

**MINUTES of the
BOARD OF ADJUSTMENT
PORTSMOUTH, NEW HAMPSHIRE
Remote Meeting via Zoom Conference Call**

Per NH RSA 91-A:2, III (b) the Chair has declared the COVID-19 outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2021-06, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

7:00 P.M.

May 25, 2021

MEMBERS PRESENT: Chairman David Rheume, Vice-Chairman Peter McDonell, Jim Lee, Christopher Mulligan, Arthur Parrott, Alternates Chase Hagaman and Phyllis Eldridge

MEMBERS EXCUSED: David MacDonald

ALSO PRESENT: Peter Stith, Planning Department

Chairman Rheume stated that both alternates would vote on all petitions.

I. PUBLIC HEARINGS – NEW BUSINESS

- A) Petition of **Daniel Marino, Owner**, for property located at **114 Pine Street** whereas relief was needed from the Zoning Ordinance to demolish the existing garage and construct two-story addition with one car garage which requires the following: 1) Variances from Section 10.521 to allow: a) an 8.5' right side yard where 10' is required; and b) a 6' front yard where 15' is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 162 Lot 28 and lies within the General Residence A (GRA) District.

SPEAKING TO THE PETITION

Attorney Derek Durbin was present on behalf of the applicant, along with the project designer Jennifer Ramsey. He said the Board should have received letters of support from three abutters. He reviewed the petition and criteria and said they would be met.

Chairman Rheume asked what drove the relief requested for the right yard setback. Attorney Durbin said the original plan asked for slightly greater setback relief and was also a bit over on the building coverage, but the plan was scaled back after meeting with the surveyor and designer. He said the garage feature was shrunk to the minimal amount necessary to get a car in and to have some storage space. He said the master bedroom features were at the minimum

amount possible, and the garage was the one feature that could be altered by bringing it in from what was originally proposed. Ms. Ramsey noted that the garage space wasn't just for the car but also for opening the car doors. She said they also had to elevate the garage three feet to meet the level of the main house and to allow for clearances for stairs, landings, and so on.

Chairman Rheume opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

David McCracken said he lived in the neighborhood and was in favor of the project.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one else was present to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

*Vice-Chair McDonell moved to **grant** the variances for the petition as presented, and Mr. Parrott seconded.*

Vice-Chair McDonell said the addition was not insubstantial but that what was requested was reasonable. He said his main concern had been that it would cover a lot more of the lot front than what existed, but because the addition was set back quite a bit, it would be less imposing than it otherwise would have been. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said that bringing in the right yard setback would make the property less nonconforming. He said he didn't see any alteration in the essential character of the neighborhood or any threat to the public's health, safety or welfare. He said it would do substantial justice because the benefit to the applicant was to have some ability to expand for a growing family, and the Board hadn't heard anything that suggested that there would be harm to the public. He said granting the variances would not diminish the values of surrounding properties, noting that the addition was a tasteful one. He said literal enforcement of the ordinance would result in unnecessary hardship for the applicant. He said there was an existing nonconforming garage on a narrow lot, and given the modest increase in space that was asked for, it was the best way to shoehorn that in there. He said the special conditions were the existing garage's nonconformity and the location of the house in the front yard setback, and due to those conditions, there was no fair and substantial relationship between the purposes of the ordinance and their application. He said the proposed use of a single-family home would continue to be so and was reasonable. For those reasons, he said the petition should be approved.

Mr. Parrott concurred. He said the project would be an enhancement to the property and that getting rid of the old small garage on the property line would be a plus to the applicant as well as to the entire neighborhood.

*The motion **passed** by unanimous vote, 7-0.*

At this point in the meeting, Chairman Rheume said there was a request to postpone Item G, 3548 Lafayette Road, and asked that it be taken out of order.

It was moved, seconded, and passed by unanimous vote, 7-0, to take the item out of order.

(See Item G).

- B) Petition of **Susan Alex Living Trust, Owner**, for property located at **50 Mt. Vernon Street** whereas relief was needed from the Zoning Ordinance to add dormers to the existing garage and create accessory dwelling unit on the second floor which requires the following: 1) Variances from Section 10.521 to allow a) a 7' left side yard where 10' is required; and b) a 5.5' rear yard where 25' is the minimum required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 111 Lot 29 and lies within the General Residence B (GRB) District.

SPEAKING TO THE PETITION

Project designer Matthew Beebe and the applicant Susan Alex were present. Mr. Beebe reviewed the petition and the criteria. Ms. Alex said her neighbors were in favor of the project. Mr. Beebe said he should have asked permission for the location of the mini split behind the building.

Chairman Rheume verified that the 5-1/2-ft rear setback would include the condenser and would provide adequate room for it. He said the prologue in the written application indicated that the existing total lot coverage, including impervious paved surfaces, was 47 percent, but the Staff Memo showed 62 percent open space coverage. Mr. Stith said the City didn't normally include landscaping in open space but that it might have been included.

Chairman Rheume opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

Cyrus Beer of 64 Mt. Vernon Street said he was a direct abutter and in favor of the petition.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one else was present to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

*Mr. Parrott moved to **grant** the variances for the petition as presented, and Mr. Lee seconded.*

Mr. Parrott said the project would be a great improvement to the property, noting that it was asking for very little because the footprint wouldn't change. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He

said it would not change the essential character of the neighborhood nor threaten the public's health, safety and welfare or injure public rights. He said the nearest neighbor was a public property in the back, and the structure would not be moved any closer to the abutters on either side. He said substantial justice would be done because the applicant would gain more living space that would not cause any public concern or harm to other individuals. He said granting the variances would not diminish the values of surrounding properties, noting that there was no testimony to suggest that it would and that it would likely improve the property as well as adjacent ones because it would be an up-to-date expansion. He said literal enforcement of the ordinance would result in unnecessary hardship. He said the special conditions that distinguished the property from others in the area were that the property was very narrow and there was no opportunity to expand the living spaces in the house in any other way that made as much sense as what was proposed. He said the restrictions on the size of the property and the placement of the house on it argued that the restrictions could only be cured by what was proposed. He said the petition easily met all the criteria and should be approved.

Mr. Lee concurred and had nothing to add. Mr. Stith noted that the applicant would have to return for the location of the condenser.

The motion was **amended** as follows:

*Mr. Parrott moved to **grant** the variances for the petition, with the following stipulation:*

- That the recognition of the condenser be included within the 5-1/2 foot rear yard setback

*Mr. Lee seconded. The motion **passed** by unanimous vote, 7-0.*

- C) Petition of **Katrina Carye, Owner**, for property located at **83 Richards Avenue** whereas relief was needed from the Zoning Ordinance to add a 6' x 7' free-standing sauna which requires the following: 1) A Variance from Section 10.521 to allow 35% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Map 128 Lot 7 and lies within the General Residence A (GRA) District.

SPEAKING TO THE PETITION

The owner Katrina Carye was present to review the petition. She said the two abutting neighbors sent letters of support to the Board. She reviewed the petition and criteria.

The Board had no questions. Chairman Rheaume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one was present to speak, and Chairman Rheaume closed the public hearing.

DECISION OF THE BOARD

*Mr. Lee moved to **grant** the variance for the petition as presented, and Vice-Chair McDonell seconded.*

Mr. Lee said it was a simple and straightforward application and that granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said a non-permanent sauna would not alter the essential character of the neighborhood or impact the public's health, safety, or welfare. He said substantial justice would be done because the benefit to the applicant by having a small temporary structure in the backyard would not be outweighed by any harm to the public. He said literal enforcement of the ordinance would result in unnecessary hardship to the applicant because there was no way to incorporate the sauna into the circa-1800 house without doing major renovations, so the chosen location best served the purpose. He said the proposed use was reasonable and that the petition should be approved.

Vice-Chair McDonell concurred. He said the extra open space to the rear was another special condition that pushed for allowing a little bit of wriggle room in building coverage.

*The motion **passed** by unanimous vote, 7-0.*

- D) Petition of **KWA LLC, Owner**, for property located at **165 Court Street** whereas relief was needed from the Zoning Ordinance to install signage which requires the following: 1) A Variance from Section 10.1251.10 to exceed the maximum allowed aggregate sign area. 2) A Variance from Section 10.1251.20 to allow a 140 square foot wall sign where 40 square feet is the maximum. 3) A Variance from Section 10.1242 to allow more than one wall sign above the ground floor. 4) A Variance from Section 10.1271 to allow signs on a side of a building that does not face a street or have a public entrance. Said property is shown on Assessor Map 116 Lot 27 and lies within the Character District 4 (CD4).

SPEAKING TO THE PETITION

Project architect Jeremiah Johnson was present on behalf of the applicant, along with landscape architect Terence Parker. Mr. Johnson reviewed the petition. He said the owner was working with a local non-profit group to bring awareness to prominent historic women. He gave a brief history of Ruth Blay, the woman who would be portrayed in the mural. Mr. Parker said the City created guidelines that would allow the development of art in the cityscape, especially if it was about local and regional history. He said Ms. Blay was a victim of her gender, class, and social status, which were issues that still resonated. Mr. Johnson showed the location of the proposed mural. He reviewed the criteria and said they would be met.

Mr. Lee asked if there was anything in addition to the 26-ft high picture of Ms. Blay with her name in cursive text and her birth and death dates. Mr. Johnson said there was not. Vice-Chair McDonell asked if there was a tentative plan to do something similar in other locations. Mr. Parker said it was a concept that the group, The Friends of Ruth Blay, wanted to push forward under the name 'History through Art'. He said there was no second mural planned but hoped the proposed mural would be embraced by the Portsmouth 400 group because it brought Portsmouth's history forward in a contemporary way. Mr. Johnson agreed and said the building owners hoped the mural would encourage other building owners in town to do the same thing.

Chairman Rheume verified that the proposed wording, imagery, and so on had no connection with any of the businesses in the building. Mr. Johnson agreed. Chairman Rheume asked Mr. Stith what drove the Planning Department to view the mural as signage instead of artwork. Mr. Stith said it went back to the City's definition of a sign, which was broad and all encompassing. Chairman Rheume noted that other imagery on Commercial Alley and other sites wasn't viewed as signage. Mr. Stith said the definition of a sign is any symbol, design, or device used to identify or advertise any place, business, product, activity, person, idea, or statement, and that the proposed mural fell under that definition. Chairman Rheume said he understood the Planning Department's hesitancy to define a sign vs. art but wasn't sure the Board was much better equipped to make that type of decision. He hoped a better definition could be made in the future.

Chairman Rheume opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

Eric Weinrib of 9 Middle Road said he owned 133 Court Street, which had a view of the proposed mural. He said he embraced the history of Portsmouth and thought projects like this were a great way for residents and visitors alike to understand Portsmouth's history and gain a better appreciation of it. He said he supported the project as presented.

Knate Higgins of 148 State Street said he formed the group, The Friends of Ruth Blay, to tell Ruth's story and that the mural was the impetus to tell other hidden histories of Portsmouth.

Laura Brown said she was president of the Board of Directors of The Friends of Ruth Blay and that she agreed with the other comments. She said Ruth Blay was the first of many historical people in Portsmouth that the group wanted to recognize and celebrate.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one else was present to speak, and Chairman Rheume closed the public hearing.

DISCUSSION OF THE BOARD

Ms. Eldridge asked Mr. Stith if the sign was broken down into four separate signs. Mr. Stith said the image of Ruth Blay and the text was one sign, the project tag was another, and there were two more signs below. Mr. Lee said the mural was confusing because someone driving down the street would see the giant woman on the side of the building with her name in cursive text, which would be hard to see and could be distracting. He said it also had the potential to detract from the African Burial Grounds monument nearby. He said he would not support the project. Mr. Hagaman asked if there were other locations in the city that had requested variances for similar signage. Mr. Stith said he didn't recall Mr. Kim's giant tiger or A Cup of Joe's artistic window renderings coming before the Board. Chairman Rheume said the argument for Mr. Kim's was that it was artwork that no one had approved and that it wasn't considered a sign. Mr. Hagaman asked if A Cup of Joe's rendering would have come before the Board if it was a hand-painted mural instead of a vinyl paste on the wall, and Mr. Stith agreed.

Mr. Parrott asked whether the use of the proposed image and name had copyright protection, noting that someone could put the image on the side of a bottle, which would turn it into indirect advertising. He said that the testimony heard from the applicant and others concerned him that the image would be replicated many times. Mr. Johnson said there was no intention for duplication or profit. Mr. Parker said it was an original sketch of a woman who died in 1768 that had no copyright or trademark. He said the mural wouldn't be seen anywhere else. Mr. Parrott said someone could copy the design if there was no protection for it. Chairman Rheume said it was a theoretical possibility but that the image didn't scream commercial possibilities because the intent was to stimulate thought about the circumstances the person was in and how that history manifested itself on the way people viewed the world today. Ms. Eldridge said she thought it would be unlikely that the mural would become commercial because it was a sign that represented an idea and didn't have to be anything commercial. Vice-Chair McDonell said one variance was to allow signs on the side of a building that didn't face the street or have a public entrance, which was driven by the building's location on the lot. He said the other three variance requests were driven by the fact that the sign was a mural and not art, which was difficult because it had to be shoehorned into the criteria that the Board had to judge it by.

Chairman Rheume asked where the Board would draw the line. He said one person's art was another person's horrible misrepresentation of something, but to him, signage was about a commercial purpose in the end. He said he didn't think the mural would be distracting to drivers any more than houses painted in psychedelic colors. He said he was frustrated that the Board was put in the quandary of asking 'what is art'. He said he liked the project because it was an important aspect of Portsmouth's history that the public needed to think about. He said art was about stimulating thought and emotion, and he thought the project qualified as that.

DECISION OF THE BOARD

*Mr. Mulligan moved to **grant** the variances for the petition as presented and advertised, and Mr. Hagaman seconded.*

Mr. Mulligan agreed that it was a bit of a quandary for the Board and the Planning Department because of the way the ordinance was written. He said what was proposed wasn't commercial in nature and should get a little more leeway from the Board. He said the relief necessary fell into two parts: the sign area and the size of the signage that exceeded what was permissible, and the fact that the sign was proposed to be on the side of the building. He said he viewed the request similar to that of a previous petition, a restaurant that requested that their sign be on a side wall because it faced the parking lot and was more appropriate for signage. He also said that part of town was a bit of a historic museum that had a fair amount of monuments and statuary and that the area was very pedestrian friendly, so he didn't think vehicular traffic would be impacted. He said granting the variances would not be contrary to the public interest or the spirit of the ordinance and would not alter the essential character of the neighborhood or threaten the public's health, safety, or welfare. He said the character of the neighborhood was mixed commercial and thought the project would fit in well. He said substantial justice would be done because the loss to the applicant if he weren't allowed to utilize that wall would mean that an interesting and historically significant project would be lost. He said he didn't see what the gain to the public would be by that. He said granting the variances would not diminish the values of surrounding

properties, noting that that Board only heard from one abutter who was in support. He said literal enforcement of the ordinance would result in unnecessary hardship. He said the special condition that distinguished the property from others in the area was that the home was at the intersection of two streets and abutted a parking area that didn't get a lot of traffic. He said there was no fair and substantial relationship between the purpose of the sign ordinance, in terms of the amount of signage someone was entitled to and the requirement that signs be on a public way, and their application to the property. He said it was a reasonable use, consistent with the monuments, statuary and other historical items in the vicinity, and that it fit in. He said it met all the criteria and should be approved.

Mr. Hagaman concurred and said it was high time that the sign-related ordinances be improved and perhaps separated for murals and artistic renderings.

*The motion **passed** by a vote of 6-1, with Mr. Lee voting in opposition to the motion.*

- E) Petition of **Deaglan K. McEachern and Lori McEachern, Owners**, for property located at **230 Thornton Street** whereas relief was needed from the Zoning Ordinance to add new deck and screened porch and replace roof on front porch and bump out which requires the following: 1) Variances from Section 10.521 to allow a) 4.5' front yard where 15' is required; b) a 3.5' secondary front yard where 15' is required; and c) 31.5% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 161 Lot 8 and lies within the General Residence A (GRA) District.

SPEAKING TO THE PETITION

The applicant Deaglan McEachern was present and reviewed the petition. He reviewed the criteria and said they would be met. He noted that at least one abutter was in approval.

Chairman Rheume asked if the only thing driving the need for relief was the roof pitch of the front porch being slightly changed. Mr. McEachern agreed and said the roof pitch had to be changed so that it didn't affect the window. Mr. Stith explained why the new roof would be at a different pitch and that the proposed project would just be a reconstruction in the setback.

Chairman Rheume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one was present to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

*Vice-Chair McDonell moved to **grant** the variances for the petition, and Mr. Lee seconded.*

Vice-Chair McDonell said the setback building coverage relief was needed to add the new deck and porch and to replace a portion of the roof. He said granting the variances would not be contrary to the public spirit and would observe the spirit of the ordinance, and that he didn't see any conflict with the purposes of the ordinance or any alteration of the character of the neighborhood. He said it was an expansion of what existed and would not be a threat to the public's health, safety or welfare. He said substantial justice would be done because the modest improvement was a clear benefit to the applicant and no harm to the general public. He said granting the variances would not diminish the values of surrounding properties, noting that the Board heard nothing to suggest it. He said literal enforcement of the ordinance would result in unnecessary hardship. He said the necessary improvements to the existing physical conditions needed relief and setback relief as well as relief from the building coverage, which were special conditions that distinguished the property from others in the area. He said there was no fair and substantial relationship between the purposes of the ordinance and their application to the property. He said the use was a reasonable one and should be approved.

Mr. Lee concurred and had nothing to add.

Chairman Rheume said he would support the motion. He said he was concerned about the lot coverage going from fully conforming to nonconforming, but thought what was proposed was very modest and that adding more building to the interior of the lot wouldn't be impactful to neighbors. He said it was a very reasonable request.

The motion passed by unanimous vote, 7-0.

Mr. Mulligan recused himself from the following petition.

- F) Petition of **Todd E. Hedges Revocable Trust, Owner**, for property located at **139 Cass Street** whereas relief was needed from the Zoning Ordinance to construct a two-car garage with apartment above which requires the following: 1) A Variance from Section 10.521 to allow a 10' rear yard where 20' is required. Said property is shown on Assessor Map 146 Lot 6 and lies within the General Residence C (GRC) District.

SPEAKING TO THE PETITION

Attorney Monica Kieser was present on behalf of the applicant, along with project engineer Eric Weinribe and the owner Todd Hedges. She reviewed the petition and the criteria.

Mr. Hagaman asked if the proposed turnaround was planned to be a parking space or just a turnaround, and whether moving the garage up ten feet to abide by the rear yard setback and getting rid of the turnaround would be problematic. Attorney Kieser said Cass Street was highly traveled and also had overflow parking from Islington Street. She said the owners wanted to maintain some amount of yard space behind their home, have the ability to move some cars around in the lot, have some privacy between the house and the garage, and have parking available for the apartment renter. In terms of retaining greenspace, she said the driveway or garage didn't present a problem and were compliant. Mr. Weinribe said backing out of the driveway would be problematic because the homes on Cass Street were close to the street and there was a high volume of traffic and speed. He said the ability to turn around on site was

important and the turnaround area in front of the garage was designed to provide a parking space and an additional space to allow a 3-point turn for someone coming out of the garage. Mr. Hagaman said the turnaround space was also potentially a parking space, and he asked whether someone in the driveway would really do a 3-point turn to go forward into the street instead of backing out into it. He asked whether the owner would require that it be done and what kind of setup would be used if the turnaround was being used as a parking spot. Mr. Weinribe said it was a long backing-up maneuver and that most drivers weren't skilled at it and didn't tend to do it. Mr. Hagaman asked what drove the violating of the rear yard setback instead of the side setback. Mr. Weinribe said they wanted to respect the abutters on both sides of Cass Street. He said the roof pitched to the north and south, so having the full ten feet on both sides allowed adequate drainage on both sides of the building. Ms. Kieser added that the Portsmouth Housing Authority and the Madison Garden Apartments were on the back property and the fence and trees were natural buffers. Chairman Rheume asked who would use the parking spots in the garage, noting that if the owners intended to use both spots, it would make it problematic if anyone parked in front of the garage. Mr. Weinribe said each unit would have stacked parking. Mr. Hedges said he owned only one car, so the plan was to have one garage spot for the renter and a maximum of three cars on the property and that they all would drive out facing forward to Cass Street.

Chairman Rheume opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION

Chairman Rheume noted that the Board received one letter in support.

Sam Dushkin of 149 Cass Street said he was an abutter and in favor of the project because it would allow the building to be set further back on the property and provide more privacy for him. He said the plantings and trees shown on the plan didn't exist anymore and asked if they would be replanted since the new structure above the garage would face down into his backyard. Mr. Weinribe said the trees were removed to make room for the garage but that more appropriate trees would be planted for screening and that he would discuss tree species with the abutter.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one was present to speak, and Chairman Rheume closed the public hearing.

DECISION OF THE BOARD

Chairman Rheume said centering the garage made sense, otherwise there would be complications with maintenance. He said the proposed ten feet for the area behind the garage would be enough room to do maintenance. He said the two properties on each side would be impacted very minimally because they each had deep lots, and there wasn't much there for the structures on either side of the garage, where the second-story windows would look out over. He said it was a good use of the available space and that he could support the request.

*Mr. Lee moved to **grant** the variance for the petition, and Mr. Hagaman seconded.*

Mr. Lee said the project made perfect sense to him. He said granting the variance would not be contrary to the public interest and the spirit of the ordinance would be observed. He said the proposed use didn't conflict with any purposes of the ordinance or alter the essential character of the neighborhood or threaten the public's health, safety or welfare. He said adding a nice ADU for rental property in the rear was a good move and would add to the value of the property as well as the surrounding properties and not diminish them. He said granting the variance would do substantial justice because the benefit to the applicant would not be outweighed by any harm to the general public. He said literal enforcement of the ordinance would result in unnecessary hardship. He said the special conditions of the property that distinguished it from others were the long and narrow lot and the greenspace that had to be maintained so that the resident and tenant could enjoy the lot. He said the proposed use was a reasonable one and should be approved.

Mr. Hagaman concurred. He said he had questioned the parking and how cars would exit the driveway but that it may be irrelevant as related to the variance, with regard to the rear setback. He said the location of the structure was the best one on the property, given the long and narrow nature of the lot, and that the location further abided by the spirit of the ordinance to ensure that there was enough privacy, light, air flow, and maintenance without encroaching on adjacent property lines. He said the rear lot line was shielded by fencing and trees and had a parking lot behind it, which was further evidence of the appropriate location of the structure.

Mr. Stith clarified that the proposed addition was not an ADU but was a second dwelling that was allowed in the zone.

*The motion **passed** by unanimous vote, 6-0.*

G) REQUEST TO POSTPONE Petition of **Naveesha Hospitality, LLC, Owner**, for property located at **3548 Lafayette Rd** whereas relief is needed from the Zoning Ordinance for redevelopment of the property which includes demolishing some buildings and constructing 2 new multi-family structures which requires the following: 1) A Variance from Section 10.5B53.10 to allow new buildings to be constructed on a lot with existing non-conforming buildings, to be outside of the minimum and maximum front building setback if the 50% front lot line buildout has not been met. 2) A Variance from Section 10.5B22.40 to allow buildings to be constructed outside of the special setback from Lafayette Road which requires a 70' minimum and 90' maximum setback from the centerline of Lafayette Road. Said property is shown on Assessor Map 297 Lot 6 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

Chairman Rheume said the applicant needed more time to work on elevations and other items.

*Mr. Mulligan moved to **grant** the request to postpone, and Mr. Parrott seconded.*

Mr. Mulligan said it was a substantial application and the applicant needed additional time to deal with some issues, so he saw no reason why the postponement shouldn't be granted. He noted that the Board typically granted the first request for a postponement.

Mr. Parrott concurred. He referred to the Board's rules and regulations in Part IV, paragraph 9, stating that in the case of conversions or renovations to an existing structure, interior floor plans

shall be furnished by the applicant. He said it was clear what was required, even though the particular variances didn't deal with the buildings *per se*. As for the parking spaces, he said they were required but that he couldn't find the dimensions. He asked that the applicant provide that information to the Board. Chairman Rheaume agreed that the applicant had to provide the parking space dimensions to make the application complete.

*The motion **passed** by unanimous vote, 7-0.*

*It was moved, seconded, and passed unanimously to **suspend** the 10:00 rule and **extend** the meeting.*

- H) Petition of **Troy Allan Blanchard** and **Colleen Elizabeth Blanchard, Owners**, for property located at **205 Broad Street** whereas relief was needed from the Zoning Ordinance to enclose an existing porch and add dormers which requires the following: 1) Variances from Section 10.521 to allow a) a 5' primary front yard where 15 feet is required; and b) a 0' secondary front yard where 15 feet is required. 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 130 Lot 16 and lies within the General Residence A (GRA) District.

SPEAKING TO THE PETITION

Attorney Monica Kieser and project designer Jennifer Ramsey were present on behalf of the applicant. Attorney Kieser reviewed the petition and said the variances were needed to get additional living space. She noted that three abutters sent letters of approval to the Board. She reviewed the criteria and said they would be met.

Mr. Hagaman asked if the porch was sound enough to support the proposed living space. Ms. Ramsey said a structural engineer said the floor structure was usable and that insulation would be done below it. She said the roof of the existing porch was quite low and would be rebuilt and raised to match the main structure.

Chairman Rheaume opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one was present to speak. Chairman Rheaume noted the letters in support that the Board received. He closed the public hearing.

DECISION OF THE BOARD

*Vice-Chair McDonell moved to **grant** the variance for the petition as presented, and Mr. Hagaman seconded.*

Vice-Chair McDonell said it was a simple request, an upward expansion, and that granting the variance would not be contrary to the public interest and would observe the spirit of the

ordinance. He said it was a reasonable expansion and that he didn't see any conflict with the purposes of the ordinance or any threat to the public's health, safety, or welfare. He said substantial justice would be done because it was a clear benefit to the applicant and he didn't see any harm to the general public. He said granting the variance would not diminish the values of surrounding properties because the project would be a tasteful improvement and the Board had heard nothing to suggest that it would cause diminution of property values. He said literal enforcement of the ordinance would cause unnecessary hardship. He said the special conditions of the property were the size and shape of the lot and the existing structure that drove the necessity for the front and corner setback relief, so he saw no fair and substantial relationship between the general purposes of the ordinance and their application to the property. He said the proposal was a reasonable one. He asked that there be a stipulation to clarify the actual building coverage of 35-1/2 percent that was noted on the survey.

Mr. Hagaman concurred with Vice-Chair McDonell and agreed to the stipulation.

The motion was **amended** as follows:

*Vice-Chair McDonell moved to **grant** the variance for the petition, with the following stipulation:*

- *That the current building coverage be recognized as being accurate at 35-1/2 percent, based on the survey.*

*Mr. Hagaman seconded. The motion **passed** by unanimous vote, 7-0.*

II. OTHER BUSINESS

Chairman Rheume said the meetings might be held in the Chambers starting in June. Mr. Stith said more information would be forthcoming.

III. ADJOURNMENT

The meeting was adjourned at 10:33 p.m.

Respectfully submitted,

Joann Breault
BOA Recording Secretary