

PLANNING DEPARTMENT - BOARD OF ADJUSTMENT

REVISED 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 January 15, 2008 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, Thomas Grasso, Alain Jousse, Charles LeMay, Arthur Parrott, Alternates: Derek Durbin, Robin Rousseau

EXCUSED: None

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I. OLD BUSINESS

A) Approval of Minutes – December 18, 2007

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

II. PUBLIC HEARINGS

1) Petition of **Jacqueline Ellis Revocable Living Trust, Jacqueline Ellis Trustee, owner**, for property located at **79 Haven Road** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow additions to an existing single family dwelling as follows: a) a 10' x 13'6" two story addition to the right side with a 17.5'± front setback where 30' is the minimum required, b) 6' x 10' one story front entry addition with a 12'± front setback and a 4' x 10' covered front porch with an 8'6"± front setback where 30' is the minimum required in each instance. Said property is shown on Assessor Plan 206 as Lot 5 and lies within the Single Residence B district.

Considering the three requests separately, the Board voted to grant part a) of the petition as presented and advertised for the following reasons:

- With the position of the house on the lot, almost any expansion would require a variance.

- The proposed right side addition will have minimal impact and will be in keeping with the character of the neighborhood.
- Continuing the line of the front of the building, this is the best placement for the addition.

The Board voted to deny the first item of part b), the 6' x 10' one story front entry addition as the structure could be accommodated on this lot in a location which did not require a variance.

The Board voted to grant the second part of item b), a 4' x 10' covered front porch with open sides and front, for the following reasons:

- With the position of the house on the lot, almost any expansion would require a variance.
- A covered porch, which acts as a front entryway providing protection from the elements, will be an appropriate addition to the house.

2) Petition of **Ned and Bill Properties LLC and 737 Islington Street Condo Association, owners**, for property located at **737 Islington Street** wherein the following were requested: 1) a Variance from Article II, Section 10-208(44) to allow the property to be used entirely residentially where 1/3 of the gross floor area on the lot is required to be used for nonresidential uses, and 2) Variances from Article III, Section 10-304(A) and Article IV, Section 10-401(A)(2)(c) to allow a 4' x 28' 2nd floor deck to be located within the required front and left side setbacks where a 20' front setback and a 15' left side setback are the minimum required. Said property is shown on Assessor Plan 165 as Lot 9 and lies within the Business district.

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

- In terms of any impact on the public interest, the property will remain the same.
- The safety issue created by a narrow driveway and poor vehicular sight lines will be less with the lower traffic generated by an entirely residential use.
- Given the history of the building and its location, continuing the existing use is a reasonable request and should not diminish surrounding property values.
- Not allowing the existing deck to be rebuilt would result in an unnecessary hardship.
- Replacing the existing deck is necessary for access to make necessary repairs.
- With existing second story doors, eliminating the deck would create a safety hazard.
- No injustice to the rights of others will be created by granting the variances.

3) Petition of **Joseph E. Golter, owner**, for property located at **4 Sagamore Grove Road** wherein a Variance from Article II, Section 10-208 was requested to allow the use of the property as a single family dwelling only in a district where such use is not allowed. Said property is shown on Assessor Plan 201 as Lot 4 and lies within the Waterfront Business district.

After consideration, the Board voted to deny the petition as it did not meet all the criteria for granting a variance. As indicated in the master plan, the value of the Waterfront Business

District to a waterfront City is incalculable. Granting the application would have the effect of breaking down zoning in this area, as permitting small changes can be cited as a precedent for granting future variances. The Board felt it would be more appropriate to request that the City Council rezone this unusual area in total, rather than bringing a case to the Board to do it in a piecemeal fashion.

4) Petition of **Terry Bennett, owner**, for property located at **211 Union Street** wherein a Variance from Article III, Section 10-302(A) was requested to allow eight new dwelling units (townhouses) to be constructed on a 15,849 sf lot where 60,000 sf is the minimum lot area required. Said property is shown on Assessor Plan 135 as Lot 70 and lies within the Apartment and Historic A districts.

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

- That snow be removed from the property in a legal manner.

The petition was granted for the following reasons:

- The public interest would be served by rerouting the sewer lines and mitigating storm water runoff.
- The changes to the property will bring it into conformance with the setbacks and parking requirements.
- Increasing the open space will be consistent with the spirit of the ordinance.
- The project will not change the essential character of this multiple unit neighborhood and will not diminish surrounding property values

It was noted that the required lot area is 28,000 s.f., not 60,000 s.f. (3,500 s.f. x 8 = 28,000 s.f.)

5) Petition of **Oleg Y. Kompasov, Hilary G. O'Neil owners**, for property located at **97 South 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' x 30' 2nd story rear addition with a 1'6"± right side setback and a 4'7"± left side setback where 10' is the minimum required side setback. Said property is shown on Assessor Plan 102 as Lot 45 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:

- Located in the back yard, the addition will not be detrimental to the public interest.
- The special conditions creating a hardship are the narrow lot and the relative size of the house with respect to the side setbacks.

- Other alternatives were considered but were not feasible on this property.
 - A reasonable expansion will not negatively impact the neighbors and surrounding property values will, if anything, be increased.
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III. ADJOURNMENT

The motion was made, seconded and passed to adjourn the meeting at 9:45 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary