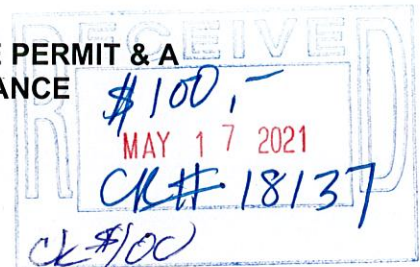


COMBINED APPLICATION FOR SPECIAL USE PERMIT & A
REGULATORY (DIMENSIONAL) VARIANCE
CITY OF NEWPORT, RI
ZONING BOARD OF REVIEW



DATE: March 22, 2021

Board Members:

The undersigned hereby petition the Zoning Board of Review for a Special Use Permit and a 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.: 58 Berkeley Avenue

Tax Assessor's Plat 34 Lot 119

Petitioner Information

Applicant: Malek Nait-Daoud & Asya Muchnick

Owner: Same

Lessee: N/A

Address: 209 Vanderbilt St. #1
Brooklyn, NY 11218

Address: Same

Address: N/A

Property Characteristics:

Dimensions of Lot: Frontage: 51'; Depth: 99' ±; Area: 4,625 SF ±

Zoning District in which premises is located: R-10

How long have you owned above premises? 7.5 Years

Are there buildings on the premises at present? Yes

Total square footage of the footprint of existing/approved buildings: 1,565 SF

Total square footage of the footprint of proposed buildings: 1,601 SF

Present use of premises: Two Family Dwelling

Proposed use of premises: Two Family Dwelling

**All of the following information and questions must be filled in and answered completely:
Give extent of proposed alterations:**

Applicants seek a special use permit and variances from the dimensional requirements to allow the construction of a 15' by 5' third floor balcony above the front porch, which will be located 5' from the west side property line (10' required), and the addition of a 6' by 6' storage shed, which will be located 3' from the rear and side property lines (10' required) and which will increase lot coverage from 33.8% to 34.6%, applying to the property located 58 Berkeley Avenue and identified as Lot 119 on Plat 34 in the R-10 Zone.

Zoning Characteristics Matrix

	Existing/Approved	Required/Allowed	Proposed
Lot Size (sq. ft.)	4,625 SF	10,000 SF	No Change
Lot Coverage (%)	33.8%	20%	34.6%
Dwelling Units	2	2	No Change
Parking	4	4	No Change
Front Setback	15'-9"	15'	No Change
Side Setbacks	5' & 5' ±	10'	No Change
Rear Setback	28'	20'	No Change
Height	30' ±	30'	No Change

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

LU - 1.4 & LU - 1.7.

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?

With only 4,625 square feet, the lot is less than half the size required in the R-10 Zone. It is also only 51' wide, and the existing house, including the front porch on which the proposed balcony is located, is built within the side setbacks. In addition, the house has no garage, which limits the property's available storage space. Due to the nature of the lot, requiring the storage shed to meet the setback requirements would place it towards the center of the back yard.

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?

Applicants seek (a) the ability to provide the upstairs apartment at the property with a small amount of outdoor living space that can be accessed without trekking downstairs to the yard; and, (b) to place a modestly sized storage shed in the rear yard, which is a common amenity in the area. Denial of the requested variances would deprive them of the ability to do so.

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

At 15' by 5', the proposed balcony is modestly sized and is located entirely on a portion of the front porch. As a result, its addition results in no increase in lot coverage and all work is within the existing setbacks, and its location will not interfere with the privacy of the neighbors. Lastly, the storage shed is modestly sized, resulting in an increase in lot coverage of less than 1%, and is screened by mature trees.

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/variance 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/variance has been met, the board must deny the application.

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".

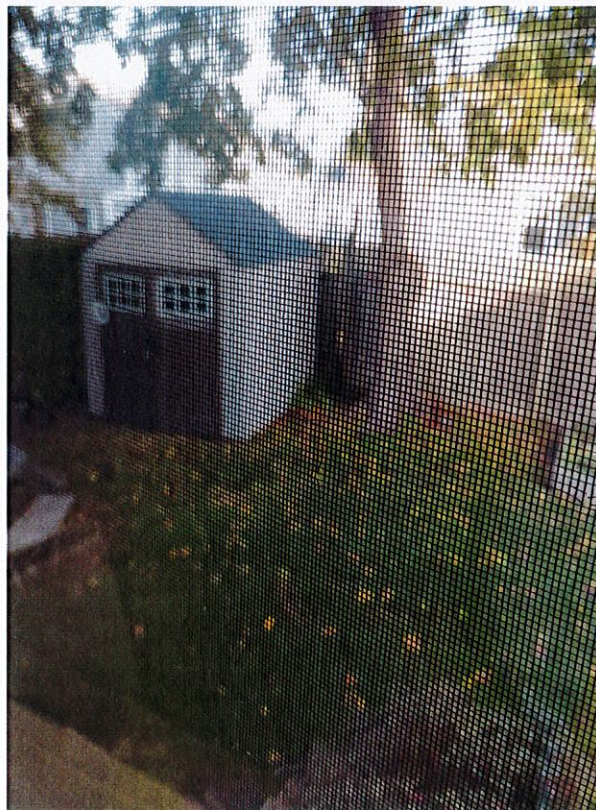
Malek Nait-Daoud & Asya Muchnick,
By Their Attorney,



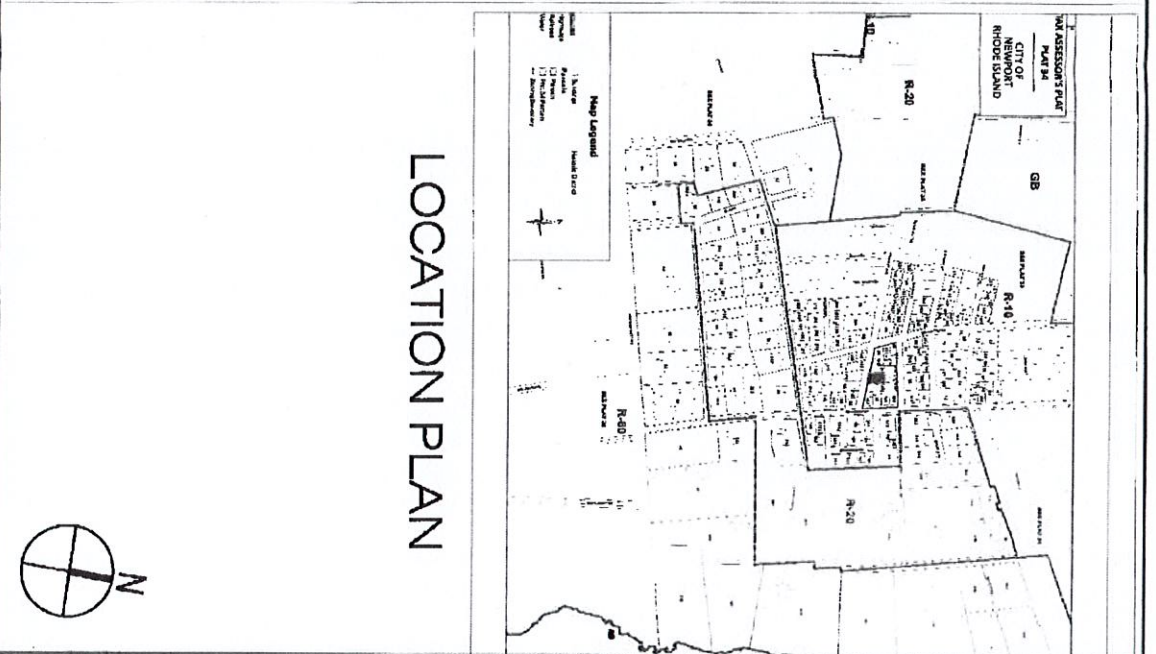
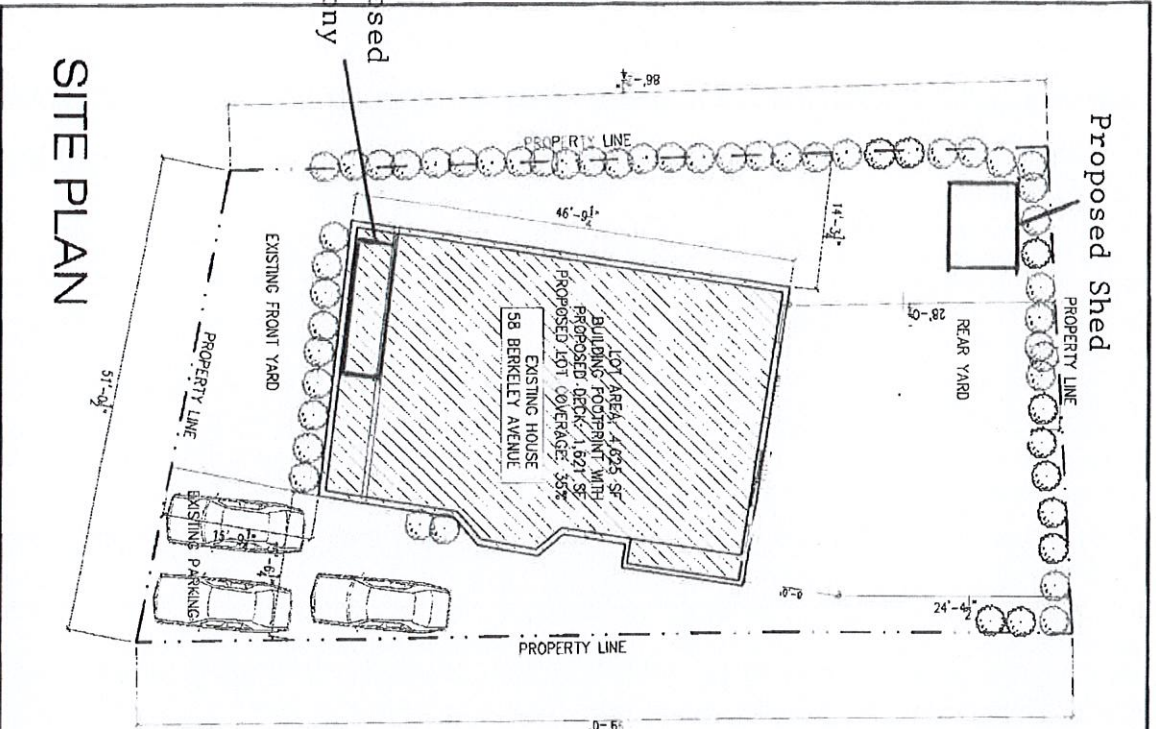
Peter Brent Regan, Esq.
Sayer Regan & Thayer, LLP
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Newport, RI 02840
(401) 849-3040
pregan@srt-law.com



PROPOSED BALCONY



PROPOSED SHED



<p>OWNER: MALEK NAIT-DAOUD & ASYA MUCHNICK TEL: 917-318 6112</p>		<p>PROJECT: 58 BERKELEY AVENUE NEWPORT, RI</p>	
<p>DATE: 09/13/2018 SCALE: DRAWING NUMBER:</p>		<p>SHEET:</p>	

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