

Affordable housing proposal challenged by Pemberton Avenue abutters

By Sam Bari

A two-lot subdivision, proposed by John Lawless for his property at 14 Pemberton Ave., was challenged by abutters during a public hearing at the Dec. 3 Planning Commission meeting. The proposal was continued from the Nov. 19 meeting because there are several challenges to the subdivision plan—including concern from members of the planning board.

Lawless first presented the proposal to the Affordable Housing Committee on Oct. 8, where it was unanimously approved.

The proposal involves subdividing a 26,405 square foot property into two lots. The existing two-bedroom house will remain as an affordable housing unit on one lot, while a new, single-family dwelling will be built on the other.

Town Planner Lisa Bryer said that she was satisfied with the proposal and issued a certificate of completion on Oct. 31. Bryer said the proposal was technically complete.

Lawless was represented by Jamestown Attorney John Murphy, who explained to the commissioners and the audience that the Rhode Island General Assembly streamlined the affordable housing process when they determined that the need for affordable housing outweighed zoning considerations in some instances. He said that the assembly offered Article 17 to cities and towns to be adopted in zoning ordinances to give the towns the authority to fulfill state mandated affordable housing obligations.

The Rhode Island Supreme Court has upheld the decisions of town planning commissions to grant affordable housing permits when the permits have been challenged, Murphy said. He cited a case similar to the Lawless proposal that recently occurred in Narragansett where the authority of the Planning Commission was challenged by abutting property owners.

At the Nov. 19 meeting, abutting neighbor David Betzer challenged Lawless' proposal with a concern about drainage onto his property.

Lawless, a registered professional engineer since 1993, acted as his own expert witness and responded with a Nov. 18 report from Town Engineer Michael Gray that concurred with Lawless' proposal to address the drainage issues that were of concern to Betzer. Gray's analysis concluded that the Lawless property did not affect the drainage patterns to the immediate area in question and the property did not drain onto adjacent lots. Gray said that drainage was not an issue.

Betzer spoke again during the public comment portion of the Dec. 3 hearing and said, "John Murphy made an eloquent speech and said that you (the commissioners) have no reason to deny Mr. Lawless' request. However, John Murphy is not the decision maker. You are." Betzer reminded the commissioners that it was their decision to approve or deny the application, and said that they must remember that "we don't want it."

Later in the hearing, Betzer's wife, Ellen, addressed the commissioners and questioned why the abutting neighbors' needs were not taken into consideration. "We bought these half acre lots so we would have open space and nice views," Betzer said. She then named all of the neighbors who had their properties for years and said that they didn't want the density increased and strongly opposed the proposal.

Mary Ann Oldewurtle, another neighbor, asked if the affordable housing unit was going to be subject to the same standards as she was, when the zoning board attached conditions to approving her request for variance.

Planning Commission Chairman Gary Girard said that the commission was following the guidelines of the state-mandated affordable housing regulations,

which superseded the Town Comprehensive Plan and current zoning ordinances.

Commissioner Richard Ventrone challenged the proposal saying that he felt uncomfortable approving anything when he had not seen finished plans for the new construction that was planned for the property. "I think we have the right to know if the design is consistent with the neighborhood," Ventrone said.

Commissioner Nancy Bennett said that she wanted to know if the design was consistent with the house that was remaining on the property to be used for affordable housing.

The commissioners also discussed their authority to dictate construction materials, buffers, and other design elements.

The commissioners questioned the possibility of environmental impact on the neighborhood as well as the possibility of density problems because the area is zoned CL, commercial limited. Girard pointed out that owners of any of the half-acre lots in the CL zone could petition for a duplex or a two-family lot. He said that any lot like Lawless' property is eligible for subdivision.

Girard instructed commissioner Michael Swistak to write two motions that address all the concerns of the commissioners and the abutters that would be presented and discussed at the next Planning Commission meeting on Wednesday, Dec. 17. Girard said that one motion would be for approval and the other for a motion to deny.

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