

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 October 28, 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: Robin Rousseau

EXCUSED: Alternate: Derek Durbin

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I. PUBLIC HEARINGS

8) **Petition of Murat Ergin and Sandra Carver Ergin , owners**, for property located at **251 Walker Bungalow Road** wherein Variances from Article III, Section 10-302(A) and Article XV, Section 10-1503(D)(2)(a) were requested to allow a 9'6" x 28' farmer's porch with a 20'± front setback where 30' is the minimum required. Said property is shown on Assessor Plan 202 as Lot 13-2 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:

- Considering the nature of the Planned Unit Development in which the property is located, the public interest will not be harmed.
- The light and air protected by the ordinance will be preserved as the closest point of the porch is 30' from the edge of the street.
- There would be no benefit to the general public if the variances were denied that would outweigh the hardship on the property owner.
- There will be no diminution in property values due to an attractive porch and the project has the support of surrounding property owners.

9) 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 **NH Avenue Retail Center LLC, applicant**, for property located at **30 Manchester Square** wherein a Variance from the Pease Development Authority Zoning Ordinance Section 303.05(b) 16(f) was requested to allow a gas station/convenience store with a 15'± right side setback where 40' is the minimum required. Said property is shown on Assessor Plan 302 as Lot 7 and lies within the Business/Commercial 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:

- The special conditions include the odd layout of the lots where the setback is to the property line of an interior, enclosed lot.
- With the lot configuration, there is no better placement for the gas station.
- There would be no benefit to the public in denying the variance that would outweigh the hardship on the applicants.
- The structure will not cause any diminution in the value of surrounding properties.

10) Petition of **Ali S. Kodal and Pamela Henry, owners**, for property located at **845 South Street** wherein a Variance from Article III, Section 10-301(A)(6) was requested to allow construction of a fence on a corner lot within 20' of a line joining points 20' from the intersection of the rights of way. Said property is shown on Assessor Plan 132 as Lot 23 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 fence will be set back slightly on the owner's property so that the line of sight will not be obstructed.
- Without a variance the benefit could not be achieved except by cutting off a large triangle of the property owner's lawn.
- The intent of the ordinance is to guarantee a sufficient line of sight, which this placement will provide.
- This will allow the owners a fair use of their property without infringing on the public interest or diminishing surrounding property values.

11) Petition of **Joseph Gobbi Supply Corp., owner**, for property located at **685 Islington Street** wherein a Variance from Article II, Section 10-208 was requested to allow an auto towing company office and outside storage for towed vehicles for less than a two week period. Said property is shown on Assessor Plan 164 as Lot 12 and lies within the Business district.

After consideration, the Board voted to postpone a decision on the application to the November 18, 2008 meeting. This will allow the applicants time to produce a site plan which will address the questions of the Board, including delineating the turning radius and plans for maneuvering and stacking the vehicles. Prior to the meeting the Board will also conduct a site walk.

12) Petition of **Caroline A. Newman Revocable Trust, owners, Michael Jacques, Patricia Newman and Caroline A Newman, Trustees, applicants**, for property located at **342 Spinney Road** wherein a Variance from Article II, Section 10-206 was requested to allow the conversion of an existing single family dwelling to a two family dwelling in a district where such use is not allowed. Said property is shown on Assessor Plan 169 as Lot 5 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 structure and use have been in place for over 50 years without affecting the public interest
- An additional unit will be in keeping with the building's original character and intent.
- The restriction in the ordinance interferes with a reasonable use of the property as the restriction was adopted when the structure already contained two units.
- One of the general purposes of the Zoning Ordinance – to allow light and air – will be fulfilled as the property is over half an acre with plenty of frontage.
- The public and private rights of others will not be affected by a change which will not affect the exterior of the building.
- There would be no benefit to the public in denying the variance and the value of surrounding properties will not be affected

13) Petition of **Kish Revocable Trust, owner, Gary A. and Patricia A. Kish Trustees, applicant**, for property located at **70 Pleasant Point Drive** wherein a Variance from Article III, Section 10-301(A)(7) was requested to allow: a) an 18' x 25' one story addition with a 77.8'± setback, b) a 5' x 15' open deck with a 79.4'± setback, c) a 10' x 10' entry deck and steps with an 84.5'± setback; and, d) 4' wide stairs to the water replacing an existing dirt and stone path where all four improvements require a 100' setback from the salt water marsh wetlands or mean high water line. Said property is shown on Assessor Plan 207 as Lot 15 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 addition and decks are modest in scale and will be built away from the side facing the water, which protects the public interest and meets the spirit of the ordinance.

- The house, which predates zoning, lies completely within the 100' setback so that any expansion would require a variance.
 - There is no better placement of the addition and decks as the large lot will allow sufficient lawn and vegetation between them and the water so that the resource will not be degraded.
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III. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 9:45 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary