

ACTION SHEET

TO: John P. Bohenko, City Manager

FROM: Mary Koepenick, Planning Department

RE: Actions Taken by the Portsmouth **Board of Adjustment at its regular meeting on November 19, 2019** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Vice Chairman Jeremiah Johnson, Jim Lee, Peter McDonell, Christopher Mulligan, Arthur Parrott, Alternate Phyllis Eldridge

EXCUSED: Chairman David Rheume, John Formella, Alternate Chase Hagaman

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I. APPROVAL OF MINUTES

A) October 15, 2019

Action: The Minutes were approved as amended.

B) October 22, 2019

Action: The Minutes were approved as presented.

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II. OLD BUSINESS – PUBLIC HEARINGS

A. Case 8-11. Petition of Dagny Taggart, LLC for property located at **0 (53) Daniel Street** for a five-story building with mixed commercial uses wherein variances from Section 10.5A41 & Figure 10.5A41.10C are required to allow the following: a) a building footprint up to 17,500 s.f. where 15,000 s.f. is the maximum allowed; and b) a 3’ rear yard where 5’ is required. Said property is shown on Assessor Plan 107, Lot 27 and lies within Character District 4 and the Downtown Overlay District. (This petition was postponed from the October 15, 2019 meeting.)

Action:

The Board voted to **postpone** the application to the December 17, 2019 meeting.

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III. NEW BUSINESS - PUBLIC HEARINGS

1) Case 11-1. Petition of Pease Rehab LLC c/o Northeast Rehab for property located at **105 Corporate Drive** wherein relief is required from the Zoning Ordinance to construct a 30,910 s.f. addition over two floors that requires a Variance from Part 304.04(e) of the Pease Development Authority’s Zoning Ordinance to allow a 10 foot setback where 50 feet is required. Said property is shown on Assessor Plan 303, Lot 7 and lies within the Airport Business Commercial District.

Action:

The Board voted to **recommend** to the Pease Development Authority that the variance be **granted**.

2) Case 11-2. Petition of MDM Rodgers Family Limited Partnership, owner, Charles Caldwell, applicant for property located at **53 Tanner Street** wherein relief is required from the Zoning Ordinance to convert an existing dwelling into a two-family which requires the following Variances: a) from Section 10.5A41.10A to allow a lot area per dwelling unit of 1,089 square feet where 3,000 per dwelling unit is required; b) from Section 10.5A41.10A to allow a 3’ left side yard where 5 feet is required; and c) from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Plan 126, Lot 46 and lies within the Character District 4-Limited (CD4-L1).

Action:

The Board voted to **deny** the application as presented. All the criteria necessary to grant the variances were not met. A substantial addition and expansion of the third floor, as well as conversion of a single-family home to a two-family home, would increase the intensity of the use so that granting the variances would diminish the value of surrounding properties. There are no special conditions of the property that would distinguish it from others in the area and a hardship was not demonstrated that would justify the relief required.

3) Case 11-3. Petition of Mark & Linda Mattson Trust Agreement, Jeffrey M. & Tyler E. Mattson, Trustees for property located at **51 Cottage Street** wherein relief is required from the Zoning Ordinance to keep up to ten (10) hens that requires a Variance from Section 10.440, Use #17.20 to allow the keeping of farm animals. Said property is shown on Assessor Plan 174, Lot 18 and lies within the General Residence A District.

Action:

The Board voted to **grant** the application with the following **stipulations**:

- That the number of hens will be limited to six;
 - That no roosters will be permitted.
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4) Case 11-4. Petition of Christine W. Culver for property located at **57 Porpoise Way** wherein relief is required from the Zoning Ordinance to construct a two-story addition within the existing footprint which requires the following Variances: from Section 10.521 to allow a 12.5 foot rear yard where 25 feet is required; and from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the Ordinance. Said property is shown on Assessor Plan 212, Lot 62 and lies within the General Residence B District.

Action:

The Board voted to **grant** the application as presented.

5) Case 11-5. Petition of Dangelo Inc. for property located at **1981 Woodbury Avenue** wherein relief is required from the Zoning Ordinance to install a 30” x 180” Wall sign that requires a Variance from Section 10.1271 to allow a sign where there is no frontage or public entrance. Said property is shown on Assessor Plan 215, Lot 7 and lies within the Gateway Neighborhood Mixed Use Corridor District (G1).

Action:

The Board voted to **grant** the application as presented.

6) Case 11-6. Petition of Stanley E. & Michelle Brandon for property located at **492 Union Street** wherein relief is required from the Zoning Ordinance to remove two existing sheds and construct a new, 24’ x 24’ two-car garage which requires the following Variances: a) from Section 10.521 a) to allow 26% building coverage where 25% is the maximum allowed; b) from Section 10.573.20 to allow a 4’ left side yard where 10’ is required; and c) from Section 10.573.20 to allow a 7’ rear yard where an 18’2” rear yard is required for an accessory structure. Said property is shown on Assessor Plan 133, Lot 43 and lies within the General Residence A District.

Action:

The Board voted to **postpone** the application to the December 17, 2019 meeting.

7) Case 11-7. Petition of 100 Islington Street Condominium Association, owner, 100 Islington Street Development, LLC, applicant, for property located at **100 Islington Street** wherein relief is required from the Zoning Ordinance to demolish existing building and construct a 14,582 square foot building with 24 dwelling units that requires the following Variances from Section 10.5A41.10A: a) to allow a building footprint of 14,582 square feet where 2,500 square feet is the maximum allowed; b) to allow a lot area per dwelling unit of 1,015 square feet where 3,000 square feet per dwelling unit is required; and c) to allow a front lot line buildout of 37% where 60% is the minimum required. Said property is shown on Assessor Plan 137, Lots 25-1 through 25-7 and lies within the Character District 4-Limited (CD4-L2).

Action:

The Board voted to **deny** the application as presented. All the criteria necessary to grant the variances are not met. The essential character of the neighborhood would be altered by the size of the structure so that granting the variances would be contrary to the public interest and the spirit of the ordinance would not be observed. The structure would create a shadow effect overpowering other parcels in the vicinity and diminishing the value of surrounding properties. A hardship was not demonstrated that would justify the degree of relief required.

8) Case 11-8. Petition of Donahue Realty Trust & Daniel J. Donahue, Trustee for property located at **272 Ocean Road (aka 278)** wherein relief is required from the Zoning Ordinance to establish a wholesale lumber yard which requires the following Variances: a) from Section 10.440 Use #13.30 to allow a Wholesale Lumber Yard where the use is not permitted; and b) from Section 10.521 to allow 35% open space where 50% minimum is required. Said property is shown on Assessor Plan 282, Lot 3 and lies within the Single Residence A District.

Action:

The Board voted to **deny** the application as presented. All the criteria necessary to grant a variance are not met. With single-family and residential uses in the area and a lot located in a single-family residential zone, the proposed use would not be consistent with the existing neighborhood. The requested variances would require a major change from residential to purely commercial so that granting the variances would be contrary to the public interest and would not observe the spirit of the ordinance.

9) Case 11-9. Petition of Karen B. Leon for property located at **284 New Castle Avenue** wherein relief is required from the Zoning Ordinance to construct a front porch and detached garage and add two condenser units that requires the following Variances: a) from Section 10.521 to allow a 3’6” front yard where 30’ is required; b) from Section 10.573.20 to allow a 5’6” left side yard where 10’ is required for an accessory structure; c) an after-the-fact Variance from Section 10.515.14 to allow a 5 foot right side yard for the condenser units where 10 feet is required; and d) from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Plan 207, Lot 73 and lies within the Single Residence B District.

Action:

The Board voted to **grant** the application as presented.

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IV. OTHER BUSINESS

A) Board of Adjustment Rules and Regulations.

Action:

The Board voted to **approve** the Board of Adjustment Rules and Regulations as revised November 19, 2019.

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V. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 10:26 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary