

Minutes of the
Newport Zoning Board of Review

A meeting of the Zoning Board of Review was held on Monday, October 23, 2023, in the Second Floor Conference Hall of Innovate Newport, 513 Broadway at 6:30 p.m.

PRESENT: Sam Goldblatt, Chair
Russell Johnson, Secretary
David Riley
Bart Grimes
Nicole Shevory, Alternate
Susan Perkins, Alternate

Girard Galvin, Assistant City Solicitor
Nicholas Armour, Zoning Officer

ABSENT: Wick Rudd, Vice-Chair

The minutes of the following meetings were approved:

- August 21, 2023
- August 28, 2023
- September 25, 2023

D E C I S I O N S

A motion to adopt the staff reports, plans and applications as the Board's findings of fact on items listed below on the Summary Calendar section of the agenda was made by Mr. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

App. #2023-Sept-002 PETITION OF ELIZABETH MINEO, applicant, YOUNG FAMILY TRUST, owner, 60 Merton Road, TAP 31, Lot 115 (R-10 Zone) for a special use permit and dimensional variance to construct a one-story 180 sq.ft. addition, increasing the lot coverage from 28% to 31% (20% allowed).

A motion to approve the afore-mentioned summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Johnson, seconded by Mr. Riley. The motion was unanimously approved. Staff to prepare the draft decision.

App. #2023-Oct-003 PETITION OF NEWPORT RESTORATION FOUNDATION, applicant and owner, 680 Bellevue Avenue, TAP 38, Lot 026, (R-60 Zone; Historic Overlay) for a dimensional variance to reconstruct a 40 sq.ft. museum security shack located 38' from the front property line (50' required).

A motion to approve the afore-mentioned summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Johnson, seconded by Mr. Riley. The motion was unanimously approved. Staff to prepare the draft decision.

App. #2023-Oct-005 PETITION OF MATTHEW RAMIREZ, applicant and owner, **37 Thurston Avenue**, TAP 07, Lot 108, (R-10 Zone) for a special use permit and dimensional variances to demolish an existing detached accessory structure and overhang, and reconstruct the 160 sq.ft. accessory structure 2 ½' from the side property line and 3 ½' from the rear property line (10' required for both), reducing the lot coverage from 35% to 30.5% (20% allowed).

A motion to approve the afore-mentioned summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Johnson, seconded by Mr. Riley. The motion was unanimously approved. Staff to prepare the draft decision.

App. #2023-Oct-007 PETITION OF ALMA MANXHARI, applicant and owner, **110 Champlin Place North**, TAP 20, Lot 126, (R-10A Zone) for re-approval of a special use permit and dimensional variances to construct a second-floor rear addition located 2.9' from the south (side) property line (10' required) and front dormer addition located 4' from the south (side) property line (10' required), increasing the lot coverage from 21.3% to 23.6% (20% allowed).

A motion to approve the afore-mentioned summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Johnson, seconded by Mr. Riley. The motion was unanimously approved. Staff to prepare the draft decision.

Corrected App. #2022-Oct-11. PETITION OF COACH HOUSE CONDOMINIUM ASSOCIATION, applicant and owner; **103-121 Coggeshall Avenue**, TAP 37, Lot 100, (R-10A zone); for a variance to the dimensional requirements to allow a major subdivision to create a separate lot for Unit 10 with an existing dwelling on Parcel B, resulting in a 7' side setback to the stairs of the existing condominium building on Parcel A (10' required).

The applicant was represented by Attorney Joseph Olaynack. Coach House Condominium Association President George Dymond and Unit 10 owners Mary and Jim Mackenzie were also present. The Board asked a question about the shared drainage utility lines.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that an operation and maintenance agreement for an existing shared drainage line be implemented, that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Johnson, seconded by Mr. Riley. The motion was unanimously approved. Attorney Olaynack to prepare the draft decision.

Amended App. #2023-Aug-004 PETITION OF 6 KERIN'S TERRACE, LLC, applicant and owner, **6 Kerins Terrace**, TAP 40, Lot 455, (R-10A Zone) for a dimensional variance to demolish the existing single-family dwelling and construct a new single-family dwelling, located 7' from the east side property line (10' required) and 10.8' from the front property line (15' required).

The applicant was represented by Attorney Peter Regan. Civil engineer Matt Vianna and architect Jay Grover were also present. The Board asked if the house could have been designed to be compliant with the zoning code. Mr. Regan explained that doing so would have been very difficult due to the sewer easement.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Johnson, seconded by Mr. Riley. The motion was unanimously approved. Attorney Regan to prepare the draft decision.

App. #2023-Sept-006 PETITION OF NRI 104-108 GIRARD PARTNERSHIP, applicant and owner, **102-108 Girard Avenue**, TAP 03-011, (R-10 Zone) for modification to a special use permit and dimensional variance to move an approved multi-family building to be placed 6 feet from a side property line (10' required).

The applicant was represented by Attorney Jay Lynch. There were no objectors and no questions from the Board.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Johnson, seconded by Mr. Riley. The motion was unanimously approved. Attorney Lynch to prepare the draft decision.

App. #2023-Oct-001 PETITION OF STEVE RANDLE, applicant and owner, **8 Narragansett Avenue**, TAP 35, Lot 216, (R-10 Zone) for a special use permit and dimensional variances to construct a 160 sq.ft. accessory shed, located 3' from the side property line and 5' from the rear property line (10' required for both), increasing the lot coverage from 38.8% to 44.1% (20% allowed).

Owner Christine Randle was present. Applicant's Exhibit 1 Letter of Support from Neighbor was accepted. The Board asked a question about stormwater management.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Johnson, seconded by Mr. Riley. The motion was unanimously approved. Staff to prepare the draft decision.

App. #2023-Oct-002 PETITION OF LIAM McDERMOTT, applicant, PATRICIA PHELAN (LIFE TENANT), owner, **16 Old Fort Road**, TAP 41, Lot 177, (R-10 Zone) for an extension to a special use permit to continue to operate a 2-bedroom guest house with no additional parking.

The applicant was represented by Attorney Tanner Jackson. Applicant Liam McDermott was present. The applicant received a Special Use Permit to operate a Guesthouse in 2018, though permission expired after five years unless the applicant requests an extension. The Board asked clarification questions.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision, that all outstanding invoices for abutter notification be paid prior to the recording of the decision, and that the approval granted shall expire five years from the date of the expiration of the appeal period unless the applicant and owner make application to the Board for an extension of the approval granted by this Decision was made by Mr. Johnson, seconded by Mr. Riley. The motion was unanimously approved. Attorney Jackson to prepare the draft decision.

App. #2023-Oct-013 PETITION OF BEACON ROCK, LLC, applicant and owner, **147 Harrison Avenue**, TAP 41, Lot 001, (R-120 Zone, Historic Overlay) for a special use permit and dimensional variance to install and construct a generator and generator pit, located 8 1/2' from the front property line (75' required).

The applicant was represented by Attorney Peter Regan. Project manager Chi Yik was also present. Mr. Regan explained that the generator is to support a garage/carriage house that the Board approved construction of in April 2023.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that any testing of the generator shall take place only during normal business hours, Monday through Friday, that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Johnson, seconded by Mr. Riley. The motion was unanimously approved. Attorney Regan to prepare the draft decision.

Amended App. #2023-Apr-002 PETITION OF BMT, LLC, Lessee, CAM, LLC, applicants and owner, **206 Thames Street**, TAP 24, Lot 157, (GB Zone) for a special use permit and dimensional variances to make modifications to an existing restaurant, adding 1,546 square feet of service area, located partially outdoors, adding a stairwell 3' 4 3/4" from the rear property line (5' required), that increases the lot coverage from 91.1% to 94%, and providing zero additional parking spaces (11 additional spaces required).

The applicant was represented by Attorney Matt Leys. Architect Jeff Moniz, CAM LLC and BMT LLC principal owner and restaurant general manager Brian Torello, traffic engineer Todd Brayten, and real estate expert Jim Houle were also present. One objector, William Rommel, owner of the abutting Arnold Art Store, was present. The Zoning Board received three letters of objection from abutters in response to this application, one of which was withdrawn, subject to the applicant agreeing not to have music or live performances on the roof deck.

Applicant's Exhibit 1 Revised Plans were accepted. Mr. Leys summarized the changes and explained that they were to reduce impacts to the neighbors. Revisions to the plans included the roof being extended over the bar area to provide a sound buffer, lattice screening over partially enclosed areas, and extending the solid wall behind the bar to reduce sound impacts. Mr. Moniz provided an overview

of the project and addressed the letters of objection. The applicant was amenable to a condition for no live entertainment being allowed in the outdoor dining area.

The Board asked Mr. Moniz questions about the design and operation of the additional service areas. The outdoor dining area and additional indoor dining area will likely only operate during the summer due to staffing. The expansion will add approximately 60 indoor and 40 outdoor dining seats. The Vanderbilt is the only other restaurant with a rooftop bar in the area. The applicant is amenable to the conditions to close the new dining areas at 11:00 pm and to limit music to a modest speaker in the bar area.

Mr. Torello spoke and stated that the outdoor dining area is necessary to make the Gas Lamp Grille competitive, appealing to customers, and that outdoor dining is turning into a necessity for restaurants. Exhibits 2 & 3 202 Thames Streets Short Term Rental Registration Forms were accepted. Mr. Torello stated that they explored other parking opportunities, but could not find any, and that his restaurant relies on foot traffic.

Objector William Rommel spoke. He expressed concerns regarding parking, and potential noise and privacy impacts for his tenant's apartment. He stated that the lattice could block his tenant's view and asked for a 10:00 pm closing time.

A motion to approve the afore-mentioned full-hearing item with the conditions that:

1. The project be started and substantially completed within eighteen (18) months of the date of the recording of the decision;
2. All invoices for advertising and notice relating to abutter notices be paid to the City prior to recording the decision;
3. The outdoor dining area in the new proposed customer service areas only be used for dining purposes in perpetuity and not other uses;
4. The dining areas in the new proposed customer service areas be closed at 11:00 p.m.;
5. There be no live entertainment in the new proposed customer service areas; and
6. Any sound device in the new proposed customer service areas be limited to a modest speaker in the service bar area of the new proposed space.

Motion was moved by Mr. Johnson, seconded by Mr. Riley. The Board discussed the petition and believed that the project was in harmony with the General Business zone, that it is the least relief necessary, and that the applicant had taken sufficient measures to mitigate impacts to his neighbors. The motion was unanimously approved. Attorney Leys to prepare the draft decision.

Amended App. #2023-Apr-004 PETITION OF STEVEN MCCAULEY, applicant, and STEVEN MCCAULEY, TINKA MCCAULEY, ALEKSANDER PLAKU, AND LEOPOLD MARTINI, owners, 668 Thames Street, TAP 40, Lot 027, (LB Zone) for a special use permit to convert one two-bedroom unit in a three-unit building to a guest house without providing a manager parking space.

The applicant was represented by Attorney Tanner Jackson. Owner Steven McCauley and real estate expert Jim Houle were also present. One objector, interested party Penelope Hunt of 15 Dartmouth St, was present.

Mr. McCauley stated that there are 3 units in the building with the 1st floor being a long-term rental, the 2nd floor being reserved for the owners' use, and the 3rd floor being the proposed short-term rental.

His target customers are seasonal employees and the 1st floor tenant would be the onsite manager. The Board asked clarification questions regarding the parking situation and the onsite manager. The applicant was amenable to conditions that the long-term tenant will be the compensated onsite manager and that the garage spaces are not rented out separately. Exhibit 1 Houle Report was accepted.

Objector Penelope Hunt stated that she felt SPU for short-term rentals should be granted on an exception basis and not easily obtained.

A motion to approve the afore-mentioned full-hearing item with the conditions that the project be started and substantially completed within 12 months of the date of the decision, that all outstanding invoices for abutter notification be paid prior to the recording of the decision, that the garages be used solely by the subject property's occupants and not be rented out to abutters, and that there is a written agreement with the year-round tenant to act as the onsite manager and be compensated for it was made by Mr. Johnson, seconded by Mr. Riley. The Board members discussed the petition. The Board expressed concerns about guest houses generally, but found that this applicant met the onsite manager and parking requirements for a SUP. The motion was unanimously approved. Attorney Jackson to prepare the draft decision.

Corrected App. #2023-May-013 PETITION OF 52-56 THAMES STREET, LLC, applicant and owner, **52-56 Thames Street**, TAP 17, Lot 074, (GB Zone; Historic Overlay) for dimensional variances to convert an existing two-family residence to two guest houses with five bedrooms without providing additional parking (1 required for use, 1 required for manager space), without providing the 24' access driveway, and requiring backing out into the right-of way, and a special use permit to construct a roof deck on a non-conforming property.

The applicant was represented by Attorney Russell Jackson. Principal owner Keith Peterson, architect Ross Cann, and traffic expert Todd Brayton were also present. Objectors Alexa McLaughlin of 44 Thames St, Lisa Lewis of 25 Bridge St, Richard Baker of 58 Thames St, Galit Bitton of 52 Charles St, and interested party Penelope Hunt were present.

Mr. Jackson provided an overview of the property's history. The property has been used as a two-family and a three-family dwelling, and the attached commercial space has been used for retail and as a short-term rental. The previous zoning officer determined that the property is only legally a two-family. In 2022, the owners submitted an application but withdrew as that application did not address parking. After the new application was submitted in 2023, the zoning officer informed them that there was a reinterpretation of guest house parking requirements to provide an onsite parking space for the manager. Mr. Jackson does not agree with that interpretation.

Due to the applicant recently becoming aware of new opposition to the application, the applicant is proposing to amend the application to reduce the number of bedrooms to three guest beds, so three guest parking spaces and a manager space would be required. The zoning relief sought would be only for commercial parking configuration standards, not the number of parking spaces.

Mr. Peterson purchased the property with the understanding that the building had three-dwelling units, due to the owner advertising it as a three-family and the utilities being metered as three separate units. Applicant's Exhibit 1 Utility Photos were accepted.

Motion to continue the application to November 27th moved by Mr. Johnson, seconded by Mr. Riley, all in favor.

All remaining Petitions were continued.

Meeting was adjourned at 10:32 pm.