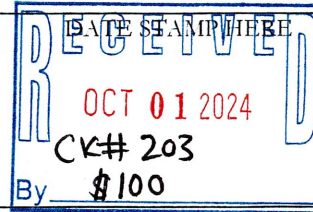




Newport Zoning Application

ZBR 2024 - NOV - 010

(This box for staff use only)



Date: 10/1/24

Board members:

The undersigned hereby petitions the Zoning Board of Review for a special use permit or 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: 11 OAKWOOD TERRACE

Tax Assessor's Plat: 26 Lot: 76 Zoning District: R-20

- Special Use Permit (Non-Conforming Alteration)
 Regulatory (Dimensional) Variance
 Special Use Permit (New Use)
 Use Variance
 Modification

Property Owner: BRETT D. DAVENPORT

Mailing Address: 11 OAKWOOD TERRACE, NEWPORT, RI 02840

Email Address: BRETT.D.DAVENPORT@GMAIL.COM

Phone Number: (401) 341-0308

How long have you been the owner of the above premise? FEBRUARY 2019

Legally Authorized Representative *if applicable: N/A

Mailing Address: _____

Email Address: _____ Phone Number: _____

Lessee: N/A

Mailing Address: _____

Email Address: _____ Phone Number: _____



Newport Zoning Application

Property Characteristics

Dimensions of lot-frontage: _____ ft. Lot Area: 15,654 sq. ft.

Are there buildings on the premises at present? YES

Total square footage of the footprint of existing buildings: 2,566 sq. ft.

Total square footage of the footprint of proposed buildings: 550 sq. ft.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft.)	15,654	20,000	NO CHANGE
Coverage Area (sq. ft)	2,566	2,858	3,116
Lot Coverage (%)	16.4	18.3	19.9
Dwelling Units	1	1	NO CHANGE
Parking (# of spaces)	2	1	NO CHANGE
Front Setback (ft.)	HOUSE: 23' ACCESSORY: N/A	HOUSE: 30' ACCESSORY: 20'	HOUSE: NO CHANGE ACCESSORY: 10'
Side Setbacks (ft.)	HOUSE: 28' ACCESSORY: 28'	HOUSE: 15' ACCESSORY: 10'	HOUSE: NO CHANGE ACCESSORY: 13'
Rear Setback (ft.)	N/A	N/A	N/A
Height (ft.)	N/A	N/A	N/A



Newport Zoning Application

All of the following information and questions must be filled in and answered completely.

Present use of Premise: SINGLE-FAMILY RESIDENCE

Proposed use of Premise: SINGLE-FAMILY RESIDENCE WITH IN-GROUND POOL

Summary of Proposed Alterations

PLEASE SEE ATTACHED.



Newport Zoning Application

Applicant Statement

How does your application meet the required standards for variance(s) or special use permit(s)?
(See page 6 for most common applicable standards)

PLEASE SEE ATTACHED.



Newport Zoning Application

Upon submittal of this application, please make sure you have also reviewed our Zoning Application Submittal Requirements packet, and included with your application, a copy of the Submittal Checklist which can also be found here: [Zoning Application Submittal Requirements](#). If an application is missing any submittal requirements and/or necessary application information, your application may be regarded incomplete. Incomplete applications will not be publicly advertised or appear on an agenda until the project is deemed complete.

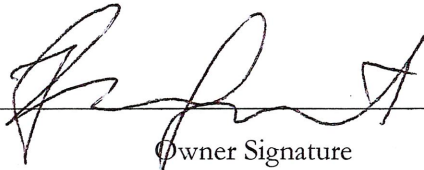
By signing below, I hereby attest that the information provided is accurate and truthful. I also attest that I have read through this application thoroughly and understand what is required to submit a completed application.



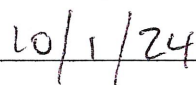
Applicant Signature



Date



Owner Signature



Date



Newport Zoning Application

Applicable Standards for Approval of Variances and Special Use Permits for alterations to non-conforming developments

A. Variances – Newport Municipal Code Chapter 17.108

17.108.020.C.1. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in GLRI §45-34-30(a)(16).

17.108.020.C.2. That the hardship is not the result of any prior action of the applicant

17.108.020.C.3. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.

The zoning board of review, shall, in addition to the above standards, require that evidence is entered into the record of the proceedings showing that:

- a. In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of neighboring lands or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and
- b. In granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. 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. The zoning board of review, or planning board where unified development review is enabled shall have the power to grant dimensional variances where the use is permitted by a special use permit.

B. Special Use Permit – Newport Municipal Code Chapter 17.109

For applicable Standards for Special Use Permit Categories 1-5, please see Newport Municipal Code Chapter 17.109.020 A-E

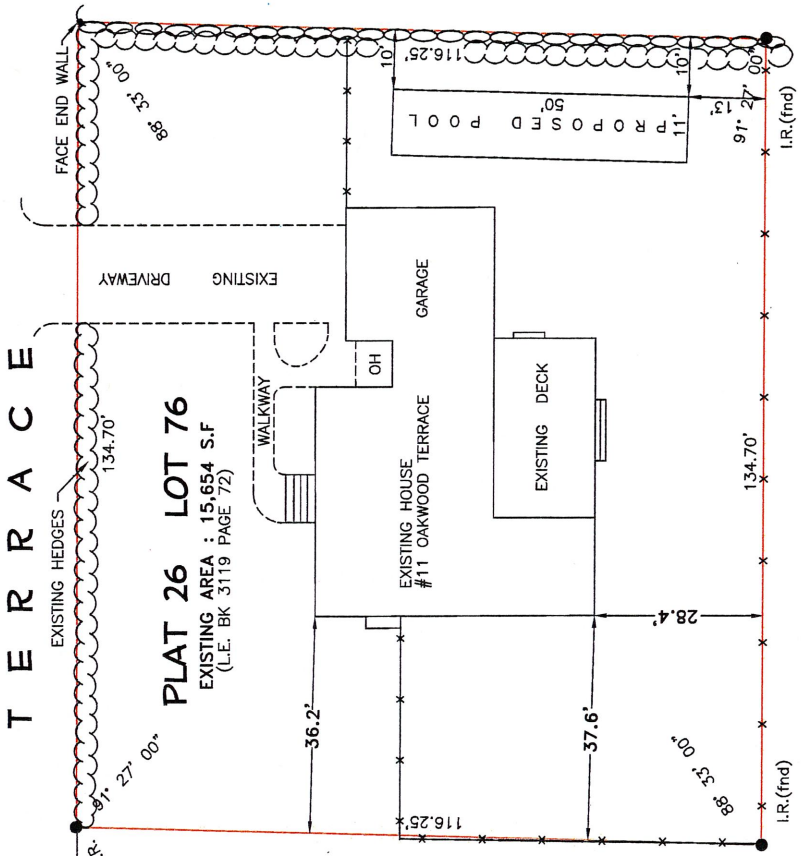
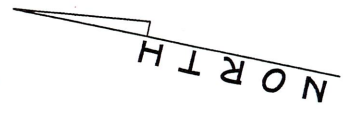
Category 6

A structure or land which is nonconforming by dimension, but the use of which is a use permitted by right in the district in which the land or structure is located, shall only be altered, changed, enlarged or subject to addition or intensification with respect to its nonconforming element(s) by obtaining a special use permit from the zoning board of review. Special use permits for alterations, changes, enlargements, or subject to addition or intensification with respect to its nonconforming element(s) must comply with the following:

1. The alteration, change, enlargement, addition or intensification will not increase the dimensional nonconformity, or a variance shall be obtained from the zoning board of review, subject to the affirmative determination of the standards for variances under 17.108.020.C.
2. Will not alter the character of the surrounding area within 200' of the property lines.
3. No net increase in stormwater runoff from the site.
4. All proposed lighting is Dark-Sky compliant.

OAKWOOD TERRACE RHOODE ISLAND AVE

- LEGEND**
- G.B. GRANITE BOUND
 - I.R. IRON ROD
 - x--x FENCE
 - D.H. DRILL HOLE
 - E.O.P. EDGE OF PAVEMENT
 - STONE WALL



PLAT 26 LOT 76
 EXISTING AREA : 15,654 S.F.
 (L.E. BK 3119 PAGE 72)

ZONING

R-20 ZONE MIN. LOT AREA : 20,000 S.F.
 MIN. LOT WIDTH : 100'
 BUILDING SETBACKS
 FRONT : 30'
 REAR : 20'
 SIDE : 15'
 MAX. BUILDING COVERAGE : 15%

NOTES

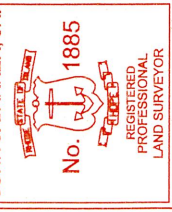
1. DIMENSIONS TO THE HOUSE TO THE P/L ARE TO THE SHINGLE CORNER OR THE WOODEN CORNER BOARDS.
2. THE LAND SHOWN HEREON IS SUBJECT TO ANY EASEMENTS, R.O.W RESTRICTIONS OR OTHER LIMITATIONS WHICH MAY BE REVEALED BY A FULL EXAM OF TITLE.
3. ZONING SETBACKS AND ZONE ARE TO BE VERIFIED BY THE ZONING OFFICER OR THE BUILDING INSPECTOR PRIOR TO ANY DESIGN WORK OR CONSTRUCTION.

PLAT REFERENCE

BEING LOT 5 ON PLAN ENTITLED " LAND TO BE CONVEYED ROBERT T. NELSON NEWPORT R.I. DEC. 22 1961" RECORDED PLAT FILE 9-4-24 BY: HAROLD E. STUJOHN PLS.

CERTIFICATION

THIS SURVEY HAS BEEN CONDUCTED AND THE PLAN HAS BEEN PREPARED PURSUANT TO 435-RIGR-00-1.9 OF THE RULES AND REGULATIONS ADOPTED BY THE RHODE ISLAND STATE BOARD OF REGISTRATION FOR PROFESSIONAL LAND SURVEYORS ON NOVEMBER 25, 2015 AS FOLLOWS:
 TYPE OF BOUNDARY SURVEY: MEASUREMENT SPECIFICATION
 LIMITED CONTENT BOUNDARY SURVEY CLASS 1 STANDARD
 OTHER TYPE OF SURVEY: III
 DATA ACCUMULATION SURVEY
 THE PURPOSE FOR THE CONDUCT OF THE SURVEY AND FOR THE PREPARATION OF THE PLAN IS AS FOLLOWS: TO SHOW THE EXISTING CONDITIONS OF THE PROPERTY FOR A PROPOSED POOL AND ITS LOCATION.



SITE PLAN FOR BRETT DAVENPORT

PLAT 26 LOT 76 11 OAKWOOD TERRACE NEWPORT R.I.

JOHN J. BARKER, JR PLS #1885 C.O.A # LS-A302 REVISION: ADDED PROPOSED POOL 9/25/2024 JJB SCALE 1"=20' DATE : 9/18/2024 DWN BY: JJB DWG NO. 240902-547

Summary of Proposed Alterations

Applicant is proposing the addition of a 50' x 11' (550 sqft) in-ground lap pool constructed of gunite. Applicant's plot is on a corner lot. The pool will be installed in the fully-fenced backyard of the property. The pool depth will range from 3'6" in the shallow end to 6' in the deep end, and there will be no diving board or hot tub. Bluestone coping will be installed around the pool at grade level, and techo-bloc pavers will be added at grade level around the coping. The applicant also plans to install a new safety fence, of approximately 3' - 4' in height, from the corner of the garage to the back fence in order to limit access to the pool via the backyard and the house.

Applicant Statement

This application meets the standards for a variance of lot coverage because the applicable lot size is non-conforming for R-20 zoning requirements and an in-ground pool is a common accessory unit in the neighborhood. Four out of five of the adjacent lots already have an in-ground pool of similar gunite construction, as evidenced from the aerial photograph (see [Appendix 1](#)). R-20 has a minimum lot size of 20,000 sqft, and this property has an existing lot size of 15,654 sqft. For a standard R-20 lot, the permissible lot coverage is 3,000 sqft, and the proposed lot coverage with the in-ground lap pool is 3,156 sqft.

This application meets the standards for a variance of the front-yard setback requirement from 20' to 10' because the property is on a corner lot and accordingly suffers from hardship with two front yard setback requirements. It is important to note that this hardship is particularly acute for the applicable property because:

- The entire length of the property line along Rhode Island Avenue is already physically and visually separated by an approximately 10'-tall privacy hedge (privet), an approximately 4'-tall stone wall, and an approximately 6'-tall chain-link fence. There are no access points from Rhode Island Avenue to the property. There are no sidewalks along this stretch of Rhode Island Avenue. See [Appendix 2](#) for the view of the property from Rhode Island Avenue.
- The entire backyard is already fully fenced, including an approximately 6.5' tall wooden fence that separates the front yard from the back yard. See [Appendix 3](#) for a photograph of the property and wooden fence, taken from Oakwood Avenue.
- An in-ground lap pool is a quiet feature that is common to the neighborhood and enables the applicant to enjoy the use of the property with minimal disturbance to neighbors or the neighborhood. See [Appendix 1](#) for an aerial image showing four immediate neighbors with similar, in-ground swimming pools.

The proposed siting of the in-ground swimming pool is the most suitable location on the property, and the location helps ensure the safety of applicant's guests and pets, as well as neighbors' use and enjoyment of their respective properties. See [Appendix 5](#) for the proposed siting from the vantage point of inside the backyard. Applicant considered other locations, and discussed these locations with several pool installation companies, and they agreed that the following were reasons not to construct the pool anywhere else:

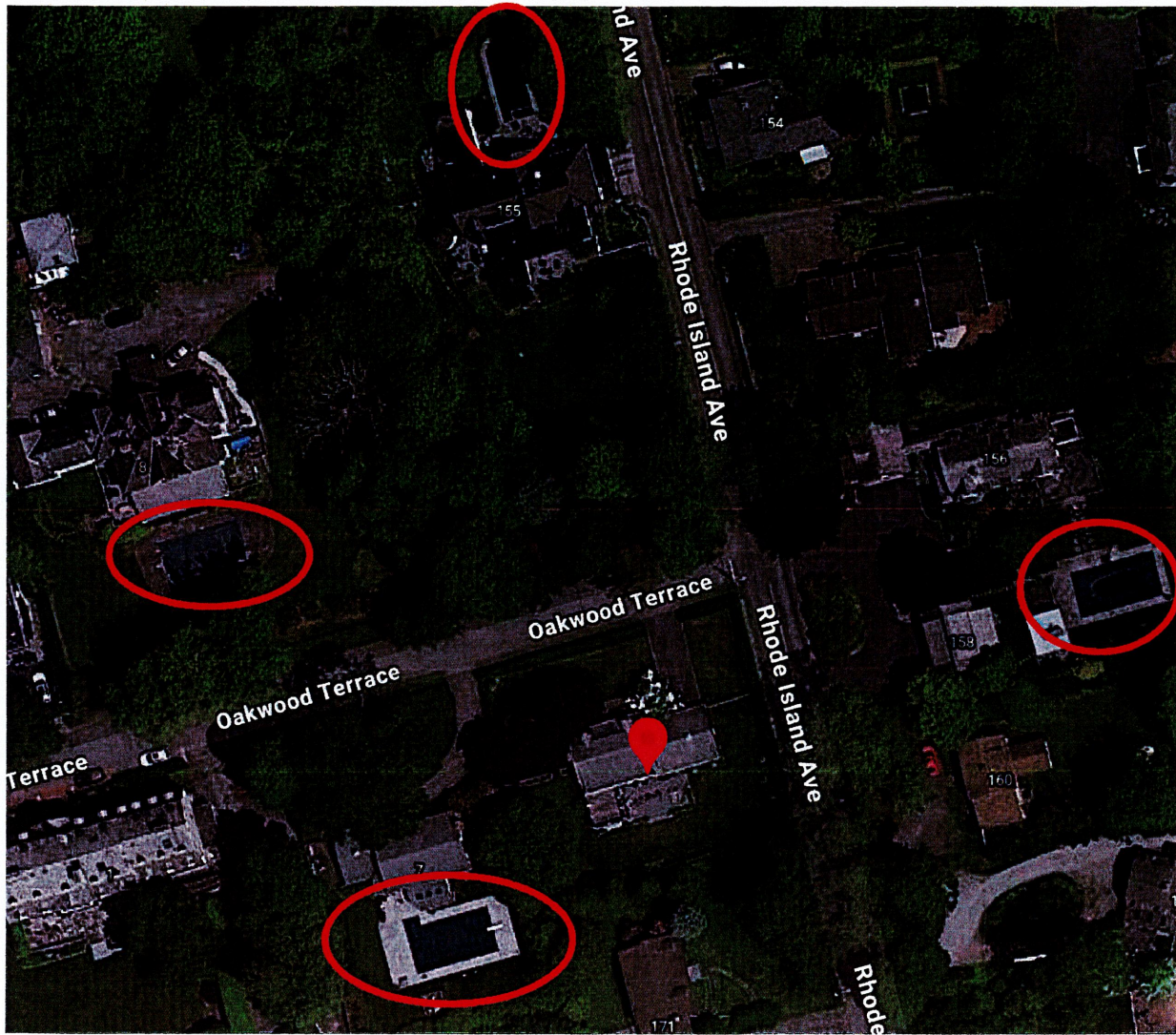
- *Parallel to Rear Property Line:*
 - The primary reasons not to construct the pool parallel to the rear property line are that it would (a) divide the backyard in half, given the limited space between the rear property line and the house, and (b) be impracticable to construct a safety fence to prevent children, guests, or applicant's pet dogs from falling into the pool and risking drowning. This siting would require three new lengths of security fence and would effectively divide the rear property in half. This would severely

inhibit applicant's use of the backyard, including the area used by the applicant's pet dogs.

- If the pool was constructed parallel to the rear property line, the rear neighbor would have 50' of pool frontage instead of only 11' at the end of the pool, and the pool would need to be built closer to the rear property line because of the limited space between to the back deck/house. Applicant proposes that the in-ground pool be sited 13' from the rear property line to avoid disrupting the closest neighbor, even though only 10' is required for accessory structures.
- As evidenced from Appendix 4, there are mature arborvitaes that obstruct the view of the applicant's backyard from the rear property line.
- *Parallel to Opposite-Side Property Line:*
 - The primary reasons not to construct the pool in the opposite side-yard are that (a) the area lies under a fully mature maple tree, which has an expansive canopy of foliage that provides full shade for this section of the property, and (b) this location affords minimal visibility from the back deck, which heightens the risk of drowning by applicant's pet dogs, children, or guests. This section of the property has nearly no sunlight, and the tree is too historic and beautiful to consider removal. The tree's extensive underground root system would make pool construction impracticable. See Appendix 1 for an aerial photo of the mature maple tree.

Appendix #1

Aerial photograph showing in-ground pools at four neighbors' properties



Appendix #2

Photograph showing the front of of the house and the existing wooden fence that separates the front-yard from the backyard



Appendix #3

Photograph showing the privacy and lack of access from Rhode Island Avenue to the property



Appendix #4

Photograph showing the privacy from the rear property line



Appendix #5

Photograph showing the proposed siting in applicant's backyard

