

WARWICK ZONING BOARD OF REVIEW
MINUTES OF THE MARCH 11, 2014 MEETING

A regular hearing of the Warwick Zoning Board of Review was held on Tuesday, March 11, 2014 at 6:00 P.M. at Warwick City Hall, in the Warwick City Council Chambers, 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
Everett O'Donnell
Attilio Iacobucci
Beverly Sturdahl

Alternates: Paul Wyrostek

Julie Finn was absent

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

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 The Chairman asked if there were any petitions to be withdrawn or continued.

The Chairman asked for a motion to approve the minutes from the February 11, 2014 hearing. A motion was made by Attilio Iacobucci, seconded by Beverly Sturdahl and passed unanimously by the Board that the minutes be accepted.

The Chairman announced the following petitions would be continued to the April 8th hearing.

Petition #10107

Ward 7

20 Noyes St.

The petition of 20 Noyes Street, LLC, c/o Deaver's Tax 3920 Via Del Rey, Ste. 3, Bonita Springs, FL, for a request for a dimensional variance to construct two single story additions and a

porch on existing dwelling, existing dwelling having less than required front and side yard setback, subject property being an undersized non-conforming lot, proposed additions and porch having less than required front yard and side yard setbacks, southerly side of Noyes St. (20), Warwick, RI, AP 363, Lot 28, zoned Residential A-7.

The Chairman then called the first petition.

Petition #10072

Ward 2

19 Prince Street

The petition of Rebeca Beltre, 19 Prince Street, Warwick, RI, for a request for a dimensional variance to legalize location of existing 10' x 12' shed, shed having less than required side yard setback, northerly side of Prince Street (19), Warwick, RI, Assessor's Plat 290, Lot 85, zoned Residential A-7.

The petitioner was not present at the time the Chairman held the petition and called the next petition on the agenda.

Petition #10095

Ward 6

9 12th Avenue

The petition of Jeanne Pass, 9 12th Avenue, Warwick, RI, for a request for a dimensional variance to demolish existing dwelling and construct a new dwelling (approx. 2,534 square feet) with an attached two car garage and deck, proposed dwelling having less than required front yard, side yard and rear yard setbacks, subject property being an undersized lot, westerly side of 12th Avenue (9), Warwick, RI, Assessor's Plat 374, Lot 36, zoned Residential A-15.

John Revens, Jr., Esq., representing the petitioner was present.
Harvey Allen Wagner, Architect, was also present

Mr. Revens stated that his client proposes to demolish the existing dwelling and construct a new 2,534 square foot dwelling on the subject property. He described the plan to the Board and explained all of relief requested. He stated that the proposed new dwelling would be more in keeping with the setback requirements than the existing dwelling. He also stated that they spoke to the abutting property owner and the petitioner designed the layout of the dwelling on the lot and the design of the dwelling keeping in mind the neighbor's water view.

Exhibit's presented:

Petitioner's Exhibit #1 - Plan without zoning relief

Petitioner's Exhibit #2 - Proposed plan

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

He described the plan to the Board and the relief needed. He described the differences between the existing dwelling and the plan for the new dwelling. He explained to the Board the percentage of improved visibility to the Board for the abutting property owner at 1 12th Avenue.

Thomas Sweeney was accepted as a real estate expert (Motion was made by Everett O'Donnell and seconded by Attilio Iacobucci and passed unanimously by the Board)

He described the findings in his report to the Board.

The attorney stated that the property is in flood zoned and would be connected to the sewers.

Maria Elena Blanchard, 1 12th Avenue, abutting property owner was present.

She stated her concerns to the Board. She explained that the proposed setback would be too close to her property. The proposed dwelling would affect the value of her property. The only view she has to water is from the back of her house and moving the house back further into the lot would lessen her view.

Mr. Corley stated that the petitioner is not using all of the land that they could. The petitioner attempted to open the view to the water for the abutter. The objection was based specifically on the water view and it is not a property right. The proposed building is due to the unique character of the area. All of the lots are undersized and that he sees no reason not to grant the petition. 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 this petition be GRANTED.

Petition #10072

Ward 2

19 Prince Street

The petition of Rebeca Beltre, 19 Prince Street, Warwick, RI, for a request for a dimensional variance to legalize location of existing 10' x 12' shed, shed having less than required side yard setback, northerly side of Prince Street (19), Warwick, RI, Assessor's Plat 290, Lot 85, zoned Residential A-7.

Rebecca Beltre, petitioner, was present.

She stated that she is trying to legalize a shed on the property. The shed was formerly on the other side of the yard. The proposed location is user friendly and she has children who play in the backyard. The shed is one foot from the property line.

Mr O'Donnell stated that all of the runoff is going onto the neighboring property due to how close it is to the line. He asked if there was room in the back yard.

The abutting property owner was present in objection. She did not speak.

The Board suggested that she withdraw the application and move the shed to meet the setbacks.

The petitioner agreed and asked that the petition be WITHDRAWN.

A motion was made by Richard Corley, seconded by Attilio Iacobucci and passed unanimously by the Board that this petition be WITHDRAWN.

Petition #10104

Ward 8

790 Bald Hill Road

The petition of 790 Bald Hill Road, LLC, 790 Bald Hill Road, Warwick, RI, and Hearthside Fireplace & Patio, 790 Bald Hill Road, Warwick, RI, for a request for a dimensional variance and special use permit to have outdoor sales and display on subject property for existing business said display areas having less than required front yard setback, dimensional variance for subject property having less than required off street parking, dimensional variance to legalize existing storage bins, said storage bins having less than required setback from abutting residential zone and front and side property lines and a use variance and dimensional variance to have a 2' x 4' LED sign with less than required front yard setback, existing building legal non-conforming, easterly side of Bald Hill Road (790), Warwick, RI, Assessor's Plat 262, Lot 212, zoned General Business.

Richard Crenca, Warwick Planning Department, read recommendations into the record. He presented photograph's to the Board.

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

He stated that his client would like to withdraw the request for the LED sign from the petition. He stated that his client worked with the neighbor to the rear of the subject property and agreed to the stipulations presented by Planning and the requests made by the abutter.

Sean Rosser, petitioner, 790 Bald Hill Road, was present.

He stated that he understands the stipulations.

Robert Bollenger, Esq., representing the abutter was present.

He stated that his client requests that not only the petitioner install a fence but maintain the fence.

All parties agreed and it was noted as a stipulation.

Mr. Corley stated with the stipulations presented and the stipulation of maintaining the fence all parties agreed and 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 this petition be GRANTED with stipulations.

Petition #10108

Ward 6

22 11th Avenue

The petition of Mark & Patricia McKenney, 22 11th Avenue, Warwick, RI for a request for dimensional variance to construct dormer additions, 2nd floor deck, covered entry and deck to the rear of the dwelling with less than required front yard setback, northeasterly corner of Eleventh Avenue (22) and Buttonwoods Avenue, Warwick, RI, Assessor's Plat 374, Lots 25, 26 & 35, zoned Residential A-15.

Mark & Patricia McKenney, petitioner's, were present.

They stated they are proposing to construct some minor additions to the dwelling. The existing dwelling does not comply with the setbacks. There would be a second floor addition, a second floor deck, an addition to the existing deck and a roof over the front stairs. There are no issues with site lines.

Mr. Corley stated that the proposed additions are minor and the petitioner's are improving their property and there were no objections. With that statement he made a motion to approve the petition. The motion was seconded by Attilio Iacobucci and passed unanimously by the Board that this petition be GRANTED.

Petition #10109

Ward 7

155 Arnolds Neck Dr.

The petition of Philip Bourgoin, 155 Arnolds Neck Drive, Warwick, RI, for a request for a dimensional variance to remove existing foundation for former house destroyed by fire, and construct a 24' x 42.50' single-family dwelling with a 12' x 24' deck to the rear, proposed dwelling and deck having less than required setback from the coastal feature and side yard setback, subject property being an undersized non-conforming lot, easterly side of Arnolds Neck Dr. (155), Warwick, RI, AP 365, Lot 192, zoned Residential A-10.

Philip Bourgoin, 155 Arnold's Neck Drive, petitioner, was present.
Philip Duquette, contractor, was also present.

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

The petitioner agreed to two stipulations that the shed not be in the front yard and the petitioner stated that the shed is gone. He also agreed to the sewers.

There was a neighbor present in objection:

Jack Thompson, 159 Arnold's Neck Drive, was present.

He asked that the house be moved over 2' further from his property line.

The petitioner agreed and the plan was amended at the hearing.

Mr. Corley stated that the petitioner agreed to all of the stipulations presented and 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 with stipulations.

Petition #10110

Ward 7

10 Grand View Drive

The petition of Randi Volpe DeFusco, 10 Grand View Drive, Warwick, RI, for a request for a dimensional variance to construct a 28' x 40' single-family dwelling with a 12' x 12' deck, subject property being an undersized non-conforming lot, easterly side of Grand View Dr. (10), Warwick, RI, Assessor's Plat 364, Lot 132, zoned Residential A-7

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

Fred Volpe, Esq., Tower Hill Road, North Kingstown, representing the petitioner, was present.

He described the subject property to the Board. He stated that the proposal is to construct a new single-family dwelling on the property to be occupied by the applicants. He explained the relief requested to the Board and the history of the subject property.

James Olsen, 23 Grandview Drive, was present in favor.

He stated that the proposed dwelling would be a good addition to the area.

Mr. Corley stated that the requested relief is due to the unique character of the land and there were no objections. The petitioner agreed to all of the stipulations and 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 with stipulations.

Petition #10111

Ward 6

147 Northup Street

The petition of James & Lisa Dias, 124 Northup Street, Warwick, RI, for a request for a dimensional variance to legalize location of existing shed located on subject property, said shed having less than required side yard setback, northerly side of Northup Street (147), Warwick, RI, Assessor's Plat 360, Lot 296, zoned Residential A-7.

Michael McCaffrey, Esq., representing the petitioner, was present.

He explained that his client constructed a shed on the property that does not meet the side yard setback. He presented photo's to the Board. Petitioner's Exhibit #1 - 14 photo's, Petitioner's Exhibit #2 - 4 photo's and Petitioner's Exhibit #3 - site plan. He stated that the shed was on the other side of the property and the fence was not there when the shed was built.

James Dias, petitioner, was present.

He stated that the original shed was falling down and needed to be replaced. There is no dispute with the neighbor over the lot line location.

The Board members had concerns with the setback of the shed and water run off.

The Chairman read a letter into the record from the abutting property owner.

The petitioner agreed to move the shed 24” further from the property line and place gutters on the shed.

Mr. Corley stated that the petitioner agreed to move the shed 24” from the fence and put gutters on the shed and with that statement he made a motion to approve the petition. The motion was seconded by Attilio Iacobucci and passed unanimously by the Board that the petition be GRANTED with the stipulations.

Donald Morash recused from voting on the following petition. Paul Wyrostek was the voting member.

Petition #10113

Ward 8

99 Bleachery Court

The petition of Flat Five Realty, 99 Bleachery Court, Warwick, RI, for a request for a special use permit/use variance/dimensional variance to occupy residentially zoned portion of subject property for outdoor storage of equipment and materials for existing business located on subject property, said storage within required setback from abutting residential zoned property, northerly side of Bleachery Court (99), Warwick, RI, Assessor’s Plat 274, Lot 282, zoned Light Industrial and Residential A-7.

