



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

February 26, 2024

Giri Portsmouth 505 Inc.
2300 Crown Colony Drive Suite 203
QUINCY, MASSACHUSETTS 02169

RE: Board of Adjustment request for property located at 505 US Route 1 BYP (LU-23-199)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, February 21, 2024**, considered your request to withdraw the application for demolishing the existing structure and constructing a new hotel with a drive thru restaurant which requires the following: 1) Special Exception from 10.440 Use #10.40 hotel where it is permitted by Special Exception; 2) Variance from Section 10.1113.20 to allow parking spaces between the principal building and a street; 3) Variance from Section 10.1113.41 for parking located 1 foot from the lot line where 40 feet is required; 4) Variance from Section 10.575 to allow dumpsters to be located 1 foot from the lot line where 10 feet is required; 5) Variance from Section 10.835.32 to allow 1 foot between the lot line and drive-thru and bypass lanes where 30 feet is required for each; and 6) Variance from Section 10.835.31 to allow 37 feet between the menu and speaker board and the front lot line where 50 feet is required. As a result of said consideration, the Board suspended the rules and accepted the applicant's request to withdraw this application.

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

Very truly yours,

Beth Margeson, Vice Chair of the Zoning Board of Adjustment

cc:

John K. Bosen, Attorney, Bosen and Associates PLLC
Patrick Crimmins, Engineer, Tighe and Bond



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

February 26, 2024

Melanie Merz
Friends of Lafayette House
400 Little Harbor Rd, Box 1104
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 413 Lafayette Road (LU-23-208)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, February 21, 2024**, considered your application for constructing an attached caretakers unit to the existing residential care facility which requires the following: 1) Variance from Section 10.331 to extend, enlarge, or change the lawful nonconforming use without conforming to the Ordinance; and 2) Variance from Section 10.334 to extend the nonconforming use to a remaining portion of the land. Said property is shown on Assessor Map 230 Lot 23A and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **postpone** the request to the March 19th meeting.

This matter will be placed on the agenda for the Board of Adjustment meeting scheduled for **Tuesday, March 19, 2024**. One (1) copy of any revised plans and/or exhibits must be filed in the Planning & Sustainability Department no later than **Wednesday, February 28, 2024**. Please remember you will be required to provide an electronic file (in a PDF format) of all plans and exhibits.

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

Very truly yours,

Beth Margeson, Vice Chair of the Zoning Board of Adjustment

cc:

John Bosen, Attorney, Bosen and Associates



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Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

February 26, 2024

DSM MB II LLC (Owner)
875 East Street
Tewksbury, Massachusetts 01876

RE: Board of Adjustment request for property located at 1500 Lafayette Road Unit 6 (LU-24-5)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, February 21, 2024**, considered your application for establishing a UPS store which requires the following: 1) Special Exception from use #7.30 consumer service where it is permitted by Special Exception. Said property is shown on Assessor Map 252 Lot 2 Unit 6 and lies within the Gateway Center (G2) District. As a result of said consideration, the Board voted to **grant** the Special Exception.

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 & Sustainability 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 Planning Board 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 & Sustainability Department.

Very truly yours,

Beth L Margeson

Beth Margeson, Vice Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Findings of Fact | Special Exception

City of Portsmouth Zoning Board of Adjustment

Date: 2-21-2024

Property Address: 1500 Lafayette Rd

Application #: LU-24-5

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"> It will pose no hazard to the public because it will be a simple operation that's very consistent with others currently in the shopping center and has been in the past, with no hazard presented to the public. |
| 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 | Yes | <ul style="list-style-type: none"> As evidenced by the fact that the property owner's representative felt that this will be a good use within this facility and consistent with its other uses. It will not represent a change in the essential characteristics of the area, noting that there is a Fed Ex facility across the highway and a |

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| equipment, vehicles or other materials; | | similar shopping center in close proximity. |
| 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"> It is normal consumer traffic which should fit in without much notice or impact on the high volume of traffic going in and out, particularly for the Market Basket and some of the facilities there. |
| 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"> It will be located far enough away from the Market Basket that parking will not be problematic for the use of the UPS store, and there is no apparent impact on 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 change in the building's structure and therefore no impact of increase in stormwater runoff onto any adjacent properties, |



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ZONING BOARD OF ADJUSTMENT

February 26, 2024

Timothy S. Wheelock and Susan V. Denenberg
44 Wibird Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 414 State Street Unit 2 (LU-24-6)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, February 21, 2024**, considered your application for converting a ground floor commercial unit to a residential unit which requires the following: 1) Variance from Section 10.642 to allow a residential unit on the ground floor where nonresidential is required in the Downtown Overlay District; and 2) Variance from Section 10.5A41.10A to allow 806 square feet per dwelling unit where 3,000 square feet is required. Said property is shown on Assessor Map 116 Lot 13 Unit 2 and lies within the Character District 4-L1 (CD4-L1) and Downtown Overlay District (DOD). As a result of said consideration, the Board voted to **grant** the request as presented and advertised.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning & Sustainability 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.

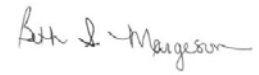
This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

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 Planning Board 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 & Sustainability Department.

Very truly yours,

A handwritten signature in cursive script that reads "Beth Margeson".

Beth Margeson, Vice 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: 2-21-2024

Property Address: 414 State St

Application #: LU-24-6

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 public interest in Portsmouth currently was not one that was crying out for additional office space but looking for additional residential space, so by allowing the unit to be used as residential instead of office would be consistent with the public interest. Although 3,000 sf is required, the current square footage is 968 sf and reduced to 806 sf, isn't that substantial of a change and in both cases go below what is required. |
| 10.233.22 Granting the variance would observe the spirit of the Ordinance. | YES | <ul style="list-style-type: none"> The public interest in Portsmouth currently was not one that was crying out for additional office space but looking for additional residential space, so by allowing the unit to be used as residential |

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| | | <p>instead of office would be consistent with the public interest.</p> <ul style="list-style-type: none"> Although 3,000 sf is required, the current square footage is 968 sf and reduced to 806 sf, isn't that substantial of a change and in both cases go below what is required. |
| 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 justify depriving the owner of the use of the property, and it will not diminish the values of surrounding properties, noting that the only evidence presented to the Board is that it will have a positive impact on those values. |
| 10.233.24 Granting the variance would not diminish the values of surrounding properties. | YES | <ul style="list-style-type: none"> The immediate surrounding properties really did not reflect the concept put forward for the DOD, and having this active street life doesn't really work in practice. In this case, far more residential than other parts of the DOD. |
| <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"> Literal enforcement of the ordinance will result in an unnecessary hardship, which relates to special conditions and circumstances of the building. The Board is really considering two variances, the use variance for residential and the square footage variance, which would normally require a 3,000 sf per dwelling unit. Therefore the special conditions of the property must relate to both of those. The first instance is in terms of the use, and the intended purpose of the ordinance is to encourage pedestrian-oriented businesses within the Downtown Overlay District (DOD), and since there is a dearth of such businesses in that area, the Board is not violating the spirit of the ordinance because it is consistent with the characteristics of the immediate surrounding neighborhood that such uses are really not prevalent. Regarding the 3000-sf per dwelling unit, the special condition of the property is the historic nature and antiquity of it. There are no reasonable options |

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| | | for expanding the space from the unit to achieve a 3,000-sf footprint, so that is a special condition and hardship that spoke in favor of the application. |
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ZONING BOARD OF ADJUSTMENT

February 26, 2024

Frances E. Mouflouze Revocable Trust of 2015
936 SOUTH ST #1
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 550 Sagamore Avenue (LU-24-9)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, February 21, 2024**, considered your application for demolishing the existing structure and construct a three dwelling unit building which requires the following: 1) Variance from Section 10.440 Use #1.51 to allow a three dwelling unit structure where it is 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 approve the request, but the motion to approve failed 3-3 resulting in a **denial** of the application. Subsequent motion to deny failed 3-3. Members who voted to deny provided comments that the hardship criteria was not met.

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 & Sustainability Department for more details about the appeals process.

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

Very truly yours,

Beth Margeson, Vice Chair of the Zoning Board of Adjustment

cc:

R. Timothy Phoenix, Attorney, Hoefle, Phoenix, Gormley and Roberts, PLLC
Eric Weinrieb, Engineer, Altus Engineering

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 2-21-2024

Property Address: 550 Sagamore Avenue

Application #: LU-24-9

Decision: **Motion to approve failed 3-3 resulting in a denial of the application. Subsequent motion to deny failed 3-3. Comments provided for the record to document how the request failed to meet the hardship criteria.**

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. | | |
| 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 (b)Owing to these special conditions, a fair | | <ul style="list-style-type: none"> Special conditions do exist because it is a bigger lot, but it is not narrow, considering that it had a 140-ft width. |

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| <p>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.</p> <p>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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ZONING BOARD OF ADJUSTMENT

February 26, 2024

Cynthia J Walker and Michael Walker
46 Willow Lane
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 46 Willow Lane (LU-24-8)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, February 21, 2024**, considered your application for demolishing the existing shed, constructing an addition to the primary structure and constructing a detached garage which requires the following: 1) Variance from Section 10.521 to allow: a) 6.5 foot right yard where 10 feet is required; b) a 2 foot front yard where 15 feet is required; and c) 28% building coverage where 25% is the maximum; 2) Variance from Section 10.571 to allow an accessory structure to be closer to the street than the primary structure; and 3) 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 133 Lot 18 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **grant** the request as presented and advertised.

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 & Sustainability 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.

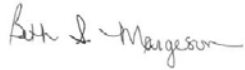
This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

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 Planning Board Meeting website:

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

Very truly yours,

A handwritten signature in cursive script that reads "Beth Margeson".

Beth Margeson, Vice 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: 2-21-2024

Property Address: 46 Willow Lane

Application #: LU-24-8

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 6-1/2 ft off the property line to the back of the property was an extension of the existing line for the existing home, so there is no public interest or change in the essential characteristics of the neighborhood that would be observed.A single-car garage is common in the neighborhood, although not in that specific area. What is being asked for is somewhat congruent with the overall neighborhood where garages are tucked into locations that are closer than the Board would normally have for setbacks in other neighborhoods. |

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| <p>10.233.22 Granting the variance would observe the spirit of the Ordinance.</p> | <p>YES</p> | <ul style="list-style-type: none"> • The 6-1/2 ft off the property line to the back of the property was an extension of the existing line for the existing home, so there is no public interest or change in the essential characteristics of the neighborhood that would be observed. • A single-car garage is common in the neighborhood, although not in that specific area. What is being asked for is somewhat congruent with the overall neighborhood where garages are tucked into locations that are closer than the Board would normally have for setbacks in other neighborhoods. |
| <p>10.233.23 Granting the variance would do substantial justice.</p> | <p>YES</p> | <ul style="list-style-type: none"> • There single-car garage and its placement is nothing that would have a negative 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"> • The applicant is only asking for a small extension off the back of the property, and overall coverage that is slightly greater than what was required. • The single-car garage is a modest request and its impact on the neighboring property would not be excessive. |
| <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 plans to expand the existing home are not insubstantial but a logical direction that is necessary to expand the home. • As to the current distance of the current home and where the expansion needs to be, there is no great way to add the garage on as an extension to that proposed expansion of the property and that it had to be in the orientation that it is in. Putting it anywhere else on the property will add only a minimal benefit in terms of setback to the neighboring property with a lot of additional impervious surface and a loss of open air for the other portions of the property |



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ZONING BOARD OF ADJUSTMENT

February 26, 2024

Joel Harris and Jessica Harris
2 Monroe Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 2 Monroe Street (LU-23-154)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, February 21, 2024**, considered your application for constructing an enclosed breezeway, landing and staircase which requires the following: 1) A Variance from Section 10.521 to allow 27% building coverage where 25% is the maximum allowed; and 2) Variance from Section 10.516.10 to allow a 10-foot front yard where 12 feet is required by the front-yard exception for existing alignments. Said property is shown on Assessor Map 152 Lot 8 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **grant** the request as presented and advertised.

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 & Sustainability 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 Planning Board 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 & Sustainability Department.

Very truly yours,

Beth L Margeson

Beth Margeson, Vice 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: 2-21-2024

Property Address: 46 Willow Lane

Application #: LU-24-8

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 6-1/2 ft off the property line to the back of the property was an extension of the existing line for the existing home, so there is no public interest or change in the essential characteristics of the neighborhood that would be observed. • A single-car garage is common in the neighborhood, although not in that specific area. What is being asked for is somewhat congruent with the overall neighborhood where garages are tucked into locations that are closer than the Board would normally have for setbacks in other neighborhoods. |

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| <p>10.233.22 Granting the variance would observe the spirit of the Ordinance.</p> | <p>YES</p> | <ul style="list-style-type: none"> • The 6-1/2 ft off the property line to the back of the property was an extension of the existing line for the existing home, so there is no public interest or change in the essential characteristics of the neighborhood that would be observed. • A single-car garage is common in the neighborhood, although not in that specific area. What is being asked for is somewhat congruent with the overall neighborhood where garages are tucked into locations that are closer than the Board would normally have for setbacks in other neighborhoods. |
| <p>10.233.23 Granting the variance would do substantial justice.</p> | <p>YES</p> | <ul style="list-style-type: none"> • There single-car garage and its placement is nothing that would have a negative 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"> • The applicant is only asking for a small extension off the back of the property, and overall coverage that is slightly greater than what was required. • The single-car garage is a modest request and its impact on the neighboring property would not be excessive. |
| <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 plans to expand the existing home are not insubstantial but a logical direction that is necessary to expand the home. • As to the current distance of the current home and where the expansion needs to be, there is no great way to add the garage on as an extension to that proposed expansion of the property and that it had to be in the orientation that it is in. Putting it anywhere else on the property will add only a minimal benefit in terms of setback to the neighboring property with a lot of additional impervious surface and a loss of open air for the other portions of the property |