



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 9, 2023

David Sinclair & Nicole Giusto
765 Middle Street
Portsmouth, New Hampshire 03801

RE: Zoning Board of Adjustment Request for property located at 765 Middle Street (LU-23-46)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 2, 2023**, considered your application for an Appeal of an Administrative Decision not to present to the Board of Adjustment the Motion for Rehearing of Variance Application of **David Sinclair** and **Nicole Giusto** for property located at **765 Middle Street** due to an untimely request. Said property is shown on Assessor Map 148 Lot 37 and lies within the General Residence A (GRA) and Historic Districts. As a result of said consideration, the Board voted to **deny** the request. The decision was based on the determination that the Planning and Sustainability Director has the authority to enforce the Zoning Code, including Section 10.234.20.

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:

Nicole Bodoh



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 9, 2023

Peter G Morin Trust, Peter G Morin Trustee
170 Mechanic Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 170 Mechanic Street (LU-23-35)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 2, 2023**, considered your application for installing a generator which requires the following: 1) Variance from Section 10.515.14 to allow a) 4 foot rear yard where 10' is required and 5.5 foot rear yard where 10 feet is required; 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 102 Lot 7 and lies within the General Residence B (GRB) and Historic District. As a result of said consideration, the Board voted to **grant** the request for variances 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".

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Arilda Densch

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-2-2023

Property Address: 170 Mechanic St

Application #: LU-23-35

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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 generator would not be seen from any of the three streets bordering the applicant's property and the generator would not be right up against the abutter's house.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> It isn't a full structure and the 25' setback becomes a 10' setback. The goal was to keep light and air, and the standby generator was 29 inches high and well within the existing fence and some distance away from the neighboring house and property.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> Substantial justice will be done because of the benefit to the applicant of having security in the unusual event of a power outage.
<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"> The generator would be a small imposition and relatively far from the one significant abutter's house.
<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 ordinance would result in an unnecessary hardship due to the special conditions of the applicant having a lot that faced on three streets and limited the location of the generator.



CITY OF PORTSMOUTH

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ZONING BOARD OF ADJUSTMENT

May 9, 2023

RTM Trust, Ryan T Mullen and Heidi E K Trustees
253 Odiorne Point Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 253 Odiorne Point Road (LU-23-36)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 2, 2023**, considered your application for constructing a deck extension which requires a Variance from Section 10.521 to allow a 30 foot rear yard where 40 feet is required. Said property is shown on Assessor Map 224 Lot 10-19 and lies within the Single Residence A (SRA) District. As a result of said consideration, the Board voted to **grant** the request for variances 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 printed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-2-2023

Property Address: 253 Odiorne Point Rd

Application #: LU-23-46

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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 would be a benefit for the applicant and his neighbors to ensure that the water flowed away from their properties.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The variances would observe the spirit of the ordinance because the house's location was already nonconforming.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Substantial justice would be done because the applicant had a wetlands problem in his backyard and was doing all he could do address it but was losing his outdoor space in the process, so he wanted to expand the deck. It would benefit the applicant and would not be outweighed by any harm at all to the public.

<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"> • Granting the variances would not diminish the values of surrounding properties because the project would have no effect on them.
<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 ordinance would result in an unnecessary hardship because the applicant had gone through the effort to comply with the wetlands ordinance and to remove the standing and running water from his property and from his neighbors' properties by sacrificing his backyard. • The irregular-shaped lot and the structure's location on the lot were unique conditions that resulted in being an unnecessary hardship.



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 9, 2023

Cherie Holmes
Yvonne Goldsberry
1087 County Road
Walpole, NH 03608

RE: Board of Adjustment request for property located at 45 Richmond Street (LU 20-249)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 2, 2023**, considered your application for constructing a greenhouse which requires the following: 1) Variance from Section 10.521 to allow a 5.5 foot rear yard where 15 feet is required; 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 108, Lot 18 and lies within the Mixed Residential Office (MRO) and Historic Districts. As a result of said consideration, the Board voted to **grant** the variances for the project with the following **condition**:

1) The variance will be 5 feet plus or minus as opposed to the advertised value of 5.5 feet as requested in the staff memo.

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

Anne Whitney, AIA

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5/2/2023

Property Address: 45 Richmond St

Application #: LU-20-249

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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 was nothing to distinguish the slightly smaller greenhouse from the slightly larger and more energy-efficient one and the public wouldn't notice what was changed.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The spirit of the ordinance would be observed because it was a setback relief but no greater than what was previously provided by the board, and the additional relief sought was minimal. There was no square footage relief and the applicant was still within the allowed building coverage.

10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Granting the variances would do substantial justice because there was nothing the public would perceive that would outweigh the advantages to the applicant by saving money and getting a more efficient greenhouse.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> The surrounding property values would not be diminished by such a minor variation to what was previously approved.
<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 petition was previously approved and the applicant was only asking for a slight increase in the overall footprint and size of the structure, which was a special condition and reasonable.

Stipulations

1. *The variance will be 5 feet plus or minus as opposed to the advertised value of 5.5 feet as requested in the staff memo.*



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 11, 2023

45 Rockingham St LLC
12 Liberty Hill Road
Bedford, New Hampshire 03110

RE: Board of Adjustment request for property located at 45 Rockingham Street. (LU-23-41)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 2, 2023**, considered your application for constructing a front porch and rear addition which requires the following: 1) Variance from Section 10.521 to allow a) .5 foot front yard where 5 feet is required, b) 1.5 foot side yard where 10 feet is required, c) 41% building coverage where 35% is allowed; 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 144 Lot 6 and lies within the General Residence C (GRC) District. As a result of said consideration, the Board voted to **grant** the variances for the project as requested. The Board determined that a variance request 1.a, for the front yard, was not needed.

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

Kevin M. Baum, Hoefle, Phoenix, Gormley & Roberts PLLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-2-2023

Property Address: 45 Rockingham St

Application #: LU-23-41

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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 essential characteristics of the neighborhood, including air and light would be maintained and would not be altered
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The essential characteristics of the neighborhood, including air and light would be maintained and would not be altered The side yard setback would be the same, so the addition was really onto the rear yard and would improve the front yard by removing the front yard encroachment.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Granting the variances would do substantial justice because it would improve the property and benefit the applicant and would outweigh any potential harm to the public,

		especially by removing the encroaching stairs into the sidewalk.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> • Granting the variances would not diminish the values of surrounding properties because renovating and improving the property would increase its value as well as those of the surrounding properties. • The fact that the dormers were set back from the street were in keeping with the neighborhood.
<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 requested variances were due to the small and narrow lot, which was already undersized and in a very dense zoning district.



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 9, 2023

Bucephalus LLC
1 Haven Ct
Portsmouth, NH 03801

RE: Board of Adjustment request for property located at 650 Maplewood Avenue (LU-21-111)

Dear Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 2, 2023**, considered your application for removing the outdoor fenced storage area and constructing a 48 foot by 25.5 foot addition to the rear of the existing structure which requires a Variance from Section 10.592.20 to allow the expansion of space used for motorcycle sales located adjacent to a Residential district where 200 feet is required. Said property is shown on Assessor Map 220 Lot 88 and lies within the Business (B) District. As a result of said consideration, the Board voted to **grant** the variance for the application as presented and advertised, with the following **condition**:

1)The two temporary storage units now in the space that is going to be built out shall be removed from the property.

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, Esquire

Christopher Mulligan

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-2-2023

Property Address: 650 Maplewood Av

Application #: LU-21-111

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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 ordinance allowed this use of the property and it had already been granted by special exception.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The ordinance allowed this use of the property and it had already been granted by special exception.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The expansion of the building wasn't near the residential lot line and in fact was away from that lot line and would be hidden from it and also hidden from Maplewood Avenue, so it would have no impact on the public.

<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"> • Finding a good use for the property and rehabbing the building would improve the values of the entire area.
<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 special condition of the property is that it has already been approved for the use by special exception. That created a situation where denying a modest change in the structure would create a hardship not consistent with the previous actions of the board.

<p>Stipulations</p>
<p>1. <i>The two temporary storage units now in the space that is going to be built out shall be removed from the property.</i></p>



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 9, 2023

Cate Street Development, LLC
150 Presidential Way, Suit 220
Woburn, Massachusetts 01801

RE: Zoning Board of Adjustment Request for property located at 360 US Route 1 Bypass (LU-23-44)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 2, 2023**, considered your application for installing a sign on the northern façade of the building which requires a Variance from Section 10.1271 to allow a sign to be installed on a façade not facing the street or with a public entrance; 2) Variance from Section 10.1242 to allow more than one parapet sign above the ground floor per facade. 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 **grant** the variances 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.

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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

Christopher Mulligan
John Bosen, Bosen & Associates, PLLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-2-2023

Property Address: 360 Route 1 Bypass

Application #: LU-23-44

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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 public interest would be served by having signage to direct them to doors and buildings.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The entire property had been reconfigured to enable the use and the signs just pointed to the use.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> It would serve the applicant's interest in pointing out, to users of the facility, the entrance and/or building in which the headquarters existed and would not divert them in other directions.

<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"> The signs looked good and did not misdirect users, so they would consequently enhance the values of surrounding properties.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<p>YES</p>	<ul style="list-style-type: none"> The applicant made the case of the driver's inability to see the facility in the building from Hodgdon Way, which was a hardship that the sign would alleviate. It was less hardship but some hardship on the irregular signage on the north facing wall where one parapet had a sign and the other didn't, so there was some hardship that didn't seem to be counterbalanced by any public hardship. Those special conditions allowed for the granting of the variances and support that the property could not be reasonably used in strict conformance with the ordinance. The building has no street frontage on the bypass, so because of the way it was oriented, it wouldn't be possible to adhere the sign to the façade facing the street.