

Minutes of the
Newport Zoning Board of Review

A meeting of the Zoning Board of Review was held on Monday, June 26, 2023, in the Council Chambers, City Hall, 43 Broadway at 6:30 p.m.

PRESENT: Sam Goldblatt, Chair
Wick Rudd, Vice-Chair
Russell Johnson, Secretary
David Riley
Bart Grimes

Girard Galvin, Assistant City Solicitor
Nicholas Armour, Zoning Officer

ABSENT: Susan Perkins, Alternate
Nicole Shevory, Alternate

The minutes of the following meetings were approved:

- March 27, 2023 – Regular Meeting
- March 28, 2023 – Special Meeting

The following requests for an additional 12-month extension were considered and accepted:

- 2-4 Ledyard St

The following requests for a Special Meeting were considered and accepted:

- App #2019-Aug-1 – “Waites Wharf Hotel”

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-Jun-002 PETITION OF JAMES CROCKFORD, applicant and owner, **33 Brenton Road**, TAP 41, Lot 241, (R-160 Zone, Historic Overlay), for a special use permit and dimensional variances to place one condenser 45’ from the rear property line, two condensers 25’ from the south (side) property line, and three propane tanks 40’ from the north (side) property line (50’ required for each).

Mr. Crockford was present to represent the application. Board Member Riley asked if Mr. Crockford would be willing to screen the condensers and propane tanks with vegetation. Mr. Crockford was agreeable.

A motion to approve the afore-mentioned summary item with the conditions that the condensers and propane tanks be screened with vegetation, 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. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

App. #2023-Jun-009 PETITION OF KIMBERLY COMFORT, applicant and owner, **19 Second Street**, TAP 16, Lot 041, (R-10 Zone, Historic Overlay), for a dimensional variance to place a condenser on the second level of the rear of the house, 4' from the side property line (10' required).

Board Member Goldblatt recused himself from voting.

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. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

App. #2022-Oct-5. PETITION OF DONALD & TRACY FITCH, applicant and owner; **2 Ashurst Place**, TAP 19, Lot 113, (R-10 zone); for a special use permit and a variance to the dimensional requirements to construct a third floor dormer, a roof deck, and access stairs, located 3.8' from the side property line (10' required) and 6.2' from the front property line (15' required), which increase the height from 30.5' to 35.25' (30' limit), and construct an expanded stairs, which increase the lot coverage from 32% to 33% (20% limit).

The applicant was represented by Attorney Russell Jackson. Applicants Tracy and Donald Fitch were also present. Mr. Jackson stated that the applicants have now removed the roof deck from the application, aligning with Objector MaryJo Carr's written request. Mr. Jackson answered questions from the Board clarifying the proposed dimensions.

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. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

Attorney Jackson will prepare the draft decision.

App. #2023-May-006 PETITION OF CHRISTINA & THOMAS MAGEE, applicants and owners, **17 Kempsen Street**, TAP 11, Lot 583, (R-10A Zone) for a special use permit and dimensional variance to construct a second story addition, located 3'-3" from the side property line (10' required).

Applicants Christina and Thomas MaGee were present. Board Member Riley asked if the applicants would be amenable to a condition to not put windows on the west side of the second story addition. The applicants agreed.

Board Member Grimes recused himself from voting.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that windows not be placed on the west side of the second story addition, 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. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Jun-001 PETITION OF ANNEMARIE STELLA, applicant and owner, **32 Slocum Street**, TAP 34, Lot 102, (R-10 Zone), for a special use permit and dimensional variance to construct a second story addition over the existing first floor footprint, located 5' from the rear property line (20' required) and 4'-6" from the west (left) side property line (10' required).

Applicant Annemarie Stella and Architect Ross Cann were present. There were 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. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Jun-003 PETITION OF LAWRENCE WEBER AND MARY GERDES, applicants and owners, **7 Sylvan Street**, TAP 33, Lot 060, (R-10 Zone), for a special use permit and dimensional variance to construct a second-story deck on the front of the building, expand the front staircase located at 0' from the front property line (15' required), and expand a rear addition, retaining a lot coverage of 39.7% by removing a portion of a rear patio.

Applicant Lawrence Weber and Architect Ross Cann were present. Objector David Downes was also present.

Board Member Johnson asked for clarification as to the proposed changes to the property and if the applicant intends to rent the property. Mr. Weber explained that the house had a history of being rented to college students by the previous owner, and that the neighbors knew the house to be a noise nuisance under the tenants of the previous owner. Mr. Weber stated that his current tenants, also college students, were quiet and had not received any noise complaints, but that the neighbors were concerned that if Mr. Weber built a front deck and sold the property to a different owner then the front deck would become an area of noisy activity. In response to these concerns, the applicant removed the front deck from their application.

Mr. Downes stated that as the front deck has been removed from the application, he no longer objects.

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. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare draft decision.

App. #2023-Jun-004 PETITION OF MATTHEW ANDERSON, applicant and owner, **7 Rhode Island Avenue**, TAP 19, Lot 162, (R-10 Zone), for a special use permit and dimensional variance to construct two rear dormers, reaching approximately 34' in height on a 39'-4" tall structure (30' allowed).

Applicant Matthew Anderson was present. Board Member Johnson asked Mr. Anderson to clarify the height and location of the new dormers.

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. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare draft decision.

App. #2023-Jun-005 PETITION OF KEVIN AND KATHRYN CARROLL, applicants and owners, **7 Atlantic Street**, TAP 40, Lot 162, (R-10 Zone), for a special use permit and dimensional variances to remove an existing rear addition and construct a new rear addition, located 4'-7 3/4" from the west (right) side property line and 4'-4 1/2" from the east (left) side property line, increasing the lot coverage from 33.9% to 39.4% (20% permitted).

Applicant Kathryn Carroll and Architect Jeff Moniz were present. Board Member Johnson recused himself from hearing this petition.

Board Member Goldblatt asked why the additional lot coverage was needed and why it was so high. Mr. Moniz stated that the lot coverage is high because the lot is small (about 2500 sq ft) and oddly shaped. The expansion is needed to replace the rotting and poorly insulated previous addition and accommodate a modern kitchen. The proposed lot coverage is in line with that of sister properties on the street.

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. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

App. #2023-Jun-007 PETITION OF CHRISTOPHER AND DEBRA WALSH, applicants and owners, **3 Key Court**, TAP 37, Lot 079, (R-10 Zone), for a special use permit and dimensional variance to construct a new covered front porch, increasing the lot coverage from 28% to 30.9% (20% allowed).

Applicant Chris Walsh and Architect Alex Hurditch were present. Board Member Goldblatt asked if the applicant would be amenable to a condition to not enclose the porch. Mr. Walsh agreed.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the porch not be enclosed, 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. Rudd, seconded by Mr. Riley. A roll call vote was taken. The motion was unanimously approved.

Staff to prepare draft decision.

App. #2023-Jun-008 PETITION OF DONALD BAILEY, applicants and owners, **126 Kay Street**, TAP 11, Lot 448, (R-10A Zone), for a dimensional variance to construct a detached temporary fabric structure, increasing the lot coverage from 18.7% to 21.1% (20% allowed).

Board Member Goldblatt asked what was meant by “temporary” and how long the structure would be there. Mr. Bailey stated that the structure would be put up next month to cover an antique vehicle, it would be left up for 6 months, then the vehicle and the temporary structure would be put in storage. Board Member Grimes asked why the applicant did not propose a permanent structure instead. Mr. Bailey stated that a permanent structure would be costly. The applicant would install and disassemble the structure every 6 months in perpetuity.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the temporary structure can be erected for 6 months then taken down for six months in perpetuity, 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. Rudd, seconded by Mr. Riley. A roll call vote was taken. The motion was unanimously approved.

Staff to prepare draft decision.

* App. #2022-Jul-4. AMENDED PETITION OF JOHN-PAUL & NICOLE SHEVORY, applicants and owners, 11 W. Narragansett Avenue, TAP 39, Lot 64, (R-10 zone); for a special use permit and dimensional variances for permission to reconfigure the front porch and stairs; add two dormers along the third floor north and south roof lines, which will be located 4' 7" from the east property line (10' required); add a rear addition, basement bulkhead, and a rear deck and exterior staircase to the south side of the existing structure; and add a recessed deck above the 2nd floor roof, which will increase lot coverage from 38% to 47% (20% allowed).

The applicant was represented by Attorney Peter Regan. Applicants Nicole and John-Paul Shevory, architect Greg Yolanis, and real estate expert Jim Houle were also present. Two objectors were present: Gail Anne Sullivan-McCune of 12 Stockholm Street (rear abutter) and Richard Rodelli of 35 Sherman Street who is not an abutter.

Board Member Goldblatt asked Mr. Regan to give an overview of the project and the modifications to the application. Mr. Regan stated that the lot was very undersized being 2,800 sq ft in the R-10 zone and that the majority of the house was located in the setback. In response to the objectors, the application was modified so that the proposed rear addition now complies with the setbacks and the requested lot coverage was reduced to 47%. After these changes, the objector at 9 West Narragansett Avenue no longer objects.

Nicole Shevory described the project and explained that when they purchased the property, the house was in a state of disrepair and aspects of the house, such as stairway dimensions, are not code compliant or safe. The addition would provide more room for their family and more space to move the mechanical equipment out of the basement as the property is in the flood zone. Exhibit 1 Aerial Photos of the Property were accepted. The applicants compared their proposed deck to similar decks on neighboring properties and stated that they intend to use pervious pavers for the driveway. Mrs. Shevory answered questions from the Board regarding the state of the garage, drainage plans, and the total square footage proposed to be added. She stated that the garage was in a very bad state but usable to park their car, they were considering installing a drywell, and the total additional square footage would be 250 sq ft.

Mr. Yolanis and Mr. Houle both presented. Mr. Yolanis described the lack of head space in the stairs and how the living areas in the house were undersized and tightly arranged. Mr. Houle stated that the average lot coverage in the neighborhood was approximately 40%.

Objector Gail Sullivan-McCune expressed her concerns that the increased lot coverage will increase stormwater runoff and drain into her yard. Ms. Sullivan-McCune stated that her yard is lower in elevation but the applicants believe that their own yard is lower than Ms. Sullivan-McCune's. Board Member Goldblatt allowed Mr. Rodelli to briefly express his concerns, although his property is a mile away. Mr. Rodelli also expressed runoff and drainage concerns. Mr. Regan proposed a condition that the Shevorys provide a drainage report from an engineer. Board Member Rudd proposed a condition that the deck cannot be enclosed or built up. The applicants were amenable.

A motion to approve the afore-mentioned full hearing item was made by Mr. Rudd, seconded by Mr. Riley, with the conditions that the porch cannot be enclosed or built up, that the Zoning Officer be provided with an engineer's report addressing drainage and managing additional runoff, 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. A roll call vote was taken. The motion was unanimously approved.

Attorney Regan will prepare the draft decision.

App. #2023-Jan-007. PETITION OF MARY O'REILLY DEMA REVOCABLE TRUST, applicant and owner, **224 Gibbs Avenue**, TAP 20, Lot 101 (R-10A zone), for a special use permit and a variance to the dimensional requirements for permission to remove existing deck and stairs and construct an addition with a roof deck, with a 10'9" rear setback (20' required) and increasing lot coverage from 36% to 41% (20% allowed).

The application was represented by Attorney Alexander Walsh. Owner Ms. Dema, Architect Spencer McComb, and real estate expert Jim Houle were also present. Exhibit 1 Photos of the Property was accepted. Ms. Dema described the project and used the photos to give context to her application in relation to her neighbor's properties. Ms. Dema explained that the addition will provide more room for her grandchildren. She has spoken to her neighbors and received letters of support for this project. Mr. McComb described the proposed changes to the property. Mr. Houle gave a verbal report of the hardships of the lot, with the lot being undersized and the house being built nearly the full width of the lot.

A motion to approve the afore-mentioned full hearing item was made by Mr. Rudd, seconded by Mr. Riley, 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. A roll call vote was taken. The motion was unanimously approved.

Attorney Walsh will prepare the draft decision.

App. #2023-Feb-011 PETITION OF ANGELINA PATTAVINA, applicant and owner, **468 Thames Street**, TAP 32, Lot 121, (LB Zone) for a special use permit to convert one residential unit into a 2-bedroom guest house.

Applicant Angelina Pattavina was present. Ms. Pattavina explained that the property has 4 total units – 2 residential and 2 commercial. One of the residential units is to be converted into a guest house. The other is to remain a long-term rental and the long-term tenant will be paid \$400 per month to serve as the on-site manager for the guest house unit. Exhibit 2 – Lease Agreement for Future Tenants was accepted. The Board had no questions and concurred that the change of use is in harmony with the surrounding area and meets the requirements of a guest house.

A motion to approve the afore-mentioned full hearing item was made by Mr. Rudd, seconded by Mr. Riley, with the conditions to abide by the Planning Board condition to continue Unit 2-B on a long-term lease while operating a guest house, 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. A roll call vote was taken. The motion was unanimously approved.

Staff to prepare the draft decision.

*App. #2023-Mar-006 PETITION OF IHAB CHAMSEDDINE, applicant and owner, **236 Broadway**, TAP 14, Lot 082, (R-10 Zone) for a use variance to permit a fast-food restaurant, and a dimensional variance to provide 0 new parking spaces (1 additional required).

Applicant Ihab Chamseddine was present. Attorney Thomas Orr was also present, representing 4 abutters that objected to the application. Mr. Chamseddine explained that he intends to expand the Charles Five & Dime deli at 232 Broadway into some of the office space in the 236 Broadway unit by removing an interior wall. There would be no change in ingress or egress.

The Zoning Officer explained that Mr. Chamseddine's intentions are different than the way the project was advertised as a conversion of the use of 236 Broadway from an office space to a fast-food restaurant, when the intended project is actually an expansion of the preexisting non-conforming fast-food use at 232 Broadway. Mr. Armour stated that the expansion of the non-conforming use requires a special use permit, but that this is a different request than the way that this application was advertised. The previous Zoning Officer approved the deli as an accessory use to the convenience store, but this expansion of the deli changes the use to a more substantial food establishment use. The Assistant City Solicitor advised that the application as Mr. Chamseddine described it must be re-advertised the public and heard at a later time. The Board asked Mr. Chamseddine if he would be amenable to withdrawing the application without prejudice and filing a revised application. The applicant agreed.

A motion to accept the withdrawal of the application without prejudice was made by Mr. Rudd, seconded by Mr. Riley. The withdrawal was unanimously approved.

*App. #2023-Mar-010, PETITION OF 77 BRIDGE STREET, LLC, applicant and owner, **14 Second Street**, TAP 16, Lot 120, (R-10 Zone, Historic Overlay) for a special use permit and dimensional variances to relocate a single-family dwelling by approximately 26' to the south, construct an addition to the north and a new stair case to the south and west of the residence, located 3.7' from the east front property line (15' required), 8.6' from the west side property line (10' required), increasing the lot coverage from 16% to 27% (20% permitted). *This application is to be continued.*

App. #2023-Jun-011 PETITION OF EMPIRE OCEAN MANAGEMENT, LLC, applicant and owner, **11 Boss Court**, TAP 39, Lot 370, (R-10 Zone), for a special use permit and dimensional

variances to demolish an existing, non-conforming single-family dwelling, and construct a new single-family dwelling, located 8'-9" from the front property line (15' required) and 5'-1" from the north (right) and south (left) side property lines (10' required for both), increasing the lot coverage from 24.4% to 25.8% (20% allowed).

The application was represented by Attorney Joseph Carnevale. The owners, Mr. Tomaselli, Jr. and Mr. Tomaselli, Sr., were also present. A letter of opposition from abutter Arlene Nicholas of 36 Simmons St was received the day of the meeting, so this application has been moved to a full-hearing item. Mr. Nicholas was not present and her letter was read into the record.

Mr. Tomaselli, Sr spoke to his professional background as a licensed builder and stormwater management consultant, and reviewed the proposed setbacks of the new dwelling.

Board Member Rudd asked Mr. Tomaselli, Sr. if he planned on living there. He responded that he lives in New York and would be using the property when he visits his family that live nearby. Board Member Grimes asked why the building could not be saved. Mr. Tomaselli, Sr. explained that the house was in very poor shape and needed a significant amount of repairs. The costs would have exceeded 50% threshold, which would have required raising the structure. Raising the structure was impossible given the house's state.

A motion to approve the afore-mentioned full hearing item was made by Mr. Rudd, seconded by Mr. Riley, 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. The Board concurred that the lot size and need to elevate the building is a hardship. A roll call vote was taken. The motion was unanimously approved.

All remaining Petitions were continued.

Meeting was adjourned at 10:40pm.