

# Town of Portsmouth

## ZONING BOARD OF REVIEW

2200 East Main Road  
Portsmouth, Rhode Island 02871  
(401) 643-0333

**Petition of The Narragansett Electric Company  
d/b/a Rhode Island Energy  
111 Old Mill Lane  
Map 68, Lot 74  
Zoned: R-40**

### ADVISORY OPINION ON APPLICATION FOR SPECIAL USE PERMIT

This matter was heard before the Portsmouth Zoning Board of Review on June 22, 2023, on petitioner's application for a special use permit for the mobilization and use of a liquid natural gas vaporization facility, pursuant to an Order of the Rhode Island Energy Facility Siting Board ("EFSB") in Docket No. SB-2021-04. The EFSB directed this Board to render an advisory opinion as to whether the proposed facility would meet the requirements of the Portsmouth Zoning Ordinance and whether any variance, including a special use permit or dimensional variance, should be granted.

Petitioner was represented by George W. Watson III, Esquire of the firm Robinson & Cole LLP. Members participating in the decision were Chairman James E. Nott, Secretary Benjamin Furriel, Sue Horwitz, and Langdon Harris.

The Board heard the presentation of Mr. Watson and testimony from Julie Porcaro, Jeff Montigny, and Brian Kirkwood of R.I. Energy, Thomas Sweeney of Sweeney Real Estate & Appraisal, and Sanvisna Kogelen of HDR, Inc.

Mr. Watson and petitioner's witnesses walked the Board through a PowerPoint presentation concerning the subject property, the neighborhood, and the equipment and facilities proposed to be operated on the site, and responded to questions from members of the Board.

According to Article V, Section B.5 of the Portsmouth Zoning Ordinance, "Public utilities, limited to electrical, telephone, water, gas, cable television and sewer" uses are not allowed by right in the R-40 residential zoning district. Such uses are allowed only by special use permit.

After hearing testimony from the applicant and comments made by the abutters and members of the public present at the meeting, the Board considered and made determinations on the following applicable criteria for granting a special use permit, as provided in Article VII, Section A.5 of the Zoning Ordinance: (a) the desired use will not be detrimental to the surrounding area; (b) it will be compatible with neighboring land

uses; (c) it will not create a nuisance or a hazard in the neighborhood; (d) adequate protection is afforded to the surrounding property by the use of open space and planting; (e) safe vehicular access and adequate parking are provided; (f) control of noise, smoke, odors, lighting and any other objectionable feature is provided; (g) solar rights of the abutters are provided for; (h) the proposed special use will be in conformance with the purposes and intent of the comprehensive plan and the zoning ordinance of the Town of Portsmouth and; (i) the health, safety and welfare of the community are protected.

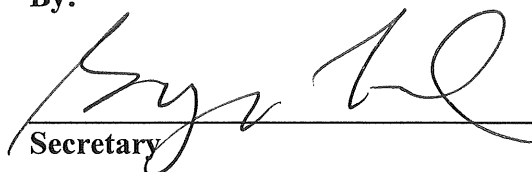
Based on the testimony and evidence presented, the Board found that the project met the criteria of subsections (d), (e), and (g). However, regarding subsections (a), (b), (c), (f), (h), the Board determined that the standards and criteria for a special use permit had not been satisfied by the applicant.

The Board determined that the use would be detrimental to the surrounding area and would not be compatible with the neighboring land uses as the use is an industrial use in a residential zone surrounded by residential homes. The project could potentially create a nuisance or a hazard in the neighborhood as the large tanker trucks containing liquified natural gas used for the project can only access the project site via Old Mill Lane, which is a two-lane road, primarily used for residential use. The Board found, based on testimony presented, that there is considerable noise that comes from the project site that relates to the current operation and determined that there is limited control of the noise as the applicant is actively seeking a noise variance from the Town Council. The Board further determined that the proposed special use would not be in conformance with the purposes and intent of the comprehensive plan and the zoning ordinance of the Town of Portsmouth, and that the health, safety, and welfare of the community would not be protected.

Accordingly, the Board voted unanimously that the application for a special use permit should be denied.

**Portsmouth Zoning Board of Review**

**By:**

  
Secretary

Dated: 21 July 2023