

AUG 24 2021

CITY OF PROVIDENCE
ZONING BOARD OF REVIEW

APPLICATION FOR VARIANCE OR SPECIAL USE PERMIT

Check Each Type Zoning Relief Sought:

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Variance
Variance – Dimensional*
Special Use Permit **

* Attach Appendix A to apply for a Use or Dimensional Variances

** Attach Appendix B to apply for a Special Use Permit

Applicant: Narragansett Improvement Co.

Address 338 Allens Avenue, Providence, RI
Zip Code 02905

E-mail deverson@nicori.com
Phone 401-331-7420
Home/Office

Mobile (Cell)

Owner: Cumberland Farms, Inc.

Address 156 Flanders Rd, Westborough, MA
Zip Code 01581

E-mail hchaudary@apslaw.com
Phone 508-270-1400
Home/Office

Mobile (Cell)

Lessee: Narragansett Improvement Co.

Address 338 Allens Avenue, Providence, RI
Zip Code 02905

E-mail deverson@nicori.com
Phone: 401-331-7420
Home/Office

Mobile (Cell)

Does the proposal require review by any of the following (check each):

- Downtown Design Review Committee
- I-195 Redevelopment District Commission
- Capital Center Commission
- Historic District Commission

1. **Location of Property:** 338 Allens Avenue, Providence, RI 02905

Street Address

W-3 (Port/Maritime Industrial Waterfront District)

2. **Zoning District(s):** _____
Special purpose or overlay district(s): _____

3a. **Date owner purchased the Property:** December 14, 1995**

3b. **Month/year of lessee's occupancy:** March 31, 2018

** This is the date that Cumberland Farms, Inc., as Trustee under the IBJTC Realty Trust Agreement dated December 29, 1993 transferred the property to Cumberland Farms, Inc., but Cumberland Farms, Inc., originally acquired the property back in the 1970s.

3. Dimensions of each lot:

Lot # 368 Frontage 599' +/- depth 1,301.31 +/- Total area 768,398 sq. ft.
Lot # _____ Frontage _____ depth _____ Total area _____ sq. ft.
Lot # _____ Frontage _____ depth _____ Total area _____ sq. ft.

4. Size of each structure located on the Property:

Principal Structure: Total gross square footage _____
Footprint _____ Height _____ Floors _____

Accessory Structure: Total gross square footage _____
Footprint _____ Height _____ Floors _____

5. Size of proposed structure(s): Total gross square footage: _____
Footprint _____ Height _____ Floors _____

6a. Existing Lot coverage: (include all buildings, decks, etc.) 17.64 acres

6b. Proposed Lot coverage: (include new construction) _____

7a. Present Use of Property (each lot/structure):
Storage and processing of concrete, stone and asphalt

7b. Legal Use of Property (each lot/structure) as recorded in Dept. of Inspection & Standards:
W-3 maritime industrial and commercial uses, protect waterfront as a resource for water-dependent industrial uses, and facilitate renewed use of the waterfront.

8. Proposed Use of Property (each lot/structure):
Storage of concrete, stone, various aggregates, asphalt and processing of these materials for reuse in producing asphalt plant at 223 Allens Avenue.

9. Number of Current Parking Spaces: _____

10. Describe the proposed construction or alterations (each lot/structure):
None, only request to allow continued use of the property.

11. Are there outstanding violations concerning the Property under any of the following:

- Zoning Ordinance
 RI State Building Code
 Providence Housing Code

12. List all Sections of the Zoning Ordinance from which relief is sought and description of each section:

901 All permitted and special uses shall be a part of a marine enterprise or dependent on access to the waterfront.
900(B) Waterfront protection through water dependent industrial uses.

13. Explain the changes proposed for the Property.

There will be no changes to the property in terms of structures, parking, etc. The only requested relief is to continue the use that is currently in operation for which violations have been issued.

The undersigned acknowledge(s) and agree(s) that members of the Zoning Board of Review and its staff may enter upon the exterior of the Property in order to view the Property prior to any hearing on the application.

The undersigned further acknowledge(s) that the statements herein and in any attachments or appendices are true and accurate, and that providing a false statement in this application may be subject to criminal and/or civil penalties as provided by law, including prosecution under the State and Municipal False Claims Acts. Owner(s)/Applicant(s) are jointly responsible with their attorneys for any false statements.

Owner(s):

Cumberland Farms, Inc.

Type Name



Signature

Thomas Cacciola

Type Name

Signature

Applicant(s):

Narragansett Improvement, Inc.

Type Name

Signature

Type Name

Signature

All requirements listed and described in the Instruction Sheet must be met or this application will not be considered complete.

APPENDIX A

APPLICATION FOR VARIANCE(S)

Rhode Island General Laws § 45-24-41(c) requires that the Applicant for a variance demonstrate:

- (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(16);
- (2) That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;
- (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;
- (4) That the relief to be granted is the least relief necessary; and
- (5) (a) For a **use variance**: That the land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance;
- (b) For 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.

Please provide the following information:

1. What is the specific hardship from which the applicant seeks relief?

See Attached.

2. Specify any and all unique characteristics of the land or structure that cause the hardship?

The land has been utilized for non water dependent uses for decades.

3. (a) Is the hardship caused by an economic disability? Yes ___ No X
- (b) Is the hardship caused by a physical disability? Yes ___ No X
- (c) If the response to subsection (b) is "yes," is the physical disability covered by the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.?
Yes ___ No ___
4. Did the owner/applicant take any prior action with respect to the Property that resulted in the need for the variance requested? (Examples include, but are not limited to, any changes the owner/applicant made to the structure(s), lot lines, or land, or changes in use of the Property)?
Yes X No ___

If "yes," describe any and all such prior action(s), and state the month/year taken.

Narragansett Improvement changed the use in connection with the License Agreement dated
March 31, 2018.

5. State any and all facts to support your position that the applicant is not seeking the variance(s) primarily in order to obtain greater financial gain.

The applicant is seeking a variance simply to continue and already existing use on the Property, and does not stand to re-develop or re-shape their business in any way. There would be no greater financial gain should the variance be granted. Simply, the granting of the variance would allow the applicant to continue its current use of the property.

6. State any and all facts that support your position that you are seeking the least relief necessary to lessen or eliminate the hardship (for example, why there are no viable alternatives to your proposed plan).

The applicant has established this use as the use for the property for more than three years and continues to use it for such. This relief would not add, nor enhance the use of the property, or the economic gain of the applicant. It would simply allow the applicant to continue a use which is substantially similar to the use utilized by the surrounding properties.

7. If you are seeking a USE VARIANCE, set forth all facts that demonstrate that the Property cannot have any beneficial use if you are required to use it in a manner allowed in the zoning district.

The applicant is in the business of storing these products and has been for many years. There are no water dependent uses that the applicant is involved with that would be beneficial to their business. This property would be essentially useless to the applicant if the variance were not granted.

8. If you are seeking a DIMENSIONAL VARIANCE, set forth all facts that indicate that if the variance is not granted, the hardship the owner/applicant will suffer is more than a mere inconvenience.

N/A

Attachment to Appendix A – Variance

1. What is the specific hardship from which the applicant seeks relief?

The property is located in a W-3 waterfront zoning district that requires water dependent uses. The applicant does not operate any water dependent uses at this property and there has never been one on property in recent history. The applicant, Narragansett Improvement owns and operates an asphalt producing plant approximately 1,300 feet down from the Allens Avenue site. In the event that it cannot continue to store and produce materials at this site for reuse and manufacturing of its asphalt it will have to truck in all of these materials from offsite at great cost which will reduce its ability to compete with other producers and jeopardize its long-standing business on Allens Avenue.

In addition, it will create additional trucks on Allens Avenue and possibly certain side streets. At the present time, trucks already going to the asphalt plant drop off the materials to be processed at the same time.

