



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 29, 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 made a few opening remarks.

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

Ms. Goins put forth the revised written decision of Garrett Homes, LLC for any board discussion.

Mr. Jurczak read the petition into record and noted that a written decision was recorded on December 9, 2019 but the matter was subsequently appealed to the Rhode Island Superior Court and by agreement, of the Board and the Applicant, the Board will adopt a new written decision in this matter and public hearing is not required.

Ms. Goins explained that she circulated the draft of this amended decision to Board members last week, and it reflects a fuller explanation of the Boards unanimous decision of denial which will be recorded and added to the certified record for the Superior Court. The matter will then be briefed and decided on by a judge.

The Board had no edits.

No Board discussion ensued.

The Decision of the Board is as Follows:

Mr. Daniels made the motion to approve the revised written decision regarding the petition of Garrett Homes, LLC. The entire description of the petition was read into record by the Chairman and I move that we accept the revised decision.

Mr. Cagnetta and Mr. Mark seconded the motion.

Mr. Lauren Jones, attorney for the Applicant stated he wanted to make sure the five people who voted tonight were the same five Members who voted on the original decision.

Mr. Jurczak answered that they were.

Whereupon a Roll-Call Vote was Taken: Daniels-Aye, Mark-Aye, Cagnetta-Aye, Bernardo-Aye, Jurczak-Aye Revised Decision of Denial Approved Unanimously, Vote 5-0 in favor

Mr. Jurczak called the first petition.

- **Petition of Matunuck Beach Properties**, 62 Birchwood Drive, Narragansett, RI 02882 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to install a temporary bathroom facility which will consist of an 8' X 34' portable trailer. This will replace the existing bathrooms which were located with the store, both of which are to be removed. Lot size is 50.2 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 Matunuck Beach Properties for premises located at 240 Cards Pond Road, Assessor's Map 92-1, Lot 9 and zoned R 200.

Robert Thoresen was sworn in and testified that they would like to put a portable public toilet trailer where the former store front used to be so their residents would have access to toilets while on the beach. He explained the trailer would be located to the west of where the former store used to be, which contained bathrooms. The trailer would only be there during the beach season and would be able to be hitched up to a trailer and disconnected from the existing septic system in the event of storms. Mr. Thoresen also indicated that they would need to get CRMC approval.

Board questions ensued in regards to moving the trailer, public access and additional permitting for septic hookup.

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

There was no further Board discussion

The Decision of the Board is as Follows:

Mr. Bernardo made a motion to approve the petition of Matunuck Beach Properties, 62 Birchwood Drive, Narragansett for special use permit under our Zoning Ordinance. The applicant is seeking to install a temporary bathroom facility which will consist of an 8x34 portable trailer. This will replace the existing bathrooms which were located within the store, both of which are to be removed. This is a special use permit required under our Zoning Ordinance section 203 and 907 standards. The owner of the property is Matunuck Beach Properties, Robert Thoresen appeared tonight and told us what was going on, essentially, they're going to demolish the existing bathroom and it looks like they're going to be moving it to the west of the existing bathroom. It's going to be a portable bathroom that they can move away during a storm or outside of the beach season. He indicated the trailers going to be there for five months of the beach season and they will be plumbed into the existing septic there by gravity. They will be demolishing the old bathroom, as well as the store that was there. A special use permit is required because there are multiple homes on one lot in the form of trailers here at the Matunuck Beach Property. Special uses are specifically authorized by the Ordinance and the use meets all of the criteria set forth in this subsection and the granting of a special use would not alter the general character of the surrounding area or impede the intensive purpose of the Ordinance or the Comprehensive Plan. I don't have to consider ingress and egress, that won't be an issue. Off-street parking is certainly not an issue or any the other matters that we need to worry about. We've dealt with many matters with the good people over at Matunuck Beach Properties and this seems like a sensible thing to do, given the issues that they're having with erosion and keeping buildings away from the break front where the property and the beach is very sensitive. So with that, I move that we grant the petition and tie it into any drawings that they may have submitted. I'm confident that CRMC is going to take a good look at this and use their good judgment and pass this as well.

Mr. Daniels seconded the motion.

There was no further Board discussion.

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

Mr. Jurczak called the second petition.

- **Petition of Malachi & Bonnie O'Connor**, 17 Border Avenue, South Kingstown, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a 16' X 32' detached accessory structure. The lot is a non-conforming lot of record and reduced setbacks are allowed. The proposed shed will be located 10' from the left side property line. The required side yard setback is 15'. Relief of 5' is requested. The accessory structure will be located 34' from the front property line. The required front yard setback is 40'. Relief of 6' is requested. The structure is also located within the front yard setback, which requires relief per Section 503.1. Lot size is .60 acres. **A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record-Building Setback Requirements), Section 503.1 (Accessory Structures) and Section 907 (Standards of Relief).** The owners are Malachi & Bonnie O'Connor for premises located at 17 Border Avenue, South Kingstown, RI, Assessor's Map 90-3, Lot 56 and is zoned R-30.

Malachi O'Connor was sworn in and testified that he and his wife made 17 Border Avenue their permanent residence as of last month and that they are planning on building a garage with workshop. The extra space is needed due to no full basement in the home, it's a crawl space which is damp and not useful for storage and they would also like a garage to house their cars, as well as bikes, lawn equipment, etc.... He stated that he is retired and is looking for a workshop to do small household projects, not to be used for any commercial venture. Mr. O'Connor then referenced the submitted drawings and explained the lot was legally non-conforming at time of purchase and due to the new septic system and drainage fields, as well as existing mature maples and other landscaping the proposed area would best suit the new structure. He then explained the proposed distances from his neighbors home.

Board questions ensued in regards to heating, location, placement and vehicle accessibility of the proposed garage.

Mr. O'Connor stated that he would like to tuck it back a little to be less visible but conceded that he could make the adjustment if the side variance was not granted.

Mr. Jurczak read into record a letter from the abutter, Joanne Langham.

Mr. Jurczak asked if anyone in the Audience would like to speak.

Joanne Langham was sworn in. Ms. Langham testified that she is the side yard abutter and she is not opposed to the building, she just does not want it built within the setbacks and is concerned about lighting and the possible use of a wood burning stove and the smoke it may cause. She also stated that her house is 17 feet from the property line, not 23 feet as indicated. She had no further testimony.

The Board had no questions.

David Calabrese was sworn in. Mr. Calabrese testified that he lives across the street and has no issues with the structure or the proposed location or of the front line set back relief being sought. He also stated the O'Connor's maintain their property very well and have always been cooperative about outside lighting, in fact they use green lights which cut down on light pollution.

The Board had no questions.

Henry Morse testified that he lives around the corner and spoke about the character and integrity of the O'Connor's. He stated that since they moved here five years ago they have been really active, participating community members, who highly respect all of their neighbors. He testified that their existing home and landscaping is very tastefully done. Mr. Morse also spoke in regards to the request for a side yard variance, he stated that he believed it was located that way to ensure safe entrance from the street for their vehicles as well as being aesthetically integrated onto the property respecting everyone's interests. Finally Mr. Morse testified that from his personal experience it is difficult to make a 90 degree turn into a garage and that the perhaps that turn radius is being under estimated in regards to the placement of the garage without variance relief.

The Board had no questions and there was no one else who wished to testify.

Board discussion ensued primarily in regards to the side line setback.

Mr. O'Connor stated that he does take Joanne Langham's objection seriously and that he tried to speak with her prior to the hearing.

The Decision of the Board is as Follows:

John Bernardo, Member: I'll make a motion that we approve the petition of Malachai and Bonnie O'Connor, 17 Border Avenue, South Kingstown, Rhode Island for a dimensional variance under our Ordinance. The Applicant is proposing to construct a 16x32 square foot detached accessory structure. The lot is non-conforming and reduced setbacks are allowed. The proposed shed will be located 10 feet from the left side property line, the required side yard setback is 15 feet, and relief of 5 feet is requested. The accessory structure will be located 34 feet from the front property line, their required front yard setback is 40 feet therefore 6 feet relief requested. . The structure is also located within the front yard setback, which requires relief per Section 503.1. Lot size is .60 acres. A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record-Building Setback Requirements), Section 503.1 (Accessory Structures) and Section 907 (Standards of Relief). The owners are Malachi & Bonnie O'Connor for premises located at 17 Border Avenue, South Kingstown. The Petitioner, Malachai O'Connor testified that he has no garage. He has no basement and he's looking to construct an accessory structure that will serve both as a garage, as well as a workshop, he indicated that he is a woodworker, not by trade, because he and his wife are both retired. So he will use the shed to go in and do some busy work for projects around the house, to store bikes and other equipment and other things that he couldn't store in a basement or a garage. He indicated he would like to fit at least one car and there maybe two, if possible. The Applicant, Mr. O'Connor, indicated, the way I understood it, it was actually okay with positioning the shed within the side yard setback, which would be 15 feet from the property line. So I'm going to take the position that we don't have to discuss whether hardship is needed because he seemed to be okay with that. As far as the front set back he's looking for six feet of relief and I would find that this accessory structure is constrained by an existing driveway, which he wants to certainly use to drive his vehicle into, as well as an OWTS system to the north, some trees to the south and perhaps some rhododendrons to the west, so it makes sense where it is. The side seems to work to support both the garage and workshop. We did hear from a number of neighbors, some of them characterized themselves as objectors, others were character witnesses for Mr. O'Connor and his wife and spoke very highly of them. In fact a couple of them indicated that they were confident that Mr. O'Connor would make the right neighborly decisions in the use of this workshop which means to me that he will be cognizant of any noise or perhaps excessive smoke or other nuisance issues as they would affect his neighbor, so I take that into consideration when I'm making this motion to approve. This is a variance, the hardship from which the Applicant seek relief is due to the unique characteristics of land and structure and not to general characteristics of the surrounding area. The hardship is not the result of any prior action of the Applicant and does not result primarily from the desire of the Applicant to realize greater financial gain. The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Comprehensive Plan there are plenty of the houses in the area with shed and or garages. This would appear to be least relief necessary. And the way I'm reading it, it appears that the Applicant has already yielded one of his requests for relief anyway. And add to this dimensional variance the Applicant has proved that the hardship to be suffered by him absent granted to this relief would amount to more than a mere inconvenience. So I would move granting this petition subject to the drawings and renderings in the application.

Richard Jurczak, Chairman: Okay. Just, just to make it perfectly clear then your motion does not include the relief from the side yard.

John Bernardo, Member: No, because I'm taking the position that the Mr. O'Connor has yielded that request by indicating during his testimony that he had no problem putting it at the 15 feet so, I'm not sure if I'm doing the right thing but that's how I understood.

Richard Jurczak, Chairman: Amy, can you just give us some guidance on that.

Amy Goins, Special Legal Counsel: Yes that's fine.

Richard Jurczak, Chairman: Okay. Motion by Mr. Bernardo with someone like the second

Robert Cagnetta, Vice-Chair: Second

Richard Jurczak, Chairman: Okay, second by was that Mr. Cagnetta.

Richard Jurczak, Chairman: All right, this is there any discussion. All right, let's have a roll call.

Whereupon a Roll-Call Vote was Taken: Bernardo-Aye, Mark-Aye, Cagnetta-Aye, Daniels-Aye, Jurczak-Aye
Motion Granted, Vote 4-1 in favor, petition passed

Mr. Jurczak called the third petition.

- **Petition of Raymond Dionne**, 74 Thomas Leighton Blvd., Cumberland, RI 02864 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct additions onto the existing single family dwelling. The lot is a legally non-conforming, which allows for reduced setbacks. The side yard setback on the right side is 11'. The addition along the right side will be 8' from the property line. Relief of 3' is required. The rear yard setback is 30'. The addition in the rear of the dwelling will be 27' from the rear property line. Relief of 3' is required. Lot size is .15 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 Raymond Dionne for premises located at 33 Washington Street, Assessor's Map 86-3, Lot 115 and zoned R 20.

Raymond Dionne was sworn in and testified that they are looking for dimensional relief because after 10 years in the area, they are looking to make this their full time home. Mr. Dionne explained that due to some medical conditions there is a need for one-level living and they spent a lot of time with their architect trying to maximize space and allow for a comfortable home while not having an impact on the neighborhood. Mr. Dionne indicated that they will be installing a new upgraded septic system which will also limit where the new addition can be placed. Mr. Dionne then referenced a site plan and the OWTS design. Mr. Dionne indicated that the new addition portion will have a full basement to create on-site storage, as the existing house does not have any, but this will require a bulkhead which requires certain dimensional requirements for access. He also addressed that the existing propane tanks and that the new addition has been designed for them to be re-located between the proposed bulkhead and the proposed addition. He summarized that it's a small lot and he has spent a lot of time planning and trying to not impact the neighbors.

Board questions ensued in regards to distance from neighbors and relief needed.

Mr. Jurczak then read into record a letter from Stephen & Diana Macomber, 25 Washington Street, objecting to the proposed addition.

Ms. Goins clarified for the objectors that the "no reasonable alternative" language has been superseded by an amendment to the Zoning Enabling Act, so that language is in fact, not relevant.

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

Board discussion ensued.

The Decision of the Board is as Follows:

The above-captioned matter came before the Town of South Kingstown Zoning Board of Review (the "Board") at a duly-noticed public hearing held on April 29, 2020. The Board heard testimony from the Applicant, who explained that the planned addition was planned to increase additional living space. The Board noted for the record that an objection letter dated March 27, 2020, was received from Stephen J. Macomber and Diana Macomber. No objectors attended the meeting to comment on the application.

Pursuant to Sec. 907(A)(1), the Board hereby finds as follows:

- a. 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 not due to a physical or economic disability of the applicant, except where necessary to provide reasonable accommodation to applicants with physical disabilities addressed in the Rhode Island Fair Housing Practices Act, the United States Fair Housing Amendments Act of 1988 (FHAA), the Rhode Island Civil Rights of Individuals with Handicaps Act, and the Americans with Disabilities Act of 1990 (ADA);
 - The lot is legally non-conforming, as it is undersized. The lot is approximately 6,500 sf, where the minimum lot size is 20,000 square feet for a single-family dwelling. Additionally, the existing single-story dwelling is a 2-bedroom dwelling with 768 square feet of living space. The hardship thus results from the existing size of the land and the existing size of the structure, which are both small in comparison to other lots and structures in the surrounding area.

- b. That said hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;
 - The hardship of the undersized lot was not caused by the applicant, who purchased the property in 2010. The planned addition will allow the applicant to make greater use of the dwelling. The existing dwelling is a one-story, two-bedroom dwelling with 768 square feet of living space. The planned addition will add 564 square feet of living space, for a total of 1,332 square feet.
- c. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this Zoning Ordinance or the Comprehensive Plan of the Town;
 - The proposed addition will not alter the general character of the surrounding area and will not conflict with the intent or purpose of the Zoning Ordinance. The dwelling with the proposed addition will be in character with the surrounding area. It will be of a modest size and remain a one-story dwelling.
- d. That the relief to be granted is the least relief necessary;
 - The relief of 3 feet on the side and 3 feet on the rear is the minimum relief necessary to enable the proposed construction. The variance for the rear setback will allow stairs for a deck and a bump-out for a fireplace. The side yard variance will allow a bulkhead for access to a new basement storage area. This relief will alleviate the hardship and allow the applicant to construct a reasonably-sized addition.
- e. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience. The fact that a use may be more profitable, or that a structure may be more valuable after the relief is granted, shall not be grounds for relief.
 - The applicant intends to make the home his year-round retirement residence. This addition will make the dwelling more comfortable for him and his family. Denying the variance would mean that the applicant could not construct the proposed addition, which would amount to more than a mere inconvenience because there is no other way to add additional living space to the home while still keeping it a one-story dwelling, which is the applicant's preference due to his medical conditions.

Record of Vote

Motion to approve the petition granting the dimensional variance made by Mr. Cagnetta, seconded by Mr. Mark.

Members voting in favor: Cagnetta, Mark, Bernardo, Daniels, Jurczak

Members voting against: None

The motion carried **5-0** and the decision was approved, granting the application.

Mr. Jurczak called the fourth petition.

- **Petition of Mark Jannitto & Darcy Lynch**, 15 Hendricks Street, South Kingstown, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a mudroom/covered porch and sunroom addition to the existing single family dwelling. The maximum lot coverage in the R 10 zone is 25%. The lot size is 8,652 square feet. The total existing and proposed building coverage will be 2,880 square feet, which represents 33% lot coverage. Relief of 8% of lot coverage, which represents 717 square feet is requested. The required front setback is 25'. The addition will be 7.6' from the front lot line. Relief of 17.4' is requested. Lot size is 8,652 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 Mark Jannitto & Darcy Lynch for premises located at 15 Hendricks Street, Assessor's Map 57-1, Lot 182 and zoned R 10.

Mark Jannitto was sworn in and testified that the house is currently a 1200 square foot, 1950's style cape with a low sloped roof on the second floor which makes the finished space difficult to use due to low headroom. He explained what they would like to do is make the second floor more useable by raising the pitch of the roof to increase the headroom and also relocate the front entry way because the stairs to the second floor are immediately inside and are very narrow, with a very steep incline and outside access is right on the road. In addition they would also like to add a sunroom. Mr. Jannitto also referenced drawings showing the proposed addition, as well as current side view versus proposed side view.

Board questions ensued in regards to lot coverage, requested variance dimensions and setbacks, shape of lot, existing accessory apartment on site and the proposed sunroom.

Mr. Jannitto explained why they would like to move the front entryway and add the sunroom. In addition he explained that the accessory apartment was existing when the house was purchased and that they have upgraded it since, and it has its own designated parking spaces.

There was no further Board discussion.

Mr. Jurczak read a letter of objection from abutter, James Duffy expressing setback concerns, parking and street accessibility.

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

Mr. Jannitto addressed Mr. Duffy's concerns.

Board discussion ensued.

The Decision of the Board is as Follows:

Mr. Cagnetta made a motion to approve the petition of Mark Jannitto and Darcy Lynch of 15 Hendricks Street, South Kingstown, Rhode Island for a dimensional variance. The Applicant is seeking to construct a mud room covered porch and sunroom addition to the existing family dwelling. In this case, the maximum coverage in the R10 zone is 25% they are seeking 33% lot coverage and they are also seeking to have the front setback changed from about 7'6" less, the relief of 17'4" is requested. This is in and around downtown Wakefield and downtown Wakefield, as we know, was built in the late 19th century, and there weren't many rules, as we know, of making all these different plots, houses were added and subtracted over the years and this one is sort of unique in the fact that it has a turn of the century cape. And I believe the Applicant mentioned the later addition garage or outbuilding to the back, so this is in fact a pretty unique property and how it sits. It does not conform with any of the existing setbacks for either of the two buildings. The back accessory building, accessory apartment, is essentially right on the line, about a foot and a half away from the property line on two sides, and six feet away from the property line on the west side. And then the main house which the Applicant has made the proposed additions to, there is actually no elevation that is within, completely within, the setback. Also something very unique about this neighborhood is the plotline versus the actual size of the road. The road is marked on the plots about twice the size that it is actually in real life. And the front lawn is sloped down to the roadway. So right now, the actual road is about 10 feet further away from the property line, so, it is the illusion that the front property line is a little bit more of a setback for them. The Applicant had proposed through a series of drawings, the plot plan, as well as the floor plans and elevations and roof lines of the structure which are relevant. The elevations are relevant in this regard because of the Applicants desire to add additional headroom space on this cape, in a cape of this vintage you'll get about 40% use out of that second floor because of the low ceiling heights, he's proposing to increase those ceiling heights and then also make the floor plan more useful. The front addition of the proposed vestibule is to access from the driveway side into the home more conveniently and the sunroom that's proposed is to provide a bit more floor space on the first floor, towards the driveway. And they're not coming out any closer to the front, but they are obviously coming off the side a bit more about another six feet. The plot plan was from Michael Fontaine was dated back on March 18, 2020. There are the elevations and floor plans as well. There was one objector, Mr. Duffy, from across the street, who also has a very unique property in the amount of buildings and the setbacks on them. And Mr. Duffy had mentioned the tightness, like the fact that the street is much skinnier than it is on the plot plan and there are some difficulties in navigating the street when there are cars parked on the street. But Mr. Jannitto had mentioned that you can fit four cars in his driveway comfortably and that they only move things around. And again, they're not intensifying or adding bedrooms to the house, they are only making living space on the first floor and making it more convenient to enter the building. We find that the hardship, which the Applicant sought relief is due to the unique characteristics of the land and the structure, and is not going to change the general surrounding area. This is not due to any physical or economic disability of the Applicant and that is because as I said, the plot setbacks are not in the conformance with the building at all. We find that the hardship is not the result of any prior action of the Applicant and will not result primarily in the Applicant to realize a greater financial gain because there's no evidence to suggest that. We find that the granting of the variance will not alter the general character or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan because as I said, this is a pretty unique area in downtown where the houses are clustered in a very organic way and not as planned. We find that the least relief, is the least necessary. And we find that the hardship suffered by the owner if this were not granted would amount to more than a mere

inconvenience, because the house is very difficult in its current design to utilize all the spaces. So with that, I'd like to make a motion to approve.

Richard Jurczak, Chairman: Okay motion made by Mr. Cagnetta would someone like to second

William Mark, Alt. #1: Second

Richard Jurczak, Chairman: Yes. Okay, second by Mr. Mark, any discussion? All right, it's none let's vote.

Whereupon a Roll-Call Vote was Taken: Cagnetta-Aye, Mark-Aye, Bernardo-Aye, Daniels-Aye, Jurczak-Nay
Motion Passed, Vote 4-1 in favor, petition passed

Mr. Jurczak called the fifth petition.

- **Petition of Janet Elizabeth & Kenneth Greenberg**, 14700 Stallion Court, Bowie, MD 20715 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking is seeking to construct a new one story single family dwelling. The maximum lot coverage in the R 40 zone is 20%. The lot size is 10,283 square feet. The proposed dwelling will be 2,336 square feet, which represents 22.7% lot coverage. Relief of 2.7% of lot coverage, which represents 279.4 square feet is requested. Lot size is 10,283 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 Joseph & Michelle Boulay for premises located at 94 Winchester Drive, Assessor's Map 63-3, Lot 17 and zoned R 40.

Attorney John Kenyon was present for the applicant. Mr. Kenyon explained that the Applicants have entered into a purchase and sales agreement and it is their intent to construct a single family one story dwelling which would meet all setback requirements but requires a variance for maximum lot coverage from 20% to 22.7%. Mr. Kenyon then reviewed the OWTS, the floor plans and the setbacks. He further explained that the house needs to be one story and requires a certain floor plan due to the Applicant, Mr. Greenberg, being disabled with some specific requirements including wheel chair access. The Applicants have worked extensively in revising their floor plan, to meet their specific needs while trying to require the least relief necessary.

Mr. Kenyon submitted Applicant's Exhibit #1, Proposed Site Plan

Mr. Kenyon submitted Applicant's Exhibit #2, Proposed Floor and Elevation Plans, dated April 2020

Mr. Kenyon submitted Applicant's Exhibit #3, Appraisal Report, dated April 2020

Mr. Kenyon then asked his first witness George Daglieri to testify.

Mr. Daglieri was sworn in and testified that he has been a real estate broker and appraiser for the past 30 years. He testified to the general character of the neighborhoods existing homes and sizes and that the proposed plan fits well within the area. Mr. Daglieri spoke about lot size in the surrounding area and noted that the hardship is directly related to the lot size.

The Board had no questions of this witness.

Mr. Kenyon then asked his second witness Janet Greenberg to testify.

Ms. Greenberg was sworn in and testified that she has been working very hard along with her architect to make a one-level floor plan designed as small as possible that would still meet her husband's specific needs, and that a two-story home is really not possible.

Mr. Daglieri commented to the fact about the difficulty in designing a home fitted for handicap accessibility, and the need for a functional floor plan with room to maneuver.

There was no further testimony.

Mr. Jurczak then summarized three letters, from abutting objectors, Yan and Bill Krolicki, whose primary concern was need for a dimensional variance, the difficulty of attending a meeting being held on Zoom and the inability to

attend a meeting in person to express their concerns, as well as what they believed was a mailing error of the legal notices.

Ms. Goins noted that Ms. Krolicki was not present at tonight's meeting but was able to be present at the previous meeting also held on Zoom. She also addressed that the only legal requirement was to send the legal notice out certified mail.

Mr. Jurczak then summarized a letter from Richard Barbiar which expressed concerns about ground water runoff, soil erosion and measures that would be put in place during construction.

Mr. Kenyon clarified what occurred in regards to the legal mailing notification. He also pointed out that the Town will review the soil erosion and sediment control plans prior to the permit being issued.

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

Richard Barbiar was sworn in and testified that he is not objecting to the project, he only wants to make sure his concerns about ground water and runoff are addressed because he is concerned about his basement flooding as a result.

Mr. Pimental stated that all of these concerns would be addressed during the permitting process.

There was no one else who wished to speak

The Board had no further questions

Board discussion ensued.

The Decision of the Board is as Follows:

Mr. Mark made a motion to approve the petition of Janet and Kenneth Greenberg, 14700 Stallion Court, Bowie, MD for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct a new one story single family dwelling. The maximum lot coverage in the R 40 zone is 20%. The lot size is 10,283 square feet. The proposed dwelling will be 2,336 square feet, which represents 22.7% lot coverage. Relief of 2.7% of lot coverage, which represents 279.4 square feet is requested. Lot size is 10,283 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 Joseph & Michelle Boulay for premises located at 94 Winchester Drive, Assessor's Map 63-3, Lot 17 and zoned R 40. The following individuals spoke as representatives for the Applicant Mrs. Greenberg, Attorney Kenyon and George Daglieri. The following individuals spoke in opposition or through letters. The Krolickis and Mr. Barbiar, both that seemed to have not so much arguments regarding the relief sought but more so I think, the aesthetics and or the building processes. The following materials were submitted, were the proposed site plan, the floor elevation plans, the appraiser's report and any objector's letters from the Krolickis, all three of them, and one other objector's letter from someone else whose name I didn't get. I kind of agree with the summation that chairman mentioned that if this were you know, in a R10 or R20 lot you know, in this zone of where everything else is like a 10,000 square feet, they would have no problem with the site coverage on this particular lot. So I'm saying the Board finds that the hardship from which the Applicant seeks is not due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, is not due to any physical or economic disability of the Applicant, accepting those physical disabilities addressed. The Board finds that the hardship is not the results of any prior action of the Applicant and does not result primarily from the desire of the Applicant to realize greater financial gain, because this is a new structure and because of the after mentioned disabilities of the Applicant. The Board finds that the granting of the request for dimensional 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. Again, getting back to the square footage of an R40 versus the surrounding lots. The Board finds that the relief to be granted is the least relief necessary because they could go up and have twice the square footage of a dwelling, but given the circumstances, I think that 2.7% is certainly the least relief necessary. The Board finds that the hardship suffered by the owner of the subject property, if the dimensional variances is not granted amounts to more than a mere inconvenience because at 2.7% and given the turning ability of having ADA compliant setups within the house is negligible at this point. So with that I make a motion to approve the petition.

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

Tom Daniels, Member: Second.

Richard Jurczak, Chairman: OK, seconded by Mr. Daniels, any discussion

John Bernardo, Member: I think he said, a not when he meant to say an is, when he was saying the hardship from which the relief is in fact due to the unique characteristics of the land and I think he said not due, it might have been just a mistake or perhaps I heard it wrong, but I'm submitting that for clarification only.

Richard Jurczak, Chairman: Mr. Mark, can you clarify this

William Mark, Alt. #1: Is not due to the unique characteristics of the subject land...

Tom Daniels, Member: It should be is due.

(Discussion)

William Mark, Alt. #1: I'll amend my motion to say, the hardship for which the Applicant seeks relief is due to the unique characteristics of the subject land and not the general characteristics of the surrounding area.

Richard Jurczak, Chairman: Amy, Is that OK for clarification?

Amy Goins, Special Legal Counsel: Yes, we got it now.

Richard Jurczak, Chairman: Okay, Mr. Daniels. I think you seconded, can you second the change.

Tom Daniels, Member: I will second the change.

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

Mr. Jurczak called the sixth petition.

- **Petition of The Prout School c/o David Estes**, 4640 Tower Hill Road, South Kingstown, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to install a synthetic turf field with athletic lighting and a scoreboard. The proposed field will be located 2.22' from the left side property line, 20' is required, requiring 17.78' of relief and 8.53' from the rear property line, 20' is required, requiring 11.47' of relief. The four light poles are proposed to be 70-80 feet tall. Maximum height allowed for accessory structures is 15'. The maximum relief of 65' is required. The height of the proposed scoreboard is 35'. The maximum height for accessory structures is 15'. Relief of 20' is required from the height requirement. Lot size is 24.81 Acres. **A Dimensional Variance is required per Zoning Ordinance Section Table 401 (Dimensional Regulations), Section 603 (Government & Institutional Regulations (GI) Zone) and Section 907 (Standards of Relief)**. Owner is the Roman Catholic Bishop of Providence for premises located at 4640 Tower Hill Road, South Kingstown, RI, Assessor's Map 50-4, Lot 19 and is zoned GI (Government & Institutional).

Mr. Richard Nadeau, attorney for the Applicant was present. Mr. Nadeau explained that this application is for the same exact variance that was granted in January 2019 but through a miscommunication the Applicant missed a filing deadline to seek an extension. Mr. Nadeau stated who was present for the application and described how the application is meeting the burden of proof to grant a variance. Mr. Nadeau also stated that he had spoken with Attorney Stephen Angel who was representing an abutter in regards to some concerns. Mr. Nadeau stated that they have addressed those concerns and noted that Mr. Angel had indicated that he would not be appearing at tonight's meeting.

Board discussion ensued.

Mr. Daniels requested a point of order, he asked in light of the fact that no objectors are present tonight and the testimony is essentially the same as it was a year ago can we move the previous decision to shorten the proceedings.

Ms. Goins stated that she is fine with that as long as the Applicant has no objection.

Mr. Nadeau stated that they are also fine with that, that any testimony tonight was only going to reiterate what was previously on record.

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

Board discussion ensued.

The Decision of the Board is as Follows:

Mr. Daniels moved that we incorporate the Zoning Board decision recorded on January 24, 2019 with regard to the Prout School, Book L1696, Page 406 which is dated January 24, 2019 in the South Kingstown land records. I move that we incorporate that decision in its entirety, with the addition of the DEM letter and report dated June 13, 2019 and I move that be incorporated in the original decision. The original decision that was made by the Board on January 24, 2019 was made by Mr. Bernardo. It was seconded, in that case, by Mr. Cagnetta and was approved five-zero and I move we incorporate that entire decision with the addition. And the only other thing I would add is that the decision be in compliance with the previous Planning Board decision which did incorporate some conditions and I move passage of that application.

Richard Jurczak, Chairman: Okay would someone second.

William Mark, Alt. #1: Second

Richard Jurczak, Chairman: Seconded by Mr. Mark, any discussion? Okay, if no discussion, let's vote.

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

There were no further petitions.

Minutes:

Mr. Daniels made the motion to approve the April 22, 2020 minutes.
Mr. Mark seconded.

Whereupon a Voice Vote was Taken: All in Favor, Aye
Motion Granted, April 22, 2020 Minutes Passed Unanimously

Discussion ensued in regards to next meeting which will be held on May 27, 2020.

Adjournment:

Mr. Cagnetta made the motion for adjournment.
Mr. Daniels seconded the motion.

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

Meeting adjourned at 10:00 p.m.