

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES

Date: **Monday, June 14, 2010**
Time: 7:00 p.m.
Place: RM 306, third floor, City Hall

Present: Vice Chairman Burton Batty, Krista Moravec, Anthony Almeida, Octavio Cunha, and Matthew Robinson (for a portion of the meeting); Staff: Planning Director Jeanne Boyle, City Solicitor James Briden, Esq., Chief Planner Diane Feather.

Mr. Batty as Acting Chairman called the meeting to order at 7:00 PM and noted that there was no United States Flag present in the room to which to pledge allegiance, so this was not done.

Alternate Robinson noted that he was on-call with the Police Department this evening and may need to leave because of the current building fire on Summit Street. He apologized in advance and noted that he would have to keep his phone on in case of this possibility.

1. SEATING OF ALTERNATE MEMBER

Alternate members Mr. Octavio Cunha and Mr. Matthew Robinson were seated as voting members.

2. APPROVAL OF PLANNING BOARD MINUTES

- A. Minutes of April 12, 2010 (to be submitted)
- B. Minutes of May 10, 2010 (enclosed)

Upon a motion made by Mr. Robinson, seconded by Mr. Moravec, the minutes were approved as drafted on a vote to 5 – 0.

3. APPROVAL OF PLANNING BOARD CORRESPONDENCE

There was none.

4. NEW BUSINESS

A. Content of Planning Board Minutes – Ms. Boyle noted that at the last meeting Chairman Robinson had stated that he found the minutes to be too long and asked for abbreviated minutes if the other Board members agreed.

Ms. Boyle noted that for public hearings there is a stenographer present. It was noted that the new digital recorder allows minutes to be kept in a digital file for verbatim purposes. Mr. Briden stated he would brief the Board on what Rhode Island General Laws state as to the required content of minutes. Mr. Matthew Robinson stated he wished to wait to make a decision. Mr. Cunha asked if we post with the Secretary of State's office. Ms. Boyle stated yes and noted we also post with the City Clerk (for that Department's searchable database, ClerkBase). Mr. Cunha noted in the City of Providence that the boards and commissions seem to use the City Clerk to keep minutes. Mr. Briden noted that he would not be here for the July meeting. Upon a motion made by Mr. Robinson, seconded by Mr. Cunha the Board voted 5 – 0 to continue this matter for action at a future meeting.

B. Proposed Amendments to Chapter 19, Zoning Ordinance (Text Changes); Memorandum of Planning Department to Planning Board dated June 10, 2010 enclosed; Seeking Advisory Recommendation of Planning Board to the City Council on adoption.

Acting Chairman Batty asked for the staff's presentation. Ms. Boyle asked Ms. Feather to present the proposed amendments.

Ms. Feather pointed out the Department's memorandum of June 10, 2010, including all its attachments including the proposed amendments. She noted that as usual the proposed language was marked by a double underline font, the language proposed to be deleted was marked by a strikethrough font, and language with no markings was existing Zoning Ordinance language that is proposed to remain unchanged. She asked that prior to any action the Board may take on the proposed amendments that they enter the recommendation and its attachments into the record of the meeting.

The three display advertisements for the July 20, 2010 City Council public hearing are to be published in the Providence Journal on three successive Wednesdays, June 30, July 7, and July 14, 2010.

Ms. Feather noted that General Assembly changed Rhode Island General Laws to allow accessory family dwelling units for family member(s) with a disability in owner-occupied single-family homes throughout Rhode Island. She noted that with the proposed amendments we are seeking to propose a process for permitting and guidelines and standards to protect the public health, safety and welfare of those persons living in such units. She noted that while it was important to provide people with an option to provide in-home care if possible, that there are concerns that if abused this could alter the character of a single-family zoned neighborhood through the creation of illegal rental units and cause

strains on the sustainability of a neighborhood in relation to utilities, roads, services, etc. She stated these units would need to be inspected and their use strictly enforced over time and noted that recording the permitting and location of these units in the Land Evidence Records as proposed should help.

Mr. Batty asked about the proposed \$250 application fee and whether it was too high. Ms. Boyle noted that if you were making major modifications to your home to incorporate an independent living unit with a kitchen and bathroom that you would be spending a large sum of money and the application fee is negligible. She noted that one could also choose to care for a family member with disabilities in your home as is (without creating a separate accessory dwelling unit) and you would not have to go through this process.

Mr. Robinson received a Police Department work-emergency phone call and apologized and noted he had to leave the meeting. At this point there were four (4) remaining voting members.

Ms. Feather noted that the City currently prohibits beekeeping in or on any premises except for within an educational institution or within a physician's office or laboratory for medical research or treatment (Sec. 3-6 of City Ordinances; copy attached to Board's packet). The proposed amendments would allow beekeeping and set regulations, standards and the requirement for a zoning permit. She noted that RIDEM, Division of Agriculture regulates beekeeping and requires annual registration (Rhode Island General Laws 4-12, copy attached to Board's packet). She noted she had spoken with Mr. James Lawler of this Division at length in the preparation of the amendments and had used model beekeeping ordinances from around the country. She noted other RI communities do allow beekeeping. He noted there were three registered beekeepers in East Providence.

She noted the media's well documented reporting on the decimation of the honeybee population. She said that if people like to eat they should be concerned about this problem since approximately 80% pollination of agricultural pollination done by insects is done by honeybees. There is a worldwide interest in helping the honeybee, including here in Rhode Island. She noted that since the drafting of the recommendation to the Board that she has found out that the Rhode Island State Beekeepers Association "bee school" and three sections of a Backyard Beekeeping class offered by CCRI were completely full this past season.

When Ms. Feather reached the conclusion of the beekeeping portion of the proposed amendments she noted that there were five people in attendance who she believed wished to speak on this portion of the amendments and

asked the Board's decision as to whether they would like the public to speak now or wait until the staff presentation on all of the proposed amendments concluded. Acting Chairman Batty noted that anyone present who wished to speak on the beekeeping portion of the proposed amendments could do so now.

Mr. Briden swore in the group in the event that they wished to speak.

Dr. Jane Dennison, 325 Newman Avenue, spoke and said she had been a beekeeper for four years. She said there are more beekeepers in East Providence than three and noted that this is the time of year when beekeepers renew their registrations with the State. She noted that when foraging, bees can travel 2 plus miles and fly over thousands of acres.

Ms. Moravec asked about inspections. Mr. Feather noted that under Rhode Island General Laws 4-12-3, RIDEM is responsible for inspections and they will not allow a beekeeping/hive situation that has become a nuisance to continue. Dr. Dennison noted that there a Certified Master Beekeeper who conducts inspections for the State.

Mr. Cunha stated that he would not feel comfortable continuing on with all the changes and voting tonight and suggested that Dr. Dennison submit her and any other written comments to Planning. While Ms. Feather noted that there is another scheduled Planning Board meeting July 12th, prior to the July 20th City Council meeting, the public advertisement display ads need to start appearing on July 2nd, and a proposed draft would need to be finalized by the date of that first ad. Therefore, she noted, there was not much time left for staff receiving, reviewing and making modifications. Dr. Dennison noted she had only a couple of comments. The Board proceeded.

Mr. Jonathan Killian, 15 Windmill Lane, stated that hives are placed on cinder blocks at knee height and a flyway reduces proximity issues. He said neighbors will not perceive there is an issue, and would not know that the bees are there.

Ms. Moravec asked if a minimum 6-foot flyway was acceptable. Dr. Dennison said yes, but said the hives have to face southeast or east.

Dr. Dennison noted the great expense of some queens and asked if the word "European" could be deleted from #7 pg. 9 in the third and final sentence of that paragraph. She noted that she would probably pay \$25 for a local queen. On the issue of "marked" queens as proposed in the amendments, Dr. Dennison stated that she cannot guarantee there will be marked queens and

the State will look at queens during inspection. It was noted that the East Providence Zoning Officer would not be looking for marked queens.

Ms. Moravec noted that we are trying to be "bee-friendly" with the proposed amendments, but that the Board needs to think of public health and safety as well and make sure there are standards and safeguards in place. Ms. Boyle noted that the beekeeping proponents need to be aware that people have bee phobias, bee allergies and they need to be respectful of neighbors concerns and understand there may be some public opposition to the proposed amendments.

While there was some discussion of #10 on page 10 regarding swarms of bees not living in a hive, Mr. Killian noted that every beekeeper will keep an eye on their colonies and look for and eliminate any queen cells that are being developed so that a second queen does not develop and break-off with some of the colony. He stated beekeepers pay for their equipment, bees and queens, and would not want to lose their bees due to the expense, so even in the event of a breakaway swarm, the beekeeper would collect their own swarms. He thought that #10 was prudent to keep in the proposed amendments for public safety. In terms of the height of flyway, he noted that bees would already be at a height of at least 6 feet 4 inches when flying over a flyway. In terms of stinging he stated that the honeybees want to survive to help the hive and will die if they sting, so they do not want to sting.

City Solicitor Briden advised the public in attendance to anticipate questions at the City Council meeting that relate to whether a neighbor having a beehive would increase chances of bee stings to residents of adjoining properties (and they should have statistics on that if possible); questions that relate to what if a neighbor's child goes into anaphylactic shock due to bee stings, as this is a public health, safety and welfare issue, fundamental to zoning.

Ms. Boyle noted to the public in attendance that the staff and Board are not their advocates and they will have to be the proponents for the amendments at the City Council public hearing. Ms. Feather noted that if Mr. Lawson of RIDEM was able to attend the Council meeting, he would be helpful in providing direct information about the State program and he should come with specific information about public nuisance issues and how they have been abated.

Ms. Elaine Choinier, 225 Wilson Avenue, stated that she has been in bee venom therapy (also called apitherapy) for a medical condition and it is not in their natural tendency to sting. There was a discussion of the health and medical benefits of bees and local raw honey, including the anti-allergy effects of ingesting local honey.

Upon a motion made by Ms. Moravec and seconded by Mr. Almeida, the Board voted to approve the changes to the beekeeping section of the proposed amendments, which were summarized by Ms. Boyle as follows:

1. 19-316 #4 Pg. 9 The first sentence shall read: "Hives shall be located in a side or rear yard only and shall be setback a minimum of ten (10) feet from any adjoining property line." Struck is the last portion of the sentence which read: ...with the back of the hive facing the nearest adjoining property so that no hive entrance shall face adjoining properties.
2. 19-316 #7 pg. 9 Strike the word "European" in the third and final sentence of that paragraph.
3. 19-316 #8 pg. 9 Change 20 feet in the first sentence to 10 feet.

Roll Call Vote

Krista Moravec	Aye
Anthony Almeida	Aye
Octavio Cunha	Aye
Burton Batty	Aye

Ms. Feather moved on to the signage portion of the proposed zoning ordinance amendments. She noted that she looked at several model sign ordinances, and those of other RI communities, as well as spoke with the Zoning Officer who is responsible for enforcement, and the draft before them, notably the sign tables of Sec. 19-443 were influenced by the City of Warwick. She noted that we currently calculate the amount of signage allowed by the amount of linear street frontage a parcel has, which is not at all common practice. She noted that most jurisdictions relate the total amount of signage to the amount of building frontage(s). She noted this makes the signage relative to the size of the buildings. Ms. Feather went through the proposed changes for the Board. She noted that business owners currently petition the Zoning Board for signage beyond that allowed by the Zoning Ordinance and if need be, could do the same following the adoption of these amendments.

Ms. Feather handed everyone a proposed page 15 showing the addition of a sentence to Sec. 19-441 Sign Definitions, #1 Building Frontage, and noted that a final sentence is proposed to be added as follows to deter misuse and misinterpretation of the definition, as follows: "All determinations of building frontage shall be made by the Zoning Officer." Board members concurred with this proposed addition.

Ms. Feather showed the Board members a photograph of a projecting sign hanging above a private covered walkway that is open to the public outside businesses that projects out 5 feet in length and is 1 foot in height so that the signs can be seen as people walk along the walkway. She said it had sufficient head clearance and in this case as when a projecting sign is *not* projecting over a *public* sidewalk, she sees no reason to prohibit such a sign as depicted. Board members concurred. The change would be made to the proposed Sec. 19-443 "Tables" presented to the Board. (As proposed, projecting signs over public sidewalks could project no more than 3 feet, and in no case could project within 3 feet of the curb line.) The tables allow a property owner options to choose what signs work best for their location and structure, whether they be pylon, monument, wall, projecting, awning or canopy, and the signs have a maximum size they can be and there is a total amount of square footage allowed per building. Multi-tenant buildings would have to share the total amount of signage permitted for the building.

In regards to billboards, it was noted that the amendments proposed prohibiting billboards in the City, but it was noted that the Rhode Island Department of Transportation right-of-way and the State have claimed zoning exemption.

Regarding Section 6. , of 19 – 443 "Supplemental Sign Regulations" (on page 19) Mr. Batty asked if the proposed language that would require a commercial sign to be at least 65 feet from the property lines of any residential use might be too much. The Board and staff discussed the issue and agreed that 50 feet should be proposed in the alternative. Mr. Batty asked if existing signs were grandfathered. Ms. Boyle and Ms. Feather noted yes, that any legally nonconforming signs would have "grandfathered" rights, but current illegal signs would not.

There were no members of the public left in attendance and no public comments made on the proposed ordinances other than those relating to backyard beekeeping.

On a motion made by Ms. Moravec and seconded by Mr. Cunha, the Board voted 4 – 0 to enter the staff recommendation of June 10, 2010 and all its attachments into the record of the meeting.

Roll Call Vote

Krista Moravec	Aye
Anthony Almeida	Aye
Octavio Cunha	Aye
Burton Batty	Aye

Based upon the Planning Department's memorandum dated June 10, 2010 which included a finding of consistency with the City's Comprehensive Plan and with the general purposes of Chapter 19, Zoning, and staff's presentation to the Board that evening, on a motion made by Ms. Moravec and seconded by Mr. Cunha, the Board voted 4 – 0 to advise that the City Council Approve the proposed zoning amendments.

Roll Call Vote

Krista Moravec Aye
Anthony Almeida Aye
Octavio Cunha Aye
Burton Batty Aye

5. CONTINUED BUSINESS

There was none.

6. STAFF REPORT

Due to the hour, there was no report given at this time.

7. COMMUNICATIONS

A. Notice of Decision, Application # 2010-01 – Administrative Subdivision, Map 308, Block 11, Parcels 7 and 8, Owners: Joao C. & Eduarina M. Medina, 3 Allerton Avenue and 2672 Pawtucket Avenue (copy enclosed)

Upon a motion made by Ms. Moravec, seconded by Mr. Cunha, the Board voted 4 – 0 to accept the communication.

B. Notice of Decision, Application # 2008-01 – Minor Subdivision, Map 404, Block 23, Parcel 18, Owner: Joshua Applegate, 46 Dunbar Avenue (copy enclosed. Ms. Boyle noted that this property has been cleaned-up. Upon a motion made by Ms. Moravec, seconded by Mr. Cunha, the Board voted 4 – 0 to accept the communication.

C. Letter to Leslie E. Kivitz, Esq., dated 5/10/10 Regarding Need for Replacement of Some Required Landscaping at Walgreens Store, Warren Avenue, File # 2006-01, LDP (Enclosed)

Upon a motion by Mr. Almeida, seconded by Ms. Moravec, the Board voted 4 – 0 to accept the communication

D. Letter to James Moran dated 5/12/2010 from John R. Izzo, Esquire, Re: Application #2007-08, Minor Subdivision, 2 Main Street (copy enclosed).

Upon a motion made by Ms. Moravec, seconded by Mr. Almeida, the Board voted 4 – 0 to accept the communication.

E. Notice: Zoning Board Meeting of May 26, 2010 was cancelled and the petitions were postponed to the June 30th ZBR meeting.

F. Notice: Zoning Supplement #43, Dated April 2010 (copy enclosed). Ms. Feather noted that for those members keeping their Zoning Ordinance up-to-date, that the old pages replaced by this supplement should be taken out and the new pages inserted.

8. ANNOUNCEMENT

A. *Next Meeting* – July 12, 2019, 7 PM, Room 306

B. August Meeting Change (August 9th is a holiday and a new meeting date will need to be determined.)

9. ADJOURNMENT:

Upon a motion made and duly seconded, the meeting was adjourned at 9:25 PM.

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