

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

7:00 P.M.

July 19, 2022

ACTION SHEET

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

MEMBERS EXCUSED: Phyllis Eldridge

ALSO PRESENT: Peter Stith, Planning Department

I. APPROVAL OF MINUTES

A) Approval of the minutes of the meeting of June 22, 2022.

*The minutes of the meeting of June 22, 2022 were **approved** as presented.*

II. OLD BUSINESS

A. 470 Lincoln Avenue – 1 year Extension Request

*The Board voted to **grant** the request for a 1-year extension.*

B. 225 Banfield Road – Rehearing Request (LU-22-91)

*The Board voted to **grant** the rehearing request.*

C. 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 Board voted to **deny** the request for the variance because granting the variance would be contrary to the public interest and would not observe the spirit of the ordinance, nor do*

substantial justice, and could diminish surrounding property values—nor was there hardship as the zoning had been there for eight years.

- D.** 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 Board voted to **deny** the request for an appeal of the Administrative decision because 1.) it was determined by the Board that Haven Court, by the City's definition, is in fact a public street, and 2) the wording of the ordinance in the context and reading as an exclusive 'or' wasn't the right precedent for the Board to endorse.*

- E. REQUEST TO POSTPONE** 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) **REQUEST TO POSTPONE**

*The Board voted to **grant** the request to **postpone** to the September meeting.*

- F.** 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 **grant** the variance as presented, with the following **stipulations**:*

- 1. The rear yard shall be nine feet, and*
- 2. The final design may change as a result of the HDC's approval.*

III. NEW BUSINESS

- G.** The request of **Jay Anthony Clark (Owner)**, for property located at **64 Haven Road** whereas relief is needed to demolish existing garage and porch and construct new garage and addition which requires the following: 1) Variance from Section 10.521 to allow a 5' left side yard where 10' is required. 2) A Variance from Section 10.515.14 to allow a 7.5' setback for 2 mechanical units where 10' is required for each. 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 206 Lot 30 and is located within the Single Residence B (SRB) District. (LU-22-121)

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

- 1. The two air conditioning units shall be 4-1/2 feet from the left side instead of 7-1/2 feet.*

- H.** The request of **Stephen E. Chaloner (Owner)**, for property located at **217 Myrtle Avenue** whereas relief is needed to construct a 6' x 8' deck with stairs which requires the following: 1) A Variance from Section 10.521 to allow a 12' secondary front yard where 30' is 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 220 Lot 92 and is located within the Single Residence B (SRB) District. (LU-22-115)

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

- I.** The request of **Emily Alati (Owner)**, for property located at **47 Lovell Street** whereas relief is needed to construct a rear addition and detached garage with apartment which requires the following: 1) Variances from Section 10.521 to allow a) a 5' right side yard where 10' is required; b) a 5' rear yard where 20' is required; c) a 6.5' left side yard where 10' is required; d) a lot area per dwelling unit of 2,178 where 3,500 per dwelling is required; and e) a 6' right side yard where 10' is 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 146 Lot 14 and is located within the General Residence C (GRC) District. (LU-22-120)

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

**The Board voted to go beyond the 10:00 meeting ending time.*

- J.** The request of **404 Islington Street LLC (Owner)**, for property located at **404 Islington Street** whereas relief is needed for the expansion of use to an Inn with 10 rooms which requires the following: 1) A Special Exception for an Inn from Use #10.30 where the use

is only allowed by Special Exception. Said property is shown on Assessor Map 145 as Lot 33 and lies within the Character District 4-L2 (CD4-L2) and Historic Districts. (LU-22-74)

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

- K.** The request of **Safely Family Revocable Trust Agreement (Owner)**, for property located at **1121 South Street** whereas relief is needed to demolish the existing garage and construct a new garage and deck which requires the following: 1) A Variance from Section 10.521 to allow a 3.5' left side yard where 10' 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 150 Lot 20 and is located within the General Residence A (GRA) District. (LU-22-137)

*The Board voted to **grant** the variances for the petition as presented with the following stipulation:*

- 1. The portion of the deck above 18 inches shall be 8 feet 10 inches.*

- L.** The request of **531 Islington Street Portsmouth LLC (Owner)**, for property located at **531 Islington Street** whereas relief is needed to replace the existing menu board which requires the following: 1) A Variance from Section 10.835.31 to allow a menu board to be 26 feet from the rear lot line and 40 feet from the side lot line where 50 feet is required for each. 2) A Variance from Section 10.1261.30 to allow direct lighting in the Historic District where external illumination is the only type of illumination allowed. Said property is located on Assessor Map 157 Lot 5 and is located within the Character District 4-L2 (CD4-L2). (LU-22-38)

*The Board voted to **grant** the request as presented.*

- M. REQUEST TO POSTPONE** The request of **Jeffrey M. and Melissa Foy (Owners)**, for property located at **67 Ridges Court** whereas relief is needed to construct a 718 square foot garage addition with living space and deck above which requires the following: 1) A Variance from Section 10.521 to allow a 15.5' front yard where 30' is 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 207 Lot 59 and is located within the single residence B (SRB) District. (LU-22-139) **REQUEST TO POSTPONE**

*The Board voted to **grant** the request to **postpone** to the August meeting.*

IV. OTHER BUSINESS

There was no other business.

V. ADJOURNMENT

The meeting was adjourned at 10:51 PM.