

Town of South Kingstown, Rhode Island

BUILDING AND ZONING DEPARTMENT

180 High Street
Wakefield, RI 02879
Tel (401) 789-9331 x1224
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ZONING BOARD OF REVIEW

Garrett Homes LLC
Attn: Gary Eucalitto
PO Box 748
Torrington, CT 06790

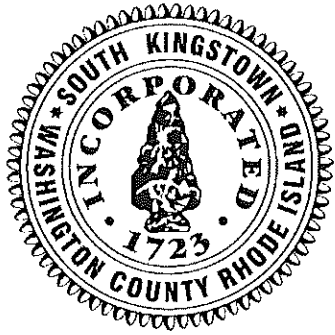
May 13, 2020

Dear Mr. Eucalitto,

At a meeting of the Zoning Board of Review held April 29, 2020 the Zoning Board of Review voted on the Amended Decision of Denial for a Special Use Permit for 1860 Kingstown Road, South Kingstown, RI. Enclosed is the recorded decision for your records.

Yours truly,

Wayne Pimental, Clerk
Zoning Board of Review
Town of South Kingstown



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ZONING BOARD OF REVIEW NOTICE OF DECISION

Amended Decision – Denial of Special Use Permit

Petition of Garrett Homes, LLC, Attn: Gary Eucalitto, 6 Williams Way, Harwinton, CT 06791 for a Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking to construct a 7,545 square foot retail trade structure. The Planning Board advisory Development Plan Review was denied on October 15, 2019. Lot size is 50,666 square feet. A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations) and Section 907 (Standards of Relief). Owner is South Shore Mental Health (Gateway Healthcare, Inc.) for premises located at 1860 Kingstown Road, South Kingstown, RI, Assessor's Map 40-1, Lot 125 and is zoned MU (Mixed Use). Use code is 55-Retail Trade, up to 10,000 square feet of GLFA (Gross Leasable Floor Area) use.

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 November 20, 2019. The Board voted unanimously (5-0) to deny the application. The Board's original decision denying the application was recorded on December 9, 2019. Thereafter, the applicant filed a timely appeal to the Superior Court. By agreement of the Board and the Applicant, the Board hereby adopts this Amended Decision to facilitate judicial review.

John F. Kenyon, Esq., represented Garrett Homes, LLC (the "Applicant"), who presented testimony from the following individuals: Matthew Bruton, of BL Companies, project manager and civil engineer; Michael Dion, also of BL Companies, traffic engineer/senior project manager; and Doug Grunert, of BKA Architecture, senior project manager.

The Board also heard testimony from the following individuals who were not represented by counsel: Jamie Murdock; Stacy Kirkwood; Kristy Ross; Kelly Reagan; Lawrence Rothstein; Robert Schleinig; and Alex Murdock. In general, the objectors expressed concerns regarding the following subjects: consistency with the Comprehensive Plan and Zoning Ordinance; traffic issues; water runoff; and emergency vehicle access.

The Board notes that the Planning Board reviewed this application on an advisory basis, and declined to grant advisory development plan review and approval on October 15, 2019. This amended decision was prepared by legal counsel for the Board and was reviewed and approved by the Board at a duly-noticed meeting on April 29, 2020.

Pursuant to Sec. 907(A) (2), the Board hereby finds as follows:

Findings of Fact and Conclusions of Law – Special Use Permit

- a. That the special use is specifically authorized by this Ordinance, and setting forth the exact subsection of this Ordinance containing the jurisdictional authorization;
 - **Finding:** Sec. 301 of the Ordinance (Schedule of Use Regulations Table) indicates that Use Code 55, Retail Trade, up to 10,000 s.f. GLFA/use, is permitted by special use permit in the MU (Mixed Use) zoning district.

- b. That the special use meets all of the criteria set forth in the subsection of this Ordinance authorizing such special use;
 - **Finding:** The Ordinance sets forth no specific criteria for this use; therefore, only the general special use permit criteria apply to the application.

- c. That the granting of the special use permit **will** alter the general character of the surrounding area or impair the intent or purpose of this Ordinance or the Comprehensive Plan of the Town. In so doing, the Board shall consider whether or not satisfactory provisions and arrangements have been or will be made concerning, but not limited to the following matters, where applicable:
 - (i) Ingress and egress to the lot and to existing or proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire, emergency or catastrophe;
 - (ii) Off-street parking and loading areas where required, with particular attention to the items in subsection A.1., above, and the noise, glare or odor effects of the special use permit on adjoining lots;
 - (iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above;
 - (iv) Utilities, with reference to locations, availability and compatibility;
 - (v) Screening and buffering with reference to type, dimensions and character;
 - (vi) Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district;
 - (vii) Required yards and other open space;
 - (viii) General compatibility with lots in the same or abutting zoning districts.
 - **Findings:** The Board accepts and relies upon the Planning Board’s advisory decision in this matter. The granting of approval would alter the intent or purpose of the Zoning Ordinance and would result in conditions inimical to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire, emergency or catastrophe.

Specifically, the location of the proposed loading/unloading space relative to the service entrance for the retail store will create hazardous conditions. The loading/unloading area is physically separated from the proposed store, such that deliveries received must be moved by hand truck, dolly, or other mode from the delineated loading/unloading area across the proposed parking lot in order for deliveries to reach the store. The movement of delivery materials across the parking lot will result in conflicts between customer and employee vehicular traffic on the site and loading/unloading activities, which constitutes a safety hazard. Delivery trucks will be required to back up on site, creating a hazard to pedestrians and motorists. The conditions created by the location of the loading/unloading area are driven by the constraints on the site, and the loading/unloading area should have been designed to ensure safety for all users of the site, including delivery personnel. Additionally, delivery trucks will interrupt traffic flow along Kingstown Road when exiting the site. The Applicant requires use of a large tractor-trailer truck with an approximate length of 68' for deliveries on the site. A vehicle of this size must utilize the full width of Kingstown Road, including both northbound and southbound travel lanes, in order to exit the property, as depicted on the exhibit showing proposed delivery truck ingress and egress. This interruption of traffic flow on Kingstown Road will result in conditions inimical to automotive and pedestrian safety and increase the propensity for unacceptable parking along the roadway. The proposed structure is simply too big for the site, considering the constraints to development on the site. If the building had been scaled down, ingress/egress and on-site traffic patterns could have been improved, and a large delivery truck would not necessarily be required. The overriding purpose of the Zoning Ordinance is the promotion of public health and safety. Granting this special use permit would impair that overarching purpose, for the reasons articulated herein.

Record of Vote on Amended Decision

Motion to approve the amended decision denying the special use permit made by Mr. Daniels, seconded by Mr. Mark.

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

Members voting against: None

The motion carried [5-0] and the amended decision was approved, denying the application.



Wayne Pimental, Clerk
Zoning Board of Review
Town of South Kingstown