

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 reconvened meeting on December 2, 2014** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman David Witham, Vice-Chairman Arthur Parrott, Susan Chamberlin Derek Durbin, Charles LeMay, Christopher Mulligan, David Rheume. Alternates: Jeremiah Johnson, Patrick Moretti

EXCUSED: None

=====
I. APPROVAL OF MINUTES

A) October 21, 2014

B) October 28, 2014

The Minutes for both meetings were approved with minor corrections.

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II. PUBLIC HEARINGS – NEW BUSINESS

6) Case # 11-6

Petitioners: Portsmouth Lumber & Hardware LLC, owner, Ricci Lumber, applicant

Property: 105 Bartlett Street

Assessor Plan 164, Lot 1

Zoning District: Office Research

Description: Install three attached wall signs totaling 117± s.f.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1251.10 to allow a 51 s.f. wall sign where 48 s.f. is the maximum allowed.

Action:

The Board voted to **grant** the petition as presented and advertised.

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- Adding a sign to a long-established commercial use will not change the essential character of this predominantly commercial area so that granting the variance will not be contrary to the public interest or diminish the value of surrounding properties.
- The spirit of the Ordinance will be observed as 3 s.f. in relief from the requirements is a minimal request.
- Substantial justice will be done as the benefit to the applicant in granting the petition will not be outweighed by any detriment to the general public, which would not benefit from the removal of the installed sign.
- The small amount of frontage on the side of the lot facing Bartlett Street is a special condition of the property making strict application of the Zoning Ordinance with regard to the allowed size of a wall sign unreasonable. Bringing this sign into conformity by reducing it by 3 s.f. would not serve the purpose of the Ordinance in a fair and substantial way and any impact on the public is minimal.

7) Case # 11-7

Petitioner: Merton Alan Investments LLC c/o Joan Ryan & Cassassa

Property: Bartlett Street at Cate Street (30 Cate Street)

Assessor Plan 165, Lot 1

Zoning District: Industrial

Description: Construct 10,000 s.f. ±, three-story office building with associated parking.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. Variances from Section 10.531 to allow the following:
 - a) A left side yard setback of 15'± where 50' is required.
 - b) A right side yard setback of 17'± where 50' is required.
2. Variances from Sections 10.5A42 and 10.730 as may be required to implement the site plan provided with this application.

Action:

The Board voted to **postpone** the petition to the regularly scheduled meeting in January, as requested by the applicant.

8) Case # 11-8

Petitioners: Dale W. & Sharyn W. Smith

Property: 275 Islington Street (and 29 Rockingham Street)

Assessor Plan 144, Lot 8

Zoning District: Central Business B

Description: Construct four multi-family residences and addition to rear building creating 14 residential units. Install four HVAC units.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a nonconforming structure to be extended, reconstructed or structurally altered without conforming to the requirements of the Ordinance.

2. Variances from Section 10.535.20 to allow a left side yard setback of .12'± and a right side yard setback of .73'± where 10' is required for both.
3. A Variance from Section 10.515.10(c) and 10.535.20 to allow 4 HVAC units with a 5'± rear yard setback where 10' is required for units greater than 36" above ground level.
4. A Variance from Section 10.1114.41 to allow a 42" ± wide pedestrian path where 5' is required.

Action:

The Board voted to **grant** the petition as presented and advertised.

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- The proposed structures will not change the essential character of this neighborhood so that granting the variances will not be contrary to the public interest. The pedestrian walkway proposed is adequate for safe passage and the proposed HVAC units will be screened.
- The spirit of the Ordinance will be observed as the setbacks, while small, are typical of the area and will be offset by having the off-street parking contained within the individual units.
- There would be no benefit to the public by denying the application while a hardship would be created for the applicant in having to retain the current structure.
- The design and mass of the buildings will be in keeping with the neighborhood and on-site parking will be provided so that the value of surrounding properties will not be diminished.
- Denial of this variance for relatively minor requests would not support the overall purpose of the Ordinance in a fair and substantial way. The proposed use is a reasonable one given the existing density and character of the neighborhood, located in the Historic District, which is predominantly residential.

9) Case # 11-9

Petitioner: 303 Islington Street LLC

Property: 303 Islington Street

Assessor Plan 144, Lot 11

Zoning District: General Residence C

Description: Conversion of three office units to dwelling units with renovations to front and right side dormers, balconies over front windows and 27' x 19' second floor rear addition.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or structurally altered without conforming to the requirements of the Ordinance.

2. Variances from Section 10.521 to allow the following:
 - (a) A lot area per dwelling unit of 1,198 s.f. ± where 3,500 s.f. is required.
 - (b) A front yard setback of 3'1" ± where 5' is required;
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Stipulations:

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- The spirit of the Ordinance will be observed as the increase in square footage is modest and code-compliant improvements will be made.
- In the substantial justice balance test, the loss to the applicant if the petition were denied would not be balanced by any benefit to the general public.
- This building has existed for a substantial period and there is no reason to believe that the value of surrounding properties will be diminished by a design which has been reviewed by the Historic District Commission.
- The special conditions of the property creating a hardship are that the corner lot is already nonconforming as to setbacks and abuts a different zone. The existing building is a very large building on a small lot and the expansion will be modest so that there is no fair and substantial relationship between the setback requirements in this zone as they are applied to the property.

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III. OTHER BUSINESS

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IV. ADJOURNMENT

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It was moved, seconded and passed to adjourn the meeting at 8:24 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary

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EXCUSED: None

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Petitioner: Merton Alan Investments LLC c/o Joan Ryan & Cassassa

Property: Bartlett Street at Cate Street (30 Cate Street)

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Zoning District: Industrial

Description: Construct 10,000 s.f. ±, three-story office building with associated parking.

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2. Variances from Sections 10.5A42 and 10.730 as may be required to implement the site plan provided with this application.

Action:

The Board voted to **postpone** the petition to the regularly scheduled meeting in January, as requested by the applicant.

8) Case # 11-8

Petitioners: Dale W. & Sharyn W. Smith

Property: 275 Islington Street (and 29 Rockingham Street)

Assessor Plan 144, Lot 8

Zoning District: Central Business B

Description: Construct four multi-family residences and addition to rear building creating 14 residential units. Install four HVAC units.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

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9) Case # 11-9

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Property: 303 Islington Street

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III. OTHER BUSINESS

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EXCUSED: None

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A) October 21, 2014

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The Minutes for both meetings were approved with minor corrections.

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6) Case # 11-6

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Property: 105 Bartlett Street

Assessor Plan 164, Lot 1

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Description: Install three attached wall signs totaling 117± s.f.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

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II. PUBLIC HEARINGS – NEW BUSINESS

6) Case # 11-6

Petitioners: Portsmouth Lumber & Hardware LLC, owner, Ricci Lumber, applicant

Property: 105 Bartlett Street

Assessor Plan 164, Lot 1

Zoning District: Office Research

Description: Install three attached wall signs totaling 117± s.f.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1251.10 to allow a 51 s.f. wall sign where 48 s.f. is the maximum allowed.

Action:

The Board voted to **grant** the petition as presented and advertised.

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- Adding a sign to a long-established commercial use will not change the essential character of this predominantly commercial area so that granting the variance will not be contrary to the public interest or diminish the value of surrounding properties.
- The spirit of the Ordinance will be observed as 3 s.f. in relief from the requirements is a minimal request.
- Substantial justice will be done as the benefit to the applicant in granting the petition will not be outweighed by any detriment to the general public, which would not benefit from the removal of the installed sign.
- The small amount of frontage on the side of the lot facing Bartlett Street is a special condition of the property making strict application of the Zoning Ordinance with regard to the allowed size of a wall sign unreasonable. Bringing this sign into conformity by reducing it by 3 s.f. would not serve the purpose of the Ordinance in a fair and substantial way and any impact on the public is minimal.

7) Case # 11-7

Petitioner: Merton Alan Investments LLC c/o Joan Ryan & Cassassa

Property: Bartlett Street at Cate Street (30 Cate Street)

Assessor Plan 165, Lot 1

Zoning District: Industrial

Description: Construct 10,000 s.f. ±, three-story office building with associated parking.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. Variances from Section 10.531 to allow the following:
 - a) A left side yard setback of 15'± where 50' is required.
 - b) A right side yard setback of 17'± where 50' is required.
2. Variances from Sections 10.5A42 and 10.730 as may be required to implement the site plan provided with this application.

Action:

The Board voted to **postpone** the petition to the regularly scheduled meeting in January, as requested by the applicant.

8) Case # 11-8

Petitioners: Dale W. & Sharyn W. Smith

Property: 275 Islington Street (and 29 Rockingham Street)

Assessor Plan 144, Lot 8

Zoning District: Central Business B

Description: Construct four multi-family residences and addition to rear building creating 14 residential units. Install four HVAC units.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a nonconforming structure to be extended, reconstructed or structurally altered without conforming to the requirements of the Ordinance.

2. Variances from Section 10.535.20 to allow a left side yard setback of .12'± and a right side yard setback of .73'± where 10' is required for both.
3. A Variance from Section 10.515.10(c) and 10.535.20 to allow 4 HVAC units with a 5'± rear yard setback where 10' is required for units greater than 36" above ground level.
4. A Variance from Section 10.1114.41 to allow a 42" ± wide pedestrian path where 5' is required.

Action:

The Board voted to **grant** the petition as presented and advertised.

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- The proposed structures will not change the essential character of this neighborhood so that granting the variances will not be contrary to the public interest. The pedestrian walkway proposed is adequate for safe passage and the proposed HVAC units will be screened.
- The spirit of the Ordinance will be observed as the setbacks, while small, are typical of the area and will be offset by having the off-street parking contained within the individual units.
- There would be no benefit to the public by denying the application while a hardship would be created for the applicant in having to retain the current structure.
- The design and mass of the buildings will be in keeping with the neighborhood and on-site parking will be provided so that the value of surrounding properties will not be diminished.
- Denial of this variance for relatively minor requests would not support the overall purpose of the Ordinance in a fair and substantial way. The proposed use is a reasonable one given the existing density and character of the neighborhood, located in the Historic District, which is predominantly residential.

9) Case # 11-9

Petitioner: 303 Islington Street LLC

Property: 303 Islington Street

Assessor Plan 144, Lot 11

Zoning District: General Residence C

Description: Conversion of three office units to dwelling units with renovations to front and right side dormers, balconies over front windows and 27' x 19' second floor rear addition.

Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or structurally altered without conforming to the requirements of the Ordinance.

- 2. Variances from Section 10.521 to allow the following:
 - (a) A lot area per dwelling unit of 1,198 s.f. ± where 3,500 s.f. is required.
 - (b) A front yard setback of 3'1" ± where 5' is required;
 - (c) A left side yard setback of 9'± and a right side yard setback of 0'± where 10' is required for both.

Action:

The Board voted to **grant** the petition as presented and advertised.

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest. The additional square footage proposed is small and the number of units and their composition will not change so that the essential character of the neighborhood will not be altered nor will the health, safety and welfare of the public be threatened.
- The spirit of the Ordinance will be observed as the increase in square footage is modest and code-compliant improvements will be made.
- In the substantial justice balance test, the loss to the applicant if the petition were denied would not be balanced by any benefit to the general public.
- This building has existed for a substantial period and there is no reason to believe that the value of surrounding properties will be diminished by a design which has been reviewed by the Historic District Commission.
- The special conditions of the property creating a hardship are that the corner lot is already nonconforming as to setbacks and abuts a different zone. The existing building is a very large building on a small lot and the expansion will be modest so that there is no fair and substantial relationship between the setback requirements in this zone as they are applied to the property.

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III. OTHER BUSINESS

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IV. ADJOURNMENT

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It was moved, seconded and passed to adjourn the meeting at 8:24 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary

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 reconvened meeting on December 2, 2014** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman David Witham, Vice-Chairman Arthur Parrott, Susan Chamberlin Derek Durbin, Charles LeMay, Christopher Mulligan, David Rheume. Alternates: Jeremiah Johnson, Patrick Moretti

EXCUSED: None

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I. APPROVAL OF MINUTES

A) October 21, 2014

B) October 28, 2014

The Minutes for both meetings were approved with minor corrections.

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II. PUBLIC HEARINGS – NEW BUSINESS

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Assessor Plan 164, Lot 1

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Requests: The Variances necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.1251.10 to allow a 51 s.f. wall sign where 48 s.f. is the maximum allowed.

Action:

The Board voted to **grant** the petition as presented and advertised.

Stipulations:

None.

Review Criteria:

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Zoning District: Industrial

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2. Variances from Sections 10.5A42 and 10.730 as may be required to implement the site plan provided with this application.

Action:

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Petitioners: Dale W. & Sharyn W. Smith

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Assessor Plan 144, Lot 8

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2. Variances from Section 10.535.20 to allow a left side yard setback of .12'± and a right side yard setback of .73'± where 10' is required for both.
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Action:

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Stipulations:

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Action:

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Stipulations:

None.

Review Criteria:

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III. OTHER BUSINESS

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IV. ADJOURNMENT

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Respectfully submitted,

Mary E. Koepenick, Secretary

