

March 12, 2007 - Regular Planning Board Meeting

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES OF MARCH 12, 2007

Present: Anthony Almeida, Octavio Cunha, Chairman Michael Robinson, Krista Moravec, Matthew Robinson, Anthony Carcieri, Jeanne Boyle (staff), Diane Feather (staff), James Moran (staff), Patrick Hanner (staff), Erik Skadberg, and Greg Dias, Assistant City Solicitor.

1. SEATING OF ALTERNATE MEMBER

Mr. Matthew Robinson is seated in place of Burton Batty who was not able to attend.

2. APPROVAL OF PLANNING BOARD MINUTES

A. Minutes of February 12, 2007

It was noted the minutes of February 12, 2007 would be forthcoming.

3. APPROVAL OF PLANNING BOARD CORRESPONDENCE

There was none.

4. NEW BUSINESS

A. **Advisory Opinion to the Waterfront Commission – Providence Overlook, 80 South Brow Street, (building of 4 townhouses) Map 106, Block 01, Parcel 002.00, Applicant: SJV Electric**

Wayne Barnes went through the staff recommendation to the Board. Mr. Barnes states that the Planning Board's role in this process is to offer an advisory recommendation to the DRC committee as to whether the development is consistent with the purposes and intent of the City's Comprehensive Plan and the Land Development and Subdivision Review Regulations. In addition to the application being reviewed by the Waterfront Commission and the Design Review Committee of the Waterfront Commission, all applications have been reviewed by the Planning Department, Public Works and Fire Departments. The Waterfront Commission deemed the application complete and issued a Certificate of Completeness on February 16, 2007.

Specifics of the proposal

Mr. Barnes said the property is a 9,600 square foot parcel with 120 feet of frontage on the westerly side of South Brow Street. The applicant proposes to demolish an existing one-story building measuring roughly 3,580 square feet and construct a three-story building containing four townhouse units with three bedrooms each.

Parking

Section I9-482, Performance Standards of the Waterfront Commission specifies that there be two spaces of parking for each residential unit. The proposal provides two stacked parking spaces for each unit, with two sets of spaces located on either side of the building conforming to the regulation.

Design Components

The design has been modified to indicate the use of wood clapboards as siding. The applicant will install granite curbing, concrete sidewalks, and concrete aprons for the driveways serving the four units. Also the landscaping will include shrubbery, gardens and scale trees to be installed in front of the building with spruce trees in the rear of the property.

Recommendation

The 2003 East Providence Waterfront Special development District Plan was adopted by the City Council and incorporated into the Land Use Plan Element of the City's Comprehensive Plan on December 2, 2003. The proposed land uses are in conformance with the Comprehensive Plan as well as other elements of the Plan which include the Economic Development, Circulation, Housing and Recreation and Open Space Plan Elements.

The proposal is consistent with objectives of the City's Comprehensive Plan including:

- Beautify and enhance the project area;
- Mitigate conditions that contribute to soil and groundwater contamination;
- Encourage opportunities in and around the waterfront for both large- and small-scale development efforts;
- Make City entrances more inviting through beautification and other efforts
- Enhance entryways to neighborhoods at definable intersections;
- Encourage distinctive architectural treatment at major intersections to accentuate community gateways;
- Support the development of a range of housing opportunities for all East Providence residents through zoning and development regulations;
- Maintain scenic viewsheds corridors by placing lower-scale buildings at the water's edge and adjacent to established residential neighborhoods and its viewsheds;
- Ensure a diversity of housing exists in the City providing residents with a range of decent, safe and affordable choices;
- Encourage a mix of uses to create year-round activity, as well as evening and weekend activities along the waterfront;
- Encourage uses for which there is an immediate and long-term development interest;

- Create a strong sense of place, with gateways and public spaces, and streetscapes clearly defined;
- Preserve the quality of existing residential neighborhoods while accommodating growth.

General Purposes of the Land Development and Subdivision Review Regulations

Section 1.2. The general purposes of these Regulations is to establish procedural and substantive provisions for the subdivision and development of land that will, consistent with the provisions of the East Providence Comprehensive Plan and the East Providence Zoning Ordinance, accomplish the following:

- (a) Protect the public health, safety and welfare;

The proposed subdivision does not negatively impact the health, safety and welfare of East Providence.

- (b) Provide for orderly, thorough and expeditious review and approval of land developments and subdivisions;

The proposed development is being reviewed by staff, the Planning Board, and commissions in conformance with City regulations and ordinances, and within the time frames allotted for such review.

- (c) Promote high quality and appropriate design and construction of subdivisions and land development projects;

The proposed development utilizes high quality design for building and site design, and is appropriate and in-keeping with aesthetic goals for the Waterfront District and the City in general.

- (d) Protect existing natural and built environments and mitigate all significant negative impacts of any proposed development on the existing environment;

There are no known or expected negative impacts to the natural or built environment. The proposed landscaping should mitigate stormwater run-off concerns.

- (e) Promote design of land developments and subdivisions which are well-integrated with the surrounding neighborhoods with regard to natural and built features, and which concentrate development in areas which can best support intensive use by reason of natural characteristics and existing infrastructure;

The proposed development would connect to existing City infrastructure – roads, sanitary sewer and water. There are no known or expected negative impacts to

the natural or built environment. The development represents an improvement in regards to aesthetics and is an appropriate use for the location.

(f) Encourage design and improvement standards to reflect the intent of the East Providence Comprehensive Plan with regard to the physical character of the various neighborhoods, districts, and special and critical areas of the city;

The Regulations have been adopted with design and improvement standards in accordance with the Comprehensive Plan and with regard to the various neighborhoods, districts including the Waterfront Special Development District, and special and critical areas of the City.

(g) Promote thorough technical review of all proposed land developments and subdivisions by appropriate officials;

The development plan has been reviewed by Planning, Public Works Department, and the Design Review Committee of the Waterfront Commission.

(h) Encourage dedications of public land and impact mitigation to be based on clear documentation of needs and to be fairly applied and administered, and;

There are no required dedications of public land for this particular development proposal. There are no known or expected negative impacts from the proposed development.

(i) Provide for the establishment and consistent application of procedures for local record keeping on all matters of land development and subdivision review, approval and construction;

The proposed subdivision is being reviewed under the Regulations adopted by the East Providence Planning Board and pertinent records are being kept.

It is the opinion of the Planning Department that the architecture, site layout and design, streetscape improvements and planned landscaping for this development create a strong sense of place and high quality amenities, and that the development is an attractive and appropriate use for this site.

The Planning Department recommends that the Planning Board offer their advisory opinion to the Design Review Committee of the Waterfront Commission that the development, as proposed, is consistent with the purposes and intent of the City's Comprehensive Plan and the Land Development and Subdivision Regulations.

The Planning Department recommends to the Planning Board that they offer their advisory opinion to the DRC Committee of the Waterfront Commission That the development as proposed is consistent with the Purposes of the intent of the

City's Comprehensive Plan and the Land Development and Subdivision Regulations. It is also recommended that the Planning Department advisory recommendation dated March 7, 2007 including site location, site plan and building elevation attachments be entered into the record.

Chairman Robinson asks if there are any comments from the Planning Board.

Motion – Staff Memorandum

On a motion by Mr. Robinson, seconded by Ms. Moravec, the Board voted to accept the Planning staff memorandum and attachments into the record.

Motion – Advisory Opinion

On a motion by Mr. Robinson, seconded by Mr. Almeida, the Board voted to offer this advisory opinion as recommended by the Planning Department to the Design Review Committee of the Waterfront Commission that the development as proposed is consistent with the purposes and intent of the City's Comprehensive Plan and the Land Development and Subdivision Regulations.

Roll Call Vote

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

B. Appl. # 2006-16, Ashburton Road Minor Subdivision, Applicant: P & C Investments, Inc., Map 308, Block 15, Parcel 1

Attorney Martin Sleprow was sworn in. He testifies that he is the attorney for the applicant, P&C Investments, Inc. He states that they have a Purchase and Sales Agreement with the Church of Christ who owns the property. The applicant is proposing a four lot subdivision on already existing Ashburton Road. . There is an existing road so that there are no issues about sidewalks and granite curbing and street trees which are all proposed. They will meet all the zoning requirements; no variances will be necessary. The parcel proposed to be subdivided is a 59,346 corner parcel with frontage on Wampanoag Trail and Ashburton Road which is owned by the Church of Christ. He said there is a feeling by staff that we need to do some additional work on the drainage issue. He states that his applicant is not opposed to this going for a peer review. We understanding that bear the cost of the review. We know the neighbors have expressed concern about runoff and we believe that we have controlled any runoff and will not create any nuisance to the neighbors, but since the City has requested that this be continued and sent out for a peer review, we do not object

to that being done. Regarding RIDEM, we believe that there are no wetlands there and our engineer will testify to that later. If it is determined that there are wetlands, then we will go to RIDEM

Mr. Todd Chaplan, President of Mount Hope Engineering was sworn in and described the development and said he was asked back in October of 2006 and December to look at the specific questions about drainage. We ran some calculations and it was determined that there would not be an increase in runoff. He described what the topography would look like. In December we were asked how high the water could get at the low part of the proposed houses on Ashburton Road as it crosses on Dover. A series of retaining walls are proposed between the dwellings. Also an 8 inch drainage pipe is proposed to be installed between proposed parcels 2 and 3 and connected to an existing catch basin in the right-of-way of Ashburton Road.

At this time, Attorney Sleprow asks that this proposal be continued to the May meeting after which the peer report at his cost can be submitted. At that time, we will ask the Board that there be a determination by a biologist submitted to the staff and board.

Chairman Robinson asks Mr. Sleprow what would be the harm in seeking a preliminary wetland determination from RIDEM

At this time, Ms. Boyle states that within the 65 days that we are allotted from the issuance of the Certificate of Completeness that would take us to the April meeting. If we were to continue to May that takes us beyond the 65 days. Mr. Sleprow will follow up with a request letter to Ms. Boyle and state it for the record.

Mr. Hanner went through the staff recommendation. It is a minor subdivision on existing frontage and the applicant proposes to subdivide this one lot into five lots. The application was actually submitted in July of 2006. Revised plans were requested by the City for clarifications and revision of the submitted drainage report. We met with the applicant at that time. The City still feels comfortable trying to make a determination of whether or not the abutting properties will be negatively impacted by the drainage. There is frontage on Wampanoag Trail and Ashburton Road. It is a 59,346 sq. ft. corner parcel. The highest elevations on the site are on the northern part of the site. The proposed elevations surrounding the single-family dwellings range from 112 to 116 above sea level. Staff is concerned with the drainage from the first submitted plan back in 2006. The applicant proposes drywells, and 8 inch drainage pipe, is proposed to be installed between proposed parcels 2 and 3. Also, retaining walls are proposed in between the dwellings.

Mr. Hanner reported that on March 5 staff was notified by some of the abutters that there was standing water on the site as a result of a storm event that occurred on March 2. Staff reviewed the site and there was a significant amount

of water; at least a foot of standing water at the rear of the site and encroaching on 391 Dover Avenue and 37 Dover Avenue. The proposal is consistent with Zoning. The applicant has not requested any waivers of sidewalks or curbing, street trees. It is consistent with the density requirements of the Comprehensive Plan. At this time, staff cannot make a determination as to whether or not it is consistent with the Subdivision Regulations because of the drainage issues. Staff suggests that the Board grant a continuance on this proposed development. We request from the applicant a Preliminary Wetland Determination by RIDEM and that we receive a peer review on the two drainage reports that we have submitted. Also that we have a determination of existing groundwater level at this site. This way we can determine if the neighboring properties will be affected.

Ms. Boyle states it will be a three fold review. There will be review of the drainage report, a review of groundwater levels by the peer review. Mr. Skadberg, City Engineer states he agrees. All agreed to a continuance.

Mr. Sleprow requests that in May when they come back to the Board that they are heard by the same Board members that are present tonight, just as they do with the Zoning Board. Ms. Boyle asks the Mr. Dias if we have to re notice the abutters that are not present tonight that this is continued to the May meeting. Mr. Dias states normally there would not be a new notice sent out since the abutters that are here tonight have been informed at this meeting. Chairman Robinson said he encourages the abutters here tonight to return to the May 14th meeting.

Motion – Send Notice to Abutters and to Continue the Meeting to May 14, 2007.

On a motion by Mr. Almeida, seconded by Mr. Robinson the Board unanimously voted to continue this matter to May 14th, 7:30 p.m., Room 306 and to provide a new notice to the abutters.

C. Appl. #2005-18, 16 Henry Street Minor Subdivision - Property Owners: Robert Lacerda and Gloria Pilon, Map 106, Block 16, Parcels 009 and 009.1;

Jean Kusiak, REMAX Heritage, 1365 Wampanoag Trail and Paul Carlson, Dusette Engineering 1539 Coral Road, Seekonk, MA was sworn in.

Mr. Carlson states he is representing the applicant, Mr. Robert Lacerda for the property located at Henry Street. It is a minor subdivision which has two lots located at Map 106, Block 16, Parcels 9 and 9.1. Each parcel is owned separately. Parcel 9 is owned by Mr. Lacerda and Parcel 9.1 is owned by Gloria Pilon. Parcel 9 is an existing 4500 square foot lot containing an existing duplex and Parcel 9.1 is a 5,000 square foot lot.

Ms. Boyle states that the reason it is a minor subdivision is that these two lots have been merged by Zoning and it is treated as a 9,500 square foot parcel being subdivided.

At this time, Mr. Moran went through the staff recommendation. He described the different plan stages. He also stated that notice was sent to the abutters via certified and registered mail. The subdivision was submitted as an administrative subdivision, but upon review by the Zoning Officer he made the determination that this parcel had been merged and as a result of that zoning merger the necessity for a use variance was created for the two family structure on 16 Henry Street. This is why it was re-assigned as a minor subdivision.

The zoning of the subdivision is Residential-6 which permits lots of 5,000 square feet. Part of the zoning requirement in the R-6 District is that two family dwellings are allowed and they must provide 50% greater area that was is allowed for a single family use. A two family use, therefore, would require a minimum lot size of 7,500 square feet. Since Parcel 9 contains a two family use that would be situated on a 4,500 square foot lot. If the Board elected to approve this particular subdivision this evening with a two family in place they would be required to go to the Zoning Board of Review for relief for a use variance.

Mr. Moran states that there is bituminous sidewalk located in front of Parcel 9 and curbing is also located along the frontage of Parcel 9. Parcel 9.1 does not have sidewalks or curbing. The Planning Department requests that curbing and sidewalks be installed along the frontage of the development. The applicant will be required to submit a Performance Guarantee. This Performance Guarantee will need to be reviewed approved by the Department of Public Works.

The development as been reviewed by all relevant departments and they did not have any substantive comments associated with this subdivision except from the City Zoning Officer whose comments have been previously discussed within the staff recommendation.

Consistency with the Comprehensive Plan

The "Land Use 20120 Map" of the Comprehensive Plan designates the area of this proposed subdivision as medium density residential. The Plan defines the dominant character of this land use as single family and two family development at densities of no more than 15 dwelling units per acre. A goal of the Comprehensive Plan is for all existing residential areas to be maintained at existing densities. Mr. Moran states that the biggest item under consistency issues is Item a in the staff recommendation which describes the particular development in terms of density. The development provides approximately 12.7 dwelling units per acre. Planning does have some concerns about the significant zoning deficiency associated with the creation of a 4,500 sf lot containing a two-

family home and we will reserve our right to provide an opinion at the date of the zoning hearing.

Chairman Robinson asks if the Board grants this subdivision with a two family will it still go before the Zoning Board. Mr. Moran states yes. Chairman Robinson asks if the staff tonight wants the Planning Board to approve this tonight contingent on requiring this development to be converted from a two family to a single family. Mr. Moran answered that staff has concerns about the level of relief that would potentially be required as a result of the subdivision of 3,000 sf. For that purpose, we are recommending as part of this recommendation that the subdivision approval require that Parcel 9 be reduced from a two family to a single family dwelling and further that 9.1 should be restricted to a single family.

Ms. Boyle states it is one of the findings of the subdivision and referred to page 4 of the recommendation, Item B. It states that all lots in the subdivision and all land development projects shall conform to the standards and provisions of Chapter 19 Zoning. Some of the subdivisions that come before the Board have minor deviational variances required and the Board approves them subject to them receiving the variances from the Zoning Board of Review. In this particular circumstances where there is such a big departure between the allowances of zoning and what is being proposed, it would be unprecedented for us to be recommending approval for something for a 4500 s.ft. lot vs. a 7500 s.f. lot which would be required. We do have to make a finding as part of the subdivision recommendation. Even though it is the purview of the Zoning Board, it is part of the consideration of the Planning Board.

Chairman Robinson asks what happens if we make conversion into a single family a contingency or requirement before we grant this approval of this subdivision. Can they turn around and go to the Zoning Board and get a use variance? Ms. Boyle states that they would have to go to the zoning Board regardless. Even a 4500 sq. ft. lot for a single family is still going to require a dimensional variance.

Chairman Robinson said that it would be the Board's recommendation that the applicant install concrete sidewalks. The applicant states they agree.

Matt Robinson asked the applicant if he is not interested at all in the conversion from a two-family to a single family. Mr. Moran clarified the fact that there are two separate owners to the two parcels. Robert Lacerda owns Parcel 9.1 and Gloria Palon owns Parcel 9. They do not own them in common ownership. It was asked why the parcel merged as two separate parcels when there are two separate owners not in common ownership of these two parcels. Ms. Boyle states that essentially it was an illegal subdivision. This was subdivided without going before the Board, therefore, they do enjoy prior recorded lot status. This is to essentially correct an illegal subdivision which took place. By subdividing it, the applicant as one of the owners would be able to convey that property

separately. As it stands now they cannot get a building permit for any construction on that piece.

Mr. Robinson said he would like to get a little more history on this. He asks who originally owned the entire parcel. It was said it was family land which was eventually divided up to the different family members.

Ms. Boyle pointed out that a no time which was post 1967 was a 4,500 s.f. lot sufficient for a two family dwelling. It has always been a minimum of 5,000 s.f.

It was asked if the applicant has the right to go before the Zoning Board and appeal that particular decision of the Board. Chairman Robinson states that sitting as the Board of Appeal they can appeal the Planning Board's decision.

Motion – Staff Recommendation

On a motion by Mr. Robinson, seconded by Mr. Carcieri, the Board unanimously voted to accept the staff recommendation and attachments into the Board's official record.

Ms. Boyle states that Mr. Moran did not continue through the entire recommendation and by entering the staff recommendation dated March 8, 2007 at this time she defers to Mr. Dias. Mr. Dias asks if that motion includes everything in the staff recommendation. Mr. Moran states it does. Mr. Dias states the recommendation is sufficient for the motion.

Motion – Subdivision

Mr. Robinson states he has a lot of sympathy for the applicant regarding the lots, but since there is the density issue he makes the motion to the Board that it accept the Planning Department's recommendation and approve the subdivision contingent on those recommendations to include the conversion of the two family to a single family. Motion by Mr. Robinson, seconded by Mr. Almeida.

Roll Call Vote

Mr. Robinson	Aye
Ms. Moravec	Aye
Mr. Carceri	Aye
Mr. Almeida	Aye

Motion – Delegation of Final Plan Approval to the Administrative Officer

On a motion by Ms. Moravec, seconded by Mr. Robinson, the Board unanimously voted to delegate Final Plan Approval to the Administrative Officer.

**D. Appl. # 2006-27 – Minor Subdivision, 170 Forbes Street, Applicant:
Frank and Joann Santie, Map 511,Block 1, Parcel 004.00**

Attorney Martin Slepchow states he is the attorney for the applicants. He gave a brief overview of the subdivision. The applicant wants to subdivide the lot into two parcels each measuring 9,895 sq. ft. The purpose of the subdivision is to allow for the construction of a new single-family dwelling and supporting driveway on the proposed Lot 2. The driveway/parking area for the existing house would be reduced in size. The two proposed lots would front on Forbes Street.

Mr. Slepchow states he has read the Planning Department's staff report which states that the applicant has met the requirements of the Comprehensive Plan and that the proposed subdivision does not negatively affect the neighborhood or the health, safety and welfare of the City of East Providence.

Since they do not have the 75 foot requirement for a Residential 3 District, Mr. Slepchow asks that the Board approve this subdivision subject to them obtaining a variance for the 60 feet which the proposed lots have. Also a variance may be needed for the side yard setback of 15 feet. No waivers are requested by the applicant. Mr. Slepchow said that he has reviewed the staff conditions with his client and they agree. They ask that the Board approve the subdivision.

There were not comments at this time from the Board.

Overview of Proposal

At this time, Wayne Barnes of the Planning Department went through the staff recommendation.

Mr. Barnes states that the applicant is proposing to subdivide an existing 19,789 sq.ft. parcel into two parcels of equal size, Lot 1 and Lot 2) to allow for the construction of a new single-family dwelling and supporting driveway on the proposed lot 2. Both lots would front on Forbes Street.

Existing Conditions

Mr. Barnes states that one single family dwelling is located on the current parcel of proposed Lot 1. The paved driveway and parking area serving the existing dwelling is rough 40 feet wide, about 30 percent of which (proposed to be removed) is on the proposed Lot 2. The concrete curbing consists of estimated 6-foot sections. Two of these sections, one on either side of the existing driveway, have crumbled away and other sections have deteriorated somewhat where they meet the sidewalk. Most of the trees are away from the proposed construction and should not be impacted by the construction. A large wetland area borders the back of the property.

Drainage

The construction will include a drywell behind the new dwelling designed to store the first inch of rainfall from the dwelling which will meet RI Storm Water Standards. The zoning is in an R-3 District. The Zoning Officer has determined that variances are required with the proposed lots having a width of 60 feet requiring relief from the 75 foot requirement in the R-3 District. The Departments of Planning, Public Works, Fire Department, Law Department, Zoning Officer, and the City Assessor have all reviewed the plan and their comments are attached. A Certificate of Completeness was issued by the Administrative Officer on February 22, 2007.

No waivers are requested. It is consistent with the Comprehensive Plan

General Purposes and Required Findings

In accordance with Section 5-4 of the Regulations prior to approval of any application for subdivision and/or land development project, the Administrative Officer or Planning Board, as applicable, shall address each of the general purposes stated in Article 1 and shall make positive findings of fact on all of the applicable standards listed below, as part of the proposed project's record. If a positive finding for any of these standards cannot be made, the Administrative Officer and/or Planning Board shall have grounds for denial of the project.

Section 1-2. General Purposes.

The general purposes of these regulations is to establish procedural and substantive provisions for the subdivision and development of land that will be consistent with the provisions of the East Providence Comprehensive Plan and the East Providence Zoning Ordinance which are noted A through I in the staff recommendation.

Section 5-4. Required Findings

Section 5-4 of the regulations requires that, prior to the approval of any application for a subdivision, the Planning Board shall address each of the general purposes in Article 1 of the Regulations and shall make positive findings on all of the applicable standards listed as A through G in the staff recommendation.

RECOMMENDATION

Based upon the analysis provided above, the proposed subdivision is consistent with Section 1-2, "General Purposes" being that the General Purposes were addressed as part of Staff's review. Positive findings were stated to all of the standards of Section 5-4, "Required Findings" of the East Providence Land Development and Subdivision Review Regulations, with the acknowledgement

that variances may be needed in order for any future construction to comply with the standards and provisions of Chapter 19, Zoning. In addition, it is the opinion of staff that the subdivision, as proposed, is fully consistent with the East Providence Comprehensive Plan. Therefore, staff recommends:

- A. That the Board delegate final plan approval to the Administrative Officer, and;
- B. That the Planning Board grant *Conditional Approval* of the subdivision, as *proposed*, subject to the following conditions:
 1. That any future construction on Lot 1 consist of one single-family dwelling, which must conform to Residential-3 District building setback requirements;
 2. That the driveway and parking area of the existing single-family dwelling at 170 Forbes Street be clearly defined with dimensions noted on the plan;
 3. That any and all required variances including the side-yard setback variance for Lot 1 be obtained from the Zoning Board of Review prior to Final Plan review and that notation is placed on the Final Plan, indicating which variances were granted, date of the Zoning Board of Review and the recorded book and page of the East Providence Land Evidence Record;
 4. That the existing asphalt sidewalk and concrete curbing be upgraded to City design standards through the installation of a concrete sidewalk and granite curbing.
 5. That the applicant post an improvement guarantee in an amount determined by the Public Works Department for any required improvements to the City Right-of-way;
 6. That the title block of the Preliminary Plan be revised to indicate Final Plan status;
 7. 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;
 8. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements; and
 9. That upon project completion, final 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.

Chairman Robinson asks if the Board has any comments.

Mr. Robinson states that the applicant will be 15 short of the minimum mandatory frontage on both pieces of property. I am not a big proponent of shoe horning houses. It is not aesthetically pleasing and the City's Zoning Ordinance are in place for a reason to stop the shoehorning of houses in between each other. I do not think we should deviate from those ordinances.

Attorney Sleprow disagrees with the statement made by Mr. Robinson. He states this is a very good size lot for East Providence for the area which is zoned Residential-3. It is also within the Comprehensive Plan. We do need the variance, but it is in conformance with the Comprehensive Plan. It does not create a nuisance in the neighborhood.

Ms. Boyle states that the previous case before the Board was for a use variance and the standard for hardship for a use variance is much greater. The degree of deviation from what was required under the previous case and what was being proposed was such a significant one that we were very uncomfortable with it. Also, the difference with this one is yes it does require a deviation for both lots, but because there is additional square footage we were more comfortable with providing a positive recommendation. The difference is the degree of deviation and the fact that this is a dimensional issue rather than a use variance.

There were no further comments from the Board.

Public Comments

Mr. Michael Buckett of 172-174 Forbes Street was sworn in. He disagrees with this subdivision and Mr. Sleprow's comments and is in complete disagreement with this subdivision. He said he lives next to the property. It is a very narrow lot and his family room is going to be 15 feet from a new construction. He bought the house 2 years ago for less than \$400,000 and said he was assured that that lot was not buildable which was one of the determining factors of buying that property. He feels it will go down in value.

Chairman Robinson asked Mr. Buckett if he would prefer that the driveway was positioned on the other side of the house. Mr. Buckett stated that would be a better improvement. Chairman Robinson asked the applicant if he would be willing to move the driveway. Mr. Sleprow stated yes; it would now be on the left side of the house. It would be 25 feet from Mr. Buckett's house

Motion – Staff Recommendation and attachments

On a motion by Mr. Almeida, seconded by Ms. Moravec, the Board unanimously voted to accept the staff recommendation and attachments and make them part of the Board's official record.

Motion – Conditional Approval of the Subdivision

On a motion by Mr. Almeida, seconded by Ms. Moravec, the Board unanimously voted to approve the subdivision subject to the conditions noted in the staff memorandum and on the condition that the driveway be moved to the other side.

Roll Call Vote

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

Motion – Final Plan Approval to the Administrative Officer

On a motion by Mr. Almeida, seconded by Ms. Moravec, the Board unanimously voted to give final plan approval to the Administrative Officer.

**E. Proposed Amendments to Chapter 19, Zoning, Article VII “Signs”
– Advisory Recommendation to the City Council**

Ms. Feather reminded the Board that they are charged with reviewing all proposed Zoning Ordinance amendments and with providing an advisory recommendation to the City Council. She noted that the City Council would consider the current proposed revisions, along with the recommendation of the Planning Board, at a public hearing to be held Tuesday, March 20, 2007 at 7:30 PM in the City Council Chambers. She noted that the scheduled advertising for the public hearing is March 9th, March 14th, and March 19th.

Ms. Feather noted that the Department has been working on a comprehensive revision to the City's sign regulations and will bring these amendments to the Board and City Council in the near future, and that the current proposed amendments are in response to specific concerns expressed by the City Council relating to electronic signs and signs that incorporate moving images and their associated traffic safety and aesthetic concerns.

Ms. Feather noted that the proposed amendments would add three new sections at the beginning of Article VII. Signs, as follows: Sec. 19 – 438 Purpose and Intent, Sec. 19 – 439 General Provisions, and Sec. 19 – 440 Prohibited Signs. There are no proposed changes to the remainder of existing Article VII. Signs, which is comprised of Section 19 – 441 through Section 19 – 447.

She noted that proposed Section 19 – 439 General Provisions includes language which would require the removal of obsolete or defunct signs. The remainder of this section includes standard legal provisions for a current sign ordinance and we defer to the City Solicitor on any legal issues that may be associated with these provisions.

Ms. Feather noted that the proposed language, which largely comes from ordinances in other jurisdictions, addresses concerns related to electronic reader boards and prohibits electronic (including light emitting diode (LED)), projected, animated and moving signs, as well as captive balloons and inflatable signs, roof signs and signs affixed to utility poles (except for official notices posted by a public agency or officer). Time and temperature signs would no longer be permitted. Existing electronic signs would be grandfathered and considered legal nonconforming. The proposed sign regulations would not be applicable to signs installed by government agencies for public informational purposes, such as information on road and travel conditions and emergency warnings and directions.

Ms. Feather noted that the proposed amendments further implementation of the Comprehensive Plan and meet the general purposes of Zoning. She asked that the Board vote to enter the staff memorandum into the record of the application prior to any vote they may take on the matter.

Ms. Moravec asked if billboards would come under this ordinance. Ms. Feather noted that the definition of signs in Section 19 – 1 is applicable to billboard, although they also have another layer of defining characteristics in a separate definition in Sec. 19 - 1, e.g. sign face size, cutouts, etc.

There was a brief discussion of the existing electronic and TV-type moving image signs in the City, and Mr. Carcieri asked what impact the proposed amendments would have on those signs. Ms. Feather noted that existing signs would be allowed to remain as legally pre-existing nonconforming signs.

Mr. Robinson asked about the language about non-commercial copy on a sign. Ms. Feather noted that this is referred to as a “substitution clause”, and that modern ordinances have this clause based upon prior Constitutional challenges to sign ordinances in which the courts held that you could not discriminate one type of free speech over another, i.e. commercial speech over non-commercial speech. She stated that for instance a business that wanted to replace a commercial sign they currently have with a “Support Our Troops” sign would have to be allowed.

Mr. Dias noted that City Solicitor Conley had reviewed the proposed amendments and noted they were drafted acceptably.

Ms. Feather noted that she attended the public hearing held by the Rhode Island Department of Transportation on the Outdoor Advertising Rules and Regulations held in 2006, and noted that it was heavily attended by people wishing to ban electronic and LED signs due to concerns about safety and because they are unsightly. She noted that two sign companies were at the meetings with their attorneys speaking in favor of the signs. She noted that the sign industry has aggressively challenged sign regulations all across the country.

Councilman Robert Cusack expressed his support for the proposed amendments. He noted that electronic message board type signs are proliferating and are unsightly and a safety hazard.

Zoning Board Member Eugene Saveory expressed his support for the proposed amendments. He noted that he looks forward to seeing the rest of the sign amendments when they are ready as they are greatly needed.

On behalf of a client, Attorney Martin Sleprow asked if signs that were manually changed, such as signs including the price of gasoline, would still be permitted. Ms. Feather noted that they would still be permitted.

Enter the Memorandum into the Record

Upon a motion made by Mr. Carcieri, seconded by Mr. Almeida, the Board voted 5 – 0 to enter the staff recommendation memorandum dated March 7, 2007 with its attachments into the record of the meeting.

Vote on the Proposed Amendments

Upon a motion made by Mr. Almeida, seconded by Mr. (Matthew) Robinson, the Board voted 5 – 0 to recommend City Council approval of the proposed amendments.

Motion – Staff Recommendation and attachments

On a motion by Mr. Carcieri, seconded by Ms. Moravec, the Board voted to accept the Planning Department's staff recommendation and attachments into the Board's official record.

5. CONTINUED BUSINESS

A. Staff Report – There was no staff report at this time.

6. COMMUNICATIONS

On a motion by Mr. Almeida, seconded by Ms. Moravec the Board approved Communication A below.

- A. Copy of memorandum to the Zoning Board of Review, Re: February 28, 2007 Cases

On a motion by Mr. Almeida, seconded by Ms. Moravec the Board approved Communication B below.

- B. Copy of Notice of Decision dated 2/12/07, Essex River Ventures – Phillipsdale Landing

On a motion by Mr. Moravec, seconded by Mr. Almeida, the Board approved Communication C below.

- C. Copy of Public Hearing Notice – Phillipsdale Landing Dev. For Mar. 19, 2007 meeting

7. ANNOUNCEMENT

- A. Next Meeting – Monday, April 9, 2007, 7:30 p.m., Room 306

8. ADJOURNMENT

Respectfully submitted,

Michael Robinson, Chairman

MR/JMB/sac