



MOSES RYAN LTD
attorneys

Rachel A. Hamilton
rhamilton@marlawri.com

November 13, 2024

Via Hand Delivery

Zoning Board of Review
35 Sockanosset Crossroad, Suite 6
Cranston, Rhode Island 02920

***Re: Thomas Vessella and Robert Gasbarro Jr. – Application for Zoning
Dimensional Variance
Plat 8, Lot 276 – 1573 Cranston Street***

Dear Mr. Pikul:

Enclosed please find an Application to the Zoning Board of Review (the “Board”) for a Dimensional Variance.

We have enclosed the following materials for your review:

- Application form;
- Site plans (9 copies; 11 x 17);
- Floor and elevations plan (9 copies)
- 400’ radius map (9 copies);
- 400’ abutters list (2 copies);
- Abutters mailing labels (2 sets);
- three photographs of the property;
- Check for filing fee in the amount of \$300.00.

Thank you for your attention to this matter.

Sincerely,

Rachel A. Hamilton

Enclosures

**City of Cranston
Zoning Board of Review
Application**

Application for exception or variation under the zoning ordinance "City of Cranston Zoning Code, December 1994 Edition as amended."

To: Cranston Zoning Board of Review
35 Sockanosset Crossroad Suite 6
Cranston, RI 02920

Date: 11/13/24

THE UNDERSIGNED HEREBY APPLIES TO THE ZONING BOARD OF REVIEW FOR AN EXCEPTION OR A VARIATION IN THE APPLICATION OF THE PROVISIONS OR REGULATIONS OF THE ZONING ORDINANCE AFFECTING THE FOLLOWING DESCRIBED PREMISES IN THE MANNER AND ON THE GROUNDS HEREINAFTER SET FORTH.

OWNER: Thomas Vessella and Robert Gasbarro Jr.

ADDRESS: 197 James P. Murphy Highway, West Warwick, Rhode Island ZIP CODE: 02893

APPLICANT: Same as Owner

ADDRESS: _____ ZIP CODE: _____

LESSEE: _____

ADDRESS: _____ ZIP CODE: _____

1. ADDRESS OF PROPERTY: 1573 Cranston Street

2. ASSESSOR'S PLAT #: 8 BLOCK #: 1 ASSESSOR'S LOT #: 276 WARD: _____

3. LOT FRONTAGE: 72.5' LOT DEPTH: 100' LOT AREA: 7,000 SF

4. ZONING DISTRICT IN WHICH PROPERTY IS LOCATED: B1 8,000 SF 35'
(ZONE) (AREA LIMITATION) (HEIGHT LIMITATION)

5. BUILDING HEIGHT, PRESENT: <35' PROPOSED: 30'

6. LOT COVERAGE, PRESENT: ~17% PROPOSED: 27.8%

7. HOW LONG HAVE YOU OWNED THE ABOVE PREMISES? ~3 years

8. ARE THERE ANY BUILDINGS ON THE PREMISES AT PRESENT? yes

9. GIVE SIZE OF EXISTING BUILDING(S): ~1,200 SF living area

10. GIVE SIZE OF PROPOSED BUILDING(S): 1,975 SF

11. WHAT IS THE PRESENT USE? Single-family dwelling

12. WHAT IS THE PROPOSED USE? Two-family dwelling

13. NUMBER OF FAMILIES FOR WHICH BUILDING IS TO BE ARRANGED: Two

14. DESCRIBE IN DETAIL THE EXTENT OF PROPOSED ALTERATIONS: Applicant proposes to demolish existing single-family dwelling and replace with a two-family dwelling.

15. HAVE YOU SUBMITTED PLANS TO THE BUILDING OFFICIAL? no

16. WERE YOU REFUSED A PERMIT? no

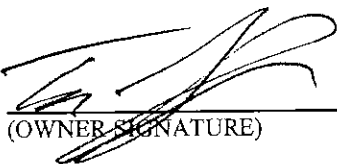
17. PROVISION OR REGULATION OF THE ZONING ORDINANCE OR STATE ENABLING ACT UNDER WHICH APPLICATION FOR EXCEPTION OR VARIANCE IS MADE.

Please see Exhibit attached.

18. STATE GROUNDS FOR EXCEPTION OR VARIANCE IN THIS CASE: Please see Exhibit attached.

SIGNATURE OF APPELLANT(S) AND ATTORNEY (IF APPLICABLE) IS REQUIRED AND MUST BE LEGIBLE.

RESPECTFULLY SUBMITTED,



(OWNER SIGNATURE)

401-453-3600

(PHONE NUMBER)

(OWNER SIGNATURE)

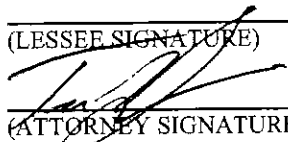
(PHONE NUMBER)

(APPLICANT SIGNATURE)

(PHONE NUMBER)

(LESSEE SIGNATURE)

(PHONE NUMBER)



(ATTORNEY SIGNATURE)

401-453-3600

(PHONE NUMBER)

Moses Ryan Ltd.

(ATTORNEY NAME-PLEASE PRINT)

ATTORNEY ADDRESS: 40 Westminster Street, 9th Floor, Providence RI 02903

PRE-ZONING APPLICATION MEETING:

(PLANNING DEPT. SIGNATURE)

(DATE)

EXHIBIT

17. Provision or regulation of the Zoning Ordinance or State Enabling Act under which application for exception of variance is made.

Applicants, Thomas Vessella and Robert Gasbarro Jr. respectfully request relief in the form of a variance under Section 17.92.010 from the following provisions of the Cranston Zoning Ordinance:

1. Relief from Table 17.20.120 Schedule of Intensity Regulations – Minimum Lot Area and Relief from Section 17.20.90(a) Specific requirements

In the B-1 zone, the Minimum Lot Area required for a two-family is 8,000 SF. Proposed Minimum Lot Area is 7,000 SF, which requires relief of 1,000 SF.

The subject lot was properly subdivided by an approved Minor Subdivision Plan recorded on December 13, 2022, in Book 1056, Page 1 in the Land Evidence Records of the City of Cranston (AP 8, Lots 276 & 2807). Lot 276 is in the B-1 zone. For a two-family dwelling, the minimum lot area is 8,000 square feet pursuant to Section 17.20.90(a). The lot is 7,000 SF and is therefore not in conformance with the minimum 8,000 SF lot area requirements.

Here, the property could meet the definition of substandard lot, as it has less than the required minimum lot area and has been approved by the recorded subdivision plan. The Cranston Zoning Ordinance defines “substandard lots of record” as a “lot which does not satisfy one or more dimensional requirements set forth in Section 17.20.120, but which was shown on a plat or deed recorded prior to January 1, 1966 or an approved plat recorded after January 1, 1966 which has otherwise been legally created and which has not been altered to become more nonconforming since its creation, except by approval of the city plan commission”. Pursuant to RIGL 45-24-38(b)(1), which was updated in the summer of 2024, the new substandard lot legislation prompts those who do not meet the dimensional requirements, i.e. lot area, to use requirements from another zoning district wherein the lot would be conforming as to the lot area. Here, application of the B-1 and B-2 single family district would allow this proposal to be conforming as to lot area with a minimum lot area of 6,000 SF¹. Nonetheless, because the property could be developed as a single-family home in compliance with the lot area requirements Zoning Ordinance, the Applicants are seeking a variance as to minimum lot size for a two-family dwelling.

2. Relief from Table 17.20.120 Schedule of Intensity Regulations-Minimum Front Setback. In the B-1 zone, the minimum front setback required is 25 feet. The proposed front setback on Cranston Street is 15.3 feet, which requires relief of 9.7 feet.

Relevant to the front setbacks are the following Ordinance Sections:

17.20.090 Specific Requirements.

¹ Please note that the property is also subject to proposed zone changes per the Zoning Conformity Analysis in Appendix A of the Cranston Comprehensive Plan update which would eliminate the need for relief based on minimum lot area. The City’s proposed zone change is from B-1 to C-2, which would make the minimum lot area 6,000 SF.

D. Where a corner lot directly abuts a lot in a residential district along the same side of a street, all of the regulations of such residential district for front yards shall apply to such corner lot along the street whose frontage it shares with such residential district.

17.20.110 Residential yard exceptions.

D. Principal Front Yards. In any district a lot having frontages on two public ways that do not intersect shall have two front yards each of a depth as provided in this chapter. One such front yard shall be designated the principal front yard.

One yard of a corner lot shall be designated as a principal front yard. In a residential district, the yard adjacent to the street that the front door faces shall be the principal front yard.

Pursuant to the Cranston Ordinance Sections 17.20.090 & 17.20.110, the subject property has two front yards. The Batcheller Ave yard would be considered the principal front yard as it faces the front door, with the Cranston Street yard to be considered the secondary front yard. In the B-1 zone, the front yard setback required is 25 SF. The front setback on the Batcheller Ave side is 28.8 SF, requiring no relief. However, the Cranston front setback is 15.4 feet and requires relief of 9.7 feet.

18. State grounds for exception or variance in this case:

Pursuant to RIGL § 45-24-41, in the granting of a variance, an applicant must show that

- (1) That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in RIGL § 45-24-30(a)(16);
- (2) That the hardship is not the result of any prior action of the applicant; and
- (3) That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
- (4) In granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief.

Here, all these standards are met. The Applicants propose to construct a new two-family dwelling. The Applicants' request for relief is due to the unique characteristics of the land as the property is situated on the corner of Cranston Street and Batcheller Avenue. The required minimum front setback is substantially greater than the side yard setback in the B-1 zone. If the Cranston Street yard was considered a side yard, the proposal would meet the required setback. The shape and size of the lot in conjunction with its corner status creates limitations in terms of structure placement and layout, which makes the property owners unable to meet the front setback requirements as to

1573 Cranston Street (Plat 8, Block 1, Lot 276)
Thomas Vessella and Robert Gasbarro Jr.

Cranston Street and the minimum lot area requirements. Although there was a subdivision of lots by the Applicants previously, the law regarding substandard lots has changed in the interim and negatively impacted the ability of this lot to be developed, so the hardship is not the result of any prior action taken by the applicant. The hardship is also not due to a physical or economic disability of the Applicants.

The granting of the requested variance will not alter the general character of the surrounding area. The property is in the B-1 zone. The B-1 zone supports a number of residential uses including single-family and two-family dwellings. There are numerous two-family dwellings situated on Cranston Street and Batcheller Avenue that possess approximately equal overall lot square footage of the subject property with larger dwelling structures than the subject property which consist of:

68 Batcheller Avenue-2,384 SF structure/7,000 SF lot;

1577-1579 Cranston Street-2,244 SF structure/7,500 SF lot;

There are also two-family dwellings situated on Cranston Street and Batcheller Avenue which possess lower overall lot square footage than the subject property with larger dwelling structures, such as:

72 Batcheller Avenue-2,256 SF structure/5,000 SF lot;

76 Batcheller Avenue 2,256 SF structure/5,000 SF lot;

1580 Cranston Street-2,236 SF structure/3,600 SF lot;

1616 Cranston Street-2,064 SF structure/3,560 SF lot;

Lastly, there are two-family dwellings which possess lower overall lot square footage than the subject property with equal or slightly smaller dwelling structures such as:

40 Batcheller Ave-1,467 SF structure/5,000 SF lot;

42 Batcheller Ave-1,872 SF structure/5,000 SF lot;

1574 Cranston Street-1,795 SF structure/6,750 SF lot;

1598 Cranston Street-1,698 SF structure/3,600 SF lot;

The subject property's structure at 1,945 SF is smaller than many of the dwellings listed and possesses more overall lot square footage at 7,000 SF than most, making the proposed conditions in line with the general character of the surrounding area. The character of the neighborhood is filled with single-family dwellings, two-family dwellings, and small businesses and will not be affected by the proposal to construct a two-family dwelling.

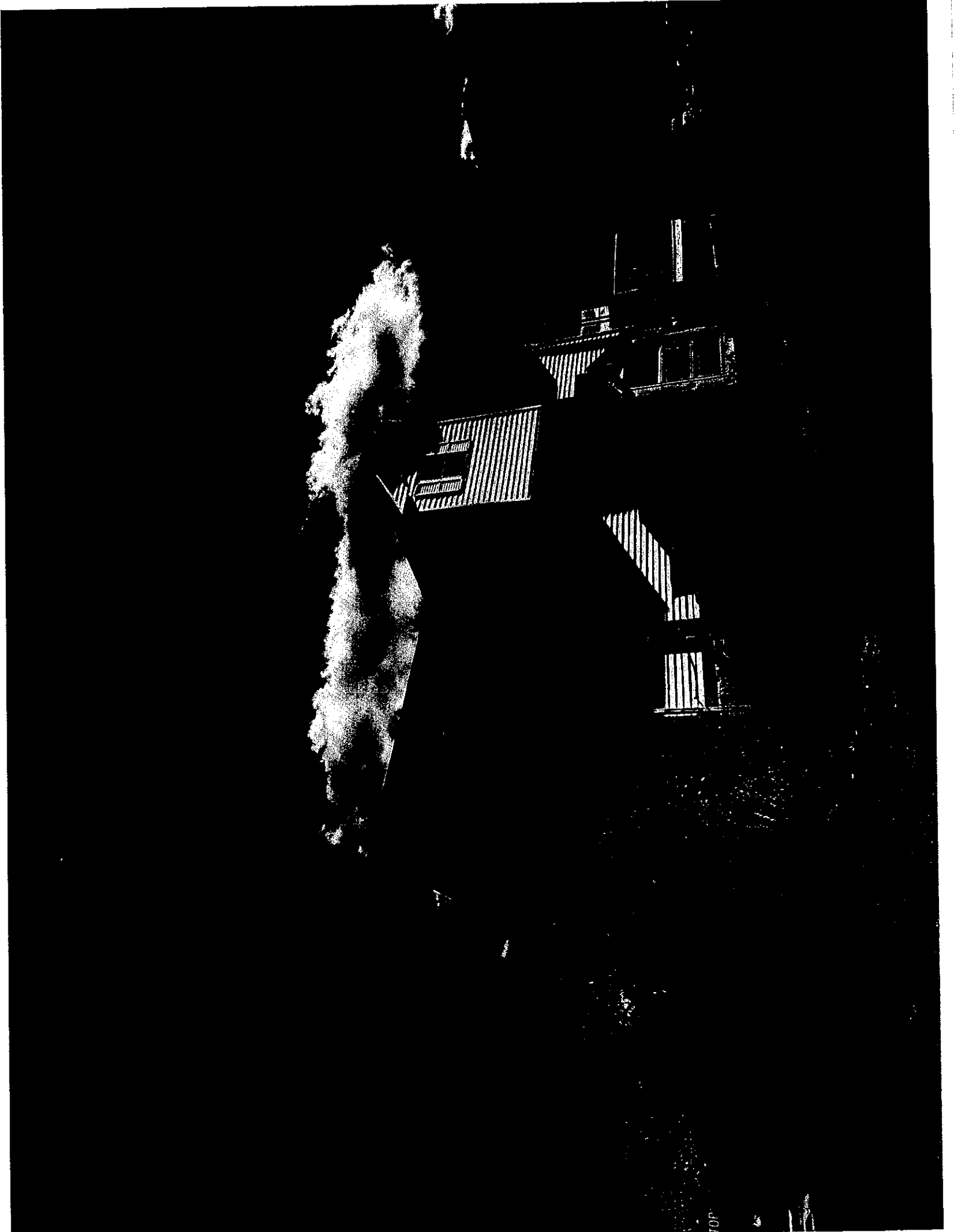
It is also important to note that the subject property is listed as one of the properties proposed for a zoning change as part of the Planning Department's efforts to revise the Cranston Comprehensive Plan, specifically the Zoning Conformity Analysis provided in Appendix A. The proposed zone change would change the subject property's zoning from the B-1 zone to the C-2

1573 Cranston Street (Plat 8, Block 1, Lot 276)
Thomas Vessella and Robert Gasbarro Jr.

zone. The setback requirements in both zones are the same, but the minimum lot area is smaller in the C-2 zone. In the C-2 zone, the minimum lot size for a two-family dwelling is 6,000 SF rather than 8,000 SF. Once those intended changes are effectuated, the proposal would be conforming with respect to minimum lot area and would only need relief as to the front setback along Cranston Street. Since the City has already identified this property as being suited to the C-2 zone and the associated dimensional requirements, the relief requested is aligned with the purposes of the Comprehensive Plan.

If the Applicants are denied a dimensional variance, it would amount to more than a mere inconvenience. The property would be unable to be developed with a two-family dwelling, which is a permitted use in this zone. The Applicants would be unable to effectuate construction of the two-family dwelling as setbacks are far too limiting to fit an adequate structure fit for two families, which would further contribute to the lack of housing available to RI residents. Given the City's intention to rezone the property, which would put the subject property in compliance with the minimum lot area, the relief sought as to the one front setback is minimal relief with regard to the reasonable enjoyment of the permitted use of a two-family dwelling.

In conclusion, the Applicants, respectfully request that the Zoning Board of Review grant a dimensional variance in connection with the subject property from the requirements of the Cranston Zoning Ordinance Section 17.20.120 Schedule of Intensity Regulations-Minimum Lot Area, and Front Setback.



TOP



