

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 December 18, 2007 in the Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman Charles LeBlanc, Vice-Chairman David Witham, Thomas Grasso, Alain Jousse, Charles LeMay, Arthur Parrott, Alternate: Derek Durbin

EXCUSED: Carol Eaton

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I. OLD BUSINESS

- A) Approval of Minutes - November 20, 2007
- November 27, 2007

It was moved, seconded and passed by unanimous voice vote to accept the Minutes with minor clerical corrections.

B) 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. *This petition was postponed from the November 20, 2007 meeting.*

After consideration, the Board voted to grant the petition to allow the installation of six new antennas with three of the existing antennas being removed, with the following stipulations:

- That the antennas shall not exceed the height of the penthouse facade.
- That the antennas shall be painted the same color as the penthouse.
- That the related equipment shall be painted to match the existing hospital façade.
- That the fence screening the equipment shall be extended to shield the additional equipment.

The petition was granted for the following reasons:

- It will be in the public interest to meet an obvious demand for these services.

- There are limited areas available where the antennas could be installed.
- There is no better location to serve the needs of the I95 and Route One Corridor.
- The benefit to the applicant outweighs any possible benefit to the public in denying the variance.
- With the stipulations, there should be no diminution in the value of surrounding properties.

C) Motion for Rehearing regarding property at **150 Greenleaf Avenue**.

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

D) Motion for Rehearing regarding property at **13 Salter Street**.

After consideration, the Board voted to grant the rehearing as there was information affecting design decisions that was not available to the Board at the initial hearing.

II. PUBLIC HEARINGS

1) Petition of **Benjamin N. Otis and Kristin A. Trapane Otis, owners**, for property located at **46 McNabb Court** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow: a) a 10' x 20' two story rear addition with a 6'8"± right side setback, and 4'x 7'8" steps with a roof having a 9'4"± left side setback where 10' is the minimum side setback in each instance, b) a 6' x 18' covered porch with steps with a 4'± front setback for the porch and 3'± front setback for the steps where 15' is the minimum required, and a 7'8"± right side setback where 10' is the minimum required; and, c) 28.3% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 112 as Lot 59 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 right side of the addition no closer than the existing structure, there will be no infringement on the public interest.
- With public land to the right, there is no immediate neighbor to be negatively affected.
- The offset position of the existing building on the lot creates a hardship in any expansion.
- Justice will be served by granting this modest improvement needed to improve the functional obsolescence of the property.
- The neighbor who would be most affected has testified that, due to the characteristics of the land, there will be no infringement on their light and air.
- Surrounding property values will not be negatively impacted.

2) Petition of **Peter Schwab, owner**, for property located at **270-272 South Street** wherein Variances from Article III, Section 10-301(A)(2) and Article IV, Section 10-401(A)(1)(b) were requested to expand an existing second free-standing dwelling unit into vacant first floor space in

a district where only one dwelling unit on a lot is allowed. Said property is shown on Assessor Plan 111 as Lot 6 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 there will be no expansion of the footprint.

The petition was granted for the following reasons:

- There will be no change in use. It will continue to be a residential use in a residential district.
- The variance would serve the general purposes of the ordinance by allowing light and air.
- Two residential structures can be accommodated on this large lot.
- With renovations improving the appearance and no change in footprint, the public and private rights of others will not be affected.
- The spirit of the ordinance and justice will be served by allowing a reasonable use of the property without negatively impacting others.

3) Petition of **Evon Cooper, owner**, for property located at **287 Maplewood Avenue** wherein Variances from Article III, Section 10-303(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow an 11.9' x 13.8' one story rear addition with a 2.49' right side setback where 10' is the minimum required. Said property is shown on Assessor Plan 141 as Lot 36 and lies within the Mixed Residential Office district.

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

- Rebuilding on an already existing foundation will not be contrary to the public interest.
- There would be a significant economic hardship for the applicant if they had to move the foundation to within the required setbacks.
- Rebuilding in place will not affect the light and air protected by the ordinance.
- No benefit to the public would outweigh the injustice of requiring the owner to move the foundation.
- There is no evidence that surrounding property values would be diminished by rebuilding this addition.

II. ADJOURNMENT

The motion was made, seconded and passed to adjourn the meeting at 8:22 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary