

APPLICATION FOR  
REGULATORY (DIMENSIONAL) VARIANCE  
CITY OF NEWPORT, RI  
ZONING BOARD OF REVIEW



DATE: September 27, 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.: 48 Whitwell Avenue

Tax Assessor's Plat 11 Lot 689

ZBR  
OCT-15

Petitioner Information

Applicant: Cayton and Lauren Scherf

Owner: Same

Lessee: N/A

Address: 48 Whitwell Avenue  
Newport, RI 02840

Address: Same

Address: N/A

Property Characteristics:

Dimensions of Lot: Frontage: 50'; Depth: 140'; Area: 7,088 SF ±

Zoning District in which premises is located: R-10

How long have you owned above premises?

Are there buildings on the premises at present? Yes

Total square footage of the footprint of existing/approved buildings: 1,325 SF

Total square footage of the footprint of proposed buildings: 1,806 SF

Present use of premises: Single Family Dwelling

Proposed use of premises: Single Family Dwelling

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

Applicants seek a variance from the dimensional requirements to allow the construction of a single-family residential dwelling, which will have a side setback of 5.26' on the north property line (10') required; and which will increase lot coverage from 18.7% to 25.5% (20%) required, applying to the property located at 48 Whitwell Ave. and identified as Lot 689 on Plate 11 in the R-10 Zone.

**Zoning Characteristics Matrix**

	<b>Existing/Approved</b>	<b>Required/Allowed</b>	<b>Proposed</b>
<b>Lot Size (sq. ft.)</b>	7,088 SF	10,000 SF	No Change
<b>Lot Coverage (%)</b>	18.7%	20%	25.5%
<b>Dwelling Units</b>	1	1	No Change
<b>Parking</b>	2	2	No Change
<b>Front Setback</b>	>15'	15'	>15'
<b>Side Setback (north)</b>	5.26'	10'	No Change
<b>Side Setback (south)</b>	>10'	10'	>10'
<b>Rear Setback</b>	>20'	20'	>20'
<b>Height</b>	18' 6.5"	30'	28' 6.5"

**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 7,088 square feet, the lot is roughly 70% of the lot size required in the R-10 Zone. It is also a long, narrow lot that is only 50' wide, yet 144' in depth. This results in a long, narrow building envelope. That size and lot shape provides but limited options in terms of constructing a reasonably sized single-family home with a reasonable width-length ratio compatible with modern day, family living

**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?**

If the requested variances are not provided, Applicants will be unable to construct a single-family residential home of a reasonable size and with a reasonable width-length ratio. A longer but more narrow house would be incompatible with modern day design and family living.

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

These variance requests are modest. In terms of the north property line setback, the current structure already encroaches upon that setback and this proposal would not change that setback. Nevertheless, not granting the setback variance would force Applicant to construct a long, narrow structure incompatible with modern day design and family living expectations. The proposed design allows for a functional modern home without disturbing the existing setback on the north side. Regarding lot coverage, to build a reasonably sized house on this lot, some lot coverage relief is necessary. The proposed design will not be so large as to appear to clash with the neighborhood.

**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".

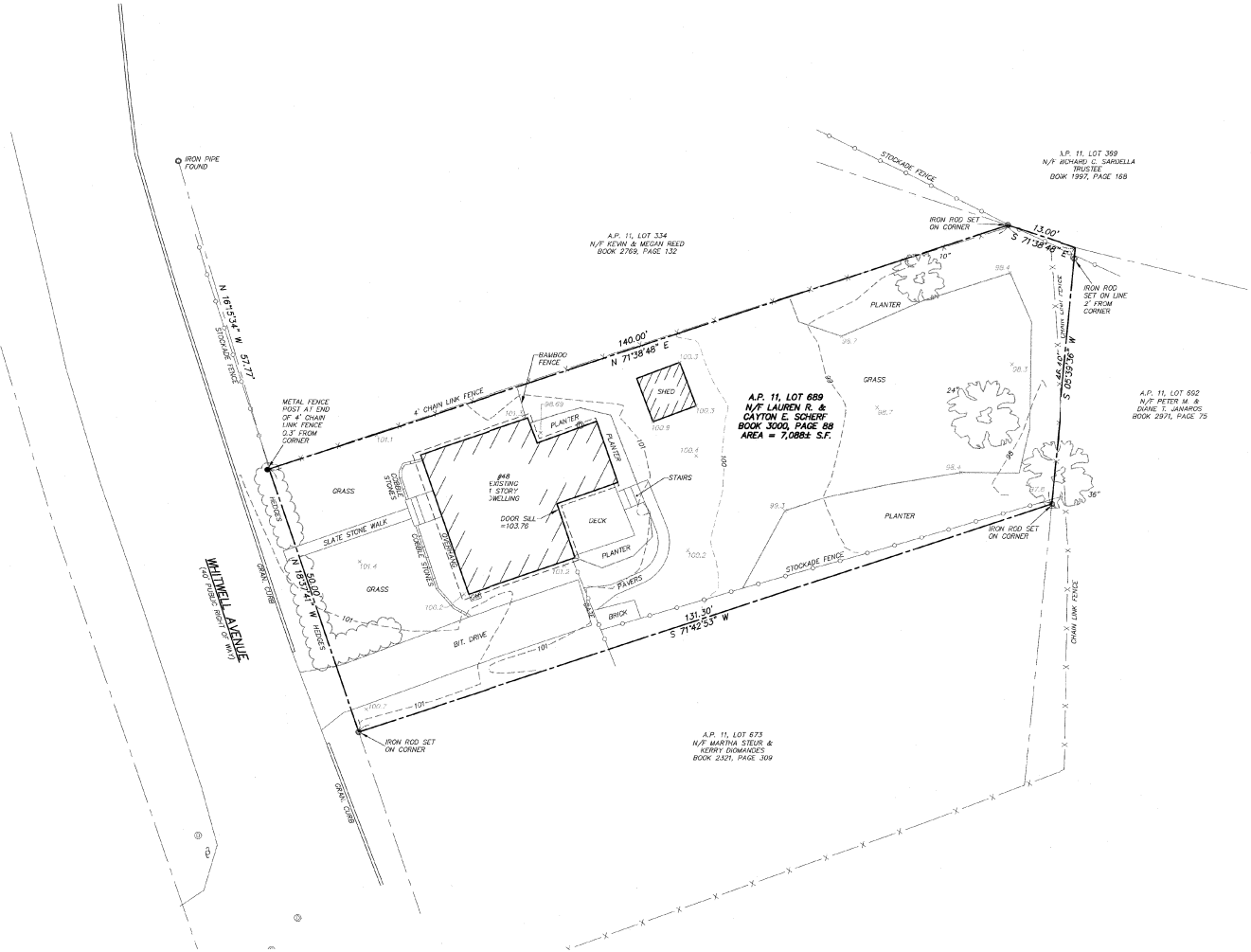
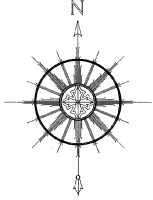
Clayton and Lauren Scherf,  
By Their Attorneys,



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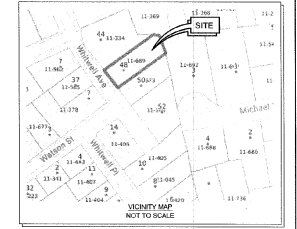
**NORTHEAST ENGINEERS & CONSULTANTS, INC.**

**NE & C**

A KNOWLEDGE CORPORATION<sup>®</sup>

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No.	Revision	Date	App.
Designed By:	GT		
Scale:	1" = 10'	Date:	SEPTEMBER 2021
Project Title:			
<b>A.P. 11 LOT 689</b>			
<b>48 WHITWELL AVENUE</b>			
NEWPORT, RHODE ISLAND			
Client/Owner:			
CAYTON SCHERF 48 WHITWELL AVENUE NEWPORT, R.I.			
Issued for:			
Drawing Title:			
<b>LIMITED CONTENT</b>			
<b>BOUNDARY SURVEY</b>			
Drawing Number:			<b>L1</b>
Sheet			<b>1 of 1</b>
Project Number:			<b>21211</b>
Survey Index:			<b>14 - 11 - 689</b>
OWNERSHIP AND USE OF DOCUMENTS, DRAWINGS AND SPECIFICATIONS, AS INSTRUMENTS OF PROFESSIONAL SERVICE, ARE AND SHALL REMAIN THE PROPERTY OF THE ENGINEER. THESE DOCUMENTS ARE NOT TO BE USED, IN WHOLE OR PART, FOR ANY OTHER PROJECTS OR PURPOSES, OR BY ANY OTHER PARTIES, THAN THOSE PROPERLY AUTHORIZED BY CONTRACT, WITHOUT THE EXPRESS AUTHORIZATION OF THE ENGINEER.			

**SURVEYOR'S CERTIFICATION**

THIS SURVEY HAS BEEN CONDUCTED AND THE PLAN HAS BEEN PREPARED PURSUANT TO 456-RICR-00-1-B OF THE RULES AND REGULATIONS ADOPTED BY THE RHODE ISLAND STATE BOARD OF REGISTRATION FOR PROFESSIONAL LAND SURVEYORS ON APRIL 28, 2018, AS FOLLOWS:

**TYPE OF SURVEY:** LIMITED CONTENT BOUNDARY SURVEY

**MEASUREMENT SPECIFICATION:** CLASS 1

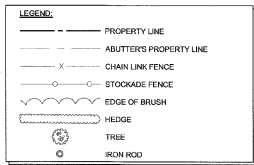
**STATEMENT OF PURPOSE:** THE PURPOSE FOR THE CONDUCT OF THE SURVEY AND FOR THE PREPARATION OF THE PLAN IS AS FOLLOWS:

TO DETERMINE AND MONUMENT THE LOCATION OF THE PROPERTY BOUNDARIES OF A.P. 11, LOT 689.

**SEAN M. LEACH**  
PROFESSIONAL LAND SURVEYOR  
No. 115204  
Exp. 12/31/2024  
COUNCIL NO. 535

- PLAN REFERENCES:**
- LOTS 108 & 074, PLAT 11, LAND OF DANIEL DUCHON & BARBARA ANNE DONDYON, NEWPORT, RHODE ISLAND, SCALE 1"=20', 8 JULY 1957
  - PLAN OF J.J. O'DONNELL, LAND, KAY STREET, NEWPORT RHODE ISLAND, SCALE 1"=20', JAN. 1931, CIVIL ENGINEER
  - PLAN OF SUBDIVISION OF LAND ON MICHAEL TERRACE WEST SIDE OF BRISTOL AVENUE, OWNED BY MICHAEL FRIEDBERG, NEWPORT, RHODE ISLAND, SCALE 1"=40' BY R.I. 81 BY C. ROBERT LYNCH, P.E., "PLAT SHOWING THE PROPERTY OF THE ESTATE OF CARL NORTH, WHITWELL AVENUE, NEWPORT, R.I., SCALE 1"=40', DEPT. 1956"
  - "SURVEY PLAN FOR HENRY JOHNSON, LOT 54C, PLAT 11, WHITWELL AVE, NEWPORT BY BARBER SURVEYING & ENGINEERING"
  - "GIBBS AVENUE CORRIDORWAY BY GIBBS AVENUE NEWPORT, RHODE ISLAND, PLAN OF LAND A.P. 11, LOT 153 BY NORTHEAST ENGINEERS AND CONSULTANTS"

- GENERAL NOTES:**
- EXISTING CONDITIONS ARE THE RESULT OF A FIELD SURVEY BY NORTHEAST ENGINEERS & CONSULTANTS, INC. IN SEPTEMBER 2021
  - VERTICAL DATUM IS NAVD 83
  - NORTH ARROW AND BASES OF BEARING BASED IN WYOMING OBSERVATION



ALL UNDERGROUND UTILITIES SHOWN ON THIS PLAN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING PLANS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SURVEY OR ABANDONED. THE SURVEYOR DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM ALL AVAILABLE INFORMATION. PLEASE CONTACT LOCALS PRIOR TO CONSTRUCTION AT 1-888-344-7233, AND/OR ALL LOCAL UTILITY COMPANIES.

