



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 September 16, 2020.

Members Present:

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

Also present were, Amy Goins, Special Legal Counsel, James Gorman, Interim Building Official and Jessica Spence, Administrative Support Associate.

Mr. Cagnetta opened the meeting at 7:00 pm

The standards of relief were explained as well.

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

Mr. Cagnetta read the first petition.

- **Petition of John Hanson**, 47 Walbridge Road, West Hartford, CT, 06119 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a new single family dwelling to replace the existing single family dwelling. The lot is nonconforming by dimension, and has reduced setbacks. The new dwelling will be located 20' from the front property line. The required front yard setback is 25'. Relief of 5' is requested. The new dwelling will also be located 18' from the right side property line. The required right yard setback is 30'. Relief of 12' is requested. Lot size is .41 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 Hanson Family GST-Exempt Gift Trust for premises located at 73 Potter Road, Assessor's Map 87-2, Lot 121 and zoned R 80.

Attorney John Kenyon was present and stated that they were contacted by several neighbors in regards to some concerns on the site plan. His client has agreed to work with the neighbors and is having the site plan updated, which should not change the relief requested. Therefore Mr. Kenyon requested a one month extension.

The Motion is as Follows:

Mr. Mark made the motion to continue the above petition to the October 21, 2020 meeting.

Mr. Rosen seconded the motion.

Motion passed unanimously: Vote 5-0

(W. Mark-Aye, W. Rosen-Aye, R. Jurczak-Aye, T. Daniels-Aye, R. Cagnetta-Aye)

Mr. Cagnetta read the second petition.

- **Continuation of the 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 was present representing the applicant.

Mr. Callaghan explained that they are before the Board to seek a Special Use Permit for a Medical Marijuana Compassion Center, what the Ordinance refers to as a Marijuana Retail Facility (Sect. 504.15), specifically there will be no cultivation on site. He stated that the proposed application has gone before both TRC and the Planning Board and that the application had received a favorable advisory opinion from the Planning Board; the application will comply with all of the conditions set forth in the Planning Board decision.

Nicholas Lacroix, applicant was sworn in.

Mr. Lacroix gave a quick overview of his group, South County Compassion, whose mission is to safely and securely provide medical marijuana to eligible patients. Mr. Lacroix indicated that he currently owns, Mediflor Organics, a State licensed cultivation center which is in great standing with both the RIDBR and RIDOH; so he is familiar with the licensing procedures and requirements in regards to operating a marijuana based business in the State of Rhode Island.

Mr. Lacroix indicated that they have worked with the Town every step of the way and will continue to do so as the project progresses.

Mr. Lacroix explained that in July 2019 the State Budget awarded the allocation of six new compassion centers, state wide. The State then implemented a lottery style system to award the six licenses to qualified candidates. He further explained the States requirements to be a qualified candidate.

Mr. Lacroix indicated that they are currently in the process of filling out the application which is due to the State by December 15, 2020.

Mr. Lacroix explained that the State is split up into six zones and there will only be one applicant per zone that is awarded the license. There is no guarantee that his group will be awarded the license for this particular zone, however, Town approval is needed as a condition to be eligible.

Mr. Lacroix then explained his proposed hours of operation which would run from 10:00 am to 8:00 pm. He stated that there will be no exterior changes to the facility. Mr. Lacroix then walked the Board through how a typical transaction would occur, including identification procedures and security protocols, patients will not be allowed to loiter on site. His company will have to comply with the State of Rhode Island protocols for alarms, storage and security which is very extensive. The exterior lighting will be compliant with the dark sky initiative. Mr. Lacroix stated that after talking with the Town Engineer, his group, have committed to make some changes to the storm water runoff design and their engineer designed a bio-retention area which will help with proper storm water disbursement. Mr. Lacroix indicated that parking is sufficient and that they received a waiver regarding landscape buffering from the Planning Board.

Board questions ensued in regards to parking, transportation of product,

Mr. Lacroix explained that they have met with South Kingstown Police in regards to parking, ingress and egress. They have closed off one of the two existing exits as suggested by SKPD, TRC and the Planning Board. This would allow for better control of parking and traffic volume. He also stated that they will be working closely with SKPD to monitor ongoing traffic and parking concerns and will hire a traffic detail if necessary.

Mr. Lacroix then explained how the marijuana is processed and transported which is closely monitored by RIDBR. He also explained that they will have an onsite vault for storage of any excess product.

More questions ensued in regards to parking and traffic flow.

Mr. Lacroix explained the flow of the marijuana industry in the State. He stated that he also owns a separate cultivation facility which will serve as a supplier to dba South County Compassion.

Questions ensued in regards to recreational marijuana usage if the State law changed.

Ms. Goins stated that the Town Ordinance refers to the medical marijuana statute and recreational usage would be considered a different type of usage; she feels that if the applicant wanted to expand into recreational usage the applicant would need to go back before the Board for an intensification of the Special Use Permit, and that the Board could choose to make that as condition of approval on this special use before the Board tonight.

