

STATE OF RHODE ISLAND

PROVIDENCE, SC.

SUPERIOR COURT

(FILED: March 30, 2023)

R.M.I. COMPASSION CENTER, INC., :
Appellant, :

v. :

C.A. No. PC-2022-02360

CITY OF WOONSOCKET; CITY OF :
WOONSOCKET ZONING BOARD OF :
REVIEW; DENNIS J. LOSARDO, :
CHAIRMAN OF THE CITY OF :
WOONSOCKET ZONING BOARD OF :
REVIEW; STEVEN LARAMEE, VICE :
CHAIRMAN OF THE CITY OF :
WOONSOCKET ZONING BOARD OF :
REVIEW; RICHARD MONTEIRO, :
MEMBER OF THE CITY OF :
WOONSOCKET ZONING BOARD OF :
REVIEW; RUFUS R. BAILEY, JR., :
MEMBER OF THE CITY OF :
WOONSOCKET ZONING BOARD OF :
REVIEW; BRIAN KANE, FIRST :
ALTERNATE OF THE CITY OF :
WOONSOCKET ZONING BOARD OF :
REVIEW; and RICHARD MASSE, SECOND :
ALTERNATE OF THE CITY OF :
WOONSOCKET ZONING BOARD OF :
REVIEW, :

Appellees. :

DECISION

CRUISE, J. Before the Court for decision is the appeal of R.M.I. Compassion Center, Inc. (Appellant or RMI) from the April 13, 2022 written decision (the Decision) of the City of Woonsocket Zoning Board of Review (the Zoning Board) denying Appellant’s application for a special use permit to open and operate a medical marijuana compassion center. Jurisdiction is pursuant to G.L. 1956 § 45-24-69.

I

Facts and Travel

A

Background to the Application

Appellant is a Rhode Island nonprofit corporation that was founded in August of 2020 for the purpose of operating as a medical marijuana compassion center. *See* Compl. ¶¶ 1, 13, 14. On October 29, 2021, Appellant was awarded a conditional license to operate a compassion center through the Department of Business Regulation's (the DBR) Rhode Island Compassion Center Lottery (the Lottery). (R. Volume 2 at 5.¹) Pursuant to the terms of the Lottery, Appellant was required to identify a location for operation of the compassion center and fully comply with the city or town's applicable zoning ordinances prior to the Lottery's drawing. *Id.*

Appellant identified 1500 Diamond Hill Road in Woonsocket, Rhode Island, more specifically described as Assessor's Plat 46A, Lots 29/6 and 3/5 (the Property), for operation of the compassion center. *Id.* at 2. Walnut Hill Holdings, LLC (Walnut) is the owner of the Property and executed a five-year lease agreement for the Property with Appellant on October 9, 2020. (R. Volume 3 at 3-8.) The Property is located in a Major Commercial District (C-2 Zone) and is part of a commercial shopping plaza that also includes beauty salons, retail shops, a trampoline park, and other establishments. (R. Volume 2 at 2, R. Volume 1 at 69-70.) The Property was approved as the compassion center's location by the Woonsocket City Council on December 20, 2021. (R. Volume 2 at 6.)

¹ The Certified Record was filed with the Court as four separate volumes. *See* Docket. For clarity purposes, citations to the certified record will identify the record volume number followed by the page number of the volume.

The Woonsocket Zoning Ordinance (the WZO) requires a special use permit to open and operate a compassion center in Woonsocket. WZO § 15.8-2. On October 6, 2020, Appellant submitted an application for a special use permit pursuant to WZO §§ 4.1-3, 4.5, and 15.8-2 to open and operate a compassion center at the Property (the Application). (R. Volume 2 at 1-4.) Included with the Application was RMI’s business plan, Bylaws, and Articles of Incorporation. *Id.* at 15-92.

B

Presentation of the Evidence

The Zoning Board considered the Application at a hearing on March 14, 2022 (the Hearing). To begin, Mayor Baldelli Hunt explained that she was opposed to the Application because she believed that (1) the compassion center shouldn’t be in the same plaza as a trampoline park where “hundreds, if not thousands, of children a year” visit and the Zoning Board should consider the proximity of the compassion center to these children and (2) there is no revenue benefit to Woonsocket if the Zoning Board approved the Application because no portion of the licensing fees or sales will go directly to the City of Woonsocket (the City). (R. Volume 1 at 18-20.)

Thereafter, Doctor Paul J. Isikwe (Isikwe), a pharmacist and the president of RMI, began his presentation of the Application and the evidence in support. *Id.* at 25-28. Isikwe was clear that (1) there would be no cultivation of any marijuana product or its derivative at the Property, (2) the compassion center would only retail “finished products and goods, along with marijuana-related types of paraphernalia,” and (3) no onsite consumption of medical marijuana would be allowed. *Id.* at 27, 41, 56. Additionally, Isikwe explained that he would personally oversee the compassion center’s compliance with the applicable federal and state laws. *Id.* at 29-30. To conclude his

presentation, Isikwe highlighted the positive impacts that the compassion center may have on Woonsocket including reduced opioid consumption and job opportunities. *Id.* at 30-31.

Following the presentation, the Zoning Board entered two exhibits into the record: (1) City Exhibit A, a letter from City Planner Kevin Proft, that explained the Planning Board determined that the Application was consistent with the goals and purposes of Woonsocket's Comprehensive Plan (Exhibit A) and (2) City Exhibit B, a copy of RMI's business plan, Bylaws, and Articles of Incorporation (Exhibit B). *Id.* at 32-34; *see also* R. Volume 2 at 7-9, 11-92. Thereafter, the Zoning Board questioned if this would be Isikwe's first venture into operating a compassion center and what Damascus Management, LLC's (Damascus) relationship is to the compassion center. (R. Volume 1 at 34-35.) Isikwe explained that this would be his first venture into the medical marijuana business and that he is the owner of Damascus which is the management group that will handle the compassion center's operations and activities. *Id.* at 34-37. This caused the Zoning Board concern because Isikwe had indicated in RMI's business plan that Damascus had knowledge and experience working with cannabis start-up operations but had just explained that this would be his first venture into medical marijuana. *Id.* at 34, 36. Isikwe clarified that Damascus would work with consultants for the compassion center's operations and activities as needed. *Id.* at 37.

Then the Zoning Board and Isikwe discussed some of the details of Exhibit B, including the number of people the compassion center would employ and what types of assets the compassion center would be purchasing. *Id.* at 37-38. The Zoning Board also inquired about the signage for the compassion center, and Isikwe explained that the compassion center will have one spot on the plaza's pylon and a sign above the entrance to the compassion center, which were being reviewed by the City for compliance. *Id.* at 40. Additionally, the compassion center door would

have decals listing the compassion center's basic operating information and the remaining windows would be opaquely tinted. *Id.* at 40-41.

Thereafter, the Zoning Board inquired about the limits on the amount of product sold to an individual. *Id.* at 44-45. It was explained that the amount of product sold to patients is based on the amount prescribed to the patient. *Id.* at 44-46. Additionally, patients will be required to complete a registration with the compassion center that will include the condition(s) the patient has and the prescribed dosage of cannabis. *Id.* at 57. Isikwe was unsure of how this process would be handled for out of state medical marijuana cardholders and recreational users from Massachusetts; however, he offered to do more research to provide a more thorough answer to the Zoning Board. *Id.* at 59-61. However, most patients that get their medical marijuana from Rhode Island compassion centers are Rhode Island residents, and in Rhode Island there is a paper trail of the patient's registration with the Department of Health and their prescriptions. *Id.* at 61-62.

The Zoning Board also heard from Clint Wynne (Wynne) who was hired by Isikwe to develop the security system and procedures for the compassion center. *Id.* at 48-49. Wynne explained that he has been involved in the Rhode Island cannabis business since 2006 and has also completed security work in forty-two medical marijuana facilities in Massachusetts. *Id.* at 49-50. In addition, Wynne described the security plan for the compassion center which was designed in compliance with Rhode Island regulations and was approved by the Woonsocket Chief of Police. *Id.* at 50. The security plan included a video surveillance system that would be live streamed 24/7 to DBR (as required by statute), an access control system, an alarm system, and security guards present during normal business hours. *Id.* at 50-51, 55-56. Additionally, Wynne believed that the compassion center being closed on Saturdays would be beneficial to help minimize the exposure

of the compassion center to children going to the trampoline park and other facilities at the Property. *Id.* at 52.

Thereafter, the Zoning Board heard from John Kane, the property manager for the Property, and he explained that he and the Property's owner were in favor of leasing the Property to Appellant. *Id.* at 64-65. Additionally, the proximity of the compassion center to the trampoline park was considered when deciding whether to grant the lease, but he and the Property's owner did not believe it would be an issue. *Id.* at 65.

C

The Zoning Board's Discussion

Subsequently, the Zoning Board closed the hearing to public comment and began its discussion of the Application. *Id.* at 68. Zoning Board member, Richard Monteiro (Monteiro), explained that he was not in support of the Application based on his visit to the Property where he met with the neighboring business owners and managers to determine if they were in support of the compassion center. *Id.* at 69-70. However, Zoning Board Chairman, Dennis Losardo (Losardo), explained that the Zoning Board could not use Monteiro's explanations of what the neighboring business owners and managers said to him when making their decision because no affidavits were submitted to the Zoning Board. *Id.* at 72. It was emphasized that the Zoning Board must make its decision based on the testimony before it rather than relying on Monteiro's explanation of what was said to him outside the hearing. *Id.* at 72-73.

Thereafter, Zoning Board Vice Chairman, Steven Laramée (Laramée), explained that he was in support of the Application because he believed the compassion center was in harmony with the local businesses because there is a methadone clinic directly across the street from the Property which he believed is similar to a compassion center. *Id.* at 73. Laramée analogized the compassion

center to a standard pharmacy because medical marijuana patients must go to a compassion center to get their prescriptions much like a diabetic patient going to a pharmacy to get their medication. *Id.* at 74-75.

Monteiro disagreed with Laramée's position and cited to § 15.8-2(5) of the WZO which he believed prohibited compassion centers from adversely affecting "other location[s] where groups of minors regularly congregate[,]" and explained that he believed the compassion center would adversely affect the trampoline park. *Id.* at 68-69, 75. Losardo emphasized that the provision cited by Monteiro also included places of worship and explained that there is a place of worship in the plaza. *Id.* at 75. In addition, Losardo cited § 15.8-2(7)(b) of the WZO which he thought prohibited compassion centers from being located within "1,500 feet from the nearest house of worship, school, public or private, park, playground, play field, youth center, licensed day care center, or other locations where groups of minors regularly congregate[,]" and explained that he was concerned because there is a place of worship and a bowling alley within 1,500 feet of the Property. *Id.* at 75-76. In response, Laramée reiterated that there is a methadone clinic located across the street from the Property and that the WZO does not require an automatic denial of the Application just because the compassion center will be near a place of worship and a trampoline park. *Id.* at 76-77.

Thereafter, Laramée moved to approve the Application subject to Isikwe's strict compliance to the plans and testimony presented to the Zoning Board at the Hearing. *Id.* at 81. The Zoning Board voted 1-4 and denied the Application because it did not meet the requirements of WZO § 15.8-2 and its fourteen subsections. *Id.* at 81-82.

D

The Zoning Board's Decision

On April 13, 2022, the Zoning Board issued its written Decision denying the Application. *See id* at 6. In the Decision, the Zoning Board summarized the details of the Application, the testimony presented at the hearing, the exhibits entered into the record, and the Zoning Board's personal inspection of the Property. *Id.* at 3-5. The Zoning Board denied the Application

“after consideration of the Application and plans, the testimony of the witnesses, [Exhibit A], along with the [Zoning] Board's inspection of the Property and of the surrounding area, and after a complete review of the entire record presented to the [Zoning] Board . . . based on the fact that the Application does not meet the requirements for a Special Use Permit pursuant to [§] 15.8.2 and its [fourteen] Subsections.” *Id.* at 5-6.

E

Procedural History

On April 27, 2022, Appellant filed a Complaint, pursuant to § 45-24-69, asking this Court to annul the Decision of the Zoning Board. *See generally* Compl. Appellant filed a Motion to Expedite on May 23, 2022, pursuant to § 45-24-70, requesting that this appeal be decided with the least possible delay and to establish a briefing schedule. *See generally* Pl.'s Mot. to Expedite. On June 21, 2022, this Court entered an Order granting Appellant's Motion to Expedite and established a briefing schedule. (Order, June 21, 2022 (Rekas Sloan, J.)) This Court entered an Amended Order on August 23, 2022, that corrected the briefing schedule to allow Appellant sixty days from June 21, 2022 to file its brief. (Am. Order, Aug. 23, 2022 (Rekas Sloan, J.))

Appellant submitted its brief on August 30, 2022 and the Zoning Board filed its brief on September 26, 2022. *See* Docket. On September 27, 2022, Appellant filed a Motion to Assign this appeal to a trial justice for decision. *See generally* Pl.'s Mot. to Assign. This Court granted Appellant's Motion to Assign on October 19, 2022. (Order, Oct. 19, 2022 (Cruise, J.))

II

Standard of Review

The Superior Court’s review of zoning board decisions is governed by § 45-24-69(d), which provides:

“The court shall not substitute its judgment for that of the zoning board of review as to the weight of the evidence on questions of fact. The court may affirm the decision of the zoning board of review or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions, or decisions which are:

“(1) In violation of constitutional, statutory, or ordinance provisions;

“(2) In excess of the authority granted to the zoning board of review by statute or ordinance;

“(3) Made upon unlawful procedure;

“(4) Affected by other error of law;

“(5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or

“(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.” Section 45-24-69(d).

The Court “must examine the entire record to determine whether ‘substantial’ evidence exists to support the board’s findings.” *Salve Regina College v. Zoning Board of Review of City of Newport*, 594 A.2d 878, 880 (R.I. 1991) (internal quotation omitted). “Substantial evidence is defined as ‘such relevant evidence that a reasonable mind might accept as adequate to support a conclusion[] and means [an] amount more than a scintilla but less than a preponderance.’” *Iadevaia v. Town of Scituate Zoning Board of Review*, 80 A.3d 864, 870 (R.I. 2013) (quoting *Pawtucket Transfer Operations, LLC v. City of Pawtucket*, 944 A.2d 855, 859 (R.I. 2008)). Indeed, “this test is not satisfied by any evidence but only by that which [the court] determine[s], from [its] review of the record, has probative force due to its competency and legality.” *Salve Regina*, 594 A.2d at 880 (citing *Thomson Methodist Church v. Zoning Board of Review of Pawtucket*, 99 R.I. 675, 681, 210 A.2d 138, 142 (1965)). If the Court “can conscientiously find that the board’s

decision was supported by substantial evidence in the whole record,” then it must be upheld. *Apostolou v. Genovesi*, 120 R.I. 501, 509, 388 A.2d 821, 825 (1978).

III

Analysis

A

Whether the Decision is Affected by an Error of Law

Appellant argues that the Decision was based upon error of law because the Zoning Board misunderstood the requirements of the WZO. (Appellant’s Br. in Supp. of a Reversal of Woonsocket Zoning Board of Review’s Decision (Appellant’s Br.) at 17.) Specifically, Appellant submits that the Zoning Board incorrectly cited and relied upon sections of the WZO that do not actually exist. *Id.* at 17-18. On the other hand, the Zoning Board admits it incorrectly and inadvertently indicated that distance restriction was 1,500 feet, instead of 1,000 feet; however, (1) Appellant did not provide evidence that the discrepancy in the distance would have changed the outcome and (2) the Zoning Board did not base the denial of the Application on the provisions of the WZO cited by the Zoning Board. (Appellee’s Br. in Opp’n to Appellant’s Br. in Supp. of a Reversal of Woonsocket Zoning Board of Review’s Decision to Deny Appellant’s Appl. for a Special Use Permit (Appellee’s Br.) at 13-14.)

During the Hearing, the Zoning Board cited what it believed to be two provisions of the WZO: §§ 15.8-2(5) and 15.8-2(7)(b). (R. Volume 1 at 68-69, 76.) The Zoning Board quoted WZO § 15.8-2(5) as “[t]hat the requested use at the proposed location will not adversely affect the use of any property used for school, public or private, park, playground, play field, youth center, licensed daycare center, or other location where groups of minors regularly congregate[.]” *Id.* at 68-69. Additionally, the Zoning Board quoted WZO § 15.8-2(7)(b) as “1,500 feet from the nearest

house of worship, school, public or private, park, playground, play field, youth center, licensed day care center, or other locations where groups of minors regularly congregate.” *Id.* at 76.

Neither of the Zoning Board’s citations to these subsections of WZO § 15.8-2 are correct.

Section 15.8-2 of the WZO states, in pertinent part:

“Standards for Special Use Permits for Compassion Centers.

“ . . .

“(5) That the subject property is in full compliance with applicable minimum lot area and parking requirements set forth in this ordinance, Section 5.1-3.12 Off-Street Parking Regulations: Retail Commercial Establishments, Service Establishments & Out-Patient Facilities

“ . . .

“(7) That the exterior appearance of the structure will be consistent with the exterior appearance of structures already constructed or under construction within the immediate neighborhood, so as to prevent blight or deterioration, or substantial diminishment or impairment of property values within the neighborhood.” WZO §§ 15.8-2(5), (7).

Clearly, the language the Zoning Board cited as WZO §§ 15.8-2(5) and 15.8-2(7)(b) is not the language of the WZO nor does § 15.8-2(7) include any subsections. *See id.*

In fact, the language cited by the Zoning Board does not exist in § 15.8-2 nor anywhere else in the WZO. *See generally* WZO. Furthermore, there is no use of the word “playground” or “minors” in the *entire* WZO. *Id.* However, the WZO does reference a youth center in § 6.16(2), but that section prohibits marijuana *cultivation* within 1,000 feet of “any school, youth center or licensed day-care center[,]” with no reference to “a location where minors regularly congregate” or playgrounds. *See* WZO § 6.16(2). Here, the Application was clearly for the opening and operation of a compassion center and not the cultivation of medical marijuana. *See generally* R. Volume 2 at 1-4. In addition, the WZO does not use the phrase “a location where minors regularly congregate” or any similar language *anywhere* in the WZO. *See generally* WZO.

After reviewing the entire record, it is clear that the Zoning Board was seriously concerned about the compassion center's location in relation to the trampoline park and a bowling alley which the Zoning Board believed were "locations where minors regularly congregate." *See* R. Volume 1 at 69, 75, 76. Additionally, the Zoning Board was concerned about the compassion center's location in relation to a place of worship that was in the same plaza and a bowling alley that was within 1,500 feet of the compassion center. *See id.* at 75-76. The compassion center's proximity to the trampoline park, the place of worship, and the bowling alley collectively led the Zoning Board to determine that the compassion center would not be in harmony with the intent and purposes of the WZO. *See id.* at 77. It is clear that the Zoning Board relied upon the nonexistent provisions of the WZO when making its Decision.

Accordingly, the Zoning Board's Decision was affected by an error of law when it relied upon a nonexistent provision of the WZO to deny the Application.

B

Substantial Evidence on the Record

Appellant argues that the Decision is arbitrary and capricious because it had no rational connection to the evidence presented because the Application met every requirement of § 15.8-2 of the WZO. (Appellant's Br. at 12-17.) Conversely, the Zoning Board argues that Appellant offered no expert testimony to support thirteen of the fourteen requirements of § 15.8-2 of the WZO and the lay testimony of Isikwe and John Kane was not legally probative evidence of the public convenience and welfare to support a grant of a special use permit. (Appellee's Br. at 8-13.)

The Zoning Enabling Act, set forth in chapter 24 of title 45 of the General Laws, mandates that local zoning ordinances "shall provide for the issuance of special-use permits approved by the zoning board of review[.]" Section 45-24-42(a). Oftentimes, a special use permit "relates to a

specific use the owner wishes to undertake on the parcel—a use that is not allowed under the ordinance absent zoning board approval.” *Lloyd v. Zoning Board of Review for City of Newport*, 62 A.3d 1078, 1085 (R.I. 2013); *see also* § 45-24-31(62) (defining “[s]pecial use” as “[a] regulated use that is permitted pursuant to the special-use permit issued by the authorized governmental entity, pursuant to § 45-24-42”).

In Woonsocket, a special use permit is required to open and operate a compassion center. *See* WZO § 15.8-2. To obtain a special use permit for a compassion center, an applicant must satisfy fourteen criteria, which are as follows, in pertinent part:

“Standards for Special Use Permits for Compassion Centers.

“(1) The application for a special use permit for a compassion center shall [comply with fourteen additional criteria];

“ . . .

“(2) That the special use shall be in harmony with the general purpose and intent of this ordinance;

“(3) Under no circumstances and notwithstanding any provisions contained elsewhere in either State law and regulations or any other City ordinance, the cultivation of marijuana and/or the manufacture of marijuana products and derivatives are strictly prohibited at licensed and approved Compassion Centers. For the avoidance of doubt, Compassion Centers are restricted to the retail sale of marijuana related finished goods and products only along with marijuana related supplies and educational materials.

“(4) That all appropriate conditions and safeguards are included in the special use permit in the form of stipulations deemed appropriate by the Zoning Board of Review.

“(5) That the subject property is in full compliance with applicable minimum lot area and parking requirements set forth in this ordinance, Section 5.1-3.12 Off-Street Parking Regulations: Retail Commercial Establishments, Service Establishments & Out-Patient Facilities.

“(6) That the requested use at the proposed location is sufficiently buffered in relation to any residential area in the immediate vicinity so as to not adversely affect said area;

“(7) That the exterior appearance of the structure will be consistent with the exterior appearance of structures already constructed or under construction within the immediate neighborhood, so as to prevent blight or deterioration, or substantial diminishment or impairment of property values within the neighborhood.

- “(8) All uses granted under this section shall not be located within:
- “a. Two-hundred (200) feet from the nearest Residential (R-1, R-2, R-3, R-4) or Mixed Use 1 (MU-1) zoning district; or
 - “b. One thousand (1,000) feet from a public or private school as defined in R.I. Gen. Laws § 21-28.6-12(f)(2) or 200’ of a nursery school or Head Start facility; or
 - “c. Two thousand (2,000) feet from any other compassion center.
- “(9) The distances specified in section 8(a), above shall be measured by a straight line from the nearest R-1, R-2, R-3, R-4, or MU-1 property line to the building line of the premises on which the proposed compassion center use is to be located. The distance specified in section 8(b), above, shall be measured by a straight line from the nearest property line of the public school, private school, nursery school, or Head Start facility to the building line of the premises on which the proposed compassion center use is to be located.
- “(10) Hours of operation for a compassion center shall be limited to 7:00 a.m. to 8:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. Saturdays and Sundays.
- “(11) Lighting shall be required such that will illuminate the compassion center, its immediate surrounding area, any accessory uses including storage areas, the parking lot(s), its front facade, and any adjoining public sidewalk. Wherever possible, lighting shall be directed downward and full-cutoff fixtures shall be used in order to prevent glare or light trespass.
- “(12) The proposed compassion center shall implement the appropriate security and shall insure that each location has an operational security/alarm system.
- “(13) No use permitted under this article shall be established prior to submission and approval of a site plan by the Zoning Board of Review with the technical advice of the City zoning official. The site plan shall depict all existing and proposed buildings, parking spaces, driveways, service areas and other open uses. The site plan shall show the distances between the proposed use and the boundary of the nearest residential zoning district and the property line of all other abutting uses as described within this section.
- “(14) All use permitted under this section shall comply fully with all licensing requirements of the City of Woonsocket and the laws of the State of Rhode Island.” WZO § 15.8-2(1)-(14).

When reviewing the decision of a zoning board of review, the Court “must examine the entire record to determine whether ‘substantial’ evidence exists to support the board’s findings.” *Salve*, 594 A.2d at 880 (internal quotation omitted). Here, the Zoning Board determined that the

Application did “not meet the requirements for a Special Use Permit pursuant to [§] 15.8.2 and its [fourteen] Subsections.” (R. Volume 1 at 6.) The Zoning Board relied upon the Application and plan, the testimony of the witnesses, Exhibit A, and the Zoning Board’s inspection of the Property in its Decision. *See id.* at 5. After reviewing the entire record, the Court finds that there is not substantial evidence to support the Zoning Board’s Decision; instead, the record reflects that the Application met all requirements of § 15.8-2 of the WZO.

First, Exhibit A and the City of Woonsocket’s December 20, 2021 Resolution collectively explain that the Application is in compliance with WZO §§ 15.8-2(1) and 15.8-2(2) because (1) the Woonsocket Zoning Official’s review of the Application resulted in a determination that Appellant was in compliance with all state and local regulations and (2) denying the special use permit would be inconsistent with the goals and purposes of Woonsocket’s Comprehensive Plan. *See R. Volume 2 at 5-9.* Next, Isikwe testified at the Hearing and in Exhibit B that the Application complies with WZO § 15.8-2(3) because there will be no cultivation or manufacturing of marijuana at the compassion center. *See R. Volume 1 at 27; see also R. Volume 2 at 20.* The Application complies with WZO § 15.8-2(4) because there were no “conditions or safeguards” stipulated by the Zoning Board during the Hearing. *See generally R. Volume 1 at 18-83.* In addition, the Application is in compliance with WZO §§ 15.8-2(5), (6), (7), and (11) because the Property is part of a pre-existing shopping plaza. *See R. Volume 4 at 1-5, 19.*

The maps submitted with the Application show that the Property is in compliance with the distance requirements set forth in WZO §§ 15.8-2(8) and (9). *See R. Volume 4 at 21-23, 47-55.* The Application complies with the operating hours requirements of WZO § 15.8-2(10) as explained by Isikwe at the Hearing and in Exhibit B. *See R. Volume 2 at 35, R. Volume 1 at 44.* Wynne testified at the Hearing to the Application’s compliance with WZO § 15.8-2(12) and also

the security measures were explained in Exhibit B. *See* R. Volume 1 at 48-56, R. Volume 2 at 57-67. Next, the Woonsocket Zoning Official reviewed the Application and determined that it was completed in accordance with the requirements of WZO § 15.8-2, and, as such, the Application complies with WZO § 15.8-2(13). *See* R. Volume 2 at 5-6. Finally, at the Hearing Isikwe explained that RMI would comply with all relevant licensing requirements of Woonsocket and Rhode Island which satisfies WZO § 15.8-2(14). *See* R. Volume 1 at 29.

Accordingly, there is no substantial evidence in the record to support the Zoning Board's Decision to deny the Application and, as such, the Decision is arbitrary and capricious.

IV

Conclusion

After review of the entire record, the Court finds that the Decision was affected by an error of law. Moreover, a review of the entire record and the reliable, probative, and substantial evidence on the record demonstrates that Appellant met its burden for a Special Use Permit pursuant to § 15.8-2 of the Woonsocket Zoning Ordinance and the Application should have been granted. As a result, the substantial rights of Appellant have been prejudiced.

Accordingly, the Decision denying the Application is reversed. This matter is hereby remanded to the Zoning Board to grant the requested special use permit forthwith. Counsel shall submit an appropriate order.



RHODE ISLAND SUPERIOR COURT
Decision Addendum Sheet

TITLE OF CASE: R.M.I. Compassion Center, Inc. v. City of Woonsocket,
et al.

CASE NO: PC-2022-02360

COURT: Providence County Superior Court

DATE DECISION FILED: March 30, 2023

JUSTICE/MAGISTRATE: Cruise, J.

ATTORNEYS:

For Plaintiff: Christine Fitta, Esq.

For Defendant: John J. DeSimone, Esq.
Michael J. Lepizzera, Jr., Esq.