

STATE OF RHODE ISLAND CITY OF EAST PROVIDENCE

COUNTY OF PROVIDENCE MINUTES

ZONING BOARD OF REVIEW

A meeting of the East Providence Zoning Board of Review was held at 6:00 P.M., on Wednesday, **1 June 2022**, in the City Council Chambers, East Providence City Hall.

The following members were present:

Eugene Saveory – Chairman

Michael Beauparlant – Vice Chairman

John Braga – **ABSENT**

Richard Croke, Sr.

Gary Pascoa – **ABSENT**

Matthew Robinson – 1st Alternate

Andrew Cotton – 2nd Alternate

Edward Pimentel – Zoning Officer / Clerk

Michael Marcello – 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 **Solicitor Marcello** to swear in the **Zoning Officer, Mr. Pimentel**

II. SEATING OF ALTERNATE MEMBERS

Chairman Saveory informs the public that **Mr. Braga and Mr. Pascoa are both absent this evening**, so 1st Alternate, **Mr. Robinson** and 2nd Alternate **Mr. Cotton** will be participating and voting members this evening.

III. APPROVAL OF ZONING BOARD MINUTES

Zoning Officer Pimentel explains to the board that the **13 April 2022** minutes were completed in time however, his computer broke down so he was unable to pass out the minutes.

Motion by Mr. Croke to move the approval of the **zoning board minutes of 13 April 2022 to 13 July 2022**, the motion is **Seconded in Mr. Cotton** and **Unanimously approved**.

Chairman Saveory asks for approval of the **11 May 2022**, Zoning Board of Review Minutes. **Motion by Mr. Croke** to approve the **11 May 2022**, Zoning Board of Review Minutes. The motion is **Seconded by Vice Chairman Beauparlant** and **Unanimously approved**.

IV. ZONING OFFICER'S REPORT

Zoning Officer Pimentel explains that there is none.

III. CORRESPONDENCE/ DISCUSSION

A. 11 Elmwood Drive, CrossInsurance – Letter of Support from Jay and Elaine Newman of 21 Elmwood Drive.

VI. STAFF REPORTS

1. Planning Department Staff Report - Previously Submitted

2. Zoning Complaint List – May 2022 –Previously Submitted

VII. CONTINUED BUSINESS

Chairman Saveory informs the public that there is no continued business.

VIII. NEW BUSINESS

1. Petition No. 6903 - ANNETTE ROY, request dimensional variances to subdivide a property into two (2) distinctive parcels (Master Plan approval already granted), thereby permitting the present single-family residences to be situated on their own respective parcels, without complying with minimum lot area and lot depth requirements, as well as exceeding maximum building and impervious lot coverage requirements, for property located at **138 BURGESS AVENUE, being MAP 017, BLOCK 15, PARCEL 1, in a RESIDENTIAL 6 DISTRICT.**

Attorney George West is representing the petitioner.

Attorney West explains to the board that the applicant is asking for a minor subdivision, the reason for this is to designate separate parcels since there is currently two houses on one lot. The other house is on Mercer Street, with the address of 145 Mercer Street, Attorney West believes that way the proposed subdivision is done is the most logical way to be done. The Planning Board approved this subdivision and he is here before the board tonight due to the configuration of the lot. The existing lot is 8,000 sq. ft. both lots will become 4,000 sq. ft. and there will be no new construction or intensification of the properties. Both lots are short 1,000 sq. ft. than what is required by zoning code for lot size requirement. The petitioner has lived at the property for 60 years and it was that way when she purchased the property. In 1977 this property was before board in 1977 and was approved by zoning but it was never completed. The petitioner doesn't want to pass this on as all one lot. The plan is to retain these homes as two single family dwellings.

Mr. Croke notes that it is a shame to spend all this money for a subdivision, will the properties be going up for sale.

Attorney West notes that the applicant is in her 80's and probably doesn't need the two houses but the plan currently is to keep them.

Mr. Cotton believes this makes sense, there these types of oddities are all over and it is necessary to clean these up.

Mr. Robinson has no questions.

Vice Chairman Beauparlant has no questions or concerns.

Chairman Saveory has no issues with the subdivision and it is unfortunate that this has to go through the cycle again.

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. Hearing and seeing none, **Chairman Saveory** queries the Board for a motion.

Motion by Mr. Croke,

Based on all evidence presented to the Zoning Board of Review and personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board of Review hereby finds pursuant to Section 19-45(a) of the City of East Providence Zoning Ordinance:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due 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 doesnot result primarily from the desire of the applicant to realize greaterfinancial gain.
- 3.The granting of the requested variance will not alter the general character ofthe surrounding area or impair the intent or purpose of this chapter or thecity’s comprehensive plan upon which this chapter is based.
- 4.The relief to be granted is the least relief necessary.

TheZoning Board of Review hereby further finds pursuant to Section 19-45(b) of theCity of East Providence Zoning Ordinance:

- 1.In granting a dimensional variance, that the hardship that will be suffered bythe owner of the subject property if the dimensional variance is not grantedshall amount to more than a mere inconvenience.

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

- 1.Petitioner(s) obtaining any, and all, necessary permits - said permitsnecessary to exercise (execute) the relief granted. Failure to obtain requisitepermit(s), if needed, within the six-month approval period (one-year, ifextended by the Zoning Board of Review), will result in expiration of said approval.
- 2.Strict compliance, to include: Submitted site plan (or amended site plan, as itmay be applicable) and site plan package; all exhibits; entire testimony ofapplicant and/or property owner; presentation of legal counsel (if applicable);and, testimony of all expert(s), if applicable.

ChairmanSaveory asks**AttorneyWest** ifhe accepts the conditions of approval just stipulated, understanding thatstrict compliance means that any deviation will necessitate revisiting theZoning Board of Review; said revisit may be requested by either the ZoningOfficer or any member of the Zoning Board of Review. **Attorney West** responds that he fully understands and acceptthe conditions just stipulated.

Motionis Seconded byMr. Robinson

RollCall Vote

Mr.Cotton – Aye

Mr.Croke – Aye

Mr. Robinson – Aye

Vice ChairmanBeauparlant – Aye

Chairman Saveory – Aye

The board believes this will fit in withthe rest of the neighborhood since they are all small lots, and this petition was previously approved.

Dimensionalvariance is unanimously granted 5-0, subject to the aforementionedcondition(s).

2A. PetitionNo. 6904 - CROSS REALTY, LLC, requests ause variance to convert a residential parcel to an accessory commercial parking area,serving the off-street parking needs of the abutting professional officeoperation, otherwise defined as a prohibited accessory land use, for propertylocated at **11 ELMWOOD DR, being MAP 402, BLOCK 15, PARCEL 27, in aRESIDENTIAL 3 DISTRICT.**

Zoning OfficerPimentel explains to the board that there have been communications with theengineers between the applicant’s engineer and the city’s engineer. **ZoningOfficer Pimentel** suggests a stipulation on meeting the drainagerequirements and notes that the Planning Board had concerns with lightspilling, talks of fencing, low lights and lot merging.

Attorney John Shekarchi isrepresenting the petitioner.

Attorney Shekarchi explainsto the board that present with him tonight is **Douglas Mclean**, who has been before the board before and **Peter Gib**, the manager of Cross Insurance.**Attorney Shekarchi** would like **Mr. Mclean** to be considered an expertin land use.

Motion by Vice ChairmanBeauparlant tocontinue to accept Mr. Mclean as anexpert in land use, the motion is Seconded in Mr. Croke,

Roll Call Vote

Mr.Cotton – Aye

Mr.Croke – Nay

Mr. Robinson – Aye

Vice ChairmanBeauparlant – Aye

Chairman Saveory – Aye

The motion to accept Mr. Mclean as an expert witness is granted 4-1.

Peter Gib, manager of Cross Insurance, is properly sworn in.

Mr. Gib explains to the board that the company is growing and would like to expand and a lot of their employees are local. Currently, there are 54 employees and 54 parking spots, which limits what they can do. Instead of moving to another location they want to expand the property, the property in question was going under foreclosure and an opportunity had arrived for Cross Insurance. **Mr. Gib** notes that he has spoken with the abutters and had revised the plan 3 times and now has their support.

Attorney Shekarchi adds that the plan is for using this property to add 19 parking spots, and would be part of the main structure.

Mr. Gib continues that the abutters wanted some landscaping instead of just a fence, the engineer came in and changed the entrance from the side street to having the entrance from their own existing parking lot. The lighting will be low lights/landscaping lights, they will be below the fence and facing down. **Mr. Gib** just wants to keep the safety of his employees due to the nearby hotel and believes this won't have a negative impact to the neighbors.

Mr. Mclean explains to the board that they are here tonight to convert a residential structure into commercial parking space. The existing insurance company needs to have 149 parking spaces per code but only has 54, adding 19 parking spaces will bring the use to greater conformity regarding parking. The applicant is also requesting impervious coverage relief with the maximum being 45% and this proposal brings them to 78%. To **Mr. Mclean** it is clear that the applicant wanted the best design for the business and the neighborhood. They engaged with immediate abutters and they all gave positive feedback. There will be no new curb cuts within the residential neighborhood and fencing will be replaced on the south side with new stockade fencing and a landscaping buffer of dogwood trees for the rest of the residential area. **Mr. Mclean** believes this is an appropriate setting since the property is located in the middle of residential and commercial. Unfortunately the applicant has no other avenues for adding parking spaces and this is their only option left. **Mr. Mclean** believes that the board should not have reservations in approving this petition since the applicant has done community outreach, has the need to expand, and as met hardship standard.

Attorney Shekarchi adds that this is a good proposal that meets the standards and is a win-win for everyone.

Vice Chairman Beauparlant originally had concerns with the lighting but is now assured that the lighting will be kept low. The negotiations done with the neighborhood are excellent and believes this will fit in the area.

Mr. Croke notes that Cross Insurance is a well-kept property however, 11 Elmwood Drive is an eyesore and believes it was the applicant's intention to keep it a dump. There was no mention of the increase of traffic that may happen with more employees cutting through the neighborhood. **Mr. Croke** notes that this property is in a residential zone and this petition would turn the property to a non-conforming use being a parking lot.

Mr. Croke believes that this wouldn't fit and would distract from the rest of the property and neighborhood.

Mr. Cotton explains that he is interested in what the abutters have to say, but he does agree with the petitioners and that there will be a nice visual appearance. **Mr. Cotton** believes that extending the parking will cause minimal impact and does make sense to help the company grow.

Mr. Robinson agrees with many of **Mr. Cotton's** points however, **Mr. Robinson** has concerns that it will change the character of that neighborhood. **Mr. Robinson** wants to wait and hear from abutters as well.

Chairman Saveory inquires what the hours of operation at Cross Insurance are.

Mr. Gib answers that they are open Monday-Friday from 8am-4:30pm.

Chairman Saveory had concerns with the lighting but those had been addressed, 11 Elmwood Drive hasn't

benefited that neighborhood at all and in the last 8 or so years the property keeps going down.

Chairman Saveory is hopeful that a more permanent situation will be maintained. There is a clean industry now, it is passive, no noise, food, etc. and is a better option than the house itself. **Chairman Saveory** believes this is more presentable to that neighborhood since Cross Insurance has kept their building and parking lot in a clean matter. The drainage will be dealt with by engineering and the lighting will be stipulation, and there will be buffering for the immediate neighbor.

Mr. Robinson notes that the existing home has been declining yet the applicant owns that property.

Mr. Gib explains that they just purchased the property in October 2021 when it was going into foreclosure.

Chairman Saveory adds that 11 Elmwood Drive was declining well before.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition.

Kimberly Stad of 9 Larchwood Drive is properly sworn in

Ms. Stad explains to the board that she is one house away from the direct abutter, she has lived in her home for 32 years and Cross Insurance has been the best neighbors. They have been quiet and landscaping kept up and if that is how the parking lot will be maintained she is for it.

Elaine Perry of 5 Larchwood Drive is properly sworn in

Ms. Perry is the direct abutter to 11 Elmwood Drive and believes that the proposed parking lot will be better than what is there now, but adds she would like the 6ft. fencing all the way across.

Zoning Officer Pimentel notes that it was requested by the applicant and properly advertised and the city engineer didn't have any concerns with sight issues.

Vice Chairman Beauparlant inquires if that was a stipulation would the applicant be okay with the 6ft. fencing.

Mr. Gib responds that their original plan had it that way so they are 100% in favor of that.

Daniel Landry of 19 Larchwood Drive is properly sworn in

Mr. Landry lives about 4 houses down and has lived there since 1972 and has watched the property change. The house has been an eyesore for so long but does have some concerns with snow removal. The overall plan looks good as long as they continue to maintain the property. There is some traffic spillage but it's not an issue and it is only during the week.

Mr. Cotton adds that it looks like there is a lot of land where the snow can go.

Junior Luciano of 12 Elmwood Drive is properly sworn in

Mr. Luciano lives across the street from 11 Elmwood Drive and did go back and forth with the applicant since originally he didn't want a parking lot. However, 11 Elmwood Drive isn't being taken care of and the plans look a lot better. **Mr. Luciano** adds that currently there are "no parking" signs and wants to be sure those stay up.

Mr. Cotton notes that wouldn't change at the board's level.

Chairman Saveory notes that it is a separate jurisdiction that decides that.

Solicitor Marcello explains that sign is up due to a city ordinance so unless the ordinance changes the signs will remain up.

Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition.

Carmen Reid of 10 Larchwood Drive is properly sworn in

Ms. Reid is having her 6th year in her home and has concerns with the amount of traffic since there

areyounger families coming into the area and more children. **Ms. Reid** believes the scenery won't look as pretty and questionswhat happens if Cross Insurance out grows that building. Ms. Reid does agreethat 11 Elmwood Drive is an eyesore but isn't for throwing it away to be a parking lot and allowing commercial to creep in.

ChairmanSaveoryqueries the Board for a motion.

Motion by Vice Chairman Beauparlant

Basedon all evidence presented to the Zoning Board of Review and personal knowledgeof the members of the Board of the land and area of the City of EastProvidence, the Zoning Board of Review hereby finds pursuant to Section19-45(a) of the City of East Providence Zoning Ordinance:

- 1.The hardship from which the applicant seeks relief is due to the uniquecharacteristics of the subject land or structure and not due to the generalcharacteristics of the surrounding area, and not due to a physical or economicdisability of the applicant excepting those physical disabilities addressed inRIGL 45-24-30(16).
- 2.The hardship is not the result of any prior action of the applicant and doesnot result primarily from the desire of the applicant to realize greaterfinancial gain.
- 3.The granting of the requested variance will not alter the general character ofthe surrounding area or impair the intent or purpose of this chapter or thecity's comprehensive plan upon which this chapter is based.
- 4.The relief to be granted is the least relief necessary.

Vice Chairman Beauparlant moves that the use variance be **Granted**subject to the petitioner fulfilling the following conditions:

- 1.In granting a use variance the subject land or structure cannotyield any beneficial use if it is required to conform to the provisions of thischapter. Nonconforming use of neighboring land or structures in the samedistrict and permitted use of land or structures in an adjacent district shallnot be considered in granting a use variance.
- 2.Meet all drainage requirements.
- 3.Low lighting must be installed.
- 4.The lots must be merged via subdivision.
- 5.Include 6ft. fence across to buffer the immediate abutter'sproperty.

ChairmanSaveory asks**Attorney Shekarchi** if he accepts the conditions of approvaljust stipulated, understanding that strict compliance means that any deviationwill necessitate revisiting the Zoning Board of Review; said revisit may berequested by either the Zoning Officer or any member of the Zoning Board ofReview. **Attorney Shekarchi** responds that hefully understands and accept the conditions just stipulated.

Motionis Seconded by**Mr. Robinson**

RollCall Vote	The board recognizes that CrossInsurance is a
Mr. Cotton - Aye	great neighbor and has done a great job
Mr.Croke – Nay	negotiating with the neighborhood. There isn't
Mr. Robinson – Nay	a lotof existing parking and it is a growing
ViceChairman Beauparlant - Aye	business. However, there needs to be some
Chairman Saveory – Aye	thought regarding the longterm and will alter
The character of the surrounding area.	

Use variance has failed3-2.

AttorneyShekarchi asks **Mr. Robinson** and**Mr. Croke** to reconsider their votes.

SolicitorMarcello explains to ask is inappropriate and made their votes basedon the evidence presented to the board.

AttorneyShekarchi asks again just for discussion's sake.

SolicitorMarcello responds that it is still inappropriate.

Mr. Gib adds that theywanted to stay in the building but will now have to move.

2B. CROSSREALTY, LLC, request dimensional variances to convert a residential parcel to anaccessory

commercial parking area, serving the off-street parking needs of the abutting professional office operation, resulting in exceeding the maximum impervious lot coverage requirement, as well as installing fencing that will exceed the maximum height limit within the respective front-yard setback, for property located at **11 ELMWOOD DR, being MAP 402, BLOCK 15, PARCEL 27, in a RESIDENTIAL 3 DISTRICT.**

Solicitor Marcello explains that due to the failing of the use variance there is no need to have a motion for the dimensional variance.

IX. PROCEDURES

A. Discussion on the prepared Zoning Application Instructional Package.

Zoning Officer Pimentel suggests that this been continued since 2 board members are not present tonight.

X. ANNOUNCEMENTS

The next meeting of the Zoning Board of Review is scheduled for **Wednesday 13 July 2022, 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. Croke**. The motion is **Seconded** by **Vice Chairman Beauparlant** and **Unanimously** voted to adjourn. Meeting is adjourned at 7:57pm.

Edward Pimentel, AICP
Zoning Officer / Clerk

Secretary