

ACTION SHEET

**RECONVENED BOARD OF ADJUSTMENT MEETING
PORTSMOUTH, NEW HAMPSHIRE
August 30, 2004**

To: John P. Bohenko, City Manager

From: Delia Tasker, Planning Department

Re: Actions taken at the Portsmouth **Board of Adjustment** reconvened meeting held on **August 24, 2004**, 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, Alternate Steve Berg, Alternate Duncan MacCallum

Also Present: Lucy E. Tillman, Planner I

Excused: Arthur Parrott

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**I. MINUTES**

A. Approval of minutes from April 20, 2004

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II. OLD BUSINESS

A. Request for rehearing on application of Justine Rosberg and Jason Parent d/b/a Meat House LLC, Applicants. The board voted to table the request to August 25, 2004.

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**III. NEW BUSINESS**

9) Petition of **Deborah C. Hobbs, owner**, for property located at **489 Sagamore Avenue** wherein a Variance from Article III, Section 10-301(A)(2) is requested to allow a 26' x 36' freestanding second dwelling on the lot in a district where all dwelling units are required to be in one building. Said property is shown on Assessor Plan 222 as Lot 25 and lies within the General Residence A district. Case # 8-9

The Board of Adjustment, at its meeting of August 24, 2004, **denied** the request as advertised and presented for the following reasons:

- That the plan is 4 times larger than what exists there now and that has significant impact on the back yards of abutting properties; and,
- That it is not within the spirit of the ordinance to construct a structure 4 times larger than the existing structure.

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10) The Portsmouth Board of Adjustment, acting pursuant to NH RSA 12-G:13 and Chapter 300 of the Pease Development Authority Zoning Requirements, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following petition of **Portsmouth Regional Hospital, applicant**, for property located at **26 Manchester Square** wherein a Variance from the Pease Development Authority Zoning Ordinance Section 306.01(d) is requested to allow installation of signs on a lot deprived of its street frontage. Said property is shown on Assessor Plan 302 as Lot 4 and lies within the Business and Commercial district. Case # 8-10

The Board of Adjustment, at its meeting of August 24, 2004, **voted to recommend**¹ the request as advertised and presented for the following reasons:

- That the public interest would be served, since there has to be some way to identify the building;
- That a hardship exists because the site has no road frontage and that interferes with the reasonable use of the property and clients coming to the building would not be able to find it;
- That it does not injure the public or private rights of others in the area; and,
- That having signage on this building is within the spirit of the ordinance and substantial justice is being done for all concerned and would have no impact on the value of the surrounding properties.

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11) Petition of **Bacman Enterprises Inc, owner**, for property located at **140 Edmond Avenue** wherein the following are requested: 1) a Variance from Article II, Section 10-206 to allow the entire lower level of the 2,300± sf building to be used as a chiropractic office where a 300± sf office and 5 parking spaces had been approved in 1978 in a district where such use is not allowed and 2) a Variance from Article XII, Section 10-1204 Table 15 to allow the additional required parking to back out onto the street and park one behind another. Said property is shown on Assessor Plan 220 as Lot 81 and lies within the Single Residence B district. Case # 8-11

The Board of Adjustment, at its meeting of August 24, 2004, **denied** the request as advertised and presented for the following reasons:

- That not enough information or a detailed plan was provided to the board to make a decision;
- That the zoning ordinance does not support this kind of use in a residential district;
- That the lot does not lend itself to adequate parking;
- That cars were parked all over and that has an impact on the surrounding residential properties and is an inappropriate use of this residential neighborhood;

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<sup>1</sup> See RSA 12-G:10(c) "In all instances the authority (Pease Development Authority) shall retain the power to make the final decision regarding applicability, interpretation, and enforcement of its land use controls, which shall require 5 affirmative votes"

- That it is against the spirit of the ordinance to allow a business of this size in a residential neighborhood; and,
- That a large-volume traffic backing out onto the street creates a dangerous situation in a residential neighborhood.

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12) Petition of **James D. and Mary S. Reid, owners**, for property located at **93 State Street** wherein a Variance from Article II, Section 10-208(44)(a) as proposed is requested to allow a portion of the first floor of an building to be used residentially where such use will not be allowed by a proposed ordinance amendment. Said property is shown on Assessor Plan 105 as Lot 20 and lies within the Central Business B and Historic A districts. Case # 8-12

The Board of Adjustment, at its meeting of August 24, 2004, **granted** the request as advertised and presented for the following reasons:

- That the property is a free-standing building that has a long history of being a residence and it exists on what is the “fringe” of the central business district and has limited potential for many of the uses;
- That even if the zoning ordinances were already changed, we could establish that there is a hardship that doesn’t really quite fit the general purposes of the new change and the location is a unique setting, on an heavily traveled street;
- That no public or private rights are being harmed by this;
- There is a general public interest issue and that the proposal is in the general public interest and reasonable to have the use of the building be residential, since it was originally constructed to be used as a residence; and,
- That the current owners have been carefully renovating and working with the Historic District Commission so the board feels that the values of surrounding properties would not be diminished.

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13) Petition of **David J. and Vasilia Tooley, owners**, for property located at **166 Newcastle Avenue** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) are requested to allow: a) a 3’10” x 17’6” covered entry with a 4’6”± right side yard where 10’ is the minimum required and a 21’± front yard where 30’ is the minimum required, b) an irregular shaped 272 sf 2 ½ story rear addition with a 3’± left side yard where 10’ is the minimum required and a 10” rear yard where 30’ is the minimum required, c) a 10’ x 15’ pergola with a 4±’ right side yard where 10’ is the minimum required and a 1±’ rear yard where 30’ is the minimum required d) 55% building coverage where 20% is the maximum allowed; and, e) 27% open space where 40% is the minimum required. Said property is shown on Assessor Plan 101 as Lot 24 and lies within the Single Residence B and Historic A districts. Case # 6-11, Case # 7-8, and Case # 8-13

The Board of Adjustment, at its meeting of August 24, 2004, accepted the request of Attorney Pelech on August 19, 2004 to **withdraw** the application.

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14) Petition of **6-16 Congress Street LLC, owner**, for property located at **6-16 Congress Street** wherein a Variance from Article XII, Section 10-1201(A)(2) is requested to allow a 16' wide accessway ramp to enter / exit a lower level parking garage. Said property is shown on Assessor Plan 117 as Lots 37, 38, & 39 (to be consolidated) and lies within the Central Business B and Historic A districts. Case # 7-13

The Board of Adjustment, at its meeting of August 24, 2004, **granted** the request as advertised and presented for the following reasons:

- That there has been a good deal of thought put into this design to try provide off-street parking;
- That the parking supports the intended uses in the building;
- That the choices of accessing the parking are pretty limited, and the board feels this is the best design to get the desired results;
- That the location is essentially a side street and there would be relatively light pedestrian traffic;
- That 17 feet is adequate for two cars to park and open doors, then 16 ft. should be adequate for 2 cars to pass by. The intent of the ordinance is to create a safe situation for cars to pass and 16 ft should be adequate;
- That 16 ft is also the width of a typical 2-car garage double doors and since that is wide enough for 2 cars to back out, it should be wide enough for 2 cars to pass by; and,
- That anything done to detract from the integrity of the design would be a mistake and widening would have some effect on the overall design of the building and even the structural integrity.

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#### **IV. ADJOURNMENT**

A motion was made and seconded and the meeting was adjourned at 11:00 p.m.

Respectfully submitted,

Delia Tasker  
Planning Department