



# Town of Portsmouth

ZONING BOARD OF REVIEW  
2200 East Main Road / Portsmouth, Rhode Island 02871  
www.portsmouthri.com

(401) 683-3611

## SPECIAL ZOOM MEETING

### MINUTES

MAY 28, 2020

**MEMBERS PRESENT:** Mr. James Nott, Chair, Mr. John Borden, Vice Chair, Mr. Benjamin Furriel, Secretary, Ms. Kathleen Pavlakis (7:30 p.m.), Ms. Sue Horwitz, First Alternate and Mr. William Wladyka, Second Alternate

**MEMBERS ABSENT:** Mr. Eric Raposa

**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.

Due to technical problems with Zoom, the meeting started late, and Mr. Nott called the meeting to order at 7:23 p.m. in the Town Council chambers.

#### I. MINUTES

#### II. CHAIRMAN'S REPORT

#### III. OLD BUSINESS

- 1. (C-TC) BullfrogFit, LLC (Applicant) and Scott and Duane Polselli (Owner) Seek a Special Use Permit to Operate an Indoor Recreational Facility (Art. V Sec. B.13.) Located at 2477 East Main Road (36 - 15).**

Matthew Chappell, Chappell & Chappell, 171 Chase Road was present on Zoom to represent the petitioner. Mr. Chappell said the property is located at 2477 East Main Road in the Foodworks Plaza but in the building opposite Foodworks. Mr. Chappell said the required parking for the health club, which will be 2,288 square feet, is 11.4 parking spaces. BullfrogFit will be in the end unit where the dentist was once located, and no additional parking will need to be created. The unit has its "own" parking in the corner consisting of 16 spaces, which is more than required.

Jeremiah O'Connor, 121 Prospect Hill Street, Apt. 4, Newport, the owner of BullfrogFit, was sworn in.

At 7:30 p.m. Ms. Pavlakis joined the meeting.

Mr. Polselli sent a letter to the Board indicating he looks forward to BullfrogFit coming in and joining the other tenants.

Mr. Chappell led Mr. O’Connor through the a. – j. criteria for the special use permit and Mr. O’Connor testified his business would meet all criteria.

**Business Specifics Provided:**

- Hours of operation will be 5 a.m. to 10 p.m.
- There will be 10 – 12 clients per day with an appointment required
- Small numbers will be in and out at a time – one on one or two
- There will be a sauna and massage offered
- Massage/stretching will be done by trainers
- There will be two showers, so the ISDS will meet DEM standards

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

BullfrogFit is before the Board for map 36, lot 15, seeking a **special use permit** to operate an indoor fitness and performance center in an existing building.

| Dimensional Variance(s) -<br>Setback(s) | Dimensional Variance -<br>Lot Coverage | Special Use Permit |
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| <b>Mr. Borden</b> | <b>N/A</b> | <b>N/A</b> | <b>Approve</b> |
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The petitioner is seeking to operate a fitness center in the Town Center District. A special use permit is all he needs. Traffic is no issue. It will not exceed the prior use. There is adequate parking. There are no objections. In my opinion it meets all the special use criteria, so I approve.

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| <b>Mr. Furriel</b> | <b>N/A</b> | <b>N/A</b> | <b>Approve</b> |
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I vote to approve of the special use permit for reasons cited by Mr. Borden.

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| <b>Ms. Horwitz</b> | <b>N/A</b> | <b>N/A</b> | <b>Approve</b> |
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I approve of the special use permit for reasons previously stated.

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| <b>Mr. Wladyka</b> | <b>N/A</b> | <b>N/A</b> | <b>Approve</b> |
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I approve for reasons previously stated by Mr. Borden.

Mr. Nott

N/A

N/A

Approve

The petition meets all the special use criteria, so I approve.

**3. (R-10) Andre Gonzalez (Owner) Seeks a Dimensional Variance to be Allowed to Construct a Single-Family Dwelling on a Lot Not Fronting on a Public Roadway (Art. III, Sec. D.2) and a Special Use Permit as the Lot is an Undersized Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 0 Metacomet Street (5 - 10).**

Matthew Chappell, Chappell & Chappell, 171 Chase Road was present on Zoom to represent the petitioner. Andre Gonzalez, 47 King Philip Street, was sworn in.

Mr. Chappell said the hardship for Mr. Gonzalez is that the lot does not front on a public way. It is a hardship he did not cause, and he is requesting the least relief necessary. Also, despite the lot being substandard, Mr. Gonzalez is not asking for any other variances.

The Chair called for abutters or interested parties. Mr. Nott read letters and emails into the record from the following abutters and interested parties:

- Arthur Smith, 54 Narragansett Blvd.
- Michael and Haley Cranson, 65 Metacomet Street
- Scott and Joyce Burgo, 46 King Phillip Street
- Russell and Theresa Gomes, 37 King Phillip Street
- Connie Walsh, 55 King Phillip Street

Mil Kinsella, 74 Narragansett Blvd. was sworn in during the meeting to speak and ask questions.

Michael Hill, 294 Valley Road, Middletown was sworn in. Mr. Hill spoke regarding the increase of grade. He said while the grade will be raised during construction for a crane to be brought in, once the crane is out it will be brought back down to grade. The increase is necessary to install the modular home.

Mr. Nott ran through the special use permit criteria with Mr. Gonzalez and he testified his petition would meet all criteria.

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

1. The petitioner shall restore the grade of the road back to its previous condition prior to a CO being issued.
2. The petitioner shall get a letter from the Fire Marshal stating that he is comfortable with emergency ingress/egress to the lot.

The motion carried 5 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Ms. Horwitz, and Mr. Nott voting in favor.

Mr. Nott said that Andre Gonzalez, map 5, lot 10, is seeking a **special use permit for construction on a substandard lot of record** and a **dimensional variance for construction on a lot which does not front on a public street**.

| Dimensional Variance(s) -<br>Setback(s) | Dimensional Variance – Construct on<br>Lot Not Fronting on a Public Way | Special Use Permit |
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| <b>Mr. Borden</b> | <b>N/A</b> | <b>Approve</b> | <b>Approve</b> |
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The petitioner walked through the special use permit criterion for a substandard lot of record and for a lot not fronting on a public street and met the criteria. It is a private road and to deny him the right to build on his land would amount to a hardship more than a mere inconvenience. He has met the minimum standards.

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| <b>Mr. Furriel</b> | <b>N/A</b> | <b>Approve</b> | <b>Approve</b> |
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I approve of the special use permit and dimensional variance for reasons given by Mr. Borden.

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| <b>Ms. Pavlakis</b> | <b>N/A</b> | <b>Approve</b> | <b>Approve</b> |
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I concur with Mr. Borden and Mr. Furriel and I approve of the special use permit and the dimensional variance.

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| <b>Ms. Horwitz</b> | <b>N/A</b> | <b>Approve</b> | <b>Approve</b> |
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I approve of both the special use permit and the dimensional variance for reasons given by Mr. Borden.

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| <b>Mr. Nott</b> | <b>N/A</b> | <b>Approve</b> | <b>Approve</b> |
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I approve of the special use permit, it is an existing, legal lot of record, and I applaud the petitioner for coming in with no other dimensional variances, and I approve.

- 4. (R-20) Timothy and Christine Downes (Owners) Seek Dimensional Variances for Side and Rear Yard Setbacks and Lot Coverage (Art. IV, Sec. B) and a Special Use Permit to Construct an Addition to the Garage and In-Ground Swimming Pool on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 39 Bayview Avenue (6 - 53).**

Cort Chappell, Chappell & Chappell, 171 Chase Road was present on Zoom to represent the petitioner. Timothy and Christine Downes, 39 Bayview Avenue were present on Zoom and sworn in.

Mr. Chappell said relief was granted by the Board on December 10, 2015. That relief was not acted upon. This request is essentially the same with slight modifications as they are not going to build a second story addition to the house.

Mr. Chappell went through the special use criteria with the Downes.

