

**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 March 26, 2013 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, Christopher Mulligan, David Rheame

**EXCUSED:** Alternates: Patrick Moretti, Robin Rousseau

\* Postponed from March 19, 2013

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**I. APPROVAL OF MINUTES**

A) January 15, 2013

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**II. OLD BUSINESS**

A) Case # 12-6

Petitioner: Justin D. Setchell

Property: Fairview Avenue off Maplewood Avenue

Assessor Plan 220, Lot 66

Zoning District: Single Residence B

Description: Construct a new single-family home.

Requests: 1. A dimensional Variance from Section 10.521 to allow a rear yard of 10'± where 30' is the minimum required.

2. A dimensional Variance from Section 10.521 to allow a lot area of 6,000 ± square feet where 15,000 square feet is the minimum required.

3. A dimensional Variance from Section 10.521 to allow a lot depth of 60'± where 100' is the minimum required. *(This petition was continued from the January 15, 2013 and February 19, 2013 meetings.)*

**Action:**

This hearing was scheduled to be conducted at the March 19, 2013 meeting which was cancelled due to inclement weather. The Board voted at the March 26, 2013 meeting to **postpone** the hearing to the April 16, 2013 meeting. The Board specified that this would be the last postponement considered for this petition.

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**III. PUBLIC HEARINGS**

1) Case # 3-1

Petitioners: Clyde P. and Kimberly Argereow

Property: 428 Pleasant Street

Assessor Plan 102, Lot 55

Zoning District: General Residence B

Description: Demolish rear additions and construct new 3-story addition. Rebuild front stairs.

- Requests:
1. A Variance from Section 10.321 to allow a lawful nonconforming building to be reconstructed in a manner that is not in conformity with the Zoning Ordinance.
  2. A Variance from Section 10.521 to allow a 0'± front yard setback where 5' is required.
  3. A Variance from Section 10.521 to allow a 5'± left side yard setback where 10' is required.
  4. A Variance from Section 10.521 to allow a 2.9'± right side yard setback where 10' is required.
  5. A Variance from Section 10.1114.32(a) to allow vehicles entering and leaving each parking space to pass over any other parking space or require the moving of any other vehicle.

**Action:**

A motion to grant the petition failed to pass and the petition was **denied**.

**Review Criteria:**

All the criteria necessary to grant the variances were not met. The reasons for denying the petition included the following:

- The parking as proposed would not be workable and would have a negative effect on the public interest.
- There were no special conditions in the property that distinguished it from other properties in the area and created a hardship.
- The volume and height of the addition were concerns with respect to the issues of light and air for the surrounding properties.

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2) Case # 3-2

Petitioners: Kelly L. Michaud Mee & Jeffrey J. Mee

Property: 146 Leslie Drive

Assessor Plan 209, Lot 59

Zoning District: Single Residence B

Description: Construct rear addition and deck..

Requests: 1. A Variance from Section 10.521 to allow 26.5%± building coverage where 20% is the maximum allowed.

**Action:**

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

**Stipulations:**

None.

**Review Criteria:**

The petition was granted for the following reasons:

- Granting the variance will not be contrary to the public interest as the addition will be in keeping with the character of the neighborhood, with no negative effect on the health, safety and welfare of the general public.
- This Single Residence B zone provides for homes of low to medium density. This project will observe the spirit of the Ordinance as appropriate uses are encouraged in the zone.
- Granting the petition will result in substantial justice. If the petition were denied, there would be a loss to the applicant with no corresponding benefit to the public.
- Consistent with testimony and submittals by abutters, there will be no diminution in the value of surrounding properties resulting from this addition and deck.
- The special conditions resulting in a hardship are that this is a fairly small lot with natural buffering in the rear. There is no fair and substantial relationship between the general purposes of the Ordinance and their application to this property as there is adequate open space to satisfy the protective purpose of lot coverage.

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3) Case # 3-3

Petitioners: Beth L. and Marco A. Gross-Santos

Property: 79 Lois Street

Assessor Plan 232, Lot 14

Zoning District: Single Residence B

Description: Proposed sub-division of an existing lot into two lots, one fronting on Lois Street and containing an existing structure and one fronting on Marjorie Street on which a new home is proposed to be constructed.

Requests: Variances from Section 10.521 to allow the following:

**79 Lois Street Lot:**

1. A lot area of 12,768 s.f.± where 15,000 s.f. is required.
2. A lot area per dwelling unit of 12,768 s.f.± where 15,000 s.f. is required.
3. Lot depth of 80'± where 100' is required.
4. A rear yard setback of 25'± where 30' is required.

**Lot fronting on Marjorie Street, number to be assigned if subdivided:**

1. A lot area of 9,600 s.f.± where 15,000 s.f. is required.
2. A lot area per dwelling unit of 9,600 s.f.± where 15,000 s.f. is required.
3. Lot depth of 80'± where 100' is required.
4. A rear yard setback of 14'± where 30' is required.
5. A front yard setback of 15'± where 30' is required.

**Action:**

The Board voted to **postpone** the petition to the April 16, 2013 meeting at the request of the attorney for the applicant.

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**IV. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 9:00 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary