

**MINUTES OF THE BOARD OF ADJUSTMENT MEETING  
PORTSMOUTH, NEW HAMPSHIRE  
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS**

**7:00 p.m.**

**JANUARY 15, 2008**

**MEMBERS PRESENT:** Chairman Charles LeBlanc, Vice Chairman David Witham, Carol Eaton, Thomas Grasso, Alain Jousse, Charles LeMay, Arthur Parrott, Alternates: Derek Durbin, Robin Rousseau

**EXCUSED:** None

**ALSO PRESENT:** Lucy Tillman, Chief Planner

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**I. OLD BUSINESS**

A) Approval of Minutes – December 18, 2007

It was moved, seconded and passed by unanimous voice vote to accept the Minutes as presented.

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**II. PUBLIC HEARINGS**

1) Petition of **Jacqueline Ellis Revocable Living Trust, Jacqueline Ellis Trustee, owner**, for property located at **79 Haven Road** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow additions to an existing single family dwelling as follows: a) a 10' x 13'6" two story addition to the right side with a 17.5'± front setback where 30' is the minimum required, b) 6' x 10' one story front entry addition with a 12'± front setback and a 4' x 10' covered front porch with an 8'6"± front setback where 30' is the minimum required in each instance. Said property is shown on Assessor Plan 206 as Lot 5 and lies within the Single Residence B district.

**SPEAKING IN FAVOR OF THE PETITION**

Ms. Jacqueline Ellis stated that none of the homes in her area are in compliance with the setbacks in current zoning. She would like to keep in character with others in the neighborhood, many of whom had made improvements recently. She submitted a petition signed by all of her neighbors stating they had no problem with the application. Referring to her packet, she outlined the additions she is requesting and how they would be used to create more living space and provide better flow of movement inside the home.

In response to questions from Chairman Leblanc and Ms. Eaton, she stated that there would be a one-story covered stoop or porch off the front and, behind that, an entryway. She felt a bump-out, which many of the houses in the neighborhood had, would add visual interest and useful space.

**SPEAKING IN OPPOSITION TO THE PETITION, OR  
SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one rising, the public hearing was closed.

**DECISION OF THE BOARD**

Mr. Jousse made a motion to grant the petition as presented advertised, which was seconded by Mr. Grasso.

Mr. Jousse stated that this was one of those cases where, even though the lot was fairly good sized, there was not much area that was not encumbered by the setbacks. This presented a problem for the homeowner in doing anything to the dwelling. He stated that granting the petition would not be contrary to the public interest and there was no other reasonably feasible method to achieve their aim. Although it seemed like a lot was being requested, it was really minimal and conforms with the rest of the neighborhood. The petition was consistent with the spirit of the ordinance and substantial justice would be done by granting it. He noted that nothing had been presented as to the effect of property values.

Mr. Grasso stated, with the position of the house on the lot practically any expansion would require a variance. He felt that keeping the addition in line with the front of the building was the right thing to do, but doing so caused a need for a variance. This was a minimal project.

Ms. Eaton stated that she had a hard time granting a variance that close to the front property line. She didn't think the other houses with front sections came that close and didn't feel it warranted a variance.

Chairman LeBlanc stated he agreed.

Mr. LeMay stated that, with the exception of the part Ms. Eaton mentioned, the house would maintain the character of the neighborhood and fit in well with what else was there.

Ms. Eaton felt that there should be some discussion about splitting the motion.

Mr. Jousse stated he would agree to split the variance into part a) and part b), if it was acceptable to the second. Mr. Grasso stated that would be fine.

Chairman LeBlanc stated, then, Mr. Jousse's motion would be to grant part a) of the petition.

Mr. Jousse stated that was correct and he would like to apply his initial arguments to the amended motion.

Mr. Grasso concurred.

The motion to grant part a) of the petition was passed by a unanimous vote of 7 to 0.

Mr. Parrott stated he would like to split for discussion the two requests in part b). He felt the porch was fine, but he had a problem with the room in back of it, what had been referred to as a mudroom.

There was a brief discussion between Chairman Leblanc and Mr. Parrott to define, for purposes of clarifying the motion, the description, dimensions and distance from the property line of the two requests.

Mr. Parrott then stated that his motion was to grant the first request in part b), a 4'x10' covered porch, with open sides and front. The motion was seconded by Mr. Grasso.

Mr. Parrott stated that, starting from the second floor overhang, the front setback currently ranged from 16.9' to 17.5' depending on the side of the house. That was small. If a 6' structure and a 4' structure, 10' altogether, were added to the front, it would bring the front setback to 8', the length of a sheet of plywood. He felt that was inappropriate for this neighborhood. Reducing the total request for a front addition to the 4' x 10' porch was a reasonable thing for the Board to do. He stated that a porch, which acts as a front entryway and provides protection from the rain was perfectly appropriate and understandable.

Mr. Grasso stated he agreed and had nothing further to add.

Ms. Tillman stated they would have to vote on the 6' x 10' structure separately.

The motion to grant a 4' x 10' covered porch with open sides and front was passed by a vote of 5 to 2, with Messrs. Jousse and Witham voting against the motion.

Ms. Eaton made a motion to deny the petition for a 6' x 10' addition, which was seconded by Mr. Parrott.

Ms. Eaton stated that the lot was large so there was no hardship associated with the request. She noted that there were plenty of other means of access to the home and this addition would result in a further incursion into the setback.

Mr. Parrott concurred.

The motion to deny the petition for a 6' x 10' addition was passed by a vote of 5 to 2, with Messrs. Jousse and Witham voting against the motion.

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2) **Petition of Ned and Bill Properties LLC and 737 Islington Street Condo Association, owners**, for property located at **737 Islington Street** wherein the following were requested: 1) a Variance from Article II, Section 10-208(44) to allow the property to be used entirely residentially where 1/3 of the gross floor area on the lot is required to be used for nonresidential uses, and 2) Variances from Article III, Section 10-304(A) and Article IV,

Section 10-401(A)(2)(c) to allow a 4' x 28' 2<sup>nd</sup> floor deck to be located within the required front and left side setbacks where a 20' front setback and a 15' left side setback are the minimum required. Said property is shown on Assessor Plan 165 as Lot 9 and lies within the Business district.

### **SPEAKING IN FAVOR OF THE PETITION**

Attorney John Lyons stated that the condominium unit owners had been advised by a contractor that the deck shown in the submitted photographs needed to be repaired to correct leaking and deterioration. There was no request to expand or extend the size of the deck. Upon application to repair it, they had been told that a permit could not be issued due to a setback problem and that a portion of the building in front had to have a commercial use.

Attorney Lyons stated that he had researched the recorded deeds for the condominium units and found them described as “residential use with the exception of the garage unit.” All of the units were being used for residential purposes and the owners were receiving bills and paying taxes on their individual units. He stated that, while they were there seeking a variance, their position was that these were not new dwelling units as defined in the ordinance.

Addressing the criteria for the use variance, Attorney Lyons stated that the zoning restriction interferes with the reasonable use he had just discussed. He described some of the properties in the area and stated this was a unique building in a unique setting. There was no relationship between the ordinance and the restriction on the property as the building was tailor made for this type of affordable housing. There would be no injury to the public or private rights of others, quite the opposite.

With respect to the area variance, Attorney Lyons referred to the front of building and the photographs he had provided. The front entranceway actually extends farther out than the deck. Additionally in front of property is a parking area that is brick and between parking area and the property line is a brick planter.

He stated that the special conditions were the existing structures, which had existed for a significant period of time. He pointed out that, with 4 or 5 sliding glass doors on the second floor, removing the deck would create a hazard. There was no other alternative.

Attorney Lyons stated that the value of surrounding properties would not be diminished. Part of the beauty in Portsmouth was that there is a mix and not just storefronts. This building adds significantly to the area. He stated that granting the variance would be in the public interest by providing workforce housing. Justice would be served as all of these folks had purchased their units based on condominium documents indicating that they must be used for residential purposes.

Mr. Grasso asked if the deck was going to be supported as it was now or would there be columns to the ground.

Attorney Lyons stated that the contractor's intent was to make it look exactly like it looks now. They have to remove a portion to get at the flashing, but the repaired deck would be no wider than at present.

