

PHILADELPHIA CITY PLANNING COMMISSION

MEETING VIA ZOOM

MINUTES FEBRUARY 16, 2023

PRESENT:

Joseph Syrnick, Vice Chair

Cheryl L. Gaston

Garlen Capita

Maria Gonzalez

Michael Johns

Marisa Waxman

Dawn Summerville

Aubrey Powers

Eleanor Sharpe - Executive Director

NOT PRESENT:

Patrick Eiding

Chair Fadullon called the Philadelphia City Planning Commission to order at 1:00 p.m.

Matt Wysong, of the Philadelphia City Planning Commission, (PCPC) – introduced the Zoom platform and remote City Planning Commission process. We are hosting this meeting on Zoom. We may also have some people join us by phone.

During today’s meeting, each agenda item will be presented by a member of the staff. Following each presentation, the Chair will ask the Commissioners for questions or comments. The Chair will then ask the audience for questions and comments. After that, the Commissioners will finish their discussion and vote.

Those of you who are joining us on Zoom will have two options to ask questions and comments. If you would like to speak, click, or tap on the “RAISE HAND” button on the menu bar on the bottom of your screen at any time during the agenda item. You will be called on and will have the opportunity to speak to the Commission and the audience.

If you prefer to type your question or comment, click, or tap on the “Q&A” button on the menu bar at the bottom of your screen at any time during the agenda item. Once all attendees have had an opportunity to speak, I will read out loud any written questions and comments that have been posted to the Q&A.

For those joining by phone, we’re unable to take spoken testimony, however, you can email your questions and/or comments to the Commission at Planning@phila.gov. This meeting will be recorded and posted to our website.

Mr. Wysong turned the meeting over to the Commission Chair, to begin the meeting.

1. Action Item: Approval of the Meeting Minutes from October 20, 2022 and November 17, 2022.

Seeing no questions or comments from the Commission, Chair Fadullon asked for a motion at the minute mark in video (00:02:44).

Motion duly made by Commissioner Johns and seconded by Commissioner Gonzalez to approve the Minutes from the October and November Planning Commission Meeting. Motion carried to approve the Minutes with no nays.

2. Executive Director’s Update.

Next Civic Design Review Meeting

- Tuesday, March 7, at 1:00 p.m.

Next City Planning Commission Meeting

- Monday, February 27th at 1:00 p.m. – Special Planning Commission for review of the Capital Program and Budget
- Thursday, March 16th at 1:00 p.m. – Regular Monthly Planning Commission Meeting

Item in Accord with Previous Policy

- I. Streets Bill No. 230049: Authorizing the construction, installation, ownership, use and maintenance of a sidewalk cafe at 425-449 Spring Garden Street, Philadelphia, PA 19123, under certain terms and conditions.

This action will permit an open-air sidewalk café to be located on the north footway of Spring Garden Street, between Lawrence Street and N 5th Street, as well on the east side footway of N 5th Street. The tables and chairs' encroachment will leave a minimum 8' clear and unobstructed sidewalk space on Spring Garden Street, and a minimum of 5' clear and unobstructed sidewalk space on N 5th Street.

Staff were not aware of engagement.

This encroachment meets the Complete Street Policy.

Staff recommendation is for approval.

Questions and comments from the Commission (00:05:12).

Commissioner Johns inquired about the fixtures being movable. Ms. Sharpe stated that she would get back to the Commission, with a response.

3. Action Item: 250 Gates Street: Referral from staff determination of a habitable room in the Ridge Park Roxborough Neighborhood Conservation Overlay. (Presented by Alex Smith)

Planning Commission staff rejected the building permit application for this address during their review for compliance with the Ridge Park Roxborough Neighborhood Conservation Overlay (NCO). Planning Commission staff indicated that the requirement for a ground floor habitable room was not met per the terms and intentions of the NCO. The applicant is requesting a review of that decision from the full Planning Commission per code section 14-504(3)(.1). The applicant believes there was an error in reviewing, whereas Planning Commission staff does not believe the current proposal meets the requirements of the NCO (14-504(8)(c)(.1).

To the knowledge of PCPC staff, no public meetings have been held to discuss the PCPC staff rejection of the NCO requirements.

PCPC staff met and corresponded with applicant and L+I through both virtual meetings and emails from September 2022 until present.

Proposed rowhome use is consistent with existing zoning and the Comprehensive plan. Front loaded parking was approved by the ZBA in 2022.

If the habitable room requirement is waived for this project, it may reduce street activity by having a less active ground floor, which is inconsistent with the intentions of the NCO. It could also set a poor precedent, resulting in the creation of more driveways on narrow rowhome lots and further degrading the quality of the public realm.

Staff recommendation is not for approval.

Questions and comments from the Commission (00:13:36).

At the request of Chair Fadullon, Mr. Smith went over the dimensions and requirements of habitable rooms (00:13:46).

Commissioner Johns spoke on the windows, overlay, and staff review error (00:16:14).

Leonard Reuter, Counselor of the Planning Commission went over the NCO provisions of the site plan, clarified staff determination, and agreed with what Alex Smith had expressed (00:17:39 - 00:21:34).

Commissioner Gaston wasn't in agreement with the dimensions. Chair Fadullon explained the distinction of the room meeting dimensional and the use standards (00:23:16). The conversation continued, with additional comments about the intent of habitable home office and the elevation and open of garage at the minute mark in video (00:23:40 – 00:29:14).

Comments about the plans were made by the applicant, Michael Mattioni (00:29:56 – 00:33:46).

Chair Fadullon asked Attorney Len Reuter to clarify, that the Commission was seeing the direct language of PM-202 about Habitable Space and that it does speak to the use (00:33:47). Attorney Reuter went over the definitions and confirmed what was on the screen.

Questions and comments from the Public (00:35:22).

Judith Robinson asked for code clarification for the public.

Bonita Cummings spoke about a letter that she sent regarding single-room occupancy, which was addressed by Chair Fadullon (00:37:50).

Seeing no further questions and comments from the Commission or Public, Chair Fadullon asked for a motion at the minute mark in video (00:39:05).

Commissioner Johns made a brief comment about description of the Property Maintenance Code (00:39:18).

Seeing no further questions and comments from the Commission or Public, Chair Fadullon restated a motion at the minute mark in video (00:40:20).

Motion duly made by Commissioner Johns and seconded by Commissioner Synchron to accept staff recommendation of not for approval.

Chair Fadullon polled the Commission for the vote: Commissioner Capita, Commissioner Johns, Commissioner Waxman, Commissioner Synchron, Commissioner Summerville, and Commissioner Powers.

Commissioner Gaston and Commissioner Gonzalez opposed staff recommendation.

Motion carried to approve staff recommendation of not for approval (6-2).

4. Action Item: 8327 Ridge Avenue: Request for additional impervious coverage permitted in Wissahickon Watershed Overlay. (Presented by Aaron Holly)

The owner of this property proposes development of a 36-unit multifamily building with ground floor commercial, 35 car parking spaces and 12 bicycle parking spaces. The action before the Commission is a request for impervious coverage beyond what is allowed within the Wissahickon Watershed Overlay District (14-510). The development site is included in the overlay, which includes restrictions on the amount of impervious ground coverage permitted on a site within the Wissahickon Watershed. Per 14-510.(6).(c), additional impervious coverage on a site may be permitted by the Planning Commission following review and comment of the project by the Philadelphia Water Department. The site is located in Category 2, which limits impervious coverage to 27% of the lot area. The project is proposing impervious coverage for approximately 75% of the lot area.

The Philadelphia Water Department reviewed the project against its channel protection requirement in the Philadelphia Stormwater Management Guidance Manual v 3.2. The channel protection requirement aligns with the Planning Commission's Wissahickon Watershed Development Regulations as it is designed to minimize accelerated channel erosion resulting from stormwater runoff and requires that a 1-year storm event be infiltrated or slowly released at a rate that mimics the natural discharge from an undeveloped site. PWD has found that this project complies with the channel protection requirement.

Staff recommendation is for approval.

Questions and comments from the Commission (00:49:30).

Commissioner Summerville inquired about maintenance for the runoff, and Commissioner Capita asked about the permitted coverage for the Watershed, which was addressed by a representative from the Philadelphia Water Department (00:50:04).

Questions and comments from the Public (00:55:05).

Robin Miller acknowledged Commissioner Capita point about the future. Spoke on the challenging water floods, recommended to continue to restrict such overbuild on parcels throughout the City, and property owner responsibility of infiltration basin.

Shay McNeela, of the design team agreed with Adam comments, of the PWD (01:00:33).

Peter F. agreed with Robin Miller comments.

Rick G. asked about the inspection of maintenance records and percentage being maintained.

Seeing no further questions and comments from the Commission or Public, Chair Fadullon asked for a motion at the minute mark in video (01:06:04).

Additional questions and comments were made by Commissioner Johns (01:06:08).

Seeing no further questions and comments from the Commission or Public, Chair Fadullon restated a motion at the minute mark in video (01:08:32).

Motion duly made by Commissioner Gonzalez and seconded by Commissioner Johns to accept staff recommendation for approval.

Chair Fadullon polled the Commission for the vote: Commissioner Gonzalez, Commissioner Johns, Commissioner Waxman, Commissioner Syrnick, and Commissioner Powers.

Commissioner Gaston, Commissioner Capita and Commissioner Summerville opposed staff recommendation for approval.

Motion carried to approve staff recommendation for approval (5-3).

- 5. Action Item: Zoning Bill No. 230007: Amending Section 14-513 of The Philadelphia Code, entitled "/TOD, Transit-Oriented Development Overlay District" and amending Section 14- 533 of The Philadelphia Code, entitled "/MIN, Mixed Income Neighborhoods Overlay District," to expand the applicable areas of each district in the vicinity of Market Street between 54th Street and 63rd Street, all under certain terms and conditions. Introduced by Councilmember Jones and Councilmember Gauthier on January 19, 2023. (Presented by Brian Wenrich)**

Councilmember Jones and Councilmember Gauthier propose to extend the MIN/ Mixed Income Neighborhoods Overlay District and add the following stations to the /TOD list: 56th Street Station (Market-Frankford Line), 60th Street Station (Market-Frankford Line), and 63rd Street Station (Market Frankford Line)

Staff recommendation is for approval.

Questions and comments from the Commission (01:14:22).

Commissioner Gonzalez inquired about the affordability factor for affordable units. Commissioner Johns requested for an outline of the Bill and the overlay to be sent to the Commission.

Questions and comments from the Public (01:15:58).

Judith Robinson encouraged the Commission to help SEPTA regarding, Transit-Oriented Development.

Seeing no further questions and comments from the Commission or Public, Chair Fadullon asked for a motion at the minute mark in video (01:17:52).

Motion duly made by Commissioner Johns and seconded by Commissioner Syrnick to accept staff recommendation for approval.

Chair Fadullon polled the Commission for the vote: Commissioner Gaston, Commissioner Capita, Commissioner Gonzalez, Commissioner Johns, Commissioner Waxman, Commissioner Syrnick, Commissioner Summerville, and Commissioner Powers.

Motion carried to approve staff recommendation for approval (8-0).

- 6. Action Item: Zoning Bill No. 230034: An Ordinance to amend the Philadelphia Zoning Maps by changing the zoning designations of certain areas of land located within an area bounded by Haverford Avenue, 44th Street, Belmont Avenue, Girard Avenue, and 40th Street. Introduced by Councilmember Gauthier on January 26, 2023 (Presented by Brian Wenrich)**

This remapping was requested by community-based organizations/local RCO's; Belmont Civic Alliance & Belmont Neighbors West to implement Belmont's West District Plan zoning recommendations. Staff has made changes through the RCO/Council Office's public outreach process.

Staff recommendation is for approval.

Questions and comments from the Commission (01:23:51).

Commissioner Gonzalez commended the concentration of commercial uses along the corridor. Commissioner Powers expressed appreciation for community engagement on the project.

Seeing no further questions and comments from the Commission or Public, Chair Fadullon asked for a motion at the minute mark in video (01:25:55).

Motion duly made by Commissioner Gonzalez and seconded by Commissioner Capita to accept staff recommendation for approval.

Chair Fadullon polled the Commission for the vote: Commissioner Gaston, Commissioner Capita, Commissioner Gonzalez, Commissioner Johns, Commissioner Waxman, Commissioner Syrnick, Commissioner Summerville, and Commissioner Powers.

Motion carried to approve staff recommendation for approval (8-0).

- 7. Action Item: Streets Bill No. 230033: An Ordinance authorizing the vacating of Sloan Street from Ogden Street to its terminus northwardly therefrom and the reserving and plotting upon City Plan No. 106 of a right-of-way for sewer and drainage purposes and public utility purposes within the lines of said Sloan Street being vacated and authorizing acceptance of the grant to the City of the said right-of-way, under certain terms and conditions. Introduced by Councilmember Gauthier on January 26, 2023. (Presented by Daniel Farrell)**

The property owner on either side of Sloan Street requested an amendment to the City Plan to vacate Sloan Street from Ogden Street to the SEPTA tracks. The land that is currently Sloan Street would be used as part of a larger residential development. A record shows this street was dedicated to the city by deed of dedication in 1949; however, the City currently has no record of receiving the deed to the street so vacating the street and returning it to private ownership will also remove this liability from the City.

Staff recommendation is for approval.

Seeing no questions and comments from the Commission or Public, Chair Fadullon asked for a motion at the minute mark in video (01:29:24).

Motion duly made by Commissioner Waxman and seconded by Commissioner Capita to accept staff recommendation for approval.

Chair Fadullon polled the Commission for the vote: Commissioner Gaston, Commissioner Capita, Commissioner Gonzalez, Commissioner Johns, Commissioner Waxman, Commissioner Syrnick, Commissioner Powers, and Commissioner Summerville.

Motion carried to approve staff recommendation for approval (8-0).

- 8. Action Item: Streets Bill No. 230035: An Ordinance authorizing the revision of lines and grades on a portion of City Plan No. 370 by striking from the City Plan Southampton Road from Bustleton Avenue to its terminus southeastwardly therefrom, under certain terms and conditions. Introduced by Councilmember O'Neill on January 26, 2023. (Presented by Keith Davis)**

The action has been requested by the abutting owners, who wish to better secure their property and prevent unauthorized parking and other incursions.

This street striking is consistent with the City Code regulations limiting dead end streets.

Staff recommendation is for approval.

Seeing no questions and comments from the Commission or Public, Chair Fadullon asked for a motion at the minute mark in video (01:32:02).

Motion duly made by Commissioner Johns and seconded by Commissioner Gaston to accept staff recommendation for approval.

Chair Fadullon polled the Commission for the vote: Commissioner Gaston, Commissioner Capita, Commissioner Gonzalez, Commissioner Johns, Commissioner Waxman, Commissioner Syrnick, Commissioner Summerville, and Commissioner Powers.

Motion carried to approve staff recommendation for approval (8-0).

Chair Fadullon asked for a motion to adjourn at the minute mark in video (01:33:13).

Motion duly made by Commissioner Gaston and seconded by Commissioner Gonzalez to adjourn the February Planning Commission.

The next Planning Commission, was March 16, 2023, with a special meeting to review the Capital Program and Capital Budget February 27, 2023, at 1:00 p.m.

SUMMARY

1. Action Item: Approval of the Meeting Minutes from October 20, 2022 and November 17, 2022.

APPROVED

2. Executive Director's Update.

Item in Accord with Previous Policy

- i. Streets Bill No. 230049: Authorizing the construction, installation, ownership, use and maintenance of a sidewalk cafe at 425-449 Spring Garden Street, Philadelphia, PA 19123, under certain terms and conditions.

3. Action Item: 250 Gates Street: Referral from staff determination of a habitable room in the Ridge Park Roxborough Neighborhood Conservation Overlay. (Presented by Alex Smith)

STAFF RECOMMENDATION OF NOT FOR APPROVAL, WAS APPROVED

4. Action Item: 8327 Ridge Avenue: Request for additional impervious coverage permitted in Wissahickon Watershed Overlay. (Presented by Aaron Holly)

APPROVED

5. Action Item: Zoning Bill No. 230007: Amending Section 14-513 of The Philadelphia Code, entitled "/TOD, Transit-Oriented Development Overlay District" and amending Section 14- 533 of The Philadelphia Code, entitled "/MIN, Mixed Income Neighborhoods Overlay District," to expand the applicable areas of each district in the vicinity of Market Street between 54th Street and 63rd Street, all under certain terms and conditions. Introduced by Councilmember Jones and Councilmember Gauthier on January 19, 2023. (Presented by Brian Wenrich)

APPROVED

6. Action Item: Zoning Bill No. 230034: An Ordinance to amend the Philadelphia Zoning Maps by changing the zoning designations of certain areas of land located within an area bounded by Haverford Avenue, 44th Street, Belmont Avenue, Girard Avenue, and 40th Street. Introduced by Councilmember Gauthier on January 26, 2023 (Presented by Brian Wenrich)

APPROVED

7. Action Item: Streets Bill No. 230033: An Ordinance authorizing the vacating of Sloan Street from Ogden Street to its terminus northwardly therefrom and the reserving and plotting upon City Plan No. 106 of a right-of-way for sewer and drainage purposes and public utility purposes within the lines of said Sloan Street being vacated and authorizing acceptance of the grant to the City of the said right-of-way, under certain terms and conditions. Introduced by Councilmember Gauthier on January 26, 2023. (Presented by Daniel Farrell)

APPROVED

8. Action Item: Streets Bill No. 230035: An Ordinance authorizing the revision of lines and grades on a portion of City Plan No. 370 by striking from the City Plan Southampton Road from Bustleton Avenue to its terminus southeastwardly therefrom, under certain terms and conditions. Introduced by Councilmember O'Neill on January 26, 2023.
(Presented by Keith Davis)

APPROVED



MATTIONI
COUNSELORS AT LAW

PLEASE REPLY TO: Philadelphia Office
mmattioni@mattioni.com

www.mattioni.com

FILE NO: 39353.90072

February 1, 2023

Eleanor Sharpe, Executive Director
Philadelphia City Planning Commission
1515 Arch St., 13th Floor
Philadelphia, PA 19102

Re: 250 Gates Street; RP-2022-009719

Dear Executive Director Sharpe:

This firm represents Northeast Renovations LLC (“Appellant”), the owner of 250 Gates Street and Applicant for building permit RP-2022-009719. This is an appeal of the denial of the building permit by the Philadelphia City Planning Commission (“PCPC”) for alleged failures to comply with the design standards of the Ridge Park Roxborough Neighborhood Conservation Overlay (§ 14-504(8)). Appellant files this appeal under § 14-504(3)(b)(.1) which does not require notice to affected Registered Community Organizations.

Appellant filed an application for a residential building permit for the construction of a single-family home with an off-street accessory parking space. During the review process, PCPC staff commented that the submitted plans did not meet the design standards of the Ridge Park Roxborough Neighborhood Conservation Overlay. Appellant made several modifications to the plans in order to comply with the design standards. PCPC staff ultimately denied the building permit citing the habitable room requirement. A copy of the final revised plans is enclosed.

The NCO design standards state that “Residential buildings shall have a habitable room on the front of the first floor with at least one window facing the street. A habitable room shall be defined as in the Property Maintenance Code, Section PM-202.0.” § 14-504(8)(c)(.1). The Property Maintenance Code defines “habitable space” as “Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.” PM-202. Habitable rooms are further required to be not less than seven (7) feet in any dimension. PM-404.2. Copies of all cited code sections are enclosed.

Appellant’s building plans provide for an open carport and a home office/den on the first floor. The office has dimensions of seven feet by seven feet three inches (7’-0” x 7’-3”) facing the street, meeting the requirements of PM-404.2. The office also contains a window which faces the street, meeting the requirements of § 14-504(8)(c)(.1). The plans meet the requirements of the overlay design standards and the Property Maintenance Code.

{00539105-1 }

MATTIONI, LTD.

PHILADELPHIA OFFICE | FEDERAL RESERVE BANK BUILDING | 100 NORTH INDEPENDENCE MALL WEST, SUITE 5A NW | PHILADELPHIA, PA 19106 | PHONE: 215-629-1600 | FAX: 215-923-2227
NEW JERSEY OFFICE | 1316 KINGS HIGHWAY, SWEDESBORO, NJ 08085 | PHONE: 856-241-9779 | FAX: 856-241-9989

In denying Appellant's building permit, PCPC staff concede that the plans meet the dimensional requirements, but claim that the function of the space does not meet code requirements. Namely, PCPC staff claim that the space serves two functions: as an entry space and as an office. The staff considers elements such as door swings and stair locations to argue that the effective space of the office is smaller than required. There is nothing in the Overlay Design Standards or the Property Maintenance Code, however, that justify these considerations. The plain language of the Code states that the room dimension's must not be less than seven feet (7') in any direction. Appellant's plans meet that requirement. The other requirement is that the habitable room have a window facing the street. This requirement has also been met. It is beyond the PCPC's powers to require additional space for circulation or door swings.

The Neighborhood Conservation Overlay allows applicants to appeal denials by the PCPC to the full Commission. Appeals may be granted where "error is alleged in the denial of a building permit application" and the Commission determines that the design standards of the applicable NCO are met and the "initial decision of the Commission was made in error." § 14-504(3)(b)(.1) In this case, Appellant's plans provide for a habitable room on the first floor with a window facing the street. These are the only requirements of the NCO. Any other considerations or requirements are improper as they are not called for in the NCO design standards or Property Maintenance Code. Appellant respectfully requests that the Commission grant this appeal and approve building permit number RP-2022-009719. Thank you.

Very truly yours,

MATTIONI, LTD.



Michael Mattioni

MM:ml

cc: Northeast Renovations LLC
Leonard F. Reuter, Esquire
Beige Berryman

MATTIONI, LTD.
By: Michael Mattioni, Esquire
ID No.: 57458
100 N. Independence Mall West, Suite 5A NW
Philadelphia, PA 19106
T: 215-629-1600; F: 215-923-2227
mmattioni@mattioni.com

Attorney for Appellant
Northeast Renovations LLC

In re: Appeal of Building Permit Denial	:	Philadelphia City Planning Commission
RP-2022-009719	:	
250 Gates Street	:	
Northeast Renovations LLC	:	
	:	

MEMORANDUM OF LAW IN SUPPORT OF APPEAL

Appellant, Northeast Renovations LLC, submits this memorandum in support of its argument that the Philadelphia City Planning Commission should issue a building permit RP-2022-009719, and in support thereof states as follows:

I. MATTER BEFORE THE PLANNING COMMISSION

Presently before the Planning Commission is Appellant’s appeal of the denial of a residential building permit, RP-2022-009719, for the construction of a single-family home with an off-street accessory parking space at 250 Gates Street, Philadelphia, PA.

II. FACTS

Appellant, Northeast Renovations LLC (“Appellant”), is the owner of 250 Gates Street (“Property”). Appellant has submitted an application for a residential building permit, RP-2022-009719, for the construction of a single-family home with an off-street accessory parking space at the Property. Appellant obtained a variance from the Zoning Board of Adjustment allowing off-street parking. During review of the building permit, the Philadelphia City Planning Commission (“PCPC”) plans examiner raised a number of design elements that did not conform to the design standards of the Ridge Park Roxborough Neighborhood Conservation Overlay

(“NCO”) (§14-504(8)). Appellant made several modifications to the plans to comply with the design standards. Despite these revisions, the building permit was ultimately denied on the grounds that the plans did not meet the habitable room requirement of §14-504(8).

Appellant’s final set of plans places an open carport on the ground floor along with a home office/den. The office has dimensions of seven feet by seven feet three inches (7’-0” x 7’-3”) along the front of the house and has a window which faces the street. A true and correct copy of the final set of plans is attached as Exhibit A. The first-floor interior also contains doorways to enter and exit the house as well as stairs to access other levels.

The PCPC plans examiner denied Appellant’s building permit pursuant to the dimensional requirements of PM-404.2. A true and correct copy of the email stating the rationale for denial is attached as Exhibit B. The examiner conceded that the dimensional requirements are strictly met but opined that the function of the space does not meet code requirements, without providing an actual code section that the plans failed to comply with. The examiner claimed that the office space actually would serve two purposes: as an office and also as an entry space. The examiner considered elements such as door swings and stair locations to argue that the effective space of the office is smaller than the required dimensions.

III. ARGUMENT

Section 14-504(3)(b)(.1) allows for appeals of building permit denials to the full Philadelphia City Planning Commission:

Where error is alleged in the denial of a building permit application, the Commission shall determine whether the requirements of subsection (a) above and the design standards of the applicable /NCO district area are met and shall approve such application if it determines that the initial decision of the Commission was made in error.

§ 14-504(3)(b)(.1).

While the intent of an ordinance is important, “the letter of the ordinance is not to be disregarded under the pretext of pursuing its spirit.” Phillips v. Zoning Hearing Bd., 776 A. 2d 341, 343 (Pa. Commw. 2001). It is well-established in Pennsylvania that “zoning ordinances are to be liberally construed to allow the broadest possible use of land” and that “zoning ordinances are to be construed in accordance with the plain and ordinary meaning of their words.” Light of Life Ministries, Inc. v. Cross Creek Township, et. al., 746 A.2d 571, 573 (Pa. 2000). Further, zoning ordinances should be construed in a “sensible manner.” Council of Middletown Township v. Benham, 523 A.2d 311 (Pa. 1987).

The design standards of the Ridge Park Roxborough NCO (§ 14-504(8)) require that a residential building have “a habitable room on the front of the first floor with at least one window facing the street. A habitable room shall be defined as in the Property Maintenance Code, Section PM-202.0.” § 14-504(8)(c)(.1). The Property Maintenance Code defines “habitable space” as “space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.” PM-202. In a different code section, habitable rooms are further required to be not less than seven (7) feet in any dimension. PM-404.2.

Appellant has met all of the design standards of the NCO. The office space along the front of the property has a width of seven feet (7’) and a depth of at least seven feet three inches (7’-3”). Additionally, the office has a window that faces the street. The plans, therefore, meet all of the requirements of § 14-504(8)(c)(.1), PM-202 and PM-404.2. The plans examiner does not cite to any ordinance that requires additional space for door swings or stair landings; there are no such ordinances. Nor is there an ordinance which states that a habitable space cannot also function as an entry point for a house. While the examiner may argue that these requirements are

in keeping with the intent or spirit of the NCO, there is no basis to disregard the letter of the law. Phillips v. Zoning Hearing Bd., 776 A. 2d at 343. Ordinances should be liberally construed to allow the broadest possible use of land, while the examiner seeks to impose stricter standards than the ordinance requires. See Light of Life Ministries, Inc. v. Cross Creek Township, et. al, 746 A.2d 571, 573. The plain and ordinary meaning of the relevant ordinances requires that the habitable space have dimensions of greater than seven feet on each side, which is precisely what Appellant has proposed.

IV. CONCLUSION

Based on the foregoing, Appellant has shown the building permit denial was made in error and the Philadelphia City Planning Commission should approve building permit RP-2022-009719.

Respectfully submitted,

MATTIONI, LTD.

Dated: 2/14/2023

Michael Mattioni
Michael Mattioni, Esquire
Attorney for Appellant
Northeast Renovations LLC

				# Question				
Philadelphia City Planning Commission					3			
Question Details								
#	Question	Asker Name	Asker Email	Answer	Question Time	Answered Time	Answer Name	Answer Email
	It this presentation being viewed by the members of the public?							
1	Is it just me who cannot view?	Judith Robinson	'-	What type of device are you using?	2/16/2023 13:13	2/16/2023 13:14	Toni Brown	toniann.brown@phila.gov
2	How is monitoring done to i	rgiordano	'-	Please raise your hand and ask your question	2/16/2023 13:51	2/16/2023 13:52	David Fecteau	david.fecteau@phila.gov
3	Who is responsible for main	Robin Miller	'-	Please raise your hand and ask your question	2/16/2023 13:51	2/16/2023 13:52	David Fecteau	david.fecteau@phila.gov

Attended	User Name (Original Name)	Email	Join Time	Leave Time	Time in Session (minutes)	Is Guest	Country/Region Name
Yes	Dawn Summerville	dawn.summerville@phila.gov	2/16/2023 13:02	2/16/2023 14:34	92	Yes	United States
Yes	Daniel Farrell (Staff)	daniel.farrell@phila.gov	2/16/2023 12:56	2/16/2023 14:32	96	Yes	United States
Yes	Alex Smith (Staff) (Alex Smith)	alex.smith@phila.gov	2/16/2023 12:50	2/16/2023 14:34	104	Yes	United States
Yes	Aaron Holly (Staff)	aaron.holly@phila.gov	2/16/2023 12:54	2/16/2023 14:34	100	Yes	United States
Yes	Cheryl Gaston	cg@sprucelaw.com	2/16/2023 12:53	2/16/2023 14:34	101	Yes	United States
Yes	Maggy White# Law Dept	maggy.white@phila.gov	2/16/2023 12:54	2/16/2023 12:55	1	Yes	United States
Yes	Maggy White# Law Dept	maggy.white@phila.gov	2/16/2023 12:57	2/16/2023 12:58	1	Yes	United States
Yes	Maggy White# Law Dept	maggy.white@phila.gov	2/16/2023 13:38	2/16/2023 14:33	56	Yes	United States
Yes	Joseph Syrnick	joseph.syrnick@srcd.net	2/16/2023 12:57	2/16/2023 12:59	2	Yes	United States
Yes	Joseph Syrnick	joseph.syrnick@srcd.net	2/16/2023 12:59	2/16/2023 14:34	95	Yes	United States
Yes	Letitia (Letitia McNeil)	letitia.mcneil@phila.gov	2/16/2023 13:33	2/16/2023 14:34	61	Yes	United States
Yes	David Fecteau	david.fecteau@phila.gov	2/16/2023 12:48	2/16/2023 14:34	106	Yes	United States
Yes	Garlen Capita	capitag@wharton.upenn.edu	2/16/2023 12:51	2/16/2023 14:34	103	Yes	United States
Yes	Leonard Reuter	leonard.reuter@phila.gov	2/16/2023 12:58	2/16/2023 14:34	96	Yes	United States
Yes	Keith Davis (Staff)	keith.f.davis@phila.gov	2/16/2023 12:57	2/16/2023 14:34	97	Yes	United States
Yes	Billy Collins (PCPC Staff)	billy.collins@phila.gov	2/16/2023 12:43	2/16/2023 14:34	111	Yes	United States
Yes	Anne Fadullon	anne.fadullon@phila.gov	2/16/2023 12:48	2/16/2023 14:34	106	Yes	United States
Yes	Brian Wenrich	brian.wenrich@phila.gov	2/16/2023 12:51	2/16/2023 14:34	103	Yes	United States
Yes	Marisa Waxman	marisa.waxman@phila.gov	2/16/2023 12:57	2/16/2023 14:33	97	Yes	United States
Yes	Aubrey Powers	aubrey.powers@phila.gov	2/16/2023 13:03	2/16/2023 14:34	91	Yes	United States
Yes	Paula Burns (PCPC Staff)	paula.brumbelow@phila.gov	2/16/2023 12:58	2/16/2023 14:34	96	Yes	United States
Yes	Benjamin Schmidt (Staff)	benjamin.schmidt@phila.gov	2/16/2023 13:07	2/16/2023 14:33	87	Yes	United States
Yes	Maria Gonzalez	mgonzalez@hacecdc.org	2/16/2023 12:52	2/16/2023 14:34	102	Yes	United States
Yes	Matt Wysong	matt.wysong@phila.gov	2/16/2023 12:53	2/16/2023 14:34	101	Yes	United States
Yes	Michael Johns	mjohns@mdesigns.consulting	2/16/2023 12:54	2/16/2023 14:34	100	Yes	United States
Yes	Eleanor Sharpe	eleanor.sharpe@phila.gov	2/16/2023 12:56	2/16/2023 14:34	98	Yes	United States