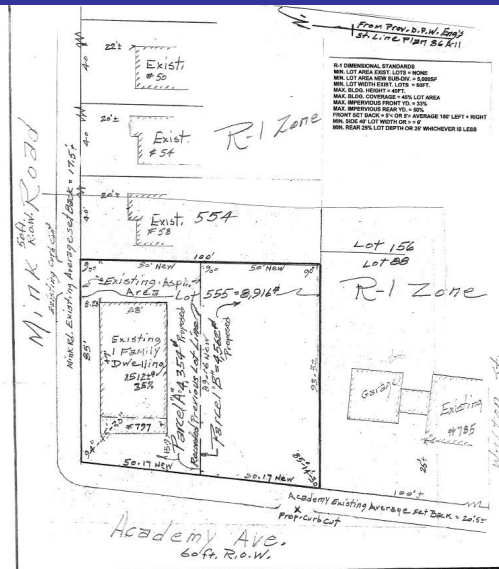


# Providence City Plan Commission

February 21, 2023



## AGENDA ITEM 3 ■ 797 ACADEMY AVE



Proposed subdivision



View of the site from Academy Ave



Aerial view of the site

**OWNER/APPLICANT:** Gertrudis Quiles

**CASE NO./PROJECT TYPE:** 23-006 UDR—Unified Development Review

**PROJECT LOCATION:** 797 Academy Ave  
AP 85 Lot 555; R-1

**NEIGHBORHOOD:** Elmhurst

**PROJECT DESCRIPTION:** Subdivision of a lot measuring 8,916 SF into two lots measuring approximately 4,354 SF and 4,562 SF in the R-1 zone. The minimum lot size for new subdivisions in the R-1 zone is 5,000 SF with a width of 50 feet. Pursuant to Unified Development Review, the applicant is seeking dimensional variances from provisions related to minimum lot area and maximum amount of rear yard paving.

**RECOMMENDATION:** Approval of preliminary plan and dimensional variances

**PROJECT PLANNER:** Choyon Manjrekar

## **DISCUSSION—Dimensional Relief**

The subject lot is a corner lot with frontage on Academy Ave and Mink Street and measures approximately 8,916 SF. It is occupied by a two family dwelling and located in the R-1 zone. The applicant is proposing to subdivide the lot into two lots of 4,562 SF and 4,354 SF, with the existing building on the smaller lot. The minimum lot size for new subdivisions in the R-1 zone is 5,000 SF with a width of 50 feet. The existing house is a two family dwelling which fronts on Academy Ave with parking provided in the rear, and is accessible from Mink Street. Pursuant to unified development review, the applicant is seeking relief from Table 4-1 for minimum lot area and maximum amount of rear yard paving, which exceeds 50 percent. Upon subdivision, the two family dwelling will be converted to a one family to conform with the use regulations of the R-1 zone.

## **Findings—Dimensional Variance**

Section 1902 of the zoning ordinance requires that the CPC find evidence of the following standards in order to grant a variance:

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 a site visit and plans provided, it appears that the relief is necessary due to the unique characteristics of the subject property, which is larger than other lots in the vicinity. Per the zoning map, the area around the development is mostly composed of one family dwellings on lots that are between 4,000 and 5,000 SF, which is similar to the proposed development. The proposed one family dwellings on lots that are larger than 4,000 SF would be in character with the surrounding neighborhood. The future land use map of the comprehensive plan identifies this area as one intended for single family residential development, characterized by one family dwellings on lots that measure between 3,200 to 6,000 SF. It appears that the lot's existing size creates a hardship which does not allow for the lot to be developed in conformance with the neighborhood's character based on the surrounding property. The proposed subdivision would allow for development of two one-family dwellings, which would be in closer conformance with the neighborhood's character.

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 hardship suffered by the applicant appears to be due to the unique character of the lot, which is larger than others in the vicinity. Per the Assessor's records, the existing building is a two family dwelling. The lot size and existing use are not the result of prior actions of the applicant. The applicant has indicated that the house will be converted to a single family to comply with the use regulations of the R-1 zone. Therefore, a use variance for intensification of a nonconforming use is not required. The proposed subdivision would result in two lots that would allow for a single family dwelling on each lot. Based on these plans, the relief requested does not appear to be primarily for financial gain but intended to develop the site in a manner that reflects the development pattern of the comprehensive plan and the surrounding neighborhood.

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.*

According to the future land use map of the comprehensive plan, the neighborhood is intended for single family residential development characterized by one family dwellings on lots that measure between 3,200 to 6,000 SF. The neighborhood reflects this description as it is largely composed of one family dwellings on lots of varying size and width. The proposed development is similar to what exists. A negative effect on neighborhood character is not

expected as the subdivision would result in lots that conform to this land use description. The lot area would be less than what is prescribed by the ordinance for newly created lots, but would conform to the neighborhood's character.

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

The relief requested is the least relief necessary to create separate lots for development of two one-family dwellings. Upon conversion of the existing house to a single family, the applicant will conform to all the other zoning requirements.

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 two one-family dwellings. Given the character of the surrounding neighborhood, denial of the requested relief would prevent the lot from being developed to its full potential. It is the DPDs opinion that the hardship would amount to more than a mere inconvenience if the variance were to be denied.

#### **RECOMMENDATION—Dimensional Variance**

Based on the foregoing discussion, the DPD recommends that the CPC approve the request for relief from minimum lot size and maximum amount of rear yard paving subject to the following condition:

The applicant shall convert the dwelling to a single family use prior to final plan approval.

#### **FINDINGS—Minor Subdivision**

Section 806 of the Commission's *Development Review Regulations* requires that the City Plan Commission make the following findings a part of their approval of all land development project applications. Based on the analysis contained herein and subject to the conditions contained in this report, staff has prepared the following findings regarding the request for approval of the Preliminary Plan stage:

1. *Consistency—The proposed development is consistent with the Comprehensive Plan and/or has satisfactorily addressed the issues where there may be inconsistencies.*

The subject property is located in an area that the future land use map of Providence Tomorrow has designated for single family residential development. These areas are intended for residential uses characterized by single family dwellings in detached structures on separate lots ranging between 3,200 to 6,000 SF. The lots created through the subdivision would conform 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 construction of a new building on a separate lot, which is in conformance with the land use pattern envisioned by the plan.

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. The new lots will measure approximately 4,354 SF and 4,562 SF and have a width of 50.17 feet, which will not meet the minimum lot size requirement for this zone. Further, the smaller lot will exceed the rear yard paving limit of 50 percent. The existing building is currently a two family dwelling. The applicant is proposing to convert the building

to a single family dwelling so as to be in compliance with the use requirements of the R-1 zone. Pursuant to the CPC granting zoning relief, the subdivision will conform to the zoning ordinance. Final plan approval should be subject to the applicant converting the building to a single family use and providing documentation with the final plan submission.

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.*

It does not appear that the subdivision will pose a negative environmental impact as the applicant is required to comply with applicable environmental regulations when developing the lots.

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 subdivision is not expected to pose any constraints to development because each lot will be able to accommodate a single family dwelling and there are 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. Lot frontage on a public street without physical access shall not be considered compliance with this requirement.*

Each dwelling will be accessible to vehicles and pedestrians from Academy Ave and Mink Street.

#### **RECOMMENDATION—Minor Subdivision**

Based on the analysis and findings contained in this report, the CPC should vote to approve the preliminary plan pursuant to dimensional relief being granted through unified development review. The plan should be approved subject to the following condition:

1. The applicant shall convert the existing building to a single family dwelling and provide documentation of the change with the final plan submission.
2. The validity of the preliminary plan shall be extended to one year from the date of recording of the approval letter based on a written request from the applicant.
3. Final plan approval should be delegated to DPD staff.