



Town of Portsmouth

ZONING BOARD OF REVIEW

2200 East Main Road / Portsmouth, Rhode Island 02871

(401) 683-3611

Petition of Christopher & Debra Burnett
415 Sea Meadow Drive
Map 42A, Lot 55
Zoned: R-20

DECISION

This matter was heard before the Portsmouth Zoning Board of Review on August 20, 2020, using the Zoom remote meeting service in accordance with the Governor's Executive Order 20-46, on petitioners' application for a special use permit under Article V, Section J.3 of the Portsmouth Zoning Ordinance to construct a small solar energy system.

Members participating in the decision were Chairman James E. Nott, Vice Chairman John G. Borden, Secretary Benjamin Furriel, Kathleen T. Pavlakis, and Sue Horwitz.

The Board heard the testimony of the petitioners, Christopher and Debra Burnett, and considered the exhibits submitted with the petition. Petitioners built the system in May of 2019 before the Town enacted the current solar energy system provisions in the Zoning Ordinance. It is an off-grid, battery-backed system and is fully operational. The electric power is used "behind the meter" for petitioners' home. Petitioners did not apply for or obtain any building or electrical permits for the project and it has not been inspected. Mr. Burnett testified concerning his experience in the field of renewable energy and that he had installed a solar energy system on his property in New Hampshire. Mr. Burnett testified that he contacted several installers and none would install the system on the roof of the home. He stated that he had the bona fides to perform a self-installation. He testified that the system is a ballasted ground-mounted system that fully complies with the solar provisions enacted in May of 2020. Mr. Burnett testified that the Town building officials considers the structure supporting the solar panels to be a shed, improperly located in the side yard, and he disagrees. The Town has cited petitioner for violations which are disputed and pending in the Municipal Court. Mr. Burnett testified, in response to questions from the Board, that he is not a structural engineer or a licensed electrician. Petitioners testified that the system is well screened with vegetation and it is partially visible by just one neighboring property.

Chairman Nott read into the record letters from three abutters who opposed the petition. Mr. Nott noted that issues concerning any alleged violation of restrictive covenants would be a civil matter and not proper for consideration by the Board in hearing petitioners' request for a special use permit.

The Board voted unanimously to impose, as a condition to any grant of a special use permit, that additional vegetative screening must be installed such that the solar system will not be visible from any neighboring property.

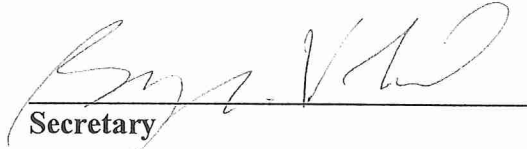
The Board then considered the petition based on the evidence presented. Mr. Borden and Ms. Horwitz voted to approve the petition for a special use permit. Mr. Nott, Mr. Furriel and Ms. Pavlakis voted to deny the petition, based on a determination that petitioners had not satisfied the special use permit criteria because there had been no structural or electrical inspection to ensure that the solar energy system does not present a hazard in the neighborhood or adversely affect public health, safety and welfare.

Because the concurring vote of 4 Board members is required to grant a special use permit, **the petition was denied** on a vote of 2 members in favor and 3 opposed.

Portsmouth Board of Review

By:

Dated: 22 September 2020


Secretary

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