

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

7:00 P.M.

June 17, 2025

MEMBERS PRESENT: Beth Margeson, Vice Chair; David Rheame; Paul Mannle; Jeffrey Mattson; Thomas Nies

MEMBERS EXCUSED: Phyllis Eldridge, Chair; Thomas Rossi

ALSO PRESENT: Jillian Harris, Planning Department

Vice-Chair Margeson was Acting Chair for the evening and called the meeting to order at 7:00 p.m. Mr. Mannle arrived at approximately 7:24 p.m.

I. APPROVAL OF MINUTES

A. Approval of the **May 20, 2025** meeting minutes.

*Mr. Rheame moved to **approve** the minutes with the following amendments:*

Regarding the sentence at the bottom of page 3: “Mr. Rheame said the signs were also modest ones and more like those found in Sign District 2 rather than Sign District 4, and Sign District 2 requires a 5-ft setback, and the applicant did not want to require a 5-ft setback in a Sign District 2”. Mr. Rheame asked that the phrase at the end of the sentence stating that “the applicant did not want to require a 5-ft setback in a Sign District 2” be removed.

On page 5, top paragraph: “From a hardship standpoint, he said the applicant had shown that there were some existing layouts set up many years ago that forced signage closer than the 20 square feet, which was subsequently applied when the property lines were set up differently”. Mr. Rheame asked that the words “square feet” be replaced by “foot setback”, so the sentence now reads: “From a hardship standpoint, he said the applicant had shown that there were some existing layouts set up many years ago that forced signage closer than the 20 foot setback, which was subsequently applied when the property lines were set up differently.”

On page 8, top paragraph: “Mr. Rheame said the marquee sign and the square footage associated with it seemed quite a bit larger than what the Board allowed, but the overall square footage was sort of overestimated by the way it was looked at from a zoning ordinance standpoint.” Mr. Rheame asked that the word “Board” be changed to “ordinance”, so the sentence now reads: “Mr.

Rheaume said the marquee sign and the square footage associated with it seemed quite a bit larger than what the ordinance allowed, but the overall square footage was sort of overestimated by the way it was looked at from a zoning ordinance standpoint.”

On page 9, middle of the page: “Mr. Rheaume explained that the motion was different because it helped clarify the intent of the Board”. Mr. Rheaume asked that the words “in his opinion” be added so that the sentence now reads: “Mr. Rheaume explained that in his opinion the motion was different because it helped clarify the intent of the Board.”

*Mr. Mattson seconded. The motion to approve the minutes as amended **passed** 3-0, with Acting Chair Margeson abstaining.*

B. Approval of the May 27, 2025 meeting minutes.

*Mr. Mattson moved to **approve** the minutes, seconded by Mr. Nies.*

Mr. Nies asked that on page 1, as a comment to his recusal, that the sentence “The applicant agreed to present the application to the five remaining Board members” be added.

Mr. Rheaume asked that the following sentence on page 15 be amended: “He said when the original barn was converted into a living room previously, the Board stipulated that the northerly and westerly facades would not have any windows, which appeared to have occurred, but Ms. Freedman was proposing to add a window on the addition.” Mr. Rheaume asked that the words “living room” be changed to “living space” and that the phrase “westerly façade of the” be added in front of the phrase “Ms. Freedman was proposing to add a window on the addition”. The sentence now reads: “He said when the original barn was converted into a living space previously, the Board stipulated that the northerly and westerly facades would not have any windows, which appeared to have occurred, but Ms. Freedman was proposing to add a window on the westerly façade of the addition.

*The motion to approve the minutes as amended **passed** unanimously, 4-0.*

[Timestamp 13:00] At this point in the meeting, there were only four members. Acting Chair Margeson stated that there was a quorum but any application that went before the Board would require all four votes. She said the applicants had the option to postpone.

She noted that the petitions for 636 Lincoln Avenue and 92 Brewster Street would have only three voting members due to recusals, so they would have to be postponed. She read Old Business, Petition II.A, 92 Brewster Street, into the record and then stated that it would be postponed to the July 15th meeting. She then read Old Business, Petition II.C, 636 Lincoln Avenue, into the record and said the applicant’s request for withdrawal would be considered at the July 15th meeting.

Mr. Rheume made a point of order to suggest that the Board suspend the rules to take all applications out of order and let each applicant tell the Board if they would be taking the option to postpone their applications or if they wish to proceed at tonight's meeting.

Acting Chair Margeson then read all the other applications into the record. She said the applicants would decide if they wished to proceed or postpone to the July meeting.

She read Old Business Petition II.B, 1980 Woodbury Avenue, into the record. The applicant's representative Attorney Chris Drescher was present and asked to postpone it to the July meeting.

*Mr. Mattson moved to **postpone** the petition to the July 15th meeting, seconded by Mr. Rheume. The motion **passed** unanimously, 4-0.*

Acting Chair Margeson read New Business Petition III.A for 70 Heritage Avenue into the record. The applicant's representative Attorney Kevin Baum was present and asked that the petition be postponed to the July meeting.

*Mr. Rheume moved to **postpone** the petition to the July 15th meeting, seconded by Mr. Mattson. The motion **passed** unanimously, 4-0.*

[Timestamp 23:06] At this point in the meeting Mr. Mannle arrived, so there were five voting members. Acting Chair Margeson explained that the applicant would still require four affirmative votes for approval. She then read the rest of the petitions into the record.

She read New Business Petition III.B, 35 Boss Avenue, into the record. The applicant was present and said he would proceed.

Acting Chair Margeson then read New Business Petition III.C, 361 Miller Avenue, into the record. The applicant was not present.

*Mr. Rheume moved to **hear** the petition at the end of the meeting to allow the applicant time to arrive. (There was no second or vote).*

Acting Chair Margeson read New Business Petition III.D, 239 Broad Street, into the record. The owner Daniel Indoe was present and said he would proceed.

Acting Chair Margeson read New Business Petition III.E, 89 Brewery Lane, into the record. The applicant's representative Attorney Kevin Baum was present and asked that the petition be postponed to the August meeting instead of the July meeting because a project team member would not be available in July.

*Mr. Rheume moved to **postpone** the meeting to the August 19th meeting, seconded by Mr. Mattson. The motion **passed** unanimously, 5-0.*

The Board then addressed New Business Petition III.B, 35 Boss Avenue.

II. OLD BUSINESS

- A. The request of **Harborside Property Management LLC (Owner)**, for property located at **92 Brewster Street** whereas relief is needed to demolish the existing structure and construct a single-family home with Accessory Dwelling Unit which requires the following: 1) Variance from Section 10.521 to allow a) 2,884 s.f. of lot area where 3,500 s.f. are required, b) 2,884 s.f of lot area per dwelling unit where 3,500 s.f. are required, c) 52.33 feet of continuous street frontage where 70 feet are required, d) 9.5 foot right side yard where 10 feet are required, and e) 10 foot rear yard where 20 feet are required. Said property is located on Assessor Map 138 Lot 54 and lies within the General Residence C (GRC) District. (LU-25-25)

DECISION OF THE BOARD

The petition was **postponed** to the July 15th meeting.

- B. The request of **Colbea Enterprises LLC (Owners)**, for property located at **1980 Woodbury Avenue** whereas relief is needed to demolish and redevelop an existing gas station and convenience store which requires the following: 1) Variance from Section 10.5B33.20 to allow for a front lot line build out of 0% where a minimum of 75% is required for a commercial building; 2) Variance from Section 10.5B34.60 to allow for a front setback from the lot line of 27 feet on Woodbury Avenue and 53.5 feet on Gosling Road where a maximum of 20 feet is required; 3) Variance from Section 10.5B83.10 to allow for parking spaces to be located between the principal building and the street; 4) Variance from Section 10.835.31 to allow outdoor service facilities to be located within 34.5 feet and 40.5 of a lot line where 50 feet is required. 5) Variance from Section 10.835.32 to allow for drive-through lanes, bypass lanes and stacking lanes to be located within 13 feet of the property line where 30 feet is required; 6) Variance from Section 10.843.33 to allow for pump islands to be located within 34.5 feet of the lot lines where 40 feet is required; 7) Variance from Section 10.1251.10 to allow for an aggregate sign area of 309 s.f. where a maximum of 223.5 s.f. is allowed; 8) Variance from Section 10.1251.20 to allow a 134 s.f. freestanding sign where a maximum of 100 s.f. is allowed; and 9) Variance from Section 10.1253.10 to allow for a freestanding sign at a height of 26.5 feet where a maximum of 20 feet is allowed. Said property is located on Assessor Map 239 Lot 11 and lies within the Gateway Corridor (G1) District. (LU-25-39)

DECISION OF THE BOARD

The petition was **postponed** to the July 15th meeting.

- C. REQUEST TO WITHDRAW** - 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 to the primary structure 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 12.5 foot rear yard setback where 20 feet is required; c) allow 39% 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. (LU-25-27) - **REQUEST TO WITHDRAW**

DECISION OF THE BOARD

The request for withdrawal was **postponed** to the July 15th meeting.

III. NEW BUSINESS

- A.** The request of **Life Storage LP C/O Sovran Self Storage (Owner)**, for property located at **70 Heritage Avenue** whereas relief is needed for after-the-fact installation of mini-storage units which requires the following: 1) Variance from Section 10.531 to allow a 2-foot rear setback where 50 feet is required; and 2) Variance from Section 10.330 to allow the expansion of a nonconforming use where it is not permitted. Said property is located on Assessor Map 285 Lot 11-B and lies within the Industrial (I) District. (LU-25-36)

DECISION OF THE BOARD

The petition was **postponed** to the July 15th meeting.

- B.** The request of **Suzanne S. Dargie (Owner)**, for property located at **35 Boss Avenue** whereas relief is needed to construct a two-story addition to the existing single-family home which requires the following: 1) Variance from Section 10.521 to a) allow a 8.5 foot right side yard where 10 feet is required and b) 22.5% building coverage where a maximum of 20% is permitted. Said property is located on Assessor Map 152 Lot 42 and lies within the Single Residence B (SRB) District. (LU-25-72)

SPEAKING TO THE PETITION

[Timestamp 29:01] Project contractor Chad Danusis of Christian Persson Contractors was present on behalf of the applicant. He reviewed the petition and said they wanted to add two more bathrooms. He reviewed the criteria.

[Timestamp 32:50] Mr. Rheume asked if the new downstairs bathroom would have a sink, and the applicant agreed. Mr. Rheume noted that the site plan showed a new entryway and asked if it was to provide an easier way into the house from the driveway side. The applicant agreed.

Acting Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Acting Chair Margeson closed the public hearing.

DECISION OF THE BOARD [Timestamp 34:33]

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

Mr. Mannle cited Sections 10.233.21 and .22 of the ordinance and said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said the request was for an addition with a 1-1/2 ft variance for the right side setback and 2-1/2 percent over the 20 percent building coverage, which were both slight. Per Section 10.233.23, he said granting the variance would do substantial justice, noting that the requests were small. Per Section 10.233.24, he said granting the variance would not diminish the values of surrounding properties and would probably enhance them because it was a new addition on the house. Per Section 10.233.25, he said literal enforcement of the ordinance would result in an unnecessary hardship. He said what the applicant asked for was very minimal and would place an unnecessary hardship on him if it were not granted. He said the property had special conditions that distinguished it from others in the area and owing to those special conditions, a fair and substantial relationship does not exist between the general public purpose of the ordinance's provision and the specific application of that provision to the property, and the proposed use is a reasonable one, or the property cannot be reasonably used in strict conformance with the ordinance and the variance is therefore necessary to enable reasonable use of it. He said that was where it got tricky because the owner could use the property as it existed but the addition would enhance the property and the variance requests were very minimal. Mr. Nies concurred. He said the lot was a corner one, so there were two front yards, a primary and a secondary front yard, and the home was not centered on the lot. He said if the owner tried to expand the home in any other direction, it would require more zoning relief, therefore the way the home was located and the setback requirements for the two front yards were special conditions and there was no relationship between the strict adherence to the ordinance and the minimal variances being requested.

*The motion **passed** unanimously, 5-0.*

- C. The request of **Port Hunter LLC (Owner)**, for property located at **361 Miller Avenue** whereas relief is needed to demolish the existing detached garage and construct a new detached garage which requires the following: 1) Variance from Section 10.521 to allow a building coverage of 26% where a maximum of 25% is permitted; 2) Variance from Section 10.573.20 to a) allow an accessory building with a 10.5 foot rear setback where 20 feet is required; and b) a 6 foot left side yard setback where 10 feet is required. Said property is located on Assessor Map 131 Lot 33 and lies within the General Residence A (GRA) District. (LU-25-76)

[Timestamp 51:05] Attorney Colby Gamester was present on behalf of the applicant and asked that the petition be postponed to the July meeting.

DECISION OF THE BOARD

*Mr. Rheaume moved to **postpone** the petition to the July 15th meeting, seconded by Mr. Mattson. The motion **passed** unanimously, 5-0.*

- D.** The request of **Maureen A Rousseau and Daniel A Indoe (Owner)**, for property located at **239 Broad Street** whereas relief is needed to remove an existing detached accessory structure and to construct an addition to the primary structure which requires the following:
- 1) Variance from Section 10.521 to allow a secondary front yard setback of 6 feet where 15 feet is required. Said property is located on Assessor Map 131 Lot 15 and lies within the General Residence A (GRA) District. (LU-25-75)

SPEAKING TO THE PETITION

[Timestamp 38:59] The owner Daniel Indoe reviewed the petition. He said he wanted to remove an existing detached accessory structure and add a mudroom to the house by closing in half of the farmers porch and adding the modest 35 sf addition. He said the lot coverage would be 50 square feet and would not go over the 25 percent maximum lot coverage. He explained that he lived on a nonconforming lot where the house was only six inches from the right setback and 2-1/2 feet from the left, which was also a secondary frontage. He reviewed the criteria and said they would be met.

[Timestamp 45:16] Mr. Nies asked Mr. Indoe if he did not consider a shed for storage space because it would not be convenient to access the items from the home. Mr. Indoe agreed and said the storage space was for things like coats, bikes, scooters, and so on.

Acting Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Acting Chair Margeson 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. Mannle.*

[Timestamp 46:59] Mr. Nies said it was a very modest addition to the home and its location would be almost unnoticeable by anyone who had not seen the house before it was built and that it would fit in very well. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said it would have no effect on the health, safety, and welfare

of the neighborhood and would not modify its essential characteristics. He said it would remain a single family home and have no impact on light and air. He noted that the addition would be on the Bersum Lane side and would not go all the way to the farthest extent of the home. He said granting the variance would do substantial justice because there would be no benefit to the public that would accrue by denying the variance but there would be a substantial loss to the applicant because he would have to figure out another place to store the items, which would be a hardship. Mr. Nies said there was no evidence presented that granting the variance would diminish the values of surrounding properties. He said it would at least maintain them, if anything. He said there were special conditions to the property in that the house was located very close to the left side lot line, which was actually a secondary front yard because of Bersum Lane, and the house essentially filled the entire width of the lot. He said there was no real place to put anything in the house that would provide storage with ready access, noting that a shed would not have ready access for the type of items to be stored. Due to those special conditions, he said there was no fair and substantial relationship between the strict enforcement of the ordinance and its application to the property. Mr. Mannle concurred and had nothing to add.

Mr. Rheume said he would support the motion. He said the addition was a very modest one-story one that would close in a bit of the porch area, but the applicant would remain within the building coverage, which he thought was amazing to do on such a small lot.

*The motion **passed** unanimously, 5-0.*

- E. The request of **Greengard Center for Autism (Owner)**, for property located at **89 Brewery Lane** whereas relief is needed for a change of use from an assisted living home with 5 residents to an assisted living center with 6 residents which requires the following:
- 1) Variance from Section 10.440, Use #2.11 for an assisted living center where it is not permitted. Said property is located on Assessor Map 146 Lot 26 and lies within the Character District 4-L2 (CD4-L2). (LU-25-77)

DECISION OF THE BOARD

The petition was **postponed** to the August 19th meeting.

IV. ADJOURNMENT

The meeting adjourned at 7:52 p.m.

Submitted,

Joann Breault
BOA Meeting Minutes Taker