



# Town of South Kingstown, Rhode Island

## BUILDING AND ZONING DEPARTMENT

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A meeting of the Zoning Board of Review of the Town of South Kingstown, County of Washington, in the State of Rhode Island was held virtually VIA Zoom at 7:00 pm on Wednesday July 22, 2020.

### Members Present:

- Robert Cagnetta, Chair
- Thomas Daniels, Vice-Chair
- John Bernardo, Member
- Richard Jurczak, Member
- William Mark, Member
- William Rosen, Alt. #1

Also present were, Amy Goins, Special Legal Counsel, Wayne Pimental, Building Official and Clerk and Jessica Spence, Administrative Support Associate.

Mr. Cagnetta opened the meeting at 7:01 pm

The standards of relief were explained as well as some technological aspects of Zoom.

Members voting tonight will be Mr. Cagnetta, Mr. Daniels, Mr. Bernardo, Mr. Jurczak, and Mr. Mark

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Mr. Cagnetta read the first petition.

- **Continuation of the Petition of Daniel J. Cunningham**, 3986B Tower Hill Road, South Kingstown, RI for a for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to demolish the existing single family dwelling and construct a new 1,600 square foot dwelling with a detached 24' x 24' garage. This property is located within the Jerry Brown Farm Association property. The parcel of land that this property is located on is non-conforming due to the number of residential structures on the same parcel. A Special Use Permit is required for any addition, enlargement, expansion or intensification of non-conforming land. Lot size is 70 Acres. Although there are no property lines between dwellings, the distance from the proposed dwelling to the closest adjacent dwelling is 83'. **A Special use permit is required per Zoning Ordinance Section 203 (Special Use Permit for addition, enlargement, expansion or intensification) and 907 (Standards of Relief)**. Owner of land is Jerry Brown Farm Association, Inc., and the owner of the dwelling is Daniel J. Cunningham for premises located at 35 Fire Lane Two, South Kingstown, RI, Assessor's Map 82-1, Lot 1-1 and is zoned R-80.

Attorney John Kenyon was present for the applicant. Mr. Kenyon explained where the previous Zoning Board meeting left off. His client, Daniel Cunningham met with his architect after the last Zoning Board meeting and was able to scale back the design so that it could meet the fifty percent rule. However, to scale back any further would ultimately limit the applicant's optimal use of the property. He explained that there has been some discussion with the Building Official, Wayne Pimental and the Special Legal Counsel, Amy Goins in regards to the interpretation of Section 203 of the Zoning Ordinance. At this point his client will be requesting an official interpretation regarding the intent of the Ordinance, specifically Section 203 from the Building Official. Once the official interpretation has been reviewed, his client could then appeal the interpretation to the Zoning Board and based on that ruling his client would either need to withdraw the application or proceed with the application.

Discussion ensued.

Ms. Goins explained the difference between Section 203 and Section 204 of the Zoning Ordinance and that she believes Section 204 is not relevant to this application.

Ms. Goins asked Mr. Kenyon if they have considered asking for an amendment to the Zoning Ordinance that would more clearly state the rules and intent of the Ordinance.

Mr. Kenyon stated that at this time he has not reviewed this option with his client due to the lengthy time frame involved in this process. However, if they receive a negative ruling on the determination that is an avenue that can be pursued.

Discussion ensued regarding the non-conformance and use of the lot.

More discussion ensued in regards to date of continuation.

**The motion is as follows:**

Mr. Daniels made the motion to continue the above petition to the August 19, 2020 meeting.

Mr. Mark seconded the motion.

Whereas a roll call vote was taken: Daniels-Aye, Rosen-Aye, Jurczak-Aye, Mark-Aye, Cagnetta-Aye

Motion passed 5-0, petition continued till August 19, 2020.

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Mr. Cagnetta read the second petition.

- **Petition of Kevin and Kathleen Moore, 112 Homeward Lane, North Attleboro, MA, 02760** for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct an addition on the left side of the second floor and extend the second floor deck on the left side. This parcel is non-conforming by dimension, so reduced setbacks are allowed. The deck extension on the left side will be located 4.1' from the left side property line. The side yard setback requirement is 10'. Relief of 5.9' is requested. The second floor addition on the left side will be located 7.6' from the left side property line. The side yard setback is 10'. Relief of 2.4' is requested. Lot size is .19 Acres. **A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record-Building Setback Requirements) and Section 907 (Standards of Relief).** Owner of the property is Kevin & Kathleen Moore for premises located at 30 Ocean Avenue, Assessor's Map 93-1, Lot 68 and is zoned R 20.

Laura Krekorian, project architect and Kathleen Moore, applicant were both present and sworn in.

Ms. Krekorian explained why they are before the Board tonight. It is a very narrow lot with a 10' right of way on the left hand side of the property. Ms. Krekorian then explained the unique designs characteristics of the existing house which was built in 1953. She stated her clients did not want to knock down the structure; they wanted to work within the perimeters of the existing structure and just optimize the use, especially in rear the rear of the house where there are water infiltration issues due to the current design. She stated that they also needed to address the exterior stair issues, the two existing exterior staircases would be removed and replaced with one new exterior stair allowing better, safer access and use. The proposed renovations are not any closer than the existing house to the property lines. Ms. Krekorian believes that the proposed work will be in keeping within the particular style and scale of the neighborhood.

Discussion ensued.

Ms. Moore stated that the stairs coming up the south side with the hatch are very unsafe and cannot be used safely.

There was no one in attendance who wished to speak.

There was no more discussion.

**The motion is as follows:**

**The following motion, made by Mr. Bernardo and duly seconded by Mr. Mark**

**Motion passed unanimously: Vote 5-0**

**(J. Bernardo-Aye, W. Mark – Aye, T. Daniels – Aye, R. Jurczak-Aye, R. Cagnetta - Aye)**

At a meeting held on July 22, 2020 regarding the petition of Kevin and Kathleen Moore, 112 Homeward Lane, North Attleboro, MA, 02760 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct an addition on the left side of the second floor and extend the second floor deck on the left side. This parcel is non-conforming by dimension, so reduced setbacks are allowed. The deck extension on the left side will be located 4.1' from the left side property line. The side yard setback requirement is 10'. Relief of 5.9' is requested. The second floor addition on the left side will be located 7.6' from the left side property line. The side yard setback is 10'. Relief of 2.4' is requested. Lot size is .19 Acres. A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record-Building Setback Requirements) and Section 907 (Standards of Relief). Owner of the property is Kevin & Kathleen Moore for premises located at 30 Ocean Avenue, Assessor's Map 93-1, Lot 68 and is zoned R 20.

**The following individuals spoke as representatives of the applicant:**

- Laura Krekorian, A.I.A.,
- Kathleen Moore, Applicant

**The following materials were entered into the record:**

- Application with narrative dated May 28, 2020; 200' Radius Map and Abutter's list; Owner authorization form signed, notarized and dated May 28, 2020; DEM OWTS Permit Search; Site Plan dated May 28, 2020 prepared by Richard Couchon, P.L.S.; Plan set: Existing first & second floor plans and outline specification (A1), Proposed first & second floor plans and window schedule (A2) and Elevations and Sections (A3 & A4) dated May 29, 2020 prepared by Laura Krekorian, A.I.A.; photograph of existing rear deck and porch.
- Legal Notice, Certified Mail Receipts and Notarized Affidavit of Mailing

**No one present spoke in support of or opposition to the petition**

**Findings of Fact:**

1. The Board finds 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 § 45-24-30(16), because the applicant did not build the original house which was built in 1953 on a substandard lot of record and the applicant is going to make the home safer and more practical as well as more consistent with other neighborhood homes.
2. The Board finds that 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, because the applicant did not build this property and they are going make the structure safer and more functional and the proposed renovations will be in character with the surrounding area.
3. The Board finds 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, because the testimony of the Architect, Laura Krekorian was that the proposed renovated structure will fit in with the homes in the surrounding area.
4. The Board finds that the relief to be granted is the least relief necessary, because the requested relief is modest in design.
5. The Board finds that 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, as tied in with the above-mentioned findings, and the submitted plans and drawings.

**Approval is subject to the following conditions:** There are no conditions.

Mr. Cagnetta read the third petition.

- **Petition of The Compass School, c/o Michael Commendatore, 537 Old North Road, South Kingstown, RI, 02879** for a **Special Use Permit Modification** under the Zoning Ordinance as follows: The Compass School is seeking to construct an outdoor 25' X 45' pavilion for use in outdoor school activities and as a covered bus waiting area. Because this property is zoned for residential use and there is a current Special Use Permit in place for the educational use, any modification or expansion requires approval from the Zoning Board. Lot size is 5 Acres. **A Special Use Permit is required per Zoning Ordinance Section 202 (Building, Structure or Land Nonconforming by Use), Section 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification) and Section 907 (Standards of Relief).** Property is owned by the Compass School for premises located at 537 Old North Road, South Kingstown, RI, Assessor's Map 16-4, Lot 16, and zoned R40. Use code is 20 (Education Institution, Primary through Secondary).

Michael Commendatore, Financial Director and Head of Facilities at the Compass School was sworn in and testified that they are looking to erect an outside pavilion where a portable classroom was previously located. The pavilion would be used as a school bus shelter to aid dismals and would be used as outside space for P.E. classes, and other school gatherings if needed. The entire structure has been funded through two grants. Mr. Commendatore also clarified that the lot size is 20 acres, not 5 acres as advertised.

Discussion ensued.

Brandee Lapisky was present but experiencing technical difficulties, per Mr. Commendatore she was all set with his given testimony.

Mr. Commendatore stated that there would be no electricity, no plumbing or services to the structures and that there is adequate existing lighting surrounding the pavilion.

Mr. Cagnetta asked if there was anyone in the audience who wished to speak.

There was no one present.

Mr. Bernardo made a motion.

At this point a known abutter of the Compass School raised their hand to speak.

Ms. Goins advised that they should be given the opportunity to speak.

Suzanne Pleskunas was sworn in and stated that she lost internet connection and missed much of the testimony. Her questions were in regards to the lighting plans and the projected times of use, P.E. class programs and usage, and other school function usage, and what these proposed uses means in regards to lighting, sound and hours.

Brandee Lapisky, Director of the Compass School, was present and sworn in. Ms. Lapisky stated that the main intention for the pavilion is for day use so there is no intention to add lighting and there in some new special lighting that the Pleskunas advised upon creating some dark sky lighting in the parking lot which would be sufficient for any nighttime activity under the pavilion. There may be an occasional random special event but this is not the primary purpose of the pavilion. P.E. with music playing already exists in that location so the pavilion would not change any current conditions. There is no power going to the pavilion. For the most part after 5:00 pm there is little to no activity in this area. She also stated that with the Covid implications this pavilion has become a critical part of their plan. The Compass School has been actively working to improve the overall aesthetics of the entire property.

Ms. Pleskunas wanted to hear a bit more about the gym music and potential noise.

Ms. Lapisky stated that in terms of P.E. they are currently only using a portable boom box to play music, there are no large speakers.

Ms. Goins advised that the Board could condition hours of use limitations but should not reference any type of decibel limit because there is no way to enforce that.

Ms. Lapisky reviewed the normal hours that the school is in session and that there are just a few large events that happen throughout the year and in these instances the pavilion would be just one area being used out of the entire campus.

There was no further discussion.

Ms. Goins advised Mr. Bernardo that he should make his motion again in its entirety because Ms. Pleskunas was not able to hear the previous motion as originally made.

**The motion is as follows:**

**The following motion, made by Mr. Bernardo and duly seconded by Mr. Daniels**

**Motion passed unanimously: Vote 5-0**

**(J. Bernardo-Aye, T-Daniels-Aye, R. Jurczak-Aye, W. Mark-Aye, R. Cagnetta-Aye)**

At a meeting held on July 22, 2020 regarding Petition of The Compass School, c/o Michael Commendatore, 537 Old North Road, South Kingstown, RI, 02879 for a Special Use Permit Modification under the Zoning Ordinance as follows: The Compass School is seeking to construct an outdoor 25' X 45' pavilion for use in outdoor school activities and as a covered bus waiting area. Because this property is zoned for residential use and there is a current Special Use Permit in place for the educational use, any modification or expansion requires approval from the Zoning Board. Lot size is 5 Acres. A Special Use Permit is required per Zoning Ordinance Section 202 (Building, Structure or Land Nonconforming by Use), Section 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification) and Section 907 (Standards of Relief). Property is owned by the Compass School for premises located at 537 Old North Road, South Kingstown, RI, Assessor's Map 16-4, Lot 16, and zoned R40. Use code is 20 (Education Institution, Primary through Secondary).

**The following individuals spoke as representatives of the applicant:**

- Michael Commendatore, Financial Director Compass School
- Brandee Lapisky, Director Compass School

**The following individual spoke with concerns in regards to the petition:**

- Suzanne Pleskunas

**The following materials were entered into the record:**

- Application dated May 29, 2020; Photo of proposed structure; 200' Radius Map and Abutter's list; Owner Authorization form signed, notarized and dated May 29, 2020; Site Plan (C3.0) dated April 19, 2019 and prepared by Torrado Architects
- Legal Notice, Certified Mail Receipts and Notarized Affidavit of Mailing

**Findings of Fact:**

1. The Board finds that the special use is specifically authorized by this Ordinance, because a Special Use Permit is required per Zoning Ordinance Section 202 (Building, Structure or Land Nonconforming by Use), Section 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification) and Section 907 (Standards of Relief).

2. The Board finds that the special use meets all of the criteria set forth in the subsection of this Ordinance authorizing such special use, because it is a structure that has a very deliberate function and the structure will not be creating any new uses or services on the subject property; the structure will simply be used for bus boarding and off-loading and will keep the children safer and also out of inclement weather.

3. The Board finds that granting of the special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this Ordinance or the Comprehensive Plan of the Town. In so doing, the Board has considered whether or not satisfactory provisions and arrangements have been or will be made concerning, but not limited to the following matters, where applicable:

- (i) Ingress and egress to the lot and to existing or proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and

access in case of fire, emergency or catastrophe; the structure will be used for the boarding and off-loading of children from school buses creating a safer environment.

- (ii) Off-street parking and loading areas where required, with particular attention to the items in subsection A.1., above, and the noise, glare or odor effects of the special use permit on adjoining lots; not applicable
- (iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above; not applicable
- (iv) Utilities, with reference to locations, availability and compatibility; not applicable
- (v) Screening and buffering with reference to type, dimensions and character; not applicable
- (vi) Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district; not applicable
- (vii) Required yards and other open space; not applicable
- (viii) General compatibility with lots in the same or abutting zoning districts, because the proposed structure is one of several on the school campus and will be replacing a previously used and recently removed mobile classroom that was located in the same area on the subject property.

**Approval is subject to the following conditions:** There are no conditions of approval

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Mr. Cagnetta read the forth petition.

- **Petition of Heidi Henderson & Stephen Rogers, 16 Elm Street, South Kingstown, RI, 02879** for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct an attached deck and outdoor shower closer to the rear property line. Although this parcel is non-conforming by dimension, there are no further reductions in setbacks allowed. The deck will be located 6' from the rear property line. The required setback is 30'. Relief of 24' is requested. The accessory outdoor shower will be located 4' from the rear property line. The required rear yard setback for accessory structures is 6'. Relief of 2' is requested. The lot coverage maximum is 25%. The deck, shed and outdoor shower will increase the overall lot coverage to 1,723 square feet or 30%. Relief of 5% or 270 square feet is requested. Lot size is 5,814 square feet. **A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record-Building Setback Requirements), Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief).** Owner of the property is Heidi Henderson & Stephen Rogers for premises located at 16 Elm Street, Assessor's Map 57-4, Lot 187 and is zoned R 10.

Stephen Rogers was present and sworn in. Heidi Henderson was present but did not testify.

Mr. Rogers stated that they have lived in the house since 1998. They have fully restored the house over the past twenty years. The lot is a legal non-conforming and the current house which was built in the 1890's currently sits within the setbacks. They also need lot coverage relief due to the small size of the lot. The house is very small and they are looking to create an outdoor space to make it more comfortable to continue to live in this house. He believes there is a precedent in the in-town neighborhoods where accessory structures are located within the setbacks. In addition they have added a landscape buffer for privacy. They have spoken with neighbors and received verbal support in addition to the letters that other neighbors had submitted.

Board questions ensued in regards to proposed plans.

There was no one in the audience who wished to speak.

Board discussion ensued.



**The motion is as follows:**

**The following motion, made by Mr. Jurczak and duly seconded by Mr. Bernardo  
Motion passed unanimously: Vote 5-0  
(R. Jurczak-Aye, J. Bernardo-Aye, T. Daniels-Aye, W. Mark-Aye, R. Cagnetta-Aye)**

At a meeting held on July 22, 2020 regarding **Petition of Heidi Henderson & Stephen Rogers, 16 Elm Street, South Kingstown, RI, 02879** for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct an attached deck and outdoor shower closer to the rear property line. Although this parcel is non-conforming by dimension, there are no further reductions in setbacks allowed. The deck will be located 6' from the rear property line. The required setback is 30'. Relief of 24' is requested. The accessory outdoor shower will be located 4' from the rear property line. The required rear yard setback for accessory structures is 6'. Relief of 2' is requested. The lot coverage maximum is 25%. The deck, shed and outdoor shower will increase the overall lot coverage to 1,723 square feet or 30%. Relief of 5% or 270 square feet is requested. Lot size is 5,814 square feet. **A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record-Building Setback Requirements), Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief).** Owner of the property is Heidi Henderson & Stephen Rogers for premises located at 16 Elm Street, Assessor's Map 57-4, Lot 187 and is zoned R 10.

**The following individuals spoke as representatives of the applicant:**

- Stephen Rogers, Applicant
- Heidi Henderson, Co-Applicant, present but did not testify

**The following materials were entered into the record:**

- Application signed and dated June 10, 2020; Owner Authorization Form signed, notarized and dated June 10, 2020; 200' Radius Map and Abutters List; Zoning Sketch prepared by Steven M Pinch P.L.S., dated May 2020; Site Plan (Z1.0) prepared by Stephen Rogers Architect LLC, dated June 10, 2020; Elevations (SK-02 & SK-03) prepared by Stephen Rogers Architect LLC, dated June 10, 2020; Enlarged Site Plan (SK-04) prepared by Stephen Rogers Architect LLC, dated June 10, 2020.
- Legal Notice, Affidavit of Mailing and Certified Mailing Receipts
- Correspondence in favor:
  - Dr. Jonathan Gordon & Wen Auld Gordon dated June 8, 2020
  - Elisa & Richard Lucia dated June 8, 2020
  - Megan Hall
  - Kristina and Arthur Harrison dated June 11, 2020
  - Marc and Viera Levitt

**No one present spoke in support of or opposition to the petition**

**Findings of Fact:**

1. The Board finds 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 § 45-24-30(16), because the very nature of the lot is such that it is a very small lot and due to the location of the house and garage, this is the only available place to place the proposed structures with any beneficial use.
2. The Board finds that 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, because the house was built in the 1890's and all they are looking for is a deck and outside shower to increase outdoor living spaces.
3. The Board finds 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, because this area of town has very similarly designed structures and the applicants have done a great job in renovating the house and it will only increase the general character of the neighborhood.

4. The Board finds that the relief to be granted is the least relief necessary, because there is nowhere else on the lot to put a deck and what they are asking for is not outrageous in size or nature.

5. The Board finds that 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, because without this relief they would not be able to put a usable deck and shower on the subject property.

**Approval is subject to the following conditions:** There are no conditions.

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Mr. Cagnetta read the fifth petition.

- **Petition of Manny M. Vieira, 80 Brookridge Drive, Exeter, RI, 02822** for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking the approval of a Special Use Permit to locate an Onsite Wastewater Treatment System (OWTS) closer to a wetland than allowed. 150' is required, 110' is proposed. Relief of 40' is requested. This parcel was granted a Special Use Permit for the same relief sought on this application on October 22, 2014, but the approval period expired. The project also had received approval from the Conservation Commission on July 16, 2014. There is no change to the original location of the OWTS system. Lot size is .47 Acres. **A Special Use Permit is required per Zoning Ordinance Section 504 (Special Use Permits-Location of OWTS) and Section 907 (Standards of Relief).** Property is owned by Manny M. & Maria R. Vieira for premises located on Parkwood Drive, South Kingstown, RI, Assessor's Map 31-2, Lot 82, and zoned R20

Manny Vieira was present and sworn in. Mr. Vieira stated that he purchased the lot in 2014 with an existing OWTS approval in place and that he was not aware the approval had expired until he recently went to apply for the building permit. He stated that the OWTS system is the same design and same location as originally approved and the basic footprint of the house will remain the same but the design has changed to better accommodate his needs.

Board questions ensued in regards to the site plan.

Mr. Vieira testified that the site plan from 2014 is the same as the site plan submitted today.

There were no further Board questions.

Mr. Cagnetta asked if anyone in the audience wished to speak.

Timothy Gleason and Brenda Rashleigh were both sworn in.

Ms. Rashleigh stated her objection to the petition and addressed their concerns in regards to septic discharge and proposed location of the OWTS in regards to the impact on the wetlands. She also expressed concerns over storm-water runoff. Also of note, several years have passed since original review and asked if possible if the Conservation Commission could review the petition again at today's standards.

Mr. Cagnetta explained the Board is only deciding on the location of the septic system in relation to the wetlands; site development and storm water management do not fall under the Boards purview.

Mr. Vieira stated that according to his engineer the OWTS system that is proposed is the best system for the subject location.

Ms. Goins advised that this is considered a new application and needs to be considered as such and that the Board could consider if the conditions have changed since 2018, not 2014 due to tolling. She believes there is also a question of competency in regards to the testimony given tonight and that the Board could take judicial notice of the prior record and the fact that the prior record was supported by expert testimony and use that as a basis of determination. Because the applicant does not have any expert witnesses with him, the Board has two options before them (1) they could use the prior approval and due to the fact that conditions have not changed use that as a basis for granting or (2) advise the applicant to appear next month with experts to testify to that effect and/or refer the applicant back to the Conservation Commission for a second look.

Discussion ensued in regards to the current site plan and the proposed building footprint.



Mr. Bernardo and Mr. Mark both spoke in regards to the benefits of this particular OWTS design system and acknowledge that these particular systems are designed to minimize environmental impact and that the owner of the system must have a recorded contract for a scheduled annual maintenance agreement.

Ms. Rashleigh asked if possible to have the Conservation Commission have another look at the application.

There was no one else who wished to speak.

Board discussion ensued in regards to sending the petition back to the Conservation Commission.

Mr. Mark stated that he believes sending the applicant back to the Conservation Commission would cause undue burden on the applicant and should be supported as is. The same Advantex OWTS system exists today and it is the same system that the Board has approved many times before, and he doesn't believe the outcome would change by going back before the Conservation Commission.

Mr. Rosen shared Mr. Mark's feelings, but is not a voting member on this petition.

Ms. Goins advised that the Board has the authority to send the application back to the Conservation Commission for review.

There was no further discussion.

**The motion is as follows:**

Mr. Daniels made the motion to continue the above petition to the August 19, 2020 meeting.

Mr. Bernardo seconded the motion.

Whereas a roll call vote was taken: Daniels-Aye, Bernardo-Aye, Jurczak-Aye, Mark-Nay, Cagnetta-Aye

Motion passed 4-1, petition continued till August 19, 2020.

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Mr. Cagnetta read the sixth petition.

- **Petition of John E. Savastano, 191 Lake Avenue, South Kingstown, RI, 02879** for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a new attached garage and new covered deck closer to the front property line than allowed. The garage will be located 16.7' from the front property line. The required front yard setback is 35'. Relief of 18.3' is requested. The proposed covered deck will be located 9.9' from the front property line. The required front yard setback is 35'. Relief of 25.1 is requested. Lot size is .93 acres. **A Dimensional Variance is required per Zoning Ordinance Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief).** Owner of the property is John E. & Michelle Savastano for premises located at 191 Lake Avenue, Assessor's Map 87-4, Lot 39 and is zoned R 20.

Attorney John Kenyon was present for the applicant. Mr. Kenyon explained the lot zoning, setback, and location of the structures on the property and the existing permitted two-family home that is currently on the property. He then explained the proposed project to renovate the house and convert it into a single family residence, demolish a detached garage and add an attached. They will also install a new OWTS system in the right front of the property.

John Savastano was sworn in and testified that they purchased the house in October 2019. He then reviewed the existing conditions of the property and where the two-family house is located on the property. The existing house is closer to the street side and was built in the 1950's and has had no updates since then, including an antiqued septic system that is located in the rear of the property close to the water. They are proposing to replace the existing system with a new OWTS, which will now be located as far from the pond as possible. The proposed new dwelling will remain on the same foundation as the existing house. This house will be a full time residence and will meet all flood zone requirements. The proposed house has limited storage due to the basement being located within the flood zone so the attached garage is needed for additional storage. He then explained the unique location of the house and garage on the lot and that when they were designing the proposed house they tried to keep it as close to the current conditions as possible.

Board discussion ensued.

Edward Pimentel was sworn in and recognized as an expert witness in community planning. Mr. Pimentel spoke about the uniqueness of the property and that the hardship is a clear result of this. The two-family dwelling in this neighborhood is an anomaly and what the applicant would like to do is to build something more in line with the surrounding neighborhood. The existing structure is already non-conforming and also by removing the current garage and pushing back the proposed attached garage they are improving the existing conditions by increasing the setback distance improving the line of sight. The footprint of the new structure is not any closer to the waterline. They are also reducing the lot coverage from 12.8 % to 10.7 %. Mr. Pimentel then reviewed how the applicant is meeting the burden to grant the dimensional variance.

The Board had no questions.

There was no one in the audience who wished to speak.

There was no further discussions.

**The motion is as follows:**

**The following motion, made by Mr. Daniels and duly seconded by Mr. Jurczak**

**Motion passed unanimously: Vote 5-0**

**(T. Daniels-Aye, R. Jurczak-Aye, J. Bernardo-Aye, W. Mark-Aye, R. Cagnetta-Aye)**

At a meeting held on July 22, 2020 regarding Petition of John E. Savastano, 191 Lake Avenue, South Kingstown, RI, 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct a new attached garage and new covered deck closer to the front property line than allowed. The garage will be located 16.7' from the front property line. The required front yard setback is 35'. Relief of 18.3' is requested. The proposed covered deck will be located 9.9' from the front property line. The required front yard setback is 35'. Relief of 25.1' is requested. Lot size is .93 acres. A Dimensional Variance is required per Zoning Ordinance Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief). Owner of the property is John E. & Michelle Savastano for premises located at 191 Lake Avenue, Assessor's Map 87-4, Lot 39 and is zoned R 20.

**The following individuals spoke as representatives of the applicant:**

- Attorney John Kenyon
- Applicant John Savastano
- Edward Pimentel, AICP

**The following materials were entered into the record:**

- Application dated June 10, 2020 with Exhibit A; Owner Authorization Form signed, notarized and dated June 10, 2020; 200' Radius Map and Abutters List; Vision Appraisal Field Card Map 87-4 Lot 39; Survey Plan showing existing conditions (1473) prepared by James Flynn P.L.S. revised date June 7, 2020; Survey Plan showing proposed conditions (1473-1) prepared by James Flynn P.L.S. revised date June 7, 2020
- Legal Notice, Affidavit of Mailing and Certified Mailing Receipts
- Revised Exhibit A received July 16, 2020
- Neighborhood Analysis prepared by Pimentel Consulting, Inc. dated June 22, 2020
- Preliminary Drawings dated February 20, 2020 prepared by Thomas Lonardo and Associates Architects Inc.

**No one present spoke in support of or opposition to the petition**

**Findings of Fact:**

1. The Board finds 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 § 45-24-30(16), because the OWTS will be located to the Eastern portion of the proposed structure limiting the locations where the deck and garage can be placed, in addition this is a highly sensitive area in regards to wetlands and setbacks, therefore it is a very unique piece of property with those considerations in mind.

2. The Board finds that 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, because we heard expert testimony from Mr. Pimentel stating that this rebuild will certainly be within the characteristics of the surrounding area. Also, the applicant intends to make this his permanent residence and the proposed design is in character with the surrounding area.
3. The Board finds 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, because expert testimony by Mr. Pimentel stated that this will enhance the characteristics of the area in converting an older two-family home into a one-family home; this will in fact enhance the overall neighborhood which is in a residential zone.
4. The Board finds that the relief to be granted is the least relief necessary, because there is nowhere else to locate the garage and deck due to the proposed OWTS location and due to the fact that there are constraints due to the wetlands and other environmental concerns.
5. The Board finds that 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, because the applicant is converting the home to a single family residence and in order to meet their needs they are adding an attached garage which is setback further than the current garage which will be demolished. Additionally, adding a deck will only enhance the use of the property.

**Approval is subject to the following conditions:** There are no conditions.

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**Minutes:**

There were no minutes to be approved

**Attendance:**

All members present are available for the August 19, 2020 meeting.

**Adjournment:**

Meeting adjourned at 10:01 p.m.