



**TOWN OF PORTSMOUTH
ZONING BOARD OF REVIEW**

2200 East Main Road
Portsmouth, RI 02871
401-683-3717
www.portsmouthri.gov

**ZBR MINUTES JULY 20, 2023
Regular Meeting
July 20, 2023**

Members Present: Mr. James Nott – Chair, Mr. Benjamin Furriel -Secretary, Mr. Eric Raposa, Ms. Sue Horwitz and Mr. Charles Kevin Donovan (1st Alternate)

Members Absent: Mr. Langdon Harris & Mr. John Borden – Vice Chair (Stepped down)

Others Present: Lea Hitchen, Town Planner and Atty. Kevin Gavin, Town Solicitor and Heather E. Raposa Recording Secretary.

The meeting was called to order in the Town Council Chambers by Mr. Nott at 7:00 p.m.

1. Approval of minutes for Zoning Board meeting(s):

A motion was made by Mr. Raposa and seconded by Mr. Donovan to approve the minutes of the following regular meeting(s) held January 19; February 16; March 16; April 20; May 18; May 25; June 15; in the year 2023 as presented.

VOTED: 5 – 0 Minutes approved

2. New Business:

A. Noelle Claveloux (applicant and owner) for property located at 15 Atlantic Avenue; being Tax Assessor's Map 29 Lot 83 (Zoned Residential, R-20). The Applicant seeks a Special Use Permit (Article VII, Section A(1)(c)) and a Dimensional Variances (Article VI, Section B; Article VI, Section A(4)) to construct a rear deck on a substandard lot of record. The deck is an intensification of use and there is no net increase in lot coverage nor increase of existing setback encroachment. (Applicant has requested a continuance to the August 17, 2023, Zoning Board meeting)

Chairman Nott indicated the Applicant has requested a continuance and asked the hearing be continued to the August 17, 2023 Zoning Board Meeting.

MOTION made by Mr. Donovan, seconded by Ms. Horwitz to continue Applicant Petition to August 17, 2023, Zoning Board Meeting. VOTED: 5 – 0; Motion Passed

B. Paula Connolly (applicant and owner) for property located at 170 Rhode Island Boulevard; being Tax Assessor's Map 4 Lot 157 (Zoned Residential, R-10). The Applicant seeks a Special Use Permit (Article IVV, Section A(1)(c)) and a Dimensional Variance (Article IV, Section B; Article VI, Section A(4)) to construct a front porch increasing the maximum percent lot coverage on a substandard lot of record.

Members participating in the decision were Chairman James E. Nott, Secretary Benjamin Furriel, Eric Raposa, Sue Horwitz, and C. Kevin Donovan.

The Board heard testimony from Applicant, Paula Connolly of 170 Rhode Island Boulevard, Portsmouth and considered the exhibits and materials submitted with the petition.

Applicant explained that they would like to construct a small porch off the front door where there is an existing cement slab 23'x9', no roof, railing with two steps where there is already an existing cement surface.

The Board reviewed the criteria with the Applicant. A Dimensional Variance of only 3% is needed, not the 17.1% as requested. Reviewed Special Use criteria; there are homes in applicant's area with similar porches; will the structure allow for adequate space for fire protection; allow ample light and air flow between the buildings; Will the structure adversely affect the neighboring properties; Does it change the character of the neighborhood; would this create lot coverage and setbacks less than the average lot coverage of the adjacent properties; impose a substantial detriment to the public or immediate neighbors.

Applicant confirmed that the structure meets all Special Use criteria as set and confirmed the Dimensional Variance request is for 17.1% but all that is needed is 3%.

Chairman Nott opened the floor to public comments. No one came forth to comment.

The Board considered the application, based on the testimony and documents presented.

MOTION made by Mr. Furriel to approved the request for Special Use Permit and Dimensional Variance based on common accessory use in the neighborhood, structure fits within the footprint of the dwelling, doesn't encroach on lot lines any more than what it is at current, deck only adds 3% lot coverage to what already exists in order to allow the applicant full use and enjoyment of their property and to deny this request would amount to more than a mere inconvenience. Seconded by Mr. Raposa for reasons stated by Mr. Furriel.

VOTED: 5 - 0

- C. Eugene & Linda Salvatore (applicants and owners) for the property located at 1156 Anthony Road; being Tax Assessor's Map 2 Lot 37 (Zoned Residential, R-10). The Applicant seeks Dimensional Variances (Article IV, Section B; Article VI, Section A(4)) to demolish an existing structure and replace it with a new dwelling unit on a substandard lot of record, exceeding the maximum lot coverage and improving existing setback encroachments.

Applicant was represented by Gerard Galvin, Esq., Galvin Law, 10A Washington Square, Newport, R.I.

Members participating in the decision were Chairman James E. Nott, Secretary Benjamin Furriel, Eric Raposa, Sue Horwitz, and C. Kevin Donovan.

The Board heard the presentation of Atty. Galvin and considered the exhibits submitted with the application.

Atty. Galvin summarized the applicants' proposed request to demolish an existing structure and replace it with a single-family structure. It was found that the property line of record runs through the structure of the house; applicant cleared title in Superior Court and are now beginning the process to improve their property. This now presents a hardship as the lot in question is approximately half the size (5,3365 ft.²) of the surrounding lots being Zoned Residential R-10 zoned for a minimum lot size of 10,000 ft². Applicants have considered the style and size of other residences of the neighborhood in the proposal presented to the Board. Mr. Galvin advised the Board that the replacement plan allows improvement on the existing setback encroachments of the property before addressing a correction to the front page of the application evidence's the lot coverage is 1,066 ft², actual coverage 966 ft² however total lot coverage percentage is accurate.

Mr. Galvin presented testimony from Gene (Eugene) Salvatore, Applicant; Lewis Dipper Ardino, Architect & James Houle, James A Houle & Associates expert in real estate.

Appearing Gene (Eugene) Salvatore, Applicant, 1156 Anthony Rd, Portsmouth, Atty. Galvin solicited testimony regarding the current existing structure, correction of title, reasoning behind a full replacement, the design, boundaries, and size due to the substandard lot in why what is being presented is the best solution for alleviation. Asked about communicating the plans with the surrounding abutters and if any issues arose, Mr. Salvatore affirmed that they have been in constant contact with the neighbors during the progression of the plan and no issues had arisen until very recently. Confirming applicant received a letter that expressed concern about stormwater runoff in the front of the property; the applicant affirmed that there were no stormwater issues in the time they were in the residence. Applicant reiterated to the Board, this being a substandard lot size, the design was set to make as minimal as possible; required to meet with RI DEM and Wastewater which set the perimeters of improvement which made the structure more conforming to the setbacks with the being the least minimal use to meet their needs.

Atty. Galvin asked the Board if they had any questions for Mr. Salvatore; none at this time. Atty. Galvin presented Lewis Diberardino to the Board.

Appearing, Mr. Lewis Diberardino, Studio Diberardino, LLC, 59 Grove St., New Canaan, C.T.; Affirming for the Board that he is a Rhode Island licensed Architect and that he was retained by Mr. Salvatore to design the residence being presented to the Board. Speaking on the design of the residence based on the setback encroachments, lot configuration and concerns mentioned by Mr. Salvatore along with the improvement efforts. Directing attention to the residence being as close to where the current stands holding tight the south and east setbacks, in turn eliminating most of the encroachments of the current residence. Keeping a simple rectangular shape reduces the footprint on the property. Acknowledging that the footprint is about 5 ft. further to the north and a bit larger than what the current residence sits. West setback still requires a dimensional relief however we are improving on what exists already, by about half. Given the zone R-10 and the 5,300 sq. ft. this would be considered a hardship by all given standards. Regards to stormwater and wastewater criteria this leaves the applicant a very small area utilizes, with keeping to similar residences in the neighborhood. 39ft 3in measurement from BFE, in order to measure height.

No further questions from the Board for Mr. Diberardino.

Atty. Galvin presented Mr. Houle with a request he be recognized as a Real Estate Expert. MOTION made by Mr. Furriel, seconded by Mr. Donovan. VOTED: 5 - 0

Appearing Mr. James Houle, 198 Union St. Portsmouth, expert in Real Estate, summarizing the hardship involved is the lot size and line coverage, which upon surveying 8 surrounding lots the average line coverage is 27.29. Applicants are asking for lower line coverage and remaining within the harmony of the neighborhood. No questions from the Board.

Atty. Galvin had no further experts to present.

Chairman Nott asked if any abutters would like to speak.

Appearing, Chris Thompson, 1155 Anthony Rd., Portsmouth, commented that the present residence being one bedroom and the proposal being a two bedroom may not be a substantial reason nor least relief as possible with the least number of variants.

Appearing, Patricia Sherblom, 1155 Anthony Rd., Portsmouth, expressed her concern with drainage in front of the property puddling on the road.

No one further came forward to speak.

Chairman Nott asked the Board to vote on the petition in front of the Board. Mr. Furriel voted to grant Dimensional Variants based on the two hardships; first being the residences requires substantial renovation in an area where other agencies would

not allow the rebuild and second it is a substandard lot; along with the Special Use Permit as the criteria is met and line coverage variance since lot is substandard any build would require a variance of some kind; by denying this request would amount to more than just a mere inconvenience.

Mr. Raposa voted to grant the applicant's petition in front of the Board for reasons stated by Mr. Furreil.

Ms. Horwitz voted to grant applicant petition in front of the Board for reasons stated by Mr. Furreil

Mr. Donovan voted to grant applicant petition in front of the Board for reasons stated by Mr. Furreil

Chairman Mr. Notts voted to grant applicant petition in front of the Board for reasons stated by Mr. Furreil

VOTED: 5 - 0

3. Old Business:

- A. AP Enterprise, LLC, (applicant and owner) for property located at 0 Walnut, 0 Highland Avenue, 0 Russell Avenue, and 0 Park Avenue; being Tax Assessor's Map 20 Lots 1, 3, and 13 and Map 25 Lot 2 (Zoned Commercial and Residential, R-10). The Applicant seeks a Special Use Permit (Article V, Section B(12)) to create an outdoor recreation facility.

Applicant was represented by Jennifer Cervenka, Esq. of Cervenka Green Ducharme LLC, 225 Dyer St 2nd Floor, Providence, R.I.

Members participating in the decision were Chairman James E. Nott, Secretary Benjamin Furreil, Eric Raposa, Sue Horwitz, and C. Kevin Donovan.

The Board heard testimony from Arthur Palmer, Applicant & Owner of AP Enterprise, LLC, 28 Teal Dr, Wakefield, R.I.; Timothy O'Conner, Professional Engineer, 124 Olney Ave, North Providence, R.I.; Audie Osgood, Civil Engineer & Project Manager; Diprete Engineering, 137 Ferry Rd, Saunderstown, R.I.; Melissa Hutchinson, Architect, 203 Hopper St., Tiverton, RI.

Atty. Cervenka presented on behalf of AP Enterprises, LLC for Island Oasis, an outdoor recreational facility, for a special use permit. Consisting of 13 beach volleyball courts, allowing for secondary beach recreational uses, 3 temporary trailers, access road and associated parking that aligns with the town's 2022 Comprehensive plan providing an action item, including meeting parks, recreation, and open space master plan along with a staff report from the Assistant Town Planner this being one of the least intensive uses for property. Under normal operating conditions, 13 courts will have 4 people per court

operating seasonally, late Spring to early Autumn, and during daylight hours. No lighting, speakers, or amplified music will not generate significant increase in traffic on Park Avenue, peak hour traffic is expected to generate 40 to 50 vehicles with parking at 100 sites. Site is former landfill space, with the southern portion along Island Park designed for productive use. Stating that the materials and testimony heard tonight fit the criteria of the zoning ordinances and the surrounding community. Facility is set back from abutters properties exceeding residential and commercial setback requirements, natural buffering to the east by existing vegetation and berm, with an existing perimeter fence and a security fence around the courts to be installed having a green windscreen along the abutting residences section.

Chairman Mr. Notts questioned Atty. Cervenka as to where on the plans presented to the Board and if anything has been provided to the Board.

Atty. Cervenka advised the Board this will be shown on the renderings with architectural expert testimony, the Board has not been provided information prior. Atty. Cervenka returned to describing the site plans; no permanent structures will be on site, no impervious surfaces to generate additional stormwater runoff and located in an area zoned residential and commercial along with quick access. Turning the Boards attention to the staff report stating soil use, cap, dust generation which is all subject to permitting under RIDEM along with permitting from RICRMC abutting the western boundary and with RIDOT for access via Park Avenue; recognizing that all could be conditional upon approval of advised permits. Atty. Cervenka went on to define secondary use of courts as sand-related, soccer, tennis, strength conditioning.

Chairman Nott sought clarification on; First, operational plans submitted to the Board on how many players allowed to actively be on each court at a time during normal operating conditions, 2 or 4 players, since the plans and what has been verbally stated before the Board are conflicting. Citing the plans in front of the Board, plans show 2 teams of 4 players, totaling 8 players per court. Second, the number of courts and use thereof as plans project 13 volleyball courts and a soccer court conflict with the verbal testimony given thus far. Third, the traffic report advises facility has 1 beach soccer court in-place of 3 volleyball courts, which does not match the petition/plans presented to this Board. Fourth, operational aspects of the courts/facility including enforcement of normal operations, as shown versus as verbally stated to the Board.

Atty. Cervenka expressed each court is 2 by 2 making a total per court count of 4 players under normal operating conditions; 2 teams of 4 will be address regarding the tournaments which AP Enterprise, itself, does not plan to operate tournaments at the facility, leaving open the possibility for tournaments by clientele. Atty. Cervenka confirmed that the site plan in front of the Board is the original and her testimony is based on a revised plan that the Board does not have for review. Confirmed that the revised plans do match the traffic report, which has not been sent to the Board for review.

Mr. Furriel questioned that the original plan in front of the Board may also require

amending due to it evidencing something different than what is in the traffic analysis. Appearing Arthur Palmer, Applicant & Owner of AP Enterprise, LLC, 28 Teal Dr, Wakefield, R.I. discussing his background, history of beach volleyball, recapping what was required to bring site to active use, idea for facility, policies, how the facility is to be utilized and the daily operation of said facility.

Chairman Nott inquired if there were to be a league, how people access the courts and what would stop people from playing more than 4 on 4 or 2 on 2.

Mr. Palmer responded the facilities will be accessed via passes, the attraction of playing more than 4 on 4 is minimal in the sport.

Ms. Horwitz addressed oversight when the facilities are open and engaged.

Mr. Palmer advised there would be management there overseeing scheduling, admission and there will also be an attendant to maintain rules and order along with attendants for equipment repair and other such needs of the facilities.

Chairman Nott asked how many people/employees at the site on a daily operating basis

Mr. Palmer replied just 2.

Mr. Furriel had questions regarding if spectators are allowed on the site, citing the applicant's operational plan that implied that there could youth organizations playing at the facility to which would have spectators at the very least in regards to the youth organizations; pointed to that the traffic analysis and other such materials submitted have not addressed spectators. Asked could a spectator get in without a pass.

Mr. Palmer advised a spectator could enter without a pass, however this is more referring to tournaments, since this sport is not really a spectator sport.

Chairman Nott and Mr. Furriel both clarified that this sport people will at some point watch others playing regardless of if they play or not.

Mr. Furriel went on to say as to his current understanding that people can get on the facility site without a pass, not play, and park. Addressed a concern of coolers with alcohol, underage consumption, public safety and having 2 employees to address these concerns on a daily basis. Continuing to address concerns in regards to modeling the site based on golf, as cited in the traffic analysis, is not considering the potential amount of spectators this sport could draw and if the traffic analysis accurately reflects the amount of potential traffic.

Mr. Palmer disagreed that there would be the amount of spectators for beach volleyball that could cause concern for traffic and commented that most people come with the players so additional spectators are rare.

Chairman Notts called attention to Island Park Oasis Beach Volleyball Operational Plan revised copy, with Mr. Palmer's statement, provided by Mr. Palmer's Representative for the Board. The section on Facility Use discusses 13 sand parts along with secondary uses, also states the facility will offer courts by reservation or rent by adult and youth leagues, contradicting what has been said so far tonight. Goes on to state the maximum number of patrons expected for tournament play is approximately 95 people, breaking down to 90 players and 5 staff which also contradicts no leagues as stated tonight.

Mr. Palmer advised no comment on that policy at this stage.

Mr. Donovan commented as to the grass viewing area on the cross sectional plan.

Mr. Palmer rebutted that area was also a place to put gear, an umbrella and beach chair.

Atty. Cervenka presented Timothy M. O'Conner, 124 Olney Ave, North Providence, Director of Environmental Health and Safety for Johnson & Wales University; Sole Proprietor of a Consulting firm.

Mr. O'Conner, detailed his job history, how it correlates to the petition in front of the Board, background into what his job entails, evidenced he is well versed in OSHA, DEM, and other hazardous material cleanup permits, regulations and management.

Atty Cervenka presented Mr. O'Conner's resume to the Board, requesting to be entered as an exhibit and requested that Mr. O'Conner be qualified by the Board, as Rhode Island Licensed Engineer, expertise in investigation and remediation of Rhode Island contaminate sites.

Chairman Nott to be marked as Exhibit 1; Resume of Timothy M.O'Conner Professional Engineer

Mr. Raposa made a motion to accept Mr. O'Conner as a civil engineer with expertise in environmental site remediation seconded by Ms. Horwitz. VOTED: 5 - 0

Atty. Cervenka continued her questioning of Mr. O'Conner on his site remediation specific to Portsmouth landfill cleanup. Asked Mr. O'Conner to describe the overall process involved in closing/cleaning a landfill.

Mr. O'Conner explained the process to the general process involved in closing a landfill and the cleanup process. Gave details on shaping, grading soils, burms, vegetation, along with the remedies taken to be able to apply for a Beneficial Use Determination (BUD) from Rhode Island DEM.

Atty Cervenka asked Mr. O'Conner to address the abutters' concerns about arsenic in the soil.

Mr. O'Conner stated the remedial action work plan approves 2ft. of clean soil on top of everything and the shaping and grading soils. The BUD also received approval for this specific to the shaping and grading soils for regulatory permission. Regarding arsenic specifically, discussing how it occurs naturally in Rhode Island in the soil, RIDEM approved soil up to 40/45 parts per 1 million total arsenic, average volume in soil as compared with average residential standards, and confirming that everything is under 2ft. of residential soil. Mr. O'Conner spoke on groundwater and gas sampling around the site along with the recommended remedy as cooperated with RIDEM.

Chairman Nott for clarity asked Atty. Cervenka that the applicant did not have approval from RIDEM do grade, shape and capping simultaneously since there was no documentation provided to the Board advising otherwise.

Atty. Cervenka concurred that RIDEM did not give approval on modifications but in several conversations with them advised that the applicant could be allowed to do so. Advising that this was a hypothetical, upon Town approval, to which an application would be submitted to amend remedial action work. Atty. Cervenka questioned Mr. O'Connor about a public hearing on modifications, if a recreational facility is the best use of an old municipal landfill, continued questioning Mr. O'Connor on the suggestions made by RIDEM and other State Departments that require permitting prior to moving forward.

Mr. O'Connor confirmed modifications will have a public hearing as in a letter from RIDEM, once a submission for proposal to amend the work plan is taken, that a recreational is the best use naming a few and RIDEM essentially has suggested the use of geotextile to over of the 2ft of the residential soil being laid and under the sand of the volley courts, prior to bringing any of the improvement's discussed here tonight. CRMC would require ascents in order to modify the original remedial action work plan and RIDOT as well. They current CRMC permit has approval for the access road and use of stockpile.

Chairman Nott had Town Planner Lea, project plans for visual and discussion on several items of concern regarding the current accessibility of the site by the general public, certain vegetation that was spotted in regards to question of some part being possible wetlands, and walk through of as it appears now to what is projected design.

Mr. O'Connor took the concern of the access, stating he was not an expert in wetlands; however the plan was based on RIDEM approval, wetlands would not appear to be an issue.

Chairman Nott called for a recess at 8:39pm; Board resumed session at 8:45pm

Atty. Cervenka called Audie Osgood, Civil Engineer & Project Manager; Diprete Engineering, 137 Ferry Rd, Saunderstown, R.I., submitting resume on his behalf.

Chairman Nott noted Mr. Osgood's resume be marked Exhibit 2.

Atty. Cervenka ask Mr. Osgood to review his work history, job entailment, education, professional licenses and societies.

Mr. Osgood detailed his current job title, entailment, history, education before moving to professional licenses and finishing with societies.

Atty. Cervenka requested the Board to have Mr. Osgood qualify as an expert before the Board as a Rhode Island Civil Engineer with expertise in site design permitting and construction of commercial projects.

Mr. Raposa made the motion to qualify Mr. Osgood as an expert witness as stated above, seconded by Mr. Furriel & Ms. Horwitz. VOTED: 5 - 0

Attyn. Cervenka advised that Mr. Osgood will be walking the Board and public “through what I’ve referred to as the revised site plan” referring to the 13 sand/beach volleyball courts mentioned in open remarks.

Chairman Nott noted the paper copy of the revised plans as stated by Atty Cervenka, handed to the Board and as shown on the screen to the public be marked Exhibit 3. Remarking for the record that Exhibit 3, for clarification was not part of the original plan advertised by the petition and the public has not viewed this revised prior to tonight.

Atty. Cervenka agreed it was not part of the original application, not advertised and confirmed that the public had not seen the revised prior to this meeting, though it was a less intensive use than what that original plan entails. Returning to Mr. Osgood, asking him to explain his experience with the original site plan and with the revised site marked Exhibit 3, specifically to the changes.

Mr. Osgood, confirmed that he worked on both the original plans and on the revised as shown now; then explained the revised plan slides that were projected for the public to see. Focusing on the differences between the revised, just presented and the original plans submitted to the Board. Describing the revised plan replaced the beach soccer court with 3 beach volleyball courts and the 4 beach volleyball courts closest to the location of the office trailer were cut to a single volleyball court. Confirming revised plans now have 13 volleyball courts and no soccer area.

Ms. Horwitz questioned what is to stop the 2 courts being converted into 4 courts to be used for soccer, since the dimensions of the courts remain the same.

Mr. Osgood replied he would think the operational plan and/or how the operator wants/intends to use the facility dictate usage. By adjusting symmetry the plans can easily be converted to re-configure for more space between courts which would not allow for the conversion of courts.

Mr. Furriel asked Mr. Osgood to identify, in the whole revised plan projected, where this change affects the text and other areas of the package and confirmation that the revised

drawings, being shown, matches the operations plan.

Mr. Osgood stated that the other direct correlation would be the traffic analysis, which the revised was done to correlate with the traffic analysis. Confirmed that the presented drawing matches the operational plans.

Atty. Cervenka concurred that the drawing and the operational plan match, with the operational plan calling for secondary uses of the courts.

Ms. Horwitz asked for clarification on what is considered secondary use of the courts.

Atty. Cervenka stated that secondary use would be beach soccer, beach tennis, and strength training, if in demand. Detailed the different conversions of people for secondary uses.

Mr. Furriel asked if the secondary uses affect the number of people that would be on site.

Atty. Cervenka confirmed it would, mainly if converting for soccer play. Pointing to a key on the drawing allowing for 13 volleyball courts or 10 volleyball courts with 1 soccer court.

Chairman Nott re-iterated concern that there is nothing limiting the number of players on a court if a league rents since it is up to the renter to determine teams.

Atty. Cervenka concurred, advising that the Petitioner would agree to conditions set by the Board, if any, that would limit that to 2 by 2 for regular operation conditions and referencing the traffic analysis that allows for this. Atty. Cervenka then asked Mr. Osgood to walk through the whole of the revised plan for the Board and public.

Mr. Osgood testified that the site is just over 20 acres total, proposing 7 acres for usage, Park Avenue side would be an access area, frontage along Park Avenue would be approximately 350 ft., Mason Avenue has frontage approximately 385ft., Highland Avenue and Russell Avenue also have frontage as well, no plans to use them as access points. Along East side no abutting right of ways mainly residential and west side undeveloped parcel primarily salt march and coastal waters with a 2600 ft. property line that holds a 200 ft coastal jurisdiction. Spoke on the current status of the site, vegetation, soil, drainage of stormwater runoff showing on visual the direction of runoff, the anticipated height of the berm on the eastern side run east to west. No concentrated flow of runoff or piped out. No impervious improvements on site so no increase of additional runoff, sand courts and pervious stone will assist in runoff and stabilize site, cited on visual were jurisdictional wetlands prior to capping but some have been removed during the capping process, others will end up being revised upon completion of the capping. Runoff in this area does not drain to the west due to being a low area, reiterating RIDOT, CRMC and RIDEM permitting. Setbacks vary 10 ft to 30 ft pending zone (residential or commercial), proposed structure would not be permanent so

setbacks were measured from sand court areas or parking areas, seeking greatest setback of 30 ft and at the least 80 ft. Advised the closest setback to residence from the nearest building is about 200 ft. Explaining the topography of the site, the embankment is 8 to 10 feet above Mason and Park Avenue with an elevation of 6 to 8 feet over sea level with final condition being higher.

Chairman Nott had some concerns about the access point being wide enough for the traffic, as currently stands. Addressed wood chips on the site; will they be used or removed; if intend to use what would the use be, the decomposition

Mr. Osgood cited that CRMC permit did allow for minor reworking and regrading of Park Ave driveway, width of driveway being 18 to 20 feet. Wood chips were intended to be spread over site and be mixed with additional organic materials to assist in the development. The settlement amount with the decomposition of the wood chips mixed in organic matter is about half an inch where utilized.

Ms. Horwitz noted concerns with the steep berm and lack of fencing to protect the public along with the stability of the slope and the placement of a security fence, at the bottom of the berm.

Atty. Cervenk asked that Mr. Horwitz concern with the berm to Mr. O'Conner, as he would be the expert to discuss the concerns.

Mr. O'Conner testified that it is a challenging slope that will be stablized with assistance from planted vegetation, place tack of fire and see.

Chairman Nott asked if they was a plan in place, due to testimony of Mr. O'Conner advising they would have to look into it.

Mr. Osgood testified that there is a proposed slope at a 3:1 ratio, which is the steepest slope that a riding mower can be utilized. Security fences will be installed to address security on the site, advised that the slope is not steep enough where it has to be regulated so there would be no barrier at the top of the slope ,but not a safety hazard.

Atty Cervenka stated that all of these revisions as discussed are subject to RIDEM permitting, should they receive approval from the Town and will apply for a modified remedial action work plan along with public comments.

Ms. Horwitz voiced concerns regarding the safety of the berm in regards to height and not having a safety fence in place to assist in negating accidents which could be more significant should revisions be allowed.

Chairman Nott spoke on a hypothetical scenario, to make the point; Town grants a petition currently in front of Board, then go to State to get the modification, State makes you revise plans, now what was granted by Town is not what was approved due to State telling you to rearrange something. Would have to come back before this Board

again.

Attyn Cervenka confirmed that they would have to come back to the Town to seek approval on the revised, from her understanding if material, if not material it could be done administratively.

Mr. Furriel asked for clarification of a symbol on the revised drawings, appearing to be a low area

Mr. O'Conner replied not directly, the symbol represents an edge of an area that was in 2013 set as a wetland area.

Mr. Furriel commented on a wetland area with no access to sea, water flowing off the berm will flow into that area and is it a standing water feature throughout the year and would the amount of runoff be more than what is typical.

Mr. O'Conner could not speak on standing watering throughout the year but did address the amount of runoff would remain the same, not projected to increase and would empty into the low lying area.

Attyn Cervenka called Melissa Hutchinson, Sole Proprietor of MH Architect LLC, 203 Hopper St., Tiverton, RI. Submitting her resume to the Board requesting it be entered as an exhibit.

Chairman Nott noted Melissa Hutchinson's resume be entered as Exhibit 4.

Attyn Cervenka asked Ms. Hutchinson to detail her job title, description, job history, experience and professional licensing.

Ms. Hutchinson gave detail to her professional background.

Attyn Cervenka asked the Board to have Ms. Hutchinson qualified as an expert in Architectural Design with expertise on layout of beach volleyball facilities.

Ms. Horwitz motioned to qualify Ms. Hutchinson as an expert in Architectural Engineering, seconded by Mr. Furriel

Atty Cervenka continued to question Ms. Hutchinson on the site plan that demonstrative exhibits that are now being visually shown. Advising the Board that slides are a rendering of the original site plan configuration, having same footprint as the revised site plan.

Ms. Hutchinson explained how the pictures were taken on the various slides, pictures are then incorporated with Mr. Osgood's plan in order for all to scale, from autocad drawing it is converted to 3D sketch and rendered to what appears on the screen. Pointed out the different features on the site, the orientation of the courts, boundaries of north and south of the site, fire turnaround accessible to the Fire Department and the

existing wetland area. Spoke on the thought process when laying out the site. Ms. Hutchinson referenced a perimeter fence surrounding the property at approximately 6ft in height with a mesh windscreen and a security fence closer to the courts being about 4ft in height and showing a 12ft grade change from Park Ave there is no viewing of the courts roadside.

Chairman Nott asked what are the temporary buildings being referenced be made of, how does the facility receive them and are they being removed upon seasonal closing of the facility.

Ms. Hutchinson deferred the questions to Mr. Palmer for answering.

Mr. Palmer testified the temporary buildings would be mostly trailers, 1 being a restroom facility, office trailer, storage container pending rental agreement they may be removed with expectation of storage trailer.

Chairman Nott commented that though temporary could be permanent because it may not leave premises.

Mr. Palmer concurred.

Ms. Hutchinson confirmed it is a temporary structure with the intention it will remain on the site, with no lighting. There will be some power for security lights/cameras which will be on motion detector. Clarifying for the Board the motion lighting is solar powered and the cameras are meant to work in low light.

Time set aside for this discussion is expiring and the petition is not close to a vote. Further discussion is required for the public and abutters to speak on record.

Motion by Mr. Raposa to continue discussions in a special meeting on September 7, 2023, and seconded by Mr. Benjamin Furriel.

VOTED: 5 – 0

Motion to Adjourn made by Mr. Raposa at 9:47pm, seconded by Mr. Furriel. The motion was unanimously supported.

Respectfully submitted by:
Heather Raposa
Town Recorder

