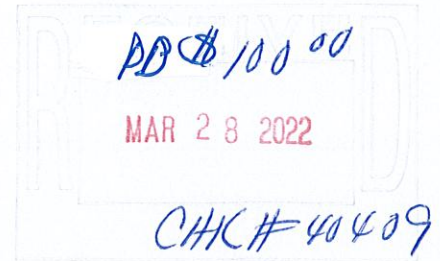


APPLICATION FOR VARIANCE  
CITY OF NEWPORT, RI  
ZONING BOARD OF REVIEW



**Date:** March 28, 2022

**Board Members:**

ZON APRIL 12

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.:** 28 Prospect Hill Street

**Tax Assessor's Plat** 27 Lot 38

**Petitioner Information**

<b>Applicant:</b>	Viviana & Gabriel Royo	<b>Address:</b> c/o Tanner Jackson, 122 Touro St.
<b>Owner:</b>	Viviana & Gabriel Royo	<b>Address:</b> c/o Tanner Jackson, 122 Touro St.
<b>Lessee:</b>	N/A	<b>Address:</b> N/A

**Property Characteristics**

**Dimensions of Lot:** ~68' x 40'                      **area:** 2,843 sq. ft.

**Zoning District in which premises is located:** GB

**How long have you owned the above premises:** May 26, 2006

**Are there any buildings on the premises at present:** Yes

**Total square footage of the footprint of existing buildings:** 1,855 sq. ft.

**Total square footage of the footprint of proposed buildings:** 1,855 sq. ft.

**Present use of premises:** Guest House

**Proposed use of premises:** Guest House

**Give extent of proposed alterations:** No proposed physical alterations. Applicant seeks parking variance from Guest House parking requirements that necessitate the creation of one additional spot and an aisle/driveway.

### Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
<b>Lot Size (sq. ft.)</b>	2,843.2	5,000	2,843.2
<b>Lot Coverage (%)</b>	65%	80%	65%
<b>Dwelling Units</b>	2	2	2
<b>Parking</b>	4	5	4
<b>Front Setback</b>	0'	0'	0'
<b>Side Setbacks</b>	3.4' – East Sideline 0' – West Sideline	0'	3.4' – East Sideline 0' – West Sideline
<b>Rear Setback</b>	~ 5'	5'	~5'
<b>Height</b>	<45'	45'	<45'

**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 requires relief from the parking requirements for Guest House uses, which mandates a fifth parking spot and an aisle/driveway to exit the Subject Property. The original structures' foundations were constructed in 1900, predating both modern zoning standards and parking needs; the result of which is that the house precludes driveways and aisles that could be placed alongside similar houses on standard lots in the same neighborhood. The structure itself already spans the lot's width, thereby preventing any practical space to construct parking areas that meet the City's requirements.

Despite the lot's size and structural configuration that precludes an aisle or a driveway, the Subject Property has four on-site parking spots located within a garage, unlike other lots and structures within the same neighborhood. These four spots are adequate for two dwelling units. Although the number of parking spaces and lack of a driveway or aisle necessitate a variance for the Subject Property to be used as a Guest House, these parking spots remove the need for street parking and adequately address the Subject Property's practical parking needs. The existing parking has enabled the Subject Property to be operated as a Guest House without issue for several years before the Zoning Office recently brought parking issues to the Applicant's attention during registration. The Applicant only seeks a variance for one additional space and the need for an aisle/driveway in order to continue the by-right Guest House use, which is common to the General Business Zone.

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

Economic Development – 1.1

Land Use – 1.6

Housing – 1.3

Transportation & Circulation – 5.1

Historical & Cultural Resources – 1.3

**Provisions or regulations of Zoning Ordinance applicable:**

Section 17.104.020(T) – Parking Space Standards

Section 17.104.040(B) – Parking Space Design Standards

Section 17.108.010 – 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?**

Guest House use parking requirements are more onerous at the Subject Property than neighboring properties due to the historical lot size and pre-existing structures. Even though lot coverage is 15% less than permitted in the General Business Zone, strict adherence to the zoning code would still eliminate the Applicant's ability to use the property as a Guest House because there exists no space for a driveway or aisle for guests to use, despite the fact that there already exists four off-street parking spots. Strict adherence to the zoning code would therefore deprive the owner/applicant of a permitted use. As indicated above, the Subject Property already contains covered off-street parking to service the Guest House, but the unique characteristics to this property would eliminate a use specifically permitted in this zone and enjoyed by other property owners.

The already-existing structure will not be altered in any way. The Subject Property respects the zoning ordinance requirements in all areas, except for the parking design and number, which is adequate parking for residential uses but not for Guest Houses as there is no driveway or aisle.

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

The requested parking variance is conscientiously limited in an effort to seek the minimum variance necessary for the reasonable use of the Subject Property. Special conditions exist, namely the historical lot, large structural footprint, and four pre-existing garage parking spaces that are particular to the Subject Property. A literal interpretation of the provisions would deprive the owner of permitted uses that are commonly enjoyed by other owners in the same district, namely the permitted right to operate a Guest House. The applicant requests the minimum variance necessary for the reasonable use of the property because there is no alternative parking configuration available – there simply does not exist space to construct a driveway or aisle to supplement on-site parking. The requested parking variance is the minimal relief required because the proposed use is permitted by-right, and the Applicant only seeks permission to use the garage parking spots for the 5-room Guest House. Indeed, were the Subject Property to be occupied full time by renters, then the four off-street parking spots located within the garage would provide adequate spots needed and a parking variance would be unnecessary.

A parking variance will permit the owner/applicant to continue exercising the reasonable use of the residence as a Guest House, which will be in line with the purpose and intent of the General Business zone. The Subject Property has historically been used in a commercial manner, having previously been a fully licensed bar. The requested parking variance will not be injurious to neighbors because the garage provides off-street parking for any occupants, which has already proven adequate for the Guest House use over the last several years. The proposed parking variance will not alter the general character of the neighborhood because the Guest House use is permitted by-right and patrons leaving the property will be no more a traffic concern than fulltime renters. 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".**

Tanner Jackson

Applicant's Signature  
c/o Tanner L. Jackson 401-847-7500  
Miller Scott Holbrook & Jackson

Tanner Jackson

Owner's Signature  
c/o Tanner L. Jackson 401-847-7500  
Miller Scott Holbrook & Jackson

Tanner Jackson

Applicant's Signature  
c/o Tanner L. Jackson 401-847-7500  
Miller Scott Holbrook & Jackson

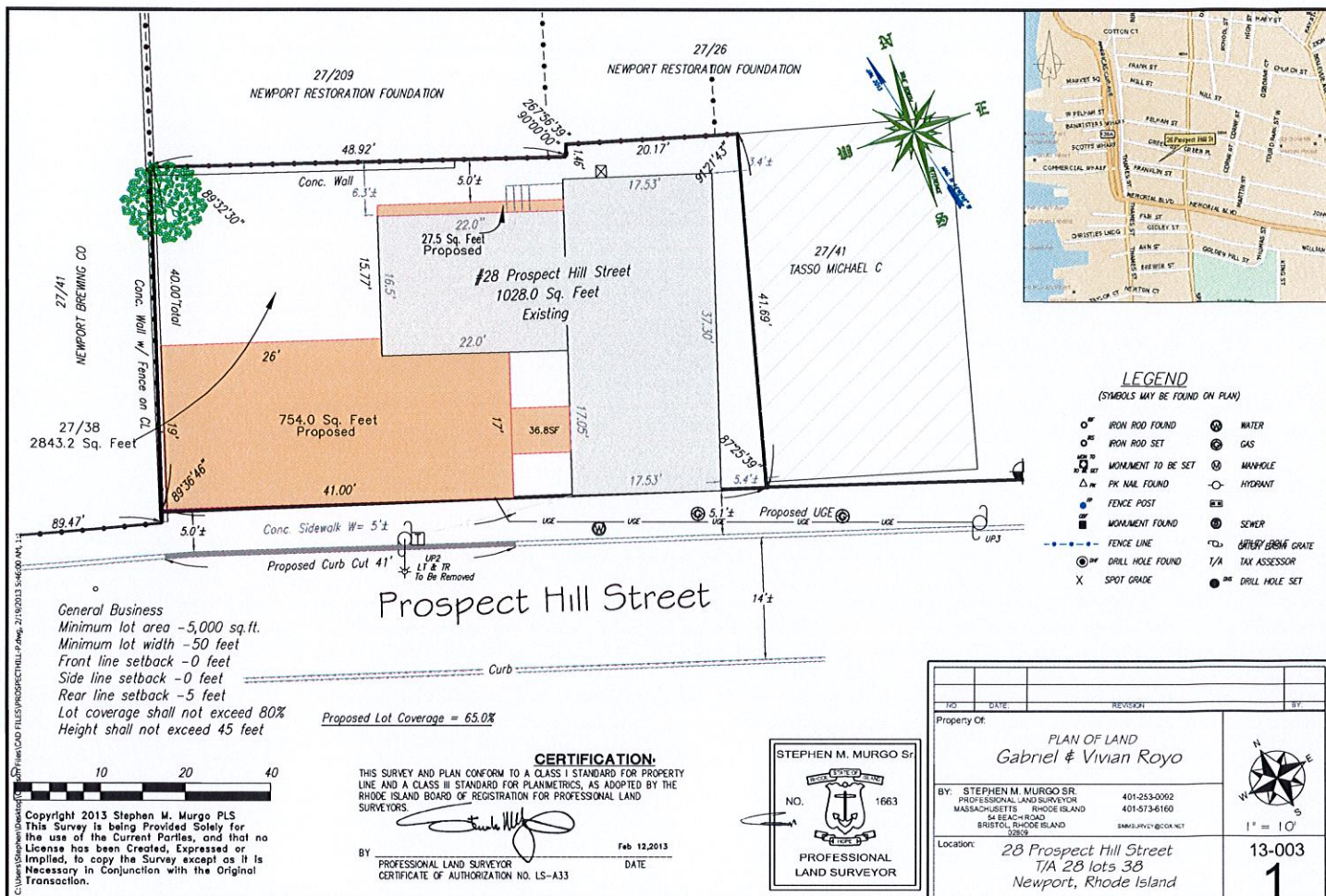
Tanner Jackson

Owner's Signature  
c/o Tanner L. Jackson 401-847-7500  
Miller Scott Holbrook & Jackson

# EXHIBIT A

Site Plan – Existing Conditions  
Dated Feb 12, 2013





# EXHIBIT B

Photographs – Existing Conditions











