PLANNING DEPARTMENT - BOARD OF ADJUSTMENT

REVISED 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 June 15, 2010 in 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, Arthur Parrott, Alternates: Derek Durbin, Robin Rousseau

EXCUSED: Charles LeMay, Carol Eaton

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I. OLD BUSINESS

A. Request for Rehearing for property located at 290 Miller Avenue.

After consideration, a motion to grant the request failed to pass and the request was denied. There has been no new information presented that was not available at the time of the previous hearing and the Board followed correct procedure in arriving at its decision.

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II. PUBLIC HEARINGS

1) Case # 6-1
Petitioner: Dovev Leung Levine & Jannell Leung Levine
Property: 96 Woodlawn Circle, Assessor Plan 237, Lot 7
Zoning district: Single Residence B
Requests: Variance: 10.321 To allow the expansion of a nonconforming structure
Variance: 10.521 Table of Dimensional Standards to allow a second floor addition with:
1) A front yard setback of 19.6’ where 30’ is required
2) A rear yard setback of 25.9’ where 30’ is required

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

- A straight vertical expansion on a corner lot will not be contrary to the public interest, nor diminish the value of surrounding properties.
- There is sufficient distance between neighbors so that the light and air protected by the ordinance will be preserved.
- There would be no benefit to the general public in denying the variance.
- Literal enforcement of the provision of the ordinance would result in a hardship as no expansion could be made that would not require relief. The vertical expansion will not enlarge the existing footprint.

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2) Case # 6 -2
Petitioners: Daphne L. Chiavaras & Mary M. Mcgrady
Property: 40 Parker Street Assessor Plan 126, Lot 28
Zoning district: Mixed Residential Office
Request: Variance: 10.321 To allow the expansion of a nonconforming structure
Variance: 10.521 Table of Dimensional Standards to allow a 10' x 4' single story addition with:
1) A side yard setback of 8'10" where 10' is required.

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

- There will be no benefit to the general public in denying this variance.
- The spirit of the ordinance will be preserved and substantial justice done by allowing a small addition.
- The addition is in line with the rear of the house so the impact on neighbors will be diminished and there will be no diminution in the surrounding property values.
- Other options were considered and there was no other placement which would not require relief.

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3) Case # 6-3
Petitioners: Joseph C. Kennerson
Property: 6 Raleigh Way Assessor Plan 212, Lot 23
Zoning district: General Residence B
Request: Variance: 10.572.10 To allow a shed with a 0' rear yard setback where 5' is required

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

- The placement of the shed in one backyard, adjacent to a shed in another yard will have no effect on the public interest.
- The spirit of the ordinance will be preserved by allowing the property owner reasonable enjoyment without infringing on the rights of others.

- There would be no benefit to the general public in denying the variance that would override the gain to the applicant in granting it.
- Surrounding property values will not be diminished by this minimal request for a small shed.
- Literal enforcement of the provisions of the ordinance would result in a hardship as there are limited options available to the property owner and the shed is in reasonable proportion to the size of the lot.

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4) Case # 6-4
Petitioners: Elizabeth M. Mackey
Property: 214 Aldrich Road Assessor Plan 153, Lot 27
Zoning district: Single Residence B
Request: Variance: 10.521 Table of Dimensional Standards to allow:
1) Construction of a 20' x 20' freestanding garage with a building coverage of 21.4% where 20% is the maximum coverage allowed
2) A 5' left side setback for the garage where 10' is required
3) A 5' rear yard setback where 30' is required

After consideration, the Board voted that the case of <u>Fisher v. Dover</u> applied to this request and declined to hear the petition.

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5) Case #6 -5
Petitioners: Houston Holdings, LLC, Daniel Houston, President
Property: 653 Islington Street Assessor Plan 164, Lot 5
Zoning district: Business
Request: Variance: 10.440 Table of Uses 10.18.24 to allow two (2) temporary structures to remain on the premises for not more than 180 days, which is not allowed by ordinance.
Variance: 10.531 Table of Dimensional Standards, to allow a 4' right side setback where 15' is required
Variance: 10.531 Table of Dimensional Standards, to allow a 4' left side setback where 15' is required

The Board voted to postpone consideration of the petition to the July meeting at the request of the attorney for the applicant.

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6) Case #6 -6
Petitioners: Houston Holdings, LLC, Daniel Houston, President
Property: 653 Islington Street Assessor Plan 164, Lot 5
Zoning district: Business
Request: Variance: 10.321 to allow the expansion of a nonconforming structure.
Variance: 10.531 Table of Dimensional Standards, to allow a 25' x 20' addition

with a 4' right side setback where 15' is required
Variance: 10.531 Table of Dimensional Standards, to allow a 4' left side setback for the addition where 15' is required

The Board voted to postpone consideration of the petition to the July meeting at the request of the attorney for the applicant.

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7) Case # 6-7
Petitioner: Ramona M. Dow
Property: 571 Dennett Street Assessor Plan 161, Lot 38
Zoning district: General Residence A
Request: Variance: 10.321 To allow the expansion of a nonconforming structure.
Variance: 10.521 to allow a 19' x 22' addition with a front yard setback of 13'1" where 15' is required.

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

- An addition which fits in well with the feel of the street and neighborhood will not be contrary to the public interest.
- The spirit of the ordinance will be observed by allowing an improvement without changing the essential character of the neighborhood.
- There will be no harm to the general public in granting less than 24" of relief from the front yard setback.
- In this location, there will be no infringement on abutting properties and the value of surrounding properties will not be diminished.
- Literal enforcement of the provisions of the ordinance would result in a hardship as valuable space would be lost. The proposed use is a reasonable one and the applicant demonstrated the difficulties which would be created by the other locations considered.

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8) Case # 6-8
Petitioner: The Vitamin Shoppe
Property: 1600 Woodbury Avenue Assessor Plan 238, Lot 16
Zoning district: General Business
Requests: Variance: 10.1271.20 to allow a wall mounted sign to be located on a portion of the building not facing a street.

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

- A sign in this location will not infringe on the public interest which would be to prevent sign clutter on roadways.

- The spirit of the ordinance will be observed as there will be no change in the essential character of the neighborhood. There are similar signs in the plaza which can only be viewed from the plaza area.
- In the justice balance test, there will be no harm to the general public in granting a variance for a sign erected where it cannot be seen from the public roadway.
- By helping this business to flourish, the sign could act as a draw for surrounding businesses, improving their property values.
- Literal enforcement of the ordinance would result in a hardship due to the special condition of the property which has a Woodbury Avenue address while access is only available from the shopping plaza.

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III. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 8:20 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary