

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 July 28, 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, Arthur Parrott

EXCUSED: Charles LeMay, Alternates: Derek Durbin, Robin Rousseau

I. PUBLIC HEARINGS

9) Petition of **J.P. Nadeau, owner, and Witch Cove Marina Development, LLC, applicant**, for property located at **187 Wentworth House Road** wherein the following were requested: a Variance from Article II, Section 10-208, Table 4, to allow 5 single-family dwellings in the Waterfront Business District where residential uses are not allowed (use variance); a Variance from Article III, Section 10-301(7)(a) to allow construction of a yacht club structure and 2 single-family dwellings within the 100' inter-tidal zone adjacent to Sagamore Creek; a Variance from Article III, Section 10-304(A), Table 10, to allow a structure with a front yard of 14 feet where the front yard requirement is 30 feet; a Variance from Article III, Section 10-304(A), Table 10, to allow a structure with a left side yard of 12 feet where the side yard requirement is 30 feet; a Variance from Article III, Section 10-304(A), Table 10, to allow a structure with a right side yard of 24 feet where the side yard requirement is 30 feet; a Special Exception under Article XII, Section 10-1201(A)(1)(b) to allow parking on another lot in the same ownership, provided all spaces lie within 300 feet of the lot in question; and a Variance from Article XII, Section 10-1201(A)(1)(b) to allow 10 required off-street parking spaces to be located more than 300' from the use that they serve. Said property is shown on Assessor Plan 201 as Lots 12, 17 and 18 and lies within the Waterfront Business district.

The Board voted to postpone the petition to the August 18, 2009 meeting at the applicant's request.

10) Petition of **Maria Elena Koopman, owner, and James Peterson, applicant**, for property located at **335 Maplewood Avenue** wherein a Variance from Article XII, Section 10-1204 Table 15 was requested to allow for an office use to provide 8 parking spaces where 12 are required. Said property is shown on Assessor Plan 141 as Lot 26 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 entirety of the building will be used for business purposes.
- That there will be a maximum of six employees.

The petition was granted for the following reasons:

- With the relatively low traffic on the abutting street, there will be no impact on the public interest.
- Given the topography of the land, the two tiered nature of the lot and the placement of the house, the only way to provide the required spaces would necessitate backing out onto the street.
- In the spirit of the ordinance, this high level use will be less intense.
- There is no overwhelming public interest that would argue against the granting of the variance.
- The current operation has caused no problems. With less impact, the value of surrounding properties should, if anything, be improved.

11) Petition of **Dinnerhorn Realty Inc., owners**, for property located at **980 Lafayette Road** wherein a Variance from Article IX, Section 10-908 Table 14 was requested to allow a new freestanding sign 25’ high replacing an existing freestanding sign 25’ high where a maximum height allowed is 20’ and to allow said sign be located 5’3” from the front lot line (where the the current sign is located) where a 20’ setback is required. Said property is shown on Assessor Plan 253 as Lot 14 and lies within the General Business district.

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

- The replacement sign will continue to inform the public with less visual clutter.
- The base of the sign is 4’ below the road effectively lowering the height of the sign as seen from the roadway.
- With the current parking lot configuration, it would be difficult to place the sign in any other location.
- The spirit of the ordinance will be served by reducing the total signage, bringing it into greater conformity.
- With no adverse effect on traffic and safety, there is no public interest that would be served in denying the variance.
- Allowing a business to continue to identify itself will not negatively affect the value of surrounding properties.

12) Petition of **Seth F. Peters, owner, Andrew Schachat, applicant**, for property located at **112 State Street** wherein a Variance from Article II, Section 10-208(21)(a) was requested to allow outdoor entertainment on a lot located within 200’ of a Residential or Mixed Residential district. Said property is shown on Assessor Plan 107 as Lot 54 and lies within the Central Business B district.

This petition was withdrawn at the request of the applicant.

13) Petition of **Joseph Gobbi Supply Corp, owners and Superior Towing, applicant**, for property located at **685 Islington Street** wherein a Variance from Article II, Section 10-208 was requested to allow for the storage of towed motor vehicles for a period of up to 30 days. Said property is shown on Assessor Plan 164 as Lot 12 and lies within the General Business district.

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

- That an impervious fence be located on the property to enclose the area in which the vehicles will be stored.
- That a landscape buffer be installed in front of the fencing along Bartlett Street to the point of the access gate.

The petition was granted for the following reasons:

- With no change in the number of stored vehicles, there will be no net impact on the general public.
- There is no practical difference between storing a vehicle for two weeks or 30 days and insisting on the lower limit would create an unnecessary hardship.
- The extended storage period should result in less towing traffic with a positive effect on the public and private rights of others.
- The spirit of the ordinance is to support such local businesses which do not adversely affect their neighbors.
- There is no public interest that would outweigh the hardship on the applicant if the variance were denied.
- With the stipulations, the value of surrounding properties will not be affected by this change in method of a previously approved operation.

14) Petition of **C and B Portsmouth, LLC, owner**, for property located at **1840 Woodbury Avenue** wherein a Variance from Article IX, Section 10-908 Table 14 was requested to allow 143.65 square feet of aggregate signage where 92.63 square feet is the maximum allowed. Said property is shown on Assessor Plan 239 as Lot 8 and lies within the General Business district.

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

- That the aggregate signage will be reduced to 104.39 square feet.
- That the approved new signage, included in the aggregate, will consist of the following:
 - 3 graphics on the exterior doors.
 - 1 interior light box window solution wall fixture.
 - 1 acrylic graphic holder on the window solution wall fixture.

The petition was granted for the following reasons:

- The graphics on the door will be helpful to the public in identifying exterior doors along a large glass façade.

- The interior light box and the acrylic graphic holder will not be visible from the streetscape and will not result in visual pollution.
- This is a minimal request, with the stipulations, and any negative impact on the public will be controlled.

15) Petition of **Unitarian Universalist Church, owner**, for property located at **206 Court Street** wherein Variances from Article III, Section 10-303(A) and Article IV, Section 10-402(B) were requested to allow a shed to be placed 5'± from the right side lot line where a 10' setback is required. Said property is shown on Assessor Plan 116 as Lot 34 and lies within the Mixed Residential Office district.

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

- That there will be no water runoff from the roof of the shed onto adjacent properties.

The petition was granted for the following reasons:

- It will be in the spirit of the ordinance to allow an improvement to the property which will not harm the public interest or diminish the value of surrounding properties.
- The dimensions of the lot and the existing structures present a challenge in locating a shed and it is a reasonable option to move it closer to the property line.
- There is no better alternative to provide needed storage of outdoor equipment.
- No benefit to the public will accrue if the petition were denied.

16) Petition of **Bellwood Associates, L.P., owners, Festival Fun Park, LLC d/b/a Water Country applicant**, for property located at **2300 Lafayette Road** wherein a Special Exception under Article II, Section 10-208(54)(b) was requested to allow temporary Structures to be placed on the property for a term of up to 90 days; and a Variance from Article IV, Section 10-401(A)(1)(c) was requested to allow a nonconforming use of land to be extended into any part of the remainder of a lot of land. Said property is shown on Assessor Plan 273 as Lot 5 and lies within the General Business district.

After consideration, the Board voted to deny the petition as the proposal does not seem consistent with the nature of the existing nonconforming use.

II. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 9:55 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary