

Declaration of Hardship

Applicant: AA&E Properties, LLC

Date: June 10, 2024

Address: 0 Pavilion Avenue
Parcel A: A.P. 7, lots 3363, 3644, & 3814
Parcel B: A.P. 7, lots 3366 & 3644

Relief Sought: Minimum Frontage requirement for Parcels A and B pursuant to Section 17.20.120 for a B-1 District (2-Family) where 60' frontage is required.

Project Overview

The Applicant applies for a minor subdivision before the City Plan Commission (“CPC”) to reconfigure the existing four (4) vacant lots into two (2) new flagged shaped lots to construct a two-family dwelling on each lot, as delineated on the survey. The applicant hereby seeks relief for the required minimum frontage of 60’ for Parcels A and B where the applicant provides 20’ and 40’ frontage respectively.

0 Pavilion Avenue

The CPC under Unified Development Review must make the required findings regarding the Applicant’s requested relief pursuant to R.I. Gen. Laws § 45-24-4. The Applicant addresses each required finding with regards to its requested relief for minimum frontage in turn:

R.I. Gen. Laws § 45-24-4(d)(1). That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in § 45-24-30(a)(16);

The Applicant seeks relief of the pre-existing frontage. The unique characteristic of the subject land is that the lots are pre-existing substandard lots of record in which the applicant seeks to merge consistent with the minimize lot size requirements. The subject land consists of 4 vacant lots: an oversized landlocked lot and three narrow, substandard lots. Of the four lots, lots 3644 and 3814 immediately abut each other and are landlocked. The remaining two lots 3363 and 3366 are

parallel, lengthy, and narrow substandard lots of record with street access. Both lots 3363 and 3366, which have street access, are used as a right of way onto the two landlocked lots 3644 and 3814.

The proposed plan continues to use the pre-existing frontage of old lots 3363 and 3366, respectively, as street access. Since two undersized fronting lots are bounded by infill development outside the authority and ownership of the applicant to otherwise reconfigure, the proposed subdivision follows the combined perimeter of the pre-existing lots split down the middle. Therefore, the requested relief is not due to the physical or economic disability of the applicant.

R.I. Gen. Laws § 45-24-4(d)(2). That the hardship is not the result of any prior action of the applicant; and

The existing footprint of the existing lots predates the ownership of the applicant. The applicant did not create the narrow width and frontage of lots 3366 and 3363. Such lots are pre-existing substandard lots of record outside the current control of the applicant.

R.I. Gen. Laws § 45-24-4(d)(3). That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.

The proposed plan to construct a two-family dwelling on two new lots is consistent with the Comprehensive Plan’s Future Land Use Map and does not exceed the Future land use map’s designation for the area. The resulting density of approximately 6.58 units per acre is less than the FLUM’s designation of the subject property as a “single/two family residential less than 10.89 units per acre.”

The requested relief for minimum frontage does not alter the general character of the surrounding area as the requested frontage is a pre-existing dimension that is already part of the built environment.

Additionally, the proposed subdivision does not create any major changes to the everyday practical use of the existing lots with the nonconforming frontage. As the two exiting fronting lots currently provide access to the landlocked lots, the proposed subdivision intends to continue such use and designate the footprints of the two existing front lots for the driveway. Thus, in practice, there is a zero net change to the fronting lots to the average viewer.

Lastly, the Applicant seeks to construct a 2-family dwelling on each new lot in the B-1 zone. As indicated by the Preliminary Plan Approval Decision page 1, a 2-family residential use is consistent with the zoning ordinance's intended purpose for a B-1 zone.

R.I. Gen. Laws § 45-24-4(e)(2). In granting a dimensional variance, 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, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief. The zoning board of review, or, where unified development review is enabled pursuant to § 45-24-46.4, the planning board or commission has the power to grant dimensional variances where the use is permitted by special-use permit.

The requested relief of a pre-existing substandard lot of record's substandard frontage dimensions is minimal to the reasonable enjoyment of the permitted residential use. The underlying zone is a B-1 zone which permits residential development of a two family dwelling by right. Denial of the frontage relief will result in the denial of a housing development in a residential zone during a state wide housing crisis. To deny the requested relief will be against good planning principles and will deny the applicant the opportunity to develop the parcels in their entirety. Effective January 1, 2024, pursuant to R.I. Gen. Laws § 45-24-38, lot 3363, lot 2814 and lot 3366 are buildable substandard lots of record. However, to construct within the building envelope for each lot will require a substantial amount of relief of the zoning code. The relief sought by the Applicant is minimal to the reasonable enjoyment of the permitted use to construct a two family dwelling on 2 lots consistent with the characteristics of the neighborhood.

By its Attorney,

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