

Brett P. Smiley
Mayor

Marc A. Greenfield
Chair



FILED
2024 MAY -8 P 2: 21
DEPT. OF CITY CLERK
PROVIDENCE, R.I.

Zoning Board of Review

RESOLUTION NO. 2024-07

May 7, 2024

IN RE: Application for Special Use Permit (Transitional Shelter)
Application for Dimensional Variance (required perimeter screening)

PROPERTY: Tax Assessor's Plat 2, Lot 619
100 Randall Street (C-3 Heavy Commercial Zoning District)

OWNER/
APPLICANT: Charlesgate Nursing Center/Rhode Island Department of Housing
100 Randall Street
Providence, RI 02904

COUNSEL: Edward Pare, Esq.
Savage Law Partners, LLP
564 South Water Street
Providence, RI 02903

On April 10, 2024, the within matter came before the Zoning Board of Review (the "Board") for a duly noticed public hearing on the request by the Owner and Applicant (together the "Applicant"), for a dimensional variance and special use permit at the above-designated Property. The following members of the Board were present throughout the hearing: Chair Greenfield, Ms. Maniotes, Ms. Rodriguez, Mr. Mitchell, and Mr. Scott. Mr. Ryan was recused.

WHEREAS, the Applicant sought a special use permit to establish the use of the property as a Transitional Shelter and a dimensional variance for relief from the screening requirements for that use, pursuant to Section 1201, Table 12-1, and Section 1202.II of the City of Providence Zoning Ordinance of November 24, 2014, as amended (the "Ordinance"); and

WHEREAS, prior to the hearing, the members of the Board individually made inspections of the Property and of the surrounding neighborhood; and

WHEREAS, Attorney Edward Pare presented the application and the testimony of Rhode Island Secretary of Housing Stefan Pryor and Colin Kane of Peregrine Property Management; and

WHEREAS, there was written comment on the matter from Lucy Maddock on behalf of the American Mathematical Society (AMS), and the board heard oral comment from Steve Phillips, representing AMS, an abutting owner of 189 Charles St (Plat 2, Lot 611); and

WHEREAS, the Board received, and the Chair read into the record, the April 10, 2024 recommendation of the Department of Planning and Development (“DPD”) recommending the granting of the special use permit and dimensional variance.

NOW, THEREFORE, after consideration of the application, the testimony, and all other evidence of record, upon motion by Mr. Mitchell, seconded by Mr. Scott, the Board voted unanimously (5-0) to APPROVE the application for special use permit and dimensional variance.


**THE BOARD HEREBY MAKES THE FOLLOWING
FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

1. The Property is located in an C-3 Heavy Commercial Zoning District and is improved with an existing multi-story building that has been used as a nursing home. The property currently holds a Temporary Use Permit to occupy the building as Temporary Emergency Housing, which will expire on July 5, 2024.
2. Ordinance Section 1201, Table 12-1, permits Transitional Shelter use with the granting of a special use permit. Section 1202.II provides use standards for this use which the Board must find are met in addition to the general findings of Section 1901 of the Ordinance. Section 1202.II.1 requires that a transitional shelter be screened along all interior side and rear lot lines by a solid wall or fence with a minimum height of 4 feet and a maximum height of 6 feet. The Applicant requested a dimensional variance for the required screening.
3. The Board finds that the relief sought is due to the unique characteristics of the Property. More specifically, the Property is part of a campus that includes 3 other properties and buildings which are accessed via internal vehicular circulation across nonorthogonal interior lot lines. The screening required by Section 1901 would prevent pedestrian and vehicular access and circulation to and between the 3 other properties and buildings on this campus. Further, the rear boundary of the lot is naturally screened by dense vegetation and the Moshassuck River.
4. There was no evidence presented or elicited that the relief sought is due to a physical or economic disability of the Applicants. Nor is it the result of any prior action of the Applicant, who is purchasing the property in its current form.
5. The Board agrees with, and incorporates, the findings and the recommendation of the DPD, and likewise the Board finds that granting the requested dimensional variance will not alter the general character of the surrounding area nor impair the intent or purpose of the Ordinance or the Comprehensive Plan.

6. The Board concludes that the hardship suffered by the Applicant if the dimensional variance is not granted will amount to more than a mere inconvenience and the relief sought is minimal to a reasonable enjoyment of the permitted use.
7. The Board finds that the application, together with the testimony of the Applicant, established that the lot will be occupied in conformance with all other requirements of Section 1202.II of the Ordinance, including that the premises and adjacent streets, sidewalks, and alleys within 100 feet will be inspected regularly for the purpose of removing litter or debris, that transitional shelter guests will be provided with an enclosed waiting area one hour prior to shelter opening in the event not all placements shall be by appointment only, and that the operator had submitted a management plan for the facility. Further, the Board finds that the Moshassuck River and the dense vegetation along it constitutes a sufficient natural screening to and from the rear of the Property and rejects any commentary to the contrary, which was unrelated to use of the Property as a temporary or permanent transitional shelter. Furthermore, the boundaries of the Property would render man-made screening along the river/rear of the Property ineffective without additional screening along the interior sides of the Property, which is impractical due to the unique characteristics of the Property.
8. The Board finds that granting the proposed special use permit will not substantially injure the use and enjoyment of, nor significantly devalue neighboring property.
9. For the same reasons set forth above, the Board finds that granting the proposed special use permit will not be detrimental or injurious to the general health or welfare of the community.

WHEREFORE, upon motion by upon motion by Mr. Mitchell, seconded by Mr. Scott, the Board voted unanimously (5-0) to APPROVE the application for special use permit for use as a Transitional Shelter and a dimensional variance for relief from the use's perimeter screening requirements.

By Order of the Zoning Board of Review.



MARC GREENFIELD
CHAIR

NOTICE TO OWNERS/APPLICANTS:

- A** SECTION 1901/1902 OF THE ORDINANCE REQUIRES THAT ANY VARIANCE OR SPECIAL USE PERMIT GRANTED BY THE BOARD SHALL EXPIRE SIX MONTHS AFTER THE DATE OF THE FILING OF THE RESOLUTION IN THE OFFICE OF THE BOARD UNLESS THE APPLICANT SHALL, WITHIN THE SIX MONTHS, OBTAIN A LEGAL, COMPLETE BUILDING PERMIT AND PROCEED WITH CONSTRUCTION; IF NO CONSTRUCTION IS REQUIRED, THE APPLICANT SHALL OBTAIN A LEGAL BUILDING PERMIT FOR THE USE, OR A CERTIFICATE OF OCCUPANCY. DEMOLITION AND FOUNDATION PERMITS ARE NOT BUILDING PERMITS FOR PURPOSES OF THIS REQUIREMENT. NO PERMIT OR CERTIFICATE OF OCCUPANCY WILL ISSUE UNTIL THE OWNER

AND/OR ITS REPRESENTATIVE COMPLIES WITH PARAGRAPH B BELOW.

- B. THE ORIGINAL RESOLUTION IS ON FILE IN THE OFFICE OF THE ZONING BOARD OF REVIEW. THE OWNER OR THEIR REPRESENTATIVE MUST OBTAIN THE ORIGINAL RESOLUTION FROM SAID OFFICE, RECORD THE RESOLUTION IN THE CITY'S LAND EVIDENCE RECORDS, AND PROVIDE COPIES OF THE RECORDED RESOLUTION TO BOTH THE OFFICE OF THE ZONING BOARD OF REVIEW AND THE DEPARTMENT OF INSPECTION AND STANDARDS.

MOTION TO APPROVE SPECIAL USE PERMIT AND DIMENSIONAL VARIANCE

MADE BY: Mitchell
SECONDED BY: Scott
MEMBERS VOTING IN FAVOR: Mitchell, Scott, Rodriguez, Maniotes, Greenfield
MEMBERS VOTING AGAINST: None
MEMBERS RECUSED: Ryan

RECEIVED:
Providence
Received for Record
MAY 15, 2024 11:50 AM
Document Num: 2024367518
Jeanne Pascone
Recorder of Deeds