

**REGULAR MEETING
BOARD OF ADJUSTMENT
PORTSMOUTH, NEW HAMPSHIRE
CITY COUNCIL CHAMBERS
AGENDA**

7:00 P.M.

November 20, 2001

PLEASE NOTE: DUE TO THE LENGTH OF THE AGENDA, PUBLIC HEARINGS #13 THROUGH #24 WILL BE HEARD THE FOLLOWING TUESDAY, NOVEMBER 27, 2001 AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS

I. APPROVAL OF MINUTES

Meeting of October 16, 2001

II. OLD BUSINESS

A) Petition of Joseph Arnstein, owner, applicant, for property located on Foch Avenue wherein a Variance from Article III, Section 10-302(A) is requested to construct a dwelling creating a front setback of 10' where 30' is the minimum allowed. Said property is shown on Assessor Plan 233 as Lot 144 and lies within the Single Residence B district.

B) Request for a Rehearing for property owned by Robert Byrnes and Patricia Tobey located at 41 Salter Street requested by Joan Davis and Charles Allard of 35 Salter Street. Said property is shown on Assessor Plan 102 as Lot 030 and lies within the Waterfront Business and Historic A districts.

C) Discussion concerning motion signs as determined by the Assistant Building Inspector.

III. PUBLIC HEARINGS

1) Petition of C-Chase Properties, LLC, owner, d/b/a Seacoast Mazda for property located at 180 Spaulding Turnpike wherein a Variance from Article IX, Section 10-908 Table 14 is requested to allow the following: a) 105 s.f. free-standing internally lit sign 29'10" high where 20' is the maximum height allowed creating a 0' front setback where 20' is the minimum allowed; and, b) a 48 s.f. free-standing sign internally lit creating a 0' front setback where 20' is the minimum allowed. Said property is shown on Assessor Plan 236 as Lot 039 and lies within the General Business district.

2) Petition of Joseph J. Almeida, owner, for property located at 37 Prospect Street wherein a Variance from Article II, Section 10-206(4) is requested to allow the existing barn and a portion of the first floor of the existing single family dwelling to be converted into a second dwelling unit on a lot having 5,310 sf of lot area where 6,000 sf (3,000 sf per dwelling unit) of lot area is the minimum required for two dwelling units. Said property is shown on Assessor Plan 141 as Lot 16 and lies within the General Residence A and Historic A districts.

3) Petition of Steve Kelm, owner, for property located at 5 – 7 South Mill Street wherein the following are requested to allow a lot line relocation between 5 - 7 South Mill Street and 18 Pickering Street. The following Variances are required for 5-7 South Mill Street: 1) a Variance from Article III, Section 10-302(A) to allow: a) the lot area to be reduced from 4,034 sf to 3,202 sf where 5,000 sf is the minimum lot area required for a conforming lot, b) building coverage to be increased from 38% to 48% where 25% is the maximum allowed, and 2) a Variance from Article II, Section 10-206(4) to allow 1,067 sf per dwelling unit where 3,000 sf per dwelling unit is the minimum required and 1,345 sf currently exists. Said property is shown on Assessor Plan 102 as Lot 15 and lies within the General Residence B and Historic A districts.

4) Petition of Daniel and Lisa Schwartz, owners, of 9 Middle Road and Peter and Meg Middleton, owners of 76 – 78 Lawrence wherein a Variance from Article III, Section 10-302(A) is requested to allow a lot line relocation resulting in a 2.8' rear yard for the existing 20.4' x 27.4' garage located at 9 Middle Road where 10.2' is the minimum required. Said property is shown on Assessor Plan 152 as Lots 46 and 47 and lie within the General Residence A district.

5) Petition of 55 Congress Street Condo Association, owner, AT&T Wireless, applicant, for property located at 55 Congress Street wherein a Special Exception as allowed in Article II, Section 10-208(51) is requested to allow one additional telecommunication equipment cabinet to the existing four cabinets on the roof. Said property is shown on Assessor Plan 117 as Lot 9 and lies within the Central Business B and Historic A districts.

6) Petition of Getty Petroleum, owner, Tony's Getty Mart, applicant, for property located at 1815 Woodbury Avenue wherein a Variance from Article II, Section 10-208 is requested to allow the outdoor storage of one U-Haul truck in conjunction with a rental office. Said property is shown on Assessor Plan 215 as Lot 13 and lies within the General Business district.

7) Petition of Hasibe A. Kaya, owner, Unal Kaya Davis, applicant, for property located at 374 Lincoln Avenue wherein a Special Exception as allowed in Article II, Section 10-206(13)(b) is requested to allow up to 12 children for an in-home daycare. Said property is shown on Assessor Plan 133 as Lot 1 and lies within the General Residence A district.

8) Petition of Jean C. Odiorne, owner, for property located at 17 Pray Street wherein a Variance from Article III, Section 10-302(A) is requested to allow an 18' x 22' attached garage with a 1' rear yard where 25' is the minimum required. Said property is shown on Assessor Plan 102 as Lot 37 and lies within the General Residence B and Historic A districts.

9) Petition of James J. Reilley, owner, for property located at 21 Sanderling Way wherein the following are requested: 1) a Variance from Article II, Section 10-212(F)(2) to allow a gift packing business where products to be wrapped are delivered by tractor trailer truck and shipped out by UPS in a district where such use is not allowed, and 2) a Variance from Article XII, Section 10-1204 Table 15 to allow no parking to be provided for the business where 1 parking space is required for the business. Said property is shown on Assessor Plan 217 as Lot 2-1823 and lies within the OR/MV district.

10) Petition of Wrens Nest Motel Corp., owner, for property located 3548 Lafayette Road wherein a Variance from Article II, Section 10-206 is requested to allow an existing building to be converted into a restaurant with a bar area and dance floor and 28 new parking spaces in a district where such use is not allowed. Said property is shown on Assessor Plan 297 as Lot 6 and lies in the Single Residence A district.

11) Petition of Leo T. McCallum, owner, for property located at 130 Dennett Street wherein a Variance from Article III, Section 10-302(A) and Section 10-301(A)(3&4) are requested to allow lot 17 to be recognized as a separate buildable lot having 90' of frontage where 100' is the minimum required. Said property is shown on Assessor Plan 140 as Lots 17 & 18 and lies within the General Residence A district.

12) Petition of Robert and Willow Maranhas, owners, for property located at 39 Mount Vernon Street wherein a Variance from Article III, Section 10-302(A) is requested to allow a 16'6" x 24'6" two story addition to be built in the same location as an existing barn with: a) a 0' rear yard where 25' is the minimum required, b) a 0' left side yard where 10' is the minimum required; and, c) 47.6% building coverage where 30% is the maximum allowed. Said property is shown on Assessor Plan 111 as Lot 32 and lies within the General Residence B and Historic A districts.

13) Petition of Olde Port Development Group, owner, for property located at 67-69 Cabot Street wherein a Variance from Article III, Section 10-302(A) is requested to allow a 20'6" x 30'4" garage and two stories of living space above to be built in the location of the existing garage with: a) a 3'2" left side yard and a 9'7" right side yard where 10' is required for each, b) a 3' rear yard where 20' is required, c) 43.4% of building coverage where 35% is the maximum allowed; and, d) 7.6+ % of open space where 20% is the minimum required. Said property is shown on Assessor Plan 136 as Lot 35 and lies within the Apartment district.

14) Petition of Sean Caughran, owner, for property located at 552 State Street wherein a Variance from Article IV, Section 10-402(B) is requested to allow a 5' x 11' addition to an existing shed with a 1' right side yard where 10' is the minimum required. Said property is shown on Assessor Plan 127 as Lot 19 and lies within the Mixed Residential Office and Historic A districts.

15) Petition of Jan and Teresa Marie Vanderlinde, owners, Barbara Trimble and Robert Chaffee, applicants, for property located at 32 Miller Avenue wherein the following are requested: 1) a Special Exception as allowed in Article II, Section 10-207(8) to allow the single family dwelling to be converted to a Bed and Breakfast with four rentable rooms, and 2) a Variance from Article XII, Section 10-1201(A)(2) to allow 4 parking spaces to be 18' in length where 19' is the minimum length required and the travel way to be 20' in width where 24' is the minimum width required. Said property is shown on Assessor Plan 136 as Lot 18 and lies within the Mixed Residential Office district.

16) Petition of John Iafolla Co., Inc., owner, Christopher Bothwell, d/b/a AutoMotion, applicant, for property located off Banfield Road wherein a Variance from Article II, Section 10-209(35) is requested to allow an 8' x 28' office trailer (temporary structure) to be placed within the previously approved outdoor storage area in a district where such use is only allowed by Special Exception for up to 180 days. Said property is shown on Assessor Plan 254 as Lot 3 and lies within the Industrial district.

17) Petition of Bethel Assembly of God, owner, for property located at 200 Chase Drive wherein a Variance from Article IX, Section 10-908 Table 14 is requested to allow 12' x 6' internally lit free-standing sign 11' in height and 3' from the property where institutional signs shall not be greater than 16 sf, 3' high and at least 15' from property lines. Said property is shown on Assessor Plan 210 as Lot 2 and lies within the Single Residence B district.

18) Petition of Eric and Martha Stone, owners, for property located at 824-826 State Street wherein a Variance from Article XII, Section 10-1204 Table 15 is requested to allow a duplex to be converted into three dwelling units with no parking being provided where 5 parking spaces are required. Said property is shown on Assessor Plan 145 as Lot 84 and lies within the Apartment district.

19) Petition of Robert and Jennifer Marchewka, owners, for property located at 327 Sagamore Avenue wherein a Variance from Article III, Section 10-302(A) is requested to allow a 24' x 28' garage with second floor living space with an 8' rear yard where 20' is the minimum required. Said property is shown on Assessor Plan 222 as Lot 27 and lies within the General Residence A district.

20) Petition of Gordon Sorli, owner, Paul Sorli d/b/a Portsmouth Gas Light Co., applicant, for property located at 64 Market Street wherein a Variance from Article XIII, Section 10-1302(G) is requested to allow a six month extension concerning the expiration of an extension of approval granted to 30 November 01. Said property is shown on Assessor Plan 117 as Lot 35 and lies within the Central Business B and Historic A districts.

21) Petition of Paul Messier, owner, for property located at 97 Richards Avenue wherein a Variance from Article III, Section 10-302(A) is requested to allow a 20' x 24' three car garage with living space above having: a) a 0' left side yard where 10' is the minimum required, b) an 11' rear yard where 20' is the minimum required; and, c) 58.6% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 128 as Lot 9 and lies within the General Residence A district.

22) Petition of Richards Avenue Group, LLC., owner, Me & Ollies d/b/a Max & Eli's General Store, applicant, for property located at 303 Richards Avenue wherein a Variance from Article II, Section 10-206 is requested to allow four tables to be added to the store for dining within the building in a district where restaurants are not allowed. Said property is shown on Assessor Plan 130 as Lot 56 and lies within the General Residence A district.

23) Petition of Wayne Semprini, owner, for property located at 3510 Lafayette Road wherein a Special Exception as allowed in Article IV, Section 10-401(A)(1)(d) is requested to allow the existing building previously approved as a day care center to be used for retail sales in a district where retail sales are not allowed. Said property is shown on Assessor Plan 297 as Lot 8 and lies within the Single Residence A district.

24) Petition of Lafayette Partners of Michigan, LLC, owners, Margarita's Management Group, applicant, for property located at 775 Lafayette Road wherein the following are requested for a 2,064 sf addition to the existing restaurant: 1) a Variance from Article II, Section 10-208(20)(a) to allow the expansion on a lot that directly abuts a residential district, 2) a Variance from Article III, Section 10-304(C) to allow the expansion within 100' of property zoned residentially, 3) a Variance from Article III, Section 10-304(A) to allow: a) 12.6% open space where 20% is the minimum required, b) 19.5' left side yard where 30' is the minimum required; and, 4) a Variance from Article XII, Section 10-1204 Table 15 to allow 528 parking spaces to be provided where 596 parking spaces are required. Said property is shown on Assessor Plan 245 as Lot 1 and lies within the General Business district.

III. ADJOURNMENT

Members of the public and abutters should be aware that after the board renders its decision tonight, that a later request could be made to reconsider the decision and/or appeal the decision to the Rockingham County Superior Court. Please note that an abutter/aggrieved party may file a motion to reconsider if they are dissatisfied with the Board's decision. If you have any interest in finding out whether a motion to reconsider has been filed; you should contact the Planning Department twenty-one (21) days after the BOA decision is rendered. Thereafter, depending on the outcome of the reconsideration request, you are also invited to make inquiries at the Legal Department to determine whether an Appeal to the Superior Court has been filed.