

September 11, 2001 - Regular Planning Board Meeting

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES OF SEPTEMBER 11, 2001

Present were: Messers. Almeida, Cunha, Fisher, Gerstein, Poland, Robinson, Jeanne Boyle (staff)

I. Seating of Alternate Member

Mr. Cunha was seated in the absence of Mr. Sullivan.

II. Approval of Minutes

A. Minutes of March 13, 2001

On a motion by Mr. Fisher, seconded by Mr. Almeida, the Board voted to accept the minutes of March 13, 2001.

III. Approval of Planning Board Correspondence

On a motion by Mr. Fisher, seconded by Mr. Almeida the Board voted to accept the following correspondence:

A. Memo to City Manager regarding the 2001-2002 Capital Budget and 2001-2007 Six Year Capital Improvement Program

IV. New Business

A. Appl. #99-7 Waterview Avenue Subdivision, Amendment to the Approved Plan

Ms. Boyle gave the Board a brief background of this subdivision. She stated that in April of 2000, the Planning Board granted conditional approval to a six-lot subdivision located at the corner of Waterview Avenue and Bergin Street. The conditions of the approval were detailed in the Notice of Decision. She stated that one of the conditions of approval was that the final plans and all plans follow to the letter all of the submissions and everything that was indicated on the plan itself as well as on the supporting documentation. Within the general notes of the plan, as well as the attached narrative, it also included a notation that this plan of development proposes the subdivision of the

single lot into six residential single-family detached house lots. The effect of this note is to limit the residential development within the subdivision to single family detached homes. Ms. Boyle stated that as of this date construction has commenced on four single-family homes on lots 1 through 4. The remaining lots 5 and 6 are undeveloped. Ms. Boyle stated she had received correspondence from the current owner of the property, Mr. Luis Calcagni requesting that the Planning Board modify the terms of approval to permit the construction of two family homes on Lots 5 and 6. The Board has received a copy of the letter that was sent by from Mr. Calcagni, in which he requests that that note be removed from the plans and that the modification would permit the construction of either one or two family homes on lots 5 and 6. A certified registered notice explaining this request was sent out to everyone that was notified of the original subdivision (which are the properties within a 200-foot radius).

Ms. Boyle stated that typically two family homes are not permitted if there is more than 50 percent of the minimum lot area. In this case, the minimum lot area in an R-3 zone is 7500 sq. ft. Both of these lots contain in excess of that 50 percent which would be 11,250 sq. ft., however, because the limitations to single family development was a stipulation of the approval, the developer cannot build two-family homes without appearing before the Planning Board.

Mr. Conley swore in everyone at once who wished to speak.

Mr. Joseph D. Tudino, Attorney, 915 Smith Street, Providence is present and states he is here on behalf of the applicant, Luis Calcagni. Mr. Tudino explained that Mr. Calcagni is the owner of lots 5 and 6 of the Waterview Avenue Subdivision (a.k.a. parcels 10.4 and 10.5, Block 7, Map 310. He noted that the petitioner is present tonight to ask that the Board remove the restriction No. 5 which was placed in the final plans of the subdivision which states that the plan of development proposes the subdivision of a single lot into six residential single-family detached house lots. Attorney Tudino noted that Mr. Calcagni has already built four homes in this subdivision. Attorney Tudino passed out pictures to the Board at this time showing the homes that have been built.

On a motion by Mr. Fisher, seconded by Mr. Cunha, the Board voted to put the pictures into the Board's official records.

Attorney Tudino stated that Mr. Calcagni is proud of the houses that he has built and is trying to build more substantial homes in the neighborhood and improve the area. He explained that there was some confusion as to how note No. 5 got into that final subdivision plan. He stated that he read the Board's minutes of the prior meeting on this subdivision and there was no stipulation put forth by the Board that such a condition be part of the final plan.

Mr. Bruce Beauchamp of North Kingstown, who works with the Narragansett Improvement Co. in Providence was present and sworn in. he stated he was the original owner of this parcel of land and it was never his intent when he developed this property to alter the existing zoning. He stated he did not realize that the zoning for two-family

houses was allowed in this zone. Mr. Beauchamp stated that the engineer, Garafalo asked me what we intended to do, he said, in observing the area, he would build single family homes, 1) not knowing that this was going to become a note on the plan, and 2) never having any communications with either Board or the Planning Department that this was required in order to get acceptance of the subdivision. Mr. Beauchamp explained that when it was pointed out to him recently by the new owner that in fact the zoning allowed two-families, he was really surprised, as no one had ever informed him that R-3 zoning allows duplexes. He explained that he had the major responsibility for not realizing that, but stated that he does not understand why the zoning would have been altered without his knowledge.

Attorney Tudino states that the applicant is not looking for anything that is not allowed under the current zoning in that area. Attorney Tudino asked his client be permitted to allow the uses in an R-3 zone, and is not seeking relief of uses that are not permitted in an R-3 zone. He reiterated that Mr. Calcagni seeks removal of the restriction limiting development to single family homes and that he be allowed all of the uses that would be permitted in an R-3 district.

In response to the comments made by Mr. Tudino, Ms. Boyle stated that the note which states that this subdivision was to be limited to single family residential development is included on the Master and Final Plan and was also included in the Narrative that was submitted in support of the development. There was also a Traffic Impact Analysis that was prepared for this subdivision which was based upon a single-family residential development. Ms. Boyle explained that all of the supporting documentation throughout the development process that was discussed at the Planning Board meeting, regarding the fiscal impact was related to a single-family development.. She added that Planning did not require a fiscal impact analysis be submitted for this development, but it was discussed at the Planning Board meeting. Ms. Boyle stated that throughout the discussion this subdivision was considered a single-family development and clearly the policy is that subdivisions are to be built exactly as is shown on the plan. She concluded that there should be no confusion as to whether a single-family development was proposed or not.

Attorney Tudino reiterates his earlier statement that the applicant would like to deviate from the approved subdivision plans and have the ability to construct all residential uses allowed in the R-3 district.

Chairman Poland asked if any members of the Board had a question? They did not.

Public Comments

City Solicitor Conley swore in anyone who wished to speak.

Mr. Poland stated to everyone who wished to speak that the Board knows all the history of this property and therefore to limit their comments to the matter of why the applicant should or should not be permitted to build duplexes or single-family houses on those lots.

A resident at 52 Waterview Avenue spoke and asked how long the plans have been in effect. It was noted that the date of the plan is February 1999 and was approved on April 11, 2000.

Maria Stoddaro, 5 Caroline Avenue spoke and asked Mr. Calcagni what the point is of having multi-family? It was noted the question would be answered later.

Ms. Zabrowski distributed pictures to the Board and briefed the Board on what the neighbors have endured since last November before the heavy rains and after the heavy rains. Phone calls were made to the Mayor, DEM and many other agencies because the children were playing around this development. The foundation of one of the homes was filled with water 10 feet deep.

Carol Metcalf, 3 Bergin Street, Riverside, spoke and stated this subdivision was always six lots and that the subdivision has been going on for seven years. These things were all discussed before and it was determined that the impact on the neighborhood for six homes could be absorbed into that neighborhood very nicely and into the future plans of East Providence, but states she does not see any value in modifying the notes to have two family homes. Single family homes are at a premium and many people want them. Two-family homes would not benefit any of us as taxpaying residents. The neighbors have made it known that they want single family homes since there are concerns regarding the roads, city services, impacts on schools, etc. She noted this has already been discussed when this first came to the Board. The only benefit to the proposed note change would be to the developer of this subdivision. Ms. Metcalf stated there are two lots there now that are nothing but dirt and rock which needs to be cleaned p. The plans have not been followed through with. Ms. Metcalf explained to the Board that as the taxpayers in the area and everyone on this Board and the City Council knows we in this area have wanted to keep this area as a neighborhood with single family homes. She hopes that the Board will maintain the decision made by the Board in April of 2000 that the subdivision remains with single family homes. She noted that in terms of the commitments, that have not been followed through by Narragansett Improvement, she would like to know what forum she can use to report this. She concluded by stating there are some issues that need to be taken care of, as was noted in the beginning of this process.

Chairman Poland asked Ms. Boyle if the City was still holding the bond. Ms. Boyle stated yes. Mr. Beauchamp stated he was not aware of any outstanding issues that needed to be taken care of with the exception of the final road surface which normally does not go on until the ousts are completed so that construction equipment does not damage the road. He stated this will definitely be done before November of this year. Mr. Beauchamp stated that other than that everything else is done.

Mr. Poland stated the City is holding a bond against the things that the contractor was suppose to do. If some of these things are not done to the satisfaction of the City, then the City will use the bond money and do it themselves. At the end a final determination

on compliance with the bonding requirements would be made by the Planning Board. Ms. Boyle agreed with the statement by the Chairman.

Ms. Boyle stated that the bond does require that everything be completed by November of this year (2001).

Adolf Littlefield, 15 Bergin Street stated he agrees with Carol's complaints and asks why we cannot have the City clean up the area. He said there is a lot of dust and you can hardly breathe, plus if there is a breeze you cannot open your window. Mr. Littlefield stated that he does not want two-family houses on these lots.

Ms. Renee' Zabrowski, 14 Waterview Avenue spoke and said one of the compromises that was made by the neighbors was that six-single family homes would be constructed and not duplexes. She states that she would like the Planning Board to stand by their previous decision. Ms. Zabrowski further stated that this is where we live, where our children play. At this time, Ms. Zabrowski presents a petition (with attached map) of 36 signatures to the Board stating the desire of the signers that this development stay as a single-family neighborhood.

On a motion by Mr. Almeida, seconded by Mr. Fisher, the Board voted unanimously to make the petition and map part of the Board's official records.

Ms. Zabrowski distributed pictures to the Board and briefed the Board on what the neighbors have endured since last November before and after the heavy rains. Phone calls were made to the Mayor, RIDEM, and many other agencies because the children were playing around this development. The foundation of one of the homes was filled with water 10 feet deep.

Other concerns raised by Mrs. Zabrowski regarding the proposed duplexes related to traffic safety, the possibility that neighborhood children may be required to attend another school and overload of the sewer system.

Mr. David Amaral, 56 Park Road, addressed the Board, expressing his opposition to the proposed amendment of the conditions of approval.

Mr. Ron Cabral, 9 Bergin Street, indicated that he had bought his home in January 2001, with the understanding that this subdivision was to include only single-family homes.

Ms. Rose-Marie Pereira, Cumberland Road, addressed the Board, noting that as a professional real estate agent she could represent that there is a strong market for single family homes in East Providence and that the developer of this subdivision would have no problem selling such homes.

Ms. MaryEllen Dias, 9 Bergin Street, reiterated the earlier comments of Mr. Ron Cabral, of the same address.

Mr. Donald Zabrowski, 14 Waterview Avenue, requested that the Planning Board notify the neighbors regarding the release of any of the bond being held by the City to insure the proper construction of public improvements. Mr. Zabrowski also noted that the trees that were to be planted in the conservation easement area, were actually located on the adjacent lot (lot 1).

Attorney Tudino addressed the Board and reiterated that multi-family uses were consistent with the R-3 zoning designation for this subdivision and asked that the Board grant the applicant's request to remove the note in question. Mr. Tudino also pointed out that a group home and daycare center were also permitted uses within the R-3 District.

Chairman Poland noted that the prior subdivision approval granted by the Planning Board was based upon a compromise between what the neighbors wanted and what the developer wanted. Mr. Poland stated that the developer had initially desired a greater number of lots and that the neighbors wanted to see fewer than six (6) lots. On the subject of single versus two-family, Mr. Poland explained that the Board did not include a stipulation in its approval prohibiting two-family dwellings, because the developer had consistently represented his intention to develop a single-family subdivision, as part of the Board's decision to waive the requirement for sidewalks and curbing.

Chairman Poland recognized Mr. Fisher who addressed the petitioner's request. Mr. Fisher noted that the resulting land use and community impacts of the removal of this note (i.e. the addition of two (2) dwelling units), would not be in the best interest of the public's health safety and welfare. Mr. Fisher expressed specific concern over the capacity of the surrounding street system to safely accommodate the additional traffic to be generated by these dwelling units, as well as the impact that these units would have on water pressure. Furthermore, the Planning Board's initial analysis and subsequent approval of this subdivision was based upon the submission of plans and supporting documentation for six (6) single-family detached homes.

Mr. Fisher added that the Board's prior approval took into account the resulting impacts associated with this subdivision and was based upon the conclusion that the land use impact (i.e. traffic, drainage, etc.) of six (6) lots was within the capacity of the surrounding area to absorb it.

Based upon these considerations, Mr. Fisher moved to deny the petitioner's request to remove note #5 of the "General Notes". Mr. Cunha seconded the motion. Present and voting in the affirmative were: Chairman Peter Poland, William (Chris) Fisher, Alternate Octavio Cunha, Anthony Almeida, and Michael Robinson. Member Theodore Sullivan was not present. Present and not voting was Alternate Member Harold Gerstein. Petitioner's request denied 5-0.

V. Continued Business

VI. Communications

On a motion by Mr. Fisher, seconded by Mr. Almeida, the Board voted to approve the following communications:

A. Memo dated August 17, 2001 to the Zoning Board of Review from the Department of Planning Re: "Requests for Variance or Special Use Permits to be heard on August 29, 2001.

VII. Announcements

Mr. Poland noted that the meeting of October 9th would be re-scheduled to a mutually convenient time.

VIII. Adjournment

The meeting adjourned at 8:35 p.m.

Respectfully submitted,

Peter J. Poland
Chairman

PJP/sac