

A meeting of the Cranston Zoning Board of Review was called to order via a Zoom conference meeting by Chairperson Christopher E. Buonanno on **Wednesday June 9, 2021 at 6:33 pm**. Also present were Joy Montanaro, Paula McFarland, Dean Perdikakis and Carlos Zambrano

### Zoom Meeting

The following applications were heard via Zoom conference call as indicated below.

**Wednesday June 9, 2021 at 6:30 p.m.**

The items listed may be subject to final action.

City Of Cranston is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/85295327729?pwd=ei9peldQRldpVVpRbzdlUHpTTjBuZz09>

Meeting ID: 852 9532 7729

Passcode: 853937

Call In: 888 788 0099 (US Toll-free)

### NEW BUSINESS

**BRYAN WHITE (OWN) and GARY WHITE (APP)** have filed an application to waive the requirement for the public street to extend the full frontage of a lot and to allow a two family dwelling to be built at **0 Elmhurst Ave**, A.P. 12, lots 294, 295, and 296.

**BRYAN WHITE (OWN) and GARY WHITE (APP)** have filed an application to leave an existing single family home with restricted rear yard setbacks after sub-dividing to create two new parcels at **145 Wayland Ave**, A.P. 12, lots 297, 298, and 299.

**LUCY M. CABRAL (OWN/APP)** has filed an application to make legal an expanded garage with restricted side and rear setbacks constructed without benefit of permit at **162 Lexington Ave.**, A.P. 9 lot 1294.

**ANGELO E. MUCCIO and ROSE M. MUCCIO (OWN/APP)** have filed an application to sub-divide an existing lot and to construct a new single family dwelling on an new undersized lot at **0 Connecticut Street**, A.P. 8, lot 2331.

**LIPPITT LAND INVESTMENTS, LLC (OWN/APP)** has filed an application to construct a new single family dwelling with an Accessory Family Dwelling Unit exceeding the allowable square footage at **39 Lantern Hill Drive** A.P. 30, lot 273.

**HODSELL 45 INVESTMENT & DEVELOPMENT, LLC (OWN/APP)** have filed an application to convert an existing legal non-conforming building into a two family residential dwelling with reduced area at **45 Hodsell Street**. A.P. 5, lot 526.

### NEW BUSINESS

#### Ward 5

**BRYAN WHITE (OWN) and GARY WHITE (APP)** have filed an application to waive the requirement for the public street to extend the full frontage of a lot and to allow a two family dwelling to be built at **0 Elmhurst Ave**, A.P. 12, lots 294, 295, and 296, area 11,160 s.f. zoned A6. Applicant seeks relief per 17.92.010 Variance; Sections 17.20.080 – Street Access; 17.20.030- Schedule of Uses. Application filed 04/22/21. Robert D. Murray, Esq.

On a motion by Ms. McFarland and seconded by Ms. Montanaro the Board voted unanimously to **approve the variance with conditions.**

**CONDITIONS:**

**Applicant to install either 4-6 foot mature plantings or 4-6 foot solid fencing on the Western property line to #75 Elmhurst to provide a buffer and screening between properties.**

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

**FINDINGS OF FACT:**

1. The subject property is the last/only undeveloped portion of Elmhurst Ave between Preston Ave and Wooddale Ave. Elmhurst Ave and Wooddale Ave are not improved streets so proposed Parcel B currently has restricted vehicular access and frontage.
2. The owner/applicant proposes to replat/subdivide six existing lots into two lots for the purpose of creating one new buildable lot intended for two-family development under A-6 zoning.
3. The six subject lots have enough area (26,000 ft<sup>2</sup>) to yield four dwelling units while only three units are proposed.
4. Proposed Parcel A, where the existing single-family residence is located, will be a conforming lot with 13,650 ft<sup>2</sup> but requires relief for a 2.87' encroachment into the 20' rear yard setback for the existing dwelling. However, the applicant was told by the City during the pre-application phase that the northern property line for Parcel A was a side yard with an 8' setback, not a rear yard with a 20' setback. The City changed its interpretation of the setbacks at the time the applicant filed their variance application.
5. Proposed Parcel B will need relief for lot frontage, and the proposed duplex will require relief for restricted vehicle access. Parcel B has 130' of frontage on Elmhurst Avenue and 95' of frontage on Wooddale Avenue, but neither of these portions of said roads are improved and thereby only the portions to be improved qualify towards street frontage.
6. The City of Cranston's Technical Review Committee met with the applicant for a pre-application on more than one occasion and advised the applicant to design the project with minimal street extension. This review involved the Fire Department, Bureau of Traffic Safety, Planning and Engineering Departments.
7. The Department of Public Works has voiced support of the subdivision design as to avoid the extension of Elmhurst Avenue and Wooddale Avenue, thereby minimizing the city's responsibility to maintain and plow the roads, manage the drainage, as well as to avoid the extension of sewer and water utilities.
8. The visual impacts to the abutting neighbors of the proposed duplex would be less than developing the remainder of Elmhurst Avenue and developing two single family homes, particularly as the vegetation in the unimproved right-of-way buffers the view to the rear of the Job Lot on Atwood Avenue.
9. The neighborhood analysis provided by the applicant finds that there are 9 other two-family homes, 1 three-family home, 1 "multi house" (multifamily home) and numerous business uses within a 400' radius. Therefore, the duplex would not be completely out of character with the surrounding area. The nearest duplex on Elmhurst Avenue is roughly 90' due northwest of the subject property.
10. The subdivision is consistent with the density allocation prescribed by the Comprehensive Plan Future Land Use Map allocation of Single Family Residential 7.26 to 3.63 units/acre with a proposed density of 5.03 units per acre.
11. The proposed subdivision design offers desired attributes that normally associated with conservation subdivisions which are identified in the Comprehensive Plan Housing Element such as encouraging more efficient development that is less sprawling, minimizing the disturbance to existing topography and vegetation in the unimproved right-of-way, and programming the extension of utilities and road improvements. The Comprehensive Plan states that "subdivision design should be based on

its resource quality and livability, and should also **allow flexibility in the dimensional standards and building types** (emphasis added).” (p. 67)

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, and is the least relief necessary. In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance, and that the Applicant met the requirements of the Zoning Code and relief per Section 17.92.010, and Section 17.20.030- Schedule of Allowed Uses.

## **Ward 5**

**BRYAN WHITE (OWN) and GARY WHITE (APP)** have filed an application to leave an existing single family home with restricted rear yard setbacks after sub-dividing to create two new parcels at **145 Wayland Ave**, A.P. 12, lots 297, 298, and 299, area 12,840 s.f. zoned A6. Applicant seeks relief per 17.92.010 Variance; Section 17.20.120 Schedule of Intensity Regulations. Application filed 04/22/21. Robert D. Murray, Esq.

On a motion by Ms. McFarland and seconded by Mr. Perdikakis the Board voted unanimously to **approve the variance as presented.**

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

### **FINDINGS OF FACT:**

1. The subject property is the last/only undeveloped portion of Elmhurst Ave between Preston Ave and Wooddale Ave. Elmhurst Ave and Wooddale Ave are not improved streets so proposed Parcel B currently has restricted vehicular access and frontage.
2. The owner/applicant proposes to replat /subdivide six existing lots into two lots for the purpose of creating one new buildable lot intended for two-family development under A-6 zoning.
3. The six subject lots have enough area (26,000 ft<sup>2</sup>) to yield four dwelling units while only three units are proposed.
4. Proposed Parcel A, where the existing single-family residence is located, will be a conforming lot with 13,650 ft<sup>2</sup> but requires relief for a 2.87' encroachment into the 20' rear yard setback for the existing dwelling. However, the applicant was told by the City during the pre-application phase that the northern property line for Parcel A was a side yard with an 8' setback, not a rear yard with a 20' setback. The City changed its interpretation of the setbacks at the time the applicant filed their variance application.
5. Proposed Parcel B will need relief for lot frontage, and the proposed duplex will require relief for restricted vehicle access. Parcel B has 130' of frontage on Elmhurst Avenue and 95' of frontage on Wooddale Avenue, but neither of these portions of said roads are improved and thereby only the portions to be improved qualify towards street frontage.
6. The City of Cranston's Technical Review Committee met with the applicant for a pre-application on more than one occasion and advised the applicant to design the project with minimal street extension. This review involved the Fire Department, Bureau of Traffic Safety, Planning and Engineering Departments.
7. The Department of Public Works has voiced support of the subdivision design as to avoid the extension of Elmhurst Avenue and Wooddale Avenue, thereby minimizing the city's responsibility to maintain and plow the roads, manage the drainage, as well as to avoid the extension of sewer and water utilities.
8. The visual impacts to the abutting neighbors of the proposed duplex would be less than developing the remainder of Elmhurst Avenue and developing two single family homes, particularly as the

vegetation in the unimproved right-of-way buffers the view to the rear of the Job Lot on Atwood Avenue.

9. The neighborhood analysis provided by the applicant finds that there are 9 other two-family homes, 1 three-family home, 1 “multi house” (multifamily home) and numerous business uses within a 400’ radius. Therefore, the duplex would not be completely out of character with the surrounding area. The nearest duplex on Elmhurst Avenue is roughly 90’ due northwest of the subject property.

10. The subdivision is consistent with the density allocation prescribed by the Comprehensive Plan Future Land Use Map allocation of Single Family Residential 7.26 to 3.63 units/acre with a proposed density of 5.03 units per acre.

11. The proposed subdivision design offers desired attributes that normally associated with conservation subdivisions which are identified in the Comprehensive Plan Housing Element such as encouraging more efficient development that is less sprawling, minimizing the disturbance to existing topography and vegetation in the unimproved right-of-way, and programming the extension of utilities and road improvements. The Comprehensive Plan states that “subdivision design should be based on its resource quality and livability, and should also **allow flexibility in the dimensional standards and building types** (emphasis added).” (p. 67)

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 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, and is the least relief necessary. In granting a variance the Applicant met the requirements of the Zoning Code and relief per Section 17.92.010 Variance; Section 17.92.120 - Schedule of Intensity Regulations.

## Ward 2

**LUCY M. CABRAL (OWN/APP)** has filed an application to make legal an expanded garage with restricted side and rear setbacks constructed without benefit of permit at **162 Lexington Ave., A.P. 9** lot 1294, area 4,000 s.f, zoned A6. Applicant seeks relief per Section 17.92.010 Variance; Section 17.20.120 Schedule of Intensity Regulations. Application filed 04/23/21. No attorney retained.

On a motion by Ms. Montanaro and seconded by Ms. McFarland the Board voted unanimously to **deny the variance** as presented.

## Ward 5

**ANGELO E. MUCCIO and ROSE M. MUCCIO (OWN/APP)** have filed an application to subdivide an existing lot and to leave an existing two family dwelling on an undersized lot at **15 Connecticut Street, A.P. 8, lot 2331, area 6,625 s.f. zoned B1.** Applicant seeks relief per 17.92.010 Variance, Section 17.20.120 Schedule of Intensity Regulations. Application filed 05/07/21. John S. DiBona, Esq.

This application was Withdrawn without prejudice by the applicant.

## Ward 5

**ANGELO E. MUCCIO and ROSE M. MUCCIO (OWN/APP)** have filed an application to subdivide an existing lot and to construct a new single family dwelling on an new undersized lot at **0 Connecticut Street, A.P. 8, lot 2331, area 4,574 s.f. zoned B1.** Applicant seeks relief per 17.92.010 Variance, Section 17.20.120 Schedule of Intensity Regulations. Application filed 05/07/21. John S. DiBona, Esq.

This application was Withdrawn without prejudice by the applicant.

## Ward 4

**LIPPITT LAND INVESTMENTS, LLC (OWN/APP)** has filed an application to construct a new single family dwelling with an Accessory Family Dwelling Unit exceeding the allowable square footage at **39 Lantern Hill Drive A.P. 30, lot 273; area 80,000 s.f. zoned A80.** Applicant seeks relief

per 17.92.010 Variance; Section 17.24.010 (F.) Specific performance standards. Application filed 05/10/21. Robert D. Murray, Esq

On a motion by Ms. McFarland and seconded by Mr. Perdikakis the Board voted unanimously to **approve the variance as presented.**

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

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

1. The owner/applicant proposes an 851 sq. ft. Accessory Family Apartment (aka Accessory Dwelling Unit [ADU]) at a yet-to-be-built residence at 39 Lantern Hill Drive.

2. Accessory Dwelling Units (ADU) are allowed by State Law (RIGL 45-24-37 [e]) and the local zoning code (Section 17.24.010 [F]) with a series of performance standards relating to design and occupant.

3. The application is seeking relief specifically from the zoning provision that the ADU be between 400-600 square feet in total area. The proposed ADU will be 851 square feet which represents a 40% increase above the maximum allowed under the code.

4. The proposed ADU will meet all other applicable performance standards of Zoning Section 17.24.010.F – which relate to a number of items, including:

- The house must retain the appearance of a single-family dwelling.
- No additional external entrance facing the street.
- Not exceed 25% of the entire floor area of the primary dwelling.
- Limits the ADU to one bedroom.
- The occupant be either a parent or grandparent of the owner.
- Fines may be incurred for inhabiting the ADU with someone who is not a parent or Grandparent of the owner.
- Sewage disposal must be designed to accommodate the additional flow of the ADU.

5. Based on planning's review of this proposal, the design of the house retains the appearance of a single-family dwelling, the entrance of the ADU (with ADA ramp) is located in the back of the property, and the unit does not take up more than 25% of the residence's floor space. All other associated performance standards relating to ADUs as listed above will remain enforceable.

6. The lot and primarily structure meet all other dimensional requirements of the zone. The only relief being sought is related to the ADU's size.

7. Staff finds that the proposed single family dwelling is larger than the average Cranston house, thus the proportion of the house dedicated to the ADU is viewed as appropriate.

8. The Comprehensive Plan suggest that the City "Promote the development of special housing alternatives for the elderly and handicapped" (p. 11).

9. 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 as the ADU will not alter the front elevation of the property.

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 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, and is the least relief necessary. In granting a variance the Applicant met the requirements of the Zoning Code and relief per Section 17.92.010 Variance; Section 17.92.120 - Schedule of Intensity Regulations

#### **Ward 2**

**HODSELL 45 INVESTMENT & DEVELOPMENT, LLC (OWN/APP)** have filed an application to convert an existing legal non-conforming building into a two family residential dwelling with reduced area at **45 Hodsell Street**. A.P. 5, lot 526; area 5,355 s.f.; zoned B1. Applicant seeks relief per 17.92.010 Variance, Section 17.20.120 Schedule of Intensity Regulations. Application filed 05/12/21. Michael K Glucksman Esq.

On a motion by Ms. Montanaro and seconded by Ms. McFarland the Board voted unanimously to **approve the variance as presented.**

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

**FINDINGS OF FACT:**

1. The 5,355 ft<sup>2</sup> subject property was previously an auto repair shop as confirmed by a zoning certificate issued by the Zoning Secretary on 9/12/19. The owner/applicant proposes to convert the existing building into a two-family dwelling, which is allowed under B-1 zoning, but requires 8,000 ft<sup>2</sup>.
2. There is sufficient parking on site. The Code requires a space for each dwelling unit. The applicant has provided a parking plan showing 7 spaces.
3. There are no proposed changes to the building footprint, but there are improvements to the interior and exterior of the existing legal nonconforming building.
4. Abutting the site is Dave's Fresh Marketplace to the south, nonconforming residential under C-3 zoning to the west, and B-1 residential neighborhood to the north and east. The conversion of the auto body use to a two-family residential use would be consistent with the surrounding area.
5. The Comprehensive Plan Future Land Use Map designate the property as Single/Two Family Residential Less than 10.89 units/acre. The proposed density is 16.23 units per acre. Therefore, the proposed use is consistent, but the proposed density is inconsistent with the Future Land Use Map.
6. There is a four-family on 5,355 ft<sup>2</sup> and a two-family on 4,284 ft<sup>2</sup> immediately abutting the subject property to the west on Hodsell Ave. There are two separate three-families on 3,784 ft<sup>2</sup> and two separate two-families on 3,750 ft<sup>2</sup> all within 150' of the property. The density is not out of character with the surrounding area.
7. The owner has been improving the interior and exterior of the property which was vacant and had become unsightly. The investment in the property will have a positive impact in the neighborhood.
8. The proposed duplex is consistent with several policies in the Housing Element and Land Use Element. Importantly, the allowance of the variance would stabilize the residential neighborhood and provide housing options at modest price points while generating demand for goods and services in the area.

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 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, and is the least relief necessary. In granting a variance the Applicant met the requirements of the Zoning Code and relief per Section 17.92.010 Variance; Section 17.92.120 - Schedule of Intensity Regulations.

**APPEAL OF THE DECISION OF THE ZONING OFFICIAL IN ACCORDANCE WITH SECTION 17.116.010.**

**Ward 5**

**ELMWAY REAL ESTATE, LLC** has filed an appeal of the decision of the Zoning Official on the legal use of two lots located at **0 Elmhurst Ave.** A.P. 12, lots 276 and 277 area 8,000 s.f. zoned A6. Appellant disputes Zoning Certificates issued on two sub-standard lots considered to be merged under Section 17.88.010 (B) - Contiguous Substandard Lots of Record. Application filed 4/26/2021. Louis A. DeQuattro, Jr. Esq.

On a motion by Ms. Montanaro and seconded by Mr. Perdikakis the Board voted unanimously to **Continue the matter to the July 14, 2021 meeting.**

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

**The meeting was adjourned at 9:05 PM**

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