

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 December 13, 2011 in the Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman David Witham, Vice-Chairman Arthur Parrott, Susan Chamberlin, Derek Durbin, Charles LeMay, Alternates: Patrick Moretti, Robin Rousseau

EXCUSED: None

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I. APPROVAL OF MINUTES

A) October 18, 2011

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

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II. PLANNING DEPARTMENT REPORTS

No reports were presented.

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III. REQUESTS FOR REHEARING

(These items will be considered by the Board with reference to the written motion for rehearing and to the statutory criteria for granting a rehearing. There will be no public testimony.)

A) Request for Rehearing regarding property located at **28-30 Dearborn Street**. *(This item was tabled to a time indefinite at the November 15, 2011 meeting so that information requested by the Board could be provided.)*

The Board voted to **grant** the request, deciding that sufficient new information had been provided that was not available at the time of the initial hearing.

B) Request for Rehearing regarding property located at **150 Greenleaf Avenue.**

The Board voted to **deny** the request as no new information had been provided that was not available at the time of the initial hearing and no errors had been made by the Board in arriving at their decision.

C) Request for Rehearing regarding property located on **Marjorie Street.**

The Board voted to **deny** the request as no new information had been provided that was not available at the time of the initial hearing and no errors had been made by the Board in arriving at their decision.

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IV. OLD BUSINESS

No Old Business was presented.

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V. PUBLIC HEARINGS

- 1) Case #: 12-1
- Petitioners: Kevin L. & Marilee A. Eckhart
- Property: **260 Walker Bungalow Road #260**
- Assessor Plan: 202, Lot 13-5
- Zoning District: Single Residence B
- Description: Construct a 9' x 7' covered front landing.
- Requests: Variance from Section 10.321 to allow the expansion of a nonconforming structure.
Variance from Section 10.521 to allow a 17' front yard setback where 30' is required.

Action:

The Board voted to **grant** the petition as presented and advertised.

Stipulations: NA

Review Criteria:

The petition was granted for the following reasons:

- With the positive public testimony, granting the variance will not be contrary to the public interest;

- The spirit of the Ordinance will be observed as the setback is close to that required when the house was built and granting the variance will allow the property owners to improve and protect their entryway;
- Correcting a problem with the current entryway will enhance this property and should not result in any diminution in the value of surrounding properties; and
- The location of the property on a cul-de-sac, and the limits set by both front and rear setbacks in this neighborhood create a hardship in making this modest improvement.

2) Case #: 12-2
 Petitioner: 750 Lafayette LLC
 Property: **750 & 720 Lafayette Road**
 Assessor Map: 244, Lot 8
 Zoning District: Gateway
 Description: Replace and relocate an existing freestanding sign with a 100 s.f.±, 20'± high freestanding sign.
 Requests: Variance from Section 10.1243 to allow a second freestanding sign on a lot.

Action:

The Board voted to **grant** the petition as presented and advertised.

Stipulations: NA

Review Criteria:

The petition was granted for the following reasons:

- The public interest will be positively impacted by granting the variance as the two informational signs will remain, but the one virtually on the street will be moved further from the travelled way;
- For reasons in keeping with the spirit of the Ordinance, a decision was made to combine two separate lots into one, necessitating a variance to allow two free-standing signs on the consolidated lot;
- There would be no overriding benefit to the general public if the petition were denied;
- With respect to the signage, there will be no effect on the value of surrounding properties; and
- The current configuration of the properties, with a non-public access road winding through the lot creates a hardship in the placement of signage.

3) Case #: 12-3
 Petitioners: Richard C. S. Harding, Jr. & Linda Herbst Harding
 Property: **1808 Islington Street**
 Assessor Map: 241, Lot 15
 Zoning District: Single Residence B

Description: Amendment of Previous Variance
 Requests: Amend stipulation attached to Variance granted July 16, 2002 by allowing more than one tenant to rent both the dwelling unit and commercial space covered by the Variance.

Action:

The Board voted to **amend** the Variance with stipulation granted July 16, 2002 by allowing separate tenants to rent the dwelling unit and the commercial space in the barn.

Stipulations: The stipulation attached to the Variance granted July 16, 2002 is removed.

Reasons For Granting:

The petition was granted for the following reasons:

- This will be only a slight modification to the previously granted Variance and the effective difference is that separate individuals will utilize the existing living and commercial spaces in the barn;
- Granting the amendment to the Variance will allow the previous uses to continue on this unique property with little additional impact on the neighborhood; and
- There will be little, if any, additional traffic generated as a result of amending the Variance.

4) Case #: 12-4
 Petitioner: Gregory P. Chini and Louise Parsons Chini
 Property: **315 Aldrich Road #2**
 Assessor Map: 166, Lot 4-2
 Zoning District: Single Residence B
 Description: Construct a 6' x 7' shed.
 Requests: Variance from Section 10.324 to extend a pre-existing non-conforming building or structure
 Variance from Section 10.573.10 to allow a 0'± left side yard setback where 5' is required.
 Variance from Section 10.521 to allow a building coverage of 20.74%± where 20% is the maximum allowed.

Action:

The Board voted to **grant** the petition as presented and advertised with the following stipulations.

Stipulations:

1. That there will be no water run-off from the shed onto adjacent properties; and
2. That, prior to issuance of a building permit for construction, the exact location of the left property line be confirmed to ensure that the shed is placed entirely on the applicant's property.

Review Criteria:

The petition was granted for the following reasons:

- Granting a variance for a small shed placed against an existing fence will not be contrary to the public interest or have a negative impact on the value of surrounding properties;
- With the attached stipulations, the spirit of the Ordinance in allowing a small change to the property will be observed;
- In the justice test, there will be no significant impact on the general public if the variance is granted; and
- The hardships inherent in the property include the size of the lot, the placement of the house and the general arrangement of the yard which make placing the shed in any other location difficult.

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VI. OTHER BUSINESS

No other business was presented.

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VII. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 8:45 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary