

**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 regular meeting on October 17, 2006** in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

**PRESENT:** Chairman Charles LeBlanc, Vice Chairman David Witham, Steven Berg, Alain Jousse, Robert Marchewka, Arthur Parrott, Alternates: Carol Eaton, Henry Sanders

**EXCUSED:** Duncan MacCallum

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**I OLD BUSINESS**

A) Approval of Minutes

- March 22, 2005
- April 19, 2005
- June 21, 2005
- June 28, 2005
- September 27, 2005
- December 20, 2005
- September 19, 2006
- September 26, 2006

A motion was made, seconded and passed unanimously to accept the Minutes as presented.

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B) Petition of **Michael De La Cruz, owner**, for property located at **63 Congress Street a/k/a 75 Congress Street Franklin Block** wherein a Variance from Article XII, Section 10-1201(A)(2) is requested to allow a 10' two accessway to a below grade parking garage where 24' is the minimum required. Said property is shown on Assessor Plan 117 as Lot 5 and lies within the Central Business B, Downtown Overlay and Historic A districts. *This item was tabled at the September 19, 2006 meeting.*

The Board voted to table the petition to a time indefinite at the applicant's request.

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C) Petition of **Abigail Khan-Cooper, owner**, for property located at **227 Park Street** wherein a Variance from Article II, Section 10-206 is requested to allow outdoor display and sales of artwork where such use is not allowed as a Home Occupation I or II. Said property is shown on Assessor Plan 149 as Lot 6 and lies within the General Residence A district. *This item was tabled at the September 19, 2006 meeting.*

This petition was withdrawn by the applicant.

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D) Petition of **Lawrence N. & Ruth S. Gray, owners**, for property located at **80 Currier's Cove** wherein a Variance from Article III, Section 10-301(A)(7) was requested to allow 190 sf enclosed living space (9.5' x 20') within 100' of the edge of the salt water marsh/wetlands. Said property is shown on Assessor Plan 204 as Lot 14 and lies within the Single Residence A district. *This item was tabled at the September 26, 2006 meeting*

The Board decided that the case of Fisher v. Dover applied to this application and declined to hear the petition.

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**II. PUBLIC HEARINGS**

1) Petition of **Ralph M. Guerra Irrevocable Trust, Mary Lou Guerra Irrevocable Trust, Ralph Guerra and Mary L. Grego, owners**, for property located at **24 Taft Road** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 12' x 12' one story rear addition creating 23.8±% building coverage where 20% is the maximum allowed. Said property is shown on Assessor Plan 268 as Lot 89 and lies within the Single Residence B district.

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

- With open space to the rear, the addition will allow light and air without negatively affecting the public.
- The best placement on the lot has been chosen for this standard size addition.
- The increase in building coverage on a small lot is minimal.
- The proposed improvements have received the support of neighbors and will not negatively affect property values.

2) Petition of **Richard T. and Jennifer J. Matthes, owners**, for property located at **69 Sunset Road** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 13'3" x 10' one story addition with steps and a 23' x 10' deck with steps creating 26.8%± building coverage where 20% is the maximum allowed. Said property is shown on Assessor Plan 153 as Lot 15 and lies within the Single Residence B district.

After consideration, the Board voted to grant the petition as presented and modified to 24.19% lot coverage, with the following stipulation:

- That the deck remain clear and open to the sky.

The petition was granted for the following reasons:

- The addition and deck will not contribute to overcrowding as there is adequate open space to the rear.
- The addition and deck will line up with the existing structure and the deck will now be shielded from neighbors.
- This is a small house on a small lot and there is no way to expand without requiring relief.
- The proposed improvements have received the support of neighbors and will not negatively affect property values.

3) Petition of **Mark C. and Julie Gagne, owners**, for property located at **1105 South Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 6'8" x 11'10" one story porch creating 27.1%± building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 150 as Lot 21 and lies within the General Residence A district.

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

- This is a modest request which will allow the homeowner to finish off the front of the house without infringing on the side setbacks.
- An open porch will reduce the visual impact on a substandard size lot.
- The porch will provide protection to the main entry while allowing replacement of badly deteriorating brickwork.

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5) Petition of **Temple of Israel, owner**, for property located at **200 State Street, 170 State Street and off Court Street** wherein a Variance from Article XII, Section 10-1201(A)(3)(a)(4) was requested to allow 13 existing non-conforming parking spaces to be located on site with vehicles backing into Court Street where backing out onto the street is not allowed. Said property is shown on Assessor Plan 107 as Lots 65, 66, and 75 (to be combined) and lies within the Central Business B, Downtown Overlay and Historic A districts.

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

- That the owner work with the City concerning a license for parking overlapping into the City right-of-way.

The petition was granted for the following reasons:

- The parking has existed in this location and this arrangement for a number of years with no apparent problems.
- The vehicles back out onto a street where traffic moves slowly, creating a safer situation.
- The configuration of the lot and structure layout preclude a different arrangement.
- Providing off-street parking spaces is a benefit to the public.

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6) Petition of **Gerald W. Sutherland Jr. and Debra Sutherland, owners**, for property located at **252 Holly Lane** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 12' x 12' two story addition with a 23'± front yard where 30' is the minimum required. Said property is shown on Assessor Plan 261 as Lot 46 and lies within the Single Residence B district.

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

- The addition will be no more nonconforming than the house, which predates the requirements set by the current zoning ordinance.
- The addition will not affect the public interest as it simply extends the front line of the existing house.
- The way the house is configured on the lot, there is no other feasible location for the addition.
- Set in the middle of the lot, the addition will not infringe on the rights of neighbors or negatively impact property values.

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7) Petition of **Ellen M Hepp Revocable Trust, owner, Ellen M, Hepp Trustee**, for property located at **28 Ridges Court** wherein the following were requested: 1) Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) to allow a 16' x 26' two story rear addition with a 5.8'± right side yard where 10' is the minimum required, and 2) Variances from Article IV, Section 10-402(B) and Article IV, Section 10-401(A)(2)(c) to allow the height of

the existing garage to be raised to 11'6"± with a 2'± left side yard where 10' is the minimum required. Said property is shown on Assessor Plan 207 as Lot 67 and lies within the Single Residence B district.

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

- The vertical addition would be permitted without a variance if the foundation did not have to be rebuilt for safety reasons.
- Built in line with the existing wall of the house, there is no better location for the addition.
- The renovation to the garage is minor and will be an aesthetic improvement.
- The value of surrounding properties should be increased by the proposed changes.

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8) Petition of **Anne Elizabeth and Alan Gregg Weston, owners**, for property located at **43 Pray Street** wherein Variances from Article III, Section 10-303(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow: a) a 5' x 13' one story addition with a 3'± right side yard where 30' is the minimum required, b) a 5' diameter spiral stair with a 4'.6"± right side yard where 30' is the minimum required, c) a 5' x 15'10" first floor deck with stairs with a 5' right side yard where 30' is the minimum required and 10' rear yard where 20' is the minimum required, d) a 5' x 11' second floor deck with a 5' right side yard where 30' is the minimum required and a 10' rear yard where 20' is the minimum required; and e) 53.6±% building coverage where 30% is the minimum required. Said property is shown on Assessor Plan 102 as Lot 39 and lies within the Waterfront Business and Historic A districts.

After consideration, the Board voted to grant variance requests a), c) and e) of the petition as advertised and presented with the following stipulation:

- That the building coverage will be as adjusted to the approved dimensions on the plan, not to exceed 53.6%.

Variance requests a), c) and e) of the petition were approved for the following reasons:

- A rotting, unsafe deck will be replaced by a deck that is open, allowing light and air.
- The lot is unusually narrow and it is impossible to place the addition and first floor deck without infringing on the setbacks.
- The changes will make the property more functional for the owners while not adding to the density.
- To minimize the impact on the lot coverage, an existing shed and bulkhead will be removed to build the addition.

The Board voted to deny variance requests b) and d) as these features would add to overcrowding, not facilitate light and air, and could lead to an intrusion on the privacy of neighbors.

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**III. ADJOURNMENT.**

The motion was made, seconded and passed to adjourn the meeting at 10:20 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary