



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 October 28, 2020.

Members Present:

- Robert Cagnetta, Chair
- Thomas Daniels, Vice-Chair
- Richard Jurczak, Member
- William Mark, Member
- William Rosen, Alt. #1
- Casey Charkowick, Alt. #2

Also present were, Amy Goins, Special Legal Counsel, Jamie Gorman, Interim Building Official and Clerk, 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. Jurczak, Mr. Mark and Mr. Rosen.

Mr. Cagnetta read the first petition.

- **Petition of Jeffrey Greene**, 782 Mooresfield Road, South Kingstown, RI 02879 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to convert the existing single-family dwelling into a three guest room Bed & Breakfast. The Bed & Breakfast will include limited events, accessory to the principal use. The Planning Board Advisory Development Plan Review was granted on June 23, 2020. Lot size is 3 Acres. **A Special Use Permit is required per Zoning Ordinance Section 301 Schedule of Use Regulations and Section 907 (Standards of Relief)**. Owners of the property are Jeffrey and Christine Greene for premises located at 782 Mooresfield Road, South Kingstown, RI, Assessor's Map 17-3, Lot 6, and is zoned R80.

Jeffrey Greene, applicant was present and sworn in.

Mr. Greene testified that he is interested in running a three room bed and breakfast, he stated however that guest accommodations better describes their intent, they will not be preparing or serving any food. They do not want to change anything in regards to the layout or design of the building or the property.

Mr. Greene stated that they are in compliance with all of the requirements of Section 504.9 and gave specific details in regards to house, room size, lot size, and parking. In regards to accessory events, Mr. Greene state that their intent is not to use this property as an event venue, however, they do have the required parking to have up to have a maximum 45 event attendees. In addition they would be limited to only 12 events per year or one a month. If any events are being held on the property there would be no parking on Mooresfield Road and if there was any type of music it would not carry beyond the property. In regards to events this is

something that the applicant stated has to be taken into consideration but will not be anything that is promoted.

Mr. Greene explained that they are located right next to the Farmer's Daughter and Landscape Creations, both of which are zoned residential but serves as a wedding venue and have large scale earth moving equipment running respectively. He then stated his nearest neighbor to the west is very encouraged by this proposal.

Mr. Greene showed on the site plan the designated event area, if needed, and indicated that it is out of site of the neighbors.

Ms. Goins explained Bed and Breakfast under the Zoning Ordinance.

Questions ensued in regards to septic, dumpster, exterior sound, signage and the original house.

Mr. Greene explained that there is a new four bedroom septic that was installed a year and a half ago. There will be no dumpster on site, rather typical residential trash removal. Any type of accessory events would be of a very small scale and limited too essentially to back ground music, no loud musical performance or concerts. Any type of signage would be extremely small and follow all requirements of the sign ordinance.

Mr. Greene explained that the original house was built in 1841 and added onto in 1869. In approximately 2006 the owners, at the time, did a major renovation on the property and brought the house back to its original 1869 appearance while bringing it up to modern building code standards.

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

Mr. Cagnetta stated that the Planning Board gave a Positive Development Plan approval and that no conditions or restrictions were put upon the application.

There was no more discussion.

The motion is as follows:

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

At a meeting held on October 28, 2020 the Petition of Jeffrey Greene, 782 Mooresfield Road, South Kingstown, RI 02879 for a Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking to convert the existing single-family dwelling into a three guest room Bed & Breakfast. The Bed & Breakfast will include limited events, accessory to the principal use. The Planning Board Advisory Development Plan Review was granted on June 23, 2020. Lot size is 3 Acres. A Special Use Permit is required per Zoning Ordinance Section 301 Schedule of Use Regulations and Section 907 (Standards of Relief). Owners of the property are Jeffrey and Christine Greene for premises located at 782 Mooresfield Road, South Kingstown, RI, Assessor's Map 17-3, Lot 6, and is zoned R80.

The following individuals spoke as representatives of the applicant:

- Jeffrey Greene, applicant

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

The following materials were entered into the record:

- Application and Narrative with Addendum signed and dated September 3, 2020; Owner Authorization Form signed and notarized September 2, 2020; Site Plan dated March 1, 2020;

Aerial Photo from SK GIS showing designated parking; First and Second Floor, Floor Plans; Planning Department Development Plan Review/Advisory dated June 24, 2020.

- Radius Map, 200' Abutter's List, Legal Notice and Certified Mailing Receipts with 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) and Section 907 (Standards of Relief), Use Code 40, Section 504.9 (Bed and Breakfast Uses),
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 applicant testified that they have met all of the requirements of Section 504.9 (Bed and Breakfast) in regards to building, bedroom and lot square footage, necessary parking requirements, maximum room occupancy and accessory events which would only occur at a guest's request.
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 property has exiting ingress and egress.
 - (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; parking is more than sufficient, there are fifteen designated parking spots on the property.
 - (iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above; no dumpster will be needed on site.
 - (iv) Utilities, with reference to locations, availability and compatibility; existing utilities; in addition a new four bedroom septic was installed one and a half years ago.
 - (v) Screening and buffering with reference to type, dimensions and character; this is a three acre parcel with existing buffering already 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; any signage would be small in nature and comply with the Zoning Ordinance.
 - (vii) Required yards and other open space; not applicable, this is a 3 acre parcel with adequate yard and open space available.
 - (viii) General compatibility with lots in the same or abutting zoning districts, because a Bed and Breakfast would fit into the surrounding area very well, this is a historic home that has been fully restored to its original state. In addition the applicant previously went before the Planning Board and received a positive Development Plan Review Advisory.

Approval is subject to the following conditions:

- Conditions in advisory Development Plan Review Decision, dated June 24, 2020, recorded on July 1, 2020.
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Mr. Cagnetta read the second petition.

- **Petition of Linda-Jean Briggs**, 77 Acadia Street, Dexter, ME 04930 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to construct a 144 s.f. addition, 144 s.f. covered deck, and 40 s.f. open deck attached to their seasonal cottage. The owner is allowed an increase of 150 s.f. of living area to the existing size, and the proposed deck is under the 200 s.f. allowed under this ordinance. The proposed addition will be no closer to any of the neighboring cottages. The Lot size is 50.2 Acres. **A Special Use Permit is required per Zoning Ordinance Section 608.7 (Changes to Coastal Community Structures allowed by the Zoning Board) and Section 907 (Standards of Relief)**. Owner of the cottage 11W8 is Linda-Jean Briggs on property owned by Matunuck Beach Properties, located at 240 Cards Pond Road, South Kingstown, RI, Assessor's Map 92-1, Lot 9-347, and is zoned R200.

Linda-Jean Briggs, applicant, was present and sworn in.

Ken Galyas, contractor, was present and sworn in.

Ms. Briggs testified that her family has had a cottage at Roy Carpenter's Beach for 57 years. In addition, they have several family members who also have homes within the community. She is looking to expand so she can have a larger kitchen to accommodate the needs of her extended family. In regards to the porch, she would like it covered since it faces west and is very hot to sit on in the afternoon to enjoy the sunsets. The existing open porch would be where her grill would be located. The proposed changes come no closer to any neighbors and the open field across the way will never be built upon.

Mr. Gorman stated that a covered porch would be treated as a deck and not considered part of gross living floor area. Mr. Gorman explained that the addition is asking for 144 square feet living area and the deck would be 184 square feet.

There was discussion as to whether a covered deck is to be treated as a deck or treated as living space pursuant to Section 608.7B in regards to decks.

Ms. Goins advised that an uncovered deck could be allowed by special use permit but a covered deck would typically be considered living space.

Discussion ensued in regards to what is considered gross livable floor area (GLFA).

Ms. Briggs stated that her neighbor was allowed to put on a covered porch within the last five or so years.

Questions ensued in regards to the covered deck.

Mr. Galyas explained that the deck would consist of a roof, and railing all the way around and that there would be no solid walls.

Ms. Goins stated the GLFA does not include uncovered or unenclosed spaces, giving that they are proposing railings this would be considered an enclosed deck and count towards GLFA.

Mr. Gorman determined that if there are no railings or knee walls they would be able to cover the porch and not count towards the GLFA, as long as the land grade was no more than 30" this would be allowable.

Ms. Goins stated that this would be consistent with the Ordinance.

Questions ensued in regards to the distance of the open deck from the corner of the road.

Mr. Gorman stated that there would be no Code issue, however without knowing the actual distances there may be some concern in regards to large trucks being able to make the turn.

Ms. Briggs stated that she had spoken with the property owners and that they had no issues with the distance from the deck to the corner of the road. She stated that the field diagonal to her property is used as a parking field.

Ms. Goins clarified what is defined as living space.

There was no further testimony.

No one in the audience wished to speak.

There was no further Board discussion.

The motion is as follows:

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

At a meeting held on October 28, 2020 the Petition of Linda Jean Briggs, 77 Acadia Street, Dexter, ME 04930 for a Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking to construct a 144 square feet addition, 144 square feet covered deck, and 40 square feet open deck attached to their seasonal cottage. The owner is allowed an increase of 150 square feet of living area to the existing size, and the proposed deck is under the 200 square feet allowed under this ordinance. The proposed addition will be no closer to any of the neighboring cottages. The Lot size is 50.2 Acres. A Special Use Permit is required per Zoning Ordinance Section 608.7 (Changes to Coastal Community Structures allowed by the Zoning Board) and Section 907 (Standards of Relief). Owner of the cottage 11W8 is Linda-Jean Briggs on property owned by Matunuck Beach Properties, located at 240 Cards Pond Road, South Kingstown, RI, Assessor's Map 92-1, Lot 9-347, and is zoned R200.

The following individuals spoke as representatives of the applicant:

- Linda Jean Briggs, applicant
- Ken Galyas, contractor

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

The following materials were entered into the record:

- Application signed and dated September 3, 2020; Owner Authorization Form signed and notarized August 24, 2020; Site Plan dated March 1, 2020; Existing Floor Plan; Proposed Floor Plan; Existing Site Plan; Proposed Site Plan; Elevations
- Radius Map, 200' Abutter's List, Legal Notice and Certified Mailing Receipts with 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 608.7 (Changes to Coastal Community Structures allowed by the Zoning Board) 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 applicant is not exceeding any gross living area with the addition and the addition is within the bounds of the Ordinance and it is not encroaching on any neighboring properties.
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; is sufficient, there is a right of way on the side and front of this property allowing ample access to any emergency vehicles.
 - (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; utilities are existing; the applicant will be tying the existing grey water system into the community system, in addition a new well was installed in 2019.
 - (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 this is a coastal community with a number of other small cottages on the property and the applicant's proposed addition and porch fit well within the overall community appearance.

Approval is subject to the following conditions.

- The proposed covered 144 square feet deck will not have any enclosures in regards to walls, knee walls and/or railings.

Mr. Cagnetta read the third petition.

- **Petition of William Harvey**, 77 Quarry Road, Bridgewater, CT 06752 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to elevate the existing dwelling 5.5' in same location. The existing south side deck will become detached and the 224 s.f. west side deck will be removed and replaced. The north side dwelling and deck do not currently meet the side yard dimensional setback. The side yard setback is 10'. The west side deck will be 8.1' from side property line and the dwelling will be 8.5' from the west side property line. Relief

of 1.9' is requested. Lot size is 6,832 s.f. **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 William A. Harvey for premises located at 2 Peninsula Road, South Kingstown, RI, 02879, Assessor's Map 93-1, Lot 70 and is zoned R 20.

Jeff Balch, PLS, was sworn in.

Mr. Balch explained that this an existing substandard lot of record. The applicant is looking to elevate the building to become FEMA compliant. There is a small 14x16 room in the back of the house that is not likely to survive being lifted, and the applicant is looking to remove the small existing room and replace it with a second floor addition that is going to be located where the previous roof deck existed. The proposed addition and second story addition will be in the same footprint as what is there now. There are no changes in number of bedrooms, parking, footprint and the structure would be compliant with building height. The applicant is lifting the house because it is currently well below FEMA's base flood elevation. All that is being sought for relief is 1.9' on the north side and the proposed addition will be within the same footprint as the existing home.

William Harvey, applicant, was sworn in.

Mr. Harvey testified that because of the shed roof with deck over it, there have been water issues creating a pretty serious mold condition which is why they are looking to demolish the 14x16 room in the back.

There were no further questions.

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

Mr. Daniels wanted some clarification as to why the applicant is seeking relief when they are building on the same footprint with the same setbacks.

Mr. Balch explained that the building is already non-conforming in terms of the setback so by adding the second floor, the second floor is becoming more non-conforming so dimensional relief needs to be sought for the second floor addition that is close to the property line.

Ms. Goins concurred.

Board discussion ensued in regards to decks.

There was no further discussion.

The Motion is as follows:

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

At a meeting held on October 28, 2020 regarding the Petition of William Harvey, 77 Quarry Road, Bridgewater, CT 06752 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to elevate the existing dwelling 5.5' in same location. The existing south side deck will become detached and the 224 square feet west side deck will be removed and replaced. The north side dwelling and deck do not currently meet the side yard dimensional setback. The side yard setback is 10'. The west side deck will be 8.1' from side property line and the dwelling will be 8.5' from the west side property line. Relief of 1.9' is requested. Lot size is 6,832 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 William A. Harvey for premises located at 2 Peninsula Road, South Kingstown, RI, 02879, Assessor's Map 93-1, Lot 70 and is zoned R 20.

The following individuals spoke as representatives of the applicant:

- William Harvey, applicant
- Jeff Balch, PLS

The following materials were entered into the record:

- Application signed and dated August 12, 2020; Owner Authorization Form signed and notarized August 12, 2020; Proposed Site Plan prepared by Michael A. Fontaine, PLS dated June 23, 2020
- Radius Map, 200' Abutter's List, Legal Notice and Certified Mailing Receipts with 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 existing structure is tightly located on the lot and the existing parcel is a substandard non-conforming legal lot of record..
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 addition is consistent with the rest of the house and utilizes the existing footprint; the applicant is simply looking to raise the structure to become FEMA compliant.
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 applicant is looking to elevate an existing structure within the same footprint to continue its use as a single family residence.
4. The Board finds that the relief to be granted is the least relief necessary, because the applicant is asking for only 1.9' of relief which is the same as the existing structure.
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 due to lot restrictions the applicant has no other options for expansion but to utilize the existing footprint; in addition the applicant's primary goal is to raise the structure to comply with FEMA floodplain standards.

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

Mr. Cagnetta read the forth petition.

Petition of Maureen and John Cardinal, 18 Desano Drive, Narragansett, RI 02882 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to demolish the existing 750 square feet dwelling and replace it with a 1,500 square feet dwelling, with attached 240 square feet deck. The current dwelling does not meet the front or rear yard setbacks. The required setbacks for the front and rear property line are 25' and 30' respectively. The proposed dwelling will be located 13.9' from the font property line and 18.1' from the rear property line. Relief of 11.1' and 11.9' respectively, is requested. Lot size is 15,000 s.f. **A Dimensional Variance is required per Zoning Ordinance Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief).** Owner of the property is John & Maureen Cardinal for premises located at 29 Cook Avenue, South Kingstown, RI, Assessor's Map 43-1, Lot 24 and is zoned R 20

John Cardinal, applicant was sworn in.
Maureen Cardinal, applicant was sworn in.

Mr. Cardinal stated that they purchased the property in 2015 with the intention of retiring there. The structure was built in 1946 and the structure needs substantial improvements. In 2012 during Hurricane Sandy the building received extensive water damage and has severe structural integrity issues. In speaking with builders they were advised that the structure would not likely survive raising and if at all possible to raise it would be very costly; it was determined that demolishing and rebuilding would be a better option.

Mr. Cardinal explained that the lot is unique in that it is very wide, 250' wide and 60' deep and the east side of the property has some wetlands. In speaking with CRMC they indicated that they would like the new structure to be located more to the east. Due to this placement and the lot only being 60' deep it would only allow for a house 5' wide if they were to try to maintain zoning setbacks. CRMC has given them a positive preliminary determination and once zoning approval is received they will apply for the final CRMC Assent.

Mr. Cardinal testified that the existing home is 30' wide and 25' deep, in order to gain more living area the proposed home is 40' wide and they did not increase the depth. They are not proposing to increase the encroachment relevant to the existing structure. Living area will increase from 750 square feet to 1920 square, most of the growth comes from adding a second floor.

Mr. Cardinal further stated that the resulting home is of a modest design. And the two closest abutters are in support of the proposed project. Mr. Cardinal explained the relief being sought. The home has town sewer and water. They are looking to expand so family and grandchildren can come visit. The new home would be FEMA compliant.

Mr. Cagnetta read into record the correspondence in favor from Nanci Moore dated October 21, 2020.

Discussion ensued in regards to the limited building envelope on the lot and that setback constraints would only allow for a house to be about 5' wide.

Mr. Cardinal stated that last year they attempted to design a home that would fit the main footprint of the existing home but it ended up being very difficult, due to CRMC wetland setbacks requirements and to be able to design a home that would suit their needs.

Discussion ensued on CRMC and zoning setbacks.

Ms. Goins advised that this would be a conditional approval based on CRMC approval and would have a two year expiration.

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

John Chartier, 43 Hahn Avenue, spoke that he is fully in support of the application.

There was no further questions.

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, T. Daniels-Aye, R. Cagnetta-Aye)**

At a meeting held on October 28, 2020 regarding the Petition of Maureen and John Cardinal, 18 Desano Drive, Narragansett, RI 02882 for a Dimensional Variance under the Zoning Ordinance as follows: The

applicant is seeking to demolish the existing 750 square feet dwelling and replace it with a 1,500 square feet dwelling, with attached 240 square feet deck. The current dwelling does not meet the front or rear yard setbacks. The required setbacks for the front and rear property line are 25' and 30' respectively. The proposed dwelling will be located 13.9' from the front property line and 18.1' from the rear property line. Relief of 11.1' and 11.9' respectively, is requested. Lot size is 15,000 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 John & Maureen Cardinal for premises located at 29 Cook Avenue, South Kingstown, RI, Assessor's Map 43-1, Lot 24 and is zoned R 20.

The following individuals spoke as representatives of the applicant:

- Maureen Cardinal, applicant
- John Cardinal, applicant

The following materials were entered into the record:

- Application with Narrative signed and dated September 14, 2020; Owner Authorization Form signed and notarized September 14, 2020; Tax Assessor's Field Card Map 43-1 Lot 24; Construction documents (Sheets 1, 2, 6, 7 & 8) prepared by Narragansett Design Services dated August 2020; Proposed Site Plan prepared by Michael A. Fontaine, PLS, dated September 3, 2020
- Radius Map, 200' Abutter's List, Legal Notice and Certified Mailing Receipts with Affidavit of Mailing
- Correspondence
 - Nanci Moore dated October 21, 2020

The following individuals spoke in favor of the petition.

- Jack Chartier, 43 Hahn Street

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 itself is very constricting being only 60 feet deep; if the applicant were required to build within the zoning setbacks the new structure would only be 5 feet wide if no relief was granted.

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 purchased the existing structure which was in severe disrepair and is well below the FEMA flood standards.

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 applicant is looking to replace a deteriorating structure with a nicely designed single family home that will fit within the general character of the surrounding area.

4. The Board finds that the relief to be granted is the least relief necessary, because the proposed design is modest in size and has been designed specifically to request the least zoning relief necessary while also meeting the CRMC setback requirements.

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 if the variance were not granted the applicant could not raise the existing house and guarantee its structural integrity leaving their

only option to build an unlivable structure that could only be 5 feet wide due to lot depth and setback requirements.

Approval is subject to the following conditions:

The decision is a Conditional Zoning Approval and is conditioned upon CRMC approval and will have a two year expiration from the recorded date per Section 908 with the right to extend if necessary.

Mr. Cagnetta read the fifth petition.

- **Petition of John and Lee Chartier**, 43 Hahn Avenue, South Kingstown, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a 192 s.f. second story deck, attached to the existing single family dwelling. The deck will be located along the rear property line on the southwest portion of the dwelling. The deck will be located 5' from the rear property line. The required rear setback is 30'. Relief of 25' is requested. The Lot size is 12,632. **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 John and Lee Chartier for premises located at 43 Hahn Avenue, South Kingstown, RI, Assessor's Map 43-1, Lot 16 and is zoned R 20.

John Chartier, applicant was sworn in.

Lee Chartier, applicant was sworn in.

Mr. Chartier testified that they have an existing deck on the South side of their house and they would like to expand it by 8 feet out and 24 feet across. They have a very large family and due to COVID they would like to have the opportunity to have an outside family gathering space. The existing deck is already only 9 feet from the rear property line, due to very narrow lots and zoning setbacks, and they are looking to expand to 5 feet from the property line. This will be a two story first and second floor deck with nothing fully enclosed.

Mrs. Chartier explained that the existing house has a 2 story deck and in asking to expand they are looking to expand both the first and second floor deck areas to keep within the original design integrity of the house.

Mr. Chartier referenced a photograph that showed where the deck expansion would be extending.

Mrs. Chartier also indicated that they had a preliminary conversation with CRMC and that if the Zoning Board approved it there should be no issues with CRMC issuing an assent.

Mr. Daniels asked for clarification on enclosed decks and if it would be considered living area.

Ms. Goins and Mr. Gorman explained that because the deck is not within the Coastal Community Overlay District there are no restriction in regards to deck size and living space expansion.

Questions ensued in regards to distance to the closest abutting neighbor.

Mr. Cardinal explained that the nearest neighbor's house, Ms. DiDonato, is approximately 75 feet way from the existing deck and showed supporting photograph, in addition Ms. DiDonato submitted a letter of support.

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

John Cardinal, 29 Cook Avenue, spoke that he is fully in support of the application.

There was no further questions.

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-Aye, T. Daniels-Aye, W. Rosen-Aye, R. Cagnetta-Aye)

At a meeting held on October 28, 2020 regarding the Petition of John and Lee Chartier, 43 Hahn Avenue, South Kingstown, RI 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is proposing to construct a 192 square feet second story deck, attached to the existing single family dwelling. The deck will be located along the rear property line on the southwest portion of the dwelling. The deck will be located 5' from the rear property line. The required rear setback is 30'. Relief of 25' is requested. The Lot size is 12,632. 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 John and Lee Chartier for premises located at 43 Hahn Avenue, South Kingstown, RI, Assessor's Map 43-1, Lot 16 and is zoned R 20.

The following individuals spoke as representatives of the applicant:

- Jack Chartier, applicant
- Lee Chartier, applicant

The following materials were entered into the record:

- Application signed and dated September 16, 2020; Owner Authorization Form signed and notarized September 16, 2020; Photo Log with pictures 1, 2, 3 & 4; Site Plan (S1) prepared by Marcel Fontenault Jr. dated December 5, 2005
- Radius Map, 200' Abutter's List, Legal Notice and Certified Mailing Receipts with Affidavit of Mailing
- Correspondence
 - Helen DiDonato dated September 10, 2020
 - Nancie Moore dated September 15, 2020
 - Robert Warren dated September 11, 2020
 - Susan Eckel dated September 10, 2020

The following individuals spoke in favor of the petition.

- John Cardinal, 29 Cook Avenue

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 size of the lot is very restricted, the applicant is limited to where they can expand their living space to meet the needs of their family.
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 expand the overall living area to accommodate family gatherings on a lot that has limited expansion possibilities due to zoning setbacks.
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 addition will only add to the aesthetic value of overall structure as well as to the surrounding area.

4. The Board finds that the relief to be granted is the least relief necessary, because the applicant is only asking for minimal relief on an already non-conforming structure.

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 relief being granted the applicants could not expand which would make family gatherings difficult due to lack of space, especially during these COVID restricted times.

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

Other Business:

Attendance:

November 18, 2020 meeting, all members present except Mr. Jurczak can attend.

Adjournment:

Mr. Rosen made the motion to adjourn.

All Members were in favor.

Meeting adjourned at 9:04 p.m.