

ACTION SHEET – BOARD OF ADJUSTMENT

TO: John P. Bohenko, City Manager

FROM: Jane M. Shouse, Planning Department

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

PRESENT: Chairman Charles LeBlanc, Vice-Chairman Jim Horrigan, Bob Marchewka, Nate Holloway, Alain Jousse, Chris Roger, David Witham, Alternate Arthur Parrott and Alternate Steven Berg

EXCUSED: n/a

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**I. OLD BUSINESS**

A) Petition of **John W. Gray Revocable Trust and Bradford A. Gray Revocable Trust, owners, Redlon & Johnson, applicant**, for property located at **126 Bridge Street** wherein a Variance from Article II, Section 10-208 is requested to allow the outdoor storage of materials and products at the rear of the existing building. Said property is shown on Assessor Plan 125 as Lot 16 and lies within the Central Business B and Historic A districts. Case # 8-12

**Tabled** at the request of the applicant.

B) **Request for Re-Hearing for 21 Blossom Street**, requested by Sharon Cuddy Somers on behalf of Katheen Beauchamp. Said property is shown on Assessor Plan 110, Lot 3 and lies within the General Residence B and Historic District A.

**Granted.** The Board found that there was new information that was not discussed at the August 19, 2003 hearing.

**II. PUBLIC HEARINGS**

1) Petition of **Robert C. & Debi L. Pekousky, owners**, for property located at **121 Aldrich Road** wherein a Variance from Article III, Section 10-302(A) is requested to allow the existing 98 sf irregular deck to be repaired and rebuilt and construct an additional 8' x 8' section both with an 6' right side yard where 10' is the minimum required. Said property is shown on Assessor Plan 153 as Lot 36 and lies within the Single Residence B district. Case # 9-2

**Granted** as presented and advertised. It met all of the requirements of the five criteria. The Board felt that an 8' x 8' addition was fairly small. It was a reasonable request and will not diminish the values of surrounding properties. The size and shape of the lot creates a hardship.

2) Petition of **Roni and Gilbert Hudson, owners**, for property located at **1641 Lafayette Road** wherein Variances from Article III, Section 10-301(A)(8) and Article IV, Section 10-401(A)(2)(c) are requested to allow a 16' x 30' one story addition with a roof deck and an 8' x 46' L-shaped porch with stairs 40' 10" from the front property line where 105' is the minimum front yard required. Said property is shown on Assessor Plan 251 as Lot 128 and lies within the Single Residence B district. Case # 10-1

**Granted** as presented and advertised. It met all of the requirements of the five criteria. There is a hardship as there is no other place to put the addition. No public or private rights will be injured and it is in the spirit of the ordinance to allow them full use and enjoyment of their property. The values of surrounding properties will increase and it will help to retain the residential flavor of the neighborhood.

3) Petition of **Dean A. Outhouse, owner**, for property located at **133 Orchard Street** wherein a Variance from Article IV, Section 10-402(B) is requested to allow a 12' x 28' one story garage/workshop with 0' right side yard where 10' is the minimum required. Said property is shown on Assessor Plan 149 as Lot 44 and lies within the General Residence A district. Case # 10-2

**Granted** as presented and advertised. It met all of the requirements of the five criteria. It was felt that this was a classic case of hardship as ledge blocks any extension of the house. This will allow them to store their yard equipment indoors and improve the visual aesthetics of the property, thereby increasing the property values of the house and your neighbors. This is consistent with the spirit of the ordinance as it will allow the full enjoyment of the property.

4) Petition of **Ellen S. Cohen, owner**, for property located at **124 Broad Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(1)(b) are requested to allow an 8' x 18' deck with: a) a 3' left side yard where 10' is the minimum required, and b) 36.5% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 134 as Lot 19 and lies within the General Residence A district. Case # 10-3

**Granted** as presented and advertised. It met all of the requirements of the five criteria. The lot is long and thin which creates a hardship. A deck is not out of character for the neighborhood and will not diminish the property values of surrounding properties. The zoning restriction interferes with the reasonable use of the property and is not in the spirit of the ordinance.

5) Petition of **Bethel Assembly of God, owner**, for property located at **200 Chase Drive** wherein Variances from Article II, Section 10-206(1) and Article IV, Section 10-401(A)(1)(b) are requested to allow a previously approved garage with a second floor apartment to be converted entirely to a single family dwelling by eliminating the garage on the first floor. Said property is shown on Assessor Plan 210 as Lot 2 and lies within the Single Residence B district. Case # 10-5

**Granted** as presented and advertised, with the following **stipulation**:

- That the dwelling unit be occupied by church personnel only.

It met all of the requirements of the five criteria. This was not contrary to the public interest as a smaller unit had previously been approved by the Board. This is a large lot with plenty of parking. It would be beneficial to the community have the new Youth Pastor live on the premises.

6) Petition of **The Morley Company, owner, and Dogs & Peoples, applicant** for property located at **909 Islington Street** wherein Variances from Article II, Section 10-208 and Article XII, Section 10-104 Table 15 are requested to allow a dog day care facility with up to 40 dogs and associated grooming facility with 5 grooming stations in 5,980 sf of an existing building and associated parking in a district where such use is not allowed. Said property is shown on Assessor Plan 172 as Lot 7 and lies within the Business district. Case # 10-6

**Granted** as presented and advertised, with the following **stipulations**:

- No noise to emanate over the property line to the residential neighbors;
- Portsmouth Animal Control Officer to inspect and approve the set up of the facility;
- Hours of operation to be 7:00 a.m. – 7:00 p.m. Monday through Friday; 10:00 a.m. – 6:00 p.m. Saturdays and Sundays; no dogsitting on weekends or holidays;
- Landscaping will not be degraded from its present condition.

It met all of the requirements of the five criteria. This would not be contrary to the public interest as there is a demand for this type of service in Portsmouth. This is a unique setting and the surrounding uses are quite noisy. The Applicant has shown that this use will work in this location. There would be no diminution in surrounding property values.

7) Petition of **Paul Lane, owner**, for property located at **428 Hanover Street** wherein a Variance from Article III, Section 10-302(A) is requested to allow an existing 12' x 22' garage to be rebuilt with a) a 4' front yard where 5' is the minimum required, and b) a 0' right side yard where 10' is the minimum required v. Said property is shown on Assessor Plan 138 as Lot 7 and lies within the Apartment district. Case # 10-7

**Tabled.** Will be re-advertised and heard at the November 18, 2003 meeting.

8) Petition of **Michael J. LaCroix, owner**, for property located at **151 High Street** wherein a Variance from Article II, Section 10-208 is requested to allow 200 sf of an existing garage to be used for a pet grooming business in a district where such use is not allowed. Said property is shown on Assessor Plan 118 as Lot 18 and lies within the Central Business B and Historic A districts. Case # 10-8

**Granted** as presented and advertised, with the following **stipulations**:

- Hours of operation not to exceed 7:00 a.m. – 5:00 p.m. Tuesday through Saturday;
- Only one groomer on the premises at one time;
- Not more than 6 animals at the facility at one time;
- Pet daycare business not to be conducted on the site;

It met all of the requirements of the five criteria. There would not be any diminution of property values. Special conditions exist as the property has a lot of garage space. The Board felt that this is a good use.

9) Petition of **Andrea L. Rogers, owner**, for property located at **610 Elwyn Road** wherein a Variance from Article III, Section 10-302(A) is requested to allow a 24' x 24' two story attached garage with a 10' right side yard where 20' is the minimum required. Said property is shown on Assessor Plan 225 as Lot 47 and lies within the Single Residence A district. Case # 10-9

**Granted** as presented and advertised as it met all of the requirements of the five criteria. Special conditions exist as the foundation was poured in 1977 and the zoning restriction did not apply at that time. The variance would not injure the rights of others and there would not be any diminution in property values.

10) Petition of **W.F. Becksted and W.F. Becksted Jr., owners**, for property located at **158 Cabot Street** wherein a Variance from Article XII, Sections 10-1201(A)(2) and 10-1201(3)(a)(1) are requested to allow a 10'6" wide accessway to 6 parking spaces where 24' is the minimum width required for accessways. Said property is shown on Assessor Plan 145 as Lot 80 and lies within the Apartment district. Case # 10-10

**Granted** as presented and advertised as it met all of the requirements of the five criteria. There is a hardship with the size of the lot. The zoning ordinance did not intend for a 24' accessway for this type of situation. The public and private rights of others would be well served as it would eliminate some on street parking. There would be no impact on the values of surrounding properties as it is improving an existing situation.

11) Petition of **Granite Bank, owner, Haymarket Square, LLC, applicant**, for property located at **93 Middle Street** wherein a Variance from Article XII, Section 10-1204 Table 15 is requested to allow 11 parking spaces to be provided where 17 parking spaces are required for 1,904 sf of the existing building to be used for business office and the remaining 1,904 sf to be used for a professional office. Said property is shown on Assessor Plan 116 as Lots 17 & 18 (to be combined) and lies within the Mixed Residential Office and Historic A districts. Case # 10-1

**Granted** as presented and advertised as it met all of the requirements of the five criteria. It was felt that this proposal will work well in this location and that the parking will be adequate. There is a unique setting as the building and parking spaces already exist. It is well within the spirit of

the ordinance to allow a new business to move into this building and a denial of the variance would create a substantial injustice to the owner.

12) Petition of **Julianne M. and Ian D. Vogt, owners, Dr. Daniel P. Keenan applicant**, for property located at **545 Lafayette Road** wherein a Variance from Article II, Section 10-206 is requested to allow three dental operatories and associated dental offices for a dental practice in an existing 2,268 sf building with associated parking in a district where such use is not allowed. Said property is shown on Assessor Plan 229 as Lot 6 and lies within the Single Residence B district. Case # 10-13

**Granted** as presented and advertised as it met all of the requirements of the five criteria. This site is right on the edge of a residential district and has been used for 40 years as a business. It is consistent with the spirit of the Zoning Ordinance to encourage professionals to set up businesses in Portsmouth and there is always a demand for dental services. There would be no diminution in property values and the values would probably increase. This is a less intense use than in the past and the property serves as a buffer between the apartments and shopping center and the residential area.

13) Petition of **Michael R. Clark, owner**, for property located **off Little Harbor Road (Belle Isle)** wherein a Variance from Article III, Section 10-301(A)(7) is requested to allow the following construction: a) 159 sf of the proposed irregular shaped 4,930 sf 2 ½ story single family dwelling 86' from mean high water/ salt marsh wetlands, b) an attached 40' x 50' indoor pool building with a deck on an existing school building footprint 73.35' from mean high water/ salt marsh wetlands; and, c) an attached 16' x 40' outdoor pool 40' from mean high water/ salt marsh wetlands where all buildings/structures shall be 100' from the mean high water/ salt marsh wetlands. Said property is shown on Assessor Plan 205 as Lot 2 and lies within the Rural district. Case # 10-12

**Granted** as presented and advertised as it met all of the requirements of the five criteria. The Board felt that this was a very reasonable plan, was well thought out and was a big improvement from the previous plan. There is a hardship as the lot is very narrow and there is only a very small section down the middle of the island that is outside of the 100' buffer area so this was the best location on the island for the house. The variance is consistent with the spirit and intent of the ordinance and the restrictions interfere with the owner's reasonable use of the property. No public or private rights of others are being affected as it is an island. There would also be no diminution in property values as the neighbors are so far away.

### **III. ADJOURNMENT**

The motion was made and seconded to adjourn the meeting at 12:10 a.m.

Respectfully submitted,

Jane M. Shouse,  
Secretary