

**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 November 18, 2008 in the Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

**PRESENT:** Chairman Charles LeBlanc, Vice-Chairman David Witham, Thomas Grasso, Alain Jousse, Charles LeMay, Arthur Parrott

**EXCUSED:** Carol Eaton, Alternates: Derek Durbin, Robin Rousseau

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**I. OLD BUSINESS**

- A) Approval of Minutes – October 21, 2008  
- October 28, 2008

It was moved, seconded and passed by unanimous voice vote to accept the October 21, 2008 Minutes as presented.

It was moved, seconded and passed by unanimous voice to accept the October 28, 2008 Minutes as corrected.

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B) Petition of **Paul Nakrosis and Millie Nakrosis, owners**, and **Michael Brandzel, applicant**, for property located at **39 Dearborn Street** wherein the following were requested to place a 7'10" x 13'9" one story shed: 1) a Variance from Article IV, Section 10-402(B) to allow said shed to have a 5'± front set back where 15' is the minimum required, and 2) a Variance from Article III, Section 10-301(7)(b) to allow said shed to have a 65'± setback to salt water marsh or mean high water line where 100' is the minimum required. Said property is shown on Assessor Plan 140 as Lot 3 and lies within the General Residence A district. *This petition was postponed from the October 21, 2008 meeting.*

It was announced that this petition had been withdrawn by the applicant.

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C) 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. *Final consideration of this petition was postponed from the October 28, 2008 reconvened meeting.*

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

- That there will be no parking, for the length of the fence that encloses the vehicle storage area, between the fence and Bartlett Street.

The petition was granted for the following reasons:

- With the fence keeping cars off the sidewalk in that area, the public interest will not be negatively affected.
- The restriction in the ordinance interferes with a reasonable use which has been in place for a number of years and has included the towing of vehicles to the site.
- Cars have been parked for years in the area set aside for the storage of towed vehicles so the essential character of the neighborhood will not change.
- The relationship between the ordinance and the restriction on the property is not substantial enough to overrule granting the variance.
- It is in the spirit of the ordinance to allow small businesses to operate and grow without injuring the rights of others.
- Justice would be served as, whether there is a towing service or not, vehicles will be similarly towed in for repair.
- Continuing a use, consistent with that in the past, will not affect the value of surrounding properties and no abutters have spoken against the proposal.

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## II. PUBLIC HEARINGS

1) Petition of **Janice Olson George and Christopher L. George, owners**, for property located at **51 Park Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 5'10" x 11'6" infill dormer with a 5'± left side setback where 10' is the minimum required. Said property is shown on Assessor Plan 148 as Lot 47 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 existing house is already within the setback and any new construction would require a variance.
- This infill between two existing dormers will not affect the footprint or intrude further into the setback.
- There is no indication that the value of surrounding properties will be diminished.

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2) Petition of **Paul J. Carney, owner, William Hess applicant**, for property located at **54 Rogers Street** wherein Variances from Article III, Section 10-303(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow: a) an irregular shaped 339 sf 2 story rear addition, a 5' x 5'5" deck with stairs; and, a 3'3" x 6'1" front entry deck creating 46.6% building coverage where 40% is the maximum allowed, and b) the front entry deck having a 7<sup>11/16"</sup>± front setback where 5' is the minimum required. Said property is shown on Assessor Plan 116 as Lot 44 and lies within the Mixed Residential Office and Historic A districts.

After consideration, the Board voted to grant the petition as presented and advertised except eliminating the front deck, reducing the building coverage to 46.0%. The petition was granted for the following reasons:

- This is a well thought out plan which will be in keeping with the character of the neighborhood.
- Abutting a school and a large parking lot, the light and air protected the ordinance will be preserved.
- This is a small expansion on a long, narrow lot where any expansion would be difficult.
- There would be no benefit to the public in denying the variance.
- The neighborhood will be affected in a positive way with no diminution in the value of surrounding properties.

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3) Petition of **James M. McSharry, owner**, for property located at **254 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 L-shaped porch 4'6" x 14' plus 4.5' x 21' (157.5 sf total) and a deck 4' 6" x 21' 9" (94.5 sf) with steps (36.9 sf) creating 24.1% building coverage where 20% is the maximum allowed. Said property is shown on Assessor Plan 111 as Lot 4 and lies within the Single Residence B and Historic A districts.

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

- While still over the allowed building coverage, the amount of relief required will be reduced with this proposal.
  - The size and shape of the lot dictate that almost any change will require a variance.
  - It is consistent with the spirit of the ordinance to allow homeowner to have a reasonable use of his property and to reduce the degree of nonconformance.
  - In the justice balance, there is no one who will benefit by denial of this variance.
  - This modest expansion will, if anything, increase the value of surrounding properties.
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4) Petition of **Marc G. Goulet, owner**, for property located at **4 Melbourne Street** wherein a Variance from Article II, Section 10-206(12) was requested to allow the use of 821.5 sf in an existing two car garage for the design of components, systems and complete motorcycles, as well as fabrication, restoration and conversion of café style motorcycles in a district where such use is not allowed. Said property is shown on Assessor Plan 233 as Lot 18 and lies within the Single Residence B district.

This petition was withdrawn at the applicant's request.

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5) Petition of **Timothy C. and Priscilla Coughlin, owners**, for property located at **185 Broad Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow the following: a) a 15'2" x 17'10" one story rear addition with basement and chimney, a 4' x 12'2" one story and basement left side addition, a 4' x 4'6" left side porch with stairs, a 4'3" x 8'3" rear porch with stairs; and, the addition of posts at the front entry with stairs all creating 29.7%± building coverage where 25% is the maximum allowed, and b) the chimney on a new family room with an 8'7"± left side setback where 10' is the minimum required. Said property is shown on Assessor Plan 130 as Lot 19 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:

- No public interest will be affected by this well thought out proposal.
- The proposal is reasonable given the size of the lot and the fact that the only infringement into the setback is the proposed chimney on the left side.
- The only other method to pursue would to make the addition smaller, which would defeat the purpose of the expansion.
- There is no benefit to the public in denying the variance which would outweigh the hardship it would place on the property owner.
- Thought has been given in the design to preserving the rights of the neighbors and the value of their properties.

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**III. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 8:15 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary