



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

OCTOBER 15, 2020

James Nott, Chair was absent from the meeting, so the Vice Chair, John Borden, called the virtual Zoom meeting to order at 7:04 p.m. in the Town Council chambers and chaired the meeting.

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 approve as presented the minutes of the meetings of May 21, 2020, May 28, 2020, and June 18, 2020. The motion carried 5 – 0 with all members present voting affirmatively.

III. CHAIRMAN'S REPORT

IV. OLD BUSINESS

IV.I. (R-20) Michael and Karen Mulligan (Owners) Seek a Dimensional Variance for Rear Yard Shed Placement Requirement (Art. IV, Sec. C.5) to Construct an 8' x 8' Storage Shed Located at 58 Mill Lane (51 - 238).

Mr. Borden stated he is an abutter and will have to recuse himself from this petition, and since there are only five Board members in total at the meeting it will have to be continued until the November Board meeting because there will not be a quorum present to hear the petition once he recuses himself.

A motion was made by Mr. Furriel and seconded by Ms. Pavlakis to continue the petition of Michael and Karen Mulligan to the regular Zoning Board meeting in November. The motion carried 4 – 0 with all members present voting affirmatively and Mr. Borden recusing himself.

IV.II. (R-10) John Jay and Helena Massa (Owner) Seek a Dimensional Variance for Lot Coverage (Art. IV, Sec. B) to Construct a Garage Located at 35 Rhode Island Blvd (3 - 43).

John Jay Massa, 35 Rhode Island Blvd, was sworn in on Zoom. Mr. Massa said he is seeking relief for accessory use for a garage because he will exceed lot coverage by .6%. He’s already had to decrease the garage to get that low. He has no basement and no attic and he needs dry storage. On the first floor of the garage will be vehicles and on the second floor will be dry storage. There will be no electricity going to the garage.

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

John Jay and Helena Massa are seeking a **.6% lot coverage variance** to construct a garage on map 3, lot 43.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permit
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Mr. Furriel	Not Applicable	Approve	Not Applicable
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Mr. Furriel voted to approve. He felt it was a typical accessory use to have a garage and common lot coverage in the area. It would amount to more than a mere inconvenience to deny.

Ms. Horwitz	Not Applicable	Approve	Not Applicable
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Ms. Horwitz approved the application for reasons previously stated.

Mr. Wladyka	Not Applicable	Approve	Not Applicable
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Mr. Wladyka approved the dimensional variance for reasons previously stated.

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

Mr. Borden	Not Applicable	Approve	Not Applicable
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Mr. Borden said the petitioner has no basement and no attic and it would be more than a mere

inconvenience to deny, so he approved the dimensional variance.

IV.III. (C-1) Michael and Laurieanne Sarro (Owners) Seek Dimensional Variances for Lot Coverage and Front Yard Setback (Art. IV, Sec. B) and a Special Use Permit to Construct an 8’ x 22’ Front Porch on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 47 Alan Avenue (24 - 61).

Michael Sarro, 47 Alan Avenue was sworn in on Zoom. Mr. Sarro is seeking to construct an 8’ x 22’ front porch so he can sit out and enjoy the yard. He will not encroach further than exists. He is in a commercial district on a corner lot so is subject to setbacks greater than typical residential setbacks.

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

Mr. Borden walked through the special use permit criteria for construction on a nonconforming lot of record. Mr. Sarro testified his petition would meet all criteria.

Michael and Laurieanne Sarro are seeking a **.8% lot coverage variance, a special use permit** and a **10’ front yard setback** to construct a porch on a nonconforming lot of record on map 24, lot 61.

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 voted to approve all requested relief. He felt it was a hardship that would amount to more than a mere inconvenience to deny.

Ms. Pavlakis	Approve	Approve	Approve
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Ms. Pavlakis agreed with Mr. Furriel and approved the requested relief.

Ms. Horwitz	Approve	Approve	Approve
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Ms. Horwitz approved the application based on reasons previously stated.

Mr. Wladyka	Approve	Approve	Approve
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Mr. Wladyka approved the relief for reasons previously stated.

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

Mr. Borden said a porch is a permitted residential use and he approved of the relief requested.

IV.IV. (R-30) Newport Electric Construction (Applicant) and Bonnie Hole (Owner) Seek a Special Use Permit to Construct a Small Solar Energy System (Art. V, Sec. J.3.) Located at 107 Meadowlark Lane (64 - 164).

Michael Sullivan, 300 Lafayette Road, North Kingstown was sworn in on Zoom and represented owner Bonnie Hole. Mr. Sullivan described the solar array – it will be located in the side yard, 69’ long, 6 ½’ tall and he said it will offset the customer’s electricity usage. They will surround the array with shrubs to conceal it from view from the front yard. Ms. Hole’s lot is about 2½ acres.

Mr. Borden went through the special use permit criteria with Mr. Sullivan, and testimony was that the array would meet the special use criteria.

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

Newport Electric Construction and Bonnie Hole are seeking a **special use permit** to install a detached ground mounted solar array on map 64, lot 164.

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

Mr. Furriel voted to approve the special use permit. He felt a solar array is a benign use with no sound or odors, and at this size and location, it will not be a nuisance or hazard and will allow the applicant use of her property.

Ms. Horwitz **Not Applicable** **Not Applicable** **Approve**

Ms. Horwitz approved the special use permit for reasons previously stated.

Mr. Wladyka **Not Applicable** **Not Applicable** **Approve**

Mr. Wladyka approved the special use permit for reasons previously stated.

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

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

Mr. Borden **Not Applicable** **Not Applicable** **Approved**

Mr. Borden said regarding the special use permit criterion, there is no nuisance or hazard with the solar array. Ms. Hole has 2½ acres and they will provide a landscape buffer for visibility so he approves.

IV.V. (R-10) Matthew Chase (Applicant) and 150 Anthony Road, LLC (Owner) Seek a Special Use Permit to Expand Their Non-Conforming Construction Service Business (Art. VI, Sec. C.1) by Constructing a 70' x 30' Storage Structure Located at 150-156 Anthony Road (13 - 7).

Matthew Chase, 21 Peckham Avenue, Newport was present on Zoom. Mr. Chase said he would like permission to put up a 30' x 70' temporary building in order to get his construction yard cleaned up. There will be no electricity or water going to the building.

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

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

Matthew Chase is seeking a **special use permit** to construct a temporary 70' x 30' storage structure on map 13, lot 7.

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

Mr. Furriel voted to approve the special use permit. He felt it would give the applicant more efficient use of the property and protect his equipment.

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

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

Ms. Horwitz **Not Applicable** **Not Applicable** **Approve**

Ms. Horwitz approved the special use permit for reasons previously stated.

Mr. Wladyka **Not Applicable** **Not Applicable** **Approve**

Mr. Wladyka approved the special use permit for reasons previously stated.

Mr. Borden

Not Applicable

Not Applicable

Approved

Mr. Borden said he thought there would be no impact on surrounding property and the request makes sense. He said the petition met the special use permit criteria, so he approved.

The Chair called for a break at 7:42 p.m.

The Chair called the meeting back into order at 7:49 p.m.

V. NEW BUSINESS

V.I. (R-20) Deborah Bailey (Owner) Seeks to Amend Previous Approvals (July 18, 2019) for a Dimensional Variance for Front Yard Setback and Lot Coverage (Art. IV, Sec. B) and a Special Use Permit to Construct an Addition to Single Family Dwelling on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 50 Clearview Avenue (58 - 08).

Deborah Bailey, 50 Clearview Avenue, was sworn in on Zoom. Peter Bailey, 50 Clearview Avenue was sworn in on Zoom. The Baily's said the garage they were previously approved for was not what they wanted. A 19' wide garage is too tight for two cars, so they went to an architect for new plans.

This is a corner lot and they are in an R-20 zone with an 8,700 square foot lot. This means they have to meet setbacks for two R-20 front yard setbacks. They require a special use permit for construction on a nonconforming lot of record, a 7'6" front yard setback variance on the Kenneth Avenue side, a 14' front yard setback variance on the Clearview Avenue side, and a 5" side yard setback variance, as well as a 4.8% lot coverage variance for approval of the two-story garage they would like to build.

Mr. Borden reviewed the special use permit criteria and the Baileys testified the garage would meet all criteria.

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

Deborah Bailey is seeking a **special use permit** for construction on a nonconforming lot of record, a **7'6" front yard setback variance** on the Kenneth Avenue side, a **14' front yard setback variance** on the Clearview Avenue side, and a **5" side yard setback variance**, as well as a **4.8% lot coverage variance** to construct a two-story garage on map 58, lot 08.

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

Mr. Furriel voted to approve the special use permit, the dimensional variances for setbacks and the lot coverage variance. He said the petitioner wanted to increase the garage by an additional 6’ and it was fundamentally the same design previously approved but larger so he could get two cars into the garage. To deny the enlarged garage would be more than a mere inconvenience.

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

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

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

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

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

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

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

Mr. Borden voted to approved the dimensional variances. He said a garage was a permitted accessory use and the petition had been previously approved. The petition had also met all the special use permit criteria, so he voted to approve that as well.

V.II. (R-20) Maria Gandolfo (Owner) Seeks Dimensional Variances for Front Yard Setback (Art. IV, Sec. B) and a Special Use Permit to Construct a 12’ x 13’ Front Porch and Stairs on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 80 William Street (49 - 8).

Maria Gandolfo and Mike Watkinson, 80 William Street, were sworn in on Zoom. Mr. Watkinson said the previous owner put the front door entry without a permit and it needed a variance. They are seeking to add a proposed deck and would like the variance for the front entry main staircase landing.

The Chair walked them through the special use permit criteria and they testified it would meet all criteria.

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

Mr. Borden said Maria Gandolfo is seeking a **front yard setback variance** on the east of **10'2"** to construct a new 12' x 13' deck and a **front yard setback variance** on the east of **3' 1.25"** for the front door entry, as well as a **special use permit** to build 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** **Not Applicable** **Approve**

Mr. Furriel voted to approve both the dimensional variances and the special use permit. The relief will correct the existing front stairs and they would like to add a deck. Mr. Furriel said a deck is common and is reasonable to add to the enjoyment of their property.

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

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

Mr. Wladyka **Approve** **Not Applicable** **Approve**

Mr. Wladyka voted to approve the applications for reasons previously stated.

Ms. Horwitz **Approve** **Not Applicable** **Approve**

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

Mr. Borden **Approve** **Not Applicable** **Approve**

Mr. Borden said it is a reasonable request for the enjoyment of their property to have a deck and it would be more than a mere inconvenience to deny. He voted to approve the dimensional variances and the special use permit.

V.III. (R-10) Gary Ross and Angelica Alvarez (Owners) Seek Dimensional Variances for Rear and Side Yard Setbacks and Lot Coverage (Art. IV, Sec. B) and a Special Use Permit to Construct a 9' x 18' Detached Hobby Studio on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 15 Canton Avenue (3 - 52).

Gary Ross, 15 Canton Avenue was present and sworn in on Zoom. Mr. Ross said he and his wife were both teleworking from home, and he has older children at home. He would like a hobby studio so they could go there and get away to have Zoom meetings or distance from each other and such. Due to the location of the septic, he would put it towards the side and back of the yard where a fence exists. He plans on wiring it for electrical but no plumbing. The building will be about 8' tall on the back side and

10' tall inward in the yard due to a slope of the land. It will be on 8 footings and anchor bolts, although Mr. Ross said he is not sure what is required and will do whatever the Town's building department requires. There will be no kitchen. He has a 4,000 square foot lot that currently has 30.6% lot coverage and this will add an additional 4% lot coverage. He does not have a garage on the property.

The Chair called for abutters or interested parties.

Ken Fontaine, 23 Canton Avenue (recently sold) said he is concerned about trees' root systems and Mr. Ross' septic system. He is concerned about the number of variances requested and the "to scale" of the building on the plans.

Mr. Ross disputed Mr. Fontaine's statements about his septic system.

A motion was made by Ms. Horwitz and seconded by Mr. Furriel that should the petition pass, the proposed hobby house/sunroom cannot be used as a short-term rental property. The motion carried unanimously.

Mr. Borden went through the special use criteria with Mr. Ross and he testified the project would meet all criteria.

Gary Ross is seeking a **17' dimensional variance** for a **rear yard setback**, an **8' side yard setback**, a **lot coverage variance of 14.6%** and a **special use permit** for the purpose of constructing a detached hobby studio/sunroom.

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 voted to approve the dimensional variances, the lot coverage variance and the special use permit. Concerning the septic system, Mr. Furriel said that is an issue for the DEM, and the Zoning Board has to assume it is in working condition. The petitioner could have sought to add an addition to his home which would have been a greater impact, so he believes this to be a reasonable request given the environment we are in with the Covid virus.

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

Ms. Pavlakis	Approve	Approve	Approve
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Ms. Pavlakis voted to approve the dimensional variances, the lot coverage variance and the special use permit for reasons previously stated.

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

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

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

Mr. Borden said he was torn because he did not think Covid was necessarily a reason to approve a variance, however he did vote to approve from a non-Covid point of view in that the petitioner is seeking additional space. He is only seeking an additional 4% lot coverage. The setbacks seem excessive, but the building is similar to a shed. To deny would amount to more than a mere inconvenience.

V.IV. (R-10) Bryan and Kristen Stovall (Owners) Seek Dimensional Variances for Rear Yard Setback and Lot Coverage (Art. IV, Sec. B) and a Special Use Permit to Construct a 12' x 18' Addition to an Existing Shed Located at 65 Walnut Street (20 - 24).

Bryan Stovall, 65 Walnut Street was sworn in on Zoom. Mr. Stovall said he has a 12' x 18' shed and now wants to add an addition of 12' x 18' to use as storage and workspace. This would require a 12' rear yard setback and a 3% lot coverage variance. The final result will be a 24' x 18' shed. Mr. Stovall does have a one-car garage. He has a basement. He says he needs additional room for storage and for working, however.

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

It will be a very large shed and will be about 8' to the fence. From the fence to his garage is about 10'. There is already electricity out to the existing shed. He is currently using the existing shed as a work space during reasonable hours and not at night.

Bryan and Kristen Stovall are seeking a **rear yard setback variance of 12'** and a **3% lot coverage variance** to construct a new 12' x 18' addition to an existing 12' x 18' shed.

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

Mr. Furriel voted to approve both the dimensional variance and the lot coverage. He said Mr. Stovall has a one-car garage when most garages are two-car, so having extra space is a reasonable request.

Ms. Horwitz **Approve** **Approve** **Not Applicable**

Ms. Horwitz voted to approve the dimensional variance and lot coverage variance for reasons previously stated.

Mr. Wladyka **Approve** **Approve** **Not Applicable**

Mr. Wladyka voted to approve the dimensional variance and lot coverage variance for reasons previously stated.

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

Ms. Pavlakis voted to approve the dimensional variance and lot coverage variance for reasons previously stated.

Mr. Borden **Approve** **Approve** **Not Applicable**

Mr. Borden said he was concerned about the size of the 24' x 18' shed, but the lot coverage variance is only 3%. It will be less intrusive than the expansion of the garage. The lot is large for the area and the petitioner stated he will not make excessive noise. Mr. Borden voted to approve the dimensional variances and the lot coverage variance.

A motion to adjourn was made by Mr. Furriel. The motion carried 5 – 0 with all members present voting affirmatively. The meeting adjourned at 9:15 p.m.

Respectfully submitted,
Barbara A. Ripa, Recording Secretary

Approved: _____ Date: _____