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DEC 6

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

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

DATE: November 22, 2021

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.: 600 Thames Street – Unit 1

Tax Assessor's Plat: 35, Lot: 269-1

**Petitioner Information**

<b>Applicants:</b>	Lawrence R. Weber Mary Gerdes	<b>Addresses:</b>	c/o J. Russell Jackson, Esq. Miller Scott Holbrook & Jackson 122 Touro Street Newport, RI 02840
<b>Owner:</b>	Same		Same
<b>Leasee:</b>	N/A		N/A

**Property Characteristics**

<b>Dimensions of Lot:</b>	<b>Frontage:</b>	33.18 ft. +/-
	<b>Depth:</b>	62.02 ft. +/-
	<b>Area:</b>	2,081 sf. +/-

<b>Zoning District in which premises is located:</b>	LB
<b>How long have you owned above premises?</b>	1 Year (10/13/2020)
<b>Are there buildings on the premises at present?</b>	Yes
<b>Total square footage of the footprint of existing buildings:</b>	1,142 sf. (55%)
<b>Total square footage of the footprint of proposed buildings:</b>	1,302 sf. (63%)
<b>Present use of premise:</b>	Residential 2-Unit Condo
<b>Proposed use of premises:</b>	Residential 2-Unit Condo



**Give extent of proposed alterations:** The Applicants propose to construct a new front porch adjacent to the first and second floors.

### **Zoning Characteristics Matrix**

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	2,081 sf.	3,000 sf.	2,081 sf.
Lot Coverage	55 %	50 %	63 %
Dwelling Units	2	2	2
Parking (# of spaces)	4	4	4
Front Setback (ft.)	2 ft. +/-	0 ft.	0 ft. +/-
Side Setbacks (ft.)	North = 3 ft. +/- South = 0 ft. +/-	0 ft.	North = 3 ft. +/- South = 0 ft. +/-
Rear Setback (ft.)	11.5 ft. +/-	5 ft.	11.5 ft. +/-
Height (ft.)	House < 45 ft.	45 ft.	House < 45 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)

Section 17.52.050 (LB Lot Coverage Requirements)

The Applicants seek permission to complete construction of a first floor front porch adjacent to the existing entry and an expanded second floor porch along the front elevation. The construction of the proposed front porch expansions had started when it was discovered that that original lot coverage calculations provided with the building permit were inaccurate. As a result, a dimensional variance for lot coverage is required.

The existing parcel is a legal non-conforming lot of record containing only 2,081 square feet of land. The purpose of this project is to upgrade the outdoor living space for the Applicants as the owners of Unit 1 in this two Unit condominium. The property is in the Limited Business Zone and is significantly substandard in size. The existing structure already exceeds lot coverage. As a result of the small lot size and existing dimensional non-conformities, any modest addition or expansion to the property will result in the need for zoning relief. There will be no setback encroachments resulting from the porch expansions. Total proposed lot coverage will increase from 55% to 63%. The resulting lot coverage is reasonable for a parcel which is so significantly smaller than required

for a conforming lot in the Limited Business Zone. No building height relief is required. The property is not in the Newport Historic District. The plan proposed by the Applicants is harmonious with the surrounding neighborhood and will not create dimensional non-conformities to such a degree that it is injurious to, or inconsistent with the area or the purpose and intent of the Limited Business Zone.

**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.*

**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 existing parcel is a legal non-conforming lot of record containing only 2,081 square feet of land. The lot is significantly substandard in size for the Limited Business Zone. The existing structure already exceeds lot coverage. Based on the size of the lot and location of existing structures, any reasonable improvements, additions or modifications will require dimensional relief. As a result of the conditions and circumstances that are peculiar to this non-conforming development, the proposed front porch expansions will increase 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 Applicants propose to continue the residential use of the property as a 2-unit condominium and are seeking relief for a dimensional variance and a special use permit for the alteration of a non-conforming development by constructing expanded front porches at the first and second floor levels. The subject property is located on the east side of lower Thames Street. The neighborhood is densely developed with a number of abutting parcels that are also substandard in size with existing

dimensional nonconformities. A number of these properties also exceed lot coverage and appear to also encroach into setbacks. The literal interpretation of the zoning code, resulting in the denial of the relief requested, would unreasonably deny these Applicants the ability to construct expanded front porches for outdoor living space. The proposed lot coverage will not be inconsistent with surrounding properties. The construction of first and second level front porches is not inconsistent with the surrounding neighborhood, the streetscape of lower Thames Street and the rights enjoyed by other property owners in this area of the Limited Business Zone.

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

The Applicants are before the Board for permission to complete construction of expanded front porches for the first and second floors. There will be a small porch extension on the first floor and on the second floor the porch will extend across the front of the structure. There is an existing small second floor porch which is above the front entry. The expanded front porches will provide outdoor living space. The second floor porch will be seven (7) feet deep and extend from the house to the front boundary, resulting in a net increase of 160 sf of new lot coverage. The porch construction is architecturally consistent with a number of properties along lower Thames Street. It will allow for additional outdoor living space and provide enhanced use and enjoyment of the property for the Applicants. Utilizing this area for a front porch is in harmony with the overall streetscape on lower Thames Street. Lot coverage increases from 55% to 63%, which is a modest increase given the substandard lot size and the permitted lot coverage of 50% in the Limited Business Zone. No setback relief is required. There will be no change in building height. The Applicants have taken great care to develop a proposed porch plan which meets their needs and is appropriate in scope, scale and size for this substandard lot. The overall proposal has been designed to meet the reasonable living needs of the Applicants with the minimal dimensional variance. The hardship is driven by the substandard lot and the fact that the existing structure already occupies 55% lot coverage. 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 for abutting property owners, will be harmonious with the neighborhood, and will be an appropriate use for this area of the Limited Business Zoning District.

## **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.

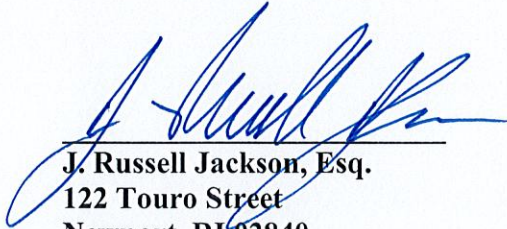
In granting a variance, the zoning board of review shall require that evidence of the following standards be entered into the record of the proceedings:

- 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 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.



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 & Owner,  
By Their Attorneys,  
Miller Scott Holbrook & Jackson

A handwritten signature in blue ink, appearing to read "J. Russell Jackson", is written over a horizontal line.

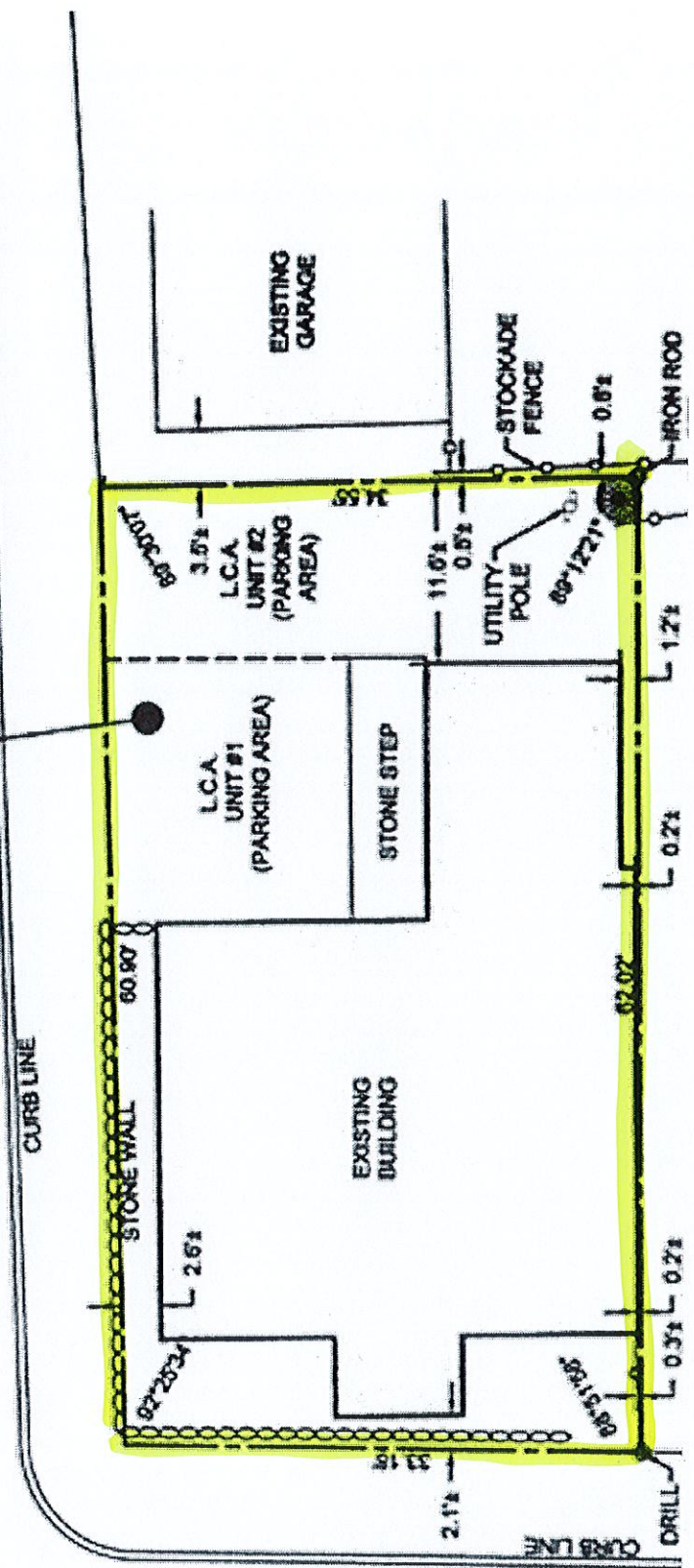
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McALLIST  
(PUBLIC-N

A.P. 35, LOT 269  
N/F ERIC BARCLAY DETOLLY  
D.B. 1093, PG. 313  
2,081± S.F.



THAMES STREET  
(PUBLIC-NO LAYOUT)

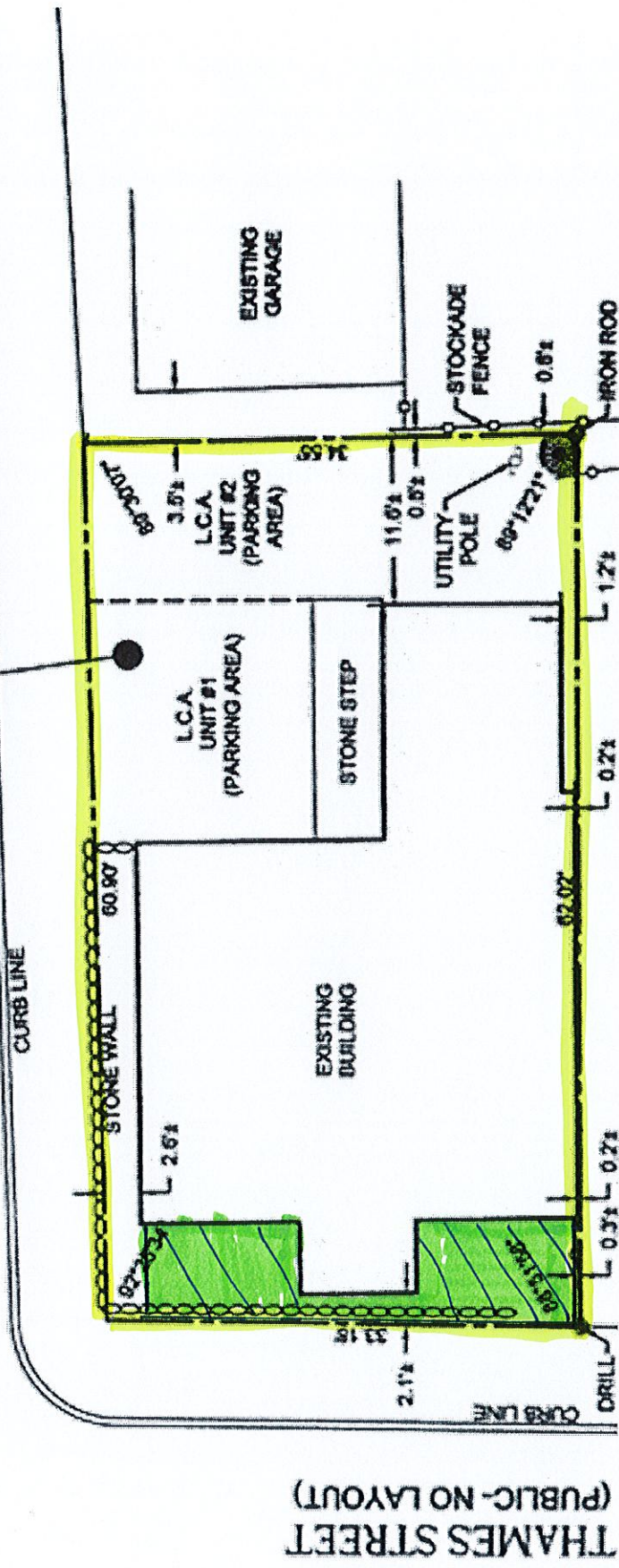
Existing Conditions





McALLIST  
(PUBLIC-N)

A.P. 35, LOT 269  
N/F ERIC BARCLAY DETOLLY  
D.B. 1890, PG. 313  
2,081± S.F.



 = Property Line

 = New Porch/Lot Coverage

PROPOSED Site Plan



FRONT ELEVATION  
2" = 10'









ONE WAY

DO NOT  
ENTER

NO  
PARKING  
HERE TO  
CORNER

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