

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 August 26, 2008 in the Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman Charles LeBlanc, Vice-Chairman David Witham, Thomas Grasso, Alain Jousse, Charles LeMay, Arthur Parrott

EXCUSED: Carol Eaton, Alternates: Derek Durbin, Robin Rousseau

=====

I. PUBLIC HEARINGS

8) Petition of **Catherine R. Whelan, owner**, for property located at **660 Middle Street** wherein a Variance from Article III, Section 10-302(A) was requested to subdivide one lot into three lots with: a) proposed lot 1 to have 70'± of street frontage on Middle Street where 100' is the minimum required, and b) to allow proposed lots 2 & 3 to have access off a right-of-way. Said property is shown on Assessor Plan 147 as Lot 19 and lies within the General Residence A district.

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

- That the Planning Board be requested to specify a 20' buffer along the property line to the north for the protection of existing trees and root systems.
- That, as presented, there will be only one curb cut for lots 2 and 3.

The petition was granted for the following reasons:

- Creating three large lots out of one will not change the character of the neighborhood or affect the public interest.
- The front property line for lot 1 predates zoning and there is no way to reconfigure the lot to achieve the required frontage.

- The spirit of the ordinance is to control overdevelopment off a dirt path, but the paved right of way to lots 2 and 3 has functioned, and been maintained, as a street and can support two houses with a common driveway.
- There is no benefit to the public in denying the variance that would outweigh the hardship on the property owner.
- Property values will not diminish and the project has the support of the immediate abutters.

9) Petition of **7 Islington Street, LLC, owner**, for property located at **29 Tanner Street** wherein a Variance from Article III, Section 10-303(A) was requested to allow a lot line relocation resulting in: a) the lot area decreasing from 3,342 sf to 3,025 sf in a district where the minimum lot area is 7,500 sf., b) the house having a 11.24'± rear setback where 15' is the minimum required; and, c) the existing deck having a 10.72'± rear setback where 15' is the minimum required. Said property is shown on Assessor Plan 126 as Lot 49 and lies within the Mixed Residential Office district.

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

- That the parking be as delineated on the Parking Exhibit for Tax Map 126 – Lot 49, dated August 26, 2008 and submitted at the hearing.
- That the one-story structure to the left rear of the building, as shown on the Area Calculations Plan dated April 28, 2008, be torn down.

The petition was granted for the following reasons:

- Interior to the block and between two properties, the reconfiguration will have no impact on the public.
- The orientation of the lots and placement of the building makes reasonable development difficult.
- Squaring off the lots will facilitate use of the properties without infringing on the rights of neighbors.
- Denying the variance would damage the property owner without benefiting the public.
- There will be no perceptible change in the functionality or value of adjacent lots.

10) Petition of **Mitchell Shuldman and Diane L. Schaefer, owners**, for property located at **620 Lincoln Avenue** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow an irregular shaped 311 sf one story addition with a 17'± rear setback where 20' is the minimum required. Said property is shown on Assessor Plan 148 as Lot 16 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:

- The public interest will not be affected by a minor addition in the rear of the property.
- The current layout of the garage and existing home will only allow an addition in the proposed location.
- Other options were considered and the most feasible was to remove the existing rear addition and rebuild slightly larger.
- The requested relief is minor and will not interfere with the light and air protected by the Zoning Ordinance.

11) Petition of **Paul G. and Patricia L. Elkins, owners**, for property located at **35 Rogers Street** wherein Variances from Article III, Section 10-303(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 6' x 11'6" one story porch with a 2'± left side setback where 10' is the minimum required. Said property is shown on Assessor Plan 116 as Lot 42 and lies within the Mixed Residential Office district.

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

- The public interest will not be affected by replacing a porch which is in disrepair.
- Given the size of the lot and the way the house runs parallel to the porch 2'± from the property line, any change would require a variance.
- The new porch will not intrude any further into the setback and, with only a roof, will allow more light and air.
- There would be no benefit to the public in denying the variance.
- Replacing a porch which is in disrepair with an attractive structure will not diminish surrounding property values.

12) Petition of **Paul Nakrosis and Millie Nakrosis, owners, and Michael Brandzel, applicant**, for property located at **39 Dearborn Street** wherein the following were requested to place a 7'10" x 13'9" one story shed: 1) a Variance from Article IV, Section 10-402(B) to allow said shed to have a 4'± left side set back where 10' is the minimum required, and 2) a Variance from Article III, Section 10-301(7)(b) to allow said shed to have a 65'± setback to salt water marsh or mean high water line where 100' is the minimum required. Said property is shown on Assessor Plan 140 as Lot 3 and lies within the General Residence A district.

The petition was postponed to the September 16, 2008 meeting at the request of the applicant.

13) Petition of **Joseph Gobbi Supply Corporation, owner, and Kevin Gilman, applicant**, for property located at **685 Islington Street** wherein the following were requested: 1) a Special Exception as allowed in Article II, Section 10-208(36) to allow an automobile repair facility, and 2) a Variance from Article II, Section 10-208(f) to allow said facility on a lot less than 1 acre and having less than a 50' front, rear and side setbacks. Said property is shown on Assessor Plan 164 as Lot 12 and lies within the Business district.

After consideration, the Board voted to grant the petition as presented with the following stipulations:

- That no “For Sale” vehicles will be displayed on, or sold from, the property.
- That all work will take place within the building.
- That the hours of operation will be 8:00 a.m. to 6:00 p.m. Monday through Friday, and 8:00 a.m. to noon on Saturday.

The petition was granted for the following reasons:

- This has long been established as a commercial property so there will be no change to essential character of the neighborhood or increase in the demand on municipal services.
- No explosion or toxic materials hazards have resulted from the past similar use of the property.
- Situated at an already busy intersection, there will be no noticeable change in the traffic levels.
- There will be no change to the building or layout so there will be no increase in storm water runoff.
- The public interest will be served by the continuation of a needed and long established use.
- With the lot size, established layout and history of the property, there is no other use of the property which would not require a variance.
- Support for small local businesses is in accord with the spirit of the ordinance.
- There is no benefit to the public in denying the variance and there will be no change in the value of surrounding properties.

14) **Dennis F. Casey, Maryka Ford, Anarita Droukas, John C. Russo, Stephanie A. Lane, John Miles Evans, and Rose C. Eppard** appealing the Historic District Commission’s Decision of July 2, 2008 granting a Certificate of Appropriateness concerning the Petition of Jonathan Watson Sobel Trust, Jonathan W. Sobel Trustee, owner, for property located at **49 Sheafe Street** wherein permission was requested to allow demolition of an existing structure (partial demolition of garage) and allow new construction to an existing structure (repair and reconstruct garage with residence above) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 107 as Lot 21 and lies within the Central Business B, and Historic A districts.

In conducting the hearing, the Board considered the objectives, and applied the criteria, as set forth for the Historic District Commission in Article X, Section 10-1004, of the Zoning Ordinance, “Scope of Review.” After full consideration, the Board voted to deny the Certificate of Appropriateness. This vote has the effect of reversing the decision at the Historic District Commission so that the Certificate of Appropriateness will not issue unless the matter is further appealed.

The Board determined that the area for which the application was requested is a very unique part of Portsmouth where the main residential and commercial structures front on Daniel and Sheafe Streets with a tiering down effect to the alley running along the back of the structures. The proposed building would not be situated along a street, but would appear to be inappropriately placed in abutters’ back yards. The tiering effect would be lost, which would affect the integrity of the neighborhood. The building, which could be clearly seen from Sheafe Street and from a part of Daniel Street, would be too high and would feel overpowering in the alleyway. While the applicant stated that a compromise had been made and the project had been scaled back, it appeared to start out, and end up, as a structure with a lot of mass.

Considering the criteria cited in Article X, Section 10-1004(B)(3), specifically compatibility of exterior design, scale, arrangement, texture, detailing and proposed materials proposed, this design does not seem to fit in this area and setting. A design somewhat resembling a renovated carriage house would seem more appropriate. The proposed structure seems too formal and ornate as a terminus to an alley.

As evidenced by the renderings and photographs, this is an area of stepped down buildings and the proposed structure is too tall. The 10’ ceiling height in the garage and 9’ ceiling height on the second story are not representative of the structures built in this historical area. The project is simply out of scale in terms of mass, scale and design.

III. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 10:50 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary