

MINUTES

October 7, 2014

Chairman Smith called the Planning Commission Meeting to order at 7:05 p.m. in the City Council Chamber. The following Commission members were in attendance:

Michael Smith, Chairman
James Moran
Kenneth Mason
Robert Strom
Frederick Vincent
Gene Nadeau
Mark Motte

Also present were:

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

APPROVAL OF MINUTES

Upon motion made by Mr. Moran and seconded by Mr. Motte, the Commission unanimously voted to approve the minutes of the September 2, 2014, Plan Commission meeting.

SUBDIVISION AND LAND DEVELOPMENTS

Chapel View MPD – Major Land Development Violations of the Approved MPD Ordinance-Enforcement Actions

Sockanossett Crossroad/New London Road
AP 14, Lot 1 and portion of Lot 15

Mr. Lapolla stated that since the last meeting a resolution was discussed. The applicant submitted a plan reflecting the changes. A parking study was submitted yesterday, October 6, at 11:30 a.m. Mr. Lapolla recommended that this matter be dealt with at a subsequent meeting. The applicant requested a special meeting be held next week for consideration of the changes and parking study.

Attorney John Bolton reiterated Mr. Lapolla's comments; further stating that the amendment submitted is for the top two floors of the Alex and Ani building. The request is that the space be dedicated to flex space or expansion of Alex and Ani.

Upon motion made by Mr. Motte and seconded by Mr. Strom, the Commission unanimously voted to hold a special meeting on Tuesday, October 14, 2014, at 5:30 p.m. in the Planning Department Office.

Ayes: Messers Smith, Moran, Mason, Nadeau, Motte, Strom and Vincent. Nay: none.

Kent Plat Minor Subdivision – Preliminary Plan

Minor Subdivision
Calaman Road/Knollwood Avenue
AP 9, Lots 2253, 3008, 3009 and 3010

Mr. Pezzullo stated that "this is a very simple minor subdivision". Waivers for provision of sidewalks and curbing have been requested.

Mr. Ed Pendergast, 140 Calaman Road, expressed concern with drainage going into his yard and the lack of privacy. The developer for the project stated that the property owners plans to install roof leaders and dry wells and will leave mature trees where feasible.

Upon motion made by Mr. Vincent and seconded by Mr. Nadeau, the Commission unanimously voted to adopt the findings of fact denoted below and *approve* this minor subdivision, with waiver for provision of sidewalks and curbing, subject to the below conditions.

Positive Findings

1. An orderly, thorough and expeditious technical review of this Preliminary Plan has been conducted. Property owners within a 100' radius have been notified via first class mail and the meeting agenda has been properly posted. Advertisement for this minor subdivision is not required under Section V.C.2.h of the City of Cranston Subdivision Regulations since no street extension is proposed.
2. The proposed subdivision and its resulting density of approximately 5.28 residential units per acre is consistent with the City of Cranston Comprehensive Plan's Future Land Use Map which designates the subject parcel as "Residential" allowing more 7.26 to 3.64 residential units per acre".
3. The proposal will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Code.
4. There will be no significant negative environmental impacts from the proposed subdivision as shown on the Preliminary Plan.
5. The proposed subdivision promotes high quality appropriate design and construction, will be well integrated with the surrounding neighborhoods and will reflect its existing characteristics.
6. The proposed 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.
7. The property in question has adequate permanent physical access on Knollwood Avenue, and Calaman Road, improved public roadways located within the City of Cranston.
8. The proposed subdivision provides for safe and adequate local circulation of pedestrian and vehicular through traffic, for adequate surface water run-off and for a suitable building site.
9. Significant cultural, historic or natural features that contribute to the attractiveness of the community have not been identified on site.
10. The design and location of streets, building lots, utilities, drainage and other improvements conform to local regulations for mitigation of flooding and soil erosion.

Conditions of approval

1. Municipal Lien Certificates for all existing lots of record shall be submitted with the Final Plan application prior to recording in land evidence.
2. Payment of Eastern Cranston Capital Facilities impact fee in the amount of \$593.46 at the time of Final Plat Recording.
3. The developer shall install roof leaders and dry wells on newly constructed structures.
4. The Final Plan will be handled administratively.

Ayes: Messers Smith, Moran, Mason, Motte, Nadeau, Strom and Vincent. Nay: none.

Replat of Sundale Estates, Section 2/Tory Woods Phase I

111 Sundale Rd.

AP 36/4, Lot 1

Request to treat as Administrative Subdivision

The property owners and applicants are Dawn M. Paolino and Thomas Ferry, and Tory Woods Investments, LLC. The property is located on Assessors Plat 36/4, lot 1 & Assessors Plat 37/3, lot 839.

The property is zoned **A-20** requiring 20,000 square foot minimum lot size, with a 50 ft. strip along the easterly and northerly property line of lot 1, zoned S-1, Open space.

The application is to increase the square footage of lot #839 by moving the property's left side property line 50 ft., creating a side lot line with a 270 degree and a 90 degree interior angle.

The Administrative Subdivision application will create a lot with a side lot line that does not conform to the City of Cranston Subdivision Regulations, Section XII, D.4 Lot Design Standards, which reads:

"4. Lot Lines: Side lot lines shall be substantially at right angles to straight lines or radial to curved street lines for their full length from front to rear with following exception:

a. Side lot lines may deviate from this requirement in areas where natural constraints such as water courses, wetlands, etc., or where prudent subdivision practices necessitate special consideration. In all such cases, the burden will be on the subdivider to justify such deviation in design."

Documents which are part of the application

1. Administrative Subdivision application signed by all owners.
2. Administrative Subdivision plan set entitled "Administrative Subdivision, Replat of Record Lot 5 of the Sundale Estates Plat Section 2, & Replat of Phase 1, Tory Woods Remaining Land" prepared by Michael Gavitt P.L., DiPrete Engineering, dated 10-2-14.
3. Filing fee in the form of check #1150, in the amount of \$100.00, from Tory Woods Investments, LLC.
4. Municipal Lien certificates for AP 36, Lot 1 & Plat 37, lot 839, confirming that taxes for the subject properties are currently up to date.

Waivers

A waiver has been requested to deviate from Section XII D.4(a) of the Subdivision and Land Development Regulations which states that:

Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines for their full length from front to rear with the following exception:

a. Side lot lines may deviate from this requirement where natural constraints such as watercourses, wetlands, etc., or where prudent subdivision practices necessitate special consideration. In all cases, the burden will be on the subdivider to justify such deviations in design.

In this instance, the proposed common lot line does not meet this requirement in that it contain two angles (a 270 degree angle and a 90 degree angle) between the lot's frontage on Sundale Road and the rear property line. The applicant has requested to deviate from this requirement so that he can construct a garage on the left side of the house. The applicants have not explained how the jogs in the property line are necessitated due to any natural constraints such as watercourses, or wetlands.

Upon motion made by Mr. Motte and seconded by Mr. Moran, the Commission unanimously voted to adopt the Findings of Fact denoted below and *approve* this request, along with the waiver outlined above, and subject to the following conditions.

Findings of Fact

1. Assessor's Lot 1 will go from 8.59 acres to new lot A with 2.10 acres, containing the existing single family.
2. Assessor's lot 839 will go from .96 acres to new lot B with 7.45 acres.
3. The proposed new left property line will not create any restricted side yard setbacks, as former assessor's lot #1 is vacant.
4. The proposed irregular lot line will not alter the general character of the neighborhood.

Conditions of approval

1. A Zoning Board approval for the proposed side lot line, must be granted prior to a final approval for the Administrative Subdivision.
2. Install 2 granite bounds at the new property line corners.
3. Revise the subdivision map submitted to include the property line and house on missing Assessor's lot 863, on Plat 37, that directly abuts new Lot A.

Ayes: Messers Smith, Moran, Mason, Motte, Nadeau, Strom and Vincent. Nay: none.

ZONING BOARD OF REVIEW RECOMMENDATIONS

ROBERT J MORETTI 56 BLUFF AVENUE CRANSTON RI 02905 has filed an application for permission to build a 13' X 15'+/- SF addition and a 21' X 13' deck to the existing single family dwelling and construction of a 126 SF+/- addition to the existing garage with restricted frontage, front, side, corner side yard and rear yard setback on an undersized lot at **56 Bluff Avenue**. AP 2, lots 3537, area 5000+/-SF, zoned A-6. Applicant seeks relief from Section 17.92.010 Variance, 17.20.120 Schedule of Intensity, 17.88.050 Structural Alterations to Non-Conforming Building.

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 residential use is consistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area as Single Family Residential, 7.26 to 3.64 units per acre.
2. The existing house has a restricted right side yard setback of 2.9 ft. The side yard setback for the proposed rear addition will continue that restricted side yard setback for 12'- 6".
3. The proposed 12.5 ft. x 21.1 ft. rear deck will have the same restricted 10.6 ft. street yard setback of the existing house. There is an attached greenhouse currently in this location, that will be removed for the deck installation.
4. The existing garage has a conforming side yard setback of 5' from the property line that abuts lot #2335, and a 2'-9" rear yard setback from the property line that abuts lot # 937.
5. The proposed garage addition will result in a rear yard setback of 9" from lot #937. This does not allow for maintenance, given that the existing garage on abutting lot #937 (58 Bluff Ave.) is only inches away from the property line already, as seen on the City of Cranston GIS maps.
6. The proposed left side yard setback for the garage addition will be 2 ft. from the property line that abuts lot #2335, (15 Kensington Road) that contains a dwelling with a 10' side yard setback according to the City's GIS.

Recommendation: At the meeting, the applicant withdrew the request for the rear addition on the garage, thereby maintaining the 2'-9" existing rear yard setback. Through his attorney, the applicant said he is still requesting relief for the 2' side yard setback for the addition on the left side of the garage. The Plan Commission finds that the proposed rear addition and deck on the existing house and the addition on the left side of the garage will not alter the general character of the surrounding neighborhood. Therefore, upon motion made by Mr. Nadeau and seconded by Mr. Motte, the Commission unanimously voted to forward a positive recommendation on this application to the Zoning Board.

Ayes: Messers Smith, Mason, Moran, Motte, Nadeau, Strom and Vincent. Nay: none.

J&J REALTY LLC 770 RESERVOIR AVENUE CRANSTON RI 02920 (OWN/APP) AND CRANSTON ADVANCED DENTAL LLC 770 RESERVOIR AVENUE CRANSTON RI 02920 LESSEE have filed an application for permission to continue the mixed use of a professional office, first floor and a one bedroom apartment, second floor with restricted frontage, front, side and corner side yard setback and off street parking on an undersized lot(s) at **770 Reservoir Avenue**. AP 9/5, lot 499 & 500, area 7379 +/- SF,

zoned C-4 & A-6. Applicant seeks relief from Section 17.92.010 Variance, 17.20.030 Schedule of Uses, 17.20.120 Schedule of Intensity, 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 2010 Comprehensive Plan Future Land Use Map designates this area of Reservoir Avenue as Highway Commercial. The current dental office use is consistent with the Comp Plan, however the residential component (2nd floor apartment use over the dental office) is not consistent.
2. The building is located in the C-4 Zone, and the abutting lot #500 that is located in the residential A-6 zone, contains a parking area for the dental office.
3. The minimum lot size required in a C-4 zone is 12,000 sq. ft.
4. The Tax Assessor’s field card for lot 499 shows the apartment was added in December 1980.
5. Within 400’ of the applicant’s property along Reservoir Avenue, there are 5 buildings containing mixed uses.
6. The square footage of office space requires 9 parking spaces; the parking area provides 6 spaces that does not allow egress from the parking lot in a forward motion.
7. The existing building has an 18.6’ front yard setback, where 40’ is required.
8. The application to continue the commercial office/residential mixed use of the property will not alter the general character of the surrounding area, as no exterior changes are proposed.

Recommendation: The primary use of the building as a commercial dental office is consistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area of Reservoir Avenue as Highway Commercial. Therefore, upon motion made by Mr. Moran and seconded by Mr. Mason, the Plan Commission unanimously voted to forward a positive recommendation on this application to the Zoning board.

Ayes: Messers Smith, Mason, Moran, Motte, Nadeau, Strom and Vincent. Nay: none.

ELAINE M DAMIANI, ANNA M GREGORIO & SALVATORE DAMIANI 379 DYER AVENUE

CRANSTON RI 02920 (OWN/APP) have filed an application for permission to convert a single family dwelling to a two family dwelling at **379 Dyer Avenue**. AP 8/4, lots 17, area 16,000+/-SF, zoned C-4. 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 existing residential use is inconsistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area of Dyer Avenue as Highway Commercial.
2. The dwelling, built in 1924, was a single family and a grandfathered use, when the C-4 commercial zoning designation went into effect in 1965.
3. The tax assessor’s office picked up the use of the dwelling as a 2 family in 1980. The field card noted that no building permit was taken out for the additional unit.
4. No exterior renovations are proposed.
5. Within the 400’ radius on Dyer Avenue alone, there are 2-single family, 2-two family, 3-three family, 1-four family, 2-mixed commercial/residential, and 5 commercial uses.
6. The application for legal conversion of a single to a two-family dwelling, will not alter the general character of the surrounding neighborhood, or hinder the intent or purpose of the Zoning Code.

Recommendation: The Comprehensive Plan Future Land Use Map designates this area of Dyer Avenue as Highway Commercial because of the C-4 Zoning designation. Should any of the 8 residential uses be abandoned for future development, the Future Land Use Map would limit commercial uses allowed in C-3, C-4 or C-5 zones. Based on the fact that the request is an expansion of a pre-existing non-conforming residential use, upon motion made by Mr. Motte and seconded by Mr. Strom, the Plan Commission unanimously voted to forward no specific recommendation on this application to the Zoning Board.

Ayes: Messers Smith, Mason, Moran, Motte, Nadeau, Strom and Vincent. Nay: none.

NG BABAS LLC 397 DYER AVENUE CRANSTON RI 02920 (OWN) AND AFIF EL BABA 28 KILLARNEY WAY ATTLEBORO MA 02703 (APP) have filed an application for permission to install an LED fuel price sign at an existing fuel station minimart **397 Dyer Avenue**. AP 8/4, lots 2647, area 13786+/-SF, zoned C-4. Applicant seeks relief from Section 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 proposed commercial fuel dispensary station and mini mart use is consistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area of Dyer Avenue as Highway Commercial.
2. The property received a Zoning variance in 2011, to operate a towing business and vehicle storage business from a former gasoline station. No sign variance was requested.
3. The existing support system for a the freestanding sign showed in the 2011 photographs that no signage was existing except for 2 sign panels that read "food mart" and "Diesel"
4. 50 sq. ft. is the maximum area allowed for a freestanding sign. . The proposed LED fuel sign alone equals 55.4 sq. ft. The " Mutual" sign with logo is 71.5 sq. ft. The FOOD MART and DIESEL signs equal 34.2 sq. ft
5. The total area of the proposed freestanding sign is 161.1 sq. ft. which is over three times larger than what is permitted in the Zoning Code.
6. There is no documentation or photos that show that the 2011 sign was ever used for the towing business. The sign application submitted contains a "before" photo of the 2011 sign, with new signage proposed.
7. The new plans submitted show the proposed sign height is 31'-5", which is 16 feet 5 inches higher than what is allowed in this zone, and out of character with the surrounding area.

Recommendation: A motion was made by Mr. Vincent and seconded by Mr. Mason to simply state that the Comprehensive Plan does not address signage, therefore, the request for the LED fuel price sign is not inconsistent with the Comprehensive Plan.

Ayes: Messers Moran, Strom and Smith. Nay: Messers Vincent, Nadeau, Mason and Motte. The motion did not pass.

The 2010 Comprehensive Plan is silent on standards for LED signage specifically; therefore, upon motion made by Mr. Vincent and seconded by Mr. Mason, the Plan Commission voted to forward no recommendation on this application to the Zoning Board.

Ayes: Messers Smith, Mason, Nadeau and Vincent. Nay: Messers Motte, Moran and Strom.

THOMAS AND DAWN FERRY 111 SUNDALE ROAD CRANSTON RI 02921 (OWN/APP) have filed an application for permission to relocate the southerly property line of lot 839 on AP 37 fifty feet further south at **111 Sundale Road**. AP 36/4, lot 1, area 8.59 acres and AP 37/3 lot 839 area 0.59 acres, zoned A-20. Applicant seeks relief from Section 17.92.010 Variance, 17.20.090 (E) Specific Requirements.

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 is consistent with the 2010 Comprehensive Plan Future Land Use Map that designates this area of the City as Single Family Residential, 3.63 to 1 unit per acre.
2. The applicant has submitted an application for an Administrative Subdivision that will move the side lot line for lot 839 that currently conforms to zoning, further south 50 feet, resulting in a new side lot line that will contain a 270 degree interior angle, and a ninety degree interior angle.
3. Section 17.20.090 (E.) of the Zoning Code states: Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines for their full length from front to rear with the following exception: side lot lines may deviate from this requirement in areas where natural constraints such as watercourses, wetlands, etc. or where prudent division practices necessitates special consideration. In all such cases, the burden will be on the owner to justify such deviation in design.
4. The subdivision has received a tentative approval from the Plan Commission, pending Zoning Board Approval for the irregular lot line.
5. The proposed subdivision will increase the square footage of lot 839 from 41,844 sq. ft. to 7.45 acres.
6. The proposed lot line will not alter the general character of the surrounding neighborhood, or impair the intent or purpose of the Zoning Code or the Comprehensive Plan upon which the Code is based.

Recommendation: Staff finds that the application is not inconsistent with the 2010 Comprehensive Plan. The application received a conditional Administrative Subdivision approval from the Plan Commission for the irregular lot line, pending Zoning Board approval. Upon motion made by Mr. Vincent and seconded by Mr. Motte, the Plan Commission unanimously voted to forward a positive recommendation on this application to the Zoning Board.

Ayes: Messers Smith, Mason, Moran, Motte, Nadeau, Strom and Vincent. Nay: none.

PLANNING DIRECTORS REPORT

1) Mr. Lapolla stated that the Planning Department needs to consider a Comprehensive Plan amendment on signs and, 2) The City will be acquiring five more homes in the flood plain through FEMA, which would bring the total to 15-16 homes in total.

ADJOURNMENT

Upon motion made by Mr. Moran and seconded by Mr. Vincent, the Commission unanimously voted to adjourn at 8:45 p.m.

NEXT MEETING November 5, 2014 – City Council Chamber, 7 pm

Respectfully submitted,

Jason M. Pezzullo, AICP
Principal Planner/Administrative Officer

