

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 August 18, 2010.

Members Present: Ernest D. George, Jr.  
Robert Toth  
Stephanie A. Osborn  
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.

**Continuation of the Petition of Willow Dell Beach Club, Inc.**, 156 Cards Pond Road, South Kingstown, RI for a **Special Use Permit** to modify the special use permit granted on October 21, 1985 to permit the relocation of the beach club building and parking to another area on the lot than previously stipulated. Premises located at 156 Cards Pond Road, South Kingstown, RI, Assessor's Map 92-1, Lot 36 and Zoned R-200, Section 200E and 907.

The Chair read a letter dated August 17, 2010 from Attorney Margaret Laurence requesting a continuance until the September meeting so that the Planning Board can complete the Development Plan Review recommendations.

The Chair made a motion to continue the Petition of Willow Dell Beach Club, Inc. until September 15, 2010.

Mrs. Osborn seconded the motion.

WHEREUPON A VOICE VOTE WAS TAKEN/MOTION PASSES TO CONTINUE UNTIL SEPTEMBER 15, 2010.

Mr. George read the second petition.

**Continuation of the Petition of Charles Hickox III**, 289A Yawgoo Pond Road, West Kingston, RI for a **Variance** to enlarge an accessory apartment by 300 square feet in an R-80 Zone (750 sq. ft. permitted – 900 sq. ft. requested). Premises located at 289A Yawgoo Pond Road, South Kingstown, RI, Assessor's Map 5, Lot 9, Section 503.E.2 and 907.

Attorney Thomas Tarzwell was present on behalf of the applicant.

Charles Hickox was sworn.

Mr. Hickox has owned the property for 25 years.

He described the buildings on the property which consists of a house, garage, 2 small outbuildings and a small garage apartment that he built for his parents. The apartment is 600 square feet with a garage attached.

He then described the neighbors abutting his property.

His mother and father live in the accessory apartment.

The improvements can't be seen from Yawgoo Pond Road even in the winter time.

The request is an increase in the size of the apartment for his parents.

Since the CO (Certificate of Use and Occupancy) was issued, the Ordinance has changed from 600 to 750 sq. ft.

His parents need space. They are elderly and need space to exercise. They would like to put exercise equipment in there.

The apartment consists of a kitchen, small bedroom, small room with couch and TV and a bathroom. It will still remain a one bedroom.

This won't change the footprint. It will change the garage inside.

There will be no difference in occupancy. It still will be for his parents.

He didn't think anyone would know this has changed.

The Chair noted that he could do a minor subdivision on this lot.

Jeffrey O'Hara read Section 503.E.2 of the Zoning Ordinance regarding accessory apartments and noted that this should be a special use permit and not a variance as advertised.

The Chair polled Board members. All members would be in favor of granting the petition.

Mr. Cagnetta made the motion to approve the petition of Charles Hickox of 289A Yawgoo Pond Road in West Kingston, Rhode Island, for a special use permit to enlarge an accessory apartment by 300 square feet in an R-80 Zone; 750 square feet is permitted and 900 square feet is requested. The premises are located at 289A Yawgoo Pond Road, South Kingstown, Rhode Island. The applicant, Mr. Hickox, was here with his attorney who explained that the building in question is not going to be enlarged, they're only going to utilize space that was previously a garage. He also described the property as being abutted by conservation land, as well as other large parcels. It's on 7 acres, and it's an R-80 Zone so, certainly, there's plenty of space within the property to justify sort of the expansion within the existing building itself. This applies to Section 907 in our Ordinance for the special use permit. In granting this special use permit, the Board feels that the evidence satisfied sort of the hardship which the applicant sought relief which was, as I stated, basically the existing building would not be expanded. It is not due to any physical or economic disabilities of the applicant, so I would like to make a motion to approve this petition.

Mrs. Osborn seconded the motion.

Mr. Cagnetta amended his motion to include that it will not permanently injure the appropriate use of the property and the surrounding area because of there being more than 7 acres and it's a 2-acre zone.

Mrs. Osborn seconded the amended motion.

VOTE: Cagnetta, 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 third petition.

**Petition of Cynthia Varone**, 26 Auburn Avenue, Johnston, RI for a ***Special Use Permit and Variance*** to replace an existing trailer with a 8' x 36' 3" trailer with a 3' 3" x 12' 7" and 3' 3" x 6' 2" bump outs in a CN Zone closer to a side line than permitted (15' required – 10' requested). Premises located at 1 Carpenter Drive, Lot 274 Carpenters Beach Meadow, 859 Matunuck Beach Road, South Kingstown, RI, Assessor's Map 92-2, Lot 55-274, Section 202, 401 and 907.

Cynthia Varone and Joe Santori were sworn. Cynthia Varone is the mother of Joe Santori's partner.

The new trailer will be going further away from the property line.

The existing trailer is in disrepair and the property owner has requested that it be replaced.

There was no one in opposition present.

Mr. Toth moved that the petition of Cynthia Varone for a special use permit and variance to replace an existing trailer with an 8-foot by 36-foot 3-inch trailer with a 3-foot 3-inch by 12-foot 7-inch and 3-foot 3-inch by 6-foot 2-inch bump outs in a CN Zone closer to a side line than permitted, be granted. Premises located at 1 Carpenter Drive, Lot 274, Carpenters Beach Meadow, that's 859 Matunuck Beach Road. The applicant testified before the Board and stated that the existing trailer was in disrepair so, actually, if we grant this petition, it will enhance the public health and safety. The Board is quite familiar with Carpenters Beach Meadow. There's multiple trailer units on one parcel, and we're familiar with all the criteria under the special use permit, which would include ingress and egress to the lot, off-street parking, trash and storage, utilities, screening and buffering; those are all adequate on that site and furthermore, the applicant has safe distance from a fire safety standpoint next to the other trailers, adjoining trailers. So, under Section 907 #2, special use permit, the specific use is specifically authorized by this Ordinance and that's by Section 202, 401 and 907. The 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. And I would move that it be located in strict conformance to the site plan that they submitted to the Board.

Mr. Cagnetta seconded the motion.

VOTE: Toth, 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 Emil & Eleanor Mittendorf**, 19 Mittendorf Road, Wakefield, RI for a **Variance** requesting for the existing house on Lot 103 a front yard setback of 17.7' – 50' required, a side yard setback of 35.02' – 40' required, for the garage a side yard setback of 17.7' – 20' required, for lot area 80,000 sq. ft. is required – 60,182 sq. ft. is requested in an R-80 Zone, Lot 102 requests a lot width of 186.75' – 200' required in an R-80 Zone. Premises located at 34 Mittendorf Road, South Kingstown, RI, Assessor's Plat 81-3, Lots 102 and 103, Section 401 R-80 Dimensional Regulations and Section 907.

Attorney Donald Packer was present on behalf of the applicant.

This application was approved previously by this Board but it has since expired. It is a re-subdivision of property.

They have been to the Planning Board for approval.

Mr. Packer submitted and explained the following exhibits.

**Applicant's Exhibit A**, Survey Plan for Assessor's Plat 81-3, Lots 102 and 103, was submitted.

**Applicant's Exhibit B**, Tax Assessor's Map 81-3 showing Lots 102 and 103, was submitted.

**Applicant's Exhibit C**, Administrative Subdivision Plan for Assessor's Plat 81-3, Lots 102 and 103, was submitted.

**Applicant's Exhibit D**, Planning Board Conditional approvals dated May 12, 2010 and September 13, 2006, was submitted.

**Applicant's Exhibit E**, Zoning Board of Review approval dated December 13, 2006, was submitted.

There is an existing house on the lot and a garage if this is approved.

Amy Sonder, Surveyor – Easterbrooks & Associates, was sworn.

Ms. Sonder drew and stamped the plans.

There was no one in opposition present.

Mr. Bates made a motion to approve the petition of Emil and Eleanor Mittendorf of 19 Mittendorf Road of Wakefield, Rhode Island, for a variance requesting for the existing house on Lot 103 a front yard setback of 17.7 feet where 50 feet is required; a side yard setback of 35.02 feet where 40 feet is required; and with a garage a side yard setback of 17.7 feet where 20 feet is required; and for a lot area, 80,000 square feet is required and there're requesting a little over 60,000 square feet, 60,182 square feet, in an R-80 Zone. Lot 102 requests a lot width of 186.75 feet where 200 is required, and is also in the R-80 Zone. Premises are located at 34 Mittendorf Road, South Kingstown, Assessor's Plat 81-3, Lots 102 and 103. Section 401 R-80 Dimensional Regulations applies, as well as Section 907. Applicant's attorney, Mr. Packer, was heard and provided the plan, which seemed reasonable the first time, and every bit as reasonable now. Essentially they're making their lot meet the Tax Assessor's Map.

Mr. Toth seconded the motion.

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

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

Mr. George read the fifth petition.

**Petition of Mark & Lisa House**, 116 Old Mountain Road, Wakefield, RI for a **Variance** to construct an addition to a single family dwelling and connecting it to an existing detached garage in an R-20 Zone (15' required – 5' requested). Premises located at 116 Old Mountain Road, South Kingstown, RI, Assessor's Map 49-3, Lot 13, Section 401 and 907.

Mark House was sworn.

He is connecting the two buildings and will be going no closer to the side line than the existing garage.

The Chair noted that because he is attaching it, he needs a variance. A detached structure requires a lesser setback.

Mr. Toth moved that the petition of Mark and Lisa House, 116 Old Mountain Road, for a variance to construct an addition to a single-family dwelling and connecting it to an existing detached garage in an R-20 Zone, be granted. Mr. House testified before the Zoning Board. We're talking an R-20 Zone. He has over an acre of land there. He testified an acre. In this case, under Section 907, the hardship from which the applicant seeks relief is due to the unique characteristics of the subject structure and not to the general characteristics of the surrounding area. In this case, he has an existing garage that's located very close to the property line, the side property line, 5 feet, and it does make sense to retain that building on the site and connect it if he needs more space. That's simple. The said hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain. The granting of the requested variance will not alter the general characteristic of the surrounding area or impair the intent or purpose of this Zoning Ordinance or the Comprehensive Plan of the Town. It's the least relief necessary. In granting a dimensional variance, the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience to this applicant. I would move that he construct the addition in substantial conformance to the site plan he submitted with respect to location and setbacks.

Mrs. Osborn seconded the motion.

VOTE: Toth, 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 Timothy Hauser**, 310 Wordens Pond Road, Wakefield, RI for a **Variance** to construct a detached barn higher than permitted in an R-40 and R-80 Zone (20' allowed – 28' requested). Premises located at 310 Wordens Pond Road, South Kingstown, RI, Assessor's Map 60, Lot 30, Section 401 and 907.

Timothy Hauser was sworn.

The variance request is for a cupola which is needed to store and dry hay in the barn. He needs air flow to dry the hay.

Mr. Hauser showed the Board some photographs of the same type of barn he built.

He has a 23 acre lot and the closest neighbor is 300 feet.

Mrs. Osborn made the motion to pass the petition of Timothy Hauser, 310 Wordens Pond Road, Wakefield, Rhode Island, for a variance to construct a detached barn higher than permitted in an R-40 and R-80 Zone, 20' allowed, 28' requested, Assessor's Map 60, Lot 30, located, like I said, 310 Wordens Pond Road, South Kingstown, Rhode Island. Mr. Hauser has showed us pictures, very appealing barn, and it's going to have a cupola that's 6 feet, and the cupola would require him to, and that's why he's before us tonight for a height variance, to dry hay in his barn, which is certainly the cupola will be for a specific function. And in requesting this variance, it would be a hardship if he weren't able to do this and, also, in granting the dimensional variance, the hardship that would be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience for Mr. Hauser, so, therefore, I grant that we move forward and grant this petition.

Mr. Cagnetta seconded the motion.

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

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

Mr. George read the seventh petition.

**Petition of Joseph Nelly**, 326 Three Mile Course, Guilford, CT for a **Special Use Permit** to remove existing shower and shed and construct 4' x 20' addition

and 8' x 20' open deck in an R-200 Zone. Premises located at Row 3 West, Cottage #8, Roy Carpenters Beach, South Kingstown, RI, Assessor's Map 92-1, Lot 09-247, Section 202 and 907.

Joseph Nelly was sworn.

He is removing a shed and shower and replacing with an addition and adding a deck.

He is going no closer to the neighboring cottages with the addition. He is going closer to the road with the deck.

In response to the Board's question on the location of the steps, Mr. Nelly explained that the steps would be in the same footprint.

In response to the Board's question on parking, Mr. Nelly explained that they park between the two cottages.

There was no one in opposition present.

Mr. George made the motion to approve the petition of Joseph Nelly, 326 Three Mile Course, Guilford, Connecticut, for a special use permit to remove the existing shower and shed and construct a 4' by 20' addition and 8' by 20' open deck in an R-200 Zone. Premises located at Row 3 West, Cottage #8, Roy Carpenters Beach, South Kingstown. Mr. Nelly demonstrated he's not going any closer to any of the existing cottages, and he's coming closer to the road with the deck, but he's still going to be seven and a half feet off the pavement and he parks between 3 West 8 and 3 West 7, so he's not changing his parking or taking away from his parking by adding the deck.

Mrs. Osborn seconded the motion.

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

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

Mr. George read the eighth petition.

**Petition of Daniel Lee**, 47 Wood River Lane, West Greenwich, RI for a **Variance** to construct a 12' x 15' screen room addition on an existing deck closer to a rear line than permitted (30' required – 22' requested) in an R-80 Zone. Premises located at 40 Spruce Road, South Kingstown, RI, owned by Fredrick & Susan DiNardi, Assessor's Map 89-2, Lot 85, Section 207 and 907.

Mr. George noted that he did some work for Daniel Lee 1 ½ years ago but felt there was no conflict.

Daniel Lee was sworn.

Using the same foundation they would be putting on a gambrel roof and screening it in.

There was no one in opposition present.

Mrs. Osborn made a motion to pass the petition of Daniel Lee, 47 Wood River Lane, West Greenwich, Rhode Island, for a variance to construct a 12 foot by 15 foot screened room addition on an existing deck closer to a rear line than permitted, 30' is required, 22' is requested, in an R-80 Zone. Premises located at 40 Spruce Road, South Kingstown, Rhode Island, Assessor's Map 89-2, Lot 85. Mr. Lee has explained what he'd like to do. He's going to add a two-story screened deck. He's presented a picture of the deck. He will be 22 feet from the rear line, and he had an existing footprint of that in the past, so he's just changing it to more of a permanent screened porch with a roofline. So, in granting this petition to Mr. Lee, it would be a mere inconvenience and a hardship if he would not be able to have this petition passed this evening, and it would be a hardship, which the applicant seeks relief, is due to the unique characteristics of the subject land, the structure, and not to the general character, it will not detriment the general character of the surrounding area.

Mr. Toth seconded the motion.

VOTE: Osborn, Aye; Toth, 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 Carol DeRoehn**, 13 Alaimo Drive, Enfield, CT for a **Special Use Permit and Variance** to remove an existing trailer and install a new 8' x 28' trailer with a 3' x 13' bump out closer to a side line than permitted in an R-20 Zone (15' required – 6' requested). Premises located at 8 West, Lot 3, Carpenters Beach Meadow, 854 Matunuck Beach Road, South Kingstown, RI, Assessor's Map 92-2, Lot 55-003, Section 401, 202 & 907.

Carol DeRoehn was sworn.

The existing trailer has a 6 foot slide out and the new trailer will have a 13 foot slide out.

She is replacing the trailer due to age.

She is going no closer to the existing trailers.

There was no one in opposition present.

Mr. Toth made the motion for the matter of Carol DeRoehn, for a special use permit and variance to remove an existing trailer and install a new 8 foot by 28 foot trailer located at Carpenters Beach Meadow, 854 Matunuck Beach Road, I move we grant the petition of the applicant to replace the existing trailer. Carol DeRoehn testified before the Board, and under Section 907 Special Use Permit, the special use is specifically authorized by the Ordinance and that is Sections 401, 202 and 907. The 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. The Board is very familiar with the site conditions at Carpenters Beach Meadow with respect to ingress and egress, off-street parking, trash, storage, utilities, screening, etc. Actually, the current trailer's aged and in need of replacement and it will actually enhance the public health, safety, and welfare to replace it.

Mrs. Osborn seconded the motion.

VOTE: Toth, 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 Marshall Raucci, Jr. and Marian Mattison**, 31 Fire Lane Two, Wakefield, RI for a **Special Use Permit and Variance** to construct a 13' 6" x 15' 4 ¾" 1<sup>st</sup> floor addition with a 5' x 6' porch, a 2<sup>nd</sup> floor addition and a 32' x 32' detached garage higher than permitted (20' permitted and 28' requested) in an R-80 Zone. Premises located at 27 Fire Lane Two, Jerry Brown Farm, South Kingstown, RI, Assessor's Map 82-1, Lot 1-03, Section 401, 202 and 907.

Marian Mattison, the owner, and Bill Brozoza, the builder for the project, were sworn.

The applicant has permission from the Jerry Brown Farm Association for the proposal.

Ms. Mattison stated that the existing house is in a state of disrepair.

Mr. Brozoza explained that the size of the detached garage is 32' x 32'.

The Chair questioned why they needed the height requested. Mr. Bazoza stated to match the pitch of the existing house – esthetically.

The Board questioned if they were putting water in the garage. Ms. Mattison explained that they would need water for cars and an exercise room if they decide to add later.

The garage abuts a wooded area and the abutting home they own. The wooded area cannot be built on and they are the highest lot In Jerry Brown Farm.

Mr. Toth asked if Jerry Brown Farm saw the plans for the garage. Ms. Mattison stated that they did. They are building a 3 car garage.

Mr. O'Hara noted that if concerned they would use the garage for living space, you could put on a stipulation that there be no bathrooms or sleeping area.

Ms. Mattison explained that they might like to put in a bathroom for an exercise room in the future.

There ensued discussion amongst Board members.

There was no one in opposition present.

Mrs. Osborn made the motion to grant the petition of Marshall Raucci, Jr., and Marian Mattison, 31 Fire Lane Two, Wakefield, Rhode Island, for a special use permit and variance to construct a 13-foot 6-inch by 15-foot 4 ¾-inch first floor addition with a 5-foot by 6-foot porch and a second floor addition, a 32-foot by 32-foot detached garage higher than permitted, 20 feet permitted and 28 feet requested, in an R-80 Zone, Assessor's Map 82-1, Lot 1-03. Marian has been in front of the Board this evening with the builder, presented plans, and there's been great discussion about the height of the garage, being a three-car garage with a very large height to it. She would like to put water for washing her cars at the garage, so that covers the height variance. And the other reason why there're here for the special use permit is because there's many houses on one plot of land at the Jerry Brown Farm, so the papers have been signed and release from the Jerry Brown Farm Association granting this petition. And therefore, special use permit, in granting a variance, shall require evidence to satisfy meeting the following standards. I'll read into the record which they have, the hardship from which the applicant seeks relief is due to the unique character of the subject land which because it is already an existing building there, and they're adding an addition to the structure, and it's not going to change the general character of the surrounding area because there's many large homes being added to Jerry Brown Farm, from what the original summer camps were, and, also, if we didn't do the variance, that also would be a hardship that would be suffered by the owner of the subject property. So, I move that we grant this petition this evening.

Mr. Cagnetta seconded the motion.

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

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

Mr. George read the eleventh petition.

**Petition of Thomas Wozniak**, 27 Upper College Road, Kingston, RI for a **Variance** to construct a 16' x 30' detached garage higher than permitted in an R-10 Zone (15' allowed – 17' requested). Premises located at 27 Upper College Road, South Kingstown, RI, Assessor's Map 23-3, Lot 69, Sections 301 and 907.

Thomas Wozniak was sworn.

There are no existing outbuildings on the property. No place to store anything. He would like to keep with the Dutch colonial home. There will be a pull down in the attic for storage space.

There was no one in opposition present.

Mr. Toth made the motion in the matter of Thomas Wozniak, 27 Upper College Road, for a variance to construct a 16' by 30' detached garage higher than permitted in an R-10 Zone. Premises located at 27 Upper College Road, South Kingstown. Mr. Wozniak testified before the Zoning Board, and he has a desire to construct a garage on the said property, and he would like to maintain some architectural harmony between the primary home and the new garage, so, therefore, under Section 907, Standards for Relief, the hardship from which the applicant seeks relief is due to the unique characteristics of the subject structure, and that is the existing home. The said hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain. The granting of the requested variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of this Zoning Ordinance or the Comprehensive Plan of the Town. It's the least relief necessary. In this case, it's a 2-foot height variance. If the variance is denied, the hardship that will be suffered by the owner of the subject property shall amount to more than a mere inconvenience. I would move that he be granted to construct the proposed garage in conformance to the submitted site plan.

Mrs. Osborn seconded the motion.

VOTE: Toth, 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 twelfth petition.

**Petition of The Compass School**, 537 Old North Road, South Kingstown, RI for a ***Special Use Permit*** to construct an 18' x 24' greenhouse in an R-40 Zone. Premises owned by Jemima Realty LLC and located at 537 Old North Road, South Kingstown, RI, Assessor's Map 16-4, Lot 16, Section 301, Use Code 20 and 907.

Thomas Webber, Vice President of the Council and Chair of the Building Committee, Allan Ziebicki, Director of Compass School and Kamal Hingorany, the project engineer, were sworn.

The Chair read a letter dated August 17, 2010 from Lou Raymond, Executive Director, South County Habitat for Humanity Rhode Island in support of the applicant.

Nicole Gardner, a teacher at the school, spoke in support of the applicant.

Allan Ziebicki, Director of the Compass School, explained that they are proposing a greenhouse as they do gardening.

The Chair asked to see a site plan of what was approved previously in 2007. The applicant did not have one with them. Mr. Webber described the location of the previously approved structure. The greenhouse will not interfere with that structure. The greenhouse sits outside of the expansion plans. They didn't show it because it hasn't been built yet.

Mrs. Letendre explained that the previous special use permit has expired. They would need to come back for that and also the subdivision has expired. The lot line indicated by the stone wall doesn't exist because the subdivision has expired.

There was no one in opposition present.

Mrs. Osborn made the motion to approve the Compass School, 537 Old North Road, South Kingstown, Rhode Island, for a special use permit to construct an 18' by 24' greenhouse in an R-40 Zone. Premises are owned by Jemima Realty, LLC and located at 537 Old North Road, South Kingstown, Assessor's Map 16-4, Lot 16. Member of the Building Committee and the Vice President of the Council and the Director of the School have explained the site and where the placement of the greenhouse will be placed and what the greenhouse will be used for. Certainly I think it's an additional education instrument for the school, and I don't see that there's anybody in the audience with any kind of objection of this project,

so I move forward that we grant the special use permit, and it would be a hardship if we did not grant this particular project to the school, and it will not alter the location or characteristics of the surrounding area.

Mr. Toth seconded the motion.

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

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

Mr. George read the thirteenth petition.

**Petition of Chastity Machado**, 1340 Broad Rock Road, Wakefield, RI for a **Variance** to remove an existing dwelling and construct a new single family dwelling closer to a front line than permitted in an R-40 Zone (40' required – 24' requested). Premises located at 1340 Broad Rock Road, South Kingstown, RI, Assessor's Map 25, Lot 28, Sections 401 and 907.

