



Town of Portsmouth

Zoning Board of Review
2200 East Main Road/Portsmouth, Rhode Island 02871
www.portsmouthri.gov

ZBR MINUTES REGULAR MEETING JANUARY 15, 2026

MEMBERS PRESENT: Chairman Eric Raposa, Secretary Sue Horwitz, Paul Laurienzo, Andrew Kelly, and Marco Dimattino – Alternate 1

MEMBERS ABSENT: Vice Chairman Benjamin Furriel, and Paul Maleck – Alternate 2

OTHERS PRESENT: Aaron Lindo, Assistant Town Planner; Kristen Black, Planning Technician; Heather E. Raposa, Recording Secretary; and Giovanni Cicione, Town Solicitor

Chairman Raposa called the meeting to order at 7:03 p.m. in the Town Council Chambers.

I. ROLL CALL: See Members present/absent above.

II. MINUTES:

a MOTION: Mr. Kelly made a motion to approve the November 20, 2025, Zoning Board Minutes as written; seconded by Mr. Dimattino.

b VOTE: 5-0 (Chairman Eric Raposa: YES, Secretary Sue Horowitz: YES, Paul Laurienzo: YES, Andrew Kelly: YES, and Marco Dimattino: YES).

III. OLD BUSINESS:

a Alicia Nunez (applicant and owner) for property located at 028 Edda Avenue (Prudence Island); being Tax Assessor's Map 75 Lot 25A (Zoned Residential, R-20). The Applicant seeks retroactive approval for a Special Use Permit (Article VII, Section A; Article VI, Section C1(b)) and a Dimensional Variance (Article IV, Section B) for a deck that was built in the rear setback on a non-conforming structure in a residential zone.

Juan and Alicia Nunez, 028 Edda Avenue, purchased the property with the pre-existing deck the previous owner had built without getting a variance.

Ms. Horwitz asked if the deck had already been built and if there were permits. Mr. Nunez replied the previous owner built the deck and he did not believe there were permits.

Mr. Lindo commented the Nunez's need the retroactive approval before they can proceed with any further building permits. The Nunez's had applied for a building permit and that is when it was discovered they did not have the proper zoning approval for what had already been built. The previous owner applied to build the



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deck and was told he needed variances but went along and built it anyway, which was caught on aerial photography.

Chairman Raposa asked if this would have been picked up on an inspection report. Ms. Horwitz commented that home inspections do not check zoning. Mr. Dimattino added they could have purchased without a home inspection.

Ms. Horwitz read a letter sent in from Chris Kirwin, an abutter, who owns 023 Madison Avenue on Prudence Island. This abutter had been at the November 20, 2025, Zoning Board Meeting. The letter reads: “Good morning Mr. Lindo. My name is Chris Kirwin. My wife and I own the property at 023 Madison Ave. on Prudence Island. I am contacting you regarding the zoning application seeking relief for a deck which was built within the setback at 028 Edda Ave, which directly abuts my property. When the deck was being constructed by the previous owner, I reached out to Matt Kent regarding the permitting, as I hadn't been notified of any sought after relief from the setbacks. He responded there were no permits issued. I contacted the owner, Ken Mongeon, and told him of my concerns. Specifically: #1 that granted coverage increases would not subsequently allow building upon the deck (additions). #2 that adequate landscape screening would be planted by him to ensure our mutual privacy. He assured me that both those items were acceptable solutions to my objection. The first simply prevents future development of that portion of the property. The second is a minor improvement at little cost. (continuing the line of existing forsythia would be satisfactory). Mr. Mongeon proceeded to sell the property to Ms. Nunez, who I look forward to meeting. Without the solutions that I proposed to Mr. Mongeon, enforced as conditions of approval by the zoning board, then I object to the relief sought. Thank-you, I look forward to hearing from you, Chris Kirwin.”

Ms. Horwitz asked the Nunez's if they were okay with the additional plantings that Mr. Kirwin had requested. Ms. Nunez replied yes.

MOTION: Ms. Horwitz made a motion to approve the retroactive Special Use Permit and a Dimensional Variance for a deck that was built in the rear setback on a non-conforming structure in a residential zone, with the condition to add additional plantings on the property line; seconded by Mr. Kelly.

VOTE: 5-0 (Chairman Eric Raposa: YES, Secretary Sue Horowitz: YES, Paul Laurienzo: YES, Andrew Kelly: YES, and Marco Dimattino: YES).

IV. NEW BUSINESS:

- a **Ralph McCluskey (applicant and owner) for property located at 70 Bayview Avenue; being Tax Assessor's Map 6 Lot 39 (Zoned Residential, R-20). The**



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Applicant seeks a Special Use Permit (Article VII, Section A; Article VI, Section C1(b)) and a Dimension Variance (Article IV, Section B) to build an addition on a nonconforming structure in a residential zone located in the side setback.

Ralph McCluskey, 70 Bayview Avenue, stated that nothing has changed on his end in terms of what his goal is with the property, basically to restore the 1925 cottage. The issue that arose in the November meeting was the exact location of the right rear footprint of the garage. The right rear edge of the garage is 1.7' versus 1.9' from the property line.

Abaigail Brown, 104 Bayview Avenue, was not here for the November 20, 2025, meeting. She is in favor of the proposal; it will not obstruct her views.

James Hitchen, 82 Bayview Avenue, stated that the reason he brought up the survey was because a Class 1 Survey had not been submitted showing the garage was not on his property. A Class 1 Survey has now been submitted.

MOTION: Mr. Laurienzo made a motion to approve a Special Use Permit and a Dimensional Variance of 1.7'; seconded by Mr. Dimattino.

VOTE: 5-0 (Chairman Eric Raposa: YES, Secretary Sue Horowitz: YES, Paul Laurienzo: YES, Andrew Kelly: YES, and Marco Dimattino: YES).

- b Daniel Herchenroether (Applicant) for Jeff Buress (Owner) for property located at 125 Gideon Lawton Lane; being Tax Assessor's Map 40 Lot 46 (Zoned Residential, R-20). The Applicant seeks a Dimensional Variance (Article IV, Section B) to construct a new pool cabana in a residential zone located in the rear setback.**

Daniel Herchenroether, Herkworks Architecture, 36 Aquidneck Avenue, Middletown, RI, is the architect for this project. Proposing to put in a new pool house. There is a small pool shed there now to house the pool equipment, but it is rotting and needs to be replaced. The existing pool shed is 8' from rear property line, and the proposed pool cabana will also be 8' from the rear property line. There were not many places the pool cabana could be placed in this lot, and the proposed location will no impede the neighbors view of the water. The pool cabana's 1st floor will be a pool house, and the 2nd floor will be a gym. There are no bathrooms, bedrooms, or any plumbing for the pool cabana.

Ms. Horwitz asked if the applicant was only requesting the rear yard setback variance. Mr. Herchenroether replied yes.



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Mr. Laurienzo asked if they could have placed the pool cabana near the basketball court, where a variance would not have been needed. Mr. Herchenroether replied it could have, but the grade is not good there and it would impact on the neighbors views of the water if it was there.

MOTION: Ms. Horwitz made a motion to approve the reduced setback at the rear property line since the applicant took into consideration views of the neighboring properties and the topography of the south; seconded by Mr. Kelly.

VOTE: 5-0 (Chairman Eric Raposa: YES, Secretary Sue Horowitz: YES, Paul Laurienzo: YES, Andrew Kelly: YES, and Marco Dimattino: YES).

- c Kim Prefontaine (Applicant) for Robin Portsmouth LLC (Owner) for property located at 121 Robin Road; being Tax Assessor's Map 49 Lot 22 (Zoned Residential, R-20). The Applicant seeks a Dimensional Variance (Article IV, Section B) to add an addition of a 118 square foot single story front vestibule entrance way in-line with the existing footprint edge in a residential zone.**

Spencer McCombe, architect for this project, 121 Robin Road. 121 Robin Road had been renovated before Robin Portsmouth LLC bought the property, but the front door had an odd situation where the door opened basically directly into the kitchen. The new owners want to have some sort of foyer area, and the design is to enclose that with a new roofline. The proposed foyer is 10' x 11', and is essentially a spot where you can kick off your shoes and has a small closet for coats. The front of the house already encroaches into the front setback, because they are extending that, they had to come to the Zoning Board. This addition would be a 1% lot coverage increase.

Ms. Horwitz asked how much of a variance was being requested. Mr. McCombe replied 5.9', this is also an undersized lot, which almost got them out of having to request a variance, but not quite.

Ms. Horwitz asked if the steps were not included in the setbacks. Mr. Lindo replied that they are landscaping steps so they are not included.

Chairman Raposa asked if the addition extends past the existing home. Mr. McCombe replied no.

MOTION: Mr. Kelly made a motion to approve the 5.9' dimensional variance; seconded by Ms. Horwitz.



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VOTE: 5-0 (Chairman Eric Raposa: YES, Secretary Sue Horowitz: YES, Paul Laurienzo: YES, Andrew Kelly: YES, and Marco Dimattino: YES).

- d Trier Kissell (Applicant/Owner) for property located at 81 +87 Freeborn Street; being Tax Assessor's Map 33 Lot 34 (Zoned Residential, R-20). The Applicant seeks a Dimensional Variance (Article IV, Section B) to renovate and expand an existing non-conforming rear cabin in a residential zone.**

Trier and Andrew Kissell, 81+87 Freeborn Street, bought the property in March of 2025. The cabin they are requesting the dimensional variance for had a long-term tenant, but they needed to end this due to the condition of the residence. After trying to complete some interior upgrades, they realized the actual condition of the cottage was much worse than they thought. Their proposal is to demo the cottage, pour a proper foundation, and rebuild and expand the cottage.

Ms. Horowitz asked if this is a single-story building. Ms. Kissell replied yes, and it is one bedroom.

Ms. Kissell commented that they are encroaching on their setbacks along Ms. Gorton's property. Currently they are encroaching 6.2' on their side setback, and the expansion would be the same.

Chairman Raposa asked since they were demolishing the cottage to rebuild, why they were not moving it into the setbacks to make it conform. Ms. Kissell replied that it was because of how the property is laid out, there is a lot of landscaping that is not pictured. In her opinion, it makes a lot of sense to leave the cottage where it is since the septic's already run over there.

Ms. Horowitz asked about all the properties on the lot. Ms. Kissell replied there are four buildings, the large house is where they live, there's a tenant on third floor, there is a long term residence in the back (cottage under discussion), there is a front cabin near Freeborn Street that also has a long-term tenant, and there is a barn/garage but it is not a dwelling.

Discussion on moving the property to make it conform.

Jo-Anne Gorton, 101 Freeborn Street, abutter, sent a letter in. She has no issues with the project if the owners move the cabin into the setbacks. If they cannot move the cottage, she asks that there be no parking to the West of the proposed cottage, no extension of the existing driveway to the west of the cottage, and no additional driveway entrance from Freeborn Street.



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MOTION: Mr. Dimattino made a motion to continue this application to the February 19, 2026, Zoning Board meeting; seconded by Mr. Kelly.

VOTE: 5-0 (Chairman Eric Raposa: YES, Secretary Sue Horowitz: YES, Paul Laurienzo: YES, Andrew Kelly: YES, and Marco Dimattino: YES).

Motion to adjourn made by Mr. Kelly; seconded by Mr. Dimattino.

Meeting adjourned at 8:04 p.m.

Respectfully submitted by:
Heather E. Raposa