

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 March 23, 2010 in 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, Alternates: Derek Durbin, Robin Rousseau

EXCUSED: None

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I. APPROVAL OF MINUTES

A) February 16, 2010

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

II. NEW BUSINESS

There was no New Business to present.

III. OLD BUSINESS

There was no Old Business.

IV. PUBLIC HEARINGS

2) Case # 3-2

Petitioner: Jennifer A. Carsen

Property: 121 Northwest Street Assessor Plan 122, Lot 1

Zoning district: General Residence A

Requests: **Variance** to construct a single story 16’X 20’ addition with an 8’ rear yard setback where 20’ is required

Section 10.521 Table of Dimensional Standards

Section 10.324 To allow the expansion of a nonconforming structure

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

- There will be no public interest in this addition set in the back and no benefit to the general public in denying the variance.
- There is no fair and substantial relationship between the purposes of the Ordinance and its application to the property due to the orientation of the existing structure on the lot which was already in the setback.
- Given the odd shape of the lot, almost anything done would require a variance and the placement of the addition is a reasonable choice.
- The addition will only be seen from the Route One By-Pass so there should be no impact on the value of surrounding properties.
- With plenty of light and air and no lot coverage issues, the spirit of the ordinance will be observed.

3) Case # 3-3

Petitioner: 45 Pearl Street Properties LLC, Owner and Cindy Dodds, Applicant

Property: 45 Pearl Street Assessor Plan 126, Lot 30

Zoning district: Mixed Residential Office

Request: **Variance** to install 10”x 4” duct work on the outside of the structure with a 1’10” setback where a 15’ rear yard setback is required.

Section 10.521 Table of Dimensional Standards

Section 10.324 To allow the expansion of a nonconforming structure

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

- In the public interest, care has been taken to make the duct work as unobtrusive as possible and to allow for venting in the least objectionable area.
- The spirit of the ordinance will be served by putting this in the best possible location considering the close placement of the surrounding buildings.
- There is no benefit to the general public in denying the variance and sound and odor issues have been addressed so that surrounding property values will not be diminished.

- There is no fair and substantial relationship between the ordinance and the restriction on the property as the surrounding buildings limit the choices for the placement and the property owners also have to comply with the requirements of the New Hampshire Preservation Alliance.
 - The proposed use is a reasonable one and replaces a more obtrusive system.
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4) Case # 3-4

Petitioners: Lee H. Rubin & Lucy Salyer

Property: 1 Kane Street Assessor Plan 142, Lot 22

Zoning district: General Residence A

Request: **Variance** to replace an existing 13' x 26' shed with a 12' x 20' shed and a 6'± side yard setback where 10' is required**Section 10.521** Table of Dimensional Standards

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

- The Ordinance was designed to protect neighboring properties from encroachments. This replacement basically within the same footprint as the existing shed will not result in an encroachment or affect the public interest.
 - Substantial justice will be done as the hardship to the applicant if the variance were denied would outweigh any benefit to the general public.
 - The replacement of a dilapidated shed by one on a foundation may result in a slight benefit in terms of value to the surrounding properties.
 - There is no fair and substantial relationship between the purposes of the Ordinance and the application of its provisions to this property as the replacement shed will be smaller and safer.
 - There will be no impact on the light and air of the neighboring property as the shed will directly abut an existing structure on that property.
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5) Case # 3-5

Petitioners: Thomas P. Coakley

Property: 231 Bartlett Street Assessor Plan 162, Lot 31

Zoning district: General Residence A

Request: Variance to add a third floor dormer on to the house which has an 8'± side yard setback where 10' is required

Section 10.521 Table of Dimensional Standards**Section 10.324** To allow the expansion of a nonconforming structure

After consideration, the Board voted to deny the petition as presented and advertised. The added space feels more like a third floor addition than a dormer and would affect the light available to neighboring properties. The proposal is too aggressive for the site and neighborhood

and the appearance of a three-story structure could change the essential character of the neighborhood.

- 6) Case # 3-6
Petitioners: Sureya M Ennabe Rev. Trust & CN Brown Co.
Property: 800 Lafayette Road Assessor Plan 244, Lot 5
Zoning district: Gateway
Requests: **Variance** to allow off street parking spaces between the principal building and the street right-of-way
Section 10.1113.20 Location of Parking Facilities on a lot

The Board voted to grant the request of the applicant's attorney to postpone hearing the petition to the April 20, 2010 meeting.

- 7) Case # 3-7
Petitioner: John J. Vendola
Property: 290 Miller Avenue Assessor Plan 130, Lot 12
Zoning district: General Residence A
Request: **Variance** to remove a set of stairs on the exterior of the home and add a second story deck and building addition that will increase the building coverage from 32% to 38% where 25% is allowed
Variance to allow a zero side yard setback where 10' is required
Section 10.521 Table of Dimensional Standards
Section 10.324 To allow the expansion of a nonconforming structure

After consideration, the Board voted to deny the petition as presented and advertised. With a large garage already on the property, the proposal would bring the lot coverage to 50% over what is allowed. With the dormers on the third floor, the addition to the rear and the encroachment on the side property line, the proposal would add too much to the lot and the scale would be overpowering for the neighborhood.

V. ADJOURNMENT

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

Respectfully submitted,

Mary E. Koepenick, Secretary