

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

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS**

**7:00 p.m.**

**August 25, 2009, Reconvened  
From August 18, 2009**

**MEMBERS PRESENT:** Chairman Charles LeBlanc, Thomas Grasso, Alain Jousse, Charles LeMay, Arthur Parrott, Alternate: Derek Durbin

**EXCUSED:** Vice Chairman David Witham, Carol Eaton, Alternate: Robin Rousseau

**ALSO PRESENT:** Lee Jay Feldman, Principal Planner

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**I. OLD BUSINESS**

- A) Case 7-10  
Petitioners: Maria Elena Koopman & James Peterson  
Property: 335 Maplewood Avenue Assessor Plan 141, Lot 26  
Zoning district: Mixed Residential Office  
Request: Request for Rehearing

Chairman LeBlanc read the original petition and stated that the Board had dealt with their previous request as a change in stipulations while the applicant wanted to have a rehearing. Mr. Feldman stated that, if the Board chose, they could vote to permit a rehearing and then, since there was no one there that evening to speak to the petition, postpone it to September and re-advertise, as well as notifying abutters. Mr. Grasso recalled that the applicant's request had been to have a rehearing and/or modify the stipulations and Mr. Witham had made a motion to modify. Chairman LeBlanc stated that the applicant felt the request to modify was not appropriate and it should have been a request for rehearing.

Mr. Parrott made a motion to grant the rehearing, to be held in September, which was seconded by Mr. Durbin.

Mr. Parrott stated that, while they rarely granted rehearsings, he felt there was some justification based on misunderstandings. He felt he had a hand in determining the number of employees that should be allowed and he considered it appropriate to limit the number given the location. As he looked back, he also felt there might have been some confusion as to what they were going for and the cleanest and fairest way to handle this would be to grant the rehearing and look at the whole story. Chairman LeBlanc added that, in essence, they had made a mistake and wanted to rectify it. For the record, Mr. Durbin agreed with the maker of the motion.

The motion to grant a rehearing was passed by a vote of 4 to 1, with Mr. Grasso voting against the motion and Mr. LeMay abstaining.

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## **II. PUBLIC HEARINGS**

### 4) Case # 8-4

Petitioners: John C. & Pamela A. Shore

Property: 623 Dennett St. Assessor Plan 161, Lot 35

Zoning district: General Residence A

Request: Variance from Article III Section 10-302(A) Table 8 to construct a garage with a 3'± right side sideyard setback where 10' is required

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

Mr. John Shore stated that they would like to construct a 24' x 24' garage on the property line and needed a variance as it would have to be built 3' from the side line. Currently, there was a 23' x 23' garage with a dirt floor which was in very poor and unsafe condition. It was sunken and there was a bowed out wall. Their plan was to demolish it and build a new garage on a proper foundation. The existing garage was 1' from the property and he proposed to build the new one 3' from the line. He felt this would be an improvement as they would be removing an unsafe building and making an attempt to follow the setback requirements. While they would like to put the structure at the required 10' setback, it would make it difficult to get cars into the garage because of the narrowness of property.

In response to questions from Chairman LeBlanc and Mr. Grasso, Mr. Shore stated that the wall was not the property line, but it was bowed out and might actually touch it. The wall was, for the most part, on his property. The purpose for the 21' height was to allow a storage/loft area above. When Mr. Grasso asked if there would be any windows, he stated, "no." Chairman LeBlanc asked the purpose of 2x6 studs, noting that the size was what was required for new dwellings for the insulation and he wanted to be sure this would not be a dwelling. Mr. Shore replied that sturdier studs were recommended by the building inspector and a dwelling was not their plan.

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

Mr. Grasso stated that the applicant was in essence replacing an existing garage which was in need of repair with one that would be 2' further from the property line so it would be less nonconforming. He stated that there would be no public interest in this location. The special conditions were the way the garage sat at the back of the house in line with driveway. This was

the best location to allow them full use of their property and there was no other available method. The Board could mandate that the garage be situated in the middle but that would make access difficult so it would not be feasible. He stated that it would be in the spirit of the ordinance to get cars off the street. Justice would be done and he could see no evidence of diminution in the value of surrounding properties as a result.

Mr. Parrott agreed, adding that this was a narrow lot and the proposed placement was the only logical one. He noted that the new garage would be less nonconforming than the existing dilapidated one.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 6 to 0.

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- 5) Case # 8-5  
Petitioners: Raj Prem & Anita Kumari  
Property: 1420 Woodbury Ave. Assessor Plan 238, Lot 6  
Zoning district: Single Residence B  
Request: Special Exception of Article II Section 10-206(12) to allow a Home Occupation II in a Single Residence B zone.
- 1) Variance from Article I Definitions, to allow the operation of a Home Occupation II to be open Saturdays where the ordinance only allows Monday – Friday operations.
  - 2) Variance from Article I Definitions to allow the hours of a Home Occupation II operation to be 9AM -8PM where 8AM-5PM is required.
  - 3) Variance from Article IX Section 10-908 Table 14 to allow a 24 square foot sign in a Single Residence B zone where 4 square feet is allowed.

Mr. Grasso advised that he would be stepping down for this petition. Chairman LeBlanc then advised the applicants that there would only be five members sitting on the Board and four votes were necessary to approve a variance. He offered them the opportunity of postponing to the following month. The applicants indicated they would proceed.

**SPEAKING IN FAVOR OF THE PETITION**

Ms. Cynthia Miller stated that they currently have an office and do readings in another location. She needed an in-home business because they have a child and couldn't afford daycare. They were hoping to move to Woodbury Avenue because it would be a better location and were also requesting a larger sign as they would only be allowed a 1' x 2' sign with no light. There were so many different businesses and so many cars on Woodbury that a sign that size would not get any attention. They would like a 4' x 6' lighted sign 7' from the property line and were also asking to be open on Saturday, when most of the business took place. Ms. Miller stated that it was the same issue with the hours being limited to 8:00 a.m. to 5:00 p.m. People came in after work and there were not a lot of clients in the eight to five hours. She stated that the owner of the property was waiting to hear the decision from the Board. Unless she could obtain the variances, she would not be able to rent the property.

**SPEAKING IN OPPOSITION TO THE PETITION**

Mr. James Katkin stated that he had lived at 1400 Woodbury Avenue, the property to the left of the petitioned property, for 32 years. He also owned 1430 Woodbury to the right and 1380 Woodbury which curled in back of the boundary of this property. In the period of time that he had lived there, he had watched the growth of business decrease the residents from 41 to 6. In all that time he had never come down to oppose any of the commercial ventures. He stated, however, that this was his home and those six houses were his neighborhood, which was why he was opposing the petition that night. He noted that the other plazas were about a quarter of a mile from them and had a large tree buffer which helped to block some of the light and noise. He distributed and reviewed some photographs of the neighborhood, indicating the reasons why approval would have a deleterious effect on his property, which included concerns about vehicles backing out into pedestrian and bicycle traffic.

Mr. Katkin stated that the rights of others would also be impacted in terms of people trespassing on his property and the 24 s.f. lighted sign, which was five times the allowable size. He read the overview from the ordinance and stated that putting a commercial operation in the middle of a residential neighborhood would not be consistent with its aims. With the backing out, the sign and the headlights shining in, along with the hours of operation, he felt his property would be diminished. He read the definitions of Home Occupations I and II from the ordinance, stating that this was, rather, a business with a residential use as a secondary purpose. He stated that there was no hardship in the property. The only hardship would be on him and his homebound sister, who resides at 1430 Woodbury Avenue and had written a letter in opposition. In response to a question from Chairman LeBlanc, he confirmed that he also owned 1430 Woodbury and his sister had a life tenancy.

Ms. Christine Waite stated that she lived at 1380 Woodbury Avenue and was concerned that her children, who already have to pass 4 businesses to get to school, would also have to walk past this operation. She felt this would open the door to others.

A tenant at 1420 Woodbury Avenue stated that they would like to stay living there but were denied a lease because the owner wanted to turn it into commercial. She was also concerned about how the lights would affect the resident at 1430 Woodbury Avenue.

Mr. Douglas Waite stated that he resided at 1380 Woodbury Avenue and had gradually watched that street become a giant parking lot. This was one of the last few residences on the street. He felt that the property couldn't support a business. It was a difficult turnaround issue for vehicles and delivery vehicles would be parked in front of 1400 Woodbury as they do now and walk down because they couldn't make a legal u-turn.

**SPEAKING TO FOR OR AGAINST THE PETITION**

Ms. Miller stated that she was aware of the concerns about traffic and parking, but her business did not work as a retail store with people in and out all day long and there were not 3 to 5 cars there at one time. There might be one car and an hour or two later another, usually not more than 2. She reiterated that the hours were necessary as those were when she got most of her clients.

In the summer time, her sign would be off most of the time and, in wintertime, only on for 2 or 3 hours in the evening. She noted that the signs on the rest of Woodbury were bigger and brighter and lit all night. There was very little walking traffic, so the sign had to be bigger for people to notice. She noted that she had an in-home business now, but there were safety issues in the building. They were willing to work with the community and could ask that their clients not park in certain areas.

The current tenant at 1420 Woodbury Avenue stated that they had lived at the house for over six months and there was a ton of walking traffic. She noted that her building had mold in the basement and leaked. Ms. Miller stated she was unaware of the mold but wanted to note that the tenant would be able to stay at this location if she didn't move in.

### **DECISION OF THE BOARD**

Mr. LeMay stated that he would like to take the items separately and made a motion to deny the special exception, which was seconded by Mr. Jousse.

Mr. LeMay stated that the rules with a special exception were that, if the application met the criteria outlined in the ordinance, the Board had to grant it. The Board had no discretion while variances were more flexible. He was concerned about certain items in the special exception criteria and didn't see how they were going to get around them. The first was standard (c) which he read and which stated that there should be no detriment to property values or change in the essential characteristics of the area on account of location, accessways and so forth. He thought that, with the signage that would be needed, as well as the traffic and the introduction of a commercial flavor into the small residential area that was left, this standard would not be met. He also felt it did not meet the standard regarding no creation of a traffic or safety hazard. Other properties in the area had traffic lights, cuts and other provisions for people to turn in and exit. Because of the divided road, the people coming to this property would have to be going in a particular direction to get to the property. Coming from the other direction, they would have to go down, turn, and get back around to get into the property. It was the opposite problem coming out of the property. He felt that was a traffic safety hazard although it was a four lane road and there was substantial traffic there already.

Mr. Jousse first commended the applicant for coming before the Board before signing any contract. He then stated that Mr. LeMay had honed in on exactly his thinking. He felt the applicant was primarily looking for a business location with a secondary aim to be able to live at that same location, which was not what home occupancy was.

The motion to deny the special exception was passed by a vote of 5 to 0.

Chairman LeBlanc stated that there were still three variances before the Board.

Mr. Durbin made a motion to deny the variances, stating that he would like to take all the variances together. The motion was seconded by Mr. Parrott.

Mr. Durbin stated he didn't feel it was in the public interest or the spirit of the ordinance to have what appeared to be a commercial use in the middle of a self-contained residential neighborhood

and he felt that the home occupation designation was different from what had been proposed. There did not appear to be any unnecessary hardship or special conditions of the property resulting in a hardship. Actually, it was the reverse situation where the special condition was that there was an existing residential neighborhood in the middle of a commercial area. In the justice test, the balance tipped in favor of denial. Regarding the effect on property values, it was difficult to judge that on the evidence submitted, but he thought the potential light intrusion onto neighboring properties and the potential for traffic turning around and the sign in general could have an impact on surrounding properties.

Mr. Parrott stated that he agreed, adding that the ordinance was very specific as to days and hours for the very purpose of protecting neighborhoods from intrusions of commercial activity. If this were to be approved, it would change the character of that small neighborhood which, although surrounded by large commercial operations, remained nevertheless residential.

The motion to deny the variances was passed by a vote of 5 to 0.

Mr. Grasso resumed his seat.

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6) Case # 8-6

Petitioners: Thomas & Christine L. Riddle

Property: 109 Ash St. Assessor Plan 150, Lot 35

Zoning district: General Residence A

- Requests: 1) Variance from Article III Section 10-302(A) Table 8 to construct an addition to a single family residence with a 6'-9"± right side sideyard setback where 10' is required
- 2) Variance from Article III Section 10-302(A) Table 8 to allow for a building coverage of 26% where 25% is required
- 3) Variance from Article IV Section 10-401(A)(2)(c) to allow the expansion of a non conforming structure.

**SPEAKING IN FAVOR OF THE PETITION**

Mr. Tom Riddle stated that he lived at 109 Ash Street where they would like to put on an addition. He noted that his architect was there to speak to the petition and passed around a letter from a neighbor stating that they had no objections.

Ms. Wendy Welton referred to the site plan and identified the existing house and the street. She pointed out the deck to be removed. They were proposing an addition to accommodate a family room and the reason they were proposing it on the indicated side was to also have a partial mudroom function. Referring to the other photograph, she noted that it showed the addition on the first floor and where the family room, mudroom and deck would be. They would keep the addition to one story so that the occupants of the house next door could see over it.

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

Mr. Grasso stated that the request was to expand an existing nonconforming structure and to allow a right setback about 3’3” under what was required and he felt this was a decent proposal

He stated that he did not believe the public interest would be affected and cited the letter of support from an abutting neighbor. The special conditions creating a hardship were the narrow lot so that a variance was needed. They wanted to add an addition and mudroom and this was the only place they could go on the property. He felt that it would be in the spirit of the ordinance to allow the family to stay in the home; justice would be done; and he saw no reason for any diminution in the value of surrounding properties.

Mr. Parrott stated that he agreed and had nothing to add.

Chairman LeBlanc stated that he had trouble with the increase in lot coverage from 20% to 26% and thought something could be reduced to bring that down to size. He also felt the right side setback could also be increased and he would not support the motion.

The motion to grant the petition as presented and advertised was passed by a vote of 4 to 2, with Messrs. Durbin and LeBlanc voting against the motion.

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- 7) Case # 8-7
  - Petitioner: Elio & Lori A. Santana
  - Property: 224 Crescent Way Assessor Plan 212, Lot 128-1
  - Zoning district: General Residence B
  - Request: 1) Variance from Article III Section 10-302(A) Table 8 to allow a 0’± left side sideyard setback where 10’ is required
  - 2) Variance from Article IV Section 10-401(A)(2)(c) to allow the expansion of a non conforming structure.

**SPEAKING IN FAVOR OF THE PETITION**

Ms. Lori Santana stated that their daughter had the bedroom on the third floor, which with the roof slanted down, did not allow room to stand up. They would like to add a simple box addition on top of the existing addition for more head space. She stated that the neighbor in the attached section had no objections nor any other neighbor.

Mr. Elio Santana stated that the property line went through the middle of the structure and it was impossible to have an addition without a variance. They have an existing addition and just want

to add this to the roofline. He stated that they wouldn't encroach on the neighbors in any way and they neighbors were happy with what they wanted to do.

Chairman LeBlanc asked if the addition for the neighbor on the other side of the house was on the property line and Mr. Santana indicated it was set back 5'.

Mr. Jousse asked for the record if the existing addition that was behind the house where they putting a second floor would be torn down or remain. Mr. Santana advised that the roof had to be removed, but the existing addition would remain.

**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 and advertised, which was seconded by Mr. LeMay

Mr. Jousse stated that there really was no other way the applicant could accomplish any expansion. He stated that this addition would not be contrary to the public interest. The hardship was that the property was located in Atlantic Heights which had very special conditions and special ordinances really needed to be written for that area. The applicants needed a little more living space and there was no other method to achieve that. The addition would not be against the spirit of the ordinance and justice would be done. Nothing had been presented as to the surrounding property values and the addition would not be seen from the street.

Mr. LeMay stated that he would just add that the first variance request was for a condition which already existed, namely a 0' sideline setback with the two houses being essentially the same structure, so some of the arguments were essentially moot. Mr. Jousse noted it was one half of a duplex and Chairman LeBlanc added, owned by different people.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 6 to 0.

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- 8) Case # 8-8  
 Petitioner: Laura (Purslow) Cattabriga  
 Property: 143 Rockingham Ave. Assessor Plan 220, Lot 8  
 Zoning district: Single Residence B  
 Requests: Variance from Article III Section 10-302(A) Table 8 to allow the construction of a mud room with a 5'± right side sideyard setback where 10' is required.

**SPEAKING IN FAVOR OF THE PETITION**



Ms. Laura Cattabriga stated that she lived at 143 Rockingham Avenue where they would like to add a mudroom/improved entryway. Currently there was a 4'x 4' nonfunctional area that appeared to be coming off the side of the house. They were proposing to knock that down and add a 9' x 12' mudroom/pantry to the side as there was no place in the house for coats, jackets, etc. While the property had quite a big yard, unfortunately the house was built in 1940 in the right front corner and already had the entry on the side. It would not be financially feasible to bore a hole through to put on an addition. She indicated a submittal which included the signatures in support from all of their neighbors. No one was opposed.

**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 and advertised, which was seconded by Mr. Parrott

Mr. Jousse stated that he would have liked a little bit less relief but, having seen the site, he realized that it was not exactly on top of the neighbors' house and they seemed able to live with it.

Addressing the criteria, Mr. Jousse stated that the addition would not be contrary to the public interest. The special conditions were that the house was built to the right front of the property and not the middle, which created a hardship. There was also the topography of the land, which dropped off drastically from the street. There was no better location to put this entryway than where there was already a door through the brick structure. He felt the structure was needed for the applicant to make better use of the property which would be in the spirit of the ordinance and allow justice to be done. Nothing had been presented as to the value of surrounding properties.

Mr. Parrott stated that this was a case where there actually was a hardship in the land, as they were supposed to find in making a decision, because of the slope and the way it dropped down. The applicant was proposing a 9' x 12' addition, which was pretty modest sized and the alternatives didn't seem to work because of the orientation of the house on the lot and the topography. He noted that the next door neighbor had signed off on the petition.

Mr. Grasso stated that he could support a 6' x 8' structure but not one of this size.

The motion to grant the petition as presented and advertised was passed by a vote of 4-2, with Messrs. Durbin and Grasso voting against the motion.

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- 9) Case # 8-9  
 Petitioners: Portsmouth Housing Authority  
 Property: 140 Court St. Assessor Plan 116, Lot 38

Zoning district: Mixed Residential Office

Requests: 1) Variance from Article III section 10-303(A) Table 9 to allow for a 0'± rear yard setback where 15 is required

2) Variance from Article IV Section 10-401(A)(2)(c) to allow the expansion of a nonconforming structure

Ms. Dee Pafford stated that she was the Manager at the Portsmouth Housing Authority facilities. They were looking to put in a 10' x 10' shed to store maintenance equipment. She indicated the photographs on display noting that all of the neighbors have sheds within 10' of the property line. She indicated the proposed location, in the corner where the wood fence was, noting that there was not a great deal of yard area. They felt this was the best location which would allow them to maintain a clothes line area and provide for plowing.

Mr. Grasso noted the 0' setback and stated that they were placing this on the property line so that the overhang would be on the abutter's property. Ms. Pafford stated that was why they indicated plus or minus. They don't want it too far away because of the need for access to the plowing equipment, but it could be at 1'. Mr. Grasso asked if the runoff was going to wind up on the abutter's property and whether they would gutter the shed. Ms. Pafford stated she wasn't sure about the runoff and they could gutter it.

There was a brief discussion among Messrs. LeMay, LeBlanc, Jousse and Parrott about where the shed seemed to be located based on the submittal. Ms. Pafford asked if they had visited the property and brought the plan up to Mr. Jousse. She indicated that, on the tax map, it made the property line straight, which it was not and there was a chain link fence. It jogged. She indicated the area in the corner they were considering where the x'es were the chain link fence. She reiterated that the property line was not straight but jogged.

Mr. LeMay asked if the property line had been surveyed and Ms. Pafford indicated it had not. He stated that it was difficult to tell the property line from the submittal. Mr. Parrott stated that one map showed the shed half and half across the property line and another showed it marked with an "x" and on the housing authority property, but neither showed dimensions from a sideline so they were being asked to vote on something which was not defined. Chairman LeBlanc indicated that the petition could be postponed to give the applicant an opportunity to present a map with dimensions.

Mr. LeMay made a motion to so postpone the petition to the next month, which was seconded by Mr. Grasso.

The motion to postpone the petition to the following month was passed by a unanimous voice vote.

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10) Case # 8-10

Petitioners: Portsmouth Housing Authority

Property: 245 Middle St Assessor Plan 136, Lot 16

Zoning district: Mixed Residential Office

- Requests: 1) Variance from Article III section 10-303(A) Table 9 to allow for a 0'± left side sideyard setback where 10' is required  
2) Variance from Article IV Section 10-401(A)(2)(c) to allow the expansion of a non conforming structure

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

Ms. Dee Pafford again identified herself as the manager of the apartments. They were looking to also install a shed here to store maintenance equipment. This would be at the back of the building and not seen from the street. There was a wooden fence and it would be just inside of that, once again a 10' x 10' structure on cement blocks.

Chairman LeBlanc asked if there were barriers to stop the cars from going forward where the parking spaces were delineated 20, 21 and 22. Ms. Pafford indicated there were not. When Mr. Jousse asked if the parking spaces were numbered on the pavement, she indicated they were. He then asked for confirmation that the shed would be directly in front of parking space #22 and she indicated he was correct. When he asked the distance from the end of that space to the property line, she indicated she did not know. In response to a question from Chairman LeBlanc, she indicated the proposed shed was 10' x 10'.

Mr. LeMay asked if it was a car width wide where the parking spaces were all lined up and there was a gap and the spaces didn't go all the way up to the fence. Ms. Pafford replied that there was a driveway which came down with parking on both sides. Mr. LeMay stated he was asking about the spaces labeled #21 through #26. He asked if he was correct that those did not go right up against the fence. Ms. Pafford stated they did not and indicated some pictures which were in the packet which showed the yard area where the proposed shed would be.

Mr. Grasso asked why the shed was proposed in front of space #22 and not farther back. Ms. Pafford indicated the sidewalk going to the other parking area stating there was not a lot of space due to a picnic table that the residents use which was closer to the building. Mr. Grasso again asked why it could not be farther away and Ms. Pafford replied that there was a clothes line and they plowed all the snow back to the spot she indicated on the plan. Mr. Grasso stated that the picture of the shed indicated a double door and asked how wide it opened as he was trying to gauge the room with the doors open. When Ms. Pafford stated there was a sheet for the shed in the packet, he stated it was not in his packet.

There was a brief discussion about the shape and volume of the shed as it appeared in the materials being different from a 10' x 10' shed. Mr. Parrott indicated he had the same concerns with the proposed location as the previous application and Chairman LeBlanc stated this could be postponed as well, for the addition of some dimensions.

Mr. Parrott made a motion to postpone the petition to the following month so that a plan could be provided with delineated distances and the size of the shed as required by Board regulations. The motion was seconded by Mr. Durbin and passed by unanimous voice vote.

Mr. Jousse commented that he would find it very helpful for next month to have an explanation as to why the shed had to be at a particular location as it seemed to him there were other options.

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11) Case # 8-11

Petitioners: Matthew J. & Sarah E. Curtin

Property: 28 Kensington Rd. Assessor Plan 152, Lot 25

Zoning district: Single Residence B

Requests: 1) Variances from Article III Section 10-302(A) Table 8 to allow for a 18'2"± front yard setback where 30' is required

2) Variance from Article III Section 10-302(A) Table 8 to allow for a 24'4" ± rear yard setback where 25' is required

3) Variance from Article III Section 10-302(A) Table 8 to allow building coverage of 22.6% where 20% is required.

4) Variance from Article IV Section 10-401(A)(2)(c) to allow the expansion of a nonconforming structure.

**SPEAKING IN FAVOR OF THE PETITION**

Matthew Curtin stated he lived at 28 Kensington and they would like to add a first floor bath, improve the front appearance of the house and add a deck with an entry way to allow access to back yard. They had tried to accomplish this as conservatively as possible, with a minimum increase in the size of the house.

Ms. Wendy Welton stated that she was the architect for the project and referred to the exhibits which had been provided. Noting that it was not immediately obvious why the placement had to be as it was, she detailed all the various options they had considered and why they would not be feasible. They would box in the house and ruin what was marvelous about it. Anything else would also block off the view to the backyard where they needed to watch the children. She also outlined why the mudroom had to be in the proposed location. She noted that the entire street was over the front setback.

Mr. Jousse stated that, on page 5 of the exhibits, it appeared in looking at the rear view that the garage had gotten wider. Ms. Welton stated that the computer may have been playing tricks because they were not proposing to make it bigger.

**SPEAKING IN OPPOSITION TO THE PETITION**

No one rose to speak

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

Chairman LeBlanc noted that Mr. Peter Loughlin, Esq. had submitted a letter to the file in support of the application.

**DECISION OF THE BOARD**

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

Mr. Grasso stated that these were modest additions to the house which existed on a less than 5,800 sf. lot. He stated that he did not believe the public interest would be affected, citing the letter from a direct abutter in favor of the petition. The special conditions resulting in a hardship were the location of the house currently on the lot. He noted that other methods had been considered, but given the layout of the house and the small lot, this was the way to go. He stated that it would be in the spirit of the ordinance to allow better enjoyment of the property and there would be no detriment to the public in granting the variance. He stated that the value of surrounding properties would not be diminished.

Mr. Parrott stated that he concurred. He felt the striking feature was the fairly small lot on which the house was situated as well as it could be. In terms of moving the addition from the front to the back, the rear backyard was only 36' to start. No matter where they put the bumpout, it would run into a setback and, on balance, this was the best way to go.

The motion to grant the petition as presented and advertised was passed by a unanimous vote of 6 to 0.

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### **III. ADJOURNMENT**

It was moved, seconded and passed by unanimous voice vote to adjourn the meeting at 8:55 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary