

**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 August 15, 2006** in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

**PRESENT:** Vice Chairman David Witham, Steven Berg, Alain Jousse, Robert Marchewka, Arthur Parrott, Alternates: Carol Eaton, Henry Sanders

**EXCUSED:** Chairman Charles LeBlanc, Duncan MacCallum

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**I OLD BUSINESS**

- A) Approval of Minutes – May 23, 2006
- Approval of Minutes – June 20, 2006

A motion was made, seconded and passed unanimously to accept the May 23, 2006 minutes as corrected and the June 20, 2006 minutes as corrected.

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B) Petition of **Michael De La Cruz, owner**, for property located at **63 Congress Street a/k/a 75 Congress Street Franklin Block** wherein a Variance from Article XII, Section 10-1201(A)(2) is requested to allow a 10' two accessway to a below grade parking garage where 24' is the minimum required. Said property is shown on Assessor Plan 117 as Lot 5 and lies within the Central Business B, Downtown Overlay and Historic A districts. Case # 7-5 *This item was tabled at the July 25, 2006 meeting.*

It was moved, seconded and passed to remove this item from the table and to table it to the September meeting, at the request of the applicant.

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C) Petition of **Dennett Prospect Realty Investments LLC, owner**, for property located at **69 Prospect Street** wherein the following are requested: 1) a Variance from Article III, Section 10-301(A)(2) to allow two free-standing buildings with dwellings on a single lot where dwellings are required to be in one building, and 2) a Variance from Article III, Section 10-302(A) to allow an irregular shaped 1,232.5± sf footprint two story building to be constructed on the same footprint as the existing 1,232.5± sf one story building which is being demolished. Said property is shown on Assessor Plan 142 as Lot 29 and lies within the General Residence A and Historic A districts. *This item was tabled at the July 25, 2006 meeting.*

After consideration, the Board voted to grant the petition as presented and advertised for the same reasons the original petition was granted on August 16, 2005, which included the following:

- With no change in the number of units, it is in the public’s interest to develop this property as presented and the delineation of parking spaces should improve the street parking situation.
- Special conditions exist so that the zoning restriction would interfere with the landowner’s reasonable use of the property. There currently are six units and that will not change – they will just be spread into two buildings.
- Multi-unit properties are not out of character for this neighborhood so no fair and substantial relationship exists between the ordinance and the restriction on the property
- Substantial justice will be done and the value of surrounding properties will not be diminished by allowing the applicant to improve the property for his benefit and that of the neighborhood.

Additionally:

- It would not be reasonable to require the applicant to repair the foundation which is in poor condition. Replacement will be less costly and result in a safer structure.
- There is no change to the footprint from what was previously approved.
- It is in the best interest of the public to have a new, safer structure rather than a repaired one.

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**II. PUBLIC HEARINGS**

1) Petition of **Theodore W. Weesner, owner**, for property located at **36 Kent Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) are requested to allow a 376 sf irregular shaped deck and stairs with: a) a 2’± right side yard where 10’ is the minimum required, and b) 27.6%± building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 113 as Lot 38 and lies within the General Residence A district.

After consideration, the Board voted to deny the petition as there was no hardship presented that would require building the deck up to the property line and the deck could be redesigned to infringe less on the setbacks and the rights of neighbors.

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2) Petition of **Golter Lobster Sales LLC, owner**, for property located **off Sagamore Avenue known as 929 Sagamore Avenue** wherein a Variance from Article III, Section 10-301(A)(9) is requested to allow access to the lot off a private right of way to construct an additional 12’ x 24’ one story addition to a previously approved barn for water related uses where access is required from a public street or an approved private street and access is provided from an existing right of way. Said property is shown on Assessor Plan 223 as Lot 28 and lies within the Waterfront Business district.

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

- There is no way to expand without a variance as there is no street frontage and the only access is off a private right-of-way.

- This insignificant addition on a large lot will not crowd lot lines or infringe on the rights of the public or neighboring properties.
  - It is in the public interest and the spirit of the ordinance to have a vital and working Waterfront District.
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3) Petition of **Sarnia Properties Inc., owner, KFA On-Line LLC, applicant**, for property located at **933 US Route 1 ByPass, a/k/a 4 Cutts Street** wherein a Special Exception as allowed in Article IV, Section 10-401(A)(1)(d) is requested to allow a warehouse, offices and distribution center including shipment of internet (online sales) orders. Said property is shown on Assessor Plan 142 as Lot 37 and lies within the Business district.

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

- There will be no storage of toxic materials on site and no danger from fire or explosion.
  - This is an inoffensive use which will not increase noise, odors, vibration or pollutants.
  - With a decrease in traffic at the site, there will be no creation of a traffic safety hazard.
  - This less intense use will result in an equal or less demand on municipal services.
  - There will be no changes to the site that will result in increased storm water runoff.
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4) Petition of **Christopher and Petra J. Barstow, owners**, for property located at **528 Dennett Street** wherein a Variance from Article IV, Section 10-402(A) is requested to allow an 8' x 8' shed with 31.6%± building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 161 as Lot 10 and lies within the General Residence A district.

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

- This is not a permanent structure and is placed where it will not interfere with abutters or affect the public in any way.
  - It is consistent with the spirit of the ordinance to allow a small structure to house outdoor clutter.
  - The proposed lot coverage is consistent with that in a dense neighborhood.
  - The structure blends well with the home and will not negatively impact the value of surrounding properties.
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5) Petition of **SGB & RGB Ventures LLC, owners**, for property located at **1800 Woodbury Avenue** wherein a Variance from Article III, Section 10-304(A) is requested to allow a 2,292 sf one story building with: a) a 4'± left side yard where 30' is the minimum required, and b) a 68'± front yard where 70' is the minimum required. Said property is shown on Assessor Plan 239 as Lot 7-3 and lies within the General Business district.

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

- With a residential district to the north and wetlands to the north and west, there is no better location in which to place the building.
- Appropriate reviews and approvals from other regulatory boards and commissions will ensure that the surrounding area will not be adversely affected.
- Infringing on the left side setback does not result in too much density as the property line is in the middle of an open paved area well away from another structure.
- Only a very small portion of the building will infringe on the 70' front setback.

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**III. ADJOURNMENT.**

The motion was made, seconded and passed to adjourn the meeting at 9:25 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary