

A meeting of the Cranston Zoning Board of Review was called to order via Zoom voice and video conference by Vice- Chairperson Christopher Buonanno on **Wednesday October 14, 2020 at 6:31 pm**. Also present were Joy Montanaro, Paula McFarland, Dean Perdikakis, Carlos Zambrano, 1st alternate Craig Norcliffe, 2nd alternate Josh Catone, and 3rd alternate Thomas Jones. Assistant Solicitor Stephen Marsella, Esq. was Counsel to the Board.

A moment of silence was called for in remembrance of former City Council President John E. Lanni Jr., who passed away on October 14, 2020.

The following was the sign-in reference for the October 14, 2020 ZBR meeting at 6:30 pm via ZOOM

Join meeting:

<https://zoom.us/j/99058793428?pwd=LzNvaEZHK2tvcWMrSWluQ0F3cFdxdz09>

Meeting ID: 990 5879 3428

Password: 635172

or

Join by Phone:

888 788 0099 US Toll-free

OLD BUSINESS

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 application was requested to be continued to the November 10, 2020 meeting by the applicant. The matter was so moved by the Board.**

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 application was requested to be continued to the November 10, 2020 meeting by the applicant. The matter was so moved by the Board.**

NEW BUSINESS

GORDON A. & DEBORAH A. RILEY (OWN) and DANTE CALISE (APP) have filed an application to construct a new single family dwelling with restricted frontage and reduced lot size at **0 Appleton Street**, A.P. 7, lot 1943

KIMBERLY A. CAPIRCHIO (OWN/APP) has filed an application to install a 16'x26' in- ground pool in front side yard location on a corner lot at **361 Magnolia Street** A.P. 5, lot 2599

DEBORAH & JEFFEREY ANDRADE (OWN/APP) have filed an application to construct an addition to a single family dwelling to be used as an accessory family apartment with restricted rear yard setbacks; exceeding lot coverage at **156 Pippin Orchard Road**, A.P. 33, lot 51,

NEW BUSINESS

WARD 3

GORDON A. & DEBORAH A. RILEY (OWN) and DANTE CALISE (APP) have filed an application to construct a new single family dwelling with restricted frontage and reduced lot size at **0 Appleton Street**, A.P. 7, lot 1943, area 5,000 s.f. zoned A6. Applicant seeks relief per 17.92.010 Variance, Sections 17.20.120 Schedule of Intensity Regulations, 17.88.010 Substandard Lots of Record. Application filed 9/2/2020. Robert D. Murray Esq.

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

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

FINDINGS OF FACT:

1. The proposal is seeking a variance to unmerge 2 lots of record in order to develop a single family house on a vacant lot (AP 7, Lot 1943). The 2 lots are considered merged for zoning purposes per Sec. 17.88.010 because they are both substandard in lot dimensions and they are under common ownership.
2. No subdivision approval is required by the Plan Commission to unmerge the 2 lots. No new lot lines are being proposed and no existing lot lines will be changed. The immediate application is seeking to recognize the 2 existing lots as separate, developable parcels in an A-6 zone.
3. In addition to seeking relief to unmerge the lots, the applicant is also seeking relief for the lot to be developed with a new single family house. Specifically, the subject lot contains 5,000 ft² in size while 6,000 ft² is required, and has 50' of frontage while 60' is required.
4. No building setback relief is needed as part of the proposed application. The distance from the existing house to the side property line (common property line between the 2 lots) is 8 feet - which meets the minimum distance required by zoning.
5. The surrounding neighborhood (400 foot radius) is comprised of A-6 and B-1 zoned parcels, containing mostly single-family houses, with a smaller number of higher density residential uses such as 2-family, 3-family, and multi-family dwellings.
6. At the hearing, the applicant provided a neighborhood assessment that provided the following facts:
 - a. There are a total of 120 lots within a 400 ft radius.
 - b. Of the above lots, 1 lot is host to the City of Cranston Stadium School and is 243,936 ft² in size.
 - c. After removing the Stadium School lot from the analysis, the average lot size of the remaining 119 residential parcels is 4,035 ft².
 - d. The proposed lot size as part of the immediate application is 5,000 ft² which is greater than the average lot size in the area.
7. The Cranston Comprehensive Plan's Future Land Use Map designates the subject parcels as "Single Family Residential 7.26 to 3.64 units per acre". The proposed density of the project is 8.71 units/per acres so the project is more dense than the designation of the Future Land Use Map.
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 testified about the project and that the new house would be in conformance with the neighborhood.
10. No one testified 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, 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, Sections 17.20.120 Schedule of Intensity Regulations, 17.88.010 Substandard Lots of Record

