

**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 June 16, 2009 in the Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

**PRESENT:** Chairman Charles LeBlanc, Vice-Chairman David Witham, Carol Eaton, Thomas Grasso, Alain Jousse, Charles LeMay, Arthur Parrott, Alternate: Robin Rousseau

**EXCUSED:** Alternate Derek Durbin

=====

**I. OLD BUSINESS**

A) Petition of **Jonathan Schroeder, owner**, for property located at **324 Maplewood Avenue** wherein the following were requested: 1) Variances from Article III, Section 10-303(A) and Article IV, Section 10-401(A)(2)(c) to allow a two story addition on an existing garage/storage building to house two additional dwelling units on a 3,210 sf lot (that also contains a second building with a commercial use on the 1<sup>st</sup> floor and a dwelling unit on the 2<sup>nd</sup> floor) with: a) a 5.47'± left side setback where 10' is the minimum required, and b) a 1'± rear setback where 15' is the minimum required; and, c) 1,070 sf of lot area per dwelling unit where 7,500 sf of lot area per dwelling unit is required for a total of three dwelling units on the property requiring 22,500 sf of lot area. 2) a Variance from Article XII, Section 10-1201(A)(3) to allow the required parking spaces to back out onto the street where such parking layout is not allowed; and 3) a Variance from Article III, Section 10-301(A)(2) to allow dwelling units in two separate buildings on a lot where all dwelling units shall be located in one building. Said property is shown on Assessor Plan 141 as Lot 1 and lies within the Mixed Residential Office and Historic A districts. *(This petition was postponed from the April 21, 2009 and May 19, 2009 meetings)*

This petition was postponed to the July meeting at the applicant's request.

-----

**II. PUBLIC HEARINGS**

1) Petition of **Kuzzins Bowden Hospitality II LLC, owner**, for property located at **300 Woodbury Avenue** wherein a Variance from Article IX, Section 10-908 was requested to allow: a) 166.6 sf of attached signage, (65.6 s.f. and 101 s.f.), where 112.5 sf is the maximum attached signage allowed, b) a 137.5 s.f. freestanding sign where a 112.5 square foot freestanding sign is the maximum freestanding signage allowed, c) said free-standing sign to have a 5'± front

setback and a 5'± right side setback where 20' is the minimum required in each instance; and d) 304.1 sf of aggregate signage where 112.5 sf is the maximum allowed. Said property is shown on Assessor Plan 175 as Lot 4 and lies within the General Business district.

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

- It will be in the public interest to allow easy identification of the hotel from the traffic circle.
- The special conditions are that the proposed signs are replacing existing signs which have been in place for over 40 years with no negative impact.
- There is no alternative placement for the freestanding sign as there is a limited small island on which to place it.
- The size of the signs is in keeping with the building and its location.
- Bringing the signage into greater conformance while allowing a business to thrive and update its identification will be in keeping with the spirit of the ordinance.
- There is no benefit to the public that would outweigh the hardship on the applicant if the variance were denied and the value of surrounding properties will not be diminished.

-----

2) Petition of **Rodney A. and Lisa L. Rodriguez, owners**, for property located at **94 Lois Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow stairs off a previously approved deck with a rear setback of 6'± where 30' is the minimum required. Said property is shown on Assessor Plan 232 as Lot 10 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:

- Located in the back yard, the stairs will have no impact on the public interest or result in a diminution in surrounding property values.
- This is the simplest solution to the need for stairs and there is no other reasonably feasible proposal.
- Justice will be served by allowing easy access from the deck.
- The jog in the middle of the lot, the fact that the area behind it is larger than the part where the house sits and the heavily wooded area in back are special conditions arguing in favor of a variance.

-----

3) Petition of **Five Hundred Eighty-Two Five Hundred Eighty-Eight Lincoln Avenue Condominium Association, Clarke Revocable Trust, Sage E. and William A Clarke co-trustees** and Gary M. and Marcia D. Baker, owners, for property located at **582 /588 Lincoln Avenue** wherein the following were requested: 1) a Variance from Article IV, Section 10-402(B) to allow a one story 20' x 22' detached garage with an 18'± rear setback where 10' is the minimum required; and 2) a Variance from Article III, Section 10-302(A) to allow 32% ± building coverage where 25% is the maximum allowed. Said property is shown on Assessor Plan 148 as Lot 7 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, prior to construction, the applicants establish a survey line on the boundary between their property and the abutting parcel on Park Street in order to confirm the 18” setback.
- That the roof pitch remain the same as that for the existing garage, with the sidewalls not to exceed 8’ in height and constructed with no dormers.
- That the roof rafters sit on walls.

The petition was granted for the following reasons:

- There will be little public interest in this replacement garage placed at the back of the property.
- It is a reasonable request to replace a deteriorating garage with one closer to the standard for a two car garage and the size and configuration of the lot make the same location the best choice.
- It will be in the spirit of the ordinance to allow the owners to use the property without infringing on the rights of others.
- There will be no benefit to the public in denying the variances and a new attractive structure will, if anything, increase the value of surrounding properties.

-----

4) Petition of **Joseph Saxe and JoAn K. Saxe, owners**, for property located at **570 Lincoln Avenue** wherein a Variance from Article III, Section 10-302(A) was requested to construct an 8’x 8’ shed creating building coverage of 27% where the maximum building coverage is 25%. Said property is shown on Assessor Plan 148 as Lot 6 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:

- On a small lot, even a modest change will increase the building coverage.
- In keeping with the ordinance, this a reasonably sized shed which will only increase the coverage by 2%.
- Conditions on the lot resulting in basement flooding make a shed to store power equipment and other necessary items.
- There is no benefit to the public in denying this variance and the value of surrounding properties will not be diminished.

-----

5) Petition of **CCV Group, LLC, owner**, for property located at **4 Sagamore Grove Road** wherein the following were requested to allow a 535 sf 1 ½ story addition with a basement and chimney to a previously approved single family dwelling in a Waterfront Business District: 1) a Variance from Article IV, Section 10-401(A)(1)(c) and to allow a residential use to be expanded in a Waterfront Business District, where such use is not allowed, 2) a Variance from Article III, Section 10-304(A) and Article IV Section 10-401(A)(2)(c) to allow: a) a 12’1”± left side setback where 30’ is required, and b) a 26’± front setback where 30’ is the minimum required; and, 3) a Variance from Article III, Section 10-301(A)(7)(a) to allow said addition to have a 75’

setback from the salt water marsh wetlands and mean high water line where 100' is the minimum setback required for all. Said property is shown on Assessor Plan 201 as Lot 4 and lies within the Waterfront Business district.

This petition was postponed to the July meeting at the applicant's request.

-----  
6) Petition of **Jeremy Rouleau and Tamrah Zinn, owners**, for property located at **91 Wibird Street** wherein Variances from Article III, Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 255 sf deck creating: a) 28% ± building coverage where 25% is the maximum allowed, and b) a 5.5'± left side setback where 10' is the minimum required. Said property is shown on Assessor Plan 134 as Lot 43 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:

- A deck in this location will not be contrary to the public interest.
- The existing structure lies within the left side setback. The deck will simply continue the line and infringe no further into the setback.
- This will allow better use of a small lot without adding enclosed space or infringing on the privacy of the abutting property owners.
- Replacing a deck that is in disrepair will not diminish the value of surrounding properties.

-----  
7) Petition of **Irving Canner and Victoria D. Canner, owners**, for property located at **229 Pleasant Street** wherein Variances from Article III, Section 10-303(A) and Article IV, Section 10-401(A)(2)(c) were requested to allow a 163 sf deck with a 5'8"± rear setback where 15' is the minimum required. Said property is shown on Assessor Plan 108 as Lot 6-4 and lies within the Mixed Residential Office district.

This petition was postponed to the July 21, 2009 meeting at the applicants' request.

-----  
**III. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 8:00 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary