

ACTION SHEET – BOARD OF ADJUSTMENT

TO: John P. Bohenko, City Manager

FROM: Jane M. Shouse, Planning Department

RE: Actions Taken by the Portsmouth **Board of Adjustment** at its reconvened meeting held on June 24, 2003 in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman Charles LeBlanc, Vice-Chairman Jim Horrigan, Nate Holloway, Alain Jousse, Bob Marchewka, Alternate Arthur Parrott and Alternate Steven Berg

EXCUSED: Chris Roger and David Witham

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**I. Public Hearings**

8) Petition of **Benoit R. and Andrea M. St. Jean, owners**, for property located at **54 Humphrey's Court** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) are requested to allow a 320 sf deck with a 6' right side yard where 10' is the minimum required. Said property is shown on Assessor Plan 101 as Lot 46 and lies within the General Residence B district. Case # 6-8

It was voted that the request be **granted**. It was felt that decks are a basic part of homes so that owners can enjoy their property and this was the only place that they could put the deck. The setback for the deck would actually be less than the house itself. To literally interpret the Zoning Ordinance would interfere with a very reasonable use of the property. The Zoning Ordinance was never intended to deny the homeowner the use of a deck. There were no public or private rights being harmed. Both abutters had written letters of support. Substantial justice was done as it allowed the homeowner full enjoyment of his property and it would not diminish the values of surrounding property and, in fact, may enhance those values.

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10) Petition of **Jean T. O'Brien Revocable Trust, owner**, for property located at **13 Fairview Drive** wherein a Variance from Article III, Section 10-302(A) is requested to allow a 24' x 30' two story addition for garage space on the first floor and two bedrooms, a bath and playroom on the second floor with an 8' x 10' irregular shaped two story connector for a mudroom on the first floor and stairs to the second floor with a 15' front yard where 30' is the minimum required. Said property is shown on Assessor Plan 219 as Lot 22 and lies within the Single Residence B district. Case # 6-10

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

- That the property remain a single family dwelling.

This was the end of a short, quiet street and the Board could not imagine any traffic problems with the front yard setback of this addition. There would still be ample space to preserve the green space and vegetation in front of the house which would be in keeping with the rest of the immediate neighborhood. By putting the addition on this side of the house it would afford them a very nice view and was the most advantageous place for the addition. There did not appear to be any public or private rights issues. This addition would improve a family situation and would increase the general values of the properties on the street.



11) Petition of **Hayscales Realty Trust, owner, Dean for America, applicant**, for property located at **236 Union Street** wherein an Appeal from the Decision of the Code Official is requested concerning the requirement of a Special Exception as allowed in Article IV, Section 10-401(A)(1)(d) to change the use of 1,450 sf of space within an existing building in a residential district from the former use by Pro Portsmouth to a political campaign office. Case # 6-11

As a result of such consideration, a **motion to overturn the decision of the Code Official failed** and therefore the request was **denied**. The Board felt that this petition was not the same intensity as the Pro Portsmouth use.

Notwithstanding the above, if the Appeal from the Decision of the Code Official is denied, a Special Exception as allowed in Article IV, Section 10-401(A)(1)(d) is requested to allow 1,450 sf of an existing building to be used as a political campaign office. Said property is shown on Assessor Plan 135 as Lot 22 and lies within the Apartment district. Case # 6-11

It was voted that the petition be **granted**, with the following **stipulations**:

- That the Special Exception will terminate on January 31, 2004;
- That Dean for America will have no more than 4 staff people;
- That they will not host any events on the premises;
- That they will not exceed, at any one time, the number of occupants allowed by the Fire Code;
- That the hours of operation will not exceed 9:00 am through 9:00 pm, 7 days a week.

The Board felt that the applicant met all of the requirements for a Special Exception. There would be no hazard to the general public, no detriment to surrounding property values, the use would be equal to or less than the prior tenant, there would be no excessive demand on municipal service, and there would be no increase of storm water runoff.



12) Petition of **David R. Lemieux and Lane W. Cheney, owners**, for property located at **43 Cornwall Street** wherein a Special Exception as allowed in Article II, Section 10-206(6) is requested to allow an existing building to be converted into six dwelling units. Said property is shown on Assessor Plan 138 as Lot 42 and lies within the Apartment district. Case # 6-12

It was voted that the request be **granted**. The Board was very pleased to see that they were preserving the building. There were no hazards to the public, no detriment to the property values

nor any change in the essential characteristics of the neighborhood. This will basically be the same structure with modifications to make it a sound building. Parking and access seem adequate and there will not be any noise issues. It was pointed out that the traffic will be less than the past use as the Tire Loft. There will be no excessive demand on municipal services and there will not be any problem with storm water runoff.

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13) Petition of **Lawrence N. & Ruth S. Gray, owners**, for property located at **80 Currier's Cove** wherein a Variance from Article III, Section 10-301(A)(7) is requested to allow an 8' x 14' deck over an 8' x 14' deck and a 4' x 4' platform with steps to grade from the lower deck 67' from the edge of the salt water marsh/wetlands where 100' in the minimum setback to the edge of the salt water marsh/wetlands. Said property is shown on Assessor Plan 204 as Lot 14 and lies within the Single Residence A district. Case # 6-2

It was voted that the request be **granted**. The Board felt that this petition was materially different from the previous petition. The deck surface was permeable and the roof has been removed. There was no connection to the ground. The Board found that this was a very reasonable use of the property. It was felt that property values would not be diminished as the closest neighbor was over 100' away. There was a hardship as the house pre-existed the wetland ordinances and the area had been previously disturbed. If this were new construction, it would be treated very differently.

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II. Adjournment

The motion was made and seconded to adjourn the meeting at 12:20 a.m.

Respectfully submitted,

Jane M. Shouse,
Secretary

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