



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 at the South Kingstown Town Hall, 180 High Street, Wakefield, RI at 7:00 p.m. on Wednesday April 20, 2022

A. CALL TO ORDER:

Mr. Cagnetta called the meeting to order at 7:00 pm

B. CHAIRMAN INTRODUCTIONS AND INSTRUCTIONS:

Members Present: Robert Cagnetta, Chairman; Thomas Daniels, Vice-Chair; William Rosen, Member; Susan Walsh, Member; and Russell Brown, Member

Member(s) Absent: Kevin Diamond, Alt. #1

Staff Present: Amy Goins, Special Legal Counsel; Jamie Gorman, Building Official and Zoning Clerk; Jessica Spence, Administrative Support Assistant

Members voting tonight will be Mr. Cagnetta, Mr. Daniels, Mr. Rosen, Ms. Walsh and Mr. Brown

The standards of relief were explained.

C. AGENDA ITEMS:

- I. **Petition of John Demers**, 80 Bayfield Drive, Wakefield, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a 684 square foot deck attached to the existing dwelling. The deck will be located 14' from the rear property line. The required rear yard setback is 30'. Relief of 16' is requested. Lot size is .48 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 John C. & Vitoria M. Demers for premises located at 80 Bayfield Drive, South Kingstown, Assessor's Map 75-3, Lot 18 and is zoned R40.

Mr. Cagnetta made a motion to continue the above petitions until May 18, 2022 meeting and was duly seconded by Mr. Rosen
Whereas a voice vote was taken, all members were in favor.

- II. **Continuation of the Petition of Earle S. & Brenna E. Sharpe**, 74 Parkwood Drive, Kingston, RI 02881 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking a Special Use Permit to locate an Onsite Wastewater Treatment System (OWTS) closer to a wetland than allowed. 150' setback is required, 58' is proposed. Relief of 92' is requested. The applicant also seeks to locate a single-family dwelling 23' from the front property line. The required front yard setback is 35'. Relief of 12' is requested. Lot size is .48 acres. **A Special Use Permit is required per Zoning Ordinance Section 504.1 (Special Use Permits-Location of OWTS) and Section 907 (Standards of Relief). A Dimensional Variance is required per Zoning Ordinance Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief).** Property is owned by Earle S. Sharpe and Brenna E. Rheinberger for premises located at Assessor's Map 31-2, Lot 93, South Kingstown, and zoned R20.

The necessary quorum of 5 members was not present to hear this petition, as Mr. Rosen has recused himself, leaving only 4 members.

Discussion ensued in regards to scheduling this petition for May 18, 2022.

Mr. Cagnetta made a motion to continue the above petition until May 18, 2022 meeting and was duly seconded by Mr. Daniels.
Whereas a voice vote was taken, all members were in favor.

- III. **Petition of Patrick Quinn**, 23 Fire Lane #4, Wakefield, RI 02879 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to construct a 12'9" x 30' addition to the existing detached garage. The parcel of land that this garage is located on is non-conforming due to the number of residential structures on the same parcel. A Special Use Permit is required for any addition, enlargement, expansion or intensification of non-conforming use. Lot size is 70 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 land is Jerry Brown Farm Association, Inc., and the owner of the dwelling is Randi A. & Patrick N. Quinn for premises located at 23 Fire Lane Four, South Kingstown, Assessor's Map 82-1, Lot 1-7 and is zoned R80.
- 2. TD, SW, ALL IN FAVOR**

The above petition will be continued until May 18, 2022 as the legal notices were not mailed prior to the mailing deadline.

Mr. Daniels made a motion to continue the above petition until May 18, 2022 meeting and was duly seconded by Ms. Walsh. Whereas a voice vote was taken, all members were in favor.

- IV. **One-Year Extension request for the Petition of Timothy O'Neill**, 235 Middlebridge Road, Wakefield, RI 02879 for a **One-Year extension of a Dimensional Variance** granted on March 17, 2021 and recorded in South Kingstown Land Evidence Book 1785 and Pages 789-790 on April 6, 2021 under Zoning Ordinance Section 910A (One-year time limit and one-year extension). Owner of the property is Timothy P & Kirsten O'Neill for premises located at 235 Middlebridge Road, South Kingstown, Assessor's Map 43-4, Lot 15 and zoned R20.

All the documents were entered into record.

There was no discussion.

There was no one present who wished to speak.

Whereas a motion was made.

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, S. Walsh-Aye, R. Brown-Aye, R. Cagnetta-Aye)**

At a meeting held on April 20, 2022 regarding the One-Year Extension request for the Petition of Timothy O'Neill, 235 Middlebridge Road, Wakefield, RI 02879 for a One-Year extension of a Dimensional Variance granted on March 17, 2021 and recorded in South Kingstown Land Evidence Book 1785 and Pages 789-790 on April 6, 2021 under Zoning Ordinance Section 910A (One-year time limit and one-year extension). Owner of the property is Timothy P & Kirsten O'Neill for premises located at 235 Middlebridge Road, South Kingstown, Assessor's Map 43-4, Lot 15 and zoned R20.

The following individuals spoke as representatives of the applicant:

- There was no one present

There was no one present and spoke in either in favor of or opposition to the petition.

The following materials were entered into the record:

- Correspondence for a continuation request received March 5, 2022 from Timothy O'Neill
- Cover letter and decision (3 pages) recorded in South Kingstown Land Evidence Book 1785 & Pages 789-790

Findings of Fact:

The Board finds that the request for a one-year extension of time on the previously granted Dimensional Variance (South Kingstown Land Evidence Book 1785 & Pages 789-790) should be granted. The applicant has submitted a written request and for cause shown and has met all of the criteria set forth in in Section 910 (A) of the Zoning Ordinance prior to the expiration of the initial one-year period. This one-year extension shall expire on April 6, 2023 if the necessary legal building permit has not been issued prior to this expiration date.

The decision is subject to the following conditions.

- There are no conditions upon this decision.

- V. **Petition of Patrick McCloskey**, 963 Wordens Pond Road, Wakefield, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a 24' x 32' addition to the existing dwelling. The addition will be located 8'7" from the side property line. The required side yard setback is 40'. Relief of 31'5" is requested. Lot size is 1 acre. **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 Kevin J. McCloskey for premises located at 963 Wordens Pond Road, South Kingstown, Assessor's Map 59-2, Lot 61 and is zoned R80.

All the documents were entered into record.

Patrick McCloskey was present and sworn in.

Mr. McCloskey testified that he is proposing to add on an addition to accommodate his family. The existing house is non-conforming on the lot and the location of the septic further hinders where the addition can be located. The existing house is less than 500 sf with one bedroom and his family has grown since the house was originally built. They are hoping to remain in the house during construction so they are not able to build up and if they moved the design closer to the driveway, it would disturb the existing house. The abutting neighbor is Camp Jori and they are located quite a distance from where the camp operates.

Board questions ensued.

The Board had no further questions.

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

Whereas a motion was made.

The Motion is as Follows:

**The following motion, made by Mr. Rosen and duly seconded by Ms. Walsh
Motion passed unanimously: Vote 5-0
(W. Rosen-Aye, S. Walsh-Aye, T. Daniels-Aye, R. Brown-Aye, R. Cagnetta-Aye)**

At a meeting held on April 20, 2022 regarding the Petition of Patrick McCloskey, 963 Wordens Pond Road, Wakefield, RI 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct a 24' x 32' addition to the existing dwelling. The addition will be located 8'7" from the side property line. The required side yard setback is 40'. Relief of 31'5" is requested. Lot size is 1 acre. 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 Kevin J. McCloskey for premises located at 963 Wordens Pond Road, South Kingstown, Assessor's Map 59-2, Lot 61 and is zoned R80.

The following individuals spoke as representatives of the applicant:

- Patrick McCloskey

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

The following materials were entered into the record:

- Application signed and dated March 11, 2022; Owner Authorization signed and notarized March 11, 2022; Exterior Perspectives (A0.1), Proposed Site Plan (A1.1), First Floor Plan (A2.1) and Elevations (A3.1) prepared by Beasley Woodworks and dated March 3, 2022
- 200' Radius Map and Abutter's List; Legal Notice; Proof of Certified Mailings and Notarized Affidavit of Mailing

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 proposed addition can only be located in this particular spot due to the location of the existing house and the existing septic system on an already non-conforming lot.

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 looking to expand the current one-bedroom home to accommodate his family of four.
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 existing home is located in the woods and the proposed design will stay in accordance with the rural character of the property and the surrounding area.
4. The Board finds that the relief to be granted is the least relief necessary, because the applicant is proposing a modest addition on an already modestly sized one-bedroom home.
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 currently the existing home is too small to meet the needs of the applicant's family.

Approval is conditional subject to the following conditions:

- There are no conditions upon this approval.

VI. Petition of South County Habitat for Humanity, 1555 Shannock Road, Charlestown, RI 02813 for a **Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking a Special Use Permit to locate an Onsite Wastewater Treatment System (OWTS) within 150' of a wetland. The OWTS will service a proposed three (3) bedroom dwelling. On March 1, 2022 the Conservation Commission granted favorable advisory opinion for the OWTS location. Lot size is 1.5 acres. **A Special Use Permit is required per Zoning Ordinance Section 504.1 (Special Use Permits-Location of OWTS) and Section 907 (Standards of Relief)**. Property is owned by Habitat for Humanity for RI for premises located at South Kingstown Assessor's Map 24, Lot 6, and zoned R40.**

All documents were entered into record.

Attorney Sandford J. Resnick was present for the applicant.

Mr. Resnick stated that this lot meets all of the requirements of the Zoning Ordinance with the exception of the 150' sf from the OWTS system. They received a positive recommendation from the Conservation Commission.

Patrick Freeman, reviewed his C.V. and was recognized as an expert in civil engineering.

Mr. Freeman gave testimony in regards to the location of the proposed OWTS on the site and the current site conditions. Mr. Freeman indicated that they prepared the site plan and that the lot meets all of the setback requirements and that the wetlands have been flagged. He then described the extent and conditions of the wetlands located on site. He indicated that they have received the RIDEM OWTS permit approval. Mr. Freeman then explained the limited building envelope on the site due to the location of the wetlands. The proposed OWTS meets all of the standards of the Zoning Ordinance Section 504.1. He then explained in detail the proposed OWTS specifications and the proposed Storm Water Management Plan. There will be no net increase in storm water runoff and any runoff will be directed into the stream and directed around the proposed OWTS system. The proposed OWTS has been located as far as possible from the wetlands. There is no impact on ingress or egress to the lot. There is sufficient space on the property for trash and/or storage. There is a proposed private well that will be located north-westerly of the proposed house.

Mr. Freeman spoke about the Conservation Commission's Advisory Opinion and their request to substitute the compost component within the rain garden with a substitute that doesn't have any nutrient load. He indicated that he has since spoken with RI DEM and that they will approve the substitution of hard wood mulch or shredded wood and if the Board wishes this would be an acceptable condition in the granting of this Special Use Permit.

Board questions ensued.

Mr. Freeman delineated the distances to the wetland edge and that due to the proximity of the private drinking water well this is the only location that the OWTS can be located while still remaining at the greatest distance from the wetlands.

Discussion ensued regarding the driveway location. Mr. Freeman explained that it is a pre-existing gravel drive that is between the stone wall and an existing guard rail that the RI DOT has asked that this driveway not be disturbed. There is an existing tree line and a clearing on the existing lot. The proposed house will be built on either a slab or crawl space due to an 18" water table. The well will be located just off the road and on the corner of the wetlands edge.

Mr. Resnick had no further testimony and stated that Colin Penney from South County Habitat for Humanity is present if the Board has any questions.

The Board had no further questions.

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

There was no further discussion.

Whereas a motion was made.

The Motion is as Follows:

The following motion, made by Mr. Daniels and duly seconded by Mr. Brown Motion passed unanimously 5-0 (T. Daniels-Aye, R. Brown-Aye, W. Rosen-Aye, S. Walsh-Aye, R. Cagnetta-Aye)

At a meeting held on April 20, 2022 regarding the Petition of South County Habitat for Humanity, 1555 Shannock Road, Charlestown, RI 02813 for a Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking a Special Use Permit to locate an Onsite Wastewater Treatment System (OWTS) within 150' of a wetland. The OWTS will service a proposed three (3) bedroom dwelling. On March 1, 2022 the Conservation Commission granted favorable advisory opinion for the OWTS location. Lot size is 1.5 acres. A Special Use Permit is required per Zoning Ordinance Section 504.1 (Special Use Permits-Location of OWTS) and Section 907 (Standards of Relief). Property is owned by Habitat for Humanity for RI for premises located at South Kingstown Assessor's Map 24, Lot 6, and zoned R40.

The following individuals spoke as representatives of the applicant:

- Attorney Sanford Resnick
- Patrick Freeman, P.E.

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 March 7, 2022; Owner Authorization signed and notarized March 9, 2022; Conservation Commission OWTS Advisory Opinion to the Zoning Board (2 pages) dated March 2, 2022; Engineer's Narrative (9 pages) prepared by Patrick J. Freeman, P.E. and dated March 4, 2022; Site Plan (2 pages) prepared by Matthew J. Cotta, P.L.S. and Patrick Freeman, P.E. dated February 15, 2022 with revisions on March 7, 2022; First Floor Layout (A-1), Second Floor Layout (A-2) and Elevations (A-3) prepared by Seacoast Home Design and dated March 14, 2022
- 200' Radius Map and Abutter's List; 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 504.1 (Special Use Permits-Location of OWTS) and 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 property is limited in dimension and area. There is a private water drinking well to the north-east of the property and an existing driveway, further limiting the location of the OWTS and necessitating the encroachment on the 150 wetland setback requirement.
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; there is a pre-existing gravel driveway that RI DOT does not want disturbed that will be used.

- 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; Utilities, with reference to locations, availability and compatibility; trash, storage and delivery are not applicable.
- iv. Screening and buffering with reference to type, dimensions and character; not applicable.
- v. Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district; not applicable.
- vi. Required yards and other open space; not applicable.
- vii. General compatibility with lots in the same or abutting zoning districts, because the proposed use of the land will be in character with the general area.

Approval is conditional and subject to the following:

- The Conservation Commission’s Advisory Opinion to Zoning conditions, dated March 2, 2022, will be included as part of the Zoning Decision.
- The decision is a Conditional Zoning Approval and is conditioned upon any, if necessary, further RI DEM and/or CRMC approval(s) and will have a two-year expiration from the recorded date per Section 908 of the Zoning Ordinance with the right to extend if necessary.

VII. Petition of Patrick Lyons, 3637B Post Road, Wakefield, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a 24’ x 28’ detached residential garage. The garage will be located 11’ from the northerly front property line. The required front yard setback is 40’. Relief of 29’ is requested. The building height of the garage will be 22’7”. The maximum height allowed for accessory structures is 20’. Relief of 2’7” is requested. Lot size is .96 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 Patrick J. Lyons for premises located at 3637B Post Road, South Kingstown, Assessor’s Map 77-3, Lot 67 and zoned R40.

All documents were entered into record.

Patrick Lyons was present and sworn in.

Mr. Lyons distributed Applicant’s Exhibit 1-3.

Mr. Lyons gave a brief history of the parcel, which predates the establishment of Route 1. The lot was subdivided and subject to the condition of having designated open space, which cannot be built on, and effectively cuts the useable lot area in half. He is further hindered because there is a paper road in front of his house which creates a parcel with two front setbacks instead of a front and rear setback; having two fronts establishes greater setbacks. When the original master plan (exhibit 1A) was submitted to the Planning Board for subdivision there was discussion in regards to the location of a proposed garage on one of the parcels; the point being that the garage was always part of the master plan. Once approval was granted by the Planning Board, Mr. Haney met with the prior Building Official and asked about the next steps and was told to have a site plan drawn showing the garage 10’ from the rear location, never was he told about having two fronts. The proposed garage will be located on northerly property line which is Mr. Lyons actual back yard. This, however, is now being considered a front yard due to frontage on two roads. Additionally there is a well head located on the lot which also limits where the garage can be located.

Mr. Lyons indicated that since applying for this variance, he has scaled down the height of the garage to a lower pitch, which is more in keeping with the existing area so he is asking for less relief than originally requested. The garage will be used to store an RV so the additional height is required. Everything in regards to the subdivision process was done in compliance with all of the Town regulations, including the required open space which he can’t utilize. There is a buffer between his house and Route 1 with a lot of trees in between. Additionally, locating the garage at this location will act as an additional buffer from Route 1.

The Board had no questions.

There was no one present who wished to speak.

Whereas a motion was made.

The Motion is as Follows:

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

Motion passed unanimously: Vote 5-0

(S. Walsh-Aye, W. Rosen-Aye, T. Daniels-Aye, R. Brown-Aye, R. Cagnetta-Aye)

At a meeting held on April 20, 2022 regarding the Petition of Patrick Lyons, 3637B Post Road, Wakefield, RI 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct a 24' x 28' detached residential garage. The garage will be located 11' from the northerly front property line. The required front yard setback is 40'. Relief of 29' is requested. The building height of the garage will be 22'7". The maximum height allowed for accessory structures is 20'. Relief of 2'7" is requested. Lot size is .96 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 Patrick J. Lyons for premises located at 3637B Post Road, South Kingstown, Assessor's Map 77-3, Lot 67 and zoned R40.

The following individuals spoke as representatives of the applicant:

- Patrick Lyons

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

The following materials were entered into the record:

- Application signed and dated February 28, 2022; Owner Authorization signed and notarized February 28, 2022; Site Plan (1 page) signed and prepared by Richard L. Couchon, PLS, Dowdell Engineering Associates LLC and dated December 3, 2021; Determination of Applicability SERSC (1 page) dated November 5, 2021; Front Elevation (S-1), Left Elevation (S-2), Right Elevation (S-3); Rear Elevation (S-4) and Building Section (S-8) prepared by Everett Skinner IV and dated March 18, 2021
- 200' Radius Map and Abutter's List; Legal Notice; Proof of Certified Mailings and Notarized Affidavit of Mailing
- Correspondence
 - Matt and Carol Haney, 3637A Post Road

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 when the original parcel was subdivided into two lots a large section of the land area was designated as open space which cannot be utilized. Additionally the lot is situated between two roads and therefore has two fronts which have greater setbacks established.

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 looking to place a garage on his property to store his RV; of note, a garage was indicated on the Master Plan that went before the Planning Board as part of the subdivision of the original lot.

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 lot is located in the woods and the proposed garage would fit well within the surrounding area.

4. The Board finds that the relief to be granted is the least relief necessary, because the applicant has made the decision to lower the height of the garage to 21' which would require less relief than originally requested and would keep the overall design in line with his house.

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 granting of this relief the applicant would not be able to locate the garage on his property and would have no storage for his RV.

Approval is conditional subject to the following conditions:

- There are no conditions upon this approval.

VIII. Continuation of the Petition James Meyer & Maureen Rooney, 836B Matunuck School House Road, Wakefield, RI 02879 for a **Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct a 26' x 36' detached barn for storage of vehicles and farm equipment. The proposed garage will be located 20' from the corner-side property line. The required corner-side setback is 58'. Relief of 38' is requested. Lot size is 1.94 acres. **A Dimensional Variance is required per Zoning Ordinance Section 208 (Non-Conforming Lot of Record – Accessory Building Setback Requirements) and Section 907 (Standards of Relief)**. Owner of the property is James T. Meyer & Maureen F. Rooney for premises located at 836B Matunuck School House Road, South Kingstown, Assessor's Map 85-4, Lot 8 and zoned R200.**

All the documents were entered into record.

James Meyer was present and sworn in.
Laura Krekorian, AIA was present
Amy Sonders, PLS was present

Mr. J. Meyer is contending that the creation of the right-of-way created the hardship by making his lot a corner lot with more stringent setbacks. Mr. Meyer indicated that they would like the barn to remain where originally proposed and that at this point they do not have a landscape plan in place.

Ms. Krekorian indicated that the hardship is the 58' corner side setback and the lot is long and narrow so this would place the utilitarian accessory structure in the middle of the front yard. They are trying to keep the open space in the center of the lot and they are trying to place the proposed garage mindfully, where it makes the most sense. This house was built in the 1920's and was not always a corner lot. When the land was developed into lots, it was clear that the north side was the front yard and the east and west were meant to be used as side yards, which have a considerably less setback requirements. On this right of way there are currently (4) four accessory structures which are located closer to the property lines than they are requesting. They are proposing 20' from the right of way, which is the side yard setback for this zone. This location is where they believe the proposed garage will function best on the property.

Ms. Sonders passed around pictures of the existing barns that are on the site and of the barn that was demolished in December 2021. She indicated that she is very familiar with the property and has done work on this property for year. The barns predated zoning but they wanted to show that the proposed barn is consistent with the surrounding area.

Ms. Krekorian indicated that the existing barn on the property is a one-story workshop that cannot be driven into. If the proposed barn were located next to the existing barn, it would limit access to the front yard.

Board questions ensued.

Setbacks were reviewed.

Ms. Krekorian indicated that the barn could be moved further north, but that proximity would be more predominant in the neighborhood.

Discussion ensued in regards to other locations on the property the barn could be located and as well as existing driveway locations.

Mr. J. Meyer indicated that the barn would be used for car parking, yard equipment, tools and general area to store material and cleanup of the backyard.

Ms. Krekorian indicated they would be amenable to lighting conditions.

Ms. Sonders indicated that she could work on developing appropriate plantings for screening.

Mr. J. Meyer stated that the sloping of the driveway was designed that any incoming traffic lights would go into the property and not infringe on neighbors.

The applicants had no further testimony at this time.

Mr. Cagnetta asked if anyone in the audience wished to speak.

Henry Meyer, 836D Matunuck School House Road was present and sworn in. Mr. Meyer explained how the residential compound came to be. Up till 1980 most of the property was owned by one entity and setbacks did not apply. The farm used to be an active working farm. Most of the property is currently in a conservation easement. Because the existing buildings were already in place it was difficult to create a right of way, several buildings were also removed. In regards to the meeting minutes of March 20th there are some points

mentioned that are not germane to matter at hand. In regards to this location for the barn, he considers it a possibly good location that could, however, be improved to minimize impact on abutters. He would encourage planting as a buffer and that if it were moved slightly to the north it would be more beneficial to other neighbors, the proposed location has no real bearing on his home based on its location. When the property was divided all of the houses were considerably smaller than they are currently and setbacks were not a consideration.

Matthew Meyer was sworn in.

Mr. M. Meyer stated that they are the immediate abutters to this property. They are very concerned about the location of the barn. When reviewing the standards for granting of a dimensional variance they do not believe there are any unique characteristics on this particular piece of property that would warrant the granting of a dimensional variance. Mr. M. Meyer than referenced documents that were submitted showing alternate locations for the barn that would not require dimensional relief. There is no real hardship. The reason they are requesting the barn to be moved further away from their house is due to the noises and activities that they have previously experienced.

Maryann Gaffney was sworn in.

Ms. Gaffney testified that in reviewing the standards for relief she does not feel that there are any unique characteristics to the land. Additionally, the standard stating the least relief necessary, does not apply as there are other locations where the barn could be built without the need for any dimensional relief.

Discussion ensued in regards to distance from the Meyer-Gaffney home to the proposed barn and noise levels.

Mr. M. Meyer reiterated that at the previous meeting alternate locations and planting schedule were asked to be submitted for consideration and nothing new has been submitted. They would much prefer the barn meet the required dimensional setbacks of 58'.

Ms. Gaffney wanted to make sure the pictures that were submitted were part of the record.

Discussion ensued in regards to the right-of-way.

Board questions ensued in regards to possible other locations where the proposed barn could be located to comply with the setbacks.

Mr. Daniels stated that he believed these options should be vetted by the Board in regards to standard of the least relief necessary.

Discussion ensued.

Ms. Goins stated that she believes the alternate locations are relevant because the applicant needs to demonstrate why they cannot comply with the Ordinance and it is the applicant's burden to prove the standard of more than a mere inconvenience.

More discussion ensued.

There was no one else present who wished to speak.

Ms. Sonders indicated that there is currently a fence line that runs along the property and they would have no issues with plantings to be maintained at a minimum of 4' along that fence line to obstruct any headlights. She further reiterated why the applicant does not want to place the garage in the middle of the lot. She believes they have established the applicant's hardship; two (2) front setbacks on a unique established property.

Mr. J. Meyer indicated that when Trustom Pond Road was created that in fact created the hardship.

Mr. Daniels asked for Objector's Exhibit A to be brought up on screen and referenced the relocation of the barn within the setbacks.

Ms. Krekorian stated that if the barn were moved the lot would then have a utilitarian structure located front and center of the front yard which would block the house entirely. Additionally, the proposed barn would clean up some of the material that has previously accumulated along this property line and would improve the general aesthetics of the area.

Discussion ensued in regards to electric service to the barn, and size of the existing barn and existing home.

More discussion ensued in regards to placement of the barn and obstruction of the front yard and view of the existing house.

Ms. Sonders summarized that they would be agreeable to moving the structure 10' further north towards Trustom Pond Road and also install a 4' high evergreen hedge along the east property line.

Ms. Gaffney referred to the standards of relief, subsection F and stated that she believes that this is a personal inconvenience and not a mere inconvenience as required under the Ordinance.

Ms. Sonder indicated that this is not personal and that a structure should not be located in front of the house.

There was no further testimony.

Board discussion ensued.

Discussion ensued in regards to why this is a corner side lot and what dictates a street under the Zoning Ordinance.

Mr. Daniels reiterated that the applicants were asked at the previous meeting to submit some alternate locations and submit a landscape plan to possibly appease the objectors, none of which was submitted and noted that we are exactly where we were a month ago.

The applicants asked for a 5 minute break to discuss.

The applicant's asked for a continuance and noted to Mr. Daniels that they did not move the barn because they truly believed this was the best location but will come back with a plan in hand for the Boards consideration.

Mr. Timothy Meyer was sworn in and was hopeful that all parties could come to an agreement prior to coming back before the Board.

Board availability for a meeting to be held on May 25th was discussed.

Whereas a motion was made.

The Motion is as Follows:

Mr. Cagnetta made a motion to continue the above petition until May 25, 2022 meeting and was duly seconded by Mr. Daniels. Whereas a voice vote was taken, all members were in favor.

D. OTHER BUSINESS:

- I. Approval of March 16, 2022 Zoning Board of Review Minutes
 - o Mr. Daniels made a motion to approve the minutes which was duly seconded by Mr. Rosen.
Whereas a voice vote was taken, and all members approved.
- II. Attendance for May 18, 2022 Zoning Board of Review, all member present can attend.

E. ADJOURNMENT:

- I. Mr. Cagnetta made the motion to adjourn the meeting at 9:57 p.m. The motion carried by unanimous vote with no abstentions and the meeting was adjourned.