



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 November 18, 2020.

Members Present:

- Robert Cagnetta, Chair
- Thomas Daniels, Vice-Chair
- William Mark, Member
- William Rosen, Alt. #1
- Casey Charkowick, Alt. #2

Also present were, Amy Goins, Special Legal Counsel, Jamie Gorman, Interim Building Official and Clerk, and Jessica Spence, Administrative Support Associate.

Mr. Cagnetta opened the meeting at 7:00 pm

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

Members voting tonight will be Mr. Cagnetta, Mr. Daniels, Mr. Mark, Mr. Rosen and Mr. Charkowick

Mr. Cagnetta read the first petition.

- **Petition of Kevin J. McDonough**, PO Box 563, East Greenwich, RI 02818 for a **One-Year Extension on a Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking a one year extension of the existing dimensional variance granted on November 20, 2019 and recorded on December 10, 2019. **An extension of the Dimensional Variance is required per Zoning Ordinance Section 910-A (Expiration of Variances and Special Use Permits) and 907 (Standards of Relief)**. Owner is Kevin J. and Mary Lee McDonough for premises located at 176 Browning Street, South Kingstown, RI, Assessor's Map 96-2, Lot 46 and is zoned R-80.

Mr. Cagnetta read into record the letter requesting a one-year extension.

Record reflects the McDonough's acknowledged the letter.

Ms. Rosen asked if due to COVID a two-year extension could be granted.

Ms. Goins stated that under the Zoning Ordinance the Board only has the authority, at this time, to grant a one-year extension. Ms. Goins also clarified that the extension would be good from the original date of recording, December 10, 2019.

Mr. Mark made the motion to grant the one-year extension to the dimensional variance and duly seconded by Mr. Rosen.

There was no further discussion

The motion is as follows:

**The following motion, made by Mr. Mark and duly seconded by Mr. Rosen
Motion passed unanimously: Vote 5-0
(W. Mark-Aye, W. Rosen -Aye, T. Daniels-Aye, C. Charkowick -Aye, R.
Cagnetta-Aye)**

At a meeting held on November 18, 2020 regarding the Petition of Kevin J. McDonough, PO Box 563, East Greenwich, RI 02818 a request for a One-Year Extension on a Dimensional Variance was granted under the Zoning Ordinance as follows: The applicant is seeking a one year extension of the existing dimensional variance granted on November 20, 2019 and recorded on December 10, 2019. An extension of the Dimensional Variance is required per Zoning Ordinance Section 910-A (Expiration of Variances and Special Use Permits) and 907 (Standards of Relief). Owner is Kevin J. and Mary Lee McDonough for premises located at 176 Browning Street, South Kingstown, RI, Assessor's Map 96-2, Lot 46 and is zoned R-80.

The following materials were entered into the record:

- Extension request letter dated and signed on October 9, 2020
- Previous zoning decision granted on November 20, 2019 and recorded on December 10, 2019 in Land Evidence Book 1726 Page 436, 437

There was no one present who spoke in favor of or opposition to the petition.

Findings of Fact:

Motion to extend the Dimensional Variance until December 10, 2021 is made under Zoning Ordinance Section 910A and 907 and the Board finds that the applicant has shown just cause to grant the one year extension.

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

Mr. Cagnetta read the second petition.

- **Petition of Dianne Edson.** 278 Matunuck Beach Road, South Kingstown, RI 02879 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to expand an existing 2nd story accessory apartment by 204 square feet. The accessory apartment is currently 750 square feet in area, the maximum allowed. Relief of 204 square feet is requested. Lot size is 4.59 acres. **A Special Use Permit is required per Zoning Ordinance Section 503.2 (Accessory Apartments) and Section 907 (Standards of Relief).** Owner of the property is Diane M. Edson for premises located at 278 Matunuck Beach Road, Assessor's Map 86-2, Lot 25 and zoned R-200

Dianne Edson was present and sworn in.

Ms. Edson explained that she is seeking permission to expand her living area to accommodate her fiancé's mother in law who has some substantial medical issues. They are looking for some extra room to accommodate her needed medical equipment and offer her some privacy.

Board questions ensued in regards to amount of relief being sought and the Tax Assessor's field cards.

Ms. Edson clarified that she is asking for less relief than needed, she actually needs 10.6' x 17' totaling 178.5 square feet and no external relief is needed.

Ms. Goins clarified that the Tax Assessor's field cards are not to be used for legal determination of size and that the Building Official will verify all dimensions.

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

There was no further discussion

The motion is as follows:

**The following motion, made by Mr. Daniels and duly seconded by Mr. Mark
Passed unanimously 5-0
(T. Daniels-Aye, W. Mark-Aye, W. Rosen-Aye, C. Charkowick-Aye, R. Cagnetta-Aye)**

At a meeting held on November 18, 2020 regarding the Petition of Dianne Edson, 278 Matunuck Beach Road, South Kingstown, RI 02879 a Special Use Permit was granted under the Zoning Ordinance as follows: The applicant is seeking to expand an existing 2nd story accessory apartment by 204 square feet. The accessory apartment is currently 750 square feet in area, the maximum allowed. Relief of 204 square feet is requested. Lot size is 4.59 acres. A Special Use Permit is required per Zoning Ordinance Section 503.2 (Accessory Apartments) and Section 907 (Standards of Relief). Owner of the property is Diane M. Edson for premises located at 278 Matunuck Beach Road, Assessor's Map 86-2, Lot 25 and zoned R-200

The following individuals spoke as representatives of the applicant:

- Dianne Edson, applicant

No one present spoke in support of or opposition to the petition.

The following materials were entered into the record:

- Application with narrative signed and dated October 1, 2020; Owner Authorization Form signed and notarized October 6, 2020; Site Plan from South Kingstown WebGIS; Current and Proposed floor plan
- Applicant's Exhibits
 - A. Vision Appraisal Field Card
 - B. Deborah E. Bailey After Visit Summary
 - C. Photographs of Existing Conditions 1-3
- Radius Map, 200' Abutter's List, Legal Notice and Certified Mailing Receipts with Affidavit of Mailing

Findings of Fact:

1. The Board finds that the special use is specifically authorized by this Ordinance, because a Special Use Permit is required per Zoning Ordinance Section 503.2 (Accessory Apartments) and Section 907 (Standards of Relief).
2. The Board finds that the special use meets all of the criteria set forth in the subsection of this Ordinance authorizing such special use, because this is an existing 750 square feet accessory apartment which are allowed under the Ordinance and the 178.5 square feet expansion is needed to accommodate the special needs of an elderly relative.
3. The Board finds that granting of the special use permit will not 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 has considered 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; not applicable, existing ingress and egress already in effect.

(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; not applicable

(iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above; not applicable

(iv) Utilities, with reference to locations, availability and compatibility; already existing

(v) Screening and buffering with reference to type, dimensions and character; not applicable

(vi) Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district; not applicable

(vii) Required yards and other open space; not applicable

(viii) General compatibility with lots in the same or abutting zoning districts, because this is an existing accessory apartment and no exterior expansion is needed, only interior relief is being granted.

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

Mr. Cagnetta read the third petition.

- **Petition of Michael McGonagle**, 184 Kenyon Avenue, South Kingstown, RI 02879 For a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to reconstruct a detached garage which was previously destroyed by fire. The proposed 576 square feet garage will be relocated on a new foundation in a new location. The required accessory structure side setback is 6'. The proposed garage will be 4' from the southerly side lot line. Relief of 2' is requested. The maximum accessory structure building height is 15'. The proposed garage will be 18' high. Relief of 3' is requested. Lot size is .25 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 Michael P. and Nancy M. McGonagle for premises located at 184 Kenyon Avenue, Assessor's Map 64-1, Lot 105 and zoned R-10.

Michael McGonagle was sworn in and testified that their previous garage was destroyed by fire back in June. They are looking to rebuild the garage and they are seeking to slightly expand the footprint so it can hold a vehicle while also moving it a little bit further from the neighbor's garage. In addition, they need a height variance to keep the garage in line aesthetically with the house and also allow for storage above. The existing foundation is an old stone foundation and not really re-usable, in addition they are looking to keep the same driveway opening.

Board questions ensued in regards to garage parking spaces, unfinished storage space above and previous garage footprint.

Mr. McGonagle explained that they are looking for a small increase in the width and relief in the depth to better fit a car, the height of the new garage will be similar in height to the now demolished garage.

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

There was no further discussion.

The Motion is as follows:

**The following motion, made by Mr. Mark and duly seconded by Mr. Rosen
Motion passed unanimously: Vote 5-0
(W. Mark-Aye, W. Rosen-Aye, T. Daniels-Aye, C. Charkowick-Aye, R. Cagnetta-Aye)**

At a meeting held on November 18, 2020 regarding the Petition of Michael McGonagle, 184 Kenyon Avenue, South Kingstown, RI 02879 a Dimensional Variance was granted under the Zoning Ordinance as follows: The applicant is seeking to reconstruct a detached garage which was previously destroyed by fire. The proposed 576 square feet garage will be relocated on a new foundation in a new location. The required accessory structure side setback is 6'. The proposed garage will be 4' from the southerly side lot line. Relief of 2' is requested. The maximum accessory structure building height is 15'. The proposed garage will be 18' high. Relief of 3' is requested. Lot size is .25 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 Michael P. and Nancy M. McGonagle for premises located at 184 Kenyon Avenue, Assessor's Map 64-1, Lot 105 and zoned R-10.

The following individuals spoke as representatives of the applicant:

- Michael McGonagle, applicant

The following materials were entered into the record:

- Application signed and dated October 9, 2020; Owner Authorization Form signed and notarized October 9, 2020; Location Plan prepared by Steven Pinch P.L.S. dated September 2020 and revised October 2, 2020; Elevations (A1) prepared by Ocean State Drafting dated September 28, 2020
- Radius Map, 200' Abutter's List, Legal Notice and Certified Mailing Receipts with Affidavit of Mailing

There was no one who spoke in favor of or opposition to the petition.

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 former structure which was lost to fire, was actually closer to the lot line and the area where the replacement structure is going to located is very tight which is not unusual to the neighborhood's small lot sizes.
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 previous structure was destroyed by fire and the new structure will be similar in size and be better suited to park car(s) and allow for storage above.
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 applicant is proposing the same use that was previously there and under Sections 401 and 907 the proposed replacement structure is modest in size and fits within the Zoning Ordinance regulations.
4. The Board finds that the relief to be granted is the least relief necessary, because the applicant is shortening his driveway length in an effort to minimize setback relief needed and still allow sufficient garage parking and storage space.

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 the original garage structure was lost to fire and a garage is needed for vehicle parking and storage.

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

Mr. Cagnetta read the forth petition.

- **Petition of Jacquelyn French c/o Leslie Mahoney**, 6 Bubier Road, Marblehead, MA 01945 For a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a 288 square feet covered deck and 150 square feet covered deck on the west side of dwelling. The roof will be extended over the existing 72 square feet deck located on the south side. The exterior stairs located on the east side of dwelling will be removed and replaced with a 48 square feet covered stair and landing. The west side covered decks will be located 7' from the front property line and 2.8' from the side property line. The east side covered stairs and landing will be located 8' from the front property line. The required front setback is 25'. Relief of 18' is requested. The required side setback is 10'. Relief of 7.2' is requested. The Lot size is 10,229 square feet. **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 Jacquelyn M. French for premises located at 14 Eldred Court, South Kingstown, RI, Assessor's Map 57-4, Lot 218 and is zoned R-10.

Jacquelyn French, property owner, was sworn in.

Ms. French testified that they are in the process of doing some home renovations, both interior and exterior and the lot is non-conforming limiting what can be done. She then explained that she is looking to replace the steps and landing on the east side that are in bad repair and need replacing. They would also like to put in a new covered landing to accommodate bad weather. In addition, they are looking to add a dormer on the front of the house to accommodate a bathroom. In the back of the house they are looking to expand the kitchen and add some decking to create outdoor living space, some of the decking will be covered and some will remain uncovered.

Leslie Mahoney, architect, was sworn in.

Mr. Cagnetta asked if the dormer can be considered if it was not advertised.

Ms. Mahoney explained that the dormer does infringe upon the front yard setback.

Ms. Goins expressed concerns that there is an aspect of the application that was not noticed in regards to the dormers and her suggestion is that the application either be continued in its entirety or file a separate application for the dormers at a later time.

Ms. Mahoney stated that the dormer is set back further than the steps so they are actually asking for less relief.

Ms. Goins stated that under an abundance of caution, the petition should be re-noticed.

Discussion ensued in regards to how Ms. French would like to proceed and if relief is needed for the dormer.

Ms. Goins stated again that proper notice is really the issue at hand.

Ms. French indicated that they would like to continue the application until the December 16, 2020

Mr. Rosen made the motion to continue the petition until December 16, 2020 and was duly seconded by Mr. Daniels.

Ms. Goins advised that in the event that the same members are not present next month, the petition can still be heard, because no substantive testimony had been presented yet.

Mr. Light, neighbor to the south side of applicant's property, spoke and said that their biggest concern was not with the dormer, rather with the south side deck that will be built within 2'8" of his property and the eaves that will come even closer than 2'8" to their property.

Mr. Cagnetta stated that this will all be addressed at the next meeting after the applicant has given all of their testimony.

Whereas a vote was taken:

W. Rosen-Aye, T. Daniels-Aye, C. Charkowick-Aye, W. Mark-Aye, R. Cagnetta-Aye
Motion passed 5-0, petition continued until December 16, 2020

Mr. Cagnetta read the fifth petition

- **Petition of Peter and Christine Naktensis c/o Vincent Babak**, 195 Tunxis Hill Road, Suite 203, Fairfield, CT 06825 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a three story addition on the front of the existing single family dwelling. The proposed addition will be located 35' from the front property line. The required setback is 40'. Relief of 5' is requested. The proposed addition will make the total Lot area coverage 1,627 square feet. The maximum lot area coverage allowed in an R-30 zone is 20%. Relief of 127 square feet is requested. Lot size is 7,500 square feet. **A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming lots of record-Building setback requirements) and Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief).** Owner of the property is Peter A. and Christine M. Naktensis for premises located at 69 Rosebriar Avenue, Assessor's Map 96-1, Lot 43 and zoned R-30.

Ed Diamond, architect, was sworn in.

Mr. Diamond testified that their task was to design an addition to a small 900 square foot cape. The owners were in need of more living, bedroom and storage space. The addition will be 3-story high and will not require any height relief. Mr. Diamond then explained where they need relief and why. The first floor only would need to be extended by 5' to accommodate the garage, not the entire 3-story structure.

Board questions ensued in regards to amount of lot coverage relief being sought.

Discussion ensued in regards to relief needed.

Mr. Gorman indicted he would do the math in regards to lot coverage needed.

Mr. Diamond further explained the need for the addition. The current home only has one bedroom and has limited storage. In the design they felt a deck on the third level would bring the massing down on the overall house and fit better into the neighborhood. The septic will be re-designed to accommodate a 3-bedroom OWTS.

Mr. Gorman reviewed the total lot area which is 7500 square feet, they are allowed 1500 square feet by right, the existing house is 900 square feet, the existing deck is 100 square feet, the existing shed is 64

square feet and the proposed addition is 563 square feet for a grand total 1627 square feet which was what was advertised

Ms. Goins advised that the application can go forward and that the building official will have final review of everything to make sure the Zoning Board decision has been satisfied.

Questions ensued in regards to the new OWTS that will be designed and potential wetlands.

Mr. Diamond indicated that the new OWTS will meet any required RI DEM regulations including proximity to wetlands.

Two letters from Mr. Bert Hess were read into record.

Ms. Goins advised that zoning variance requests should not be delayed due to COVID related concerns and Zoom meetings.

Discussion ensued in regards to impact on the surrounding area.

Mr. Diamond stated that the proposed house will fit into the neighborhood in both size, scale and placement and they were sensitive to all of this during the design process.

Mr. Diamond stated that he believes the proposed OWTS will not impact the wetlands but that it would actually all come down to the site engineer and RI DEM approval.

Mr. Gorman explained that they would need to either get a System Suitability or a new septic design, as well as approval from the Coastal Resource Management Council (CRMC)

Christine Naktenis was sworn in. Ms. Naktenis stated that they purchased the property 4 years ago and have the intention of making this a year round home for their family of four. They spoke with Mr. Hess when they first purchased the property and are aware of the wetlands behind the property, so in designing the project they have made the entire project move towards the street and as far away from the wetlands as possible, they are very conscious of the surrounding wetlands.

Discussion then ensued in regards to the concrete retaining walls.

Members of the audience raised their hand to speak.

Kevin Weir was sworn in and testified that he is the direct abutting neighbor to the south. He stated that he has no problems with the aesthetics of the proposed design and that multiple homes on the street are 3-story homes. In addition, he stated that he has had dealings with CRMC in the past and their regulations and the proposed application is actually moving further away from all wetlands.

There were no further questions of Mr. Weir.

Rich Reda was sworn in and testified that he is the direct abutting neighbor on the other side of the property. He stated that the Naktenis' are great neighbors and he has no concerns with the proposed addition and believes it will fit great into the neighborhood.

There were no further questions of Mr. Reda.

Burt Hess was sworn in and testified about the history of the house and that he actually built and lived in the house. He explained the DEM permitting process that was originally undertaken when the home was built. He also addressed the flood zone.

Mr. Hess explained the existing house was designed as a summer cottage and that the proposed design will be higher than other 3-story houses in the area, as well as his concern over losing wetlands.

Questions ensued in regards to the height of the proposed addition.

There were no further questions of Mr. Hess.

Mr. Diamond stated that they are below the maximum height requirements in the Zoning Ordinance.

Mr. Gorman explained how height is determined based on average grade.

There were no one else present who wished to speak.

The applicant had no further testimony.

Board discussion ensued.

Ms. Goins advised the Board that in the future, State Law will change and RI DEM OWTS regulations regarding distance to wetlands will supersede all municipal zoning ordinances.

The Motion is as follows:

**The following motion, made by Mr. Daniels and duly seconded by Mr. Charkowick
Motion passed unanimously: Vote 5-0
(T. Daniels-Aye, C. Charkowick-Aye, W. Rosen-Aye, W. Mark-Aye, R. Cagnetta-Aye)**

At a meeting held on November 18, 2020 regarding the Petition of Peter and Christine Naktenis c/o Vincent Babak, 195 Tunxis Hill Road, Suite 203, Fairfield, CT 06825 a Dimensional Variance was granted under the Zoning Ordinance as follows: The applicant is proposing to construct a three story addition on the front of the existing single family dwelling. The proposed addition will be located 35' from the front property line. The required setback is 40'. Relief of 5' is requested. The proposed addition will make the total Lot area coverage 1,627 square feet. The maximum lot area coverage allowed in an R-30 zone is 20%. Relief of 127 square feet is requested. Lot size is 7,500 square feet. A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming lots of record-Building setback requirements) and Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief). Owner of the property is Peter A. and Christine M. Naktenis for premises located at 69 Rosebriar Avenue, Assessor's Map 96-1, Lot 43 and zoned R-30.

The following individuals spoke as representatives of the applicant:

- Edward Diamond, AIA
- Christine Naktenis, property owner

The following materials were entered into the record:

- Application signed and dated October 16, 2020; Owner Authorization Form signed and notarized October 16, 2020; Plan of Land prepared by South County Survey, James T. Caldarone PLS dated July 29, 2020; Existing and Proposed Architectural Drawings prepared by Vincent Babak, AIA dated October 16, 202
- Radius Map, 200' Abutter's List, Legal Notice and Certified Mailing Receipts with Affidavit of Mailing
- Correspondence
 - Bert Hess, received November 11, 2020, to Zoning Board of Review, 2 pages

The following spoke in support of the petition.

- Kevin Weir, 63 Rosebriar Avenue
- Rich Reda, 73 Rosebriar Avenue

The following spoke in opposition to the petition.

- Bert Hess, 59 Rosebriar Avenue

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 lot itself is narrow making it not possible to expand to the north or south sides of the property as well as having wetlands located along the rear easterly portion, all of which restricts the available space to locate the building envelope.
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 applicants are simply wanting to make this home their permanent year round residence and the addition is necessary to fit their family's needs.
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 two abutting property owners testified that many of the structures on Rosebriar Avenue are 3-story structures and the applicants proposed addition will be in line with the surrounding homes.
4. The Board finds that the relief to be granted is the least relief necessary, because the applicants have no other viable alternative to the north, south or east sides of the property in regards to where they can expand due to the narrow lot and proximity of wetlands.
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 the relief was not granted the existing home would not fit the applicants needs and requirements to become their permanent year round home.

Approval is subject to the following conditions:

- The decision is a Conditional Zoning Approval and is conditioned upon any necessary CRMC and RI DEM approvals and will have a two year expiration from the recorded date per Section 908 of the Zoning Ordinance with the right to extend if necessary.

Zoning Board took a short break from 9:18 pm till 9:25 pm

Mr. Cagnetta read the sixth petition.

- **Petition of 629 Succotash Road, LLC d/b/a Matunuck Oyster Bar**, 629 Succotash Road, South Kingstown, RI 02879 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking a special use permit to expand its liquor service area to the 1,500 square foot rooftop deck. The rooftop deck was previously constructed to accommodate the allocation of seating due to COVID-19 restrictions. Lot size is .8 Acres. **A Special Use Permit is required per Zoning Ordinance Section 200E (Use by Variance, Special Exception or Special Use Permit) and Section 907C (Continuation or Extension of Special Uses)**. Owner of the property is PKW LLC for premises located at 629 Succotash Road, South Kingstown, RI, Assessor's Map 87-2, Lot 189 and is zoned CW (Commercial Waterfront).

Ms. Goins explained that the Town, by Executive Order, suspended certain provisions of the Zoning Ordinance requiring zoning relief for temporary expansion of outdoor dining areas without needing

advanced Zoning Board approval. The applicant is here tonight because to be a restaurant serving alcohol is a use which exists by Special Use Permit only in this zoning district. Any expansion of liqueur service area requires a change of the Special Use Permit and what the applicant is seeking to do is a permanent change to the serving area legally once the Executive Order has expired. Also it should be noted that any change of liquor service will need the ultimate approval of the Town Council.

Elizabeth Noonan, attorney for the applicant was present.

Perry Raso, Paige Bronk, and Richard St. Jean were all sworn in.

Ms. Noonan explained that what they are looking for today is approval for once COVID regulations are rescinded to continue to utilize the outdoor rooftop deck area. There has been no change in the footprint to the building itself. In addition, there has been no change in the restaurant capacity as set by the Fire Marshall and they are compliant with all current COVID guidelines. Post COVID the capacity will increase but will never exceed the maximum occupancy determined and set by the Fire Marshall.

Mr. St. Jean reviewed his curriculum vitae as a Professional Structural and Marine Engineer, in the State of Rhode Island. He explained the engineering design of the rooftop deck and that all required permits met all Building Code requirements. He indicated that although the deck was built as a temporary structure due to COVID, it meets all of the Building and Zoning requirements of a permanent structure.

Ms. Noonan had no further questions for Mr. St. Jean.

Ms. Noonan called her next witness.

Mr. Bronk explained that he is Certified Planner, AICP.

Ms. Noonan submitted Applicant's Exhibit 1

Ms. Noonan submitted Applicant's Exhibit 2

Mr. Bronk reviewed his findings submitted under Applicant's Exhibit 2.

Mr. Bronk referenced the photos in the report that showed the roof top deck is not really an expansion but utilizes the existing footprint of the building. Mr. Bronk then reviewed how this roof top deck utilization is in line with the Comprehensive Plan for the Town of South Kingstown, specifically Land Use, Economic Development and Natural and Cultural uses within the Commercial Waterfront Zone.

Mr. Bronk explained in terms of the Special Use Permit and Zoning, this property has already been before the Zoning Board and was previously granted a Special Use Permit. He then explained how this current application met all of the standards to modify the existing Special Use Permit and that the presence of the roof top deck has no change in the existing operations. In closing, Mr. Bronk stated that he is of the feeling that this application will meet all requirements for Zoning and the Comprehensive Plan of South Kingstown.

Questions ensued.

Mr. Raso explained the lighting and that it is angled down so patrons can see where they are walking but not cast out onto the road, in addition the railing has under rail lighting to illuminate the stairs.

Mr. Raso explained that the roof top expansion does not exceed the Fire Department seating regulations and that they passed a Fire District inspection two weeks ago.

Ms. Noonan summarized the previous testimony. She also stated that Mr. Raso has switched to a reservation system which has eliminated some of the previous traffic concerns.

Board questions ensued in regards to music, hours of operation, events, heating, tents, and noise.

Mr. Raso stated that there will be no music and that the roof top deck has the same hours of operation as the restaurant, 10:00 pm being the last reservation taken during the summer months. They are not proposing a bar on roof, simply dining with alcohol. Mr. Raso explained that the space could be used for small events, and gave the example of a bereavement gathering held in the restaurant over the summer, and that any event would meet all town regulations and zoning requirements. Mr. Raso indicated that he has experimented with some low standing patio heaters, but has reservations about possible danger of using them due to high winds. In addition, there is no intent to install a tent to cover the roof top deck. The roof top deck has a stated seating capacity of 49 patrons maximum. Mr. Raso also indicated that any type of noise issue would be addressed on a case by case basis and would be addressed as needed.

The Board had no further questions.

Ms. Noonan had no further witnesses.

Mr. Cagnetta asked if anyone present wished to speak.

Dianne Edson was sworn in and spoke that she is in total agreement with the proposed application.

Paul Hopper was present and sworn in.

Mr. Hooper spoke about the roof top deck and stated that he spoke with Mr. Gorman about what was going on with the roof top deck. He was told that this is a temporary seating due to COVID. Mr. Hooper, then explained that upon reviewing the roof top deck and materials used he believes it was always intended to be a permanent structure and he wanted clarification in regards to seating occupancy and is concerned that the business is morphing based on the expansion of the liqueur license.

Ms. Noonan explained that Mr. Raso has not exceeded COVID capacity or fire occupancy capacity which is determined by the Fire Marshall and that this is not the issue before the Board. The applicant is seeking to a special use permit to expand the liqueur service area and any questions regarding seating capacity are not relevant to the petition at hand.

Mr. Hooper also asked about dock/pontoon seating that is over the water.

Ms. Goins explained that CRMC has jurisdiction over the water and that her advice to the Board is that the water is off limits.

Mr. Hooper asked about the number of seats to be allowed on the roof top deck.

Ms. Noonan explained that maximum fire capacity allows for 49 seats post-COVID and that Mr. Raso indicated that there is no intent for this area to become a bar.

Mr. Hooper asked for further clarifications on where the seats are coming from.

Ms. Goins explained that unless the Zoning Board decided as a condition of approval to set specific limits on how many seats are allowed indoors and how many seats are allowed outdoors within the total capacity, or unless the Town council decided to set specific limits, then capacity is capacity regardless of seating being either indoor or outdoor. The only question before the Board is to decide what the impact of the expansion of the service area onto the rooftop will have to the surrounding area.

Mr. Charkowick asked Mr. Hooper if he was concerned about going down a “slippery slope” in eventually allowing for more seating.

Mr. Hooper expressed that he is concerned about post-COVID and where this could potentially be going and what is the reason to push for this now, instead of waiting till post-COVID. He also stated that they are long standing residents of the area and are concerned about where this is ultimately going.

Discussion ensued about the expansion and timing.

Ms. Noonan explained that they are proceeding now because at the time, they were hoping the COVID restrictions would be lifted by the end of the year, which has not happened. The rooftop deck was engineered specifically to meet the wind zones and was built with the quality materials needed to meet the aesthetics of the Matunuck Oyster Bar.

Discussion ensued in regards to the demand for outside seating going forward.

Ms. Edson spoke again that she is in agreement with statements made by Mr. Cagnetta.

Mr. Raso explained that he is trying to accommodate the public's growing need and concern for more spacious dining which is a benefit to everyone.

Ms. Noonan stated that there were no complaints tonight in regards to traffic, noise or lighting.

Ms. Edson stated again that she is in support of the application.

There was no one else who wished to speak.

Board discussion ensued.

The Motion is as follows:

The following motion, made by Mr. Mark and duly seconded by Mr. Daniels

Passed unanimously 5-0

(W. Mark-Aye, T. Daniels-Aye, W. Rosen-Aye, C. Charkowick-Aye, R. Cagnetta-Aye)

At a meeting held on November 18, 2020 regarding the Petition of 629 Succotash Road, LLC d/b/a Matunuck Oyster Bar, 629 Succotash Road, South Kingstown, RI 02879 a Special Use Permit was granted under the Zoning Ordinance as follows: The applicant is seeking a special use permit to expand its liquor service area to the 1,500 square foot rooftop deck. The rooftop deck was previously constructed to accommodate the allocation of seating due to COVID-19 restrictions. Lot size is .8 Acres. A Special Use Permit is required per Zoning Ordinance Section 200E (Use by Variance, Special Exception or Special Use Permit) and Section 907C (Continuation or Extension of Special Uses). Owner of the property is PKW LLC for premises located at 629 Succotash Road, South Kingstown, RI, Assessor's Map 87-2, Lot 189 and is zoned CW (Commercial Waterfront).

The following individuals spoke as representatives of the applicant:

- Elizabeth Noonan, Attorney for applicant
- Paige Bronk, AICP
- Perry Raso, property owner

The following spoke in opposition to the petition.

- Paul Hooper

The following materials were entered into the record:

- Application with narrative signed and dated October 16, 2020; Owner Authorization Form signed and notarized October 16, 2020; Boundary Survey Plan prepared by DiPrete Engineering, Michael E. Gavitt PLS dated October 26, 2016; Previous Zoning Decision rendered December

21, 2011 and recorded in South Kingstown Land Evidence Book L1456 Page 311 - 314 on January 3, 2012.

- Radius Map, 200' Abutter's List, Legal Notice and Certified Mailing Receipts with Affidavit of Mailing
- Applicant's Exhibits 1-3 with cover letter from Adler Pollock & Sheehan PC dated November 6, 2020
 - Applicant's Exhibit 1, Resume of Paige R. Bronk, AICP
 - Written Report prepared by Paige R. Bronk, AICP dated November 5, 2020
 - Existing Roof Deck Framing Plan reflecting roof deck as currently built

Findings of Fact:

4. The Board finds that the special use is specifically authorized by this Ordinance, because a Special Use Permit is required per Zoning Ordinance Section 200E (Use by Variance, Special Exception or Special Use Permit) and Section 907C (Continuation or Extension of Special Uses).
5. The Board finds that the special use meets all of the criteria set forth in the subsection of this Ordinance authorizing such special use, because under Section 907C, the Town had suspended certain requirements and approvals set forth for a Special Use Permit under the Ordinance and the applicant has adhered to all State guidelines regarding operating procedures during the COVID pandemic.
6. The Board finds that granting of the special use permit will not 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 has considered 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; not applicable, this is an existing property with no change of use and no proposed increase in capacity.
 - (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; not applicable, this is an existing property with no change of use.
 - (iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above; not applicable, this is an existing property with no change of use.
 - (iv) Utilities, with reference to locations, availability and compatibility; not applicable, this is an existing property with no change of use.
 - (v) Screening and buffering with reference to type, dimensions and character; not applicable, this is an existing property with no change of use.
 - (vi) Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district; all lighting will be dark sky compliant.
 - (vii) Required yards and other open space; not applicable
 - (viii) General compatibility with lots in the same or abutting zoning districts, this is not applicable because this is an existing business, in good standing, and no change of use has been requested.

Approval is subject to the following conditions:

- As a condition of approval there will be no music or amplified music allowed on the roof deck.
-

Other Business:

Minutes:

October 21, 2020 and October 28, 2020 minutes were approved.

Motion made by Mr. Rosen

All members were in favor, motions passed unanimously

Attendance:

December 16, 2020 meeting, all members present except Mr. Mark can attend.

Adjournment:

The motion was made to adjourn.

All Members were in favor.

Meeting adjourned at 11:01 p.m.