

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, **5 April 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 – **ABSENT**

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 explains to the public that **Vice Chairman Beauparlant and Mr. Pascoa** are both absent this evening and **Mr. Cotton** will be a participating and voting member this evening.

III. APPROVAL OF ZONING BOARD MINUTES

Chairman Saveory asks for approval of the **15 March 2023**, Zoning Board of Review Minutes **Motion** by **Mr. Braga** to approve the **15 March 2023** Zoning Board of Review Minutes. The motion is **Seconded** by **Mr. Croke** and

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 – March 2023 –Previously Submitted

VII. DOCKET ITEM ORGANIZATION

VIII. CONTINUED BUSINESS

1. Petition No. 6926 - ROBERT E. DENHAM III, W/LIFE ESTATE and JEANNE DENHAM, request 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.** *[Continued from 11 January 2023.]*

Zoning Officer Pimentel notes that there is no one present for this petition and isn't sure what happened since he has been in constant contact with the petitioner and suggests if the board could grant a continuance to next month.

Motion by Mr. Braga to continue this petition from 5 April 2023 to 3 May 2023, the motion is **Seconded in Mr. Cotton and Unanimously approved.**

2. 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.** *[Continued from 15 March 2023 – Petition was not formally discussed, no testimony was received.]*

Zoning Officer Pimentel explains to the board that perhaps there should be a special meeting for this petition since there are many experts, attorneys, and abutters involved.

Attorney Matthew Landry is representing the petitioner

Attorney Landry explains that he and his client are in favor of the special meeting since he has 2 witnesses and 1 expert but is limited to particular dates.

Zoning Officer Pimentel figures out that either **Monday 8 May 2023 or Monday 15 May 2023** works for everyone.

Zoning Officer Pimentel suggests that there will be re-noticing and re-advertising for this petition and that full packages for whomever wants to submit anything be submitted two weeks prior to the meeting.

Motion by Mr. Croke to continue this petition from 5 April 2023 to the special meeting date of 8 May 2023 at 6pm in city council chambers with re-advertisement and re-posting, the motion is **Seconded in Mr. Braga and Unanimously approved.**

3. Petition No. 6929 - S&D REALTY, request a use variance to convert a three-unit apartment facility to a prohibited four-unit apartment facility, by introducing a fourth one-bedroom unit, for property located at **9– 11 OXFORD STREET, being MAP 306, BLOCK 12, PARCEL 7, in a RESIDENTIAL 4 DISTRICT.** *[Continued from 15 March 2023 – Petition was not formally discussed, no testimony was received.]*

Attorney Bruce Cox is representing the petitioner

David Rodgers, owner of the property, is properly sworn in.

Attorney Cox explains to the board that present with him this evening is one of the two owners, David Rodgers and that the board is familiar with this property. This property came before the board in 2010 and **Mr. Braga, Chairman Saveory and Mr. Croke** were on the board then. The property was built in 1988, the builder was a character and the property probably should have never been built. The layout of the building included in the board's packets and is a raised ranch format with 2 units on the upper level and there are 2 units on the lower level. Also on the lower level has the mechanicals and the laundry area. If this proposal is granted, the 4th unit will be an affordable unit and East Providence is in need of affordable units. The owners are committed to East Providence and they keep care of their properties and take pride on their properties.

Mr. Rodgers explains that they bought the property in September 2022 and can't make one unit into a 2 bedroom and is unable to bring a stairway down due to the lack of square footage.

Attorney Cox adds that there is a hardship and that the building permit from 2010 states that the property was a 2 unit.

Mr. Croke notes that this is a legal non-conforming use and this board made a mistake granting the 3rd unit and this property is in a single family neighborhood and doesn't see the hardship. The owners also need to fix the fence.

Mr. Rodgers notes that they will be fixing the fence and decks in the spring.

Mr. Braga has no questions.

Mr. Cotton has no questions.

Chairman Saveory wants to confirm, that the property was originally a two family, the board granted a 3rd unit and when was it built?

Attorney Cox answers in 1988.

Chairman Saveory inquires if the 4th unit is currently existing and when did it become 3 units.

Attorney Cox notes that no, it is just one big room and has been a 3 unit property since 2010.

Mr. Rodgers adds that there is no bathroom and is only about 650 sq. ft.

Chairman Saveory confirms that they purchased the property knowing it was a 3 unit property.

Mr. Rodgers answers yes.

Chairman Saveory inquires if the room has been part of the original structure from 1988.

Mr. Rodgers answers yes.

Chairman Saveory notes that the property has been this way since 1988 and doesn't see a hardship and sees this as personal financial gain.

Attorney Cox explains that this is a hurdle and in 2010 the previous owner tried to get two additional units but the board only granted one unit. There is a need for affordable units and the owners will make this 4th unit affordable.

Mr. Croke notes that there are 5 electric meters, and assumes one is the house meter and that somewhere someone added a 4th meter.

Mr. Rodgers answers yes one is the house meter and is not sure if the power is on in that room.

Mr. Croke notes that the 4th unit has been denied once before.

Mr. Cotton would like a brief explanation on why it is not possible to join the room with the unit above.

Mr. Rodgers answers that it would shrink the upper unit having the staircase.

Mr. Cotton is bothered by the fact that there is a room that cannot be used due to the odd design, but doesn't like the idea of adding more density. **Mr. Cotton** suggests maybe coming back with more detail on joining the two units.

Mr. Rodger assures that he is a licensed contractor and an up and down unit wouldn't work.

Mr. Cotton explains that he is just one vote, but if there were an engineer or architect to testify that an up and down unit wasn't possible it would change things for him.

Mr. Braga adds the property is in the wrong zone for this and the previous owner was given relief in 2010 and cannot believe there is no way to join the two units and currently there is more than beneficial use.

Mr. Rodgers adds that it is not worth it on his end.

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, which is read in the denial format,

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 is **NOT** 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 but **THERE IS** the desire of the applicant to realize

greater financial gain.

3. The granting of the requested variance **WILL** 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 **NOT** the least relief necessary.

Mr. Croke moves that the use variance be **Denied**,

Motion is Seconded by Mr. Braga

Roll Call Vote

Mr. Cotton - Aye

Mr. Croke - Aye

Mr. Braga - Aye

Chairman Saveory - Aye

The board recognizes that the property has full beneficial use and there is no hardship and that this would be just for financial gain.

Use variance fails 4-0.

4A. Petition No. 6930 - BENTHOUSE LLC, requests a special use permit to rehabilitate two (2) pre-existing single-family residences on a singular parcel, otherwise identified as an expansion of a pre-existing legal nonconforming land use, for property located at **22 – 24 RIVER STREET, being MAP 312, BLOCK 67, PARCEL 1, in a RESIDENTIAL 4 DISTRICT.** ***[Continued from 15 March 2023 – Petition was not formally discussed, no testimony was received.]***

Attorney Bruce Cox is representing the petitioner

Attorney Cox explains to the board that he understands that the plans were not easy to read so the owner of the property has made color copies if the board would like to see them and an updated list of the relief being requested. The property is located on the corner with 2 structures on one lot. The structure closest to the corner, will be re-built further back and the other home will be totally rehabbed. There currently is no parking and the plan now is to have parking for both properties. **Attorney Cox** believes this will be an improvement to the area and the petitioner's mother lives in the area as well.

Erik Dento, owner of the property, is properly sworn in.

Mr. Dento further explains to the board that 24 River Street will have the roof razed and will now have 8ft. ceilings and bring up the height of the house to 24ft. 22 River Street will be demolished and a new home will be built a few feet back, this will improve the setbacks, layout and parking situation.

Attorney Cox adds that the parking for 22 River Street will be on Stowe Avenue and not River Street. **Attorney Cox** inquires if **Mr. Dento** has spoken with any of the neighbors in the area.

Mr. Dento admits that he has only really spoken with the woman to the right of the property and she was delighted.

Mr. Braga confirms that there are no other structures other than the decks in the back.

Mr. Dento answers no there is not.

Mr. Braga inquires if **Mr. Dento** will be using the same foundation for 22 River Street and inquires why the house won't be pushed back even further.

Mr. Dento answers no and the neighbor to the right of the property didn't want her water view blocked so he was respecting that wish.

Mr. Braga notes that the property will be non-conforming no matter what happens and believes this is a reasonable request.

Mr. Croke inquires why not tear down both homes and create a larger two family.

Mr. Dento explains that it would be more costly and what is presented is the best attempt.

Mr. Croke notes that he is not a big believer in 2 homes being on 1 lot.

Mr. Dento explains that's just how the property is.

Mr. Cotton notes that this is a substantial improvement and that this is a reasonable petition.

Chairman Saveory notes that this older neighborhood and this petition is conducive to the area and reflects the neighborhood and that the corner house hasn't been occupied in that last 6-7 years.

Mr. Cotton inquires if the plans to raze the roof has been reviewed.

Mr. Dento answered yes he has a architect.

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.

Jessica Gagnon of 26 River St. Riverside, RI is properly sworn in

Ms. Gagnon explains that she is not completely against or for the petition and believes this does need to be done and is mostly in favor of something being done to the property. The current proposal is better than the two-family idea and does have concerns if the driveway runs alongside her property.

Chairman Saveory inquires if the new driveway is near the property line.

Attorney Cox answers that there is no setbacks for driveways and this is an improvement than on-street parking.

Mr. Dento adds there is room for 2 cars in the proposed driveway.

Solicitor Marcello notes that the driveway has nothing to do with the board since the petitioner is not seeking relief for it.

Mr. Braga inquires if **Mr. Dento** plans on replacing the fence.

Mr. Dento responds no, he planned on leaving the fence as is.

Jennifer Reed of 14 River St. Riverside, RI is properly sworn in

Ms. Reed inquires if the petition is approved tonight will the homes be rentals or sold.

Mr. Dento explains that he hasn't really made a decision yet.

Ms. Reed notes that currently the property is horrendous and is happy to see something done.

Chairman Saveory adds that it is not up for the board to determine whether or not **Mr. Dento** rents or sells.

Chairman Saveory queries the Board for a motion.

Special Use - Braga - 2nd by Cotton

Cox agrees

Roll Call

Braga - aye

Cotton - aye - improvement to the neighborhood

Croke - nay - likes the 2 family idea better

Saveory – aye

Motion by 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. That the use is compatible with neighboring land uses.
2. The use does not create a nuisance in the neighborhood.
3. That the use does not hinder the future development of the City.
4. That the use conforms to all applicable sections of the special use requested.
5. That the use is in conformance with the purpose and intent of the East Providence Comprehensive Plan and applicable standards of this Chapter.

Mr. Braga moves that the special use permit be granted,

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

Motion is Seconded by Mr. Cotton

Roll Call Vote

The board believes this will be an

Mr.Croke – Nay

improvement to the area and will not

Mr. Braga – Aye

hinder the character of the surrounding

Mr.Cotton – Ayearea.

Chairman Saveory –Aye

Special Use Permit is granted 3-1, subject to the aforementioned condition(s).

4B. Petition No. 6931 - BENTHOUSELLC, requests dimensional variances to rehabilitate two (2) pre-existing single-family residences on a singular parcel, without complying with both minimum front-yard setbacks, rear and side-yard setback requirements, as well as exceeding the maximum building and impervious lot coverage requirements, in addition to failing to provide sufficient off-street parking, for property located at **22 – 24 RIVER STREET, being MAP 312, BLOCK 67, PARCEL 1, in a RESIDENTIAL 4 DISTRICT. [Continued from 15 March 2023 – Petition was not formally discussed, no testimony was received.]**

Motion by Mr. Braga,

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. Braga 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 Cox** 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 Cox** responds that he fully understands and accept the conditions just stipulated.

Motion is Seconded by Mr. Cotton

Roll Call Vote

The board feels that this project has met the burden of having a hardship. This will improve the surrounding area and is the least relief necessary.

Mr. Cotton – Aye

Mr. Braga – Aye

Mr. Croke – Nay

Chairman Saveory – Nay

Dimensional variance is granted 3-1, subject to the aforementioned condition(s).

5. Petition No. 6933 - PKLRIVERSIDE, LLC, requests dimensional variances to construct a six-unit residential

facility, without complying with both minimum front-yard setbacks, off-street parking provision, and impervious lot coverage (this condition is pre-existing and being reduced), for property located at **0 WILLETT AVENUE, being MAP 512, BLOCK 11, PARCEL 38, in a COMMERCIAL 1 DISTRICT.** *[Continued from 15 March 2023 – Petition was not formally discussed, no testimony was received.]*

Zoning Officer Pimentel explains to the board that the petitioner's attorney is still meeting with neighbors and also making some re-designs and would like another continuance. However, since they have continued so many times it is up to the board if they want to re-advertise and re-notice.

Motion by Mr. Braga to continue this petition from **5 April 2023 to 3 May 2023 with re-advertisement and re-posting**, the motion is **Seconded** in **Mr. Croke** and **Unanimously approved**.

IX. NEW BUSINESS

1. Petition No. 6934 - KENNETH and MELANIE TWITCHELL, requests **dimensional variances** to raze and then construct a new single-family residence, without complying with the requisite rear-yard and both side-yard setbacks, for property located at **210 RIVERSIDE DRIVE, being MAP 414, BLOCK 20, PARCEL 2, in a RESIDENTIAL 3 DISTRICT.**

Kenneth and Melanie Twitchell of 210 Riverside Dr. Riverside, RI are properly sworn in

Mr. Twitchell explains to the board that they were before this board recently and the original plan did not represent an overhang and that there was more scope to the project than what was talked about at the last time they were before the board. The existing foundation is insufficient to move forward with the project and want to shift the house on the property to appease some setbacks. The new plan is to move the house 5ft. towards the street, which is better than what was planned as far as setbacks and there will be a new foundation to support the remodel.

Mr. Braga wants to confirm that the **Twitchells** came before the board in September and the board granted the original application and started construction and noticed the issue with the foundation.

Mr. Twitchell explains that they haven't started construction yet, there started to be talks about the overhang with the building inspection office and then the foundation issue came up.

Mr. Braga notes that this petition was approved last time and doesn't see an issue.

Mr. Cotton has no questions.

Mr. Croke noticed there was two cars in the driveway and one parked half on the sidewalk and into the street.

Mr. Twitchell explains that the existing garage is too small and the new plans there will be a new garage and the house placement will allow more room for cars to be off the street.

Mr. Croke notes as long as the cars are off the street he has no issues with the petition.

Chairman Saveory notes that this is a structural deviation and doesn't see an issue.

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

Heather Vine of 200 Riverside Drive Riverside, RI is properly sworn in

Ms. Vine explains that she is here tonight to offer support to the **Twitchells** and her husband, **Leonard Vine** also wrote a letter in support. They have no objections to the proposal and look forward to seeing the improved property.

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. Braga,

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. Braga 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. and Mrs. Twitchell** if they accept 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. and Mrs. Twitchell** respond that they fully understand and accept the conditions just stipulated.

Motion is Seconded by Mr. Croke and Mr. Cotton

Roll Call Vote

Mr. Cotton – Aye

Mr. Braga – Aye

Mr. Croke – Aye

Chairman Saveory – Aye

The board believes the hardship issue to the uniqueness of the land and that the property is waterfront property.

Dimensional variance is unanimously granted 4-0, subject to the aforementioned condition(s).

X. PROCEDURES *Procedures - moved 5/3/23*

a. Discussion on Motion Forms.

b. Discussion on the Zoning Application Instructional Package.

c. Discussion on Rules and Procedures.

XI. ANNOUNCEMENTS

The next meeting of the Zoning Board of Review is scheduled for **Wednesday 3 May 2023, at 6:00 PM**, in the City of East Providence Council Chambers, City Hall, and East Providence, RI.

XII. ADJOURNMENT

Motion to adjourn by Mr. Croke. The motion is **Seconded by Mr. Cotton** and **Unanimously** voted to adjourn. Meeting is adjourned at 8:02pm.

Edward Pimentel, AICP
Zoning Officer / Clerk

Secretary