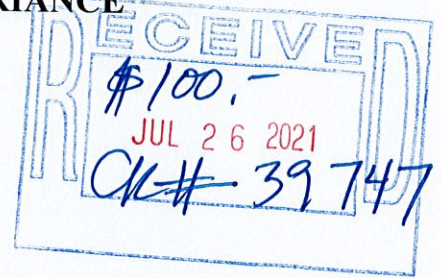


**COMBINED APPLICATION FOR A SPECIAL USE PERMIT &  
A REGULATORY (DIMENSIONAL) VARIANCE**

**CITY OF NEWPORT, RI  
ZONING BOARD OF REVIEW**



DATE: July 26, 2021

*ZBR  
Aug-12*

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.: 3 Webster Court

Tax Assessor's Plat: 40, Lot: 279

**Petitioner Information**

**Applicants:** Caleb Bush Brown  
Emily Bush Brown

**Addresses:** c/o J. Russell Jackson, Esq.  
Miller Scott Holbrook & Jackson  
122 Touro Street  
Newport, RI 02840  
Same  
N/A

**Owner:** Same  
**Leasee:** N/A

**Property Characteristics**

**Dimensions of Lot:** **Frontage:** 57.7 ft. +/-  
**Depth:** 80.14 ft. +/-  
**Area:** 4,503 sf. +/-

<b>Zoning District in which premises is located:</b>	R-10
<b>How long have you owned above premises?</b>	1 Month (Purchased 6/12/2021)
<b>Are there buildings on the premises at present?</b>	Yes
<b>Total square footage of the footprint of existing buildings:</b>	900 sf. (20%)
<b>Total square footage of the footprint of proposed buildings:</b>	1,020 sf. (23%)
<b>Present use of premise:</b>	Single Family Residential
<b>Proposed use of premises:</b>	Single Family Residential



**Give extent of proposed alterations:** The Applicants propose to construct a storage shed along the southern property line.

### Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	4,503 sf.	10,000 sf.	4,503 sf.
Lot Coverage	20 %	20 %	23 %
Dwelling Units	1	1	1
Parking (# of spaces)	1	2	1
Front Setback (ft.)	House = 18 ft. +/-	15 ft.	House = 18 ft. +/- Shed = 18 ft. +/-
Side Setbacks (ft.)	North House = 12 ft. +/- South House = 15 ft. +/-	10 ft.	North House = 12 ft. +/- South House = 15 ft. +/- ----- South Shed = 2 ft.
Rear Setback (ft.)	House = 21 ft. +/-	20 ft.	House = 21 ft. +/- ----- Shed = 50 ft. +/-
Height (ft.)	House < 30 ft.	30 ft.	House < 30 ft. ----- Shed < 30 ft.

### Project Summary:

The Applicants seek relief under:

- Section 17.108.020 (Special Use Permits)
- Section 17.108.010 (Variances)
- Section 17.72.030 (Alteration to Nonconforming Development)
- Section 17.20.050 (R-10 Lot Coverage Requirements)
- Section 17.20.040 (Setback Requirements)

The Applicants seek permission to construct a storage shed in their south side yard. The proposed shed will generally align with the adjacent garage on the property immediately to the south. The shed will provide much needed storage for outdoor tools and recreational items. The proposed shed will slightly increase lot coverage and encroach into the south side setback.



The existing parcel is a legal non-conforming lot of record containing only 4,503 square feet of land. The purpose of this project is to provide much needed outdoor storage space to accommodate the Applicants and their family. The property is in the R-10 Zone. The parcel is significantly substandard in size. The existing residence sits at or near all of the setback lines. Any modest addition or expansion to the property will result in the need for zoning relief. The side setback encroachment will be mitigated by the placement of the shed near an existing garage. Installation of the shed will result in lot coverage of 23%. This property is at the end of Webster Court, which is a dead end right of way. The proposed shed will be consistent with the streetscape. The resulting lot coverage is reasonable for a parcel which is so significantly smaller than required for a conforming lot in the R-10 Zone. No building height relief is required. The property is not in the Newport Historic District. The plan proposed by the Applicants is harmonious with the surrounding neighborhood and will not create dimensional non-conformities to such a degree that it is injurious to, or inconsistent with the area or the purpose and intent of the R-10 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:

**Land Use:**

*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.*

**Housing:**

*Goal H-1: To preserve and protect existing housing resources in the community.*

*Policy H-1.3 The City shall continue to promote the repair, revitalization or rehabilitation of residential structures and neighborhoods.*

*Policy H-1.4 The City shall encourage resident involvement in identifying and addressing the maintenance of housing in their neighborhood.*

**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 non-conforming lot of record containing only 4,503 square feet of land. The lot is significantly substandard in width and area for the R-10 Zone. Based on the size of the lot and the location of the existing structure, any reasonable improvements or construction will require dimensional relief. As a result, the proposed storage shed will fall within the south side setback.



**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 Applicants propose to continue the single family residential use of the property and will be seeking relief for dimensional variances and a special use permit for the alternation of a non-conforming development by installing a storage shed. The subject property is located on Webster Court. This is a very dense neighborhood. The property is surrounded by abutting parcels to the north, west and south that are substandard in size with dimensional nonconformities. A number of these properties also exceed lot coverage and encroach into setbacks. The literal interpretation of the zoning code, resulting in the denial of the relief requested, would unreasonably deny these Applicants the ability to construct a shed to provide necessary outdoor storage for their family. The proposed lot coverage and side setback encroachment will not be inconsistent with surrounding properties. The installation of an accessory structure in the form of a storage shed is appropriate and is not inconsistent with the surrounding neighborhood, and the rights enjoyed by other property owners in this area of the R-10 Zone.

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

The Applicants are before the Board for permission to construct a 10' x 12' storage shed. The Applicants propose to locate the shed 2' from the south property line. It will be adjacent to a larger garage on the abutting property to the south. The placement of the shed in this location mitigates the visual impacts to surrounding properties. It also allows for the continued use and enjoyment of the existing yard and does not interfere with on-site parking. Utilizing this space on the south side of the lot will be in harmony with the streetscape on Webster Street. In the present case, utilization of the designated lot area allows for the construction of the shed without being intrusive or creating concerns for abutters. Lot coverage will be modestly increased to 23%. No front setback relief is required. The rear setback will be maintained. There will be no change in building height. There is no external access to the basement, so a storage shed is very much needed. The Applicants have taken great care to develop a proposed storage shed plan which meets their needs and is appropriate in scope, scale and size for this substandard lot. The overall proposal has been designed to meet the reasonable living needs of the Applicants and their growing family. The hardship is driven by the substandard lot and the fact that the existing structure already occupies all permitted lot coverage and provides limited areas for such an accessory use. Granting the request for dimensional relief is the minimum variance which will allow the reasonable use of the property. Accordingly, the proposed use of the property and the relief sought by the Applicants will not be injurious to, or create a burden for abutting property owners, will be harmonious with the neighborhood, and will be an appropriate use for this area of the R-10 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.

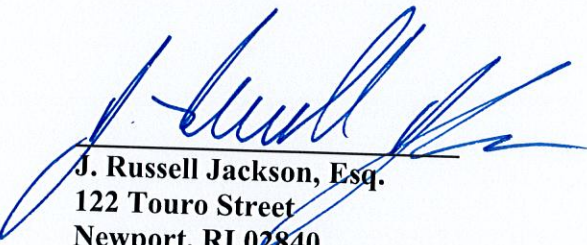
The burden of proof in a special-use permit application is on the applicant. This means that if the applicant fails to present adequate competent evidence to prove the applicable standard for issuing a special-use permit has been met, the board must deny the application.

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 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".

Applicants & Owners,  
By Their Attorneys,  
Miller Scott Holbrook & Jackson



J. Russell Jackson, Esq.

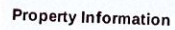
122 Touro Street  
Newport, RI 02840

Tel: 401-847-7500

Fax: 401-848-5854

[jrjackson@millerscott.com](mailto:jrjackson@millerscott.com)





ID	40-279
Location	3 WEBSTER CT
Owner	

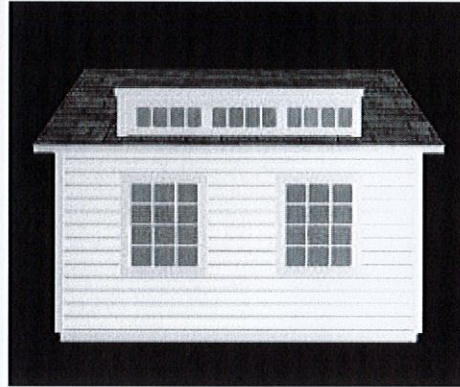
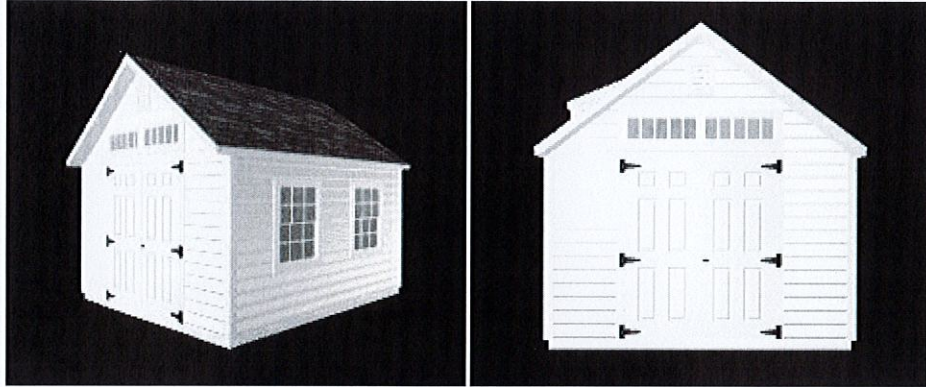


MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT

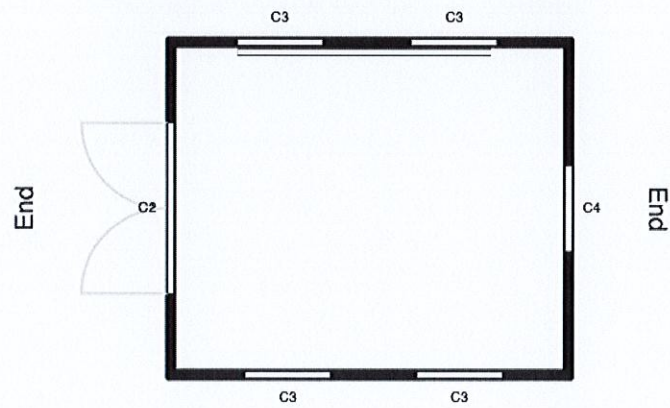
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Critical layout or measurement  
activities should not be done using  
this resource.





Side

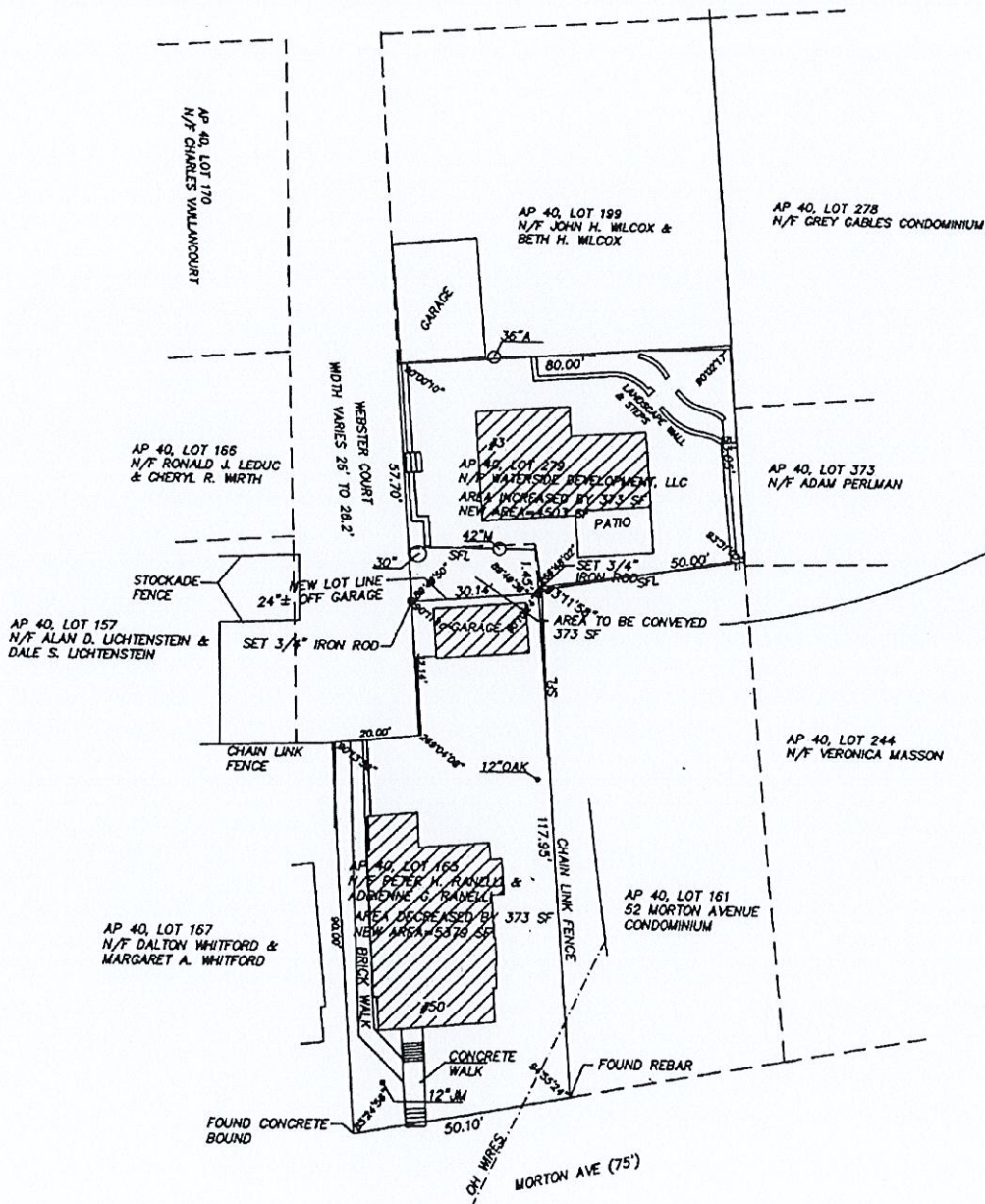


Side

Symbol Legend:

- C1: 60 Trn
- C2: 60" x 72" Double Door
- C3: 30x36
- C4: 30x40





NEW LOT LII

SET 3/4  
IRON RC

GENERAL NO

- 1) PURPOSE  
165 TO 279.
- 2) REFERENCE  
LAND EVIDENCE

DEED & PLA

- 1) DEED B0
- 2) DEED B0
- 3) "PROPER  
52 MORTON  
BY HILBERN
- 3) "PLAN C  
RHODE ISLAND
- 4) "MAP ON  
BY J.P. CO  
SEPTEMBER
- 5) FIELD B
- 6) "HOODS
- 7) "PLAT I  
NEWPORT I
- 8) DEED E
- 9) DEED E
- 10) DEED
- 11) DEED
- 12) DEED
- 13) COND
- 14) AP 4
- 15) NAME  
NUM.



RI STATE PLANE  
NORTH NAD 83

Scale 1" = 20'







