



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

September 26, 2023

Cynthia Austin Smith and Peter Smith  
206 Court Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 9 Kent Street (LU-23-119)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, September 19, 2023**, considered your application for demolishing the existing two (2) living unit structures and constructing a one (1) living unit structure, which requires a Variance from Section 10.521 to allow a) 5,000 square feet of lot area where 7,500 square feet are required and b) 5,000 square feet of lot area per dwelling unit where 7,500 square feet are required.

Said property is shown on Assessor Map 113 Lot 42 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to 1) suspend the rules to reopen the public hearing, 2) to accept new information from the applicants, and 3) to **grant** 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,

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

R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PLLC  
John Chagnon, Ambit Engineering

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 9-19-2023

Property Address: 9 Kent Street

Application #: LU-23-119

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>• The applicant is meeting the essential character of the neighborhood specific to the relief that is being asked for.</li> <li>• There are a lot of large structures on the substandard 5,000-sf lots in the neighborhood, some of them with high roof lines.</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 applicant is meeting the essential character of the neighborhood specific to the relief that is being asked for.</li> <li>• There are a lot of large structures on the substandard 5,000-sf lots in the neighborhood, some of them with high roof lines.</li> </ul>

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• The applicant demonstrated what is currently there and what is available on similar lots throughout the neighborhood and what is asked for fell in the balance and is something granted to many others in the past.</li> <li>• There are not other substantial characteristics put forward relating to competing concerns that outweighed the fundamental right to develop a property in conformance with the ordinance.</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>• The structure is replacing a 2-family home and would be a more conforming building that will not have a different use, and a single-family residence is allowed in the area.</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>• There are numerous lots in the neighborhood of a similar standard size.</li> <li>• The proposed structure is fully conforming on a lot that is a characteristic size of the neighborhood.</li> <li>• There is no general public purpose of the ordinance that says this specific home should not be built.</li> <li>• The owner is maxing out the height, especially on the side approaching the neighbors, but there wasn't enough to say that it is out of the nature of other uses on the 5,000-sf lots in the area.</li> <li>• The land is the hardship and the applicant decided to build up to the required dimensions.</li> </ul>



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

September 26, 2023

Devenport Inn, LLC  
266 Middle Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 70 Court Street (LU-22-10)**

Dear Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, September 19, 2023**, considered your application for for the following: 1) An after-the-fact Variance from Section 10.515.14 for six (6) existing permitted mechanical units with a setback of 0.5 feet from the property line; 2) Variance from Section 10.515.14 to install a seventh mechanical unit with a setback of 0.5 feet from the property line whereas 10 feet is required; and, in the alternative; 3) Equitable Waiver from Section 10.515.14 for the installation of six mechanical units with a 0.5 side yard setback. Said property is shown on Assessor Map 116 Lot 49 and lies within the Character District 4-L1 (CD4-L1). As a result of said consideration, the Board voted to to **grant** all variances as presented and advertised; and the Board did not take action on the equitable waiver.

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

John K. Bosen, Esquire

Erik Saari, Altus Engineering

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 9-19-2023

Property Address: 70 Court Street

Application #: LU-22-10

Decision: **Grant the after the fact variances for the 6 condensers and a variance for the 7<sup>th</sup> to be installed**

### 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"> <li>It will not alter the essential character of the neighborhood and will not affect the public's health, safety, and welfare.</li> <li>The issue is the setback requirements for the left yard and the movement of air and light around the building, and the Board finds that the location of the HVAC units does not implicate those concerns.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> <li>It will not alter the essential character of the neighborhood and will not affect the public's health, safety, and welfare.</li> <li>The issue is the setback requirements for the left yard and the movement of air and light</li> </ul>

		around the building, and the Board finds that the location of the HVAC units does not implicate those concerns.
10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>There will be no benefit to the public in denying the variance request and it will be a tremendous injustice to the applicant.</li> </ul>
10.233.24 Granting the variance would not diminish the values of surrounding properties.	<b>YES</b>	<ul style="list-style-type: none"> <li>The seven HVAC units are in-between buildings.</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>	<b>YES</b>	<ul style="list-style-type: none"> <li>The proposed use is a reasonable one because HVAC systems will be provided to an approved inn within the Historic District and the special conditions of the property were that it is a very historic one.</li> <li>The applicant’s representative stated there would be problems installing HVAC units in the back of the inn, so the property did have special conditions that do not relate to the public purpose of the ordinance as applied to the property</li> <li>The units can not be placed on the other side or the front, so there is no other location.</li> </ul>





# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

September 26, 2023

Wayne G. Clough  
100 Islington Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for 100 Islington Street, Unit 6 (LU-23-122)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, September 19, 2023**, considered your application for allowing an esthetician business which requires a special exception from Section 10.440, Use # 7.20 where it is permitted by Special Exception. Said property is shown on Assessor Map 137 Lot 25-6 and lies within the Character District 4-L2 (CD4-L2) and Historic District. As a result of said consideration, the Board voted to to **grant** 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

Sophary Sar, Skin by Sophary

# Findings of Fact | Special Exception

## City of Portsmouth Zoning Board of Adjustment

Date: 9-19-2023

Property Address: 100 Islington Street, Unit 6

Application #: LU-23-122

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:

Special Exception Review Criteria: Section 10.232.20	Finding	Relevant Facts
10.232.21 Standards as provided by this Ordinance for the particular use permitted by special exception;	Yes	<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.	Yes	<ul style="list-style-type: none"> <li>There will be no hazard to the public or adjacent properties on account of potential fire, explosion, or release of toxic materials.</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, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;	Yes	<ul style="list-style-type: none"> <li>It will pose no detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods, business or industrial districts on account of the location and scale of buildings and other structures, parking areas, accessways, odors, smoke, gas, dust or other pollutants, noise, glare, heat, vibration, or unsightly outdoor storage of equipment,</li> </ul>

		<p>vehicles, or other materials</p> <ul style="list-style-type: none"> <li>• It will be a minimally impactful use with no exterior changes to the building.</li> </ul>
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 will not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity because there is adequate and reasonable parking and the applicant will base her appointment scheduling to handle the flow of visitors.</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>• there will be no increase in or excessive demand on municipal services including but not limited to water, sewer, waste disposal, police and fire protection, and schools, given the nature of the business.</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>• Granting the special exception will pose no significant increase of stormwater runoff onto adjacent properties or streets because exterior changes in this case are not an issue.</li> </ul>



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

September 26, 2023

Caleb E. Ginsberg and Samantha L. Ginsberg  
303 Bartlett Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 303 Bartlett Street (LU-23-120)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, September 19, 2023**, considered your application for demolishing the existing detached garage and constructing an addition with attached garage which requires a Variance from Section 10.521 to allow a) seven (7) foot left yard where ten (10) feet is required; b) a two (2) foot right yard where ten (10) feet is required; c) building coverage of 27.5% where 25% is allowed; 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 162 Lot 13 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **grant** the request as presented and advertised, with the following **conditions**:

- 1.) *A suitable maintenance easement shall be provided on the new lot being created, Lot 162-14, with its increase in size.*
- 2.) *The subdivision review and approval by the Planning Board shall be required for the proposed lot line adjustment.*

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".

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PLLC  
Alex Ross, Ross Engineering

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 9-19-2023

Property Address: 303 Bartlett Street

Application #: LU-23-120

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>• There are tight property lines in that neighborhood.</li> <li>• It might seem like an opportunity to create something more conforming, but there was a historic use of the two properties and the applicant is trying to recognize the <i>de facto</i> use of each of the properties.</li> <li>• The two neighbors amicably worked out the result and understand the impacts.</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>• There is nothing in the public interest that would outweigh the applicant's and neighbor's decision to run the property line where they did.</li> </ul>

10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>• There is no public concern, just the one between the two neighboring properties.</li> </ul>
10.233.24 Granting the variance would not diminish the values of surrounding properties.	<b>YES</b>	<ul style="list-style-type: none"> <li>• It defined something that is already in existence and the addition would be tasteful and add significantly to the size of the existing home, so it should increase its value and the value of other properties.</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>	<b>YES</b>	<ul style="list-style-type: none"> <li>• The hardship is the undefined property line that is owned by someone else who didn't realize it and the historical usage. The two property owners are coming up with a solution to meet everyone's needs.</li> <li>• The addition was a reasonable one, considering the very small size of the existing house.</li> <li>• Even with the increase in lot area, the lot is still undersized.</li> <li>• The nature of the property and the agreement reached by the neighbors outweighs the concern for the side yard setback.</li> </ul>

<b>Stipulations</b>
<p>1. <i>A suitable maintenance easement shall be provided on the new lot being created, Lot 162-14, with its increase in size, and</i></p>
<p>2. <i>The subdivision review and approval by the Planning board shall be required for the proposed lot line adjustment, as recommended by the Planning Department.</i></p>





# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

September 26, 2023

J & Js Drop and Drive LLC  
1 Middle Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 459 Islington Street (LU-23-129)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, September 19, 2023**, considered your application for installing a 54 square foot mural which requires the following: 1) Variance from Section 10.1251.10 to allow 54 square feet of aggregate sign area where 48.5 is allowed; and 2) Variance from Section 10.1251.20 to allow 54 square feet of individual sign area where 16 square feet is allowed. Said property is shown on Assessor Map 157 Lot 7 and lies within the Character District 4-L2 (CD4-L2) and Historic District. As a result of said consideration, the Board voted to **grant** 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,

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

Terrence Parker

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 9-19-2023

Property Address: 459 Islington Street

Application #: LU-23-129

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"> <li>The variances requested are for a particular expansion, a tasteful mural, as part of the history project.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> <li>The ordinance does not want obnoxious signs and the sign will not do a disservice to the area and will be better than advertising Liar's Bench.</li> <li>The applicant made a good case of why a larger sign was required (related to visibility).</li> </ul>
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> <li>Given the location and the abutting uses and the absence of anyone protesting, and will advance the information presented on the sign</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>• There is no evidence that it will diminish values it will enhance the values of surrounding properties.</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 has the special condition of not fronting on Islington St.</li> <li>• The sign will be on the side of the building and will not create any traffic hazard or visual problems for anyone because it will face a bank drive-thru.</li> <li>• The proposed use is a reasonable one that will not threaten public health, safety, or welfare.</li> </ul>