



Town of Portsmouth

ZONING BOARD OF REVIEW

2200 East Main Road / Portsmouth, Rhode Island 02871

www.portsmouthri.com

(401) 683-3611

MAY 17, 2018

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

MEMBERS ABSENT: Mr. John Borden and 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 7:04 p.m. in the Town Council chambers.

I. MINUTES

A motion was made by Mr. Furriel and seconded by Mr. Nott to accept the minutes of the March 15, 2018 regular meeting as presented. The motion carried 5 – 0.

II. CHAIRMAN'S REPORT

Mr. Edwards stated that Mr. Raposa was not present because he and his wife just had twin daughters and he was caring for his family. Mr. Borden is still recovering from a broken leg.

III. OLD BUSINESS

1. (R-30) New England Grass Fed, LLC (applicant) and Z Family Farm, LLC (owner) for 0 East Main Road (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.

The applicant requested a one-month continuance.

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 June 21, 2018. The motion carried 5 – 0.

2. (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.)

Mr. Edwards said that the same five Zoning Board members were in attendance as were present at the April meeting, so the applicant could either continue the petition to the next regular meeting or begin the

petition from scratch with the five members currently present. The applicant chose to begin the petition anew.

Neal Hingorany, Common Fence Point Improvement Association (CFPIA) Trustee, 104 Dighton Avenue, was present to represent CFPIA. Mr. Hingorany was sworn in. Jeff Moniz, 41 Thurston Avenue, Newport, is the architect. Mr. Moniz was sworn in.

Mr. Hingorany, a land surveyor and environmental scientist, said that the building at 933 Anthony Road is used by the community as an arts and community center. The plan is to rehabilitate the building and put on two building additions, a deck area and pavers totaling 750 sq. ft. and a proposed addition to the building totaling about 647 sq. ft. Parking has not been well-organized, and they would like to organize the area. At present there are 69 parking spaces, although there are some spaces in the right of way. Spaces required by zoning will continue to be 69 spaces, and their proposal will be to match that number but to use satellite parking on map 2, lot 178, and install a painted crosswalk. They are also proposing parking to the south. CFPIA is 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 lots will be merged into one once the donations are completed. When the merge is finalized, the lot will be 29,517 sq. ft. and the lot coverage after the rehab will then be 17%. As it stands now, lot coverage would be 26% without the merger.

Variations and relief requested from the Board:

Front yard setback, 20' required on the west (Anthony Road side – currently at about 2').

Front yard setback, 15.67' required on the north, currently exists, for the dumpster enclosure.

Request pervious surface parking spaces to be counted/allowed. Parking space surfaces will be Gravelpave System per sheet C.03 dated 04/23/18.

Special use permit for expansion of a nonconforming use in an R-10 zone.

Satellite parking to be located at map 2, lot 178.

They are not required to place a retention pond but are proposing a rain garden for mitigation of stormwater.

Plans dated 4/24/18 or newer were distributed to the Zoning Board of Review and these are the plans that the Board and applicant is referencing tonight, as well as the Stormwater Management Report dated May 2018.

The lighting plan has been modified and submitted to the Board. The poles are no taller than 96' high and will be dark sky compliant which will shed light down. Sconces to reflect light back toward the building would be placed on any lighting on the building itself.

The landscape plan was submitted as LS-1 dated 4/24/18. There will be rhododendron on the east side. The plants that are listed on the landscape plan will be planted unless an abutter has a preference. Charles Earl is the landscape architect.

Mr. Moniz has been working with them to expand use and improve accessibility, egress and multiple levels of access at the same time. The entry addition allows flexibility of entry and use and functional

space. The elevator is new. There will be all new lighting, the basement will be fully reoutfitted. Several grants have helped them with the rehabilitation of the community center. Larger groups will now be able to enter and exit the building at a time with the new entrance. They are improving the buffer area.

Conley Zani, 1350 Anthony Road, President of CFPIA was sworn in. Ms. Zani said that she helped write the grants. Hours of operation are expected to be 8 am to 7 or 8 pm with Saturday nights until 10 or 11 pm. Rentals usually to 11 pm. Parking has been a pig-pile, so this will be a major safety improvement. There will only be signage on the building and they want to keep the look and feel of the neighborhood.

Mr. Hingorany went through the a. through j. special use criteria and testified how the petition met the criterion. The mechanicals/HVAC will most likely be mini-splits in the rear of the building, within 5' of the building.

The Chair called for abutters or interested parties.

Susan Faria, 75 Fieldstone Drive said she goes to participate and everyone is included. It is a vibrant, wonderful place.

Erin Young, 18 Arrowhead Lane said she participates in Common Fence music and it is a positive experience.

Peter Howland, 1334 Anthony Road said he endorses CFPIA and they include adults with disabilities.

Leisa Piccola, 25 Norwood Avenue said that she is concerned with losing trees and is concerned with the dumpster. She wanted assurances to make them move the dumpster if needed and she does not want additional water on her property.

Daniel Woods, 906 Anthony Road said he has been there since 1973 and what these people have done with revitalization of the center is amazing.

Jennifer Ashman, 4 Common Fence Point Blvd, said that the community at the center is incredible, amazing and she's happy.

Mike Zani, 1350 Anthony Road, said he is one of the five Common Fence Point land trustees and he feels that this fulfills what the original deed wanted.

Alan Branko, 33 Norwood Avenue, said that he wanted to backup Leisa (Piccola), that she has a point – Zumba (noise) is bad and she needs to be abated.

Amy Sweeney, 2 Summit Road, said she has taken Ms. Piccola's complaints seriously, they have taken sound readings and they are continuing to try to figure out what they can do to make things better.

A motion was made by Mr. Nott and seconded by Mr. Hall to impose the following conditions on the petition should it pass:

1. Lots 244, 245, 246, 247, 248, 249 and 250 on Map 4 would be merged.
2. Site lighting would be dark sky compliant, no taller than 96” and as described on A-112.
3. The landscaping would be as described on LS-1.
4. The white 6’ east fence would instead be 8’ in height.

The motion to impose conditions on the petition passed 5 – 0.

Mr. Nott Approve:

The Common Fence Point Improvement Association, map 4, lots 244, 245, 246, 247, 248, 249 and 250 is seeking dimensional variances, relief, and a special use permit for the purpose of expanding the Common Fence Point Improvement Association. They require the following:

A front yard setback of 15.67’ is required on the north which currently exists for the dumpster enclosure and a front yard setback of 20’ is required on the west (Anthony Road side – currently at about 2’). I approve both dimensional variances. A request for pervious surface parking spaces to be counted/allowed. I approve. An exception to Article IX Section A.2.c), satellite parking, to be located at map 2, lot 178. I approve. Regarding the special use permit for expansion of a nonconforming use in an R-10 zone, it meets the criteria. The building has been there for some time and this will improve issues. It enhances the health, safety and welfare of the community and of the town. It meets all the criteria. It should be the Portsmouth Community Center. I commend them and I approve.

Mr. Hall Approve:

This is an impressive group of people and the effort is commendable but I feel for Leisa. It is a vast improvement over what has been there. I approve the dimensional variances and the special use permit. This is a tight community.

Ms. Pavlakis Approve:

I agree with Mr. Hall and Mr. Nott and I approve.

Mr. Furriel Approve:

I am happy to vote in favor of the exceptions. The functions aren’t changing and these changes will improve and should mitigate and not make worse the issues existing – all will stay the same or be improved. The community benefits from improved access.

Mr. Edwards Approve:

The Chair approves. I agree with my colleagues. To deny would amount to more than a mere inconvenience. I appreciate the lighting and the landscape plans.

The Board broke for a recess at 8:15 p.m.
The Board was called back into session at 8:24 p.m.

IV. NEW BUSINESS

1. (R-20) Michelle and Michael Campos (owners) of 25 Linda Terrace (49-1) 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 24' x 12' shed on a substandard lot of record.

Michelle Campos, 25 Linda Terrace was sworn in. Ms. Campos said that she has a 12' x 10' shed, but she would like a larger shed. She wants to remove the old shed and put a 24' x 12' shed 15' away from the rear setback instead of 30'. She said her house is small and she needs the storage.

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

Mr. Nott Approve:

Michelle Campos of map 49, lot 1 seeks a dimensional setback for a 24' x 12' shed to replace a shed 15' from the rear property line. The applicant lives in a small house and needs it for storage. She is not encroaching more. To deny amounts to more than a mere inconvenience and I vote to approve.

Mr. Hall Approve:

I vote to approve for reasons previously stated by Mr. Nott.

Ms. Pavlakis Approve:

I also vote to approve for reasons previously stated by Mr. Nott.

Mr. Furriel Approve:

I vote to approve for reasons previously stated.

Mr. Edwards Approve:

It is a reasonable request and I vote to approve as well.

3. (R-10) Brian and Catherine Gervelis (owners) of 141 Dawn Marie Drive (23-71) seek a dimensional variance for the rear yard setback (Art. IV Sec. B) construct a 16' x 32' in ground swimming pool.

The Chair called the petitioner to the dais. He told him that Ms. Pavlakis will have to recuse herself from this petition, so a quorum will not be present to hear the petition tonight.

A motion was made by Mr. Nott and seconded by Mr. Hall to continue the petition of Brian and Catherine

Gervelis of 141 Dawn Marie Drive, map 23, lot 71 to be heard first at the regular meeting of June 21, 2018. The motion carried 4 – 0 with Ms. Pavlakis recused from voting.

2. (R-20) Michael Sylvia (owners) of 0992 Narragansett Ave (77-97) seek dimensional variances for the front and side yard setback (Art. IV Sec. B) and a special use permit (Art. VI Sec. A.4) to construct a 16' x 6' porch and stairs on a substandard lot of record.

Michael Sylvia, whose summer residence is 0992 Narragansett Avenue, Prudence Island, was sworn in. Mr. Sylvia said that he wants to do a deck and stairs so he can enjoy the water view. He will need a front yard setback on the east of 13' for the stairs and a side yard setback on the north of 2.5'. He said that many people on Prudence have this same type of deck. It is 6' x 16' porch with stairs.

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

Mr. Hall Approve/Approve:

I approve the dimensional variances for the front and side yard and the special use permit. It makes perfect sense and to deny would be more than a mere inconvenience.

Mr. Nott Approve/Approve:

This will be an improvement to the house. Many other houses have decks and to deny is more than a mere inconvenience, so I approve the dimensional variances and the special use permit.

Ms. Pavlakis Approve/Approve:

I approve both for reasons previously stated.

Mr. Furriel Approve/Approve:

I approve the dimensional variances and the special use permit. It is a reasonable request.

Mr. Edwards Approve/Approve:

Many houses on Narragansett have porches right on the property line, so I approve.

4. (C-1) Cora Zhang, Jin Jin You and Wan Xin Dong (owners) of 3093 East Main Road (29-104) seek a special use permit to convert the use of an existing building from office use to a mixed use (Art. V Sec.A.11.) of a residential dwelling unit and office unit. No additional development is proposed.

Cora Zhang, 93 Bowdoin Street, Lawrence, MA was present representing the owners and was sworn in. Ms. Zhang said that they wanted to revert the building to mixed use and rent it as a home with a business. They would like for it to be a three-bedroom home with an office, rather than for it to be strictly commercial. The Chair stressed that it must have a business in the building.

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

Mr. Hall Deny:

I believe the front office is too small for a business – there is all that residence and a small office, so I deny.

Mr. Nott Deny:

I concur with Mr. Hall. The office is not even secondary to the use – a 10' x 18' is not rentable for most businesses. This seems like a two-family home. Deny.

Ms. Pavlakis Deny:

I agree with Mr. Hall and Mr. Nott. My vote is to deny.

Mr. Furriel Deny:

I also deny. It is a busy street surrounded by businesses and that much residential use is not suitable.

Mr. Edwards Deny:

I do agree with my colleagues – it has not been set up to be a business and unfortunately the ordinance doesn't allow for the house to be just a residence.

5. (I-L) Neil and Jennifer Hayes (owners) of 1302 East Main Road (53-13) seek dimensional variances for lot coverage and rear yard setback (Art. IV Sec. B) and a special use permit (Art. VI Sec. A.4) to construct a 7.5' x 8' deck and stairs off a detached garage on a substandard lot of record.

Neil Hayes, 380 Windstone Drive was sworn in. Mr. Hayes said that he has a new garage and the 2nd story is too high to jump out of if there is a fire. He would encroach another 7' for the stairs and landing. He stated that he will not have an apartment on the second floor. Mr. Hayes said that he will make sure the property gets cleaned up and will move the construction equipment that is currently on it.

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

Mr. Nott Deny:

Neil Hayes is before the Board for map 55, lot 13 seeking dimensional relief and a special use permit for a set of stairs and landing for fire safety. I do not believe that what he is requesting is the least relief necessary for fire safety. There are two landings and the first landing is 8' x 7.5'. I deny the petition on the grounds that if it was for fire safety this is not the least relief necessary.

Mr. Hall Approve/Approve:

If he is trying to get nets up the stairs, then this is reasonable, so I approve.

Ms. Pavlakis Approve/Approve:

I agree with Mr. Hall and I approve.

Mr. Furriel Approve/Approve:

I approve. I trust you'll use the least relief necessary.

Mr. Edwards Approve/Approve:

The Chair approves – it would be hard to get up the stairs with heavy nets.

6. (R-30) William Harnett (owner) of 126 Harvest Drive (64-157C) seeks a dimensional variance (Art. IV Sec. B) to construct a 16' x 20' shed within a rear yard setback.

William Harnett, 126 Harvest Drive was sworn in. Mr. Harnett would like a dimensional variance to build a shed and pavilion building 10' away from his rear property line. He would like to put in a pool and wants to fence it separately, but does not want to put it close to the house because he is concerned that it would cause water runoff to go into his basement. The shed (enclosed) would be 16' x 10'. The open pavilion would be 16' x 10'

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

Mr. Nott Approve:

William Harnett of map 64, lot 157C is before the Board seeking dimensional relief to build a 16' x 20' combination shed/pavilion. Testimony was given that the shed will be 16' x 10' and the pavilion will be 16' x 10'. There is ample property and Mr. Harnett wants to put a pool in. To deny amounts to more than a mere inconvenience and I approve.

Mr. Hall Approve:

It is a reasonable request and I approve.

Ms. Pavlakis Approve:

I also approve for reasons previously given.

Mr. Furriel Approve:

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It's reasonable and I approve.

Mr. Edwards Approve:

I also approve. It is a reasonable request and I agree with my colleagues.

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

Respectfully submitted,

Barbara A. Ripa, Recording Secretary