

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, **3 May 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 – **ABSENT**

Matthew Robinson – 1st Alternate

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

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 **Mr. Pascoa** is absent this evening and **Mr. Robinson** will be a participating and voting member.

III. APPROVAL OF ZONING BOARD MINUTES

Chairman Saveory asks for approval of the **5 April 2023**, Zoning Board of Review Minutes **Motion** by **Mr. Braga** to approve the **5 April 2023** Zoning Board of Review Minutes. The motion is **Seconded** by **Vice Chairman Beauparlant** and **Unanimously** approved.

IV. ZONING OFFICER'S REPORT

Zoning Officer Pimentel explains that there is none.

III. CORRESPONDENCE/ DISCUSSION

0 and 91 Main Street, Edington Family Trust, Petition No. 6923. Request for six-month continuance on approval.

Zoning Officer Pimentel explains that they are finalizing the subdivision which is why there is a need for a continuance.

Motion by Mr. Braga to grant the six month continuance, the motion is Seconded in Mr. Robinson and Unanimously approved.

VI. STAFF REPORTS

1. Planning Department Staff Report - Previously Submitted

2. Zoning Complaint List – April 2023 –Previously Submitted

Mr. Robinson notes that there has been a violation on the zoning complaint list since February.

VII. DOCKET ITEM ORGANIZATION

The docket organization will remain as posted.

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 explains that extensive testimony was taken at the January 2023 meeting and need the same quorum to hear the petition this evening. Everyone present with the exception of Vice Chairman Beauparlant was present in January, therefore Vice Chairman Beauparlant will not be participating.

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

Mr. Denham explains to the board that he is trying to put an addition on the house that is ADA compliant. There will be no kitchen and it is something that needs to be done to get around in his old years. Mr. Denham wants to address the letter of opposition that was read in January's meeting. The abutter claims that the addition will be huge when it will only be 16ft. high and 1 story. There is an existing stockade fence that will help block view of the addition and there is a lot of construction going on at the Terrace and believes that is progress.

Mr. Braga notes that back in January there were many concerns with how long the addition would be along the fence line. The board had suggested that maybe a re-design would be better, and inquires if Mr. Denham come up with a re-design.

Mr. Denham answers yes he did come up with a redesign and had his architect draw something up.

Mr. Braga inquires if this new plan has been submitted.

Mr. Denham answers no.

Mr. Braga inquires if Mr. Denham wants the board to just review the original application.

Mr. Denham explains that he is new to this and he does prefer the original plan but does have the other plan which changes a setback from 4.7ft. to 10ft.

Mr. Braga expresses concerns that the original plan is not a great design and is not sure what these new plans are.

Zoning Officer Pimentel adds that he has never seen the new plans and is not sure if more or less relief would be needed.

Mr. Robinson explains that he has the same concerns as Mr. Braga and that the right side of the property does have a lot more space. Mr. Robinson understands that Mr. Denham is reluctant to go that route but is surprised that he has come back with the same plan. Mr. Robinson admits that he is not in favor of the original plan.

Mr. Denham explains that the addition cannot be on the other side and can't have it being a separate unit. Mr. Denham further explains that he wouldn't be able to get into the garage or would have to change the driveway.

Mr. Croke notes that this is a non-conforming use and the petitioner is asking for that to be expanded upon. Mr. Croke adds that the petitioner doesn't want to take the board's suggestions to try and even things out.

Chairman Saveory notes that this petition has been continued since January and the board can't sit here and just work this out. The board needs formal and tangible paperwork and feels that essentially we are back to square one with this petition. Chairman Saveory notes that he is not comfortable with the original plan either.

Mr. Denham reminds the board that he does have a new plan.

Zoning Officer Pimentel inquires if the new plan is on a survey.

Mr. Denham answers no and asks for another continuance.

Chairman Saveory warns that the continuance to the August meeting will be it, **Mr. Denham** needs to figure something out and be in contact with **Zoning Officer Pimentel**.

Mr. Denham responds that he understands and he will.

Christine Bennett of 152 Terrace Ave, Riverside, RI is properly sworn in

Ms. Bennett explains to the board that this is her 3rd time here and thought that zoning laws were to protect people.

Ms. Bennett has lived in her home for 62 years. This is a close community and understands that there is progress and construction. The addition being proposed has the capacity to go to the other side. **Mr. Denham** has never reached out to her and the home is already large and continuously checks with city hall to make sure she's not missing out on anything regarding this petition.

Mr. Braga notes that everything this board has done up to this point has been to protect **Ms. Bennett**.

Ms. Bennett responds that she understands, but wanted to see **Mr. Denham** present a plan with the addition on the other side of his property.

Motion by Mr. Braga to continue this petition from 3 May 2023 to 2 August 2023, the motion is **Seconded** in **Mr. Robinson**, and **Unanimously approved**.

2. 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 there is a formal request to withdraw the petition without prejudice.

Motion by Mr. Braga to accept that this petition be withdrawn without prejudice, the motion is **Seconded** by **Mr. Robinson** and **Unanimously approved**.

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

IX. NEW BUSINESS

1. Petition No. 6935 - MARCUS and EVELYN D. WENGER, seek dimensional variances to permit construction of an accessory storage shed, which will realize principal living space within the second-floor, as well as exceed the maximum height limit, for property located at **88 WALNUT STREET, being MAP 106, BLOCK 3, PARCEL 45, in a RESIDENTIAL 6 DISTRICT.**

Carlos Coelho, representing the owners, is properly sworn in.

Mr. Coelho explains to the board that the storage shed will be on the front of the property and will be for storage and designed to match the house.

Marcus Wenger, of 88 Walnut Street, E. Providence, RI is properly sworn.

Mr. Wenger explains to the board that **Mr. Coelho** is the designer of the shed and the loft area is not a habitable space.

Solicitor Marcello inquires what relief is being sought.

Zoning Officer Pimentel explains that the 2nd floor loft area gives appropriate head room, and the grade of the height maybe at 20ft. and the dormers give the shed more principle space.

Mr. Braga inquires about the shed being in the front yard.

Zoning Officer Pimentel explains that the petitioners meet those requirements and the main issue is with the loft.

Solicitor Marcello inquires the exact height of the shed from the ground.

Mr. Wenger replies that it is 19.6ft. and adds that he doesn't believe the loft is habitable space since there are shelves that are accessed by a ladder.

Mr. Coelho further explains that the 2nd floor is divided by 2 shelves and the opening in the middle 8ft. 11in. and can be found on page 3/8 in the board's packet.

Solicitor Marcello clarifies that the height of the shed does not need a variance since it is under 20ft, all setbacks are met, and the issue of the use of the loft was testified to be used strictly for storage.

Chairman Saveory notes that this is the first time that he is seeing a shed with an electrical plan with four breakers.

Mr. Wenger explains that is correct, it is for lighting and some outlets, but not for anyone to live in.

Chairman Saveory inquires if there will be any water/sewage hookups.

Mr. Wenger answers no, and has even offered this to be a deed restriction on the property.

Vice Chairman Beauparlant explains that he is confused on what relief the board needs to grant.

Chairman Saveory agrees that the relief needed is questionable and perhaps this petition needs to be dismissed.

Solicitor Marcello explains that there is no dimensional variance before the board to grant and the applicant explained under oath that the shed will not be living space.

Mr. Braga notes that the shed is being deemed as principle space.

Solicitor Marcello responds that the petition was advertised as needing a dimensional variance but there is nothing that needs relief.

Mr. Robinson notes that the shed will be under 20ft. and as long as they comply with the proposed height, there's nothing for me to vote on.

Chairman Saveory believes this petition should be dismissed based on the solicitor's and zoning officer's findings this evening.

Mr. Croke notes concerns with trash and a mattress on the property.

Mr. Wenger apologizes and explains that it was all temporary and was disposed of already.

Motion by Mr. Croke to dismiss this petition, the motion is **Seconded by Mr. Robinson**,

Roll Call Vote

Mr. Croke – Nay

Mr. Robinson – Aye

Mr. Braga – Aye

Vice Chairman Beauparlant – Aye

Chairman Saveory – Aye

The request for the petition to be dismissed is granted 4-1.

Chairman Saveory calls for a recess, the board reconvenes at 7:14pm.

2. Petition No. 6936 -76 AMARAL STREET, LLC, 76A AMARAL STREET, LLC, and SUPERIOR FENCE & RAIL of RHODE ISLAND & SOUTHERN MASSACHUSETTS, seek a special use permit to engage in 'Open Storage', for property located at **76 AMARAL STREET, being MAP 508, BLOCK 1, PARCEL 16, in an INDUSTRIAL 2 DISTRICT.**

Zoning Officer Pimentel explains that the new plan that was received was done at the request of the Planning Department, it wasn't clear with the setbacks with the fencing. This plan shows the area of storage and that is why this plan came in now.

Mr. Robinson inquires if the storage must be 20ft. away from the setbacks.

Zoning Officer Pimentel explains that they must comply with the setbacks in the zoning district.

Attorney Nicholas Goodyear is representing the petitioner, Superior Fence & Rail.

Attorney Goodyear explains to the board that the property in question is less than an acre and are looking to obtain a special use permit for exterior storage. Superior Fence & Rail is new to East Providence but is a national company that is ready to set up. The materials won't be seen and won't be stacked up higher than the fence that will be installed. The fire department requested that the buffer be 15ft. but will be 20ft. which is better. The building is existing and doesn't see a negative impact to the neighborhood and the yard was previously used to store building materials.

Mr. Robinson explains that he stopped by there and spoke with an employee and the petition looks straight forward and will fit into the industrial area.

Vice Chairman Beauparlant the area looks nice and happy it will be screened in and has no impact to the neighborhood.

Mr. Croke suggests having cameras installed and barbed wire on top to prevent theft and inquires if the fencing will be wood or plastic and made inside the property or outsourced.

Attorney Goodyear responds that he appreciates the suggestions and is confident that there will be cameras. There will be all varieties such as wood, vinyl and steel and some fencing will come pre-fab and some will be made on site.

Mr. Braga makes note of the planning report and inquires about a specific list of what exactly will be stored.

Attorney Goodyear notes that it is part of the packet included in the landscape setting.

Mr. Braga inquires if there will be a fire plan in place.

Attorney Goodyear notes that the building on the property is existing and the department wanted 15ft. of space but it was pushed to 20ft.

Mr. Braga inquires if the fire department received a copy of the plan.

Zoning Officer Pimentel notes that yes they did and there were no comments from them.

Chairman Saveory welcomes the petitioners to East Providence and believes that this is a good plan.

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. Robinson, 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. Robinson moves that the special use permit be granted,

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

Motion is Seconded by Vice Chairman Beauparlant

Roll Call Vote	There will be proper screening from the
Mr. Croke – Aye	materials so it will not be a nuisance or
Mr. Braga – Aye	hinder the surrounding area.
Mr. Robinson – Aye	
Vice Chairman Beauparlant – Aye	
Chairman Saveory – Aye	

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

3. Petition No. 6937 -RI PROPERTY WIRE, seeks dimensional variances to permit a two-lot subdivision, necessitating lot area, width, and depth variances, in addition to excessive usage of the lot frontage for offstreet parking purposes, for property located at **49 CRESCENT VIEW AVENUE, being MAP 513, BLOCK 20, PARCEL 3, in a RESIDENTIAL 4 DISTRICT.**

Attorney David Johnson is representing the petitioner

Attorney Johnson explains to the board that the petitioner is seeking a minor subdivision and want to create a single family on the new lot facing Bristol Avenue. The planning board did grant conditional approval for this petition and they just need this board's approval. They are seeking relief for 4 dimensional variances, the first being lot area with Parcel B needing 520sq. ft. of relief, second is lot width, currently there is only 40ft. when 50ft. is required. Third is

lot depth, Parcel A needs 10.86ft of relief and lastly is the driveway, 18ft. for the driveway width and the proposed plan will have two cars side by side.

Doug Mclean, professional planner, is properly sworn in.

Attorney Johnson inquires if the board would consider **Mr. Mclean** an expert witness in planning and land use since he has been before this board before.

Motion by Mr. Braga to accept Mr. Mclean as an expert in land use, the motion is Seconded by Vice Chairman Beauparlant

Roll Call Vote

Mr. Robinson – Aye

Mr. Croke – Nay

Mr. Braga – Aye

Vice Chairman Beauparlant – Aye

Chairman Saveory – Aye

Mr. Mclean explains to the board that he will go over the highlights of his report, this is a unique circumstance and understands that the applicant asking for 4 variances is a lot of relief. Parcel A has sufficient lot area and substantial frontage, the unique design and shape of parcel that lends itself to hardship. While working with the planning department staff they wanted to subdivide the property the best way to fit the neighborhood. The planning board suggested the way they are proposing how the property be subdivided and there is no feasible way to subdivide this lot without needing some kind of relief. **Mr. Mclean** further explains that he used a block analysis of the surrounding conditions and the average lot size for the proposed lots is greater than the other residential lots in this block, the average was 4,200 sq. ft. when the proposed lots will be 4,600 sq. ft. The majority of lots in the area are uniquely small and the proposed subdivision is in character with the area. It is in his professional finding that granting this relief will not alter the surrounding area. The hardship is not due to any action from the applicant, this is the least relief necessary, and worked with the staff of the city to come up with this proposal. The owner will suffer a hardship if this petition is not granted and wants to improve the property.

Attorney Johnson adds that the new home will be a 1,100 sq. ft. single family starter home with 3 bedrooms and 2 bathrooms.

Mr. Braga inquires about the existing garage on the property.

Attorney Johnson responds that it was recently demolished.

Mr. Braga has no concerns and believes this is a good plan. **Mr. Braga** inquires about the existing home and will it be fixed up.

Attorney Johnson answers that it already has been fixed up and is currently being rented out.

Mr. Robinson inquires the number of bedrooms and bathrooms for the proposed single family, the plans note 2 bedrooms and 1.5 bathrooms.

Attorney Johnson apologizes that he misspoke, he was looking at the wrong plans.

Mr. Robinson believes that the 2 bedroom 1.5 bathroom plan is much better for a smaller lot.

Vice Chairman Beauparlant believes that the variance for the driveway helps and that the plans look good.

Mr. Croke notes that the property pre-dates zoning and but believes this is for financial gain.

Chairman Saveory explains that he is familiar with the property and was in the same family for years. The lot has been there a long time and the new lot will be conducive to the area and this is a good plan. This is a better option than a two-family and will be a less intense use for that lot.

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.

Howard Lukoff of 40 Bristol Ave Riverside, RI is properly sworn in.

Mr. Lukoff explains to the board that he has lived at the property for the past 12 years and yes the lots are smaller but

adding this house will just be right on top of the neighbors. **Mr. Lukoff** explains that this will add more traffic and doesn't want to see this house be a rental since property owners' care about their homes. There are plenty other opportunities somewhere else and believes this will be a nuisance and won't help the community.

Mike Quigley of 23 Bristol Ave Riverside, RI is properly sworn in.

Mr. Quigley explains that he has lived in his home for about 60 years and that lot has always been open. Bristol Avenue is a heavy traffic area and inquires if the driveway for the new lot will be on Bristol Avenue or Crescent View Avenue.

Attorney Johnson answers Bristol Avenue.

Mr. Quigley appreciates the renovations that occurred at 49 Crescent View Ave but has concerns about traffic and the lot's size.

Mr. Braga inquires about the height on the new single family.

Attorney Johnson replies that it will be 29.5ft. max in height and the area allows for 35ft. **Attorney Johnson** adds that the plan is to construct the single family and sell it.

Adam Medeiros of 47 Bristol Ave Riverside, RI is properly sworn in.

Mr. Medeiros believes it is a small lot for a house to be built there and there is currently congestion with cars even with driveways. **Mr. Medeiros** bought his home about 5 years ago and was told by his realtor that nothing could be built there and believes this won't improve the surrounding area.

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 **Attorney Johnson** 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 Johnson** responds that he fully understands and accept the conditions just stipulated.

Motion is Seconded by Mr. Robinson and Vice Chairman Beauparlant

Roll Call Vote

Mr. Robinson – Aye

Mr. Braga –Aye

Mr. Croke –Aye

ViceChairman Beauparlant - Aye

ChairmanSaveory – Aye

The board notes that four variancesis a lot of relief butthere is a housing crisis and will be conducive to the neighborhood.

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

X. PROCEDURES

a. Discussion on MotionForms.

b. Discussion on theZoning Application Instructional Package.

c. Discussion on Rulesand Procedures.

Motion to continue theprocedures by Mr. Braga, the motion is Seconded by Mr. Robinson.

XI. ANNOUNCEMENTS

A special meeting of the Zoning Board of Review is scheduled for **Monday, 8 May 2023, at 6:00 PM**, in the City of East Providence Council Chambers, City Hall, and East Providence, RI.

The next regular meeting of the Zoning Board of Review is scheduled for **Wednesday 7 June 2023, at 6:00 PM**, in the City of East Providence Council Chambers, City Hall, and East Providence, RI.

XII. ADJOURNMENT

Motiontoadjourn by Vice Chairman Beauparlant.The motion is **Seconded** by **Mr.Robinson** and **Unanimously** votedto adjourn. Meeting is adjourned at 8:12pm.

EdwardPimentel, AICP
ZoningOfficer / Clerk

Secretary