

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 January 21, 2015** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire

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

EXCUSED: Derek Durbin

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I. ELECTION OF OFFICERS

It was moved, seconded and passed by unanimous voice vote to re-elect Mr. David Witham as Chairman and Mr. Arthur Parrott as Vice-Chairman.

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II. OLD BUSINESS

A) Request for Rehearing for property located at 56 Dennett Street.

Action:

The Board voted to **grant** the request for a rehearing to allow for consideration of new information. The new hearing will be scheduled for the February meeting.

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III. PUBLIC HEARINGS – OLD BUSINESS

A) Case # 12-10

Petitioner: State Street Discount House

Property: 3613 Lafayette Road

Assessor Plan 298, Lot 6

Zoning District: Gateway

Description: Modify existing free-standing sign.

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

1. A Variance from Section 10.1223.10 to allow an animated sign (changeable sign) where such signs are not allowed.
2. A Variance from Section 10.1251.20 to allow a 152± s.f. free-standing sign where 100 s.f. is the maximum allowed
3. A Variance from Section 1253.10 to allow a sign height of 30'± where 20' is the maximum allowed.

Amendments have been made to this petition which was postponed at the December 16, 2014 meeting.

Action:

The Board denied Variance #1 and voted to grant Variance #2 and Variance #3 as presented and advertised with a stipulation.

Stipulation:

1. The other existing freestanding reader board sign located along the roadway to the north of this sign will be removed.

Review Criteria:

Variance #1 was denied for the following reason:

- No hardship had been demonstrated which would require an animated sign that could be changed more than once a day. The Board noted that a changeable sign (as defined by the Zoning Ordinance as changing no more than once a day) is permitted and would not require a Variance.

Variances #2 and #3 were granted for the following reasons:

- Granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed as this is a modification to a pre-existing sign that will result in a reduction to the total sign area in a commercial area where similar signs exist on nearby properties.
- Substantial justice will be done as granting the variance will allow the property owner full use of the sign without negatively impacting the general public.
- The values of surrounding properties will not be diminished by this modification to a pre-existing freestanding sign.
- The special condition of the property creating an unnecessary hardship is that this is a pre-existing condition and strict enforcement of the zoning would not alter the character of the neighborhood nor serve the general purpose in a fair and substantial way. The addition of this signage is a reasonable use for this property.

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IV. PUBLIC HEARINGS – NEW BUSINESS

- 1) Case # 1-15 (173-175 Market Street)
 Petitioners: Betty Morton Belcher, Jane Morton Man, Matthew Morton, Seth Morton, Ann Morton, Jennifer Hanson, Martha Fuller Clark, Clare Kittredge, Nancy Elwell, Larry Cataldo, Keith Eveland, George Dodge, Erica Dodge, Philippe Favet,

Belcher Market Realty, LLC, Betty Morton Belcher Revocable Trust, Jane Man Associates, LLC, and Seth Morton Associates, LLC

Property: 173 – 175 Market Street

Assessor Plan 118, Lots 3 & 4

Zoning Districts: CD4, Historic and Downtown Overlay

Description: Appeal Decisions of the Historic District Commission.

Requests: Appeal the decision of the Historic District Commission to grant a Certificate of Approval.

Action:

The Board took the following actions:

- Voted to **issue** a Certificate of Approval of the petition. The effect of this action by the Board was to deny this portion of the Appeal and uphold the decision of the Historic District Commission to issue a Certificate of Approval on September 10, 2014.

Stipulations:

The Board voted to incorporate the following stipulations which were included with the Certificate of Approval granted by the Historic District Commission on September 20, 2014:

1. A spacer bar shall be used in all the windows;
2. The proposed fence along Market Street shall be mahogany with a fence cap molding;
3. The color of the skylights shall match the roofing material; and,
4. The grout on the brick shall be tinted to match the grout of the existing Frank Jones Warehouse building.

CERTIFICATE OF APPROVAL

Purpose and Objectives of the Historic District Ordinance:

It was determined that the overall Purpose and Objectives were met:

- 1) The integrity of the Historic District is preserved;
- 2) The special character of the District is reflected in the scale, mass, location and style of buildings.
- 3) The project will retain the historical and architectural value of buildings and structures, their settings, and their local or national significance in terms of the represented time period, visible architecture, construction materials, or relationship to a historically recognized individual or event. Specifically, the defining character of the neighboring Merchant's Row will not be impacted and the historical significant of the Granary building will be respected.
- 4) The designs for new buildings, additions, and the reuse of existing buildings will complement and enhance the City's architectural and historic character and contribute to its sense of place.
- 5) The project will support Portsmouth's heritage and economic well-being through the conservation and enhancement of property values.
- 6) The project will support the District's contribution to the education, pleasure and welfare of the City's residents and visitors.

Review Factors:

It was determined that the Review Factors were satisfied:

- 1) The project retains a consistent viewscape with the existing conditions and the historical time period, context or immediate setting.
- 2) By retaining a number of architectural elements and attempting to echo some of the stylistic features of neighboring buildings the projects architecture is appropriate in terms of stylistic features, design elements and mass.
- 3) The project incorporates first rate construction materials and extra effort was made to preserve the existing look of the historic building.
- 4) The preservation of the Granary building and an architectural style that is in keeping with the Ceres St neighborhood support the historical significance of this location.

Review Criteria:

It was determined that the overall Review Criteria were met with the following Findings of Fact:

- 1) All comments listed above reflect that the project retains the special and defining character of surrounding properties, including architectural details, design, height, scale, mass, width of surrounding structures, street frontages, types of roofs, facades and openings.
- 2) The project proponents considered the comments previously made by the Board as well as subsequent discussions with the Historic District Commission and other interested parties and adapted the project to address these issues. The resulting design is an appropriate balance between private property rights and public goals that retain the significant historical or architectural value of the existing property including its setting, scale and mass; and the general size of new construction with consideration of such factors as height, width, materials and architectural details.
- 3) The brick façade, layout and style of the windows and treatments, attempt to define and distinguish the buildings are complementary to this neighborhood and are compatible with surrounding properties.
- 4) The project proponent has made efforts to incorporate innovative use of technologies, materials and practices in a manner that is in keeping with the character of surrounding properties.

The Board also concurred with the Findings of Fact included in the Historic District Commission decision to issue a Certificate of Approval.

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IV. OTHER BUSINESS

No additional business was presented.

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V. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 10:55 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary