

## **MINUTES**

August 7, 2018

Chairman Smith called the City Plan Commission Meeting to order at 7:10 p.m. in the City Council Chambers. He announced that all of the Subdivision and Land Development matters will be continued, as well as their corresponding zoning matters, as there are only five Commission members present.

The following Commission members were in attendance:

Michael Smith, Chairman  
Ken Mason, P.E.  
Lynne Harrington  
Fred Vincent  
Kathleen Lanphear

Also present were:

Jason M. Pezzullo, AICP, Planning Director  
Stephen Marsella, Esq, Assistant City Solicitor  
Douglas McLean, Principal Planner  
Joshua Berry, Senior Planner  
J. Resnick, Clerk

### **PRINCIPAL PLANNER**

Mr. Pezzullo introduced Douglas McLean. He was welcomed by all. Upon motion made by Ms. Harrington and seconded by Mr. Vincent, the Commission unanimously voted (5/0) to appoint Mr. McLean an Administrative Officer of the Plan Commission.

### **APPROVAL OF MINUTES**

Upon motion made by Mr. Vincent and seconded by Ms. Lanphear, the Plan Commission unanimously voted (5/0) to approve the minutes of the July 10, 2018, Plan Commission Meeting with the typo correction requested by Ms. Lanphear.

### **ORDINANCE RECOMMENDATIONS**

**Ordinance 06-18-06** – In Amendment of Chapter 17 of the Code of the City of Cranston, 2005, Entitled “Zoning” (950 Phenix Avenue – Signage / Billboard)

Attorney John Mancini, on behalf of the applicant, BCP Stor, LLC, stated that the applicant is seeking a modification to the existing MPD, specifically the “sign in the rear” (to face I-295). He explained the request for a pole sign 100 ft. in height (tree height), 650 sq. ft. (47’x14’) one sided, back lit, stagnant billboard sign facing the highway. It will only advertise CubeSmart and would be removed should the property change ownership. He stated that the topography slopes down so the sign will not be seen from Phenix Avenue, will “not be larger than the cell tower” and will be located about 500 ft. from the I-295 ramp. He further stated that the business had its opening “a few weeks ago”. He stated that the sign proposal has been reduced in

accordance with comments made at previous meetings. Regarding the wall sign, he stated that about 20% of the building is visible from Phenix Avenue. Regarding the monument sign, he stated that “you’re really not getting enough advertisement”.

Mr. Fred Joslyn, 23 Gaglione Court, stated that the sign has been reduced in height each time it is presented. He stated that it is out of character with the wooded area, stating that once the leaves fall the visibility of the sign will “become more obvious”. He pointed out that other CubeSmart locations in RI and the New England area do not have such a sign and “they are successful”. He also noted that “the internet would direct one to the availability of a storage facility”. He stated that the pylon sign is “unnecessary” and “would render havoc to the area”, stating that there is adequate signage. He asked the Commission to “disapprove” this application.

Mr. Philip Tessier, 15 Kimberly Lane, spoke against the proposal, stating that it is “multiple of what is allowed” and would affect the area.

Ms. Nancy Ruzzo, Angel Avenue, expressed concern with negative impact to the property value in the Historic District, is concerned with a precedent being set and suggested the applicant “purchase a billboard on Rt. 37”.

Mr. Thomas Capelli, Hillside Farms, appeared to speak against the proposal, stating that “it will be a distraction and is too large”.

Mr. Pezzullo mentioned previous proposals for the area as it was previously zoned A-12. He explained that “during the MPD process we were consistent with the fact that this billboard would not receive a positive recommendation”. He stated that the 55’x 8’ wall sign is supposedly reduced. He stated that the staff recommendation is based on past policy. Chairman Smith stated that he supported the director’s recommendation.

Upon motion made by Mr. Vincent to include the entire director’s recommendation in the recommendation sent to the City Council, and seconded by Ms. Harrington, the Commission voted (4/1 – Mr. Mason voted nay) to recommend denial on this proposal. However, since the vote did not result in a majority vote of the Commission, the motion did not carry resulting in *no specific recommendation* on this matter.

## **SUBDIVISIONS AND LAND DEVELOPMENT**

### **Atwood Village Condominiums – Master Plan**

Major Land Development

*12 units (6 duplex) with private street extension*

*Terminus of Burton Street*

AP 12, Lots 938-946, 947-953, 996-1002

Upon motion made by Mr. Vincent and seconded by Ms. Harrington, the Plan Commission unanimously voted (5/0) to continue this matter to the September 11, 2018, Plan Commission Meeting at the applicant’s request.

### **Seven Mile Road Solar – Master Plan**

Major Land Development w/o street extension

*Two – 1MW solar farm installations (2MW total)*

Seven Mile Road

AP 32, Lot 21

Upon motion made by Ms. Lanphear and seconded by Ms. Harrington, the Plan Commission unanimously voted (5/0) to continue this matter to the September 11, 2018, Plan Commission Meeting at the applicant’s request.

**Replat of Lot 4, Koutsogiane Estates - Preliminary Plan**

Minor Subdivision without street extension  
*Three additional conforming house lots*  
Koutsogiane Drive  
AP 12, Lot 3359

Upon motion made by Mr. Vincent and seconded by Ms. Lanphear, the Plan Commission unanimously voted (5/0) to continue this matter to the September 11, 2018, Plan Commission Meeting at the applicant's request.

**The Sami Plat – Replat of West Arlington Plat  
Lots 372, 373, Portions of Lots 371 and 374**

Minor Subdivision without street extension  
*Two additional non-conforming house lots*  
Corner Crescent Avenue and Peerless Street  
AP 6, Lots 1374 – 1377

Upon motion made by Mr. Vincent and seconded by Ms. Harrington, the Plan Commission unanimously voted (5/0) to continue this matter to the September 11, 2018, Plan Commission Meeting at the applicant's request.

**ZONING BOARD OF REVIEW RECOMMENDATIONS**

**MOKHTAR KATTAN AND KANTZ CORPORATION(OWN) AND KANTZ CORPORATION (APP)** have filed an application to expand a non-conforming use in an existing fuel station and minimart convenience store at **644 Oaklawn Avenue** A/P 16, Lot 822 14,200 sq. ft. Zoned A8. Relief sought is to allow a coffee and donut shop without drive through to occupy one half the existing space, a walk-in cooler to the back of the building within the rear yard setback, and additional signage is also proposed on the site. Applicant seeks relief per 17.92.010 Variance; Sections 17.20.120 Schedule of Intensity, Section 17.88.040 Change of Use, Section 17.88.050 Structural Alterations.

Upon motion made by Mr. Vincent and seconded by Ms. Harrington, the Plan Commission unanimously voted (5/0) to continue this matter to the September 11, 2018, Plan Commission Meeting at the applicant's request.

**JEROME T. GREEN (OWN) AND DIANA GREEN (APP)** have filed an application to convert an existing non-conforming sunroom to living space with restricted rear setbacks at **17 May Drive**, AP 10, lot 377, area 5918 s.f. zoned A-8. Applicant seeks relief per 17.92.010 Variance; Section 17.20.120 Schedule of Intensity Regulations.

**VARIANCE REQUEST:**

1. To allow the existing converted bedroom which encroaches 12.8' into the 20' rear yard setback in A-8 zoning to remain. [17.20.120 Schedule of Intensity]

**FINDINGS OF FACT:**

1. The subject property is an A-8 zoned lot of 5,918 ft<sup>2</sup>, and is currently occupied by a single family residence that was constructed in 1965, before the zoning code became effective in 1966.
2. The lot was initially platted in 1904 and was later merged with A/P 10 lot 378 in 1965. The current owner, Jerome T. Green, purchased the lot in 2017.

