



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

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



DATE: April 22, 2019

Board Members:

ZBR May 18

The undersigned hereby petitions the Zoning Board of Review for a special use permit and a regulatory 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.: 7 Annandale Road
Tax Assessor's Plat: 29 Lot: 040

Petitioner's Information

Applicant:	Newport Lodging, LLC	Addresses:	c/o J. Russell Jackson Miller Scott Holbrook & Jackson 122 Touro Street Newport, RI 02840
Owner:	Same		Same
Leasee:	N/A		N/A

Property Characteristics

Dimensions of Lot: Frontage: 50 ft. +/- Depth: 114.5 ft. +/- Area: 3,920 sq. ft. +/-

Zoning District in which premises is located: R-10

How long have you owned above premises? 1 year

Are there buildings on the premises at present? Yes

Total square footage of the footprint of existing buildings: 923 sq. ft.

Total square footage of the footprint of proposed buildings: 923 sq. ft.

Present use of premises: Single Family Residential – Guest House

Proposed use of premises: Guest House.

Give extent of proposed alterations: There are no proposed alterations to the property.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	3,920 +/-	10,000	3,920 +/-
Lot Coverage	24 %	20 %	24%
Dwelling Units	1	1	1
Parking (# of spaces)	0	3	0
Front Setback (ft.)	11 ft. +/-	15 ft.	11 +/-
Side Setbacks (ft.)	North = 0 ft. +/- South = 11.5 ft. +/-	10 ft.	North = 0 ft. +/- South = 11.5 ft. +/-
Rear Setback (ft.)	70.5 ft. +/-	20 ft.	70.5 ft. +/-
Height (ft.)	28 ft.	30 ft.	28 ft.

Project Summary:

The Applicants seek relief under Section 17.108.010 (Variances), Section 17.108.020 (Special Use Permits), and Section 17.104.020 (T) (Parking Space Standards – Guest House) for permission to continue with the longstanding Guest House use of 7 Annandale Road.

The existing parcel is a small triangular shaped legal non-conforming lot of record containing only 3,920 +/- square feet of land. It is a significantly substandard sized lot for the R-10 Zone. The property contains a single family residence that has been used as a Guest House since 2004. The home has two guest rooms on the second floor and a live-in manager's quarters on the first floor. The subject property is adjacent to and contiguous with 63 Memorial Boulevard, being identified as TAP: 29, Lot: 39-4, which is also owned by Newport Lodging, LLC. These parcels are operated together as a compound under the name of the "Town & Tide Inn." The current owner acquired these properties in April of 2018. They were previously operated together as a Guest House and Inn since 2004 as "The Victorian Ladies."

The Applicant recently became aware that the property located at 7 Annandale Road never formally received authority by virtue of a Special Use Permit to operate as a Guest House. This current Application is being filed after consultation with the Zoning Officer to receive appropriate authority to continue operations in compliance with the zoning code.

There will be absolutely no alterations or changes to the property whatsoever. A Special Use Permit is required to operate as a Guest House. A Parking Variance will also be required since the subject parcel has no on-site parking spaces. As stated, however, the Applicant also owns Lot 39-4 which has a total of twelve (12) parking spaces, three (3) of which are dedicated to the use of the live in manager and guests at 7 Annandale Road. This is a continuation of the parking layout and operation of the Guest House use of both properties since 2004.

The property is not in the Newport Historic District.

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

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

- Land Use Goals and Policies:** **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.*
- Economic Development:** **ED-1:** *To develop a robust and diverse economy, providing suitable employment opportunities for residents, and a stable tax base.*
- Transportation & Circulation:** **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 is a legal, non-conforming lot of record containing only 3,920 +/- square feet of land. The lot is extremely small and substandard for the R-10 Zone. The existing structure is a modestly sized residence with a relatively small foot print. The structure contains two (2) guest rooms on the second floor and live-in manager's quarters on the first floor. There are no on-site parking spaces. The property is unique, in that it is contiguous with Lot 39-4 and under common ownership. The two properties have been used in conjunction as part of a multi-building Guest House compound, originally operating as the "Victorian Ladies" from 2004-2018. The current owner acquired the property in 2018 and re-branded the development as the "Town & Tide Inn." The fundamental use and operation has remained consistent.

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 Applicant proposes to continue with the Guest House use, consistent with the use of the property since 2004. Although the subject parcel does not provide on-site parking, the required three (3) spaces are provided on Lot 39-4 which is contiguous and under common ownership. The parcel is adjacent to Memorial Boulevard and in close proximity to various commercial uses and a General Business Zone. The continued use of the property as a Guest House, as part of the Town & Tide Inn is compatible with the surrounding area. The literal interpretation of the code would deprive the Applicant of the ongoing historic use of the property which has been in operation since 2004.

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

The Applicant is seeking only a parking variance. The Guest House use requires a total of three (3) parking spaces. There are no parking spaces on the subject parcel. Although the Applicant must request a parking variance in conjunction with the Special Use Permit for Lot 40, the practical reality is that the needed parking spaces are located on Lot 39-4, which is also owned by Newport Lodging, LLC and operated as part of the Town & Tide Inn. Accordingly, the proposed continued use of the property and the relief sought by the Applicant will not be injurious to, or create a burden or hardship for abutting property owners, will be harmonious with the neighborhood, and is an appropriate 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:

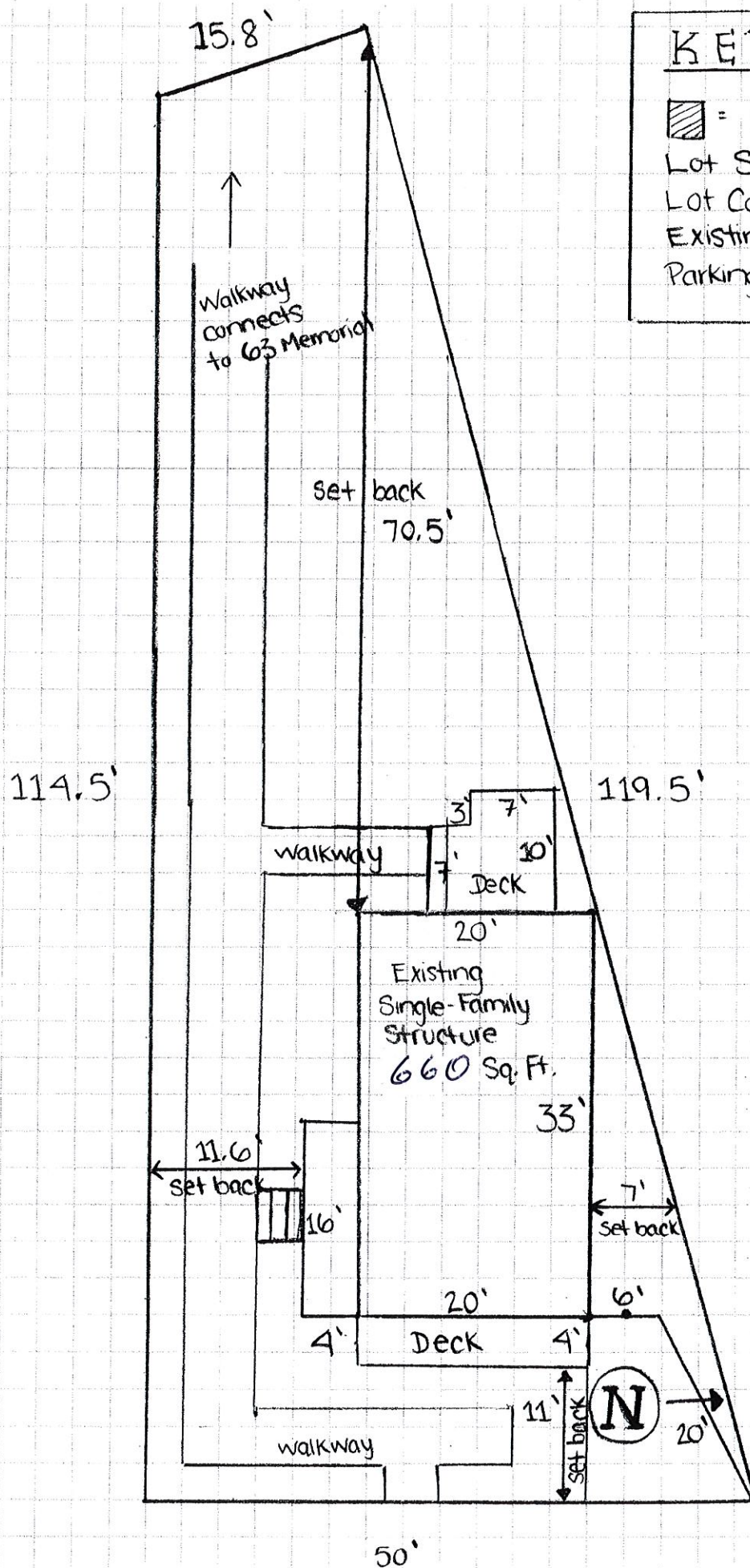
- a) That the reasons set forth in the application justify the granting of the variance and that the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building or structure;
- b) That the variance will not be injurious to the neighborhood or otherwise 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".


**Applicant & Owner,
By Its Attorneys,
Miller Scott Holbrook & Jackson**



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KEY Site Plan Not to Scale

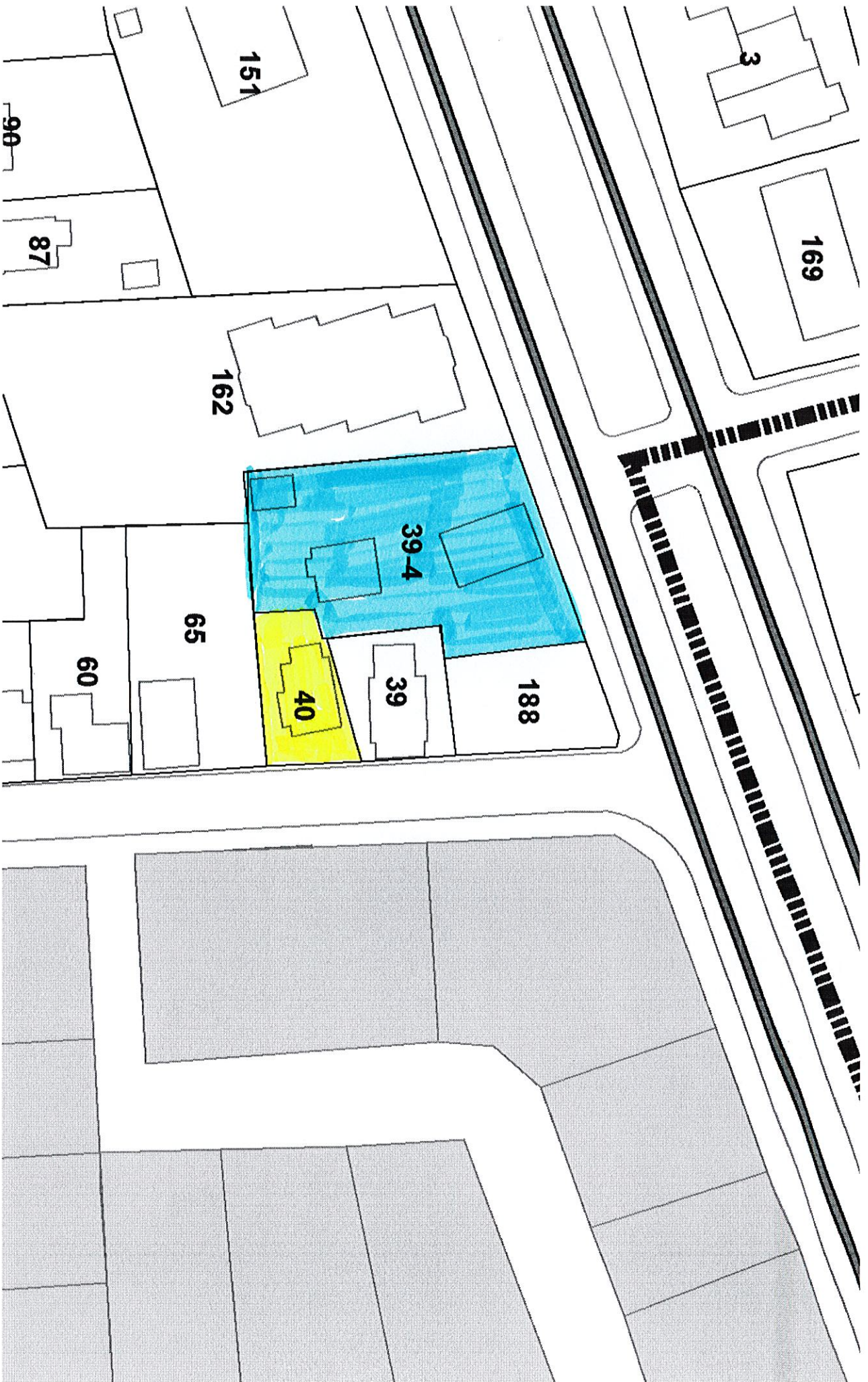
 = 3 feet

Lot Size = 3,920 Sq. Ft.

Lot Coverage = 24%.

Existing Height = 28'

Parking Space = 0



= Subject



= Commonly owned by Applicant