Ms. Rousseau asked if the units were all individual owners. Attorney Lyons responded that there were five individual owners in the front building. The back unit was a garage still owned by Ned and Bill LLC.

Ms. Rousseau stated that, then, it really got converted to residential use without getting a variance. Attorney Lyons confirmed that was the problem the owners faced.

Ms. Rousseau asked if he was also representing the developer. Attorney Lyons stated that, although they are listed as the owners, they are simply the owner of one of the units. He represents the 737 Condominium Association.

Ms. Rousseau asked if Ned and Bill was the original developer. Attorney Lyons stated, "yes." Ms. Rousseau asked if they had then sold it off and reiterated her question that they were now coming for a variance?

Attorney Lyons reiterated that he could not speak for them. He was hired for the Board which consists of the front residential units

Ms. Tillman clarified that the building was, and always has been, primarily used as a residential. This was not a commercial building that was converted. One unit was occupied partially by a real estate appraisal business and was partially a residential unit. The rest of the building was residential. When the real estate appraisal office left, the new owners just eliminated the office. By then, the Zoning Ordinance had changed requiring that the property be 1/3 commercial, if it had a residential use component.

Attorney Lyons stated that they were requesting a variance so there would be no question about his clients' right to convey or sell their residential units in the future.

#### **SPEAKING IN OPPOSITION TO THE PETITION**

No one rose to speak.

#### **SPEAKING TO FOR OR AGAINST THE PETITION**

Mr. Mike Theil stated he was representing a trust that owns an abutting property. He believed the last discussion clarified a question he had regarding the Zoning Ordinance – that anything new built in the area would have to be 1/3 commercial if it had a residential use component.

Ms. Tillman stated that, only if part of the use was residential, would 1/3 have to be commercial. An all commercial use would be fine.

Mr. Thiel stated that it seemed to be a morass in the past with one violation after the other, which stuck the current owners with a bad situation. He had had grief from a residential use

and was concerned that a precedent not be set. He didn't want a fully residential use placing additional restraints on him, as an abutting commercial use, just to protect their rights.

Attorney Lyons stated that the unit owners are appreciative of Mr. Thiel's past cooperation. He stated that one precedent would be set, which was that these owners and Association will do whatever needs to be done the right way and, if relief is needed, they will ask for it.

**DECISION OF THE BOARD**

Mr. Witham made a motion to grant the petition as presented and advertised, which was seconded by Ms. Eaton.

Mr. Witham stated that, while not a reason to grant a variance, there would be a large penalty on the current owners if the variance were not granted. He felt they bought their units a certain way and no one blatantly abused the ordinance. There were existing residential units which were subsequently sold off to individual owners. It would be hard to ask that two of the owners give up their use to a business. One of the special conditions resulting in a hardship was the fact that everything exists as proposed. He noted the property had a narrow driveway and the sight lines were very poor. It was probably safer as residential rather than a business use with clients coming in and out. Mr. Witham stated that granting the petition would be in the spirit of the ordinance. The intent was to have a mix of uses, but with the history of the building and the location, it was reasonable to have it as requested. He didn't feel any precedents would be set and there was no injustice to others in granting the request. It was more likely that residential owners would have concerns with a business.

Regarding the deck, the special condition was that it exists and that the property was close to the road. There was no other reasonably feasible method to make the necessary repairs for leakage and allow a safe area outside the sliders. Mr. Witham stated that it would not affect the public interest to pretty much maintain the status quo. He stated that surrounding property values would not be diminished.

Ms. Eaton added that the zoning will remain Business, which should protect abutters.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 7 to 0.

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3) Petition of **Joseph E. Golter, owner**, for property located at **4 Sagamore Grove Road** wherein a Variance from Article II, Section 10-208 was requested to allow the use of the property as a single family dwelling only in a district where such use is not allowed. Said property is shown on Assessor Plan 201 as Lot 4 and lies within the Waterfront Business district.

Mr. Witham stated he would be stepping down for this petition.

**SPEAKING IN FAVOR OF THE PETITION**

Attorney Bernard W. Pelech stated that Sagamore Grove Road was a very narrow right of way which runs off Sagamore Road just past Sagamore Bridge. There were six residences on it and only Mr. Golter's has ever had a waterfront business use. He stated that the house had been built in the 1940's, as a residence in a residence zone, before the City had a concept of a waterfront business zone. The family had used it as a residence and also to sell lobsters. Mr. Golter moved into another property where he has his lobster business.

Addressing the criteria, Attorney Pelech stated that the proposed use was a reasonable use of the property. There was no relationship between the general purposes of the ordinance and the restriction on the property. As could be seen from the allowed uses, very few, if any, were compatible with this property, which was a small lot. There was no room for the adequate parking required by all the uses. There was no municipal sewer, no frontage on Sagamore Road. It was not appropriate for a waterfront business. He stated that granting the variance would actually benefit the public or private rights of others. There would be less traffic for the residents on Sagamore Grove Road and less of an impact on the septic system. As it would be difficult to get safety vehicles out there and there was not enough room to park, he stated that the necessity for a waterfront business would be contrary to the spirit and intent of the ordinance. He maintained that the hardship on Mr. Golter was not outweighed by any possible benefit to others if the variance was denied. Used just as a residence, the property would not devalue others on the street, but they may be diminished if a business were added.

In response to questions from Chairman LeBlanc and Mr. Parrott, Mr. Golter stated that the dropoff in vertical feet to the water was approximately 15' at low tide and 7' at high tide. Lots 3, 5 and 6 as shown on the tax map were all residential uses.

Mr. Parrott stated that, if the area owners wanted to be treated the same way, it would not be only a small slice of the waterfront that was involved. Attorney Pelech's argument was that this lot was special because it was tiny and couldn't be used for anything different. His point was that the waterfront business area was small to start out with. If this were granted, what would prevent the owners of the adjacent lots on the water from coming down and making a valid argument to be treated just the same.

Attorney Pelech responded they would not need a variance as they would be a pre-existing non-conforming use.

Mr. Parrott said he would like to extend the argument to lot #1, two lots over.

When Attorney Pelech asked if that was the one that fronts on Sagamore Road, Mr. Parrott confirmed it was and also fronted on Sagamore Grove Road.

Attorney Pelech stated they came in for a variance several months ago and the Board denied it. They had frontage on Sagamore Road. They had signage. They had a commercial building that was built as a commercial building. They did not have a residence, such as Mr. Golter has always had.

Mr. Parrott stated that it had also, as Attorney Pelech had pointed out, been used successfully for a long time as both a commercial and a residential property.

Attorney Pelech stated that was not what he had said. He had stated that it was used as a lobster business. But Mr. Golter moved because he couldn't be successful there as he was not allowed to put up a sign on Sagamore Road.

After a question from Ms. Eaton, Ms. Tillman indicated on the zoning map the boundaries of the Waterfront Business District, which extended to the other side of the road.

### **SPEAKING IN OPPOSITION TO THE PETITION, OR SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one rising, the public hearing was closed.

### **DECISION OF THE BOARD**

Ms. Eaton commented that it seemed to require rezoning, but agreed with Chairman LeBlanc that they were not there to deal with that issue.

Mr. Parrott made a motion to deny the petition, which was seconded for discussion by Ms. Eaton.

Mr. Parrott stated that, as the Planning Department and the City had pointed out over a long period of time and put in the master plan, the value of the waterfront Business District to a waterfront City is practically incalculable. While he agreed this was a small slice of it and it was an unusual location, saltwater frontage was what it was and couldn't be duplicated. He felt that small changes had a way of replicating, maybe not right in this neighborhood, but up the creek as it were. A new applicant could argue that a change had been granted before and why should they be treated differently. He stated that waterfront business zoning had been in place for a long time and this family had owned the property for a long time. No one was taking advantage of anyone by saying that the zoning in this critical area ought to be enforced as it's written and as approved by the City Council.

Mr. Parrott added that, when he had reviewed the package, he had made a note to himself that it would be more appropriate for the City Council to rezone the area in total, looking at the big picture, rather than bringing a case to this Board to do it in a piecemeal fashion. Granting this application would have the effect, although not purposely, of breaking the zoning in this particular area. While he realized this was a restriction on the owner, all property had some restrictions, their pluses and minuses.

Ms. Eaton stated she agreed. While it was unfortunate for the owners because it's probably better used as residential, it was the keystone property right now in this little spot of waterfront business and she didn't think it was appropriate for the Board to grant this petition.

Mr. LeMay stated that Mr. Parrott's points were well taken. This particular application had problems in the areas of the criteria like substantial justice and public interest, but, he noted, there was no doubt that it also had an enormous amount of hardship associated with it. Unfortunately, the petition had to meet all five criteria for a variance.



Mr. Jousse stated that he would not support the motion. While he disliked seeing waterfront property go by the wayside, he felt this particular property was really unique in its setting, surrounded by residential properties. It didn't make much sense to him that the properties across the right of way are considered in a waterfront district when they don't even have access to the water.

The motion to deny the petition was passed by a vote of 4 to 3, with Messrs. Grasso, Jousse, and LeBlanc voting against the motion.

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4) Petition of **Terry Bennett, owner**, for property located at **211 Union Street** wherein a Variance from Article III, Section 10-302(A) was requested to allow eight new dwelling units (townhouses) to be constructed on a 15,849 sf lot where 60,000 sf (corrected to 28,000 s.f.) is the minimum lot area required. Said property is shown on Assessor Plan 135 as Lot 70 and lies within the Apartment and Historic A districts.

Ms. Eaton advised that she would be stepping down for this petition.

**SPEAKING IN FAVOR OF THE PETITION**

Attorney Bernard Pelech noted that the owner had come before the Board in September of 2007 with a petition, which was denied, requiring 4 or 5 variances. As a result of the Board action, they had gone back to the drawing board. He referred to the plan that had been passed out to the Board and was on exhibit. He noted that the structure, which was non-conforming, had existed on Union Street for over 50 years. He outlined the history of the property, noting that it had been problematic for a number of years. Currently, only one residential unit was being used. They had scaled down their proposal to 8 units in 4 free standing structures, which met all of the setback requirements. They also met the building coverage, open space, height, and parking requirements. The only one that was not met was the lot area per dwelling unit.

Attorney Pelech stated that they could convert the existing cement block building into 15 units, but it would be difficult to convert and would not be code compliant. Sewer lines intersect underneath the structure and the building itself did not comply with setbacks. Their proposal was to demolish the building and construct 8 townhouse residential units. The lot area per dwelling unit in that district was 3,500 s.f. and this would be 1,981 s.f. He contrasted the features of the previous proposal with those of the current plan. He indicated on the plan properties with less lot area per dwelling unit. He noted that there was more than enough on-site parking, freeing up spaces on the street for the neighborhood.

Noting that the ordinance had yet to be amended in accordance with the master plan, Attorney Pelech outlined how this proposal complies with that plan. The proposal provides for affordable housing in a neighborhood where people can walk to downtown, provides offstreet parking, and uses a lot which had created problems in the neighborhood in the past. He stated there was a high assessment on the property and, in order to get a fair return, the number of units cannot be reduced to less than 8.

Addressing the criteria, Attorney Pelech stated that a special exception would allow the conversion of the existing building to up to 15 units as they would only need 1,000 s.f. per unit, but where would those people park. They decided to take down the building and provide parking. In keeping with the spirit of the ordinance, they would increase open space, comply with the setbacks, and provide conforming parking. There would be no diminution in the value of surrounding properties by the replacement of a monolithic block structure, extending to the property line, with these attractive townhouses.

Attorney Pelech stated that the special conditions included the fact, as could be seen on his handout, that this was the largest lot on the block, encumbered by a big, non-conforming structure. Added in were the sewer lines under the building and non-conforming parking. These special conditions would be rectified by demolishing the building and the Board granting some relief. He stated that Mr. Broughton of Union Lofts had worked with the architect to try and come up with proposals that fit within the building envelope and won't require a number of variances. This proposal required the minimum amount of relief and dealt with prior concerns of the Board.

Attorney Pelech cited the relevance of the Malachy Glen Associates court case in that a scaled down version of 7 units would present such a financial burden for the owner that the proposal could not go forward. Attorney Pelech stated that it would be in the public interest to reroute sewer lines for better access and add 8 housing units, which the City needs, without creating an additional demand on services.

Mr. Steve McHenry pointed out the various features of the plan. They had considered many scenarios to use the existing building, but they were not feasible. He indicated the open courtyard in the center, the parking, and the building footprint, noting that there would be a lot of open space around the structures. He mentioned the community benefit of rerouting the sewer lines and the improvement to public safety due to better vehicular sight lines as you come out onto Union Street. They would improve sidewalks and landscaping and add two public parking spaces. He reiterated the changes made to comply with the ordinance and with the master plan.

Stating that it looks older, Ms. Rousseau asked the age of the property. Mr. McHenry stated that some renovation that had been tended to make it look older. Ms. Rousseau asked if it would date back to the 1960's and Mr. McHenry stated, "yes."

Mr. LeMay asked what was represented by the figures indicated on the properties shown in their handout.

Mr. Brandon Howden stated they represented the average square footage per unit, the density per lot. Noting that they would have 1,981 s.f. of lot area per unit, he cited the number for an adjacent lot of 1,725 s.f.

Ms. Rousseau asked what the selling price would be.

Mr. Broughton stated he was the person under agreement to purchase the property. The average selling price in their original proposal would have been in the \$200,000 some range. Because they had to back down the units, they were now into the high 300's to low 400's.

Ms. Rousseau asked if they were considering that low to moderate and Mr. Broughton stated that they would still consider that a moderate home price in Portsmouth.

### **SPEAKING IN OPPOSITION TO THE PETITION**

Mr. Patrick Malloy stated he was a direct abutter at 235 Union Street, the property to the left facing the building. He had not seen some of the documentation until that evening and liked some of what he saw, although he was still concerned about density and would prefer 6 units. The project was against the aims of the ordinance to prevent overcrowding of land and improve the quality of life. He outlined why he felt the criteria were not met. There should be a restriction if the variance were granted that no boats or other items be stored that would drive vehicles onto the street.

In response to questions from Mr. Jousse, Mr. Malloy confirmed he owned a duplex on lot 71.

Stating that she had lived there for 25 years, the owner of 30 Coffin Court outlined some of the past history. She felt a purchaser would not choose her property with this abutting it. She wanted reassurance that, if they relocate the sewer lines, she will not be responsible if clay lines get broken. Her additional concerns included parking and snow removal, and that the height not exceed 35'.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

Mr. William Downey of 99 Bow Street felt the proposal would be congruent with the master plan.

Attorney Pelech stated that this was advertised incorrectly as requiring 60,000 s.f. It should be the product of 8 times 3,500 s.f., which would give you a lot size of 28,000 s.f.

Ms. Tillman confirmed that number.

Mr. Eric Weinrieb explained how the sewer lines would be rerouted to address the concern of the abutter. He pointed out that the parking does meet zoning requirements and other technical issues with regard to parking would be addressed during the site review process, if the proposal received variance approval. He stated that the snow would be piled up and trucks would come in and remove it. He stated that the green space would be increased 15' along the property lines.

Chairman LeBlanc asked about the height of units 4 and 5 and Mr. Weinrieb stated they would be less than 35'. Mr. Howden stated that the property to the right had a height of 27', to the north, the ridge was 33' and across the street, it was 39'. The area average was 35'.

### **DECISION OF THE BOARD**

Chairman LeBlanc reiterated that the required lot size for this number of units was 28,000 s.f., not 60,000 s.f.

Mr. Durbin made a motion to grant the petition as advertised and as presented, which was seconded by Mr. Witham.

Mr. Durbin stated that the project was a commendable example of sustainable design and was as affordable as they could make it. He stated he wanted to add a stipulation that the snow be removed in a legal manner from the property.

Mr. Durbin stated that rerouting the common sewer line would benefit the neighborhood and storm water runoff would be mitigated by increasing the green space. The special conditions were the existing structure and the way the property had been developed in the past. The proposal will make the property more usable while bringing 4 areas into conformance. He stated that maintaining the open space would be in the spirit of the ordinance. There was no hardship to the public that would outweigh the benefit to the applicant by granting the variance. There was no evidence that surrounding property values would be diminished.

Mr. Witham stated that the previous application included quite a few variance requests and they were now down to one. He noted that, with a special exception, they could renovate and have 15 units. If they remove the building and start over, they could only have 4. This was a good middle ground. The aerial photograph provided by the Planning Department showed the property pretty much covered by one large building, which adds nothing to the neighborhood. In terms of impact on the neighborhood, an allowed 4 units could be built in the same amount of space as the requested 8 units. This was a reasonable use of the property considering what was there now and the other multiple units in the area. This would not change the essential character of the neighborhood, presenting a similar footprint and scale. Another big improvement was to go from 16% open space to almost 30%. While he heard the concerns of the abutters, this project protects the neighborhood better than what was existing.

The motion to grant the petition as presented and advertised, with the stipulation that the snow be removed from the property in a legal manner, was passed by a unanimous vote of 7 to 0.

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5) Petition of **Oleg Y. Kompasov, Hilary G. O’Neil owners**, for property located at **97 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’ x 30’ 2<sup>nd</sup> story rear addition with a 1’6”± right side setback and a 4’7”± left side setback where 10’ is the minimum required side setback. Said property is shown on Assessor Plan 102 as Lot 45 and lies within the General Residence B and Historic A districts.

**SPEAKING IN FAVOR OF THE PETITION**

Ms. Hilary O’Neil stated that they would like to close in a very small portion of the deck to make a mudroom in the rear and expand out the children’s room an additional 6’ over the existing first floor ell. They were not proposing any foundation expansion, but need a variance because the existing house was non-conforming.

Ms. Rousseau asked the age of the property and Ms. O’Neil indicated the house was some 300 years old.

Ms. Rousseau asked if they were expanding the bedrooms out and Ms. O’Neil referred to the photograph of the back of the house. The bedrooms will just come out to the boundaries of the bathroom.

Chairman Leblanc asked if they were, then, infilling between two ells.

Ms. O’Neil stated that was correct on the first floor and, on the second, they would be coming out over the two ells and the infill.

Mr. Moodie stated, as general contractor for the project, he had tried numerous ways to come up with a solution to a difficult problem. He outlined why this was the best solution and the least invasive way to obtain what was needed.

Chairman LeBlanc asked if he would be putting a foundation between the two ells on the back.

Mr. Moodie stated, “no” and briefly described how they would be closing off the area.

Mr. Grasso asked if there would be any problem with construction equipment building up to the second floor with the houses so close and Mr. Moodie stated that they were not using construction equipment. Everything would be done by hand.

When Mr. Grasso asked about installing the siding, he replied that they can easily get staging in.

**SPEAKING IN OPPOSITION TO THE PETITION, OR  
SPEAKING TO, FOR, OR AGAINST THE PETITION**

With no one rising, the public hearing was closed.

**DECISION OF THE BOARD**

Mr. Parrott made a motion to grant the petition as presented and advertised, which was seconded by Mr. Grasso.

Mr. Parrott stated that this was a fairly minor project when you got down to it. It would not increase the footprint on the ground and will increase the value and attractiveness of the house. Given the constraints of a small narrow lot, this seemed a reasonable solution to increase living space.

Mr. Parrott stated that, with the project only in view of the back yard and immediately adjacent properties, there was little public interest involved. The special conditions resulting in a hardship were the very narrow lot, the proximity of adjacent houses, and the relative size of the existing house with respect to the already encroached side setbacks. He noted that the contractor had stated he had looked at many other alternatives, which did not pan out and it was easy to see why. It was in the spirit of the ordinance to allow folks to enjoy the use of their home and expand when needed. There was no offsetting negative factor to the public in

granting the variance and none of the neighbors had appeared to object. Surrounding property values would, by upgrading, be likely to increase.

Mr. Grasso stated that the applicant was simply looking to enlarge without further encroaching on the setbacks. It was a good idea.

Mr. Witham stated that it was hard to get a sense of impact from the street, but with the aerial photographs, you could see how the house was sandwiched in between. All of the properties had evolved over the years. This addition would be in keeping with the area.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 7 to 0.

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**III. ADJOURNMENT.**

It was moved, second and passed by unanimous voice vote to adjourn the meeting at 9:45 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary