

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, **6 March 2024**, in the City Council Chambers, East Providence City Hall.

The following members were present:

Eugene Saveory – Chairman - **ABSENT**

Michael Beauparlant – Vice Chairman – **ABSENT**

John Braga – **Acting Chairman**

Richard Croke, Sr.

Gary Pascoa

Matthew Robinson – 1st Alternate - **ABSENT**

Jon Jacobs – 2nd Alternate

Edward Pimentel – Zoning Officer / Clerk

Michael Marcello – City Solicitor - **ABSENT**

Julissa Arce – Assistant City Solicitor

Meg Bellamy – Assistant City Solicitor

I. OPENING STATEMENT BY CHAIRMAN

Acting Chairman Braga 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. Acting Chairman Braga 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

Acting Chairman Braga asks **Assistant Solicitor Bellamy** to swear in the **Zoning Officer, Mr. Pimentel**.

II. SEATING OF ALTERNATE MEMBERS

Acting Chairman Braga explains to the public that **Chairman Saveory, Vice Chairman Beauparlant and Mr.**

Robinson are absent this evening, so **Mr. Jacobs** will be a participating and voting member this evening.

III. APPROVAL OF ZONING BOARD MINUTES

Acting Chairman Braga asks for approval of the **7 February 2024**, Zoning Board of Review Minutes. **Motion by Mr. Croke** to approve the **7 February 2024** Zoning Board of Review Minutes. The motion is **Seconded by Mr. Jacobs** and **Unanimously** approved.

Acting Chairman Braga asks for approval of the **21 February 2024**, Zoning Board of Review Minutes. **Motion by Mr. Croke** to approve the **21 February 2024** Zoning Board of Review Minutes. The motion is **Seconded by Mr. Jacobs** and **Unanimously** approved.

III. ZONING OFFICER'S REPORT

Zoning Officer Pimentel explains that there is none this month.

V. CORRESPONDENCE/ DISCUSSION

Petition No. 6973 – 48 Lincoln Avenue

Attorney Bruce Cox explains to the board that his witnesses can be present on the meeting scheduled for 3 April 2024 and would like to continue to that date.

Zoning Officer Pimentel notes that he will re-advertise and re-notice the neighbors. He also notes to keep in mind if any other petitioners this evening would like to continue, they may have to be pushed to the May 2024 meeting.

Motion by Mr. Jacobs to continue **this petition 3 April 2024, the motion is Seconded by Mr. Croke and Unanimously approved.**

Request for six-month extension – 297 Terrace Avenue, Petition No. 6928, Approved 15 March 2023.

Zoning Officer Pimentel explains to the board that the petitioners are seeking an extension out of the abundance of caution due to having to apply to CRMC.

Motion by Mr. Croke to grant the six month extension, the motion is **Seconded by Mr. Jacobs and Unanimously approved.**

Request for six-month extension – 22 Catlin Avenue, Previously Approved

Zoning Officer Pimentel explains to the board that the petitioners are seeking an extension due to delays in construction.

Motion by Mr. Jacobs to grant the six month extension, the motion is **Seconded by Mr. Mr. Croke and Unanimously approved.**

VI. STAFF REPORTS

1. Planning Department Staff Report - Previously Submitted

2. Zoning Complaint List – February 2024– Previously Submitted

VII. DOCKET ITEM ORGANIZATION

Zoning Officer Pimentel advises that council for Petition No. 6974 – 1320 Pawtucket Ave – has requested to go first this evening.

Acting Chairman Braga advises that the rest of the docket will remain in order.

VIII. CONTINUED BUSINESS

There is no continued business this evening.

IX. NEW BUSINESS

1. DENNIS COSTA and GARY J. COSTA, seek permission to subdivide their property into two (2) distinct parcels (Preliminary Plan - Minor Subdivision approval having already been granted), resulting in deficient front and side-yard setbacks, and excessive usage of the front-yard for off-street parking purposes, for property located at **47 DUNBAR AVENUE, being MAP 404, BLOCK 22, PARCEL 22, in a RESIDENTIAL 4 DISTRICT. (Dimensional Variance(s) - Petition No. 6973)**

Attorney Christine Engustian is representing the petitioner.

Zoning Officer Pimentel explains to the board that **Attorney Engustian** is taking advantage of the new general law with 5% of the variance will be automatically granted. It will be the variance where one of the lots will be 49ft. and not the required 50ft.

Attorney Engustian explains to the board that the property in question is in a residential 4 district and there is currently a single-family house on the property that was built 1925. The owners submitted their application for a minor subdivision to create two separate lots. The existing residence would be on proposed parcel A and parcel B would have a new single family built. In September 2023 the planning board approved the preliminary plan pending that they obtain the zoning board's approval. There were originally four variances, two for each proposed lot but one variance for lot B was already approved as previously mentioned by **Zoning Officer Pimentel**. The remaining three variances are, one for lot B regarding parking and the two for lot A is the minimal front yard setback, but the house has existed for nearly 100 years. The deviation is 12.6ft when the requirement is 15ft and the second variance is for minimal side yard setback, but that side is the one closest to parcel B. The owners did list their reasons why they believe they meet the

requirements for being granted the variances and those are listed in the board members' packets. The planning department believes that this proposal is in line with the city's comprehensive plan and that parcel B would be consistent with the area. The petitioners are present this evening if there are any questions.

Mr. Jacobs has no questions at this time.

Mr. Pascoa has no questions.

Mr. Croke notes issues with the front yard parking and believes this is a nuisance.

Acting Chairman Braga notes that the proposed driveway is all the way to the right and only a portion is in front of the house, which is really the only place to put the driveway. The deviation with the 12.6ft is already a pre-existing condition and not an issue.

Mr. Gary J. Costa, owner of the property, is properly sworn in.

Acting Chairman Braga inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none, **Acting Chairman Braga** inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none,

Acting Chairman Braga queries the Board for a motion.

Motion by Mr. Jacobs,

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 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. Such hardship is not the result of any prior action of the applicant.
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 comprehensive plan upon which this chapter is based.

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, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

Acting Chairman Braga asks **Mr. Costa** 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. Costa** responds that he fully understands and accepts the conditions just stipulated.

Motion is Seconded by Mr. Pascoa,

Roll Call Vote	Majority of the board believes that this is a minor
Mr. Jacobs – Aye	deviation since some setbacks are already existing.
Mr. Pascoa – Aye	Mr. Croke rejects the proposal due to the front
Mr. Croke – Nay	yard parking.

Acting Chairman Braga – Aye

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

2. TOUCHDOWN REALTY GROUP, LLC, seeks permission to modify an approved multi-unit residential development that was approved by the Zoning Board of Review on 2 March 2022, Petition No. 6895, specifically seeking permission to relocate the approved trash storage location, for property located at **1320 PAWTUCKET AVENUE, being MAP 503, BLOCK 23, PARCEL 9, in a RESIDENTIAL 3 DISTRICT. (Dimensional Variance - Petition No. 6974)**

Attorney Joseph Brennan representing the petitioner.

Attorney Brennan explains to the board that he understands that the dumpster would be a possible issue but didn't realize there was a meeting scheduled for today and is not prepared. **Attorney Brennan** would like to address the issues with the abutters to try and find a solution and would like to ask for a continuance since he hasn't had much time to prepare and would like to come back with a plan.

Mr. Jacobs wants to confirm that **Attorney Brennan** is looking to remedy concerns from the neighbors prior to any further discussion.

Attorney Brennan answers yes, that would be the goal.

Mr. Croke notes that the petitioner already made several commitments that haven't been fulfilled and these commitments must be followed through since they were previously agreed to.

Acting Chairman Braga notes that the best thing would be to work things out with the neighbors beforehand. Having neighbors on board makes things easier and it is a good idea to ask for a continuance.

Motion by Mr. Pascoa to continue this petition from 6 March 2024 to 1 May 2024, the motion is Seconded in Mr. Jacobs and Unanimously approved.

3. ROBERT SEARS, seeks permission to subdivide his property into two (2) distinct parcels (Preliminary Plan - Minor Subdivision approval having already been granted), resulting in deficient lot width, and recognizing several pre-existing setback deficiencies associated with both principal residences and accessory structures, for property located at **960 WATERMAN AVENUE and 40 LUTHER AVENUE, being MAP 607, BLOCK 7, PARCEL(S) 6 and 16, in an INDUSTRIAL 1 DISTRICT and RESIDENTIAL 2 DISTRICT. (Dimensional Variance(s) -Petition No. 6975)**

Attorney Joshua Slepchowicz representing the petitioner.

Attorney Slepchowicz explains that his client Robert Sears could not be here this evening but Louis Gelfuso, future buyer of 40 Luther Avenue, is present this evening to answer questions if needed. **Attorney Slepchowicz** continues to explain to the board that they are seeking a subdivision to clean up a subdivision that occurred decades ago. They went to the planning board in October 2023 and the subdivision was approved by the planning board pending they obtain this board's approval. The planning board also notes they want the removal of the cement driveway from Waterman Avenue all the way to the Luther Avenue property. There are two variances needed for each lot and 3 out of the 4 variances are from pre-existing conditions.

Zoning Officer Pimentel adds that there is prior zoning history with this property that is very cloudy. It appears that there was a variance granted for some sort of business for the Luther Avenue property. If the board sees fit to approve the petition, he recommends vacating the previous variance allowing the commercial use and have the property be single family use only.

Attorney Slepchowicz notes that the applicant will agree to that.

Mr. Croke notes that there is already a variance for the property and doesn't see the hardship.

Mr. Pascoa has no questions.

Mr. Jacobs has no questions.

Acting Chairman Braga notes that three variances are from pre-existing conditions and inquires if the person in the house is running a commercial business or is it just being used as a single family?

Louis Gelfuso Jr, potential buyer for 40 Luther Avenue, is properly sworn in.

Acting Chairman Braga inquires if the Luther Ave property is being run as a single family and if there ever was a business there and if so what time of business.

Mr. Gelfuso answers yes, it's being run as a single family and there was previously a landscaping business.

Acting Chairman Braga inquires if Mr. Gelfuso will be changing the look of the property to look more residential.

Mr. Gelfuso explains that currently there is a tenant occupying the home but eventually.

Acting Chairman Braga likes the fact that the commercial use will be extinguished and the driveway from Waterman Avenue will be removed.

Acting Chairman Braga inquires if there is anyone present who would like to speak in favor of the subject

petition. Hearing and seeing none, **Acting Chairman Braga** inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none,

Acting Chairman Braga 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 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. Such hardship is not the result of any prior action of the applicant.
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 comprehensive plan upon which this chapter is based.

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, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.
2. The commercial use that was previously granted will be vacated and the property will be strictly for single family use.

Acting Chairman Braga asks **Mr. Gelfuso** 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. Gelfuso** responds that he fully understands and accepts the conditions just stipulated.

Motion is Seconded by Mr. Jacobs,

Roll Call Vote	The board believes that this is a minor deviation
Mr. Jacobs – Aye	since a majority of the setbacks are already existing.
Mr. Pascoa – Aye	The board also appreciates the removal of the
Mr. Croke – Aye	commercial use at Luther Ave.

Acting Chairman Braga – Aye

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

4. HERMANO FORTES, seeks permission to introduce an accessory detached garage that will fail to comply with the minimum accessory side and rear-yard setbacks, contribute to exceeding the maximum building coverage, in addition to exceeding the maximum ratio of accessory massing to principal residential massing floor area, for property located at **109 WILSON AVENUE, being MAP 303, BLOCK 11, PARCEL 84, in a RESIDENTIAL 3 DISTRICT. (Dimensional Variance(s) - Petition No. 6976)**

Christopher Rodrigues is properly sworn in.

Mr. Rodrigues explains that he is here on behalf of **Hermano Fortes** and the intent would be to build a new garage. The garage would go the same place as the previous garage, but the new garage will be bigger and inquires about the new state zoning law and being granted the 5% like the previous petition.

Zoning Officer Pimentel explains that the 5% in this case wouldn't be a huge number to really help.

Mr. Rodrigues explains that they would like to pursue the ratio variance.

Zoning Officer Pimentel notes that there are multiple storage containers on the property that aren't allowed.

Hermano Fortes, owner of 109 Wilson Avenue, is properly sworn in.

Mr. Fortes explains to the board that he received a permit to tear down the previous garage and his personal items that were in the garage are now in the storage containers.

Mr. Pascoa has no concerns.

Mr. Croke inquires what type of business is being run out of the property since there are two trailers, a work truck, snowplow, etc.

Mr. Fortes answers that there is no business, it's his private residence.

Mr. Croke expresses concerns about the disrespect being shown to the neighbors.

Mr. Jacobs inquires how many vehicles **Mr. Fortes** has.

Mr. Fortes explains that he has four vehicles, one being a commercial work truck from his job at Brown University. **Mr.**

Fortes also owns another property on Alice Street and helps his mother who lives on the East side with her home.

Mr. Jacobs inquires if the proposed garage would be big enough for all the vehicles and all equipment.

Mr. Fortes answers yes.

Acting Chairman Braga expresses concerns over the size of the proposed garage, he has never seen a garage this big while sitting on this board. **Acting Chairman Braga** believes the garage will be too big for the property and out of character for the neighborhood. He understands wanting something that big but doesn't believe this is reasonable as it stands and that it could be an imposing structure. The variance of the accessory structure being more than 50% is something he has never seen before.

Mr. Fortes inquires what the board would recommend then.

Mr. Jacobs is torn on this since he understands that this is a large structure but is concerned that the vehicles and equipment all need to go somewhere. **Mr. Jacobs** also wants to see if there are members of the public here this evening to see what they have to say.

Zoning Officer Pimentel explains that this is not a negotiation, and the board cannot give pointers or guarantees.

Mr. Fortes asks for a continuance.

Motion by Mr. Pascoa to continue this petition from 6 March 2024 to 1 May 2024, the motion is **Seconded** in **Mr. Jacobs** and **Unanimously approved**.

5. PACE ORGANIZATION of RI and RENAISSANCE CHURCH, seek permission to introduce a Place of Worship in an industrially zoned property, otherwise defined as a prohibited land use, for property located at **10 TRIPPS LANE**, being **MAP 509, BLOCK 1, PARCEL 4**, in an **INDUSTRIAL 1 DISTRICT**. (Use Variance -Petition No. 6977)

Joan Kwiatkowski, CEO of PACE, is properly sworn in.

Ms. Kwiatkowski explains to the board that at the back of the PACE property there is about 7,500 sq. ft of space that they have available to rent. Renaissance Church is interested in renting out the space but churches are prohibited in an industrial zone. **Ms. Kwiatkowski** also has a packet to distribute to the board members.

Motion by Mr. Pascoa to enter in the packet from **Ms. Kwiatkowski as Applicant's Exhibit 1**, the motion is **Seconded** by **Mr. Jacobs** and **Unanimously approved**.

Attorney Don Weinberg is representing PACE and is present this evening.

Zoning Officer Pimentel notes that churches are protected and to keep that in mind.

Ms. Kwiatkowski explains that they have been attempting to rent the space for a while and the church won't be disruptive and appears it will be a nice fit.

Mr. Pascoa inquires what the hours of operation will be for the church.

Ms. Kwiatkowski explains that PACE's hours are 7am-6pm Monday-Friday and the church's hours are more evening and weekends. There will be few people there during the week.

Mr. Croke notes that there is already a church on Wampanoag Trail, why would we need another. There is already a variance for the property and already covered their hardship and now further expanding on what you want to do. It is an industrial area and there is a pretty good traffic in the area. There are a lot of churches falling to the wayside currently and not sure why we'd bring another one in.

Ms. Kwiatkowski explains that our goal is to rent the space and make sure that the tenant is complementary to our

work.

Mr. Croke notes that this is for profit.

Ms. Kwiatkowski answersthat they are a non-profit organization so the rent would be used formaintenance work.

Mr. Croke believes that the board went overboardfor their last variance for PACE and this is the third time they've been beforethis board and to him this is admitting there is no hardship.

Acting Chairman Braga inquires if the church is existingcurrently just at a different location and if this will be their secondlocation or would everyone be moving to this location.

ScottAxtmann, representative of Renaissance Church, is properly sworn in.

Mr.Axtmann explains that yes, the church is currently located elsewhere,and they would bring everyone to this location. The current space they're in isbeing sold and we're looking for a safer area and a lot of their families arefrom East Providence. Their main service is on Sundays at 10am for about anhour, hour and a half. There will be small meetings on weekday nights. I amfull-time and there is one other full-time employee and a few part-timeemployees.

Acting Chairman Braga confirmsthat there is only one service a week.

Mr. Axtmann answers yes.

Acting Chairman Braga notes that he has no issues with thispetition but inquires to **Zoning Officer Pimentel** what type of variancewas granted to PACE for them to move in, was it a use variance?

Zoning Officer Pimentel answers yes, and he does remember PACEhas been trying to fill that space for a while and believes that the propertyitself is improperly zoned.

Mr. Jacobs inquires what PACE is and how long hasthe proposed space been vacant.

Ms. Kwiatkowski explainsthat they are a non-profit health care provider and there is a health centerwith nurses and doctors. There is an adult day center and that is where theiradministration offices are. The space has been vacant since they remodeled thebuilding.

Mr. Jacobs inquires what would happen to the churchif PACE were to expand.

Ms. Kwiatkowski answersthat they would have to leave.

Mr. Jacobs inquires if this is enough space for thecongregation.

Mr.Axtmann answers yes, their current since is 6,800 sq. ft. so this willbe bigger.

ActingChairman Braga inquires if there isanyone present who would like to speak in favor of the subject petition.

Steven Flachbart, realestate agent, is properly sworn in.

Mr. Flachbart explains to the boardthat he has been working with PACE and since Covid-19 commercial leasing hasbeen challenging. It also needs to be a special tenant to fit in with PACE. Therelationship with Renaissance Church is a good fit for the property and for thearea.

ActingChairman Braga inquires if there isanyone present who would like to speak against the subject petition. Hearingand seeing none,

ActingChairman Braga queries the Board for amotion.

Motion by Mr. Pascoa

Basedon all evidence presented to the Zoning Board of Review and personal knowledgeof the members of the Board of the land and area of the City of EastProvidence, the Zoning Board of Review hereby finds pursuant to Section19-45(a) of the City of East Providence Zoning Ordinance:

- 1.The hardship from which the applicant seeks relief is due to the uniquecharacteristics of the subject land or structure and not to the generalcharacteristics of the surrounding area, and not due to a physical or economicdisability of the applicant excepting those physical disabilities addressed inRIGL 45-24-30(16).
- 2.Such hardship is not the result of any prior action of the applicant.
- 3.The granting of the requested variance will not alter the general character ofthe surrounding area or impair the intent or purpose of this chapter or thecity comprehensive plan upon which this chapter is based.

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

1. In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this chapter. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance.

Acting Chairman Braga asks **Ms. Kwiatkowski** 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. Kwiatkowski** responds that she fully understands and accepts the conditions just stipulated.

Motion is Seconded by Mr. Jacobs,

Roll Call Vote

Mr. Jacobs – Aye

Mr. Pascoa – Aye

Mr. Croke – Nay

Acting Chairman Braga – Aye

The board feels this is a compatible use for the property. Mr. Croke rejects the proposal due to being for profit and previous zoning history.

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

X. PROCEDURES

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

Zoning Officer Pimentel advises to postpone procedures due to missing three board members this evening.

XI. ANNOUNCEMENTS

The next regular meeting of the Zoning Board of Review is scheduled for **Wednesday 3 April 2024, 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. Jacobs The motion is **Seconded by Mr. Pascoa** and **Unanimously** voted to adjourn.

Meeting is adjourned at 7:30pm.

Edward Pimentel, AICP
Zoning Officer / Clerk

Secretary