

**PLANNING DEPARTMENT - BOARD OF ADJUSTMENT**

**ACTION SHEET**

**TO:** John P. Bohenko, City Manager

**FROM:** Mary Koepenick, Planning Department

**RE:** Actions Taken by the Portsmouth **Board of Adjustment** regular meeting on February 15, 2005 in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

**PRESENT:** Chairman Charles LeBlanc, Alain Jousse, Bob Marchewka, Nate Holloway, Arthur Parrott, David Witham, Alternate Steven Berg and Alternate Duncan MacCallum.

**EXCUSED:** Vice-Chairman James Horrigan

**I. OLD BUSINESS**

A) Approval of Minutes for the following Board of Adjustment Meetings: November 18, 2003; January 20, 2004; February 17, 2004; February 24, 2004 (reconvened from February 17, 2004; April 21, 2004 Special Meeting; May 4, 2004; May 25, 2004; June 15, 2004; June 22, 2004 (reconvened from June 15, 2004); July 20, 2004; August 17, 2004; August 24, 2004; September 28, 2004.

The designated Minutes of Meeting were approved, with minor changes.

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B) Request for One-Year Extension of Variance Approval, by counsel for the applicant, for property located at **1950 Lafayette Road**. Said property is shown on Assessor Plan 267 as Lot 7 and lies within the Office Research district.

After consideration, the Board voted to **approve** a one-year extension of the variance through March 22, 2006.

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C) Motion for Rehearing, by counsel for the applicant, of the petition of **Richard Fecteau, owner**, for property located at **120 Spaulding Turnpike** wherein a Variance from Article II, Section 10-206 was requested to allow the creation of a 23,608 sf outdoor vehicle display parking area on the residentially zoned portion of the property where such use is not allowed. Said property is shown on Assessor Plan 236 as Lot 33 and lies within the General Business and Single Residence B districts. Case 1-2

After consideration, the Board voted to **deny** the request as correct procedure had been followed in arriving at their decision and no new information has been provided to warrant a re-hearing.

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**II. PUBLIC HEARINGS.**

1) Petition of **Stacie Yonkin, owner**, for property located at **128 Sherburne Avenue** wherein a Variance from Article III, Section 10-302(A) was requested to allow an 18' x 28' two story addition with basement and finished attic with a 6'± right side yard where 10' is the minimum required. Said property is shown on Assessor Plan 112 as Lot 36 and lies within the General Residence A district. Case # 2-1

As a result of this consideration, the Board voted to **deny** the application, as presented and advertised, for the following reasons:

- there were no special conditions or uniqueness of the property requiring a variance;
- the benefit sought by the applicant could be achieved by redesigning the structure;
- the volume and scale of the proposed structure, in denying light and air to surrounding properties, would not be consistent with the spirit of the ordinance.

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2) Petition of **Sheila Johnson Revocable Living Trust, owner, Bacman Enterprises Inc, applicant**, for property located at **996 Maplewood Avenue** wherein Variances from Article II, Section 10-206 and Article XII were requested to allow a 4,944 sf chiropractic office on the 1<sup>st</sup> floor and one apartment on the 2<sup>nd</sup> floor with associated parking where the use of the property is currently a retail florist business with associated parking and accessory out buildings. Said property is shown on Assessor Plan 219 as Lot 4 and lies within the Single Residence B district. Case # 2-2

After consideration, the Board voted to **deny** the application as presented and advertised. The Board found that this is an ill-defined expansion of a commercial use, which would diminish the value of surrounding properties and create more traffic in a residential zone.

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3) Petition of **Sean and Suzanne Correll, owners**, for property located at **492 Colonial Drive** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow the reconstruction of the existing 9.5' x 24.5' one story garage with proposed basement for use as part of the main living space with a 4'3"± right side yard where 10' is the minimum required and maintaining the previously approved 23% building coverage. Said property is shown on Assessor Plan 260 as Lot 60 and lies within the Single Residence B district. Case # 2-3

After consideration, the Board voted to **grant** the request, as presented and advertised, finding that the same reasons for granting variances for a new addition at its October 29, 2004 apply to the reconstruction of the existing garage. These reasons include the following:

- The requested variances are relatively small. Even expanded to the proposed scale, the house will still be a modest size overall, presenting no challenge to the public interest.
- Special conditions exist where literal enforcement of the ordinance results in unnecessary hardship, one condition being the unusual shape of the lot.
- The existing zoning interferes with the owners' reasonable use of the property. With the shape of the lot, the only logical place to expand is to the rear and the temporary demolition of the existing garage will allow the easiest access for the rear construction.
- The general purposes of the zoning ordinance are not served by a literal enforcement of a specific restriction in this instance and no neighbors have indicated that this would present any hardship or diminish their rights or the value of their property in any way.
- The variance is consistent with the spirit of the ordinance, which is to allow people reasonable use of their property.

### **III. ADJOURNMENT**

The motion was made, seconded and passed to adjourn the meeting at 9:28 p.m.

Respectfully submitted,

Mary E. Koepenick  
Secretary

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