

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, **11 January 2023**, in the City Council Chambers, East Providence City Hall.

The following members were present:

Eugene Saveory – Chairman

Michael Beauparlant – Vice Chairman - **ABSENT**

John Braga

Richard Croke, Sr.

Gary Pascoa - **ABSENT**

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 **Vice Chairman Beauparlant** and **Mr. Pascoa** are both absent so **Mr. Robinson** and **Mr. Cotton** will be participating and voting members this evening.

III. APPROVAL OF ZONING BOARD MINUTES

Chairman Saveory asks for approval of the **2 November 2022**, Zoning Board of Review Minutes and the **2 November 2022** minutes are **Unanimously** approved.

Chairman Saveory asks for approval of the **12 December 2022**, Zoning Board of Review Minutes and the **12 December 2022** minutes are **Unanimously** approved.

IV. ZONING OFFICER'S REPORT

Zoning Officer Pimentel explains that there is none.

III. CORRESPONDENCE/ DISCUSSION

Zoning Officer Pimentel explains that there is none.

VI. STAFF REPORTS

1. Planning Department Staff Report - Previously Submitted

2. Zoning Complaint List – December 2022– Previously Submitted

VII. CONTINUED BUSINESS

1. Petition No. 6922 - FORBES STREET, LLC, request dimensional variances to retain an expanded parking area and trash storage area, associated with a mixed use residential and storage property, resulting in excessive off-street parking within the requisite front-yard, excessive off-street pavement within the requisite front-yard and vehicles exiting in a rear-fashion, for property located at **100 and 120 FORBES STREET, being MAP 411, BLOCK 5, PARCEL(S) 85 and 86, in a COMMERCIAL 4 DISTRICT.**

[This petition is automatically continued to 1 February 2023]

VIII. NEW BUSINESS

1. Petition No. 6925 - PAULA PAIVA, requests dimensional variances to retain an accessory tree house, without complying with the minimum accessory rear-yard and side-yard setback requirements, for property located at **72 MERRITT ROAD, being MAP 309, BLOCK 14, PARCEL 18, in a RESIDENTIAL 2 DISTRICT.**

Douglas Paiva, son of the homeowner, is properly sworn in

Mr. Cotton has no questions.

Mr. Croke notes that the owners came before the board before for something else, and inquires if **Mr. Paiva** spoke to the neighbors. **Mr. Croke** notes that he isn't happy to learn that **Mr. Paiva** was in the building inspector's office and never inquired about the treehouse.

Mr. Paiva answers yes they came before in regards to the garage and yes they did but the home next door has already been sold. **Mr. Paiva** explains while he was in the building inspectors office a contractor mentioned that the only things you don't need a permit for is a treehouse and a doghouse and believed him.

Mr. Braga inquires if the treehouse was built after the garage conversion.

Mr. Paiva answers yes.

Mr. Braga has no further questions.

Chairman Saveory inquires if the treehouse was built by **Mr. Paiva** himself without a permit.

Mr. Paiva answers yes.

Chairman Saveory notes that **Mr. Paiva** came into the building inspector's office for a permit for the garage, was the treehouse being built then? **Chairman Saveory** continues to mention that the previous notes for the permit included a lack of communication.

Mr. Paiva admits he is not tech savvy and there were issues sending the previous building inspector the information needed.

Chairman Saveory notes that there is an issue with an abutter on Sweetbriar who called him and just received word of the meeting since they are currently in Florida. These abutters believe that this treehouse is on their land but the class 1 survey says it is not on their land. **Chairman Saveory** inquires to **Zoning Officer Pimentel** what would happen if there was a conflicted survey brought to light after this petition were approved.

Zoning Officer Pimentel explains that conflicts between surveys would be for the courts to handle and the board has no authority to handle it.

Assistant Solicitor Conley notes that if the court would uphold the abutter's survey that the petitioner would be court ordered to return to this board.

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

Robert Delatorre of Fall River, MA is properly sworn in.

Mr. Delatorre explains that he is a union carpenter in the state of Rhode Island and built the treehouse with **Mr. Paiva**. The treehouse is sound and the materials were good, they spent a lot of time and money on the treehouse and it's brought a lot of joy to the family. **Mr. Delatorre** believes that the treehouse should be able to stay.

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.

Mr. Robinson notes that the treehouse is way back in the northeast corner and doesn't see how this would be a negative impact to the area and requesting under 2ft. of relief is reasonable.

Motion by Mr. Robinson,

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. Robinson 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 Beauparlant asks **Mr. Paiva** 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. Paiva** responds that he fully understands and accept the conditions just stipulated.

Motion is Seconded by Mr. Croke

Roll Call Vote

Mr. Cotton – Aye

Mr. Croke – Aye

Mr. Braga – Aye

Mr. Robinson – Aye

Chairman Saveory – Aye

The board notes that this will not negatively effect the surrounding area. It would be more than a mere inconvenience to remove the treehouse.

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

2. Petition No. 6926 - ROBERT E. DENHAM III, W/LIFE ESTATE and JEANNE DENHAM, requests dimensional variances to construct an addition and decking onto a single-family residence, without complying with the minimum front, side, and rear-yard setback requirements, for property located at **154 TERRACE AVENUE, being MAP 414, BLOCK 3, PARCEL 7, in a RESIDENTIAL 3 DISTRICT.**

Robert E. Denham, of 145 Providence Ave Riverside, RI is properly sworn in.

Mr. Denham explains to the board that 154 Terrace Avenue is his childhood home and would like to put addition on. Currently his mother is in nursing home since she broke ankle inside the home and the plan is to gut the house and

create an ADA complaint addition for his mother and eventually himself. He would also like to have his children move into the front of the house.

Chairman Saveory notes that neighbors have concerns about obstruction of water view.

Mr. Denham believes he knows who this neighbor is, this particular neighbor is on Bullocks Pt. Ave and spoke to her about this plan a few years ago. The only water view this neighbor has is standing in kitchen washing dishes, the proposed addition wouldn't be blocking the view since it would only be 1 story.

Mr. Robinson explains that the person the board has a letter from is from the abutter at 152 Terrace Avenue. **Mr. Robinson** actually went to the property at 152 Terrace Avenue and understands the concerns regarding potentially blocking sunlight.

Mr. Braga inquires if **Mr. Denham** explored the idea of building the addition onto the right side of the property since there is so much room and agrees with **Mr. Robinson**.

Mr. Denham answers no because of the garage.

Mr. Braga inquires if all bedrooms are on 2nd level.

Mr. Denham answers yes currently they are.

Mr. Cotton has no questions.

Mr. Croke notes that 154 Terrace Avenue has one of the larger lots on Terrace Avenue and plenty room between existing house and the garage. **Mr. Croke** believes that the proposed location is more convenient for **Mr. Denham** to build and inquires if there will be a 2nd kitchen installed if another family moves in.

Mr. Denham answers no to the 2nd kitchen and explains that there is only about 15ft. between the house and the garage and he needs about 26ft for the addition.

Chairman Saveory inquires if there is any way to possibly downscale or move around the addition.

Mr. Denham answers that he doesn't know and would have to go back to the drawing board but would just upset a different neighbor. **Mr. Denham** believes that the neighbors at 152 Terrace Ave wouldn't be blocked of anything except view of his own yard.

Mr. Robinson noting that the blocking a lot of light was notice by himself and the letter is objecting to building the addition. The proposed addition is nearly double length of the existing house and doesn't see this as a reasonable request.

Mr. Braga mentions that another suggestion if **Mr. Denham** were to go back to the drawing board could be an L shape addition. Mr. Braga then reads the previously mentioned letter into the record,

Christine Bennett of 152 Terrace Ave, Riverside, RI

Ms. Bennett explains in her letter to the board that she objects the proposed addition at 154 Terrace Avenue since the lots are small and would leave her to just be looking at a house. **Ms. Bennett** also expresses concerns of re-selling her home if this petition is granted and building an addition on the other side of 154 Terrace Avenue would be a better choice.

Chairman Saveory suggests since the way the conversation is going maybe **Mr. Denham** take sometime to re-think something because if the petition is denied he would have to wait and re-apply to come back.

Zoning Officer Pimentel explains that if this petition is denied, in order to come back within 18 months would have to be deemed as a substantially different petition.

Mr. Braga adds that continuing also wouldn't add costs when re-apply

Mr. Denham want to continue until April

Motion by Mr. Braga to continue this petition from 11 January 2023 to 5 April 2023, the motion is Seconded in Mr. Robinson and Unanimously approved,

Roll Call Vote

Mr. Cotton – Aye

Mr. Croke – Aye

Mr. Braga –

Mr. Robinson – Aye

Chairman Saveory – Aye

3. Petition No. 6927 – JOSEPH RUGGIERO and ORCHID MONTESSORI SCHOOL, request dimensional variances to introduce a child daycare center operation, without complying with the respective side-yard and rear-yard landscaping buffer setback requirements, minimum separation from a potential hazard requirement, minimum off-street parking student drop-off requirement, stall dimension and aisle width dimensional requirements, and trash storage location, for property located at **877 BROADWAY, being MAP 206, BLOCK 11, PARCEL 31, in a COMMERCIAL 1 DISTRICT.**

[This petition is automatically continued to 1 February 2023]

IX. PROCEDURES

A. Approval of annual calendar.

Motion by Mr. Braga to approve the annual calendar, **the motion is Seconded in Mr. Robinson and Unanimously approved.**

B. Discussion on Motion Forms.

C. Discussion on the Zoning Application Instructional Package.

D. Discussion on Rules and Procedures.

E. Discussion on new zoning enabling legislation.

Motion by Chairman Saveory to skip to **Procedure E**, **the motion is Seconded in Mr. Robinson and Unanimously approved.**

Assistant Solicitor Conley explains to the board some changes that have been made, now there is an only a 4 member minimum quorum and only need 3 members to approve a petition versus 4. A new ADU law passed in July and the debate throughout the state is the substantial relaxation of ADU to make them easier to build and just need to be a family member now, this is being done in order to help deal with the housing crisis. The city council is also looking into a unified development review process for land development and subdivisions and special use permits, which would mean instead of bouncing between the planning and zoning boards for these petitioners would just go to the planning board. This is being considered in order to speed up the process since petitions cannot be heard by zoning until complete planning approval and most of these board only meet once a month. There has also been some confusion from members of the public that aren't sure what concerns to bring up at each board.

Mr. Braga inquires if a petition is appealed after being heard under the unified development who would hear the appeal.

Assistant Solicitor Conley answers that they would still go before the zoning board for an appeal.

Chairman Saveory expresses concerns since right now it is a checks and balances system and this board deals with hardship and what is good for the neighborhood while planning looks at the bigger picture and what is good for the city. This city already has two zoning boards, one chartered and one for the water commission, why add a third? **Chairman Saveory** believes that this would add more confusion.

Assistant Solicitor Conley notes that the standards wouldn't be changing under unified development.

Mr. Braga notes that the planning board doesn't deal with variances on a regular basis and believes that this doesn't make sense.

Assistant Solicitor Conley notes that this would be for land development or subdivisions only and there would be the same standards applied.

Mr. Robinson notes that this is already a state law.

Assistant Solicitor Conley answers yes but it is up to the municipalities to decide whether or not to adopt.

Chairman Saveory explains that he has worked on both boards and they are two totally different experiences and thought processes.

Mr. Cotton notes that as a small time developer himself, it can be a difficult process to get the proper permitting and approvals.

Assistant Solicitor Conley explains that this is being thought about because there is a serious cost benefit analysis is going on, the cost of advertising, notice, timeframe to go between boards, effects the costs of selling a home, can effect a developer's budget, etc.

X. ANNOUNCEMENTS

The next meeting of the Zoning Board of Review is scheduled for **Wednesday 1 February 2023, at 6:00 PM**, in the City of East Providence Council Chambers, City Hall, and East Providence, RI.

XI. ADJOURNMENT

Meeting is adjourned.

Edward Pimentel, AICP

Zoning Officer / Clerk

Secretary