



# 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 August 19, 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, James Gorman, Building Inspector and Jessica Spence, Administrative Support Associate.

Mr. Cagnetta opened the meeting at 7:00 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

Discussion ensued in regards to the tentative Zoning Board meeting to be held on August 27, 2020. Attendance was taken and all members, with the exception of Mr. Mark, will be able to attend for the necessary quorum.

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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 and requested a one month continuation. Mr. Kenyon stated that they had requested a formal interpretation of the Zoning Ordinance from the Building Official and that they will be appealing the Building Official's formal decision as well as moving forward with the request for a Special Use Permit next month.

**The motion is as follows:**

**Mr. Daniels made the motion to continue the above petition to the September 16, 2020 meeting.**

**Mr. Mark seconded the motion**

**Motion passed 5-0, petition continued till September 16, 2020.**

**(Daniels-Aye, Mark-Aye, Jurczak-Aye, Bernardo -Aye, Cagnetta-Aye)**

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Mr. Cagnetta read the second petition.

- **Petition of N & N Associates Inc.**, 10 Kent Avenue, Warwick, RI, 02886 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking a special use permit to establish a State Licensed Marijuana Retail Compassion Center. The State is in the process of expanding State Licensed Retail Compassion Centers. In anticipation of that expansion, applicants must receive local approval for the establishment of the facility as part of their application to the State Department of Business Regulation. Lot size is .7 Acres. **A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations Table), (Section 504.15 (Marijuana Related Uses) and Section 907 (Standards of Relief).** Owner is Karen Sweet for premises located at 703 Kingstown Road, South Kingstown, RI, Assessor's Map 57-1, Lot 92 and is CH (Commercial Highway). The Use Code is 100-Marijuana Retail Facility.

Attorney James Callaghan submitted a written request for a one month extension till September 16, 2020 due to a witness having a family emergency and not being able to attend tonight's hearing.

**The motion is as follows:**

**Mr. Daniels made the motion to continue the above petition to the September 16, 2020 meeting.**

**Mr. Mark seconded the motion.**

**Motion passed 5-0, petition continued till September 16, 2020.**

**(Daniels-Aye, Mark-Aye, Jurczak-Aye, Bernardo -Aye, Cagnetta-Aye)**

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Mr. Cagnetta read the third petition.

- **Petition of Geraldine V. Venter**, 813 South Road, South Kingstown, RI, 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a one story addition onto the existing single family dwelling. The addition will be located along Winterberry Lane, a corner side line. The proposed addition will be located 17.04' from the corner side property line. The required corner side setback is 25'. Relief of 7.96' is requested. Lot size is 27,878 square feet. **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 Geraldine V. Venter for premises located at 813 South Road, Assessor's Map 47-2, Lot 22 and zoned R 20.

The above petition will be continued until August 27<sup>th</sup> due to an error in the mailing of the legal notices not meeting the 14 day deadline to mail.

Discussion ensued.

**The Motion is as follows:**

**Mr. Daniels made the motion to continue the above petition to the August 27, 2020 meeting.**

**Mr. Mark seconded the motion.**

**Motion passed 5-0, petition continued till August 27, 2020.**

**(Daniels-Aye, Mark-Aye, Jurczak-Aye, Bernardo -Aye, Cagnetta-Aye)**

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Mr. Cagnetta read the forth petition.

- **Continuation of the 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

The Conservation Commission's advisory approval was summarized and further explained by Ms. Goins, who reviewed the updated conditions of the Conservation Commissions advisory approval.

Discussion ensued in regards to the Conservation Commission's recommendations.

Manny Vieira was present and sworn in.

Mr. Jurczak asked about DEM permitting and if that has been obtained.

Mr. Vieira explained that he has an active permit with DEM for the septic and it is currently being updated to his name. Mr. Vieira also stated that he intends to use pervious pavers with a crushed stone base on his driveway which will help to address the concerns in regards to rainwater run-off onto the street as well as rain gardens on site.

There were no further questions.

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. Mark and duly seconded by Mr. Jurczak  
Passed unanimously 5-0  
(Mark-Aye, Jurczak-Aye, Bernardo-Aye, Daniels-Aye, Cagnetta-Aye)**

At a meeting held on July 22, 2020 and continued until August 19, 2020 regarding 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

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

- Manny Vieira

**The following individuals spoke at the hearing in opposition to the request:**

- Timothy Gleason
- Brenda Rashleigh

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

- Application signed and dated June 12, 2020; Owner Authorization Form signed and notarized June 12, 2020; 200' Radius Map and Abutters List; Notice of Decision, Zoning Board of Review, Recorded into Land Evidence on October 22, 2014; Conservation Commission Opinion dated

July 16, 2014; RI DEM letter dated April 11, 2014; Environmental Planning & Surveying, Inc. letter dated May 18, 2020; Environmental Planning & Surveying, Inc. letter dated June 1, 2020; Legal Notice, Affidavit of Mailing and Certified Mailing Receipts; Floor Plan and specs from the Sawgrass Collection #8883; Stormwater Management Plan, prepared by Environmental Planning & Surveying, Inc. dated April 2020

- Conservation Commission Opinion dated August 5, 2020
- Objector's Correspondence
  - Tim Gleason and Brenda Rashleigh received July 13, 2020
  - Don and Judy Zeyl received July 17, 2020

**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 504 (Special Use Permits-Location of OWTS) 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 the proposal was granted a favorable advisory opinion by the Conservation Commission, in addition Mr. Vieira has taken additional steps to improve the conditions in regards to drainage and run-off.
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; not applicable
  - (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 design and attributes meet the general compatibility of lots in the same area.

**Approval is subject to the following conditions:**

- The decision shall be a Conditional Zoning Approval and have a two (2) year expiration from the recorded date pursuant to Section 908 with the right to extend if necessary, so the applicant can get the previously granted RI DEM approval transferred to his name.
- The applicant shall also meet all of the Conservation Commission's specific criteria set forth in the favorable advisory opinion dated August 4, 2020.

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Mr. Cagnetta read the fifth petition.

- **Petition of Tower Hill Landings Annex, LLC**, 543 Thames Street, Newport, RI, 02840 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking a special use permit to allow more than three (3) unrelated individuals within a household occupancy. The applicant is proposing to construct two multi household structures consisting of two 2 bedroom units and nine 4 bedroom units total. The four bedroom units may be rented to more than three unrelated individuals. The multi household use is allowed in the zoning districts. Lot size is 1.23 Acres. **A Special Use Permit is required per Zoning Ordinance Section 504.14 (Household Occupancy by more than Three Unrelated Individuals) and Section 907 (Standards of Relief).** Owner is Tower Hill Landings Annex, LLC for premises located at 2095 Kingstown Road, South Kingstown, RI, Assessor's Map 32-4, Lot 32 and is zoned R-10 and CN (Commercial Neighborhood). The Use Code is 12.1-Multi-Household Land Development Project.

Attorney John Kenyon was present.

Mr. Kenyon explained the history and zoning of the lot. He stated that it was most recently approved as a new restaurant but that project never occurred and the lot is currently vacant. The applicant also owns the residential multi-family complex immediately adjacent to this lot. They are proposing 11 dwelling units in the front of the lot which is serviced by Town sewer and water and meets all of the dimensional and density requirements under the Zoning Ordinance. There will be four, 9-bedroom units, one of which will be designated as affordable housing and two, 2-bedrooms units one of which will designated as affordable housing.

Mr. Kenyon stated the application was already heard by the Conservation Commission and received a positive recommendation. They also have received Master Plan Approval from the Planning Board after having had a public hearing.

He further stated that it is likely that the 4-bedroom units will have more than three unrelated persons which is why they are before the Board tonight. The project has been specifically designed to meet this criteria.

Steven Cabral, P.E. was sworn in and briefly ran through the project. Mr. Cabral referenced the submitted proposed plan set. Mr. Cabral explained the existing conditions of the site and that the run-off naturally flowed towards the back. They are addressing all of the current storm water regulations in the proposed development.

Mr. Cabral then reviewed the previously granted approval back in 2017 that was going to be a new restaurant, which was a much more intensive use than the proposed project. He explained that one of the prime benefits of the new development plan is the elimination of traffic right across from Westwind Road, reducing potential traffic concerns. The new plan will have traffic enter and exit through Rolens Drive.

