

**PLANNING DEPARTMENT - BOARD OF ADJUSTMENT**

**ACTION SHEET**

**TO:** John P. Bohenko, City Manager

**FROM:** Mary Koeppenick, Planning Department

**RE:** Actions Taken by the Portsmouth **Board of Adjustment regular meeting** on October 21, 2008 in Conference Room A, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

**PRESENT:** Chairman Charles LeBlanc, Vice-Chairman David Witham, Charles LeMay, Arthur Parrott, Alternates: Derek Durbin, Robin Rousseau

**EXCUSED:** Carol Eaton, Thomas Grasso, Alain Jousse

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**I. OLD BUSINESS**

- A) Approval of Minutes – August 26, 2008  
- September 16, 2008

Individual Motions were made, seconded, and passed by unanimous voice vote to accept the Minutes as presented.

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- B. Request for a One-Year Extension of Variance, granted November 27, 2007, for property located at 600 Lafayette Road.

After consideration, the Board voted to grant a One-Year Variance Extension through November 27, 2009.

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**II. PUBLIC HEARINGS**

- 1) 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 5'± front set back where 15' 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, having been postponed at the August 26, 2008 and September 16, 2008 meetings, was again postponed to the November 18, 2008 meeting at the request of the applicant.

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2) Petition of **150 Greenleaf Avenue Realty Trust, owner, James G. Boyle, Trustee**, for property located at **150 Greenleaf Avenue** wherein a Variance from Article IX, Section 10-901(E) was requested to allow three signs above the level of the roof. Said property is shown on Assessor Plan 243 as Lot 67 and lies within the General Business district.

This petition was withdrawn.

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3) Petition of **Christopher Bashaw and Moira Lumnah, owners**, for property located at **109 Preble Way** 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 20' open deck with: a) 2'5"± left side setback where 10' is the minimum required, and b) 31%± building coverage where 30% is the maximum allowed. Said property is shown on Assessor Plan 212 as Lot 2-1 and lies within the General Residence B 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 deck in the backyard area.
- Property owners are limited in what they can do without a variance in this unique area which requires 10' setbacks while it has property lines bisecting buildings.
- The light and air protected by the ordinance will be less affected by this open deck than by the fact that the abutter shares the same structure.
- There will be no benefit to the public in denying the variances and no evidence that property values will be diminished by this request, which has the support of the direct abutter.

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4) Petition of **Avi Magidoff, owner**, for property located at **133 Pearson Street** wherein a Variance from Article II, Section 10-206(12) was requested to allow an acupuncture office (114 sf) as a Home Occupation II requiring one parking space on the lot where two parking spaces are provided for the residence and no additional parking is provided for the office. Said property is shown on Assessor Plan 232 as Lot 103 and lies within the Single Residence B district.

After consideration, the Board voted to deny the petition as one of the general purposes of the ordinance is to provide safe roadways. Granting this petition could present a safety hazard, with increased traffic on a narrow street and visitors hurrying to meet appointments. It would not be in the spirit of the ordinance to provide an advantage to this property while creating a disadvantage to those surrounding it.

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5) Petition of **Heritage Storage Center, Inc., owner**, for property located at **70 Heritage Avenue** wherein a Variance from Article II, Section 10-209 was requested to convert a 7,200 sf portion of an existing building into two levels (14,400 sf total area) of self storage in a district where such use is not allowed. Said property is shown on Assessor Plan 285 as Lot 11B and lies within the Industrial district.

After consideration, the Board voted to deny the petition as it does not meet the criteria necessary to grant a variance. There is nothing inherent in the land presenting a hardship and the zoning restriction does not interfere with a reasonable use of the property.

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6) Petition of **Benjamin J. Swainbank and Christine M. Bastianelli, owners**, for property located at **230 Cass Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow an 10' x 19' one story addition with 3'± right side setback where 10' is the minimum required. Said property is shown on Assessor Plan 147 as Lot 28 and lies within the Mixed Residential Business district.

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

- Making an essentially in-kind replacement of a degraded structure with an improved one will not affect the public interest.
  - The current porch is nonconforming and there is no better location for the addition which will be built in the same footprint.
  - In an area of similar setbacks, the essential character of the neighborhood will not be changed and there is no evidence that the surrounding property values will be negatively affected.
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7) Petition of **Ryan A. Reed and Elizabeth M. Conley, owners**, for property located at **9 Suzanne Drive** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow an 8' x 8' one story front portico addition with a 20'± front setback where 30' is the minimum required. Said property is shown on Assessor Plan 292 as Lot 79 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:

- This is a modest proposal which will not involve the public interest.
- With the lot size and house placement, there is no other reasonably feasible method to replace the deteriorated front steps.
- The variance will allow a reasonable use of the property without infringing on the rights of the neighbors, who have indicated their support.
- The value of surrounding properties will, if anything, be enhanced by the replacement of steps which are in disrepair.

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**III. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 8:40.

Respectfully submitted,

Mary E. Koepenick, Secretary