

DONALD G. MORASH, JR.
CHAIRMAN



SCOTT AVEDISIAN
MAYOR

CITY OF WARWICK
ZONING BOARD OF REVIEW
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WARWICK ZONING BOARD OF REVIEW
MINUTES OF THE NOVEMBER 15, 2016 MEETING

A regular hearing of the Warwick Zoning Board of Review was held on Tuesday, November 15, 2016 at 6:00 P.M. in the Warwick City Council Chambers, Warwick City Hall, 3275 Post Road, Warwick, Rhode Island. The meeting was called to order by Chairman Donald Morash.

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

Donald Morash, Chairman
Richard Corley, Vice Chairman
Julie Finn
Paul Wyrostek
Beverly Sturdahl
Mark McKenney

Absent: Everett O'Donnell

Also present: Diana Pearson, Asst. City Solicitor
Richard Crenca, Warwick Planning Department
Amy Cota, Secretary
Mary Ellen Hall, Stenographer

The Chairman declared a quorum.

The Chairman asked for a motion to approve the minutes from the October 18, 2016 hearing. A motion was made by Richard Corley, seconded by Julie Finn and passed unanimously by the Board that the minutes be accepted.

The Chairman asked if there were any petitions to be WITHDRAWN or CONTINUED.

The Chairman advised that petition #10420 of Sports Legend Pub, Ltd., 2121 West Shore Rd., Warwick, RI, and Umbriago Properties, LLC, 70 Summit Dr., Cranston, RI, was being continued to the December, 2016 meeting. The Chairman asked if there was

anyone there in attendance regarding this petition, no one being present, Richard Corley made a motion to continue the petition, seconded by Julie Finn and passed unanimously by the Board, that the petition be continued to the December, 2016 meeting.

The Chairman called the first petition.

Petition #10418

Ward 1

793 Namquid Dr.

The petition of Heather McCain, 793 Namquid Dr., Warwick, RI, request a dimensional variance to convert existing garage to a family room, proposed family room having less than required side yard setback. Assessor's Plat 307, Lot 156, zoned Residential A-10.

Heather McCann, petitioner, was present and sworn in by the Chairman.

The petitioner stated she would like to convert her garage to a family room.

Richard Corley asked the petitioner how many cars can park in the driveway, and if they are side by each or front to back. They petitioner stated they are side by side, and two cars can park in the driveway.

The Chairman asked the petitioner if she has spoken to her neighbors. The petitioner stated that she did speak with neighbors.

The Chairman asked if there was anyone there in opposition or in favor of the petition.

There being none, Mr. Corley stated the conversion will not do anything to diminish the neighborhood. The petitioner has parking for two cars in the driveway, and there is no one here to object, and moved to grant the petition, seconded by Paul Wyrstek and passed unanimously by the Board that the petition be GRANTED.

Petition # 10419

Ward 2

1225 Warwick Ave.

The petition of James Bessette, d/b/a Rigatoni's Family Restaurant, 1225 Warwick Ave, Warwick, RI; Leonard J. Sholes, Life Estate and Sholes Brothers, GP, 1375 Warwick Ave., Warwick, RI; and James Bessette, 1225 Warwick Ave., Warwick, RI, request a dimensional variance to increase the seating by 16 seats, subject property having less than required parking and less than required landscaping. Assessor's Plat 308, Lot 274, zoned General Business (GB).

Attorney Andrew Sholes was present and representing the petitioner. Attorney Sholes was sworn in by the Chairman.

James Bessette, petitioner, was present and sworn in by the Chairman.

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

The attorney stated that the building was converted to a restaurant back in 1987, and in 1997 the business was changed from Uncle Tony's to Rigatoni's. Mr. Bessette purchased the restaurant in 1999.

The attorney states the building was divided into three units. Attorney Sholes stated his client came before the Board in 2005 to expand the existing restaurant, for a waiting area, into the second unit which was vacant at the time. The petitioner was seeking relief for having less than required off-street parking and landscaping.

The attorney stated that at some point his client purchased three (3) booths and placed them in that waiting area without prior approval. The attorney stated they are requesting approval to legalize those three (3) tables, for sixteen (16) additional seats. The attorney states his client is also seeking approval to expand the restaurant into the third unit to relocate his office from the basement, and for storage space.

The Chairman asked the petitioner about the lack of conformance on the stipulations the Zoning Board placed on his 2005 approval.

James Bessette, the petitioner, stated he did not comply with the stipulation that the dumpster shall be screened. He stated he did install arborvitaes all along the rear of the property. He also stated the front landscape bed was to be a 10' x 20' bed, but that would have affected the parking, so he installed a 6' x 6' flower bed, which has since been taken out by the City of Warwick plows. He states after repairing the landscape bed for a few years, they disassembled it.

The petitioner stated his employee's park on Fourth Avenue so there is more parking in the lot for the customers.

Richard Corley asked the petitioner if he could work out an agreement so the employees could park across the street. The petitioner stated the employee's did park across the street for a number of years. He stated the owner of his building also owns the property directly across the street, and the employees can park there, but the Board was concerned with having the employees cross Warwick Avenue without a crosswalk.

The Chairman asked the petitioner how many employees he has. The petitioner stated he has 33 employees, but only 12 to 13 work per shift.

Richard Crenca asked the petitioner if he has approached the Bank next door about leasing space from them to park there, since the hours of operation won't conflict. The petitioner stated at the time of his 2005 Zoning hearing, the bank was in objection to his petition because his customers were parking there at the time. He stated at that time he had "no parking" signs made and had them posted on their fence.

Mark McKenney suggested the petitioner possibly work out some sort of arrangement for parking. Mr. McKenney also stated in 2005 strict compliance was placed on the approval and the petitioner has not satisfied these stipulations, and before the Board can approve another petition, the petitioner will need to show compliance with his 2005 Zoning Board approval.

The petitioner stated he did come and speak with someone in the City Landscaping Department regarding the size of the landscaped bed. Richard Crenca stated he did find a plan with a notation that a 10' x 10' landscaped bed would be acceptable with the Planning Department.

After further discussion regarding the parking, landscaping and the stipulations from the 2005 Zoning Board approval, the Chairman suggested the petitioner continue this hearing to comply with the prior stipulations, and the parking issues. He stated once these items are satisfied, it would make the decision of the Board much easier.

Attorney Sholes stated they would like to meet with the City Planning Department on site to look at the green space in the front because of the unique design of the lot and the widening of Warwick Avenue.

The Chairman again stated to try to work out the parking with the bank, and comply with the original stipulations the best he can with the green space and the Planning Department, and the Certificate of Occupancy.

Attorney Robert Colagiovanni was present, representing the credit union and in objection to the petition. The attorney stated his client is not interested in leasing any space to the restaurant for parking.

Attorney Sholes stated that they will meet with the City Planning Department and go over everything to be sure they are in compliance and come back before the Board and they can make a decision at that time.

Mark McKenney moved to continue the petition, seconded by Paul Wyrostek.

At that time the Chairman stated the Board has a request for a continuance to redesign their plan for wants and needs, and asked if there was anyone there to speak in opposition to that request.

Attorney Russell Bramley was present, representing Craig Callen, owner of Governor Francis Inn Restaurant. The attorney stated his client is also objecting to the petition.

The Chairman asked the attorney if they are objecting to the continuance or the petition. The attorney stated their primary concern is that they have had problems with customers of the petitioners parking in their parking lot, and they don't see that abating if this petition is granted and it does infringe upon Mr. Callen's business. The attorney stated they

recently had a customer of Rigatoni's blocking their dumpster, and the truck was there to empty it, he had to wait for the customer to move his car. The attorney stated that this is just a small example of the problem's they have had with the parking.

The Chairman stated they have the objection of the credit union from Mr. Colagiovanni as well as the objection from Mr. Bramley and Governor Francis Inn.

Mr. Colagiovanni stated his objection is similar to Attorney Bramley's. They have had issues with Rigatoni's customers parking in the banks lot. He stated it interferes with the credit union's business, more so at night, because they have the ATM machine and a lot of people come in after hours, and it's difficult for them to get in and out of the parking lot. They have a concern about someone getting hurt in their lot and the liability.

The Chairman asked if there was anyone there to speak in favor of the petition. There being none, Richard Corley stated given all the problems that have come to light during the hearing, he moved to continue the petition and stated he is not sure this can be resolved by December or continued until January.

The petitioner stated he will not be ready by December, and will have to postpone it until next year.

The Chairman suggested withdrawing the petition without prejudice and told the petitioner he can come back when he is ready. The petitioner stated he would like to do that.

Attorney Sholes withdrew the petition without prejudice.

Richard Corley moved to withdraw the petition without prejudice, seconded by Mark McKenney, and passed unanimously by the Board that the petition be WITHDRAWN without prejudice.

Petition #10421

Ward 3

56 Dewey Ave.

The petition of Robert Russo, 10 Carlo Ct., Cranston, RI, Robart Realty, 10 Carlo Ct., Cranston, RI, and Delta T, 56 Dewey Ave., Warwick, RI, request a dimensional variance to construct an addition, subject property having less than required parking. Assessor's Plat 311, Lot 46, zoned Light Industrial (LI).

Attorney K. Joseph Shekarchi was present and representing the petitioner.

Mr. Shekarchi stated the petitioner has been a land owner and business man in the City of Warwick for thirty years and has a business that is thriving, and wishes to make a minimal expansion to cover the loading dock and expand the back of the building for storage. He states they are not looking for any dimensional relief; they are just slightly short on the parking. Mr. Shekarchi states this use is a HVAC warehouse that is technically open

to the public, but really only service tradesman. There is very little drop by service at all, it's usually scheduled pick-up or delivery.

The Chairman asked if they were just enclosing the loading dock and if they anticipate any more parking. Attorney Shekarchi said they were also expanding behind it for storage. He does not anticipate any more parking and stated there are currently five (5) employees. The enclosure will be for the convenience of the existing customers and the storage area they are hoping to add on will be so he can process the orders faster, not so he can do more business, he can have more parts and inventory in stock.

The Chairman stated he did receive a call from the condominium association regarding someone parking along the private road of the condominium, behind the building on Dewey Avenue. He stated he wasn't sure if it was customers or employees. Mr. Shekarchi stated he doesn't know what they said, but he submitted Petitioner's Exhibit #1 – a letter from the neighbor at 61 Dewey Avenue, Frank Shatz, approval in favor of the petition, and stated the neighbor had no problem with parking.

Robert Russo, 10 Carlo Court, Cranston, RI, petitioner, was sworn in by the Chairman.

The Chairman stated he thinks the issue with the condo association is there parking is somewhat tight, and they park along the private road. The Chairman stated it would be helpful not to add any parking back there. Attorney Shekarchi stated if the Board wanted to add a restriction, that there be no parking behind the building or along the private road, his client would have no problem if the Board wanted to make that a condition of the approval.

The Chairman asked if there was anyone there in opposition or in favor of the petition. There being none, Richard Corley moved to grant the petition, he stated it seems as if the business is investing in Warwick. I heard the summary of the phone call the Chairman received; however, it does not make any common sense to me that any customers of this particular business may be parking on that paved driveway, because of the nature of the business. Mr. Corley also stated the closing in of the loading area, and added storage space will not exacerbate any parking problems, and will not increase any parking, for those reasons Mr. Corley moved to grant the petition, seconded by Beverly Sturdahl, and passed unanimously by the Board that the petition be GRANTED. The Chairman reiterated there shall be no parking in the rear or on the private road.

Petition #10422

Ward 5

53 Millard Ave.

The petition of Country View Holding, LLC, 106 Ten Rod Rd., Exeter, RI, and Greenwich Capital Partners, LLC, 1 Richmond Sq., Suite 1850, Providence, RI, request a dimensional variance to demolish existing dwelling and construct a new single family dwelling, proposed dwelling having less than required lot size, and less than required front/corner setback. Assessor's Plat 358, Lot 1, zoned Residential A-7/A-10.

Attorney John McGreen, was present and representing the petitioner.

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

The Chairman asked if there was anyone there interested in this petition.

A neighbor, Melissa Groff, 18 Warren Ave., Warwick, RI, was present and stepped forward to hear the presentation.

