

STATE OF RHODE ISLAND CITY OF EAST PROVIDENCE

COUNTY OF PROVIDENCE

ZONING BOARD OF REVIEW

SPECIAL MEETING MINUTES

A special meeting of the East Providence Zoning Board of Review was held at 6:00 P.M., on Monday, **8 May 2023**, in the City Council Chambers, East Providence City Hall.

The following members were present:

Eugene Saveory – Chairman

Michael Beauparlant – Vice Chairman

John Braga

Richard Croke, Sr.

Gary Pascoa

Matthew Robinson – 1st Alternate

Andrew Cotton – 2nd Alternate – **ABSENT**

Edward Pimentel – Zoning Officer / Clerk

Michael Marcello – City Solicitor – **ABSENT**

Dylan Conley – Assistant City Solicitor

I. OPENING STATEMENT BY CHAIRMAN

Chairman Saveory announces that it is the policy of the Zoning Board of Review to caution all petitioners that they have the right to counsel before the Board and failure to do so at this time does not constitute sufficient grounds for a change in circumstances under the eighteen-month repetitive petition clause. All petitioners are also cautioned that if the petition is approved, all construction must be done in compliance with the submitted plan(s), application and testimony presented to the Zoning Board of Review. A change of any sought must obtain the requisite approval of the Zoning Board of Review. All work that deviates from the approval will be ordered halted and promptly removed. Comments will be limited to the petition being heard and no comments will be heard that do not pertain to an item scheduled on tonight's docket. He also notes that it is the policy of the Board that no new agenda item will be heard after 10:30PM.

Chairman Saveory also notes that the Board welcomes any commentary from the public provided it solely pertains to an item on tonight's docket.

A. Swearing in of the Zoning Officer

Chairman Saveory asks **Assistant Solicitor Conley** to swear in the **Zoning Officer, Mr. Pimentel**.

II. SEATING OF ALTERNATE MEMBERS

Chairman Saveory explains to the public that **Mr. Croke** will recuse himself and **Mr. Robinson** will be a participating and voting member this evening.

III. APPROVAL OF ZONING BOARD MINUTES

Zoning Officer Pimentel explains that there is none.

IV. ZONING OFFICER'S REPORT

Zoning Officer Pimentel explains that there is none.

III. CORRESPONDENCE/ DISCUSSION

Zoning Officer Pimentel explains that a letter from an abutter was submitted but the board can review the letter when the time comes.

VI. STAFF REPORTS

1. Planning Department Staff Report - Previously Submitted

VII. DOCKET ITEM ORGANIZATION

There is only one item on this evening's docket.

VIII. CONTINUED BUSINESS

There is no continued business this evening.

IX. NEW BUSINESS

1. Petition No. 6927 -JOSEPH RUGGIERO and ORCHID MONTESSORI SCHOOL, seek dimensional variances to introduce a child daycare center operation, without complying with the respective side-yard and rear-yard landscaping buffer setback requirements, minimum separation from a potential hazard requirement, minimum off-street parking student drop-off requirement, stall dimension and aisle width dimensional requirements, and trash storage location, in addition to potential other dimensional deficiencies, for property located at **877 BROADWAY, being MAP 206, BLOCK 11, PARCEL 31, in a COMMERCIAL 1 DISTRICT.** *[Continued from 5 April 2023. No testimony taken.]*

Attorney Matthew Landry is representing the petitioner, Orchid Montessori School.

Attorney Landry explains to the board that they have updated the site plan and nothing has changed that is pertinent to the application. He had received a memo that the auto shop and the northwest area be cited on the site plan.

Attorney Landry hands out the updated site plan to the board members.

Chairman Saveory inquires if this is for reference only.

Attorney Landry explains that the original copy was already submitted, however these abutters were added at the request of city officials.

Motion by Mr. Braga to enter in the update site plan as **Applicant's Exhibit A**, the motion is **Seconded** by **Mr. Robinson** and **Unanimously** approved.

Attorney Landry reiterates that the two changes are adding existing neighbors on the site plan upon the request of city staff and adds that legally, a daycare is a permissible use at this location and that there is currently a legal business at this location. There is currently children attending therapy, there is a business license that has been issued and there is a grandfathered office use and currently there is therapy and clinical sessions taking place. **Attorney Landry** adds that all safety and traffic concerns in question were already an issue prior to his clients taking over the property. There was a more intense use for the property previously for the use of training state employees. Daycare centers are permitted by right on this property and the only reason why they are present tonight is that the zoning ordinance has special provisions for daycare centers. Section 19-357 of the zoning code means that there are additional requirements that must be satisfied and that they need relief for. Daycare centers are state regulated and are strictly enforced for things such as hours of operation, inspections, licensing requirements, etc. with safety being number 1. This is just an additional service for those who are already attending the site. **Attorney Landry** believes there will be a reduction of traffic since the child will be staying all day while also receiving their therapy. The existing operation is permitted and currently in use and they need relief for some setbacks such as the drop off area and the play area.

Stephanie Izzy, director and language pathologist, is properly sworn in.

Ms. Izzy explains to the board that she is a director and language pathologist, she has her PhD and has been a pathologist since 2016. **Ms. Izzy** is currently working at the property and notes that they are only partially in operation at the site. They are a non-profit therapeutic clinic that offers direct service, evaluations, care giver trainings, etc. mainly for pediatric clients. They did apply for a business license with the city and it was issued. At this location currently, they are not a full clinic and for employees they have 3 full time pathologists and 2 part time, a special education literary educator, etc. The current hours are typically 9am-5pm but sometimes 9am-6pm. They currently operate group sessions 2 hours at a time where families come in and sometimes there are individual sessions. Currently cars can park in the back or there are 2 spaces in the front, generally these cars are entering off Broadway and sometimes coming out to Grove Avenue. The traffic on the property flows two ways and wasn't made aware of any traffic or safety

concerns. **Ms. Izzy** adds that there have been no accidents on the property that she has been made aware of. Currently there is a waitlist to enter their program of about 25 students, so there is a huge need for the daycare. There are many autistic children that aren't accepted into typical programs to receive child care. **Ms. Izzy** believes there would be a more organized drop off and pick up system and they explored many other properties in this region and even in Massachusetts. They were trying to find a property that was centrally located for their existing families and couldn't find a suitable property or couldn't find a landlord that were willing to have a childcare facility on site, or within their price range. **Ms. Izzy** believes that the hardship is due to all the regulations and the play area was relocated, parking spaces were modified due to city staff. It would be more than a mere inconvenience if this petition was not granted.

Attorney Richard Welch is representing the opposing abutter

Attorney Welch inquires what percentage of capacity are they currently at.

Ms. Izzy answers maybe 10%

Attorney Welch notes that they looked at several other properties and inquires if any of those properties had an easement as well.

Ms. Izzy answers that she is not sure.

Kathleen Rodrigues, one of the founders of the program, is properly sworn in.

Ms. Rodrigues explains to the board that she has her master's in education and has experienced working in non-profit management from 2002-2007. **Ms. Rodrigues** has been a classroom teacher from 2007 to present. **Ms. Rodrigues** explains that the proposed use would have about 26 students and it is a unique program. **Ms. Rodrigues** notes to the board that her son has autism and there are a number of families that need child care assistance for children with special needs. **Ms. Rodrigues** explains that as a mom having therapy and child care in the same space gives her peace of mind. **Ms. Rodrigues** continues to note that they have been currently leasing since September and the landlord is aware of what they do and supports their work. They had started looking for properties back in January 2022 and looked all over, Providence, North Providence, Pawtucket, etc. However per DHS the property must be above grade and many buildings they looked at needed a significant amount of work. **Ms. Rodrigues** explains that she submitted a list of properties that they previously considered and even worked with the planning department to try and find a property that would meet licensing requirements. **Ms. Rodrigues** notes that they would never do anything to jeopardize the children's safety and that the property used to be operated by the state of Rhode Island for training for bus drivers. **Ms. Rodrigues** explained that they have had conversations with city staff, obtained council and an engineer and worked with architects to figure out the safest approach to the play area. They have scaled back on the relief since first applying and made improvements to the parking and changed the parking spot lines to be more in compliance. The play area was chosen to help the flow of traffic and have complied with planning board requests. **Ms. Rodrigues** admits that she preferred the plans from 6 weeks ago but willing to do anything at this point. **Ms. Rodrigues** explains that parents would pull in from Grove Avenue, without parking, and they can fit about 5 cars stacking, and would have employees escort children to and from the building. The drop off times would be depending on the number of students and 3 families at a time would get a 5 minute window. **Ms. Rodrigues** admits that the location has provided some challenges, but so does every other property. The hardship is due to the existing site conditions and they selected a property that had no structural work needing to be done. They haven't really done anything to the property, and adds that this is not for financial gain since this is a non-profit organization and believes they are asking for the least relief necessary.

Attorney Welch inquires if the other properties they looked at had access via an easement or right of way.

Ms. Rodrigues answers she had only one point of entrance.

Attorney Welch inquires if **Ms. Rodrigues** has any concerns with the auto shop next door.

Ms. Rodrigues answers no, and that they are in the business of keeping children safe.

Attorney Welch inquires if there is a landscape plan.

Ms. Rodrigues answers that she isn't sure how they could add landscaping without taking away from the parking.

Attorney Welch inquires if their visitors will park off site.

Ms. Rodrigues answers yesthey will more than likely.

Attorney Welch inquires if thecars are stacked up then those cars would have to wait and cannot go aroundcorrect?

