

**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 March 18, 2008 in Conference Room B, 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 – February 19, 2008

A motion was made, seconded, and passed by unanimous voice vote to approve the Minutes with minor corrections.

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B) Request for a One-Year Extension of Variance, granted April 17, 2007, for property located at **10 State Street**.

After consideration, the Board voted to grant the Variance Extension through April 16, 2009.

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**II. PUBLIC HEARINGS**

1) Petition of **Frank M. and Kiska B. Alexandropoulos, owners**, for property located at **699 Middle Street** wherein a Variances from Article II, Section 10-206(4)(a) and Article III, Section 10-302(A) were requested to allow a third dwelling unit on the 2<sup>nd</sup> floor of a proposed 26' x 26' two story addition (garage on first floor) on an 11,000 sf lot where 22,500 sf is the minimum lot area required. Said property is shown on Assessor Plan 148 as Lot 35 and lies within the General Residence A and Historic A districts.

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

- The project meets the required setbacks and allows adequate light and air to surrounding properties.
- The proposal would meet the spirit of the ordinance as a third unit is allowed in this neighborhood of similar conversions and additions.
- There would be no benefit to the public in denying the petition.
- This small unit will have no negative impact on the value of surrounding properties.

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2) Petition of **Mark B. Kim and Chong Jou Kim, owners**, for property located at **3002 Lafayette Road** wherein the following were requested: 1) an Equitable Waiver of Dimensional Requirement as allowed in RSA 674:33-a to allow: a) right side setbacks of 9.72' and 9.64' where 10' is the minimum required, b) a left side setback of 9.74' where 10' is the minimum required; and, c) rear setbacks of 14.8' and 14.97' where 15' is the minimum required, 2) a Variance from Article III, Section 10-303(A) to allow: a) a chimney to have a 7.5' left side setback where 10' is the minimum required and, b) cooling tower to have a 9' rear setback where 15' is the minimum required, 3) a Variance from Article V, Section 10-504(D) to allow a dumpster to be located within 10' of a Mixed Residential property line where 20' is the minimum setback required; and, 4) a Variance from Article V, Section 10-505 to allow the cooling tower to exceed maximum allowable dB(A's) in the Mixed Residential Business district being 55dB(A's) between 7 AM and 9 PM and 45 dB(A's) between 9 PM and 7 AM. Said property is shown on Assessor Plan 292 as Lot 13 and lies within the Mixed Residential Business district.

After consideration, the Board voted to grant the equitable waiver, and to grant the variances with the following stipulations:

- That the dumpster be located as close to the building as possible, enclosed with an 8' stockade fence with a gate.
- That the owner will present to the Planning Department within one month a sound attenuation plan for the cooling tower.
- That, once the sound attenuation plan is approved, the owner will construct and install, within two months, whatever is needed for the cooling tower to meet the dB(A) requirements outlined in the Zoning Ordinance.

The equitable waiver was granted for the following reasons:

- The discrepancies in the dimensions of the structure were not discovered until after construction was complete.
- The project was built in good faith and there was an error, unknown to the owner, in the laying out of the foundation.
- The discrepancies in dimensions are minimal and will not impact other properties.

The variances were granted for the following reasons:

- The variance for the chimney would require relief on a side of the building abutting a commercial site and would have no adverse effect.
- The best location for the dumpster is at the rear, which already has a strong visual buffer, and further protection will be provided by the stipulations.
- The dumpster will have minimal use, with no odors that might present a problem to the public or abutting properties.
- The Building Inspection Department was consulted about the design of the cooling tower, but interpreted it, not as a structure requiring a setback variance, but as a piece of equipment.
- With the stipulation attached to approval for the cooling tower, abutting properties will be protected and the spirit of the ordinance preserved.

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3) Petition of **Robert N. and Kathleen M. Dockham, owners**, for property located at **206 Dennett Street** wherein a Variance from Article III, Section 10-302(A) was requested to allow a 10' x 28' open deck creating 31.8% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 143 as Lot 5 and lies within the General Residence A district.

The Chairman announced that the petition had been administratively withdrawn.

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4) Petition of **Madison Group LLC, owner**, for property located at **72 Mirona Road** wherein a Variance from Article XII, Section 10-1204 was requested to allow 201 parking spaces to be provided where 222 parking spaces are required in conjunction with a two story (1,757 sf footprint) addition for retail and office uses and a 1,062 sf garage. Said property is shown on Assessor Plan 253 as Lot 3 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 is an appropriate use which will not be contrary to the public interest.
- The amount of parking is more than adequate to support these businesses.
- In keeping with the spirit of the ordinance, the degree of nonconformity of the property would be lessened by this change.
- The use is consistent with others in the area and there is no indication that the value of surrounding properties would be diminished.

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5) Petition of **John W. and Debora D. Mayer, owners**, for property located at **68 Cabot Street** wherein the following were requested: 1) a Variance from Article IV, Section 10-402(B) to allow a 246 sf irregular shaped 1½ story addition to a detached garage with a 2'± rear setback where 10.1' is the minimum required and, 2) Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) to allow: a) a 22 sf deck expansion to an existing deck with a 1'6"± right side setback where 10' is the minimum required, b) a 20 sf roof extension over existing steps(steps to be rebuilt) with a 6"± right side setback where 10' is the minimum required; and, c) 44% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 135 as Lot 52 and lies within the Apartment district.

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

- That a crushed stone drywell be installed at the rear of the garage to prevent roof runoff from draining toward the rear abutter.

The petition was approved for the following reasons:

- Aesthetically the changes would be an improvement and not affect the public interest.
- In this congested neighborhood and with a building that predates zoning, almost any change would require a variance.
- There is no other feasible way to achieve the desired benefit.
- The improvements will bring the property into greater conformity with the Zoning Ordinance and blend with the essential character of the neighborhood.
- The garage in particular will sit a little better on the property and provide better clearance.
- There is no benefit to the public in denying the petition and the value of surrounding properties will, if anything, be improved.

### **III. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 8:55 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary