

**Town of Portsmouth  
Zoning Board of Review**

2200 East Main Road / Portsmouth, Rhode Island 02871

[www.portsmouthri.com](http://www.portsmouthri.com)

(401) 683-3611

**SPECIAL MEETING**

**July 12, 2018**

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

**MEMBERS ABSENT:** Mr. Eric Raposa, First Alternate (arrived 7:04 PM)

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

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

**I. MINUTES**

A motion was made by Mr. Nott and seconded by Mr. Hall to accept the minutes of the April 19, 2018 and May 17, 2018 regular meetings as written. The motion carried 4-0. Mr. Borden was not present for either meeting.

**II. CHAIRMAN'S REPORT**

There was no Chairman's report.

**III. OLD BUSINESS**

1. (R-10) Brian & 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.

Ms. Pavlakis recused herself because she is an abutter.

Catherine Gervelis, 141 Dawn Marie Drive, was sworn in. Ms. Gervelis stated that she is requesting the dimensional variance for the setback due to her irregular shaped backyard. The backyard is more triangular in shape so the variance would be needed for one corner of the pool that she wishes to put in. She is requesting the variance so that they do not need to disturb the existing patio or the bulkhead that is already in place. Ms. Gervelis stated that there will be a 6-foot solid wood fence around the pool and there is a row of arborvitaes along the back-property line.

Mr. Asciola clarified that the property is in a R-20 and not a R-10 zoning district, which means the required setbacks are 30 feet for the front and rear yards and 15 feet for the side yard.

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

Mr. Nott: Approve:

Catherine Gervelis of map 23 lot 71 seeks a 14-foot dimensional variance for the rear yard setback and a 3 foot dimensional side yard setback to construct a 16' x 32' inground swimming pool. Applicant has given testimony that due to the irregular shaped yard and the placement of their septic and the location of the house and property this is the only logical place to put the pool. The neighbor next door has a pool and there are other pools in the neighborhood making this is a reasonable request. To deny amounts to more than a mere inconvenience and would deny them an otherwise legally approved use, I vote to approve the dimensional variance.

Mr. Hall Approve:

I vote to approve for reasons previously stated.

Mr. Borden Approve:

I agree with Mr. Nott and Mr. Hall. This is a reasonable request and to deny the petition would amount to more than a mere inconvenience. The petitioner is within the lot coverage and it is an inground pool and not a structure so it will be level with the ground. I vote to approve.

Mr. Furriel Approve:

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

Mr. Edwards Approve:

As Chair, I vote to approve for reasons previously stated. Chair believes that it is a reasonable request.

2. (R-30) Sakonnet Bluffs, LLC. (applicant) and Rhode Island Nurseries, Inc. (owner) for 0 East Main Rd (57-10 at East Main & Glen Rd) & 0 Glen Rd (59-5 at Glen Rd & Frank Coelho Dr.) request special use permits to display 3 signs that do not conform to the requirements of the ordinance (Art. IX Sec. B.6.c)).

After reviewing the record, we have allowed the petitioner to move that petition to next week's meeting. Agenda states that this will be heard tonight but it will not be heard tonight.

3. (R-10) Chris Fonseca. (owner) requests a one-year extension to the special use permit and dimensional variances granted by the Zoning Board of Review on March 21, 2013 and recorded in Book 1601 Pages 221- 222 in the Portsmouth Land Evidence Records on April 12, 2013. The development is proposed for 0 Riverside St. (20-255A).

Chris Fonseca, 4 Juniper Court, Bristol, was sworn in. Mr. Fonseca wishes to extend his variance that he received in 2013. The economy is up and swinging and he would like to begin to put a house up on his lot. His variance was extended previously through the tolling act.

Mr. Gavin explained that the tolling act was a statute passed by the State to extend all local and state approvals. The statute was renewed every year until last year where it was not passed. Since it was not passed, now applicants need to come back before the board to request their extensions.

Mr. Nott made a motion seconded by Mr. Hall to allow a 1-year extension on a previously granted variance. Motion carried 5-0.

#### **IV. NEW BUSINESS**

Mr. Borden brought to the attention of the board that the petition for Sakonnet Bluffs and Rhode Island Nurseries, Inc. was not on the agenda for the next meeting. Mr. Asciola will update the agenda to reflect this petition for the July meeting.

1. (R-30 / R-60) New England Grass Fed, LLC (applicant) and Z Family Farm, LLC (owner) for 0 Jepson Rd (60-22) 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.

Patrick Beck, 248 Spring Street, Hope Valley, was sworn in. Mr. Beck would like to have farm-to-table dinners during the summer to feature their products. Mr. Beck stated that they would no longer be using the east entrance due to some objections. But would access the site from Jepson Lane where there is parking for 35 cars. The dinners could be held in one of two locations; either be on the west side where the farm stand is along Jepson Lane or if possible to have in the cow field across the pond. Not sure of the exact location of the dinners because Mr. Beck called Newport Water Company who owns the causeway and they have easement. Mr. Beck asked if they could use that causeway to have their dinners in the pasture on the other side. Newport Water said they apply a policy of neglectful enforcement and did not receive specific permission to cross the causeway. Mr. Beck stated that there could possibly be one in August but most likely there would be one in September. The goal is to have these dinners once a month during the summer. Mr. Beck would like to have these farms-to-table dinners just like other farms have events to supplement their farms. If alcohol is to be present at the event it will be served by the catering company that is hired. The catering company would be TIPS certified so that would be able to serve the alcohol. Mr. Beck stated that the farm-to-table dinners are not a gateway to have weddings but to support their agricultural activity.

Chair called for abutters or interested parties.

Attorney Sean Bouchard, Silva Thomas Martland & Offenberg, represents the Lacerdas. Attorney Bouchard says there are no objections from the Lacerdas now that Jepson Lane will be used for entrance and parking.

Mr. Nott read in a letter written by Mr. Paul Zurlo, owner of Z Family Farm, who is in support of the Special Use Permit for farm-to-table dinners.

Mr. Nott proposed four conditions:

- 1) The maximum number of guests per event not including staff will be 50.
- 2) There will be no amplified music allowed.
- 3) If alcohol is served, it must be served by TIPS certified servers.
- 4) The event time will be between 4-8 pm.

Mr. Hall proposed a fifth condition of having a police detail if alcohol is being served.

Mr. Beck stated that if a police detail is required it would be a huge hurdle for them due to the cost of a weekend detail and that the board might as well deny their petition if they pass this condition.

Mr. Gavin stated that a police detail is used for traffic flow and the number of attendees at an event not to monitor drinking.

Four conditions submitted by Mr. Nott and one condition submitted by Mr. Hall seconded by Mr. Borden to discuss the conditions and vote on the first four conditions and then vote separately on the police detail condition.

First four conditions were approved 5-0. Fifth condition was denied 1-4.

Mr. Borden                      Approve:

The petition for farm-to-table dinners is under the special use criteria under a not so new agriculture amendment that the council had passed. I am in support of anything that will continue to generate revenue for agriculture that will not adversely affect the community or neighbors involved. I believe this is a great concept and great use of the land. I do not believe this will be a nuisance, a hazard, or have any impact on traffic. I do not have any issue with the alcohol being served by TIPS certified servers. Mr. Beck has done a good job making his presentation I vote to approve.

Ms. Pavlakis                      Approve:

I agree with Mr. Borden and I approve.

Mr. Nott                              Approve:

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

Mr. Hall                              Approve:

I vote to approve for reasons previously stated.

Mr. Edwards                      Approve:

The Chair votes to approves.

2. (R-30) Sea Rose Montessori Coop School (applicant) St. Mary's Episcopal Church (owners) of 324 East Main Rd (61-3) seek a special use permit to convert the use of an existing building to a

private elementary school (Art. V Sec. B.2.) with the capacity of 49 students. No additional development is proposed.

Suzanne McDonald, 641 Mitchells Lane, Middletown, the board president for Sea Rose Montessori Coop School was sworn in. Ms. McDonald stated that a Montessori school is more child led and centers based. The school has certified teachers employed. The school is outgrowing its current location. The school wants to move locations so that it may accommodate students on the waitlist.

Paul Westrom, 324 East Main Road, Junior warden for St. Mary's Church was sworn in. Mr. Westrom stated that the building has been a thrift store for the past five years and prior to that the building held the parish offices, adult Sunday school, board meetings and coffee hours.

Mr. Edwards asked how many faulty/ staff would there be? Are the children dropped off? What are the hours of operation? Is it Monday Through Friday? Ms. McDonald answered the anticipation would be at most five faulty/staff. The children would also be dropped off by parents Monday through Friday 8am- 5 pm. With these hours there would be no overlap with the church or church operations.

Chair called for abutters or interested parties.

Paul Westrom, 324 East Main Road, as an abutter has no objection to the Montessori school being at St. Mary's Church.

Mr. Nott                      Approve:

Going through the special use criteria:

- a) The desired use will not be detrimental to the surrounding area;
- b) It will be compatible with neighboring land uses;
- c) It will not create a nuisance or a hazard in the neighborhood- Mr. Nott said that this building is well away from any abutters and there are no abutters opposing;
- d) Adequate protection is afforded to the surrounding property by the use of open space and planting;
- e) Safe vehicular access and adequate parking are provided;
- f) Control of noise, smoke, odors, lighting and any other objectionable feature is provided;
- g) Solar rights of the abutters are provided for;
- h) The proposed special use will be in conformance with the purposes and intent of the comprehensive plan;
- i) The health, safety and welfare of the community are protected; and
- j) It is consistent with the Purpose of Design Standards.

I believe this request meets all the criteria and I vote to approve.

Mr. Hall                      Approve:

I approve and I think it is a great fit for the building.

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Mr. Borden            Approve:

I approve for reasons previously stated by Mr. Nott and Mr. Hall.

Ms. Pavlakis        Approve:

I approve and I think it is very much needed.

Mr. Edwards        Approve:

It is great to see the board so overwhelmingly in support of a petition. As Chair, I vote to approve.

Unanimously approved.

A motion to adjourn was made by Mr. Nott and seconded by Mr. Borden. The motion carried 5-0. The meeting was adjourned at 7:48 p.m.

Respectfully submitted,

Tracy Adams, Recording Secretary