

**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 November 20, 2007 in the Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

**PRESENT:** Chairman Charles LeBlanc, Carol Eaton, Alain Jousse, Charles LeMay, Arthur Parrott, Alternates: Derek Durbin, Thomas Grasso

**EXCUSED:** Vice-Chairman David Witham, Henry Sanders

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**I. OLD BUSINESS**

A) Approval of Minutes – October 16, 2007

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

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B) Petition of **Joan Dickinson, owner**, for property located at **137 Elwyn Avenue** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 96 sf irregular shaped one story addition connecting a detached garage to the main structure with: a) the garage having a 10'± rear yard where 20' is the minimum required, and b) 31.5%± building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 112 as Lot 48 and lies within the General Residence A district. *This petition was postponed at the October 16, 2006 meeting.*

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

- A minimal infill project, in this location, would have little impact on the public and property values would not be diminished.
- The special conditions creating a hardship are the location of the existing garage and house on a substandard size lot.

- There is no benefit to the public that would outweigh the hardship on the owner if the variances were not granted.
- Without moving the garage, there was no other way to gain some needed space.
- It would be in the spirit of the ordinance to allow the owner to move from the house to the garage under cover.

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## II. PUBLIC HEARINGS

1) Petition of **150 Greenleaf Avenue Realty Trust, James G. Boyle Trustee, owner**, for property located at **150 Greenleaf Avenue** seeking an Administrative Appeal of the Legal and Planning decisions to: a) refuse to accept a Site Plan Application to revise and add parking (to 725 spaces) and add drainage/treatment areas; and b) refuse to issue certain building permits. Such refusals are based on the Departments' determination that there exists a wetlands violation upon the property precluding site plan review and issuance of certain building permits. Said property is shown on Assessor Plan 243 as Lot 67 and lies within the General Business district.

After consideration, the Board voted to uphold the actions and decisions of the Legal and Planning Departments and deny the Appeal. A legal process has been initiated and a final decision may affect the site plan and certain building permits. The Board supports the decision of the Departments to wait until the final legal decision is issued.

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2) Petition of **Christopher A. Tarry, owner**, for property located at **28 Harding Road** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow an L-shaped 310± sf two story addition with a 25.2'± front yard where 30' is the minimum required. Said property is shown on Assessor Plan 247 as Lot 17 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:

- An attractive addition will allow the homeowner to appropriately use his property without infringing on the public interest.
- Setting the addition back 4' would be difficult and would not maintain the line of the existing house.
- With the location of the existing structure, almost anything done would require a variance.
- The addition will fit in well with the neighborhood and should positively affect property values.

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3) Petition of **Scott E. Tetreault, owner**, for property located at **30 Mariette Drive** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 12' x 22' one story attached garage with a 4.5'± right side/rear yard where

10’ is required for the side and 30’ is the minimum required for the rear, and b) 22.9%± building coverage where 20% building coverage is the maximum allowed. Said property is shown on Assessor Plan 292 as Lot 195 and lies within the Single Residence B district.

After consideration, the Board voted to deny the petition as the proposed structure would crowd a relatively small lot, which already contains a garage and a previously granted rear addition.

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4) Petition of **HCA Health Services of NH, Inc., owner, Independent Wireless One Realty Corporation, and its affiliate, Sprint Spectrum, LP, applicants**, for property located at **333 Borthwick Avenue** wherein a Variance from Article II, Section 10-209 was requested to allow the installation of six additional panel antennas and related base station equipment on the Hospital roof. Said property is shown on Assessor Plan 240 as Lot 2-1 and lies within the Office Research district.

The Board voted to postpone consideration of the petition until the December 18, 2007 meeting, as requested by the applicant.

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5) Petition of **Terry Seavey, owner**, for property located at **52 Concord Way** wherein a Variance from Article II, Section 10-206(4) was requested to restore the use of the property back to the original duplex on a 4,791.6± sf lot where the minimum lot area required is 6,000 sf. Said property is shown on Assessor Plan 212 as Lot 9 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:

- Adding a dwelling unit will be in the public interest.
- In an area where nearly all of the buildings are duplexes or larger, property values will not be negatively affected.
- This is a unique area of small lots where it would be a hardship to maintain the required minimum lot area.
- Justice will be served by allowing the homeowner to restore the building to its original use while not infringing on the public or private rights of others.

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6) Petition of **Paul H. White, Trustee of the Paul H. White Realty Trust, Janet H. White-Nay, Trustee of the Janet H. White-Nay White Revocable Trust of 1992, Paul H. White and Janet H. White-Nay, Co-Trustees of the Jean H. White Revocable Trust of 1992, owners, and Zachery H. and Nicole R. Gregg, applicants**, for property located at **13 Salter Street** wherein the following were requested: 1) a Special Exception as allowed in Article IV, Section 10-401(A)(1)(d) to convert an existing 5 dwelling unit apartment building to a single family dwelling and the proposed garage addition to have a dwelling unit on the 2<sup>nd</sup> floor and, 2) Variances from

Article III, Section 10-304(A) and Article IV, Sections 10-401(A)(1)(c) and 10-401(A)(2)(c) to allow: a) a 12' x 30' 2 story addition to the left side of the existing building with a 26'± front yard where 30' is the minimum required, and b) an irregular shaped 683.5± sf attached garage with a 2<sup>nd</sup> floor apartment to the right side of the existing building with a 16.5'± right side yard where 30' is the minimum required. Said property is shown on Assessor Plan 102 as Lot 28 and lies within the Waterfront Business and Historic A districts.

After consideration, the Board voted to grant the Special Exception as presented and advertised. A motion to grant the Variances failed to pass so the Variances were denied.

The Special Exception was granted for the following reasons:

- Reducing the number of units from 5 to 2 will be more appropriate to the district and have less impact.
- With fewer units, the level of traffic activity will decrease, no traffic safety hazard will be created, and the demands on municipal services and parking will be less.
- Planned improvements should result in a decrease in storm water run-off.
- Any change in the value of surrounding properties will, most likely, be an increase.

The motion to grant the Variances failed to pass as there was adequate area to accomplish what the applicants would like without requiring relief from the Zoning Ordinance.

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7) Petition of **Robert MacDonald, owner**, for property located at **430 Islington Street** wherein Variances from Article III, Section 10-303(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow the following: a) existing two unit building to be expanded vertically with a 7'± right side yard where 10' is the minimum required, and b) a 34' x 60' three story addition for two additional dwelling units to the rear of the existing 2 dwelling unit building with a 9'± right side yard where 10' is the minimum required. Said property is shown on Assessor Plan 145 as Lot 36 and lies within the Mixed Residential Business district.

After consideration, the Board voted to deny the petition for the following reasons:

- The petition does not satisfy all of the necessary criteria, in particular that there is no other reasonably feasible method that could be pursued without a variance.
  - There are remaining issues of negative impact on neighboring property values, driveway safety, drainage, and privacy that have not been adequately addressed.
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8) Petition of **Cross Roads House, Inc., owner**, for property located at **600 Lafayette Road** wherein the following were requested: 1) a Variance from Article IV, Section 10-401(A)(1)(c) is requested to allow homeless shelter uses currently in three buildings (to be removed) to be relocated on the lot in one new building, 2) Variances from Article III, Section 10-304(A) and Section 10-304(C)(2) are requested to construct an irregular shaped two story 10,843 sf homeless shelter with: a) a 23.6'± left side yard for the building and 20.2'± for the loading area stairs where

30' is the minimum required, and b) a 19.6'± rear yard where 50' is the minimum required to the rear property line and 100' is required to the residentially zoned property line; and, 3) a Variance from Article XII, Section 10-1201(A)(3)(e)(2) is requested to allow parking to be located within the required 40' front yard and landscaped area. Said property is shown on Assessor Plan 243 as Lot 2A and lies within the General Business district.

A motion to continue the meeting past 10:00 p.m. was not seconded. This petition will be heard at the reconvened meeting on November 27, 2007.

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9) Petition of **Two Girls Realty LLC, owner**, for property located at **261 South Street** wherein a Special Exception was requested as allowed in Article IV, Section 10-401(A)(1)(d) to restore prior use of the property as conducted by the businesses that were there in recent years, South Street & Vine and South Street Market. What will be sold are food items typically found in the previous business such as milk, bread, eggs, cheese, wine, soft drinks, newspapers, dry goods, canned goods and some prepared foods with no food cooked or prepared to order. There will be no seating and the primary purpose is to reestablish a neighborhood market, which has occupied that space for the better part of the past century. Said property is shown on Assessor Plan 111 as Lot 34-2 and lies within the General Residence B and Historic A districts.

A motion to continue the meeting past 10:00 p.m. was not seconded. This petition will be heard at the reconvened meeting on November 27, 2007.

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**II. ADJOURNMENT**

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

Respectfully submitted,

Mary E. Koepenick, Secretary