

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 August 19, 2008 in the Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman Charles LeBlanc, Carol Eaton, Thomas Grasso, Alain Jousse, Charles LeMay, Arthur Parrott, Alternates: Derek Durbin, Robin Rousseau

EXCUSED: Vice-Chairman David Witham

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I. OLD BUSINESS

A) Approval of Minutes – July 15, 2008

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

B) Petition of **New England Glory LLC, owner**, for property located at **525 Maplewood Avenue** wherein an Appeal from an Administrative Decision regarding the determination of the Code Officials that the Building Permit to convert the 9 apartments into a 14 room Bed and Breakfast has lapsed as the building continues to be used as 9 apartments.

Notwithstanding the above, if the Administrative Appeal is denied, a Variance from Article II, Section 10-206 is requested to allow the existing 9 apartments to be converted into a 14 room Bed and Breakfast. Said property is shown on Assessor Plan 209 as Lot 85 and lies within the General Residence A district. *This petition was postponed from the July 15, 2008 meeting.*

The petition was postponed to a time indefinite at the applicant's request.

C) Petition for Rehearing for property located at **930 Route One By-Pass.**

After consideration, the Board voted to deny the Request for Rehearing as correct procedure had been followed in arriving at their decision and no new information had been provided to warrant a rehearing.

D) Request for Amendment of Variance granted July 15, 2008 for property located at **150 Route One By-Pass.**

After consideration, the Board voted to amend the Variance granted July 15, 2008 to remove the following stipulation:

- “That, on the Hillside Drive side of the property, an arborvitae screening be extended along the entire length of the property line.”

and reinstate the following stipulation attached to the variance granted January 16, 2002:

- “That arborvitae be placed along the fence between the property line and the new addition on Hillside Drive as depicted on the plan by Charles LeBlanc.”

The Board also voted to request that the Site Review Committee, as part of its deliberations, determine whether the arborvitae screening is adequate.

II. PUBLIC HEARINGS

1) Petition of **Webster H. Kohlhase Jr. and Debra Kohlhase, owners**, for property located at **187 Union Street** wherein a Variance from Article IV, Section 10-402(B) is requested to allow a 10' x 16' shed with a 6' x 10' attached porch with a 3'± right side setback and an 8'± rear setback back where 10' is the minimum required in each instance. Said property is shown on Assessor Plan 135 as Lot 68 and lies within the Apartment district.

After consideration, the Board voted to deny the petition. A 22' long structure 3' from the property line would be excessive. The structures could be redesigned and moved so that the applicant's needs would be accommodated while requiring less relief.

2) The Portsmouth Board of Adjustment, acting pursuant to NH RSA 12-G:13 and Chapter 300 of the Pease Development Authority Zoning Requirements, will review and make a recommendation to the Board of Directors of the **Pease Development Authority** regarding the petition of **Two International Group LLC, applicant**, for property located at **100 International Drive** wherein a Variance from the Pease Development Authority Zoning Ordinance Article II, Section 303.04B is requested to allow a 3,025 sf Law office in a district where professional offices are not allowed. Said property is shown on Assessor Plan 306 as Lot 2 and lies within the Industrial district.

After consideration, the Board voted to recommend the granting of the petition, as presented and advertised, to the Board of Directors of the Pease Development Authority.

The recommendation was made for the following reasons:

- A professional office is an appropriate use for this property.

- With similar uses already in place, this professional office will not affect the public interest.

3) Petition of **Nobles Island Condominium Association, owner**, for property located at **500 Market Street** wherein a Variance from Article IX, Section 10-908 is requested to allow: a) 4 freestanding signs totaling 103 sf where 10 sf is the maximum square footage allowed, b) 3 attached signs totaling 99 sf where 60 sf is the maximum square footage allowed; and, c) 202 sf of aggregate signage where 75 sf is the maximum allowed. Said property is shown on Assessor Plan 120 as Lot 2 and lies within the Central Business A and Historic A districts.

After consideration, a motion to grant the petition failed to pass so the petition was denied. The degree of relief requested was high and it was felt that the size and/or number of signs could be reduced.

4) Petition of **JMK Realty LLC, owner**, for property located at **700 Peverly Hill Road** wherein a Variance from Article IX, Section 10-908 is requested to allow two 32.5 sf signs for a total of 265 sf attached and aggregate signage where 200 sf is the maximum allowed. Said property is shown on Assessor Plan 252 as Lot 2-10 and lies within the Industrial district.

After consideration, the Board voted to deny the petition as presented and advertised. There were a number of alternatives that the applicant could pursue while remaining within the constraints of the Zoning Ordinance. This is a stand-alone building which is easy to find and there is no hardship in the property which would argue for a variance.

5) Petition of **Aquila Chase and Marcia N. Chase, owners**, for property located at **71 Baycliff Road** wherein a Variance from Article III, Section 10-10-301(&)(a) is requested to allow the replacement of the original gravel driveway with paver stone driveway located within 100' of the salt water marsh or mean high water line where 100' is the minimum required. Said property is shown on Assessor Plan 207 as Lot 46 and lies within the Single Residence B district.

After consideration, a motion to grant the petition failed to pass so the petition was denied. There were questions regarding storm management on the property and whether replacement of the driveway material was needed for erosion control.

6) Petition of **Bed, Bath & Beyond, Inc., owners**, for property located at 100 Durgin Lane wherein a Variance from Article IX, Section 10-906(A)(2)(a)(2) is requested to allow 1,315 sf of attached signage where 716 sf is the maximum allowed. Said property is shown on Assessor Plan 239 as Lot 18 and lies within the General Business district.

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

- At this location, the signage will be needed to help the public identify and find these destination businesses from the roadways.
- Given the distance from access roads and the needs of multiple tenants, more signage will be needed than for the previous single operation.
- The only other option would be smaller signs which would not be appropriate for the distances involved.
- There would be no benefit to the public in denying the request and the surrounding properties will, if anything, benefit from these high volume, high traffic stores.

7) Petition of David M. Goulet, owner, for property located at 1062 Banfield Road wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-402(A) are requested to allow a 14' x 16' open deck and an 8' x 12' shed creating 11.8%± building coverage where 10% is the maximum allowed. Said property is shown on Assessor Plan 283 as Lot 36 and lies within the Single Residence A district.

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

- The deck and shed will not be seen from the street and will have no effect on the public interest.
- The building coverage is based on one-acre lots so that almost anything done to a smaller lot will require a variance.
- The rights of neighbors, and their property values, will not be impinged by a proposed deck in the middle of the lot.
- The request will only slightly exceed the maximum lot coverage and will not result in overdevelopment of the lot.

III. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 10:50.

Respectfully submitted,

Mary E. Koepenick, Secretary