

**REGULAR MEETING
BOARD OF ADJUSTMENT
PORTSMOUTH, NEW HAMPSHIRE**

December 20, 2010, 7:30 p.m.

**Conference Room A
Items I through V,
Petitions 1) through 6)**

December 21, 2010, 7:00 p.m.

**Eileen Dondero Foley Council Chambers
Item V, Petitions 7) through 13)
and Item VI (Reconvened Meeting)**

AGENDA

THE FOLLOWING ITEMS I, II, III, IV & V, PETITIONS 1) THROUGH 6), WILL BE HEARD ON MONDAY, DECEMBER 20, 2010 AT 7:30 P.M. IN CONFERENCE ROOM A
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I. NEW BUSINESS

- A. Change in Meeting Date/Time
- B. Election of Officers

II. APPROVAL OF MINUTES

- A) September 28, 2010

III. PLANNING DEPARTMENT REPORTS

- A) Rules & Regulations Update – suggested wording

IV. OLD BUSINESS

- A) Case #11-4
Petitioners: NIP Lot 2, LLC NIP Lot 5/6, LLC & Maplewood & Vaughan Holding Co., LLC
Property: 111 Maplewood Avenue Assessor Plan 124, Lot 8
Zoning district: Central Business A
Requests: To allow 2 drive-through lanes as an accessory use with a retail bank in the
Downtown Overlay District
Variance from Section 10.836.22 to permit a drive-through facility as an
accessory use to a permitted use.
Variance from Section 10.836.22 to permit a drive-through facility with 2 lanes
associated with a building of 3,000 sf where a minimum of 5,000 sf of associated
building area is required for each drive-through lane.

Request to Withdraw

V. PUBLIC HEARINGS

- 1) Case # 12-1
 Petitioners: Favaloro Revo Trust, Christopher and Carol Favaloro, Owners
 Property: 275 McKinley Road Assessor Plan 250, Lot 18
 Zoning district: Single Residence B
 Description: To convert a deck to a 3 season room with less than the required rear yard.
 Requests: Variance from Section 10.521 to allow a 17'4" rear yard where 30' is required.
 Variance from Section 10.521 to allow building coverage of 22% where 19.5% currently exists and 20% is the maximum coverage allowed.

- 2) Case #12-2
 Petitioners: Terrence H. and Andrea B Allen, Owners
 Property: 32 Baycliff Road Assessor Plan 207, Lot 43
 Zoning district: Single Residence B
 Description: To construct a front entry way with less than the required front yard and more than the allowed building coverage.
 Requests: Variance from Section 10.321 to allow the expansion of a nonconforming structure.
 Variance from Section 10.521 to allow a front yard of 16' where 30' is required.
 Variance from Section 10.521 to allow building coverage of 28% where the existing coverage is 26% and 20% is the maximum coverage allowed.

- 3) Case # 12-3
 Petitioners: John F. Donohue Revo Trust, ½ and Patricia L Donohue Revo Trust
 Property: 87 Ash Street Assessor Plan 150, Lot 33
 Zoning district: General Residence A
 Description: To allow the construction of a new 2 story addition and porch on the left side of the existing home.
 Requests: Variance from Section 10.321 to allow the expansion of a nonconforming structure.
 Variance from Section 10.531 to allow a building coverage of 26% where the current building coverage is 23% and 25% is the maximum coverage allowed.

- 4) Case # 12-4
 Petitioner: Barbara O. Bertrand, Owner
 Property: 88 Ash Street Assessor Plan 150, Lot 39
 Zoning district: General Residence A
 Description: To allow a generator 2' from the right side lot line where 10' is required.
 Request: Variance from Section 10.572 to allow an accessory use/structure 2' from the side yard where 10' is required.

- 5) Case #12-5
 Petitioners: John Cottom, Owner
 Property: 139 Dennett Street Assessor Plan 142, Lot 24
 Zoning district: General Residence A
 Description: To allow a new 133 sq. ft. 2 story addition to the rear of the house which violates side and rear yard requirements as well as building coverage.

- Requests: Variance from Section 10.321 to allow the expansion of a nonconforming structure.
- Variance from Section 10.521 to allow a building coverage of 34% where the current building coverage is 34% and 25% is the maximum coverage allowed.
- Variance from Section 10.521 to allow a 2’ side yard where 10’ is required.
- Variance from Section 10.521 to allow an 11’ rear yard where 20’ is required.

- 6) Case # 12-6
Petitioner: Brian M. McNamara & Sheila LaSella, Owners
Property: 618 Dennett Street Assessor Plan 161, Lot 19
Zoning district: General Residence A
Description: To allow the operation of a massage & polarity therapy business as a Home Occupation II at 618 Dennett Street.
Requests: Special Exception under Section 10.440 Use# 19.22 to allow a Home Occupation II at 618 Dennett Street.
Variance from Section 10.1114.32(b) to allow vehicles to enter and leave a site by backing into or from a public street or way.

**THE FOLLOWING ITEM V, PETITIONS 7) THROUGH 13), & ITEM VI WILL BE HEARD ON
TUESDAY, DECEMBER 21, 2010 AT 7:00 P.M.
IN THE EILEEN DONDERO FOLEY COUNCIL CHAMBERS**

- 7) Case #12-7
Petitioners: Helen T. Steele and Huldah Lashar, Owners
Property: 53 Pray Street Assessor Plan 102, Lot 40
Zoning district: Waterfront Business
Description: To allow the expansion of a nonconforming residential use and structure in the Waterfront Business zone by constructing three additions.
Requests: Variance from Section 10.321 to allow the expansion of a nonconforming building.
Variance from Section 10.331 to allow the expansion of a nonconforming use.
Variance from Section 10.334 to allow a nonconforming use of land to expand into any part of the remaining land.
Variance from Section 10.531 to allow a 7’ rear yard where 20’ is required.
Variance from Section 10.531 to allow a 6’ left side yard where 30’ is required for the expansion of a shed dormer.
Variance from Section 10.531 to allow a 0’ front yard where 30’ is required for the vertical expansion of the garage.
Variance from Section 10.531 to allow an 18’ right side yard where 30’ is required for the expansion of the garage.
Variance from Section 10.531 to allow a building coverage of 32% where 31% currently exists and 30% is the maximum coverage allowed.

- 8) Case # 12-8
Petitioners: Theta Realty, LLC, Owner & Theodore Mouzakis, Applicant
Property: 1150 Woodbury Avenue Assessor Plan 237, Lot 13
Zoning district: Single Residence B

Description: Expansion of a nonconforming residential multi-family use from 8 unit to 10 units where the existing lot area is 30,000 s.f. and the minimum lot area required for 10 units is 150,000 s.f.

Request: Variance from Section 10.331 to allow the expansion of a nonconforming use.
Variance from Section 10.440 Use# 1.50 to allow the conversion of a building existing on January 1, 1980 with less than the required minimum lot area per dwelling unit as specified in section 10.521.
Variance from Section 10.1112.30 to permit 15 parking spaces as shown on the plan where 16 parking spaces are required.

9) Case #12-9

Petitioner: Bradford D. Scott and Elizabeth B. Scott, Owners

Property: 94 Mendum Avenue Assessor Plan 149, Lot 55

Zoning district: General Residence A

Description: Construction of a new residential garage on the property at 94 Mendum Avenue

Requests: Variance from Section 10.521 to allow an accessory structure to be constructed with a building coverage of 36 % where 33% currently exists and 25% is the maximum coverage allowed.

Variance from Section 10.521 to allow a right sideyard of 3' where 10' is required.

Variance from Section 10.521 to allow a rear yard of 3' where 20' is required.

10) Case # 12-10

Petitioner: Roger V. and Susan M. Odoardi, Owners

Property: 179 Lincoln Avenue Assessor Plan 113, Lot 8-1

Zoning district: General Residence A

Description: Expansion of a nonconforming residential structure with a two story addition to the rear of the existing home.

Request: Variance from Section 10.321 to allow a nonconforming residential building to be expanded, enlarged and structurally altered.

Variance from Section 10.521 to allow for a building coverage of 28% where 23% currently exists and 25% is the maximum coverage allowed.

Variance from Section 10.521 to allow a right sideyard of 8' where 10' is required.

Variance from Section 10.521 to allow a left sideyard of 8' where 10' is required.

11) Case #12-11

Petitioners: C&P Gallagher Properties, Inc.

Property: 801 Islington Street Assessor Plan 165, Lot 8

Zoning district: Business

Description: To allow a new business establishment in a multi-tenant building with 91 parking spaces where 98 are required.

Request: Variance from Section 10.1112.30 Table of Off-Street Parking Requirements to allow 91 parking spaces in a shopping center where 98 are required.

12) Case # 12-12

Petitioners: Heritage & Lafayette, LLC, Owner and Robert Lee, Lessee

Property: 2800 Lafayette Road Assessor Plan 285, Lot 2

Zoning district: Gateway

Description: To allow a third free standing sign in a shopping center where only two free standing signs are allowed.

Requests: Variance from Section 10.1243 to allow a third free standing sign in a shopping center where two are allowed at the entrances to the property.
Variance from Section 10.1251.30 to allow more than the permitted s.f. of freestanding signage allowed in shopping centers.
Variance from Section 10.1251.10 to allow the applicant to exceed the previous aggregate allocated by variance.

13) Case # 12-13

Petitioners: Portsmouth Ford, Lincoln Mercury, Inc., Owner

Property: 450 Spaulding Turnpike Assessor Plan 238, Lot 1A

Zoning district: General Business

Description: Removal of a one-story building used for automobile sales and leasing and construction of a new two-story building with a similar footprint to be used for automobile sales and leasing.

Requests: Administrative Appeal from Section 10.310 for a Board ruling on the interpretation of a nonconforming use vs. a nonconforming lot.
Variance from Section 10.234 from a determination of the code official that the expansion of the existing auto dealership use requires a variance.
Variance from Section 10.311 to establish a new building on a lot without the required minimum lot area.
Variance from Section 10.324 to allow a nonconforming building to be added to or enlarged.
Variance from Section 10.331 to allow the expansion of a lawfully nonconforming use.
Variance from Section 10.581 to allow sales, rental, leasing, distribution, and repair of vehicles, recreational vehicles, manufactured housing, marine craft, and related equipment on a lot with less than 2 acres.
Variance from Section 10.843.20 to allow the outdoor storage and outdoor display of vehicles closer than 40' from the street right-of-way.

VI. OTHER BUSINESS

VII. ADJOURNMENT

NOTICE TO MEMBERS OF THE PUBLIC WHO ARE HEARING IMPAIRED

If you wish to attend a meeting and need assistance, please contact the Human Resources Department at 610-7274 one week prior to the meeting.