



Town of South Kingstown, Rhode Island

BUILDING AND ZONING DEPARTMENT

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A meeting of the Zoning Board of Review of the Town of South Kingstown, County of Washington, in the State of Rhode Island was held virtually VIA Zoom at 7:00 pm on Wednesday April 22, 2020.

Members Present:

Richard Jurczak
Robert Cagnetta
John Bernardo
Thomas Daniels
William Mark, Alt. #1
William Rosen, Alt. #2

Also present were, Amy Goins, Special Legal Counsel, Wayne Pimental, Building Official and Clerk and Jessica Spence, Administrative Support Associate.

Mr. Jurczak opened the meeting at 7:00 pm

The standards of relief were explained as well as some technological aspects of Zoom.

Ms. Goins explained the Open Meetings Act and Executive Order 20-25.

Members voting tonight will be Mr. Jurczak, Mr. Cagnetta, Mr. Bernardo, Mr. Daniels & Mr. Mark

Mr. Jurczak reviewed the order that the petitions were going to be called.

Mr. Jurczak called the first petition.

- **Petition of David Levesque**, 1395 Atwood Avenue, Johnston, RI 02919 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to establish a restaurant with alcohol, accessory drive-up window and accessory entertainment to a restaurant. All uses require a special use permit. The applicant received a favorable advisory opinion for the Development Plan from the Planning Board on January 29, 2020. Lot size is .91 acres. **A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations Table) and Section 907 (Standards of Relief)**. Owner of the property is Gerald Richmond for premises located at 151 Old Tower Hill Road, Assessor's Map 57-2, Lot 51 and zoned CH (Commercial Highway). Use Code 56.1 (Restaurant with Alcohol) Use Code 56.3 (Accessory Entertainment to Restaurant) and Use Code 58 (Drive Thru Accessory Window).

Attorney James Callaghan was present for the applicant and stated his client is fully intending to still move forward but due to unexpected health crisis of Covid 19, they would like to request a continuance till the June 17, 2020 meeting.

There was no Board discussion.

Mr. Daniels made the motion to continue the petition of David Levesque till the June 17, 2020 meeting.

Mr. Mark seconded the motion.

Whereupon a Roll-Call Vote was Taken: Daniels-Aye, Mark-Aye, Cagnetta-Aye, Bernardo-Aye, Jurczak-Aye
Motion Passed Unanimously, Petition continued to June 17, 2020, Vote 5-0 in favor

Mr. Jurczak called the second petition.

- **Petition of Charles Walsh**, 3 Stone Post Way, Greenville, RI 02828 for a **Special Use Permit & Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a new single family dwelling. A special use permit is required because the proposed OWTS is proposed to be located within 150' of a wetland. A favorable advisory opinion was obtained by the South Kingstown Conservation Commission on March 3, 2020. The dwelling will be located 25' from the front property line. The required front yard setback is 40'. Relief of 15' is requested. Lot size is .57 acres. **A Dimensional Variance is required per Zoning Ordinance Section 401 (Dimensional Regulations) and the Special Use Permit is required per Zoning Ordinance Section 504.1 (Special Use Permit-Location of OWTS) and Section 907 (Standards of Relief)**. Owner of the property is Louise Marie Walsh Living Trust for premises located on Rosebriar Avenue, Assessor's Map 90-4, Lot 215 and zoned R 30.

Attorney John Kenyon was present for the applicant and stated that they have been made aware that the neighbors have engaged an attorney and an engineer and are looking for more time. His client is happy to comply and they have requested a continuance until May 20, 2020 meeting.

There was no Board discussion.

Mr. Daniels made the motion to continue the petition of Charles Walsh till the May 20, 2020 meeting.
Mr. Bernardo seconded the motion.

Whereupon a Roll-Call Vote was Taken: Daniels-Aye, Bernardo-Aye, Cagnetta-Aye, Mark-Aye, Jurczak-Aye
Motion Passed Unanimously, Petition continued to May 20, 2020, Vote 5-0 in favor.

Mr. Jurczak called the third petition.

- **Petition of Island Deli Sandwich Shop c/o Michael Bucci**, 231 Old Tower Hill Road, Wakefield, RI 02879 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to obtain alcohol service with the existing restaurant use. Lot size is 1.07 acres. **A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations) and Section 907 (Standards of Relief)**. Owner is George Geaber Jr. for premises located at 231 Old Tower Hill Road, South Kingstown, RI, Assessor's Map 57-2, Lot 43 and is zoned CH (Commercial Highway). Use code is 56-1-Restaurant with Alcohol.

Michael Bucci was present and testified that he would like to be able to add beer and wine service to compliment his menu and compete with other area businesses. He would have a 2 drink maximum and would not change his hours of operation. He also testified that there would always be a manager on duty and will have his employees TIPS certified.

Questions from the Board ensued in regards to location & proximity to schools and the number of liquor licenses allowed in Town.

Ms. Goins advised the Board that they can impose any reasonable conditions but the Town Council ultimately has the authority to grant the liquor license and the Board only need consider if the applicant is meeting the criteria for a Special Use Permit.

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

There was no further Board discussion.

Mr. Bernardo made the motion that we approved the petition of Island Deli Sandwich Shop c/o of Michael Bucci 231 Old Tower Hill Road Wakefield for a special use permit. The applicant is seeking to obtain alcohol service, in an existing restaurant, lot sizes 1.07 acres, a special use permit is required under our section 301 and 907. The owner of the property is George Geaber Jr., 231 Old Tower Hill Road, Assessor's Map 57-2 Lot 43 and is zoned commercial highway. Mr. Bucci is the owner of the restaurant Island Deli appeared this evening here via Zoom meeting. He indicated that he is trying to be competitive with his competition, and is trying to get an alcohol license as he indicated for craft beer and sangria. He indicated that his hours are Monday through Saturday nine through seven and Sunday nine to six and that if he gets the alcohol permit he is not going to change his hours. This zoning board member is familiar with where this restaurant located. It's in a small strip mall surrounded by a Dunkin Donuts and I believe a dry cleaning business as well as a liquor store. Based on my experience in that area having

attended all of those places, there appears to be adequate parking, having no issue with ingress or egress. Utilities, I don't believe is an issue. Neither is buffering. The applicant didn't indicate anything about changing his sign or exterior lighting. So I think the requested permit would be consistent with the use of the area, especially in light of the fact that the liquor store is two doors down from his establishment so I would move that we approve the petition of this special use specifically authorized by our Ordinance. The use meets all the criteria set forth as a subsection of the ordinance, for a special Granting a special use will not alter the general character of the surrounding area or alter the purpose of the Ordinance or impair the entire purpose of the Comprehensive Plan. And that's based on my own and board members use of the area where the property is located. And we've already discussed the issues involving ingress and marketing. So with that said, I move that we approve the petition subject to I believe there were some drawings, but I don't think they indicate anything that we need to be concerned about. So I don't think it will be subject to anything other than I guess the hours that he indicated. I don't have a problem with putting a limitation on it, but I don't know. Maybe it was the purview of the Council in terms of, you know, two beers, or two wines per visit.

Richard Jurczak, Chairman: But is that is that part of your motion?

John Bernardo, Member: I know there was some talk about that. It seemed like the applicant had no issue with it. So why don't I add that to my motion that any customer is going to be limited to two drinks at any one time while then the restaurant.

Richard Jurczak, Chairman: All right, Mr. Bernardo. Okay. Well, someone second

Robert Cagnetta, Vice-Chair: I'll second.

Richard Jurczak, Chairman: Okay, second by Mr. Cagnetta. We have any discussion.

Discussion ensued

Richard Jurczak, Chairman: All right, any other question. Any other discussion, let's vote.

Whereupon a Roll-Call Vote was Taken: Bernardo-Aye, Cagnetta-Aye, Daniels-Aye, Mark-Aye, Jurczak-Aye
Motion Granted Unanimously, Vote 5-0 in favor, petition passed

Mr. Jurczak called the fourth petition.

- **Petition of Insomnia Cookies c/o David Wilson, Sign Guild Inc.,** 221 Tuckertown Road, Wakefield, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to install an internally illuminated exterior wall sign. The size will conform to the zoning standards. Internally illuminated signs are not allowed in the CN zoning district. Lot size is 4.4 acres. **A Dimensional Variance is required per Zoning Ordinance Section 805 (B) (Signs in Commercial and Industrial Districts) and Section 907 (Standards of Relief).** The business owner is Insomnia Cookies for property owned by Marley Properties Kingston LLC, located at 99 Fortin Road, South Kingstown, RI, Assessor's Map 23-2, Lot 24 and is zoned CN (Commercial Neighborhood)

David Wilson, the agent representing the Applicant, testified that he is the owner of Sign Guild, Inc. and was contracted by the business to produce a sign. Mr. Wilson reviewed the sign specifications, how the business operates and its hours of operation which support the need for a sign to be visible at night due to its extended late night hours. Mr. Wilson referenced multiple businesses in the same area that currently have internally illuminated exterior wall signs.

Mr. Wilson presented Applicant's Exhibits 1-7 photos of neighboring businesses signs

Board questions ensued in regards to the Ordinance not allowing for internally illuminated signs and the other businesses at the same location who have them.

Mr. Pimental advised the Board that he is currently in the process of reviewing these other businesses and making them come into Code Compliance.

Further Board questions ensued in regards to type of traffic the business generates, where the sign will be located on the building, number of existing signs on the building.

Board discussion ensued.

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

Mr. Bernardo made the motion that we deny Petition of Insomnia Cookies c/o David Wilson, Sign Guild Inc., 221 Tuckertown Road, Wakefield, RI 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is proposing to install an internally illuminated exterior wall sign. The size will conform to the zoning standards. Internally illuminated signs are not allowed in the CN zoning district. Lot size is 4.4 acres. A Dimensional Variance is required per Zoning Ordinance Section 805 (B) (Signs in Commercial and Industrial Districts) and Section 907 (Standards of Relief). The business owner is Insomnia Cookies for property owned by Marley Properties Kingston LLC, located at 99 Fortin Road, South Kingstown, RI, Assessor's Map 23-2, Lot 24 and is zoned CN (Commercial Neighborhood) So tonight, the application was represented by the sign builder Dave Wilson who presented testimony that this cookie business is essentially looking for an internally illuminated sign to assist its customers, mostly I guess prospective customers in finding their business. He also stated the fact that there are other businesses in the area with internally illuminated signs. This Zoning Board member is also, cognitive, of the fact that our Building Official just indicated that he is aware of or has just been made aware of the fact that there are a number of other businesses in the area with internally illuminated signs and that he will begin a process to address that issue so that they are consistent with town Zoning Ordinance, which is that internally illuminated signs are not allowed, unless of course by variance. And so, which seems like if we were to grant it, we'd be going down a path inconsistent with the Building Officials statement, but even more so I would find that I do not see a distinction between internally illuminated sign and a sign that is illuminated whose reflective lighting is external and especially if the sole purpose is to draw attention to the sign. We didn't hear any evidence that one sign, that excuse me, that an internally illuminated sign is brighter or will catch the eye more so than any other type of illuminated sign. So I'm having a hard time, I don't find that there is a hardship here. I also didn't hear any evidence about how many customers, perhaps, that got lost on their way trying to find this particular business or any evidence about the traffic of this business. Is it purely retail or are they out on the road selling their cookies based on internet orders. I just don't know. So I'm not able to find that the Applicant has demonstrated a hardship and therefore without a hardship. I can't move forward in granting or excuse me, are going through the other requirements to provide relief for this applicant. So with that said, I moved that we were deny the petition based on that fact.

Richard Jurczak, Chairman: Okay. Motion made by Mr. Bernardo someone want to second

Bill Mark, Alt. #1: I'll second it.

Whereupon a Roll-Call Vote was Taken: Bernardo-Aye, Mark-Aye, Cagnetta-Aye, Daniels-Nay, Jurczak-Aye
Motion Granted, Vote 4-1 in favor of denying the petition.

Mr. Jurczak called the fifth petition.

- **Petition of John & Gabriela Spier**, 177 Indian Trail South, Wakefield, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a 10' X 14' detached storage shed and stairs to the existing deck. The lot is a non-conforming lot of record. The proposed shed will be located 5' from the right side property line. The required side yard setback is 20'. Relief of 15' is requested. The stairs will be located 15' from the right side property line. The required side yard setback for the stair is 40'. Relief of 25' is requested. Lot size is .46 acres. **A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record-Building Setback Requirements) and Section 907 (Standards of Relief)**. The owners are John & Gabriela Spier for premises located at 177 Indian Trail South, South Kingstown, RI, Assessor's Map 34-4, Lot 20 and is zoned R-80.

John Spier was present and testified that they purchased the house a little over a year ago and would love to put a small shed and stairs leading down to the ground from an existing second floor deck to a ground level deck. Mr. Spier explained the unique lot characteristics, mainly being small and surrounded by wetlands, creating a very small building envelope in addition the propane gas tanks were placed oddly on the lot. He testified that the home has no basement and no real space for storing lawn mowers, gas, tools, etc., and that a shed is really essential.

Applicant's Exhibits 1-4, photographs of yard

Mr. Spier referenced photos of the existing yard. Mr. Spier then detailed how he believes he has met the criteria for the Board to grant a dimensional variance.

Board questions ensued in regards to the proposed deck and if relief was sought.

Mr. Pimental explained that if the deck was going to be constructed using hardscape materials it would not require relief, if it was going to be built out of wood it would require relief.

Mr. Spier said he would construct the deck out of hardscape materials.

Further Board questions ensued in regards to shed location, setbacks and unique property characteristics including dock accessibility.

There were no further questions from the Board.

Mr. Jurczak asked if anyone in the Audience wished to speak.

Ms. Yan Krolicki raised her hand.

Ms. Krolicki stated she wasn't in attendance for this particular petition but that she wanted to comment that she didn't believe the applicant had met the burden of proof, surmising that he knew what he was getting when he purchased the lot and should be able to live with that.

There was no one else in the Audience who wished to speak.

Board discussion ensued.

Mr. Cagnetta made a motion to approve the petition of Mr. John and Gabriela Spier of 177 Indian Trail South, Wakefield for a dimensional variance under the Zoning Ordinance. Mr. Spier presented plans of the building and the location of the building on his property. This is a 14 by 10 shed that has a set of stairs leading from an existing second floor deck and those stairs are going down to a hard scape where there are also two propane tanks on top of it that are enclosed with lattice and the shed is proposed to be five feet from the property line. The applicant also submitted the site plan, the elevations and the floor plan were also presented to the board with a variety of photographs of the site. Mr. Spier had purchased the property and there were some unique design aspects of the existing house, the second floor deck was isolated and the existing propane tanks were oddly placed on the property. Mr. Spier's goal was to reposition the tanks in a better position to line up to the shed. So it's aesthetically works with the placement of the building. And obviously did not encroach on to the neighbor's property to the point of where maintenance would have to be done from the neighbor's property. The five feet would allow for that. He was the only one to speak for his application. There was an objector. And I'm sorry I don't have her name but her concerns were mainly, if basically, that anyone can claim a hardship if they can't fit something onto their property. This particular property, though, does have restrictions. Based on the amount of buildable area on the lot due to wetlands. It also has restrictions, based on the existing structure and the placement of that structure on the property. The building right now is only 10 feet away from the property line, and the zoning required the shed to be 15 feet away so it would have been oddly placed if he had met all those zoning criteria. So, the findings of fact is that we did find that the hardship, from which the applicant is seeking relief was due to the unique characteristics of the structure and will not deter from the general characteristics of the surrounding area and is not due to any physical or economic disability of the applicant. And this is because as I said that the structure was sort of uniquely placed on the property and the placement of the shed, this seemed to be the most logical. We do not find that the hardship was due to any prior action of the applicant and will not result in the desire of the applicant to realize a greater financial gain because they're mainly trying to store goods used for maintenance for the property in a protected area. We find that this variance will not alter the general character of the surrounding area or impair the entire purpose of the Zoning Ordinance and will not affect the Comprehensive Plan. This is because to have the shed closer to the property line, it's not out of character for the area and its placement is logical for the building. We will find that the hardship suffered by the owner would, would be more than a mere inconvenience and this is because again the safe storage of maintenance materials, is sort of appreciated by neighbors as well as safety of others. There are no conditions. So with that, I will make a motion to approve.

Richard Jurczak, Chairman: Mr. Cagnetta would you consider amending your motion, just to make note that we are not approving the 10 foot by 10 foot deck. As noted on the plan.

Robert Cagnetta, Vice-Chair: Yes, I did mention that the stairs will go down to a hard scape, so the intent was that the new deck as identified on the plan will be a hard scape not a wooden deck.

Richard Jurczak, Chairman: Okay motion made by Cagnetta with someone like the second?

Tom Daniels, Member: Second, Tom Daniels.

Richard Jurczak, Chairman: Okay, second by Mr. Daniels, any discussion.

Discussion ensued

Whereupon a Roll-Call Vote was Taken: Cagnetta-Aye, Daniels-Aye, Bernardo-Aye, Mark-Aye, Jurczak-Aye Motion Granted, Vote 5-0 in Favor, Petition Passed Unanimously

Mr. Jurczak called the sixth petition.

- **Petition of PBL, INC.**, 520 High Street, South Kingstown, RI 02879 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to establish a Liquor Store. Lot size is .35 acres. **A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations Table) and Section 907 (Standards of Relief).** Owner of the property is Suburban Pilgrim Realty Dev. for premises located at 1321 Kingstown Road, Assessor's Map 48-2, Lot 67 and zoned CD (Commercial Downtown). Use Code 55.3 (Liquor Store).

Attorney John Kenyon present for the applicant.

Mr. Kenyon explained the current business and the proposed business locations, as well as the new locations parking and loading spaces. My Kenyon submitted two exhibits. Mr. Kenyon had two witnesses scheduled to testify.

Applicant's Exhibit 1 Topographical Boundary Survey, dated April 2019

Applicant's Exhibit 2 Site Plan dated February 5, 2020

Mr. Jurczak swore in Josh Rosen, P.E. and Joe Paglia, owner.

Mr. Rosen, Rhode Island, Professional Engineer and project manager testified, referencing Applicant's exhibit #2. He spoke about the proposed sites existing and proposed conditions. Mr. Rosen explained the parking, and fencing buffers, trash & storage and loading and unloading zones, as well as existing signage. Mr. Rosen testified that there would be no need for any dimensional variance.

Board questions ensued in regards to the traffic flow of the proposed loading zone.

Mr. Rosen explained that the loading area would be accessed from Kersey Road and that the trucks would be able to turn around in the loading area, so they would not have to back out into the road.

There were no further questions of Mr. Rosen.

Mr. Kenyon then asked the owner, Joe Paglia to testify.

Mr. Paglia testified that he and his brother purchased Patsy's Liquor store in November of 2018 and they have been at the current locations with no type of issues. Mr. Paglia is also the owner of Arturo Joe's restaurant in Narragansett and has held a liquor license on that premises for over 20 years with no issues. Mr. Paglia then explained how parking and deliveries are at their current location on High Street, it is on street only and is limited. In addition the proposed location is larger and would allow them to install a walk-in, self-serve beer cooler which would allow his customers better choices of product. Mr. Paglia then reviewed his hours of operation, which would remain the same and his delivery schedule which generally consists of two deliveries a week on Wednesday morning and would remain the same.

Board questions ensued in regards to the loading zone and parking area and Kersey Road access point.

Mr. Paglia explained that the Kersey Road entrance will be marked off for delivery only, no parking with striped lines.

Mr. Jurczak asked about the proximity to schools.

Ms. Goins clarified the legal requirements in regards to proximity.

There were no further questions.

Mr. Jurczak asked if anyone in the audience wished to speak, there was no one.

There was no further Board discussion.

Mr. Daniels moved to approve the petition of PBL, Inc. the description for the special use permit was previously read into the record by the chairman, so I won't repeat it at this point. The applicant was represented by attorney

Kenyon and Josh Rosen, the Engineer also testified, along with Joe Paglia who is the owner of the business. There was no opposition to the request. The materials that were entered into the record consist of the hearing notice, the site plan and various other documents that information was read into the record by Jessica Spence, the administrative assistant. The Board finds that the special use is specifically authorized by the Ordinance and it is authorized under Zoning Ordinance section 301 schedule of use regulations and also section 907 standards of relief. The special use is permitted in the CD area, and that's what we're dealing with here that's used code 55.3 Liquor Store. So that is allowed by special use in the CD area. The Board finds that the special use meets all the criteria put forth in a subsection because the application to change or the application for the special use permit does not require any change in a building. There is no dimensional variance required. Egress and ingress to the lot have been testified to by Mr. Rosen. Ingress and egress for customers is on Kingstown Road and ingress and egress which was a subject of some discussion for delivery vehicles is on the side road which is identified as Kersey Road. The Applicant testified that the delivery is usually two trucks per week, both of those delivery vehicles will be able to turn into the premises and not have to back on to Kersey Road as testified to by Mr. Rosen. The parking was identified as eight spaces where only three are required in the Ordinance, there will be eight spaces, they will be clearly marked and identified and there will be parking to the east side of the building and limited parking to the west side of the building for employees. There is no off street parking that is required or will be needed, since there is ample parking spaces within the bounds of the premises. Mr. Rosen testified that there will be no changes to the building structure, there will be no changes to how trash is handled or how storage is handled presently. The building is fully equipped for utilities. There'll be no changes to the utilities. The screening and buffering that is currently in place will remain. There will be no changes based on testimony of Mr. Rosen to the external exterior of the building with regard to buffering and screening The sign, there will be some changes in the signs and Mr. Rosen has testified that the sign will be exterior lit and will comply with the Ordinance. And that all lighting will be in compliance with the Ordinance and no variance of lighting or any other variance is requested with this special use permit. This particular building is in general compliance with the area. It is a commercial district. There are other businesses in the area. This building has been existing for a long time and Mr. Paglia has testified that this is a better location for his business. There are going to be 2028 square feet available for use in this building, which is a significant increase from where his former location is and with that, I see no reason not to grant the approval and I would move that it be granted.

Richard Jurczak, Chairman: Right, thank you. Motion made my Mr. Daniels with someone like the second

Bill Mark, Alt. #1: Second,

Richard Jurczak, Chairman: Okay, second by Mr. Mark.

Richard Jurczak, Chairman: Okay, by way of discussion first Jessica Spence's reminded me that I should read. The one letter in the file. I'm going to read it, whom it may concern I would like my full approval to be noted towards the granting of the special use permit for the premises located at 1321 Kingston road my business Bowse Builders located at 130 Kersey Road abuts this property. Thank you. Owner Bowse Builders, Charles Bowse. Okay. Any other discussion.

Tom Daniels, Member: I will amend my motion to include that as a document in support of that request.

Richard Jurczak, Chairman: Okay, would you second that Mr. Mark.

Bill Mark, Alt. #1: Second,

Richard Jurczak, Chairman: Motion made and seconded. Any further discussion.

Whereupon a Roll-Call Vote was Taken: Daniels-Aye, Mark-Aye, Cagnetta-Aye, Bernardo-Aye, Jurczak-Aye Motion Granted, Vote 5-0 in Favor, Petition Passed Unanimously

Mr. Jurczak called the seventh petition.

- **Petition of Lance Whaley**, 98 George Schaffer Street, South Kingstown, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking is seeking to construct an attached two car garage with a 672 square foot accessory apartment above. The side yard setback on the left side is 10'. The addition along the left side will be 5' from the property line. Relief of 5' is required. Accessory apartments in the R10 zone with sewers require a lot size of 15,000 square feet. The lot size is 10,890 square feet. Relief of 4,110 square feet is required. Lot size is 10,890 square feet. **A Dimensional Variance is required per Zoning Ordinance Section 401 (Schedule of Dimensional Regulations Table) and Section 907 (Standards of Relief)**. Owner of the property is Lance & Kathleen Whaley for premises located at 98 George Schaeffer Street, Assessor's Map 48-3, Lot 263 and zoned R 10.

Lance Whaley was present and sworn in. Mr. Whaley testified that he would like to build a garage with an accessory apartment above it. The variance is needed because he would like to place the stairs inside the garage, not on the outside and in addition he is exceeding the maximum lot coverage and is seeking relief for that also. His mother is aging and the apartment may be used for her, a stair lift would be installed.

Board questions ensued on property lines and setbacks and lot coverage.

Board discussion began.

Mr. Jurczak asked if there was anyone in the audience who wished to speak.

Sean Deibler was present and asked about where the rainwater runoff with go, currently water congregates from the surrounding north & west neighbors and runs through his backyard and out his side yard. He also asked about old drywells in the area.

Mr. Pimental explained that Department of Public Service will review the building permit for storm water runoff and control.

There was no one else in the Audience who wished to speak.

Board discussion resumed.

Mr. Cagnetta made the motion to approve the Petition of Lance Whaley, 98 George Schaffer Street, South Kingstown, RI 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking is seeking to construct an attached two car garage with a 672 square foot accessory apartment above. The side yard setback on the left side is 10'. The addition along the left side will be 5' from the property line. Relief of 5' is required. Accessory apartments in the R10 zone with sewers require a lot size of 15,000 square feet. The lot size is 10,890 square feet. Relief of 4,110 square feet is required. Lot size is 10,890 square feet. **A Dimensional Variance is required per Zoning Ordinance Section 401 (Schedule of Dimensional Regulations Table) and Section 907 (Standards of Relief).** Owner of the property is Lance & Kathleen Whaley for premises located at 98 George Schaeffer Street, Assessor's Map 48-3, Lot 263 and zoned R 10. The owner of the property, Mr. Whaley presented his plans to the Board. The plans were zoning setbacks, which was from Pinch Land Surveying that displayed the existing house, foundation and the proposed addition, which is going to be five feet from the easterly property line. He also submitted floor plans and elevations for the accessory apartment and the garage from Ocean State Drafting, which was dated, on March 19 2020. The garage space is needed for a double car garage, but also as an accessory apartment. It is sort of larger, in a sense that it's taking up more of the lot space, but this is not going to change the surrounding area. So this is for a dimensional variance and with that, I'm sorry, there was one gentleman Mr. Deibler who lives on 71 Jennifer Drive that was concerned about some storm run-off; our Building Official let him know that the town does review run off and that storm containment of storm water is part of the application. So, let's see, the Board finds that the hardship from what the Applicant was seeking relief is due to the unique characteristics of the land and will not be changing the characteristic of the surrounding area. This is not due to a physical or economic disability of the Applicant. And we find that that the hardship of the placement of the building and the addition of the garage only on that one side would put it within the five feet, due to the desire for the Applicant to have an internal stairway required the building to be that size. This is not a result of any prior action to the Applicant and does not result primarily from the Applicant to have a greater financial gain. This is because he was hoping to have his mom be in the accessory apartment and this is not to rent out space per se. This will not alter the general character of the surrounding area or impair the intent or purpose of our Zoning Ordinance or the Comprehensive Plan. And this is because the area of the placement of the buildings is fairly random. So this will not change the character. This is the least relief release necessary, and that is because as I said they wanted to have the stairway inside the building as opposed to external And we find that the hardship suffered by the owner would be would amount to more than a mere inconvenience, if it wasn't granted. And with that, I'd like to make a motion to approve.

Richard Jurczak, Chairman: Mr. Cagnetta, did you did you mention the variance with regard to the lot sizes.

Robert Cagnetta, Vice-Chair: I'm sorry I didn't justify it, but I will, the lot size. They were asking for relief of 4110 feet and the lot size, is an R 10 zone. So it is a legal lot size, but the requirement is for the lot size to be 15,000 square feet with an accessory apartment. This particular design of the double garage does fit the use of an accessory apartments, so it is unique in the sense that it is, it works out size wise for them to have an accessory apartment.

Richard Jurczak, Chairman: Okay, that makes sense. All right. Did you, Mr. Bernardo second the motion?

John Bernardo, Member: Okay.

Richard Jurczak, Chairman: Okay, second by Mr. Bernardo and the discussion. Right, there's no discussion. So let's vote.

Whereupon a Roll-Call Vote was Taken: Cagnetta-Aye, Bernardo-Aye, Daniels-Aye, Mark-Aye, Jurczak-Aye
Motion Granted, Vote 5-0 in Favor, Petition Passed Unanimously

At this point John Bernardo left the meeting, William Rosen will now be voting

Mr. Jurczak called the eighth petition

- **Petition of Louise M. Guarnaccia Revocable Trust**, 3 Clearview Drive, Mansfield, CT 06250 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking is seeking to renovate the existing single family dwelling through adding small additions and interior modifications. The property is within a Homeowners Association, so all external additions require the issuance of a Special Use Permit. Lot size is .35 acres. **A Special Use Permit is required per Zoning Ordinance Section 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification) and Section 907 (Standards of Relief)**. Owner of the property is South Jerry Cove Home Owners Association for premises located at 190 South Jerry Cove Road, Assessor's Map 82-4, Lot 74-11 and zoned R 80.

Jack Guarnaccia was present and testified that he is looking to add on a small addition to his existing home, which would allow for more living space downstairs as well as an office so he can work remotely. The bedroom count would remain the same. Mr. Guarnaccia testified that he has worked closely with CRMC and has met all of their preliminary requirements. In addition he has had a full wetlands survey completed.

Board questions ensued in regards to septic, square footage and the Zoning Ordinance 1.5% Rule

Mr. Guarnaccia explained the bedroom count will not change therefore the septic will be fine and he explained the floor plan designating where the additional square footage will be.

Ms. Goins and Mr. Pimental discussed the 1.5% rule and it was determined at this time, Mr. Guarnaccia does not have to comply with that rule.

There were no further questions.

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

Mr. Jurczak read into record, 2 letters of support from Mr. Guarnaccia's direct abutters.

Mr. Cagnetta made to make a motion to approve the petition of Petition of Louise M. Guarnaccia Revocable Trust, 3 Clearview Drive, Mansfield, CT 06250 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking is seeking to renovate the existing single family dwelling through adding small additions and interior modifications. The property is within a Homeowners Association, so all external additions require the issuance of a Special Use Permit. Lot size is .35 acres. **A Special Use Permit is required per Zoning Ordinance Section 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification) and Section 907 (Standards of Relief)**. Owner of the property is South Jerry Cove Home Owners Association for premises located at 190 South Jerry Cove Road, Assessor's Map 82-4, Lot 74-11 and zoned R 80. The Applicant had presented his plans to the Board, which include elevations that were designed and made back in May of 2019. And they depict the changes to the building and the floor plan. The main additions to the floor plan of around 250 feet or so. Floor plan including the addition off to the sides of the building of a stairway and kitchen area. There is a site plan by Wesley Grant that displays the hashed over area of where the building addition would be. And it looks like that was dated last March 3, 2020. There were also two letters from neighbors that supported the additions to the building. As well as several photographs showing the existing building as it stands now. The special use permit in this case is required because there are multiple buildings on one lot and any changes to the exterior of the building would constitute a special use permit. The existing building is a rectangular building to which the owner is requesting to change the shape of the building and get closer to some of the adjacent neighbors of which they did not have any objection. There weren't any rules discerning how much the owner can expand so, there weren't any restrictions on that. There weren't any other objectors to the application. We find that the special use is authorized by this Ordinance because as I said there was no specific language restricting the expansion of the building, and it certainly, the special use

permit, allows the building to be added on to. It does meet, we find that the special use does meet all the criteria set forth in a subsection of this Ordinance authorizing the special use as I said by the nature of the property and the multiple buildings on one lot. This we find that the granting of the special use will not alter the general character of the surrounding area nor will it impair the intent or purpose of our Ordinance or the Comprehensive plan. We considered whether or not the provisions and arrangements have been made concerning ingress and egress. It will not affect off street parking. There's no change to storage and delivery. No change to utilities, no need for screening and buffering, no signs. There's no other open space changes and there is a general compatibility with lots of abutting properties and there's no change to that and there are no conditions to its approval. So with that, I'd like to make a motion to approve.

Richard Jurczak, Chairman: Okay motion made by Mr. Cagnetta with someone like the second

William Rosen, Alt. #2: I'll second.

Richard Jurczak, Chairman: Okay, second by Mr. Rosen, any discussion.

Whereupon a Roll-Call Vote was Taken: Cagnetta-Aye, Rosen-Aye, Daniels-Aye, Mark-Aye, Jurczak-Aye
Motion Granted, Vote 5-0 in Favor, Petition Passed Unanimously

This was the end of petitions to be heard for the night.

The following petitions were continued until April 29, 2020.

- Revised Decision of Garrett Homes
- The Petition of Matunuck Beach Properties
- The Petition of Malachi & Bonnie O'Connor
- The Petition of Raymond Dionne
- The Petition of Mark Jannitto & Darcy Lynch
- The Petition of Janet Elizabeth & Kenneth Greenberg
- The Petition of The Prout School

Discussion Ensued

Mr. Rosen made the motion to continue the above listed petitions till April 29th, 2020
Mr. Mark seconded the motion

Whereupon a Voice Vote was Taken: All in favor of continuing the above petitions till April 29, 2020

Adjournment:

Mr. Daniels made the motion for adjournment.

Mr. Mark seconded the motion.

Whereupon a Voice Vote was Taken: All in Favor, Motion Passed

Meeting adjourned at 10:24 p.m.