

**ACTION SHEET – BOARD OF ADJUSTMENT**

**TO:** John P. Bohenko, City Manager

**FROM:** Judith A. Claveau, Planning Department

**RE:** Actions Taken by the Portsmouth **Board of Adjustment** meeting held on **December 16, 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 Rogers, David Witham, Alternate Arthur Parrott and Alternate Steven Berg

**EXCUSED:** n/a

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**D) OLD BUSINESS**

A) 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' 9" in height where 20' is the maximum allowed, and b) 2'± from the front property line and 2'± from the right side property line where 20' is the minimum required for each. Said property is shown on Assessor Plan 215 as Lot 13 and lies within the General Business district. Case # 11-1

As a result of such consideration, it was voted that the request be **granted** as presented and advertised as it met the five criteria, with the following **stipulations**:

- The sign permit be granted contingent upon full compliance of zoning ordinance, i.e., all non-registered vehicles be removed from the property.
- No vehicles be stored or sold from this property, now or in the future.

The Board found that it would not be contrary to public interest as it allows the public to know the location of station before passing by. They also found that it was a reasonable use of the land and that the proposed use was consistent with the zoning ordinance. Justice will be granted in allowing the petitioner to erect a sign of the same height and square footage as the existing sign and it will not diminish the value of abutting properties.

**I. PUBLIC HEARINGS**

1) Petition of **Griffin Family Corporation, owner**, and **Astoria Griffin Park, LLC, applicant**, for property located at **200 Griffin Road** wherein a Variance from Article XII, Section 10-1203 was requested to allow three 12' x 20' loading areas for a 41,020 sf medical/professional office building where one 12' x 20' and three 12' x 45' loading areas are required. Said property is shown on Assessor Plan 263 as Lot 1-4 and lies within the Industrial district. Case # 12-1

As a result of such consideration, it was voted that the request be **granted** as presented as it met all the requirements of the five criteria. The Board found that the request was not contrary to public interest as it would allow for more parking. It is a reasonable use of the property, and substantial justice would be done in allowing for the development of the property since less space will be carved out for loading docks.

2) Petition of **Laura and Greg Ludes, owners**, for property located at **30 Spring Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow the following additions to the existing dwelling: a) a 2' x 8' bay window to the front with a 4' 1" front yard setback where 15' is the minimum required, b) an 18' x 22' 1 1/2 story garage with second floor living space having a 7' 4" left side yard where 10' is the minimum required; and, c) a 6' x 12' deck creating 30.4% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 130 as Lot 13 and lies within the General Residence A district. Case # 12-2

As a result of such consideration, it was voted that the request be **granted** as presented and advertised, as it met all the requirements of the five criteria. The Board found that granting this request would be in the public interest as it would allow for off-street parking for two cars and that it was a reasonable use of the land, taking into consideration the most minimal approach. There will be no injury to the rights of others nor diminution of adjacent properties.

3) Petition of **James and Catherine Lamond, owners**, for property located at **84 Haven Road** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow the following: a) a 220 sf irregular shaped front porch with a 7.33' front yard where 30' is the minimum required, b) a 7' x 24' one story addition to the left side of the existing dwelling with an 18.33' front yard where 30' is the minimum required; and, c) a 4' x 10' porch on the right side with a 27' front yard where 30' is the minimum required. Said property is shown on Assessor Plan 206 as Lot 28 and lies within the Single Residence B district. Case # 12-3

At the December 16, 2003, Board of Adjustment meeting, it was voted that the petition be **tabled until the next Board of Adjustment meeting on January 20, 2004 at 7 p.m.**

4) Petition of **Mary C. S. Maurer, owner**, for property located at **65 Rogers Street** wherein Variances from Article III, Section 10-303(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow the addition of an 18' 6" x 21' one and one half story barn with second floor living space to the rear of the existing building with a 4' ± left side yard where 10' is the minimum required. Said property is shown on Assessor Plan 115 as Lot 2 and lies within the Mixed Residential Office and Historic A districts. Case # 12-5

As a result of such consideration, it was voted that the request be **granted** as presented and advertised as it met all the requirements of the five criteria. The Board felt that the request was not contrary to public interest as the proposed construction would improve the appearance of the property thus creating a positive impact on abutting properties. Due to the configuration of the property, moving the shed back 6' would create a problem with the use of the yard and the entry and exit of cars as well as the entry into the home.

5) Petition of **Frank Perrone and John Giacalone**, owners, for property located at off **Falkland Place** wherein the following are requested: 1) a Variance from Article II, Section 10-207(13) to allow eight dwelling units on a lot where four are the maximum allowed, and 2) a Variance from Article III, Section 10-303(A) to allow 2,440 sf of lot area per dwelling unit where 7,500 sf of lot area is required per dwelling unit. Said property is shown on Assessor Plan 212 as Lot 26-1 located in the Mixed Residential Business district and Lot 27 located in the General Residence B district including Alley No. 1 and Alley No. 2 (lots and alleyways to be combined). Case # 12-6

As a result of such consideration, it was voted that the request be **denied** as the Board found that it did not meet all of the required criteria. The Board also found that the proposed 8-unit dwelling would represent an over intensification of a property that has sufficient square footage for a building containing two dwelling units. The Board also expressed concern regarding the appearance of the proposed building and whether it would be in keeping with the present brick architecture of Atlantic Heights. The Board also felt that granting the petition would have an impact on abutters and their ability to conduct business due to additional traffic and congestion.

5) Petition of **Christine Hayes, owner, Susan Henderson, applicant**, for property located at **227 Cass Street** wherein the following were requested: 1) Variances from Article II, Section 10-206(2) to allow a single family dwelling to be converted into a two family dwelling on a lot having 4,190 sf of area where 7,000 sf of area is required for two dwelling units (3,500 sf per dwelling unit), and 2) Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 16' x 28' two story addition with: a) a 0' left side yard where 10' is the minimum required, and b) 35.6% building coverage where 35% is the maximum allowed. Said property is shown on Assessor Plan 147 as Lot 3 and lies within the Apartment district. Case # 12-7

As a result of such consideration, a **motion to grant failed** by a 3 – 4 vote; therefore, the request was **denied**. The Board felt that the proposed addition was a large expansion given the 0' side yard abutting the City sidewalk. There Board felt that a survey of the property would be recommended in order to make a clear determination of the actual setback on the left side of the yard. The Board also found that the petition was contrary to public interest as the proposed alteration would exacerbate an already crowded stretch of sidewalk and pose a difficulty in snow removal.

6) Petition of **Olde Port Development Group, LLC**, owner, for property located at **126 State Street** wherein a Variance from Article XII, Section 10-1201(A)(2) was requested to allow a 10' wide accessway to a parking garage for 5 vehicles where a 24' wide accessway is required. Said property is shown on Assessor Plan 107 as Lot 57 and lies within the Central Business B and Historic A districts. Case # 12-8

As a result of such consideration, it was voted that your request be **granted** as presented and advertised as it met all the requirements of the five criteria, with the following **stipulation**:

- The proposed accessway be constructed incorporating a concrete heated slab for the purpose of melting snow.

The Board also found that the requested Variance would not be contrary to public interest as it would allow for the parking of five vehicles off the street and indoors. They also felt that there would be no diminution of abutting properties and that the proposed construction would actually increase the value of the property.

8) Petition of **Estate of Bobby J. Smith, owner**, and **A. David Mann, applicant**, for property located at **920 Sagamore Avenue** wherein a Variance from Article III, Section 10-302(A) was requested to allow a 44' x 60' two story single family dwelling with: a) a lot area of 14,195 sf where 15,000 sf is the minimum required, and b) a 10' 6" rear yard where 30' is the minimum required. Said property is shown on Assessor Plan 223 as Lot 16 and lies within the Single Residence B district. Case # 12-9

As a result of such consideration, it was voted that the request be **granted** as advertised and presented as it met all the requirements of the five criteria, with the following **stipulation**: That the proposed septic system be professionally designed and reviewed by a certified septic design company.

The Board felt that the Variance is not contrary to public interest as it allows for the improvement of a presently dilapidated, overgrown property and also eliminates a potential traffic hazard. They also felt that literal enforcement of the ordinance would result in hardship and interfere with the owner's reasonable use of the property.

## **II. ADJOURNMENT**

The motion was made and seconded to adjourn the meeting at 11:55 p.m.

Respectfully submitted,

Judith A. Claveau,  
Secretary