

# **MINUTES**

**REGULAR MEETING –January 23, 2018**

**ZONING BOARD OF REVIEW**

**LOCATION: 350 EAST MAIN ROAD, MIDDLETOWN, RHODE ISLAND**

**TIME: 6:00 pm**

**Administrative: Roll Call/Adoption of Minutes November 28, 2017**

**Roll Call: Chairman Jim Miller (present), Vice Chair Stephen MacGillvray (present-Arrived 7:15), Olin Gambrell (present) Secretary Chris Sousa (present), Thomas Heaney (present), Eric Kirton (Voting until Pappas case), Henry Pine (2nd Alternate-present), Mark Nuytkens (3rd Alternate-present).**

**Adoption of minutes November 28th Olin Gambrell 1sts, Tom 2nds  
5-0**

**Continuances/Withdrawals:**

**Petition of: Old Farm, LLC- 736 East Main Road - Middletown, RI (owner)- by their attorney Michael A. Kelly- 128 Dorrance Street- Providence, RI Ste. 300 - for a Special Use Permits from Sections 602, 605 & 1800 et seq – to allow a shopping center, with building footprints exceeding 35,000 square feet in the GB Zone. The development will consist of approximately 471,000 square feet of space located in 5 buildings with 3 of the buildings exceeding the 35,000 square foot threshold. Said real estate located at East Main Rd.**

**and further identified as Lot 55 on Tax Assessor's Plat 106. Robert Silva-Continued June 26th**

**Petition of: Ronald G Corriveau (owner)- c/o his attorney David P Martland, Esq.- for a Variance from Sections 603 & 701- to allow a two-lot subdivision having an accessory structure on proposed lot 'B' with a side yard setback of .3' where 20' is required and frontage on proposed lot 'A' of 15' where 120' is required. Said real estate located at 566 East Main Rd and further identified as Lot 160A on Tax Assessor's Plat 113.Robert Silva-Continued Feb 27**

**Petition of: Maria Pappas Corey (owner)- for a Variance from Sections 603 & 703C-to allow an accessory structure of 230 + - sq. ft. to be located within 5' of a property line where 15' from the side yard and 10' from the rear yard is required. Said real estate located at 25 Wolcott Ave and further identified as Lot 17 on Tax Assessor's Plat 115. Withdrawn w/out Prejudice Olin 1st, Jim 2nd. Present new application during full hearing.**

**Petition of: DOJO LLC (owners) Newport Hotel Group (Applicant) by their attorney David P. Martland Esq. for a Special Use Permit from Section 602 & Article 14 to allow a 13 unit hotel in a Limited Business (LBA) zone. Said real estate located at 38 Purgatory Road and further identified as lot 13 on tax assessor's plat 116NW. Awaiting Planning Board.**

**Petition of: DOJO LLC (owners) Newport Hotel Group (Applicant) by their attorney David P. Martland Esq. for a Variance from section 603 to allow a hotel structure 43'-2" in height to accommodate an elevator penthouse where 40' height is allowed. Said real estate located at 38**

**Purgatory Road and further identified as lot 13 on tax assessor's plat 116NW. Robert Silva Awaiting Planning Board for Advisory opinion. Olin/Tom refer to planning. Continued Feb 27 Zoning Meeting**  
**Petition of: 47 Valley Road LLC (owner)- Christopher Tunnah (applicant) for a Special Use Permit from Section 602-to allow a restaurant including service of alcoholic beverages in a Limited Business (LBA) zone. Said real estate located at 47 Valley Rd and further identified as Lot 88 on Tax Assessor's Plat 107SE. Olin/Tom 5-0 Refer to Planning board.**

**Petition of: Amiee Phelps (owner)- for a Variance from Section 603, 701, 802(b) & 803(g)-demolish and replace a portion of the non-conforming one story single-family dwelling with a 2 story addition with a left side yard setback of 3.5' where 15' is required and a front yard setback of 11' where 25' is required. Said real estate located at 17+19+21 Warren Ave and further identified as Lot 170 on Tax Assessor's Plat 115SE. Continued to Feb 27th Meeting.**

#### **Summary Cases:**

**Petition of: Christopher & Kimberly Prefontaine (owners) for a variance from section 603, 701 & 803G to allow the demolition and reconstruction of the single family dwelling and attach to the existing accessory garage with a setback of 12'-5.5" where 15' is required. Said real estate located at 203 Tuckerman Avenue and further identified as Lot 31 on Tax Assessor's Plat 116SE. Continued to Feb 27th Steve/Olin 5-0**

#### **Full Hearings:**

**Petition of: John Corbett & Susan Edward (owners) and Jeff Moy (applicant) for a special use permit from Article 16 to allow an accessory family dwelling unit. Said real estate located at 13 Circle Drive and further identified as Lot 15 on Tax Assessor's Plat 117. Jeff Reed and Janet Moore present their case. Owner explains that she is creating the unit off the back of the garage for her aging mom. Owners acknowledge that they will give up the use when it is no longer necessary. Olin moves to approve and Tom 2nds. Board approves 5-0**

**Petition of: Regina M. Williford (owner) for a special use permit from Article 16 to allow an accessory family dwelling unit. Said real estate located at 22 Connecticut Avenue and further identified as Lot 105 on Tax Assessor's Plat 108NW.**

**Regina Williford and Contractor Shulheiss is present but doesn't testify. Mrs. Wilford explains that she is building out the unit for her daughter and grandson to live in. Olin moves to approve and Eric 2nds. Board approves 5-0**

**Petition of: David A. Jordan & Donna M. Shoppell (owners) by their attorney Robert M. Silva, Esq. for a variance from section 603 to allow the creation of a lot with 0' frontage on a public street where 120' is required. Said real estate located at 493 Green End Avenue and further identified as Lot 185 on Tax Assessor's Plat 114.**

**Robert Silva presents the case. Silva presents exhibit A Planning board approved the plan conditionally based on relief from zoning board (on November 15, 2017). Silva explains that there is plenty of land but a lack of frontage. A brother and sister will have neighboring**

houses. There will be a utility easement (driveway) providing for a permanent easement for the benefit of the rear lot. Engineer Mike Russell testifies public sewer is available. Silva explains that this is more than a mere inconvenience. Neighbor protests. Application continued to Feb 22nd.

**Petition of: Maria Recalde & Elizabeth Maillett (owners)- for a Variance from Section 603, 701 & 803G - demolish a portion of the 2nd floor and construct a 58.3 sq. ft. 2nd floor deck with a right-side yard setback of 5'-1" where 15' is required and a rear yard setback of 11'-3/8" where 30' is required and 43.4% lot coverage where 25% is allowed. Said real estate located at 78 Crest St and further identified as Lot 154 on Tax Assessor's Plat 116NE. David Micheal builder and Elizabeth Maillett (3rd Floor not 2nd Floor). David explains their is a 3rd floor covered deck and its not a functional size for furniture and enjoyment. Nuytkens questions the increased lot coverage to 43.4 from 41 an already high lot coverage amount. Sousa and Miller agree the increased lot coverage is on the 3rd floor and the cantilever is non-impactful on the neighborhood. Kirton approves Tom Heany 2nds. Board approves 5-0**

**Petition of: Maria Pappas Corey (owner)- for a Variance from Sections 603 & 703C-to allow an accessory structure of 230 + - sq. ft. to be located within 5' of a property line where 15' from the side yard and 10' from the rear yard is required and allow 27.85% in lot coverage where 25% is allowed. Said real estate located at 25 Wolcott Ave and**

further identified as Lot 17 on Tax Assessor's Plat 115. Adileno Muchado Maria Pappas testifies a deck (the structure in question) was built by ex-husband illegally without a permit. Adileno Muchado then rebuilt the rotting structure without permitting structure. They are here to retroactively permit the structure but it needs relief.

Mrs O'Brien (neighbor) Objects to the structure on her property line. She explains it has been the cause of noise and disruptions since its proximity to her property is close.

Joe Terliner (neighbor) also testifies.

The board members reflect on whether or not they would had permitted this structure if it was a new application presented having the current existing conditions

Miller, Sousa, and Heany decide the the relief necessary is excessive and suggest that a patio a legal option.

Gambrell and McGillvray agree the the relief necessary is minimal

Board denies the application 3-2

Meeting adjourned 7:47

All items on this agenda may be considered, discussed and voted upon.

This meeting location is accessible to the handicapped. Individuals requiring interpreter services for the hearing-impaired should notify the Town Clerk's Office at 401 847-0009 not less than 48 hours before this meeting.