

**MINUTES**  
**City of Newport Planning Commission**  
**Regular Session**  
**Newport City Hall Council Chambers**  
**July 10, 2023**

**Planning Commissioners Present:** Bill Branigan, Bob Berman, Jim Hanselman, John Updike, and Marjorie Blom.

**Planning Commissioners Absent:** Gary East, and Braulio Escobar (*excused*).

**City Staff Present:** Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Branigan called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Commissioners Branigan, Berman, Hanselman, Updike, and Blom were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Work Session Meeting Minutes of June 12, 2023.**

**MOTION** was made by Chair Branigan, seconded by Commissioner Hanselman to approve the Planning Commission Work Session meeting minutes of June 12, 2023, with minor corrections. The motion carried unanimously in a voice vote.

B. **Approval of the Planning Commission Regular Session Meeting Minutes of June 12, 2023.**

**MOTION** was made by Chair Branigan, seconded by Commissioner Hanselman to approve the Planning Commission Regular Session meeting minutes of June 12, 2023, with minor corrections. The motion carried unanimously in a voice vote.

3. **Citizen/Public Comment.** None were heard.

4. **Action Items.**

A. **File 4-CUP-23 / 2-ADJ-23: Final Order and Findings of Fact for the Conditional Use Permit for Samaritan Drug and Alcohol Rehab Offices.**

**MOTION** was made by Commissioner Hanselman, seconded by Commissioner Updike to approve the Final Order and Findings of Fact for File 4-CUP-23 / 2-ADJ-23 with conditions. The motion carried in a voice vote. Berman abstained.

B. **File 2-VAR-23: Final Order and Findings of Fact for the Sign Variance for Port of Newport, Port Dock 1, on Behalf of the Newport Sea Lion Foundation.**

**MOTION** was made by Commissioner Hanselman, seconded by Commissioner Blom to approve the Final Order and Findings of Fact for File 2-VAR-23 with conditions. The motion carried unanimously in a voice vote.

## 5. Public Hearings.

At 7:04 p.m. Chair Branigan opened the public hearing portion of the meeting. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Berman and Hanselman reported site visits. Hanselman reported he spoke to members of the Spring Street community as well. Branigan called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

### **A. File 3-VAR-23: Front Yard Variance for the Construction of a Single-Family Dwelling at 1515 NW Spring Street.**

Tokos reviewed the staff report and noted this was an identical application to what was approved in 2020. He acknowledged the public testimony received from Mona Linstromberg and Joseph Fahrendorf. Tokos read Linstromberg's testimony into the record.

**Applicant:** Kenzie Roth addressed the Commission. He thanked the Commission for their time and thought the staff report was thorough, and a comprehensive evaluation of the application. Roth noted that this lot had already been approved for a variance and hoped that the Commission would take this into account.

Berman pointed out that this lot dropped off at the edge of road and asked if the plans called for fill. Kenzie reported that there was a serious foundation and retaining wall with some backfill. This was done with a geotechnical engineer. Roth reported the house would line up with the other houses they built. Berman noted that during the last variance hearing there was a discussion about a swale and stormwater drainpipe. He asked if these had been installed. Roth reported that all the storm pipe and catch basin had been installed but the street improvements hadn't been done yet. Berman asked if the city funds they budgeted for storm sewers would be directed toward this development. Tokos didn't have clear information on this at that time. JT Roth Construction had completed the agreed upon improvements and was reimbursed by the city for the work they performed. The city engineers had signed off on the work as well.

Branigan asked why this hadn't been completed in the last 18 months. Roth explained that the other lots had been challenging to build on and they took longer than they thought it would. They applied for the original variance thinking they could do all three, but there had been challenges to do it. Branigan asked if the dwellings on other two lots had been sold. Roth reported that his family owned one of the houses and the other duplex had been sold. Branigan asked if they saw any further erosion happening since the 18 months previously. Roth reported he hadn't seen anything considerable on their lot. When they built the homes, they put in roof systems to collect the water into the storm system.

Hanselman asked if they had a geologic report to build that indicated they could build on the slope and that it was stable enough to build on. Roth explained that there was setback in the rear of the property that they had to stay away from. They played around with the design and tried to put the house further back. This would have pushed it too close to the embankment. This led to design challenges to building a house with proportional sizes that would make it desirable to sell. Roth explained that they had to think about what a buyer would want. Tokos reported that any further earth work and retaining wall work had to be signed off by the engineering geologist and geotechnical engineer of record under the original geologic report. They had completed the earth work across all three lots, so they were vested in the original decision and operating under that geologic report. The development of this property would have to be signed off by the original engineering geologists and geotechnical engineer to say that the improvements were consistent

with their report and recommendations. Roth noted that they had worked closely with the architects to make sure the building flowed and had the correct proportions. He pointed out that this would be a 10-foot setback variance, but there would be 30 feet from the curb to the garage. Hanselman asked if Roth owned the duplex. Roth reported he didn't. Hanselman asked if these properties would be short-term rentals. Tokos reported they could not be used as a vacation rentals. Hanselman asked what the size of the new dwelling was. Roth reported it was around 3,400 square feet.

**Proponents:** None were heard.

**Opponents:** Jim Hoffman addressed the Commission. He reported that he lived directly across the street from this lot. When they bought the property, they were aware of the development. They had indications from the developer and a realtor that the southernmost house would be closer to the setback and elevation of the existing house to the south. Hoffman felt that having the house closer to their house would make things worse. They were currently dealing with garage and porch lights shining in their bedroom from the existing duplexes across the street.

Hoffman reviewed the criteria of approval and listed how they had not been met. He noted they didn't meet Criterion 1 that said that the condition should only apply to the specific property, and not to other properties in the same vicinity or zoning district. There were two properties at 1507 and 1409 NW Spring Street that were identical situations. These properties had been there for decades and showed how this didn't apply to the new home and didn't meet the criterion. Hoffman stated that Criterion 2 was not applicable because it was related to Criterion 1. He explained that for Criterion 3, concerning how the standard should be a hardship for the property owner, the developer bought the lot knowing it would be difficult to build on the slope. Hoffman felt this criterion was valid. He noted that Criterion 4 stated the variance shouldn't result in substantial impact. Moving the building toward his home would be a substantial impact to his property. Hoffman noted he conceded Criterion 5 and thought it was satisfied. He noted that Criterion 6 stated that impacts of the resulting variance should be mitigated to the extent practical hadn't been met. By moving the house farther east, and closer to his property, he would have less privacy. Hoffman noted that the properties in the area were being bought as vacation homes. A variance gave speculation developers a little more curb appeal for a one-time sale, but it would have a bigger impact on the full-time residents. Hoffman submitted his testimony in writing for the record.

Berman asked if Hoffman purchased his home after the first variance had been approved. Hoffman reported they bought the house in mid-2020 after the variance was approved. He noted that he didn't know about the variance approval at that time.

Rick Hickson addressed the Commission and reported that he lived one house north on the opposite side of the street from this development. He felt the impacts could be considerable. Hickson explained that loose roofing on the northern most property currently made a racket so loud that it could be heard a block away when the wind blew. He stated that he was there in support Mr. Hoffman's testimony. He opposed giving up what was the public right of way. The Municipal Code was the expression of the will of the people as expressed through the Council. To grant an exception to that was not pro forma. Hickson pointed out that Spring Street was a popular street that had many pedestrians. He felt that all of the variances pushed properties to the street and precluded the chance of the street having sidewalks or being a proper street. Hickson thought this variance was one more thing that would prevent them from having sidewalks. He reported that the past construction of the other lots ruined Spring Street. Hickson described how large equipment had been placed on the street without street pads or cleats, causing damage. Any patches to the street would deteriorate. It would be the city taxpayer who would have to replace this or it would

have to be done through a Special Improvement District. Hickson felt it was unfair to ask the local neighbors to pay for the improvements to the street after it had been ruined by this construction project.

**Rebuttal:** Roth said that regarding the streets, they couldn't control contractors. He would make sure going forward to talk to his contractors about using pads and doing things correctly. Roth didn't think this variance would preclude a sidewalk ever being able to be installed. They could still install a six-foot sidewalk and have 24 feet for the street. Roth acknowledged that there were pedestrians and dog walkers on the street. He pointed out that the street served eight houses and he saw people driving down the street and turning around. Roth said he could talk to the neighbors to make sure they turned off their lights that were shining into other houses. He reported that the owners that they had sold the duplexes to intended to move there permanently. Roth reiterated that they weren't asking to move this home any closer to the street than the other two properties.

Chair Branigan closed the hearing at 7:45 p.m.

Blom asked for clarification on the sidewalk location. Tokos noted in the Transportation System Plan (TSP) the city's emphasis for sidewalks were for higher volume areas where there was a higher volume of vehicle traffic and a higher degree for a need for separation between vehicle traffic, cyclists and pedestrians. This street was a low volume area, and they would expect that the pedestrians and cycling needs were being accommodated the same as vehicles were. This wasn't a high priority area in the TSP where there would be demand for sidewalks. Blom asked if they would be required to put in a curb, gutter or sidewalk. Tokos explained they worked through an agreement with the three properties to widen the street to 24 feet where it was 22 feet and to put in a curb, gutter and a structured storm drainage system. They then entered into a partnership with the city where they provided a portion of the funding for the corrections to the public storm drain system that served that entire slope, because the section they were hoping to connect into was failing.

Urdike was comfortable with the proposal. He heard the neighbor's concerns and thought some of them were things they could address with the variance, such as dealing with the construction crews. He supported moving it forward.

Berman was supportive of the request. He understood the neighbor's concerns and hoped there would be some effort to have a neighborhood meeting to come up with some ideas so that the applicant would monitor the construction. Berman stated he supported the request because to the fact that the setback would still allow a 24-foot driveway.

Hanselman pointed out a number of issues had been raised and he was sorry to hear them. He noted that housing was one of the problems in Newport, and housing was needed. Hanselman noted that houses were sometimes second homes for owners. People wanted to buy properties, and this was how capitalism worked. Hanselman recommended that developers consider putting dark skies into their plans because this was respectful to neighbors. He was concerned that Mr. Roth said he couldn't control the contractors. Hanselman thought Mr. Roth was the only one who could control them and was disappointed with that attitude. He was disappointed that they could only build big houses. Hanselman didn't think that houses had to be big to sell. They needed more houses instead of large houses.

Blom stated she listened to the opponents and liked the idea of neighbors getting together with the developer to figure out some of the issues. Overall, she was in favor of the request.

Branigan reminded that the Commission had approved the variance once and there wasn't a lot that had changed. He personally dealt with the same types of light issues. Branigan noted the lights were annoying, but they weren't a city problem. He thought it would be nice to have sidewalks on the street, but this was a low volume street. Overall, he didn't see anything to change his mind from the last time the Commission approved the variance.

**MOTION** was made by Commissioner Berman, seconded by Commissioner Updike to approve File 3-VAR-23 with conditions. The motion carried unanimously in a voice vote.

6. **New Business.** None were heard.

7. **Unfinished Business.**

A. **Planning Commission Work Program Update.** Tokos reviewed the updated work program. He noted that he had some degree of confidence that the OSU housing application would be submitted within four weeks. They were still working through details.

Tokos noted that HB 3414 didn't get adopted. He didn't think this was over and thought it would come back up again. Hanselman asked if this would come back with major changes. Tokos didn't know how it would play out in a future session but thought there were a number of concepts that would be reintroduced.

8. **Director Comments.** None were heard.

9. **Adjournment.** Having no further business, the meeting adjourned at 7:59 p.m.

Respectfully submitted,



Sherri Marineau  
Executive Assistant