



Town of Portsmouth

ZONING BOARD OF REVIEW
2200 East Main Road / Portsmouth, Rhode Island 02871
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(401) 683-3611

ZOOM MEETING

MINUTES

JANUARY 21, 2021

James Nott, Chair opened the Zoom hybrid meeting at 7:03 p.m. in the Town Council chambers.

I. ROLL CALL

MEMBERS PRESENT IN PERSON OR VIA ZOOM: Mr. James Nott, Chair, Mr. John Borden, Vice Chair, Mr. Benjamin Furriel, Secretary, Ms. Kathleen Pavlakis, Mr. Eric Raposa, Ms. Sue Horwitz, First Alternate (7:05 p.m.) and Mr. William Wladyka, Second Alternate

MEMBERS ABSENT: None

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

II. MINUTES

A motion was made by Mr. Borden and seconded by Ms. Pavlakis to accept the minutes of October 15, 2020 as presented. The motion carried 6 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Mr. Raposa, Mr. Wladyka and Mr. Nott voting in favor.

III. CHAIRMAN'S REPORT

The 2021 Annual Calendar of meetings was submitted.

IV. OFFICER ELECTIONS

John Borden nominated James Nott for the position of Chair. There were no other nominations. Mr. Nott was unanimously voted in as Chair.

James Nott nominated John Borden for the position of Vice Chair. There were no other nominations. Mr. Borden was unanimously voted in as Vice Chair.

John Borden nominated Ben Furriel for the position of Secretary. There were no other nominations. Mr. Furriel was unanimously voted in as Vice Chair.

Ms. Pavlakis announced that her term on the Zoning Board is up soon and she will not be seeking reappointment. Board members thanked her for her service.

Before moving on to Old Business, Mr. Nott addressed agenda continuances:

Old Business #2 is seeking new lot lines and is on the Planning Board agenda, so is asking to continue the petition to the February meeting.

A motion was made by Mr. Borden and seconded by Ms. Pavlakis to continue the petition of Chris Fagan (Applicant) and Fred Sousa and Sherri Feld (Owners), map 77, lot 72E to the regular Zoning Board meeting of February 18, 2021. The motion carried 5 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Mr. Raposa and Mr. Nott voting in favor.

New Business #7 is asking to continue their petition to the February meeting.

A motion was made by Mr. Borden and seconded by Ms. Pavlakis to continue the petition of Aquidneck Light LLC (Applicant) and Duane Horton (Owner), map 29, lot 113B to the regular Zoning Board meeting of February 18, 2021. The motion carried 5 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Mr. Raposa and Mr. Nott voting in favor.

V. OLD BUSINESS

V.I. (R-20) Marianne Dornfeld (Applicant) and Rick Realty, LLC (Owner) Seek a Variance to Construct a Duplex on a Lot not Fronting on a Public Street (Art. III Sec. D.2.) Located at 557 Bristol Ferry Road (12 - 54).

Mr. Nott said this was continued from November and the last time the Board met abutters had concerns about runoff.

Attorney John McCoy, Providence, was present representing Marianne Dornfeld. Mr. McCoy said they heard the comments from abutters and the Board. New plans have been submitted. There is now a large raingarden and landscape buffer presented in the plan.

James Traglia, Principe Engineering said the Board had a plan dated 11/25/20, but he emailed Revision #2 1/20/2021 with a larger raingarden and the proposed landscape buffer.

There was a letter in the file from abutter Lisa Rego asking for a continuance from the December Zoning Board meeting, but no other new letters.

Mr. McCoy said Ms. Dornfeld is seeking only a variance for a lot not fronting on a public street.

The Chair called for abutters or interested parties. The following abutters spoke:

Lisa Rego, 89 Linda Avenue asked if the water flow was natural or with a pipe. Pipe. She asked if the raingarden will need maintenance. Yes, it will need maintenance. There is a required maintenance plan included in their plans.

Paul Dirnberger, 48 Windward Drive asked if they have to update the cesspool. Yes, it has to be remediated.

The Chair said Marianne Dornfeld is before the Board with map 12, lot 54 requesting a variance to construct a duplex **on a lot not fronting on a public street**. Approved plan is 1/20/2021 Rev #2.

Dimensional Variance(s) - Setback(s)	Variance to Construct on Lot Not Fronting on Public Street	Special Use Permit
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Mr. Borden	Not Applicable	Approve	Not Applicable
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Mr. Borden said this is a dimensional variance and it meets the criteria for the R20 zoning district. To deny would amount to more than a mere inconvenience, so he approves.

Mr. Furriel	Not Applicable	Approve	Not Applicable
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Mr. Furriel voted to approve for reasons cited by Mr. Borden.

Ms. Pavlakis	Not Applicable	Approve	Not Applicable
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Ms. Pavlakis approved the dimensional variance for reasons stated by her colleagues.

Ms. Horowitz	Not Applicable	Approve	Not Applicable
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Ms. Horowitz approved the dimensional variance for reasons previously stated.

Mr. Nott	Not Applicable	Approve	Not Applicable
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Mr. Nott approved the dimensional variance, and said to deny would deny the petitioner’s use of a legal lot.

V.II. (R-20) Chris Fagan (Applicant) and Fred Sousa and Sherri Feld (Owners) Seek Dimensional Variances for Front, Rear and Side Yard Setbacks and Lot Coverage (Art. IV, Sec. B) as well as

a Variance to Construct a Dwelling on a Lot not Fronting on a Public Street (Art. III Sec. D.2.) and Special Use Permit to Construct a 1,280 Square Foot Dwelling and 800 Square Foot Deck on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 0 Chase Avenue, Prudence Island (77 - 72E).

Continued to the February 18, 2021 regular meeting prior to beginning Old Business.

IV.III. (R-10) Kristin Miller (Owner) Seeks Dimensional Variances for Front, Side and Rear Yard Setback and Lot Coverage (Art. IV Sec. B) to Construct a Single Family Dwelling on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 34 Aquidneck Avenue (24 - 166).

Attorney Cort Chappell, 171 Chase Road, was present on Zoom representing Kristin Miller. Kristin Miller, 10 Fairgreen Lane, Greenwich, CT was also present on Zoom and sworn in.

Mr. Chappell said Ms. Miller has bought the property and will use it personally. There are pre-existing conditions including decks, stairs, and the main house. Much is made of concrete. The house will be raised slightly to be compliant with FEMA. The petitioner requested a 3' front yard setback on the west, a 1' side yard setback on the north for an entry stair, a 20' rear yard setback on the east, a lot coverage variance of 18.7% and a special use permit.

The lot coverage requested will actually be reduced, and Mr. Chappell believes it to be pre-existing so it does not need a variance. Mr. Chappell reviewed the special use permit criteria. After discussion with the Board, it was decided the rear yard setback on the east should be amended from 20' to 12', and the lot coverage variance should be removed from the petition. The Chair asked for a motion to amend the petition.

A motion was made by Mr. Borden and seconded by Ms. Pavlakis to amend the petition to remove the lot coverage request and change the rear yard setback variance from 20' to 12' to the steps as on the plan. The motion carried 5 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Mr. Raposa and Mr. Nott voting in favor.

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

Mr. Nott said Kristin Miller is before the Board with map 24, lot 166 requesting a **special use permit for a substandard lot of record, dimensional setback variances of 3' for the front yard, 1' for the side to the north, and 12' for the rear yard to the steps as on the plan.**

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permit
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Mr. Borden **Approve** **Not Applicable** **Approve**

Mr. Borden said he approved the special use permit – Mr. Chappell testified it met the criterion and it meets the ordinance. Regarding the dimensional variances of 3’ in the front, 1’ on the side and 12’ in the rear for the steps, they are building in the exact footprint and are constrained by building in an R-10 zone with a small lot, so he approved.

Mr. Furriel **Approve** **Not Applicable** **Approve**

Mr. Furriel voted to approve the special use permit and the dimensional variances for reasons cited by Mr. Borden.

Ms. Pavlakis **Approve** **Not Applicable** **Approve**

Ms. Pavlakis approved the dimensional variances and special use permit for reasons previously stated.

Mr. Raposa **Approve** **Not Applicable** **Approve**

Mr. Raposa approved the three dimensional variances and special use permit for reasons previously stated.

Mr. Nott **Approve** **Not Applicable** **Approve**

Mr. Nott approved the special use permit, and the three dimensional variances for reasons stated by Mr. Borden.

The Chair called for a break at 8:12 p.m.
 The Chair called the meeting back into order at 8:20 p.m.

VI. NEW BUSINESS

VI.I. (R-20) Edward Aldrich (Owner) Seeks a Dimensional Variance for Side Yard Setback (Art. IV Sec. B) to Construct an Addition to His Existing Single Family Dwelling Located at 0306 Narragansett Ave on Prudence Island. (82 - 9).

Edward Aldrich, 0306 Narragansett Ave, Prudence Island was sworn in on Zoom. Mr. Aldrich said he needed to construct an addition to provide a ground floor bedroom and bathroom due to his wife’s health.

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

The Chair said Edward Aldrich is before the Board with map 82, lot 9 requesting a **10' side yard setback variance to the south** for the of construction a proposed addition for handicap access.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permit
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Mr. Borden	Approve	Not Applicable	Not Applicable
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Mr. Borden said he approved the side yard variance of 10'. It is reasonable and to deny the petitioner to expand would amount to a hardship more than a mere inconvenience.

Mr. Furriel	Approve	Not Applicable	Not Applicable
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Mr. Furriel voted to approve for reasons cited by Mr. Borden.

Ms. Pavlakis	Approve	Not Applicable	Not Applicable
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Ms. Pavlakis approved the dimensional variance for reasons previously stated.

Mr. Raposa	Approve	Not Applicable	Not Applicable
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Mr. Raposa approved the dimensional variance for reasons stated by his peers.

Mr. Nott	Approve	Not Applicable	Not Applicable
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Mr. Nott approved the dimensional variance for reasons given by Mr. Borden.

VI.II. (I-H) Alec R. Tesa (Owner) Seeks to Amend a Special Use Permit for The Carnegie Harbor Condominium Development which was Approved Initially on October 4, 2001 and Further Amended on January 23, 2003 and October 15, 2009. The Proposed Amendment is to Merge Two Adjacent Limited Common Elements Identified as Units 15 and 16 of The Cottages at Carnegie Master Condominium Located on Carnegie Abbey Lane (26 - 2B-15 and 26 - 2B-16).

Attorney Danielle Dufault, Adler Pollock & Sheehan PC, One Citizens Plaza, 8th Floor, Providence, was in attendance on Zoom representing Alec Tesa. Ms. Dufault said Mr. Tesa is seeking an amendment to the special use permit issued to Carnegie Harbor Master Condominium so he can merge map 26, lots 2B-15 and 2B-16. He proposes to then build a single family home on the merged lots. The applicant proposes to build a six-bedroom home, an allocation of three-bedrooms for each lot allowed per unit in the Cottages Sub-Condominium. The Condominium Association has approved it. The Fire Marshal

approved it today. The Zoning Board would like a copy of that letter. She is hoping the new merged lot would be called plat 26 - 2B-16.

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

The Chair said Alec Tesa is before the Board with map 26, lots 2B-15 and 2B-16, seeking **an amendment to the special use permit** issued to Carnegie Harbor Condominium Development in order to merge plat 26, lots 2B-15 and 2B-16 into one lot.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Amendment to Special Use Permit
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Mr. Borden	Not Applicable	Not Applicable	Approve
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Mr. Borden said the petitioner has met all the criterion for a special use permit approval. It's residential and it should be approved.

Mr. Furriel	Not Applicable	Not Applicable	Approve
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Mr. Furriel voted to approve the amendment for reasons cited by Mr. Borden.

Ms. Pavlakis	Not Applicable	Not Applicable	Approve
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Ms. Pavlakis voted to approve the amendment to the special use permit for reasons cited by Mr. Borden.

Mr. Raposa	Not Applicable	Not Applicable	Approve
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Mr. Raposa approved the amendment to the special use permit for reasons previously stated.

Mr. Nott	Not Applicable	Not Applicable	Approve
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Mr. Nott approved the amendment to the special use permit for reasons previously stated by Mr. Borden.

VI.III. (R-10) Cort B. Chappell (Applicant) and Rosemary Holiday (Owner) Seek a Dimensional Variance for Front Yard Setback (Art. IV, Sec. B) and a Special Use Permit to Construct a Portico and Steps on an Existing Dwelling on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 97 Attleboro Avenue (3 - 23).

Attorney Cort Chappell, 171 Chase Road, was present on Zoom representing Rosemary Holiday.

Rosemary Holiday, 97 Attleboro Avenue, was sworn in on Zoom.

Mr. Chappell said the applicant would like to convert the existing ground floor of the structure back to a garage, remove the current portico, and construct a new portico and steps. She requires a special use permit and a front yard setback variance on the north of 2'. Mr. Chappell said the petition met all special use permit criteria and reviewed them with the Chair.

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

The Chair said Cort B. Chappell (Applicant) and Rosemary Holiday (Owner) is before the Board with map 3, lot 23 seeking a **2' front yard setback variance** and a **special use permit** to construct a portico and steps.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permit
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Mr. Borden	Approve	Not Applicable	Approve
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Mr. Borden said he approves the special use permit required for a non-conforming lot of record as the petitioner testified it met all the special use criterion. The 2' front yard setback variance to the north is reasonable. A garage is a reasonable accessory use and to deny would amount to more than a mere inconvenience.

Mr. Furriel	Approve	Not Applicable	Approve
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Mr. Furriel voted to approve the special use permit and dimensional variance for reasons cited by Mr. Borden.

Ms. Pavlakis	Approve	Not Applicable	Approve
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Ms. Pavlakis voted to approve the special use permit and dimensional variance for reasons previously stated.

Mr. Raposa	Approve	Not Applicable	Approve
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Mr. Raposa voted to approve the special use permit and dimensional variance.

Mr. Nott	Approve	Not Applicable	Approve
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Mr. Nott approved the special use permit and 2' dimensional variance for reasons previously stated by Mr. Borden.

VI.IV. (R-10) Coastal Properties LLC (Owners) Seek a Dimensional Variance for Lot Coverage (Art. IV Sec. B) to Construct a 30' X 8' Deck on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 23 Canton Avenue (3 - 50).

Attorney Francis S. Holbrook, 122 Touro Street, Newport and managing member Tracy Wilkinson of Coastal Properties LLC was present with him.

As pictures were shown to the Board of the prior condition of the property, Mr. Holbrook explained that the property had a large unpermitted deck and an unpermitted pool on it. All the deck, the pool, and trash has been removed. If the deck and pool had been built with required building permits, the lot coverage would have been 39.4%, but since no permits were used, existing lot coverage looked like 23.75%.

The proposal now is to put a new 8' X 30' deck off the rear of the house. There is a 4' drop in elevation, and the deck is needed for egress and safety. This will bring lot coverage to 29.75%. It is a 4,000 square foot lot in an R-10 zone.

Mr. Holbrook went through the special use permit criteria and testified the deck would meet all special use permit criteria.

The Chair called for abutters or interested parties.

Beth Lineberry, 44 Canton Avenue asked about stairs for the deck. Mr. Holbrook said the stairs would be included in the setbacks. She also asked about the septic, which he said was under where the deck will be, but the deck will be cantilevered out.

The Chair said Coastal Properties LLC is before the Board with map 3, lot 50, seeking a **9.75% lot coverage variance** and a **special use permit** to construct an **8' X 30' deck** on a nonconforming lot of record.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permit
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Mr. Borden

Not Applicable

Approve

Approve

Mr. Borden said regarding the special use permit, he approves as the criterion has been met. Regarding the lot coverage, the petitioner will upgrade the property and it will be a major improvement. It is a 4,000 square foot lot and the request is minimal. He applauds the petitioner.

Mr. Furriel **Not Applicable** **Approve** **Approve**

Mr. Furriel voted to approve the special use permit and lot coverage variance for reasons cited by Mr. Borden.

Ms. Pavlakis **Not Applicable** **Approve** **Approve**

Ms. Pavlakis voted to approve all applications for reasons previously stated.

Mr. Raposa **Not Applicable** **Approve** **Approve**

Mr. Raposa voted to approve the special use permit and dimensional variance.

Mr. Nott **Not Applicable** **Approve** **Approve**

Mr. Nott approved the special use permit and lot coverage variance. He said it was a reasonable request and would be an improvement.

Mr. Nott broke the agenda to move up agenda item New Business VI.VI.

VI.VI. (R-10) Rhonda Gilbert and Jeffrey Rose (Owners) Seek an Extension of the Dimensional Variances for Front Yard Setback and Number of Building Stories (Art. IV, Sec. B) and Special Use Permit to Renovate and Expand an Existing One (1) Bedroom Dwelling on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 155 Seaconnet Blvd. (21 - 118) as Approved on December 19, 2019.

Attorney Matthew Chappell, 171 Chase Road, was present for Rhonda Gilbert and Jeffrey Rose. Mr. Chappell said the Board had granted the applicants a unanimous decision, but due to CRMC and then COVID, things did not move along as expected, so they are asking for a one-year extension on the previous relief granted.

Mr. Nott said the members voting on the original application will vote on the extension.

A motion was made by Mr. Borden and seconded by Ms. Pavlakis to grant a one-year extension on variances previously granted to Rhonda Gilbert and Jeffrey Rose for map 21, lot 118. The motion carried 5 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Ms. Horowitz and Mr. Nott voting in favor.

VI.V. (R-20) Daniel Rubin (Applicant) and Marsha Leonard (Owner) Seek a Special Use Permit to Construct an Accessory Small Solar Energy System Array (Art. V Sec. A.3) Located at 182 Locust Avenue (51 - 197).

Mr. Nott asked the Town Solicitor Kevin Gavin if the Solar Ordinance was still in place. Mr. Gavin said the Ordinance is in effect.

No one was present from the petition to speak.

A motion was made by Mr. Borden and seconded by Ms. Pavlakis to continue the application of Daniel Rubin (Applicant) and Marsha Leonard (Owner) of map 51, lot 197 to the next Zoning Board meeting scheduled for February 18, 2021. The motion carried 7 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Mr. Raposa, Ms. Horwitz, Mr. Wladyka and Mr. Nott voting in favor.

VI.VII. (C-1) Aquidneck Light LLC (Applicant) and Duane Horton (Owner) Seek a Special Use Permit to Construct a Public Utility Structure (Art. V, Sec. B.5) at 0 East Main Road (29 - 113B).

This petition was continued to the February 18, 2021 meeting prior to the beginning of Old Business.

A motion to adjourn was made by Mr. Borden and seconded by Mr. Raposa. The motion carried 7 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Mr. Raposa, Ms. Horwitz, Mr. Wladyka and Mr. Nott voting in favor. The meeting adjourned at 9:25 p.m.

Respectfully submitted,

Barbara A. Ripa, Recording Secretary

Approved:  Date: May 20, 2021