

**MINUTES OF THE BOARD OF ADJUSTMENT MEETING  
EILEEN DONDERO FOLEY COUNCIL CHAMBERS  
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE  
PORTSMOUTH, NEW HAMPSHIRE**

**7:00 P.M.**

**APRIL 26, 2016 RECONVENED  
FROM APRIL 19, 2016**

**MEMBERS PRESENT:** Jeremiah Johnson, Charles LeMay, Christopher Mulligan,  
Alternate: Peter McDonell

**MEMBERS EXCUSED:** Chairman David Witham, Vice-Chairman David Rheame,  
Arthur Parrott, Patrick Moretti, Alternate: James Lee

**ALSO PRESENT:** Jane Ferrini

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*In the absence of the Chairman and Vice-Chairman, it was moved, seconded and passed by unanimous voice vote to appoint Mr. LeMay as Acting Chairman for the hearing.*

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**II. PUBLIC HEARINGS – NEW BUSINESS (continued from April 19, 2016)**

*With Mr. Mulligan recusing on the petition regarding 1150 Sagamore Avenue and Mr. Johnson recusing on the petition regarding 75 Congress Street, the following two petitions were postponed for lack of a quorum to the May 17, 2016 meeting:*

- 8) Case #4-8  
Petitioner: Wentworth Sagamore, LLC  
Property: 1150 Sagamore Avenue  
Assessor Plan 201, Lot 22  
Zoning District: Mixed Residential Business  
Description: Install a wall sign and a second free-standing sign 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 10.1243 to allow a second free-standing sign on a lot.
  2. A Variance from Section 10.1251.20 to allow a 28.4± s.f. free-standing sign where 20 s.f. is the maximum allowed.
  3. A Variance from Section 10.51251.20 to allow a 25± s.f. wall sign where 16 s.f. is the maximum allowed.

- 9) Case #4-9  
Petitioner: Michael De La Cruz  
Property: 75 Congress Street (63 Congress Street)  
Assessor Plan 117, Lot 5  
Zoning District: Character District 5, Downtown Overlay District  
Description: Construct five residential use dormers and one office use dormer, with walkways and decks. Restore pediments.  
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 10.321 to allow a nonconforming building or structure to be extended, enlarged or structurally altered without conforming to the Ordinance.
  2. A Variance from Section 10.5A43.31 and Section 10.5A21.22 to allow the following building heights where the maximum building heights allowed per Map 10.5A21B are 40' for a 2-3 stories height requirement area and 45' for a 2-3 stories (short 4<sup>th</sup>) height requirement area:
    - a. 62'11" for the proposed pediments
    - b. 65'6" for the proposed office dormer, and
    - c. 58' 11" for the proposed residential dormers
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*Acting Chairman LeMay stated that, with several requests to postpone with the same cited reason, a single motion was in order to act on the following petitions (Case #4-10, #4-11, #4-12 & #4-13):*

- 10) Case #4-10  
Petitioner: Robert McDowell  
Property: 379 New Castle Avenue  
Assessor Plan 207, Lot 4  
Zoning District: Single Residence B  
Description: Construct a 20' x 20' detached 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 front yard setback of 7.25' where 30' is required.
  2. A Variance from Section 10.521 to allow 20.6% building coverage where 20% is the maximum allowed.
  3. A Variance from Section 10.571 to allow an accessory building to be located in a required front yard.
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- 11) Case #4-11  
Petitioners: Natan Aviezri Revocable Trust, Debra Klein & Natan Aviezri, Trustees  
Property: 75 Monroe Street (Middle Road at Ward Place)

Assessor Plan 168, Lot 27 (merged from Lots 34 & 35)

Zoning District: General Residence A

Description: Construct a single-family home and garage on two re-merged lots.

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 of 5,954± s.f. where 7,500 s.f. is required.
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 5,954± s.f. where 7,500 s.f. per dwelling unit is required.
3. A Variance from Section 10.521 to allow continuous street frontage of 85.59'± where 100' of continuous street frontage is required.

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12) Case #4-12

Petitioner: Seacoast Trust LLP

Property: 150 US Route One By-Pass

Assessor Plan 231, Lot 58

Zoning District: Single Residence B

Description: Construct four-story, 40 unit, multi-family building.

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

- 1A. A Special Exception under Section 10.335 to allow a lawful nonconforming use to be changed to another nonconforming use.  
*If the Special Exception for the proposed use is not granted, then the following is requested:*
- 1B. A Variance from Section 10.440, Use #1.40 to allow a multifamily dwelling with 40 dwelling units.  
*The following dimensional relief is also requested:*
  2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,254 s.f. where 15,000 s.f. is required.
  3. A Variance from Section 10.521 to allow a structure height of 50' where 35' is the maximum allowed.
  4. A Variance from Section 10.522 to allow a multifamily dwelling with a building length of 246' where 160' is the maximum allowed.

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13. Case #4-13

Petitioners: Blueberry Lafayette Investors LLC & Edward Walsh, owners,  
William P. Walsh, applicant

Property: 3605 (3607) Lafayette Road

Assessor Plan 298, Lot 2

Zoning District: Gateway & Rural

Description: Motor vehicle repair

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 #11.20 to allow a motor vehicle repair use in a district where the use is allowed only by Special Exception.
2. A Variance from Section 10.1111 to allow a change in use that does not meet the requirements for off-street parking.
3. A Variance from Section 10.843.12 to allow more than two 40' wide curb cuts or access or egress points on each abutting street.
4. A Variance from Section 10.843.21 to allow areas for parking, outdoor storage and outdoor display of vehicles or equipment to be set back less than 40 feet from the street right-of-way.

### **DECISION OF THE BOARD**

Mr. Mulligan made a motion to postpone to the next month Cases #4-10, 4-11, 4-12 and 4-13 regarding properties at 379 New Castle Avenue, 75 Monroe Street, 150 US Route One By-Pass and 3605 (3607) Lafayette Road.

Mr. McDonell seconded the motion.

Mr. Mulligan stated that it was the Board's long standing practice to allow an applicant to request a postponement in the event that there were less than 6 sitting members. In order for any application to carry, a motion to grant had to be supported by at least four members of the Board. When there were only four sitting members, an applicant would need basically to clear all the bases so they always granted these requests to postpone.

Mr. McDonell stated that he had nothing to add.

*Acting Chairman LeMay called for a voice vote and the motion to postpone Cases #4-10 through #4-13 to the May meeting was passed by unanimous voice vote.*

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### **V. OTHER BUSINESS**

No other business was presented.

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### **VI. ADJOURNMENT**

*It was moved, seconded and passed by unanimous voice vote to adjourn the meeting at 7:05 p.m.*

Respectfully submitted,

Mary E. Koepenick  
Recording Secretary