

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 March 15, 2005 in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman Charles LeBlanc, Vice-Chairman David Witham, Nate Holloway, James Horrigan, Bob Marchewka, Arthur Parrott, Alternate Steven Berg

EXCUSED: Alain Jousse and Duncan MacCallum for Petition #1 under Public Hearings

I. OLD BUSINESS

A) Request for One-Year Extension of Variance Approval, by counsel for the applicant, for property located at **1574-1600 Woodbury Avenue**. Said property is shown on Assessor Plan 238 as Lot 16 and 17 and lies within the General Business district.

After consideration, the Board voted to **approve** a one-year extension of variance approval through March 15, 2006. Mr. Jousse was present and Mr. MacCallum absent for this vote.

II. PUBLIC HEARINGS.

1) Petition of The Childrens Museum of Portsmouth LLC, owner, for property located at 295 Woodbury Avenue, abutting lot on Woodbury Avenue, 677 and 659 Dennett Street wherein a Variance from Article II, Section 10-206 is requested to allow the Childrens Museum and 1,000 sf of office space for the Hyder Children's Foundation to be located in a district where such uses are not allowed. Said property is shown on Assessor Plan 161 as Lots 31 & 32 and Assessor Plan 175 as Lots 6 & 6A and lies within the General Residence A district. Case # 3-1

After consideration, the Board voted to **grant** the variance, subject to the following stipulations:

- That there will be no overnight parking on the site unless it is related to museum activity;
- That both entrances will be gated;
- That vegetative screening will be negotiated with the two Bartlett Street property owners abutting the parking lot;
- That any change in use in the future will come back before the Board;
- That an advisory session will be held with the Historic District Commission;
- That the 1,000 s.f. of office space for the Hyder Children's Foundation be only for non-profit uses.

The variance was granted for the following reasons:

- It would not be contrary to the public interest as it is an educational use of the land that benefits the public. With the large amount of open space, the project would add more to the neighborhood than multi-family dwellings and serve as a buffer from commercial activity.
- Special conditions exist creating a hardship in developing use. These include the unique setting, with the bypass on one side and a hotel on the other, and the fact that the merged property is six and a half times the required lot size of 7,500 s.f.
- There is no fair and substantial relationship between the general purposes of the zoning ordinance, which provides for variances, and the restriction on the property. This proposal represents a reasonable and appropriate use of the land, acceptable in zoning for similar areas.
- With the stipulations attached to the variance and the proposed improvements to alleviate traffic, the variance would not injure the public or private rights of others.
- The variance is consistent with the spirit of the ordinance. The museum is scaled to the same structure to lot size ratio it would have if it were located in a zone which specifically permits that use. The ordinance also encourages the promotion of cultural resources and the overall quality of life for Portsmouth residents. This proposal meets that criteria.
- Substantial justice is done by promoting a benefit to the public with a successful museum.
- As expert testimony has indicated, the value of surrounding properties will not be diminished and may actually be enhanced.

<p>It was moved, seconded and passed that the following petitions be continued as the first items of business when the Board of Adjustment reconvenes on March 22, 2005.</p>
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2) Petition of Mary Mirasola and John Mirasola, owners, for property located at 176 Sherburne Road wherein a Variance from Article III, Section 10-301(A)(9) is requested to allow the construction of a single family dwelling on pre-existing non-conforming lot having access from a private driveway and no frontage on a City street after the demolition of the existing single family dwelling. Said property is shown on Assessor Plan 260 as Lot 4 and lies within the Single Residence B district. Case # 3-2

3) Petition of Mary Mirasola and John Mirasola, owners, for property located off Sherburne Road wherein the following are requested: 1) a Variance from Article III, Section 10-301(A)(9) to allow the construction of a single family dwelling on pre-existing non-conforming lot having access from a private driveway and no frontage on a City street, and 2) a Variance from Article III, Section 10-302(A) to allow: a) a 25' front yard where 30' is the minimum required and b) a 20' rear yard where 30' is the minimum required. Said property is shown on Assessor Plan 260 as Lot 5 and lies within the Single Residence B district. Case # 3-3

III. ADJOURNMENT

The motion was made, seconded and passed to adjourn the meeting at 12:25 a.m..

Respectfully submitted,

Mary E. Koepenick
Secretary
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