

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 at the Town Hall, 180 High Street, Wakefield on February 17, 2010.

Members Present: Ernest D. George, Jr.
Stephanie A. Osborn
Igor Runge
Douglas W. Bates, Alt. #1
Robert J. Cagnetta, Alt. #2

Also present were Nancy Letendre, Special Legal Counsel and Jeffrey T. O'Hara, Building Inspector and Clerk.

Mr. George explained the burden of proof of an applicant seeking a Special Use Permit or Variance.

Mr. George read the first petition.

Petition of Donald and Mary Rathbun, 57 Lafayette Street, West Warwick, RI for a **Special Use Permit & Variance** to install an OWTS closer to a wetland than permitted (150' required – 53' requested) and to construct a single family dwelling closer to a front line than permitted (40' required – 25' requested) and closer to a side line than permitted (40' required – 10' requested) in an R-80 Zone. Premises located at Indian Trail South, South Kingstown, RI, Assessor's Map 34-4, Lot 20, Sections 504, 401 and 907.

Attorney Donald Packer was present on behalf of the applicant.

Mr. Packer called his 1st witness.

Joseph Frisella, OWTS Designer, Professional Engineer & Land Surveyor, was sworn.

Mr. Packer submitted Mr. Frisella's resume.

Applicant's Exhibit #1, Letter Dated February 17, 2010 from Joseph W. Frisella with attached resume, was submitted.

Mr. Frisella was retained to prepare an Onsite Wastewater Treatment System (OWTS) and a Plan of Proposed Site Development for the subject property.

Applicant's Exhibit #2, Plan of Proposed Site Development Dated October 2007 with Additional Notes for Zoning Presentation Dated February 17, 2010, was submitted.

Reduced copies of the plan of proposed site development with the notes added for tonight's meeting were passed out to Board members.

Mr. Frisella explained the notes that were added to Board members.

The subject lot is .46 acres.

Mr. Frisella explained the existing conditions on the lot. The lot was investigated for wetlands by Linda Steere.

Applicant's Exhibit #3, Letter Dated May 31, 2004 from Applied Bio-Systems, Inc. RE: Indian Trail South, Assessor's Map 34-4, Lot 20, was submitted.

Mr. Frisella submitted the design to DEM and received a permit.

Applicant's Exhibit #4, Insignificant Alteration Permit from RI DEM Dated December 24, 2008, was submitted.

Mr. Frisella explained the OWTS he designed for the subject property.

Applicant's Exhibit #5, DEM Individual Sewage Disposal System Approval for Plat 34-4, Lot 20, was submitted.

The OWTS can't be located elsewhere on the property and meet the 150 foot setback requirement.

A two bedroom restriction has been put on by DEM.

The lot is serviced by an individual well.

Mr. Frisella prepared a written report.

Applicant's Exhibit #6, Report Prepared by Joseph W. Frisella Dated August 18, 2009 In Response to Section 504.2 Conditions for ISDS, was submitted.

There are no sewers in this area. Without an OWTS, a dwelling could not be constructed on this lot.

Variances are requested for the dwelling. The reasons for the variances are in an attempt to be as far away from the wetland and wetland perimeter.

The Conservation Commission made recommendations in their letter dated November 6, 2009. They were not in agreement with the Conservation Commission's conditions #4, #5 and #8.

Questions ensued from Board members.

Mr. Runge noted that without variances they couldn't build anything on this lot. Mr. Frisella agreed.

Mr. Runge asked if there was anyway to reduce the size of the home and meet the needs of the owner. Mr. Packer noted that it was a reasonably sized house for a two bedroom.

Mr. Packer introduced two more exhibits.

Applicant's Exhibit #7A & #7B, Plan of a Proposed ISDS for Donald C. Rathbun Dated October 2007 Sheets 1 & 2, was submitted.

Applicant's Exhibit #8, Tax Assessor's Card for Map 34-4, Lot 20, was submitted.

Next the Board would hear from those who had questions for Mr. Frisella.

Attorney James Donnelly was present on behalf of James and Ann Hazelwood.

The Hazelwood's own the property to the east, Lot 19. They reside full time in Maryland. This will be their retirement home.

Attorney Donnelly cross-examined the witness.

Mr. Donnelly questioned Mr. Frisella regarding the limits of disturbance.

Mr. Donnelly questioned if this was a significantly compromised lot. Mr. Frisella stated no.

Mr. Donnelly questioned Mr. Frisella extensively regarding photographs taken by Mr. Roger Spachman, property owner on Lot 23.

Mr. Packer objected to this line of questioning.

Roger Spachman was sworn. He has lived in Indian Lake for 16 years.

Mr. Spachman asked if Mr. Frisella has seen the property in the wet season. Mr. Frisella has seen the property in the spring time.

Mr. Spachman explained and submitted the photographs which were taken by him in March and April of 2009.

Opponent's Exhibits A-G, Photographs Taken by Roger Spachman in March and April of 2009, were submitted.

Robin Jackim lives across the street from the subject property on 178 Indian Trail. She questioned Mr. Frisella regarding the wetlands and the flow of the water.

Roger Spachman asked Mr. Frisella when he tested the water table height. Mr. Frisella stated in September. Mr. Spachman asked who determined the wetland. Mr. Frisella stated biologist, Linda Steere in March.

Mr. Spachman had a question for the Board. He questioned if he had a right to get his own biologist. The Chair didn't think the owner would allow him to go on the property. The Chair thought that this questioning should go to DEM.

Attorney Donnelly questioned how many variances were granted by DEM. Mr. Frisella stated 3 variances.

Attorney Packer had no further witnesses.

The Board would now hear from those in favor of this petition.

Mary Rathbun, the owner and applicant, stated that she has owned the property since 1985. They would like to build a home and retire on this property.

The Board would now hear from those in opposition to this petition.

Attorney James Donnelly had no experts this evening.

Attorney Donnelly summed up the testimony presented this evening.

Next Attorney Donald Packer summed up the testimony presented this evening.

Roger Spachman stated that he submitted a letter to DEM but never heard back from them.

The Chair made a motion to close the public hearing.

Mr. Runge seconded the motion.

WHEREUPON A VOICE VOTE WAS TAKEN/MOTION PASSES TO CLOSE THE PUBLIC HEARING.

The Board would come back to this petition later on this evening.

Mr. George read the second petition.

Petition of Barry & Deborah Wepman, 300 Kenyon Avenue, Wakefield, RI for a **Variance** to construct a detached garage higher than permitted in an R-10 Zone (15' maximum height permitted – 23' requested). Premises located at 300 Kenyon Avenue, South Kingstown, RI, Tax Assessor's Map 57-4, Lot 213, Section 401 Dimensional Regulations and Section 907.

Barry Wepman was sworn.

Mr. Wepman noted that there were two letters in his file from neighbors (Jim and Nina Garfield residents on 294 Kenyon Avenue and Richard and Eliza Lucia, residents on 297 Kenyon Avenue) both in support of his application.

Mr. Wepman explained that the proposed garage is 23 feet above the existing grade. Their driveway slopes so much that they can't use the driveway in the winter. The height is needed in keeping with the architecture of the existing area.

There was no one in opposition present.

Mr. Runge made the motion to approve the petition for Barry and Deborah Wepman of 300 Kenyon Avenue for a variance to construct a detached garage higher than permitted in an R-10 Zone, 15 feet is permitted, 23 feet is what you'd like. Premises located at 300 Kenyon Avenue, South Kingstown, Tax Assessor's Map 57-4, Lot 213. Section 401 Dimensional Regulations and Section 907 of our Town Ordinance applies. Dr. Wepman was here this evening. He's indicated what he'd like to do and gave his reasons, and one of those is, he wants to be in keeping with the general surroundings of the area, elevation of the roof of the structure. He's got issues with the placement of the driveway, the elevations with that being increased slightly, plus the additional height of that structure, it sounds like he would be in keeping with the surrounding area. We also received on record, two letters both in support and both are neighbors, I presume, good neighbors. They do support the application. So, with that, I think that we should approve this variance, and in this case, the granting of the requested variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of the Zoning Ordinance.

Mrs. Osborn seconded the motion.

VOTE: Runge, Aye; Osborn, Aye; Cagnetta, Aye; Bates, Aye.

IT WAS THE UNANIMOUS DECISION OF THE BOARD TO GRANT THE PETITION.

Mr. George read the third petition.

