



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

August 25, 2023

The Islamic Society of the Seacoast Area ISSA
355 Spinney Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 686 Maplewood Avenue (LU-23-57)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 22, 2023**, considered your application for constructing 6 single living unit structures which requires the following: 1) Variance from Section 10.520 to permit 10,462 square feet of lot area per dwelling unit where 15,000 if required; and 2) Variance from Section 10.513 to permit six (6) free standing buildings where only one (1) is permitted. Said property is shown on Assessor Map 220 Lot 90 and lies within the Single Residence B (SRB) District and the Highway Noise Overlay District. As a result of said consideration, the Board voted to **grant** the variances for the application 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 printed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

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

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 8/22/2023

Property Address: 686 Maplewood Ave

Application #: LU-23-57

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 the positioning of them would not be visible from the road.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The density is reasonable and the units would be hidden and respectful of the overall architecture of the neighborhood.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Because of the other unique characteristics, like the short frontage, lot depth, and topography, and there was really nothing the public would perceive from the homes that would outweigh the applicant's ability to make full use of 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"> • Because the property is up against the Business District and has the interstate highway on the opposite side. What is built would not be perceived by anyone as something that would be awkward and reduce property values and it is also burdened by a power line easement on the rear of the property.
<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 conditions of the property as it is three times the size that the SRB zone requires and it has an odd configuration with a small frontage, long and narrow on the street and long in depth. The positioning of multiple buildings on the lot wouldn't be visible from the road. It would maintain a density that was as good, if not superior to the surrounding SRB properties and it would maintain adequate space between the structures so that the intended purpose of the ordinance to provide light and air between buildings would be achieved.



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ZONING BOARD OF ADJUSTMENT

August 25, 2023

Karyn S. DeNicola Revocable Trust
198 Islington Street Unit 4
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, August 22, 2023**, considered your application for a variance from Section 10.521 to allow a) three (3) foot front yard where five (5) feet is required, b) three and a half (3.5) foot left side yard where ten (10) feet is required, and c) 36% building coverage where 35% is allowed; and 2) Variance from Section 10.515.14 to allow two (2) mechanical units to be located 7 feet from the property line where 10 feet is required. 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 **grant** the variances for the application 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

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

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 8/22/2023

Property Address: 281 Cabot St

Application #: LU-23-84

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 the proposal is in keeping with the overall character of the neighborhood.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The requested relief is not excessive and the applicant tried to respect all the setback requirements. The positioning of the home would be in keeping with the current positioning of the row of houses.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Because there is no public perceived need that would say that having a slightly additional setback of the driveway from the next house over would provide a substantial benefit. The benefit of

		keeping the overall rhythm of the street would outweigh any perceived need to more fully enforce the zoning ordinance.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> The property was probably a victim of demolition by neglect and the replacement would increase the values of surrounding properties due to its modern amenities and by being a more structurally sound building.
<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"> Some of the unique conditions of the structure being demolished is a historic presence of being shoved to one side of the lot and having the driveway on the other side. The additional structures were compliant with most of the setbacks and the use is a legitimate one for replacing a single-family home with another single-family home.



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ZONING BOARD OF ADJUSTMENT

August 25, 2023

Novocure, Inc.
195 Commerce Way
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 64 Vaughan Mall (LU-20-214)

Dear Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 22, 2023**, considered your application for constructing a penthouse which requires Variances from Sections 10.5A43.30 and 10.5A21.B (Map) to allow a maximum height of 47 feet where 42 is allowed. Said property is shown on Assessor Map 126 as Lot 1 and lies within the Character District 5 (CD5), Downtown Overlay, and Historic Districts. As a result of said consideration, the Board voted to **grant** the variances for the application 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

Shayne Forsley, Hampshire Development Corporation

Steve Wilson, Hampshire Development Corporation

Charlie Bardwell, JSN Associates, LLC

Mark Moeller, AIA, JSA Inc.

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 8/22/2023

Property Address: 64 Vaughan St

Application #: LU-20-214

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"> There is no vested interest in the public to deny the variance because it does not impact the safety, health, and welfare of the general public.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> Granting the variance would observe the spirit of the Ordinance because it does not impact the safety, health, and welfare of the general public.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Because there would be no loss to the public with regard to the appearance of the area and because the structure is mostly not visible in the surrounding streetscape.

<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"> • Because several of the surrounding properties are already taller and having a penthouse on a nearby property would have no impact in a negative way on the values of the properties and would enhance the values of surrounding properties where it could be seen.
<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 roof appurtenances shield the sight line from properties on Maplewood Avenue. The ridge line proposed matches up with the top level of the appurtenances, and will not alter the character of the area. There would be no fair and substantial relationship between the purpose of the height requirements and its application to the property, and the penthouse will not be visible to the other setbacks.