

Hon. Kenneth J. Hopkins
Mayor

Michael E. Smith
President

Jason M. Pezzullo, MCP, MPA, AICP
City Planning Director



Robert Coupe
Vice-President

Thomas Barbieri
David Exter
Steven Frias
Kathleen Lanphear
Lisa Mancini

Frank Corrao P.E.
Public Works Director

Thomas Zidelis
Finance Director

CITY PLAN COMMISSION

City Hall – 3rd Floor, Room 309
869 Park Avenue, Cranston, Rhode Island 02910

MINUTES

CITY HALL – 3rd FLOOR, COUNCIL CHAMBER 6:30PM – TUESDAY, DECEMBER 3, 2024

CALL TO ORDER

Commission Vice-President Coupe called the meeting to order at 6:35 p.m. in the Council Chamber, 869 Park Avenue.

The following Commissioners were in attendance for the meeting: Commission President Michael Smith, Commission Vice-President Robert Coupe, David Exter, Steven Frias, Thomas Barbieri, Frank Corrao, Lisa Mancini, Kathleen Lanphear, and Thomas Zidelis.

The following members of the City Planning Department were in attendance: Jason M. Pezzullo, AICP, Planning Director; Beth Ashman, ACIP, Asst. Planning Director and Grace Brownell, Planner Technician.

Also in attendance: Steven Marsella, Assistant City Solicitor.

CITY PLANNING DIRECTOR'S REPORT

(no votes taken)

▪ RECOGNITION OF SERVICE

Michael E. Smith – President and Chairman of the City Plan Commission (2009-2024)

Upon it being the Commission President's final meeting, Planning Director, Jason Pezzullo presented Michael Smith, a plaque commemorating his sixteen years and four terms serving on the Commission.

To summarize, Mr. Smith expressed gratitude to the Fung and Hopkins Administrations, current and previous Planning Department staff in addition to the Commission's legal counsel for their honorable service. Since the City Plan Commission's establishment in 1943, approximately 144 civic-minded individuals have served on the Commission. Mr. Smith has had the honor of working alongside 27 of said individuals and highlighted the service of Murray Samuel (28 year) and Mal Dainels (19 years). The need for more involvement from civic-minded individuals persists.

Mr. Smith then spoke to the various Planning Department staff turnovers that took place during the time he has served as the Commission President. It was noted that there is an overall shortage in planners for the State of Rhode Island due to the low presence of New England Planning Education Programs. As Mr. Smith's service on the Commission ends, it is his request that the Administration and incoming City Council consider an independent outside salary audit to be provided for Planning Department office.

CONTINUATIONS

(vote taken)

Upon being advised that Desto Law was not available for executive session, a motion made by Commissioner Lanphear and 2nd by Commissioner Frias, the City Plan Commission voted

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unanimously (9-0) to continue the Executive Session to the January 7, 2025 City Plan Commission Meeting.

Upon a motion made by Commissioner Coupe and 2nd by Commissioner Exter, the City Plan Commission voted unanimously (9-0) to continue the 0 Hemlock variance application to February 4, 2025.

APPROVAL OF MINUTES

(vote taken)

- 11.12.24 City Plan Commission Meeting

Upon a motion made by Commissioner Mancini and 2nd by Commissioner Barbieri, the City Plan Commission voted unanimously (9-0) to approve the minutes as distributed.

SUBDIVISION & LAND DEVELOPMENT PROJECTS

- **“Batcheller and Urbana Replat”** Preliminary Plan/Unified Development Review (vote taken)
Preliminary Plan – Major Subdivision
Replat of 5 lots into four lots requiring zoning relief
Zoning District: B-2 Residential single- and two-family dwellings (8,000 sq. ft.)
AP 8-1, Lots 258, 259, 260, 261, and 293
Batcheller Ave and Urbana Street

Beth Ashman, Asst. Planning Director provided a brief staff introduction to the project. The subject property is five lots that have frontage on Batcheller and Urbana Streets. Within the five lots, there are four two-family dwellings on the site constructed around 40 years ago, all under common ownership. With the replat, there would be one two-family home on each of the four lots eliminating many non-conforming setbacks. This would be an administrative subdivision if not for the non-conforming front-yard setback on two of the existing structures, which trigger UDR. All lots are compliant with the minimum lot size requirements. The buildings were constructed in 1980, and the applicant and staff were unable to locate a record of variances granted. Ms. Ashman noted that the submitted Preliminary Plan address all requests from the Technical Review Committee:

- 1) The canopy/ garage encroaching on Batcheller Avenue is denoted on the plan as “to be razed,”
- 2) Three granite bounds will be installed as shown in the plan, and
- 3) The lot containing 76 and 78 Batcheller Street is to be labeled A.P. 8/1, Lot 260.

Ms. Ashman further provided her positive recommendation on the application per findings of consistency with the Comprehensive Plan, the Zoning Ordinance, and the standards for required Findings of Fact set forth in RIGL § 45-23-60 and Section III(L) of the Subdivision and Land Development Regulations.

Applicant, Priscilla Szneke of 84 Bay View Drive Jamestown, RI 02835 was present via Zoom. Ms. Szneke noted the intention of the proposed subdivision is to make the property conforming to zoning, so that the homes can be sold in the future. The properties were gifted to Ms. Szneke seven years ago.

Commission President Smith invited the Commission to engage in comment:

- Kathleen Lanphear inquired about the purpose of the variance. Ms. Lanphear requested clarification that there is no evidence that whoever built the properties obtained the proper permission to do so. Expressed concern for the applicant requesting zoning relief after the fact.

Ms. Ashman noted relief is required for the two existing non-conforming structures in regard to front setbacks.

Ms. Ashman provided confirmation and noted staff was unable to search through the archives. The applicant was not the owner of the property prior to the building of the homes. Thus, the applicant did not create the hardship. This zone allows for one and two-family dwellings. If these are considered five merged lots, you have eight dwellings on one lot, which cannot be sold independently.

City Solicitor Steve Marsella noted the burden is on the applicant to find previous records and demonstrate to the Board whether or not previous approval was granted.

- Steven Frias noted that denying the applicant does not address the original party who built the residences.

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He also stated that the proposal reduces the amount of zoning non-conformities which is in the public interest. Mr. Marsella made inquiries of the applicant as to the ownership history of the land. It was determined that the applicant's father-in-law owned the property at the time the buildings were constructed.

- Robert Coupe stated this application is supportive of the public interest.

Upon a motion made by Mr. Coupe, and 2nd by Mr. Corrao, The City Plan Commission initiated a vote to approve the Minor Subdivision application.

Conversation amongst the Commission ensued:

- Ms. Lanphear noted there should be transparency on part of the applicant. When an applicant comes before the Commission, they have a job to their do due diligence on the application. In this case, the applicant should determine why the structures were originally placed on the property without appropriate approvals. Requested that the application be continued to January 7, 2024 so the applicant can retrieve the necessary information.
- Mr. Frias noted the statute states that the hardship must not be as a result of a prior action of the applicant. It was requested for the City Solicitor to provide clarification if this is in regard to the current subject applicant or the previous property owners.

Mr. Marsella noted there has been no action at all. Whatever happened within the trail of the title is at the responsibility of the applicant.

The City Plan Commission voted (9-0) to provide Preliminary/UDR approval.

- **"9 Colwell Subdivision"** **Preliminary Plan/Unified Development Review (vote taken)**
Preliminary Plan – Major Subdivision
Subdivision of lot into two (2) 5,000 sf lots requiring zoning relief.
Zoning District: B-1 Single-family, two-family, and multi-family dwellings
AP 12, Lots 97
Colwell Street

The applicant Scott Aceto of 1374 Smith Street North Providence, RI 02911, and representative Atty. Meagan Bellamy of Conley Law and Associates, 123 Dyer Street Providence, RI 2903, were present.

Beth Ashman provided an overview of the proposal in which one (10,000 sf.) lot is to be subdivided into two 5,000 sf. lots with 50 ft. of frontage for the construction of a single-family residence on the newly created lot. 8,000 sq ft is required for a two-family and 6000 sq ft for a one family home in the B-1 zone. The plan is to maintain the existing home in its current state. The existing home has existed in its current form for approximately 100 years. Under Unified Development Review, the applicant is requesting relief from lot area (3,000 sf.) and frontage (10'). Under Municipal Review the following concerns were raised:

1. Traffic Safety Division: Requested clarification about adequate parking for the existing home. The applicant will demonstrate that the existing home will have adequate parking.
2. Building Department: Asked as a point of information on whether these lots would pass the test for unmerging lots had they been lots of record. Staff provided informal confirmation through an analysis of the 200' abutter radius that if these lots were substandard lots of record, they would have met the test and have been deemed unmerged, resulting in the lots buildability.

Ms. Ashman then provided her positive recommendation on the project based off findings of consistency with the Comprehensive Plan, the Zoning Ordinance, and the standards for required Findings of Fact set forth in RIGL § 45-23-60 and Section III(L) of the Subdivision and Land Development Regulations, per the following conditions:

1. The applicant will demonstrate adequate parking after the subdivision.
2. Approval of the variances conditioned on approval of the final plan of the minor subdivision.

Applicant, Scott Aceto provided a historic overview of the subject property. This is an opportunity to provide housing for Rhode Island which has an identified need. Mr. Aceto noted he has engaged in discussion with the abutters about the concern over adequate parking.

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Commission President Smith invited the City Plan Commission to engage in comment:

- Steven Frias requested clarification as to how the applicant is not creating their own hardship. He also noted that under the Comprehensive Plan, the permitted density for B-1 is 10.69. The parcel itself by having three units, would have a density of 13.06, which is above the Comprehensive Plan's designation. He inquired as to why the Commission should not interpret this application based on the density of the parcel, rather than looking at density of the overall neighborhood.

Atty. Meagan Bellamy noted the primary issue at hand is considering hardship in terms of permitting the subdivision versus not permitting the subdivision. Here, should the subdivision not be granted, the hardship is due to the unique characteristics of the subject land. The existing home is set close to the street and on the far side of the lot, which creates a layout ideal for increasing housing in an irregularly large side yard area. The proposed subdivision would center the existing house on its new lot, with great aesthetic consideration. Thus, the hardship of not being able to subdivide the property and add additional housing would outweigh the hardship of the lot area. Ms. Bellamy provided clarification that if subdivision approval and zoning relief were not granted, the property would remain as two units.

Ms. Ashman stated that Cranston's Comprehensive Plan calls for Zoning to be updated to match the fabric of the existing neighborhood.

- Mr. Frias noted there was a recent Superior Court Case in which the Cranston City Plan Commission was upheld for denying an application which proposes density beyond the Comprehensive Plan requirements.
- Ms. Lanphear noted to be in agreement with Commissioner Frias on the density and hardship issues. The applicant has a current structure on the property which is compliant with frontage requirements. Subdividing the property into two lots and creating the need for frontage and lot size relief is creating one's own hardship. Thus, the application should not be approved.

Ms. Ashman noted the subject lot was platted as two 5,000 sf. lots. In the Knightsville Plat of 1870.

Mr. Pezzullo stated the city does not merge any lots unless they go through the official subdivision process, at the request of the homeowner. At some point in history, they were merged.

Ms. Bellamy noted the existing home has a pre-existing non-conforming front setback, which does not require approval, as confirmed by the City Building Official.

Mr. Smith invited the public to engage in comment:

- Trinity Green (9 Colwell Ave.) noted she is a current resident at the subject property. Mr. Aceto has been a very attentive and transparent landlord. Expressed to be in broad support of the project.
- Lisa Yanez (30 Greene Ave) expressed concern with parking during overnight hours.
- Emailed Comment read into the record by Beth Ashman-Trinity Greene (9 Colwell St.) stated: "There is no reason to grant change in variance. Changing a Comprehensive Plan for Capital gains is unacceptable. There are enough absentee landlords in Knightsville. The existing house is a two-family with a minimum of three (3) to four (4) cars. Putting another house too close would need room for additional cars. There are too many cars overnight parking and lot of additional traffic."
- Mario Lucia (129 Locust Glen Drive) noted he grew up in the existing home and was a previous owner. From 1970 and on, Mr. Lucia had been receiving two tax bills for the subject property. The original title of the house did show two lots.
- Samantha Sousa (9 Colwell St.), as a current resident at the existing residence, noted Mr. Aceto has been very timely in addressing any parking issues.
- Mr. Coupe noted concern for the hardship issue, with the uncertainty of how the two lots were merged.

Discussion ensued in regard to if administrative finality could be waived in the legal case of new evidence being presented. Mr. Marsella noted if evidence were identified, the applicant could withdraw their application and file for an administrative subdivision application.

On behalf of the applicant, Ms. Bellamy requested a continuation of the application to January 7, 2025 in order to retrieve the necessary evidence.

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Upon a motion made by Commissioner Corrao and 2nd by Commissioner Zidelis, the City Plan Commission voted unanimously (8-0) to continue the Unified Development Review application of 9 Colwell Ave. to the January 7, 2025 meeting. Mr. Exter did not participate in the decision.

ZONING BOARD OF REVIEW – PLAN COMMISSION RECOMMENDATIONS

(votes taken)

RGD REALTY, LLC (OWN/APP) has filed an application to expand an existing car wash use, construct three additions encroaching into front and rear setbacks, and to increase signage allowance at 801 Oaklawn Avenue; AP 18, lot 1602; area 23,652 sf; zoned C-2. Applicant seeks relief per Section 17.92.010 – Variances; Sections 17.20.120 Schedule of Intensity; 17.88.030 (A) – Extension.

Robert Murray of Taft & McSally LLP was present on behalf of the applicant.

Planner Technician, Grace Brownell provided the staff memorandum and associated positive recommendation due to findings of consistency with the Comprehensive Plan and the surrounding area. Ms. Brownell further provided recommendation for the Zoning Board of Review to consider a condition in which the non-permitted uses of U-Haul storage and sales be removed from the site.

Commission President Smith invited the Commission to engage in comment:

- Seven Frias inquired if there are other electronic LED signs within the surrounding area.

Mr. Murray presented Christy's Liquors Superstore on Reservoir Ave. as an example.

Mr. Smith noted there are no signs in the direct vicinity of the property which are dimensionally non-conforming to sign code. Further inquired whether the sidewalk along the Oaklawn avenue would be maintained.

Positive confirmation provided by Atty. Robert Murray. Further noted that the use of U-Haul vehicle storage will be removed regardless of the recommended condition. There are three present pylon signs on the site. Two will be refurbished and two are proposed for removal.

Upon motion made by Commissioner Frias, and 2nd by Commissioner Exter, the City Plan Commission voted (8-1) to accept the Staff Recommendation and forward a positive recommendation on this Application to the Zoning Board of Review. Mr. Smith opposed.

THOMAS VESSELLA and ROBERT GASBOARRO JR. (OWN/APP) have applied to the Board for permission to raze an existing single-family dwelling and to construct a two-family structure on an under-sized lot with encroachment into the front corner yard setback at 1573 Cranston Street, AP. 8, Lot 276; area 7,000 sf; zoned B-1. Applicant seeks relief per Section 17.92.010- Variances; Sections 17.20.120 Schedule of Intensity; 17.20.090 (A)- Specific Requirements. Application filed on 11/13/24. Attorney Tenessa Azar, Esq.

Planner Technician, Grace Brownell noted the subject property was subdivided by a Minor Subdivision Plan approved by the City Plan Commission in 2022. Ms. Brownell then presented the staff memorandum and associated positive recommendation due to findings of consistency with the Comprehensive Plan and the surrounding area.

Atty. Tenessa Azar of Moses Ryan Ltd. of 40 Westminster Street Providence, RI 02903, was present in addition to the property owner, Thomas Vessella of 197 James P. Murphy Highway, West Warwick, RI 02893.

Commission President Smith invited the Commission to engage in discussion on the application:

- Steven Frias requested clarification that the variance request is for a property in a B-1 zone. However, the Future Land Use Map designates the as a C-2 zone.

Ms. Azar noted the Comprehensive Plan indeed calls for the zone change to C-2, which complies with the category of Neighborhood Commercial as well as the surrounding area of the property. Hardship can be

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identified by 1) the unique configuration of the corner lot and the amended State Laws regarding substandard lots of record.

- Kathleen Lanphear requested clarification as to what was previously approved during the 2022 subdivision application approval. Inquired whether the one larger lot before subdivision would have been able to accomplish the current proposal, if it had not been subdivided.

Ms. Azar stated two conforming lots were created through the subdivision of an existing lot and vacant space. A new structure was built on the vacant lot and the applicant is looking to construct a two-family structure on the existing lot. It could not be accomplished within the current B-1 designation but could be within the Future Land Use Map designation of C-2 zoning.

Upon motion made by Commissioner Coupe, and 2nd by Commissioner Barberi, the City Plan Commission voted (8-1) to accept the Staff Recommendation and forward a positive recommendation on this Application to the Zoning Board of Review. Commissioner Lanphear opposed.

ALEXANDER REALTY, LLC (OWN) and BENJAMIN VITI (APP) has filed an application to divide an existing commercial space to create an additional residential unit at 1728 Cranston Street, A.P. 11, lot 3365; area 3,528 sf; zoned C5. Applicant seeks relief per Section 17.92.010- Variances; sections 17.20.030- Schedule of Uses; 17.88.030- Extension; 17.20.090 (B)- Specific Requirements; 17.64.010- Off-Street Parking. Application filed on 11/15/24. Attorney Marc B. Gertsacov, Esq.

Asst. Planning Director, Beth Ashman noted the proposal is to convert half of the first floor of the existing commercial building to a residential use. The building has an approved residential apartment on the second floor. The request for the use variance is to create a new residential unit on the first floor. The requests are broken into:

1. Use variance to allow mixed use commercial with 1 residential unit allowed on the first floor along with commercial use.
2. Dimensional variance for parking to allow this mixed-use building to operate with a total of two (2) off-street parking spaces where two (2) would be required for each of the two (2) residential units.

Ms. Ashman further presented the staff memorandum and associated positive recommendation due to findings of consistency with the Comprehensive Plan and surrounding area of the subject property:

Commission President Smith invited the Commission to engage in discussion on the application:

- Mr. Frias stated he was not in support of the application due to insufficient parking, inconsistency with the Comprehensive Plan.
- Ms. Kathleen noted to agree with Commissioner Frias. Due to issues with enforcement, it is preferred for the applicant to present adequate parking plans prior to approval.

Due to the findings of inadequate parking and inconsistency with the Comprehensive Plan; upon a motion made by Mr. Frias, and 2nd by Commissioner Lanphear, the City Plan Commission voted unanimously (9-0) to deny the Staff Recommendation and forward a Negative Recommendation on this Application to the Zoning Board of Review.

WORKSHOP Zoning Ordinance and Subdivision Regulations

(no vote taken)

Discussion of amendments to the City of Cranston Subdivision & Land Development Regulations **(Cont. from 11/12/24)**

Mr. Pezzullo noted the three discretionary proposed changes are the maximum length of a dead-end road, the mailing method in which notices are sent, and the abutter radius for notification. In regard to abutter notification, it was proposed for the subdivision radius buffer to go from 100' to 200', which is consistent with the Development Plan Review process. For dimensional variances, it is proposed to go

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from the current standard of 400' to 200', with the use variance radius to remain at 400'.

City Solicitor, Steven Marsella stated use, and dimensional variances should not have different abutter radiuses, as they are both variances under the same statute.

- Steven Frias noted that dimensional variances can include lot coverage and is not in support of reducing those variances to 200'. He did express support for requiring first class mail with certificate of mailing as opposed to certified mail.

Ms. Ashman noted in regard to the City's existing dead-end-streets, 33% are under 400', 23% are up to 650', 11% are up to 900', 8% are up to 1,400' and 1,600', and 17% are over 1,600'.

- Steven Frias requested clarification that the provision in question is not in the ordinance but the Subdivision and Land Development Regulations. He further inquired as to the current practice for granting waivers for dead-end-streets. He noted if the intent is to create a standard that is consistent with the majority of existing cul-de-sacs, he is in favor of enforcing up to 650' or up to 900'.

Ms. Ashman provided positive confirmation. Mr. Pezzullo noted current practice is the City Plan Commission grants waivers for all subdivisions aside for administrative subdivisions in which the administrative officer would be grant said waiver.

Conversation ensued about the potential of removing the standard all together:

- Robert Coupe noted to be in support of not providing a standard. Forcing a developer to connect two streets may go against the wishes of the individuals who live there.
- Mr. Frias noted prior to considering the removal of such provision, the Fire Department and Police Department should provide comment.

2024 REGULAR CITY PLAN COMMISSION CALENDAR

(vote taken)

Upon a motion made by Commissioner Frias and 2nd by Commissioner Coupe, The City Plan Commission voted unanimously (9-0) to approve the 2025 Annual City Plan Commission schedule.

ADJOURNMENT

(vote taken)

Upon a motion made by Commissioner Coupe and 2nd by Commissioner Corrao, the City Plan Commission voted unanimously (9-0) to adjourn at 10:02 p.m.

Next Meeting | January 7, 2025 @ 6:30 p.m. – **Regular Meeting**
City Hall – 3rd Floor, Council Chamber – 869 Park Ave.

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