

PLANNING DEPARTMENT - BOARD OF ADJUSTMENT

ACTION SHEET

TO: John P. Bohenko, City Manager

FROM: Mary Koeppenick, Planning Department

RE: Actions Taken by the Portsmouth **Board of Adjustment reconvened meeting** on July 27, 2010 in Conference Room A, 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) April 27, 2010

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

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II. PUBLIC HEARINGS

6) Case # 7-6

Petitioners: David L. Meyers and Anne M. Meyers

Property: 180 Gates Street Assessor Plan 103, Lot 18

Zoning district: General Residence B

Requests: Variance from Section 10.321 to allow the expansion of a nonconforming structure

Variance from Section 10.521, Table of Dimensional Standards, to allow the addition of a boxed bay window with a 3' side yard setback where 10' is required

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

- This minor encroachment will not be contrary to the public interest.

- The spirit of the ordinance will be observed as the existing house is already within the setback and this will not result in less protection of air and space.
- Justice will be served by allowing a better use of the property with no harm to the public interest.
- With a large fence for privacy, this upgrade to an existing window will not result in a diminution in the value of surrounding properties.
- This request is reasonable and the way this two hundred and fifty year old house is situated close to the property line, almost anything the homeowner wanted to do would require a variance.

7) Case # 7-7

Petitioner: Piscataqua Savings Bank

Property: 15 Pleasant Street Assessor Plan 107, Lot 32

Zoning district: Central Business B

Request: Variance from Section 10.1332.20 to allow sound pressure of a generator to be up to 74 dBA at the property line during weekly exercising on weekends where 55dBA is the maximum permissible sound pressure level

The Board acknowledged that the petition was withdrawn at the applicant’s request.

8) Case # 7-8

Petitioner: Christ Church Parish

Property: 1035 Lafayette Road Assessor Plan 246, Lot 1

Zoning district: Single Residence B

Request: Variance from Section 10.1241 to allow two freestanding signs in a district where freestanding signs are not allowed

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

- Consolidating the existing signage into two large signs will be more attractive and informative to the general public.
- It is in the spirit of the ordinance to promote the health and welfare of organizations.
- There is no negative public interest that would outweigh the advantage to the property owner in granting this variance.
- With woods at the back and commercial properties across the street, the two consolidated signs will have no effect on the value of surrounding properties.
- A hardship is presented by the property’s location in a single residence zone while in close proximity to businesses. The existing signs are deteriorating and the replacement with two more attractive signs at close to the same square footage will allow better identification of the property.

9) Case #7 -9

Petitioners: Stephen J. Lozan and Jessica N. Lozan

Property: 273 Austin Street Assessor Plan 145, Lot 59

Zoning district: General Residence C

Requests: Variance from Section 10.321 to allow the expansion of a nonconforming structure

Variance from Section 10.521, Table of Dimensional Standards, to allow a vertical expansion (construction of two dormers) 7' from a rear lot line where a 20' rear yard is required

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

- Construction of these two small dormers will not be contrary to the public interest.
- In the spirit of the ordinance, a tasteful expansion in this area of historic homes will not change the essential character of the neighbor.
- Substantial justice will be done by allowing some additional space and the advantage to the homeowner will not be outweighed by some benefit to the public if the petition were denied.
- Tastefully done and with minimal impact, the value of surrounding properties should not be diminished by this reasonable request.
- Literal enforcement of the ordinance would result in unnecessary hardship as the rear setback requirement is 20' in an older neighborhood where the houses are built close to the property lines.

10) Case # 7 -10

Petitioners: Nancy J. Ratliff Revocable Trust 2000, Nancy J. Ratliff, Trustee

Property: 180 New Castle Avenue Assessor Plan 101, Lot 23

Zoning district: Single Residence B

Requests: Variances from Section 10.321 to allow the expansion of a nonconforming structure

Variances from Section 10.521, Table of Dimensional Standards, to allow:

- A 6' setback from the right side lot line for a 2 story addition where a 10' side yard is required
- A 15'5" setback from the front lot line for a 1 story addition where a 30' front yard is required
- A 6'5" setback from the front lot line for a porch structure where a 30' front yard is required
- Building coverage of 27.8% where 20% is the maximum coverage allowed

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

- The request was deleted for a 15’5” setback from the front lot line for a 1 story addition where a 30’ front yard is required. It was determined that a variance was not needed for this setback.
- The request for a 6’5” setback from the front lot line for a porch structure was withdrawn by the applicant

The remaining variances, for a 6’ setback from the right side lot line for a 2 story addition where a 20’ side yard is required and building coverage of 27.8% where 20% is the maximum coverage allowed, were granted for the following reasons:

- With the bulk of the new construction located at the back of the property, there will be no infringement on the public interest.
- It is in the spirit of the ordinance to allow a reasonable use of the property as long as the rights of others are not negatively affected. With the lot coverage increase tied to a one story addition with a shallow pitched roof, density should not be a problem.
- The justice balance tips to the property owners who have done a careful job in designing an addition to fit into the space and trying to minimize negative impact on the rights of others
- The additions will reflect favorably on the neighborhood so that surrounding property values will not be diminished and the essential character of the neighborhood will not be changed.
- A hardship is created by the odd shape of the lot with a chunk cut out of it so that relief is required. This is a well thought out, reasonable request.

11) Case # 7-11
 Petitioners: Darcy E. Davidson Revocable Trust, Darcy E. Davidson and Robert M. Snover
 Property: 60 TJ Gamester Avenue Assessor Plan 269, Lot 15
 Zoning district: Single Residence B
 Request: Variance from Section 10.572 to place an accessory structure (emergency generator) 5’ from the property line where a 10’ setback is required.

After consideration, the Board voted to deny the petition as presented and advertised. No hardship arising from the special conditions of the property was presented which would require this placement. There appears to be room on the lot to place the accessory structure where a variance would not be required.

12) Case # 7 -12
 Petitioners: Karen E. Mountjoy Revocable Trust, Karen E. Mountjoy, Trustee
 Property: 62 Orchard Street Assessor Plan 149, Lot 30
 Zoning district: General Residence A
 Requests: Variances from Section 10.521, Table of Dimensional Standards, to allow:

- An accessory building (1½ story garage) to be located 4’7” from the right side lot line and 4’4” from the rear lot line where the required setback from both lot lines is 13.5’ (75% of the height of the structure)
- Building coverage of 31% where 25% is the maximum coverage allowed

After consideration, the Board failed to pass a motion to grant a variance for a garage with a 4’11” rear setback, a 4’7” right side setback and 31% building coverage, with the stipulation that the garage would only be used for storage. It was felt that the dormers could not be supported, especially the window to the rear overlooking the neighbors property.

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III. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 9:25 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary