

A meeting of the Cranston Zoning Board of Review was called to order in Cranston City Hall Council Chambers by Chairperson Christopher E. Buonanno on **Wednesday May 11, 2022 at 6:33 pm**. Also present were Joy Montanaro, Dean Perdikakis, Paula McFarland, Carlos Zambrano 1<sup>st</sup> Alternate Craig Norcliffe

## **OLD BUSINESS**

### **PLATTING BOARD OF APPEALS:**

**APPEAL OF THE DECISION OF THE CITY OF CRANSTON PLAN COMMISSION DATED FEBRUARY 5, 2019 TO THE CITY OF CRANSTON ZONING BOARD OF REVIEW SITTING AS THE PLATTING BOARD OF REVIEW PURSUANT TO §45-23-66 OF THE RHODE ISLAND GENERAL LAWS, AS AMENDED AND SECTION XI ENTITLED “APPEALS” OF THE CITY OF CRANSTON’S SUBDIVISION AND LAND DEVELOPMENT REGULATIONS GRANTING FINAL PLAN APPROVAL FOR NATICK AVE SOLAR ARRAY, 0 NATICK AVENUE, A.P. 22, LOTS 108 & 119**

**CONTINUED FROM APRIL 13, 2022 MEETING FOR DECISION VOTE ONLY.  
NO NEW TESTIMONY TO BE HEARD.**

### **ZONING BOARD OF REVIEW:**

## **NEW BUSINESS**

**APPEAL OF A NOTICE OF VIOLATION DATED MARCH 25, 2022 ISSUED BY THE CITY OF CRANSTON BUILDING OFFICIAL REGARDING A USE NOT PERMITTED IN A RESIDENTIAL ZONE. APPEAL TAKEN IN ACCORDANCE WITH THE CITY OF CRANSTON MUNICIPAL CODE TITLE 17, SECTION 17.116.010- APPEAL POWERS. SUBJECT PROPERTY LOCATED 1231 HOPE ROAD, A.P. 30, LOT 68, AREA 18.23 AC., ZONED A80; ADELAIDE KNIGHT TRUSTEE (OWN), GREENWICH WOOD PRODUCTS/ MIKE HENDERSHOT (APPELLANT).**

**ON A MOTION BY MR. PERDIKAKIS, AND SECONDED BY MS. MONTANARO, THE BOARD UNANIMOUSLY VOTED TO CONTINUE THE MATTER TO THE JUNE 8, 2022 MEETING.**

**SHANE AND JESS WATTS (OWN/APP)** have applied to construct an accessory family dwelling unit addition encroaching into a required side yard setback at **105 Amy Drive**, A.P. 20, lot 2155

**MICHAEL AND STACEY TORTORELLA (OWN/ APP)** have filed an application to construct a new single family dwelling on an undersized lot with reduced lot frontage at **0 Pippin Orchard Road**, A.P. 34, lot 22.

**PARK AVENUE REALTY, INC. (OWN) and NICO BELLA CRANSTON, LLC. (APP)** have applied to operate a restaurant in an industrial zone with reduced lot area at **1350 Park Avenue**, A.P. 11, lot 1768

**ON A MOTION BY MR. ZAMBRANO, AND SECONDED BY MS. MCFARLAND, THE BOARD UNANIMOUSLY VOTED TO CONTINUE THE MATTER TO THE JUNE 8, 2022 MEETING.**

## **OLD BUSINESS:**

### **PLATTING BOARD OF APPEALS:**

**APPEAL OF THE DECISION OF THE CITY OF CRANSTON PLAN COMMISSION DATED FEBRUARY 5, 2019, TO THE CITY OF CRANSTON ZONING BOARD OF REVIEW SITTING AS THE PLATTING BOARD OF REVIEW PURSUANT TO §45-23-66 OF THE RHODE ISLAND GENERAL LAWS, AS AMENDED AND SECTION XI ENTITLED “APPEALS” OF THE CITY OF CRANSTON’S SUBDIVISION AND LAND DEVELOPMENT REGULATIONS GRANTING FINAL PLAN APPROVAL FOR NATICK AVE SOLAR ARRAY, 0 NATICK AVENUE, A.P. 22, LOTS 108 & 119**

On a motion made by Mr. Perdikakis and seconded by Ms. Montanaro, the Board voted unanimously to **Uphold** the decision of the Plan Commission, and **Deny** the appeal of the Appellant. A complete written decision is incorporated herein.

**The Board made their decision based on the following facts:**

On May 11, 2022, the Platting Board of Review convened to issue a decision on the appeal of the action of Joshua Berry, Senior Planner to issue a final decision letter for the above referenced project. The following motion to uphold the action of the Senior Planner and deny the appeal OF Drake Patten, et al was made by Perdikakis, D and read into the record.

On January 11, 2022, the Final Plan was presented to the City Plan Commission during an informational meeting. The Final Plan was determined by the Administrative Officer to be consistent with the Preliminary Plan Approval granted by the City Plan Commission on April 6, 2021 including the conditions enumerated in the Preliminary Plan Approval letter dated April 13, 2021 that were applicable at this phase of the project. The Final Plan for this Major Land development was approved and recorded on January 14, 2022 and the Appellant filed a timely appeal to the Platting Board on February 2, 2022.

The Appellant submitted a Letter in support of its appeal and Southern Sky/Reivity submitted a Letter in opposition to the appeal. Counsel to the Plan Commission submitted separate Memorandum in opposition to the appeal. This Board was supplied with the record and all correspondence and briefs for review prior to the Hearing. Oral arguments were heard on April 13 2022 and the attorneys for all parties gave oral presentations to the Board.

In reviewing an appeal from the Plan Commission, this Board may not substitute its judgment for that of the Plan Commission but must consider but must consider the issue based upon the findings and the record of the Board. See RIGL § 45-23-70 and Section XI, Article B of the Cranston's Subdivision and Land Development Regulations. This Board may not reverse a decision of the Plan Commission except upon a finding of (1) Prejudicial Procedural Error; (2) Clear Error or (3) Lack of Support by the weight of the evidence in the record.

In addition, with regard to approvals of a final plan, Section 11(B)(5)(a) of the Cranston Subdivision Regulations state: appeals from a decision granting or denying approval of a Final Plan shall be limited to elements of the approval or disapproval not contained in the decision reached by the planning Board at the preliminary stage, providing that a public hearing has been held on the plan pursuant to Section 45-23-42.

The Appellant made three arguments on why the action of the administrative officer should be reversed or remanded and those arguments are incorporated herein. The arguments were substantially identical to the arguments made by the Appellant in its appeal of the Preliminary Plan to this Board.

They were that the Final Letter was based upon an error that waivers had been granted, that the development plan was in direct violation of the Ordinances and that the approval improperly considered the lots on the whole. This Board addressed these arguments in the previous decision and upheld the decision of the Plan Commission at the Preliminary Plan Stage. The Appellant fails to put forth any argument on the specific legal issue before this Board, namely being which portion or elements of the decision granting or denying approval of a Final Plan were not contained in the approval or disapproval of the decision reached by the Planning Board at the preliminary stage and therefore improper and in error.

The Final Decision letter was identical in its conditions, either satisfied or to be satisfied at a later date, as the Preliminary Plan Decision with the exception of Condition #22 seeking a final site plan prior to the issuance of a building permit. As such, there this Board finds that there was no of Prejudicial Procedural Error, Clear Error or Lack of Support by the weight of the evidence in the record to support a reversal of the action of the administrative officer in approving the final plan.

The motion to uphold the action of the administrative officer issuing the Final decision letter and to deny the appeal of the abutters was then seconded by Montanaro, J. The chair then called for discussion on the motion. The Platting Board then unanimously voted (5-0) in favor of the Motion and the appeal is hereby **Denied**.

## **ZONING BOARD OF REVIEW:**

### **NEW BUSINESS**

**APPEAL OF A NOTICE OF VIOLATION DATED MARCH 25, 2022 ISSUED BY THE CITY OF CRANSTON BUILDING OFFICIAL REGARDING A USE NOT PERMITTED IN A RESIDENTIAL ZONE. APPEAL TAKEN IN ACCORDANCE WITH THE CITY OF CRANSTON MUNICIPAL CODE TITLE 17, SECTION 17.116.010- APPEAL POWERS. SUBJECT PROPERTY LOCATED 1231 HOPE ROAD, A.P. 30, LOT 68, AREA 18.23 AC., ZONED A80; ADELAIDE KNIGHT TRUSTEE (OWN), GREENWICH WOOD PRODUCTS/ MIKE HENDERSHOT (APPELLANT).**

**On a motion made by Mr. Perdikakis and seconded by Ms. Montanaro, the Board unanimously voted to **continue** the matter to the June 8, 2022 meeting.**

**SHANE AND JESS WATTS (OWN/APP)** have applied to construct an accessory family dwelling unit addition encroaching into a required side yard setback at **105 Amy Drive, A.P. 20, lot 2155, area 39,012 s.f. zoned A20**. Applicant seeks relief per Section 17.92.010- Variance; Sections 17.20.120- Schedule of Intensity Regulations; Application filed 3/31/2022. No Attorney.

**On a motion made by Mr. Perdikakis and seconded by Ms. McFarland, the Board voted unanimously to **Approve** this application as presented to the Board**

The Board made their decision based on the following findings of fact:

### PLANNING STAFF FINDINGS

1. The parcel (AP 20, Lot 2155) is located in an A-20 zone on a lot at the end of a cul-de-sac, with approximately 73.5 feet of frontage.
2. The addition of the proposed 592 ft<sup>2</sup> in-law apartment to the parcel, which already hosts an existing 2,401 ft<sup>2</sup> single-family house (with attached garage), will increase the lot coverage from 3.3% to 4.6%. This remains below the maximum allowable lot coverage (20%) in an A-20 zone.
3. The proposed single-bedroom addition would encroach roughly 9 feet into the 15-foot side setback. The applicant intends to convert a portion of the garage, located on the western side of the house, for the apartment's use as a kitchen. The addition would also include a full bathroom and two closets.
4. The applicant submitted a sheet containing handwritten notes of support for the proposed addition from its three nearest abutters.
5. The applicant testified about the desire to have elderly parents come live with them
6. There was no testimony in opposition to the project

In this case, applying the facts above to the standard for a variance, the Board further finds that the application involves a hardship that is due to the unique characteristics of the property, and is not due to a physical or economic disability of the applicant, that the hardship does not result primarily from the desire of the applicant to realize greater financial gain, will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the comprehensive plan. In granting a variance the subject land the Applicant met the requirements of the Zoning Code relief per Section 17.92.010, Sections 17.20.030- Schedule of Allowed Uses, and 17.20.120- Schedule of Intensity Regulations.

**MICHAEL AND STACEY TORTORELLA (OWN/ APP)** have filed an application to construct a new single family dwelling on an undersized lot with reduced lot frontage at **0 Pippin Orchard Road**, A.P. 34, lot 22, area 32,395 s.f. zoned A80. Applicant seeks relief per Section 17.92.010-Variance; Sections 17.20.120- Schedule of Intensity Regulations; Application filed 4/13/2022. Robert D. Murray, Esq.

**On a motion made by Mr. Perdikakis and seconded by Mr Zambrano, the Board voted unanimously to **Approve** this application as presented to the Board**

The Board made their decision based on the following findings of fact:

### PLANNING STAFF FINDINGS

1. The parcel (AP 34, Lot 22) is located on a 32,395 ft<sup>2</sup> lot in an A-80 zone with approximately 140 feet of frontage. The lot was created in 1924.
2. The construction of the proposed single-family house on the parcel, which would occupy a roughly 5,000 ft<sup>2</sup> area, would result in a lot coverage figure of 15.4% .
3. The proposed single-family house would be built within all required setbacks for an A-80 zone.
4. Granting relief to allow the construction of a house on this site would not negatively alter the character of the neighborhood, as two other single-family houses within a 400-foot-radius and on the same side of Pippin Orchard Road are located on even smaller lots. (AP 4, Lot 38 is 21,934 ft<sup>2</sup> with just under 100 feet of frontage, while AP 4, Lot 21 to the south, is a 28,862 ft<sup>2</sup> corner lot with adequate frontage.)
5. Any visual/neighborhood impacts resulting from the new house construction would be minimal, as the house is consistent with the general character of this section of Pippin Orchard Road.
6. Granting relief would be generally consistent with the Comprehensive Plan's Land Use Principle 4, which advises to "*Protect and stabilize existing residential neighborhoods by basing land use decisions on neighborhood needs and quality of life...*" (p. 34).

7. The applicant spoke about the project and there was no testimony in opposition to the application.

In this case, applying the facts above to the standard for a variance, the Board further finds that the application involves a hardship that is due to the unique characteristics of the property, and is not due to a physical or economic disability of the applicant, that the hardship does not result primarily from the desire of the applicant to realize greater financial gain, will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the comprehensive plan. In granting a variance the subject land the Applicant met the requirements of the Zoning Code relief per Section 17.92.010, Sections 17.20.030- Schedule of Allowed Uses, and 17.20.120- Schedule of Intensity Regulations

**PARK AVENUE REALTY, INC. (OWN) and NICO BELLA CRANSTON, LLC. (APP)** have applied to operate a restaurant in an industrial zone with reduced lot area at **1350 Park Avenue**, A.P. 11, lot 1768, area 14,748 s.f., zoned M1. Applicant seeks relief per Section 17.92.010-Variance; Sections 17.20.030- Schedule of Uses; 17.20.120- Schedule of Intensity Regulations; 17.72.010- Signs. Application filed 4/13/2022. Stephen A. Izzi, Esq.

On a motion made by Mr.Zambrano and seconded by Ms.Montanaro, the Board unanimously voted to **continue** the matter to the June 8, 2022 meeting.

:

**Stanley Pikul**  
Secretary, Zoning & Platting Boards

**The meeting was adjourned at 7:45 PM**

---