

**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 at its regular meeting** on March 15, 2011 in the Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire  
**PRESENT:** Chairman David Witham, Vice-Chairman Arthur Parrott, Derek Durbin, Carol Eaton, Thomas Grasso, Alain Jousse, Charles LeMay  
**EXCUSED:** Alternate: Robin Rousseau

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**I. APPROVAL OF MINUTES**

- A) December 21, 2010
- B) January 25, 2011

The Board voted to approve both sets of Minutes as presented.

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**II. PLANNING DEPARTMENT REPORTS**

- A) Rules & Regulations – Adopted Revision

The Board of Adjustment Rules & Regulations, as revised March 3, 2011, were distributed to the Board.

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**III. PUBLIC HEARINGS**

- 1) Case # 3-1  
Petitioners: Matthew J. & Sarah E. Curtin  
Property: 28 Kensington Road  
Zoning district: Single Residence B
- Assessor Map 152, Lot 25

Description: To construct a new front porch and entryway.

Requests: Variance from Section 10.521 to permit a building coverage of 22.6% where 20% is allowed.

Variance from Section 10.521 to permit a front yard of 15'5" where 30' is required.

Variance from Section 10.321 to allow the expansion of a nonconforming structure.

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

- In this neighborhood, a simple expansion on the front of the home will not negatively affect the public interest.
- The spirit of the Ordinance will be observed as a setback which is in keeping with the character of the neighborhood will be maintained.
- Substantial justice will be done by allowing the owners to improve their home with no harm to others and there is no evidence that the value of surrounding properties will be diminished.
- While consistent with the neighborhood, the lot is undersized so that any expansion would require a variance.

2) Case # 3-2

Petitioner: Eliza Hobson

Property: 106 Spring Street

Assessor Map 133, Lot 15

Zoning district: General Residence A

Description: To reconstruct a portion of the structure on the left side of the home.

Requests: Variance from Section 10.521 to permit a 4'± side yard where 10' is required.

Variance from Section 10.321 to allow the expansion of a nonconforming structure.

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

- There will be no public interest in this reconstruction necessary to build a code compliant internal stairway.
- The construction will be in line with the existing house and a portion of the currently nonconforming area will be removed so that the spirit of the Ordinance will be observed.
- There would be no benefit to the general public if this variance were denied and the value of surrounding properties will not be diminished by this reconstruction.
- This is a deep and narrow lot so that anything that needed to be done on the left side of the property would require coming for a variance.

3) Case # 3-3

Petitioner: Portsmouth Housing Authority

Property: 40 Wedgwood Road

Assessor Map 239, Lot 12

Zoning district: Garden Apartment/Mobile Home GA/MH

Description: To construct a 208 s.f. office addition to the front of the existing structure.

Request: Variance from Section 10.521 to permit a 16’ front yard where 30’ is required.

Variance from Section 10.321 to allow the expansion of a nonconforming structure.

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

- This simple infill project will not negatively affect the public interest.
- The use is unchanged and the neighborhood is unchanged so that the spirit of the Ordinance will be observed by this minor expansion.
- Justice will be served by allowing modernization, privacy and improved security for the applicant.
- The value of surrounding properties will not be diminished by this improvement.
- The hardship in the property is that a deeding of the roadway to the City years ago changed the setbacks and made all of the properties nonconforming.

4) Case # 3-4

Petitioners: Michael Delacruz c/o the Franklin Block-CDB, owner, Bryan Trudel, applicant

Property: 148 Fleet Street (63 Congress Street)

Assessor Map 117, Lot 5

Zoning district: Central Business B

Description: To construct a sign projecting over the sidewalk.

Request: Variance from Section 10.1253.50 to allow a projecting sign to project more than one-third the width of the sidewalk.

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

- On this narrow street, it will be in the public interest to be able to direct a customer to a destination.
- In the spirit of the Ordinance, the sign will be placed 12’ off the ground. The existing bracket will be used so that the sign will not change the character of the neighborhood.
- There would be no benefit to the general public in denying the variance. The public will actually benefit by being able to identify the location.
- The sign is in keeping with others on the street so that the value of surrounding properties will not be diminished.
- The sidewalks on this street are exceptionally narrow so that a departure from the standard is justified. A sign in compliance would not be effective.

- 5) Case # 3-5  
Petitioners: Brady J. Byrd & Brian L. Neste  
Property: 184 Walker Bungalow Road Assessor Map 223, Lot 19  
Zoning district: Single Residence B  
Description: To construct several additions to the structure.  
Request: Variance from Section 10.321 to allow the expansion of a nonconforming structure.  
Variance from Section 10.521 to allow a 20'± rear yard where 30' is required.  
Variance from Section 10.521 to allow a 5'± front yard where 30' is required.

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

- There will be no public interest in an expansion in this location.
- The spirit of the Ordinance will be observed. The encroachment is minor due to the unique setback situation and the expansion will not encroach further than the existing structure.
- Nothing was presented to suggest that the value of surrounding properties would be diminished and there is a good distance from the structure to that of the abutting neighbor.
- Substantial justice will be done by allowing the homeowners to renovate their residence while not infringing on neighbors.
- The size and shape of the lot, essentially bounded by three streets, creates a hardship, along with the unique setback situation in that area.

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- 6) Case # 3-6  
Petitioners: Jonathan and Megan Parker  
Property: 31 Sherburne Avenue Assessor Map 113, Lot 15  
Zoning district: General Residence A  
Description: To construct a vertical expansion of the residential structure.  
Requests: Variance from Section 10.521 to permit a rear yard of 15.3' where 20' is required.  
Variance from Section 10.321 to allow the expansion of a nonconforming structure.

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

Prior to the issuance of any building permit under this variance, and in any case no later than May 31, 2011, the existing shed shown as "to be relocated" on the "Boundary Line Agreement & Lot Line Relocation Plan" approved by the Planning Board on November 18, 2010, shall be either relocated in full compliance with the Zoning Ordinance or removed.

The petition was granted for the following reasons:

- Granting the variance will not be contrary to the public interest which, in this case, would be defined by the immediate neighbors, none of whom spoke in opposition.
- It will be in the spirit of the Ordinance to allow the owners to make their home more usable with no negative impact on abutters. The owners had taken prior action to make their property more conforming, which will be partially achieved by fulfilling the stipulation to this decision.
- There would be no benefit to the general public in denying the request.
- An attractive upgrade is unlikely to have a negative effect on the value of surrounding properties.
- The configuration of the lot and the way the house is situated restrict the possibilities for expansion.

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7) Case # 3-7

Petitioner: Stephen and Karin Barndollar

Property: 120 Ridges Court

Assessor Map 207, Lot 61

Zoning district: Single Residence B

Description: To construct a free-standing solar panel array.

Request: Variance from Section 10.521 to permit a structure with a 5' front yard where 30' is required.

After consideration, the Board voted to deny the petition as presented and advertised. All the criteria necessary to grant a variance were not met. It was felt that there were other options available which would allow the homeowners to achieve their aim while still complying with the Ordinance and there were no negative special conditions which would constitute a hardship in the property.

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**IV. OTHER BUSINESS**

No other business was presented.

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**V. ADJOURNMENT**

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

Respectfully submitted,

Mary E. Koepenick, Secretary