

STATE OF RHODE ISLAND CITY OF EAST PROVIDENCE

COUNTY OF PROVIDENCE MINUTES

ZONING BOARD OF REVIEW

A meeting of the East Providence Zoning Board of Review was held at 6:00P.M., on Wednesday, **2 September 2020**, in the City Council Chambers, East Providence City Hall.

The following members were present:

Eugene Saveory – Chairman

Michael Beauparlant – Vice-Chairman

John Braga

Richard Croke, Sr.

Gary Pascoa

Matthew Robinson – 1st Alternate

Andrew Cotton – 2nd Alternate - **ABSENT**

Edward Pimentel – Zoning Officer / Clerk

Michael Marcello – City Solicitor – **Present via Zoom**

I. OPENING STATEMENT BY CHAIRMAN

Chairman Saveory announces that it is the policy of the Zoning Board of Review to caution all petitioners that they have the right to counsel before the Board and failure to do so at this time does not constitute sufficient grounds for a change in circumstances under the eighteen-month repetitive petition clause. All petitioners are also cautioned that if the petition is approved, all construction must be done in compliance with the submitted plan(s), application and testimony presented to the Zoning Board of Review. A change of any sought must obtain the requisite approval of the Zoning Board of Review. All work that deviates from the approval will be ordered halted and promptly removed. Comments will be limited to the petition being heard and no comments will be heard that do not pertain to an item scheduled on tonight's docket. He also notes that it is the policy of the Board that no new agenda item will be heard after 10:30 PM.

Chairman Saveory also notes that the Board welcomes any commentary from the public provided it solely pertains to an item on tonight's docket.

A. Swearing in of the Zoning Officer

Chairman Saveory asks the stenographer to swear in the **Zoning Officer, Mr. Pimentel**.

II. SEATING OF ALTERNATE MEMBERS

Chairman Saveory informs the public that there are two new alternates to the board, **Matthew Robinson is the 1st Alternate** and **Andrew Cotton, who is not present tonight, is the 2nd Alternate**.

Mr. Robinson will be participating but not voting until **Petition No. 6771 and 6772 regarding 310 Greenwood Avenue** is heard, then **Vice Chairman Beauparlant** will recuse himself and **Mr. Robinson will be a participating and voting member**.

III. APPROVAL OF ZONING BOARD MINUTES

Chairman Saveory asks for approval of the **13 July 2020**, Zoning Board of Review Minutes. **Motion by Mr. Braga** to approve the **13 July 2020**, Zoning Board of Review Minutes. The motion is **Seconded** by **Vice Chairman Beauparlant** and **Unanimously** approved.

Chairman Saveory asks for approval of the **15 July 2020**, Zoning Board of Review Minutes. **Motion by Mr. Croke** to approve the **15 July 2020**, Zoning Board of Review Minutes. The motion is **Seconded** by **Vice Chairman Beauparlant** and **Unanimously** approved.

Chairman Saveory asks for approval of the **20 July 2020**, Zoning Board of Review Minutes. **Motion by Mr. Braga** to approve the **20 July 2020**, Zoning Board of Review Minutes. The motion is **Seconded by Vice Chairman Beauparlant** and **Unanimously** approved.

Chairman Saveory asks for approval of the **22 July 2020**, Zoning Board of Review Minutes. **Motion by Vice Chairman Beauparlant** to approve the **22 July 2020**, Zoning Board of Review Minutes. The motion is **Seconded by Mr. Braga** and **Unanimously** approved.

Chairman Saveory asks for approval of the **12 August 2020**, Zoning Board of Review Minutes. **Motion by Vice Chairman Beauparlant** to approve the **12 August 2020**, Zoning Board of Review Minutes. The motion is **Seconded by Mr. Braga** and **Unanimously** approved.

IV. ZONING OFFICER'S REPORT

Chairman Saveory announces that there is nothing to report.

V. CORRESPONDENCE / DISCUSSION

Chairman Saveory announces there has been correspondence regarding,

1. An updated site plan and emails regarding 169 Rounds Avenue that have been previously submitted.
2. The planner's report for 58 Merrick Street that has been previously submitted.
3. Doug McIlm's resume that has been previously submitted.
4. An updated site plan for 310 Greenwood Avenue that has been previously submitted.

VI. STAFF REPORTS

1. Planning Department Staff Report – 28 August 2020 - Previously Submitted
2. August 2020 - Zoning Complaint List – Previously Submitted

VII. CONTINUED BUSINESS

1. Petition No. 6792 - FRANCIS J. SOUSA, requests dimensional variances to retain an accessory shed that fails to comply with the accessory side-yard setback and front-yard setback requirements, will be maintained between a public right-of-way (roadway) and principal land usage (residence), as well as exceeding the maximum building coverage, for property located at **6 PARK SQUARE, being MAP 513, BLOCK 34, PARCEL 6, in a RESIDENTIAL 4 DISTRICT.**

Mr. Pimentel explains to the board that **Mr. Sousa** has recently purchased another property and is considering moving the shed to the new property and would like a formal continuance.

Motion by Mr. Croke to continue this petition from 2 September 2020 to 14 October 2020, the motion is **Seconded by Mr. Braga** and **Unanimously** approved.

2. Petition No. 6800 - VALENTIN A. TOMA, requests dimensional variances to retain an accessory shed, without complying with the requisite accessory side and rear-yard setback requirements, as well as requisite setback from all other structures, for property located at **169 ROUNDS AVENUE, being MAP 612, BLOCK 17, PARCEL 29, in a RESIDENTIAL 3 DISTRICT.**

Valentin Toma of 169 Rounds Avenue Riverside, RI is properly sworn in.

Mr. Toma explains to the board that he has re-submitted a new plan and has moved the shed 12 inches from the property line. **Mr. Toma** explains he has spoken to the immediate abutter that was originally against the petition and he submitted the emails with the updated plan.

Mr. Braga inquired if it was the same shed just moved over.

Mr. Toma answers that is correct.

Mr. Braga explains that he is more inclined today to give an approval than the first time **Mr. Toma** was before the board. **Mr. Braga** inquires if there is a coverage issue.

Mr. Pimentel answers no.

Mr. Braga inquires if the size of the shed is 20x8.

Mr. Toma answers yes but it has shrunk.

There is confusion over the size of the shed and Mr. Toma proposes to show the board an 11x17 size of the

site plan.

Motion by Mr. Pascoa to accept the 11x17 map as Exhibit A, the motion is Seconded by Vice Chairman Beauparlant.

Mr. Robinson has no questions at this time.

Mr. Pascoa has no questions at this time.

Vice Chairman Beauparlant explains that he is not a big fan of the shed and still has concerns that **Mr. Toma's** shed is on top of his neighbor. **Vice Chairman Beauparlant** believes that there are other areas of the yard that the shed could be placed instead.

Mr. Croke notes that the previous owner was granted variances in the past and believes that the property is in full use.

Mr. Croke notes that the zoning ordinances for shed setbacks are 5ft. from property/fence line and believes that the agreement between **Mr. Toma** and the neighbor does not supersede zoning ordinance.

Chairman Saveory inquires what the shed will be used for.

Mr. Toma answers that it will store bicycles and kayaks.

Chairman Saveory inquires the total length of the shed from the rear corner of the fence to the rear corner of the deck.

Mr. Toma answers about 20.9ft.

Chairman Saveory inquires if **Mr. Toma** will be putting gutters over the front of the shed and if there will be any overhang on the rear and sides of the shed.

Mr. Toma answers yes there are gutters on the front but there is no overhang on the rear or sides of the shed.

Chairman Saveory inquires why the shed cannot be relocated.

Mr. Toma explains that it is possible but then that it is impossible when moving the kayaks.

Chairman Saveory believes everything is clustered to the right of the property.

Mr. Toma notes that his neighbors are happy.

Mr. Croke inquires why the kayaks cannot go into the garage.

Mr. Toma answers that is where the kayaks are now and a number of bicycles, **Mr. Toma** explains that he cannot utilize the garage.

There is no one present on the Zoom conference.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none, **Chairman Saveory** inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, **Chairman Saveory** queries the Board for a motion.

Motion by Mr. Braga,

Based on all evidence presented to the Zoning Board of Review and personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board of Review hereby finds pursuant to Section 19-45(a) of the City of East Providence Zoning Ordinance:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).
2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.
3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.
4. The relief to be granted is the least relief necessary.

The Zoning Board of Review hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

1. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Mr. Braga moves that the dimensional variances be **Granted** subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits - said permits necessary to exercise (execute) the relief granted. Failure to obtain requisite permit(s), if needed, within the six-month approval period (one-year, if extended by the Zoning Board of Review), will result in expiration of said approval.
2. Strict compliance, to include: Submitted site plan (or amended site plan, as it may be applicable) and site plan package; all exhibits; entire testimony of applicant and/or property owner; presentation of legal counsel (if applicable); and, testimony of all expert(s), if applicable.

Chairman Saveory asks **Mr. Toma** if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. **Mr. Toma** responds that he fully understands and accept the conditions just stipulated.

Motion is Seconded by Vice Chairman Beauparlant

Roll Call Vote **The board feels that there are better areas of**
Mr. Pascoa – Aye **the property that the shed could be located on.**
Mr. Croke - Nay **The board believes that the applicant caused the**
Mr. Braga - Nay **hardship. The board does note some hardship**
Vice Chairman Beauparlant – Nay **does stem from the property being on a corner lot.**
Chairman Saveory – Nay

Dimensional variance(s) has been denied 4-1.

Mr. Toma inquires if it is possible to submit another set of plans with re-locating the shed to a different area of the property.

Mr. Pimentel explains that this petition has been denied and he must submit a new application.

VIII. NEW BUSINESS

1. Petition No. 6791 - ARMAND F. FERLAND, requests dimensional variances to convert an accessory shed to a cabana and introduce rear-yard improvements, to consist of a swimming pool and patio area, without complying with the minimum rear-yard setback requirement, as well as exceeding maximum impervious lot coverage requirement, for property located at **58 MERRICK STREET, being MAP 403, BLOCK 5, PARCEL 4, in a RESIDENTIAL 3 DISTRICT.**

Attorney John Shekarchi is representing the petitioner.

Attorney Shekarchi presents **Mr. Doug McIaim** as an expert in land use and planning.

Doug McIaim is properly sworn in.

Attorney Shekarchi explains to the board that the petitioner has owned the home for about 3 years and would like to convert the existing structure into a pool cabana and create an inground swimming pool.

Mr. McIaim explains that the applicant has gone above and beyond for any mediation issues. These steps for mediation are the following, proposed landscape screen of arborvitae, keeping and extending the 6ft. stockade fence, the cabana will have no doors or windows in the rear facing the neighbors, and the cabana will go through significant rebuilding. When it comes to concerns regarding noise level, there is a city ordinance in place and the board cannot grant relief for that. **Mr. McIaim** follow-ups that there were concerns regarding drainage and explains to the board that the applicant has included a drywell system and that he has a statement from the landscape architect stating that they believe the plan will not create more water run-off. **Mr. McIaim** believes that since the pool will be in ground that creates more privacy, there are two other backyard pools in the area that are not in ground and there are 4 properties in the area that also exceed impervious coverage. **Mr. McIaim** notes in his report presented on the record that he believes that this is the least relief necessary and that this is a conservative and reasonable approach. **Mr. McIaim** further explains that this is not for financial gain and that the applicant intends to live here.

Attorney Shekarchi would like to submit the statement from the landscape architect into the record and statements from 21 abutters approving this petition.

Motion by Vice Chairman Beauparlant to accept the **statement from the landscape architect as Exhibit A, the**

motion is Seconded by Mr. Pascoa.

Motion by Vice Chairman Beauparlant to accept the **statements from the 21 abutters as Exhibits B1-B21**, the **motion is Seconded by Mr. Pascoa.**

Mr. Pimentel does explain that if this petition is approved, it must go through the permitting process where the Engineering office will handle reviewing the plans for any water run-off concerns.

Vice Chairman Beauparlant inquires if the cabana will have any overhang onto another property.

Attorney Shekarchi explains that there was an existing overhang that will remain.

Mr. Pimentel explains that the existing building was structurally unsound but to remain grandfathered in the cabana must be built in the same footprint.

Vice Chairman Beauparlant inquires about plan labelled L1 that shows the arborvitaes and what is the space between them and the cabana.

Mr. McIaim explains that the cabana itself will not be screened.

Vice Chairman Beauparlant inquires if there are concerns from the neighbors, would the petitioner be willing to cover the cabana.

Attorney Shekarchi answers yes.

Vice Chairman Beauparlant notes that the plans show an existing fence but currently the fence is down facing Estrella's property.

Mr. McIaim recognizes that the fence is currently down and explains that they will install a fence there.

Vice Chairman Beauparlant explains that he originally had concerns regarding windows in the cabana but feels better now after seeing the plans and that there are no windows in the back of the cabana.

Mr. Croke notes that the property has been vacant due to repairs but how long has it been.

Armand Ferland is properly sworn in.

Mr. Ferland answers that the property has been vacant for 2 years.

Mr. Croke inquires that if the house is empty, then where is the hardship.

Mr. Ferland explains that he will occupy the home in a few weeks.

Mr. McIaim notes that the homeowner has spent some time renovating the home.

Mr. Croke inquires where the shed is.

Mr. Ferland answers that it was torn down and being rebuilt as we speak.

Mr. Croke expresses his concerns for safety regarding the pool.

Mr. Ferland assures **Mr. Croke** that the pool will be fenced in.

Mr. Braga explains he does not have a problem with the repurposing of the shed but does question the need for that much impervious coverage. **Mr. Braga** inquires if the petitioner will do the drywell.

Attorney Shekarchi answers yes, he will.

Mr. Braga inquires about the outside kitchen and the kitchen in the cabana.

Mr. Ferland explains that the outside kitchen is just a grill and the cabana will not have a stove.

Mr. Braga inquires if **Mr. Ferland** would agree to the stipulation of no stove in the cabana.

Mr. Ferland answers yes.

Mr. Robinson expresses his concerns about the impervious coverage and the potential for the cabana to become an apartment in the future but feels better with the stipulation of no stove. **Mr. Robinson** notes that the cabana was built to the same dimensions and that it has a beautiful layout and is better than what was there previously and that this is a reasonable variance.

Mr. Pascoa has no questions at this time, for they have already been addressed.

Chairman Saveory inquires what the difference is between a cabana and a poolhouse.

Mr. McIaim explains that there really is no difference and neither are defined in the zoning code. The code does allow structures for changing rooms, shower rooms or equipment house so both do fall in line with that definition.

Chairman Saveory believes that a 20x20 structure is excessive and although there is no stove there will be a

refrigerator, shower, and toilet. **Chairman Saveory** inquires if there will include a tub and about utilities. Will there be sewage, electricity, water or any gas hook ups.

Mr. McIlaim answers that there will be plumbing and electricity but no gas.

Chairman Saveory inquires if there will be any insulation and heating.

Mr. McIlaim answers yes there will be electric heat.

Chairman Saveory is concerned about the impervious coverage issue and inquires if the cabana could have been cut down in size. **Chairman Saveory** believes this is an accessory unit and has concerns for a future apartment and inquires what the common space proposed will be used for.

Mr. McIlaim answers for changing space and storage.

Chairman Saveory is concerned with the set up and believes even without the stove it is an apartment. **Chairman Saveory** believes that it needs to look more like a pool house/cabana.

Mr. McIlaim explains that the size was an existing size, and that the petitioner would agree to never allow it to become an apartment.

Chairman Saveory still has concerns with the size of the cabana and that there will be electric heat.

Attorney Shekarchi explains that the cabana could not have heat if it would make the board feel better.

On Zoom Format

Nick and Alicia Craig of 34 Brayton Avenue Rumford, RI

Mr. Craig notes that the fence is partially taken down and contractors has informed him there were no plans to replace it. Mr. Craig expresses his concerns regarding drainage, that the cabana is not in the same foot print and dimensions as the previous shed and that the 21 letters are actually not from abutters.

Ms. Craig expresses concerns since there is no fence and that there are small children in the area. Ms. Craig also has concerns that this is going right against the property line and is no similar to the previous structure.

Attorney Shekarchi explains that the petitioner is more than happy to install a fence since it is also part of the building code.

Dolly Brooks of 53 Thatcher Street Rumford, RI

Ms. Brooks believes the homeowner created this situation and the property was occupied by a tenant in 2017. Ms. Brooks explains that the property has been under construction since then and that the garage was still functional. Ms. Brooks believes that the homeowner purposely made the shed unsound so it could be demolished and is concerned since the project begun before coming before the board. Ms. Brooks doesn't believe the 21 letters are from abutters and that this will decrease the value of the neighborhood and is overbuilt since the cabana is towering.

Chairman Saveory requests a recess at 7:57pm and the board reconvenes at 8:10pm.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none, **Chairman Saveory** inquires if there is anyone present who would like to speak against the subject petition.

Nicolau Pereira of 57 Thatcher Street Rumford, RI is properly sworn in.

Mr. Pereira explains to the board that he has proof of the existing garage and the metal shed attached to the garage.

Mr. Pereira explains that in July the contractor was installed blue piping after they had dug a trench and that he contacted the city but never heard anything else about it. **Mr. Pereira** believes there was nothing wrong with the original garage and that the foundation is different than the original garage's foundation. **Mr. Pereira** would also like to see the 21 letters if possible because he does not believe they are from abutters.

Motion by Vice Chairman Beauparlant to accept the photos from Mr. Pereira of the previous garage from 2018 as Opponents Exhibit A, the motion is Seconded by Mr. Braga.

Motion by Vice Chairman Beauparlant to accept the photos from Mr. Pereira of the property currently as Opponents Exhibit B, the motion is Seconded by Mr. Braga.

Phillip Norton of 55 Merrick Street Rumford, RI is properly sworn in.

Mr. Norton explains he wants the 21 letter dismissed from the record because they aren't within the 200 sq. ft. radius and wants a stop work order on the project.

Mr. Braga explains that the Building Official deemed the garage un-structurally sound.

Mr. Pimentel explains that the petitioners have to meet today's code even when they are grandfathered in. For example, the previous garage may not have had a foundation but in today's time it is required by code.

Motion by Vice Chairman Beauparlant to accept the email from Patty Demarest opposing the petition as Opponents Exhibit C, the motion is Seconded by Mr. Braga.

Mr. McIlaim explains that the structure is currently permitted and is grandfathered in so they could not make it smaller.

Attorney Shekarchi requests a formal continuance to amend the plan.

Solicitor Marcello suggests to the board that they would make the petitioners continue with notice if the continuance is for more than 30 days due to the petition being so controversial.

Attorney Shekarchi explains he would like it to be less than 30 days, but understands that it is up to the Zoning Officer.

Mr. Pimentel explains that only the **14 October 2020** meeting is available and suggests that any modifications be submitted no later than 3 weeks prior, so everything must be submitted by **24 September 2020**.

Motion by Vice Chairman Beauparlant to continue the petition from 2 September 2020 to 14 October 2020 with notice to the abutters and to have everything submitted by 24 September 2020, the motion is Seconded by Mr. Braga.

2A. Petition No. 6771 - 310 GREENWOOD AVE., LLC, requests dimensional variances to convert a prior commercial usage of property (as approved by the Zoning Board of Review), to an altogether different combination of prohibited land uses, without complying with the minimum off-street parking provision requirement, exceeding the maximum signage and placement of said signage requirements, as well as seeking a waiver on providing a trash storage area (dumpster) concluding that one is not required for the intended commercial usage, for property located at **310 GREENWOOD AVENUE, being MAP 403, BLOCK 20, PARCEL 6.1, in a RESIDENTIAL 3 DISTRICT.**

Vice Chairman Beauparlant recuses himself and Mr. Robinson, 1st Alternate is now a participating and voting member.

Attorney Joseph Brennan is representing the petitioner.

Attorney Brennan explains to that board that his client purchased the property in the fall of 2019 and has been working closely to find a use similar to what the property has been used for in the past. In the past, the property has been used as a butcher shop, a convenience store, and most recently a hair salon. The petitioner originally wanted to create a convenience store but after meeting and speaking with the abutters and hearing their concerns the plan now is to introduce a golf simulation course and on the 2nd floor will be two 1 bedroom apartments. The Planning Official explained to them that there was a shortage of 1 bedroom apartments in the area. **Attorney Brennan** believes that golf simulation is more compatible with the neighborhood with the nearby golf course. The abutters liked the hair salon since it was appointment only and for the golf simulation the busy season will really be in the winter and will be appointment only. There will be only one employee with 3 simulation areas and the appointments will be booked through an online site. The golf simulation will not sell food, beverages or liquor so there is no real need for a dumpster and are requesting a waiver. Any trash can be disposed of in a regular trash can or taken away from the property to another location. The signage variance is no longer required since it will no longer be a convenience store. They still require relief for the parking variance, there will only be about 5-6 parking spaces once the bulk head is removed and they will not be blocking any easements. **Attorney Brennan** notes that the board cannot create an easement and if they did it would be illegal. **Attorney Brennan** stresses to the board that the petitioner is trying to be a good neighbor and believes they have accomplished that and even has a petition with 100 signatures from abutters in favor of the petition.

Motion by Mr. Braga to accept the petition with the 100 signatures as Exhibit A, the motion is Seconded by Mr.

Robinson and Mr. Pascoa.

Michael Sweeney is properly sworn in.

Mr. Sweeney explains to the board that he is the owner of the property and is a member of the local country club. **Mr. Sweeney** owns other properties in the area and believed this property to be an eye sore so he purchased with wanting to make the property look nice and with the idea of bringing back the old convenience store. **Mr. Sweeney** tells the board that there is currently a golf simulation course in Newport, Rhode Island and spoke with the owner there. It is popular during the winter time and will be sound proof. **Mr. Sweeney** suggests to even assign parking and is willing to work with neighbors and the city and wants to do things by the book.

Attorney Brennan believes that they have met the requirements for a dimensional variance.

Mr. Braga inquires about the actual number of parking spots.

Attorney Brennan explains that it is practically 6 but they cannot meet the East Providence code for turnaround space.

Mr. Braga explains he can buy the idea of the golf simulation but can't buy the idea of the two apartments.

Attorney Brennan explains that they will provide spaces for the units but can't meet for the commercial use.

Mr. Braga explains he would be more comfortable with just the commercial use and not the residential units and wants to know what the proposed residential space is being used for now.

Attorney Brennan explains that it was previously an illegal apartment but now is vacant.

Mr. Robinson inquires why the square feet of the proposed apartments don't meet the size requirements.

Mr. Sweeney explains that he would even do one unit that has two bedrooms, he had believed he was working with the city by providing one bedroom units.

Mr. Pimentel explains that the size regulations apply when it is a single family or a true duplex, with this being a mixed use property that's why it wasn't required for a variance in this case.

Mr. Pascoa inquires about hours of operation.

Mr. Sweeney answers that it would be 9am-6pm, there are no plans for it to be a late night operation. There will also be no neon sign, no deliveries and will be sound proof. **Mr. Sweeney** expects the busier times of year to be fall, winter and spring but during the summer when people will be golfing will have lighter hours.

Mr. Croke inquires if the first 2 parking spaces behind the property belong to Mr. Sweeney.

Attorney Brennan explains that they believe that they are but it is ultimately a private matter and not to be heard before the board and heard before a court of law.

Chairman Saveory notes that when the building was created it was a "walking society" and the building is a victim of time. The parking is probably the tightest that he has seen and is an issue and will be for the tenants and customers. The property is also sitting on a very busy road used for a shortcut.

On Zoom Format

Jane Burre of 316 Greenwood Avenue Rumford, RI

Ms. Burre explains her husband is present and will speak on their behalf.

Sister Terry Farrell of 40-42 Elm Street Rumford, RI

Sister Farrell expresses her concerns regarding parking since it is already limited and when it snows the snow is packed up which reduces even more parking. **Sister Farrell** believes removing the bulkhead will do no good. **Sister Farrell** explains that the previous tenants/owners were not accommodating and constantly taking her parking space.

Mr. Croke inquires if **Sister Farrell** pays for the parking space.

Sister Farrell answers yes, it is included in the rent.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition.

Karl Sherry of 30 Greenwood Avenue Rumford, RI is properly sworn in.

Mr. Sherry admits to the board that he was against the convenience store and that there would be too much going on but now believes the golf simulator will be an outstanding use. **Mr. Sherry** has driven and personally has no issues with

the turn-around in parking spaces. The building has been becoming an eye sore and knows the owner and seen the work that he has done and believes he will do a good job.

Edward Lynch of 123 Don Avenue Rumford, RI is properly sworn in.

Mr. Lynch explains to the board that he has been a resident of Don Avenue since 1968 and doesn't like how the existing building looks since it has no windows. **Mr. Lynch** supports this idea since it will have only a few people at a time by appointment only and will not cause a lot of traffic. **Mr. Lynch** believes the apartments are a good idea too and can be rented out to the interns at Wannamoisett Country Club. **Mr. Lynch** has seen **Mr. Sweeney's** other properties on Don Avenue and Bourne Avenue and both are gorgeous and hopes that this petition passes.

John Baldwin of 71 Hoyt Avenue Rumford, RI is properly sworn in.

Mr. Baldwin believes that this will be an improvement and will be nice to have young children be able to use the property as well. Regarding the traffic situation, **Mr. Baldwin** believes that with traffic devices such as stop signs and lights, it helps slowing traffic down.

Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition.

Antonio Cunha of 10 Don Avenue Rumford, RI is properly sworn in.

Mr. Cunha explains to the board that he lives across the street from this property and isn't totally against this petition, but he does have concerns regarding parking. **Mr. Cunha** mentions that at some point in time his driveway was on Greenwood Avenue then was moved to Don Avenue however, the opening the sidewalk on Greenwood Avenue was being used by customers of the hair salon and were parking on the sidewalk. This brings up concerns of pedestrians being forced to walk out into the street. **Mr. Cunha** did hear rumors of the owners applying for a beer and wine license so would like to know who the business is really for, is it for professionals or a more family friendly environment with children being allowed to go. **Mr. Cunha** would like curb stones installed and have an actual sidewalk installed in front of the property and to have the hours of operation as a condition of approval.

John Burre of 316 Greenwood Avenue Rumford, RI is properly sworn in.

Mr. Burre explains to the board that he lives right next door to the property and has concerns with the parking and cars constantly being parked in front of his house. **Mr. Burre** notes from personal experience he has never been to a golf simulator that didn't serve drinks and food and also wants the hours of operation set in stone. **Mr. Burre** believes that it is too many people in one building and has never spoken with the owner of the property.

Attorney Brett Jedele is representing the homeowners at 352 Greenwood Avenue Rumford, RI

Attorney Jedele explains that his clients appreciate the revised plans but his clients still have concerns about parking, intensification, hours of operation and the potential for the building to become a social club. The parking situation is only 6 spaces when 8 is required only leaving 2 spaces for the residential tenants and 3-4 spaces for customers and about 3-4 people could fit into each bay. This could lead to anywhere from 12-16 people on the 1st floor alone not including the tenants and where would all of these people park? This would cause spill over on a dangerous cut through street. The intensification is that 12-16 people could be using the facility. **Attorney Jedele** notes that the previous beauty salon never gained approval and now the salon use has been abandoned and it was never clear about the number of stations in the salon and it was only opened a few days a week. **Attorney Jedele** explains that there are concerns about the hours of operation since it is in a residential neighborhood and that eventually this golf simulator will turn into a social club. Golf can be fun and has a social component and could be extended too far and will extend the use. **Attorney Jedele** would like to impose 3 conditions, limit the intensity of the 1st floor. The second is that hours should be restrained and set and the third is the condition that the property cannot be used for a social club and no liquor sales, no liquor use, no food service, no gambling, and no tobacco including vaping.

Chairman Saveory requests a recess at 9:57pm and the board reconvenes at 10:08pm.

Chairman Saveory notes that due to the time he inquires to the board if they would like to continue on or re-schedule this petition.

Roll Call Vote

Mr. Pascoa – To continue on

Mr. Croke – To continue on

Mr. Braga – To continue on

Mr. Robinson – To continue on

Chairman Saveory – To continue on

Ann Caine, the property owner of 40-42 Elm Avenue Rumford, RI is properly sworn in.

Ms. Caine explains to the board that this variance will affect her adversely. **Ms. Caine** currently owns the 12 unit building and the original owners of that property owned 40-42 Elm Avenue and 310 Greenwood Avenue and that continuing to mention that the property was a market has no value since it was so long ago. **Ms. Caine** notes that previously there was an electronics/stereo business that had no customers and very few deliveries and didn't mind the hair salon but believes this is too much. **Ms. Caine** claims that there is an easement stating that she owns 2 parking spaces and tenants have suffered from parking issues especially since they share a driveway. **Ms. Caine** mentions that when it snows there are spaces lost due to snow removal. **Ms. Caine** explains she is not against a business being in the property but it could be an attorney, accounting business, etc. and has concerns that there is nowhere for the tenants to park.

Mr. Croke explains that the apartments are allowed since it is in a R3 zone, the real issue is regarding the 1st floor.

Ms. Caine is just concerned about the negative impacts on her parking spaces. **Ms. Caine** informs the board that she has written out her speech in a letter form that she would like to submit for the record and also has a letter from her attorney she would like to submit as well.

Motion by Mr. Braga to accept Ms. Caine's letter opposing the petition as Opponents Exhibit B, the motion is Seconded by Mr. Robinson.

Motion by Mr. Braga to accept the letter from Ms. Caine's attorney as Opponents Exhibit C, the motion is Seconded by Mr. Robinson.

Todd and Tracey Moline of 18 Don Avenue Rumford, RI are properly sworn in.

Ms. Moline explains to the board that they have lived at this residence since 2005 and there was minimal annoyance from the hair salon but there still was annoyances. **Ms. Moline** notes that they have already been impacted and this will affect them more negatively. **Ms. Moline** is against the commercial use and believes this property is too little in the middle of residential homes.

Mr. Moline wants the board to review the list of 100 signatures because many of them are probably not nearly as close to the property as they are. **Mr. Moline** believes that **Mr. Sweeney** created his own hardship by even buying the property and has concerns with people parking on the street.

Mr. Sweeney stresses that there will be no deliveries and will agree to the stipulation of no liquor and is considering to lease space from businesses nearby for parking. Mr. Sweeney is willing to stipulate to have only 3 bays and just wants to improve the property and work with the neighbors.

Attorney Brennan adds that they would be willing to stipulate the hours of operation.

Motion by Mr. Braga,

Based on all evidence presented to the Zoning Board of Review and personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board of Review hereby finds pursuant to Section 19-45(a) of the City of East Providence Zoning Ordinance:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).
2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.
3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent

1. In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this chapter. Nonconforming use of neighboring land or structures in the same district and permitted

use of land or structures in an adjacent district shall not be considered in granting a use variance.

Chairman Saveory asks **Attorney Brennan** if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. **Attorney Brennan** responds that he fully understands and accepts the conditions just stipulated.

Motion is Seconded by **Mr. Pascoa**

Roll Call Vote	The board recognizes that the petitioner is trying to
Mr. Pascoa – Aye	enhance the area but believe this is the wrong petition
Mr. Croke - Nay	to do that with and the property has been a problem
Mr. Braga - Nay	for years.
Mr. Robinson - Nay	
Chairman Saveory – Nay	

Use variance(s) has been denied 4-1.

IX. PROCEDURES

Chairman Saveory announces there are none.

X. ANNOUNCEMENTS

The next special meeting of the Zoning Board of Review is scheduled for **Monday, 21 September 2020, at 6:00 PM**, in the City of East Providence Council Chambers, City Hall, and East Providence, RI.

XI. ADJOURNMENT

Motion to adjourn by **Mr. Croke**. The motion is **Seconded** by **Mr. Robinson** and **Unanimously** voted to adjourn. Meeting is adjourned at 11:07pm.

Edward Pimentel, AICP
Zoning Officer / Clerk

Secretary