



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

August 21, 2023

Alexandra Scott and Scott Scott
217 Sagamore Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 271 Sagamore Avenue (LU-23-103)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 15, 2023**, considered your application for demolishing the existing detached garage and constructing an addition with attached garage which requires the following: 1) Variance from section 10.521 to allow a) 0.5 foot (6 inch) right yard where 10 feet is required; and b) 28% building coverage where 25% is maximum. Said property is shown on Assessor Map 221 Lot 15 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:

<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

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 8/15/2023

Property Address: 271 Sagamore Ave

Application #: LU-23-103

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"> It is within the public interest to support and grow the housing stock suitable for families in Portsmouth.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> It is within the public interest to support and grow the housing stock suitable for families in Portsmouth.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> There would be no loss to the public by allowing the project to proceed.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> There are no objections from the abutters. The applicant is creating a little extra room behind the house for the properties on Broad Street and overall will enhance the values 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>	<p>YES</p>	<ul style="list-style-type: none"> • Granting the variance will not alter the essential character of the neighborhood because the houses adjacent to the applicant's home are of similar massing to what is proposed, and the design will be in keeping with the renovated homes on Sagamore Avenue.
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ZONING BOARD OF ADJUSTMENT

August 21, 2023

Tanner Family Revocable Trust
Mark and Allison J. Tanner, Trustees
380 Greenleaf Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 380 Greenleaf Avenue (LU-23-62)

Dear Mr. and Ms. Tanner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 15, 2023**, considered your application for constructing a detached garage which requires a Variance from Section 10.571 to allow an accessory structure to be located closer to a street than the principal building. Said property is shown on Assessor Map 243, Lot 63 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **approve** the request with the following **condition**:

1) *The approval is contingent upon the Planning Board granting a Wetland Conditional Use Permit.*

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,

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: 8/15/2023

Property Address: 380 Greenleaf Avenue

Application #: LU-23-62

Decision: **Grant with condition**

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"> It will be barely visible from the street. The public has no interest in a garage behind a grove of trees across a wetland.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The large lot with a house on it already existed, and to change the location of the garage to meet the criteria of the ordinance would involve a much longer driveway and possibly the cutting down of one or two trees. It will be barely visible from the street.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The large lot with a house on it already existed, and to change the location of the garage to meet the criteria of the ordinance would involve a much longer driveway and possibly the cutting down of

		one or two trees.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> It would be barely visible from the street.
<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"> Aside from the actual wetland and wetland buffer making the property unique, the structure is set so far back that the 30-ft rear yard setback would make it difficult to place the accessory structure anywhere else.

Stipulations

- The approval is conditional on the Planning Board's granting of the Wetland Conditional Use Permit.*



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ZONING BOARD OF ADJUSTMENT

August 21, 2023

Carl Douglas Overn and Tatiana Overn
40 Wilson Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 40 Wilson Road (LU-23-114)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 15, 2023**, considered your application for constructing a sunroom and deck expansion at the rear of the property which requires the following: 1) Variance from Section 10.521 to allow an eight (8) foot rear yard where 30 feet are required; and 2) Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 251 Lot 57 and lies within the Single Residence B (SRB) 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,

Phyllis Eldridge

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: 8/15/2023

Property Address: 40 Wilson Road

Application #: LU-23-114

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"> Because there is no public interest in micromanaging the configuration of the backyard, and the proposed addition does not affect the public interest.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The SRB District is intended to have a lot of room between properties, and that is being adhered to here. The neighboring backyards, the cluster of trees, and open area in the middle of the block create a sense that closest to the property line isn't nearly as problematic as it might appear to be.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> There will be no loss to the public that will outweigh the loss to the property owner if the variances were to be denied.

<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"> • Tidying up the backyard will make the area more enticing and pleasant and will enhance the values of surrounding properties that have sightlines into 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"> • There are special considerations due to the lot's configuration. • The house is oriented on the property in a diagonal, so the distance to the property line as one got to the edges of the building would be a little off because of that diagonal nature. • Due to the special condition of the property, the setback requirements didn't need to be strictly adhered to. • The minor extension of the existing narrow oddly shaped room is an acceptable use for the property.



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ZONING BOARD OF ADJUSTMENT

August 21, 2023

Go-Lo Inc. c/o Labrie
PO BOX 300
Rye, New Hampshire 03870-0300

RE: Board of Adjustment request for property located at 2059 Lafayette Road (LU-23-116)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 15, 2023**, considered your application for demolishing the existing structure and constructing a two-story residential building containing 16 living units which requires the following: 1) Variance from Section 10.1113.20 to allow parking to be located in front of the principal building; 2) Variance from Section 10.533 to allow a structure to be located 58 feet from the centerline of Lafayette Roads where 80 feet is required; 3) Variance from Section 10.521 to allow 1,715 square feet of lot area per dwelling unit where 7,500 square feet is required; and 4) Variance from Section 10.440 Use #1.53 to allow 16 units where eight (8) are permitted.

Said property is shown on Assessor Map 268 Lot 13 and lies within the Mixed Residential (MRB) District. As a result of said consideration, the Board voted to **deny** the request because the proposal did not observe the spirit of the ordinance and did not present a hardship.

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:

Derek Durbin, Durbin Law Offices PLLC
Eric Weinrieb, Altus Engineering, Inc.

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 8/15/2023

Property Address: 2059 Lafayette Rd

Application #: LU-23-116

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.	NO	<ul style="list-style-type: none"> The proposal will alter the essential characteristics of the neighborhood. The property is surrounded by SRB neighborhoods and is in an MRB one and doesn't comport with the spirit of MRB because it does not have a business component and does not comport with 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.		

<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>NO</p>	<ul style="list-style-type: none"> • No hardship presented for the need of 16 units
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ZONING BOARD OF ADJUSTMENT

August 21, 2023

Creeley Family Trust
Sean Creeley & Andrea Creeley Trustees
337 Richards Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment Request for Property located at 337 Richards Avenue (LU-23-113)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 15, 2023**, considered your application for demolishing the existing detached garage and constructing an addition and attached garage to the primary structure which requires a Variance from Section 10.521 to allow a one and a half (1.5) foot rear yard where 20 feet is required. Said property is shown on Assessor Map 130 Lot 2 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **deny** the request because the proposal did not meet the hardship criteria.

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:

Derek Durbin, Durbin Law Offices, PLLC
Eric Weinrieb, Altus Engineering, Inc.

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 8/15/2023

Property Address: 337 Richards Avenue

Application #: LU-23-113

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.		
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. 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	NO	<ul style="list-style-type: none"> • There is no hardship sufficient to warrant the level of relief that is being asked for. • The massing and size are much larger than existing and there are potential relief valves within the property itself. • The proposal is in the one direction that the zoning ordinance did not allow and it does not meet the hardship criteria.

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.		
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