

**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 July 15, 2003 meeting

**PRESENT:** Chairman Charles Le Blanc, Vice-Chairman Jim Horrigan, Nate Holloway, Bob Marchewka, Alternate Arthur Parrott and Alternate Steven Berg

**EXCUSED:** Chris Roger, Alain Jousse and David Witham

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**I. OLD BUSINESS**

A) **Request for Re-Hearing** for Petition of Lawrence and Ruth Gray, **80 Currier’s Cove**, requested by Ralph W. Woodman, Jr., Esq., on behalf of Mr. & Mrs. Marvin Lesser and Mr. & Mrs. James Powers. Said property is shown on Assessor

A **motion to grant failed** with a 2-4 vote and therefore the Motion was **denied**. The Board felt that representations made at the original hearing were factual and truthful and there was nothing new in the motion. It was also felt that if the Conservation Commission had any concerns, they would have either submitted something in writing to the Board or would have appeared at the hearing.

**I. Public Hearings**

1) Petition of Hayscales Realty, Trust, owner, for property located at 236 Union Street wherein the following are requested 1) a Variance from Article II, Section 10-206(2) to allow a 48’ x 66’ second floor addition for two dwelling units on a 5,000 sf lot where 7,000 sf is the minimum lot area required for two dwelling units, 2) a Variance from Article II, Section 10-206 to allow 1,800 sf on the first floor to be used as workshop space for the repair and storage of the owner’s vehicles with one employee; and 3) a Variance from Article XII, Section 10-1204 table 15 to allow 8 non-conforming parking spaces and travel way to be provided onsite where 10 parking spaces are required. Said property is shown on Assessor Plan 135 as Lot 22 and lies within the Apartment district. Case # 7-1

It was voted that the request be **denied**. The applicant did not address any of the five criteria necessary to grant the variances. No hardship was shown. A Petition in objection to the application was signed by numerous neighbors and submitted to the Board, indicating that this was contrary to the public interest and would injure the public and private rights of others. The plans and sketches that were submitted were not accurate and it appeared that the 8 parking spaces which were shown on the plans were not in conformance with the zoning ordinance. The Board also felt that this would be an over-intensification of the property.

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2) Petition of Old Tex Mex, LLC, owner, for property located at 3510 Lafayette Road wherein the following are requested: 1) a Variance from Article III, Section 10-301(8) to allow a 28' x 28' addition with a 47.1' front yard and a 60' x 70' garage with a 79.4' front yard where 105' is the minimum required, and 2) a Variance from Article II, Section 10-206 to allow said 28' x 28' addition to used as part of the previously approved office space. Said property is shown on Assessor Plan 297 as Lot 8 and lies within the Single Residence A district. Case # 7-10

It was voted that the request be **granted**. The Board did not feel that this was contrary to the public interest. It was a unique and long-standing piece of property that created special conditions. It was felt that even if the road were widened, the variance requests would not interfere with the road. The applicant is renovating the building in a positive manner that benefits the public. The current building is in a somewhat dilapidated condition and the renovations will enhance the surrounding property values.



3) Petition of Colleen J. Romano, owner, for property located at 3 Coakley Road wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) are requested to allow a 14' x 14' one story addition to the rear of an existing single family dwelling with: a) an 8' rear yard where 30' is the minimum required, and b) 23.2% building coverage where 20% is the maximum allowed. Said property is shown on Assessor Plan 234 as Lot 49 and lies within the Single Residence B district. Case # 7-2

It was voted that the request be **granted**. The Board felt that this was a simple request as the applicant was replacing an existing deck with an enclosed room. Special conditions exist as the house is located to the rear of the lot and this would be the only reasonable place to put the addition. It would not be contrary to the public interest nor would it injure any of the public as reflected in the Petition of support that were submitted to the Board which was signed by 16 neighbors. This request is consistent with the spirit and intent of the Zoning Ordinance as it allows a reasonable use of your property. There would not be any diminution of property values.



4) Petition of Paige Roberts, owner, for property located at 1 Walton Alley wherein a Variance from Article III, Section 10-301(A)(6) is requested to allow a picket fence 4' from the intersection of Walton Alley and Gates Street where 20' from the intersection is the minimum required from the corner. Said property is shown on Assessor Plan 103 as Lot 27 and lies within the General Residence B and Historic A districts. Case # 7-3

It was voted that the request be **granted**. Literal enforcement of the ordinance would create a hardship and would interfere with the reasonable use of the property. There was no fair and substantial relationship between the general purpose of the ordinance and the specific restriction on the property as the ordinance is designed to preserve historic features such as this fence. A hardship exists due to the narrow width of the street, which causes cars to continuously drive into and over the fence causing damage. No property values would be diminished.



5) Petition of Millwood Partners LP VII, owner, Kristen Samson d/b/a Portsmouth School of Ballet, applicant, for property located at 210 West Road wherein a Variance from Article II Section 10-209 is requested to allow a ballet school in a district where such use is not allowed. Said property is shown on Assessor Plan 267 as Lot 21-3 and lies within the Industrial district. Case # 7-4

It was voted that the request be **denied**. It was felt that the integrity and preservation of the industrial zone should not be compromised. It would not be in the public interest to allow a ballet school in the industrial zone. There was no fair and substantial relationship between the general purposes of the zoning ordinance and the specific restriction on the property. It was felt that children should not be in the industrial zone.



6) Petition of Gerald W. and Katharin G. Smith, owners, for property located at 306 South Street wherein the following are requested: 1) Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) to allow: a) an irregular shaped 383 sf kitchen ell and second floor addition with a 6'6"± right side yard where 10' is the minimum required, and b) a 14'3" x 14'6" one story addition with an 8'4"± right side yard where 10' is the minimum required, and 2) a Variance from Article IV, Section 402(B) to allow a 21' x 25' detached garage with a 4'± left side yard where 10' is the minimum required. Said property is shown on Assessor Plan 111 as Lot 10 and lies within the Single Residence B and Historic A districts. Case # 7-5

It was voted that the request be **granted**. The Board felt that the proposed changes do not intensify the current setbacks and the renovations will improve the home, which are both consistent with the spirit of the ordinance. There would not be any diminution of property values. The hardship is the shape of the lot and how the home was originally placed. No public or private rights would be injured and the neighbors have written letters of support.



7) Petition of Anne E. Hett, owner, for property located at 80 Richards Avenue wherein a Variance from Article IV, Section 10-402(B) is requested to allow a 20' x 22' one story garage with: a) a 2'9"± left side yard and less than a 1' rear yard where 10' is the minimum required for both side and rear yards, and b) 2% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 136 as Lot 13 and lies within the General Residence A district. Case # 7-6

It was voted that the request be **granted**. It was not the intent of the ordinance to prohibit repairs to a deteriorating garage. This will allow the applicant to restore the value of her property and to correct an eyesore, it will increase surrounding property values and will be in the public interest.



8) Petition of Roger M. Chapdelaine Revocable Trust, owner, Norman and Leanne Gray, applicants, for property located at 230 Lafayette Road Unit D12 wherein the following are requested 1) a Variance from Article II, Section 10-206 to allow Unit D12 to be used as a business office by Career Profiles (medical and general executive search company) in a district

where such use is not allowed, and 2) a Variance from Article XII, Section 10-1204 Table 15 to eliminate 1 required parking space for the proposed use where 246 parking spaces are provided onsite. Said property is shown on Assessor Plan 151 as Lot 6 and lies within the Single Residence A district. Case # 7-7

It was voted that the request be **granted**. Although this building is in a residential district, the building itself is an office building and so this use would be a reasonable use and in the public interest. The zoning restriction interferes with the reasonable use of the property. There was no fair and substantial relationship between the general purposes of the zoning ordinance and the specific restriction on the property as this is an office park and will continue to be used as an office park for some time. This is consistent with the spirit of the ordinance. This property should not be required to conform to residential standards. This use will not diminish surrounding property values.

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9) Petition of Parrott Avenue Center for Seniors, Inc., owner, for property located at 127 Parrott Avenue wherein a Variance from Article XII, Section 10-1204 Table 15 is requested to allow 22 existing parking spaces onsite where 46 parking spaces are required in conjunction with a proposed 18' x 30' two story addition and existing uses onsite. Said property is shown on Assessor Plan 115 as Lot 3 and lies within the Mixed Residential Office district. Case # 7-8

It was voted that the request be **granted**. It was felt that a hardship existed as the zoning restriction interfered with the reasonable use of the property, regarding parking spaces. It would be impossible to fit 46 parking spaces on the lot and evidence was presented to show that the current parking is adequate. This is consistent with the spirit and intent of the ordinance as it provides for the welfare of our senior citizens. Substantial justice is done by granting the variance as no one is being harmed. This would not diminish any surrounding property values and may enhance the values, due to the tasteful and attractive addition being planned.

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10) Petition of William J. Wood, owner, Henry and Mary Perron, applicants, for property located at 59 Swett Avenue wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) are requested to allow the following: a) 3'5" x 20'8" front porch with an 18" front yard where 30' is the minimum required, and b) a 28' x 28' two story addition with a 21' front yard where 30' is the minimum required. Said property is shown on Assessor Plan 232 as Lot 62 and lies within the Single Residence B district. Case # 7-9

It was voted that the request be **granted**. The Board felt that, given the size and shape of the lot and the orientation of the house on the lot, this was a reasonable request, it would improve the house and the surrounding properties and the zoning restriction as applied to this property interfered with the reasonable use. There was support from the neighborhood as evidenced by the Petition which was presented to the Board which proves this was not contrary to the public interest and would not injure the rights of the public. There would be no diminution of property values and would probably enhance them. This is a quiet, deadend street so the front yard setback would not create a problem.

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**II. Adjournment**

The motion was made and seconded to adjourn the meeting at 10:15 p.m.

Respectfully submitted,

Jane M. Shouse,  
Secretary

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