



Town of Portsmouth

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

REGULAR ZOOM MEETING

MINUTES

MAY 21, 2020

MEMBERS PRESENT: Mr. James Nott, Chair, Mr. John Borden, Vice Chair, Mr. Benjamin Furriel, Secretary, Ms. Kathleen Pavlakis, Mr. Eric Raposa, Ms. Sue Horwitz, First Alternate and Mr. William Wladyka, Second Alternate

MEMBERS ABSENT: None

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. Nott called the meeting to order at 7:03 p.m. in the Town Council chambers. This is the first Zoom meeting of the Zoning Board of Review.

Mr. Nott and Mr. Wladyka both have a conflict regarding Old Business 1. They will recuse themselves and Mr. Borden will step into the Chair position for the petition.

I. MINUTES

II. CHAIRMAN'S REPORT

III. OLD BUSINESS

- 1. (R-60) The Preservation Society of Newport County (PSNC) (Owners) Seeks Two Special Use Permits for Agricultural Special Events (Art. V, Sec. C.5.) to Operate a Fall Lantern Program and to Host a Series of a Maximum of Sixteen (16) Private Events/Functions Located at The Green Animals Topiary Gardens, 354 and 380 Corys Lane (37 - 32).**

Attorney William Landry, Blish & Cavanagh, LLP, 30 Exchange Terrace, Providence was present on Zoom to represent the petitioner. Mr. Landry said the Preservation Society is seeking two special use approvals for this underutilized property. The first is for a Fall Lantern Program which would run from late October through early January. They envision a multi-generational event with glowing animal and plant figures in a sophisticated, tranquil array blending art and nature. Portsmouth Abbey and St. Philomena's are the only abutters and they would assist in the events with making parking available.

The second special use permit involves approximately 16 special events such as tented corporate and private events including weddings and receptions. These would be held from May to early October and the impacts would be limited to the property itself. The impact of the events would be moderate, since they would begin after the school day is over and end by 10 p.m.

Parking would be at St. Phil's for the Lantern Program and overflow parking would be at the Abbey. Controlled ticket sales for the Lantern Program would be utilized, there would be no lines. The Preservation Society is a good neighbor.

Bob Montgomery was introduced. Mr. Montgomery is from Canada and is a managing partner of All Park Solutions themed entertainment. Mr. Montgomery has been doing these events for over 10 years. The shows are pulling in 100,000 to 400,000 in 60 to 90 days. The statues are made out of porcelain, glass, and stretched silk and are hand-made. They cost several thousand each. They will be created specifically for Green Animals, and a theme will be chosen. There will be no lasting impact on the grounds. They recycle the metal and remove all structures completely. The majority of the lighting is no brighter than a 40-watt light bulb, so there should be no external impact on abutters. There is no sound pollution to the neighbors. The show stays the same throughout the entire run. If they are invited back the next year, there is a new story.

John Rodman of the Portsmouth Preservation Society spoke on Zoom. Mr. Rodman has been with the PSNC a little over 20 years. They would use a controlled inventory-ticket system. Low visits would be Mondays and high visits would be Saturdays. They will promote restaurants in Portsmouth. There will be free admission for Portsmouth residents on some nights.

James Burrell, CFO of PSNC who is in charge of money, taxes and insurance, was present on Zoom and said they have a community garden and have donated lots of food to Lucy's Hearth and other non-profits.

Phil Pelletier, facilities for PSNC had technical difficulties, so Mr. Landry discussed where the tent would be placed for the special events, how they would target 125 people but max out at 150, and would have the events over by 10 p.m., with all being in compliance with the noise ordinance.

Paul Bannon, BETA Group, was introduced on Zoom to testify as a traffic expert.

Mr. Borden asked board members if they would like to accept Mr. Bannon as a traffic expert. Mr. Raposa, Ms. Pavlakis, Ms. Horwitz, Mr. Furriel, and Mr. Borden all accepted Mr. Bannon as a traffic expert.

Mr. Bannon's opinion is that, based on existing and proposed conditions, adequate safe traffic can exist and be managed. He does not believe police details are necessary nor should there be a problem for emergency vehicle access to the property.

Trudy Coxe, Executive Director of the Preservation Society spoke on Zoom. Ms. Coxe said Green Animals is an undiscovered gem. She hopes the Zoning Board agrees these events will be a benefit to Portsmouth.

Mr. Borden read the May 11, 2020 Portsmouth Abbey School letter into the record for the Lantern event. Mr. Borden read the May 11, 2020 St. Philomena's 20-20 parking letter into the record.

Specifics Provided for Lantern Event:

- Hours of operations will be 4 p.m. to 9 p.m.
- Alcohol: Possibly – depends on Town of Portsmouth
- Security would be on site – both private and PSNC staff

Specifics Provided for Special Events:

- Hours of operations will be 5 p.m. to 10 p.m., possibly 7 days per week (open opportunity)
- The tent will be walled
- Up to 150 people will be in attendance
- Alcohol: Goes through caterer – but all will be TIPS certified
- Amplified music would comply with noise ordinance
- Security would be on site – both private and PSNC staff

The Chair called for abutters or interested parties.

Mil Kinsella, 74 Narragansett Blvd. was sworn in on Zoom. Ms. Kinsella said she supports the Preservation Society and believes the Lantern Event will be wonderful.

Mr. Landry reviewed the special use permit criteria and explained how these events fit the criteria.

A motion was made by Mr. Borden and seconded by Ms. Pavlakis to impose the following conditions on the petition should it be approved:

Lantern Event Conditions:

- Event will be limited to October through January
- Hours of operations will be 4 p.m. to 9 p.m.
- Special use permit is contingent upon receiving parking approval from St. Philomena and Portsmouth Abbey and should they not offer parking, the special use permit is no longer valid.

Special Events Conditions:

- Events will be limited to the first Sunday in May through October
- The season will be limited to sixteen (16) events
- Hours for events will be 4 p.m. to 10 p.m.
- Maximum number of guests is 150

- Special use permit is contingent upon receiving parking approval from St. Philomena and Portsmouth Abbey and should they not offer parking, the special use permit is no longer valid.

The motion to impose the conditions on the petition should it be approved carried 5 – 0 with Ms. Pavlakis, Ms. Horwitz, Mr. Raposa, Mr. Furriel, and Mr. Borden voting in favor.

The Preservation Society of Newport County is before the Board for map 37, lot 32, seeking **two special use permits** for Agricultural Special Events to operate a Fall Lantern Program and to host a series of a maximum of sixteen private events/functions located at The Green Animals Topiary Gardens.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permits
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Mr. Furriel	N/A	N/A	Approve
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I approve of each special use permit for the Lantern Program and the 16 private special events. The Green Animals property seems to be tailor-made for these types of events. I am confident the Preservation Society will be good neighbors and they have satisfied the special use criteria, so I approve.

Ms. Horwitz	N/A	N/A	Approve
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I also approve of both special use permits, subject to conditions, for reasons previously stated.

Mr. Raposa	N/A	N/A	Approve
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I approve of both for reasons previously stated by Mr. Furriel.

Ms. Pavlakis	N/A	N/A	Approve
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I approve of both special use permits for reasons previously stated by Mr. Furriel.

Mr. Borden	N/A	N/A	Approve
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It was a well-presented petition. I welcome these events and think they will do well. I am comfortable with the conditions in place and I think it will be exciting for Portsmouth. I approve both special use permits.

Mr. Nott took his place as Chair at 8:59 p.m. Mr. Furriel left the meeting at this time.

The Chair called for a recess at 9:00 p.m.
 The Chair called the meeting back into order at 9:05 p.m.

2. (R-20) Marion and Bryant Phillips (Owners) Seek Dimensional Variances for Side Yard Setback and Lot Coverage (Art. IV, Sec. B) and a Special Use Permit to Construct a Deck to an Existing Dwelling on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 0944 Narragansett Ave. on Prudence Island (77 - 75A).

Bryant Phillips was present and sworn in on Zoom to discuss adding a deck to the property they own on Prudence Island. The deck would require a 5% lot coverage variance and a 7' side yard setback variance to the east. Mr. Phillips said most of the deck would be within Zoning guidelines. Mr. Phillips gave testimony to the special use criteria and stated that the deck would meet all criteria.

The Chair called for abutters or interested parties. There were two letters in the file with no objections. No abutters wanted to speak during the meeting.

Mr. Nott said that Marion and Bryant Phillips, map 77, lot 75A, are seeking a **7' side yard setback**, a **special use permit** and a **5% lot coverage variance** to construct a deck.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permit
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Mr. Borden	Approve	Approve	Approve
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The petitioner walked through the special use permit criterion. The lot is 5,663 square feet in an R20 zone. It is a small lot, a deck is a reasonable request, and asking only 5% lot coverage for a 5,600 square foot lot in an R-20 zone is reasonable. To deny would amount to a hardship more than a mere inconvenience, so I approve. The special use permit has met all criteria, so I approve.

Ms. Pavlakis	Approve	Approve	Approve
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I agree with Mr. Borden and I approve of all variances and the special use permit.

Mr. Raposa	Approve	Approve	Approve
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I approve of all for reasons previously stated by Ms. Pavlakis.

Ms. Horwitz	Approve	Approve	Approve
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I approve of the special use permit and the two variances for reasons previously stated by Mr. Borden.

Mr. Nott **Approve** **Approve** **Approve**

It is a small variance request and I approve of both dimensional variances and the special use permit.

3. (R-20) Brian and Victoria Worcester (Owners) Seek Dimensional Variances for Front and Side Yard Setbacks and Lot Coverage (Art. IV, Sec. B) and a Special Use Permit to Construct a Deck and Access Ramp to an Existing Dwelling on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 013 Holbrook Ave. on Prudence Island (75 - 17).

Brian Worcester was present and sworn in on Zoom to discuss his petition for a special use permit, a 12' front yard setback on the east, a 9' side yard setback on the north, and a 12% lot coverage variance to construct a deck and ramp on their Prudence Island home. They need the ramp for their daughter who has cerebral palsy. The Chair walked through the special use permit criteria with Mr. Worcester and the petitioner testified the deck and access ramp would meet all criteria.

The Chair called for abutters or interested parties. There was one letter dated March 10, 2020 in the file from 022 Holbrook Ave. No other abutters wanted to speak during the meeting.

Mr. Nott said that Brian and Victoria Worcester, map 75, lot 17, are seeking a **12' front yard setback, a 9' side yard setback, a special use permit** and a **12% lot coverage variance** to construct a deck with an access ramp.

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

The petitioner has a 3,750 square foot lot in an R-20 zone, which is a hardship. A small deck is a reasonable, permitted use and although 32% lot coverage may seem excessive, given the size of the lot it is reasonable. The front and side variances are reasonable and to deny would amount to a hardship more than a mere inconvenience, so I approve. The special use permit has met all criteria, so I approve.

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

I approve of all variances and the special use permit for reasons given by Mr. Borden.

Mr. Raposa **Approve** **Approve** **Approve**

I approve of the special use permit and variances for reasons previously stated.

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

I approve of the variances and the special use permit for reasons previously stated by Mr. Borden.

Mr. Nott **Approve** **Approve** **Approve**

For reasons previously stated by Mr. Borden, I approve of the dimensional variances and the special use permit. It is a hardship.

4. (R-20) Aaron Polselli (Applicant) and Aaron Polselli, ET AL (Owners) Seek a Variance to Construct a Single-Family Dwelling on a Newly Created Lot Not Fronting on a Public Way (Art. III, Sec. D.2.) Located at 47 Westwood Dr. (37 - 17).

Attorney David Fox, 850 Aquidneck Avenue, Middletown was present on Zoom representing the petitioner. Mr. Fox said Mr. Polselli wants to subdivide his lot, with one lot which will not front on a public way. He owns the largest lot in the area, he did create that situation, and the Planning Board recommends the subdivision in their Advisory Opinion.

Mr. Nott read the Planning Board’s Advisory Opinion. No dimensional variances will be required for Mr. Polselli to construct a single-family home on the newly created lot except for a variance for frontage on a public way. A letter from Portsmouth Fire Marshal Reimels was read into the record.

The Chair called for abutters or interested parties. A letter from Martha Nadeau, 67 Souza Way was read into the record.

Due to Ms. Nadeau’s letter, a motion was made by Mr. Nott and seconded by Mr. Borden that, if approved, the driveway to newly created lot 17A off Souza Way would be staggered and not aligned with another driveway on Souza Way. The motion carried 5 – 0 with Mr. Nott, Mr. Borden, Ms. Pavlakis, Ms. Horwitz, and Mr. Raposa voting in favor.

Mr. Nott said Aaron Polselli, map 37, lot 17, is seeking a **variance to construct a single-family home on a newly created lot that does not front on a public way.**

Dimensional Variance(s) - Setback(s)	Dimensional Variance – New Lot Not Fronting on a Public Way	Special Use Permit
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Mr. Borden **N/A** **Approve** **N/A**

The subject is in an R-20 zone and the lot is in excess of the zoning. The owner should not be deprived of the right to subdivide. The petition is approved subject to the condition placed upon it.

Ms. Pavlakis **N/A** **Approve** **N/A**

I concur with Mr. Borden and I approve.

Mr. Raposa **N/A** **Approve** **N/A**

I approve for reasons stated by Mr. Borden.

Ms. Horwitz **N/A** **Approve** **N/A**

I agree with Mr. Borden and I approve.

Mr. Nott **N/A** **Approve** **N/A**

To deny amounts to more than a mere inconvenience. The request meets all the dimensional standards, so I approve.

5. (R-40) Cort B. Chappell (Applicant) and Howard Marsh (Owner) Seek a Variance to Construct a Lap Pool Without the Required Six-Foot Fence (Art. V Sec. I.5.) Located at 275 Farmland Dr. (65 - 3A).

Cort Chappell, Chappell & Chappell, 171 Chase Road was present on Zoom to represent the petitioner, Howard Marsh. Mr. Chappell said Mr. Marsh owns two main buildings on map 65, lot 3A, a house and conservatory. He would like a lap pool for exercise. He does not want a 6' fence around the pool or property due to the architecture of the homes. The petitioner plans to install a safety cover that will be lockable. Mr. Marsh is located in a gated community and Mr. Chappell showed board members the locations of nearest neighbors. He stated it is a unique estate and the located makes it safe.

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

Mr. Nott said Howard Marsh, map 65, lot 3A, is seeking a **variance to construct a lap pool without the required 6' fence.**

Dimensional Variance(s) - Setback(s)	Dimensional Variance – Construct Lap Pool Without Required Fence	Special Use Permit
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Mr. Borden **N/A** **Approve** **N/A**

This is a very unique petition. If it was anywhere else, I would deny but because of the security systems and brush and barriers in place, we have to trust the homeowner. It is also just a lap pool, which is not attractive to children, so given what has been proposed, it would be more than a mere inconvenience

to deny, so I approve. This approval is not meant to set a precedent in the town.

Ms. Pavlakis **N/A** **Approve** **N/A**

I concur with Mr. Borden. It all comes down to supervision.

Mr. Raposa **N/A** **Approve** **N/A**

I approve of the variance request for reasons previously stated.

Ms. Horwitz **N/A** **Approve** **N/A**

I approve of the variance, but with protest.

Mr. Nott **N/A** **Approve** **N/A**

I approve of the variance request for reasons stated by Mr. Borden.

A motion was made by Mr. Borden and seconded by Ms. Pavlakis to continue the following petitions to a special meeting of the Zoning Board to be held on May 28, 2020 at 7:00 p.m. via Zoom:

Old Business

- 6. Bullfrog Fit, LLC, Applicant Map 36, Lot 15

New Business

- 1. Andre Gonzalez, Owner Map 5, Lot 10
- 2. Timothy and Christine Downes, Owners Map 6, Lot 53
- 3. RI Design Build, Applicant Map 31, Lot 100.

The motion carried unanimously with Mr. Nott, Mr. Borden, Ms. Pavlakis, Ms. Horwitz, Mr. Raposa and Mr. Wladyka voting in favor.

A motion to adjourn was made by Mr. Borden and seconded by Mr. Raposa. The motion carried unanimously with Mr. Nott, Mr. Borden, Ms. Pavlakis, Ms. Horwitz, Mr. Raposa and Mr. Wladyka voting in favor. The meeting adjourned at 10:10 p.m.

Respectfully submitted,

Barbara A. Ripa, Recording Secretary

Approved: _____ Date: _____