

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 reconvened meeting** on May 27, 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, Alternate: Derek Durbin

EXCUSED: Robin Rousseau

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I. PUBLIC HEARINGS

9) Petition of **Peter and Judi Paridis, owners**, for property located at **481 Dennett Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow an existing rear dormer to be expanded across the rear of the dwelling resulting in a 4'± left side setback where 10' is the minimum required. Said property is shown on Assessor Plan 160 as Lot 27 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 not be affected by this expansion of an existing dormer.
- This is the best way to expand a small house on a small lot without enlarging the footprint.
- The homeowners will be allowed a reasonable use of their property without infringing on their neighbors.
- There is no overriding public interest that would outweigh the benefit to the applicant in granting the variance.
- There would be a positive effect, if anything, on the value of surrounding properties.

10) Petition of **Jason Lansberry and Jennifer Janak, owners**, for property located at **36 Spring Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow: a) an irregular shaped 677 sf 2 story addition with a garage on the 1st floor and living space on the 2nd floor with a 2.5'± right side setback where 10' is the minimum required, and b) a 38 sf porch creating 36.4%± building coverage for all where 25% is the maximum allowed. Said property is shown on Assessor Plan 130 as Lot 14 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:

- On an undersized lot, almost any construction would require a variance.
- After considering alternate proposals, this plan was chosen as requiring the least relief.
- It is in the spirit of the ordinance to allow the homeowners reasonable enjoyment of their property, while bringing the setbacks into greater conformity.
- The value of surrounding properties will not be diminished by a configuration which increases the green space closest to the property lines.

11) Petition of **Old Tex Mex, LLC, owner**, for property located at **3510 & 3518 Lafayette Road** wherein the following were requested: 1) a Variance from Article II, Section 10-206 to allow a proposed 60' x 72' addition with 20' x 72' office mezzanine for use by trades contractors in a residential district where such use is not allowed, and 2) a Variance from Article III, Section 10-301(A)(8) to allow the proposed addition with a 55'± front setback where 105' is the minimum required. Said property is shown on Assessor Plan 297 as Lots 7 & 8 (to be combined) and lies within the Single Residence A district.

The petition was withdrawn at the request of the applicant.

12) Petition of **Patrick Malloy and Birgit Christiansen, owners**, for property located at **233 Union Street** wherein Variances from Article XII, Sections 10-1201(A)(3) and 10-1204 Table 15 were requested to allow: a) 4 parking spaces that backout to be provided where 7 parking spaces are required, and b) required parking for the professional offices (3 offices) where parking shall not back out onto the street. Said property is shown on Assessor Plan 135 as Lot 71 and lies within the Mixed Residential Office district.

After consideration, the Board voted to deny the petition as presented and advertised as it does not meet the criteria for granting a variance or the intent of the

ordinance parking requirements. The lot is configured so that parking for the proposed uses would result in excessive cars parked on, and backing out onto, the street.

13) Petition of **Spinnaker Point Condo Association, owner**, for property located at **70 Spinnaker Way** wherein a Variance from Article II, Section 10-212(I) was requested to allow outdoor storage of sand and salt where outdoor storage is not allowed. Said property is shown on Assessor Plan 217 as Lot 2 and lies within the Office Research/Mariner’s Village Overlay district.

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

- That the outdoor storage area for sand and salt remain covered with an impermeable surface such as a tarp.

The petition was granted for the following reasons:

- The proposed location is well chosen and will be out of view of the public.
 - In the proposed location, and with the stipulation, residents will be protected in keeping with the intent of the ordinance.
 - With the vegetation providing screening for the resident buildings, there should be no diminution in the value of surrounding properties.
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14) Petition of **Icon Realty LLC, owner, Rite Aid Pharmacy, applicant**, for property located at **1303 Woodbury Avenue** wherein a Variance from Article IX, Section 10-908 was requested to allow a 79.81 sf freestanding sign 7’3” from property lines(two) where 20’ is the minimum required. Said property is shown on Assessor Plan 217 as Lot 1 and lies within the General Business and Mixed Residential Business districts.

After consideration, the Board voted to deny the petition as presented and advertised as the criteria for granting a variance were not met. There was no hardship in the property demonstrated and a freestanding sign could be placed within the required setbacks.

15) Petition of **Toby and Shelly L. Lavigne, owners**, for property located at **4 Moebus Terrace** wherein a Variance from Article III, Section 10-301(A)(7)(a) was requested to allow a 340 sf L-shaped deck 69 ½’± from the salt marsh wetlands or mean high water line where 100’ is the minimum required. Said property is shown on Assessor Plan 207 as Lot 24 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 deck will be located in an area where there will be no public interest involved.
 - With the existing house set within the setback, no addition can be made without requiring a variance.
 - The existing dwelling will be between the deck and the wetlands so there will be no negative effect on the wetlands.
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II. OLD BUSINESS

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. *(This petition was postponed from the May 20, 2008 meeting.)*

After consideration, the Board voted to deny the petition as presented and advertised as it does not meet the criteria for granting a variance. There was no hardship presented in the property and the safety issues arising from the location of a school for children in an industrial zone would not be consistent with the spirit of the ordinance.

III. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 9:50 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary