



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 30, 2023

Peter Gamble
170 Aldrich Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 170 Aldrich Road (LU-23-47)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 23, 2023**, considered your application for demolishing the existing garage and constructing a new garage which requires the following: 1) Variance from Section 10.521 to allow a) 7 foot right side yard where 10 feet is required; and b) 23% building coverage where 20% is allowed. Said property is shown on Assessor Map 153 Lot 21 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **deny** the request because the proposal failed to observe the spirit of the ordinance and would be contrary to the public interest because the home is in an area of single-family dwellings and the design isn't consistent with continuing to use the property as a single-family dwelling one.

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:

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-23-2023

Property Address: 170 Aldrich Rd

Application #: LU-23-47

Decision: **Deny**

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. | NO | <ul style="list-style-type: none"> The petition failed the test for observing the spirit of the ordinance because the home was in an area of single-family dwellings and the design wasn't consistent with continuing to use the property as a single-family dwelling one. |
| 10.233.22 Granting the variance would observe the spirit of the Ordinance. | NO | <ul style="list-style-type: none"> The petition failed the test for observing the spirit of the ordinance because the home was in an area of single-family dwellings and the design wasn't consistent with continuing to use the property as a single-family dwelling one. |
| 10.233.23 Granting the variance would do substantial justice. | | |

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| <p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p> | | |
| <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> | | |



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1 Junkins Avenue
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ZONING BOARD OF ADJUSTMENT

May 30, 2023

Michiyo Bardong and Shawn Bardong
39 Dearborn Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 39 Dearborn Street. (LU-23-5)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 23, 2023**, considered your application for demolishing the existing shed and constructing a two-story addition which requires the following: 1) Variance from Section 10.521 to allow a) 5 foot front yard where 15 feet is required; and b) 2 foot right side 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 140 Lot 3 and lies within the General Residence A (GRA) and Historic Districts. 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".

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Amy Dutton, Amy Dutton Home

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-23-2023

Property Address: 39 Dearborn Street

Application #: LU-23-5

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 / NO | <ul style="list-style-type: none"> The proposed use does not expressly or implicitly conflict with the ordinance's provisions, in which case there are setback requirements for the movement of light and air around the structures. It is a small yard and the structure will still have space in the back and on the side for light, air and emergency egress. |
| 10.233.22 Granting the variance would observe the spirit of the Ordinance. | YES / NO | <ul style="list-style-type: none"> The proposed use does not expressly or implicitly conflict with the ordinance's provisions, in which case there are setback requirements for the movement of light and air around the structures. It is a small yard and the structure will still have space in the back and on the side for light, air and emergency egress. |

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| | | <ul style="list-style-type: none"> Section 10.121.6 of the ordinance is for the preservation of historic districts and buildings and structures of historic and architectural interest. The variance request is driven by the requirements of the HDC to preserve the 1700's Cape. |
| 10.233.23 Granting the variance would do substantial justice. | YES / NO | <ul style="list-style-type: none"> The variances will do substantial justice because the benefit to the applicant would not be outweighed by any harm to the general public. T The preservation of the 1700s Cape would be a benefit to the applicant and public. |
| 10.233.24 Granting the variance would not diminish the values of surrounding properties. | YES / NO | <ul style="list-style-type: none"> Granting the variances would not diminish the values of surrounding properties, noting that the Board had testimony from the abutter that the City does not allow for view easements on properties. It was not found that it would diminish the property. She also found that any improvement to a property in general does raise the values of surrounding properties for all those reasons. |
| <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 / NO | <ul style="list-style-type: none"> The property does have special conditions, and part of that is the view easement, which restricts where a structure can be placed on the property. Putting it more toward the back of the property is an appropriate placement for it. It is an expansion of a house, which is an allowed use in the GRA District. |



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Planning Department
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ZONING BOARD OF ADJUSTMENT

May 30, 2023

Thomas Rooney
29 Spring Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 29 Spring Street (LU-23-55)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 23, 2023**, considered your application for two mechanical units in the rear of the primary structure which require the following 1) Variance from Section 10.515.14 to allow a) 7-foot side yard where 10 feet is required; and b) 4 foot rear yard where 10 is required. Said property is shown on Assessor Map 130 Lot 21 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **approve** the request with the following **conditions**:

1) Both mechanical units shall be located in the rear of the primary structure as indicated in the applicant's submission materials.

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

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-23-2023

Property Address: 29 Spring Street

Application #: LU-23-55

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 won't be aware of the variance being granted because everything will be hidden behind the primary structure. |
| 10.233.22 Granting the variance would observe the spirit of the Ordinance. | YES | <ul style="list-style-type: none"> A unique condition of the property is that it is an undersized lot and the purpose of preserving air, light, and space is being maintained. |
| 10.233.23 Granting the variance would do substantial justice. | YES | <ul style="list-style-type: none"> The Board has gotten 20-30 requests for heating units on small lots where the lot was nonconforming and they needed that extra foot. The benefit to the applicant would not be outweighed by any harm to the public. |

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| <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 public won't be aware of the variance being granted because everything will be hidden behind the primary structure. |
| <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 hardship exists due to the current location of the primary unit. • The variances are for one foot and two feet from the side yard, and the house is already placed in a nonconforming spot on the lot. • The proposed use is a reasonable one. The property is already nonconforming, especially where the house is located on the lot. • A unique condition of the property is that it is an undersized lot and the purpose of preserving air, light, and space is being maintained. |

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| <p>Stipulations</p> |
| <p>1. <i>Both mechanical units shall be located in the rear of the primary structure as indicated in the applicant's submission materials.</i></p> |



CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
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ZONING BOARD OF ADJUSTMENT

May 30, 2023

Scott Day and Marta Day
18 Walden Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 18 Walden Street (LU-23-52)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 23, 2023**, considered your application for installing a mechanical unit which requires a variance from Section 10.515.14 to allow a) 4 foot side yard where 10 feet is required; and b) 2 foot front yard where 10 feet is required. Said property is shown on Assessor Map 101 Lot 20 and lies within the General Residence B (GRB) 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 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: 5-23-2023

Property Address: 18 Walden Street

Application #: LU-23-52

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 use of the property as a residential one will not change and it will not be contrary to preserving the historic character of the property. |
| 10.233.22 Granting the variance would observe the spirit of the Ordinance. | YES | <ul style="list-style-type: none"> The use of the property as a residential one will not change and it will not be contrary to preserving the historic character of the property. |
| 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 in allowing the units to be placed in the proposed location and it will be a great benefit to the owner to be able to enjoy the property with contemporary standards of comfort. |

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| <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 unit will not be visible in a substantial way from any of the surrounding areas and will not impact the general feel and look of the community. |
| <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 conditions of the property and on that street in general is that the properties are closely packed because it is a densely settled area, and any upgrade to the HVAC system to meet contemporary standards would require a variance. |



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 30, 2023

Carl Krukoff
3360 Lafayette Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 3360 Lafayette Road (LU-23-59)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 23, 2023**, considered your application for converting a two bay garage into a third living unit which requires the following: 1) Variance from 10.521 to allow 8,002.5 square feet per dwelling unit where 15,000 square feet is required, 2) Variance from 10.331 to allow a non-conforming use to be extended or enlarged without conforming to the requirements of the Zoning Ordinance, 3) Variance from section 10.440 Use #1.51 to allow three (3) dwelling units where one (1) is permitted. Said property is shown on Assessor Map 297 Lot 12 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:

<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

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-23-2023

Property Address: 3360 Lafayette Road

Application #: LU-23-59

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 expanding the moderately priced housing stock in Portsmouth. |
| 10.233.22 Granting the variance would observe the spirit of the Ordinance. | YES | <ul style="list-style-type: none"> The proposed use would not conflict with the implicit purpose of the ordinance 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"> There is not anything that would outweigh the benefit to the homeowner. The benefit to the applicant would not be outweighed by any potential harm to the public. |
| 10.233.24 Granting the variance would not diminish the values of surrounding properties. | YES | <ul style="list-style-type: none"> It is hard to make a case that the project would have any impact on the surrounding properties, which are a high-density development, and condo units in the same zone or the Juniper Commons plot next |

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| | | <p>door and clearly visible from the applicant's lot.</p> <ul style="list-style-type: none"> • There will be no change in the external structure, so granting the variance would not have a visible impact on the surrounding properties. |
| <p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p> | <p>YES</p> | <ul style="list-style-type: none"> • A precedent for hardship is whether other similarly situated properties in the area, regardless of the district, are in proximity to a property and have similar nonconforming uses that could be a hardship on the property, and that would apply here. • Due to where the lot is located in close proximity to both the condos and the other high-density development right next to it, the project does not alter the basic character of the surrounding area. |



CITY OF PORTSMOUTH

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ZONING BOARD OF ADJUSTMENT

May 30, 2023

John Heath and Michael Meserve
955 Woodbury Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 955 Woodbury Avenue (LU-23-56)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 23 2023**, considered your application for constructing a shed which requires a Variance from Section 10.571 to allow an accessory structure to be located closer to a street than the principal building. Said property is shown on Assessor Map 219 Lot 33 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to ***approve the request as presented and advertised.***

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

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

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

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The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

A handwritten signature in cursive script that reads "Phyllis Eldridge". The signature is written in black ink and is positioned above the typed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-23-2023

Property Address: 955 Woodbury Avenue

Application #: LU-23-56

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"> Putting a shed in a backyard that has plenty of room and coverage is a small ask. |
| 10.233.22 Granting the variance would observe the spirit of the Ordinance. | YES | <ul style="list-style-type: none"> The intent of the ordinance is to not have people putting sheds in their front yards, and the applicant was putting it in the backyard but the ordinance doesn't anticipate that most properties don't have a street in the backyard also. |
| 10.233.23 Granting the variance would do substantial justice. | YES | <ul style="list-style-type: none"> The shed will still be 45 feet from the road. |
| 10.233.24 Granting the variance would not diminish the values of surrounding properties. | YES | <ul style="list-style-type: none"> Granting the variance will not diminish the values of surrounding properties. Putting a shed in a backyard that has plenty of room and coverage is a small ask. |

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|--|-------------------|---|
| <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 hardship is that Fairview Drive is considered to be the applicant's front yard, so unlike most people, the applicant's front yard was the back and front of the house. • Literal enforcement of the ordinance will result in an unnecessary hardship because the property has special conditions of having two streets. • The proposed use is reasonable for a lot that size. |
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CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 30, 2023

Shantar Zuidema and Abby Zuidema
126 Burkitt Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 126 Burkitt Street (LU-23-61)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 23, 2023**, considered your application for demolishing the existing 10 foot by 16 foot deck and replacing it with a 6 foot by 4 foot enclosed porch which requires the following: 1) Variance from Section 10.521 to allow a 6 foot right side yard where 10 feet is required, and 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 159 Lot 28 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,

A handwritten signature in cursive script that reads "Phyllis Eldridge". The signature is written in black ink and is positioned above the typed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-23-2023

Property Address: 126 Burkitt Street

Application #: LU-23-61

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 is a logical variance request that will improve the structure and its soundness and will not increase the degree of noncompliance with the side yard setback and not change the use of the property. • The unit will be visible from the street but it will be a visual improvement and will actually be a gain to the public. |
| 10.233.22 Granting the variance would observe the spirit of the Ordinance. | YES | <ul style="list-style-type: none"> • It will be consistent with the spirit of the ordinance for that zoning district. • It is a nonconforming lot and people rarely take things down without putting something big up, so if anything, it is making the property less nonconforming. |
| 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 based on the improvement of the property. |

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| <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"> • Having a well maintained structure in the neighborhood will 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 hardship is that the property cannot continue to be used the way it presently is because the side exit and the decking are structurally unsound and present a safety hazard, so literal enforcement of the provisions of the ordinance will fly against Section 10.233.25. |