

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 reconvened meeting** on December 22, 2009 in the Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman Charles LeBlanc, Vice-Chairman David Witham, Thomas Grasso, Alain Jousse, Arthur Parrott, Alternate Robin Rousseau

EXCUSED: Carol Eaton, Charles LeMay, Alternate Derek Durbin

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I. PUBLIC HEARINGS

7) Petitioner: William Genimatis Rev Trust of 1990
Property: 581 Lafayette Rd. Assessor Plan 229, Lot 8B
Zoning district: General Business

Request: Variance to operate a Motor Vehicle Sales and Repair facility for the Sale of Motorcycles, ATV's and Snowmobiles within 200' of a Residential or Mixed Residential district. Article II Section 10-208 Table 4 Use(35)

The Board acknowledged that this petition had been withdrawn at the applicant's request.

8) Petitioner: Sarnia Properties, Inc., Owner and Jason Goulemas, Applicant
Property: 953 Islington St. Assessor Plan 172, Lot 8
Zoning district: Business

Request: To establish a Health Fitness Education Program with over 2,000 square feet of space as a Special Exception use in the Business zone. Article 4 Section 10.440 Use 4.40

After consideration, the Board voted to grant the petition as presented and advertised for the following reasons:

- All the criteria necessary to grant a Special Exception were met, including no hazards created due to potential fire explosion or release of toxic materials.
 - There will be no detriment to property values or change in the essential characteristics of the neighborhood by this use which will be less intense than other commercial uses.
 - There will be no emission of odors, noise, pollutants, heat or unsightly outdoor storage and, with the size of the classes, no traffic or safety hazard issues.
 - There will be no shower facilities and no additional demand for municipal services or effect on storm water runoff.
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- 9) Petitioners: J.P. Nadeau, Owner & Witch Cove Marina Development LLC, Applicant
Property: 187 Wentworth House Rd. Assessor Plan 201, Lot 12
Zoning district: Waterfront Business District

Requests: Variances to establish two (2) residential uses where residential uses are prohibited; To expand two (3) non-conforming residential uses and structures; to expand a non-conforming marine related structure; To allow for the encroachment of two(2) structures into the 100' Tidal Buffer where the encroachment is not allowed. Article II Section 10-208 Table 4 (43), Article III Section Section 10-301(A)(2), Article III Section Section 10-301(A)(7)(a), Article IV Section 10-401(A)(1)(b), Article IV Section 10-401(A)(1)(c)

The Board voted to postpone the petition to the January 19, 2009 meeting at the applicant's request.

- 10) Case # 12-10
Petitioners: Paul D. & Margaret J. Batakis
Property: 4 Brackett Lane Assessor Plan 206, Lot 8
Zoning district: Single Residence B

Requests: Variances to expand the lot coverage from 22.8% to 27.1% where 20% is allowed; to allow a left side setback of 4.3' where 10' is required; to allow a front yard setback of 17.5' where 30' is required, and to allow for the expansion of a nonconforming structure. Article III Section 10-302(A) Table 8; Article IV Section 10-401(A)(2)(c)

After consideration, the Board voted to grant the petition as presented and advertised for the following reasons:

- There is no evidence that granting these variances would be contrary to the public interest.
- This is already a nonconforming lot, predating zoning, and almost anything the applicants might want to do at the front of the property would require a variance.

- The only other option for the applicants to pursue to meet the front setback would be to move the house back, which would not be reasonably feasible.
 - It is in the spirit of the ordinance to allow a reasonable request where an attempt has been made to scale back requirements and meet a number of the setback requirements.
 - With no effect on the essential character of the neighborhood, in which porches and smaller front setbacks are common, the value of surrounding properties should not be diminished.
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11) Petitioners: Eugene N. Short Revoc. Trust, Beatrice L Short Revoc. Trust, Owners, and Heidi N. Archibald Revocable Trust, Applicant
Property: 175 Gosport Rd Assessor Plan 224, Lot 1
Zoning district: Single Residence A

Requests: Variance to allow for a second dwelling unit on a parcel located in the SRB zone only single family homes are allowed. Article III Section 10-302(A) Table 8

After consideration, the Board voted to grant the petition as presented and advertised for the following reasons:

- The size of the lot, unique for the area, will permit two houses without negatively affecting the public interest.
 - The unique characteristics of the property are its zero frontage and the fact that it is impacted by two wetland protection zones limiting the options available to the applicants.
 - There is no benefit to the public in denying the variance which has the demonstrated support of neighbors and the value of surrounding properties will, if anything, be increased.
 - Two residences on the lot have existed for decades and it would be in the spirit of the ordinance to allow the restoration of the property as long as the public and private rights of others continue to be protected.
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V. ADJOURNMENT

It was moved, seconded and passed to adjourn the meeting at 8:10 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary