

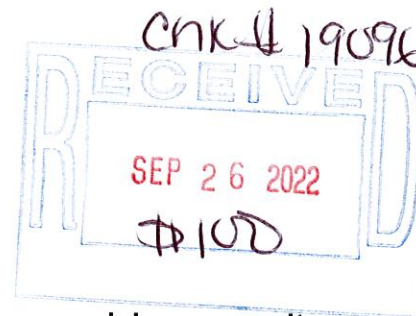
COMBINED APPLICATION FOR A SPECIAL USE PERMIT &
A REGULATORY (DIMENSIONAL) VARIANCE

CITY OF NEWPORT, RI
ZONING BOARD OF REVIEW

Date: September 22, 2022

Board members:

ZBR
OCT. 11



The undersigned hereby petitions the Zoning Board of Review for a special use permit /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

103, 105, 107, 109, 111, 113, 115, 117, 119 & 121 Coggeshall Avenue
Tax Assessor's Plat 37, Lot 100 (Units 1-10)

Petitioner Information

Applicants: Coach House Condominium
Association

Address: c/o Joseph H. Olaynack, III, Esq.,
43-B Memorial Blvd., Newport, RI 02840

Owners: See attached addendum

Address: Same

Lessee: N/A

Address: N/A

Property Characteristics

Dimensions of lot:

frontage: 250+/- ft. (Spouting Rock Dr.) depth: 250+ ft. (avg.) area: 75,634 sq. ft.
280+/- ft. (Coggeshall Ave.)

Zoning District in which premises is located: R-10A

How long have you owned above premises? Varies for each condominium unit owner.

Are there buildings on the premises at present? A main building containing 9 residential condominium units (with an appurtenant carport structure), and a separate single-family dwelling, which is presently a part of the condominium (Unit 10).

Total square footage of the footprint of existing buildings: approx. 9,435 sq. ft.

Total square footage of the footprint of proposed buildings: Same. No changes proposed.

Present use of premises: 10-unit residential condominium.

Proposed use of premises: 9-unit residential Condominium (Parcel A) and a single-family dwelling (Parcel B), each located on separate lots.

Give extent of proposed alterations: The existing 10-unit residential condominium is a longstanding special use within the R-10A zoning district. A minor modification of that special use and minor regulatory variances are necessary to permit a subdivision of the existing lot into two lots, one for the main building (containing Units 1-9) and its appurtenant structures, and the other for the detached single-family dwelling (Unit 10). By all outward appearances, Unit 10 does not appear to be a part of the condominium development, but rather a separate single-family dwelling. The purpose of the proposed subdivision is to allow Unit 10 to separate from the condominium development and allow its owners to use, improve and maintain the property as a single-family dwelling in the manner commonly enjoyed by most other property owners within the R-10A district. No material changes will result to the existing building footprints, setbacks or lot coverage as a result of the subdivision, and each lot would substantially comply with the R-10A regulatory requirements.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed *
Lot Size (sq. ft.)	75,634	10,000	65,634 (Parcel A) 10,000 (Parcel B)
Lot Coverage	12.5%	20%	12.5% (Parcel A) 12.1% (Parcel B)
Dwelling Units	10	2	No Change
Parking (# of spaces)	15	2	13 (Parcel A) 2 (Parcel B)
Front Setback (ft.)	69.3 (Spouting Rock Dr.) 1.0+/- (Coggeshall Ave.)	15.0	No changes (Parcel A) 9.0 (Parcel B)
Side Setbacks (ft.)	104.4 (Spouting Rock Dr.) 127.4 (Coggeshall Ave.)	10.0	11.0 (Parcel A) 10.0 (Parcel B)
Rear Setback (ft.)	None (corner lot)	20.0	No changes (Parcel A) 50.0+/- (Parcel B)
Height (FT.)	<35.0	35.0	No change

- Above measurements based upon the proposed subdivision.

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

Goal LU-1 – to generally provide for a balanced City with residential and commercial uses consistent with the character and vision of the community.

Policy LU-1.2 – to protect the southerly portions of the City by maintaining and emphasizing low density residential uses.

Policy LU-1.4 – to protect historic structures and maintain the heritage of the community.

Policy LU-1.7 – to protect the character of residential neighborhoods.

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

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

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

Policy H-3.1 - to limit or reduce the percentage of City homes that are vacant on a seasonal basis.

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 R-10A zoning district is characterized by low-density land use and consists of neighborhoods largely comprised of single-family dwellings. The subject property is a bit of an outlier within the R-10A zoning district and has many unique and distinguishable characteristics when compared to other properties generally located within the district. Notable distinctions include: the permitted multi-family use (10-condominium units); the size of the lot (>75,000 sq. ft.); the size and number of buildings on the property (2 residential structures with appurtenant structures); the lot coverage (only 12%); the abundance of off-street parking (more than 15 spaces in multiple locations); and the considerable frontage along two public streets (in excess of 250 ft. along each street).

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?

Unit 10 is located in a detached building, which by all outward appearances does not appear to be a part of the condominium development, but rather a single-family dwelling similar to and compatible with many surrounding homes. A literal interpretation of the zoning code, resulting in the denial of the relief requested, would prevent the Condominium Association from performing a simple subdivision of the property to allow Unit 10 to separate from the condominium development. By separating Unit 10 from the condominium project, the owner's will be incentivized and free to use, improve and maintain the property as a single-family dwelling in the manner commonly enjoyed by most other property owners within the R-10A district.

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

No changes will result to the existing building footprints, setbacks or lot coverage as a result of the subdivision, and each lot would substantially comply with the R-10A regulatory requirements. From a zoning perspective this is essentially a paper transaction involving a minor modification to an existing special use to permit the proposed subdivision.

The Zoning Board's Role – Special Use Permits¹

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.

The Zoning Board's Role – Dimensional Variance²

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:

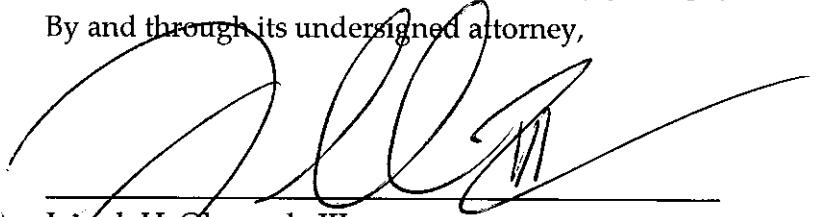
- a. That the reasons set forth in the application justify the granting of the variance and that the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building or structure;
 - b. That the variance will not be injurious to the neighborhood or otherwise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

COACH HOUSE CONDOMINIUM ASSOCIATION

By and through its undersigned attorney,

A large, stylized handwritten signature in black ink, likely belonging to Joseph H. Olaynack, III, is written over a horizontal line.

Joseph H. Olaynack, III

CORCORAN, PECKHAM, HAYES, LEYS & OLAYNACK, P.C.

43-B Memorial Boulevard

Newport, Rhode Island 02840

(401) 847-0872

jho@cphnpt.com

Addendum

Unit Owners and Members of the Coach House Condominium Association

Unit 1 (103 Coggeshall Avenue)
Michael E. Ryan and Patricia E. Trebino
142 Manning Avenue
Needham, MA 02494

Unit 9 (103 Coggeshall Avenue)
Donald W. Osborne & Frank Garofolo
103 Coggeshall Avenue
Newport, RI 02840

Unit 2 (117 Coggeshall Avenue)
Paul J. & Theresa Vanslette
118 Chestnut Street
Upton, MA 01568

Unit 10 (121 Coggeshall Avenue)
James & Mary MacKenzie
50 Sands Road
Eastham, MA 02642

Unit 3 (115 Coggeshall Avenue)
Alice Jacobs
1800 Beacon Street
Waban, MA 02468

Unit 4 (113 Coggeshall Avenue)
Michael & Joan Beachnau
16 Gibbs Avenue
Newport, RI 02840

Unit 5 (111 Coggeshall Avenue)
Anthony D. Diccico
P. O. Box 480
Thompson, CT 06277

Unit 6 (109 Coggeshall Avenue)
Richard E. Myers
109 Coggeshall Avenue
Newport, RI 02840

Unit 7 (107 Coggeshall Avenue)
Thomas J. Perrotti
111 Coggeshall Avenue
Newport, RI 02840

Unit 8 (105 Coggeshall Avenue)
George Dymond & Linda Torosian
105 Coggeshall Avenue
Newport, RI 02840

