APPLICATION FOR SPECIAL USE PERMIT AND VARIANCE

CITY OF NEWPORT, RI

ZONING BOARD OF REVIEW

PB # 100 00
FEB - 9 2022
CHK # 40300

Date: February 9, 2022

Board Members: ZON MAR 6

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.: 52 Ayrault Street

Tax Assessor's Plat 22 **Lot** 63

Petitioner Information

Applicant:	Stacey Gudim	**Address:**	c/o Tanner L. Jackson
Owner:	Stacey & Erik Gudim	**Address:**	c/o Tanner L. Jackson
Lessee:	N/A	**Address:**	N/A

Property Characteristics

Dimensions of Lot: 50' x 160' **area:** 8,000 sq. ft.

Zoning District in which premises is located: R-10

How long have you owned the above premises: August 16, 2016

Are there any buildings on the premises at present: Yes – single family home and shed

Total square footage of the footprint of existing buildings: 1,965 sq. ft.

Total square footage of the footprint of proposed buildings: 2,160 sq. ft.

Present use of premises: Single family residential dwelling

Proposed use of premises: Single family residential dwelling

Give extent of proposed alterations: Construct a plunge pool with accompanying landscaping. Construct outdoor kitchen on reconfigured outdoor patio. The existing house and shed are to remain unaltered.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft.)	8,000	10,000	8,000
Lot Coverage (%)	24.5%	20%	27%
Dwelling Units	1	1	1
Parking	2	1	2
Front Setback	13' 4"	15'	13' 4"
Side Setbacks	1' 8" – North 8' 4" – South 2' 9" – Shed	10'	1' 8" – North 8' 4" – South 2' 9" – Shed
Rear Setback	>20' Main House 3' 6" – Shed	20'	>20' Main House 3' 6" – Shed
Height	<30'	<30ft	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 non-conforming by dimension because the lot size is substandard, being two-thousand feet below zoning requirements. In addition, the original house was constructed in 1905, predating modern zoning standards; the result of which is that the house disproportionately increases the lot coverage percentage as compared to similar houses on standard lots in the same neighborhood. The pre-existing house and shed alone exceed the district's lot coverage requirements, thus precluding any construction, renovation, or change without relief. Additionally, the sub-par lot size with just 50' of road frontage creates constrictive setbacks, which make it difficult to construct any modern outdoor amenities without invading the side setbacks. Indeed, the conditions unique to this lot create a narrow corridor of buildable area; the existing 1950's patio, which is a feature common to many neighborhood yards, already straddles both side setbacks.

The Historic District Commission granted approval for the proposed work as to its size, scale, massing, and location.

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

Housing – 1.3
Historical and Cultural Resources – 1.10
Land Use – 1.7

Provisions or regulations of Zoning Ordinance applicable:

Section 17.20.040(b) – Setback requirements
Section 17.20.050 – Lot Coverage

Section 17.72.030(C) – Alteration to non-conforming lots
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?

The single-family home exists on a lot that contains two-thousand fewer square feet than is required for the district, meaning that the setback and lot coverage requirements are more onerous at the Subject Property than neighboring properties. The historical home that encompasses more than 20% of the lot means that strict adherence to the zoning code would completely eliminate the Applicant's ability to add exterior amenities, since any additional structure or accessory would automatically exceed the Subject Property's permitted coverage. Strict adherence to the zoning code would deprive the owner/applicant of the ability to make better use of the exterior yard in a manner similar in kind to neighboring homes.

The proposed work will respect the zoning ordinance requirements in all areas, except for the northern side setback and lot coverage, which, as mentioned, are already constrictive due to the lot's small size. The proposed plunge pool complies with accessory rear setbacks though the outdoor kitchen lies partially within the northern side setback only as a result of the lot's narrow configuration. A literal interpretation of the zoning code would deprive the applicant of the ability to construct any kitchen, pool, or other non-grade amenity common to modern residential use, and further restrict the available space in which to construct such amenities.

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 single-family dwelling. Special conditions exist, namely the narrow lot and large historical home, 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 to renovate the yard without necessitating the requested relief.

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 residential use is in need of outdoor renovations to support a reasonable, modern residential use of the property. The proposed work is a reasonable use of the property because it will beautify the property and, at the same time, provide functional amenities for modern living. The Applicant proposes a thoughtful design to ensure that the proposed improvement will both enhance and contribute to the residence, as well as 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

as a single family home. 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

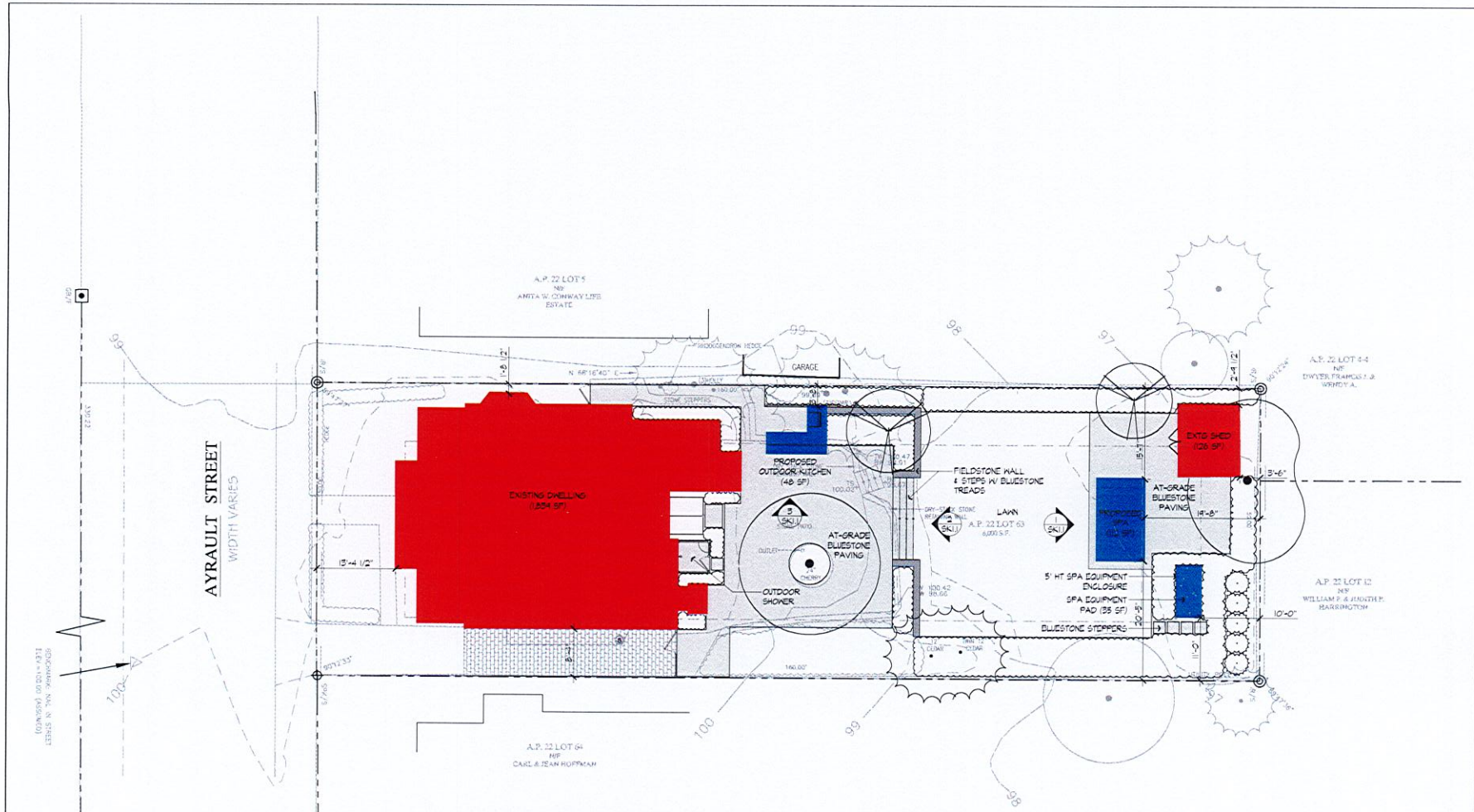
Applicant's Signature
c/o Tanner L. Jackson 401-847-7500

Tanner Jackson

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

EXHIBIT A

SITE PLAN



ZONING SUMMARY

ZONING DISTRICT: R-10

	EXISTING	REQUIRED/ALLOWED	PROPOSED
LOT SIZE (sq. ft.)	8,000	10,000	8,000
LOT COVERAGE (%)	25%	20%	27%
DWELLING UNITS	1	1	1
PARKING	2	2	2
FRONT SETBACKS	>15'	15'	>15'
SIDE SETBACKS	<10'	10'	<10'
REAR SETBACK	<10'	10'	10' (SHED)
HEIGHT	<30'	30'	<30'

LEGEND:

- EXISTING LOT COVERAGE (1,965 SF TOTAL)
- NEW LOT COVERAGE (195 SF)

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A Rhode Island Corporation

GUDIM RESIDENCE

52 AYRAULT STREET, NEWPORT, RI

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REVISIONS:

DATE: 12/10/21

DRAWN BY: RD/RM/KAF

CHECKED BY: RM/KAF

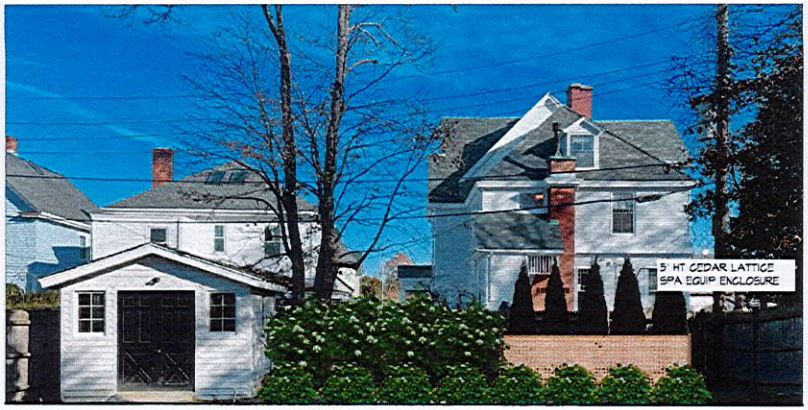
SCALE: 1/8"=1'-0"

SITE PLAN

SHEET: SK1.0

EXHIBIT B

PROPOSED ELEVTIONS



1 PROPOSED EAST ELEVATION
NTS

3 PROPOSED WEST ELEVATION
NTS

2 PROPOSED WEST ELEVATION
NTS

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REVISIONS-

DATE-
12/10/21

DRAWN BY-
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CHECKED BY-
RM/KAF

SCALE-
NOT TO SCALE

SITE ELEVATIONS

SHEET-
SK1.1

EXHIBIT C

EXISTING CONDITIONS