

MINUTES

October 6, 2009

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

Paul Petit, Chairman
Charles Rossi, Vice Chairman
Michael Smith
James Moran
Gene Nadeau

Also present were:

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

Those members of the public in attendance were: Norman Levine, Paul Carbone, Daniel Archetto, Brian Grossman, Vijay Vasa and attorney Robert Murray.

MINUTES

Upon motion made by Mr. Rossi and seconded by Mr. Smith, the Commission unanimously voted to *approve* the minutes of the September 1, 2009, Planning Commission Meeting.

SUBDIVISION AND LAND DEVELOPMENT

Dynamic Estates

1730 Plainfield Pike

AP 37, Lot 533

Amended Final Record Plan – Roadway Width / Sidewalks

Attorney Robert Murray, representing ACME Concrete Forms, Mr. Paul Carbone, stated that his client has requested some minor changes to the Final recorded plat. This matter was before the Planning Commission in July, 2009. The property owner is requesting to decrease the approved roadway width from 26' to 24' feet. In addition, the placement of the roadway will be adjusted 2' to the west. This is requested due to topography constraints in addition to the already installed utility lines for water and sewer. The applicant has also requested to reduce a section of sidewalk from 5' to 4' due to the need for a concrete retaining wall. Mr. Walter Skorupski of the Engineering Division has coordinated with the applicant on these design changes and has no objections to the proposed modifications. In meetings with Mr. Skorupski, he has noted that the 24' is acceptable as there are only four new homes on this cul-de-sac. Also, the City's right-of-way is not being altered as part of this proposal.

Mr. Murray further stated that at the July meeting concern was expressed with regard to the existing slope and construction of a retaining wall. He stated that the applicant will rip rap and

construct a retaining wall. This proposal has also received the approval of the City's Engineering Division.

No public testimony was offered on this proposal.

Upon motion made by Mr. Rossi and seconded by Mr. Nadeau, the Commission unanimously voted to *approve* the request for: 1) 26 ft. roadway width reduction to 24 ft., with the roadway adjusted 2 ft. to the west and, 2) a reduction in sidewalk width from 5 ft. to 4 ft. in that portion of sidewalk depicted on the Amended Final Plan due to the need for construction of the retaining wall.

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

PERFORMANCE GUARANTEE

Alpine East

Scituate Avenue

AP 36/3, Lot 11

Expiration of Existing Letter of Credit

Mr. Pezzullo explained that the existing Letter of Credit for the Alpine East Subdivision is set to expire in two weeks.

Upon motion made by Mr. Rossi and seconded by Mr. Moran, the Commission unanimously voted to:

1. Allow extension of Irrevocable Standby Letter of Credit (LOC) number S906411 to 10/6/10 if received prior to 10/15/09; and to
2. Authorize the City Finance Department to withdraw the applicable funds should an extension not be received by 10/15/09.

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

Dynamic Estates

1730 Plainfield Pike

AP 37, Lot 533

Request for Bond Reduction

Mr. Pezzullo stated that he is in receipt of a request for reduction of existing Bank RI Letter of Credit No. 8401, currently in the amount of \$124,000.

Upon motion made by Mr. Moran and seconded by Mr. Rossi, the Commission unanimously voted to *approve* the request for a reduction in the required amount by \$55,000, leaving a new balance of \$69,000; in accordance with the Engineering Division's recommendation.

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

ZONING BOARD OF REVIEW

PRESTIEGE BUILDERS LLC 1728 CRANSTON STREET CRANSTON RI 02920 (OWN) AND KYLE BELL 34 MEADOW AVE CRANSTON RI 02920 (APP) have filed an application for permission to leave an existing legal non-conforming two family dwelling with restricted frontage, front and side yard set back on a 3200+/- SF undersized [lot 1530] and build a new 24' X 42' one

story ranch style home with restricted frontage on the abutting 3200+/- SF undersized [lot 1543] at **5 Fountain Avenue**. AP 8, lots 1543 and 1530, area 6400+/- SF, zoned B-1. Applicant seeks relief from Sections; 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.88.010 Substandard Lot of record. filed 9/11/09.

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 average lot size for the 31 single family houses within the 400' Zoning notification radius is 5,598.5 sq. ft. The vacant lot is 2,398.5 sq. ft. smaller than the average single family lot in the area.
2. The average lot size for the 19 two-family houses within the 400' Zoning notification radius is 6,581.8 sq. ft. The existing 2-family dwelling would be left on a lot that is ½ the size of the average two-family lots in the area.
3. The plans submitted shows a proposed 24' x 42' house that can meet the required side and rear yard set backs, but is 7' short of the required front yard setback of 25'.
4. Only 8 houses (14.8 %) out of the 54 total residential lots located within the radius are on 3200 sq. ft. lots.
5. The Comprehensive Plan's Future Land Use Map designates this area of the City for residential, more than 8 units per acre. However, the resulting density of the proposed application is 20.4 units per acre, which is almost twice as dense as the average residential 11 units per acre density within the 400' radius.
6. The applicant's vacant lot is 43% smaller than the average single family lot area within the 400' radius; therefore, constructing a house on the 3,200 sq. ft. lot 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.
7. Allowing the 3,200 sq. ft. lot to be developed, would set a precedent for development of 7 other vacant lots within the 400' radius on lots that are smaller than 3352 sq.ft., whereby further altering the general character of the area.

