

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 February 16, 2010 in Conference Room B, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

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

EXCUSED: Carol Eaton, Charles LeMay, Alternate: Derek Durbin, Alternate: Robin Rousseau

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I. APPROVAL OF MINUTES

A) December 1, 2009

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

B) December 15, 2009

It was moved, seconded and passed by unanimous voice vote to accept the Minutes with two clerical corrections.

II. OLD BUSINESS

There was no old business to consider.

III. PUBLIC HEARINGS

1) Case # 2-1

Petitioner: Kuzzins Bowden Hospitality LLC
 Property: 300 Woodbury Ave Assessor Plan 175, Lot 4
 Zoning district: General Business
 Requests: Variance to allow a freestanding sign of 343 square feet where 100 square feet is allowed
 Variance to allow wall signs of 304 square feet where 200 square feet is allowed
Section 10.1251.20

The Board voted to grant the applicant’s request to postpone hearing the petition to the March 16, 2010 meeting.

2) Case # 2-2
 Petitioners: David W. and Bonnie F. Delcourt
 Property: 475 Ocean Road Assessor Plan 283, Lot 31
 Zoning district: Single Residence B
 Request: Special Exception to establish a Home Occupation 2 Massage Therapist
Table 10.440 use #19.22

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

- That the business hours of operation be limited to 9:00 a.m. to 6:00 p.m., Monday through Thursday.

The petition was granted for the following reasons:

- There will be no hazard to the public or adjacent property from fire explosion or release of toxic materials.
- There will be no detriment to property values due to pollutants, noise, glare, heat or other hazards.
- The 6 vehicle trips associated with 3 client visits a day will create no perceivable increase in traffic on this already busy road, or create a traffic safety hazard.
- With this type of operation, there will be no excessive demand on municipal services or increase in storm water runoff.

3) Case # 2-3
 Petitioners: JP Nadeau, owner and Witch Cove Marina Development, LLC, applicant
 Property: 187 Wentworth House Road Assessor Plan 201, Lot 12
 Zoning district: Waterfront Business
 Requests: Variance to allow the expansion of a nonconforming structure
 Variance to allow the expansion of a nonconforming use
Section 10.321
Section 10.331

The Board voted to grant the applicant’s request to postpone hearing the petition to the March 16, 2010 meeting.

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- 4) Case # 2-4
Petitioner: South Mill Investments LLC, owner James Sanders, applicant
Property: 25 South Mill Street Assessor Plan 102, Lot 16
Zoning district: General Residence B
Request: Variance to allow a second story addition with a 6’ side yard setback where 10’ is required
Variance to allow a two story addition off the rear of the existing structure with a 5’ side yard setback where 10’ is required
Table 10.521
Section 10.321
Section 10.324

The Board voted to grant the applicant’s request to postpone hearing the petition to the March 16, 2010 meeting.

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- 5) Case # 2-5
Petitioners: Herring Pond, LLC, owner
Property: 856 Route 1 By-Pass North Assessor Plan 160, Lot 30
Zoning district: Business
Request: Variance to allow a 42’ sign height in a district that allows a maximum height of 12’
Variance to allow a freestanding sign of 100 square feet in a district that allows a maximum freestanding sign of 20 square feet
Variance to allow an aggregate sign area of 240.1 square feet in a district with an allowable aggregate of 152 square feet.
Table 10.1251.10
Table 10.1251.20
Table 10.1253.10

After consideration, the Board voted to deny the petition as presented and advertised. All the criteria necessary to grant a variance were not met. In particular, the proposed signage would not meet the spirit and intent of the ordinance, which is to reduce sign clutter and lower heights. There is no hardship on the property which would justify a sign of this height and the sign would have a negative impact on the public interest, as represented by the nearby neighborhood.

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- 6) Case #2 -6
Petitioners: Worth Development Corp. owner, Joulia Deiri, applicant
Property: Unit 1-2B, Worth Condominium 103-131 Congress Street Assessor Plan 126, Lot 6

Zoning district: Central Business B

Requests: Variance to allow a 3050 square foot restaurant to operate without meeting parking requirements

Section 10.1110.10

After consideration, a motion to grant the petition failed to pass.

7) Case # 2-7

Petitioners: Parade Office LLC, Parade Residence Hotel, LLC/Cathartes Private Investments, owner

Property: Portwalk Lot #1 Deer Street Assessor Plan 125, Lot 1

Zoning district: Central Business B

Request: Variance to allow two (2) parapet signs in a district where parapet signs are not allowed

Variance to allow two (2) marquee signs with an aggregate sign area of 70.2 square feet where an aggregate of 20 square feet for marquee signs is allowed

Table 10.1241

Table 10.1251.20

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

- The parapet signs as placed do not feel like visual clutter or overreach as to height.
- The signs will not be contrary to the public interest, resulting in no change in the essential character of the neighborhood or harm to health, safety and welfare.
- The sheer mass of the building and the occupancy by a hotel create a special condition. Visitors to the hotel need to be able to identify their destination.
- The proposal is reasonable and not overly aggressive.
- The marquee signs will not be disruptive to the visual landscape and may actually enhance the streetscape.
- In the justice test, there is no benefit to the public that would outweigh the hardship on the applicant if the variance were denied.
- There is no evidence that this well thought out design would negatively impact surrounding property values.

8) Case # 2-8

Petitioners: Sarnia Properties Inc., owner and Thomas Woodard, applicant

Property: 933 Route 1 By-Pass Assessor Plan 142, Lot 37

Zoning district: Business

Request: Special Exception to allow an Auto Dealership in the Business zone

Variance to allow an Auto Dealership within 150' of a Residential or Mixed Residential District where 200' is required

Variance to allow Parking, outdoor storage or display within 40' of the right-of-way

Table 10.440 use #11.10

Section 10.592.20
Section 10.843.21

The Board voted to grant the applicant's request to postpone hearing the petition to the March 16, 2010 meeting.

IV. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 10:15 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary