

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES

Date: **Monday, May 10, 2010**
Time: 7:00 p.m.
Place: RM 306, third floor, City Hall

Present: Chairman Michael Robinson, Burton Batty, Krista Moravec, and Matthew Robinson; Staff: Planning Director Jeanne Boyle, City Solicitor James Briden, Chief Planner Diane Feather.

The meeting opened with the reciting of the Pledge of Allegiance by all in attendance.

1. SEATING OF ALTERNATE MEMBER

Alternate member Mr. Matthew Robinson was seated as a voting member.

2. APPROVAL OF PLANNING BOARD MINUTES

A. Minutes of March 8, 2010 – On a motion made by Mr. Batty, seconded by Ms. Moravec, the Board voted 4 – 0 to approve the minutes as submitted to the Board.

B. Minutes of April 12, 2010 – to be submitted.

3. APPROVAL OF PLANNING BOARD CORRESPONDENCE

There was no Planning Board correspondence,

4. NEW BUSINESS

A. **File #2010-1 Administrative Subdivision** – 3 Allerton Avenue & 2672 Pawtucket Ave., Map 308, Block 11, Parcels 7 & 8 (enclosures); Applicants and Owners: Joao C. & Eduarda M. Medina

Chairman Robinson disclosed for the record that over seven or eight years ago his law office was adjacent to that of Attorney Stephen Napolitano, representing the applicant this evening, but that he does not consider this a conflict and would be voting on the matter tonight.

Attorney Napolitano noted that the applicants, Mr. & Mrs. Medina, and the land surveyor, Mr. Robert Boyer were present. Attorney Napolitano noted that the reason for the subdivision was so the Medina's could have a larger backyard for their grandchildren at #3 Allerton Avenue. In response to a question from Chairman Robinson, Attorney Napolitano stated he had received a copy of the Planning Department's recommendation and the proposed conditions for plan approval and did not object to any of it. Mr. Robert Boyer, PLS, was sworn in and briefly explained the administrative subdivision.

Ms. Boyle asked Ms. Feather to explain the subdivision. Ms. Feather noted this was an administrative subdivision with no new lots being created and had been referred to the Board because it requires a variance for the proposed lot size reduction for Lot B, which contains a legally pre-existing three-family dwelling. She noted that the only proposed construction was a gravel parking area for five (5) vehicles. She said the final plan should show spot elevations to the east, west and Wannamoisett Road in relation to the proposed parking area. She noted the applicant's requested a waiver for showing topography and staff is recommending approval. The two lots have existing residences and there are no proposed changes (additions or demolitions) to them. She noted that staff is requesting the # 3 Allerton Avenue residence be identified on the plan as a single-family residence. She noted that Attorney Napolitano had submitted a letter (copied in the Board's packet) affirming that this is a single-family dwelling and the primary residence of Mr. & Mrs. Medina.

Ms. Feather noted that Comprehensive Plan designates the area of the proposed subdivision as "Low Density". She noted that this designation also allows for multi-family (as is presently on proposed Lot B) where such land uses shall not alter the dominant character of the area. She noted that given the location near commercial uses, and the buffering provided to the residential land uses to the east, the grassed and open areas of the properties, and that the two residential structures are pre-existing, the proposal meets the factors for allowing such a use. She noted the proposal is consistent with the Comprehensive Plan. She noted that Ms. Boyle, the Administrative Officer would sign the final plan, and would not do so until all the conditions of approval that the Board may impose were in compliance.

Upon a motion made by Mr. Robinson, seconded by Ms. Moravec, the Board voted 4 – 0 to enter the staff memo dated May 6, 2010 into the record.

Roll Call Vote

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| Ms. Moravec | Aye |
| Mr. Robinson | Aye |
| Mr. Batty | Aye |
| Chairman Robinson | Aye |

Upon a motion made by Mr. Robinson, seconded by Mr. Batty, the Board voted 4 – 0 to grant the requested waiver from the submission requirement to show topography and noted that one of the conditions for approval was showing of spot grades near the proposed gravel parking area.

Roll Call Vote

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| Ms. Moravec | Aye |
| Mr. Robinson | Aye |
| Mr. Batty | Aye |
| Chairman Robinson | Aye |

Upon a motion made by Mr. Matthew Robinson finding that the proposed subdivision is consistent with the general purposes of Zoning and the City's Comprehensive Plan, seconded by Ms. Moravec, the Board voted 4 – 0 to approve the subdivision as recommended by staff with the six conditions noted in their memorandum of May 6, 2010 to the Board.

Roll Call Vote

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| Ms. Moravec | Aye |
| Mr. Robinson | Aye |
| Mr. Batty | Aye |
| Chairman Robinson | Aye |

B. Request for Extension of Approval - Preliminary Plan, File # 2008 - 01 Minor Subdivision, Applicant: Joshua Applegate, 46 Dunbar Ave. (encl.)

Attorney William Maaia, representing the applicant, prevailed upon the Board to grant the requested extension. Chairman Robinson asked Attorney Maaia if he would address the question of whether the Board can grant the extension. Attorney Maaia said that it was a very narrow question and with the General Assembly's very recent "tolling" legislation adopted last session he could not point to any case law. Chairman Robinson asked Mr. Maaia if he wanted a continuance to research this point. Mr. Maaia stated no. Mr. Maaia noted that he thought they had finalized the plan, and he noted that given the very tough market and economic conditions that this was a reasonable cause for extension and he thinks that the Planning Board could do it. Chairman Robinson noted that the Board is normally generous in granting these. Ms. Boyle reminded all that we are still in the Preliminary Plan stage, and that if the extension is given we want the ability for City staff to enter the site to make sure the junk has been removed.

Mr. Briden noted that the Board could grant an extension for "good cause shown", and it is basically granting the exact same Preliminary approval as done

previously. The Zoning Officer would also extend the zoning variance approval according to Ms. Boyle. Mr. Maaia noted the first purchase fell through but there is a second legitimate buyer who has no problem with the conditions.

Chairman Robinson asked Mr. Briden if the Board needs to hear from the applicant. Mr. Briden stated that it was the Board's call, but that the applicant's attorney is stating his client's issues, and further stated it is not a long period of time that has gone by. Mr. Matthew Robinson asked if any effort has been done on any of the Preliminary Plan conditions and stated he is reluctant to grant another extension after this one if no work has been done to improve the conditions of the existing house or the property. Mr. Batty stated the house looks like it has been vandalized; there is an open porch door and broken windows. Attorney Maaia stated that the Mr. & Mrs. Applegate are elderly but may be someone else in the family has gone back in and he noted that the vehicle that was previously there is gone.

Mr. Paul Carlson of InSite Engineering, 1539 Fall River Avenue, Seekonk, MA was sworn in and stating that with the granted extension it will go directly into sale and the debris will be cleaned and work will start on the existing house. It was noted that Costa Development is the buyer and knows of the conditions. Ms. Boyle noted that as Administrative Officer she would not sign off until all conditions of approval are met and noted they must be done before applying for a final approval. Upon a motion made by Ms. Moravec, seconded by Matthew Robinson, the Board voted 4 – 0 to enter the Planning Department memorandum dated May 6, 2010 into the record.

Upon a motion made by Mr. Batty, seconded by Mr. Matthew Robinson, the Board voted to grant a 90-day extension from May 10, 2010 provided that City staff can enter the property for inspection. Mr. Maaia stated yes to the inspection condition. Ms. Moravec noted that if they come back for another extension we must see some progress. Mr. Matthew Robinson stated that there should be a report on Minimum Housing as to the condition of the property.

Roll Call Vote

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| Ms. Moravec | Aye |
| Mr. Robinson | Aye |
| Mr. Batty | Aye |
| Chairman Robinson | Aye |

5. CONTINUED BUSINESS

There was no continued business.

6. STAFF REPORT

Planning Director Boyle noted that the State had extended the comment period on the City's 5-Year Comprehensive Plan Update for State agency review until May 14, 2010. She noted that the Statewide Planning Program (SPP) informed her that two agencies, the Rhode Island Department of Transportation (RIDOT), and the Coastal Resources Management Council (CRMC), had submitted comments. She noted that a meeting is being arranged with SPP to discuss these comments. Ms. Boyle noted that RIDOT objected to the City stating that the Easy Bay Bike Path should be designated as a bicycle path in perpetuity because they see future potential as a light rail corridor. She noted that CRMC's comments related primarily to the Providence & Worcester South Quay and the Wilkes Barre (Getty) Pier. Ms. Boyle noted that CRMC wants to see the Providence & Worcester Quay as a port, despite the City's rezoning the property to mixed use, a rezoning which the property owners in this area were notified of and did not object to. She advised the Board to be prepared for some significant comments from certain State agencies that conflict with our local plan.

Ms. Boyle noted that the Director of SPP has 120 days to review all comments received and decide which to refer back to the community, which should be completed by mid-August, 2010. She noted that the City may say no to a suggested comment based on our local planning, but then the Plan Update potentially may not obtain State certification. She noted that the plan update has been locally adopted so the City has a legal, locally adopted Comprehensive Plan. There was some discussion as to an existing "nonconforming use" and case law relating to intent to abandon and evidence of intent.

7. COMMUNICATIONS

A. Notice of Decision – Administrative Subdivision, Map 312, Block 42, Parcels 12 and 13, Owners: Laureanno J. Mourato and Maria J. Mourata (copy enclosed)

On a motion made by Mr. Matthew Robinson, seconded by Ms. Moravec, the Board accepted this correspondence.

B. Recommendation of Planning Department to Zoning Board of Review Scheduled for Hearing on April 28, 2010 (copy enclosed).

On a motion made by Mr. Matthew Robinson, seconded by Ms. Moravec, the Board accepted this correspondence.

8. ANNOUNCEMENT

Next Meeting – June 14, 2010, 7:00 p.m., Room 306

9. ADJOURNMENT - 8: 40 PM