Recommendation: Based on the above Findings of Fact, upon motion made by Mr. Moran and seconded by Mr. Smith, the Commission unanimously voted to forward to the Zoning Board a negative recommendation on this application.

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

MESHANTICUT PARK CHURCH 180 OAKLAWN AVENUE CRANSTON RI 02920 (OWN) AND COX TMI WIRELESS LLC C/O PRINCE LOBEL, 100 CAMBRIDGE STREET, SUITE 2200 BOSTON MA 02114 (APP) have filed an application for a special permit to install wireless telecommunications facility / antennas within an existing church steeple at **180 Oaklawn Avenue**. AP 11/5, lots 3419, area 1.13+/- acres, zoned A-8. Applicant seeks relief from Sections; 17.92.020 Special Use Permit, 17.20.030 Schedule of Uses.

Findings of Fact:

1. The proposed antenna and associated radio equipment cabinets will be located entirely within the existing church structure (steeple and third floor).
2. The exterior appearance of the Church will not change; therefore, the application will not alter the character of the surrounding neighborhood or impair the intent or purpose of the Zoning Code, or the Comprehensive Plan upon which the Zoning ordinance is based.
3. Section 17.76.010 C.I. of the Cranston Zoning Code states:

Communication antennas not attached to a communication tower shall be permitted as an accessory use to any commercial, industrial, office, institutional or public utility structure, provided that:

- i. The antennas are not higher than twenty-five (25) feet above the highest point of the structure;*
 - ii. The antennas comply with applicable FCC and FAA regulations; and*
 - iii. The antennas comply with all applicable zoning requirements and building codes, with the exception of the restriction pertaining to height limitations.*
4. As the antenna is not attached to a communication tower, and is located entirely within the church steeple, the application could be considered a permitted accessory use.
 5. The proposal is in accordance with Section 17.76.010.C.3.a. of the Cranston Zoning Code, which states "A reasonable effort shall be made to utilize existing structures for telecommunications antennae.
 6. The application will not have a negative impact on the natural, historic, cultural or scenic character of the City, so therefore, it is in conformance with the Comprehensive Plan.

Recommendation: Based on the above Findings of Fact, upon motion made by Mr. Rossi and seconded by Mr. Smith, the Commission unanimously voted to forward to the Zoning Board a positive recommendation for a Special Use Permit.

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

ERNEST D AND ANNA A DELMONICO 10 ADIE STREET CRANSTON RI 02920 (OWN/APP)

have filed an application for permission to leave an existing legal non-conforming single family dwelling with restricted frontage and front yard set back on a proposed 4800+/- SF undersized [lot "A"] and build a new 26' X 46' raised ranch style home with restricted front, rear and corner side yard set back on the remaining proposed 4800+/- SF undersized [lot "B"] at **10 Adie Street..** AP 8/1, lots 876, 974 and 975, area 9600+/- 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 applicant had received a Zoning Variance on September 13, 2006, for the above application.
- 2) On October 27, 2006 the approved minor subdivision for two, 4800 sq., ft. lots was recorded in the Land Evidence Records. New assessor's lots are #s 974 and 975. Lot # 876 was dropped by the Tax Assessor's office.
- 3) The application will result in a density of 9 residential units per acre for the existing single family, and the proposed new single family. The Future Land Use Map allows for more than 8 units/acre in this area, therefore, the application is consistent with and will not impair the intent or purpose of the Comprehensive Plan.
- 4) There are 38 single-family, 13 two-family, and 1 three-family structures within the 400' Zoning Board of Review (ZBR) notification radius.
- 5) Staff analyzed the area within the 400' ZBR radius and found that the average land area provided per unit was 5,838 square feet for single family dwellings, 3,217 square feet for two-family dwellings and 1,689 square feet for three family dwellings. Taken as a whole, the average density within the 400' ZBR notification radius is 4,635 square feet per unit.

- 6) Staff also noted that 13 of the existing 38 single-family homes within the 400' ZBR notification radius are situated on lots smaller than the 4,800 square foot proposed parcels. The average lot size of these 13 parcels is 3,770 square feet; therefore, the proposed single family houses will be on lots that are 20% larger than the other existing nonconforming lots in the area.
- 7) Both parcels have conforming 60' frontages
- 8) The proposed front yard setbacks for the new single family will be 17' from both Adie and Southern Streets, where normally, 25' is required by the Zoning Code. However, the front yard setbacks of dwellings within 200' of the applicant's lots are all less than the required 25 feet. Therefore, the application conforms with Sec. 17.20.110 C. of the Cranston Zoning Code, which permits reduced front yard setbacks under specified conditions.
- 9) The City's GIS shows 45 out of 52 houses within the 400' radius have restricted front yard setbacks, similar to or less than the applicant's request.
- 10) The proposal therefore, does not alter the general character of the surrounding area, and will not impair the intent or purpose of the Zoning Ordinance.

Recommendation: Based on the above Findings of Fact, upon motion made by Mr. Rossi and seconded by Mr. Smith, the Commission unanimously voted to forward a positive recommendation 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 Petit, Mr. Rossi, Mr. Moran, Mr. Smith and Mr. Nadeau. Nay votes: none.

ADJOURNMENT

Upon motion made by Mr. Moran seconded by Mr. Rossi, the Commission unanimously voted to adjourn at 7:35 p.m.

NEXT MEETING: Tuesday, November 3, 2009, at 7 p.m. in the City Council Chamber

Respectfully submitted,

Jason M. Pezzullo, AICP
Principal Planner/Secretary