

**Meeting Notice
City of Warwick
Planning Board**

Date: Wednesday, April 13, 2011

Time: 6:00 p.m.

Location: Warwick City Hall
Lower Level Conference Room
3275 Post Road
Warwick, RI 02886

Review and approval of March 2011, meeting minutes.

Public Informational Meeting

Major Land Development Project/Zone Change Request

King Street & High Street/PDR-L

Applicant: Earl W, Judy, David & Susan Sandin
Paul & Denise Lavoie

Location: 51 King Street & 51-53 High Street

Assessor's Plat: 274

Lot(s): 105, 248, & 256

Zoning District: A-7 Residential, within an existing Historic Overlay District

Proposed Zoning: A-7 with PDR-L Overlay, within an existing Historic Overlay District

Land Area: 23,560 square feet

Surveyor: Ocean State Planners, Inc.

Ward: 8

The Applicant is requesting Master Plan approval of a Major Land Development Project and a recommendation to the City Council for a Zone Change from A-7 Residential within an existing Historic Overlay District, to A-7 with a PDR-L Overlay within an existing Historic Overlay District of a pre-existing 2-unit dwelling on a lot with less than required land area and front yard setback.

Planning Department Findings

The Planning Department finds this proposal to be generally consistent with Article 1, "Purposes and General Statements" of the City's Development Review Regulations, and:

1. That the property consists of three lots containing two (2) - 2-unit dwellings; Assessor's Plat 274 Assessor's Lot 256 consists of one (1) - 2-unit dwelling on a lot totaling 8,246 square feet of land area, located at 51-53 High Street (Lavoie Property) and Assessor's Plat 274 Assessor's Lots 105 & 248 that contains one (1) - 2-family dwelling on two (2) lots totaling 15,314 square feet of land area located at 51 King Street (Sandin Property).
2. That the existing 2-unit dwelling at 51 King Street is located on AP 274 AL 105 & 248 (Sandin Property) and has been determined to be a legal use established through Certificate of Use & Occupancy No. 618-05, dated May 6, 2005.
3. That in 1980, Sandin, (AP 274 AL 105 & 248-51 King St.) entered into a purchase and sales agreement with Fashion Homes to sell a, 8,246 square foot portion of abutting lot AP 274 AL 248 located on High Street.
4. Concurrently, Sandin (AP 274 Lot 105 & 248-51 King St.) applied to the Zoning Board of Review proposing a 2-unit dwelling on AP 274 AL 248 on High St. The Zoning application and Fashion Homes' testimony before the Zoning Board of Review referenced a 10,890 square foot lot, even though the Purchase and Sales agreement was for an 8,246 square foot portion of AP 274 AL 248.
5. That the Zoning Board of Review issued an approval, Petition No. 4676, to build a 2-unit dwelling located at AP 274 AL 248, 51-53 High Street on a 10,890 square foot lot.
6. That Fashion Homes applied for a building permit to build a 2-unit dwelling on a 10,890 square foot on AP 274 AL 248.
7. That in 1981, Sandin, sold/deeded a portion of AP 274 AL 248 on High Street to Fashion Homes. The City of Warwick Tax Assessor's Office upon receiving the aforementioned deed, by virtue of a "Lot Cut" created AP 274 AL 256 an 8,246 square foot lot for the new 2-unit dwelling and reduced the remaining portion of AP 274 AL 248 to a 2,644 square foot lot.
8. That in 2010, the new property owners, Lavoie, of AP 274 AL 256, 51-53 High St, applied to refinance their home and were told that the property was not properly zoned for a 2-unit, as it did not conform to the Zoning Board Approval, Petition No. 4676, and it did not conform to the minimum standards of the 2-unit dwelling which requires a minimum land area of 10,500.
9. That multi-family land uses are consistent with surrounding 200' radius, consisting of (15) single family residences, (11) 2-unit residences, (1) 3-unit residences, and (1) 5-unit residence.



- Single-Family
- Two-Family
- 3-5 Family

Duttre - Arnold Replat
Plat 274 Lots 105, 248, 256

10. That the proposal is to receive a City Council Zone change to PDR-L of an existing 2-unit dwelling on a non-conforming lot and that no new construction is proposed.
11. That the proposed 2-unit dwelling, on an undersized lot, is not in compliance with the standards and provisions of the City's Zoning Ordinance, therefore, requires a City Council Zone Change to A-7 with a PDR-L Overlay, within an existing Historic Overlay District with variances for less than required land area and front yard setback from the existing structure.
12. That public sewer and water are available to the property.
13. That there will be no significant negative environmental impacts from the proposed development.
14. That the development will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable.
15. That the proposed development possesses adequate access to a public street.

Planning Department Recommendations

The Planning Department does not condone the past actions of the property transfer that created the non-conformity. However, the Planning Department recognizes that the Lavoie's, AP 274 AL 256, 51-53 High St., are harmless in the creation of this hardship and finds that the proposal would be generally consistent with the surrounding area and it will not increase the overall density of development. The Planning Department's recommendation is to grant Master Plan approval, with the following stipulations:

1. That the Applicant shall receive a City Council Zone Change to A-7 with a PDR-L Overlay within an existing Historic Overlay District, with variances for less than required land area and front yard setback from the existing structure.
2. That the Applicant shall receive Preliminary and Final Approval from the Planning Board.
3. That the Applicant shall record a Record Plat merging AP 274; AL 105 and 248 as part of the Final Approval.

Zone Change Findings

The Planning Department finds the proposed zone change to be in general compliance with the City's Comprehensive Plan, including the Goals and Policies Statement, the Implementation Program, the Land Use Element and the Housing Element.

The Planning Department also finds the proposed zoning amendment to be generally consistent

with the following purposes of the City’s Zoning Ordinance, as presented in Section 100, “Title and Purpose.”

103.1 Promote the public health, safety and general welfare of the City.

103.2 Provides for a range of uses and intensities of use appropriate to the character of the City and reflect current and future needs.

103.3 Provides for orderly growth and development, which recognizes:

- A.) The goals and patterns of land use contained in the Comprehensive Plan of the city of Warwick.
- E.) The availability and capacity of existing and planned public and/or private services and facilities.
- F.) The need to shape and balance urban and suburban development.

103.5 Provide for the protection of the natural, historic, cultural, and scenic character of the city or areas therein.

103.8 Promote a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe, and sanitary housing, including opportunities for the establishment of low and moderate income housing.

Zone Change Recommendation

The Planning Department does not condone the past actions of the property transfer that created the non-conformity. However, the Planning Department recognizes that the Lavoie’s AP 274 AL 256-51-53 High St. are harmless in the creation of this hardship and finds that the proposal to be generally consistent with the surrounding area and it will not increase the overall density of development. The Planning Department recommendation is to forward a favorable recommendation to the City Council for the requested Zoning Amendment, with the following stipulations:

1. That the Applicant shall receive Preliminary and Final Approval from the Planning Board.
1. That the Applicant shall record a Record Plat merging Assessor’s Plat 274; Assessor’s Lots 105 and 248 as part of the Final Approval.

Public Hearing

Major Subdivision

Norwood Estates

Applicant: North End Realty LLC.
Location: 247 Sargent Street & Cherry Street
Assessor's Plat: 297
Lot(s): 232, 233, 234 & 290 through 296
Zoning District: Residential A-7
Land Area: 1.69 acres (includes abandoned portion of Maple Street)
Number of lots: 6
Engineer: SFM Engineering Assoc.
Ward: 2

The applicant is requesting a combined Master Plan/Preliminary Approval to subdivide ten (10) lots to create six (6) new lots, one (1) lot with an existing dwelling and five (5) new lots for development in a Residential A-7 Zoning District.

Planning Department Findings

The Planning Department finds this proposal to be generally consistent with Article 1 "Purposes and General Statements" of the City's Development Review Regulations, and:

- 1) That the subject property is located along, Sargent Street & Cherry Street, and is identified as Assessor's Plat: 297; Assessor's Lot: 232, 233, 234, & 290 through 296.
- 2) That the property consists of ten (10) lots totaling 73,595 square feet and is currently zoned Residential A-7.
- 3) That the applicant proposes to create six (6) lots; one (1) 7,616 square foot lot with an existing dwelling; and five (5) new lots for development.
- 4) That all lots as proposed will conform to the requirements of the Residential A-7 Zoning District.
- 5) That the proposed development is generally consistent with the Comprehensive Community Plan.
- 6) That the proposed development is in compliance with the standards and provisions of the City's Zoning Ordinance.
- 7) That there will be no significant negative environmental impacts from the proposed development.

- 8) That the development will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable.
- 9) That the proposed development possesses adequate access to a public street.