He then reviewed the proposed run-off plan which will meet all the current storm water regulations. He explained the locations of the buildings on the property and that all structures will meet the current Zoning setbacks. There will be 40 bedrooms and they have proposed 44 parking spaces which will exceed the required number of parking spaces.

Mr. Cabral then reviewed Section 504.14 of the Zoning Ordinance and how the project has met the requirements of the Ordinance.

Mr. Kenyon asked Mr. Cabral to further expand upon the use of Rolens Drive for ingress and egress.

Mr. Cabral stated that the proposed design using Rolens Drive for ingress and egress is more than adequate, in addition they will be adding sidewalks to run the front length of the property all the way to Rolens Drive.

Mr. Cabral then reviewed lighting which will be residential in nature. The plan also has on-site trash along the back of the property. He also stated that proposed plan will be in concert with the surrounding area, especially being immediately adjacent to Tower Hill Landings.

Board questions ensued.

Mr. Kenyon explained that the property directly to the South is under the same ownership and they will share internal infrastructure; they will also record with Land Evidence an easement allowing access to Rolens Drive.

Discussion then ensued in regards to the history of this particular section of the Ordinance, specifically regarding no more than three unrelated persons residing in the same unit.

Mr. Kenyon clarified that the Conservation Commission had recently heard this application and granted a favorable advisory opinion. This project has also gone before the Planning Board with a public hearing for Master Plan Approval which was granted. Then once Zoning Board permission is obtained they will need to go back before the Planning Board for final approval, which is also a public hearing.

Christopher Bicho, applicant was present and sworn in.

Mr. Bicho testified that he is a member of Tower Hill Landings Annex LLC and that the same company owns the adjacent property Tower Hill Landings; which is a 132 unit multi-family residential complex consisting mostly of one and two bedroom apartments with on-sight management.

Mr. Bicho then explained that approximately 25% of all residence at Tower Hill Landings is currently students or associated with the University. There is a full staff at Tower Hill Landings. In addition his group owns about 1500 apartments in the Tri-State area, including a complex in Middletown.

Mr. Bicho said that there is a lack of 4-bedroom housing statewide and that their Middletown complex currently has an extensive waiting list for 4-bedroom units.

Board questions ensued in regards to layout, bedroom count, property management.

Mr. Bicho reviewed the apartment layout and noted the affordable units are the same as all of the other units. Mr. Bicho explained that 4-bedroom units are preferred based on simple economics. In regards to addressing any on-site issues, Mr. Bicho talked about the property manager, the on-site office, the office hours, the 24 hour on call service, and that there is generally an employee who lives on-site. The leases are 12 month leases and subletting is not allowed.

There were no further questions.

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

Board discussion ensued.

Ms. Kenyon clarified for the Board that the granting of this SUP requires the applicant to go before the Board for renewal every three years and the Town Council every year for license renewal. If the applicant has not met the criteria set forth in Section 504.14, the SUP and licensing may not be renewed. In addition the language of “no more than three unrelated persons” has been in the Ordinance since 1994 after the Zoning and Enabling Act was passed. However, this has really only been enforced the past four years due to Narragansett’s tightened enforcement. At that point, the South Kingstown Town Council enacted the method and management of allowing for a SUP setting forth conditions and standards to be met for renewal and to allow for more than three unrelated persons, Section 504.14

Ms. Goins stated this is a conditionally permitted use by the Council and if the standards are met the SUP should be granted.

There was no further discussion.

**The motion is as follows:**

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

At a meeting held on August 19, 2020 regarding Petition of Tower Hill Landings Annex, LLC, 543 Thames Street, Newport, RI, 02840 for a Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking a special use permit to allow more than three (3) unrelated individuals within a household occupancy. The applicant is proposing to construct two multi household structures consisting of two 2 bedroom units and nine 4 bedroom units total. The four bedroom units may be rented to more than three unrelated individuals. The multi household use is allowed in the zoning districts. Lot size is 1.23 Acres. A Special Use Permit is required per Zoning Ordinance Section 504.14 (Household Occupancy by more than Three Unrelated Individuals) and Section 907 (Standards of Relief). Owner is Tower Hill Landings Annex, LLC for premises located at 2095 Kingstown Road, South Kingstown, RI, Assessor's Map 32-4, Lot 32 and is zoned R-10 and CN (Commercial Neighborhood). The Use Code is 12.1-Multi-Household Land Development Project.

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

- Attorney John Kenyon
- Chris Bicho, Tower Hill Landings Annex, Applicant Member
- Steven Cabral, Crossman Engineering, Project Engineer

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

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

- Letter from Attorney John Kenyon dated July 9, 2020; Application signed and dated July 9, 2020, Project Narrative; Signed and Notarized Owner Authorization form dated July 8, 2020; Abutters List and 200' Radius Map; Vision Appraisal Field Card Map 32-4 Lot 32;
- Applicant's Exhibits 1 & 2
  - Letter from Attorney John Kenyon dated August 6, 2020
  - Conceptual Master Plan of Proposed 11 Unit Residential Development prepared by Crossman Engineering and dated May 1, 2020 (Cover, C1, C2, C3, C4, C5, C6)
  - Planning Board Major Land Development Decision recorded June 30, 2020.
- 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 504.14 (Household Occupancy by more than Three Unrelated Individuals) 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, Section 504.14B, authorizing such special use, additionally the applicant has met all of the Standards of Relief pursuant to Section 907. The applicant has received Conceptual Master Plan Approval from the Planning Board and the property is in conformance with all other Town Zoning Ordinances and Building Codes. Additionally, the property will have on-site management shared with the abutting property, Tower Hill Landings.
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; all ingress and egress will occur from Rolens Drive onto Route 108. In addition sidewalks will be installed directly in front of the proposed development all the way to Rolens Drive for pedestrian safety along Route 108.
  - (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; the proposed plan has allocated forty-four (44) non-designated parking spaces where only forty (40) are required.

(iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above; an on-site trash storage area has been designated and delivery is not applicable.

(iv) Utilities, with reference to locations, availability and compatibility; the proposed development will be tied into Town water and Town sewer.

(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; all exterior lighting will be residential in nature.

(vii) Required yards and other open space; the proposed development shows open space and will additionally share common open space with the abutting multi-unit complex owned by the same management.

(viii) General compatibility with lots in the same or abutting zoning districts, because the project design is residential in nature and directly abutting another multi-unit apartment complex owned by the same management it is compatible with the surrounding areas.

**Approval is subject to the following conditions:**

- The applicant must meet all of the Conditions of Approval set forth under the Conceptual Master Plan Approval granted by the Planning Board on June 23, 2020 as recorded in Land Evidence on June 30, 2020 and,
- The applicant must go before the Zoning Board every three years for renewal of the Special Use Permit under Section 504.14 of the Zoning Ordinance and show that all criteria have been met for renewal to be granted.

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Mr. Cagnetta read the sixth petition.

- **Petition of Arthur Olsen**, 35C W. Castle Way Charlestown, RI, 02813 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a 12' x 14' detached shed in the rear of the property. Although the lot is nonconforming by dimension, no setback relief is needed for the shed. The current lot coverage of the lot is 30%, which exceeds the lot coverage maximum of 25%. With the addition of the 168 square foot shed, the lot coverage will increase to 32%. Overall relief of 7% is requested, although the net increase is 2%. Lot size is 8,000 square feet. **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 Barry F. & Anabela Olsen for premises located at 17 Liberty Street, Assessor's Map 56-2, Lot 99 and zoned R 10.

Applicant Arthur Olsen was present and sworn in. Mr. Olsen testified that the property's 30% site coverage has been that way for decades. He stated the property is owned by his son and they did a major renovation where they converted the garage into a master suite, losing storage space.

Brief discussion ensued.

There was no one present who wished to speak.

**The motion is as follows:**

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

At a meeting held on August 19, 2020 regarding the Petition of Arthur Olsen, 35C W. Castle Way Charlestown, RI, 02813 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is proposing to construct a 12' x 14' detached shed in the rear of the property. Although the lot is nonconforming by dimension, no setback relief is needed for the shed. The current lot coverage of the lot is 30%, which exceeds the lot coverage maximum of 25%. With the addition of the 168 square foot shed, the lot coverage will increase to 32%. Overall relief of 7% is requested, although the net increase is 2%. Lot size is 8,000 square feet. 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 Barry F. & Anabela Olsen for premises located at 17 Liberty Street, Assessor's Map 56-2, Lot 99 and zoned R 10.

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

- Arthur Olsen, applicant

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

- Application signed and dated July 13, 2020; Signed and Notarized Owner Authorization Form dated July 12, 2020; Building Permit #67142; Site Plan and Framing Detail and Building Plans; 200' Radius Map and Abutter's List
- 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 has demonstrated that he is only looking to create outside storage space and the existing lot coverage predated the current ownership of the property.
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 is seeking to only gain storage space with a modestly designed shed. The lot is a legal non-conforming lot which exceeded maximum lot coverage prior to current ownership and the proposed shed only adds a minimal 2% net increase to lot coverage.
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 many neighboring properties have storage sheds of similar size.
4. The Board finds that the relief to be granted is the least relief necessary, given the modest lot coverage increase requested and given that no setback relief is needed.
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 the additional storage space the applicant cannot properly store outside yard equipment.

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

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Mr. Cagnetta read the seventh petition.

- **Petition of Kristin Patterson**, PO Box 589, Wakefield, RI, 02880 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a 14' x 13'-8" two story addition onto the existing one-bedroom single family dwelling. The lot is nonconforming by dimension. The addition will be located 9.74' from the right side property line. The required side yard setback is 11'. Relief of 1.26' is requested. The front of the proposed addition will be in conformance with the front yard alignment per Section 402.3. The current lot coverage of the lot

is 23.6%, which exceeds the lot coverage maximum of 20%. With the addition of the 187 square foot addition, the lot coverage will increase to 29.8%. Overall relief of 9.8% is requested, although the net increase is 6.1%. Lot size is 3,041 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 Kristin Patterson, TTE for premises located at 75 Billington Avenue, Assessor's Map 69-2, Lot 26 and zoned R 40.

Attorney John Kenyon was present for the applicant.

Mr. Kenyon reviewed the zoning specifications for the lot and the existing lot conditions. He also explained that the applicant owns the lot across the street which is where the OWTS is located, as well as a shed. Mr. Kenyon then explained the proposed plans and the relief needed.

Kristin Patterson, the applicant, was sworn in.

Ms. Patterson testified that she has owned the property for 17 years and that Billington Avenue runs down the middle of the peninsula, splitting all of the lots in half creating two separately mapped lots, however, the two lots are used as one lot for all practical purposes; her second lot has a storage shed and the OWTS leach field on it.

Ms. Patterson then described the original cottage that she purchased and that it was basically unlivable and also had a cesspool. In 2008 she installed an updated two-bedroom Advantex OWTS system. She then went on to describe the renovations that she had done since purchasing the house. The proposed new addition is 186 square feet which will consist of one additional bedroom downstairs for her grandchildren and/or for her use as she gets older and then the upstairs which will be used for storage and gym equipment. The design was made to minimize the impact to the area by keeping the addition as small as possible. If the lot across the street was included with the existing lot, there would be no need for a lot coverage variance

Board questions ensued about the past zoning relief granted and about the second lot across the street.

Mr. Kenyon explained the history of the two lots and how they are legally tied together and that all of Billington Avenue has this situation where the houses are on the pond side of the road and then have land on the other side for sheds and such.

Mr. Pimental explained that when Billington Avenue was platted each lot was assigned an individual lot number by the Tax Assessor even though they are under the same ownership.

Discussion ensued.

Mr. Cagnetta asked if anyone in the audience would like to speak.

Lawrence Croce, neighbor, was sworn in.

Mr. Croce testified that they have lived through and not objected to many past variances granted on this property but now are concerned about the seawall engineering be sufficient to support the additional additions, they are also concerned about construction traffic causing an extreme imposition to the neighborhood and general construction noise that occurs at all hours.

Roberta Croce, neighbor, was sworn in.

Ms. Croce testified about the unique characteristics of the area and that the area cannot support all of these updates and variances.

Discussion ensued.

The Board had no questions.

Mr. Kenyon stated his client understands the Croce's concerns and has designed the addition to be as little impact as possible given the unique two lot situation.

Ms. Patterson explained how much parking she has to allow for construction vehicles between the two lots. She acknowledged that there has been some conflict between the Croce's and herself and that all of the other neighbors who she has spoken with are in support of her proposed addition.

Mr. Cagnetta referenced two letters in favor of Ms. Patterson's petition.

More discussion ensued in regards to parking and number of granted variances.

Ms. Goins explained that the Board is bound by the criteria laid forth in the Zoning Ordinance.

Discussion ensued.

Mr. Kenyon stated that the applicant would be amenable to a condition regarding the parking of construction vehicles.

Discussion ensued in regards to hours of construction.

Mr. Pimental advised that the Ordinance already has specific times in regards to construction hours.

Board discussion ensued.

**The motion is as follows:**

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

At a meeting held on August 19, 2020 regarding the petition Kristin Patterson, PO Box 589, Wakefield, RI, 02880 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is proposing to construct a 14' x 13'-8" two story addition onto the existing one-bedroom single family dwelling. The lot is nonconforming by dimension. The addition will be located 9.74' from the right side property line. The required side yard setback is 11'. Relief of 1.26' is requested. The front of the proposed addition will be in conformance with the front yard alignment per Section 402.3. The current lot coverage of the lot is 23.6%, which exceeds the lot coverage maximum of 20%. With the addition of the 187 square foot addition, the lot coverage will increase to 29.8%. Overall relief of 9.8% is requested, although the net increase is 6.1%. Lot size is 3,041 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 Kristin Patterson, TTE for premises located at 75 Billington Avenue, Assessor's Map 69-2, Lot 26 and zoned R 40.

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

- Attorney John Kenyon
- Kristin Patterson, Applicant

**The following individuals spoke in opposition to the petition:**

- Lawrence Croce, 59 Billington Avenue
- Roberta Croce, 59 Billington Avenue

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

- Application signed and dated July 13, 2020 with Narrative; Signed and Notarized Owner Authorization Form dated July 9, 2020; Photographs of existing structure; Proposed elevation Phase I and II; Previous Zoning Decision recorded January 12, 2017; Adventex Maintenance Report dated June 12, 2020; RI DEM Certificate of Conformance dated June 27, 2008; RI DEM OWTS Permit Search; CRMC Letter regarding Maintenance Certification dated March 16, 2006; Declaration or Restriction recorded May 19, 2020; 200' Radius Map and Abutter's List; Site

Plan dated June 2020 and prepared and stamped by Wesley Grant III P.L.S.; Construction Plans (A101, A102, A201, A202 & A203) prepared by Kara Babcock and dated May 28, 2020

- Legal Notice, Certified Mail Receipts and Notarized Affidavit of Mailing
- Correspondence
  - Paul and Pauline Boutiette dated August 7, 2020
  - William Sikov dated August 16, 2020

### **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 lot has particular constraints; the lot is small in size and the existing dwelling is located between the seawall and the private roadway, due to these constraints the only viable location for the proposed addition is where indicated on the plans.
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 is simply looking to add a second bedroom for relatives to visit and add additional storage space.
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 is an area with very small lots and the proposed design is compatible with the characteristics of the surrounding homes and properties.
4. The Board finds that the relief to be granted is the least relief necessary, because there is nowhere else on this property where the proposed addition could be located due to the lot constraints.
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 lives full time at the subject property and needs more space for family to visit and increased storage.

**Approval is subject to the following conditions:** All construction vehicles associated with the granting of this Dimensional Variance must be parked only on the applicant's property, 75 Billington Avenue.

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Mr. Cagnetta read the eighth petition.

- **Petition of David J. & Cheryl A. Kozak**, 31 Hunters Ridge, Rocky Hill, CT, 06067 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to add a second floor dormer to the existing 1740 single family dwelling. The lot and building are both nonconforming by dimension. The proposed second floor dormer will be located along the front of the existing structure, which is within the front yard setback. The dormer will be located 11.3' from the front property line. The required front yard setback is 25'. Relief of 13.7' is requested. Lot size is .20 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 David J. & Cheryl A. Kozak for premises located at 18 Ocean Avenue, Assessor's Map 93-4, Lot 28 and zoned R 20.

Architect Laura Krekorian was present and sworn in.

Ms. Krekorian reviewed the zoning of the lot and the existing conditions. The house was built in 1740, well before any regulations regarding building and zoning. The home is meticulously restored and maintained and her client has no desire to change the historical aspects of the existing house, in doing so they have minimized the amount of relief being sought. She then explained the proposed work and setback relief that would be required. The shed dormers will be used for more clear headroom on the second floor and make the second floor layout more useable.

Brief discussion ensued.

David Kozak was present and sworn in. Mr. Kozak testified that the property has been in his family for over 30 years and was purchased by Mr. Kozak and his wife eight years ago. The house is not used as a rental property. The current headroom is extremely low and hazardous to his family and guests, thus precipitating the need for the shed dormers to increase the headroom.

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

**The motion is as follows:**

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

At a meeting held on August 19, 2020 regarding the petition of David J. & Cheryl A. Kozak, 31 Hunters Ridge, Rocky Hill, CT, 06067 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is proposing to add a second floor dormer to the existing 1740 single family dwelling. The lot and building are both nonconforming by dimension. The proposed second floor dormer will be located along the front of the existing structure, which is within the front yard setback. The dormer will be located 11.3' from the front property line. The required front yard setback is 25'. Relief of 13.7' is requested. Lot size is .20 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 David J. & Cheryl A. Kozak for premises located at 18 Ocean Avenue, Assessor's Map 93-4, Lot 28 and zoned R 20.

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

- Laura Krekorian, A.I.A,
- David Kozak, Applicant

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

- Application signed and dated July 17, 2020; Signed and Notarized Owner Authorization Form dated July 17, 2020; Survey Plan prepared and stamped by Marcus Channell P.L.S. dated June 23, 2019; 200' Radius Map and Abutter's List; Construction Plans (A1, A2, A3 & A4) prepared by Laura Krekorian Architect dated July 15, 2020
- 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 location on the lot and the original construction of the house (circa 1740) predates all established zoning requirements and building standards.
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 is simply seeking to expand the clear headroom on the second floor by adding dormers and maximize the existing layout while maintaining the historical attributes of the property.
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 existing property has been meticulously maintained and the proposed plan is in line with surrounding homes in the area.

4. The Board finds that the relief to be granted is the least relief necessary, because the applicant is seeking minimal height relief to increase the clear headroom by adding dormers; in addition the applicant has gone through great lengths to maintain the historical nature of the home while addressing safety 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 current low headroom on the second floor would not be taken care of potentially causing physical harm to the occupants.

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

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The Board discussed whether the below petition should be continued over until next week August 27, 2020 due to the late hour.

- **Petition of South County Survey Company, LLC**, 382-B Main Street, South Kingstown, RI, 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to demolish the existing garage and construct a 24' x 26' detached garage with a family recreation room above it to be used by the principal dwelling. The lot is non-conforming by dimension. The lot is located on a corner lot, and has two interior side yards. The garage will be located 1.9' from the left side property line. The required side yard setback is 15'. Relief of 13.1' is requested. The garage will also be located 1.6' from the side yard in the rear of the garage, which is considered a side yard. Relief of 13.6' is requested. The structure will meet the height requirement of 20'. Lot size is 7,500 square feet. **A Dimensional Variance is required per Zoning Ordinance Section 208 (Nonconforming lots of record-Accessory building setback requirements) and Section 907 (Standards of Relief)**. Owner of the property is Michelle Quirk for premises located at 59 Browning Street, Assessor's Map 96-1, Lot 32 and zoned R 30.

**The motion is as follows:**

**Mr. Daniels made the motion to continue the above petition to the August 27, 2020 meeting.**

**Mr. Mark seconded the motion.**

**Whereas a vote was taken: Daniels-Aye, Mark-Aye, Jurczak-Aye, Bernardo-Aye, Cagnetta-Aye**

**Motion passed 5-0, petition continued till August 27, 2020.**

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There were no further petitions.

Other Business:

**Minutes:**

July 15<sup>th</sup> and July 22<sup>nd</sup> minutes were approved.

Mr. Jurczak made a motion to approve the minutes as submitted and was duly seconded by Mr. Daniels.

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

All minutes passed (vote 5-0)

**Adjournment:**

Mr. Mark made the motion to adjourn.

All Members were in favor.

Meeting adjourned at 10:10 p.m.