

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 July 19, 2005** in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman Charles LeBlanc, Vice Chairman David Witham, Nate Holloway, Alain Jousse, Arthur Parrott, Alternate Steven Berg

EXCUSED: Robert Marchewka, Alternate Duncan MacCallum

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I. OLD BUSINESS.

A) Motion for Rehearing on the petition of Myles Bratter for property located at **159 McDonough Street** wherein a Variance from Article III, Section 10-302(A) was granted with stipulations to allow a left side yard of 0' where 10' is required and building coverage of approximately 56.5% where a maximum of 35% is allowed.

• After consideration, the request for rehearing was **granted**.

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II. PUBLIC HEARINGS:

1) Petition of **Wal-Mart Real Estate Business Trust, David N. Glass Trustee (Eric S. Zorn, Managing Trustee)**, owner, for property located at **2460 Lafayette Road** and **Jokers Realty One LLC et al**, owner for property located at **2460A Lafayette Road** wherein a Variance from Article IX, Section 10-908 Table 14 is requested to allow 365.95 sf of attached signage where 300 sf is the maximum allowed. Said property is shown on Assessor Plan 285 as Lots 16-1 and 16-2 (to be combined) and lies within the General Business district. Case # 4-11

After consideration, the Board voted to **deny** the petition as no satisfactory hardship had been presented and the signage allowed by the ordinance is adequate.

2) Petition of **Anthony J Balakier and Cherie L. Geiger**, owners, for property located at **490 Islington Street** wherein a Variance from Article XII, Section 10-1201(A)(2) is requested to allow a 21' wide travel aisle where a 24' wide travel aisle is required in conjunction with the addition of two dwelling units. Said property is shown on Assessor Plan 156 as Lot 1 and lies within the Mixed Residential Business district. Case # 7-1

After consideration, the Board voted to **grant** the petition, as presented and advertised, with the following stipulations:

- A solid eight foot high fence will be erected on the back property line.
- Curbing will be installed along the back property line to prevent water run-off onto the adjacent property.

The petition was granted for the following reasons:

- The variance will not be contrary to the public interest, which will actually be served by directing traffic off the main road.
- Special conditions exist requiring an ordinance to enable the proposed use of the property. The structure is on a corner lot, with one road a major artery. The preferred side street access only allows the requested travel aisle width.
- For the same reasons, there is no other reasonably feasible way for the applicants to achieve their purpose.
- A variance would be consistent with the spirit of the ordinance as the design meets all other requirements for parking and safety and the number of units is permitted.
- Substantial justice will be done by allowing the owners to maximize the potential of their property.
- Rather than diminishing the value of surrounding properties, it will be positively impacted by more green area.

3) Petition of **George A. Dodge III Revocable Trust 2002 and Erica C Dodge Revocable Trust 2002**, owners, for property located at **233 Dennett Street** wherein a Variance from Article IV, Section 10-402(B) is requested to construct a two story 24' x 36' barn/garage 24' in height with a 3'± rear yard where 18' is the minimum required. Said property is shown on Assessor Plan 142 as Lot 7 and lies within the General Residence A district. Case # 7-2

After consideration, the Board voted to **deny** the petition as no hardship or special conditions had been demonstrated

4) Petition of **Milan Marich and Sharon Marich**, owners, for property located at **315 Coolidge Drive** wherein Variances from Article III, Section 10-302(A), and Article IV, Section 10-401(A)(2)(c) are requested to allow: a) a 96 sf irregular shaped deck on the left side of the house with a 4'± rear yard where 30' is the minimum required and b) a 1' x 6' bay window on the right side of the house within the required 30' rear yard. Said property is shown on Assessor Plan 268 as Lot 40 and lies within the Single Residence B district. Case # 7-3

After consideration, the Board voted to **grant** the petition, as presented and advertised for the following reasons:

- Special conditions exist requiring a variance to enable the applicant's proposed use. Due to an approved sub-division many years ago, affecting the lot configuration, there is nothing that can be done to the property that will not require a variance.
- Due to the same conditions, there is no other reasonable way to achieve the desired benefit.
- Substantial justice is done and it is in the spirit of the ordinance to allow the applicants to improve their property and lessen an existing encroachment.

