

MINUTES

REGULAR MEETING –FEBRUARY 27, 2018

ZONING BOARD OF REVIEW

LOCATION: 350 EAST MAIN ROAD, MIDDLETOWN, RHODE ISLAND

TIME: 6:00 pm

Administrative: Roll Call/Adoption of Minutes January 23rd, 2018

Roll Call: Chairman Jim Miller (present), Vice Chair Stephen MacGillvray (absent), Olin Gambrell (absent) Secretary Chris Sousa (present), Thomas Heaney (present), Eric Kirton (absent), Henry Pine (present), Mark Nuytkens (present).

Adoption of minutes January 23rd Tom Heaney 1sts, Chris Sousa 2nds 5-0

Continuances/Withdrawals:

Petition of: Sherwin Baghai & Elizabeth Merkel-Baghai (owners)- for a Variance from Sections 603, 701 & 803G- to allow a 2nd floor covered deck over existing front porch with a front yard setback on Allston Ave of 11'-11" where 25' is required and a left side yard setback of 9'-11" where 15' is required and an 8' x 10' covered rear deck entry platform with a front yard setback on Allston Ave of 11'-6" where 25' is required. Said real estate located at 215 Purgatory Rd and further identified as Lot 181A on Tax Assessor's Plat 116NE. Continued unit March 27th, 2018

Petition of: Stanfield Corporation (owners) Benzine Development,

LLC (applicant)- by their attorney David P. Martland, Esq.- for a Special Use Permit from Sections 602, 717 and Article 11- to permit a gasoline station with convenience store and drive-up window and a vehicle washing establishment located in a Limited Business- Traffic Sensitive Zone (LBA) and in Zone 1 of the Watershed Protection District (WPD). Said real estate located at 533 East Main Rd and 1225 Aquidneck Ave and further identified as Lots 190, 191, 192, 193, 195 & 197 on Tax Assessor's Plat 113. Continued until March 27th, 2018

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. Continued until March 27th, 2018

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. Continued until March 27th, 2018

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. Continued until March 27th, 2018

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. Continued until March 27th, 2018

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 until March 27th, 2018

Petition of: Aimee D. Phelps (owner) by her attorney Richard P. D'Addario, Esq. for a Special Use permit from section 803(A) to allow the expansion of a nonconforming use by the demolition and reconstruction of a portion of the first floor and the addition to the second floor with no increase in the lot coverage. Said real estate located at 17-19-21 Warren Avenue and further identified as Lot 170 on Tax Assessor's Plat 115SE. Continued until March 27th, 2018

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. Withdrawn without Prejudice. Tom Heaney 1sts, Chris Sousa 2nds 5-0

Petition of: On the Pond, LLC (owners) and Diego's Middletown, LLC (applicant) by their attorney David P. Martland, Esq. for a Special Use permit from section 602 and 803A to permit the expansion of an existing restaurant with a liquor license by expanding the existing deck and adding a second floor deck to the rear of the structure while reducing the overall capacity. Said real estate located at 116 Aquidneck Avenue and further identified as Lots 135 & 136 on Tax Assessor's Plat 115SE. Continued March 27, 2018

Petition of: On the Pond, LLC (owners) and Diego's Middletown, LLC (applicant) by their attorney David P. Martland, Esq. for a Variance from section 603 and 803G to grant a variance from the right side yard setback allowing a deck with a 13.2' setback where 20' is required. Said real estate located at 116 Aquidneck Avenue and further identified as Lots 135 & 136 on Tax Assessor's Plat 115SE. Continued March 27, 2018

Petition of: Austin Holdings Corp (owners) by their attorney Sean M. Bouchard, Esq. for a Special Use permit from section 602 to allow the construction of a two-family dwelling. Said real estate located at 255 Oliphant Lane and further identified as Lot 64 on Tax Assessor's Plat 112. Continued March 27, 2018

Petition of: Austin Holdings Corp (owners) by their attorney Sean M. Bouchard, Esq. for a Special Use permit from section 602 to allow the construction of a two-family dwelling. Said real estate located at 255 Oliphant Lane and further identified as Lot 29A on Tax Assessor's

Plat 112. Continued March 27, 2018

Petition of: Austin Holdings Corp (owners) by their attorney Sean M. Bouchard, Esq. for a Variance from section 603 to allow the construction of a two-family dwelling with a lot area consisting of 10,968 square feet where 40,000 square feet is required. Said real estate located at 255 Oliphant Lane and further identified as Lot 29A on Tax Assessor's Plat 112. Continued March 27, 2018

FULL HEARINGS

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.

Attorney Silva presents the case. He explains that Engineer Mike Russell testified in the last meeting on January 23rd that a hardship exists in subdividing the land, as there is plenty of land but not enough frontage. The family has owned the land for a long time and the condition exists through no fault of the owner. Silva explains that he reached out to the two neighbors that had questions about the subdivision in the January 23rd meeting in the form of a letter. Neighbor Lima seemed satisfied with the subdivision plan and neighbor Goddard had no further correspondence after the letter and an attempted phone call. No neighbors showed up during this meeting to protest the application.

The planning board had agreed to the proposal during a November 8, 2017 meeting subject to the planning boards conditions.

Thomas Heaney comments that the subdivision is provided the least relief necessary.

Heaney moves to approve the variance and Sousa 2nds. Board approves 5-0

Petition of: Konstanino & Elani Moisiades (owners) and Mark DeStefano/Benelly, LLC (applicant) by their attorney Joseph F. Hook, Esq. for a Special Use permit from section 602 to allow the rental of electric bikes from the premises. Said real estate located at 62 Wave Avenue and further identified as Lot 3 on Tax Assessor's Plat 116NW. DeStefano testifies that he will be renting approx 20 electric bikes from the premises. Bikes will be kept indoors or on side of building and will not effect limited parking. Members of the board voice concerns about possible parking limitations. DeStefano testifies that most of his business will be selling bikes and that most of the rental business will cater to folks on foot. The board unanimously agrees the bikes are a welcome addition in any form to alleviate automobile traffic, and a complimentary business to the public beach. They also agree that there are other more intensive uses for the business space that would be much less desirable. Tom Heaney moves to approve the application. Chris Sousa 2nds. Board approves the Special Use Permit 5-0

Petition of: The Clambake Club of Newport (owners) by their attorney Robert M. Silva, Esq. for a Special Use permit from section 803(A) to permit the expansion of an existing non-conforming use by way of the creation of a curb cut on Tuckerman Avenue with a 24' by 125' driveway for emergency and service vehicle use. Said real estate

located at 353 Tuckerman Avenue and further identified as Lot 139 on Tax Assessor's Plat 122.

Silva Presents his case. He first explains that the Clambake club at significant expense has repaired the coastal assent feature along the ocean side of the property. The repairs were permitted by the CRMC and as a requirement of the repairs the Club must maintain the coastal assent for 50 years (Silva presents Exhibit A to validate the point he makes about 50 years of maintenance). Silva then explains the necessity of a curb cut and 125 foot driveway that will serve to maintain the coastal assent.

Silva then introduces Robert W. Fairbanks Jr. (Engineer of the new driveway) for the purpose explaining the design of the driveway (Exhibit B). Fairbanks explains that the design of the new driveway will be built to handle the required storm runoff.

Silva then introduces Exhibit C and Real Estate Expert George Valentine to speak to the 5 requirements of the Special Use permit and its non-impact on the neighborhood, and its consistency with the Comprehensive Community Plan. Silva closes his case.

Board member Mark Nuytkens asks questions about alternate locations for the assent, and questions the safety of the new driveway location for incoming traffic and construction trucks. Members also confirm that the driveway will be used only for its stated purpose of emergency and service vehicle use only. The board is satisfied with the testimony. No neighbors come to speak for or against the assent.

Sousa moves to approve the application. Heaney 2nds. Board Approves the Special Use Permit 5-0

Petition of: John DePaola (owner) for a Variance from section 603,701 & 803G to construct a 8.5' x 23' second floor deck with a rear setback of 11' where 30' is required. Said real estate located at 173 Tuckerman Avenue and further identified as Lot 27 on Tax Assessor's Plat 116SE.

DePaola presents his case. He explains that he purchased the home in 2017 and he is simply trying to rebuild a deck that existed prior, but was taken down by the previous owner in 2013. He explains that the deck will stay within the existing building footprint, the deck runs off his master bedroom on the 2nd floor, and is for his own personal use. No neighbors show up for or against the application. The board agrees that the applicant is rebuilding something that existed prior, and the application satisfies the 5 criteria for a special use permit.

Heaney moves to approve the application. Chris Sousa 2nds. The board approves the Special Use Permit 5-0.

MEETING ADJOURNED: 8:11PM

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.