

**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 October 15, 2013** 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, Charles LeMay, Christopher Mulligan, David Rheame, Alternate: Patrick Moretti  
\*joined meeting prior to Case #10-2  
**EXCUSED:** Susan Chamberlin

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**I. APPROVAL OF MINUTES**

A) July 17, 2012

The Minutes were approved with one correction.

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**II. PUBLIC HEARINGS - OLD BUSINESS**

A) Case # 7-2  
Petitioners: 4 Amigos, LLC  
Property: 1390 & 1400 Lafayette Road  
Assessor Plan 252, Lots 9 & 7  
Zoning District: Gateway  
Description: Install free-standing signs  
Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:  
1. A Variance from Section 10.1243 to allow multiple free-standing signs on a lot where only one free-standing sign per lot is allowed.  
2. A Variance from Section 10.1251.20 to allow a free-standing sign to exceed 100 s.f. in area.  
3. A Variance from Section 10.1253.10 to allow a sign 22" in height where the maximum allowed height for a free-standing sign in this district is 20'.  
*(This petition was postponed at the July 16, August 20, and September 17, 2013 meetings.)*

**Action:**

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

**Stipulations:**

- This approval applies to the sign and its location only. The applicant will need to apply to the Planning Board for a site plan amendment for the removal of trees and any other alterations to the approved site plan.
- The variances are approved for the specific sign as presented in this application. This sign incorporates the restored “Yokens” sign formerly installed on the site, plus a lower panel, represented on the submitted plan as 60” high x 96” wide. Any modifications to the design and content, or replacement of all or portions of the sign, shall require a new variance.

**Review Criteria:**

The petition was granted for the following reasons:

- It will be in the public interest to restore a sign with cultural and historic significance to the area.
- Adding one additional sign to a site in this substantially commercial area will not alter the essential characteristics of the neighborhood so that the spirit of the Ordinance will be observed.
- Substantial justice will be done by allowing the property owners to restore a sign that has become an iconic presence in the community which has demonstrated its support for the restoration of the sign to its former site.
- One extra sign on a large lot will not diminish the value of surrounding properties in this commercial zone.
- A fair and substantial relationship exists between the general public purposes of the Ordinance provision and its application to the property due to the special conditions of the property. This is a corner lot with significant frontage on both Peverly Hill Road and Lafayette Road and multiple access points so that an additional sign can assist motorists in determining how best to enter the site. In this area, and considering the benefit of restoring a historic element, the proposed use is a reasonable one.

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B) Case # 8-3

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

Property: Marjorie Street (number not yet assigned)

Assessor Plan 232, Lot 14 (rev.)

Zoning District: Single Residence B

Description: Construct a single family home.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.521 to allow a lot area of 9,596 s.f. ± per dwelling unit where 15,000 s.f. per dwelling unit is required.
2. A Variance from Section 10.521 to allow a 26.1'± rear yard setback where 30' is the minimum allowed.

*(This petition was postponed for additional information at the August 20 and September 17, 2013 meetings.)*

**Action:**

The Board voted to **continue** the petition to the November 19, 2013 meeting as requested by the applicant. The applicants have a pending conditional use permit application and are working with the Conservation Commission to determine an appropriate location for the proposed home.

=====

**III. PUBLIC HEARINGS – NEW BUSINESS**

1) Case # 10-1

Petitioners: Michael & Denise Todd

Property: 262 - 264 South Street

Assessor Plan 111, Lot 5

Zoning district: Single Residence B

Description: Replace rear two-story stairs/landing with 4'± x 19'± two-story deck. Add 2'± x 8.5'± front dormer.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, enlarged or structurally altered in a manner that is not in conformity with the Ordinance.
2. A Variance from Section 10.521 to allow a right side yard setback for a rear, 2-story deck and stairs of 3.5'± where 10' is the minimum required.
3. A Variance from Section 10.521 to allow building coverage of 26.3%± where 26.3% exists and 20% is the maximum allowed.

**Action:**

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

**Stipulations:**

- The approved proposal includes the elevations presented at the meeting which will be revised to reflect a shift of the stair orientation toward the rear yard. The applicant will submit new plans indicating the revised orientation of the stairs.
- After allowing for the change in stair orientation, the lot coverage will not exceed 27%.

**Review Criteria:**

The petition was granted for the following reasons:

- With the proposed stipulations, granting the variances will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by bringing the property up to code.
- Substantial justice will be done and the value of surrounding properties not diminished as dilapidated porches will be replaced by new decks, which should increase neighborhood property values.
- It is a reasonable use of the property to allow replacement of deteriorated structures.

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2) Case #10-2

Petitioner: DSQ Holding LLC

Property: 1600 Woodbury Avenue

Assessor Plan: 238, Lot 16

Zoning District: General Business

Description: Remove existing 38± s.f. free-standing sign and install a 66± s.f. free-standing sign closer to the roadway.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1243 to allow a 3rd free-standing sign on a lot where only one free-standing sign per lot is permitted.

**Action:**

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

**Review Criteria:**

The petition was denied for the following reasons:

- It would be contrary to the public interest to place a free-standing sign which would not be located at a driveway and would be only 200’ from another sign on the site.
- The spirit of the Ordinance would not be observed as the proposed sign would be distracting and add to sign clutter.
- No hardship was found in the property that would require the proposed placement of the sign.

3) Case # 10-3

Petitioner: 2422 Lafayette Road Assoc. LLC, owner, Cinemagic Cinemas, applicant

Property: 2454 Lafayette Road

Assessor Plan 273, Lot 3

Zoning district: Gateway

Description: Install 225 s.f. sign on cinema parapet.

Request: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1251.20 to allow a 225± s.f. parapet sign where 100 s.f. is the maximum sign area allowed for a parapet sign.

**Action:**

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

**Stipulations:**

None.

**Review Criteria:**

- Granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed as the size of the proposed sign is allowed but relief is needed for its proposed placement on the building.

- In the justice balance test, the hardship to the applicant if the petition is denied will not be outweighed by any benefit to the general public.
- In this location on the site, the sign will not create any diminution in the value of surrounding properties.
- There is no fair and substantial relationship between the general public purposes of the Ordinance provision and their application to this property as there is a considerable distance from the roadway to the structure so that a larger parapet sign will not have a significant impact or cast light onto neighboring properties.

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4) Case # 10-4

Petitioners: Kevin T. & Christina M. McKittrick

Property: 116 Dennett Street

Assessor Plan 140, Lot 17

Zoning district: General Residence A

Description: Construct a 10'± x 16'± x 10'11"± high shed in the right rear of the lot.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Sections 10.572 and 10.521 to allow a right side yard setback of 4'± where 10' is allowed.

**Action:**

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

**Stipulations:**

None.

**Other:**

The approved request was revised to reflect the actual distance of the proposed shed from the right property line of 30"± (2.5'±). The applicant will submit a revised site plan reflecting this correction.

**Review Criteria:**

The petition was granted for the following reasons:

- Placing a shed in the proposed location will not alter the essential character of a neighborhood with many similar structures so that the public interest will be protected and the spirit of the Ordinance observed.
  - In the substantial justice balance test, the loss to the applicant, if the petition is denied, will not be outweighed by any potential gain to the general public.
  - The value of surrounding properties will not be diminished as items currently in the open yard will be stored in an enclosed structure.
  - Literal enforcement of the Ordinance would create a hardship as the property contains a house without significant storage on a small lot. There are few options in the placement of the shed that would not result in the loss of use of a large portion of the back yard. The proposed use is a reasonable one in a residential neighborhood.
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5) Case # 10-5

Petitioner: Johanna Lyons

Property: 18 Cutts Street

Assessor Plan 209, Lot 14

Zoning district: General Residence A

Description: Replace 5' x 14' right rear porch with an 8'± x 20'± open deck.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, enlarged or structurally altered in a manner that is not in conformity with the Ordinance.
2. A Variance from Section 10.521 to allow building coverage of 31.7%± where 25% is the maximum allowed.

**Action:**

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

**Stipulations:**

None.

**Review Criteria:**

The petition was granted for the following reasons:

- This basic infill deck following the line of the existing structure will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by allowing replacement of an enclosed structure with an open deck.
- The loss to the applicant, if the petition were denied, would not be balanced by any gain to the general public
- An upgrade to the property will have a positive effect on the value of surrounding properties.
- Given the orientation of the house to the property lines, this is the logical placement for a deck and any impact will be minimized by removing an existing structure.

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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 9:25 p.m.

Respectfully submitted,

Mary E. Koepnick, Secretary

**PLANNING DEPARTMENT - BOARD OF ADJUSTMENT**

**ACTION SHEET**

**TO:** John P. Bohenko, City Manager  
**FROM:** Mary Koepenick, Planning Department  
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**PRESENT:** Chairman David Witham, Vice-Chairman Arthur Parrott, \*Derek Durbin, Charles LeMay, Christopher Mulligan, David Rheame, Alternate: Patrick Moretti  
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**EXCUSED:** Susan Chamberlin

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**I. APPROVAL OF MINUTES**

A) July 17, 2012

The Minutes were approved with one correction.

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**II. PUBLIC HEARINGS - OLD BUSINESS**

A) Case # 7-2  
Petitioners: 4 Amigos, LLC  
Property: 1390 & 1400 Lafayette Road  
Assessor Plan 252, Lots 9 & 7  
Zoning District: Gateway  
Description: Install free-standing signs  
Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:  
1. A Variance from Section 10.1243 to allow multiple free-standing signs on a lot where only one free-standing sign per lot is allowed.  
2. A Variance from Section 10.1251.20 to allow a free-standing sign to exceed 100 s.f. in area.  
3. A Variance from Section 10.1253.10 to allow a sign 22" in height where the maximum allowed height for a free-standing sign in this district is 20'.  
*(This petition was postponed at the July 16, August 20, and September 17, 2013 meetings.)*

**Action:**

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

**Stipulations:**

- This approval applies to the sign and its location only. The applicant will need to apply to the Planning Board for a site plan amendment for the removal of trees and any other alterations to the approved site plan.
- The variances are approved for the specific sign as presented in this application. This sign incorporates the restored “Yokens” sign formerly installed on the site, plus a lower panel, represented on the submitted plan as 60” high x 96” wide. Any modifications to the design and content, or replacement of all or portions of the sign, shall require a new variance.

**Review Criteria:**

The petition was granted for the following reasons:

- It will be in the public interest to restore a sign with cultural and historic significance to the area.
- Adding one additional sign to a site in this substantially commercial area will not alter the essential characteristics of the neighborhood so that the spirit of the Ordinance will be observed.
- Substantial justice will be done by allowing the property owners to restore a sign that has become an iconic presence in the community which has demonstrated its support for the restoration of the sign to its former site.
- One extra sign on a large lot will not diminish the value of surrounding properties in this commercial zone.
- A fair and substantial relationship exists between the general public purposes of the Ordinance provision and its application to the property due to the special conditions of the property. This is a corner lot with significant frontage on both Peverly Hill Road and Lafayette Road and multiple access points so that an additional sign can assist motorists in determining how best to enter the site. In this area, and considering the benefit of restoring a historic element, the proposed use is a reasonable one.

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B) Case # 8-3

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

Property: Marjorie Street (number not yet assigned)

Assessor Plan 232, Lot 14 (rev.)

Zoning District: Single Residence B

Description: Construct a single family home.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.521 to allow a lot area of 9,596 s.f. ± per dwelling unit where 15,000 s.f. per dwelling unit is required.
2. A Variance from Section 10.521 to allow a 26.1'± rear yard setback where 30' is the minimum allowed.

*(This petition was postponed for additional information at the August 20 and September 17, 2013 meetings.)*



**Action:**

The Board voted to **continue** the petition to the November 19, 2013 meeting as requested by the applicant. The applicants have a pending conditional use permit application and are working with the Conservation Commission to determine an appropriate location for the proposed home.

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**III. PUBLIC HEARINGS – NEW BUSINESS**

1) Case # 10-1

Petitioners: Michael & Denise Todd

Property: 262 - 264 South Street

Assessor Plan 111, Lot 5

Zoning district: Single Residence B

Description: Replace rear two-story stairs/landing with 4'± x 19'± two-story deck. Add 2'± x 8.5'± front dormer.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, enlarged or structurally altered in a manner that is not in conformity with the Ordinance.
2. A Variance from Section 10.521 to allow a right side yard setback for a rear, 2-story deck and stairs of 3.5'± where 10' is the minimum required.
3. A Variance from Section 10.521 to allow building coverage of 26.3%± where 26.3% exists and 20% is the maximum allowed.

**Action:**

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

**Stipulations:**

- The approved proposal includes the elevations presented at the meeting which will be revised to reflect a shift of the stair orientation toward the rear yard. The applicant will submit new plans indicating the revised orientation of the stairs.
- After allowing for the change in stair orientation, the lot coverage will not exceed 27%.

**Review Criteria:**

The petition was granted for the following reasons:

- With the proposed stipulations, granting the variances will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by bringing the property up to code.
- Substantial justice will be done and the value of surrounding properties not diminished as dilapidated porches will be replaced by new decks, which should increase neighborhood property values.
- It is a reasonable use of the property to allow replacement of deteriorated structures.

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2) Case #10-2

Petitioner: DSQ Holding LLC

Property: 1600 Woodbury Avenue

Assessor Plan: 238, Lot 16

Zoning District: General Business

Description: Remove existing 38± s.f. free-standing sign and install a 66± s.f. free-standing sign closer to the roadway.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1243 to allow a 3rd free-standing sign on a lot where only one free-standing sign per lot is permitted.

**Action:**

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

**Review Criteria:**

The petition was denied for the following reasons:

- It would be contrary to the public interest to place a free-standing sign which would not be located at a driveway and would be only 200’ from another sign on the site.
- The spirit of the Ordinance would not be observed as the proposed sign would be distracting and add to sign clutter.
- No hardship was found in the property that would require the proposed placement of the sign.

3) Case # 10-3

Petitioner: 2422 Lafayette Road Assoc. LLC, owner, Cinemagic Cinemas, applicant

Property: 2454 Lafayette Road

Assessor Plan 273, Lot 3

Zoning district: Gateway

Description: Install 225 s.f. sign on cinema parapet.

Request: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1251.20 to allow a 225± s.f. parapet sign where 100 s.f. is the maximum sign area allowed for a parapet sign.

**Action:**

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

**Stipulations:**

None.

**Review Criteria:**

- Granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed as the size of the proposed sign is allowed but relief is needed for its proposed placement on the building.

- In the justice balance test, the hardship to the applicant if the petition is denied will not be outweighed by any benefit to the general public.
- In this location on the site, the sign will not create any diminution in the value of surrounding properties.
- There is no fair and substantial relationship between the general public purposes of the Ordinance provision and their application to this property as there is a considerable distance from the roadway to the structure so that a larger parapet sign will not have a significant impact or cast light onto neighboring properties.

4) Case # 10-4

Petitioners: Kevin T. & Christina M. McKittrick

Property: 116 Dennett Street

Assessor Plan 140, Lot 17

Zoning district: General Residence A

Description: Construct a 10'± x 16'± x 10'11"± high shed in the right rear of the lot.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Sections 10.572 and 10.521 to allow a right side yard setback of 4'± where 10' is allowed.

**Action:**

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

**Stipulations:**

None.

**Other:**

The approved request was revised to reflect the actual distance of the proposed shed from the right property line of 30"± (2.5'±). The applicant will submit a revised site plan reflecting this correction.

**Review Criteria:**

The petition was granted for the following reasons:

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- The value of surrounding properties will not be diminished as items currently in the open yard will be stored in an enclosed structure.
- Literal enforcement of the Ordinance would create a hardship as the property contains a house without significant storage on a small lot. There are few options in the placement of the shed that would not result in the loss of use of a large portion of the back yard. The proposed use is a reasonable one in a residential neighborhood.

5) Case # 10-5

Petitioner: Johanna Lyons

Property: 18 Cutts Street

Assessor Plan 209, Lot 14

Zoning district: General Residence A

Description: Replace 5' x 14' right rear porch with an 8'± x 20'± open deck.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, enlarged or structurally altered in a manner that is not in conformity with the Ordinance.
2. A Variance from Section 10.521 to allow building coverage of 31.7%± where 25% is the maximum allowed.

**Action:**

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

**Stipulations:**

None.

**Review Criteria:**

The petition was granted for the following reasons:

- This basic infill deck following the line of the existing structure will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by allowing replacement of an enclosed structure with an open deck.
- The loss to the applicant, if the petition were denied, would not be balanced by any gain to the general public
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**IV. OTHER BUSINESS**

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**V. ADJOURNMENT**

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**Action:**

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**Review Criteria:**

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**Action:**

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

**Review Criteria:**

The petition was denied for the following reasons:

- It would be contrary to the public interest to place a free-standing sign which would not be located at a driveway and would be only 200’ from another sign on the site.
- The spirit of the Ordinance would not be observed as the proposed sign would be distracting and add to sign clutter.
- No hardship was found in the property that would require the proposed placement of the sign.

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**Action:**

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

**Stipulations:**

None.

**Review Criteria:**

- Granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed as the size of the proposed sign is allowed but relief is needed for its proposed placement on the building.



- In the justice balance test, the hardship to the applicant if the petition is denied will not be outweighed by any benefit to the general public.
- In this location on the site, the sign will not create any diminution in the value of surrounding properties.
- There is no fair and substantial relationship between the general public purposes of the Ordinance provision and their application to this property as there is a considerable distance from the roadway to the structure so that a larger parapet sign will not have a significant impact or cast light onto neighboring properties.

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4) Case # 10-4

Petitioners: Kevin T. & Christina M. McKittrick

Property: 116 Dennett Street

Assessor Plan 140, Lot 17

Zoning district: General Residence A

Description: Construct a 10'± x 16'± x 10'11"± high shed in the right rear of the lot.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Sections 10.572 and 10.521 to allow a right side yard setback of 4'± where 10' is allowed.

**Action:**

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

**Stipulations:**

None.

**Other:**

The approved request was revised to reflect the actual distance of the proposed shed from the right property line of 30"± (2.5'±). The applicant will submit a revised site plan reflecting this correction.

**Review Criteria:**

The petition was granted for the following reasons:

- Placing a shed in the proposed location will not alter the essential character of a neighborhood with many similar structures so that the public interest will be protected and the spirit of the Ordinance observed.
  - In the substantial justice balance test, the loss to the applicant, if the petition is denied, will not be outweighed by any potential gain to the general public.
  - The value of surrounding properties will not be diminished as items currently in the open yard will be stored in an enclosed structure.
  - Literal enforcement of the Ordinance would create a hardship as the property contains a house without significant storage on a small lot. There are few options in the placement of the shed that would not result in the loss of use of a large portion of the back yard. The proposed use is a reasonable one in a residential neighborhood.
-

5) Case # 10-5

Petitioner: Johanna Lyons

Property: 18 Cutts Street

Assessor Plan 209, Lot 14

Zoning district: General Residence A

Description: Replace 5' x 14' right rear porch with an 8'± x 20'± open deck.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, enlarged or structurally altered in a manner that is not in conformity with the Ordinance.
2. A Variance from Section 10.521 to allow building coverage of 31.7%± where 25% is the maximum allowed.

**Action:**

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

**Stipulations:**

None.

**Review Criteria:**

The petition was granted for the following reasons:

- This basic infill deck following the line of the existing structure will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by allowing replacement of an enclosed structure with an open deck.
- The loss to the applicant, if the petition were denied, would not be balanced by any gain to the general public
- An upgrade to the property will have a positive effect on the value of surrounding properties.
- Given the orientation of the house to the property lines, this is the logical placement for a deck and any impact will be minimized by removing an existing structure.

=====

**IV. OTHER BUSINESS**

No other business was presented.

=====

**V. ADJOURNMENT**

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

Respectfully submitted,

Mary E. Koepnick, Secretary

**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 October 15, 2013** 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, Charles LeMay, Christopher Mulligan, David Rheame, Alternate: Patrick Moretti  
\*joined meeting prior to Case #10-2

**EXCUSED:** Susan Chamberlin

=====  
**I. APPROVAL OF MINUTES**

A) July 17, 2012

The Minutes were approved with one correction.

=====  
**II. PUBLIC HEARINGS - OLD BUSINESS**

A) Case # 7-2  
Petitioners: 4 Amigos, LLC  
Property: 1390 & 1400 Lafayette Road  
Assessor Plan 252, Lots 9 & 7  
Zoning District: Gateway  
Description: Install free-standing signs  
Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1243 to allow multiple free-standing signs on a lot where only one free-standing sign per lot is allowed.
2. A Variance from Section 10.1251.20 to allow a free-standing sign to exceed 100 s.f. in area.
3. A Variance from Section 10.1253.10 to allow a sign 22" in height where the maximum allowed height for a free-standing sign in this district is 20'.  
*(This petition was postponed at the July 16, August 20, and September 17, 2013 meetings.)*

**Action:**

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

**Stipulations:**

- This approval applies to the sign and its location only. The applicant will need to apply to the Planning Board for a site plan amendment for the removal of trees and any other alterations to the approved site plan.
- The variances are approved for the specific sign as presented in this application. This sign incorporates the restored “Yokens” sign formerly installed on the site, plus a lower panel, represented on the submitted plan as 60” high x 96” wide. Any modifications to the design and content, or replacement of all or portions of the sign, shall require a new variance.

**Review Criteria:**

The petition was granted for the following reasons:

- It will be in the public interest to restore a sign with cultural and historic significance to the area.
- Adding one additional sign to a site in this substantially commercial area will not alter the essential characteristics of the neighborhood so that the spirit of the Ordinance will be observed.
- Substantial justice will be done by allowing the property owners to restore a sign that has become an iconic presence in the community which has demonstrated its support for the restoration of the sign to its former site.
- One extra sign on a large lot will not diminish the value of surrounding properties in this commercial zone.
- A fair and substantial relationship exists between the general public purposes of the Ordinance provision and its application to the property due to the special conditions of the property. This is a corner lot with significant frontage on both Peverly Hill Road and Lafayette Road and multiple access points so that an additional sign can assist motorists in determining how best to enter the site. In this area, and considering the benefit of restoring a historic element, the proposed use is a reasonable one.

-----

B) Case # 8-3

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

Property: Marjorie Street (number not yet assigned)

Assessor Plan 232, Lot 14 (rev.)

Zoning District: Single Residence B

Description: Construct a single family home.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.521 to allow a lot area of 9,596 s.f. ± per dwelling unit where 15,000 s.f. per dwelling unit is required.
2. A Variance from Section 10.521 to allow a 26.1'± rear yard setback where 30' is the minimum allowed.

*(This petition was postponed for additional information at the August 20 and September 17, 2013 meetings.)*

**Action:**

The Board voted to **continue** the petition to the November 19, 2013 meeting as requested by the applicant. The applicants have a pending conditional use permit application and are working with the Conservation Commission to determine an appropriate location for the proposed home.

=====

**III. PUBLIC HEARINGS – NEW BUSINESS**

1) Case # 10-1

Petitioners: Michael & Denise Todd

Property: 262 - 264 South Street

Assessor Plan 111, Lot 5

Zoning district: Single Residence B

Description: Replace rear two-story stairs/landing with 4'± x 19'± two-story deck. Add 2'± x 8.5'± front dormer.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, enlarged or structurally altered in a manner that is not in conformity with the Ordinance.
2. A Variance from Section 10.521 to allow a right side yard setback for a rear, 2-story deck and stairs of 3.5'± where 10' is the minimum required.
3. A Variance from Section 10.521 to allow building coverage of 26.3%± where 26.3% exists and 20% is the maximum allowed.

**Action:**

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

**Stipulations:**

- The approved proposal includes the elevations presented at the meeting which will be revised to reflect a shift of the stair orientation toward the rear yard. The applicant will submit new plans indicating the revised orientation of the stairs.
- After allowing for the change in stair orientation, the lot coverage will not exceed 27%.

**Review Criteria:**

The petition was granted for the following reasons:

- With the proposed stipulations, granting the variances will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by bringing the property up to code.
- Substantial justice will be done and the value of surrounding properties not diminished as dilapidated porches will be replaced by new decks, which should increase neighborhood property values.
- It is a reasonable use of the property to allow replacement of deteriorated structures.

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2) Case #10-2

Petitioner: DSQ Holding LLC

Property: 1600 Woodbury Avenue

Assessor Plan: 238, Lot 16

Zoning District: General Business

Description: Remove existing 38± s.f. free-standing sign and install a 66± s.f. free-standing sign closer to the roadway.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1243 to allow a 3rd free-standing sign on a lot where only one free-standing sign per lot is permitted.

**Action:**

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

**Review Criteria:**

The petition was denied for the following reasons:

- It would be contrary to the public interest to place a free-standing sign which would not be located at a driveway and would be only 200’ from another sign on the site.
- The spirit of the Ordinance would not be observed as the proposed sign would be distracting and add to sign clutter.
- No hardship was found in the property that would require the proposed placement of the sign.

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3) Case # 10-3

Petitioner: 2422 Lafayette Road Assoc. LLC, owner, Cinemagic Cinemas, applicant

Property: 2454 Lafayette Road

Assessor Plan 273, Lot 3

Zoning district: Gateway

Description: Install 225 s.f. sign on cinema parapet.

Request: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1251.20 to allow a 225± s.f. parapet sign where 100 s.f. is the maximum sign area allowed for a parapet sign.

**Action:**

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

**Stipulations:**

None.

**Review Criteria:**

- Granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed as the size of the proposed sign is allowed but relief is needed for its proposed placement on the building.

- In the justice balance test, the hardship to the applicant if the petition is denied will not be outweighed by any benefit to the general public.
- In this location on the site, the sign will not create any diminution in the value of surrounding properties.
- There is no fair and substantial relationship between the general public purposes of the Ordinance provision and their application to this property as there is a considerable distance from the roadway to the structure so that a larger parapet sign will not have a significant impact or cast light onto neighboring properties.

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4) Case # 10-4

Petitioners: Kevin T. & Christina M. McKittrick

Property: 116 Dennett Street

Assessor Plan 140, Lot 17

Zoning district: General Residence A

Description: Construct a 10'± x 16'± x 10'11"± high shed in the right rear of the lot.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Sections 10.572 and 10.521 to allow a right side yard setback of 4'± where 10' is allowed.

**Action:**

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

**Stipulations:**

None.

**Other:**

The approved request was revised to reflect the actual distance of the proposed shed from the right property line of 30"± (2.5'±). The applicant will submit a revised site plan reflecting this correction.

**Review Criteria:**

The petition was granted for the following reasons:

- Placing a shed in the proposed location will not alter the essential character of a neighborhood with many similar structures so that the public interest will be protected and the spirit of the Ordinance observed.
  - In the substantial justice balance test, the loss to the applicant, if the petition is denied, will not be outweighed by any potential gain to the general public.
  - The value of surrounding properties will not be diminished as items currently in the open yard will be stored in an enclosed structure.
  - Literal enforcement of the Ordinance would create a hardship as the property contains a house without significant storage on a small lot. There are few options in the placement of the shed that would not result in the loss of use of a large portion of the back yard. The proposed use is a reasonable one in a residential neighborhood.
-

5) Case # 10-5

Petitioner: Johanna Lyons

Property: 18 Cutts Street

Assessor Plan 209, Lot 14

Zoning district: General Residence A

Description: Replace 5' x 14' right rear porch with an 8'± x 20'± open deck.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, enlarged or structurally altered in a manner that is not in conformity with the Ordinance.
2. A Variance from Section 10.521 to allow building coverage of 31.7%± where 25% is the maximum allowed.

**Action:**

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

**Stipulations:**

None.

**Review Criteria:**

The petition was granted for the following reasons:

- This basic infill deck following the line of the existing structure will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by allowing replacement of an enclosed structure with an open deck.
- The loss to the applicant, if the petition were denied, would not be balanced by any gain to the general public
- An upgrade to the property will have a positive effect on the value of surrounding properties.
- Given the orientation of the house to the property lines, this is the logical placement for a deck and any impact will be minimized by removing an existing structure.

=====

**IV. OTHER BUSINESS**

No other business was presented.

=====

**V. ADJOURNMENT**

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

Respectfully submitted,

Mary E. Koepnick, Secretary



**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 October 15, 2013** 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, Charles LeMay, Christopher Mulligan, David Rheame, Alternate: Patrick Moretti  
\*joined meeting prior to Case #10-2

**EXCUSED:** Susan Chamberlin

=====  
**I. APPROVAL OF MINUTES**

A) July 17, 2012

The Minutes were approved with one correction.

=====  
**II. PUBLIC HEARINGS - OLD BUSINESS**

A) Case # 7-2  
Petitioners: 4 Amigos, LLC  
Property: 1390 & 1400 Lafayette Road  
Assessor Plan 252, Lots 9 & 7  
Zoning District: Gateway  
Description: Install free-standing signs  
Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1243 to allow multiple free-standing signs on a lot where only one free-standing sign per lot is allowed.
2. A Variance from Section 10.1251.20 to allow a free-standing sign to exceed 100 s.f. in area.
3. A Variance from Section 10.1253.10 to allow a sign 22" in height where the maximum allowed height for a free-standing sign in this district is 20'.  
*(This petition was postponed at the July 16, August 20, and September 17, 2013 meetings.)*

**Action:**

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

**Stipulations:**

- This approval applies to the sign and its location only. The applicant will need to apply to the Planning Board for a site plan amendment for the removal of trees and any other alterations to the approved site plan.
- The variances are approved for the specific sign as presented in this application. This sign incorporates the restored “Yokens” sign formerly installed on the site, plus a lower panel, represented on the submitted plan as 60” high x 96” wide. Any modifications to the design and content, or replacement of all or portions of the sign, shall require a new variance.

**Review Criteria:**

The petition was granted for the following reasons:

- It will be in the public interest to restore a sign with cultural and historic significance to the area.
- Adding one additional sign to a site in this substantially commercial area will not alter the essential characteristics of the neighborhood so that the spirit of the Ordinance will be observed.
- Substantial justice will be done by allowing the property owners to restore a sign that has become an iconic presence in the community which has demonstrated its support for the restoration of the sign to its former site.
- One extra sign on a large lot will not diminish the value of surrounding properties in this commercial zone.
- A fair and substantial relationship exists between the general public purposes of the Ordinance provision and its application to the property due to the special conditions of the property. This is a corner lot with significant frontage on both Peverly Hill Road and Lafayette Road and multiple access points so that an additional sign can assist motorists in determining how best to enter the site. In this area, and considering the benefit of restoring a historic element, the proposed use is a reasonable one.

-----

B) Case # 8-3

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

Property: Marjorie Street (number not yet assigned)

Assessor Plan 232, Lot 14 (rev.)

Zoning District: Single Residence B

Description: Construct a single family home.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.521 to allow a lot area of 9,596 s.f. ± per dwelling unit where 15,000 s.f. per dwelling unit is required.
2. A Variance from Section 10.521 to allow a 26.1'± rear yard setback where 30' is the minimum allowed.

*(This petition was postponed for additional information at the August 20 and September 17, 2013 meetings.)*

**Action:**

The Board voted to **continue** the petition to the November 19, 2013 meeting as requested by the applicant. The applicants have a pending conditional use permit application and are working with the Conservation Commission to determine an appropriate location for the proposed home.

=====

**III. PUBLIC HEARINGS – NEW BUSINESS**

1) Case # 10-1

Petitioners: Michael & Denise Todd

Property: 262 - 264 South Street

Assessor Plan 111, Lot 5

Zoning district: Single Residence B

Description: Replace rear two-story stairs/landing with 4'± x 19'± two-story deck. Add 2'± x 8.5'± front dormer.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, enlarged or structurally altered in a manner that is not in conformity with the Ordinance.
2. A Variance from Section 10.521 to allow a right side yard setback for a rear, 2-story deck and stairs of 3.5'± where 10' is the minimum required.
3. A Variance from Section 10.521 to allow building coverage of 26.3%± where 26.3% exists and 20% is the maximum allowed.

**Action:**

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

**Stipulations:**

- The approved proposal includes the elevations presented at the meeting which will be revised to reflect a shift of the stair orientation toward the rear yard. The applicant will submit new plans indicating the revised orientation of the stairs.
- After allowing for the change in stair orientation, the lot coverage will not exceed 27%.

**Review Criteria:**

The petition was granted for the following reasons:

- With the proposed stipulations, granting the variances will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by bringing the property up to code.
- Substantial justice will be done and the value of surrounding properties not diminished as dilapidated porches will be replaced by new decks, which should increase neighborhood property values.
- It is a reasonable use of the property to allow replacement of deteriorated structures.

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2) Case #10-2

Petitioner: DSQ Holding LLC

Property: 1600 Woodbury Avenue

Assessor Plan: 238, Lot 16

Zoning District: General Business

Description: Remove existing 38± s.f. free-standing sign and install a 66± s.f. free-standing sign closer to the roadway.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1243 to allow a 3rd free-standing sign on a lot where only one free-standing sign per lot is permitted.

**Action:**

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

**Review Criteria:**

The petition was denied for the following reasons:

- It would be contrary to the public interest to place a free-standing sign which would not be located at a driveway and would be only 200’ from another sign on the site.
- The spirit of the Ordinance would not be observed as the proposed sign would be distracting and add to sign clutter.
- No hardship was found in the property that would require the proposed placement of the sign.

3) Case # 10-3

Petitioner: 2422 Lafayette Road Assoc. LLC, owner, Cinemagic Cinemas, applicant

Property: 2454 Lafayette Road

Assessor Plan 273, Lot 3

Zoning district: Gateway

Description: Install 225 s.f. sign on cinema parapet.

Request: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1251.20 to allow a 225± s.f. parapet sign where 100 s.f. is the maximum sign area allowed for a parapet sign.

**Action:**

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

**Stipulations:**

None.

**Review Criteria:**

- Granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed as the size of the proposed sign is allowed but relief is needed for its proposed placement on the building.

- In the justice balance test, the hardship to the applicant if the petition is denied will not be outweighed by any benefit to the general public.
- In this location on the site, the sign will not create any diminution in the value of surrounding properties.
- There is no fair and substantial relationship between the general public purposes of the Ordinance provision and their application to this property as there is a considerable distance from the roadway to the structure so that a larger parapet sign will not have a significant impact or cast light onto neighboring properties.

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4) Case # 10-4

Petitioners: Kevin T. & Christina M. McKittrick

Property: 116 Dennett Street

Assessor Plan 140, Lot 17

Zoning district: General Residence A

Description: Construct a 10'± x 16'± x 10'11"± high shed in the right rear of the lot.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Sections 10.572 and 10.521 to allow a right side yard setback of 4'± where 10' is allowed.

**Action:**

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

**Stipulations:**

None.

**Other:**

The approved request was revised to reflect the actual distance of the proposed shed from the right property line of 30"± (2.5'±). The applicant will submit a revised site plan reflecting this correction.

**Review Criteria:**

The petition was granted for the following reasons:

- Placing a shed in the proposed location will not alter the essential character of a neighborhood with many similar structures so that the public interest will be protected and the spirit of the Ordinance observed.
  - In the substantial justice balance test, the loss to the applicant, if the petition is denied, will not be outweighed by any potential gain to the general public.
  - The value of surrounding properties will not be diminished as items currently in the open yard will be stored in an enclosed structure.
  - Literal enforcement of the Ordinance would create a hardship as the property contains a house without significant storage on a small lot. There are few options in the placement of the shed that would not result in the loss of use of a large portion of the back yard. The proposed use is a reasonable one in a residential neighborhood.
-

5) Case # 10-5

Petitioner: Johanna Lyons

Property: 18 Cutts Street

Assessor Plan 209, Lot 14

Zoning district: General Residence A

Description: Replace 5' x 14' right rear porch with an 8'± x 20'± open deck.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, enlarged or structurally altered in a manner that is not in conformity with the Ordinance.
2. A Variance from Section 10.521 to allow building coverage of 31.7%± where 25% is the maximum allowed.

**Action:**

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

**Stipulations:**

None.

**Review Criteria:**

The petition was granted for the following reasons:

- This basic infill deck following the line of the existing structure will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by allowing replacement of an enclosed structure with an open deck.
- The loss to the applicant, if the petition were denied, would not be balanced by any gain to the general public
- An upgrade to the property will have a positive effect on the value of surrounding properties.
- Given the orientation of the house to the property lines, this is the logical placement for a deck and any impact will be minimized by removing an existing structure.

=====

**IV. OTHER BUSINESS**

No other business was presented.

=====

**V. ADJOURNMENT**

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

Respectfully submitted,

Mary E. Koepnick, Secretary

**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 October 15, 2013** 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, Charles LeMay, Christopher Mulligan, David Rheame, Alternate: Patrick Moretti  
\*joined meeting prior to Case #10-2  
**EXCUSED:** Susan Chamberlin

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**I. APPROVAL OF MINUTES**

A) July 17, 2012

The Minutes were approved with one correction.

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**II. PUBLIC HEARINGS - OLD BUSINESS**

A) Case # 7-2  
Petitioners: 4 Amigos, LLC  
Property: 1390 & 1400 Lafayette Road  
Assessor Plan 252, Lots 9 & 7  
Zoning District: Gateway  
Description: Install free-standing signs  
Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:  
1. A Variance from Section 10.1243 to allow multiple free-standing signs on a lot where only one free-standing sign per lot is allowed.  
2. A Variance from Section 10.1251.20 to allow a free-standing sign to exceed 100 s.f. in area.  
3. A Variance from Section 10.1253.10 to allow a sign 22" in height where the maximum allowed height for a free-standing sign in this district is 20'.  
*(This petition was postponed at the July 16, August 20, and September 17, 2013 meetings.)*

**Action:**

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

**Stipulations:**

- This approval applies to the sign and its location only. The applicant will need to apply to the Planning Board for a site plan amendment for the removal of trees and any other alterations to the approved site plan.
- The variances are approved for the specific sign as presented in this application. This sign incorporates the restored “Yokens” sign formerly installed on the site, plus a lower panel, represented on the submitted plan as 60” high x 96” wide. Any modifications to the design and content, or replacement of all or portions of the sign, shall require a new variance.

**Review Criteria:**

The petition was granted for the following reasons:

- It will be in the public interest to restore a sign with cultural and historic significance to the area.
- Adding one additional sign to a site in this substantially commercial area will not alter the essential characteristics of the neighborhood so that the spirit of the Ordinance will be observed.
- Substantial justice will be done by allowing the property owners to restore a sign that has become an iconic presence in the community which has demonstrated its support for the restoration of the sign to its former site.
- One extra sign on a large lot will not diminish the value of surrounding properties in this commercial zone.
- A fair and substantial relationship exists between the general public purposes of the Ordinance provision and its application to the property due to the special conditions of the property. This is a corner lot with significant frontage on both Peverly Hill Road and Lafayette Road and multiple access points so that an additional sign can assist motorists in determining how best to enter the site. In this area, and considering the benefit of restoring a historic element, the proposed use is a reasonable one.

-----

B) Case # 8-3

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

Property: Marjorie Street (number not yet assigned)

Assessor Plan 232, Lot 14 (rev.)

Zoning District: Single Residence B

Description: Construct a single family home.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.521 to allow a lot area of 9,596 s.f. ± per dwelling unit where 15,000 s.f. per dwelling unit is required.
2. A Variance from Section 10.521 to allow a 26.1'± rear yard setback where 30' is the minimum allowed.

*(This petition was postponed for additional information at the August 20 and September 17, 2013 meetings.)*



**Action:**

The Board voted to **continue** the petition to the November 19, 2013 meeting as requested by the applicant. The applicants have a pending conditional use permit application and are working with the Conservation Commission to determine an appropriate location for the proposed home.

=====

**III. PUBLIC HEARINGS – NEW BUSINESS**

1) Case # 10-1

Petitioners: Michael & Denise Todd

Property: 262 - 264 South Street

Assessor Plan 111, Lot 5

Zoning district: Single Residence B

Description: Replace rear two-story stairs/landing with 4'± x 19'± two-story deck. Add 2'± x 8.5'± front dormer.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, enlarged or structurally altered in a manner that is not in conformity with the Ordinance.
2. A Variance from Section 10.521 to allow a right side yard setback for a rear, 2-story deck and stairs of 3.5'± where 10' is the minimum required.
3. A Variance from Section 10.521 to allow building coverage of 26.3%± where 26.3% exists and 20% is the maximum allowed.

**Action:**

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

**Stipulations:**

- The approved proposal includes the elevations presented at the meeting which will be revised to reflect a shift of the stair orientation toward the rear yard. The applicant will submit new plans indicating the revised orientation of the stairs.
- After allowing for the change in stair orientation, the lot coverage will not exceed 27%.

**Review Criteria:**

The petition was granted for the following reasons:

- With the proposed stipulations, granting the variances will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by bringing the property up to code.
- Substantial justice will be done and the value of surrounding properties not diminished as dilapidated porches will be replaced by new decks, which should increase neighborhood property values.
- It is a reasonable use of the property to allow replacement of deteriorated structures.

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2) Case #10-2

Petitioner: DSQ Holding LLC

Property: 1600 Woodbury Avenue

Assessor Plan: 238, Lot 16

Zoning District: General Business

Description: Remove existing 38± s.f. free-standing sign and install a 66± s.f. free-standing sign closer to the roadway.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1243 to allow a 3rd free-standing sign on a lot where only one free-standing sign per lot is permitted.

**Action:**

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

**Review Criteria:**

The petition was denied for the following reasons:

- It would be contrary to the public interest to place a free-standing sign which would not be located at a driveway and would be only 200’ from another sign on the site.
- The spirit of the Ordinance would not be observed as the proposed sign would be distracting and add to sign clutter.
- No hardship was found in the property that would require the proposed placement of the sign.

3) Case # 10-3

Petitioner: 2422 Lafayette Road Assoc. LLC, owner, Cinemagic Cinemas, applicant

Property: 2454 Lafayette Road

Assessor Plan 273, Lot 3

Zoning district: Gateway

Description: Install 225 s.f. sign on cinema parapet.

Request: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1251.20 to allow a 225± s.f. parapet sign where 100 s.f. is the maximum sign area allowed for a parapet sign.

**Action:**

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

**Stipulations:**

None.

**Review Criteria:**

- Granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed as the size of the proposed sign is allowed but relief is needed for its proposed placement on the building.

- In the justice balance test, the hardship to the applicant if the petition is denied will not be outweighed by any benefit to the general public.
- In this location on the site, the sign will not create any diminution in the value of surrounding properties.
- There is no fair and substantial relationship between the general public purposes of the Ordinance provision and their application to this property as there is a considerable distance from the roadway to the structure so that a larger parapet sign will not have a significant impact or cast light onto neighboring properties.

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4) Case # 10-4

Petitioners: Kevin T. & Christina M. McKittrick

Property: 116 Dennett Street

Assessor Plan 140, Lot 17

Zoning district: General Residence A

Description: Construct a 10'± x 16'± x 10'11"± high shed in the right rear of the lot.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Sections 10.572 and 10.521 to allow a right side yard setback of 4'± where 10' is allowed.

**Action:**

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

**Stipulations:**

None.

**Other:**

The approved request was revised to reflect the actual distance of the proposed shed from the right property line of 30"± (2.5'±). The applicant will submit a revised site plan reflecting this correction.

**Review Criteria:**

The petition was granted for the following reasons:

- Placing a shed in the proposed location will not alter the essential character of a neighborhood with many similar structures so that the public interest will be protected and the spirit of the Ordinance observed.
  - In the substantial justice balance test, the loss to the applicant, if the petition is denied, will not be outweighed by any potential gain to the general public.
  - The value of surrounding properties will not be diminished as items currently in the open yard will be stored in an enclosed structure.
  - Literal enforcement of the Ordinance would create a hardship as the property contains a house without significant storage on a small lot. There are few options in the placement of the shed that would not result in the loss of use of a large portion of the back yard. The proposed use is a reasonable one in a residential neighborhood.
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5) Case # 10-5

Petitioner: Johanna Lyons

Property: 18 Cutts Street

Assessor Plan 209, Lot 14

Zoning district: General Residence A

Description: Replace 5' x 14' right rear porch with an 8'± x 20'± open deck.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, enlarged or structurally altered in a manner that is not in conformity with the Ordinance.
2. A Variance from Section 10.521 to allow building coverage of 31.7%± where 25% is the maximum allowed.

**Action:**

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

**Stipulations:**

None.

**Review Criteria:**

The petition was granted for the following reasons:

- This basic infill deck following the line of the existing structure will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by allowing replacement of an enclosed structure with an open deck.
- The loss to the applicant, if the petition were denied, would not be balanced by any gain to the general public
- An upgrade to the property will have a positive effect on the value of surrounding properties.
- Given the orientation of the house to the property lines, this is the logical placement for a deck and any impact will be minimized by removing an existing structure.

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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 9:25 p.m.

Respectfully submitted,

Mary E. Koepnick, Secretary