

CITY OF PROVIDENCE
ZONING BOARD OF REVIEW

JAN 26 2021

NOTICE OF APPEAL

DATE RECEIVED: _____

Application for an **APPEAL** from a decision of (*check which applies*):

- Director of the Department of Inspection and Standards
- City Plan Commission
- Historic District Commission
- Downtown Design Review Committee
- Other

APPELLANT(S):

Ringold Real Estate LLC

C/O Michael J Riley Esq

33 College Hill Rd STE 15C, Warwick RI 02886

Name

401-300-4000

Home Address

Telephone: Home/Work

MRiley@RILaw.us

Mobile (cell phone)

E-mail Address

OWNER(S):

Ringold Real Estate LLC

C/O Michael J. Riley Esq

33 College Hill Rd STE 15C Warwick RI 02886

Name

401-300-4000

Home Address

Telephone: Home/Work

MRiley@RILaw.us

Mobile (cell phone)

E-mail Address

FILING INSTRUCTIONS

The following must be submitted to the Secretary of the Board:

- A. The original and seven (7) copies of this notice of appeal (including copies of the decision appealed from, either typed or legibly printed.
- B. A copy of the most current deed on file in the office of the Recorder of Deeds.
- C. Two (2) 200' radius plans drawn to a scale of 1"= 50' from all corners of the lot or lots in question. Show all lot numbers, owners' names, street numbers and building (if any) on each lot within the radius.

- D. Two (2) copies of a list containing the following information, consistent with the latest data available in the office of the Providence Tax Assessor:
- a. Each plat and lot number that appears within 200 feet of the Property, as designated in an attached 200 foot radius plan.
 - b. The corresponding names and MAILING addresses, including zip codes, of all property owners of each plat and lot number listed.
- E. Two (2) sets of mailing labels with names and full mailing addresses of each property owner on the list described in number above.
- F. All documentation that the Appellant(s) wishes the Board of Appeal to consider as part of the appeal.

NB: The Board's procedures for handling appeals are contained in the Board's Policies and Procedures. All Appellant(s) and Appellee(s) (if not a City entity) must supply a written memorandum of facts and law no fewer than five (5) business days prior to the hearing on the Appeal.

FEES FOR PETITIONS FOR APPEAL

Advertising Fee: **\$115.00**
(For each advertisement required for the hearing on the petition).

Processing Fee: **\$260.00**

MAKE CHECK PAYABLE TO: PROVIDENCE CITY COLLECTOR
NO APPEAL WILL BE ACCEPTED UNTIL PAYMENT IS MADE.

THE PREMISES

1. Location of Premises: 153 Carpenter Street
(Street Number and Address)
2. (a) Assessor's Map No. 28 (b) Lot(s): 957 (c) Zoning District(s): R-3
3. Are you the owner/occupant of the Premises that is the Subject of this appeal? Yes No
4. Identify the decision you are appealing. Lack of subject matter jurisdiction
-
5. What was the date of the decision and/or the date of its recording? December 23, 2020
6. On what date did you learn of the decision? _____

7. Please state with specificity the grounds for appeal (how/where the Director, Official, or Commission erred in rendering the decision), and set forth all facts and evidence on which you rely in support of your appeal.**

The application lacks subject matter jurisdiction for lack of compliance with R.I. Gen. Laws 45-23-50.1

The Decision fails to satisfy the requirements for entitlement to relief from the literal requirements of the zoning ordinance and fails to satisfy the requirements for subdivision of land.

R.I. Gen. Laws 45-23-67 allows an appeal to be taken within twenty (20) days after the decision has been recorded in the land evidence records and POSTED in the office of the City Clerk. The Decision was received by the City Clerk on January 6, 2021. See Exhibit A.

The Zoning Board of Appeals lacks authority by ordinance to charge processing fee of appeal and said fee is paid under protest.

- ** This statement is not a substitute for the memorandum of law and facts required by the Board's Rules and Regulations.

The undersigned declares that the information given herein is true to the best of his or her knowledge and belief. The undersigned further acknowledges that providing false information to a municipal official/entity may be subject to civil and criminal penalties.

Signature(s) of Appellant(s) *Ringold Real Estate LLC* Date

Thomas Paliotte

January 26, 2021

By *Thomas Paliotte*
 His *Authorized Representative*

Counsel for Appellant(s):

Name

Michael J. Riley Esq
 33 College Hill Rd, Suite 15C
 Warwick, RI 02886
 401-300-4000 MRiley@RILaw.us

Address

City State Zip Code

Phone: Office

Phone: Mobile

E-mail Address

APPROVED FOR RECORD
RECORDED

FILED

P

RECEIVED:
Providence
Received for Record
DEC 23, 2020 10:31 AM
Document Num: 2020273890
John A. Murphy
Recorder of Deeds

2021 JAN -6 A 10: 56

City Plan Commission
Jorge O. Elorza, Mayor

DEPT. OF CITY CLERK
PROVIDENCE, R.I.

RECEIVED:
Providence
Received for Record
DEC 23, 2020 10:31 AM
Document Num: 2020273890
John A. Murphy
Recorder of Deeds

**Decision of the City Plan Commission approving the preliminary plan for
Unified Development Review Project 20-040 UDR at 153 Carpenter Street,
Providence, Rhode Island (AP 28 Lot 957)
Minor Subdivision and Dimensional Zoning Variances
Pursuant to R.I.G.L. §45-24-46.4
December 16, 2020**

Owners and Applicants: Kathryn McClure, Seth Clark

This matter came before the City Plan Commission on December 15, 2020 for a duly noticed public hearing in accordance with the provisions of the Zoning Ordinance and Development Plan Regulations on the application of the Applicant/Owner's for a minor subdivision, special use permit and dimensional variances pursuant to Unified Development Review under Section 1702 of the Zoning Ordinance. The applicant was represented by Attorney James Iacoi, and Mr. Peter Casale.

The CPC approved the preliminary plan, special use permit and dimensional variances for the proposed subdivision subject to the findings of fact and conditions of approval noted below.

Project Overview

The subject property is occupied by a single family dwelling and measures approximately 5,316 SF. The applicant is proposing to subdivide the lot into two lots of 3,979 SF and 1,337 SF with widths of 53.21' and 30.79' respectively. The single family dwelling will remain on the larger lot, and a six space parking lot is proposed for the smaller lot, which requires a special use permit. The minimum required lot size for new subdivisions in the R-3 zone is 5,000 SF with a width of 50 feet. Pursuant to Unified Development Review (UDR), the applicant is seeking dimensional variances from provisions related to minimum lot area and minimum lot width. Relief from the side and rear yard setback requirements are also requested based on the proposed lot line. A rear yard setback of 10' is required but approximately 5' will be provided. A side yard setback requirement of at least 6' is required but approximately 3' will be provided. In addition, the applicant is seeking relief from the total maximum impervious surface coverage, landscaping for parking lots, canopy coverage requirement and maximum driveway width.

Findings of Fact – Dimensional Variance

R.I.G.L. §45-24-46.4 and Section 1902 of the zoning ordinance requires that the CPC find evidence of the following standards in order to grant a variance:

DEPARTMENT OF PLANNING AND DEVELOPMENT
444 Westminster Street, Providence, Rhode Island 02903
401 680 8400 ph | 401 680 8492 fax
www.providenceri.com

1. *That 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 is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in Rhode Island General Laws §45-24-30(16).*

Based on plans provided, the CPC found the requested relief to be necessary due to the unique characteristics of the subject property. The applicant submitted a use card from the Department of Inspection and Standards (DIS) indicating that the legal use of the site has been a parking lot since 1957. The single family dwelling was built in 1972, after the use of the parking lot was established. The CPC found that the presence of the parking lot could affect the use and enjoyment of the dwelling, resulting in a hardship. The subdivision would allow use of the parking lot to continue, and exist separately from the residence.

The CPC found that the area available to situate the existing dwelling on a separate lot requires placement of the lot line in a location that triggers the need for relief. Based on the lot's configuration, it is not possible to subdivide the property without relief from impervious surface coverage, setback, and landscaping requirements due to the size and layout of the property. The CPC found that the lot's dimensions will not allow for installation of a planting strip required for parking lots or the appropriate amount of canopy coverage. The need for relief is related to the size and dimensions of the lot, as well as use of the property, which collectively contribute to the applicant's hardship.

2. *That 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.*

Based on provided documentation, the CPC found that the use of the site as a parking lot, and its dimensions, are not the results of the applicant's actions. It does not appear that the use of the parking lot will be intensified beyond what it can accommodate. Therefore, the request for relief does not appear to be for financial gain.

3. *That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this Ordinance or the Comprehensive Plan.*

The use of the parking lot has existed since 1957. The nature of the parking lot and the dwelling is not expected to change upon subdivision. The CPC found that an effect on the character of the surrounding area is not expected as the use on each lot will remain the same. The CPC required that the applicant take some steps to enhance the character of the surrounding area. As landscaping on the lots is not possible, the CPC recommended that the applicant make an equivalent amount of offsite plantings under the supervision of the City Forester to improve the character of the surroundings.

4. *That the relief to be granted is the least relief necessary.*

The CPC found that the requested relief would be the least necessary to allow for a subdivision to separate the uses on both lots.

5. In addition, the City Plan Commission, as part of unified development review, requires that evidence be entered into the record of the proceedings showing that in granting a dimensional variance, the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted will amount to more than a mere inconvenience.

The purpose of the subdivision is to create two lots for operation of a parking lot, and to maintain the existing single family dwelling. The CPC found that denial of the requested relief would result in both uses being situated on the same lot, which could result in more than a mere inconvenience as the uses are not harmonious with each other. Future conveyance of the property could be affected if the relief were denied. Therefore, the CPC found that the conditions amounted to a hardship.

ACTION—Dimensional Variance

Upon a motion by Commissioner Bilodeau, seconded by Commissioner Quezada, the CPC voted as follows to grant the requested relief subject to the following condition:

The applicant shall meet the landscaping and canopy coverage requirements for both lots by making an equivalent number of offsite plantings under the supervision of the City Forester.

The CPC voted as follows:

AYE: H. Bilodeau, M. Quezada, C. West, L. Torrado, M. Gazdacko

SPECIAL USE PERMIT

The applicant requested a Special Use Permit for operation of a principal use parking lot.

Findings – Special Use Permit

1. *The proposed special use permit is set forth specifically in this Ordinance and complies with any conditions set forth therein for the authorization of such special use permit, including those listed in Article 12.*

The CPC found that the zoning ordinance permits principal use parking lots to operate in residential zones with a special use permit.

2. *Granting the proposed special use permit will not substantially injure the use and enjoyment of nor significantly devalue neighboring property.*

The site has been designated as a parking lot for a number of years. The subdivision is not expected to change the use or intensity of the lot. Per the applicant, the parking lot will be used by residents of the building at 131 Carpenter Street. The CPC required that the applicant deed the spaces in the parking lot for use of the building at 131 Carpenter Street in order to ensure orderly parking and limit the effects of the lot on neighboring property.

3. Granting the proposed special use permit will not be detrimental or injurious to the general health or welfare of the community.

As the lot has existed as part of the neighborhood, and the use and intensity of the existing parking lot is not expected to change, the CPC found that a negative effect on neighborhood character is not expected.

ACTION – SPECIAL USE PERMIT

Upon a motion by Commissioner Quezada, seconded by Commissioner Blodeau, the CPC voted to grant the special use permit subject to the following condition:

The applicant shall deed the spaces in the parking lot for use by the building at 131 Carpenter Street.

The CPC voted as follows:

AYE: M. Quezada, H. Blodeau, C. West, L. Torrado, M. Gazdacko

FINDINGS—Minor Subdivision

The CPC made the following findings of fact regarding the minor subdivision:

1. Consistency with Providence Tomorrow: The Comprehensive Plan

The subject property is located in an area that the future land use map of Providence Tomorrow has designated for medium density residential development. These areas are intended for residential uses characterized by one to three family dwellings in detached structures on separate lots ranging between 3,200 to 5,000 SF. The CPC found that the lots created through the subdivision would be similar to the type of development envisioned by the plan and would be in character with the surrounding neighborhood. Creation of new lots would allow for separation of the uses with a single family dwelling on one lot and parking lot on the other.

2. Compliance with Zoning Ordinance—The proposed development is in compliance with the standards and provisions of the Zoning Ordinance.

New lots in the R-1 zone are required to maintain a minimum lot area of 5,000 SF and a width of 50 feet. As discussed, the subject lots will not meet these dimensional requirements in addition to impervious surface coverage and landscaping requirements. The subdivision is in conformance with the zoning ordinance pursuant to the CPC granting zoning relief. The CPC required that final plan approval be subject to the applicant meeting the canopy coverage requirements offsite.

3. Environmental Impact—There will be no significant environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.

The CPC found that the subdivision will not pose a negative environmental impact as the applicant is required to comply with applicable environmental regulations when developing the lots.

4. *Bulldable Lot—The subdivision or development project, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable.*

The CPC found that the subdivision is not expected to pose any constraints to development because it will allow for separation of the parking lot and single family dwelling which are the existing uses on site. The site presents no other impediments to development.

5. *Street Access—All proposed development projects and all subdivision lots shall have adequate and permanent physical access to a public street.*

The CPC found that each lot will be accessible to vehicles and pedestrians from Carpenter Street.

ACTION—Minor Subdivision

Upon a motion by Commissioner Torrado seconded by Commissioner Bilodeau, the CPC voted to approve the preliminary plan finding it to be in conformance with the zoning ordinance and comprehensive plan. The plan was approved subject to the following conditions:

1. The applicant shall meet the canopy coverage requirements offsite under the supervision of the City Forester.
2. The validity of the preliminary plan is extended to one year from the date of recording of the approval letter.
3. Final plan approval was delegated to DPD staff.

The CPC voted as follows:

AYE: L. Torrado, H. Bilodeau, C. West, M. Quezada, M. Gazdacko


Choyon Manjrekar
Administrative Officer

In accordance with Rhode Island General Laws Section 45-23-63, this decision must be recorded in the land evidence records within twenty (20) days after the CPC's vote.

In addition, in accordance with Rhode Island General Laws Section 45-23-67, this decision shall be posted in the office of the City Clerk for a period of 20 days. Any appeals to this decision must be immediately transmitted to the DPD. If no appeals are filed, this letter may be removed by the City Clerk 20 days after it has been posted.

WARRANTY DEED


Real Estate Corporation, a RI Corporation, having its principal place of business at 561 Broadway, Providence, Rhode Island for consideration in the amount of \$1.00 (One Dollar) paid grants to 2Ringold Real Estate, LLC, of the City of Providence, County of Providence, State of Rhode Island

with WARRANTY COVENANTS.

Legal Description Exhibit "A" hereto attached

This transfer is such that no R.I.G.L. 44-30-71.3 withholding is required as seller is a resident Corporation of Rhode Island as evidenced by affidavit.

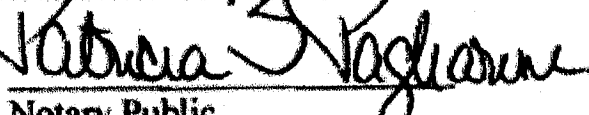
Witness my hand this 2nd day of July, 2009.

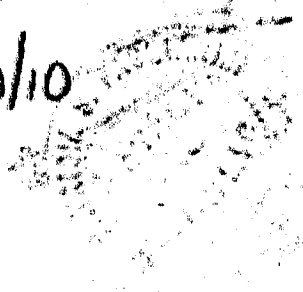

Real Estate Corporation
By: Michael J. Riley, Jr., President

State of Rhode Island
County of Providence

In Providence, on this 2nd day of July, 2009, before me personally appeared Michael J. Riley, Jr., President of Real Estate Corporation, to me known and known by me to be the party executing the foregoing instrument, and he acknowledges, said instrument by him executed to be his free act and deed, and in said capacity the free act and deed of Real Estate Corporation

Grantee Address:
178 Broadway
Providence, RI


Notary Public
My commission exps: 4/10/10



Plat	Lot	Property Address	Owner Name	Owner Address	Owner City
28	49	16 Vernon St	Carvalho Rachel A	14 Vernon St	Providence,RI,02909
28	58	169 Carpenter St	Ialongo Peter A	169 Carpenter St	Providence,RI,02909
28	52	30 Vernon St	30 Vernon LLC	355 Hope St	Providence,RI,02906
28	69	168 Carpenter St	State Battery Co Inc.	19211 JALISTA St	VENICE,FL,34293
28	47	15 Vernon St	GHR LIVING LLC	39 Meyer Hill Dr	Acton,MA,01720
28	55	34 Battey St	Hutton IV Robert	34 Battey St	Providence,RI,02903
28	25	6 Pallas St Unit 10	Kumar Vaidyanathan V	10 Pallas St	Providence,RI,02903
28	34	13 Pallas St	Rietveld Eric	13 Pallas St	Providence,RI,02909
28	411	150 Carpenter St	LLC Maipco	150 Carpenter St	Providence,RI,02903
28	28	137 Carpenter St	Fallon Peter	159 Colombian St	Weymouth,MA,02190
28	415	156 Carpenter St	IIA LLC	566 Smith St	Providence,RI,02908
28	30	3 Pallas St	Chaffee Linda	3 Pallas St	Providence,RI,02909
28	27	4 Pallas St	Petrie Tara Maey	4 Pallas St	Providence,RI,02909
28	1057	22 Vernon St 1	Bernal Sylvia M	26 VERNON ST	PROVIDENCE,RI,02903-3028
28	25	6 Pallas St Unit 8	Choi Gene J	457 Tiffany St	Attleboro,MA,02203
28	1056	6 Vernon St	CHAFFEE LINDA	6 VERNON ST	PROVIDENCE,RI,02903
28	32	14 Vernon St	Carvalho Rachel A	14 Vernon St	Providence,RI,02909
28	46	21 Vernon St	Mansour Norman Joseph	21 Vernon St	Providence,RI,02909
28	60	179 Carpenter St	WEBB STEVEN J	179 CARPENTER ST	PROVIDENCE,RI,02903-3043
28	75	144 Carpenter St	aBodhi Properties LLC	334 Broadway	Providence,RI,02909
28	48	7 Vernon St	QUARANTA FILOMENA	7 VERNON ST	PROVIDENCE,RI,02903-3027
28	68	180 Carpenter St	Biewener Matthew	180 Carpenter St	Providence,RI,02903
28	970	157 Carpenter St	Ang Fabrina	96 Longfield Ct	East Brunswick,NJ,08816
28	530	8 Belknap St	Hogan Samantha M	8 Belknap St	Providence,RI,02909
28	500	425 West Fountain	Westminster Crossing LLC	334 Broadway	Providence,RI,02909
28	24	11 Pallas St	Richardson Kristopher A	11 Pallas St	Providence,RI,02909
28	411	148 Carpenter St	LLC Maipco	150 Carpenter St	Providence,RI,02903
28	1057	22 Vernon St 2	St Franc Ndidi N	24 Vernon St, Unit B	Providence,RI,02903
28	29	2 Pallas St	LUX MANUELA	2 PALLAS ST	PROVIDENCE,RI,02903-3002
28	57	163 Carpenter St	State Battery Co Inc.	19211 JALISTA St	VENICE,FL,34293
28	1057	22 Vernon St	YOW-PIN LIM	87 Walmer Ave	East Providence,RI,02914
28	416	160 Carpenter St	Ang Fabrina	96 Longfield Ct	East Brunswick,NJ,08816
28	74	148 Carpenter St	LLC Maipco	150 Carpenter St	Providence,RI,02903
28	59	175 Carpenter St	Lachance Brandon	175 Carpenter St	Providence,RI,02909
28	957	153 Carpenter St	McClure Kathryn S	223 Carpenter St	Providence,RI,02903
28	25	6 Pallas St Unit 6	Mushaweh Kyle	6 Pallas St	Providence,RI,02903
28	464	164 Carpenter St	Ang Fabrina	96 Longfield Ct	East Brunswick,NJ,08816

Find address or place



R-P

R-3

C-2

025-1015
16 Bailey S/LLC
6+ Apts Comm

025-1015
16 Bailey S/LLC
6+ Apts Comm

026-197
ARU SO LLC
Two Family

026-01
BETH ANN GARNETT D
Two Family

026-00
SPEED LLC
Two Family

025-1015
16 Bailey S/LLC
6+ Apts Comm

026-172
TOMASO VICKAL
Two Family

026-35
KALIN V ROB
Two Family

026-05
LASERA ANTONIO
Two Family

026-00
SPEED LLC
Two Family

025-1015
16 Bailey S/LLC
6+ Apts Comm

026-172
TOMASO VICKAL
Two Family

026-35
KALIN V ROB
Two Family

026-05
LASERA ANTONIO
Two Family

026-00
SPEED LLC
Two Family

025-1015
16 Bailey S/LLC
6+ Apts Comm

026-172
TOMASO VICKAL
Two Family

026-35
KALIN V ROB
Two Family

026-05
LASERA ANTONIO
Two Family

026-00
SPEED LLC
Two Family

025-1015
16 Bailey S/LLC
6+ Apts Comm

026-172
TOMASO VICKAL
Two Family

026-35
KALIN V ROB
Two Family

026-05
LASERA ANTONIO
Two Family

026-00
SPEED LLC
Two Family

025-1015
16 Bailey S/LLC
6+ Apts Comm

026-172
TOMASO VICKAL
Two Family

026-35
KALIN V ROB
Two Family

026-05
LASERA ANTONIO
Two Family

026-00
SPEED LLC
Two Family

025-1015
16 Bailey S/LLC
6+ Apts Comm

026-172
TOMASO VICKAL
Two Family

026-35
KALIN V ROB
Two Family

026-05
LASERA ANTONIO
Two Family

026-00
SPEED LLC
Two Family

025-1015
16 Bailey S/LLC
6+ Apts Comm

026-172
TOMASO VICKAL
Two Family

026-35
KALIN V ROB
Two Family

026-05
LASERA ANTONIO
Two Family

026-00
SPEED LLC
Two Family

025-1015
16 Bailey S/LLC
6+ Apts Comm

026-172
TOMASO VICKAL
Two Family

026-35
KALIN V ROB
Two Family

026-05
LASERA ANTONIO
Two Family

026-00
SPEED LLC
Two Family

029-00
Westminster Crossing LLC
Com/bd Md 94

Ringold Real Estate
28-275

029-00
Westminster Crossing LLC
Com/bd Md 94

029-00
Red Fox Realty LLC
Acc/bd Ltd