



Town of Portsmouth

ZONING BOARD OF REVIEW
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FEBRUARY 16, 2017

MEMBERS PRESENT: Mr. James Edwards, Chair, Mr. James Nott, Vice-Chair, Ms. Kathleen Pavlakis, Secretary, Mr. John Borden, and Mr. James Hall.

MEMBERS ABSENT: Mr. Eric Raposa, First Alternate.

OTHERS PRESENT: Town Solicitor Kevin Gavin was present as legal counsel for the Board, Michael Asciola, Assistant Town Planner and Barbara Ripa as recording secretary.

Mr. Edwards called the meeting to order at 7:00 p.m. in the Town Council chambers.

I. MINUTES

A motion was made by Mr. Nott and seconded by Mr. Hall to accept the minutes of the regular meeting of January 19, 2017 as presented. The motion carried 5 – 0.

II. CHAIRMAN'S REPORT

The Chair had no report, other than to say that the Board is still short one member.

III. CONTINUED BUSINESS:

1. A petition by Portsmouth Solar, LLC and Seabury Apartments, LLC for a special use permit (Art. V, Sec. B.5) to construct a 2.9MW solar photovoltaic system development at 259 Jepson Lane, also identified as Tax Assessor's Map 60, Lot 3.

Attorney Cort Chappell, 171 Chase Road, was present representing the petitioner. Mr. Chappell said that Attorney Jeremiah Lynch of Moore Virgadamo & Lynch Ltd, 97 John Clarke Road, Middletown, who is representing abutters, had noticed that only Portsmouth abutters were notified of the petition in error, not Middletown abutters. The petition needs to be re-advertised and notices need to go out again. The petition will then start from the beginning. Also, the petition will be before the Design Review Board on February 20, 2017.

A motion was made by Mr. Borden and seconded by Mr. Hall to continue the petition by Portsmouth Solar, LLC and Seabury Apartments, LLC for a special use permit to construct a 2.9MW solar photovoltaic system development at 259 Jepson Lane to the regular meeting of March 16, 2017, subject to re-advertisement, re-notice to the abutters and all previous testimony being struck. The motion carried 5 – 0.

IV. NEW BUSINESS

1. (R) A petition by Peter Brennan, 28 Cliff Avenue, for a variance (Art. IV, Sec. B) and special use permit (Art. VII, Sec. A.1.c) to construct a deck and stairs within the required yard setback and exceed maximum lot coverage on Tax Assessor's Map 9, Lot 8.

Peter Brennan, 28 Cliff Avenue was sworn in. Joyce Brennan, 28 Cliff Avenue was sworn in. Mr. Brennan stated that he wanted to put a 12' x 13.5' deck on the back of the house. Mr. Brennan asked if he could present a letter from a neighbor and a picture to the Board. The Board accepted the information as Exhibit 1.

The relief requested is a special use permit to build on a non-conforming lot of record and a lot coverage variance of 9.9%. Currently his lot coverage is 28.3%, so it is a 1.6% increase. Mr. Edwards walked the Brennans through the special use permit criterion. The Brennans stated that it would meet all criteria.

Mr. Edwards read a letter from Antone and Louann Lawrence, 44 Cliff Avenue into the record.

The Chair called for abutters or interested parties. There were none.

Mr. Nott Approve/Approve:

Peter Brennan, map 9, lot 8, is before the Board and is seeking a 1.6% increase over the lot coverage that currently exists to build a 13.5' x 12' deck that squares off the back of the house. There is no deck there now. It is reasonable. It is not excessive. It would be more than a mere inconvenience to deny. I approve the lot coverage variance and the special use permit.

Mr. Hall Approve/Approve:

I vote to approve. There are a lot of summer cottages in that area and this fits in well.

Mr. Borden Approve/Approve:

Regarding the dimensional variance, it is the least relief necessary to fully enjoy the permitted use of his property, so I approve. Regarding the special use permit, the Chair walked the petitioner through the requirements and they testified that they met them all, so I approve that also.

Ms. Pavlakis Approve/Approve:

For all the reasons previously stated, I vote to approve.

Mr. Edwards Approve/Approve:

For the reasons previously stated by my colleagues, I vote to approve.

2. (R) A petition by Kirk Volk, 120 Taylor Road, for a variance (Art. IV, Sec. B) and special use permit (Art. VII, Sec. A.1.c) to construct solar panels within the required yard setback on Tax Assessor's Map 62, Lot 52.

Kirk Volk, 120 Taylor Road was sworn in. Mr. Volk said that in order to get the energy output that he needs to be financially viable, he needs seven solar arrays of six panels each. The arrays are 5' x 20'. They will go within the setbacks of the back and side yards. The arrays will be angled and there will be no glare. They are driven posts, so cannot go near his septic. Roof mounting is not possible. Neighbors should not be able to see them. There will be no noise from them.

The Chairman walked Mr. Volk through the special use permit criterion. Mr. Volk testified that the petition would meet all criteria.

The relief requested is a special use permit to build on a non-conforming lot of record and a 10' side yard setback variance on the north and a 10' side yard setback variance on the east.

A motion was made by Mr. Borden and seconded by Mr. Hall to address this petition under section V I.12. of the table of uses in the Zoning Ordinance. The motion carried 5 – 0.

The Chair called for abutters or interested parties. There were none.

Mr. Borden Approve/Approve/Approve:

Regarding the special use permit for a substandard lot of record, the Chairman walked the petitioner through the requirements and he testified that he meets them all. Regarding the dimensional variance relief for the north and east side of 10', these panels are unobtrusive structures and will not bother neighbors. It is a reasonable request to want to provide energy to your home. I vote to approve. Regarding the third relief requested, a special use permit under V I.12, the arrays will not be a nuisance or hazard, it is compatible with the surroundings and neighborhood, it is compatible with the Portsmouth Comprehensive Community Plan, and it meets all special use criterion, so I approve.

Ms. Pavlakis Approve/Approve/Approve:

I agree with Mr. Borden and I vote to approve all three.

Mr. Nott Approve/Approve/Approve:

I also agree with Mr. Borden and I vote to approve all three.

Mr. Hall Approve/Approve/Approve:

I vote to approve all three, as my colleagues.

Mr. Edwards Approve/Approve/Approve:

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I vote for all three as well for the reasons previously given by Mr. Borden. The trees will cover the arrays from the neighbors. You've done a good job.

A motion to adjourn was made by Mr. Nott and seconded by Mr. Borden. The motion carried 5 – 0. The meeting was adjourned at 7:42 p.m.

Respectfully submitted,

Barbara A. Ripa, Recording Secretary