



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

March 25, 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 **Tuesday, March 19, 2024**, considered your application for constructing an attached caretakers unit to the existing residential care facility which requires the following: 1) Variance from Section 10.520 to allow a building coverage of 20.5% where 20% is allowed; 2) Variance from Section 10.331 to extend, enlarge, or change the lawful nonconforming use without conforming to the Ordinance; and 3) 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 **grant** the variances with the following **conditions**:

- 1. The facility shall be limited to 12 care residents or residents under care; and*
- 2. The applicant shall provide updated plans to the Planning Department reflecting appropriate setback requirements for the project.*

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 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 & Sustainability 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 Bosen, Attorney, Bosen and Associates

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 3-19-2024

Property Address: 413 Lafayette Road

Application #: LU-23-208

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 addition will be on the back end of the property and not visible from Andrew Jarvis Drive, and nothing will affect the overall feel of the structure. • It is a use that has been there a long time and the neighborhood has integrated itself around it, and there is nothing about the unpermitted use that is negative toward the neighborhood.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> • The addition will be on the back end of the property and not visible from Andrew Jarvis Drive, and nothing will affect the overall feel of the structure. • It is a use that has been there a long time and the neighborhood has integrated itself around it, and there is nothing about the

		unpermitted use that is negative toward the neighborhood.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> the public will not lose anything that would outweigh the benefit to the property owner in having that capability still in the community.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> It will not diminish the values of surrounding properties because it is a small addition and well within the required setbacks, it is not visible to the neighbors, and the use is a longstanding one that has not demonstrated any impacts to 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 unique factor is that it has been a long-term use. The Board doesn't know the variance history for it but they did know that it is represented at the time the property was subdivided and there was clear intent that the group home use was part of the original concept. It is unique and why this parcel does not represent the zoning as a whole, which was a hardship. The use is a reasonable one because the intensity of the use is not being increased and it is a modest addition that will provide better caretaker accommodations.

Stipulations

1. The facility shall be limited to 12 care residents or residents under care; and

2. The applicant shall provide updated plans to the Planning Department reflecting appropriate setback requirements for the project.



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1 Junkins Avenue
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ZONING BOARD OF ADJUSTMENT

March 25, 2024

Kerrin J Parker Revocable Trust of 2012
86 Haven Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 86 Haven Road (LU-23-192)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, March 19, 2024**, considered your application for constructing an addition to the existing structure which requires the following: 1) Variance from Section 10.521 to a) allow a 9 foot front yard where 10 feet is required by front yard averaging; b) to allow a building coverage of 29% where 20% is allowed; and 2) Variance from Section 10.321 to allow of 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 206 Lot 27 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **continue** the application to the April 16th meeting, with the direction to the applicant to provide accurate measurements of the front yard setback as they exist currently and as they would be proposed.

This matter will be placed on the agenda for the Board of Adjustment meeting scheduled for **Tuesday, April 16, 2024**. One (1) copy of any revised plans and/or exhibits must be filed in the Planning & Sustainability Department no later than **Wednesday, March 27, 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,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:



CITY OF PORTSMOUTH

Planning & Sustainability
Department
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Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

March 26, 2024

DFG I LLC
750 Lafayette Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 750 Lafayette Road (LU-23-194)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, March 19, 2024**, considered your application for constructing a freestanding Automated Teller Machine (ATM) which requires the following: 1) Variance from Section 10.1530 to allow an ATM in a freestanding structure. Said property is shown on Assessor Map 244 Lot 8 and lies within the Gateway Corridor 1 (G1) District. As a result of said consideration, the Board voted to **deny** the variance request because the proposal would be contrary to the public interest and did not observe the spirit of the ordinance.

The Board's decision may be appealed up to thirty (30) days after the vote. 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,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

John Kucich, Engineer, Bohler
Keith Curran, Engineer, Bohler

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 3-19-2024

Property Address: 750 Lafayette Road

Application #: Lu-23-194

Decision: **Deny**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	NO	<ul style="list-style-type: none"> The ordinance is very explicit about prohibiting standalone ATMs and the application markedly conflicted with it.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	NO	<ul style="list-style-type: none"> The ordinance is very explicit about prohibiting standalone ATMs and the application markedly conflicted with it.
10.233.23 Granting the variance would do substantial justice.		
10.233.24 Granting the variance would not diminish the values of surrounding properties.		

<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND</p> <p>(b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR</p> <p>Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>		
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ZONING BOARD OF ADJUSTMENT

March 26, 2024

Cyrus Beers
64 Mount Vernon Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment Request for property located at 64 mount Vernon Street (LU-324-20)

Dear Mr. Beer:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, March 19, 2024**, considered your application for demolishing an existing detached shed and constructing a new two-story accessory detached shed which requires the following: 1) Variance from Section 10.573.20 to allow an accessory structure more than 10 feet in height and more than 100 square feet in area a) to be setback 5 feet from the side property line where 10 feet is required and b) to be setback 5 feet from the rear property lines where 19 feet is required. Said property is shown on Assessor Map 111 Lot 30 and lies within the General Residence B (GRB) and Historic District. As a result of said consideration, the Board voted to **approve** the variance request as presented.

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.

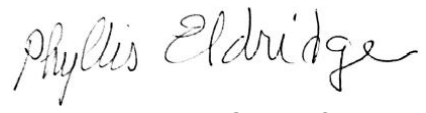
This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

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 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 & Sustainability 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: 3-19-2024

Property Address: 64 Mt. Vernon Street

Application #: LU-24-20

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 Board required that the proposed use must not conflict with the explicit or implicit uses of the ordinance and must not alter the essential characteristics of the neighborhood nor threaten the public's health, safety, or welfare or otherwise injure public rights. The public's rights were the movement of light and air and that the applicant could have moved the left and rear yard setbacks more in, but they stated that there were topography reasons that make it difficult and the applicant is improving the setback requirements off the existing use of the current shed.

<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 Board required that the proposed use must not conflict with the explicit or implicit uses of the ordinance and must not alter the essential characteristics of the neighborhood nor threaten the public's health, safety, or welfare or otherwise injure public rights. The public's rights were the movement of light and air and that the applicant could have moved the left and rear yard setbacks more in, but they stated that there were topography reasons that make it difficult and the applicant is improving the setback requirements off the existing use of the current shed.
<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> The benefit to the application will not be outweighed by harm to the general public or other individuals. The house is on a dead-end lot that is irregularly configured, along with a lot of other irregularly-configured lots.
<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 will bring the shed out of the setbacks as much as possible and improving it will not harm property values in the 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"> There are special conditions of the property, including the topography that sloped upwards that make the literal enforcement of the ordinance's requiring setbacks for the left and rear yard difficult to comply with.



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ZONING BOARD OF ADJUSTMENT

March 26, 2024

Ryan Family Trust
199 McDonough Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment Request for property located at 199 McDonough Street (LU-24-18)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, March 19, 2024**, considered your application for constructing an addition to the existing primary residential structure which requires the following: 1) Variance from Section 10.521 to allow a 9.5 foot rear yard where 20 feet is required; 2) Variance from Section 10.516.20 to allow a 9.5 foot rear yard where 15 feet is required for a rear yard adjoining a railroad right-of-way; 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 144 Lot 42 and lies within the General Residence C (GRC) District. As a result of said consideration, the Board voted to **approve** the variance request as presented.

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 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 & Sustainability 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: 3-19-2024

Property Address: 199 McDonough Street

Application #: LU-24-18

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	YES	<ul style="list-style-type: none"> There is no evidence that there will be an adverse impact on the health, safety, and welfare of the public.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> There is no evidence that there will be an adverse impact on the health, safety, and welfare of the public.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The benefit to the applicant will cause no harm to the public. It is an unusual neighborhood, lot size, and location, and many of the changes will not be visible from the street and possibly not from the neighbors.
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. There is no concerns about light

		and air to neighboring properties because the applicant's proposal for a small one-story addition is modest and in keeping with that.
<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 included that the lot is unusual, and if the Board insisted on enforcing all the setbacks, the 35-ft deep lot would have 15 feet in the middle that could possibly be built on. • The proposal is making a minor change to the property and the conditions of the lot imposed a hardship, so there is no reasonable reason to disapprove the petition and create an unnecessary hardship to the owner • The back setback is up against an open area of the railroad and more open area behind it is also a hardship and is a unique characteristic.