

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 April 21, 2010.

Members Present: Ernest D. George, Jr.  
Robert Toth  
Stephanie A. Osborn  
Igor Runge  
Douglas W. Bates  
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 Matunuck Beach Properties, Inc.**, 62 Birchwood Drive, Narragansett, RI for a **Special Use Permit & Variance** to construct a 40' x 60' garage higher than permitted in an R-200 Zone (20' permitted – 24' requested) Section 401 Dimensional Regulations and Section 907. Also, to install two 2' x 5' (10 sq. ft.) free standing signs in an R-200 Zone (one permitted at 6 sq. ft. – two requested at 10 sq. ft.) Section 804 and 907. Premises located at 240 Cards Pond Road, South Kingstown, RI, Assessor's Map 92-1, Lot 9.

Nancy Thoresen, President of Matunuck Beach Properties and Robert Thoresen, Vice-President of Matunuck Beach Properties (Nancy's son), was sworn.

Mrs. Thoresen would like to build a garage to house their equipment. They would like a place to store their vehicles. They need the height variance for the pay loader.

Mr. Thoresen noted that they keep their equipment outside. The John Deere tractor is brand new and they would hate to keep it outside.

The Chair questioned the progress on the installation of their new septic system. Nancy explained the progress to Board members.

Next the Board would discuss the applicant's sign request.

Mrs. Thoresen stated that the Highway Department received a complaint. Their sign was in the Town's right-of-way. To locate the sign on their property, they need a special use permit.

They need 2 signs to make the sign visible, one on each corner of the entrance to their property.

Mr. Runge asked how far from the right-of-way do they plan to put the signs. In response, Mrs. Thoresen stated as far away as they can.

Mr. O'Hara noted their sign was there as long as he can remember. Someone complained that they had to walk in the street because the sign was in the Town's right-of-way.

The Board questioned the need for the sign. Mrs. Thoresen stated that the residents don't need the sign but the guests need the sign. They have received complaints that people have drove right passed it.

The Chair questioned the need for 2 signs. Mrs. Thoresen would prefer 1 sign if they could make it visible. The corn field grows right up to the edge of their property where the Town right-of-way is.

Mr. Thoresen stated that if they could only have one, they would prefer one on the left hand side by the guard shack.

Mike Marrin, Chairman of the Board for the resident's association, explained that they do have guests come in and when the corn grows high, it is hard to see where to get in. They are in support of this proposal.

There was no one in opposition present.

Mr. Runge made the motion to approve the petition of Matunuck Beach Properties, Inc., 62 Birchwood Drive in Narragansett, for a special use permit and variance to construct a 40 by 60 foot garage higher than permitted in an R-200 Zone, 20 feet is permitted, they're asking for a 24 foot height, and this is Section 401 Dimensional Regulations and Section 907 apply. Also, they're asking to install two, 2 by 5 foot free standing signs in an R-200 Zone. In this case, one is permitted at 6 square feet. And this is Sections 804 and 907 of our Zoning Ordinance. Premises located at 240 Cards Pond Road in South Kingstown, Assessor's Map 92-1, Lot 9. The applicant is here. They're described in both cases what the intent here is. We have one large lot with a number of different

homes so they have to come before us for any additions. Number one, they're asking for a garage height variance. It appears in this case that the abutter doesn't have a problem with it, 4 feet, given the characteristic of the size of the lot probably won't make much difference if it's 4 feet higher or lower. And the other case, the sign which is out front now on the street, it was not on the applicant's property, they've been asked to move it to their property, and I think the Building Official also doesn't have a problem, as long as it's not on the Town property. I think in my case, I would like to see that they try to strive to make it one sign instead of two signs, one on each corner. With that said, again, this is a special use permit, granting of the special use permit will not alter the general character of the surrounding area or impair the intent of the Ordinance, and, also, it's a variance, and granting the variance, the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land, or structure, in this case, the sign has to be moved. With that, again, I'd like to make the motion that we approve the petition.

Mrs. Osborn seconded the motion.

Mrs. Letendre: Is it for one sign or two?

Mr. Runge: I stressed one sign, double sided, but again, I don't think we should deny if they can't do it for visibility reasons, they have two signs.

Mrs. Letendre: So you're going to allow two signs, doubled sided, with one side apiece, that's up to 20 square feet.

Mr. Runge: That's right.

Mrs. Letendre: And if they can accommodate the 20 square feet on one sign, you prefer that.

Mr. Runge: That's correct.

Ms. Letendre: Is that okay?

Mr. O'Hara: Fine with me, as long as I have a number.

Mr. Runge: And if not, then it's 10 and 10.

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

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

Mr. George read the second petition.

**Petition of Marsha Landy**, 3 Shortway Drive, West Warwick, RI for a ***Special Use Permit*** to construct an 8' x 8' pergola over an existing deck. Premises located at Row 11 East, Cottage #15, Roy Carpenters Beach, South Kingstown, RI, Assessor's Map 92-1, Lot 09-119, Section 203 and 907.

Marsha and Thomas Landy were sworn.

They would be staying within the same footprint. Going no closer than they already are to the road.

There was no one in opposition present.

Mr. Runge made the motion for the petition of Marsha Landy, 3 Shortway Drive, West Warwick, for a special use permit to construct an 8 by 8 pergola over an existing deck. Premises located at the infamous Roy Carpenter's Beach, in this case, Row 11 East, Cottage #15, South Kingstown, Assessor's Map 92-1, Lot 09-119. The applicant's here; sounds like a very simple modification he'd like to do. There will be no change in the footprint of the structure, and what they're always concerned about is main access for emergency vehicles on either side, there'll be no change in this case. It wouldn't even be a full roof; basically, be just several joists. So with that, and again, he's here, the applicant, because it's a large lot with a number of different structures on it. So with that, again, I'd like to make the motion that we approve the petition for Marsha Landy.

Mr. Toth seconded the motion.

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

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

Mr. George read the third petition.

**Petition of Alan Cafferty**, 53 Latham Farm Road, Smithfield, RI for a ***Special Use Permit*** to construct a 5' x 5' addition to an existing open deck. Premises located at Row 11 East, Cottage #3, Roy Carpenters Beach, South Kingstown, RI, Assessor's Map 92-1, Lot 09-114, Section 203 and 907.

Alan Cafferty was sworn.

Going no closer to the road or either building on either side. It is an addition to an existing open deck.

Mr. Cafferty needs a larger deck because sometimes at night not everybody can fit on.

There was no one in opposition present.

Mr. Runge made the motion for the petition of Alan Cafferty of 53 Latham Farm Road in Smithfield, for a special use permit to construct a 5 by 5 addition to an existing open deck. Premises located at Row 11 East, Cottage #3, Roy Carpenters Beach in South Kingstown, Assessor's Map 92-1, Lot 09-114. Mr. Cafferty's here, he's described what he'd like to do. Essentially, there'll be no decrease of distances from adjoining adjacent properties. He's merely adding a small section of deck to an existing deck. It will not go any closer to any of the surrounding properties or the roadway. So, with that said, again, this is a large lot with a number of structures, and he's here for that reason; any changes must be before the Zoning Board. With that, again, I'd like to make a motion we approve the petition.

Mrs. Osborn seconded the motion.

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

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

Mr. George read the fourth petition.

**Taken Under Advisement the Petition of Tri-Level Construction Co., Inc., (Closed Public Hearing)** PO Box 297, Wakefield, RI for a **Variance** to construct a single family dwelling closer to a corner side line than permitted (25' required – 15' requested) and a **Special Use Permit** to install an onsite wastewater treatment system closer to a wetland than permitted (150' required – 64.5' requested) in a GPOD/R-20 Zone. Premises located at Biscuit City and Ledgewood Roads, South Kingstown, RI, Assessor's Map 31-2, Lot 123, Section 401 Dimensional Regulations, Section 504 and 907. (George, Toth, Osborn, Runge, Cagnetta)

The Chair read a letter dated April 13, 2010 from Attorney Matthew M. Mannix, James V. Aukerman & Associates, LLC. Then the Chair began reading the attached Motion of Abutter, John Hadley, to reopen public hearing. Mr. Toth completed reading the motion.

Next the Chair began reading an objection to motion to reopen public hearing from Attorney Margaret L. Hogan, Hogan & Hogan, Ltd. dated April 21, 2010. Mr. Toth completed reading the objection.

Nancy Letendre, Special Legal Counsel, advised the Board that under State law, the Zoning Ordinance and the Zoning Board's Rules of Procedure, there is no provision for reopening the public hearing. Upon appeal, the Superior Court could order the Board to reopen the public hearing. (R.I. Gen Laws 45-24-69 b).

Absent such a court order the Zoning Board has no authority to reopen a public hearing.

Attorney James Aukerman gave argument as to why he felt the public hearing should be reopened. He disagreed with Attorney Margaret Hogan and Special Legal Counsel, Nancy Letendre.

Attorney Margaret Hogan explained why the public hearing shouldn't be reopened. She stated that the objector wants to do over what they did the first time. She didn't feel her applicant should be held up. Ms. Hogan noted that she was unable to grant an extension for the 45 day period for a decision.

Discussion ensued between Board members and Special Legal Counsel regarding the request to reopen the public hearing.

The Chair polled Board members. It was the consensus of the Board to not reopen the public hearing.

Mr. Runge made the motion to deny the request to reopen the public hearing.

Mr. George seconded the motion.

WHEREUPON A VOICE VOTE WAS TAKEN/MOTION TO REOPEN THE PUBLIC HEARING WAS DENIED.

The Board began their deliberations.

Discussion ensued between Board members and Special Legal Counsel.

The Chair made a motion to direct Special Legal Counsel to draft a motion to approve the petition of Tri-Level Construction for a meeting on Tuesday, April 27, 2010 at 5:30 p.m.

Mr. Cagnetta seconded the motion.

WHEREUPON A VOICE VOTE WAS TAKEN/MOTION PASSES.

### **Adjournment**

As there was no further business the meeting adjourned at 8:35 p.m.