Ms. Goins also spoke in regards to how much marijuana is allowed to remain on site. She stated that the State law does not have specific industry limitations, and that supply and demand, along with State law will set the limits present on site.

Questions ensued in regards to transportation of marijuana from the cultivation facility to the compassion center, security and number of patients allowed into the center at a one time.

Mr. Lacroix explained that the security on site will at present not be armed; his organization hired a third party security company. In addition there is video coverage of the entire premises.

Mr. Lacroix estimated that they would allow roughly ten people at a time inside the building with the possibility of outside queuing. At this point, Mr. Lacroix is estimating that they will serve approximately seventy-five patients over the course of a day. Numbers at this point are purely speculative due to the fact that six new compassion centers will be opening statewide.

Mr. Lacroix then explained how many employees will be on site and the different levels of access each employee will be allowed. He also explained that the majority of business is credit card sales, but cash will be deposited in a timely manner so excess cash will not be on site.

Todd Brayton was sworn in.

Mr. Brayton reviewed his curriculum vitae and was recognized as an expert witness in transportation engineering by the Chairman.

Mr. Brayton reviewed his traffic analysis that was prepared for 703 Kingstown Road. Due to COVID, 2013 historical data from RIDOT was used and expanded to 2020 data using a growth rate metric. A field review was also done in April 2020 and crash reports records from the South Kingstown Police Department were also used to evaluate conditions. Trip generation was also reviewed, with focus on the pm peak hours.

Mr. Brayton then spoke about the Southern driveway usage and that the Highway Capacity Manual was used for analysis. He then reviewed the grading levels of service that the site achieved. In conclusion, the geometric configuration data showed that the proposed driveway provides adequate stopping site distance and based upon the analysis, the traffic on the surrounding road and intersections would experience minimal change due to traffic entering and exiting the site.

Discussion ensued in regards to use of the both the North and South driveways versus just using the Southern driveway as the Town indicated was preferred.

Mr. Brayton stated that they met with TRC and they had some concerns in regards to the two existing access points. He stated that the Town Engineer and the South Kingstown Police Department indicated that one access point would be preferable and the applicant agreed to close the second access point based on the Town's recommendations, as well as supply a traffic detail if needed.

Mr. Brayton then spoke about the existing traffic light to the South of the entrance on Route 108.

Mr. Daniels asked if the increased traffic during the afternoon hours of 2pm to 3pm in regards to the high school exiting onto Kingstown Road was taken into account in the analysis performed.

Mr. Brayton explained that the analysis performed was based on RIDOT timed data from 6am to 10pm, and the peak pm, commuter hours were specifically analyzed. It was determined that the traffic volume was actually highest during the peak commuter pm hours, not school dismissal times.

There were no further questions of this witness.

Mr. Callaghan called his next witness, James Caldarone.

James Caldarone, PLS, was sworn in and recognized as an expert witness in surveying.

Mr. Caldarone testified that he completed a survey for the site, as well as a vicinity map for the surrounding areas. He determined that the nearest school property was located 1180 feet and that there were no other marijuana facilities located anywhere near 2000 feet from the site.

There were no questions of this witness.

Mr. Callaghan had no further witnesses.

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

Katherine Savage, from Hinckley Allen was present representing Costanza Realty, owner of 667 Kingstown Road, a neighboring property. Ms. Savage stated that her client's concerns are primarily with traffic flow and its impact to the surrounding area resulting from the proposed project. She stated that there are some gaps in the traffic study that should be further addressed, specifically the study's intersection analysis, the level of service scores obtained, and the overall cumulative impact on traffic conditions to other businesses. An additional gap, she felt, was in regards to the estimation of the number of patients to be serviced daily; she stated it is not entirely clear what those estimates were based on and how accurately it captures the true volume. Ms. Savage acknowledged that due to COVID it was not optimal conditions to achieve the most accurate data and in that they are in agreement with the TRC, that an inability to perform an accurate traffic count is problematic. Ms. Savage indicated that they would like the Board to consider applying a post-approval traffic study when the counts return to normal to assess any post mitigation that may be necessary. Her last comment was that the Board adopt the conditions proposed by the Planning Board in regards to the storm water drainage.

Mr. Brayton indicated that it is not typical of traffic studies of this nature to look at individual driveways, which is why the major intersection was analyzed as well as the sites own driveways. In addition, the level of service grade of F was just barely over the threshold and because they were conservative in their estimations it is more than likely that the grade would improve and that more than likely the existing business (restaurant/bar) would generate more traffic than the proposed application (compassion center). In addition because this is a State road it needs to go before RIDOT to be reviewed for ultimate approval.

More discussion ensued in regards to the existing driveways.

Ms. Goins advised that for State roads RIDOT would issue any physical alteration permits and it would be there ultimate determination what is allowable.

Mr. Lacroix addressed Ms. Savage's concerns in regards to storm water runoff. He stated that because they were not making any exterior changes to the site, he did not legally have to address any storm water runoff as a requirement. However, in conversations with the Town and the concerns about storm water runoff in that area, his company voluntarily made design changes to the storm water runoff system to address the concerns brought forward.

Mr. Lacroix also addressed how they came up with estimated patient volume. He explained that in Rhode Island there are roughly 18,000 – 19,000 patients currently split between the three current facilities. He does not anticipate a rapid increase in the number of patients and predicts that the patients will now be split between nine facilities statewide. Mr. Lacroix indicated that the traffic study's estimated number of patients was based on a most case scenario but that his actual business plan is estimating between 50-75 patients daily. The intent was that it is better to present to the Town a scenario that is higher than actually anticipated.

Discussion ensued.

There was no one else present who wished to speak.

Mr. Daniels asked if they are currently limited to selling medical marijuana to Rhode Island residents only.

Mr. Lacroix indicated that they currently would legally be able to sell to its bordering states, Connecticut and Massachusetts and that there is an extensive intake procedure for out of state residents. He also indicated that marijuana laws are rapidly changing.

There were no further witnesses.

Board discussion ensued.

Ms. Goins explained that the town ordinance predates the state law passed in 2019 that allows these six new compassion centers. She explained that in order to submit an application for entry into the state lottery system, the applicant must have prior zoning approval, so with that in mind, it was decided that the applicant should submit whatever they had previously submitted to DBR, in lieu of a completed application, because at this point the applicant has not submitted a complete application to DBR and has no way to comply with that condition of the Zoning Ordinance.

Ms. Goins stated that compassion centers have been around since 2005 and that they are considered the most intensive use allowed under the State Medical Marijuana Laws. Therefore they are the most highly regulated, and that the Board should be able to take some guidance that DBR has extensive regulations that will apply to this use and the applicant screening process.

More Board discussion ensued. The question was posed if a condition could be put on any approval to require an updated more intense traffic study after a certain period of time.

Ms. Goins advised that the Board could possibly make a condition that the special use permit would be initially valid for one-year from establishment of the use and then after a year of operation the applicant would need to come back before the Board with an updated traffic study for the Board to review and grant an updated special use permit.

Board discussion ensued.

Mr. Callaghan expressed concerns about granting a conditional zoning approval and the potential damages the applicants may face with DBR in having a conditional zoning approval as part of their application to DBR.

Mr. Lacroix expressed how throughout this process they have worked diligently with the Town in addressing any concerns the Town has brought up and that they would continue to work hand in hand with the Town in the future.

More discussion ensued in regards to the medical marijuana industry and patient licensing.

Discussion ensued in regards to a condition that retail marijuana sales not be allowed under this particular special use permit.

Ms. Goins advised that this is a reasonable condition that could be applied and that it should have no impact on the application to DBR because the applicant is seeking a license for medical marijuana not retail sales.

At that point there was no further discussion.

The motion is as follows:

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

Motion passed unanimously: Vote 5-0

(R. Jurczak-Aye, T. Daniels-aye, W. Mark-Aye, W. Rosen-Aye, R. Cagnetta-Aye)

At a meeting held on September 16, 2020 regarding 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.

The following individuals spoke as representatives of the applicant:

- Attorney James Callaghan
- Nicholas Lacroix, applicant
- Todd Brayton, PE, Bryant Associates
- James Caldarone, PLS, South County Survey Co.

The following individual spoke at the hearing with concerns in regards to the request:

- Katherine Savage, Attorney, Hinckley Allen, present for an abutting neighbor

The following materials were entered into the record:

- Application signed and dated July 14, 2020; Signed and Notarized Owner Authorization Form dated July 13, 2020; Planning Board Development Plan Advisory to Zoning recorded July 1, 2020; Site Plan prepared by South County Survey Co. stamped and dated May 1, 2020; Floor Plan
- 200' Radius Map and Abutter's List; Legal Notice, Certified Mail Receipts and Notarized Affidavit of Mailing
- Traffic Impact Analysis prepared by Bryant Associates, dated May 2020
- Vicinity Map prepared by South County Survey Co., dated September 11, 2020
- Documents of Incorporation
 - By-Laws of N&N Associates, Inc.
 - Entity Summary from RI Secretary of State
 - Amended Articles of Incorporation dated August 15, 2019 from State of Rhode Island, Business Services Division

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 301 (Schedule of Use Regulations Table), Use Code 100 (Marijuana Retail Facility), Section 504.15 (Marijuana Related Uses) 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 was determined through testimony that the applicant has met all of the criteria set forth under Section 504.15 including: submittal to the Department of Business Regulation for licensing; operational procedures and staffing protocol; location of the facility relative to schools and/or other marijuana related uses; hours of operation; implementation of adequate security measures; and Development Plan Review Approval.
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 applicant indicated that in speaking with the South Kingstown Police Department, the Technical Review Committee, and the Planning Board, it was determined that of the two existing points of ingress and egress the Northern point will be closed creating a single means of ingress and egress allowing for better control of traffic and parking. The applicant also indicated that if necessary a traffic detail would be hired to control traffic into and out of the location.

- (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 parking is more than adequate, seven parking spaces are required under the Ordinance and the site has thirty-four designated parking spaces.
- (iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above; located on-site.
- (iv) Utilities, with reference to locations, availability and compatibility; not applicable, existing utilities are already in place.
- (v) Screening and buffering with reference to type, dimensions and character; the proposed location is sufficiently buffered in relation to any residential area.
- (vi) Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district; lighting will be provided to illuminate the marijuana facility and its surrounding area and any accessory uses including storage areas, the parking lot(s), front façade and any adjoining public sidewalks.
- (vii) Required yards and other open space; not applicable
- (viii) General compatibility with lots in the same or abutting zoning districts, because the exterior appearance of the structure is already established it fits within the general compatibility of the immediate neighborhood.

Approval is subject to the following conditions:

- The applicant must meet all of the conditions set forth under the Planning Board Development Plan Advisory to Zoning granted on June 23, 2020 and recorded July 1, 2020 and,
- This is a Conditional Zoning Approval and is conditioned upon the applicant obtaining State of Rhode Island licensing approval. The Special Use Permit will have a two year expiration from recorded date per Section 908 with the right to extend if necessary and,
- The designated use is for a Medical Marijuana Compassion Center. In the event the state law changes to allow non-medical Retail Marijuana sales in the future, the applicant will need to come back before the Zoning Board for approval to amend the Special Use Permit, as this would constitute a change of use.

Mr. Cagnetta read the third petition

- **Petition of Celeste Helterline and Denise B. Hoffman**, 1077 Corn Neck Road / P. O. Box 576, Block Island, RI, 02807 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to replace the existing seasonal cottage and deck. The cottage will be increased in size by 136 square feet. The new cottage is proposed to be 504 square feet and the deck will be replaced with a smaller deck of 180 square feet. The required separation between adjacent cottages will be in compliance with the zoning standards. Lot size is 50.2 Acres. A Special Use Permit is required per Zoning Ordinance Section 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification), Section 608 (Coastal Community Overlay District) and Section 907 (Standards of Relief). Owner of cottage 10E9 is Celeste Helterline on property owned by Matunuck Beach Properties, located at 240 Cards Pond Road, South Kingstown, RI, Assessor's Map 92-1, Lot 9-107 and is zoned R200.

Celeste Helterline, applicant, was present and sworn in.

Ms. Helterline explained that they are simply looking to replace the existing one-bedroom, uninsulated cottage that is very old and dated with a new more livable updated cottage.

Ms. Helterline also clarified that the proposed cottage is actually 504 square feet not the 518 square feet as advertised and that the new deck will remain the same size of 180 square feet not 192 square feet as advertised.

Mr. Cagnetta explained that because the notice was more relief than what the applicant was actually seeking the notice sent will cover any lesser requests of relief without the need to be re-noticed.

Questions ensued about a loft that was designated on the plan.

Ms. Helterline explained that this will only be used as a storage loft only, there will be no sleeping in the loft area.

Mr. Gorman explained that the Certificate of Occupancy will clearly state that the loft is to be used for storage only, no sleeping allowed.

Ms. Gorman stated that the required separation between cottages will be in compliance with zoning standards.

There were no further questions.

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

The motion is as follows:

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

Motion passed unanimously: Vote 5-0

(T. Daniels-Aye, W. Mark-Aye, W. Rosen-Aye, R. Jurczak-Aye, R. Cagnetta-Aye)

At a meeting held on September 16, 2020 the Petition of Celeste Helterline and Denise B. Hoffman, 1077 Corn Neck Road / P. O. Box 576, Block Island, RI, 02807 for a Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking to replace the existing seasonal cottage and deck. The cottage will be increased in size by 136 square feet. The new cottage is proposed to be 504 square feet and the deck will be replaced with a smaller deck of 180 square feet. The required separation between adjacent cottages will be in compliance with the zoning standards. Lot size is 50.2 Acres. A Special Use Permit is required per Zoning Ordinance Section 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification), Section 608 (Coastal Community Overlay District) and Section 907 (Standards of Relief). Owner of cottage 10E9 is Celeste Helterline on property owned by Matunuck Beach Properties, located at 240 Cards Pond Road, South Kingstown, RI, Assessor's Map 92-1, Lot 9-107 and is zoned R200.

The following individuals spoke as representatives of the applicant:

- Celeste Helterline, applicant

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

The following materials were entered into the record:

- Application signed and dated August 1, 2020 with Narrative; Signed and Notarized Owner Authorization Form dated July 27, 2020; Existing Location Site Plan prepared by Eugene Spring P.E. revised date July 2, 2020; Foundation Plan and Detail prepared by Eugene Spring P.E. dated July 1, 2020; Modular Home Construction Plans (A.1 & A.2) prepared by Engel Architects dated June 4, 2020
- 200' Radius Map and Abutter's List; 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 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification), Section 608 (Coastal Community Overlay District) 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 this is an area of multiple cottages on one lot that has been non-conforming for decades. In addition, this parcel is located within the Coastal Community Overlay District where a Special Use Permit is required for any intensification; the applicant has met all of the necessary requirements to grant the Special Use Permit.
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; because the applicant is replacing an existing building there is existing ingress and egress, in addition the distance between the proposed cottage and the neighboring cottages meets the zoning standards.
- (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 because this is a replacement cottage that has existing established parking.
- (iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above; there is on-site community trash.
- (iv) Utilities, with reference to locations, availability and compatibility; utility information has been supplied by the applicants.
- (v) Screening and buffering with reference to type, dimensions and character; is not an issue because this is a replacement structure with existing buffering.
- (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 this is a cottage community and the proposed unit complies with fire and safety separation distances. The proposed cottage also meets the general compatibility of the community.

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

Mr. Cagnetta read the fourth petition

- **Petition of John K. Smith**, 13 Laurel Place, Manchester, CT, 06040 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to replace the existing seasonal cottage substantially damaged by Hurricane Sandy. The applicant received a Special Use Permit for the replacement on December 18, 2013, but the approval has since expired. The cottage replacement will be 24' X 27'-6" with a 4' X 10" enclosed porch and a 10' X 20'-9" open deck. No changes from the original approval are proposed. The required separation between adjacent cottages will be in compliance with the zoning standards. Lot size is 50.2 Acres. **A Special Use Permit is required per Zoning Ordinance Section 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification), Section 608 (Coastal Community Overlay District) and Section 907 (Standards of Relief).** Owner of proposed cottage 19E11 is John K. Smith on property owned by Matunuck Beach Properties, located at 240 Cards Pond Road, South Kingstown, RI, Assessor's Map 92-1, Lot 9-11 and is zoned R200.

John Smith, applicant, was sworn in.

Mr. Smith testified that the original cottage was in the first row and was swept out to sea by Hurricane Sandy. He indicated that he received previous Zoning approval in 2013 to replace the cottage to the back row at Roy Carpenter's Beach, where all the displaced cottages have been relocated to. At that time due to personal reasons the cottage was not replaced and the Special Use Permit expired. At this time he is simply looking to replace the cottage to the exact specifications that were previously granted.

Mr. Gorman indicated that there is adequate spacing from other cottages, 20' plus, on either side of from where the proposed cottage is going to be located.

Questions ensued in regards to the size of the proposed cottage.

Mr. Smith explained that the original cottage was 440 square feet and that the proposed cottage will be 660 square feet which complies with the maximum amount of expansion (1.5 X's) allowed; the proposed deck will be 207 square feet.

Mr. Gorman stated that the maximum allowed for the deck would be 200 square feet.

Mr. Smith stated that he could easily reduce the deck down to 200 square feet to be in compliance.

Ms. Goins clarified that 608.7B regarding decks that 200 square feet is the maximum allowable deck and that the 1.5 rule applies only to GLFA in enclosed covered spaces.

Mr. Daniels stated that he would make a motion to approve the previous Zoning Decision with the stipulation that the deck be reduced to 200 square feet.

Discussion ensued.

There were no further questions.

No one in the audience wished to speak

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, W. Mark-Aye, W. Rosen-Aye, R. Cagnetta-Aye)

At a meeting held on September 16, 2020 the Petition of John K. Smith, 13 Laurel Place, Manchester, CT, 06040 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to replace the existing seasonal cottage substantially damaged by Hurricane Sandy. The applicant received a Special Use Permit for the replacement on December 18, 2013, but the approval has since expired. The cottage replacement will be 24' X 27'-6" with a 4' X 10" enclosed porch and a 10' X 20'-9" open deck. No changes from the original approval are proposed. The required separation between adjacent cottages will be in compliance with the zoning standards. Lot size is 50.2 Acres. A Special Use Permit is required per Zoning Ordinance Section 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification), Section 608 (Coastal Community Overlay District) and Section 907 (Standards of Relief). Owner of proposed cottage 19E11 is John K. Smith on property owned by Matunuck Beach Properties, located at 240 Cards Pond Road, South Kingstown, RI, Assessor's Map 92-1, Lot 9-11 and is zoned R200.

The following individuals spoke as representatives of the applicant:

- John K. Smith, applicant

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

The following materials were entered into the record:

- Application signed and dated August 11, 2020; Signed and Notarized Owner Authorization Form dated , Letter from Matunuck Beach Properties dated June 2, 2020; Site Plan; Previous Notice of Zoning Decision recorded January 10, 2014; Construction Plans (S1.0, S1.1, S1.2, A1.0, A2.0, A2.1, A2.3) prepared by Cordtech Design Architecture dated October 20, 2014
- 200' Radius Map and Abutter's List; 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 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification), Section 608 (Coastal Community Overlay District) 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 Zoning Board approved the same application in 2013 for a Special Use

Permit. That Special Use Permit expired without any work having started. The applicant is now resubmitting the previous application and the only change to be noted is the proposed deck will be reduced to 200 square feet.

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; this is an existing parcel with established ingress and egress, in addition the distance between the proposed cottage and the neighboring cottages meets the zoning standards.

(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 cottage location has parking on site

(iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above; there is on-site community trash.

(iv) Utilities, with reference to locations, availability and compatibility; on-site utility hookups are present.

(v) Screening and buffering with reference to type, dimensions and character; not applicable, this is an established parcel with sufficient buffering

(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 this is a cottage community and the proposed unit complies with fire and safety separation distances. The proposed cottage also meets the general compatibility of the community.

Approval is subject to the following conditions:

- All conditions of the previously granted Zoning Decision made on December 18, 2013 and recorded January 10, 2014 must be met except,
- The deck referenced in the December 18, 2013 decision must be reduced to 200 square feet to comply with Section 608 of the Zoning Ordinance.

Mr. Cagnetta read the fifth petition

- **Petition of Bahij Boutros**, 394 Woodbine Street, Cranston, RI, 02910 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to establish a new restaurant (Baja's Taqueria & Grill) in place of an existing restaurant. They are requesting a special use permit to also allow for alcohol service with the restaurant. Lot size is 5.03 Acres. **A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations Table) and Section 907 (Standards of Relief)**. Owner of the property is Belmont Shopper's Park Inc. for premises located at 600-C Kingstown Road, South Kingstown, RI, Assessor's Map 57-1, Lot 90 and is zoned CH (Commercial Highway). The Use Code is 56-1-Restaurant With Alcohol.

Bahij Boutros, applicant, was sworn in.

Mr. Boutros indicated that he has been in the restaurant business for over 30 years and he realized that Mexican food has become very popular. He currently has several other locations throughout the state. He stated that when the previous

restaurant in this location went out of business he saw that as a good chance to invest in the community and open up another location in his hometown.

Mr. Boutros stated that due to the nature of Mexican food being spicy he would like to be able to offer beer and wine to compliment the food. This is a feature that some of his other locations offer. Mr. Boutros stated that he is not looking to cater to a bar crowd, simply just offer a cold beer or wine to compliment the meal.

Mr. Boutros did a video walk-through of the restaurant space.

Questions ensued in regards to hours of operation, outdoor activity, and entertainment.

Mr. Boutros stated that his intended hours of operation would be Sunday through Wednesday 10am – 10pm and possibly Thursday – Saturday 10am – 11pm. At this time he indicated that there would be no outdoor activity, but possibly next year he may put one table outside if the landlord allowed. In regards to entertainment there will be none.

There were no further questions.

No one in the audience wished to speak.

The motion is as follows:

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

At a meeting held on September 16, 2020 the Petition of Bahij Boutros, 394 Woodbine Street, Cranston, RI, 02910 for a Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking to establish a new restaurant (Baja's Taqueria & Grill) in place of an existing restaurant. They are requesting a special use permit to also allow for alcohol service with the restaurant. Lot size is 5.03 Acres. A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations Table) and Section 907 (Standards of Relief). Owner of the property is Belmont Shopper's Park Inc. for premises located at 600-C Kingstown Road, South Kingstown, RI, Assessor's Map 57-1, Lot 90 and is zoned CH (Commercial Highway). The Use Code is 56-1-Restaurant with Alcohol.

The following individuals spoke as representatives of the applicant:

- Bahij (David) Boutros, applicant

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

The following materials were entered into the record:

- Application signed and dated August 13, 2020; Signed and Notarized Owner Authorization Form dated August 11, 2020; Floor Seating Plan dated August 13, 2020
- 200' Radius Map and Abutter's List; 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 301 (Schedule of Use Regulations Table) and Section 907 (Standards of Relief) and Use Code 56-1 (Restaurant with Alcohol).
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 there are no specific requirements set forth in the Ordinance for use code 56-1, restaurant with alcohol, however the applicant has met all of the general criteria of Section 907.
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 site location has an established parking lot, Belmont Plaza, with multiple ingress and egress access points.
- (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; there is ample parking located on site within Belmont Plaza.
- (iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above; all supplied on-site; all trash, storage and delivery area is pre-existing and established by Belmont Plaza.
- (iv) Utilities, with reference to locations, availability and compatibility; there are adequate utilities already in place on site.
- (v) Screening and buffering with reference to type, dimensions and character; not applicable; Belmont Plaza has long established screening and buffering in place.
- (vi) Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district; all signs and lighting will be in compliance with the Ordinance.
- (vii) Required yards and other open space; not applicable.
- (viii) General compatibility with lots in the same or abutting zoning districts, because the proposed business is compatible with all other area businesses located within the designated Commercial Highway zone.

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

Mr. Cagnetta read the sixth petition

- **Petition of Kelly & Brian Thibeault**, 3140 South County Trail, West Kingstown, RI, 02892 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a new 30' X 50' detached garage. The proposed garage will be 23'-5 ¾" high. The maximum height allowed for accessory structures is 20'. Relief of 3'-5 ¾" is requested. Lot size is 11.06 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 Kelly & Brian Thibeault for premises located at 3140 South County Trail, Assessor's Map 21, Lot 7 and zoned R 80.

Brian Thibeault, applicant, was present and sworn in.

Mr. Thibeault testified that he is looking to replace an existing garage structure that is no longer serviceable and beyond reasonable repair. The property recently purchased by him has been in the family for years. The proposed pole-barn style garage has a slightly larger footprint to accommodate a growing family. The additional height is needed to accommodate the load bearing roof trusses which are needed to allow for the necessary clearance in the garage loft area and to match the roof pitch to accommodate snow load.

Mr. Thibeault stated the loft is for storage only, there will be no plumbing only electric.

Mr. Thibeault stated that he explained to his builder what they were looking for and his builder told him that with load bearing attic trusses the roof pitch needed to be at a minimum height and that is what is being asked for. The builder was able to reduce the original plans down a bit from the initial proposed 25 foot height to what is now being asked for.

Mr. Cagnetta explained roof pitch.

Mr. Thibeault's hardship was further discussed.

Mr. Howland Green, abutter submitted a letter in favor of the proposed garage.

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

There was no further discussion.

The motion is as follows:

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

At a meeting held on September 16, 2020 regarding the Petition of Kelly & Brian Thibeault, 3140 South County Trail, West Kingstown, RI, 02892 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is proposing to construct a new 30' X 50' detached garage. The proposed garage will be 23'-5 ¾" high. The maximum height allowed for accessory structures is 20'. Relief of 3'-5 ¾" is requested. Lot size is 11.06 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 Kelly & Brian Thibeault for premises located at 3140 South County Trail, Assessor's Map 21, Lot 7 and zoned R 80.

The following individuals spoke as representatives of the applicant:

- Brian Thibeault, applicant

The following materials were entered into the record:

- Application signed and dated August 14, 2020; Signed and Notarized Owner Authorization Form dated August 13, 2020; Floor Seating Plan dated August 13, 2020; Construction Plans (T-1, A1.1, A1.2, A2.1, A2.2, A4-1, S1-0, S1-1, S1-2) prepared by Naeem Akhter, P.E. dated August 14, 2020; Site Plan prepared by Daniel F. Harrington III, P.L.S. dated August 8, 2020
- 200' Radius Map and Abutter's List; Legal Notice, Certified Mail Receipts and Notarized Affidavit of Mailing
- Correspondence
 - Howland Green, Email received August 31, 2020

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 intended use of the garage requires a height variance to allow for the necessary storage of the applicants personal and professional tools and equipment.
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 has an existing garage which he simply wants to replace with a slightly larger garage to accommodate his growing family and for optimal equipment storage which requires the additional height requested.
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 proposed garage is going to be located right in the center of the applicant's 11.06 acres and will fit in with the surrounding area.
4. The Board finds that the relief to be granted is the least relief necessary, because the applicant is asking for a mere 3'-5 ¾" height variance to allow for the necessary clearance and headroom required for the storage of his equipment. In addition the engineered trusses were specifically designed to allow for the roof pitch to accommodate snow load.
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 garage the applicant would not be able to store his equipment on site. In addition, there would be no public purpose to deny this variance due to the size of the property.

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

Mr. Cagnetta read the seventh petition

- **Petition of Daniel J. Cunningham**, 3986 B1 Tower Hill Road, South Kingstown, RI, 02879 for an **Appeal of a Zoning Decision of the Zoning Enforcement Officer (ZEO)** under the Zoning Ordinance as follows: Petition of Daniel J. Cunningham, 3986 B1 Tower Hill Road, Wakefield, RI, for an Appeal of a Decision of the Zoning Enforcement Officer (ZEO) in a letter dated August 14, 2020. Premises located at 35 Fire Lane Two, South Kingstown, RI, Assessor's Map 82-1, Lot 1-1 and is zoned R-80. This appeal centers on the ZEO's interpretation of Sections 203 and 905 of the Zoning Ordinance as they relate to the premises. 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.

Mr. Cagnetta read the eighth 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 the ownership of the property and the history of the campsite agreement and share ownership stock that every homeowner is given at point of purchase. Jerry Brown Farm Association must give approval prior to any construction. Mr. Cunningham's house was built in the 1950 and is currently 844 square feet of living area, 24 square feet porch, 18 square feet utility area and 128 square feet deck; the campsite agreement gives the applicant control of approximately 1.3 acres. The existing house is almost uninhabitable and needs to be demolished. The applicant is seeking to build a new home with approximately 1584 square feet of living area, 804 square feet of porches and decks and a detached garage totaling 576 square feet. The existing septic system will be replaced. No dimensional relief is required and the proposed structure meets the density requirements of the zoning district. The lot is considered non-conforming because there is more than one house on the lot.

Mr. Kenyon explained that they had originally applied for a SUP to alter a non-conforming use. In the past with applications like this there had not been any limitations on the increase of the size of the homes, however, the effect of Section 203 of the Zoning Ordinance was questioned and an official determination from the Zoning Enforcement Officers was requested to determine the effects of Section 203 and 905 on the applicant's proposed project on July 24, 2020.

Mr. Kenyon referenced the Zoning Enforcement Officers letter dated August 14, 2020 which stated the Town's position is that under Section 203 that an increase in a non-conforming use is limited to 50 percent existing floor area and that 905 did not apply due to the fact that modifications normally apply only when dimensional variances are needed and in this case the applicant required a SUP to modify a non-conforming use.

Mr. Kenyon reviewed his Memorandum of Law on Behalf of his client Daniel J. Cunningham and gave his argument on the three main points.

- Section 203 does not apply to his clients proposed constructions
 - Mr. Kenyon referenced a Superior Court decision that supported his argument where the ruling is relevant to the issues at hand.

- If Section 203 does apply than it should be based on the percentage increase to all of the houses on the lot, not just one individual house.
- Section 905 applies to this case and the appellant should be able to request a modification from the Zoning Enforcement Officer under this Section.

Mr. Kenyon then asked the Zoning Board to overturn the decision of the Zoning Enforcement Officer.

Board questions ensued.

Ms. Goins stated that she feels Attorney Kenyon's argument is based mostly on fairness and while that can be appreciated as a concept, the Zoning Board is not legally empowered to consider fairness issues in the way that court could. Fairness has a very narrow application in the zoning process, and interpretations may vary over the years and the question of why was this allowed in the past, is not a legal reason to grant relief.

Ms. Goins said that under State law non-conforming uses must be allowed to continue but not every city or town has a provision to allow them to expand. Ms. Goins stated that she has not had a chance to review the Superior Court case that Attorney Kenyon represented.

Ms. Goins advised the Board to focus on the language of our Ordinance and that in South Kingstown we allow non-conforming uses to expand as a special use providing certain criteria are met and that in her opinion the fifty percent criteria means that we will allow you to expand but only by so much. This property's non-conforming use is non-conforming based on the use combined with the number of buildings not in the use itself. The question is really in how we apply the fifty percent limit, in her opinion it should be applied to both the individual structures as well as the total square footage of all the buildings that existed when the ordinance was adopted. The intent of the Ordinance, based on the mention of floor area, would be to allow all these houses to have a modest expansion.

Ms. Goins also stated that she does not believe Section 905 applies because she cannot square it with Section 203 simply because by any expansion you are automatically getting closer to another property on the lot.

Mr. Gorman agreed that Section 905 is difficult to apply for the same reasons, that with any expansion you automatically get closer to other properties. Section 203 states fifty percent based on existing floor area. Mr. Gorman stated that he fully backs up the former Zoning Enforcement Officers determination.

Discussion ensued in regards to obtaining a Special Use Permit as well as a Dimensional Variance and that this is not allowed under the Zoning Ordinance.

Mr. Daniels suggested that it may be appropriate to have both sides submit a brief in regards to the Superior Court case in Warwick that Attorney Kenyon mentioned earlier tonight.

Discussion ensued in regards to briefing the Warwick Superior Court decision. Discussion also ensued in regards to what the appellant's course of action could be based on the final decision the Board makes on the appeal, and then, the possible scenarios for the special use permit application that is also before the Board.

Board discussion ensued.

Mr. Kenyon stated that he agreed with Mr. Daniels and that a briefing on the Warwick case would be helpful. He indicated that the language of the Warwick and South Kingstown Zoning Ordinances are very similar and that the judge's reasoning in the Superior Court case is exactly on point with his argument. Mr. Kenyon also brought up his argument of Section 905.

Discussion ensued in regards to Mr. Kenyon and Ms. Goins drafting briefs in regards to the Warwick Superior Court case.

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

Carolyn Wilkel stated that she would like to make this happen as soon as possible.

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

The Motion is as Follows:

Mr. Daniels made a motion to continue the Daniel J. Cunningham Appeal to October 21, 2020 with the understanding that if one of the necessary members is not available the petition will be continued to October 28, 2020. In addition all attorneys shall submit their briefs no later than October 9, 2020.

Mr. Jurczak seconded the motion.

Motion passed unanimously: Vote 5-0

(T. Daniels-Aye, R-Jurczak-Aye, W. Rosen-Aye, W. Mark-Aye, R. Cagnetta-Aye)

Mr. Kenyon asked that the petition of Daniel J. Cunningham for a Special Use Permit also be continued to October 21, 2020

Mr. Daniels made the motion to continue the petition of Daniel J. Cunningham for a Special Use Permit till October 21, 2020

Mr. Jurczak seconded the motion.

Motion passed unanimously: Vote 5-0

(T. Daniels-Aye, R-Jurczak-Aye, W. Rosen-Aye, W. Mark-Aye, R. Cagnetta-Aye)

There were no further petitions.

Other Business:

Minutes:

Mr. Rosen made the motion to approve the August 19, 2020 and the August 26, 2020 minutes.

Mr. Jurczak seconded.

Vote: All in Favor (5-0) both sets of minutes approved.

Adjournment:

Mr. Rosen made the motion to adjourn.

All Members were in favor.

Meeting adjourned at 10:08 p.m.