



Town of Portsmouth

ZONING BOARD OF REVIEW

2200 East Main Road / Portsmouth, Rhode Island 02871

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(401) 683-3611

APRIL 19, 2018

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

MEMBERS ABSENT: Ms. Kathleen Pavlakis, Secretary, and Mr. John Borden.

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 7:03 p.m. in the Town Council chambers.

Mr. Edwards announced the passing of George Medeiros, Building Inspector and Zoning Official for the Town of Portsmouth for over 30 years, and who we all really loved. Mr. Edwards asked for a moment of silence in honor of George.

Mr. Edwards mentioned that Mr. Borden is out with a broken leg and Ms. Pavlakis would not be present this evening.

Mr. Edwards said that there was a housekeeping item to take care of before starting the meeting. New Business 3.: (R-30) Sakonnet Bluffs, LLC. (applicant) and Rhode Island Nurseries, Inc. (owner) for 0 East Main Road (57-10 at East Main Road and Glen Road) and 0 Glen Road (59-5 at Glen Road and Frank Coelho Drive) request special use permits to display three signs that do not conform to the requirements of the ordinance (Art. IX Sec. B.6.c)). Attorney Cort Chappell, 171 Chase Road, was present representing the applicant. Mr. Chappell said that the State of Rhode Island advised him that they wanted to be notified of the hearing, and he will be unavailable in May, so he asked for this item to be continued to June.

A motion was made by Mr. Nott and seconded by Mr. Hall to continue the petition of Sakonnet Bluffs, LLC. (applicant) and Rhode Island Nurseries, Inc. (owner) to the regular meeting of June 21, 2018. The motion carried 5 – 0.

I. MINUTES

There were no minutes available to approve.

II. CHAIRMAN'S REPORT

There was no Chairman's Report.

III. OLD BUSINESS

2. (C-1) Cumberland Farms, Inc. (applicant) requests a one-year extension to the special use permit and

dimensional variances granted by the Zoning Board of Review on November 17, 2016 and recorded in Book 1788 Pages 131-133 in the Portsmouth Land Evidence Records on December 23, 2016. The development is proposed for 1812 East Main Road (45-43 and 44).

Attorney Elizabeth Noonan, Adler Pollock & Sheehan, PC, One Citizens Plaza, 8th Floor, Providence was present representing Cumberland Farms. Ms. Noonan said that as a precaution she was requesting a one-year extension of time to begin building. The current permit expires on July 1, 2018.

A motion was made by Mr. Hall and seconded by Mr. Raposa to grant a one-year extension to Cumberland Farms, Inc. The motion carried 5 – 0.

Mr. Edwards apologized for going out of order on the agenda in error. Ms. Noonan thanked Mr. Edwards.

1. (R-30) 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 Road and is located between Moitoza and Paquins Lane.

Patrick Beck, 248 Spring Street, Hope Valley, was sworn in. Mr. Beck said they would like to have three farm dinners and one youth day. The farm dinners would be based on chef availability, but would be in June, July and around Labor Day. There would be 40 to 50 people and they would sell tickets. It would be catered. A chef would come in with a commercial kitchen. They would come in on Jepson Lane and park in the field. The packet before the Board had different material than the information Mr. Beck was providing.

Mr. Beck said the events would be from approximately 4 pm to 7 pm, but they would stop at dark. There would be no amplified music. They would be under tents. There would be wine pairing. The chef would come in with support staff. There would typically be no rain date.

Mr. Beck said he would use Paquins Lane or Moitoza Lane for public safety access.

The Farm Fit Challenge would be on a Sunday. Access would be via Jepson Lane. He has not promoted it yet. He is thinking of 20 to 30 teams of four on each team and possibly 150 people in attendance. The Board brought up the subject of police details, but Mr. Beck would not want to provide details due to cost.

The Chair called for abutters or interested parties.

Attorney Robert Silva, Silva Thomas Martland & Offenber, LTD, 1100 Aquidneck Avenue, Middletown represents the Lacerdas. He said that the Lacerdas had spoken with Mr. Beck on a number of occasions. They do not have a problem with a farm to table event per se, but their concern is with the petition, which talks of the three dinners, but doesn't really talk of the sports event, and then shows people crossing over lot 2, which belongs to the Lacerdas. The Lacerdas do not want anyone crossing over lot 2, which is an active farm lot. Mr. Silva said they would like the petition modified and amended. Also, Paquins Lane is a private road and they would want activities limited to Jepson Lane as a condition.

Mr. Nott brought up that Jepson Lane abutters have not been notified and he would need a letter of approval from the owner of Paquins Lane if Mr. Beck was planning on using Paquins Lane for public safety.

Mr. Asciola said they could continue the petition and renotify abutters.

The Board asked Mr. Beck to modify his parking plan and firm up details. Mr. Silva said that Mr. Beck should review his conservation deed to see what uses are allowed. Mr. Silva said that he could provide Mr. Beck with a copy.

A motion was made by Mr. Nott and seconded by Mr. Hall to continue the petition of New England Grass Fed, LLC (applicant) and Z Family Farm, LLC (owner) to the regular meeting of May 17, 2018. The motion carried 5 – 0.

IV. NEW BUSINESS

1. (R-20) Johnathan & Vanessa Egan (owners/appellant) of 1206 Middle Road (57-57) seek a dimensional variance of the Vision Clearance section (Art. IX Sec. C) of the Zoning Ordinance.

Vanessa Egan, 1206 Middle Road was sworn in. Ms. Egan is seeking a dimensional variance of the vision clearance section of the Zoning Ordinance for trees that are on her property and have been there for as long as people remember. Ms. Egan had an arborist come in and he recommended that they remove three to five trees at the corner.

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

Mr. Furriel Approve:

Vanessa Egan, 1206 Middle Road, Map 57, Lot 57 is seeking a dimensional variance of 10' from both axis of the corner of Middle Road and Evergreen. They will remove trees 20' from the corner of Middle Road and Evergreen and the Board is waiving the height restriction on the final 10'. I believe this is the least relief necessary to gain safe view and I vote in favor.

Mr. Hall Approve:

I vote to approve based on reasons given by Mr. Furriel.

Mr. Raposa Approve:

I also vote to approve based on reasons given by Mr. Furriel.

Mr. Nott Approve:

I vote to approve for reasons previously stated. It would be a hardship more than a mere inconvenience to deny. This was inherited and not of the Egans' doing, so I vote to approve the 10' variance and the height variance.

Mr. Edwards Approve:

I agree with my colleagues. The Egans have gone through great effort and are improving conditions through a major effort on their part and I approve.

2. (C-1) Evangelical Friends Church of Newport (applicant) and Potomac, LLC (owner) of 14 Potomac Road (31-127) request a special use permit to operate a place of worship (Art. V Sec. B.1.) within an existing commercial multi-unit building.

Attorney Cort Chappell, 171 Chase Road, was present representing both the applicant and the owner. Mr. Chappell said that the prior use was a “mathnasium.” A church requires a special use permit to operate in the town. Evangelical Friends Church has Paula Jestings here to represent them. They are planning on a Saturday night service at 5:00 p.m. and expect approximately 80 people. The Fire Marshal says up to 120 people can attend. There is no kitchen in the building so the septic system is adequate at one gallon per person per day. The original decision had 48 parking spaces, and the calculation for a church with our Zoning Ordinance ends up with the exact same amount of parking spaces. There will be no overlapping events. Mr. Chappell went through the special use permit criterion and described how this use fits within the criterion.

Paula Jestings, 62 Oliphant Lane, Middletown was sworn in. Ms. Jestings stated that there will be 5:00 p.m. Saturday services everything ending by 10:00 p.m. The services will usually be about one hour with a time of hospitality. There may be an occasional special service, such as Good Friday, at 5:00 p.m. or 7:00 p.m. Right now, they anticipate 75 to 80 people and this is a satellite church building only.

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

Mr. Nott Approve:

Evangelical Friends Church of Newport, applicant, and Potomac, LLC, owner, 14 Potomac Road, map 31, lot 127 are seeking a special use permit for the proposed use of a place of worship in a pre-existing building. In my opinion, they have met the special use criteria and I approve.

Mr. Raposa Approve:

I approve for reasons previously stated.

Mr. Hall Approve:

I agree with Mr. Nott’s explanation and vote to approve.

Mr. Furriel Approve:

I also agree with Mr. Nott and vote to approve the special use permit.

Mr. Edwards Approve:

The Chair also agrees with Mr. Nott and I also approve the special use permit.

The Board broke for a recess at 8:14 p.m.

The Board was called back into session at 8:18 p.m.

4. (R-10) Kevin and Nancy Harrington (owners) of 142 Sakonnet Drive (2-86) seek a dimensional variance for the front yard setback and lot coverage (Art. IV Sec. B) and a special use permit (Art. VI Sec. A.4) to construct a new stairway at the front of the house.

Kevin Harrington, 142 Sakonnet Drive, was sworn in. Mr. Harrington said that he would like to change the front entrance of the house and add new stairs that will run to the street from his deck because the old ones went right on to his septic tank that he was required to put in. The variances needed will be a small increase in lot coverage from 22% to 23% and a 19' front yard setback variance. He also needs a special use permit because it is a substandard lot of record.

The Chair walked Mr. Harrington through the special use permit criterion. Mr. Harrington testified that it met all requirements.

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

Mr. Nott Approve/Approve:

Kevin Harrington is before the Board for map 2, lot 86, requesting an increase in lot coverage of 1%, a 19' front yard setback variance and a special use permit. As far as the special use permit goes, he's met it; it more conforms with the proposed plan as far as emergency vehicles go as he will be removing trees. The hardship is due to the unique characteristics of the land, which is ledge, and he is trying to reconfigure the deck due to the State requiring a new OWTS, so I approve as it's the least relief necessary.

Mr. Raposa Approve/Approve:

There's no need to repeat what Mr. Nott has said. I vote to approve both the dimensional variances and the special use permit.

Mr. Hall Approve/Approve:

I agree with Mr. Nott and vote to approve.

Mr. Furriel Approve/Approve:

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

Mr. Edwards Approve/Approve:

It is very reasonable and the Chair also approves.

5. (R-10) Common Fence Point Improvement Association (owner/applicant) of 933 Anthony Road (4-244, 245, 246, 247, 248, 249 and 250) propose an addition to their community hall and site improvements to accommodate additional parking. The applicant requests a special use permit to expand a non-conforming use (Art. VI Sec. C.1.), dimensional variances for two front yard setbacks (Art. IV. Sec. B), and parking variances for satellite parking (Art. IX Sec. A.6.) on a lot across Anthony Road from the site and the impervious surface requirement (Art. IX Sec. C.10.)

Neal Hingorany, Common Fence Point Improvement Association (CFPIA) Trustee, 104 Dighton Avenue, was present to represent CFPIA. Attorney Eric Chappell, 171 Chase Road, was also present to assist if needed.

Mr. Hingorany said that the building was built in 1924 and has been used by the community since that time. They are requesting a special use permit for the expansion of a nonconforming use. There are seven lots involved, five that belong to CFPIA (244, 245, 247, 249, 250), one that belongs to Ernest Levesque (246) and one that belongs to the Town of Portsmouth (248). The two unowned are in transition as donations and all will be merged once that is complete. When the merge is complete, the lot will be 29,517 sq. ft. and the lot coverage will then be 17%.

At present there are 69 parking spaces, although there are some spaces in the right of way. The proposal will be to match that number but to use satellite parking on map 2, lot 178. They are also proposing parking to the south.

They have a repair application in for the septic that is a GeoMat system for 230 persons. Lighting will be dark sky compliant, which will be under 8' high and will shed light down. They do not have a lighting plan, but most likely will have LED lights. There are three light poles proposed, none in the overflow parking area, and whatever is on the building. They have met with the Planning Department. They plan a painted crosswalk to the satellite parking area. Lights would be on weekdays until 7 or 8 p.m., not all night. They might have some motion sensitive lights. They do plan on having a community center sign. The dumpster and recycling is north of the building.

Jeff Moniz, 41 Thurston Avenue, Newport, is the architect. Mr. Moniz has been working with them for two years to expand use and improve accessibility. The entry addition allows flexibility of entry and use and functional space. CFPIA does music, meetings, YMCA, etc.

Variances and relief requested from the Board:

- Front yard setback, 15.67' required on the north, currently exists, for the dumpster enclosure.
- Front yard setback, 20' required on the west (Anthony Road side – currently at about 2').
- Special use permit for expansion of a nonconforming use.
- Satellite parking to be located at map 2, lot 178.
- Request pervious surface parking spaces to be counted/allowed.

The main footprint of the building will stay the same, but the entry will have an addition for a three-level elevator. The mechanicals/HVAC will most likely be mini-splits in the rear of the building, but they do not have them yet. There will be an evergreen screen wrapping the parking area, either a Leland or

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arborvitae 6' or 4' tall planted 2' on center. Mr. Hingorany said they do have work to do with car headlights, and they will put up a fence if an abutter wants. Parking spaces will be crushed stone. They have not done a stormwater analysis yet. They will also use landscaping to balance out the property and drainage and will use underground drainage mitigation if needed.

The Board requested a lighting plan with cut sheets, a landscaping plan, exactly what type of trees the evergreen buffer would consist of and how they would be planted, and a drainage plan.

The Chair called for abutters or interested parties.

Leisa Piccola, 25 Norwood Avenue said that she had concerns. She said she's gone to some meetings. The use at the community center has changed over the years and it's now very loud. The building needs to be sound-proofed, cars are out of control and she's found people on her deck having cocktails. A 4' fence is not going to cut it.

Scott Boyd, 20 Kensington Avenue said that the Board should give CFPIA a list of what they are looking for because there are time constraints.

A motion to continue the petition of Common Fence Point Improvement Association to the regular meeting of May 17 was made by Mr. Nott and seconded by Mr. Hall. The motion carried 5 – 0.

A motion to adjourn was made by Mr. Hall and seconded by Mr. Nott. The motion carried 5 – 0. The meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Barbara A. Ripa, Recording Secretary