

TO: John P. Bohenko, City Manager
FROM: Jane M. Shouse, Planning Department
RE: Actions Taken by the Portsmouth **Board of Adjustment** meeting held on February 18, 2003 in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire
PRESENT: Chairman Charles LeBlanc, Vice Chairman Jim Horrigan, Alain Jousse, Chris Rogers, Nate Holloway, David Witham, alternate Arthur Parrott and alternate Steve Berg.
EXCUSED: Bob Marchewka

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**I. OLD BUSINESS**

**A. Myles S. Bratter vs. City of Portsmouth,**

The Board voted appeal the Order from the Rockingham County Superior Court, dated January 8, 2003.

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B. Request for One Year Extension of Time for Richard P. Fusegni, Owner, for property located at **1574 Woodbury Avenue.** Said land is shown on Assessor Plan 238, Lots 16 & 17, and lies within the General Business District.

The Board voted to **grant** the one-year extension, thereby extending the variance until March 19, 2004.

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**II. PUBLIC HEARINGS**

1) Petition of **Judy Howard, owner,** for property located at **80 Burkitt Street** wherein a Variance from Article III, Section 10-302(A) and Article IV, Section 10-401(2)(c) are requested to allow the following after demolition of portions of the existing dwelling: a) a 5' x 9' porch with steps having a 9'3" front yard where 15' is the minimum required, b) a irregular shaped 355 sf 2 story addition to the left side of the existing dwelling with an 11'3" front yard where 15' is the minimum required and a 4' left side yard where 10' is the minimum required; and, c) a 10' x 11' deck with a 4' left side yard where 10' is the minimum required. Said property is shown on Assessor Plan 159 as Lot 33 and lies within the General Residence A district. Case # 2-1

The Board voted to **grant** the request as presented and advertised as it met all of the requirements of the five criteria. Due to the small, narrow lot, it would be a benefit to the public to reduce the current non-conforming setbacks. The improvements would be more consistent with the surrounding properties and would enhance the property values.

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2) Petition of **Gordon Sorli, owner, Paul Sorli d/b/a Portsmouth Gas Light Co., applicant**, for property located at **64 Market Street** on remand from Superior Court Order Docket No. 02-E-024 for reconsideration of all issues wherein a Variance from Article XIII, Section 10-1302(G) is requested to allow a six month extension concerning the expiration of an extension of approval granted to 30 November 01. Said property is shown on Assessor Plan 117 as Lot 35 and lies within the Central Business B and Historic A districts. Case # 2-2

The Board voted to **grant** the request as presented and advertised as it met all of the requirements of the five criteria. The Board felt that there was a good faith effort to complete the project and an additional six-month extension was reasonable. This approval will expire on August 18, 2003.

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3) Petition of **DSM Realty, owner**, for property located at **1500 Lafayette Road** wherein a Variance from Article IX, Section 10-907 is requested to allow 14.4 sf of additional attached signage for an aggregate of 841.8 sf of attached signage where 745.3 sf is the maximum aggregate attached signage allowed. Said property is shown on Assessor Plan 252 as Lot 2 and lies within the Office Research district. Case # 2-3

The Board voted to **deny** the request as it did not meet all five criteria for a variance. As the sign was intended to be seen by motorists on Route 1, it would create a safety hazard as there are already more than enough signs to distract them. The drug business has done very well without depending on the photo business to survive. The Board stated that the zoning ordinance was not unreasonable, no hardship was shown, and the zoning restriction did not interfere with the property owner's reasonable use of the property.

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4) Petition of **Chittenden Bank, owner**, for property located at **1555 Lafayette Road** wherein a Variance from Article IX, Section 10-908 is requested to allow: a) two free standing signs of 71.15 sf and 58.62 sf in a district where free standing signs are not allowed, b) 199.17 sf of aggregate signage including 57.4 sf of attached signage where 75 sf of aggregate signage is the maximum allowed, and c) four 3 sf directional signs where directional signs greater than 1.5 sf are not exempt. Said property is shown on Assessor Plan 251 as Lot 125 and lies within the Mixed Residential Business district. Case # 2-4

The variance requests were voted in two separate votes. The variances requested in "a" and "b" were **denied** as they did not meet all five criteria for a variance. It was felt that these variances would be contrary to the public interest and would be overly intrusive to the abutting residential neighborhoods. The variance requested in "c" was **granted** as presented and advertised as it met all of the requirements of the five criteria. As this was a busy and confusing intersection, it created a hardship and the public interest would be served by the larger directional signs.

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4) Petition of **Alan J. Watson, owner, David R. Lemeux, applicant**, for property located at **43 Cornwall Street** wherein a Variance from Article III, Section 10-302(A) is requested to allow the construction of a 32' x 80' 3 1/2 story building for 4 dwelling units after the demolition of the existing building with 2,102.5 sf of lot area per dwelling unit where 3,500 sf of lot area per dwelling unit is required. Said property is shown on Assessor Plan 138 as Lot 42 and lies within the Apartment district. Case # 2-5

The Board voted to **table** the application until the next scheduled meeting of March 28, 2003 due to additional material being submitted immediately prior to the hearing which did not allow the Board Members sufficient time to review the material prior to the public hearing.

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5) Petition of **Brora, LLC, owner**, for property located at **off Portsmouth Boulevard** wherein a Variance from Article II, Section 10-209(33) is requested to allow a proposed 108 room 4 story hotel (including a meeting room with an occupancy of 35 people) on a 10 acre parcel and having a 100' front yard setback where a 175' front yard setback is the minimum required. Said property is shown on Assessor Plan 213 as Lot 2 (to be subdivided) and lies within the Office Research/Mariner's Village Overlay District. Case # 2-6

The Board voted to **grant** the request as presented and advertised as it met all of the requirements of the five criteria. The Board felt that the only property being effected by the variance was other property owned by Brora located across the street and would not effect any of the abutting residential properties. This was a reasonable use of the property and there was no justification for the additional setback requirement of 175' rather than 100'. It appeared that the zoning restriction was the hardship and was not logical. The Board felt that the variance was consistent with the spirit and intent of the ordinance and would not diminish the value of surrounding properties but would actually enhance the values. A very comprehensive package was provided by a Stephen J. Bergeron, MAI, of Bergeron Commercial Appraisal, and he concluded that there was "no potential diminution in value resulting from the construction of the proposed hotel property. The hotel was an attractive design and the parking had been arranged away from the residential areas. The hotel would be a less intense use of the property than an office building and there would be less traffic. Four abutting property owners spoke in favor of the hotel. It was agreed that substantial justice would be done by granting the variance.

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6) Petition of **Dunya Kutchey Revocable Trust, Joan Gittlein, Trustee, owner, Kris Rick Realty Trust, applicant**, for property located at **6 Sagamore Grove Road** wherein Variances from Article II, Section 10-208 and Article IV, Section 10-401(A)(1)(b) are requested to allow the addition of a 20' x 40' front dormer to create 2<sup>nd</sup> floor bedroom space for the existing dwelling and a 12' x 22' one story garage addition to an existing garage in a district where residential uses are not allowed. Said property is shown on Assessor Plan 201 as Lot 5 and lies within the Waterfront Business district. Case # 2-7

The Board **tabled** the application, at the Applicant's request, until the next scheduled meeting of March 18, 2003.

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7) Petition of **Deb Campbell, owner**, for property located at **295 Maplewood Avenue** wherein Variances from Article III, Section 10-303(A) and Section 10-401(A)(2)(c) are requested to allow a 2nd floor irregular shaped deck approximately 10' x 36' with: a) 0' left and right side yards where 10' is the minimum required, b) 0% open space where 25% is the minimum required; and c) 79.8% ± building coverage where 40% is the maximum allowed. Said property is shown on Assessor Plan 141 as Lot 35 and lies within the Mixed Residential Office district. Case # 2-8

The Board voted to **grant** the request as presented and advertised as it met all of the requirements of the five criteria, with the following **stipulation**:

- That appropriate screening be placed on the left side of the deck from the ground to the upper level.

The Board felt that there was a hardship and the ordinance interfered with the reasonable use of the property. The deck is in bad shape, in need of repairs and it would enhance the value of your property as well as the surrounding properties.

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**III. Adjournment**

The motion was made and seconded to adjourn the meeting at 11:00 p.m.

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Respectfully submitted,

Jane M. Shouse,
Secretary

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