

July 11, 2005 - Regular Planning Board Meeting

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES OF JULY 11, 2005

Present were: Merandi Reporting, Messrs. Almeida, Batty, O'Brien, Gerstein, Robinson, Patrick Hanner (staff) and James Moran (staff).

1. SEATING OF ALTERNATE MEMBER

Mr. Gerstein was seated in place of Mr. Sullivan.

2. APPROVAL OF PLANNING BOARD MINUTES

A. Minutes of June 13, 2005

Chairman Robinson states he was not here for the June 13 meeting so he will be abstaining from the vote.

On a motion by Mr. Almeida, seconded by Mr. O'Brien, the minutes of June 13, 2005 were approved and made part of the Board's official record.

3. APPROVAL OF PLANNING BOARD CORRESPONDENCE

4. NEW BUSINESS

A. Release of Performance Guarantee – 2 Ellis Street, Appl. #2003-04Minor

Patrick Hanner explained that on June 9, 2003 the Planning Board approved a two lot minor subdivision on Ellis Street. At the time, the Board required the installation of granite curbing as well as that the applicant post an improvement guarantee. It was recently discovered that a city drain line is located along the edge of the right-of-way of Ellis Street preventing the installation of curbing. This was discovered by the contractor. The Department of Public Works inspected the site and confirmed that curbing cannot be installed along the entire frontage of this site. The Administrative Officer, being the Director of Planning, issued a minor modification to an approved final plan that granted a waiver for the requirement of installing granite curbing. At this time, the applicant is not required to install the granite curbing and staff is requesting that the \$4,000 improvement guarantee be released by the Board.

Motion

On a motion by Mr. Batty, seconded by Mr. O'Brien, the Board voted to releases the performance guarantee.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Gerstein	Aye
Chair Robinson	Aye

B. Public Hearing - Appl. #2004-24-Major, Metacomet Avenue, Map 305, Block 7, Parcels 46 & 47

Mr. Martin Sleprow, attorney for the applicant, was sworn in. Mr. Sleprow stated that he is representing the applicant which is also present to testify. Mr. Sleprow explained that this is a major subdivision and the applicant is proposing seven residential single-family dwellings. It is on an existing street and there are no commercial buildings on the site. The site is zoned Residential. The applicant is proposing seven single-family dwellings and is not seeking any waivers. The applicant is proposing concrete curbing, sidewalks etc. Street trees are also part of the application. There are no zoning variances of any type. Mr. Sleprow states he has read the Planning Department report and agrees with it. There are no negative impacts with the plan and it is consistent with the Comprehensive Plan as noted in the Planning report. He states he has reviewed the conditions within the staff report with his client and they agree to all eleven. Mr. Sleprow is requesting that the Board delegate final plan approval to the Administrative Officer, Ms. Boyle.

Mr. Batty stated he went by the site and it is all cleaned up and ready for development. He also noticed there are no deviations from zoning as far as the square footage of the lots etc.

Mr. John Davis, 11 Auburn Street, Cranston RI was sworn in and wanted to go on the record of stating that the parking will be adhered to as far as the regulations. We are getting a lot of feedback from people who want to go back to ranch style houses, single level, one floor. He states he has an elderly couple that is looking for such as house. Possibly these houses may require two parking spaces, some of the parking spaces will be on the side yard. It will be 26 feet wide by 44 feet deep; a typical ranch. We will not be seeking any zoning variances.

At this time, Patrick Hanner went through the staff recommendation. He states this is a major subdivision with three stages; Master Plan, Preliminary Plan, and Final Plan approval. The master and the preliminary plan have been combined and this is before the board as a public meeting. Residents within a 200-foot radius were notified by certified mail and advertised in the Providence Journal. This is a seven-lot subdivision, parcels ranging from 5,600 square feet to 6,700 square feet. All of the parcels conform to zoning.

The applicant is proposing granite curbing, concrete sidewalks, a fire hydrant, and street trees. They are also proposing to repave this section of Metacomet Avenue since the installation of utilities will require several cuts into the existing pavement. Mr. Hanner noted that eight street trees are proposed for this subdivision which will be along the City right-of-way and each of the new property lines. Each single-family house has a drywell system. They are proposing elevations to be maintained at around 29 feet for the entire site and building elevation at 30 feet. The City Engineer has also reviewed the plan and has signed off on the drainage. The application is not requesting any waivers of any kind.

Mr. Hanner states it is the opinion of the Planning Department that this development is consistent with the Comprehensive Plan, the Land Use 2010 Plan. All the General Purposes have been addressed of Section 1-2 as well as Positive Findings for Section 5-4.

Staff asks the Board to approve the subdivision as proposed subject to the following 11 conditions:

1. That granite bounds are installed on all property corners along the frontage of Metacomet Avenue;
2. That the residential use of the seven dwellings be restricted to single-family use and accessory uses in perpetuity;
3. That the applicant submits an estimate for all proposed improvements within the City's right-of-way and approved by the Director of Public Works to be held by the City as an improvement guarantee;
4. All proposed curb materials and installation work must conform to City standards and granite transition curbs are required at each side of proposed driveways;
5. A revised title report must be submitted that addresses whether any restrictions or covenants are present on parcels 45 and 47.
6. That the applicant must bear the cost of cutting and plugging the existing fire service line at the main;
7. That any outstanding property taxes be paid to date before a final plan approval is granted;
8. That the title block of the Final 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 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.

11. That upon project 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, including final inverts, rims, sewer lateral depth, and locations (swing ties) to all permanent structures.

At this time, Chairman Robinson asks if there are any questions or comments from the public.

Public Comments

Susan Amato, 24 Rosemere Drive was sworn in. She states that she lives directly behind this subdivision. She asks if the applicant will be putting in fencing along the back or any type of buffer? The applicant states they have no intention of taking that fence down that is currently there or putting up a new one since that would entail gutting out that area and has no intention of putting in anything. He also states he does not own that fence in the back. Ms. Amato said she prefers that the now standing fence stay and not be taken down unless the applicant is going to put up some kind of buffer materials. The applicant states that usually the new owners will probably put planting or something up.

Mr. Hanner noted that a six-foot stockade fence that runs behind all proposed seven parcels. According to the survey, the fence is either located directly on the existing property line and some cases it six inches to the north and south of the property line. We cannot tell by the survey who owns it, but it was probably installed without the benefit of a survey.

Eleanor Monteiro, 28 Metacomet Avenue is sworn in. She states she is directly across Lot 5. She asks what type of style homes will be built. The applicant said these lots will be sold to different developers so a lot will depend on what people want to buy. Possibly ranches, raised ranches, colonials etc. All we have committed to is that we will not ask for any variances, but they will definitely be single-family homes, some with porches.

Mr. Batty asked about condition # 6 where it states that the applicant must bear the cost of cutting and plugging the existing fire service line at the main. He asks if there is a sprinkler system to that existing building? It was answered yes.

At this time, Mr. Hanner asks that the Board adopt the staff memorandum into the Board’s official record.

Motion

On a motion by Mr. Almeida, seconded by Mr. O’Brien, the Board voted unanimously to adopt the staff memorandum into the Board’s official record.

Based upon the submitted application and testimony presented to the Board and the Planning Staff Report and memoranda of various City Departments all 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 the standards of Section 5-4 Required Findings it is also apparent that the proposed subdivision is consistent with the East Providence Comprehensive Plan.

Motion

On a motion by Mr. Batty, seconded by Mr. Almeida, the Board unanimously voted to grant conditional approval of the subdivision as proposed.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Chair Robinson	Aye

Motion – Delegation of Final Plan Approval

On a motion by Mr. Batty, seconded by Mr. O'Brien, the Board voted unanimously to delegate Final Plan Approval to the Administrative Officer.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Chair Robinson	Aye

C. 1. Appl. # 2005-06 Minor Pleasant View Subdivision, Applicant: Robert E. Moll, Map 604, Block 1, Parcel 32

The Chair states that this is a two-part subdivision and the second part will be an advisory recommendation to the City Council.

Attorney S. Paul Ryan, 670 Willett Avenue, attorney for the applicant was sworn in. Mr. Ryan states he has two witnesses, Brian Thalmann of Thalmann Engineering and Robert Moll, the developer of the property.

Attorney Ryan states that this is a minor subdivision. He said that at one time they were going to do a major subdivision with a cul-de-sac, but changed it because in order to keep the lots in conformity they came up with a plan that is part of the application. He

explained that the City took by tax sale a six-inch strip almost 40 years ago in which they took title to it in the early 80's. He checked with all the title laws in RI and they all agreed it does not merge. The second part of this application tonight is getting the six-inch strip and expanding the City's right-of-way, which is the only way legally to affect that expansion of the right-of-way. It does not automatically create an extra right-of-way. Attorney Ryan also states there is no road creation and there will be less lots than what was first noted.

Mr. Brian Thalmann, President of Thalmann Engineer, 10 Industrial Drive, Smithfield RI is sworn in. He says he is also a licensed professional engineer in Rhode Island. He is here on behalf of the applicant, Robert Moll. This is a five lot minor subdivision without street creation. The parcel is bounded by Pleasant Street to the southwest, Sylvan Avenue to the north, and Hood Avenue to the east. There is an existing dwelling that is located at 95 Hood Avenue that will be created as a separate lot. The remaining parcel will be cut into four new lots, all exceeding the zoning requirements. The lot sizes of the five lots range from slightly over 12,000 square feet to 52,000 square feet. Mr. Thalmann stated he has met with various City officials and we were told that the necessary water and sewer connections are available in addition to obtaining a physical alteration permit for the two houses that front along Pleasant Street. He said he reviewed the Planning Department's memorandum and agrees with all six conditions. We felt this was the least intrusive way to develop this parcel and still maintain the aesthetics of the Rumford neighborhood.

Mr. Robinson asked for clarification regarding the six-inch strip along Sylvan Avenue. Mr. Thalmann noted that this was taken by tax sale. The other six inches are already owned by the City. The six foot six inch strip that Mr. Moll will convey to the City will increase the right-of-way to the required width because at this time, the current right-of-way does not meet the City standards.

Robert Moll, 13 Penny Lane, Cranston, RI, owner of the property is sworn in. He explained that as part of his application, curbing and sidewalks will be installed along Pleasant Street and Sylvan Avenue and curbing only on Hood Avenue. Mr. Robinson states that the Director of Public Works has suggested that the sidewalks be 5 feet wide and the plans are only indicating 4 feet wide. Mr. Moll states he will meet with Mr. Coutu and will increase the sidewalk width onto his property.

At this time, Mr. Moran presented the Planning Department staff report. Mr. Moran states that this is a minor subdivision application. There is no street creation, therefore it does not require any public hearings. There are two phases of the subdivision; preliminary and final plan. The COC was issued on this development on June 28th. Abutters within a 200-foot radius were notified by registered and certified mail. He states that the Items for the conditions will be entered as part of the Board's record. He gave a brief overview. There are five lots ranging from just over 12,000 to 52,000 square feet. They meet all the requirements of Zoning. Minimum of 10,000 square feet, 25-foot rear yard, 20 foot side yard, front yard 25 feet and rear yard 25 feet. They have 210 feet of frontage on Pleasant Street, 227 feet of frontage along Sylvan Avenue, and about 16 feet

along Hood Avenue. 95 Hood Avenue is an existing structure as indicated by Mr. Thalmann.

Mr. Moran stated that as part of the development, it is necessary to build improvements including sidewalks and curbing. As part of the submission, Thalmann Engineering submitted an estimate of \$33,799 to complete the work under the Performance Guarantee. It was found to be acceptable by the Department of Public Works. Public Works has identified several other issues and the Department of Planning recommends that all of these requested changes and modifications be identified and incorporated into the Final Plan.

In regard to the drainage issues on Sylvan Avenue, it was requested that the applicant review possibilities to make sure that there is zero net runoff and no impacts on neighboring property owners as part of their development scenario on the final plan. This was incorporated in the staff report.

Mr. Moran states that the Zoning Officer's memorandum identifies the issue related to the strip. Attorney Ryan identified what is being proposed as part of the development proposal that is to eliminate the six-inch strip of land. It is 227 feet long which would require City Council approval and then at the same time dedicate a six foot six inch wide piece of land along with that to increase the width of Sylvan Road to a 40 foot right-of-way width. At the present time it is 33 feet. This would increase it to 40 feet which is the City standard.

Consistency with the Comprehensive Plan

Mr. Moran states that this development is identified in the Comprehensive Plan as a low-density residential area. The density is no less than 5.8 dwelling units per acre. This development does meet that standard for development. Also, under items A through G in the staff report all the particular elements of the Comprehensive Plan in terms of compatibility are met. There is Consistency with the General Purposes of the East Providence Land Development and Subdivision review Regulations. The Planning Department reviewed this for consistency with Article 1, Section 1-2 of the Land Development Regulations and found it to be consistent with the Land Development and Subdivision Review Regulations.

Mr. Moran noted there are no waiver requests with this particular development and noted the recommendation below:

Based on the finding that the proposed subdivision is consistent with the East Providence Comprehensive Plan, that it meets the General Purposes of Article 1 of the Regulations and that the required positive findings of Section 5-4 can be met, the Department of Planning recommends Conditional Approval of the requested Preliminary Plan submission subject to the following:

1. That all comments in the technical staff memoranda to the Planning Department and all other requested modifications identified in this recommendation memoranda be incorporated into the plans as submitted, and any and all conditions of the Planning Board approval be reflected in the Final Plan submission;
2. That the Final Plans and supporting documentation be based upon this Preliminary Plan approval, and that the Final Plans meet all City regulations and ordinances, and all applicable State and /or Federal Regulations;
3. That the applicant obtain the approval of the City Council to eliminate that parcel referenced as Map 604, Block 1, Parcel 31 and the acquisition of the referenced six foot six inch strip for the purposes of increasing the right-of-way width of Sylvan Avenue from its current right-of-way width of thirty-two (32) feet to a right-of-way width of forty (40) feet;
4. That all appropriate utility easements associated with this development are reviewed and approved by the City Solicitor's office;
5. That the applicant post a performance guarantee in the amount of \$33,799 as part of the Final Plan Review submission and;
6. That upon project 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, including final inverts, rims, sewer lateral depths and locations (swing ties) to all permanent structures.

Mr. Moran stated for the record, that the Law Department also reviewed this application and they found it to be acceptable.

B. Final Plan Review

The Planning Department recommends that the Planning Board delegate Final Plan Approval of this subdivision to the Administrative Officer under Section 9-10 of the Land Development Subdivision Review Regulations.

Motion – Staff Memorandum and Exhibits

On a motion by Mr. Batty, seconded by Mr. O'Brien, the Board unanimously voted to accept the Planning Department's report and attached memoranda and make them part of the official record.

PUBLIC COMMENTS

Chairman Robinson asked the public if they wish to speak at this time.

Robert Cabello, 16 Reservoir Avenue, Rumford, RI is sworn in and asks that once this development is approved, can they do anything else in there without coming back to the Planning Board? Mr. Moran states that they could come in for an Administrative Subdivision which would be reviewed by the Administrative Officer and staff, but it would not likely be required to go before the Board. Mr. Cabello also asked if those homes were already in the planning stages. It was answered no.

William Kelly, 10 Reservoir Avenue, Rumford, RI is sworn in. He asks about the shaded large space depicted on the plan between the middle of the lots. It was answered that that parcel is generally wooded, it is a second growth type of tree. We are proposing limited clearing to provide for the construction of the dwelling and then a small recreational yard. We do not have frontage on any existing city streets so if we did change the plan we would have to come before the Planning Board again. Whoever buys lot four will have all that growth on it. It will be an L-shaped lot and behind the existing house will be part of lot 4 also.

Tom Foley, 11 Reservoir Avenue, Rumford, RI was sworn in. He asks why the land that is an L-shape is not going to be divided between the four houses that surround it so each of the four houses would have had a larger lot. Mr. Ryan states this was a specific request by the developer to configure that lot accordingly. Mr. Foley said if he wanted to take down the house at 95 Hood and put a street in there, would he have to come before the Board to put a road through there. Can the land be turned over to the Land Conservation in East Providence? Chairman Robinson states he supposes it could, but that is not what is before the Board right now. It was asked about the drainage. Regarding the drainage at the site, it was stated that the soils that were revealed in the test pits indicated it is a granulated material and is certainly capable with dealing with any increases of runoff through a drywall system.

John Nixon, 63 Sylvan Road, Rumford, RI was sworn in. He states that he is concerned because of the lack of privacy that this development will bring. He states that Mr. Moll, the applicant, came to his house about two months ago to explain what he was going to do. It was well done and very much appreciated by all of the neighbors. Mr. Nixon states he has lived at the corner lot for about 35 years. It was explained at that time why the spite line six inches was deeded to the City. It was there to protect the neighbors from the development of this property so there could not be access into this property at least from Sylvan Road. That is why the spite line was there. A couple of months ago go when Mr. Moll came to explained what his intentions were with the property it was not this design presented here tonight. It was three houses two of which had frontage on Pleasant Street. The people living near this development now are getting the short end of the stick. We are losing our privacy and suppose he puts in a cul-de-sac. Chairman Robinson states that this is the developer's property and the proposal that he has brought in is not a cull de sac, it is the plan that is before this Board tonight.

Mr. Nixon states that the reason the area was deeded to the City in the first place was to protect these property owners here. If you are going to break that spite line and allow the development of this house, our preference would be to allow the cul-de-sac to go in there.

Mr. Nixon states that he wants to have his privacy a little more protected than having a driveway and garage 20 feet from his property line. He suggests a buffer trees or something that could protect his privacy. He states he would like to have the opportunity to purchase this property, but it was too much money. He asks that the Board give them some consideration in protecting their privacy and to not break the spite line.

Mr. Ryan said that 35 years ago the owners of properties which had spite lines on them could go to superior court and have the line eliminated. In this case, the City actually did not have the spite line. In 1968, the City took the six-inch strip from the owner through a tax sale. He explained that there are spite lines, but you don't see too many of them owned by municipalities. Usually there are old farms in them and then over the course of time because the way they are designed; usually they are two feet wide and just from the very way that they are developed they fell into disfavor in terms of the courts on an equity basis because one in effect was preventing frontage by a very minimal investment in a piece of land and literally had adversely affected some other property owners in the process. He said regarding the cul-de-sac that was something that we spoke to the City about.

Mr. Robinson asks if there is evidence by our Law Department that that line cannot be eliminated by the City? The applicant responded no and that the City of East Providence preferred that the cul-de-sac not being developed off that corner of Sylvan Road and rather have the width expanded on Sylvan and then have sidewalks. The City felt that was better for the neighborhood. The elimination of the cul-de-sac eliminated a lot. The viability of the spite strips in 2005 is something that they just don't see happen anymore.

Mr. Robert Moll stated that it was almost a suggestion by the City to explore the possibility of widening the right-of-way there and creating a better situation for all. It was more the consideration of the neighborhood and me sitting and meeting with them that pointed me towards the four lots instead of the possibility of asking for a cul-de-sac and six lots or emulating what the developer did on Carriage Lane which was to put in the road and ask for 10 lots. That would be overburdening for this piece of property and I took the neighborhood into consideration.

Sharon Nixon, 63 Sylvan Road asks what the requirements are of the builder as far as putting in buffers etc. It was answered there is no regulation on that, but the development states he will assure the neighbors that he will not cut down anything mature within five to 10 feet of the property line. He states he will keep as much growth there because he feels more comfortable selling the new houses with as many trees as possible.

Elsie Cabello, 16 Reservoir Avenue is sworn in. She asks if there are any prospective buyers. She states she would prefer the cul-de-sac with the six houses and that would be the end of it. It would be a more honest way of presenting it. We are now still left with this open land that someone could turn around and within a year or so and buy it for development and put a road in. Chairman Robinson states that would be extremely difficult for anyone to do that.

Mr. Batty states that he has lived in his home for 40 years and a five-lot development is being built behind his house. He says he does understand how the neighbors feel about the privacy issue. The developer states that he will state on the record that he will not be purchasing or putting in a roadway. There will be no additional roads built by him on that property. Tom Foley asks how that would be stipulated? If was answered it would be read into the record and made part of the Board's official record. Chairman Robinson states if this is part of the stipulation, that restriction would bind future purchases. It could be placed on the plan and the time of final submission.

There were no other questions.

Motion - Subdivision

On a motion by Mr. Batty, seconded by Mr. Almeida, the Board voted based upon the submitted application and testimony presented to the Board, Planning staff report and memoranda from various City Departments. All 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 the standards of Section 5-4 Required Findings. It is also apparent that the proposed subdivision is consistent with the East Providence Comprehensive Plan. It was also noted that a note would be placed on the Final Plans that no additional roadways would be built within the development.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Chair Robinson	Aye

Motion – Delegation of Final Approval to the Administrative Officer

On a motion by Batty, seconded by Mr. Almeida, the Board unanimously voted to delegate final approval to the Administrative Officer

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Chair Robinson	Aye

2. Advisory Recommendation to City Council regarding disposition/acquisition

Chairman Robinson states that on a related matter the issue is with respect to an advisory recommendation to the City Council regarding the disposition and acquisition of the six foot six inch strip on the development parcel.

Mr. Moran reported that based upon current law in relation to the six inch strip and dedication of the six foot six inch strip, it is prescribed by law that the strip be eliminated through City Council action. The Planning Board would be required to submit a recommendation to the City Council to take action to eliminate this six-inch spite line and then accept the dedication of the six foot six inch strip as part of the development. This particular memorandum submitted by the Planning Department recommends that the Board advise the City Council that the six inch strip referenced as Map 604, Block 1, Parcel 31 be eliminated and they accept the dedication of the six foot six inch strip for the purposes of widening the right-of-way along this section of Sylvan Road.

Motion

On a motion by Mr. Almeida, seconded by Mr. O'Brien, the Board voted to include the staff report into the Board's official record.

Motion – Recommendation to Council

On a motion by Mr. Batty, seconded by Almeida, the Board unanimously voted to advise the City Council to eliminate the six inch spite strip identified as Map 604, Block 1, Parcel 31 and dedicate the six foot six inch strip to the City for the purposes of widening Sylvan Road.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Aye
Chair Robinson	Aye

D. Appl. #2004-22 Minor Outlook Avenue Subdivision, applicant Thomas & Lisa Pinheiro, Map 308, Block 2, Parcels 2 & 3

Thomas and Lisa Pinheiro were present and sworn in.

Patrick Hanner presented the staff report. He stated that this subdivision is slightly complicated since there are two critical easements involved with this subdivision.

Present on the site are two parcels, parcel 2 which is 12,944 square feet having frontage on Grassmere and Outlook Avenue and Parcel 3 which is 23,484 square feet which has frontage only on Grassmere Avenue. Located on the two parcels is an easement for a 30-inch diameter waterline which is the main water supply for the City. It runs through

these two parcels supplying water and pressure throughout the city which originates from the Situate Reservoir. Located on parcel 2 for its entire width is a Narragansett Electric easement for overhead power lines. The applicants are in discussions with Narragansett Electric for permission to cross the easement to access proposed parcel 3. Narragansett Electric has conditionally approved the request pending approval of the subdivision.

This is a three lot minor subdivision. The applicants are proposing to take those two existing parcels and create three parcels. Parcel 3 is proposed at 9,031 square feet. Parcel 3 will retain frontage on Grassmere Avenue and Parcel 3.1 will have frontage on Outlook Avenue. This department questions the creation of proposed parcel 2 with a proposed lot frontage of 37 feet. Parcel 2 is owned by the applicant's aunt at 71 Outlook Avenue. For the purposes of zoning, these parcels are considered merged since parcel 2 is dimensionally non-conforming and the two parcels share common ownership. The Planning Department suggest eliminating the property line between parcel 2 and 71 Outlook Avenue, which would create a single parcel.

Mr. Batty asked if the owner could deed it to Narragansett Electric. Mr. Hanner said yes. It was noted that the owner purchased it at a tax sale.

Regarding the easement, Mr. Batty notes that the City has the right to dig that up if they need to go in there. The owner understands this.

Mr. Hanner noted that staff intentionally asked the applicant to place all the utilities from 76 Grassmere so there is no disturbance of that 30-inch waterline.

Mr. Batty states that there are electric towers located on the site. Would we have to designate something to say that no one can dig in that area and note the 30-inch waterline. Mr. Hanner states that the area in red is the easement with the City. We can place conditions on this tonight such as no fences or structures within the easement.

Mr. Batty request if the location of the waterline can be marked. Mr. Hanner stated that can also be a condition. Mr. Batty asks that the City mark where the pipe is on his property.

Mr. Almeida states that the City of East Providence should know where the waterline is and they are the ones that should put the signs up. Mr. Moran states that they can make that a condition and perhaps the Department of Public Works could provide them through the Highway Division. It could probably be handled administrative. We will ask the Law Department and to who should go out there and mark it and exactly where it should be marked.

Mr. Hanner noted that for visibility, an iron pipe could be installed where the easement intersects the property line.

There were no other questions or comments.

Mr. Hanner added that the applicant is requesting a waiver for sidewalks and curbing. He noted that sidewalks and curbing are almost non-existing in this neighborhood. Staff recommends denial of the request for a waiver of curbing and approve the applicant's request for a waiver from the requirement of installing sidewalks.

After discussion about the curbing. Mr. Hanner noted the curbing would be on Grassmere and Outlook Avenue. The concrete curbing ends on Grassmere. Mr. Moran explains that when you come in for a subdivision application all bets are off in terms of grandfathering. When you come in for a subdivision, all the new standards come into place and it requires under the standard that granite curbing be installed. Concrete curbing does not hold up as well. Mr. Hanner noted that staff is recommending that the granite curbing be installed for the entire length on the frontage of Grassmere Avenue and about 10 to 15 feet on Outlook Avenue as well as curb return and then the driveway.

Mr. Hanner noted there are no existing sidewalks along the frontage of the Narragansett easement. There are sidewalks in front of 76 Grassmere. It would be about 112 feet of granite curbing at Grassmere Avenue. Planning staff is recommending curbing along the two frontages.

Mr. Almeida asks how long we give them to put in the granite curbing? Mr. Moran said the applicant must post a performance guarantee and the City holds it until the work is done, but does not know how much time the City actually gives them before it is considered a lack of compliance. Mr. Almeida asks if the City gives them a specific time to put the curbing in.

Mr. Almeida mentions Rutland and Mason Avenue. He said they built the house, the house is up and the curbing is in there, but another development on Rutland Avenue that was approved which has been about five years ago still does not have curbing. He would like to see the Board's decision on whether or not it waived the curbing. His concern is that these developers can come in and not have to put up curbing and sidewalks in some of these developments. It is not right that the homeowner has to do it when they purchase the house and says he does not agree with it at all.

Mr. Hanner noted that the developers for Rutland and Mason Street Subdivision were required to install curbing. The subdivision that occurred on the other side of the street which was four or five years ago, no curbing or sidewalks were required by the Board. At the time, Rutland was a dirt road and it was just an extension of street creation with a dead end.

Mr. Moran stated that most developers when they post a performance guarantee are eager to get their money back and will put it in right away. The City will hold the money until they do.

Mr. Hanner concluded that the proposed Parcel 3 will require relief from zoning. The ordinance requires two parking spaces for a single-family dwelling unit, but only one of those parking spaces can be located in the front yard. Currently, two parking spaces are

located in the front yard. The applicant will have to go before the Zoning Board for a dimensional variance for two parking spaces located within the front yard.

For the proposed Parcel 2, the Zoning Officer may require relief from the frontage requirement of 40 feet. There may be additional variances, this subdivision was reviewed by the Zoning Officer as proposed parcel 2 not being merged with 71 Outlook Avenue. The plan must be resubmitted to the Zoning Officer showing that lot 2 is proposed to be merged with 71 Outlook Avenue in order to identify all necessary variances.

Mr. Hanner noted the application was reviewed by the City Departments and staff finds that this subdivision is consistent with the Comprehensive Plan and the land use 2010 Plan. All the General Purposes of Section 1-2 have been addressed and Positive Findings were found in Section 5-5.

Recommendation

The Planning Department recommends that the Board delegate Final Plan Approval to the Administrative Officer and also that the Board grant Condition Approval of the subdivision subject to the following 12 conditions:

1. That any and all required variances be obtained from the Zoning Board of Review, and that a note be placed on the final plan indicating which variances were granted, date of the Zoning Board approval, and recorded book and page of the East Providence Land Evidence Record;
2. That the proposed parcels be designated on the plan as parcels A, B, and C, not as they are currently designated as parcels 2, 3, and 3.1.
3. That the exact location and distance of the proposed single-family dwelling to the 30" water line is approved by the Administrative Officer and Director of Public Works before final plan approval is granted;
4. That all utilities including gas, water, sewer, electric, cable, and telephone are connected to the proposed single-family dwelling to be located on parcel 3.1 from Grassmere Avenue. A utility easement must be submitted to the Planning Department for review and recorded by the applicant in the Land Evidence Record before a final plan approval is granted;
5. That the front, side, and rear-yard setbacks for parcel 3 are shown on the plan;
6. That the residential use of the proposed dwelling on parcel 3.1 is restricted to single-family use and accessory uses in perpetuity;

7. that the applicant post an improvement guarantee in an amount determined by the Public Works Department for any required improvements to the City's right-of-way;
8. That any outstanding property taxes be paid to date before a final plan approval is granted;
9. That the title block of the Final Plan be revised to indicate Final Plan status;
10. 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;
11. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements;
12. That upon project 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, including final inverts, rims, sewer lateral depths, and locations (swing ties) to all permanent structures. and
13. That a sign be posted 12" x 18" or a similar dimension provided by the City subject to the approval of the Law Department, and that the sign be provided by the City indicating the approximate location of the water line; and
14. That adequate compaction be done under the area of the new curbing

Mr. Batty questioned the footage of easement for the gas and water. His concern is that if they dig seven feet down and the water line is at four or five feet, when they back through those trenches they are compacted. Curbing should not be put there right away because it will not stay in a nice straight line. We should specify that the trenches be mechanically compacted. Mr. Moran states that this issue is subject to the review of the Building Inspector. Mr. Hanner noted that curbing is always the last step. The Public Works office will be asked to make sure that settling does not occur. Mr. Batty asks that this be noted in the conditions.

Motion - Staff Memorandum

On a motion by Mr. Batty, seconded by Mr. Almeida, the Board voted to approve the staff memorandum and attached memoranda and made them part of the Board's official record.

Motion – Sidewalks and Curbing

Mr. Batty made a Motion to deny the applicant's request for waiver on the granite curbing and approve the applicant's request for waiver of sidewalks along the frontage on

all three parcels, in that there will be curbing on Grassmere from the beginning of Lot #76 up through and including the Narragansett Electric Co. easement of 112 feet in length and on Outlook Avenue curbing be placed to the left and right of their driveway just on the end of the road, and that there be no sidewalks. There was no second to the motion. Motion does not pass. Below is more discussion.

There is a question on the grounds for granting a waiver. Chairman Robinson reads from the staff memorandum starting on page 3 and 4. He states that the grounds for granting a waiver is where the literal enforcement of one or more provisions of the Regulations is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question or where such waiver and/or modifications in the best interest of good planning and/or design as evidenced by consistency with the City's Comprehensive Plan and Zoning Ordinance. Chair states he does not see where that meets that standard. I could see where it would meet that standard to sidewalks, but not curbing. There has already been testimony that the concrete sidewalks are crumbling and are in bad shape.

Mr. Batty says that because there is an easement there used by the City and used by Narragansett Electric we should not impose on this gentleman and his wife to put curbing in front of that piece of property. I believe in this instance it would fall under the *grounds for granting a waiver category*.

Motion

On a motion by Mr. Batty, seconded by Mr. Almeida, the Board voted to approve curbing on the frontage of 76 Grassmere from property line to property line, but to have no curbing within the 37 feet of the Narragansett easement, then continue the curbing again on the frontage of Outlook and the curb returns for the driveway.

Mr. Almeida states he does not agree that a new owner should put curbing in when the developer can do it.

Roll Call Vote

Mr. Almeida	Nay
Mr. Batty	Aye
Mr. O'Brien	Nay
Mr. Gerstein	Aye
Chairman Robinson	Nay

Motion failed to pass. There was more discussion.

The Chair states he is in favor of curbing for the entire area, but needs an alternate motion. There was more discussion on the curbing on Grassmere and Outlook at this time.

Mr. Moran states that if this subdivision is approved tonight, the applicants can go for a variance in August. Mr. Batty and Mr. Almeida both agreed that they do not feel that the applicant should have to go to the Zoning Board. Mr. Moran said that issue was outside the jurisdiction of the Planning Board.

Motion

On a motion by Mr. Batty, seconded by Almeida, the Board voted 3-2 to grant the requested waiver of the applicant for sidewalks and to deny the requested waiver for curbing on Grassmere Avenue up to the easement and not including the 37 feet of Narragansett Electric easement and excluding the driveway, and to have curbing on the frontage at Outlook Avenue and returns in the driveway.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. Gerstein	Aye
Mr. O'Brien	Nay
Chairman Robinson	Nay

Motion – Conditional Approval

On a motion by Mr. Batty, seconded by Mr. Almeida, the Board voted to approve the subdivision with the conditions, 1 through 14 noted in the staff recommendation.

Roll Call Vote

Mr. Almeida	Aye
Mr. Batty	Aye
Mr. O'Brien	Aye
Mr. Gerstein	Aye
Chairman Robinson	Aye

Motion – Delegation of Final Plan Approval

On a motion by Mr. O'Brien, seconded by Mr. Almeida, the Board voted unanimously to delegate Final Plan Approval to the Administrative Officer, Jeanne Boyle.

E. Change in August 8 meeting because of the holiday.

It was noted that Stephanie Camille would poll all the members to change the August 8 meeting to possibly August 22.

5. CONTINUED BUSINESS

A. Staff Report

6. COMMUNICATIONS

On a motion by Mr. Batty, seconded by Mr. Almeida, the Board voted to make the communication below part of its official record;

A. Copy of memo to the Zoning Board of Review from the Department of Planning, Re: Requests for Variance and Special Use Permit to be heard on June 29, 2005.

7. ANNOUNCEMENT

A. Next Meeting – Monday, August 22, 2005, 7:30 p.m., Room 306

8. ADJOURNMENT

The meeting adjourned at 9:30 pm.

JMB/sac