



CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

November 21, 2022

Jeanne Westcott, Trustee
Jeanne L. Wescott Revocable Trust
76 Wallis Road
Rye, New Hampshire 03870

RE: Board of Adjustment request for property located at 118 Maplewood Avenue (LU-22-205)

Dear Ms. Wescott:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, November 15, 2022**, considered your application for a medical office which requires the following: 1) A Special Exception from Section 10.440, Use #6.20 to allow a medical office where the use is permitted by Special Exception. Said property is shown on Assessor Map 124 Lot 5-C4 and lies within the Character District 4-L1 (CD4-L) and the Historic District. As a result of said consideration, the Board voted to **grant** the special exception for the petition as presented.

The Board's decision may be appealed up to thirty (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.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

<https://www.cityofportsmouth.com/planportsmouth/zoning-board-adjustment/zoning-board-adjustment-archived-meetings-and-material>

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

Phyllis Eldridge

Phyllis Eldridge, Acting Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Emily-Anne Boone

Findings of Fact | Special Exception

City of Portsmouth Zoning Board of Adjustment

Date: November 15, 2022

Property Address: 118 Maplewood Avenue

Application #: LU-22-205

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Special Exception:

Special Exception Review Criteria: Section 10.232.20	Finding (Circle One)	Relevant Facts
10.232.21 Standards as provided by this Ordinance for the particular use permitted by special exception;	Yes	The use is allowed by special exception.
10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.	Yes	There would be no hazard to the public or adjacent properties on account of potential fire, explosion, or release of toxic materials.
10.233.23 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;	Yes	The use would be similar to existing uses in the surrounding areas, which supports the lack of impact on adjacent property values.
10.233.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;	Yes	There would be no impact on safety or substantial increase in traffic congestion since there wouldn't be routine traffic

		from emergency vehicles traveling at high speeds.
10.233.25 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and	Yes	There would be no excessive demand on municipal services.
10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.	Yes	There would be no new construction and the applicant is re-using the existing building.

Stipulations
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ZONING BOARD OF ADJUSTMENT

November 21, 2022

Seacoast Newspapers, Inc.
111 New Hampshire Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 111 New Hampshire Ave (LU-22-207)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **November 15, 2022**, considered your application for a testing laboratory which requires the following: 1) A Special Exception from Part 303-A.03 (f) of the Pease Development Authority Zoning Ordinance.

Said property is shown on Assessor Map 306 Lot 4 and lies within the Pease Industrial (PI) and Airport Business Commercial (ABC) Districts. As a result of said consideration, the Board voted to recommend **approval** of the request for the special exception as presented.

The Board's decision may be appealed up to thirty (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.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

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The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

Phyllis Eldridge

Phyllis Eldridge, Acting Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Paul Colby, Optima Dermatology

John Crowley, Optima Dermatology

Findings of Fact | Special Exception

City of Portsmouth Zoning Board of Adjustment – PEASE

Date: November 15, 2022

Property Address: 111 New Hampshire Ave.

Application #: LU-22-207

Decision: **Recommend Approval**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Special Exception:

Special Exception Review Criteria: Part 314.01(c)	Finding (Circle One)	Relevant Facts
1. No adverse effect or diminution in values of surrounding properties would be suffered.	Yes	No adverse effect or diminution of values of surrounding properties would be suffered because laboratory activities are specifically contemplated and allowed by special exception in the area.
2. The use does not create a traffic or other health or safety hazard.	Yes	The use would not create traffic or other health and safety hazards, noting the applicant attested that appropriate measures are being taken concerning air handling and handling of biohazardous and chemical wastes.
3. The proposed site is an appropriate location for the use and provides safe and proper access and egress for the use.	Yes	The proposed site is an appropriate location for the use and provides safe and proper access and egress, noting that there is direct external access for loading and unloading chemicals and hazardous waste that is proper for this application and this use.
4. The use meets any additional standards provided in this Zoning Regulation for the zone in which it is situated.	Yes	There are no additional standards provided in the zoning regulation for the zone in which it is situated.

Stipulations
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ZONING BOARD OF ADJUSTMENT

November 21, 2022

David & Rosa Stone
110 Sunrise Court
Kalispell, MT 59901

RE: Board of Adjustment request for property located at 55 gates Street (LU-22-43)

Dear Mr. and Ms. Stone:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, November 15, 2022**, considered your application for the addition of 2 heat pumps which requires the following: 1) A Variance from Section 10.515.14 to allow a 3.5 foot setback where 10 feet is required. Said property is shown on Assessor Map 103, Lot 90 and lies within the General Residence B (GRB) and Historic Districts. As a result of said consideration, the Board voted to **grant** the variance for the petition as presented.

The Board's decision may be appealed up to thirty (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.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

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Very truly yours,

Phyllis Eldridge

Phyllis Eldridge, Acting Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Anne Whitney, AIA

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: November 15, 2022

Property Address: 55 Gates Street

Application #: LU-22-43

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	Yes	The spirit of the ordinance was not intended to prevent the modernization of older homes for the comfort of the occupants. The application wasn't an addition to the house, it was just modernizing it in an energy-efficient way.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	Yes	
10.233.23 Granting the variance would do substantial justice.	Yes	Granting the variance would do substantial justice because denying it would not create a public benefit that would outweigh the detriment to the homeowners if the application were to be denied, and a more efficient and modern cooling system for the home was preferable to the public interest.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	Yes	The variance would not diminish the values of surrounding properties because the units would be placed behind a short fence that would shield them from view and would also diminish the noise transmission from them to surrounding properties. They

		would be invisible to anyone who had an interest in purchasing any of the surrounding properties.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	Yes	<p>Literal enforcement of the provisions of the ordinance would result in unnecessary hardship and the property's hardship was that it's an irregular polygon shape and provides no room for the heat pumps in a compliant fashion.</p>

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ZONING BOARD OF ADJUSTMENT

November 21, 2022

Sara Sommer Kaufman, Trustee
Sara Sommer Kaufman Revocable Trust
546 Sagamore Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 546 Sagamore Avenue (LU-22-206)

Dear Ms. Kaufman:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **November 15, 2022**, considered your application for a 6 foot fence in the front yard which requires the following: 1) A Variance from Section 10.515.13 to allow a 6 foot fence with a 1 foot front yard setback where 30 feet is required. Said property is shown on Assessor Map 222 Lot 10 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **grant** the variance for the application as presented.

The Board's decision may be appealed up to thirty (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.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

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Very truly yours,

Phyllis Eldridge

Phyllis Eldridge, Acting Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Derek Durbin, Durbin Law Offices

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: November 15, 2022

Property Address: 546 Sagamore Ave.

Application #: LU-22-206

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	Yes	Granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	Yes	
10.233.23 Granting the variance would do substantial justice.	Yes	The variance would do substantial justice, seeing that the fence was already in place and was put there inadvertently without a variance approval and now the applicant was seeking relief for it.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	Yes	The variance would not diminish the values of surrounding properties because it was a single-family house on a single-family side of the road with an apartment complex on the other side.
10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.		Sagamore Avenue was more of a highway, like Lafayette Road/Route One. The fence was solid wood on the

<p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<p>Yes</p>	<p>bottom with about 18 inches on the top, but it gave the owner the use of his front yard. He said those were special conditions. The proposed use is a reasonable one.</p>
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Stipulations
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CITY OF PORTSMOUTH

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ZONING BOARD OF ADJUSTMENT

November 21, 2022

Aviation Avenue Group, LLC
Pease Development Authority
80 Rochester Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 80 Rochester Avenue (LU-22-210)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Thursday, November 15, 2022**, considered your application for the construction of an advanced manufacturing facility which requires the following: 1) A Variance from Part 304.03(c) to allow a 51 foot front yard where 70 feet is required. Said property is shown on Assessor Map 308 Lot 1 and lies within the Pease Industrial (PI) District. As a result of said consideration, the Board voted to **recommend approval** to the PDA Board.

The Board's decision may be appealed up to thirty (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.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

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The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

Phyllis Eldridge

Phyllis Eldridge, Acting Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Craig Langton, Tighe & Bond

John Bosen, Bosen & Associates

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment – PEASE

Date: November 15, 2022

Property Address: 100 New Hampshire Ave.

Application #: LU-22-210

Decision: **Recommend Approval**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Part 317.01(c) Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
1. No adverse effect or diminution in values of surrounding properties would be suffered.	Yes	The project would pose no adverse effect or diminution of values of surrounding properties. Granting the variance would be a benefit to the public interest because it would provide more jobs.
2. Granting the variance would be if benefit to the public interest.	Yes	
3. Denial of the variance would result in unnecessary hardship to the person seeking it.	Yes	There was a hardship for the property due to the wetlands and the municipal infrastructure, which prohibited the installation of a building farther away from New Hampshire Avenue.
4. Granting the variance would be substantial justice.	Yes	Granting the variance would do substantial justice.
5. The proposed use would not be contrary to the spirit of this zoning rule.	Yes	The proposed use not being contrary to the spirit of the zoning rule. The zoning area is specific to an industrial zone and this is an industrial application and therefore not contrary

		to the spirit of the zoning rule.
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Stipulations
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