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 March 15, 2016 in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Chairman David Witham, Vice-Chairman David Rheaume, Jeremiah Johnson, Charles LeMay, Patrick Moretti, Arthur Parrott. Alternates: Jim Lee, Peter McDonell

EXCUSED: Christopher Mulligan

I. APPROVAL OF MINUTES

A) February 16, 2016

The Minutes were approved as presented with minor corrections.

II. OLD BUSINESS

A) 209 Clinton Street – clarification of February vote

Action:

The Board clarified that the information presented at this meeting and the February 16, 2016 meeting fell within the boundaries of what had been presented and advertised for the original application and should be incorporated within the variances that were granted. The Board confirmed that the applicant’s request was to clarify a previous approval, not for an Equitable Waiver and the Board’s vote on February 16, 2016 was an error.

The effect of the clarification is to allow the following dimensional relief:

- A left side yard setback of 8’4” where 10’ is required and a variance for 9’ had been granted; and
- A secondary front yard setback to Burkitt Street of 9’ where 15’ is required.
- 27.5% building coverage where 25% is the maximum allowed.
With this clarification of the original variances, the action of the Board in granting an Equitable Waiver at the February 16, 2016 meeting is nullified and the original granting of relief at the December 15, 2015 meeting is upheld.

B) 140 Thornton St – request for rehearing

Action:

The Board voted to deny the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

C) 482 Broad St – request for rehearing

The Board voted to deny the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

III. PUBLIC HEARINGS – OLD BUSINESS

1) Case #7-12
   Petitioner: New England Glory, LLC
   Property: 525 Maplewood Avenue
   Assessor Plan 209, Lot 85
   Zoning District: General Residence A
   Description: Creation of two lots where one exists. Construct building with four dwelling units.
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Special Exception under Section 10.440, Use #1.41 to allow four dwelling units in a district where the use is only allowed by Special Exception.
   2. Variances from Section 10.1114.21 to allow an 18’± maneuvering aisle and a 20’± access aisle where 24’ is required for both.
   3. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,755± s.f. where 7,500 s.f. is the minimum required.
   (This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2.)

   Action:

   The Board voted to deny the petition as presented and advertised.
Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
- There are no special conditions of the property distinguishing it from others in the area so that literal enforcement of the Ordinance would result in unnecessary hardship.

IV. PUBLIC HEARINGS – NEW BUSINESS

1) Case #3-1
   Petitioner: Everard E. Hatch
   Property: 45 Mill Pond Way
   Assessor Plan 143, Lot 11
   Zoning District: General Residence A
   Description: Add dwelling unit in existing attached garage.
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Variance from Section 10.521 to allow a lot area per dwelling unit of 7,467± s.f. where 7,500 s.f. is required.

Action:

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

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- Allowing occupation of an existing small structure will not change the essential character of the neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant in granting the variance will not be outweighed by any harm to the general public.
- The small difference in lot area per dwelling unit will not diminish the value of surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship. There is no fair and substantial relationship between the general public purposes of the
Ordinance provision and its specific application to this property, which provides only slightly under the required lot area per dwelling unit. It is a reasonable use of the property to create a small new housing unit.

2) Case #3-2
Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant
Property: 375 Banfield Road, Unit E
Assessor Plan 266, Lot 7
Zoning District: Industrial
Description: Use a portion of the property as an impound lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:
The Board voted to **grant** the petition as presented and advertised with the following stipulation:

**Stipulation:**
- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

**Other:**
- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

**Review Criteria:**
The special exception was granted for the following reasons:
- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.
3) Case #3-3
Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant
Property: 2300 Lafayette Road
Assessor Plan 273, Lot 5
Zoning Districts: Industrial
Description: Construct six workers’ dormitories and bath house.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Variance from Section 10.440 to allow six workers’ dormitories and bath house where the use is not allowed by the Zoning Ordinance.

Action:

The Board voted to postpone the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

4) Case #3-4
Petitioner: Terry Bennett
Property: 211 Union Street
Assessor Plan 135, Lot 70
Zoning District: General Residence C
Description: Construct three-story building with eight dwelling units.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.
   2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.
   3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.
   4. A Variance from Section 10.114.21 to allow a 12’± maneuvering aisle where a 14’ maneuvering aisle is required.

Action:

The Board voted to grant the petition as presented and advertised.

Stipulations:

None
Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.

5) Case #3-5
Petitioners: Walter W. & Patricia B. Bardenwerper
Property: 69 Hunking Street
Assessor Plan 103, Lot 40
Zoning District: General Residence B
Description: Install 4’± high fence with gates along stone wall on corner lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20’ of the intersection.

Action:
The Board voted to **grant** the petition as presented and advertised.

**Stipulations:**

None

**Review Criteria:**

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not resulting in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

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6) **Case #3-6**

**Petitioners:** Frank W. Getman, Jr. & Ingrid C. Getman  
**Property:** 606 Union Street  
**Assessor Plan 132, Lot 20-1A**  
**Zoning District:** General Residence A  
**Description:** Modification to a previous approval to construct a second single-family home on a lot.  
**Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

**Action:**

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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7) **Case #3-7**

**Petitioner:** Kayla Realty LLC  
**Property:** 60-62 Market Street  
**Assessor Plan 117, Lot 34**  
**Zoning District:** Character District 5  
**Description:** Provide rooms for guest housing.  
**Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from
the Zoning Ordinance, including the following:
1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

Action:

The Board voted to postpone the petition to a reconvened meeting to allow adequate time to hear the request.

V. OTHER BUSINESS

No other business was presented.

VI. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary
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 March 15, 2016 in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Chairman David Witham, Vice-Chairman David Rheaume, Jeremiah Johnson, Charles LeMay, Patrick Moretti, Arthur Parrott. Alternates: Jim Lee, Peter McDonell

EXCUSED: Christopher Mulligan

I. APPROVAL OF MINUTES

A) February 16, 2016

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II. OLD BUSINESS

A) 209 Clinton Street – clarification of February vote

Action:

The Board clarified that the information presented at this meeting and the February 16, 2016 meeting fell within the boundaries of what had been presented and advertised for the original application and should be incorporated within the variances that were granted. The Board confirmed that the applicant’s request was to clarify a previous approval, not for an Equitable Waiver and the Board’s vote on February 16, 2016 was an error.

The effect of the clarification is to allow the following dimensional relief:

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- A secondary front yard setback to Burkitt Street of 9’ where 15’ is required.
- 27.5% building coverage where 25% is the maximum allowed.
With this clarification of the original variances, the action of the Board in granting an Equitable Waiver at the February 16, 2016 meeting is nullified and the original granting of relief at the December 15, 2015 meeting is upheld.

B) 140 Thornton St – request for rehearing

Action:

The Board voted to deny the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

C) 482 Broad St – request for rehearing

The Board voted to deny the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

III. PUBLIC HEARINGS – OLD BUSINESS

1) Case #7-12
Petitioner: New England Glory, LLC
Property: 525 Maplewood Avenue
Assessor Plan 209, Lot 85
Zoning District: General Residence A
Description: Creation of two lots where one exists. Construct building with four dwelling units.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Special Exception under Section 10.440, Use #1.41 to allow four dwelling units in a district where the use is only allowed by Special Exception.
2. Variances from Section 10.1114.21 to allow an 18’± maneuvering aisle and a 20’± access aisle where 24’ is required for both.
3. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,755± s.f. where 7,500 s.f. is the minimum required.
   (This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2. )

Action:

The Board voted to deny the petition as presented and advertised.
Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
- There are no special conditions of the property distinguishing it from others in the area so that literal enforcement of the Ordinance would result in unnecessary hardship.

IV. PUBLIC HEARINGS – NEW BUSINESS

1) Case #3-1

   Petitioner: Everard E. Hatch
   Property: 45 Mill Pond Way
   Assessor Plan 143, Lot 11
   Zoning District: General Residence A
   Description: Add dwelling unit in existing attached garage.
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Variance from Section 10.521 to allow a lot area per dwelling unit of 7,467± s.f. where 7,500 s.f. is required.

Action:

The Board voted to grant the petition as presented and advertised.

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- Allowing occupation of an existing small structure will not change the essential character of the neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant in granting the variance will not be outweighed by any harm to the general public.
- The small difference in lot area per dwelling unit will not diminish the value of surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship. There is no fair and substantial relationship between the general public purposes of the
Ordinance provision and its specific application to this property, which provides only slightly under the required lot area per dwelling unit. It is a reasonable use of the property to create a small new housing unit.

2) Case #3-2
Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant
Property: 375 Banfield Road, Unit E
Assessor Plan 266, Lot 7
Zoning District: Industrial
Description: Use a portion of the property as an impound lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:
The Board voted to grant the petition as presented and advertised with the following stipulation:

Stipulation:
- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

Other:
- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

Review Criteria:
The special exception was granted for the following reasons:
- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.
3) Case #3-3  
   Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant  
   Property: 2300 Lafayette Road  
   Assessor Plan 273, Lot 5  
   Zoning Districts: Industrial  
   Description: Construct six workers’ dormitories and bath house.  
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:  
   1. A Variance from Section 10.440 to allow six workers’ dormitories and bath house where the use is not allowed by the Zoning Ordinance.  
   
   Action:  
   The Board voted to postpone the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

4) Case #3-4  
   Petitioner: Terry Bennett  
   Property: 211 Union Street  
   Assessor Plan 135, Lot 70  
   Zoning District: General Residence C  
   Description: Construct three-story building with eight dwelling units.  
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:  
   1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.  
   2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.  
   3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.  
   4. A Variance from Section 10.114.21 to allow a 12’± maneuvering aisle where a 14’ maneuvering aisle is required.  
   
   Action:  
   The Board voted to grant the petition as presented and advertised.  

Stipulations:  
None
Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.

5) Case #3-5
Petitioners: Walter W. & Patricia B. Bardenwerper
Property: 69 Hunking Street
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Zoning District: General Residence B
Description: Install 4’± high fence with gates along stone wall on corner lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20’ of the intersection.

Action:
The Board voted to **grant** the petition as presented and advertised.

**Stipulations:**

None

**Review Criteria:**

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
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**Property:** 606 Union Street  
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**Zoning District:** General Residence A  
**Description:** Modification to a previous approval to construct a second single-family home on a lot.  
**Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:  
1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

**Action:**

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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7) **Case #3-7**

**Petitioner:** Kayla Realty LLC  
**Property:** 60-62 Market Street  
**Assessor Plan 117, Lot 34**  
**Zoning District:** Character District 5  
**Description:** Provide rooms for guest housing.  
**Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from
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1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

Action:

The Board voted to postpone the petition to a reconvened meeting to allow adequate time to hear the request.

V. OTHER BUSINESS

No other business was presented.

VI. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary
TO: John P. Bohenko, City Manager
FROM: Mary Koepenick, Planning Department
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EXCUSED: Christopher Mulligan

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Action:

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Action:

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Review Criteria:

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Stipulations:

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Review Criteria:

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Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:
The Board voted to **grant** the petition as presented and advertised with the following stipulation:

Stipulation:
- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

Other:
- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

Review Criteria:
The special exception was granted for the following reasons:
- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.
3) Case #3-3
Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant
Property: 2300 Lafayette Road
Assessor Plan 273, Lot 5
Zoning Districts: Industrial
Description: Construct six workers’ dormitories and bath house.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Variance from Section 10.440 to allow six workers’ dormitories and bath house where the use is not allowed by the Zoning Ordinance.

Action:
The Board voted to postpone the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

4) Case #3-4
Petitioner: Terry Bennett
Property: 211 Union Street
Assessor Plan 135, Lot 70
Zoning District: General Residence C
Description: Construct three-story building with eight dwelling units.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.
3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.
4. A Variance from Section 10.114.21 to allow a 12’± maneuvering aisle where a 14’ maneuvering aisle is required.

Action:
The Board voted to grant the petition as presented and advertised.

Stipulations:
None
Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.

5) Case #3-5
Petitioners: Walter W. & Patricia B. Bardenwerper
Property: 69 Hunking Street
Assessor Plan 103, Lot 40
Zoning District: General Residence B
Description: Install 4’± high fence with gates along stone wall on corner lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20’ of the intersection.

Action:
The Board voted to **grant** the petition as presented and advertised.

**Stipulations:**

None

**Review Criteria:**

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not resulting in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

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6) **Case #3-6**
   - **Petitioners:** Frank W. Getman, Jr. & Ingrid C. Getman
   - **Property:** 606 Union Street
   - **Assessor Plan 132, Lot 20-1A**
   - **Zoning District:** General Residence A
   - **Description:** Modification to a previous approval to construct a second single-family home on a lot.
   - **Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
     1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

**Action:**

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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7) **Case #3-7**
   - **Petitioner:** Kayla Realty LLC
   - **Property:** 60-62 Market Street
   - **Assessor Plan 117, Lot 34**
   - **Zoning District:** Character District 5
   - **Description:** Provide rooms for guest housing.
   - **Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from
the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

**Action:**

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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**V. OTHER BUSINESS**

No other business was presented.

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**VI. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary
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 March 15, 2016 in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Chairman David Witham, Vice-Chairman David Rheaume, Jeremiah Johnson, Charles LeMay, Patrick Moretti, Arthur Parrott. Alternates: Jim Lee, Peter McDonell

EXCUSED: Christopher Mulligan

I. APPROVAL OF MINUTES

A) February 16, 2016

The Minutes were approved as presented with minor corrections.

II. OLD BUSINESS

A) 209 Clinton Street – clarification of February vote

Action:

The Board clarified that the information presented at this meeting and the February 16, 2016 meeting fell within the boundaries of what had been presented and advertised for the original application and should be incorporated within the variances that were granted. The Board confirmed that the applicant’s request was to clarify a previous approval, not for an Equitable Waiver and the Board’s vote on February 16, 2016 was an error.

The effect of the clarification is to allow the following dimensional relief:

- A left side yard setback of 8’4” where 10’ is required and a variance for 9’ had been granted; and
- A secondary front yard setback to Burkitt Street of 9’ where 15’ is required.
- 27.5% building coverage where 25% is the maximum allowed.
With this clarification of the original variances, the action of the Board in granting an Equitable Waiver at the February 16, 2016 meeting is nullified and the original granting of relief at the December 15, 2015 meeting is upheld.

B) 140 Thornton St – request for rehearing

Action:

The Board voted to deny the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

C) 482 Broad St – request for rehearing

The Board voted to deny the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

III. PUBLIC HEARINGS – OLD BUSINESS

1) Case #7-12
   Petitioner: New England Glory, LLC
   Property: 525 Maplewood Avenue
   Assessor Plan 209, Lot 85
   Zoning District: General Residence A
   Description: Creation of two lots where one exists. Construct building with four dwelling units.
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Special Exception under Section 10.440, Use #1.41 to allow four dwelling units in a district where the use is only allowed by Special Exception.
   2. Variances from Section 10.1114.21 to allow an 18’± maneuvering aisle and a 20’± access aisle where 24’ is required for both.
   3. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,755± s.f. where 7,500 s.f. is the minimum required. *(This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2.)*

Action:

The Board voted to deny the petition as presented and advertised.
Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
- There are no special conditions of the property distinguishing it from others in the area so that literal enforcement of the Ordinance would result in unnecessary hardship.

IV. PUBLIC HEARINGS – NEW BUSINESS

1) Case #3-1
   
   Petitioner: Everard E. Hatch
   Property: 45 Mill Pond Way
   Assessor Plan 143, Lot 11
   Zoning District: General Residence A
   Description: Add dwelling unit in existing attached garage.
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   
   1. A Variance from Section 10.521 to allow a lot area per dwelling unit of 7,467± s.f. where 7,500 s.f. is required.

Action:

The Board voted to grant the petition as presented and advertised.

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- Allowing occupation of an existing small structure will not change the essential character of the neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant in granting the variance will not be outweighed by any harm to the general public.
- The small difference in lot area per dwelling unit will not diminish the value of surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship. There is no fair and substantial relationship between the general public purposes of the
Ordinance provision and its specific application to this property, which provides only slightly under the required lot area per dwelling unit. It is a reasonable use of the property to create a small new housing unit.

2) Case #3-2
Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant
Property: 375 Banfield Road, Unit E
Assessor Plan 266, Lot 7
Zoning District: Industrial
Description: Use a portion of the property as an impound lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action: The Board voted to grant the petition as presented and advertised with the following stipulation:

Stipulation:

- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

Other:

- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

Review Criteria:

The special exception was granted for the following reasons:

- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.
3) Case #3-3
Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant
Property: 2300 Lafayette Road
Assessor Plan 273, Lot 5
Zoning Districts: Industrial
Description: Construct six workers’ dormitories and bath house.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Variance from Section 10.440 to allow six workers’ dormitories and bath house where the use is not allowed by the Zoning Ordinance.

Action:
The Board voted to postpone the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

4) Case #3-4
Petitioner: Terry Bennett
Property: 211 Union Street
Assessor Plan 135, Lot 70
Zoning District: General Residence C
Description: Construct three-story building with eight dwelling units.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.
3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.
4. A Variance from Section 10.114.21 to allow a 12’± maneuvering aisle where a 14’ maneuvering aisle is required.

Action:
The Board voted to grant the petition as presented and advertised.

Stipulations:
None
Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.

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5) Case #3-5  
Petitioners: Walter W. & Patricia B. Bardenwerper  
Property: 69 Hunking Street  
Assessor Plan 103, Lot 40  
Zoning District: General Residence B  
Description: Install 4’± high fence with gates along stone wall on corner lot.  
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:  
1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20’ of the intersection.  

Action:
The Board voted to **grant** the petition as presented and advertised.

**Stipulations:**

None

**Review Criteria:**

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not resulting in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

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6) **Case #3-6**

**Petitioners:** Frank W. Getman, Jr. & Ingrid C. Getman  
**Property:** 606 Union Street  
**Assessor Plan 132, Lot 20-1A**  
**Zoning District:** General Residence A  
**Description:** Modification to a previous approval to construct a second single-family home on a lot.  
**Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:  
1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

**Action:**

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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7) **Case #3-7**

**Petitioner:** Kayla Realty LLC  
**Property:** 60-62 Market Street  
**Assessor Plan 117, Lot 34**  
**Zoning District:** Character District 5  
**Description:** Provide rooms for guest housing.  
**Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from
the Zoning Ordinance, including the following:

1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

V. OTHER BUSINESS

No other business was presented.

VI. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary
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 March 15, 2016 in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Chairman David Witham, Vice-Chairman David Rheaume, Jeremiah Johnson, Charles LeMay, Patrick Moretti, Arthur Parrott. Alternates: Jim Lee, Peter McDonell

EXCUSED: Christopher Mulligan

I. APPROVAL OF MINUTES

A) February 16, 2016

The Minutes were approved as presented with minor corrections.

II. OLD BUSINESS

A) 209 Clinton Street – clarification of February vote

Action:

The Board clarified that the information presented at this meeting and the February 16, 2016 meeting fell within the boundaries of what had been presented and advertised for the original application and should be incorporated within the variances that were granted. The Board confirmed that the applicant’s request was to clarify a previous approval, not for an Equitable Waiver and the Board’s vote on February 16, 2016 was an error.

The effect of the clarification is to allow the following dimensional relief:

- A left side yard setback of 8’4” where 10’ is required and a variance for 9’ had been granted; and
- A secondary front yard setback to Burkitt Street of 9’ where 15’ is required.
- 27.5% building coverage where 25% is the maximum allowed.
With this clarification of the original variances, the action of the Board in granting an Equitable Waiver at the February 16, 2016 meeting is nullified and the original granting of relief at the December 15, 2015 meeting is upheld.

B) 140 Thornton St – request for rehearing

**Action:**

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

C) 482 Broad St – request for rehearing

The Board voted to **deny** the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

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**III. PUBLIC HEARINGS – OLD BUSINESS**

1) Case #7-12
   - **Petitioner:** New England Glory, LLC
   - **Property:** 525 Maplewood Avenue
   - **Assessor Plan:** 209, Lot 85
   - **Zoning District:** General Residence A
   - **Description:** Creation of two lots where one exists. Construct building with four dwelling units.
   - **Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
     1. A Special Exception under Section 10.440, Use #1.41 to allow four dwelling units in a district where the use is only allowed by Special Exception.
     2. Variances from Section 10.1114.21 to allow an 18’± maneuvering aisle and a 20’± access aisle where 24’ is required for both.
     3. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,755± s.f. where 7,500 s.f. is the minimum required.
        *This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2.*

**Action:**

The Board voted to **deny** the petition as presented and advertised.
Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
- There are no special conditions of the property distinguishing it from others in the area so that literal enforcement of the Ordinance would result in unnecessary hardship.

IV. PUBLIC HEARINGS – NEW BUSINESS

1) Case #3-1
   Petitioner: Everard E. Hatch
   Property: 45 Mill Pond Way
   Assessor Plan 143, Lot 11
   Zoning District: General Residence A
   Description: Add dwelling unit in existing attached garage.
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Variance from Section 10.521 to allow a lot area per dwelling unit of 7,467± s.f. where 7,500 s.f. is required.

Action:

The Board voted to grant the petition as presented and advertised.

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- Allowing occupation of an existing small structure will not change the essential character of the neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant in granting the variance will not be outweighed by any harm to the general public.
- The small difference in lot area per dwelling unit will not diminish the value of surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship. There is no fair and substantial relationship between the general public purposes of the
Ordinance provision and its specific application to this property, which provides only slightly under the required lot area per dwelling unit. It is a reasonable use of the property to create a small new housing unit.

2) Case #3-2
Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant
Property: 375 Banfield Road, Unit E
Assessor Plan 266, Lot 7
Zoning District: Industrial
Description: Use a portion of the property as an impound lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:
The Board voted to grant the petition as presented and advertised with the following stipulation:

Stipulation:
- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that it is differentiated from the other uses on the lot.

Other:
- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

Review Criteria:
The special exception was granted for the following reasons:
- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.
3) Case #3-3  
Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant  
Property: 2300 Lafayette Road  
Assessor Plan 273, Lot 5  
Zoning Districts: Industrial  
Description: Construct six workers’ dormitories and bath house.  
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:  
1. A Variance from Section 10.440 to allow six workers’ dormitories and bath house where the use is not allowed by the Zoning Ordinance.  

Action:  
The Board voted to postpone the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

4) Case #3-4  
Petitioner: Terry Bennett  
Property: 211 Union Street  
Assessor Plan 135, Lot 70  
Zoning District: General Residence C  
Description: Construct three-story building with eight dwelling units.  
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:  
1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.  
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.  
3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.  
4. A Variance from Section 10.114.21 to allow a 12’± maneuvering aisle where a 14’ maneuvering aisle is required.  

Action:  
The Board voted to grant the petition as presented and advertised.  

Stipulations:  
None
Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.

5) Case #3-5
Petitioners: Walter W. & Patricia B. Bardenwerper
Property: 69 Hunking Street
Assessor Plan 103, Lot 40
Zoning District: General Residence B
Description: Install 4’± high fence with gates along stone wall on corner lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20’ of the intersection.

Action:
The Board voted to **grant** the petition as presented and advertised.

**Stipulations:**

None

**Review Criteria:**

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not resulting in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

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6) **Case #3-6**

**Petitioners:** Frank W. Getman, Jr. & Ingrid C. Getman  
**Property:** 606 Union Street  
**Assessor Plan 132, Lot 20-1A**  
**Zoning District:** General Residence A  
**Description:** Modification to a previous approval to construct a second single-family home on a lot.  
**Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:  
1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

**Action:**

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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7) **Case #3-7**

**Petitioner:** Kayla Realty LLC  
**Property:** 60-62 Market Street  
**Assessor Plan 117, Lot 34**  
**Zoning District:** Character District 5  
**Description:** Provide rooms for guest housing.  
**Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from
the Zoning Ordinance, including the following:
1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

Action:

The Board voted to postpone the petition to a reconvened meeting to allow adequate time to hear the request.

V. OTHER BUSINESS

No other business was presented.

VI. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary
PLANNING DEPARTMENT - BOARD OF ADJUSTMENT

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 March 15, 2016 in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Chairman David Witham, Vice-Chairman David Rheaume, Jeremiah Johnson, Charles LeMay, Patrick Moretti, Arthur Parrott. Alternates: Jim Lee, Peter McDonell

EXCUSED: Christopher Mulligan

I. APPROVAL OF MINUTES

A) February 16, 2016

The Minutes were approved as presented with minor corrections.

II. OLD BUSINESS

A) 209 Clinton Street – clarification of February vote

Action:

The Board clarified that the information presented at this meeting and the February 16, 2016 meeting fell within the boundaries of what had been presented and advertised for the original application and should be incorporated within the variances that were granted. The Board confirmed that the applicant’s request was to clarify a previous approval, not for an Equitable Waiver and the Board’s vote on February 16, 2016 was an error.

The effect of the clarification is to allow the following dimensional relief:

- A left side yard setback of 8’4” where 10’ is required and a variance for 9’ had been granted; and
- A secondary front yard setback to Burkitt Street of 9’ where 15’ is required.
- 27.5% building coverage where 25% is the maximum allowed.
With this clarification of the original variances, the action of the Board in granting an Equitable Waiver at the February 16, 2016 meeting is nullified and the original granting of relief at the December 15, 2015 meeting is upheld.

B) 140 Thornton St – request for rehearing

Action:

The Board voted to deny the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

C) 482 Broad St – request for rehearing

The Board voted to deny the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

III. PUBLIC HEARINGS – OLD BUSINESS

1) Case #7-12

Petitioner: New England Glory, LLC
Property: 525 Maplewood Avenue
Assessor Plan 209, Lot 85
Zoning District: General Residence A
Description: Creation of two lots where one exists. Construct building with four dwelling units.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Special Exception under Section 10.440, Use #1.41 to allow four dwelling units in a district where the use is only allowed by Special Exception.
2. Variances from Section 10.1114.21 to allow an 18’± maneuvering aisle and a 20’± access aisle where 24’ is required for both.
3. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,755± s.f. where 7,500 s.f. is the minimum required.
(This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2.)

Action:

The Board voted to deny the petition as presented and advertised.
Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
- There are no special conditions of the property distinguishing it from others in the area so that literal enforcement of the Ordinance would result in unnecessary hardship.

IV. PUBLIC HEARINGS – NEW BUSINESS

1) Case #3-1
Petitioner: Everard E. Hatch
Property: 45 Mill Pond Way
Assessor Plan 143, Lot 11
Zoning District: General Residence A
Description: Add dwelling unit in existing attached garage.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Variance from Section 10.521 to allow a lot area per dwelling unit of 7,467 ± s.f. where 7,500 s.f. is required.

Action:

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

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- Allowing occupation of an existing small structure will not change the essential character of the neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant in granting the variance will not be outweighed by any harm to the general public.
- The small difference in lot area per dwelling unit will not diminish the value of surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship. There is no fair and substantial relationship between the general public purposes of the
Ordinance provision and its specific application to this property, which provides only slightly under the required lot area per dwelling unit. It is a reasonable use of the property to create a small new housing unit.

2) Case #3-2
Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant
Property: 375 Banfield Road, Unit E
Assessor Plan 266, Lot 7
Zoning District: Industrial
Description: Use a portion of the property as an impound lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:
The Board voted to grant the petition as presented and advertised with the following stipulation:

Stipulation:
- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

Other:
- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

Review Criteria:
The special exception was granted for the following reasons:
- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.
3) Case #3-3
   Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant
   Property: 2300 Lafayette Road
   Assessor Plan 273, Lot 5
   Zoning Districts: Industrial
   Description: Construct six workers’ dormitories and bath house.
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Variance from Section 10.440 to allow six workers’ dormitories and bath house where the use is not allowed by the Zoning Ordinance.

   Action:
   The Board voted to postpone the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

4) Case #3-4
   Petitioner: Terry Bennett
   Property: 211 Union Street
   Assessor Plan 135, Lot 70
   Zoning District: General Residence C
   Description: Construct three-story building with eight dwelling units.
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.
   2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.
   3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.
   4. A Variance from Section 10.114.21 to allow a 12’± maneuvering aisle where a 14’ maneuvering aisle is required.

   Action:
   The Board voted to grant the petition as presented and advertised.

   Stipulations:
   None
Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.

5) Case #3-5
Petitioners: Walter W. & Patricia B. Bardenwerper
Property: 69 Hunking Street
Assessor Plan 103, Lot 40
Zoning District: General Residence B
Description: Install 4’± high fence with gates along stone wall on corner lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20’ of the intersection.

Action:
The Board voted to **grant** the petition as presented and advertised.

**Stipulations:**

None

**Review Criteria:**

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not resulting in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

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6) **Case #3-6**

**Petitioners:** Frank W. Getman, Jr. & Ingrid C. Getman

**Property:** 606 Union Street

**Assessor Plan:** 132, Lot 20-1A

**Zoning District:** General Residence A

**Description:** Modification to a previous approval to construct a second single-family home on a lot.

**Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

**Action:**

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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7) **Case #3-7**

**Petitioner:** Kayla Realty LLC

**Property:** 60-62 Market Street

**Assessor Plan:** 117, Lot 34

**Zoning District:** Character District 5

**Description:** Provide rooms for guest housing.

**Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from
the Zoning Ordinance, including the following:
1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

V. OTHER BUSINESS

No other business was presented.

VI. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary
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 March 15, 2016 in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Chairman David Witham, Vice-Chairman David Rheaume, Jeremiah Johnson, Charles LeMay, Patrick Moretti, Arthur Parrott. Alternates: Jim Lee, Peter McDonell

EXCUSED: Christopher Mulligan

I. APPROVAL OF MINUTES

A) February 16, 2016

The Minutes were approved as presented with minor corrections.

II. OLD BUSINESS

A) 209 Clinton Street – clarification of February vote

Action:

The Board clarified that the information presented at this meeting and the February 16, 2016 meeting fell within the boundaries of what had been presented and advertised for the original application and should be incorporated within the variances that were granted. The Board confirmed that the applicant’s request was to clarify a previous approval, not for an Equitable Waiver and the Board’s vote on February 16, 2016 was an error.

The effect of the clarification is to allow the following dimensional relief:

- A left side yard setback of 8’4” where 10’ is required and a variance for 9’ had been granted; and
- A secondary front yard setback to Burkitt Street of 9’ where 15’ is required.
- 27.5% building coverage where 25% is the maximum allowed.
With this clarification of the original variances, the action of the Board in granting an Equitable Waiver at the February 16, 2016 meeting is nullified and the original granting of relief at the December 15, 2015 meeting is upheld.

B) 140 Thornton St – request for rehearing

Action:

The Board voted to deny the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

C) 482 Broad St – request for rehearing

The Board voted to deny the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

III. PUBLIC HEARINGS – OLD BUSINESS

1) Case #7-12
   Petitioner: New England Glory, LLC
   Property: 525 Maplewood Avenue
   Assessor Plan 209, Lot 85
   Zoning District: General Residence A
   Description: Creation of two lots where one exists. Construct building with four dwelling units.
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Special Exception under Section 10.440, Use #1.41 to allow four dwelling units in a district where the use is only allowed by Special Exception.
   2. Variances from Section 10.1114.21 to allow an 18’± maneuvering aisle and a 20’± access aisle where 24’ is required for both.
   3. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,755± s.f. where 7,500 s.f. is the minimum required.
      (This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2.)

Action:

The Board voted to deny the petition as presented and advertised.
Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
- There are no special conditions of the property distinguishing it from others in the area so that literal enforcement of the Ordinance would result in unnecessary hardship.

IV. PUBLIC HEARINGS – NEW BUSINESS

1) Case #3-1
   Petitioner: Everard E. Hatch
   Property: 45 Mill Pond Way
   Assessor Plan 143, Lot 11
   Zoning District: General Residence A
   Description: Add dwelling unit in existing attached garage.
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Variance from Section 10.521 to allow a lot area per dwelling unit of 7,467± s.f. where 7,500 s.f. is required.

Action:

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

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- Allowing occupation of an existing small structure will not change the essential character of the neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant in granting the variance will not be outweighed by any harm to the general public.
- The small difference in lot area per dwelling unit will not diminish the value of surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship. There is no fair and substantial relationship between the general public purposes of the
Ordinance provision and its specific application to this property, which provides only slightly under the required lot area per dwelling unit. It is a reasonable use of the property to create a small new housing unit.

2) Case #3-2
Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant
Property: 375 Banfield Road, Unit E
Assessor Plan 266, Lot 7
Zoning District: Industrial
Description: Use a portion of the property as an impound lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:
The Board voted to **grant** the petition as presented and advertised with the following stipulation:

**Stipulation:**
- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

**Other:**
- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

**Review Criteria:**
The special exception was granted for the following reasons:
- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.
3) Case #3-3
   Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant
   Property: 2300 Lafayette Road
   Assessor Plan 273, Lot 5
   Zoning Districts: Industrial
   Description: Construct six workers’ dormitories and bath house.
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Variance from Section 10.440 to allow six workers’ dormitories and bath house where the use is not allowed by the Zoning Ordinance.

   Action:

   The Board voted to postpone the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

4) Case #3-4
   Petitioner: Terry Bennett
   Property: 211 Union Street
   Assessor Plan 135, Lot 70
   Zoning District: General Residence C
   Description: Construct three-story building with eight dwelling units.
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.
   2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.
   3. A Variance from Section 10.521 to allow 55%± building coverage where 73% exists and 35% is the maximum allowed.
   4. A Variance from Section 10.114.21 to allow a 12’± maneuvering aisle where a 14’ maneuvering aisle is required.

   Action:

   The Board voted to grant the petition as presented and advertised.

   Stipulations:

   None
Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.

5) Case #3-5
Petitioners: Walter W. & Patricia B. Bardenwerper
Property: 69 Hunking Street
Assessor Plan 103, Lot 40
Zoning District: General Residence B
Description: Install 4’± high fence with gates along stone wall on corner lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20’ of the intersection.

Action:
The Board voted to **grant** the petition as presented and advertised.

**Stipulations:**

None

**Review Criteria:**

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not resulting in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

6) **Case #3-6**

**Petitioners:** Frank W. Getman, Jr. & Ingrid C. Getman

**Property:** 606 Union Street

**Assessor Plan 132, Lot 20-1A**

**Zoning District:** General Residence A

**Description:** Modification to a previous approval to construct a second single-family home on a lot.

**Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

**Action:**

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

7) **Case #3-7**

**Petitioner:** Kayla Realty LLC

**Property:** 60-62 Market Street

**Assessor Plan 117, Lot 34**

**Zoning District:** Character District 5

**Description:** Provide rooms for guest housing.

**Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from
the Zoning Ordinance, including the following:
1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

Action:

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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V. OTHER BUSINESS

No other business was presented.

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VI. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary
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 March 15, 2016 in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Chairman David Witham, Vice-Chairman David Rheaume, Jeremiah Johnson, Charles LeMay, Patrick Moretti, Arthur Parrott. Alternates: Jim Lee, Peter McDonell

EXCUSED: Christopher Mulligan

I. APPROVAL OF MINUTES

A) February 16, 2016

The Minutes were approved as presented with minor corrections.

II. OLD BUSINESS

A) 209 Clinton Street – clarification of February vote

Action:

The Board clarified that the information presented at this meeting and the February 16, 2016 meeting fell within the boundaries of what had been presented and advertised for the original application and should be incorporated within the variances that were granted. The Board confirmed that the applicant’s request was to clarify a previous approval, not for an Equitable Waiver and the Board’s vote on February 16, 2016 was an error.

The effect of the clarification is to allow the following dimensional relief:

- A left side yard setback of 8’4” where 10’ is required and a variance for 9’ had been granted; and
- A secondary front yard setback to Burkitt Street of 9’ where 15’ is required.
- 27.5% building coverage where 25% is the maximum allowed.
With this clarification of the original variances, the action of the Board in granting an Equitable Waiver at the February 16, 2016 meeting is nullified and the original granting of relief at the December 15, 2015 meeting is upheld.

B) 140 Thornton St – request for rehearing

**Action:**

The Board voted to *deny* the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

C) 482 Broad St – request for rehearing

The Board voted to *deny* the Motion for Rehearing. The Board found that it made no errors in procedure or application of the law. The Board further determined that no new information had been provided that was not available at the time of the public hearing.

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III. PUBLIC HEARINGS – OLD BUSINESS

1) Case #7-12

- **Petitioner:** New England Glory, LLC
- **Property:** 525 Maplewood Avenue
- **Assessor Plan 209, Lot 85**
- **Zoning District:** General Residence A
- **Description:** Creation of two lots where one exists. Construct building with four dwelling units.

**Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Special Exception under Section 10.440, Use #1.41 to allow four dwelling units in a district where the use is only allowed by Special Exception.
2. Variances from Section 10.1114.21 to allow an 18’± maneuvering aisle and a 20’± access aisle where 24’ is required for both.
3. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,755± s.f. where 7,500 s.f. is the minimum required.

*(This petition has been postponed from the September 15, 2015 meeting and modified by the addition of Requests #1 and #2.)*

**Action:**

The Board voted to *deny* the petition as presented and advertised.
Review Criteria:

The petition was denied for the following reasons:

- All the standards for granting the special exception and the criteria for granting the variances are not met.
- The proposed location of the driveway and curb cut are a concern with regard to creating a traffic safety hazard.
- With a number of units already on the property, the spirit of the Ordinance will not be observed by the proposed increase in density.
- There are no special conditions of the property distinguishing it from others in the area so that literal enforcement of the Ordinance would result in unnecessary hardship.

IV. PUBLIC HEARINGS – NEW BUSINESS

1) Case #3-1
   Petitioner: Everard E. Hatch
   Property: 45 Mill Pond Way
   Assessor Plan 143, Lot 11
   Zoning District: General Residence A
   Description: Add dwelling unit in existing attached garage.
   Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
   1. A Variance from Section 10.521 to allow a lot area per dwelling unit of 7,467± s.f. where 7,500 s.f. is required.

Action:

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

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- Allowing occupation of an existing small structure will not change the essential character of the neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant in granting the variance will not be outweighed by any harm to the general public.
- The small difference in lot area per dwelling unit will not diminish the value of surrounding properties.
- Literal enforcement of the Ordinance would result in unnecessary hardship. There is no fair and substantial relationship between the general public purposes of the
Ordinance provision and its specific application to this property, which provides only slightly under the required lot area per dwelling unit. It is a reasonable use of the property to create a small new housing unit.

2) Case #3-2
Petitioners: Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant
Property: 375 Banfield Road, Unit E
Assessor Plan 266, Lot 7
Zoning District: Industrial
Description: Use a portion of the property as an impound lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

Action:
The Board voted to grant the petition as presented and advertised with the following stipulation:

Stipulation:
- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

Other:
- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment.

Review Criteria:
The special exception was granted for the following reasons:
- In a separated area with open space around it, there will be no hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- With long-standing automotive and similar uses on the property, there will be no change in the essential characteristics of the area or detriment to property values from odors, smoke or other pollutants, noise or heat.
- Located away from the roadway, the use will not create a traffic safety hazard or result in a substantial increase in the level of traffic congestion in the vicinity.
- An outdoor temporary holding area in an interior location on the property will not result in an excessive demand on municipal services or result in a significant increase in storm water runoff onto adjacent property or streets.
3) Case #3-3  
Petitioner: Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant  
Property: 2300 Lafayette Road  
Assessor Plan 273, Lot 5  
Zoning Districts: Industrial  
Description: Construct six workers’ dormitories and bath house.  
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:  
1. A Variance from Section 10.440 to allow six workers’ dormitories and bath house where the use is not allowed by the Zoning Ordinance.  

Action:  
The Board voted to postpone the petition to a future meeting so that the applicant could provide additional information in response to the expressed questions and concerns of the Board.

4) Case #3-4  
Petitioner: Terry Bennett  
Property: 211 Union Street  
Assessor Plan 135, Lot 70  
Zoning District: General Residence C  
Description: Construct three-story building with eight dwelling units.  
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:  
1. A Special Exception under Section 10.440, Use 1.53 to allow eight dwelling units in a district where the use is only allowed by Special Exception.  
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,981± s.f. where 3,500 s.f. is required.  
3. A Variance from Section 10.521 to allow 55±% building coverage where 73% exists and 35% is the maximum allowed.  
4. A Variance from Section 10.114.21 to allow a 12±’ maneuvering aisle where a 14’ maneuvering aisle is required.  

Action:  
The Board voted to grant the petition as presented and advertised.  

Stipulations:  
None
Review Criteria:

The special exception was granted for the following reasons:

- Eight dwelling units will not result in a hazard to the public or adjacent property from fire explosion or release of toxic materials.
- With a well designed ingress and egress there will be no creation of a traffic safety hazard or substantial increase in traffic congestion.
- There will be no detriment to property values in the vicinity or change in the essential characteristics of the area. The overall density and height of the neighborhood support a structure of this size and the design will fit in with the character of the neighborhood.
- This will not increase the number of residences in the neighborhood to a level that would result in an excessive demand on municipal services.
- There should be no significant increase in storm water runoff onto adjacent property or streets and the plans will be scrutinized in the site review process.

The variances were granted for the following reasons:

- The variances will not be contrary to the public interest and the spirit of the Ordinance will be observed. This is a residential use in a residential zone adding off-street parking which will mitigate the requested relief for building coverage which will be reduced from what is existing.
- Substantial justice will be done by allowing the property owner to improve the property and make it economically feasible with no corresponding harm to the general public.
- Replacing an old large structure with a well designed smaller structure will not diminish the value of surrounding properties.
- The special condition of the property distinguishing it from others so that there is no fair and substantial relationship between the general public purposes of the Ordinance provisions and their specific application to the property is that this an unusually large lot with an unusually large building where it was difficult to rehabilitate in a reasonable way without requiring relief.

5) Case #3-5

Petitioners: Walter W. & Patricia B. Bardenwerper
Property: 69 Hunking Street
Assessor Plan 103, Lot 40
Zoning District: General Residence B
Description: Install 4’± high fence with gates along stone wall on corner lot.
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 516.30 to allow a fence to be installed on a corner lot at the edge of the street line within 20’ of the intersection.
The Board voted to **grant** the petition as presented and advertised.

**Stipulations:**

None

**Review Criteria:**

The petition was granted for the following reasons:

- Installing a fence where previous fences had existed will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done as the benefit to the applicant if the variance is granted will not resulting in any corresponding harm to the general public.
- The value of surrounding properties will not be diminished as the fence will allow visibility and increase the aesthetics and historic aspect of the property.
- A tight lot with a stone wall up against the street are special conditions of the property creating an unnecessary hardship if the strict provisions of the Ordinance are applied. The fence will be located in the most logical spot, is a reasonable use of the property and enhances safety for the applicant and the general public.

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6) **Case #3-6**
   - **Petitioners:** Frank W. Getman, Jr. & Ingrid C. Getman
   - **Property:** 606 Union Street
   - **Assessor Plan 132, Lot 20-1A**
   - **Zoning District:** General Residence A
   - **Description:** Modification to a previous approval to construct a second single-family home on a lot.
   - **Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:
     1. A Variance from Section 10.513 to allow a second free-standing dwelling unit on a lot where only one free-standing unit is allowed.

   **Action:**

   The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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7) **Case #3-7**
   - **Petitioner:** Kayla Realty LLC
   - **Property:** 60-62 Market Street
   - **Assessor Plan 117, Lot 34**
   - **Zoning District:** Character District 5
   - **Description:** Provide rooms for guest housing.
   - **Requests:** The Variances and/or Special Exceptions necessary to grant the required relief from
the Zoning Ordinance, including the following:
1. A Variance from Section 10.440 to allow the creation of rooms to provide guest housing for non-family members within an existing dwelling unit where such use is not allowed.

**Action:**

The Board voted to **postpone** the petition to a reconvened meeting to allow adequate time to hear the request.

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V. OTHER BUSINESS

No other business was presented.

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VI. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 11:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary