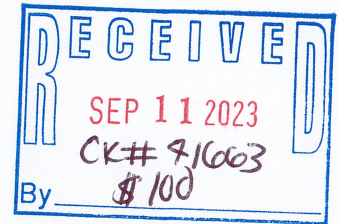


**COMBINED APPLICATION FOR A SPECIAL USE PERMIT &
A REGULATORY (DIMENSIONAL) VARIANCE**

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



DATE: September 11, 2023 *ZBR*

Board Members: *2023-OCT-011*

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.: 9 Beacon Hill Road

Tax Assessor's Plat: 41, Lot: 006

Petitioner Information

Applicants:	Patrick Kilroy, Trustee Bonnie B. Kilroy Trust	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:	141.20 ft. +/-
	Depth:	344 ft. +/-
	Area:	55,756.8 sf. +/-

Zoning District in which premises is located:	R-40
How long have you owned above premises?	46 Years
Are there buildings on the premises at present?	Yes
Total square footage of the footprint of existing buildings:	5,013 sf. +/- (9%)
Total square footage of the footprint of proposed buildings:	6,127 sf. +/- (11%)
Present use of premise:	Multi-Family Residential
Proposed use of premises:	Multi-Family Residential

Give extent of proposed alterations: The Applicant proposes to construct a new detached single family dwelling on the subject parcel, to replace a detached single family dwelling which was previously demolished.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	55,756.8 sf.	40,000 sf.	55,756.8 sf.
Lot Coverage	9%	15 %	11 %
Dwelling Units	6	*11	7
Parking (# of spaces)	7+	7	7+
Front Setback (ft.)	> 50 ft. All existing structures meet the front setback.	50 ft.	35 ft. New Structure
Side Setbacks (ft.)	East = 10 ft. +/- West = 8 ft. +/- Existing Structures	40 ft.	East = 20 ft. +/- West > 50 ft. +/- New Structure
Rear Setback (ft.)	> 20 ft. All existing structures meet the rear setback.	20 ft.	> 20 ft. New Structure
Height (ft.)	< 30 ft. All existing structures meet the building height requirement.	30 ft.	28 ft.

*** The density formula for multifamily dwellings in the R-40 Zone allows for one dwelling unit per five thousand (5,000) square feet of lot area. (17.32.070(d))**

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 17.32.040 (R-40 Setback Requirements)

The Applicant seeks permission to construct a new detached single family dwelling to replace a previously existing single family dwelling on site which was demolished and removed due to structural issues.

The existing parcel is a conforming lot of record containing 55,756.8 +/- square feet of land. The property is, however, a non-conforming development, given all three existing residential structures encroach into both the east and west side setbacks. The property is currently a multifamily development, with one structure containing three (3) dwellings, a second structure containing two (2) dwellings and a third structure containing one (1) dwelling. Historically there had been a fourth structure on site containing a dwelling, however this building was demolished due to structural issues. The previously existing fourth building also encroached into the east side setback. The overall purpose of this project is to replace the previously existing fourth building with a new single family residential structure and return the total number of dwelling units back to seven (7). The new structure will be more compliant with the east side setback but will encroach into the front setback facing Beacon Hill Road. The property is unique in that it is accessed by a "private way" called "Pen Craig Place" which runs down the center of the lot and connects to Harrison Avenue to the north. The area adjacent to Beacon Hill Road has traditionally not been treated as the "front yard" for any of the structures. The new dwelling unit is going to be occupied by a member of the Kilroy family. The project will require east side and front setback relief. It will otherwise comply with all dimensional requirements. The property is in the Newport Historic District and will require approval of the Historic District Commission. The plan proposed by the Applicant is harmonious with the surrounding neighborhood and will not create dimensional non-conformities to such a degree that it is injurious to, or inconsistent with the area or the purpose and intent of the R-40 Zone.

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.

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.

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 is a conforming lot of record containing 55,756.8 square feet of land. It is also, however, a non-conforming development given the existing dwelling structures encroach into setbacks. A member of the Kilroy family will be occupying the new residential structure as his primary residence. This property is an existing multi-family development with three residential structures. A fourth single family structure previously existed but was demolished. The Applicant proposes to replace that previous structure. The new residence will be in the general location of the demolished structure but will improve side setback compliance and improve the spatial relationship with other buildings. Based on the location of existing structures, this project will require dimensional relief. As a result of the conditions and circumstances that are peculiar to this non-conforming development, the proposed new structure will encroach into the east side setback and the front setback.

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 have a total of seven (7) dwelling units on this parcel. Given the lot is 55,756.8 square feet, multi-family developments are allowed by special use permit, provided there is at least five thousand (5,000) square feet of land per dwelling unit. This project seeks to replace a lost dwelling unit and will remain well within the density requirement for the R-40 Zone. The subject property is located between Harrison Avenue and Beacon Hill Road. The neighborhood is essentially a fully developed residential "estate" area. It is not uncommon for estates on larger parcels of land to consist of multiple buildings and dwellings. Constructing a fourth building is not inconsistent with this area. The literal interpretation of the zoning code, resulting in the denial of the relief requested, would unreasonably deny this Applicant the ability to make the requested improvements for the restoration of a lost dwelling unit and have the full use and enjoyment of this property. The proposed improvements will be appropriate and consistent with the surrounding neighborhood, and the rights enjoyed by other property owners in this area of the R-40 Zone.

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

The Applicant is before the Board for permission to build a new single family residential structure to replace the previously existing dwelling. The project will meet lot coverage, building height and rear setback requirements. The new structure will not exceed the encroachment into the east setback beyond any existing buildings or beyond what previously existed. The improved location of the fourth building will, however, require front setback relief. Upon completion, the proposed new dwelling unit will be occupied by a family member for the foreseeable future. The Applicant has taken great care to develop a proposed development plan which restores the lost dwelling unit and is appropriate in scope, scale and size for this property. The overall proposal has been designed to meet the reasonable living needs of the Applicant's family with minimal dimensional variances. The hardship is driven by the location of the existing structures, all of which encroach into setbacks and

the location of the existing private road down the middle of the parcel. Granting the requests for dimensional relief are the minimum variances which will allow the reasonable use of the property. Accordingly, the proposed use of the property and the relief sought by the Applicant will not be injurious to, or create a burden for abutting property owners, will be harmonious with the neighborhood, and will be an appropriate use for this area of the R-40 Zoning District.

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.

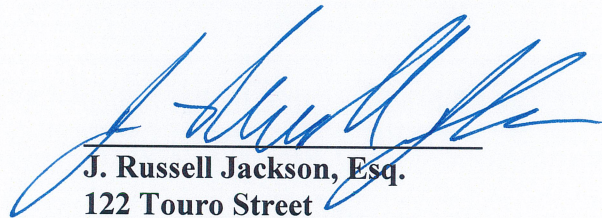
In granting a variance, the zoning board of review shall require that evidence of the following standards be entered into the record of the proceedings:

- 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 area; 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;

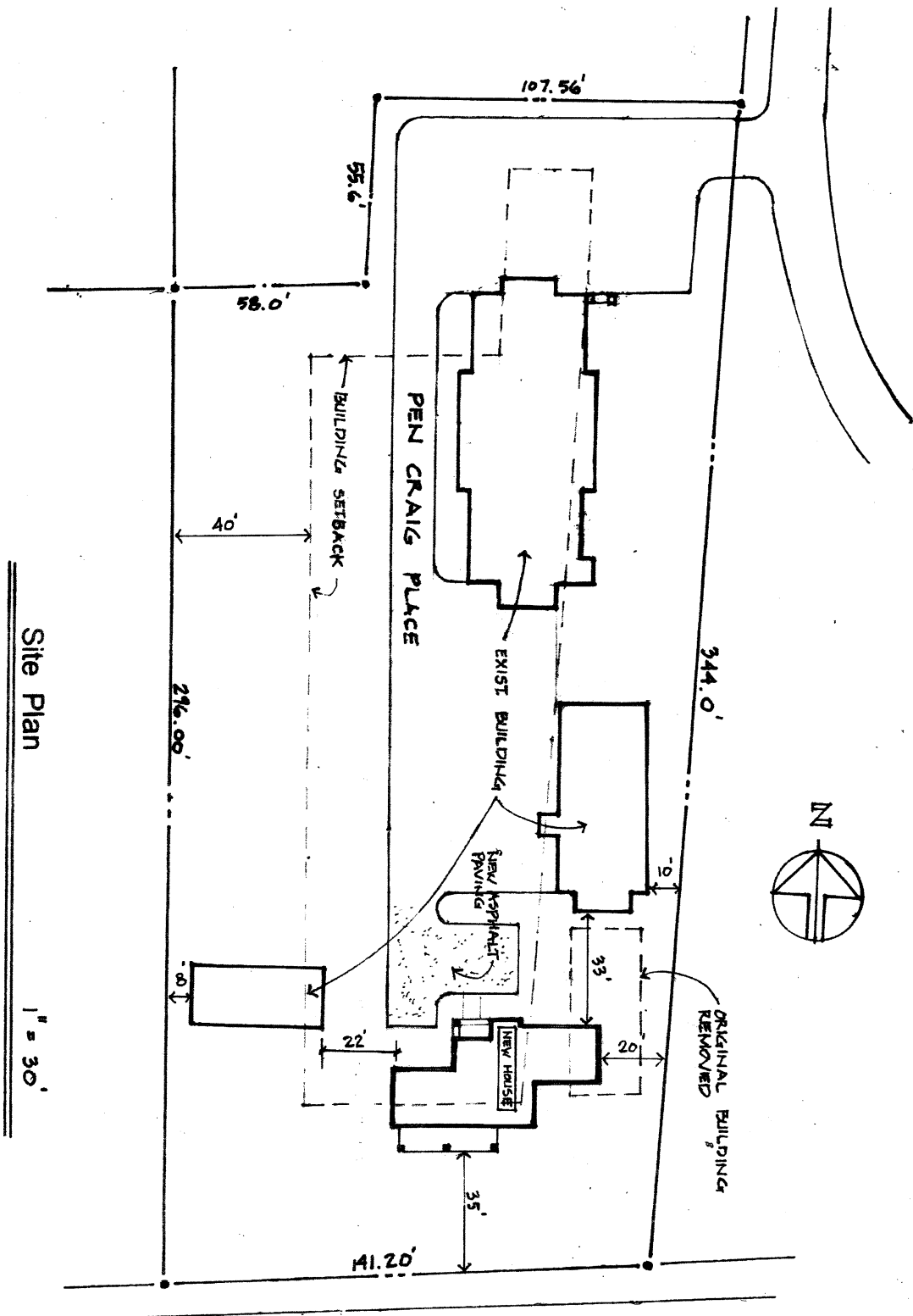
- e) That the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds 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 His Attorneys,
Miller Scott Holbrook & Jackson**



J. Russell Jackson, Esq.
122 Touro Street
Newport, RI 02840
Tel: 401-847-7500
Fax: 401-848-5854
jackson@millerscott.com

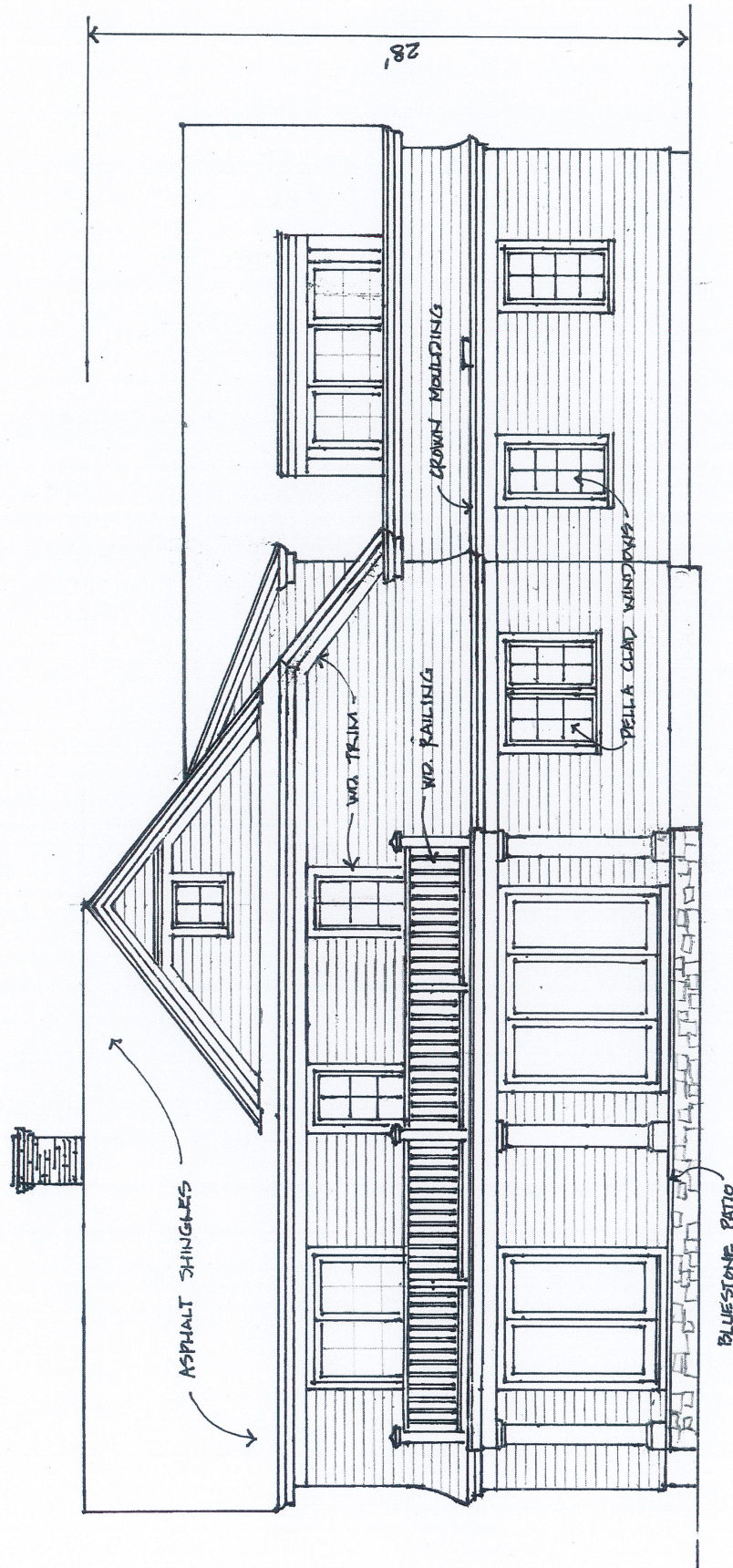


BEACON HILL ROAD

PLAT 41-LOT 006
55,700 SF
ZONING : R 4D

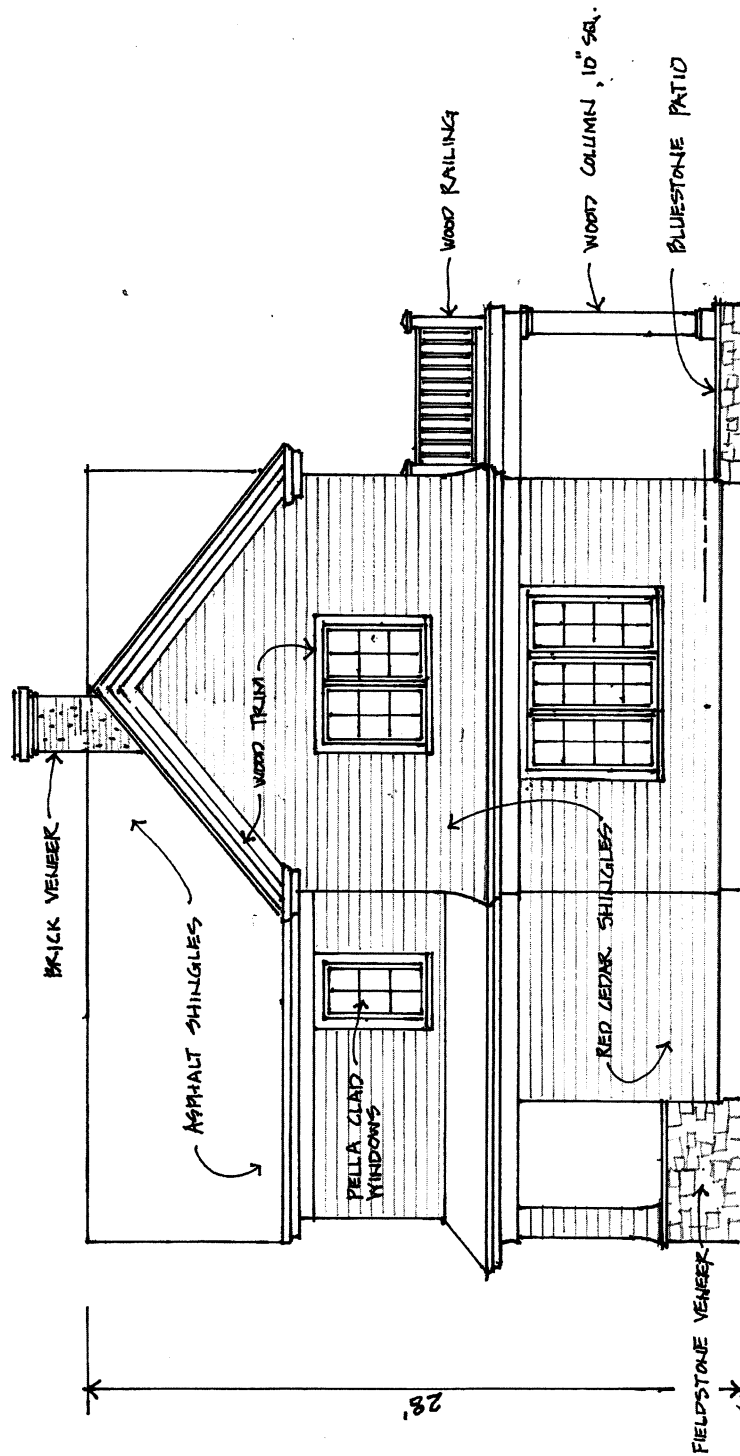
EXIST. LOT COVERAGE : 9%
PROPOSED LOT COVERAGE : 11%

<p>PROJECT</p> <p>Kilroy Residence Newport, RI</p>	<p>PAUL D. BURKE, ARCHITECT A.I.A., N.C.A.R.B.</p> <p>311 Vantage Ave Westport, Rhode Island 401-869-0888</p>
<p>8-10-23</p>	<p>SCALE: 1" = 30'</p>



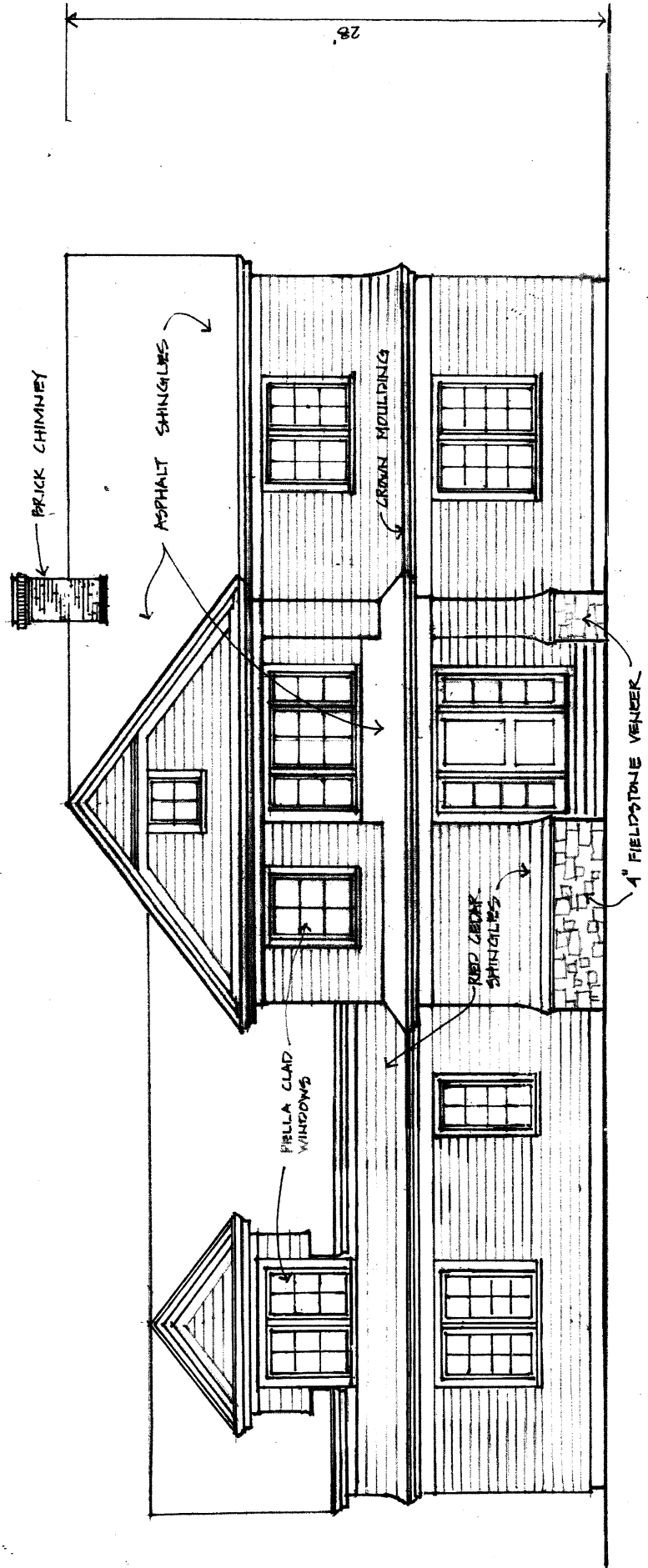
SOUTH ELEVATION

3/16" = 1'-0"



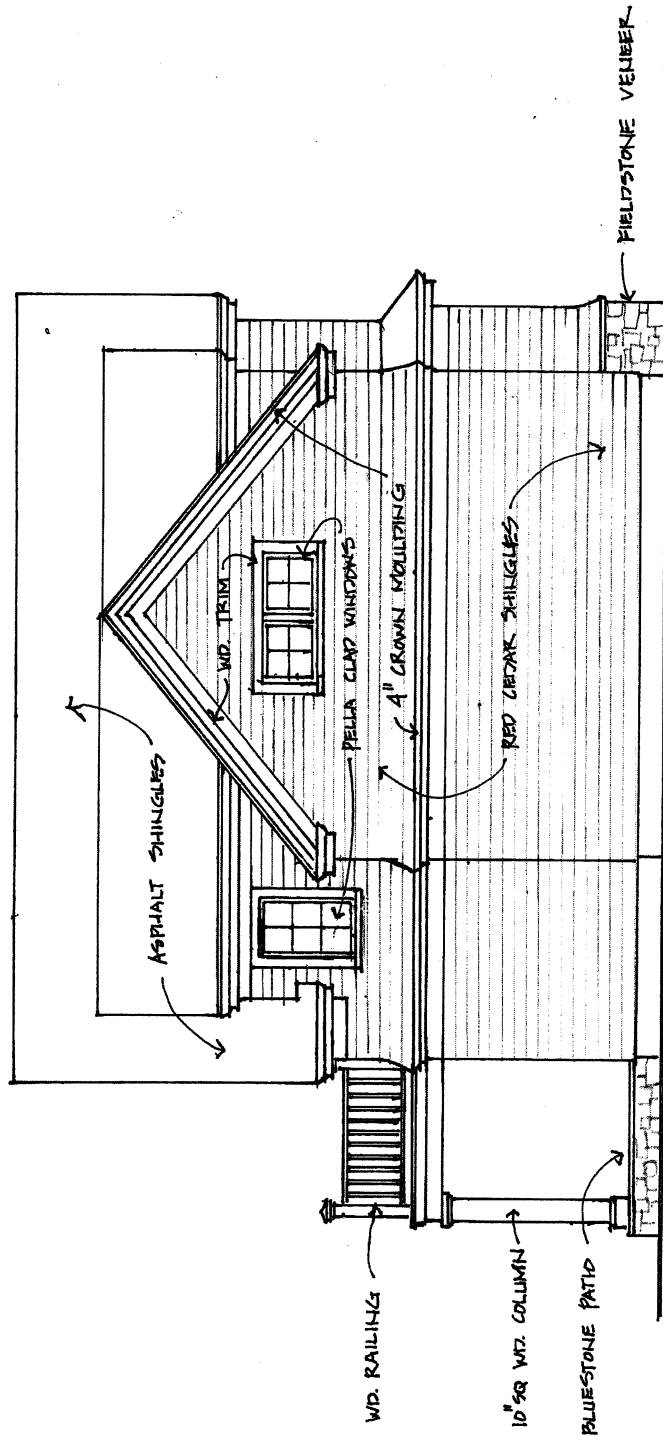
3/16" = 1'-0"

WEST ELEVATION



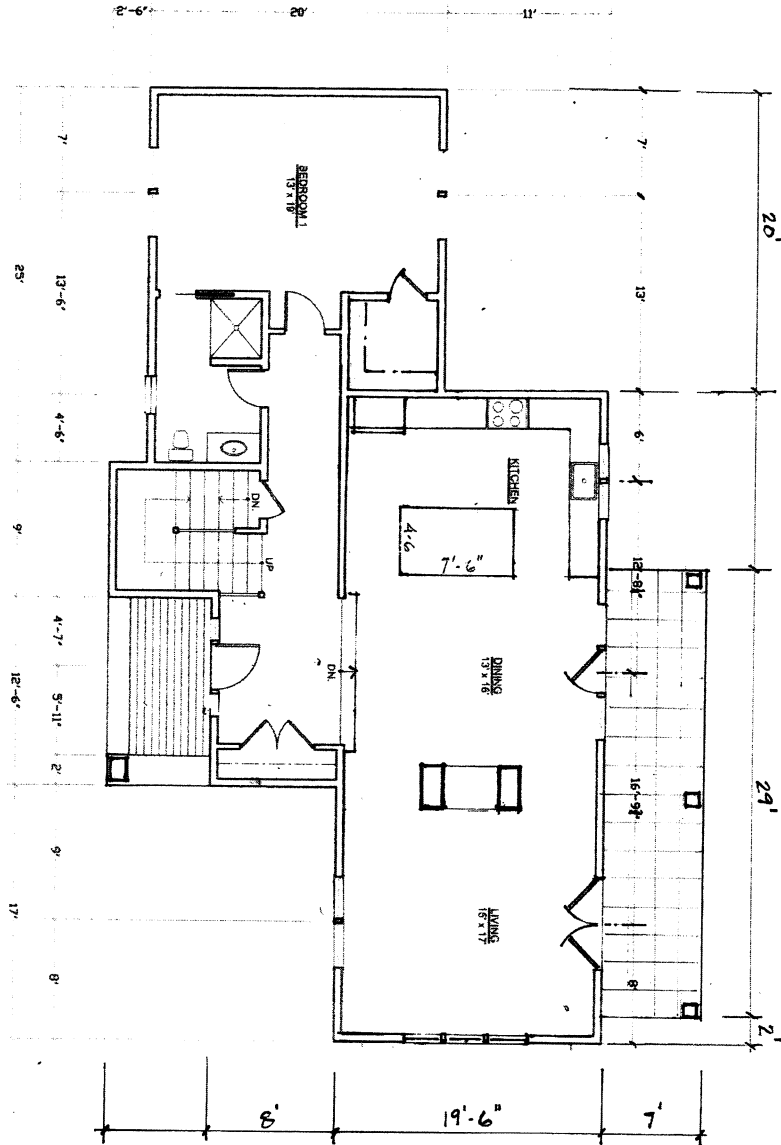
NORTH ELEVATION

3/16" = 1'-0"



$\frac{3}{16}'' = 1'-0''$

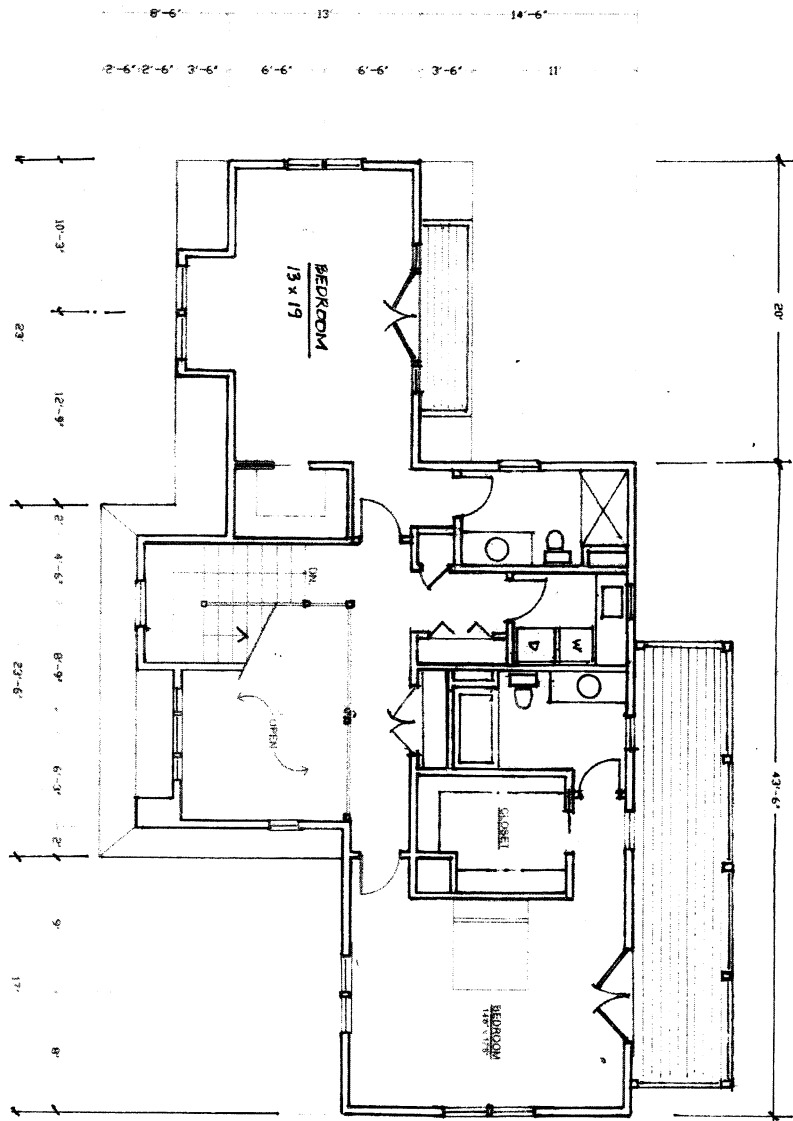
EAST ELEVATION



1
A1

First Floor Plan
1/8" = 1'

A1	7-19-23	PROJECT:	PAUL D. BURKE, ARCHITECT A.I.A., N.C.A.R.B.
		Kilroy Residence Newport, RI	311 Vaucluse Ave. Middletown, Rhode Island 401-849-4696



1
A2

Second Floor Plan

1/8" = 1'

A2	SCALE: 1/8" = 1'	7.19.23	PROJECT: Kilroy Residence Newport, RI	PAUL D. BURKE, ARCHITECT A.I.A., N.C.A.R.B. 311 Vaucluse Ave. Middletown, Rhode Island 401-849-4896

Newport

(Summary Data - may not be Complete Representation of Property)

Parcel: 41-006 Location: 9 BEACON HILL RD Owner: BONNIE B KILROY TRUST
Account: 7781 User Acct: R08295 LUC: 03 - Apartments Zoning: R40

Parcel Values

Total: \$1,467,700 Land: \$270,000 Land Area: 55,756.8 SF Building: \$221,300 Assessed: \$1,467,700

Sales Information

Book and Page	Instrument Type	Date	Price	Grantor
3047	Correction	11/03/2021	\$0	BONNIE B KILROY TRUST 2016
3044-234	Quit Claim	11/02/2021	\$0	KILROY BONNIE

Building Type: Two Family Year Built: 1900 Grade: C Condition: AV
Heat Fuel: Gas Heat Type: Hot Water % Air Conditioned: 0.00 Fireplaces: 0
Exterior Wall: Stucco/Mason Bsmnt Garage: 0 Roof Cover: Asph/F GlS/C # of Units: 2
of Rooms: 0 # of Bedrooms: 3 Full Bath: 2 1/2 Baths: 0

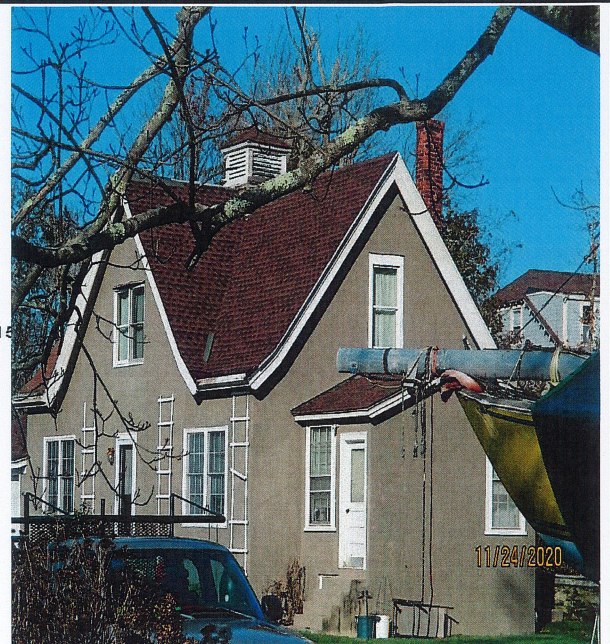
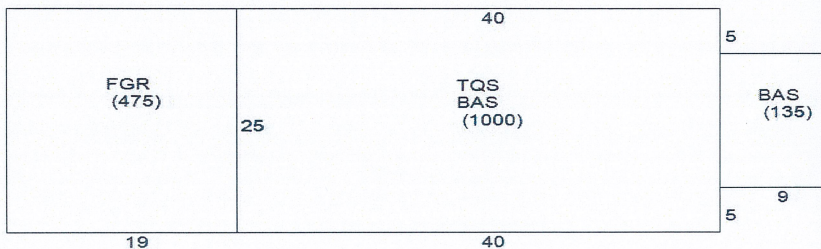
Yard Item(s)

Description	Quantity	Size	Year	Condition	Quality	Value
SHED FRAME	1	96	2001	AV	Average	\$800.00

Building Areas

Area	Net Area	Finished Area
First Floor	1,135 SF	1,135 SF
Garage	475 SF	0 SF
Three Quarter Story	800 SF	800 SF

Disclaimer: This information is for tax
assessing purposes
and is not warranted



Newport

(Summary Data - may not be Complete Representation of Property)

Parcel: 41-006 Location: 9 BEACON HILL RD Owner: BONNIE B KILROY TRUST
Account: 7781 User Acct: R08295 LUC: 03 - Apartments Zoning: R40

Parcel Values

Total: \$1,467,700 Land: \$0 Land Area: 55,756.8 SF Building: \$803,400 Assessed: \$1,467,700

Sales Information

Book and Page	Instrument Type	Date	Price	Grantor
3047	Correction	11/03/2021	\$0	BONNIE B KILROY TRUST 2016
3044-234	Quit Claim	11/02/2021	\$0	KILROY BONNIE

Building Type: Three Family Year Built: 2017 Grade: C+ Condition: AV
Heat Fuel: Gas Heat Type: Forced Air-D % Air Conditioned: 100.00 Fireplaces: 0
Exterior Wall: Wood Shingle Bsmnt Garage: 0 Roof Cover: Asph/F Gls/C # of Units: 3
of Rooms: 0 # of Bedrooms: 5 Full Bath: 4 1/2 Baths: 1

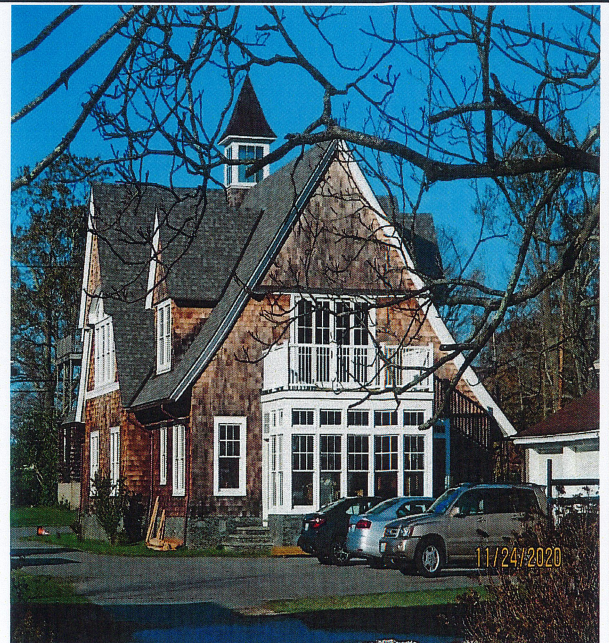
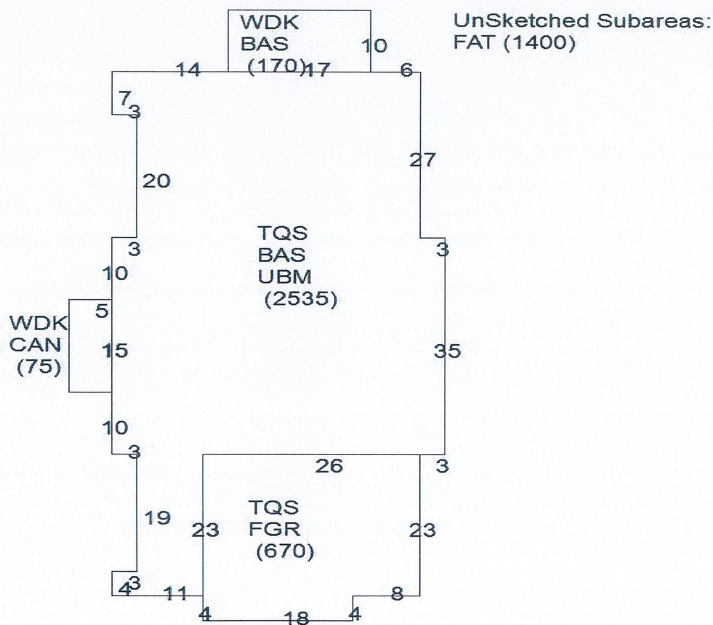
Yard Item(s)

Description	Quantity	Size	Year	Condition	Quality	Value
-------------	----------	------	------	-----------	---------	-------

Building Areas

Area	Net Area	Finished Area
Attic, Finished	280 SF	280 SF
Basement, Unfinished	2,535 SF	0 SF
Canopy	75 SF	0 SF
Deck, Wood	245 SF	0 SF
First Floor	2,705 SF	2,705 SF
Garage	670 SF	0 SF
Three Quarter Story	2,564 SF	2,564 SF

Disclaimer: This information is for tax
assessing purposes
and is not warranted



Newport

(Summary Data - may not be Complete Representation of Property)

Parcel: 41-006 **Location:** 9 BEACON HILL RD **Owner:** BONNIE B KILROY TRUST
Account: 7781 **User Acct:** R08295 **LUC:** 03 - Apartments **Zoning:** R40

Parcel Values

Total: \$1,467,700 **Land:** \$0 **Land Area:** 55,756.8 SF **Building:** \$173,000 **Assessed:** \$1,467,700

Sales Information

Book and Page	Instrument Type	Date	Price	Grantor
3047	Correction	11/03/2021	\$0	BONNIE B KILROY TRUST 2016
3044-234	Quit Claim	11/02/2021	\$0	KILROY BONNIE

Building Type: Conventional **Year Built:** 1900 **Grade:** C **Condition:** AV
Heat Fuel: Gas **Heat Type:** Hot Water **% Air Conditioned:** 0.00 **Fireplaces:** 1
Exterior Wall: Wood Shingle **Bsmnt Garage:** 0 **Roof Cover:** Asph/F GlS/C **# of Units:** 1
of Rooms: 0 **# of Bedrooms:** 1 **Full Bath:** 1 **1/2 Baths:** 0

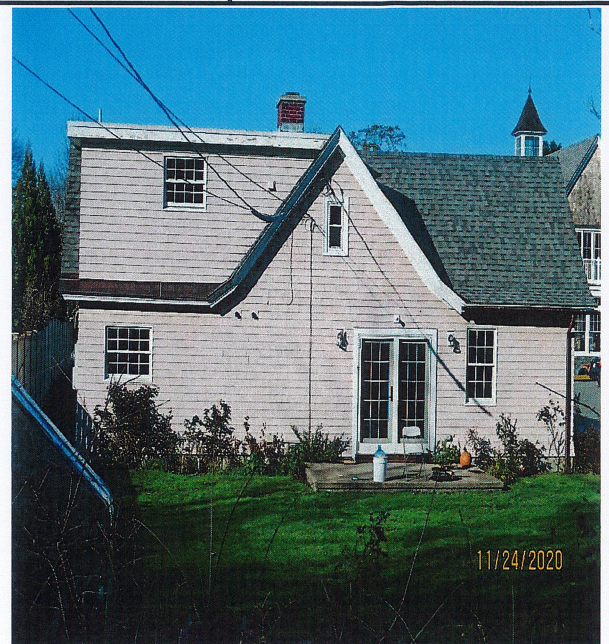
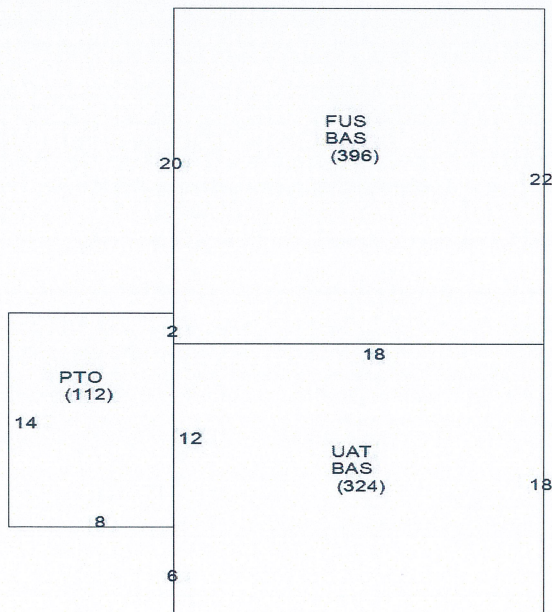
Yard Item(s)

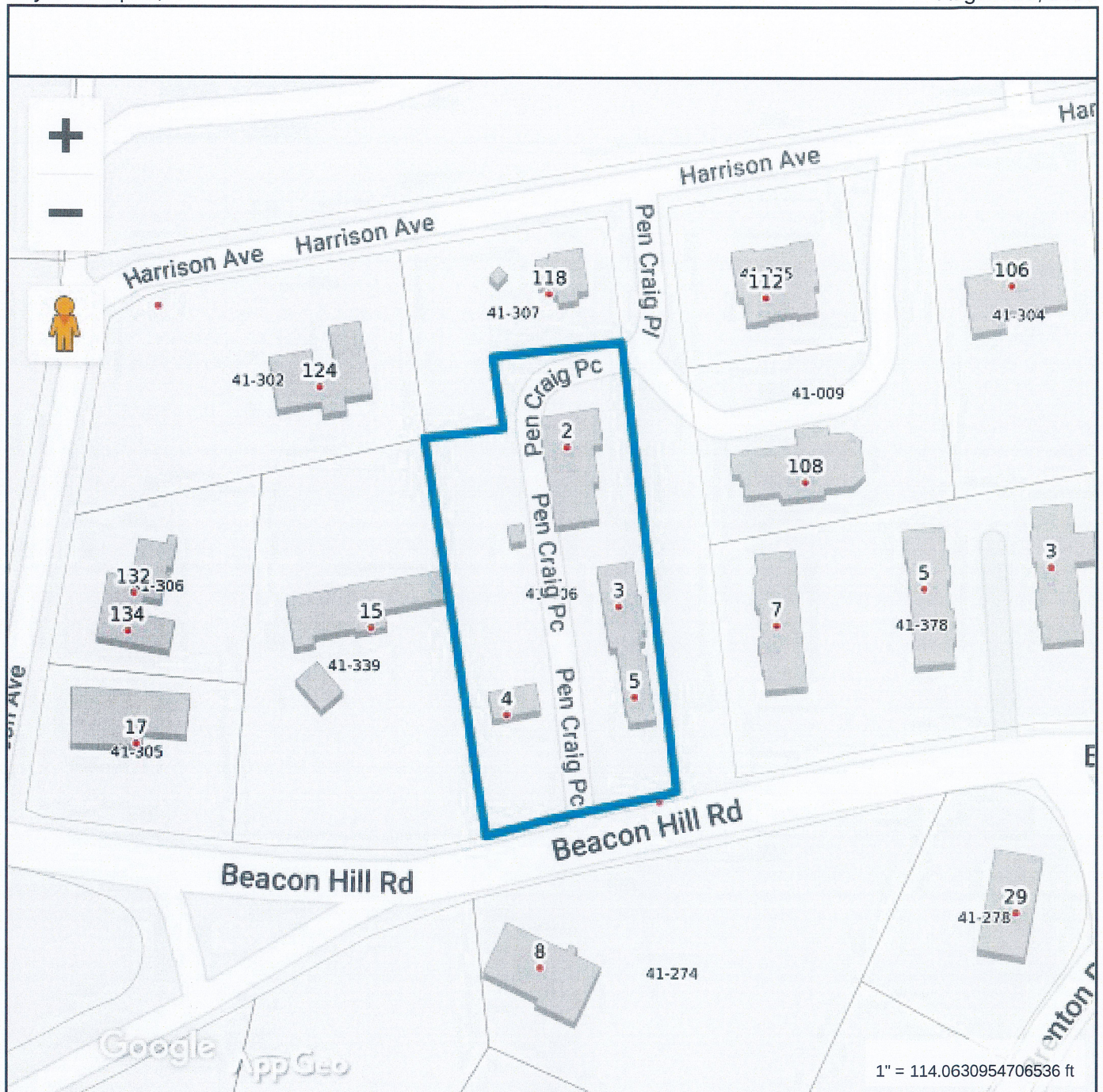
Description	Quantity	Size	Year	Condition	Quality	Value
-------------	----------	------	------	-----------	---------	-------

Building Areas

Area	Net Area	Finished Area
Attic, Unfinished	64.8 SF	0 SF
First Floor	720 SF	720 SF
Patio	112 SF	0 SF
Upper Story, Finished	396 SF	396 SF

Disclaimer: This information is for tax
assessing purposes
and is not warranted



**Property Information**

ID 41-006
Location 9 BEACON HILL RD
Owner



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

City of Newport, RI makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Print map scale is approximate.
Critical layout or measurement activities should not be done using this resource.