

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

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

DATE: February 21, 2020

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.: 33 Ledge Road

Tax Assessor's Plat: 38, Lot: 052

Petitioner Information

Applicants: Joann Kuss

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

Owner: Same

Same

Leasee: N/A

N/A

Property Characteristics

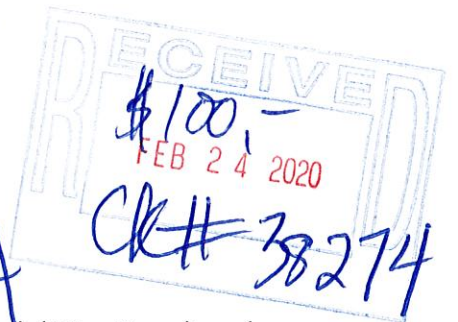
Dimensions of Lot: **Frontage:** 142 ft. +/-
Depth: 105 ft. +/-
Area: 17,424 sq. ft. +/-

Zoning District in which premises is located: R-60

How long have you owned above premises? 4.5 Years

Are there buildings on the premises at present? Yes

Total square footage of the footprint of existing buildings: 2,831 sq. ft.



Total square footage of the footprint of proposed buildings: 2,831 sq. ft.

Present use of premise: Single Family Residential Dwelling

Proposed use of premises: Single Family Residential Dwelling

Give extent of proposed alterations: The Applicant proposes to install an A/C condenser adjacent to the north wall of the existing garage.

Zoning Characteristics Matrix

| | Existing | Required/Allowed | Proposed |
|-----------------------|--|---|--|
| Lot Size (sq. ft) | 17,424 | 60,000 | 17,424 |
| Lot Coverage | 16 % | 10 % | 16 % |
| Dwelling Units | 1 | 1 | 1 |
| Parking (# of spaces) | 4+ | 2 | 4+ |
| Front Setback (ft.) | East = 35.5 South = 39 | East = 50 South = 50 | East = 35.5 South = 39 |
| Side Setbacks (ft.) | West = 25 North = 8.6 (North=Accessory Bldg) | West = 40 North = 20 (North=Accessory Bldg) | West = 25 North = 7 (North=Accessory Bldg) |
| Rear Setback (ft.) | N/A | 20 | N/A |
| Height (ft.) | Less than 35 | 35 | Less than 30 |

Project Summary:

The Applicants seek relief under Section 17.108.020 (Special Use Permits), Section 17.72.030 (Alteration to Nonconforming Development), and Section 17.100.080 (B) (Accessory Uses-Setbacks) for permission to install an A/C condenser along the north wall of the garage, within the side setback. The existing parcel is a legal non-conforming lot of record containing 17,424 +/- square feet of land. The property is a "non-conforming development" by virtue of the substandard size lot and the resulting lot coverage and setback encroachments by the existing buildings. The installation of the A/C condenser where proposed, represents an extremely minor increase in the north side setback encroachment. The unit will be screened and will not be visible from the street or abutting properties.

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-1.4 The City shall maintain design standards to protect historic structures, maintain the heritage of the community, and maintain views and access to the harbor and waterfront areas.

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 subject property is an existing legal non-conforming lot of record, totaling 17,424 +/- square feet, and containing a single family house and detached garage. The lot, house and garage have been in existence since prior to the adoption of the current zoning code. The existing house, garage and ground have recently undergone a full rehabilitation and architecturally appropriate restoration. The uniqueness of this property relates to the fact that the lot is significantly substandard in size for the R-60 Zone. Because of its shape, its size, and the fact that it is a corner lot, there is next to nothing left in terms of an allowable building envelope on the parcel, after the application of setback requirements. Accordingly, the existing structures encroach on the aforementioned setbacks. The Applicant has taken great care to ensure that the placement of the A/C condenser results in only a minor increase of the side setback encroachment and has no impact on abutters.

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 subject property is located on the southern end of Ledge Road in an estate area adjacent to Bellevue Avenue. This property is already non-compliant with the zoning code in terms of lot area and lot width, and the existing structures already significantly encroach into front and side setbacks. The Applicant proposes to continue with the single-family use with the required on-site parking. The addition of the A/C condenser will result in only a minor increase of the north side setback encroachment. There will be no other alteration to the property. The condenser will be screened. The literal interpretation of the zoning code, resulting in the denial of the relief requested would unreasonably deny this property owner the ability to make a minor modification and improvement to her property in a manner enjoyed by other property owners throughout this neighborhood.

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

The Applicant seeks only an extremely minor increase of the encroachment into the north side setback. The existing garage is 8.6 feet from the north property line. The A/C condenser will be seven (7) feet from the property line. The placement of the A/C condenser is proposed for a location that is discrete and will be screened from view. There will be no alternation of any other dimensional non-conformities. Granting the request for dimensional relief is the minimum variance which will allow the Applicant to continue to enjoy the use of her property in a manner consistent with the surrounding properties. Accordingly, the proposed use of the property and the relief sought by the Applicant will not create a burden or hardship for neighboring properties.

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.

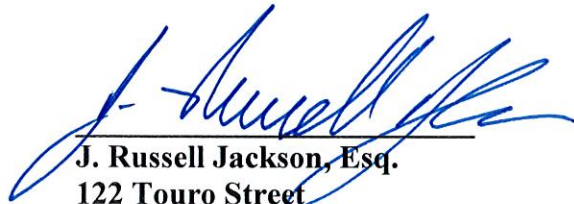
The burden of proof in a special-use permit application is on the applicant. This means that if the applicant fails to present adequate competent evidence to prove the applicable standard for issuing a special-use permit has been met, the board must deny the application.

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 are; 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.

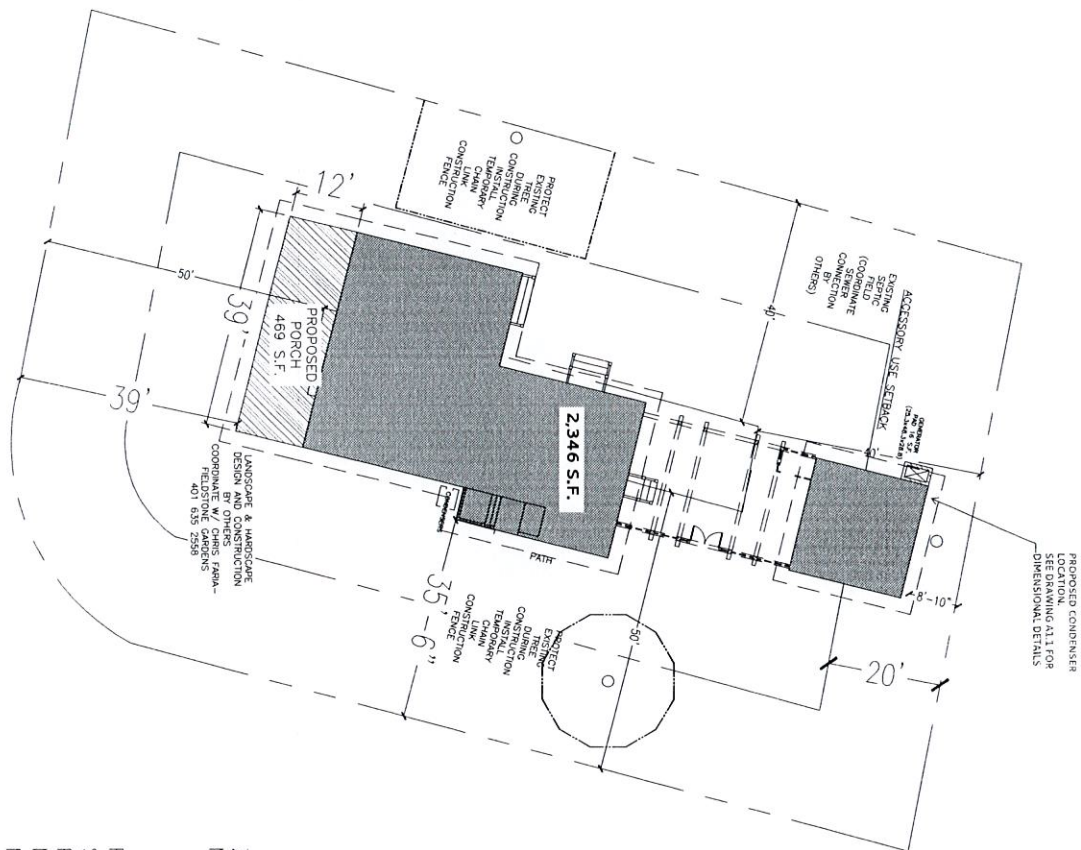
122 Touro Street

Newport, RI 02840

Tel: 401-847-7500

Fax: 401-848-5854

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



ZONING DATA:
 MAP 38 LOT 52
 ZONE: R-60
 MIN. LOT AREA: 60,000 S.F.
 MIN. LOT WIDTH: 200'
 FRONT LINE SETBACK: 50'
 SIDE LINE SETBACK: 40'
 REAR LINE SETBACK: 20'
 MAX. LOT COVERAGE: 10%
 MAX. HEIGHT: 35'
 ACCESSORY USE SETBACK: 20'

LOT AREA: 0.40 ACRES (17,424 S.F.) VERIFY
 FOOTPRINT: 2,831 S.F. (PROPOSED)
 LOT COVERAGE: 16% (PROPOSED)

SP.1

PHASE:
 STATUS:
 ISSUE DATE:
 PROJECT NO.:
 DESCRIPTION:

ZONING
 100N
 11/23/2015
 1511

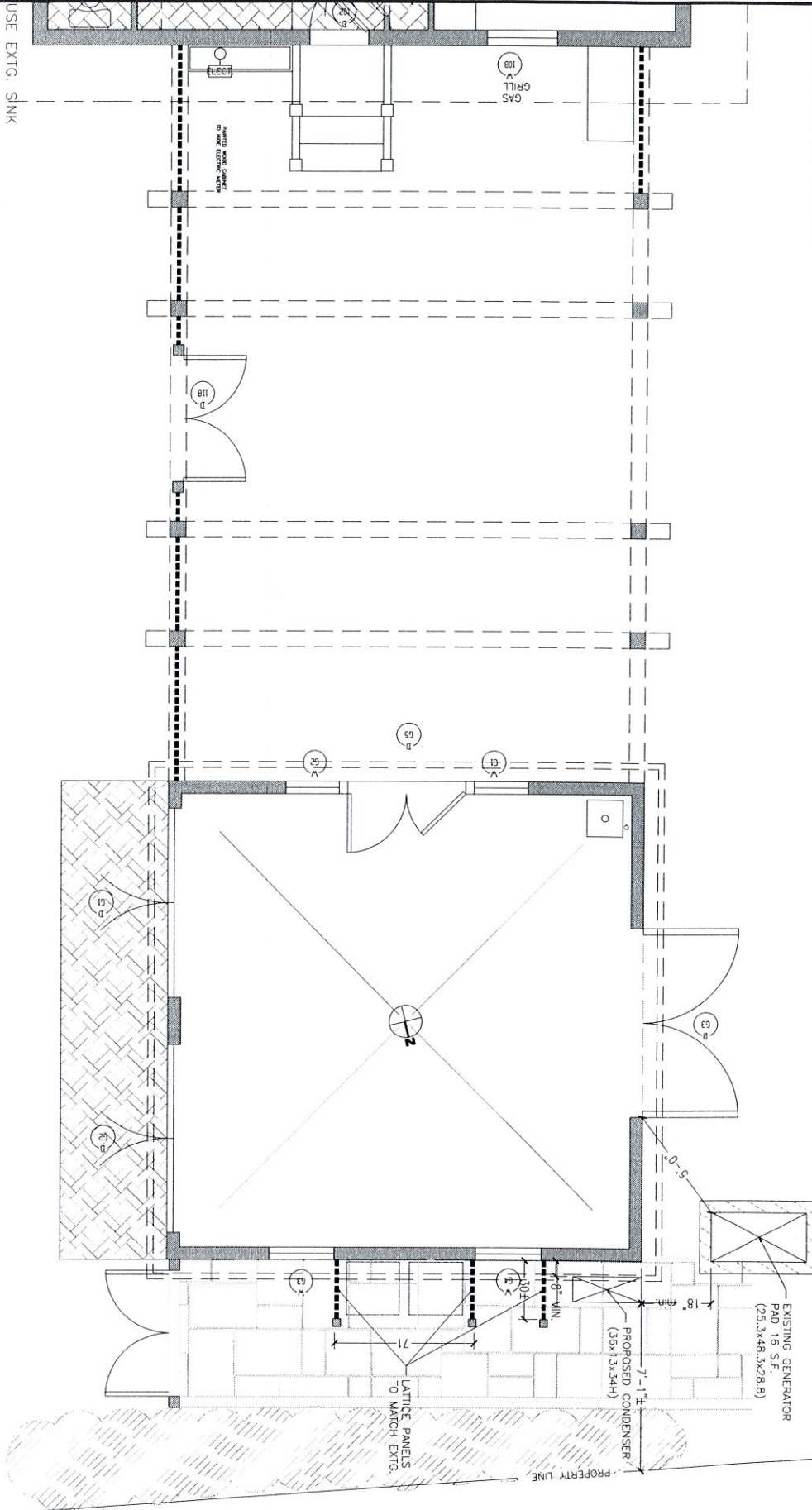
SITE PLAN
 SHOWING
 ALTERNATIVE
 GENERATOR
 LOCATIONS

"NO VIEW"
 33 LEDGE ROAD
 NEWPORT, RHODE ISLAND

NewPort Architecture, LLC
 P.O. BOX 1142, 38 LEDGE ROAD
 NEWPORT, RI 02840
 401.846.0776
 npaarch.com



USE EXTG. SINK
 ALL GLASS SHELF
 PROVIDED BY OWNER



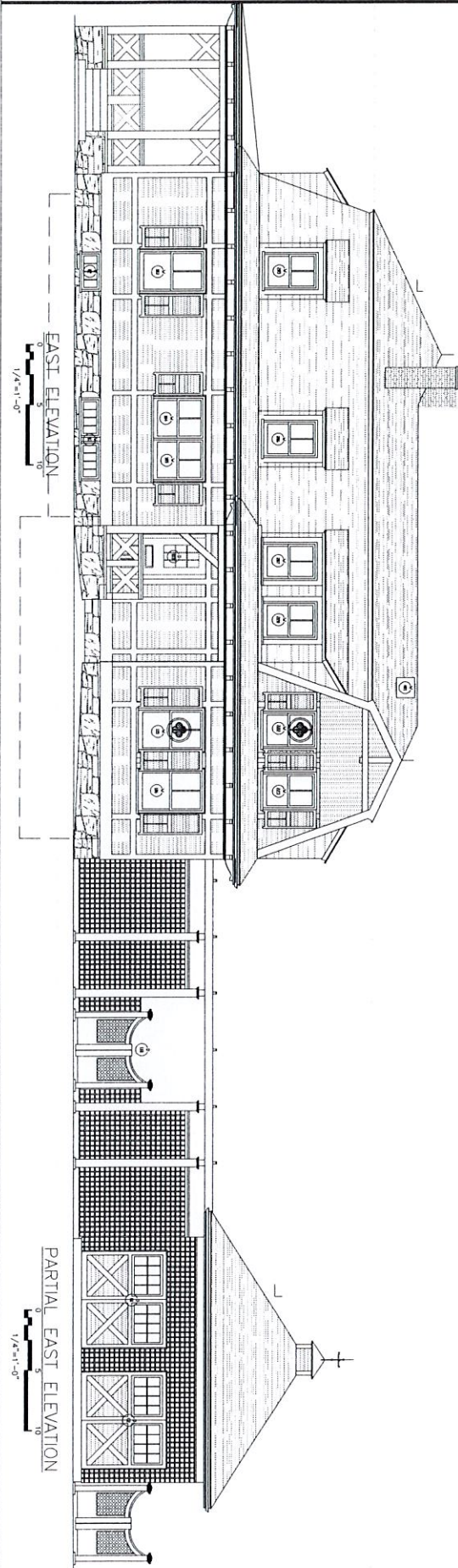
A1.1

PHASE: DESIGN
 STATUS: SON
 ISSUE DATE: 2/18/2020
 PROJECT NO.: 1511

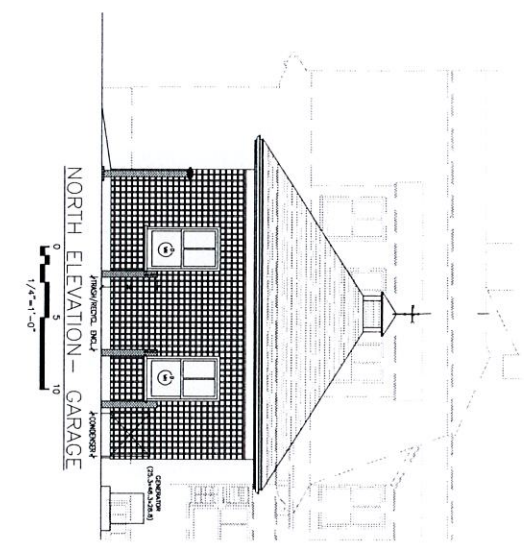
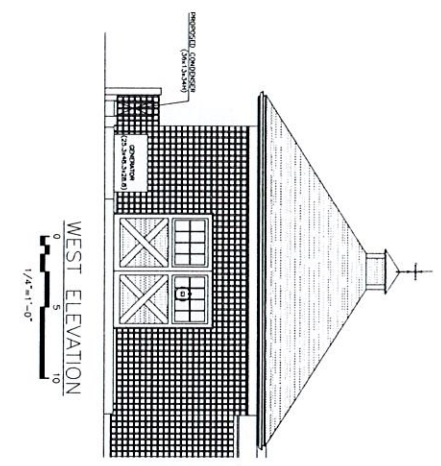
FIRST FLOOR PLAN

"NO VIEW"
 33 LEDGE ROAD
 NEWPORT, RHODE ISLAND

NewPort Architecture, LLC
 P.O. BOX 1142, 38 LEDGE ROAD
 NEWPORT, RI 02840
 401.846.0776
 nptarch.com



| | | | | |
|------|---|-------------------------|---|---|
| A2.1 | PHASE: DESIGN STATUS: 50% ISSUE DATE: 2/18/2020 PROJECT NO: 1511 DESCRIPTION: | EAST & SOUTH ELEVATIONS | "NO VIEW" 33 LEDGE ROAD NEWPORT, RHODE ISLAND | Newport Architecture, LLC P.O. BOX 1142, 38 LEDGE ROAD NEWPORT, RI 02840 401.846.0776 nplarch.com |
|------|---|-------------------------|---|---|

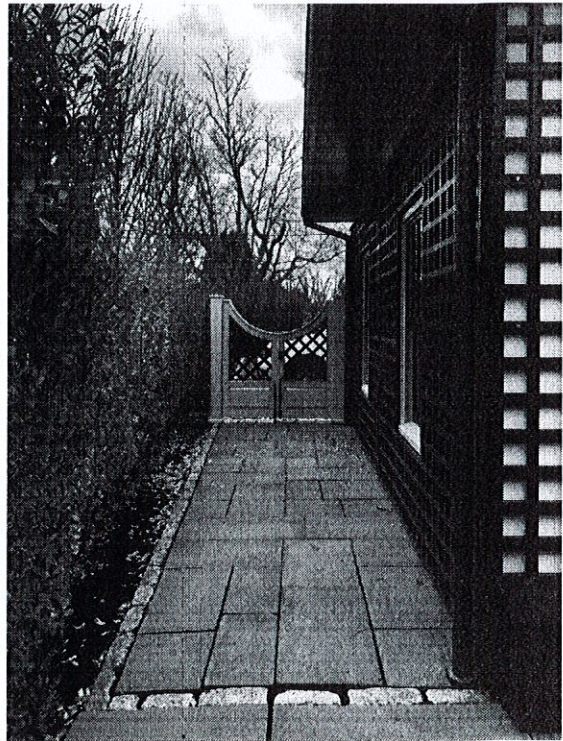




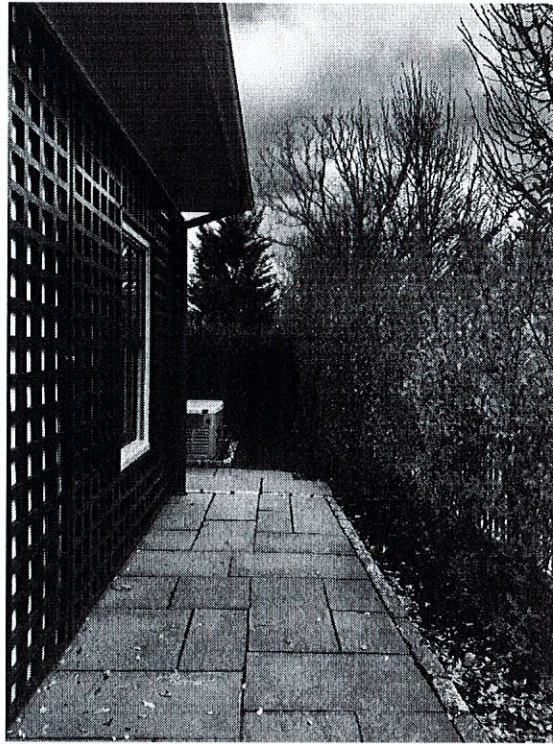
1. STREET VIEW- LOOKNG WEST



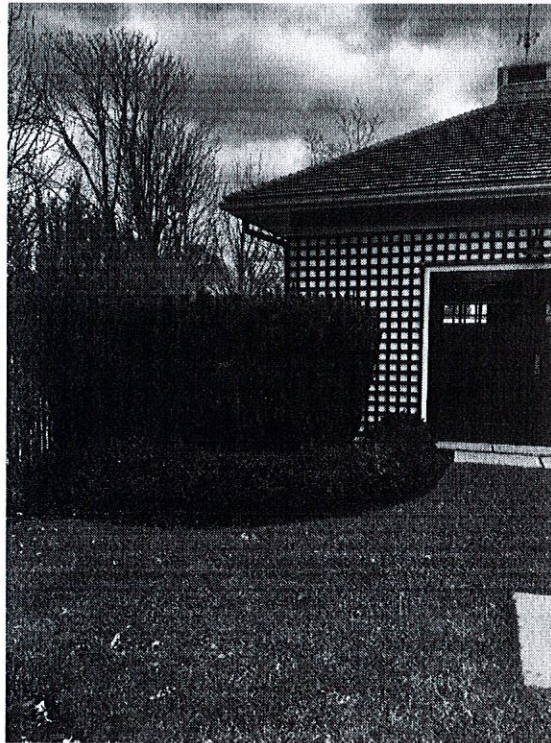
2. UTILITY AREA - LOOKING WEST



3. LOOKING EAST



4. LOOKING WEST



5. GARDEN VIEW- LOOKING EAST

Inverter Driven Heat Pump

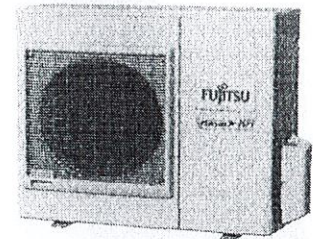
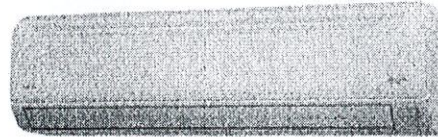
18,000 BTU Single Zone XLTH Wall Mounted System

Job Name _____
 Location _____
 Engineer _____
 Submitted To _____
 Submitted By _____
 Reference _____

Date _____
 Approval _____
 Construction _____
 Unit No _____
 Drawing No _____

PRODUCT FEATURES

Auto Changeover
 24 hr. Timer
 Auto Louver: 4 way
 Minimum Heat Mode
 Wireless Remote control
 Auto Restart
 Economy Mode
 Base Pan Heater



| MODEL NUMBERS | | | |
|-------------------------------------|-----------|----------------------------|------------|
| Indoor Unit | | ASU18RLF | |
| Outdoor Unit | | AOU18RLXFWH | |
| System | | 18RLXFWH | |
| EFFICIENCIES | | | |
| SEER | | 20.0 | |
| EER | | 13.3 | |
| HSPF | | 10.4 | |
| COP | kW/kW | 3.50 | |
| | Btu/hW | 12.0 | |
| OUTDOOR TEMPERATURE OPERATION RANGE | | | |
| Cooling | °F(°C) | -5 to 115 (-20 to 46) | |
| Heating | | -15 to 75 (-26 to 24) | |
| CAPACITIES | | | |
| Cooling | Rated | BTU/hW | 18,000 |
| | Min.—Max. | | 7000—23000 |
| Heating | Rated | | 21,600 |
| | Min.—Max. | | 7000—29000 |
| LINESET REQUIREMENTS | | | |
| Connection Method | | Flare | |
| Liquid | in (mm) | Ø 3/8 (Ø 9.52) | |
| Gas | | Ø 5/8 (Ø 15.88) | |
| Pre-Charge Length | ft (m) | 66 (20) | |
| Minimum Length | | 16 (5) | |
| Maximum Length | | 164 (50) | |
| Max. Height Diff. | | 98 (30) | |
| INDOOR DIMENSIONS & WEIGHT | | | |
| Net (H x W x D) | in | 12-5/8 x 39-1/4 x 9 | |
| | mm | 320 x 998 x 228 | |
| Gross (H x W x D) | in | 12-3/5 x 42-15/16 x 16-7/8 | |
| | mm | 319 x 1090 x 429 | |
| Net Weight | lb (kg) | | 31 (14) |
| Gross Weight | | | 40 (18) |
| OUTDOOR DIMENSIONS & WEIGHT | | | |
| Net (H x W x D) | in | 32-11/16 x 35-7/16 x 13 | |
| | mm | 830 x 900 x 330 | |
| Gross (H x W x D) | in | 39-3/8 x 41-5/16 x 17-1/2 | |
| | mm | 1,000 x 1,050 x 445 | |
| Net Weight | lb (kg) | | 135 (61) |
| Gross Weight | | | 152 (69) |

Warranty Information



7 Year Compressor, 5 Year Parts out-of-the-box Warranty



10 Year Compressor, 10 Year Parts Warranty when registered within 60 days of installation in a residence



12 Year Compressor, 12 Year Parts Warranty when registered within 60 days of installation in a residence, and installed by a Fujitsu Elite contractor

ACCESSORIES

| | |
|----------------|--------------------------------|
| UTY-TTRX | 3rd Party Thermostat Converter |
| UTY-RNNUM | Wired Remote |
| UTY-RVNUM | Wired Remote w/backlight |
| UTY-RSNUM | Simple Remote |
| UTY-XWZX | Dry Contact Wire Kit |
| FJ-RC-WIFI-1NA | Intesis Wired WiFi Module |
| FJ-IR-WIFI-1NA | Intesis IR WiFi Module |
| UTY-TFNX22 | WiFi Interface Module |



This system combination is Energy Star qualified



Indoor Unit ETL#: 3170288
 Outdoor Unit ETL#: 91987

Effective Date: 2/28/2019

Version 18RLXFWH -2019B

Due to continuous product improvements, specifications are subject to change without notice. Please log in to the Fujitsu Portal for the most up-to-date documentation
<https://portal.fujitsugeneral.com>

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