

MINUTES

August 2, 2011

Chairman Charles Rossi called the Planning Commission Meeting to order in the City Council Chamber at 7 p.m. The following Commission members were in attendance:

Charles Rossi, Chairman
Michael Smith
James Moran
Mark Motte
Robert Strom
Gene Nadeau

Also present were:

Peter Lapolla, Planning Director
Stephen Marsella, Esq., Assistant City Solicitor
Lynn Furney, Senior Planner
J. Resnick, Sr. Clerk

APPROVAL OF MINUTES

Upon motion made by Mr. Strom and seconded by Mr. Smith, the Planning Commission unanimously voted to approve the minutes of the July 12, 2011, Planning Commission Meeting.

REQUEST FOR MINOR AMENDMENT Chapel View MPD

Request to add 1,289 square feet to Chapel Grill and to re-designate flexible space

Mr. Lapolla explained that the applicant has asked for a roughly 1,289 square foot increase in size for the future Chapel Grille restaurant (Building A4). The applicant is also requesting that the 4th floor residential space in Building A3, which the MPD ordinance presently deems as residential, be changed to 'residential and office space'. While the requested change may result in a decrease in the area devoted to residential use in the short term, technically there will be no change to the designated uses. In view of present real estate market conditions, this request is reasonable. The 4th floor can still be used for residential development when, and if, the market turns.

John Bolton, Esq., the applicant's attorney, reiterated and further clarified Mr. Lapolla's comments, stating that there are three elements of the MPD that the applicant is requesting to change. 1) the present open-air patio (1,289 sq. ft.) will be enclosed, 2) Building A3 4th floor residential space be re-designated to "flex space" and, 3) authorization to relocate the pylon sign on Sockanosset Crossroad as it is presently located on City owned property. The request is to move it to the other side of the roadway entrance on to Chapel View property.

Mr. Lapolla stated that these requests are considered minor modifications. However, in regard to the Chapel Grille restaurant (Building A4), the Chapel View owners should provide documentation that the exterior changes to Building A4 have been approved by the Cranston Historic District Commission and by the R.I. Historic Preservation and Heritage Commission.

No public comment was offered on this matter.

Upon motion made by Mr. Strom and seconded by Mr. Smith, the Planning Commission unanimously voted to treat the requested modifications as minor and *approve* the applicants request conditioned upon approval by the Cranston Historic District Commission and by the R.I. Historic Preservation and Heritage Commission.

Aye votes: Chairman Rossi, Mr. Nadeau, Mr. Smith, Mr. Strom, Mr. Moran and Mr. Motte.

Nay votes: None.

ZONING BOARD OF REVIEW RECOMMENDATIONS

JOHN AGUIAR 28 PAINE AVENUE CRANSTON RI 02910 (OWN/APP) has filed an application for permission to add an additional living unit to an existing two family dwelling at **110-112 Wentworth Avenue**. AP 2/5, Lot 762, area 7500 SF, zoned B-1. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity.

This application was reviewed for conformance with criteria (3) of R.I.G.L. 45-24-41 (c) "*Standards for Variance*" which reads as follows: "*That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.*"

Findings of Fact:

1. The proposed additional 2 bedroom residential unit will result in a density of 17.42 units per acre, which is not consistent with the 2010 Comprehensive Plan Future Land Use Map, that designates this area of the City as **Single/Two Family Residential, less than 10.89 units per acre**.
2. The site plan submitted shows 6 cars parked on site; however, 5 of those cars are parked end to end in the driveway, which is not allowed for a multi-family dwelling. The parking area must be designed to allow each vehicle to access and egress the parking area in a forward motion. (Chapter 17.84, F.1. of the Cranston Zoning Code).
3. There are 66 residential dwellings located within the 400' zoning notification radius. Though the neighborhood is a mix of 1, 2, and 3 family dwellings, only 27% are 3-family houses. The Comprehensive Plan recognizes the overcrowding potential should the large houses in this older neighborhood be converted to more than two units, and therefore limited this area of the City to a B-1 zoning density of no more than 10.89 units per acre.
4. The applicant purchased the property 2 months ago, (May 2011) as a two family dwelling; the tax assessor taxes the property as a two family.

Recommendation: Based on the above Findings of Fact, and applying the standard as required by State Law Sec. 45-24-41.B, the Commission cannot include a statement on the general consistency of the application with the goals and purposes of the Comprehensive Plan. Therefore, upon motion made by Mr. Motte and seconded by Mr. Moran, the Plan Commission unanimously voted to forward a negative recommendation on this application to the Zoning Board.

Ayes: Chairman Rossi, Mr. Motte, Mr. Smith, Mr. Nadeau, Mr. Strom and Mr. Moran. Nays: none.

DORA A MIGNACCA 181 GARDEN CITY DRIVE CRANSTON RI 02920 (OWN) AND JOSEPH MASTRATI DBA 2ND TIME AROUND SPORTS 52 POMHAM STREET CRANSTON RI 02910 (APP) have filed an application for permission to operate a retail sales business including new and used merchandise at **1174 Park Avenue**. AP 9/4, Lot 1729, area 24,000 SF, zoned C-1. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.030 Schedule of Uses, 17.20.120 Schedule of Intensity.

This application was reviewed for conformance with criteria (3) of R.I.G.L. 45-24-41 (c) "*Standards for Variance*" which reads as follows: "*That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.*"

Findings of Fact:

1. In 1986, a zoning variance was granted to construct the applicant's building for the purpose of retail sales and rentals of home care surgical equipment and supplies.
2. The proposed retail sales use is consistent with the 2010 Comprehensive Plan Future Land Use Map, that designates this area of the City as **Highway Commercial/Services**.
3. The gross floor area of the building to be used for retail sales is 5,315 Sq. Ft. The lot also contains an attached two unit apartment to the rear of the retail building, and a 1,950 sq. ft. attached storage building to the rear of the apartments.
4. The site plan shows parking for 21 cars. Per the Zoning Code, the number of spaces needed for the total gross floor area of retail, is 27 spaces. The parking area however, is existing.
5. The variance request is for retail sales of new and used sports equipment.

Recommendation: Based on the fact that a retail sales use is consistent with the Highway/Commercial Service classification on the Comprehensive Plan Future Land Use Map, the Plan Commission, upon motion made by Mr. Moran and seconded by Mr. Strom, unanimously voted to forward a positive recommendation on this application to the Zoning Board, with the condition that the applicant enters into the Zoning Board of Review's record of proceedings, sufficient evidence satisfying the remaining standards for the granting of variances relating to hardship, least relief necessary, mere inconvenience and reasonable use, as put forth in R.I.G.L. 45-24-41.

Ayes: Chairman Rossi, Mr. Motte, Mr. Smith, Mr. Nadeau, Mr. Strom and Mr. Moran. Nays: none.

LISA VIDETTO 70 HIGHLAND STREET CRANSTON RI 02920 (OWN/APP) has filed an application for permission to build a 560+/- SF family accessory apartment to an existing single family dwelling at **70 Highland Street**. AP 17, Lots 841 & 842, area 9500 SF, zoned A-6. Applicant seeks relief from Sections; 17.92.020 Special Use Permit.

This application was reviewed for conformance with criteria (3) of R.I.G.L. 45-24-41 (c) "*Standards for Variance*" which reads as follows: "*That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.*"

Findings of Fact:

1. The existing single family use for the property is consistent with the 2010 Comprehensive Plan Future Land Use Map, that designates this area of the City as **Single Family Residential, 7.26 to 3.64 units per acre**.
2. The applicant also owns lot 840 and 839, that are shown on the site plan, but were not listed in the application.
3. The proposed in-law apartment addition is 24'-4" x 20' , which equals 486.6 sq. ft. The area is less than the 600 sq. ft. maximum area allowed for an accessory family apartment.

4. The apartment will have access to the main dwelling unit through a new mud room, that is a common area to both units, that will be constructed on the rear of the existing house.
5. The new mud room addition will include a new porch addition and a new door that faces the street.
6. An existing garage on the property will be removed.
7. The proposed in-law addition meets all required yard setbacks.

Recommendation: Based on the fact that the residential use is consistent with the Single Family Residential classification on the Comprehensive Plan Future Land Use Map, the Plan Commission, upon motion made by Mr. Smith and seconded by Mr. Motte, unanimously voted to forward a positive recommendation on this application to the Zoning Board, with the condition that the applicant enters into the Zoning Board of Review's record of proceedings, sufficient evidence satisfying the remaining standards for the granting of variances relating to hardship, least relief necessary, mere inconvenience and reasonable use, as put forth in R.I.G.L. 45-24-41.

Ayes: Chairman Rossi, Mr. Motte, Mr. Smith, Mr. Nadeau, Mr. Strom and Mr. Moran. Nays: none.

295 INDUSTRIAL PARK LLC C/O 95 SCITUATE AVENUE HOPE RI 02831 (OWN) AND LAMAR OUTDOOR ADVERTISING 360 WARREN AVENUE EAST PROVIDENCE RI 02914 (APP) have filed an application for permission to erect a 130 foot mono pole double faced 48' X 14' billboard at **60 Amflex Drive**. AP 36/2, Lots 114, area 60,001 SF, zoned M-2. Applicant seeks relief from Sections; 17.92.010 Variance, 17.72.010 Signs.

This application was reviewed for conformance with criteria (3) of R.I.G.L. 45-24-41 (c) "*Standards for Variance*" which reads as follows: "*That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.*"

Findings of Fact:

1. The 2010 Comprehensive Plan Future Land Use Map designates this area of the City as Industrial; therefore, a billboard, permitted in an M-2 industrial zone, is **not inconsistent** with the Comprehensive Plan.
2. Per the City's Zoning Ordinance, billboard heights are limited to 25' high, with a max area of 500 sq. ft. The proposed billboard is 130 ft. high, with an area of 1,344 sq. ft. (48' x 14'). The billboard is 169% larger in area and 420% higher than what is permitted.
3. The billboard's proposed location is at the top of slope at elevation 304' above sea level. The location abuts the southbound lanes of Interstate-295, which is at elevation 280' in this location. Therefore, the top of the billboard will be 154' higher than the travel lanes of I-295, which is excessive.
4. As a comparison, billboards located on Wellington Avenue (in Cranston) also abut an Interstate Highway (Rt. I-95) that has travel lanes that are at lower elevations than the abutting properties. The highest billboard on Wellington Avenue is 72' high. The 2 most recent 50' high billboards on Wellington Avenue were approved by zoning variances in 2006 and 2010.
5. The application states that there are trees between the travel lanes of I-295 and the applicant's property, that block the visibility of the billboard. In essence, the trees were planted along the highway, to create a visually aesthetic buffer screen between the abutting properties and the motorists on the highway.
6. R.I.G.L. 45-24-41 c.1 states that the hardship from which the applicant seeks relief must be due to the **unique characteristics of the subject land** or structure and **not** to the general characteristics of the surrounding area. Trees that are on a property that abuts the applicant's property cannot be considered a unique characteristic of the subject land, and therefore does not constitute a valid or defensible reason to grant a height variance.

7. No perspective scaled drawings of the billboard were submitted as required per Chapter 17.92.010 E. of the Zoning Code.
8. When using the 14' height of the billboard's surface itself as a scale, the total height of the structure as shown on the plans, is not 9.28 times the height of the billboard itself. (9.28 x 14' =130')
9. There are **no** billboards on Rt. I-295 within the Cranston City limits. A billboard 130 feet high would alter the general character of the surrounding area, and hinder the intent and purpose of the Zoning Ordinance and the Comprehensive plan upon which the Ordinance is based, and set a precedent for additional billboards of the same height in this area.
10. According to the City's Building Inspection's department, the 103' flagpole on the same property as seen in the photographs, was put up without a required building permit, and exceeds the zoning height restriction of 35'.
11. Photographs taken in the area show that the flagpole is visible, from Plainfield Pike, Sailor Way, Amflex Drive, as well as other streets in the City; therefore, the billboard will be visible from these same areas, thereby altering the general character of the surrounding areas.
12. The applicant has not proven that the request is the least relief necessary, as the sign towers over the deciduous tree tops. A balloon or crane simulation at the proposed billboard's location would be the only way to determine the least height necessary for relief.

Recommendation: Though billboards no higher than 25' in an Industrial Zone would not be inconsistent with the Comprehensive Plan, the Commission finds that a 1,344 sq. ft. billboard that is 130' high is excessive. Therefore, upon motion made by Mr. Motte and seconded by Mr. Smith, the Plan Commission unanimously voted to forward a negative recommendation on this application to the Zoning Board, based on the above findings of fact, and for the following reasons:

1. The applicant is circumventing and defeating the purpose of the treed screening buffer zone along the highway, by installing a sign almost twice the height of the buffer's height.
2. The 130' billboard will alter the general character of the surrounding area, as it will be visible from other streets in the City.
3. The application shows no evidence that the relief sought is due to the **unique characteristics of the subject land** or structure and **not** to the general characteristics of the surrounding area as there appear to be no trees on the applicant's property.

Ayes: Chairman Rossi, Mr. Motte, Mr. Smith, Mr. Nadeau, Mr. Strom and Mr. Moran. Nays: none.

ADJOURNMENT

Upon motion made by Mr. Nadeau and seconded by Mr. Smith, the Planning Commission unanimously voted to adjourn at 8:20 p.m.

NEXT MEETING September 6, 2011 at 7 p.m., City Council Chamber

Respectfully submitted,

Jason M. Pezzullo, AICP
Principal Planner/Secretary