

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 which was **reconvened** on **April 22, 2003** in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire
PRESENT: Chairman Charles Le Blanc, Vice Chairman Jim Horrigan, Alain Jousse, Chris Rogers, Nate Holloway, alternate Arthur Parrott and alternate Steve Berg.
EXCUSED: Bob Marchewka, David Witham

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6) The Portsmouth Board of Adjustment, acting pursuant to NH RSA 12-G:13 and Chapter 300 of the Pease Development Authority Zoning Requirements, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following: **Petition of Two International Group, owner**, for property located at **Manchester Square** wherein the following Variances from the Pease Development Authority Zoning Ordinance are requested in conjunction with the construction of an 80' x 75' irregular shaped two story building with a 5,324 sf footprint and a 280' x 60' irregular shaped two story building with a 19,800 sf footprint: 1) Section 304.04(c) to allow: a) a front yard setback of 50' where 70' is the minimum required, b) a rear yard setback of 30' where 50' is the minimum required, and c) a lot area of 4.92 acres where 5 acres is the minimum lot size required, 2) Section 304.04(d) to allow a side yard setback of 20' where 30' is the minimum required; and, 3) Section 305.02(a) to allow: a) parking in the front yard setback 41' from the street right of way, and b) parking and loading berths within 10' of the lot line. Said property is shown on Assessor Plan 302 as Lot 2 and lies within the Airport Business and Commercial district. Case # 4-7

It was voted to recommend<sup>1</sup> to the Pease Development Authority Board of Directors that the request be **granted**. The Board felt that this would not be contrary to the public interest as concern had been expressed to establish a retail business to benefit the employees who work on the Tradeport. This would add a new dimension to the area that is badly needed. There was a hardship due to the unique and peculiar shape of the lot. It appeared that there would be setback problems regardless of where the building was situated and the proposed plan reflected the best location for the building. There would not be any impact on the surrounding properties. The variances were consistent with the spirit of the ordinance and a denial would cause a grave injustice to the property owners. It was felt that this would enhance the values of the surrounding properties. The older buildings that still remain on the Tradeport don't fit in with the newer ones and this plan will convert a huge asphalt expanse into something quite nice and convenient. The retail complex will cut down on the traffic flow of employees having to drive off of the Tradeport to do errands, which in turn will cut down on pollution and noise.

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<sup>1</sup> See RSA 12-G:10(c) "In all instances the authority (Pease Development Authority) shall retain the power to make the final decision regarding applicability, interpretation, and enforcement of its land use controls, which shall require 5 affirmative votes."

7) Petition of **Kathleen L. Wells, owner**, for property located at **36 Wilson Road** wherein a Variance from Article IV, Section 10-402(B) is requested to allow an 18' x 24' detached one story garage with a 6' left side yard where 10' is the minimum required. Said property is shown on Assessor Plan 251 as Lot 59 and lies within the Single Residence B district. Case # 4-8

It was voted that your request be **granted**. The Board felt that the requested variance was not contrary to the public interest. The applicant would be reducing the non-conformance of an existing building. The zoning restrictions interfere with her reasonable use of the property. She is attempting to make her garage safer by upgrading it and adding a door that would close. The plan creates more green space that her neighbor would enjoy. This would be an overall improvement to the property as the existing garage is currently in disrepair and is an eyesore. It would enhance the value of the property as well as the surrounding properties. The new garage, which is smaller in size, would increase the access space to the side of the garage and the rear of the property. A hardship was shown as there is no other logical place to construct the garage on the property without destroying trees and vegetation.

8) Petition of **B. J.'s Wholesale Club, owner, Monro Muffler Brake Inc., applicant**, for property located at **1801 Woodbury Avenue** wherein a Special Exception as allowed in Article II, Section 10-208(36) is requested to allow a motor vehicle repair garage where such use is allowed by a Special Exception. Said property is shown on Assessor Plan 215 as Lot 14 and lies within the General Business district. Case # 4-9

The Board tabled this Petition to the May 20, 2003 meeting at the applicant's request.

9) Petition of **Getman Realty LLC, owner, Kelly Wright, applicant**, for property located at **82 Fleet Street** wherein a Variance from Article IX, Section 10-908 is requested to allow three attached signs totaling 26 sf (24" x 96", 8" x 96" & 8" x 96") for a total aggregate on the property of 94 sf where 75 sf is the maximum aggregate allowed. Said property is shown on Assessor Plan 117 as Lot 41 and lies within the Central Business B and Historic A districts. Case # 4-10

It was voted that the request be **granted**, with the **stipulation** that the signage must be applied to the glass window. The Board felt that the applicant was not asking for a great deal more than what was allowed. The zoning ordinance interferes with his reasonable use of the property as any downtown business requires signage. It would create a hardship if you he were unable to have any signage for his business. The photo that was provided reflected signage that was appropriate for the building in a simple, attractive design. There would be no diminution of value to the building or surrounding properties. It was also pointed out that the other three street level businesses in the building have taken up the majority of the allowed signage, creating a hardship, and it was felt that you should be afforded the same amount of signage as the other existing businesses.

10) Petition of **Timothy and Priscilla Coughlin, owners**, for property located at **185 Broad Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(2)(c) are requested to allow a 68 sf irregular shaped front entry with: a) a 5'11"± front yard where 15' is the minimum required, and b) 27.3% building coverage where 25% is the maximum allowed. Said

property is shown on Assessor Plan 130 as Lot 19 and lies within the General Residence A district.  
Case # 4-11

It was voted that the request be **granted** as amended by the drawing submitted at the meeting. The existing stoop is approximately 6' from the street and is not unusual for the neighborhood. The building coverage is very minimal and the house does not dominate the lot even though the coverage is slightly over the allowed amount. It was felt that these variance requests were not contrary to the public interest. The proposed plan will improve the appearance of the home and it will provide needed protection from the weather for safety reasons. The hardship is the unique setting of the home that does not allow any other solution to protect the stoop from the elements of the weather. The requested variances will not injure the public or private rights of others and, to the contrary, will enhance the safety issues as well as improve the aesthetics of the property. The variances are consistent with the spirit of the ordinance, which is designed to allow homeowners the personal enjoyment their property. Substantial justice will be done by providing a solution to the safety concerns. It will enhance the property values as well as those of the surrounding properties.



11) Petition of **Louis and Tracy Halle, owners**, for property located at **929 South Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(2)(c) are requested to allow a) a 2'6" x 14' one story rear addition with a 5'6" rear yard where 20' is the minimum required, b) a 4' x 8' one story right side addition with a 14' rear yard where 20' is the minimum required; and, c) 25.6% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 132 as Lot 18 and lies within the General Residence A district. Case # 4-12

It was voted that your request be **granted**. The Board felt that the requested variances would not be contrary to the public interest. A Petition in favor of the addition, signed by six neighbors, was presented which showed the Board that the majority of the abutters were in favor of the requested variances. The zoning ordinance does restrict the use of the property as the building sits in the corner of an odd shaped lot, creating a hardship. The property has a large front and side yard however there is no way to add on to the back or side of the property without a variance. The variances are consistent with the spirit of the ordinance as property owners need to be able to use their property in a reasonable way. Overall, the Board felt that the request was very minor. There would not be any diminution of value to the surrounding properties. The elevation of the addition would continue to allow light and air flow and maintain the green space between the houses.