

**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 15, 2025**

**MEMBERS PRESENT:** Phyllis Eldridge, Chair; Beth Margeson, Vice Chair; David Rheame; Thomas Rossi; Paul Mannle; Jeffrey Mattson; Thomas Nies; Jody Record, Alternate

**MEMBERS EXCUSED:** None.

**ALSO PRESENT:** Peter Stith, Planning Department

---

Chair Eldridge called the meeting to order at 7:00 p.m.

**I. APPROVAL OF MINUTES**

**A. Approval of the March 18, 2025 meeting minutes.**

Mr. Nies requested amending the second line on p. 7 to say that the ordinance is unnecessary instead of necessary. The sentence now reads: He said there was also the question of whether those special conditions were enough to justify that strict adherence to the ordinance is unnecessary and met some benefit to the public, which was what he was wrestling with.

Mr. Rheame asked that the words ‘the’ and ‘property’ from the phrase ‘the narrowness of the Church Street property’ be deleted from the second sentence on p. 8 so that the sentence now reads: He said the hardship was the narrowness of Church Street and the distance away from State Street, which made the request a reasonable one within that context and allowed the applicant to take advantage of the extra height.

Vice-Chair Margeson asked that the word ‘quarters’ be changed to ‘buildings’ in the first full paragraph on p. 8. The sentence now reads: She said new buildings were part of that and that, in terms of the Board’s analysis, she would look at it from the Pleasant Street location as well.

*Mr. Mannle moved to **approve** the minutes as amended, seconded by Mr. Rossi. The motion **passed** unanimously, 7-0.*

## II. OLD BUSINESS

### A. 635 Sagamore Avenue – Extension Request (LU-22-209)

Mr. Rheume abstained from the vote.

*Mr. Mattson moved to **grant** the extension request, seconded by Vice-Chair Margeson.*

Mr. Mattson said the request was sensible, seeing that the applicant also had to deal with other land use boards and environmental regulations.

*The motion **passed** unanimously, with Mr. Rheume abstaining.*

### B. 39 Dearborn Street – Extension Request (LU-23-5)

Vice-Chair Margeson noted that the HDC granted the Certificate of Approval in June 2023 and the building application was filed in May 2024. She asked why it took a year. Mr. Stith said he did not know the sequence of the building permit process but knew that it had not been issued.

*Mr. Nies moved to **grant** the extension request, seconded by Mr. Mannle. The motion **passed** unanimously, 7-0.*

Chair Eldridge asked for a motion to suspend the rules to vote on the postponement requests.

*Mr. Mannle moved to **suspend** the rules, seconded by Mr. Rossi seconded. The motion **passed** unanimously, 7-0.*

*Mr. Mannle moved to **postpone** Items F through J to the May 20 meeting, seconded by Mr. Nies. The motion **passed** unanimously, 7-0.*

*Mr. Mannle moved to **postpone** Item B, 636 Lincoln Avenue, to the May 20 meeting, seconded by Mr. Mattson. The motion **passed** unanimously, with Mr. Nies recused.*

## III. NEW BUSINESS

- A. The request of **Jason T. and Trisha Brewster (Owners)** for property located at **121 Mechanic Street** whereas after-the-fact relief is required for a roof sign which requires the following: 1) Variance from Section 10.1240 to allow a roof sign where it is not an allowed sign type; and 2) Variance from Section 10.251 for an aggregate sign area of 191 s.f., which is greater than the maximum allowed. Said property is located on Assessor Map 103 Lot 31 and lies within the Waterfront Business (WB) and Historic Districts. (LU-25-5)

## SPEAKING TO THE PETITION

[Video timestamp 11:49] Attorney Phil Pettis was present of behalf of the applicant. He said the signage for the bait and tackle property was painted 'Bait & Ice'. He said the owner was not aware

that it constituted a technical definition of a sign at the time, but when he found out that it did he began the application process. Attorney Pettis said the sign is only visible from the water from the Peirce Island bridge. He reviewed the criteria, noting that the hardship was that it was a unique property that looked at the boat launch at Peirce Island and catered to locals and visitors who wanted fishing supplies. He said the sign ordinance protected neighborhoods from hazardous and distracting displays, but his client's sign was professionally done and was discreet. He noted that it was not the first time that a sign had been erected or painted on a rooftop in Portsmouth, and he passed out examples of similar signs to the Board.

[Timestamp 16:31] Mr. Rheume said the sign ordinance allowed the total aggregate sign area to be 16 square feet but the applicant's sign added up to 191 square feet, which was substantially different. Attorney Pettis said if the sign were treated in a smaller way on the large rooftop, it would look distasteful and would be more distracting and harder to read. He said the sign could not be seen from the neighborhood, so there was no detriment to the neighborhood character. He said the sign also enhanced the character of the south end, with its history of fishing and boats. He noted that the sign was not illuminated, did not extend from the roof, and was tastefully done. Mr. Rheume said it was stated in the packet that the customers would not know the availability of bait, tackle and ice before heading out to the water unless they saw the sign. He said the customers could use the more modern way of looking up the information on the internet. Attorney Pettis said a first timer might not be aware that there was a boat shop in that area because the building and the shop itself were hidden on Mechanic Street, so the sign would help. Mr. Nies asked if the customers tied up at the dock and got bait and ice there. Attorney Pettis agreed. Mr. Nies asked if the owner had considered a sign on that side of the building, which would be visible from the Pierce Island boat ramp. Attorney Pettis said he didn't know but thought the owner wanted to get people's attention on their way to the boat ramp and back. Mr. Mattson asked when the sign was first created and whether it was repainted or added for the first time. Attorney Pettis said the sign was originally added in October 2024.

Chair Eldridge opened the public hearing.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one spoke, and Chair Eldridge closed the public hearing.

### **DECISION OF THE BOARD**

*Mr. Rossi moved to **grant** the variances for the petition as presented and advertised, seconded by Mr. Mannle.*

[Timestamp 21:50] Mr. Rossi referred to Sections 10.233.21 and 22 and said granting the variances would not be contrary to the public interest. He said the Board often found that people have difficulty utilizing Waterfront Business-owned lots to conduct waterfront business, and he believed that granting the variances would promote the public interest by allowing the sign to remain where it is and enhance the prospects for the business to continue to prosper and operate so that the Waterfront Business District can be properly utilized as intended by the ordinance. Regarding

substantial justice, he said the property owners make a good case that the sign is not visible to a lot of residential properties in the area and is not a nuisance. He said he thought there was some weight to be applied to the fact that despite the sign's large square footage, it was not a standalone sign nor a billboard and it is not something that is obtrusive or intrusive to the rest of the neighborhood, so he did not see a loss to the general public that would outweigh the benefit to the property owner by allowing them to continue to utilize this sign. Due to the discrete location of the sign and the lack of an additional billboard or anything, he said he believed that it would have no impact on the surrounding property values. He said it added a bit of quaintness to the area, noting that Portsmouth had a fishing village tradition that sometimes tended to get buried by the stultifying sameness of new construction. He said the sign was a nice reminder of what the town had at one time been all about. He said literal enforcement of the provisions of the ordinance would result in unnecessary hardship. He said the sign ordinance is designed to prevent the area from becoming overly commercialized and garish in its presentation to the public, and he did not think the sign did that in any way, so literally applying the requirements of the ordinance to the rooftop lettering would not achieve the purpose of the sign ordinance. Mr. Mannle concurred and had nothing to add.

[Timestamp 24:56] There was more discussion. Mr. Rheume said he would not support the motion. He said he was supportive of the City's waterfront businesses and thought the Board defended those properties as much as they could, but he thought the sign fell very short on the first two criteria, the spirit of the ordinance and being in keeping with the neighborhood's characteristics. He said there were ways to accomplish what the applicant was trying to do, and he thought that the fact the applicant created the sign and were now asking for forgiveness had lulled the Board into saying that it was okay. He said some level of relief is probably appropriate for the business, but he thought the giant billboard on their roof was not in keeping with what the zoning ordinance wanted in the area. He said it was a stretch beyond what the Board could approve and be able to say that somehow it met the criteria that they were supposed to judge it by. Mr. Nies said he shared some of the same concerns and thought it was a balancing act. He said he was less concerned by the fact that the sign was on the roof than the sign's size. He said it was over ten times the maximum size of a sign for that area. He asked if the Board was interested in splitting the two variances and proposing a smaller size for the sign. Mr. Rossi said he wanted to see if the motion as presented had support first. Mr. Mattson said he agreed with some of Mr. Rheume's comments but the convincing factors for him was that the roof plane needed to be there no matter what, so it was not like a new plane. He said billboards were typically vertically oriented, which could be more imposing, but the roof was already there. He said the sign was not illuminated. He said it was not about the degree of nonconformity but rather was the principle and that it was in noncompliance due to the unique situation. Vice-Chair Margeson said she initially had concerns but would support the motion. She said the intent of the sign ordinance was to promote the interests of commercial districts, but it did not allow it in the Waterfront District, which she said did not make much sense to her, especially since people sometimes approach waterfront businesses from the water. She said it was technically a sign because it was painted on, and it was quite big. She said she thought it was really meant to attract the boaters going to and from. She said she did not want the motion bifurcated. She said the Board was supposed to support the Waterfront District. She said the sign was not illuminated and was on the roof and not really visible to anyone unless they were going over the Peirce Island

bridge. Chair Eldridge said she would support the motion but noted that the sign could be seen from Mechanic Street. She said many of the boaters at Prescott Park were first-time visitors and the sign would be an aid to them. She said the sign was charming and did not stand out from Mechanic Street. Mr. Rheume said ‘charming’ was not one of the Board’s criteria. He said he was judging it against the ordinance and the criteria and thought the sign was way outside of both. He said if the applicant had come to the Board ahead of time, they might have ended up with something different. He said the Board was presented with a fait accompli and were buying into it.

*The motion **passed** by a vote of 5-2, with Mr. Nies and Mr. Rheume voting in opposition.*

- B. REQUEST TO POSTPONE** The request of **Mezansky Family Revocable Trust (Owners)** for property located at **636 Lincoln Avenue** whereas relief is needed to demolish an existing detached garage and to construct an addition which requires the following: 1) Variance from Section 10.521 to a) allow a 2 foot left side yard setback where 10 feet is required; b) allow a 16 foot rear yard setback where **20** feet is required; c) allow 29% building coverage where 25% is the maximum allowed; and 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. Said property is located on Assessor Map 148 Lot 17 and lies within the General Residence A (GRA) District.  
**REQUEST TO POSTPONE (LU-25-27)**

## **DECISION OF THE BOARD**

The petition was **postponed** to the May 20 meeting.

- C. The request of Dreyer Family Revocable Trust (Owners)** for property located at **558 Islington Street** whereas relief is needed to allow a salon which requires the following: 1) Special Exception from Section 10.440, Use # 7.20 to allow a personal services use where it is allowed by Special Exception. Said property is located on Assessor Map 156 Lot 23 and lies within the Character District 4-L2 (CD4-L2) and Historic Districts. (LU-25-30)

Vice-Chair Margeson recused herself from the petition, and Alternate Ms. Record took a voting seat.

## **SPEAKING TO THE PETITION**

[Timestamp 33:15] The applicant Erica Perkins was present. She reviewed the petition and said her proposed salon would offer hair services with just one or two guests at a time. She reviewed the special exception criteria. She noted that the parking lot would have two dedicated spaces for the salon and that there were other parking spaces available

[Timestamp 36:54] Mr. Nies said there was a note in the packet that the applicant had permission for driveway use from 566 Islington Street. He asked if the applicant had an email from them. Ms. Perkins said she did not but that her landlord said she received permission, although there was

nothing in writing. Mr. Rheume asked why the applicant went into so much detail about the parking and had said that she was counting on eight of the ten spots, two of which were assigned to her salon. He noted that the slash parking spots were accessible only by traversing across a neighboring property. Ms. Perkins said she was told that parking would be a big factor, so she included a lot of information about it. Mr. Rheume said the Board did not have anything signed or legally notarized. He said the only thing that could truly give relief was an easement, and he asked if Ms. Perkins was aware of an easement on the neighboring property that allowed the landlord to access those parking spots. Ms. Perkins said she was not aware of it.

Chair Eldridge opened the public hearing.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one spoke, and Chair Eldridge closed the public hearing.

### **DECISION OF THE BOARD**

*Mr. Rossi moved to **grant** the special exception with the following **condition**:*

- 1. The approval will not be effectuated until satisfactory written documentation is provided to the Planning Department for permission to access those parking spaces either by an easement or a written letter by the neighboring property owner.*

*Mr. Mannle seconded the motion.*

[Timestamp 41:39] Mr. Rossi said the type of use was permitted by special exception in that zone, so Item 1 was satisfied. He said granting the special exception would pose no hazard to the public or adjacent properties on account of potential fire, explosion, or release of toxic materials. He said it was a salon and would be inherently devoid of such hazards and would not present new hazards. He noted that there was a barbershop in the building with a similar use. He said it would pose no detriment to property values in the vicinity, noting the existing barbershop. He said it was a commercial space and there would be no change to the outside of the structure to accommodate the use. He said it would not change the existing conditions and would present no hurdle for property values in the vicinity. He said granting the special exception would pose no creation of a traffic safety hazard of a substantial increase in the level of traffic in the area. He said it came down to parking and thought the provision of providing satisfactory written documentation to the Planning Department to assure that the property would have access to the slash parking spaces allowed him to feel comfortable that the criterion was satisfied. He said it would not present any new demands on municipal services because it would not generate a lot of wastewater or sewage. He said police and fire protection, schools, and so on would not be impacted by the use. He said granting the special exception would pose no significant increase in stormwater runoff because the building's exterior would not be altered. Mr. Mannle concurred. He noted that the space was a barbershop for 30 years and that he did not recall the abutting neighbor complaining about parking issues.

Mr. Nies said he would support the motion but would hate to impose a requirement that the owner get an easement because there was a legal cost to that. He said he hoped that the Planning Department and/or Permitting Department would not ignore the special language of Mr. Rossi's motion when they reviewed the information. Mr. Rheume said the Board always granted variances and special exceptions that run with the land, and that the decision went beyond that and had implications into the future because the current or future owner could sign off on something but then change their minds and wants to build something else in that space. He suggested a postponement to give the Planning Department time to work with the Legal Department and return with a recommendation to the Board on the most appropriate way to resolve the issue. He said the motion's condition represented the Board's hesitation to approve the special exception and that it also put the Planning Department in a bind.

*The motion **passed** by a vote of 6-1, with Mr. Rheume voting in opposition.*

Mr. Stith told the applicant to follow up with the Planning Department.

- D. The request of Freeze J. L. and Riecks J. D. Revocable Trust (Owners) and Kimberly Boualavong and Matthew Meyers (Applicants) for property located at 205 Bartlett Street** whereas relief is needed to allow a barbershop which requires the following: 1) Variance from Section 10.440, Use #7.20 to allow a personal services use where it is not allowed. Said property is located on Assessor Map 162 Lot 33 and lies within the General Residence A (GRA) District. (LU-25-31)

## **SPEAKING TO THE PETITION**

[Timestamp 50:01] The applicant Kimberly Boualavong was present and said they had the owner's authorization to move forward with the application and use their space commercially for the barbershop. She said the barbershop would be a community-focused and gathering place. She said they proposed a two-chair appointment-driven barbershop with walk-ins if space was available. She noted the barbershop's proposed hours of operation and said it would not be disruptive to the neighborhood and would meet Portsmouth's off-street parking requirements. She said the maximum number of people at one time would be six. She said the property is in the GRA District but had been used primarily as a commercial space since the 1950s. She said the Fire and Inspection Departments did a pre-inspection. She reviewed the criteria and said they would be met.

Mr. Rheume said the packet indicated that the applicants were tenants of the property, and he asked if they would occupy the residential portion of it. Ms. Boualavong said it was a typographical error and that they were just leasing the business portion.

Chair Eldridge opened the public hearing.

## **SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one spoke, and Chair Eldridge closed the public hearing.

**DECISION OF THE BOARD**

*Mr. Nies moved to **grant** the variance for the petition as presented and advertised, seconded by Mr. Rheume.*

[Timestamp 59:08 ] Mr. Nies said granting the variance would not be contrary to the public interest, noting that there was no evidence that it would affect the public's health, safety, or welfare. He said light and air would not be affected because the structure would not be changed, and it would not change the essential characteristics of the neighborhood, which was a residential area with some occasional businesses sprinkled throughout already. He said granting the variance would observe the spirit of the ordinance, noting that it was a non-permitted use but that it would remain consistent with the area's goal to be residential with limited commercial services, and the barbershop would be very small. He said it would do substantial justice and that he did not see any benefit to the public that would outweigh the loss to the applicant by denying the variance request. He said there was no evidence presented that granting the variance would diminish the values of surrounding properties. He said it had been used commercially for a long time and no one had complained that their property was diminished. He said literal enforcement of the ordinance would result in unnecessary hardship. He said the property had several special conditions, including being on a small corner lot and the building itself being less than 1,000 square feet, with the unit probably being 200 square feet. He said there was no effective way to turn that unit into a residential space because there was no kitchen or full bathroom, and it was extremely tiny. He said owing to those special conditions, there was no fair and substantial relationship between the purposes of the ordinance and the application to the specific property. Mr. Rheume concurred and said the shop was sort of a leftover from a time when small grocery and neighborhood stores were common. He named a few examples of the ones still seen throughout the City. He said the small area and the small size of the barbershop would be in keeping with what the GRA District was trying to accomplish. He said the parking requirement was met and that there was plenty of on-street parking in that location.

Mr. Rossi noted that, regarding potential future residence, he said he did not completely buy the argument that the space could not be used for a residential application. He said it was small but there was such a thing as an efficiency apartment that generally occupied a space of that size, and with the push for affordable housing in Portsmouth, he said encouraging the development of efficiency apartments is not contrary to the direction that the City could be going in. He said, however, that it had been traditionally used as commercial, so he would support the motion.

*The motion **passed** unanimously, 7-0.*

- E.** The request of **Alexander Nancy H. Revocable Trust (Owners)** for property located at **620 Peverly Hill Road** whereas relief is needed for a change of use to allow a health club that requires the following special exception from Section 10.440, Use #4.42 to allow a health club greater than 2,000 s.f. gross floor area. Said property is located on Assessor Map 254 Lot 6 and lies within the Industrial (I) District. (LU-25-33)



## **SPEAKING TO THE PETITION**

[Timestamp 1:04:53] The applicant Troy Collins was present and said the property was a great place to house the gym because it was near similar businesses. He said the peak hours were offset with some of the other businesses on the premises, so the parking arrangement would be adequate. He said there were currently 60 parking spaces that were underutilized and that ten of those spots were dedicated to the gym. He reviewed the criteria and said they would be met.

[Timestamp 1:10:37] Vice-Chair Margeson asked how many patrons the gym could accommodate. Mr. Collins said they had a target gym membership of 400 members and that the data showed that they should expect a maximum attendance of about nine members during peak hours. Vice-Chair Margeson asked what kind of health club services would be offered. Mr. Collins said it was an open-style gym so it would not offer classes or personal training other than workout equipment.

Chair Eldridge opened the public hearing.

## **SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one spoke, and Chair Eldridge closed the public hearing.

## **DECISION OF THE BOARD**

*Mr. Nies moved to **grant** the special exception for the petition as presented and advertised, seconded by Vice-Chair Margeson.*

[Timestamp 1:12:37] Mr. Nies said the standards as provided by the ordinance for this particular use is permitted by special exception but noted that there are no real standards in the ordinance for this particular use, so they were easy to meet. He said granting the special exception would not pose a hazard to the public or adjacent properties because it was a gym, and there would be no debris or anything that would create any hazards. He said the area is primarily a mixed industrial services area, and there was no evidence presented to say that it would have any detriment to any property values in the area and that it would change any essential characteristics of the neighborhood. He said no structures, parking areas, accessways, odors, smoke, dust, and so on would be impacted by the use. He said Peverly Hill Road is a busy area but there was no evidence to suggest that the gym would create additional traffic or a substantial increase in traffic. He said the typical high use of the gym would be nine people at a time, and even if that were doubled it would still not pose an extensive increase in traffic, so there would be no congestion in the area. He said granting the special exception would not create any demands on municipal services because the gym would be a very small operation. He said it would not overburden police or fire protection, water, sewer, and so on and that there would be no significant increase of stormwater runoff onto adjacent properties and streets because no changes would be made to the exterior. He said all the criteria were met. Vice-Chair Margeson concurred and had nothing to add.

*The motion **passed** unanimously, 7-0.*

- F. REQUEST TO POSTPONE** The request of **The Kane Company (Owners)** for property located at **210 Commerce Way** whereas relief is needed to remove, replace and relocate an existing freestanding sign which requires the following: 1) Variance from Section 10.1253.10 for a freestanding sign to be setback 4 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-4; and lies within the Office Research (OR) District. **REQUEST TO POSTPONE (LU-25-35)**

**DECISION OF THE BOARD**

The petition was **postponed** to the May 20 meeting.

- G. REQUEST TO POSTPONE** The request of **The Kane Company (Owners)** for property located at **170 and 190 Commerce Way** whereas relief is needed to remove, replace and relocate two existing freestanding signs which requires the following: 1) Variance from Section 10.1253.10 for two freestanding signs to be setback a) 2 feet and b) 10.5 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-2 and lies within the Office Research (OR) District. **REQUEST TO POSTPONE (LU-25-42)**

**DECISION OF THE BOARD**

The petition was **postponed** to the May 20 meeting.

- H. REQUEST TO POSTPONE** The request of **The Kane Company (Owners)** for property located at **195 Commerce Way** whereas relief is needed to remove, replace and relocate an existing freestanding sign which requires the following: 1) Variance from Section 10.1253.10 for a freestanding sign to be setback 6 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-8 and lies within the Office Research (OR) District. **REQUEST TO POSTPONE (LU-25-43)**

**DECISION OF THE BOARD**

The petition was **postponed** to the May 20 meeting.

- I. REQUEST TO POSTPONE** The request of **The Kane Company (Owners)** for property located at **215 Commerce Way** and **75 Portsmouth Boulevard** whereas relief is needed to remove, replace and relocate two existing freestanding signs which requires the following: 1) Variance from Section 10.1253.10 for two freestanding signs to be setback a) 1.5 feet and b) 9.5 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-8a and lies within the Office Research (OR) District. **REQUEST TO POSTPONE (LU-25-44)**

**DECISION OF THE BOARD**

The petition was **postponed** to the May 20 meeting.

**J. REQUEST TO POSTPONE** The request of **The Kane Company (Owners)** for property located at **230 Commerce Way** whereas relief is needed to remove, replace and relocate an existing freestanding sign which requires the following: 1) Variance from Section 10.1253.10 for a freestanding sign to be setback 4 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-5 and lies within the Office Research (OR) District. **REQUEST TO POSTPONE (LU-25-45)**

#### **DECISION OF THE BOARD**

The petition was **postponed** to the May 20 meeting.

#### **IV. OTHER BUSINESS**

No other business was discussed.

#### **V. ADJOURNMENT**

The meeting adjourned at 8:15 p.m.

Submitted,

Joann Breault  
BOA Meeting Minutes Taker