

# STATE OF RHODE ISLAND PROVIDENCE

## CITY OF EAST

### 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, **14 October 2020**, in the City Council Chambers, East Providence City Hall.

The following members were present:

Eugene Saveory – Chairman

Michael Beauparlant – Vice-Chairman

John Braga – **ABSENT**

Richard Croke, Sr.

Gary Pascoa

Matthew Robinson – 1<sup>st</sup> Alternate

Andrew Cotton – 2<sup>nd</sup> Alternate

Edward Pimentel – Zoning Officer / Clerk

Michael Marcello – City Solicitor – 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 **Mr. Braga** is absent and **Mr. Robinson, 1<sup>st</sup>**

**Alternate**, will be a participating and voting member tonight.

## III. APPROVAL OF ZONING BOARD MINUTES

**Chairman Saveory** asks for approval of the **21 September 2020**, Zoning Board of Review Minutes. **Motion by Vice Chairman Beauparlant** to approve the **21 September 2020**, Zoning Board of Review Minutes. The motion is **Seconded by Mr. Robinson** and **Unanimously** approved.

## IV. ZONING OFFICER'S REPORT

**Chairman Saveory** announces that there is nothing to report.

## V. CORRESPONDENCE / DISCUSSION

**Chairman Saveory** announces that there is correspondence regarding 732 Willett Avenue that will be read into the record.

## VI. STAFF REPORTS

1. Planning Department Staff Report – 9 October 2020 - Previously Submitted

## VII. CONTINUED BUSINESS

**1. Petition No. 6792 - FRANCIS J. SOUSA, requests dimensional variance(s)** 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 PARKSQUARE, being MAP 513, BLOCK 34, PARCEL 6, in a RESIDENTIAL 4 DISTRICT.** Continued from 2 September 2020.

**Mr. Pimentel** explains to the board that **Mr. Sousa** has sold the shed and would like another continuance so there is time for the new owner of the shed to come take it from the property and he can withdraw his petition.

**Motion by Mr. Robinson to continue this petition from 14 October 2020 to 4 November 2020 so the petitioner has time for the shed to be removed from the property,** the motion is **Seconded by Mr. Croke and Vice Chairman Beauparlant,** and **Unanimously** approved.

**2A. Petition No. 6794 - ALBERTO and MARIA DaSILVA, requests a use variance** to subdivide their property into two (2) distinct lots, resulting in retention of a two-unit dwelling on an undersized parcel, otherwise defined as a prohibited land use, for property located at **50 FENMOOR STREET, being MAP 307, BLOCK 12, PARCEL 2, in a RESIDENTIAL 6 DISTRICT.** Continued from 21 September 2020.

***Attorney Bruce Cox is representing the petitioner.***

**Attorney Cox** explains that with him tonight was **Alberto DaSilva**, the petitioner and **John Pacheco**, the real estate agent is with him tonight in case there are any questions and **Mr. DaSilva** does need some translation, which is why **Mr. Pacheco** is present tonight.

***Mr. DaSilva and Mr. Pacheco are properly sworn in.***

**Attorney Cox** explains to the board that the petitioners want to subdivide the lot and need a use variance since the existing lot with the 2 family located on it will be 377 sq. ft. short of what is required. The dimensional variance is required for the garage on the back of the property has a setback issue since it is not as deep as it should be at 97 ft. deep when the required amount is 100 ft. so need about 3.2 ft. of relief. There will be no changes to the existing lot and the new lot will have a single family, not another 2 family. **Attorney Cox** explains that the planning board has looked at this exhaustively and provides a copy of the decision by the planning board.

**Motion by Mr. Croke to accept the copy of the planning board's decision as Exhibit A, the motion is Seconded by Mr. Robinson.**

**Mr. Croke** notes that he has been by the property a number of times and noticed that the empty lot is being used for parking and inquires what will happen and inquires about the trailer that he has seen.

**Attorney Cox** explains that the existing 2 family will have assigned parking.

**Mr. Pacheco** answers that the trailer is gone and left about 2 weeks ago.

**Mr. DaSilva** explains that the female tenant on the 2<sup>nd</sup> floor has a male guest come from Tennessee every so often in the trailer.

**Mr. Robinson** has no questions at this time.

**Mr. Cotton** has no questions at this time.

**Mr. Pascoa** has no questions at this time.

**Vice Chairman Beauparlant** notes that there has been issues since there was a lot of opposition from the neighbors.

**Attorney Cox** explains that there was a problem tenant who is gone now and the fact that there was a misunderstanding that there would be a 2 family built on the new lot when it will really be a single family.

**Chairman Saveory** inquires if there will be a separation of the garages.

**Attorney Cox** answers no, that the existing garage will belong to the existing 2 family.

**Chairman Saveory** has no concerns.

**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** inquires if there is anyone present via Zoom. Hearing and seeing none, **Chairman Saveory** queries the Board for a motion.

**Motion by Mr. Croke,**

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.

**Mr. Croke** moves that the use variance be **Granted** subject to the petitioner fulfilling the following conditions:

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.
2. The property on the new lot will be a single family.
3. The trailer will be permanently removed.

**Chairman Saveory** asks **Mr. DaSilva** 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. DaSilva** responds that he fully understands and accepts the conditions just stipulated.

**Motion is Seconded by Vice Chairman Beauparlant**

**Roll Call Vote**

|                                        |                                                             |
|----------------------------------------|-------------------------------------------------------------|
| <b>Mr. Pascoa – Aye</b>                | <b>The board believes this is a minor variance and</b>      |
| <b>Mr. Robinson - Aye</b>              | <b>feel better knowing that there will only be a single</b> |
| <b>Mr. Croke - Aye</b>                 | <b>on the new lot and that the single family will</b>       |
| <b>Vice Chairman Beauparlant - Aye</b> | <b>enhance the neighborhood.</b>                            |
| <b>Chairman Saveory – Aye</b>          |                                                             |

**Use Variance unanimously granted, subject to the aforementioned condition(s).**

**2B. Petition No. 6795 - ALBERTO and MARIA DaSILVA, requests dimensional variance(s) to subdivide their property into two (2) distinct lots, resulting in both parcels failing to comply with the minimum lot depth requirement, retention of the pre-existing accessory detached garage that will fail to comply with the minimum accessory side-yard setback requirement, and deficient lot area in regard to the retention of the two-unit dwelling, for property located at 50 FENMOOR STREET, being MAP 307, BLOCK 12, PARCEL 2, in a RESIDENTIAL 6 DISTRICT. Continued from 21 September 2020.**

**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** inquires if there is anyone present via Zoom. Hearing and seeing none, **Chairman Saveory** queries the Board for a motion.

**Motion by Mr. Croke,**

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. Croke** 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.
- 3.The property on the new lot will be a single family.
- 4.The trailer will be permanently removed.

**Chairman Saveory** asks **Mr. DaSilva** 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. DaSilva** responds that he fully understands and accept the conditions just stipulated.

**Motion is Seconded by Vice Chairman Beauparlant**

**Roll Call Vote**

|                                        |                                                             |
|----------------------------------------|-------------------------------------------------------------|
| <b>Mr. Pascoa – Aye</b>                | <b>The board believes this is a minor variance and</b>      |
| <b>Mr. Robinson - Aye</b>              | <b>feel better knowing that there will only be a single</b> |
| <b>Mr. Croke - Aye</b>                 | <b>on the new lot and that the single family will</b>       |
| <b>Vice Chairman Beauparlant - Aye</b> | <b>enhance the neighborhood.</b>                            |
| <b>Chairman Saveory – Aye</b>          |                                                             |

**Dimensional variances unanimously granted, subject to the aforementioned condition(s).**

**3. Petition No. 6791 - ARMAND F. FERLAND, requests dimensional variance(s)** 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.** Continued from 2 September 2020.

**Mr. Pimentel** explains to the board that he did not re-notice and re-advertise this petition for tonight's meeting so this petition must be automatically continued to **4 November 2020**. **Mr. Pimentel** includes for the record, that the petitioner did submit all the documents requested including a new landscape plan that shows where drywells will be located in a timely manner.

**Motion by Vice Chairman Beauparlant to continue this petition from 2 September 2020 and 14 October 2020 to 4 November 2020 so the petition can be re-noticed and re-advertised,** the motion is **Seconded** by **Mr. Croke** and **Mr. Robinson**, and **Unanimously** approved.

**Chairman Saveory requests a recess at 6:56pm and the board reconvenes at 7:17pm**

## VIII. NEW BUSINESS

### 4. Petition No. 6823 - BENKERFAMILY, LLC, (OWNER) and INDEPENDENT PIPE AND SUPPLY CORP.

(APPLICANT), request a special use permit to introduce the 'Open Storage' of piping product in the rear yard of the subject property, for property located at **22 ALMEIDA AVENUE, being MAP 606, BLOCK 2, PARCEL 2, in an INDUSTRIAL 3 DISTRICT.**

*Attorney Christine Engustian is representing the petitioner.*

**Attorney Engustian** explains to the board that the applicant operates 8 locations in the northeast and wishes to move from their Pawtucket location to 22 Almeida Avenue in East Providence. The applicant needs a variance to store the piping in the back of the building, which will be out of sight from anyone walking or driving by since the pipes will be locked behind a fence and will be piled neatly.

*James Cotton, operations manager, is properly sworn in.*

**Mr. James Cotton** explains to the board that he has been the operations manager for 22 years at Independent Pipe & Supply Corp. They are a distributor of pipe fittings and it is a commercial facility. **Mr. James Cotton** notes that he has had city staff come to the property to do site inspections. The plan is to have 6 piles of pipes outside, which is normal practice at the other locations to have the pipes outside. The pipes will be ½-8 in in size and are made of steel and will not be covered due to the way they are stacked and secured to make them safe from any movement. It is very expensive to find a building large enough to store the pipes inside. The hours of operation will be Monday-Friday 7am-4:30pm with 8-10 employees.

**Mr. Croke** has looked at the property and notes it is surrounded by a 6ft. tall fence and is pleased with the conditions put into place by the planning board and that there are no residential neighbors in the area. **Mr. Croke** doesn't see a reason to not grant the variance.

**Mr. Robinson** believes this is the perfect use for the property.

**Mr. Andrew Cotton** has no questions at this time.

**Vice Chairman Beauparlant** inquires what is done with the pipes that are stored outside and the hours of deliveries.

**Mr. James Cotton** replies that the pipes are sold to contractors and it's based on supply and demand. The deliveries will not be too early or too late, probably about 7:30am during the week.

**Chairman Saveory** inquires if there will be any pre-fab work.

**Mr. James Cotton** replies no there are no intentions for that.

**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** inquires if there is anyone present via Zoom. Hearing and seeing none, **Chairman Saveory** queries the Board for a motion.

**Motion by Mr. Croke**, 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 19-39(a) of the City of East Providence Zoning Ordinance, that the special use permit shall:

1. That the use is compatible with neighboring land uses.
2. The use does not create a nuisance in the neighborhood.
3. That the use does not hinder the future development of the City.
4. That the use conforms to all applicable sections of the special use requested.
5. That the use is in conformance with the purpose and intent of the East Providence Comprehensive Plan and applicable standards of this Chapter.

**Mr. Croke** moves that the special use permit be **Granted** subject to the petitioner fulfilling the following conditions:

Petitioner(s) obtaining any, and all, necessary permits.

**Chairman Saveory** asks **Mr. James Cotton** 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. James Cotton** responds that he fully understands and accept the conditions just stipulated.

**Motion is Seconded by Mr. Robinson**

**Roll Call Vote**

**Mr. Pascoa – Aye**

**The board believes this will fit in with the area**

**Mr. Robinson - Aye**

**since it is in an industrial zone and is at the end**

**Mr. Croke - Aye**

**of a dead end road and the pipes will be well**

**Vice Chairman Beauparlant - Aye**

**hidden.**

**Chairman Saveory – Aye**

**Special Use permit unanimously granted, subject to the aforementioned condition(s).**

**5. Petition No. 6814 - DAVID A. AMARAL FAMILY TRUST**, requests **dimensional variances** to subdivide a parcel into two (2) distinct lots (Minor Subdivision already attained), resulting in both parcels failing to comply with the minimum lot depth requirement, for property located at **255 SOUTH SPRUCE STREET, being MAP 307, BLOCK 17, PARCEL 10, in a RESIDENTIAL 4 DISTRICT.**

***Attorney William C. Maiaa is representing the petitioner via Zoom***

**Attorney Maiaa** explains to the board that on 14 September 2020 the petitioners went before the planning board and on 15 September 2020 the board granted the conditional approval of the subdivision. The petitioner has agreed to all the conditions laid out by the planning board and the last condition is to seek dimensional relief from this zoning board. Both lots will have 84 ft. when 100 ft. is required. The applicant is 93 years old and originally had planned for a 3 lot subdivision but a 2 lot subdivision was more preferred and in the best interest of the area. The application is consistent with the city's comprehensive plan and the lots will be over the required 5,000 sq. ft. lot size. **Attorney Maiaa** explains that he has the applicant's children with him tonight to speak on behalf of their father.

***Diane Amaral and David Amaral Jr., the applicant's children, are properly sworn in.***

**Mr. Amaral** explains that his father does understand the conditions of approval.

**Ms. Amaral** explains that their father could not be present tonight due to Covid-19.

**Mr. Croke** notes that the existing lot is over 18,000 sq. ft. and the two lots will still be short however, that most lots in the area are small and has no issues with this petition.

**Mr. Robinson** inquires in regards to setbacks, if there should be a setback from Woodland Avenue to Intervale Street.

**Mr. Pimentel** explains that one has to assume that the calculations from the surveyor are correct.

**Attorney Maiaa** explains that the best evidence rule applies here and the evidence is from a land surveyor and there is no other evidence to the contrary. However, they are willing to have it subjected to be checked.

**Mr. Pimentel** mentions that the board can make it a condition of approval that the land surveyor come back and gives actual dimensions. If the applicant needs 16 ft. or less than they will be fine, if they need more than 16 ft. then they would have to amend the plan and re-submit their application to the board.

**Mr. Cotton** has no questions at this time.

**Vice Chairman Beauparlant** has no questions at this time.

**Mr. Pascoa** has no questions.

**Chairman Saveory** explains that he is familiar with the property and confirms that the petitioner is in agreement with the 11 conditions provided by the planning board as stipulations.

**Attorney Maiaa** answers yes.

**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** inquires if there is anyone present via Zoom,

***Miles Gomes of 103 Woodland Avenue is properly sworn in.***

**Mr. Gomes** explains to the board that he has concerns regarding snow plowing and how this will affect snow removal.

Mr. Gomes also expresses concerns about water table and getting morewater issues if two house are built.

**AttorneyMaiaa** confirms that only one house will be built.

**ChairmanSaveory** explains that the new house will have to go through the permitting process and have to be approved by engineering.

**Mr.Pimentel** adds that the new house will have better conditions due to current building code.

**Mr. Gomes** inquires where the new house will be facing.

**AttorneyMaiaa** answers that the house and driveway will be facing Woodland Avenue

**ChairmanSaveory** believes this will help the snow plowing concerns since the front of that house will must be plowed by the city.

**ChairmanSaveory** queries the Board for a motion.

**Motion by Mr. Croke,**

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. Croke** 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.
3. The land surveyor must return the plans with the dimensions, if there is 16ft. or less relief needed than there is no further action necessary. If there is more than 16ft. required then the petitioner will need to go back before the board.
4. The 11 conditions stated by the planning board

**ChairmanSaveory** asks **Attorney Maiaa** 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. **AttorneyMaiaa** responds that he fully understands and accept the conditions just stipulated.

**Motion is Seconded by Mr. Robinson**

**Roll Call Vote**

**Mr. Pascoa – Aye**

**Mr. Robinson - Aye**

**Mr. Croke - Aye**

**Vice Chairman Beauparlant - Aye**

**The board believes the hardship stems from the unique layout of the land and the amount of relief is minor compared to the size of other lots in the neighborhood.**

**Dimensional variances unanimously granted, subject to the aforementioned condition(s).**

***Chairman Saveory calls a recess at 8:35pm and the board reconvenes at 8:41pm.***

**6A. Petition No. 6815 - 732 WILLETT AVENUE, LLC**, requests a **use variance** to expand an existing fuel service and repair station, by adding a retail component addition, otherwise defined as an expansion of a prohibited land use, for property located at **732 WILLETT AVENUE, being MAP 512, BLOCK 20, PARCEL 6, in a COMMERCIAL 2 DISTRICT.**

***Attorney Edward Grouke is representing the petitioner.***

**Attorney Grouke** explains that there is an existing gas station, small convenience store, and a 3 bay garage. The petitioners would like to build an addition 36x28 in size to the building to increase the convenience store. There will be no sub-tenants such as Dunkin Donuts and no pre-made food, there will just be grocery and convenience items.

**Attorney Grouke** believes this will be an improvement for the site. The idea is to catch people as they drive by so this will not increase traffic or density on the site. The addition will encroach into the rear setback and will follow the footprint of the existing part of the property. The applicant is asking for the use variance to continue the existing use and impervious coverage is at 98.8% when 80% is allowed and there is a request for signage but just for the existing signage and no addition signage.

**Mr. Robinson** has no questions at this time.

**Mr. Cotton** has no questions.

**Vice Chairman Beauparlant** notes that the business hours will be changing from 8am-10pm to 6am-10pm.

***Haji Ahmad, owner of the property, is properly sworn in.***

**Mr. Ahmad** explains that is to target morning customers.

**Vice Chairman Beauparlant** inquires if there will be any outdoor lighting changes.

**Mr. Ahmad** answers no.

**Vice Chairman Beauparlant** inquires if any food products will be going into the dumpster.

**Mr. Ahmad** answers no.

**Mr. Pascoa** has no questions.

**Mr. Croke** notes that they are wanting to extend the non-conforming use and that 13 spaces are required but the site only has 8. **Mr. Croke** inquires where the overflow of new traffic will go.

**Mr. Ahmad** explains that there is usually only 1 employee a shift and the repair shop doesn't do tires or inspection stickers just small repairs and oil changes. Overall, **Mr. Ahmad** believes that there won't be a lot of customers at one time.

**Mr. Croke** expresses concerns with the neighbors and doesn't see the hardship.

**Attorney Grouke** explains that it is a pre-existing non-conforming use and wants to improve what is already there.

**Attorney Grouke** adds there is fencing to separate the site from the neighbors.

**Mr. Croke** believes this is more for financial gain and that his question regarding the overflow of cars hasn't been answered. **Mr. Croke** notes that he just drove by recently and the lot was full and overflowed into Willett Avenue without the grocery store addition.

**Mr. Ahmad** explains that all the cars are being repaired or waiting to be picked up, the convenience store customers spend about 5 minutes or less then leave.

**Chairman Saveory** inquires if there is currently anything being sold now.

**Mr. Ahmad** answers yes, cigarettes, candy, drinks but there is not enough room. **Mr. Ahmad** wants to sell milk, bread, canned goods, chips, etc. there will be a Keurig for coffee but since Dunkin Donuts is down the street he doesn't believe there will be a large coffee base.

**Chairman Saveory** inquires if there are future plans to explain automotive repair business.

**Mr. Ahmad** explains that there are no plans and there is not enough space to fit more bays.

**Chairman Saveory** inquires if there is lottery currently and if not are there plans for it.

**Mr. Ahmad** answers no, but would like to add it.

**Mr. Robinson** notes that the hours will be changed to 6am-10pm and just wants to clarify that is for the convenience store and not for the auto repair side.

**Mr. Ahmad** answers that auto repairs are from 9am-6pm, and the store will be open until 10pm since they are not sure what kind of customers they will have.

**Mr. Robinson** notes that since it is a residential neighborhood is more comfortable with 9pm.

**Mr. Ahmad** explains that he is comfortable with closing at 9pm.

**Mr. Robinson** expresses concerns about the outside lighting.

**Mr. Ahmad** explains that the lights are facing down and do get shut off when the business closes for the night.

**Mr. Robinson** does like the idea of the building being fixed up but is concerned with the 6am start time.

**Mr. Ahmad** explains she is willing to push opening until 7am.

**Chairman Saveory** inquires if the mechanic working on site is subcontracted.

**Mr. Ahmad** answers no.

**Mr. Cotton** inquires how many cars can fuel up at one time.

**Mr. Ahmad** answers 8.

**Mr. Cotton** notes that customers then to fuel up then go into the store while leaving the car at the pump, so technically there are more parking spots.

**Mr. Pascoa** inquires to **Mr. Pimentel** about the potential to expand the bays.

**Mr. Pimentel** explains that would require board approval.

**Mr. Ahmad** explains she would like to add some signage by adding the letter "R" to the building.

**Attorney Grouke** asks to take a moment this applicant to discuss whether or not to continue the petition to a later date.

***Chairman Saveory requests a recess from 9:17pm and the board reconvenes at 9:25pm***

**Attorney Grouke** explains to the board that they will not ask for anymore signage.

**Mr. Cotton** wants to confirm that the applicant is okay with the hours of operation, he personally would rather see the business close at 9pm and be allowed open at 6am.

**Mr. Ahmad** explains that the store would be open Sundays would be 7am-9pm and Monday-Saturday 6am-9pm and the garage is open 9am-6pm.

**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** inquires if there is anyone present via Zoom.

***Jason Correia of 47 Becker Avenue Riverside, RI is properly sworn in.***

**Mr. Correia** explains that his property is behind the gas station and believes the existing encroachment in the rear is already close and doesn't want it any closer. **Mr. Correia** wants to see the property updated but doesn't want the addition. **Mr. Correia** wants the petition continued until he sees all of the public documents he previously requested but never received.

**Chairman Saveory** explains that the addition will not be closer to his property it will maintain the existing footprint and that they cannot continue the petition for that reason.

***Jean Grandchamp of 735 Willett Avenue Unit 901 Riverside, RI is properly sworn in.***

**Ms. Grandchamp** notes that someone hand delivered her the public documents but then expresses concerns about the store becoming an expanded smoke shop.

**Mr. Ahmad** explains that it is just a smoke shop due to the cigars and small space.

**Ms. Grandchamp** is glad it will be a convenience store.

***Chairman Saveory reads into the record a letter from Barbara Lamb of 735 Willett Avenue Unit 804 or 808 Riverside, RI opposing this petition.***

**Ms. Lamb** explains to the board that she does not support this petition and she believes it will cause increased traffic.

**Chairman Saveory** queries the Board for a motion.

**Motion by Mr. Robinson,**

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.

**Mr. Robinson** moves that the use variance be **Granted** subject to the petitioner fulfilling the following conditions:

4. 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.
5. Hours of operation for the store will be Monday-Saturday 6am-9pm and Sunday 7am-9pm. The garage's hours of operation will be 9am-6pm.
6. Lighting on the perimeter will be turned off during non-business hours.

**Chairman Saveory** asks **Attorney Grouke** 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 Grouke** responds that he fully understands and accepts the conditions just stipulated.

**Motion is Seconded by Vice Chairman Beauparlant**

**Roll Call Vote**

|                                        |                                                        |
|----------------------------------------|--------------------------------------------------------|
| <b>Mr. Pascoa – Aye</b>                | <b>The board believes this is an unusual situation</b> |
| <b>Mr. Robinson - Aye</b>              | <b>and that the property does need improvement.</b>    |
| <b>Mr. Croke - Nay</b>                 | <b>Mr. Croke votes nay due to the prohibited and</b>   |
| <b>Vice Chairman Beauparlant - Aye</b> | <b>non-conforming use.</b>                             |

**Chairman Saveory – Aye**

**Use Variance granted, 4-1 subject to the aforementioned condition(s).**

**6B. Petition No. 6816 - 732 WILLETT AVENUE, LLC, request dimensional variance(s)** to expand an existing fuel service and repair station, by adding a retail component addition, without complying with the minimum rear-yard setback, commercial district to a residential district setback, filling station to physical residential building setback, and front-yard setback requirements, as well as exceeding the maximum aggregate signage and impervious lot coverage requirements, and finally failing to comply with requisite off-street parking and off-street loading requirements, for property located at **732 WILLETT AVENUE, being MAP 512, BLOCK 20, PARCEL 6, in a COMMERCIAL 2 DISTRICT. (Dimensional Variance(s) - Petition No. 6816)**

**Chairman Saveory** queries the Board for a motion.

**Motion by Mr. Robinson,**

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. Robinson** 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.
3. Hours of operation for the store will be Monday-Saturday 6am-9pm and Sunday 7am-9pm. The garage's hours of operation will be 9am-6pm.
4. Lighting on the perimeter will be turned off during non-business hours.

**Chairman Saveory** asks **Attorney Grouke** 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 Grouke** responds that he fully understands and accept the conditions just stipulated.

**Motion is Seconded** by **Vice Chairman Beauparlant**

**Roll Call Vote**

|                                        |                                                        |
|----------------------------------------|--------------------------------------------------------|
| <b>Mr. Pascoa – Aye</b>                | <b>The board believes this is an unusual situation</b> |
| <b>Mr. Robinson - Aye</b>              | <b>and that the property does need improvement.</b>    |
| <b>Mr. Croke - Nay</b>                 | <b>Mr. Croke votes nay due to the prohibited and</b>   |
| <b>Vice Chairman Beauparlant - Aye</b> | <b>non-conforming use.</b>                             |
| <b>Chairman Saveory – Aye</b>          |                                                        |

**Dimensional variances granted 4-1, subject to the aforementioned condition(s).**

**7A. Petition No. 6817 - 30 VETERANS MEMORIAL PARKWAY, LLC, requests a use variance** to introduce a multi-unit residential facility, otherwise defined as a prohibited land use, for property located at **29 BURGESS AVENUE, being MAP 16, BLOCK 6, PARCEL 2, in a COMMERCIAL 4 DISTRICT.**

***Attorney Robert Stolzman is representing the petitioner.***

**Attorney Stolzman** explains that the owners of 30 Veterans Memorial Parkway talked to the owners of 25 Burgess Avenue and 29 Burgess Avenue to control the block. They have been able to purchase 29 Burgess Avenue and would like to merge the lots, demo the existing home and build a 12 unit building. The property will be screened with landscaping and present tonight are 3 experts to answer any questions.

***Ron Stevenson, the architect of the project, is properly sworn in.***

**Mr. Stevenson** explains to the board that 29 Burgess Avenue will be an extension and annex of the 20 Veterans Memorial Parkway project. The building will be 3 stories and will only be about 6ft. higher than 30 Veterans and

4ft. higher than the nearby homes. There will be 6 one bedroom apartments and 6 two bedroom apartments and half of the apartments will have a small home office area.

***Kent Lorenz, the applicant, is properly sworn in.***

**Mr. Lorenz** explains that both buildings will be shorter than the Odd Fellows Hall on the corner of Burgess Avenue and Warren Avenue, believes this is important context.

**Mr. Stevenson** believes this is not harmful for the area and the applicant is trying to revitalize the area. What is proposed offers larger units than what is offered in Providence and will be cheaper than apartments in Providence.

***Richard Lipsitz, the engineer of the project, is properly sworn in.***

**Mr. Lipsitz**, of Waterman Engineering, did the site planning and permitting for this project. **Mr. Lipsitz** explains that the property is in two zones, the waterfront and C4 zones, and he believes the parking works for zoning regulations and for the waterfront regulations. The site will be able to take care of storm water and cannot connect the buildings without this annex.

***Joseph Lombardo via Zoom is properly sworn in.***

**Mr. Lombardo** explains that he looked at the property and believes this will not negatively impact the area and that this area is in need of redevelopment.

**Mr. Croke** confirms that the applicant will be going over the property line.

**Attorney Stolzman** answers yes and will attach the new building to the existing building.

**Mr. Croke** expresses concerns for privacy for 25 Burgess Avenue.

**Attorney Stolzman** explains that the applicant has been working with the owner of 25 Burgess Avenue and is in constant contact with him.

**Mr. Croke** inquires if the applicant will be purchasing 25 Burgess Avenue.

**Attorney Stolzman** answers that they cannot come to an agreement so he cannot say as of today.

**Mr. Robinson** has no questions at this time.

**Mr. Cotton** has no questions or concerns but he believes that this matches that area and is a good building design.

**Vice Chairman Beauparlant** has no questions at this time.

**Mr. Pascoa** has no questions.

**Chairman Saveory** believes this fits into the area and will influence more revitalization. **Chairman Saveory** inquires if the main entrance will be on the parkway.

**Mr. Lorenz** explains that the main entrance is on Warren Avenue and Burgess Avenue and there is an exit onto Mauran Avenue.

**Mr. Croke** expresses concerns about on-street parking on Burgess Avenue.

**Attorney Stolzman** explains that it would be closer for tenants to park in the parking lot and will be safer being well lit. The way the site is set up for tenants to use the parking lot but is willing to meet with anyone from the city regarding this.

**Mr. Robinson** does see financial gain and that this is not the least relief necessary.

**Attorney Stolzman** explains there is no other feasible way, they are not trying to go up higher to add more units. Yes, the design does have financial gain but it is not the only reason.

**Mr. Pimentel** explains that the pre-existing home already violates 90% of these setbacks and the petitioners have adjusted them slightly.

**Mr. Robinson** believes that this building could be scaled down by removing some units.

**Attorney Stolzman** believes they have already scaled down from what could've been.

**Mr. Cotton** believes 12 is a good amount of units.

**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** inquires if there is anyone present via Zoom, Hearing and

seeing none, **ChairmanSaveory** queries the Board for a motion.

**Motion by Mr. Croke,**

Basedon all evidence presented to the Zoning Board of Review and personal knowledgeof the members of the Board of the land and area of the City of EastProvidence, the Zoning Board of Review hereby finds pursuant to Section19-45(a) of the City of East Providence Zoning Ordinance:

- 1.The hardship from which the applicant seeks relief is due to the uniquecharacteristics of the subject land or structure and not due to the generalcharacteristics of the surrounding area, and not due to a physical or economicdisability of the applicant excepting those physical disabilities addressed inRIGL 45-24-30(16).
- 2.The hardship is not the result of any prior action of the applicant and doesnot result primarily from the desire of the applicant to realize greaterfinancial gain.
- 3.The granting of the requested variance will not alter the general character ofthe surrounding area or impair the intent or purpose of this chapter or thecity’s comprehensive plan upon which this chapter is based.

**Mr. Croke** moves that the use variancebe **Granted** subject to the petitioner fulfilling the followingconditions:

- 4.In granting a use variance the subject land or structure cannotyield any beneficial use if it is required to conform to the provisions of thischapter. Nonconforming use of neighboring land or structures in the samedistrict and permitted use of land or structures in an adjacent district shallnot be considered in granting a use variance.
- 5.The lots must be merged.

**ChairmanSaveory**asks **Attorney Stolzman** if he acceptsthe conditions of approval just stipulated, understanding that strictcompliance means that any deviation will necessitate revisiting the ZoningBoard of Review; said revisit may be requested by either the Zoning Officer orany member of the Zoning Board of Review. **AttorneyStolzman** responds that he fully understands and accept the conditions juststipulated.

**Motionis Seconded byVice Chairman Beauparlant**

**RollCall Vote**

|                           |                                                          |
|---------------------------|----------------------------------------------------------|
| <b>Mr.Pascoa – Aye</b>    | <b>The boardbelieves this will enhance the area and</b>  |
| <b>Mr. Robinson - Nay</b> | <b>will help revitalize the area and thatresidential</b> |
| <b>Mr.Croke - Aye</b>     | <b>unitswill be better than having offices.</b>          |

**ViceChairman Beauparlant - Aye**

**ChairmanSaveory – Aye**

**Use Variance granted,4-1 subject to the aforementioned condition(s).**

**7B. Petition No. 6818 - 30 VETERANSMEMORIAL PARKWAY, LLC, requests dimensional variance(s)** tointroduce a multi-unit residential facility, without complying with the minimumfront and side-yard setback requirement, failing to meet the minimum lot arearequirement, exceeding the maximum height and number of stories requirement,exceeding the maximum building and impervious lot coverage requirement, andfailing to meet the minimum residential lot density requirement, for propertylocated at **29 BURGESS AVENUE, being MAP16, BLOCK 6, PARCEL 2, in a COMMERCIAL 4 DISTRICT.**

**Chairman Saveory** queries the Board fora motion.

**Motion by Mr. Croke,**

Basedon all evidence presented to the Zoning Board of Review and personal knowledgeof the members of the Board of the land and area of the City of EastProvidence, the Zoning Board of Review hereby finds pursuant to Section19-45(a) of the City of East Providence Zoning Ordinance:

- 1.The hardship from which the applicant seeks relief is due to the uniquecharacteristics of the subject land or structure and not due to the generalcharacteristics of the surrounding area, and not due to a physical or economicdisability of the applicant excepting those physical disabilities addressed inRIGL 45-24-30(16).
- 2.The hardship is not the result of any prior action of the applicant and doesnot result primarily from the desire of the applicant to realize greaterfinancial gain.
- 3.The granting of the requested variance will not alter the general character ofthe 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. Croke** 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.

3. The lots must be merged.

**Chairman Saveory** asks **Attorney Stolzman** 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 Stolzman** responds that he fully understands and accepts the conditions just stipulated.

**Motion is Seconded** by **Vice Chairman Beauparlant**

**Roll Call Vote**

|                           |                                                           |
|---------------------------|-----------------------------------------------------------|
| <b>Mr. Pascoa – Aye</b>   | <b>The board believes this will enhance the area and</b>  |
| <b>Mr. Robinson - Nay</b> | <b>will help revitalize the area and that residential</b> |
| <b>Mr. Croke - Aye</b>    | <b>units will be better than having offices.</b>          |

**Vice Chairman Beauparlant - Aye**

**Chairman Saveory – Aye**

**Dimensional variances granted 4-1, subject to the aforementioned condition(s).**

**IX. PROCEDURES**

**Chairman Saveory announces there are none.**

**X. ANNOUNCEMENTS**

The next meeting of the Zoning Board of Review is scheduled for **Wednesday, 4 November 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 10:52pm.

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**Edward Pimentel, AICP**  
**Zoning Officer / Clerk**

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**Secretary**