

PLANNING DEPARTMENT - BOARD OF ADJUSTMENT

ACTION SHEET

TO: John P. Bohenko, City Manager
FROM: Mary Koepenick, Planning Department
RE: Actions Taken by the Portsmouth **Board of Adjustment reconvened meeting on March 22, 2005** in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire
PRESENT: Chairman Charles LeBlanc, Vice Chairman David Witham, Alain Jousse, Nate Holloway, Bob Marchewka, Arthur Parrott, Alternate Steven Berg and Alternate Duncan MacCallum (Items #5 - #8)

EXCUSED:

I. OLD BUSINESS

A) Approval of Excerpts of Minutes for the following meetings: October 19, 2004 and November 16, 2004, reconvened November 23, 2004 (150 Greenleaf Avenue).

The designated Excerpts of Minutes were approved, with a minor correction.

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II. PUBLIC HEARINGS.

2) Petition of Mary Mirasola and John Mirasola, owners, for property located at 176 Sherburne Road wherein a Variance from Article III, Section 10-301(A)(9) was requested to allow the construction of a single family dwelling on pre-existing non-conforming lot having access from a private driveway and no frontage on a City street after the demolition of the existing single family dwelling. Said property is shown on Assessor Plan 260 as Lot 4 and lies within the Single Residence B district. Case # 3-2

This Petition was withdrawn at the request of the applicant.

3) Petition of Mary Mirasola and John Mirasola, owners, for property located off Sherburne Road wherein the following were requested: 1) a Variance from Article III, Section 10-301(A)(9) to allow the construction of a single family dwelling on pre-existing non-conforming lot having access from a private driveway and no frontage on a City street, and 2) a Variance from Article III, Section 10-302(A) to allow: a) a 25' front yard where 30' is the minimum required and b) a 20' rear yard where 30' is the minimum required. Said property is shown on Assessor Plan 260 as Lot 5 and lies within the Single Residence B district. Case # 3-3

After consideration, the Board voted to **grant** the petition, as presented and advertised, for the following reasons:

- The variances will not be contrary to the public interest as they will add an appropriate dwelling unit in a city that needs more housing.
 - There are special conditions attached to this property requiring an area variance to build a habitable dwelling, these conditions being its location with no public access, and the short 80-foot depth of the lot.
 - The only other way the benefit sought could be achieved would be by building a very long, skinny house, which would not be desirable.
 - This is an allowed and reasonable use, consistent with the spirit of the ordinance.
 - No abutters spoke against the granting of the variances and the value of those properties should be enhanced by demolishing the barn and replacing it with an attractive dwelling.
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4) Petition of Michael J. and Anne T. Coffey, owners, for property located at 86 Haven Road wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 14' x 24' one story addition with: a) a 20'8" rear set back for the addition and a 19'8" rear setback for the steps from the addition where 30' is the minimum required, and b) 25% building coverage where 20% is the maximum allowed. Said property is shown on Assessor Plan 206 as Lot 27 and lies within the Single Residence B district. Case # 3-4

After consideration, the Board voted to **grant** the petition, as presented and advertised, for the following reasons:

- The variance will not be contrary to the public interest, as there is a substantial amount of green space between the back of the lot line and Clough Drive.
 - The lot is small and odd in configuration, presenting special conditions requiring setback relief.
 - The house has a modest footprint and cannot be expanded in any other reasonably feasible way without a variance.
 - This is a very small expansion of an allowed use, consistent with the spirit of the ordinance.
 - Substantial justice is done by allowing the homeowner to update the property in a reasonable manner.
 - The value of surrounding properties will not be diminished, as verified by the positive support of a number of neighbors.
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5) Petition of Wal-Mart Real Estate Business Trust, David N. Glass Trustee, owner, for property located at 2460 Lafayette Road and Jokers Realty One LLC et al, owner for property located at 2460a Lafayette Road wherein a Variance from Article IX, Section 10-908 Table 14 was requested to allow: a) 454.36 sf of attached signage where 300 sf is the maximum allowed, and b) 558.36 sf of aggregate signage where 500 sf is the maximum allowed. Said property is shown on Assessor Plan 285 as Lots 16-1 and 16-2 (to be combined) and lie within the General Business district. Case # 3-5

As a result of this consideration, the Board voted to **deny** the application, as presented and advertised, for the following reasons:

- The zoning ordinance is intended to be the rule and the variance the exception. There is no reason or hardship in this case necessitating an exception.
 - This is one building, occupied by one entity. The existing signage and the total allowed by the ordinance are more than adequate for the public to find the facility and identify its services.
 - The rule regarding signage is reasonable and achievable and there is no evidence demonstrating why the square footage listed in the ordinance is not adequate.
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6) Petition of Hayscales Trust, Robert Krieger, Trustee, owner, and Murat Ergin, applicant, for property located at 236 Union Street wherein a Special Exception as allowed in Article IV, Section 10-401(A)(1)(d) was requested to allow the former use by ProPortsmouth to be changed to 1,000 sf of office space and 2,000 sf of warehouse space for an internet sales business with associated existing parking. Said property is shown on Assessor Plan 135 as Lot 22 and lies within the Apartment district. Case # 3-6

After consideration, the Board voted to **grant** the petition, as presented and advertised, but with the following stipulations:

- That there will be no outside storage.
- That there will be no outside dumpster.
- That the hours of power equipment use will be limited to between 9:00 a.m. and 5:00 p.m., Monday through Friday.
- That the maximum number of individuals working at the site, including the owner, will be five.
- That the garage door will be kept closed, except for deliveries.

The Special Exception was granted for the following reasons:

- There is no hazard to the public from potential explosion or toxic materials.
 - The outlined stipulations have addressed any possible negative effect on the neighborhood and property values in the vicinity.
 - This is a low impact use, allowed by the ordinance and presents no traffic hazards, excessive demand on municipal services or increase in storm water runoff.
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7) Petition of Anthony Dilorenzo c/o Somersworth Auto Center, owner, for property located at 2219 Lafayette Road wherein a Variance from Article IX, Section 10-908 Table 14 was requested to allow a 7.6 sf free-standing A-frame sign creating 207.6 sf of aggregate signage where 200 sf of aggregate signage is the maximum allowed. Said property is shown on Assessor Plan 272 as Lot 1 and lies within the General Business district. Case # 3-7

After consideration, the Board voted to **deny** the request for the following reasons:

- This sign provides no benefit to the public and would serve as another distraction along the road.
- There is no demonstrated hardship or special condition of the property requiring the additional signage.
- A variance would not be consistent with the spirit of the ordinance which already allows 200 s.f. of signage, adequate for the applicants to achieve their sought benefit.
- As evidenced by the testimony of the abutter speaking against the increased signage, substantial justice to the public would not be done in the granting of the variance.

8) Petition of Karen Sue Pierce Revocable Trust of 1998, owner, for property located at 275 Meadow Road wherein a Variance from Article III, Section 10-302(A) was requested to allow a 12' x 22' one story addition to an existing garage with a 23' rear yard where 30' is the minimum required. Said property is shown on Assessor Plan 236 as Lot 27 and lies within the Single Residence B district. Case # 3-8

After consideration, the Board voted to **grant** the petition, as presented and advertised, for the following reasons:

- The expansion would be to the left of the existing garage where there is more than adequate space and where it would have no adverse impact on the public.
- The special conditions of the property creating a hardship are that it is a long and narrow lot and the house sitting on it is already non-conforming.
- The garage is undersized by today's standards with a narrow door. The obvious area to expand is to the left of the garage and there is no other feasible way to do that without a variance.
- The request is consistent with the spirit of the ordinance and the applicants are only requesting to extend a line that is already non-conforming, not expand the degree of non-conformance.
- Substantial justice would be done in allowing the applicant a better functioning garage.
- The value of surrounding properties would be positively impacted and no abutters have spoken against the petition.

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III. ADJOURNMENT

The motion was made, seconded and passed to adjourn the meeting at 9:28 p.m.

Respectfully submitted,

Mary E. Koepenick
Secretary

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