

**MINUTES OF THE BOARD OF ADJUSTMENT MEETING  
PORTSMOUTH, NEW HAMPSHIRE  
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS**

**7:00 p.m.**

**APRIL 15, 2008**

**MEMBERS 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

**ALSO PRESENT:** Lucy Tillman, Chief Planner

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**I. OLD BUSINESS**

A) Approval of Minutes – March 18, 2008

A motion was made, seconded and passed to accept the Minutes as presented.

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B) Request for a One-Year Extension of Variance, granted May 15, 2007, for property located at **227 Market Street**.

Mr. Grasso made a motion to grant the one-year extension, which was seconded by Mr. Witham.

Mr. Grasso noted that this was the first request for an extension. He stated that the time necessary has probably been extended due to the other Boards and Commissions involved in the project.

Mr. Witham stated he had nothing to add.

The motion to grant the One-Year Extension of Variance through May 15, 2009 was passed by a unanimous vote of 7 to 0.

C) Request for a One-Year Extension of Variances granted March 28, 2006 (upholding variances granted December 17, 2002 and clarified on November 15, 2005) and affirmed by the Supreme Court of the State of New Hampshire by order issued May 30, 2007 for property located **Off Kearsarge Way**.

Mr. Jousse made a motion to grant the request for a one-year extension, which was seconded by Mr. Grasso.

Mr. Jousse noted that, since 2002, issues regarding the property had been in litigation which puts a hold on the time allowed to obtain a building permit after a variance is granted. The effective start date was May 30, 2007 and, considering all that had to be done to move the project forward, an extension was appropriate.

Mr. Grasso stated he had nothing to add.

The motion to grant a One-Year Extension of Variance through May 30, 2009 was passed by a unanimous vote of 7 to 0.

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**II. PUBLIC HEARINGS**

1) Petition of **Robert N. and Kathleen M. Dockham, owners**, for property located at **206 Dennett Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow: a) a previously constructed two story addition creating 26.8%± building coverage where 25% is the maximum allowed, and b) a 10' x 28' open deck creating 30.5%± 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.

Mr. Jousse stepped down and Mr. Durbin stepped in as a voting member for this petition.

**SPEAKING IN FAVOR OF THE PETITION**

Mr. Robert Dockham stated that a site survey had shown a different amount of square footage than they believed they had, which brought them to the need for a variance for coverage on the property. In response to a question from Chairman LeBlanc, he stated they were asking to create a deck because they needed some sort of rear egress.

Mr. George Carlisle stated he had lived at 122 Mill Pond Way for several years and was in favor of granting the variance. The property had a strange foundation and had previously fallen into disrepair. The Dockhams had done a wonderful job of designing improvements which were an asset to the public, immediate abutters and the neighborhood.

**SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one rising, the public hearing was closed.

### **DECISION OF THE BOARD**

Mr. Parrott made a motion to deny the petition as it had been presented, which was seconded for discussion by Mr. Grasso.

Mr. Witham asked if the maker of the motion would consider splitting the two requests.

Mr. Parrott stated he was about to do that. His motion was in two parts, the first to approve section a), allowing 26.8% building coverage as a result of a subsequent survey which gave a more accurate idea of the size of the lot. The second request, however, would result in a 20% overage for a deck and that struck him as a lot. He was concerned that this portion was overdevelopment of the lot. If the stated objective was to provide a back entryway, it could be done with stairways.

Chairman LeBlanc stated that there was a motion to deny and now one to grant.

Mr. Parrott withdrew his first motion and made a motion to grant part a) of the petition. Mr. Grasso stated that was fine with him.

Mr. Parrott stated that granting part a) would not be contrary to the public interest, which would be to preserve an already built construction. The special conditions were that the building was already constructed and, secondly, that the change in lot size was based on a survey which came up after the fact. In any case, the resulting building coverage was very close to the requirement. There was no other method available except to modify the building, which would not be reasonable, or to request an equitable waiver. He stated that it would be in the spirit of the ordinance to treat property owners in a reasonable fashion. Justice would be done by recognizing what was already built, which was close to the requirement set by the Zoning Ordinance. A building less than 2% larger than the requirement would not hurt the value of adjacent properties.

Mr. Grasso stated that he agreed and noted that the neighbor who spoke in favor of the petition had stated that the property had been in disrepair and the foundation was irregular. As currently built, it was a very nice property.

The motion to grant part a) of the petition was passed by a unanimous vote of 7 to 0.

Mr. Parrott made a motion to deny part b) of the petition, which was seconded by Mr. Grasso.

Mr. Parrott stated that there was no hardship, either claimed or apparent in looking at the request, to justify raising the building coverage quite a lot over what was allowed. If the stated purpose was to gain access to the rear, it could be done by a set of stairs to a small landing if necessary as opposed to going up to a deck, which would tend to overcrowd the lot. Including the stairs to the deck, which don't even seem to be included in the request, the lot coverage would be even larger than requested.

Mr. Grasso stated that he agreed.

Mr. Witham asked the applicant how high the deck was off the ground and Mr. Dockham stated it would be 3½ feet. Mr. Witham stated he was somewhat on the fence with this one as they were not dealing with an addition or a two-story structure and, if it were lower, it wouldn't need a variance.

Ms. Tillman stated that less than 18" would not require a variance.

Mr. Witham stated that he didn't see any adverse effect in raising it higher.

Mr. LeMay stated that he largely agreed with Mr. Parrott. He recognized that they might need stairs and maybe a landing and felt a modest proposal would be more appropriate.

The motion to deny part b) of the petition was passed by a unanimous vote of 7 to 0.

Mr. Jousse resumed his seat.

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2) Petition of **Two Girls Realty LLC, owner, Laminda Puckett d/b/a The Red Ginger, applicant**, for property located at **261 South Street** wherein a Variance from Article IX, Section 10-908 Table 14 was requested to allow a 14.25± sf free-standing sign in a district where business signs are not allowed. Said property is shown on Assessor Plan 111 as Lot 34-2 and lies within the General Residence B and Historic A districts.

**SPEAKING IN FAVOR OF THE PETITION**

Mr. Steve Sanger stated that he was the co-owner of the building. All they were requesting was permission to use the signpost that had been in front of the store for several decades. He noted that the sign was actually smaller than the one up there previously. He read a petition of support from neighbors and abutters and distributed it to the Board.

In response to a question from Chairman Leblanc, Mr. Sanger stated he did not know the size of the previous sign, just that the proposed one was smaller.

Mr. Grasso stated that he would like to review the dimensions of the sign, which looked to be 4' x 4½', about 18 s.f. Mr. Sanger stated that he didn't know. The sign draft had been drawn up by the designer who took it to the City.

Ms. Tillman stated that the Assistant Building Inspector worked out the dimensions based on the shape of the sign and developed the advertised square footage.

Mr. Lou Harriman stated that he and his wife lived at 57 South Street and felt the signage was appropriate for this use.

**SPEAKING IN OPPOSITION TO THE PETITION,  
OR SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one rising, the public hearing was closed.

**DECISION OF THE BOARD**

Mr. Witham made a motion to grant the petition as presented and advertised, which was seconded by Mr. LeMay.

Mr. Witham stated that it was not contrary to the public interest for a business serving the public to advertise itself. The zoning restriction interfered with a reasonable use of the property in its unique setting, that being its location in a residential zone. He stated that there was no relationship between the Zoning Ordinance and the restriction on the property as the Board was allowing this business in this neighborhood. The public or private rights of others would not be injured and justice would be served by continuing the use of a sign post that had been in place and used by the other businesses located there. There was no indication that there would be any diminution in the value of surrounding properties.

Mr. LeMay added that it would be difficult to put signage anywhere else on the building and this was the most practical solution.

The motion to grant the petition as presented and advertised was passed by a vote of 6 to 1, with Chairman LeBlanc voting against the motion.

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3) Petition of **Nicholas J. Cassotis, owner**, for property located at **151 Stark Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 12’ dormer on the left rear portion of the roof on an existing building with a 0’ left side setback where 10’ is the minimum required. Said property is shown on Assessor Plan 159 as Lot 43 and lies within the General Residence A district.

