

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 November 18, 2014** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman David Witham, Vice-Chairman Arthur Parrott, Derek Durbin, Charles LeMay, Christopher Mulligan, David Rheume. Alternates: Patrick Moretti, Jeremiah Johnson

EXCUSED: Susan Chamberlin

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I. PUBLIC HEARINGS – OLD BUSINESS

- 1) Case # 10-13
Petitioner: John George Pappas Revocable Trust 2004, John G. Pappas, Trustee
Property: Vine Street (Number not yet assigned)
Assessor Plan 233, Lot 107
Zoning District: Single Residence B
Description: Single family home on newly created lot.
Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:
1. Variances from Section 10.521 to allow a lot area and lot area per dwelling unit of 5,748± s.f. where 15,000 s.f. is required.
 2. A Variance from Section 10.521 to allow continuous street frontage of 50'± where 100' is required.
- (This petition was postponed from the October 28, 2014 meeting.)*

Action:

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

Stipulation:

- A storm water management plan will be developed and reviewed by the Department of Public Works with final approval by the Planning Board.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and is consistent with the spirit of the Ordinance as this lot in an area of closely placed lots with similar frontages will not change the essential character of the neighborhood and the proposed house will otherwise comply with the zoning requirements.
- Substantial justice will be done as the owner has a reasonable expectation of developing a lot created by the un-merger of involuntarily merged lots. The benefit to the applicant will not be outweighed by any detriment to the general public.
- An attractive home in keeping with the neighborhood will not diminish the value of surrounding properties. The stipulation attached to this approval will provide additional protection.
- The special conditions of this property are that it was involuntarily merged and therefore there is no fair and substantial relationship between the general purposes of the Ordinance and their specific application to this property. The owner has a reasonable expectation of developing this lot which was created from a previously involuntarily merged lot. The lot is characteristic of other residential lots in the neighborhood in lot size and frontage.

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II. PUBLIC HEARINGS - NEW BUSINESS

1) Case # 11-1

Petitioners: Lisa L. & Brett Comack

Property: 2 Sylvester Street

Assessor Plan 232, Lot 35

Zoning District: Single Residence B

Description: Subdivide one lot into two.

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

1. Proposed Lot One:

Variances from Section 10.521 to allow the following:

- (a) A lot area and lot area per dwelling unit of 10,183± s.f. where 15,000 s.f. is required;
- (b) A right side yard setback for an existing structure of 2.9'± where 10' is required.

2. Proposed Lot Two:

Variances from Section 10.521 to allow the following:

- (a) A lot area and lot area per dwelling unit of 5,609± s.f. where 15,000 s.f. is required.
- (b) A lot depth of 79.94'± where 100' is required;
- (c) Continuous street frontage of 70.1'± where 100' is required.

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the criteria necessary to grant the petition were not met.
- There are no special conditions of the property creating an unnecessary hardship and the property can be reasonably used in conformance with the Ordinance.
- There is a fair and substantial relationship between the minimum lot area required by the Ordinance and its application to this lot in order to prevent overcrowding in a residential neighborhood of low to medium density.
- The substantial justice test is not met as the benefit to the applicant from creating two non-conforming lots would be outweighed by the detriment to the general public

2) Case # 11-2

Petitioner: Tiffany L. Forrest

Property: 65 Pearson Street

Assessor Plan 232, Lot 99

Zoning District: Single Residence B

Description: Construct a 22' x 27' garage with breezeway connector.

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 3.5'± right side yard setback where 10' is required.

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 variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. Adding a garage in this residential area of properties with modest density will not change the essential character of the neighborhood nor threaten the health, safety and welfare of the public.
- In the substantial justice balance test, the loss to the applicant if the petition were denied would not be outweighed by any benefit to the general public.
- With sufficient remaining open space and in consideration of the existing sizes of the lots, the values of surrounding properties will not be diminished. No abutters objected to this petition.
- Literal enforcement of the Ordinance would result in an unnecessary hardship. The special conditions of this lot is that it is long and narrow providing less flexibility in the placement of a garage which is a reasonable use of a property in a residential zone.

3) Case # 11-3

Petitioner: Laurie J. Harrigan Revocable Trust, Laurie J. Harrigan, Trustee

Property: 116 Sherburne Avenue

Assessor Plan 112, Lot 37

Zoning District: General Residence A

Description: Replace a one-story addition and deck with a 2-story 30'± x 30'± rear addition.

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 or structurally altered without conforming to the requirements of the Ordinance.
2. A Variance from Section 10.521 to allow 30.9%± building coverage where 25.4%± exists and 25% is the maximum allowed.

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the criteria necessary to grant the petition were not met.
- Granting the variance would be contrary to the public interest as represented by the potential impact on the immediate neighbors due to the size and mass of the proposed addition.
- The spirit of the Ordinance would not be observed as the size and scale of the addition would affect the light and air protected by the Ordinance and reduce the amount of open space.
- There is potential for property values to be negatively impacted due to overcrowding.
- There are no special conditions in the property creating an unnecessary hardship. Many properties have lots of similar size and an addition could be constructed needing less or no relief from the requirements of the Ordinance.

4) Case # 11-4

Petitioners: Andrew C. McGeorge & Lisa J. Boudrieau

Property: 72 Willard Avenue

Assessor Plan 150, Lot 29

Zoning District: General Residence A

Description: Replace existing roof adding gables and dormers.

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 or structurally altered without conforming to the requirements of the Ordinance.

2. Variances from Section 10.521 to allow an 8'6" ± left side yard setback and a 6'10" ± right side yard setback where 10' is required for both.

Action:

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

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- The essential character of the neighborhood will not be changed by the addition of gables and dormers resulting in a structure height in keeping with others in the area so that granting the variances will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done by allowing a reasonable expansion of the home with no detriment to the general public.
- The gables and dormers, as designed and placed, will not diminish the value of surrounding properties.
- The odd shape and general size of the lot are special conditions creating a hardship in using the property in strict conformance with the Ordinance. Adding the proposed gables and dormers to the existing home is a reasonable use of the property.

5) Case # 11-5

Petitioners: Jeffrey Wade and Deborah Walsh

Property: 40 Marjorie Street

Assessor Plan 232, Lot 157

Zoning District: Single Residence B

Description: Construct 12'± x 12'± enclosed deck with attached 8'± x 12'± open deck.

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 rear yard setback of 23'± where 30' is required.

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the criteria necessary to grant the petition were not met.
- In the substantial justice balance test, the detriment to the public if the petition were granted would outweigh any benefit to the applicant.

- The spirit of the Ordinance would not be observed as the light and air protected by the Ordinance would not be preserved due to the encroachment into the rear setback.
- A raised deck at the rear of the property could have a negative effect on the value of surrounding properties.
- No hardship in the property was demonstrated and the property can be reasonably used without requiring further relief from the Ordinance.

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III. OTHER BUSINESS

No other business was presented.

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IV. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 10:17 p.m.

Respectfully submitted,

Mary E. Koepenick, 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 November 18, 2014** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire

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Petitioner: Tiffany L. Forrest

Property: 65 Pearson Street

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Stipulations:

None.

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3) Case # 11-3

Petitioner: Laurie J. Harrigan Revocable Trust, Laurie J. Harrigan, Trustee

Property: 116 Sherburne Avenue

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Zoning District: General Residence A

Description: Replace a one-story addition and deck with a 2-story 30'± x 30'± rear addition.

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III. OTHER BUSINESS

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Stipulation:

- A storm water management plan will be developed and reviewed by the Department of Public Works with final approval by the Planning Board.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and is consistent with the spirit of the Ordinance as this lot in an area of closely placed lots with similar frontages will not change the essential character of the neighborhood and the proposed house will otherwise comply with the zoning requirements.
- Substantial justice will be done as the owner has a reasonable expectation of developing a lot created by the un-merger of involuntarily merged lots. The benefit to the applicant will not be outweighed by any detriment to the general public.
- An attractive home in keeping with the neighborhood will not diminish the value of surrounding properties. The stipulation attached to this approval will provide additional protection.
- The special conditions of this property are that it was involuntarily merged and therefore there is no fair and substantial relationship between the general purposes of the Ordinance and their specific application to this property. The owner has a reasonable expectation of developing this lot which was created from a previously involuntarily merged lot. The lot is characteristic of other residential lots in the neighborhood in lot size and frontage.

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II. PUBLIC HEARINGS - NEW BUSINESS

1) Case # 11-1

Petitioners: Lisa L. & Brett Comack

Property: 2 Sylvester Street

Assessor Plan 232, Lot 35

Zoning District: Single Residence B

Description: Subdivide one lot into two.

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

1. Proposed Lot One:

Variances from Section 10.521 to allow the following:

- (a) A lot area and lot area per dwelling unit of 10,183± s.f. where 15,000 s.f. is required;
- (b) A right side yard setback for an existing structure of 2.9'± where 10' is required.

2. Proposed Lot Two:

Variances from Section 10.521 to allow the following:

- (a) A lot area and lot area per dwelling unit of 5,609± s.f. where 15,000 s.f. is required.
- (b) A lot depth of 79.94'± where 100' is required;
- (c) Continuous street frontage of 70.1'± where 100' is required.

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the criteria necessary to grant the petition were not met.
- There are no special conditions of the property creating an unnecessary hardship and the property can be reasonably used in conformance with the Ordinance.
- There is a fair and substantial relationship between the minimum lot area required by the Ordinance and its application to this lot in order to prevent overcrowding in a residential neighborhood of low to medium density.
- The substantial justice test is not met as the benefit to the applicant from creating two non-conforming lots would be outweighed by the detriment to the general public

2) Case # 11-2

Petitioner: Tiffany L. Forrest

Property: 65 Pearson Street

Assessor Plan 232, Lot 99

Zoning District: Single Residence B

Description: Construct a 22' x 27' garage with breezeway connector.

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 3.5'± right side yard setback where 10' is required.

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 variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. Adding a garage in this residential area of properties with modest density will not change the essential character of the neighborhood nor threaten the health, safety and welfare of the public.
- In the substantial justice balance test, the loss to the applicant if the petition were denied would not be outweighed by any benefit to the general public.
- With sufficient remaining open space and in consideration of the existing sizes of the lots, the values of surrounding properties will not be diminished. No abutters objected to this petition.
- Literal enforcement of the Ordinance would result in an unnecessary hardship. The special conditions of this lot is that it is long and narrow providing less flexibility in the placement of a garage which is a reasonable use of a property in a residential zone.

3) Case # 11-3

Petitioner: Laurie J. Harrigan Revocable Trust, Laurie J. Harrigan, Trustee

Property: 116 Sherburne Avenue

Assessor Plan 112, Lot 37

Zoning District: General Residence A

Description: Replace a one-story addition and deck with a 2-story 30'± x 30'± rear addition.

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 or structurally altered without conforming to the requirements of the Ordinance.
2. A Variance from Section 10.521 to allow 30.9%± building coverage where 25.4%± exists and 25% is the maximum allowed.

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the criteria necessary to grant the petition were not met.
- Granting the variance would be contrary to the public interest as represented by the potential impact on the immediate neighbors due to the size and mass of the proposed addition.
- The spirit of the Ordinance would not be observed as the size and scale of the addition would affect the light and air protected by the Ordinance and reduce the amount of open space.
- There is potential for property values to be negatively impacted due to overcrowding.
- There are no special conditions in the property creating an unnecessary hardship. Many properties have lots of similar size and an addition could be constructed needing less or no relief from the requirements of the Ordinance.

4) Case # 11-4

Petitioners: Andrew C. McGeorge & Lisa J. Boudrieau

Property: 72 Willard Avenue

Assessor Plan 150, Lot 29

Zoning District: General Residence A

Description: Replace existing roof adding gables and dormers.

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 or structurally altered without conforming to the requirements of the Ordinance.

2. Variances from Section 10.521 to allow an 8'6" ± left side yard setback and a 6'10" ± right side yard setback where 10' is required for both.

Action:

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

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- The essential character of the neighborhood will not be changed by the addition of gables and dormers resulting in a structure height in keeping with others in the area so that granting the variances will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done by allowing a reasonable expansion of the home with no detriment to the general public.
- The gables and dormers, as designed and placed, will not diminish the value of surrounding properties.
- The odd shape and general size of the lot are special conditions creating a hardship in using the property in strict conformance with the Ordinance. Adding the proposed gables and dormers to the existing home is a reasonable use of the property.

5) Case # 11-5

Petitioners: Jeffrey Wade and Deborah Walsh

Property: 40 Marjorie Street

Assessor Plan 232, Lot 157

Zoning District: Single Residence B

Description: Construct 12'± x 12'± enclosed deck with attached 8'± x 12'± open deck.

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 rear yard setback of 23'± where 30' is required.

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the criteria necessary to grant the petition were not met.
- In the substantial justice balance test, the detriment to the public if the petition were granted would outweigh any benefit to the applicant.

- The spirit of the Ordinance would not be observed as the light and air protected by the Ordinance would not be preserved due to the encroachment into the rear setback.
- A raised deck at the rear of the property could have a negative effect on the value of surrounding properties.
- No hardship in the property was demonstrated and the property can be reasonably used without requiring further relief from the Ordinance.

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III. OTHER BUSINESS

No other business was presented.

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IV. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 10:17 p.m.

Respectfully submitted,

Mary E. Koepenick, 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 November 18, 2014** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman David Witham, Vice-Chairman Arthur Parrott, Derek Durbin, Charles LeMay, Christopher Mulligan, David Rheume. Alternates: Patrick Moretti, Jeremiah Johnson

EXCUSED: Susan Chamberlin

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I. PUBLIC HEARINGS – OLD BUSINESS

- 1) Case # 10-13
Petitioner: John George Pappas Revocable Trust 2004, John G. Pappas, Trustee
Property: Vine Street (Number not yet assigned)
Assessor Plan 233, Lot 107
Zoning District: Single Residence B
Description: Single family home on newly created lot.
Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:
1. Variances from Section 10.521 to allow a lot area and lot area per dwelling unit of 5,748± s.f. where 15,000 s.f. is required.
 2. A Variance from Section 10.521 to allow continuous street frontage of 50'± where 100' is required.
- (This petition was postponed from the October 28, 2014 meeting.)*

Action:

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

Stipulation:

- A storm water management plan will be developed and reviewed by the Department of Public Works with final approval by the Planning Board.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and is consistent with the spirit of the Ordinance as this lot in an area of closely placed lots with similar frontages will not change the essential character of the neighborhood and the proposed house will otherwise comply with the zoning requirements.
- Substantial justice will be done as the owner has a reasonable expectation of developing a lot created by the un-merger of involuntarily merged lots. The benefit to the applicant will not be outweighed by any detriment to the general public.
- An attractive home in keeping with the neighborhood will not diminish the value of surrounding properties. The stipulation attached to this approval will provide additional protection.
- The special conditions of this property are that it was involuntarily merged and therefore there is no fair and substantial relationship between the general purposes of the Ordinance and their specific application to this property. The owner has a reasonable expectation of developing this lot which was created from a previously involuntarily merged lot. The lot is characteristic of other residential lots in the neighborhood in lot size and frontage.

=====

II. PUBLIC HEARINGS - NEW BUSINESS

1) Case # 11-1

Petitioners: Lisa L. & Brett Comack

Property: 2 Sylvester Street

Assessor Plan 232, Lot 35

Zoning District: Single Residence B

Description: Subdivide one lot into two.

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

1. Proposed Lot One:

Variances from Section 10.521 to allow the following:

- (a) A lot area and lot area per dwelling unit of 10,183± s.f. where 15,000 s.f. is required;
- (b) A right side yard setback for an existing structure of 2.9'± where 10' is required.

2. Proposed Lot Two:

Variances from Section 10.521 to allow the following:

- (a) A lot area and lot area per dwelling unit of 5,609± s.f. where 15,000 s.f. is required.
- (b) A lot depth of 79.94'± where 100' is required;
- (c) Continuous street frontage of 70.1'± where 100' is required.

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the criteria necessary to grant the petition were not met.
- There are no special conditions of the property creating an unnecessary hardship and the property can be reasonably used in conformance with the Ordinance.
- There is a fair and substantial relationship between the minimum lot area required by the Ordinance and its application to this lot in order to prevent overcrowding in a residential neighborhood of low to medium density.
- The substantial justice test is not met as the benefit to the applicant from creating two non-conforming lots would be outweighed by the detriment to the general public

2) Case # 11-2

Petitioner: Tiffany L. Forrest

Property: 65 Pearson Street

Assessor Plan 232, Lot 99

Zoning District: Single Residence B

Description: Construct a 22' x 27' garage with breezeway connector.

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 3.5'± right side yard setback where 10' is required.

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 variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. Adding a garage in this residential area of properties with modest density will not change the essential character of the neighborhood nor threaten the health, safety and welfare of the public.
- In the substantial justice balance test, the loss to the applicant if the petition were denied would not be outweighed by any benefit to the general public.
- With sufficient remaining open space and in consideration of the existing sizes of the lots, the values of surrounding properties will not be diminished. No abutters objected to this petition.
- Literal enforcement of the Ordinance would result in an unnecessary hardship. The special conditions of this lot is that it is long and narrow providing less flexibility in the placement of a garage which is a reasonable use of a property in a residential zone.

3) Case # 11-3

Petitioner: Laurie J. Harrigan Revocable Trust, Laurie J. Harrigan, Trustee

Property: 116 Sherburne Avenue

Assessor Plan 112, Lot 37

Zoning District: General Residence A

Description: Replace a one-story addition and deck with a 2-story 30'± x 30'± rear addition.

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 or structurally altered without conforming to the requirements of the Ordinance.
2. A Variance from Section 10.521 to allow 30.9%± building coverage where 25.4%± exists and 25% is the maximum allowed.

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the criteria necessary to grant the petition were not met.
- Granting the variance would be contrary to the public interest as represented by the potential impact on the immediate neighbors due to the size and mass of the proposed addition.
- The spirit of the Ordinance would not be observed as the size and scale of the addition would affect the light and air protected by the Ordinance and reduce the amount of open space.
- There is potential for property values to be negatively impacted due to overcrowding.
- There are no special conditions in the property creating an unnecessary hardship. Many properties have lots of similar size and an addition could be constructed needing less or no relief from the requirements of the Ordinance.

4) Case # 11-4

Petitioners: Andrew C. McGeorge & Lisa J. Boudrieau

Property: 72 Willard Avenue

Assessor Plan 150, Lot 29

Zoning District: General Residence A

Description: Replace existing roof adding gables and dormers.

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 or structurally altered without conforming to the requirements of the Ordinance.

2. Variances from Section 10.521 to allow an 8'6" ± left side yard setback and a 6'10" ± right side yard setback where 10' is required for both.

Action:

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

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- The essential character of the neighborhood will not be changed by the addition of gables and dormers resulting in a structure height in keeping with others in the area so that granting the variances will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done by allowing a reasonable expansion of the home with no detriment to the general public.
- The gables and dormers, as designed and placed, will not diminish the value of surrounding properties.
- The odd shape and general size of the lot are special conditions creating a hardship in using the property in strict conformance with the Ordinance. Adding the proposed gables and dormers to the existing home is a reasonable use of the property.

5) Case # 11-5

Petitioners: Jeffrey Wade and Deborah Walsh

Property: 40 Marjorie Street

Assessor Plan 232, Lot 157

Zoning District: Single Residence B

Description: Construct 12'± x 12'± enclosed deck with attached 8'± x 12'± open deck.

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 rear yard setback of 23'± where 30' is required.

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the criteria necessary to grant the petition were not met.
- In the substantial justice balance test, the detriment to the public if the petition were granted would outweigh any benefit to the applicant.

- The spirit of the Ordinance would not be observed as the light and air protected by the Ordinance would not be preserved due to the encroachment into the rear setback.
- A raised deck at the rear of the property could have a negative effect on the value of surrounding properties.
- No hardship in the property was demonstrated and the property can be reasonably used without requiring further relief from the Ordinance.

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III. OTHER BUSINESS

No other business was presented.

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IV. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 10:17 p.m.

Respectfully submitted,

Mary E. Koepenick, 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 November 18, 2014** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire
PRESENT: Chairman David Witham, Vice-Chairman Arthur Parrott, Derek Durbin, Charles LeMay, Christopher Mulligan, David Rheume. Alternates: Patrick Moretti, Jeremiah Johnson
EXCUSED: Susan Chamberlin

=====

I. PUBLIC HEARINGS – OLD BUSINESS

- 1) Case # 10-13
Petitioner: John George Pappas Revocable Trust 2004, John G. Pappas, Trustee
Property: Vine Street (Number not yet assigned)
Assessor Plan 233, Lot 107
Zoning District: Single Residence B
Description: Single family home on newly created lot.
Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:
1. Variances from Section 10.521 to allow a lot area and lot area per dwelling unit of 5,748± s.f. where 15,000 s.f. is required.
 2. A Variance from Section 10.521 to allow continuous street frontage of 50'± where 100' is required.
- (This petition was postponed from the October 28, 2014 meeting.)*

Action:

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

Stipulation:

- A storm water management plan will be developed and reviewed by the Department of Public Works with final approval by the Planning Board.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and is consistent with the spirit of the Ordinance as this lot in an area of closely placed lots with similar frontages will not change the essential character of the neighborhood and the proposed house will otherwise comply with the zoning requirements.
- Substantial justice will be done as the owner has a reasonable expectation of developing a lot created by the un-merger of involuntarily merged lots. The benefit to the applicant will not be outweighed by any detriment to the general public.
- An attractive home in keeping with the neighborhood will not diminish the value of surrounding properties. The stipulation attached to this approval will provide additional protection.
- The special conditions of this property are that it was involuntarily merged and therefore there is no fair and substantial relationship between the general purposes of the Ordinance and their specific application to this property. The owner has a reasonable expectation of developing this lot which was created from a previously involuntarily merged lot. The lot is characteristic of other residential lots in the neighborhood in lot size and frontage.

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II. PUBLIC HEARINGS - NEW BUSINESS

1) Case # 11-1

Petitioners: Lisa L. & Brett Comack

Property: 2 Sylvester Street

Assessor Plan 232, Lot 35

Zoning District: Single Residence B

Description: Subdivide one lot into two.

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

1. Proposed Lot One:

Variances from Section 10.521 to allow the following:

- (a) A lot area and lot area per dwelling unit of 10,183± s.f. where 15,000 s.f. is required;
- (b) A right side yard setback for an existing structure of 2.9'± where 10' is required.

2. Proposed Lot Two:

Variances from Section 10.521 to allow the following:

- (a) A lot area and lot area per dwelling unit of 5,609± s.f. where 15,000 s.f. is required.
- (b) A lot depth of 79.94'± where 100' is required;
- (c) Continuous street frontage of 70.1'± where 100' is required.

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the criteria necessary to grant the petition were not met.
- There are no special conditions of the property creating an unnecessary hardship and the property can be reasonably used in conformance with the Ordinance.
- There is a fair and substantial relationship between the minimum lot area required by the Ordinance and its application to this lot in order to prevent overcrowding in a residential neighborhood of low to medium density.
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2) Case # 11-2

Petitioner: Tiffany L. Forrest

Property: 65 Pearson Street

Assessor Plan 232, Lot 99

Zoning District: Single Residence B

Description: Construct a 22' x 27' garage with breezeway connector.

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 3.5'± right side yard setback where 10' is required.

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 variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. Adding a garage in this residential area of properties with modest density will not change the essential character of the neighborhood nor threaten the health, safety and welfare of the public.
- In the substantial justice balance test, the loss to the applicant if the petition were denied would not be outweighed by any benefit to the general public.
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3) Case # 11-3

Petitioner: Laurie J. Harrigan Revocable Trust, Laurie J. Harrigan, Trustee

Property: 116 Sherburne Avenue

Assessor Plan 112, Lot 37

Zoning District: General Residence A

Description: Replace a one-story addition and deck with a 2-story 30'± x 30'± rear addition.

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 or structurally altered without conforming to the requirements of the Ordinance.
2. A Variance from Section 10.521 to allow 30.9%± building coverage where 25.4%± exists and 25% is the maximum allowed.

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the criteria necessary to grant the petition were not met.
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- The spirit of the Ordinance would not be observed as the size and scale of the addition would affect the light and air protected by the Ordinance and reduce the amount of open space.
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4) Case # 11-4

Petitioners: Andrew C. McGeorge & Lisa J. Boudrieau

Property: 72 Willard Avenue

Assessor Plan 150, Lot 29

Zoning District: General Residence A

Description: Replace existing roof adding gables and dormers.

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 or structurally altered without conforming to the requirements of the Ordinance.

2. Variances from Section 10.521 to allow an 8'6" ± left side yard setback and a 6'10" ± right side yard setback where 10' is required for both.

Action:

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

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- The essential character of the neighborhood will not be changed by the addition of gables and dormers resulting in a structure height in keeping with others in the area so that granting the variances will not be contrary to the public interest and the spirit of the Ordinance will be observed.
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5) Case # 11-5

Petitioners: Jeffrey Wade and Deborah Walsh

Property: 40 Marjorie Street

Assessor Plan 232, Lot 157

Zoning District: Single Residence B

Description: Construct 12'± x 12'± enclosed deck with attached 8'± x 12'± open deck.

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 rear yard setback of 23'± where 30' is required.

Action:

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

Review Criteria:

The petition was denied for the following reasons:

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- A raised deck at the rear of the property could have a negative effect on the value of surrounding properties.
- No hardship in the property was demonstrated and the property can be reasonably used without requiring further relief from the Ordinance.

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III. OTHER BUSINESS

No other business was presented.

=====

IV. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 10:17 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary