

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 meeting on November 15, 2016** in the Eileen Dondero Foley Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.

PRESENT: Chairman David Rheame, Vice Chairman Charles LeMay, Jeremiah Johnson, Jim Lee, Patrick Moretti, Arthur Parrott. Alternates: John Formella,, Peter McDonell

EXCUSED: Christopher Mulligan

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(A Work Session regarding conflict of interest preceded the meeting.)

I. OTHER BUSINESS

A) Board of Adjustment Rules & Regulations (*This item was postponed from the October 25, 2016 meeting.*)

Action:

The Board **tabled** to a future meeting consideration of proposed changes to the Board of Adjustment Rules & Regulations.

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II. APPROVAL OF MINUTES

A) October 18, 2016.

B) October 25, 2016.

Action:

The Board approved the October 18, 2016 Minutes as presented and the October 25, 2016 Minutes with one minor change.

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III. PUBLIC HEARINGS

1) Case #11-1

Petitioners: New England Marine and Industrial Inc., owner, Great Bridge Properties, LLC, applicant

Property: 200 Spaulding Turnpike

Assessor Plan 237, Lot 56

Zoning District: General Business & Single Residence B

Description: Construct two 40-unit workforce housing & apartment buildings.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.440, Use 1.43 to allow more than 8 dwelling units where no dwelling units are allowed.
2. Variances from Section 10.591 to allow buildings to be located 28.6' and 44.5' from a property zoned residentially where 100' is the minimum distance required.
3. A Variance from Section 10.1113.31 to allow off-street parking areas and accessways to be located 0' from a Residential District where 100' is the minimum distance required.
4. A Variance from Section 10.522 to allow a building length for a residential structure of 244'± where 160' is the maximum allowed.
5. Appeal of an Administrative Decision if Variance request #4 is denied. Appeal the determination that a Variance from Article V, Section 10.522 is required to allow the building length of a residential structure on this lot to exceed 160' in length.

Action:

The Board voted to **take action on Petitions #1 through #4 separately** from Petition #5 and **denied** Petitions #1 through #4 as presented and advertised

Review Criteria:

Petitions #1 through #4 were denied for the following reasons:

- All the criteria necessary to grant the variances were not met.
- Granting the variances would be contrary to the public interest and would not observe the spirit of the Ordinance. Two 40-unit workforce housing apartment buildings located on this lot is not reasonable because the number of units would significantly alter the essential character of the neighborhood by essentially doubling the number of residents in the neighborhood. The health, safety and welfare of the general public would be threatened by traffic from a high density property passing through a neighborhood with narrow winding roads lacking sidewalks.

- Granting the variances would not result in substantial justice as the benefit to the applicant, even taking into consideration the area need for options in workforce housing, would not outweigh the detriment to the general public as represented by the stated concerns of long-term residents about safety and density.
- The value of surrounding properties would be diminished by the resulting traffic and intensity of the proposed use.
- Literal enforcement of the ordinance would not result in unnecessary hardship as there are legitimate, acceptable methods of developing the property so that it can be reasonably used without requiring this degree of proposed relief from the ordinance.

The Board then considered Petition #5 and **granted** the appeal of an administrative decision, overturning the determination of the Planning Department that a variance was needed to allow the building length of a residential structure on this lot to exceed 160’ in length.

The appeal was granted for the following reasons:

- An article limiting the length of multifamily dwellings in a section of the ordinance dealing with residential properties cannot be construed to limit the length of a multifamily dwelling in a business or commercial zone.

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IV. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 11:15 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary