

**APPLICATION FOR A SPECIAL USE PERMIT AND ZONING VARIANCE
CITY OF NEWPORT, RI
ZONING BOARD OF REVIEW**

DATE: June 16, 2021

Board Members:

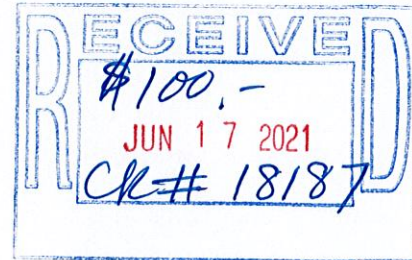
ZBR July-2

The undersigned hereby petition the Zoning Board of Review for a Special Use permit and Regulatory 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.: 50 & 52 Marchant Street

Tax Assessor's Plat: 39 **Lot:** 400



Petitioner Information

Applicant: Brandon Pico

Address: 50/52 Marchant
Newport, RI 02840

Owner: Brandon Pico

Address: 50/52 Marchant
Newport RI 02840

Lessee: N/A

Address: N/A

Property Characteristics:

Dimensions of Lot: Frontage: 64.5 ± Depth: ±65'; Area: SF ± 4,356

Zoning District in which premises is located: R-10

How long have you owned above premises? 6 years

Are there buildings on the premises at present? Yes

Total square footage of the footprint of existing/approved buildings: 1050SF

Total square footage of the footprint of proposed buildings: 1050SF

Present use of premises: Two Family Residence

All of the following information and questions must be filled in and answered completely:

Proposed use of premises: Short term rental/ seasonal guest house

Give extent of proposed alterations:

No alterations are required on the subject property located at 50-52 Marchant Street, Newport RI Plat Map #39 Lot #400. Applicant seeks a special use permit allowing # 50 or #52 Marchant Street to be used as an Owner-Occupied Guest House under Section 17.100.320. Applicant also seeks a parking Variance from 17.104.020.

Zoning Characteristics Matrix

	Existing/Approved	Required/Allowed	Proposed
Lot Size (sq. ft.)	4,356 SF±	10,000 SF	No Change
Lot Coverage (%)	24%	20%	No Change
Dwelling Units	2	2	No Change
Parking	3	4	4
Front Setback		15'	No Change
Side Setbacks	0	10'	No Change
Rear Setback		20'	No Change
Height		30'	No Change

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

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.

- The requested Special use permit and Zoning Variance require no changes to the subject property.

LU-1.7- The city shall protect the existing character of residential neighborhoods while encouraging local neighborhood businesses.

- The proposed project will preserve the existing character of the neighborhood in which it is located while providing the applicant resident homeowner additional income.

ED-1- to Develop a robust and diverse economy, providing suitable employment opportunities for residents and a stable tax base.

- The proposed mix of uses will provide additional Income for the resident Owner, supporting a stable tax base and preserve his participation in the local economy.

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

H-2- To preserve and enhance existing moderate t workforce and low moderate income (LMI) housing.

- This proposal will facilitate the applicant's ability to continue living in his home at 52-54 Marchant.

H-3 To reduce the percentage of Seasonally Vacant homes and increase neighborhood stability and vitality.

- The proposed use will promote neighborhood vitality and stability by allowing Applicant to continue to afford living in the subject property.

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 property, consisting of 4,356sq. ft., is an undersized lot in the R-10 zone making it a legal non-conforming lot. A two-family dwelling is located on the property with a total footprint of 1050 sq. ft resulting in 24% lot coverage. The Premises is located on a street with similar properties, mostly occupied by renters, for both short and long-term leases and adjacent to two commercial uses.

The Premises (#'s 50 & 52) is a two-family dwelling. Both units are two-bedroom - one bath dwellings, currently occupied by the Applicant. Owner and Applicant owns and resides in the subject property and works from home. The property is split vertically, and Applicant/ Owner seeks a special use permit to rent either unit, but not both, depending on the needs/ request of potential renters. The unique configuration of the Premises and applicants residing and working from home there warrants favorable consideration during review of the requested zoning relief.

The Premises (#50 & 52) has 3 dedicated off-street spaces. Owner and Applicant anticipates utilizing one of the three spaces on the Premises, leaving two dedicated spaces for tenants. In the event that tenants need additional parking spaces Applicant will utilize his resident parking stickers for his personal vehicles.

Of particular relevance to this application is the unique blend of residential and commercial use of properties surrounding the Premises, not to mention its proximity (approximately 466 feet) from the Limited Business Zone on Lower Thames Street. Commercial businesses within a residential zone often present a zoning challenge. However, in the instant case, the juxtaposition of residential and commercial activities presents an opportunity for the Applicant by reducing the demand for on-street parking adjacent to the Premises on the weekends when the businesses are closed. The unique blend of residential and Commercial use adjacent to the Premises therefore favors granting Applicant's requested relief.

While the Premises is located in the R-10 zone, it lies directly across the street from 2 commercial entities operating in the R-10 zone, specifically Casey's Tree Service and B&B Welding. Applicant has no issues with either activity and wishes both businesses years of continued success. However, their existence adjacent to the Premises creates a favorable scenario for granting Applicants' requested relief. The commercial operations of both businesses, (being non-retail operations) effectively reduces the demand for on-street parking in the immediate vicinity of 50 & 52 Marchant, and neither of the adjacent commercial activities are likely to suffer any adverse impact if the requested relief is granted.

See Attached Pictures for reference to available parking, the Unique characteristics of the Premises and the surrounding features of the neighborhood.

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 requested special use permit is necessary for the full enjoyment of the requested use. While the property is located in the R-10 Zone, it contains only 4,356 square feet of land making it a legal non-conforming lot. Given the lot size, the configuration of the structure on the Lot, its proximity to existing commercial uses in the R-10 zone and its location less than 500 feet from the Limited Business Zone, the premises is ideally suited for use as a short-term rental guest house. The requested Special Use is in keeping with the surrounding area which already contains a mix of commercial and residential uses within the R-10 Zone.

A Variance from the parking ordinance for one (1) additional Parking Space is required due to the unique characteristics (small size and orientation of the existing structure limiting off-street parking). The premises has (3) off-street parking spaces located on the NW corner of the Premises where 4 are required. The requested variance is the least relief necessary for the full enjoyment of the property as the unique configuration of the property limit the off-street parking.

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

The proposed use of the property allowing the units to made available for short term rentals as seasonal Guest House in an R-10 Zone requires Variance relief for 1 Parking space as there are only 3 off-street parking spaces available on the property due to the diminutive size of this legal non-conforming lot. The requested Variance will have no negative impact on the surrounding area or the traffic flow in the area; The requested Variance is not the result of a self-imposed hardship, on the contrary applicant has updated and improved the property since purchasing the lot 4 years ago. Unfortunately, the lots size and location of the existing structure prevent the inclusion of additional off-street parking; The requested Variance is minimal and essential to the best possible use of this property, namely, to provide viable rental property in walking distance to our harbor and

the city's economic center. Additionally, the requested use will have no negative impact on property values, will not create a nuisance, is compatible with the Comprehensive plan, and not substantially or permanently injure the existing use of the property.

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.

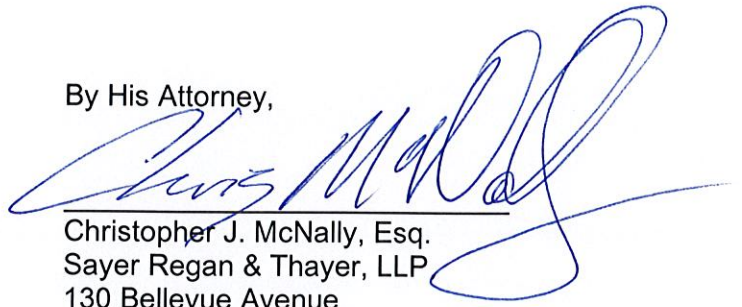
In granting a variance, the zoning board of review shall require that evidence of the following standards be entered into the record of the proceedings:

1. 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;
2. 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;
3. 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
4. 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.
5. 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".

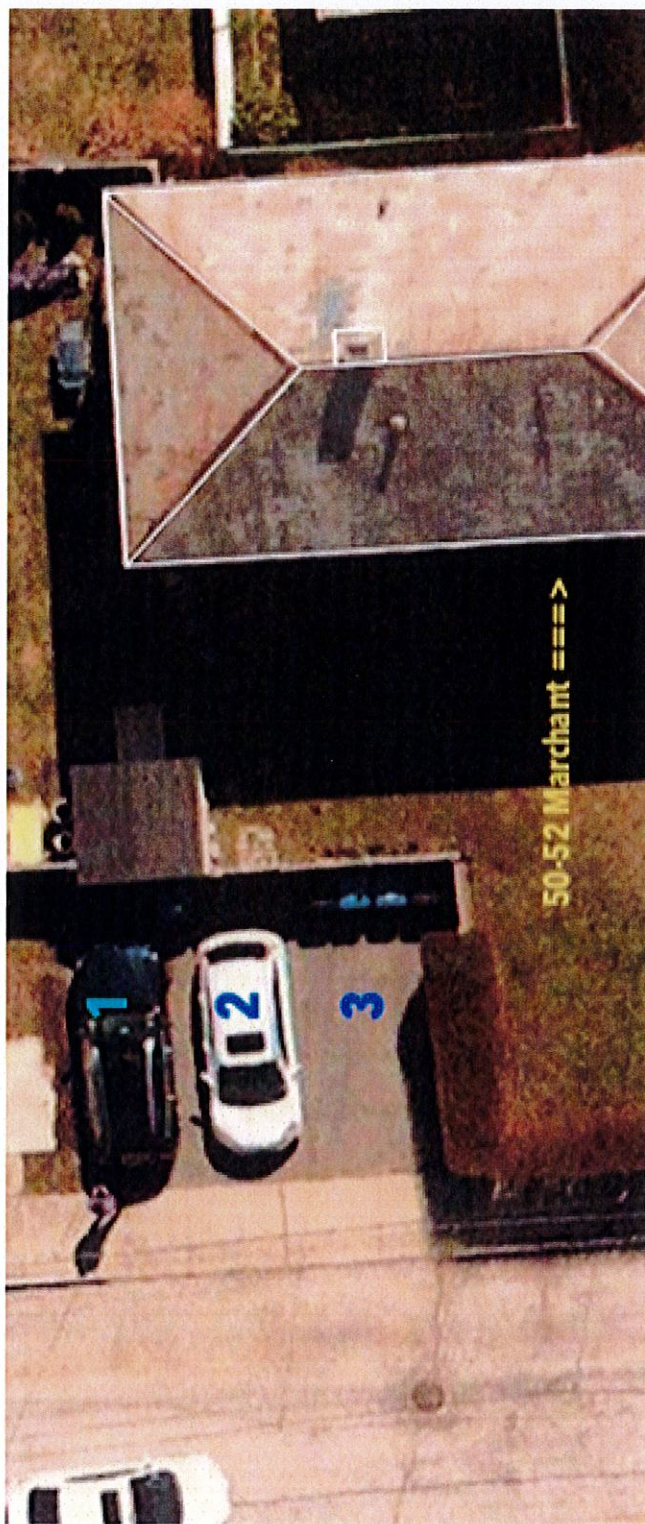
Brandon Pico, Applicant,

By His Attorney,

A handwritten signature in blue ink, appearing to read "Chris McNally", is written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

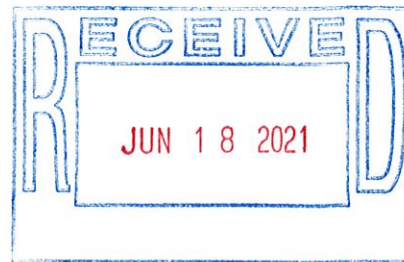
Christopher J. McNally, Esq.
Sayer Regan & Thayer, LLP
130 Bellevue Avenue
Newport, RI 02840
(401) 849-3040





Pires, Stephanie

From: Frank Carrano <fcarrano@gmail.com>
Sent: Sunday, June 20, 2021 10:41 AM
To: Pires, Stephanie
Cc: Brandon Pico
Subject: Letter regarding 50-52 Marchant



Good afternoon,

My wife and I own the house at 14 Potter Street in Newport, making us abutters regarding the proposal to use 50-52 Marchant as a guest house.

I wanted to write in support of Brandon Pico's proposal; I have no concerns about his request or the limited ways it varies from the letter of the law (specifically, the parking issue). There is abundant, two-sided parking on Marchant and their house has off-street parking as well. He is a good neighbor and I have never had a noise issue from the area, or any other issue for that matter.

No one wants a "party house" next door, and Brandon is quite clear that he will never allow their property to become so, and his rental history, careful vetting, and lack of complaints supports this strongly. He has my wife's and my full support.

More generally, as short-term rentals have become so commonplace all over the world, it is my hope that Newport is able to come up with reasonable, level-headed regulations that strike a balance between keeping the community the great place it is and giving guests to the town options for places to stay. Regulations that effectively shut down short-term rentals in Newport will simply drive tourists (and their revenue) away and to any of the other myriad coastal places in New England that allow them to rent condos and homes. The reality simply is that small groups of people often like to rent shared spaces, with privacy, a home-like feel, and the ability to use a single space as a family or small group of friends. We can either embrace this fact, and make it work for Newport and its homeowners, or risk losing this huge group of visitors.

Thank you,

Frank and Kathryn Carrano
14 Potter St.
Newport, Ri 02840