

State of Rhode Island

County of Washington

In Hopkinton on the fourteenth day of July 2016 A.D. the said special meeting was called to order by Zoning Board of Review Chairman Philip Scalise at 7:00 P.M. in the Town Hall Meeting Room with a moment of silent meditation and a salute to the Flag.

PRESENT: Philip Scalise, Daniel Harrington, Ronnie Sposato, Jonathan Ure; Alternates Timothy Ward & William Kazounis; Zoning Solicitor Veronica Asselone; Zoning Board Clerk Elizabeth Cook-Martin. Also present: Building & Zoning Official Brad Ward.

Sitting as Board: Scalise, Harrington, Sposato, Ure, Ward.

Petition 1.

A Petition on an Appeal of the Zoning Official's decision filed by Patrick M. & Karen Beck, 248 Spring St., Hope Valley, RI 02832 for property located at 248 Spring St. identified as AP 30 Lot 16, an R-1 Zone and filed in accordance with Use Code #104 -- General Farms of the Code of Ordinances of the Town of Hopkinton, as amended.

Mr. Beck was present. Filing fees had been paid and notice posted. Also present: Animal Control Official Terri Main; Roland Wagner, abutting property owner. A stenographer was present to record the proceedings. A copy of the transcript is attached and made part of this record.

At the conclusion of the hearing the Board proceeded with determining findings of fact.

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY RONNIE SPOSATO TO OPEN UP DISCUSSION ON FINDINGS OF FACT IN REGARDS TO THIS APPEAL:

- The appellant's property is located at 248 Spring Street, Hope Valley identified as AP 30 Lot 16. The property has approximately 210 feet of road

frontage and is plus or minus 15,000 square feet in size and area. The property is zoned R-1.

- The appellant is raising Heritage Breed meat rabbits at this location for personal and commercial use for resale to those interested in non-commercially raised meat.
- Mr. Beck's own admission on the appeal application and his testimony tonight, he himself refers to these rabbits as small livestock.
- The correspondence of the Towns Animal Control Officer and/or Chief of Police, requesting copies of all complaints filed against the appellant on behalf of the aggrieved neighbor, Mr. Wagner. The letter also states that Mr. Beck raises and breeds the rabbits to sell and also that he has been fined by the Animal Control Officer several times for not keeping the rabbits in their enclosures.
- The testimony of Mr. Roland Wagner as well as copies of 13 complaints to the Animal Control department accompanied by pictures of rabbits dating back to early December 2015 through May 2016.
- A summary of the complaints and pictures that show the ongoing issue of rabbits trespassing onto his property with the eating and digging up of his flower beds.
- The testimony given this evening by the Animal Control Official stating it was her position that Mr. Beck was raising livestock on the property.
- The testimony given this evening by abutting property owner Mrs. Martha Baton, with her concerns regarding the small size of property and the activities of butchering of the rabbits on the property.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

Thereafter, the Board took the following action.

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY RONNIE SPOSOTO THAT BASED ON THE PREVIOUS FINDINGS OF FACT THAT THE ZONING BOARD DENIES THIS APPEAL AND UPHOLDS THE ZONING OFFICIAL'S DECISION THAT THE OPERATION OF THIS PROPERTY FOR RAISING RABBITS CONSTITUTES A LIVESTOCK FARM AND, IN ACCORDANCE DISTRICT USE CODE 103, IS PROHIBITED IN AN R-1 ZONE.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

Mr. Ward stated the rabbits must be removed from the property within in 30 days.

Mr. Beck assured they would be gone in 30 days.

Petition II.

A Petition for a Use Variance filed by Stano Trombino, 26 Main Street, Ashaway.

RI 02804 for property located at 64 High Street, Ashaway, RI 02804 identified as AP 25 Lot 14 an RFR-80 Zone and filed in accordance with Section R of the sign ordinance of the Zoning Ordinances of the Town of Hopkinton, as amended.

Mr. Trombino was present. Filing fees had been paid and notice posted. The green certified mail cards were submitted.

Stano Trombino was sworn in. He stated he was the owner of the business park consisting of sixteen individual units. The building had been rebuilt after a fire. That the current sign structure was situated on 4' x 4' posts and he wished to upgrade the sign to match the building. One tenant holds a State License that has minimum size sign requirements. Mr. Trombino wishes to install a new sign; the same height, in the same location; that there were no line of sight issues. The sign would be double in size.

Abutting neighbor Harry Bjorkland spoke in favor of the proposal; his property abuts the business park on two sides and had the greatest visual sight lines of the property. He has no problem with the proposed sign and felt Mr. Trombino had done a terrific job on the property; it was nice and clean; that he had an award winning tenant doing business in the building; there were no visual impairments; the deliveries were not a problem; and that they were good neighbors and had a clean business.

Barbara Capalbo from the abutting neighborhood, Bethel Village, stated the business was clean and pristine; there was no trash, it was quiet and didn't interfere with the children or school buses in the area; she had high hopes the business would continue with their success. She had no objection to the proposed sign.

Carol Schafer spoke on behalf of her brother who resides at 59 High Street. She was representing her brother as he could not be in attendance. She stated her brother opposed the proposed sign in the residential area. She stated the previous sign had been grandfathered in for the mill that had once been there. There was a

new a business there now and she stated he felt it was an obstruction to the residential area.

There were no other comments from those in attendance.

The hearing concluded and the Board proceeded with determining findings of fact.

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY RONNIE SPOSATO TO OPEN UP DISCUSSION ON FINDINGS OF FACT IN REGARDS TO THIS SIGN USE VARIANCE:

- A copy of the Use Variance application package which includes a plot plan prepared by Joseph Toscano, Professional Land Surveyor, showing any and all existing structures on the property, abutting roadways and entrance to the property as well as the location of the existing and proposed sign.
- The testimony of Mr. Stano Trombino stating that he wishes to replace the old outdated sign for aesthetics as well as to comply with State Law as it applies to one of his tenants State Licensing requirements.
- The new sign will be in the same location as the existing sign which is at the entrance to his property at 64 High Street, Ashaway.
- The new sign which will be a "billboard style" freestanding sign which shall allow posting for each of the businesses or uses to those renting space at the location. This sign shall be 7' 10-3/4" inches tall by 9' feet 4-1/2" inches long overall with 4-2' x 4' tenant signs = 32 square feet. The variance being sought after tonight is for 26 square feet in total area and 1 foot, 10-3/4 inches in height.
- The property is a pre-existing, non-conforming use along with its signage as multiple commercial shops independently rented.
- Through the testimony heard this evening and board discussion, it is determined the property being located in an RFR-80 Zone and it would fall under Section 27 F titled Signs in a Residential Zone. The property being a pre-existing, non-conforming use as multiple commercial shops independently rented creates a situation in which the residential sign ordinance is not reasonable for a commercial building. That if we do not permit the expansion of the sign the property owner would have no other beneficial use if he is to follow the current zoning ordinances in regards to the sign.
- We have determined that using the Commercial Business District Section 27 H (2) square footage requirements for guidance in this application is reasonable as this section more closely applies to the pre-existing, non-conforming use of the property.
- It is also determined that in following these criteria it shall not detract from the surrounding neighborhood or town in any way.
- Three neighbors were in favor of the sign stating what a terrific neighbor Mr. Trombino has been.
- Statement of Carol Schaffer representing her brother, an abuttor across the street from the property at 59 High Street who could not attend but who objects to the sign in a residential area.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

In granting a use variance, the zoning board shall require that evidence satisfying the following standards be entered into the record of the proceedings as stated in the following motion:

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY RONNIE SPOSATO THAT THE ZONING 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. AS THE PROPERTY'S LOCATION IN AN RFR-80 ZONE, REQUIRES IT TO FALL UNDER SECTION 27 F - SIGNS IN A RESIDENTIAL DISTRICT. THE PROPERTY IS A PRE-EXISTING, NON-CONFORMING USE AS MULTIPLE SHOPS INDEPENDENTLY RENTED IN THREE SEPARATE MILL BUILDINGS ON THE 6.7 ACRE PARCEL. THIS CREATES A SITUATION IN WHICH A PRE-EXISTING, NON-CONFORMING COMMERCIAL USE IS SUBJECT TO A RESTRICTIVE RESIDENTIAL ORDINANCE, THUS NOT ALLOWING IT TO FUNCTION ENTIRELY WITH ALL OF ITS PRE-EXISTING, NON-CONFORMING STATUS. DUE TO THE NUMBER OF RENTERS AT THE COMMERCIAL PROPERTY IT CREATES A SITUATION WHICH REQUIRES A BILLBOARD STYLE SIGN TO ADVERTISE THE MULTIPLE BUSINESSES RENTING THERE AND ONE OF THE TENANTS USING THE PROPERTY IS MANDATED BY THE STATE LICENSING BOARD TO ADHERE TO MINIMUM SIGNAGE SIZE REQUIREMENTS AND BY APPROVING THE USE VARIANCE, BRINGS IT INTO CONFORMANCE WITH STATE REGULATIONS.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY RONNIE SPOSATO THAT THE ZONING BOARD FINDS 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, AS THE PLACEMENT OF SIGNAGE ON A BUSINESS IS CUSTOMARY. THIS SIGN IS FOR CUSTOMER NOTIFICATION OF THE USE OF THE PROPERTY NOT PRIMARILY FOR FINANCIAL GAIN, AND ALSO FOR THE REASONS PREVIOUSLY STATED.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY RONNIE SPOSATO THAT THE ZONING 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 THIS ORDINANCE IS BASED; AND AS THE USE OF THIS PROPERTY SHALL REMAIN UNCHANGED FROM ITS PRE-EXISTING, NON-CONFORMING USE. THE INSTALLATION OF THIS SIGN AT THE ENTRANCE OF THIS FACILITY WILL NOT HAVE A NEGATIVE VISUAL IMPACT AS ITS DESIGN IS AESTHETICALLY PLEASING. THIS SIGN MATCHES CLOSELY TO THE CHARACTER OF THE SURROUNDING RESIDENTIAL NEIGHBORHOOD. IT DOES NOT IMPEDE THE SIGHT LINE OR TRAFFIC ENTERING OR EXITING THE PROPERTY; AND ALSO FOR THE REASONS PREVIOUSLY STATED.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY RONNIE SPOSATO THAT THE ZONING BOARD FINDS THAT THE RELIEF TO BE GRANTED IS THE LEAST RELIEF NECESSARY. THE SIGN WILL BE 26 SQUARE FEET IN AREA AND 1 FOOT 10-3/4 INCHES IN HEIGHT.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

The zoning board shall, in addition to the above standards, require that evidence be entered into the record of the proceedings which is shown in the motion that follows:

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY RONNIE SPOSATO THAT THE ZONING BOARD FINDS IN GRANTING THE USE VARIANCE THE SUBJECT LAND OR STRUCTURE CANNOT YIELD ANY BENEFICIAL USE IF IT IS REQUIRED TO CONFORM TO THE PROVISIONS OF THE ZONING ORDINANCE. THE NON-CONFORMING USE OF A NEIGHBORING LAND OR STRUCTURE IN THE SAME DISTRICT AND PERMITTED USE OF LANDS AND/OR STRUCTURES IN AN ADJACENT DISTRICT SHALL NOT BE CONSIDERED IN GRANTING A USE VARIANCE; AND FOR THE REASONS AND FINDINGS OF FACTS AS PREVIOUSLY STATED.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

Thereafter, the Board took the following action.

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY RONNIE SPOSATO THAT THE ZONING BOARD FINDS BASED ON THE PREVIOUS FINDINGS OF FACT THAT WE APPROVE THIS USE VARIANCE FOR A SIGN TO BE PLACED IN THE LOCATION OF THE EXISTING SIGN AT THE FRONT ENTRANCE TO THE "THAMES RIVER BUSINESS COMPLEX". THIS SIGN SHALL HAVE THE DIMENSIONS OF 7', 10-3/4" IN HEIGHT BY 9', 4-1/2" WIDE CONTAINING 4- 2' X 4' SIGN PANELS. THE SIGN USE VARIANCE APPROVED TONIGHT IS FOR A SIGN 26 SQUARE FOOT IN AREA AND 1'10-3/4" IN HEIGHT.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

Petition III.

A Petition for an Aquifer Protection Permit filed by Kevin B. Murphy, Esq., 244 Weybosset Street, Providence RI 02903 for property located at 1100 Main Street, Hope Valley, RI 02832 identified as Plat 27 Lot 150 a CS Zone, owned by Home Loan Investment Bank, One Home Loan Plaza, Warwick, RI 02886 and filed in accordance with Chapter 131 Groundwater & Wellhead Protection Ordinance of Chapter 134 of the Zoning Ordinances of the Town of Hopkinton, as amended.

Jay Murphy from Home Loan Investment Bank was present. Filing fees had been paid and notice posted. The green certified mail cards were submitted.

Solicitor Asselone reported the Town's Solicitor, along with the Town Council, had suggested that in order to have a clean process and, recognizing that the property is a non-conforming use, that the applicants apply for an Aquifer Protection Permit, which gave the Town Council a better comfort level with regard to the zoning text amendment for the property. Ronnie Sposato commented that this property has a pre-existing legal non-conforming use and felt the Aquifer Protection Permit was not required. Philip Scalise noted the Aquifer Protection Permit would give an added level of protection; the wording for the Commercial Special Zone had been re-written to change the Commercial Special use to allow for general automobile repair and removed the limitation that repairs were to be limited to the cars being sold.

Mr. Murphy was sworn in. A preliminary Best Management Practices Work Plan had been submitted to the Board along with supplemental information regarding dimensions. In regards to a physical assessment of the building at 1100 Main Street, Building & Zoning Official Brad Ward would further inspect the premises. Mr. Murphy was informed that the intent of the Aquifer Protection Ordinance was to have a mitigation plan in place in the event of a spill: such as a catch basin, floors sealed with epoxy paint to catch any oil; to provide spill protection. Mr. Ure noted that this was spelled out in Section 5 of the Aquifer Protection Permit Ordinance relative to what is required of a Best Management Practices Work Plan.

Conservation Commission Chairman Harvey Buford was present and indicated he did not realize that this was being done as a stipulation of the Town Council. He expressed concern that there may not be a Best Management Practices Work Plan as there had been a request for waivers of most of the filing requirements on their application. He noted the Conservation Commission had a meeting a night or two ago and had nothing to work from. The Board assured Mr. Buford that the Best Management Practices Work Plan requirement would be done. Mr. Ward noted the only change to lift the restriction limiting repairs to those cars sold. He stated the zone remains the same. He added that Mr. Murphy has complied with every requirement that had been asked of him.

Town Council Vice President Barbara Capalbo was present in the audience and she confirmed that there had been a text amendment and the Town Council wanted to make sure they followed the Aquifer Protection Ordinance and to submit a best management work plan.

There were no other comments from those in attendance.

The hearing concluded and the Board proceeded with determining findings of fact.

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY
RONNIE SPOSATO TO OPEN UP DISCUSSION ON FINDINGS OF FACT IN
REGARDS TO THIS AQUIFER PROTECTION PERMIT:

- A copy of the transcript dated May 16, 2016 for the Town Council hearing regarding the request for a zoning text amendment for the property.
- A copy of the proposed text amendment for the subject property located at AP 27, Lot 150 adding the Use Category 633 Automobile Repair Center to that of which its currently zoned Commercial Special. In summary the amendment states that the previous requirements that the automobile maintenance conducted on the parcel be limited "to those cars sold" on the parcel be deleted and that the operator of any such repair facility maintains an Aquifer Protection Permit.
- The property's use as an automobile repair facility in one manner or another pre-dates zoning and has been continually used as that pre-existing, non-confirming use to the present date.
- A copy of a preliminary Best Management Practices Work Plan detailing any and all methods to be utilized to mitigate any potential threats or adverse effects to the aquifer from the proposed use.
- The testimony from Mr. Harvey Buford expressing his concerns that a Best Management Practices Work Plan be presented to the Board, which was done this evening.

- The testimony Councilor Barbara Capalbo confirming this was text amendment to the Commercial Special Zone.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

The following conditions were imposed:

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY RONNIE SPOSATO THAT A MORE DETAILED BEST MANAGEMENT PRACTICES WORK PLAN IS TO BE PRESENTED TO THE BUILDING & ZONING OFFICIAL AND THAT THE COMPLETION AND IMPLEMENTATION OF THE BEST MANAGEMENT PRACTICES WORK PLAN IS TO BE TO BE HANDLED ADMINISTRATIVELY BY THE BUILDING & ZONING OFFICIAL WHO WILL ENSURE THAT IT WILL BE IN FULL COMPLIANCE WITH THE AQUIFER PROTECTION PERMIT ORDINANCE.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY RONNIE SPOSATO THAT BASED ON THE FINDINGS OF FACT AND CONDITIONS, I MOVE THAT THE ZONING BOARD FINDS THAT THE PROPOSED USE WILL NOT RESULT IN CONCENTRATIONS OF POLLUTANTS IN THE GROUNDWATER THAT WILL ADVERSELY AFFECT THE GROUNDWATER AS A SOURCE OF POTABLE WATER OR ITS CLASSIFICATION AS GAA (SUITABLE FOR PUBLIC OR PRIVATE DRINKING WATER USE WITHOUT TREATMENT; OR GA (MAY BE SUITABLE FOR PUBLIC OR PRIVATE DRINKING WATER USE WITHOUT TREATMENT) AS PROMULGATED IN THE RIDEM "RULES AND REGULATIONS FOR GROUNDWATER QUALITY" IN ACCORDANCE WITH CHAPTER 46-13.1 OF THE GENERAL LAWS OF RI 1965 AS AMENDED, AS THE APPLICANT HAS PROVIDED LEGALLY COMPETENT EVIDENCE SHOWING THAT AS PROPOSED THE AUTOMOBILE REPAIR CENTER POSES NO RISK TO THE AQUIFER. WHEREAS THE APPLICANT HAS PROVIDED THIS BOARD WITH A PRELIMINARY BEST

MANAGEMENT PRACTICES WORK PLAN IN WHICH THIS PLAN
DETAILS ALL METHODS TO BE USED TO PREVENT AND MITIGATE
ANY POTENTIAL THREATS OR ADVERSE EFFECTS TO THE AQUIFER.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

Thereafter, the Board took the following action.

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY
RONNIE SPOSATO THAT THE ZONING BOARD FINDS BASED ON THE
PREVIOUS FINDINGS OF FACTS AND CONDITIONS, THAT WE APPROVE
THE AQUIFER PROTECTION PERMIT FOR THE PROPERTY LOCATED AT
1100 MAIN STREET, HOPE VALLEY, RI, IDENTIFIED AS ASSESSOR'S
PLAT 27 LOT 150.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

Petition IV.

A Petition for a Dimensional Variance for an addition to the existing building filed
by KSL Realty Cranston, LLC c/o John Haronian, 1405 Douglas Avenue, North
Providence, RI 02904 for property located at 229 Main Street, Ashaway, RI 02804
identified as Plat 25 Lot 155A a CS Zone and filed in accordance with Section 6.1
"No Commercial structure shall be located closer than 100' to a residential zone
district boundary line" and Section 9 of Chapter 134 of the
Zoning Ordinances of the Town of Hopkinton, as amended.

John Haronian was present and represented by his attorney Vincent Naccarato Esq.
Also present: Civil Engineer Sergio Cherenzia, RPS of Cherenzia & Associates.
Filing fees had been paid and notice posted. A copy of the abuttor notice and
certified mail cards were submitted.

Attorney Naccarato stated the request for a dimensional variance was from the
requirement that the commercial building be at least 100' from a residential district

boundary line. The owner of the existing liquor store, Hopkinton Liquor Depot, is proposing to expand into the existing parking lot in an easterly/north-easterly direction towards the front, an area of 3,720 square feet. The addition is being located no closer than where the existing cooler is presently situated. A determination had been made by B/Z Official Brad Ward that the frontage was actually on Main Street, not Cemetery Lane. Cemetery Lane was the side yard.

Sergio Cherenzia was sworn in. He has offices in Pawcatuck, CT and Westerly, RI. He reviewed the site plan that his firm had prepared that showed the 3,720 square foot proposed addition to the existing liquor store that would give a total square footage of 10,620 square feet for an addition to be dedicated as additional storage space for the liquor store - needed warehouse and storage space for beer, liquor and such. Attorney Naccarato referred to the plan and the area where the restaurant was located at the northerly end and asked if any expansion was planned to the restaurant. Mr. Cherenzia responded there would be no change to the existing restaurant. Attorney Naccarato referred to the site plan and asked about the area of the proposed addition at the southerly end of the building. Mr. Cherenzia explained the addition would not extend any further to the property line than the existing walk in cooler, which is located 35 feet from the residential boundary line which is assumed to be at KSI.'s boundary line, an R-1 district boundary line. The addition as proposed will take up the up some of the existing parking spaces, so the parking area will need to be modified and expanded to the north for additional parking and lanes for travel. Attorney Naccarato referenced the parking calculations that indicate a minimum of 59 spaces would be needed, based on the retail floor space and the restaurant space, so there would be 64 parking spaces. The parcel in total area is 279,600 square feet, roughly seven acres; the amount of area to be covered by the existing and the proposed addition would be 18% of impervious surface. The existing septic system will not be changed as the addition is only for storage purposes, the restaurant will not be adding more seats. The expansion will not require any additional water and it will not increase the wastewater capacity; no additional employees are anticipated. There will be some required upgrades with regard to the well as RI Department of Health approval is required when expanding

parking. They have applied for a Physical Alteration Permit, as the State requested that they file one in an abundance of caution; they have received comments back, but no increase in storm water runoff is anticipated to the State highway. They've taken care of that with landscape islands to balance out the impervious surfaces. The liquor store and addition will be at the same grade level as the restaurant; there will be a sidewalk adjacent to it and they will accommodate and conform to ADA requirements; no extensive grading was necessary. There will be some change to the landscaping of the islands to balance out the impervious surfaces from the addition, which is a recommendation from the State. No increase in runoff is expected based on their calculations from the existing facilities and with the additional landscaping to the islands they will be able to accommodate additional runoff. In response to a question from Mr. Harrington, Attorney Naccarato stated there are no plans for building development in the back of the property at this point; the ambitious plan dating back to 2010 was never followed through on. Mr. Harrington asked about additional lighting that could have an effect on neighbors and was informed there are no plans to install additional lighting. There are lights in place now, if it were necessary to add lights they would have to go through the planning process with the Planning Board. Mr. Ward noted any additional lighting would have to be dark sky compliant. Attorney Naccarato added that this application must go before the Planning Board for development plan review. Mr. Harrington asked if the proposed expansion would be any closer to the residential property than it is now. Attorney Naccarato confirmed it was no closer than the existing walk in cooler; no closer than 35 feet from the property line. Mr. Ure asked about the area where relief is needed, whether any additional parking or an off-loading dock was going in there. Mr. Cherenzia responded no, the extent of the pavement would be no closer to Cemetery Lane. He stated they would be putting a sidewalk that would encroach past the existing curb line; a four or five foot sidewalk that connects to Main Street. No loading dock is proposed, there is a loading dock in the rear. It would be a visual change only. Mr. Ure commented on the 100 foot setback off the property line on a commercial zone abutting residential. He noted the width of Cemetery Lane that looked to be 35 plus feet, adding that to the 35 feet they already had, in reality they were pushing about 75 feet of set back

to the abutting property. He asked about the zoning in the immediate area. Attorney Naccarato explained there were three zones that come together there; RFR-80, R-1 and Commercial Special, which is what they were zoned. With respect to Mr. Ure's comment, Mr. Ward read from Section 4. Division into districts; "The boundary lines of said districts are intended and are to be interpreted to follow the boundary lines of existing lots of record and the centerline of roadways, except as is clearly depicted to the contrary". He noted he really did not determine if the boundary line was down the centerline of the road or the other side, but the applicant used the worst case scenario. Mr. Cherenzia indicated they had taken a conservative approach with the application.

Barbara Capalbo was present with Gordon Oates, President of the Oak Grove Cemetery Association and Mr. Oates asked for confirmation that the back of the building as it presently exists will not move. This was pointed out on the site plan and confirmed this. Mrs. Capalbo asked about the proposed walk in cooler but there was mention of an existing cooler not changing. Mr. Ward stated there was an existing cooler in the building already. Mr. Ure noted the proposed would be added to the building closer to the Dunkin Donuts entrance and he asked the size of the proposed walk in. Mr. Cherenzia estimated roughly 20' x 20', 500 square feet. Mrs. Capalbo also noted in using Cemetery Lane as the center, it was not 35 feet wide. Mr. Scalise stated they were going to the northern edge and hadn't used the road at all. Mr. Ure explained he had been referring to the R-1 zoning on site plan, 70 feet away and crossing over the property line, not just going with the width of the road.

John Haronian was sworn in. He is the owner of the property and principal of the KSL Realty firm. He explained that the store was presently congested with little room for merchandise which makes for more deliveries and creates extra work for his employees. The addition would allow for wider aisles and more area for displays; more space for merchandise relates to fewer trucks and fewer deliveries which is less costly for the wholesalers and less costly for them. The addition will help to modernize the store. The interior walk-in cooler will be extended into the addition; the outward appearance of the building will be the same.

There were no other comments from those in attendance.

The hearing concluded and the Board proceeded with determining findings of fact.

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY
RONNIE SPOSATO TO OPEN UP DISCUSSION ON FINDINGS OF FACT IN
REGARDS TO THIS DIMENSIONAL VARIANCE:

- The site plan for the proposed building expansion to the existing liquor store at 229 Main Street, Ashaway prepared and testified to by Mr. Sergio Cherenzia, RPS of Cherenzia & Associates, detailing all existing and proposed structures and their relationships and distances from lot boundary lines and zoning districts.
- The presentation of Attorney Vincent Naccarato, representing the owners of the property and stating that it is his clients wish to enlarge the existing package store's current operation to better serve the community. Part of the expansion includes expanding the existing walk-in cooler. The area in question, requiring a dimensional variance.
- The proposed expansion to the walk-in cooler requires a 65' dimensional variance as the subject property is zoned "CS" Commercial Special and the setback area abutting Cemetery Lane, which is a R-1 Zone, requires a 100' set back as per "Note 1", Section 6 – Dimensional Regulations in the Zoning Ordinances.
- The testimony this evening of the owner of the property, Mr. John Haronian, expressing that he needs extra space within the liquor store in order to better serve his clientele. The aesthetics of the building's addition shall match the exterior of the existing building.
- The use of the cooler is a visually passive use from the exterior vantage and is only being utilized for increased storage. No additional parking shall be located within the subject front yard setback; parking spaces as proposed, and as they exist for the current businesses on the site are adequate.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

In granting a dimensional variance, the zoning board shall require that evidence satisfying the following standards be entered into the record of the proceedings as stated in the following motion:

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY
DANIEL HARRINGTON THAT BASED ON THE FINDING OF FACTS AS
WELL AS THE TESTIMONY HEARD AND THE DOCUMENTS
RECEIVED, I MOVE THAT THAT THE HARDSHIP FROM WHICH THE
APPLICANT SEEKS RELIEF IS DUE TO THE UNIQUE CHARAC-
TERISTICS 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. THIS FINDING IS PRINCIPALLY DUE TO THE LOCATION OF THE PRE-EXISTING, NON-CONFORMING COMMERCIAL SPECIAL USE AND THE ODD LOT SHAPE AND SIZE, WHICH ABUTS AN R-1 ZONE, MAKING SETBACK REQUIREMENTS OF 100' FOR COMMERCIAL STRUCTURES ABUTTING THIS ZONE DIFFICULT AT BEST TO CONFORM TO. THESE FACTORS MAKE IT DIFFICULT AND LIMITING FOR THE APPLICANT TO UTILIZE THE PROPERTY FOR THEIR NEEDS WHILE ADHERING TO THE REQUIRED SETBACK. SUBSEQUENTLY, A SETBACK VARIANCE OF 65' IS BEING SOUGHT FROM THE ADJACENT R-1 ZONE. AT THIS LOCATION, CEMETERY LANE SEPARATES THE PARCEL FROM THE NEIGHBORING R-1 PROPERTIES. THIS ROADWAY ALSO PROVIDES FURTHER SEPARATION OF AN ADDITIONAL +/- 35' FROM THE APPLICANTS PROPOSED COOLER EXPANSION TO THE PROPERTY CLOSEST TO THE APPLICABLE SET BACK AREA, TAKING INTO CONSIDERATION THE REALITY OF THE ACTUAL SETBACK FROM RESIDENTIAL PROPERTY WOULD BE 70'+/-.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY DANIEL HARRINGTON THAT BASED ON THE FINDING OF FACTS AS WELL AS THE TESTIMONY HEARD AND THE DOCUMENTS RECEIVED, I MOVE THAT THAT THE HARDSHIP IS NOT THE RESULT OF ANY PRIOR ACTION OF THE APPLICANT AND DOES NOT RESULT PRIMARILY FROM THE DESIRE OF THE APPLICANT TO REALIZE GREATER FINANCIAL GAIN. AS STATED EARLIER, THIS REQUEST IS BASED ON THE FACT THE PROPERTY IS ZONED "CS" AND THE SETBACK AREA ABUTTING CEMETERY LANE WHICH IS AN R-1 ZONE, REQUIRES A 100' SETBACK AS PER "NOTE 1", SECTION 6 "DIMENSIONAL REGULATIONS". DUE TO THE LOCATION OF THE EXISTING STRUCTURES AND THE ODD SHAPE OF THE LOT. THIS

SEVERELY LIMITS THE APPLICANT FROM MAKING IMPROVEMENTS TO HIS BUSINESS THAT ARE IN KEEPING WITHIN THE DIMENSIONAL REGULATIONS ALLOWED WHEN ABUTTING A RESIDENTIAL ZONE.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY DANIEL HARRINGTON THAT BASED ON THE FINDING OF FACTS AS WELL AS THE TESTIMONY HEARD AND THE DOCUMENTS RECEIVED, I MOVE THAT THE ZONING BOARD FINDS THAT IN GRANTING 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 THIS ORDINANCE IS BASED; AND THAT THE RELIEF TO BE GRANTED IS THE LEAST RELIEF NECESSARY. THIS FINDING IS BASED ON THE FACT THE REQUESTED 65' SETBACK AS IT APPLIES TO THE APPLICATION SHALL NOT ALTER THE CHARACTER OF THE SURROUNDING AREA AS THE USE IS BUT A CONTINUATION OF THE EXISTING USE AS A LIQUOR STORE AND IS PERMITTED UNDER USE CODE 592 WITHIN THIS CS ZONE. ADDITIONALLY, THIS PROPOSAL IS SUPPORTIVE TO THE COMPREHENSIVE PLAN BY ENCOURAGING DEVELOPMENT OF NEW AND EXISTING BUSINESS WITHIN THIS CS ZONE.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

The zoning board shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY DANIEL HARRINGTON THAT 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. I MOVE AS SUCH BASED ON THE FINDINGS OF FACT, AS WELL AS THE TESTIMONY HEARD AND THE DOCUMENTS RECEIVED, AS THIS FINDING IS PRINCIPALLY BASED ON THE FACT THAT AS STATED PREVIOUSLY, THE UNUSUAL SHAPE OF THE LOT AND LOCATION OF EXISTING COMMERCIAL STRUCTURES AS THEY RELATE TO THE SETBACK REQUIREMENTS ABUTTING THE R-1 ZONE MAKE IMPROVEMENTS TO THIS BUSINESS DIFFICULT ON THIS LOT. ALSO THE USE OF THE PROPERTY AND PROPOSED NEW WALK-IN COOLER IS MERELY AN EXPANSION OF THE PERMITTED EXISTING USE AS A LIQUOR STORE IN ACCORDANCE WITH USE CODE 592.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

Thereafter, the Board took the following action.

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY RONNIE SPOSATO THAT THE ZONING BOARD FINDS BASED ON THE PREVIOUS FINDINGS OF FACT THAT WE APPROVE THIS DIMENSIONAL VARIANCE OF A 65' SETBACK AS IT RELATES TO THE REQUIRED 100' SETBACK REQUIREMENTS ABUTTING THE R-1 ZONE ALONG CEMETERY LANE AND ALLOW THE CONSTRUCTION OF THE APPROXIMATELY 22' X 24' PROPOSED WALK-IN COOLER AS IT HAS BEEN PRESENTED TO US THIS EVENING TO THE EXISTING AND PROPOSED ADDITION TO THE LIQUOR STORE AT 229 MAIN STREET, ASHAWAY, RI IDENTIFIED AS AP 25 LOT 155A.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

Petition V.

A Petition on an Appeal of the Zoning Official's decision re: payment of Impact Fees filed by Ronald G. Prellwitz, 278 Main Street, Ashaway, RI 02804 for property located at 278 Main Street, identified as AP 4 Lot 28 an RFR-80 Zone, appealing under Section 24 of the Zoning Ordinances of the Town of Hopkinton, as amended.

This matter had been scheduled to determine completeness of application, consider granting of waivers and set a hearing date. No action was taken on this matter, as it was withdrawn by the applicant.

TRANSCRIPT:

A MOTION WAS MADE BY JONATHAN URE AND SECONDED BY DANIEL HARRINGTON TO APPROVE THE ALLIED COURT REPORTERS, INC. TRANSCRIPT OF MAY 19, 2016 AS THE RECORD PERTAINING TO JFC-KIM INVESTMENT GROUP, LLC.

IN FAVOR: Scalise, Harrington, Sposato, Ure, Ward

OPPOSED: None

SO VOTED

ZONING ORDINANCE RE-WRITE:

No discussion on the Zoning Ordinance Re-write.

ADJOURNMENT

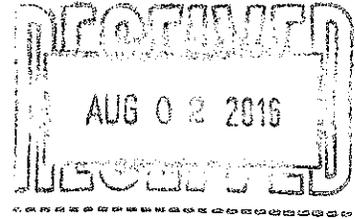
A MOTION WAS MADE BY RONNIE SPOSATO AND SECONDED BY DANIEL HARRINGTON TO ADJOURN.

SO VOTED

Elizabeth J. Cook-Martin

Zoning Board Clerk

In The Matter Of:
Hopkinton Zoning Board



Patrick M. & Karen Beck
July 14, 2016

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ORIGINAL

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
HEARING OF: Hopkinton Zoning Board of Review
IN RE: Petition I/Appeal of the Zoning
Official's decision filed by Patrick M. &
Karen Beck
DATE: July 14, 2016
TIME: 7:00 P.M.
PLACE: Hopkinton Town Hall
1 Town House Road
Hopkinton, RI 02833

BOARD MEMBERS:

- Philip Scalise/Chairman
- Daniel Harrington
- William Kazounis
- Ronnie Sposato
- Jonathan Ure
- Tim Ward

ALSO PRESENT:

- Veronica Assalone, Esq.
- (Assalone & Associates, LLC)...Assistant Town Solicitor
- Brad Ward.....Zoning Official

1 (THURSDAY, JULY 14, 2016)
 2 CHAIRMAN SCALISE: Good evening. I would like
 3 to bring tonight's meeting of the Hopkinton Zoning Board
 4 of Review to order with a moment of silent meditation
 5 and a salute to the flag.
 6 (PLEDGE OF ALLEGIANCE)
 7 MEMBER WARD: I would like to offer this moment
 8 of silent meditation to the ongoing terrorist attacks
 9 that's happening right now in East France.
 10 (SILENT MEDITATION)
 11 CHAIRMAN SCALISE: Petition I. Anybody have a
 12 problem with taking them in order?
 13 MEMBER URE: I don't see why not.
 14 CHAIRMAN SCALISE: That should be fine, right?
 15 MR. BRAD WARD: We have a stenographer here
 16 that's being paid by the appellant, so the appellant
 17 should go first. The very first one should go, and if
 18 you want to rearrange it after that.
 19 CHAIRMAN SCALISE: Okay. Petition I, a petition
 20 on an appeal of the zoning official's decision filed by
 21 Patrick M. and Karen Beck, 248 Spring Street, Hope
 22 Valley, Rhode Island, for property located at 248 Spring
 23 Street identified as Assessor's Plat 30, Lot 16, an R-1
 24 Zone and filed in accordance with Use Code 104 - General
 25 Farms of the Code of Ordinances of the Town of

1 I-N-D-E-X
 2
 3 Petition I/Appeal of the Zoning Official's
 4 Decision filed by Patrick M. & Karen Beck
 5
 6
 7 Witness Page
 8 PATRICK M. BECK
 9 Direct Examination by Mr. Brad Ward.....08
 10 TERRY MAIN
 11 Direct Examination by Mr. Brad Ward.....16
 12 ROLAND WAGNER
 13 Direct Examination by Mr. Brad Ward.....18
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 Hopkinton, as amended. Applicants are present. Hi.
 2 Okay.
 3 THE CLERK: I have not received the abutter
 4 notice or the green cards at this point.
 5 CHAIRMAN SCALISE: So that's not good, right?
 6 Do you have the green cards with you? Okay. If you can
 7 present those, that would be great.
 8 (DOCUMENTS HANDED TO THE CLERK)
 9 CHAIRMAN SCALISE: Mr. Beck, would you like to
 10 come explain the situation and what you'd like us to
 11 hear relative to your appeal?
 12 MR. BECK: I sure would. Thank you so much.
 13 CHAIRMAN SCALISE: Thanks.
 14 THE STENOGRAPHER: Can you please state your
 15 name.
 16 MR. BECK: Patrick Beck. B-E-C-K.
 17 PATRICK BECK, Duly Sworn by the Clerk, Testifies as
 18 Follows:
 19 MR. BECK: Very well. Thank you for hearing
 20 this this evening. I raise some special heritage breed
 21 meat rabbits at 248 Spring Street in a sustainable
 22 manner which involves rotational grazing at an intensity
 23 that resembles traditional farming and homestead
 24 farming. So at issue tonight we will be discussing is I
 25 am seeking to not be characterized as a commercial

1 livestock operation but to be characterized as a general
 2 farm designation. We will seek to avoid being
 3 characterized as commercial livestock. The key to
 4 success of this argument will be identifying the scale
 5 of our efforts to follow traditional farming principles
 6 and use on site assets. In concert, it is consistent
 7 with the intent of the ban on commercial livestock in an
 8 R-1 zone. Most commercial operations typically would
 9 seek to maximize animals on the site, maximize their
 10 opportunity for profit. Often there are more animals
 11 there that land would support and lead to issues and
 12 problems such as odor, noise, public health nuisance,
 13 public health issues, water pollution and maybe
 14 attractions for attracting rodents if there was a large
 15 poultry or hog operation. None of those issues have
 16 ever come up. What we are speaking about is a trespass
 17 issue for which I am responsible and which has been
 18 addressed and brought to conclusion. The animal control
 19 officer, I'm well familiar with, and she visited many
 20 times during the period when my efforts to eliminate and
 21 conclude the trespass issue was not as expedient and not
 22 as effective as I wish it would have been, and I did not
 23 address that with the adequate energy. I got a fence
 24 installed in April. It's hard to get a fence guy in the
 25 winter, so you'll hear that the animals -- well, back up

1 pharmaceutical support on the meats. So this is an
 2 opportunity for people to grow meat close to home,
 3 indeed, at home, and the way it was done for many years.
 4 So I will just conclude with to say that the
 5 trespass issue is what is the one hardship under which I
 6 place the Wagners. That has been resolved, and I have
 7 not seen the control officer in about two months. I
 8 believe this unfortunate chapter for which I am
 9 responsible is behind us. We will demonstrate to the
 10 stocking density small animals raising in balance with
 11 available forage based provides a great benefit to the
 12 land and stewardship of productive land is essential to
 13 sensible home economics and should be supported. It's
 14 just so happened tonight with ISIS. If our country is
 15 transported an energy system that was attacked in a
 16 comprehensive and in a big way, the home foods would be
 17 very important as it was in London during the blitz when
 18 there was a lot of rabbits in people's alleyways.
 19 CHAIRMAN SCALISE: Would you folks like to hear
 20 Mr. Ward's basis?
 21 MR. BRAD WARD: Can I ask some questions of
 22 Mr. Beck?
 23 CHAIRMAN SCALISE: Absolutely.
 24 MR. BRAD WARD: As redundant as it is, I would
 25 like to submit in as evidence the agenda for April 28.

1 a little bit, they got out in the big storm of 2015, in
 2 February, and I had seen 5 or 6 grazing around the yard.
 3 I really thought they were just staying in my yard at
 4 the time. It wasn't until the fall that I learned that
 5 they had always been on the Wagners' property
 6 consistently and regularly. At that point I sought to
 7 end that trespass but my efforts were less than
 8 effective. What I wanted to point out is that we have
 9 about 6 does. This is very, very rare. It was in the
 10 National Geographic as part of the art of taste, and it
 11 is a critically endangered breed so you need a certain
 12 amount of genetic diversity to raise that breed. I have
 13 6 does and two unrelated bucks. My request to the board
 14 would be to see this as a small-scale farming operation
 15 and not to exceed ten does and the two bucks and to be
 16 able to grow these rabbits at a level which is
 17 sustainable on the land. They actually provide a great
 18 benefit, rotational grazing, distribute their manure
 19 around. Rabbit manure is the most valuable manure there
 20 is, so I share them with many families in the area who
 21 have a number of kids with digestive issues who are
 22 opting out of commercial meat. Fifty years ago our area
 23 was -- it was a local food system and you looked and I
 24 don't want to go too far afield but our country has
 25 moved to a large centralized food system with a lot of

1 I have copies. I will pass them around.
 2 (DOCUMENT HANDED TO THE CLERK)
 3 EXAMINATION BY MR. BRAD WARD:
 4 Q. Mr. Beck, this is Exhibit 1, and I ask you to
 5 turn to Page 2, and you will see Petition 6, I believe.
 6 I don't have my glasses on. I'm not going to read it,
 7 but is that your appeal where you came before this board
 8 as to the best of your recollection on that date on
 9 April 28?
 10 A. Correct.
 11 Q. According to that Petition 6. All right.
 12 MR. BRAD WARD: I would like to submit the
 13 original of the complainant's complaint and what was
 14 sent, and it was e-mailed to each and every one of you.
 15 You have it all electronically. I did make 6 copies
 16 because of it if anybody wants one.
 17 (DOCUMENT HANDED TO THE CLERK)
 18 Q. I would ask you to turn to what is Page 3. Are
 19 you familiar with the pictures in that?
 20 A. Absolutely. That and many more. I had between
 21 3 and 8 animals at large throughout most of 2015.
 22 Q. These are at large on the Wagners' property, and
 23 can you look at the date there, and will you read the
 24 date off that's specified?
 25 A. May 17. I believe that was the last day when

1 the officer came.
 2 Q. And you also have a date down here; is that
 3 correct?
 4 A. That's correct.
 5 Q. And what's the date on that?
 6 A. May 13.
 7 Q. Okay. With respect to that, that was after on
 8 April 28 you declared to this board that all nuisance
 9 issues regarding your rabbits were contained and done,
 10 and yet this is after; is that correct?
 11 A. That is correct. The end of the fence was not
 12 tied into the house as it is now, so they were able to
 13 get around. Yes, there was. Terry was there in May.
 14 Q. Okay. I have some other pictures here on the
 15 Wagner property, granted they are before April 25, but
 16 there are two pictures here. Can you read the dates
 17 into the record for those?
 18 A. There's March 31st, two events.
 19 Q. And you are familiar with all of the events as
 20 you stated earlier with the animal control officer going
 21 out there, and I would indicate just for the record for
 22 expedience that there are 13 complaints filed here, and
 23 I would ask you to turn to the last two. Can you read
 24 the dates on those, please.
 25 A. May 13th. May 17th. I believe 17th was the

1 but it's a meat herd, and it's an important part of
 2 small-scale and livestock that can be grown with on site
 3 assets and in a residential small-scale environment.
 4 MR. BRAD WARD: I would like to submit this.
 5 It's pulled off the website, Collins Dictionary of Law,
 6 regarding livestock. I will read it into the record.
 7 "Any creature kept for the production of food, wool,
 8 skins or fur or for the purpose of its use in the
 9 farming of land or the carrying on of any agricultural
 10 activity: Agricultural Holdings Act 1986." It also
 11 says, "cattle, horses, asses, mules, hinnies, sheep,
 12 pigs, goats and poultry and deer not in the wild state
 13 for the purpose of the legislation relating to liability
 14 for animals. Scott's law has similar statutory
 15 provisions."
 16 So, with that definition and with your business
 17 card and with that, it's clearly and distinctive that
 18 these animals are considered livestock according to the
 19 law?
 20 A. Absolutely. I don't dispute that at all. All I
 21 wanted to draw a distinction is intensity and effort of
 22 this endeavor is consistent with home meat in this
 23 zoning, and I think a commercial operation would move
 24 toward stacked cages and a number of other choices that
 25 would reduce the amount of effort and would intensify.

1 last time. That was when I was able to finally address
 2 the end of the fence and create a hardened perimeter.
 3 (DOCUMENT HANDED TO THE CLERK)
 4 MR. BRAD WARD: Does anybody need any copies of
 5 these? I would also like to submit this card, although
 6 he's testified to it. He's already admitted it, but
 7 just to prove without a doubt that it is a meat
 8 operation.
 9 (DOCUMENT HANDED TO THE CLERK)
 10 Q. Are you familiar with this card?
 11 A. Yes. I'm sure I gave it to you.
 12 Q. That is your business card?
 13 A. Indeed it is. Yes, sir.
 14 Q. And I have the front and back. It's pasturized
 15 meats of distinction; is that correct?
 16 A. No. It's pasture raised.
 17 Q. I'm reading what's on the card.
 18 A. It's pasture raised. Pasturized is just when
 19 you heat milk to a high temperature.
 20 Q. I'm reading right here. Okay.
 21 A. It says pasture meats of distinction. Many
 22 people think that, but that's the distinction.
 23 Q. So these rabbits are raised as meat products for
 24 people to consume, correct?
 25 A. Yes. Some people have them as companion animals

1 What we do is called an extensive effort which is
 2 consistent with what has been done on that property for
 3 under 20 years. It was a farm in 1848, so that farming
 4 did a great precedent for small-scale sustainable
 5 pasture-driven farming on that location.
 6 MR. BRAD WARD: And one final exhibit I'd like
 7 to put in, and I did circle it, it's within our own
 8 Hopkinton animal ordinance. I have circled for the
 9 exhibit the farm animal definition. Okay. I would give
 10 you a copy for your records.
 11 MR. BECK: Thank you.
 12 (DOCUMENT HANDED)
 13 Q. Mr. Beck, could you please read the farm animal
 14 definition.
 15 A. Any horse, sheep, cattle, goat, hogs, rabbits or
 16 fowl and closely confined birds.
 17 Q. So rabbits are designated as a farm animal under
 18 the Hopkinton ordinance, correct?
 19 A. That's absolutely right. They're similar, the
 20 state considers them similar to poultry.
 21 MR. BRAD WARD: At this time I have no further
 22 questions.
 23 CHAIRMAN SCALISE: The board? So I often give
 24 the canned explanation sometimes as laypeople that come
 25 in here and are doing this bi-monthly, monthly,

1 sometimes four times a months like we are, people just
2 aren't familiar with the book, and in fact some of the
3 board members we got we got up here out of frustration
4 for the process that they had to go through relative to
5 trying to make common sense out of something that seems
6 like it should be obvious to the casual observer but
7 isn't as a result of the way the laws that are
8 promulgated. So Brad is extremely crisp tonight because
9 this isn't our first rodeo with livestock, no pun
10 intended.

11 MR. BRAD WARD: I do have two witnesses, and I
12 am willing to allow Mr. Beck to cross-examine me if he
13 feels the need to, however that goes.

14 CHAIRMAN SCALISE: I was hoping to simply set
15 the stage for what's allowed and what isn't allowed and
16 where we've been previously. If it's not appropriate,
17 holler. So intensity really has nothing to do with it.
18 It's more a matter of what's allowed in an R-1, and your
19 property could have been a tire burner from 1800 to 1910
20 and the fact is somewhere along the line zoning came in
21 and it became an R-1 and the burden of the things that
22 you're allowed and not allowed to do in an R-1 became
23 law in 1970, whatever it was. So while everything,
24 you're being very forthright, we don't always see that.
25 You're extremely honest about what they're being called.

1 and there's a threshold above which it is not a good
2 idea and a threshold below which it is just a fine idea.
3 If someone had a few ducks -- so at what level, if there
4 are one or two animals we wouldn't be here. If there
5 was 800 or 1200, it clearly would be inappropriate.
6 This is at the lower level event, and I wanted to appeal
7 to the board to see this as a small-scale operation and
8 the hardship of which I caused was one of trespass which
9 has been concluded.

10 CHAIRMAN SCALISE: To give you an idea in terms
11 of the scope you're talking about, the way our ordinance
12 is written, if you literally had four of them as pets,
13 whether they got out or not, and you sold them as pets,
14 and bred a few of them and sold them, you would be in
15 direct violation of the ordinance even with four that
16 were only being sold as pets because they were
17 livestock. So the scale thing isn't really helping you
18 too much just based on the way --

19 MR. BECK: Understood.

20 CHAIRMAN SCALISE: On the way it's written.
21 Brad.

22 MR. BRAD WARD: Yes. Mr. Beck, do you have any
23 preference whether you would like me to just speak first
24 then present?

25 MR. BECK: Please. I will retire. I've said my

1 You're extremely honest about what you're telling us
2 what you're doing with them. All I'm saying is it's not
3 a matter of intensity and it's not a matter of it's okay
4 because a more intense use would be more heinous or not
5 allowed, just these animals are not allowed in an R-1.
6 So we can go on with the witnesses and things, but I
7 wanted to give you a sense of where we are relative to
8 what we are bound by relative to the ordinance which
9 maybe will make the rest of the process hopefully more
10 clear for you at least even if you may or may not agree
11 with the book, but at least you understand where we are
12 coming from.

13 MR. BECK: Sure, I understand, and you have
14 great clarity, and I don't need to try and cross words
15 with that.

16 CHAIRMAN SCALISE: You need to explain that to
17 my wife probably, but I appreciate it, and if you have
18 any questions on that we are willing to entertain those,
19 otherwise we will let Brad call the witnesses.

20 MR. BECK: Sure. I guess I will conclude with
21 just a couple of points. Both Warwick and Providence
22 have had recent chicken discussions with chicken,
23 poultry in much more densely populated areas, and if you
24 look at Exeter, they determine suitability based on
25 animal units, the amount of animals per amount of land,

1 peace.

2 MR. BRAD WARD: At this point in time I would
3 like to call Terry Main, the animal control officer.

4 TERRY MAIN, Duly Sworn by the Clerk, Testifies as
5 Follows:

6 MR. BRAD WARD: Can you please state your name
7 for the record.

8 THE WITNESS: Terry Main.

9 DIRECT EXAMINATION BY MR. BRAD WARD:

10 Q. Can you please explain where you're currently
11 employed?

12 A. Town of Hopkinton, animal control.

13 Q. And how long have you been employed in that
14 capacity?

15 A. Seventeen years.

16 Q. Full time?

17 A. Ten part time. Seven full time.

18 Q. So you are familiar with Mr. Beck's operation
19 there; is that correct?

20 A. I am. Yes.

21 Q. Have you been called out there on numerous
22 occasions?

23 A. I have.

24 Q. Was there an instance where you were called out,
25 caught a rabbit, then put it in a cage over at

1 Mr. Beck's property?
 2 A. Yes.
 3 Q. And can you please explain to them what occurred
 4 after that?
 5 A. We trapped -- Mr. Wagner actually trapped the
 6 rabbit. I went up, took it from his cage, brought it
 7 and put it in one of my cages, brought it over to
 8 Mr. Beck. We put it in one of the rabbit cages on the
 9 ground and within a couple of minutes, not even, the
 10 thing ran across the yard again. So we did chase it
 11 with a net but the caging, the pen that it was in, the
 12 wire had pulled off of the wood, so it was in disrepair.
 13 Q. With a reasonable degree of certainty do you
 14 have an opinion on what type of operation is going on at
 15 Mr. Beck's property now?
 16 A. I would consider them livestock.
 17 MR. BRAD WARD: I don't really have any further
 18 questions.
 19 CHAIRMAN SCALISE: Board?
 20 MR. BRAD WARD: Mr. Beck, if you want to cross
 21 examine, you're more than welcome.
 22 MR. BECK: They are absolutely livestock. I was
 23 looking at seeking to put finer points on what is
 24 appropriate and what is not.
 25 MR. BRAD WARD: At this time I would like to

1 A. That's correct.
 2 Q. When you came in to file the complaint, your arm
 3 was in a sling. Can you please explain to the board
 4 what happened there?
 5 A. I had just returned from Westerly, which I had a
 6 part-time job, and as I came into the yard there were
 7 two rabbits in the yard, and I got out of my vehicle, I
 8 went to chase one out of the yard and as I did I tripped
 9 and fell, broke my shoulder in two places (crying). I'm
 10 sorry.
 11 CHAIRMAN SCALISE: Take your time.
 12 A. I was transported to the Westerly Hospital where
 13 they did X-rays and determined that my shoulder was
 14 broken in two places, and I suffered that pain for most
 15 of the winter (crying). I am healing, but this incident
 16 has not been just this year. This has been going on for
 17 several years, and I guess the breaking of my shoulder
 18 it finally had to come to a stop. We've requested,
 19 Mr. Beck, please keep his rabbits confined in their
 20 cages. His comment back to us every time was, just
 21 shoot 'em. That's all you want to do. So this is why
 22 I'm presenting this case to you. His rabbits have not
 23 only been in my yard. These rabbits have also been in
 24 the neighbors' yards. They've also requested that he
 25 keep them in his cages. His comment again, too, was to

1 call Mr. Wagner.
 2 CHAIRMAN SCALISE: Thank you.
 3 ROLAND WAGNER, Duly Sworn by the Clerk, Testifies as
 4 Follows:
 5 THE CLERK: Would you state your full name,
 6 please.
 7 MR. WAGNER: Roland Wagner.
 8 DIRECT EXAMINATION BY MR. BRAD WARD:
 9 Q. Mr. Wagner, your property abuts Mr. Beck's; is
 10 that correct?
 11 A. Yes.
 12 Q. Can you give your address for the record?
 13 A. 250 Spring Street.
 14 Q. I submitted this as evidence. Can you please
 15 look at it and the pictures included in it?
 16 A. Yes.
 17 Q. Did you take all of those pictures that are in
 18 that?
 19 A. Yes, I did.
 20 A. And you submitted that to me before the meeting?
 21 I e-mailed it to Mr. Beck, the board members and
 22 yourself; is that correct?
 23 A. That's correct.
 24 Q. And it outlines all the numerous complaints we
 25 filed regarding this?

1 one of our neighbors, I just haven't got the time. He
 2 just doesn't seem to be responsible for maintaining
 3 livestock on his property. He has not got the system to
 4 where a rabbit gets out of its cage, it's confined to
 5 his property. Rabbits go up his driveway along the
 6 roadway, down my driveway. They've gone across the
 7 street to the neighbors' yards. So when he says he has
 8 things insured that he solved the problem, I think
 9 that's a misleading statement. I know he's given you a
 10 great presentation, and I just feel that he is not
 11 responsible enough to maintain any type of farming
 12 situation.
 13 MR. BRAD WARD: At this time I really don't have
 14 any further questions, if the board wants to ask
 15 Mr. Wagner any.
 16 MR. WAGNER: Did you have any questions?
 17 CHAIRMAN SCALISE: No, Mr. Wagner. Thank you.
 18 We are good.
 19 MR. BRAD WARD: At this point in time I would
 20 like to rest and hope that you uphold my decision. As
 21 hard as it is, believe me, I don't feel that assessing
 22 rabbits is livestock. It's something that's done on a
 23 daily basis but in this instance I believe it is
 24 appropriate.
 25 THE CLERK: Can I have the exhibits? Thank you.

1 (DOCUMENTS HANDED TO THE CLERK)
 2 CHAIRMAN SCALISE: Thanks, Brad. Board? Anyone
 3 in the audience have any questions or concerns they'd
 4 like to state. Yes, ma'am. Could you identify
 5 yourself.
 6 MS. BATON: My name is Martha Baton. I live
 7 across the street from Mr. Beck.
 8 CHAIRMAN SCALISE: Can you come to the podium?
 9 Thank you.
 10 MS. BATON: My concern is not having rabbits on
 11 my property as much as the Wagners have had, although I
 12 have had some. My concern is that the space is so
 13 limited that I really don't feel that an appeal to the
 14 zoning should take place. It's a very small piece of
 15 property. My other concern is the butchering of rabbits
 16 on that property. I've seen it. I've spoken to
 17 Mr. Beck about it. I'm a farm girl, I'm not overly
 18 sensitive here, but I really don't feel comfortable with
 19 that taking place, and that's all I would like to say.
 20 CHAIRMAN SCALISE: Thank you, Ms. Baton. Anyone
 21 else? The board?
 22 MEMBER URE: I move we open discussion on what
 23 findings of fact we would like to make with regards to
 24 this appeal. First, that the appellant's property is
 25 located at 278 Main Street, Hope Valley, Assessor's Plat

1 evening from the animal control officer stating that
 2 it's her position that Mr. Beck is raising livestock on
 3 the property, and then we've also heard testimony
 4 tonight from Mrs. Martha Baton stating she is concerned
 5 with the size of the property and also the activities of
 6 butchering of the rabbits on the property. Would you
 7 like to add anything else?
 8 MEMBER HARRINGTON: I think you've covered it.
 9 MEMBER URE: With that being said, I move based
 10 on the previous findings of fact that the zoning board
 11 denies this appeal and upholds the zoning official's
 12 decision that the operation of this property of raising
 13 rabbits constitutes a livestock farm and in accordance
 14 with District Use Code 103 is prohibited in an R-1 zone.
 15 MEMBER SPOSATO: Second.
 16 CHAIRMAN SCALISE: Any discussion? I would just
 17 like to say thanks to the Wagners for coming in,
 18 Ms. Baton and Mr. Beck, this process would be
 19 dramatically tougher for everyone if you weren't such a
 20 forthright, straightforward guy with everything that
 21 you're saying. I appreciate it. The board appreciates
 22 it. It helps expedite the process, and it's not easy to
 23 just go out and get another piece of land. This sort of
 24 thing, farming, and this sort of operation would fit
 25 better in an RFR-80. I know it's easier said than done

1 30, Lot 16. The property has approximately 210 foot of
 2 road frontage and there's plus or minus 1500 square feet
 3 in area, and it's zoned R-1.
 4 Secondly, the appellant is raising a heritage
 5 breed, well, raising heritage breed meat rabbits at this
 6 location for personal and commercial use for resale to
 7 those interested in non-commercially raised meat. And,
 8 again, by Mr. Beck's own admission on the appeal
 9 application and the testimony tonight, he himself refers
 10 to these rabbits as small livestock. Also, we have the
 11 correspondence from the town's animal control officer or
 12 chief of police requesting copies of all complaints
 13 filed against the appellant on behalf of the aggrieved
 14 neighbor, Mr. Wagner. The letter also states that
 15 Mr. Beck raises and breeds the rabbits to sell. Also,
 16 that he has been fined by the animal control officer
 17 several times for not keeping the rabbits in the
 18 enclosures. Also, the testimony this evening of
 19 Mr. Roland Wagner as well as copies of 13 complaints to
 20 the animal control department accompanied with pictures
 21 all dating from early December of 2015 through May of
 22 2016. He also provided a summary of the complaints and
 23 pictures to show of an ongoing issue with rabbits
 24 trespassing onto his property and eating and digging up
 25 of his flower beds. We also had some testimony this

1 probably, but if you were sitting on the largest R-1
 2 piece of property in town, whatever that is, and had
 3 four rabbits, you'd technically still be in violation.
 4 So this probably never would have come up if you just
 5 had a few and they didn't get out and they didn't have a
 6 problem with them, but if this is something that you
 7 really want to pursue there are areas in town that you
 8 can do it, unfortunately an R-1 just isn't it, but we
 9 have had other cases where there was an awful lot of
 10 contention and an awful lot of time spent coming through
 11 of what's really the story, and you helped us expedite
 12 that, and I'm appreciative of that, so thank you.
 13 MR. BRAD WARD: Mr. Chairman, there is one
 14 aspect of enforcement typically up to the board, it's 30
 15 days. Certainly any extra time could pose a burden for
 16 the Wagners but to actually find another home for the
 17 rabbits within 30 days could be a problem for Mr. Beck,
 18 but I would think that penalties should be imposed if
 19 the rabbits do get loose and meander onto the Wagner
 20 property or any other property. I don't know how to
 21 really balance this aspect of the enforcement issue.
 22 Any guidance from the board would be helpful.
 23 CHAIRMAN SCALISE: Well, we've had great success
 24 with neighbors working it out and being neighborly in
 25 our town going forward in the past and hopefully going

1 forward. Mr. Beck, what do you think is a reasonable
 2 time?
 3 MR. BECK: They will not be there in 30 days. I
 4 will find something.
 5 MEMBER WARD: Then that's fine.
 6 CHAIRMAN SCALISE: I appreciate that, and the
 7 Wagners are happy that that's the way the law reads out.
 8 He's doing his best to take care of that in the interim.
 9 Hopefully, none of them will get out, and I believe we
 10 can be calm to one another in the meantime. Thank you,
 11 Brad. Anything further? All in favor?
 12 (ALL MEMBERS RESPONDED AYE)
 13 CHAIRMAN SCALISE: Opposed? Motion carries.
 14 Thank you. Thank you, Mr. Beck. Thanks, Wagners.
 15 Folks. Ms. Baton.
 16 MR. WAGNER: Thank you, Mr. Chairman. Members
 17 of the board.
 18 (HEARING ADJOURNED AT 7:35 P.M.)
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C E R T I F I C A T E

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 2
 3
 4 I, Meredith A. Fortune, do hereby certify that
 5 the foregoing is a true, accurate, and complete
 6 transcript of my notes taken at the above-entitled
 hearing.

7 IN WITNESS WHEREOF, I hereunto set my hand
 8 this 29th day of July, 2016.
 9
 10

11 *Meredith A. Fortune* 

12 MEREDITH A. FORTUNE, RPR, NOTARY PUBLIC
 13 MY COMMISSION EXPIRES 02/17/2019
 14
 15
 16
 17
 18
 19
 20

21 DATE: July 14, 2016
 22 IN RE: Hopkinton Zoning Board of Review
 23 HEARING OF: Petition 1/Appeal of the Zoning Official's
 24 decision filed by Patrick M. & Karen Beck
 25

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