

CITY OF PROVIDENCE
ZONING BOARD OF REVIEW

INSPECTION & STANDARDS
RECEIVED

NOTICE OF APPEAL

OCT 04 2024

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):

KITE Architects, Inc.

One Central Street, Providence, RI 02907

Name

Home Address

401-272-0240

Telephone: Home/Work

Mobile (cell phone)

info@kitearchitects.com

E-mail Address

OWNER(S):

Cooke Twenty-Five Realty, LLC

147 Williams Street, Providence, RI 02906

Name

Home Address

518-653-7062

Telephone: Home/Work

Mobile (cell phone)

kgross@gvafdn.org

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: 118-126 Benevolent Street
(Street Number and Address)

2. (a) Assessor's Map No. 13 (b) Lot(s): 318 & 319 (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. The September 4, 2024 Decision of the Historic District Commission

& subsequent written Decision issued on October 3, 2024 DA

5. What was the date of the decision and/or the date of its recording? Written Decision Not Yet Issued. October 3, 2024 DA

6. On what date did you learn of the decision? Learned of the decision (the decision itself, not the written decis

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 Decision to deny Appellant's Application to the Historic District Commission made by the HDC on September 4, 2024 was in violation of constitutional, statutory, or ordinance provisions, in excess of the authority granted to the HDC by statute or ordinance; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; and/or arbitrary and capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

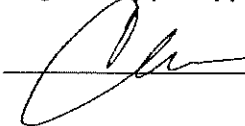
The Appellant's proposal is architecturally and historically compatible with the district, being in conformance with Standard 8 of the Providence Historic District Commission's Standards and Guidelines. Appellant shall subsequently submit a memorandum of law to follow.

** 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

 CHRISTINE WEST, AIA

OCTOBER 3, 2024

Counsel for Appellant(s):

Nicholas J. Hemond, Esq.

Name

1 Turks Head Place, Suite 1200

Address

Providence, RI 02903

City

State

Zip Code

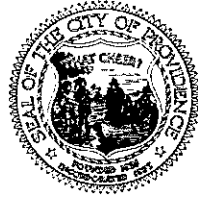
401-453-1200

Phone: Office

Phone: Mobile

nhemond@darroverett.com

E-mail Address



Providence Historic District Commission

Brett P. Smiley
Mayor

October 3, 2024

APPLICANT
KITE Architects
One Central Street
Providence, RI 02907

OWNERS
Cooke Twenty-Five Realty
42 W 39th Street
New York, NY 10018

RESOLUTION 24-35 **Application 24.079**

WHEREAS, the applicant, KITE Architects, applied to the Providence Historic District Commission for a Certificate of Appropriateness for New Construction at 118-126 Benevolent Street, Plat 13, Lots 318 & 319, and,

WHEREAS, the Commission held a properly noticed Special Meeting on September 4, 2024, with the following members present: Haggerty, Sanderson, Dotson, Fontecchio, and Kaplan; and

WHEREAS, Ms. Christine West, applicant/architect, and Mr. Andrew Doyle, architect, appeared before the Commission for the scheduled item; and

WHEREAS, the Commission members individually viewed the site which is the subject of the application; and,

WHEREAS, based upon the evidence presented and in the record, the Commission made the following findings of fact:

1. 118-126 Benevolent Street currently are vacant lots within the Power-Cooke local historic district.
2. The work as proposed consists of New Construction and includes the construction of three single-family residences with detached garages.
3. The application for New Construction is considered complete for conceptual review.
4. The application was initially reviewed at the July 22, 2024 Regular Meeting, where members expressed reservations regarding the appropriateness of the proposed three buildings, as opposed to two buildings. The response given by the applicant was that the requested approval is for three buildings, not two, emphasizing that the proposed plan is compliant with applicable zoning regulations.¹ After discussion, the item was continued by the Commission to its August 26, 2024 Regular Meeting in order to obtain additional information from the applicant related to scale, massing, and form of the proposed and existing buildings in the area. More specifically, the Commission requested massing studies of the proposed buildings in context with the immediate area, including streetscapes of the proposed construction for the north and south sides of Benevolent Street between Cooke and Governor Streets.

¹ Accepting for purposes of this resolution the applicant's representation that the project is compliant with current zoning regulations, the Commission's review as to the appropriateness of New Construction in a historic district is separate from compliance with the use and dimensional requirements in the zoning ordinance.

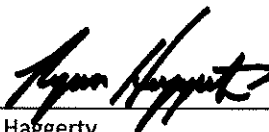
5. The Commission was notified by the City Forester by letter dated August 23, 2024 that the abutting property to the north, 253 George Street, contained a significant tree whose tree protection zone and critical root zone would be impacted by the location of the proposed construction in the application, specifically the detached garage for the western-most proposed residence. The applicant was made aware of this finding and requested a continuance to revise the application to relocate the subject garage outside of the critical root zone, which constitutes a material change to the original application. The Commission re-scheduled the matter from the August 26, 2024 Regular Meeting to a September 4, 2024 Special Meeting, allowing for the revised application to be disseminated and evaluated by the Commission.
6. On August 30, 2024, the Commission received further correspondence from the City Forester regarding the trees on the parcel abutting to the west of the proposed development (112 Benevolent Street). In his second letter the City Forester stated that while there are no significant trees on the parcel as defined by City Zoning Ordinance, there are six mature Atlas trees, that the trees are impactful features of the private property providing approximately 6,000 sf of canopy coverage, and that the tree protection zone and critical root zone of these trees extend into the property of 118-126 Benevolent Street. The revised plan for 118-126 Benevolent Street proposes a driveway within the critical root zone and a structure within the tree protection zone of the Atlas trees. The City Forester indicated that the application as proposed has the potential and likelihood of leading to the irreversible decline of the trees at 112 Benevolent Street and consequently removing a substantial portion of valuable canopy coverage. The City Forester also stated that regarding the significant tree located on the abutting property of 253 George Street, the revised plan for 118-126 Benevolent Street, consisting of moving the garage structure and driveway out of the critical root zone, was acceptable; however, the grade changes and soil compaction during construction within the significant tree's tree protection zone may have detrimental effects on this significant tree.
7. At the September 4, 2024 Special Meeting, the applicant provided testimony and presented the revised application. The application as revised was largely similar to what was presented on July 22, 2024 but for the material change mentioned above—the relocation and reorientation of the detached garage for the proposed residence located on the western-most side of the property to accommodate the critical root zone of the significant tree located at 253 George Street. Otherwise, despite the Commission's prior concerns related to three buildings, versus two, the applicant continued to request approval of three residential buildings with accompanying detached garages. The buildings' design did not change in any impactful way except for the relocation of the western most garage to accommodate the abutting significant tree. However, the relocation of this garage compromises proposed "A-B-A" design of the new construction (discussed in paragraph #11, below) in that the garages are no longer uniform in location and distance from their respective buildings.
8. At the September 4, 2024 Special Meeting, expert testimony and a written report regarding the trees at the subject property as well as abutting properties was provided to the Commission by Mr. David Schwartz, a licensed Rhode Island arborist retained by an abutting property owner in objection to the application. Schwartz agreed with and confirmed the City Forester's conclusions.
9. At the September 4, 2024 Special Meeting, the Commission heard expert testimony from Mr. Jon-Paul Couture, a licensed architect and former member of the Commission, who, in his professional opinion, opined that the proposed design is incompatible with the neighborhood. He stated that there is no example in the area of three houses being built at the same time, of nearly identical massing in a row with minor staggering, or with three identical garages that are detached from the structure. He stated that detached garages are unusual in the neighborhood and submitted an image showing lot sizes that was introduced into the record.
10. At the September 4, 2024 meeting, the applicant was given the opportunity to continue the meeting, to allow for further dialog with abutters. Multiple requests had been made through the public comment process from abutters, the Rhode Island Historical Society, and Councilman Gonzalves, Ward 1, to continue the application to allow for more discussion between the various parties. The applicant denied the request.

11. After robust and extensive discussion, the Commission determined that the proposed New Construction plans are incongruous with the surrounding historic district, including surrounding structures and their appurtenances. The design of the three proposed structures has been referred to as an "A-B-A" design, meaning the two flanking residences are identical and the middle residence is a close design variation of the other two. The concept of this design structure is that from certain angles the three properties potentially would appear to be one larger structure rather than three separate structures. During the September 4, 2024 Special Meeting, however, it was disclosed that there is a change in elevation of ten (10) feet east to west on the parcels. Based on this elevation change and well as the relocation of one of the garages, the Commission found that the architectural success of the "A-B-A" design was less apparent.
12. The Commission indicated that while the garages are not highly visible from the public right of way, they still have an impact on site features of the property and neighboring properties as six structures are included in the proposed development, not just three. The Commission recognized that this is not a proposal for one new house. The Commission might look at a proposal for one house and look at its individual design and site features. This, however, is a three-house development, and thus the impact of the development as a whole is of concern rather than the specifics of each individual building when thinking about conceptual approval based on mass, scale, and design.
13. Commissioners were struck at the June 22, 2024 Regular Meeting at the degree to which the three buildings as a unit are inconsistent with the architectural character of the district as a whole. This is a district that is characterized by an eclectic architectural language with buildings of varying sizes. In looking at the particular block where the property is situated, there is one small existing house and a few very large houses at the end of the street. There is not a consistent pattern of either large or small houses. Part of what makes this development stand apart from the character of the district as a whole is the very symmetrical, very rigid uniformity of three buildings in a line, and, as was pointed out in testimony, that is not duplicated anywhere in this district. In fact, on the block where this parcel is located, there are no buildings with gable roofs that are flanked to the street, which all three of the proposed buildings have. All of the buildings in the surrounding area have a different form. Although the idea of having a flat, gable flank to the street and a symmetrical facade appears in some historic districts as a frequent building type, it does not appear in this district as a frequent building type at all, except on Power Street. The Commission determined that the proposed construction does not relate well either to nearby buildings on the street where it is located or within the district as a whole.
14. With regard to questions about landscape, it does not appear that there are designated historic landscapes within the district; however, there are gardens and significant and mature trees that contribute to the general character and context of the area. The vegetated yards and tree canopy can and should be considered as part of the context when determining appropriateness for the area and the setting for the three proposed new buildings. There was concern that the Altas trees at 112 Benevolent Street are arguably a historic intervention by someone who made a specific decision when those trees were planted. The National Register of Historic places make a distinction between designated landscapes and landscape settings for buildings, and altering the setting of a building can affect the character of the historic structure itself. Thus, the project as presented is not in keeping with the historic district.
15. While the lot is certainly buildable, and an appropriately designed building(s) would be an improvement to the vacant lot, this application with these three proposed structures is incompatible. The Commission is of the opinion that a redesign project for two buildings would have greater design flexibility and might be more compatible with the scale of the historic district. Such redesign could include architectural treatments for more individualized buildings that might vary in roof design, window design, and building floor plan, that might use a variety of building materials, and that might not duplicate design details. A redesign with changes such as these could help establish visual relationships between the new buildings and the historic buildings that characterize the district as a whole.

16. The Commission finds that the new construction as proposed is not in accord with PHDC Standards 7 & 8 as follows: the proposed construction is architecturally, historically incompatible with the district having an inappropriate size, scale, and form that will have an adverse effect and is incongruous with the surrounding historic district being incompatible in size, scale, and form, inappropriate with the adjoining area, as well as the historic district and neighborhood. The general scale and form of structures and appurtenances in the district are familiar, repeated throughout the area in various architectural languages, from the Federal to the early 20th century. However, in the Power-Cooke Street area surrounding the subject property, there are no buildings built of repetitive design, with little to no variation between them, making the proposed new construction incongruous and inappropriate to the district, producing an adverse effect (Standard 8). Where historical, architectural, or site features are determined by the Commission to contribute to the historic character of the property or the district, proposed alterations or additions affecting such features shall be reviewed more stringently (Standard 7). The Commission recognizes that the district is characterized by vegetated yards and tree canopy and heard expert testimony from the City Forester and an arborist, recognized as an expert witness, who agree that the adjoining trees, both significant and mature trees, would be in their opinion, irreparably harmed by the current proposal, which would produce an adverse effect on the district.
17. In summary, for the reasons discussed at the meeting held on this application and herein, the proposed New Construction design fails to meet the considerations in R.I. General Laws § 45-24.1-4(d) as well as PHDC Standards and Guidelines for being congruent with the historic architectural character of the district.

WHEREAS, based upon the above findings of fact, the Commission determined that the New Construction as submitted by the applicant is inappropriate. Upon motion made by Mr. Sanderson, seconded by Mr. Kaplan, the Commission voted (4 to 1, Members Sanderson, Fontecchio, Dotson, and Kaplan in favor, Member Haggerty opposed) to deny conceptual approval of the proposal as submitted citing Standards 7 & 8, that the proposed construction is architecturally, historically incompatible with the district having an inappropriate size, scale, and form that will have an adverse effect, and is incongruous with the surrounding historic district being incompatible in size, scale, and form, inappropriate with the adjoining area, as well as the historic district and neighborhood.

NOW, THEREFORE, BE IT RESOLVED that the application for New Construction as described in the above findings of fact **IS DENIED**. Parties wishing to appeal a decision made by the Commission have 20 days from the date of the resolution to file an appeal with the Zoning Board of Review.



Ryan Haggerty
Chair