



CITY OF PORTSMOUTH

Community Development Department
(603) 610-7232

Planning Department
(603) 610-7216

PLANNING DEPARTMENT

April 21, 2017

Deer Street Associates
PO Box 100
York Harbor, Maine 03911

Re: Property at 163 Deer Street, Permit #17-175
Assessor Plan 125, Lot 17-2

Dear Applicant:

The Board of Adjustment at its regular meeting on April 18, 2017 completed its consideration of your application described as follows:

Application:

8) Case 4-8

Petitioner: Deer Street Associates
Property: 163 Deer Street (Lot/Building 4)
Assessor Plan: Map 125, Lot 17-2
Zoning District: Character District 5 and the Downtown Overlay District
Description: Install a drive-through facility in connection with the construction of a four-story mixed use structure.
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:

1. A Variance under Section 10.440, Use #19.40 to allow a drive-through facility as an accessory use.
2. A Variance from Section 10.516.20 to allow a 5'± rear yard adjoining a railroad right-of-way where 15' is required.
3. A Variance from 10.5A41.10D to allow a front lot line buildout of 66%± where 80% is required.
4. A Variance from Section 10.835.31 to allow an outdoor service facility (ATM) 49.7'± from the rear lot line and 48'± from the front lot line where 50' is required for each.
5. A Variance from Section 10.835.32 to allow a drive-through bypass lane 11.3'± from a lot line where 30' is required.

Action:

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

Review Criteria:

The petition was granted for the following reasons:

- As part of a complete development encompassing several lots, and in an area of previously approved projects that are similar, the proposals for this property will not alter the essential character of the neighborhood such that granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. This lot currently contains a bank and some of the variances are directly related to continuing that use. The proximity to a railroad is offset by the construction easement on the railroad property and physical restraints on future use of the railroad property.
- Substantial justice will be done by allowing this project the flexibility to continue through other land use boards and their reviews while allowing setbacks that will not harm the general public which represent the maximum possible size for a structure.
- A new structure similar to others existing or approved for the area will not diminish the value of surrounding properties.
- With the constraints placed on the property by the proximity to the railroad tracks, the location of Deer Street, the roadway layout needed to support other proposed structures, and the planned City parking garage nearby, literal enforcement of the ordinance would result in unnecessary hardship so that there is no fair and substantial relationship between the general purposes of the ordinance and their specific application to the property. The uses proposed are reasonable and will allow the project to move forward through the design review process which will solidify other aspects of the overall mass and scale of the proposed structure.

As provided for in NH RSA Chapter 677, the Board's decision may be appealed 30 days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process. Construction drawings or sketches must be reviewed and approved by the Building Inspector prior to the issuance of a building permit. Approvals by other land use boards may also be required prior to the issuance of a building permit.

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The minutes and tape recording of the meeting may be reviewed in the Planning Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "David Rheame". The signature is fluid and cursive, with a large initial "D" and "R".

David Rheame, Chairman
Board of Adjustment

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c: Robert Marsilia, Chief Building Inspector
Roseann Maurice-Lentz, City Assessor
R. Timothy Phoenix