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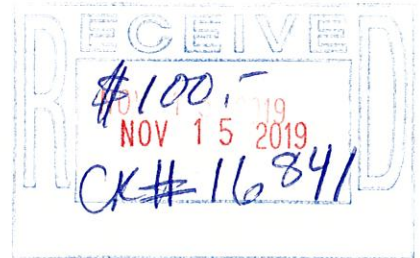
SENIOR COUNSEL
EDWARD B. CORCORAN
WILLIAM W. CORCORAN

OF COUNSEL
WILLIAM J. CORCORAN

November 15, 2019

Mr. Guy E. Weston
Newport City Hall
43 Broadway
Newport, RI 02840
Via hand delivery

*ZBR
Dec-2*



Re: Application of Jack A. and Frances T. Perkins, 32 Berkeley Ave. (TAP 34, Lot 129)

Dear Guy:

Enclosed please find the application of Jack A. and Frances T. Perkins relating to 32 Berkeley Avenue. Also enclosed is a check for \$100 for the filing fee.

Could you please place this application on the next available Zoning Board agenda, which I understand is January 2, 2020?

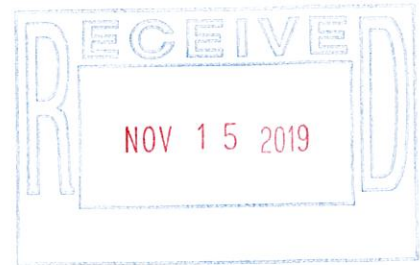
Thank you for your assistance. Please let me know if you have any questions.

Sincerely yours,

[Handwritten signature of Matthew H. Leys]
Matthew H. Leys

APPLICATION FOR A SPECIAL USE PERMIT/DIMENSIONAL VARIANCE

CITY OF NEWPORT, RI ZONING BOARD OF REVIEW



DATE: November 18, 2019

Board members:

The undersigned hereby petitions the Zoning Board of Review for a special use permit /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: 32 Berkeley Avenue

Tax Assessor's Plat 34 Lot 129

Petitioner Information

Applicant Jack A. & Frances T. Perkins Address c/o Matthew H. Leys, 43-B Memorial Blvd., Newport, RI 02840

Owner same Address same

Lessee N/A Address N/A

Property Characteristics

Dimensions of lot-frontage 50' depth 70' area 3,500 sq. ft.

Zoning District in which premises is located R-10

How long have you owned above premises? approx. 3 1/2 years.

Are there buildings on the premises at present? yes

Total square footage of the footprint of existing buildings approx. 1,241 sq. ft. (including garage).

Total square footage of the footprint of proposed buildings approx. 1,450 sq. ft. (including garage).

Present use of premises single family dwelling

Proposed use of premises no change

Give extent of proposed alterations Construct front porch that wraps around east side of house consistent with character of the neighborhood. The front set back will be equal to or less than setbacks of houses on the two neighboring properties as allowed by section 17.04.050 (C)(6).

Zoning Characteristics Matrix¹

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft.)	3,500	10,000	No change
Lot Coverage	35.5%	20%	41.4%
Dwelling Units	1	2	No change
Parking (# of spaces)	2+	2	No change
Front Setback	10'6"	15' ²	10'6" (new front porch)
Side Setbacks	16'6" (e); 6' 6" (w)	10'	12'6" (e)(new porch); no change (w)
Rear Setback	15'6" (house)	20'	No change (new porch over 20' to rear line)
Height	Less than 30'	30'	No change (new porch less than 30')

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

Goal H-1, Policy H-1.3: promoting the repair, revitalization or rehabilitation of residential structures and neighborhoods.

¹ All setbacks and the height provided relate to the main house. The garage on the property is an existing dimensionally nonconforming structure which is not proposed to be altered in this application.

² Subject to 17.04.050 (C)(6).

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 home lacks a front porch for the reasonable enjoyment of outdoor space, and for providing shade to the front of the house, as is commonly enjoyed by other home owners in the neighborhood. Houses on both sides of the subject property, and many others in the area, feature front porches similar to what is proposed in this application and so the proposed porch would bring the subject property into conformity with the character of the street and 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?

Other property owners in the district commonly enjoy front porches for the reasonable enjoyment of outdoor space, and for providing shade to the front of their houses. The subject property is very substandard in lot size, necessitating a lot coverage variance in order to accommodate the proposed porch.

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

The applicants propose a reasonably sized front porch to make reasonable use of outdoor space, and to provide shade to the front of the house, consistent with the character of the neighborhood. Houses on both sides of the subject property, and many others in the area, have porches that are similar to the one proposed in the current application, and thus the variance would bring the house into conformity with the character of the street and neighborhood. The project is in furtherance of a permitted by right residential use of the property, and the structure as proposed, including the proposed lot coverage, is in character with the neighborhood. The proposed porch will also enhance neighborhood interaction and improve the architectural character of the home. The increase in lot coverage is modest and the

proposal meets all setback requirements. The subject lot is very substandard in size for the district and the proposed front porch requires the minimum variance to allow for the reasonable use of the land, building or structure and is the least relief necessary. The variance would not be injurious to the neighborhood or detrimental to the public welfare, nor would it alter the general character of the surrounding area. If the variance is not granted the applicants would suffer a hardship amounting to more than a mere inconvenience because they would be denied the ability to have a reasonably sized front porch to allow reasonable use of outdoor space, and shade for the front of the house, consistent with other homes in the surrounding area and district.

The Zoning Board's Role – Special Use Permits³

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.

³ The applicant is seeking a special use permit pursuant to section 17.72.030(C)(Alteration to Nonconforming Development) to the extent applicable, and not for the proposed use of the property.

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.

The Zoning Board's Role – Dimensional Variance⁴

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.

⁴ The Applicant has filed this application for both a special use permit and a variance to be consistent with current practice; however, the Applicant reserves the right to object to the requirement of a dimensional variance pursuant to the Rhode Island Supreme Court decision in Lloyd v. Zoning Board of Review of the City of Newport et al, 62 A.3d 1073 (R.I. 2013).

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."

Jack A. and Frances T. Perkins,

By their attorney,


Applicants' Signature

(401) 847-0872

Telephone Number

Jack A. and Frances T. Perkins,

By their attorney,

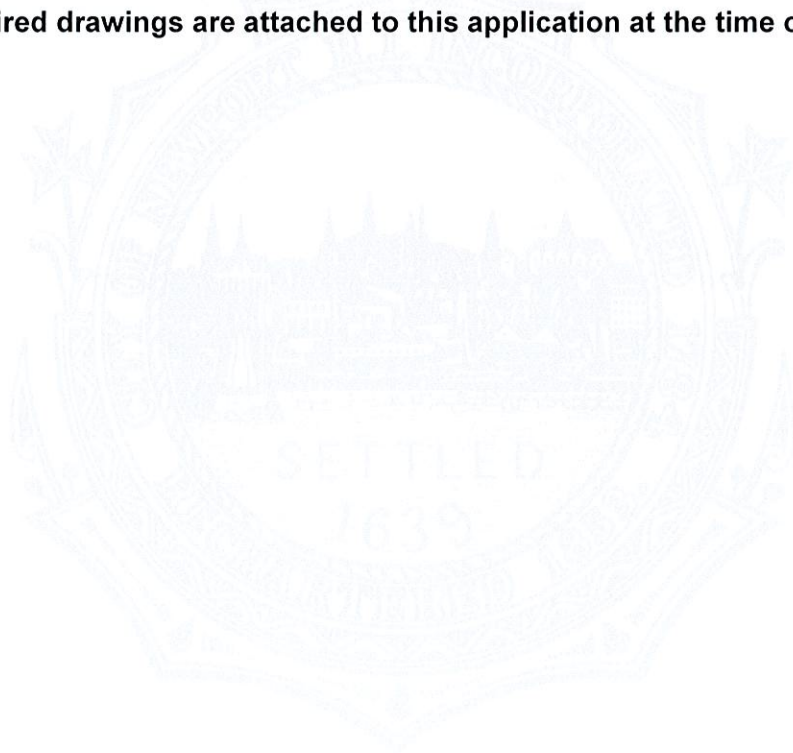

Owners' Signature

(401) 847-0872

Telephone Number

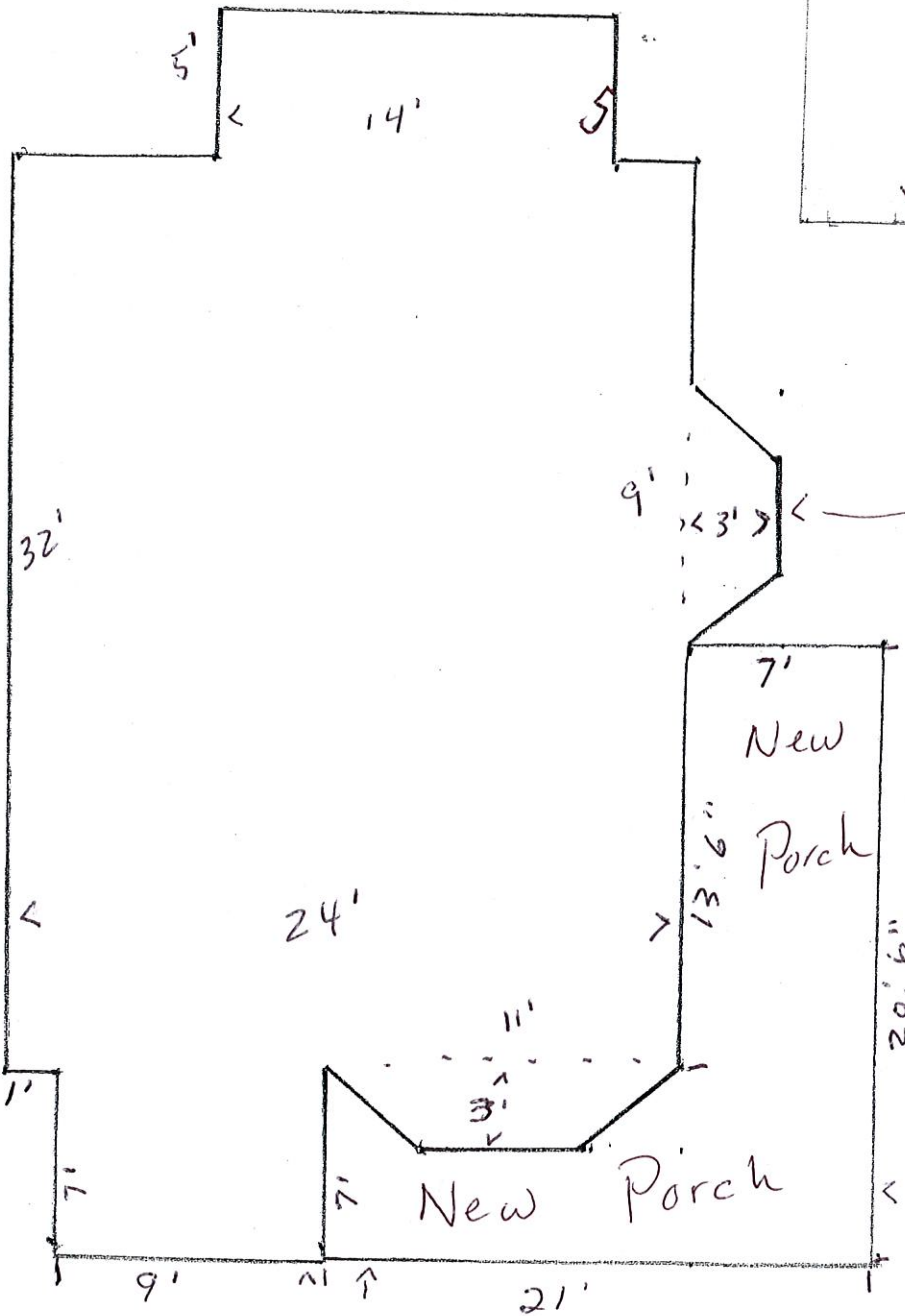
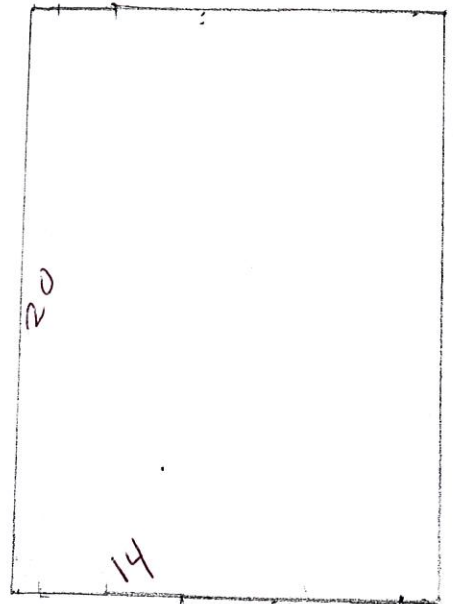
Email address: mleys@cphnpt.com

Be sure all required drawings are attached to this application at the time of the submittal.



32 Berkeley Ave

16'6" rear set back



6'6" side set back

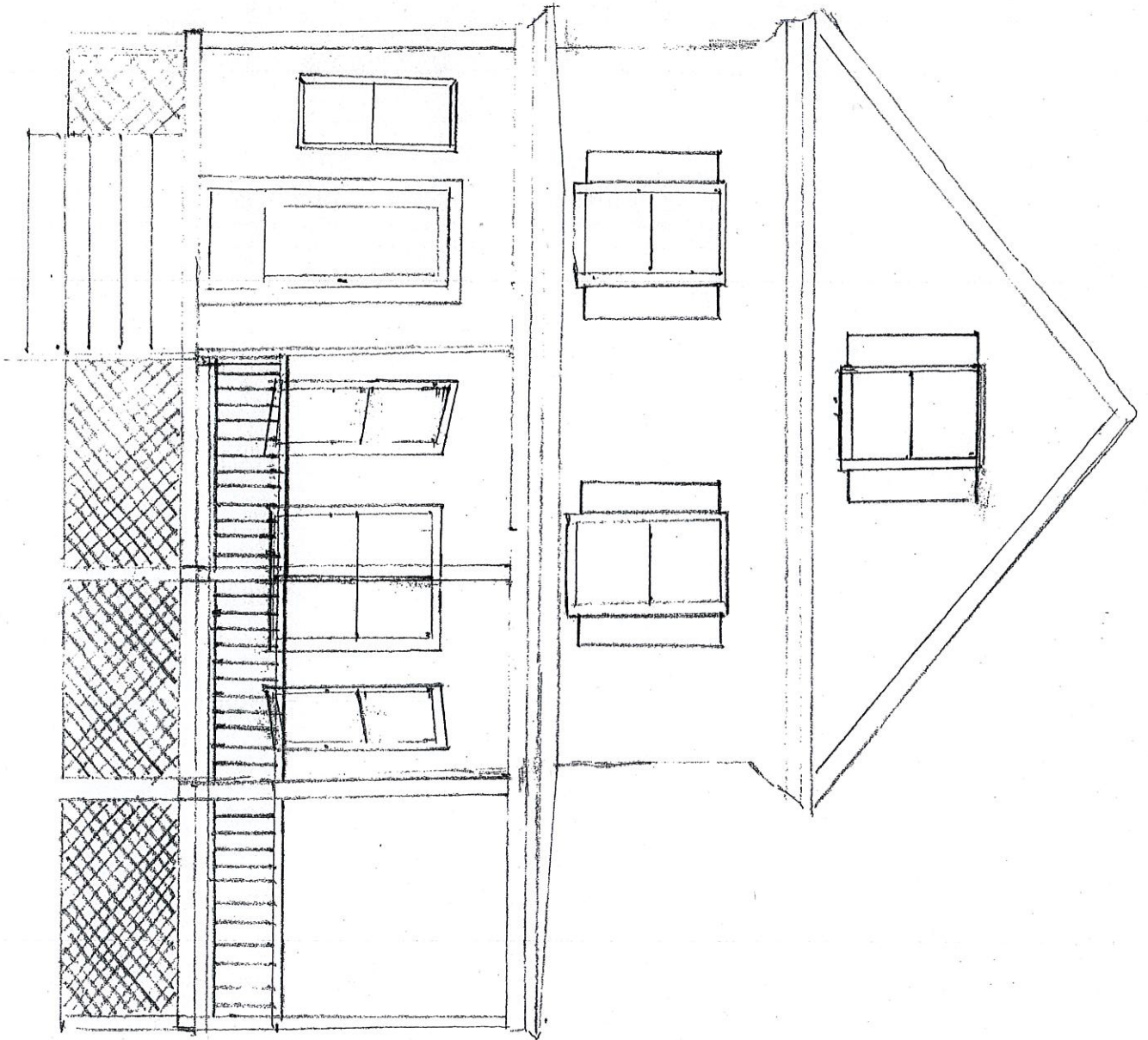
16'6" side set back

12'6" side set back

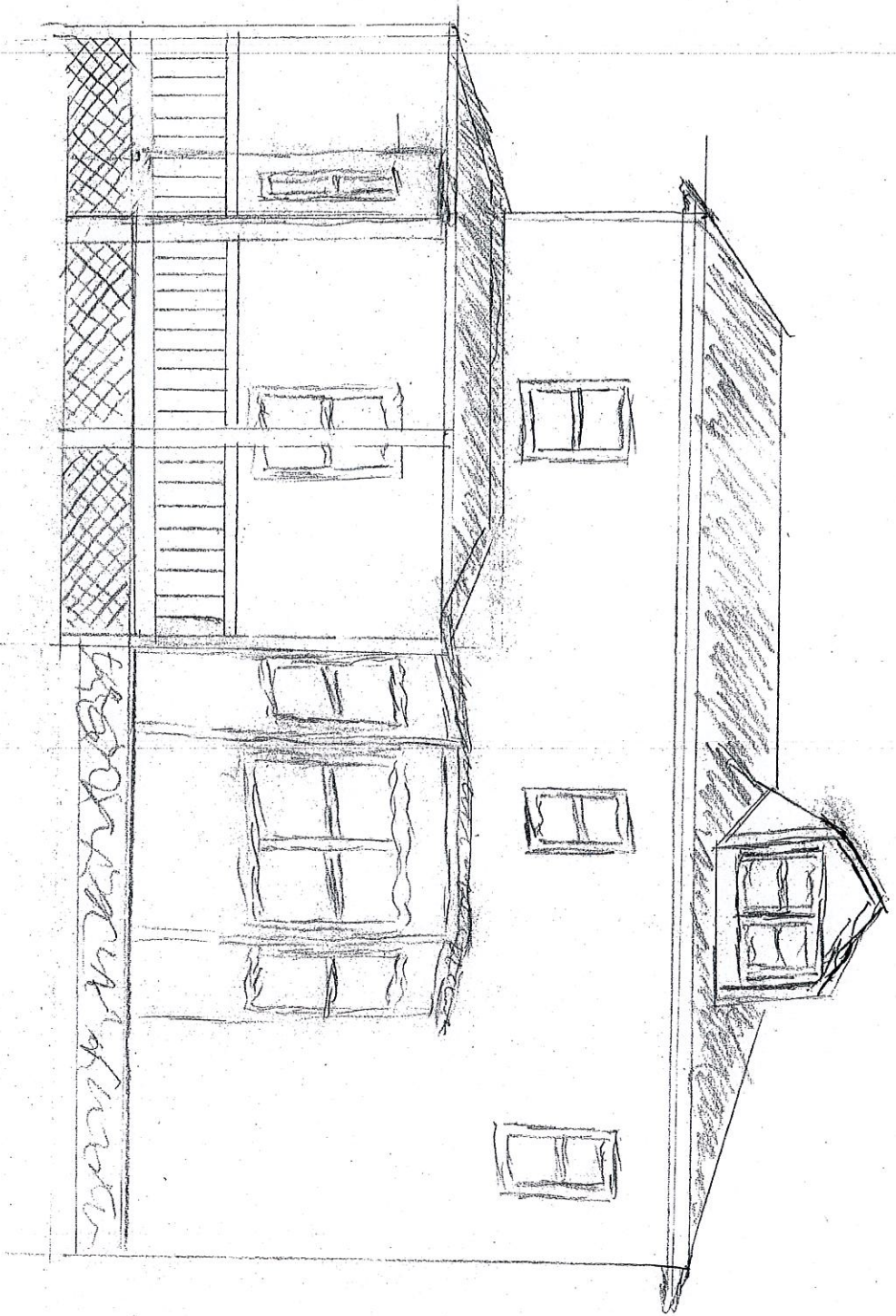
10'6" front set back

Street

32 Berkeley Ave
Front with porch added



32 Berkeley Ave
Side with porch added



32 Berkeley Ave

Newport, RI

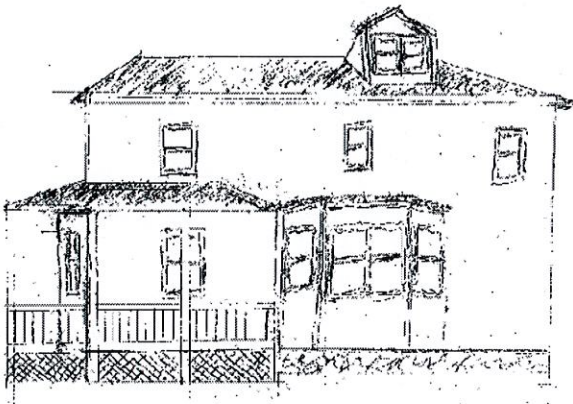
Front and Side Drawings with Porch Compared to Current Front and Side Pictures



Front of house with porch.



Front of house current.



Side of house with porch.



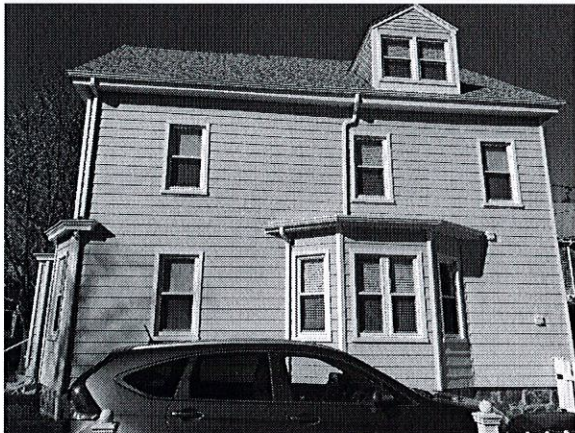
Side of house current.

32 Berkeley Ave, Newport RI

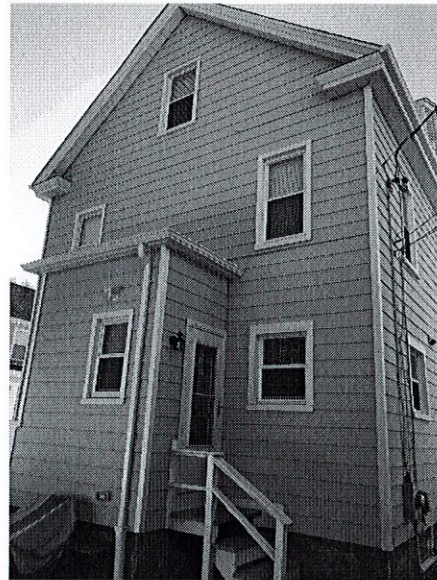
Current pictures



Front



Driveway side (East).



Rear



Side (no driveway) (West).



**Berkeley Avenue looking east-showing similar porches
(32 Berkeley Ave. shown with arrow)**



**Berkeley Avenue looking west-showing similar porches
(32 Berkeley Ave. shown with arrow)**