

Minutes of the  
**Newport Zoning Board of Review**

A meeting of the Zoning Board of Review was held on Monday, August 28, 2023, in the Assembly Hall of the Newport Police Department, 120 Broadway at 6:30 p.m.

PRESENT: Sam Goldblatt, Chair  
Wick Rudd, Vice-Chair  
David Riley  
Bart Grimes  
Nicole Shevory, Alternate

Girard Galvin, Assistant City Solicitor  
Nicholas Armour, Zoning Officer

ABSENT: Russell Johnson, Secretary  
Susan Perkins, Alternate

The following requests to withdraw without prejudice were considered and accepted:

- 37 Wellington Avenue

The following communications from Staff were acknowledged:

- 2023 State Legislation Summary

**DECISIONS**

App. #2023-May-004 PETITION OF CHARIE AND PAUL SAUNDERS, applicants and owners, **37 W. Narragansett Avenue**, TAP 39, Lot 410, (R-10 Zone) for a special use permit and dimensional variances to construct a 2-story addition, located 16'-5" from the rear property line (20' required), increasing the lot coverage from 24.3% to 33.4% (20% permitted).

Cherie Saunders was present to represent the application. Board Member Grimes asked a clarification question about the lot coverage. Board Member Riley asked if she would agree to a condition that if they redo any driveway that there be no additional hardscape. The applicant stated that they had no plans to redo or expand their driveway.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Jul-016 PETITION OF RALPH AND LAURA WITT, applicants and owners **7 Cottage Street**, TAP 25, Lot 093, (R-10 Zone, Historic Overlay) for special use permits and dimensional variances to replace and expand an existing front porch, located 3.4' from the Cottage Street front property line and 9.4' from the Redwood Street front property line (15' required for both), reconstruct and reduce the size of the side deck located 9'4" from the Redwood Street front property

line (15' required), replace an existing garage with a new garage located 2.1' from the side property line (10' required), and construct an in-ground pool, increasing the lot coverage from 37.4% to 40.1% (20% permitted).

The applicant was represented by Attorney Peter Regan. Applicants Ralph and Laura Witt were also present. One objector, Stephen White of 20 Old Beach Road, was present. He had submitted a letter of objection in the afternoon. Mr. Regan asked if the item could be held so that they could step outside to resolve the complaint with Mr. White. The item was moved to the end of the night's full hearing schedule.

App. #2023-Aug-001 PETITION OF ROSA TYSOR, applicant and owner, **10 Beacon Court**, TAP 05, Lot 090-24, (R-10 Zone) for retroactive approval of a special use permit and dimensional variance to place two energy storage units located 4' from the south (left) side property line (10' required).

Applicant Rosa Tysor was present. The Board asked why the approval was retroactive, and what the storage units looked and sounded like. The contractor was not aware until the building permit inspection that the units were within a required setback. Ms. Tysor demonstrated the dimensions and said that they do not make noise.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Aug-002 PETITION OF JOHN PAUL & PATRICIA FULCO, applicants and owners, **48 Catherine Street**, TAP 22, Lot 118, (R-20 Zone, Historic Overlay) for a special use permit and dimensional variance to remove an existing raised patio and construct a rear addition and deck, increasing the lot coverage from 22.7% to 25% (15% allowed).

Kevin Kieler of Brady Built Sunrooms presented the application. Applicants Pat and John Fulco were present. Zoning Officer stated that he had received one letter of support that had not been included in the application materials, and that there was an error in the staff report stating that the allowable lot coverage in the R-20 zone is 20% when the allowable coverage is actually 15%. The Board asked the applicant a clarification question about the existing lot coverage.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Aug-003 PETITION OF CHRISTOPHER AND JESSICA ROSA, applicants and owners, **1 Armstrong Place**, TAP 10, Lot 054, (R-10 Zone) for a special use permit and dimensional variance to construct a two-story rear addition, partially within an existing non-conforming side yard,

located 5'3" from the side property line (10' required), increasing the lot coverage from 27.4% to 37.26% (20% allowed).

Applicants Christopher and Jessica Rosa were present. Board Member Rudd commented that the expansion was a significant increase in lot coverage. The applicants explained the need for a family room and an expansion of the upstairs bedroom for their growing children.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Aug-005 PETITION OF THOMAS FREEMAN, applicant and owner, **55 Chapel Street**, TAP 29, Lot 131, (R-10 Zone) for a dimensional variance to install one generator and three propane tanks 5' from the west side property line (10' required).

Applicant Thomas Freeman was present. The Board asked why 3 propane tanks were necessary and about the final location of the tanks. Mr. Freeman stated that the contractor recommended 3 and that the contractor and Building Official will determine the location.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

Staff to prepare the draft decision.

App. #2023-Aug-006 PETITION OF THOMAS DePETRILLO, applicant and owner, **525 Spring Street**, TAP 35, Lot 222, (R-10 Zone) for a special use permit and dimensional variances to construct a detached accessory shed, located 2' from the west and north side property lines (10' required for both), increasing the lot coverage from 24% to 28% (20% allowed).

The applicant was represented by Attorney Richard D'Addario. Applicant Thomas DePetrillo was also present. Board Member Riley stated that he drove by the property and that it looked like the shed had already started to be built and that it looked like a garage. Mr. D'Addario stated that the applicant started the project not knowing that he needed zoning relief, and that the structure is for the storage of an antique car. The structure is a modified re-fabricated shed. Mr. Riley stated that he thinks the shed could be moved farther than 2' from the property lines. Mr. DePetrillo stated that he needed the parking spaces in front of the shed. Mr. Goldblatt asked if the shed could be moved to 3.5' away from the north property line. The applicant agreed.

A motion to approve the afore-mentioned abbreviated summary item with the conditions that the shed be setback 3.5' from the northern property line, that the project be started and substantially completed within 12 months of the date of the decision, and that all outstanding invoices for abutter

notification be paid prior to the recording of the decision was made by Mr. Rudd, seconded by Mr. Riley. The motion was unanimously approved.

Attorney D'Addario to prepare the draft decision.

App. #2023-Mar-015 PETITION OF NIALL & PETRA NUGENT, applicants and owners, **387 Spring Street**, TAP 32, Lot 142, (R-10 Zone) for a special use permit and dimensional variances to construct one- and two-story additions, located 5'-0" from the west side property line (10' required) increasing the lot coverage from 34% to 41% (20% permitted).

The applicant was represented by Attorney J. Russell Jackson. Applicants Niall and Petra Nugent, architect Brian Shull, and real estate expert Jim Houle were also present.

Mr. Jackson provided a summary of the application. The lot is undersized and irregularly shaped. The net increase is 167 sq ft. Exhibit 1 Letter of Support from 392 Spring St was accepted. Board Member Shevory asked what the use of the property is. The property will be their retirement home and they currently use the house every summer and weekend. It will never be rented out. Board Member Goldblatt asked Mr. Houle how he came up with the list of properties to survey, including larger properties. Mr. Houle wanted to provide a snapshot of the neighborhood, not just similarly sized properties.

A motion to approve the afore-mentioned full-hearing item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Rudd, seconded by Mr. Riley.

The Board discussed the application. Ms. Shevory stated that the small, irregularly shaped lot is a clear hardship and that the lot coverage is harmonious with the neighborhood. The rest of the Board agreed. The motion was unanimously approved.

Attorney Jackson to prepare the draft decision.

App. #2023-Apr-007 PETITION OF DANA PICKUP, applicant, and JULIA HOGAN, owner, **38 Simmons Street**, TAP 39, Lot 315, (R-10 Zone) for a special use permit and dimensional variances to remove a rear entry and bulkhead and construct a 14'x16' rear deck, located 16' from the rear property line (20' required), increasing the lot coverage from 31.3% to 38.4% (20% permitted).

Applicant Dana Pickup of Care Free Homes and owner Julia Hogan were present. 5 letters of opposition were received. One objector, Arlene Nicholas of 36 Simmons St, was present.

Mr. Pickup summarized the application. His company has already constructed the deck and accidentally marked it as a replacement deck instead of a new deck on the building permit. The Board asked questions about the deck and the timeline. The deck is 2-3' above grade. Ms. Hogan stated that she didn't know that the contractor had submitted the permits incorrectly until the neighbors complained. She usually resides at the property in the summer and rents it to Salve students during the school year, but does not plan to continue renting it after this year.

The Board asked questions regarding the purpose of and alternatives to the deck. Ms. Hogan believes the deck is reasonably sized, did not consider alternatives, and offered to enforce that only tenants can use the deck. There have not been any noise complaints in the last 2 years. Board Member Riley believed that the deck dimensions and setback encroachment is a large ask, and asked if she would consider reducing the size of the deck. Mr. Pickup stated that the deck is in line with neighboring decks and asked that the owner not be punished for the contractor's mistakes. Ms. Hogan stated that she is willing to evict tenants who cause noise violations. Board Member Rudd asked if she would be amenable to a condition that the deck not be enclosed. Ms. Hogan agreed.

Objector Arlene Nicholas believed that the deck is oversized and not in harmony with the neighborhood, and stated that the property was rented to students this summer. Ms. Hogan stated that she did not rent to students this summer. Her niece and friends were staying at the house.

A motion to approve the afore-mentioned full-hearing item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Rudd, seconded by Mr. Riley. Ms. Shevory recused herself from voting.

Mr. Rudd stated that had this come to the Board before it had been built, he would not be in favor, and he does not like being put in a position to approve things retroactively. He believes the deck is injurious to the neighborhood. Mr. Grimes wants the deck to be reduced in size. Mr. Riley believed that the deck size is not the least relief necessary. Mr. Goldblatt also would vote to deny the petition and does not believe that the applicant has provided substantial proof of a hardship. The applicant needs to return with a substantially different application. Four members of the Board voted to deny the application and Ms. Shevory recused. The petition was therefore denied.

Staff to prepare the draft decision.

*Ms. Shevory had to leave and recused herself from voting for the rest of the evening.*

App. #2023-May-003 PETITION OF FRED ROY, applicant and owner, **43 Palmer Street**, TAP 41, Lot 163 (R-10 Zone) for a special use permit and dimensional variance to construct a detached carport over an existing driveway, located 2' from the front property line (20' required) and 3' from the side property line (10' required), increasing the lot coverage from 30.8% to 39.25%.

The applicant was not present. The petition was held until the end of the evening. Just before the meeting was adjourned, a motion to continue the application to the next meeting was made by Mr. Goldblatt to continue the application to the September 25<sup>th</sup> meeting.

App. #2023-May-005 PETITION OF LOUIS FRANCHI, applicant, FAMS 69, LLC, owner, **69 Carroll Avenue**, TAP 41, Lot 211, (R-10 Zone) for a special use permit and dimensional variance to construct a one-story mudroom addition, increasing the lot coverage from 28% to 30.3% (20% permitted).

The applicant was represented by Attorney Tanner Jackson. Applicant Louis Franchi was present. Two objectors, Karen Kelman of 9 Harold St and Jean Conway of 10B Harold St, were also present.

Mr. Jackson provided a summary of the application. The lot is substandard at 5,010 sq ft. The mudroom addition is 100 sq ft plus 21 sq ft for the staircase. Mr. Franchi stated that he is a contractor and purchased the house in March 2023. His intention is to use the house only for his family. The current entry requires you to walk around the entire house in order to enter. The mud room could not be placed anywhere else on the property. He installed stormwater improvements when he purchased the property. Mr. Franchi tried speaking with both of the neighbors that objected. He could not reach Ms. Conway and the conversation with Ms. Kelman turned adversarial, so he left.

Chair Goldblatt asked Mr. Franchi to explain how the stormwater improvements that he installed worked and how runoff from the addition would be managed. The piers would allow water to move under the mudroom and functions similarly to a deck. He did not know how to improve the runoff from the garage.

Objector Karen Kelman spoke, concerned primarily with runoff. She stated that stormwater runs from Murphy field, through 0 Carroll Ave, onto this property. Objector's Exhibits A & B Before and After Photos of Garage were accepted. Mrs. Kelman stated that runoff now runs faster over and around the garage after the improvements. Objector's Exhibits C & D Harold Street and Harold to Carroll, Exhibit E Rocks onto Driveway, Exhibit F Area of Mudroom, and Exhibit G Water on Side of Garage were accepted. Board Member Rudd asked when the photos are taken. The photos were taken during an August rainstorm. Mr. Rudd stated that the photos must be taken with a grain of salt due to the abnormally large volume of rain in August. Objector's Exhibits I & J 0 Carroll were accepted, though Mr. Jackson objected because the photos were not at 69 Carroll Ave. Mrs. Kelman objected to the lot coverage and stated that the property was originally part of 0 Carroll. Staff noted that this is not true. Mrs. Kelman stated that the mudroom is not necessary to move the building entrance. Objector's Exhibit K Backside of the House was accepted.

Chair Goldblatt asked whether the residents of Harold St have talked to the City about the runoff from Murphy Field. Board Member Grimes asked how the mudroom would exacerbate the runoff. Mrs. Kelman stated that the addition would increase runoff. Mr. Jackson asked Mrs. Kelman if she was aware that the mudroom was on stilts and if the mudroom changes the runoff from Murphy Field. She replied no. Mrs. Conway spoke, stating that Mrs. Kelman speaks for everyone on Harold St.

Board Member Rudd stated that even if the petition is approved, a stormwater management plan is needed at the building permit stage, and it is untenable to reason that nothing can ever be built on Harold St. Mr. Jackson rebutted that the only impervious aspect of the mudroom are the stilts that it will stand on and the stairs.

A motion to approve the afore-mentioned full-hearing item with the conditions that the project be started and substantially completed within 12 months of the date of the decision and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Rudd, seconded by Mr. Riley.

Mr. Grimes believed the application is a modest request to increase the lot coverage by less than 2%. The applicant is working hard to mitigate stormwater impacts. Mr. Grimes is voting to approve the application with the understanding that the City will address stormwater management issues at the permitting stage. Mr. Rudd agreed, stating that approving this application may be a good thing as city officials will have to closely look at runoff issues in this area through the stormwater plan. Mr. Riley

agreed, stating that runoff from Murphy Field needs to be addressed but that is not the Board's place. Mr. Goldblatt agreed, expressing similar sentiments. The motion was unanimously approved.

Attorney Jackson to prepare the draft decision.

App. #2023-May-009 PETITION OF DANIEL J. HUGHES, applicant and owner, **169 Wellington Avenue**, TAP 42, Lot 002, (R-120 Zone; Historic Overlay) for dimensional variances to permit construction of an in-ground pool and a pickleball court located 13'-3 1/2" from the Chastellux Avenue front property line (75' required), increasing the lot coverage from 7.3% to 9.4% (8% permitted).

The applicant was represented by Attorney Tanner Jackson. Applicant Daniel Hughes and landscape architect Charlie Paige were also present. Mr. Hughes explained that proposed sites for the pool and pickleball court are the only practical locations, given the topography. He consulted a pickleball noise engineer who wrote a report, recommending that a 4' hedge be planted around the court and around the border of the property. There are certain paddles and balls to reduce the noise, as well as vinyl fencing cover. These measures could reduce the sound to less than 50 decibels. Exhibit 1 Bob Unetich Report was accepted.

The Board asked about the use of the pickleball court and lighting. Mr. Hughes replied that the court will not be used all that often and that there will be no lighting. He was amenable to a condition to not add lighting. Exhibit 2 Landscape Plan was accepted. Chair Goldblatt asked to add a condition that landscaping will screen visibility of the court and pool from the right of way.

A motion to approve the afore-mentioned full-hearing item with the conditions that no lighting be added to the pickleball court unless they return to the Zoning Board, that landscape screening is to block the view of the pool and pickleball court from the public right of way, that project be started and substantially completed within 12 months of the date of the decision, and that all outstanding invoices for abutter notification be paid prior to the recording of the decision was made by Mr. Rudd, seconded by Mr. Riley.

Mr. Grimes supported the petition, stating that this is a small lot coverage increase in an R-120 property and that the topography is a hardship. Mr. Rudd agreed, finding the petition to be harmonious with the neighborhood. Mr. Riley and Mr. Goldblatt expressed similar sentiments. The motion was unanimously approved. Attorney Jackson to prepare the draft decision.

All remaining Petitions were continued.

Meeting was adjourned at 10:05pm.