

# **December 10, 2007 - Planning Board Meeting**

## **CITY OF EAST PROVIDENCE**

### **PLANNING BOARD**

#### **MINUTES OF DECEMBER 10, 2007**

---

Call to Order: 7:30 PM followed by the Pledge of Allegiance to the Flag.

Present: Chairman Michael Robinson, Anthony Almeida, Burton Batty, Anthony Carcieri, Krista Moravec, and Alternate Mathew Robinson. Staff present: Diane Feather, James Moran.

#### **1. SEATING OF ALTERNATE MEMBER**

Matthew Robinson was seated temporarily as a voting member. However Mr. Almeida arrived prior to the start of New Business and was seating as the voting member.

#### **2. APPROVAL OF PLANNING BOARD MINUTES**

It was noted that the minutes of November 14, 2007 were yet to be submitted.

#### **3. APPROVAL OF PLANNING BOARD CORRESPONDENCE**

**On a motion by Mr. Batty, seconded by Ms. Moravec, the Board voted 5-0 to approve the correspondence listed below:**

- A. Memo to the City Council from the Planning Board dated 11/30/07, Re: Request for Highway Abandonment – Cedar Avenue from Bluff Street westward to Narrangansett Bay, Map 312, Block 33, Parcel 1 and Map 212, Block 1, Parcel 10

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

##### **A. Request for Extension regarding curbing – 91 Hood Avenue by Robert Moll**

James Moran gave the staff presentation. He explained that Mr. Moll is requesting an extension in regard to the curb installation until April 2008. Mr. Moll also is requesting a waiver to the curbing requirement under the same letter. Mr. Moran noted that under the requirements of Notice for a waiver, the Planning Department will need to inform abutters of the waiver request. Abutters will be notified by staff of the waiver request through certified mail and the waiver request will be brought before the Board at the January meeting. Relating to the waiver request, the Department agrees with the recommendation of the Department of Public Works. However, since this is a waiver request, appropriate procedures must be completed prior to the Board rendering a

decision on this request. The Planning Department will be prepared to offer a recommendation of the waiver request at the January Planning Board meeting.

Mr. Moran asks the Board that they enter all the staff memorandum and attachments into the record and asks that the Board grant the extension, provided the property owners requesting the extension from the curbing requirement be responsible for any damages associated with the potential damage from snow plow operations because of the lack of curbing as identified in Stephen Coutu's November 30, 2007 e-mail to Jeanne Boyle. Chairman Robinson asked Mr. Moran if anyone has discussed this shifting of liability to the property owners with them. Mr. Moran said there was discussion with Mr. Moll at one point and said he believes Mr. Moll is aware of this, but doesn't know if he has acknowledged this officially to the City. He states this is the recommendation of the Planning and Public Works Departments.

Chairman Robinson asks if anyone has spoken with the Law Department regarding the transfer of liability. He states he has concerns about shifting the liability from the City to a property owner. Chairman Robinson states he is not sure that making this a condition for granting the extension request is possible under the law. He asks that the City Solicitor be consulted. Mr. Moran stated that the Planning Department will consult the City Solicitor for a determination as to acceptability. The Board agreed that this could be a condition of the approval subject to the Law Department indicating that liability can be transferred to the property owner.

Mr. Robinson asks Mr. Moran to draft an agreement or memorandum with the property owners as to that effect if the Solicitor indicates responsibility can be transferred.

Mr. Batty stated that we discussed this at the last meeting and there was a question about the curbing because the lawn had already been in place it could be adverse because of water possibly flowing back onto the property. Mr. Moran states it is not a steep grade. There is enough room there where they can take mitigative measures to try to reduce the water impacts to the front lawn.

In reference to the agreement regarding shifting the responsibility to the property Mr. Batty asked if this was limited to that property. Mr. Moran states that is the concern of the Public Works Department since they will be doing the plowing at that location. There is always the potential of ripping up the sod.

Chairman Robinson asks if there are any other comments or questions by the Board. There are none.

Chairman Robinson asks if the public has any comments. There are none.

Motion – Request for Extension

Chairman Robinson states he would like to request that the liability question be submitted to the Law Department for review.

On a motion by Mr. Batty, seconded by Ms. Moravec, the Board voted to recommend that the Board approve the extension with the following stipulations:

1. That any extension should be conditioned upon either the installation of curbing or the granting of accompanying requested waiver prior to April 1, 2008. The amount of money that is being retained by the City for the public improvements should be held until either the curbing is installed or the waiver is granted.

2. That the Law Department be consulted as far as acceptability in transferring liability for damages to the applicant and if it is acceptable, the drafting a Memorandum of Understanding that would stipulate that the owner of the property would be responsible for any damages caused to his property in lieu of not having curbing at this time.

Roll Call Vote

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

Motion – Accept the Planning Department Memorandum into the Record

On a motion by Mr. Batty, seconded by Ms. Moravec, the Board unanimously voted to accept the staff memorandum with attachments into the Board's official records.

Mr. Moran reiterated that the Waiver request would be brought before the Board at its January, 2008 meeting.

At this time, Mr. Almeida arrived at the meeting and will be seated in his ordinary voting position.

**B. Appl. # 2006-23 Two-Lot Minor Subdivision  
74 Wanisset Avenue (Assessors 513, Block 40, Parcel 10)  
Applicant and Owners – James D. Jr. and Susan M. Patterson**

The applicants were represented by Attorney Martin P. Slepko. Chairman Robinson swore in Attorney Slepko and Mr. & Mrs. Patterson. Mr. Slepko gave an overview of the subdivision and stated that his clients agreed with all nine conditions of the staff recommendation. He noted that the applicants do not wish to install sidewalks, and noted that this is their only objection, as staff has recommended denial of this requested waiver. He noted that there are no current plans to build on the new lot. The area is zoned R-4. Lot A is 6,303, Lot B is 5,560 sq. feet.

Ms. Feather noted that Planner Wayne Barnes had reviewed the subdivision and written the recommendation but was unable to be at the meeting this evening. She briefly presented the memo, and explained that staff is recommending that sidewalks be installed based upon a number of factors, including: that this property is on a curve with some sight distance issues, proximity to the Vintner Avenue Playground, and proximity to the East Bay Bike Path.

She noted they have agreed to install granite curbing. The existing home at 74 Wannissett has curbing. If the Board gives conditional approval this evening, they will then have to go before the Zoning Board to get the required variances. The applicant has asked that if the Board does give approval this evening, and they do receive the required variances, they ask that the Board give Final Plan Approval to the Administrative Officer.

Mr. Sleprow noted that the water main easement shown on the plan is not a problem. It will be submitted with the final plan for review by staff.

Chairman Robinson states he generally does not like granting sidewalk waiver requests and continues to hope that at some point we will have a system in place where if we grant a waiver request due to unique circumstances, the applicant will still be required to deposit those sums that would ordinarily be used to expend on that into a city sidewalk fund for construction of sidewalks elsewhere.

Matthew Robinson states he viewed the property. He noted that the homes to south of the existing single family home are at a higher elevation and all have a grassy area which would be a sidewalk from anywhere to a couple of feet to several feet in front of the retaining walls in front of these properties. Mr. Robinson stated he agrees with staff that there should include curbing and sidewalks required so that in the future sidewalks and curbing can be in place in front of all those other properties leading to the Vintner Avenue Park.

Mr. Batty said since they agree to put the curbing in and if we did not put in the sidewalks then it still will be a step up on the curb or over the curb. It would be the same on the grass as the people next door and the people farther down south towards the park. The whole neighborhood does not have sidewalks and the only way these other people are going to have sidewalks is if they go before this Board and he didn't see it happening.

Chairman Robinson questioned if anyone else wished to speak on this subdivision. No one else in attendance came forward to speak on the subdivision.

Diane Feather states she would like the Board to consider as they deal with these difficult sidewalk and granite curbing issues is that a sidewalk that is made of concrete is much more accessible to a wider variety of people than a sidewalk that is made of grass. People that are elderly or confined to wheelchairs or parents pushing strollers to get to the playground are better able to utilize a sidewalk with a concrete surface. Hopefully at some point in the future we can have an "in-lieu" program in place that the City can use to construct sidewalks and make the continued link from here to the playground in this

case. She noted that the concrete surface allows for people of varying abilities to use the sidewalk.

Mr. Batty states he does agree that it would be nice to have the sidewalk, but that would mean there would be at least 160 linear feet of sidewalk amongst 50 homes that don't have sidewalks at present. He said the City is not going to put it in now. Ms. Feather said to consider that in the future there may be other funding opportunities.

Chairman Robinson states that this is a policy question. Is it in the best interest of city planning to use an opportunity like this to beautify an area or improve an area that could have sidewalks all the way down to the park? If we can do something positive in this one section with the opportunity we have presented to us, I think we should. Ms. Moravec stated she also see this as a safety issue and agreed that there should be sidewalks.

