



Town of Portsmouth

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

HYBRID IN-PERSON/ZOOM MEETING

MINUTES

FEBRUARY 18, 2021

John Borden, Vice Chair sat in as Chair in the absence of Mr. Nott and opened the hybrid in-person/Zoom meeting of the Zoning Board of Review at 7:05 p.m. in the Town Council chambers with roll call.

I. ROLL CALL

MEMBERS PRESENT IN PERSON OR VIA ZOOM: Mr. John Borden, Vice Chair, Mr. Benjamin Furriel, Secretary, Ms. Kathleen Pavlakis, Ms. Sue Horwitz, First Alternate and Mr. William Wladyka, Second Alternate

MEMBERS ABSENT: Mr. James Nott, Chair and Mr. Eric Raposa

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. Furriel and seconded by Ms. Pavlakis to accept the minutes of the meetings held July 16, 2020, August 20, 2020, September 17, 2020, and November 19, 2020 as presented. The motion carried 5 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Ms. Horwitz, and Mr. Wladyka voting in favor.

III. CHAIRMAN'S REPORT

There was no Chairman's Report.

IV. OLD BUSINESS

IV.I. (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).

Attorney Cort Chappell, 171 Chase Road, was present on Zoom representing Chris Fagan, applicant and Fred Sousa and Sherri Feld, owners. Mr. Chappell said there are four small adjacent lots on Prudence Island. Two and two need to be merged and then the lot lines need to be changed. The Executive Secretary of the Planning Board said it is a major subdivision.

Mr. Asciola believes the abutters deserve another mailing and the ability to review the new plans. Mr. Chappell did not want to have the petition withdrawn without prejudice and have to start from the beginning, and asked that they just re-notice the abutters. The Chair asked Board members for a motion.

A motion was made by Mr. Furriel and seconded by Ms. Pavlakis to continue the petition to the March 18, 2021 regular Zoning Board meeting. The motion carried 5 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Ms. Horwitz, and Mr. Wladyka voting in favor.

IV.II. (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).

There was no one present to speak on this petition. This petition was already continued from last month. Mr. Borden said they could continue one more month.

A motion was made by Mr. Furriel and seconded by Ms. Pavlakis to continue the petition to the March 18, 2021 regular Zoning Board meeting. The motion carried 5 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Ms. Horwitz, and Mr. Wladyka voting in favor.

IV.III. (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).

Theodore Pietz, 85 Glen Road, was present and sworn in on Zoom to discuss the application. There was a problem with the technology and understanding each other, however, so Tom Principe from Principe Engineering, registered professional engineer, who is working for Mr. Pietz, spoke on his client's behalf.

A motion was made by Ms. Pavlakis and seconded by Ms. Horwitz to recognize Mr. Principe as an expert in the field of civil engineering. The motion carried 5 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Ms. Horwitz, and Mr. Wladyka voting in favor.

Mr. Principe said his client is seeking a special use permit to construct a public utility structure. Mr. Principe said the property is located at the corner of Hillside and East Main Road. It is in a C-1 zoned district. Mr. Pietz would like to build a 24' X 24' building to house telecommunications equipment.

This petition was before the Planning Board and Design Review Board already and Mr. Principe believes it was given favorable recommendations from both boards. The Design Review Board’s comments were based mainly on landscaping, siding and overhead door recommendations, and Mr. Pietz is amenable to all recommendations. The Planning Board agreed with them. Public water is on Hillside Road, which is all residential. The use of this land will be low intensity. They are only seeking two parking spaces, and there may only be one person at the location once or twice a week to check on things.

There will be a 16 square foot sign and a transformer pad in the front, as well as a concrete pad for propane tanks for a generator. There will be a very small septic system and the design is with DEM now. Bio-retention rain gardens will be put in place, lights will be on the single access door only, and the garage doors will look like barn doors.

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

A motion was made by Mr. Borden and seconded by Ms. Pavlakis to incorporate the Design Review Board’s recommendations, specifically:

1. Hardy board or a similar material be used for siding
2. The overhead doors have a Colonial/barn-like look
3. The transformer pad be landscaped per the Design Review Board

The motion carried 5 – 0 with all members present voting in favor.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permit
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Mr. Furriel	Not Applicable	Not Applicable	Approve
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Mr. Furriel said he approved the petition; it is a commercial lot and this would be commercial development with minimum impact on the neighborhood.

Mr. Wladyka	Not Applicable	Not Applicable	Approve
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Mr. Wladyka voted to approve for reasons previously stated.

Ms. Horwitz	Not Applicable	Not Applicable	Approve
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Ms. Horwitz voted to approve for reasons previously stated.

Ms. Pavlakis	Not Applicable	Not Applicable	Approve
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Ms. Pavlakis approved the special use permit for reasons previously stated by Mr. Furriel.

Mr. Borden

Not Applicable

Not Applicable

Approve

Mr. Borden said it is a commercial lot, there will be minimal use, there are conditions in place, and it meets the special use permit criteria, so he approves.

V. NEW BUSINESS

V.I. (R-10) CDR Stephen Fulkerson (Owner) Seeks Dimensional Variances for Front Yard Setback and Lot Coverage (Art. IV, Sec. B) and a Special Use Permit to Construct Two Decks for an Existing Dwelling on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 48 Green Street (20 - 180A).

CDR Stephen Fulkerson, 48 Green Street was sworn in on Zoom. His wife, Katie Fulkerson, 48 Green Street was also sworn in. CDR Fulkerson said he has two staircases that are dilapidated and are entrances to the house. They need to be replaced. As they exist, they are nonconforming. They would like to make the decks more usable and easier to navigate by making them larger. The front deck would be 14'6" X 8' and the rear deck would be 10' X 10'. Including stairs, the decks would add 221 and 197 square feet, respectively. He would need a 9.4' front yard setback variance, a lot coverage variance of 10.06% and a special use permit to construct the decks on his nonconforming lot of record.

The Chair called for abutters or interested parties.

Chandler Lyell, 35 Green Street was sworn in. Mr. Lyell said after 48 Green Street was built (and the one next door) they went before the Zoning Board for decks and were both turned down. He doesn't see why it should now be back in front of the board again when it was already turned down. Mr. Borden said this was not the owner at the time of building and he does not believe that point is valid any longer. Mr. Lyell said other than that, he has an objection because the house was built too big for the lot to begin with.

Mr. Furriel read letters from abutters into the record: 41 Green Street, Mertz, in favor. Louise Guy of 57 Green Street supports. Steve Fullerton, 47 Green Street is in favor.

Mr. Borden walked the petitioner through the special use permit requirements. CDR Fulkerson testified his petition would meet all requirements.

CDR Stephen Fulkerson is before the Board with map 20, lot 180A requesting a **9.4' front yard setback variance, a lot coverage variance of 10.06%, and a special use permit** for the construction of two decks and stairways leading to them.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permit
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Mr. Furriel **Approve** **Approve** **Approve**

Mr. Furriel said he approved the special use permit and the dimensional variances. The current design is inconvenient, if not dangerous, and the proposed improves upon it in a minimal way. It does not dramatically alter the character of the home. The dimensional variance is necessary for the work. The need for the variances are not the result of the owner’s actions, as well as the need for the special use permit for the substandard lot of record.

Ms. Pavlakis **Approve** **Approve** **Approve**

Ms. Pavlakis concurred with Mr. Furriel and approved the special use permit and dimensional variances.

Mr. Wladyka **Approve** **Approve** **Approve**

Mr. Wladyka voted to approve the special use permit and dimensional variances for reasons previously stated.

Ms. Horwitz **Approve** **Approve** **Approve**

Ms. Horwitz voted to approve both applications for reasons previously stated.

Mr. Borden **Approve** **Approve** **Approve**

Mr. Borden said the decks will enhance the house and it’s a dangerous situation now. Many structures are close to the road in the area. The relief requests are minimal, so he approved.

The Chair called for a break at 8:00 p.m.

The Chair called the meeting back into order at 8:05 p.m.

V.II. (R-10) Zachary White (Owner) Seeks Dimensional Variances for Front and Rear Yard Setbacks and Lot Coverage (Art. IV, Sec. B) and a Special Use Permit to Construct a Wraparound Deck for an Existing Dwelling on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 85 Canton Avenue (3 - 72B).

Zachary White, 85 Canton Avenue was sworn in on Zoom. Mr. White has two 2nd floor decks which are structurally unsound. He has taken both down and would like one wraparound deck in their place. Lot coverage variance if relief is granted will be 13.5%. Mr. White is seeking dimensional variances for a

front yard setback on the west of 11’ and a rear yard setback on the east of 8’, which already exists. He also needs a special use permit for construction on a nonconforming lot of record.

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

Zachary White is before the Board with map 3, lot 72B, seeking an **11’ front yard setback variance to the west**, an **8’ rear yard setback variance to the east**, a **13.5% lot coverage variance**, and a **special use permit** to build a wraparound deck.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permit
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Mr. Furriel	Approve	Approve	Approve
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Mr. Furriel approved of the special use permit, the lot coverage variance and the setback variances. He said the rear yard won’t encroach more and the lot is small.

Ms. Horwitz	Approve	Approve	Approve
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Ms. Horwitz voted to approve the special use permit and dimensional variances for reasons previously stated.

Ms. Pavlakis	Approve	Approve	Approve
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Ms. Pavlakis agreed with Mr. Furriel and approved the special use permit and dimensional variances.

Mr. Wladyka	Approve	Approve	Approve
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Mr. Wladyka voted to approve the special use permit and dimensional variances for reasons stated by Mr. Furriel.

Mr. Borden	Approve	Approve	Approve
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Mr. Borden said it is a reasonable request. At first it might seem excessive, but the square footage of the lot is small. He has met the special use permit criteria. He approved all.

V.III. (R-20) Dena and Brad Landreville (Owners) Seek a Dimensional Variance for a Front Yard Setback (Art. IV, Sec. B) and a Special Use Permit to Construct a Front Porch for an Existing Dwelling on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 113 Pleasant Street (35 - 2).

Dena Landreville, 113 Pleasant Street was sworn in on Zoom. Ms. Landreville said she wanted to put on a farmer’s porch to spend more time with her family. They are on a corner lot and it will require an 11’ front yard setback. They also need a special use permit to construct the porch on a nonconforming lot of record.

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

Mr. Borden walked Ms. Landreville through the special use criterion. She testified her request would meet all criterion.

Dena and Brad Landreville are before the Board with map 35, lot 2 seeking an **11’ front yard setback variance** and a **special use permit** to construct a farmer’s porch.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permit
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Mr. Furriel	Approve	Not Applicable	Approve
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Mr. Furriel said a porch is a reasonable accessory use and a typical feature to enable a homeowner to enjoy their property and he approved of the special use permit and the 11’ front yard variance.

Ms. Pavlakis	Approve	Not Applicable	Approve
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Ms. Pavlakis approved both applications for reasons given by Mr. Furriel.

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

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

Mr. Borden	Approve	Not Applicable	Approve
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Mr. Borden said he approved for reasons previously stated. A porch is a reasonable accessory use.

V.IV. (R-10) Dan and Darci Acomb (Owners) Seek Dimensional Variances for Front, Side and Rear Yard Setbacks and Lot Coverage (Art. IV, Sec. B) and a Special Use Permit to Construct a

Detached Garage on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 1249 Anthony Road (1 - 20).

Dan Acomb, 1249 Anthony Road was sworn in on Zoom. Mr. Acomb is seeking dimensional variances and a special use permit to construct a detached two-car garage. His previous garage was struck by lightning and he would like to rebuild but enlarge it. The existing garage was built about 1940 and is 3' from the abutting property. The new garage will still be 3' from the abutting property, so it will need a 7' side yard setback variance on the northeast, a 4' front yard setback on the northwest, and a 12' rear yard setback on the east. Lot coverage variance requested will be 10.9%.

The Chair called for abutters or interested parties.

Kevin Weinfeld, 1250 Anthony Road was sworn in on Zoom and he asked how high the garage would be. Mr. Acomb said it would be about 20' tall.

Mr. Borden went through the special use permit criteria with Mr. Acomb. Mr. Acomb testified the petition would meet all special use permit criteria.

Dan and Darci Acomb are before the Board with map 1, lot 20 seeking a **4' front yard setback variance, a 7' side yard setback variance, a 12' rear yard setback variance, a 10.9% lot coverage variance** and a **special use permit** to construct a **24' X 24' garage** on a nonconforming lot of record.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permit
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Mr. Furriel	Approve	Approve	Approve
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Mr. Furriel approved the side, front and rear dimensional setback variances, the lot coverage variance and the special use permit. He said construction of a two-car garage is typical in this neighborhood. It is a reasonable choice and consistent. It is not detrimental to the neighborhood and the petitioner testified to the special use criteria.

Ms. Horwitz	Approve	Approve	Approve
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Ms. Horwitz voted to approve all applications for reasons previously stated.

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

Mr. Wladyka	Approve	Approve	Approve
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Mr. Wladyka voted to approve all applications for reasons previously stated by Mr. Furriel.

Mr. Borden **Approve** **Approve** **Approve**

Mr. Borden said he approved for reasons previously stated. It seems excessive, but the lot is small. It is consistent with existing conditions, and the petitioner has gone through the special use criteria and has met them.

Board members thanked Ms. Pavlakis for her service to the town as this is her last meeting.

A motion to adjourn was made by Mr. Furriel and seconded by Mr. Wladyka. The motion carried 5 – 0 with all voting in favor. The meeting adjourned at 8:38 p.m.

Respectfully submitted,

Barbara A. Ripa, Recording Secretary

Approved:  Date: July 15, 2021