

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

7:00 P.M.

June 21, 2023

ACTION SHEET

MEMBERS PRESENT: Phyllis Eldridge, Chair; Beth Margeson, Vice Chair; David Rheaume; Paul Mannle; Thomas Rossi; Jeffrey Mattson; ML Geffert, Alternate

MEMBERS EXCUSED: Jody Record, Alternate

ALSO PRESENT: Stefanie Casella, Planning Department; Jillian Harris, Planning Department

I. APPROVAL OF MINUTES

A. Approval of the May 16, 2023 minutes.

*The May 16 minutes were **approved** as submitted.*

B. Approval of the May 23, 2023 minutes.

*The May 23 minutes were **approved** as amended.*

II. OLD BUSINESS

A. Request for 1-year extension - **420 Pleasant Street** (LU-21-126)

*The Board voted to **grant** the request for the 1-year extension*

B. Request for **rehearing on the appeal of 1 Raynes Avenue** - As ordered by the Superior Court on February 2, 2023, the Board will “determine, in the first instance, whether it has jurisdiction over the issues presented” by Duncan MacCallum (Attorney for the Appellants) in the January 14, 2022 appeal of the December 16, 2021 decision of the Planning Board for property located at **31 Raynes Avenue, 203 Maplewood Avenue, and 1 Raynes Avenue** which granted the following: a) site plan approval b) wetlands conditional use permit; and c) certain other, miscellaneous approvals, including an approval related to valet parking. Said properties are shown on Assessor Map 123 Lot 14,

Map 123 Lot 13, Map 123 Lot 12, Map 123 Lot 10 and lie within the Character District 4 (CD4) District, Downtown Overlay District (DOD), Historic District, and the North End Incentive Overlay District. (LU-21-54)

*The Board voted to **deny** the rehearing because the issues raised in paragraphs 1 through 9 of the motion regarding Mr. Rheaume's participation in the hearing is not the jurisdiction of the ZBA; the issues raised in paragraphs 11 through 13 of the motion regarding the participation of Mr. Pezzullo is not the jurisdiction of the ZBA; the issues regarding parking raised in the motion are not appropriately before the Board given the limitations that were given when the Board first looked at it; and the issue raised in paragraph 16 of the motion regarding possible hazardous waste contamination on the site was not part of the remand from superior court.*

C. Request for Rehearing - 170 Aldrich Road (LU-23-47)

*The Board voted to **grant** the rehearing because the applicant did not have an effective opportunity to rebut the information presented by the abutter due to technical issues, with the **stipulation** that the applicant be required to attend in person.*

D. Request for Rehearing - 635 Sagamore Avenue (LU-22-209)

*The Board voted to **deny** the rehearing because the proposed use was consistent with the surrounding properties, the Board correctly assessed the four-unit residential development followed the spirit of the ordinance, the case of Walker vs. City of Manchester was not directly applicable due to the existing non-conforming use of the property.*

E. The request of The Islamic Society of the Seacoast Area ISSA (Owner), and Chinburg Development, LLC (Applicant), for property located at 686 Maplewood Avenue whereas relief is needed to construct four (4) duplexes and one (1) single living unit to create a total of nine (9) living units which requires the following: 1) Variance from Section 10.440, Use # 1.30 to permit four (4) two-family unit structures where they are not permitted, 2) Variance from Section 10.513 to permit five (5) free standing buildings with dwellings where not more than one is permitted, 3) Variance from Section 10.520 to allow a) 6,975 square feet of lot area per dwelling unit where 15,000 square feet is required; and b) 47 feet of frontage where 100 feet is required. Said property is located on Assessor Map 220 Lot 90 and lies within the Single Residence B (SRB) District and the Highway Noise Overlay District. (LU-23-57)

*The Board voted to 1) to **grant** the request for the 47-ft variance (Item 3.b); and 2) to **deny** the request to construct four duplexes and one single living unit to create a total of nine living units which requires relief from Section 10.440 (use 1.30) to permit four two-family structures where they are not permitted, and Section 10.513 to permit five freestanding dwellings where not more than one is permitted, and Section 10.520 for 6,975 square feet of lot area per dwelling unit where 15,000 square feet is required. The Board denied the request because the proposal was contrary to the public interest and purpose and intent of the SRB district by reducing the square foot per dwelling unit from 15,000 square feet to 6,975 square feet per dwelling; and applicant did not demonstrate the hardship and need to have a two-family dwelling, more than one freestanding dwelling per lot or for density relief.*

III. NEW BUSINESS

- A. The request of **Charles Silva Jr and Margaret Moran (Owners)**, for property located at **434 Marcy Street** whereas relief is needed to construct an addition to the rear of the existing structure, remove the existing shed, and construct a new shed which requires the following: 1) Variance from Section 10.521 to allow: a) 8 foot left yard setback where 10 feet is required; and b) 43% building coverage where 30% is allowed. 2) 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) Variance from Section 10.573.20 to allow a) 1 foot rear yard where 11 feet is required; and b) 1 foot right side yard where 11 feet is required. Said property is located on Assessor Map 102 Lot 41 and lies within the General Residence B (GRB) and Historic District. (LU-23-53)

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

- B. The request of **David Hugh Mason and Lisa Ann Mason (Owners)**, for property located at **239 Cass Street** whereas relief is needed to Demolish single story addition on the rear of the primary structure, construct a two (2) story rear addition to the primary structure, and demolish and enlarge existing garage which requires the following: Variance from Section 10.521 to allow: a) 1 foot right yard where 10 is required for the primary structure; b) 3 foot left yard where 10 is required for the accessory structure; c) 4 foot rear yard where 20 is required for the accessory structure; d) 37% building coverage where 30% is allowed on the lot. Said property is located on Assessor Map 147 Lot 4 and lies within the General Residence C (GRC) District. (LU-23-69)

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

- C. The request of **Danielle Okula, Dennis Okula, and Iriinia Okula (Owners)**, for property located at **2 Sewall Road** whereas relief is needed to Install a 6 foot fence where along the front of the property which requires a Variance from Section 10.515.13 to allow a 6 foot fence where 4 feet is allowed. Said property is located on Assessor Map 170 Lot 22 and lies within the Single Residence B (SRB) District. (LU-23-71)

*The Board voted to **postpone** to the July Meeting.*

I. OTHER BUSINESS

There was no other business.

II. ADJOURNMENT

The meeting was adjourned at 9:28 p.m.

