

MINUTES

December 7, 2010

Chairman Charles Rossi called the Planning Commission Meeting to order in the City Council Chamber at 7:10 p.m. The following Commission members were in attendance:

Charles Rossi, Chairman
James Moran, Vice Chairman
Michael Smith
Mark Motte

Also present were:

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

APPROVAL OF MINUTES

Upon motion made by Mr. Moran and seconded by Mr. Motte, the Planning Commission unanimously voted to *approve* the minutes of the November 9, 2010, Planning Commission Meeting.

SUBDIVISIONS AND LAND DEVELOPMENT PROJECTS

Equestrian Estates – Preliminary Plan (Continued from the August 3, 2010 Agenda)

Residential Planned Development (RPD) with street extension
Laten Knight Road
AP 28, Lot 11

The applicant's attorney, John DiBona, asked that this application be tabled, and further stated that his client acknowledges and waives the requirement of the Plan Commission to act on this matter within 90 days of application.

Upon motion made by Mr. Motte and seconded by Mr. Smith, the Commission unanimously voted to ***table*** the Preliminary Plan public hearing for the above referenced application and requires the outstanding elements of this application must be received and accepted by the Planning Department. Once the application is deemed complete, the applicant will be responsible for payment of a new display advertisement as well as a new notice to abutters within 100 ft. radius. These notices must be sent certified and return/receipt requested.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Smith and Mr. Motte. Nay votes: none.

PERFORMANCE GUARANTEES

Gray Coach Estates

AP 36/3, Lot 54

Expiration of existing Letter of Credit

Upon motion made by Mr. Moran and seconded by Mr. Motte, the Plan Commission unanimously voted to continue this matter to the January 4, 2011, Plan Commission Meeting.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Smith and Mr. Motte. Nay votes: none.

Oaks at Orchard Valley

Orchard Valley Estates Phase 5

AP 28, Lot 30 and AP 34, Lot 11

Expiration of existing Letter of Credit

Upon motion made by Mr. Motte and seconded by Mr. Smith, the Plan Commission unanimously voted to continue this matter to the January 4, 2011, Plan Commission Meeting.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Smith and Mr. Motte. Nay votes: none.

ZONING BOARD OF REVIEW RECOMMENDATIONS

DIANE ROBERTS 79 LAKESIDE AVENUE CRANSTON RI 02910 (OWN/APP) has filed an application for permission to convert an existing single family dwelling into a two family dwelling with restricted front yard set back at **79 Lakeside Avenue**. AP 4, Lot 1589, area 8560+/- SF, zoned A-6. Applicant seeks relief from Section 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.20.030 Schedule of Uses.

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 density of 10.18 units per acre is not consistent with the Comprehensive Plan's Future Land Use Map, that designates this area of the City for Single Family residential, 7.26 to 3.64 units per acre.
2. The 1984 Tax Assessor's field card shows the dwelling as a single family. The application states that the basement contains an in-law apartment, and a bedroom will be added to the basement unit.
3. The current owner purchased the property in 2000. The Vision Appraisal card for the property does not indicate an in-law apartment in the basement; therefore, the accessory apartment was added illegally, without the benefit of a building permit or a Zoning Variance.
4. The Tax Assessor's department has no record of an in-law apartment in the walk-out basement.
5. There are 33 single family dwellings within the 400' zoning radius. There is one other 2-family within the radius that has been taxed as a two family since 1981.

Recommendation: Upon motion made by Mr. Moran and seconded by Mr. Motte, the Plan Commission unanimously voted to forward a negative recommendation on this application to the Zoning Board, as the proposal for a 2 family is not consistent with the density and single family use as designated on the Comprehensive Plan Future Land Use Map.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Motte and Mr. Smith. Nay votes: none.

EDWARD & HEIDI PIMENTEL 26 AVON ROAD CRANSTON RI 02905 (OWN/APP) have filed an application for permission to build a 10' X 12' sunroom with restricted rear yard setback on an undersized lot at **26 Avon Road**. AP 4/5, Lot 2598, area 4550+/- SF, zoned A-6. Applicant seeks relief from Section 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 existing single family residential use is consistent with the Comprehensive Plan Future Land Use Map which designates this area as Single Family Residential, 7.26 to 3.64 units per acre.
2. The undersized lot is a pre-existing lot of record.
3. There are 85 residential dwellings within the 400' zoning radius; 80% of those dwellings have one or more restricted yard setbacks because they are located on lots with insufficient area in an A-6 zone.
4. The proposed sunroom will have a 13' rear yard setback.
5. The proposed addition will not alter the general character of the neighborhood, or impair the intent or purpose of the Zoning Code or the Comprehensive Plan, upon which the Code is based.

Recommendation: Upon motion made by Mr. Motte and seconded by Mr. Smith, the Plan Commission 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.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Motte and Mr. Smith. Nay votes: none.

FAIK ARDA D/B/A FRANKLY PIZZA LLC 22 LINWOOD DRIVE NORTH PROVIDENCE RI 02908 (OWN) AND UNSAL ARDA 22 LINWOOD DRIVE NORTH PROVIDENCE RI 02908 (APP) have filed an application for permission to operate a hooka lounge/smoking bar from an existing legal non-conforming building with restricted front, rear and side yard set back and off-street parking on an undersized lot at **1027 Narragansett Boulevard**. AP 2/4, Lot 0230, area 2882+/- SF, zoned C-2. Applicant seeks relief from Section 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.20.030 Schedule of Uses, 17.64.010 Off-street Parking, 17.88.010 Sub-standard lot of Record.

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. No determination could be made for consistency with the Comprehensive Plan Future Land Use Map, as the application for a hookah lounge/smoking bar is not identified in the Zoning Code as an allowed commercial use, so therefore, is not an allowed use, and could not be labeled as consistent with the Comprehensive Plan's 2010 Future Land Use Map, which designates this parcel and the surrounding area for Neighborhood Commercial and Services.
2. The 40' x 48' (1,920 sq. ft.) building contains 2 units. The existing pizza parlor received a zoning variance to serve beer and wine in June 1995, and the remaining unit (proposed hookah lounge) was previously a video store operating as a result of a Zoning variance

received in May 1995. (The Plan Commission had made no specific recommendation on that application)

3. The 24 seat pizza parlor (6 booths) in the same building, (with an adjoining interior door) has no off-street parking. (8 spaces are required by the zoning code).
4. Other than the 10 seats shown at the bar in the proposed hookah lounge, there is no seating plan shown on the lounge's floor plan, therefore the total parking required could not be determined. However, typically, patrons generally remain in a lounge establishment for several hours, requiring patrons to park in residential neighborhood side streets.

Recommendation: Upon motion made by Mr. Smith and seconded by Mr. Motte, the Plan Commission unanimously voted to forward a negative recommendation on this application to the Zoning Board, as the proposal is not consistent with the Comprehensive Plan, and has no off street parking. The staff notes that a lounge use generates parking needs for extended periods of time, burdening the surrounding residential streets with long term patron parking; therefore, the application would alter the general character of the surrounding area, and impair the intent and purpose of the Zoning Code.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Motte and Mr. Smith. Nay votes: none.

ANTON ENTREPRISES INC 430 WELLINGTON AVENUE CRANSTON RI 02910 (OWN/APP)

has filed an application for permission to operate a florist shop, hair salon, retail store, professional office and neighborhood businesses from an existing building with restricted off-street parking, front, rear and side yard set back at **634 -636 Park Avenue**. AP 3/2, Lot 141, area 4950+/- SF, zoned M-2. Applicant seeks relief from Section 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.20.030 Schedule of Uses, 17.64.010 Off-street Parking.

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 application for office and commercial use is not inconsistent with the 2010 Comprehensive Plan Future Land Use Map, which designates this area of the City as a Special Redevelopment Area.
2. The City's tax assessor records show that the property has been used commercially since 1954.
3. The existing uses in the building are: a hair dresser and flower shop (1,324 S.F.), retail women accessories (280 S.F.), import and export office (671 S.F.), and an office (2,315 S.F.).
4. Planning Department records indicate that the building was constructed in 1931, and in the 1970's was a furniture repair and upholstery business.
5. Within the 400' Zoning notification radius, there are 8 commercial businesses.
6. Within the Industrial M-2 zoned surrounding area, there is a mix of single and two-family dwellings, retail, office, and industrial uses. Therefore, the application will not alter the character of the surrounding area.
7. The building's footprint covers the entire lot; therefore, there has never been an area for off-street parking.
8. The applicant also owns the abutting lot #138, which does contain another building and a parking area for approximately 13 cars. That lot is accessible from Station Street.

Recommendation: Upon motion made by Mr. Smith and seconded by Mr. Motte, the Plan Commission unanimously voted to forward a positive recommendation on this application to the Zoning Board, as the property has been used commercially since 1954, even with no off-street parking, and therefore, will not alter the character of the surrounding area, or impair the intent or purpose of the Zoning Code or the Comprehensive Plan upon which the Code is based.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Motte and Mr. Smith. Nay votes: none.

MATTHEW B NELSON 50 BLACKAMORE AVENUE CRANSTON RI 02920 (OWN/APP) has filed an application for permission to convert a detached 2 story garage into a residential dwelling unit with restricted rear and corner side yard setback at **50 Blackamore Avenue**. AP 9/3, Lot 724, 723, area 8000+/- SF, zoned B-1. Applicant seeks relief from Section 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.20.070 More than one dwelling structure on any lot prohibited.

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 application for 3 units on a total of 8,000 S.F. is not consistent with the Comprehensive Plan Future Land Use Map, which designates this area as single/two family residential, less than 10.89 units per acre. The proposed density is 16.33 units per acre.
2. Lot # 724 already contains a two-family dwelling; the proposed 2-story, two bedroom residential unit is located on the same lot as the 2-family.
3. There are 105 residential dwellings located within the 400' Zoning radius. Of those, only 10 (9.5%) are 3-family dwellings.
4. The hand drawn site plan submitted, shows that the existing subject garage is 3' from the garage on the abutting property. The required residential setback from a side lot line is 8' minimum.
5. The hand-drawn site plan's parcel dimensions of 84' x 106' are incorrect. The parcel is actually 80' x 100'.

Recommendation: Upon motion made by Mr. Moran and seconded by Mr. Smith, the Plan Commission unanimously voted to forward a negative recommendation on this application to the Zoning Board for the following reasons:

1. The application and proposed density is inconsistent with the Comprehensive Plan Future Land Use Map.
2. The conversion of a garage to a residential unit will alter the general character of the surrounding neighborhood, and impair the intent and purpose of the Zoning Ordinance, and set a dangerous precedent for the conversion of other garages in the neighborhood to residential units.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Motte and Mr. Smith. Nay votes: none.

