

**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 at its regular meeting on February 21, 2017** in the School Board Conference Room, Municipal Complex, One Junkins Avenue, Portsmouth, New Hampshire.  
**PRESENT:** Chairman David Rheaume, Vice Chairman Charles LeMay, Jeremiah Johnson, Jim Lee, Patrick Moretti, Arthur Parrott. Alternates John Formella, Peter McDonell  
**EXCUSED:** Christopher Mulligan

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**I. APPROVAL OF MINUTES**

A) January 17, 2017

The Minutes were approved as presented by unanimous vote.

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**II. PUBLIC HEARINGS – NEW BUSINESS**

1) Case #2-1  
Petitioners: Ajeet Jai Singh & Kathleen Jo Singh  
Property: 140 Thornton Street  
Assessor Plan 160, Lot 8  
Zoning District: General Residence A  
Description: Construct a rear landing/deck and stairs onto a previously approved new home.  
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including a Variance from Section 10.521 to allow 33% building coverage where 25% is the maximum allowed.

Action:

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

Review Criteria:

The petition was granted for the following reasons:

- Adding a landing and stairs at the rear of the home will not be contrary to the public interest.
- The proposed increase in building coverage is minor so that the spirit of the Ordinance in regard to controlling overbuilding will be observed.
- Substantial justice will be done by allowing a secure egress for the homeowners with no resulting harm to the general public.
- An attractive egress will not diminish the value of surrounding properties.
- A hardship is created by currently having the only rear emergency path through the basement so that it is reasonable to improve safety and wellbeing for the occupants by adding a rear landing to facilitate first floor egress.

2) Case #2-2

Petitioners: LCSG, LLC

Property: 160 & 168-170 Union Street

Assessor Plan: Map 135, Lots 29 and 30

Zoning District: General Residence C

Description: Construct two (2) three-unit dwellings on a combined lot

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

- 1) Variances from Section 10.521 to allow a lot area per dwelling unit of 1,575± s.f. where 3,500 s.f. is required and 15.3% open space where a minimum of 20% is required;
- 2) A Variance from Section 10.1112.30 to allow ten (10) off-street parking spaces to be provided where 12 parking spaces are required.

Action:

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

Review Criteria:

The petition was denied for the following reasons:

- All of the criteria necessary to grant the variances were not met.
- A proposed large parking area encompassing the entire back area of the lot would reduce open space and alter the essential character of the neighborhood so that granting the variances would be contrary to the public interest and the spirit of the Ordinance.
- In the substantial justice test, the harm to the neighborhood if the petition were granted would outweigh the benefit to the applicant.

- With a property similar in size, shape and orientation to neighboring properties, and lacking special conditions distinguishing it from those properties, literal enforcement of the Ordinance would not result in unnecessary hardship.
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3) Case #2-3

Petitioners: Colman C. Garland & North Woods Revocable Trust, John D. Rust, Trustee & Rust Family Trust, Libby K Rust, Trustee, owners, & David Calkins, applicant.

Property: Off Moffat Street between Swett Avenue and Woodworth Avenue

Assessor Plan: Map 243, Lots 25, 26, 27, and 28

Zoning District: Single Residence B

Description: Create two (2) residential lots from four (4) existing vacant lots

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including Variances from Section 10.521 for the following:

- 1) Lot area and lot area per dwelling unit of 10,412± s.f. where 15,000 s.f. is required;
- 2) Continuous street frontages of 86.02'± and 86.00'± where 100' is required.

Action:

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

Stipulation:

- That the proposed plan will be submitted to the Planning Board for site plan review.

Review Criteria:

The petition was granted for the following reasons:

- Adding two houses in an area of homes of the same type organized in the same way on similar sized lots will not change the essential character of the neighborhood so that granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed.
- Substantial justice will be done as the rights of the applicant will be balanced with the rights of the neighborhood. Any general public concerns will be considered in the stipulated site review process where the wetland buffers, traffic circulation and road quality will be addressed.
- The proposed structures should assimilate well into the area so that the value of surrounding properties will not be diminished.
- The history of the area as a planned development, the combination of lots, and the wetland buffer location are all special conditions of the property creating a hardship in the ability to develop these lots in strict conformance with the Ordinance.

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- 4) Case #2-4  
Petitioners: Portsmouth City Investment Realty Trust, Christopher McInnis, Trustee, owner, Islamic Society of the Seacoast Area, applicant  
Property: At Maplewood Avenue (number not yet assigned)  
Assessor Plan: Map 220, Lot 90  
Zoning District: Single Residence B  
Description: Construct a 4,000± s.f. building to house a religious place of assembly.  
Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:  
1) A Special Exception for Section 10.440 to allow a religious place of assembly in a district where the use is only allowed by special exception.  
2) A Variance from Section 10.521 to allow 47'± of continuous street frontage where 100' is required.

Action:

The Board voted, in separate motions, to **grant** the special exception and variance as presented and advertised.

Review Criteria:

The special exception was granted for the following reasons:

- This is an identified use in the Single Residence B zone allowed by special exception so that the standards as provided by the Ordinance for this particular use permitted by special exception are met.
- There is nothing in the proposed use that will present a hazard to the public or adjacent property from potential fire explosion or release of toxic materials.
- This is a single story building setback from an existing house with a parking lot and an open area so that there will be no detriment to property values in the vicinity or change in the essential characteristics of the area due to the location of structures, odors, smoke or other pollutants, noise glare, heat or unsightly storage of equipment or vehicles.
- There will be no creation of a traffic safety hazard or substantial increase in the level of traffic congestion in the vicinity. The increase in traffic during the times of weekly services will occur during a relatively short period of time and be limited by the number of vehicles accommodated on the lot. Traffic generated from similar religious assembly uses is managed on other busy streets in the city and this traffic will likely flow to the highway access. A detailed traffic analysis will be addressed during the site review process.
- The proposed use will not create an excessive demand on municipal services.
- As proposed, the structure should not produce a significant increase in storm water runoff onto adjacent property or streets. The impact of impervious surfaces will also be addressed more specifically by the Technical Advisory Committee during the site review process.

The variance was granted for the following reasons:

- The proposed use is allowed in this district with the special criteria met and will become part of the greater fabric of the neighborhood. The purpose of the required street frontage is to avoid overcrowding when structures are close to the road, which is not the case on this large lot. With adequate access provided, granting the variance will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be done as the benefit to the applicant if the petition is granted will not be outweighed by any harm to the general public.
- The values of surrounding properties will not be diminished by the proposal as the property will be improved with value to the community.
- Literal enforcement of the Ordinance would result in unnecessary hardship due to special conditions of the property, including the previous taking of a portion of the property for the Interstate leaving a shortened frontage, the unique shape and size of the lot with a large expanse going back from a smaller footprint, and the positioning of the lot adjacent to a highway, a business zone and a residential zone. Due to the special conditions, there is no fair and substantial relationship between the general public purposes of the Ordinance provision and its specific application to the property

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5) Case #2-5

Petitioners: Sarah Parker (Natt) and David Natt

Property: 76 Brackett Lane

Assessor Plan: Map 206, Lot 6

Zoning District: Single Residence B

Description: Construct a 10'± x 15'± rear addition and a front farmer's porch.

Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:

1) Variances from Section 10.521 to allow a rear yard of 10'8" ± where 30' is required, a right side yard of 8'10" ± where 10' is required, a front yard of 16'± where 19' is required, and 22.3%± building coverage where 20% is the maximum allowed.

2) A Variance from Section 10.321 to allow a non-conforming building to be extended, enlarged or structurally altered except in conformance with the Ordinance.

Action:

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

Review Criteria:

The petition was granted for the following reasons:

- This is a simple and straightforward addition that will not alter the essential character of the neighborhood or threaten the public health, safety or welfare so that granting the variances will not be contrary to the public interest and the spirit of the Ordinance will be observed.
- Substantial justice will be met. The requested changes will make the home more livable for the applicants with no corresponding harm to the general public and the most affected abutters are in support of the proposed change.
- An attractive addition will enhance surrounding property values.
- The odd shape of the lot creates a hardship in placing reasonable additions on the property.

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**III. ADJOURNMENT**

It was moved, seconded and passed to adjourn the meeting at 11:35 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary