

May 10, 2004 - Regular Planning Board Meeting

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES OF MAY 10, 2004

Present at the meeting were Messers. Almeida, Batty, Cunha, Gerstein, O'Brien Robinson, Diane Feather (staff), Zac Gordon (staff), and Tim Chapman, Assistant City Solicitor.

I. SEATING OF ALTERNATE MEMBER

Mr. Cunha was seated as the alternate member since Mr. Sullivan could not be present.

II. APPROVAL OF PLANNING BOARD MINUTES

A. Minutes March 8, 2004

On a motion by Mr. Batty, seconded by Mr. Almeida, the Board approved the minutes of March 8, 2004

B. Minutes of April 19, 2004 (to be submitted)

It was noted that the minutes of April 19 would be forthcoming.

III. APPROVAL OF PLANNING BOARD CORRESPONDENCE

A. Memorandum dated 4/20/04 to the City Council, Re: Request for Release of City Drainage Easement, Park Drive, Map 513, Block 17, Parcel 13

On a motion by Mr. Almeida, seconded by Mr. O'Brien, the Board unanimously voted to accept the correspondence above.

IV. NEW BUSINESS

A. Application #2004-08 Minor – Tab Avenue Subdivision, Applicants: Robert L. and Sharon Glaude

Chairman Robinson introduced the application of Robert L. and Sharon A. Glaude and requested that the Planning Department present its staff report. Zac Gordon presented the Planning Department staff memorandum to the Board. Mr. Gordon indicated that the applicant's were proposing a two (2)-lot subdivision, which consisted of the relocation of a lot line. Mr. Gordon explained that this was the first of two (2) stages of review: preliminary and final. Mr. Gordon noted that the Board has 65 days from the issuance of a "Certificate of Completeness (COC)" to render a decision on this application. Mr.

Gordon stated that A COC was granted on May 5, 2004. Mr. Gordon informed the Board that abutters were notified about this proposal by certified mail, sent on May 6, 2004.

Mr. Gordon gave a brief overview of the proposed subdivision. Mr. Gordon noted that this subdivision involved the relocation of the lot line between Lots 23 & 23.1, located at 75 Tab Avenue. This lot line relocation is necessary to eliminate the encroachment of the existing structure on Lot 23. Mr. Gordon noted that there is presently a single family dwelling on Lot 23. Lot 23.1 is vacant. Mr. Gordon informed the Board that the Public Works Director, Stephen Coutu, had advised the Planning Department that there is an unimproved dead-end right-of-way located adjacent to this lot (Lynn Avenue), which Public Works is recommending be abandoned. Mr. Gordon explained that since this matter is unrelated to the subdivision being proposed, it would be addressed at a later time.

Mr. Gordon noted that the proposed subdivision would have minimal traffic and drainage impact.

In terms of Zoning, Mr. Gordon explained that the proposed lots are located in an R-4 District and will comply with all dimension requirements, except lot width (lots 23 & 23.1) and building coverage (lot 23.1). Mr. Gordon noted that any approval granted by the Board would need to be made subject to Zoning Board approval as well.

Mr. Gordon indicated that the Departments of Public Works, Fire and the Assessor's Office had reviewed the proposed subdivision and offered comments to the Planning Department, all of which have been addressed in the latest plan revision, with the exception of the zoning deficiencies noted by the Zoning Officer.

Mr. Gordon noted that two (2) waivers were being requested by the applicants:

- Sidewalks – Section 13-6
- Granite curbing – Section 13-2 (3)

and that a waiver request by the applicant has been submitted and is included in the packet of information provided to the Board.

Mr. Gordon reiterated that a COC was issued on May 5, 2004.

Mr. Gordon noted that the Planning Department had determined that the proposed subdivision was consistent with the "East Providence Comprehensive Plan" and with the General Purposes (Article 1, Section 1-2) and Required Findings (Section 5-4) of the "Land Development and Subdivision Review Regulations".

Mr. Gordon concluded by outlining the Planning Department's recommendations as follows:

Waiver Requests

The Planning Department was recommending that the applicant's request for a waiver from the requirement for the installation of granite curbing be denied and that the request for a waiver from the requirement for the installation of sidewalk be granted.

Subdivision

Mr. Gordon stated that the Planning Department was recommending "Preliminary Approval" of the proposed subdivision, subject to the following conditions:

1. that the title block be revised to indicate Final Plan status;
2. 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;
3. that the plans be revised to clearly state that granite curbing will be installed along the frontage of this proposed subdivision;
4. that the applicants obtain approval from the Zoning Board of Review for dimensional variances, as noted in the memo from Edward Pimentel to Stephen Coutu and Jeanne Boyle, dated April 30, 2004.
5. that a public improvement guarantee be posted to cover all public improvements in an amount to be calculated by the Public Works Department.

Delegation of Final Plan Approval

Mr. Gordon indicated that the Planning Department was recommending that the Board delegate Final Plan Approval to the Administrative Officer, subject to compliance with the conditions outlined above.

Mr. Robinson thanked Mr. Gordon for his presentation and asked if the applicant would like to address the Board.

Mr. Bruce Cox, Attorney from Sleprow, Sleprow & Associates, thanked Mr. Robinson and indicated that his clients were in agreement with the Planning Department staff memo, with the exception of the recommendation on granite curbing installation. Mr. Cox stated that the cost of this curbing would be \$14,000 and represented an unnecessary financial hardship on his clients, as there are no other homes on Tab Avenue which have granite curbing.

Chairman Robinson asked why the Planning Department was recommending that granite curbing be installed? Mr. Gordon explained that this recommendation was consistent with Public Works Department policy, which calls for granite curbing in front of all new proposed lots. Mr. Gordon noted that curbing serves as a traffic (autos and City vehicles)

as well as a drainage barrier. With regard to the cost of curbing, Mr. Gordon noted that the Public Works Department had prepared an estimate for curbing on another subdivision and asked Ms. Diane Feather to respond. Ms. Feather indicated that Public Works had estimated the cost of granite curbing to be \$40/linear foot installed. Mr. Gordon indicated that the frontage for both lots was approximately 150 feet. Based on the estimate by Public Works, the total cost for the installation of granite curbing in front of both lots would be approximately \$6,000. Mr. Cox indicated that the \$14,000 figure had been provided to him.

Mr. Gordon asked that applicant to address the presence of fences along the north, south and western property lines. The applicants noted that the fence along the southern property boundary had been removed and that the fence along the northern boundary belonged to the owner of 65 Tab Avenue.

MOTIONS

Staff Memorandum

Mr. Batty made a motion to enter the Planning Department memo into the record; second by Mr. O'Brien. Vote: Unanimous to enter the staff memo into the record.

Subdivision Proposal

Based upon a finding that the proposed minor subdivision is consistent with the East Providence Comprehensive Plan, that the proposal meets the General Purposes of the East Providence Land Development and Subdivision Review Regulations (Article 1) and that positive findings can be met for the standards set forth in Section 5.4 of the regulations, Mr. Batty made a motion that the Board grant Preliminary Approval to the proposed minor subdivision, subject to the following conditions:

1. that the title block be revised to indicate Final Plan status;
2. 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;
3. that the plans be revised to clearly state that granite curbing will be installed along the frontage of this proposed subdivision;
4. that the applicants obtain approval from the Zoning Board of Review for dimensional variances, as noted in the memo from Edward Pimentel to Stephen Coutu and Jeanne Boyle, dated April 30, 2004.

5. that a public improvement guarantee be posted to cover all public improvements in an amount to be calculated by the Public Works Department.

The motion was seconded by Mr. Almeida.

Roll Call Vote

Mr. Cunha – Aye
Mr. Almeida – Aye
Mr. Robinson – Aye
Mr. Batty – Aye
Mr. Robinson – Aye

Preliminary Subdivision Approval granted, 5-0.

Sidewalk Waiver

Mr. Batty made a motion to grant the applicants' request for a waiver from the requirement for the installation of sidewalks in front of the proposed lots; second Mr. Almeida.

Roll Call Vote

Mr. Cunha – Aye
Mr. Almeida – Aye
Mr. Robinson – Aye
Mr. Batty – Aye
Mr. Robinson – Aye

Sidewalk waiver request granted 5-0.

Granite Curbing Waiver

Mr. Batty made a motion to deny the applicants' request for a waiver from the requirement for the installation of granite curbing in front of the proposed lots; second Mr. Almeida.

Roll Call Vote

Mr. Cunha – Nay

Mr. Almeida – Nay

Mr. Robinson – Nay
Mr. Batty – Nay
Mr. Robinson – Nay

Granite curbing waiver request denied 5-0.

Delegation of Final Plan Approval

Mr. Batty made a motion to delegate Final Plan Approval to the Administrative Officer, subject to compliance with the conditions of the Preliminary Plan Approval; second Mr. O'Brien. Vote: Unanimous. Final Plan approval delegated to the Administrative Officer.

B. Appl. #2004-11 Minor –Pawtucket Avenue, Applicant: Deborah Hirschon, Map 308, Block 21, Parcel 12

Ms. Feather described the proposed 3-lot subdivision, which is classified as a *Minor Subdivision on Existing Frontage*. Ms. Feather noted that the applicant and applicant's attorney, were present at the meeting this evening. She noted there are two stages of plan review – Preliminary and Final, and the Planning Board may vote to delegate Final Plan approval to the Administrative Officer. Ms. Feather stated that the Board must make a decision within sixty-five (65) days of the issuance of the Certificate of Completeness, which was issued on April 30, 2004. She noted that there are no newspaper advertising or public hearing requirements for a minor subdivision on existing frontage, and that notice was mailed to immediately abutting property owners via certified mail on April 30, 2004. Assistant City Solicitor verified with the applicant's attorney that the owner was "Anna Gianlorenzo, Trustee of the Anna Gianlorenzo Revocable Trust Agreement", not "Anna Gianlorenzo".

Ms. Feather noted that the existing garage is proposed to be demolished, and that a portion of the existing multi-family dwelling at the rear of the structure is proposed to be demolished, and a driveway to a new parking area will be brought in at this location. She explained that the existing 5-unit unit multi-family structure is proposed to be reduced to a total of four (4) units, and the existing two-family is proposed to become a single-family dwelling.

Ms. Feather stated that the subdivision proposes three lots as follows:

- Parcel A would consist of 10,000 square feet and would contain the *existing* multi-family residential structure (at the corner of Pawtucket Avenue and Robinson Street)
- Parcel B would consist of 7,500 square feet on which the *existing* residential dwelling would remain (as a single-family) and a garage is proposed to be constructed; and
- Parcel C would be a vacant parcel consisting of 7,500 square feet on which a single-family dwelling and garage are proposed to be constructed.

Ms. Feather noted that the comments of DPW must be satisfactorily addressed prior to the Final Plan submission. She noted that the Fire Chief had a question about the fire alarm in the multi-family unit but noted that this was not a subdivision matter and would be addressed through the building code and building permit process.

Ms. Feather noted that the Zoning Officer offered two comments - Parcel A containing the multi-family dwelling (now 5 units, which will become 4 units) does not meet the area requirements for multi-family dwellings of Section 19-217 and 19-218 of Chapter 19, Zoning, and this will require a variance from Section 19-98 "Use". Mr. Batty asked if the area requirements had been calculated by Planning. Ms. Feather noted that we had not but that she could prior to the Board's vote if they wished, but noted that it is the Zoning Officer's determination and that he has indicated that a use variance is required. Ms. Feather noted that the structure on proposed Parcel B fails to meet the minimum side yard setback requirement of fifteen (15) feet for the R-3 district. The new lot line will create a side yard setback on the easterly side of this structure of 11.69 feet. Ms. Feather noted that as required by Section 5-11 of the Subdivision Regulations, should the Planning Board grant conditional approval of the Preliminary Plan, the applicants will need to petition the Zoning Board of Review for these variances. If the ZBR approves these variances, the applicants may return to Planning for Final Plan approval.

Ms. Feather noted that there is a small section of the existing multi-family dwelling on Parcel A (a "bump out") that extends over the private property line into the right-of-way of Robinson Street, which has a fifty (50) foot right-of-way. She noted that the house may have been at this location for approximately 80 years (deeds date back to 1924) and there are no plans to remove this section of the house. She noted that this was referred to Assistant City Solicitor Timothy Chapman.

Mr. Chapman has indicated that the applicant may submit an easement request to the City seeking permission to allow the *existing* encroachment to continue, but not be expanded. She noted that the easement should be submitted with the Final Plan submission, and would be subject to the review and approval of the Assistant City Solicitor, and further the executed easement shall be recorded in the City's Land Evidence Records along with the Final Plan. Ms. Feather noted that this is condition # 2 in the staff recommendation.

Waiver Requests from *Submission* Requirements

Ms. Feather noted that the Subdivision Regulations have requirements regarding the content and format of the subdivision plan. She noted that the applicant seeks a waiver from the *submission* requirement to show topography and mature trees on the subdivision plan. She noted that Section 8-9 (b)(3) "Topography" requires that existing and proposed contour intervals of two (2) feet be shown on the plan. Ms. Feather stated that the property is fairly level and there are no apparent topography issues. Staff would support the granting of this waiver.

Ms. Feather noted that the applicant is also seeking a waiver from the *submission* requirement to show existing vegetation on the subdivision plan. Section 8-9 (b)(10)

“Vegetation” requires that the “*general location and types of existing vegetation, including existing tree stands and specimen trees (noting type and size of such trees)*” be shown on the plan. Ms. Feather noted that the plan does not show any vegetation. She noted that there are some large mature trees on the property on the southerly side of Parcel A, and that the applicant has verbally indicated that many of these trees will need to be removed because of the construction of the proposed eight (8) space off-street parking area in this location on Parcel A.

Ms. Feather noted that staff is of the opinion that the applicant should make every effort to save any healthy, mature trees that are not impacted by the parking area on Parcel A because these trees provide a buffer of the residential use from the nearby commercial uses. She noted that with that understanding, staff would support the granting of this waiver.

Granite Curbing and Sidewalks

Ms. Feather noted that while the subdivision plan does depict sidewalks and curbing, *the applicant is seeking a wavier from the requirement to install granite curbing and concrete sidewalks*. Ms. Feather noted that four properties in this block of Robinson Street have granite curbing, two on the north side and two on the south side, and that these properties are located to the west of the subdivision. She noted that one of these properties also has an *asphalt* sidewalk. Ms. Feather noted that none of the properties in this block have concrete sidewalks.

Ms. Feather noted that the should the concrete sidewalk be constructed along the multi-family structure, that the small “bump-out” section of the house that encroaches into the right-of-way would be in very close proximity to the sidewalk. She stated that the proximity of the house and sidewalk *may* be a justifiable reason for not constructing the sidewalk in this area. She noted that the staff recommends that the Board require concrete sidewalks for the frontage of Parcels B and C. Ms. Feather noted that, at a minimum, Planning staff recommends that granite curbing be installed along the *entire* subdivision frontage of Robinson Street as this would help preserve the roadway edge, and would keep on-street vehicle parking within the paved road surface.

Ms. Feather noted that City Engineer Alan Corvi has provided estimates for the performance guarantee for granite curbing and concrete sidewalks (and the street utility trench patch) as follows:

- \$ 8,400 for granite curbing (210 linear feet by \$ 40 per linear foot)
- \$ 4,680 for concrete sidewalk (117 square yards by \$ 40 per square yard)
- \$ 1,000 for utility trench patch

Ms. Feather noted that the Final Plan will depict the Board’s decision regarding sidewalks and curbing and that the total amount of the performance guarantee would reflect the Board’s decision.

Ms. Feather noted that East Providence Comprehensive Plan “Land Use 2010 Plan” designates the area of the proposed subdivision as “Mixed Use” at the corner of Pawtucket Avenue and Robinson Street, and “Low Density Residential” for the remainder of the Robinson Street frontage. Mixed Use permits residential, industrial, retail, office or service provided that such uses are compatible with adjacent land uses. Ms. Feather noted that the multi-family residential use would appear to be compatible with adjoining uses, but efforts should be made to buffer and screen the multi-family from the adjoining commercial use, as well as the single-family from the multi-family use by preserving or planting vegetation between the uses. The two lots proposed for single-family development are consistent with adjoining single-family uses along Robinson Street.

Required Findings

Ms. Feather noted that Section 5 – 4 of the Regulations requires that, prior to the approval of any application for subdivision, the Planning Board shall address each of the general purposes in Article 1 of the Regulations. She noted that each of these findings were addressed in the staff recommendation. She noted that the staff recommendation also addressed consistency with the General Purposes of Article 1, Sec. 1 – 2 of the “East Providence Land Development and Subdivision Review Regulations” and finds that the proposed subdivision is consistent with these general purposes.

Enter the Staff Recommendation Memo into the Record

On a motion made by Mr. O’Brien, seconded by Mr. Cunha, the Board voted 5 - 0 to enter the staff recommendation dated May 6, 2004 with all its attachments into the record of the meeting. Ms. Feather noted that the name of the owner would be corrected in the file copy.

Roll Call Vote

Mr. Batty - Aye
Mr. O’Brien - Aye
Mr. Almeida - Aye
Mr. Cunha – Aye

Mr. Robinson – Aye

Attorney David J. McOsker, representing the applicant indicated that there are no concrete sidewalks in this block and that it was not fair to make his client install a sidewalk when there was nothing to connect to.

No one from the public was present to speak on the subdivision.

Board Questions and Comments

Mr. Robinson noted that he would be voting for concrete sidewalks and granite curbing for this subdivision. He stated that he did not see the downspout from the house to be an issue. Ms. Feather noted that DPW would agree with him and they indicated that the drainage from the house could be re-routed so that it doesn't drain to the concrete sidewalk. Mr. Robinson asked how close the bump-out portion of the house would be to the sidewalk. Ms. Feather showed him the proximity on a photograph that was in the Board's packet. Mr. Batty stated that he was having a hard time with the closeness of the sidewalk to the house at this one location.

Mr. Robinson questioned why the staff was recommending approval of the waiver from the submission requirement to show existing vegetation on the property. Mrs. Hirschon noted that the parking area for the multi-family dwelling was originally laid out differently and when it had to be changed, that more of Parcel A would have to be cleared. Ms. Feather noted that the original parking area had stacked parking (one car behind the other with no direct access to the driveway) and that this was not allowed for multi-family dwellings. Ms. Feather noted that showing vegetation was a basic requirement for subdivision plans and it should have been shown on the plans. She noted that she had a conversation with Mrs. Hirschon about the vegetation and she verbally indicated that the trees and shrubs would be removed.

Ms. Feather noted that consistency with the Comprehensive Plan for "Mixed Use" areas requires that there be compatibility between different land uses, and that part of that compatibility comes from buffering and screening the uses from each other. She noted the Board could place a condition that they maintain whatever vegetation they can and/or plant vegetation to buffer and screen the uses. Mrs. Hirschon noted that they would try to save vegetation but that the cars needed to back out of their spaces too. Mr. Batty questioned whether zoning can require a buffer here. A row of arborvitaes was mentioned as a possible buffer as they also take up less space. Ms. Feather noted that Parcel A is a commercially-zoned lot and a buffer is required. She stated that this could be shown on the final plan.

Submission Requirement Waiver Requests Vote

On a motion made by Mr. Batty, seconded by Mr. O'Brien, the Board voted 5 – 0 to approve the following *submission requirement* waiver requests:

1. Section 8-9 (b)(3) "Topography".
2. Section 8-9 (b)(10) "Vegetation".

Roll Call Vote

Mr. Batty - Aye
Mr. O'Brien - Aye

Mr. Almeida - Aye

Mr. Cunha – Aye
Mr. Robinson – Aye

Delegation of Final Plan Approval Vote

On a motion made by Mr. Batty, seconded by Mr. O'Brien, the Board voted 5 – 0 to delegate Final Plan approval to the Administrative Officer (Director of Planning).

Subdivision Vote

On a motion made by Mr. Batty, seconded by Mr. O'Brien, based upon the above discussion and upon findings that the proposed subdivision is consistent with the East Providence Comprehensive Plan, and that the General Purposes of Article 1 of the Regulations have been addressed, and further that positive findings are met for the standards contained in Section 5 – 4 of the Regulations, the Board voted 5 - 0 to grant *Conditional Approval* of the subdivision, *as proposed*, subject to the following conditions:

1. That the residential use of Parcels B and C be restricted to single-family uses and accessory uses in perpetuity, and that a note stating this be placed on the Final Plan;
2. that the applicant submit an easement request for allowing the *existing* encroachment of the multi-family structure into the City right-of-way on Robinson Street to continue, and that this document be subject to the review and approval of the Assistant City Solicitor, and further that this document be recorded in the City's Land Evidence Records along with the Final Plan;
3. That any outstanding comments of the Department of Public Works as noted in the attached memoranda be satisfactorily addressed in the Final Plan submission;
4. That all necessary variances be obtained from the Zoning Board of Review prior to Final Plan approval, and that the date of the granting of these variances be placed in a note on the Final Plan;
5. That the Final Plan reflect the decision of the Planning Board as to sidewalk and curbing, and that a performance guarantee in acceptable form and in an amount to cover all required public improvements be submitted prior to Final Plan approval.
6. That the title block of the 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; and

8. That the proposal shall meet all applicable City, State, and/or Federal regulations and requirements.

9. That a vegetated buffer be planted on the south side of Parcel A (to be shown on the Final Plan and reviewed for approval at Final Plan).

Roll Call Vote

Mr. Batty - Aye
Mr. O'Brien - Aye
Mr. Almeida - Aye
Mr. Cunha – Aye
Mr. Robinson – Aye

Sidewalk and Curbing Waiver Request Vote

Mr. Batty made a motion to “*Approve*” the requested sidewalk waiver for Parcel A only and to require concrete sidewalks for the frontage of Parcels B and C.

Mr. O'Brien made a motion to “*Deny*” the requested sidewalk waiver and require concrete sidewalks along the entire Robinson Street frontage of the subdivision.

Mr. Batty's motion was seconded by Mr. Almeida.

Roll Call Vote

Mr. Batty - Aye
Mr. O'Brien – Nay
Mr. Almeida – Aye
Mr. Cunha – Aye
Mr. Robinson - Nay

Mr. Batty's motion carried on a 3 – 2 vote.

On a motion made by Mr. Batty, seconded by Mr. O'Brien, the Board voted 5 – 0 to “*Deny*” the requested waiver from the requirement to install granite curbing, and require the installation of granite curbing along the Robinson Street frontage of all the parcels in the subdivision (Parcels A, B and C).

Roll Call Vote

Mr. Batty - Aye
Mr. O'Brien – Nay
Mr. Almeida – Aye
Mr. Cunha – Aye

Mr. Robinson - Nay

V. CONTINUED BUSINESS

1. Staff Report

Ms. Feather noted that Ms. Boyle was unable to attend the meeting as she was taking a son on a college visit. Ms. Feather gave a brief staff report including an update on the Waterfront Commission and moratorium, the Comprehensive Plan update submission to Statewide Planning, the receipt of a large Recreation grant for Glenlyon Park and the Ten Mile River raised walkway. Ms. Feather noted that the Planning Director is authorized to have pre-application meetings with potential waterfront developers and that some meetings had taken place so that developments would be ready for submission when the Waterfront Commission begins its meetings. Mr. Gordon updated the Board on the Carousel foundation project and noted that the dedication of Rose Larisa Park was scheduled for June 12, 2004.

VI. COMMUNICATIONS

A. Memo dated April 23, 2004 to the Zoning Board of Review from the Department of Planning, Re: "Requests for Variance or Special Use Permit to be held on April 28, 2004

On a motion by Mr. Almeida, seconded by Mr. O'Brien, the Board voted unanimously to accept the communications above.

VII. ANNOUNCEMENT

The next meeting will be held on Monday, **June 14, 2004**, 7:30 p.m., Room 306

VIII. ADJOURNMENT

The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Michael Robinson, Chairman

MR/JMB/sac