

# January 9, 2006 - Regular Planning Board Meeting

CITY OF EAST PROVIDENCE

## PLANNING BOARD

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### MINUTES OF JANUARY 9, 2006

Present: Messers. Batty, Sullivan, O'Brien, Jeanne Boyle (staff), and Chelsea Pierce (staff).

It was noted that Vice Chair Mr. Batty would be chairing this meeting since Mr. Robinson was not able to attend.

#### 1. SEATING OF ALTERNATE MEMBER

No alternate member was seated.

#### 2. APPROVAL OF PLANNING BOARD MINUTES

##### A. Minutes of September 12, 2005

It was noted these minutes would be forthcoming.

##### B. Minutes of November 14, 2005

On a motion by Mr. Sullivan, seconded by Mr. O'Brien, the Board voted to approve the minutes of November 14, 2005.

Roll Call Vote

Mr. Sullivan	Aye
Mr. O'Brien	Aye

Mr. Batty noted he could not vote on these minutes since he was absent for the November 14, 2005 meeting.

#### 3. APPROVAL OF PLANNING BOARD CORRESPONDENCE

No correspondence

#### 4. NEW BUSINESS

- A. #2005-13 Admin - 2861 Pawtucket Avenue & 13 Silver Spring Avenue  
Applicant & Owner: Kenneth G. Rawlinson, Block 25, Parcels 8 & 9, C-1  
and R-3  
Map 308

Acting Chairman Batty states he will be abstaining from the vote on this particular application due to the fact that Dr. Rawlinson is his dentist and that he works for him.

Attorney Martin P. Sleprow states that he is the attorney for the applicant, Dr. Rawlinson who is present tonight and also Mr. Rawlinson, the owner.

Mr. Sleprow explains that there is a need for additional parking on the commercial lot so that off-street parking can be reduced. By improving the landscaping and size of the parking lot, the applicant will have a greater parking area. He explained they want to create the larger parking lot since there is commercial use on the first floor and a residential use on the second floor. By taking 15 feet from the Silver Spring Avenue lot, the lot did not go below zoning. It still remains over 7,500 sf and still remains a valid lot in an R-3 zone. Mr. Sleprow states that he thought they were truly doing an administrative subdivision in the sense that moving the lot line does not create any new lots and does not violate zoning. If the subdivision passes by the Board tonight he will immediately apply to the Zoning Board of Review in order to extend the current parking lot within that 15 foot strip, which would be zoned residential. He suggests that the Board agree to the granting of the administrative subdivision as is and therefore the applicant will not have to wait for the Zoning Board approval. Mr. Sleprow stated, "We want to sell the house in the back. It would not impact the property and does not creating negative zoning. If the Zoning Board does turn it down we still want this administrative subdivision. We feel the Board should grant the approval because it is purely administrative, and we are not creating any zoning violations."

Ms. Boyle states that under the Regulations as the Administrative Officer she does not have the authority to approve an administrative subdivision that requires zoning variances and that extending the parking lot into the R-3 segment of the lot, as shown on the plan, requires zoning approval. Mr. Sleprow replies that if we were having less lot frontage or less square footage it would require zoning, but that is not the case. As presented this subdivision does not require zoning variances to create the lots. Mr. Sullivan questioned whether or not there is no change taking place as to what the 15 feet will be zoned. Mr. Sleprow answered R-3. Ms. Boyle states that there would be no prohibition on having two different zoning districts on the same lot. That does not require zoning approval. One issue is that there is a commercial use, a parking lot, being proposed in the residentially zoned segment of the lot, which is one of the items that necessitates zoning review. She states she agrees with Mr. Sleprow that if the administrative subdivision was that that the lot was split without the accompanying use of the property for commercial purposes it would not necessitate zoning approval and therefore they would not have to come before the Planning Board tonight. Ms. Boyle also wants to be sure that there are not any issues in terms of coverage. She states, "This is a new concept to us and we were treating it like we have with other administrative subdivisions that needed zoning approval. They were brought before the Planning Board, received their zoning variances, I signed off on the plan and that was it."

Ms. Boyle also states that she wants to be sure that the impervious surface coverages will not have a need for zoning variances. Mr. Sleprow states they are not adding any impervious coverage. It is just the lot line being moved. Ms. Boyle states that the engineer's calculations are incorrect and one of the conditions of approval is that the calculations are verified. If the calculations are verified that there is not an impervious surface coverage variance being created on the remainder single family lot, then the

applicant can proceed. But if you exceed the coverage requirements, then I would not be able to sign off on it as the administrative officer. Mr. Sleprow agreed.

Ms. Boyle notes that on page 7 of the staff recommendation to the Planning Board, the conditions are associated with the originally proposed parking lot and associated variances. The Board could consider modifying those stipulations; that Items 3 and 4 could be eliminated. Item 3 even though Mr. Sleprow has indicated that they have no objection to adding additional plantings, however those plantings are all in reference to the creation of the commercial parking lot which requires zoning. Also, the modification that condition 1 would have to verify that no zoning variances were necessitated should be included.

#### Staff Recommendation

On a motion by Mr. Sullivan, seconded by Mr. O'Brien, the staff report dated January 5, 2006 was voted on by the Board and made part of its official record.

#### Roll Call Vote

Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chairman Batty	Aye

#### Decision by the Planning Board

Mr. Batty clarified the fact that the entrance on Pawtucket Avenue will stay the same. The exit will go out to Silver Spring. It was noted it would be widened to the width of the new property line. Mr. Batty states that there is a code that the applicant must abide by in terms of width. The applicant states he will abide by the code. He also noted that this will help the area in eventually creating more parking. It will be a one-way entrance whereby you will come in from Pawtucket Avenue and exit onto Silver Spring Avenue.

Ms. Boyle states that what staff recommended to the Board in its memorandum was with the understanding of the zoning variances associated with the parking lot and also the commercial use and that the Planning Department was not treating this as a pure administrative subdivision. Without the zoning variance it takes the variances out of the equation. The Board may want to consider an additional condition that the property not be used for commercial purposes unless the Zoning variance is received. Mr. Sleprow agreed that they cannot use this for parking until they get their zoning variance. Ms. Boyle suggests that the Board make that an explicit part of the approval. Ms. Pierce brings up the fact that if the variances are no longer part of the approval conditions, the plan that is actually recorded needs to be shown without the parking lot extension. Ms. Boyle states that this is correct, as the administrative subdivision plan should show no commercial use on that segment of the property. It should show simply the existing conditions. The Land Evidence Records should not show something that is proposed and not approved.

To clarify, Mr. Batty states that there will be no parking until a zoning variance is granted and that the subdivision that goes on record has to show the existing conditions, not the proposed parking lot that was submitted on the plans that the Board has before them

tonight. Those plans will have to be modified to show the existing conditions and the Administrative Officer will need to verify that the plans be corrected before recording.

On a motion by Mr. Sullivan, seconded by Mr. O'Brien, the Board voted 2-0 with one abstaining, to enter the following items attached to the staff recommendation into the record:

1. Memorandum from Edward Pimentel to Stephen Coutu and Jeanne Boyle, dated 8/25/2005
2. Memorandum from Acting Chief Christian R. Brassill to Jeanne Boyle, dated 8/26/2005
3. Memorandum from William Conley to Jeanne Boyle, dated 8/26/2005
4. Memorandum from Kenneth Booth to Stephen Coutu, dated 8/29/2005
5. Memorandum from Chelsea Pierce to Jeanne Boyle, dated 8/31/2005
6. Memorandum from Stephen Coutu to Planning, dated 8/21/2005
7. Letter from Jeanne Boyle to Kenneth G. Rawlinson, dated 9/02/2005
8. Memorandum from Edward Pimentel to Stephen Coutu and Jeanne Boyle, dated 10/24/2005
9. Memorandum from Chelsea Pierce to Jeanne Boyle, dated 11/1/2005
10. Letter from Jeanne Boyle to Kenneth G. Rawlinson, dated 11/02/2005
11. Memorandum from Edward Pimentel to Stephen Coutu and Jeanne Boyle, dated 11/28/2005
12. Email from Stephen Coutu to Jeanne Boyle and Chelsea Pierce, dated 11/28/2005
13. Memorandum from Erik Skadberg to Stephen Coutu, dated 11/28/2005
14. Memorandum from Chelsea Pierce to Jeanne Boyle, dated 12/02/2005
15. Memorandum from Chelsea Pierce to Jeanne Boyle, dated 12/30/2005
16. Planning Department Staff Recommendation, dated 1/5/2006

#### Recommendation – Subdivision Approval

On a motion made by Mr. Sullivan, seconded by Mr. O'Brien, the Board voted 2-0 with one abstaining, to ***conditionally approve*** the subdivision, as proposed, based upon the submitted application, testimony presented to the Board, Planning Department Staff recommendation, and memorandum from various City Departments. All of the General Purposes of Section 1-2 of the East Providence Land Development and Subdivision Review Regulations have been addressed and positive findings were found for all of the standards of Section 5-4, "Require Findings". It is also apparent that the proposed subdivision is consistent with the East Providence Comprehensive Plan, subject to the following conditions:

1. That the discrepancy regarding impervious lot coverage be corrected on the plan submitted for final recording and that the corrected figures are reviewed by the Zoning Officer and verified for not necessitating Zoning Board of Review relief;
2. That the final submitted plan include a chart of both the square footage and the existing and proposed percentage figures for structures and impervious surfaces;

3. That all reference to the “proposed parking lot” be removed from the plan submitted for final recording;
4. That the section of Map 306, Block 25, Parcel 9 that is zoned Residential – 3 not be used for any commercial purpose unless relief is granted by the Zoning Board of Review;
5. That the approved plan, including notation of any necessary variances and adhering to all stated conditions, be submitted to the Planning Department on Mylar as well as in electronic format;
6. That five (5) paper copies of the approved plan, including notation of any necessary variances and adhering to all stated conditions, be submitted to the Planning Department; and
7. That the Administrative Officer reviews and approves the plan submitted for final recording.

Roll Call Vote

Mr. O'Brien	Aye
Mr. Sullivan	Aye
Mr. Batty	Abstained

Any party aggrieved by this decision may file an appeal in accordance with Title 45, Chapter 23 of the Rhode Island General Laws and the East Providence land Development and Subdivision Review Regulations to the Zoning Board of Review, serving as the Board of Appeal, within twenty (20) days of the date of the recording of this decision.

**B. Partial Bond Release – Ashburton Subdivision, Luis Mateus**

Ms. Boyle explains Mr. Mateus is requesting a full release of the remaining performance guarantee associated with the Ashburton Road Subdivision. The original bond amount was for \$150,000. The applicant had previously requested a bond release and the Board voted to release all but \$37,500 of the bond. At this point the applicant requested a full release, but the City Engineer is still recommending that the Board retain \$8,500 of the remaining bond to cover a few small items. We are also proposing that the Board delegate to the Administrative Officer the ability to release the remaining \$8,500 when those minor items are completed to the satisfaction of the Department of Public Works.

Mr. Batty asks what the remaining items are. Ms. Boyle answered granite bounds, as-built plans, and other minor items. She states we have already released 92 percent of the total bond.

On a motion by Mr. O'Brien, seconded by Sullivan, the Board voted to release \$29,000 of the performance guarantee and retain \$8,500 the remaining work subject to the approval of the Department of Public Works.

Roll Call Vote

Mr. O'Brien	Aye
Mr. Sullivan	Aye
Chairman Batty	Aye

## 5. CONTINUED BUSINESS

- A. None

## 6. COMMUNICATIONS

- A. Draft Demolition Delay Ordinance regarding historic properties (see below)

The Planning Board recommends that the City Council defer first passage of the ordinance and that the Council refer to the Planning Department and Planning Board for review and recommendation.

## 7. ANNOUNCEMENT

- A. Next Meeting – **Monday, February 13, 2006, 7:30 p.m.**, Room 306
- B. Ms. Boyle announced that the Walgreens development for Master Plan Approval will be before the Board at their February 13, 2006 meeting.

Mr. Batty asked if staff will have representation from the Engineering Division regarding the traffic peer review. Ms. Boyle states yes, it is the same process and it is her understanding that Chairman Robinson will be recusing himself. Mr. Batty states that he has been talking a lot to people in the area and more than 75 percent want this store; they are not worried about the traffic.

## 8. ADJOURNMENT

On a motion by Mr. O'Brien, seconded by Mr. Sullivan, the meeting adjourned 8:30 p.m.

The Planning Board meeting of January 9, 2006 was called back to order in regard to the "Demolition Delay Ordinance" Mr. Batty explains that the purpose of this Ordinance is to provide a process for review alternatives to demolition of potentially significant buildings and structures within the City of East Providence that contribute to the historic resources and character of this City and to create an incentive for the continued use of existing structures. He informed the Board that the Council wants the Planning Board to give a recommendation to them. Ms. Boyle suggested that the Planning Department and Planning Board could review the ordinance prior to the Board's February 13 meeting and then she will draft a memo to the Council for their January 17 meeting asking them to defer first passage until the Planning Department and Planning Board have time to review it. She suggests that the Board vote to put this on their February agenda. By then the Planning Department will have a recommendation and analysis for the benefit of the Board.

Motion

On a motion by Mr. O'Brien, seconded by Sullivan, the Board unanimously voted to advise the Council that they defer first passage of the Demolition Delay Ordinance until after the Planning Board and Planning Department has reviewed this draft ordinance which will be placed on the February 13<sup>th</sup> agenda of the Planning Board.

Roll Call Vote

Mr. O'Brien	Aye
Mr. Sullivan	Aye
Acting Chair. Batty	Aye

The meeting was again adjourned at 8:45 p.m.

Respectfully submitted,

Burton Batty  
Acting Chairman  
Planning Board

BB/JMB/sac