

**REGULAR MEETING
BOARD OF ADJUSTMENT
PORTSMOUTH, NEW HAMPSHIRE**

6:30 P.M. – Conference Room A – Non-Public Meeting

7:00 P.M.

CITY COUNCIL CHAMBERS

December 18, 2001

MEMBERS PRESENT: Chairman, Jack Blalock, Vice-Chairman Charles LeBlanc; James Horrigan; Alain Jousse; Bob Marchewka; Chris Rogers; Nate Holloway; and, alternates, David Witham and Ginny Weeks

MEMBERS EXCUSED:

ALSO PRESENT: Lucy Tillman, Planner I

I. APPROVAL OF MINUTES

Vice-Chairman LeBlanc made a motion to approve the minutes from the November 20, 2001; and, the minutes from the November 27, 2001 meeting with the following correction.

On page 2 under Decision of the Board, Vice-Chairman LeBlanc made a motion; however, there was no second. Let the record reflect that Mr. Holloway seconded the motion and the record has been changed.

Mr. Rogers seconded and the motion passed unanimously with a 7 – 0 vote.

II. OLD BUSINESS

A) Request for Rehearing for Cate Irvine, owner for property located at 300 Court Street requested by Bernard W. Pelech, Esquire. Said property is shown on Assessor Plan 108 as Lot 012 and lies within the Mixed Residential Office and Historic A districts.

Ms. Weeks made a motion to deny the Request for Rehearing; Mr. Holloway seconded for discussion. Ms. Weeks stated the reason the Historic District District Commission did not pass the application. It is unfortunate that the architect for the project made an error in his measurements on the plan presented to the HDC. Mr. Holloway stated he seconded for discussion purposes.

Vice-Chairman LeBlanc stated the applicant. The presentation was made erroneously.

Chairman Blalock stated he agreed and added the that Item #5 on the rehearing that there was no public hearing or any notice to abutters. This Board is not bound to grant a Public Hearing and added he is comfortable that the Board followed State Law.

At this time, Ms. Weeks withdrew her motion since she realized she was an alternate and not voting on this application. Mr. Holloway withdrew his second.

Vice-chairman LeBlanc made a motion with deny the application; Mr. Jousse seconded. Mr. LeBlanc stated he will stick with his comments made on the original motion. Mr. Jousse stated that after reviewing all the materials submitted, the HDC did not make an error in their decision made at the meeting and followed their procedures.

The motion to deny passed unanimously with a 7 – 0 vote.

B) Request for an Extension of Time for an additional one year time period for property owned by William and Sue Mautz, owner, located at 338 Middle Street given at the January 16, 2001 meeting. Said property is shown on Assessor Plan 136 as Lot 23 and lies within the Mixed Residential Office and Historic A districts.

Mr. Jousse made a motion to grant the extension of time for an additional one year time period; Mr. Rogers seconded. Mr. Jousse stated the applicant has made several but to no avail. The building industry is very busy at this time and it is hard to obtain a contractor. Mr. Rogers stated he agreed and added that this is true in this day and age and we should give them all the help we can.

The motion to grant passed unanimously with a 7 – 0 vote.

C) Request for a Rehearing for Gordon Sorli, owner, Paul Sorli d/b/a Portsmouth Gas Light Co., applicant, for property located at 64 Market Street requested by Jonathon M. Flagg, Esquire. Said property is shown on Assessor Plan 117 as Lot 35 and lies within the Central Business B and Historic A districts.

Mr. Marchewka made a motion to grant the Request for Rehearing; Mr. Rogers seconded for discussion. Mr. Marchewka stated that he did not vote on the application last month when the vote was tied with a 3 – 3 vote. However, after listening to the decision made by this Board, he feels that perhaps the Board did not get the jist of it in it's entire complexity of the issue and with only. Mr. Rogers stated he seconded for discussion; however, we did not have a full Board and there was some discussion on the complexity.

Mr. Jousse stated he will not support the motion because this case is very old dating back to 1999 when the State granted the Variance in 1999. Subsequently the applicant purchased the property next door. He added that he went through all the paperwork and could not find anything where an extension of time was granted in the year 2000. Ms. Tillman replied that all the records were up to date in November of this year. Mr. Jousse stated that the applicant has had two years to do something with this piece of property. This thing is getting so complex that it should be heard all over again.

D) Request to Re-table Petition of James J. Reilley, owner, for property located at 21 Sanderling Way to the January 22, 2002 meeting. This application was tabled at the November 20, 2001 meeting to the December 18, 2001 meeting. Said property is shown on Assessor Plan 217 as Lot 2-1823 and lies within the OR/MV district.

III. PUBLIC HEARINGS

1) Petition of Joseph J. Almeida, owner, for property located at 37 Prospect Street wherein a Variance from Article II, Section 10-206(5) is requested to allow the existing barn and a

portion of the first floor of the existing single family dwelling to be converted into a second dwelling unit on a lot having 5,310 sf of lot area where 6,000 sf (3,000 sf per dwelling unit) of lot area is the minimum required for two dwelling units. Said property is shown on Assessor Plan 141 as Lot 16 and lies within the General Residence A and Historic A districts.

SPEAKING IN FAVOR OF THE PETITION

There being no further speakers, the Public Hearing is closed.

DECISION OF THE BOARD

2) Petition of ONB Realty Corporation, owner, for property located at 1555 Lafayette Road wherein a clarification is requested concerning approval granted 21 November 00 of a Variance from Article III, Section 10-301(A)(8) and Article IV, Section 10-401(A)(2)(c) to allow a 38' x 55' addition to a nonconforming building with a 72' front yard where 105' is required.

Notwithstanding the above, a Variance from Article III, Section 10-301(A)(8) is requested to allow the construction of a 38' x 55' 1 ½ story building (existing 29' x 29' one story building to be demolished) with a 72' front yard where 105' is required. Said property is shown on Assessor Plan 251 as Lot 125 and lies within the Mixed Residential Business district.

SPEAKING IN FAVOR OF THE PETITION

Mr. Richard Millette, stated he was from Millette, Sprague and Calwell and the President of Ocean National Bank were present to answer any questions the Board may have. The original Variance granted about one year ago was to allow a 30' x 55' addition to a nonconforming building with a 72' front yard where 105' is required. He presented the drawing that was used during this time. The intent of what we thought we were showing was to construct a 1-1/2 story new England style cape cod building being 38' x 55', The parking calculations on the drawing are correct. (38' x 55' equals 2,090 and that is what the first floor parking is based on. The second floor parking is based on a 1,000 s.f. half floor above the entire footprint. It would very difficult to add a 1-1/2 story to the existing building. What we intended is that the 38' x 55' building would essentially completely encompass that existing building. What you would see would be a cape cod style building. The existing building would not be visible anymore. This was our intent and my understanding from the Planning Department staff is that what you understood and that is what you can agree with, we will be able to continue with our construction.

Mr. Millette stated that we have heard the tape and our demolition request is to do away with the existing building and build completely around it. That is what we are hoping.

Chairman Blalock stated he was asked by the Planning Department if that was what he understood. The Planning Department reviewed the minutes and the tape and there was no specific mention of the whole building. However, I know from looking at the drawing, that during the presentation, this was obvious that this was most likely the intent. Although he stated he did not recall anyone specifically saying that the existing building will be encompassed and will look like a cape cod house. However, after reviewing the drawings, it appears that was what was being requested.

Mr. Jousse stated it is his understanding that you want to demolish the building totally and replace with a brand new building in it's place on a different footprint. Mr. Millette replied that in the end, that would be the easiest construction method to do. Originally, we were planning to encompass the building; however, you are right that we should demolish it.

Chairman Blalock stated that if the building is demolished and build a brand new building, then a Variance would be required. Mr. Millette stated we have a Variance, however, we intended to present

it that way and we hope that the Board understood it that way. Ms. Tillman stated that if the Board did not perceive that it be taken this way, then we have advertised a Variance to vote on tonight. The question tonight is – did the Board in the previous presentation understand that the existing building will go away and new one will built around the same location. If this is what the Board understood at that time, then a Variance will not be needed to demolish.

Chairman Blalock stated that we need a motion to reflect “that yes, that is what the Board understood, this will be a new building” or “no, it will not”.

Vice-Chairman LeBlanc made a motion that what has been presented is what was discussed at the original meeting that there would be a new structure in it's place; Mr. Rogers seconded. Vice-Chairman LeBlanc stated he believes the plans that we looked at originally on the site encompass the building as it is being presented tonight. Although we discussed more about the buildings going in the back, the parking considerations, the traffic flow, the building itself in the front with the large columns. The plans that we looked at originally is that what was presented to us and is what we voted on at that time. Mr. Rogers stated he agreed and added that it wasn't specific that the building would be torn down. In order to get this building to a position to be used as you wanted to use it, it would be torn down, at least most of it if not all of it. Mr. Rogers stated it was fairly clear.

