

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, **3 August 2022**, in the City Council Chambers, East Providence City Hall.

The following members were present:

Eugene Saveory – Chairman

Michael Beauparlant – Vice Chairman

John Braga

Richard Croke, Sr.

Gary Pascoa

Matthew Robinson – 1st Alternate

Andrew Cotton – 2nd 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 Solicitor Conley to swear in the **Zoning Officer, Mr. Pimentel**

II. SEATING OF ALTERNATE MEMBERS

Chairman Saveory explains to the public that there is a full quorum this evening and the alternate members will be participating but not voting members.

III. APPROVAL OF ZONING BOARD MINUTES

Chairman Saveory asks for approval of the **13 July 2022**, Zoning Board of Review Minutes. **Motion by Vice**

Chairman Beauparlant to approve the **13 July 2022**, Zoning Board of Review Minutes. The motion is **Seconded** by **Mr. Braga** and **Unanimously** approved.

IV. ZONING OFFICER'S REPORT

Zoning Officer Pimentel explains that there is none.

III. CORRESPONDENCE/ DISCUSSION

City of East Providence and Touchdown Realty Group, LLC, 1320 Pawtucket Avenue - Request for six month extension on approval granted 2 March 2022. (Dimensional Variances - Petition No. 6895)

David Sisson, the architect for the project, speaks on behalf of the petitioner.

Mr. Sisson explains to the board that this variance was approved about 6 months ago however, they have yet to close on the property. Hopefully closing will take place on the 12th of this month but out of abundance of caution ask the board for a six month continuance.

Motion by Vice Chairman Beauparlant to continue this petition for six months, the motion is Seconded in Mr. Croke and Unanimously approved.

VI. STAFF REPORTS

1. Planning Department Staff Report - Previously Submitted

2. Zoning Complaint List – July 2022 –Previously Submitted

VII. CONTINUED BUSINESS

Chairman Saveory notes that there is no continued business this evening.

VIII. NEW BUSINESS

1. Petition No. 6912 -NELSON G. PACHECO requests dimensional variances to retain an accessory shed that is located within the accessory side and rear-yard setbacks, as well as exceeding the maximum impervious lot coverage requirement, for property located at **112 FORT STREET, being MAP107, BLOCK 2, PARCEL 6, in a RESIDENTIAL 6 DISTRICT.**

Attorney Gregory Dias with offices at 349 Warren Avenue is representing the petitioner.

Attorney Dias explains that the petition is for setbacks for an existing shed, they are all minor deviations with 4.9in from the side yard setback and 3.8in from the rear yard setback. The owner has been improving the property and had a friend build a shed and did not obtain permits and then built a pergola shown in picture #3 of the board's packet. As soon as the pergola went up he was notified by the building official and zoning official that he was in violation. The pergola has been removed to be in more compliance but still exceeding coverage. The owner had removed some grass in the front of the property and put crushed stone, the zoning officer requested that the grass be put back and has done so. **Attorney Dias** notes that a new fence has been installed on the right hand side and the rear and has pictures to present what the property looks like now.

Motion by Mr. Croke to accept the new photos as Exhibit A, the motion is Seconded by Mr. Braga, and Unanimously approved.

Attorney Dias continues with the one side without the new fence because he hasn't been able to get in touch with the owner of the adjacent garage but was able to speak with the neighbors on the right hand side of the property and has a petition signed by neighbors in favor of this petition that he would like to present the board.

Motion by Mr. Croke to accept the signed petition by the neighbors as Exhibit B, the motion is Seconded by Vice Chairman Beauparlant, and Unanimously approved.

Attorney Dias notes that this is a minor dimensional request and the owner is not selling the property and is currently living there. The non-conforming structure next to him has been in disrepair for a while. **Attorney Dias** believes that this will not alter the character of the surrounding area.

Mr. Croke notes that the shed since it is screened and has no objection to shed being there.

Mr. Braga agrees with **Mr. Croke** and has no objections.

Vice Chairman Beauparlant has no objections or questions.

Mr. Pasoca has no issues.

Chairman Saveory has no objections.

Mr. Robinson is all set.

Mr. Cotton is all set as well.

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 does not result primarily from the desire of the applicant to realize greater financial gain.
3. The granting of the requested variance 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. The relief to be granted is the least relief necessary.

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

1. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is 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 - said permits necessary to exercise (execute) the relief granted. Failure to obtain requisite permit(s), if needed, within the six-month approval period (one-year, if extended 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 it may be applicable) and site plan package; all exhibits; entire testimony of applicant and/or property owner; presentation of legal counsel (if applicable); and, testimony of all expert(s), if applicable.

Chairman Saveory asks **Attorney Dias** 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. **Attorney Dias** responds that he fully understands and accepts the conditions just stipulated.

Motion is Seconded by Vice Chairman Beauparlant

Roll Call Vote

Mr. Pascoa – Aye

Mr. Croke – Aye

Mr. Braga – Aye

Vice Chairman Beauparlant – Aye

Chairman Saveory – Aye

The board believes that this is the least relief necessary and the petitioner is improving the property with positive changes.

Dimensional variance is unanimously granted 5-0, subject to the aforementioned condition(s).

2. Petition No. 6913 -JENNIFER and ANTONIO FONSECA, request dimensional variances to expand an existing single-family residence, without complying with the front-yard setback, both side-yard setbacks, as well as exceeding the maximum building and impervious lot coverage requirements, for property located at **18 MERRICK STREET, being MAP 403, BLOCK 6, PARCEL 3, in a RESIDENTIAL 3 DISTRICT.**

Jennifer Fonseca of 244 Wilson Avenue Rumford, RI is properly sworn in.

Ms. Fonseca explains to the board that she and her husband have lived in East Providence for 17 years and needed a little more space and had been looking for the past year. This property seemed to be a good opportunity since she has children and family that needs handicap accessibility. Looking to create a handicapped accessible guest suite but not a 2nd unit. **Ms. Fonseca** explains that they need the following relief,

-Front yard – 3ft.

-Side yard – 9.72ft

-Other side yard – 13.19ft

-35% Building coverage

-47% impervious coverage

Ms. Fonseca has spoken with the neighbors about the project and they have signed her petition in favor which is included in their package.

Vice Chairman Beauparlant would like clarification on what the layout includes.

Ms. Fonseca explains on the 1st floor when you come in the front door, to the left would be the handicap suite where there will be a bedroom, sitting area and bathroom, all handicapped accessible. There will be an existing sunroom to be widened for the wheelchair, there is a dining room, kitchen that has mudroom and a pantry and the living room. On the 2nd floor there are 3 small bedrooms and will be a master suite with laundry room added. The 2nd floor will not be handicap accessible and above the garage will be art studio space.

Vice Chairman Beauparlant notes that the side the garage would be on has a garage abutting so he has no concerns there.

Ms. Fonseca explains that she spoke with that neighbor first and that neighbor had no issues. Also the sunroom is being widened towards the backyard, the existing home is closer to the property line than the sunroom.

Mr. Pascoa has no concerns.

Mr. Croke expresses concerns that the 2nd floor could have a kitchen installed down the road.

Ms. Fonseca is not sure how to guarantee that they won't install a kitchen on the 2nd floor, above the garage won't have a bathroom but maybe a sink since it will be an art studio. The roof line would make it difficult to put in a kitchen in and it is not a huge space because of the sloped ceilings.

Mr. Croke inquires if **Ms. Fonseca** is willing to agree to the stipulation that the house remain a single family.

Ms. Fonseca answers yes.

Mr. Braga has no issues with the plans and believes this is the least relief necessary considering what you need.

Mr. Robinson has no questions.

Mr. Cotton notes that he is conflicted since it is already a massive house but it is a double lot and the plans are beautiful.

Ms. Fonseca notes that she worked hard with the architect and really wants to stay in the neighborhood and is only a few houses away currently from where they are now.

Chairman Saveory inquires if there is any external egress to the 2nd floor.

Ms. Fonseca answers no that the only way through is the main stairway through the front door.

Chairman Saveory inquires if there will be a handicap bath or shower.

Ms. Fonseca responds that it will be a handicap shower.

Chairman Saveory notes that the plans are great and it will be good to keep the family in the neighborhood.

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 Vice Chairman Beauparlant,

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 does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variance 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. The relief to be granted is the least relief necessary.

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

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

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

1. Petitioner(s) obtaining any, and all, necessary permits - said permits necessary to exercise (execute) the relief granted. Failure to obtain requisite permit(s), if needed, within the six-month approval period (one-year, if extended 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 it may be applicable) and site plan package; all exhibits; entire testimony of applicant and/or property owner; presentation of legal counsel (if applicable); and, testimony of all expert(s), if applicable.

3. The property must remain a single family.

Chairman Saveory asks **Ms. Fonseca** 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. Fonseca** responds that she fully understands and accepts the conditions just stipulated.

Motion is Seconded by Mr. Croke

Roll Call Vote

The board believes that this is the least relief necessary and that it is a reasonable project.

Mr. Pascoa – Aye

Mr. Croke – Aye

Mr. Braga – Aye

Vice Chairman Beauparlant – Aye

Chairman Saveory – Aye

Dimensional variance is unanimously granted 5-0, subject to the aforementioned condition(s).

3. Petition No. 6914 -DAVID M. SISSON and ITOHAN I. OSAYIMWESE, requests dimensional variances to subdivide the subject parcel into two (2) distinct lots, both of which will fail to comply with the minimum lot area and lot width requirement, and the existing house lot will fail to provide the appropriate off-street parking stall dimensions, for property located at **56 OXFORD STREET, being MAP 306, BLOCK 11, PARCEL 4, in a RESIDENTIAL 4 DISTRICT.**

Zoning Officer Pimentel explains to the board due to constant continuances the neighbors were not properly notified, so the prior meeting is defective and that it is why the petitioner is back tonight.

David Sisson with offices at 345 Taunton Avenue, E. Providence is properly sworn in.

Mr. Sisson explains to the board that there is currently an existing single family home that is set off to one side of the property. **Mr. Sisson** believes that the property may have been intended to be two separate lots and his intention is to have single families on each lot. The neighborhood doesn't feel like a multi-family neighborhood but can have a two family by right. **Mr. Sisson** explains that he could have a large addition for the 2nd unit but this is not his intention. **Mr. Sisson** wants to create two separate lots that each be 45ft wide requiring 5ft of relief and both be 4,500 sq. ft. when 5,000 sq. ft. is required. The existing house's driveway is deficient by 2in and 1ft. and adds that they did have a neighbor meeting last week.

Mr. Croke inquires if **Mr. Sisson** needs a variance for parking.

Mr. Sisson answers no, that there is plenty of parking.

Mr. Croke notes that fire apparatus cannot fit when there are cars parked on both sides of the street and that the street is only about 24ft. wide and has concerns with on-street parking.

Mr. Braga would like more explanation for the existing house if this petition was granted regarding the driveway.

Mr. Sisson answers that the existing driveway is 8.92ft and not 9ft, it is an existing issue.

Mr. Braga inquires if the existing driveway can hold 2 cars and has held 2 cars this entire time.

Mr. Sisson answers yes.

Mr. Braga wants to wait to hear from the neighbors but doesn't like the idea of a two family there.

Mr. Robinson has no questions.

Mr. Cotton has no questions.

Vice Chairman Beauparlant has no questions.

Mr. Pascoa has no questions.

Chairman Saveory inquires if that is the proposed dwelling on the diagram.

Mr. Sisson answers no, that he hasn't made an exact plan for the new dwelling but adds that the goal is to make it owner occupied.

Chairman Saveory confirms that the diagram is not necessarily what **Mr. Sisson** is going to build.

Mr. Sisson answers that a house like on the diagram would fit in the area.

Chairman Saveory believes that this is more conducive to the area but wants to hear from the neighbors.

Mr. Sisson adds that he is happy to stipulate that both properties remain single families.

Mr. Braga inquires why there is not a drawing for what is going on the new lot.

Mr. Sisson answers that he hasn't designed it, the goal is to not fill the building envelope and be less than the ordinance allows.

Mr. Braga notes he would like to see what would be going in there.

Mr. Cotton inquires if there are any rough dimensions to what **Mr. Sisson** thinks he'll be building.

Mr. Sisson answers about a 1,032 sq. ft. footprint with possible 2nd floor.

Mr. Braga inquires if **Mr. Sisson** would be okay with the stipulation that he be limited to that rough estimate.

Mr. Sisson answers yes.

Mr. Cotton believes that this is a good use of the land.

Mr. Pascoa confirms that the board can make a stipulation like that.

Solicitor Conley answers yes if the petitioner willingly agrees to it.

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.

Melissa Monteiro of 39 Oxford Street E. Providence is properly sworn in.

Ms. Monteiro notes her concerns about the previous mistake of not being properly notified and has pictures of what is currently there and a petition signed by the neighbors against this petition. **Ms. Monteiro** believes that the lot is too small for this proposal.

Motion by Mr. Croke to accept the signed petition by the neighbors as Exhibit A, the motion is Seconded by Mr. Braga, and Unanimously approved.

Dawn Teodoro of 53 Oxford Street E. Providence is properly sworn in.

Ms. Teodoro explains to the board that she has lived at her property for 37 years and wants to preserve the quality of life there. **Ms. Teodoro** expresses concerns about on-street parking and there are currently issues with large trucks such as the Fire Department and UPS getting by. The reason the lot was empty was that the previous owners wanted the space for a yard. The neighbor's point of view is important and should be taken into consideration. Believes that the area is too congested for this.

Mr. Braga inquires if **Ms. Teodoro** is aware that if denied, the board cannot stop the multi-family since it would be by right.

Ms. Teodoro answers that she understands and is willing to take the risk.

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 does not result primarily from the desire of the applicant to realize greater financial gain.
3. The granting of the requested variance 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. The relief to be granted is the least relief necessary.

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

1. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is 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 - said permits necessary to exercise (execute) the relief granted. Failure to obtain requisite permit(s), if needed, within the six-month approval period (one-year, if extended 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 it may be applicable) and site plan package; all exhibits; entire testimony of applicant and/or property owner; presentation of legal counsel (if applicable); and, testimony of all expert(s), if applicable.

Chairman Saveory asks **Mr. Sisson** 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. Sisson** responds that he fully understands and accepts the conditions just stipulated.

Motion is Seconded by Vice Chairman Beauparlant

Roll Call Vote	The board believes that this is the better
Mr. Pascoa – Aye	option for the area and in character with
Mr. Croke – Nay	the neighborhood. Mr. Croke denies this
Mr. Braga – Aye	petition due to the size of the road and
Vice Chairman Beauparlant – Aye	the neighbor's opposition.
Chairman Saveory – Aye	

Dimensional variance is granted 4-1, subject to the aforementioned condition(s).

IX. PROCEDURES

A. Discussion on the prepared Zoning Application Instructional Package.

Chairman Saveory explains that this is to be postponed.

X. ANNOUNCEMENTS

The next meeting of the Zoning Board of Review is scheduled for **Wednesday 7 September 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. Braga. The motion is **Seconded by Mr. Croke** and **Unanimously** voted to adjourn. Meeting is adjourned at 7:48pm.

Edward Pimentel, AICP
Zoning Officer / Clerk

Secretary