



# 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 December 16, 2020.

### Members Present:

- Robert Cagnetta, Chair
- Thomas Daniels, Vice-Chair
- Rick Jurczak, 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. Jurczak, Mr. Rosen and Mr. Charkowick

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Mr. Cagnetta read the first petition.

- **Petition of Michelle Quirk c/o South County Surveying, LLC**, 382B Main Street, Wakefield, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to demolish the existing garage and construct a 24' x 24' detached garage with a family recreation room above it to be used by the principal dwelling. The lot is non-conforming by dimension. The lot is located on a corner lot, and has two interior side yards. The garage will be located 1.9' from the left side property line. The required side yard setback is 15'. Relief of 13.1' is requested. The garage will also be located 4' from the side yard in the rear of the garage, which is considered a side yard. Relief of 11' is requested. The proposed lot coverage will be 24.6%. The maximum lot coverage allowed is 20%. Relief of 4.6% is requested. The structure will meet the height requirement of 20'. Lot size is 7,500 square feet. **A Dimensional Variance is required per Zoning Ordinance Section 208 (Nonconforming lots of record-Accessory building setback requirements), Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief).** Owner of the property is Michelle Quirk for premises located at 59 Browning Street, Assessor's Map 96-1, Lot 32 and zoned R 30.

Ms. Goins advised the Board that the original petition was amended and this should be considered a new petition, however, all original documentation, including any objector's correspondence from the original petition should still be considered part of the record.

James Caldarone, PLS was sworn in and testified about the property location. The dimensional request applied for is the same setback as the existing garage on the side property line and more than twice the distance from the rear property line. Lot coverage will increase approximately 4.6%. The existing garage was built in 1920 and is in poor condition. The proposed garage is the same depth and width as the existing garage and will not be any closer to the street than the existing house. Garage will be flood plain compliant. Questions ensued in regards to how construction can occur without disturbing the neighboring property, size of garage, existing outdoor shower, and principle dwelling

Mr. Caldarone stated that he assumes construction will incur from the inside out and the proposed structure will not encroach any closer than the existing garage. The new garage is slightly larger being 24 x 24. The shower was existing when the property was purchased and at that time was over the property line, since then the shower has been moved to just inside the property line.

Michelle Quirk, owner of the property, was sworn in and testified that the second floor is going to be used a recreation room for additional space as well as a small deck because the existing house is small. The new placement of the proposed garage allows for a greater distance from the property line. Ms. Quirk explained the design concept. The second floor deck will allow for a view of the ocean.

Mr. Caldarone stated that this will not be used as an accessory apartment.

Mr. Gorman explained that the property is located within the Carrying Capacity Overlay District, accessory apartments are prohibited and that the building permit will specifically state that this is to be used for recreational purposes only.

Mr. Cagnetta reviewed the objector's correspondence.

Burt Hess was sworn in. Mr. Hess asked for his letter from December 8, 2020 to be screen shared. He then addressed the fact that there are two non-conforming structures existing on the property and that usually a non-conforming use should be corrected and not expanded. He also expressed concerns on how the garage could be constructed on the property line which is one reason for property setbacks standards. Mr. Hess then stated that this area is very unique being in a flood zone and is in general a very wet area and cannot necessarily support what is being proposed. In addition the existing home is one-story and they are proposing a two-story garage structure, he also expressed concerns about water runoff from the proposed garage roof and had questions in regards to building code and standards.

Mr. Caldarone testified that a car and an interior stairwell will fit inside the proposed garage. In regards to storm water it will remain the same as the existing garage.

Mr. Gorman explained that the Town Engineering department would review the plans for necessary soil erosion and storm water management and any discharge onto the neighbor's property would not be allowed on the new structure. Mr. Gorman also stated that 12" maximum for an architectural projection is allowed.

Mr. Caldarone stated that if this is denied the existing garage would stay in place and that the proposed garage is actually improving on the current setbacks. In regards to wetlands there is not a wetland or perimeter wetland where the garage will be located. There is also a town maintained swale located on the Ms. Quirk's property.

Mr. Caldarone clarified that they are moving further from the rear setbacks and staying the same on the side.

Mr. Hess asked for a continuance based on COVID restrictions, short notice, and holidays. He is concerned that not all of the abutters were given adequate time to respond.

Mr. Caldarone stated that he has spoken with Mr. Fontaine, a direct abutter, and he has not raised any concerns with him.

Correspondence were reviewed.

Mr. Jurczak asked why the garage cannot be relocated on the lot to so less relief is needed.

Mr. Caldarone explained that the garage cannot be moved closer to the house due to the existing septic and cannot be moved closer to the road because of the front setbacks, an ordinance provision states that it cannot get closer to the road than the existing house. Mr. Caldarone then reviewed the required distances from structures to septic, 15' being the minimum required setback and is only allowed because of the existing development of the property, with the proposed garage they will be actually be moving 4" further from the septic.

Board questions ensued about garage egress and existing foundation.

Mr. Caldarone explained that a garage parking space is 9' so a two-car garage would require 18' allowing for 6' of egress and there is approximately 2'6" of clearance between the front of vehicles and the stairs.

Ms. Quirk stated that the existing foundation is not structurally sound to build on.

Mr. Hess asked if any Board Members or Building Official had visited the site.

Mr. Jurczak, Mr. Rosen and Mr. Daniels indicated that they did visit the site.

There was no one further who wished to speak and public comment was closed.

Board discussion ensued.

**The motion is as follows:**

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

**Motion passed unanimously: Vote 5-0**

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

At a meeting held on December 16, 2020 regarding the Petition of South County Survey Company, LLC, 382-B Main Street, South Kingstown, RI, 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is proposing to demolish the existing garage and construct a 24' x 24' detached garage with a family recreation room above it to be used by the principal dwelling. The lot is non-conforming by dimension. The lot is located on a corner lot, and has two interior side yards. The garage will be located 1.9' from the left side property line. The required side yard setback is 15'. Relief of 13.1' is requested. The garage will also be located 4' from the side yard in the rear of the garage, which is considered a side yard. Relief of 11' is requested. The proposed lot coverage will be 24.6%. The maximum lot coverage allowed is 20%. Relief of 4.6% is requested. The structure will meet the height requirement of 20'. Lot size is 7,500 square feet. **A Dimensional Variance is required per Zoning Ordinance Section 208 (Nonconforming lots of record-Accessory building setback requirements), Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief).** Owner of the property is Michelle Quirk for premises located at 59 Browning Street, Assessor's Map 96-1, Lot 32 and zoned R30.

**The following individuals spoke as representatives of the applicant:**

- James Caldarone, P.L.S., Applicant
- Michelle Quirk, property owner

**The following materials were entered into the record:**

- Original Application signed and dated July 17, 2020; Signed and Notarized Owner Authorization Form dated July 15, 2020; 200' Radius Map and Abutter's List; Elevations dated July 16, 2020; Site Plan dated July 17, 2020 and prepared and stamped by James Caldarone P.L.S.
- Original Legal Notice, Certified Mail Receipts and Notarized Affidavit of Mailing
- Revised Application signed and dated November 13, 2020; Signed and Notarized Owner Authorization Form dated July 15, 2020; 200' Radius Map and Abutter's List; Elevations dated July 16, 2020; Proposed Conditions Site Plan dated April 13, 2020, Revised August 20, 2020, and final Revision November 10, 2020, prepared and stamped by James Caldarone P.L.S.; Construction Documents (P-1) prepared by WG Carpentry dated November 13, 2020
- Revised Legal Notice, Certified Mail Receipts and Notarized Affidavit of Mailing
- Correspondence
  - Bert Hess received August 14, 2020
  - Bert Hess received August 17, 2020
  - Moira Herson-Yanuck and Marcia Tokson received August 17, 2020
  - David Carlson received August 18, 2020
  - Richard DeBlasio received August 18, 2020
  - Bert Hess received December 8, 2020
  - Richard A. DeBlasio, 9 Surfside Avenue, dated December 15, 2020

**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 due to the nature of the lot itself and the physical location of the septic system there are limited, if any, other options to relocate the garage structure.
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 house and most likely the garage were built in 1935 and pre-existed the current ownership and the Zoning Ordinance.
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 due to the dilapidated condition of the existing garage, the proposed garage will be an improvement to the neighborhood, as well as create safer conditions for everyone concerned.
4. The Board finds that the relief to be granted is the least relief necessary, because the proposed garage has the same foot print as the existing garage and the applicant is not proposing to build something outrageously large.
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 without the relief being granted the applicant would have to continue to use the current dilapidated structure. Therefore there is no public purpose in denying this petition.

**Approval is subject to the following conditions:**

- Architectural projections may not project more than 12” from the building.
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Mr. Cagnetta read the second 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. Additionally, the second story roof will be modified to incorporate a dormer. 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.

Ms. Goins advised that this is an amended petition due to an error in the legal notice and that this should be considered a new petition, there was no new documentation submitted by the applicant.

Jacquelyn French, property owner was sworn in.

Leslie Mahoney, architect was sworn in.

Ms. French explained that they are looking to renovate the house and that the existing house is non-conforming as to where it sits on the lot, so any type of improvement most likely requires zoning relief. On the east side of the house, they are looking to add a dormer creating a second full bath upstairs. In addition the stairs on the front of the house are dilapidated and they are looking to build new stairs to code and also cover them for protection from the weather. In the back of the house they are looking to expand the kitchen and also create some outdoor space by expanding existing deck.

Ms. Mahoney stated that in expanding the deck it links all of the decks together and keeps in line with the neighborhood, this also creates easier access to the deck and will bring the stairs and the deck up to code. The existing rooflines will be matched and the home will retain its bungalow appearance.

The Board had no questions at this point.

Mr. Cagnetta read a letter from Melissa Sheridan and Ryan Light into record.

Melissa Sheridan and Ryan Light were sworn in.

Ms. Sheridan stated that they do not see the necessary hardship needed for a variance and that there are other ways to expand the property without encroaching on their property.

Mr. Light spoke about the 20' of eaves that would be located less than 2'8" from their fence line.

Ms. Mahoney explained the reason for the covered deck on the Sheridan/Light side is because they are integrating an existing mudroom and they are trying to utilize the existing door and deck and would like to cover that part of the deck. They are putting a roof over the deck but not coming any closer than the existing deck itself and the eaves are 10" projection.

Board questions ensued in regards to objector's concerns over security.

Mr. Light and Ms. Sheridan expressed concerns about any potential future owners and the close proximity they are proposing to their property. Mr. Light also queried as to why they couldn't move the mudroom as part of the proposed addition.

Ms. Mahoney stated that they explored all possible options and the proposed plan is the least impactful.

Questions ensued in regards to entrances.

Ms. Mahoney explained the locations of all of the entrances and that the proposal will give the front entrance a little more presence.

Mr. Light explained that his house and Ms. French's house were originally on the same property and that the property was divided by past owners into two separate parcels. Mr. Light stated that his home is approximately 30' from the property line.

Discussion ensued.

Ms. French stated that in the design process they did explore the option of moving the side door but the kitchen design would have to increase substantially changing the flow of the home.

Ms. Sheridan stated that the only thing she would like defined is what the difference is between a hardship and what is inconvenient.

There was no further testimony.

Board discussion ensued.

**The motion is as follows:**

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

**Motion passed unanimously: Vote 5-0**

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

At a meeting held December 16, 2020 regarding the 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. Additionally, the second story roof will be modified to incorporate a dormer. 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.

**The following individuals spoke as representatives of the applicant:**

- Leslie Mahoney, AIA
- Jacquelyn French, applicant

**The following materials were entered into the record:**

- Application signed and dated October 13, 2020; Owner Authorization Form signed and notarized October 13, 2020; South Kingstown Web GIS image; Zoning Sketch prepared by Steven Pinch P.L.S. dated October 2020; Plans and Elevations prepared by Mahoney Architects dated October 12, 2020; Radius Map, 200' Abutter's List
- Original Legal Notice and Certified Mailing Receipts with Affidavit of Mailing
- Revised Legal Notice and Certified Mailing Receipts with Affidavit of Mailing
- Correspondence
  - Melissa Sheridan and Ryan Light, 258 Kenyon Avenue, received November 6, 2020.

**The following spoke in opposition to the petition.**

- Melissa Sheridan, 258 Kenyon Avenue
- Ryan Light, 258 Kenyon 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 parcel is a unique pistol shaped lot and the house is located in an area where only limited expansion would be possible without the need for a variance.
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 applicant resides on site and is looking to improve the overall use and value of the property while improving the existing structure to meet all of their 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 many homes in the neighborhood are of similar design and style. Additionally, the proposed design will improve this property as well as the surrounding properties.
4. The Board finds that the relief to be granted is the least relief necessary, because once again the unique shape of the lot does not allow the applicant to do much beyond what they have proposed.
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 in order to do anything different would require a major renovation of the existing structure along with a large financial impact.

The property also has unique elevations which would hinder expansion of the structure in any other way than proposed.

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

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Mr. Cagnetta read the third petition.

- **Petition of Christine Cohane c/o Edward Ferland**, 225 Greenslitt Avenue, Pawtucket, RI 02861 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a new single family dwelling to replace the existing single family dwelling. The lot is nonconforming by dimension, and has reduced setbacks. The new dwelling will be located 19.1' from the front property line and 8.3' from the corner side. The required front yard and corner side setback is 40'. Relief of 20.9' and 31.7', respectively is requested. The new dwelling will be located 7.8' from the side property line. The required side yard setback is 12'. Relief of 4.2' is requested. The proposed lot coverage will be 1,768 square feet. The maximum allowed lot coverage is 1,494 square feet. Relief of 274 square feet is requested. Lot size is .17 Acres. **A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record-Building Setback Requirements, Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief).** Owner of the property is Christine Cohane for premises located at 321 Succotash Road, Assessor's Map 81-3, Lot 99 and zoned R 80.

Edward Ferland, applicant was sworn in.

Mr. Ferland testified they are looking to demolish the existing house built in the 1930's. The existing house is not insulated and in poor repair and they are looking to rebuild a year round home on basically the same footprint with a garage expansion. Mr. Ferland referenced the site plan. The proposed house will be a three-bedroom cottage style ranch with an attached garage with bonus recreation room above it. He then described the lot itself and its unique configuration.

Board questions ensued.

There was no one present who wished to speak.

There was no further testimony.

**The Motion is as follows:**

**The following motion, made by Mr. Jurczak and duly seconded by Mr. Charkowick**

**Motion passed unanimously: Vote 5-0**

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

At a meeting held on December 16, 2020 regarding the Petition of Christine Cohane c/o Edward Ferland, 225 Greenslitt Avenue, Pawtucket, RI 02861 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is proposing to construct a new single family dwelling to replace the existing single family dwelling. The lot is nonconforming by dimension, and has reduced setbacks. The new dwelling will be located 19.1' from the front property line and 8.3' from the corner side. The required front yard and corner side setback is 40'. Relief of 20.9' and 31.7', respectively is requested. The new dwelling will be located 7.8' from the side property line. The required side yard setback is 12'. Relief of 4.2' is requested. The proposed lot coverage will be 1,768 square feet. The maximum allowed lot coverage is 1,494 square feet. Relief of 274 square feet is requested. Lot size is .17 Acres. A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record-Building Setback Requirements, Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief). Owner of the property is Christine Cohane for premises located at 321 Succotash Road, Assessor's Map 81-3, Lot 99 and zoned R 80.

**The following individuals spoke as representatives of the applicant:**

- Edward Ferland, Applicant

**The following materials were entered into the record:**

- Application signed and dated October 22, 2020; Owner Authorization form signed and notarized October 23, 2020; 200' Radius Map and Abutter's List; Soil Erosion Control Plan/Site prepared by DiPrete Engineering, Jason Clough PE dated October 21, 2020; Construction Plans (Sheets A1.1, A1.2, A1.0, A2.1, A3.1, A3.2, S1.1, S1.1, A4.2) prepared by Jeffrey L. Lykins, Architect, Christine Cohane, AIA dated August 6, 2020
- Legal Notice, Certified Proofs of Mailing, & Affidavit of Mailing

**There was no one present 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 nature, configuration and lot size are substandard for an R80 Zone and the setbacks requirements are such that in order to build a replacement dwelling on the lot dimensional relief needs to be granted.
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 this was an old summer cottage that the applicant is looking to demolish and build a year round home.
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 based on the plans submitted the proposed house will fit in well with the surrounding area.
4. The Board finds that the relief to be granted is the least relief necessary, because the proposed house is similar in size to the existing house which will be demolished and the only real expansion is adding a garage.
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 applicant had to build within the allowable building envelope the design and placement would create a small house, strange in appearance and not address the applicant's needs for a year round home.

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

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Mr. Cagnetta read the forth petition.

- **Petition of Evan and Amanda Poppe**, 150 Stony Fort Road, Saunderstown, RI 02874 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking rear yard setback relief to construct a new single family dwelling. The vacant lot is nonconforming by dimension, and has reduced setbacks. The new dwelling will be located 19.4' from the rear property line. The required rear yard setback is 40'. Relief of 20.6' is requested. Lot size is 1.77 Acres. **A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record-Building Setback Requirements) and Section 907 (Standards of Relief)**. Owner of the property is Amanda L. and Evan W. Poppe for premises located at Assessor's Map 17, Lot 44 and zoned R 40.

Amanda and Evan Poppe were sworn in.

Mr. and Mrs. Poppe jointly testified that they have a hockey stick lot with a 1400' driveway off of Stony Fort Road, surrounded by family on either side. They want to put a single family home and keep the use of the existing driveway. In addition the lot has unique sloping topography and building on the higher portion of the lot will not affect the existing driveway and allow for the best placement of the septic and storm water runoff.

Board questions ensued.

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

There was no further testimony.

**The Motion is as follows:**

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

**Motion passed unanimously: Vote 5-0**

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

At a meeting held on December 16, 2020 regarding the Petition of Evan and Amanda Poppe, 150 Stony Fort Road, Saunderstown, RI 02874 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking rear yard setback relief to construct a new single family dwelling. The vacant lot is nonconforming by dimension, and has reduced setbacks. The new dwelling will be located 19.4' from the rear property line. The required rear yard setback is 40'. Relief of 20.6' is requested. Lot size is 1.77 Acres. A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record-Building Setback Requirements) and Section 907 (Standards of Relief). Owner of the property is Amanda L. and Evan W. Poppe for premises located at Assessor's Map 17, Lot 44 and zoned R 40.

**The following individuals spoke as representatives of the applicant:**

- Evan Poppe, Applicant
- Amanda Poppe, Applicant

**The following materials were entered into the record:**

- Application with Narrative signed and dated October 20, 2020; Owner Authorization form signed and notarized October 17, 2020; 200' Radius Map and Abutter's List; Proposed Site Development Plan prepared by Atlas Land Surveying, LLC Marcus Channell PLS dated October, 2020; Preliminary Construction Plans (Sheets 1, 2, 3, 4 & 5) prepared by Habitat Post & Beam dated September 30, 2020
- Legal Notice, Certified Mail Receipts and Notarized Affidavit of Mailing
- Correspondence
  - James Briggs, Jr., 150 Stony Fort Road with notarized Signature Witnessing dated October 17, 2020
  - Steve and Donna Briggs, 112C Stony Fort Road with notarized Signature Witnessing dated October 17, 2020

**There was no one present 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 property is currently undeveloped and there is an existing driveway which limits the building area. In addition the proposed location on the lot is the highest point which is best suited for the septic design and water runoff.

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 applicant is simply looking to build a single family home on property that is located directly in between other family owned properties.

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 requesting minor setback relief and leaving the majority of the property in its natural state.

4. The Board finds that the relief to be granted is the least relief necessary, because the applicant wants to utilize an existing driveway that runs through the middle of the property. Additionally, the proposed location of the house is suited for the septic design that would work best with the natural slope of the land.

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 relief is not granted the applicant would not be able to utilize the full potential of their land.

**Approval is subject to the following conditions:** There are no conditions upon this decision.

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Mr. Cagnetta read the fifth petition

- **Petition of James Howe c/o DiStefano Brothers**, 433 Main Street, Wakefield, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a 5' x 9' 3" addition to the existing mudroom located on the rear of the dwelling. The proposed addition will be located 22' from the corner side property line. The required corner side setback is 40'. Relief of 18' is requested. The proposed lot coverage is 1,819 square feet. The maximum lot coverage allowed is 1,579 square feet. Relief of 240 square feet is requested. Lot size is 7,895 square feet. **A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming lots of record-Building setback requirements), Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief).** Owner of the property is James F. Howe for premises located at 7 Quagnut Drive, Assessor's Map 64-4, Lot 1 and zoned R 40.

Peter DiStefano was sworn in.

Mr. DiStefano testified that they have a really unique piece of property. It is an existing non-conforming structure and they have an existing 3-season room that they would like to convert for year round use. The footprint of the existing structure would remain the same, Due to the unique shape of the lot the structure is already outside of the setbacks. Minimal side setback and lot coverage relief is needed; also he does not believe this property is in a flood zone.

Board questions ensued.

There was no one present who wished to speak.

There was no further testimony.

**The Motion is as follows:**

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

**Motion passed unanimously: Vote 5-0**

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

At a meeting held on December 16, 2020 regarding the Petition of James Howe c/o DiStefano Brothers, 433 Main Street, Wakefield, RI 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is proposing to construct a 5' x 9' 3" addition to the existing mudroom located on the rear of the dwelling. The proposed addition will be located 22' from the corner side property line. The required corner side setback is 40'. Relief of 18' is requested. The proposed lot coverage is 1,819 square feet. The maximum lot coverage allowed is 1,579 square feet. Relief of 240 square feet is requested. Lot size is 7,895 square feet. A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming lots of record-Building setback requirements), Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief). Owner of the property is James F. Howe for premises located at 7 Quagnut Drive, Assessor's Map 64-4, Lot 1 and zoned R 40.

**The following individuals spoke as representatives of the applicant:**

- Peter DiStefano, applicant

**The following materials were entered into the record:**

- Application signed and dated November 12, 2020; Owner/Agent Authorization form signed and notarized November 9, 2020; 200' Radius Map and Abutter's List; Plot Plan prepared by Dowdell Engineering, Inc., Richard Couchon, PLS dated October 7, 2019; Construction Plans (Sheets 13, 14, & 15) prepared by DiStefano Brothers Construction Inc.
- Legal Notice, Certified Proofs of Mailing, & 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 lot is non-conforming and the existing structure is already non-conforming by dimension.
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 applicant is simply looking to increase the functionality of the existing home by expanding the kitchen and mudroom area.
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 there are a number of small non-conforming lots in this area and nothing that is planned for on this addition would change the general character of the neighborhood.
4. The Board finds that the relief to be granted is the least relief necessary, because there is no other addition or side to the building where the addition would make sense.
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 there really is no other alternative for expansion to meet the applicant's needs.

**Approval is subject to the following conditions:** There are no conditions upon this approval.

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Mr. Cagnetta read the sixth petition.

- **Petition of Stan Bailey**, 31 Sandy Bottom Shores Drive, South Kingstown, RI 02879 For a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a two story addition onto the existing single family dwelling. The addition will include a garage on the first floor and living space on the second floor. The proposed addition will be located 7' from the side property line. The required side setback is 10'. Relief of 3' is requested. Lot size is 10,024 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 Tiffany and Stanley D. Bailey Jr., for premises located at 31 Sandy Bottom Shores Drive, Assessor's Map 48-1, Lot 45 and zoned R 10.

Stan Bailey was present and sworn in.

Mr. Bailey testified that he is proposing to build a 22x30 garage. Without the dimensional variance there is no reasonable alternative to build a garage. The design is the smallest design possible to lessen the encroachment and will fit within the neighborhood. He designed the smallest size garage possible while still being able to meet his needs. The garage will allow for 2 vehicles, tool storage and the 2<sup>nd</sup> story space will be used to create a 2<sup>nd</sup> floor laundry area and create an additional bedroom.

Board questions ensued in regards to the fence.

Mr. Bailey stated that the fence was existing when they purchased the house and that the fence is 3' to 4' off the property line.

Attorney Steven Surdot, for abutter 21 Sandy Bottom Shore Drive.

Mr. Surdot stated that this is not the least relief necessary and does not meet the statutory criteria. In addition commercial equipment should not be stored on his property. This development was designed in the early 90's and there are only two other single car garages in the immediate vicinity and they are located towards the back of the lot. In addition, there is already a large accessory structure on the back of his property. Mr. Surdot stated that there is more than adequate room in the back of the house to build the proposed garage without needing to seek zoning relief.

Robert Arnone, 21 Sandy Bottom Shores Drive was sworn in.

Mr. Arnone stated that there has only been one garage that has been built recently. Most of the existing garages were built when the neighborhood was implemented. He stated he is not trying to stop the applicant from building a garage, however, he is concerned that such a large structure right on the property line will devalue his property. The fence in question is Mr. Arnone's and was there when he purchased his house. He is aware that the applicant has a construction business and leaves his tools outside so it would be nice to have the tools moved inside. The house was a 5 bedroom house when purchased, the applicant decided to remove the 2 bedrooms downstairs to open up the space. The garage addition will be just shy the size of the house and will be looking directly down into his yard.

Mr. Bailey explained that to move the garage back further he would lose much of his backyard. The only window on that side of the house would be a bathroom window for ventilation and would actually give more privacy. If the garage was made smaller, he would not be able to fit two cars into the garage and create the two steps needed to enter the kitchen; in addition there would not be space for the laundry room.

Mr. Sardut explained that his clients concern is in regards to the setback, not necessarily having a garage, if the garage could be built within the building envelope that would ease his concerns. His client also has expressed concerns about emergency access to the backyard being restricted. In addition this was a pre-planned neighborhood and there are no other 2 car garages and/or garages which are attached to the house. In the planning of this neighborhood all structures were centered on the lots with a 25' front setback, creating a very cohesive feel. Mr. Sardut stated that the applicant has not established a hardship, certainly one that is not self-created, therefore there is no compelling hardship that would prevent the applicant from having a reasonable use of his property.

Board questions ensued.

Mr. Arnone stated that the deck in the back would not be in the way if the garage were moved back. In addition he is concerned about emergency vehicle access. He stated that he further believes this could be scaled back in size to fit within the setbacks.

Mr. Bailey stated that he could not reduce the footprint by 2'6" because he would lose the 2 car garage and the laundry room upstairs. Mr. Bailey stated that there is enough room in the back of the garage to store his tools and also park his wife's car and their boat. In addition, the plan shows an 8' garage door on the back of the garage, so any emergency vehicle will be able to pass straight through to the backyard. He also believes that aesthetically there is no difference between a 19' garage and a 22' garage. To build the garage as a long skinny structure to maintain the setbacks would be more out of place in the neighborhood.

Mr. Sardut stated that in addition there is a large size shed in the backyard that could possibly be used for storage. In addition the points that Mr. Bailey has made are about his personal needs; there is nothing unique about the property itself that creates the necessary hardship criteria.

Mr. Arnone stated that he is not trying to stop Mr. Bailey from doing what he is allowed to do on his property, however, he does not want it to encroach any closer to his property than the Ordinance allows.

Mr. Bailey stated that his property line angles in from the street and the proposed garage is actually 8.8' off the front property line and angles back to 7' at the rear which is where they are already separated by a fence. In addition his garage would be next to Mr. Arnone's driveway side, not the actual house. In addition, four houses away a 5' dimensional variance for a two car garage was granted in the spring.

Board discussion ensued.

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

Public Comment was closed and Board discussion ensued.

**The Motion is as follows:**

**The following motion to deny the petition made by Mr. Jurczak and duly seconded by Mr. Rosen Motion passed: Vote 3-2 petition denied.**

**(R. Jurczak-Aye, W. Rosen-Aye, C. Charkowick-Nay, Mr. Daniels-Nay, R. Cagnetta-Aye)**

At a meeting held on December 16, 2020 regarding the Petition of Stan Bailey, 31 Sandy Bottom Shores Drive, South Kingstown, RI 02879 For a Dimensional Variance under the Zoning Ordinance as follows: The applicant is proposing to construct a two story addition onto the existing single family dwelling. The addition will include a garage on the first floor and living space on the second floor. The proposed addition will be located 7' from the side property line. The required side setback is 10'. Relief of 3' is requested. Lot size is 10,024 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 Tiffany and Stanley D. Bailey Jr., for premises located at 31 Sandy Bottom Shores Drive, Assessor's Map 48-1, Lot 45 and zoned R 10.

**The following individuals spoke as representatives of the applicant:**

- Stan Bailey, Applicant

**The following materials were entered into the record:**

- Application signed and dated November 9, 2020; Owner Authorization form signed and notarized November 9, 2020; 200' Radius Map and Abutter's List; Construction Plans (2 pages) stamped by Ernest George, PE; Survey and Plot Plan prepared by George B. Dupont, PLS dated November 6, 2020
- Legal Notice, Certified Mail Receipts and Notarized Affidavit of Mailing
- Correspondence
  - Attorney Steven Surdut for abutter at 29 Sandy Bottoms Shores Drive, received December 16, 2020

**The following spoke in opposition to the petition:**

- Steven Surdut, attorney representing Robert Arnone
- Robert Arnone, 21 Sandy Bottom Shores Drive

**Findings of Fact:**

1. The Board finds that the hardship from which the applicant seeks relief is not 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 applicant has not satisfied his burden as to why dimensional relief is needed.
2. The Board finds that that the hardship is the result of any prior action of the applicant and does result primarily from the desire of the applicant to realize greater financial gain, because the applicant has other options on his property to place a garage that will not require any dimensional relief.
3. The Board finds that the granting of the requested variance will 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 neighborhood was a planned neighborhood and adding a two story garage with living space above will not fit into the general character of the neighborhood.

4. The Board finds that the relief to be granted is not the least relief necessary, because the applicant has other options to locate a garage on his property that will not require dimensional relief.

5. The Board finds that that the hardship suffered by the owner of the subject property if the dimensional variance is not granted does not amount to more than a mere inconvenience, because as previously stated the applicant has other options on his property to place a garage.

**Approval is subject to the following conditions:** There are no conditions upon this motion.

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Mr. Cagnetta read the seventh petition.

- **Petition of Joseph Pena**, 165 North Road, Wakefield, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct an 8' x 21' covered deck closer to the front property line than allowed. The covered deck will be located on the first story and will be 9.2' from the front property line. The required front yard setback is 35'. Relief of 25.8' is requested. Lot size is 11,240 square feet. **A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record – Building Setback Requirements) and Section 907 (Standards of Relief)**. Owner of the property is Joseph Pena for premises located at 165 North Road, Assessor's Map 49-1, Lot 95 and is zoned R 20.

Lila Fortin-Pena was present and sworn in.

Joseph Pena was sworn in.

Ms. Fortin-Pena testified that they are looking to add a front porch to add some aesthetic value to the house. Almost all their neighbors have front porches and it would allow a place for deliveries to be left. The proposed porch will run the width of the front of the house and would be basically in line with the neighbor's porch. The porch will be far away from the retaining wall and they would be keep all construction vehicles out of the road while building the porch.

Board questions ensued.

Mr. Pena explained that the porch will be far enough back and with metal railings so it should not affect the sight lines while exiting the driveway.

Ms. Fortin-Pena also indicated that they can pull forward up the driveway so they could can pull out onto North Road instead of backing out.

Mr. Gorman explained that if wooden steps are being built they would need to seek relief, however, any masonry steps would not.

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

**The Motion is as follows:**

**The following motion, made Mr. Jurczak by and duly seconded by T. Daniels**

**Motion passed unanimously: Vote 5-0**

**(R. Jurczak-Aye, T. Daniels-Aye, W. Rosen-Aye, -Aye, R. Cagnetta-Aye)**

At a meeting held on December 16, 2020 regarding the Petition of Joseph Pena, 165 North Road, Wakefield, RI 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct an 8' x 21' covered deck closer to the front property line than allowed. The covered deck will be located on the first story and will be 9.2' from the front property line. The required front yard setback is 35'. Relief of 25.8' is requested. Lot size is 11,240 square feet. A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record – Building Setback Requirements) and Section 907 (Standards of Relief). Owner of the property is Joseph Pena for premises located at 165 North Road, Assessor's Map 49-1, Lot 95 and is zoned R 20.

**The following individuals spoke as representatives of the applicant:**

- Lila Fortin-Pena
- Joseph Pena, applicant

**The following materials were entered into the record:**

- Application signed and dated November 13, 2020; Owner/Agent Authorization form signed and notarized November 13, 2020; 200' Radius Map and Abutter's List; Location Plan prepared by Steven Pinch PLS dated July 2004; Proposed Site Plan
- Legal Notice, Certified Mail Receipts and Notarized Affidavit of Mailing
- Correspondence
  - Joseph Pena dated December 16, 2020

**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 front of the house where the proposed covered porch would be located is at the very front of a long narrow lot making dimensional relief necessary.
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 current owners are simply trying to make the best of an existing situation in regards to proximity of the house to the front property lines.
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 there are many other homes in the area that have front porches and this will only add to the neighborhood.
4. The Board finds that the relief to be granted is the least relief necessary, because they are only looking to add an 8' long porch along the front of their home.
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 relief is not granted the applicant simply could not build the proposed porch that they desire for aesthetic reasons as well as for package delivery.

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

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**Other Business:**

- Minutes:  
Motion made by Mr. Rosen to approve November 18, 2020 minutes, all members present were in favor, motion passed unanimously.
- Attendance:  
January 20, 2021 meeting, all members present except Mr. Jurczak can attend.
- Adjournment:  
The motion was made to adjourn, all members present were in favor. Meeting adjourned 11:00 p.m.