

Staff Report

Prepared by Guy Weston,
Zoning Officer

Meeting of April 27, 2020

Petition of Christina Cussimano, et als

Petitioners seeks permission to construct a 35 sq. ft. rear landing addition.

The lot contains approximately 3,825 sq. ft. of land and is a non-conforming lot of record.

The use of the property is that of a single-family dwelling.

The addition conforms to all minimum setback requirements.

The increase in the lot coverage is minimal and will not have an adverse impact on the abutting properties.

Zoning History

Granted variance for new house - 2017.

Denied variance for new rear landing – 2019

Granted variance for new rear concrete steps - 2019

Vote: _____

Condition(s): _____

Secretary: _____

Date: _____

Narrative

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PETITION OF CHRISTINA CUSSIMANO & JOHN GRENIER, applicants and owners; for a special use permit and a variance to the dimensional requirements for permission to construct a 35 sq. ft. rear landing and stair addition which will increase the lot coverage from 31% to 32%, (20% allowed), applying to the property located at 34 Roseneath Ave., TAP 39, Lot 434, (R-10 zone).

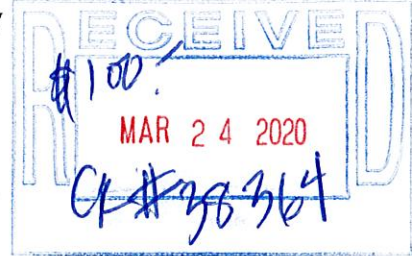
**COMBINED APPLICATION FOR A SPECIAL USE PERMIT &
A REGULATORY (DIMENSIONAL) VARIANCE**

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

DATE: March 23, 2020

Board Members:

ZBR
April-5



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.: 34 Roseneath Avenue

Tax Assessor's Plat: 39 Lot: 434

Petitioner's Information

Applicant:	Christina Cussimano & John Grenier	Addresses:	c/o J. Russell Jackson Miller Scott Holbrook & Jackson 122 Touro Street Newport, RI 02840
Owner:	Same		Same
Leasee:	N/A		N/A

Property Characteristics

Dimensions of Lot: Frontage: 45.00 ft. +/- **Depth:** 85.00 ft. +/- **Area:** 3,825 sq. ft. +/-

Zoning District in which premises is located: R-10

How long have you owned above premises? 3.5 years (July 15, 2016)

Are there buildings on the premises at present? Yes

Total square footage of the footprint of existing buildings: 1204 sq. ft. (31.4%)

Total square footage of the footprint of proposed buildings: 1239 sq. ft. (32.4%)

Present use of premise: Single Family Residential.

Proposed use of premises: Single Family Residential.

Give extent of proposed alterations: The Applicants are seeking lot coverage relief to permit the construction of a small landing and staircase on the rear of the house to allow ingress and egress from the kitchen door at the rear of the main living level, down to the back yard.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	3,825	10,000	3,825
Lot Coverage	31.4 %	20 %	32.4 %
Dwelling Units	1	1	1
Parking (# of spaces)	2	2	2
Front Setback (ft.)	7 ft. 3 in.	15 ft. Front Setback Waived Based on Streetscape	7 ft. 3 in.
Side Setbacks (ft.)	North = 6 ft. 2 in. South = 10 ft.	North = 10 ft. South = 10 ft.	North = 6 ft. 2 in. South = 10 ft.
Rear Setback (ft.)	29 ft. +/-	20 ft.	23 ft. +/-
Height (ft.)	35 ft.	30 ft.	35 ft.

Project Summary:

The Applicants seek relief under Section 17.108.020 (Special Use Permits), Section 17.108.010 (Variances), Section 17.72.030 (Alteration to Nonconforming Development), and Section 17.20.050 (R-10 Lot Coverage Requirements) for permission to construct a small landing and staircase which will allow ingress and egress from the kitchen door on the rear of the house off the main living level down to the back yard.

The existing parcel is an extremely small legal non-conforming lot of record containing only 3,825 square feet of land. Although somewhat typical along portions of Roseneath Avenue, the subject parcel is a significantly substandard sized lot for the R-10 Zone. The property contains a single family home which is occupied by the Applicants. The proposed landing and stairs will create an additional 35 square feet of lot coverage which will bring the total to 32.4%.

The proposed rear landing and stairs will not create 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-10 Zone. The ongoing single family use is allowed by right, and is the most appropriate use of the property in this residential zone. The property is not in the Newport Historic District.

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-1.7 *The City shall protect the existing character of residential neighborhoods while encouraging local neighborhood business.*

Goal LU-2: *To develop a planning framework that helps the city respond to the impacts of sea level rise, storm surge and increased flooding.*

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.*

Goal H-3: *To reduce the percentage of seasonally vacant homes and increase neighborhood stability and vitality.*

Transportation & Circulation:

Goal T-5: *To provide sufficient and suitably located parking, designed to eliminate, mitigate or reduce impacts.*

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, non-conforming lot of record containing only 3,825 square feet of land. The lot is extremely small and substandard for an R-10 Zone. The parcel is also located in a FEMA flood zone. The existing structure is a reasonably sized modern single family residence with a modest foot print, consistent with the footprint of the original split level ranch. As a result of the

extremely small lot size, both the lot and the structure are dimensionally non-conforming. Even the most minimal alteration to the structure cannot be done without triggering some type of need for dimensional relief. In this case, the proposed rear landing and stairs on the back of the house will result in a small increase of lot coverage.

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 continue with the single family use and will be seeking relief for a dimensional variance. The subject property is located at 34 Roseneath Avenue. Much of the neighborhood is characterized by small lots and densely developed properties. Many of the surrounding properties in the neighborhood are substandard, in terms of lot size, exceed the 20% lot coverage, and encroach into setbacks. Many of these parcels fail to meet dimensional requirements of the R-10 Zone. The literal interpretation of the zoning code, resulting in the denial of the relief requested, would unreasonably deny these Applicants the ability to have a simple landing and stairs from the kitchen at the rear of the house to the back yard. The proposed resulting lot coverage is not inconsistent with surrounding properties. Clearly dimensional non conformities exist with other properties throughout this neighborhood. The installation of a rear exit is a safety concern. The proper functioning of this single family home which meets building standards of modern living and which complies with FEMA flood zone requirements is appropriate and not inconsistent with the surrounding neighborhood. These property owners should be allowed to enjoyed the same rights enjoyed by other property owners in this area of the R-10 Zone.

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

The Applicants were previously before this Board. Since that time they have significantly reduced the size and location of the proposed rear landing, consistent with the feedback received from Board Members during prior hearings. The proposed rear landing and stairs on the back of the house will increase lot coverage less than 1%. The extremely minor increase of lot coverage and the construction of the landing and stairs on the rear of the house will provide access to the kitchen and main living level from the back yard. The Applicants have developed a thoughtful plan to meet their needs and satisfy safety concerns, while also respecting the privacy of neighbors. The hardship is based on the significantly substandard lot size and the location of the lot in a flood zone. To limit their request for relief to the absolute minimum, the Applicants have followed the feedback received during prior hearings and abandoned their earlier plan for a landing across the full width of the rear of the house. Granting the request for dimensional relief is the minimum variance which will allow the reasonable use of the property. Accordingly, the proposed use of the property and the relief sought by the Applicants will not be injurious to, or create a burden or hardship for abutting property owners, will be harmonious with the neighborhood, and will be an appropriate use for this residential area.

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.

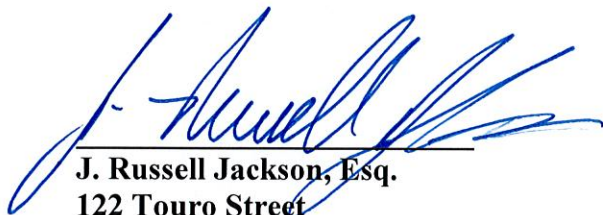
The burden of proof in a special-use permit application is on the applicant. This means that if the applicant fails to present adequate competent evidence to prove the applicable standard for issuing a special-use permit has been met, the board must deny the application.

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**



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45.0'

LOT 434
PLAT 39
3825 SqFt

20' SETBACK

PROP. LANDING
W/STEPS TO YARD
COVERAGE=35 SQ.FT.

EX OVERHANG
10.5 SQ.FT.

EX CABLE
OVERHANG

DOOR
TO KITCHEN

85.0'

85.0'

EXISTING
WOOD
STRUCTURE

10' SETBACK

BALCONY
74 SqFt

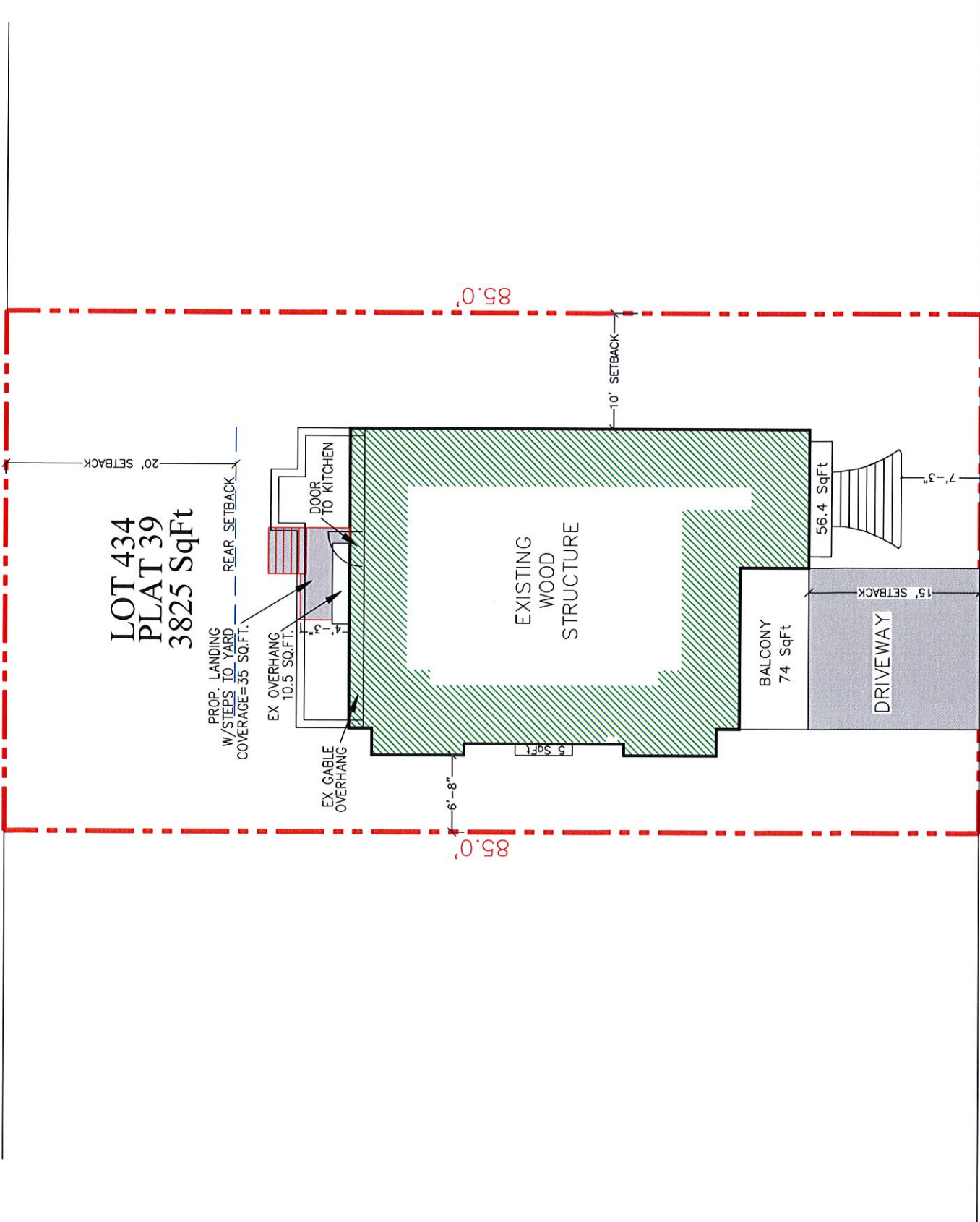
56.4 SqFt

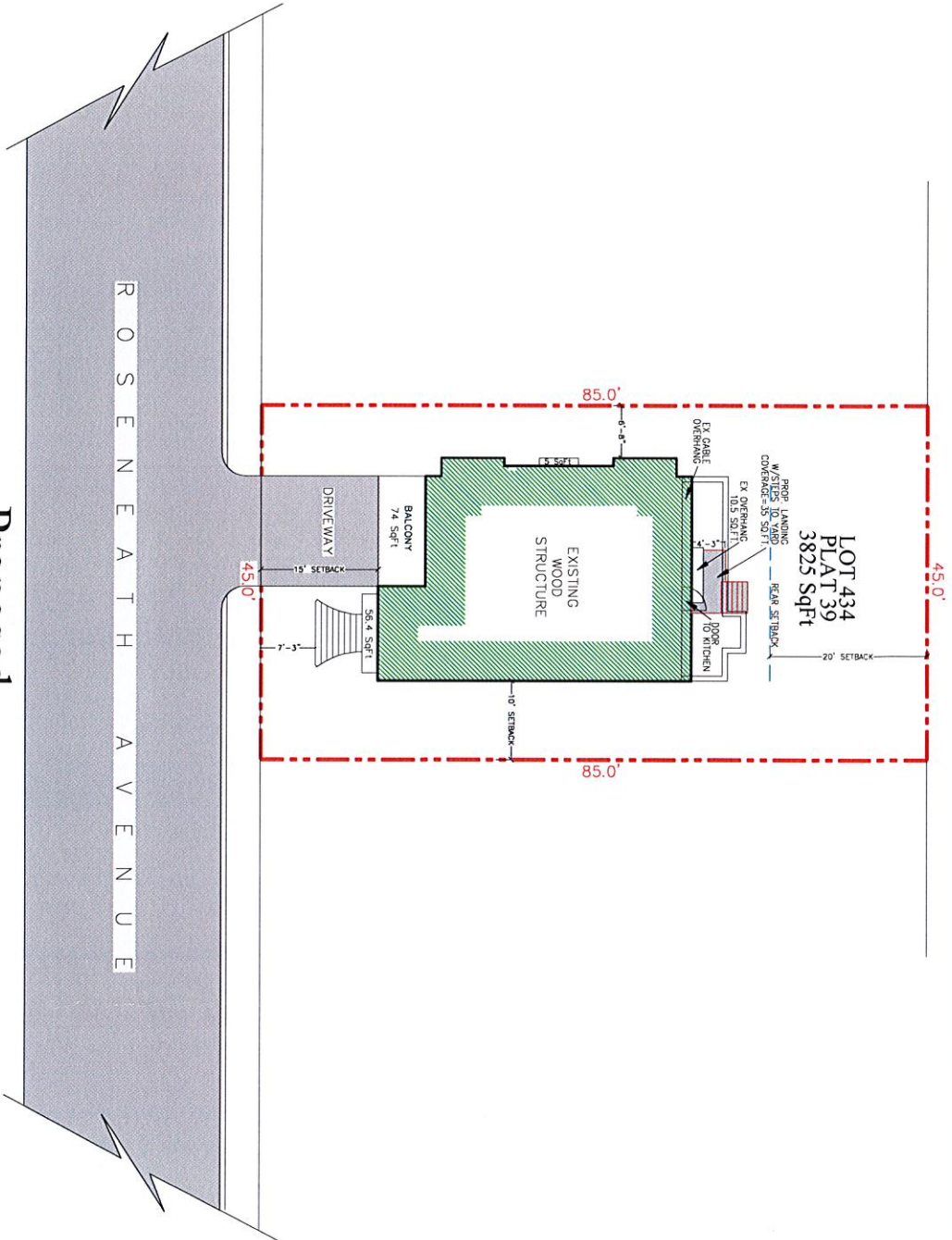
15' SETBACK

DRIVEWAY

7'-3"

45.0'





Proposed
SITE PLAN
 NO SCALE
The Cussimano / Grenier Residence
 34 Roseneath Avenue - Newport, RI

LOT COVERAGE CALCULATIONS	
LOT AREA	3,825 SqFt
EXISTING LOT COVERAGE	1,204 SqFt
PROPOSED LOT COVERAGE	1,239 SqFt
EXISTING LOT COVERAGE	31.4%
PROPOSED LOT COVERAGE	32.4%
PERMITTED LOT COVERAGE	20%

L1

01/24/2020
The Cussimano / Grenier Residence
 34 Roseneath Avenue - Newport, RI

Drawing

SITE PLAN
PROPOSED REAR LANDING AND STEPS