



Town of South Kingstown, Rhode Island

BUILDING AND ZONING DEPARTMENT

180 High Street
Wakefield, RI 02879
Tel (401) 789-9331 x1224
Fax (401) 789-9792

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 June 17, 2020.

Members Present:

- Richard Jurczak, Chair
- Robert Cagnetta, Vice-Chair
- John Bernardo, Member
- Thomas Daniels, Member
- William Mark, Member
- William Rosen, Alt. #1

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 7:03 pm

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

Ms. Goins explained the updated Open Meetings Act, whereas once we go back to live in-person meetings we will have to most likely continue using the Zoom platform to allow more access to the public.

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

Mr. Jurczak read the first petition.

- **Continuation of the 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 and requested a continuation until July 15, 2020 meeting.

Mr. Cagnetta made the motion to continue the petition of David Levesque until July 15, 2020.

Mr. Mark seconded the motion.

There was no further discussion.

Whereas upon a Voice Vote was taken: All in Favor- Aye

Motion Passed Unanimously 5-0, Petition continued till July 15, 2020.

Mr. Jurczak read the second petition.

- **Continuation of the 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. Mr. Kenyon asked the project Engineer to address the concerns in the letter submitted by Friends of Green Hill Pond (FGHP)

Attorney John Kenyon was present and requested a continuance until the June 24, 2020 meeting.

Mr. Daniels made the motion to continue the petition of Charles Walsh until June 24, 2020.

Mr. Cagnetta seconded the motion.

There was no further discussion.

Whereas upon a Voice Vote was taken: All in Favor- Aye

Motion Passed Unanimously 5-0, Petition continued till June 24, 2020.

Agenda order was changed.

Mr. Jurczak read the third petition.

- **Petition of Daniel J. Cunningham, 3986B Tower Hill Road, South Kingstown, RI** for a for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to demolish the existing single family dwelling and construct a new 1,600 square foot dwelling with a detached 24' x 24' garage. This property is located within the Jerry Brown Farm Association property. The parcel of land that this property 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 land. Lot size is 70 Acres. Although there are no property lines between dwellings, the distance from the proposed dwelling to the closest adjacent dwelling is 83'. **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 Daniel J. Cunningham for premises located at 35 Fire Lane Two, South Kingstown, RI, Assessor's Map 82-1, Lot 1-1 and is zoned R-80.

Attorney John Kenyon was present and requested a continuance until the June 24, 2020 meeting.

Mr. Daniels made the motion to continue the petition of Daniel J. Cunningham until June 24, 2020.

Mr. Cagnetta seconded the motion.

There was no further discussion.

Whereas upon a Voice Vote was taken: All in Favor- Aye

Motion Passed Unanimously 5-0, Petition continued till June 24, 2020.

Mr. Jurczak read the fourth and fifth petitions

- **Petition of John C. Drew & Conrad C. Heffernan, c/o Kenyon Law Associates, LLP, 133 Old Tower Hill Road, Wakefield, RI** for a **Special Use Permit Extension** under the Zoning Ordinance as follows: Request for third one-year extension of expiration date for **Special Use Permit** granted on November 16, 2016 and recorded on December 14, 2016 for property owned by John C. Drew & Conrad C. Heffernan, 130 Rosebriar Avenue, Wakefield, RI for a **Special Use Permit** to install an onsite wastewater treatment system (OWTS) closer to a wetland than permitted in an R-80 Zone (150' required – 75.4' requested). Premises located at Green Hill Beach Road, South Kingstown, RI, Assessor's Map 90-4, Lot 174, Section 504 and

907. Request made pursuant to Sec. 910(B) of the Zoning Ordinance. Applicant requests an extension of the expiration date from July 1, 2020 to July 1, 2021.

- **Petition of John C. Drew & Conrad C. Heffernan, c/o Kenyon Law Associates, LLP, 133 Old Tower Hill Road, Wakefield, RI for a Dimensional Variance Extension under the Zoning Ordinance as follows: Request for third one-year extension of expiration date for the Dimensional Variance granted on March 16, 2016 and recorded on March 23, 2016 for property owned by John C. Drew and Conrad C. Heffernan, 130 Rosebriar Avenue, Wakefield, RI for a Dimensional Variance to construct a 24' x 24' dwelling closer to a front line than permitted in an R-80 zone. (40' required-35.7' requested). Premises located at Green Hill Beach Road, South Kingstown, RI, Assessor's Map 90-4, Lot 174, Section 207 and 907. Request made pursuant to Sec. 910(B) of the Zoning Ordinance. Applicant requests an extension of the expiration date from July 1, 2020 to July 1, 2021.**

Attorney John Kenyon explained that the Zoning Ordinance allows for a 2 year approval period when State or Federal approvals are needed so in effect the first extension request was not needed and this would actually be the second extension request. Mr. Kenyon stated his clients have had difficulty selling the property due to the DEM and CRMC conditions placed upon the property. They have expended a large amount of money, over \$30,000, to forward the property advancement. In addition one of the owners has passed away and his nephew is now representing the family in regards to this property.

The Board had no questions.

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

The Special Use Permit Extension Motion is as follows:

**The following motion, made by Mr. Mark and duly seconded by Mr. Cagnetta
Passed unanimously 5-0**

W. Mark-Aye, R. Cagnetta-Aye, J. Bernardo-Aye, T. Daniels-Aye, R. Jurczak-Aye

Petition of John C. Drew & Conrad C. Heffernan, c/o Kenyon Law Associates, LLP, 133 Old Tower Hill Road, Wakefield, RI for a Special Use Permit Extension under the Zoning Ordinance as follows: Request for third one-year extension of expiration date for Special Use Permit granted on November 16, 2016 and recorded on December 14, 2016 for property owned by John C. Drew & Conrad C. Heffernan, 130 Rosebriar Avenue, Wakefield, RI for a Special Use Permit to install an onsite wastewater treatment system (OWTS) closer to a wetland than permitted in an R-80 Zone (150' required – 75.4' requested). Premises located at Green Hill Beach Road, South Kingstown, RI, Assessor's Map 90-4, Lot 174, Section 504 and 907. Request made pursuant to Sec. 908(B) of the Zoning Ordinance. Applicant requests an extension of the expiration date from July 1, 2020 to July 1, 2021.

The following individuals spoke as representatives of the applicant:

- Attorney John Kenyon

The following materials were entered into the record:

- Letter from Attorney Kenyon dated April 30, 2020 requesting a third one-year extension; 200' Radius Map and Abutters List
- Previous Zoning Board Decisions: recorded on March 23, 2016, July 23, 2018, and May 23, 2019
- Legal Notice, Certified Mail Receipts and Notarized Affidavit of Mailing

Findings of Fact:

Motion to extend the Special Use Permit until July 1, 2021 is made under 908B and the Board finds that applicant has proceed in good faith and with due diligence in the attempt to obtain such State or Federal approvals and that any delay has not been caused by the actions of the applicant or his agents.

Approval is subject to the following conditions: There are no conditions of approval.

The Dimensional Variance Extension Motion is as follows:

**The following motion, made by Mr. Mark and duly seconded by Mr. Cagnetta
Passed unanimously 5-0**

W. Mark-Aye, R. Cagnetta-Aye, J. Bernardo-Aye, T. Daniels-Aye, R. Jurczak-Aye

At a meeting held on June 17, 2020 regarding the petition of Petition of John C. Drew & Conrad C. Heffernan, c/o Kenyon Law Associates, LLP, 133 Old Tower Hill Road, Wakefield, RI for a Dimensional Variance Extension under the Zoning Ordinance as follows: Request for third one-year extension of expiration date for the Dimensional Variance granted on March 16, 2016 and recorded on March 23, 2016 for property owned by John C. Drew and Conrad C. Heffernan, 130 Rosebriar Avenue, Wakefield, RI for a Dimensional Variance to construct a 24' x 24' dwelling closer to a front line than permitted in an R-80 zone. (40' required-35.7' requested). Premises located at Green Hill Beach Road, South Kingstown, RI, Assessor's Map 90-4, Lot 174, Section 207 and 907. **Request made pursuant to Sec. 908(B) of the Zoning Ordinance. Applicant requests an extension of the expiration date from July 1, 2020 to July 1, 2021.**

The following individuals spoke as representatives of the applicant:

- Attorney John Kenyon

The following materials were entered into the record:

- Letter from Attorney Kenyon dated April 30, 2020 requesting a third one-year extension; 200' Radius Map and Abutters List
- Previous Zoning Board Decisions: recorded on March 23, 2016, July 23, 2018, and May 23, 2019
- Legal Notice, Certified Mail Receipts and Notarized Affidavit of Mailing

Findings of Fact:

Motion to extend the Dimensional Variance until July 1, 2021 is made under 908B and the Board finds that the applicant has proceeded in good faith and with due diligence in the attempt to obtain such State or Federal approvals and that any delay has not been caused by the actions of the applicant or his agents.

Approval is subject to the following conditions: There are no conditions of approval.

Mr. Jurczak read the sixth petition

- **Petition of Donna Martone**, 126 Pershing Avenue, Locust Valley, NY for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct two additions onto the existing single family dwelling. The lot is legally non-conforming, which allows for reduced setbacks. The two story addition on the front requires side yard relief only. The ordinance allows the front of the house to align with abutting structures by right. The required side yard setback is 10'. The addition along the right side will be 7.75' from the property line. Relief of 2.25' is required. The rear yard setback is 30'. The addition in the rear of the dwelling will be 16' from the rear property line. Relief of 14' is required. The same side yard relief of 2.25' is needed for the rear addition also. The maximum lot coverage of 25% will also be exceeded. It currently is at 27.6% and will increase to 36.8%. Overall relief of 11.8%, or an additional 459.5 square feet overall is requested. Lot size is .09 acres. **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 Donna M. Martone for premises located at 8 Pine Court, Assessor's Map 43-4, Lot 41 and zoned R 20.

Terri Gentes, Professional Engineer, was sworn in testified that the Applicant has owned the property for 9 years and as retirement is approaching is looking to make the dwelling ready and age accessible for year round use. The addition will allow for a first floor master bedroom with new master bathroom, first floor laundry, kitchen expansion, the addition of a dining room and a new front entry. Also due to water issues they will be adding dormers and increasing the roof pitch to encourage positive drainage and allow more headroom in the upstairs living area. The house will remain a traditional style cape cod and keep in line with the neighborhood. Property has 4 parking spots and is on Town sewer and water.

Board discussion ensued in regards to the proposed addition specifications.

Ms. Goins advised the Board that she would like to have them get in the habit of asking if there are State or Federal approvals required so in the motion it can reflect a one or two year expiration.

There were no further Board questions.

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

The Motion is as Follows:

The following motion, made by Mr. Bernardo and duly seconded by Mr. Mark Vote Passed unanimously 5-0

J. Bernardo-Aye, W. Mark-Aye, R. Cagnetta-Aye, T. Daniels-Aye, R. Jurczak-Aye

At a meeting held on June 17, 2020 regarding the petition of Petition of Donna Martone, 126 Pershing Avenue, Locust Valley, NY for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct two additions onto the existing single family dwelling. The lot is legally non-conforming, which allows for reduced setbacks. The two story addition on the front requires side yard relief only. The ordinance allows the front of the house to align with abutting structures by right. The required side yard setback is 10'. The addition along the right side will be 7.75' from the property line. Relief of 2.25' is required. The rear yard setback is 30'. The addition in the rear of the dwelling will be 16' from the rear property line. Relief of 14' is required. The same side yard relief of 2.25' is needed for the rear addition also. The maximum lot coverage of 25% will also be exceeded. It currently is at 27.6% and will increase to 36.8%. Overall relief of 11.8%, or an additional 459.5 square feet overall is requested. Lot size is .09 acres. **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 Donna M. Martone for premises located at 8 Pine Court, Assessor's Map 43-4, Lot 41 and zoned R 20.

The following individuals spoke as representatives of the applicant:

- Terri Gentes, PE

The following materials were entered into the record:

- Application Package: Application signed and dated April 23, 2020; Signed and Notarized Owner Authorization Form dated May, 13, 2020; Project Narrative Prepared by Jeffrey J. Campopiano PE dated May 1, 2020; Site Plan by Jeffrey J. Campopiano PE dated March 29, 2020; Preliminary Addition/Renovations plans by Jeffrey J. Campopiano PE dated April 24, 2020; Abutters List and 200' Radius Map
- Legal Notice, Certified Mail Receipts 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 applicant is simply trying to address some of the issues that are lacking in this property and an allowance to accommodate the resources of the people who will be occupying the property as a year round residence given their new station in life as upcoming retirees.
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 hardship results from the placement of the existing dwelling on an undersized 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 this Zoning Board Member, John Bernardo, has been out to the property and is familiar with the area and sees nothing in the petition that would make this proposal incongruous to the other properties in the surrounding area.
4. The Board finds that the relief to be granted is the least relief necessary, based on the previous put forth facts.
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, this member, John Bernardo, has taken into consideration that the addition to the North of the property squares off the property and because of this, he is not concerned about additional lot coverage in squaring off the structure, as he sees it, the only new lot coverage is the addition to the back which as previously stated is needed to create the space and new resources for the property owners. Also the removal of two entry-ways on the front of the property creates a more natural look to the property.

Approval is subject to the following conditions: There are no conditions on this approval.

Mr. Jurczak read the fifth petition

- **Petition of Brandon & Natale Fish**, 100 Oakwoods Drive, South Kingstown, RI for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant has installed a detached barn. The barn was purchased as a kit, and after an inspection, it was determined that the roof height exceeded the maximum of 15' allowed. The owner stated that there was an error in the roof pitch specifications originally provided by the company that he wasn't aware of. The height of the roof is 16.5'. Relief of 1.5' is requested. Lot size is .69 acres. **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 Brandon & Natalie Fish for premises located at 100 Oakwoods Drive, Assessor's Map 49-1, Lot 77 and zoned R 20.

Applicant Brandon Fish is sworn in and testified that he is building a 34x22 barn and had a company out of North Carolina design the barn for him. He is an excavating contractor and when he did his elevations he took the average of the four corners and allowed himself a one foot height foundation. The plan that he bought was an overall 14' height. He is building the barn himself and never measured the peak height until it was too late and is about 1'5" too tall.

Board questions ensued in regards to how he became aware of the height overage and his intended usage of the barn.

Mr. Fish explained that upon inspection it was determined that the structure was too tall. He also explained that this will be used only for a hobby shop and will have zero commercial use.

There was no further discussion.

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

Ms. Goins advised the Board that they should consider after the fact zoning petitions as if the structure did not already exist.

Jeffrey Campopiano, P.E. was sworn in and testified that he knows the applicant and is aware of this problem, he stated that the company built the wrong kit with the wrong pitch roof line.

There was no one else present who wished to speak.

The Motion is as Follows:

**The following motion, made by Mr. Cagnetta and duly seconded by Mr. Daniels
Vote Passed unanimously 5-0:**

R. Cagnetta-Aye, T. Daniels-Aye, J. Bernardo-Aye, W. Mark-Aye, R. Jurczak-Aye

At a meeting held on June 17, 2020 regarding the petition of Brandon & Natale Fish, 100 Oakwoods Drive, South Kingstown, RI for a Dimensional Variance under the Zoning Ordinance as follows: The applicant has installed a detached barn. The barn was purchased as a kit, and after an inspection, it was determined that the roof height exceeded the maximum of 15' allowed. The owner stated that there was an error in the roof pitch specifications originally provided by the company that he wasn't aware of. The height of the roof is 16.5'. Relief of 1.5' is requested. Lot size is .69 acres. **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 Brandon & Natalie Fish for premises located at 100 Oakwoods Drive, Assessor's Map 49-1, Lot 77 and zoned R 20.

The following individuals spoke as representatives of the applicant:

- Applicant, Brandon Fish

The following individuals spoke at the hearing in support of the request:

- Jeffrey Campopiano, P.E.

The following materials were entered into the record:

- Application Package: Application signed and dated May 11, 2020; Owner Authorization Form dated and notarized May 11, 2020; Elevation Drawing, Site Plan prepared by Jeffrey Campopiano P.E. dated March 12; 2020; 200' Radius Map and Abutters List

- Legal Notice, Certified Mail Receipts 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 property is dropping down and far from the main street, and additionally because the barn was purchased as a kit and due to a contractor's error, is higher than allowed.
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 height is not going to allow them to utilize the building any differently
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 it sits far and away from the main street and will not impair the intent of the Zoning Ordinance or the Comprehensive Plan.
4. The Board finds that the relief to be granted is the least relief necessary, based on the plans provided the 16'5" is the least relief necessary.
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 relief being granted they would be required to remove the prefab unit that has already been installed.

Approval is subject to the following conditions: There are no conditions of approval

Mr. Jurczak read the sixth petition

- **Petition of DiStefano Brothers**, 433 Main Street, South Kingstown, RI for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a detached accessory structure. The living area size of the accessory apartment structure will be 750 square feet, the maximum allowed. The applicant is also proposing to construct a covered entry and rear covered deck consisting of 162 square feet and 214 square feet respectively. Covered porch areas are to be included as part of the maximum of 750 square feet allowed for an accessory structure. The two covered porches consist of 376 square feet. This exceeds the amount allowed. Relief of 376 square feet over the maximum is requested. Lot size is 4.28 acres. **A Dimensional Variance is required per Zoning Ordinance Section 503.2 (Accessory Apartments) and Section 907 (Standards of Relief).** Owner of the property is Ian & Lindsay Madom for premises located at 26 East Hill Way, Assessor's Map 55, Lot 18 and zoned R 80

Peter DiStefano was sworn in and testified his clients are looking to build an accessory structure for their parents to allow for them to spend more time visiting. There will be an individual septic plan for the dwelling. Due to the shape and design the little alcoves with roof covering will be very useful to his clients due to the limited living space.

Board questions ensued in regards to OWTS.

Mr. DiStefano explained that they were waiting to see how Zoning went and then will be proceeding with the OWTS.

Ms. Goins advised the Board that this is a petition that would be conditioned upon DEM and possibly DOH approval and will have a 2 year expiration under Section. 908.

Mr. DiStefano also indicated that the homeowners have spoken with all of the neighbors and that he has spoken with the Land Trust and there is no opposition.

Board questions ensued in regards to the site plan and setbacks.

Mr. Pimental explained the setbacks for this property and that an as built would be required to make sure the 50' setback is maintained.

The Motion is as Follows:

**The following motion, made by Mr. Bernardo and duly seconded by Mr. Cagnetta
Vote Passed Unanimously 5-0**

J. Bernardo-Aye, R. Cagnetta-Aye, T. Daniels-Aye, W. Mark-Aye, R. Jurczak-Aye

At a meeting held on June 17, 2020 regarding the petition of DiStefano Brothers, 433 Main Street, South Kingstown, RI for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct a detached accessory structure. The living area size of the accessory apartment structure will be 750 square feet, the maximum allowed. The applicant is also proposing to construct a covered entry and rear covered deck consisting of 162 square feet and 214 square feet respectively. Covered porch areas are to be included as part of the maximum of 750 square feet allowed for an accessory structure. The two covered porches consist of 376 square feet. This exceeds the amount allowed. Relief of 376 square feet over the maximum is requested. Lot size is 4.28 acres. **A Dimensional Variance is required per Zoning Ordinance Section 503.2 (Accessory Apartments) and Section 907 (Standards of Relief).** Owner of the property is Ian & Lindsay Madom for premises located at 26 East Hill Way, Assessor's Map 55, Lot 18 and zoned R 80

The following individuals spoke as representatives of the applicant:

- Peter DiStefano, Applicant

The following materials were entered into the record:

- Application Package: Application signed and dated May 14, 2020; Owner Authorization Form dated and notarized on May 19, 2020; 200' Radius Map and Abutter's List; Preliminary Site Plan prepared by James Flynn P.L.S., dated April 25, 2020; Elevations & Construction Documents prepared by DiStefano Brothers, dated February 19, 2020
- Legal Notice, Certified Mail Receipts 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 this is a fairly large acreage of property and a very small structure in light of the acreage. The relief really is not for living space but is for a covered porch and due to this is not believed to be egregious to the Zoning Ordinance.
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 testimony stated that the property owners' parents will be living in the property for an extended period of time.
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 this proposed structure appears to be consistent with the properties in this general area.
4. The Board finds that the relief to be granted is the least relief necessary, because the size of the covered entry and rear deck is not excessive.
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 if not granted the occupants of the accessory apartment would be unable to enjoy a covered entry and a covered porch, permanently impairing their use and enjoyment of the property.

Approval is subject to the following conditions: Subject to State approvals [specifically, OWTS approval from DEM] this will have a 2 year expiration per Section 908

Mr. Jurczak read the seventh petition

- **Petition of Thomas L. Cabral**, 1240 Middlebridge Road, South Kingstown, RI for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to remove the existing deck around three sides of the dwelling and reconstruct it slightly larger than the existing. The entire existing structure and decks are within the rear building setback area. The required setback from the rear property

line is 50'. The proposed deck will be 9.1' from the rear property line. Relief of 40.9' is requested. Lot size is 2.23 acres. **A Dimensional Variance is required per Zoning Ordinance Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief).** Owner of the property is Thomas L & Gerdine A. Cabral for premises located at 1240 Middlebridge Road, Assessor's Map 27-1, Lot 10 and zoned R 80.

Thomas Cabral was present and sworn in. He stated that he is looking for relief to replace a 30 year old rotted deck that is wrapped around the house with a new deck in the same footprint.

Christopher Palmer, P.L.S. was sworn in and testified that this is a unique piece of property where the exiting dwelling was built completely in the rear setback. They are not proposing any changes to the existing deck or dwelling except a 1' increase to the stairs in the back of the deck to allow the deck entrance to be 5' wide and more accessible. The furthest relief requested is at the end of this stairway. The new deck will be put right on the existing deck footprint. The house is already non-conforming. The well and septic are located a fair distance from the house. The property itself has some steep elevations and slopes.

Board questions ensued in regards to the back entrance stairway.

Mr. Palmer explained that the backside entrance is the main entrance to the house.

There was no further testimony.

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

The Motion is as Follows:

**The following motion, made by Mr. Cagnetta and duly seconded by Mr. Daniels
Vote Passed Unanimously 5-0:**

R. Cagnetta-Aye, T. Daniels-Aye, J. Bernardo-Aye, W. Mark-Aye, R. Jurczak-Aye

At a meeting held on June 17, 2020 regarding the petition of Thomas L. Cabral, 1240 Middlebridge Road, South Kingstown, RI for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking is seeking to remove the existing deck around three sides of the dwelling and reconstruct it slightly larger than the existing. The entire existing structure and decks are within the rear building setback area. The required setback from the rear property line is 50'. The proposed deck will be 9.1' from the rear property line. Relief of 40.9' is requested. Lot size is 2.23 acres. **A Dimensional Variance is required per Zoning Ordinance Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief).** Owners of the property are Thomas L & Gerdine A. Cabral for premises located at 1240 Middlebridge Road, Assessor's Map 27-1, Lot 10 and zoned R 80.

The following individuals spoke as representatives of the applicant:

- Thomas Cabral, Applicant, Christopher Palmer, P.L.S.

The following materials were entered into the record:

- Application Package: Application signed and dated May 15, 2020, 200' Radius Map and Abutter's List; Proposed Site Plan prepared by Christopher Palmer, P.L.S., dated May 14, 2020; Foundation Plan & Details prepared by Michael Camera, Structural P.E., dated March 3, 2020
- Legal Notice, Certified Mail Receipts 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 of the unique characteristics of the structure on the land and is not due to the characteristics of the surrounding area and is not due to any physical or economic disability because the existing house is nested to the furthest western point of the property.

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 they are trying to create safe access and reconstruct a new deck in the footprint of the existing decks.

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 request is on the backside of the property and there were also no objections from any neighbors.
4. The Board finds that the relief to be granted is the least relief necessary for safe access to the building.
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 they need to replace their existing deck, and there is no other way to accomplish this without a variance, given that the existing structure is located within the rear setback area.

Approval is subject to the following conditions: There are no conditions of approval

There were no further petitions.

Other business is as follows:

Minutes:

Mr. Cagnetta made the motion to approve the May 27, 2020 minutes.

Mr. Mark seconded.

Whereupon a Voice Vote was Taken: All in Favor, Aye
Motion Granted, May 27, 2020 Minutes Passed Unanimously.

Attendance:

All members except Mr. Mark are available for the June 24, 2020 meeting.

Adjournment:

Mr. Cagnetta made the motion to Adjourn.

Mr. Bernardo seconded.

All in Favor - Aye

Meeting adjourned at 8:33 p.m.