Planning Department Recommendation

The Planning Department's recommendation is to grant a combined Master Plan/Preliminary Approval, with the following stipulations:

1. The proposed width (*24-foot minimum as stipulated by the Planning Department during the initial review and as shown on Sheet 2 of 3 of this Preliminary Plan submission*) of Sargent Street shall be resurfaced with 1½ inches of pavement from the northerly edge of Cherry Street north to the end of the existing improved travel way (*approximately 275-feet*).
2. That the Developer shall coordinate reconstruction of Sargent Street upon completion of utility installation with the Warwick Sewer Authority, after trench patch has settled for at least 90 days. The Developer shall use sawcuts and create smooth transitions between existing and new pavement.
3. That the intersection of Maple Street and Cherry Street shall be resurfaced with 1½ inches of pavement for the entire width, starting at the southernmost sawcut on Maple Street (*approx. 35' south of the sewer manhole at the intersection*) to the easternmost sawcut on Cherry Street (*approx. 55' east of said sewer manhole*). Note: two small sawcuts for the water services to lots 4 & 5 may be patched as shown on the site plans. The Developer shall use sawcuts and create smooth transitions between existing and new pavement.
4. All existing driveway aprons shall be reviewed to ensure that there are no grading issues that will create pooling.
5. That the existing overhead wire to the existing dwelling on Record Lot 3 shall be relocated.
6. That the Developer shall meet with the Warwick Sewer Authority to have the sewer service extended to the property and that standard inspection fees shall apply.

7. That the Developer shall provide a bond for the connection of the existing dwelling (Record Lot 3) to sewers, prior to the recording of the Final Record Plat. Alternatively, the Developer may connect the existing dwelling (RL3) to sewers, prior to the recording of the Final Record Plat.
8. That the proposed dwellings shall be connected to sewers, prior to the issuance of a CO.
9. That the Developer shall install (13) thirteen 2-2½ inch caliper trees, Cleveland Select Flowering Pear (*Pyrus Calleryanna*), within the City right of way, one for every 50 feet of frontage. The Developer shall loam and seed the remaining areas within the City Right-of-Way. All plantings shall comply with the American Nurseryman and Landscape Association Standards (ANSI Z60.1-2004).
10. That the Developer shall provide a Performance Bond for the roadway improvements.
11. That the applicant shall dedicate a “fee-in-lieu of open space” equal to five (5) lots to the City of Warwick for Recreational District 5, as presented in the Warwick Comprehensive Plan Recreation Element, prior to recording the Final Plan.

Public Meeting

Request for an Amendment to the City’s Zoning Ordinance

Section 906.3 entitled “Standards for Relief” Subsection (c) subtitled “Special Use Permit”

Applicant: City of Warwick
Location: 3275 Post Road

Amend Zoning Ordinance: Section 906.3(C) (2)(ii)

The Warwick City Council desires to amend the Warwick Zoning Ordinance in particular section “906.3” entitled “Standards for Relief” subsection (c) subtitled “Special Use Permit”. The proposed amending language would refine an existing statute in the zoning code that permits in certain cases and with limitation, the granting of “Dimensional Variance” in combination with a “Special Use Permit” (SUP).

Background

A full understanding of the instant request begins with a brief chronology of events initiated by a Rhode Island Superior Court ruling wherein the Court admonished the Warwick Zoning Board of Review for their continued approval of Special Use Permits (SUP) in combination with requests for dimensional variances. The Court found that a use granted by Special Use Permit (SUP) was a conditional use subject to full compliance with all the dimensional standards of the Zoning Ordinance, without deviation.

Subsequent to this Court ruling the City ceased accepting zoning applications for a combined

(SUP) and dimensional variance. This zoning restriction adversely affected many owners of pre-existing non-conforming commercial properties who for years enjoyed business uses that required both a SUP and a dimensional variance.

Some time after the local restriction was enacted the Rhode Island General Assembly passed amended language allowing local communities at their discretion to amend their Zoning Ordinance to permit the granting of a (SUP) in combination with a dimensional variance.

On May 18, 2010 the Warwick City Council aware of the new state law, passed their own Ordinance, PCO-38-09, amending the local zoning code to allow limited dimensional deviation with (SUP) for commercial properties that abut Residential or Open Space zones with a limitation that the requested dimensional relief could not exceed 50% of specific dimensional regulations. This regulation became known as the 50% rule. Also included in PCO-38-09, and an important part of understanding the instant request, was an exemption provision for commercial properties abutting other non-residentially zoned properties.

In application, PCO-38-09 (2010) required commercial properties adjacent to the AMTRAK Northeast Rail Corridor to conform to the 50% rule because many sections of the AMTRAK rail corridor are actually zoned residential, a peculiar zone change carryover from the City's 1988 Comprehensive rezoning initiative.

The end result is that many long standing commercial properties/businesses that are adjacent to the railroad right-of-way are not included within the commercial exemption provision included in the PCO-38-09 (2010) and were found to be noncompliant with the newly established "50% rule" applied to commercial properties abutting residential districts.

Proposal

The proposed Amendment seeks to rectify this anomaly by adding an exemption to section "906.3" (c) for commercial properties that "*directly abut the Amtrak Northeast Rail Corridor (NEC), irrespective of the zoning classification of the rail corridor*". The change, if approved, would allow commercial property owners abutting the Amtrak Northeast Rail Corridor to seek a SUP and dimensional variance through the Zoning Board of Review.

Planning Department Findings

The Planning Department finds the proposed Zoning Amendment to be in compliance with the City's Comprehensive Plan including the Goals and Policies Statement, the Implementation Program, the Land Use Element and the Economic Development Element.

The Planning Department reasons that extending the existing zoning exemption to commercial properties abutting the AMTRAK Northeast Rail Corridor would provide for equitable resolution considering that the characteristics of a railroad use is more similar to the intensity found within the exempted commercial zone than that of a residential district. Furthermore, the Planning Department finds that approving the instant amendment would not deviate from the original intent of the 50% legislation; to reduce land use conflicts by buffering residential

properties from commercial uses, because commercial businesses would be located on the opposite side of a 60' wide rail corridor, which is a further setback than the 40' required by the 50% rule, providing adequate separation between uses.

The Planning Department's finds that without this amendment, a property owner with commercial property abutting the AMTRAK corridor may suffer an unreasonable and unnecessary impediment to development that will negatively impact the overall economic interests of the City.

The Planning Department finds the proposed Zoning Amendment to be generally consistent with the following purposes of the City's Zoning Ordinance as presented in Section 100 "Title and Purpose":

- 103.1 Promote the public health, safety and general welfare of the City.
- 103.2 Provide for a range of uses and intensities of use appropriate to the character Of the city and reflects current and future needs.
- 103.3 Provides for orderly growth and development, which recognizes:
 - (A) The goals and patterns of land use contained in the comprehensive plan of the city.
 - (E) The availability and capacity of existing and planned public and private services and facilities
 - (F) The need to shape the urban and suburban development
 - (G) The use of innovative development regulations and techniques.
- 103.11 Promote implementation of the Warwick Comprehensive Community Plan, as amended.
- 103.13 Provide for efficient review of development proposals, to clarify and expedite the zoning approval process.
- 103.14 Provide for procedures for the administration of the zoning ordinance

Planning Department Recommendation

The Planning Department's recommendation is for a favorable recommendation to the Warwick City Council for the requested zoning amendment.

THE CITY OF WARWICK
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

APPENDIX A, ZONING
CODE OF ORDINANCES

No..... Date.....

Approved.....Mayor

AN ORDINANCE AMENDING APPENDIX A OF THE WARWICK CODE OF
ORDINANCES, ZONING, SECTION 906

Be it ordained by the City of Warwick:

Zoning of the *Code of Ordinances of the City of Warwick, Section 906, Zoning Board of Review* is hereby amended by adding thereto the following section:

906.3 *Standards for relief.*

(C) *Special use permit.* In granting a special use permit, the board shall require that evidence to [of] the satisfaction of the following standards be entered into the record of the proceedings:

- (1) That the special use is specifically authorized by this ordinance, and setting forth the exact subsection of this ordinance containing the jurisdictional authorization;
- (2) That the special use meets all the criteria set forth in the subsection of this ordinance authorizing such special use, except that the board may issue a special use in conjunction with a dimensional variance provided that the dimensional variance may be issued only for the following dimensional requirements, no other dimensional relief can be sought except for that specifically listed herein, and the requested relief shall not exceed a 50 percent deviation from each required dimensional standard, provided however, that the 50 percent limitation shall not apply to non-residentially zoned properties which:
 - i) do not abut or share a common boundary with open space and residentially zoned property, or
 - ii) directly abut the Amtrak Northeast Rail Corridor (NEC), irrespective of the zoning classification of the rail corridor:
 - (a) Section 300, Table 2A and Table 2B Dimensional Regulations, Minimum Front yard, Minimum Side Yard, Minimum Rear Yard, Minimum Landscape Open Space.
 - (b) Sections 505 & 505.1, Landscaping and Screening.
 - (c) Section 505.6, Parking Lot Buffers.

- (d) Section 701.7, Off-Street Parking.
- (e) Section 702.2, Number of Required Loading Spaces.
- (f) Section 806, Permitted Signs by District.

(3) That the granting of the special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this ordinance or the comprehensive plan of the city.

SECTION II. This Ordinance shall take effect upon passage and publication as prescribed by law.

SPONSORED BY: COUNCILMAN SOLOMON

COMMITTEE: ORDINANCE