A motion was made by Mr. Borden and seconded by Mr. Furriel that the petition be amended so that the stairway extension cannot extend beyond what exists and the variance would not exceed 29'. The motion carried 5 – 0 with Mr. Borden, Mr. Furriel, Ms. Pavlakis, Ms. Horwitz, and Mr. Nott voting in favor.

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

Mr. Nott said Timothy and Christine Downes, map 6, lot 53, are seeking a **29' rear yard setback**, a **7'2" side yard setback on the east**, a **special use permit** and a **11.3% lot coverage variance** to construct a sunroom out of the patio, to add stairs leading to the second story above the garage, and to install an in-ground pool.

| Dimensional Variance(s) -<br>Setback(s) | Dimensional Variance -<br>Lot Coverage | Special Use Permit |
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| <b>Mr. Borden</b> | <b>Approve</b> | <b>Approve</b> | <b>Approve</b> |
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The petitioner has met the special use permit requirements for a substandard lot of record and has walked through that criterion, so I vote to approve. Regarding the dimensional variances, essentially this is the same petition that was approved in 2016 but was abandoned. To deny them the right to improve their house, a stairway for the garage, and a pool, which is a reasonable accessory use, would amount to a hardship more than a mere inconvenience, so I approve.

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| <b>Mr. Furriel</b> | <b>Approve</b> | <b>Approve</b> | <b>Approve</b> |
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I approve of the special use permit, dimensional variances and the lot coverage variance for reasons given by Mr. Borden.

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| <b>Ms. Pavlakis</b> | <b>Approve</b> | <b>Approve</b> | <b>Approve</b> |
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For reasons given by Mr. Borden, all variances are approved.

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

I approve of all three requests.

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

I heard the original application, and this is asking for less relief, so for reasons previously stated and because of the Board’s previous decision, I approve.

**5. (R-20) RI Design Build (Applicant) and Janet Jones (Owner) Seek a Dimensional Variance for Front Yard Setback (Art. IV, Sec. B) and a Special Use Permit to Construct an Addition on a Nonconforming Lot of Record (Art. VI, Sec. A.4) Located at 7 Canonchet Drive (31 - 100).**

Robert Pearson, RI Design Build, 244 Samuel Gorton Avenue, Warwick was present on Zoom representing the petitioner and was sworn in. Owner Janet Jones, 7 Canonchet Drive was also present on Zoom and was sworn in.

The property is a corner lot, so it is subject to two front yard setbacks, creating a hardship. The addition will be one floor. Ms. Jones testified the addition would meet all special use permit criteria.

The Chair called for abutters or interested parties. A letter from Susan and Jeff Lewis, 28 Canonchet Drive was read into the record.

Mr. Borden recused himself from voting on the petition because he is an abutter.

Mr. Borden then spoke as an abutter and said he fully supports the petition.

Mr. Nott said RI Design Build and Janet Jones, map 31, lot 100, is seeking a **9’ front yard variance** and a **special use permit** to construct an addition.

| Dimensional Variance(s) -<br>Setback(s) | Dimensional Variance -<br>Lot Coverage | Special Use Permit |
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**Mr. Furriel**                              **Approve**                                      **N/A**                                      **Approve**

I approve the special use permit and the dimensional variance for the front yard setback. To deny would prohibit them from the full use of their property.

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

I vote to approve both for reasons previously stated.

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

I approve the special use permit and the dimensional variance for reasons previously stated.

**Mr. Wladyka**                      **Approve**                      **N/A**                      **Approve**

I vote to approve for reasons previously stated.

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

They are constrained by two front yard setbacks and to deny is more than a mere inconvenience. The request meets the criterion for relief, so I approve.

A motion to adjourn was made by Mr. Borden and seconded by Ms. Pavlakis. The motion carried unanimously with Mr. Nott, Mr. Borden, Mr. Furriel, Ms. Pavlakis, Ms. Horwitz, and Mr. Wladyka voting in favor. The meeting adjourned at 9:00 p.m.

Respectfully submitted,

Barbara A. Ripa, Recording Secretary

Approved:  Date: October 15, 2020