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

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

Mr. Shekarchi stated that he disagrees with the comments made by Planning. He stated that the subject property is utilized for an industrial use and the majority of the property is located in an industrial zone. He stated that there was one neighbor present in opposition and they worked out the issues and he entered the neighbor’s requests as an exhibit Petitioner’s Exhibit #1.

Eric Wischart, PE was accepted as an expert witness (Motion was made by Everett O’Donnell, seconded by Beverly Sturdahl and passed unanimously by the Board)

Michael Hamel, petitioner, was also present.

Mr. Corley stated that he would make a motion to grant the petition with the stipulations as presented. The petitioner agreed to build screening and shield the site from abutting properties for the stored materials. The petitioner purchased the property as an industrial use and the

people in the area knew there was an industrial use on the property. The motion was seconded by Attilio Iacobucci and passed unanimously by the Board that the petition be GRANTED with stipulations.

Donald Morash recused from voting on the following petition. Paul Wyrostek was the voting member.

Petition #10067

Ward 6

2077 West Shore Rd.

The petition of David Marfeo, 8418 Regal Way, Palmetto, FL and Debra Vita, 44 Wharf Road, Warwick, RI, for a request for a special use permit and dimensional variance to have a nightclub with less than required off-street parking, said parking area having less than required setbacks, aisle width and landscaping, northeasterly corner of West Shore Road (2077) and Oakland Beach Avenue, Warwick, RI, Assessor's Plat 352, Lot 56, zoned General Business.

K. Joseph Shekarchi, Esq., representing the petitioner was present.
Debra Vita, 2077 West Shore Road, owner, was also present.

Mr. Shekarchi stated that his client owns and operates a bar and restaurant. They would like approval to have live entertainment. The business has been on the property for four years.

Richard Crenca, Warwick Planning Department, read recommendations into the record. He presented photo's to the Board and described his findings to the Board. His concerns were for the number of off street parking spaces provided and the number required and the configuration of the parking area. The site plan was not stamped and not the result of a survey.

Debra Vita stated to the Board that she spoke with the other unit owners and they did not have a problem with them using their parking area because their hours of operation are different from hers. She stated that the hours of operation are closed on Mondays, Tuesday through Thursday 4:00 until 1:00A.M., Friday, Saturday and Sunday 11:30A.M. until 1:00 A.M. She stated that he bands do not come on until 9:00 P.M. and the capacity is 128 people. She stated that the gate to the back parking area is locked when they close. She has been operating with a temporary license.

There was lengthy discussion between the Board and the petitioner regarding the parking .

Debra Vita stated that she did not have a signed agreement from the other units owners to share parking.

There was letter presented from the abutting property owner Objector's Exhibit #1 (Albert Trombetti)

Paul Wyrostek stated that he does sympathize with the petitioner. The board does not have enough information and the petitioner is lacking information that the other tenants agree to share

the parking. With that statement he made a motion to deny. The motion was seconded by Beverly Sturdahl and passed by a four to one vote (Corley voted against denial as the roll was called) that the petition be DENIED.

Donald Morash was the voting member on the following petition.

Petition #10112

Ward 2

6 Northampton St.

The petition of Comprehensive Community Action, Inc., 311 Doric Avenue, Cranston, RI, for a use variance request to have greater number of persons/occupants (total of 12 - 6 allowed) residing in community residence on subject property, northeasterly corner of Northampton Street (6) and Richmond Drive, Warwick, RI, Assessor's Plat 288, Lot 371, zoned Residential A-7.

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

He stated that his client requests to continue the petition for months. They have had discussions with the neighbors and have no conclusion they are going to do what they are legally permitted to do.

A motion was made by Richard Corley, seconded by Everett O'Donnell and passed unanimously by the Board that this petition be CONTINUED for four months.

The Chairman adjourned the hearing at 9:05 P.M.

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

Donald G. Morash, Jr., Chairman