

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 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, Alternate: Thomas Grasso

EXCUSED: Henry Sanders

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I. OLD BUSINESS

A) Approval of Minutes – June 19, 2007

It was moved, seconded and passed by unanimous voice vote to accept the Minutes as presented.

B) Request for One-Year Extension of Variance granted August 22, 2006 for property located at **180 New Castle Avenue**.

After consideration, the Board voted to grant the Variance Extension through August 21, 2008.

C) Petition of **David Kish, owner**, for property located at **824 State Street** wherein the following were requested: 1) Variances from Article II, Section 10-206(2) and Article XII, Section 10-1204 to allow no parking to be provided where 6 parking spaces are required for the conversion of an existing building with 3 dwelling units to 4 dwelling units, and 2) Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) are requested to construct an 8 ½' x 12' deck with a 5'± left side yard where 10' is the minimum required. Said property is shown on Assessor Plan 145 as Lot 84 and lies within the Apartment district. *This petition was postponed at the June 19, 2007 meeting.*

After separate consideration of the items in the application, the Board voted to grant item 1) for the following reasons:

- The configuration of the lot precludes providing the required parking.
- There will be no deleterious effect on the public as the number of vehicles parked on the street will most likely remain the same.
- With only an internal change, neighboring property values will not be negatively affected.

The Board voted to grant item 2) for the following reasons:

- The small deck will not encroach any further than the existing buildings.
- Given the configuration of the lot, there is no better place for a deck.
- Tucked away from view, the deck will not negatively affect the public interest or neighboring properties.

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II. PUBLIC HEARINGS

1) Petition of **Steven C. and Karen Butz Webb, owners**, for property located at **38 Willard Avenue** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 401(A)(2)(c) were requested to allow a 10' x 10' shed and a 6' x 10' rear deck creating 26.4% ± building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 150 as Lot 1 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:

- The minor increase in the maximum building coverage is reasonable for this neighborhood of small lots.
- The homeowner will be allowed reasonable use of their property without adversely affecting the public.
- The deck and shed will be tucked away within the setbacks so the lot will not seem overdeveloped and light and air will not be affected.
- On this small lot, there is no better way to gain a modest deck and storage.

2) Petition of **James P. Fernald, owner**, for property located at **21 Fernald Court** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 401(A)(2)(c) were requested to allow an 8' x 38' open deck with a 13'± front yard where 30' is the minimum. Said property is shown on Assessor Plan 207 as Lot 55 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 the deck remain open and clear to the sky.

The petition was granted for the following reasons:

- With the orientation of the house on this oddly shaped lot, any front or rear expansion would require relief from the ordinance.
- There is no other practical placement for a deck, which will also serve as front access.
- Denying the variance would unreasonably limit the owner’s enjoyment of his property.
- With the property located on a dead end street, any imposition on the public would be minimized.
- The value of surrounding properties will not be negatively impacted.

3) Petition of **Deer Street Associates, owner, and Public Service Company of New Hampshire, applicant**, for property located at **165 Deer Street** wherein a Special Exception as allowed in Article II, Section 10-208(51) was requested to install a ground mounted switch cabinet and manhole. Said property is shown on Assessor Plan 125 as Lot 17 and lies within the Central Business B, Downtown Overlay and Historic A districts.

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

- That the height of the screening for the installation be no more than 50” high.

The petition was granted for the following reasons:

- This is a self-contained, sealed unit which will present no hazards to the public or increase demand on services.
- With the height limit on the screening, lack of visibility will not create a safety or traffic danger.

4) Petition of **OCW Retail-Portsmouth, LLC c/o The Wilder Companies, owner, Eastern Mountain Sports, applicant**, for property located at **100 Arthur Brady Drive** wherein a Variance from Article IX, Section 10-906 was requested to allow 184.6 sf of signage where 126 sf is the maximum allowed. Said property is shown on Assessor Plan 238 as Lot 20 and lies within the General Business district.

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

- This amount of signage would allow the public to more easily see the sign from the highway, which is the only vantage point.
- The hardship is evident in the placement of the store behind another larger building, with no direct frontage.
- It is in the spirit of the ordinance to not unnecessarily hamper the effective use of property.
- There is no other way to provide an appropriate sign, of a readily observable size.

- There will be no infringement on residential properties or reduction in the surrounding property values.
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5) Petition of **David P. Cokely Revocable Trust, owner, David P. Cokely Trustee**, for property located at **353 Miller Avenue** wherein Variances from Article IV, Section 10-402(B) and Article III, Section 10-302(A) were requested to allow a 24' x 26' one story garage with: a) a 2'± right side yard where 10' is the minimum required, and b) 26.6%± building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 131 as Lot 32 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:

- With the narrowness of the lot and the configuration of the driveway, there is no better placement for the garage.
 - The replacement garage will be no closer to the lot line than the existing one.
 - Replacing a garage which is in disrepair will not negatively affect surrounding property values.
 - There will be no benefit to the public in denying the variance.
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6) Petition of **Elizabeth G. Fichera Revocable Living Trust, owner, Elizabeth and Mark Fichera Trustees**, for property located at **47 Howard Street** wherein Variances from Article III, Section 10-302 (A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 4' x 19.2' one story addition and a 7.7' x 15.4' two story addition to the rear of an existing dwelling with: a) a 0' right side yard where 10' is the minimum required, b) 46.7% building coverage where 30% is the maximum allowed; and, c) 24.8% open space where 25% is the minimum required. Said property is shown on Assessor Plan 103 as Lot 84 and lies within the General Residence B and Historic A districts.

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

- It is in the public interest to replace deteriorating additions with properly maintained structures appropriate to the neighborhood.
- Given the size of the lot and existing structure, it is difficult to place the additions without requiring a variance.
- It is in the spirit of the ordinance to replace the previous structures with ones more in keeping with the historic district.
- Justice will be done by allowing a continued use in safer structures.
- The improvements have the support of abutters and will not negatively impact the value of surrounding properties.

7) Petition of **Richard A. and Bonnie M. Porzio, owners**, for property located at **431 Pleasant Street** wherein the following were requested: 1) a Variance from Article IV, Section 10-402(A) to allow a 6' x 9'10" shed with: a) a 4'± right side yard, and b) a 4'6"± rear yard where 5' is the minimum required in each instance, and 2) a Variance from Article IV, Section 10-402(B) to allow an 8'9" x 21' pergola with a 6'2"± left side yard where 10' is the minimum required; and 3) a Variance from Article III, Section 10-302(A) to allow 48.9%± building coverage where 30% is the maximum allowed. Said property is shown on Assessor Plan 102 as Lot 71 and lies within the General Residence B and Historic A districts.

With no one appearing to speak to the petition, the Board voted to postpone consideration of the application to the August 21, 2007 meeting.

8) Petition of **Port City Plumbing and Heating LLC, owner**, for property located at **968 Middle Road** wherein the following are requested: 1) a Variance from Article II, Section 10-206 to allow the five (5) parking spaces on the left and rear sides of the property to remain as configured, and 2) to allow the existing parking on the left and rear sides of the property to remain as configured. Said property is shown on Assessor Plan 232 as Lot 90 and lies within the Single Residence B district.

9) Petition of **Robert Carrigg and Jennifer J. Griffin, owners**, for property located at **315 Union Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 6'10"± x 20' deck creating 34.9%± building coverage where 30% is the maximum allowed. Said property is shown on Assessor Plan 134 as Lot 1 and lies within the General Residence A district.

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

- That the deck remain open and clear to the sky.

The petition was granted for the following reasons:

- The lot is small and to gain any type of outdoor space would require a variance.
 - The structure sits within an ell and will not affect the public interest.
 - With the stipulation, the deck will not affect light and air or increase the density of the lot.
 - Well designed and appropriate in scale, the deck will not result in any diminution in the value of surrounding properties.
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10) Petition of **Charles L. Lassen Revocable Living Trust, owner, Charles L. and Susan E. Lassen, Trustees**, for property located at **75 Salter Street, a/k/a Round Island** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow: a) a southwest porch with a 24'± front yard where 30' is the minimum required, b) a west ramp and landing with an 18'± rear yard where 40' is the minimum required, c) vertical expansions within required yards to include rebuilding existing 8' x 24.5' 1 story south room, adding a second story to the 7' x 16' north room, new roof on existing 1 story west room to match roofline of new porch; and, four new 4' dormers on existing roof; and, d) 37.9% building coverage where 10% is the maximum allowed. Said property is shown on Assessor Plan 207 as Lot 1 and lies within the Single Residence A district.

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

- It is in the public interest to have an attractive building which is up to code.
- Located on an island, the property is unique and most changes would require a variance.
- With the aim of using the existing building, it is difficult to achieve the applicant's objectives by any other method.
- It is in the spirit of the ordinance to allow the homeowner to bring the home to a livable condition while achieving a small reduction in its footprint.
- Surrounding property values will not be diminished by a design in keeping with the area.

11) Petition of **John L. and Heidi D. Fiore Campbell, owners**, for property located at **492 Union Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow the construction of dormers on both the left and right sides of the roof with: a) a front yard of 9'± where 15' is the minimum required, b) a right side yard of 6'4"± where 10' is the minimum required; and, c) an 8'4"± left side yard where 10' is the minimum required. Said property is shown on Assessor Plan 133 as Lot 43 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:

- The hardship arises from a very narrow lot, which allows no other way to expand.
- This is a reasonable vertical expansion and the footprint of the house will not change.
- The house will fit in with similarly modified structures in the neighborhood.
- Making the property more livable and desirable will not negatively affect the value of surrounding properties.

12) Petition of **Jennifer Ramsey, owner**, for property located at **145 Porpoise Way** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) and Section 10-402(A) were requested to allow: a) a 144.63 sf one story addition with a 4' 6"± rear yard where 25' is the minimum required, b) an 8'6" x 11' shed with a 2'1"± rear yard and a 1'6"±

left side yard where 5' is the minimum required for each; and, c) a 6' x 24' 6 1/2" open porch having all additions create a building coverage of 36.2% where 30% is the maximum allowed. Said property is shown on Assessor Plan 212 as Lot 70 and lies within the General Residence B district.

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

- It will not be against the public interest to increase the livability of this property.
- Any expansion would require a variance on this small, triangular lot at the intersection of several streets.
- With the filling a good portion of the lot, there is no better placement for the additions.
- It is in the spirit of the ordinance and will provide justice to allow the applicant to maintain the appearance and quality of the building .
- Surrounding property values will not be negatively affected and a number of abutters have indicated their support.

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III. ADJOURNMENT

The motion was made, seconded and passed to adjourn the meeting at 10:45 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary