



# 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 at the South Kingstown Town Hall, 180 High Street, Wakefield, RI at 7:00 p.m. on Wednesday March 20, 2024.

### A. CALL TO ORDER

Mr. Cagnetta called the meeting to order at 7:03 pm

### B. CHAIRMAN INTRODUCTIONS AND INSTRUCTIONS

**Members Present:** Robert Cagnetta, Chairman; Thomas Daniels, Vice-Chair; William Rosen, Member, Arlene Hicks, Member, Kevin Pelissier, Member and, Geoff Elia, Alt. #1

**Member(s) Absent:** all members were present

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

*Members voting tonight are Mr. Cagnetta, Mr. Daniels, Mr. Rosen, Ms. Hicks, and Mr. Pelissier*

Mr. Cagnetta explained the rules of procedure and the standards of relief.

### C. AGENDA ITEMS

- I. **Petition of Caf Bar, LLC**, 396 Main Street, Wakefield, RI 02879 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking a special use permit to expand the alcohol service area within the building related to the existing restaurant with alcohol (Caf Bar). Lot size is .16 acre. **A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations Table) and Section 907 (Standards of Relief)**. Owner of the property is 396 Main Street LLC, for premises located at 396 Main Street, South Kingstown, Assessor's Map 56-3, Lot 43 and is zoned CD (Commercial Downtown).

An email from Attorney James Callaghan requesting a one-month continuation until the April 24, 2024 Zoning Board of review was read into record.

There was no discussion.

Whereas a motion was made.

#### **The Motion is as Follows:**

**Mr. Cagnetta made a motion to continue the above petition until April 24, 2024 which was duly seconded by Mr. Daniels**

**Whereas a vote was taken: (5-0) in favor**

**(R. Cagnetta-Aye, T. Daniels-Aye, W. Rosen-Aye, A. Hicks-Aye, K-Pelissier-Aye)**

**Petition continued until April 24, 2024 Zoning Board of Review**

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- II. **Petition of James & Margaret Siligato**, 4060 Tower Hill Road, Wakefield, RI 02879 for an **Appeal of a Zoning Decision of the Zoning Enforcement Officer (ZEO)** under the Zoning Ordinance as follows: The applicant is seeking to appeal a Notice of Violation issued by the Zoning Enforcement Officer (ZEO), dated December 26, 2023, for premises located at 4060 Tower Hill Road. The owners of the property are James & Margaret Siligato, for premises located at 4060 Tower Hill Road, South Kingstown, Assessor's Map 34-3, Lot 2 and is zoned R80.

All of the materials were entered into record.

Michael J. Riley, Attorney for applicant was present.

Mr. Riley stated that he is present tonight regarding an NOV dated November 26, 2023. The property has historically been used as a small engine repair shop. It is an integral part of the community servicing landscaping needs for much of the community. It is the home of All Outdoors Power Equipment and Narragansett Pest Control. It is currently classified as wholesale trade with outdoor storage, under the Use Code 52. He then reviewed the (3) three issues that were stated on the NOV. To the best of his knowledge (2) two of the issues have already been abated; the removal of signs posted on fences and storage of vehicles carrying over to the abutting property. They are here tonight regarding the violation that stated the owners illegally expanded their space by installing a fenced enclosure and creating an outside storage area. He believes the expansion of the outdoor area is not a violation under the Zoning Ordinance. The erecting of the fence was not an expansion of the structure but simply a means to store customers' equipment, well it is waiting to be repaired. He then referenced RIGL 45-24-31 (52). The owners purchased the property in 1999 and the previous owners used the premises similarly to how it is currently being used today. The lot is legally non-conforming and the classification of the Use Code 52 is correct. Expansion has been defined by section 202 of the Ordinance which states that a non-conforming use may occupy any part of the structure that was designated for use at the time of the non-conformance. The building itself has not been expanded upon. The outdoor storage is integral with the use code, and outdoor storage encompasses the whole lot. The Ordinance does not have any explicit amount of restriction allowed for outdoor storage. It is their position that there has been no expansion.

Mr. Riley had no further comment.

Board questions ensued.

Mr. Gorman stated that there were (3) three violations sited on the property; signage on fence, parking and storage of vehicles on abutting property and the fenced enclosure for storage. The fence itself is not a violation but his interpretation is that the 12,000 square foot fenced enclosure is well beyond what was present when the lot became legally non-conforming. The violation is the growth and use of the fenced in outside storage area.

Mr. Skwirz referred to Section 202(e) which Mr. Riley referenced and it his interpretation that that section 202(e) does state that a nonconforming use of a structure can be expanded to other parts of that same structure, however, they are overlooking Section 203 which allows for a SUP which could specifically include the use of the building, structure or land. This section covers how they are using the land. They are entitled to apply for a SUP which would allow for up to a 50% expansion of the land but expansion beyond that or without a SUP would be prohibited. The amount of allowed expansion would be determined based upon what was present when the use became non-conforming.

Mr. Gorman believes the lot likely became non-conforming back in or around 1976, he does not have the exact date.

Mr. Skwirz stated that they could continue to maintain what the prior use of the land was when the Ordinance went into effect but cannot expand it without obtaining a SUP.

Mr. Gorman stated that the current owners purchased the property in 1999. He then referenced the Statewide Aerials from 1997 that were submitted with the NOV. From the aerials it is clear that in 1997 this fenced enclosure was not present.

Mr. Skwirz stated that the Board can use the aerials which go back to the 1970's as historical record, however, it is the burden of the appellant to prove that the use was existing prior to becoming legally non-conforming.

Mr. Gorman stated that the appellant has already removed the signage on the fence.

Mr. Riley stated that the abutting property owner was not served and NOV regarding the storage and parking of vehicles but he does believe it was abated because they are family to the appellant.

Mr. Gorman stated that in regard to the parking and storage of vehicles on the abutting property it is an expansion beyond and over the appellant's property line to the abutting property.

Mr. Riley stated that the appellants are present today if further testimony is needed. He stated that the NOV was explicit that the violation was for expansion on the premises and 202(e) is actually restricted to the structure. It is actually 202(g) intensification that incorporated the use of the land. He then read 202(e) and 202(g) into the record.

Discussion ensued regarding the interpretation of expansion versus intensification.

Mr. Riley stated that in regard to the photo exhibits, he is not denying their authenticity but rather this is just a snapshot in time and can't be used as an accurate representation of day-to-day activities. The question before the Board is whether the property was used for outdoor storage historically and if the use code on its own includes outdoor storage. He does not believe they are here regarding intensification but rather they were noticed in regard to expansion.

Mr. Skwirz clarified Section 202(e) and that addresses expansion and Section 203 which would require a SUP provided it is not expanded beyond 50% at the time the use became non-conforming.

Mr. Riley stated that he believes it has been established that a legally, non-conforming use exists. It is just a question of how much outdoor storage was in effect at the time the lot became non-conforming. Outdoor storage is a blanket term that is inherent in the Use Code and is permitted without limitation. He believes expansion would relate to the expansion of the building and the more on point argument would be regarding utilization of more of the land would be an intensification of the use of the land. Use Code 52 includes outdoor storage and sets no limits on the amount of land being utilized. There has been no unreasonable change of the use.

Board questions ensued.

Mr. Daniels enquired could the appellant come back for a SUP to account for the expansion.

Mr. Gorman explained that is correct, however, what is currently on site exceeds the 50% allowed expansion. The fence enclosure itself is not considered a structure but it is forming a perimeter for the expansion of the non-conforming use. The fence does not appear to be present in the 1997 aerials. At the time of inspection, 241 Torrey Hill Road appeared to be associated with 4060 Old Tower Hill Road and the storage of vehicles is not allowed in a residential district.

Mr. Skwirz stated that the appellant has another avenue to seek relief since the RIGL changed on January 1, 2024. The appellant can now apply for both a SUP to allow for an expansion and a dimensional variance to allow for more than the allowed 50% expansion. They still have to meet the standards but there is a potential remedy.

Mr. Riley stated that if the Board would allow, they could request an extension to apply for a SUP and variance.

Mr. Gorman advised that if the Board upheld his decision, they could make it a condition that the appellant apply for a SUP and dimensional variance within a certain time period.

Mr. Skwirz advised that the appellant could request to withdraw without prejudice and then they could meet with Mr. Gorman to see if applying for a SUP and dimensional variance would make sense.

Mr. Gorman stated that there would be no penalties enforced well this matter is still pending before the Board.

Mr. Pelissier enquired how the 50% expansion would be accounted for.

Mr. Gorman stated that he would use the current building footprint and expand 50% beyond that.

Mr. Daniels questioned the photos of vehicle and boat storage.

Mr. Riley stated that he believes the additional equipment and boat storage on the abutting property is the owner's sons and is separate from the business. The business operation is strictly limited to small engine repair and sales. He stated that they would like to request a continuation with the condition that they apply for a SUP and dimensional variance within 20-days' time.

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

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

Discussion ensued regarding continuing the petition to the next available hearing.

There was no further Board discussion.

Whereas a motion was made.

**The Motion is as Follows:**

**Mr. Cagnetta made a motion to continue the above petition until May 15, 2024 which was duly seconded by Mr. Rosen**

**Whereas a vote was taken: (5-0) in favor**

**(R. Cagnetta-Aye, W. Rosen-Aye, K. Pelissier-Aye, T. Daniels-Aye, A. Hicks-Aye)**

**Petition continued until May 15, 2024 Zoning Board of Review**

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**III. Petition of Mary Beth Keating, 114 Winter Street, Wakefield, RI 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct a 22' x 35.5' addition to the existing dwelling. The addition will be located 15.8' from the front property line and 8.2' from the west side property line. The required front yard setback is 25' and required side yard setback is 10', therefore relief of 9.2' and 1.8' is requested. Lot size is .33 acres. A Dimensional Variance is required per Zoning Ordinance Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief). Owner of the property is Mary Beth Keating for premises located at 114 Winter Street, South Kingstown, Assessor's Map 56-3, Lot 79 and zoned R10.**

Ms. Hicks has recused from the above petition, voting in her place will be Geoff Elia, Alternate #1.

All of the materials were entered into record.

Mary Beth Keating was present and sworn in.

Sean Campbell was present and sworn in.

Ms. Keating stated they currently have no garage and they are proposing to connect the garage to the front of the house. This addition will also allow them to add a bathroom to the first floor. They are seeking relief of 9'2" from the front property line and 1'8" from the west-side property line. The property is pie-shaped which is why the relief of 1'8" is requested. By carrying the garage roofline back to the existing house, it allows for the creation of a small half-bath. This half-bath location is also ideal because the proposed placement is next to existing plumbing. They put a lot of thought into the proposed location and appearance in the design of the addition. She then referenced the elevation drawings of the proposed addition.

Applicant's Exhibit 1 (2 pages) was entered into record, elevations.

Ms. Keating stated that when she purchased the property in 2018, she was very conscience of the historic significance of the property and the existing stone wall. This stone wall was part of the reason the driveway was not located in the front. However, during the last storm the stone wall was significantly damaged and she is proposing to improve upon the stone wall and create a continuous stone wall that will tie directly into the location of the new driveway in the front.

Mr. Campbell stated that the existing driveway is located in the back yard and is a very odd configuration and directly abuts (2) two of their neighbor's yards where children currently play. The new proposal will move the driveway to the front and create a safer area for children to play.

Board questions ensued.

Ms. Keating stated they do not currently have a garage and, in the future, it is her intention to plant grass where the current rear driveway exists and create a full backyard.

Mr. Cagnetta reviewed the (3) three letters that were submitted in favor of the application.

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

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

There was no further discussion.

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: 5-0 Vote in favor  
(W. Rosen-Aye, T. Daniels-Aye, G. Elia-Aye, K. Pelissier-Aye, R. Cagnetta-Aye)**

At a meeting held on March 20, 2024 regarding the Petition of Mary Beth Keating, 114 Winter Street, Wakefield, RI 02879 for a Dimensional Variance under the Zoning Ordinance as follows: The applicant is seeking to construct a 22' x 35.5' addition to the existing dwelling. The addition will be located 15.8' from the front property line and 8.2' from the west side property line. The required front yard setback is 25' and required side yard setback is 10', therefore relief of 9.2' and 1.8' is requested. Lot size is .33 acres. A Dimensional Variance is required per Zoning Ordinance Section 401 (Schedule of Dimensional Regulations) and Section 907 (Standards of Relief).

Owner of the property is Mary Beth Keating for premises located at 114 Winter Street, South Kingstown, Assessor's Map 56-3, Lot 79 and zoned R10.

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

- Mary Beth Keating, applicant
- Sean Campbell

**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 February 9, 2024; Owner Authorization Form signed and notarized February 9, 2024; Proposed Site Plan (1 page) prepared by E. Greenwich Surveyors LLC and stamped by Kirk D. Andrews, PLS dated February 9, 2024
- 200' Abutter's List and Radius Map; Legal Notices; and Notarized Affidavit of Mailing
- Correspondence
  - Kenneth and Mary Mason, 110 Winter Street
  - Joshua and Christine Short, 67 Kenwood Avenue
  - John Kenny and Ellen McBurney, 55 Kenwood Avenue

**Findings of Fact:**

1. The Board finds that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in § 45-24-30(16), because the applicant is simply looking to add a small half-bath addition to the downstairs as well as add an attached garage, which will allow them to relocate the driveway to the front.
2. The Board finds that that the hardship is not the result of any prior action of the applicant because the lot is uniquely shaped with the existing driveway in the rear. Additionally, the historic stone wall in the front was recently damaged and the applicant's proposal will allow them to repair the wall and aesthetically tie it in with the proposed front driveway location.
3. The Board finds that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based, because the applicant is simply looking to enhance her property and is asking for minimal relief that is due mostly to the lot's unique configuration.
4. 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, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted, because without relief the applicant would not be able to build the small addition in the location that best utilizes the lot and their homes existing features.

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

- There are no conditions upon this approval.

- IV. **Petition of Jeffrey Scott Hanson Jr.**, 84 Estelle Drive, West Kingston, RI 02892 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking a Special Use Permit to allow four (4) unrelated individuals to occupy the existing dwelling. Lot size is 1.12 acres. **A Special Use Permit is required per Zoning Ordinance Section 504.14 (Household Occupancy by more than Three Unrelated Individuals) and Section 907 (Standards of Relief).** Owners of the property are Jeffrey S. & Sara M. Hanson for premises located at 128 Estelle Drive, South Kingstown, Assessor's Map 14, Lot 38 and is zoned R80.

Ms. Hicks has rejoined the Board.

All of the materials were entered into record.

Sara Hanson was present and sworn in.

Jeffrey Hanson was present and sworn in.

Mr. Cagnetta wanted to clarify with Mr. Skwirz why the applicants are here today.

Mr. Skwirz advised that because the applicants started this process prior to January 1, 2024 they need to come before the Zoning Board whereas if they had started the process after January 1, 2024 they would not need to come before the Zoning Board because the new RIGL allows for unified development and the Planning Board would have the ability to approve this request. It is a 3-year SUP that would need to be renewed. They would need to comply with the specific standards required to grant a SUP. The applicants do not need to show hardship.

Ms. Hanson stated that they live at 84 Estelle Drive, which is two houses away from the rental property. They purchased the rental property last summer for their family to be able to use during the summer. To help cover costs they would like to be able to house students during the academic year. They would like to be the type of landlord that would offer support to students, like they were offered when they studied abroad during college.

Mr. Hanson stated that the OWTS supports 4-bedrooms.

Ms. Hanson stated that it is a 5-bedroom house but they will only be renting (4) four bedrooms due to the OWTS. They are very active and involved with the students who currently reside in the house. They do not believe that increasing the occupancy from 3 to 4 will detract from the neighborhood. The house is very well maintained and they are often there due to its proximity to their residence.

Mr. Daniels asked how many students are currently occupying the house.

Ms. Hanson explained that they are currently renting to (4) four students.

Mr. Gorman advised that his office received a complaint about the number of occupants and that triggered the NOV. To abate the violation the applicant had to go through the process and seek a SUP.

Ms. Hanson stated the student rental is from early September to early May. They are not intending to use this as a rental during the summer months, it will be for family use. They have only owned the house since August 2023.

Mr. Hanson said that there was one police complaint due to a party, on September 15, 2023, which the students were told to stop and there have been no more violations since then.

Mr. Rosen asked about students ages.

Ms. Hanson stated that they are juniors so they are 20-21 years of age.

Mr. Daniels asked if the applicants would comply with all of the (10) ten conditions of approval granted by the Planning Board.

Mr. Hanson stated they intend to comply with all of (10) ten conditions of approval.

Ms. Hanson stated that if the current lease is not compliant, they will update the lease accordingly.

Mr. Rosen enquired about the onsite parking.

Ms. Hanson stated that there are designated parking spaces for the tenants and that there are (6) six spaces of additional onsite parking for guests.

Ms. Hicks enquired about some legislation that is currently before the General Assembly which would allow for more than (3) three unrelated people by right.

Mr. Skwirz stated that there is in fact a bill regarding more than (3) three unrelated people as of right, however, this is not currently in effect. If, however, the bill passes, the applicant would not need to come before the Board for renewal of the SUP since it would then be allowed by right.

Mr. Elia asked about the party where the police were called in September and about the designated 3-hour on street parking.

Ms. Hanson stated that since the party in September there has been no further police activity.

Mr. Hanson stated that his intention regarding the 3-hour street parking was that it would be for no more than (3) consecutive hours and he did not specify a time frame regarding on street parking.

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

Dennis McLeavey, 121 Estelle Drive, was present and sworn in.

Mr. McLeavey stated that he follows the existing laws and not what may happen in the future. The property was advertised in September for (4) four students which was a violation. He has read section 504 and the purpose of Section 504 is to keep the community the way it currently is. Section 907 talks about the beneficial use of the property, they currently have the right for (3) three unrelated therefore there is still a beneficial use regardless of allowing for the fourth, so really this is only about discussing additional income. He then enquired if the Town could install speed bumps on the road. He enquired about the sunset on the SUP and if it would be transferable to new ownership. Their main concern is that they do not want a multiplier effect in the neighborhood. He gave a description of the road itself and stated that there are several other properties around the pond that also rent and he is concerned that presumably the other rental properties will also request a SUP to increase the number of tenants allowed which would change the character of the neighborhood. He is concerned about the speed that is travelled on the road and how allowing extra tenants could create potential safety concerns. He would like to ask the applicants to withdraw their petition due to safety concerns.

Mr. Cagnetta addressed the applicant's questions as they were asked.

Mr. Cagnetta read the (10) ten conditions of approval the Planning Board established during the Development Plan Review.

Mr. McLeavey enquired when the violation was recorded and how long the violation process took to remedy. He then enquired why the Ordinance was originally established to allow for only (3) three unrelated.

Mr. Skwirz stated that State law set the floor at (3) three unrelated, meaning that State law allows (3) three unrelated by right. The Town at some point then established Section 504.14(b) which allows the applicant to seek a SUP to allow for more than (3) three unrelated individuals.

Phillip Clark was present and sworn in.

Mr. Clark stated that some of the quality-of-life concerns regarding (4) four unrelated residents may no longer be relevant based on what he has heard tonight. He does, however, have a moral concern regarding public safety and students travelling at high speeds. Traffic speed has been a major problem on his street. He would suggest that the information provided is not sufficient for people living in the neighborhood regarding safety concerns.

Mr. Daniels stated what is the difference between renting to (4) four related people versus (4) four unrelated people.

Mr. Gorman advised that being a Town road, neighbors should contact the Chief of Police regarding traffic and speeding.

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

Mr. Cagnetta reviewed the remaining (4) four correspondence that were submitted.

Mr. McLeavey questioned the Board if they had read the YMCA Report that was referenced in his letter.

Mr. Cagnetta advised that the Board has no purview over road conditions, speed bumps, etc.... that were mentioned in the YMCA report.

Mr. and Ms. Hanson had no further comment.

Board discussion ensued.

Ms. Hicks wanted to clarify that at present the applicant is not seeking to add a new fourth person, since the fourth person already lives there. She asked if the SUP was not approved, would the fourth person have to move out.

Mr. Gorman advised that the Town is not in the business of evicting and since there are no life safety issues present the applicant is going through the proper process to remedy the NOV.

Mr. Skwirz advised that he knows that this started matter due to an enforcement issue but clarified that the Board is not here regarding an appeal of a NOV. They are here to decide if they believe the applicant has met the specific criteria to grant a SUP which in turn would abate the existing NOV violation.

Whereas a motion was made.

**The Motion is as Follows:**

**The following motion, made by Mr. Daniels and duly seconded by Mr. Rosen  
Motion passed unanimously: Vote 5-0  
(T. Daniels-Aye, W. Rosen-Aye, A. Hicks-Aye, K. Pelissier-Aye, R. Cagnetta-Aye)**

At a meeting held on February 21, 2024 regarding Petition of Jeffrey Scott Hanson Jr., 84 Estelle Drive, West Kingstown, RI 02892 for a Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking a Special Use Permit to allow four (4) unrelated individuals to occupy the existing dwelling. Lot size is 1.12 acres. A Special Use Permit is required per Zoning Ordinance Section 504.14 (Household Occupancy by more than Three Unrelated Individuals) and Section 907 (Standards of Relief).

Owners of the property are Jeffrey S. & Sara M. Hanson for premises located at 128 Estelle Drive, South Kingstown, Assessor's Map 14, Lot 38 and is zoned R80.

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

- Jeffrey Hanson, Applicant
- Sara Hanson, Applicant

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

- Dennis McLeavey, 121 Estelle Drive
- Phillip Clark, 47 Estelle Drive

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

- Application signed and dated February 9, 2024; Owner Authorization Form signed and notarized February 9, 2024; Development Plan Review (2 pages) granted January 23, 2024 and recorded in South Kingstown Land Evidence on January 24, 2024 Book 1873 and Pages 589-590; Blank Lease Agreement (14 pages); Certificate of Conformance with Site Drawings, Inspection Report and OWTS Permit Application (11 pages) dated March 21, 2002; Parking Diagram (1 page); Contact Information Letter (1 page); First and Second Floor and Basement Floor Plan (3 page); Photos (9 pages)
- 200' Abutter's List and Radius Map; Legal Notices; and Notarized Affidavit of Mailing
- Correspondence
  - Chelsea Hudock, 116 Estelle Drive
  - Caleb Goodhouse, 138 Estelle Drive
  - Diana and Phillip Clark, 47 Estelle Drive
  - Benjamin Cray, 128 Hundred Acre Pond Road
  - Karen Markin, 129 Hundred Acre Pond Road
  - Dennis and Jan McLeavey, 121 Estelle Drive

**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 504.14 (Household Occupancy by more than Three Unrelated Individuals) 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 through testimony the applicants have addressed all of the subsections of the Ordinance authorizing the granting of this Special Use Permit.
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 Board finds that the applicants have met the standards set forth in Section 504.14 needed to grant this request. The Board also recognizes that the Planning Board has sufficiently vetted this request and has established an additional (10) ten Conditions of Approval to which the applicant must comply. As part of this review parking spaces have been specified for both resident and overflow parking.
  - (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; the Board finds that the applicants have met the standards set forth in Section 504.14 needed to grant this request. The Board also recognizes that the Planning Board has sufficiently vetted this request and has established an additional (10) ten Conditions of Approval to which the applicant must comply.
  - (iii) Trash, storage, and delivery areas with a particular reference to the items in (i) and (ii) above; the Board finds that the applicants have met the standards set forth in Section 504.14 needed to grant this request. The Board also recognizes that the Planning Board has sufficiently vetted this request and has established an additional (10) ten Conditions of Approval to which the applicant must comply.
  - (iv) Utilities, with reference to locations, availability, and compatibility; not applicable, already existing.
  - (v) Screening and buffering with reference to type, dimensions, and character; not applicable.
  - (vi) Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district; not applicable.
  - (vii) Required yards and other open space; not applicable.
  - (viii) General compatibility with lots in the same or abutting zoning districts; this is a residential area and the property will remain residential in use, as such, the owners are entitled to rent their property as they see fit, under the Ordinance.

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

- The applicant shall comply with all (10) ten Conditions of Approval granted with the Development Plan Review, Advisory to Zoning granted on January 23, 2024 and recorded in South Kingstown Land Evidence on January 24, 2024 Book 1873 and Pages 589-590. (Attachment 1 to Decision)

The board took a 5-minute break

- V. **Petition of Compass School**, 537 Old North Road, Kingston, RI 02881 for a **Special Use Permit** under the Zoning Ordinance as follows: The applicant is seeking to modify the conditions associated with a previously granted Special Use Permit related to the onsite educational institution (Compass School). Lot size is 5 acres. **A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations Table) and Section 907 (Standards of Relief)**. Owner of the property is Compass School, for premises located at 537 Old North Road, South Kingstown, Assessor's Map 16-4, Lot 16 and is zoned R40.

All of the materials were entered into record.

Attorney Patrick J. McBurney was present for the applicant.

Mr. McBurney reviewed the site plan that accompanied the 2019 SUP. They are looking for relief regarding the front parking area and the associated round-about which were never completed but were conditioned on the 2019 SUP. The school is looking to have the existing conditions today satisfy and modify the conditions of the 2019 SUP approval.

Brandee Lapisky, Director of Compass School was present and sworn in.

Michael Commendatore, Director of Finance, Compass School was present and sworn in.

David D'Amico, PE was present and sworn in.

Ms. Lapisky stated that the compass school is a K-8 Charter school. They have a max capacity of 220-students onsite with (11) eleven class sizes. There are only 30-seats available each year and the lottery for next year has almost 2000 applicants. Their mission is environmental sustainability and they are a project-based learning school. This is the school's 21<sup>st</sup> year. The purpose of the barn renovation was to move the modular classrooms to a permanent classroom in the barn. Part of this renovation plan was the creation of a staff parking lot which allowed for better arrival and dismissal routines. Since the 2019 approval, the school had to cut one million dollars and needed to look into other efficiencies on the property. Additionally, in order to achieve this expanded front lot, they would have needed to remove (6) six mature trees. By moving the staff lot, they have created a traffic flow for dismissal and arrival that is streamlined down to 15-minutes. Covid was also a factor as well as the availability and cost of materials. Since September 2020 they have been utilizing the space in its existing condition with no issues.

Board questions ensued.

Mr. McBurney explained that what was proposed in 2019 was a slight expansion of the front parking area, but this expansion never occurred. All of the other conditions of the 2019 SUP have been met. It should be noted that they have been operating with the existing conditions for the past 3-years and have streamlined the drop-off and pick-up times.

Ms. Lapisky stated that they have streamlined the number of buses and were able to implement efficiencies within the route to avoid congestion and backup. There is no backup on the road and they have a traffic study related to that.

Mr. D'Amico was qualified as an expert witness by Mr. Cagnetta.

Mr. D'Amico stated that when you look at the current aerial all of the parking areas are clearly visible. This was not what he saw when he was first onsite back in 2018. This is due to the creation of a faculty parking area. Prior to the creation of the faculty parking, he accounted for staff parking in the front and basically doubled the amount to account for the front parking area that was approved in 2019. He did not do a traffic study at the time, much of his work is to get RIDE approval. The result of creating the back parking lot eliminated the need for expanded parking up front. They did traffic counts in April 2023. The average speed is about 8mph over the posted 25mph speed limit along that ½ mile flat stretch. There is plenty of site distance for turning movements and all of the exits meet the site distance requirements. The peak am time is 8:00 and the school arrival time is 8:20 which is dropping in peak activity. In the afternoon the peaks coincide so that is where their study was focused. The time gaps between vehicles on the road allows for plenty of time to exit the lot. The school has a very efficient and safe internal arrival and dismissal procedure. They see no impact by eliminating that additional front parking site.

Ms. Lapisky stated that every (5) five years charter schools are under review from RIDE and require an onsite visit, Compass School met all of RIDE's requirements with no further recommendations from RIDE to move forward.

Mr. McBurney stated that they are before the Board tonight because the Certificate of Occupancy has not been issued due to the fact that the Condition of Approval regarding the front lot has not been met. This change from the original application does not require a Development Plan Review process since charter schools are considered public schools and DPR review is not required for public schools.

Additional Board questions ensued.

Mr. D'Amico stated that in regard to traffic accidents they have not done a search since October 2023. The initial study found no accidents along that stretch during the original time period of the traffic study. The road is straight and flat in the area around the entrance and exit to Compass School and the margin of error is very low.

Peter Pleskunas was present and sworn in.

Mr. Pleskunas stated that they own 544 and 510 Old North Road, directly across the street from Compass School. They have been very involved with this project throughout the years. They are happy with how the project has developed. Their main concerns were lighting, landscape screening and parking along the road. Lighting was their biggest concern and the installed lights are fantastic and go off at 7:00 pm. The screening is very good along the road. He did have a small concern and he submitted a picture.

Objector's Exhibit, photo of a drive parallel Old North Road

Mr. Pleskunas stated he doesn't remember the exact landscape plan, however, he would like assurance that the school would maintain and possibly replant any dead landscaping. There is a drive parallel to Old North Road that was supposed to be eliminated and he would like to see this drive not be used for cars and have the approved vegetative screening along the southwest corner maintained and replace any dead vegetation. They are trying to avoid having cars parked daily along the driveway that runs parallel to Old North Road, except during predetermined special events. Since there have been so many iterations of this project, he just doesn't want to lose track of what they were conditioned to do.

Mr. McBurney stated that the portion along the driveway did not call for any landscaping along that portion. Aside from the landscaping that was proposed for the enlargement of the front parking lot expansion, all other landscaping has been completed.

Ms. Lapisky stated that they are willing to extend more trees along the section of Old North Road that Mr. Pleskunas referenced. The only time that the parallel driveway is used for parking is fewer than 10 times a year for scheduled special events, which the Pleskunas' are made aware of prior to the event taking place.

Mr. Gorman stated that since this area in question was previously used as parking, so the use is legally non-conforming.

Mr. McBurney stated that previously they entered into a settlement agreement with Mr. Pleskunas and one of the conditions was that they would not park cars within 75' of the roadway except for designated special events.

Mr. Skwirz stated that it really is an open question whether the Town can really enforce a private agreement, ultimately any dispute would be between the parties and not for the Town to enforce.

Mr. Daniels reviewed the decision from 2019 where the settlement agreement was included as part of the motion.

Mr. Gorman indicated that the Town does have a copy of the approved landscape plan from 2019.

Mr. McBurney stated that the landscape plan has been completed with the exception of what was proposed for the front parking lot expansion has been completed. In regard to the corner along the southwest wall that area was not included in the original 2019 landscape plan, the applicant, however, has given assurances that they will improve that area with trees that are satisfactory to Mr. Pleskunas. The only thing holding up the CO is the fact that the improvements relevant to the front parking lot area and its associated landscaping have not been completed, other than that all other requirements have been reviewed and approved by the Building Official.

Mr. Gorman believes that the applicant has completed all of the criteria set forth in the 2019 SUP with the exception to the parking area requirements.

Board discussion ensued.

Whereas a motion was made.

**The Motion is as Follows:**

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

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

**(R. Cagnetta-Aye, T. Daniels-Aye, W. Rosen-Aye, K. Pelissier-Aye, A. Hicks-Aye)**

At a meeting held on February 21, 2024 regarding Petition of Compass School, 537 Old North Road, Kingston, RI 02881 for a Special Use Permit under the Zoning Ordinance as follows: The applicant is seeking to modify the conditions associated with a previously granted Special Use Permit related to the onsite educational institution (Compass School). Lot size is 5 acres. A Special Use Permit is required per Zoning Ordinance Section 301 (Schedule of Use Regulations Table) and Section 907 (Standards of Relief).

Owner of the property is Compass School, for premises located at 537 Old North Road, South Kingstown, Assessor's Map 16-4, Lot 16 and is zoned R40.

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

- Patrick McBurney, Attorney
- Brandee Lapisky, Director Compass School
- David D'Amico, PE

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

- Peter Pleskunas, Owner 544 and 510 Old North Road

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

- Application with cover letter signed and dated January 11, 2024; Owner Authorization Form signed and notarized January 9, 2024; Traffic and Safety Study (72 Pages) prepared by D’Amico Engineering Technology Inc. and stamped by David M. D’Amico, PE dated December 8, 2023
- Supplemental Materials:
  - Cover Letter, Google Maps Photo and Overall Site Plan prepared by Torrado Architects and stamped by David D’Amico, PE dated October 8, 2018
  - Zoning Board of Review Decision (3 pages) granted on January 16, 2019 and recorded in South Kingstown Land Evidence on January 24, 2019 Book 1696 and Pages 409-411
- 200’ Abutter’s List and Radius Map; Legal Notices; and Notarized Affidavit of Mailing
- Objector’s Exhibit 1, photo

**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 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 through testimony the applicant addressed all of the subsections of the Ordinance authorizing the granting of this Special Use Permit
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; because the applicant has proven through day to day operations as well as, expert testimony that they can safely manage the traffic flow in and out of the property safely and efficiently without the need to expand upon the previously approved front parking lot expansion.
  - (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; the lot has sufficient off-street parking for day-to-day operations. Off-street parking was further addressed pertaining to special events along the wall running parallel to Old North Road.
  - (iii) Trash, storage, and delivery areas with a particular reference to the items in (i) and (ii) above; already in place and not applicable.
  - (iv) Utilities, with reference to locations, availability, and compatibility; already in place and not applicable.
  - (v) Screening and buffering with reference to type, dimensions, and character; was addressed to the Boards satisfaction. Additionally, the Building Official has testified that the original landscape plan from the 2019 SUP is in has met all of the conditions and is in compliance with the exception of the matter before the board tonight.
  - (vi) Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district; already in place and not applicable.
  - (vii) Required yards and other open space; already in place and not applicable.
  - (viii) General compatibility with lots in the same or abutting zoning districts; the school already exists and has proven to be a good neighbor.

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

- There are no conditions of approval.
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**D. OTHER BUSINESS:**

- a. Approval of the February 21, 2024 Zoning Board of Review Minutes
  - A motion to approve the minutes from February 21, 2024 was made by Mr. Cagnetta
  - Whereas a consensus vote was taken, and all members were in favor.
- b. Attendance for the April 24, 2024 Zoning Board of Review
  - All members will be present.
- c. Discussion
  - There was no further discussion.
- d. Adjournment
  - Mr. Cagnetta made a motion to adjourn.
  - Whereas a vote was taken, and all members were in favor
  - Meeting adjourned the meeting at 10:10 p.m.