**SPEAKING IN FAVOR OF THE PETITION**

Nicholas Cassotis stated that they would like to place a dormer on the left side of the house which was built in the late 1800’s right on the property line. To bring a dormer to the front side of the house was not in their plans as access to attic space, which was the purpose of the dormer, would be by using the existing stairwell. The front segment of the house contains, as indicated in the application, bedrooms and other room structures. To remove or move the stairwell entry to the front side of the house in order to avoid the variance would require remodeling the entire second floor. Mr.Cassotis distributed some photographs which showed the relationship between his and the neighboring house, which was only 5’ away. He pointed out various perspectives on the photographs, stating that the dormer would not be seen from the houses up the street.

Chairman LeBlanc asked if the dormer was going to be placed toward the rear of the house and Mr. Cassotis confirmed it was.

Referring to the aerial photograph, Chairman LeBlanc stated that there appeared to be a window on the house to the left and asked if the dormer would interfere. Mr. Cassotis stated that he did not believe it would. The slope of the roof can be seen in the photographs. The neighbor's window looks out on the rear of their roof.

In response to a question from Ms. Eaton, Mr. Cassotis stated that the wall would be a solid wall. The purpose of the dormer was to slightly increase the living space. They didn't feel they wanted to be looking in on the neighbors and vice versa.

**SPEAKING IN OPPOSITION TO THE PETITION, OR  
SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one rising, the public hearing was closed.

**DECISION OF THE BOARD**

Mr. Parrott made a motion to grant the petition as advertised and presented. The motion was seconded by Mr. Jousse.

Mr. Parrott stated that the public interest might best be represented by the folks next door who had expressed no opposition. The property owners want to make the attic space more usable, which was understandable. A hardship would be created if the Board were to deny the petition because the house is on the property line. With the property already in the setback, anything done would require a variance. There was no other method to pursue. The benefit was sought for this corner of the house due to access and it would be difficult and expensive to locate the dormer elsewhere. He stated that it was in the spirit of the ordinance to maximize the usefulness of the property. In the justice balance, there was no benefit to the public in denying the petition. He didn't believe that surrounding property values would be affected at all.

Mr. Parrott stated he would like to add a stipulation that the vertical wall adjacent to the long line of the house remain windowless as the applicant had indicated. Mr. Jousse stated he was in agreement with adding the stipulation.

Mr. Jousse stated that with a property that was already non-conforming, anything done would require a variance, and this was a very minimal request.

Ms. Eaton asked if anything should be done about the abutter and Chairman LeBlanc noted that they would have received an abutter notice by certified mail.

The motion to grant the petition as presented and advertised, with the stipulation that the vertical wall where the dormer would be located remain windowless, was passed by a vote of 6 to 1, with Mr. Witham voting against the motion.

4) Petition of **Holly Hunter and Daniel T. Gair, owners**, for property located at **369 Wibird Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow: a) a 4'6" x 7' front porch with 7'3"± front setback and a 75 sf side entry and steps with a 10'4"± front setback where 15' is the minimum required in each instance, and b) 31.7%± building coverage (including a 120 sf rebuilt rear deck, 7.5 sf kitchen bay addition and 34 sf rebuilt bulkhead) where 25% is the maximum allowed. Said property is shown on Assessor Plan 132 as Lot 17 and lies within the General Residence A district.

#### **SPEAKING IN FAVOR OF THE PETITION**

Ms. Anne Whitney stated that this was a small property. The existing front porch had a cantilevered roof over it. This would be rebuilt. The front steps were in disrepair and had different riser heights. As these would be in the setback and over 18", a variance would be needed. She referred to various features in the exhibits. At the side entry, they would get rid of the brick steps, which were also in disrepair and add 65 s.f. in this location, which would allow them to bring the steps out closer to the garage. At the rear elevation was a bulkhead, which would be removed and redone in a more traditional fashion. While this wasn't within the setbacks, the property was over the building coverage so a variance was needed. They would also be adding 1' in depth to the kitchen.

Ms. Whitney stated that the final item was the existing rear deck which was also in disrepair. They would take down the deck and rebuild it in a slightly different configuration with approximately the same square footage. With the current disrepair, the proposed changes will improve the property. They were already over the building coverage and this would be increased by a very small amount, with the bulk of it at the side entryway where they were adding a little standing room. None of the proposals would affect the light and air of neighbors. While they had nothing in writing, they had spoken to the immediate abutters who all seemed to be in favor.

In response to questions from Chairman LeBlanc, Ms. Whitney confirmed that the replacement bulkhead will look like a conventional bulkhead. The top will probably be 4' off the ground.

Mr. Jousse asked what the dark line was on page 1 of 2 on the plans. Ms. Whitney stated that was where the steps went above 18". The square footage above that counted into the building coverage.

#### **SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one rising, the public hearing was closed.

#### **DECISION OF THE BOARD**

Mr. Witham made a motion to grant the petition as presented and advertised, which was seconded by Ms. Eaton.

Mr. Witham stated that this was one of those applications that sound like a lot when you're reading them, but were actually a minimal request. The setbacks were by and large maintained or brought into greater conformity. He noted that the building coverage would only increase 1.4%, with no impact on abutters or the public. They would fill in that u-shaped area, which is an existing condition, and much of the rest is replacing in kind structures that are in disrepair.

Mr. Witham stated that none of these changes would be contrary to the public interest and the design was tasteful. The special conditions were that the entire front encroaches over the front setback so that any work to the front will require a variance. Considering the way the house sits on the property, this was a reasonable request. There was no better method to pursue as, again, any replacement work would require a variance. He stated that it would be in the spirit of the ordinance to allow the property owners to improve their property. Noting that the building coverage would be 31.7% where the zoning allows 25%, he stated it would be only 1.4% over the existing coverage and in keeping with similar properties in the neighborhood. Justice would be served by allowing the property owners to replace a deck and stairs of the same size that are in disrepair. There had been no indication that the changes would diminish the value of surrounding properties. It would be more pleasing to the abutters to have this property brought into a better architectural feel with the neighborhood.

Ms. Eaton stated that the area was fairly densely filled and this was not out of keeping with other building coverages. This was a small, irregularly shaped house. An argument could probably be made against the bay window, but that was a small request.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 7 to 0.

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5) Petition of **Christina Jane Ljungberg c/o Jane A. Stadler**, owner, for property located at **47 South Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow an irregular shaped 144 sf deck over an existing lower level deck with a 6'± right side setback where 10' is the minimum required. Said property is shown on Assessor Plan 102 as Lot 51 and lies within the General Residence B and Historic A districts.

**SPEAKING IN FAVOR OF THE PETITION**

Ms. Anne Whitney reviewed what they were proposing in the submitted drawings and photographs. On this part of South Street, most basements were exposed and, at the basement level, there was an existing deck that runs to the property line. For some additional outdoor space, they were proposing to build a deck partially over the existing deck and 6" back from the existing left side of the house. Plan 2 of 2 shows a detailed floor plan as well as the rear elevation of the house. On the right hand side, there is an existing set of stairs down to the



driveway and then the lower deck runs from one edge of property line to the other. The photograph taken from the Mill Pond Bridge shows where the deck would be located. Ms. Whitney noted that the properties on either side have similar decks. She added that, if anyone were to try to fill in the deck and use it for living space, it would also require state approval.

In response to questions from Mr. Jousse, Ms. Whitney stated that the deck would only be accessible from the inside. They just really want access from the first floor as the basement level was not used that much. They didn't want access to the second floor as they felt it would start to look like a tenement.

Mr. Lewis Harriman of 57 South Street stated that they share a driveway. Both 37 and 57 South Street have decks at the second level. They all look out on the mill pond so there was no issue of encroaching on neighbors to the rear. He felt the deck would be consistent with the use of the property and not affect property values.

**SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one rising, the public hearing was closed.

**DECISION OF THE BOARD**

Mr. Parrott made a motion to grant the petition as presented and advertised, which was seconded by Mr. Witham.

Mr. Parrott stated that he couldn't see any public interest as the deck would be in the rear and abut the water. This would be consistent with what was in the neighborhood, with similar decks attached to the adjacent houses. The special conditions creating a hardship were the proximity of the mill pond and the placement of the house on the lot. The only way to obtain additional deck space was to go up. He stated that it would be in the spirit of the ordinance to allow the homeowners reasonable use of their house without increasing the footprint. Justice would be done as there would be no harm to others and no one has spoken against the proposal. The value of surrounding properties would not be diminished as this change was consistent with others in the neighborhood

Mr. Witham stated that he initially had a concern about the deck height, but saw that this actually came off the main level and overlooked only the basement level. Only 4' of relief on the side for a house stretching that same line up to the street was a reasonable request.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 7 to 0.

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- 6) **Petition of A. B. Kelly Property Trust, William Ashley and Ann Vick Kelly, owners**, for property located at **306 Oriental Gardens** wherein a Variance from Article II, Section 10-209 was requested to allow the replacement of a 12' x 63' manufactured home in the same location with a new 13'4" x 66' manufactured home in a district where

manufactured homes are not allowed. Said property is shown on Assessor Plan 215 as Lot 9 and lies within the Office Research district.

### **SPEAKING IN FAVOR OF THE PETITION**

Ms. Debora Panebianco stated she was representing the owners who were asking to replace an existing mobile home with one that was 3' longer and 1'4" wider. This was all going to come forward on the property, not going back. As could be seen from the submitted photographs, the existing home had an 8'x10' wide porch in front and a 3½' to 4' deep mud porch at the back. She stated that 14' was actually narrow for current mobile homes, but was in keeping with their smaller lots. They would be upgrading the existing hot top to the current standard of a cement platform and upgrading the utilities. The newer home would be up to code, safer, and an enhancement to other homes.

In response to questions from Chairman LeBlanc and Mr. LeMay, Ms. Panebianco stated that homes were no longer made in the existing size. It was 66' or 60' and they didn't want to go too small. The 66' would be less than 25% larger than what was there now. She confirmed that the little mud room on exhibit 'D' and the shed on Exhibit 'B' would be demolished.

When Mr. LeMay asked for confirmation that the approval would be just for the mobile home, with no add-ons, Ms. Panebianco stated that nothing would be built on. They just required steps for access.

### **SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one rising, the public hearing was closed

### **DECISION OF THE BOARD**

Mr. LeMay made a motion to grant the petition as presented and advertised, which was seconded by Mr. Jousse.

Mr. LeMay stated that this was a pretty straightforward replacement of a mobile home with one of substantially the same size. It would obviously be in the public interest to replace a dilapidated structure with a new one in good shape. The zoning restriction interferes with a reasonable use of the property considering that the home would be surrounded by similar homes. For the same reason, it was clear that no fair and substantial relationship exists between the general purposes of the ordinance and the restriction on the property. He stated that the use remains the same so no public or private rights would be affected. It would be in the spirit of the ordinance and justice would be served by allowing the homeowner to replace a rundown structure. The value of surrounding properties would not be diminished by more of what's already there.

Mr. Jousse stated that this was essentially a replacement in kind as this was the closest replacement that could be found. This was definitely a much better dwelling.

Mr. Witham stated that it would be pretty hard to deny somebody who wants to replace a mobile home with a mobile home.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 7 to 0.

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7) **Petition of William Genimatas Revocable Trust of 1990, Nicolas Genimatas Trustee, owner, AAA Northern N.E., applicant**, for property located at **599 Lafayette Road** wherein a Variance from Article IX, Section 10-908 was requested to allow 472.24 sf of attached signage where 404 sf of attached signage is allowed. Said property is shown on Assessor Plan 229 as Lot 8 and lies within the General Business district.

**SPEAKING IN FAVOR OF THE PETITION**

Attorney Bernard W. Pelech stated that they were seeking a variance to allow certain signage for the AAA office which was going to be moving from its present location to the Bowl-A-Rama Plaza. Referring to the handout which shows the photographs of the front of the plaza, he noted that this was one of those cases where it looked like the applicant was seeking a lot of relief, but that was partially due to the way the City of Portsmouth measures signs. They square off the total logo, including the blue “swoosh” when determining sign size. Again, on the side, a rectangular is drawn around the words and around the “swoosh.” AAA was proposing to go onto the very end unit adjacent to the next plaza and was seeking a variance to allow two signs, one on the front and one on the side. The total for the plaza would be brought up to 472 s.f. from its current 369 s.f.

Attorney Pelech read the intent of Article IX in the Zoning Ordinance regarding signs and outlined how their request met this intent. He stated the signs were not overly large or distracting. On the side façade, the blue “swoosh” almost disappears. He stated the signs would provide information to direct tourists.

Addressing the criteria, he stated that there would be no detriment to the public interest, no need for more police or fire protection, no need for additional services. Attorney Pelech stated that the special condition creating a hardship was a shopping plaza with a lot of small uses having 20’ storefronts, all requiring their own signage. He stated that there was no other method to identify the location. They would like to have signs on both facades to aid the public, but, if the Board doesn’t see fit to grant both, the front one was the priority. With regard to the spirit of the ordinance, he stated that as he read it, the intent of the sign section of the ordinance was for signs to aid the public provided the signage was not visually objectionable or distracting. He stated that, if not for the blue “swoosh,” they would be requesting very minimal relief. Regarding justice, he stated that the hardship on the owner was not outweighed by some benefit to the general public in denying the request. In a very commercial area surrounded by commercial uses, the surrounding property values would not be diminished. Rebecca Bernier from AAA of Northern New England and Richard Westergin from Poyant Signs were there to answer any questions.

Chairman LeBlanc asked if the side sign could be seen from the road and Attorney Pelech stated it could be seen until you come to the lights at the entrance to the shopping center where a building blocks it. It could also be seen from the parking lot of the adjacent premises.

Ms. Eaton asked if these were neon signs and if they would be on 24 hours a day. Attorney Pelech stated they were internally illuminated. Mr. Westergrin clarified they were internally illuminated with neon. Attorney Pelech and Mr. Westergrin stated that the illumination would be controlled on a timeclock for whatever period was deemed necessary, generally off at 1:00 a.m.

Ms. Eaton noted there was signage at the front of the lot and assumed that the AAA sign would also be there. Mr. Westergrin stated they would have a small sign on the free-standing pylon.

### **SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION**

When Mr. Jousse asked if AAA would be amenable to removing the “swoosh,” Attorney Pelech stated it was their corporate logo and they want to retain it. They would rather remove the signage on the side than the “swoosh.”

Chairman LeBlanc stated that, if the signage on the side were removed, then the Board would be granting about 416 s.f. Attorney Pelech stated it would be 416.74, allowing the front signage.

Mr. Grasso asked if, with the side sign removed, AAA would have a problem with not having “Travel & Insurance.” Attorney Pelech stated that, if the side sign was removed, they would like to have “Travel & Insurance” on the front, which would change the total signage to 425.74 s.f.

### **DECISION OF THE BOARD**

Mr. Parrott made a motion to grant the front sign as requested and, second, to deny the sign at the end of the building.

There was a brief discussion between Mr. Parrott and Chairman LeBlanc on how to incorporate the words, “Travel & Insurance” and what the granted square footage would be.

Mr. Parrott restated his motion as to grant the petition with the stipulation that the granted signage will not exceed 425.74 s.f., placed entirely on the front of the building. The proposal to place signage on the side of the building was denied, with the exception of allowing 9 s.f. to be added to the front sign for “Travel & Insurance.” Mr. Grasso seconded the motion.

Mr. Parrott stated that this particular sign would not be contrary to the public interest. It would identify the location, without being distracting. The special conditions creating a hardship were a relatively small plaza with quite a few different businesses, all requiring their own sign. For the same reasons, no fair and substantial relationship existed between the

general purposes of the ordinance and the restriction on the property. There was no other method to pursue as there was no substitute for a sign where the public can see it. It would be in the spirit of the ordinance to allow signs that were not garish or overwhelming or so big that they compete with each other. He stated that there was no benefit to the public in denying the sign on the front façade. The value of surrounding properties would not be diminished as the signage was relatively consistent in style, placement and size with others on the façade. His particular concern with the extra signage on the blank side wall was that it could set a precedent for others in the plaza who might also want a sign. This would turn that wall into a jumble, which would not serve anyone’s interest.

Mr. Grasso stated that the motion with the stipulation would serve the purpose and adding “Travel & Insurance” to the front will still get the message across.

Mr. Witham stated that, given the presented calculation, the red portion of the AAA sign and “Travel & Insurance” would meet the zoning requirement. He felt they were really only granting the variance for the “swoosh”, which would not be contrary to the purposes of the ordinance.

The motion to grant the petition with the following stipulation:

that the granted signage will not exceed 425.74 s.f., placed entirely on the front of the building. The proposal to place signage on the side of the building was denied, with the exception of allowing 9 s.f. to be added to the front sign for “Travel & Insurance.”

was passed by a vote of 6 to 1, with Chairman LeBlanc voting against the motion.

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8) Petition of **Jay Edwards, owner, Coastal Truck & Auto Body, Inc applicant**, for property located at **3612 Lafayette Road** wherein a Special Exception as allowed in Article II, Section 10-208(36) was requested to allow the repair of school buses inside the existing building. Said property is shown on Assessor Plan 297 as Lot 3 and lies within the General Business and Industrial districts.

**SPEAKING IN FAVOR OF THE PETITION**

Mr. Robert Lebel stated that Coastal Truck was seeking an exception to repair buses in an existing garage.

In response to questions from Chairman LeBlanc, Mr. Lebel stated that the reason they needed the special exception was because they didn’t have enough room to make the structural repairs in their facility. He stated that the work would not be mechanical and they would not be changing oil.

Mr. Witham noted that the departmental memorandum had stated that there would be no buses stored on the property. Mr. Lebel stated they would bring them over from their property and store them inside.

In response to questions from Mr. Parrott, Mr. Lebel stated that he did not anticipate a need to expand or modify the building unless he bought it. It will continue to look just the way it is.

Chairman LeBlanc asked if they would be doing any welding and was there equipment already in the other building? Would there be hazards with acetylene or oxygen?

Mr. Lebel stated they would be welding, as they were currently doing in their building. There would be no additional hazards. It was the same operation.

**SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one rising, the public hearing was closed.

**DECISION OF THE BOARD**

Mr. Witham made a motion to grant the petition as presented and advertised, which was seconded by Mr. Grasso.

Mr. Witham stated that this had the potential to be a temporary solution to the applicant’s space needs. It was a minimal request as just the rear of the building would be involved and no parking would be required on site. He stated that there would be no hazard to the public and the greatest impact on an abutter would be to the applicant’s own property. There would be no detriment to surrounding property values or change in the essential character of the neighborhood. They currently had a building that looked abandoned. He stated that he did not see the creation of traffic or safety hazards. Traffic would remain the same as they would be moving vehicles back and forth without going onto Route One. Since the work was already being performed in the adjacent building, Mr. Witham did not see any increased demand for municipal services. With no proposed work in the exterior of the property, there should be no increase in storm water runoff.

Mr. Grasso stated that there would be no noticeable change in the building and it would have minimal impact from the road.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 7 to 0.

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- 9) Petition of **Drew Santa Barbara, owner**, for property located at **84 Leslie Drive** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow: a) an existing 360 sf irregular shaped carport to be enclosed and a 14’ x 14’ rear addition to the carport with a 6’6”± left side setback where 10’

is the minimum required, and b) a 12' x 14' deck and a 4' x 10' front porch creating 22.5%± building coverage where 20% is the maximum allowed. Said property is shown on Assessor Plan 209 as Lot 64 and lies within the Single Residence B district.

### **SPEAKING IN FAVOR OF THE PETITION**

Ms. Beth Peterson stated that they want to enclose the existing carport, making it a garage, which will allow their 3 vehicles to park off the street. The lot is irregular and slants in a little bit so that the rear portion of the garage would infringe into the setback. They would also be replacing the steps and adding what would now be a 4' x 8' landing in the front and a deck.

Chairman LeBlanc asked if reducing the front porch from 4' x 10' to 4' x 8' would affect lot coverage and Ms. Tillman stated that it would not affect it enough to make a difference.

Mr. Grasso asked if the proposed garage extension was to accommodate all 3 cars and Ms. Peterson confirmed that, by going back, they could fit in all 3. Right now, they could only fit two off the road.

Mr. Parrott noted that the change in lot coverage would be one tenth of one percent.

Mr. Eric Koromhas of 55 Cutts street stated that the extension of the garage would provide more privacy and increase neighborhood property values.

Mr. Phil Pettis stated he lived across the street at 85 Leslie Drive. He felt that property values would, if anything, increase. It was a small street which could get crowded during the winter and the more vehicles in garages, the better. He stated that the irregularity of the footprint was a hardship. Most of the construction was to the side and rear of the property and lots are such that it was tough to expand. The changes would make this property more usable and consistent with others in the neighborhood.

### **SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one rising the public hearing was closed.

### **DECISION OF THE BOARD**

Ms. Eaton made a motion to grant the petition as presented and advertised, which was seconded by Mr. Parrott.

Ms. Eaton stated that the request was minimal. The carport was there and they were simply enclosing the walls to increase livability, which created the need for a variance. She felt it would probably be an improvement to the public interest to have an enclosed garage. The special conditions were that it was just one corner that infringes into the setback and the footprint was already there. There was no other method to convert a carport into a garage. She stated that it would be in the spirit of the ordinance to allow a structure similar to others in the neighborhood and remove a car from street parking. Justice would be done by allowing

the homeowner to use their property as they wished and surrounding property values would likely increase with these improvements and a full, usable garage.

Mr. Parrott concurred.

Mr. Jousse stated that one thing had been overlooked – three parked cars involves a shuffle. If two vehicles were parked in the driveway side by side, the proposed extension to the garage would not be needed so he believed there was an alternate way to relieve the parking situation. If it had been explored, it was not presented.

Chairman LeBlanc noted that, as a single family residence, they could have stacked cars. Mr. Jousse replied that it could be inconvenient when one has to get out.

Mr. Witham stated that his only concern would have been the effect on the abutter to the rear, but the property was abutting some sort of driveway or turnaround so he didn't see any adverse effect on others.

Before calling for the vote, Chairman LeBlanc noted that the front porch would be 4' x 8', not 4' x 10'.

The motion to grant the petition as advertised and presented was passed by a vote of 6 to 1, with Mr. Jousse voting against the motion.

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10) Petition of **Ann N. Grimbilas Revocable Trust, Ann N. Grimbilas Trustee, owner**, for property located at **525 Ocean Road** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 10' x 20' deck to be rebuilt with: a) a 39' ± rear yard where 40' is the minimum required, and b) 13.7%+ building coverage where 10% is the maximum allowed. Said property is shown on Assessor Plan 283 as Lot 16 and lies within the Single Residence A district.

**SPEAKING IN FAVOR OF THE PETITION**

Ms. Ann Grimbilas passed out photographs showing the condition of her current deck, along with a letter of support from her next door neighbor. She stated that their carpenter had reported that the cement footings were broken, the wooden poles rotten and the railings unsafe.

In response to questions from Chairman LeBlanc and Mr. Jousse, Ms. Grimbilas stated that they would be rebuilding the deck in the exact same size. The land slopes down so the deck height is up in one spot and only 2' on the other side.

**SPEAKING IN OPPOSITION TO THE PETITION, OR  
SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one rising, the public hearing was closed



**DECISION OF THE BOARD**

Mr. Grasso made a motion to grant the petition as presented and advertised, which was seconded by Mr. Witham.

Mr. Grasso stated that the deck was in disrepair and the applicants would be replacing it in kind. He stated that a 1’ incursion into the setback would not be of concern to the public interest. The special conditions were that the deck had existed for some time and was in disrepair. To replace it in its current location required a variance. There was no other method for the applicant to pursue as it was not reasonably feasible to relocate the deck to another place and have to construct another entrance and exit. It would be in the spirit of the ordinance to allow the owners to enjoy their property and there would be no benefit to the public in denying the variance. He didn’t feel that the value of surrounding properties would be diminished.

Mr. Witham stated that there had been discussion over the years about replacements in kind. When they do come before the Board, they can review the structure and maybe move it into conformance. This was only 1’ of relief, which was minimal in one of the most restrictively zoned areas in terms of setbacks. He noted that the lot coverage was 33% which still allowed for substantial open space so there were no issues of overcrowding or density. He felt replacing in kind worked in this situation.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 7 to 0.

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**III. ADJOURNMENT**

It was moved, seconded and passed by unanimous voice vote to adjourn the meeting at 9:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary