

# CITY OF EAST PROVIDENCE

## PLANNING BOARD

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### Minutes of April 12, 2010

**CALL TO ORDER:** 7:00 pm by Chairman Robinson, followed by the Pledge of Allegiance to the Flag.

**Present:** Chairman Michael Robinson, Anthony Almeida, Burton Batty, Robert Cole, Krista Moravec, Alternate Octavio Cunha, Alternate Matthew Robinson.  
**Staff:** Jeanne Boyle, and City Solicitor James Briden.

#### 1. SEATING OF ALTERNATE MEMBER

All members were present and it was not necessary to seat an alternate.

#### 2. APPROVAL OF PLANNING BOARD MINUTES

A. Minutes of November 16, 2009 (enclosed)

On a motion by Ms. Moravec, seconded by Mr. Cole, The Board voted unanimously to accept the minutes of the meeting of November 16, 2009.

B. Minutes of January 11, 2010 (enclosed)

On a motion by Mr. Almeida, seconded by Ms. Moravec, The Board voted unanimously to accept the minutes of the meeting of January 11, 2010.

C. Minutes of February 8, 2010 (enclosed)

On a motion by Mr. Almeida, seconded by Ms. Moravec, The Board voted unanimously to accept the minutes of the meeting of February 8, 2010.

D. Minutes of March 8, 2010 (to be submitted)

#### 3. APPROVAL OF PLANNING BOARD CORRESPONDENCE

There was no new correspondence.

#### 4. NEW BUSINESS

A request was made to proceed with a "Continued Business" item (5.A.) at this time. On a motion by Mr. Batty, seconded by Ms. Moravec, the Board voted unanimously to consider Item A under continued business out of order.

#### 5. CONTINUED BUSINESS

**A. Administrative Subdivision #2009-11 – Continued from March 8, 2010**

Applicant: Laureanno J. Mourato. Owners: Laureanno J. Mourato and Maria A. Mourato. Property addresses: 26 and 36 Cedar Avenue; Map 312, Block 42, Parcels 12 and 13.

The applicant, Mr. Mourato, was sworn in by Chairman Robinson.

Atty. Martin J. Slepko spoke on behalf of the applicant, who owns parcels 12 and 13. Parcel 12 has the existing house at 26 Cedar Avenue which is being renovated. The purpose of the subdivision is to shift the property line between parcels 12 and 13 to bring Parcel 13 to 10,028 square feet, enabling Parcel 13 to be subdivided into two lots at a later time. The main issue in this application is the installation of sidewalks and curbing. The applicant was willing to build sidewalks and curbing along Parcel 13 on Cedar Avenue as part of the planned future subdivision. Staff recommended in March that the entire street frontage of the two parcels along Cedar Ave., Pine St. and Shore Rd. have curbing and sidewalks installed. Atty. Slepko was concerned about the large cost involved for the applicant. A compromise was offered since the March Planning Board meeting, which consists of the future construction of curbing and sidewalk along the Cedar Avenue frontage of both Parcels 12 and 13, and not on the Pine Street and Shore Road frontages.

Otherwise, Atty. Slepko agreed with the recommendations of the staff memorandum.

Planning Director Boyle presented the Staff Recommendation. This administrative subdivision is before the Board due to the request for a partial waiver from the sidewalk and curbing requirements which can be granted only by the Board. Director Boyle requested that the current staff recommendation dated April 6, 2010 be entered into the record of the meeting.

There are existing single family dwellings on both parcels 13 and 12. The renovation and small addition to the dwelling on parcel 12 will improve the appearance of the area. The subdivision proposal moves the property line between parcels 12 and 13 about 22 feet to the east, increasing the size of parcel 13 to just over 10,000 square feet, allowing room for a future minor subdivision that would result in Parcel 13 being divided into two conforming Residential-4 district lots. The existing gravel driveway on Parcel 12 (26 Cedar) will be moved slightly to accommodate the addition to that house.

The proposal was deemed consistent with East Providence Comprehensive Plan density guidelines, as the existing density of the subdivision is well within the Medium Density guideline and the planned future minor subdivision would also conform.

Director Boyle then addressed the curbing and sidewalk waiver. Chairman Robinson expressed concern regarding consistency with regard to installation of sidewalks and curbing and/or the payment of an in-lieu fee for their installation. Director Boyle stated that a complete waiver from the requirement is *not* justifiable as there are plans for future

subdivision and construction along the Cedar Avenue frontage. Given the current presence of several sidewalk segments along Cedar Avenue and the narrow width of the Shore Road right-of-way, staff deemed it reasonable to grant a partial waiver from the curbing and sidewalk requirement, seeing that the City will gain 220 feet of sidewalk coverage along Cedar Avenue.

Mr. Batty asked for clarification on when the sidewalks and curbing would be installed. Planning Director Boyle noted that the recommendation calls for an improvement guarantee for the curbing and sidewalk at this time, which will be used for the installation at which time it happens. Atty. Sleprow stated that the sequence will be rehab and sell the house at 26 Cedar Avenue, install the sidewalks and curbing, then come back the Board with the future Parcel 13 proposal (which would be a minor subdivision).

There were no other Board questions.

**Motions**

1. On a motion by Ms. Moravec, seconded by Mr. Batty, the Board unanimously voted to accept the staff report of April 6, 2010 and attached exhibits into the record of the meeting.
2. On a motion from Mr. Batty, seconded by Ms. Moravec, the Board voted 4-1 to accept the Staff's recommendation to require curbing and sidewalk and Cedar Avenue and to grant the partial waiver from the requirement for sidewalks and curbing; waiving this requirement for the Pine Street and Shore Road frontages of the subdivision, without payment-in-lieu to the City for these segments.

Roll Call Vote

Mr. Batty	Aye
Ms. Moravec	Aye
Mr. Cole	Aye
Mr. Almeida	Aye
Chairman Robinson	Nay

3. On a motion from Ms. Moravec, seconded by Mr. Cole, the Board voted 5-0 to grant conditional approval of the subdivision as noted in the staff recommendation dated April 6, 2010.

Roll Call Vote

Mr. Batty	Aye
Ms. Moravec	Aye
Mr. Cole	Aye
Mr. Almeida	Aye
Chairman Robinson	Aye

The Administrative Subdivision proposal as submitted was thereby approved.

The meeting then returned to the consideration of New Business.

#### **4. NEW BUSINESS**

**A. Request of Cox TMI Wireless, LLC for location of a cellular antenna and associated ground equipment at 301 Lyon Avenue, Pierce Memorial Field (enclosures); and**

**B. Request of Cox TMI Wireless, LLC for location of a cellular antenna and associated ground equipment at 30 North Broadway, Fire Station #3 (enclosures)**

Atty. Michael Dolan and a representative from Cox Communications are present. Atty. Dolan states that his client holds an FCC license to construct and operate wireless telecommunications networks in a number of areas including Rhode Island. He stated that Cox builds new towers only as a last resort and first attempts to use existing high structures. For these applications, two existing communications towers would be used: The 150-foot tower owned by the City at the Fire Department at 30 North Broadway; and the T-Mobile-owned 100-foot light pole tower at Pierce Field (305 Lyon Avenue) on City property. Both towers will have 3 flush-mounted antennas and related equipment. Each facility will be fenced and secured for safety purposes. Cox will work with the Fire Department to mitigate any concerns over any interference with Fire Department equipment, and with the Parks and Recreation department to assure that there are no issues at the Pierce Field site. Atty. Dolan requested a Board recommendation to the City Council regarding the applications.

Planning Director Boyle verbally combined the staff recommendations for the two proposals. There are already several providers using the Pierce Field facility. Parks and Recreation requested the ground equipment area be better secured. Cox has agreed to work with the Parks and Recreation Department provide appropriate screening for their new equipment at the base of the tower. In addition to adding their equipment to the tower, Cox proposes to increase the compound area by 9-by-7 feet for their ground equipment. The City Solicitor and City Manager have worked together on the terms of the lease with the City. Ultimately, the final decision on this proposal is made by the City Council. Director Boyle states that this is an appropriate use of the property from a land use standpoint and that recreation activities at Pierce Field should not be impacted. Fire Chief Klucznik has been consulted on the Fire Department proposal and is confident that the Department can work with Cox proposal to assure that there will be no conflict with Fire Department operations. It makes sense to locate these facilities on existing towers and other high points. Based on this, staff recommends that the Board make a positive recommendation on both proposals to the City Council, with two conditions as noted on the staff memorandum.

The location of new antennas on the existing towers was briefly discussed. Mr. Batty asked how close one can be to the antennas before there is a potential safety issue. Atty. Dolan deferred to the Cox representative, who was sworn in by City Solicitor Briden. He

testified that if a person stood in front of an antenna for a certain period of time, that it would be considered above the maximum permissible level. It is said to be safe for workers to pass the antennas provided that they do not stop of front of them and that antennas are work on while powered down

Motions

1. On a motion from Mr. Batty seconded by Mr. Cole, the Board voted unanimously to accept the two staff reports (on Items A and B), both dated April 7, 2010, and enclosures, into the record of the meeting.
2. On a motion from Ms. Moravec, seconded by Mr. Cole, the Board voted 5-0 to make a favorable recommendation to the City Council on the 30 North Broadway proposal subject to the conditions set forth in the Staff memorandum as follows: That a lease be executed and finalized between Cox and the City; that the equipment compound be appropriately secured; and that the construction activity associated with the antennas be coordinated with the Fire Department to make sure there is no interference with Fire Department operations or City Facilities.

Roll Call Vote

Mr. Batty	Aye
Ms. Moravec	Aye
Mr. Cole	Aye
Mr. Almeida	Aye
Chairman Robinson	Aye

3. On a motion from Ms. Moravec, seconded by Mr. Cole, the Board voted 5-0 to make a favorable recommendation to the City Council on the Pierce Field proposal subject to the conditions set forth in the Staff memorandum.

Roll Call Vote

Mr. Batty	Aye
Ms. Moravec	Aye
Mr. Cole	Aye
Mr. Almeida	Aye
Chairman Robinson	Aye

The two antenna proposals were thereby approved.

**C. Proposed Review Fees for Administrative Reviews of Cellular Towers and Antennas (enclosures)**

Director Boyle noted that there a number of proposals for cellular equipment at both public and private locations throughout the City. The City's ordinance encourages use of

existing high structures and towers so that new towers aren't constantly being built. Administrative review can be cumbersome, i.e. if there is a historic structure there are many groups who review them. We currently receive no fees for these reviews, some of which take up 40 or more work hours. The Zoning Officer, City Solicitor and Director Boyle propose a fee to be established administrative review in the amount of \$1,000. Director Boyle requested a recommendation to the City Council on this matter. This would be adopted by the Council as a regular ordinance which requires two passages, but not the three successive weeks of advertising that a zoning ordinance would. The City Solicitor will write this up in ordinance form.

City Solicitor Briden suggests that the fee should be correlated to the average number of hours spent reviewing proposals so that said fee is not interpreted as being arbitrary.

The Planning Board, concerned about the amount of staff time used on administrative review of these proposals, suggested an application fee of \$2,000 for these proposals.

#### Motion

1. Ms. Moravec moved that the Board recommend to the City Council that a \$2,000 administrative fee be charged for review of new cellular tower applications in East Providence. The motion was seconded by Mr. Cole.

#### Roll Call Vote

Mr. Batty	Aye
Ms. Moravec	Aye
Mr. Cole	Aye
Mr. Almeida	Aye
Chairman Robinson	Aye

2. On a motion by Mr. Batty, seconded by Ms. Moravec, the Board voted unanimously to accept the staff memorandum on this item into the record of the meeting.

The meeting then returned to the consideration of Continued Business.

## **5. CONTINUED BUSINESS**

### **B. Staff Report**

Planning Director Boyle, who is a member of the State Planning Council, brought to the attention of the Board proposed legislation that would change the State Comprehensive Planning Act. The Implementation Committee, made up of planners statewide, developed this legislation. There are two central concerns regarding the draft that is up for review by and the endorsement of the State Planning Council, one being that if there was a conflict between a community's Comprehensive Plan and local zoning, that zoning would prevail. This potentially affects current City litigation within the State court system. There is also

concern that such legislation would overturn the established framework of planning whereby zoning, subdivision and development plan regulations have a basis in comprehensive planning. The impact of these changes may be significant for East Providence. A strict focus on zoning could undermine long-term planning initiatives for specific areas, particularly in urban areas where zoning tends to be hodgepodge, as opposed to suburban areas where zones are more clearly defined. The Providence Planning Director shares our concerns.

Ultimately, the State Planning Council did endorse the language in the draft legislation. Individual Directors may still be able to work with City Solicitors to develop language to submit that may accomplish the goal of giving clarity for zoning and at the same time protecting our interests in complex zoning situations.

The other central point of concern is with regard to language changes that would exempt some state agencies from complying with local comprehensive plans, and their plans and zoning would essentially overturn the City's. Our vision for some areas, including the Waterfront, differs notable from that of some state agencies. This particular language was stricken from the draft legislation for now. We will monitor this closely.

## **6. COMMUNICATIONS**

### **A. Letter dated March 25, 2010 from Kevin Nelson, Statewide Planning Program to Jeanne Boyle (Local Comprehensive Plan Five-Year-Update) (enclosed)**

On a Motion by Ms. Moravec, seconded by Mr. Batty, the Board unanimously voted to accept the letter.

### **B. Notice of Decision on Final Plan (File #2009-12); 3 and 7 Spring Street, 53 Peck Avenue, and 48 Promenade Street; Owners: Estate of Jean Pereira, Amy F. Coughlin and Scott Newton, and David L. Brown (enclosed)**

On a Motion by Mr. Batty, seconded by Ms Moravec, the Board unanimously voted to accept the Notice of Decision.

### **C. Letter dated March 11, 2009 from Jeanne Boyle to Luis Mateus, Reduction of Improvement Guarantee (enclosed)**

On a Motion by Ms. Moravec, seconded by Mr. Almeida, the Board unanimously voted to accept the letter.

### **D. Memorandum of Planning Department to Zoning Board of Review for requests for Variances and Special Use Permits dated March 30, 2010 (enclosed)**

On a Motion by Mr. Batty, seconded by Ms. Moravec, the Board unanimously voted to accept the memorandum.

## **7. ANNOUNCEMENT**

The next meeting is scheduled for May 10, 2010 at 7:00 pm in City Hall Room 306.

**8. ADJOURNMENT**

On a Motion by Mr. Batty, seconded by Ms. Moravec, the Planning Board unanimously voted to adjourn the meeting.

The meeting adjourned at 8:20 pm.