WARD 2

KIMBERLY A. CAPIRCHIO (OWN/APP) has filed an application to install a 16'x26' in- ground pool in front side yard location on a corner lot at **361 Magnolia Street** A.P. 5, lot 2599, area 6435, zoned A6. Applicant seeks relief per 17.92.010 Variance, Sections 17.20.110 (B), (D) Residential yard exceptions; Sections 17.20.120 Schedule of Intensity Regulations; 17.60.010 Accessory Uses; Application filed 9/2/2020. Robert D. Murray 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. Fence to remain while pool is in place.
2. Pool pump and filter to be minimum of 15 feet from property lines.

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

FINDINGS OF FACT:

1. The applicant is seeking to construct a below ground 16'X26' swimming pool in a front yard setback in an A-6 zone. The proposed pool will be located 5' from the front property line abutting Evangeline Drive.
2. The lot conforms to all A-6 standards for required lot dimensions.
3. The existing single-family dwelling conforms to all required building setbacks.
4. There is an existing above ground pool on the subject property located in the front yard setback. The applicant has acknowledged that this pool was constructed without benefit of a city permit approximately 15-20 years ago at the direction of an individual who previously co-owned the property. The applicant has stated in their application that they will remove the existing above ground pool.
5. Section 17.60.010 "Accessory Uses" of the zoning code establishes specific setbacks for a pool in an A-6 zone (5' for rear setback and 5' for side setback). This section of code does NOT provide a specific setback for pool in a front yard, thus the required front yard setback for a pool is the same as the required setback for a building (25').
6. The property does not have the benefit of a typical size backyard because it is a corner lot and is required to have 2 front yard setbacks. A front yard setback must be measured from both the Magnolia Street right-of-way and the Evangeline Drive right-of-way. Because the existing dwelling conforms to all setbacks, there is limited space for improvements in the backyard area. The unique circumstance of this property being a corner lot creates a hardship with regard to locating customary accessory uses in the backyard.
7. There are additional site conflicts with locating the pool in the backyard of the property because there is an existing rear deck and stairs that serves as an emergency second egress from the dwelling.
8. The front yard area where the pool is proposed is surrounded by a 6' white PVC fence. The views of the proposed pool area from the surrounding public rights-of-way are largely screened by the existing fence.
9. The proposal to remove the existing above ground pool and construct a below ground pool will decrease the height of the pool and deck from its current condition to the proposed conditions. Putting the pool at grade, along with keeping the 6' PVC fence, combines to create an effective visual mitigation strategy to provide privacy from abutting neighbors and public rights-of-way.
10. The applicant testified about 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, 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, Sections 17.20.120 Schedule of Intensity Regulations; 17.60.010 Accessory Uses.

WARD 4

DEBORAH & JEFFEREY ANDRADE (OWN/APP) have filed an application to construct an addition to a single family dwelling to be used as an accessory family apartment with restricted rear yard setbacks; exceeding lot coverage at **156 Pippin Orchard Road**, A.P. 33, lot 51, area 21,352 sf., zoned A80. Applicant seeks relief per 17.92.010 Variance, Sections 17.20.120 Schedule of Intensity Regulations, Application filed 9/9/2020.

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

Conditions:

1. Accessory Family Dwelling Unit affidavit must be recorded on the property deed prior to issuance of a building permit and uploaded as an electronic attachment to the property record.

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

FINDINGS OF FACT:

1. The owner/applicants propose an Accessory Family Apartment (aka Accessory Dwelling Unit [ADU]) at their residence at 156 Pippin Orchard Rd (AP 33 Lot 51) to take care of their mother.
2. The proposed ADU meets the area requirements in City Code Section 17.24.010(F)(1) which requires ADU's to be between 400 ft² and 600 ft², to not exceed 25% of the entire floor area of the primary dwelling, and limits the ADU to one bedroom. Only one bedroom is proposed. The City's Vision Tax Assessor card dated 7/8/20 states that the gross living area of the existing residence is 2,136 ft². The ADU is proposed to be 480 ft², which is 22.5% of the gross living area of the existing residence.
3. The proposed ADU meets the requirement that the occupant be either a parent or grandparent of the owner per City Code Section 17.24.010(F)(2).
4. The proposed ADU is compliant with City Code Section 17.24.010(F)(4) which requires the ADU to retain the appearance of a single-family dwelling and have no additional external entrance facing the street. The entire addition is to the rear and does not alter the appearance of a single-family home
5. The proposed ADU meets the sewage disposal requirements in City Code Section 17.24.010(F)(5) because the existing residence connected to public sewer utilities in 2017.
6. Although the AUD meets all of the performance standards, the addition requires relief for its 35.9' encroachment into the 100' rear setback and for exceeding the 10% lot coverage maximum by 6.7%.
7. The total existing lot coverage is 14.1% (3,016 ft² coverage of a 21,352 ft² lot). Permits were granted for the pool and the deck without zoning relief. The proposal would add another 552 ft² of lot coverage for a total of 3,568 ft² or 16.7% of the lot.
8. The size/area of the lot is a unique characteristic of the subject land and not the general characteristic of the surrounding area. The subject lot is a preexisting nonconforming lot in A-80 zoning. The lot is 21,352 ft², which is 58,648 ft² short of the 80,000 ft² minimum requirement. The subject property has less area than the three (3) A-20 zoned lots that it abuts (28,618 ft², 24,382 ft² and 21,553 ft² respectively) and is 79,965 ft² smaller than the abutting 99,317 ft² A-80 lot to the south (AP 33 Lot 37).
9. The 100' rear setback in A-80 zoning is the largest setback in any zone in the City (with the exception that S-1 Open Space zones have the same setbacks as A-80). The next largest rear setback in a residential zone is 30' in A-20 zoning. The lot 10% coverage maximum in A-80 is the most restrictive in the City (again tied with S-1, Open Space zoning). The next most restrictive is A-20 with a 20% maximum. The proposed improvement on the subject lot would comply with A-20 setbacks and lot coverage if the lot were zoned consistently with its dimensions.
10. The size of the lot is not the result of any action of the applicant.
11. The motive for the request for the ADU is to house and take care of an aging parent, not financial gain.
12. The Comprehensive Plan suggest that the City "Promote the development of special housing alternatives for the elderly and handicapped" (p. 11).
13. Granting of the request will not alter the general character of the surrounding area or impair the purpose of the zoning ordinance or comprehensive plan. The addition will not alter the front elevation of the property. The lot is mis-zoned and should be A-20, which is consistent with the Comprehensive Plan as stated in finding #8.
14. The denial of the variance may amount to more than a mere inconvenience as the applicants' mother would have to find an alternative living arrangement.
15. The applicant supplied letters of support from three abutting neighbors, Nicholas & Shelley DiBenedetto of 21 Braeburn Circle, Richard and Kathleen Sullivan of 5 Westland Court, and Anthony R. Leone, II of 9 Westland Court and no one spoke 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, 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, Sections 17.20.120 Schedule of Intensity Regulations.

The meeting was adjourned at 8:45 pm

Stanley F. Pikul

Zoning / Platting Board Secretary

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