Town of North Kingstown

Zoning Board of Review Meeting
Tuesday, August 25, 2020
Municipal Offices Courtroom
100 Fairway Dr.
North Kingstown, RI 02852
7:00 Pm

Agenda

Please Note:
To protect the health and well-being of our citizens during the COVID-19 emergency, and in accordance with the Governor’s Executive Orders, public attendance will not be permitted. The August 25, 2020 Zoning Board of Review meeting can be watched live, online, through the following link:

Meeting URL:
https://us02web.zoom.us/j/84312025457?pwd=ZE9TeUlhS1BmaEE2OVY2LzVkcmaUT09

Meeting ID: 843 1202 5457
Password: 346215

Join by Telephone
For higher quality, dial a number based on your current location.
Dial: US: +1 312 626 6799 or +1 929 436 2866 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 6833 or +1 253 215 8782
For members of the public, once you enter the call, you will be placed on mute until a request for comments is made. A moderator will manage the order of the calls and will unmute the calls one-by-one.

You may also email comments to nlafontaine@northkingstown.org. Please include your name, address, and statement. Only comments including all required information will be read into the record.

1 Call to Order

2 Pursuant to RIGL 42-46-6(c), notice of this meeting has been posted on the Secretary of State's website

3 Minutes

3.a July 14, 2020
   zbr_minutes_071420 done draft.docx

4 Old Business

4.a Discussion and Decision: request by Randall W. Thompson representing RWT Properties, LLC for the approval of a dimensional variance for a single story garage addition to the side of the existing single story garage in accordance with Article IV: Dimensional Regulations: Table 2A: Residential Districts located at 44 Roger Williams Drive., North Kingstown, RI 02852 Plat 139 Lot 19 and zoned Village Residential (VR). (Continued from the 07/14/20 & 07/28/20 meetings)

5 New Business

5.a Request by Henry J. & Nancy W. Gauthier of 460 Tower Hill Rd, North Kingstown, RI 02852 for the approval of a dimensional variance for rear setback relief in accordance with Article IV: Dimensional Regulations: Table 2B: Business Districts the construction of a second level 8’ x8’ deck to the existing building located at 460 Tower Hill Rd, North Kingstown, RI 02852 Plat 086 Lot 033 and zoned Neighborhood Business (NB).
6 Adjournment

THE TOWN OF NORTH KINGSTOWN WILL PROVIDE INTERPRETERS FOR THE DEAF AND HARD OF HEARING AT ANY MEETING PROVIDED A REQUEST IS RECEIVED THREE (3) DAYS PRIOR TO SAID MEETING BY CALLING 294-3331, EXT. 120.
Zoning Board of Review Agenda Item Report

Submitted by: Beth Gagnon Glasberg
Submitting Department: Planning and Development/Zoning
Meeting Date: August 25, 2020

Agenda Action:
July 14, 2020

Motion:

ATTACHMENTS
• zbr_minutes_071420 done draft.docx
Present were Randy Wietman (Chair), John Gibbons, Jr. (Vice-Chair), David McCue, Patricia O’Connor-Siegmund, Robert O’Neill.

Elaine Lemieux was excused. John Marth left the meeting early.

Mr. Wietman welcomed all to the Tuesday July 14th Zoning Board of Review Meeting.

Minutes

Mr. Wietman asked if there was questions, comments, or edits on the Zoning Board June 9, 2020 meeting minutes draft.

There was none, Mr. Wietman called for a motion to approve the minutes.

Mr. Gibbons moved. Dr. O’Neill seconded. Mr. Wietman, Mr. Gibbons, Dr. O’Neill, Ms. Siegmund and Mr. McCue voted aye (by roll call). The minutes were accepted into record.

Discussion and Decision: for the request by North Kingstown Solar, LLC, 111 Speen Street, Framingham, MA 01701 for the approval of special use permit(s) to allow for installation of a solar photovoltaic facility in accordance with Articles III: Land Use Table and XII: Miscellaneous Provisions: Section 21-323: Solar Energy Systems located on Open Space (OS), Plat 67 Lot 54 at 170 Hamilton Allenton Road, North Kingstown and zoned Rural Residential (RR) Property owned by Chestnut Farm LLC, 567 South County Trail, Suite 111, Exeter RI 02822. (cont’d from 1/28/20, 02/25/20, 04/14/20, 06/09/20 and 06/23/20 meetings.)

Discussion and Decision: for the request by Randall W. Thompson representing RWT Properties, LLC for the approval of a dimensional variance for a single story garage addition to the side of the existing single story garage in accordance with Article IV: Dimensional
Regulations: Table 2A: Residential Districts located at 44 Roger Williams Drive., North Kingstown, RI 02852 Plat 139 Lot 19 and zoned Village Residential (VR).

Mr. Wietman said the two agenda items up for discussion and decision are not administratively ready for review. He said both will be heard at the July 28, 2020 Zoning Board meeting.

Mr. Wietman called a motion.

Dr. O'Neill moved. Mr. McCue seconded. Mr. Wietman, Mr. Gibbons, Dr. O'Neill, Ms. Siegmund and Mr. McCue voted aye (by roll call).

Request by Paul Graham, 58 Poplar Ave, North Kingstown, RI 02852 for the approval of two dimensional variances for relief from front and side setback requirements in accordance with Article IV: Dimensional Regulations Table 2A: Residential Districts and Article XII: Miscellaneous Section 21-306 (a) (1) Setback and corner clearance to allow for the replacement of existing dwelling (1658 sq. ft.) with a full two story dwelling (1956 sq. ft) located at 58 Poplar Ave, North Kingstown, RI 02852 (AP 091-084) and zoned Village Residential (VR).

Ms. Harrington started the discussion by sharing elevation drawings that had not made it into the Board’s materials packets.

She said that the total height of the proposed structure, including the Base Flood Elevation is 45.91’. The BFE in this case is 14’. Per Ordinance, the 14’ along with 5’ of freeboard are exempt from the height calculation. She said Mr. Graham’s engineer would be the person to answer questions on this.

Mr. Paul Graham and Ms. Lauren Graham were sworn in.

Mr. Graham told the Board this proposal is to replace the existing dwelling with a modified dwelling to meet flood zone requirements. The existing footprint will be used. Only the garage area will be constructed in the Base Flood Elevation; all livable areas will be above level. Height requirements in a flood zone do not need relief. This is a non-conforming lot at approximately 5000 sq. ft.; and, the existing dwelling does not meet the front or western side setback requirements. An existing garage at the rear of the property encroaches on the rear and eastern side setbacks.

Requested relief is for (1) dimensional variance at the western property boundary; and, (2) dimensional variance at the northern property boundary. The size and configuration of the lot drive the request for the relief.

When construction is complete, this property will fall into conformance with flood zone regulations.
Mr. Richard Pastore, the applicants engineer was sworn in. He testified that the height of the structure will remain under the Town’s height requirements of 35’ considering the measurements to include the BFE and freeboard.

At this point, Mr. Wietman said the Board had received a letter of support from neighbor Diane Izzo.

With that, Mr. Wietman opened the meeting to public comment.

Ms. Izzo came forward and was sworn in.

She spoke in favor of the Graham’s proposal.

Mr. Brian Hesford, an abutter from 11 Lexington Ave was sworn in.

He also spoke in support of the application.

Mr. & Mrs. Kevin & Donna Hoyle, abutters from 44 Poplar Ave, were sworn in.

The spoke in support of the application as well.

Dr. O'Neill presented findings of fact.

The applicant is requesting one dimensional variance as outlined within. Based upon the testimony given at the hearing on July 14, 2020, the following findings of fact are made:

The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant. The property is a nonconforming lot at 5,083 sq. ft with only 50’ of frontage and is located within the AE flood zone which presents hardships and makes this a unique property.

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. The applicant purchased the property less than a year ago with these pre-existing conditions in place. The proposed development will raise the house, bringing the house into conformance with the FEMA flood zone requirements.

The granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based. The granting of these variances will improve the character of the area. The current dwelling needs renovations and the proposal will therefore be an improvement and will result in a development that will be more in keeping with the character of the area.
The relief being sought is the least relief necessary as it will be maintaining the existing footprint and having regard to the nonconforming lot size and the location of the existing footprint, this is considered by the Board to be the least relief necessary.

The hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience as it would impact the full and beneficial use of the property and would not allow for the property to come into conformance with the flood zone requirements which would be more than a mere inconvenience.

Dr. O’Neill moved to approve the application Paul Graham, 58 Poplar Ave, North Kingstown, RI 02852, for Dimensional Variances for .05’ of relief from the western side property boundary and 13.1’ of relief from the northern Poplar Ave property boundary in accordance with Section 21 Article XII: Miscellaneous Provisions: Sections 21-306 (a) (1) setback and corner clearance & 21-311 (f) (1): Land Nonconforming by Area or Other Dimensional Requirements located at 58 Poplar Ave, North Kingstown, RI 02852 (AP 91 Lot 84) zoned Village Residential (VR). The approval was based on testimony provided at the meeting, together with the findings of fact made by the Board and based on the criteria set forth in Section 21-13 and Section 21-14 (a) and (b) of the zoning ordinance. This approval is subject to the condition as set out below.

He said the approval comes with the condition that all construction is done in strict conformance with the submitted site plan dated 03-23-2020 unless minor modifications are approved administratively by the Planning Department.

Mr. Wietman seconded. Mr. Wietman, Mr. Gibbons, Mr. O’Neil, Ms. Siegmund and Mr. McCue voted aye (by roll call).

The motion carried 5-0.

Application of David and Joyce Ruppell, 49 Pojac Point Rd., North Kingstown, RI 02852 for a special use permit for location of accessory structure and a dimensional variance for relief from the height requirements for a two-story accessory structure (garage) in accordance with Chapter 21-329: Location of accessory uses and structures and with Article IV: Dimensional Regulations: Table 2A:Residential Districts of the zoning ordinance located at 49 Pojac Point Road, Plat 169 Lot 009 and zoned Pojac Point Residential (PP).

Ms. Joyce Ruppell, had some technical difficulty with the audio of the ZOOM meeting. Mr. Jeffrey Balsch is the engineer for the project, he was also sworn in. Mr. William O’Gara is the attorney representing them Ruppells’.

They want to construct a new garage with a studio and bathroom which will be situated between the principal structure and Pojac Point Rd. All required setbacks will be met.

They also want to construct a two-story garage which is only allowed in the Pojac Point zone; therefore, a dimensional variance is also requested. The garage is planned at 25’ high.
The garage is proposed to be constructed along the existing driveway and will be connected to it with a small pervious driveway.

The proposed garage will not have a kitchen or bedroom.

Ms. Joyce Ruppell was able to get up and running with audio. She was sworn in. She reiterated what Mr. Balsch had described the proposal to be. She did state that the studio will become her craft area. The new building will meet the structural characteristics of the house. The spot is very removed from any neighbors, it will not interfere with any other surrounding properties. She thanked the Board for their time.

Mr. McCue asked if a condition could be placed on the approval that this will not become an additional dwelling unit.

Mr. O’Gara said that his client would have no objection to that condition.

Ms. Siegmund noted that she visited the site, the property was difficult to find; it is a very remote parcel.

With no further comments or questions, Mr. Wietman opened the meeting to the public.

There was no public comment.

Mr. Wietman entertained a motion to close the meeting to public comment.

Dr. O’Neill moved. Mr. Gibbons seconded. Mr. Wietman, Dr. O’Neil, Mr. Gibbons, Mr. McCue, and Ms. Siegmund voted aye (by roll call). The meeting was closed to the public.

Mr. Wietman said he was familiar with Pojac Point. This is a typical request in that zone; there is a coastal feature at the rear of the property, many homes in that area located their garages to the front of the property to maximize the water view. He considers this a reasonable request.

Mr. Gibbons visited the site. As Mr. Wietman said, this request has come to the Board many times from neighbors of the Ruppells’.

Dr. O’Neill said he found the planned structure an appropriate compliment the main structure; it will blend into the surrounding area nicely.

Ms. Siegmund also visited the site. She said the plan makes sense; it is a very large area.

Mr. McCue noted that he has done work at other Pojac Point properties; it is a beautiful area.

Mr. Wietman then asked Mr. Gibbons if would please make findings.

Concerning the Dimensional Variance request:

The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not the general characteristics of the surrounding area.
and is not due to a physical or economic disability of the applicant. The ordinance presents a hardship in that two-story accessory structures are not allowed by right in the PPR zone. The applicant is seeking a modest footprint to ensure the structure appears accessory to the principal structure and is more functional. The accessory structure will be 25’ in height, which is the same two-story accessory building limit as other zones.

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. As testimony provided the accessory structure will allow for storage and studio space, and it not intended to be an accessory dwelling space.

The granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based. Pojac point lots are large lots in excess of 5 acres and the accessory structure will be set back considerably from the road whereby it will not be visible from Pojac Point road and will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based.

The relief to be granted is the least relief necessary. Based on the single-story restriction in the PP zone the requested 25’ height to allow for a second story is considered the least relief for the proposed accessory structure.

In granting a dimensional variance, the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief. If the variance is not granted the applicant will not be able to have full and beneficial use of their property. The request is not to make the use more profitable, but to serve their personal and storage needs as a studio.

Mr. Gibbons converted his findings of fact into a motion.

Mr. Wietman seconded. Mr. Wietman, Mr. Gibbons, Mr. O’Neil, Ms. Siegmund and Mr. McCue voted aye (by roll call). The findings were accepted.

A motion was made to approve the dimensional variance to allow for a second story on the accessory structure with a height not to exceed 25’ in accordance with Article IV: Dimensional Regulations: Table 2A: Residential Districts located at existing Assessor’s Plat 169 Lot 009, 49 Pojac Point Road, North Kingstown, RI 02852. The approval was based on ZBR review and findings of fact, testimony as provided at the meeting on July 14, 2020 and based on the criteria set forth in Section 21-13 and Section 21-14(a)(b) of the zoning ordinance. This approval is subject to the conditions as set out below.
And, concerning the Special Use Permit request:

That the requested special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based. This is a large lot, which is characteristic of the PP zoned lots. Many of the properties have their houses located towards the rear of the property near the water with the remainder of the open land situated between the road and the primary structures. Similar requests have been granted in this area and it is considered that the granting of this accessory structure will not alter the general character of the area.

The special use permit is reasonably necessary to serve the public convenience and welfare as it will be used for storage and as a studio space for the applicant.

The granting of a special use permit will not pose a threat to the drinking water supply. The accessory structure will not have an impact on the drinking water supply.

The use will not disrupt the neighborhood or the privacy of abutting landowners by excessive noise, light, glare, or air pollutants. The use will remain a residential use. Noise, light, glare, and pollutants will not increase because of this accessory unit.

Sewage and waste disposal into the ground and the surface water drainage from the proposed use will be adequately be handled on site. There is an approved four-bedroom OWTS and the total number of bedrooms in the house will not change. A septic holding tank is proposed to be connected to the existing OWTS, however the usage will remain the same. The accessory structure will not be used as an accessory dwelling.

The traffic generated by the proposed use will not cause undue congestion or introduce a traffic hazard to the circulation pattern of the area. There will be no added traffic congestion because of allowing the accessory structure.

Mr. Gibbons stated these as findings of fact.

Mr. Wietman seconded. Mr. Wietman, Mr. Gibbons, Mr. O'Neil, Ms. Siegmund and Mr. McCue voted aye (by roll call). The findings were accepted.

Mr. Gibbons said that based upon the approved findings of fact and testimony at the July 14, 2020 meeting, the Zoning Board moved to approve the application of David and Joyce Ruppell, 49 Pojac Point Rd., North Kingstown, RI 02852 for a Special Use Permit for an accessory structure located at 49 Pojac Point Rd (AP 169-009) in accordance with Chapter 21-329 of the zoning ordinance on lands zoned Pojac Point (PP). The ZBR have based their decision on ZBR review, testimony provided, findings of fact and the criteria set forth in Section 21-13 and Section 21-15(a) and (b) of the zoning ordinance.
Mr. Wietman, Ms. Siegmund, Dr. O’Neill, Mr. McCue, and Mr. Gibbons granted approval of both motions at a vote (5-0) subject to the following conditions:

All construction is done in strict conformance with the submitted site plan dated May 15, 2019, prepared by Frisella-Balch & Associates, unless minor modifications are approved administratively by the Planning Department.

The accessory structure shall not exceed 25’ in height.

The accessory structure shall not be used as an accessory dwelling unit.

Dr. O’Neill motioned to fast track the application.

Mr. Wietman seconded. Mr. Wietman, Mr. Gibbons, Mr. O’Neil, Ms. Siegmund and Mr. McCue voted aye (by roll call).

**Application of James L. Higgins, 290 Forge Rd., North Kingstown, RI 02852 for a special use permit for exception to the development standards for solar energy systems in accordance with Chapter 21-323(d): Solar energy systems of the zoning ordinance located at 290 Forge Rd., Plat 173 Lot 002 and zoned Rural Residential (RR).**

Mr. James Higgins came forward; he was sworn in. He said he would like to install a free-standing solar energy system on his residential property. The system will be located east of his home. The system will also meet all setback requirements for an accessory structure.

Per the Ordinance, there are certain development standards that must be met to install free-standing systems; one of which is the requirement for 6’ fencing to screen the system. Mr. Higgins does not want to fence the system; he would like an exception from this development standard. He added that he is willing to plant an evergreen screen if the glare affects any abutters.

The project developer Ken Hsieh was sworn in. He testified the equipment includes tamper-resistant netting on the back of the modules, and the system is equipped with a rapid shutdown system. Maintenance is performed on an as-needed basis, as the system is monitored remotely for performance issues. The system will be wired directly to the electric meter via trench, no overhead wires or utility poles.

Mr. Gibbons asked if there was any danger of someone tampering with the equipment and hurting themselves.

Mr. Hsieh responded that the system is tamper-proof, there is no exposed wiring, there is also netting along back of system, and, there is an automatic shut-down feature with the system which shuts the system down for any emergency.

Mr. Gibbons asked for more information on the emergency shut-down feature of the system
Mr. Hsieh told the Board the equipment has a rapid shut-down system which in the case of any emergency or danger will communicate with the owner through wireless transmission and the entire system de-energized.

He also said maintenance is needed infrequently.

Mr. Gibbons asked about runoff.

Mr. Hsieh said the panels will be level which will distribute water evenly.

Mr. Wietman asked about a pole which would link the system to the grid.

Mr. Hsieh said the electric load sits at the meter; all wiring will be trenched from the system to the house.

Mr. Wietman said that he visited the site and made note of the adequate buffering on the property. The system would be almost unseen.

Mr. Wietman then opened the meeting to the public.

Chris Elsasser is an abutter to the property; he came forward and was sworn in. Mr. Elsasser was fully supportive of the evergreen screening proposed by the applicant.

With no further comment, Mr. Wietman made a motion to close the floor to public comment.

Dr. O'Neill seconded. Mr. Wietman, Mr. Gibbons, Mr. O'Neil, Ms. Siegmund and Mr. McCue voted aye (by roll call). The motion passed 5-0.

Mr. Wietman said that he visited the site, he spoke with the owner. Alternative energy is a part of the future. North Kingstown welcomes solar energy especially for residential use. Solar projects are reviewed by this Board mostly to ensure that the systems are buffered and cause no harm to the surrounding area. This homeowner has made sure to do this. The system will be buffered nicely.

Ms. Siegmund said she also visited the site. Like Mr. Wietman, she made note of the abundant vegetation.

Mr. McCue said he supports solar energy use along with this solar project.

Dr. O'Neill agreed with all the Board members; he also mentioned testimony given on the safety features that come as part of the system.

Mr. Gibbons said he visited the site. He is fan of solar energy use. More reliance on solar energy will be a good step in lessening our dependence on fossil fuels. He supports Mr. Higgins project.

Dr. O'Neill made findings of fact.
That the requested special use permit, will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based. The applicants are proposing to install ground mounted solar a distance away from Forge Road, which will be surrounded by a wooded area. On this basis it is considered that the proposal will not alter the general character of the surrounding area.

The special use permit is reasonably necessary to serve the public convenience and welfare. The applicant has proposed a renewable energy project that will be connected to the power grid.

The granting of a special use permit will not pose a threat to the drinking water supply. There will be no leaching to the water supply and therefore the proposed ground mounted solar will not have an impact on the drinking water supply.

The use will not disrupt the neighborhood or the privacy of abutting landowners by excessive noise, light, glare, or air pollutants. This use as proposed is for ground mounted accessory solar to a residential dwelling. The applicant has agreed to mitigate any glare should it disrupt the abutting neighbors.

Sewage and waste disposal into the ground and the surface water drainage from the proposed use will be adequately handled on site. This is not applicable for the proposal.

The traffic generated by the proposed use will not cause undue congestion or introduce a traffic hazard to the circulation pattern of the area. This is not applicable. It is an accessory structure on a residential lot which will not result in any increase in traffic.

The proposal has demonstrated that it will comply with all the other development standards as indicated in Chapter 21-323 (d) of the zoning ordinance except for fencing requirements for which the applicant is seeking the special use permit.

In addition to the criteria in subsections (1) through (7) of this section, in the case of a special permit, the board shall require evidence that the requested use will have a lesser undesirable impact upon the surrounding area than the preceding nonconforming use. This is not applicable.

He asked the Board to accept these finding of fact.

Mr. Wietman seconded. Dr. O'Neill seconded. Mr. Wietman, Mr. Gibbons, Mr. O'Neil, Ms. Siegmund and Mr. McCue voted aye (by roll call).

Dr. O'Neill then moved to approve Mr. Higgins request for a Special Use Permit for exception to not have a 6' privacy fence mandated by the development standards for Solar Energy Systems. The request comes with conditions:
All development shall be in strict conformance with the details submitted as part of this application unless minor modifications are approved administratively by the Planning Department.

The development shall meet all setbacks for single story accessory structures for Rural Residential zones.

Glare from the solar energy system equipment shall be screened by additional vegetation, as determined to be necessary by the Planning Department.

Mr. Gibbons seconded. Mr. Wietman, Mr. Gibbons, Mr. O'Neil, Ms. Siegmund and Mr. McCue voted aye (by roll call). The motion carried 5-0.

Application of John Russo, 39 Pojac Point Rd, North Kingstown, RI 02852 for a special use permit for location of accessory structure (pool mechanics enclosure) proposed to be located between the principle use or structure and street right of way in accordance with Chapter 21-329: Location of accessory uses and structures of the zoning ordinance located at 39 Pojac Point Rd., Plat 169 Lot 024 and zoned Pojac Point Residential (PP).

The applicant’s attorney, James A. Kupa, was present representing the applicant. David Caldwell, the applicant’s contractor (he was sworn in). Mr. Kupa told the Board the Russo’s would like to install an enclosure for pool mechanical components at a location between the home and the road; to do so, per Ordinance, they need a Special Use Permit from the Board. The location of the mechanicals will meet all setback requirements.

Mr. Kupa added the location is far enough away from the road to be visible from the street. The size of the lot also supports the limited sight line.

Mr. Caldwell stated the proposed structure will be built to shelter swimming pool and hot tub equipment, a well pump, and electronic sprinkler equipment. The intent is to make the area more aesthetically pleasing and to protect the equipment from the elements.

It was noted that the house was constructed too close to the water for an accessory structure to be built on the other side of the house.

Mr. Caldwell told the Board the structure is already partially built. There is an existing structure that is ready for inspection from the building inspector.

Mr. Wietman noted that the slab with all the equipment is ugly. A new building will be much more visually appealing.

Mr. Gibbons said he visited the site over the weekend. He saw the building already built. He asked for an explanation.
Mr. Caldwell said he started constructing the building while he was there building a garage. The building is at the point where it can be inspected. An application for a building permit was submitted in January but got lost with the COVID situation.

Mr. Callaghan interjected that the Board’s charge tonight is whether to grant a Special Use Permit for the build location; any action needed on how or when the building is constructed is for the Building Official’s office.

Mr. Wietman stated for the record that he visited the site. This proposal is not unusual for the Pojac Point area. He is in favor of approving the application.

Mr. McCue agreed with Mr. Wietman; he would approve this proposal. This is a large lot. The structure will hide the mechanicals – which are unattractive.

Mr. Gibbons said he is agreement with approval. On top of hiding the look of the mechanicals, the building will muffle the mechanicals noise.

Ms. Siegmund said she visited the site. The project gets the mechanicals out of the elements and looks much better.

Dr. O’Neill agreed; he will approve the project. The building makes the property more aesthetically in line.

Mr. Wietman asked Mr. Gibbons for findings.

Mr. Gibbons stated.

That the requested special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based. This is a large lot, which is characteristic of the PP zoned lots. Many of the properties have their houses located towards the rear of the property near the water with the remainder of the open land situated between the road and the primary structures. Similar requests have been granted in this area and it is considered that the granting of this accessory structure will not alter the general character of the area.

The special use permit is reasonably necessary to serve the public convenience and welfare as it will be used for equipment and mechanical storage to protect it from the elements and enhance the aesthetics of their property.

The granting of a special use permit will not pose a threat to the drinking water supply. The accessory structure will not have an impact on the drinking water supply.

The use will not disrupt the neighborhood or the privacy of abutting landowners by excessive noise, light, glare, or air pollutants. The use will remain a residential use. Noise, light, glare, and pollutants will not increase because of this accessory structure.
Sewage and waste disposal into the ground and the surface water drainage from the proposed use will be adequately be handled on site. This accessory structure does not have a bathroom and will not affect sewage or waste disposal.

The traffic generated by the proposed use will not cause undue congestion or introduce a traffic hazard to the circulation pattern of the area. There will be no added traffic congestion because of allowing the accessory structure.

Mr. Gibbons made a motion the Board accept these as their findings.

Mr. Wietman seconded. Mr. Wietman, Mr. Gibbons, Ms. Siegmund, Mr. McCue, and Dr. O’Neill voted aye (roll call).

Mr. Gibbons then moved that the Board grant the approval for a Special Use Permit for the location of an accessory structure, specifically a pool mechanicals enclosure supposed to be located between the principal use/structure and the street/right of way in accordance with Chapter 21-329: Location of accessory uses and structures of the zoning ordinance located at 39 Pojac Point Rd., Plat 169 Lot 024 and zoned Pojac Point Residential (PP). He based this on the testimony of the applicants and the Board’s findings of fact.

Mr. Wietman seconded. Mr. Wietman, Mr. Gibbons, Ms. Siegmund, Mr. McCue, and Dr. O’Neill voted aye (roll call). The application was approved.

Mr. Wietman then moved to fast-track this application.

Mr. Gibbons seconded. Mr. Wietman, Mr. Gibbons, Ms. Siegmund, Mr. McCue, and Dr. O’Neill voted aye (roll call). The motion carried 5-0.

Application of Jennifer and Richard Bourgeois, 125 Main St., North Kingstown, RI 02852 for the approval of dimensional variance in accordance with Article IV: Dimensional Regulations: Table 2A: Residential Districts: Accessory Building One Story side/rear setback (10') for the construction of a cedar pergola located at 125 Main St., North Kingstown, RI 02852 plat 117 Lot 245 and zoned village residential (VR).

Mr. Richard and Mrs. Jennifer Bourgeois came forward and were sworn in. Mrs. Bourgeois said they own a historic property in Wickford; the area consists of older structures located near to the street and non-conforming lots by dimension. They are seeking a dimensional variance from the left side setback to construct a pergola on the west side of the house.

The only other area on the lot is where the OWTS is located. The pergola will be mostly obscured from view from the street. Their neighbor on the left side of them has submitted a letter of support for the project. They noted that while they are seeking relief from the 10’ required setback, the house actually sits only 8’ from the property line on that side (already non-conforming).
Ms. Bourgeois also submitted a letter of support from her neighbor, Mr. Cam Lewis. He supports the application.

With no questions from Board members, Mr. Wietman asked if there was any public that wished to speak.

There was none.

Mr. Wietman moved to close the meeting to public comment.

Mr. McCue seconded. Mr. Wietman, Mr. Gibbons, Dr. O’Neill, Ms. Siegmund, and Mr. McCue voted aye (by roll call).

Mr. Wietman said he visited the property; he is also familiar with the neighborhood. Properties are tight in the area; all properties are kept up in an attractive manner. This project is in keeping with the area. He will vote to approve the application.

Mr. Gibbons also visited the site. He said the property is tastefully done. This is one of the nicest looking houses in the neighborhood. He will vote to approve.

Ms. Siegmund said the Town Historic District Commission looked favorably on the proposal; she respects their estimation. She will vote to approve.

Dr. O’Neill said this will be aesthetically pleasing, it will enhance privacy. The pergola will enhance the area limited area around it. He said the Planning Department supports. He will vote for approval.

Mr. McCue said everyone needs a place for their climbing hydrangeas; the pergola will do a good job of that. He wished the Bourgeois' luck with the project; they have his support.

Mr. Wietman then asked Dr. O’Neill to make findings

Dr. O’Neill stated findings:

The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant. The property has a unique configuration of primary and accessory structures, and a proposed OWTS to be in the center of the parcel.

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. There is no other location to place the pergola due to the existing garage and the proposed location of a new OWTS.

The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive
plan upon which this chapter is based. The pergola is proposed to be located behind a fence, between two existing two-story homes, and will enhance the lot's aesthetics and privacy.

The relief being sought is the least relief necessary to allow for the construction of the pergola. The pergola is to be constructed adjoined to the primary structure.

The hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience as it would impact the full and beneficial use of the property.

Dr. O’Neill moved that the Zoning Board make these their findings of fact.

Mr. Wietman seconded. Mr. Wietman, Mr. Gibbons, Ms. Siegmund, Mr. McCue, and Dr. O’Neill voted aye (roll call). The motion carried 5-0.

Dr. O’Neill then moved that the application of Jennifer and Richard Bourgeois, 125 Main St., North Kingstown, RI 02852 for the approval of dimensional variance in accordance with Article IV: Dimensional Regulations: Table 2A:Residential Districts: Accessory Building One Story side/rear setback (10’) for the construction of a cedar pergola located at 125 Main St., North Kingstown, RI 02852 plat 117 Lot 245 and zoned village residential (VR) be approved with the condition that all construction is done in strict conformance with the submitted site plan of 2/25/20 unless minor modifications are approved administratively by the Planning Department.

Mr. Gibbons seconded. Mr. Wietman, Mr. Gibbons, Ms. Siegmund, Mr. McCue, and Dr. O’Neill voted aye (roll call). The application was approved 5-0.

Dr. O’Neill then motioned to fact-track the decision.

Mr. Wietman seconded. Mr. Wietman, Mr. Gibbons, Ms. Siegmund, Mr. McCue, and Dr. O’Neill voted aye (roll call). The motion carried 5-0.

**Adjournment**

Mr. Gibbons moved to adjourn the meeting.

Ms. Siegmund seconded. Mr. Wietman, Mr. Gibbons, Ms. Siegmund, Mr. McCue, and Dr. O’Neill voted aye (roll call). The meeting was adjourned at 9:36.
Zoning Board of Review Agenda Item Report

Submitted by: Maura Harrington
Submitting Department: Planning and Development/Zoning
Meeting Date: August 25, 2020

Agenda Action:
Discussion and Decision: request by Randall W. Thompson representing RWT Properties, LLC for the approval of a dimensional variance for a single story garage addition to the side of the existing single story garage in accordance with Article IV: Dimensional Regulations: Table 2A: Residential Districts located at 44 Roger Williams Drive, North Kingstown, RI 02852 Plat 139 Lot 19 and zoned Village Residential (VR). (Continued from the 07/14/20 & 07/28/20 meetings)

Motion:

ATTACHMENTS
•
Zoning Board of Review Agenda Item Report

Submitted by: Maura Harrington
Submitting Department: Planning and Development/Zoning
Meeting Date: August 25, 2020

Agenda Action:
Request by Henry J. & Nancy W. Gauthier of 460 Tower Hill Rd, North Kingstown, RI 02852 for the approval of a dimensional variance for rear setback relief in accordance with Article IV: Dimensional Regulations; Table 2B: Business Districts the construction of a second level 8’ x8’ deck to the existing building located at 460 Tower Hill Rd, North Kingstown, RI 02852 Plat 086 Lot 033 and zoned Neighborhood Business (NB).

Motion:

ATTACHMENTS
- Gauthier ZBR Staff Report _ AP 86-33.docx
- application.pdf
- site plan.pdf
- elevations.pdf
Town of North Kingstown, Rhode Island

100 Fairway Drive
North Kingstown, RI 02852-5762
Phone: (401) 294-3331
Fax: (401) 885-7373
www.northkingstown.org

STAFF REPORT

To: Zoning Board of Review
From: Department of Planning and Development
Date: August 18, 2020
Meeting Date: August 25, 2020

<table>
<thead>
<tr>
<th>Applicant/Owner:</th>
<th>Henry J. &amp; Nancy W. Gauthier of 460 Tower Hill Rd, North Kingstown, RI 02852</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requested Action</td>
<td>Dimensional variance for rear setback relief in accordance with Article IV: Dimensional Regulations: Table 2B: Business Districts the construction of a second level 8' x 8' deck to the existing building located</td>
</tr>
<tr>
<td>Location</td>
<td>Assessor’s Plat 86 Lot 33 / 460 Tower Hill Road</td>
</tr>
<tr>
<td>Existing Zoning</td>
<td>Neighborhood Business (NB) and located within the Groundwater 2 (GW) 2 Overlay.</td>
</tr>
<tr>
<td>Surrounding Zoning</td>
<td>Village Residential (VR-20) and General Business (GB)</td>
</tr>
</tbody>
</table>

Project Summary & Background

The proposal involves the construction of a second level deck 8' x 8' at the rear of the accessory dwelling unit. The lot size is 10,150 sq. ft, which is a conforming lot for the Neighborhood Business (NB) zone, as it is over 4,000 sq.ft. The property is a mixed use property as it presently has a commercial use, being Studio 460 on site which is the primary use and an accessory dwelling unit over the studio for the applicants, which was approved by the zoning board in 2015 in this NB zone. At this time, the applicants also received two dimensional variances, one for 29.0' of relief from the rear eastern boundary and one for 10.8' of relief from the northern side setback requirements for the location of the detached shed. The site is abutted to the immediate north by a property zoned General Business (GB). The other nearby properties, including the oner to the rear of the property are zoned Village Residential (VR).
RELIEF REQUESTED

1. The rear setback requirement is 30’ for NB zoned properties that abut a residential zone. The proposed deck will be positioned 3.8’ from this rear eastern property boundary. Therefore, the requested relied is 26.2’ is required for the proposed addition.

PROCEDURRAL REGULATIONS

- Section 21-13 Zoning Board of Review procedures for variances, special use permits and special permits
- Section 21-14 (a) Criteria for grant of variance
- Section 21-14 (b) Evidence required for a variance
In granting a variance the specific findings of facts of a variance set forth in Section 21-14 should be met and noted in the decision of the Zoning Board.

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.
2. 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.
3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan upon which this chapter is based.
4. The relief to be granted is the least relief necessary.

The Zoning Board shall require that evidence be entered into the record of the proceedings showing that:

1. N/A
2. In granting a dimensional variance, the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

ANALYSIS / RECOMMENDATIONS

The application is seeking a dimensional variance as set out within. The applicant did appear before the zoning board in 2005 and received relief for additions to the rear of the existing structure that included: porch, air conditioner/generator concrete pad, hot tub concrete pad, rear deck and south side entrance door/step concrete pad. The proposed rear second level deck addition will align to the existing second story covered porch as indicated on the site plan at a location of 3.8’ from the rear property boundary. Even though this is further back from the rear property boundary that the previous Hot tub pad location that was approved, the ordinance requires that all new construction meets the required setbacks and that is the basis for this proposal before the ZBR. Planning staff is of the opinion that the proposed deck is in keeping with what is existing on site and furthermore will not be visible from Tower Hill Road given its location to the rear of the property.

The ZBR shall include the criteria in Section 21-14 (a) and (b) in making their findings of fact for the requested dimensional variance. If approved, the following condition shall be included.

1. That all construction is done in strict conformance with the submitted plan received 09-19-19 unless minor modifications are approved administratively by the planning department.
**Applicant**

**Name:** Henry J. & Nancy W. Gauthier  
**Address:** 460 Tower Hill Rd  
**City:** North Kingstown  
**State:** RI  
**Zip Code:** 02852  
**Phone:** 401-640-9435  
**Email:** Henry@HenryGauthierSculptor.com

**Owner (if different than above)**

**Name:**  
**Address:**  
**City:**  
**State:**  
**Zip Code:**  
**Phone:**  
**Email:**

**Engineer / Surveyor**

**Name:** Darveau Land Surveying, Inc  
**Address:** P.O. Box 7918  
**City:** Cumberland  
**State:** RI  
**Zip Code:** 02864

**Attorney**

**Name:**  
**Address:**  
**Phone:**  
**Email:**

---

**Assessor's Plat:** 086  
**Lot(s):** 033  
**Street Address:** 460 Tower Hill Rd North Kingstown, RI 02852  
**Zoning District:** Neighborhood Business  
**Length of Property Ownership:** 6 yrs 9 months  
**Lot Dimensions (ft):** Frontage 94.75 Width 10.65 Depth 10.150  
**Lot Size:** 2410 sq. ft.

**Existing Buildings on Property:**  
**Size of Existing Buildings (sq. ft.):** 2410

**ZBR Approvals Required:**  
**Special Use Permit:**  
**Dimensional Variance:**  
**Use Variance:**  

**Existing Building(s) to be Demolished:**  
**Yes:**  
**Size of Proposed Buildings (sq. ft.):**

**Brief Description of Proposed Alterations:**  
**Addition of a 2nd Level 8'x8' Open Deck**
# Zoning Characteristics Matrix

<table>
<thead>
<tr>
<th></th>
<th>Main Structure</th>
<th>Accessory Structure</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Existing</td>
<td>Ordinance</td>
</tr>
<tr>
<td>Front Setback</td>
<td>45.1</td>
<td>25.0</td>
</tr>
<tr>
<td>Right Side Setback</td>
<td>28.1</td>
<td>15.0</td>
</tr>
<tr>
<td>Left Side Setback</td>
<td>15.6</td>
<td>15.0</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>5.9</td>
<td>30.0</td>
</tr>
<tr>
<td>Height</td>
<td>29.0</td>
<td></td>
</tr>
</tbody>
</table>

**Deviation From Required Standards** - List each applicable section of the North Kingstown Zoning Ordinance for which relief is being sought.

<table>
<thead>
<tr>
<th>Section &amp; Subsection Number</th>
<th>Title of Section</th>
<th>Ordinance Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ARTICLE IV</strong></td>
<td><strong>DIMENSIONAL REGULATIONS</strong></td>
<td><strong>TABLE 3.8</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>BUSINESS DISTRICTS</strong></td>
<td>30</td>
<td>3.8</td>
</tr>
</tbody>
</table>

**Attest:** The information provided on this application is true and accurate.

**Applicant's Signature:** [Signature] Date: 5-15-20

**Owner's Signature:** [Signature] Date: 5-15-20

**For Official Use**

- Application Submission Date
- Zoning Board Meeting Date
- Newspaper Advertisement Date

**Application Fees** Paid: [ ] Yes [ ] No

**Court Reporter Fees** Paid: [ ] Yes [ ] No
LEGEND

PL. Property Line
FND. Found
N/F. Now or Formerly
S.F. Square Feet
O.W.T.S. On-Site Wastewater Treatment System

NOTES:
1. The parcel is Plat 86, Lot 33.
2. The total parcel area is 10,150 S.F. or 0.2330 acres.
3. The existing building address is 460 Tower Hill Road.
4. The parcel is zoned: NB.
5. By graphic plotting, the parcel is located within flood zone X
(Areas determined to be outside the 0.2% annual chance floodplain as shown on
national flood insurance rate map #44009C01042, map dated: October 16, 2013.

DEED REFERENCE:
1. Plat 86, Lot 33 = Deed Book 2722 at Page 268.

PLAN REFERENCES:
1. Unrecorded plan entitled "Site Plan for W.J. Turner L. Cobden, A.P. Plat 86, Lot
   33, North Kingston, R.I., Scale: 1" = 10', Dated: 11-11-89, Revised Date: 8-28-89,
   By Anthony & Associates, A Division of Land Use Specialists, Inc."
2. Plan entitled "Administrative Subdivision & Survey Plan for Parcels of land
   Belonging to Mark Avery & Allison M. Plympton, Known as Tax Assessor's Plat
   92, Lots 60 & 195, Situated in the Village of Wickford in the Town of North
   Kingston, Date: October 22, 2008, Scale: 1" = 20', Prepared by Easterbrooks &
   Associates, 2497 Boston Neck Road, Saugus, MA, T.02177, Tel: 401-867-7707
   Which is recorded in the Town of North Kingston Registry of Deeds on Plat
   Card #5834.
3. Plan entitled "Multi-Family Development Final Record Plan, Bellevue House,
   404 Tower Hill Road, Assessor's Plat 92, Lots 61 & 62, North Kingston, Rhode
   Island, Prepared For: Church Community Housing Corp., Scale: 1" = 20', By S.F.
   Engineering Associates, 410 Tigue Avenue, Coventry, R.I. 02816, 410-826-3723
   Which is recorded in the Town of North Kingston Registry of Deeds on Plat
   Card #5999.
4. Plan entitled "Division of Land Belonging to Gary Petersen, Assessors Plat
   86, Lot 34, Tower Hill Road, North Kingston, Rhode Island, Scale: 1" = 50',
   Dated: July 12, 1984, Revised Date: 11-16-95, By Salcione Engineering, 74 Kickemuit
   Avenue, Bristol, R.I. 02809" Which is recorded in the Town of North Kingston
   Registry of Deeds on Plat Card #1488.

THIS SURVEY HAS BEEN CONDUCTED AND THE PLAN HAS BEEN PREPARED PURSUANT TO
SECTION 9 OF THE RULES AND REGULATIONS ADOPTED BY THE RHODE ISLAND STATE BOARD
OF REGISTRATION FOR PROFESSIONAL LAND SURVEYS ON NOVEMBER 25, 2015, AS FOLLOWS:

TYPE OF SURVEY:
LIMITED CONTENT BOUNDARY SURVEY
CLASS I

MEASUREMENT SPECIFICATION:
DATA ACCUMULATION SURVEY
CLASS III

STATEMENT OF PURPOSE:
The purpose for the conduct of the survey and for the preparation of the plan
is as follows:
1) Prepare a proposed site plan.

BY

Michael R. Darveau, PLS #878
President, Darveau Land Surveying, Inc.

DATE
09-17-19

COA MA-4967
CONNECT LEDGER w/ LATERAL LOAD CONNECTORS - 16" O.C. staggered pattern - TO MAIN HOUSE & PORCH WALL

2x4 SPACER 4x4 NEWEL POST

4x4 BLOCKING 4x4 NEWEL POST 4x4 BLOCKING (TYP)

1x4 NEWEL POST

RAILING

FRAMING CONNECTED w/ TIMBERLOCS

4x4 NEWEL POST

FRAMING PLAN - 8' X 8' OPEN DECK - 1/2" = 1' 4 OF 4

VERTICLE SEC-N.T.S.

NEW 5'W SLIDING DR TO REPLACE 5"X5' WINDOW - R.U. FITS NEW DR EXCEPT FOR REMOVING FRAMING BELOW BOTTOM SILL.

EXTERIOR WALL LINE

NANCY & HENRY GAUTHIER
460 TOWER HILL RD
WICKFORD, R.I. 02892 9.3.710