

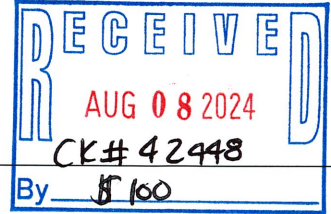


# Newport Zoning Application

ZBR 2024 - Sept - 065

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Date: August 8, 2024

### 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: 15 Keeher Avenue

Tax Assessor's Plat: 11 Lot: 441 Zoning District: R-10A

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

Property Owner: Barbara Pedro, Trustee

Mailing Address: 15 Keeher Avenue, Newport, RI 02840

Email Address: jrjackson@millerscott.com

Phone Number: 401-847-7500

How long have you been the owner of the above premise? 23 Years

Legally Authorized Representative \*if applicable: J. Russell Jackson, Esq.

Mailing Address: 122 Touro Street, Newport RI 02840

Email Address: jrjackson@millerscott.com Phone Number: 401-847-7500

Lessee: N/A

Mailing Address: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_



# Newport Zoning Application

## Property Characteristics

Dimensions of lot-frontage: 50 ft. Lot Area: 5,000 sq. ft.

Are there buildings on the premises at present? Yes

Total square footage of the footprint of existing buildings: 1,280 sq. ft.

Total square footage of the footprint of proposed buildings: 1,280 sq. ft.

## Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft.)	5,000	10,000	5,000
Coverage Area (sq. ft)	1,280	1,500	1,280
Lot Coverage (%)	26	30	26
Dwelling Units	2	2	2
Parking (# of spaces)	4	4	4
Front Setback (ft.)	0'	7.5'	0'
Side Setbacks (ft.)	N=5'+/-, S=5'+/-	5'	N=5'+/-, S=5'+/-
Rear Setback (ft.)	35' +/-	10'	35'+/-
Height (ft.)	25' +/-	30'	25' +/-



# Newport Zoning Application

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

Present use of Premise: Two Family Residential

Proposed use of Premise: Two Family Residential

## Summary of Proposed Alterations

The Applicant seeks relief under the following provisions of the Zoning Code:

Section 17.109 (Special Use Permits)

There are no alterations proposed as part of this Application.

The Applicant was before the Board in 2022 and secured approval for a Special Use Permit to continue to operate a dog daycare and boarding service as a home occupation at the subject property located at 15 Keeher Avenue. The property is a two family unit. The Applicant resides in the first floor unit as her primary residence, which includes the basement. The home occupation/dog daycare takes place in the Applicant's dwelling unit.

The Applicant has operated the dog daycare and boarding services at her property without incident or violation of City Ordinance since the Zoning Board approved the Special Use Permit in 2022.

Zoning Approval of the Special Use Permit contained a two year sunset provision. The Applicant is before the Board requesting that the existing Special Use Permit now be renewed on a permanent basis for as long as she remains the owner of the property.

A copy of the recorded Zoning Decision is attached hereto.





# 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)*

The Applicant was before the Board in 2022 and secured approval for a Special Use Permit to allow the continued operation of a dog daycare and boarding service at her primary residence as a home occupation.

The dog daycare and boarding service has been in operation at the property since Zoning Board approval in 2022 without incident or violations of City Ordinance.

Zoning Approval of the Special Use Permit contained a two year sunset provision. The Applicant is before the Board requesting that the existing Special Use Permit now be renewed on a permanent basis for as long as she is the owner of the property.

A copy of the recorded Zoning Decision is attached hereto.





# 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

August 8, 2024  
\_\_\_\_\_

Date

  
\_\_\_\_\_  
Owner Signature

Attorney for Applicant/Owner  
\_\_\_\_\_

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.





# Newport Zoning Application Submittal Requirements

ZBR 2024 - Sept - 005

DATE STAMP HERE



- Special Use Permit (new)                       Variance
- Special Use Permit (modification)                       Modification

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## SUBMITTAL REQUIREMENTS CHECKLIST

Applications that are missing materials in this checklist will not be accepted for review.

### Section 1 – Application Forms – Page 3 of the Guide Required for All Projects

- A.  Completed Zoning Project Application Packet comprised of the following individual sections:
  1.  Zoning Project Application Form
  2.  Completed copy of this Zoning Application Submittal Requirements Checklist (Page 2)
- B.  Request to Waive any Submittal Requirements (*if applicable*)
- C.  Application Fee (Please Refer to Current Fee Schedule)

### Section 2 – Plan Package – Pages 4-7 of the Guide Required for All Development Projects (Involving New Structures, Additions, Exterior Alterations, etc.) Individual requirements of the Plan Package (listed below) may differ depending on the project

- A.  Class I Site Survey
- B.  Proposed Site Plan
- C.  Lot Coverage Diagram
- D.  Floor Plans
- E.  Stormwater Management Plan
- F.  Landscape Plan
- G.  Building Elevations
- H.  Change of Use

### Section 3 – Supporting Documents, Studies, Graphics, and Depictions – Page 8 of the Guide May be required for certain Development Projects

- A.  Site Photographs
- B.  Photo Simulations
- C.  Structural Evaluation
- D.  Parking Survey
- E.  Traffic Impact Analysis



STATE OF RHODE ISLAND  
NEWPORT, S.C.

ZONING BOARD OF REVIEW  
CITY OF NEWPORT

IN RE: PETITION OF RUSSELL & BRENDA PEDRO, applicants and owners; for a special use permit for permission to offer occasional dog daycare and boarding as a home occupation use applying to the property located at 15 Keeher Ave., TAP 11, Lot 441, (R-10A Zone).

### **ZONING DECISION**

This matter came to be heard at a meeting of the City of Newport Zoning Board of Review ("Board") on May 23, 2022, on the Petition of Russell & Brenda Pedro, for a Special Use Permit. J. Russell Jackson, Esq., was present and represented the Applicants. There were no objectors present during the hearing. There were letters of objection and letters of support from various abutters in the file.

Pursuant to the Petition, the Applicants were before the Board for relief under Section 17.108.020 (Special Use Permits), seeking permission to continue occasional dog daycare and boarding at their residence as a home occupation.

Attorney Jackson provided an overview of the Petition. He indicated that the Pedros have owned the property at 15 Keeher Avenue for the last 20 years and since 2014 they have provided occasional dog daycare and boarding services as a home occupation. He stated that they have always been mindful to comply with applicable Rhode Island General Laws relating to the number of animals cared for in a residential setting, however they were unaware that a Special Use Permit was necessary for this particular type of home occupation.

The Applicants Russel Pedro and Brenda Pedro testified together. They described their overall operations and the intermittent nature of their daycare and boarding services. They described their property and confirmed that the back yard is fully fenced with mature vegetative screening across the back property line. They stated that in all the years of handling dogs, they were not aware of any complaints from neighbors until an isolated barking incident in August of 2021. At that point they were informed by the city that a Special Use Permit was required. They immediately filed a Zoning Application. The Applicants testified that Russell Pedro is a trained dog behaviorist and that they screen dogs carefully. They stated that they do not tolerate aggressive animals or

constant barking. They stated that one of them is always home when they are providing daycare or boarding services and that the dogs are not left unattended in the back yard for extended periods of time. There are no outdoor kennels and the dogs are cared for primarily inside the residence. They walk the dogs at different intervals during the day and are very mindful about making sure their home occupation does not impact their neighbors. Board members had various questions which the Pedros answered to their satisfaction.

Mr. Paige Bronk was present and testified as the Applicants' Planning and Zoning Expert. Mr. Bronk confirmed that he had been recently engaged by the Applicants to do an analysis of the proposed ongoing dog daycare and boarding use at the property and he described the steps he undertook. The witness visited and inspected the site and the neighborhood, met with the Applicants, reviewed the Application, the Newport Zoning Code and the Comprehensive Plan. Mr. Bronk described the locus in detail and the existing conditions on site, including the appropriateness of the fenced in back yard. The witness cited provisions of the Newport Ordinance relating to animal noise disturbances and reminded the Board of the nature and duration of noise required to violate the ordinance. He testified that the Applicants took various steps to handle the dogs responsibly and avoid any prolonged barking which would violate the ordinance and disturb neighbors. Mr. Bronk stated that occasional dog daycare and boarding as a home occupation at 15 Keeher Avenue was in harmony with the surrounding area and would not be injurious to the neighborhood. He stated that in his expert opinion, the Petition was consistent with various provisions of the Comprehensive Land Use Plan and met all the elements and requirements for the granting of a Special Use Permit.

At the conclusion of testimony and the presentation of evidence, a Motion was made and duly seconded to Approve the Petition with certain conditions. The Board members then commenced with deliberations and discussion.

Mr. Rudd stated that the Applicants appeared to be responsible and experienced in how they operate the dog daycare and boarding. He appreciated that Mr. Pedro was a dog behaviorist. For those reasons, Mr. Rudd indicated he would be voting in favor of the Petition.

Mr. Grimes stated that he felt the Applicants operated the dog daycare and boarding with enough controls such that it would not be injurious to the neighborhood. From his perspective, the Applicants were responsible and appeared to “do it right,” in terms of their operations. He liked that this was not a full time use and that the services were occasional and intermittent. He also appreciated that the Applicants were selective with the dogs they cared for at the residence. For those reasons, Mr. Grimes indicated that he would be voting in favor of the Petition.

Mr. Riley stated that the Applicants and Mr. Bronk were credible witnesses. He appreciated that the Applicants took this work seriously and that they had established routines and accommodations which were appropriate. He believed they were operating in accord with the neighborhood. For those reasons, Mr. Riley indicated that he would be voting in favor of the Petition.

Mr. Johnson stated that he was a little concerned with a recent new complaint from a neighbor, however he acknowledged that this was not a start-up business and that the Applicants had been doing this as a home occupation since 2014. He indicated that he was comfortable with the proposed conditions, including the two year sunset provision on the Special Use Permit. For those reasons, Mr. Johnson indicated that he would be voting in favor of the Petition.

Mr. Goldblatt adopted the comments of his fellow Board members. He indicated that the Applicants were credible witnesses and serious dog professionals. Based on the requirements of the ordinance referenced by Mr. Bronk in his testimony, there appeared to be no history of any credible complaints regarding barking specifically attributed to the Applicants property or their operations. He stated that the Applicants had met their burden of proof to satisfy the necessary elements for the granting of a Special Use Permit. For those reasons, Mr. Goldblatt indicated that he would be voting in favor of the Petition.

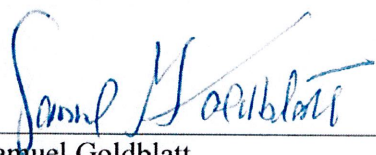


THEREFORE, UPON MOTION duly made and seconded to approve the Petition with the conditions set forth in the Motion; and after the discussion and findings of fact of the Board Members; the Motion to approve the Special Use Permit was unanimously GRANTED, by a vote of Five (5) to Zero (0), with Board Members Wick Rudd, Bart Grimes, Russell Johnson, David Riley and Samuel Goldblatt voting to approve, with the following conditions:

- a) That the project be started and substantially completed within twelve months of the recorded Decision.
- b) That all invoices for abutter notice be paid to the city prior to the recording of the Decision.
- c) That there will be no unattended dogs in the back yard after sunset.
- d) That the Special Use Permit allowing for dog daycare and boarding as a home occupation at 15 Keeher Avenue shall terminate in the event the Applicants no longer own the property.
- e) That the Special Use Permit allowing for dog daycare and boarding as a home occupation at 15 Keeher Avenue shall expire two years from the date of the recorded Decision, unless an Application is filed to renew and extend the Special Use Permit.

The Petition, having received the concurring affirmative votes of at least four members of the Board, as required under Rhode Island General Laws and the Zoning Ordinance of the City of Newport, is therefore GRANTED.

Approved:  
Zoning Board of Review

By:   
\_\_\_\_\_  
Samuel Goldblatt  
Chairperson

Decision Prepared By:  
/s/ J. Russell Jackson  
J. Russell Jackson, Esq. #5901  
Miller Scott Holbrook & Jackson  
122 Touro Street  
Newport, RI 02840  
Tel: 401-847-7500  
[jrjackson@millerscott.com](mailto:jrjackson@millerscott.com)

LAURA C SWISTAK  
CITY OF NEWPORT  
CITY CLERK  
Nov 08, 2022 08:39A  
BOOK: 3117 PAGE: 208

# Newport

(Summary Data - may not be Complete Representation of Property)

Parcel: 11-441                      Location: 15 KEEHER AVE                      Owner: PEDRO FAMILY LIVING TRUST  
 Account: 2034                      User Acct: R02153                      LUC: 36 - Resident 2-3 Family                      Zoning: R10A

**Parcel Values**  
 Total: \$689,700                      Land: \$390,300                      Land Area: 5,000 SF                      Building: \$299,400                      Assessed: \$689,700

**Sales Information**

Book and Page	Instrument Type	Date	Price	Grantor
2863-305	Quit Claim	01/23/2020	\$0	PEDRO RUSSELL NORMAN
987-111		01/16/2001	\$170,000	PEDRO NORMAN G

**Building Type:** Two Family    **Year Built:** 1935    **Grade:** C    **Condition:** AV  
**Heat Fuel:** Oil    **Heat Type:** Forced Air-D    **% Air Conditioned:** 0.00    **Fireplaces:** 1  
**Exterior Wall:** Wood Shingle    **Bsmnt Garage:** 0    **Roof Cover:** Asph/F Gls/C    **# of Units:** 2  
**# of Rooms:** 8    **# of Bedrooms:** 2    **Full Bath:** 2    **1/2 Baths:** 0

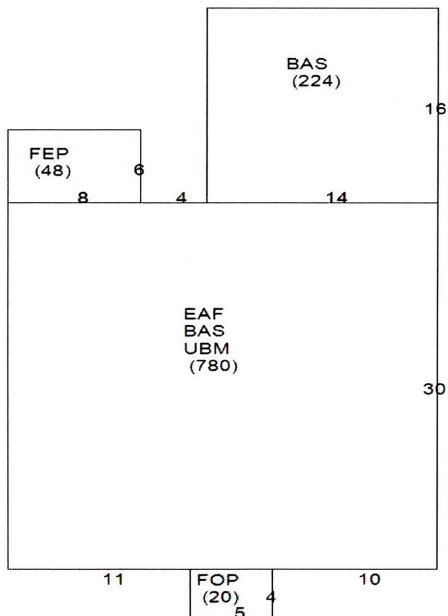
**Yard Item(s)**

Description	Quantity	Size	Year	Condition	Quality	Value
GARAGE-GOOD	1	208	2001	AV	Average	\$7,000.00

**Building Areas**

Area	Net Area	Finished Area
Attic, Expansion, Finishe	234 SF	234 SF
Basement, Unfinished	780 SF	0 SF
First Floor	1,004 SF	1,004 SF
Porch, Enclosed, Finished	48 SF	0 SF
Porch, Open, Finished	20 SF	0 SF


Disclaimer: This information is for tax assessing purposes and is not warranted







Property Information	
ID	11-441
Location	15 KEEHER AVE
Owner	



**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

City of Newport, RI makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.