



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

July 25, 2023

Danielle Okula, Dennis Okula, and Irinia Okula
2 Sewall Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 2 Sewall Road (LU-23-71)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 18, 2023**, considered your application for installing a 6 foot fence where along the front of the property which requires a Variance from Section 10.515.13 to allow a 6 foot fence where 4 feet is allowed. Said property is shown on Assessor Map 170 Lot 22 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to to **approve** the request 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,

David Rheame, Acting 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: 7/18/2023

Property Address: 2 Sewall Road

Application #: LU-23-71

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.	YES	<ul style="list-style-type: none"> The spirit of the ordinance is to avoid encroachment by unsightly and tall fences right up against pedestrian and motoring areas and the fence would be sufficiently set back from the sidewalk and have enough clearance.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The spirit of the ordinance was to avoid encroachment by unsightly and tall fences right up against pedestrian and motoring areas and the fence will be sufficiently set back from the sidewalk and have enough clearance.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The consideration of privacy, particularly regarding the location of the bedroom and the nuisance factor of aggravating the applicant's dog and the safety consideration of keeping the dog

		contained justified the 6-ft fence, and there is no countervailing public interest to sacrifice making that happen.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> The abutters had adequate notice and if anyone felt that it would diminish the value of their properties, they had the opportunity to say so, and their failure to do so is good evidence that there will be no impact on the values of 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	<ul style="list-style-type: none"> Literal enforcement of the provision of the ordinance will result in an unnecessary hardship due to the unique characteristics of the property, which is the terrain and the way it is below the road's grade level, which necessitates a taller fence to achieve the purposes of privacy and security.



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ZONING BOARD OF ADJUSTMENT

July 25, 2023

Peter Gamble
170 Aldrich Road
Portsmouth, New Hampshire 03801

RE: **Board of Adjustment request for property located at 170 Aldrich Road (LU-23-47)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 18, 2023**, considered your application for demolishing the existing garage and constructing a new garage which requires the following: 1) Variance from Section 10.521 to allow a) 7-foot right side yard where 10 feet is required; and b) 23% building coverage where 20% is allowed. Said property is shown on Assessor Map 153 Lot 21 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to to **deny** the request **without prejudice** so the applicant can solve their legal issues and provide clear facts for the Board to make an informed decision.

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,

David Rheame, Acting Chair of the Zoning Board of Adjustment

cc:

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 7/18/2023

Property Address: 170 Aldrich Road

Application #: LU-23-47

Decision: **Deny Without Prejudice**

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.	Insufficient Information Provided	<ul style="list-style-type: none"> The Board determined it did not have enough information to make an informed decision. Application was denied without prejudice.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	Insufficient Information Provided	<ul style="list-style-type: none"> The Board determined it did not have enough information to make an informed decision. Application was denied without prejudice.
10.233.23 Granting the variance would do substantial justice.	Insufficient Information Provided	<ul style="list-style-type: none"> The Board determined it did not have enough information to make an informed decision. Application was denied without prejudice.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	Insufficient Information Provided	<ul style="list-style-type: none"> The Board determined it did not have enough information to make an informed decision. Application was denied without prejudice.

<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</p> <p>(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</p> <p>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>Insufficient Information Provided</p>	<ul style="list-style-type: none"> • The Board determined it did not have enough information to make an informed decision. Application was denied without prejudice.
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ZONING BOARD OF ADJUSTMENT

July 25, 2023

John C. Wallen and Jeanine M. Girgenti
5 Cleveland Drive
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 5 Cleveland Drive (LU-23-92)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 18, 2023**, considered your application for installing a 6 foot fence along the primary and secondary front of the property which requires a Variance from Section 10.515.13 to allow a 6 foot fence where 4 feet is allowed. Said property is shown on Assessor Map 247 Lot 74 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to to **approve** the request 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:

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

Very truly yours,

David Rheaume, Acting 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: 7/18/2023

Property Address: 5 Cleveland Drive

Application #: LU-23-92

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.	YES	<ul style="list-style-type: none"> The proposed use of adding the 6-ft fence does not conflict with the explicit or implicit purposes of the ordinance and does not alter the essential character of the neighborhood or threaten the public's health, safety, or welfare or otherwise injure public rights.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The proposed use of adding the 6-ft fence does not conflict with the explicit or implicit purposes of the ordinance and does not alter the essential character of the neighborhood or threaten the public's health, safety, or welfare or otherwise injure public rights.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The benefit to the applicant will not be outweighed by any harm to the general public or other individuals and the fence will clearly benefit the applicant.
<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES</p>	<ul style="list-style-type: none"> • There is no reason to see why adding the fence will diminish the surrounding properties. Literal enforcement of the ordinance will result in an unnecessary hardship due to the special conditions of the property that distinguished it from others in the area, and there is no fair and substantial relationship between the public purpose of the ordinance's provision and the specific application of that provision to the property, and the proposed use is a reasonable one. • It is a reasonable proposed use of a single-family home with a fence which, for all intents and purposes, will be in the applicant's backyard.
<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>YES</p>	<ul style="list-style-type: none"> • The unique conditions of the property are that the lot is a corner one that surrounded the house on three sides, and the fence will still be set back further from the actual property line and will not inhibit any sight lines from the road or affect light, air, or privacy in a negative way on other properties.



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ZONING BOARD OF ADJUSTMENT

July 25, 2023

Thomas P Rooney and Dani M Rooney
29 Spring Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 29 Spring Street (LU-23-93)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 18, 2023**, considered your application for installing one mechanical unit on the left side of the primary structure which requires a Variance from Section 10.515.14 to allow a 4-foot left side yard where 10 feet is required. Said property is shown on Assessor Map 130 Lot 21 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **approve** the request 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:

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

Very truly yours,

David Rheaume, Acting 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: 7/18/2023

Property Address: 29 Spring Street

Application #: LU-23-93

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.	YES	<ul style="list-style-type: none"> The Board found in the previous variance request and found now that the public interest will not be disserved by placing the unit behind the fence on the side property line, and the abutting neighbor supported the application.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> There is nothing in the ordinance that does not allow a single residence to continue with efficient heat.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> A split condenser unit is more efficient than other heating and cooling systems that can be installed on the property.

<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES</p>	<ul style="list-style-type: none"> As found in the first installation and in this installation, it will enhance the applicant's property value and will also enhance the values of surrounding ones.
<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>YES</p>	<ul style="list-style-type: none"> Given where the Board stood with the first variance granted, denying this variance would mean that the applicant will go away with half of the heating and cooling system that is desired for the property, which would be a substantial hardship, and there is no reason for it, particularly given that the modest incursion on the side lot line isn't opposed by the abutting neighbor.