Matthew Robinson states that if we don't do it, next year when other property owners come before us, and say there is none there now, then we can't continue the sidewalk network. He noted that if we keep this mindset, there won't ever be sidewalks. He said that would be counter productive; you have to start somewhere, and this is a good opportunity to start.

Ms. Feather stated there are many people on the City list for installation of granite curbing. Ms. Feather states that there are always new funding sources that staff looks for to try to accomplish things like this, and noted the "Safe Routes to School" program as an example, a program from which the City recently received a grant for a project at the Kent Heights school.

Mr. Carcieri states that curbing is important; it delineates the street and is good for eliminating damage from the snowplows. He feels curbing is more important than having sidewalks, and noted that he thought the aesthetic appearance of grass is better than concrete.

Ms. Feather stated that when we are talking about sidewalks, we are talking about the public right-of-way, not about private property. She stated there is also an appearance issue and noted for example that she lives in a neighborhood in Riverside that does not have sidewalks and walks in the street because she does not feel comfortable walking on people's lawns.

There were no other comments or questions at this time.

***Motion - Enter the Staff Recommendation Memo into the Record***

Motion by Mr. Batty  
Second by Ms. Moravec

Motion Passed 5 – 0

**Motion - *Vote on Requested Sidewalk Waiver***

The applicant proposes to install granite curbing along the new lot frontage (Parcel A) as shown on the plan, and this was required by the Board.

Upon a motion made by Mr. Batty, seconded by Mr. Carcieri, the Board voted 3 – 2 to approve the requested sidewalk waiver.

*Roll Call Vote*

Mr. Batty - Aye  
Mr. Carcieri - Aye  
Mr. Almeida - Aye  
Ms. Moravec - Nay  
Chairman Robinson - Nay

Motion Passed 3 - 2

**Motion - *Vote on Subdivision***

Based upon a finding that positive findings of Section 5 – 4 of the Subdivision Regulations and the General Purposes of Chapter, 19, Zoning can be met, upon a motion made by Mr. Batty, seconded by Mr. Carcieri, the Board vote 5 – 0 to ***Conditionally Approve*** the subdivision, as proposed, subject to the nine conditions as detailed in the staff memorandum dated December 4, 2007, as follows:

1. That the applicant post an improvement guarantee in an amount determined by the Public Works Department for required improvements to the City Right-of-way;
2. That each proposed lot be restricted to one single-family dwelling in perpetuity;
3. That a legal easement be produced to stipulate ownership and maintenance responsibilities for the water service crossing through the 74 Wannissett parcel to 63 Floyd Avenue, and that this easement be recorded concurrently with recording of the approved Final Plan.
4. That basic erosion control during future construction activities, and drywell design based on anticipated maximum impervious surface coverage be indicated on the Final Plan;
5. That all required variances be obtained by the Zoning Board of Review and that notation of same is indicated on the Final Plan; noting which variances were granted, date of Zoning Board Review, and the recorded book and page of the East Providence Land Evidence Record;

6. That the title block of the Preliminary Plan be revised to indicate Final Plan status;
7. That the Final Plans be based on the approved Preliminary Plan, and further that the Final Plan and supporting documentation meet the requirements of the East Providence Land Development and Subdivision Review Regulations;
8. That the proposal shall meet all City, State, and/or Federal regulations and requirements and;
9. That upon 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.

*Roll Call Vote*

Mr. Batty – Aye  
Mr. Carcieri – Aye  
Mr. Almeida – Aye  
Ms. Moravec – Aye  
Chairman Robinson – Aye

Motion Passed 5 – 0

***Motion - Vote to Delegate Final Plan Approval to the Administrative Officer***

Upon a motion made by Ms. Moravec, seconded by Mr. Batty, the Board voted to delegate final plan approval to the Administrative Officer.

*Roll Call Vote*

Mr. Batty – Aye  
Mr. Carcieri – Aye  
Mr. Almeida – Aye  
Ms. Moravec – Aye  
Chairman Robinson – Aye

Motion Passed 5 – 0

**C. File # 2007 – 18 Proposed Administrative Subdivision**

218 Terrace Avenue and Bullocks Point Avenue  
Owners: Parcel 10 – Barbara A. Lacroix and Charles  
Didonato; Parcel 16 – Godfrey F. Allen  
Applicant – Godfrey F. Allen

Ms. Feather noted that Mr. David Stanley of Stanley Engineering, and all of the applicants were present this evening. Mr. Stanley and the Allen’s came to the podium.

Chairman Robinson swore in Mr. Stanley and Godfrey Allen and his son, Christopher Allen. Mr. Stanley gave his business address as 33 Alexander Avenue, East Providence.

Mr. Stanley provided an overview of the subdivision. Mr. Stanley noted that while Lot 2 would become a buildable lot, there are no immediate plans to build on the lot. He noted for the record that the applicant is withdrawing their request for a waiver for the installation of granite curbing for Lot 2 and this will be installed, it's just a question of when. He noted that Lot 1 in the subdivision, which fronts on Terrace Avenue, has existing granite curbing.

Ms. Feather noted that under State Law and the City's subdivision regulations, the proposed subdivision is a minor subdivision because it creates a new buildable lot. She noted that the executed Minor Subdivision Application forms had been received. Ms. Feather went through the staff recommendation dated December 6, 2007 and read each of the proposed ten conditions, noting that for Condition #4 that this should also include the words after the semicolon: "and that a note is placed on the final plan".

Ms. Feather noted that all applicable City staff had reviewed the plans. She noted that this is an R-3 District requiring a minimum of 7,500 square feet, and a minimum depth of 100 feet and a minimum width of 75 feet. Both lots have more area than the required minimum (Lot 1 at 10,500 square feet and Lot 2 at 8,000 square feet), and also have more width than required by zoning (Lot 1 at 105 feet and Lot 2 at 80 feet). She noted that while a driveway and off-street parking are not shown on the plan, there is ample room to allow this on the lot in a way that conforms to Zoning, and staff is recommending that the applicant indicate this on the final plan. The building envelope is shown on the plans.

Ms. Feather noted that the lot is level and therefore there is no reason to require that existing topography is shown on the plan. However, she noted that staff is concerned about proposed topography, and particularly about any piles of excavated materials which, if spread on the site after construction, could change the topography in such a way that stormwater runoff would flow onto adjoining properties. She noted that the City Engineer is requiring dry wells to catch all roof runoff and that the City engineer also notes that there can be no increase in stormwater runoff from this site post-development.

Chairman Robinson asked Ms. Feather, if they are asking for a waiver of the requirement to show any topography at all. Ms. Feather answered for existing topography only because the land is flat. However, the Department has had prior experience with someone who excavated a basement and took a large pile of that excavation material and spread it out on the property in a way that made his property higher than adjoining property and changed the flow of stormwater runoff. We want to put people on notice that we are going to want to see topography for whatever is going to be built here, and the building permit process, which requires finished floor elevations, will cover that as well. Staff asks that language be placed on the plan and that there will be no allowed increase in stormwater runoff on the site and that there shall be no modification to the topography that results in stormwater flowing onto adjoining properties. The staff recommendation includes this condition.

Ms. Feather states that they have the zoning setback lines shown on the plan, and the building has to take place within that building envelope. She noted staff understands that there is no immediate proposal to build on the lot. The new lot does have enough area at 8,000 square feet, and 80 feet in width, rather than the minimum of 75 feet, and that there should be ample room to park on the site without vehicles parked in the required front setback (Chapter 19, Zoning allows only one vehicle to be located in the zoning front setback). Mr. Batty asked staff if they are asking for the applicant to show exactly where the off street parking will be on the final plan and where the curb cut will be located. Ms. Feather stated yes. However, she acknowledged that this may change and would be subject to future review. She noted that it makes sense to do the house construction first (with its associated heavy vehicle activities) before installing the curbing.

Mr. Batty asked about the improvement guarantee for the granite curbing. Ms. Feather said she is expecting an estimate from the City Engineer. Mr. Christopher Allen said he understands that he would have to post a performance bond, likely cash, to guarantee the installation of granite curbing. Mr. Batty informed Mr. Allen that the bond will not be released until the work is completed. Mr. Allen agreed.

Chairman Robinson asked if anyone in attendance wished to speak on this subdivision. No one in attendance came forward to speak on the subdivision.

***Motion - Enter the Staff Recommendation Memo into the Record***

Upon a motion made by Mr. Batty, seconded by Ms. Moravec, the Board voted 5 – 0 to enter the staff recommendation into the record.

***Roll Call Vote***

Mr. Batty – Aye  
Mr. Carcieri – Aye  
Mr. Almeida – Aye  
Ms. Moravec – Aye  
Chairman Robinson – Aye

Motion Passed 5 – 0

***Motion - Waiver on Request to Show Existing Topography***

Upon a motion made by Mr. Carcieri, seconded by Ms. Moravec, the Board voted 5 – 0 to approve the requested waiver for showing existing topography on the plan.

***Motion - Vote on Requested Sidewalk Waiver***

The applicant withdrew the request for a waiver for installation of granite curbing, and noted he would install granite curbing along the frontage of Lot 2, and the Board required this.

Upon a motion made by Mr. Carcieri, seconded by Mr. Almeida, the Board voted 4 – 1 to approve the requested sidewalk waiver.

*Roll Call Vote*

Mr. Batty – Aye  
Mr. Carcieri – Aye  
Mr. Almeida – Aye  
Ms. Moravec – Aye  
Chairman Robinson – Nay

Motion Passed 4 – 1

*Vote on Subdivision*

Based upon a finding that positive findings of Section 5 – 4 of the Subdivision Regulations and the General Purposes of Chapter, 19, Zoning can be met, upon a motion made by Mr. Carcieri, seconded by Ms. Moravec, the Board vote 5 – 0 to ***Conditionally Approve*** the subdivision, as proposed, subject to the conditions recommended by staff in their memorandum of December 6, 2007, as follows:

1. That a location for required drywell(s) be shown on Lot 2, with confirmation to take place at the time of future construction of a single-family development, and that a note be added on the plan;
2. That a note be placed on the final plan that at the time of future construction, there shall be no modification to topography that results in stormwater runoff flowing onto adjoining properties, and there will be no allowed increase in stormwater runoff from the site.
3. That a location for off-street parking and driveways be shown on the final plan for Lot 2 (to verify compliance with Sec. 19-281(b), which permits only one of the two required parking spaces for a single-family dwelling to be located in the required zoning front yard, subject to modification in location at the time of future construction but still provided in a way that complies with Sec. 19 – 281(b) of Zoning;
4. That the properties (both Lot 1 and Lot 2) involved in this subdivision remain as single-family land use and single-family accessory uses in perpetuity; and that a note be placed on the Final Plan;

5. That granite curbing shall be installed along the frontage of proposed Lot 2, and that a note be placed on the plan regarding this requirement.
6. That an improvement guarantee for the required public improvement (granite curbing for Lot 2) be included with the Final Plan submission, subject to review and approval by the City Solicitor and Finance Director, and further that this improvement guarantee be in place prior to the recording of the Final Plan;
7. That all other comments of technical staff (as noted in the attached memoranda) are completed to the satisfaction of staff;
8. That the title block of the plan be revised to indicate Final Plan status;
9. 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 Chapter 19, Zoning and the East Providence Land Development and Subdivision Review Regulations; and
10. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements.

***Motion - Vote to Delegate Final Plan Approval to the Administrative Officer***

Upon a motion made by Ms. Carcieri, seconded by Ms. Moravec, the Board voted to delegate final plan approval to the Administrative Officer.

*Roll Call Vote*

Mr. Batty – Aye  
Mr. Carcieri – Aye  
Mr. Almeida – Aye  
Ms. Moravec – Aye  
Chairman Robinson – Aye

Motion Passed 5 – 0

**5. CONTINUED BUSINESS**

**A. Staff Report**

Ms. Feather and Mr. Moran noted projects under construction that had previously received the Board's approval, notably the Walgreens store on Warren Avenue and the redevelopment of the Shaw's Plaza on Taunton Avenue. Ms. Feather noted that the 321 unit Wampanoag Ponds Preliminary Plan (on the Leonardo property) will likely be before the Board for their formal public hearing at the February 2008 meeting. She noted that the drainage/geotechnical peer review is currently being done by the Maguire Group.

Ms. Feather noted that as the current President of the Rhode Island Chapter of the American Planning Association, she was in the process of selecting a venue for the 2008 Southern New England Regional Planning Conference (for Rhode Island, Connecticut and Massachusetts planners), which will be held in Providence in the fall. She suggested that members consider attending. She noted that Board Member Matthew Robinson attended the October 11-12, 2007 regional conference in Hyannis, MA. Mr. Robinson noted that it was a very interesting conference with workshops and tours focused from the planning perspective and he enjoyed it very much. Ms. Feather noted that board members may also wish to attend the Grow Smart Rhode Island “Power of Place” summit to be held in May 2008. Many Rhode Island board and commission members attended the first Power of Place summit held in Providence in 2006.

## **6. COMMUNICATIONS**

- A. Memo to the Zoning Board of Review Re: Requests for Variance or Special Use Permit to be held on November 28, 2007 (copies previously submitted).

Upon a motion made by Ms. Moravec, seconded by Mr. Batty, the Board voted 5 – 0 to receive this communication.

## **7. ANNOUNCEMENT**

- A. Next Meeting – Monday, January 14, 2008, 7:30 PM. Room 306

Adjournment – 8:50 PM

Michael Robinson  
Chairman

MR/DF/sac