Ms. Rodrigues answers yesthat is correct.

Attorney Welch notes that theright of way is only 9.1ft wide and inquires if **Ms. Rodrigues** has any concerns with that.

Ms. Rodrigues answers thatthere would be the same safety concerns anywhere.

Attorney Welch inquires if they considered theimpact on 182 Grove Avenue.

Ms. Rodrigues explains thatthey will be courteous and didn't consider that it would be a big concern.

Attorney Welch inquires aboutsnow plowing and trash collection access.

Ms. Rodrigues responds thatthey are not planning on getting a dumpster.

Attorney Welch inquires aboutemergency personnel.

Ms. Rodrigues answers thatthey could go through the front, and that would be the same issue no matterwhat business would be there.

Attorney Landry notes that theeasement is actually in favor of 877 Broadway and not 182 Grove Avenue.

Ms. Rodrigues answers that tothe best of her knowledge that is the case.

Attorney Landry inquires ifthere have been any complaints about the existing use.

Ms. Rodrigues answers that nocomplaints have been directed towards them.

Attorney Landry inquires ifthey reached out to the abutters.

Ms. Rodrigues answers yes butttheir invitations were declined.

Attorney Landry inquires if **Ms. Rodrigues** believes that they aremaking things worse for the area.

Ms. Rodrigues answers thatthey don't believe so.

Attorney Landry inquires if twocars can pass each other on the right of way.

Ms. Rodrigues answers no.

John Shevlin,CEO if Pare Corporation, is properly sworn in.

Mr.Shevlin explains to the board that he is a professional engineer in thestate of Rhode Island and has been since 1993, he has his resume to give theboard.

Motion by Mr. Braga to enter in **Mr. Shevlin's resume as Applicant 's Exhibit B**, the motion is **Seconded** by **Mr. Robinson** and **Unanimously** approved.

Mr.Shevlin explains to the board that he has worked on projects forretail, schools, new developments and some residential. He has testified beforethe East Providence Planning board but doesn't believe he has testified beforethis board.

Motion by Mr. Braga to consider **Mr. Shevlin as an expert witness**, the motion is **Seconded** by **Vice Chairman Beauparlant**.

Mr. Shevlin notes that he reviewed the regulations anddesign requirements for daycare centers. **Mr.Shevlin** believes the one way traffic flow would better and they are able tomeet parking space dimensions. Notedon the report dated 23 April 2023, he got familiar with the area and conductedsome site visits to look at the site, curb cuts and the handicap ramp. **Mr. Shevlin** explains that there isenough room for 4-5 cars in the queue and it would be only for a 45 minutesperiod in the morning for drop off and 45 minutes in the afternoon for pick upwith staff members to escort the children. **Mr.Shevlin** has been this operation happen before and doesn't see the queuingbeing an issue for the site, not for just 26 kids. The proposed layout is safe,having a one way traffic flow going forward is better and will be animprovement.

no restrictions in place today that he is awareof. Redesigned two-three times, this represents the best traffic design forsafety. Spoken w/ engineering office. Easement currently allows traffic flowboth ways, Grove Ave north street 100-120ft. Parking restrictions - possiblefor families to park on Grove Ave. Queuing was easier for the parents, andstaff for organization, reducing amount of traffic with families having setdrop off times. Least relief necessary in opinion.

Attorney Welch notes that there is a right of way issue and how could one limit the traffic from trespassing onto 182 Grove Avenue.

Mr. Shevian suggests putting a center line but that is not in their plan right now.

Attorney Welch inquires about the number of trips on the right of way, about 55-60 trips?

Mr. Shevian answers that is incorrect and as an engineer, that is not a significant number.

Attorney Welch notes that he reviewed the survey and that 9.1ft. is not in compliance and a minimum driveway width is 10ft. according to state highway standards. Additionally there is no separate between the right of way and the property at 182 Grove Avenue.

Mr. Shelvan answers yes that is correct.

Attorney Welch inquires if **Mr. Shelvan** has any concerns with safety.

Mr. Shelvan answers no, not with the plan that was created.

Attorney Welch points out that there is potential for conflict between the tenants at 182 Grove Avenue and the parents and with deliveries such as Amazon.

Mr. Shelvan responds that there could be conflicts at any intersection.

Attorney Welch inquires if there is a passing lane.

Mr. Shelvan answers no.

Attorney Welch inquires about trash and snow removal.

Mr. Shelvan responds that the trash is in the barrels and the snow can be pushed to the back of the property in an area that is not being used.

Attorney Welch inquires if snow stacking would take away from any parking spaces.

Mr. Shelvan answers no and notes that there was no capacity analysis and no traffic study completed.

Attorney Landry inquires if there are any restrictions on easement on how many trips are allowed.

Mr. Shelvan answers no that he is aware of.

Attorney Landry confirms that this is not a highway or a new proposed driveway.

Mr. Shelvan answers no, this is all existing.

Attorney Landry inquires if **Mr. Shelvan** has any concerns with safety or that the easement is 9.1ft.

Mr. Shelvan answers no to both.

Attorney Landry inquires about the number of trips currently.

Mr. Shelvan answers that he is not sure.

Attorney Landry explains to the board that there are no further witnesses or testimony.

Chairman Saveory calls for a recess, the board reconvenes at 7:54pm.

Assistant Solicitor Conley notes on the memo from the Planning Board dated 4 May 2023 on page 2 subsection "E" under the list of relief, "19-282" refers to the required sizes of parking spaces and parking space design requirement. No relief is necessary since the remainder of the spaces are angled. The proposed one-way traffic area on a 60 degree angle requires 18ft. No relief required for the parking space design that is relative to the discussion this evening and no relief required for the drive aisle, since they have met all minimum code required. However, the board needs to keep in mind that the number of spaces is different.

Maria Dias, owner of 182 Gove Avenue, is properly sworn in.

Ms. Dias explains to the board that she has owned the property at 182 Grove Avenue since 2015, the property has 5 units and she has 8 tenants. **Ms. Dias** is aware that she purchased the property with a right of way and notes that it wasn't in use when she first purchased the property and has photos to show the board proof of that.

Motion by Mr. Robinson to enter in the photo of the right of way by **Ms. Dias as Opponent's Exhibit 1**, the motion is **Seconded** by **Vice Chairman Beauparlant** and **Unanimously** approved.

Attorney Welch inquires to **Ms. Dias** what the photos show.

Ms. Dias explains that the photo shows the easement and the driveway and that the property was abandoned and the right of way was not in use.

Attorney Welch inquires if **Ms. Dias** has concerns in regards to the petition.

Ms. Dias answers that she has many concerns, her tenants could be blocked in and prevented from going to work.

Ms. Dias also has concerns with people walking and notes that children with disabilities can run off and there is no fencing on the property. **Ms. Dias** expresses concerns with liability and potentially being sued and that since the property is so close to the driveway that someone could drive into the property at 182 Grove Avenue. **Ms. Dias** also mentions that her tenants have expressed concerns due to health issues such as asthma. **Ms. Dias** also believes that the easement cannot have cars stopped at any time, so the queue plan is a violation of that.

Attorney Welch notes that there were other pictures recently taken of the property that was already included in the board's packets.

Ms. Dias notes that photo #1 shows the width, photo #2 shows the back entrance of her property and the fire escape, photo #3 shows no property buffer existing, photo #4 is of the surveyed property line, photo #5 shows just how close the two properties are and the 6th photo is of the no parking signs on Grove Avenue. Both sides have no parking on Grove Avenue for several feet so there isn't as much on street parking as the petitioners claim. **Ms. Dias** expresses other concerns of music blasting from the cars during drop off and pick up and believes that the easement was not designed for traffic and the applicant wants to overextend the easement. **Ms. Dias** believes this is not a site for children and that this is not acceptable.

Attorney Welch inquires if three of the eight tenants have submitted letters in opposition of this petition.

Ms. Dias answers yes they have.

Attorney Welch inquires if the tenants have deliveries and if so, will this petition conflict with the deliveries and other traffic coming in.

Ms. Dias answers yes and yes she believes it will.

Attorney Landry inquires if **Ms. Dias** purchased the property knowing the easement was in favor of the owner at 877 Broadway.

Ms. Dias answers that it is not favor and did her own title search.

Attorney Landry refers to the survey and shows that the survey is in favor of his client and the easement is referenced.

Ms. Dias wants to know where the easement agreement is.

Assistant Solicitor Conley notes that the board has zero say in regards to easements.

Attorney Landry inquires if **Ms. Dias** has taken any legal action against his clients.

Ms. Dias answers no, not yet.

Attorney Landry inquires if **Ms. Dias** was aware that his clients tried reaching out on several occasions.

Ms. Dias answers that yes she was aware but believes that his clients were being disrespectful.

Attorney Landry inquires on one of the photos that 9.1ft. was written on tab 4 and 10ft. was also written.

Ms. Dias explains that she wrote 10ft. since that is what is required.

Attorney Landry inquires how much room between the parking space and his client's property, could it be less than 5ft.

Ms. Dias responds that she cannot testify to something she doesn't know.

Richard Bzdyra, of 9 Benjamin Street Warwick, RI is properly sworn in.

Mr. Bzdyra explains to the board that he is a land surveyor and the president of Ocean State Planning. **Mr. Bzdyra** adds that he had conducted the land survey for 182 Grove Avenue in 2019 and has a scaled drawing of the survey to submit to the board.

Motion by Mr. Robinson to enter in **scaled drawing of the survey of 182 Grove Ave as Opponent's Exhibit 2**, the motion is **Seconded** by **Mr. Braga** and **Unanimously** approved.

Mr. Bzdyra explains to the board that typically for a land survey, they go down to the town hall and research the property. Then they will go out to the site to determine the set corners of the property. Lastly, they need to locate

the building and put it on the plan so the owner has a graphic representation of the property. During the research he found the right of way for servicing lot 31, which is the petitioner's property. It was originally 10ft. but what exists now is 9.1ft.

Attorney Welch inquires if anything else was found during the survey.

Mr. Bzdyra explains that the right of way on the east boundary line and found another easement for the benefit of lot 30 and that the proposed, the petitioner's surveyor came to the same points as himself, and adds that the proposed playground will be on an easement.

Mr. Braga inquires where this easement is.

Mr. Bzdyra approaches to point out the other easement, and notes that a playground cannot be on an easement.

Mr. Robinson inquires to **Attorney Landry** if he saw the easement to the benefit of the Vargas property.

Attorney Landry answers yes, but is confident that portion of the easement was abandoned and there is a billboard in place of that easement.

Vice Chairman Beauparlant inquires what would be the hours of operation if this petition were approved.

Ms. Rodrigues answers 8am-4:30pm Monday-Friday.

Vice Chairman Beauparlant notes that the easement goes through the house on 182 Grove Avenue, is the house illegally on the easement.

Attorney Welch answers yes, the home was built in 1890 but can't get too much into that.

Mr. Pascoa inquires about the capacity, he understands that there are DHS regulations but what is the number one thing that dictates capacity.

Ms. Rodrigues answers that they apply for a capacity number with DHS and it is based on square footage inside, staffing, etc.

Mr. Pascoa inquires the total number of children enrolled right now.

Ms. Izzy answers 10 students.

Ms. Pascoa confirms that the petitioners are looking for 26 students.

Ms. Rodrigues answers yes.

Mr. Braga inquires if this petition were not approved, what would happen with the existing business.

Ms. Izzy responds that they would continue to operate mainly after school hours Monday-Friday.

Mr. Braga inquires about the age range of students that are serviced.

Ms. Izzy responds that they have all ages.

Mr. Braga inquires would they ever increase the number of students.

Ms. Rodrigues answers that she doesn't believe so, and that they would have to find a 2nd location.

Mr. Braga inquires to **Zoning Officer Pimentel** on whether or not a dumpster is required for commercial building.

Zoning Officer Pimentel explains that it is the board's choice and it can be based on the operation of the business.

Mr. Robinson inquires to **Mr. Bzdyra** what the physical distance between 182 Grove Ave and 877 Broadway is.

Mr. Bzdyra responds that on his survey it is 10ft.

Mr. Robinson notes that there is only 5ft. of distance for travel from the back to the front, so there shouldn't be a car back there at 182 Grove Ave. **Mr. Robinson** inquires to **Zoning Officer Pimentel** what is the impervious coverage for this property since it appears to be all concrete.

Zoning Officer Pimentel explains that he doesn't know offhand but notes that is a pre-existing condition and the petitioners are not looking to increase it.

Chairman Saveory inquires if **Ms. Izzy's** piece of the business is currently functioning.

Ms. Izzy answers that it is in some capacity, currently part time as a speech therapy business but also doing evaluations, occupational therapy, etc.

Chairman Saveory inquires if they are running the same hours.

Ms. Izzy responds about 8am-6pm and that it can be variable.

Chairman Saveory inquires what the current capacity is.

Ms. Izzy answers that right now as a whole 25 students but only about 10-14 are picked up and dropped off.

Chairman Saveory inquires about what the capacity would be if the daycare is approved.

Ms. Rodrigues answers that the capacity would be 26 students, 10-13 students would be speech therapy clients.

Ms. Izzy adds that they would be servicing students at the daycare, and not bringing on additional clients for speech therapy.

Chairman Saveory inquires how many employees currently.

Ms. Izzy answers 3 full time and 2 part time employees.

Chairman Saveory inquires where do the employees park.

Ms. Rodrigues notes that there are four spaces notes on the plans and staff are willing to park on Grove Avenue.

Chairman Saveory inquires if some kids will be coming in from transport vans.

Ms. Rodrigues answers yes some children coming from public school taken on a bus/van around 11:30am.

Chairman Saveory explains that he went to the site and brought his vehicle through there several times. A few times someone came out of the side of Broadway and was almost hit and sat on Grove trying to leave. **Chairman Saveory** believes that a lot of the intensity on Broadway is mainly due to the highway and would like to know how much traffic drives by that facility every day. **Chairman Saveory** expresses concerns since there were already issues with the Montessori School further down the road and parents and people parking all over the place. **Chairman Saveory** is concerned with the location and that it is too busy of an area.

John Vargas, owner of 891 Broadway, is properly sworn in.

Mr. Vargas explains that he has been there since 1981 and previous 877 Broadway was used for the unemployment office and was empty for a period of time. There are a ton of accidents on Broadway. **Mr. Vargas** adds that he also has a right to the easement and will use it sometimes for deliveries and has a copy of his deed to prove it.

Motion by Mr. Robinson to enter in **a copy of Mr. Vargas' deed as Opponent's Exhibit 3**, the motion is

Seconded by Vice Chairman Beauparlant and Unanimously approved.

Assistant Solicitor Conley explains that the 2nd page of the planning report explains that child daycares are prohibited to be 300ft. from gas pumps and underground tanks and doesn't believe that the petitioner needs relief for this.

Chairman Saveory believes it should be the city's priority to find the petitioners a home and doesn't believe this is practical and doesn't believe that parents would be able to get in/out of Broadway within the 5 minutes and that this is dangerous concerns with traffic and pedestrians.

Mr. Robinson inquires if **Mr. Vargas** stores things such as motor oil, batteries with acid inside them, etc. **Mr.**

Robinson notes that under that section of hazardous materials, items should be included.

Assistant Solicitor Conley explains it is up to the board to determine whether or not they are included.

Attorney Landry explains that they have presented the application and believes this is a reduction in the intensity. The existing use could tripled by right, and believes that the existing use, which is already in operation, is more intensive and no relief is required. The petitioners have modified the plan 3 times, they have redesigned the traffic flow per the request of city officials. The zone permits a child daycare facility by right, and property has been used for commercial use for years.

Attorney Welch adds that they are concerned with the access and the number of traffic trips over the easement.

Attorney Welch believes this will be a disaster and it is the best interest of public safety that this petition be denied.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition.

Paloma Fana of East Providence, RI is properly sworn in.

Ms. Fana explains that her child is special needs and needs a safe space for them. They have been on awaiting less for a year and a lot of other types of children are in need of this program.

Justin Uhr is properly sworn in.

Mr. Uhr explains to the board that he also has a special needs son and his son has been going to the facility for speech therapy already. Currently, due to grade schools not having the proper training **Mr. Uhr's** son needs, they needed

to pull him from school. **Mr. Uhr** explains that he is not fazed by the challenges of the building and that the most important thing is the teachers, not building itself or play spaces. **Mr. Uhr** explains that he already has been going through the parking lot, and is willing to make extra accommodations. **Mr. Uhr** stresses that his son needs a place now with a good staff even with the space challenges.

Matthew Gunnip of 56 Fenmoor Street E. Providence, RI is properly sworn in.

Mr. Gunnip explains that he and **Ms. Fana** work at DCYF and there is a statewide issue with lack of access for daycare. **Mr. Gunnip** explains that he has heard some troubling discriminatory things this evening which is concerning. However, nothing is 100% certain and tonight the petitioners have a plan in place to make this work.

Ms. Rodrigues explains to the board that as a parent she knows this isn't the perfect site but her child was born in a world that wasn't made for him. **Ms. Rodrigues** believes that they have come up with a site plan that maximizes safety.

Ms. Izzy explains to the board that she too has an autistic child and that she is an expert with working with autistic children. She has worked in similar ratios and has been doing this with a lot of expertise. **Ms. Izzy** adds that employees would be putting their own children in the space and safety is their priority.

Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition.

Mr. Vargas explains that he is against this petition due to the traffic it could cause and potential business issues from parents.

Lynn Vargas, wife of Mr. Vargas, is properly sworn in.

Ms. Vargas explains that her heart breaks for the families that need this program but this isn't a safe place for the kids.

Ms. Vargas explains that she also works for a school and doesn't believe that drop off and pick up can happen within the 5 minute window. **Ms. Vargas** believes having a play area facing Broadway is foolish and hopes that the city can find them a better space.

Joseph Lima, owner of 18-20 Baker Street E. Providence, RI is properly sworn in.

Mr. Lima explains that he lives across the street from 877 Broadway and has lived there since 1958 and has seen development throughout the area. The dentist office has driven the parking to an abnormal degree and the congestion is unmanageable. **Mr. Lima** explains that is his sympathetic to the families but believes that this won't work and they do need a space and the city needs to find something for them.

Assistant Solicitor Conley notes that a tenant from 182 Grove Avenue submitted a letter in opposition of the proposal due to parking and traffic issues.

Chairman Saveory queries the Board for a motion.

Motion by Mr. Robinson in regards to 19-284, Student Drop off Requirement

Based on all evidence presented to the Zoning Board of Review and personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board of Review hereby finds pursuant to Section 19-45(a) of the City of East Providence Zoning Ordinance:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).
2. 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.
3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.
4. The relief to be granted is the least relief necessary.

The Zoning Board of Review hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance

1. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Mr. Robinson moves that the dimensional variances be **Granted** subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits - said permits necessary to exercise (execute) the relief granted. Failure to obtain requisite permit(s), if needed, within the six-month approval period (one-year, if extended by the Zoning Board of Review), will result in expiration of said approval.
2. Strict compliance, to include: Submitted site plan (or amended site plan, as it may be applicable) and site plan package; all exhibits; entire testimony of applicant and/or property owner; presentation of legal counsel (if applicable); and, testimony of all expert(s), if applicable.

Chairman Saveory asks **Attorney Landry** if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. **Attorney Landry** responds that he fully understands and accepts the conditions just stipulated.

Motion is Seconded by Vice Chairman Beauparlant

Roll Call Vote

Mr. Robinson – Nay

Mr. Braga – Nay

Mr. Pascoa – Aye

Vice Chairman Beauparlant – Aye

Chairman Saveory – Nay

Mr. Braga believes this will intensify the area.

Vice Chairman Beauparlant believes that there

is an argument for hardship and the applicant

did show that they exhausted looking for other

spaces and is a non-profit organization, so

there is no financial gain. Chairman Saveory

understands the need but sees issues with

the plan, there is more negatives than positives

Dimensional variance fails 3-2 subject to the aforementioned condition(s).

Motion by Mr. Robinson in regards to 19-357 Section 2, Landscape Buffer Setback

Based on all evidence presented to the Zoning Board of Review and personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board of Review hereby finds pursuant to Section 19-45(a) of the City of East Providence Zoning Ordinance:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).
2. 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.
3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.
4. The relief to be granted is the least relief necessary.

The Zoning Board of Review hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance

1. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Mr. Robinson moves that the dimensional variances be **Granted** subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits - said permits necessary to exercise (execute) the relief granted. Failure to obtain requisite permit(s), if needed, within the six-month approval period (one-year, if extended by the Zoning Board of Review), will result in expiration of said approval.
2. Strict compliance, to include: Submitted site plan (or amended site plan, as it may be applicable) and site plan package; all exhibits; entire testimony of applicant and/or property owner; presentation of legal counsel (if applicable); and, testimony of all expert(s), if applicable.

Chairman Saveory asks **Attorney Landry** if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. **Attorney Landry** responds that he fully understands and accept the conditions just stipulated.

Motion is Seconded by Mr. Braga

Roll Call Vote

Mr. Robinson – Nay

Mr. Braga – Aye

Mr. Pascoa – Aye

Vice Chairman Beauparlant - Aye

Chairman Saveory – Nay

Mr. Braga notes that any use that came before the board would not be able to fit landscaping.

Dimensional variance is granted 3-2 subject to the aforementioned condition(s).

Motion by Mr. Robinson in regards to 19-357 Section 3, Potential Hazards

Based on all evidence presented to the Zoning Board of Review and personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board of Review hereby finds pursuant to Section 19-45(a) of the City of East Providence Zoning Ordinance:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).
2. 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.
3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.
4. The relief to be granted is the least relief necessary.

The Zoning Board of Review hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance

1. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Mr. Robinson moves that the dimensional variances be **Granted** subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits - said permits necessary to exercise (execute) the relief granted. Failure to obtain requisite permit(s), if needed, within the six-month approval period (one-year, if extended by the Zoning Board of Review), will result in expiration of said approval.
2. Strict compliance, to include: Submitted site plan (or amended site plan, as it may be applicable) and site plan package; all exhibits; entire testimony of applicant and/or property owner; presentation of legal counsel (if applicable); and, testimony of all expert(s), if applicable.

Chairman Saveory asks **Attorney Landry** if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. **Attorney Landry** responds that he fully understands and accept the conditions just stipulated.

Motion is Seconded by Vice Chairman Beauparlant

Roll Call Vote

Mr. Robinson – Nay

Mr. Braga – Nay

Mr. Pascoa – Aye

Vice Chairman Beauparlant - Aye

Mr. Braga believes that Vargas Auto fits the description of a potential hazard.

Chairman Saveory – Nay

Dimensional variance fails 3-2 subject to the aforementioned condition(s).

Assistant Solicitor Conley notes that the play area was sited generally.

Zoning Officer Pimentel notes it was advertised as ‘potential other dimensional deficiencies.

Motion by Mr. Robinson in regards to 19-357 Subsection 4, Location of Outdoor Play Area,

Based on all evidence presented to the Zoning Board of Review and personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board of Review hereby finds pursuant to Section 19-45(a) of the City of East Providence Zoning Ordinance:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).
2. 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.
3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city’s comprehensive plan upon which this chapter is based.
4. The relief to be granted is the least relief necessary.

The Zoning Board of Review hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance

1. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Mr. Robinson moves that the dimensional variances be **Granted** subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits - said permits necessary to exercise (execute) the relief granted. Failure to obtain requisite permit(s), if needed, within the six-month approval period (one-year, if extended by the Zoning Board of Review), will result in expiration of said approval.
2. Strict compliance, to include: Submitted site plan (or amended site plan, as it may be applicable) and site plan package; all exhibits; entire testimony of applicant and/or property owner; presentation of legal counsel (if applicable); and, testimony of all expert(s), if applicable.

Chairman Saveory asks **Attorney Landry** if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. **Attorney Landry** responds that he fully understands and accept the conditions just stipulated.

Motion is Seconded by Vice Chairman Beauparlant

Roll Call Vote

Mr. Braga expresses safety concerns at the property.

Mr. Robinson – Nay

Mr. Braga – Nay

Mr. Pascoa – Nay

Vice Chairman Beauparlant - Aye

Chairman Saveory – Nay

Dimensional variance fails 4-1 subject to the aforementioned condition(s).

Assistant Solicitor Conley notes that in regards to section 19-358, there was a site plan submitted.

Attorney Landry explains that they submitted it out of abundance of caution.

Motion by Mr. Robinson in regards to 19-358 Site Plan Required,

Based on all evidence presented to the Zoning Board of Review and personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board of Review hereby finds pursuant to Section 19-45(a) of the City of East Providence Zoning Ordinance:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).
2. 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.
3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.
4. The relief to be granted is the least relief necessary.

The Zoning Board of Review hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance

1. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Mr. Robinson moves that the dimensional variances be **Granted** subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits - said permits necessary to exercise (execute) the relief granted. Failure to obtain requisite permit(s), if needed, within the six-month approval period (one-year, if extended by the Zoning Board of Review), will result in expiration of said approval.
2. Strict compliance, to include: Submitted site plan (or amended site plan, as it may be applicable) and site plan package; all exhibits; entire testimony of applicant and/or property owner; presentation of legal counsel (if applicable); and, testimony of all expert(s), if applicable.

Chairman Saveory asks **Attorney Landry** if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. **Attorney Landry** responds that he fully understands and accepts the conditions just stipulated.

Motion is Seconded by Vice Chairman Beauparlant

Roll Call Vote

Mr. Robinson – Nay

Mr. Braga – Aye

Mr. Pascoa – Aye

Vice Chairman Beauparlant - Aye

Chairman Saveory – Nay

Dimensional variance is granted 3-2 subject to the aforementioned condition(s).

Motion by Mr. Robinson in regards to 19-261, Trash Storage,

Based on all evidence presented to the Zoning Board of Review and personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board of Review hereby finds pursuant to Section 19-45(a) of the City of East Providence Zoning Ordinance:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).
2. 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.
3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.
4. The relief to be granted is the least relief necessary.

The Zoning Board of Review hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance

1. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Mr. Robinson moves that the dimensional variances be **Granted** subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits - said permits necessary to exercise (execute) the relief granted. Failure to obtain requisite permit(s), if needed, within the six-month approval period (one-year, if extended by the Zoning Board of Review), will result in expiration of said approval.

2. Strict compliance, to include: Submitted site plan (or amended site plan, as it may be applicable) and site plan package; all exhibits; entire testimony of applicant and/or property owner; presentation of legal counsel (if applicable); and, testimony of all expert(s), if applicable.

Chairman Saveory asks **Attorney Landry** if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. **Attorney Landry** responds that he fully understands and accepts the conditions just stipulated.

Motion is Seconded by **Vice Chairman Beauparlant**

Roll Call Vote

Mr. Robinson – Aye

Mr. Braga – Nay

Mr. Pascoa – Aye

Vice Chairman Beauparlant - Aye

Chairman Saveory – Nay

Vice Chairman Beauparlant believes that

the intensity of the business does not need a

dumpster. Mr. Braga disagrees believing that

if the daycare were open they would need a

dumpster. Chairman Saveory agrees that there

would be food needing to be disposed of.

Dimensional variance is granted 3-2 subject to the aforementioned condition(s).

X. PROCEDURES

a. Discussion on Motion Forms.

b. Discussion on the Zoning Application Instructional Package.

c. Discussion on Rules and Procedures.

Due to the late hour, procedures has been formally continued.

XI. ANNOUNCEMENTS

The next regular meeting of the Zoning Board of Review is scheduled for **Wednesday 7 June 2023, at 6:00 PM**, in the City of East Providence Council Chambers, City Hall, and East Providence, RI.

XII. ADJOURNMENT

Motion to adjourn by **Mr. Robinson** The motion is **Seconded** by **Vice Chairman Beauparlant** and **Unanimously** voted to adjourn. Special Meeting is adjourned at 10:21pm.

Edward Pimentel, AICP

Zoning Officer / Clerk

Secretary