



Town of South Kingstown, Rhode Island

BUILDING AND ZONING DEPARTMENT

180 High Street
Wakefield, RI 02879
Tel (401) 789-9331 x1225

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 February 24, 2021.

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, 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 Richard and Lucille Biele**, 141 Alder Road, South Kingstown, RI 02879 For a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a 6' x 16' portico on the front of the dwelling. The portico will be located 10.4' from the right side property line. The required side yard setback is 15'. Relief of 4.6' is requested. The Lot size is 10,000 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 Richard and Lucille Biele for premises located at 141 Alder Road, South Kingstown, RI, Assessor's Map 83-2, Lot 259 and is zoned R 30.

Lucille Biele was present and sworn in.

Steve Cleason was present and sworn in.

Mr. Cleason stated that the applicants are looking to do a significant upgrade to their residence so this will become their primary residences. In the design they ran into the obstacle of the existing picture window in the front of the house and how the portico could be built without obstructing the view. Due to the front window location there was not many other options as to where the portico could be located. To his understanding the lot itself is unique in that the home was built on one lot and then a garage was built on a separate lot that was later merged. In addition there is an established privacy buffer of mature trees that they do not want to disturb. The proposed addition will upgrade the existing building and enhance the neighborhood.

Mr. Cleason then reviewed how the applicant has met the Standards of Relief for granting of a Dimensional Variance.

Ms. Biele stated that they are not looking for the portico to go all the way to the end of the house, they are only looking for the support beam to go just beyond the end of the existing window.

Questions ensued in regards to construction and design.

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

There were no further questions.

The motion is as follows:

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

Motion passed unanimously: Vote 5-0

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

At a meeting held on February 24, 2021 regarding the **Petition of Richard and Lucille Biele**, 141 Alder Road, South Kingstown, RI 02879 For a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is proposing to construct a 6' x 16' portico on the front of the dwelling. The portico will be located 10.4' from the right side property line. The required side yard setback is 15'. Relief of 4.6' is requested. The Lot size is 10,000 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 Richard and Lucille Biele for premises located at 141 Alder Road, South Kingstown, RI, Assessor's Map 83-2, Lot 259 and is zoned R 30.

The following individuals spoke as representatives of the applicant:

- Lucille Biele
- Steve Cleason

The following materials were entered into the record:

- Application, signed and dated January 12, 2021; Owner Authorization Form signed and notarized January 12, 2021; 200' Radius Map and Abutter's List; Proposed and Existing Elevations and Floor Plans (7 pages); Site Plan prepared by Jackson Surveying, Inc, Donald W Jackson, PLS
- Legal Notice, Proof of Certified Mailings and Notarized Affidavit of Mailing

There was no one present who spoke either in support 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 applicant is looking to make this their year round residence by adding a second story; the proposed location of the portico in the front of the house allows the applicant to keep an existing bay window which is the main light source for the downstairs area.
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 original house was built in 1970's predating the current Zoning Ordinance and setback regulations. The existing structure became a legal non-conforming structure with an 8' setback when the current Zoning Ordinance went into effect which necessitates the need for a dimensional variance.
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 simply looking to make the outside more aesthetically pleasing while increasing the inside living area to make the structure suitable as a permanent residence.
4. The Board finds that the relief to be granted is the least relief necessary, because if the portico's support beam were to be located in front of the bay window the applicant would lose the benefit of the light that the bay window provides into the living area.
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 applicant would lose the existing use and value of the bay window currently in place.

Approval is subject to the following conditions:

- There are no conditions of approval on this decision.

Mr. Cagnetta read the second petition.

- **Petition of Jerry C. Babcock**, PO Box 641, Charlestown, RI 02813 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to construct a detached one bedroom Accessory Apartment consisting of 750 square feet with additional second floor storage. A Special Use Permit is required for accessory apartments located in an R200 Zoning District not serviced by a public sewer system.

The Lot size is 1.89 acres. **A Special Use Permit is required per Zoning Ordinance Section 503.2 C (Accessory Apartments) and Section 907 (Standards of Relief).** Owner of the property is Jerry C Babcock for premises located at 1217 Matunuck School House Road, South Kingstown, RI, Assessor's Map 84-3, Lot 39 and is zoned R200.

Ms. Goins reviewed with the Board what they need to consider to grant the Special Use Permit to meet the stated intent of the Ordinance Sections 907, as well as Section 503.2 (C) and where the ISDS is located for the accessory apartment in relation to any fresh water wetlands and standard conditions.

Jerry Babcock was present and sworn in.
Barry Goewey, architect was present and sworn in.

Mr. Babcock stated that he would like to build an accessory apartment for his son and future daughter in-law to move into after they are married this upcoming June. Mr. Babcock stated that the OWTS is currently being designed by a septic engineer and that he is just holding off on proceeding until zoning approval is granted. He stated he is considering having his septic system for his house upgraded and designed to service the accessory apartment as well. The OWTS would then service the 3-bedrooms principle residence and the 1-bedroom proposed accessory structure. He stated that there are no identified wetlands on his property.

Ms. Goins advised that for the Special Use Permit they could accept testimony from the applicants as to where the wetlands are to meet the standards.

Mr. Babcock stated that the closest wetlands that he is aware of is ¼ mile down the road and that his property is at a considerably higher elevation than any wetland area.

Mr. Mark indicated that the Town's WEB GIS shows that there are no wetlands on the lot. He then asked if two structures can share the same OWTS system if one property is allowed to have a dish washers or disposal if the other one is not.

Ms. Goins advised that Section 503.2 (C) only restricts washers and disposals in the accessory unit. As long as the ISDS has been granted RI DEM approval it can service both the principle and accessory structures. In regards to the WEB GIS, those are approximate and typically a wetland professional is required to verify wetland location. The Board could potentially approve the Special Use Permit with the condition that the wetland(s) be verified and a site plan be submitted by a qualified professional to the Building Official.

Mr. Babcock indicated that he would be fine submitting a site plan showing any wetland(s) demarcation to the Building Official prior to any issuance of a building permit.

Mr. Goewey asked is there a specific distance from wetlands that the OWTS needs to be located.

Ms. Goins advised that the condition could state that a site plan should be submitted to the Building Official prior to issuance of any permits if required by RI DEM. The Town does not have any specific overlay maps showing in detail wetland locations. Also because this is specifically for an accessory apartment the same OWTS requirements in regards to wetland are not the same as a principle residence.

Mr. Babcock was asked and stated that the property is on town water.

Mr. Rosen enquired about the site plan stating the apartment may be located differently due to ledge rock.

Mr. Babcock explained that area has a lot of ledge and when they begin excavation they may need to adjust where the house may be located.

Mr. Goewey explained that he drew the site plan based off a survey done by Donald Jackson back in 1981 and was able to draw in the proposed OWTS location and accessory structure location. This will all be verified by an engineer in the OWTS design process.

Mr. Cagnetta explained that the only the subject property would need to be verified for wetlands by an engineer and only if RI DEM required.

There was no one present who wished to speak.

The Board had no further questions.

The motion is as follows:

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

At a meeting held on February 24, 2021 regarding the **Petition of Jerry C. Babcock, PO Box 641**, Charlestown, RI 02813 for a Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking to construct a detached one bedroom Accessory Apartment consisting of 750 square feet with additional second floor storage. A Special Use Permit is required for accessory apartments located in an R200 Zoning District not serviced by a public sewer system. The Lot size is 1.89 acres. **A Special Use Permit is required per Zoning Ordinance Section 503.2 C (Accessory Apartments) and Section 907 (Standards of Relief).** Owner of the property is Jerry C Babcock for premises located at 1217 Matunuck School House Road, South Kingstown, RI, Assessor's Map 84-3, Lot 39 and is zoned R200.

The following individuals spoke as representatives of the applicant:

- Jerry Babcock, applicant
- Barry Goewey, architect

The following materials were entered into the record:

- Application, signed and dated January 12, 2021; Owner Authorization Form signed and notarized January 14, 2021; 200' Radius Map and Abutter's List; Preliminary Review Plan Set prepared by R. Barry Goewey, Architect, dated November 24, 2020 and revised January 4, 2021 and January 12, 2021(drawing 1-4); Site Plan prepared by R. Barry Goewey, Architect, dated November 24, 2020 and revised January 4, 2021 and January 12, 2021(drawing 5)
- Legal Notice, Proof of Certified Mailings and Notarized Affidavit of Mailing

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

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 C (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 the applicant will be submitting, from a licensed professional, an updated site plan that indicates where, if any, wetlands are designated on the lot, prior to issuance of any building permits. All other criteria have been satisfied.
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; the lot has existing means of ingress, egress and emergency vehicle access.
 - (ii) Off-street parking and loading areas where required, with particular attention to the items in subsection A.I., above, and the noise, glare or odor effects of the special use permit on adjoining lots; more than adequate onsite parking.
 - (iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above; more than adequate onsite trash storage.
 - (iv) Utilities, with reference to locations, availability and compatibility; lot has existing utilities on site which can be tied into.
 - (v) Screening and buffering with reference to type, dimensions and character; existing lot with mature screening and buffering
 - (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, this is not applicable because this is a large lot in a mostly rural area and the addition of an accessory structure will not appear out of character for the surrounding area.

Approval is subject to the following conditions:

- The applicant will submit prior to issuance of any building permits an updated site plan, stamped by a licensed professional designating any wetland(s) locations, if any, on the subject lot.
 - The applicant shall meet all requirements of the Zoning Ordinance Section 503.2(C)
 - An existing ISDS that services the accessory apartment shall be upgraded to meet current Department of Environmental Management regulations.
 - The ISDS shall be pumped every two (2) years, with proof of pumping to be submitted to the building official.
 - The accessory apartment shall be equipped with low water consumption plumbing fixtures.
 - No garbage disposal or washing machine shall be installed in the accessory apartment.
 - The decision is a Conditional Zoning Approval and is conditioned upon any, if necessary, 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.
-

Mr. Cagnetta read the third petition.

- **Petition of the Contemporary Theater Company c/o Terrence G. Simpson**, 321 Main Street, Wakefield, RI 02879 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to amend the existing Special Use Permit. The request is to construct a two story addition with incorporated deck to the theater rehearsal studio. The applicant also requests the liquor service area to be expanded into the proposed addition. Previous Special Use Permits were granted on June 21, 2017 and February 21, 2012. Lot size is .37 Acres. **A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations) and Section 907 (Standards of Relief)**. Owner of the property is Contemporary Theater Company for premises located at 321 Main Street, South Kingstown, RI, Assessor's Map 57-4, Lot 211, and is zoned CD (Commercial Downtown).

Terrence G. Simpson, President of the Contemporary Theater Company was present and sworn in.

Christopher Simpson, executive director of The Contemporary Theater Company was present and sworn in.

Mr. T. Simpson indicated that the theater is recognized as a non-profit under RI Law. They currently have a Special Use Permit in effect since 2012 for liquor service. They have been a good neighbor and there have been no liquor related complaints. At this point, they are trying to expand the area of their performance. They have a theater license which limits the hours of service of alcohol from 1 hour before to 1 hour after performances. A few years back they expanded their patio and also expanded the SUP at that time to allow liquor service in the expanded area. They are currently building a 2-story addition and are looking to add liquor service to cover these additional areas.

Mr. C. Simpson clarified that they are not increasing the net performance space or asking for additional occupancy expansion.

Mr. T. Simpson asked for the submitted site plans (C1, A1.1, and A1.2) to be shown on screen. He indicated where liquor service is currently existing and where they are proposing to expand liquor service.

Mr. C. Simpson explained the intended usage of the proposed additions and further explained the proposed additional liquor service area.

Mr. T. Simpson stated that liquor service is authorized by SUP in the downtown area where they are located. Liquor has been served there many years without incident. They would like to have the ability to have the liquor service in any one of these shown areas providing there is a corresponding performance in the area. The Ordinance requires that the character of the surrounding area will not be adversely effected, they believe they are the character of the surrounding area and are an established member of the community. Additionally there are many other businesses in the immediate vicinity which also serve alcohol. The Comprehensive Plan wishes the Town to encourage art related commercial facilities and activity. They are an existing operation which utilizes existing parking conditions, such as the municipal parking and on-street parking. These proposed additions will not increase the parking in any way. The lighting is existing and any additional lighting will not increase light pollution to the area. Many of the Theater patrons walk to the venue. Utilities are existing and screening is not an issue.

Mr. C. Simpson stated that this is really not about the expansion of what they do, but rather about improving the quality of the experiences for the patrons. The additional rehearsal room in the proposed addition will allow them to host further summer camp style theater experiences which is a positive impact on the community.

Mr. T. Simpson asked for photos to be shown. Three photos were shown to give a sense of the overall area.

Board questions ensued in regards to the expansion

Mr. Gorman indicated that the proposed addition requires no dimensional relief. Mr. Gorman indicated that the rehearsal space was also included in the advertising for the liquor service area.

Ms. Goins advised that the Town Council is who actually officially reviews and approves the expansion of the liquor service area. This is before the Board tonight because they are asking for an expansion on an existing SUP, and the task before the Board tonight is to consider the effect of the proposed liquor expansion on the area and decide if they have satisfied the SUP standards to grant the expansion; the Board should reference the site plans in its decision. Ms. Goins stated that she believes the liquor service area needs to be demarcated so it is clear for enforcement.

Mr. C. Simpson stated that with the proposed liquor expansion the area will be even easier to delineate than what is currently in practice.

Discussion ensued in regards to current and proposed service area delineation.

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. Charkowick
Passed unanimously 5-0
(T. Daniels-Aye, C. Charkowick-Aye, W. Mark-Aye, W. Rosen-Aye, R. Cagnetta-Aye)**

At a meeting held on February 24, 2021 regarding the **Petition of the Contemporary Theater Company c/o Terrence G. Simpson**, 321 Main Street, Wakefield, RI 02879 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to amend the existing Special Use Permit. The request is to construct a two story addition with incorporated deck to the theater rehearsal studio. The applicant also requests the liquor service area to be expanded into the proposed addition. Previous Special Use Permits were granted on June 21, 2017 and February 21, 2012. Lot size is .37 Acres. **A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations) and Section 907 (Standards of Relief)**. Owner of the property is Contemporary Theater Company for premises located at 321 Main Street, South Kingstown, RI, Assessor's Map 57-4, Lot 211, and is zoned CD (Commercial Downtown).

The following individuals spoke as representatives of the applicant:

- Terrence Simpson, President of the Board, The Contemporary Theater Company
- Christopher Simpson, Executive Director of The Contemporary Theater Company

The following materials were entered into the record:

- Application with Narrative, signed and dated January 13, 2021; Owner Authorization Form signed and notarized January 13, 2021; 200' Radius Map and Abutter's List; Liquor Sales Location Plan dated January 2021 (C1); Existing Conditions (A1.1, A1.2); Progress Plan 9-28-2020 (A2.1, A3.3)
- Supplemental Material
 - RI DEM Insignificant Alteration Permit Correspondence dated July 28, 2020 (3pages)
 - Photos (3 total), exterior
- Legal Notice, Proof of Certified Mailings and Notarized Affidavit of Mailing

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

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 301 (Schedule of Use Regulations) 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 it is specifically authorized by the Ordinance and the given testimony and proposal meets all of the required standards of the Ordinance. In addition, the applicant's already have a Special Use Permit for liquor service and they are

simply looking to expand the service area into the proposed areas as shown on the submitted site plan. In granting this petition the Zoning Board understands that the final licensing and any licensing restrictions will be up to the South Kingstown Town Council.

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; no additional traffic is anticipated and existing access is sufficient.
 - (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, on-site trash storage is already in place.
 - (iv) Utilities, with reference to locations, availability and compatibility; not applicable
 - (v) Screening and buffering with reference to type, dimensions and character; not applicable screening and buffering is already in place.
 - (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, existing signage is already in place.
 - (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 area of town has several other businesses that also have liquor licenses and the proposed Special Use Permit will not alter the general character of the area. This is simply an expansion of the liquor service area previously granted on an existing Special Use Permit.

Approval is subject to the following conditions:

- South Kingstown Town Council granting necessary approvals for the expansion of the liquor service area.
-

Other Business:

- Minutes:
 - January 20, 2021
 - January 27, 2021
 - Motion made by Mr. Daniels and duly seconded by Mr. Mark
 - All in favor 5-0, minutes passed
- Adjournment:

The motion was made to adjourn by Mr. Mark and, all members present were in favor. Meeting adjourned 8:24 p.m.