3. The use of single family residential is consistent with zoning and with the Comprehensive Plan's Future Land Use allocation of Single Family Residential 7.26 – 3.64 units/acre. No change of use is proposed.
4. The existing single family residence encroaches 10' into the 25' front yard setback. The southernmost corner of the home (excluding the bedroom addition) encroaches 5.4' into the 20' rear yard setback. The previously existing sunroom in the rear of the residence encroached 12.8' into the 20 foot rear yard setback.
5. The sunroom was modified in 2017 to become an additional bedroom without benefit of a permit. The footprint of the building was not increased, the sunroom was enclosed on the same footprint.
6. In correspondence with Planning Staff on 7/24/18, the Applicant expressed that she and her husband took the contractor, Paulino Construction, to court in May of 2018. Part of the issue was that the contractor did not pull a permit for the work.
7. In correspondence with Planning Staff on 7/20/18, the Applicant claimed that the residence directly to the rear has been vacant since they purchased the home in 2017.
8. The lot is irregularly shaped with no parallel or perpendicular lot lines. The lot shape is a result of the triangular land area that the lot is carved from, which is the block of land formed between May Drive, Plantation Drive, and Magazine Street.
9. The subject property is the only lot with a residence that faces May Drive, although four (4) lots have frontage on May Drive. The other three (3) lots face other public roads.
10. The shape of the lot reduces the buildable area, particularly in the rear where the bedroom addition is located. The shape of the lot is unique to the subject property; not a general characteristic of the surrounding area.

#### **ANALYSIS:**

The subject lot was platted and developed prior to the effective date of the zoning code in Cranston, so the setbacks were not a consideration at the time. The current owner enclosed the previously existing sunroom, which can be interpreted as an "accessory structure" which would have a 5' rear setback, to become a bedroom addition and part of the primary structure, triggering the full 20' rear setback to be in effect. It may not have been intuitive for the owner that this would trigger a zoning variance. Nonetheless, the contractor is responsible for pulling a permit for the work, which they neglected to do. The Applicant has since taken the contractor to court, demonstrating discontent that the work that was conducted without benefit of a permit.

The unique shape of the lot causes a significant reduction of the buildable area. The side interior lot lines are not perpendicular to the street frontage and the rear lot line is not parallel to the front property line. The buildable area is most limited as the rear lot line approaches closer to the existing residence on the eastern side of the lot, which is the location of the converted bedroom. If a lot of the same area were rectangular, as the subdivision regulations generally require, then the lot would have ample buildable area as to have allowed the conversion of the sunroom to a bedroom without a variance.

Approval of the variance is not perceived to have a negative effect on the character of the neighborhood or the general welfare. The proposed work did not alter the footprint of the home, and only came to the City's attention when the owner came to the City to get heating to extend to the new bedroom. The enclosed nature of the space would only reduce the visual and auditory impacts to the neighbors. The Applicant has claimed that the closest residence to the rear has been vacant since they moved in last year.

#### **RECOMMENDATION:**

Due to the fact that the modifications to the home did not expand the footprint of a preexisting nonconforming building, and that there is no perceived detriment to the general welfare or character of

the neighborhood; upon motion made by Mr. Vincent and seconded by Ms. Harrington, the Commission unanimously voted (5/0) to forward a **positive recommendation** to the Zoning Board of Review.

**SEVEN MILE ROAD, LLC (OWN) AND SOLAR VENTURES, LLC and SOUTHERN SKY RENEWABLE ENERGY RI NEWCO, LLC (APP)** have filed an application for a variance to subdivide a lot at **0 Seven Mile Road**. AP 32, Lot 21, area 11.1 +/- acres, zoned A-80. Applicants seek dimensional variance to create two (2) lots with restricted street frontage for use as a solar farm. Each lot will have 148 +/- street frontage. Applicants seek relief per Section 17.20.120 Schedule of Intensity Regulations, Section 17.92.010 Variance.

Upon motion made by Ms. Lanphear and seconded by Ms. Harrington, the Plan Commission unanimously voted (5/0) to continue this matter to the September 11, 2018, Plan Commission Meeting at the applicant's request.

**EUGENE T. DYSZLEWSKI, MARGARET R. PACCIONE-DYSZLEWSKI and NICOLE PACCIONE DYSZLEWSKI (OWN) AND EUGENE T. DYSZLEWSKI and MARGARET R. PACCIONE-DYSZLEWSKI (APP)** have filed an application for a variance to subdivide a lot at **579 Phenix Avenue**. AP 20/4, Lot 2176, area 133,104 +/- SF, zoned A-20. Applicant seeks dimensional variance for new lot to be created containing 56,182 +/- SF with restricted street frontage and relief from requirement of side lot lines being substantially at right angles to the street line. Applicant seeks relief per Section 17.20.090 (E) Specific Requirements, Section 17.20.120 Schedule of Intensity Regulations, and Section 17.92.010 Variance.

#### **VARIANCE REQUESTS:**

1. To allow the creation of a new lot (Parcel B) with 45 feet of frontage when a minimum of 125 feet of frontage is required in an A-20 zone. [17.20.120 Schedule of Intensity Regulations]
2. To allow a subdivision in which both lots (Parcel A and Parcel B) will have an irregular common side lot line that does not extend straight from the front to the back of the lot. [17.20.090 (E) Specific Requirements]

#### **FINDINGS OF FACT:**

1. The total area of the site is 133,104 sq.ft. (3.05 acres). The applicant has proposed to subdivide lot AP 20/4, Lot 2176 into two new lots:
  - Parcel A – 76,922 square feet with 125' of frontage (existing single-family);
  - Parcel B – 56,182 square feet with 45' of frontage (vacant);
2. Both of the proposed lots will meet the requirements for lot area (20,000 sq. ft.).
3. Parcel A is currently being used as a single family dwelling.
4. The City Plan Commission has approved the Preliminary Plan Application for this minor subdivision on May 1, 2018. A variance from City Code Section 17.20.090 (E) Specific Requirements, and Section 17.20.120 Schedule of Intensity Regulations, is required for consideration of Final Plan approval for the proposed subdivision.
5. The Comprehensive Plan Future Land Use Map designates this site as Single Family Residential 3.63 – 1 units/acre. The proposed density of the subdivision should Parcel B be developed into a single family residence is 0.65 units/acre, 2.98 units/acre below the maximum.
6. The proposed lots have frontage on Phenix Avenue with driveway/private roadway to access the existing home. The private driveway would service the proposed new lot.
7. The adjacent lots to the south and east are single family residences that are on lots smaller than what is being proposed through this subdivision.

#### **ANALYSIS:**

The applicant has proposed an atypical subdivision in that the lot as configured will be irregular in shape and will not have the minimum required frontage. Over the course of the past year, the applicant's surveyors worked with the City Planning Department staff to come up with a subdivision configuration that could work from the most practical standpoint possible. In the end, staff was willing to entertain the

proposed subdivision for the simple fact that even though the new lot would have less than the 125' of required frontage, the usable area of the lot would still be nearly three times the minimum area required in the A-20. Also, given the relief of the lot, the area dedicated to frontage would not be utilized. Instead, the existing shared driveway would be utilized.

Though this is a quasi-flag shaped lot, a configuration which we do not entertain, in this case the large land area, topography, and shared driveway configuration is a pragmatic tradeoff.

#### **RECOMMENDATION:**

Due to the consistency in parcel size and land use with the surrounding neighborhood, as well as consistency with the Comprehensive Plan, upon motion made by Mr. Vincent and seconded by Ms. Lanphear, the Plan Commission unanimously voted (5/0) to forward a **positive recommendation** on this application to the Zoning Board of Review.

**FRANK J. RICCI and ANN M. RICCI (OWN) AND FRANK J. RICCI (APP)** have filed an application for a variance to convert a mixed uses building into a three unit dwelling at **1574 Cranston Street**. AP 8/1, Lot 918, area 6,750 +/- SF, zoned B-1. Applicant seeks variance for use on lot with restricted street frontage and side yard relief. Applicant seeks relief per Section 17.20.030 Schedule of Uses, Section 17.20.120 Schedule of Intensity Regulations, Section 17.64.010 Off Street Parking, Section 17.92.010 Variances.

#### **VARIANCE REQUESTS:**

##### Use Variance:

1. To allow a nonconforming use (three family dwelling) where not allowed in B-1 zoning. [17.20.030 Schedule of Uses]

##### Dimensional Variances (all for existing conditions – no modification are proposed):

2. To allow a three-family dwelling on a lot with 54' of width/frontage on Cranston Street where 60' is required. [17.20.120 Schedule of Intensity Regulations]
3. To allow a three-family dwelling on a 6,750 ft<sup>2</sup> lot where 14,000 ft<sup>2</sup> is required. [17.20.120 Schedule of Intensity Regulations]
4. To allow 4 parking spaces where 6 are required. [17.64.101 Off Street Parking]
5. To allow parking that does not allow ingress/egress to a public street in a forward manner. [17.64.101 Off Street Parking]

#### **FINDINGS OF FACT:**

1. The Applicant's B-1 zoned lot is 6,750 ft<sup>2</sup> and is currently being used as a three-family dwelling without having acquired a permit or zoning variance. B-1 zoning is intended primarily for the use of single-family and two-family dwellings (17.08.010 Zoning Districts).
2. Multifamily dwellings are not a permitted use in B-1 zoning (17.20.030 Schedule of Uses). Therefore, a use variance is required under section 17.92.010 Variances.
3. The minimum lot area for a three-family dwelling is 14,000 ft<sup>2</sup>. Therefore, relief is requested in the amount of 7,250 ft<sup>2</sup> (17.20.090 Specific Requirements).
4. The minimum lot area for a two-family dwelling is 8,000 ft<sup>2</sup>. Therefore, the existing two-family dwelling is 1,250 ft<sup>2</sup> short of the requirement.
5. The property's land use has been listed as "Three Family" since 2006. There is no Tax Assessor land use code designation prior to 2006.
6. The residence was built prior to 1922.
7. It is uncertain what exact year the garage was built, but it is known that the garage was existing in 1954 per a Building Record dated 10/20/1954.
8. The 1984 Property Record is dated 2/15/1983, and lists 1 'Designed' unit and 2 'Conversion' units, for a total of 3 units. Therefore, the property has likely been used as a three-family unit for the past 34 years.
9. Frank J. & Ann M. Ricci purchased the lot on 9/28/1984, prior to the existence of the third unit.
10. There was a Zoning Board of Review approval in 1979 to allow a Beauty Shop to operate in the basement for a period of five (5) years.

11. A three-family use is neither consistent nor inconsistent with the surrounding uses, as Cranston Street is comprised of mix of uses including single family residential, three-family, commercial and mixed uses. The nearest three-family residence on Cranston Street is roughly 360' due north. The nearest three-family measured as-the-crow-flies is 290' away, due northeast on Rose Street.
12. The Comprehensive Plan Future Land Use Map designates this site as Neighborhood Commercial/Services (NCS), which is intended to be oriented towards providing services to local neighborhoods. The Comprehensive Plan Land Use Element recommends the zoning for NCS is C-1, C-2, and C-3. Multifamily dwellings are permitted in C-1 & C-2, but not in C-3.
13. Zoning Ordinance Sec. 17.64.010. Off Street Parking requires 6 spaces, restricts curb cuts for multifamily development to be between 12' and 35', and requires that vehicles will leave and enter the street in a forward motion. The property provides 4 parking spaces and the existing curb cut is roughly 55'. No changes to the curb cut are proposed. The lot has never provided forward egress and ingress for its parking.
14. B-1 zoning requires a 25' front yard setback from both frontages. However, the primary and accessory structure were built prior to Cranston's zoning became effective in 1966, and are considered existing legal nonconforming structures. The primary residence encroaches 17.5' into the setback from Vigilant Street. The detached garage encroaches 24.1' into the setback from Vigilant Street and encroached 3.3' into the side yard setback for assessor structures.

#### **ANALYSIS:**

No changes are proposed to the property as part of this application. The owner only became aware of the zoning conflict recently, when going through the process of getting his property appraised. The ask of the City to recognize the existing three-family land use brings other existing nonconformities into purview of the application and creates new standards for parking and lot area, despite no physical alterations being proposed. For these reasons, staff is in support of bringing existing conditions into legal standing, and would support the parking variances and lot area conditioned to approval of the use variance for the third dwelling unit.

The use variance to allow a three-family dwelling where it is not an allowed use in B-1 zoning aligns with the majority variance criteria as stated in City Code Sec. 17.92.010. The only negative finding is that the structure has been used previously as a mixed use building under approvals from the ZBR, therefore the property can yield other beneficial uses. However, the owner/applicants' hardship from which they seek relief is due to the unique characteristics of the subject structure –that it had three dwelling units when it was purchased on 9/28/1984. Property Records dated 2/15/1983 lists three (3) units on the property, demonstrating that structure was purchased by the owner/applicants in this condition and was not a result of any prior action of the owner/applicants. Furthermore, as this condition has been existing for 34 years without complaint, it is reasonable to deduce that approval of the request will not alter the general character of the surrounding area, but would bring a longstanding nonconformity into legal standing. Lastly, the proposed three-family use is consistent with the Comprehensive Plan's Future Land Use (FLU) designation as Neighborhood Commercial/Services, which recommends C-1, C-2, and C-3 as the zoning designations for the FLU category. Cranston Street is developed with a mix of uses, so approval would not cause a detriment to the general welfare, character of the area, and would not be inconsistent with the purpose of the Comprehensive Plan.

#### **RECOMMENDATION:**

The Plan Commission finds that neither the existing nonconforming conditions nor the creation of the nonconforming third dwelling unit was due to the actions or inactions of the owner/applicants and that the property has been operating and acknowledged as a three family residence without issue for 34 years. Due to consistency with the Comprehensive Plan's Future Land Use designation, upon motion made by Ms. Lanphear and seconded by Ms. Harrington, the Plan Commission unanimously voted (5/0) to forward a **positive recommendation** of this application to the Zoning Board of Review.

**CRANSTON BIBLE CHAPEL, INC.(OWN) AND ZARELLA DEVELOPMENT CORPORATION (APP)** have filed an application to construct two new single family dwellings on two new undersized lots, one of which with restricted front yard setback on a corner lot at **0 Crescent Avenue**, A.P. 6, lots 1374,1375,1376,1377; area 9,600 s.f. , zoned A6. Applicant seeks relief per 17.92.010 variance; Section 17.120.010 Scheduled of Intensity Regulations.

Upon motion made by Ms. Harrington and seconded by Mr. Mason, the Plan Commission unanimously voted (5/0) to continue this matter to the September 11, 2018, Plan Commission Meeting at the applicant's request.

#### **PLANNING DIRECTORS REPORT – 2018 work plan**

Mr. Pezzullo suggested that next month's meeting begin at 6:30. Mr. Marsella suggested amending the administrative rules so that the Plan Commission meetings may start at 6:30 permanently. Mr. Pezzullo stated that he will work with Ms. Lanphear on administrative policies. She also stated that, in the interest of informing the public, she would like to see noted on the agenda that votes will be taken on the various agenda items . Mr. Pezzullo also suggested placing "time parameters" on agenda matters.

Also discussed was 'unified development review'. Should such an ordinance pass, this would give the Plan Commission the authorization to approve variances as well as long as they are associated with land development applications.

#### **ADJOURNMENT**

Upon motion made by Ms. Lanphear and seconded by Mr. Mason, the Commission unanimously voted to adjourn at 8:40 p.m.

**NEXT REGULAR MEETING** September 11, 2018 – City Council Chamber, 7 pm

Respectfully submitted,

Jason M. Pezzullo, MCP, MPA, AICP  
Director