

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 April 17, 2007** in the Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman Charles LeBlanc, Vice Chairman David Witham, Carol Eaton, Alain Jousse, Charles LeMay, Arthur Parrott, Henry Sanders, Alternate: Thomas Grasso

EXCUSED: None

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I. OLD BUSINESS

A) Approval of Minutes – February 20, 2007, March 6, 2007, March 20, 2007.

After minor clerical corrections were noted, a motion was made, seconded and passed by unanimous voice vote to accept the Minutes as corrected.

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II. PUBLIC HEARINGS

1) Petition of **Robin A. Rousseau, owner**, for property located at **871 Middle Road** wherein Variances from Article II, Section 10-206(12) and Article XII, Section 10-1201(A)(3)(a) were requested to allow 300 square feet in a single family dwelling to be used by the owner for a Certified Public Account office and to allow the required maneuvering aisle to be less than 24' in width with the existing screening to remain. Said property is shown on Assessor Plan 232 as Lot 119 and lies within the Single Residence B district.

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

- The property to the right of the driveway is used only on Saturdays when clients would not be visiting and the rear is well screened to lessen the impact of any vehicle traffic.
- Considering the property line and location of the existing home, there is no reasonable way for the applicant to widen the driveway.

- There is room in the rear for vehicles to turn around and the 10’ width of the driveway in the front should adequately handle the limited traffic.

2) Appeal from an Administrative Decision by **Charles Allard, abutter**, concerning property located at **41 Salter Street owned by Elizabeth A. Pruyn** regarding the issuance of Building Permit # 12454 wherein the abutter contends that further Variances and Historic District Commission approvals are required and that Permits have expired. Said property is shown on Assessor Plan 102 as Lot 30 and lies within the Waterfront Business and Historic A districts.

After consideration, the Board voted to uphold the City’s Decision to issue Building Permit 12454.

3) Petition of **Pier II, LLC, owner**, for property located at **10 State Street** wherein an Appeal from an Administrative Decision that the City administration was in error when requiring a variance for the proposed 2 car garage having vehicles backing out onto the street for Unit D.

Notwithstanding the above, if the Administrative Appeal was denied, a Variance from Article XII, Section 10-1201(A)(3)(a)(4) was requested to allow two vehicles exiting a two-car garage by backing into a street where backing out onto the street is not allowed from a lot having more than two dwelling units. Said property is shown on Assessor Plan 105 as Lot 4 and lies within the Central Business A and Historic A districts.

After consideration, a motion to grant the Appeal and overturn the Decision of the City failed to pass.

The Board then voted to grant the petition for a Variance as presented and advertised for the following reasons:

- There is little traffic on this dead-end street and no public parking so the backing into a street should pose no danger to vehicular or pedestrian traffic.
 - The Zoning Ordinance allows for backing into a street for certain dwelling units.
 - Justice would be served by allowing the property to be developed without negatively impacting safety or the rights of others.
 - With only a park as abutter, neighboring property values will not be affected.
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4) Petition of **Kendall P. and Sarah N. Faulstich, owners**, for property located at **267 Broad Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a two story 13’ x 28’ garage with living space above connected to the existing dwelling by a one story 4’ x 15’ mudroom with: a) a 2’± right side yard where 10’ is the minimum required and b) 30.4±% building coverage where 25% is the maximum

allowed. Said property is shown on Assessor Plan 131 as Lot 18 and lies within the General Residence A district.

After consideration, the Board voted to deny the petition as 2' on either side would represent overdevelopment on this narrow lot and affect the light and air protected by the Zoning Ordinance. A different configuration could be chosen that would require less relief from the Zoning Ordinance.

5) Petition of **Anne Elizabeth and Alan Gregg Weston, owners**, for property located at **43 Pray Street** wherein Variances from Article III, Section 10-304(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a previously approved 15' 10" x 5' 2" open deck to have a roof extending over the entire deck and replacing the existing smaller roof with a 4' 7" ± right side yard where 30' is the minimum required and an 9' 1" ± rear yard where 20' is the minimum required, and b) to increase the height of the roof on the existing one story rear addition from a 6/12 pitch to a 12/12 pitch thus increasing the height of a nonconforming building. Said property is shown on Assessor Plan 102 as Lot 39 and lies within the Waterfront Business and Historic A districts.

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

- Increasing the pitch of the roof will not impact the light and air protected by the Zoning Ordinance.
- There should be no negative impact on the value of surrounding properties.

6) Petition of **Charles L. Lassen Revocable Trust, owner, Charles L. and Susan E. Trustees**, for property located on **Round Island with a mailing address of 75 Salter Street** wherein a Variance from Article III, Section 10-301(A)(9) was requested to allow the property to be used for a single family dwelling without access and frontage on a City street after such use has been discontinued for more than 8 months. Said property is shown on Assessor Plan 207 as Lot 1 and lies within the Single Residence A and Historic A districts.

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

- That the owner obtain all the necessary permits to connect all utilities including sewer and water as well as, but not limited to, any easements and testing required by the Public Works Department and NH DES Wetlands Bureau.

The petition was granted for the following reasons:

- The unique setting (as an island) of the property creates special conditions that make strict compliance with the Zoning Ordinance difficult.
- The structure on the property was intended for a residential use.
- The owner should be allowed a reasonable use of the property.
- With the protection of the stipulation, there should be no burden on the general public.

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III. ADJOURNMENT.

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

Respectfully submitted,

Mary E. Koepenick, Secretary