

**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 7:00 P.M., on Wednesday, 6 August 2014, in the City Council Chambers, East Providence City Hall.

The following members were present:

Eugene Saveory – Chairman - ABSENT

Michael Beauparlant – Vice-Chairman

John Braga - ABSENT

Pier-Mari Toledo

Antonio H. Cunha

Richard Croke, Sr. – 1st Alternate

Gary Pascoa – 2nd Alternate

Edward Pimentel – Zoning Officer / Clerk

Robert Craven – Assistant City Solicitor

Voce-Chairman Beauparlant informs the public that he will be the seated chairman for tonight's meeting due to the absence of Chairman Saveory.

Chairman Beauparlant then 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 Beauparlant 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 Beauparlant asks Assistant City Solicitor Craven to swear in the Zoning Officer, Mr. Pimentel.

II. SEATING OF ALTERNATE MEMBERS

Chairman Beuparlant informs the public that due to Chairman Saveory's absence, Mr. Croke, 1st Alternate, will be both a participating as well as voting member on all of tonight's agenda items.

Chairman Beuparlant then informs the public that due to Mr. Braga's absence, Mr. Pascoa, 2nd Alternate, will likewise be both a participating as well as voting member on all of tonight's agenda items.

III. APPROVAL OF ZONING BOARD MINUTES

Zoning Officer suggests that due to the absences of both Chairman Saveory and Mr. Braga, the 6 June 2014, Minutes, be continued to the next regularly scheduled hearing for approval. The Board concurs.

IV. ZONING OFFICER'S REPORT

Chairman Beuparlant announces that there is no report this month.

V. CORRESPONDENCE / DISCUSSION

Chairman Beauparlant announces that there are neither correspondence nor discussion items to be discussed this month.

VI. STAFF REPORTS

A. Planning Department Staff Report – Previously Submitted.

B. Fire Department Comments – Previously Submitted.

C. Complaint List – August 2014

Zoning Officer informs both the Board and public that the referenced documents were previously submitted during the June hearing, however due to the lateness of the hour, all new agenda items were automatically continued to tonight's meeting. They have therefore already been rendered part of the official record.

Zoning Officer then informs the public that the New Agenda item, namely 199 Taunton Avenue, has been automatically continued to the September hearing, due to inability to complete the Development Plan Review process. Law mandates that this be completed prior to pursuing any necessary zoning relief. This leads to another issue, and that is scheduling the next hearing. The date was initially set for 3 September 2014, however the City Council Chambers are

encumbered, and there are no other available spaces. He recommends the 10th of September.

The Board discusses the matter and concurs, rendering a motion to reschedule the hearing to the 10th of September, 2014.

Zoning Officer informs the public that if there is anyone with an interest in the 199 Taunton Avenue petition, it has now been automatically continued to 10 September 2014.

VII. CONTINUED BUSINESS

1. **Petition No. 6549: Frank P. and Anthony P. Rochelle, and Robert S. Patalano, seek Dimensional Relief, to permit construction of a single-family residence, necessitating several dimensional variances as described below, for property located at the intersection Pawtucket Avenue and Bridgham Street, being Map 504, Block 07, Merged Parcel(s) 003.00 and 003.10, and located within a Residential 3 District.**

A. Dimensional Variance, to permit the stated construction, resulting in fencing that exceeds the maximum height limit in regard to a corner-lot pursuant to Section 19-143 – Eighteen (18) inch height variance, resulting in fencing that is approximately forty-eight (48) inches in overall height along the front – fronting Pawtucket Avenue.

B. Dimensional Variance, to permit the stated construction, without complying with the minimum front-yard setback requirement pursuant to Section 19-145 – Seven (7) foot variance, resulting in the referenced dwelling being situated approximately thirteen (13) feet off of the front (southerly) property boundary – fronting Bridgham Street.

C. Dimensional Variance, to permit the stated construction, without complying with the minimum side-yard setback requirement pursuant to Section 19-145 – Four (4) foot variance, resulting in the referenced dwelling being situated approximately eleven (11) feet off of the side (northerly) property boundary.

Attorney Joshua Slepko, with law offices at 1481 Wampanoag Trail, East Providence, RI, informs the Board that he represents the subject petitioner.

Attorney Slepko describes the property in question, acknowledging that they are now merged as evidenced by the submitted Certificate of Zoning. The present proposal is to improve said lots, by constructing an individual single-family residence. However, due to the substandard nature of the merged lots, the proposed residence will be unable to comply with the front and side-yard setbacks, as well as excessive fence height – corner-lot. The combined lots have approximately 5,000 square feet of overall land area, whereas the R-3 District mandates 7,500 square feet. The proposed single-story

residence will be approximately 17-feet in overall height, with a total footprint of 1,238 square feet. The applicant could in fact realize full dimensional compliance, however the dimensions would be 15-feet in width by 55-feet in length, realizing a minimal 825 square foot residence. It would be bowling-alley shape in configuration and entirely out of character with the neighborhood. The reason for the narrow building envelope, is due to both the substandard nature of the merged lots and presence of two (2) front-yards. Due to being a corner-lot, and therefore limited privacy, a four-foot high fence is proposed. It will be off-set an appropriate distance, so as to avert any line-of-sight disturbance.

Attorney Slepko then proceeds to address the requisite burdens – noting that they all stem from the substandard nature of the merged lots and presence of two (2) front-yards. Also, the land use sought is permissible, and to mandate either compliance or a reduction will result in an abnormally configured residence that is neither suitable nor in character with the neighborhood.

Chairman Beauparlant queries the Board, beginning with Mr. Pascoa.

Mr. Pascoa notes for the record that he has no objections.

Mr. Croke acknowledges for the record that the property is prior-recorded, and therefore the substandard nature and presence of two (2) front-yards do not result from any prior actions, and directly

contribute to the presence of hardship.

Mr. Croke inquires if the proposed fencing is in-line with the proposed garage? Attorney Sleprow responds in the affirmative.

Mr. Croke concludes his comments by noting that the lot is presently overgrown and utilized for illicit parking purposes. Introduction of a new residence will greatly benefit the neighborhood.

Ms. Toledo notes for the record that she concurs with Mr. Croke's comments.

Attorney Sleprow informs the Board that the submitted Class I Surveyed Site Plan demarcates the constrained building envelope, and what could be compliantly developed – basically bowling-alley in configuration.

Mr. Cunha inquires as to the distance between the neighbor's garage and the client's property boundary? Attorney Sleprow responds that they have situated the proposed residence a proper distance. Mr. Cunha notes that he is concerned about the distance between the proposed six-foot fencing and the garage – should repairs to the garage be required in the future. Zoning Officer informs the Board that the distance is approximately two-feet. Attorney Sleprow notes that a lower fence would still result in the same dilemma. Mr. Cunha disagrees, noting that being sandwiched by a four-foot fence is vastly

different than being sandwiched by a six-foot fence.

Chairman Beauparlant notes for the record that he too finds the proposal quite reasonable. Furthermore, the fencing is situated a reasonable distance away from the intersection point.

Chairman Beauparlant inquires if there is anyone else present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Beauparlant inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Beauparlant queries the Board for a motion.

Motion by Mr. Croke, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. 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. 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 variances 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. That the relief to be granted is the least relief necessary.

Mr. Croke hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted shall amount to more than a mere inconvenience.

Mr. Croke moves that the dimensional variances be Granted subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits.

2. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Beauparlant asks Attorney Slepko, on behalf of his client, 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 Slepko responds that he fully understands and accepts the conditions just stipulated, on behalf of his client.

The motion is Seconded by Ms. Toledo.

Roll Call Vote:

Mr. Croke - Aye Hardship results from the unique characteristics of the

subject property – being both substandard and having two (2) front-yards. It will be the least relief necessary as evidenced by the modest home proposed.

Ms. Toledo - Aye Concurs with Mr. Croke's comments. Also, notes that

the proximity of the fence to the garage is a non-issue – the applicant being in his right to install a six-foot high fence.

Mr. Cunha - Aye Notes that the lots are prior-recorded and there is the

issue of two (2) front-yards.

Mr. Pascoa - Aye Concurs fully with Mr. Croke's comments.

Chairman

Beauparlant - Aye Hardship does result from the prior-recorded merged substandard lots. Would also note that the relief is rather minimal and will not negatively impact the surrounding neighborhood.

Dimensional variances unanimously granted, subject to the aforementioned condition(s).

2. Petition No. 6550: Jose and Maria Soares, seek Dimensional Relief, to permit retention of an addition constructed onto a single-family residence, necessitating several dimensional variances as described below, for property located at 17 Vista Drive, being Map 402, Block 08, Merged 015.00, and located within a Residential 3 District.

A. Dimensional Variance, to permit retention of the stated addition, without complying with the minimum rear-yard setback requirement pursuant to Section 19-145 – Four and three-tenths (4.30) foot variance, resulting in the referenced addition being situated approximately twenty and seven-tenths (20.70) feet off of the rear (southerly) property boundary.

B. Dimensional Variance, to permit retention of the stated addition, resulting in exceeding the maximum building coverage requirement

pursuant to Section 19-145 – Four and one-half (4.50%) percent variance, resulting in the subject property being covered approximately twenty-nine and one-half (29.50%) percent with total structures.

Jose Soares, 17 Vista Drive, East Providence, RI, subject petitioner, is properly sworn in.

Mr. Soares informs the Board that the goal was two-fold: remodel the children's play area, and correct a drainage problem associated with the adjacent bulkhead. The expansion resulted in several dimensional deviations.

Zoning Ordinance explains the relief required, which includes a rear-yard setback deviation and excessive building coverage. The submitted photographs illustrate the size of the addition and the present status – work having been halted due to the issuance of a 'Stop Work' order.

Chairman Beauparlant queries the Board, beginning with Mr. Croke.

Mr. Croke inquires if the construction has already been completed? Mr. Soares responds in the negative, noting that he has already engaged in a vast portion of the work, however there is still some degree of work remaining.

Mr. Croke inquires if any permits were obtained? Mr. Soares responds that he was unaware of the need for a permit, and therefore did not do so. Mr. Croke responds that he was therefore caught by the respective officials. Mr. Soares responds in the affirmative.

Mr. Croke inquires if the addition is solely towards the rear of the property? Mr. Soares responds in the affirmative, noting that a vast portion was already pre-existing. He simply extended a small portion to the side to enclose the bulkhead.

Mr. Croke inquires if the petitioner(s) most encumbered were communicated with? Mr. Soares responds in the affirmative, noting that they indicated that they would be willing to attend should it be necessary.

Ms. Toledo inquires as to the usage and layout of the interior? Mr. Soares responds that it serves as the rear entrance to the residence. When entering, you can either proceed directly forward towards the basement, or turn to your left and enter through another doorway into the children's play area.

Mr. Cunha inquires as to how the City found out about the non-permitted work? Zoning Officer responds that a complaint was issued, and placed on his as well as the Building Official's list. Mr. Cunha notes that clearly someone has an issue with the addition. His only concern is with the directly abutting neighbor who will be most

impacted. Mr. Soares responds that that neighbor was in fact in attendance at the last hearing, however could not make it tonight. Should the Board require his attendance, he can have him return. Mr. Cunha notes that the addition is in place, however the final detail is still required, such as siding, etc. Mr. Soares responds in the affirmative, adding that the interior is also unfinished – sheet rocking, etc.

Mr. Pascoa notes that he has no personal objections.

Chairman Beuparlant inquires as to the size of the addition? Mr. Soares responds that it is approximately nine-feet by 21-feet.

Chairman Beuparlant inquires if there is physical separation between the two (2) uses? Mr. Soares responds that there is a wall between the ply area and entrance to the basement.

Mr. Cunha inquires as to the size of the pre-existing addition? Mr. Soares responds that the existing play area was approximately nine-feet by 14.5-feet.

Chairman Beuparlant inquires if there is anyone else present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Beuparlant inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Beuparlant queries the Board for a

motion.

Motion by Mr. Croke, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. 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. 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 variances 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. That the relief to be granted is the least relief necessary.

Mr. Croke hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted shall amount to more than a mere inconvenience.

Mr. Croke moves that the dimensional variances be Granted subject to the petitioner fulfilling the following conditions:

- 1. Petitioner(s) obtaining any, and all, necessary permits.**
- 2. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.**

Mr. Croke advises the petitioner to seek the necessary permits and approvals prior to, and not after, any future improvements. Mr. Soares apologizes.

Chairman Beauparlant asks Mr. Soares 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. Soares responds that he fully understands and accepts the conditions just stipulated.

The motion is Seconded by Ms. Toledo.

Roll Call Vote:

Mr. Croke - Aye Minor addition. To mandate removal at this point would be inequitable.

Ms. Toledo - Aye The expansion is so minor as to be innocuous.

Mr. Cunha - Aye Notes for the record that the deviation results from a mere seven-foot expansion – quite minor.

the area had already been long encumbered.

Mr. Pascoa - Aye Concurs fully with Mr. Cunha's comments.

Chairman

Beauparlant - Aye Hardship results from the pre-existing placement of the play area and bulkhead – having

long encumbered the rear-yard. The relief sought is so minor, that in his opinion it will not have any adverse impact on the neighborhood.

Dimensional variances unanimously granted, subject to the aforementioned condition(s).

3. Petition No. 6551: City of East Providence and Warren Avenue Realty Corp., seeks a Use Variance, to permit conversion of the former Dover Avenue Public Library on Dover Avenue to a professional 'home healthcare' office operation, otherwise deemed a prohibited land use, for property located at 260 Dover Avenue, being Map 408, Block 02, Parcel 2, and located within a Residential 3

District.

Cynthia J. Quattrucci, 80 North County Street, East Providence, RI, subject petitioner, is properly sworn in.

Attorney Joshua Sleprow, with law offices at 1481 Wampanoag Trail, East Providence, RI, informs the Board that he represents the subject petitioner.

Attorney Sleprow informs the Board the his client is both applicant and perspective property owner, should she be successful in obtaining the requisite zoning relief. He proceeds to describe the property, noting that the seller is the City of East Providence – former public library. The property is presently zoned residential, however it is highly unlikely that it could ever be used for residential purposes given its massing and configuration. A more likely use is non-residential, and given all of the multitude of non-residential land uses within the Ordinance, the proposed use is perhaps the least intrusive, given its very low intensity. He will now have his client provide a brief overview.

Ms. Quattrucci provides the following information in response to questions from legal counsel.

Ms. Quattrucci informs the Board that she has been operating a home health-care agency since November 1998, always operating within the City of East Providence - currently operating from 702 Warren

Avenue, East Providence, RI. Provide both pediatric and elderly home care for the ill and infirmed. Provide care throughout the state, but primarily to East Providence residents. The maximum number of daily employees is five (5), with sixth file clerk that works on a part-time basis. Also the Director of Admissions is typically on the road. The hours of operation are Monday through Thursday from 8:00 AM to 4:00 PM, and till 4:30 PM on Friday. No weekend hours. There is nothing associated with the business that would attract any sort of criminal activity – such as medications of any kind. All services are rendered at the client’s premises. The business does not generate much traffic. On a typical day, the only occupants are the four (4) to (6) employees. On a Monday, some of the off-site employees drop off their time-sheets in an exterior mailbox, perhaps generating an additional 10 to 12 trips throughout the day. On a Friday, some employees come to pick-up their pay checks, although 88% do have direct deposit. This likewise may generate an additional 10 to 12 trips throughout the day. No changes to the exterior, other than a minimal sign, are proposed. The parking area lighting is absolutely perfect. She will leave it up to the neighbors whether they desire the lighting to be maintained during the evening hours, or turned off. It is their discretion.

Chairman Beauparlant queries the Board, beginning with Ms. Toledo.

Ms. Toledo inquires if any interior changes / modifications are proposed? Ms. Quattrucci responds that no changes are required.

Ms. Toledo inquires if any required medications are forwarded directly to the client? Ms. Quattrucci responds that they do not have any connection with a patient's medication. The responsibility is solely with the patient. They are simply there to assist in appointments and other similar matters. Pursuant to the Health Department, they are not involved in handling, dispensing, or even inquiring as to a patient's medications.

Mr. Cunha notes for the record that he will reserve questions till after hearing from the public.

Mr. Pascoa notes that he too would like to hear from the neighbors.

Mr. Croke notes for the record that he is quite familiar with their present location, and concurs that there appears to be little associated activity. Nevertheless, he would prefer to hear from the neighbors prior to rendering an opinion.

Chairman Beuparlant inquires if the maximum number of on-site employees is approximately five (5) to six (6) individuals? Ms. Quattrucci responds in the affirmative.

Chairman Beuparlant inquires about the attendance of her other employees? Ms. Quattrucci responds that some of them only come to the site on either a Monday and/or Friday, and then only for a brief

moment. She would like the Board to know that her son resides within the subject neighborhood, and she would never engage in any activity that would be disturbing.

Chairman Beauparlant inquires about deliveries? Ms. Quattrucci responds that there may be a singular UPS delivery once a month.

Chairman Beauparlant inquires about landscaping? Ms. Quattrucci responds that they will maintain the vast present grassed area.

Attorney Sleprow notes that he believes the client has met her burden in regard to the criteria for the granting of a use variance. The hardship results from the presence of a unique land use, namely a library, amidst a residential neighborhood. This was neither due to her personal actions or primarily a desire to realize financial gain. This will not impair the surrounding character due to its very low intensity. In fact, given the unlikely reuse for residential purposes, this is the least intense non-residential use that could be accommodated.

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

Joan Hanrahan-Miller, 94 Clyde Avenue, East Providence, RI, is

properly sworn in. Ms. Hanrahan-Miller requests permission to speak against the subject petition.

Ms. Hanrahan-Miller informs the Board that she has a signed petition against the subject business. They do not intend to express any animosity towards the perspective business owner, however this has historically been a purely residential neighborhood, and this will result in the spot-zoning – business intrusion into a residential neighborhood. She proceeds to distribute a petition.

Ms. Harahan-Miller continues by noting that there is no present commercial presence, and this will establish a precedence fir future commercial intrusion. It will realize a negative impact on Kent Heights. The home-health care business is a growing industry and there is no way of controlling its future growth were this to be approved. It is quite argumentative that there is no other reasonable use. This City has had municipal property previously converted to residential use. This is a growing trend throughout the United States.

In fact, just recently, the Rumford Library was converted to residential with a restriction that it not be used for commercial purposes in the future. If it was viable there, there is no reason why it could not be realized in Kent Heights as well.

Motion by Ms. Toledo to accept the submitted petition, designated Opponent's Exhibit '1'. The motion is Seconded by Mr. Croke, and Unanimously approved.

Chairman Beauparlant then inquires if there is anyone else present who would like to speak against the subject petition.

Crystal White, 232 Dover Avenue, East Providence, RI, is properly sworn in. Ms. White requests permission to speak against the subject petition.

Ms. White informs the Board that she resides directly next to the subject library property. She has two (2) small children and is concerned about the commercial presence. She purchased her home with full recognition of the presence of a library, which serves a neighborhood. However, would never have purchased, if there were the possibility of commercial intrusion. A commercial business will generate excessive traffic and impact privacy. There is an elementary school nearby, and this is simply an inappropriate land use that will have a deleterious impact on the integrity of the neighborhood.

Chairman Beauparlant then inquires if there is anyone else present who would like to speak against the subject petition.

Diane Wallace, 15 Walmer Avenue, East Providence, RI, is properly sworn in. Ms. Wallace requests permission to speak against the subject petition.

Ms. Wallace informs the Board that she resides just around the

corner from the subject property. Ms. Wallace reads from a prepared statement, noting that she has resided all her life in East Providence, having constructed the house she now resides in. Many of the of the older residents have since moved, and been replaced by younger property owners. There is a lot of foot traffic, much of which is young adults and children. There was little vehicular traffic associated with the library, primarily being pedestrian oriented. The subject neighborhood has always been purely residential, and a commercial operation will change the character. She is also of the opinion that the proposed commercial business will devalue surrounding property values. She is also concerned about the type of business proposed – such as infection control considering the client base that is being served by the referenced business. She finds it difficult to believe that there are only six (6) on-site employees with an occasional visit by off-site employment. There will be a lot more visits, such as those on per diem, which has not been commented on.

Chairman Beauparlant inquires if the applicant has any per diem employees? Ms. Quattrucci responds that they are basically a staffing agency. She has been asked to speak by national organizations on her staff retention success. Greater than 78% has remained with the company since 1998. There is a strict set of regulations that must be met, inclusive of infection control. However, this is all accomplished at the home setting. There are no such activities at the subject premises, because patients are not cared for at the subject site. All employees are given a strict weekly schedule,

and there work is entirely completed off-site.

Chairman Beuparlant inquires if the ten (10) to twelve (12) vehicular trips previously referenced, include all of the applicant's employment base? Ms. Quattrucci responds in the affirmative.

Ms. Wallace inquires of the petitioner has any per diem employees?

Ms. Wallace responds in the negative.

Ms. Wallace inquires about the overall number of off-site employees?

Ms. Quattrucci responds that there are 58-employees, over 88% of which has direct deposit. They are only required to visit the office once a month.

Chairman Beuparlant then inquires if there is anyone else present who would like to speak against the subject petition.

Mary DeMedeiros, 9 Walmer Avenue, East Providence, RI, is properly sworn in. Ms. DeMedeiros requests permission to speak against the subject petition.

Ms. DeMedeiros informs the Board that she shares the same concerns as Ms. Wallace. Do all 58-employees arrive simultaneously to drop off their time sheets? What about expansion / growth of the business? Clearly, her need for greater square footage is to accommodate the present number of employees. She also sells

uniforms, is there going to be a retail component? She then asks the Zoning Officer about the noticing requirements, because was never notified.

Zoning Officer responds that the City of East Providence adopted the State's minimum requirement of 200-feet.

Chairman Beauparlant then inquires if there is anyone else present who would like to speak against the subject petition.

James Miller, 94 Clyde Avenue, East Providence, RI, is properly sworn in. Mr. Miller requests permission to speak against the subject petition.

Mr. Miller informs the Board that he is most concerned about the possible spot-zoning of the property – converting a residential to a commercial use. This will clearly establish a negative precedent in the neighborhood. This has been his first and only home in the City of East Providence, having resided his entire life in the City. His residence is so close, that from his kitchen window he can observe the rear of the library. He has had experience with a similar operation, and once it began to grow by obtaining Medicare payments, he expanded by introducing vans to shuttle clients around.

A commercial use in a residential neighborhood is simply wrong. The area is improved with one of the best Elementary Schools in the City. Most concerning is the manner in which the neighborhood has

become more and more of a cut-through. He constantly observes out-of-state licenses, and they fail to observe any of the traffic devices.

Chairman Beauparlant then inquires if there is anyone else present who would like to speak against the subject petition.

Gerald F. McAvoy, 95 Clyde Avenue, East Providence, RI, is properly sworn in. Mr. McAvoy requests permission to speak against the subject petition.

Mr. McAvoy informs the Board that he resides directly across the street from the subject library. The subject property is centrally situated within two-blocks in either direction of a school and playground. All of the present commercial uses are situated on the outer rim of the neighborhood – there is not a single commercial use within the neighborhood. He can also attest to the fact that there is more than sufficient vacant commercial space throughout the City to accommodate the referenced land use. Approving the subject spot-zoning, will only result in a terrible precedent throughout the City. He also cannot accept that there will only be a maximum of six-employees associated with the business.

Chairman Beauparlant then inquires if there is anyone else present who would like to speak against the subject petition.

John Farley, 81 Greenwich Avenue, East Providence, RI, is properly sworn in. Mr. Farley requests permission to speak against the subject petition.

Mr. Farley informs the Board that he has resided at the corner of Clyde and Greenwich Avenues since 1977, having been a resident since 1953. He states that there are no legal grounds for the Board to grant the request relief. The applicant argues that a residential conversion is highly unlikely, and therefore grounds for approving commercial conversion. This is incorrect. All that is required is to evidence that there are viable uses for the property that are in accordance with the Zoning Regulations. Once again, as has been repeatedly stated, there is no commercial presence within the Kent Heights neighborhood. This Board should hold this applicant to what is permitted under the Ordinance.

Chairman Beauparlant then inquires if there is anyone else present who would like to speak against the subject petition.

Kathy Souza, 53 Kent Avenue, East Providence, RI, is properly sworn in. Ms. Souza requests permission to speak against the subject petition.

Ms. Souza informs the Board that she agrees with everything that has already been stated. She has resided at the subject premises for 30-years. Her residence has direct view of the library. The library

was always part of the neighborhood – children and entire families congregated there. Traffic is already an issue, and this will only contribute to the problem. This is a pedestrian neighborhood, and should be protected. The building is quite large, and she therefore questions the six-employee limit.

Chairman Beauparlant then inquires if there is anyone else present who would like to speak against the subject petition.

Deryl Pace, 35 Greenwich Avenue, East Providence, RI, is properly sworn in. Ms. Pace requests permission to speak against the subject petition.

Ms. Pace informs the Board that she resides diagonally from the Library, and likewise has a direct view. She purchased her residence just over a year ago, and absolutely loves the neighborhood. She too is concerned about traffic. She also agrees that this would result in a negative precedent. Should the applicant be unsuccessful, and decides to rent space, what additional businesses could occupy the subject space.

Chairman Beauparlant then inquires if there is anyone else present who would like to speak against the subject petition. Hearing none, Chairman Beauparlant asks the Board if they have any additional commentary.

Mr. Cunha notes that the reason for reserving his questions was to specifically hear from the neighbors. First of all, the neighbors repeatedly expressed concern about property values. He personally does not believe that that is a concern that the Board can consider. However, he does agree that that there has not been adequate time to determine whether or not the library could be used for a more appropriate use. He believes that it has only been marketed for approximately one-year. He is well aware of the fact that the City has already supported the conversion of another library and fire station to residence. He is not expressly referring to the subject business, but any business appears improper in this neighborhood.

Ms. Toledo concurs with Mr. Cunha's comments, and notes that the role of this Board is to protect the integrity of neighborhoods. She asks for clarification on the retail component. Ms. Quattrucci explains how she is not engaged in any form of retail activity.

Attorney Sleprow notes that the applicant is not engaged in any request to rezone the property. Furthermore, it was the decision of the community to place this property up for sale, and if not this business, someone else will eventually utilize the property. Finally, any future change would necessitate revisiting this Board. Finally, there are a variety of uses that could be introduced as a matter-of-right that in his opinion would be far more intrusive.

Mr. Croke also notes that he has a litany of problems and concerns

about the subject proposal. Should this business have any difficulty in the future, whatever fills the void may be problematic. There has already been much to much intrusion of commercial into various residential neighborhoods.

Mr. Cunha asks the Zoning Officer about the subject business, and were it to be approved and then fail, what other types of businesses could fill the void. Zoning Officer responds that that depends upon how restrictive the Board renders their decision. If they provide a general – open-ended – approval, than it can be argued that any general professional office operation could fill the void. However, they could limit it to specifically the subject business, and then place even more restrictions limiting how said business may operate. Mr. Cunha responds that he is now confused, because he was always under the impression that an approval ran in perpetuity with the property. Zoning Officer responds that that is correct. Any approval is forever, unless superseded by a subsequent approval. However, it is the nature of the approval that runs in perpetuity that may be controlled by the Board. However, it must be clearly detailed and all controlling elements expressed as specific conditions of approval. Attorney Sleprow notes that his client would be willing to accept that only her business and the manner in which she testified as to how it operates be conditioned on any decision. This would assure both Board and neighbors that there would be no resulting impact from either her business, or some unwanted conversion in the future.

Chairman Beauparlant queries the Board for a motion.

Motion by Ms. Toledo, 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 neighborhood and surrounding land uses.**
- 2. That the use will not create a nuisance in the subject neighborhood.**
- 3. That the use will not hinder the future development of the City.**
- 4. That the use does conform to applicable section(s) of the use requested.**

Ms. Toledo hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

- 5. That the applicant would be deprived of all beneficial use of the subject property if the petitioner is required to comply with the Ordinance.**

Chairman Beauparlant asks Attorney Slepko, on behalf of his client,

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 Sleprow, on behalf of his client, responds that he fully understands and accepts the conditions just stipulated.

The motion is Seconded by both Mr. Cunha.

Roll Call Vote:

Ms. Toledo - Nay Not compatible with neighborhood and would result in a

neighborhood nuisance. The neighborhood is entirely residential and should remain as such.

Mr. Cunha - Nay This is spot-zoning. It is an inappropriate use of the subject property. Should remain residential.

Mr. Pascoa - Nay Concurs with fellow Board members.

Mr. Croke - Nay It is an inappropriate use of the property. Also, does not believe that all permissible uses have been exhausted – library could be razed and residential lots introduced.

Mr. Beauparlant - Nay Not entirely convinced that the subject commercial use

would be inappropriate. Also, the use could be very well

controlled by specified conditions of approval.

However, likewise sympathetic to the neighbor's concerns

Motion to approve fails to garner even a single affirmative vote, and is therefore denied.

IX. PROCEDURES

Chairman Beuparlant announces that there are no procedures to be discussed.

X. ANNOUNCEMENTS

Chairman Beuparlant announces that the next meeting of the Zoning Board of Review is scheduled for Wednesday, 10 September 2014, at 7:00 PM, in the City of East Providence Council Chambers, City Hall, East Providence, RI.

XI. ADJOURNMENT

Motion to adjourn by Mr. Cunha. The motion is Seconded by Ms. Toledo and Unanimously voted to adjourn. Meeting is adjourned at 10:30 P.M.

Edward Pimentel, AICP

Zoning Officer / Clerk

Secretary