



Town of Portsmouth

ZONING BOARD OF REVIEW

2200 East Main Road / Portsmouth, Rhode Island 02871

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(401) 683-3611

REGULAR MEETING MINUTES

FEBRUARY 20, 2020

MEMBERS PRESENT: Mr. James Nott, Chair, Mr. Benjamin Furriel, Secretary, Ms. Kathleen Pavlakis, Mr. Eric Raposa, Ms. Sue Horwitz, First Alternate and Mr. William Wladyka, Second Alternate (7:05 p.m.).

MEMBERS ABSENT: Mr. John Borden, Vice Chair.

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 7:02 p.m. in the Town Council chambers.

I. MINUTES

A motion was made by Mr. Raposa and seconded by Mr. Furriel to approve the minutes of the meetings of August 15, 2019, October 24, 2019, November 14, 2019, and December 19, 2019 as presented. The motion carried unanimously with all in favor.

II. CHAIRMAN'S REPORT

III. OLD BUSINESS

- 1. (R-10) Stephen Viglas (applicant) and Mary Ellen Grosvenor (owner) seek dimensional variances for rear yard setbacks and lot coverage (Art. IV, Sec. B) and a special use permit to construct an 18.5' x 17.5' deck on a nonconforming lot of record (Art. VI, Sec. A.4) located at 50 Coral Street (20-185).**

Mary Ellen Grosvenor, 50 Coral Street was sworn in. Ms. Grosvenor was here in December. She updated her septic system and it made her back yard unusable. She would like to build a deck in the back yard. She needs a 12.5% lot coverage variance, which is an additional 6.76%. She also needs a 15'6" back yard setback. There is a 12' x 14' deck there now and she would like to add an 18'6" x 17'6" deck to it, which would be an additional 324 square feet. She will have trap doors for access to the septic.

Mr. Nott went through the special use permit criteria with Ms. Grosvenor and she testified the deck would meet all criteria.

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

Mr. Nott said Mary Ellen Grosvenor is before the Board for map 20, lot 185, seeking a **12.5% lot coverage variance** and a **15'6" back yard setback variance** and a **special use permit** to construct a deck over most of her back yard which is her septic system.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permit
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Mr. Nott	Approve	Approve	Approve
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I approve of the special use permit - she testified it met all criteria. The lot coverage might seem excessive but to deny would amount to more than a mere inconvenience and would not allow her to use her land. This will give her reasonable access to her property.

Mr. Furriel	Approve	Approve	Approve
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I approve of the back yard setback, the lot coverage variance and the special use permit for reasons stated by Mr. Nott.

Ms. Pavlakis	Approve	Approve	Approve
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I concur with my colleagues and approve of all three.

Mr. Raposa	Approve	Approve	Approve
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I agree with my colleagues and approve of all three.

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

- 2. (R-20) Tammy McVay and John Muench (owners) and PRR Construction (applicant) seek dimensional variances for front and side yard setbacks (Art. IV, Sec. B) to construct an addition and wrap around deck on a nonconforming lot of record (Art. VI, Sec. A.4) located at 181 Brownell Lane (22-4B).**

Cort Chappell, Chappell & Chappell, 171 Chase Road was present representing Tammy McVay and John Muench. Mr. Chappell said the Board had approved their petition in September 2019, but actual construction took place and it was different from what the Board approved. They are before the Board to tell them how it differed and to get approval on the actual construction.

The Board had approved a front porch in September 2019. Instead of putting the porch in the front of the house, they put it on the front of the addition and instead added a 4.5' x 7.5' portico over the door at

the front of the house. They were granted a 10' front yard setback, but now only need a 6.5' front yard setback.

The porch they have added to the addition in the front is 7' x 14'. The 16' x 14' addition was given approval at the September 2019 meeting. The porch will only extend the side yard variance already granted for the addition, which is 5'.

The petitioner also added a deck to the rear of the house and addition which is 6' wide and appears to run the length of the addition and the back of the house, so would be 6' x 40'. The deck will only extend the side yard variance already granted for the addition, which is 5'.

Mr. Chappell said he wants the existing conditions to remain in this amended petition. They have already given testimony to the special use permit criteria.

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

A motion was made by Mr. Nott and seconded by Mr. Raposa to approve the following conditions should the petition be approved:

1. The existing hedge adjacent to the Moniz property remain.
2. The addition will be on a crawl space foundation only.
3. The existing sump pump remain in place.
4. The previous decision granted on September 19, 2019 **be abandoned**.

The motion to incorporate the above conditions should the petition be approved carried 5 – 0 with Mr. Nott, Mr. Furriel, Ms. Pavlakis, Mr. Raposa and Ms. Horwitz voting in favor.

Mr. Nott said that Tammy McVay and John Muench of 181 Brownell Lane, map 22, lot 4B, are seeking a **6.5' front yard setback** and a **5' side yard setback** to construct a portico and decks.

Dimensional Variance(s) - Setback(s)	Dimensional Variance - Lot Coverage	Special Use Permit
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Mr. Nott	Approve	Not Applicable	Approve
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I approve the special use permit and the setbacks. The setbacks are less than what was previously granted and to deny would be more than a mere inconvenience, so I approve.

Mr. Furriel	Approve	Not Applicable	Approve
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I approve both variances for reasons previously stated.

Ms. Pavlakis	Approve	Not Applicable	Approve
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I also approve of both for reasons previously stated by Mr. Nott.

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

I approve of both for reasons previously stated.

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

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

IV. NEW BUSINESS

- 1. (R-30) David and Delores Gabriel (owners) seek dimensional variances for rear and two (2) side yard setbacks and structure height (Art. IV, Sec. B) to construct protective netting on a nonconforming lot of record (Art. VI, Sec. A.4) located at 293 Union Street (57-23).**

Attorney Robert Silva, 1100 Aquidneck Avenue, Middletown, RI was present representing David and Delores Gabriel. Delores Gabriel, 293 Union Street was sworn in.

Mr. Silva said the Gabriel's' home literally abuts the first hole of the Green Valley Country Club Golf Course. For the past three to four years, errant golf shots have caused golf balls to hit the Gabriel's' house and have caused damage to their property, and it poses a danger to them.

Mr. Silva submitted **Exhibit 1**, a packet of photographs taken by Vincent Monteforte.

The Gabriels are asking for four poles installed with netting that will be placed up against the rear and side yard lot lines. Their lot is undersized in an R-30 zone and the rear yard setback variance request is 29'6". The side yard setback request is 19'6" on one side and 17' on the other. The poles will be 40' tall. The abutter most affected by this installation is the golf course itself.

Mrs. Gabriel testified they have had constant damage to their house. From June to October, three windows were replaced. The vinyl siding on the house has been frequently broken and the installers did not think it could even get broken. She is afraid to let her grandchildren play outside.

Vincent Monteforte, 495 Waites Corner Road, West Kingston, RI was sworn in. Mr. Monteforte said the poles would be telephone pole type poles. They would be sunk 10' into the ground. The net is polyester. The nets will not take care of every golf ball problem but will take care of most of the problems.

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

Mr. Nott said David and Delores Gabriel of map 57, lot 23, were before the Board seeking a **29'6" rear yard setback**, a **19'6" side yard setback** and a **17' side yard setback** to install **four 40' above ground poles**, two in the rear and one on each side of the lot, to protect them from errant golf balls.

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

I approve the rear and side yard setbacks. It is a reasonable solution to a complicated problem and better than being struck by golf balls. I approve of the 5' height variance. The testimony of Mr. Monteforte was the height was necessary to block the offending golf balls.

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

I approve of the rear and side yard setbacks and the height variance for reasons given by Mr. Furriel.

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

I also approve for reasons given by Mr. Furriel.

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

I approve of the rear and side yard setback variances and the height variance for reasons given by Mr. Furriel.

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

The Chair approves of the setback variances and height variance. To deny would be to deny them the applicable use of their property.

2. (R-10) Christopher Fonseca (owner) seeks dimensional variances for two side yard setbacks and lot coverage (Art. IV, Sec. B) to construct a 720 square foot single-family dwelling on a nonconforming lot of record (Art. VI, Sec. A.4) located at 0 Riverside Street (20-255A).

Christopher Fonseca, 4 General Court, Bristol, RI was sworn in. Mr. Fonseca said this property was before the Board previously and all is the same as before. The plan conforms with the neighborhood.

Mr. Nott went through the special use permit criteria with Mr. Fonseca and Mr. Fonseca testified the petition would meet all criteria.

The Chair called for abutters or interested parties.

Sheri Gibson, 37 Riverside Street was sworn in. Ms. Gibson expressed concern about flooding in the neighborhood and about the septic system.

Wayne Gibson, 37 Riverside Street was sworn in. Mr. Gibson spoke about groundwater issues and Pearl Street.

Mr. Nott said Christopher Fonseca, map 20, lot 255A, is before the Board seeking a **2' side yard variance** on the north, a **6' side yard variance** on the south, and a **2% lot coverage variance** to build a single-family dwelling 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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Regarding the lot coverage, I approve, it would be more than a mere inconvenience to deny. The side variances were approved previously and the special use permit, so I approve.

Ms. Pavlakis	Approve	Approve	Approve
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I approve of the special use permit and the dimensional variances for reasons previously stated.

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

Ms. Horwitz	Approve	Approve	Approve
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I also approve of the special use permit and dimensional variances for reasons previously stated.

Mr. Nott	Approve	Approve	Approve
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The Chair votes to approve of all. I sat on the Board when it approved the previous petition. It would be more than a mere inconvenience to deny.

The Chair called for a recess at 8:10 p.m.

The Chair called the meeting back into order at 8:16 p.m.

3. (R-20) Grace Vinbury and Andrew Lyell (owners) seek a dimensional variance for a front yard setback (Art. IV, Sec. B) to construct a wraparound porch on an existing single-family dwelling located at 95 Brownell Lane (22-6).

Chris Fagan, Fagan Design Build Studio, Newport, RI said Andrew Lyell and Grace Vinbury recently purchased the property and are trying to restore it. This is a large lot and the property is in disrepair. The house is within the setback already. They would like to add a wrap-around porch.

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

Mr. Nott said Grace Vinbury and Andrew Lyell, map 22, lot 6, are before the Board seeking a **12' front yard setback variance** for the purpose of constructing a farmer's porch for the renovation of the home. It is 6' more of an encroachment than currently exists.

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

I approve. To deny would be more than a mere inconvenience. It would only add 6' more of an encroachment, and it is not their fault, the encroachment existed. It will make the home more attractive.

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

I concur with Mr. Furriel and approve the dimensional variance.

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

I approve the variance.

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

I approve the variance for reasons previously stated.

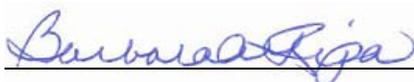
Mr. Nott **Approve** **Not Applicable** **Not Applicable**

The Chair approves the variance for reasons previously stated. It is reasonable.

A motion to adjourn was made by Ms. Horwitz and seconded by Mr. Raposa. The motion carried with all in favor. The meeting adjourned at 8:24 PM.

Respectfully submitted,

Barbara A. Ripa, Recording Secretary

Approved:  Date: June 18, 2020