

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 reconvened meeting on March 22, 2016** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Jeremiah Johnson, Charles LeMay, Christopher Mulligan, Arthur Parrott, Alternates: Jim Lee, Peter McDonell

EXCUSED: Chairman David Witham, Vice-Chairman David Rheame, Patrick Moretti,

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Prior to commencement of the meeting, it was moved, seconded and passed to appoint Charles LeMay as Acting Chairman for the meeting in the absence of the Chairman and Vice-Chairman.

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IV. PUBLIC HEARINGS – NEW BUSINESS (Continued from March 15, 2016)

- 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.
(*This petition was postponed from the March 15, 2016 meeting.*)

Action:

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

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- Adding a second dwelling unit on a large lot will not alter the essential character of the residential 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 loss to the applicant if the petition were denied would not be balanced by any benefit to the general public.
- The value of surrounding properties will not be diminished by improvements to the property and the maintenance of a historic structure.
- Literal enforcement of the Ordinance would result in unnecessary hardship due to special conditions of the property distinguishing it from others in the area so that there is no fair and substantial relationship between the general purposes of the Ordinance provision and its specific application to the property. The lot provides almost three times the required lot area per dwelling unit and includes a historic carriage house that will be preserved under the proposed plan, which is a reasonable use of the property.

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.

(This petition was postponed from the March 15, 2016 meeting.)

Action:

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

Stipulation:

- No more than four (4) non-family residents may be housed at any one time in the designated second floor space of the dwelling unit.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed as the impact of residents living in one floor of the unit for short seasonal periods of time will be no greater if they are unrelated individuals rather than family members.
- Substantial justice will be done as the Ordinance would allow three unrelated individuals to be housed in the unit. Denying a variance to allow four unrelated individuals would result in a loss to the applicant that would not be outweighed by any gain to the general public.
- A code compliance review will be conducted in conjunction with this approval and an investment made in the property that will have a positive impact on surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship due to special conditions of the property. This is residential space that had been converted to commercial use which was discontinued. The situation is unique so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions regarding the definition of a family and their specific application to this property. Granting the variance will allow a residential use which is appropriate for the space.

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V. OTHER BUSINESS

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VI. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 7:45 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary