

**ACTION SHEET
BOARD OF ADJUSTMENT**

7:00 pm

CITY COUNCIL CHAMBERS

January 21, 2003

TO: John P. Bohenko, City Manager

FROM: Jane M. Shouse, Planning Department

RE: Actions Taken by the Portsmouth **Board of Adjustment** meeting held on January 21, 2003 in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman Charles LeBlanc, Vice-Chairman Jim Horrigan, Alain Jousse, Bob Marchewka, Nate Holloway, David Witham and alternate, Arthur Parrott..

EXCUSED: Christopher Rogers

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**I. Approval of Minutes**

Voted unanimously approve the corrected minutes from the December 17, 2002 meeting.

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II. Old Business

A. Request for One-Year Extension of Time for Anthony Giovannettone, Owner, requested by Bernard W. Pelech, Esq., for property located **off Lang Road**. Said land is shown on Assessor Plan 286, Lot 22A and lies within the General Business District.

The Board voted to **grant** the one year extension, thereby extending the variance until April 16, 2004.

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**B. Request for Re-Hearing for Raymond A. Ramsey, Owner,** requested by Thomas M. Keane, Esq., for property located **off Kearsarge Way**. Said land is shown on Assessor Plan 218, Lot 22 and lies within the General Business District.

It was voted that the Motion be **denied**. The Board found that there was no new information that was not discussed at the December 17, 2002 meeting, nor did the Board err in their decision made at that meeting.

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C. Request for One Year Extension of Time for Seacoast Trust, Owner. Requested by Peter G. Weeks, PGW Real Estate Consulting, Agent for Seacosat Trust, for property located **at 150 Route One By-Pass**. Said land is shown on Assessor Plan 231, Lot 58 and lies within the Single Residence B District.

The Board voted to **grant** the one-year extension, thereby extending the variance until January 15, 2004.

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**III. Public Hearings**

1) Petition of **Shannon Realty Trust, owner,** for property located at **85 Heritage Avenue** wherein a Variance from Article II, Section 10-209(13) is requested to allow the sale of used cars on a lot abutting a residential district. Said property is shown on Assessor Plan 285 as Lot 5 and lies within the Industrial district. Case # 12-2

It was voted that the request be **granted** as presented and advertised as it met all of the requirements of the five criteria, with the following **5 stipulations**:

- That no more than three vehicles be displayed “For Sale”. Said vehicles shall be displayed as shown on the site plan as submitted and shall be displayed at least 50’ from all lot lines. Any expansion shall come back before the Board of Adjustment for additional relief.
- That all vehicle repairs take place within an enclosed building. There shall be no engine repairs or autobody repairs onsite.
- There shall be no outdoor storage of vehicles or parts of vehicles of any kind associated with the “For Sale” vehicle business.
- That the existing vegetative buffer remain as shown on the plan.
- Signage will be limited to 1 ½ sf per vehicle and must be displayed on the windshield of the vehicle. No allowance of “Special Event” signage with respect to the used cars.

The Board stated that this would be consistent with the current use of the property and would be a minimal expansion of the business. It is not contrary to the public interest, it is a reasonable use of the property and there would be no diminution of property values.

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2) Petition of **James G. Bolduc and Joanne M. Stella, owners**, for property located at **25 Ridges Court** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) are requested to allow a 16’ x 20’ deck with two sets of stairs having: a) a 6’ side yard where 10’ is the minimum required, b) a 23’ setback to the property line abutting Ridges Court where 30’ is the minimum required; and, c) 24.6% building coverage where 20% is the maximum allowed. Said property is shown on Assessor Plan 207 as Lot 57 and lies within the Single Residence B district. Case # 12-5

It was voted that the request be **granted** as presented and advertised as it met all of the requirements of the five criteria. The total relief requested was minimal, the lot was unique, the use of the property would be expanded without expanding the physical building and it would increase the property values.

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3) Petition of **Guthrie Swartz, owner**, for property located at **33 Johnson Court** wherein a Variance from Article III , Section 10-302(A) is requested to allow a 5’ x 16’ one story addition with a 20’± rear yard where 25’ is the minimum required. Said property is shown on Assessor Plan 110 as Lot 12 and lies within the General Residence B and Historic A districts. Case # 12-6

It was voted that the request be **granted** as presented and advertised as it met all of the requirements of the five criteria. The Board stated that a hardship existed due to the unique setting of the property. The plan that was submitted was reasonable and will improve the value of the surrounding properties.

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4) Petition of **J.H Cahill, owner**, for property located at **2837 Lafayette Road** wherein a Variance from Article IV, Section 10-401(2)(c) is requested to allow the expansion of an existing 1,153 sf non conforming structure by constructing a 1,965± sf addition. Said property is shown on Assessor Plan 286 as Lot 1 and lies within the General Business district. Case # 11-6

It was voted that the request be **granted** as presented and advertised as it met all of the requirements of the five criteria. The Board stated that the public would benefit from the improvements. As this is a corner lot, it is a unique setting and it would be impossible to expand without a variance.

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5) Petition of **Stamatia S. Miminis, owner**, for property located at **17-19 Elm Court** wherein the following are requested: 1) a Variances from Article II, Section 10-208(45) and Article IV, Section 10-401(A)(1)(b) to allow an existing building with two grandfathered dwelling units to be converted into four dwelling units where such use is not allowed, 2) a Variance from Article XII, Section 10-1204 to allow 3 parking spaces to be provided where 6 parking spaces are required, 3) a Variance from Article XII, Section 10-1201(A)(2) to allow an 8' travel way where 24' is the minimum required; and, 4) a Variance from Article III, Section 10-304(A) to allow 0% open space where 15% is the minimum required. Said property is shown on Assessor Plan 164 as Lot 10 and lies within the Business district. Case # 1-1

It was voted that the request be **denied** as it did not meet all five criteria for a variance. The direct abutters testified that the variances would be contrary to their best interest. The parking problems would be multiplied and would diminish the surrounding property values. The spirit and intent of the ordinance is to promote the health, safety and welfare of the public and to protect them from fire and other dangers and these variances would deny those goals. There was no demonstration that the variance should be granted.

6) Petition of **Padraic Ladd, owner, Michael Brigham, applicant**, for property located at **487 Cutts Ave** wherein Variances from Article II, Section 10-206 and Article IV, Section 10-401(A)(1)(c) are requested to allow the construction of a new three dwelling unit building on a proposed 15,000 sf lot after the demolition of an existing three dwelling unit building on a 3.41 acre lot which is being subdivided into eight single family house lots. Said property is shown on Assessor Plan 210 as Lot 26 and lies within the Single Residence B district. Case # 1-2

It was voted that the request be **denied** as it did not meet all five criteria for a variance. The Board stated that this variance would be contrary to the public interest as it is important to maintain the integrity of the single family neighborhood. There would be injury to the public and private rights of others due to the severe water problem in the area and there was no hardship proven.

7) Petition of **John Samonas, owner, John Bursaw, applicant**, for property located at **3020 Lafayette Road** wherein a Variance from Article II, Section 10-207(2) is requested to allow an existing 2,111 sf Convenience Goods I store to be changed to a 2,111 sf Convenience Goods II store in order to allow the sale of prepared food for consumption off the premises where the maximum area for such a store is 2,000 sf. Said property is shown on Assessor Plan 292 as Lot 152 and lies within the Mixed Residential B district. Case # 1-3

It was voted that the request be **granted** as presented and advertised as it met all of the requirements of the five criteria, with the following **stipulation**: No grilling or frying of prepared food on the premises. The Board stated that this would serve the public interest by offering a full line of food to the immediate neighborhood. This would have no effect on the surrounding properties and there was no opposition from any abutters.

8) Petition of **Parade Office LLC, owner**, for property located at **195 Hanover Street (Parade Mall)** wherein a Variance from Article IX, Section 10-908 Table 14 is requested to allow an additional 15.5 sf of non-illuminated attached signage for "Adecco": a) creating 133.75 sf of flush attached signage where 60 sf is the maximum allowed, and b) 133.75 sf of aggregate signage where 75 sf is the maximum allowed. Said property is shown on Assessor Plan 125 as Lot 1 and lies within the Central Business B and Historic A districts. Case # 1-4

It was voted that the request be **granted** as presented and advertised as it met all of the requirements of the five criteria. The Board stated that this building was unique and had a very large façade. A hardship would exist if the variance was denied and it would interfere with the reasonable use of the property.

9) Petition of **Whalesback Light, LLC, owner**, for property located at **96-98 State Street** wherein a Variance from Article III, Section 10-304(B) is requested to allow a 21.5' x 26.6' one story addition 15' in height where the minimum height required is 20'. Said property is shown on Assessor Plan 107 as Lot 52 and lies within the Central Business B and Historic A districts. Case # 1-5

It was voted that the request be **granted** as presented and advertised as it met all of the requirements of the five criteria. The Board stated that the proposed renovations were very desirable and a one-story addition would allow abutting second floor tenants to retain their view and air circulation. The expanded property will be in conformance with surrounding properties and will enhance their overall property values.

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10) Petition of **Jude Spain, owner**, for property located at **433 Lincoln Avenue** wherein a Variance from Article III, Section 10-302(A) is requested to allow a 16' x 24' one story addition and a 4' x 8' porch creating 27.5% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 134 as Lot 14 and lies within the General Residence A district. Case # 1-6

It was voted that the request be **granted** as presented and advertised as it met all of the requirements of the five criteria. The Board stated that this was a very minimal request, no setback relief was required and there were no objections from any abutters, including the other half of your duplex. This will improve the residence and will increase the value of surrounding properties.

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**IV. Adjournment**

The motion was made and seconded to adjourn the meeting at 11:15 p.m.

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Respectfully submitted,

Jane M. Shouse,
Secretary

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