Chairman Blalock stated he agreed and added that what he saw is what we had approved that night is that the original bank building would be completely engulfed; however, he is not sure demolished was used. But, it was certainly clear from the plans that the building would be encased and would go away and new structure would be built around the existing building on at least three sides. The plan was so detailed, that the landscaping was on the plan presented to us in November of 2000.

Mr. Horrigan stated he also agreed and added that it was his impression, the building would be gutted out if not demolished.

Mr. Jousse asked if we go in this direction, can the building be raised? Ms. Tillman replied if it was the Board's understanding at the time in granting the 72' f'ront yard Variance, the existing building would be gone and the new 55' x'38' 1-1/2 story structure would be built, then that is what is here to be clarified. If the Board did not understand that then the Variance request is in place for you to act on. Ms. Tillman stated that we just want to keep the record clear and reiterated that if the Board understood this last year, then fine. .

Mr. Marchewka stated that since we are voting on whether we understood if the building would be torn down or not, I didn't vote on this the last time around and did not know if he could vote now. Vice-Chairman LeBlanc stated it would be easier now if we validate this particular position that is being presented tonight. When we voted on this originally, the plans showed a particular building and we did not get to how it would be created on that site and we did not go into the details of how this would be accomplished. Mr. Marchewka stated that for the record he did not see much difference whether they build a building around the existing building or they tear it down and rebuilt a new building and is probably a better idea. He just wanted to make sure that he could vote.

Chairman Blalock stated what they will end up is what we envisioned when it was granted originally. Whether the building is engulfed is irrelevant to the Variance request. This will give them the go-head to demolish the building which doesn't require a Variance, it is to build a new building. Chairman Blalock stated did we envision at the original hearing that a 38' x 55' building would be built with a 72' front yard.

Chairman Blalock stated that we are clarifying tonight is what was presented in November of 2000 and what we see before us tonight is one and the same. On a vote of 7 – 0 the Board agreed that the plans are what we thought they would be.

3) Petition of Margaret O'Neil, owner, for property located at 87 Cabot Street wherein a Variance from Article III, Section 10-302(A) is requested to allow a 10' x 10'6" one story addition with a 9' right side yard where 10' is the minimum required. Said property is shown on Assessor Plan 136 as Lot 33 and lies within the Apartment district.

SPEAKING IN FAVOR OF THE PETITION

There being no further speakers, the Public Hearing was closed.

DECISION OF THE BOARD

4) Petition of Jessie Holt, owner, for property located at 395 South Street wherein a Variance from Article III, Section 10-302(A) is requested to allow an exterior spiral stair case from the third floor bedroom with an 8' left side yard where 10' is the minimum required. Said property is shown on Assessor Plan 111 as Lot 19 and lies within the General Residence A district. There being no further business to come before the Board, the Board acted unanimously to adjourn the meeting and to meet at the reconvened meeting on November 27, 2001 in the City Council Chambers at 7:00 p.m..

SPEAKING IN FAVOR OF THE PETITION

There being no further speakers, the Public Hearing was closed.

DECISION OF THE BOARD

Respectfully submitted,

Joan M. Long
Secretary

/jml

5) Petition of Nick and Andrea Allen, owners, for property located at 32 Baycliff Road wherein a Variance from Article III, Section 10-302(A) is requested to allow: a) an 8' x 20'4" 1 ½ story addition to the right side of the existing dwelling with a 25'8" front yard where 30' is the minimum required, b) a 20'6" x 24'3" 2 story addition to the rear of the existing dwelling with an 8' left side yard where 10' is the minimum required (addition includes a 3' x 5' entry on the right side); and, c) to allow 25.8% building coverage where 20% is the maximum allowed. Said property is shown on Assessor Plan 207 as Lot 43 and lies within the Single Residence B district.

IV. NEW BUSINESS

Election of Officers for the Year 2002

V. ADJOURNMENT

There being no further business to come before the Board, the Board acted unanimously to adjourn the meeting and to meet at the next scheduled meeting on January 15, 2002 in the City Council Chambers at 7:00 p.m..

Respectfully submitted,

Joan M. Long
Secretary

/jml