

STATE OF RHODE ISLAND CITY OF EAST PROVIDENCE

COUNTY OF PROVIDENCE

ZONING BOARD OF REVIEW

MINUTES

A meeting of the East Providence Zoning Board of Review was held at 6:00 P.M., on Wednesday, **15 January 2020**, in the City Council Chambers, East Providence City Hall.

The following members were present:

Eugene Saveory – Chairman

Michael Beauparlant – Vice-Chairman – **ABSENT**

Pier-Mari Toledo

John Braga

Richard Croke, Sr.

Gary Pascoa – 1st Alternate

Edward Pimentel – Zoning Officer / Clerk

Michael Marcello – City Solicitor – **ABSENT**

Dylan Conley – Assistant City Solicitor

I. OPENING STATEMENT BY CHAIRMAN

Chairman Saveory announces that it is the policy of the Zoning Board of Review to caution all petitioners that they have the right to counsel before the Board and failure to do so at this time does not constitute sufficient grounds for a change in circumstances under the eighteen-month repetitive petition clause. All petitioners are also cautioned that if the petition is approved, all construction must be done in compliance with the submitted plan(s), application and testimony presented to the Zoning Board of Review. A change of any sought must obtain the requisite approval of the Zoning Board of Review. All work that deviates from the approval will be ordered halted and promptly removed. Comments will be limited to the petition being heard and no comments will be heard that do not pertain to an item scheduled on tonight's docket. He also notes that it is the policy of the Board that no new agenda item will be heard after 10:30 PM.

Chairman Saveory also notes that the Board welcomes any commentary from the public provided it solely pertains to an item on tonight's docket.

A. Swearing in of the Zoning Officer

Chairman Saveory asks **Assistant City Solicitor Dylan Conley** to swear in the **Zoning Officer, Mr. Pimentel**.

II. SEATING OF ALTERNATE MEMBERS

Chairman Saveory informs the public that **Vice Chairman Beauparlant** is absent and **Mr. Pascoa, 1st Alternate**, will be a participating and voting member tonight.

Chairman Saveory informs the public that **Mr. Cunha**, who has been a member of this board for many years, has retired from the Zoning Board. Now, **Mr. Croke** has been removed from his alternate status and is a full voting member and **Mr. Braga** has returned to the board as the at large member.

III. APPROVAL OF ZONING BOARD MINUTES

A. Chairman Saveory asks for approval of the **6 November 2019**, Zoning Board of Review Minutes. **Motion by Ms. Toledo** to approve the **6 November 2019**, Zoning Board of Review Minutes. The motion is **Seconded by Mr. Croke** and **Unanimously** approved.

B. Chairman Saveory asks for approval of the **6 November 2019** Appellate Board of Review Minutes. **Motion by Ms. Toledo** to approve the **6 November 2019**, Appellate Board of Review Minutes. The motion is **Seconded by Mr. Croke** and **Unanimously** approved.

C. Chairman Saveory asks for approval of the **4 December 2019**, Zoning Board of Review Minutes. **Motion by Ms.**

Toledo to approve the **4 December 2019**, Zoning Board of Review Minutes. The motion is **Seconded** by **Mr. Croke** and **Unanimously** approved.

IV. ZONING OFFICER'S REPORT

The Zoning Officer, Edward Pimentel announces that currently the next regular meeting of the Zoning Board is scheduled for 12 February 2020 since tonight's meeting was pushed back so late into the month but wants to make sure that this date works for the board.

Motion by Ms. Toledo to approve the **12 February 2020 date for the next regular scheduled meeting for the Zoning Board of Review**. The motion is **Seconded** by **Mr. Braga** and **Unanimously** approved.

V. CORRESPONDENCE / DISCUSSION

A. Asi Es La Vida, 736 North Broadway – Orr-Street Parking Variance - Request to withdraw without prejudice.

VI. STAFF REPORTS

A. Planning Department Staff Report – 10 January 2020 - Previously Submitted

B. December 2019 - Zoning Complaint List – Previously Submitted

VII. CONTINUED BUSINESS

1. Petition No. 6749 - ASI ES LA VIDA and MICHAEL and HELENA M. JAFFA, request a dimensional variance to locate an accessory walk-in cooler on Parcel 2, said cooler failing to comply with requisite accessory setbacks, setback from an adjacent structure, and exceeding maximum building coverages, as well as intensifying the adjacent restaurant without complying with requisite off-street parking, for a combination of properties located at **0 NORTH BROADWAY, 702 NORTH BROADWAY, 718 – 720 NORTH BROADWAY, and 736 NORTH BROADWAY, being MAP 305, BLOCK 15, PARCEL(S) 10 and 11, as well as being MAP 306, BLOCK 1, PARCEL(S) 1 and 2, in a COMMERCIAL 2 DISTRICT, COMMERCIAL 3 DISTRICT, and RESIDENTIAL 5 DISTRICT.**

The Zoning Officer explains to the board that the petitioners are just starting out with the restaurant and feel that currently everything is sufficient and would like to withdraw their petition without prejudice in case they would like to pursue the off-street parking variance later on.

Motion by Mr. Croke to accept that this petition be withdrawn without prejudice, the motion is **Seconded** by **Ms. Toledo** and **Mr. Braga**, and **Unanimously** approved.

2A. Petition No. 6761 - S & D REALTY, requests a use variance to construct a multi-unit residential facility (12-units in total), the referenced land use being a prohibited land use in the Residential 3 District, for property located at **0 FISHER STREET, being MAP 207, BLOCK 27, PARCEL 9, in a RESIDENTIAL 3 DISTRICT.**

Attorney Bruce Cox with offices located at 1481 Wampanoag Trail, East Providence, RI is representing the petitioner.

Attorney Cox explains to the board that he and his client filed a voluntary DPR with the Planning Department and due to the holidays the DPR requirements were not met in a timely manner. The DPR needs to be completed before going before this board and it gives time for the neighbors to review the plans with the Planning Department.

Motion by Mr. Croke to continue the petition until **12 February 2020** for the petitioners to get DPR approval. The motion is **Seconded** by **Mr. Braga**, and **Unanimously** approved.

2B. Petition No. 6762 - S & D REALTY, requests a dimensional variance to construct a multi-unit residential facility (12-units in total), the referenced facility exceeding the maximum height limit, failing to meet the minimum lot density, failing to provide sufficient off-street, and failing to comply with requisite setbacks (side and rear), for property located at **0 FISHER STREET, being MAP 207, BLOCK 27, PARCEL 9, in a RESIDENTIAL 3 DISTRICT.**

Motion by Mr. Croke to continue the petition until **12 February 2020** for the petitioners to get DPR approval. The motion is **Seconded** by **Mr. Braga**, and **Unanimously** approved.

VIII. NEW BUSINESS

1. Petition No. 6764 - A.G. CONSTRUCTION, INC., requests a dimensional variance to retain an existing

accessory structure (garage) on Parcel002.00, necessitating accessory side-yard setback relief, for purposes ofunmerging Parcel(s) 002.00 and 003.00, for property located at **342 FORT STREET, being MAP 207, BLOCK 20,PARCEL 002.00, in a RESIDENTIAL 6 DISTRICT, and 0 FORT STREET, being MAP 207,BLOCK 20, PARCEL 003.00, likewise in a RESIDENTIAL 6 DISTRICT.**

Zoning Officer explainsto the board that both lots in question are both 5,000 sq. ft. and meet zoningrequirements. One lot already has a single family on it and has a detachedgarage. The garage does not meet the side yard setback so the petitioner'soptions are to either cut the garage back about 5ft. or seek dimensionalrelief.

Attorney John Shekarchi with offices located at132 Old River Rd, Lincoln, RI is representing the petitioner.

Attorney Shekarchi explainsto the board that if they were denied they will cut the garage back but areasking to leave the existing structure as is. **Attorney Shekarchi** explains that after meeting with the buildinginspector and the fire department it is understood that the windows on thegarage will be removed but are willing to make it a stipulation of approval.

Mr. Croke notes that he was at theproperty on Monday and sees that the job has already been started with the landbeing stripped and a foundation being dug up. **Mr. Croke** explains that one of the construction workers was notprofessional by blocking the road, forcing him to move his vehicle, etc. **Mr. Croke** expresses concerns abouteverything on the lot being squished together.

Ms. Toledo expresses the same concerns with everything being pushed tooclose together.

Mr. Braga inquires when the house was built and is the garage newer thanthe house itself.

Angelo Grilli of 105 HeidiDrive, Portsmouth, RI is properly sworn in.

Attorney Shekarchi apologizes for the construction worker and explains that they arefrom a 3rd party company and has **Mr. Grilli**, the owner of both properties sworn in.

Mr. Grilli explains to the board that the house is about 60-70 years old andthe garage is about the same. **Mr. Grilli** mentions to the board that he will be installing fencing lot separating the lotfrom the neighbors, which he has spoken to the immediate neighbors and theneighbor across the street is pleased with the work so far.

Mr. Braga inquires about the windows that must be removed.

Mr. Grilli explains that the windows in the back and on the side of thegarage must be closed up.

Mr. Braga has no further questions atthistime.

Mr. Pascoa has no questions at thistime.

Chairman Saveory inquireswhat the new house on the vacant lot will look like.

Mr. Grilli explains that the new housewill be a 3 bedroom, 2.5 bath colonial single family over 1600 sq. ft. and aone car garage.

Chairman Saveory believesthat this will fit in with the neighborhood and has no concerns.

Ms. Toledo inquires if both houseswill be put on the market.

Mr. Grilli answers yes both houseswill be put on the market.

Chairman Saveory inquires if there isanyone present who would like to speak in favor of the subject petition.Hearing and seeing none, **ChairmanSaveory** inquires if there is anyone present who would like to speak againstthe subject petition. Hearing and seeingnone, **Chairman Saveory** queries theBoard for a motion.

Motionby **Mr. Croke** based on all the evidence andtestimony presented to the Zoning Board of Review and the personal knowledge ofthe members of the Board of the land and area of the City of East Providence,the Zoning Board hereby finds:

1. The hardship from which theapplicant seeks relief is due to the unique characteristics of the subject landor structure and not to the general characteristics of the surrounding area,and not due to a physical or economic disability of the applicant exceptingthose physical disabilities addressed in RIGL 45-24-30(16).
2. The hardship is not the result of any prioraction of the applicant and does not result primarily from the desire of theapplicant to realize greater financial gain.
3. The granting of the requested variances willnot alter the general character of the surrounding area or impair

the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Mr. Croke hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted shall amount to more than a mere inconvenience.

Mr. Croke moves that the dimensional variances be **Granted** subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits.

2. The windows on the garage will be removed per the building inspector and fire department requirements.

Chairman Saveory asks **Mr. Grilli** if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. **Mr. Grilli** responds that he fully understands and accepts the conditions just stipulated.

Motion is Seconded by Mr. Braga

Roll Call Vote The board understands that the property pre-dates zoning

Mr. Croke – Aye and it would not make sense to have to cut the garage

Mr. Pascoa – Aye only a few feet. The board feels that this will fit in with

Ms. Toledo – Aye with the neighborhood and will actually enhance it.

Mr. Braga – Aye

Chairman Saveory – Aye

Dimensional variances unanimously granted, subject to the aforementioned condition(s).

2. Petition No. 6763 - HEATHER and JUSTIN GARDNER, requests a dimensional variance to correct some dimensional deviations that were introduced by a prior owner. The referenced deviations include excessive fencing height, excessive impervious lot coverage, side and rear yards setbacks associated with an above-ground swimming pool, decking and addition onto the single-family residence [Noting: that some improvements are being removed to reduce the degree of relief required], for property located at **54 FENNER AVENUE, being MAP 412, BLOCK 7, PARCEL 6, in a RESIDENTIAL 3 DISTRICT.**

Zoning Officer explains to the board that many mistakes were made on this property by prior owners and the current owner is trying to clean them up. The first plan shows the existing conditions and the second plan shows A-F details on what will be removed and what is being asked for. For example Note A is for a 6ft. vinyl fence that encroaches into the right of way, the petitioner is willing to move it off the right of way but needs the approval for the height of the fence since in this zone it only allows up to 4ft. fence in height.

Heather Gardner of 24 Perry Ave, Seekonk, MA is properly sworn in.

Ms. Gardner explains to the board that she had no idea that any of these things were illegal and only knew after she was notified by **Ted Isabella** about the violations. **Ms. Gardner** is willing to tear down two decks and whatever else is required but does want to keep the addition that was put on about 30 years ago. The addition was built without the proper permits, and is willing to bring it up to code since it wasn't done properly.

Zoning Officer explains that the addition is under Note B and that it is literally pulling from the main house.

Mr. Braga inquires what the addition is currently being used for.

Ms. Gardner answers that it is a living room.

Mr. Braga inquires when **Ms. Gardner** bought the house.

Ms. Gardner answers about 8 years ago, her mother had actually purchased the home first but everything was already there at that time.

Ms. Toledo inquires if the pool and decks are in the front yard.

Ms. Gardner explains that when the property was first built the driveway was on the street behind the house but at some point in time was moved over to Fenner Avenue.

Mr. Braga inquires what is being taken away or demolished.

Zoning Officer decides to go over every note item on the plans,

Note A – is for a 6ft. vinyl fence that encroaches into the right of way, **Ms. Gardner** will move it to the property line but needs the board's approval for the height of the fence.

Note B – Is the addition on the house with an 8.8 ft. side yard setback but required is 15ft.

Note C – is the existing deck off of the addition, **Ms. Gardner** wants to retain the deck but needs 6ft. relief.

Note D – is the existing deck to be removed but **Ms. Gardner** wants to retain the patio underneath.

Note E – is the existing deck around the pool on the boundary line that will be removed and the existing pool which

Ms. Gardner wants to be retained. **Ms. Gardner** will add a security ladder and security fencing with only 3.5ft. setback when the required is 6ft.

Note F - After removing all listed there will still be a remaining 1% of impervious coverage that will need to be approved.

Ms. Toledo inquires about the fence, does it currently cause any vision/sight issues for motorists.

Zoning Officer explains that he went with the City Engineer and only issues are with drivers coming from the east.

Mr. Braga commends the petitioner's willingness to remove the decking and pushing back the fence and feels that this is a reasonable request.

Mr. Pascoa has no questions at this time.

Mr. Croke expresses his concerns with the fencing and line of sight and the living room falling down but is pleased that most of the decking will be removed.

Ms. Toledo explains that all of her questions regarding the fence have been addressed.

Chairman Saveory explains that his main concern is that the house must be brought up to code and will make it a stipulation that it must meet building code.

Ms. Gardner agrees 100%.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none, **Chairman Saveory** inquires if there is anyone present who would like to speak against the subject petition.

Paul Hendericks of 66 Fenner Avenue, Riverside, RI is properly sworn in.

Mr. Hendericks expresses his concerns about the fence and believes it makes the house look like a fortress and is too close to the street. **Mr. Hendericks** feels that the height does not look good and bringing it back only 2-3 feet will not change much.

Ms. Gardner begs the board to keep in mind that is their only yard and need the fence for privacy.

Mr. Braga inquires if **Ms. Gardner** had to choose either 4ft. for the front page or pushing the current fence back, which one would she choose.

Ms. Gardner answers pushing the current fence back.

Mr. Croke agrees with **Ms. Gardner** expressing concerns about children hopping the 4ft. fence and getting into the pool.

Mr. Hendericks explains that the fence is already broken and pleads with the board to actually look at the property.

Chairman Saveory explains that the board members have gone to the property and asks **Mr. Hendericks** if his property abuts **Ms. Gardner's**.

Mr. Hendericks answers he's three houses down.

Chairman Saveory explains that the base number off the easement is at minimum 4ft.

Mr. Braga is looking at the poles on the plans and purposes the removal of about a 6ft. section.

Zoning Officer marks up the plans on the proposed removal of fencing and **Ms. Gardner** agrees for the fencing to be pushed up until the walk way.

Mr. Hendericks looks at the marked up plans but is still not pleased.

The board reviews the marked up plans.

plans.

Mr. Croke notes that **Ms. Gardner** must repair broken sections of the fence.

Motionby **Mr. Braga** based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).
2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.
3. The granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.
4. That the relief to be granted is the least relief necessary.

Mr. Braga hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted shall amount to more than a mere inconvenience.

Mr. Braga moves that the dimensional variances be **Granted** subject to the petitioner fulfilling the following conditions:

3. Petitioner(s) obtaining any, and all, necessary permits.
4. Subject to the final 6ft. vinyl fencing that is to be relocated 10ft. behind the property boundary line on Fenner Avenue and all other variance sought after in the Class I Survey.

Chairman Saveory asks **Ms. Gardner** if she accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. **Ms. Gardner** responds that she fully understands and accept the conditions just stipulated.

Motion is Seconded by Ms. Toledo

RollCall Vote The board understands that this is not the petitioner's fault

Mr.Croke – Aye and the petitioner iswilling to work with the board. The

Mr. Pascoa – Aye is satisfied with the fence adjustment and that the addition

Ms.Toledo- Aye will be up to code.

Mr.Braga – Aye

Chairman Saveory – Aye

Dimensional variancesunanimously granted, subject to the aforementioned condition(s).

IX. PROCEDURES

- A.** Approval of new 'MotionForm.'
- a.** Continued until 12 February 2020 for Vice ChairmanBeauparlant to review the form.
- B.** Approval of 'Annual Meeting' calendar.
- a.** Motion by Mr. Croke to approve the annual meeting calendar, the motion is Seconded by Ms. Toledo and Unanimously approved.

X. ANNOUNCEMENTS

The next regular meeting of the Zoning Board of Review is scheduled for **Wednesday, 12 February 2020, at 6:00**

PM, in the City of East Providence Council Chambers, City

Hall, and East Providence, RI.

XI. ADJOURNMENT

Motion to adjourn by Mr. Braga. The motion is **Seconded** by **Ms. Toledo** and **Unanimously** voted to adjourn.

Meeting is adjourned at 7:40pm.

Edward Pimentel, AICP
Zoning Officer / Clerk

Secretary