



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 November 17, 2021.

A. CALL TO ORDER:

Mr. Cagnetta called the meeting to order at 7:08 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 Robert Fitzpatrick c/o Daniel P. Carter**, 222 Jefferson Blvd., Warwick RI for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a 10' x 34' deck attached to the single-family dwelling. The deck will be located 9.34' from the front property line. The required front yard setback is 25'. Relief of 15.66' is requested. The Lot size is .21 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 Robert F. Fitzpatrick for premises located at 39 West Street, South Kingstown, Assessor's Map 87-2, Lot 65 and is zoned R20.

All the documents were entered into record.

Attorney Daniel Carter was present for the applicant.

Robert F. Fitzpatrick was present and sworn in.

Mr. Carter questioned Mr. Fitzpatrick about the history of the house and lot. Mr. Fitzpatrick purchased the house in 2001 and has not changed anything structurally in the house since he purchased the property. Mr. Fitzpatrick stated he is looking to replace an existing concrete stair and patio with the proposed deck. The addition of the proposed deck will fit in well within the neighborhood. The concrete stairs and patio are out of code. They have recently improved the exterior siding, windows and roof and the addition of the deck will further add to the overall aesthetics of the house. Mr. Fitzpatrick testified that he has been in contact with neighbors who are in support of the proposed addition.

Mr. Cagnetta read into the record the correspondence from Karla Kelly and Joe Prigmore, 33 West Street.

Mr. Fitzpatrick stated that the proposed deck is not getting any closer to the front setback. The proposed deck is replacing the old concrete patio and stairs and will remain within the same footprint. The proposed deck will not encroach any further into the setbacks than what is currently existing on site.

Mr. Carter explained the property setbacks.

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 Ms. Walsh and duly seconded by Mr. Rosen
Motion passed unanimously: Vote 5-0
(S. Walsh-Aye, W. Rosen-Aye, T. Daniels-Aye, C. Charkowick-Aye, R. Cagnetta-Aye)**

At a meeting held on November 17, 2021 regarding the Petition of Robert Fitzpatrick c/o Daniel P. Carter, 222 Jefferson Blvd., Warwick RI for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct a 10' x 34' deck attached to the single-family dwelling. The deck will be located 9.34' from the front property line. The required front yard setback is 25'. Relief of 15.66' is requested. The Lot size is .21 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 Robert F. Fitzpatrick for premises located at 39 West Street, South Kingstown, Assessor's Map 87-2, Lot 65 and is zoned R20.

The following individuals spoke as representatives of the applicant:

- Daniel Carter, Attorney
- Robert Fitzpatrick, Applicant

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 October 6, 2021; Owner Authorization signed and notarized October 6, 2021; Site Plan (1 pages) prepared by Environmental Planning & Surveying, Inc, stamped by Wesley Grant III, PLS and dated September 21, 2021.
- 200' Radius Map and Abutter's List; Legal Notice; Proof of Certified Mailings and Notarized Affidavit of Mailing
- Correspondence
 - Karla Kelly & Joe Prigmore, 33 West Street

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 looking to replace an old deck and concrete stairs. The proposed construction will not encroach any further into the front yard setback than currently exists.
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 make overall general improvements to his property, including new code compliant stairs and deck. Additionally, the proposed deck will not encroach any further into the front yard setback than the existing deck which was built prior to the applicants owning of the property.
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 proposed improvements will be more aesthetically pleasing and fit in well within the neighborhood.
4. The Board finds that the relief to be granted is the least relief necessary, because the proposed deck is not extending any further into the front yard setback than the existing deck and therefore will not increase the setback encroachment.
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 granting the approval there would be no way for the applicant to rebuild the front deck so that it would not be located within the front yard setbacks. Additionally, if the Board denied the petition the applicant would not be able to enjoy the full beneficial use of the property.

The decision is subject to the following conditions.

- There are no conditions upon this decision.

II. **Petition of Allens Health Center Inc.,** 359 Broad Street, Providence, RI 02908 a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to construct a 30' x 30'2" basement addition to the Assisted Living Facility (Use Code 24.4). The below grade addition will house the tank and pump required for a new fire suppression system. Lot size is 4.69 Acres. **A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations Table) and 907 (Standards of Relief).** Owner is Allens Health Center Inc, for premises located at 2115 South County Trail, South Kingstown, Assessor's Map 9, Lot 59 and is zoned R80.

All documents were entered into record.

Attorney Wyatt Brochu was present for the applicant.

Mr. Brochu explained that the current fire suppression water tank needs to be replaced and in reviewing the needs of the facility it was determined that to bring the tank up to code a larger tank would be required. In order to install a larger tank in the basement they have proposed a bump out to the basement which would accommodate the new tank and all other mechanics. The applicant has been through TRC and DPR.

Jason Iacobocci, AIA was present and sworn in. Mr. Iacobocci reviewed his CV and stated that his firm prepared the plans. He is familiar with the facility and what needs to be done to meet the current fire codes. Additional space is needed because the existing tank was installed in the facility back in the 1960's and the applicant needs to upgrade to meet current state fire codes which will require a much larger tank. The existing tank is located within a pit in the lower level. To accommodate the new tank there will be an addition going out at the basement level only. This space would accommodate new tank and mechanics. The proposed addition will match the current exterior of the building. All lighting will be dark sky compliant and not spill over any property lines. The only above grade feature of the addition that will be seen is some handrails and guard rails and the addition will keep within the general character of the neighborhood. Only one wall will be visible, the rest of the addition is below grade. All storm water management has been addressed. They are using the existing pit as much as possible and then extending it out as needed to accommodate the new tank. All construction will be up to all State Building and Fire Codes. The existing fire and rescue vehicle access will remain the same.

Mr. Brochu assured the Board that the scope of this project was much larger than anticipated but was what was required to update the Fire Suppression System and meet all State Fire codes. There will be no visible impact from the street.

Mr. Cagnetta asked if there was anyone present in the audience who wished to speak.

Catherine Pierce was present and sworn in. Her property is surrounded on 3 sides by the applicant's property. She asked several questions regarding what she will see, potential noise and exterior lighting concerns.

Mr. Iacobucci explained that a generator will be running only as needed and that what she will see will not be any different than what she currently sees. The proposed lighting will be dark sky compliant and should not spill over property lines.

There was no Board discussion.

Whereas a motion was made.

The Motion is as Follows:

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

Motion passed unanimously 5-0

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

At a meeting held on November 17, 2021 regarding the Petition of Allens Health Center Inc., 359 Broad Street, Providence, RI 02908 a Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking to construct a 30' x 30'2" basement addition to the Assisted Living Facility (Use Code 24.4). The below grade addition will house the tank and pump required for a new fire suppression system. Lot size is 4.69 Acres. A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations Table) and 907 (Standards of Relief). Owner is Allens Health Center Inc, for premises located at 2115 South County Trail, South Kingstown, Assessor's Map 9, Lot 59 and is zoned R80.

The following individuals spoke as representatives of the applicant:

- Wyatt Brochu, Attorney
- Jason Iacobocci, AIA

The following spoke in regards to the petition.

- Catherine Pierce, 295 Barbers Pond Road

The following materials were entered into the record:

- Application signed and dated October 15, 2021; Owner Authorization signed and notarized October 15, 2021; Site Plan prepared by Cherenzia & Associates, Ltd. (C-1) dated September 16, 2021; Construction Documents (Cover, Existing Conditions, Overall Main Level Plan, Proposed Floor Plans, Proposed Elevations) prepared by RGB Architects and dated August 27, 2021; Site Plans (Cover, SP1, SP2, C4) prepared by Garofalo & Associates, Inc. and dated August 2021; Development Plan Review (2 pages) recorded on October 5, 2021 Land Evidence Book 1808 Pages 163-164; TRC Minor Review Summary (1 page) dated July 8, 2021; Lighting Specifications (15 pages).
- 200' Radius Map and Abutter's List; Legal Notice; Proof of Certified Mailings and Notarized Affidavit of Mailing

Findings of Fact:

1. The Board finds that the special use is specifically authorized by this Ordinance, because a Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations Table) and 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; there will be no negative impact on the existing ingress and egress.
 - (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 the proposed location of the addition is in the back of the facility and off-street parking and loading will not be effected.
 - (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 all trash, storage and utilities are already in place and there will be no change.
 - (iv) Screening and buffering with reference to type, dimensions and character; will be sufficiently buffered.
 - (v) Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district; any additional lighting will be dark sky compliant and not spill over onto neighboring properties.
 - (vi) Required yards and other open space; not applicable, existing.
 - (vii) General compatibility with lots in the same or abutting zoning districts, because the current use of the property will not be changing and the proposed addition will be of the same general appearance as the existing structure. Additionally, the proposed addition will be located to the rear of the property and will not be visible from the road.

The decision is subject to the following conditions:

- The applicant shall meet all conditions outlined in the Planning Board Development Plan Review (Advisory to Zoning) granted on September 28, 2021 and recorded on October 5, 2021, Land Evidence Book 1808 Page 163-164.

- III. **Petition of Thomas Rock**, 5 Sunrise Lane, South Windsor, CT 06074 a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct an 8' x 22', two-story addition to the west side of the single-family dwelling. The applicant also seeks to extend the attached deck and stairs 4' closer to the west side property line. The deck will be located 3' from the side property line and 8' from the front property line. The required side and front yard setbacks are 11' and 40', respectively. Side yard relief of 8' and front yard relief of 32' are requested. Lot size is .32 acres. **A Dimensional Variance is required per Zoning Ordinance Section 207 (Nonconforming Lots of Record – Building Setback Requirements) and Section 907 (Standards of Relief)**. Owners of the property are Thomas & Diana Rock for premises located at 162 Green Hill Ocean Drive, South Kingstown, Assessor's Map 96-1, Lot 7 and is zoned R80.

All documents were entered into record.

Thomas Rock was present and sworn in.

Mr. Rock testified that they have a small 750 sf cottage with a small bathroom. They are looking to add an addition with a handicap bathroom for his mother-in-law's use. The west wall would be bumped out roughly 8'. The additional request for the deck to be closer to the property line is in regards to the stairway. Mr. Rock addressed the letter concerning the easement. Mr. Rock stated that he did not realize that it was a 4' right of way easement, he believed it was a 3' easement. Mr. Rock stated that he has no issues honoring the 4' easement and would not encroach.

Mr. Cagnetta read into record the correspondence from Mark and Janice Roth, 159 Green Hill Ocean Drive

Board questions ensued in regards to the deck located along the street line, the stair location and possible encroachment on the street; questions also ensued in regards to if a recent survey has been completed.

Mr. Rock indicated that they currently have a wraparound deck. He then explained that if the deck was extended towards the west, due to the angle of the house to the street it would cause a little bit more encroachment towards the street, roughly 1'. There is no recent survey on this property.

The Board expressed concerns about the lack of a recent survey and requested an updated survey that clearly shows the easement and the location of the proposed stairs.

Mr. Rock indicated that the proposed deck would no longer wrap around and the stairs would be relocated onto the beach side. There would be a deck on street side of the house and on the beach side of the house.

Discussion ensued.

Mr. Gorman advised that whatever the applicant brings back before the Board that the site plan must not exceed what was advertised in the legal notice.

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

Mr. Cagnetta made the motion to continue the petition until the January 19, 2022 and was duly seconded by Mr. Daniels. Whereas a voice vote was taken, all in favor. (5-0)

At this point Mr. Daniels left the meeting, he filed a recusal regarding the petition of 410 Gooseberry Road, Snug Harbor Marina.

Mr. Brown will now be the 5th voting member.

- IV. **Petition of Snug Harbor Marina, c/o Albert Conti**, 410 Gooseberry Road, South Kingstown, RI 02879 for a **Dimensional Variance** under the Zoning Ordinance as follows: The applicant is seeking to construct a storage room above an existing accessory building. The proposed building height will be 22' 15/16". The maximum accessory building height associated with a marina use is 15'. Relief of 7' 15/16" is requested. Lot size is 1.31 acres. **A Dimensional Variance is required per Zoning Ordinance Section 401 (Schedule of Dimensional Regulations) and**

Section 907 (Standards of Relief). Owners of the property are Albert L. & Patricia Conti for premises located at 410 Gooseberry Road, South Kingstown, Assessor's Map 88-1, Lot 10 and is zoned CW (Commercial Waterfront).

All documents were entered into record.

Elisa Conti was present and sworn in. Ms. Conti explained that they are a 40-year old business that caters to both tourists and locals. They sell fuel, tackle, groceries, various sundries and have a snack bar. They are requesting a variance because they are in desperate need of dry storage. Additionally, the current roof is a 40 years old flat roof and needs to be replaced. The footprint will remain the same. They are only increasing the roof pitch to create a storage area out of the flood zone that has proper standing/head room. There will be no living space, the space will be used strictly for storage. There will be an internal stairwell for access.

Board questions ensued.

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. Rosen and duly seconded by Mr. Charkowick

Motion passed unanimously 5-0

(W. Rosen-Aye, C. Charkowick-Aye, S. Walsh-Aye, R. Brown-Aye, R. Cagnetta-Aye)

At a meeting held on November 17, 2021 regarding the Petition of Snug Harbor Marina, c/o Albert Conti, 410 Gooseberry Road, South Kingstown, RI 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct a storage room above an existing accessory building. The proposed building height will be 22' 15/16". The maximum accessory building height associated with a marina use is 15'. Relief of 7' 15/16" is requested. Lot size is 1.31 acres. A Dimensional Variance is required per Zoning Ordinance Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief). Owners of the property are Albert L. & Patricia Conti for premises located at 410 Gooseberry Road, South Kingstown, Assessor's Map 88-1, Lot 10 and is zoned CW (Commercial Waterfront).

The following individuals spoke as representatives of the applicant:

- Elisa Conti Cahill

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 signed and dated September 28, 2021; Owner Authorization signed and notarized September 28, 2021; Site Location Plan (1 page) prepared by Coastal Engineering Group, Inc. and dated October 2016; Locus Map (1 page) stamped by Joseph Frisella PE; Structural Analysis Report (3 pages) prepared by Coastal Engineering Group, Inc and stamped by Ernest George Jr., PE and dated March 31, 2021; Elevations and Floor Plans (A1 & A2) prepared by Ocean State Drafting and dated November 27, 2020; Authorization Letter signed by Albert Conti and dated November 10, 2021.
- 200' Radius Map and Abutter's List; Legal Notice; Proof of Certified Mailings and Notarized Affidavit of Mailing

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 looking to replace a deteriorating roof on an existing structure and raise it by 7'5/16" to create much needed storage space with adequate headroom.
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 although this is a commercial operation raising the roof to accommodate more storage will not result in the applicant realizing any greater financial gain.
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 they are simply asking to raise the roof on an already established and allowed business within the Commercial Waterfront zoning district.

4. The Board finds that the relief to be granted is the least relief necessary, because the current flat roof is presently in terrible condition and needs to be replaced.

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 current storage space is inadequate and the existing roof is in poor condition and ultimately needs to be replaced.

The decision is subject to the following conditions.

- 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.
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D. OTHER BUSINESS:

I. Minutes: Motion made by Mr. Rosen to approve the minutes as written from the October 27, 2021 meeting. The motion carried by unanimous vote with no abstentions.

II. Attendance: The next meeting will be held on December 15, 2021. Mr. Cagnetta will not be present and all other member present can attend.

III. General Discussion ensued.

E. ADJOURNMENT:

I. Mr. Cagnetta made the motion to adjourn the meeting at 8:32 p.m. and was duly seconded by Mr. Rosen. The motion carried by unanimous vote with no abstentions.