

April 14, 2003 - Regular Planning Board Meeting

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES OF APRIL 14, 2003

Present were: Messrs. Almeida, Cunha, Gerstein, O'Brien, Robinson, Poland, Sullivan, Jeanne Boyle (staff), City Solicitor William Conley.

I. SEATING OF ALTERNATE MEMBER

II. APPROVAL OF PLANNING BOARD MINUTES

A. Minutes of February 10, 2003

On a motion by Mr. Sullivan, seconded by Mr. Almeida, the Board unanimously voted to approve the minutes of February 10, 2003 with the change that City Solicitor Conley attended the meeting not Mr. Dias as noted. Stephanie will make the change.

Ms. Boyle asked permission if staff could give the Board in the future an abbreviated version of the older minutes (listed below) since the recorder at the time was not working. The Board agreed.

It was noted the minutes of March 10, 2003 December II, 2001 February 12, 2002 and November 12, 2002 will be forthcoming.

APPROVAL OF PLANNING BOARD CORRESPONDENCE

On a motion by Mr. Almeida, seconded by Mr. Sullivan, the Board voted to approve the below correspondence:

A. Memo dated 3/12/03 to the Council Re: Disposition of City-owned property, 20 Bentley Street.

III. NEW BUSINESS

A. Application #2003-03, Redland Avenue Subdivision, Applicant: Kyle and Maryanne Long.

Mr. Conley swore in everyone that was going to speak.

Mr. Larry Smith, Waterman Engineer, 450 North Broadway explained that this subdivision was first done in 1996 and received at that time preliminary plan approval. The subdivision was divided into two lots. Mr. Smith noted the rear of the property is zoned Open Space 1 and each lot meets the requirements within the R-4 zone. The proposed construction will be within the R-4 zone, and there will not be houses constructed in the open space area. These lots will be kept for the applicant's children. He noted there was a chimney that was left on the middle lot. The existing house is sewerred, and the second lot which is Lot B will be tied to the chimney. He said the waterlines will be tied to the front of the house and that the applicant would like the existing garage left in place until they construct the building on one or the other lot. The applicant presently parks behind the existing house now and they are proposing not to pave that area at this time. At some time, they will move the garage and put something up of a more permanent nature. He notes there are puddles in front of the property because of the poor drainage.

Kyle Long, 133 Redland Avenue is sworn in. He states that the subdivision is basically the same as before and notes he does not have any plans to build as yet. He states that he wants to subdivide and keep the garage the way it is, but does not have any plans to sell the lots at present because he will keep them for his children for the future. He states he has an affidavit on file that he will not build on those lots without taking the garage down first.

Mr. Poland stated the affidavit is fine and the garage will stay there, but before they can do anything, the Zoning Officer must ask them to take out a demolition permit and move the garage into a proper place since City regulations would not allow it to stay where it presently is until the applicant puts something on one of the lots. Ms. Boyle states she does not see how the Board can approve a subdivision with a lot going through the building; that would be in violation of Zoning. She said the change would have to take place between preliminary and final. Once the subdivision is approved it can be conveyed. Once the subdivision is approved, you have created a lot that goes right through the structure and again it is in violation of Zoning. Without a variance that could not take place.

Mr. Conley states he did review the application and agrees with Ms. Boyle that once a lot is created, even with the garage on it, you have essentially created a separate lot that is subject to conveyance. In regard to the affidavit, he states you will want to add that either of the lots that the structure is on could be conveyed out. This means it would need a zoning variance for the house on the lot line since it does not meet zoning standards at present.

Ms. Boyle also states that the Zoning Officer could not sign off on the subdivision plat since it does not meet requirements of Zoning, not without the benefit of a variance. Two options for the applicant would be to get preliminary plan approval and then when they are ready to do any sort of conveyance or construction, at

that time they could get the final. If their concern is that there may be many years between preliminary and final approval and if there are limitations on the length of preliminary approval, they could come in to get the variance in between preliminary and final and then actually act on it when they are prepared to do it. She said preliminary is good for one year and the Board may provide extensions of up to an additional year. Mr. Conley states that if the goal is to do the subdivision, but to keep the structure there, then the applicant would need to address the conveyance issue and the zoning issue as well.

Ms. Boyle states that she presumes the intention of the applicant in coming in now for subdivision is to protect whatever rights are current under zoning. Having a preliminary approval will be enough to constitute a vesting of the applicant's rights under zoning. It shows you have actually done these first steps. Depending on how long the applicant waits from the time he gets the preliminary approval to the time you actually do the final which would give you the ability to build on the lots and to convey the lots. The Board has the authority to go up to two years from the time of the preliminary approval. She asks the City Solicitor if the Board has the authority to go longer? Mr. Conley states he will look up the regulation before he comments. He agrees that the rights rest upon the granting of the preliminary approval in terms of what regulations are to be applicable to the lots. He will check on what the Board's power is to extend the application. Ms. Boyle stated that staff's main concern on those limitations was the major subdivisions where you can actually have changes in what they are going to post for a bond in terms of improvement guarantees. I don't think we were as concerned when we put that limitation in for a minor subdivision such as this one where there are no public improvements associated with it.

Mr. Long states his concern is that he will have to come before the Board every two years if he doesn't develop.

Mr. Poland states the garage will have to be demolished or moved in order for the Long's to get their final so whether you move it in a week or a year, that will determine when you get the final. You could ask for an extension of the preliminary and we will check to see how many extensions you get on the preliminary before you have to do something with the garage.

Ms. Boyle stated that on the previous extensions that the Board granted, the applicant has not necessarily appeared before the Board. They just submitted a letter, which staff referred to the Board and the Board was able to take action. Ms. Boyle stated the regulations set by the Board are not regulations that are derived from the State Enabling Law. She noted that the regulations that the Board sets for itself, then perhaps the Board has the authority to have a license with that particular regulation especially if you have extenuating circumstances such as these. Mr. Conley will check on this. A waiver would allow them a greater time.

Mr. Poland stated the applicant could go before the Zoning Board and get a variance to allow the garage to stay there and still be able to get a final, but would have to remove the garage before selling the lots.

Ms. Boyle stated that the action of recording the final plan would vest the variance so that the applicant would not have to be required to go before the Zoning Board every six months. Mr. Conley states that if they get the variance, it would give the applicant the most options such as keeping the garage there. Ms. Boyle said that the Zoning Board would also want to see the affidavit and that the variance would cease to be valid at such time as you choose to convey the lots. Ms. Boyle said the fallback position would be to get the waiver from the Planning Board if it did not work out with the Zoning Board.

Chairman Poland stated to the petitioner that the Board could delegate final approval to the Administrative Officer, Ms. Boyle and that way they would not have to come before the Board again unless it is a waiver.

At this time Ms. Boyle went through the staff report.

She noted it is a minor subdivision and the petitioner has the rights to two lots. They are proposing to subdivide them into three. A Certificate of Completeness (COC) was issued on April 7, 2003 and the notice was sent to the abutter on April 8, 2003. As Mr. Smith also mentioned the petitioner has requested a waiver from the requirement to provide topography information and because it is a relatively flat site, we agreed. The application was referred to a number of City Departments for their review and comment. One of the zoning issues is that because these are split lots, half of the property is within the R-4 zone which is a minimum requirement of 5,000 square feet and the other half is within the open space 1 zone which requires 100,000 square feet. These lots do not meet the minimum requirements of the Open Space district, but because the development is taking place within the residential portion of the lot, it was the opinion of the Zoning Officer that the R-4 requirements would be the ones that would be applied to this particular subdivision. The lots within the R-4 portion of the district are meeting the R-4 requirements and those are the lots where the residential construction would take place.

Sidewalks and Granite Curbing Waivers

Ms. Boyle stated the applicant has requested waivers from the requirements for sidewalks and granite curbing. Mr. Smith has also discussed that. In terms of the consistency with the Comprehensive Plan, the map designates this area as medium density which requires density of no less than 8 dwelling units per acre or greater than 5,445. This proposal exceeds those requirements.

Based upon staff review and the findings:

1. That they be consistent with the Comprehensive Plan. The density is consistent with that designation;
2. That all lots in the subdivision shall conform to Chapter 19 "Zoning". It does conform with the R-4 District.

Whether or not it conforms with our finding that it conform with Zoning was predicated on the understanding that the garage would be relocated or removed. If that is not the case, then a zoning variance would be necessary.

3. There will be no significant environmental impacts. It is next to the Turner Reservoir and we do have concerns about the heavy use of fertilizers in that area.
4. The subdivision also requires that there be no physical constraints to development. We find none.
5. That they have physical access to a public streets.

All three lots have access to Redland Avenue

6. The subdivision has to provide for safe circulation and adequate treatment of water runoff.

We find that all three lots would be suitable in that regard and also they must make sure that the location of the streets and building lots minimizes flooding and soil erosion. This is existing lots on an existing street. They are served by City utilities and staff does not see any concerns in this regard. The City Engineer has asked that because of the proximity to the Turner Reservoir that when construction does take place that the proper soil erosion controls are used.

Regarding the waiver requests, Ms. Boyle states that staff recommends approval of the requirement of the topographic information and recommend denial on the waiver for the granite curbing. Although there is no granite curbing in the area now, that is the City's standard and as the Board is aware, any property owner has the right to ask that the City install granite curbing and the City will pay a portion of that cost.

The waiver for sidewalks, staff has no objection to that waiver.

Ms. Boyle states the petitioners have requested a combination of preliminary and final plan approval. Considering all the issues that we have especially in regarding to the garage, it would be more advisable to do it in separate steps with the preliminary granted by the Planning Board and the final approval coming before the Administrative Officer.

Staff Recommendation below:

1. that preliminary approval of the minor subdivision subject to the title block being revised to indicate final plan, revisions of the final plans to meet the approvals of the preliminary
2. that all of the plan and documentation meet the requirements of the East Providence Land Development Subdivision Review Regulations;
3. that all the plans required have the required notation as noted in the memorandum from the City Engineer, Alan Corvi.
4. that the garage be removed or relocated or that any necessary variances to allow its retention be sought and acquired by the applicants.
5. that the erosion control measures be installed prior to the construction of any new dwelling.
6. that the Board delegate final plan approval to the Administrative Officer subject to these conditions.

Raymond McBride, 151 Redland Avenue was sworn in by City Solicitor Conley. Mr. McBride asked about the garage relocation and where it would be located. Ms. Boyle answered she is not sure whether that would be permitted by the Zoning Officer to continue in the Open Space district as an accessory use to the principal use which is the residential use. There have been other situations where it has been a split lot and they have been allowed to have some accessory uses within the Open Space district. That will have to be determined by the Zoning Officer. Ms. Boyle stated it would have to meet zoning requirements in terms of setback and coverage. Would the Zoning Officer let it exist as a garage? Ms. Boyle stated no, it could not be moved onto a separate conveyable lot because you cannot have an accessory structure as your only principal structure. It could be moved to another lot, but that lot could not be conveyed until there was a proposal to actually construct a principal structure on the lot. Mr. McBride asked about the setback requirement. Ms. Boyle answered that any accessory structure requires a five-foot setback. Ms. Boyle stated accessory structures are allowed in Open Space Districts, but that have to be accessory to a principal structure.

Mr. McBride asked about the sewer connection and also the level of the lots since there will be a new connection on lot C which will be tied directly into the sewer main. Also Mr. McBride is concerned that his lot is quite a bit higher than the abutting property and asked if they were waiving the topography requirements?

Mr. Smith stated the lots would be built in the existing area. They will not be filling the grades of the lots. The drainage will be backed to the Reservoir. He is concerned that those driveways will still have to drain and is concerned about the water shifting into his yard and that any construction that goes on is so close to his property that he is concerned about his own foundation being disturbed.

Chairman Poland states that one of the reasons that the City Engineering wanted curbing along the area was to keep the water from Redland Avenue and going back to those lots. It was stated there is a gutter that rises up. Mr. McBride also is concerned about the proposed garage that it is only set back five foot along the sideline. Mr. Poland answered that less than five feet the Fire Department would require a firewall.

Mr. Poland said in regard to the curbing. He would have to go all the way down Ray Street with the curbing to the part that's paved. The City Engineer's recommendation is that the curbing only be installed on Redland Avenue. That should be included so that there is no question 20 years from now as to whether he has to go down all the way down Ray Street with the granite curbing.

Ms. Boyle stated that Redland is more a priority than Ray Street.

Motion

Waiver for Topography

On a motion Mr. Sullivan, seconded by Mr. O'Brien, the Board approves the applicant's request for a waiver for the requirement to provide topographic contour information.

Second Motion - Request for a Waiver for the Requirement for Curbing

On a motion by Mr. Sullivan, seconded by Mr. Robinson, the Board recommends denial of the applicant's request for a waiver for the requirement of granite curbing along Redland Avenue only.

Roll Call Vote

Mr. Aimeida	Aye
Mr- O'Brien	Aye
Mr- Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

Second Motion - Request for a Waiver for the Requirement for Curbing

On a motion by Mr. Sullivan, seconded by Mr. Robinson, the Board recommends denial of the applicant's request for a waiver for the requirement of granite curbing along Redland Avenue only.

Roll Call Vote

Mr. Almeida	Aye
Mr. O'Brien	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

Third Motion - Waiver of Sidewalks

On a motion by Mr. Sullivan, seconded by Mr. O'Brien the Board voted to approve the request for a waiver from the requirement of sidewalks.

Mr. Almeida	Aye
Mr. O'Brien	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

Motion for Preliminary Approval

On a motion by Mr. Sullivan, seconded by Mr. O'Brien, the Board voted to grant preliminary plan approval of 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 Final Plans contain all required notation as specified in the memorandum from the City Engineer, to the Director of Public Works dated March 5, 2003;
4. that the existing detached garage be removed or relocated in conformance with the zoning dimensional requirements for the R-4 District and that the necessary variance be obtained; and

5. that erosion control measures be installed prior to the construction of the new dwelling.

Roll Call Vote

Mr. Almeida	Aye
Mr. O'Brien	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

Motion to delegate final to administrative officer

On a motion by Mr. O'Brien, seconded by Mr. Sullivan, the Board voted to grant final approval to the administrative officer.

Roll Call Vote

Mr. Almeida	Aye
Mr. O'Brien	Aye
Mr. Robinson	Aye
Mr. Sullivan	Aye
Chairman Poland	Aye

IV. CONTINUED BUSINESS

1. Staff Report

A. Ms. Boyle reported there would probably be four or five minor subdivisions on the Board's agenda next month.

B. Ms. Boyle mentioned the invitation that was sent to the Board and others regarding the briefing to the Governor on the waterfront access improvements as well as the whole waterfront redevelopment plan. She said a number of meetings have taken place with DOT, EDC and others and feels it is important that the Governor is aware of the project and champion the project since it will require a lot of money and the involvement of a number of state agencies. She asks that the members of the Board be there. This is all part of the redevelopment plan. It will be on April 29th at 9:00 to 10:30 a.m. in the City Council Chambers. She hopes the Board will attend.

C. East Pointe Development

Ms. Boyle brief the Board and told them that GeoNova Corporation has retained an engineering consultant and that staff has had meetings about the redevelopment plan that they will be submitting sometime during the summer months.

D. There has been some interest in areas of the other part of the waterfront and there has also been a lot of interest in the Leonardo property and Kettle Point property.

E. Ms. Boyle noted the Carpionato property at Reardon Avenue on Wampanoag Trail and Reardon Avenue is also back on for a mixture of multi-family development apartments and office units. They had come before the Board about two years ago. We have met with them and they will be submitting something to the Board within the next few weeks. The Board at that time gave staff the authority to require them to do an outside traffic study which has been done. Traffic still remains the biggest issue and we have asked for an outside review of the drainage because it is in the Southeast Drainage Area. Those plans could come in within next month.

V. COMMUNICATIONS

On a motion by Mr. Sullivan, seconded by Mr. O'Brien, the Board voted to accept the following communication:

A. Memo dated March 21, 2003 to the Zoning Board of Review from the Department of Planning Re: Requests for Variance or Special Use Permit to be heard on March 26, 2003.

VI. ANNOUNCEMENT

The next meeting will be held on May 12, 7:30 p.m., Room 306

VII. ADJOURNMENT

The meeting adjourned at 8:35 p.m.

Respectfully submitted,

Peter Poland, Chairman

PP/JMB/sac