TOWN OF GLOCESTER

ZONING BOARD OF REVIEW
THURSDAY, AUGUST 27, 2020
7:00 P.M.

PURSUANT TO R.I. EXECUTIVE ORDERS #20-05, #20-25, #20-34 and #20-46 EXECUTED BY GOVERNOR GINA RAIMONDO ON MARCH 16, 2020, APRIL 15, 2020, MAY 15, 2020, JUNE 12, 2020 AND JULY 10, 2020 THIS MEETING WILL BE TELECONFERENCED VIA ZOOM:

Via Computer: https://zoom.us/j/97211577122?pwd=NkFCOWFibHU1Ym9seVRoRGN1b0VWQT09

Via Telephone: 877 853 5247 US Toll-free or 888 788 0099 US Toll-free or 833 548 0276 US Toll-free or 833 548 0282 US Toll-free

Meeting ID: 972 1157 7122

Meeting Password: 710504

AGENDA

I. Call to Order

II. Roll Call

III. New Business

A. Nicholas C. Shepherd and Angeline E. Cloutier-Shepherd, applicants and owners, property located at 58 Jackson Schoolhouse Road, further described as Assessor’s-Plat 7, Lot 27 in an A-4 zone. Applicant/Owners seek a Dimensional Variance in accordance to the Glocester Code, Chapter 350, Article VII, Special Regulations, §350-49, Accessory Family Dwelling Unit, subsection H, containing no more than one bedroom and limited to no more than 750 square feet requirements. Applicants/Owners are seeking relief of 102 square feet for an accessory family dwelling unit consisting of a total of 852 square feet in an existing barn (Information enclosed).

B. Michael and Susan Barnes, applicants and Kimberly W. Burgess and Barbara Burgess-Maier, owners, property located at 0 Old Quarry Road, further described as Recorded Plat PI, Lot 15 in an A-3 zone (pre-existing A-2 with 2.09 acres). Applicants seek a Dimensional Variance in accordance with the Glocester Code, Chapter 350, Article III, §350-13, Table of Dimensional Regulations, Minimum Setbacks, which required 35 feet for side yard and 100 feet for rear yard, according to the regulations applicable at the time the lot was legally created. Applicants seek approval to construct a new single family home 18 feet from the side property line and 60 feet from the rear yard depth. Requesting 17 feet of relief from the side yard and 40 feet of relief from the rear yard depth (Information enclosed).

IV. Correspondence

V. Approval of Minutes - June 11, 2020

VI. Next Schedule Meeting Date: September 24, 2020

VII. Adjourn

If communication assistance (readers/interpreters/captions) or any other accommodation to ensure equal participation is needed, please contact the Glocester Town Clerk’s office at 401-568-6206 at least forty-eight (48) hours prior to the meeting date.
INSTRUCTIONS TO ACCESS THE MEETING

Join this Zoom meeting electronically by computer, smartphone or tablet using the instructions below. If you do not have a smartphone or other electronic device capable of joining the Zoom meeting room, you may also join by telephone only.

Testing Computer & Audio Equipment
Attendees are encouraged to test their internet connection and audio capabilities in advance of the meeting. Please use the following link for detailed information from Zoom on how to test your equipment: https://support.zoom.us/hc/en-us/articles/115002262083

Accessing the Zoom Meeting via Computer, Tablet or Smartphone
1. Click on this link to join the meeting: https://zoom.us/j/97211577122?pwd=NkFCOWFibH1Ym9seVRoRGN1b0VWQT09
2. Or go to https://zoom.us/ and select “Join a Meeting”. Enter Meeting ID: 972 1157 7122 and Meeting Password: 710504.
3. When prompted you will be asked to join via computer audio, or telephone. Use of computer audio is recommended, however you can also use your telephone for audio.
4. When you enter the meeting room, your device will be muted.
5. You will be able to see Board members and listen to discussion in the Zoom meeting.
6. If you would like to speak during the meeting, use the ‘raise your hand’ feature of the Zoom platform to inform the meeting host. The raise hand feature can be accessed by pressing “ALT Y” on your laptop or computer. Speakers will be recognized individually by the meeting host. Once recognized, you will unmute your microphone (generally located in the bottom left corner of your screen) and share your comments. When addressing the Board, please begin by stating your name and address for the record. Please conduct yourself in an orderly and respectful fashion. When you are finished speaking please immediately mute yourself.

Accessing the Meeting by Telephone Only
1. If you do not have access to a device capable of accessing the internet-based Zoom meeting, you may use your telephone to join the meeting.
2. Dial any of the following phone numbers to join the meeting: 833 548 0282 (Toll Free) or 877 853 5247 (Toll Free) or 888 788 0099 (Toll Free) or 833 548 0276 (Toll Free).
3. If prompted to enter a Meeting ID, use your phone to dial the following ID: 972 1157 7122
4. If prompted to enter a Meeting Password, use your phone to dial the following password: 710504
5. When you join the meeting, your phone will be muted.
6. If you would like to speak during the meeting, dial *9 to use the ‘raise your hand’ feature of the Zoom platform to inform the meeting host. Speakers will be recognized individually by the meeting host. Once recognized, you will be unmuted by the host and will be able to share your comments. When addressing the Board, please begin by stating your name and address for the record. Please conduct yourself in an orderly and respectful fashion.

Basic Troubleshooting when Speaking
If you have been recognized to speak, but cannot be heard in the Zoom meeting use the following steps to troubleshoot your computer audio, or telephone connection.
1. Ensure your microphone or telephone is unmuted. For users joining the meeting in the virtual meeting room you will find your ‘join with audio’ control in the lower left hand corner of the Zoom meeting screen. For telephone only users, dial *6.
2. If you still cannot be heard and have joined by computer audio, you may need to switch to a telephone to improve the audio connection. Leave the meeting and use the toll free numbers provided to join the meeting by telephone using the instructions above.

3. If you are still unable to be heard, you may need to disconnect from the Zoom meeting and rejoin. If you rejoin the meeting and still cannot speak, use the ‘chat’ function on the Zoom screen to inform the host that you cannot be heard.

Accessing Documents & Site Plans
To access materials discussed during a meeting, please go to http://www.glocesterri.org/boards-commissions.htm#zoning.
Advisory Opinion to the Zoning Board of Review

Nicholas C. Shepherd et al Angeline C. Cloutier, applicants and owners –
Dimensional Variance – Accessory Family Dwelling – Maximum Size

Nicholas C. Shepherd et al Angeline C. Cloutier, applicants and owners, request a dimensional variance for property located at 58 Jackson Schoolhouse Road, further described as Assessor’s Plat 7, Lot 27 in an A-4 Agricultural-Residential zone.

Applicants/Owners seek a Variance in accordance with the Gloucester Code, Chapter 350, Article VII, Special Regulations, §350-49, Accessory Family Dwelling Unit, subsection H – the accessory family dwelling unit shall contain no more than one bedroom, is limited to no more than 750 square feet, and must be occupied only by members of the family occupying the principal residence. Applicants/Owners were previously granted approval for an accessory family dwelling unit in a detached barn. The Applicants/Owners are seeking approval for the accessory family dwelling unit to exceed the maximum square footage of 750 square feet by 102 square feet for a total accessory family dwelling unit size of 852 square feet.

MOTION was made by Member DeGrange for a positive recommendation to the Zoning Board of Review regarding an application for a dimensional variance made by Nicholas C. Shepherd et al Angeline C. Cloutier, for property located at 58 Jackson Schoolhouse Road, further described as Assessor’s Plat 7, Lot 27 in an A-4 Agricultural-Residential zone.

In making this recommendation the Board has relied on the following:

1. Information provided in the application
2. Testimony of the applicant at the August 4, 2020 Planning Board Meeting
3. The drawing provided by the applicant

In conclusion, the Board finds that granting this Dimensional Variance would not be inconsistent with the Gloucester Comprehensive Community Plan.

MOTION was seconded by Vice Chairman Calderara.

DISCUSSION: None.

VOTE: Ayes – 5 (Calderara, Clifford, DeGrange, Delos, Furney)
Nays – 2 (Folcarelli, Pitocco)
GLOCESTER ZONING BOARD OF REVIEW  
Town Hall, 1145 Putnam Pike  
Chepachet, Rhode Island 02814  

APPLICATION # 2B-20-06

This APPLICATION form must be completed in full and submitted along with the FILING FEE and all other required materials prior to being considered by the Zoning Board of Review. Please refer to the attached INFORMATION SHEET for additional materials required for submission with the application. The FILING FEE does not include the cost of advertising, notice, or copies of plans, transcripts, or other data in support of the petition. All fees and costs are due prior to the petition being heard by the Zoning Board of Review.

The UNDERSIGNED hereby applies to the Glocester Zoning Board of Review for the following:

( ) SPECIAL-USE PERMIT, as provided in Article I, Section 350-8, subsection F, of the ZONING ORDINANCE.

( ) VARIANCE - USE from the application of a requirement(s) of the ZONING ORDINANCE, Chapter 350, Article I, Section 350-8, subsection E.

( ) VARIANCE - DIMENSIONAL from the application of a requirement(s) of the ZONING ORDINANCE, Chapter 350, Article I, Section 350-8, subsection E.

( ) APPEAL from Building/Zoning Official, Historic District Commission, or Planning Board, Article I, Section 350-8, subsection D.

I HEREBY SUBMIT THE FOLLOWING INFORMATION IN SUPPORT OF THIS REQUEST FOR CONSIDERATION AND PUBLIC HEARING:

<table>
<thead>
<tr>
<th>APPLICANT</th>
<th>Nicholas Shepherd &amp; Angeline Cloutier Shepherd</th>
<th>PHONE: 781-952-1367</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADDRESS</td>
<td>58 Jackson Schoolhouse Rd</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OWNER</th>
<th></th>
<th>PHONE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADDRESS</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LESSEE/PURCHASER</th>
<th>N/A</th>
<th>PHONE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADDRESS</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. Location of Property
   - Street Address: 58 Jackson Schoolhouse Rd
   - Plat: 7
   - Lot: 27
   - Pole: 0

2. Size of Lot
   - Dimensions: Width 260.49, Depth 445.15
   - Total Area: 4423 Acres/Square Feet

3. Zoning Designations
   - Current Zoning District Classification of Property: A-4

4. Ownership Tenure
   - DATE OF PURCHASE of the above stated property by the CURRENT OWNER: 8/26/19
   - Will Ownership of said property be transferred by the CURRENT OWNER TO the APPLICANT for developmental purposes? Yes ( ) No ( ) Does Not Apply X

5. Developmental Status and Proposal
   - A. Existing Developmental State
     - Are there any buildings on the property at present? Yes X No ( )
     - If YES, how many buildings? 2
     - IDENTIFY the Size and Use of each building (Use additional sheet(s) of paper, if necessary.)
       - Building Type: SINGLE FAMILY
       - Height: 800 Y
       - Area (Square Feet):
       - Use:
       - (1)  
   - B. Proposed Development
     - Have plans for proposed construction activities for building structure(s) been submitted to the Office of the Building/Zoning Official? Yes ( ) No ( ) Does Not Apply ( )
     - If YES, has a Building Permit been refused? Yes ( ) No X
6. SPECIAL-USE PERMIT (Complete this Section only if #1 Special-Use Permit on Page 1 is checked).
   A. IDENTIFY proposed use, action, or activity for which SPECIAL-USE PERMIT is requested.

   [Blank lines]

   B. LIST precise ARTICLE(s) and SECTION(s) of the ZONING ORDINANCE which authorize consideration of the SPECIAL-USE PERMIT described in above.

   [Blank lines]

   C. DESCRIBE BRIEFLY how the granting of the SPECIAL-USE PERMIT will meet the requirements of Chapter 350, Article I, Section 350-8, subsection F(4), of the ZONING ORDINANCE.

   [Blank lines]

7. VARIANCE (Complete this Section only if #2 or #3 VARIANCE on Page 1 is checked).
   A. IDENTIFY proposed activity, action, or use for which VARIANCE from the terms of the ZONING ORDINANCE is requested.

   RECEIVED A SPECIAL USE PERMIT TO BUILD A ADU IN THE BARN AS CONSTRUCTION BEGAN IT WAS APPARENT WE WOULD NEED MORE SPACE TO ACCOMMODATE A HANDICAPPED UNIT. MY GRANDMOTHER IS JUST BEGINNING TO USE A WHEELCHAIR.

   [Blank lines]

   B. LIST precise ARTICLE(s) and SECTION(s) of the ZONING ORDINANCE from which VARIANCE is requested. BRIEFLY DESCRIBE applicable regulation of standard and the Variance that is requested.

   DIMENSIONAL VARIANCE; CHAPTER 350, ARTICLE II, APPLICANT SEEKING RELIEF OF 100 SQUARE FEET FOR THE ACCESSORY DWELLING UNIT CONSISTING OF 850 SQUARE FEET OF LIVING SPACE

   [Blank lines]

   C. IDENTIFY Grounds for VARIANCE - USE or DIMENSIONAL. The APPLICANT is required to relate this APPLICATION REQUEST to the Criteria governing the Granting of a VARIANCE as set forth in Chapter 350, Article I, Section 350-8, subsection E(3), of the Zoning Ordinance.

   1. THE REQUESTED VARIANCE WILL NOT ALTER THE GENERAL CHARACTER OF THE SURROUNDING AREA, NOR IMPAIR THE INTENDED PURPOSE OF THE ORDINANCE.

   2. THE RELIEF BEING GRANTED IS THE LEAST NECESSARY AND IF NOT GRANTED DENIAL WOULD AMOUNT TO MORE THAN A MERE INCONVENIENCE.

   3. THE APPLICANT UNDERSTANDS THE ADU CAN NEVER BE RENTED FOR FINANCIAL GAIN.
8. NATURE OF APPEAL (Complete this Section only if #4 Appeal on Page 1 is checked).

1. Appeal of Building/Zoning Official (Attach copy of any denial, notification or correspondence relating to appeal).
   1. Date of denial/issuance of permit or date of alleged error in enforcement of ordinance. ___________20

2. Basis for Appeal (Pursuant to Chapter 350, Article I, Section 350-8, subsection D(3), cite applicable provisions of Ordinance).

2. Appeal from any order, requirement, decision or determination made by any other administrative officer or agency in the enforcement or interpretation of this Chapter or any Ordinance adopted pursuant hereto. (Attach copies of all copies of all correspondence, plans and the written decision pertaining to the appeal.)

   Basis for Appeal (Cite applicable ordinance provisions, nature of the appeal, and any other data in support of appeal.)

   ******************************************************************************************************************

By signing below, I/We acknowledge that I/We have received and read a copy of the Gloucester Zoning Ordinance and accept full responsibility for the accuracy and completeness of this application and all attachments. Further, by signing below, I/We agree to reimburse the Town of Gloucester for the costs incurred as a result of the application, including, but not limited to, advertising, notice, and copies of plans and transcripts, or other data in support of the petition.

RESPECTFULLY SUBMITTED,

[Signature]
Owner's Signature

[Signature]
Owner's Signature

Date: 07/23/20

NOTE: The property owner, applicant, or representative must be present at hearing.

AGENT/ATTORNEY: ____________________________________________

ADDRESS: __________________________________________________

PHONE: _____________________________________________________

REPRESENTING: ____________________________________________

DATE: ______________________________________________________

Refer to INFORMATION SHEET for additional details and materials required for submission of this APPLICATION.
Addition to Existing Barn

Master Bedroom: 184
Master Bath: 45
Closet: 24
Living/kitchen: 529
Laundry/storage: 70

Total: 852
IN RE: NICHOLAS C. SHEPARD AND ANGELINE E. CLOUTIER-SHEPARD

DECISION

This matter came before the Board on December 18, 2019 upon the owners/applicants’ petition for a variance for an accessory dwelling unit in an existing barn on their property located at 58 Jackson Schoolhouse Road. The property is located in an A-4 zone and is referred to as Assessor’s Plat 7, Lot 27. Owners/applicants seek relief pursuant to Chapter 350 Article VII, Special Regulations, Sec. 350-49, subsection C, which requires that the accessory dwelling unit be attached to the principal dwelling.

I

PUBLIC HEARING

After having been duly sworn in by Chairman Meinertz, owner/applicant's attorney Nicholas Goodier, Esq. testified:

That his clients purchased the property with the specific intent to create living space for Nicholas’s grandparents; that no alterations will be made to the principal residence; that the accessory family dwelling unit could not be added to the existing dwelling because it would interfere with the existing leach field and location of the utilities; that the applicants will install a new wastewater treatment system to accommodate the new dwelling unit.

II

VARIANCE

Based upon the testimony, the exhibits submitted, and in consideration of the application and related documents, the Board draws the following conclusions and makes the following findings of fact:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject property or structure.

   The Board finds as a fact that the existing structure is not constructed in such a way as to accommodate this dwelling unit without dimensional relief. There is no other area of the property that the unit could be located without requiring more relief than that requested by the owner/applicants.
2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire to realize greater financial gain.

   The Board notes that this property was in its current condition when applicants purchased it. They did nothing to alter the physical characteristics of the property.

   The Board finds that the proposed use is for a family accessory dwelling only and the applicants are unlikely to receive any financial gain at all from the proposal, as it cannot be rented.

3. The relief to be granted is the least relief necessary.

   The Board finds that there is no other area on the property that the dwelling unit could be sited that did not require a greater amount of relief from the ordinance. The proposed square footage is well within the zoning regulation limits.

4. The granting of the requested variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of the zoning regulations or the Comprehensive Community Plan.

   The Board finds through its own knowledge that the surrounding area is residential, having similar structures on them, and it adopts the findings of the Planning Board that the granting of the relief will not impair the intent or purpose of the Comprehensive Community Plan and/or the zoning regulations.

5. The State enabling legislation allows the accessory family dwelling unit to be located in an existing detached structure.

   The board takes official notice of existing state enabling legislation allowing this type of dwelling unit to be located in an existing detached structure, such as a barn. The board finds that the barn on this property was an existing structure at the time it was purchased, and that the appearance of the principal structure will remain that of a one family residence.

III

CONCLUSION

At the close of the public hearing a motion to approve the variance, with the stipulation that the owners/applicants make and record the appropriate deed restrictions, was made by Vice Chairman Winsor and seconded by Member Donnelly. It was unanimously approved. Members Meinerttz, Winsor, Muccino, Donnelly, and Fogarty all voted in favor of the application. Vice Chairman Winsor also made a motion to grant a special use permit for the accessory family
dwelling unit. It also was unanimously approved. Members Meinertz, Winsor, Muccino, Donnelly, and Fogarty all voted in favor.

IV

RIGHT TO APPEAL

An aggrieved party may appeal a decision of the Zoning Board of Review to the Superior Court for the County in which the Town is situated, by filing a complaint stating the reasons for the appeal written twenty days following the recording of the decision in the Town Clerk’s office.

Approved:

[Signature]

Gregory Meinertz, Chairman
Glocester Zoning Board
TOWN OF GLOCESTER

Restriction and Agreement for Accessory Family Dwelling Unit

In accordance with the provisions of the Town of Glocester Zoning Ordinance pertaining to Accessory Family Dwelling Units, as enacted pursuant to the provisions of Sections 45-24-27 et seq. of the General Laws of Rhode Island, a zoning certificate for an Accessory Family Dwelling Unit has been issued to the following named property owner(s), for the following described real estate:

Owner(s): Nicholas C. Shepherd & Angeline E. Cloutier Shepherd
58 Jackson Schoolhouse Road
Gloucester, RI 02914
(town and zip code)

Description of real estate:
Book and Page of Recorded Deed: Book 801 Page 1060
Name of Grantor in said Deed: Jo Ann E. Valete, Trustee of Leonhardt Family Trust
Assessor's Plat & Lot Number: AP 7, Lot 27

The occupant(s) of the one-bedroom accessory family dwelling unit shall be restricted to a person or persons related by blood, marriage, or other legal means to the occupant of the primary dwelling unit. This agreement shall run with the land so as to be applicable to and binding upon subsequent owners, assignees and transferees, and shall be enforceable against the applicant, his heirs, devisees, successors and assigns. The above named owner(s) hereby agree(s) to indemnify the Town of Glocester from any or all costs, fees and expenses incurred by the Town of Glocester in enforcing the terms of this agreement.

IN WITNESS WHEREOF, this instrument has been executed this 31st day of January, 2020.

TOWN OF GLOCESTER
BY
Building Zoning Official

I/We, the above-named owner(s) of the above described real estate have read and understood the foregoing instrument and have also read and understood the applicable provisions of the Town of Glocester Zoning Ordinance. I/We agree to the terms of this instrument and the Zoning Ordinance and will not violate the same. I/We further agree that this instrument shall be recorded at my/our expense in the Land Evidence Records of the Town of Glocester, and that it will run with the land so as to be applicable to and binding upon all subsequent owners, lessees, assignees and transferees, and against the owner and his heirs, devisees, successors and assigns.

IN WITNESS WHEREOF, this instrument has been executed this 3rd day of August, 2020.

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In Gloucester on the 3rd day of August 2020, before me personally appeared Nicholas C. Shepherd, to me personally known and known by me to be the part executing the within instrument, and he acknowledged said instrument, by his hand executed, to be his free act and deed.

Notary Public
Printed Name: Denise J. Cadoret
My Commission Expires: 8/14/2023

N:\Building Planning\Building\WP DATAFORMS\AccessoryFamilyDwellingForm.wpd
AP 7, Lot 132
Peter Guibault etux Barbara
P.O. Box 287, 70 Jackson Schilhse
Chepachet, RI 02814

AP 7, Lot 135
Paul Jalette & JoAnn Family Trst
50 Jackson Schoolhouse Rd
Chepachet, RI 02814

AP 7, Lot 145
Frank B. Ricci etux Nonette B.
P. O. Box 361
Chepachet, RI 02814

AP 7, Lot 141
Jay P. Leonhardt etux Debra J.
82 Jackson Schoolhouse Rd
Chepachet, RI 02814

AP 7, Lot 24
Bruce E. Barnes
27 Barnes Way
Chepachet, RI 02814

PL, Lot 66
Maribeth Hurst
600 Reservoir Road
Pascoag, RI 02859

AP 7, Lot 26
Kathy Lee Centazzo etvix Joseph
72 Jackson Schoolhouse Rd.
Chepachet, RI 02814

PL, Lot 00A
William Cardin etux Lauren K.
65 Jackson Schoolhouse Road
Chepachet, RI 02814

AP 7, Lot 25
Janice M. Soule
54 Jackson Schoolhouse Rd.
Chepachet, RI 02814

PL, Lots 59, 60
James S. Pomposelli
386 Lake Drive
Chepachet, RI 02814
PL, Lots 140
David A. Porcaro et ux Lisa B.
15 First Road
Chepachet, RI 02814

PL, Lots 134 & 139
Echo Lake Water District
P. O. Box 285
Chepachet, RI 02814

PL, Lot 27
Nicholas & Angeline Shepherd
58 Jackson Schoolhouse Rd.
Chepachet, RI 02814

S, Lot 36
Albert K. Aubin et ux Donna M.
47 Jackson Schoolhouse Rd.
Chepachet, RI 02814

AP7, Lot 39
Peter Chase et al Diane F.
8 Robinhood Ave. #8
Jamiaca Plain, MA 02130-2162
August 18, 2020

VIA EMAIL ONLY (to kenjohnson@glocesterri.org)

Town of Gloucester
Zoning Board of Review - Building and Zoning Department
Attn: Mr. Kenneth Johnson, Building/Zoning Official
1145 Putnam Pike
Chepachet, RI 02814

Re: Michael and Susan Barnes - ZBR Applicants for Dimensional Variances
Property – Old Quarry Road, Gloucester
Hearing – Thursday, August 27th via Zoom

Dear Mr. Johnson:

On behalf of the applicants, I respectfully request a continuance of this matter to the next meeting of the ZBR on September 24, 2020.

My clients realize they have incurred advertising cost relative to the August 27th meeting and that they will incur costs relative to advertising the September 24th meeting. Ms. Cadoret provided me with invoice for the August advertising and, in turn, I have forwarded that to my clients for payment.

Should you have any questions with respect to the within, please feel free to reach me by phone or email.

Sincerely,

[Signature]

Stephen J. Angell
SJA:st

Cc: Michael & Susan Barnes

*Admitted Rhode Island, Massachusetts and Washington, D.C.
August 13, 2020

**VIA EMAIL ONLY** (to kenjohnson@glocesterri.org)

Town of Gloucester  
Zoning Board of Review - Building and Zoning Department  
**Attn: Mr. Kenneth Johnson, Building/Zoning Official**  
1145 Putnam Pike  
Chepachet, RI 02814

**Re:** Michael and Susan Barnes - ZBR Applicants for Dimensional Variances  
Property – Old Quarry Road, Gloucester  
Hearing – Thursday, August 27th via Zoom

Dear Mr. Johnson:

This letter serves to advise you and the Zoning Board of Review of the following:

1. As of August 8, 2020, Mr. & Mrs. Barnes have retained my services as successor counsel to David V. Igliozzi, Esq., relative to the above entitle matter.

2. I hereby enter my appearance on behalf of Michael and Susan Barnes in connection with the above-entitled matter.

3. I do not anticipate any delay in the presentation of the Barnes’ application for dimensional variances on August 27th.

I trust that you will keep me apprised of any logistical or substantive developments related to the upcoming meeting. In the meantime, kindly forward a Zoom invitation at your convenience relative to the meeting.

Should you have any questions with respect to the within, please feel free to reach me by phone or email.

Sincerely,

[Signature]

Stephen J. Angell  
SJA:st

**Cc:** Michael & Susan Barnes  
David V. Igliozzi, Esq.

*Admitted Rhode Island, Massachusetts and Washington, D.C.*
Advisory Opinion to the Zoning Board of Review

Michael and Susan Barnes, applicants and Kimberly W. Burgess and Barbara-Burgess-Maier, owners – Dimensional Variance – Side Yard and Rear Yard Depth Setback

Michael and Susan Barnes, applicants and Kimberly W. Burgess and Barbara-Burgess-Maier, owners, request a dimensional variance for property located on Old Quarry Road, further described as Assessor’s Plat 19, Lot 15 in an A-3 Agricultural-Residential zone.

Applicants/Owners seek a Dimensional Variance as specified in accordance with Chapter 350, Article III, Table of Dimensional Regulations, §350-13, side yard width and rear yard depth. A single family home in the A-3 zone requires a 50’ side yard width and a 100’ rear yard depth, however the lot was a legal conforming lot at the time it was platted in the A-2 zone, therefore the required side yard width is 35 feet and the rear yard depth is 100 feet. Applicants/Owners seek approval to construct a new single family house 18’ from the side property line and 60’ from the rear yard property line, requesting 17’ of side yard relief and 40’ of rear yard relief.

MOTION was made by Vice Chairman Calderara for a positive recommendation to the Zoning Board of Review regarding an application for a dimensional variance made by Michael and Susan Barnes, applicants and Kimberly W. Burgess and Barbara-Burgess-Maier, owners, for property located on Old Quarry Road, further described as Assessor’s Plat 19, Lot 15 in an A-3 Agricultural-Residential zone.

In making this recommendation the Board has relied on the following:

1. Information provided in the application
2. Testimony of the applicant at the August 4, 2020 Planning Board Meeting
3. The drawing provided by the applicant

The Board recommended the following condition for approval:

1. Approval by the Gloucester DPW for the driveway over the catch basin and culvert, which discharges to the wetland.

In conclusion, the Board finds that granting this Dimensional Variance would not be inconsistent with the Gloucester Comprehensive Community Plan.

MOTION was seconded by Member Furney.

DISCUSSION: None.

VOTE:

Ayes – 7  (Calderara, Clifford, DeGrange, Delos, Folcarelli, Furney, Pitocco)
Nays - 0
APPLICATION Form must be completed in full and submitted along with the FILING FEE and all other required materials prior to being considered by the Zoning Board of Review. Please refer to the attached INFORMATION SHEET for additional materials required for submission with the application. The FILING FEE does not include the cost of advertising, notice, or copies of plans, transcripts, or other data in support of the petition. All fees and costs are due prior to the petition being heard by the Zoning Board of Review.

The UNDERSIGNED hereby applies to the Glocester Zoning Board of Review for the following:

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( ) VARIANCE - USE from the application of a requirement(s) of the ZONING ORDINANCE, Chapter 350, Article I, Section 350-8, subsection E.
(X) VARIANCE - DIMENSIONAL from the application of a requirement(s) of the ZONING ORDINANCE, Chapter 350, Article I, Section 350-8, subsection E.
( ) APPEAL from Building/Zoning Official, Historic District Commission, or Planning Board, Article I, Section 350-8, subsection D.

I HEREBY SUBMIT THE FOLLOWING INFORMATION IN SUPPORT OF THIS REQUEST FOR CONSIDERATION AND PUBLIC HEARING:

APPLICANT: Michael Barnes and Susan Barnes
ADDRESS: 9 West Butterfly Way, Lincoln, RI 02865
PHONE (401) 727-2394
OWNER: Kimball W. Burgess
ADDRESS: One Whipple Lane, Greenville, RI
PHONE (401) 787-3263
OWNER: Barbara Burgess-Maier
ADDRESS: 335 Essex St., Salem, MA 01970
PHONE (978) 697-1261

LESSEE/ PURCHASER: Michael Barnes and Susan Barnes
ADDRESS: 9 West Butterfly Way, Lincoln, RI 02865
PHONE (401) 727-2394

1. Location of Property
   Street Address: Old Quarry Road
   Plat:(19) Pole#
   Lot: 15
   Dimensions: Width 200 ft Depth 620+/
   Total Area 2.09/91,000 Acres/Square Feet

2. Size of Lot


4. Ownership Tenure
   DATE OF PURCHASE of the above stated property by the CURRENT OWNER: June 7, 2007 (by Will)
   Will Ownership of said property be transferred by the CURRENT OWNER TO the APPLICANT for developmental purposes?
   Yes (X) No ( ) Does Not Apply ( )

5. Developmental Status and Proposal
   A. Existing Developmental State
   Are there any buildings on the property at present? Yes ( ) No (X) If YES, how many buildings? identifying the Size and Use of each building (Use additional sheet(s) of paper, if necessary.)

   Building Type
   Height
   Area (Square Feet)
   Use
   (1)
   (2)

   B. Proposed Development
   Have plans for proposed construction activities for building structure(s) been submitted to the Office of the Building/Zoning Official?
   Yes ( ) No (X) Does Not Apply ( ) If YES, has a Building Permit been refused? Yes ( ) No (X)
6. SPECIAL-USE PERMIT (Complete this Section only if #1 Special-Use Permit on Page 1 is checked).
   A. IDENTIFY proposed use, action, or activity for which SPECIAL-USE PERMIT is requested.
      NA

   B. LIST precise ARTICLE(s) and SECTION(s) of the ZONING ORDINANCE which authorize consideration of the SPECIAL-USE PERMIT described in above.
      NA

   C. DESCRIBE BRIEFLY how the granting of the SPECIAL-USE PERMIT will meet the requirements of Chapter 350, Article I, Section 350-8, subsection F(4), of the ZONING ORDINANCE.
      NA

7. VARIANCE (Complete this Section only if #2 or #3 VARIANCE on Page 1 is checked).
   A. IDENTIFY proposed activity, action, or use for which VARIANCE from the terms of the ZONING ORDINANCE is requested.
      See Exhibit A attached hereto

   B. LIST precise ARTICLE(s) and SECTION(s) of the ZONING ORDINANCE from which VARIANCE is requested. BRIEFLY DESCRIBE applicable regulation of standard and the Variance that is requested.
      See Exhibit A attached hereto

   C. IDENTIFY Grounds for VARIANCE -USE or DIMENSIONAL. The APPLICANT is required to relate this APPLICATIONREQUEST to the Criteria governing the Granting of a VARIANCE as set forth in Chapter 350, Article I, Section 350-8, subsection E(3), of the Zoning Ordinance.
      See Exhibit A attached hereto
8. NATURE OF APPEAL (Complete this Section only if #4 Appeal on Page 1 is checked).

1. Appeal of Building/Zoning Official (Attach copy of any denial, notification or correspondence relating to appeal).
   1. Date of denial/issuance of permit or date of alleged error in enforcement of ordinance: __________, 20__________
   2. Basis for Appeal (Pursuant to Chapter 350, Article 1, Section 350-8, subsection D(3), cite applicable provisions of Ordinance).
      NA

2. Appeal from any order, requirement, decision or determination made by any other administrative officer or agency in the enforcement or interpretation of this Chapter or any Ordinance adopted pursuant hereto. (Attach copies of all copies of all correspondence, plans and the written decision pertaining to the appeal.)
   Basis for Appeal (Cite applicable ordinance provisions, nature of the appeal, and any other data in support of appeal.)
      NA

By signing below, I/We acknowledge that I/We have received and read a copy of the Glocester Zoning Ordinance and accept full responsibility for the accuracy and completeness of this application and all attachments. Further, by signing below, I/We agree to reimburse the Town of Glocester for the costs incurred as a result of the application, including, but not limited to, advertising, notice, and copies of plans and transcripts, or other data in support of the petition.

RESPECTFULLY SUBMITTED,

[Signature]
Owner's Signature

Date: [July 18, 2020]

NOTE: The property owner, applicant, or representative must be present at hearing.

AGENT/ATTORNEY: David V. Igliozzi, Esq.
ADDRESS: 926 Park Avenue
PHONE: Cranston, R102910
REPRESENTING: Applicant
DATE: [Blank]
Exhibit A

APPLICATION

Owner: Kimball W. Burgess
Address: One Whipple Lane, Greenville, RI 02828
Phone: 401-787-3263

Owner: Barbara Burgess - Maier
Address: 335 Essex St., Salem, MA 01970
Phone: 978-697-1261

Applicant: Michael Barnes and Susan Barnes
Address: 9 West Butterfly Way, Lincoln, RI 02865
Phone: 401-727-2394

Surveyor: Anthony E. Muscatelli
International Mapping and Surveying Company
19 Industrial Drive, Smithfield RI 02917
401-232-2620
lms_corp@holcorp.com

Biologist: Scott Rabideau
Natural Resource Services
180 Tinkham Lane, Harrisville, RI 02830
401-568-7390
nrs@nrs-wetlands.com

Property: AP 19 Lot 15 - Old Quarry Road
Area: 2.09 Acres
Zoning: Current zoning is A3. When this lot was established, the zoning was A-2. It is recorded with the town as an A-2 - Substandard Lot of Record 1972 (Plat Information for Recorded subdivision’s in Gloucester)

Section 7. Variance

A. Identify proposed activity, action, or use for which Variance from the terms of the Zoning Ordinance is requested.

The Property (2.09 acres) is a single unimproved vacant lot located in the Pineledge Recorded Plat (1972). The Applicant proposes to construct a two-bedroom single family dwelling consisting of a 1624 sq. ft. building envelop subject to the approval of the Zoning Board for a side yard dimensional variance and a rear yard dimensional variance as listed below. The dwelling will be served by individual well and separate individual septic system which has been approved by the RI Department of Environmental Management.

B. List the Article and Sections of the Zoning Ordinance from which Variance is requested. Briefly describe applicable regulation of standard and the Variance that is requested.
1. A dimensional variance from Pineledge Recorded Plat (1972) substandard lot of record, Chapter 350, Article VIII - (minimum side yard depth of 35 feet pursuant to the Plat Information for Recorded Subdivisions in Gloucester) to allow a side yard depth of 18 feet.

2. A dimensional variance from Pineledge Recorded Plat (1972) substandard lot of record, Chapter 350, Article VIII - (minimum rear yard depth of 100 feet pursuant to the Plat Information for Recorded Subdivisions in Gloucester) to allow a rear yard, to the extent that a rear yard exists, depth of 60 feet.

C. Identify grounds for Variance - Use or Dimensional. The Applicant is requested to relate this Application Request to the Criteria granting a variance and set forth in chapter 350, Article I, Section 350-8, subsection E (3), of the Zoning Ordinance.

The Application, Site Plan, and Supporting Information, and Testimony entered into the record of the proceedings will meet and satisfy all the requirements of Chapter 350, Article I, Section 350-8, subsection E (3)

In granting a variance, the evidence entered into the record of the proceedings will satisfy the following standards:

(a) 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 R.I.G.L. § 45-24-30(16); [Amended 3-15-2007, effective 3-15-2007]

The Property contains wetlands, ledge, and unique features that limit the location of the proposed dwelling. The hardship is from which the Applicant seeks relief is due to the unique characteristics of the subject land or structure (jurisdictional wetland constraints and ledge) 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 R.I.G.L. § 45-24-30(16); [Amended 3-15-2007, effective 3-15-2007]

(b) That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;

The hardship is the result of jurisdictional wetland constraints and ledge, and not the result of any prior action of the Applicants and does not result primarily from the desire of the applicant to realize greater financial gain.

(c) That 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; and

The hardship is the result of jurisdictional wetland constraints and ledge and 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.

(d) That the relief to be granted is the least relief necessary.
The hardship is the result of jurisdictional wetland constraints and ledge and the relief to be granted is the least relief necessary.

(e) The Board shall, in addition to the preceding standards, require that evidence be entered into the record of the proceedings showing that:

[1] In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this chapter. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and

The jurisdictional wetland constraints would need to be removed to conform with the provisions of this chapter.

[2] In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount 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.


The jurisdictional wetland constraints would need to be removed to conform with the provisions of this chapter. If a dimensional variance is not granted it will result in more than a mere inconvenience.
PLAT INFORMATION

Before zoning—"Substandard lots of record are exempt from the minimum lot sizes of the district involved as established by this ordinance (Zoning 4/15/77 as amended). All other district dimensions applicable at the time immediately prior to the lot becoming substandard shall apply, but in no case will less than 30' front yard depth, 10' side yard and 10' rear yard depth be allowed." (adopted 1-12-79)

Recorded Subdivisions in Gloucester

<table>
<thead>
<tr>
<th>Name</th>
<th>Description</th>
<th>Location</th>
<th>Date</th>
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<tbody>
<tr>
<td>F - S - R</td>
<td>BZ (1961)</td>
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<tr>
<td>Glocester Manor (12 lots)</td>
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<tr>
<td>Paine Estates Sec.A 6-5-72 2-ac.lots Sec.B Dr. 6 Map 202B</td>
<td>10-6-75 1 2 zone</td>
<td>50 - 35 - 100</td>
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<tr>
<td>Pascoag Lake Shores A,B,C, &amp; D Rec'd 9/42;7/46; 30-10-10</td>
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<td>Pine Acres Sec. 1 2-9-65 30-40-50 R-2</td>
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<tr>
<td>Pineledge 1972 50'F 30'S 100' R (A-2)</td>
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<td>Plt 202 A (Westcott) A3</td>
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<td>Plt 204 (Westcott)</td>
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<td>Potter Farm 9-28-53 H.E. 10</td>
<td>30-10-10</td>
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<td>Ramble Woods Res. &amp; Cov. Bk. 69 Pg. 498 5-7-73 Sec. 1-1969 Sec. 2-1971</td>
<td>30-10-10</td>
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<td>Reynolds Plat Rec'd for rec. 7-1-47</td>
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<td>Salisbury Plat 3-25-47 30-10-10</td>
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<td>Sandy Brook Estates 30'F - 50'S - 100' R</td>
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<td>Shady Acres</td>
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<td>Smith &amp; Sayles Reservoir BZ</td>
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<tr>
<td>Snake Hill Terrace Sec.A 3-10-75/Sec. B 8-6-76 50' min. setback 1 acre</td>
<td>50 - 25 - 50</td>
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<td>Spring Grove Shores 30-10-10</td>
<td>30-10-10</td>
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<tr>
<td>Sprucewood Plat Res. &amp; Cov. Bk. 68/Pg. 138 2-6-68 Setbacks 50'F-25'S-50R</td>
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<td>Stenberg Plat BZ</td>
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<td>Strawberry Hill Plat Dr. 6 Map 201 3-27-65 50 - 25 - 50</td>
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<td>Sunrise Gardens 1457 30-10-10</td>
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<tr>
<td>Tourtellot Hill Plat 30-10-10 (BZ 1962)</td>
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<td>Waterman Lake Shores 30-10-10</td>
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<tr>
<td>Westcott Beach 2(Sec. 1) 7-13-53 (30 - 10 - 10)</td>
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<tr>
<td>Wilkinson Plat 30-10-10</td>
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PUD - Gloucester Pines 75'F, 35'S, 100' R 30-10-10
August 7, 2020

To: Michael Barnes, Owner

Reference: Kimball W. Burgess
Old Quarry Road
Gloucester, RI 02834
Wetlands Plan, Pinedge Bluff Lot 15

Dear Mr. Barnes:

On Friday the 7th day of August 2020 at 1:00pm I talked with you in my office and discussed the preliminary site plans that I had reviewed. During this discussion I was noted that the underground conduit system is rated at 25,000 lbs. (shown on plans). Vertical Crossings People are unloading. All other items addressed on August 08.05.2020 SPR 4 were recommendations only by this office.

Your plans are approved at this time.

You are entitled to submit an application for a variance from any provision of the Rhode Island State Fire Safety Code to the Board of Appeals and Review. Variance applications may be obtained from the 1 Regan Court, View Building #4, Cranston, RI 02920 (Telephone: 401-398-4914).

Please contact me @ 401-949-1138 between the hours of 8:00am - 3:00pm. Tuesday through Friday and refer to Report 08.05.2020 SPR 4 and note the BPA comments.

Sincerely,

Richard A. Waterman
Chief

Richard A. Waterman, Chief

[HARMONY FIRE DEPARTMENT logo]

Address: 194 Pinedge Bluff
Chappaquiddick, MA 02532

Phone: 508-929-0433
Fax: 508-929-1790
Email: richardwaterman@harmonyfire.com
Website: www.harmonyfire.com

This institution is an equal opportunity provider & employer.
Good Afternoon Karen,

Gary met with Dr. Barnes at his property on Old Quarry Rd on Friday. Gary told him it was fine to fill over the town’s drainage pipe that is on his property. Gary would like you to forward a copy of this to Dr. Barnes.

Thanks,

Beth
AP 19, Lot 59
Brian & Tracey Beck
142 Old Quarry Road
North Scituate, RI 02857

PI, Lot 19
Barbara P. Powers
27 Foster Center Road
Foster, RI 02825

PI, Lot 18
Carl & Bethany Bomar
17 Powers Lane
North Scituate, RI 02857 4

PI, Lot 16
Jason Mody & Kristen Rochon
128 Old Quarry Road
North Scituate, RI 02857

PI, Lot 14
Dylan Greene & Luciana Bellini
99 Old Quarry Road
North Scituate, RI 02857

PI, Lot 13
Shannon Grassini-McCoy
116 Old Quarry Road
North Scituate, RI 02857

PI, Lot 12
Beth Ann Brescia
100 Old Quarry Road
North Scituate, RI 02857

PI, Lot 10
Donald & Carol Fargnoli
158 Racquet Road
Jamestown, RI 02835

AP 19, Lot 150
Citizens for Preservation Waterman Lake
P. O. Box 82
Harmony, RI 01829

PI, Lot 15
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335 Essex Street
Salem, MA 01970

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