

*Nicholas J. Goodier, Esquire
Shareholder
Admitted in RI and MA
ngoodier@mancinicarter.com*

March 3, 2021

Via Hand Delivery

City of Providence Zoning Board of Review
c/o Alexis Thompson, Secretary
444 Westminster Street
Providence, Rhode Island 02903

INSPECTION & STANDARDS
RECEIVED

MAR 03 2021

**Re: *Notice of Appeal
27 Taber Avenue, a/k/a Plat 39, Lot 450
Unrecorded Zoning Inspection Notice of Violation, dated January 12, 2021***

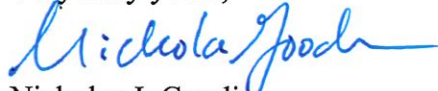
Dear Board Members:

Enclosed herewith please find the materials comprising the above Notice of Appeal, submitted on behalf Andres A. Pernia Blanco, the owner of the subject property. Particularly, the following documentation:

1. The Notice of Appeal, along with seven (7) copies;
2. The subject property's Deed into Mr. Blanco's ownership; and,
3. The appropriate filing fee.

Notably, additional documentation supportive of the Appeal will be submitted to your attention, prior to the Board's hearing of the matter. This documentation will include a radius map and abutter information, which is in process. Should you have any questions regarding this transmittal, please feel free to contact the undersigned directly.

Very truly yours,



Nicholas J. Goodier

cc (via email): City Plan Commission, c/o Choyon Manjrekar
Division of Structures & Zoning, c/o Joseph M. Atchue, CBO
Lisa Dinerman, Esq.
Client
John O. Mancini, Esq.

encs.

CITY OF PROVIDENCE
ZONING BOARD OF REVIEW

INSPECTION & STANDARDS
RECEIVED

NOTICE OF APPEAL

MAR 03 2021

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):

Andres A. Pernia Blanco

27 Taber Avenue

Name

Home Address

c/o Nicholas J. Goodier, Esq. (401) 343-7000

Telephone: Home/Work

Mobile (cell phone)

ngoodier@mancinicar.com

E-mail Address

OWNER(S):

See above.

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: 27 Taber Avenue
(Street Number and Address)
2. (a) Assessor's Map No. 39 (b) Lot(s): 450 (c) Zoning District(s): R-1
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. Zoning Inspection Notice of Violation, dated January 12, 2021

5. What was the date of the decision and/or the date of its recording? January 12, 2021
6. On what date did you learn of the decision? February 16, 2021


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.**

Please see the enclosed letter, dated February 2, 2021. The Appellant reserves the right to supplement.

** 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

03/02/21

Counsel for Appellant(s):

Nicholas J. Goodier, Esq.

Name

56 Pine Street, Third Floor

Address

Providence, Rhode Island 02903

City

State

Zip Code

(401) 343-7000

Phone: Office

Phone: Mobile

ngoodier@mancinicar.com

E-mail Address



Department of Inspection and Standards

Jorge O. Elorza, Mayor
Joseph M. Atchue, CBO, Director
Kevin W. Mahoney, Deputy Director

ZONING INSPECTION NOTICE OF VIOLATION

To: Andres A. Pernia Blanco
27 Taber Avenue
Providence, RI 02906

Mid-Island Mortgage Corp.
900 Merchants Concourse
Suite #112
Westbury NY 11590


Property: 27 Taber Avenue
Plat: 039 Lot: 0450
Inspector: Michael DiOrio
Inspection Date: 01/05/2021
Issue Date: 01/12/2021

Upon inspection of the property, the following violation(s) were found:

Violation #1: Exceeded allowed amount of impervious surface. In violation with Providence Zoning Ordinance Article 402 tablet 4-1.

If you fail to comply with this notice of violation within 10 days of the issue date indicated above, a second notice of violation will be issued and a cumulative civil penalty of fifty dollars (\$50.00) per day per violation for each violation remains outstanding. The second notice and the penalty imposed will be recorded as a lien on your property. The notice and lien will not be released until the violations have been abated and the penalty imposed has been paid.

You have the right to appeal this Building Inspection Notice. This appeal must be in writing and received within ten (50) days.



Authorized Signature – Division of Structures & Zoning

*Nicholas J. Goodier, Esquire
Shareholder
Admitted in RI and MA
ngoodier@mancinicarter.com*

February 25, 2021

Via Email Only

Joseph M. Atchue, CBO, Director
Department of Inspection and Standards
444 Westminister Street
Providence, RI 02903
jatchue@providenceri.gov

Re: 27 Taber Avenue, a/k/a Plat 39, Lot 450

Dear Director Atchue:

Please be advised that Andres A. Pernia Blanco, the owner of the above property, has recently engaged this office concerning the attached Notice of Violation issued by the Division of Structures and Zoning. The Notice purports that the property is not in compliance with Article 402 of the City's Zoning Ordinance. The allegations stated in the Notice, however, are not supported by the facts surrounding this circumstance. Accordingly, we request that, in your capacity as Director of the City's Department of Inspection and Standards, you immediately withdraw the Notice without further action on Mr. Blanco's part.

In support of this request, the following explanation is set out as justified reasoning for the Notice's withdrawal. First, Mr. Blanco acquired the property in late 2019. The property, then, underwent an extensive and expensive rehabilitation. The work performed by Mr. Blanco included significant improvements to the property's exterior. Particularly, the area where vehicles are, and have been for decades, parked off-street. In other words, the driveway area.

For reference purposes, the images below depict the driveway area in the condition that existed when Mr. Blanco acquired the property. As is readily apparent, the area had been utilized for parking vehicles off-street for many years. Further, was improved with a combination of impervious asphalt and pavers, all of which was in need of replacement.

Letter to Director Atchue
February 25, 2021
Page 2 of 4



Accordingly, as part of Mr. Blanco's restoration of the property, approvals through the City were obtained, including the attached. Licensed and qualified contractors, then, removed the aged asphalt and pavers from the driveway area. After, the impervious materials were replaced. Rather than installing similar materials, a pervious, aesthetically pleasing crushed stone was selected. Such an election operates to bring the property into complete conformance with the City's Zoning Ordinance. In fact, at no point did any City representative indicate that the driveway area upgrade would result in the property failing to meet applicable municipal regulations.

Notably, the property is located at the corner of Taber and Adelphi Avenues. Other than the driveway area, there is no other parking area on the parcel. And, keeping cars off the referenced streets, in the area of their intersection, results in a much safer condition than the alternative. In fact, during the time Mr. Blanco was restoring the property, neighbors requested that vehicles be parked on the parcel whenever possible to alleviate congestion. Moreover, the installation of the crushed stone is a positive to the environment, which is a benefit to the City in general. The Notice recently issued concerning the property, therefore, is not well-founded and the determination's withdrawal is warranted.

The image below reflects the current condition of the property, which fully comports with the City's Zoning Ordinance.



Letter to Director Atchue
February 25, 2021
Page 4 of 4

Importantly, withdrawal of the Notice is supported by well-reasoned Rhode Island case law. Public policy dictates an owner's effort that result in real estate being in conformity with an applicable zoning ordinance cannot be penalized. In fact, that concept would be an absurd result. *See Baker v. Zoning Bd. of Review of the Town of Jamestown*, 2009 WL 3328515 (R.I. Super. May 4, 2009). Thus, courts have held in like situations that determinations, such as the Notice at issue here, frustrate the intent of zoning regulations.

In closing, based on the foregoing we look forward to your confirmation that the Notice has been withdrawn. Alternatively, and against the conservation of the interests of the parties involved, an appeal will be filed within the applicable fifty-day period. Lastly, nothing contained herein shall be construed as a waiver of Mr. Blanco's rights in connection with the Notice or property, at law or in equity, which are hereby reserved.

Should you have any questions regarding this correspondence, please feel free to contact the undersigned directly.

Very truly yours,



Nicholas J. Goodier

cc: Lisa Dinerman, Esq., City Solicitor
Alexis Thompson, Secretary to the Board of Review
Client
John O. Mancini, Esq.

encs.



Department of Inspection and Standards

Jorge O. Elorza, Mayor
Joseph M. Atchue, CBO, Director
Kevin W. Mahoney, Deputy Director

ZONING INSPECTION NOTICE OF VIOLATION

To: Andres A. Pernia Blanco
27 Taber Avenue
Providence, RI 02906

Mid-Island Mortgage Corp.
900 Merchants Concourse
Suite #112
Westbury NY 11590

Property: 27 Taber Avenue
Plat: 039 Lot: 0450
Inspector: Michael DiOrio
Inspection Date: 01/05/2021
Issue Date: 01/12/2021

Upon Inspection of the property, the following violation(s) were found:

Violation #1: Exceeded allowed amount of impervious surface. In violation with Providence Zoning Ordinance Article 402 tablet 4-1.

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You have the right to appeal this Building Inspection Notice. This appeal must be in writing and received within ten (50) days.



Authorized Signature - Division of Structures & Zoning



CITY OF PROVIDENCE
 Department of Public Works
 ENGINEERING DIVISION
 PHYSICAL ALTERATION PERMIT APPLICATION

CASE NO: <u>2020-24</u>
DATE: <u>5-5-2020</u>
FEE: <u>50.00</u>

CK# 2044

PROPERTY OWNER Andres Perna Blanco
(PRINT NAME)
207 Taber Ave.
(PROPERTY OWNER ADDRESS) PHONE _____

CONTRACTOR Die Jesus Driveways LLC (Josh)
(IF BUSINESS, PRINT NAME OF OWNER OR PRINCIPAL)
1550 Fall River Ave. Seekonk 02771
(DEVELOPER ADDRESS) PHONE 1-508-916-1379

ENGINEER _____
(NAME)

(ENGINEER ADDRESS) PHONE _____

TYPE OF APPLICATION: INDIVIDUAL SINGLE FAMILY _____ ALL OTHERS _____

LOCATION OF WORK 27 Taber Ave.
(BE SPECIFIC)

PURPOSE OF PERMIT curb-out

PRINT PROPERTY OWNER'S NAME <u>A. P. Blanco</u>	PRINT CONTRACTOR'S NAME <u>J. De Jesus</u>	PRINT ENGINEER'S NAME
PROPERTY OWNER'S SIGNATURE <u>A.P. per phone call</u>	CONTRACTOR'S SIGNATURE <u>J.D. per phone call</u>	ENGINEER'S SIGNATURE
DATE <u>5-5-2020</u>	DATE <u>5-5-2020</u>	DATE

DO NOT WRITE BELOW THIS LINE

CITY OF PROVIDENCE
 Department of Public Works

THIS PERMIT VALID FOR ONE YEAR FROM DATE OF APPROVAL
 SUBJECT TO CONDITIONS LISTED BELOW

CONDITIONS OF APPROVAL

CITY ENGINEER SHALL BE RESPONSIBLE FOR:
 (7) ARCHES & 2 (8) CURBS IN TUNNELS
 * SURPLUS CURBS SHALL BE
 RETURNED TO THE CITY YARD
 * CONTRACTOR MUST HAVE CURRENT
 RATED WORKER'S COMP

O.K. by W.B.

ENGINEERING DIVISION:

APPROVED BY: *[Signature]*
 INSPECTED BY: _____
 DATE: _____

DEPARTMENT OF PUBLIC WORKS:

APPROVED BY: _____
 DATE: _____ CHIEF ENGINEER
 (REQUIRED FOR OTHER THAN SINGLE FAMILY DWELLING)

1. ORIG. 2. CHIEF ENG. 3. APPLICANT'S COPY

TRUSTEE'S DEED

We, EDWARD H. ZIEGLER, III and PAMELA Z. SAWYER, as co-Trustees of the EDWARD H. ZIEGLER JR. TRUST AGREEMENT DATED APRIL 25, 2005, for Six Hundred Twenty-four Thousand Five Hundred and 00/100 (\$624,500.00) Dollars paid, grant to ANDRES A. PERNIA BLANCO with a mailing address of 66 9th Street, East Providence, Rhode Island 02914

with WARRANTY COVENANTS

That lot of land, with all the buildings and improvements thereon, situated in the City of Providence, in the State of Rhode Island, on the southeasterly corner of Taber Avenue and Adelphi Avenue, bounding westerly on Taber Avenue on which it measures fifty (50) feet, and holding that width extends back easterly therefrom one hundred (100) feet; bounding northerly on said Adelphi Avenue. Said lot comprises the whole of Lot No. 17 and the northerly ten (10) feet of Lot No. 18 on that plat entitled "Moses Brown Farm Plat Sub-division 3. Drawn by Geo. C. Tingley, C.E. September 1890", which plat is duly recorded in said Providence aforesaid in Plat Book 20 at page 14, and a copy thereof on Plat Card 622.

Said premises are conveyed subject to restriction of records.

Meaning and intending to convey the same property conveyed to EDWARD H. ZIEGLER, JR., EDWARD H. ZIEGLER, III and PAMELA Z. SAWYER, Trustees, or successors in trust, under the EDWARD H. ZIEGLER, JR. REVOCABLE LIVING TRUST DATED APRIL 25, 2005 and recorded in the Land Evidence Records of the City of Providence, State of Rhode Island in Book 7256 at Page 106

Grantors hereby covenant that we have complied with the non-resident withholding provisions R.I. Gen. Laws § 44-30-71.3 and a discharge of lien has been issued by the Rhode Island Division of Taxation.

Subject to taxes assessed December 31, 2018.

Property Address:
27 Taber Avenue
Providence, RI 02906
A.P. 39, Lot 450

665787
RHODE ISLAND
REAL ESTATE TRANSFERENCE TAX
2018-08-15-2019
0.P.
2018-08-15-2019

RAS EY

WITNESS our hands this 15 day of July, 2019.

Edward H. Ziegler III
EDWARD H. ZIEGLER III, co-Trustee

7/15/19

Pamela Z. Sawyer
PAMELA Z. SAWYER, co-Trustee

July 11, 2019

STATE OF RHODE ISLAND
COUNTY OF Providence

In Providence on this 15 day of July, 2019, before me personally appeared EDWARD H. ZIEGLER III, personally known to the notary or proved to the notary through satisfactory evidence of identification which was RI driver's license to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to the notary that the contents of the document are truthful and accurate to the best of his knowledge and belief.

Felicia Q. Fugere

NOTARY PUBLIC
ID# 43094

FELECIA Q. FUGERE #43094
Notary Public, State of Rhode Island
My Commission Expires Apr. 20, 2022

STATE OF RHODE ISLAND
COUNTY OF

In _____ on this 11th day of JULY, 2019, before me personally appeared PAMELA Z. SAWYER, personally known to the notary or proved to the notary through satisfactory evidence of identification which was drivers license to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to the notary that the contents of the document are truthful and accurate to the best of her knowledge and belief.

Sheryl Reid-Siegel
NOTARY PUBLIC
ID#

SHERYL REID-SIEGAL
Notary Public, State of Connecticut
My Commission Expires Dec 31, 2022

Property Address:
27 Taber Avenue
Providence, RI 02908
A.P. 39, Lot 450

The potential income tax consequences of the investment;

The investment's potential for volatility; and

The role the investment will play in the trust's portfolio.

I request that my Trustee, in arranging the investment portfolio of the trust, also consider the possible effects of inflation or deflation, changes in global and U.S. economic conditions, transaction expenses, and the trust's need for liquidity.

My Trustee may delegate its discretion to manage trust investments to any registered investment adviser or corporate fiduciary.

Section 11.04 Banking Powers

My Trustee may establish bank accounts of any type in one or more banking institutions that my Trustee may choose. My Trustee may open accounts in the name of my Trustee (with or without disclosing fiduciary capacity) or in the name of the trust. When an account is in the name of the trust, checks on that account and authorized signatures need not disclose the fiduciary nature of the account or refer to any trust or Trustee.

An account from which my Trustee makes frequent disbursements need not be an interest bearing account. My Trustee may authorize withdrawals from an account by check, draft or other instrument or in any other manner.

Section 11.05 Contract Powers

My Trustee may sell at public or private sale, transfer, exchange for other property, and otherwise dispose of trust property for consideration and upon terms and conditions that my Trustee deems advisable. My Trustee may grant options of any duration for any such sales, exchanges, or transfers of trust property.

My Trustee may enter into contracts, and may deliver deeds or other instruments, that my Trustee deems appropriate.

Section 11.06 Common Investments

For purposes of convenience with regard to the administration and investment of the trust property, my Trustee may invest part or all of the trust property jointly with trust property of other trusts for which my Trustee is also serving as a Trustee. For this purpose, a corporate fiduciary acting as my Trustee may use common funds for investment.

When trust property is managed and invested in this manner, my Trustee shall maintain records that sufficiently identify that portion of the jointly invested assets that constitute the trust property of this trust.

EXHIBIT A

That lot of land, with all the buildings and improvements thereon, situated in the City of Providence, County of Providence, State of Rhode Island, on the southeasterly corner of Taber Avenue and Adelphi Avenue, bounding westerly on Taber Avenue on which it measures fifty (50) feet, and holding that width extends back easterly therefrom one hundred (100) feet, bounding northerly on said Adelphi Avenue. Said lot comprises the whole of Lot No. 17 and the northerly ten (10) feet of Lot No. 18 on that plat entitled, "Moses Brown Farm Plat, Sub-Division 3. Drawn by Geo. C. Tingley, C.E. September 1890", which plat is duly recorded in the office of the Recorder of Deeds in said Providence in Plat Book 20 at Page 14, and a copy thereof on Plat Card 622.

PROPERTY ADDRESS:

Doc No: 00233445
Book: 12439 Page: 228

27 Taber Avenue
Providence, RI 02906-4110

AP 39 AL 450

RECEIVED:

Providence
Received for Record
Aug 01, 2019 at 02:11P
Document Num: 00233445
John A. Murphy
Recorder of Deeds