

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

[Filed: October 13, 2016]

JOHN QUATTROCCHI REVOCABLE :
TRUST and JOHN QUATTROCCHI, :
Individually and as his interests may appear :
Plaintiffs/Appellants, :

v. :

C.A. No. PC-2014-3383

THE ZONING BOARD OF :
THE TOWN OF WARREN, et al. :
Defendants/Appellees. :

DECISION

TAFT-CARTER, J. John Quattrocchi (Appellant) appeals a decision of the Zoning Board of the Town of Warren (the Board) granting Blount Fine Foods, O’Connell’s Warren Mill Marina (the Marina), doing business as PKO Marina,¹ and Patrick K. O’Connell (O’Connell) a Special Use Permit allowing them to operate a boat storage and maintenance business. Jurisdiction is pursuant to G.L. 1956 § 45-24-69.

I

Facts and Travel

O’Connell has operated the Marina in Warren since 2004. Petition for Special Use Addendum of Facts (Dec. 18, 2013). The Marina was located at 325 Water Street. Id.; see Bd. Hr’g Tr. 6:15-18; 9:22-24, May 21, 2014. O’Connell filed a petition for a special use permit seeking relief from the Town of Warren Zoning ordinance to relocate the Marina. Petition for Special Use (Dec. 18, 2013). On May 21, 2014, the Board held a hearing on the petition. At the conclusion of testimony, the Board voted unanimously to grant the special use permit. Bd. Hr’g

¹ The business is referred to in the record both as PKO Marina and PKO Marine.

Tr. at 59:1-6, May 21, 2014. The Board issued a written decision on June 18, 2014, which was entered in the Land Evidence Records a day later. Appellant timely appealed to this Court.

II

Standard of Review

The Superior Court has jurisdiction to hear appeals from zoning boards of appeal pursuant to § 45-24-69. The statute provides the standard of review for such appeals:

“The court shall not substitute its judgment for that of the zoning board of review as to the weight of the evidence on questions of fact. The court may affirm the decision of the zoning board of review or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions, or decisions which are:

- “(1) In violation of constitutional, statutory, or ordinance provisions;
- “(2) In excess of the authority granted to the zoning board of review by statute or ordinance;
- “(3) Made upon unlawful procedure;
- “(4) Affected by other error of law;
- “(5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or
- “(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.” Sec. 45-24-69(d).

Thus, this Court “gives deference to the findings of a local zoning board of review.” Pawtucket Transfer Operations, LLC v. City of Pawtucket, 944 A.2d 855, 859 (R.I. 2008). “It is the function of the Superior Court to ‘examine the whole record to determine whether the findings of the zoning board were supported by substantial evidence.’” Lloyd v. Zoning Bd. of Review for Newport, 62 A.3d 1078 (R.I. 2013) (quoting Apostolou v. Genovesi, 120 R.I. 501, 507, 388 A.2d 821, 824 (1978)). However, “when the board fails to state findings of fact, the court will not search the record for supporting evidence or decide for itself what is proper in the circumstances.” Irish P’ship v. Rommel, 518 A.2d 356, 359 (R.I. 1986). “Those findings must,

of course, be factual rather than conclusional [sic], and the application of the legal principles must be something more than the recital of a litany.” May-Day Realty Corp. v. Bd. of Appeals of Pawtucket, 107 R.I. 235, 239, 267 A.2d 400, 403 (1970).

III

Analysis

Appellant initially argues that the Board failed to support its decision through any findings of fact. While Appellees point to evidence that the Board may have considered, this Court “cannot determine what evidence that was presented to the zoning board persuaded it.” Bernuth v. Zoning Bd. of Review of New Shoreham, 770 A.2d 396, 402 (R.I. 2001). The factual findings needed “are minimal requirements.” May-Day Realty Corp., 107 R.I. at 239, 267 A.2d at 403. However, the Board here has failed to meet those minimal requirements. The bulk of the one-and-a-half page decision simply summarizes the testimony before the Board. The findings accompanying the approval are a mere recital of the standards required for granting approval. There is no reasoning or explanation about how or indeed “whether the board members resolved the evidentiary conflicts.” Id. “The infirmities and deficiencies of the decision make judicial review impossible, and in the circumstances a remand for clarification and for completion, even though time consuming as well as costly, seems appropriate.” Id. at 240, 267 A.2d at 403.

This Court thus remands the matter to the Board to supplement the decision with additional findings of fact in accordance with this Decision. See Coderre v. Zoning Bd. of Review of Pawtucket, 103 R.I. 575, 577, 239 A.2d 729, 730 (1968).

IV

Conclusion

After reviewing the record, this Court finds that the Board's decision lacks the findings of fact required for thoughtful judicial review. Thus, the matter is remanded to the Zoning Board of the Town of Warren for further proceedings consistent with this Decision. This Court will retain jurisdiction. Counsel shall submit an appropriate order for entry.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: John Quattrocchi Revocable Trust and John Quattrocchi,
Individually and as his interests may appear v. The Zoning
Board of the Town of Warren, et al.

CASE NO: PC 2014-3383

COURT: Providence County Superior Court

DATE DECISION FILED: October 13, 2016

JUSTICE/MAGISTRATE: Taft-Carter, J.

ATTORNEYS:

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