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January 19, 2021

South Kingstown Zoning Board
180 High St.
Wakefield, RI 02879

***Re: Dimensional Variance request for Property located at 68 Potter Road
(AP 87-2 Lot 124)***

Dear Sir/Madam:

This office represents an abutting property owner, specifically the owner of property located at 64 Potter Road. At this time on behalf of the owners of 46 Potter Road, this office objects to the dimensional variance request submitted by the owners of 68 Potter Road for the reasons stated below.

In reviewing the application presented to the Board, the application does not meet the criteria of your municipal regulations: specifically, Section 907, Subsections A through D and F.

Section **A** requires the hardship here to be due to the “*unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area*”. The applicant does not specify the hardship from which they suffer except to suggest that the lot is a preexisting legal undersized lot of record. Unfortunately for the applicant, under the South Kingstown zoning regulations as constructed, this should not be considered a hardship as special provisions are made for undersized lots. Specifically, within the regulations for dimensional requirements, special rules have been created for preexisting undersized lots of

records such as the subject property. Particularly, undersized lots of record are already given relief under the regulations by reducing the setback requirements significantly. The applicant is
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attempting to double-dip by using the regulations for undersized lots of record and suggesting that this is a hardship from which relief is required. Accordingly, no hardship is present. Further, it is important to note that the applicant, as shown on the attached pictures, already has a 4000+ square foot house, a pool house, a bath house, a cabana and a terraced lawn and patio area.

Unfortunately for the applicant, the hardship that may be present that there is not enough space within the building envelope to place a large, detached garage was created by the current applicant. As can be seen, the applicant has made a number of applications to the CRMC of RI since they purchased the property and as mentioned above has utilized the property with a large home and many outbuildings including a pool house, a bath house, a cabana, a terraced lawn and a patio area as well as extensive retaining walls as shown on attached photographs. .

Regrettably for the applicant the conditions stated in the application are not conditions created by the unique characteristics of the subject land or structure as is required by statute, but instead by the personal choices of the applicant. The applicant has also owned this property for ten years prior to construction of the current home and was aware of the size and shape of the property at that time. Accordingly, the application on its face does not state a claim for which relief can be granted under your ordinance as no hardship exists.

Section **B** requires that “*said 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*”. Just as stated above, the application on its face fails to show that the applicant’s actions did not create the hardship from which relief can be granted. In fact, the application suggests that the applicant needs this variance because of a 10’ setback from the OWTS on the site. The OWTS for the site was recently increased from a three bedroom system to a four bedroom system. The four bedroom system as is required in a coastal zone is a denitrification OWTS. The applicant chose to install an underground system, which as the Board knows is far less expensive than an above ground system, but the trade off is size, where the underground system occupies far more area. In fact, the applicant chose to increase the size of the OWTS recently as can be seen by attached permits. The applicant chose to increase the size of and install the current underground OWTS in the building envelope. In placing the OWTS in its current location, the applicant consumed a portion of the building envelope of the property at their own risk.

Also, within the building envelope is the driveway, the pool, the spa, the pool house, the pool cabana, and a terraced elevated patio, and 4000+ square foot home. All of these

structures were placed on the property in their current location by the current owner and applicant. Based on these facts there is no way around the fact that the applicant created the South Kingstown Zoning Board

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hardship regarding the OWTS setbacks and made a choice not to include a garage in the prior site designs. Therefore, the choices the current property owner and applicant made did, in fact, create the hardship from which relief is sought and no relief can be granted.

Section C requires that “***granting of the requested variance will not alter the general characteristic of the surrounding area or impair the intent or purpose of this Zoning Ordinance or the Comprehensive Plan of the Town***”.

In doing a visual review of the neighborhood located along Potter Road, it is a beautiful and secluded private road, that is only for use and enjoyment of those granted the right to pass and re-pass on the private road. The homes on the road were built over time but in the last 10 to 15 years the majority of if not all of the homes have been dramatically upgraded to new modern coastal year-round homes with many amenities. This is the case with the subject property wherein the current owner and applicant razed the prior structure to build a new modern 4000+ square foot home with a pool, pool house, spa, pool cabana, and a terraced elevated patio on an undersized lot of record. Now, the applicants are requesting to add another outbuilding with a bathroom, a two-car garage, and an artists' space. No other home on Potter Road has a detached garage and an artists' space with a bathroom. The homes in that area are large and have many nice outdoor living areas, but none have so many outdoor amenities and structures placed on the same lot. Had they wished to have a garage space and an artists' space, the applicant could redesign one of the existing outbuildings or the bottom floor of the of the main structure. Allowing an additional large two-story structure in addition to all of the above structures that is so close to the road will dramatically impact the neighborhood as no other structure would be so close to the road. Accordingly, the granting of the request will alter the character of this small neighborhood.

Section D as mentioned above requires that “***the relief requested be the least amount of relief necessary***” be granted. Here the applicant is asking to add an additional two-story structure to an already overcrowded lot. The applicant has already been granted relief for the previously approved structures. Now the applicant is proposing to add another structure, a two story 21' by 24' structure with an additional 10' bump out. This raises the issue as to whether the application pending before the boards has been properly advertised and applied for, and if the board can even act on it without a proper application before it.

The applicant could install a garage on the property within the building envelope. This would just require the applicant to redesign the OWTS approved in 2017 or the applicant could convert one of the existing outbuildings into a garage or artists' space. Unfortunately, the application as constructed raises concern as to why a bathroom and three entrances as well as one entrance from the road are required in an accessory structure that should be designed in

such a way as to be dependent on the primary structure. Herein the proposed accessory structure with multiple entrances bears more than a passing resemblance to a detached

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apartment, and in the era of Air B & B the board must be hyper aware of the potential for improper use of guest accommodations. Especially concerning when considering the rise in popularity of the tiny house/studio style living spaces and the need for student housing in the town. Accordingly, the application before the board does not meet the criteria of section D in that the relief requested is not the least relief necessary to allow the applicant to enjoy legally permitted use of one property.

In review, the application that has been submitted has not shown that if the relief requested is not granted that there is no other reasonable alternative to enjoy a legally permitted beneficial use of one's property. As stated above there are many alternative available to the applicant that are legally permitted.

Thank you for taking the time to review this letter and I look forward to making a brief presentation to the board regarding this application.

Very truly yours,

Steven H Surdut

SHS:tls

Attachments



DEM OWTS (Septic System) Permit Search (after 1990)

OWTS Application #0432-1786

Location: 68 Potter Road, South Kingstown
 Plat/Lot: Plat 87-2 Lot 124
 Owner Name: Dean, Joseph
 Designer Name: Wesley Grant, III
 Total Flow: 450
 If your system was approved prior to 2008 calculate the number of bedrooms by dividing Total Flow by 150 gallons/bedroom. If your system was approved after 2008, divide Total Flow by 115 gallons/bedroom.

Historical information

11-24-2004	Application Conformed
10-08-2004	Bottom Inspection
09-04-2004	Application Approved
07-28-2004	Repair Application Received

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Last updated 01-18-2021 07:56 PM



DEM OWTS (Septic System) Permit Search (after 1990)

OWTS Application #0732-2136

Location: 68 Potter Road, South Kingstown
 Plat/Lot: Plat 87-2 Lot 124
 Owner Name: Leonard, Mathew J.
 Corp Owner: Jean Marie Leonard
 Designer Name: Amy Sonder
 Total Flow: 600
 If your system was approved prior to 2008 calculate the number of bedrooms by dividing Total Flow by 150 gallons/bedroom. If your system was approved after 2008, divide Total Flow by 115 gallons/bedroom.

Historical information

01-24-2020	Conformance Mailed
01-23-2020	Application Conformed
01-23-2020	Under Review for Conformance
01-22-2020	Submit Certificate of Construction
06-17-2019	Cover Inspection Waived
06-17-2019	Cover Inspection
05-31-2019	Start of Construction
03-13-2008	Approval Mailed
03-12-2008	Application Approved
03-12-2008	Review Application Resubmission
03-04-2008	Response to Unacceptable Received
01-29-2008	Unacceptable Form Mailed to Applicant
01-29-2008	Application Found Unacceptable
01-25-2008	Application Review
12-31-2007	Alteration Application Received
12-13-2007	Site Evaluation Form Received
12-13-2007	Site Evaluation Form Review
12-04-2007	Soil Evaluation Not Witnessed by DEM
12-04-2007	Dry Season Inspection for Alteration
11-30-2007	Dry Season Application Received

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Taken 1/15/21 of partial construction of pool house dimensions are 20'x15' x 20' high.