



Town of Portsmouth

ZONING BOARD OF REVIEW

2200 East Main Road / Portsmouth, Rhode Island 02871

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(401) 683-3611

MARCH 15, 2018

MEMBERS PRESENT: Mr. James Edwards, Chair, Mr. James Nott, Vice-Chair, Ms. Kathleen Pavlakis, Secretary, Mr. Eric Raposa, First Alternate and Mr. Benjamin Furriel, Second Alternate.

MEMBERS ABSENT: Mr. John Borden and Mr. James Hall.

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.

Mr. Edwards said that there were a few housekeeping items from the agenda to take care of before starting the meeting. The first item was Old Business 1.: Johnathan and Vanessa Egan (owners/appellant) of 1206 Middle Road (57-57) seek an administrative appeal (Art. XIV) of a Zoning Enforcement Officer's decision related to a notice of violation of Art. IX Sec. C, Vision Clearance; dated 10/3/2017. The Egans would like to withdraw without prejudice.

A motion was made by Mr. Nott and seconded by Mr. Furriel to allow Johnathan and Vanessa Egan to withdraw the appeal without prejudice. The motion carried 5 – 0.

The next item was New Business 1.: New England Grass Fed, LLC (applicant) and Z Family Farm, LLC (owner) for 0 East Main Rd (61-1) request a special use permit (Art V, Sec C.5 Agriculture – Special Uses) to allow up to three (3) farm to table type event dinners under the agriculture-special event uses provision of the Zoning Ordinance. The parcel has no frontage on East Main Rd and is located between Moitoza and Paquins Lane. They would like to continue to the regular meeting next month.

A motion was made by Mr. Nott and seconded by Ms. Pavlakis to continue the petition of New England Grass Fed, LLC (applicant) and Z Family Farm, LLC (owner) to the regular meeting of April 19, 2018. The motion carried 5 – 0.

I. MINUTES

A motion was made by Ms. Pavlakis and seconded by Mr. Nott to approve the minutes of the regular meeting of February 15, 2018 as presented. The motion carried. 5 – 0.

II. CHAIRMAN'S REPORT

There was no Chairman's Report, although Mr. Edwards mentioned that Mr. Borden had broken his leg and would be out for 8 to 12 weeks. Ms. Pavlakis will not attend the next meeting. Mr. Hall's wife was ill tonight and that is why he is absent.

IV. NEW BUSINESS

2. ((C-1) McMillen Yachts, Inc. (applicant) and Anthony Russo (owner) for 0 Russo Rd (44-18B) request special use permits to construct an 8,000 sq. ft. building to operate a boat storage (Art. V Sec. E.14) and boat repair (Art. V Sec. F.4) business. The proposed development also requires the approval of dimensional variances from the required off-street parking standards (Art. IX Sec. A.3.a)), building lot coverage (Article VII, Sec G.10.e)), rear yard setback (Article VII, Sec G.10.d)) and side yard setback (Article VII, Sec G.10.c)).

Attorney J. Russell Jackson, Miller Scott Holbrook & Jackson, 122 Touro Street, Newport, RI was present representing McMillen Yachts. Mr. Jackson said that it is a conforming lot in a C-1 zone, and the building will be 8,000 sq. ft. The applicant will store antique yachts and repair them. He is requesting building lot coverage relief due to two drainage easements that decrease the developable land. He is also requesting relief to remove two required parking spaces and will leave one parking space for ADA compliance. Mr. Jackson is asking for a special use permit for boat repair. This will not be boat manufacturing, but rather storage and renovation, restoration and repair of antique wooden yachts. Mr. Jackson said that the Design Review Board and the Planning Board both gave a positive advisory opinion.

John Vitkevich, 199 Hummock Avenue, Portsmouth was sworn in. Mr. Vitkevich is the developer of the property at Russo Road. Mr. Vitkevich described his involvement in the project. He said that he was previously approved to build here, he has an approval by the Portsmouth Water & Fire District for a curb stop, a letter from the Portsmouth Fire Chief and letters of support from S&S Transmission and DePaul Diesel.

- The Planning Board Advisory Opinion dated March 15, 2018 was entered as Exhibit A.
- The Portsmouth Water & Fire District letter dated March 15, 2018 was entered as Exhibit B.
- Portsmouth Fire Department letter dated March 15, 2018 was entered as Exhibit C.
- Letters of support from S&S Transmission and DePaul Diesel were entered as Exhibit D.

Mr. Vitkevich distributed an updated site plan dated March 3, 2018 that was entered as Exhibit E. Yachts will not be placed into the front setback. Mr. Vitkevich said he believes the intended use is consistent with other uses in the area, such as DePaul Diesel and S&S Transmission. One of the drainage easements that encumbers the lot is for a residential subdivision, not even for Russo Road. There has never been water runoff onto West Main Road from Russo Road and they are very proud of that. Elevations have been updated after the Design Review Board and Mr. Vitkevich distributed the new elevations to Board members. These two sheets, dated March 18, 2018, were entered as Exhibit F, "Elevations."

This will be an all metal building with a roof pitch that matches S&S. The cupolas match others in the subdivision. The west side facing West Main Road will have wooden cedar shake shingles. The building manufacturer said the roof pitch is 4 ½.

Relief requested is to allow four parking spaces rather than six as they are not planning on having more than three people present at the building at a time. They will encroach on the west setback 1.2'. They will exceed building lot coverage by 6.9% and need a special use permit.

Todd Jarem, 348 High Street, Bristol was sworn in. Mr. Jarem said that he works for McMillen Yachts. He is one of two people that manages the business. He said that they are renting in Melville now, and plan to continue. They manage very large projects. This property will help them keep their footprint in Portsmouth. It is imperative that they keep an 8,000-square foot building due to the size of the yachts they are dealing with – they physically will not fit within a smaller building. Dimensionally they will not be able to get them in and store them. This will be primarily for storage and to protect these boats during the winter. Their clients are “hands-off” so they do not have a need for parking. They only have a need for HVAC equipment on the outside of the building. All repair work is done inside. Any hazardous material is inside the building in flammable cabinets.

Mr. Vitkevich said lighting for the building will be LED wall packs on the corners that will be for security only. The hours of operation will be 9 – 5, standard hours.

Boats will be trailered to Russo Road by a subcontractor and then will be stored at the facility in cradles or stands. There will be no power washing at Russo Road.

Todd Chaplin, Mt. Hope Engineering, 1788 GAR Highway, Swansea, MA was sworn in.

A motion was made by Mr. Raposa and seconded by Mr. Nott to accept Mr. Chaplin as an expert in engineering. The motion carried 5 – 0.

Mr. Chaplin described the encumbrance of the 6’ pipe in the 20’ easement that they have to deal with that is pre-existing and then they also have their own 20’ drainage easement. He said that it makes the lot unique and the drainage easement services the entire subdivision on Russo Road.

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

Mr. Nott made a motion to impose the following conditions on the petition if it is approved:

1. No boat storage is allowed within the front setback area;
2. Exterior lighting will be LED wall packs that will be activated by motion sensors;
3. Signage will be a wooden carved design with company logo;
4. The building will be a pre-engineered metal building. The west side facing West Main Road will be covered with wooden cedar shake shingles. The south side, front entrance from Russo Road will have a brick façade from the sill to roughly four feet. The remaining area will be cedar shingles. Two roof-mounted cupolas on the north and east sides will be metal clad. All doors and windows will have mullions;
5. The 4 ½ pitch roof will be a standing seam metal roof, which may have solar panels facing Russo Road;
6. For landscaping, there will be roughly a 100’ row of deciduous low growth plantings to the west facing West Main Road;
7. There will be no exterior mechanical equipment other than HVAC; and
8. All boat repair work will take place inside of the building.

Ms. Pavlakis seconded the motion to impose the eight conditions and the motion carried 5 – 0.

The proposed building will cover nearly 32% of the developable land area and requires a building lot coverage variance of 6.9% over the maximum building lot coverage of 25%. Also requested is a 1.2' side yard setback variance on the west, and a variance for four rather than six parking spaces, with one being ADA compliant. A special use permit is necessary.

Mr. Nott Approve/Approve:

McMillen Yachts, 1 Bannisters Wharf, Newport, RI, is before the Board for Map 44, Lot 18B for dimensional variances and a special use permit. They have given testimony that due to the unique characteristics of the land, the easements that reduce the buildable land, and because of the size of the yachts they will store and repair, they need lot coverage relief. Petitioner also requests 1.2' side yard setback variance on the west and relief to reduce six parking spaces to four, one of which will be ADA. I believe it is the least relief necessary. It is not intrusive. The work does require a large building, and I approve. Regarding the special use permit, the petition does meet the criteria and with the conditions placed on it, abutters will be protected. I approve.

Mr. Raposa Approve/Approve:

Mr. Nott has covered it all and I am familiar with the industry. I vote to approve both the dimensional variances and the special use permit.

Ms. Pavlakis Approve/Approve:

I agree with Mr. Nott and vote to approve.

Mr. Furriel Approve/Approve:

I agree with Mr. Nott's rationale and vote to approve both the dimensional variances and the special use permit.

Mr. Edwards Approve/Approve:

I agree with Mr. Nott. The applicant did present the criteria that they have a need for a larger building. The town is lucky to have McMillen Yachts. The Chair also approves.

3. (C-1) Benzine Development, LLC (owner) located at 2340 West Main Rd request a special use permit to construct a free-standing sign as part of a common signage plan, which is larger in sign area than allowed under the Zoning Ordinance (Art. IX Sec. B.5.c)).

Attorney Cort Chappell, 171 Chase Road, was present representing Benzine Development. Mr. Chappell explained to the Board how signs are typically adjacent to roadways, however, in this situation there is not only a State of RI easement but a Newport Water Department easement, causing the sign to be located a fair distance from the roadway. Due to the location of the business, they believe a larger sign than is allowed under the ordinance would be appropriate. A 40 square foot sign is a matter of right and he is

asking for a 66 square foot sign. At this time they do not have tenants in the building, but the sign design they have presented to the Board would either be the allowed 40 sq. ft. sign without the tenants at the bottom, or if they are given relief, the panels could be added with tenants and the sign would be 66 sq. ft. Regardless of whether the panels were added on the bottom or not, the sign would remain the same height, which conforms to zoning. The sign would be placed 37' from the macadam instead of on the property line. It will be soft lit; internally lit. It is smaller than the other Patriot sign. It is compatible with the project and meets the a. through j. special use criteria. Mr. Chappell believes it is important to have all the information on the sign for the public to see so they know gas prices and the tenants.

The Chair called for abutters or interested parties.

Conni Harding, 84 Union Street was sworn in. Ms. Harding asked the Board to think about this. She said that she thinks they could bring the sign down smaller, that it looks large and doesn't look like Portsmouth. There's a blight on Portsmouth. There was blasting all summer long.

The petitioner, Benzine Development, is seeking a special use permit for a self-standing sign that will be 66 sq. ft. as opposed to 40 sq. ft.

Mr. Nott Approve:

Benzine Development, Map 56, Lot 6 is here for a special use permit to install a sign that is 66 sq. ft. He's heard the testimony. The sign meets the height requirement. At the end of the day, the applicant can still put the exact same sign in, it comes down to the two bottom panels added on. My concern would be, do you need them both to be that large? I approve the Patriot Petroleum sign and one of the two spaces underneath, or a sign of 53.3 sq. ft. total.

Mr. Raposa Approve:

I approve. It's not taller than what is allowed and I approve both panels – I think it's imperative for a sign to be placed there, so I approve the 66 sq. ft. sign.

Ms. Pavlakis Approve:

I agree with Mr. Nott. It is a fair compromise and I vote to approve 53.3 sq. ft.

Mr. Furriel Approve:

I approve the entire sign. It is in line with what other gas stations do. It is reasonable for the other businesses to have a sign, too, so I approve the 66 sq. ft. There would be no increase in light pollution.

Mr. Edwards Approve:

The Chair approves the 66 sq. ft. sign. The landscaping plan is missing tonight, and it would make it look less excessive with the landscaping, but you have been approved 3 – 2 for a 53.3 sq. ft. sign.

The Board broke for a recess at 8:30 p.m.
The Board was called back into session at 8:37 p.m.

4. (R-10) William and Joanne Raker (owners) of 212 and 0 Sakonnet Drive (2-57 and 2-58) seek a dimensional variance for the rear yard setback (Art. IV Sec. B) and a special use permit (Art. VI Sec. A.4) to construct a 4' x 15' elevated deck on a substandard lot of record. The two parcels are proposed to be merged to increase conformance with the Zoning Ordinance's land area requirements.

Attorney Cort Chappell, 171 Chase Road, was present representing William and Joanne Raker. Mr. Chappell said that Janice Backman is an abutter on the east and she is in favor of the petition. They are asking that the petition be contingent on them merging two lots (2-57 and 2-58) so as to be more in conformance with the Zoning Ordinance. Currently there is no deck on the back of the house. Once merged, the lot coverage will be reduced to below 20%, but they will need a 2' side yard setback to the north that currently exists, a 6' side yard setback to the south that currently exists, and an 8' rear yard setback to the west for the 4' x 15' second story deck. A special use permit is also required. Mr. Chappell went through the criteria for the special use permit.

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

Mr. Nott made a motion to impose the following condition on the petition if it is approved:

1. Map 2, Lots 57 and 58 must be merged prior to construction of the deck.

The motion was seconded by Ms. Pavlakis and the motion carried 5 – 0.

Mr. Nott Approve/Approve:

William and Joanne Raker, of Map 2, Lots 57 and 58 are before the Board seeking an 8' rear yard variance and a special use permit for a substandard lot of record. It is the least relief necessary. They will be merging the two lots and it will conform more than the current configuration. To deny amounts to more than a mere inconvenience, so I approve both the dimensional variance and the special use permit.

Mr. Raposa Approve/Approve:

I agree with Mr. Nott and approve both.

Ms. Pavlakis Approve/Approve:

I also agree with Mr. Nott and vote to approve.

Mr. Furriel Approve/Approve:

I vote to approve both the dimensional variance and the special use permit for reasons given by Mr. Nott.

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Mr. Edwards Approve/Approve:

The Chair approves for reasons previously given by Mr. Nott.

A motion to adjourn was made by Mr. Nott and seconded by Mr. Furriel. The motion carried 5 – 0. The meeting was adjourned at 8:49 p.m.

Respectfully submitted,

Barbara A. Ripa, Recording Secretary