

July 6, 2020
32 Tomahawk Trail south
Wakefield, RI 02879
Juliet484cob@yahoo.com

Rec. 07/09/2020

Town of South Kingstown
BUILDING and ZONING DEPARTMENT
Zoning Board of Review: Wayne Pimental, Clerk
180 High Street
Wakefield, RI 02879

RE: In regard to the petition of: **Arthur H. Parmentier**
15 Tomahawk Trail south Plat 34-2 Lot 178 R20
South Kingstown, RI 02879

for a **Dimensional Variance. Public Hearing Wednesday July, 15, 2020 @ 7:00 pm.**

Dear Zoning Board of Review,

We received a Certified Zoning Variance notice for Arthur H. Parmentier dated June 23, 2020. Please note the following in our review of the Application Documents Petition which are cited on <http://www.southkingstownri.com/1000/Current-Zoning-Applications>.

The **Proposed Site Plan** has been prepared for a **Hilton Parmentier**.

#12: "Applying for permit to relocate existing shed, that is currently closest to the water, to the front yard". "SECTION 503.1 (Accessory Structures) NO accessory structure shall be located in any front yard, except flag poles, signs, and structures (not to exceed 500 square feet, nor exceed 10 feet in height) related to public safety, transportation or utilities".

Please also note the required Applicant Signature is absent on the form which states: ***"The undersigned declares that the information given herein is a true statement to the best of his/her knowledge and belief"***.

Building Regulations are created by the Town and enforced for the Rights and protection of fellow property owners for the benefit of all, not solely for one individual. This area of Indian Lake Shores Fire District (North Plat) is a relatively small residential area and the implication(s) of a Variance Relief for Mr. Parmentier to re-locate his shed to the front yard is not taking into account the character of the neighborhood, nor the established Rules of Section 503.1.

We cannot agree to Mr. Parmentier's request for a Variance Relief for his request to move a shed, especially as the information with regard and noted above which is required in the Application is not represented with accuracy for the record.

Respectfully,
Mr. and Mrs. James W. Eastwood III
Cc: jspence@southkingstownri.com

RECEIVED 7/13/2020

-----Original Message-----

From: Marshall Feldman <marshfeldman@cox.net>

Sent: Monday, July 13, 2020 3:15 PM

To: Jessica Spence <jspence@southkingstownri.com>

Cc: Karla Steele <KarlaSteele@Cox.net>

Subject: Comments on Petition of Arthur H. Parmentier, 15 Tomahawk Trail South, South Kingstown, RI 02879

South Kingstown Zoning Board of Review

Town Hall

180 High Street

Wakefield, RI 02879

(Sent via Email to jspence@southkingstownri.com)

PLEASE ACKNOWLEDGE RECEIPT OF THIS MESSAGE BY EMAIL

Dear Sir or Madam:

We received a Notice of Public Hearing Under the Zoning Ordinance concerning an application for a Dimensional Variance at 15 Tomahawk Trail South, South Kingstown, RI 02879. The cover letter is dated June 19, 2020 and the Notice was sent on June 23. As per its instructions, we are sending you the attached Comments via email.

We are the owners of 5 & 9 Tomahawk Trail South (Assessor's Lot 179 in Assessor's Plat 34-2), which abuts 15 Tomahawk Trail South on its north side.

Sincerely,

Karla M. Steele (also on behalf of the Karla M. Steele Trust)

Marshall Feldman

Comments Opposing Dimensional Variance at 15 Tomahawk Trail South

These comments oppose the proposed Dimensional Variance primarily because it violates the Zoning Ordinance by: (1) violating §503.1 (no accessory structures in front yards) and (2) fails to meet any applicable Zoning Board of Review standards for relief in §907.A.1.

Violation of Zoning Ordinance §503.1

§503.1 reads: “No accessory structure shall be located in any required front yard, except flagpoles, signs, and structures (not to exceed 500 square feet in area nor exceed ten feet in height) related to public safety, transportation or utilities.”

This by itself prohibits structures unrelated to public safety, etc. in front yards. And the barely legible drawing of the shed seems to indicate it is 11 ft. 8 in. high. So, even if the Ordinance permitted structures in front yards, this specific structure would be prohibited.

Failure to Meet Standards for Relief (§907.A.1)

Zoning Ordinance §907.A.1 binds the Zoning Board of Review to apply six standards for variances. One, (e), applies only to Use Variances. This application for a Dimensional Variance does not meet any of the remaining five.

§907.A.1: Applicant Gives No Reasons for the Request

Some standards apply to reasons for the request, which is why Item 12 on the Application form asks applicants to “state reasons why you are requesting relief.” In response, this Application simply says, “Applying for permit to relocate existing shed, that is currently closest to the water, to the front yard.” This just says what is being requested but gives no reason for the request itself.

§907.A.1.a: Relief must be from specific hardships

This standard stipulates that a variance must only be given to relieve hardships “due to the unique characteristics of the subject land or structure ... and not due to a physical or economic disability of the applicant ...” except to accommodate various other statutes. In this case, no hardship has been demonstrated, and indeed one could not be demonstrated because the shed is already in use on the property and has been there for considerable time.

§907.A.1.b: Hardship must not result from applicant’s prior action

This standard allows granting a variance only if the applicant has done nothing that would make a variance desirable. But the Applicant is currently enlarging and renovating the house, and the desire to relocate the shed appears to originate from this. Perhaps the shed is in the way of new construction or blocks a newly opened view. This is only speculation, but because the

Applicant has given no reason for moving the shed, speculation is the only way one can imagine what motivates this request. Since the Applicant has owned the property since last October and did not file an application for a variance until construction was well underway, it appears the desire to move the shed results from the Applicant's renovation activities.

§907.A.1.c: "... variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of this Zoning Ordinance or the Comprehensive Plan"

The requested variance violates this standard in many ways:

- It is out of character with the surrounding area. No other house on this street has a storage shed in front of the house.
- The property already does not conform to the current Zoning Ordinance standards because of its lot size and non-conforming side setbacks. This variance would add yet another non-conforming characteristic.
- When regulations conflict, §201 of the Zoning Ordinance requires application of "the most restrictive regulations"; §204.A allows "continuance" of nonconforming dimensions only if they were lawfully established prior to the current Ordinance; and §204.C requires any structure moved "to any other location on the lot" to "conform to all of the dimensional requirements of the zone in which it is located." According to the Vision Assessing Card on the Town's Web GIS, the lot is zone R20, and according to §207, the required side setback for R20 is 10 ft. Therefore, a structure relocated anywhere on the property must have at least a 10 ft. side setback. The proposed relocation does not meet this standard.

§907.A.1.d: "... relief to be granted is the least relief necessary"

No relieve is necessary. The shed is already on the property and has been used for some time. The least relief necessary is leaving it where it is.

§907.A.1.f: "... if the dimensional variance is not granted [hardship] shall amount to more than a mere inconvenience, ... [there must be] no other reasonable alternative to enjoy a legally permitted beneficial use of one's property."

There is an obvious reasonable alternative: leave the shed where it is. According to the Vision Assessing Card, Applicant purchased the property on 10/15/2019. Except for the renovation, which §907.A.1.b precludes from being acceptable grounds for a variance, nothing substantial has changed since then. It is hard to see how leaving the shed in place could be anything more than an inconvenience.