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

CITY OF NEWPORT, RI
ZONING BOARD OF REVIEW

ZBR June-18

RECEIVED $200.- MAY 24 2022 Clk# 40538

DATE: May 23, 2022

Board Members:

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.: 311 Broadway
Tax Assessor's Plat: 06, Lot: 017-4

Petitioner Information

Applicant(s):	Brenda L. Sabbag	**Addresses:**	c/o J. Russell Jackson, Esq. Miller Scott Holbrook & Jackson 122 Touro Street Newport, RI 02840
Owner:	Same		Same
Leasee:	Provencal Bakery		311 Broadway

Property Characteristics

Dimensions of Lot:	**Frontage:**	74 ft. +/-	(Broadway)
	Frontage:	64.5 ft. +/-	(Bliss Road)
	Frontage:	48.85 ft. +/-	(Radius of Bliss Road & Broadway)
	Depth:	45.2 ft. +/-	
	Area:	4,676 sf. +/-	

Zoning District in which premises is located:	Limited Business
How long have you owned above premises?	2.5 Years (8/27/2019)
Are there buildings on the premises at present?	Yes
Total square footage of the footprint of existing buildings:	1,682 sf. (42%)
Total square footage of the footprint of proposed buildings:	2,082 sf. (45%)
Present use of premise:	Bakery/Fast Food Restaurant
Proposed use of premises:	Bakery/Fast Food Restaurant

Give extent of proposed alterations: The Applicant proposes to build a 400 sf addition to the existing structure to expand the wholesale and retail bakery operations.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	4,676 sf.	10,000 sf.	4,676 sf.
Lot Coverage	42 %	20 %	45 %
Dwelling Units	0	N/A	0
Parking (# of spaces)	5	7	5
Front Setback (ft.)	Broadway > 20' Bliss Road = 0'	0 ft.	Broadway > 20' Bliss Road = 0'
Side Setbacks (ft.)	Northeast = 0' East = 0'	0 ft.	Northeast = 0' East = 0'
Rear Setback (ft.)	N/A	N/A	N/A
Height (ft.)	< 45'	45 ft.	< 45'

Project Summary:

The Applicants seek relief under:

Section 17.108.020 (Special Use Permits)
Section 17.108.010 (Variances)
Section 17.104.020 (I) (Parking Space Standards – Fast Food Restaurant)

The Applicant proposes to construct an addition to the existing structure and expand the wholesale and retail bakery operations. Because there is a retail component to the bakery use, it has been classified as a fast food restaurant for zoning purposes. Fast food restaurants are allowed by Special Use Permit in the Limited Business Zone. The Special Use Permit for this property was originally approved by the Zoning Board in 1987. Because the Applicant proposes to expand the use, an application to modify the existing Special Use Permit is required. The additional square footage also triggers the need for two (2) more parking spaces, which cannot be accommodated on the property, resulting in the request for a parking variance.

The existing parcel is a legal conforming lot of record containing 4,676 square feet of land. The purpose of this project is to build an addition to allow for the expansion of bakery operations. The property is in the Limited Business Zone. Although conforming in size, the parcel is a triangular shaped corner lot with frontage on Broadway and Bliss Road. Prior to the use as a bakery, the property was a gas station and had a large curb cut along both Broadway and the radius between

Bliss Road and Broadway. The curb cut on the Bliss/Broadway radius is no longer available to the Applicant, preventing access to the southern portion of the lot which could otherwise be used for parking. The new addition will meet all the dimensional requirements for the Limited Business Zone. The property is not in the Newport Historic District. The plan proposed by the Applicant will not create dimensional non-conformities to such a degree that it is injurious to, or inconsistent with, the surrounding neighborhood or the purpose and intent of the Limited Business 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:

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.*
Policy LU-1.7:	*The City shall protect the existing character of residential neighborhoods while encouraging local neighborhood business.*
Goal ED-1:	*To develop a robust and diverse economy, providing suitable employment opportunities for residents, and a stable tax base.*

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 legal conforming lot of record containing 4,676 square feet of land in the Limited Business Zone. The lot has a unique triangular shape. Although there is sufficient square footage on the parcel to accommodate two more parking spaces, the unavailability of a curb cut on Bliss Road and the general shape of the lot prevent the Applicant from developing a plan which meets the parking standards for the required (7) seven spaces. As a result of the lot size, shape and location, the additional parking requirement for the bakery expansion cannot be met.

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 continue the wholesale and retail bakery use on the property and will be seeking relief for a parking variance and a special use permit to allow for a 400 sf addition and expansion of the bakery. The subject property is located at the corner of Bliss Road and Broadway and is part of the small pocket of Limited Business properties on Broadway immediately to the north of the hospital. A number of the neighboring properties in this small Limited Business Zone do not provide parking. The literal interpretation of the zoning code, resulting in the denial of the relief requested, would unreasonably deny this Applicant the ability to make improvements and expand the bakery. The ongoing use as a bakery and the required parking variance will not be inconsistent with surrounding area. The proposed improvements are harmonious with the neighborhood, and the rights enjoyed by other property owners in this area of the Limited Business 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 small addition to the existing structure and expand the bakery operations. There are currently five (5) parking spaces on site. The expansion requires two (2) additional parking spaces which cannot be provided. The Applicant has taken great care to develop an expansion plan which meets the needs of her business and is appropriate for this location. The hardship is driven by the unique shape of the lot and the fact that an additional curb cut is not available on the Bliss Road/Broadway radius, due to intersection improvements planned by the city. Granting the request for a parking variance is the minimum variance which will allow the ongoing reasonable use of the property as a wholesale and retail bakery, which is categorized as a "fast food restaurant" under the zoning code. 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 appropriate for this area of the Limited Business 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;

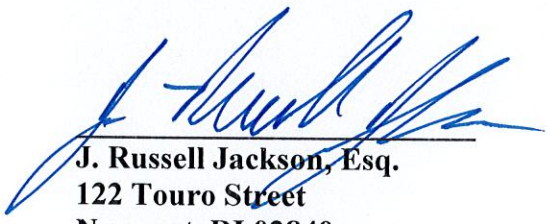
c) That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding are; and is not due to a physical or economic disability of the applicant; and

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 Her Attorneys,
Miller Scott Holbrook & Jackson



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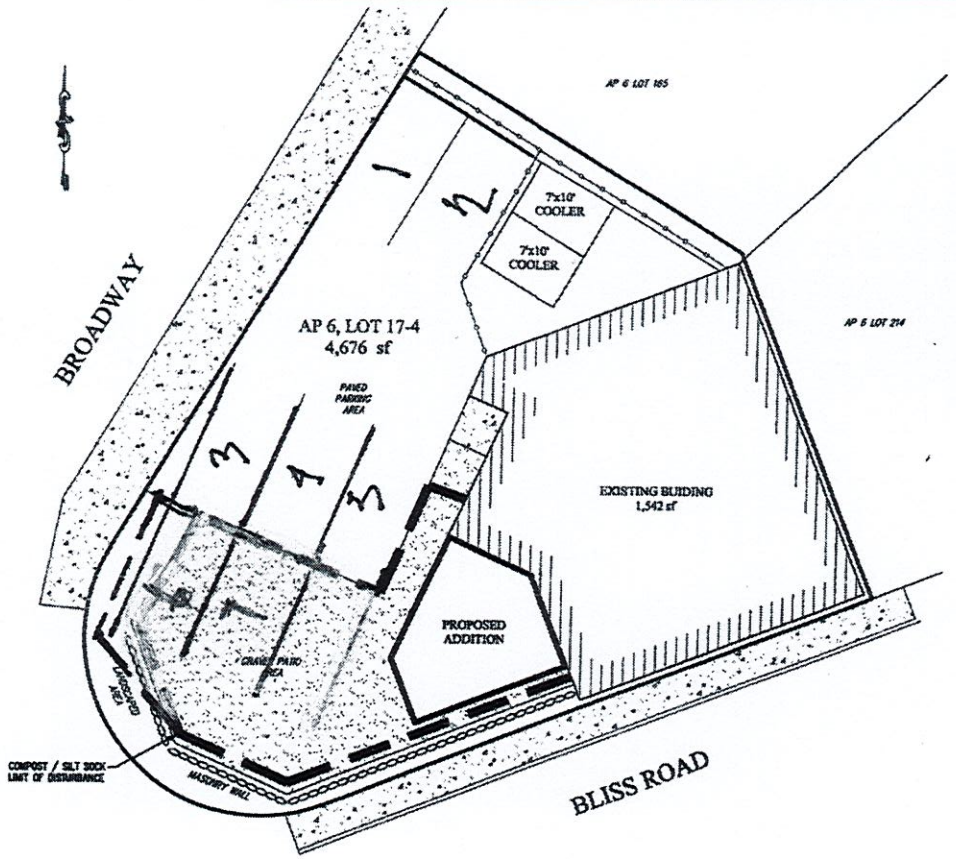


SITE PLAN
SCALE 1"=10'

REFERENCES:

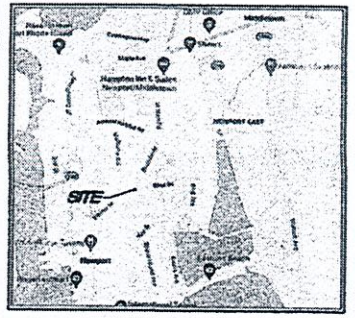
1. CITY OF NEWPORT ASSESSOR'S PLAT AND GIS DATABASE

NOTES:

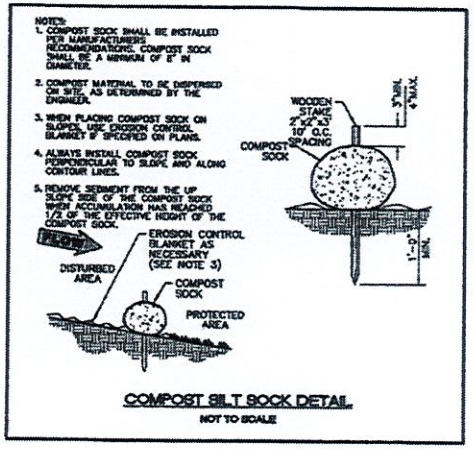
1. PROPERTY LINES TAKEN FROM THE CITY OF NEWPORT ASSESSOR'S PLAT AND GIS DATABASE AND SHOULD NOT BE CONSIDERED ACCURATE.
2. LOCATION OF EXISTING BUILDING AND SITE FEATURES IS APPROXIMATE PROVIDED BY THE ARCHITECT.
3. THE PURPOSE OF THIS PLAN IS FOR SOIL EROSION & SEDIMENTATION CONTROL ONLY.

STORMWATER NOTE:

1. WITH A PROPOSED BUILDING ADDITION OF ONLY 300 SF, THE EXPECTED STORMWATER IMPACTS WILL BE IMMEASURABLE THUS NO MITIGATION MEASURES ARE REQUIRED.
2. IN ADDITION TO THE BUILDING EXPANSION BEING MINIMAL, IT WILL ALSO BE LOCATED OVER AND REPLACE A COMPACTED GRAVEL PATIO AREA FURTHER CONTRIBUTING TO A NEGLIGIBLE STORMWATER IMPACT.



LOCATION MAP
NOT TO SCALE



COMPOST SILT SOCK DETAIL
NOT TO SCALE

EROSION CONTROL and SOIL STABILIZATION PROGRAM:

1. DENUDED SLOPES SHALL NOT BE LEFT EXPOSED FOR MORE THAN 14 DAYS WITHOUT VEGETATIVE PROTECTION MEANS INITIATED UNLESS ACTIVITY RESUMES WITHIN 21 DAYS.
2. ALL DISTURBED SLOPES EITHER NEWLY CREATED OR EXPOSED PRIOR TO OCTOBER 15, SHALL BE SEEDED OR PROTECTED BY THAT DATE FOR ANY WORK COMPLETED DURING EACH CONSTRUCTION YEAR.
3. TEMPORARY VEGETATIVE SMALL CONSIST OF A HAY, STRAW, OR FIBER MULCH OR PROTECTIVE COVERS SUCH AS A MAT OR FIBER LINING (BURLAP, JUTE, FIBERGLASS NETTING, EXCELSIOR BLANKETS). THEY SHALL BE INCORPORATED INTO THE WORK AS WORKABLE OR AS ORDERED BY THE ENGINEER.
4. HAY OR STRAW APPLICATIONS SHOULD BE IN THE AMOUNT OF 2000 LBS/ACRE.
5. ALL MATERIALS OR TEMPORARY PROTECTION SHALL REMAIN IN PLACE UNTIL AN ACCEPTABLE STAND OF GRASS OR APPROVED GROUND COVER IS ESTABLISHED.
6. THE TOPSOIL SHALL BE A MINIMUM OF 4" THICK AND HAVE A LOAMY SAND TEXTURE RELATIVELY FREE OF SUBSOIL MATERIAL, STONES, ROOTS, LUMPS OF SOIL, TREE LIMBS, TRASH OR CONSTRUCTION DEBRIS.
7. THE SEED MIX SHALL BE INOCULATED WITHIN TWENTY FOUR (24) HOURS, BEFORE MIXING AND PLANTING, WITH APPROPRIATE INOCULUM FOR EACH VARIETY.
8. THE DESIGN MIX FOR TEMPORARY EROSION CONTROL AND SOIL STABILIZATION SHALL BE COMPRISED OF THE FOLLOWING:

TYPE	% BY WEIGHT
CREEPING RED FESCUE	70
ASTORIA BENTGRASS	5
BIRDSFOOT TREFOIL	15
PERENNIAL RYEGRASS	10

APPLICATION RATE: 100 LBS/ACRE

LIMING AND FERTILIZING AS REQUIRED TO COMPLIMENT OR UPGRADE EXISTING CONDITIONS.

9. THE CONTRACTOR MUST REPAIR AND/OR RESEED ANY AREAS THAT DO NOT DEVELOP WITHIN THE PERIOD OF ONE (1) YEAR, AND HE SHALL DO SO AT NO ADDITIONAL EXPENSE.
10. THE NORMAL ACCEPTABLE SEASONAL SEEDING DATES ARE APRIL 1ST THROUGH OCTOBER 15TH.
11. STABILIZATION OF ONE FORM OR ANOTHER AS DESCRIBED ABOVE SHALL BE ACHIEVED WITHIN FOURTEEN (14) DAYS OF FINAL GRADING.
12. STOCKPILES OF TOPSOIL SHALL NOT BE LOCATED NEAR WATERWAYS OR FLOOD PLAINS. THEY SHALL HAVE SIDE SLOPES NO GREATER THAN THIRTY PERCENT (30%) AND STOCKPILES SHALL ALSO BE SEEDED AND/OR STABILIZED AND COMPLETELY ENCIRCLED WITH A CONTINUOUS LINE OF STAKED HAYBALES AND/OR SILTFENCE. (SEE DETAIL)
13. ON BOTH STEEP AND LONG SLOPES, CONSIDERATION SHOULD BE GIVEN TO "CRIMPING" OR "TRACKING" TO TACK DOWN MULCH APPLICATIONS.
14. THE EROSION SEED MIX FOR ALL PERMANENT STORMWATER BASINS SHALL BE COMPRISED OF THE FOLLOWING AND PLANTED IN A MINIMUM OF A 6" DEPTH OF LOAMY SAND FREE OF SUBSOIL MATERIAL, STONES, ROOTS, LUMPS OF SOIL, TREE LIMBS, TRASH OR CONSTRUCTION DEBRIS.

TYPE	% BY WEIGHT
CREEPING RED FESCUE	70
KENTUCKY BLUEGRASS	15
TALL FESCUE	15

APPLICATION RATE: 100 LBS/ACRE

LIMING AND FERTILIZING AS REQUIRED TO COMPLIMENT OR UPGRADE EXISTING CONDITIONS.

SEDIMENTATION CONTROL PROGRAM:

1. EXTREME CARE SHALL BE EXERCISED SO AS TO PREVENT ANY SEDIMENTS FROM ENTERING ADJOINING PROPERTIES.
2. BANKS OR SLOPES OVER SIX SHALL BE SEEDED AS SOON AS POSSIBLE AND SHALL BE PROTECTED WITH A HAY, STRAW OR FIBER MULCH.
3. DURING CONSTRUCTION, THE CONTRACTOR AND/OR DEVELOPER SHALL BE RESPONSIBLE FOR MAINTAINING DRAINAGE DURING STORMS AND PERIODS OF RAINFALL.
4. SEDIMENTATION CONTROL DEVICES AND STORMWATER FACILITIES SHALL BE INSPECTED EVERY 7 DAYS AND MAINTAINED PROMPTLY AFTER EACH RAINFALL EVENT LARGER THAN .25".
5. CARE SHALL BE TAKEN SO AS NOT TO PLACE "DISMISSED SEDIMENTS" WITHIN THE PATH OF EXISTING, NEWLY CREATED (BOTH TEMPORARY AND PERMANENT) OR PROPOSED WATERCOURSES OR THOSE AREAS SUBJECTED TO STORM WATER FLOW.
6. ADDITIONAL HAYBALES, SILT FENCE OR SANDBAGS SHALL BE LOCATED AS CONDITIONS WARRANT OR AS DIRECTED BY THE ENGINEER.

Prepared by:
MATTHEW J. VIANA, P.E.
6 ADDY DRIVE
BRISTOL, RI 02809
Matt7337@gmail.com ~ 401.474.2919

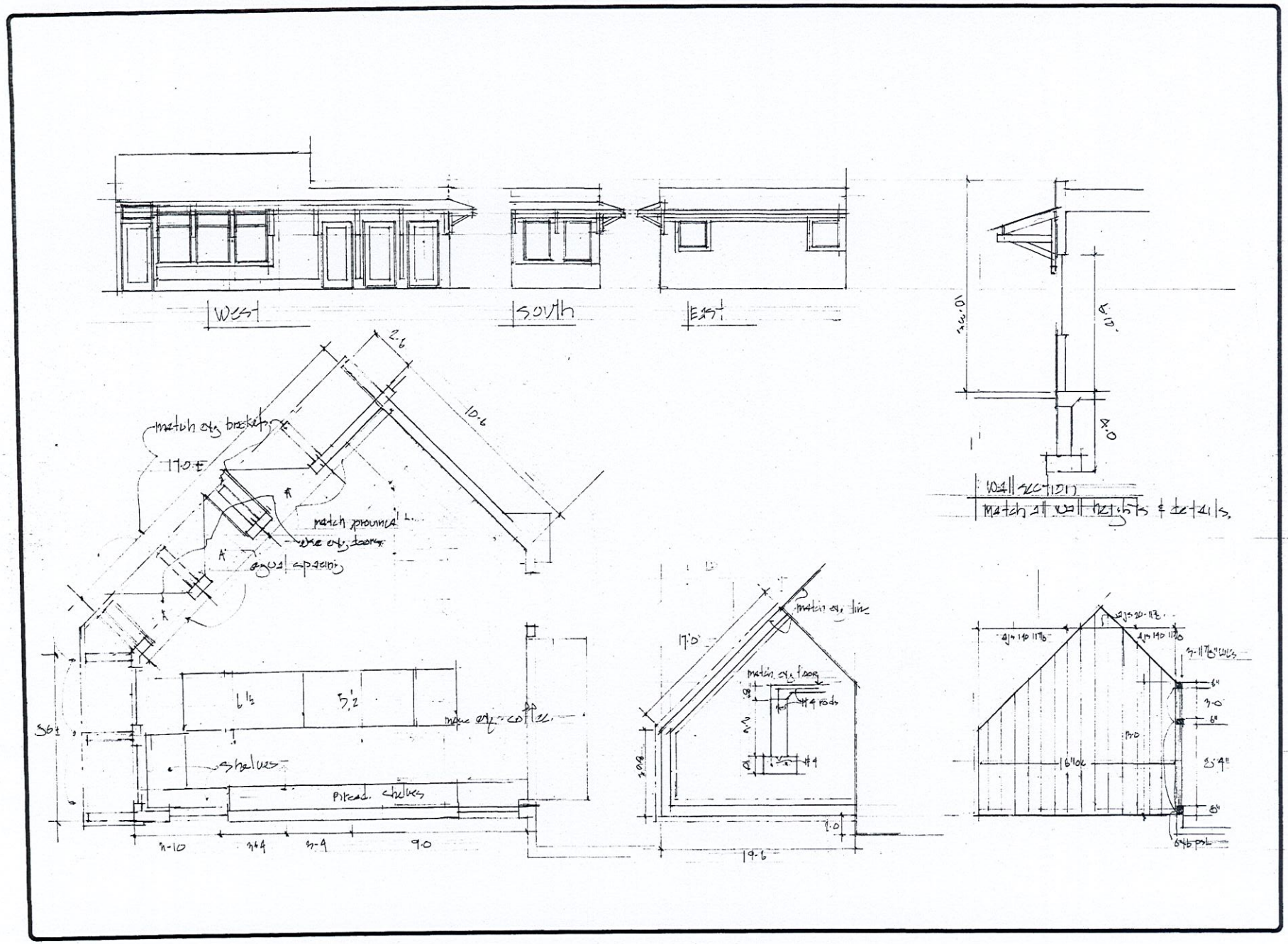
NO.	DATE	REVISION	BY

SESC / CONSTRUCTION SITE RUNOFF PLAN
A.P. 6, LOT 17-4
311 BROADWAY
NEWPORT, RI
Prepared for:
ROBERT MORIN
APRIL 2022 SCALE: 1"=10'

MATTHEW J. VIANA
No. 7337
REGISTERED PROFESSIONAL ENGINEER (CIVIL)

Drawn By: MJV
Sheet 1
1 of 1

Site Plan
Provencal Bakery Addition
Newport. RI.



REVISIONS	BY

Plans
Provincial Bakery Addition
Newport, RI.

DRAWN
CHECKED
DATE Feb 10 2022
SCALE Varies
JOB NO.
SHEET 1 OF 1 SHEETS

Newport

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

NORTHEAST REVALUATION GROUP LLC

Parcel: 06-017-4	**Location:** 311 BROADWAY	**Owner:** SABBAG BRENDA L	
Account: 198	**User Acct:** R00213	**LUC:** 06 - Comm II	**Zoning:** LB

Parcel Values

Total: $498,100	**Land:** $295,100	**Land Area:** 4,676 SF	**Building:** $203,000	**Assessed:** $498,100

Sales Information

Book and Page	Instrument Type	Date	Price	Grantor
2829-158	Warranty	08/27/2019	$535,000	KILROY LAWRENCE E
959-30		09/07/2000	$74,000	SILVIA CHARLES P

Building Type: Fast Fd Loca	**Year Built:** 1945	**Grade:** B	**Condition:** VG
Heat Fuel: Gas	**Heat Type:** Forced Air-D	**% Air Conditioned:** 0.00	**Fireplaces:** 0
Exterior Wall: Wood Shingle	**Bsmnt Garage:** 0	**Roof Cover:** Tar & Gravel	**# of Units:** 1
# of Rooms: 0	**# of Bedrooms:** 0	**Full Bath:** 0	**1/2 Baths:** 1

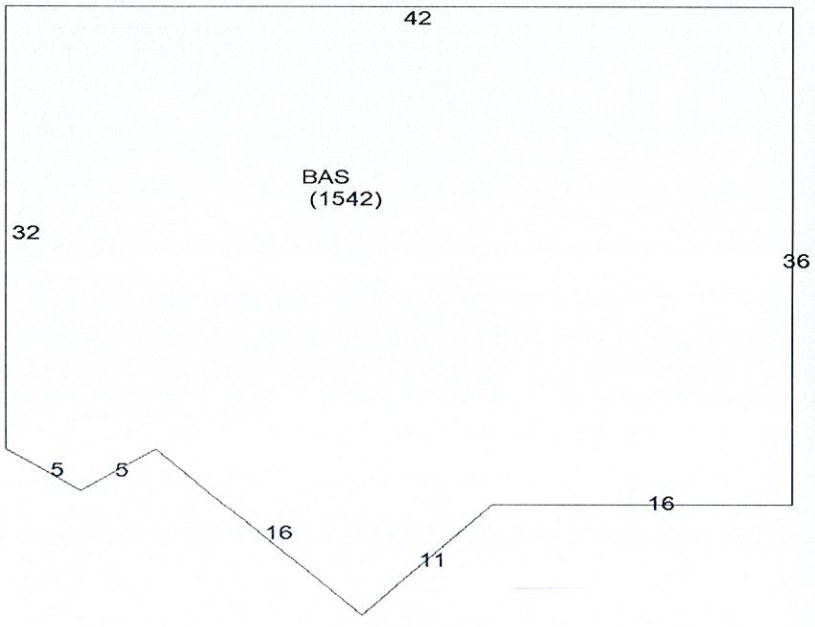
Yard Item(s)

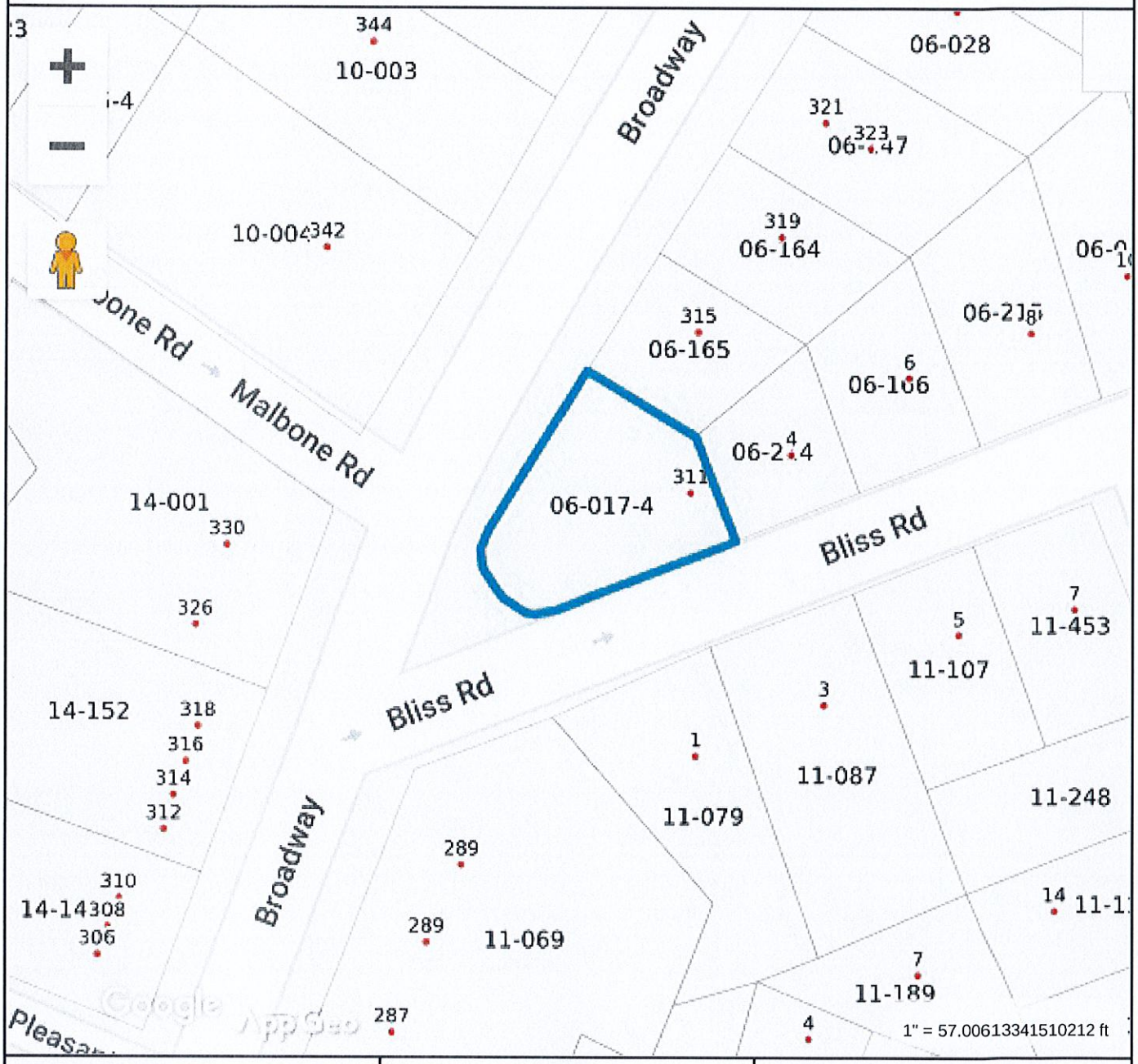
Description	Quantity	Size	Year	Condition	Quality	Value
PAVING-ASPHALT	1	2000	2001	AV	Average	$3,100.00

Building Areas

Area	Net Area	Finished Area
First Floor	1,542 SF	1,542 SF

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





Property Information

ID 06-017-4
Location 311 BROADWAY
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.