Petition of Jonathan Coffin, 178 Parsonage Road, Greenwich, CT for a **Use Variance** to maintain the existing dwelling on the lot while a new dwelling is constructed in an R-40 Zone. Premises located at 94 Edgewood Farm Road, South Kingstown, RI, Assessor's Map 63-1, Lot 17, Section 501.1 and 907.

Attorney John Kenyon was present on behalf of the applicant.

There is an existing single family dwelling on the property. The applicant is proposing to demolish the existing dwelling and build a new single family dwelling. They are here tonight to keep the existing house on the property while they are building the new one. If approved, they would suggest a condition that the existing dwelling be removed within 30 of the issuance of the Certificate of Use and Occupancy (CO).

Nancy Leslie, architect, was sworn.

Ms. Leslie is familiar with the applicant's property and designed the proposed house.

Applicant's Exhibit #1 and #2, Onsite Wastewater Treatment System Plan and OWTS Approval by DEM for Plat 63-1, Lot 17, was submitted.

The property has been approved for an OWTS for 5 bedrooms.

The new dwelling would take approximately 1 ½ years to construct.

The existing house is being occupied by the owner and elderly parents. They would live there while the new house is being constructed.

Ms. Leslie saw no problem with the keeping the existing house while the new house is being built.

Attorney Heather Mahan was present on behalf of two abutters who were concerned that the old home be demolished.

Mr. Kenyon noted that they agreed to the stipulation that the existing dwelling be demolished within 30 days of the issuance of the CO.

Mr. Mahan stated that the neighbors just want to make sure that there are not two houses occupied at the same time. They are concerned that the owners could go to the Planning Board and ask to have the lot sub-divided.

The Chair noted that subdividing property is before the Planning Board.

Before a demolition permit could be issued, they would need an asbestos inspection and all utilities would have to be disconnected. In lieu of these facts, Mr. O'Hara thought 30 to 60 days might be a better time frame.

There ensued discussion between the Board, Special Legal Counsel and the Building Official.

Mr. Runge made the motion to approve the petition for a variance, in this case it will be a use variance, to maintain the existing dwelling on the lot while a new dwelling's constructed in an R-40 Zone. Premises located at 94 Edgewood Farm Road in South Kingstown, Rhode Island, Assessor's Map 63-1, Lot 17. The applicant's attorney's here and he's discussed the situation. The architect also discussed what was going on. It appears like what the applicant would like to do is maintain an existing use of a structure on a property and construct a new home on that same property, and our code doesn't allow that because that would mean there's two structures on one property. And in this case, I would move that we approve this use variance because there'd be no other beneficial use for that site if we didn't approve the variance, and the reason is that they'd like to maintain the existing residence as being habitable during a portion of that time that the new building is being constructed. And with that said, the existing structure on that land, upon the new structure being completed, will have to be removed, and I'd like to say in 60 days. The structure will be removed. The other structure will be, in one way or another, be removed, whether it be demolished or moved somewhere else. And the relief we're granting is for those 60 days.

Mr. Cagnetta seconded the motion.

VOTE: Runge, Aye; Cagnetta, Aye; Osborn, Aye; Bates, Aye; George, Aye.

IT WAS THE UNANIMOUS DECISION OF THE BOARD TO GRANT THE PETITION.

Mr. George read the fourth petition.

Petition of William Harris Trustee et als, Harriet B. Harris Agreement, PO Box 629, 30 Washinee Heights Road, Salisbury, CT for a **Special Use Permit** to install an onsite wastewater treatment system closer to a wetland than permitted in an R-200 Zone (150' required – 110' requested) and within a flood plain. Premises located at Pole #9-S Cards Pond Road, South Kingstown, RI, Assessor's Map 92-4, Lot 1, Section 504.1 and 907.

Attorney John Glasson was present on behalf of the applicant.

The applicant is proposing to build a 2 bedroom home on the subject property.

Daniel Cotta, OWTS Designer, was sworn.

The applicant received a recommendation from the Conservation Commission. (Letter from the Conservation Commission dated December 15, 2009 recommending approval with the conditions outlined in their letter).

Applicant's Exhibit #1, Zoning Plan for Pole #9-S Cards Pond Road, AP 92-4, Lot 1 Dated September 22, 2009, was submitted.

Mr. Cotta is familiar with the Harris property and described it to Board members.

The wetlands were flagged by Linda Steere.

Mr. Glasson submitted a letter in support of the petition.

Applicant's Exhibit #2, Letter dated February 9, 2010 from Timothy Bontecou in support of the William Harris Trustee petition, was submitted.

Mr. Cotta described the location of the proposed dwelling on the site plan submitted.

The highest spot on the lot is where the septic system is. Mr. Cotta described the type of septic which was approved by DEM.

There is no place on the lot where they could meet the 150' requirement.

Mr. Cotta explained how the proposed septic operates.

It was noted that a letter was received by the neighbor (Applicant's Exhibit #2) who has no objection to this application.

The septic couldn't be located any further away from the wetland.

They agree with all the conditions in the Conservation Commission's recommendation except for #3, which states that the total living space of the residential dwelling shall not exceed 2100 sq. ft.

The Board discussed the conditions listed in the Conservation Commission's recommendation dated December 15, 2009. The Board would delete #3, #15, #16 and #17.

There was no one in opposition present.

Mr. Runge made the motion to approve the petition of William Harris Trustee, et al, for Harriet B. Harris Agreement, located at PO Box 629, 30 Washinee Heights Road in Salisbury, Connecticut, for a special use permit to install an Onsite Wastewater Treatment System closer to a wetland than permitted in an R-200 Zone, 150 feet is required, 110 feet is requested, and this is within a floodplain. Premises located at Pole 9-S, Cards Pond Road in South Kingstown, Assessor's Map 92-4, Lot 1, Section 504.1 and 901 of our Ordinances apply. This evening, the applicant's attorney, as well as the engineer, have discussed what the intent here is, and we've done these before, it's a septic system, and they're proposing to use a very high-tech septic system, AdvanTex system. Our Ordinance calls for 150 feet clearance from wetlands; DEM, that approves these, require only 50 feet. And, again, years ago, ours was designed to protect the wetlands further because of the nature of the septic systems years ago and, of course, these new ones are very effective in reducing admissions, pollutants in the water that's discharged from these systems. With that said, also, the Conversation Commission has provided some comments, conditional approval; based on these comments, we've decided we'd like to scratch four of those: Number 3, total living space of residential dwelling shall not exceed 2100 square feet; we'd like to remove that from the requirement, as well as 15, 16, 17, all three of which have to do with trees on the property. With that said, I would like, again to say that we approve this special use permit to reduce the required distance from a wetland for a septic system.

Mrs. Osborn seconded the motion.

VOTE: Runge, Aye; Osborn, Aye; Cagnetta, Aye; Bates, Aye; George, Aye.

IT WAS THE UNANIMOUS DECISION OF THE BOARD TO GRANT THE PETITION.

Mr. George read the fifth petition.

Petition of Joseph DiOrio, 21 Georgiana Drive, Cumberland, RI for a **Special Use Permit** to construct a 12' x 20' open deck to an existing cottage in an R-200 Zone. Premises located at Row 15 East, Cottage #6, Roy Carpenters Beach, South Kingstown, RI, Assessor's Map 92-1, Lot 09-164, Section 203 and 907.

Nancy Letendre, Special Legal Counsel, recused from participation as the applicant is a client of her private legal practice.

Joseph DiOrio was sworn.

Mr. DiOrio is proposing to construct a 12' by 20' deck. He is going no closer to the neighbor. He will be 10'-4" from the neighbor, which is existing. He will need a stairway which would be built into this deck.

There was no one in opposition present.

Mr. Runge made the motion to approve the petition of Joseph DiOrio, 21 Georgiana Drive in Cumberland, Rhode Island, for a special use permit to construct a 12' by 20' open deck to an existing cottage in an R-200 Zone. This is located at Row 15 East, Cottage #6, in the infamous Roy Carpenter's Beach in South Kingstown. Assessor's Map 92-1, Lot 09-164. And in this case, the applicant's here, he has to be here, and he's requesting a special use permit, and he's required to do so because we have a number of structures on one property. And he'd like to add a deck. The surrounding area has many situations like this, and his addition would not encroach upon the adjacent properties, so it wouldn't do anything to the existing access for emergency vehicles. The adjacent residence has a deck similar in size. And in doing so, granting the special use permit will not alter the general character of the surrounding area or impair the intent or purpose of the Ordinance.

Mrs. Osborn seconded the motion.

VOTE: Runge, Aye; Osborn, Aye; Cagnetta, Aye; Bates, Aye; George, Aye.

IT WAS THE UNANIMOUS DECISION OF THE BOARD TO GRANT THE PETITION.

Mr. George read the sixth petition.

Petition of Joyce M. Anderson, 719 W. Las Lomas Road, Tucson, AZ for a **Variance** to construct a 16'-10" x 47'-10" single family dwelling with a 6' x 15' open deck closer to a side line than permitted (10' required – 2' requested) and closer to a rear line (30' required – 28' requested) in an R-20 Zone. Premises located at 40 Mitchell Avenue, South Kingstown, RI, Assessor's Map 43-1, Lot 44, Section 207 and 709.

Joyce Anderson was sworn.

Ms. Anderson is proposing to take a house down and build a new one. The site plan is asking for a variance at the side and rear lot lines. If she had to meet the setback requirements, she could only build a 15 foot wide house.

The lot to the east is an empty lot owned by DEM.

In response to the Board's question regarding the site plans submitted, Ms. Anderson explained that there are two site plans, one is the new house and one is the existing house.

The Chair questioned if there was any way to build the house and meet the setback requirements. Ms. Anderson didn't think she could.

Steven Theroux, who lives directly across the street on 41 Mitchell Avenue, spoke in favor of the applicant. He thought the new home would be a great improvement to the neighborhood.

There was no one in opposition present.

Mr. Runge made the motion to approve the petition of Joyce M. Anderson for a variance to construct a 16 foot 10 inch by 47 foot 10 inch single family dwelling with a 6 foot by 15 foot open deck closer to a side line than permitted, 10 feet is required, 2 feet is requested, and closer to a rear line, 30 feet is required, 28 feet is requested, in an R-20 Zone. Premises located at 40 Mitchell Avenue in South Kingstown, Rhode Island, Assessor's Map 43-1, Lot 44, and that is down by the Narrow River area; most of us are familiar with that. And in this case, they are asking for a variance, and the applicant is here along, I believe, with her builder, and they've discussed what they're planning to do again here, would be replacing an existing residence with a new residential structure, and it's essentially a very similar footprint, and they're asking for a variance, side yard, and the most impact, the side yard, I believe, is owned by DEM, and they don't seem to have any objections that we know of. There is also one lone voice in the audience that was in support of this application, and there's a rear setback which will be now 28 feet and we require 30, so that's a 2-foot variance that they're asking for and, again, there's a stone wall at the very end of that lot and the front driveway, front setback actually will not require a variance. The old structure is very close to the road. This new one will be the full 25 feet, and that's what we require. So, in keeping with our requirements for this variance, dimensional variance, the hardship will not be suffered by the – let me put it this way – this will be more than a mere inconvenience if we don't grant this, and there is no other reasonable alternative to enjoy the legally permitted beneficial use of this property. The property is very small, it's very tight, and they require this variance to provide a new home of minimal dimensions to make it work.

Mr. George seconded the motion.

VOTE: Runge, Aye; George, Aye; Osborn, Aye; Cagnetta, Aye; Bates, Aye.

IT WAS THE UNANIMOUS DECISION OF THE BOARD TO GRANT THE PETITION.

Mr. George read the seventh petition.

Petition of Peter Kuselias, 30 Hemingway Road, Wilbraham, MA for a **Variance** to construct a 15'-2" x 25'-6" open deck with a 6' x 9' shower enclosure closer to a side line than permitted (10' required – 3' requested) and to exceed the lot coverage by 119 sq. ft. (1200 sq. ft. permitted – 1319 sq. ft. requested) in an R-20 Zone. Premises located at 38 Holden Road, South Kingstown, RI,

Assessor's Map 92-2, Lot 81, Sections 401 and 207 Dimensional Regulations and Section 907.

Peter Kuselias was sworn.

Mr. Kuselias stated that this is already built. When the inspection was done, it was noted that he was over the setback line.

Mr. Kuselias submitted two letters from his neighbors in support of this application. (Letter dated January 22, 2010 from Barry A. Plummer and Letter dated January 28, 2010 from Wayne Hawksley and Patricia Hawksley).

Mr. Kuselias is going no closer to the property line than the existing house is now.

There was no one in opposition present.

Mr. George made the motion for the petition of Peter Kuselias, 30 Hemingway Road, Wilbraham, Massachusetts, for a variance to construct an open deck and 6' by 9' shower enclosure closer to a side line than permitted, he'll be 3 feet from the property line to the east and he's supposed to be 10, but the existing house is approximately two and a half feet now, so he's going no closer than the existing house to the easterly property line. The hardship from which the applicant seeks relief is due to the unique characteristics of the existing structure. And it's the least relief necessary. Since it is no closer than the existing house, it will not have any impact on the neighbors. Without the granting of the variance, it would be more than a mere inconvenience.

Mr. Runge seconded the motion.

VOTE: George, Aye; Runge, Aye; Cagnetta, Aye; Osborn, Aye; Bates, Aye.

IT WAS THE UNANIMOUS DECISION OF THE BOARD TO GRANT THE PETITION.

Mr. George read the eighth petition.

Petition of Tower Hill Law Center, 215 Broadway, Providence, RI for a **Variance** to install a free standing sign in the required 100 foot buffer zone in the Route 1 Special Management District. Premises located at 4879 Tower Hill Road, South Kingstown, RI, Assessor's Map 50-4, Lot 14, Section 605.17 and 907.

James Howe was sworn.

Mr. Howe is proposing a sign.

It was noted that this property was formerly owned by Dr. Allen Rocco.

The proposed sign is within the 100' buffer.

The Planning Department approved the site plan and they recommended favorable action by the Zoning Board of Review.

This is a professional office for attorneys.

Mrs. Letendre noted that the sign is going right up front on the subject property. In a Route 1 Special Management District, it requires a 100' buffer.

Mr. Howe explained that it would be a 20 square foot sign, just one sign.

In response to a question from the Board, Mr. Howe explained that the sign would not be back lit. A light would shine on it.

There was no one in opposition present.

Mr. Runge made the motion to approve the petition of Tower Hill Law Center, 215 Broadway, Providence, Rhode Island, for a variance to install a free-standing sign in the required 100-foot buffer zone in a Route 1 Special Management District. Premises located at 4879 Tower Hill Road, South Kingstown. The applicant is here, actually, both attorneys representing the applicant which are the attorneys, are here, and they've got a site plan. They've indicated where they'd like to locate the sign, and they're here primarily because it is a Special Management District and they need to get the approval to be able to locate this. It doesn't seem like there's anybody in the audience who's against this. The sign as presented appears to be tastefully done, and it's in a reasonable location to provide visibility for the business in that area. And the size, again, looks very reasonable in terms of dimensions, 20-square-foot sign, 4 feet by 5 feet. And with that, again, I'd like to make a motion that we approve this variance in this Special Management District.

Mrs. Osborn seconded the motion.

Mr. Runge amended his motion to include that, the bottom 3 feet, no more, total height of the sign 7 feet.

Mrs. Osborn seconded the amended motion.

VOTE: Runge, Aye; Osborn, Aye; Cagnetta, Aye; Bates, Aye; George, Aye.

IT WAS THE UNANIMOUS DECISION OF THE BOARD TO GRANT THE PETITION.

Mr. George read the ninth petition.

Petition of Hebert Design Build, 351 Liberty Lane, West Kingston, RI for a **Variance** to construct a second floor dormer closer to a side line than permitted in an R-20 Zone (10' required – 7' requested). Premises located at 389 Gooseberry Road, South Kingstown, RI, Assessor's Map 88-1, Lot 55, owned by Donald K. Witcher & Lynn M. Martin, Section 207 and 907.

Tim Hebert, Builder, was sworn.

It was noted that the owners were present.

The proposed dormer would be going no closer to the property line than the existing house is now.

The Chair questioned why this couldn't be built further away from the property line. Mr. Hebert explained that there is a kitchen below and they need a place for the stairs.

There was no one in opposition present.

Mr. Runge made the motion for the petition of Hebert Design Build, 351 Liberty Lane, West Kingston, for a variance to construct a second-floor dormer closer to a side line than permitted in an R-20 Zone, 10 feet required, 7 requested. Premises located at 389 Gooseberry Road, South Kingstown. This case, Mr. Hebert is here from Hebert Design Build. He just discussed what he'd like to do, and the existing residence already has two existing dormers, gable dormers. He's like to replace those with a shed dormer. They're already out of conformance. He's here, basically, to be approved – to make a change in a situation that's already out of conformance. It wouldn't affect any of the surrounding character of the surrounding area or anything like that. So, with this granting, the variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of the Zoning Ordinance. In this case, it's a dimensional variance, and in granting this dimensional variance, the hardship that would be suffered by the owner is due to the subject property would amount to more than a mere inconvenience in this case. He wouldn't be able to put the stairs, he'd have to have a second floor of his house.

Mrs. Osborn seconded the motion.

VOTE: Runge, Aye; Osborn, Aye; Cagnetta, Aye; Bates, Aye; George, Aye.

IT WAS THE UNANIMOUS DECISION OF THE BOARD TO GRANT THE PETITION.

Mr. George read the tenth petition.

Petition of Perry Raso, 629 Succotash Road, Wakefield, RI for a ***Special Use Permit & Variance*** to construct an addition to a commercial structure (restaurant) closer to a rear line than permitted in a CW Zone (30' required – 19' requested), to enlarge a use created by a special use permit, Use Code 56.1 and to expand the patio service area from 24 seats to 48 seats. Premises located at 629 Succotash Road, South Kingstown, RI, Assessor's Map 87-2, Lot 189, Sections 401 and 907.

Perry Raso was sworn.

Nancy Leslie, Architect, was sworn. She explained that they would be taking the same footprint and switching things around. They would be enlarging the kitchen. The dining and office areas are the exact same square footage. It is an expansion of the structure.

Mr. O'Hara noted that they were proposing to increase the outdoor seating area from 24 to 48 seats.

Mrs. Letendre stated that there would be 138 seats total including the 48 on the outside.

Mr. Raso stated that honestly there were more than 24 people sitting out there.

The Board questioned the parking.

Mr. Raso explained that people were parking on the road. There are no lines to delineate the parking area. He plans to stake in lines to delineate the parking area.

Ms. Letendre noted that he can't pave his parking area.

Ms. Leslie explained that he just got off-street parking to park in front of his property.

Mr. Raso noted that there was a demand to sit outside in the summer time.

There ensued discussion regarding the parking.

There was no one in opposition present.

Mrs. Letendre proposed a motion for the Board's consideration.

Mr. Runge made the motion to grant the petition of Perry Raso, 629 Succotash Road, Wakefield, for a special use permit and a dimensional variance to

construct an addition to a commercial structure, existing restaurant, closer to a rear line than permitted in a CW Zone, 30 feet required, 19 feet requested, to enlarge a use created by a special use permit, and for a parking variance of seven spaces, Use Code 56.1, and to expand the patio service area from 24 seats to 48 seats. Premises located at 629 Succotash Road, South Kingstown, Assessor's Map 87-2, Lot 189. The special use permit is specifically authorized by Section 200 of the Zoning Ordinance. There are no specific criteria with regard to this special use permit. It is for the enlargement of Use Code 56.1, restaurant with alcohol. Granting the special use permit will not alter the general character of the surrounding area nor impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan. It's an existing restaurant, they're adding some interior dining space, essentially within the same footprint of the existing structure and they're not - - they're only increasing the amount of seats on the existing patio which it can easily accommodate. With respect to the dimensional variance, the hardship which the applicant seeks relief is due to the unique characteristics of the subject land and structure, particularly its location right on the water's edge and with respect to the 19-foot requested rear line. It's in very close proximity to the water's edge, which is the rear line. With respect to the parking, it is a fairly wide but not very deep site. There's ample on-street parking, as well. The hardship is not self created, and it's not due to greater financial gain. The hardship being requested is with respect to the ongoing business venture. The relief requested is the least relief necessary and not granting the relief would amount to more than a mere inconvenience. The parking is available along the street to accommodate for the seven cars that can't be on site.

Mrs. Osborn seconded the motion.

VOTE: Runge, Aye; Osborn, Aye; Cagnetta, Aye; Bates, Aye; George, Aye.

IT WAS THE UNANIMOUS DECISION OF THE BOARD TO GRANT THE PETITION.

The Board would now continue with the *Petition of Donald and Mary Rathbun.*

There ensued much discussion amongst Board members, Mrs. Letendre and Mr. O'Hara.

The Chair made a motion to direct Special Legal Counsel to draft a motion to approve the petition of Donald and Mary Rathbun for the next meeting on March 17, 2010.

Pre-Roll

All members stated they would be present at the next meeting on March 17, 2010.

Adjournment

As there was no further business the meeting adjourned at 10:58 p.m.