

**MINUTES OF THE BOARD OF ADJUSTMENT MEETING  
PORTSMOUTH, NEW HAMPSHIRE  
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

**7:00 p.m.**

**CITY COUNCIL CHAMBERS**

**April 18, 2006**

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

**ALSO PRESENT:** Lucy Tillman, Chief Planner

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Chairman LeBlanc called the meeting of the Board of Adjustment to order at 7:00 p.m.

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**I. OLD BUSINESS**

A) **Approval of Minutes**, February 21, 2006.

The chairman called for a vote to approve the minutes. The Board voted to approve the minutes as amended.

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B) **Request for One-Year Extension of Variance granted April 19, 2005 for property located at 54 McNabb Court.**

Mr. Parrot moved to grant the petition as presented and advertised, which was seconded by Mr. Witham. Mr. Parrott stated that this was the first request for an extension on approval, and that it was appropriate. A motion to grant the petition was passed by a unanimous vote of 7 to 0. After consideration, the Board voted to grant the Variance Extension through April 18, 2007

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C) **Request for One-Year Extension of Variance granted April 26, 2005 for property located at 625 Islington Street.**

Mr. Berg moved to grant the petition as presented and advertised, which was seconded by Mr. Witham. Mr. Berg stated that the Board usually grants these petitions, and would have sooner had it not been delayed by a change in ownership. A motion to grant the petition was passed by a unanimous vote of 7 to 0. After consideration, the Board voted to grant the Variance Extension through April 25, 2007.

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D) **Request for One-Year Extension of Variance granted May 17, 2005 for property located at 140 Edmond Avenue.**

Mr. Berg moved to grant the petition as presented and advertised, which was seconded by Mr. Parrott. Mr. Berg stated that the request was reasonable and should be granted. A motion to grant the petition was passed by a unanimous vote of 7 to 0. After consideration, the Board voted to grant the Variance Extension through May 16, 2007

**II. PUBLIC HEARINGS**

1) Petition of **Jonathan R. Dennett, owner**, for property located at **50 Brewster Street** wherein a Variance from Article IV, Section 10-402(B) is requested to allow an air condition compressor with an 18"± right side yard where 10' is the minimum required. Said property is shown on Assessor Plan 138 as Lot 37 and lies within the Apartment district. Case # 4-1

Mr. LeBlanc stated that Jonathan Dennett requested that this petition be tabled until next month. A motion was made and seconded to table the petition until May. The motion passed unanimously.

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2) Petition of **Michael and Amy Quigley, owners**, for property located at **40 Mt. Vernon Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) are requested to allow: a) a 15'6" x 27'6" 2 story addition with a 1'± right side yard, b) a 5' x 7' cellar bulkhead with a 1'± right side yard; and, c) a 10' x 22'6" deck with a 6' right side yard where 10' is the minimum required for all additions. Said property is shown on Assessor Plan 111 as Lot 28 and lies within the General Residence B and Historic A districts.

**SPEAKING IN FAVOR OF THE PETITION**

Bob Moranis stated that the owners wish to build an addition in the rear of the home. There exists a 12' by 12' addition on the house already, but it is being removed in order to install the new addition. The proposed addition will be 15.5' by 27.5' and extend along the rear of the residence. The petition also requests a bulkhead basement access.

Mr. LeBlanc asked if there was a reason for the requested variance.

Mr. Moranis stated that it was for the ten foot requirement on the side.

Mr. LeBlanc asked if there was any other place on the lot where the addition could be built.

Mr. Moranis stated that the foundation from the 12' by 12' addition was already there, and that the owners would like to use that and extend it 3.5' across the back of the home. The proposed addition will be two stories high.

Lucy Tillman stated that both the bulkhead and the deck are both under 18" in height, making them exempt from a variance.

Mr. Parrott asked what the size of the area of the lot was. He stated that he had three different figures regarding the area of the lot.

Lucy Tillman stated that there was a lot line relocation between Lots 27 and 28 resulting in Lot 28 having 5663 of sf. They do not exceed their coverage requirements.

Mr. Jousse asked which lot line was adjusted.

Lucy Tillman responded that it was between Lots 28 and 27, which face the property from the opposite side.

With no one further rising, the public hearing was closed.

**DECISION OF THE BOARD**

Mr. Jousse made a motion to grant the petition as presented and advertised, which was seconded by Mr. Witham.

Mr. Jousse stated that the variance was a reasonable request. It is a two story addition to the house that will maintain the present setback. It is not contrary to the public interest, and there is no other way to expand the house that would be satisfactory to the owner. The area variance is needed for the applicant to proceed with their plan. The variance is consistent with the spirit and intent of the ordinance and substantial justice is done. The application should be granted.

Mr. Witham stated that this variance has special circumstances that allow it to be granted. Since the new addition will only lengthen the previous addition by 3.5', it will not have an adverse impact on the abutting properties. Even though the area of the addition is large, it will not greatly affect the area since the previous addition was the same size except 3.5'.

A motion to grant the petition was passed by a vote of 6 to 1.

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3) Petition of **Norman B. Olsen and Tasha D. Kostantacos, owners**, for property located at **70 New Castle Avenue** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) are requested to allow: a) the construction of a 23'8" x 26' 2 story addition after the demolition of the existing 23'8" x 26' 1 1/2 story addition with a 3'9"± right side yard where 10' is the minimum required and a 15'2"± rear yard where 30' is the minimum required, and b) an irregular shaped 294 sf deck within the required 30' rear yard; and c) 23.9% building coverage where 20% is the maximum allowed. Said property is shown on Assessor Plan 101 as Lot 31 and lies within the Single Residence B and Historic A districts.

**SPEAKING IN FAVOR OF THE PETITION**

Norm Olson, the owner of the property, stated that he was planning on adding an addition and deck onto his house. The proposed addition will lie within the same footprint as a barn that currently still stands. He is requesting variances to build a new 1.5 story addition on the property. He plans to demolish the barn, and rebuild on the space. The placement of the building on the property is to the far right of the lot. He states that although the property line is close to the neighboring house, Olson's house is not close. There is substantial space around the structure on all sides. The new addition will consist of a small room and a loft, and will become attached to the house. He has received approval

from all of the neighbors and direct abutters. He stated that the construction would not cause any problems such as blocked traffic or excessive noise. He stated that the construction will not overcrowd the land, and also retain the original style of the house by building in the same style. Since the home is older and built before the current zoning laws, the placement of the structure is unique and allows no other place for the addition. Any other placement of the addition would block the winter views of the harbor for the neighbors, and would also be inconsistent with the New England style of architecture. The value of the surrounding properties would not be diminished.

Mr. LeBlanc asked if the foundation for the barn would be reused.

Mr. Olson replied that part of the barn presently sits atop wood, and other parts lie on stumps. His plan is to build a stronger foundation for the addition.

Harold Whitehouse, neighbor of Mr. Olson, stated that he was in support of the applicant's request. He believes the present barn is unsafe. He believes the barn should be demolished for safety reasons. He also states that Mr. Olson's plan does not encroach on any green space, and has taken into consideration the views of his neighbors. Mr. Whitehouse stated that it will raise the value of surrounding properties to demolish the barn and rebuild in the same footprint.

With no one further rising, the public hearing was closed.

### **DECISION OF THE BOARD**

Mr. Marchewka made a motion to grant the petition as presented and advertised, which was seconded by Mr. Parrott.

Mr. Marchewka stated that Mr. Olson needed a variance to rebuild the barn he plans to demolish. The applicant was fully prepared to answer all questions regarding his plan. He also considered alternatives to the presented plan, of which would not work with the property or the addition. The alternatives that Mr. Olson found were not feasible. Mr. Marchewka stated that the area variance is needed to satisfy the owner's plan. The demolition of the present barn and building of a new addition would only raise property value. Mr. Marchewka stated that the Board should grant the variance.

Mr. Parrott stated that the house would not encroach onto neighboring properties, as it sits at a higher elevation than the abutters. There won't be any crowding of adjacent properties by the construction of this addition. The application should be supported.

Mr. Jousse asked if Mr. Marchewka would like to separate Variance A and Variance B.

Mr. Marchewka stated that the deck is a minimal request, and is located in the back corner of the home. It will be an expansion of the present deck, and should remain as an open deck.

Mr. Witham supported the motion because the eve line on the new addition has been lowered by 9' and the roof pitch is steeper, matching the architecture of the house. It will not have a large impact on the neighboring houses. This is a reasonable request.

Mr. LeBlanc called for a vote on the petition with the stipulation that the deck remain clear and open to the sky.

A motion to grant the petition was passed by a vote of 7 to 0.

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4) Petition of **Steven J. and Suzanne V. Cook, owners**, for property located at **524 Islington Street** wherein Variances from Article II, Section 10-206 and Article IV, and Section 10-401(A) are requested to allow construction of a 10' x 40' two story addition and conversion of an existing 4 dwelling unit building to a five dwelling unit building on an 8,998 sf lot where such conversion is allowed only with no footprint expansion and expansion of a non-conforming structure. Said property is shown on Assessor Plan 156 as Lot 3 and lies within the Mixed Residential Business district. Case # 4-5

Mr. LeBlanc stated that this petition was requested to be tabled until next month. A motion was made and seconded to table the petition until May. The motion passed unanimously.

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**III. NEW BUSINESS**

A) Request by **Ned and Bill Properties LLC, owner**, concerning the petition of former owner **Robert J. Bossie Revocable Trust and PK Brown** for property located at **625 Islington Street** wherein a **Variance** from Article XII, Section 10-1201(A)(2) **was granted April 26, 2005** to allow a 20' wide travel aisle where a 24' wide travel aisle is required in conjunction with the conversion of an existing building with 2,000 sf. of warehouse space, 1354 sf. of retail space and 4 apartments to 3,200 sf. of retail space and 6 apartments. Said property is shown on Assessor Plan 164 as Lot 6 and lies within the Business district. Concurrence is sought that the site plan satisfies the spirit and intent of the variance granted.

Lucy Tillman stated that the present plan was a revised one, and that the new owner would not be using a portion of the building for parking. The owners request a 20' travel aisle. The plan is similar to the former plan. It is an improvement on the former plan.

Mr. Berg stated that there would be less traffic backing into the narrower travel way. He asked if this was an improvement.

Lucy Tillman responded that it would be an improvement, and that the plan was revised by the Technical Advisory Committee.

Mr. LeBlanc stated that the two spaces on the driveway that were eliminated would clear space and allow for a freer flow of traffic.

Mr. Berg asked if they needed approval on the variance since it was already previously approved.

Lucy Tillman stated that the former plan was approved as it was presented and advertised. Changes were made to the plan, prompting the request.

Mr. Parrott asked how many apartments there were in the building.

Lucy Tillman stated that there were to be four living units.

Mr. Witham made a motion to concur that the site plan dated March, 2006 satisfied the spirit and intent of the variance previously granted.

A motion to concur was passed by a vote of 7 to 0.

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**IV. ADJOURNMENT**

A motion was made, seconded and passed to adjourn the meeting at 7:52 p.m.

Respectfully submitted,

Danielle Auger  
Acting BOA Secretary