

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 16, 2010 in Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman Charles LeBlanc, Vice-Chairman David Witham, Alain Jousse, Charles LeMay, Arthur Parrott, Alternate: Derek Durbin, Robin Rousseau

EXCUSED: Carol Eaton, Thomas Grasso, Alternate: Robin Rousseau

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I. APPROVAL OF MINUTES

A) October 19, 2010

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

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II. PLANNING DEPARTMENT REPORTS

A) Memorandum regarding Alternate Members of Land Use Boards, related statute and resource material

B) Excerpt from the "Planning Commissioners Journal, Number 13/Winter 1994"

C) By-Laws and Rules/Regulations/Procedures for the Zoning Boards of Adjustment for the Municipalities of Claremont, Deering and Manchester

The Board decided to consider the reports and submit suggestions on revising the Rules and Regulations to specify the role of Alternate Board Members at Board meetings.

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III. PUBLIC HEARINGS

- 1) Case # 11-1
Petitioners: Peter W. Dinan & Janet D. Dinan, Owner
Property: 278 Court Street Assessor Plan 108, Lot 13
Zoning district: Mixed Residential Office
Requests: To restore a property previously used as an office to a single family home
Variance: Section 10.311 to allow a single family use to be established on a parcel with less than the required lot area and frontage.

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

- It will be in the public interest to preserve this historic structure and the surrounding property values will benefit from the restoration.
- The proposed use is permitted in this zone and it will be in keeping with the spirit of the Ordinance to return the property to a single residential use.
- There is no benefit to the public that would outweigh the hardship to the applicant if the variance were denied.
- The special condition of the property is that the structure had been converted to a combined commercial/residential use. The house is typical of the 1700's era and surrounding properties so that the essential character of the neighborhood will not be changed by conversion to a single family use.

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- 2) Case # 11-2
Petitioner: Stephen D. Kellenbeck, Owner & Daryl Kent, Applicant
Property: 282 Hanover Street Assessor Plan 126, Lot 57
Zoning district: Mixed Residential Office
Requests: To reconstruct a single family home on a nonconforming lot of record
Variance from Section 10.311 to allow a single family use to be established on a parcel with less than the required lot area and frontage.
Variance from Section 10.521 to allow building coverage of 42% where 42% previously existed and 40% is allowed.
Variance from Section 10.521 to allow a right side yard of 2' where 10' is required.
Variance from Section 10.521 to allow a left side yard of 5' where 10' is required

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

- That the proposed footprint, as shown on the submitted boundary survey, be verified in the field prior to construction for assurance of meeting the proposed setbacks

The petition was granted for the following reasons:

- In a district of mixed uses, it will not be out of character for the neighborhood or harm the public interest to replace a single family home with the same.
- The spirit of the Ordinance will be served as single family homes are allowed in this district and the replacement will make the property less nonconforming.
- If the variance were denied, there would be little that could be done with the property while there would no benefit would accrue to the general public.
- The value of surrounding properties could only be helped by replacing a structure in disrepair with one which is up to code.
- The hardship in the property is the tiny size of the lot relative to today’s zoning standards and other lots in the neighborhood. The proposed is virtually all that could be done with the property.

3) Case # 11-3

Petitioner: Michael’s Realty Trust, Owner, Lighthouse Manufacturing, LLC,
Applicant

Property: 35 Mirona Road Assessor Plan 252, Lot 3

Zoning district: Gateway

Requests: To establish a manufacturing/light manufacturing use in a zone which only allows light manufacturing as a special exception use.

Special Exception under Section 10.440, Use 14.11 to permit a light industrial use in the Gateway zone.

Variance from Section 10.440, Use 14.51 to allow a manufacturing use in the Gateway zone where the use is not permitted.

The Board accepted the withdrawal of this petition at the request of the attorney for the applicant.

4) Case #11-4

Petitioners: NIP Lot 2, LLC NIP Lot 5/6, LLC & Maplewood & Vaughan Holding Co., LLC

Property: 111 Maplewood Avenue Assessor Plan 124, Lot 8

Zoning district: Central Business A

Requests: To allow 2 drive-through lanes as an accessory use with a retail bank in the Downtown Overlay District

Variance from Section 10.440, Use 19.40 to permit a drive-through facility as an accessory use to a permitted use.

Variance from Section 10.836.22 to permit a drive-through facility with 2 lanes associated with a building of 3,000 sf where a minimum of 5,000 sf of associated building area is required for each drive-through lane.

It was moved, seconded and passed by majority voice vote to postpone this petition to the December meeting as requested by the attorney for the applicant.

5) Case # 11-5

Petitioners: Helga Washburn, owner Steven and Clea Hayes, applicants

Property: 35 Dover Street Assessor Plan 144, Lot 39

Zoning district: General Residence C

Requests: To allow one nonconforming use to be changed to another nonconforming use.

Special Exception under Section 10.335 to allow a warehouse and distribution center for costume jewelry to operate where a warehouse and distribution center for a plumbing operation currently exists.

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

- There will be no hazard to the public or adjacent property from fire or release of toxic materials, or detriment to surrounding property values, due to this less intense use.
- With perhaps two employees on the site at any given time, there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- With the proposed type of operation, there should be less of a demand on municipal services.
- The character of the existing building will not change so there should be no increase in storm water runoff onto adjacent properties or the street.

6) Case # 11-6

Petitioners: Helen T. Steele & Huldah Lashar, Owners

Property: 53 Pray Street Assessor Plan 102, Lot 40

Zoning district: Waterfront Business

Requests: To expand a nonconforming residential use and structure in the Waterfront Business zone by constructing three additions.

Variance from Section 10.321 to allow the expansion of a nonconforming building.

Variance from Section 10.331 to allow the expansion of a nonconforming use.

Variance from Section 10.334 to allow a nonconforming use of land to expand into any part of the remaining land.

Variance from Section 10.531 to allow a 9' rear yard where 20' is required

Variance from Section 10.531 to allow a 0' front yard where 30' is required for the vertical expansion of the garage

Variance from Section 10.531 to allow an 18' front yard where 30' is required for the expansion of the residential structure.

Variance from Section 10.531 to allow a building coverage of 32% where a maximum building coverage of 30% is allowed and 31% currently exists.

The Board accepted the withdrawal of this petition at the request of the applicant.

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IV. OTHER BUSINESS

No further business was presented.

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V. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 7:50 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary