



# 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 in-person at the South Kingstown Town Hall, Council Chambers, 180 High Street, Wakefield, RI 02879 at 7:00 p.m. on Wednesday October 27, 2021.

### A. CALL TO ORDER:

Mr. Cagnetta called the meeting to order at 7:00 pm

### B. CHAIRMAN INTRODUCTIONS AND INSTRUCTIONS:

**Members Present:** Robert Cagnetta, Chairman; Thomas Daniels, Vice-Chair; William Rosen, Member; Casey Charkowick, Member; Susan Walsh, Member; and Alternate; Russell Brown, Alt. #1

**Member(s) Absent:** none

**Staff Present:** Amy Goins, Special Legal Counsel; Jamie Gorman, Building Official and Zoning Clerk; Jessica Spence, Administrative Support Assistant

*Members voting tonight will be Mr. Cagnetta, Mr. Daniels, Mr. Rosen, Mr. Charkowick and Ms. Walsh*

The standards of relief were explained.

### C. AGENDA ITEMS:

- I. **Petition of David and Dawn Kalach**, 431 Winding Brook Farm Road, Watertown, CT 06795 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a 5' x 17' deck attached to the existing dwelling. The deck will be located 17' from the front property line. The required front yard setback is 40'. Relief of 23' is requested. Lot size is .19 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 David P. and Dawn M. Kalach for premises located at 110 Tupelo Road, South Kingstown, Assessor's Map 89-2, Lot 103 and is zoned R80.

All documents were entered into record.

Dawn Kalach was present and sworn in.

Ms. Kalach testified that she is requesting a variance for their second home. They purchased the home 10 years ago and now she is spending more time there year round. The current home has a stoop that is very high, with steep, slippery steps and no railing. There is no place to put down groceries or packages. They would like to add a porch which would have railings, safer stairs and more space. In designing the porch they tried to keep it as close to the house as possible and still meet their needs. They decided expand it to the end of the house so it would not end in front of the window. The lot is non-conforming and limited.

Board questions ensued in regards to the stairs.

Ms. Kalach stated that the steps need to go in front of the porch because they are limited by a driveway on the side.

The Board had no further questions.

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

Mr. Rosen enquired about the zoning classification of R80.

Mr. Gorman explained that most of the lots in this neighborhood are severely deficient and do not meet the setbacks; the lots may have been established prior to the Zoning Ordinance requirements.

Ms. Goins explained the regulations of the zoning district for the property need to be applied, for purpose of this application there should be no concern of the hardship being the prior action of the applicant.

Mr. Cagnetta read the letter from the anonymous resident into record.

Ms. Kalach addressed the concerns in the letter and stated that the proposed porch will never be enclosed, additionally they do not want to block the natural sunlight that comes in through the front window. The proposed porch is also the most aesthetically pleasing design.

Board discussion ensued.

Whereas a motion was made.

**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, S. Walsh-Aye, R. Cagnetta-Aye)**

At a meeting held on October 27, 2021 regarding the Petition of David and Dawn Kalach, 431 Winding Brook Farm Road, Watertown, CT 06795 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct a 5' x 17' deck attached to the existing dwelling. The deck will be located 17' from the front property line. The required front yard setback is 40'. Relief of 23' is requested. Lot size is .19 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 David P. and Dawn M. Kalach for premises located at 110 Tupelo Road, South Kingstown, Assessor's Map 89-2, Lot 103 and is zoned R80

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

- Dawn Kalach

**There was no one who spoke either in support of or opposition to the petition.**

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

- Application signed and dated August 12, 2021; Owner Authorization signed and notarized August 12, 2021; Construction Detail (1 page); Site Plan prepared by Jackson Surveying Inc., stamped by Donald Jackson PLS and dated July 2021.
- 200' Radius Map and Abutter's List; Legal Notice; Proof of Certified Mailings and Notarized Affidavit of Mailing
- Correspondence
  - Anonymous correspondence from South Kingstown Resident

**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 simply asking to replace an old steep stone stoop in front of her house with a reasonably sized new deck on a lot that is substantially substandard in size in relation to its R80 designation.

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 construct a safe front porch large enough to leave packages.

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 addition of the porch will be more aesthetic and will fit in well with the character of the neighborhood.

4. The Board finds that the relief to be granted is the least relief necessary, because the applicant is simply looking to expand where an existing stoop was located and replace with a reasonably sized deck to meet their needs.

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 is spending more time at the property and the current front stoop is not unsafe during inclement weather. Additionally if the porch were to be built smaller it would end in the center of the existing picture window looking out of place.

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

- There are no conditions upon this approval.

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II. **Petition of Nicholas N. Sinchuk**, 48 Arrow Head Trail, South Kingstown, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to remove the existing 7' x 13.5' porch and construct an 8' x 20.3' porch on the north side of the dwelling. The porch will be located 17.4' from the front property line and 11.1' from the corner side property line. The required front and corner side yard setback is 25'. Relief of 7.6' and 13.9' is requested. Lot size is .23 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 Nicholas N. and Dorothy Sinchuk for premises located at 48 Arrow Head Trail, South Kingstown, Assessor's Map 34-2, Lot 91 and is zoned R20.

All the documents were entered into record.

Mr. Cagnetta read into record the correspondence from Penney and Jeffrey Hanson, 83 Arrow Head Trail

Nicholas N. Sinchuk was present and sworn in.

Mr. Sinchuk testified that the previous porch was over 35 years old and at the end of its useful life and needed to be rebuilt. He stated they would like to change the roofline to allow for more headroom on the porch and extend the porch slightly. The proposed porch will enhance the overall appeal of the house. They enjoy sitting on the front porch and the 1' northerly extension would allow for placement of rocking chairs and footstools. Due to the location of the house on the lot any deck designed would need a variance because they would not be able to meet the front setback and would require relief.

Board questions ensued

Mr. Sinchuk explained that the old porch has already been demolished. Mr. Sinchuk explained the proposed porch will fit in with the neighborhood. He then explained the dimensional relief he was seeking.

Discussion ensued in regards to placement of the stairs and if any further relief would be required.

There was no further Board discussion.

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

Whereas a motion was made.

**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, S. Walsh-Aye, R. Cagnetta-Aye)**

At a meeting held on October 27, 2021 regarding the Petition of Nicholas N. Sinchuk, 48 Arrow Head Trail, South Kingstown, RI 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to remove the existing 7' x 13.5' porch and construct an 8' x 20.3' porch on the north side of the dwelling. The porch will be located 17.4' from the front property line and 11.1' from the corner side property line. The required front and corner side yard setback is 25'. Relief of 7.6' and 13.9' is requested. Lot size is .23 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 Nicholas N. and Dorothy Sinchuk for premises located at 48 Arrow Head Trail, South Kingstown, Assessor's Map 34-2, Lot 91 and is zoned R20.

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

- Nicholas Sinchuk

**There was no one who spoke either in support of or opposition to the petition.**

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

- Application signed and dated September 15, 2021; Owner Authorization signed and notarized September 15, 2021; Site Plan and Expanded View (2 pages) prepared by Christopher Palmer, PLS and dated August 8, 2021; Proposed Porch Site Plan (2 pages); Photo (1 page)
- 200' Radius Map and Abutter's List; Legal Notice; Proof of Certified Mailings and Notarized Affidavit of Mailing
- Correspondence
  - Penney and Jeffrey Hanson, 83 Arrow Head Trail

**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 this is a small, nonconforming lot and the proposed deck expansion will modernize and square off the existing structure improving the general overall aesthetics.
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 is the applicant's primary residence and he is simply looking to extend the front porch for greater accessibility and to utilize the front deck to its maximum potential.
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 smaller homes with front porches that also required setback relief due to the small nature of the lots and the location of the houses in this neighborhood.
4. The Board finds that the relief to be granted is the least relief necessary, because the applicant is only modifying the front porch to the limit of what is livable and is not overextending the use of this property.
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 will not have the full use and enjoyment of the front area of his home.

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

- A site plan to be reviewed by the Building Official prior to issuance of any building permits that clearly indicates the location of the stairs and meets both the Building Code and the Zoning Ordinance requirements.

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- III. **Petition of Daniel and Mary Beth Haskins**, 51 Prospect Road, South Kingstown, RI 02879, for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to demolish and reconstruct a one-bedroom accessory dwelling in conformance with the FEMA regulations. The proposed dwelling does not exceed 50% of the existing floor area. Lot size is .39 acres. **A Special Use Permit is required per Zoning Ordinance Section 202 (Building, Structure or Land Nonconforming by Use), Section 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification) and Section 907 (Standards of Relief)**. Owner of the property is Daniel W. and Mary Beth Haskins, for premises located at 51 Prospect Road, South Kingstown, Assessor's Map 93-1, Lot 61 and is zoned R20.

All documents were entered into record.

Attorney Matthew Landry was present for the applicant.

Mr. Landry stated the Daniel and Mary Beth Haskins are present as well as Lori Keene from Keene Architectures. Mr. Landry explained the history of this lot. They are seeking to demolish and reconstruct the existing one-bedroom cottage on this property. This will have no effect on the primary dwelling. The current cottage is located about 1' from the property line and is roughly 1300 square feet in size. The cottage is a legal non-conforming use and the ordinance requires a SUP for any modifications to the property. The property is within CRMC, RI DEM and SAMP regulatory statues. They have received a preliminary determination from CRMC which set forth the 50' coastal buffer; because the building will be modified by more than 50% the building must be moved outside of the 50' buffer zone. The cottage is also being moved to comply with zoning setbacks so no dimensional variance is required. The property will also comply with all FEMA regulations due. This lot is also within the Special Flood Overlay District which has its own requirements which were also incorporated into the design. The proposed cottage is roughly 1140 sf with about 440 sf of decking

which meets all of the different regulatory perimeters. They are currently seeking a SSD with RI DEM to make sure the existing OWTS will be sufficient. They do not foresee any issues with the septic because it was upgraded with a denitrification system in 2008; additionally they have not changed the existing bedroom count.

Lori Keene, Architect was present and testified.

Ms. Keene explained the proposed design and the reasoning behind the design.

Applicant's Exhibit's #'s 1-4 submitted, aerial photographs of the property.

Board questions ensued about setbacks and property lines.

Mr. Landry stated that they will submit a site plan clearly delineating all setbacks.

Board questions ensued.

Mary Beth Haskins was sworn in.

Ms. Haskins explained that they believe the original cottage was used as a chauffeur's house. The cottage will not be used as a rental property, either Ms. Haskin's mother or sister will be using the cottage.

Ms. Keene clarified the property setbacks.

Ann Travers was present and sworn in. She resides at 37 Prospect Road and is directly abutting. She has some question in regards to the current retaining wall which is currently bowing into her yard. She also had some questions in regards to the rain garden.

Ms. Keane stated that the retaining wall would either be repaired or rebuilt in kind. The rain garden will be perfectly flat with a small divot in the center and is designed so that any runoff will be contained on the subject property.

Mr. Landry stated that CRMC also requires any structure over 600' to contain all rain water runoff onsite.

Mr. Gorman stated that if the Board approves this petition they could make the retaining wall a condition of approval to be reviewed by the Building Official during the permitting process.

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

Mr. Landry had no further testimony to put before the Board and stated that they would be willing to work with the Building Official in regards to the retaining wall.

There was no further Board discussion.

Whereas a motion was made.

**The Motion is as Follows:**

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

**Motion passed unanimously 5-0**

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

At a meeting held on October 27, 2021 regarding the Petition of Daniel and Mary Beth Haskins, 51 Prospect Road, South Kingstown, RI 02879 for a Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking to demolish and reconstruct a one-bedroom accessory dwelling in conformance with the FEMA regulations. The proposed dwelling does not exceed 50% of the existing floor area. Lot size is .39 acres. A Special Use Permit is required per Zoning Ordinance Section 202 (Building, Structure or Land Nonconforming by Use), Section 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification) and Section 907 (Standards of Relief). Owner of the property is Daniel W. and Mary Beth Haskins, for premises located at 51 Prospect Road, South Kingstown, Assessor's Map 93-1, Lot 61 and is zoned R20.

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

- Attorney Matthew Landry
- Lori Keene, AIA

- Mary Beth Haskins, applicant

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

- Ann Travers, 37 Prospect Road

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

- Application with Cover Letter and Exhibit A signed and dated August 10 and 12, 2021; Owner Authorization signed and notarized August 10, 2021; RI CRMC Preliminary Determination (2 pages); Correspondence from RI Heritage Commission received June 10, 2021 (1 page); Draft Site Plan (1 page) prepared by Frisella-Balch & Associates dated December 21, 2015; Building Elevations, Floor Plans and Proposed Building Location Site Plan (4 pages) prepared by Keene Architecture dated September 8 & 9, 202; Site Drainage Plan (1 page) prepared by Richard Pastore, PE and dated August 12, 2021
- 200' Radius Map and Abutter's List; Legal Notice; Proof of Certified Mailings and Notarized Affidavit of Mailing
- Applicant's Exhibits #1-4, aerial photographs

**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 202 (Building, Structure or Land Nonconforming by Use), Section 203 (Special Use Permit for Addition, Enlargement, Expansion or Intensification) 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 testimony and documentation presented support the necessary criteria as defined within the Ordinance.
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 proposed replacement cottage will use the same ingress and egress as the previous cottage. Additionally, the replacement cottage will be moved further away from property setbacks.
  - (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; because this is a replacement structure with off-street parking already in place. There will be no additional noise, glare or odor.
  - (iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above; Utilities, with reference to locations, availability and compatibility; trash, storage and utilities are already existing.
  - (iv) Screening and buffering with reference to type, dimensions and character; existing landscaping already in place.
  - (v) Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district; not applicable.
  - (vi) Required yards and other open space; not applicable.
  - (vii) General compatibility with lots in the same or abutting zoning districts, because this is a replacement cottage and the proposed design will fit in well with the surrounding neighborhood.

**Approval is conditional and subject to the following:**

- The decision is a Conditional Zoning Approval and is conditioned upon any, if necessary, further CRMC 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.
- Review by the Building Official in regards to any modifications or reconstruction of the existing retaining wall prior to any work commencing on the above mentioned retaining wall.

- IV. **Petition of Peter Loconte**, 5 Limestone Road, Armonk, NY 10504 For a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking the approval of a Special Use Permit to locate an Onsite Wastewater Treatment System (OWTS) within 150' of a wetland. The OWTS will service a proposed two-bedroom dwelling. A Special Use Permit was previously granted for the OWTS on February 21, 2018, but construction has not commenced and approval has since expired. Lot size is .13 acres. **A Special Use Permit is required per Zoning Ordinance Section 504.1 (Special Use Permits-Location of OWTS) and Section 907 (Standards of Relief)**. Property is owned by Peter Loconte for premises located in South Kingstown, Assessor's Map 89-2, Lot 45 and is zoned R80.

All documents were entered into record.

Mr. Cagnetta summarized the three (3) correspondence that were submitted prior to the hearing.

- Douglas Shapiro, 19 Teal Drive, received October 20, 2021
- Mary-Gail Smith, 17 Periwinkle Drive West, received October 19, 2021
- Ann Sarpu, 17 Marine Drive, received October 25, 2021

Sergio Cherenzia, PE was present and sworn in.

Mr. Cherenzia stated his clients were present in the audience tonight and gave a brief overview of the project and explained the lot specifications and its coastal restraints. The property is under RI DEM critical management and CRMC regulatory statuses. There is a valid OWTS permit on the property. The soil evaluations remain current as long as the OWTS permit is active and given the time frame it not likely that ground water changes would be significant. CRMC assent was granted in 2018 and expired on June 15, 2021 but an extension was granted with a new expiration of June 15, 2022.

Applicant's Exhibit #1 submitted, CRMC Assent Extension.

Mr. Cherenzia explained that construction needs to be completed prior to the expiration of the OWTS permit application and CRMC assent.

Mr. Cherenzia explained that he worked with the previous owners in obtaining all necessary permits and is now working with Mr. Loconte, the new owner of the property, who is looking to move forward with construction.

Mr. Cherenzia explained the OWTS specifications in detail. Mr. Cherenzia then noted the zoning requirements and that no dimensional relief will be needed. He indicated that during construction, construction vehicles will be closely monitored. Also a house of this size should be a relatively quick build. Mr. Cherenzia then explained the storm water runoff and sediment control plans. They are on public water and all other utilities will be serviced. The proposed structure will be FEMA and Flood compliant. Mr. Loconte is looking to make this his retirement home.

Board questions ensued in regards to the flagged wetlands in 2009.

Mr. Cherenzia explained that by virtue of the fact that CRMC extended the permit that the wetlands have not changed.

Questions and discussion ensued in regards to the previous Conservation Commissions report.

Mr. Cherenzia reviewed how they had accommodated the Conservation Commission's recommendations.

Board questions ensued in regards to construction of the proposed structure and flood zone requirements.

Mr. Cherenzia then explained the water table was 12" where the test pits were taken, the minimum requirement. The structure will be elevated to meet flood requirements and any lower level enclosures will meet all of the required codes.

Brian McCuin, contractor was present and sworn in.

Board questions ensued in regards to site conditions

Mr. McCuin explained that they are accustomed to working on tight sites and are used to accommodating construction traffic and local traffic. The build will take roughly 10 months.

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

Board discussion ensued.

Whereas a motion was made.

**The Motion is as Follows:**

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

**Motion passed unanimously 5-0**

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

At a meeting held on October 27, 2021 regarding the Petition of Peter Loconte, 5 Limestone Road, Armonk, NY 10504 For a Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking the approval of a Special Use Permit to locate an Onsite Wastewater Treatment System (OWTS) within 150' of a wetland. The OWTS will service a proposed two-bedroom dwelling. A Special Use Permit was previously granted for the OWTS on February 21, 2018, but construction has not commenced and approval has since expired. Lot size is .13 acres. A Special Use Permit is required per Zoning Ordinance Section 504.1 (Special Use Permits-Location of OWTS) and Section 907 (Standards of Relief). Property is owned by Peter Loconte for premises located in South Kingstown, Assessor's Map 89-2, Lot 45 and is zoned R80.

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

- Sergio Cherenzia, PE
- Brian McCuin, contractor

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

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

- Application with Cover Letter signed and dated September 15, 2021; Owner Authorization signed and notarized September 16, 2021; Site Plan prepared by Cherenzia & Associates, Ltd. (C-1) dated September 16, 2021; Floor Plan (1 page); Engineering Report (122 pages) prepared by Cherenzia & Associates, Ltd. and dated September 2021 and stamped by Sergio Cherenzia PE; Zoning Board of Review Recorded Decision (3 pages) granted February 21, 2018 and Recorded March 14, 2018 Book L1668 and Page 380; RI DEM OWTS Construction Permit; Location Map prepared by Cherenzia & Associates, Ltd. (2 pages) dated April 29, 2016 with Revisions October 24, 2016 & November 28, 2016 and stamped by Nathan Lauder, PLS and Sergio Cherenzia, PE
- 200' Radius Map and Abutter's List; Legal Notice; Proof of Certified Mailings and Notarized Affidavit of Mailing
- Applicant's Exhibit #1 submitted, CRMC Assent Extension.
- Correspondence
  - Douglas Shapiro, 19 Teal Drive, received October 20, 2021
  - Mary-Gail Smith, 17 Periwinkle Drive West, received October 19, 2021
  - Ann Sarpu, 17 Marine Drive, received October 25, 2021

**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 504.1 (Special Use Permits-Location of OWTS) 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 testimony and documentation presented support the necessary criteria as defined within the Ordinance.
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 will have sufficient ingress and egress and will meet all of the dimensional setback regulations.



- (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; Utilities, with reference to locations, availability and compatibility; not applicable.
- (iv) Screening and buffering with reference to type, dimensions and character; not applicable.
- (v) Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district; not applicable.
- (vi) Required yards and other open space; the proposed OWTS will conform to all RI DEM and CRMC regulations for the lot.
- (vii) General compatibility with lots in the same or abutting zoning districts, because there are many other small non-conforming lots in this area that have similar limitations. Additionally, the applicant has proven that the proposed OWTS is the best system for this particular parcel and the applicant also successfully addressed the concerns put forth in the Conservation Commission's previous advisory.

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

- There are no conditions upon this decision.

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- V. **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 further extension of the existing Special Use Permit to permanently establish the existing tent over the exterior dining area. The tent was previously authorized for the allocation of seating due to COVID-19 restrictions. Lot size is .8 acres. **A Special Use Permit is required per Zoning Ordinance Section 907C (Continuation or Extension of Special Uses)**. Owner of the property is PKW LLC for premises located at 629 Succotash Road, South Kingstown, Assessor's Map 87-2, Lot 189 and is zoned CW (Commercial Waterfront).

All documents were entered into record.

Attorney Christine Dibiase was present for the applicant.

Ms. Dibiase explained that in the Fall of 2020 in response to COVID 19 restrictions and guidelines the applicant took undertook several measures to continue to operate his restaurant including adding a roof deck, barge dining and creating a tented area. This allowed the applicant to create the necessary seating configurations set forth under the Governor's order which are still applicable until April 2022. Customer's dining expectations have changed due to the pandemic which is why they are here tonight to continue and existing SUP to make the tent a permanent structure, similar to the SUP granted for the roof deck last fall. Since the tent has been erected there have been no complaints from neighbors and no code issues regarding the tent structure itself.

In regards to the letter from the Salt Pond Coalition and the OWTS, there is no intent to expand the seating capacity. They will be working within the seating capacity set forth by the Fire Marshall and the Town. The roof deck and dining barge are seasonal in use, the tent will be used year round and will enable the applicant to meet the comfort levels of different customers in regards to spacing and separation.

Board questions ensued.

Ms. Dibiase further reiterated that the current tent will be the ten that remains; this is a high quality tent that is important to the operation of the restaurant and does not need to be taken down during inclement weather.

Perry Raso was present and sworn in.

The tent is snow and wind load rated for the State Building requirements and if needed the tent can be taken down by the tent installation company. The tent is cabled into the ground and the building structure. There have been no concerns in regards to noise due to the tent. There is no increase in seating capacity and due to reservation protocol in place the waiting time has been greatly reduced limiting the amount of patrons waiting around. The tent is heated by propane heaters that run along the rails.

Questions ensued in regards to the State moratorium in regards to COVID.

Ms. Goins explained that there was an executive order that has now become State Law that cities and towns cannot enforce certain provisions of zoning ordinances related to expansion of bars and restaurants. In response the former Town Manager implemented an emergency permitting process whereby the Building Official can issue temporary permits.

Mr. Brown asked questions in regards to lot coverage, heating and State building code and OWTS capacity.

Discussion ensued in regards to lot coverage and septic capacity.

Mr. Raso explained the OWTS and that they are required by RI DEM to get monthly testing which they have always passed and they have met the required limits.

Ms. Goins recommended that if the Board is inclined to approve this petition that the lot coverage with the tent calculations be submitted and verified by the Building Official to make sure lot coverage was not exceeded, if the lot coverage was exceeded that would pose an issue as a dimensional variance cannot also be granted.

Discussion ensued in regards to what constitutes to lot coverage.

Mr. Brown asked about encroachment on the State Highway (Succotash Road).

Ms. Dibiase stated that they submitted a letter to RI DOT in regards to the acquisition of the area of encroachment.

Mr. Gorman advised that any decision may need to be contingent on the acquisition of the State owned property.

Ms. Dibiase stated that the State is aware of the encroachment.

Mr. Raso stated that in the past he was able to purchase other strips of State owned land.

Mr. Cagnetta asked if anyone in the audience wished to speak.

Paul Hooper, 636 Succotash Road was sworn in and testified that he is here tonight to reflect. He stated that there is a limit to how much frontage you can purchase from the State and that you cannot encroach on the State property. There is a propane tank and a new heating system encroaching on State property. He stated that in the past he was assured that the other work being done was temporary and but then became permanent. He wants to know where the Town stands on the escalation of the property, there are now tents, traffic cones, outside freezers, propane tanks and is asking that the Board remain fair to all parties.

Mr. Raso stated that he has not been cited by either the State or any other agencies for any of the violations that the objector stated.

Ms. Dibiase reviewed the application and how they have met the requirements for the granting of a SUP.

Board questions ensued in regards to the heater and the propane tanks.

Mr. Raso stated that the existing propane tank was placed there several years ago, prior to the tent, and received CRMC approval.

Ms. Goins stated that this would be a conditional approval based on obtaining a permanent approval from CRMC, they currently have a temporary permit which once expired will need to be made permanent.

The Board had no more questions.

Board discussion ensued.

Whereas a motion was made

**The Motion is as Follows:**

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

**Motion passed unanimously 5-0**

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

At a meeting held on October 27, 2021 regarding the 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 further extension of the existing Special Use Permit to permanently establish the existing tent over the exterior dining area. The tent was previously authorized for the allocation of seating due to COVID-19 restrictions. Lot size is .8 acres. A Special Use Permit is required per Zoning Ordinance Section 907C (Continuation or Extension of Special Uses). Owner of the property is PKW LLC for premises located at 629 Succotash Road, South Kingstown, Assessor's Map 87-2, Lot 189 and is zoned CW (Commercial Waterfront).

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

- Attorney Christine Dibiase
- Perry Raso

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

- Paul Hooper, 636 Succotash Road

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

- Application with Cover Letter and Exhibit A signed and dated September 15, 2021; Owner Authorization signed and notarized September 13, 2021; Boundary Survey Plan prepared by DiPrete Engineering dated October 26, 2016 with revisions on November 9, 2016 and September 8, 2021 and stamped by Michael Gavitt, PLS; Correspondence, Check and Survey Plan to RIDOT dated October 22, 2021
- 200' Radius Map and Abutter's List; Legal Notice; Proof of Certified Mailings and Notarized Affidavit of Mailing
- Correspondence
  - Salt Pond Coalition, 50 Bend Road, Charlestown, received October 25, 2021

**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 907C (Continuation or Extension of Special Uses).
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 testimony and documentation presented support the necessary criteria as defined within the Ordinance.
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; ingress and egress is existing and established.
  - (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; because off-street parking and loading areas are existing and remain the same. Allowing the tent to be a permanent structure will not cause any additional noise, glare or odor effects.
  - (iii) Trash, storage and delivery areas with a particular reference to the items in (i) and (ii) above; Utilities, with reference to locations, availability and compatibility; because trash, storage and delivery areas are already established on site. Utilities are existing and not impacted by the granting of this SUP.
  - (iv) Screening and buffering with reference to type, dimensions and character; not applicable, all screening and buffering are already pre-existing.
  - (v) Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district; there is no additional signage or exterior lighting required.

- (vi) Required yards and other open space; not applicable, this is an existing business with already defined yard and open space.
- (vii) General compatibility with lots in the same or abutting zoning districts, because this property is within the Commercial Waterfront District and there are other similar restaurants within the neighborhood and also within this zoning district. Additionally the tent currently exists onsite and the applicant is simply looking to have the existing tent be designated as a permanent structure. No increase in capacity is proposed along with the tent becoming permanent.

**Approval is conditional and subject to the following:**

- The decision is a Conditional Zoning Approval and is conditioned upon any, if necessary, further CRMC 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.
  - A Site Plan must be reviewed by the Building Official to verify lot coverage; if the lot coverage does not exceed the Zoning Ordinance requirement the SUP will remain in good standing.
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**D. OTHER BUSINESS:**

**I. Minutes:** Motion made by Mr. Charkowick to approve the minutes as written from the September 15, 2021 meeting. The motion carried by 5-0 vote with Mr. Brown abstaining.

**II. Attendance:** The meeting will be held on November 17, 2021 and all member present can attend.

**E. ADJOURNMENT:**

**I.** Mr. Cagnetta made the motion to adjourn the meeting at 9:52 p.m. The motion carried by unanimous vote with no abstentions.