

ACTION SHEET

**RECONVENED BOARD OF ADJUSTMENT MEETING
PORTSMOUTH, NEW HAMPSHIRE
July 20, 2004**

To: John P. Bohenko, City Manager

From: Judith Claveau, Planning Department

Re: Actions taken at the Portsmouth **Board of Adjustment** meeting held on **July 20, 2004**, in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

Present: Chairman Charles LeBlanc, Vice Chairman Jim Horrigan, Alain Jousse, Bob Marchewka, Nate Holloway, Arthur Parrott, David Witham, Alternate Duncan MacCallum, Alternate Steve Berg

Excused: n/a

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**I. OLD BUSINESS**

A) Request for Rehearing for **Vincent M. Yosua, owner**, for property located at 30 Spinney Road, wherein a Variance from Article IV, Section 10-402(B) was requested to allow an 8' x 10' deck adjacent to an above ground pool with a 3'± left side yard where 10' is the minimum required. Said property is shown on Assessor Plan 171 as Lot 2 within the Single Residence B.

As a result of this consideration, the Board voted unanimously to **grant** the request, given the fact that the Board was presented with information that was not available at the time of the hearing.

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B) Request for Rehearing by Anthony S. Hartnett, Esq., for property located at **806 U.S. Route 1 By-Pass**, wherein a Variance from Article XII, Section 10-1204 Table 15 was requested to allow 37 parking spaces to be provided where 58 parking spaces are required. Said property is shown on Assessor Plan 161 as Lot 43 and lies within the Business District.

As a result of this consideration, the Board voted to **grant** the request, given the fact that the Board was presented with information that was not available when the decision was rendered.

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**II. NEW BUSINESS**

1) Petition of **Portal Realty Partnership, d/b/a Portsmouth Dental Studios, owner**, for property located at 303 Islington Street wherein a Variance from Article IX, Section 10-908 Table 14 was requested to allow a 38" x 42" projecting sign for a grandfathered professional

office in a residential district. Said property is shown on Assessor Plan 144 as Lot 11 and lies within the Apartment district. Case # 7-1

As a result of this consideration, the Board voted to **grant** a reduced sign of 38" x 30". Since this sign was for a grandfathered professional office, and such signs are no longer permitted in a Residential District, the Board felt that the size of the sign should remain the same. They felt that the size of the sign had been adequate for the business for the past 30 years; and, that an approximate 50% increase in the size of the sign as requested would not be warranted.

The Board felt that the property had been in the same successful use for 30 years. They felt that the benefit sought by the applicant could be achieved by changing the face of the present sign and continuing its use.

It was noted by one of the Board members, that the current sign is approximately the same size as two others in close proximity. He stated that he would be opposed to expanding the size of the sign; however, he felt that if the same size were maintained, it would be consistent with other signs in the area.

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2) **Petition of Bluestone Properties of Rye LLC, owner, Justin Rosberg and Jason Parent d/b/a Meat House LLC, applicants**, for property located at **2222 Lafayette Road** wherein a Variance from Article III, Section 10-304(A) was requested to allow an 8' x 10' walk in cooler with a 13' rear yard where 50' is the minimum required. Said property is shown on Assessor Plan 267 as Lot 2 and lies within the General Business district. Case # 7-2

As a result of this consideration, the motion to grant failed; therefore, the petition was **denied**.

They felt that granting the variance would not be in the public interest due to the location of the property on a narrow strip of land, along a curve on a heavily trafficked roadway. Concern was expressed regarding the over-intensification of the property, given potential expansion and additional employees requiring more parking.

The Board also felt that the applicant had not demonstrated a hardship as to why the variance should be granted. They felt that the business was doing well as it exists and the property had been granted much relief in the past.

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3) **Petition of Brewster Street Property, LLC, owner**, for property located at **98 Brewster Street** wherein a Variance from Article III, Section 10-303(A) was requested to allow the relocation of a previously approved 11'3" x 23' attached garage with a 2'11" left side yard where 10' is the minimum required. Said property is shown on Assessor Plan 138 as Lot 56 and lies within the Mixed Residential Business district. Case # 7-3

As a result of an error in the legal advertisement, and after some deliberation, the Board voted to **table** this petition to the August Board of Adjustment meeting to allow the petition to be re-advertised.

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4) Petition of **Keith and Stephanie Colado, owners**, for property located at **71 Prospect Street** wherein a Special Exception as allowed in Article II, Section 10-206(5) was requested to allow the conversion of a single family dwelling into a two family dwelling on street that the ROW is less than 40' in width. Said property is shown on Assessor Plan 142 as Lot 30 and lies within the General Residence A district. Case # 7-4

As a result of this consideration, the Board voted to **grant** the request as advertised and presented as it met the necessary requirements.

The Board felt that the use is otherwise permitted and the property meets the criteria with the exception of the ROW, which is a narrow street. They stated that off-street parking is provided, which addresses the parking concern.

It was stated that with regard to the standards for granting a Special Exception, there would be no hazard to public or adjacent property, no detriment to property values in the vicinity, no creation of traffic or congestion, no excessive demands on municipal services or increase in storm water runoff to adjacent properties as a result of granting this request.

It was felt that, with the proposed removal of one bedroom, there could exist fewer cars and minimized parking demand. They felt that there was clearly room for four parking spaces on the lot; so, the potential addition of two extra cars would not result in undue traffic or congestion to the property or the area.

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5) Petition of **Mark C. and Holly Lowe, owners**, for property located at **350 Broad Street** wherein a Variance from Article IV, Section 10-402(B) was requested to allow a 14' x 30' two story garage with a 6' left side yard and a 6' rear yard where 12.75' is the minimum required in each instance. Said property is shown on Assessor Plan 221 as Lot 69 and lies within the General Residence A district. Case # 7-5

As a result of this consideration, the Board voted to **deny** your request as advertised and presented as it did not meet the necessary criteria.

The Board noted major discrepancies between the scale of the drawings, the look of the building and its dimensions. They felt that the drawings and numbers did not make sense; and if the request were granted as presented, they would be allowing the peak of the roof to be 25' high, which would be too tall a structure to be that close to the property line. It was felt that it was a large amount of relief in comparison to the proposed size of the structure.

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6) Petition of **Tamara C. Arthur, owner**, for property located at **593 Kearsarge Way** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 10' x 16' one story sunroom addition with: a) a 1'6" right side yard where 10' is the minimum required, b) an 11'6" rear yard where 25' is the minimum required; and, c) 32.8% building coverage where 30% is the maximum allowed. Said property is shown on Assessor Plan 212 as Lot 29 and lies within the General Residence B district. Case # 7-6

As a result of this consideration, the Board voted to **deny** the request as advertised and presented, as it did not meet the necessary requirements.

The Board felt that the benefit sought could be achieved by placing the proposed structure elsewhere on the lot. They felt that the backyard was small and with the proposed addition, it would exceed the allowable building coverage for the lot. There was concern that this type of glass structure could change the character of the neighborhood and adversely impact the value and enjoyment of the abutter's backyard. They felt that creating a 16' wall down to the backyard would reduce the light and the air, and that a 1'6" side yard would be nearly non-existent.

7) Petition of **Joli Ann Foucher, owner**, for property located at **566 Greenland Road** wherein a Variance from Article III, Section 10-302 (A) was requested to allow a subdivision creating two lots with each lot having 90' of continuous street frontage where 100' is the minimum required. Said property is shown on Assessor Plan 258 as Lot 1 and lies within the Single Residence B district. Case # 7-7

As a result of this consideration, the Board voted to **grant** the request as advertised and presented, with the following stipulation:

- That the one common driveway be shared by both lots

The Board stated that this was a large lot, consisting of approximately 3.5 acres. They felt that subdividing and adding a second single-family home would not negatively impact the public in any way. They stated that special conditions did exist whereby literal enforcement of the ordinance would result in unnecessary hardship to the applicant. They stated that the lot was long and narrow and does not have the required frontage.

They felt that the benefit sought by the applicant could not be achieved by some other reasonably feasible method, given that they have exhausted all possibilities of obtaining the necessary amount of frontage from abutters on either side, due to circumstances of access to the two abutting lots. They felt that the variance would be consistent with the spirit of the ordinance, as the single-family dwelling would occupy a lot that is five times the amount required by the Zoning Ordinance. They stated that substantial justice is done in granting a reasonable use of the land for the owner and the values of surrounding properties would not diminish. They agreed with making use of the same curb cut for both dwellings, as it would eliminate additional access ways onto Greenland Road. They recognized that the applicant had worked very closely with the City and with abutters to find a solution acceptable to everyone.

III. ADJOURNMENT

A motion was made and seconded and the meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Judith A. Claveau
Secretary, Planning Department