

MINUTES

July 7, 2020

Chairman Smith called the City Plan Commission Meeting to order at 6:35 p.m. via Zoom. He announced that there was no new business in June.

The following Commission members were in attendance: Chairman Smith, Ken Mason, Robert Strom, Robert DiStefano, Ann Marie Maccarone, Kathleen Lanphear, Frederick Vincent and Robert Coupe. Commission Morales was absent.

The following Planning Department members were in attendance: Jason M. Pezzullo, Planning Director, Douglas McLean, Principal Planner, Joshua Berry, Senior Planner, Joanne Resnick, Planning Clerk.

Also attending: Steve Marsella, Assistant City Solicitor and Ronald Ronzio, Stenographer.

APPROVAL OF MINUTES

Upon motion made by Mr. DiStefano and seconded by Ms. Lanphear, the Commission unanimously voted (8/0) to approve the minutes of the May 5th, 2020, Plan Commission Meeting.

ORDINANCE RECOMMENDATION

Ordinance #5-20-04 - Ordinance to amend the Cranston Zoning Code – Chapter 17.92.010 – Special Use Permit by adding the following language to Section 1. A. 3. Special Permit Procedure:

An applicant may apply for, and be granted, a dimensional variance in conjunction with a special use. If the special use could not exist without the dimensional variance, the zoning board of review shall consider the special use permit and the dimensional variance together to determine if granting the special use is appropriate based on both the above special use criteria and the dimensional variance evidentiary standards.

Principal Planner, Doug McLean, explained that no other language is proposed to be added, removed, or amended. He further explained that the purpose of this amendment is to clarify the allowance of, and the standards of review for, an application that includes both a special use permit and a dimensional variance request. Based on the current language of the Cranston Zoning Code, and provisions in Rhode Island General Laws § 45-24-42 (General provisions – Special-use permits) and § 45-24-41 (General provisions – Variances), it is not clear if such an application is currently allowed and how the review standards should be applied. He stated that most other communities have addressed this matter.

Attorney Robert Murray stated that “30 other municipalities have a comparable ordinance”. He further stated that the Zoning Board of Review would still have to make all of the requisite findings.

Attorney Steve Marsella stated that “you are technically changing the burden. The applicant would have to prove the Special Use criteria and the Dimensional Use criteria. If it were to be considered a Use Variance, they would have to prove a loss of all beneficial use if not approved”.

Ms. Lanphear asked if the notification radius would change. Mr. Murray stated that the 400 ft. notification radius would remain unchanged.

No public comment was offered on this matter.

The City Plan Commission accepted staff's recommendation as follows: "Due to the fact that the proposed ordinance amendment will clarify the allowance of, and the standards of review for, an application that includes both a special use permit and a dimensional variance, and due to the fact that City staff recognizes the need for flexibility in reviewing projects within a unique and diverse built environment that includes many non-conforming lots, buildings, and uses, and due to the finding that the proposed ordinance amendment is consistent with the City's Comprehensive Plan, staff recommends approval" Upon motion made by Mr. Vincent and seconded by Mr. Mason, the Plan Commission unanimously voted (8/0) to forward a **positive recommendation** on this application to the City Council Ordinance Committee.

SUBDIVISION AND LAND DEVELOPMENTS

"300 Pippin Orchard Road Subdivision"

Preliminary Plan – Minor Subdivision with street extension
Three conforming lots (one existing and two new house lots)
300 Pippin Orchard Road
AP 33, Lot 44

Senior Planner, Joshua Berry, explained the proposal to subdivide an existing 7-acre, A-80 lot, into 3 conforming A-80 lots. There is an existing residence which would remain on the proposed lot with frontage on Pippin Orchard Road. A new public road and cul-de-sac entitled "Lani Lane" is proposed to extend approximately 507 feet to provide frontage and vehicular access to two additional buildable lots intended for single family development. All of the proposed lots will meet or exceed the A-80 zoning requirements. The two new lots will be serviced with public sewer but will have private well systems, the location of which have been depicted on the plan. A new drainage system is proposed to mitigate the stormwater impacts of the development. The area where the two new houses and drainage system are proposed is currently vegetated and undeveloped, with wetlands on the eastern portion of the property.

The proposed project is allowed by-right per City Zoning Ordinance and is consistent with the Comprehensive Plan Future Land Use Map allocation of [Single Family Residential less than 1 units / acre] with a proposed density of 0.46 units / acre. Waivers for provision of sidewalks and curbing have been requested. A Physical Alteration Permit is pending, as well as is the proposed public sewer design. The developer has proposed that tree removal will be minimalized.

The property owner, Mr. Roberto Pereya, reiterated the tree preservation proposal.

Mr. (Michael) and Mrs. (Gail) Guay, 280 Pippin Orchard Road, expressed concern with the proposed wells, stating that "the area cannot hold two more wells". Mr. Guay stated that "for the first time in 22 years he ran out of water" recently. They also expressed concern with tree preservation and what enforcement could be arranged to ensure that future owners of the property would not remove trees. They also expressed concern with the possibility of traffic should the road be connected to Alpine Estates. They noted that the existing home at 300 Pippin Orchard Road contains an in-law apartment and are concerned that the apartment will be "rented out".

John and Linda Thibeault, 15 West Bluebird Lane, (abutter to the east), raised concern with the proposed retention pond flooding their property. Property owner, Roberto Pereya, responded, stating that the proposed pond is at the lowest point of the property. Civil Engineer, Lynn Small, stated that the project has been design to the 100-year storm event and that the resulting design will be less than what is existing. She stated that the proposal has received a RIPDES permit and RIDEM permit.

Mr. Pauline DeRosa, 97 Cypress Drive, asked about a buffer for Lani Lane and how far the wetlands are away from the new properties. Mr. Berry responded, stating that the area she is concerned with is the owners property – there will be no buffer. Also, the distance from the proposed properties is more than required.

Mr. Vincent asked Ms. Small about well testing for adequate supply. She responded, stating that the owner must drill the well and establish that there is adequate water supply prior to obtaining a building permit. Mr. Pezzullo stated that well data will not be a part of the Final Plan.

Mr. Thibeault asked if the proposed wells would affect existing wells. Mr. Pezzullo stated that the proposal is for a small subdivision; subdivision suitability is usually only done for larger subdivisions.

Upon motion made by Mr. DiStefano and seconded by Mr. Couple, the Commission unanimously voted (8/0) to close public comments.

Mr. Berry gave the staff recommendation and conditions of approval. He added an eleventh condition as requested by the Fire Department as follows: A fire hydrant be located within 600 ft. of the new residences.

Ms. Lanphear expressed concern about proposed tree preservation. Mr. Marsella suggested that the Plan Commission can condition tree preservation. Ms. Lanphear referenced Condition of Approval #8, which made reference to the new lots include mutually enforceable restrictive covenants detailing the responsibility to maintain the detention pond, etc., and add some type of deed restriction to ensure the tree buffer be maintained.

Mr. Pezzullo stated that the trees, as shown on the plan, can be incorporated into the deed. Ms. Lanphear motioned to incorporate the tree preservation into the deed, which was seconded by Mr. Vincent. Mr. Coupe then stated that “he is not comfortable with adding this deed restriction”. He stated that it is “micromanaging” the applicant and his ability to sell the proposed lots. Mr. Mason agreed. Mr. Pezzullo noted that the Plan Department does not require buffers between residential developments. As a result of this discussion, the motions were withdrawn.

Mr. Mason then noted that newly added Condition #11 be removed as “you cannot have a fire hydrant without public water”. Mr. Pezzullo then suggested Condition #11 be reworded to explore the provision of a cistern for fire suppression.

Upon motion made by Mr. Vincent and seconded by Mr. Mason, the Commission then unanimously voted (8/0) to explore the feasibility of installing a cistern for fire suppression.

Upon motion made by Mr. Strom and seconded by Mr. Coupe, the Commission unanimously voted (8/0) to adopt the findings of fact denoted below and *approve* this Minor Subdivision and conditions of approval, as amended:

Findings of Fact

An orderly, thorough and expeditious technical review of this Preliminary Plan has been conducted. Property owners within a 100’ radius have been notified via certified mail and the meeting agenda has been properly posted. Advertisement for this major subdivision was published in the 6/17/20 edition of the Cranston Herald.

Staff has reviewed this Preliminary Plan application for conformance with required standards set forth in RIGL Section 45-23-60, as well as the City of Cranston’s Subdivision and Land Development Regulations and finds as follows:

RIGL § 45-23-60. Procedure – Required findings. (a)(1) states, “The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies.”

1. The proposed subdivision is consistent with the City of Cranston Comprehensive Plan policies and Future Land Use Map (FLUM). The proposed resulting density of approximately 0.46 units per acre is consistent with the FLUM's designation of the subject parcel as “Single Family Residential less than 1 units / acre.”
2. Significant cultural, historic or natural features that contribute to the attractiveness of the community have not been identified on site.

RIGL § 45-23-60. Procedure – Required findings. (a)(2) states, “The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance.”

3. Each of the proposed three (3) lots comply with all of the requirements of A-80 zoning.
4. The proposal will not alter the general character of the surrounding area or impair the intent or purpose of the Cranston Zoning Code.

*RIGL § 45-23-60. Procedure – Required findings. (a)(3) states, “There will be no significant negative environmental impacts from the proposed development as shown on the **final** plan, with all required conditions for approval.” (emphasis added)*

5. The project is subject to all local, state and federal standards regarding environmental impacts.
6. The proposed clearing and disturbance is outside of the wetlands area and associated buffer, reviewed and approved by RIDEM.
7. The proposed drainage has been reviewed by the City and meets or exceed the City standards.
8. The Rhode Island November 2018 Natural Heritage map shows that there are no known rare species located on the site.

RIGL § 45-23-60. Procedure – Required findings. (a)(4) states, “The subdivision, as proposed, will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. (See definition of Buildable lot). Lots with physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.”

9. The site conditions for the proposed subdivision will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable.

RIGL § 45-23-60. Procedure – Required findings. (a)(5) states, “All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.”

10. Once the new road is complete, the properties in question will have adequate permanent physical access to a public roadway located within the City of Cranston.
11. The proposed subdivision provides for safe and adequate local circulation of pedestrian and vehicular through traffic, for adequate surface water run-off and for a suitable building site.

Conditions of Approval

1. Payment of Western Cranston Capital Facilities Impact Fee in the amount of \$2,779 at the time of Final Plan recording.
2. Payment of the public advertisement fee prior to the time of Final Plan recording.
3. Obtain a PAP from RIDOT prior to submitting a Final Plan.

4. Sewer design shall be approved by Veolia Water and DPW prior to submitting a Final Plan.
5. Provide a performance bond in the amount of \$219,000 and a separate 2% administrative fee of \$4,380 at the time of Final Plan recording, unless all public improvements have been constructed.
6. Detention Pond design, construction, and improvements shall be the responsibility of the developer.
7. Maintenance schedule and O&M manual shall be subject to approval by DPW Environmental Engineer.
8. Deeds for the new lots shall include mutually enforceable restrictive covenants detailing the responsibility to maintain the detention pond, subject to review and approval by the City.
9. The applicant shall install a snow fence near the northern property along Lani Lane near its intersection with Pippin Orchard Road in an attempt to protect the existing trees from damage during construction.
10. Should any trees on the neighboring property (A/P 34 Lot 41) be lost, the applicant shall mitigate the impact by planting replacement(s) of reasonable equivalence to the tree(s) lost with the consent/permission of the owner of A/P 34 Lot 41.
11. The applicant shall work with the City to explore the feasibility of installing a cistern for fire suppression.

“Champlin Heights”

Preliminary Plan – Major Land Development without street extension
 Request for one-year extension of the Preliminary Plan approval granted on 4/2/19
 152-Unit Multi-family apartment complex
 Scituate Avenue
 AP 20/4, Lots 2113 and 2117

The City Plan Commission reviewed a request for a one-year extension of the vesting of the Preliminary Plan approval for ‘Champlin Heights’, which was approved on January 3, 2017. Upon motion made by Mr. DiStefano and seconded by Mr. Mason, the Commission unanimously voted (8/0) to extend the existing project vesting through June 30, 2021.

PERFORMANCE GUARANTEE

“The Oaks at Orchard Valley”
 Existing Letter of Credit set to expire

The Plan Commission reviewed the status of existing Bank RI Letter of Credit No. J1227 in the amount of \$162,500, which had an original Expiry Date of December 31, 2018.

Upon motion made by Mr. DiStefano and seconded by Mr. Strom, the Commission unanimously voted (8/0), to extend taking any action on the extension of the existing Letter of Credit for one month, to be re-visited at the next City Plan Commission Meeting to be held on August 4, 2020.

ZONING BOARD OF REVIEW RECOMMENDATIONS

MARCIA B. SMITH and MARVIN M. SMITH (OWN) and **WINES AND MORE OF RI, INC. (APP)** have filed an application to install a new digital and animated sign at **125 Sockanosset Crossroad**, A.P. 10, Lot 1489; area 2.32 ac ; zoned C3. Applicant seeks relief per 17.92.010; Section 17.72.010 Signs.

Upon motion made by Mr. Vincent and seconded by Mr. DiStefano, the Plan Commission voted (7-1 – Mr. Strom voted nay) to continue this matter to the August 4, 2020, Plan Commission Meeting.

ALBERT BACCARI and VIRGINIA A. BACCARI (OWN/APP) have filed an application to construct an addition to an existing legal non-conforming auto repair shop with restricted rear yard setbacks at **880 Park Avenue** A.P. 9 lot 169; area 21,014 s.f.; zoned C3. Applicant seeks relief per 17.92.010; Sections 17.92.020- Special Use Permit; 17.88.030 (A) - Extension; 17.20.120 – Schedule of Intensity Regulations.

Upon motion made by Ms. Lanphear and seconded by Ms. Maccarone, the Plan Commission unanimously voted (8 –0) to continue this matter to the August 4, 2020, Plan Commission Meeting.

APPLICATION CHECKLISTS – Plan Commission review

Mr. Berry noted that these documents haven't been updated in 15-20 years. He stated that these revisions will result in the Plan Department receiving complete applications.

Mr. Smith suggested commissioners e-mail the staff with their comments on these documents.

PLANNING DIRECTOR'S REPORT

Mr. Pezzullo informed the Commission that there will most likely be a site visit next month as the Department is in receipt of a re-zone application.

Regarding the formulation of an LED sign ordinance, Mr. Pezzullo predicted that the Department can possibly have a draft ordinance ready by late November or December.

ADJOURNMENT

Upon motion made by Mr. DiStefano and seconded by Mr. Vincent, the Commission unanimously voted to adjourn at 8:55 pm.

NEXT REGULAR MEETING – August 4th - 6:30PM – Location/Format TBD