the flooding that has occurred in the area.

The Photograph's and Narrative were marked as Objector's Exhibit #1.

Thomas Sepe, 26 Ellery Street, was present in objection.

He described to the Board the area surrounding the subject property. He presented photograph's to the Board that were marked as Objector's Exhibit #2.

William Derrig, 84 Dundas Avenue, was present in objection.

He presented the King Tide Report as Objector's Exhibit #3. He stated his objections and concerns to the Board.

Fred Clarke, 78 Old Mill Boulevard, was present in objection.

He stated that he has been there since 1980. He described to the Board the topography of the surrounding area and stated his concerns and objections.

Alice McCoy, was present in objection.

She stated that she lives in Hopkington and lived at 63 Spadina Avenue and moved just before 69 Spadina was built. She had photographs's that she presented to the Board and were marked as Objector's Exhibit #4. She stated that the septic system for 69 Spadina Avenue went under water. She stated her concerns and objections to the Board.

Mr. Johnston stated that the Board has to look at the zoning of the non-conforming lot of record. All beneficial use will be gone. The lot next door went to court and it was determined there was no other beneficial use of the property.

Mr. McGowan discussed the septic system with the Board and described the type of system being constructed and the operation of the system. The Board discussed their concerns with the petitioner and his attorney.

The Chairman closed the hearing on the petition and entertained a motion.

Mr. McKenney made a motion to deny the petition. He stated that he was reluctant in doing so. He stated that given the circumstances and the concerns presented by Mr. Crenca from the City and the Comp Plan and the evidence from some of the neighbors. The petitioner has the right to build but they have to give way to the public health and safety of the neighbors. The comp plan calls to discourage the development of non-conforming lots. To build in a critical resource area. The photo's and testimony add to the concerns. The flooding is constant. They have to look at what additional development will do to the area. The adverse impacts have been laid out clearly. Paul Wyrostek seconded the motion. He stated that he weighed both sides. He stated that they cannot take the place of CRMC and that the development is not compatible with the comp plan.

Mr. Corley stated that he listened to all of the comments and the application provided the information and with the expert testimony. He stated that he does have the legal right to beneficial use of the property. The objector's pictures clearly show the lot cannot sustain a dwelling. The lots are vacant for a reason. He has no objection to the testimony from Edward Pimentel but does not think it is correct.

The Chairman called the roll Beverly Sturdahl voted against denial of the petition. Mark McKenney voted for denial, Paul Wyrostek voted to deny, Julie Finn voted to deny and Chairman Richard Corley voted to deny. The petition was DENIED by a four to one vote.

Chairman Donald Morash adjourned the hearing at 9:25 P.M.

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

Donald G. Morash, Jr., Chairman