

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 January 15, 2019** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Chairman David Rheaume, Vice Chairman Jeremiah Johnson, Jim Lee, Arthur Parrott, Peter McDonell, Alternate Phyllis Eldridge

EXCUSED: John Formella, Christopher Mulligan, Alternate Chase Hagaman

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I. APPROVAL OF MINUTES

A) December 18, 2018

Action: The Board voted to accept the Minutes of the December 18, 2018 meeting as presented.

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II. PUBLIC HEARINGS - NEW BUSINESS

1) Case 1-1
Petitioner: Katherine Leigh
Property: 127 Crescent Way
Assessor Plan: Map 212, Lot 152
Zoning District: General Residence B
Description: Stand-alone generator.
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variance:
a) From Section 10.515.14 to allow a 4.3' right side yard where 10' is required.

Action:

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

Review Criteria:

The petition was granted for the following reasons:

- A generator in a designated location will not alter the essential character of the neighborhood nor threaten the health, safety or welfare of the public 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 is clear while any potential harm to the general public from noise is mitigated by a unit that is relatively quiet and will only be used when the power is out.
- A small, quiet generator will not diminish the value of surrounding properties and several abutters indicated their support of the project.
- Literal enforcement of the ordinance would result in unnecessary hardship due to the special conditions in the Atlantic Heights neighborhood where lots are extremely small. There is no place to install even a small generator without needing relief from the ordinance so that there is no fair and substantial relationship between the general public purposes of the ordinance provision regarding setbacks and its specific application to the property. The proposed use, having a standby power supply for potential outages, is a reasonable one.

2) Case 1-2

Petitioners: Katherine Balliet & Carol Hollings, owners and Lisa Koppelman and Nicholas Cracknell, applicants

Property: 11 Meeting House Hill Road

Assessor Plan: Map 103, Lot 59

Zoning District: General Residence B

Description: Move one existing dwelling unit to a garage with added second story and a connector to existing home.

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

- a) from Section 10.521 to allow 48%± building coverage where 30% is the maximum permitted;
- b) from Section 10.521 to allow a 5.5'± rear yard where 25' is required; and
- c) from Section 10.321 to allow a nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

Action:

The Board voted to **postpone** the petition to the February 20, 2019 meeting at the request of the applicants.

3) Case 1-3

Petitioner: Neil Cohen

Property: 21 Langdon Street #23

Assessor Plan: Map 138, Lot 32

Zoning District: General Residence C

Description: Demolish and reconstruct a duplex structure.

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

- a) from Section 10.321 to allow a nonconforming structure to be extended, reconstructed or enlarged; and
- from Section 10.521 to allow the following:

- b) a lot area of 3,485 s.f.±. where 3,500 s.f. is required;
- c) a lot area per dwelling unit of 1742.5± s.f. where 3,500 s.f. is required;
- d) continuous street frontage of 55'± where 70' is required;
- e) 39.7%± building coverage where 35% is the maximum allowed;
- f) a 0'± front yard where 5' is required;
- g) a 5'± right side yard where 10' is required; and
- h) a 5.7'± left side yard where 10' is required.

Action:

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

Stipulations:

- The approved front yard is 2'6" where 5' is required, a change from the advertised 0'±.
- The 5' right side yard and the 5.7' left side yard are granted plus or minus 6" to allow for small deviations that may be encountered in the construction process.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and will observe the spirit of the ordinance. The essential character of the neighborhood will not be altered by a more attractive house that will be up to code and similar to what exists except for a slight increase in height. The changes in the new structure will not threaten the public's health, safety or welfare or injure public rights.
- Granting the variances will do substantial justice as the benefit to the applicant outweighs any possible detriment to the general public. The property is on a fairly narrow one-way street and providing off-street parking is a benefit to the neighborhood.
- The values of surrounding properties will not be diminished. The current building is not architecturally distinguished and has a look of neglect so that a new structure will have a positive effect on property values.
- Literal enforcement of the ordinance by strict adherence to the setback requirements would result in unnecessary hardship. There is no fair and substantial relationship between the general purposes of the ordinance, which encourage upgrading neighborhoods and individual properties in a tasteful manner, and their specific application to this property.

4) Case 1-4

Petitioners: Nancy H. Alexander Revocable Trust, Nancy H. Alexander, Trustee, owner, and Rumble Tumble, LLC applicant

Property: 620 Peverly Hill Road

Assessor Plan: Map 254, Lot 6

Zoning District: Industrial District

Description: Use a portion of the property for a children's gym.

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

a) from Section 10.440, Use #4.42 to allow a health club with a gross floor area exceeding 2,000 s.f. where the use is only allowed by special exception.

Action:

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

Review Criteria:

The petition was granted for the following reasons:

- The standards as provided by this ordinance for the particular use permitted by Special Exception are met.
- There is nothing in the proposed use that will create a hazard to the public or adjacent property from potential fire, explosion or release of toxic materials.
- Space allotted for the use is within an existing building and there are compatible uses nearby including retail, a karate studio and other like uses so that there will be no detriment to property values in the vicinity or change in the essential characteristics of the neighborhood from the location of buildings or parking areas. The use will not create smoke, gas, dust, or other pollutants, noise, glare, heat or other irritants, or unsightly outdoor storage of vehicles or equipment.
- There will be no creation of a traffic safety hazard or substantial increase in the level of traffic. Due to the nature of the business, the traffic generated will be staggered throughout the day with varied lengths of stay in a well-marked area and sizable parking lot.
- No excessive demand will be created on municipal services, including but not limited to water, sewer, police and fire protection as there are already like businesses in the building.
- The use will not result in any changes to the building or pervious surfaces so there will be no increase in storm water runoff onto adjacent property or streets.

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III. OTHER BUSINESS

No other business was presented.

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IV. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 8:02 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary