

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 September 19, 2006** in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire
PRESENT: Chairman Charles LeBlanc, Vice Chairman David Witham, Steven Berg, Alain Jousse, Robert Marchewka,, Duncan MacCallum, Arthur Parrott, Alternates: Carol Eaton, Henry Sanders

EXCUSED: None

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I OLD BUSINESS

- A) Approval of Minutes – July 18, 2006
- Approval of Minutes – July 25, 2006
- Approval of Minutes – August 15, 2006

A motion was made, seconded and passed unanimously to accept the Minutes as presented.

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 October meeting, at the request of the applicant.

C) Petition of **Abigail Khan-Cooper, owner**, for property located at **227 Park Street** wherein a Variance from Article II, Section 10-206 is requested to allow outdoor display and sales of artwork where such use is not allowed as a Home Occupation I or II. Said property is shown on Assessor Plan 149 as Lot 6 and lies within the General Residence A district. *This item was tabled at the August 22, 2006 meeting.*

The Board voted to table the petition to the October meeting at the request of the Planning Department.

D) Petition of **Lafayette Limited Partnership, owner**, for property located at **775 Lafayette Road** wherein a Variance from Article IX, Section 10-906(A)(2) is requested to allow an additional 40.7 sf of attached signage for “abode home furnishings” where the existing signage on the property exceeds the maximum allowed. Said property is shown on Assessor Plan 245 as Lot 1 and lies within the General Business district. *This item was tabled at the August 22, 2006 meeting.*

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

- This lower impact sign would be appropriate for the proposed location which has less building frontage.
- It is consistent with the spirit of the ordinance to allow a retailer proper signage while defining for the public the nature of the business.
- The signage is configured in a way that will not add to visual clutter or impact neighboring properties.

E) Applicant Filed Request for Rehearing for property located at **36 Kent Street**.

After consideration, the Board voted to deny the Motion for Rehearing as correct procedure had been followed in arriving at their decision and no new information had been provided to warrant a rehearing.

II. PUBLIC HEARINGS

1) Petition of **Perry Silverstein Revocable Trust 2001, Perry Silverstein Trustee, owner, owners**, for property located at **10 Commercial Alley and Perry Silverstein and Kristin Magnus, owners**, for property located **off Penhallow Street** (lots to be combined) wherein Variances from Article XII, Section 10-1201(A)(2) and (3)(a) are requested to allow four nonconforming parking spaces to park one behind another and back into the street where such configuration is not allowed. Said property is shown on Assessor Plan 106 as Lot 9 & 10 (to be combined) and lies within the Central Business B, Historic District A and Downtown Overlay districts.

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

- There is no way to provide conforming parking on the property which is long, narrow and irregular in shape.
- With the reduction in parking spaces from 7 to 4, the property will be less non-conforming.
- The public and surrounding properties will benefit by off-street parking.

2) Petition of **Strawbery Banke Inc., owner**, for property located **420 Court Street** wherein a Variance from Article III, Section 10-303(A) is requested to allow an irregular shaped two story 2,724± sf building with the building facade flush with the property line abutting Washington Street where 20' is the minimum side yard. Said property is shown on Assessor Plan 104 as Lot 7 and lies within the Mixed Residential Office and Historic A districts.

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

- The buildings in this historic area are flush with the street and set close to each other. If the building were positioned differently, it would not blend into the neighborhood.
- A new building that fits in well architecturally with the area serves the public interest and that of the surrounding properties.
- It is in the spirit of the ordinance to preserve the character of the historic areas.

3) Petition of **Joseph J. Zammit Revocable Trust of 1999, owner, Joseph J. Zammit Trustee, and Wendy Welton, applicant**, for property located at **580 Greenland Road** wherein the following are requested: 1) a Variance from Article II, Section 10-206 to allow two dwelling units on a lot in a district where only one dwelling unit is allowed, 2) a Special Exception as allowed in Article II, Section 10-206(12) to allow a Home Occupation II (architectural office) with associated parking; and, 3) a Variance from Article XII, Section 10-1201(A)(3) to allow parking to be arranged with a residential parking space passing over a parking space for the Home Occupation. Said property is shown on Assessor Plan 258 as Lot 2 and lies within the Single Residence B district.

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

- That two, 4' high, 24' long, sections of fencing be installed on the right side of the property, toward the front.

The variances and special exception were granted for the following reasons:

- The property had been used as two dwelling units for over twenty years and could continue to be so used with no effect on the public or surrounding properties.
- By permitting what has existed, the variances would allow the owner reasonable use of the property.
- The property can support two units without presenting an issue of overcrowding.
- In this area, the proposed use of the property will create no traffic safety or other hazard to surrounding properties.
- An architectural office is a benign use which will not create excessive demands on services or change the essential character of the neighborhood.
- With the vegetation and layout of the property, there was no better way to provide the necessary parking.

4) Petition of **Portsmouth Casey Home Association, and 1950 Lafayette Road A Condominium, owners**, for property located at **1950 Lafayette Road** wherein a Variance from Article IX, Section 10-908 is requested to allow a 88 sf freestanding sign having a 2' front yard

where 20’ is the minimum required. Said property is shown on Assessor Plan 267 as Lot 7 and lies within the General Business district.

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

- That the front yard setback was, as presented, 14’ rather than the advertised 2’ due to a 12’ easement granted to the State of New Hampshire Department of Transportation.
- That any lighting on the sign would be turned off by 10:00 p.m.

The petition was granted for the following reasons:

- It would be in the public interest to allow easy location of the facility.
- In this zone and location, a sign is essential for a business to survive.
- With a 50’ vegetative easement affecting visibility, there is no other possible placement for the sign.
- The sign is 8’ further back than others on the road and, with the lighting stipulation, will not negatively impact the value of surrounding properties.

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III. ADJOURNMENT.

The motion was made, seconded and passed to adjourn the meeting at 10:25 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary