

**PLANNING DEPARTMENT - BOARD OF ADJUSTMENT**

**ACTION SHEET**

**TO:** John P. Bohenko, City Manager

**FROM:** Mary Koeppenick, Planning Department

**RE:** Actions Taken by the Portsmouth **Board of Adjustment at its regular meeting on March 15, 2016** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

**PRESENT:** Chairman David Witham, Vice-Chairman David Rheaume, Jeremiah Johnson, Charles LeMay, Patrick Moretti, Arthur Parrott. Alternates: Jim Lee, Peter McDonell

**EXCUSED:** Christopher Mulligan

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**I. APPROVAL OF MINUTES**

A) February 16, 2016

The Minutes were approved as presented with minor corrections.

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**II. OLD BUSINESS**

A) 209 Clinton Street – clarification of February vote

Action:

The Board clarified that the information presented at this meeting and the February 16, 2016 meeting fell within the boundaries of what had been presented and advertised for the original application and should be incorporated within the variances that were granted. The Board confirmed that the applicant's request was to clarify a previous approval, not for an Equitable Waiver and the Board's vote on February 16, 2016 was an error.

The effect of the clarification is to allow the following dimensional relief:

- A left side yard setback of 8'4" where 10' is required and a variance for 9' had been granted; and
- A secondary front yard setback to Burkitt Street of 9' where 15' is required.
- 27.5% building coverage where 25% is the maximum allowed.

With this clarification of the original variances, the action of the Board in granting an Equitable Waiver at the February 16, 2016 meeting is nullified and the original granting of relief at the December 15, 2015 meeting is upheld.

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B) 140 Thornton St – request for rehearing

Action:

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

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C) 482 Broad St – request for rehearing

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

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**III. PUBLIC HEARINGS – OLD BUSINESS**

1) Case #7-12

Petitioner: New England Glory, LLC

Property: 525 Maplewood Avenue

Assessor Plan 209, Lot 85

Zoning District: General Residence A

Description: Creation of two lots where one exists. Construct building with four dwelling units.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #1.41 to allow four dwelling units in a district where the use is only allowed by Special Exception.
2. Variances from Section 10.1114.21 to allow an 18'± maneuvering aisle and a 20'± access aisle where 24' is required for both.
3. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,755± s.f. where 7,500 s.f. is the minimum required.

*(This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2..)*

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
- There are no special conditions of the property distinguishing it from others in the area so that literal enforcement of the Ordinance would result in unnecessary hardship.

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**IV. PUBLIC HEARINGS – NEW BUSINESS**

1) Case #3-1

Petitioner: Everard E. Hatch

Property: 45 Mill Pond Way

Assessor Plan 143, Lot 11

Zoning District: General Residence A

Description: Add dwelling unit in existing attached garage.

Requests: The Variances and/or Special Exceptions 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 per dwelling unit of 7,467± s.f. where 7,500 s.f. 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:

- Allowing occupation of an existing small structure will not change the essential character of the neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant in granting the variance will not be outweighed by any harm to the general public.
- The small difference in lot area per dwelling unit will not diminish the value of surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship. There is no fair and substantial relationship between the general public purposes of the

Ordinance provision and its specific application to this property, which provides only slightly under the required lot area per dwelling unit. It is a reasonable use of the property to create a small new housing unit.

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2) Case #3-2

Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant

Property: 375 Banfield Road, Unit E

Assessor Plan 266, Lot 7

Zoning District: Industrial

Description: Use a portion of the property as an impound lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:

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

Stipulation:

- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

Other:

- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

Review Criteria:

The special exception was granted for the following reasons:

- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.

3) Case #3-3

Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant

Property: 2300 Lafayette Road

Assessor Plan 273, Lot 5

Zoning Districts: Industrial

Description: Construct six workers' dormitories and bath house.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow six workers' dormitories and bath house where the use is not allowed by the Zoning Ordinance.

Action:

The Board voted to **postpone** the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

4) Case #3-4

Petitioner: Terry Bennett

Property: 211 Union Street

Assessor Plan 135, Lot 70

Zoning District: General Residence C

Description: Construct three-story building with eight dwelling units.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.
3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.
4. A Variance from Section 10.114.21 to allow a 12'± maneuvering aisle where a 14' maneuvering aisle is required.

Action:

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

Stipulations:

None

Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.

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5) Case #3-5

Petitioners: Walter W. & Patricia B. Bardenwerper

Property: 69 Hunking Street

Assessor Plan 103, Lot 40

Zoning District: General Residence B

Description: Install 4'± high fence with gates along stone wall on corner lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20' of the intersection.

Action:

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

Stipulations:

None

Review Criteria:

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not resulting in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

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6) Case #3-6

Petitioners: Frank W. Getman, Jr. & Ingrid C. Getman

Property: 606 Union Street

Assessor Plan 132, Lot 20-1A

Zoning District: General Residence A

Description: Modification to a previous approval to construct a second single-family home on a lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.  
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7) Case #3-7

Petitioner: Kayla Realty LLC

Property: 60-62 Market Street

Assessor Plan 117, Lot 34

Zoning District: Character District 5

Description: Provide rooms for guest housing.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from

the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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**V. OTHER BUSINESS**

No other business was presented.

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**VI. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary



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Property: 525 Maplewood Avenue

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*(This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2..)*

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
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Petitioner: Everard E. Hatch

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Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

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Zoning District: Industrial

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Stipulation:

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Review Criteria:

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Petitioner: Terry Bennett

Property: 211 Union Street

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Zoning District: General Residence C

Description: Construct three-story building with eight dwelling units.

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Stipulations:

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- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
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2) Case #3-2

Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant

Property: 375 Banfield Road, Unit E

Assessor Plan 266, Lot 7

Zoning District: Industrial

Description: Use a portion of the property as an impound lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:

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

Stipulation:

- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

Other:

- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

Review Criteria:

The special exception was granted for the following reasons:

- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.

---

3) Case #3-3

Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant

Property: 2300 Lafayette Road

Assessor Plan 273, Lot 5

Zoning Districts: Industrial

Description: Construct six workers' dormitories and bath house.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow six workers' dormitories and bath house where the use is not allowed by the Zoning Ordinance.

Action:

The Board voted to **postpone** the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

---

4) Case #3-4

Petitioner: Terry Bennett

Property: 211 Union Street

Assessor Plan 135, Lot 70

Zoning District: General Residence C

Description: Construct three-story building with eight dwelling units.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.
3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.
4. A Variance from Section 10.114.21 to allow a 12'± maneuvering aisle where a 14' maneuvering aisle is required.

Action:

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

Stipulations:

None

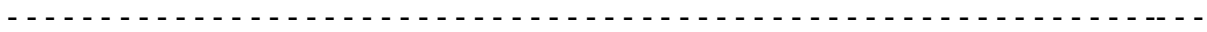
Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.



5) Case #3-5

Petitioners: Walter W. & Patricia B. Bardenwerper

Property: 69 Hunking Street

Assessor Plan 103, Lot 40

Zoning District: General Residence B

Description: Install 4'± high fence with gates along stone wall on corner lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20' of the intersection.

Action:

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

Stipulations:

None

Review Criteria:

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not result in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

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6) Case #3-6

Petitioners: Frank W. Getman, Jr. & Ingrid C. Getman

Property: 606 Union Street

Assessor Plan 132, Lot 20-1A

Zoning District: General Residence A

Description: Modification to a previous approval to construct a second single-family home on a lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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7) Case #3-7

Petitioner: Kayla Realty LLC

Property: 60-62 Market Street

Assessor Plan 117, Lot 34

Zoning District: Character District 5

Description: Provide rooms for guest housing.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from

the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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**V. OTHER BUSINESS**

No other business was presented.

=====

**VI. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary



**PLANNING DEPARTMENT - BOARD OF ADJUSTMENT**

**ACTION SHEET**

**TO:** John P. Bohenko, City Manager

**FROM:** Mary Koeppenick, Planning Department

**RE:** Actions Taken by the Portsmouth **Board of Adjustment at its regular meeting on March 15, 2016** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

**PRESENT:** Chairman David Witham, Vice-Chairman David Rheaume, Jeremiah Johnson, Charles LeMay, Patrick Moretti, Arthur Parrott. Alternates: Jim Lee, Peter McDonell

**EXCUSED:** Christopher Mulligan

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**I. APPROVAL OF MINUTES**

A) February 16, 2016

The Minutes were approved as presented with minor corrections.

=====

**II. OLD BUSINESS**

A) 209 Clinton Street – clarification of February vote

Action:

The Board clarified that the information presented at this meeting and the February 16, 2016 meeting fell within the boundaries of what had been presented and advertised for the original application and should be incorporated within the variances that were granted. The Board confirmed that the applicant's request was to clarify a previous approval, not for an Equitable Waiver and the Board's vote on February 16, 2016 was an error.

The effect of the clarification is to allow the following dimensional relief:

- A left side yard setback of 8'4" where 10' is required and a variance for 9' had been granted; and
- A secondary front yard setback to Burkitt Street of 9' where 15' is required.
- 27.5% building coverage where 25% is the maximum allowed.

With this clarification of the original variances, the action of the Board in granting an Equitable Waiver at the February 16, 2016 meeting is nullified and the original granting of relief at the December 15, 2015 meeting is upheld.

-----  
B) 140 Thornton St – request for rehearing

Action:

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

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C) 482 Broad St – request for rehearing

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

=====

**III. PUBLIC HEARINGS – OLD BUSINESS**

1) Case #7-12

Petitioner: New England Glory, LLC

Property: 525 Maplewood Avenue

Assessor Plan 209, Lot 85

Zoning District: General Residence A

Description: Creation of two lots where one exists. Construct building with four dwelling units.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #1.41 to allow four dwelling units in a district where the use is only allowed by Special Exception.
2. Variances from Section 10.1114.21 to allow an 18'± maneuvering aisle and a 20'± access aisle where 24' is required for both.
3. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,755± s.f. where 7,500 s.f. is the minimum required.

*(This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2..)*

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
- There are no special conditions of the property distinguishing it from others in the area so that literal enforcement of the Ordinance would result in unnecessary hardship.

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**IV. PUBLIC HEARINGS – NEW BUSINESS**

1) Case #3-1

Petitioner: Everard E. Hatch

Property: 45 Mill Pond Way

Assessor Plan 143, Lot 11

Zoning District: General Residence A

Description: Add dwelling unit in existing attached garage.

Requests: The Variances and/or Special Exceptions 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 per dwelling unit of 7,467± s.f. where 7,500 s.f. 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:

- Allowing occupation of an existing small structure will not change the essential character of the neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant in granting the variance will not be outweighed by any harm to the general public.
- The small difference in lot area per dwelling unit will not diminish the value of surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship. There is no fair and substantial relationship between the general public purposes of the

Ordinance provision and its specific application to this property, which provides only slightly under the required lot area per dwelling unit. It is a reasonable use of the property to create a small new housing unit.

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2) Case #3-2

Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant

Property: 375 Banfield Road, Unit E

Assessor Plan 266, Lot 7

Zoning District: Industrial

Description: Use a portion of the property as an impound lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:

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

Stipulation:

- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

Other:

- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

Review Criteria:

The special exception was granted for the following reasons:

- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.

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3) Case #3-3

Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant

Property: 2300 Lafayette Road

Assessor Plan 273, Lot 5

Zoning Districts: Industrial

Description: Construct six workers' dormitories and bath house.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow six workers' dormitories and bath house where the use is not allowed by the Zoning Ordinance.

Action:

The Board voted to **postpone** the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

---

4) Case #3-4

Petitioner: Terry Bennett

Property: 211 Union Street

Assessor Plan 135, Lot 70

Zoning District: General Residence C

Description: Construct three-story building with eight dwelling units.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.
3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.
4. A Variance from Section 10.114.21 to allow a 12'± maneuvering aisle where a 14' maneuvering aisle is required.

Action:

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

Stipulations:

None

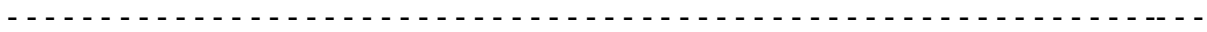
Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.



5) Case #3-5

Petitioners: Walter W. & Patricia B. Bardenwerper

Property: 69 Hunking Street

Assessor Plan 103, Lot 40

Zoning District: General Residence B

Description: Install 4'± high fence with gates along stone wall on corner lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20' of the intersection.

Action:

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

Stipulations:

None

Review Criteria:

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not result in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

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6) Case #3-6

Petitioners: Frank W. Getman, Jr. & Ingrid C. Getman

Property: 606 Union Street

Assessor Plan 132, Lot 20-1A

Zoning District: General Residence A

Description: Modification to a previous approval to construct a second single-family home on a lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

---

7) Case #3-7

Petitioner: Kayla Realty LLC

Property: 60-62 Market Street

Assessor Plan 117, Lot 34

Zoning District: Character District 5

Description: Provide rooms for guest housing.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from

the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

=====

**V. OTHER BUSINESS**

No other business was presented.

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**VI. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary



**PLANNING DEPARTMENT - BOARD OF ADJUSTMENT**

**ACTION SHEET**

**TO:** John P. Bohenko, City Manager

**FROM:** Mary Koeppenick, Planning Department

**RE:** Actions Taken by the Portsmouth **Board of Adjustment at its regular meeting on March 15, 2016** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

**PRESENT:** Chairman David Witham, Vice-Chairman David Rheaume, Jeremiah Johnson, Charles LeMay, Patrick Moretti, Arthur Parrott. Alternates: Jim Lee, Peter McDonell

**EXCUSED:** Christopher Mulligan

=====

**I. APPROVAL OF MINUTES**

A) February 16, 2016

The Minutes were approved as presented with minor corrections.

=====

**II. OLD BUSINESS**

A) 209 Clinton Street – clarification of February vote

Action:

The Board clarified that the information presented at this meeting and the February 16, 2016 meeting fell within the boundaries of what had been presented and advertised for the original application and should be incorporated within the variances that were granted. The Board confirmed that the applicant's request was to clarify a previous approval, not for an Equitable Waiver and the Board's vote on February 16, 2016 was an error.

The effect of the clarification is to allow the following dimensional relief:

- A left side yard setback of 8'4" where 10' is required and a variance for 9' had been granted; and
- A secondary front yard setback to Burkitt Street of 9' where 15' is required.
- 27.5% building coverage where 25% is the maximum allowed.

With this clarification of the original variances, the action of the Board in granting an Equitable Waiver at the February 16, 2016 meeting is nullified and the original granting of relief at the December 15, 2015 meeting is upheld.

-----  
B) 140 Thornton St – request for rehearing

Action:

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

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C) 482 Broad St – request for rehearing

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

=====

**III. PUBLIC HEARINGS – OLD BUSINESS**

1) Case #7-12

Petitioner: New England Glory, LLC

Property: 525 Maplewood Avenue

Assessor Plan 209, Lot 85

Zoning District: General Residence A

Description: Creation of two lots where one exists. Construct building with four dwelling units.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #1.41 to allow four dwelling units in a district where the use is only allowed by Special Exception.
2. Variances from Section 10.1114.21 to allow an 18'± maneuvering aisle and a 20'± access aisle where 24' is required for both.
3. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,755± s.f. where 7,500 s.f. is the minimum required.

*(This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2..)*

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
- There are no special conditions of the property distinguishing it from others in the area so that literal enforcement of the Ordinance would result in unnecessary hardship.

=====

**IV. PUBLIC HEARINGS – NEW BUSINESS**

1) Case #3-1

Petitioner: Everard E. Hatch

Property: 45 Mill Pond Way

Assessor Plan 143, Lot 11

Zoning District: General Residence A

Description: Add dwelling unit in existing attached garage.

Requests: The Variances and/or Special Exceptions 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 per dwelling unit of 7,467± s.f. where 7,500 s.f. 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:

- Allowing occupation of an existing small structure will not change the essential character of the neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant in granting the variance will not be outweighed by any harm to the general public.
- The small difference in lot area per dwelling unit will not diminish the value of surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship. There is no fair and substantial relationship between the general public purposes of the

Ordinance provision and its specific application to this property, which provides only slightly under the required lot area per dwelling unit. It is a reasonable use of the property to create a small new housing unit.

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2) Case #3-2

Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant

Property: 375 Banfield Road, Unit E

Assessor Plan 266, Lot 7

Zoning District: Industrial

Description: Use a portion of the property as an impound lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:

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

Stipulation:

- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

Other:

- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

Review Criteria:

The special exception was granted for the following reasons:

- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.

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3) Case #3-3

Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant

Property: 2300 Lafayette Road

Assessor Plan 273, Lot 5

Zoning Districts: Industrial

Description: Construct six workers' dormitories and bath house.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow six workers' dormitories and bath house where the use is not allowed by the Zoning Ordinance.

Action:

The Board voted to **postpone** the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

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4) Case #3-4

Petitioner: Terry Bennett

Property: 211 Union Street

Assessor Plan 135, Lot 70

Zoning District: General Residence C

Description: Construct three-story building with eight dwelling units.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.
3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.
4. A Variance from Section 10.114.21 to allow a 12'± maneuvering aisle where a 14' maneuvering aisle is required.

Action:

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

Stipulations:

None

Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.

-----  
5) Case #3-5

Petitioners: Walter W. & Patricia B. Bardenwerper

Property: 69 Hunking Street

Assessor Plan 103, Lot 40

Zoning District: General Residence B

Description: Install 4'± high fence with gates along stone wall on corner lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20' of the intersection.

Action:

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

Stipulations:

None

Review Criteria:

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not resulting in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

-----  
6) Case #3-6

Petitioners: Frank W. Getman, Jr. & Ingrid C. Getman

Property: 606 Union Street

Assessor Plan 132, Lot 20-1A

Zoning District: General Residence A

Description: Modification to a previous approval to construct a second single-family home on a lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.  
-----

7) Case #3-7

Petitioner: Kayla Realty LLC

Property: 60-62 Market Street

Assessor Plan 117, Lot 34

Zoning District: Character District 5

Description: Provide rooms for guest housing.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from

the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

=====

**V. OTHER BUSINESS**

No other business was presented.

=====

**VI. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary



**PLANNING DEPARTMENT - BOARD OF ADJUSTMENT**

**ACTION SHEET**

**TO:** John P. Bohenko, City Manager

**FROM:** Mary Koeppenick, Planning Department

**RE:** Actions Taken by the Portsmouth **Board of Adjustment at its regular meeting on March 15, 2016** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

**PRESENT:** Chairman David Witham, Vice-Chairman David Rheaume, Jeremiah Johnson, Charles LeMay, Patrick Moretti, Arthur Parrott. Alternates: Jim Lee, Peter McDonell

**EXCUSED:** Christopher Mulligan

=====

**I. APPROVAL OF MINUTES**

A) February 16, 2016

The Minutes were approved as presented with minor corrections.

=====

**II. OLD BUSINESS**

A) 209 Clinton Street – clarification of February vote

Action:

The Board clarified that the information presented at this meeting and the February 16, 2016 meeting fell within the boundaries of what had been presented and advertised for the original application and should be incorporated within the variances that were granted. The Board confirmed that the applicant’s request was to clarify a previous approval, not for an Equitable Waiver and the Board’s vote on February 16, 2016 was an error.

The effect of the clarification is to allow the following dimensional relief:

- A left side yard setback of 8’4” where 10’ is required and a variance for 9’ had been granted; and
- A secondary front yard setback to Burkitt Street of 9’ where 15’ is required.
- 27.5% building coverage where 25% is the maximum allowed.

With this clarification of the original variances, the action of the Board in granting an Equitable Waiver at the February 16, 2016 meeting is nullified and the original granting of relief at the December 15, 2015 meeting is upheld.

-----  
B) 140 Thornton St – request for rehearing

Action:

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

-----  
C) 482 Broad St – request for rehearing

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

=====

**III. PUBLIC HEARINGS – OLD BUSINESS**

1) Case #7-12

Petitioner: New England Glory, LLC

Property: 525 Maplewood Avenue

Assessor Plan 209, Lot 85

Zoning District: General Residence A

Description: Creation of two lots where one exists. Construct building with four dwelling units.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #1.41 to allow four dwelling units in a district where the use is only allowed by Special Exception.
2. Variances from Section 10.1114.21 to allow an 18'± maneuvering aisle and a 20'± access aisle where 24' is required for both.
3. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,755± s.f. where 7,500 s.f. is the minimum required.

*(This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2..)*

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
- There are no special conditions of the property distinguishing it from others in the area so that literal enforcement of the Ordinance would result in unnecessary hardship.

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**IV. PUBLIC HEARINGS – NEW BUSINESS**

1) Case #3-1

Petitioner: Everard E. Hatch

Property: 45 Mill Pond Way

Assessor Plan 143, Lot 11

Zoning District: General Residence A

Description: Add dwelling unit in existing attached garage.

Requests: The Variances and/or Special Exceptions 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 per dwelling unit of 7,467± s.f. where 7,500 s.f. 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:

- Allowing occupation of an existing small structure will not change the essential character of the neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant in granting the variance will not be outweighed by any harm to the general public.
- The small difference in lot area per dwelling unit will not diminish the value of surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship. There is no fair and substantial relationship between the general public purposes of the

Ordinance provision and its specific application to this property, which provides only slightly under the required lot area per dwelling unit. It is a reasonable use of the property to create a small new housing unit.

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2) Case #3-2

Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant

Property: 375 Banfield Road, Unit E

Assessor Plan 266, Lot 7

Zoning District: Industrial

Description: Use a portion of the property as an impound lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:

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

Stipulation:

- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

Other:

- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

Review Criteria:

The special exception was granted for the following reasons:

- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.

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3) Case #3-3

Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant

Property: 2300 Lafayette Road

Assessor Plan 273, Lot 5

Zoning Districts: Industrial

Description: Construct six workers' dormitories and bath house.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow six workers' dormitories and bath house where the use is not allowed by the Zoning Ordinance.

Action:

The Board voted to **postpone** the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

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4) Case #3-4

Petitioner: Terry Bennett

Property: 211 Union Street

Assessor Plan 135, Lot 70

Zoning District: General Residence C

Description: Construct three-story building with eight dwelling units.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.
3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.
4. A Variance from Section 10.114.21 to allow a 12'± maneuvering aisle where a 14' maneuvering aisle is required.

Action:

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

Stipulations:

None

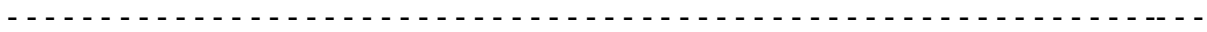
Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.



5) Case #3-5

Petitioners: Walter W. & Patricia B. Bardenwerper

Property: 69 Hunking Street

Assessor Plan 103, Lot 40

Zoning District: General Residence B

Description: Install 4'± high fence with gates along stone wall on corner lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20' of the intersection.

Action:

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

Stipulations:

None

Review Criteria:

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not resulting in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

-----  
6) Case #3-6

Petitioners: Frank W. Getman, Jr. & Ingrid C. Getman

Property: 606 Union Street

Assessor Plan 132, Lot 20-1A

Zoning District: General Residence A

Description: Modification to a previous approval to construct a second single-family home on a lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.  
-----

7) Case #3-7

Petitioner: Kayla Realty LLC

Property: 60-62 Market Street

Assessor Plan 117, Lot 34

Zoning District: Character District 5

Description: Provide rooms for guest housing.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from

the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

=====

**V. OTHER BUSINESS**

No other business was presented.

=====

**VI. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary



**PLANNING DEPARTMENT - BOARD OF ADJUSTMENT**

**ACTION SHEET**

**TO:** John P. Bohenko, City Manager

**FROM:** Mary Koeppenick, Planning Department

**RE:** Actions Taken by the Portsmouth **Board of Adjustment at its regular meeting on March 15, 2016** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

**PRESENT:** Chairman David Witham, Vice-Chairman David Rheaume, Jeremiah Johnson, Charles LeMay, Patrick Moretti, Arthur Parrott. Alternates: Jim Lee, Peter McDonell

**EXCUSED:** Christopher Mulligan

=====

**I. APPROVAL OF MINUTES**

A) February 16, 2016

The Minutes were approved as presented with minor corrections.

=====

**II. OLD BUSINESS**

A) 209 Clinton Street – clarification of February vote

Action:

The Board clarified that the information presented at this meeting and the February 16, 2016 meeting fell within the boundaries of what had been presented and advertised for the original application and should be incorporated within the variances that were granted. The Board confirmed that the applicant's request was to clarify a previous approval, not for an Equitable Waiver and the Board's vote on February 16, 2016 was an error.

The effect of the clarification is to allow the following dimensional relief:

- A left side yard setback of 8'4" where 10' is required and a variance for 9' had been granted; and
- A secondary front yard setback to Burkitt Street of 9' where 15' is required.
- 27.5% building coverage where 25% is the maximum allowed.

With this clarification of the original variances, the action of the Board in granting an Equitable Waiver at the February 16, 2016 meeting is nullified and the original granting of relief at the December 15, 2015 meeting is upheld.

-----  
B) 140 Thornton St – request for rehearing

Action:

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

-----  
C) 482 Broad St – request for rehearing

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

=====

**III. PUBLIC HEARINGS – OLD BUSINESS**

1) Case #7-12

Petitioner: New England Glory, LLC

Property: 525 Maplewood Avenue

Assessor Plan 209, Lot 85

Zoning District: General Residence A

Description: Creation of two lots where one exists. Construct building with four dwelling units.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #1.41 to allow four dwelling units in a district where the use is only allowed by Special Exception.
2. Variances from Section 10.1114.21 to allow an 18'± maneuvering aisle and a 20'± access aisle where 24' is required for both.
3. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,755± s.f. where 7,500 s.f. is the minimum required.

*(This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2..)*

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
- There are no special conditions of the property distinguishing it from others in the area so that literal enforcement of the Ordinance would result in unnecessary hardship.

=====

**IV. PUBLIC HEARINGS – NEW BUSINESS**

1) Case #3-1

Petitioner: Everard E. Hatch

Property: 45 Mill Pond Way

Assessor Plan 143, Lot 11

Zoning District: General Residence A

Description: Add dwelling unit in existing attached garage.

Requests: The Variances and/or Special Exceptions 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 per dwelling unit of 7,467± s.f. where 7,500 s.f. 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:

- Allowing occupation of an existing small structure will not change the essential character of the neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant in granting the variance will not be outweighed by any harm to the general public.
- The small difference in lot area per dwelling unit will not diminish the value of surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship. There is no fair and substantial relationship between the general public purposes of the

Ordinance provision and its specific application to this property, which provides only slightly under the required lot area per dwelling unit. It is a reasonable use of the property to create a small new housing unit.

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2) Case #3-2

Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant

Property: 375 Banfield Road, Unit E

Assessor Plan 266, Lot 7

Zoning District: Industrial

Description: Use a portion of the property as an impound lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:

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

Stipulation:

- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

Other:

- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

Review Criteria:

The special exception was granted for the following reasons:

- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.

3) Case #3-3

Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant

Property: 2300 Lafayette Road

Assessor Plan 273, Lot 5

Zoning Districts: Industrial

Description: Construct six workers' dormitories and bath house.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow six workers' dormitories and bath house where the use is not allowed by the Zoning Ordinance.

Action:

The Board voted to **postpone** the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

4) Case #3-4

Petitioner: Terry Bennett

Property: 211 Union Street

Assessor Plan 135, Lot 70

Zoning District: General Residence C

Description: Construct three-story building with eight dwelling units.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.
3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.
4. A Variance from Section 10.114.21 to allow a 12'± maneuvering aisle where a 14' maneuvering aisle is required.

Action:

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

Stipulations:

None

Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.

-----  
5) Case #3-5

Petitioners: Walter W. & Patricia B. Bardenwerper

Property: 69 Hunking Street

Assessor Plan 103, Lot 40

Zoning District: General Residence B

Description: Install 4'± high fence with gates along stone wall on corner lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20' of the intersection.

Action:

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

Stipulations:

None

Review Criteria:

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not resulting in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

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6) Case #3-6

Petitioners: Frank W. Getman, Jr. & Ingrid C. Getman

Property: 606 Union Street

Assessor Plan 132, Lot 20-1A

Zoning District: General Residence A

Description: Modification to a previous approval to construct a second single-family home on a lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.  
-----

7) Case #3-7

Petitioner: Kayla Realty LLC

Property: 60-62 Market Street

Assessor Plan 117, Lot 34

Zoning District: Character District 5

Description: Provide rooms for guest housing.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from

the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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**V. OTHER BUSINESS**

No other business was presented.

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**VI. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary



**PLANNING DEPARTMENT - BOARD OF ADJUSTMENT**

**ACTION SHEET**

**TO:** John P. Bohenko, City Manager

**FROM:** Mary Koeppenick, Planning Department

**RE:** Actions Taken by the Portsmouth **Board of Adjustment at its regular meeting on March 15, 2016** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

**PRESENT:** Chairman David Witham, Vice-Chairman David Rheaume, Jeremiah Johnson, Charles LeMay, Patrick Moretti, Arthur Parrott. Alternates: Jim Lee, Peter McDonell

**EXCUSED:** Christopher Mulligan

=====

**I. APPROVAL OF MINUTES**

A) February 16, 2016

The Minutes were approved as presented with minor corrections.

=====

**II. OLD BUSINESS**

A) 209 Clinton Street – clarification of February vote

Action:

The Board clarified that the information presented at this meeting and the February 16, 2016 meeting fell within the boundaries of what had been presented and advertised for the original application and should be incorporated within the variances that were granted. The Board confirmed that the applicant's request was to clarify a previous approval, not for an Equitable Waiver and the Board's vote on February 16, 2016 was an error.

The effect of the clarification is to allow the following dimensional relief:

- A left side yard setback of 8'4" where 10' is required and a variance for 9' had been granted; and
- A secondary front yard setback to Burkitt Street of 9' where 15' is required.
- 27.5% building coverage where 25% is the maximum allowed.

With this clarification of the original variances, the action of the Board in granting an Equitable Waiver at the February 16, 2016 meeting is nullified and the original granting of relief at the December 15, 2015 meeting is upheld.

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B) 140 Thornton St – request for rehearing

Action:

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

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C) 482 Broad St – request for rehearing

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

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**III. PUBLIC HEARINGS – OLD BUSINESS**

1) Case #7-12

Petitioner: New England Glory, LLC

Property: 525 Maplewood Avenue

Assessor Plan 209, Lot 85

Zoning District: General Residence A

Description: Creation of two lots where one exists. Construct building with four dwelling units.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #1.41 to allow four dwelling units in a district where the use is only allowed by Special Exception.
2. Variances from Section 10.1114.21 to allow an 18'± maneuvering aisle and a 20'± access aisle where 24' is required for both.
3. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,755± s.f. where 7,500 s.f. is the minimum required.

*(This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2..)*

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
- There are no special conditions of the property distinguishing it from others in the area so that literal enforcement of the Ordinance would result in unnecessary hardship.

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**IV. PUBLIC HEARINGS – NEW BUSINESS**

1) Case #3-1

Petitioner: Everard E. Hatch

Property: 45 Mill Pond Way

Assessor Plan 143, Lot 11

Zoning District: General Residence A

Description: Add dwelling unit in existing attached garage.

Requests: The Variances and/or Special Exceptions 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 per dwelling unit of 7,467± s.f. where 7,500 s.f. 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:

- Allowing occupation of an existing small structure will not change the essential character of the neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant in granting the variance will not be outweighed by any harm to the general public.
- The small difference in lot area per dwelling unit will not diminish the value of surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship. There is no fair and substantial relationship between the general public purposes of the

Ordinance provision and its specific application to this property, which provides only slightly under the required lot area per dwelling unit. It is a reasonable use of the property to create a small new housing unit.

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2) Case #3-2

Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant

Property: 375 Banfield Road, Unit E

Assessor Plan 266, Lot 7

Zoning District: Industrial

Description: Use a portion of the property as an impound lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:

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

Stipulation:

- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

Other:

- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

Review Criteria:

The special exception was granted for the following reasons:

- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.

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3) Case #3-3

Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant

Property: 2300 Lafayette Road

Assessor Plan 273, Lot 5

Zoning Districts: Industrial

Description: Construct six workers' dormitories and bath house.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow six workers' dormitories and bath house where the use is not allowed by the Zoning Ordinance.

Action:

The Board voted to **postpone** the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

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4) Case #3-4

Petitioner: Terry Bennett

Property: 211 Union Street

Assessor Plan 135, Lot 70

Zoning District: General Residence C

Description: Construct three-story building with eight dwelling units.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.
3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.
4. A Variance from Section 10.114.21 to allow a 12'± maneuvering aisle where a 14' maneuvering aisle is required.

Action:

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

Stipulations:

None

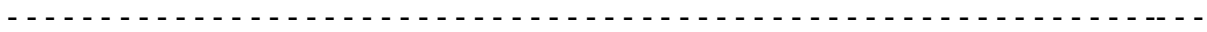
Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.



5) Case #3-5

Petitioners: Walter W. & Patricia B. Bardenwerper

Property: 69 Hunking Street

Assessor Plan 103, Lot 40

Zoning District: General Residence B

Description: Install 4'± high fence with gates along stone wall on corner lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20' of the intersection.

Action:

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

Stipulations:

None

Review Criteria:

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not resulting in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

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6) Case #3-6

Petitioners: Frank W. Getman, Jr. & Ingrid C. Getman

Property: 606 Union Street

Assessor Plan 132, Lot 20-1A

Zoning District: General Residence A

Description: Modification to a previous approval to construct a second single-family home on a lot.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.  
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7) Case #3-7

Petitioner: Kayla Realty LLC

Property: 60-62 Market Street

Assessor Plan 117, Lot 34

Zoning District: Character District 5

Description: Provide rooms for guest housing.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from

the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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**V. OTHER BUSINESS**

No other business was presented.

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**VI. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary