

July 20, 1999 - Regular Planning Board Meeting

CITY OF EAST PROVIDENCE

PLANNING BOARD

MINUTES OF July 20, 1999

498th Meeting

PRESENT WERE: Messers. Poland, Ditraglia, Cunha, Sullivan, Jeanne Boyle (staff), William Conley (staff).

SEATING OF ALTERNATE MEMBER

Mr. Poland announced that both Mr. Cunha and Mr. Sullivan would be seated tonight.

APPROVAL OF PLANNING BOARD MINUTES

A. Minutes of April 13, 1999 (to be submitted)

B. Minutes of May 11, 1999

Mr. Cunha stated to Mr. Poland that his name was not listed under "seating of the alternate" in the May 11, 1999 minutes. The record should note that he was present at the meeting and should have been listed under "seating of the alternate". Ms. Boyle noted that Stephanie would correct it.

It was brought to the attention of staff by Mr. Cunha, that the minutes of May need to reflect the roll call votes alphabetically. Ms. Boyle noted that Stephanie would make the revisions.

On a motion by Mr. Ditraglia, seconded by Mr. Sullivan the Board unanimously voted to make sure the roll call votes are done alphabetically.

C. Minutes of June 8, 1999

On a motion by Mr. Ditraglia, seconded by Mr. Sullivan, the Board unanimously voted to accept the minutes of June 8, 1999.

APPROVAL OF PLANNING BOARD CORRESPONDENCE

No correspondence

NEW BUSINESS

A. Cadorna Street Minor Subdivision Preliminary Plan

The City Solicitor swore in Mr. Larry Smith, 430 North Broadway, the engineer for the project.

Mr. Smith showed the Board the location of the property. He stated it was on three lots when it was platted. There is a zone line that comes back and cuts through the lot that has the house. He said the house predates zoning and it continues to be a residence. The lots will meet the R-4 zoning. Mr. Smith said we are creating a new lot that will meet the zoning for the R-4 lot. The setbacks will meet the R-4 requirement. There is an existing sewer that will be reused to install a new water line. The garage in the back will be torn down and the driveway will be repaved. A new driveway will be built to service the existing house. He noted they are asking that they leave the sidewalk and the paving the way it is and waive the curbing.

Mr. Poland asked if there were any questions.

Jeanne Boyle went through the staff recommendation at this time. She stated this is a minor subdivision for preliminary approval. The applicant has requested that the final approval be allowed to be made by the Administrative Officer. She explained that there is an existing parcel of 12,000 sq.ft. which is being subdivided into two 6,000 sq.ft. parcels. Because it is a split zone and there is an existing property there, there was some discussion as to whether zoning variances were required. She noted the June 17 memo submitted to the Planning Board from the Zoning Officer stating that there were variances required for this property. She explained staff did have discussions with the City Solicitor and Zoning Officer subsequent to that memorandum being submitted. The Zoning Officer did amend his opinion to allow the entire property to be grandfathered. The memo that you see from the Planning Department tonight reflects that there will not be any zoning variances required. She explained we did not get an updated staff recommendation from the Zoning Officer. This will be able to proceed without variances.

Ms. Boyle said that the waivers being requested are for sidewalks and for granite curbing and there is an additional waiver being required for showing the topographic contours of the lot. Because it is essentially a flat lot, staff is recommending approval of that waiver as well as the others. She said this is something the Board has commonly granted in the past.

Ms. Boyle stated the application was reviewed for consistency with the Comprehensive Plan and this area is designated as the low density residential which requires residential density of less than eight dwelling units per acre and this subdivision is in compliance with that requirement. She stated that based on our consideration, staff recommends:

- 1) Subdivisions shall be consistent with the East Providence Comprehensive Plan, including its goals, objectives, policy statements and Land Use 2010 Plan.

Based upon the criteria found in the Land Use Plan 2010, the proposed subdivision is consistent with the Comprehensive Plan, as both lots would be used for single-family dwellings.

2. All lots in a subdivision shall conform to Chapter 19, Zoning.

The proposed subdivision conforms to the standards and requirements of Chapter 19, Zoning. As previously noted, the existing residential use on the portion of this property zoned commercial is grandfathered as its development predates the adoption of zoning.

3. There will be no significant environmental impacts from the proposed development.

It does not appear that there will be any significant environmental impacts from the proposed subdivision.

4. The subdivision will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable.

The proposed subdivision would allow for building in accordance with the applicable City regulations.

5. All subdivisions shall have adequate and permanent physical access to a public street.

Both lots will continue to have access to a City street.

6. Each subdivision shall provide for safe circulation of pedestrian and vehicular traffic, adequate surface water runoff, for suitable building sites, and shall provide for preservation of natural, historical or cultural features that contribute to the attractiveness of the community.

The proposed subdivision would allow for the safe circulation of pedestrian and vehicular, traffic, provide for adequate surface-water runoff, a suitable building site and the preservation of natural, historical, and cultural features.

7. The design and location of streets, building lots, utilities, drainage improvements and other improvements in each subdivision shall minimize flooding and soil erosion.

This subdivision is located on an existing public street and is served by City utilities. Flooding is not likely to be a problem on these parcels, as the subdivision is located outside of the 100-year flood zone. Finally, due to relatively level site topography, it is unlikely that there would be any drainage or soil erosion problems on these lots as a result of any future site improvements.

RECOMMENDATION

Ms. Boyle noted staff recommends that the application be approved by the Board as proposed and also recommend approval of the waivers of the topographic contours, and the installation of sidewalks and granite curbing. In addition to that staff recommends that the Planning Board delegate the final plan approval to the Planning Director.

Mr. Poland asked if there were any other questions. There were none.

First Motion

Request Waivers for Topographic Contours and Sidewalks and Granite Curbing.

On a motion by Mr. Ditraglia, seconded by Mr. Sullivan, the Board voted to accept waivers:

- 1) Topographic contours (Section 8-9)
2. Sidewalks (Section 13-6);
3. Granite Curbing (Section 13.2)(a)(3)

Roll call vote

Mr. Cunha	Aye
Mr. Ditraglia	Aye
Mr. Sullivan	Aye
Mr. Poland	Aye

Second motion

Motion on the staff recommendation for the minor subdivision.

On a motion by Mr. Ditraglia, seconded by Mr. Sullivan to recommend approval of the proposed minor subdivision.

Mr. Cunha	Aye
Mr. Ditraglia	Aye
Mr. Sullivan	Aye
Mr. Poland	Aye

Third Motion

On a motion by Mr. Ditraglia, seconded by Mr. Sullivan, the Board unanimously voted to delegate final plan approval to the Planning Director.

Roll call vote

Mr. Cunha Aye

Mr. Ditraglia Aye

Mr. Sullivan Aye

Mr. Poland Aye

B. Surplus Land Disposition - Narragansett Avenue and Sherman Street

Linda James, 220 Narragansett Avenue, Riverside, RI is sworn in by the City Solicitor. She distributed floor plans to the Board and stated the lot next to her is owned by the City and there is a drain running through it. She stated she wants to create an addition to her house and would like to use 10 feet of the lot next to her to build on.

On a motion by Mr. Ditraglia, seconded by Mr. Cunha, the Board unanimously voted to make the floor plans submitted by Ms. James part of the Board's official record.

Mr. Sullivan of the Board asked about the vehicle which is on the premises. Ms. James answered that that vehicle is owned by her son. Mr. Sullivan stated he did not realize this was being granted to extend the building. Mr. Poland stated she could not build on top of the easement which is 30 feet off the property line so she needs 10 feet on the other side. Mr. Sullivan asked if it would hamper any maintenance. Mr. Poland stated they probably only give them 10 feet but then give them extra feet. Ms. Boyle stated the 20 feet is the standard that Public Works requires and that does give them enough room to bring in vehicles for any repairs.

Ms. Boyle went through the staff memorandum. She stated Ms. James is requesting to purchase this property. This was referred to the Planning Board by the City Council.

The property consists of 9,020 sq.ft. with 40 feet of frontage and 193 feet of depth. It is zoned R-4 which requires a minimum lot area of 5,000 sq.ft. and a minimum lot width of 50 feet. Since this lot is a legal non-conforming lot, which predates the existing zoning, it would be considered a buildable lot, however, as depicted in the plan the property is bisected by a storm drain. The Department of Public Works is looking for a 20 foot minimum easement across that storm drain.

Ms. Boyle explained that this is the third time that this property has come before the Board for disposition. In 1982 William Adams of 218 Narragansett Avenue requested to

purchase the property. The Planning Board recommended approval and it was granted by the City Council for a value of \$8,000. Mr. Adams did not proceed with the purchase. In 1993, Mr. McDonald of 218 Narragansett Avenue also requested to purchase this property. The Planning Board recommended approval, it was approved by the City Council, but with the stipulation at that time the storm drain was in poor repair and they required that Mr. McDonald repair the storm drain. His intention at that time was to move it over to the southerly side of the parcel, to create a buildable lot and it would have been at his expense. She said the value that was assigned by the City Assessor at that time was \$13,000. Mr. McDonald also did not follow through with the purchase. Ms. Boyle stated that in 1995 because of improvements that were being done to drainage in the area anyway as well as some problems with the condition of the pipe, the City proceeded and replaced the storm drain on the property in its existing location which was in the center of the lot.

Ms. Boyle explained that in 1996 the revaluation assigned a value of \$40,000 to the lot. She stated when she spoke with the City Assessor one of the reasons why that \$40,000 was particularly a high number was that it did not take into account the presence of the storm drain and the 20 foot easement of the center of the lot and furthermore, in assigning a value to City-owned property, their general policy is to give it a higher value. If that had been privately owned even without the storm drain, it may have been lower than \$40,000. Public Works does not object to the purchase as long as they have the 20 foot wide easement which should give them enough room for maintenance. With the easement in place it does effectively reduce the buildable area adjacent to Ms. James to 10 feet wide. The City Assessor has reduced the valuation according from \$40,000 to \$12,000 as indicated in his memorandum.

Ms. Boyle stated staff finds no public purpose with the exception of the storm drain associated with city ownership of this property. Ms. James' lot is very narrow, it is 25 feet and it will certainly benefit from this acquisition. Therefore we recommend a declaration of the property as surplus and sale of the property to Ms. James of the Assessor's value of \$12,000 subject to a recording of a 20 foot wide drainage easement with the restrictions required by the Department of Public Works. This easement should be reviewed and approved by both the Department of Public Works and by the City Solicitor. She noted that in Ms. James' letter she does mention that she would like for the City to hold a mortgage on the property to cover the sales price. Ms. Boyle noted she did not address that in the staff memorandum. She stated she felt that that was an issue that would be more of the purview of the City Council rather than staff or the Planning Board. She noted we are recommending approval of the request.

Mr. Poland stated he is in favor of everything else except that part of the motion should not include the City holding the mortgage. Mr. Poland stated that the last time this came up Mr. Poland voted in favor of selling this property to the previous owner of Ms. Jame's and stated he would vote for it tonight without the part about the City holding the mortgage. A317

Mr. Conley stated that in fairness to the applicant it is not the City's practice to hold the mortgage on these types of transactions and that in some of the prior requests that were put on the record before the issue at least in one of those and maybe it became an issue in both of those was that the applicant's ability to pay for the lot after it had been approved. It is not the practice of the Council to hold a mortgage on these properties. There are a lot of reasons why the City is not interested in holding mortgages on these types of transactions. Mr. Conley stated he cannot speak for the Council, but does not think that they would be in favor of it either and it should be noted in the Board's record.

Motion

On a motion by Mr. Ditraglia, seconded by Mr. Cunha, the Board voted to approve the request that this piece of property be declared surplus and sold to Ms. James by a value to be determined by the City Council, but not have the City hold the mortgage on the property.

Roll Call Vote

Mr. Cunha Aye

Mr. Ditraglia Aye

Mr. Sullivan Aye

Mr. Poland Aye

C.1. Fence Heights

Ms. Boyle stated that what is proposed is to regulate fence heights. It has recently come to our attention that the ordinance with the exception of front yards does not regulate residential fence heights. The draft ordinance use of required yards was drafted by the City Solicitor in consultation with the staff of the Department of Public Works and Department of Planning. Under the ordinance the maximum height for fences and residential districts would be six feet and for commercial industrial districts would be a minimum of six feet with a maximum of 10 feet. She explained the ordinance was reviewed by staff and no corrections or objections were heard from them. She stated that the draft revision to the nuisance ordinance would prohibit the use of barb wire or razor wire fences. This is a nuisance ordinance and is not a zoning ordinance, therefore, no action by the Board is required.

Ms. Boyle stated that in reviewing the ordinance, staff finds it to be a reasonable regulation which is consistent with the goals of the Comprehensive Plan and we recommend approval as proposed. However, based on discussions that I had with the Chairman earlier today, Chairman Poland pointed out some issues with the ordinances

drafted and staff prepared some proposed modifications to the ordinance that might address some of those issues. She passed them out. Ms. Boyle stated that one concern that Chairman Poland pointed out is that a lot of homeowners have arborvitae or hedges or other vegetative buffers between their property and the abutting property and they generally reach a height of greater than six feet. She said this is not something that we intended to prohibit with this ordinance, however if you look at the language where it states "no fence or similar screen of solid appearance", that could be construed to mean those types of vegetative buffers. What we are proposing is to modify the ordinance still further. If you look at the second to the last sentence of the paragraph that was just distributed, we have added language that states that these restrictions shall not apply to plantings such as arborvitae or other similar trees or shrubs. The other problem that Chairman Poland pointed out is that the ordinance is not clear as to what happens with a side yard. Based on discussions that Ms. Boyle has had since then with the City Solicitor and the Zoning Officer, the intention was that by definition the front yard is covered already in the ordinance and everything that was not within the front yard is the rear yard. Therefore, that would also encompass the side yard. Ms. Boyle suggested that out of an abundance of caution that we clarify that regardless and add the language following "in the required year yard or side yard" both under the residential part and the commercial part. This way there is no doubt in any interpretations in the near future that should also apply to the side yard. Ms. Boyle noted these are the changes that staff is proposing at this time. We find that as implementation of this ordinance proceeds, that there may be some other things that we need to bring back to the Board. At this point, Ms. Boyle suggests that the Board approve the ordinance as drafted with the exception of these two minor revisions.

Mr. Poland stated that he thought the changes should take care of both and he states he is in total agreement that fences in residential zones should not be higher than six feet.

Mr. Sullivan asked if this does away with any of the ordinance that are in place now for fences where it gets to be within x number of feet from the sidewalk deep down to four feet. Ms. Boyle stated that would continue. Mr. Sullivan stated there is a person in Riverside who put up a four foot fence and it is blocking traffic because of the elevation of the ground. What can be done to tell the people that are erecting these fences that if they are on a hill and they put a six foot fence up its going to block traffic and the vision of someone driving. It is a hazard.

Mr. Conley stated to Mr. Sullivan he is aware of the place that he mentioned and stated that he has discussed it with the Zoning Officer. He said we can take the position that because of it going down hill from the grade where they have it, that that is in violation of other ordinances that you just cited when it comes to the intersection and if a notice has not been sent it will be sent very shortly. Mr. Conley noted he will make sure that it is sent out if it hasn't already.

On a motion by Mr. Sullivan, seconded by Mr. Cunha, the Board voted to recommend to the City Council approval of the change in Section 19-135(5) the Zoning Ordinance with the new handout that the Board received tonight.

Roll Call Vote

Mr. Cunha Aye

Mr. Ditraglia Aye

Mr. Sullivan Aye

Mr. Poland Aye

C.2 Wireless Telecommunication Towers and Antennas

Ms. Boyle explained that this is another zoning ordinance change. There are two revisions referred to the Planning Board which have been prepared by the City Solicitor. The first is under "Permitted Uses". It would revise that section to allow antennas which are located upon existing 10-story or above buildings to be among the permitted uses. She noted staff made a number of changes when we drafted the telecommunications ordinances. Our intention was to try to encourage the location of antennas on existing antennas or upon existing buildings. However, we did receive a couple of inquiries about location of antennas on existing buildings and upon review of the ordinance, we realized it had become a prohibited use with the exception of Industrial-3 zones, and that it would have required a use variance in order to place an antenna upon an existing 10-story or above building. Ms. Boyle stated that would force the proposer to go to the Zoning Board of Review to try to get a use variance with which they would have to claim hardship standard with no beneficial use which is a very difficult hardship to establish.

Ms. Boyle stated it is a good location for those types of antennas, it does not have the same type of community disruption as some of the actual towers that are being constructed. We felt that it was advisable to revise those permitted uses and to allow erection of an antenna, not a tower, atop a 10-story or greater building. She noted the other change came about at the request of the City Council. It was their belief based on a recent hearing for a proposed antenna at Grassy Plains Playground that there was not sufficient notice being given to neighboring property owners and that they were not being given enough opportunity to make their views known about on the proposed tower. She said there were two changes to the notice requirement: one would be while the Planning Board is not actually referenced in the telecommunications ordinance, the Board does take a look at each of the proposals that are going to be taking place on City-owned property through the disposition process. This ordinance would require that there be a notice and a public hearing by the Planning Board whenever a disposition is taking place which is associated with placement of an antenna or a tower on City-owned property. The second change extends the notice requirement for the City Council public hearing from

seven days to 14 days in order to give the public an ample opportunity to come in and research the proposal and understand what is going before the City Council.

Ms. Boyle stated that both of these ordinances improve the telecommunications ordinance as drafted, it encourages the type of antenna placement that we are looking at with the first change, and it also gives the public a greater opportunity to understand and make their views known. Based on those considerations, staff recommends approval as drafted.

Mr. Poland asked if there were any comments from the Board.

Ms. Sullivan asked Ms. Boyle about the paragraph where it states: " the revision applies to antennas only and does not apply to installation of towers on top of high-rise buildings."

Ms. Boyle answered that they are both defined; an antenna is essentially a small dish-like structure, a tower is the actual large structure. On top of those towers they often attach an antenna or sometimes multiple antennas. Those are relatively small structures which we define in the ordinance. Staff feels that an antenna is relatively unobtrusive placement on top of a building . She further explained that placement of a tower on top a building has the potential to have some sort of public impact associated with it. We want to restrict that as-of-right scenario to antennas and not include towers. If someone were to put a tower on top of a building, they will have to go through the Zoning process.

Mr. Poland stated that we had talked about it and noticed that some of the buildings in the City had already had the antennas around the elevator shaft. Mr. Conley stated it is listed in the first set of drafts of the ordinance and somehow from one draft to another it got deleted. He stated the deletion was unintentional because when we went to find it we thought it was still in there. Ms. Boyle stated that when staff looked at the memorandum from the Planning Board to the City Council, it actually recommended language that would encourage the use of antennas rather than construction of new towers and monopoles. It was discussed back at the meeting and it was staff's and Planning Board intention that that should have been included. It was just an oversight.

Mr. Poland said that when this ordinance came up to us before, I stated the City should have exactly the same requirements as property owners especially since I live next to a recreation area and you could build a tower off my backyard, but if it was owned privately the person could not do it. He would have to stay 200 or 300 feet away from my yard. He stated he still feels that the people who want to build these towers on City property should go before the Zoning Board and get a permit.

Mr. Poland asked if there were any other questions.

Paul DeCoste, Nextel Communications, Lexington, MA was present and sworn in. He stated he was one of the people that brought the first proposed amendment to the City's attention.

Mr. DeCoste stated they are looking at a structure in the City which is less than 10 stories and want to do side mounts which are consistent with what is defined in the "Purposes and Objectives" section of the underlying ordinance.

Mr. Poland stated that 10 stories are exactly what he is talking about and you would not have to get a variance. Ms Boyle stated she discussed this particular situation with the Zoning Officer and his interpretation that is a 10-story building including the mechanical space as well as the living area. It is actually the full height of the structure. Ms. Boyle stated the Zoning Officer would interpret that building as a 10-story building which would be permitted.

Mr. Poland asked why are we starting at 10 stories. Ms. Boyle answered that this is the prevailing height of highrises in the City. She noted if you start going much lower than the 10 story building, then there are height restrictions.

1st Motion Section 19-351(b)(3) "Permitted Uses"

On a motion by Mr. Ditraglia, seconded by Sullivan the Board voted unanimously the following to approve that:

1. Section 19-351(b)(3) Permitted Uses be revised to include antennas located upon existing 10-story or above buildings among permitted uses.

Roll Call Vote

Mr. Cunha	Aye
Mr. Ditraglia	Aye
Mr. Sullivan	Aye
Mr. Poland	Aye

2nd Motion on the Public Hearing and Notification to Abutters

On a motion by Mr. Ditraglia, seconded by Mr. Sullivan, the Board voted to send out notification 14 days prior to the Planning Board meetings and increase the number of days of the notification of abutters before the City Council meeting of any hearings considering the location of antennas and towers on property owned, leased, or otherwise controlled by the City of East Providence.

Roll Call Vote

Mr. Cunha	Aye
Mr. Ditraglia	Aye

Mr. Sullivan Aye

Mr. Poland Aye

CONTINUED BUSINESS

A. Staff Report

Subdivisions

Ms. Boyle said she expects to have either one or two major subdivisions and a couple of minor subdivisions before the Board next month.

Comprehensive Plan Update

Ms. Boyle noted staff is working on the Comprehensive Plan update. We are hoping to have something before the Board for October and have approval by the end of the year.

Crescent Beach Property

Ms. Boyle said that the City's goal to acquire the Crescent Beach property for open space is consistent with the Comprehensive Plan. She stated that in the past, during the Comprehensive Plan discussion by the Committee on this particular property was whether or not it should be designated for open space or not. The Board at that time did choose after discussion to designate that area as open space. Acquisition of this property by the City Council would in fact accomplish that particular goal. She said she would keep the Board apprised of any further developments in that area.

COMMUNICATIONS

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

A. Memo dated 6/25/99 to the Zoning Board of Review regarding Requests for Variance or Special Use Permit to be heard on 6/30/99.

ANNOUNCEMENTS

Next Meeting - August 17, 1999, 7:30 p.m., Room 306

ADJOURNMENT

On a motion by Mr. Sullivan, seconded by Mr. Ditraglia, the Board adjourned at 8:29 p.m.

Respectfully submitted,

Joseph Medeiros, Secretary

JM/JMB/san