

**BOARD OF ADJUSTMENT MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

March 21, 2023

ACTION SHEET

MEMBERS PRESENT: Phyllis Eldridge, Chair; Beth Margeson, Vice Chair; Paul Mannle; David MacDonald; David Rheaume; Jeffrey Mattson, Alternate

MEMBERS EXCUSED: Thomas Rossi

ALSO PRESENT: Stefanie Casella, Planning Department

I. APPROVAL OF MINUTES

A. Approval of the February 22, 2023 minutes.

B. Approval of the February 28, 2023 minutes.

*The Board voted to **approve** the February 22, 2023 minutes as amended.*

*The Board voted to **approve** the February 28, 2023 minutes as presented. (B. Margeson Abstained)*

The Board voted to suspend the rules and take Items II. B. and III. A. out of order.

Motion: P. Mannle; B. Margeson

II. OLD BUSINESS

A. 1 Raynes Avenue - Appeal - As ordered by the Superior Court on February 2, 2023, the Board will “determine, in the first instance, whether it has jurisdiction over the issues presented” by Duncan MacCallum (Attorney for the Appellants) in the January 14, 2022 appeal of the December 16, 2021 decision of the Planning Board for property located at **31 Raynes Avenue, 203 Maplewood Avenue, and 1 Raynes Avenue** which granted the following: a) site plan approval b) wetlands conditional use permit; and c) certain other, miscellaneous approvals, including an approval related to valet parking. Said properties

are shown on Assessor Map 123 Lot 14, Map 123 Lot 13, Map 123 Lot 12, Map 123 Lot 10 and lie within the Character District 4 (CD4) District, Downtown Overlay District (DOD), Historic District, and the North End Incentive Overlay District. (LU-21-54)

The Board voted that the Zoning Board of Adjustment has no jurisdiction over the complaints in paragraphs 1 through 7 regarding the composition of Board members as stated in the January 14 appeal letter by Attorney MacCallum.

Motion: B. Margeson; J. Mattson

The Board voted that the Zoning Board of Adjustment has no jurisdiction over the complaints in paragraphs 8 through 10 regarding Wetland Conditional Use Permits as stated in the January 14 appeal letter by Attorney MacCallum.

Motion: J. Mattson; D. Rheume

The Board voted that the Zoning Board of Adjustment has no jurisdiction over the complaints in paragraph 11 regarding the Historic District Commission as stated in the January 14 appeal letter by Attorney MacCallum.

Motion: B. Margeson; J. Mattson

The Board voted that the Zoning Board of Adjustment has no jurisdiction over the complaints in paragraph 11 regarding parking as stated in the January 14 appeal letter by Attorney MacCallum.

Motion: J. Mattson; D. Rheume

The Board voted that the Zoning Board of Adjustment has no jurisdiction over the complaints in paragraph 12 regarding the Conservation Law Foundation as stated in the January 14 appeal letter by Attorney MacCallum.

Motion: J. Mattson, D. MacDonald

The Board voted that the Zoning Board of Adjustment has no jurisdiction over the complaints in paragraph 13 regarding the Conservation Commission as stated in the January 14 appeal letter by Attorney MacCallum.

Motion: J. Mattson; D. Rheume

- B.** The request of **635 Sagamore Development LLC (Owner)**, for property located at **635 Sagamore Avenue** whereas relief is needed to remove existing structures and construct 4 single family dwellings which requires the following: 1) A Variance from Section 10.513 to allow four free-standing dwellings where one is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 21,198 square feet per dwelling where 43,560 square feet is required. Said property is located on Assessor Map 222 Lot 19 and lies within the Single Residence A (SRA) District. (LU-22-209)

*The Board voted to grant the request to **postpone** consideration to the April meeting.*

Motion: P. Mannle; J. Mattson (D. Rheume Recused)

- C.** The request of **Nissley LLC (Owner)**, for property located at **915 Sagamore Avenue** whereas relief is needed to demolish the existing building and construct new mixed-use

building which requires the following: 1) A Variance from Section 10.440 to allow a mixed-use building where residential and office uses are not permitted. 2) A Variance from Section 10.1113.20 to allow parking to be located in the front yard and in front of the principal building. 3) A Variance from Section 10.1114.31 to allow 2 driveways on a lot where only one is allowed. Said property is located on Assessor Map 223 Lot 31 and lies within the Waterfront Business (WB) District. (LU-22-229)

*The Board voted to **deny** the request as it failed to meet the criteria set forth in 10.233.22 because the proposal did not demonstrate that removing the use of a waterfront business would be keeping with the spirit of the ordinance; and failed to meet criteria set forth in 10.233.25 because the proposal did not demonstrate enough of a hardship to prove the property was unique to others in the Waterfront Business District.*

Motion: D. Rheume; P. Mannle

- D.** The request of **The Griffin Family Corporation (Owners)**, and **LoveWell Veterinary Services, LLC (Applicant)**, for property located at **738 Islington Street, Unit 1B** (previously advertised as 800 Islington Unit 1B) whereas relief is needed to allow a veterinary clinic which requires the following: 1) Special Exception from Section 10.440, Use #7.50 to allow a veterinary clinic where the use is permitted by Special Exception. Said property is located on Assessor Map 155 Lot 13 (previously advertised as Assessor Map 154 Lot 1) and lies within the Character District 4-W (CD4-W) District. (LU-23-8)

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

- 1. Clinic treatment is limited to dogs, cats, and other small animals.*

Motion: D. Rheume; P. Mannle

- E.** The request of **Aviation Avenue Group, LLC (Applicant)**, and **Pease Development Authority (Owners)**, for property located at **80 Rochester Avenue** whereas relief is needed for the construction of an advanced manufacturing facility which requires the following: 1) Variance from Article 304.03 (e) to allow a 28 foot rear yard where 50 feet is required. Said property is located on Assessor Map 308 Lot 1 and lies within the Pease Industrial District (PI). (LU-22-210)

*The Board voted to **recommend approval** to the Pease development Authority..*

Motion: J. Mattson; P. Mannle

III. NEW BUSINESS

- A.** The rehearing of the request of **Jeffrey M. and Melissa Foy (Owners)**, for property located at **67 Ridges Court** whereas relief is needed for construction of a 518 square foot garage addition and expansion of front dormer which requires the following: 1) A variance from Section 10.521 to allow a 14 foot front yard where 19 feet is required per Section 10.516.10. 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 lies within the Single Residence B (SRB) District. (LU-22-199)

*The Board voted to **postpone** to the April meeting.*

Motion: P. Mannle; J. Mattson (D. MacDonald Recused)

- B.** The request of **William Camarda (Owner)**, for property located at **809 State Street** whereas relief is needed to Extend the existing deck which requires the following: 1) Variances from Section 10.521 to allow a) a 10 foot rear yard where 20 feet is required; and b) 46% building coverage where 35% is the maximum allowed. 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 145 Lot 11 and lies within the General Residence C (GRC) District. (LU-23-6)

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

Motion: P. Mannle; J. Mattson

THE FOLLOWING ITEMS WILL BE HEARD ON WEDNESDAY, MARCH 29, 2023

- C.** The request of **Michael Knight (Owner)**, for property located at **55 Mangrove Street** whereas relief is needed to replace existing 6 foot chain link fence with 8 foot cedar fence which requires the following: 1) A Variance from Section 10.515.13 to allow an 8 foot fence on the rear and side lot lines where a 6 foot maximum is allowed. Said property is located on Assessor Map 219 Lot 7 and lies within the Single Residence B (SRB) District. (LU-23-15)
- D.** The request of **John T McDonald III and Mary R McDonald (Owners)**, for property located at **74 Sunset Road** whereas relief is needed for an addition of a chimney bump out which requires the following: 1) Variances from Section 10.521 to allow a) a 6.5 foot left yard where 10 feet is required; and b) 26.6% building coverage where 20% 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 153 Lot 14 and lies within the Single Residence B (SRB) District. (LU-22-182)
- E.** The request of **Katherine L Cook (Owner)**, for property located at **199 Clinton Street** whereas relief is needed to demolish the existing dwelling and construct a new single-family dwelling which requires the following: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling unit of 4,917 where 7,500 is required for each; b) 54 feet of frontage where 100 feet is required; c) a 4 foot front yard where 15 feet is required; d) a 9 foot right side yard where 10 feet is required; and e) 28% building

coverage where 25% is the maximum allowed. Said property is located on Assessor Map 159 Lot 26 and lies within the General Residence A (GRA) District. (LU-23-23)

- F. The request of **Joshua Wyatt and Erin Hichman (Owners)**, for property located at **196 Aldrich Road** whereas relief is needed to demolish existing garage and construct new garage and construct new addition over existing side porch which requires the following: 1) Variances from Section 10.521 to allow a) a secondary front yard of 3 feet where 30 feet is required; b) a 6 foot rear setback where 10 feet 7 inches is required; c) 23% building coverage where 20% is the maximum allowed. 2) A Variance from Section 10.571 to allow an accessory structure to be 10 feet from the front lot line and located in the front yard. 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 153 Lot 25 and lies within the Single Residence B (SRB) District. (LU-23-24)
- G. The request of **Colmax LLC (Owner)**, for property located at **411 The Hill #6-14 (411 Deer Street)** whereas relief is needed to convert building into a single family dwelling which requires the following: 1) A Variance from Section 10.642 to allow residential use on the ground floor in the Downtown Overlay District where it is not permitted. 2) a Variance from Section 10.5A41.10A to allow a house in the Downtown Overlay District where it is not permitted. Said property is located on Assessor Map 118 Lot 26-1 and lies within the Character District 4-L1 (CD4-L1) in the downtown Overlay District.. (LU-23-21)
- H. The request of **Mark N Franklin and Julie S Franklin (Owners)**, for property located at **168 Lincoln Avenue** whereas relief is needed for demolition of the existing detached garage and porch and construction of a new attached garage and wrap-around porch which requires the following: 1) Variances from Section 10.521 to allow a) a 7.5 foot front yard where 15 feet is required; b) a 9 foot secondary front yard where 15 feet is required; c) 38% building coverage where 25% is the maximum allowed. 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 113 Lot 6 and lies within the General Residence A (GRA) District. (LU-23-25)
- I. The request of **Murdock Living Trust (Owner)**, for property located at **15 Lafayette Road** whereas relief is needed to subdivide one lot into two lots which requires the following: 1) A Variance from Section 10.521 to allow 73.8 feet of continuous street frontage where 100 feet is required for the remainder lot. Said property is located on Assessor Map 152 Lot 2 and lies within the General Residence A (GRA) and Historic District. (LU-23-26)

- J.** The request of **Seacoast Management Consulting LLC (Owner)**, for property located at **3 Walton Alley** whereas relief is needed to add an AC unit and relocate landing and steps which requires the following: 1) A Variance from Section 10.515.14 to allow a 1 foot side setback where 10 feet is required. 2) A Variance from Section 10.521 to allow a) an 8.5 foot setback where 25 feet is required; and b) 38.5% building coverage where 30% is the maximum allowed. Said property is located on Assessor Map 103 Lot 20 and lies within the General Residence B (GRB) and Historic District. (LU-23-22)
- K.** The request of **Jared J Saulnier (Owner)**, for property located at **4 Sylvester Street** whereas relief is needed to subdivide one lot into two lots which requires the following: Proposed Lot 1: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 9,645 square feet where 15,000 is required for each; b) 80 feet of lot depth where 100 feet is required; and c) a 9 foot right side yard where 10 feet is required. Proposed Lot 2: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling unit of 6,421 square feet where 15,000 is required for each; b) 40 feet of street frontage where 100 feet is required; and c) 80 feet of lot depth where 100 feet is required. Said property is located on Assessor Map 232 Lot 36 and lies within the Single Residence B (SRB) District. (LU-23-27)
- L.** The request of **Cynthia Austin Smith and Peter (Owners)**, for property located at **9 Kent Street** whereas relief is needed to demolish the existing two-family and construct a single-family dwelling which requires the following: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 5,000 square feet where 7,500 square feet is required for each; b) 53% building coverage where 25% is the maximum allowed; c) a 4.5 foot rear yard where 20' is required; d) a 0.5 foot side yard where 10 feet is required; e) a 0 foot front yard where 11 feet is allowed under Section 10.516.10; and f) a 9.5 foot secondary front yard where 13 feet is allowed under Section 10.516.10. 2) A Variance from Section 10.515.14 to allow a 1.5 foot setback for a mechanical unit where 10 feet is required. Said property is located on Assessor Map 113 Lot 42 and lies within the General Residence A (GRA) District. (LU-23-28)

IV. OTHER BUSINESS

There was no other business.

V. ADJOURNMENT

The meeting was adjourned at ...