



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

NOVEMBER 19, 2020

James Nott, Chair called the Zoom virtual meeting to order at 7:02 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, Ms. Sue Horwitz, First Alternate (7:18 p.m.) and Mr. William Wladyka, Second Alternate (7:08 p.m.)

MEMBERS ABSENT: 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

III. CHAIRMAN'S REPORT

There was no Chairman's Report, but Mr. Nott had agenda changes. There was a request to continue NB VI., Chris Fagan, (Applicant) and Fred Sousa and Sherri Feld (Owners) to the meeting of December 17, 2020.

A motion was made by Mr. Borden and seconded by Mr. Furriel to continue the petition of Chris Fagan, (Applicant) and Fred Sousa and Sherri Feld (Owners) to the meeting of December 17, 2020. The motion carried 5 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Mr. Wladyka and Mr. Nott voting in favor.

IV. OLD BUSINESS

Mr. Nott said Mr. Borden has to recuse himself from OB 1, so the Board will try to hear this petition later this evening if another member joins the meeting, because otherwise there is no quorum.

The Board heard this petition after NB II.

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. John Borden recused himself from this petition.

Michael and Karen Mulligan, 58 Mill Lane, were present and sworn in on Zoom. Mr. Mulligan said when their home was built the original address was Viera Road and the 8' x 8" shed was in the proper place. Many years later, their address was officially changed by the Town to 58 Mill Lane, and now their shed was no longer considered to be located in their back yard. They had to come for relief because the shed is now considered in their side yard. It meets all other requirements.

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

The Chair said Michael and Karen Mulligan are seeking a **dimensional variance for rear yard shed placement requirement** to construct an 8' x 8' shed on map 51, lot 238.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - From Rear Yard Shed Placement	Special Use Permit
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Mr. Furriel	Not Applicable	Approve	Not Applicable
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Mr. Furriel said he approved of the dimensional variance for rear yard shed placement requirement. It is needed due to the unique nature of the property and the Town's designation of the front yard.

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

Ms. Horowitz	Not Applicable	Approve	Not Applicable
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Ms. Horowitz approved the dimensional variance 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.

Mr. Nott	Not Applicable	Approve	Not Applicable
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Mr. Nott approved the dimensional variance for reasons previously stated by Mr. Furriel. Mr. Nott said

it was a hardship created by the Town and to deny would amount to more than a mere inconvenience.

V. NEW BUSINESS

V.I. (R-20) Robert Kielbasa (Owner) Seeks a Dimensional Variance for Rear Yard Setback (Art. IV, Sec. B) to Construct a 16' x 20' Swimming Pool Located at 50 Long Shore Road (34 - 63).

Attorney Cort Chappell, 171 Chase Road, was present with Robert Kielbasa on Zoom. Robert Kielbasa, 50 Long Shore Road was sworn in.

Mr. Chappell said this is a corner lot and Mr. Kielbasa is in an R-20 zone, so he has to meet setbacks for two R-20 front yard setbacks. He purchased the house as is. A 12' rear yard setback variance is the least relief necessary. The pool is put as close as they could near the patio. The front yard has the septic. Abutters Mark and Paula D'Andrea sent a letter of support. There is also a very heavy vegetative line.

Ms. Horowitz joined the meeting at 7:18 p.m.

The Chair called for abutters or interested parties. There were none, and Mr. Nott read the D'Andrea's letter into the record.

The Chair said Robert Kielbasa is seeking a **12' rear yard setback variance** to construct a swimming pool located on map 34, lot 63.

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 a swimming pool is a permitted accessory use and the relief is reasonable and he believes it is the least relief necessary. To deny would amount to a hardship more than a mere inconvenience, so he approved the dimensional variance.

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

Mr. Wladyka approved the dimensional variance for reasons previously stated by Mr. Borden.

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

Mr. Nott approved the dimensional variance for reasons previously stated by Mr. Borden.

V.II. (R-30) Robert and Cheryl Harkin (Owners) Seek a Dimensional Variance for Rear Yard Setback (Art. IV, Sec. B) to Construct a 14' x 28' Swimming Pool Located at 92 Harvest Drive (66 - 38).

Matthew Viana, PE from Millstone Engineering, P.C., 790 Aquidneck Avenue, Bldg B, Middletown was present on behalf of the Harkins. Mr. Viana said the existing home was purchased 3 years ago and it is setback on the lot with the septic system in the front, so it is no fault of the appellants. There is a thick vegetative buffer and they will have required fencing. They have minimized the size of the pool to 14' x 28', which is the least relief necessary for them to enjoy their property. It is an irregularly shaped lot. Their neighbor to the east has a pool. They are asking for a 15' rear yard setback.

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

The Chair said Robert and Cheryl Harkin are seeking a **15' rear yard setback variance** to construct a swimming pool located on map 66, lot 38.

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

Mr. Borden said it is a reasonable request; a swimming pool is allowed as an accessory use. To deny would amount to a hardship more than a mere inconvenience, so he approved the dimensional variance.

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

Mr. Furriel voted to approve for reasons cited by Mr. Borden.

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

Ms. Pavlakis approved the dimensional variance for reasons previously stated.

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

Mr. Wladyka approved the dimensional variance for reasons previously stated.

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

Mr. Nott approved the dimensional variance for reasons previously stated by Mr. Borden.

With Ms. Horowitz now in the meeting, the Board went back to hear OB1. (Refer to beginning of minutes.)

V.III. (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).

Attorney John McCoy, Providence, was present representing Marianne Dornfeld. He said this is a pre-existing lot of record, she wants to construct a duplex and the only relief she needs is access to Bristol Ferry Road because it does not have access to a public street.

James Traglia, Principe Engineering and Marianne Dornfeld, 11 S. Cottage Road, Belmont, MA were sworn in and present to testify.

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

- Dorothy O'Brien, 99 Linda Avenue
- Lisa Rego, 89 Linda Avenue
- Rose Barboza, 62 Windward Drive
- Matt Emmert, 40 Windward Drive
- Paul Dirnberger, 48 Windward Drive

Abutters were mostly concerned with water runoff.

James Traglia from Principe Engineering, 304 Broadway, Newport spoke regarding the runoff issue. He said the septic has been approved by the DEM. There were some test holes for the water table. The duplex conforms to setbacks and requirements. The runoff should not be a problem as it will travel east toward the vegetative area due to the grade on the lot.

Discussion between Board members and Mr. Traglia followed regarding runoff, whether a rain garden or a swale was needed and whether the applicant would install a rain garden.

Ms. Dornfeld said she would like to address runoff with the engineer and asked if her petition could be continued.

A motion was made by Mr. Borden and seconded by Ms. Horwitz to continue the petition of Marianne Dornfeld to the regular meeting December 17, 2020. The motion carried 5 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Ms. Horowitz and Mr. Nott voting in favor.

The Chair called for a break at 8:49 p.m.

The Chair called the meeting back into order at 8:52 p.m.

V.IV. (I-L) Stephen Seiter (Applicant) and SBC Realty, LLC (Owner) Seek to Amend Their Special Use Permit Granted on May 19, 2005 to Remove the Conditions of Approval Related to: #4) Concealing Refuse or Dumpster Containers; #8) Restrictions on External Storage; #9) Restrictions on Painting of Vehicles and Boats; and #10) Restrictions on Auto Body Work. The Request to Remove Requirements #9 and #10 will Require the Approval of Additional Special Use Permits to Operate an Automobile Paint and Body Shop (Art. V Sec. F.6) Located at 75 High Point Avenue (38 - 6).

No one was present to speak for NB IV.

A motion was made by Mr. Borden and seconded by Mr. Furriel to continue the petition of Stephen Seiter (Applicant) and SBC Realty, LLC (Owner) to the regular meeting of December 17, 2020. The motion carried 5 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Mr. Wladyka and Mr. Nott voting in favor.

A motion to adjourn was made by Mr. Borden and seconded by Ms. Pavlakis. The motion carried 5 – 0 with all members present voting in favor. The meeting adjourned at 8:54 p.m.

Respectfully submitted,

Barbara A. Ripa, Recording Secretary

Approved: _____ Date: _____