

PLANNING DEPARTMENT - BOARD OF ADJUSTMENT

ACTION SHEET

TO: John P. Bohenko, City Manager

FROM: Mary Koepenick, Planning Department

RE: Actions Taken by the Portsmouth **Board of Adjustment at its reconvened meeting on February 26, 2019** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Chairman David Rheaume, Vice Chairman Jeremiah Johnson, Jim Lee, Christopher Mulligan, Peter McDonell, Alternate Chase Hagaman

EXCUSED: John Formella, Arthur Parrott, Alternate Phyllis Eldridge

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IV. PUBLIC HEARINGS – NEW BUSINESS

(The following petitions were postponed at the February 20, 2019 meeting. Cases 2-2 and 2-5 were heard at that meeting. Case 2-1 was tabled to the March meeting.)

3) Case 2-3. Petition of Stephen G. Bucklin for property located at **322 Islington Street** to move an existing carriage house to a new foundation and add a one-story connector to the existing house wherein the following variances are required: a) from Section 10.5A41.10A to allow a 1'± rear yard where 5' is required; b) from Section 10.5A41.10A to allow a 2'± left side yard where 5' is the minimum required; and c) from Section 10.321 to allow a nonconforming structure or building to be expanded, reconstructed or enlarged without conforming to the requirements of the ordinance. Said property is shown on Assessor Plan 145, Lot 3 and lies within the Character District 4-Limited-2 District.

Action:

The Board voted to **grant** the petition as presented and advertised with the following stipulations, as proposed by the applicant.

Stipulations:

- A signed letter of approval from the property's rear neighbor (Virginia Swift, 217 Cabot Street) is to be submitted. The letter should contain Structural Details and Methods, certified by a licensed structural engineer describing how the proposed new foundation of the Carriage House at 322 Islington Street will be constructed in a manner so as not to cause any damage or detriment to the existing stone foundation at 217 Cabot Street.
- Included as a part of this document will be a Site Plan of the area between the (2) structures showing grading, drainage and the nature of materials to be used.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. The property will continue with the same density and use so that the essential character of the neighborhood will not be altered.
- Substantial justice will be done as the loss to the applicant, if denied, would not be outweighed by any gain to the public by requiring strict compliance with the setback requirements and building coverage. The added stipulation as well as the review of the Historic District Commission will provide additional public interest protection.
- Granting the variances will not diminish the value of surrounding properties because the preservation project will save an old historic structure that would otherwise continue to fall into disrepair and represents a substantial upgrade for the property.
- Literal enforcement of the hardship would result in unnecessary hardship due to special conditions of the property which is a corner lot straddling two different zones and containing dimensional nonconformities. These unique qualities set the property apart from others in the neighborhood so that there is no fair and substantial relationship between the ordinance provision for setback requirements and their specific application to the property. This is a reasonable use, given the historical use and the existing neighborhood density.

4) Case 2-4. Petition of Carrie Richesson for property located at **101 Martha Terrace** to construct a 20'± x 24'± garage attached to the existing house by a 10'± x 10'± mudroom wherein a variance is required from Section 10.521 to allow a 12'± secondary front yard where 30' is required and to allow 16%± building coverage where 10% is the maximum allowed. Said property is shown on Assessor Plan 283, Lot 5 and lies within the Single Residence A District.

Action:

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

Stipulations:

- The 12' secondary front yard is granted plus or minus 6" to allow for small deviations that may be encountered in the construction process
- As long as the secondary front yard complies with the relief granted, the entrance to the garage can be facing either Martha Terrace or Patricia Drive.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. The essential character of the neighborhood will not be altered by a garage similar to others in the neighborhood. The setback will be 11 feet to 12 feet off the lot line but almost 30 feet from the paved portion of Patricia Drive so there will no threat to the public health, safety or welfare.
- Granting the variances will do substantial justice as there will be no corresponding harm to the general public. Any issue would be for the resident at the end of Patricia Drive who supports the project.
- No other neighbors will be negatively affected by the proposal so that granting the variances will not diminish the value of surrounding properties.
- Literal enforcement of the ordinance would result in unnecessary hardship. Relative to the building coverage request, the existing house is modest and the request for an addition similarly modest. The special conditions of the property resulting in a hardship include the size of the lot and its position on a corner. Due to the special conditions, there is no fair and substantial relationship between the general public purposes of the ordinance and their specific application to the property.

6) Case 2-6. Petition of the Vaughn Family Revocable Trust, Charles & Sally Vaughn, Trustees, owners, and Craig and Diane Alie, applicants, for property located at **50 Pleasant Point Drive** wherein the following variances are required: a) from Section 10.321 to allow a nonconforming structure or building to be expanded, reconstructed or enlarged without conforming to the requirements of the ordinance; b) from Section 10.521 to allow an 18'± secondary front yard for a vertical expansion of the existing dwelling and a 21'± secondary front yard for a new two-story garage where 30' is required for each. Said property is shown on Assessor Plan 207, Lot 11 and lies within the Single Residence B District.

Action:

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

Review Criteria:

The petition was granted for the following reasons:

- Updating the existing house will not be contrary to the public interest and the proposed use will not conflict with any explicit or implied purposes of the ordinance.
- Substantial justice will be done in that the benefit to the applicant if the variances are granted will not be outweighed by any harm to the general public.
- The value of surrounding properties will be enhanced by the improvements to the property.
- Literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property which include the fact that it is a corner lot and burdened by wetland buffer requirements that are driving the location of the garage. The existing location of the house on the lot is such that any type of vertical expansion would require some kind of relief. Due to the special conditions, there is no fair and substantial

relationship between the general purposes of the ordinance and their specific application to the property. The proposed use is a reasonable one.

7) **Case 2-7.** Petition of Neil A. Fitzgerald Family Trust, Kara Moss and Linda Fitzgerald, Trustees, for property located at **226 Park Street** for a rear addition, a single-story 410± s.f. detached accessory dwelling unit, and a detached one-car garage wherein variances are required from Section 10.521 to allow the following: a) a lot area per dwelling unit of 4,368± s.f. where 7,500 s.f. is required per dwelling unit; and b) 31%± building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 149, Lot 50 and lies within the General Residence A District.

Action:

It was acknowledged at the meeting that the petition had been **withdrawn** by the applicant.

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VI. OTHER BUSINESS

No other business was presented.

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VII. ADJOURMENT

It was moved, seconded and passed to adjourn the meeting at 8:05 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary