



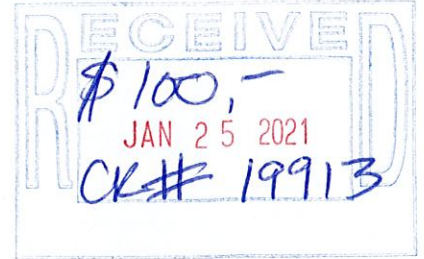
COMBINED APPLICATION FOR A SPECIAL USE PERMIT & A REGULATORY (DIMENSIONAL) VARIANCE

CITY OF NEWPORT, RI ZONING BOARD OF REVIEW

DATE: January 25, 2021

Board Members:

*ZBR
Feb 1*



The undersigned hereby petitions the Zoning Board of Review for a special use permit and a 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.: 18 Keeher Avenue
Tax Assessor's Plat: 11 Lot: 262

Petitioner's Information

Applicant: Edward W. McCarthy, Jr.

Address: c/o Gregory F. Fater, Esq.
55 Memorial Blvd.
Newport, RI 02840
Same
N/A

Owner: Same

Leasee: N/A

Property Characteristics

Dimensions of Lot: Frontage on Keeher Avenue: 100' ft. +/-
Frontage on: ft. +/-
Depth: 100' ft. +/-
Area: 10,000 sq. ft. +/-

Zoning District in which premises is located: R-10A

How long have you owned above premises?:

Applicant-Sole Owner: 8 year

Applicant's Family: 64 years

Are there buildings on the premises at present?: Yes

Total square footage of the footprint of existing buildings: 1,530 sq. ft.

Present use of premises: Single Family Residential.

Proposed use of premises: Two Family Residential.

Give extent of proposed alterations: The Applicant proposes to add a small studio apartment as a second dwelling for McCarthy's family use, modernize and expand the kitchen.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	10,000 +/-	10,000	10,000 +/-
Lot Coverage	15 %	20 %	15%
Dwelling Units	1	2	2
Parking (# of spaces)	2+	4	4
Front Setback (ft.)	<u>Keeher Avenue</u> 14 ft. 7 inch.	15ft.	<u>Keeher Avenue</u> 14.7 ft.
Side Setbacks (ft.)	<u>South</u> 12.6 <u>West</u> 40.8	10 ft.	<u>South</u> 12.6 <u>West</u> 40.8
Rear Setback (ft.)	41.8	20 ft.	41.8
Height (ft.)	Less than 20 ft.	30 ft.	Less than 20 ft.

Project Summary:

The Applicant seeks relief under Section 17.108.020 (Special Use Permits), Section 17.24.020 (B) Conversion to a Two Family Dwelling to accommodate a second family dwelling within the existing building which existed prior to April 13, 1977 and contains a lot area of 10,000 square feet.

The McCarthy's need to utilize a small (2nd) second dwelling at 18 Keeher Avenue. A son is retiring from Military Service and needs a modest apartment.

The existing parcel is a lot on Keeher Avenue. At 10,000 +/- square feet, the lot is significantly larger for the R-10A Zone, however it is not inconsistent with this area of the Keeher Avenue neighborhood. The property contains a single family home which the Owner Applicant currently uses and intends to occupy as residence for family. The purpose of this project is modernize the livable to suit the needs of the Owner Applicant and his family and add a modest studio apartment.

The property is in the R-10A Zone. In its current condition, the property slightly exceeds the 15% lot coverage due to the exceptionally large lot size for the R-10A Zone. The current and proposed structures will remain within the building height limitations. The footprint of the building will remain the same with the addition of the second family dwelling.

The plan proposed by the Applicant which calls for improvements to the existing house to accommodate a small studio apartment as a second family dwelling in this home this will not create any 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 R-10A Zone. The ongoing two family dwelling use is allowed by special use and is the most appropriate use of the property in this residential zone.

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

The Applicant states that the proposed development is consistent with many provisions of the Comprehensive Land Use Plan, including, but not limited to the following:

Land Use Goals and Policies: LU-1, LU-2(H)

Housing Goals and Policies: H-1, H-3

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 only 10,000 +/- square feet of land. The lot is large and standard for the R-10A Zone. The existing structure is a modestly sized three (3) bedroom residence with a relatively small footprint. The property also contains an existing deck. Even with this modest house size, there are NO issues with setback, encroachments and lot coverage. As a result of the large lot size together with the setback and lot coverage requirements for the R-10A Zone, both the lot and the structure are dimensionally conforming. In this case, the proposal is to accommodate a second family dwelling which will be within the existing building.

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 add a second family dwelling within the existing building. This area of the Keeher Avenue neighborhood is fully developed and characterized by varied non-conforming lot sizes and a mix of homes and more modern homes. A number of the immediately abutting properties in the neighborhood are substandard, in terms of lot size, appear to exceed the 20% lot coverage, and encroach into setbacks. Accordingly, a number of these parcels fail to meet dimensional requirements of the R-10A Zone. The literal interpretation of the zoning code, resulting in the denial of the relief requested, would unreasonably deny this Applicant the ability to add a second family dwelling. The planned renovations and improvements to the property by the

Applicant are appropriate and not inconsistent with the surrounding neighborhood, or the rights enjoyed by other property owners in this area of the R-10A. Zone.

Explain why this proposed alteration of an existing use that will make possible the reasonable use of the land, building or structure and is in the public convenience and welfare and in harmony with the surrounding Keeher Avenue Area.

The Applicant is before the Board for permission to modernize the first dwelling and to add a second family dwelling. It will not increase lot coverage, it will allow for the renovation of the existing dwelling and the addition of a second family dwelling in the building. This will allow the Applicant the space necessary for family use. The McCarthy's effort to mitigate impacts to the abutting neighbors, while also modernizing the existing single family dwelling and creating a modest two unit dwelling substandard lot.

The Zoning Boards Role

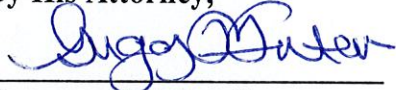
Special use permits shall be granted only where the zoning board of review finds that the proposed use or the proposed extension or alteration of an existing use is in accord with the public convenience and welfare, after taking into account, where appropriate:

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.

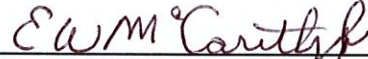
The burden of proof in a special-use permit application is on the applicant. This means that if the applicant fails to present adequate competent evidence to prove the applicable standard for issuing a special-use permit has been met, the board must deny the application.

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 His Attorney,



Gregory F. Fater, Esq.
55 Memorial Blvd.
Newport, RI 02840
Tel: 401-848-7777
Fax: 401-848-7733
gf@faterlaw.net



Edward W. McCarthy, Jr.
Newport Fire Department
Chief, Retired