PULLANO REALTY 850 WELLINGTON AVENUE CRANSTON RI 02910 (OWN/APP) has filed an application for permission to construct a monopole 14' X 48' double sided 50' billboard sign and additional wall signage to the front of the building at **850 Wellington Avenue**. AP 5, Lot 1622, area 139,392+/- SF, zoned M-2. Applicant seeks relief from Section 17.92.010 Variance, 17.72.010 K, Billboard 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 applicant's property is located within an area designated as a Special Redevelopment Area on the 2010 Comprehensive Plan Future Land Use Map.
2. Billboards are an allowed use in an M-2 zone, but limited to a maximum height of 25', and 500 S.F. in area. The proposed 2 sided billboard is 1,344 S.F.
3. There are no other billboards within 500' of the proposed location as required.
4. The proposed location is immediately adjacent to Interstate 95 and is therefore exempted from the prohibition of billboards within 500' of an abutting residential zoning district.
5. There was nothing in the application that indicated that application received approval from the Rhode Island Department of Transportation regarding compliance with Rhode Island Outdoor Advertising Rules and Regulations and the State and Federal Agreement.
6. Six other billboards of varying configurations currently exist within this portion of the Interstate 95 Corridor on Wellington Avenue, south of Park Avenue.
7. Of the existing billboards in this corridor, at least three measure 14' x 48' and have heights of 50, 69 and 72 feet.
8. Although the area of the proposed billboard nearly triples the maximum allowed by 17.72.010 (K) (2), it is consistent with what has been allowed in the immediate vicinity.
9. The most recent 50' high billboard installed in 2006 along Wellington Avenue is 800' north of the applicant's property, and has the same area.
10. The closest billboard to the south is approximately 570 feet away.
11. The proposed 107.5 S.F. wall sign exceeds the maximum permitted area of 45 S.F. of wall signage allowed on a building.

Recommendation: Upon motion made by Mr. Moran and seconded by Mr. Motte, the Plan Commission unanimously voted to forward a positive recommendation on this application, as the granting of that requested dimensional variance will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Ordinance or Comprehensive Plan.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Motte and Mr. Smith. Nay votes: none.

ABC GROUP LLC 855 RESERVOIR AVENUE CRANSTON RI 02910 (OWN/APP) has filed an application for permission to leave an existing legal non-conforming 1154+/- SF office building with restricted front and side yard set-back on an undersized [lot 2263] and build a new 1500+/- SF one story office building with restricted front and corner side-yard setback on the abutting undersized [lot 2262] at **855 Reservoir Avenue**. AP 9, Lot 2262 and 2263, area 10,000+/- SF, zoned C-1. Applicant seeks relief from Section 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.64.010 G Parking spaces reserved for one structure or use, 17.88.010 B Merger of sub-standard lots of record.

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 application's proposed office use is consistent with the 2010 Comprehensive Plan Future Land Use Map, which designates most of Reservoir Avenue as Highway Commercial and Services, however, of the 15 commercial buildings located within the 400' zoning notification radius along Reservoir Avenue, only 2 are located on 5,000 S.F. lots, and 2 are located on smaller lots that have shared parking with the abutting businesses.
2. The existing, two, undersized lots have been combined in area for Zoning purposes, creating a legal parcel that contains a business and associated parking for that business.

3. The existing office building's footprint is 1,523 sq.ft., requiring 7 off street parking spaces, per the Zoning Code (not the 1,154 sq. ft. as noted on the application and site plan submitted). It is not known whether the basement walkout is office, requiring additional parking.
4. Parking for the existing office is on lot 2262, which provides the 7, perpendicular parking spaces. Photos taken on 12/8/10 show five cars using that parking lot and two cars parked on Reservoir Avenue.
5. The proposed new office building would require 6 off street parking spaces.
6. The site plan submitted notes that there will be a 3,307 S.F. parking cross easement that also provides access to the new rear parking area on lot 2263 (existing office) over lot 2262.
7. The small rear yard of lot 2263 can only accommodate 3 parking spaces. The site plan's angled parking space that abuts the building on lot 2263 is not usable, as there is a part of the building that is not shown on the plan that protrudes into that parking space.
8. The total minimum parking required for both office buildings is 13 spaces minimum. Only 8 spaces and 2 handicap parking spaces are provided on the site plan.
9. Both lots directly abut a single family and residential A-8 zone, any over flow parking would encroach into the residential neighborhood.

Recommendation: Upon motion made by Mr. Moran and seconded by Mr. Smith, the Plan Commission unanimously voted to forward a negative recommendation on this application to the Zoning Board, as the application will alter the general character of the surrounding commercial area that contains businesses on larger lots with sufficient off-street parking, thereby impairing the intent and purpose of the Zoning Code and the Comprehensive Plan upon which the Code is based.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Motte and Mr. Smith. Nay votes: none.

ZI YUANG LEI & HUI YU LI 71 MIDWOOD STREET CRANSTON RI 02910 (OWN/APP) have filed an application for permission to serve alcoholic beverages from an existing restaurant with restricted front, rear and side yard set back at **190 Gansett Avenue**. AP 6/3, Lot 2415, 2416, 2417, area 9600+/- SF, zoned C-2. Applicant seeks relief from Section 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.20.030 Schedule of Uses.

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 commercial restaurant use is consistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area for Neighborhood Commercial/Services.
2. The restaurant was formerly located at 1369 Park Avenue, and had a liquor license.
3. The floor plan shows seating for 46 people, which requires 16 parking spaces per the zoning code; the parking area provides 16 off-street spaces plus 1 handicap space.
4. The Planning Staff and Building/Zoning Official are currently rewriting the Schedule of Permitted Uses Matrix in the Zoning Code, which will propose that restaurants with or without liquor licenses be allowed in all Commercial Zones.

Recommendation: Upon motion made by Mr. Motte and seconded by Mr. Smith, the Plan Commission unanimously voted to forward a positive recommendation on this application to the Zoning Board, as the application will not alter the character of the surrounding area, or impair the intent or purpose of the Zoning Code or the Comprehensive Plan upon which the Code is based.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Motte and Mr. Smith. Nay votes: none.

RAYMOND AND KERLINE L PINTHIERE 81 EAGLE ROAD CRANSTON RI 02920 (OWN/APP) have filed an application for permission to build a 28' X 26' master bedroom addition and 13' X

18' deck with restricted rear yard set back at **81 Eagle Road**. AP 37/4, Lot 642, area 12,308+/- SF, zoned A-8. Applicant seeks relief from Section 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 current residential use of the property is consistent with the 2010 Comprehensive Plan Future Land Use Map, which designates this area as Residential.
2. There are 58 single family homes located within the 400' zoning notification radius; only one of those dwellings has a rear yard setback less than the minimum 20 ft. required by the zoning code.
3. The proposed 28' x 26' addition and abutting deck will result in a 17.4 ft. rear yard setback, where the existing rear yard setback is 30.43 ft. (a 20 ft. setback is required in this zone). The new deck stairs will further reduce the rear yard setback to 12.4 ft.
4. The proposed addition with restricted rear yard setback will alter the general character of the surrounding area, and impair the intent and purpose of the Zoning Code, and the Comprehensive Plan upon which the Code is based. A 25' x 26' addition would not require a variance.
5. The existing shed shown on the site plan has a 2 ft. rear yard setback, which also does not meet the required rear yard setback of 5 feet for accessory buildings in this zone.

Recommendation: Upon motion made by Mr. Moran and seconded by Mr. Motte, the Plan Commission unanimously voted to forward a negative recommendation on this application to the Zoning Board, as the proposed restricted rear yard setback will impair the intent and purpose of the Zoning Code, and alter the general character of the surrounding area, where 99.98% of the dwellings within 400' radius (and beyond) comply with the rear yard setback required in the Zoning Ordinance.

Note: The Planning Department observed a second kitchen in the lower level, as noted on the floor plans, thereby questioning the existence of an in-law apartment that was not the result of a zoning variance.

Aye votes: Chairman Rossi, Mr. Moran, Mr. Motte and Mr. Smith. Nay votes: none.

2011 PLANNING COMMISSION MEETING SCHEDULE

The Plan Commission set the 2011 calendar without a vote.

PLANNING DIRECTOR'S REPORT - none

ADJOURNMENT

Upon motion made by Mr. Motte and seconded by Mr. Moran, the Plan Commission unanimously voted to adjourn at 8:40 p.m.

NEXT MEETING

January 4, 2011, at 7 p.m. in the City Council Chamber

Respectfully submitted,

Jason M. Pezzullo, AICP
Principal Planner/Secretary