- The applicants have requested minimal relief which will not be contrary to the public interest or diminish the value of surrounding properties.
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5) Petition of **Eugene Franceware Trust and Mary Franceware Trust**, owners, for property located at **40 Cornwall Street** wherein a Variance from Article IV, Section 10-402(A) is requested to allow a 4' x 12' shed with a 6"± left side yard and a 6"± rear yard where 5' is the minimum required in each instance. Said property is shown on Assessor Plan 144 as Lot 1 and lies within the Apartment district. Case # 7-4

After consideration, the Board voted to **grant** the petition, as presented and advertised for the following reasons:

- A variance will not be contrary to the public interest as the shed will be placed against a solid fence and will not interfere with anyone.
 - The value of surrounding properties will not be diminished and substantial justice will be done by the replacement of a decrepit shed with a new one in essentially the same location.
 - The hardships in the property requiring a variance to enable the proposed use are the size of the lot and the location and configuration of the house and driveway.
 - Given these same elements, there is no other way to achieve the sought benefit.
 - It is in the spirit of the ordinance to maximize open space by installing the shed in a corner which will be shielded by a fence.
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6) Petition of **Carl and Catherine Aichele**, owners, for property located at **244 Wibird Street** wherein the following are requested: 1) a Variance from Article IV, Section 10-402(B) to allow a 20' x 35' one story garage with a 5'± rear yard where 10' is the minimum required, and 2) a Variance from Article III, Section 10-302(A) to allow a 1'9" x 5'6" mudroom addition with a 7'10" right side yard where 10' is the minimum required. Said property is shown on Assessor Plan 149 as Lot 13 and lies within the General Residence A district. Case # 7-5

After consideration, the Board voted to **grant** the petition, as presented and advertised for the following reasons:

- It will not be contrary to the public interest to allow these low profile structures, which are respectful of the value of surrounding properties.
- A hardship requiring a variance is created by the location of the previous garage and the house in relation to the lot lines, as well as by a right-of-way along the existing driveway.
- With the existing conditions and the right-of-way, there is no other way to achieve the sought benefit.
- The variance is consistent with the spirit of the ordinance by removing the existing garage from the property line and allowing a more conforming structure. The mudroom addition will require less relief from the ordinance than the existing house requires.
- Substantial justice will be done and the value of surrounding properties not diminished by allowing the replacement of an old unattractive garage structure with a new one.

7) Petition of **Joanne S. Holman Trust, Joanne S. Holman Trustee**, owner, for property located at **228 Highland Street** wherein the following are requested: 1) a Variance from Article IV, Section 10-402(B) to allow a 22' x 26' two story garage with a 4'± left side yard where 12' is the minimum required, and 2) a Variance from Article III, Section 10-302(A) to allow 26.7%

building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 130 as Lot 38 and lies within the General Residence A district.
Case # 7-6

After consideration, the Board voted to **deny** the petition as no hardship had been demonstrated and another way could be found to achieve the benefit while still complying with the ordinance.

The Board voted to table the following petitions 8) through 11) to July 26, 2005.

8) Petition of **Paul J. Carney**, owner, for property located at **54 Rogers Street** wherein the following are requested 1) a Variance from Article II, Section 10-207(14) to allow a 2nd dwelling unit to be created on a 2,682 sf lot where 3,000 sf of lot area is the minimum required and lot coverage exceeding the 40% maximum allowed, and 2) Variances from Article III, Section 10-303(A) and Article IV, Section 10-401(A)(2)(c) to allow the following: a) a 7.5' x 13'1" addition with a 1'+± right side yard where 10' is the minimum, b) an open deck to the rear of the dwelling within the required 10' right side yard and exceeding the 40% maximum building coverage; and c) a front entry within the required 5' front yard and exceeding the 40% maximum building coverage. Said property is shown on Assessor Plan 116 as Lot 44 and lies within the Mixed Residential Office and Historic A districts. Case # 7-7

9) Petition of **Gary P. Morin**, owner, for property located at **238 Melbourne Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) are requested to allow: a) an 8' x 18' one story addition with a 21'+± front yard where 30' is the minimum required, b) a 12' x 23' deck and stairs with an 8'+± left side yard where 10' is the minimum required; and c) 20.8% building coverage were 20% is the maximum allowed. Said property is shown on Assessor Plan 233 as Lot 82 and lies within the Single Residence B district. Case # 7-8

10) Petition of **Mark and Lisa Herrholz**, owners, for property located at **126 Martha Terrace** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) are requested to allow: a) a 192 sf deck with a 35.7'+± rear yard where 40' is the minimum required, b) the existing detached garage to be attached by adding a 264 sf breezeway now requiring a 20' side yard for the garage where 14'+± exists; and, c) 21.6% building coverage where 10% is the maximum allowed. Said property is shown on Assessor Plan 283 as Lot 25 and lies within the Single Residence A district. Case # 7-9

11) Petition of **Patrick Ellis**, owner, for property located at **235 McKinley Road** wherein a Variance from Article III, Section 10-302(A) is requested to allow a 4' x 21 one story addition to the front of the dwelling with a 27'+± front yard and a front entry porch 4' x 9' with a 23'+± front yard where 30' is the minimum required in both instances. Said property is shown on Assessor Plan 251 as Lot 28 and lies within the Single Residence B district. Case # 7-10

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III. ADJOURNMENT

The motion was made, seconded and passed to adjourn the meeting at 10:20 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary

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