

City of Woonsocket, Rhode Island
Planning Board Meeting
Tuesday, February 5, 2019 @ 6:00 P.M.
Harris Hall, 169 Main Street
Woonsocket, RI 02895

Present: Kenneth A. Finlay, Chairman
Roji Eappen, Member
Jonathan R. Pratt, P.E., Member Ex-Officio

Excused: Stephen R. Crisafulli, Secretary
Steven Lima, Vice-Chairman

Also Present: Ian McElwee, City Planner/Administrative Officer
Pauline Washington, Recording Secretary

I. Call to Order

Chairman Finlay called the meeting to order at 6:00 P.M.

II. Attendance Review

Attendance was taken by Chairman Finlay that identified the above members as present.

III. Approval/Correction of Minutes

- Meeting of Tuesday, January 8, 2019 - MOTION by Mr. Pratt, seconded by Mr. Eappen to APPROVE the January 8, 2019 minutes as submitted. The MOTION carried.

IV. a. **2019-CP-02** - In Amendment of the Code of Ordinances, City of Woonsocket, Rhode Island, Appendix C, Entitled "Zoning" Section 4.5

Chairman Finlay stated that the board is in receipt of a request for advice and recommendation from the City Council pertaining to 19-90-5 - In Amendment of the Code of Ordinances of the City of Woonsocket, RI, Appendix C, Entitled "Zoning" Section 4.5.

Chairman Finlay opened the meeting to public comment.

MOTION by Mr. Pratt, seconded by Mr. Eappen to open the meeting to public comment regarding the above-mentioned zoning amendment. The MOTION carried.

- *Allen Leclaire, Chairman, Woonsocket Zoning Board, 36 Trent Street.* Mr. Leclair stated that it's his opinion that the proposed Amendment adds another layer of unnecessary red tape that our constituents will have to deal with. Mr. Leclaire stated that in his opinion this is a "knee jerk" reaction on the Council's behalf concerning other issues facing the City at this time. He stated that the public doesn't need a second layer of unnecessary enforcement concerning the rightful use of their land. Mr. Leclaire respectfully requested that the board vote against the proposed Ordinance, as it's not in the City's best interest, and is unnecessary.

Carl Johnson, Zoning Official, City of Woonsocket. Mr. Johnson stated that he submitted a letter in opposition to the proposed Ordinance to the Planning Board. He stated that he would briefly summarize his objections outlined in his letter. First, Mr. Johnson stated that WHEREAS #2 of *Ordinance 19 0 5* states “*there are several categories of Municipal, State and Federal Uses that are permitted and can take effect without notification or a resolution of support by the Woonsocket Council.*” Mr. Johnson stated that currently there are almost 100 Uses listed in the zoning ordinance; only three of the almost 100 Uses require City Council approval and two of those are in conjunction with the granting of a Special Use Permit. The three Uses requiring Council approval are specifically defined in the Ordinance. Municipal, State and Federal Uses are not defined in the zoning ordinance so its not clear which Uses this ordinance would require Council approval. Mr. Johnson quoted Judge Taft-Carter in the bench decision of January 17, 2019 regarding the City of Woonsocket vs. RISE Prep Mayoral Academy et al “*the Supreme Court has recognized that the words “public or municipal purposes” standing alone are not susceptible of any precise and neat definition but in each case they must be considered in the context in which they are used.*” Mr. Johnson stated that with no definition in the zoning ordinance regarding this Use there’s really no process that this ordinance, if passed, would give his office or the Zoning Board of Review a means to appeal to the City Council. Mr. Johnson stated that currently Municipal and Federal Uses across the board are permitted by right, the Use would not go to the zoning board because the Use is permitted by right. But, under the proposed ordinance the Use would undergo review by his office and the City Council. He stated that the review by the Council adds an extra layer of regulatory review which is not consistent with the City’s Comprehensive Plan.

Mr. Johnson stated that WHEREAS #3 of the Ordinance states “*the City Council of the City of Woonsocket desires to be informed, can discuss, and participate in the decision to allow any desired Municipal, State, or Federal public use by expanding the requirement for city Council approval by resolution to all classifications.*” Again, Mr. Johnson stated that if approved, this Ordinance would add another approval step for an allowed Use that unfairly inhibits property owners from using this property legally and within the regulations set forth in the zoning ordinance. And, as previously stated, would be inconsistent with the City’s Comprehensive Plan.

Mr. Johnson stated that the zoning ordinance currently allows Municipal Uses and Federal Uses by right in all zoning districts except PR-1 and PR-2; in other words, the property owner would need to seek City Council approval for a permitted use. He stated that most of the property in PR-1 and PR-2 is owned by the Municipality or State, input from the City Council would be required.

Mr. Johnson stated that RIGL § 45-24-54, which is part of the Zoning Enabling Act states “*A zoning ordinance adopted pursuant to this chapter must provide for the administration and enforcement of its provisions pursuant to this chapter. The zoning ordinance must designate the local official or agency and specify minimum qualifications for the person or persons charged with its administration and enforcement, including: (1) the issuing of any required permits or certificates; (2) collection of required fees; (3) keeping of records showing the compliance of uses of land; (4) **authorizing commencement of uses or development under the provisions of the zoning ordinance**; (5) inspection of suspected violations; (6) issuance of violation notices with required correction action; (7) collection of fines for violations; and (8) performing any other duties and taking any actions that may be assigned in the ordinance.* Mr.

Johnson called the board's attention to **#4 authorizing commencement of uses or development under the provisions of the zoning ordinance.** Mr. Johnson stated that basically RIGL § 45-24-54 is saying that, by ordinance, there should be one person that makes decision on whether a use is allowed or send it to the Zoning Board of Review. He stated that the City Council sits as the legislative branch of city government, they should not be involved in the Zoning Board, which is a quasi-judicial board.

Acknowledging that no other member of the public wished to speak before the board; MOTION by Mr. Pratt, seconded by Mr. Eappen to close the public hearing. The MOTION carried.

Mr. Pratt stated that he's in agreement with Mr. McElwee's findings; he asked what are the three uses requiring council approval. Mr. McElwee stated that two of the three uses are in conjunction with the Special Use Permit; those three uses are specifically defined in the Zoning Ordinance. Mr. McElwee stated that the three uses referred to are: (1) the work units that require approval by resolution by the City Council identifying a specific property or structure that may be designated as permitting work unit subject to approval by the Planning Board (applies only to R-4 zones). (2) Compassion Centers either for cultivating, processing, sales or distribution; and (3) structures for the generation and transformation of electricity, gas, water or communications. Mr. McElwee stated that all of these uses require a Special Use Permit in all zones, and Council approval in PR-1 and PR-2. Mr. McElwee stated that Uses that require Council approval are specific Uses in specific zones, not blanket use across the entire state.

Mr. Finlay stated that he cannot support the proposed ordinance as it would add an unnecessary regulatory later to the city's permitting process, possibly causing delays and hardship to potential projects. He also stated that the proposed ordinance is not consistent with the City's Comprehensive Plan.

MOTION by Mr. Pratt, seconded by Mr. Eappen to read the Findings of Fact.

Mr. Finlay read the findings of fact, as follows:

That the subject matter was received by the Woonsocket City Council at their regular meeting on Tuesday, January 8, 2019, where it was received placed on file, ordered advertised in accordance with R.I.G.L. 45-24-53, referred to the Woonsocket Planning Board and the Associate Director of the Rhode Island Department of Administration; all of which was accomplished.

The Woonsocket Planning Board received an explanation of the purpose and effect of the proposed ordinance titled above from the City Planner/Administrative Officer and the staff of the Department of Planning & Development at their regularly scheduled meeting of Tuesday, February 5, 2019.

That the City Planner/Administrative Officer and staff of the Department of Planning & Development briefed the Planning Board of the aforementioned meeting on the compliance and consistency of the titled matter with the provisions of the Woonsocket Comprehensive Plan 2012 and the "general purposes of zoning ordinances" as outlined in R.I.G.L. 45-24-30 and

§§1.2 & 1.3 of the Zoning Ordinance of the City of Woonsocket as enacted December 19, 1994 and amended to November 17, 2017 as follows:

(3) *Providing for orderly growth and development that recognizes:*

(i) *The goals and patterns of land use contained in the comprehensive plan of the city or town adopted pursuant to chapter 22.2 of this title;*

The Planning Board is not satisfied that the proposed amendment is consistent with the goals and patterns of land use contained in the Woonsocket Comprehensive Plan 2012 as recommended by the Planning Board on February 1, 2012, enacted by the Woonsocket City Council on April 4, 2012, and approved by the Director of the Rhode Island Department of Administration on April 24, 2012. The Planning Board does not believe that the proposed Amendment promulgates the enactment of such legislation as consistent with the goals and objectives of the plan by providing governance of such uses in a reasoned and responsible manner. The proposed amendment will neither *“allow for flexible development development by increasing options available to property owners”* nor *“effectively implement the Goals of the City while protecting the rights of the individual”* as stated in Goals LU-1 and LU-5, respectively, by providing an additional barrier to full zoning approval. The property owners, being the City, the State of Rhode Island, or the federal government, should have full authority to place a public or semi-public use where they feel is appropriate and with the assistance of the comprehensive plan and qualified members of the city’s administration. The approval of city council for all local, state, and federal use within passive and active public recreation zones complies with goal LU-5 of the comprehensive plan which aims *“to protect Woonsocket few remaining natural areas and preserve and enhance the physical remains and sites associated with its cultural heritage.”*

(vi) *The availability and capacity of existing and planned public and/or private services and facilities.*

The Planning Board believes that this proposed amendment could detain future planned public services by restricting the availability of the city to place and open public services in areas throughout the city underserved by the particular use.

(vii) *The use of innovative development regulations and techniques*

The Planning Board acknowledges that approval by the city council to allow specific uses in certain land use zones exists in the Woonsocket Zoning Ordinance; however, no use is currently subject to approval by city council in all zones and they do not believe that the city council should remove the complete authority of the zoning Board of Review for three uses.

(14) *Providing for efficient review of development proposals, to clarify and expedite the zoning approval process.*

The Planning Board is not convinced that the proposed ordinance in requiring all municipal, state, and federal uses to be approved by the city council will be efficient, clarify, or expedite the zoning approval process. Adding an additional step to gaining full zoning approval to these

three uses in all zones has the potential to delay and/or create certain projects which will be beneficial to the city and its residents.

(15) *Providing for procedures for the administration of the zoning ordinance, including, but not limited to, variance, special use permits, and, where adopted, procedures for modifications.*

The Planning Board is satisfied that the proposed amendment establishes a reasoned and responsible series of procedures under the provisions of the Zoning Ordinance to provide for community-wide input into the regulatory process. The Planning Board is not satisfied, however,

That the proposed amendment continues to allow for the city, state, and federal governments to put forth projects within the City of Woonsocket without undue regulatory procedures.

- That the Woonsocket Planning Board agrees with the recommendations of the City Planner/Administrative Officer and the staff of the Department of Planning & Development in these conclusions.
- That one remonstrant appeared before the Woonsocket Planning Board to address the titled matter.
- That there are questions raised about the proposed ordinance and its compliance with state statutes for which the Woonsocket Comprehensive Plan, Zoning Ordinance, and Subdivision Regulations must be in adherence to. Legal review must be secured to confirm whether the proposed ordinance adheres to these statutes.

MOTION made by Mr.Pratt, seconded by Mr. Eappen that in accordance with the procedures for Amendments to the Zoning Ordinance of the City of Woonsocket, Rhode Island, the Woonsocket Planning Board hereby finds the proposed Amendment entitled "*In Amendment of the Code of Ordinances of the City of Woonsocket, RI, Appendix C, Entitled "Zoning" Various Technical Changes is not* consistent with Woonsocket Comprehensive Plan Amendment 2012 and the General Purposes of Zoning Ordinance as contained in R.I.G.L. 45-24-30.

VOTE ON MOTION:

Member Eappen
Mr. Pratt
Chairman Finlay

CERTIFICATION

This is to certify that the above statement of Findings of Facts & Decision reflects the action of the Woonsocket Planning Board at their regularly scheduled meeting of February 5, 2019, a quorum being present throughout, in accordance with R.I.G. L. §45-24-52 and §17.2 of the Zoning Ordinance of the City of Woonsocket, Rhode Island, As Amended. This is true and

accurate recording of such action and is intended to be a part of the official record of the Woonsocket Planning Board.

Certified:

Kenneth Finlay, Chairman
Woonsocket Planning Board

Ian McElwee, City Planner
Administrative Officer

Date: February 5, 2019

b. **2019-CP-03** - Request for a Perimeter Buffer Exemption at 0 Gauthier Drive, Woonsocket Assessor's Plat 33, Lot 25

The applicants Jim & Cheryl Brien were not in attendance; Chairman Finlay recommended that the application be TABLED until the March board meeting due to several questions they have.

MOTION by Mr. Pratt, seconded by Mr. Eappen to TABLE **2019 CP-03** until the March 5, 2019 board meeting. The MOTION carried.

c. **2019-CP-04** - Introduction to the Planning Board of Proposed Woonsocket Subdivision & Land Development Regulation changes

Mr. McElwee stated that this is his official communication to the board that he has gone through all the subdivision regulations and updated them, and also reduced the amount of paper required for the plans; i.e, an Administrative Subdivision can be submitted electronically, usually from the surveyor. Mr. McElwee stated that he has updated within the improvement guarantees of major subdivisions anywhere where public improvements are being done. He deleted the 2% requirement of the total amount or the original performance bond for all required improvements. Mr. McElwee stated that he will be looking at the design specs for roads, how wide they have to be, curb radius, block lengths, etc. He stated that he will be working with the Engineering Division to make sure that all these types of design specs are up to date; look at up to date specs from the state that we need to take into consideration. Mr. McElwee stated that the goal is to clean up and streamline the regulations, make it a more orderly process. Mr. McElwee stated that he will present the completed changes for the board's review at the March board meeting.

V. Administrative Officer's Report

Mr. McElwee informed the board that Joel Mathews, Planning Director resigned, effective February 8, 2019; the Interim Planning Director is Scott Gibbs. Mr. McElwee stated that he will keep the board informed as conversations evolve regarding a replacement for Mr. Mathews.

Chairman Finlay informed the board that the Planning Board is charged with interviewing candidates for this position, which might entail working on a weekend, depending on the number of candidates; something to consider.

Mr. McElwee stated that he has received requests for the Capital Improvement Plan from the Fire Department, Police Department, and Public Works Department; waiting to hear from the Finance Department and Planning Department. He will be reviewing all requests and hopefully submit the CIP to the board no later than April. The Plan must be approved by the city council by May in order to go in the city budget.

Mr. McElwee stated that he's also working on the update to the City's Comprehensive Plan; he has meet with Carl Johnson and Liz Kerrigan (Parks Superintendent) to discuss items that should be removed or included in the Plan. Mr. McElwee stated that he believes the Plan should concentrate on maintaining things that we have in the city, improve on that. We don't need more parks, we need to improve and adequately fund the parks we have. We also need to work on improving the gateway areas into the city.

VI. Next Meeting

 Scheduled for Tuesday, March 5, 2019 at 6:00 P.M.

Adjournment

MOTION by Member Pratt, seconded by Member Eappen to adjourn; the MOTION carried, the meeting adjourned at 7:20 P.M.

Respectfully submitted,

Pauline Washington
Recording Secretary