Attorney McGreen stated the existing footprint of the house is about thirty to thirty five feet (30'-35' feet) from the front. He stated his client's intent is to knock the house down and bring the new house back, which will improve that corner lot. He stated with the 25' setback, it will increase the view. He stated they have more than the 25' setback in the front, and they have 8' on the side, but with it being a corner lot, a 25' setback on the corner is required for that zone. He stated they are also pulling the house back out of the A-10 zoning district and the new house will be in an A-7 zoning district.

The Chairman asked if they had a picture of the existing home. The attorney showed the Chairman a picture and said the house is almost falling down.

The Chairman asked if the house was in a flood zone. The attorney stated the house was not in a flood zone.

Armand Cortileso, 106 Ten Rod Rd., Exeter, RI, was sworn in by the Chairman.

A neighbor, Melissa Groff, 18 Warren Ave., Warwick, RI, was present and sworn in by the Chairman.

The Chairman asked Richard Crenca of the Warwick Planning Department if it was a flood zone.

Mr. Crenca stated he recommended they get approval from CRMC. He also stated the plan that was submitted with the application, shows the proposed house is outside of the flood zone. Mr. Crenca stated the original house had the flood zone going right through the middle of it. The proposed house shows it being outside of the flood zone.

Armand Cortileso stated approximately $\frac{3}{4}$ of the existing house is in the flood zone, but the new house will be out of it.

Melissa Groff stated she is doing an addition on her property and had to go through everything to prove she wasn't in the flood zone, because when she did repairs the first time, her property was in the flood zone, so everything had to be elevated. Her new survey shows the flood zone on the fence line. She stated from what her surveyor told her, the subject property was completely in the flood zone.

The Chairman stated the petitioners will have to get a determination letter from CRMC and if there is conflict with the flood zone, they will work that out.

Melissa Groff stated she was concerned with the gigantic house being built on that little lot. She stated she is able to see the water from where she lives, and if they build the house where they are proposing, she wouldn't be able to see the water anymore.

Ms. Groff asked the petitioner how close to the rear fence the house will be built. The petitioner stated the house will be 20' from the rear property line.

The Chairman stated that unfortunately views are not owned, and the size of the proposed house is a reasonable size by today's standards.

Armand Cortileso stated the house is only about 1,000 sq. ft.

The Chairman stated from what he understands the house has been in disrepair and for sale for a long time and sold for relatively cheap. The petitioner said the house is leaning over.

Melissa Groff stated the house was livable because someone had been living there.

Paul Wyrostek stated that wasn't part of the discussion, and the new house is 10' lower than what they are allowed.

The petitioner stated if it was in a flood zone they will elevate it up and the house will have everything that is required.

The Chairman asked if there was anyone there in opposition or in favor of the petition.

Melissa Groff stated she is against. She states there are just a lot of houses in the neighborhood for sale, and there is a brand new one just a couple streets down. She stated everyone is trying to make a buck off that area, and there are so many little houses with families in them, and she just feels this new house is gigantic for the neighborhood and doesn't compare to a lot of the houses. She stated there is one other gigantic house, but the rest are all 800 or 900 square foot houses.

The Chairman asked if there was anyone there to speak in favor of the petition. There being none, Richard Corley stated this was a pre-existing non-conforming lot, and understands the house that is there now, apparently is in the eye of the beholder, whether or not it's in disrepair or not, but if you buy a house, and you want to take it down to build a new one, that is the owners prerogative, and given the unique triangular lot, it appears that the new house is going to be centered and backed off the road, which will improve the safety of the corner. Mr. Corley stated that while a house of this size may seem bigger to the objector, it is a raised ranch, a little over 1,000 square feet, and any questions about the flood zone will be answered by the surveyors. He believes the house is will be

built on the lot in the best place it can be given the unique configuration of the land, and for all of those reasons he will move to grant the petition with stipulations, seconded by Mark McKenney. Mr. McKenney stated he would like to note he went by the house, he stated he understands Ms. Groff's concerns, but the Board can't only look at it from the perspective of the person living next door, and with respect to the request that is being made is reasonable, that house is in line with the houses of the neighborhood and is a vast improvement of what presently exists, so with that said Mr. McKenney seconded the motion, and passed unanimously by the Board that the petition be GRANTED W/ STIPULATIONS.

