

Amended Application

APPLICATION FOR DIMENSIONAL VARIANCE

CITY OF NEWPORT, RI

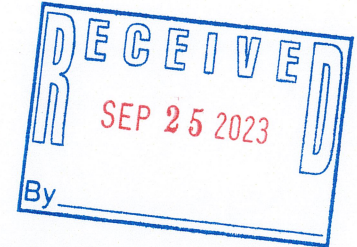
ZONING BOARD OF REVIEW

Date: September 25, 2023

Board Members:

ZBR

2023 - OCT - 006



The undersigned hereby petition the Zoning Board of Review for a Special Use Permit and 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.: 287 Gibbs Avenue

Tax Assessor's Plat 23 Lot 047

Petitioner Information

Applicant:	Christopher DiNapoli	Address:	c/o Tanner L. Jackson
Owner:	Christopher DiNapoli & Bethany DiNapoli	Address:	c/o Tanner L. Jackson
Lessee:	N/A	Address:	N/A

Property Characteristics

Dimensions of Lot: 230' x 140' x 148' x 205' **area:** 42,986 sq. ft.

Zoning District in which premises is located: R-20

How long have you owned the above premises: May 23, 2003

Are there any buildings on the premises at present: Single family home

Total square footage of the footprint of existing buildings: 5,013 sq. ft. (11.7%)

Total square footage of the footprint of proposed buildings: 5,013 sq. ft. (21.8%)

Present use of premises: Single Family

Proposed use of premises: Single Family

Give extent of proposed alterations: Applicant proposes subdividing existing double-sized lot into two lots. Proposed subdivision will increase lot coverage on existing lot to 21.8% (15% permitted). Existing crushed stone patio and outdoor oven to be 6.5' (15' and 10' required, respectively) from proposed southern lot line.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft.)	42,986 sq. ft.	20,000	22,970
Lot Coverage (%)	11.7% (5,013 sq. ft.)	15% (6,448 sq. ft.)	21.8% (5,013 sq. ft.)
Dwelling Units	1	1	1
Parking	>2	2	>2
Front Setback	>30'	30'	No Change
Side Setbacks	>15'	15'	<u>Southerly</u> 6.5'
Rear Setback	>20'	20'	No Change
Accessory Setbacks	<u>AC Units</u> >10' <u>Existing Garage</u> <10' <u>Brick Oven</u> >10'	<u>AC Units</u> 10' <u>Existing Garage</u> 10' <u>Brick Oven</u> 10'	<u>AC Units</u> No Change <u>Existing Garage</u> No Change <u>Brick Oven</u> 6.5'
Height	<30'	<30'	No Change

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

The Subject Property is unique in building placement and topography. The lot is large, being double the minimum size required in the R-20 Zone, but the existing historical structure and accessory garage create a lot coverage that would exceed permitted maximum on a 20,000 sq. ft. lot. In addition, the lot's topography slopes down eastward, towards Gibbs Avenue, which prompts the existing patios to be below-grade, thus further exacerbating lot coverage. The existing lot is 42,986 sq. ft. – just large enough to subdivide for an additional buildable lot that requires no relief. However, the pre-existing structure was built without regard for modern zoning lot coverage requirements or their relation to lot size.

Furthermore, the existing structure's placement necessitates setback relief to the proposed lot lines because it is not possible to further reduce the proposed lot without creating a substandard lot.

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

Housing – 1.2

Housing – 1.3

Transportation & Circulation – T-5.1

Provisions or regulations of Zoning Ordinance applicable:

Section 17.28.040(B) – Setback Requirements

Section 17.100.080(B) – Accessory Setback Requirements

Section 17.28.050 – Lot Coverage Requirements

Section 17-108 – Variances

Explain how a 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 pre-existing residential structure occupies a footprint that cannot be further altered or reduced. As a result, the structure slightly surpasses lot coverage maximums even on the proposed above-standard lot.

Strict enforcement would deprive the Applicant of the ability to subdivide the property and provide an additional buildable lot for the City while simultaneously maintaining for the Applicant an above-standard lot size. To literally apply the zoning code would permanently deprive the Applicant of the ability to subdivide property in a manner otherwise consistent with the Comprehensive Plan and intent of the R-20 Zone. The proposed subdivision and resulting lots will respect the zoning ordinance requirements in all areas, except for the historical home's lot coverage footprint and slight encroachment into the proposed southern setback, which, as mentioned, stem from the pre-existing structure's historical size.

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

The proposed addition is conscientiously limited in an effort to seek the minimum variance necessary for the reasonable use of the residential property. Special conditions exist, namely the pre-existing structures and hilltop topography, that are particular to the Subject Property, and a literal interpretation of the provisions would deprive the owner of rights commonly enjoyed by other owners in the same district. The applicant requests the minimum variance necessary for the reasonable use of the property because there is no reasonable alternative for subdivision that reduces the necessary lot coverage relief. The Applicant proposes to create lots suitable for single-family residential housing that harmoniously comports with the zoning code and surrounding neighborhood. The proposed variance is reasonable because it will maintain housing for the Applicant while creating an additional lot, in line with Policy H-1.

This request will permit the owner/applicant to obtain additional and reasonable use of the residence, which will be in line with the historical nature of the home and neighborhood, and will **not** be injurious to neighbors. The existing lot size warrants subdivision to support a reasonable, modern residential use of the property, in line with zoning requirements and housing demands. The proposed subdivision is a reasonable proposal because it will create two single-family lots. The Applicant proposes thoughtful property boundaries to ensure that the proposed subdivision will both maintain privacy, ensure proper stormwater drainage, and enhance and contribute to the residence, without posing injury to the neighborhood as a whole. The proposed work will not

impair the zoning code or alter the general character of the surrounding neighborhood because the property will continue to be used for residential purposes. The Application is in accord with the public convenience and welfare and meets or exceeds all of the conditions required in Section 17.108.10.

The Zoning Board's 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.

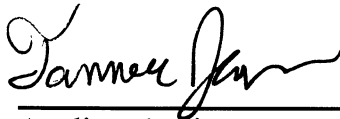
The burden of proof in a special-use permit application is on the applicant. This means that if the applicant fails to present adequate competent evidence to prove the applicable standard for issuing a special-use permit has been met, the board must deny the application.

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:

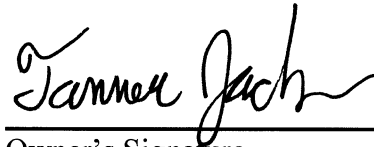
- a. That the reasons set forth in the application justify the granting of the variance and that the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building or structure;
- b. That the variance will not be injurious to the neighborhood or otherwise 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's Signature
c/o Tanner L. Jackson 401-847-7500



Owner's Signature
c/o Tanner L. Jackson 401-847-7500

EXHIBIT A

Site Plan – Existing Conditions

[illegible]

PRINT: LOT 1	
PAGE	7/26/2000
1	35,000.00
2	111.99
3	160.50
4	22.00
5	4,000.00
6	52.00
7	410.00
8	4.00
9	510.99

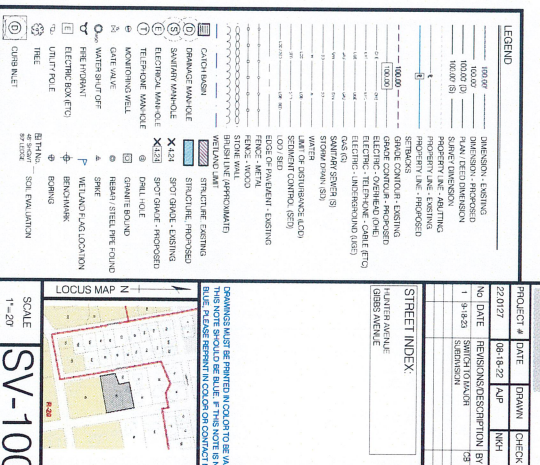
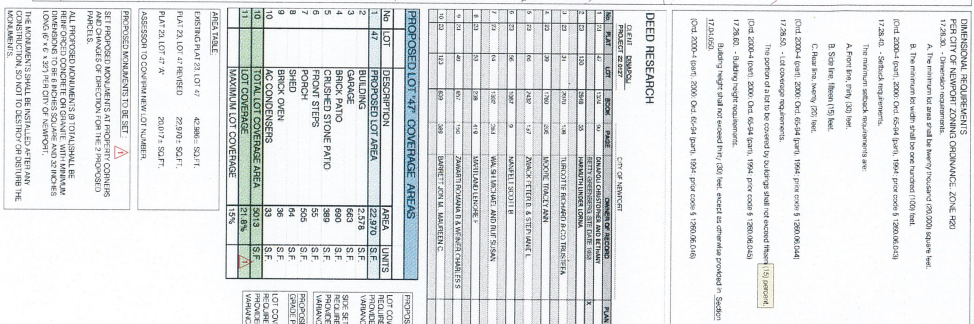
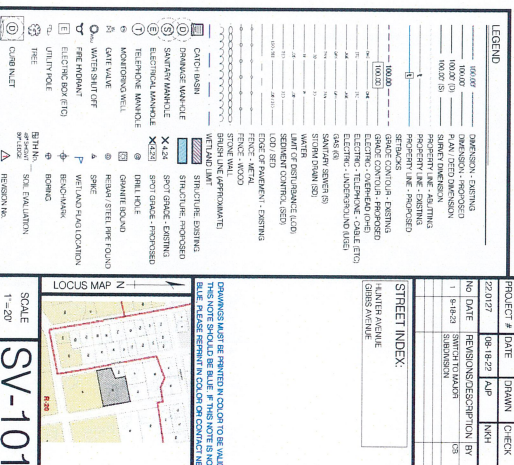


EXHIBIT B

Site Plan – Proposed Subdivision



DEED RECORD						
CITY OF ANCHORAGE						
CITY RECORD BOOK						
FILE #	LOT	BOOK	PAGE	OWNER'S RECORD	DATE	
13	122	188	1	ANCHORAGE CITY RECORDS	1911	
13	122	188	2	ANCHORAGE CITY RECORDS	1911	
13	121	187	1	ANCHORAGE CITY RECORDS	1911	
13	121	187	2	ANCHORAGE CITY RECORDS	1911	
13	120	186	1	ANCHORAGE CITY RECORDS	1911	
13	120	186	2	ANCHORAGE CITY RECORDS	1911	
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13	95	161	2	ANCHORAGE CITY RECORDS	1911	
13	94	160	1	ANCHORAGE CITY RECORDS	1911	
13	94	160	2	ANCHORAGE CITY RECORDS	1911	

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PROSECUTIVE COUNCIL	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	24
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