

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, **7 June 2023**, 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 – **ABSENT**

Andrew Cotton – 2nd Alternate – **ABSENT**

Edward Pimentel – Zoning Officer / Clerk

Michael Marcello – City Solicitor – **ABSENT**

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 the **stenographer** to swear in the **Zoning Officer, Mr. Pimentel**.

II. SEATING OF ALTERNATE MEMBERS

Chairman Saveory explains to the public that there is no seating of alternate members this evening since there is a full board.

III. APPROVAL OF ZONING BOARD MINUTES

Chairman Saveory asks for approval of the **3 May 2023**, Zoning Board of Review Minutes **Motion** by **Mr. Braga** to approve the **3 May 2023** Zoning Board of Review Minutes. The motion is **Seconded** by **Vice Chairman Beauparlant** and **Unanimously** approved.

Chairman Saveory asks for approval of the **8 May 2023**, Zoning Board of Review Minutes **Motion** by **Vice Chairman Beauparlant** to approve the **8 May 2023** 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

Zoning Officer Pimentel explains that there is none.

VI. STAFF REPORTS

1. Planning Department Staff Report - Previously Submitted

2. Zoning Complaint List – May 2023 –

Zoning Officer Pimentel explains that he did not have a chance to complete the complaint list but will have it ready for the 12 July 2023 meeting.

VII. DOCKET ITEM ORGANIZATION

Zoning Officer Pimentel recommends the order of this evening meeting as number 1, 2, 4, then 3 due to the complexity of the third item on the docket and the simplicity of the other three petitions.

VIII. CONTINUED BUSINESS

Chairman Saveory explains that there is no continued business.

IX. NEW BUSINESS

1. Petition No. 6938 - KAREN WILLETTE, requests a dimensional variance to permit construction of a deck onto a single-family residence, without complying with the minimum side-yard setback requirement, for property located at **200 NARRAGANSETT AVENUE, being MAP 313, BLOCK 1, PARCEL 2, in a RESIDENTIAL 3 DISTRICT.**

Zoning Officer Pimentel explains to the board that he received notice that the petitioner would like to withdraw this petition without prejudice.

Motion by Mr. Braga to accept that this petition be withdrawn without prejudice, the motion is Seconded by Vice Chairman Beauparlant.

Roll Call Vote

Mr. Croke – Aye

Mr. Pascoa – Aye

Mr. Braga – Aye

Vice Chairman Beauparlant – Aye

Chairman Saveory – Aye

The request for the petition to be withdrawn without prejudice is granted.

2. Petition No. 6939 - KAROLINAGOMEZ, seeks a special use permit to intensify a pre-existing legal nonconforming three-unit residence; stated intensification consisting of improvements to realize building and fire code compliance as mandated by the zoning board of review pursuant to the decision of 4 August 2021, Petition No. 6851, for property located at **21 ARLINGTON STREET, being MAP 106, BLOCK 30, PARCEL 7, in a RESIDENTIAL 6 DISTRICT.**

Zoning Officer Pimentel explains to the board that there was a grey area in question to the pre-existing condition. The board did decide back at the meeting on 4 August 2021 that this was a grandfathered situation however, the board wanted the property brought up to building and fire codes. The previous owner simply sold the home and left the new owners stuck fixing the issues such as headroom for the 3rd floor unit and is no longer considered to be a grandfathered use due to intensification.

Attorney Greg Dias is representing the petitioner

Zoning Officer Pimentel explains to the board that currently there is a grey area question in regards to the pre-existing condition. This board determined this property was a grandfathered in situation however, the board wanted the property up to building and fire codes. The previous owner, knowing this information, sold the home without conducting the work or notifying the new buyers. The new owners are now stuck fixing issues such as head space for the 3rd floor unit and this work would conclude that there is no longer a grandfathered use.

Attorney Dias adds that this petition is for a special use permit since this is an intensification and as the board knows when petitions are granted, permits are needed. The prior owner just put up the property for sale and the new owners were contacted by the building official in regards to numerous items that needed to be done to the property and that the 3rd floor tenants needed to leave due to insufficient height. After meeting with city officials they were able to obtain an

official report on what need to be done. The proposed dormer will give extra height and for the record the rear stairs were not supported correctly and did not meet the new code requirements but that has been fixed. **Attorney Dias** believes it is their opinion that they have proven to the board that they satisfy the requirements for a special use permit and the planning department agrees as well. Attorney Dias adds that this property is incompatible with land use, it is not a nuisance, it does not hinder future development of the city and the petitioners are just trying to comply and obtain the necessary permits.

Mr. Croke inquires on the 3rd floor layout.

Attorney Dias answers that there is one kitchen, one bathroom, and an area for a bedroom.

Mr. Croke explains that he understands the head room issue but is concerned for a potential 4th unit.

Attorney Dias assures that there won't be a 4th unit since there isn't enough room for one.

Mr. Braga inquires where the dormers will be

Caesar Morales is properly sworn in.

Mr. Morales is assisting the homeowner and answers that the dormers will be in the bathroom and bedroom area.

Mr. Braga notes that the board tried to clean this up the first time and doesn't see this as impactful to the area.

Vice Chairman Beauparlant has no concerns since this property was approved for a variance prior and is incompatible with the land use.

Mr. Pascoa has no concerns.

Chairman Saveory understands what the petitioner is trying to do and just raising the height of the property and the chimney extension is included in the plans. This is simply correcting the issues and has no concerns.

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. **Chairman Saveory** queries the Board for a motion.

Motion by Mr. Croke, 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.
6. The property must remain being a 3 family dwelling.

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

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 accept the conditions just stipulated.

Motion is Seconded by Vice Chairman Beauparlant

Roll Call Vote	The board believes this is just correcting a
Mr. Croke – Aye	mistake and that this petition met all burdens.
Mr. Braga – Aye	The property will be brought into compliance
Mr. Pascoa – Aye	and will not create a nuisance.

Vice Chairman Beauparlant - Aye

Chairman Saveory – Aye

Special Use Permit is unanimously granted 5-0, subject to the aforementioned condition(s).

3. Petition No. 6940 - GROVE AVENUE ASSOCIATES, LLC, requests dimensional variances to subdivide a parcel

via an Administrative Subdivision, resulting in deficient setbacks, lot area, lot width, excessive impervious lot coverage, and deficient driveway aisle width in regard to Parcel 6, as well as deficient setbacks, lot area, lot width, excessive impervious lot coverage, deficient driveway aisle width, and averting introduction of a trash storage area in regard to Parcel 7, (several deficiencies either being pre-existing and/or addressed via easement), for property located at **1 and 9 GROVE AVENUE, being MAP 106, BLOCK 8, PARCEL(S) 6 and 7, in a COMMERCIAL 1 DISTRICT.**

Attorney Christine Engustian is representing the petitioner

Attorney Engustian explains to the board that currently 1 Grove Avenue is a commercial building and 9 Grove Avenue is a 3-family property. The boundary line is under 1 Grove Avenue, so the owner submitted a subdivision with the boundary line moved east closer to 9 Grove Avenue. The planning board did grant the subdivision conditionally of the zoning board's approval. Both structures were built prior to zoning and both lots don't meet setbacks, lot area, etc. and the impervious coverage issue is a pre-existing issue. There will be a proposed easement between the two parcels. The applicant is seeking a waiver for a dumpster for parcel 7, further explanation in the packets. **Attorney Engustian** assures that this subdivision will not change how these parcels function and the lanes of travel and parking will remain the same. The memo from the planning department dated 2 June 2023, states that this is the least relief necessary and brings these properties further into compliance. The manager of the properties, **Attorney Robert Brady**, is present tonight if there are any questions.

Mr. Croke notes that across the street from the property is a school and inquires about a fence being installed on the Purchase Street side of the property.

Attorney Engustian notes that there is an existing fence that leads up to the driveway/entrance and there is not going to be any change how these parcels are functioning. The existing traffic flow will be the same and currently there is no going down Purchase Street during drop off and pick up times and there is a crossing guard during those times.

Mr. Croke notes that he isn't against the subdivision but wants to try and protect the children at the school.

Mr. Braga inquires to **Zoning Officer Pimentel** inquires if this board waive the dumpster, is that forever.

Zoning Officer Pimentel yes unless there is a major change that requires them to come back to the board. The property is zoned for office use in a C1 zone, which is primarily office use or residential.

Attorney Engustian notes that so many of these variances were pre-existing issues and the planning department did a good job trying to hash out the details.

Mr. Braga inquires if the grey area on the middle of the plan is the easement.

Attorney Engustian explains that yes, the easement is between parcels 6 and 7.

Mr. Braga understand the need to move the property line.

Vice Chairman Beauparlant has no questions.

Mr. Pascoa has no questions.

Chairman Saveory confirms that the dumpster elimination is for parcel 7.

Attorney Engustian answers yes.

Chairman Saveory has no concerns.

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 Beauparlant asks **Attorney Brady** 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 Brady** 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. Braga – Aye

Mr. Croke – Aye

Vice Chairman Beauparlant – Aye

Chairman Saveory – Aye

The board recognizes that the hardship is due to the land, the existing boundary line, and the properties pre-dates zoning. This will be bringing the properties into compliance.

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

4. Petition No. 6941 - MANUEL and LUSA SOUSA, requests a dimensional variance to construct an addition onto a single-family residence, to introduce an attached accessory dwelling unit, without complying with the minimum side-yard setback requirement, for property located at **1449 SOUTH BROADWAY, being MAP 108, BLOCK 1, PARCEL 7, in a RESIDENTIAL 3 DISTRICT.**

Lusa Sousa is properly sworn in

Ms. Sousa explains that they would like to add an extension of the existing property to make an in-law apartment.

Mr. Pascoa has no concerns.

Mr. Croke has concerns that down the road when things change someone will try and make that property into a two-family. **Mr. Croke** notes he would like to see the stipulation that the property remain a single family if this petition is approved.

Ms. Sousa responds that is fine, and she was previously made aware that might be asked for.

Mr. Braga notes that there is no layout or floor plan of what is going into the addition.

Ms. Sousa explains that she has a copy of the floor plan and thought it was previously submitted.

Motion by Mr. Pascoa to enter in the floor plan for the addition as Applicant's Exhibit A, the motion is Seconded by **Mr. Braga** and **Unanimously** approved.

Mr. Braga notes that he doesn't have an issue.

Ms. Sousa notes there will be a kitchen, bathroom and there will be stairs to separate them.

Vice Chairman Beauparlant has no issues with the petition.

Chairman Saveory confirms the addition is coming off the main house.

Ms. Sousa answers yes.

Chairman Saveory explain that he understands what they are doing, especially with cost of living being an issue.

Chairman Saveory adds that he likes the idea of **Mr. Croke's** stipulation.

Mr. Croke explains that he doesn't like the idea of the in-law having a kitchen and a bath and would like to see one abolished.

Ms. Sousa explains that there already is two bathrooms, one upstairs and one downstairs.

Mr. Croke explains he wants the kitchen idea eliminated and doesn't like a home with two kitchens.

Ms. Sousa explains that there are plenty of single family homes with two kitchens and there will be a deed restriction with the stipulation.

Joe Correia, architect for the project, is properly sworn in.

Mr. Correa notes that some stipulations other cities have done would be just a cook top and no full stove or perhaps changing the size of the kitchen and inquires if that would interest the board.

Zoning Officer Pimentel requests a recess at 6:40pm, the board reconvenes at 6:46pm

Ms. Sousa references Rhode Island law 45-24-27 regarding adult dwelling units, there is no stipulation in regards to the kitchen and won't accept eliminating the kitchen and perhaps should obtain an attorney.

Mr. Croke notes that whether or not an attorney is present doesn't matter, Mr. Croke is concerned about that area being mainly single family and keeping the property as single family.

Ms. Sousa notes there are other multi-families in the area.

Vice Chairman Beauparlant agrees with the proposed stipulation and notes there is a law in place that allows in-law apartments. There is no law about 2 kitchens and has no issues with what is proposed.

Mr. Braga agrees with what **Vice Chairman Beauparlant** said, **Mr. Braga** is okay with the stipulation on the deed to remain a single family and don't have any issues with this proposal.

Chairman Saveory notes that his home has two kitchens and two baths.

Zoning Officer Pimentel adds that the petitioner's design meets the law and if they were 8ft. back he would have to issue the permit by right.

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. Pascoa,

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. Pascoa 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 dwelling.

Chairman Beauparlant asks **Ms. Sousa** 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. Sousa** responds that she fully understands and accept the conditions just stipulated.

Motion is Seconded by Vice Chairman Beauparlant

Roll Call Vote	The board recognizes that the hardship
Mr. Pascoa – Aye	is due to the location of the home and
Mr. Braga – Aye	that this is not for financial gain. The
Mr. Croke – Aye	board also notes that the addition will
Vice Chairman Beauparlant – Aye	only be 396 sq. ft.
Chairman Saveory – Aye	

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

X. PROCEDURES

- a. Discussion on Motion Forms.
- b. Discussion on the Zoning Application Instructional Package.
- c. Discussion on Rules and Procedures.

The procedures have been moved to the 12 July 2023 meeting

XI. ANNOUNCEMENTS

The next regular meeting of the Zoning Board of Review is scheduled for **Wednesday 12 July 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. Braga. The motion is **Seconded by Vice Chairman Beauparlant** and **Unanimously** voted to adjourn. Meeting is adjourned at 7:27pm.

Edward Pimentel, AICP
Zoning Officer / Clerk

Secretary