



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 March 17, 2021.

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, 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, and Mr. Jurczak, Mr. Mark, and Mr. Rosen

The following petition requested a continuance until the April 21, 2021 hearing.

- **Petition of Arthur H. Parmentier**, 15 Tomahawk Trail South, South Kingstown, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to remove an existing shed and install a new 10' x 14' shed. The proposed location of the shed is within the front yard setback, which requires relief as accessory structures are not allowed in the front yard setback. The shed will be located 19.1' from the front property line. The front yard setback is 35'. Relief of 15.9' is requested. Lot size is .21 acres. **A Dimensional Variance is required per Zoning Ordinance Section 208 (Nonconforming Lots of Record-Accessory Building Setback Requirements), Section 503.1 (Accessory Structures) and Section 907 (Standards of Relief)**. Owner of the property is Arthur H. Parmentier and Mary K. Filippo for premises located at 15 Tomahawk Trail South, South Kingstown, Assessor's Map 34-2, Lot 178 and is zoned R 20.

Attorney John Kenyon was present for the applicant and requested a continuance until the April 21, 2021 Zoning Board of Review.

The motion is as follows:

Motion made by Mr. Rosen and duly seconded by Mr. Mark

Motion passed unanimously (Vote 5-0)

(All Members in Favor)

The following petition requested a continuance until the March 24, 2021 hearing.

- **Petition of Winding Rhode Compassion Center**, 72 Pine Street, 1st Floor, Providence, RI 02903 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking a special use permit to establish a Marijuana Retail Facility (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 2.65 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 Scot V Hallberg for premises located at 682 Kingstown Road, South Kingstown, Assessor's Map 57-1, Lot 96-1 and is zoned CH (Commercial Highway). The Use Code is 100-Marijuana Retail Facility.

An email correspondence from attorney Christine Engustian was read into record, requesting a continuance until the March 24, 2021 Zoning Board of Review.

The motion is as follows:

Motion made by Mr. Mark and duly seconded by Mr. Rosen
Motion passed unanimously (Vote 5-0)
(All Members in Favor)

Mr. Jurczak was present and recused himself because he is a direct abutter.

Voting on this petition will be Mr. Cagnetta, Mr. Daniels, Mr. Mark, Mr. Rosen and Mr. Charkowick.

Mr. Cagnetta read the first petition.

- **Petition of Joslin and Thomas Leasca**, 258 Kettle Pond Drive, South Kingstown, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct an 8' x 38' covered porch closer to the front property line than allowed. The ground level covered porch and front stair will be located 29' from the front property line. The required front yard setback is 40'. Relief of 11' is requested. Lot size is .47 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 Joslin B & Thomas A Leasca for premises located at 258 Kettle Pond Drive, South Kingstown, Assessor's Map 81-2, Lot 52 and is zoned R 40.

Sergio Cherenzia, Principal of Cherenzia Engineering was sworn in.

Mr. Cherenzia screen shared the site plan, labeled C1. He then explained that the house currently has stairs and a covered stoop at the front door and that they are proposing to add a front covered porch with stairs for access. There will be no interior changes. The existing landscaping will need to be removed to allow for the proposed porch. The proposed front porch will be only 30" off the ground to create an open inviting aesthetic.

Mr. Cherenzia then explained the standards of relief. The existing structure was built when the applicants purchased the home. The addition of this deck will allow for some additional outside space which especially during COVID is essential. The addition of the proposed porch is characteristic of the neighborhood. They are only proposing an 8' depth which will allow for a modest expansion. The proposed deck will allow for reasonable use of the front of the property. The applicant's intent is to age in place.

Mr. Mark asked about the foundation that was set prior to the applicant's purchasing the property.

Mr. Cherenzia stated that the structure itself is about 1'9" over the setback which was in place when the applicant's purchased the property and finished the structure.

Thomas and Joslin Leasca were sworn in.

Mr. Leasca stated that they have owned the property since May of 1992.

The Board had no further questions.

There was no one present in who wished to speak.

Mr. Jurczak asked if it would be appropriate for him to speak as a private citizen.

Ms. Goins advised that it would not.

The motion is as follows:

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

At a meeting held on March 17, 2021 regarding the **Petition of Joslin and Thomas Leasca**, 258 Kettle Pond Drive, South Kingstown, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct an 8' x 38' covered porch closer to the front property line than allowed. The ground level covered porch and front stair will be located 29' from the front property line. The required front yard setback is 40'. Relief of 11' is requested. Lot size is .47 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 Joslin B &

Thomas A Leasca for premises located at 258 Kettle Pond Drive, South Kingstown, Assessor's Map 81-2, Lot 52 and is zoned R 40.

The following individuals spoke as representatives of the applicant:

- Joslin Leasca, applicant
- Thomas Leasca, applicant
- Sergio Cherenzia, PE

The following materials were entered into the record:

- Application with Cover Letter & Narrative, signed and dated February 11, 2021; Owner Authorization Form signed and notarized February 11, 2021; 200' Radius Map and Abutter's List; Proposed Porch Addition Elevation and Floor Plan (3 pages); Site Plan prepared by Cherenzia Associates, Sergio F Cherenzia PE, stamped and dated February 12, 2021
- Legal Notice, Proof of Certified Mailings and Notarized Affidavit of Mailing

There was no one present who spoke either 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 original foundation encroached upon the front yard setback and the applicants are trying to correct this by requesting dimensional relief for the proposed covered front porch.
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 applicants are planning to age in place and the addition of the proposed front porch will allow the applicants greater enjoyment of their property.
3. The Board finds that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based, because many homes in the surrounding neighborhood have similar covered porches and this proposed addition will be aesthetically more pleasing than the existing front entry stairs.
4. The Board finds that the relief to be granted is the least relief necessary, because the applicants are correcting the initial setback encroachment while adding the proposed covered porch.
5. The Board finds that that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, because the applicants will not have the full benefit of enjoying their home and property to its fullest utilization.

Approval is subject to the following conditions:

- There are no conditions upon this decision.

At this point Mr. Mark left the meeting.

Voting from this point on will be Mr. Cagnetta, Mr. Daniels, Mr. Jurczak, Mr. Rosen and Mr. Charkowick

Mr. Cagnetta read the second petition.

- **Continuation of the Petition of Simon Wildman**, 191 Holly Ridge Road, West Kingston, RI 02892 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a new 24' x 30' detached garage. The building height of the garage will be 25'. The maximum height allowed for accessory structures is 20'. Relief of 5' is requested. Lot size is 14.45 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 Simon and Robin Wildman for premises located at 191 Holly Ridge Road, Assessor's Map 21, Lot 39 and zoned R 80.

Simon Wildman was present and sworn in.

Mr. Wildman stated that Mr. Godfrey was present and may speak on their behalf.

Nate Godfrey, principle and managing partner of Newport Appraisal Group was present and sworn in.

Mr. Godfrey explained the existing conditions and zoning and everything is in order dimensionally. Mr. Godfrey wanted it noted that the request for the garage is actually 24' x 28' feet garage, not 30' as indicated on the agenda.

Mr. Wildman explained that he is seeking 5' height relief to accommodate the new vehicle he will be purchasing which has a height of 11'. The second floor will be used for storage. He has no other options which would allow him to accommodate his van and be able to stand up in the 2nd story storage area. There will be no financial gain by adding this garage. Both directly abutting neighbors sent in letters of support, additionally the house and garage cannot be viewed from the roadway. The proposed garage is consistent with the neighborhood.

Mr. Godfrey summarized that Mr. Wildman has met the standards of relief to grant a dimensional variance.

The letters from the abutting neighbors, Steven Wojciechowski and Bill and Edna DeCesare were recognized as full exhibits into the record.

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

Mr. Rosen enquired about the need for a 2-car garage and enquired about the storage area.

Mr. Wildman explained that both he and his wife have a vehicle that they would like to garage. The full 8' storage are height is needed so that he can easily access his equipment and stored goods. He has no intention to use this as any type of apartment.

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, C. Charkowick-Aye, W. Rosen-Aye, R. Cagnetta-Aye)

At a meeting held on March 17, 2021 regarding the **Continued Petition of Simon Wildman**, 191 Holly Ridge Road, West Kingston, RI 02892 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a new 24' x 28' detached garage. The building height of the garage will be 25'. The maximum height allowed for accessory structures is 20'. Relief of 5' is requested. Lot size is 14.45 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 Simon and Robin Wildman for premises located at 191 Holly Ridge Road, Assessor's Map 21, Lot 39 and zoned R 80.

The following individuals spoke as representatives of the applicant:

- Simon Wildman, applicant
- Nate Godfrey, Real Estate Appraiser

The following materials were entered into the record:

- Application, signed and dated December 11, 2020; Owner Authorization Form signed and notarized January 4, 2021; 200' Radius Map and Abutter's List; Site Plan; Construction Documents (3 pages)
- Legal Notice, Proof of Certified Mailings and Notarized Affidavit of Mailing
- Photos, 1-3
- Correspondence
 - Continuation Request from Simon Wildman, dated February 2, 2021
 - Steven Wojciechowski, 211 Holly Ridge Road, dated February 4, 2021
 - Bill and Edna DeCesare, 171 Holly Ridge Road, dated February 8, 2021

There was no one present who spoke either in support of or opposition to the petition.

Findings of Fact:

1. The Board finds that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in § 45-24-30(16), because the applicant has a large parcel and is seeking a modest height variance to accommodate the necessary vehicle clearance and allow for second story storage.

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 simply needs the additional height to allow for sufficient clearance of his vehicle.

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 parcel is very large and the proposed garage would not be seen from the road or any of the abutting properties, additionally both of the directly abutting neighbors submitted letters of support for the application.

4. The Board finds that the relief to be granted is the least relief necessary, because the applicant has a 14.45 acre property and is simply requesting a 5' height variance to accommodate his vehicle clearance and allow for storage above.

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 variance being granted, the applicant would not be able to gain the needed second floor storage and would not be able to store his vehicle due to lack of clearance.

Approval is subject to the following conditions:

- There are no conditions upon this approval.

Mr. Cagnetta read the third petition.

- **Amended Petition of Timothy O'Neill**, 235 Middlebridge Road, Wakefield, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a 12' x 16' detached shed on the property and also construct a new front exterior stair attached to the dwelling. The proposed location of the shed is 29' from the front property line, which requires relief as accessory structures are not allowed in the front yard setback. The required front yard setback is 35'. Relief of 6' is requested. The dwelling front stairs will be located 17.5' from the front property line. Relief of 17.5' is requested. Lot size is .82 Acres. **A Dimensional Variance is required per Zoning Ordinance Section 401 (Schedule of Dimensional Regulations), Section 503.1 (Accessory Structures), and Section 907 (Standards of Relief).** Owner of the property is Timothy P. and Kirsten O'Neill for premises located at 235 Middlebridge Road, South Kingstown, Assessor's Map 43-4, Lot 15 and zoned R20

Timothy O'Neill was present and sworn in.

Mr. O'Neill explained that due to flood plain requirements, all of the mechanicals need to be located above flood plain height which is why they need the shed, additionally they need more dry storage. The existing stairs to the front door do not work to their best function and are virtually unused as is. They are looking to make the stairs more useable by extending and redesigning the stairs. The lot itself is unusual in shape and due to the 35' setback requirements of the corner lot, there is only a limited area, approximately 6' that they could locate the proposed shed.

Board questions ensued in regards to locating the shed in the front yard and why they have chosen that location.

Mr. O'Neill explained that due to the configuration of the lot that it cannot be located anywhere else that would not be extremely tight and a smaller shed would not suit their needs. The proposed location is approximately 25' from the existing neighbor and there is a fence in between.

Mr. Gorman explained that Middlebridge Road is considered the front and that Maple Street is the corner side and that there is also a paper road that is considered a corner side.

Mr. O'Neill indicated that he can do nothing within the coastal buffer.

Board discussion ensued.

Ms. Goins explained that if the proposal is changed at all it would likely require re-advertisement.

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

Mr. Cagnetta read the letter in support of the petition into record.

Mr. O'Neill stated that he is conscience of the concerns the Board has and that their intention is to build an aesthetically pleasing nice shed.

Mr. Daniels stated that he cannot make the motion due to the sheds proposed front yard location, he stated that he could, however support a motion due to the uniqueness of the lot.

The motion is as follows:

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

Motion passed unanimously: Vote 5-0

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

At a meeting held on March 17, 2021 regarding the **Petition of Timothy O'Neill**, 235 Middlebridge Road, Wakefield, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a 12' x 16' detached shed on the property and also construct a new front exterior stair attached to the dwelling. The shed will be located 29' from the front property line. The required front yard setback is 35'. Relief of 6' is requested. The dwelling front stairs will be located 17.5' from the front property line. Relief of 17.5' is requested. Lot size is 35,719 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 Timothy O'Neill for premises located at 235 Middlebridge Road, Assessor's Map 43-4, Lot 15 and zoned R 20.

The following individuals spoke as representatives of the applicant:

- Timothy O'Neill, applicant

The following materials were entered into the record:

- Application, signed and dated January 3, 2021; Owner Authorization Form signed and notarized January 3, 2021; 200' Radius Map and Abutter's List; Construction Drawings showing existing and proposed stairs by Votava Design, (A1.1); Site Plan showing stair location; Construction Drawings by Sheds Unlimited LLC dated December 4, 2020 (A1.1, A2.1, A3.); Site Plan
- Legal Notice, Proof of Certified Mailings and Notarized Affidavit of Mailing
- Amended Legal Notice, Proof of Certified Mailings and Notarized Affidavit of Mailing
- Correspondence
 - Andrew and Holly McMahon, 7 Lafayette Avenue, received February 12, 2021

There was no one present who spoke either 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 lot is unique in shape, and has frontage on two roads and one paper road, additionally the lot is directly buffered by coastal wetlands further limiting the building envelope.
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 existing front stairs are under-utilized because they are awkward in design and dangerous to use. Furthermore, the proposed shed can only be located in the front yard due to the lot's unique shape, general configuration and its proximity to coastal features.
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 front entrance stairs are more aesthetic in appearance and fit better within the surrounding neighborhood. In regards to the proposed shed, although the shed will be located in the front yard, the proposed shed is modest in size, designed to be visually pleasing and to fit in well with the surrounding neighborhood.
4. The Board finds that the relief to be granted is the least relief necessary, because without the requested relief being granted due to the lots restrictive setbacks the applicant would not be able to build the proposed stairs that would allow them straight access into the house. As for the shed, the applicant is limited by the lot's unique shape, setbacks and coastal restrictions making the proposed location the only viable option to locate the shed on the lot.
5. The Board finds that that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, because the existing stairs are not utilized due to their awkward design and safety concerns. The shed can only be located in the front of this property and the applicants demonstrated a need for additional dry storage.

Approval is subject to the following conditions:

- There are no conditions upon this approval.

Mr. Cagnetta read the fourth petition.

- **Petition of David Barnes, Inc.**, 456 Main Street, Wakefield, RI 02879 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to amend their existing Special Use Permit for the expansion of their liquor service area. The proposed exterior liquor service area will be located at the rear of the building and will be approximately 8,000 square feet in area. This service area has been temporarily authorized due to COVID-19

restrictions. Lot size is .7 Acres. **A Special Use Permit is required per Zoning Ordinance Section 907 (Standards of Relief)**. Owner is 456 Main Street LLC for premises located at 456 Main Street, South Kingstown, Assessor's Map 56-3, Lot 20 and is zoned CD (Commercial Downtown). The Use Code is 56.1 (Restaurant with Alcohol).

Attorney John Kenyon is present for the applicant.

Mr. Kenyon explained that applicant leases property at 456 Main Street which is owned by 456 Main Street LLC and he explained that the property is operated as the Mews. During COVID, the applicant was granted temporary liqueur service in their rear parking lot which is permitted until the end of this year. They are seeking to make this a permanent location for liquor service and seating. If the relief is granted the applicant will move forward to the Town Council for expansion of the liquor service area, these licenses are renewed annually by the Town Council.

Daniel Rubino was sworn in.

Mr. Rubino testified that he is the owner of the Mews Tavern and is responsible for all business decisions. They have been in operation since 1991. The existing restaurant capacity is 329 people allowed from 11 am to 1pm. They hold two annual outdoor events that allow liquor service outside, these events have accommodated up to 2000 people in past events and there have been no major issues. Outdoor dining was allowed by the Town under COVID and started on June 1, 2020. Mr. Rubino then explained the location of the outdoor dining area. The drive aisles and parking were reconfigured at the rear of the building to allow for this outdoor dining area, creating a one-way traffic flow. There were approximately 30 tables in the outdoor dining area, a tent was installed and the area was open from June 1st to November 15th 2020 with no issues. The overall customer response was very positive in regards to having outdoor dining and helped summertime business. The outdoor dining would be open from 11am to 11pm, running from May 1st to November 15th. There would be no music. Capacity would be roughly 100 people in the outdoor dining area, total restaurant capacity would be roughly 429-450 people. There would be 122 parking spaces and the zoning ordinance only requires 75 parking spaces. No dimensional relief is required. The lighting would consist of LED string-lights that have no impact on the neighboring properties and would not require any additional signage. Utilities and waste management are already in place.

Mr. Kenyon had no further questions of Mr. Rubino.

Board questions ensued in regards to emergency egress, dates of service, and long term goals.

Mr. Rubino indicated that there is approximately 25' from where the tent starts to the back of the building. There is no anticipated change from how the outdoor dining ran last summer.

Mr. Kenyon indicated that his client is amenable with putting a condition for the allowed dates of service.

Ms. Goins explained that in granting a Special Use Permit it runs with the land and it is permanently in place and would not need to be renewed, however, a condition can be put on the Special Use Permit stipulating the allowable dates of service.

Ms. Goins wanted to make the Board aware that legislation was introduced last week that would bar municipalities from enforcing any zoning requirements or ordinances that would penalizes restaurants/bars for any modifications or alterations made to their premises that were made because of COVID related orders or guidance. The legislations as drafted would be effective during the declared state of emergency and for one year after it ends, she will advise the Board if enacted.

Mr. Rubino stated that this is a boost to their daytime business and that it allows them to employ more staff and that they would like to keep this option as long term option, he stated that there is no intention to make this a permanent year round structure due to the winter conditions.

Mr. Kenyon stated that the Town Council has the ability to deny the liquor renewal license annually.

Mr. Rubino stated he would like the use to be allowed from May 1st to December 1st annually.

Mr. Kenyon stated the hours of operation would be 11am to 11pm.

Mr. Rubino stated that the only music that is played is soft background music and that they did not receive any complaints at all. The closest residential unit is roughly 60' away from the edge of the tent.

Mr. Jurczak asked if there is requirement in having the washing station and bathrooms included in the Special Use Permit and wanted clarified that last year this outdoor service area was pursuant to emergency legislation regarding COVID.

Mr. Goins clarified that the Town Council enacted an ordinance authorizing temporary expansion of the liquor service area without having to get a Special Use Permit. This was authorized in June 2020 and the expiration has been extended to March 31,

2021. The Town Council has scheduled a public hearing to extend it further and legal council's recommendation is to extend it until at least July 31, 2021 due to the legislation and that the current condition is legal under that ordinance.

Mr. Jurczak asked about the liquor delineation area.

Mr. Rubino explained that there were cement barriers set up around the perimeter and that all staff and managers police the area so no beverages would be allowed to leave the designated area, including ID'ing everyone.

Mr. Kenyon explained that the wash area and the bathrooms are outside of the liquor service area and that customers would not be allowed to bring drinks into that area. The use of a restaurant is permitted by right in this zoning district.

Mr. Rubino stated the tent was 20x70, it did not cover all of the outdoor seating but served its purpose during inclement weather. He stated again that any music played is very soft and that if anything the tent blocked any noise and worked as a good buffer zone. They will be utilizing the same overall footprint that was used last year and will not be expanding the tented area.

The Board had no questions.

Mr. Kenyon had no further testimony.

There was no one present who wished to speak.

Board discussion ensued.

The motion is as follows:

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

Motion passed unanimously: Vote 5-0

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

At a meeting held on March 17, 2021 regarding the **Petition of David Barnes, Inc.**, 456 Main Street, Wakefield, RI 02879 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to amend their existing Special Use Permit for the expansion of their liquor service area. The proposed exterior liquor service area will be located at the rear of the building and will be approximately 8,000 square feet in area. This service area has been temporarily authorized due to COVID-19 restrictions. Lot size is .7 Acres. **A Special Use Permit is required per Zoning Ordinance Section 907 (Standards of Relief)**. Owner is 456 Main Street LLC for premises located at 456 Main Street, South Kingstown, Assessor's Map 56-3, Lot 20 and is zoned CD (Commercial Downtown). The Use Code is 56.1 (Restaurant with Alcohol).

The following individuals spoke as representatives of the applicant:

- John Kenyon, Attorney for applicant
- Daniel Rubino, owner

There was no one present who spoke either in support of or opposition to the petition.

The following materials were entered into the record:

- Application with Cover Letter & Exhibit A, signed and dated January 15, 2021; Owner Authorization Form signed and notarized January 18, 2021; 200' Radius Map and Abutter's List; Vision Appraisal Field Card Map 56-3 Lot 20 (4 pages); Temporary Service Expansion Plan dated May 1, 2020
- Legal Notice, Proof of Certified Mailings 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 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 has met all of the requirements under Section 907 to grant the expansion of the liquor service area by amending an existing Special Use Permit that allows liquor service in the Commercial Downtown district.
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 traffic pattern was redesigned to create a one way traffic flow.
- (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; ample existing parking
- (iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above; this is an existing property with no change of use
- (iv) Utilities, with reference to locations, availability and compatibility; this is an existing property with no change of use
- (v) Screening and buffering with reference to type, dimensions and character; this is an existing property with no change of use
- (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, this is not applicable because this is an existing business that is allowed under the Zoning Ordinance.

Approval is subject to the following conditions:

- The Outdoor liquor service area, as indicated on the Liquor Service Expansion Plan, dated May 1, 2020, will be allowed annually from May 1st to December 1st.
- Hours of operation will be from 11:00 am to 11:00 pm
- Granting of an amended liquor license by the South Kingstown Town Council allowing for the expanded liquor service area.

Mr. Cagnetta read the fifth petition.

- **Petition of Linda and Franklin Frucce**, 62 Settlement Road, Amston, CT 06231 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to construct a 10'5" x 7' one-story addition to the dwelling located in the northwest corner of the property. There are two residential structures located on this property, rendering the use nonconforming. A Special Use Permit is required for any addition, enlargement, expansion or intensification of a non-conforming use. Lot size is .56 Acres. **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 this property is Linda & Franklin Frucce, Frucce Family Irrevocable Trust, for premises located at 35 Maple Drive, South Kingstown, Assessor's Map 90-1, Lot 109 and is zoned R-80.

Franklin Frucce was present and sworn in.
Jonathan Frucce was present and sworn in.

Mr. F. Frucce explained that the existing property is L-shaped in the back and he would like to square up the existing structure and bring it up to the existing roofline.

Mr. J. Frucce explained the property has been surveyed and in the family for 40 years. He stated they are looking to change the roof line to add more windows and air flow and the dormers would build out about 70sf for use and storage.

Mr. Gorman explained why the applicant could not change the roof line because they could not ask for both a Dimensional Variance and a Special Use Permit.

Board questions ensued.

Mr. J. Frucce indicated that the current home is not occupied and the proposed expansion will be used for office space and storage. He stated he believes that the previous owners may have used this as an in-law apartment but it has not been occupied for over 20 years plus. There is no intention to use this as an additional residence. Plumbing is in the building but not currently active. There is no intent to use this a rental.

Mr. F. Frucce indicated that this is a summer home and is not currently being used in the winter. The existing shed on the back of the lot is being demolished due to some structural issues.

Mr. J. Frucce explained that a new shed will be going up but will be in within the perimeters of the setbacks. The existing outbuildings on the property have been there for over 30 years.

Mr. F. Frucce indicated that there is no bathroom.

Mr. F. Frucce indicated that he has perk tests in place because he is looking into installing a new septic system.

Letter from Sara N. Davis was read into record.

Board questions ensued.

Mr. Gorman indicated that the lot coverage for the lot is 20% maximum and that 4900 square feet would be the maximum allowable lot coverage and that they are not exceeding the maximum lot coverage.

Mr. J. Frucce addressed the additions brought up in the objector's letter from Sara Davis.

The applicants had no further testimony.

Russell Berube was present and indicated that Mr. Frucce answered his question in regards to the perk tests and had no further comments.

The motion is as follows:

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

Motion passed unanimously: Vote 5-0

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

At a meeting held on March 17, 2021 regarding the **Petition of Linda and Franklin Frucce**, 62 Settlement Road, Amston, CT 06231 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to construct a 10'5" x 7' one-story addition to the dwelling located in the northwest corner of the property. There are two residential structures located on this property, rendering the use nonconforming. A Special Use Permit is required for any addition, enlargement, expansion or intensification of a non-conforming use. Lot size is .56 Acres. **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 this property is Linda & Franklin Frucce, Frucce Family Irrevocable Trust, for premises located at 35 Maple Drive, South Kingstown, Assessor's Map 90-1, Lot 109 and is zoned R-80.

The following individuals spoke as representatives of the applicant:

- Franklin Frucce, applicant
- Jonathan Frucce

There was no one present who spoke either in support of or opposition to the petition.

The following materials were entered into the record:

- Application signed and dated January 15, 2021; Owner Authorization Form signed and notarized January 20, 2021; 200' Radius Map and Abutter's List; Drawings (3 pages); Existing Conditions Survey, Fontaine Land Surveying, Michael Fontaine PLS stamped and dated November 11, 2020
- Legal Notice, Proof of Certified Mailings and Notarized Affidavit of Mailing
- Correspondence
 - Russell Berube, 15 Maple Drive dated March 12, 2021 with response from Building Official dated March 12, 2021
 - Sara Davis, 55 Maple Drive received March 15, 2021

Findings of Fact:

4. 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) and 907 (Standards of Relief).
5. 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 through given testimony met all of the criteria set forth, additionally the proposed addition does not exceed 50% of the existing structure, has not exceeded the maximum allowable lot coverage and does not require any dimensional relief.
6. 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; existing property with existing means of ingress and egress already established.
- (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; existing utilities are already in place.
- (v) Screening and buffering with reference to type, dimensions and character; not applicable, this is an existing developed lot
- (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, maximum lot coverage will not be exceeded.
- (viii) General compatibility with lots in the same or abutting zoning districts, because this is an existing structure that the applicant simply wishes to improve and expand upon there will be no significant change to the general compatibility with neighboring properties.

Approval is subject to the following conditions:

- There are no conditions upon this approval.

Mr. Cagnetta read the sixth petition.

- **Petition of Paul R. & Phyllis T. Coristine**, 392 Stony Fort Road Saunderstown, RI 02874 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a second story addition above an existing breezeway and attached garage. The proposed addition will follow the existing structure footprint and will be located 14.8' from the side property line. The required side yard setback is 20'. Relief of 5.2' is requested. Lot size is .69 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 Phyllis T & Paul R Coristine for premises located at 392 Stony Fort Road, South Kingstown, Assessor's Map 17, Lot 23 and is zoned R 40.

Paul and Phyllis Coristine were present and both sworn in.

Mrs. Coristine indicated that they have owned the property for 19 years, they are the second owners, and they would like to create a master suite and laundry room over the existing breezeway and garage. The bedrooms would remain the same, staying at three. They are looking to bring the laundry room upstairs and add an additional bathroom. They have spoken with their neighbors and they have no objections. They are seeking the variance because one of the existing corners of the house is too close to the setback line, which was discovered once they had a survey done. They are now seeking relief to correct this. The expansion will not expand beyond the existing footprint or roofline. The closest neighboring house is approximately 40 feet from the property line and that side of the neighbor's house is a screened in porch. They have no intention of moving and the laundry room on the second floor instead of the basement will be much more beneficial.

The Board had no further questions.

There was no one present who wished to speak.

The motion is as follows:

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

Motion passed unanimously: Vote 5-0

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

At a meeting held on March 17, 2021 regarding the **Petition of Paul R. & Phyllis T. Coristine**, 392 Stony Fort Road Saunderstown, RI 02874 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a second story addition above an existing breezeway and attached garage. The proposed addition will follow the existing structure footprint and will be located 14.8' from the side property line. The required side yard setback is 20'. Relief of 5.2' is requested. Lot size is .69 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 Phyllis T & Paul R Coristine for premises located at 392 Stony Fort Road, South Kingstown, Assessor's Map 17, Lot 23 and is zoned R 40.

The following individuals spoke as representatives of the applicant:

- Paul Coristine, applicant

- Phyllis Coristine, applicant

The following materials were entered into the record:

- Application signed and dated February 9, 2021; Owner Authorization Form signed and notarized February 8, 2021; 200' Radius Map and Abutter's List; Comprehensive Boundary Survey, Christopher G Palmer, PLS, stamped and dated January 11, 2021; Existing and Proposed Elevations and Floor Plans (7 pages)
- Legal Notice, Proof of Certified Mailings and Notarized Affidavit of Mailing

There was no one present who spoke either 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 a dimensional variance is needed because it was recently discovered that a portion of the existing home was within the setback restrictions and part of that footprint will be expanded upon for the proposed addition.
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 trying to expand upon the existing structure and make the structure more functional as they age in place by allowing for a second story master bedroom suite with laundry and attached bathroom.
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 they are simply adding a second story addition over an existing footprint, which will be compatible with other houses in the surrounding area.
4. The Board finds that the relief to be granted is the least relief necessary, because the structure was already encroaching on the side yard setback when the applicants purchased the home. The applicants are simply looking to utilize potential space above the garage and the proposed addition will remain within the existing footprint of the 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 through the applicants' due diligence it was discovered that the existing structure was non-conforming dimensionally and without relief being granted the applicants would not be able to construct the desired master bedroom and utilize the structure to its fullest potential.

Approval is subject to the following conditions:

- There are no conditions upon this approval.

The following petitions were continued until March 24, 2021, all members present tonight are available.

- **Petition of Stephen R. Cooper**, 283 High Street, South Kingstown, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a second floor dormer to the existing single family dwelling. The proposed second floor dormer will be located along the rear of the existing structure, which is within the corner side and side yard setback. The dormer will be located 15' from the corner side property line. The required corner side yard setback is 25'. Relief of 10' is requested. The dormer will also be located 6.5' from the north side property line. The required side yard setback is 10'. Relief of 3.5' is requested. Lot size is .12 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 Abby C & Stephen R Cooper for premises located at 283 High Street, South Kingstown, Assessor's Map 56-2, Lot 108 and zoned R 10.

The Motion is as Follows:

Motion made by Mr. Daniels and duly seconded by Mr. Charkowick

Motion passed unanimously (Vote 5-0)

(All Members in Favor)

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- **Petition of William Bodnar**, 818 Brookwood Way, Chico, CA 95926 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct an Accessory Apartment above an existing detached garage. The living area within the accessory apartment will be 750 square feet, the maximum allowed. The proposed building height will be 25'. The maximum accessory building height permitted in an R-20 zone is 15'. Relief of 10' is requested.

Lot size is 1.17 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 Pamela & William W Bodnar for premises located at 563 Allen Avenue, South Kingstown, Assessor's Map 47-3, Lot 7 and zoned R 20.

William Bodnar was present and sworn in.

Mr. Bodnar testified that they would like to build an apartment above the existing garage. The wall of the existing garage are approximately 8' high so the apartment addition would require height relief. There is no attic space, they have minimized the design to require the least relief necessary. The proposed garage apartment height would be still be less than the principle dwelling on site. There are existing mature shrubs that act as a buffer between the properties. The staircase would be inside the garage and they would not exceed 750 square feet, even though the existing garage is approximately 900 square feet. The existing garage's roof need some structural repair which will be addressed in the building of the accessory apartment.

Board questions ensued.

Mr. Bodnar indicated that they do not currently live in RI, but they are looking to move back to RI at some point. The current tenants are due to move out in June but they are trying to work with their tenants to not displace them come June. The accessory apartment would ideally be used for family, he has older siblings. He indicated that he started the septic plan design last July and was approved in February 2021.

The letter of objection was screen shared for Mr. Bodnar to address.

Mr. Bodnar indicated that although the proposed addition will be viewable, they took that into consideration in the design process and that they intentionally minimized the windows on that side of the house. Additionally he stated that he has never been able to see the neighbor's house from the property. Mr. Bodnar indicated that they do not have any plans to rent this out immediately. It is possible that they could live there, his intent is not for rental purposes alone. Mr. Bodnar indicated that he lived on the property for 6 or 7 months while fixing it up. His current tenants in the principle structure are looking to purchase a house and he is not sure how long they will be staying there. The property is bordered on 3-sides by open space and their design was meant to fit into the neighborhood.

There was no one present who wished to speak.

Board discussion ensued.

Mr. Bodnar requested a continuation to March 24, 2021 see if he could address some of the neighbors' concerns.

The Motion is as Follows:

Motion made by Mr. Rosen and duly seconded by Mr. Charkowick
Motion passed unanimously (Vote 5-0)
(All Members in Favor)

Other Business:

- Minutes: Motion made to approve the minutes from February 17, 2021 and February 24, 2021
 - Motion made by Mr. Rosen and duly seconded by Mr. Charkowick, all members in favor, minutes passed 5-0
- Adjournment: Meeting adjourned 10:16 p.m.