



Town of South Kingstown, Rhode Island

BUILDING AND ZONING DEPARTMENT

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A meeting of the Zoning Board of Review of the Town of South Kingstown, County of Washington, in the State of Rhode Island was held at the South Kingstown Town Hall, 180 High Street, Wakefield, RI at 7:00 p.m. on Wednesday, May 25, 2022

A. CALL TO ORDER:

Mr. Cagnetta called the meeting to order at 7:01 pm

B. CHAIRMAN INTRODUCTIONS AND INSTRUCTIONS:

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

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

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

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

The standards of relief were explained.

C. AGENDA ITEMS:

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

All the documents were entered into record.

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

Ms. Krekorian submitted Applicant's Exhibit 1, revised site plan dated May 16, 2022

Ms. Krekorian indicated that they have shifted the barn structure 10' to the west and 20' to the north which moved the barn further away from the neighbors. They have also added a row of shrubs as a buffer. She believes that this property is very unique it sits in the middle of open farm and has two gravel driveways on either side of it which make it a corner lot. The front property line has always been the northerly property line and the corner side line is to the east. The Ordinance tables' state corner side, emphasis on side, however on this lot setbacks for a corner side are treated the same as a front, in essence the lot has to two (2) very restrictive 58' front setbacks. They feel that locating the barn a little bit closer to the side property line would be acceptable and that she believes that in locating this barn in the proposed located it is in keeping within the spirit of the ordinance.

Board questions ensued in regards to the pedestrian area, doors, lighting, business activity and barn locations.

Ms. Krekorian indicated the pedestrian area is just a walk thru; the orientation of the barn is the same with the doors facing to the west and to the north. They are now asking for less relief than was originally requested. They are asking for 28' of relief instead of the originally requested 38'. The standard size person door will remain on the east side and will have a downlight only, which is required

by the building code. There will be no spotlights. They may put lights on either side of the garage door, but they will be sconce type down lights. There will be no business activity associated with the proposed barn.

Ms. Krekorian stated that there were several placement options that would not require any variance but they would not work as well as this option. This option allows the barn to sit along the edge of the property and create an edge to the yard which gives the neighbors and the applicant's privacy. This location also allows the applicants to control how the barn is used in regards to facing the openings into the yard and not out towards the neighbor's property. The barn will be used for storage of cars, farm equipment, canoes, additionally there is a loft area above to be used for clean, dry storage. The structure is only 20' tall with sloping side rafters so there is not a huge amount of storage space in the loft. There will be no plumbing. There will be electricity and a woodstove inside the barn. The revised plan was sent out to all interested parties.

There were no further Board questions.

Mr. Matthew Meyer was present and sworn in.

Mr. M. Meyer handed out Objector's Exhibit 1, 4 page correspondence outlining their objections.

Mr. M. Meyer stated that this particular situation is quite challenging. He stated for the record that they have not heard from the applicant or any of his agents in regards to the revised plan before the Board tonight. They has assumed that there would be some type of collaborative effort to get to some point of reason. He then referenced the standards of relief that the Board has to adhere to. This is a private right of way and stated that there are numerous other lots in the Town that have similar conditions of a corner lot, therefore this is not a unique situation specific to only this property. There has been numerous testimony regarding "the general characteristics of the surrounding area", and the reasons stated by the applicant do not necessarily meet the standards for granting of a variance. In regards to the hardship standard and not being any result of any prior action by the applicant, this is a 2-acre site and the applicant has relocated an existing barn and has installed two (2) stone walls.

Mr. Cagnetta asked legal to clarify what any prior actions actually mean.

Mr. Skwirz stated that any prior actions of the applicant refers to if an applicant has done something that is in violation of the Town Code they cannot then use this violation as reason for their hardship to obtain relief. If an applicant is using their property as otherwise permitted and as a result need to ask relief for another use, it is not disqualified as a self-created hardship, the Board has to look at that hardship and determine if the request meets all of the other standards of relief.

Mr. M. Meyer stated that there are numerous locations on the property where the barn could be located without the need for a variance. He then asked legal to explain "not as a result of any desire for the applicant to realize any financial gain" as stated in the Ordinance.

Mr. Skwirz explained in regards to financial gain, that any time you allow for an improvement on the property the value of the property increases. It is not that you cannot have a more valuable property after the granting of relief it is that the motivation for requesting the relief cannot be for a desire to increase the financial gain that you would already be able to achieve without the relief being granted.

Mr. M. Meyer stated that they are running a bed and breakfast and the desire to move the barn further away is beneficial to the bed and breakfast and therefore would create a greater financial gain. In regards to the landscaping activities it would put those activities closer to their home. They would prefer the barn be located within the setbacks. They have struggled to have the Ordinance that is in effect today to protect a residential environment enforced. They still object. There was no communication and if there had been they would have given concrete feedback. They do not believe the applicant's request for this variance meets the standards of relief. They feel so strongly about this that if the Board grants this dimensional variance tonight, they intend to appeal any decision. There are two (2) business activities taking place at this residence.

Ms. Krekorian indicated that on May 16th she emailed all of the Meyers a copy of the revised site plan. She did not hear back from anyone so she assumed that there were no questions. She would like to add that if they did shift the barn south and within the 58' setback they would be approximately 160' of the Meyer-Gaffney dwelling as opposed to the location it is now which is 200' away.

Board questions ensued in regards to the bed and breakfast, boarders and enforcement issues.

Mr. Gorman indicated that he verified that there is an ad on Air B&B indicating the renting of rooms for the property. It is not legally permitted as a B&B therefore they cannot rent out individual rooms to boarders without obtaining the necessary special use permit. They do not have the proper permitting in place to operate a bed and breakfast. They can legally rent the entire house out. He has been out to the property and some of the complainant's statements seem valid but without drafting a notice and itemizing he is hesitant

to say. There are no current violations. He will follow up on the potential violations, there is an ad online that can be verified in regards to the renting of rooms.

Mr. James Meyer was present and sworn in.

Mr. J. Meyer indicated that there is an Air B&B rental but no Bed and Breakfast. The ad that shows up on Google is no longer valid and they have not been able to remove it from internet search engines. There is no other commercial activity, landscaping or otherwise on the property. His son does landscaping but all of his equipment is stored off-site. There is no large professional landscaping equipment on the property. His son uses his equipment to mow their lawn. Mr. Gorman is welcome to come down at any time and inspect the property.

Board questions ensued in regards to Air B&B and storage of commercial equipment on an R200 parcel.

Mr. Skwirz indicated that there is a State law that says a municipality cannot prohibit homeowners from renting out their homes on Air B&B; renting by the room is different and not covered under State law.

Mr. Gorman indicated that if equipment is associated with a business and there is a farm located on the premises, the equipment can be used off-site as well as on-site. If there is a landscaping business that is advertising and operating off-site only that would not be permitted and the commercial equipment cannot be stored on site.

Mr. Daniels asked Mr. Gorman to reference the specific use code regarding landscaping effort not being permitted in an R200 zone.

Mr. Gorman needed a moment to review the Ordinance.

Mr. Henry Meyer was present and sworn in.

Mr. H. Meyer stated that he is not here to object but to offer some thoughts and present a reasonable alternative. He stated that he spoke with Amy Sonder, PLS after the last meeting and suggested possibly using Trustom Road as an access point and moving the structure north while staying out of the northerly setbacks. This would mean any equipment coming in would be further away from the Meyer-Gaffney house and also eliminate the turning effect, as this new location would locate the driveway as a straight shot into the garage. This proposed location would not create any additional disturbance. Additionally landscaping could wrap the structure along the east and southerly side of the proposed barn to create more of a buffer between neighbors. All barns and farm equipment make noise; it is the nature of farm industry. He would like to see a solution and could hopefully wrap things up in a positive way. He did receive the email correspondence from Laura Krekorian with the revised site plan. He also stated for the record that the former barn is not germane to the application before the Board and that the property at that time was owned by one person and there were no setbacks in place at the time.

Mr. Daniels stated that although Mr. H. Meyer's testimony is certainly reasonable the Board is not a mediation board and unfortunately can only decide what is before them and not mediate issues.

Mr. Gorman indicated that the closest fit for landscaping is Use Code 46, Construction Services. He cannot confirm right now what exactly is taking place as a landscape business and what may be accessory to the dwelling.

Mr. Skwirz stated that if a use is not specifically listed, under section 300C the zoning officer can then decide if it is substantially similar to an existing use, if it is not then it would be prohibited. So with landscaping uses it would be what the best fit for that particular use is.

Mary Anne Gaffney was sworn in.

Ms. Gaffney testified that since their initial complaints many things have been moved, but there are still many violations. Her concern is that anything that is put in place tonight will not be enforced if it is not followed. She did not receive any correspondence regarding the revised site plan. The landscaping shown is not what was discussed at the last meeting and that she is not sure if the proposed landscaping is going to work as a buffer. She addressed concerns about car lights shining directly in her house and she stated that it does have an overall impact on the enjoyment of their property.

Board discussion ensued in regards to moving the barn as suggested earlier by Mr. H. Meyer.

Ms. Krekorian indicated that they could move the barn 58' from the front and move the driveway off of Trustom Road, they are concerned that regardless of what was submitted the objector's would appeal any favorable decisions as they had stated.

Mr. Daniels stated that regardless of appeals it is the Boards duty to make a sound decision.

Ms. Krekorian submitted applicant's exhibit 2, revised site plan moving the barn closer to Trustom Road as suggested by Mr. H. Meyer.

Board discussion ensued in regards to screening and the new proposed location of the garage and amount of relief being required.

Mr. M. Meyer and Ms. Gaffney reviewed applicant's exhibit 2 showing the garage moved further north.

There was no more testimony.

Board discussion ensued.

The Board took a 10 minute recess for the parties to discuss the proposal.

The Board reconvened at 8:20.

Ms. Krekorian indicated that they would like to go forward with the most recent revision, Applicant's exhibit 2.

There was no further discussion.

Whereas a motion was made.

The Motion is as Follows:

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

At a meeting held on May 25, 2022 regarding the Petition James Meyer & Maureen Rooney, 836B Matunuck School House Road, Wakefield, RI 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct a 26' x 36' detached barn for storage of vehicles and farm equipment. The proposed garage will be located 30' from the corner-side property line. The required corner-side setback is 58'. Relief of 28' is requested. Lot size is 1.94 acres. A Dimensional Variance is required per Zoning Ordinance Section 208 (Non-Conforming Lot of Record – Accessory Building Setback Requirements) and Section 907 (Standards of Relief). Owner of the property is James T. Meyer & Maureen F. Rooney for premises located at 836B Matunuck School House Road, South Kingstown, Assessor's Map 85-4, Lot 8 and zoned R200.

The following individuals spoke as representatives of the applicant:

- Laura Krekorian, AIA
- Amy Sonder, PLS
- James Meyer, applicant
- Thomas Meyer, applicant's son

The following spoke in regards to the petition.

- Matthew Meyer, 836C Matunuck School House Road
- Mary Anne Gaffney, 836C Matunuck School House Road
- Henry Meyer, 836D Matunuck School House Road
- Timothy Meyer, 836A Matunuck School House Road

The following materials were entered into the record:

- Signed Application; Designee Letters (2) signed, dated & notarized January 20, 2022; Owner Authorizations (2) signed and notarized January 20, 2022; Plans, Sections & Details (A1 & A2) dated November 11, 2022 and prepared by Laura Krekorian, AIA and stamped by Laura Krekorian, AIA and Ernest George, PE; Proposed Site Plan dated January 12, 2022 and prepared and stamped by Amy Sonder, PLS; Photo (1) of existing garden and barn; 3D sketch drawn by Laura Krekorian, AIA dated August 26, 2021
- 200' Radius Map and Abutter's List; Legal Notice; Proof of Certified Mailings and Notarized Affidavit of Mailing
- Supplemental Materials
 - Correspondence from James Meyer and Maureen Rooney (2 pages)
 - Photographs (2)

- Survey Plan showing a Conservation Easement of Windy Meadows dated November 5, 1999 (1 page)
- Proposed Site Plan (1 page) dated January 12, 2022, prepared and stamped by Amy Sonder, PLS on January 14, 2022
- Off-set image (1 page)
- Site Plans of Windy Meadow Residential Compound (3pages) dated August 19, 1986, August 14, 1991 & December, 1998 prepared by Easterbrooks & Associates, C.E.
- Deed of Conservation Easement (9 pages), recorded January 8, 1999 in South Kingstown Land Evidence Book 0748 and Pages 136-144
- Exhibits
 - Applicant’s Exhibit 1, Revised Site Plan (1 page) prepared by Amy Sonder, PLS and dated May 16, 2022
 - Applicant’s Exhibit 2, Revised Site Plan (1 page revised during May 25, 2022 meeting) showing barn moved 30’ west of property line and located 58’ from northerly property lines with driveway access from Trustom Road.
 - Objector’s Exhibit 1, 4 page correspondence outlining objections received May 25, 2022
- Supplemental Material
 - Revised Site Plan (1 page) prepared by Amy Sonder, PLS and dated May 16, 2022
- Correspondence
 - 1. Tim Meyer, 836A Matunuck School House Road
 - 2. Henry Meyer, 836D Matunuck School House Road
 - 3. Matthew Meyer and Mary Anne Gaffney, 836C Matunuck School House Road (letter)
 - 4. Matthew Meyer, 836C Matunuck School House Road (Email with 15 pictures)
 - 5. Matthew Meyer, 836C Matunuck School House Road (Email with Site Plan)
 - 6. Matthew Meyer, 836C Matunuck School House Road
 - Email (1 page)
 - Variance Objection (1 page)
 - Applicant’s Exhibit A – alternative barn location (4 pages)
 - Applicant’s Exhibit B – Previous use of Barn and Property (48 pages)

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 parcel was formerly one large farm parcel that was subdivided to create several lots for the family. In the creation of this subdivision the applicant’s parcel (Map 85-4, Lot 8) was created between Trustom Road and Windy Meadows Lane, causing this parcel to have both a front accessory setback of 58’ and a corner side accessory setback of 58’, both of which restrict the viable locations the proposed barn could be located on 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 the proposed barn will clean up the lot and is needed to house cars and other equipment that is currently located outside. No evidence was put on the record to indicate that the applicant is requesting the variance for financial gain and there is no evidence that the applicant acted in violation of the Town Zoning Ordinance and is requesting relief to alleviate the illegality.
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 is an R200 parcel that was once part of a large farm. There are currently other historic barns located within this subdivision. Additionally, it is not uncommon to locate a barn adjacent to a road for ease of ingress and egress especially during inclement weather.
4. The Board finds that the relief to be granted is the least relief necessary, because the applicant has made several revisions to the original plan and, as a result of concerns brought up by neighbors has located the barn further away from the 58’ setback than originally requested. This proposed location will leave a reasonable amount of space between the road and the barn and still allow the applicant use of his front lawn.
5. The Board finds 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 the proposed barn were located within the required setbacks it would be inconsistent with the property and the general surrounding area.

Approval is conditional and subject to the following conditions:

- The proposed barn will be moved in 30’ from Windy Meadows Lane and 58’ from Trustom Road.
- The driveway will be accessed from Trustom Road.

- There will be evergreen screening on the east of the barn consisting of 8 trees that are 8-10' on center and maintaining 5-8' height which will be moved north in conjunction with the barn's location.
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D. OTHER BUSINESS:

I. Attendance for June 15, 2022 Zoning Board of Review, all member present can attend.

E. ADJOURNMENT:

I. Mr. Daniels made the motion to adjourn the meeting at 8:36 p.m. The motion carried by unanimous vote with no abstentions and the meeting was adjourned.