

CITY OF PROVIDENCE
ZONING BOARD OF REVIEW

INSPECTION & STANDARDS
RECEIVED

NOTICE OF APPEAL

JUL 14 2020

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):

Walter Bronhard

4 Woodland Terrace

Name

Home Address

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(774) 488-924_

Telephone: Home/Work

Mobile (cell phone)

walterbronhardrealty@gmail.com

E-mail Address

OWNERS(S):

Name

Home Address

Telephone: Home/Work

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: 217 Angell Street
(Street Number and Address)

2. (a) Assessor's Map No. 13 (b) Lot(s): 52, 53 & 55 (c) Zoning District(s): R-P

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. Decision of the City Plan Commission approving Master Plan, Dimensional Adjustments, Walver and Dimensional Variances for Unified Development Review Project 20-010 UDR of 209-217 Angell St. (AP 13, Lots 52, 53 & 55) dated June 30, 2020.

5. What was the date of the decision and/or the date of its recording? June 30, 2020

6. On what date did you learn of the decision? June 30, 2020

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.**

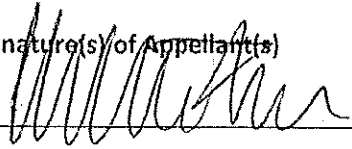
* The doctrine of administrative finality prohibits the City Plan Commission (CPC) from reconsidering this Project, which was denied by the CPC in November, 2019.

* The Decision fails to comply with the Zoning Ordinance, the Comprehensive Plan, and Sections 1904 and 1902 of the Zoning Ordinance and in particular the relief granted was in excess of authority held by CPC.

*The Appellant reserves the right to assert other matters in which the CPC erred in its memorandum of law and its argument before the Zoning Board of Appeals.

** 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)


Date
7.14.2020

Walter Bronhard

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City Plan Commission
Jorge O. Elorza, Mayor

Decision of the City Plan Commission Approving the Master Plan, Dimensional Adjustments, Design Waiver and Dimensional Variance for Unified Development Review Project 20-010 UDR at 209-217 Angell Street (AP 13 Lots 52, 53 and 55)

June 30, 2020

OWNER: 217 Angell Investments LLC
217 Angell Street
Providence RI 02906

APPLICANT: SMART Princeton Hotel Group LLC
20600 Chagrin Boulevard, Suite 705
Shaker Heights, OH 44122

PROJECT OVERVIEW

This matter came before the City Plan Commission (CPC) on June 16, 2020 for a duly noticed public hearing in accordance with the provisions of the Providence Zoning Ordinance and Development Review Regulations. The hearing concerned the application for a land development project which included dimensional adjustments, a design waiver and a dimensional variance.

Following the public hearing, the CPC approved the master plan, dimensional adjustments, design waiver, and dimensional variance for the land development project subject to the findings of fact noted below.

The applicant proposed to demolish the existing houses on the three subject lots in order to construct a five-story, approximately 61-foot tall, 118-room hotel with a restaurant and internal parking. The lots collectively measure approximately 19,514 SF. The site is currently zoned R-P, which does not permit a hotel. The applicant has petitioned the City Council to rezone the parcels to C-2 to accommodate the development. The applicant requested master plan approval, dimensional adjustments, a design waiver, and a variance through unified development review.

At the hearing the CPC considered the documentation submitted by the applicant. The applicant was represented by Attorney Robert Stolzman. The CPC heard testimony for the applicant from Architect Eric Zuena, Engineer John Shevlin, and Real Estate Broker James Moore. The CPC also heard testimony from several members of the public.

FINDINGS AND ACTIONS

Administrative Finality – Findings

Before taking action on the approvals for the project, the CPC considered whether the doctrine of administrative finality applied to this application since master plan approval for a previous version of the development had been denied by the CPC in November of 2019. The CPC found that the newly submitted plan had substantially changed from the initial submission. The CPC cited the elimination of one story, a reduction in the number of units from 126 to 118, a reduction of total mass by 17 percent,

and the project requiring fewer waivers as reasons to find that the project had changed substantially and that the doctrine of administrative finality was not applicable.

Administrative Finality – Action

Upon a motion by Commissioner Verdi, seconded by Commissioner Torrado, the CPC voted to adopt the above findings and decide that the doctrine of administrative finality was not applicable. The CPC voted as follows:

Aye: N. Verdi, L. Torrado, C. West, C. Potter, M. Quezada

Nay: M. Gazdacko, H. Bilodeau

The motion passed 5-2

Dimensional Adjustments – Findings

Pursuant to Zoning Ordinance Section 1904.E, the applicant requested dimensional adjustments from the height regulations of the C-2 zone. Where the permitted height is no more than four stories and 50 feet, the request was for a building height of 60’8” and five stories. For a hotel, the Zoning Ordinance requires one parking space per room. The applicant requested a 50 percent reduction in off-street parking from the required 118 spaces to 59 spaces. The CPC found that per Section 1904.E.1.h, the provision of structured parking in the development made it eligible for these dimensional adjustments.

Dimensional Adjustments – Action

On a motion by Commissioner Verdi, seconded by Commissioner Torrado, the CPC voted to adopt the above findings and to approve the requested dimensional adjustments for height and parking. The CPC noted that the applicant had reduced the magnitude of the adjustments since they were first requested in November of 2019. The adjustments were granted contingent on the subject property being rezoned to C-2. The CPC voted as follows:

Aye: N. Verdi, L. Torrado, C. West, C. Potter

Nay: M. Gazdacko, H. Bilodeau, M. Quezada

The motion passed 4-3

Design Waiver – Action

The applicant requested a design waiver from Zoning Ordinance Section 503.A.6 for a portion of the building to be located outside the build-to zone on Angell Street. Per the Zoning Ordinance, Section 1904.E.3, the CPC has the authority to modify design regulations of the C-2 zone. On a motion by Commissioner Verdi, seconded by Commissioner Torrado, the CPC voted to approve the design waiver. The waiver was granted contingent on the subject property being rezoned to C-2. The CPC voted as follows:

Aye: N. Verdi, L. Torrado, C. West, C. Potter

Nay: M. Gazdacko, H. Bilodeau, M. Quezada

The motion passed 4-3

Dimensional Variance – Findings

One hundred and eighteen spaces are required but 40 will be provided. As noted above, the CPC granted the maximum of a 50 percent dimensional adjustment such that 59 spaces would be required. Since the development is proposed to provide 40 spaces, the applicant further requested a dimensional variance for parking in the amount of 19 parking spaces. Per Section 1902 of the Zoning Ordinance, the CPC made the following findings of fact regarding the variance request:

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).*

With the granting of a dimensional adjustment for 59 spaces, amounting to 50 percent of the required amount, a variance for 19 spaces was requested with 59 required and 40 provided. The CPC found it conceivable that the applicant could conform to the ordinance by providing 19 additional spaces, but that would require additional surface paving, and possible loss of amenities that the hotel will provide on the first floor. The subject property is composed of three lots that front on Angell Street, which is one way. The CPC found that this condition restricts access to, and makes location of, on-site parking difficult. Therefore, the relief requested appeared to be directly related to the unique characteristics of the property. Parking will be provided below grade and accessible from Fones Alley.

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.*

As discussed, the CPC found that the hardship suffered appeared to be related to the site's configuration, which is not the result of a prior action of the applicant. The CPC found that no financial gain is apparent as the relief is being requested to accommodate onsite parking.

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 neighborhood's character is composed of a variety of uses of differing intensities. The C-2 zone lies to the west of the development and the lot to the south is zoned C-1 and occupied by a bank, with Brown University and the I-2 institutional zone further south. The lot to the north across Angell Street is zoned R-3 but occupied by the Wheeler School, an intensely developed primary and secondary school. This area is served by public transportation, bicycle infrastructure and connected sidewalks that provide viable alternatives to driving. Based on their analysis, the CPC found that surface parking does not have a prominent presence in the neighborhood. Therefore, the relief granted to reduce parking would be in character with the surroundings.

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

Based on the previously stated analysis, the CPC found that the relief requested is the least required to provide onsite parking.

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.*

As discussed, the CPC found that the request for relief is related to the unique characteristics of the property, which make it difficult to provide additional parking. If the variance were to be denied, the applicant would be required to redesign the development, which the CPC found to be a hardship and more than a mere inconvenience.

In addition, the CPC accepted the applicant's expert testimony regarding the variance request.

Dimensional Variance – Action

On a motion by Commissioner Verdi, seconded by Commissioner Torrado, the CPC voted to adopt the above findings and to approve the requested dimensional variance for 19 parking spaces. The CPC voted as follows:

Aye: N. Verdi, L. Torrado, C. West, C. Potter
Nay: M. Gazdacko, H. Bilodeau, M. Quezada

The motion passed 4-3

Master Plan – Findings

The CPC made the following findings of fact regarding the master plan:

1. Consistency with Providence Tomorrow: The Comprehensive Plan

Per the future land use map of Providence Tomorrow—which the comprehensive plan states is not intended for parcel level analysis—this property is at the confluence of Neighborhood Commercial/Mixed Use, Medium Density Residential, and Institutional land use designations. This area is intended to be one where commercial, residential and institutional uses are located in proximity to each other. The uses around the site are primarily commercial, high-density residential, and institutional. The CPC found that a hotel would be consistent with the intention of the future land use map. The CPC also found that a hotel would be in conformance with Objective BJ-1 of the comprehensive plan which promotes business expansion and retention, and with Objective BE-3 which encourages compact, mixed-use urban development.

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

Use: Subject to the City Council approving the zone change to C-2, the hotel use is a permitted use of the property.

Dimension: As described above, the CPC granted a dimensional adjustment for a height of 60'8", a design waiver from the build-to zone requirement, and a dimensional adjustment and variance so that the development may have 40 parking spaces. The development complies with all other dimensional and design regulations of the Zoning Ordinance.

Landscaping: A conceptual landscaping plan has been provided, showing proposed areas for plantings in the building rendering. Potential planting areas include a strip in front of the access driveway and street trees on Brook Street. Per the City Forester, a street tree on Brook Street will need to be removed during construction, for which the applicant shall replant an equivalent amount of canopy or make a payment in lieu of plantings. A detailed landscaping plan is required at the preliminary plan stage.

Lighting: The applicant shall submit a lighting and signage plan at the preliminary plan stage.

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 applicant is required to submit a site management plan, erosion control plan and a drainage plan at the preliminary plan stage. No significant negative environmental impacts are expected.

4. Buildable 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 applicant is required to merge the lots prior to final plan approval. The site does not pose any constraints to development as evidenced by this development proposal.

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

There is adequate vehicular and pedestrian access provided to the property from Angell Street, Brook Street and Fones Alley. Two curb cuts for the pickup and drop-off area will be created on Angell Street.

One curb cut will be provided for the basement parking on Fones Alley.

Master Plan – Action

On a motion by Commissioner Verdi, seconded by Commissioner Torrado, the CPC voted to adopt the above findings and to approve the master plan subject to the following conditions:


1. The master plan approval is contingent on the applicant successfully receiving a zoning change for the property to C-2.
2. The applicant shall apply for an administrative subdivision to merge the lots on site prior to final plan approval.
3. The applicant shall submit the following at the preliminary plan stage:
 - Detailed landscaping plan
 - Drainage calculations
 - Erosion control plan
 - Site management plan
 - Lighting and signage plan.

The CPC voted as follows:

Aye: N. Verdi, L. Torrado, C. West, C. Potter

Nay: M. Gazdacko, H. Bilodeau, M. Quezada

The motion passed 4-3



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 thirty-five (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.