The Chair read a letter dated August 4, 2010 from Chastity Machado giving authorization to Anthony Nenna to represent her regarding this zoning application.

Anthony Nenna, engineer, was sworn.

This application was previously granted in 2008 and it is the same identical plan.

They are converting from a log cabin to a modular home. Same footprint and the site conditions are the same.

There is very minimal space to put the house. They are making it more conforming than the existing house.

They can't get any further away from the front line as the wetlands are in the back of the property.

There was no one in opposition present.

Mr. Toth made the motion on the petition of Chastity Machado for a variance to remove an existing dwelling and construct a new single family dwelling closer to a front line than permitted in an R-40 Zone, 40 feet is required, 24 feet is requested. The Board has seen this application before, but it's a new application because the previous approval expired. Mr. Anthony Nenna, the project engineer, testified again before the Board and stated there's been no material change to the site. What they're going to do is replace an older home with a new home, and in the construction of the new home, the nonconformity that currently

exists with respect to setbacks will be reduced. It will increase its conformity to current zoning. I would move that we tie it to the applicant's site plan prepared by Anthony Nenna, On-Site Engineering, dated August 2010. Under Section 907, Standard of Relief, the variance, the hardship from which the applicant seeks relief is due to the unique characteristics of the surrounding area, in this case it's the land. It's close to an adjacent wetland, and the house is currently located close to the property line, and there's really no other area where the house can be constructed. The hardship is not the result primarily of the applicant to realize greater financial gain. The requested variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of this Zoning Ordinance or the Comprehensive Plan of the Town. It's the least relief necessary. The hardship that will be suffered by the owner of the subject property if the variance is not granted shall amount to more than a mere inconvenience.

Mrs. Osborn seconded the motion.

VOTE: Toth, 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 fourteenth petition.

**Petition of Mildred Everett**, 1400 Broad Rock Road, Wakefield, RI for a **Variance** to remove an existing dwelling and construct a new single family dwelling closer to a front line (40' required – 15' requested) and a front porch closer to a front line (40' required – 9' requested) in an R-40 Zone. Premises located at 1400 Broad Rock Road, South Kingstown, RI, Assessor's Map 25, Lot 23, Section 401 and 907.

The Chair read a letter dated August 4, 2010 from Mildred Everett giving authorization to Anthony Nenna to represent her regarding this zoning application.

Anthony Nenna, engineer, was sworn.

This application was previously granted in 2008.

The description in the newspaper was incorrect. There is a minor change. The porch approved last time, it was 9 feet and they are eliminating that. They are extending out the house 4 feet. This will require a lesser variance as they no longer need a variance for the porch.

Mr. Nenna submitted a new plan for the record.

The rear portion of the lot is wetlands. The wetland area is considered a hardship and can't push it any further away from the front line. They are moving the house to conform to the wetlands.

The existing house is only 5 feet from the front line.

There was no one in opposition present.

Mr. Toth made the motion on the petition of Mildred Everett to remove an existing dwelling and construct a new single-family dwelling closer to a front line, originally 40 feet is required, 15 feet requested, however we've amended the motion, it will now be an 11-foot setback requested, and the prior request for a front porch is going to be stricken. Mr. Anthony Nenna testified before the Board. His client does desire to demolish the existing home and relocate the new home on an area of the subject lot that is more favorable to the environment. They're going to generally enhance the public health, safety, and welfare here by installing a bottomless sand filter and decreasing the nonconformity with respect to setbacks. Section 907, the hardship from which the applicant seeks relief is due to the unique character of the subject land or structure and not to the general characteristics of the surrounding area. 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. The granting of the requested variance will not alter the general characteristics of the surrounding area. The hardship that will be suffered by the owner of the subject property if the variance is not granted shall amount to more than a mere inconvenience, and I would move that he construct the improvements in accordance with the site plan which is dated August 2010.

Mr. Cagnetta seconded the motion.

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

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

### **Minutes**

The minutes of the June 16, 2010 meeting were approved as written.

### **Adjournment**

As there was no further business the meeting adjourned at 9:00 p.m.