

ACTION SHEET – BOARD OF ADJUSTMENT

TO: John P. Bohenko, City Manager

FROM: Judith A. Claveau, Secretary

RE: Actions Taken by the Portsmouth **Board of Adjustment** meeting held on November 18, 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, David Witham, Alternates Arthur Parrott and Steven Berg

EXCUSED: Chris Rogers

~~~~~  
**I. PUBLIC HEARINGS**

- 1) Petition of **Paul Lane, owner**, for property located at **428 Hanover Street** wherein a Variance from Article III, Section 10-302(A) was requested to allow a 12' x 22' garage with a) a 1'6" rear yard where 20' is the minimum required, and b) a 1'6" right side yard where 10' is the minimum required. Said property is shown on Assessor Plan 138 as Lot 7 and lies within the Apartment district. Case # 10-7

**Granted** as presented and advertised, as it met all the requirements of the five criteria. The Board found that a special condition existed due to the densely populated neighborhood. To strictly enforce the Zoning Ordinance would make it impossible to accommodate off-street parking. It was in the spirit of the ordinance to create two conforming off-street parking spaces. There would be no diminution of surrounding property values.

- 2) Petition of **Leemilts Petroleum Company, owner**, for property located at **1815 Woodbury Avenue** wherein a Variance from Article IX, Section 10-908 Table 14 was requested to allow a freestanding sign: a) 21.7' in height where 20' is the maximum allowed, and b) 15' from the front property line where 20' is the minimum required. Said property is shown on Assessor Plan 215 as Lot 13 and lies within the General Business district. Case # 11-1

**Rescheduled** to the next Board of Adjustment meeting on December 16, 2003 at 7:00 p.m. It was determined that this matter must be re-advertised as the sign is actually five feet from the front property line rather than 15 feet as was advertised.

- 3) Petition of **Richard P. Fecteau, owner**, for property located at **120 Spaulding Turnpike** wherein a Variance from Article IX, Section 10-908 Table 14 was requested to allow: a) a 155.25 sf freestanding sign 37.5' in height where a 150 sf of freestanding signage is the maximum allowed and the maximum height is 20', b) four 13 sf directional signs totaling 52 sf where 1.5 sf per sign is allowed; and, c) an aggregate of 350.79 sf of signage where 200 sf is the maximum aggregate allowed. Said property is shown on Assessor Plan 236 as Lot 33 and lies within the General Business district. Case # 11-2

During the presentation, the applicant indicated that they were withdrawing "b" from their application and that under "c" the aggregate would be reduced from 350.79 to 298.7.

As a result of such consideration, it was voted that the request be **denied** as it did not meet all of the required criteria. The Board found that the city's sign ordinance is adequate and that the current sign can be clearly seen from the highway. The Board expressed that Nissan may have sign standards; but those standards do not apply to this small city.

- 4) Petition of **Kathleen M. Beauchamp, owner**, for property located at **21 Blossom Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow: a) a 16' x 22.5' 1 ½ story garage with a 2'± right side yard where 10' is the minimum required and a 4.25+' rear yard where 25' is the minimum required, b) an irregular shaped 182 sf addition with a 4.25'± rear yard where 25' is the minimum required; and, c) 46.1% building coverage for the above and including a 5.25' x 11' porch where 30% is the maximum allowed. Said property is shown on Assessor Plan 110 as Lot 3 and lies within the General Residence B and Historic A districts. Case # 8-03

**Re-scheduled** for the reconvened meeting on Tuesday, November 25, 2003 at 7:00 p.m., due to the fact that the application was not reached at the November 18, 2003 Board of Adjustment meeting,

- 5) Petition of **Joseph J. and Jennifer Almeida, owners**, for property located at **33 Blossom Street** wherein a Variance from Article IV, Section 10-402(B) was requested to allow a 22' x 24' 1 ½ story detached garage/office with a 3' right side yard where 15' is the minimum required. Said property is shown on Assessor Plan 110 as Lot 2 and lies within the General Residence B and Historic A districts. Case # 11-4

**Granted** as presented and advertised as it met all the requirements of the five criteria. The Board found that the garage was in desperate need of repair and there was a hardship based on the size of the lot. This will not diminish surrounding property values and will be an improvement to the neighborhood.

- 6) Petition of **Patricia A. Butterworth, owner**, for property located at **61 Suzanne Drive** wherein a Special Exception as allowed in Article IV, Section 10-401(A)(1)(d) was requested to change the use of the property from a hair salon and one dwelling unit to two dwelling units on the lot in a district where only single family dwellings are allowed. Said property is shown on Assessor Plan 292 as Lot 30 and lies within the Single Residence B district. Case # 11-5

**Granted** as presented and advertised as it met all the required criteria. The Board indicated that there was a severe housing shortage in Portsmouth and this will be a major benefit to the residents of Portsmouth. A residential use is permitted in this district and this property is surrounded by two commercial businesses and an apartment complex. This special exception will not create a hazard to the public or adjacent property, nor will there be any detriment to property values in the vicinity. The Board felt the opposite would be true. Fewer traffic trips

would go in and out of the property compared to the prior use. There will be no excessive demand on municipal services and there will be no significant increase of storm water runoff.

- 7) Petition of **Houston Holdings, LLC, owner, Dawn Pepe, d/b/a Pepe's Tacos, applicant**, for property located at **653 Islington Street** wherein a Variance from Article II, Section 10-208 was requested to allow a mobile vending truck to be parked in the parking lot and operating as a takeout restaurant Tuesday thru Saturday from 11AM to 2PM. Said property is shown on Assessor Plan 164 as Lot 5 and lies within the Business district. Case # 11-6

As a result of such consideration, a motion to grant failed by a 3 – 4 vote; therefore, the request was **denied**.

- 8) Petition of **Heron Realty Trust, owner**, for property located at **917 Greenland Road** wherein the following were requested: 1) a Variance from Article II, Section 10-208 to allow the existing building to be used as a professional / business office in a district where such use is not allowed, and 2) a Variance from Article XII, Section 10-1201(A)(2) to allow a 14' wide one way accessway where 18' in the minimum required. Said property is shown on Assessor Plan 259 as Lot 7 and lies within the Single Residence B district. Case # 11-7

**Granted** as presented and advertised as it met all the requirements of the five criteria, with the following **stipulation**:

- 
- Hours of operation not to exceed 8:00 a.m. through 7:00 p.m., Monday through Saturday.

The Board found that it was in the public interest as the gas tanks and pumps will be removed. The public interest will also be served as this will provide a buffer to the residential properties. The Board found that the plan had been carefully laid out and would have no impact on surrounding properties and would actually improve the overall appearance.

- 9) Petition of **Parade Office LLC , owner, Region VIII, Community Developmental Services Agency, Inc., applicant**, for property located at **195 Hanover Street** wherein a Variance from Article IX, Section 10-908 Table 14 was requested to allow a 37.41 sf attached sign increasing the approved 133.75 sf of attached signage to 171.16 sf of attached signage where 60 sf of attached signage 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 # 11-8

**Granted** as advertised and presented as it met all the requirements of the five criteria. A hardship exists as a reasonable use of the building dictates that the public be aware of where the business is located. No public or private rights will be injured and it was felt that this was consistent with the spirit of the ordinance as complying with the dimension requirement is difficult, due to the size of the building.

- 10) Petition of **The Morley Company, owner of lot 7, Millport Inc., owner of Lot 4, and Dogs & Peoples, applicant** for property located at **909 and 1001 Islington Street** wherein Variances from Article II, Section 10-208 and Article XII, Section 10-104 Table 15 were 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 and the outdoor elimination area to be located on the abutting lot to the rear in a district where such use is not allowed. Said property is shown on Assessor Plan 172 as Lot 7 & 4 and lies within the Business district. Case # 10-6

An amendment was unanimously approved by the Board to delete from the variance request the following: “and the outdoor elimination area to be located on the abutting lot to the rear in a district where such use is not allowed.”

**Granted** as presented and advertised, as it met all the requirements of the five criteria, 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 dog sitting on weekends or holidays;
- No more than forty dogs at one time.

The Board found that this was not contrary to public interest as it serves a need to the community. The variance will not injure the public as the applicant has taken pains to soundproof the facility. The Board found that it was consistent with the zoning ordinance. There will be no diminution in property values.

## **I. ADJOURNMENT**

The motion was made and seconded to adjourn the meeting at 11:30 p.m.

Respectfully submitted,

Judith A. Claveau,  
Secretary

/jac