STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC. **SUPERIOR COURT**

[Filed: July 7, 2017]

ALL GRACE DEVELOPMENT CO., LLC; MARIO DIDINO; and ALAN PORPORINO	:	
v.	:	**C.A. No. PC 2015-0744**
CITY OF PROVIDENCE ZONING BOARD OF REVIEW; MYRTH YORK, in her Capacity as Chair of the City of Providence Zoning Board of Review; SCOTT WOLF, ARTHUR STROTHER, MARK GREENFIELD, ENRIQUE MARTINEZ, and NURIA CHANTRE, in their Capacities as Members of the City of Providence Zoning Board of Review; and CHRISTOPHER KANE	:	
	:	***Consolidated With***
ALAN PORPORINO AND MARIO DIDINO	:	
v.	:	**C.A. No. PC-2015-5574**
CITY OF PROVIDENCE ZONING BOARD OF REVIEW; MARC GREENFIELD, in his Capacity as Chair of the City of Providence Zoning Board of Review; and SCOTT WOLF, ARTHUR STROTHER, ENRIQUE MARTINEZ, VICTOR CAPELLAN and AMY CRANE, in their Capacities as Members of the City of Providence Zoning Board of Review; and CHRISTOPHER KANE	:	

DECISION

VOGEL, J., Plaintiff Alan Porporino brings two appeals to the Superior Court from decisions rendered by the City of Providence Zoning Board of Review (Zoning Board). The appeals have

been consolidated for decision. In both cases, the Board faced the issue of whether Mr. Porporino's vacant lot on Knight Street in Providence (Lot 31) was a separate buildable lot or whether it had been merged with the adjacent lot also owned by Mr. Porporino (Lot 276). If the parcels have been merged into one lot, he cannot obtain a building permit to construct a second structure on the parcel without first obtaining a zoning variance. Mr. Porporino claims that the lots are separate and that he should be issued a building permit to erect a single family dwelling on Lot 31. In the first appeal, PC-2015-0744, the Board applied the 1994 Zoning Ordinance for the City of Providence (1994 Ordinance) and found that the lots were merged into one. In the second appeal, PC-2015-5574, the Zoning Board rejected Mr. Porporino's contention that the lots should not be considered merged under his interpretation of a subsequent ordinance, the 2014 Zoning Ordinance for the City of Providence (2014 Ordinance). The Board disagreed and concluded that Lot 31 remains merged under the provisions of the 2014 Ordinance. This Court exercises jurisdiction pursuant to G.L. 1956 § 45-24-69. For the reasons set forth herein, the Court denies Mr. Porporino's appeals in both consolidated cases and affirms the decisions of the Zoning Board.

I

Facts and Travel

On May 6, 2011, John Sahagian sold two parcels of land by a single warranty deed to Mr. Porporino. The contiguous parcels are located in an R-3 Zone at 292-294 Knight Street, Providence, otherwise known as Assessor's Plat 29, Lot 276 (Lot 276) and 296-298 Knight Street, Providence, otherwise known as Assessor's Plat 29, Lot 31 (Lot 31). Id.; Resolution No. 9850 at 3. Pursuant to the 1994 Zoning Ordinance, the minimum lot area in an R-3 Zone was 5000 square feet, and the minimum lot area per dwelling unit was 2000 square feet. (Sec. 304 of

the 1994 Ordinance.) Lot 31 is a vacant parcel of land consisting of approximately 4470 square feet. (Resolution No. 9850 at 3.) Lot 276 consists of approximately 1540 square feet and contains a three-family dwelling. Id.

On September 5, 2014, the Providence Building Official granted a building permit to Mr. Porporino to construct a foundation for a single-family dwelling modular home on Lot 31. (Building Permit.) On September 16, 2014, the Building Official posted a "Stop Work" Order on the property. Two days later, he revoked the Building Permit, stating that the Building Permit "was issued in error and is null & void[.]" (Permit Revocation Notice, dated September 18, 2014.) The Building Official informed Mr. Porporino that "[i]n order to obtain a permit to build at the site[,] a Variance from the Zoning Board must be applied for and approval granted through a Zoning Resolution." Id.

On October 2, 2014, Mr. Porporino[1] took an appeal from the Stop Work Order to the Zoning Board. (Notice of Appeal, Oct. 2, 2014.) On December 17, 2014, the Zoning Board conducted a duly noticed hearing on the appeal. (Notice of Public Hr'g, Dec. 1, 2014 and Hr'g Tr., Dec. 17, 2014 (Tr. I).)

At the hearing, counsel for the Appellant asserted that Lot 31 was not subject to the merger provisions of the 1994 Ordinance due to a purported savings clause contained in Section 204.3(B). (Tr. I at 137-38.) Specifically, he contended that Lot 31 satisfied Section 204.3(B), which permitted the construction of two dwelling units on a legal substandard lot of record, provided that the lot was at least forty feet in width and contained at least 4000 square feet in area. Id. at 138.

[1] The two Notices of Appeal to the Zoning Board, as well as both appeals to this Court, named Mario Didino as an additional party applicant/plaintiff. Although his name appeared on the papers, the parties since have agreed that he is not a party to the disputes and have dismissed, with prejudice, any and all claims brought on his behalf.

After considering and rejecting Appellant's arguments, the Zoning Board unanimously voted to affirm the Building Official's decision to revoke the Building Permit. Id. at 176. Thereafter, it issued a written decision on February 4, 2015. (Resolution No. 9850.) In its decision, the Zoning Board found that both lots had merged under the 1994 Ordinance. Id. at 4. The Zoning Board then noted that Section 417 of the 1994 Ordinance prohibited two principal residential structures on a single lot and that the merged lot already contained a three-family dwelling unit. Id. Consequently, the Zoning Board concluded that the Building Official's revocation of the building permit was a reasonable application of the Ordinance. Id. On February 24, 2015, Mr. Porporino appealed the Zoning Board's February 4, 2015 decision to this Court. See Compl., PC-2015-0774.[2]

On November 24, 2014, the City of Providence adopted a new Zoning Ordinance, effective December 24, 2014. See 2014 Ordinance 1. On July 7, 2015, while the appeal in PC-2015-0774 was pending, Mr. Porporino sought another building permit to construct a single-family dwelling on Lot 31. (Building Permit Appl., July 7, 2015.)

The City denied the building permit application, stating that the proposal required a variance, and that "further review will not be done until proof of a Zoning Variance is provided." (PROV Smart Mail Notification.) Mr. Porporino timely appealed the denial of the building permit application to the Zoning Board. (Notice of Appeal, Aug. 28, 2015.) Thereafter, the

[2] The Complaint named Abbutter Christopher Kane as a Defendant. Id. at ¶ 7. Furthermore, in addition to naming Mr. Didino as a Plaintiff (see n.1, supra), the Complaint also named All Grace Development Co., LLC, as a Plaintiff. The body of the Complaint alleged that All Grace Development Co., LLC, a Massachusetts corporation, was the registered owner of Lot 31. (Compl. ¶ 1, PC-2015-0774.) However, as was the case with Mr. Didino, by agreement of the parties any and all claims brought on behalf of All Grace Development Co., LLC have been dismissed with prejudice.

Zoning Board conducted a duly noticed hearing on October 27, 2015. (Notice of Public Hr'g, Oct. 9, 2015 and Hr'g Tr., Oct. 27, 2015 (Tr. II).).

At the hearing, counsel for the Appellant essentially contended that the previous decision of the Zoning Board was irrelevant and had no binding effect on the second application, because the 2014 Ordinance rendered it moot. (Tr. II at 128-129; 134-135.) He posited that Lot 31 was not a substandard lot of record because Table 4-1 of the 2014 Ordinance does not contain a minimum square footage requirement for lots that existed at the time of the Ordinance's enactment. Id. at 131-32. He then asserted that because the merger provision applies only to two or more contiguous lawfully established substandard lots of record, and because Lot 31 is not a substandard lot of record, the merger provision does not apply to Lot 31. Id. at 133 and 139.

At the conclusion of the hearing, the Zoning Board voted to affirm the Building Official's denial of the building permit application. Id. at 166. Thereafter, it issued a written decision on December 2, 2015, reaffirming its previous determination that Lot 31 and Lot 276 had merged under the 1994 Ordinance. See Resolution No. 9888 at 4. It further found that the 2014 Ordinance did not unmerge the two lots, and that they remained one undivided lot. Id. The Zoning Board also found that notwithstanding its previous ruling, it also considered the two lots merged under the 2014 Ordinance because Lot 31 still constituted a substandard lot of record. Id. at 5. On December 22, 2015, Mr. Porporino appealed the Zoning Board's December 2, 2015 decision to this Court. See Compl., PC-2015-5574. On July 27, 2016, Plaintiffs filed a Motion to Consolidate the two appeals. There being no objection, the Motion Justice granted the motion under Rule of Court on August 10, 2016.[3]

[3] Thereafter, in response to an inquiry from the Court regarding the standing of All Grace Development Co., LLC and Mr. Didino, counsel for Plaintiffs withdrew their appeals.

II

Standard of Review

The Superior Court has jurisdiction to review zoning board decisions under § 45-24-69. The statute provides in pertinent part:

> "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).

In reviewing a zoning board decision, the Superior Court must '"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 City of Newport, 62 A.3d 1078, 1083 (R.I. 2013) (quoting Apostolou v. Genovesi, 120 R.I. 501, 507, 388 A.2d 821, 824 (1978)). "Substantial evidence is defined as 'such relevant evidence that a reasonable mind might accept as adequate to support a conclusion, and means [an] amount more than a scintilla but less than a preponderance.'" Iadevaia v. Town of Scituate Zoning Bd. of Review, 80 A.3d 864, 870 (R.I.

2013) (quoting Pawtucket Transfer Operations, LLC v. City of Pawtucket, 944 A.2d 855, 859 (R.I. 2008)).

If the Court finds that the zoning "board's decision was supported by substantial evidence in the whole record," then the Court must affirm the decision. Lloyd, 62 A.3d at 1083. Conversely, if the zoning board's findings of fact are not supported by substantial evidence in the record, the court must reverse the board's decision. Salve Regina Coll. v. Zoning Bd. of Review of City of Newport, 594 A.2d 878, 882 (R.I. 1991) (holding as reversible error the affirmance of zoning board's decision where the record was "devoid of any legally competent evidence upon which the board could reasonably have based its finding . . ."). However, "a zoning board's determinations of law, like those of an administrative agency, are not binding on the reviewing court; they may be reviewed to determine what the law is and its applicability to the facts." Pawtucket Transfer Operations, LLC, 944 A.2d at 859 (internal quotations omitted).

III

Analysis

Mr. Porporino contends that the Zoning Board erred in denying both appeals from the Building Official. In doing so, he reiterates the legal arguments he previously made before the Zoning Board during the hearings on the appeals. According to Mr. Porporino, Section 204.3(B) of the 1994 Ordinance acted as a merger savings clause for Lot 31 because the property met the requirements of that provision and thus was a buildable lot. With respect to the second building permit application, Mr. Porporino interprets the 2014 Ordinance as removing the minimum square footage requirement for existing lots in R-3 zones, and as such, Lot 31 would no longer be a substandard lot. He then argues that the merger provisions of the 2014 Ordinance do not apply to his property because Lot 31 is not substandard.

All of the arguments raised in these appeals involve issues of statutory/ordinance interpretation. As such, the Court will conduct a de novo review of the Zoning Board's decisions. See Iadevaia, 80 A.3d at 874 ("This Court reviews the construction of a zoning ordinance, as [it] review[s] all issues of statutory construction, in a de novo manner.") (Citing Pawtucket Transfer Operations, LLC, 944 A.2d at 859).

Our Supreme Court has declared that '"the rules of statutory construction apply equally to the construction of an ordinance."' Pawtucket Transfer Operations, LLC, 944 A.2d at 859 (quoting Mongony v. Bevilacqua, 432 A.2d 661, 663 (R.I. 1981)); see also CCF, LLC v. Pimental, 130 A.3d 807, 811 (R.I. 2016) ("It is well settled that, when we are presented with an issue regarding the interpretation of an ordinance, we apply the rules of statutory construction.") The Court "give[s] weight and deference to a zoning board's interpretation and application of the zoning ordinance, provided its construction is not clearly erroneous or unauthorized." Cohen v. Duncan, 970 A.2d 550, 562 (R.I. 2009).

In construing an ordinance, the Court "give[s] clear and unambiguous language in an ordinance its plain and ordinary meaning." Id. Accordingly, '"[w]hen the language of a statute or a zoning ordinance is clear and certain, there is nothing left for interpretation and the ordinance must be interpreted literally."' Id. (quoting Mongony, 432 A.2d at 663). However, if the language of an ordinance is unclear and ambiguous, the Court "must 'establish[ ] and effectuate [ ] the legislative intent behind the enactment."' Pawtucket Transfer Operations, LLC, 944 A.2d at 859 (quoting State v. Fritz, 801 A.2d 679, 682 (R.I. 2002)); see also Jones v. Rommell, 521 A.2d 543, 545 (R.I. 1987) ("An ordinance, therefore, must be construed in a manner consistent with its stated intent.")

Nevertheless, although the Court "must give words their plain and ordinary meanings, in so doing [it] must not construe a statute [or an ordinance] [* * *] in a way that would result in absurdities or would defeat the underlying purpose of the enactment." O'Connell v. Walmsley, 156 A.3d 422, 428 (R.I. 2017) (internal quotations omitted). Consequently, "[i]f a mechanical application of a statutory definition produces an absurd result or defeats legislative intent, this [C]ourt will look beyond mere semantics and give effect to the purpose of the act." Id.; see also Ryan v. City of Providence, 11 A.3d 68, 71 (R.I. 2011) ("Thus, in interpreting a statute or ordinance, we first accept the principle that statutes should not be construed to achieve meaningless or absurd results.") (internal quotations omitted). Finally, "'where one construction of an act of the Legislature operates to defeat an otherwise legitimate legislative intendment while another serves to support it, [the Court] will adopt the latter construction.'" Town of Tiverton v. Fraternal Order of Police, Lodge No. 23, 118 R.I. 160, 165, 372 A.2d 1273, 1276 (1977) (quoting State v. Sprague, 113 R.I. 351, 355, 322 A.2d 36, 38 (1974)). With these principles in mind, the Court now will address the issues raised in these appeals in seriatim.

A

PC-2015-0744

In its first decision, the Zoning Board concluded that the Building Official did not err in revoking the Building Permit. (Resolution No. 9850 at 4.) In so finding, the Board agreed with the Building Official, that Lot 31 and Lot 276 had merged under the 1994 Ordinance. Since the merged lot already contained a principal use dwelling unit, Mr. Porporino could not construct another principal use dwelling on the property. Id. at 3-4. The Court must determine whether the Zoning Board erred in concluding that the two lots had merged by operation of law.

It is well settled "that the combining of substandard lots, a concept known as merger, is a valid zoning mechanism governed by the provisions of G.L. 1956 (1988 Reenactment) chapter 24 of title 45." Brum v. Conley, 572 A.2d 1332, 1334 (R.I. 1990) (quoting McKendall v. Town of Barrington, 571 A.2d 565, 567 (R.I. 1990)). The purpose of a merger provision is to promote the general welfare by "operat[ing] to decrease congestion in the streets and . . . prevent[ing] the overcrowding of land by limiting the number of new dwellings built in the residential districts." Brum, 572 A.2d at 1334 (citing § 45-24-3).

It also is well established that "[m]erger generally requires the combination of two or more contiguous lots of substandard size that are held in common ownership in order to meet the minimum-square-footage requirements of a particular zoned district." R.J.E.P. Assocs. v. Hellewell, 560 A.2d 353, 355 (R.I. 1989). As a result, "[s]ubstandard contiguous lots cannot be developed as individual nonconforming lots unless the landowner applies for a variance or an exception." Id. However,

> "merger provisions frequently contain exceptions whereby a lot that is smaller than the minimum zoning requirements will be exempted from the merger rule if it was a lot of record prior to the effective date of the zoning ordinance. Such an exception allows the landowner to develop a substandard lot only if the lot remains isolated and was under single ownership at the time the zoning ordinance was adopted. However, if the landowner owns any adjacent lots that, if combined, would satisfy the square-footage requirements, then the landowner is not entitled to the exception. The landowner therefore must merge the lots to form a single parcel of land that will meet the area requirements." Id. at 356 (emphases added).

Section 200.3 of the 1994 Ordinance stated that "[a] building or structure or parcel of land which is in nonconformance with the dimensional regulations of this Ordinance is nonconforming by dimension." (Sec. 200.3 of the 1994 Ordinance.) The 1994 Ordinance defined a substandard lot of record as "[a]ny lot lawfully existing at the time of adoption or

amendment of a zoning ordinance and not in conformance with the dimensional and/or area provisions of that ordinance." (Sec. 1000 of the 1994 Ordinance.) Section 101.1 of the 1994 Ordinance described an R-3 zoning district as a zone

> "intended for medium and low density residential areas comprised of structures containing single family dwelling units, two family dwelling units and three family dwelling units located on lots with a minimum land area of 5,000 sq. ft. and a minimum land area of 2,000 sq. ft. per dwelling unit." (Sec. 101.1 of the 1994 Ordinance.)

See also Sec. 304 of the 1994 Ordinance (setting forth the same minimum lot area and minimum dwelling unit requirements for an R-3 zone).

Section 1000 defined a dwelling unit as "[o]ne or more rooming units within a structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress." (Sec. 1000 of the 1994 Ordinance.) Section 1000 also stated that a three family dwelling consisted of "[a] building used exclusively for occupancy by three (3) families living independently of each other." Id.

Thus, under the clear and unambiguous language of the 1994 Ordinance, any legally existing lot in an R-3 zone that contained less than 5000 square feet at the time of the adoption or amendment to the 1994 Ordinance constituted a substandard lot of record. Furthermore, a three-family dwelling unit clearly consisted of a single building with three completely separate and independent living areas within that building.

It is undisputed that Lot 31 and Lot 276 each contained less than 5000 square feet at the time Mr. Porporino purchased the contiguous parcels by single warranty deed in 2011. It also is undisputed that a three-family dwelling was then situated on Lot 276. Nevertheless, Mr. Porporino asserts that the 1994 Ordinance contained a "savings clause" that saved Lot 31 from

being merged with Lot 276, and that as a result, Lot 31 is a buildable lot under the 1994 Ordinance.

Section 204 of the 1994 Ordinance, entitled "Land Nonconforming by Area," provided in pertinent part:

> "204.2 - Merger of Substandard Lots of Record: In all R Zones, if two or more contiguous, lawfully established substandard lots of record, where one or more of the lots is less than four thousand (4,000) square feet and are under the same ownership on or anytime after the effective date of this ordinance (October 24, 1991), such lots shall be considered to be one lot and undivided for the purpose of this ordinance, provided that the merger does not result in more than one principal building on the lot . . . If after merging, the resulting lot does not meet the minimum lot area requirements of Section 304 or 307, then Section 204.3 of this ordinance shall apply . . . Further, a subdivision of lots that are merged by this Section may be performed in accordance with the Commission's regulations, without Zoning relief, to create lots that are conforming by dimension
> "204.3 - Permitted Uses of Substandard Lots of Record in R Zones: Any lawfully established lot which has less than the minimum area required for the zone in which it is located, may be used subject to the provisions of this Ordinance and the following:
>
> > "A) R Zones - A single family dwelling may be erected in any R Zone on any separately owned lot.
> > "B) R-3, R-P, and R-G Zones - In any R-3, R-P and R-G Zones, a lot which has less than the minimum area requirement for the R-3, R-P and R-G Zones may be used for two (2) dwelling units, provided that such lot shall have a width of at least 40 feet and an area of at least 4,000 square feet. See Section 419.7 for additional regulations for substandard lots in the R-3 Zone." (Sec. 204 of the 1994 Ordinance) (emphases added).

Mr. Porporino contends that Section 204.3(B) was not limited to lots that merged under Section 204.2. Instead, pointing to the term "Any lawfully established lot" contained in Section 204.3, he contends that it applied to all lawfully established R-3 lots that consisted of at least 4000 square feet and had a width of at least forty feet. Mr. Porporino then maintains that

because Lot 31 satisfied those requirements, it was not subject to the merger provisions contained in Section 204.2.

The plain and unambiguous language of Section 204.2 mandated the merger of certain lawfully established substandard lots of record that were contiguous and under the same ownership. See Sec. 204.2 of the 1994 Ordinance. If the resulting merged lot still constituted a substandard lot of record—i.e., did not meet the required minimum lot area under the Ordinance—then Section 204.3 "shall apply." Id. However, if the merged lot contained enough square footage for two conforming lots, the property owner could then subdivide the lots without zoning approval.

Section 204.3 governed the permitted uses that were available to substandard lots of record in residential zones. It first stated that any lawfully established, separately-owned substandard lot of record could contain a single family dwelling regardless of the type R-zone in which the property was located. (Sec. 204.3(A) of the 1994 Ordinance.) Section 204.3(B) permitted the construction of a two-family dwelling in R-3, R-P, or R-G zones, provided that the substandard lot in question contained at least 4000 square feet and was at least forty feet wide. (Sec. 204.3(B) of the 1994 Ordinance.)

The clear and unambiguous language contained in Section 204.3(A) mandated separate ownership of any and all substandard lots of record before allowing construction of a single-family dwelling. Pursuant to this provision, Mr. Porporino could not have constructed a single-family residence on Lot 31 because he did not separately own the property from Lot 276—a contiguous lot that contained less than 4000 square feet. Nevertheless, Mr. Porporino contends that Section 204.3(B) acted as a "savings clause" to allow him to construct his proposed single-family dwelling. Such interpretation would lead to an absurd result. Essentially, he is

contending that the 1994 Ordinance permitted him to construct a single-family dwelling under Section 204.3(B), despite the fact that he was prohibited from doing so under Section 204.3(A).

The Court finds that Section 204.3(B) simply gave landowners the option of constructing either a two-family dwelling or a single-family dwelling where their separately owned isolated lots met the dimensional requirements set forth in that section. See R.J.E.P., 560 A.2d at 356 (holding that exceptions from merger provisions only are available to substandard lots that are isolated and under single ownership, but that landowners of adjacent substandard lots are not entitled to any such exceptions and must merge their properties). Such finding comports with the underlying purpose of merger provisions; namely to "decrease congestion in the streets and . . . prevent the overcrowding of land by limiting the number of new dwellings built in the residential districts." Brum, 572 A.2d at 1334.

Accordingly, the Court concludes that the Zoning Board correctly determined that Lot 276 and Lot 31 had merged by operation of law under the 1994 Ordinance. See Cohen, 970 A.2d at 562 (giving "weight and deference to a zoning board's interpretation and application of the zoning ordinance, provided its construction is not clearly erroneous or unauthorized"). Furthermore, considering that the merged lot already contains a three-family dwelling, the Court further concludes that the Building Official did not err in revoking the building permit for the merged lot. The Court next will address the second appeal in these consolidated matters.

B

PC-2015-5574

In his second appeal, Mr. Porporino contends that Lot 31 constitutes a conforming lot of record under the 2014 Ordinance because Table 4-1 of that Ordinance does not contain a minimum square footage requirement for existing lots. He then maintains that because the

merger provision applies only to contiguous substandard lots of record, said provision does not apply to Lot 31, which is a conforming lot under the 2014 Ordinance. Underpinning this argument is a presumption the 2014 Ordinance effectively unmerged Lot 31 and Lot 276 retroactively.

In Rhode Island, "a statute is presumed to have been intended to operate prospectively and will not be construed to operate retroactively unless such an intent appears in the express language of the statute or by necessary implication therefrom." Norton v. Paolino, 113 R.I. 728, 734, 327 A.2d 275, 279 (1974). Accordingly, "[i]n the absence of a legislative intent that a statute operate retroactively, manifested by express language or by necessary implication, the statute must be assumed to operate only prospectively." Id.

The merger provision of the 2014 Ordinance provides in pertinent part:

> "In all residential districts, if two or more contiguous, lawfully established substandard lots of record, where one or more of the lots is less than 4,000 square feet and are under the same ownership on or, anytime after October 24, 1991, such lots are considered to be one lot and undivided for the purpose of this Ordinance, provided that the merger does not result in more than one principal building on the lot . . . Further, a subdivision of lots that are merged by this section may be performed in accordance with the Commission's regulations, without zoning relief, to create lots that are conforming by dimension." (Sec. 2003E of the 2014 Ordinance.)

This language essentially is the same language contained in the 1994 Ordinance, clearly and unambiguously stating that the merger provision applies to all relevant lots "under the same ownership on or, anytime after October 24, 1991." (Sec. 2003E of the 2014 Ordinance.) Thus, if anything, the merger provision retroactively merges lots rather than unmerges them—as Mr. Porporino implies in his argument. Even assuming that Mr. Porporino's properties had not previously merged, his contention that Lot 31 is a conforming lot argument is misplaced.

The Court rejects Mr. Porporino's argument that Table 4-1 of the 2014 Ordinance contains a zero minimum square footage requirement for existing lots in R-3 zones. To find otherwise would result in an absurdity. It would require a determination that there are absolutely no substandard lots based on square footage in any residential zone in the city because the ordinance says "none" under Table 4-1. By extension, there never could exist "two or more contiguous, lawfully established substandard lots of record" based on insufficient square footage. Every lot would conform to the purported zero area requirements. (Sec. 2003E of the 2014 Ordinance.) Such conclusion would render the merger provision mere surplusage and would destroy a crucial tool for relieving congestion and overcrowding. In addition to being an absurd result, "[t]his [C]ourt has long applied a canon of statutory interpretation which gives effect to all of a statute's provisions, with no sentence, clause or word construed as unmeaning or surplusage." Local 400, Int'l Fed'n of Tech. & Prof'l Engineers v. R.I. State Labor Relations Bd., 747 A.2d 1002, 1005 (R.I. 2000) (quoting R.I. Dep't of Mental Health, Retardation, and Hospitals v. R.B., 549 A.2d 1028, 1030 (R.I. 1988)).

Mr. Porporino's misplaced argument ignores the clear and unambiguous definition of a substandard lot of record. A substandard lot of record is defined as "Any lot lawfully existing at the time of adoption or amendment of this Ordinance and is not in conformance with the dimensional and/or area provisions of this Ordinance for new subdivisions as detailed in Table 4-1." (Sec. 201 of the 2014 Ordinance.) The area requirement for new subdivisions is 5000 square feet. (Table 4-1 of the 2014 Ordinance.) Accordingly, had Lot 31 and Lot 276 not merged under the 1994 Ordinance, they would have remained substandard lots subject to the merger provisions of the 2014 Ordinance.

In view of the foregoing, the Court concludes that the Zoning Board did not err in determining that Lot 276 and Lot 31 remained an undivided, merged lot. As a result, the Court further concludes that the Building Official did not err in denying Mr. Porporino's second building permit application for Lot 31.

IV

Conclusion

Accordingly, this Court finds the Zoning Board's decisions in these consolidated matters were not made upon unlawful procedure, were not arbitrary or capricious, and were not in violation of statutory or ordinance provisions. The Zoning Board's decisions also were not affected by error of law and were not characterized by an abuse of discretion. As a result, substantial rights of Mr. Porporino have not been prejudiced. Consequently, this Court affirms the Zoning Board's decisions.

Counsel shall submit an appropriate order for entry.

RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE:	Alan Porporino v. City of Providence Zoning Board of Review, et al.
CASE NO:	PC-2015-0744; PC-2015-5574 (Consolidated Appeals)
COURT:	Providence County Superior Court
DATE DECISION FILED:	July 7, 2017
JUSTICE/MAGISTRATE:	Vogel, J.
ATTORNEYS:	
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