

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 February 3, 2015** in the School Board Conference Room, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman David Witham, Vice-Chairman Arthur Parrott, Derek Durbin, Charles LeMay, Christopher Mulligan, David Rheame. Alternate: Jeremiah Johnson

EXCUSED: Alternate Patrick Moretti

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V. APPROVAL OF MINUTES

A) December 2, 2014

It was moved, seconded and passed by unanimous voice vote to accept the Minutes as presented.

B) December 16, 2014

It was moved, seconded and passed by unanimous voice vote to accept the Minutes with minor corrections.

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VI. PUBLIC HEARINGS – OLD BUSINESS (continued from 1-21-15 meeting)

B) Case # 11-7

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

Property: Bartlett Street at 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 front yard setback of 30'± where 70' is required.
 - b) A rear yard setback of 8'± where 15' is required.

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

Amendments have been made to this petition which was postponed at the the December 2, 2014 meeting.

Action:

The Board voted to **grant** Variances #1(a) and #1(b).

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- With office uses in the immediate vicinity, this office use will not alter the essential character of the neighborhood or the health, safety and welfare of the general public so that granting the variances will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Granting the variances will result in substantial justice as the loss to the applicant if the variances were denied would not be outweighed by any gain to the general public.
- The development of this lot will improve the neighborhood so that the value of surrounding properties will not be diminished.
- The special characteristics of this property distinguishing it from others in the neighborhood and creating a hardship in the application of the setback provisions of the Ordinance include the unusual shape of the lot which is bounded by a railroad and two public rights of way.

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VII. PUBLIC HEARINGS – NEW BUSINESS (continued from the 1-21-15 meeting)

2) Case # 2-15

Petitioners: Portwalk HI, LLC/Hanover Apartments LLC

Property: 35 Portwalk Place (195 Hanover Street)

Assessor Plan 125, Lot 1

Zoning Districts: CD5, Historic and Downtown Overlay

Description: The provision of parking for a first floor restaurant use.

Requests:

- 1. An Administrative Appeal of a decision by the Code Official to require parking for a change in use from retail to restaurant.
- 2. If the Appeal is not granted, the Variances necessary to grant the required relief from the Zoning Ordinance, including the following:
 - (a) A Variance from Section 10.1115.21 related to off-street parking requirements.

Action:

The Board voted to **grant** the Variance as presented and advertised for the provision of 235 parking spaces where 257 parking spaces are required. The Board acknowledged that, with this approval, the Administrative Appeal was **withdrawn** by the applicant.

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- In an area of restaurant and retail uses, an additional restaurant will not change the essential character of this neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as this is a small change which complies with the intent of the Zoning Ordinance as currently amended.
- In an area already experiencing commercial development this proposal will not diminish the value of surrounding properties.
- The property is generally in compliance and, due to market forces and recent zoning revisions, literal enforcement of the Ordinance would not be reasonable and would result in unnecessary hardship.

3) Case # 3-15

Petitioners: Janet Prince & Peter Bergh

Property: 54 Lincoln Avenue

Assessor Plan 111, Lot 21

Zoning District: General Residence A

Description: Construct a 7'± x 14'± rear addition and a 6'± x 8'8"± front addition with stairs. Add dormers and construct a 20'± x 22'± garage.

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. A Variance from Section 10.521 to allow the following:
 - (a) A front yard setback of 12'2" ± where 15' is required.
 - (b) A right side yard setback of 2'10" ± where 10' is required.
 - (c) 26.3% building coverage where 25% 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:

- The renovation and improvement of a residence in a residential area will not alter the essential character of the neighborhood so that granting the variances will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as there is no overriding public interest that would outweigh the harm to the applicant if the petition were denied.
- The proposed improvements will not diminish the value of surrounding properties. The neighbors most affected by any impact on light and air supported the proposal.
- The special conditions of the property creating a hardship are that it is a narrow lot with little more than half the required street frontage so that relief would be required to make any changes or improvements. The lot abuts a municipal property that would not be subject to development and increases the available open space and, therefore, the literal enforcement of the Ordinance would be unreasonable.

4) Case # 4-15

Petitioners: Peter Cass & Mara Witzling

Property: 33 Hunking Street

Assessor Plan 103, Lot 38

Zoning District: General Residence B

Description: Construct a 6'± x 6'± front deck and 2-story 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. A Variance from Section 10.521 to allow an 8'± left side yard setback for an entry deck addition and rear bulkhead where 10' is required.

Action:

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

Stipulations:

None.

Other:

- The entry deck is in compliance with Section 10.1516.40 of the Ordinance and therefore only the bulkhead requires zoning relief.

Review Criteria:

The petition was granted for the following reasons:

- A bulkhead in the proposed location will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done by allowing the proposed changes, scaled back from a previous approval, with no detriment to the general public.
- A rear bulkhead just over 18” will not diminish the value of surrounding properties.
- A bulkhead is a reasonable request and, due to factors in the lot and the existing structure as it sits on the lot, this is the only location where the bulkhead can be placed.

5) Case # 5-15

Petitioners: Thomas J. Schladenhauffen & M. Longi Schladenhauffen

Property: 708 State Street

Assessor Plan 137, Lot 8

Zoning District: General Residence C

Description: Construct a 26’ x 15.5’± two-story 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. A Variance from Section 10.521 to allow a left side yard setback of 3’± where 10’ 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:

- A modest expansion of a nonconforming residential structure will not alter the essential character of this residential neighborhood nor threaten the health, safety or welfare of the general public so that granting the variances will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as denying the variances would result in harm to the applicants which would not be outweighed by any corresponding benefit to the general public.
- Additions appropriate to the existing structure and lot will not diminish the value of surrounding properties and no concerns were raised by abutters.
- Literal enforcement of the Ordinance would create an unnecessary hardship due to the special conditions of the property, which include a small house on a small, skinny lot with frontage on two public ways. This is a reasonable request, which will not result in any further encroachment into the setbacks.

6) Case # 6-15

Petitioners: Hayscales Trust, Robert Krieger, Trustee

Property: 236 Union Street

Assessor Plan 135, Lot 22

Zoning District: General Residence C

Description: Demolish commercial structure and construct two dwelling units with two driveways and related parking.

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

1. Variances from Section 10.521 to allow the following:
 - (a) A lot area per dwelling unit of 2,532± s.f. where 3,500 s.f. is required.
 - (b) A right side yard setback of 1'10" ± where 10' is required.
 - (c) 40.4%± building coverage where 35% is the maximum allowed.
2. A Variance from Section 10.1114.31 to allow more than one driveway on a lot.

Action:

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

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- With a lot size per dwelling unit consistent with the area and multi-unit structures on abutting properties, this change will not alter the essential character of the neighborhood so that granting the variances will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by bringing the property into greater conformity with the requirements.
- Substantial justice will be done as the harm that would be done to the applicant if the petition were denied would not be outweighed by any benefit to the general public and no abutters have expressed opposition.
- A change from commercial to residential use will only enhance the value of surrounding properties while allowing the applicant greater enjoyment of their property.
- The special condition of the property is its existing use with a commercial structure. It would be an upgrade for this residential neighborhood to have a residential structure so that there is no fair and substantial relationship between the provisions of the Ordinance and their specific application to the property.

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VIII. OTHER BUSINESS

No other business was presented.

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IX. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 9:35 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary

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B) Case # 11-7

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

Property: Bartlett Street at 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 front yard setback of 30'± where 70' is required.
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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.
Amendments have been made to this petition which was postponed at the the December 2, 2014 meeting.

Action:

The Board voted to **grant** Variances #1(a) and #1(b).

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

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Property: 35 Portwalk Place (195 Hanover Street)

Assessor Plan 125, Lot 1

Zoning Districts: CD5, Historic and Downtown Overlay

Description: The provision of parking for a first floor restaurant use.

Requests:

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 - (a) A Variance from Section 10.1115.21 related to off-street parking requirements.

Action:

The Board voted to **grant** the Variance as presented and advertised for the provision of 235 parking spaces where 257 parking spaces are required. The Board acknowledged that, with this approval, the Administrative Appeal was **withdrawn** by the applicant.

Stipulations:

None.

Review Criteria:

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Petitioners: Janet Prince & Peter Bergh

Property: 54 Lincoln Avenue

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

Stipulations:

None.

Review Criteria:

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Stipulations:

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IX. ADJOURNMENT

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Respectfully submitted,

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Action:

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6) Case # 6-15

Petitioners: Hayscales Trust, Robert Krieger, Trustee

Property: 236 Union Street

Assessor Plan 135, Lot 22

Zoning District: General Residence C

Description: Demolish commercial structure and construct two dwelling units with two driveways and related parking.

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

1. Variances from Section 10.521 to allow the following:
 - (a) A lot area per dwelling unit of 2,532± s.f. where 3,500 s.f. is required.
 - (b) A right side yard setback of 1'10" ± where 10' is required.
 - (c) 40.4%± building coverage where 35% is the maximum allowed.
2. A Variance from Section 10.1114.31 to allow more than one driveway on a lot.

Action:

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

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- With a lot size per dwelling unit consistent with the area and multi-unit structures on abutting properties, this change will not alter the essential character of the neighborhood so that granting the variances will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by bringing the property into greater conformity with the requirements.
- Substantial justice will be done as the harm that would be done to the applicant if the petition were denied would not be outweighed by any benefit to the general public and no abutters have expressed opposition.
- A change from commercial to residential use will only enhance the value of surrounding properties while allowing the applicant greater enjoyment of their property.
- The special condition of the property is its existing use with a commercial structure. It would be an upgrade for this residential neighborhood to have a residential structure so that there is no fair and substantial relationship between the provisions of the Ordinance and their specific application to the property.

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VIII. OTHER BUSINESS

No other business was presented.

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IX. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 9:35 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 February 3, 2015** in the School Board Conference Room, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman David Witham, Vice-Chairman Arthur Parrott, Derek Durbin, Charles LeMay, Christopher Mulligan, David Rheame. Alternate: Jeremiah Johnson

EXCUSED: Alternate Patrick Moretti

=====

V. APPROVAL OF MINUTES

A) December 2, 2014

It was moved, seconded and passed by unanimous voice vote to accept the Minutes as presented.

B) December 16, 2014

It was moved, seconded and passed by unanimous voice vote to accept the Minutes with minor corrections.

=====

VI. PUBLIC HEARINGS – OLD BUSINESS (continued from 1-21-15 meeting)

B) Case # 11-7

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

Property: Bartlett Street at 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 front yard setback of 30'± where 70' is required.
 - b) A rear yard setback of 8'± where 15' is required.

- 2. Variances from Sections 10.5A42 and 10.730 as may be required to implement the site plan provided with this application.
Amendments have been made to this petition which was postponed at the the December 2, 2014 meeting.

Action:

The Board voted to **grant** Variances #1(a) and #1(b).

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- With office uses in the immediate vicinity, this office use will not alter the essential character of the neighborhood or the health, safety and welfare of the general public so that granting the variances will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Granting the variances will result in substantial justice as the loss to the applicant if the variances were denied would not be outweighed by any gain to the general public.
- The development of this lot will improve the neighborhood so that the value of surrounding properties will not be diminished.
- The special characteristics of this property distinguishing it from others in the neighborhood and creating a hardship in the application of the setback provisions of the Ordinance include the unusual shape of the lot which is bounded by a railroad and two public rights of way.

=====

VII. PUBLIC HEARINGS – NEW BUSINESS (continued from the 1-21-15 meeting)

2) Case # 2-15

Petitioners: Portwalk HI, LLC/Hanover Apartments LLC

Property: 35 Portwalk Place (195 Hanover Street)

Assessor Plan 125, Lot 1

Zoning Districts: CD5, Historic and Downtown Overlay

Description: The provision of parking for a first floor restaurant use.

Requests:

- 1. An Administrative Appeal of a decision by the Code Official to require parking for a change in use from retail to restaurant.
- 2. If the Appeal is not granted, the Variances necessary to grant the required relief from the Zoning Ordinance, including the following:
 - (a) A Variance from Section 10.1115.21 related to off-street parking requirements.

Action:

The Board voted to **grant** the Variance as presented and advertised for the provision of 235 parking spaces where 257 parking spaces are required. The Board acknowledged that, with this approval, the Administrative Appeal was **withdrawn** by the applicant.

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- In an area of restaurant and retail uses, an additional restaurant will not change the essential character of this neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as this is a small change which complies with the intent of the Zoning Ordinance as currently amended.
- In an area already experiencing commercial development this proposal will not diminish the value of surrounding properties.
- The property is generally in compliance and, due to market forces and recent zoning revisions, literal enforcement of the Ordinance would not be reasonable and would result in unnecessary hardship.

3) Case # 3-15

Petitioners: Janet Prince & Peter Bergh

Property: 54 Lincoln Avenue

Assessor Plan 111, Lot 21

Zoning District: General Residence A

Description: Construct a 7'± x 14'± rear addition and a 6'± x 8'8"± front addition with stairs. Add dormers and construct a 20'± x 22'± garage.

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. A Variance from Section 10.521 to allow the following:
 - (a) A front yard setback of 12'2" ± where 15' is required.
 - (b) A right side yard setback of 2'10" ± where 10' is required.
 - (c) 26.3% building coverage where 25% 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:

- The renovation and improvement of a residence in a residential area will not alter the essential character of the neighborhood so that granting the variances will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as there is no overriding public interest that would outweigh the harm to the applicant if the petition were denied.
- The proposed improvements will not diminish the value of surrounding properties. The neighbors most affected by any impact on light and air supported the proposal.
- The special conditions of the property creating a hardship are that it is a narrow lot with little more than half the required street frontage so that relief would be required to make any changes or improvements. The lot abuts a municipal property that would not be subject to development and increases the available open space and, therefore, the literal enforcement of the Ordinance would be unreasonable.

4) Case # 4-15

Petitioners: Peter Cass & Mara Witzling

Property: 33 Hunking Street

Assessor Plan 103, Lot 38

Zoning District: General Residence B

Description: Construct a 6'± x 6'± front deck and 2-story 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. A Variance from Section 10.521 to allow an 8'± left side yard setback for an entry deck addition and rear bulkhead where 10' is required.

Action:

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

Stipulations:

None.

Other:

- The entry deck is in compliance with Section 10.1516.40 of the Ordinance and therefore only the bulkhead requires zoning relief.

Review Criteria:

The petition was granted for the following reasons:

- A bulkhead in the proposed location will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Substantial justice will be done by allowing the proposed changes, scaled back from a previous approval, with no detriment to the general public.
- A rear bulkhead just over 18” will not diminish the value of surrounding properties.
- A bulkhead is a reasonable request and, due to factors in the lot and the existing structure as it sits on the lot, this is the only location where the bulkhead can be placed.

5) Case # 5-15

Petitioners: Thomas J. Schladenhauffen & M. Longi Schladenhauffen

Property: 708 State Street

Assessor Plan 137, Lot 8

Zoning District: General Residence C

Description: Construct a 26’ x 15.5’± two-story 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. A Variance from Section 10.521 to allow a left side yard setback of 3’± where 10’ 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:

- A modest expansion of a nonconforming residential structure will not alter the essential character of this residential neighborhood nor threaten the health, safety or welfare of the general public so that granting the variances will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as denying the variances would result in harm to the applicants which would not be outweighed by any corresponding benefit to the general public.
- Additions appropriate to the existing structure and lot will not diminish the value of surrounding properties and no concerns were raised by abutters.
- Literal enforcement of the Ordinance would create an unnecessary hardship due to the special conditions of the property, which include a small house on a small, skinny lot with frontage on two public ways. This is a reasonable request, which will not result in any further encroachment into the setbacks.

6) Case # 6-15

Petitioners: Hayscales Trust, Robert Krieger, Trustee

Property: 236 Union Street

Assessor Plan 135, Lot 22

Zoning District: General Residence C

Description: Demolish commercial structure and construct two dwelling units with two driveways and related parking.

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

1. Variances from Section 10.521 to allow the following:
 - (a) A lot area per dwelling unit of 2,532± s.f. where 3,500 s.f. is required.
 - (b) A right side yard setback of 1'10" ± where 10' is required.
 - (c) 40.4%± building coverage where 35% is the maximum allowed.
2. A Variance from Section 10.1114.31 to allow more than one driveway on a lot.

Action:

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

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- With a lot size per dwelling unit consistent with the area and multi-unit structures on abutting properties, this change will not alter the essential character of the neighborhood so that granting the variances will not be contrary to the public interest.
- The spirit of the Ordinance will be observed by bringing the property into greater conformity with the requirements.
- Substantial justice will be done as the harm that would be done to the applicant if the petition were denied would not be outweighed by any benefit to the general public and no abutters have expressed opposition.
- A change from commercial to residential use will only enhance the value of surrounding properties while allowing the applicant greater enjoyment of their property.
- The special condition of the property is its existing use with a commercial structure. It would be an upgrade for this residential neighborhood to have a residential structure so that there is no fair and substantial relationship between the provisions of the Ordinance and their specific application to the property.

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VIII. OTHER BUSINESS

No other business was presented.

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IX. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 9:35 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 February 3, 2015** in the School Board Conference Room, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman David Witham, Vice-Chairman Arthur Parrott, Derek Durbin, Charles LeMay, Christopher Mulligan, David Rheame. Alternate: Jeremiah Johnson

EXCUSED: Alternate Patrick Moretti

=====

V. APPROVAL OF MINUTES

A) December 2, 2014

It was moved, seconded and passed by unanimous voice vote to accept the Minutes as presented.

B) December 16, 2014

It was moved, seconded and passed by unanimous voice vote to accept the Minutes with minor corrections.

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VI. PUBLIC HEARINGS – OLD BUSINESS (continued from 1-21-15 meeting)

B) Case # 11-7

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

Property: Bartlett Street at 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 front yard setback of 30'± where 70' is required.
 - b) A rear yard setback of 8'± where 15' is required.

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

Amendments have been made to this petition which was postponed at the the December 2, 2014 meeting.

Action:

The Board voted to **grant** Variances #1(a) and #1(b).

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- With office uses in the immediate vicinity, this office use will not alter the essential character of the neighborhood or the health, safety and welfare of the general public so that granting the variances will not be contrary to the public interest and will observe the spirit of the Ordinance.
- Granting the variances will result in substantial justice as the loss to the applicant if the variances were denied would not be outweighed by any gain to the general public.
- The development of this lot will improve the neighborhood so that the value of surrounding properties will not be diminished.
- The special characteristics of this property distinguishing it from others in the neighborhood and creating a hardship in the application of the setback provisions of the Ordinance include the unusual shape of the lot which is bounded by a railroad and two public rights of way.

=====

VII. PUBLIC HEARINGS – NEW BUSINESS (continued from the 1-21-15 meeting)

2) Case # 2-15

Petitioners: Portwalk HI, LLC/Hanover Apartments LLC

Property: 35 Portwalk Place (195 Hanover Street)

Assessor Plan 125, Lot 1

Zoning Districts: CD5, Historic and Downtown Overlay

Description: The provision of parking for a first floor restaurant use.

Requests:

- 1. An Administrative Appeal of a decision by the Code Official to require parking for a change in use from retail to restaurant.
- 2. If the Appeal is not granted, the Variances necessary to grant the required relief from the Zoning Ordinance, including the following:
 - (a) A Variance from Section 10.1115.21 related to off-street parking requirements.

Action:

The Board voted to **grant** the Variance as presented and advertised for the provision of 235 parking spaces where 257 parking spaces are required. The Board acknowledged that, with this approval, the Administrative Appeal was **withdrawn** by the applicant.

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- In an area of restaurant and retail uses, an additional restaurant will not change the essential character of this neighborhood so that granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as this is a small change which complies with the intent of the Zoning Ordinance as currently amended.
- In an area already experiencing commercial development this proposal will not diminish the value of surrounding properties.
- The property is generally in compliance and, due to market forces and recent zoning revisions, literal enforcement of the Ordinance would not be reasonable and would result in unnecessary hardship.

3) Case # 3-15

Petitioners: Janet Prince & Peter Bergh

Property: 54 Lincoln Avenue

Assessor Plan 111, Lot 21

Zoning District: General Residence A

Description: Construct a 7'± x 14'± rear addition and a 6'± x 8'8"± front addition with stairs. Add dormers and construct a 20'± x 22'± garage.

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. A Variance from Section 10.521 to allow the following:
 - (a) A front yard setback of 12'2" ± where 15' is required.
 - (b) A right side yard setback of 2'10" ± where 10' is required.
 - (c) 26.3% building coverage where 25% 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:

- The renovation and improvement of a residence in a residential area will not alter the essential character of the neighborhood so that granting the variances will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as there is no overriding public interest that would outweigh the harm to the applicant if the petition were denied.
- The proposed improvements will not diminish the value of surrounding properties. The neighbors most affected by any impact on light and air supported the proposal.
- The special conditions of the property creating a hardship are that it is a narrow lot with little more than half the required street frontage so that relief would be required to make any changes or improvements. The lot abuts a municipal property that would not be subject to development and increases the available open space and, therefore, the literal enforcement of the Ordinance would be unreasonable.

4) Case # 4-15

Petitioners: Peter Cass & Mara Witzling

Property: 33 Hunking Street

Assessor Plan 103, Lot 38

Zoning District: General Residence B

Description: Construct a 6'± x 6'± front deck and 2-story 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. A Variance from Section 10.521 to allow an 8'± left side yard setback for an entry deck addition and rear bulkhead where 10' is required.

Action:

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

Stipulations:

None.

Other:

- The entry deck is in compliance with Section 10.1516.40 of the Ordinance and therefore only the bulkhead requires zoning relief.

Review Criteria:

The petition was granted for the following reasons:

- A bulkhead in the proposed location will not be contrary to the public interest and will observe the spirit of the Ordinance.
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5) Case # 5-15

Petitioners: Thomas J. Schladenhauffen & M. Longi Schladenhauffen

Property: 708 State Street

Assessor Plan 137, Lot 8

Zoning District: General Residence C

Description: Construct a 26’ x 15.5’± two-story 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. A Variance from Section 10.521 to allow a left side yard setback of 3’± where 10’ 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:

- A modest expansion of a nonconforming residential structure will not alter the essential character of this residential neighborhood nor threaten the health, safety or welfare of the general public so that granting the variances will not be contrary to the public interest and the spirit of the Ordinance will be observed.
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6) Case # 6-15

Petitioners: Hayscales Trust, Robert Krieger, Trustee

Property: 236 Union Street

Assessor Plan 135, Lot 22

Zoning District: General Residence C

Description: Demolish commercial structure and construct two dwelling units with two driveways and related parking.

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

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 - (a) A lot area per dwelling unit of 2,532± s.f. where 3,500 s.f. is required.
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2. A Variance from Section 10.1114.31 to allow more than one driveway on a lot.

Action:

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

Stipulations:

None.

Review Criteria:

The petition was granted for the following reasons:

- With a lot size per dwelling unit consistent with the area and multi-unit structures on abutting properties, this change will not alter the essential character of the neighborhood so that granting the variances will not be contrary to the public interest.
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VIII. OTHER BUSINESS

No other business was presented.

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IX. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 9:35 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary