

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 May 20, 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 – April 15, 2008

A motion was made, seconded, and passed by unanimous voice vote to accept the Minutes as presented.

II. PUBLIC HEARINGS

1) Petition of **Susan E. Ronchi, owner**, for property located at **307 Ocean Road** wherein a Variance from Article III, Section 10-302(A) was requested to allow a 22' x 28' one story garage with: a) a 9'± left side setback where 10' is the minimum required, and b) 22% building coverage where 20% is the maximum allowed. Said property is shown on Assessor Plan 292 as Lot 117 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 in this location will not negatively affect the public interest.
- It would not be feasible to move the utilities from the right side of the house so that the garage could be located on the right side.

- This is a minimal request that will still permit the light and air protected by the Zoning Ordinance.
 - Justice will be done by allowing the property owners to fully utilize their property without diminishing the value of surrounding properties.
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2) Petition of **Heritage Storage Center, Inc., owner**, for property located at **70 Heritage Avenue** wherein a Variance from Article II, Section 10-209 was requested to allow the sale of sporting goods (primarily lacrosse equipment) and lacrosse and circuit training in a district where such uses are not allowed. Said property is shown on Assessor Plan 285 as Lot 11B and lies within the Industrial district.

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

- In an area with mixed retail, commercial and industrial uses, this use will not be contrary to the public interest.
 - With the mix of uses in the surrounding buildings, as well as within the building itself, holding the owner to a strictly industrial use would not be a reasonable use of the property.
 - With no conflict of interest with the different uses in the area, there should be no injury to the rights of others.
 - In this setting, the variance would be consistent with the spirit of the ordinance.
 - This use for the building will enhance the value of surrounding properties better than the currently empty space.
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3) Petition of **Philip R. Whisler and Karen Degroat, owners**, for property located at **395 Sherburne Road** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 552 sf addition on the existing garage and proposed breezeway with an 8'± right side setback where 10' is the minimum required. Said property is shown on Assessor Plan 261 as Lot 74 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:

- The proposal has the support of the neighbors and will not be contrary to the public interest.
- The existing building and the angle of the property line are special conditions creating a hardship in any expansion involving the rear left corner of the building.
- The only other method would be to eliminate the small rear corner from the second floor, which would be excessive in cost.

- It is in the spirit of the ordinance to allow the homeowners to enjoy their property without changing the character of the neighborhood.
 - The balance of the public interest vs. the hardship on the property owner if the variance were denied falls on the side of the property owner.
 - Surrounding property values will not be diminished by this small amount of relief.
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4) Petition of **Dean A. and Jessi Leah Outhouse, owners**, for property located at **133 Orchard Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 7’8” x 9’8” front porch expansion connecting to a 7’8” x 13’7” mudroom on the left side (existing deck area) with: a) a 4’± front setback for the porch, and b) a 12’4”± front setback for the mudroom where 15’ is the minimum required in each instance. Said property is shown on Assessor Plan 149 as Lot 44 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:

- The public interest will be protected by an “effective front setback” that is close to 30’.
 - The existing ledge creates a hardship in any development of the property.
 - This small improvement will not interfere with the light and air protected by the ordinance and the structure will remain in line with others on the street.
 - Justice would be served by allowing the property owners continued use and enjoyment with little impact on the neighborhood.
 - With several neighbors writing in support of the proposal, there should be no negative impact on the value of surrounding properties.
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5) Petition of **Ronald N. Anania, owner**, for property located at **290 Bartlett Street** 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 29’ open deck with a 7’± left side setback where 10’ is the minimum required. Said property is shown on Assessor Plan 162 as Lot 51 and lies within the General Residence A district.

After consideration, the Board voted to deny the petition as presented and advertised as it does not meet all the criteria for granting a variance. There appear to be other reasonably feasible methods for the applicant to pursue which would not require a variance and no hardship in the property which would necessitate a variance has been demonstrated or claimed.

6) **Petition of Melvin R. and Nancy H. Alexander, owners**, for property located at **620 Peverly Hill Road** wherein a Variance from Article II, Section 10-209 was requested to allow a private school for grades 6 through 12 in a district where such use is not allowed. Said property is shown on Assessor Plan 254 as Lot 6 and lies within the Industrial district.

At the request of the owner and applicant, the Board voted to postpone consideration of the petition until the reconvened May 27, 2008 meeting, where it will be heard as the final petition.

7) Petition of **Mark Wentworth Home for the Chronic Invalid, owner**, for property located at **346 Pleasant Street** wherein a Variance from Article IX, Section 10-901(A)(4) was requested to allow a 3.34 sf free-standing sign directing visitor parking in a district where such signs are not allowed. Said property is shown on Assessor Plan 109 as Lot 16 and lies within the General Residence B and Historic A districts.

After consideration, the Board voted to grant the petition as presented with the size of the free-standing sign being 1.67 sf. The petition was granted for the following reasons:

- It will be in the public interest and a reasonable use of the property to provide adequate identification and direction.
 - Allowing appropriate identification will not be against the general purposes of the ordinance.
 - The public and private rights of others will not be affected by signage which is appropriate to the scale of the property.
 - It will be in the spirit of the ordinance to facilitate better traffic flow and parking.
 - There is no benefit to the public in denying the variance that would outweigh the hardship that would present to the property owner.
 - The value of surrounding properties will not be affected by well thought out signage for this well established facility.
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8) Petition of **Mark Wentworth Home for the Chronic Invalid, owner**, for property located at **346 Pleasant Street** wherein Variances from Article IX, Sections 10-908 and 10-901(A)(4) were requested to allow: a) a 3.34 sf free-standing sign directing drop off / entrance, and b) a 6.26 sf free-standing sign for the use in a district where such signs are not allowed. Said property is shown on Assessor Plan 109 as Lot 10 and lies within the General Residence B and Historic A districts.

After consideration, the Board voted to grant part b) of the petition as presented and advertised and part a) as presented, with the size of the free-standing sign being 1.67 sf. The petition was granted for the following reasons:

- It will be in the public interest and a reasonable use of the property to provide adequate identification and direction.
 - Allowing appropriate identification will not be against the general purposes of the ordinance and a free-standing sign will be more effective than one attached to the building.
 - The public and private rights of others will not be affected by signage which is appropriate to the scale of the property.
 - It will be in the spirit of the ordinance to facilitate better traffic flow and parking.
 - There is no benefit to the public in denying the variance that would outweigh the hardship that would present to the property owner.
 - The value of surrounding properties will not be affected by well thought out signage for this well established facility.
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III. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 8:35 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary