

ACTION SHEET

TO: Karen Sawyer Conard, City Manager

FROM: Mary Koepenick, Planning Department

RE: Actions Taken by the Portsmouth **Board of Adjustment at its regular meeting on *January 22, 2020** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.
**Change in customary day of the week.*

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

EXCUSED: Chairman David Rheame, John Formella, Christopher Mulligan

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I. APPROVAL OF MINUTES

A) December 17, 2019

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II. PUBLIC HEARINGS – OLD BUSINESS

A) Case 12-6. Petition of Nickerson Home Improvement Company, Inc. and James S. Remick, Trustee of James S. Remick Revocable Trust of 2000 and Linette S. Remick, Trustee of Linette S. Remick Revocable Trust of 2000, owners and Perley Lane LLC, applicant for properties located at **95 Brewster Street and 49 Sudbury Street** wherein relief is required from the Zoning Ordinance to demolish existing structures, merge two lots into one and construct 3 dwelling units which requires the following Variances from Section 10.521: a) to allow 42% building coverage where 35% is the maximum allowed; and b) to allow a 6’ rear yard where 20’ is required; and c) to allow a 17’ rear yard where 20’ is required.) Said properties are shown on Plan 138, Lots 57 and 58 and lie within the General Residence C District. *(This petition was postponed from the December meeting and the required relief has been revised.)*

Action:

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

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III. PUBLIC HEARINGS – NEW BUSINESS

1) Case 1-1. Petition of Argeris & Eloise Karabelas, owners, for property located at **11 Meeting House Hill Road** wherein relief is required from the Zoning Ordinance to remove and reconstruct garage roof and convert the second floor into a studio apartment which includes the following: 1) A Variance to increase the height of the garage to 20' 1" where a prior Board stipulated the height not exceed 18'. 2) A Variance from Section 10.521 to allow an 8' rear yard where 20' is required. Said property is shown on Assessor Plan 103, Lot 59 and lies within the General Residence B District.

Action:

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

2) Case 1-2. Petition of Christopher Hudson Morrow, owner, for property located at **36 Richmond Street** wherein relief is required from the Zoning Ordinance which requires the following to construct a 2-story bay addition, third floor dormer and new heat pump which requires the following: 1) Variances from Section 10.521 to allow the following: a) a 9' right side yard where 10' is required; b) a 12.5' rear yard where 15' is required; and c) 41% building coverage where 40% is the maximum allowed. 2) A Variance 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. 3) A Variance from Section 10.515.14 to allow a 7' right side yard where 10' is required. Said property is shown on Assessor Plan 108, Lot 5 and lies within the Mixed Residential Office District.

Action:

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

3) Case 1-3 Petition of James & Mallory Parkington, owners, for property located at **592 Dennett Street** wherein relief is required from the Zoning Ordinance to add an accessory dwelling unit above an attached garage which requires the following: 1) A Variance from Section 10.521 to allow a 4' secondary front yard where 15' is required. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Plan 161, Lot 18 and lies within the General Residence A District.

Action:

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

4) Case 1-4. Petition of SAI Builders, LLC, owner, for property located at **21 Elwyn Avenue** wherein relief is required from the Zoning Ordinance for the renovation of existing home including front porch reconstruction, kitchen expansion and second floor addition which requires the following: 1) A Variance from Section 10.521 to allow a) a 3’6” right side yard where 10’ is required; and b) to allow 32% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Plan 113, Lot 28 and lies within the General Residence A District.

Action:

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

5) Case 1-5. Petition of Clipper Traders LLC and Portsmouth Lumber & Hardware, LLC, owners, Iron Horse Properties, LLC, owner and applicant for property located at **105 Bartlett Street (aka 0 Bartlett Street)** wherein relief is required from the Zoning Ordinance for the relocation of existing structure and construction of 178 unit mixed-use development which includes the following: 1) A Variance from Section 10.516.20 to allow a 6’ setback from a railroad right of way where 15 feet is required. 2) A Variance from Section 10.5A42.40 to allow a new building to encroach into the Dover Street view corridor. 3) A Variance from Sections 10.5A43.31 & 10.5A46.10 to allow a portion of two buildings to be five-stories, 60 feet where a four-story, 50 foot building maximum is permitted with incentives in the CD4-W zone. Said property is shown on Assessor Plan 157, Lots 1 & 2 and Assessor Plan 164, Lot 4-2 and lies within Character District 4-W (CD 4-W) and Character District 4-L1 (CD4-L1).

Action:

The Board voted to **grant** Variance 1) and **deny** Variances 2) and 3) as they do not meet all the criteria necessary to grant a variance. Substantial justice would not be done as the benefit to the applicant could be outweighed by the harm to the general public or other individuals with inadequate public parking and a public safety issue due to the impact of additional traffic in the area. Literal enforcement of the ordinance would not result in unnecessary hardship. While there are some unique conditions of the property, they are not sufficient to say that there is no fair and substantial relationship between the purposes of the ordinance provisions and their application to the property and that an unnecessary hardship is created.

Granting Variances 2) and 3) would be contrary to the public interest and the spirit of the ordinance would not be observed. With regard to Variance 2), the intent in the ordinance is to provide specified views down the corridors. For Variance 3), allowing additional height beyond what is permitted would result in a change in the essential character of the neighborhood. The spirit of the ordinance is additionally violated as height was a specific concern when the zone was contemplated.

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IV. OTHER BUSINESS

No Other Business was discussed

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V. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 11:40 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary