

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 reconvened meeting on June 27, 2017** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

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

EXCUSED: Christopher Mulligan

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III. PUBLIC HEARINGS – NEW BUSINESS (continued from June 20, 2017)

8) Case 6-8

Petitioner: Regeneration Realty Trust, Jonathan Bobbett, Trustee
Property: 3612 Lafayette Road
Assessor Plan: Map 297, Lot 3
Zoning District: Gateway
Description: Increase interior office space by 1,330 square feet with less than the required parking.
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:
1. A Variance from Section 10.1112.30 to allow 113 off-street parking spaces where 116 are required.

Action:

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

Review Criteria:

The petition was granted for the following reasons:

- Providing three less off-street parking spaces than required will not be apparent to the general public so that granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed.

- Substantial justice will be done. This has been operated as a commercial property for many years so that granting the variance will benefit the applicant with no corresponding harm to the general public.
- The value of surrounding properties will not be diminished by allowing a few less parking spaces than are required on a lot with a number of parking spaces available.
- Not granting the variance would create a hardship in trying to adjust configurations that are already in place to create additional spaces.

9) Case 6-9

Petitioner: Revision Development LLC

Property: 90 Cutts Street

Assessor Plan: Map 209, Lot 19

Zoning District: General Residence A (GRA)

Description: Demolish existing dwelling and garage and construct a new two-family dwelling with attached garages.

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

1. A Variance from Section 10.521 to allow a 12.5'± rear yard where 20' is required.
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 6,005± s.f. where 7,500 s.f. is required.

Action:

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

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. There are a number of multi-family properties in the area and the size and style of the proposed structure is similar to others nearby so that the proposal for this lot will not alter the character of the neighborhood.
 - Substantial justice will be done by allowing the owners reasonable development of their property with no harm to the general public.
 - The value of surrounding properties will not be diminished by a well-designed structure in keeping with the neighborhood.
 - Literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property. The shape and narrowness of the lot make it difficult to design a reasonable structure that can accommodate current needs and not require relief from the ordinance requirements.
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10) Case 6-10

Petitioners: Charles A. & Patricia Corlin Family IV Trust, Charles A. Corlin, Trustee

Property: 736 Middle Street

Assessor Plan: Map 148, Lot 24

Zoning District: General Residence A (GRA)

Description: Construction of a new deck.

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

1. A Variance from Section 10.521 to allow a 2'± left side yard and an 8'± right side yard where 10' is required for each.
2. A Variance from Section 10.321 to allow a nonconforming building to be reconstructed or enlarged without conforming to the requirements of the Ordinance.

Action:

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

Review Criteria:

The petition was granted for the following reasons:

- Replacing an existing deck with an open deck that is further from the property line that will maintain light and air will not be contrary to the public interest and the spirit of the ordinance will be observed.
- Substantial justice will be done by allowing better access to the home with no corresponding harm to the general public.
- The value of surrounding properties will not be diminished by providing a more conforming and attractive deck.
- The special conditions of the property that result in unnecessary hardship include a tight lot with an existing home built in the early 1900's so that any change to improve access and egress would require relief from the ordinance.

11) Case 6-11

Petitioners: Petition of Charles W. Carrigan Living Revocable Trust 06, Charles W. Carrigan Trustee, Kevin Foley, applicant

Property: 129 Market Street

Assessor Plan: Map 106, Lot 35-C

Zoning District: Character District 5 (CD5) and the Downtown Overlay District (DOD)

Description: Convert office space in Unit C to two condo units with less than the required parking.

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

1. A Variance from Section 10.1115.21 to allow 0 (zero) off-street parking spaces where 4 parking spaces are required.

Action:

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

Review Criteria:

The petition was granted for the following reasons:

- Granting the variance will not be contrary to the public interest and the spirit of the ordinance will be observed. The proposal will not change the essential character of the neighborhood. This lot is similar to many other properties in the area with residences on the upper levels and no space on the lot for parking.
- Substantial justice will be done by allowing the owners a reasonable use of the property with no harm to the general public.
- The value of surrounding properties will not be diminished. This proposed use, with living units above units with commercial uses, is not uncommon in the area.
- The special conditions of the property include the existing building as it is situated on the lot without space for parking and its location in a walkable downtown area.

12) Case 6-12

Petitioner: Thirty Maplewood, LLC
 Property: 46-64 Maplewood Avenue
 Assessor Plan: Map 125, Lot 2A
 Zoning District: Character District 4 (CD4) and the Downtown Overlay District (DOD)
 Description: Relief from parking requirements for proposed mixed use building.
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:

1. A Variance from Section 10.1114.21 to allow one 8'± x 19'± parking space where 8.5' in width is required.
2. A Variance from Section 10.1114.32(a) to allow ten (10) stacked parking spaces.

Action:

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

Review Criteria:

The petition was granted for the following reasons:

- Parking in a private space in the basement of a private building and out of the public eye 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 variances will not result in any corresponding harm to a neighbor or the public interest.
- Parking located out of sight within a building will not diminish the value of surrounding properties.
- Located in a congested downtown area where every square foot of land is at a premium and parking is needed to support the proposed uses, strictly applying the ordinance provisions to this property would result in an unnecessary hardship. The proposed use is a reasonable one.

13) Case 6-13

Petitioners: Peter Brown Living Trust, James A. Mulvey Revocable Living Trust, Peter Brown and James A. Mulvey, trustees and Robert J. Bossie Revocable Trust, Robert J. Bossie, Trustee, owners and Paul Holloway, applicant

Property: 150 Spaulding Turnpike, 157 Farm Lane and Farm Lane (number not assigned)

Assessor Plan: Map 236, Lots 34, 35 & 36

Zoning District: General Business (GB)

Description: Change of use to convert a building into an auto sales office and inspection station and demolish two structures on adjacent lots to allow for new vehicle storage as a principal use.

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

1. A Variance from Section 10.592.20 to allow storage and sales of vehicles within 200’ of a Residential Zone.
2. A Variance from Section 10.440, Use 20.61 to allow outdoor storage of vehicles as a principal use.
3. A Variance from Section 10.843.21 to allow parking and outdoor storage of vehicles 15’ from a street right-of-way where 40’ is required.
4. A Variance from Section 10.581 to allow the sale of used motor vehicles on a nonconforming lot of less than 2 acres.
5. A Variance from Section 10.311 to allow the storage of vehicles on a nonconforming lot of less than 1 acre.

Action:

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

Stipulations:

- A maximum of 50 new cars will be stored on the rear lot at any one time.
- There will be a maximum of 12 used pick-up trucks of any size for sale at any one time.
- No car carriers will be allowed on any of the lots.

Review Criteria:

The petition was granted for the following reasons:

- The proposed use will not alter the essential character of the neighborhood or threaten the public health, safety or welfare. It will be sited exclusively in a General Business Zone on properties adjacent to a turnpike and away from the residential area so that granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed.
- Substantial justice will be done and the value of surrounding properties will not be diminished. The proposed use is less intense than a number of uses that would be allowed and the closest neighborhood is additionally buffered by a power line easement.
- There are special conditions of the properties that distinguish them from others in the area and a hardship is created in terms of strictly applying the ordinance provisions. While these are General Business District lots adjacent to a residential area, the practical effect of the power line easement is to increase the true distance from the residential area. The uses in the ordinance requiring a minimum area of one or two acres are mainly directed to full service auto dealerships with a building, many vehicles and high volume traffic. This proposal is more appropriate for the size of these lots, and very different in scope, but is considered to be in the same category as the other, more intensive, uses.

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IV. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 9:50 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary