

A meeting of the Cranston Zoning Board of Review was called to order via Zoom voice and video conference by Chairperson Matthew Gendron on **Wednesday September 9, 2020 at 6:32 pm**. Also present were Joy Montanaro, Thomas Barbieri, Paula McFarland, and 1<sup>st</sup> alternate Craig Norcliffe. Assistant Solicitor Stephen Marsella, Esq. was Counsel to the Board.

The following was the sign-in reference for the July 8, 2020 ZBR meeting at 6:30 pm via  
ZOOM

**Meeting ID:** 983 2253 7404

**Password:** 584294

Join meeting:

<https://zoom.us/j/98322537404?pwd=c0Ruc2tKNlJ0d0JCOHRjSHI0ZkZydz09>

or

Join by Phone:

888 788 0099 US Toll-free

## **OLD BUSINESS**

**MARCIA B. SMITH and MARVIN M. SMITH (OWN) and WINES AND MORE OF RI, INC. (APP)** have filed an application to install a new digital and animated sign at **125 Sockanosset Crossroad**, A.P. 10, Lot 1489

**ALBERT BACCARI and VIRGINIA A. BACCARI (OWN/APP)** have filed an application to construct an addition to an existing legal non-conforming auto repair shop with restricted rear yard setbacks at **880 Park Avenue** A.P. 9 lot 169 **NOTE: This matter was continued to the October 14, 2020 meeting by the applicant.**

**LOMBARDI FAMILY, LLC(OWN/APP)** Has filed an application to install a Minor Accessory Solar Energy System at **45 Burlingame Road**, A.P. 24, Lot 1 **NOTE: This matter has been continued to the October 14, 2020 meeting.**

## **NEW BUSINESS**

**SINTRA SEVEN, LLC. (OWN/APP)** has filed an application to sub-divide an existing parcel of land leaving an existing dwelling with restricted area, lot width and frontage at **90 Clarence Street**, A.P. 5, lot 99;

**SINTRA SEVEN, LLC. (OWN/APP)** has filed an application to sub-divide an existing parcel of land an construct a new single family dwelling with restricted area, lot width and frontage at **0 Clarence Street**, A.P. 5, lot 99;

**RICHARD CARDELLO (OWN) AND BARBARA GAGLIONE (APP)** have filed an application to leave an existing single family dwelling and create a new lot with a restricted side yard setback at **21 Turner Avenue** A.P. 18, Lot 489 and 490,

**MARCIA B. SMITH and MARVIN M. SMITH (OWN) and WINES AND MORE OF RI, INC. (APP)** have filed an application to install a new digital and animated sign at **125 Sockanosset Crossroad**, A.P. 10, Lot 1489

## **Ward 6**

**MARCIA B. SMITH and MARVIN M. SMITH (OWN) and WINES AND MORE OF RI, INC. (APP)** have filed an application to install a new digital and animated sign at **125 Sockanosset Crossroad**, A.P. 10, Lot 1489; area 2.32 ac ; zoned C3. Applicant seeks relief per 17.92.010; Section 17.72.010 Signs. Application filed 6/10/2020. Louis DeSimone, Esq.

On a motion made by Ms. McFarland, and seconded by Ms. Montanaro, the Board voted unanimously to **approve** this application **with conditions**.

### **Conditions:**

1. Change rate **NOT** to be less than 20 seconds.
2. Illumination times can only be operational 1 hr before opening, until 1 hour after business hours and closing of the store.

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

**FINDINGS OF FACT:**

1. The applicant, Wines & More of RI, requests a sign variance to replace an existing 77" by 99" message board with a digital LED message board (animated sign) with the exact same placement and dimensions on the existing free standing changeable copy sign.
2. The Cranston Zoning Board granted relief to allow the pylon/freestanding sign on September 9, 2009. Relief was granted to allow the existing pylon/free standing sign which consists of a 96 ft<sup>2</sup> Wines & More of Rhode Island on top with a 52.9 ft<sup>2</sup> message board and a 37.8 ft<sup>2</sup> Hope of Life/Garden city Nutrition sign on the bottom.
3. There is 181.5 ft<sup>2</sup> of existing building/wall signage which is not to be altered as part of this request.
4. The applicant specifies that they seek relief to allow the digital animated sign to "*change every twenty (20) seconds to delineate products and items for sale at the establishment.*"
5. The property's existing uses are consistent with the Comprehensive Plan which calls for commercial/services.
6. The Comprehensive Plan Land Use Element states "The City should adopt design and signage guidelines along commercial corridors, such as Reservoir Avenue, Park Avenue, Elmwood Avenue, Atwood Avenue, and Oaklawn Avenue to improve the attractiveness and quality of the businesses" (p. 34). Although "attractiveness" is subjective, the message board has more aesthetic capacity than black lettering on a changeable copy board and will appear more modern.
7. The sign would not be out of character with the commercial area as there are other animated signs on Sockanosset Crossroads, for example, at Ruggieri Carpet One Floor & Home, Garden City Center, and Chapel View and the Board found that the proposal does not impair the intent or purpose of zoning or the Comprehensive Plan.
8. The Board heard the proposal from the attorney for the applicant and testimony from the sign company about the operation of the sign. The Board found that the sign would have no impact on any residential area.
9. There was no testimony either for or against the request from any members of the public.

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, is the least relief necessary. In granting a dimensional variance, the Board finds 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 and that the Applicant met the requirements of the Zoning Code and relief per Section 17.92.010, Section 17.72.010(4) - Signs.

**NEW BUSINESS**

**Ward 2**

**SINTRA SEVEN, LLC. (OWN/APP)** has filed an application to sub-divide an existing parcel of land leaving an existing dwelling with restricted area, lot width and frontage at **90 Clarence Street**, A.P. 5, lot 99; area 5,000 sf. zoned B1. Applicant seeks relief per 17.92.010 Variance; Section 17.20.120 schedule of Intensity Regulations. Application filed 7/28/2020. John S. DiBona, Esq.

On a motion made by Ms. McFarland, and seconded by Mr. Buonanno, the Board voted voted 4-1 to **approve** this application. Ms. McFarland voted **Nay** on this matter.

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

**FINDINGS OF FACT:**

1. The overall project proposal is to subdivide a single 10,000 ft<sup>2</sup> lot with an existing single-family house into 2 new lots. The applicant intends to keep the existing single-family dwelling on 1 of the lots, and on the other lot the applicant intends to build a new single-family dwelling.

2. The lot with the remaining house (Parcel 2) will be substandard in frontage in which 50' is provided where 60' is required.
3. The lot with the remaining house (Parcel 2) does NOT require any building setback variances despite the creation of a new side lot line.
4. The proposed new buildable lot (Parcel 1) does not require any building setback variances. It should be noted this lot is a corner lot and subject to 2 front yard setback on each of abutting public rights-of-way. The proposed new dwelling is located 14' from the Magnolia Street right-of-way which is closer than the standard front setback for this zone of 25 feet, However, City zoning code section 17.20.110(C) provides regulatory relief from the standard front setback as follows:
5. The surrounding neighborhood (400 foot radius) is comprised of B-1 zoned parcels, containing mostly single-family residential lots, with a number of higher density residential uses (2-family, 3-family, etc).
6. The Board finds the surrounding neighborhood contains mostly single-family residential lots, but also has a number of multi-family dwellings which typically occur on the larger lots in the area. This brings the average lot size up above 5,000 ft<sup>2</sup> due to the multi-family dwellings, however staff finds that the proposed lots size of 5,000 ft<sup>2</sup> for the proposed project is still in keeping with the character of the neighborhood.
7. The Cranston Comprehensive Plan's Future Land Use Map designates the subject parcels as "Single/Two Family Residential Less Than 10.89 units per acre". The board finds proposed density of the project is 8.71 units/per acres (including the pre-existing single-family dwelling) so the project is in conformance with the Future Land Use Map despite the need for a lot size variance.
8. The proposal is consistent with the Comprehensive Plan Housing Element in that development of infill lots is encouraged in Eastern Cranston.
9. The applicant submitted testimony about the project to the Board.
10. There was no testimony either for or against the request from any members of the public

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, is the least relief necessary. In granting a dimensional variance, the Board finds 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 and that the Applicant met the requirements of the Zoning Code and relief per Section 17.92.010, Section 17.20-120 – Schedule of Intensity Regulations.

## **Ward 2**

**SINTRA SEVEN, LLC. (OWN/APP)** has filed an application to sub-divide an existing parcel of land an construct a new single family dwelling with restricted area, lot width and frontage at **0 Clarence Street**, A.P. 5, lot 99; area 5,000 sf. zoned B1. Applicant seeks relief per 17.92.010 Variance; Section 17.20.120 schedule of Intensity Regulations. Application filed 7/28/2020. John S. DiBona, Esq.

On a motion made by Mr. Buonanno, and seconded by Ms. Montanaro, the Board voted 4-1 to **approve** this application. Ms. McFarland voted **Nay** on this matter.

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

### **FINDINGS OF FACT:**

1. The overall project proposal is to subdivide a single 10,000 ft<sup>2</sup> lot with an existing single-family house into 2 new lots. The applicant intends to keep the existing single-family dwelling on 1 of the lots, and on the other lot the applicant intends to build a new single-family dwelling.
2. The lot with the remaining house (Parcel 2) will be substandard in frontage in which 50' is provided where 60' is required.

3. The lot with the remaining house (Parcel 2) does NOT require any building setback variances despite the creation of a new side lot line.
4. The proposed new buildable lot (Parcel 1) does not require any building setback variances. It should be noted this lot is a corner lot and subject to 2 front yard setback on each of abutting public rights-of-way. The proposed new dwelling is located 14' from the Magnolia Street right-of-way which is closer than the standard front setback for this zone of 25 feet, However, City zoning code section 17.20.110(C) provides regulatory relief from the standard front setback as follows:
5. The surrounding neighborhood (400 foot radius) is comprised of B-1 zoned parcels, containing mostly single-family residential lots, with a number of higher density residential uses (2-family, 3-family, etc).
6. The Board finds the surrounding neighborhood contains mostly single-family residential lots, but also has a number of multi-family dwellings which typically occur on the larger lots in the area. This brings the average lot size up above 5,000 ft<sup>2</sup> due to the multi-family dwellings, however staff finds that the proposed lots size of 5,000 ft<sup>2</sup> for the proposed project is still in keeping with the character of the neighborhood.
7. The Cranston Comprehensive Plan's Future Land Use Map designates the subject parcels as "Single/Two Family Residential Less Than 10.89 units per acre". The board finds proposed density of the project is 8.71 units/per acres (including the pre-existing single-family dwelling) so the project is in conformance with the Future Land Use Map despite the need for a lot size variance.
8. The proposal is consistent with the Comprehensive Plan Housing Element in that development of infill lots is encouraged in Eastern Cranston.
9. The applicant submitted testimony about the project to the Board.
10. There was no testimony either for or against the request from any members of the public

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, is the least relief necessary. In granting a dimensional variance, the Board finds 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 and that the Applicant met the requirements of the Zoning Code and relief per Section 17.92.010, Section 17.20-120 – Schedule of Intensity Regulations.

#### **Ward 4**

**RICHARD CARDELLO (OWN) AND BARBARA GAGLIONE (APP)** have filed an application to leave an existing single family dwelling and create a new lot with a restricted side yard setback at **21 Turner Avenue** A.P. 18, Lot 489 and 490, total area 8,000 sq.ft. Zoned A6. Applicant seeks relief per Sections 17.92.010 Variance; Section 17.20.120 Schedule of Intensity Regulations. Application filed 8/04/2020. Christopher D'Ovidio, Esq.

On a motion made by Mr. Buonanno, and seconded by Ms. Montanaro, the Board voted unanimously to **Deny** this application.

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

#### **FINDINGS OF FACT:**

1. The four existing lots were platted as 50'x100' lots prior to the adoption of zoning and have not been altered since.
2. The applicant applied for and was granted approval for a three lot subdivision by the Planning Commission subject to either receiving a variance from this board or demolishing the current structure.
3. The Plan Commission stated that the denial of the variance will not result in the denial of the subdivision, rather, it would result in the existing residence being demolished and rebuilt (or relocated) as to not encroach into a required setback.

4. In reviewing the subdivision plan, the Board finds that it was the applicant that applied for a three lot subdivision rather than a two lot subdivision and this prior action by the applicant created the need for the relief requested.
5. There was testimony by Mr. Cardello who stated that a denial from the Board would lead to the tenants being removed and the house being demolished.
6. The Board finds that testimony to not be credible and specifically noted that it would be the Owner and not the Board that would remove the tenant and demolish the home.
7. There was additional testimony by the owner who specifically requested that the Board deny the application.
8. There was testimony by objectors to the project that spoke about site line issues, safety and the character of the neighborhood.
9. The Board finds the testimony of the objectors credible with respect to the general characteristics of the neighborhood and that this project would not conform thereto.
10. While the Board incorporates its discussion on the record into its decision, when unanimously voting to deny the request, the Board specifically finds that the applicant failed to prove that it was not the prior action of the applicant which caused the need for the requested relief and specifically cites the application of the three lot subdivision to the City of Cranston by the applicant, rather than a two lot subdivision which necessitated the application before this Board.
11. Based upon the forgoing and the discussion on the record, the vote was 5-0 to unanimously deny the application.

**The meeting was adjourned at 9:00 pm**

*Stanley F. Pikul*

Zoning / Platting Board Secretary

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