

**ACTION SHEET**

**TO:** Karen Sawyer Conard, City Manager

**FROM:** Mary Koepenick, Planning Department

**RE:** Actions Taken by the Portsmouth **Board of Adjustment at its regular meeting on December 17, 2019** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

**PRESENT:** Chairman David Rheaume, Vice Chairman Jeremiah Johnson, John Formella, Jim Lee, Peter McDonell, Arthur Parrott, Alternate Phyllis Eldridge, Alternate Chase Hagaman

**EXCUSED:** Christopher Mulligan

=====

**I. ELECTION OF OFFICERS**

It was moved, seconded and passed by unanimous voice vote to reelect David Rheaume as Chairman and Jeremiah Johnson as Vice-Chairman to serve until the next Election of Officers.

=====

**II. APPROVAL OF MINUTES**

A) November 19, 2019

Action: The Minutes were approved with minor corrections.

=====

**III. OLD BUSINESS**

A) Motion for Rehearing regarding property located at 53 Tanner Street.

Action:

The Board voted to **deny** the Request for Rehearing. The Board determined that their discussion was thoughtful, all the criteria were considered, and no error had been made in their application of the law. The Board found that no new information had been put forth that had not been available at the time of the hearing.

=====

**IV. OLD BUSINESS – PUBLIC HEARINGS**

**A. Case 8-11.** Petition of Dagny Taggart, LLC for property located at **0 (53) Daniel Street** for a five-story building with mixed commercial uses wherein variances from Section 10.5A41 & Figure 10.5A41.10C are required to allow the following: a) a building footprint up to 17,500 s.f. where 15,000 s.f. is the maximum allowed; and b) a 3’ rear yard where 5’ is required. Said property is shown on Assessor Plan 107, Lot 27 and lies within Character District 4 and the Downtown Overlay District. (This petition was postponed from the October 15, 2019 meeting.)

Action:

The Board **acknowledged** the withdrawal of the application to the Board of Adjustment.

-----

**B. Case 11-6.** Petition of Stanley E. & Michelle Brandon for property located at **492 Union Street** wherein relief is required from the Zoning Ordinance to remove two existing sheds and construct a new, 24’ x 24’ two-car garage which requires the following Variances: a) from Section 10.521 a) to allow 26% building coverage where 25% is the maximum allowed; b) from Section 10.573.20 to allow a 4’ left side yard where 10’ is required; and c) from Section 10.573.20 to allow a 7’ rear yard where an 18’2” rear yard is required for an accessory structure. Said property is shown on Assessor Plan 133, Lot 43 and lies within the General Residence A District.

Action:

The Board **acknowledged** the withdrawal of the application.

=====

**V. NEW BUSINESS - PUBLIC HEARINGS**

**1) Case 12-1.** Petition of Galaro Properties, LLC, owner, and Portsmouth Buddhist Center, applicant, for property located at **175 High Street, Suite 2** wherein relief is required from the Zoning Ordinance to allow a religious place of assembly which requires the following: A Special Exception under Section 10.440 Use #3.11 to allow a religious place of assembly. Said property is shown on Assessor Plan 118, Lot 16 and lies within Character District 4.

Action

The Board voted to **grant** the application as presented.

-----

2) **Case 12-2.** Petition of DPF 1600 Woodbury Avenue LLC & c/o Marvin F. Poer & Company for property located at **1600 Woodbury Avenue** wherein relief is required from the Zoning Ordinance to install a fifth freestanding sign which requires the following: a) A Variance from Section 10.1251.30 to allow a 99.32 square foot free standing sign on the same street as the primary driveway where 40 square feet is the maximum allowed; b) A Variance from Section 10.1243 to allow a pre-existing sign in a location with no associated secondary driveway; and c) A Variance from Section 10.1251.30 to allow a pre-existing sign that exceeds the 12 foot maximum height. Said property is shown on Assessor Plan 238, Lot 16 and lies within the Gateway Neighborhood Mixed Use Corridor District (G1)

Action

The Board voted to **grant** the application as presented.

-----  
3) **Case 12-3.** Petition of Richard Alexander Hartley and Annelise Connors Hartley for property located at **452 Richards Avenue, Unit 1** wherein relief is required from the Zoning Ordinance for approval of a second dwelling unit in Unit 1 which requires the following: a) A Variance from Section 10.521 to allow a lot area per dwelling unit of 2,585 square feet where 7,500 square feet per dwelling is required. Said property is shown on Assessor Plan 112, Lot 6-1 and lies within the General Residence A District.

Action

The Board voted to **grant** the application as presented.

-----  
4) **Case 12-4.** Petition of Clipper Traders LLC and Portsmouth Lumber & Hardware, LLC, owners, Iron Horse Properties, LLC, owner and applicant for property located at **105 Bartlett Street aka 0 Bartlett Street** wherein relief is required from the Zoning Ordinance to construct two multi-family structures, one mixed use structure, renovate existing building for use as an amenity building, and relocate two existing storage structures on an adjacent lot which requires the following Variances: a) from Section 10.516.20 to allow a 5’6” side yard adjoining a railroad right of way where 15’ is required; b) from Section 10.5A41.10A to allow an 86’ side yard where a minimum of 5’ and a maximum of 20’ is required; c) from Sections 10.5A43.31 & 10.5A46.10 to allow a portion of a building to be three-stories, 40’ in height, where a two-story, 30’ in height, building is permitted in the CD4-L1 zone; and d) from Sections 10.5A43.31 & 10.5A46.10 to allow a portion of a building to be five-stories, 60’ in height, where a four-story, 50’ in height, building is permitted in the CD4-W district. Said property is shown on Assessor Plan 157, Lots 1 & 2 and Assessor Plan 164, Lot 4-2 and lies within Character District 4-W (CD 4-W) and Character District 4-L1 (CD4-L1).

Action

The Board **acknowledged** the withdrawal of the application.  
-----

**5) Case 12-5.** Petition of Peter J. Ehnstrom & Diane H. Desantis for property located at **270 Meadow Road** wherein relief is required from the Zoning Ordinance to subdivide one lot into two which requires the following: a) a Variance from Section 10.521 to allow a lot area and lot area per dwelling unit of 10,005 square feet where 15,000 square feet is required for each; b) to allow a lot area and lot area per dwelling unit of 10,004 square feet where 15,000 is required for each; c) to allow a lot depth of 85 feet where 100 feet is required; d) to allow a 26’ front yard where 30’ is required; and e) to allow a 29’ rear yard where 30’ is required.

Action:

The Board voted to **deny** the petition as presented. All of the criteria necessary to grant the variances were not met. Special conditions of the property distinguishing it from other properties in the area were not sufficiently demonstrated so that the hardship test was not met. Dividing a fully compliant lot into two non-compliant lots also does not meet the spirit of the ordinance and substantial justice tests.

-----  
**6) Case 12-6.** Petition of Nickerson Home Improvement Company, Inc. and James S. Remick, Trustee of James S. Remick Revocable Trust of 2000 and Linette S. Remick, Trustee of Linette S. Remick Revocable Trust of 2000, owners and Perley Lane LLC, applicant for properties located at **95 Brewster Street and 49 Sudbury Street** wherein relief is required from the Zoning Ordinance to demolish existing structures, merge two lots into one and construct 3 dwelling units which require the following Variances from Section 10.521: a) to allow 45% building coverage where 35% is the maximum allowed; and b) to allow a 5’ rear yard where 20’ is required. Said properties are shown on Plan 138, Lots 57 and 58 and lie within the General Residence C District.

Action

The Board voted to postpone the application to the January 22, 2019 meeting.

=====  
**VI. OTHER BUSINESS**

No new business was presented.

=====  
**VII. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 10:46 p.m.

Respectfully submitted,

Mary E. Koenick, Secretary