



**SOUTH KINGSTOWN PLANNING DEPARTMENT
PROJECT REVIEW MEMO**

William H. Baker Homestead

**Major Subdivision/Comprehensive Permit
Change to a Previously Approved Plan**

February 15, 2024

Project Type:	Major Subdivision/Comprehensive Permit		
Review Stage:	Change to a Previously Approved Plan		
Address:	10A Oak Dell Street		
Plat:	48-3	Lot:	111
Parcel Size:	9,981.9 square feet	Zoning District:	R10
Applicant:	Christopher R. DePaola 135 North Road Peace Dale, Rhode Island 02879	Owner:	Christopher R. DePaola & Lindsay Crowninshield 135 North Road Peace Dale, Rhode Island 02879

Application Summary

The subject property is a currently developed parcel approximately 9,982 square feet in size and supports an existing 2-family dwelling and a detached garage located on the rear portion of the parcel and located in an R-10 Zoning District. The parcel is located on the corner of High Street and Oak Dell Street and surrounding properties are predominantly comprised of residential dwellings.

In November of 2023, the Planning Board approved the Combined Conceptual Master & Preliminary Plan application to subdivide the existing parcel into two (2) lots and demolish the existing 803 square foot garage to construct a 780 square foot 2-bedroom single-family dwelling with an 8' x 14' porch and an 8' x 12' deck. The new parcel and dwelling will be serviced by town water and municipal sewer.

As proposed, the applicant proposed to deed-restrict the new structure for low- to moderate-income occupancy. That request was approved with a number of conditions, including:

3. Approval is based upon the provision of 25% or one (1) subsidized housing unit available for LMI residents. The LMI dwelling unit will be sold to households earning a maximum of 100% of the Area Median Income (AMI) and be deed restricted for a period of thirty (30) years.

The applicant is requesting that this condition be modified to allow for the sale of the property to households earning a maximum AMI of 120%. Within the application the applicant indicates that *...while this is a small project, there are still significant costs involved and we feel we need the added flexibility afforded by the increased AMI percentage to successfully complete this affordable housing project.*

The applicant is also requesting a waiver (*relief*) from the following condition:

9. All utilities (*i.e.*, electric, telephone and cable services) shall be installed underground.

The applicant indicates that this condition *imposes an undue financial hardship on the project, is not in keeping with the surrounding properties as there are existing telephone poles as well as an overhead line to the present garage.*

Regulatory Considerations

This project was previously submitted and approved as a Comprehensive Permit application. RIGL § 45-53-4 allows applicants proposing at least 25% of the housing as low- or moderate-income housing to submit a single application to the review board (for South Kingstown, this is the Planning Board), in lieu of separate applications to the applicable Boards. The procedure for application and review, and the required findings, are outlined in RIGL § 45-53-4. The Planning Board is required to hold a public hearing for Comprehensive Permit applications, including when there are Changes to a Previously Approved Plan.

The Planning Board has the authority to issue permits or approvals that any local board or official who would otherwise act with respect to the application, including but not limited to, the power to attach conditions and requirements with respect to height, site plan, size or shape, or building materials.

Waivers Previously Requested and Approved

The applicant has requested and received approval for following waivers associated with this application:

Zoning Ordinance (Section 401) – Dimensional, Minimum Lot Size and Density, R10 Zone

- *The Application is requesting to create a substandard New Lot “B” with an area of 4,048.Sq.Ft. with one primary structure with (1) Unit in an R-10 Zone & thereby creating an additional substandard Lot “A” with (2) Units in (1) Primary Structure. The remaining land area proposed for Lot “A” = 5,936.Sq.Ft. Therefore a waiver of required Lot Area of 9,064.Sq.Ft. request for Lot A & Area of 5,953.Sq.Ft. for Lot “B” from the following above Sec. 401. Where a Total Lot Area of 25,000.Sq.Ft. would be required for (3) Units.*

Zoning Ordinance (Section 401) – Dimensional, Setbacks, R10 Zone

- The Application is requesting a **waiver of 12.0 feet** from the required 20 foot corner side setback to maintain a 8.0’ foot setback to the northerly property-line.

Additional Waivers Being Requested

The applicant is requesting the following waiver associated with this application:

Subdivision & Land Development Regulations, Article XIII(E)(4) (Design and Public Improvement Standards: Utilities) - Communication Lines (Electric, Telephone, and Cable TV)

- *The Applicant is requesting a waiver from this section of the regulations to allow for the installation of utilities above ground in lieu of below ground.*

Required Findings for Approval/Denial

Per [RIGL § 45-53-4](#):

In approving a Comprehensive Permit application, the Board shall make positive findings, supported by legally competent evidence on the record which discloses the nature and character of the observations upon which the fact finders acted, on each of the following standard provisions:

- (A) The proposed development is consistent with local needs as identified in the local comprehensive community plan with particular emphasis on the community’s affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies;
- (B) The proposed development is in compliance with the standards and provisions of the municipality’s zoning ordinance and subdivision regulations, and/or where expressly varied

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or waived local concerns that have been affected by the relief granted do not outweigh the state and local need for low and moderate income housing;

- (C) All low and moderate income housing units proposed are integrated throughout the development, are compatible in scale and architectural style to the market rate units within the project, and will be built and occupied prior to, or simultaneous with, the construction and occupancy of any market rate units;
- (D) There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;
- (E) There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including but not limited to safe circulation or pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community;
- (F) All proposed land developments and all subdivision lots will have adequate and permanent physical access to a public street in accordance with the requirements of RIGL § 45-23-60(5); and
- (G) The proposed development 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, unless created only as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.

The Planning Board may deny the request for a Comprehensive Permit for any of the following reasons:

- (A) If the city or town has an approved affordable housing plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan;
- (B) The proposal is not consistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and/or local zoning ordinances and procedures promulgated in conformance with the comprehensive plan;
- (C) The proposal is not in conformance with the comprehensive plan;
- (D) The community has met or has plans to meet the goal of ten percent (10%) of the year-round units or, in the case of an urban town or city, fifteen percent (15%) of the occupied rental housing units as defined in § 45-53-3(2)(i) being low and moderate income housing; or
- (E) Concerns for the environment and the health and safety of current residents have not been adequately addressed.

Draft Motion

Motion: “The South Kingstown Planning Board hereby approves the requested Change to a Previously Approved Plan and revises the previously issued Conditions of Approval for the William H. Baker Homestead application, a two (2) lot subdivision, previously approved as a Comprehensive Permit, containing one (1) 2-family dwelling on once parcel and one (1) single-family parcel being deed-restricted for low- and moderate-income occupancy, located on Oak Dell Street, Christopher R. DePaola, *applicant*, Christopher R. DePaola & Lindsay Crowninshield, *owner*. Said revisions to conditions of the November 28, 2023 Combined Master & Preliminary Plan approval are outlined in the Conditions of Approval listed herein.

This approval is based on the materials submitted with this application and the plan set previously approved titled “*William H. Baker Homestead Plat – Combined Conceptual Master & Preliminary Major Subdivision Application, Assessor’s Plat 48-3, Lot 111, Oak Dell Street in the Town of South Kingstown,*

Rhode Island, dated August 25, 2023, Sheets 1 through 2, dated August 25, 2023 with revisions through October 22, 2023, prepared by Easterbrooks & Associates, LLC, 2497 Boston Neck Road, Saunderstown, RI 02882.

Findings of Fact

- A. The applicant qualifies as an eligible entity and the project is an eligible project pursuant to R.I.G.L. § 45-53-4, as a for profit developer dedicating at least 25% of the units to be developed as low and moderate income housing units;
- B. The proposed development is consistent with local needs as identified in the local comprehensive community plan, and will address the need for affordable housing development within the community;
- C. The low and moderate income (LMI) housing unit is integrated throughout the development, is compatible in scale and architectural style to the market rate units within the project, and will be built and occupied prior to, or simultaneous with, the construction and occupancy of market rate units;
- D. The proposed land development project is in compliance with the standards and provision of the South Kingstown Zoning Ordinance and Subdivision and Land Development Regulations, where varied the local concerns that have been affected by the relief granted do not outweigh the state and local need for LMI housing;
- E. There will be no significant negative environmental impacts from the proposed development as shown on the plans, with all required Conditions of Approval;
- F. There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including but not limited to safe circulation or pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community;
- G. The proposed land development project has adequate and permanent physical access to a public street, namely Oak Dell Street; and
- H. The land development project, 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.

Findings of Fact, Requested Relief

- I. The proposed development will be in compliance with the standards and provisions of the South Kingstown Zoning Ordinance and Subdivision and Land Development Regulations and/or where expressly varied or waived local concerns that have been affected by the relief granted do not outweigh the state and local need for LMI housing. In view of the state and local need for LMI housing the following waivers, variances and exceptions are hereby granted:

Subdivision & Land Development Regulations, Article XIII(E)(4) (Design and Public Improvement Standards: Utilities) - Communication Lines (Electric, Telephone, and Cable TV)

- i. *Requested waiver from this section of the regulations to allow for the installation of utilities above ground in lieu of below ground.*
- J. No other relief is granted and all local ordinances and regulations not specifically mentioned herein shall be enforced in their entirety. Any subsequent revision to the plans that require additional or more expansive relief must be approved by the Planning Board in accordance with state law and Section 509 of the South Kingstown Zoning Ordinance as amended.

Revised Conditions of Approval

3. Approval is based upon the provision of 25% or one (1) subsidized housing unit available for LMI residents. The LMI dwelling unit will be sold to households earning a maximum of 120% of the Area Median Income (AMI) and be deed restricted for a period of thirty (30) years.
9. Utilities (*i.e.*, electric, telephone and cable services) may be installed above- or below-ground.

All other conditions not listed above and associated with the Preliminary Plan Approval granted on November 28, 2023 shall remain in full force and effect.