Petition #10423

Ward 6

Oakland Beach Ave.

The petition of SG Associates, Inc., 41 Rhode Island Ave., Warwick, RI, request a special use permit for an off-site parking lot, also seeking a dimensional variance for less than required minimum landscaped buffer, less than required parking lot buffers, and less than required setback to open space. Assessor's Plat 376, Lots 437, 438, 509, 510 & 511, zoned General Business (GB).

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

Attorney K. Joseph Shekarchi was present and representing the petitioner.

Mr. Shekarchi stated his client was in agreement with all stipulations but #3, but will discuss that after.

Mr. Shekarchi states this parking lot will benefit everyone, and by having cars park in the new lot it frees up space on the street. He states this will be a transitional use that will help with traffic and parking congestion.

Attorney Shekarchi states this parking lot will only be in existence for a few years. As far as stipulation #3 striping the parking lot, all the other businesses down there have crushed shells for their parking lots and none of them have striping. He states they can address the issue of striping, he states if they have to stripe the crushed stone, they will do it on an as needed basis if they use parking buffers that will identify parking spots. Mr. Shekarchi states they are in agreement with all the other stipulations.

The Chairman stated he tends to agree with the lack of required striping, because this is for extra parking, it's not required parking.

Richard Crenca stated if you are building a parking lot, the Ordinance says it shall be striped. However, Mr. Shekarchi brought up a good alternative which is to install the parking bumpers where each space would be located and with the parking bumpers it will identify specific spaces. The Planning Department will not have an issue with the parking bumpers.

Mark McKenney asked about the neighbors. Mr. Shekarchi stated as you know this has been a very contentious area, but if you are taking 54 cars that park on the street and put them on private property that frees up space on the street. Mr. Shekarchi stated he spoke with the Councilwoman in the area and she is in favor of it. Anything that creates free parking for the public, they are all in favor of.

Richard Crenca stated while there was a stamped landscape plan included with the application, he would like to work with the landscape architect to try to come up with some interior landscaping, which is called for in our Ordinance.

Attorney Shekarchi stated they did amend their plan to remove some parking to put in more landscaping.

After further discussion about the interior landscaping, Mark McKenney stated he does not think it is critical. The new parking lot will be a vast improvement over what is already there.

The Chairman asked if there was anyone there to speak in opposition or in favor of the petition. There being none Mark McKenney moved to grant the petition with the stipulations as set forth by the Planning Department, recognizing that the stipulation pertaining to striping, need not be complied with, exactly as suggested, as long as there is a reasonable alternative to be used, such as the parking bumpers to define the spaces. It would seem with that, it would be an improvement to the neighborhood, will benefit the public in the Oakland Beach area, and it has already been indicated on the record that this will be a transitional use, so with that said Mr. McKenney moved to grant the petition with stipulations, seconded by Beverly Sturdahl and passed unanimously by the Board that the petition be GRANTED WITH STIPULATIONS.

Petition #10424

Ward 5

55 Balcom Ave.

The petition of Steven A. Bonn & Heidi Bennett, 55 Balcom Ave., Warwick, RI, request a dimensional variance to construct an addition, proposed addition having less than required front yard setback and side yard setback. Assessor's Plat 378, Lot 53, zoned Residential A-40.

Heidi Bennett, petitioner, was present and sworn in by the Chairman.

The Chairman asked the petitioner to sum up what she is looking to do.

The petitioner stated she is looking to add a family room on the side of her existing home.

Mark McKenney asked the petitioner who owns the wooded area next to her lot. The petitioner stated it belongs to her neighbor next door.

The Chairman asked the petitioner if she has spoken to her neighbors. Ms. Bennett stated she spoke to a neighbor on one side, but the other neighbor was out of the country.

The Chairman asked if there was anyone there in opposition or in favor of the petition, there being none, Mark McKenney moved to grant the petition. He stated it was a reasonable improvement to the neighborhood, seconded by Beverly Sturdahl, and passed unanimously by the Board that the petition be GRANTED.

A motion was made by Richard Corley, seconded by Beverly Sturdahl and passed unanimously by the Board that the meeting be adjourned. The meeting was adjourned at 7:51 P.M.

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

Donald G. Morash, Jr., Chairman