

**BOARD OF ADJUSTMENT MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

June 22, 2022

ACTION SHEET

MEMBERS PRESENT: Arthur Parrott, Chair; Jim Lee, Vice Chair; David MacDonald; Beth Margeson; Thomas Rossi; and Paul Mandle.

MEMBERS EXCUSED: Phyllis Eldridge

ALSO PRESENT: Peter Stith, Planning Department

I. APPROVAL OF MINUTES

A) Approval of the minutes of the meetings of April 26, 2022; May 17, 2022 & May 24, 2022.

*The three sets of minutes were **approved** by unanimous vote, 6-0.*

II. OLD BUSINESS

A. POSTPONED TO JULY The request of **Francis X. Bruton, (Attorney for Appellants)**, for Appeal of Administrative decision that the merged lot at **1 Congress** is not subject to the height allowances (2 stories, 4th short, 45 feet in height) pursuant to Map 10.5A21B and as permitted pursuant to Section 10.5A21.22(a) & (c) of the Zoning Ordinance. Said property is shown on Assessor Map 117 Lot 14 and lies within Character District 4 (CD-4), Character District 5 (CD-5) and the Historic District. (LU-22-12)

*The petition was **postponed** to the July 19 meeting.*

B. POSTPONED TO JULY The request of **One Market Square LLC (Owner)**, for the property located at **1 Congress Street** whereas relief is needed to construct a 3 story addition with a short 4th story and building height of 44'-11" which requires the following: 1) A Variance from Section 10.5A.43.31 and Map 10.5A21B to allow a 3-story addition with a short 4th and building height of 44'-11" where 2 stories (short 3rd) and 40' is the maximum allowed. Said property is shown on Assessor Map 117 Lot 14 and lies within Character District 4 (CD-4), Character District 5 (CD-5) and the Historic District. (LU-22-12)

*The petition was **postponed** to the July 19 meeting.*

- C. POSTPONED TO JULY** The request of **Joel St. Jean and Mariele Chambers (Owners)**, for property located at **108 Burkitt Street** whereas relief is needed to demolish existing garage and construct new 13' x 30' garage which requires the following: 1) A Variance from Section 10.573.20 to allow a 1 foot left side yard where 10 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 159 Lot 30 and lies within the General Residence A (GRA) District. (LU-22-89)

*The petition was **postponed** to the July 19 meeting.*

- D. WITHDRAWN** The request of **635 Sagamore Development LLC (Owner)**, for property located at **635 Sagamore Avenue** whereas relief is needed to remove existing commercial structure and construct 5 new single-family dwellings which requires the following: 1) A Variance from Section 10.513 to allow 5 principal structures on a lot where only 1 is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 22,389 square feet where 1 acre per dwelling is required. Said property is shown on Assessor Map 222 Lot 19 and lies within the Single Residence A (SRA) District. (LU-22-57)

*The petition was **withdrawn** by the applicant.*

III. NEW BUSINESS

- A.** The request of **Michael Lucas (Owner)**, for property located at **45 Coffins Court** whereas relief is needed for renovation of the existing structure including new dormers, second story bathroom over an existing one story addition, and a new second story open porch which requires the following: 1) Variances from Section 10.521 to allow a) a 1' rear yard where 20' is required; b) a 0' right side yard where 10' is required; c) an 8' left side yard where 10' is required; d) a 3' front yard where 5' is required; and e) 57% building coverage where 35% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be expanded, reconstructed, or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 135 Lot 55 and lies within the General Residence C (GRC) District. (LU-22-94)

*The Board voted to **grant** the request with the following stipulation:*

- 1. The right side yard shall be two feet and the left side yard shall be six feet.*

- B.** The request of **Portsmouth Savings Bank/Bank of NH (Owner)**, for property located at **333 State Street** whereas relief is needed to alter existing internally illuminated wall signs

which require the following: 1) A Variance from Section 10.11261.30 to allow signs in the Historic District to be internally illuminated where only external illumination is allowed. 2) A Variance from Section 10.1144.63 to allow luminaires used for sign illumination to be higher than 25 feet where 25 feet is the maximum allowed. 3) A Variance from Section 10.1281 to allow a nonconforming sign to be altered, reconstructed, replaced or relocated without conforming to the Ordinance. Said property is located on Assessor Map 116 Lot 5 and lies within the Character District 4 (CD4), Historic and Downtown Overlay Districts (LU-22-73)

*The Board voted to **deny** the request because there was no unnecessary hardship.*

- C.** The request of **Michael J. Fregeau (Owner)**, for property located at **1474 Islington Street** whereas relief is needed to construct an 8' x 12' shed which requires the following: 1) Variance from Section 10.573.10 to allow a) A 2' left side yard where 5' is required: and b) a 2' rear yard where 5' is required. 2) A Variance from Section 10.521 to allow 22% building coverage where 20% is the maximum allowed. Said property is located on Assessor Map 233 Lot 107 and lies within the Single Residence B (SRB) District. (LU-22-109)

*The Board voted to **grant** the variance for the lot coverage.*

*The Board voted to **grant** the variance for the setbacks as presented, with the following stipulation:*

- 1. The applicant shall seek and abide by the Fire Department's referral regarding public safety and the shed's location specifically set back from the property line of the shed.*

*The motion technically passed by a vote of 3-2, but it **failed** because the required positive vote of 4 out of 5 was not achieved.*

- D.** The request of **Karen Butz Webb Revocable Living Trust (Owner)**, for property located at **910 Sagamore Avenue** whereas relief is needed to remove an existing 150 s.f. addition and construct a new 512 s.f. addition with deck and stairs which requires the following: 1) A Variance from Section 10.531 to allow a 20.5' side yard where 30' is required. 2) A Variance from Section 10.331 to allow a nonconforming use to be expanded. 3) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 223 Lot 26A and lies within the Waterfront Business (WB) District. (LU-22-114)

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

- E.** The request of **Blus O’Leary Family Living Trust (Owner)**, for property located at **225 Wibird Street** whereas relief is needed to construct a detached accessory dwelling unit which requires the following: 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 6,412 where 7,500 square feet is required for each dwelling. Said property is located on Assessor Map 133 Lot 54 and lies within the General Residence A (GRA) District. (LU-22-116)

*The Board voted to **deny** the request for variances because it would be contrary to the public interest and would not observe the spirit of the Ordinance. Having two structures on the lot, neither one of which would meet the minimum lot area, was against the spirit of the Ordinance. There would be a benefit to the public by not granting the variance because there was a character to the neighborhood that the proposed detached ADU may change.*

- F.** The request of **WSS Lafayette Properties LLC (Owner)**, for property located at **1900 Lafayette Rd** whereas relief is needed for an Ambulatory Surgical Center use which requires the following: 1) A Special Exception from Section 10.440, Use #6.40 to allow an Ambulatory Surgical Center where the use is permitted by Special Exception. Said property is located on Assessor Map 267 Lot 8 and lies within the Office Research (OR) District. (LU-22-117)

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

- G.** The request of **Peter V. Ward (Owner)**, for property located at **15 Central Avenue** whereas relief is needed for vertical expansion of existing dwelling and garage which requires the following: 1) Variances from Section 10.521 to allow a) a 6' front yard where 30' is required; and b) a 4' side yard where 10' is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be expanded, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 209 Lot 4 and is located within the Single Residence B (SRB) District. (LU-22-123)

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

- H.** The request of **English and Hopkins LLC (Owner)**, for property located at **57 Sherburne Avenue** whereas relief is needed to construct a new single-family dwelling which requires the following: 1) Variances from Section 10.521 to allow a) 34% building coverage where 25% is the maximum allowed; b) a 16' rear yard where 20' is required; and c) a 5.5' front yard where 15' is required. Said property is located on Assessor Map 113 Lot 22-1 and lies within the General Residence A (GRA) District. (LU-22-122)

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

- I.** The request of **Randi and Jeff Collins (Owners)**, for property located at **77 Meredith Way** whereas relief is needed to subdivide one lot into two lots which requires the following: 1) A Variance from Section 10.521 to allow 73 feet of frontage for Lot A and 31 feet of frontage

for Lot B where 100 feet is required for both. Said property is located on Assessor Map 162 Lot 16 and lies within the General Residence A (GRA) District. (LU-22-61)

*The Board voted to **grant** the variances with the following stipulation:*

1. The proposed house plans are conceptual and may change from what was presented to the Board as long as they conform to the requirements of the zoning ordinance.

- J. REQUEST TO POSTPONE** The request of **James William Woods and Anna Roeline Meinardi (Owners)**, for property located at **1 Walton Alley** whereas relief is needed to construct a 1 story, 12' x 18' detached garage which requires the following: 1) Variances from Section 10.573.20 to allow a) a 1.5' side yard where 10' is required; and b) a 5' rear yard where 13'10" is required. Said property is located on Assessor Map 103 Lot 27 and lies within the General Residence B (GRB) and Historic Districts. (LU-22-124)

*The Board voted to **postpone** to a future meeting.*

- K. WITHDRAWN** The request of **Coventry Realty LLC (Owner)**, for property located at **111 State Street** requesting an appeal of the administrative decision that variances are required from Section 10.521 for the proposed additions to provide code compliant egress or Variances from Section 10.521 to allow a) 93% building coverage where 90% is the maximum allowed; and b) 3.5% open space where 10% is the minimum required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed, or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 107 Lot 50 and lies within the Character District 4 (CD4), and the Historic and Downtown Overlay Districts. (LU-22-125)

The Board acknowledged the withdrawal by the applicant.

IV. OTHER BUSINESS

There was no other business.

V. ADJOURNMENT

The meeting was adjourned at 11:00 p.m.