

**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 at its regular meeting** on June 21, 2011 in the Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

**PRESENT:** Chairman David Witham, Vice-Chairman Arthur Parrott, Derek Durbin, Carol Eaton, Thomas Grasso, Alain Jousse, Charles LeMay, Alternate: Robin Rousseau

**EXCUSED:** None

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**I. OLD BUSINESS**

A) Request for a One-Year Extension of Variances granted July 27, 2010 for property located at 180 Newcastle Avenue.

After consideration, the Board voted to grant a one-year extension of the variances to run through July 26, 2012.

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**II. PLANNING DEPARTMENT REPORTS**

There were no reports to distribute.

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**III. PUBLIC HEARINGS**

- 1) Case # 6-1  
Petitioner: Karen L. Staskus  
Property: 345 Leslie Drive  
Zoning district: Single Residence B  
Description: To replace existing porch and stairs with a 4' x 10' porch/stairs structure.

Assessor Plan 209, Lot 77

Requests: Variance from Section 10.321 to allow the expansion of a nonconforming structure.  
 Variance from Section 10.521 to allow building coverage of 29.2%± where 20% is the maximum coverage allowed.

After consideration, the Board voted to grant the petition, with a corrected building coverage of 22.4% and otherwise as presented and advertised, for the following reasons:

- Widening the steps for increased safety will not be contrary to the public interest or diminish the value of surrounding properties.
- Denying the variance would create a hardship by continuing an unsafe condition for the homeowner.
- The spirit of the Ordinance will be observed as the existing front yard setback will not be increased.

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2) Case # 6-2

Petitioner: Richard P. Fecteau

Property: 120 Spaulding Turnpike

Assessor Plan 236, Lot 33

Zoning district: Single Residence B

Description: To allow a tent to remain on the site for 38 days.

Request: Special Exception under Section 10.440, Use #18.22 to allow a 20' x 40' tent to remain on the site for a period of 38 days following the date of installation, where 30 days is the maximum period allowed for a temporary structure.

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

- No hazard to the public or adjacent property will be created as a result of the granting this reasonable request.
- The extension, necessary due to unforeseen delays in inventory arrival, will not represent a detriment to surrounding property values.
- Extending the period for the tent to remain on the site by 8 days will not create a traffic or safety hazard, increase the demand on municipal services, or result in an increase in storm water runoff.

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3) Case # 6-3

Petitioner: Apostolic Church of Jesus Christ

Property: 500 Banfield Road

Assessor Plan 265, Lot 2C

Zoning district: Rural Residential

Description: To replace an existing 16 s.f. free-standing sign with a 24 s.f. free-standing sign.

- Requests: Variance from Section 10.321 to allow the expansion of a nonconforming structure.  
 Variance from Section 10.1241 to allow a free-standing sign in a district where free-standing signs are not allowed.

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 allow passersby to easily identify the location of the church.
- The spirit of the Ordinance will be observed by allowing replacement of an existing sign which has been in place for almost 30 years without creating any problems for the neighbors or general public.
- There is no evidence that expansion to a 24 s.f. sign will diminish the value of surrounding properties.
- Substantial justice will be served by allowing the church to modernize their sign.
- While not allowed in this district, a sign in this location directly across the street from an industrial zone is a reasonable request.

4) Case # 6-4

Petitioner: Steerpoint Properties LLC

Property: 30 Gardner Street

Assessor Plan 103, Lot 43

Zoning district: General Residence B

Description: To allow four dwelling units with less than the required lot area per unit and parking spaces with less than the required dimensions

Request: Special Exception under Section 10.440, Use #1.52 to allow the conversion of a building to 4 dwelling units with less than the required minimum lot area per dwelling unit.

Variance from Section 10.812.13 to allow 2,395.8± s.f. of lot area per dwelling unit where 3,000 s.f. per dwelling unit is required.

Variance from Section 10.1114.21 to allow the specified parking spaces to be less than the required minimum dimensions.

After consideration, a petition to grant the variance requests failed to pass and the requests were denied. All the criteria necessary to grant a variance were not met. The property can be utilized with three units and there was no hardship in the property which would justify four units at a 20% reduction from the required lot area per dwelling unit. The spirit of the Ordinance would not be observed by sanctioning a nonconformity which increases density.

In a separate but related action, the Board voted to deny without prejudice the special exception.

## 5) Case # 6-5

Petitioners: Barbara Jenny & Matthew Beebe, Owners, Timothy & Christina Virgin,  
Applicants

Property: 54 McNabb Court Assessor Plan 112, Lot 58

Zoning district: General Residence A

Description: To replace an existing landing and stairs with a 6' x 19' front porch and stairs and construct a 6' x 20' rear addition.

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

Variance from Section 10.521 to allow a building coverage of 37.9%± where 25% is the maximum coverage allowed.

Variance from Section 10.521 to allow a 0'± front yard setback where 10' is required.

Variance from Section 10.521 to allow a 5'± left side yard setback where 20' is required.

After consideration, the Board voted to grant the request in its entirety as presented and advertised. The petition was granted for the following reasons:

- There should be no public interest in these additions. The property is on a small dead end street with lots containing similar additions so that the character of the neighborhood will not be changed.
- It is in the spirit of the Ordinance to encourage owners to make their property more useful while not infringing on neighbors, which this will not do.
- There would be no overriding benefit to the public if the variances were denied.
- Although there is a 0' front yard setback for the porch, there is ample grassed-in area in the 10' setback from pavement.
- The rear addition is modest and no closer to the setback than the existing structure.
- The narrowness of the lot and the siting of the house on the lot severely limit where an addition or porch could be placed.

## 6) Case # 6-6

Petitioner: Catherine Moretti

Property: 261 Myrtle Avenue Assessor Plan 220, Lot 87

Zoning district: Single Residence B

Description: To subdivide an existing conforming lot into 5 lots, 4 of which would be nonconforming for continuous street frontage.

Request: Variance from Section 10.321 to allow four lots with a continuous street frontage of 80'± where 100' is required.

At the meeting, counsel for the applicant presented a revised proposal and site plan requesting a variance from the required continuous street frontage for only one proposed lot (i.e. 4 of the 5 proposed lots would comply with the required street frontage); and the Board consented to review the revised petition.

After consideration, a motion to grant the revised petition with a stipulation that the street frontage be no less than 80' failed to pass and the petition was denied. There was no hardship found in the property and there were ways in which it could be developed which would require no relief from the Ordinance.

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7) Case # 6-7

Petitioners: Greenbrook LLC, Owner & Matthew Beebe, Applicant

Property: 66-68 South Street Assessor Plan 101, Lot 70

Zoning district: General Residence A

Description: To replace existing 26'4" x 19'4" one-car garage with two-car garage in the same footprint.

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

Variance from Section 10.521 to allow a right side yard setback of 1'± where 10' is required.

Variance from Section 10.521 to allow a rear yard setback of 1'± where 25' is required.

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

- That a gutter system be installed and maintained on the rear side of the garage to alleviate runoff onto the property to the rear.
- That there will be a 2' minimum right side yard and a 2' minimum rear yard setback.

The petition was granted for the following reasons:

- There will be no public interest in replacing a garage in this particular location.
- It is in the spirit of the Ordinance to allow replacement of structures when their useful life is over. With the stipulations attached to this approval, protection will be provided to the neighboring properties.
- There would be no overriding benefit to the general public if the variance were denied.
- Replacing a decrepit garage will only enhance the value of surrounding properties.
- The special condition of the property is that this is a very small lot with an existing garage to be rebuilt in almost the only place on the lot where it could be located.

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**IV. OTHER BUSINESS**

No other business was presented.

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**V. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 9:55 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary