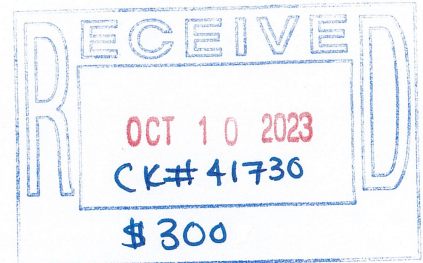


**COMBINED APPLICATION FOR A SPECIAL USE PERMIT &  
A REGULATORY (DIMENSIONAL) VARIANCE**

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

ZBR 2023-NOV-010



DATE: October 10, 2023

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.: 406-410 Thames Street

Tax Assessor's Plat: 27, Lot: 184

**Petitioner Information**

**Applicant:** C.C.B. Capital & Real Estate, Inc.  
**Addresses:** c/o J. Russell Jackson, Esq.  
Miller Scott Holbrook & Jackson  
122 Touro Street  
Newport, RI 02840  
**Owner:** Same  
**Leasee:** N/A

**Property Characteristics**

**Dimensions of Lot:** **Frontage:** 42.58' +/-  
**Depth:** 60.09' +/-  
**Area:** 2,146 sf +/-

**Zoning District in which premises is located:** Limited Business District

**How long have you owned above premises?** 15 Years (12/19/2008)

**Are there buildings on the premises at present?** Yes

**Total square footage of the footprint of existing buildings:** 1,771 sf +/- (82.5%)

**Total square footage of the footprint of proposed buildings:** 1,771 sf +/- (82.5% No Change)

**Present use of premise:** Retail & Guest House

**Proposed use of premises:** Retail & Guest House

**Give extent of proposed alterations:** There will be no physical alterations to the structure or site. The property has been a mixed use property for decades. Since 2009, the property has been used as a guest house with two retail units on the first floor. The Applicant proposes to continue with the current use of retail on the first floor and a three (3) bedroom guest house on the second and third floors. The Applicant cannot provide any on-site parking. This is a non-conforming development. As a result, a parking variance and special use permit to continue the guest house use is required.

### Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	2,146 +/-	3,000	2,146 +/- (No Change)
Lot Coverage	82.5 %	50 %	82.5 % (No Change)
Dwelling Units	1	1	1 (No Change)
Parking (# of spaces)	0	Retail = 5 Guest House = 4 ----- Total Required = 9	Retail = 5 Guest House = 4 ----- Total Required = 9  (No Change)
Front Setback (ft.)	Thames St = 0' Dennison St = 0'	0 ft.	Thames St = 0' Dennison St = 0' (No Change)
Side Setbacks (ft.)	North = 0' East = 5' +/-	0 ft.	North = 0' East = 5' +/- (No Change)
Rear Setback (ft.)	N/A	5 ft.	N/A
Height (ft.)	< 45 Ft. +/-	45 ft.	< 45 ft. +/- (No Change)

### 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 17.104.020 (Parking Space Standards)

The Applicant seeks relief for this non-conforming property in the form of a special use permit and parking variance. The property has two retail units on the first floor and a three (3) bedroom guest house on the second and third floors. It has been operating as a mixed use property with retail and guest house uses since 2009. The Applicant submitted its annual short term rental registration with the city and it was rejected by the Zoning Department. The Applicant was informed that the guest house use now requires a special use permit and that a parking variance is also required. The guest house use was previously allowed by right in the Limited Business Zone. The three (3) bedroom guest house use requires four (4) on-site parking spaces; one for each guest room and a space for the manager. The Applicant cannot provide any on-site parking. The Applicant has historically secured and controlled parking spaces in the adjacent area for guest house patrons. The property is in the Limited Business District on lower Thames Street. The plan proposed by the Applicant to continue to use the building for retail and guest house uses is harmonious with the surrounding neighborhood and consistent with the purpose and intent of the Limited Business Zone.

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

The Applicant states that the proposal 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.*

**Economic Development:**

*Goal ED-1: To develop a robust and diverse economy, providing suitable employment opportunities for residents, and a stable tax base.*

*Policy ED-1.5 The City shall build upon thriving sectors to develop a more substantial year round tourism economy.*

**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 contains only 2,146 sf of land and is substandard in size in relation to a conforming lot in the Limited Business Zone. There are two retail units on the first floor and an existing dwelling on the second and third floors which has historically been used as a guest house. The use of the property as a guest house now requires a special use permit in the Limited Business Zone. Because of its small lot size and the location and width of the existing building, the property does not provide any on-site parking. Because of these issues, which are peculiar to the land and structures, the Applicant requires a variance regarding the parking standards.

**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 the retail and guest house uses that have been in place since 2009. The guest house use is allowed by special use permit in the Limited Business Zone. This property is located on the commercial corridor along lower Thames Street. The area immediately surrounding the subject parcel is characterized by densely developed commercial and mixed use properties. There are many properties along this stretch of Thames Street which are engaged in permitted commercial uses but fail to meet the parking standards. There is no ability to provide any on site parking. Like other properties in the LB Zone, the parking requirements cannot be met, however, the Applicant has historically secured off site parking spaces to service guests and continues to do so. If the property were a mix of two retail units and a single dwelling, the parking requirement would be seven (7) spaces. The retail and guest house use requires nine (9) spaces. In essence, the requested variance is two (2) spaces. The literal interpretation of the zoning code, resulting in the denial of the relief requested, would unreasonably deny this Applicant the ability to continue to engage in permitted uses. The continued use of this property as a guest house is consistent with the surrounding neighborhood, and the rights enjoyed by other property owners in this area of the Thames Street in the Limited Business Zone.

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

There are no proposed alterations to the structure or site. The Applicants cannot provide parking on site. The Applicant does provide off site parking. The retail use is allowed by right and the guest house use is allowed by special use permit in the Limited Business Zone. The Applicant has used the property for retail and short term rentals since 2009 and has filed registration forms and fees in the past with the City. Earlier this year the registration submitted by the Applicant was denied by the Zoning Department. The variance request regarding the applicable parking standards is the minimum relief necessary for the Applicant's continued reasonable use of this property. Accordingly, the ongoing use of the property and the relief sought by the Applicant will not be injurious or create a burden or hardship for abutting property owners, will be harmonious with the neighborhood, and is appropriate for this area of the Limited Business Zone.

## **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.

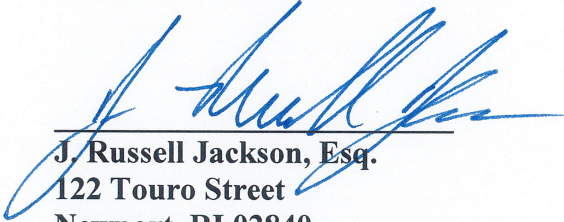
The burden of proof in a special-use permit application is on the applicant. This means that if the applicant fails to present adequate competent evidence to prove the applicable standard for issuing a special-use permit has been met, the board must deny the application.

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 blue ink, appearing to read "J. Russell Jackson", is written over a horizontal line.

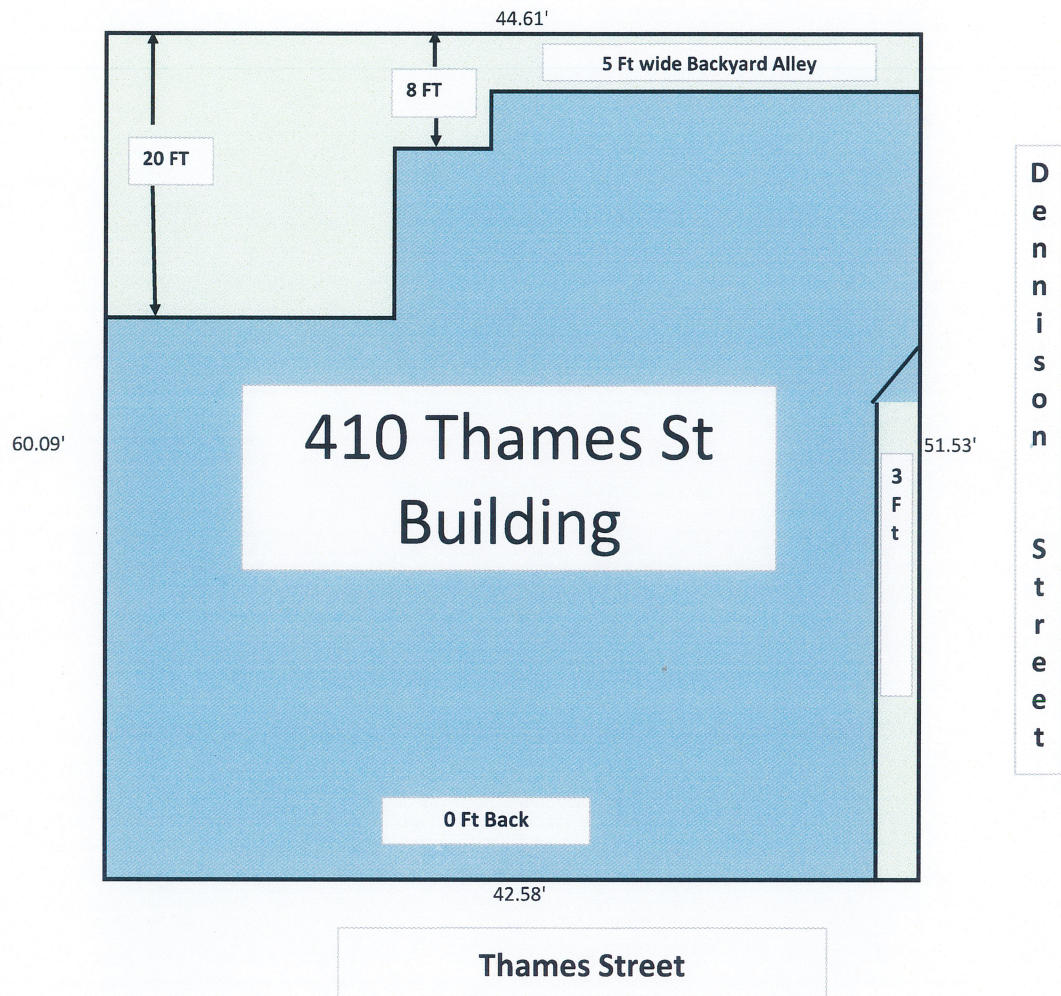
J. Russell Jackson, Esq.

122 Touro Street

Newport, RI 02840

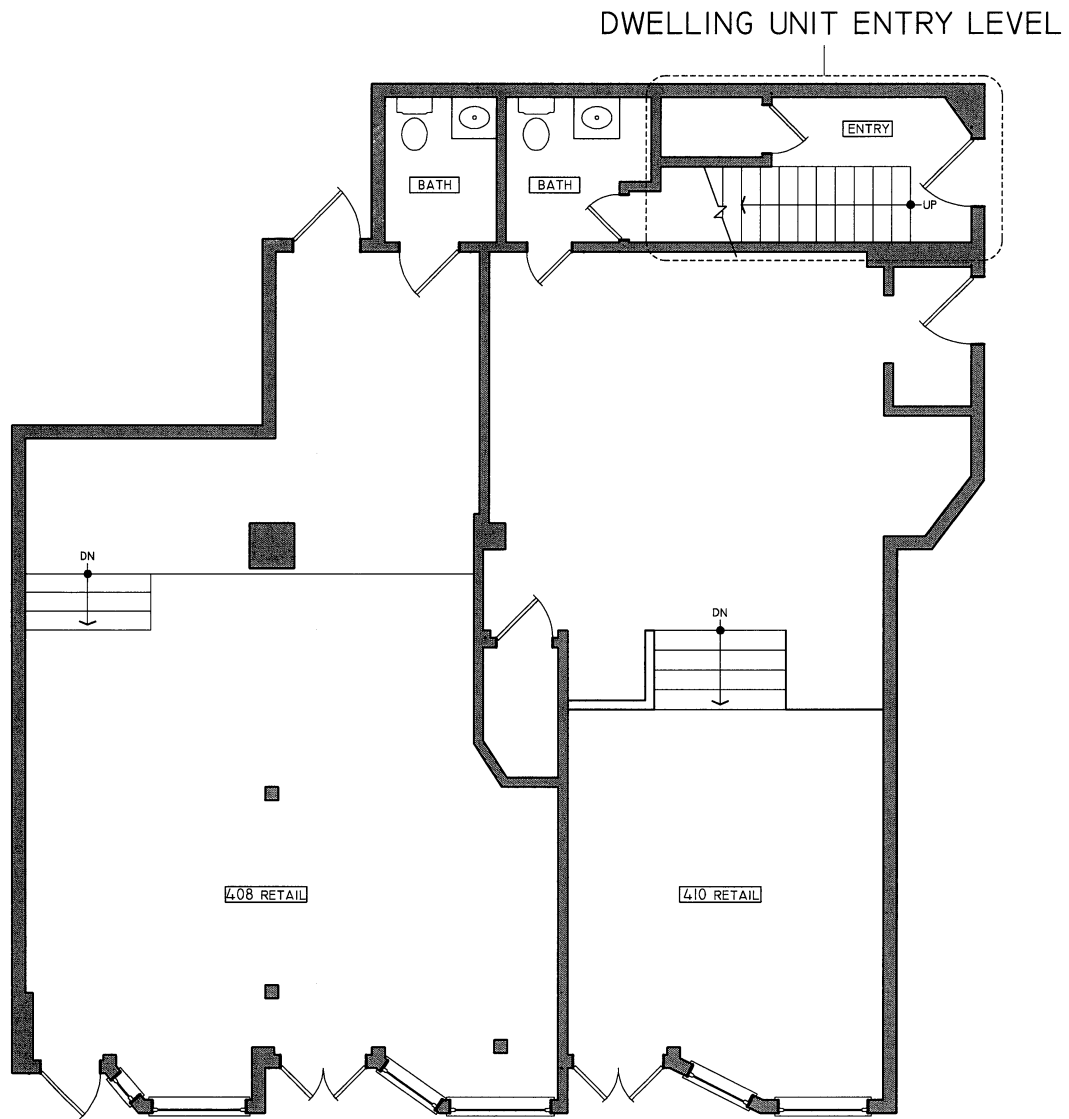
Tel: 401-847-7500

[jrjackson@millerscott.com](mailto:jrjackson@millerscott.com)

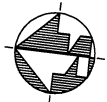


AREA SQUARE FOOTAGES	
408 RETAIL:	721 SF
410 RETAIL:	675 SF
TOTAL RETAIL:	1396 SF
410 DWELLING ENTRY:	61 SF
410 DWELLING MAIN:	1415 SF
410 DWELLING LOFT:	300 SF
TOTAL DWELLING:	1776 SF

AREA COVERAGE	
RETAIL: 40%	DWELLING: 60%



**1 RETAIL LOWER LEVEL**  
SCALE: 3/16" = 1' - 0"

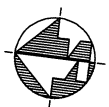
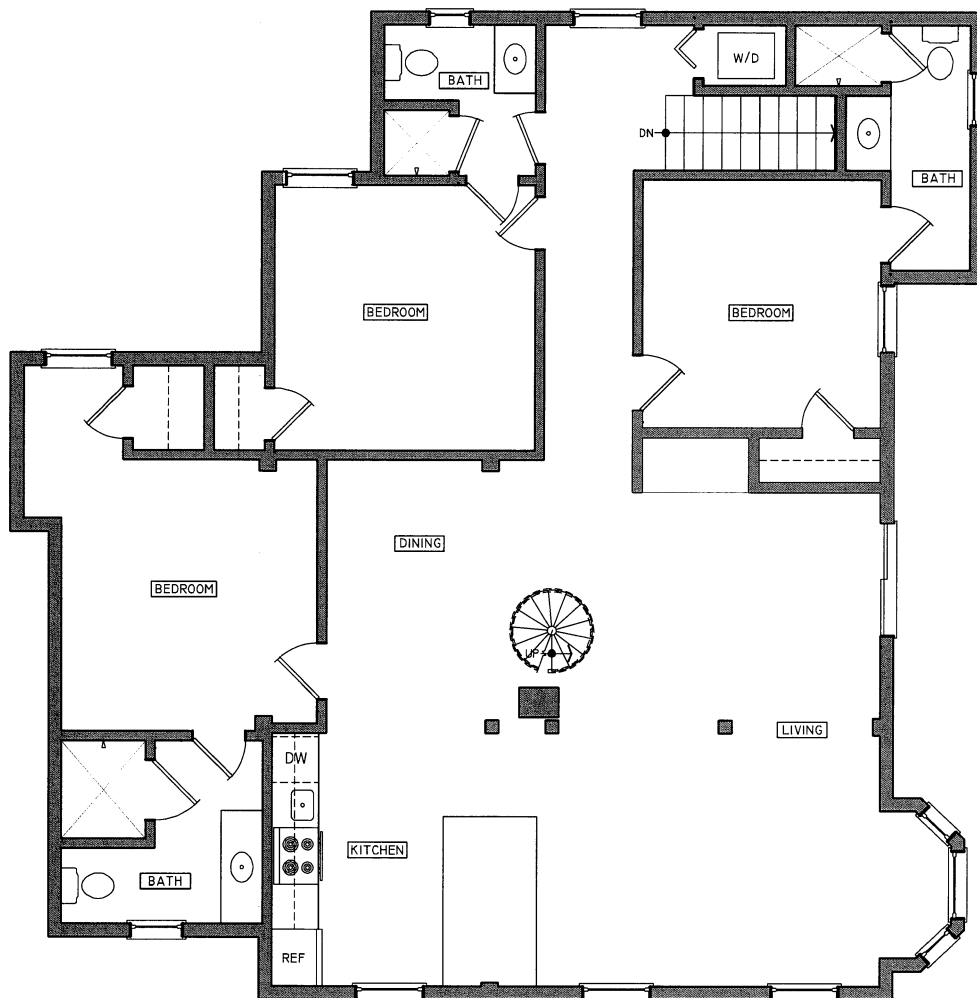


THAMES ST

DENNISON ST

AREA SQUARE FOOTAGES	
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410 DWELLING LOFT:	300 SF
TOTAL DWELLING:	1776 SF

AREA COVERAGE	
RETAIL: 40%	DWELLING: 60%



1

## DWELLING UNIT MAIN LEVEL

SCALE: 3/16" = 1'-0"

AS-BUILT  
**A1.1**

LANDINGS REAL ESTATE  
408 & 410 Thames Street  
Newport, Rhode Island

DESCRIPTION:  
2ND STORY DWELLING UNIT  
SCALE: As Noted  
DATE: October 4, 2018

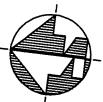
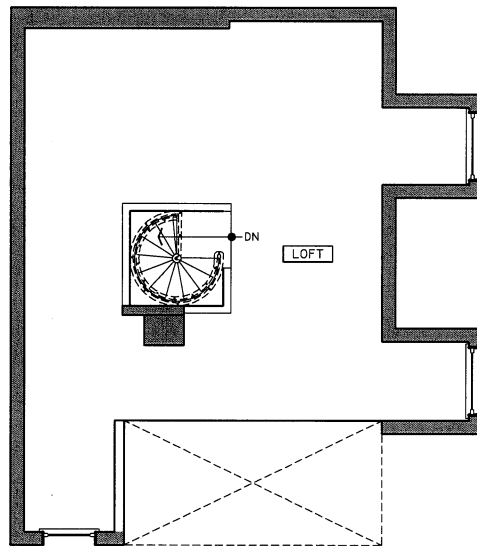
REVISIONS:

CORTSEY  
DESIGN  
ARCHITECTURE  
42 West Main Road  
Newport, RI 02842  
CortseyDesign.com  
401.879.4499



AREA SQUARE FOOTAGES	
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AREA COVERAGE	
RETAIL: 40%	DWELLING: 60%



## DWELLING UNIT LOFT LEVEL

SCALE: 3/16" = 1'-0"

AS-BUILT  
**A1.2**

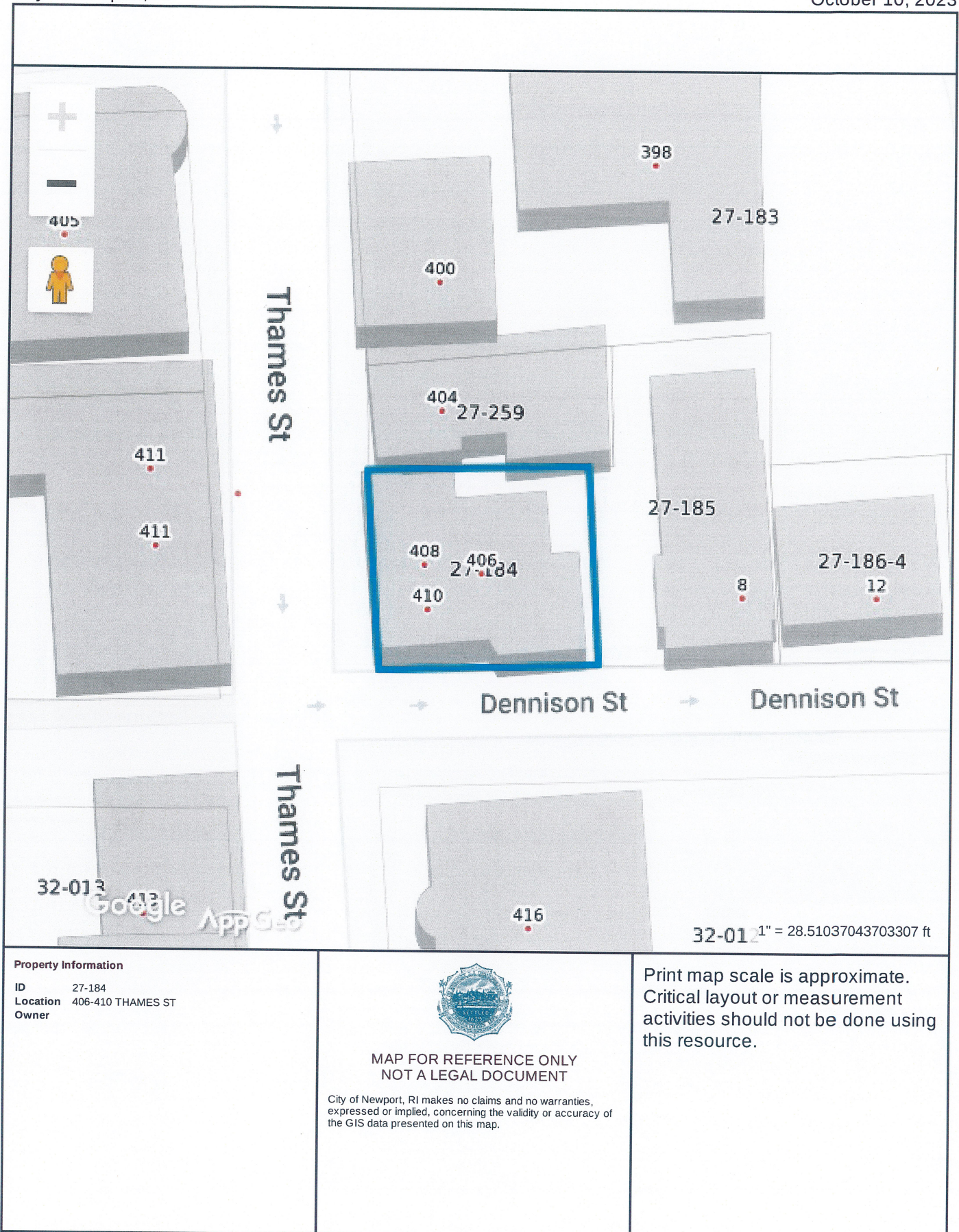
LANDINGS REAL ESTATE  
408 & 410 Thames Street  
Newport, Rhode Island

DESCRIPTION:  
2ND STORY DWELLING UNIT  
SCALE: As Noted  
DATE: October 4, 2018

REVISIONS:

CORDTSEN  
DESIGN  
ARCHITECTURE  
42 West Main Road  
Providence, RI 02902  
cordtsen@cordtsen.com  
401.819.4088





Vacation Newport  
550 Thames St.  
Newport, RI 02840

Thank you for applying to renew your Transient Guest Facility: **410 Thames St.**

If you have completed the renewal requirements, your registration is enclosed; if there are any requirements outstanding, they are listed below:

☐

**Completed: Registration is enclosed**

~~~~~

☐

**Fire Department disapproval. Please contact:**  
**fdguesthouse@cityofnewport.com**

☒

**Zoning disapproval. Please contact Kevin Sullivan, Short Term  
Rental Officer – kpsullivan@cityofnewport.com or 845-5975.**

*See attached for details.*

☐

**Building disapproval. Please contact the Building Official 845-5463.**

☐

**Business Registration and license fees are now due;**

☐

**Money is owed to the Tax Collections Office;**

☐

**State of Rhode Island Registration No.**

**Please contact the City Clerk's Office for more information-  
845-5340, 845-5341 or 845-5342.**

Sincerely,

Laura C. Swistak  
City Clerk

**\*RENEWAL NEVER ISSUED\***  
***TRANSIENT GUESTHOUSE REGISTRATION***

Owner: CCB Capital & Real Estate, Inc.

d/b/a: CCB Capital & Real Estate, Inc.

Address: 406-410 Thames Street

|                          | <b><i>APPROVE</i></b> | <b><i><u>DISAPPROVE</u></i></b> |
|--------------------------|-----------------------|---------------------------------|
| <b>TO: ZONING</b>        | _____                 | _____ <b>X</b>                  |
| <b>FIRE MARSHAL</b>      | _____                 | _____                           |
| <b>BUILDING OFFICIAL</b> | _____                 | _____                           |

**COMMENTS:** Zoning Disapproved due to property is in "Limited Business Zone", operation  
of a Guest House is not permitted unless you have been approved for a Special Use Permit from the Zoning  
Board of Review. Also No parking on-site, Zoning has a requirement for a Manager parking space (every Guests  
house requires either an on-site or and off-site manager). You do not have a parking space dedicated to your guest  
house manager, you will need a variance.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

  
Signature Kevin P. Sullivan 9/30/2023

Office of the City Clerk  
Newport City Hall  
43 Broadway  
Newport, RI 02840

Vacation Newport  
550 Thames St.  
Newport, RI 02840

Thank you for applying to renew your Transient Guest Facility: **410 Thames St.**

If you have completed the renewal requirements, your registration is enclosed; if there are any requirements outstanding, they are listed below:

- ☐ **Completed: Registration is enclosed**  
~~~~~
- ☐ **Fire Department disapproval. Please contact:**  
**fdquesthouse@cityofnewport.com**
- ☐ **Zoning disapproval. Please contact Kevin Sullivan, Short Term Rental Officer – kpsullivan@cityofnewport.com or 845-5975.**
- ☒ **Building disapproval. Please contact the Building Official 845-5463. (*Change of use along with inspections required*)**
- ☐ **Business Registration and license fees are now due;**
- ☐ **Money is owed to the Tax Collections Office;**
- ☐ **State of Rhode Island Registration No.**

**Please contact the City Clerk's Office for more information-  
845-5340, 845-5341 or 845-5342.**

Sincerely,

Laura C. Swistak  
City Clerk