



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

July 3, 2023

JJCM Realty LLC and Topnotch Properties  
23 Whittemore Street  
Bedford, NH 03110

**RE: Board of Adjustment request for property located at 232 South Street (LU-23-80)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 27, 2023**, considered your application for constructing a 12' x 20' garage which requires the following: 1) A Variance from Section 10.521 to a) permit a building coverage of 26% where 20% is permitted, and b) permit a side setback of 1.5 feet where 10 feet is required; and 2) A Variance from Section 10.571 to permit an accessory structure in the front yard. Said property is shown on Assessor Map 111 Lot 2 and lies within the Single Residence B (SRB) and Historic District. As a result of said consideration, the Board voted to **deny** the request because the proposal was contrary to the public interest due to its location and could be alleviated by repositioning the new structure on the lot. The request also failed the hardship criteria as the applicant did not present anything related to the unique characteristics of the property that distinguish it from other properties in the area.

The Board's decision may be appealed up to thirty (30) days after the vote. Please contact the Planning Department for more details about the appeals process.

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

Very truly yours,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 6-27-2023

Property Address: 232 South Street

Application #: LU-23-80

Decision: **Deny**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It 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 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.	<b>NO</b>	<ul style="list-style-type: none"> <li>The application did not meet the purpose and intent of the dimensional requirements for the SRB District due to the proposed location of the garage.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.		
10.233.23 Granting the variance would do substantial justice.		
10.233.24 Granting the variance would not diminish the values of surrounding properties.		
10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.  (a)The property has special Conditions that distinguish it from other properties in the area.	<b>NO</b>	<ul style="list-style-type: none"> <li>The applicant did not demonstrate the hardship and need to have a garage in the proposed location or any special conditions that distinguish it from other properties in the area.</li> </ul>

<p>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>		
--	--	--

<b>Stipulations</b>
1.
2.
3.
4.



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

July 3, 2023

CP Management  
Sarnia Properties Inc.  
11 Court Street  
Exeter , New Hampshire 03833

**RE: Board of Adjustment Request for property located at 933 US Route 1 Bypass (LU-23-76)**

Dear Property owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 27, 2023**, considered your application for a Special Exception to allow a health club greater than 2,000 square feet GFA which requires the following: 1) Special Exception from Section 10.440, Use #4.42 to allow a health club where the use is permitted by Special Exception.

Said property is shown on Assessor Map 142 Lot 37 and lies within the Business (B) and Highway Noise Overlay Districts. As a result of said consideration, the Board voted to **grant** the Special Exception.

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, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

John K Bosen, Bosen & Associates, PLLC

# Findings of Fact | Special Exception

## City of Portsmouth Zoning Board of Adjustment

Date: June 27, 2023

Property Address: 933 US Route 1 Bypass

Application #: LU-23-76

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It 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 all conditions necessary to obtain final approval.

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

<b>Special Exception Review Criteria: Section 10.232.20</b>	<b>Finding</b> (Circle One)	<b>Relevant Facts</b>
10.232.21 Standards as provided by this Ordinance for the particular use permitted by special exception;	<b>Yes</b>	<ul style="list-style-type: none"> <li>The use is allowed by special exception.</li> </ul>
10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.	<b>Yes</b>	<ul style="list-style-type: none"> <li>Granting the special exception would pose no hazard to the public or adjacent properties on account of potential fire, explosion, or release of toxic materials because that wasn't a concern for a health club and there would be no external changes.</li> </ul>
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,	<b>Yes</b>	<ul style="list-style-type: none"> <li>It would pose no detriment to property values in the vicinity or change to the essential characteristics of any area, including residential neighborhoods and businesses or industrial districts on account of the location and scale of buildings and other structures, parking area,</li> </ul>

dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;		accessways, gas, dust, noise, pollution, etc. It would not be a problem because there would be no external changes.
10.233.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;	<b>Yes</b>	<ul style="list-style-type: none"> <li>It would not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity because it would be in a location that would have almost twice the parking than the previous location and would have off-peak hours for traffic.</li> </ul>
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	<b>Yes</b>	<ul style="list-style-type: none"> <li>It would pose no excessive demand on municipal services including but not limited to water, sewer, waste disposal, police and fire protection, schools and so on because that should not be a problem for a health club, which was allowed by special exception.</li> </ul>
10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.	<b>Yes</b>	<ul style="list-style-type: none"> <li>It would pose no increase of stormwater on adjacent properties or streets because there were no external changes.</li> </ul>

<b>Stipulations</b>
1.
2.
3.
4.



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

July 3, 2023

Ashley J Brown and Lisa F Brown Living Trust  
176 Orchard Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 176 Orchard Street (LU-23-82)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 27, 2023**, considered your application for constructing an addition and deck to the rear of the existing structure and rebuilding the existing rear staircase which requires the following: 1) Variance from Section 10.521 to allow 27% building coverage where 25% is allowed. 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed, or enlarged without conforming to the requirements of the ordinance. Said property is shown on Assessor Map 149 Lot 41 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **grant** the variances for the petition as presented and advertised.

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,

A handwritten signature in cursive script that reads "Phyllis Eldridge". The signature is written in black ink and is positioned above the typed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 6-27-2023

Property Address: 176 Orchard St

Application #: LU-23-82

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It 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 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.	<b>YES</b>	<ul style="list-style-type: none"> <li>It would not be contrary to the public interest to allow a minor increase in building coverage as it would be essentially invisible on the inside of the property and there would be no threat posed to the public's health, safety, or welfare or to public rights.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"> <li>The spirit of the Ordinance is observed because the property has a lot of area and it would not appear to any passerby.</li> </ul>
10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>Substantial justice would be done because the public would not have an interest that would outweigh the applicant's desire to add some living space.</li> </ul>

<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• It would not diminish the values of surrounding properties because it was a modest addition toward the interior of the property and met all the setbacks and would add value to the applicant's property as well as others.</li> </ul>
<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>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• The current property's unique aspect was that it was a corner lot with some additional land that had the look and feel of being part of the applicant's property, which negated any of the concerns that it would be an unreasonable use for the property.</li> </ul>



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

July 3, 2023

Point of View Condominium  
75 Salter Street #1  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 57 Salter Street #1 (LU-23-83)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 27, 2023**, considered your application for relocating the existing residential structure landward of the highwater mark which requires the following: 1) Variance from Section 10.531 to allow the following: a) a 2' front yard where 30' is required, b) a 2' side yard where 30' is required; 2) Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance. Said property is shown on Assessor Map 102 Lot 32-1 and lies within the Waterfront Business (WB) and Historic Districts. As a result of said consideration, the Board voted to **grant** the variances for the application as presented and advertised, with the following **condition**:

*1) The one-ft encroachment by an exhaust vent would be recognized by the 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:*

<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,

A handwritten signature in cursive script that reads "Phyllis Eldridge". The signature is written in black ink and is positioned above the printed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

James Steinkrauss, Rath, Young and Pignatelli, P.C.

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 6-27-2023

Property Address: 57 Salter St. / 75 Salter St #1

Application #: LU-23-83

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It 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 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.	<b>YES</b>	<ul style="list-style-type: none"> <li>It would not be contrary to the public interest because it had already been approved as a second dwelling unit in 2018, so they were talking about the net difference to the public of the building being over the water versus it being drawn slightly back from the water.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"> <li>The spirit of the Ordinance is observed because light and air requirements would be met.</li> </ul>
10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>Substantial justice would be done because the applicant would still have the full use of the property as was granted in 2018 and have the same size of structure.</li> </ul>

<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• It would not diminish the values of surrounding properties because the structure would be moved a distance that would not impact them.</li> </ul>
<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>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• The current property's unique aspect was that the applicant was previously granted relief to make two dwelling units and ran into some legal issues that were identified late in the process, which required the applicant to move the structure back onto the land. Due to its location and nature of being surrounded by water on both sides, it was a reasonable use.</li> </ul>

<p><b>Stipulations</b></p>
<p><i>1. The one-foot encroachment by an exhaust vent would be recognized by the Board.</i></p>



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

July 3, 2023

Eric J. Gregg Revocable Trust  
1 Harbour Place Ste 5C  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 112 Mechanic Street (LU-23-73)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 27, 2023**, considered your application for installing a mechanical unit to the side of the primary structure which requires the following: 1) Variance from Section 10.515.14 to allow a 2 ft. rear setback where 10 feet is required. Said property is shown on Assessor Map 103 Lot 25 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 approved and presented, with the following **condition**:

*\*Note: The motion was amended to acknowledge a change to a 6-foot rear setback, verses the 2-foot setback as originally requested and advertised.*

*1) The mechanical unit shall be located to the side of the primary structure and shall be six feet from the rear property line, as indicated in the applicant's submission materials.*

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,

A handwritten signature in cursive script that reads "Phyllis Eldridge". The signature is written in black ink and is positioned above the printed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 6-27-2023

Property Address: 112 Mechanic St

Application #: LU-23-73

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It 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 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.	<b>YES</b>	<ul style="list-style-type: none"> <li>It would not be contrary to the public interest because it would not alter the essential characteristics of the neighborhood, threaten the public's health, safety, or welfare, or otherwise injure public rights.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"> <li>The spirit of the Ordinance is observed because the proposed use would not conflict with the implicit or explicit purposes of the ordinance.</li> </ul>
10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>Substantial justice would be done because it would benefit the applicant and do no harm to the public.</li> </ul>

<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>It would not diminish the values of surrounding properties because it was a small ask and the proposed lattice work would make it blend in without hindering the air flow, and the lot was very small so there wasn't any other suitable location to put the condenser in.</li> </ul>
<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>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>The property's unique conditions were that it was an extremely small size and the nonconforming location of the structure on the property left no other viable alternatives for improving the HVAC system.</li> </ul>

<p><b>Stipulations</b></p>
<p><i>1. The mechanical unit shall be located to the side of the primary structure and shall be six feet from the rear property line, as indicated in the applicant's submission materials.</i></p>



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

July 3, 2023

Karyn S. DeNicola Revocable Trust  
281 Cabot Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 281 Cabot Street (LU-23-84)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 27, 2023**, considered your application for demolishing the existing single-family dwelling and detached one-story garage/shed and constructing a new single family dwelling with attached garage which requires the following: 1) Variance from Section 10.521 to allow a) 3 ft. front yard setback where 5 ft. is required; b) a 5 ft. south side yard setback where 10 ft. is required; c) a 3.5 ft. north side yard setback where 10 ft. is required; and d) a 43% building coverage where 35% is allowed. Said property is shown on Assessor Map 144 Lot 20 and lies within the General Residence C (GRC) District. As a result of said consideration, the Board voted to **deny** the application because the spirit and intent of the ordinance was to prevent overcrowding and the applicant was asking for 43 percent building coverage where the maximum coverage allowed was 35 percent. The applicant also did not establish that there was an unnecessary hardship for the building coverage and all the requested setbacks.

The Board's decision may be appealed up to thirty (30) days after the vote. Please contact the Planning Department for more details about the appeals process.

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

Very truly yours,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

Justin Pasay, Donahue, Tucker & Ciandella, PLLC  
John Chagnon, Ambit Engineering

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 6-27-2023

Property Address: 281 Cabot Street

Application #: LU-23-84

Decision: **Deny**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It 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 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.		
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>NO</b>	<ul style="list-style-type: none"> <li>The spirit and intent of the Ordinance was to prevent overcrowding and the request for 43 percent building coverage where 35 percent is permitted does not meet the criteria.</li> </ul>
10.233.23 Granting the variance would do substantial justice.		
10.233.24 Granting the variance would not diminish the values of surrounding properties.		
10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.  (a)The property has special Conditions that distinguish it from other properties in the area.	<b>NO</b>	<ul style="list-style-type: none"> <li>The applicant did not establish that there was an unnecessary hardship for the building coverage and all the requested setbacks.</li> </ul>

<p>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>		
--	--	--

<b>Stipulations</b>
1.
2.
3.
4.



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

July 3, 2023

Sureya M Ennabe Revocable Living Trust  
PO BOX 200  
South Paris, Maine 04281

**RE: Board of Adjustment request for property located at 800 Lafayette Road (LU-23-66)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 27, 2023**, considered your application for increasing the height of the existing sign which requires the following: 1) Variance from Section 10.1281 to alter a nonconforming sign without bringing it into conformity; and 2) Variance from Section 10.1253.10 to increase the height to 20 feet and 1 inch where 20 feet is allowed. Said property is shown on Assessor Map 244 Lot 5 and lies within the Gateway Corridor (G1) District and Sign District 5. As a result of said consideration, the Board voted to **grant** the variances 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,

A handwritten signature in cursive script that reads "Phyllis Eldridge". The signature is written in black ink and is positioned above the printed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor



# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 6-27-2023

Property Address: 800 Lafayette Rd.

Application #: LU-23-66

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It 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 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.	<b>YES</b>	<ul style="list-style-type: none"> <li>It would not be contrary to the public interest because it would not alter the essential characteristics of the neighborhood, threaten the public's health, safety, or welfare, or otherwise injure public rights.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"> <li>The spirit of the Ordinance is observed because the new sign would look the same and have the same use as the existing sign and would improve the public's health, safety, and welfare.</li> </ul>
10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>Substantial justice would be done because the benefit to the applicant would not be outweighed by any harm to the public or other individuals.</li> </ul>

<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• It would not diminish the values of surrounding properties because there was no reason to believe that the small modification to the sign would do so.</li> </ul>
<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>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• The property's unique conditions were that the small island area where the sign is located is one of the few places to locate it, and a sign was a critical feature for a gas station because it stated gas prices and the proposed use would stay the same and was a reasonable use.</li> </ul>