



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

October 24, 2023

Kathryn Waldwick and Bryn Waldwick
30 Parker Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 30 Parker Street (LU-23-117)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, October 17, 2023**, considered your application for demolishing and removing the existing shed and covered porch and constructing a new attached shed with a covered porch which requires the following: 1) Variance from section 10.521 to permit a) 45% building coverage where 35% is allowed, b) one and a half (1.5) foot right side yard where 10 feet is required, and c) two (2) foot rear yard where 20 feet is 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 126 Lot 27 and lies within the General Residence C (GRC) 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.

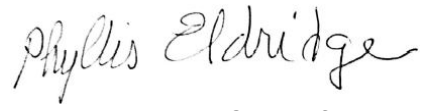
This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

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,

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

Anne Whitney

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 10-17-2023

Property Address: 30 Parker Street

Application #: LU-23-117

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 public interest in preventing the replacement of the shed because the current shed is in disrepair and unsightly and replacing it will not diminish any aspect of the public interest.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> There is no public interest in preventing the replacement of the shed because the current shed is in disrepair and unsightly and replacing it will not diminish any aspect of the public interest.
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 applicant should the variance 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"> • Based on the comments made by the abutter, the values of the surrounding properties will not go up. • Because of the hip rood design and the way it slopes away from the fence, the part of the shed closest to the fence will not be that much higher than what exists now.
<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 property is oddly shaped and having a corner missing at that portion of the lot, such that the setback would be close to ten feet if the lot were a regular shape and didn't have the corner taken out of it, so there is a hardship with the property in putting the shed where it made sense and connected to the doorway to the house, which allowed for a setback variance. • The other setback to the side yard is no different than what is currently in place and therefore constitutes a hardship for the property as it exists today relative to the proposal.



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ZONING BOARD OF ADJUSTMENT

October 24, 2023

2422 Lafayette Road Assoc LLC
c/o Waterstone Retail
322 Reservoir Street
Needham, Massachusetts 02494

RE: Board of Adjustment request for property located at 2454 Lafayette Road (LU-23-160)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, October 17, 2023**, considered your application for conducting a motor vehicle sales storefront which requires the following: 1) A Special Exception from Section 10.440 Use # 11.10 to allow motor vehicle sales which is permitted by Special Exception. Said property is shown on Assessor Map 273 Lot 3 and lies within the Gateway Corridor (G1) District. As a result of said consideration, the Board voted to **approve** the request with the following **conditions**:

- 1. The showroom shall be no greater than 3,500 square feet.*
- 2. The site plan amendment shall be routed through both TAC and the Planning Board.*
- 3. There shall be only EV vehicles.*

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".

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

John K. Bosen; Bosen & Associates P.L.L.C.

Findings of Fact | Special Exception

City of Portsmouth Zoning Board of Adjustment

Date: 10-17-2023

Property Address: 2454 Lafayette Road

Application #: LU-23-160

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"> The use is allowed by special exception.
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"> The proposal will [as required by the conditions of approval] run through TAC to ensure that it was validated by experts
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"> It is in a plaza but with a unique use that is relatively small and won't be greatly expanded upon. The two parking spots in front will be looked at through the site plan amendment process to make sure it is not considered storage.

10.233.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;	Yes	<ul style="list-style-type: none"> • The nature of the business will be less than other potential tenants in the spot. • It is already a big plaza and has good traffic control within it.
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	Yes	<ul style="list-style-type: none"> • The particular use is a small overnight charge of a 110 outlet that will not tax any of the listed municipal services.
10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.	Yes	<ul style="list-style-type: none"> • There will be no external change to the property.

Stipulations
1. <i>The showroom shall be no greater than 3,500 square feet;</i>
2. <i>The site plan amendment shall be routed through both TAC and the Planning Board;</i>
3. <i>There shall be only EV vehicles.</i>



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ZONING BOARD OF ADJUSTMENT

October 24, 2023

EIGHTKPH LLC
233 Vaughn Street Unit 301
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 70 Maplewood Avenue (LU-23-141)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, October 17, 2023**, considered your application for installing a free-standing sign which requires the following: 1) Variance from Section 10.1251.20 to allow 48 square feet of sign area where 20 square feet is allowed; and 2) Variance from Section 10.1253.10 to allow a freestanding sign to be setback two and a half (2.5) feet from the lot line where five (5) feet is required. Said property is shown on Assessor Map 125 Lot 17-3 and lies within the Character District 5 (CD5), Downtown Overlay District, North End Incentive Overlay District, and Historic 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.

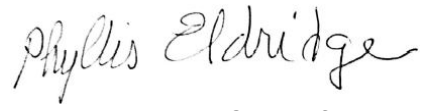
This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

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,

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: 10-17-2023

Property Address: 70 Maplewood Avenue

Application #: LU-23-141

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 project will not be contrary to the public interest.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The project will observe the spirit of the ordinance.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Because it is a mural and there is no ordinance for murals. The mural is clearly not a sign and is approved by the HDC, and the applicant just needs the setbacks for where the transformers would be covered up.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> Granting the variances will 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>YES</p>	<ul style="list-style-type: none"> • The mural will cover up the transformer boxes and it is only before the Board because it is slightly closer to the sidewalk and is a mural, not a sign, which is a hardship.
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ZONING BOARD OF ADJUSTMENT

October 24, 2023

Frances E. Mouflouze Revoc Trust of 2015
936 South Street #1
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 550 Sagamore Avenue (LU-23-164)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, October 17, 2023**, considered your application for demolishing the existing structure and constructing two duplexes (creating a total of 4 living units) which requires the following: 1) Variance from Section 10.513 to allow more than one free-standing dwelling unit on a lot; and 2) Variance from Section 10.440 Use #1.30 to allow the construction of duplexes where they are not permitted. Said property is shown on Assessor Map 222 Lot 11 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to to **deny** the request because it did not meet the spirit of the ordinance or hardship criteria as the lot is oversized and is presently conforming.

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:

R. Timothy Phoenix, Esq; Hoefle, Phoenix, Gormley & Roberts, PLLC
Eric D. Weinrieb, PE; Altus Engineering, Inc.

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 10-17-2023

Property Address: 550 Sagamore Avenue

Application #: LU-23-164

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 property is presently in conformity with the zoning ordinance and granting the variance would make it out of conformity.
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	NO	<ul style="list-style-type: none"> The applicants lot is bigger than some lots and smaller than others and the 140-ft width is plenty of room for the applicant to put a 3-house subdivision and not even move the original house. The applicants lot can be

<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 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>reasonably used in the way it is zoned and there is currently a single-family home on it now.</p>
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CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

October 24, 2023

Portsmouth Submarine Memorial Association
569 Submarine Way
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 569 Submarine Way (LU-23-165)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, October 17, 2023**, considered your application for constructing an addition to the existing building to substantially increase the use which requires the following: 1) Variance from Section 10.440 Use #3.40 to allow a museum where the use is not permitted. Said property is shown on Assessor Map 209 Lot 87 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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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

Kevin Baum, Esq; Hoefle, Phoenix, Gormley & Roberts, PLLC
John Chagnon; Ambit Engineering

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 10-17-2023

Property Address: 569 Submarine Way

Application #: LU-23-165

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 public interest in discontinuing the use or prohibiting its expansion on this property because the property is large and can accommodate the proposed expansion.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> Since there is no loss to the public by expanding the footprint on the property, any loss to the applicant for not being able to do that would be unjust.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The proposed expansion is closer to Route 1A and will not really impact any of the properties on that side 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"> • It is buffered by a large parking lot to neighboring residential properties and therefore will not have the ability to diminish the values of those 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"> • The nonconforming use already exists, so there is no logical linkage between prohibiting the expansion of the building and the provisions of the ordinance.



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1 Junkins Avenue
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Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

October 24, 2023

Cate Street Development LLC
Buffalo Wild Wings
150 Presidential Way STE 220
Woburn, Massachusetts 01801

RE: Board of Adjustment request for property located at 360 US Route 1 Byp (LU-23-162)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, October 17, 2023**, considered your application for installing a sign on the northern facing façade which requires the following: 1) Variance from Section 10.1271 to allow a sign on the side of a building where there is no public entrance or street frontage. Said property is shown on Assessor Map 172 Lot 1 and lies within the Gateway Corridor (G1) 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

Jenn Robichaud; Barlo Signs

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 10-17-2023

Property Address: 360 US Route 1 Bypass

Application #: LU-23-162

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 a modest request and the internal illumination will be at a height and in a location that will not negatively impact anything because it will be down the road from U-Haul and not face the apartments.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> It is a modest request and the internal illumination will be at a height and in a location that will not negatively impact anything because it will be down the road from U-Haul and not face the apartments.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> It will give the applicant the opportunity to ensure that people will know and understand that the business is there. The public purposes of the

		ordinance will not outweigh the applicant's desire to have the relatively modest sign on that side of the structure.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> The affected properties are commercial businesses with large signs and lighting of their own.
<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"> the hardship was the unique relationship of the building relative to the property, adjacent properties, the road, and the access that created a series of oddities that burdened the structure on that property in such a way that the ordinance didn't make sense in how it was originally conceived.

Stipulations
1.
2.
3.
4.



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

October 24, 2023

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

RE: Board of Adjustment request for property located at 337 Richards Avenue (LU-23-163)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, October 17, 2023**, considered your application for constructing an addition to the existing structure which requires the following: 1) Variance from Section 10.521 to allow a 12.5 rear yard where 20 feet are 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 **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

Derek Durbin, Esq; Durbin Law Offices, PLLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 10-17-2023

Property Address: 337 Richards Avenue

Application #: LU-23-163

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 an odd case where there is a corner lot and some ambiguity about what should be a side yard and a back yard, even though the ordinance is clearly written, but the spirit of the ordinance is not to be hung up on the technicality of whether it is a Lincoln Avenue address or a Richards Avenue one.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The driveway is coming off Lincoln Avenue and the entrance is off Lincoln Avenue, and the spirit of the ordinance is observed due to the orientation of the building and the entrance coming off Lincoln Avenue.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • There will be no loss to the public for allowing this, which under other circumstances with a different address would be a conforming building. • Since there is no loss to the public by having this proceed, any loss to the applicant would be an injustice.
<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 are abutters in support who are in the best position to judge whether the change would affect their 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"> • Literal enforcement of the provisions of the ordinance would result in unnecessary hardship due to special conditions of the property having the oddity of a Richards Avenue address where it is oriented in such a manner that it should have a Lincoln Avenue address, and because of that, there is no fair and substantial relationship between the requirements of the ordinance for the rear yard setback on the property in this proposal.



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

October 24, 2023

Bobby H and Angela M Braswell
82 Wibird Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 82 Wibird Street (LU-23-128)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, October 17, 2023**, considered your application for demolishing the existing accessory structure and constructing a new detached garage which requires the following: 1) Variance from Section 10.521 to allow: a) a zero (0) foot rear yard where 20 feet is required; and b) a six (6) foot right yard where 10 feet are required. Said property is shown on Assessor Map 148 Lot 59 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

Anthony Richards

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 10-17-2023

Property Address: 82 Wibird Street

Application #: LU-23-128

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 will not conflict with the explicit or implicit purposes of the ordinance and 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 will not conflict with the explicit or implicit purposes of the ordinance and not alter the essential character of the neighborhood or threaten the public's health, safety, or welfare or otherwise injure public rights.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The benefit to the applicant would not be outweighed by any harm to the public or other individuals.

<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 evidence to support the values of surrounding properties will diminish.
<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 proposed use is a reasonable one, replacing the garage with a very similar new structure that will be safer and slightly improve the nonconformity. • The lot is an unusual shape with a small right-of-way entrance and a tough turning radius for vehicle parking and, given the location of the property compared to the surrounding ones, light, air and privacy would be preserved. • The property has special conditions because no other property is configured that way, so it is a hardship.