

## REPORT TO CITY COUNCIL - BOARD OF APPEALS – JULY 24, 2013

To: South Portland City Council  
From: Cathy Counts, Secretary to the Board  
Re: Board of Appeals Meeting of JULY 24, 2013  
Location: Council Chambers, City Hall

At 7:03 p.m., Chairman Greg Perry called for the Pledge of Allegiance, reviewed Board policies and procedures, and introduced Board members and staff.

### MEMBERS PRESENT

Greg Perry (Chairman)  
Alex Anastasoff  
Cara Biddings  
Gary Crosby  
Aaron Hackett  
Claude Morgan (1<sup>st</sup> meeting, new appointment)  
Sara Orbeton

### STAFF PRESENT

Patricia Doucette, Code Enforcement Officer  
Cathy Counts, Secretary to the Board

### 1. Accepted Minutes of the MAY 22, 2013 meeting.

Mr. Morgan moved and Mrs. Orbeton seconded to accept the minutes of the previous meeting.  
Accepted 7-0

### 2. Approved request of David & Joan Caldwell – 32 Osborne Av - 019\*0000\*227\* – A Residential Zone – 3' Side Setback Variance – Practical Difficulty (2013-06)

The applicants requested a 3' side property line setback variance to replace an existing 11' x 25' detached garage currently located 3' from the side property line with a new 12' x 24' detached garage also to be located 3' from the side property line. The Board decided to vote on each of eight (8) practical difficulty criteria separately with affirmative motions and approved each criterion as follows. 1) Perry moved, Biddings seconded, 7-0. 2) Perry moved, Biddings seconded 6-1 (Morgan). 3) Perry moved, Biddings seconded 6-1 (Morgan). 4) Perry moved, Morgan seconded 7-0. 5) Perry moved, Orbeton seconded 7-0. 6) Perry moved, Crosby seconded 5-2 (Hackett, Morgan). 7) Perry moved, Crosby seconded 7-0. 8) Perry moved, Orbeton seconded 7-0. The affirmative motions carried and the variance request was thereby approved. Mrs. Doucette read the Findings of Fact, and Mr. Crosby moved for acceptance of the Findings as read, seconded by Mrs. Orbeton, unanimous 7-0. The minutes of the meeting further detail the applicants' address of the criteria of practical difficulty, followed by Board questions and deliberations. (2013-06)

### 3. Discussion of Old and New Business.

Mrs. Doucette stated that there is at least one application coming in for the August meeting.

Mr. Crosby brought up the issue of possibly recommending to Council that the Code Officer be given leeway to grant building permits to those who are replacing existing structures. Mrs. Doucette said the Zoning Committee agreed that six feet (6') should be the minimum setback from

the side property line, even for existing non-conforming structures being replaced or expanded. Mr. Anastasoff wondered if such replacement could be done one wall at a time. Mrs. Doucette said that is circumventing the ordinance. Ms. Biddings asked about structures falling down, wouldn't it be more advantageous to allow their replacement?

Mr. Morgan said the Board of Appeals is the only entity authorized to grant variances. Mrs. Doucette noted that the applicants' proposal tonight was not to build exactly the same structure, but that it would have a new footprint and would be built on a new slab. Mr. Hackett pointed out that the applicants had not provided a dollar amount for the extra expense they would incur to do the project without a variance. Mrs. Doucette stated that the applicants were prompted to provide that information, but they didn't. If someone voluntarily removes a structure, they need to meet the setbacks in building a replacement structure. If a storm or fire demolishes the garage, they can rebuild on the same footprint. Mr. Morgan noted that the decisions the Board of Appeals makes are to follow the land, not the people. It is the best method of keeping the peace in the City.

Mrs. Doucette asked the Board if anyone would have voted differently if the neighbor who had supported the variance had instead come and opposed the project. Several members indicated that they may have done so.

Mr. Crosby said he felt that if the proposed replacement is the same setback from the property line as the existing non-conforming structure, or that it would be moved further away from the setback, he would be okay with that, but if applicants ask to build even closer to the property line, that is not okay. If the change would have impacted the neighbor, he would have said no way. Mr. Morgan said the next property owners and neighbors may come to blows over the setback encroachment. Mr. Crosby maintained that it is hard to vote against a situation that is already existing.

Ms. Biddings said that if she learned she had to move the garage and do the earthwork involved, she would leave the crumbling garage as it is and let it fall down. Mrs. Orbeton said that could be very dangerous. Mrs. Doucette said she felt there was a feasible alternative.

Mr. Hackett questioned the voting methodology. Would the final vote have been two opposed under the old method? Mr. Morgan said if a decision goes to court, the court would go through each criterion. Mrs. Doucette commented that everyone is entitled to their opinion, and that is why the board consists of seven members. Mr. Perry added that the opinion must be based on reason.

Mr. Hackett wondered how the vote would go if the applicants had said that the additional expense would only be about \$500 more. Mr. Crosby said that \$500 to one person may mean more or less than \$500 to another, and is very much a matter of judgment. Also, getting the estimate can be costly in itself. Mr. Perry agreed that estimates can incur a lot of expense. Mrs. Doucette said the applicants were told to provide two estimates, one for the job as proposed with the variance, and one for without the variance. Mr. Morgan commented that no one would come in with an environmental impact statement for moving a garage over a few feet.

Mr. Anastasoff asked again about recommending to Council that they find a way to give the Code Enforcement Officer discretion to grant building permits for replacement of existing non-conforming structures. Mrs. Doucette said that six feet is not a lot of area and that a setback is a setback. Ms. Biddings noted that she had torn down her own garage because it was buckling due to the overgrowth of a tree. Because it was in a non-conforming location, she could not rebuild it without a variance, and she will likely someday sell her house without a garage. Mr. Morgan said he couldn't support the recommendation to Council to give Mrs. Doucette such discretionary authority. Under State Statute, the quasi-judicial Board of Appeals is the only body in the City with the authority to grant variances. Ms. Biddings wondered about a situation in which no change at all were proposed for the footprint.

Mrs. Orbeton brought up a hypothetical situation in which a neighbor's driveway is 2' into the adjacent property. Originally, one family owned both pieces. What would happen if the neighbor with the encroaching driveway decided to tear up the old driveway and build a new one. Mrs. Doucette said that was a civil matter and the owners would need to check the language regarding the easement in their deed.

Mr. Crosby advocated for people being able to rebuild something non-conforming if the proposed new structure has the exact same height, volume and footprint.

- 4. Adjourned 9:30 P.M.** Mr. Morgan moved, Mrs. Orbeton seconded to adjourn at 8:04 p.m., unanimous 7-0.

Respectfully submitted,

Cathy Counts  
Secretary to the Board

**CITY OF SOUTH PORTLAND**  
**Minutes of the South Portland Board of Appeals**  
**Council Chambers, City Hall**  
**JULY 24, 2013**

At 7:03 p.m., Chairman Greg Perry called for the Pledge of Allegiance, reviewed Board policies and procedures, and introduced Board members and staff.

**MEMBERS PRESENT**

Greg Perry (Chairman)  
Alex Anastasoff  
Cara Biddings  
Gary Crosby  
Aaron Hackett  
Claude Morgan (1<sup>st</sup> meeting, new appointment)  
Sara Orbeton

**STAFF PRESENT**

Patricia Doucette, Code Enforcement Officer  
Cathy Counts, Secretary to the Board

**1. Accepted Minutes of the MAY 22, 2013 meeting.**

Mr. Morgan moved and Mrs. Orbeton seconded to accept the minutes of the previous meeting.  
Accepted 7-0

**2. Approved request of David & Joan Caldwell – 32 Osborne Av - 019\*0000\*227\* – A Residential Zone – 3’ Side Setback Variance – Practical Difficulty (2013-06)**

*The applicants requested a 3’ side property line setback variance to replace an existing 11’ x 25’ detached garage currently located 3’ from the side property line with a new 12’ x 24’ detached garage also to be located 3’ from the side property line.*

Mrs. Doucette read the public hearing notice and listed the items in the application packet submitted by the applicant.

Mr. Crosby noted that he has known the Caldwells for twenty-five years. Mr. Hackett moved and Mrs. Orbeton seconded to allow Mr. Crosby to participate. Tacit concensus affirmed the motion.

David & Joan Caldwell, applicants, came forward. Mrs. Caldwell submitted a copy of the public hearing notice signed by abutting neighbor Lisa Fisher, 38 Osborne Av, who would be most impacted by this request. The applicants proceeded to address the criteria of practical difficulty and answer questions from the Board. *In order for this type of variance to be granted, the applicant must demonstrate that strict application of the Zoning Ordinance to the applicant and the applicant’s property causes practical difficulty and that certain additional conditions exist.* Mrs. Caldwell explained how this situation met each of the eight (8) criteria as listed below.

- 1) *The strict application of the ordinance to the property precludes the ability of the applicant to pursue a use permitted in the zoning district in which the property is located.* The applicants

wish to replace the garage on approximately the existing footprint. To satisfy the six foot setback requirement, they would have to build the replacement garage an additional three or four feet into the yard beyond the existing footprint. To accommodate this change of location, the existing driveway would also have to be altered to meet with the proposed garage. Presently, the driveway is a straight alignment from the street to the garage. A new portion of driveway will have to be constructed and the alignment altered to meet the garage if no variance is granted. Altering the driveway would further require changes to the existing concrete walkway and lawn space. A variance would allow construction to be limited to the garage structure and its immediate surroundings. Without the variance, the garage would reduce the amount of functional yard space, as the space created on the westerly side of the property will not be directly accessible from the remainder of the yard. This space would not be part of their outdoor living area, thus lessening the purposeful use of land on their property.

- 2) *The strict application of the ordinance to the property results in significant economic injury to the applicant.* Building the proposed garage structure on a new footprint will result in a number of additional work items including reconstruction of new asphalt driveway alignment to have a curve to match the new location of the garage and renew a smooth continuous surface that would run easterly. The concrete walkway would need rebuilding and additional lawn work, and they would need to loam and reseed additional area on the westerly side of the garage as a result of the area which will be excavated in the removal of the existing structure. These would all result in additional cost to the project in labor and materials, as opposed to simply rebuilding the garage on the present footprint.
- 3) *The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood.* The granting of the variance will allow the new garage to be built on the footprint of the existing structure and no changes will be needed to the driveway, walkway and lawn space. The existing garage has been in this location for over 30 years.
- 4) *The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties.* This proposal will not produce an undesirable change in the neighborhood. The adjacent lot is the same layout as that of the applicants' property, whereas the driveway is along the westerly property line. Granting of the variance will not be detrimental to the adjacent property. A new garage structure will improve the visual characteristics of the neighborhood.
- 5) *The practical difficulty is not the result of action taken by the petitioner or a prior owner. The practical difficulty is not the result of any prior action taken by the applicant or a prior owner.* The layout of the lot and location of structures is unchanged from when it was first developed in the 1920's-1930's. No changes have been made to the location of the garage or the driveway.

- 6) *No other feasible alternative to a variance is available to the petitioner. There is no other feasible alternative.* There is no other alternative that would allow the applicants to keep the amount of usable and functional yard space that currently exists. Any further changes to the layout would encroach upon the current yard space. Moving the garage would create a less desirable layout of the property. To build the garage without a variance would result in extra costs to be incurred during construction.
- 7) *The granting of a variance will not unreasonably adversely affect the natural environment.* The natural environment will not be unreasonably impacted, as no changes in the use of the structure are proposed.
- 8) *The property is not located in whole or in part within the shoreland areas as described in MRSA Title 38 Section 435.* The property is not located within the shoreland zone.

Mr. Morgan asked who built the garage originally, since in their address of Criterion 3, the Caldwells said the garage had been there at least 30 years. Mr. Caldwell responded that the garage didn't seem to have been built as recently as that, for it looks much older. Mrs. Caldwell observed that its exterior treatment matches the house. Mr. Morgan wondered when they had last worked on the driveway. Mr. Caldwell said they have just been sealing it every two or three years and may have had it repaved once in the past thirty years. Mr. Morgan asked for a cost estimate if the applicants had to build the garage without a variance. Mr. Caldwell said they did not, that they just had estimates for 12 x 24 construction of the garage. He added, relative to the age of the garage, that a chicken coop attached to the back of the garage probably goes back to pre World War II. Mr. Morgan asked Mrs. Doucette if she had any knowledge of who built the garage. Mrs. Doucette had no information on it.

Mrs. Orbeton asked if they would be rebuilding the chicken coop. Mr. Caldwell said they would not. The total length of the existing garage and coop is twenty-five feet (25') and they are proposing to build a twenty-four foot (24') long garage, but one foot (1') wider into the yard than what currently exists. The wider garage would replace a row of plants that are in the yard along the existing garage now. The narrow lot is 50' or 49' across, and the middle of the yard is small as it is. Mrs. Caldwell noted that builders have told her that it is easier to build in increments of two feet.

Mr. Anastasoff observed that the applicants were not trying to get closer to the property line. Mr. Caldwell confirmed that, noting that the space now is barely wide enough for one width of mowing.

Mr. Crosby asked if the proposed garage would be twelve feet (12') high, and Mr. Caldwell said yes, it would be the same height as the old garage. Mr. Crosby asked about the cost of the project if they couldn't get the variance. Mr. Caldwell said that they didn't get that number from the contractors. He noted that the garage door has failed, as the structure is leaning now, possibly due to no proper drainage under it.

No other proponents and no opponents came forward to address the Board. No mail has been received in the Code office regarding this request. Mrs. Doucette stated that Lisa Fisher of 38

Osborne Avenue was the abutting neighbor who had signed the public hearing notice submitted by Mrs. Caldwell. Ms. Fisher had indicated her approval on the paper.

The Board decided to vote on each of eight (8) practical difficulty criteria separately with affirmative motions and approved each criterion as follows.

1) Perry moved, Biddings seconded, 7-0.

2) Perry moved, Biddings seconded 6-1 (Morgan).

3) Perry moved, Biddings seconded 6-1 (Morgan).

4) Perry moved, Morgan seconded 7-0.

5) Perry moved, Orbeton seconded. Mr. Morgan said that although the applicants had not demonstrated that the previous owner did not build the garage, the preponderance of evidence indicates that it may not have been built by the previous owner. Ms. Biddings said that if a prior owner built the garage when the location was not non-conforming, the Board could not hold that against them. The Board approved criterion 5 unanimously, 7-0.

6) Perry moved, Crosby seconded. Mr. Morgan said he would oppose this because the applicants had not demonstrated that there is no feasible alternative. Mrs. Orbeton asked how one would define "feasible," to which Mr. Hackett added that it was a feasible alternative to move the garage over, but was it reasonable? Mr. Perry commented that reason comes in with regard to cost, and that it was known that there would be additional building and reconstruction of the driveway and walkway. Ms. Biddings noted that there would also be the loss of yard space and the impact on aesthetics to consider. The Board approved criterion 6 with a vote of 5-2 (Hackett, Morgan).

7) Perry moved, Crosby seconded 7-0.

8) Perry moved, Orbeton seconded 7-0. The affirmative motions carried and the variance request was thereby approved. Mrs. Doucette read the Findings of Fact, and Mr. Crosby moved for acceptance of the Findings as read, seconded by Mrs. Orbeton, unanimous 7-0. **(2013-06)**

**3. Discussion of Old and New Business.** Mrs. Doucette stated that there is at least one application coming in for the August meeting.

Mr. Crosby brought up the issue of possibly recommending to Council that the Code Officer be given leeway to grant building permits to those who are replacing existing structures. Mrs. Doucette said the Zoning Committee agreed that six feet (6') should be the minimum setback from the side property line, even for existing non-conforming structures being replaced or expanded. Mr. Anastasoff wondered if such replacement could be done one wall at a time. Mrs. Doucette said that is circumventing the ordinance. Ms. Biddings asked about structures falling down, wouldn't it be more advantageous to allow their replacement?

Mr. Morgan said the Board of Appeals is the only entity authorized to grant variances. Mrs. Doucette noted that the applicants' proposal tonight was not to build exactly the same structure, but that it would have a new footprint and would be built on a new slab. Mr. Hackett pointed out that the applicants had not provided a dollar amount for the extra expense they would incur to do the project without a variance. Mrs. Doucette stated that the applicants were prompted to provide that information, but they didn't. If someone voluntarily removes a structure, they need to meet the setbacks in building a replacement structure. If a storm or fire demolishes the garage, they can rebuild on the same footprint. Mr. Morgan noted that the decisions the Board of Appeals makes are to follow the land, not the people. It is the best method of keeping the peace in the City.

Mrs. Doucette asked the Board if anyone would have voted differently if the neighbor who had supported the variance had instead come and opposed the project. Several members indicated that they may have done so.

Mr. Crosby said he felt that if the proposed replacement is the same setback from the property line as the existing non-conforming structure, or that it would be moved further away from the setback, he would be okay with that, but if applicants ask to build even closer to the property line, that is not okay. If the change would have impacted the neighbor, he would have said no way. Mr. Morgan said the next property owners and neighbors may come to blows over the setback encroachment. Mr. Crosby maintained that it is hard to vote against a situation that is already existing.

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Mr. Hackett questioned the voting methodology. Would the final vote have been two opposed under the old method? Mr. Morgan said if a decision goes to court, the court would go through each criterion. Mrs. Doucette commented that everyone is entitled to their opinion, and that is why the board consists of seven members. Mr. Perry added that the opinion must be based on reason.

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Mr. Anastasoff asked again about recommending to Council that they find a way to give the Code Enforcement Officer discretion to grant building permits for replacement of existing non-conforming structures. Mrs. Doucette said that six feet is not a lot of area and that a setback is a setback. Ms. Biddings noted that she had torn down her own garage because it was buckling due to the overgrowth of a tree. Because it was in a non-conforming location, she could not rebuild it

without a variance, and she will likely someday sell her house without a garage. Mr. Morgan said he couldn't support the recommendation to Council to give Mrs. Doucette such discretionary authority. Under State Statute, the quasi-judicial Board of Appeals is the only body in the City with the authority to grant variances. Ms. Biddings wondered about a situation in which no change at all were proposed for the footprint.

Mrs. Orbeton brought up a hypothetical situation in which a neighbor's driveway is 2' into the adjacent property. Originally, one family owned both pieces. What would happen if the neighbor with the encroaching driveway decided to tear up the old driveway and build a new one. Mrs. Doucette said that was a civil matter and the owners would need to check the language regarding the easement in their deed.

Mr. Crosby advocated for people being able to rebuild something non-conforming if the proposed new structure has the exact same height, volume and footprint.

4. **Adjourned 9:30 P.M.** Mr. Morgan moved, Mrs. Orbeton seconded to adjourn at 8:04 p.m., unanimous 7-0.

Respectfully submitted,

Cathy Counts  
Secretary to the Board

**CITY OF SOUTH PORTLAND - BOARD OF APPEALS ATTENDANCE REPORT  
12 MONTH PERIOD  
THROUGH JULY 24, 2013**

Meeting Date	Meeting Type	District One		District Two		District Three		District Four		District Five		At Large		At Large	
		100%	2	86%	6	86%	6	100%	7	100%	6	100%	1	86%	6
08/22/12	Regular	VACANT		Hackett	1	Anastasoff	1	Perry	1	VACANT		Stanhope	0	Crosby	1
09/26/12	Regular	VACANT		Hackett	0	Anastasoff	0	Perry	1	Biddings	1	Stanhope	1	Crosby	1
10/24/12	Regular	VACANT		Hackett	1	Anastasoff	1	Perry	1	Biddings	1	Stanhope	0	Crosby	0
11/28/13	Regular	VACANT		Hackett	1	Anastasoff	1	Perry	1	Biddings	1	Stanhope	1	Crosby	1
01/30/13	Regular	VACANT		Hackett	1	Anastasoff	1	Perry	1	Biddings	1	Stanhope	0	Crosby	1
05/22/13	Regular	Orbeton	1	Hackett	1	Anastasoff	1	Perry	1	Biddings	1	Stanhope	0	Crosby	1
07/24/13	Regular	Orbeton	1	Hackett	1	Anastasoff	1	Perry	1	Biddings	1	Morgan	1	Crosby	1

Total number of meetings in the 12 month period - 7

75% attendance required - 5

7/24/13: first meeting of Claude Morgan. On Monday, July 8, 2013, Mayor Tom Blake appointed Claude Morgan to the At Large seat formerly held by Gordon Stanhope, who did not seek reappointment upon expiration of his term 7/23/13.

No Board of Appeals meeting was held in December 2012. A workshop scheduled for February 27 could not be held, as not enough members were present. A workshop was held on March 27, 2013. Attendance figures are not available for that meeting. No meeting was held in April 2013 or June 2013.

## REPORT TO CITY COUNCIL - BOARD OF APPEALS – MAY 22, 2013

To: South Portland City Council  
From: Cathy Counts, Secretary to the Board  
Re: Board of Appeals Meeting of MAY 22, 2013  
Location: Council Chambers, City Hall

At 7:00 p.m., Chairman Greg Perry called for the Pledge of Allegiance, reviewed Board policies and procedures, and introduced Board members and staff.

### MEMBERS PRESENT

Greg Perry (Chairman)

Gary Crosby

Alex Anastasoff

Cara Biddings

Aaron Hackett

Sara Orbeton (1<sup>st</sup> meeting, new appointment)

### STAFF PRESENT

Patricia Doucette, Code Enforcement Officer

Cathy Counts, Secretary to the Board

MEMBER ABSENT- Gordon Stanhope

### 1. Accepted Minutes of the January 30, 2013 meeting.

Mr. Crosby moved and Mr. Anastasoff seconded to accept the minutes of the previous meeting.  
Accepted 6-0

### 2. Approved request of Casa Pro LLC, representing Robert Anderson and David Hansen Revocable Living Trust – 361 Cottage Rd - 010\*0000\*084\* – A Residential Zone – 2' Side Setback Variance – Practical Difficulty (2013-02)

The applicant received a 2' side property line setback variance to enclose an existing covered porch on the side of the home at 361 Cottage Road. The porch is located 4' from the side property line. Dave Poissant of Casa Pro LLC, representing the property owners, addressed the criteria of practical difficulty and answered questions from the Board. Proponent Kenneth Hutchins of 365 Cottage Road, abutter to the side of the porch enclosure, came forward to voice support for the requested variance. Mrs. Doucette noted that two letters of support were provided with the application, one from Mr. Hutchins and one from Claudia Hughes and David LaGraffe of 357 Cottage Road, the abutter on the side away from the subject porch enclosure.

The Board decided to vote on each of eight (8) practical difficulty criteria separately and approved each unanimously, 6-0. The variance request was thereby approved unanimously. Mrs. Doucette read the Findings of Fact, and Mr. Crosby moved for acceptance of the Findings as read, seconded by Mrs. Orbeton, unanimous 6-0. The minutes of the meeting further detail the criteria, motions and seconds. (2013-02)

**3. Denied request of Daniel E. Hogan – 3 E St - 015\*0000\*127\* – VR Village Residential Zone – 15’ Side & Rear Setback Variances, Increase of Maximum Building Coverage from 53.4% to 55.8%, and Variance to Build Within 40’ Setback of Normal High Water Line – Undue Hardship (2013-03)**

The applicant had requested permission to raise the roof of the existing accessory structure by approximately 1.5’ and to build an approximately 64 SF enclosure connecting this accessory structure to the principal structure, 0’ from the side and rear property lines. To do so would require 15’ side and rear property line setback variances, an increase of maximum building coverage to 55.8%, and a variance to build within the 40’ setback from the normal high water line. Daniel Hogan, property owner since 2002, sought to address the criteria of undue hardship, followed by questions from the Board. Proponent abutters John Bradstreet of 2 D Street and Susan Sturtevant of 10 E St, voiced their support for the applicant’s request. Mrs. Doucette noted that the request had to be reviewed under the undue hardship criteria because the property is in the shoreland zone.

The Board decided to vote on each of the four (4) criteria separately. Motions made in the affirmative for approval, seconds, and votes that each criteria was or was not met as required were as follows: 1) Perry moved, Crosby seconded. Board members found that while the proposal would improve the property, this property can yield reasonable return and would sell at fair market value without the granting of the requested variances. 0-6 failed to pass. 2) Perry moved, Biddings seconded, 6-0. 3) Perry moved, Anastasoff seconded, 6-0. 4) Perry moved, Crosby seconded on the 4<sup>th</sup> criterion, that the hardship is not the result of action taken by the applicant or prior owner. Mr. Crosby observed that the property was already nonconforming when purchased and the applicant knew he was buying property with which not much could be done. Mr. Hackett observed that the situation had since changed for the owners, that when grandchildren visit, they now require more space. Mrs. Orbeton found that it was not an undue hardship to not have room for everyone that is visiting, 5-1 (Orbeton). Due to the failure to pass on Criterion #1, the application failed to meet all the undue hardship criteria. The requested variances were therefore denied. Mrs. Doucette read the Findings of Fact, which stated the Board’s finding that an expanded family did not qualify as a hardship and the owner should have known of the property’s non-conforming status when purchasing the home. Mr. Crosby moved and Mrs. Orbeton seconded to accept the Findings as presented, unanimous 6-0. **(2013-03)**

**4. Approved request of Pauline Bennell – 81 Deake St - 001\*0000\*185\* – A Residential Zone – 10’ Front Setback Variance – Practical Difficulty (2013-04)**

The applicant received a 10’ front property line setback variance to replace a deteriorated 9’ x 11’ attached garage with a new 14’ x 20’ attached garage on the Simonton Street side of her corner lot, 10’ from the Simonton Street right of way. Mrs. Orbeton stated that she has been to the applicant’s house before and is a friend of hers, but didn’t think that would be an issue. Mr. Crosby moved and Ms. Biddings seconded to allow Mrs. Orbeton to participate in the review and decision on this request, unanimous 5-0 (Orbeton abstaining). After Pauline Bennell addressed the Board and answered Board questions, no one came forward to support or oppose the request, and Mrs. Doucette stated that no mail had been received by the Code office with regard to this request. The Board decided to vote on each of eight (8) practical difficulty criteria separately and approved each unanimously, 6-0. The variance request was thereby approved unanimously. Mrs. Doucette read

the Findings of Fact, and Mr. Crosby moved for acceptance of the Findings as read, seconded by Ms. Biddings, unanimous 6-0. The minutes of the meeting further detail the criteria, motions and seconds. **(2013-04)**

At this point in the meeting, Mr. Anastasoff moved and Mrs. Orbeton seconded for a short recess, unanimous 6-0. The Board recessed at 9:07 p.m. and reconvened at 9:09 p.m.

**5. Approved request of Ellen Esty and James Schilling – 53 Spring St - 005\*0000\*141\* – A Residential Zone – 6’ Front Setback Variance – Practical Difficulty (2013-05)**

The applicants received a 6’ front property line setback variance to construct a 6’ x 8’ entryway to the front of their home, which is 20’ from the front property line on this corner lot. Ellen Esty addressed the criteria of practical difficulty and explained that the variance for the mudroom was needed to decrease wear on the interior floor and decrease heat loss. Following questions from the Board, Mike Pock of 86 Grand Street, owner of property within 500’ of the subject property, voiced support for the request. No one else came forward to speak pro or con and Mrs. Doucette stated that no mail regarding the request had been received in the Code office. The Board decided to vote on each of eight (8) practical difficulty criteria separately and approved each unanimously, 6-0. The variance request was thereby approved unanimously. Mrs. Doucette read the Findings of Fact, and Ms. Biddings moved for acceptance of the Findings as read, seconded by Mr. Crosby, unanimous 6-0. The minutes of the meeting further detail the criteria, motions and seconds. **(2013-05)**

**6. Discussion of Old and New Business.** There was no discussion of old or new business.

**7. Adjourned 9:30 P.M.** Ms. Biddings moved, Mrs. Orbeton seconded to adjourn at 9:30 p.m., unanimous 6-0.

Respectfully submitted,

Cathy Counts  
Secretary to the Board



## CITY OF SOUTH PORTLAND

P. O. Box 9422  
25 Cottage Road  
South Portland, ME 04116-9422

James H. Gailey  
City Manager

EXECUTIVE  
DEPARTMENT

### MINUTES

#### Economic Development Committee

**Wednesday, June 19, 2013**  
**6:00 to 8:00 PM**  
**City Hall – Council Chambers**

#### Attendees:

John Schwartzman – At-large  
Sergio Gadder – District 2  
Martin Macisso – District 3  
Peter Stocks – District 4  
William Collins – District 5

Ed Palmer – Business  
Mike Vaillancourt - Business  
Craig Gorris - Business  
Tom Turner - GPEDC

Jon Jennings – Assistant City Manager  
Tex Haeuser – Planning Director

#### Absent:

Steve Bushey – At-Large  
Dave Owen – District 1  
Bob O'Brien - Business

1. Approval of Minutes 5-0
2. Mill Creek Update with Tex Haeuser

Tex discussed the relationship and process the city has undertaken with Sustain Southern Maine as it relates to Mill Creek. Tex discussed several master plan ideas for the area and showed detailed renderings of what has been discussed in several community meetings. The committee discussed various ideas for the area and was glad city staff is undertaking such an effort.

3. Update on Way-finding Project

Jon gave a quick update on the progress made on way-finding signage in the city. He gave each committee member renderings of the final design

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of the signs. Martin and others liked the idea of calling Knightville/Mill Creek "Downtown" on the signs. There was overall approval by the committee on the design of the signage.

#### 4. Economic Development Conference Concept

Jon discussed the idea of hosting an Economic Development Conference in the fall. The idea is to host developers, site selection consultants and others to interest them in available property in the city. Jon said he would bring back to the committee more specifics at a later date. Overall, the committee expressed interest in more details. Tom Turner, executive director of the Greater Portland Economic Development Committee was in attendance. He discussed his experience with ED conferences. He also discussed the concept of a Foreign Trade Zone in the region for businesses who import/export.

#### 5. SPC-TV Business Show

Jon discussed an idea of developing a SPC-TV based business show that would highlight local businesses in South Portland. Martin and Mike expressed interest in being involved. A follow up meeting with Tony Vigue of SPC-TV will be scheduled.

#### 6. Other

Bill Collins asked if the committee can be briefed on plans for Main Street. Peter Stocks suggested the city put together a white paper or forum to help explain the Tar Sands issue facing the city. Jon gave a brief update on the Buy Local initiative. He also reported that the city's re-application for Certified Business Friendly status with DECD had been submitted and waiting for a decision.

Adjourned: 8:00 pm

Cordially,

Jon P. Jennings  
Assistant City Manager

**CITY OF SOUTH PORTLAND  
GENERAL ASSISTANCE DEPARTMENT  
GENERAL ASSISTANCE STATISTICAL REPORT  
REPORTING PERIOD: JUNE 2013**

<b>TOTAL ASSISTANCE PAYMENTS JUNE 2013</b>	<b>\$18,648.40</b>
JUNE 2012	\$18,870.21
JUNE 2011	\$18,526.85
JUNE 2010	\$19,239.19
JUNE 2009	\$25,983.94
JUNE 2008	\$23,942.31
JUNE 2007	\$20,077.92
JUNE 2006	\$15,568.21

Housing Payments (Rent, Mortgage):	\$ 16,698.20
Temporary Housing (Emergency-Shelters/Motels):	\$ 0
Heating:	\$ 0
Electric Service (CMP):	\$ 78.24
Propane Gas (Unitil):	\$ 73.84
Food:	\$ 413.33
Prescriptions:	\$ 50.48
Medical Services:	\$ 0
Dental:	\$ 0
Burials/Cremations	\$ 0
Diapers/Baby Supplies:	\$ 327.68
Household/Personal:	\$ 676.41
All Other Needs:	\$ 330.22

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Heating Assistance Fund                      \$0                      Cases: 0

WORKFARE STATISTICS: Cases: 1    People: 1    Hours: 80 + Value (at minimum wage \$7.50)= \$600.00

JUNE	2013	2012	2011
<b>Total Families Assisted</b>	51	61	45
<b>Total Individuals Assisted</b>	106	126	100
<b>Total Children Assisted</b>	16	25	13

Respectfully submitted,

*Kathleen*

Kathleen Babeu. GA Program Manager

**CITY OF SOUTH PORTLAND  
GENERAL ASSISTANCE DEPARTMENT  
GENERAL ASSISTANCE STATISTICAL REPORT  
REPORTING PERIOD: JULY 2013**

<b>TOTAL ASSISTANCE PAYMENTS JULY 2013</b>	<b>\$18,899.04</b>
JULY 2012	\$14,909.55
JULY 2011	\$10,079.83
JULY 2010	\$24,527.64
JULY 2009	\$30,334.24
JULY 2008	\$13,607.77
JULY 2007	\$13,700.94
JULY 2006	\$14,588.07

Housing Payments (Rent, Mortgage):	\$ 16,415.53
Temporary Housing (Emergency-Shelters/Motels):	\$ 212.00
Heating:	\$ 0
Electric Service (CMP):	\$ 471.73
Propane Gas (Unitil):	\$ 101.84
Food:	\$ 408.24
Prescriptions:	\$ 0
Medical Services:	\$ 0
Dental:	\$ 0
Burials/Cremations	\$ 785.00
Diapers/Baby Supplies:	\$ 15.76
Household/Personal:	\$ 371.99
All Other Needs:	\$ 116.95

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Heating Assistance Fund                      \$0                      Cases: 0

WORKFARE STATISTICS: Cases: 1    People: 1    Hours: 88    Value (at minimum wage \$7.50)= \$660.00

JULY	2013	2012	2011
<b>Total Families Assisted</b>	58	55	43
<b>Total Individuals Assisted</b>	112	120	96
<b>Total Children Assisted</b>	20	22	18

Respectfully submitted,

*Kathleen*

Kathleen Babeu. GA Program Manager

SOUTH PORTLAND ABATEMENT SPREADSHEET 2012-2013																			
Year	#	Date	Cust #	M/B/L-ACCT #	Name	Location	Orig PP	Orig Land	Orig Bldg	Exmt	Orig Total	Adj. PP	Adj Land	Adj Bldg	Adj Exmt	Adj Total	Val abated	Tax abated	DESCRIPTION
2012/13	1	08/07/12	11483	PPROP 08378	Portland Pipe Line Corp	30 Hill St	2,045,900				2,045,900	2,008,800				2,008,800	37,100	612.15	INCLUDED BOAT THAT SHOULD BE EXCISED.
2012/13	2	08/07/12	53426	PPROP 44776	CIT Tech Financing Services	various	11,800				11,800	10,000				10,000	1,800	29.70	INCLUDED A COPIER THAT WAS NOT IN SP ON 4/1/12.
2012/13	3	08/07/12	56754	PPROP 08850	US Bancorp Equipment Finance	various	91,200				91,200	89,500				89,500	1,700	28.05	WRONG COST ON A COPIER
2012/13	4	08/07/12	39951	PPROP 08082	IBM Credit LLC	various	56,800				56,800	52,800				52,800	4,000	66.00	DOUBLE ASSESSMENT; ITEM ALSO ASSESSED TO IBM CORP
2012/13	5	08/07/12	43543	PPROP 53650	CBE Technologies	50 Foden Rd	48,400				48,400	0				-	48,400	798.60	MOVED TO PORTLAND MARCH 14, 2012
2012/13	6	08/07/12	47286	PPROP 54736	Futurity First Insurance	707 Sable Oaks Dr	38,100				38,100	0				-	38,100	628.65	OFFICE CLOSED NOVEMBER 2011.
2012/13	7	08/08/12	56198	PPROP 55473	FLA Publishing	260 Western Av	5,000				5,000	0				-	5,000	82.50	MOVED TO PORTLAND PRIOR TO APRIL 1, 2012.
2012/13	8	08/08/12	15947	PPROP 53096	Coastline Irrigation	14 Fern Ln	12,100				12,100	0				-	12,100	199.65	CLOSED SEPTEMBER 1, 2011.
2012/13	9	08/08/12	56066	053*0000*095*	Truland, Paul Vincent	13 Gerry Av		67,100	110,500	10,000	167,600		67,100	47,200	10,000	104,300	63,300	1,044.45	HOUSE WAS IN VERY POOR CONDITION APRIL 1, 2012.
2012/13	10	08/07/12	55095	033*0000*077B	Hegarty, Mary Ann	134 Ridgeland Av.		6,500	1,100	-	7,600		6,500	-		6,500	1,100	18.15	GARAGE NOT ON THIS LOT
2012/13	11	08/21/12	6155	033*0000*051*	Johnson, Fred & Nancy	2 Thadeus St		83,800	82,300	10,000	156,100		83,800	71,500	10,000	145,300	10,800	178.20	CORRECT FOR CONDITION
2012/13	12	08/22/12	42824	002*0000*190*	Varipatis, Angela	335 Preble St		106,700	132,400	10,000	229,100		90,700	131,200	10,000	211,900	17,200	283.80	ADJUST LAND FOR SHAPE AND LOCATION.
2012/13	13	09/04/12	53414	PPROP 07890	Deb of Maine Inc 232	220 Maine Mall Rd	56,600				56,600	39,500				39,500	17,100	282.15	BANKRUPTCY VALUES ADDED TO ASSESSMENT.
2012/13	14	09/04/12	12495	PPROP 50047	Keenan Auction Co	1 Runway Rd	17,900				17,900	14,100				14,100	3,800	62.70	DELETED ITEMS WERE ASSESSED.
2012/13	15	09/19/12	39418	PPROP 54439	RKR ASSOCIATES DBA QUIZNO	443 WESTERN AV	100,000				100,000	25,000				25,000	75,000	1,237.50	BUSINESS CLOSED 8/31/2012
2012/13	16	10/16/12	27708	PPROP 53747	Cumberland York Appraisals	6 Blueberry Dr	1,100				1,100	-				-	1,100	18.15	BUSINESS CLOSED APRIL 2009.
2012/13	17	11/08/12	50218	PPROP 44605	Youngs Landscaping	60 Marsh Rd	2,200				2,200	-				-	2,200	36.30	BUSINESS CLOSED OCTOBER 2011
2012/13	18	11/08/12	30693	052*0000*085*	Chenard, John F.	1671 Broadway		56,000	55,800	10,000	101,800		56,000	34,500	10,000	80,500	21,300	351.45	CORRECT FOR LOW QUALITY AND POOR CONDITION
2012/13	19	11/08/12	43262	039*0000*006*	Flink, Eric	138 Cumberland Rd		89,500	174,800	10,000	254,300		80,500	174,800	10,000	245,300	9,000	148.50	REDUCED LAND DUE TO FLOODING AND DRAINAGE DITCHES
2012/13	20	11/09/12	39376	PPROP 08501	Donald Stanley Plumbing	150 New York Av	3,800				3,800	-				-	3,800	62.70	BUSINESS CLOSED 2007
2012/13	21	11/29/12	22530	023*0000*045D*	Grocki, Lois A.	89 Adelbert St		139,600	321,800	10,000	451,400		139,600	207,200	10,000	336,800	114,600	1,890.90	CORRECTED FOR CONDITION, GRADE, FUNCTIONAL
2012/13	22	11/29/12	27694	PPROP 53731	My First Friends Daycare	17 Kirkland Av	1,000				1,000	-				-	1,000	16.50	BUSINESS CLOSED NOVEMBER 2010.
2012/13	23	01/23/13	32991	037*000*216*	Feeney, Peter & Sheri	58 Hawthorne		125,600	388,900	10,000	504,500		125,600	376,800	10,000	492,400	12,100	199.65	CORRECT BUILDING DATA
2012/13	24	02/04/13	50308	PPROP 54756	Schwartz, Jeffrey A. LLC PA	169 Ocean ST	2,400				2,400	-				-	2,400	39.60	MOVED TO CAPE ELIZABETH FEBRUARY 2012.
2012/13	25	05/20/13	50979	044*0000*018*	Cortland Associates Limited Ptn	696 Westbrook St		3,570,500	7,945,800		11,516,300		3,570,500	7,385,400		10,955,900	560,400	9,246.60	OVERVALUED BASED ON POTENTIAL NET INCOME
2012/13	26	05/27/12	50980	044*0000*018A*	Cortland Associates Limited Ptn	712 Westbrook St		287,300	727,400		1,014,700		287,300	682,000		969,300	45,400	749.10	OVERVALUED BASED ON POTENTIAL NET INCOME
2012/13	27										0					-	-	0.00	
																	1,109,800	18,311.70	
																		3,912.82	Plus Hardships
																		22,224.52	