

CITY OF EAST PROVIDENCE

PLANNING BOARD

Minutes of January 11, 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: Diane Feather, Patrick Hanner, James Moran, and City Solicitor James Briden. (Ms. Feather noted that Director Boyle would not be in attendance as she was on vacation.)

1. SEATING OF ALTERNATE MEMBER

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

2. APPROVAL OF PLANNING BOARD MINUTES

None

3. APPROVAL OF PLANNING BOARD CORRESPONDENCE

There was no correspondence.

4. NEW BUSINESS

A. Administrative Subdivision #2009-12 (Reassigned to Minor Subdivision)

Applicant: Estate of Jean Pereire, Thomas Morris, Guardian

Assessor's Map 513, Block 45, Parcels 2, 13, 14 and 15

Street Addresses: 3 and 7 Spring Street 53 Peck Avenue and 48 Promenade Street

Mr. Moran indicated that the subject subdivision has been re-assigned by the Administrative Officer from an Administrative Subdivision to a Minor Subdivision based on the fact that the subdivision requires Zoning Variances and that the applicant is requesting waivers from curbing and sidewalk requirements.

Mr. Moran provided an overview of the application and identified several items of concern including an issue associated with the encroachment of a fence on an adjacent property owner's parcel. He indicated that due to the fact that the applicant is not proposing any new development or construction on the site, the Planning Department is amenable to approving the requests for waiver for the project.

Mr. Moran indicated that the subdivision as proposed is consistent with the City's Comprehensive Plan and the Subdivision and Land Development Project Review Regulations. In regard to density, the area is described as a Low Density (LD) Residential area in the Comprehensive Plan. As it currently exists, the development contains 5 dwelling units per acre, which is within the limit prescribed for LD development.

Mr. Moran described a late development within the review process that identified a series of drainage lines on the property that were not included in the survey that was completed by Coventry Survey Company. The Department of Public Works confirmed through their mapping that there were indeed drainage lines located on two of the parcels in the proposed development and that there was a catch basin located along the frontage of 53 Peck Avenue. He distributed an addenda to the application recommendation that explained the drainage issue in more detail to the Board for their review.

Based on discussion with the Department of Public Works and Planning, staff Mr. Moran indicated that there could be a decision rendered on the Preliminary Plan by the Board that would stipulate that the drainage improvements be added to the Final Plans and that appropriate easements be created to allow for maintenance of the drainage lines. These conditions could be added to the existing conditions identified in the full Preliminary Plan recommendation to the Board and potentially handled administratively at Final Plan.

Chairman Robinson expressed concern that these drainage issues arose very late in the review process and felt that it may be more prudent to continue the subdivision to the next meeting, in order to allow these issues to be fully researched and reviewed prior to a decision by the Board.

Mr. Moran indicated that there were other concerns that the Planning Department considered critical within the subdivision, including a stipulation that the extension of land on proposed Parcel C be restricted from developing any additional housing units in the future.

Mr. Batty asked if all of the owners are aware of these drainage lines. The applicant indicated that they were not aware of these drainage lines at this time.

Chairman Robinson asked if the applicant would object to allowing this to be continued to the next Planning Board meeting? Mr. Thomas Morris, Legal Guardian of Jean Pereire was sworn in and indicated that he does have concerns about continuing this application to a later meeting. He explained that the subdivision was proposed to right several wrongs that existed on the parcels and to convey land to a person interested in buying one of the properties. He indicated that they are willing to conform to whatever is necessary to correct issues, but he said he did want to see it move forward if possible.

Chairman Robinson was concerned that the plans did not have all of the necessary details on the application and felt that it was in the best interest of all parties to postpone a

decision on this subdivision until the necessary updates have been completed on the plans. Mr. Batty also expressed concerns regarding making a decision at this meeting.

There was discussion in regards to the City's maps that show the drainage lines on the property. Mr. Moran indicated that these were most likely probable locations but are not necessarily the actual locations of the drain lines. That could only be ascertained through the survey process.

Chairman Robinson expressed concerns that the owners were not aware of these lines and was reluctant to make a decision at this time based on this fact.

Chairman Robinson asked if proper notice has been issued for Mr. Brown and if proper notice has not been issued, could the Board move forward with this application.

After inquiry by Mr. Batty, Solicitor Briden shared the Board's concerns regarding the fact that Mr. Brown is not aware of the drain lines and that he signed onto a plan that did not show the drainage line on his property when the application was first prepared.

Mr. Batty asked if there were any easements currently in place on the property? Mr. Moran indicated that the Public Works Department said that there are many older public drain lines on private property that are not designated with an easement. He could not confirm that this is the case here, but the title report on the property did not turn up any easements.

Surveyor John Rockwell of Coventry Survey Co. indicated that he saw the drain line but did not investigate if the line extended under the subject property. He said that there were no easements in the deed records. He said that he would work with the Public Works Department to identify the lines on the property and to create an easement for the drainage lines on the property. Mr. Moran indicated that at a minimum the lines would need to be shown on the plans and an easement for this line would be required.

Ms. Feather asked Mr. Rockwell if the catch basin drain was shown on the plans. Mr. Rockwell said it was not shown on the plan. Ms. Feather indicated that it was unfortunate that he did not include this as a means of identifying the presence of the drain lines on the property. She also indicted that in addition to simply having the easement on the property, the presence of the drain line and easement on any property represents an encumbrance on that property.

Chairman Robinson asked if there were any members of the public who wished to speak.

Kimberly Wooten, of 64 Planet Avenue stated there were steep slopes in her backyard and she wanted to make sure that if the property were developed her property would not be subjected to drainage problems.

Dawn Ciallella of 52 Planet Avenue indicated that there are drain lines under the pit area of the property.

Nancy Farrell of 54 Planet Avenue also expressed concerns over the grades and the potential for flooding on her property. She was also interested in finding out what was proposed for the vacant piece of land referred to as the gully by the new property owner.

Mr. Moran stated that there is a stipulation in the Planning Department recommendation that no residential structures be allowed on the portion of land that is being discussed as the gully.

Chairman Robinson indicated that the drain line also traverses the property that is being purchased by Coughlin/Newton and they also have not been notified and that they would need to have an easement on their property.

Motions

Ms. Moravec made a Motion to enter the staff recommendation and addendum into the record. The Motion was Seconded by Mr. Batty and unanimously accepted by the Board.

Mr. Batty felt that he could not vote to approve this application until he had more information on the drain line. He also wanted to make sure that all of the owners involved with this subdivision are made aware of the drain lines and the necessity for an easement on their properties. Therefore, he made a Motion continue this application to a future meeting. The Motion was Seconded by Mr. Almeida.

Roll Call Vote

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

B. Application # 2009 – 04 Minor Subdivision

Applicant Derrick Rose, Owners: Derrick Rose and Cora Rose, 2987 Pawtucket Avenue, Map 309, Block 1, Parcels 1 and 2 (enclosures).

Mr. Hanner stated that the applicant is proposing a two-lot minor subdivision that has been classified as a minor subdivision. The application was certified as complete on January 6, 2010 and notice was mailed to the immediate abutters. The applicant received a physical alteration permit (PAP) from the Rhode Island Department of Transportation in 2004 for the curb cut that is shown on the plan. It was the opinion of the City that a curb cut would be contrary to the goal of protecting the scenic qualities, roadside vegetation, and safe traffic operation of the parkway. However, the RIDOT issued the PAP without allowing the City to comment on the pending application.

The applicant is proposing to adjust an existing lot line that will decrease the square footage of parcel 1 from 14,362 to 13,434 sq. ft. and increase parcel 2 from 6,572 sq. ft. to 7,500 sq. ft. A two-story single-family dwelling is proposed to be constructed on parcel 1 and a driveway entrance to access Veteran's Memorial Parkway approximately 150 feet from the intersection of Pawtucket Avenue and Veteran's Memorial Parkway.

The applicant submitted a drainage report that concluded a net decrease in stormwater runoff from existing conditions to proposed conditions, with all stormwater runoff being controlled on site.

The applicant has requested a waiver from the requirement of installing sidewalks and curbing on the frontage of parcel 1 along Veteran's Memorial Parkway. Sidewalks are present along the entire frontage of parcel 2 and a portion of the frontage along parcel 1. Considering the irregular shape of the intersection, the high traffic volumes, the presence of a pedestrian crosswalk on the east side of Veteran's Memorial Parkway crossing Pawtucket Avenue, and the proximity of Bradley Hospital, the Planning Department is requesting that the Planning Board deny the applicant's request for a waiver of sidewalks and curbing.

It is the opinion of staff that the subdivision is consistent with Section 1-2 and positive findings were made to all of the standards of Section 5-4, and that staff recommends that the Board deny the applicant's request for a waiver from the requirement of installing sidewalks and curbing and further grant a conditional approval of the subdivision, as proposed, subject to the following conditions:

1. That the residential use of the proposed single-family dwelling is restricted to single-family use and accessory uses in perpetuity;
2. That the applicant post an improvement guarantee in an amount determined by the Public Works Department for any required improvements to the City's Right-of-way;
3. That any outstanding property taxes be paid to date before a final plan approval is granted;
4. That the title block of the Final Plan be revised to indicate Final Plan status;
5. That the Final Plans be based upon the approved Preliminary Plans, and further that the Final Plan and supporting documentation meet the requirements of the East Providence Land Development and Subdivision Review Regulations;
6. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements;
7. That upon project completion, final "as-built" plans be submitted on Mylar, and electronic format in AutoCAD version 14. The as-built drawings shall include all roadway and utility information, including final inverts, rims, sewer lateral depths, and locations (swing ties) to all permanent structures;
8. Notation must be placed on the plan that the easement shown;
9. A title report must be submitted by the applicant; and
10. A copy of the PAP that was issued in 2004 by the RIDOT must be submitted.

Chairman Robinson asked if there is any legal standing to deny a subdivision that has received approval for a curb cut on a state road that is contrary to the City's comprehensive Plan. Mr. Hanner responded that there is a difference in policy between the City and the State in granting curb cuts on the parkway. Ms. Feather noted that at times there is a disconnect between the State and City, and in this case the City was notified by the RIDOT that a PAP was submitted to RIDOT, however the RIDOT granted the permit without the City being allowed to comment. In most cases, at the preliminary stage of a subdivision a PAP is requested by the Planning Board.

Chairman Robinson asked why is the Planning Department recommending approval considering the City made a finding in the past that the curb cut was contrary to the goal of protecting the scenic qualities, roadside vegetation, and safe traffic operation of the parkway. Mr. Hanner responded that the applicant was granted permission by the State to install the curb cut. Chairman Robinson stated that staff has not made positive findings to all of the required findings of the subdivision and review regulations.

Ms. Moravec asked if there is an expiration date assigned to the PAP. Mr. Moran replied that most likely the RIDOT inspected the curb cut following its installation. Mr. Hanner noted that as a condition of preliminary plan approval, the City is requesting a copy of the most recent PAP that was issued by RIDOT.

Robert Davis of Insight Engineers, Inc. was sworn in and gave a brief overview of the subdivision. Mr. Davis stated he was not aware of any issues regarding the PAP that was issued in 2004 and would provide any documentation requested by the Planning Board. The applicant Derrick Rose was sworn in and was asked by Chairman Robinson if he was involved in the securing the PAP and if he knew when the PAP was granted by the RIDOT. Mr. Rose responded that he was not aware of the exact date but believes it was issued within the last 2 or 3 years by the RIDOT.

Mr. Batty noted that without a copy of the PAP, he recommends that the Planning Board postpones a decision until a PAP is submitted.

Chairman Robinson asked Planning staff if a PAP was not required by the RIDOT, would staff's recommendation be different. Mr. Hanner responded that staff's recommendation would most likely be different if the applicant did not receive permission from the RIDOT to install a curb cut.

Cora Rose was sworn in and stated she is aware of an existing driveway that is located on the parkway and several additional driveways installed at the Veteran's Memorial Medical Center.

On a motion by Ms. Moravec, seconded by Mr. Batty, the board voted 5-0 to accept Planning Department memorandum dated January 7, 2010 and all attachments into the record.

Mr. Batty stated that the applicant received an approval by the State to install a curb cut prior to the review of the subdivision. Chairman Robinson responded that in his opinion, it is irrelevant that the State granted permission to install a curb cut.

Mr. Cole stated that an adequate reason has not been provided by Planning staff to support the subdivision. Mr. Hanner responded that Planning staff is not defending the applicant's proposal. Ms. Feather noted that a solution to the Board's concerns would be for the applicant to propose to shared driveway on Pawtucket Avenue.

Derrick Rose stated that Jeanne Boyle suggested a shared driveway during the review of the subdivision but the RIDOT would not allow a shared driveway in proximity to the intersection of Pawtucket Avenue and Veteran's Memorial Parkway.

On a motion by Mr. Almeida, seconded by Ms. Moravec to request a copy of the PAP from the applicant and continue the review of the subdivision to the next Planning Board meeting. On a roll call vote:

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

5. CONTINUED BUSINESS

None.

6. STAFF REPORT

Ms. Feather noted that the City Council held and closed the Public Hearing for the Planning Board on December 15, 2009, and continued it until December 15, 2009 to allow some members additional time for review. She noted that the only comment received after the close of the public hearing was a comment on the correct name of one of the City parks. The City Council adopted the plan update on January 5, 2010 and staff is packaging the plan update for submission to the Statewide Planning Program. She noted that it had already been submitting to neighboring cities and towns and there has been no comment. Ms. Feather noted that the plan is enforceable, as it has been adopted by the City Council.

Ms. Feather noted that the General Assembly had passed legislation "tolling" approvals and noted that a copy of the legislation was included in the Planning Board member's packets.

7. COMMUNICATIONS

A. Letter dated 1/5/2010 from Snider East Providence LLC, Fellman Law Group to Jeanne Boyle Re: Land Development Project on Warren Avenue, East Providence – Walgreen’s (File #2006-01) (enclosed). Ms. Feather noted that they had been requested to extend their Letter of Credit in the amount of \$ 32,400 for the landscaping improvements and it had been received earlier in the day. She noted that some of the landscaping appears to be failing and it will be assessed in the spring.

8. ANNOUNCEMENT

Next Meeting – February 8, 2010, 7:00 PM, Room 306

9. ADJOURNMENT