

BOARD OF ADJUSTMENT – ACTION SHEET

TO: John P. Bohenko, City Manager

FROM: Jane M. Shouse, Planning Department

RE: Actions Taken by the Portsmouth **Board of Adjustment** meeting held on **April 15, 2003** in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman Charles Le Blanc, Vice Chairman Jim Horrigan, Alain Jousse, Bob Marchewka, Nate Holloway, David Witham, alternate Arthur Parrott and alternate Steve Berg.

EXCUSED: Vice Chairman Jim Horrigan, Chris Rogers

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**I. OLD BUSINESS**

**A. Request for Re-Hearing for Alan J. Watson, Owner, and David R. Lemeux, Applicant,** requested by Bernard W. Pelech, Esq., for property located at **43 Cornwall Street**. Said property is shown on Assessor Plan 138 as Lot 42 and lies within the Apartment district. Case #2-5.

It was voted that the Request be **granted** and the Petition will be scheduled for a Public Hearing at the May 20, 2003 Board of Adjustment meeting.

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B. 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 10-207 and Article IV, Section 10-401(A)(1)(b) are requested to allow the addition of a 20' x 40' front dormer and a 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.

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**II. PUBLIC HEARINGS**

1) Petition of **City of Portsmouth, owner, Jonathan Howard, applicant,** for property located at **98 Brewster Street** wherein a Variance from Article III, Section 10-303(A) is requested to allow an 893± sf three story single family dwelling including an 88 sf rear deck and a 20 sf spiral staircase with: a) a 2' front yard where 5' is the minimum required, b) a 3" left side yard where 10' is the minimum required; and, c) 47.7 % building coverage where 40% is the maximum allowed. Said property is shown on Assessor Plan 138 as Lot 56 and lies within the Mixed Residential Business district. Case # 4-1

It was voted that the request be **granted**. It was felt that it would benefit the public interest to move the house back and raise it up 2'. This is a unique setting with the current proposal being a better plan requiring less relief than what was previously granted. It was felt that the improvements would upgrade and enhance the surrounding neighborhood.

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2) Petition of **George W. Williams, Jr., owner**, for property located at **272 Highland Street** wherein the following are requested: 1) a Variance from Article III, Section 10-301(A)(2) to allow a second dwelling unit on a 9,807 sf lot (4,948 sf of lot area per dwelling unit) where 15,000 sf of lot area is required for two dwelling units (7,500 sf per dwelling unit), and, 2) a Variance from Article III, Section 10-302(A) to allow two dwelling units each in a separate building where all dwelling units are to be located in one building. Said property is shown on Assessor Plan 130 as Lot 35 and lies within the General Residence A district. Case # 4-2

The motion to grant variance #1 failed and, therefore, it was **denied**. The motion to deny variance #2 was **passed**, and, therefore, it was also **denied**. It was felt that he was asking for a substantial amount of relief regarding the square footage requirement and there was no hardship shown. It was felt that the increased density would be detrimental to the neighborhood and would diminish surrounding property values. The Board did not want to set a precedent regarding the conversion of garages to apartment units. The interest of the public would not be served and the neighbors would be denied the enjoyment of their backyards. It would not be consistent with the spirit and intent of the ordinance, which is to protect the rights of the neighbors. No proof was given that the private rights of others would not be injured or that surrounding property values would not be diminished.

3) Petition of **John W. and Nancy B. Anderson, owner**, for property located at **16 Brackett Road** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(2)(c) were requested to allow an irregular shaped 650 sf one story addition with a roof deck having a 2.2' right side yard where 10' is the minimum required. Said property is shown on Assessor Plan 206 as Lot 26 and lies within the Single Residence B district. Case # 4-3

It was voted that the request be **granted**. It was felt that this was an irregular shaped lot and the proposed setback was reasonable considering the unique setting of the building on the lot. The variance request was consistent with the spirit and intent of the ordinance and would enhance the values of surrounding properties. The public would not be served by pushing the addition back from the side property line. This sideline abuts a dead end street. The addition will enhance the property.

4) Petition of **Susan B. Parnham, owner** for property located at **1220 Islington Street** on remand from Superior Court Order Docket No. 01-E-0568 for reconsideration of all factors to be addressed in a variance request under *Simplex Technologies v Town of Newington*, 145 NH 727 (2001) wherein a Variance from Article III, Section 10-302(A) to allow a non-conforming lot with a single family residence to be subdivided into two non-conforming lots with: a) one lot having 5,000± sf of area and the other lot having 5,280± sf of area where 15,000 sf of lot area is required for each lot, b) continued front setbacks of 50' for the lot, the 100' for the lot, and the 100' for the lot, to allow a 2' rear setback for the lot, c) a 23% building coverage for the existing dwelling and accessory building where 20% is the maximum allowed. Said property is shown on Assessor Plan 233 as Lot 6 and lies within the Single Residence B district. Case #4-4

5) Petition of **Robert Byrnes and Patricia Tobey, owners**, for property located at **41 Salter Street** wherein it is requested that the Board of Adjustment approve the delineation between the driveways thus satisfying the Board's previous stipulation. Said property is shown on Assessor Plan 102 as Lot 30 and lies within the Waterfront Business and Historic A districts. Case # 4-5

It was voted that the request be **approved** with the following **stipulation**:

Filed by Applicant
Rescheduled for May 20, 2003

- That the left side of the property be delineated the same as the right side, with an 8' section of fence along the property line, perpendicular to Salter Street without the 4' section along Salter Street.

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**III. Adjourment**

The motion was made and seconded to adjourn the meeting at 10:15 p.m and re-convene the following Tuesday, April 22, 2003 at 7:00 p.m.

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Respectfully submitted,

Jane M. Shouse,
Secretary

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