



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 7, 2024

Elizabeth Coursen
229 Pleasant Street, Unit 4
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 229 Pleasant Street (LU-24-42)

Dear Ms. Coursen:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, April 30, 2024**, considered your application for a Variance from Section 10.515.14 to install a mechanical unit 5.5 feet from the side property line whereas 10 feet is required. Said property is shown on Assessor Map 108 Lot 6 and lies within the Mixed Residential Office (MRO) and Historic 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 I 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: 4-30-2024

Property Address: 229 Pleasant Street, Unit 4

Application #: LU-24-42

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"> Granting the variance would not be contrary to the public interest. Mechanical units are quite common in a city and should be encouraged as long as there is no real dimensional change.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The general purpose of the setback requirements in the zoning ordinance is to preserve open space and light between structures, and the mini split is a low profile unit that would not cast any shadows in any significant bulking way or infringe upon the open space between the applicant's property and the adjoining one.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • There would be no loss to the public due to the unit being placed out of sight of the general public, so it would not have a detrimental impact on the character. Denying the variance would create a burden for the applicant that would not be properly counterbalanced by a loss to the public for approving the variance.
<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES</p>	<ul style="list-style-type: none"> • Granting the variance will not diminish the values of surrounding properties, as the most adjacent abutter submitted a letter of support for the variance, which indicated that the person in the best position to estimate the impact on the value of their property has determined that it would not have a negative impact on the value of their property.
<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 of the property is its location in a crowded area with substandard-sized lots, and the purpose of the ordinance is not to prevent modernization of HVAC units within a residential community like the applicant's, therefore the literal enforcement of the ordinance does not have any bearing on the purpose of the ordinance.