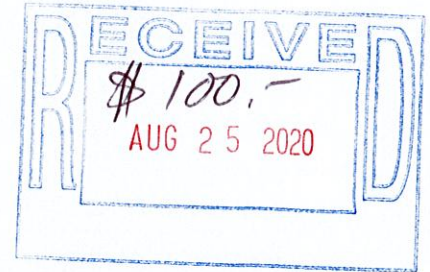


**COMBINED APPLICATION FOR A SPECIAL USE PERMIT &
A REGULATORY (DIMENSIONAL) VARIANCE**

**CITY OF NEWPORT, RI
ZONING BOARD OF REVIEW**



DATE: August 24, 2020

ZBR
Sept-13

Board Members:

The undersigned hereby petitions the Zoning Board of Review for a Special Use Permit and a Regulatory (Dimensional) Variance in the application of the provisions or regulations of the Zoning Ordinance affecting the following described premises in the manner and on the grounds hereinafter set forth.

Location of Premises

Street & No.: 132 Evarts Street

Tax Assessor's Plat: 10, Lot: 203

Petitioner Information

Applicants:	Juan C. Campos Alba Corleto Campos	Addresses:	c/o J. Russell Jackson, Esq. Miller Scott Holbrook & Jackson 122 Touro Street Newport, RI 02840
Owner:	Same		Same
Leasee:	N/A		N/A

Property Characteristics

Dimensions of Lot: **Frontage:** 67.75 ft. +/- Van Zandt Avenue
Depth: 190 ft. +/-
Area: 12,477 +/- sq. ft.

Zoning District in which premises is located: R-10

How long have you owned above premises? 8 Years

Are there buildings on the premises at present? Yes

Total square footage of the footprint of existing buildings: 3,272.74 sq. ft. (26.23%)

Total square footage of the footprint of proposed buildings: 3,349.13 sq. ft. (26.84%)

Present use of premise: Two Family Residential

Proposed use of premises: Multiple dwelling units with a Two Family Residential Structure and a Single Family Residential Dwelling

Give extent of proposed alterations: The Applicants propose to demolish and remove the existing dilapidated garage and replace it with a new residential structure containing a two bedroom single family dwelling. The new structure will essentially occupy the same footprint of the garage, although the new foundation will be moved to the east to eliminate an existing side setback encroachment.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	12,477	10,000	12,477
Lot Coverage	26.23 %	20 %	26.84 %
Dwelling Units	2	2	3
Parking (# of spaces)	4	6	6
Front Setback (ft.)	Existing Two Family 9 ft. 6 inch. ----- Existing Garage 94 ft. 7 inch.	15 ft.	Existing Two Family 9 ft. 6 inch ----- Proposed Single Family 94 ft. 7 inch.
Side Setbacks (ft.)	Existing Two Family East = 0 ft. West = 15 ft. 10 inch. ----- Existing Garage East = 37 ft. 5 inch. West = 5 ft.	10 ft.	Existing Two Family East = 0 ft. West = 15 ft. 10 inch. ----- Proposed Single Family East = 36 ft. 7 inch. West = 10 ft.
Rear Setback (ft.)	Existing Two Family 90 ft. +/- ----- Existing Garage 60 ft. 11 inch.	20 ft.	Existing Two Family 90 ft. +/- ----- Proposed Single Family 50 ft. 10 inch.
Height (ft.)	Existing Two Family Less than 30 ft. ----- Existing Garage 11 ft. 7.5 inch.	30 ft.	Existing Two Family Less than 30 ft. ----- Proposed Single Family 25 ft. 11 inch.

Project Summary:

The Applicants seek relief under:

Section 17.108.020 (Special Use Permits)

Section 17.108.010 (Variances)

Section 17.72.030 (Alteration to Nonconforming Development)

Section 17.20.050 (R-10 Lot Coverage Requirements)

Section 17.04.050(E) General Requirements – Dwelling Units Per Lot

Section 17.104.404(C) Parking Standards

The Applicants seek relief under the aforementioned provisions of the Zoning Code for permission to demolish and remove the existing dilapidated garage and replace it with a new residential structure containing a two bedroom dwelling. The new single family dwelling structure will essentially utilize the same footprint of the garage but will be moved five (5') feet to the east to eliminate the existing side setback encroachment. The new dwelling is being constructed to accommodate the Applicants' adult son and his fiancé. The proposed development will result in a small lot coverage increase. It will improve setback encroachments and will provide the necessary on-site parking. The project as proposed will require dimensional relief for lot coverage and for having more than one principal residential structure on a lot. It will require a Special Use Permit for the multifamily use and the modification of a non-conforming development. Lastly, the parking relief relates to the required twenty (20') foot driveway/aisle width for two way traffic and 90 degree angled parking.

The existing parcel is a legal non-conforming lot of record. It conforms to the lot area requirements with 12,477 +/- square feet of land, however it is narrow and fails to provide the minimum lot width of eight (80') feet. The existing two family structure has a small main house with an addition on the rear which houses the second dwelling unit. The unique layout of the existing structure makes further additions to the rear undesirable and somewhat impractical. The property is a "non-conforming development" by virtue of the encroachment by the existing two family structure into the east side setback and by virtue of existing lot coverage. Constructing a separate new dwelling at the location of the existing garage will maintain the spatial relationships of buildings and avoid having a monolithic structure along the east side of the lot.

The subject property is located at 132 Evarts Street. It is a long narrow lot and bounded to the east by a "court" or "way" which runs north from Evarts Street. The immediate area is a densely developed residential neighborhood which includes municipal/institutional uses. There is a mix of single, two, and multifamily uses in this area, with smaller lots sizes and increased density to the west toward Hall Avenue. The overall plan proposed by the Applicants for the construction of a separate single family dwelling at the site of the existing garage will not create dimensional non-conformities to such a degree that it is injurious to, or inconsistent with, the surrounding neighborhood, or the purpose and intent of the R-10 Zone. The proposed multifamily residential use is allowed by Special Use Permit.

What provisions of the Comprehensive Land Use Plan are the applicable to this project?

The Applicants state that the proposed development is consistent with many provisions of the Comprehensive Land Use Plan, including, but not limited to the following:

Land Use:

Goal LU-1: To provide a balanced City consisting of residential, commercial, and employment uses consistent with the character, environmental resources and vision of the community.

Policy LU-1.7 The City shall protect the existing character of residential neighborhoods while encouraging local neighborhood business.

Housing:

Goal H-1: To preserve and protect existing housing resources in the community.

Policy H-1.3 The City shall continue to promote the repair, revitalization or rehabilitation of residential structures and neighborhoods.

Policy H-1.4 The City shall encourage resident involvement in identifying and addressing the maintenance of housing in their neighborhood.

Goal H-3: To reduce the percentage of seasonally vacant homes and increase neighborhood stability and vitality.

Transportation & Circulation:

Goal T-5: To provide sufficient and suitably located parking, designed to eliminate, mitigate or reduce impacts.

What special conditions and circumstances exist which are peculiar to the land, structure or building involved, which are not applicable to other lands, structures or buildings in the same district?

The existing parcel has sufficient land area to meet the R-10 multifamily density formula in order to accommodate three (3) dwelling units, however the existing structure encroaches into the front and east setbacks. The Applicants continue to reside in the main house and rent out the apartment attached to the rear. The location and unique layout of the existing two family make it difficult to expand. The existing garage needs to be taken down due to its poor structural condition. Because of these issues which are peculiar to the land and structures, the Applicants can best meet their needs for an additional dwelling unit by removing the garage and building a new structure in its place. By utilizing the area where the garage is located, the Applicants believe they can best mitigate any impacts to surrounding neighbors.

Explain how the literal interpretation of the provisions of this zoning code deprive the applicant of rights commonly enjoyed by other property owners in the same district under the provisions of this zoning code?

The Applicants propose to demolish and remove the dilapidated garage and construct in its place, a single family dwelling essentially utilizing the same footprint in its approximate location. This requires dimensional variances for a slight increase and lot coverage and for having more than one principal residential structure on a lot. This property is in the Van Zandt neighborhood. The larger section of this R-10 Zone between Malbone Road to the east and Farewell Street to the west has a broad mix of uses, including residential single family, two family and multifamily, as well as commercial uses and institutional/municipal uses such as schools and cemeteries. The area immediately surrounding the subject parcel is characterized by densely developed residential properties. Many of the lots in this area appear to be dimensionally non-conforming with existing developments encroaching into setbacks and exceeding 20% lot coverage. The literal interpretation of the zoning code, resulting in the denial of the relief requested, would unreasonably deny these Applicants and Owners the ability to further develop their property with a newly constructed stand-alone single family residence at the location of the existing garage. Dimensional non conformities exist with other properties throughout this neighborhood. The planned improvements to the property by the Applicants are not inconsistent with the surrounding neighborhood, or the rights enjoyed by other property owners in this area of the R-10 Zone.

Explain why this is the minimum variance that will make possible the reasonable use of the land, building or structure:

The Applicants are proposing to utilize the same size footprint of the existing garage. There will be a very slight increase of lot coverage based on soffits/overhangs and a larger proposed set of stairs on the back of the dwelling. For the reasons stated earlier, it makes more sense to build a stand-alone structure rather than building an addition to the existing two family structure. The variance request is the minimum relief necessary to develop a needed third dwelling. The completed development of this parcel will not be inconsistent in size, scope and scale of other properties in the Van Zandt Avenue/Hall Avenue/Evarts Street area. The proposal represents a carefully developed building plan which preserves open space along the eastern half of the parcel. The Applicant has taken care to seek the minimum relief necessary to build a reasonably sized single family residence which will accommodate the living needs of the Applicants and their family. The proposed development will result in a new dwelling with amenities consistent with modern living. Granting the request for dimensional relief is the minimum variance which will allow the Applicants a reasonable modification to enjoy a multifamily use. The proposed development is not inconsistent with the neighborhood. Accordingly, the proposed use of the property and the relief sought by the Applicants will not be injurious to, or create a burden or hardship for abutting property owners, will be harmonious with the neighborhood, and is appropriate in scope, size and use for this area.

The Zoning Boards Role

Special use permits shall be granted only where the zoning board of review finds that the proposed use or the proposed extension or alteration of an existing use is in accord with the public convenience and welfare, after taking into account, where appropriate:

1. The nature of the proposed site, including its size and shape and the proposed size, shape and arrangement of the structure;
2. The resulting traffic patterns and adequacy of proposed off-street parking and loading;
3. The nature of the surrounding area and the extent to which the proposed use or feature will be in harmony with the surrounding area;
4. The proximity of dwellings, churches, schools, public buildings and other places of public gathering;
5. The fire hazard resulting from the nature of the proposed buildings and uses and the proximity of existing buildings and uses;
6. All standards contained in this zoning code;
7. The comprehensive plan for the city.

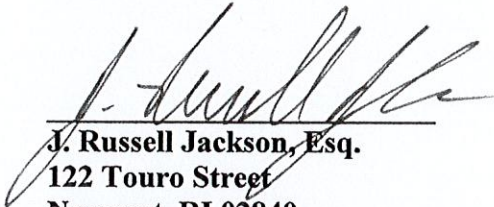
The burden of proof in a special-use permit application is on the applicant. This means that if the applicant fails to present adequate competent evidence to prove the applicable standard for issuing a special-use permit has been met, the board must deny the application.

In granting a variance, the zoning board of review shall require that evidence of the following standards be entered into the record of the proceedings:

- a) That the reasons set forth in the application justify the granting of the variance and that the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building or structure;
- b) That the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the intent or purpose of the zoning code or the comprehensive plan upon which this zoning code is based;
- c) That 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 are; and is not due to a physical or economic disability of the applicant; and
- d) That 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;
- e) 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. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

**By signing below, I hereby attest that the information provided is accurate and truthful.
I also attest that I have read the section entitled "The Zoning Board's Role".**

**Applicants & Owners,
By Their Attorneys,
Miller Scott Holbrook & Jackson**

A handwritten signature in cursive script, appearing to read "J. Russell Jackson", is written over a horizontal line.

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