



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 31, 2024

Atlas Commons, LLC
3 Pleasant Street, Suite 400
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 581 Lafayette Road,
Portsmouth, New Hampshire (LU-24-1)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 28, 2024**, considered your application for after-the-fact installation of an awning sign which requires the following: 1) Variance from Section 10.1251.20 to allow a 32 square foot awning sign whereas 20 square feet is allowed. Said property is shown on Assessor Map 229 Lot 8B and lies within the Gateway Corridor (G1) 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 & 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,

Phyllis Eldridge

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Tor Larson, applicant's representative

Ryan Lent, applicant

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-28-2024

Property Address: 581 Lafayette Rd

Application #: LU-24-1

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"> Nothing in the application would counter the characteristics of the neighborhood, and the businesses along this strip have signage of various types and sizes already.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The overall amount of signage is not anywhere close to the maximum allowed, and the entryway is wide with panels on each side. The lettering is proportional to the awning's size and provides important supplemental information.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> There is nothing that the public would have a significant interest for that would outweigh the applicant's desire to have the information about the nature of

		what the name Tour meant and to provide that information to their potential clients.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> The building is at the end of a commercial district that has signage of all types up and down Lafayette Road, and the lettering is just a small amount larger than what is required.
<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 hardship that makes the property unique is the size of the entryway that has the characteristics of a doorway, and the overall signage configuration and the nature of the business contributes to the unique aspect of the building and strict application of the ordinance would not make sense. The Route One bypass starts to curve away from the particular parcel's location on the end of the Gateway District, and there is a grass buffer that sets it back farther so that Lafayette Road can split off of the bypass. The small amount of increase in sign coverage that goes over what is allowed is understandable.



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ZONING BOARD OF ADJUSTMENT

May 31, 2024

Sakuntalala, LLC
4 Andrew Way
Madbury, New Hampshire 03823

**RE: Board of Adjustment request for property located at 235 Marcy Street,
Portsmouth, New Hampshire (LU-24-68)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 28, 2024**, considered your application for demolishing an existing 1-story addition and reconstructing a two-story attached garage addition on the rear of the existing residential structure, which requires the following: 1) Variance from Section 10.521 to allow a 7-foot left side yard for the addition where 10 feet is required; and 2) 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 103 Lot 12 and lies within the General Residence B (GRB) 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 & 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 typed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

John Bosen, Attorney, Bosen & Associates, PLLC

Chris Mulligan, Bosen & Associates, PLLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-28-2024

Property Address: 235 Marcy St

Application #: LU-24-68

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 not any public benefit that would be accrued by denial and there would not be a significant impact on the light and air on the next-door property.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> It would not change the essential characteristics of the neighborhood, which has many small lots and small buildings right up along property lines. Most of the buildings have very limited setbacks in the residential area. It would create a slightly more compliant property by increasing the setback on the left side.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • It would help the applicant get rid of a decrepit structure that wasn't useful and there is no evidence that it would diminish surrounding property values.
<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"> • There is no evidence that it would diminish surrounding property values.
<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 several specific conditions to the property, including a very small lot and a very narrow footprint where the building could be allowed to comply with the setbacks, but there were issues on the right side of the property. The desire to have a driveway on a street with no parking necessitates keeping a certain amount of space on that side. The substandard building attached to the existing addition is more of a hazard to the public than hopefully what it would be replaced with. Based on these conditions, there is no fair and substantial basis for applying the provisions of the ordinance to the property, so literal enforcement would result in an unnecessary hardship for the applicant.



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ZONING BOARD OF ADJUSTMENT

May 31, 2024

Colleen M. Cook
40 Winter Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 40 Winter Street, Portsmouth, New Hampshire

Dear Ms, Cook:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 28, 2024**, considered your application for the following: 1) Variance from Section 10.515.14 to install a mechanical unit 3.5 feet from the side property line whereas 10 feet is required. Said property is shown on Assessor Map 145 Lot 96 and lies within the General Residence C (GRC) 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 & 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:

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

Very truly yours,

Phyllis Eldridge

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: 5-28-2024

Property Address: 40 Winter St

Application #: LU-24-74

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"> It would not be contrary to the public interest.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> It would not alter the essential characteristics of the neighborhood or threaten the public's health, safety, or welfare and would not conflict with the purpose of the ordinance.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Substantial justice would be done because the benefit to the applicant would not be outweighed by any harm to the general public.

<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES</p>	<ul style="list-style-type: none"> Granting the variance would not diminish the values of surrounding properties, and more energy-efficient heating and cooling to the property would not harm any other properties and the unit is quiet.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<p>YES</p>	<ul style="list-style-type: none"> Literal enforcement of the ordinance would result in unnecessary hardship due to the special conditions of the property, which included that the lot was undersized and as big as some houses were. The house's placement limits the locations to place the mini split. There is no fair and substantial relationship between the general public purposes of the ordinance and their specific application to the property and the proposed use is a reasonable one.



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ZONING BOARD OF ADJUSTMENT

May 31, 2024

Stephen A. and Kathryn L. Singlar
21 Elliot Street
Exeter, New Hampshire 03833

**RE: Board of Adjustment Request for Property Located at 43 Holmes Court,
Portsmouth, New Hampshire (LU-22-227)**

Dear Mr. and Ms. Singlar:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 28, 2024**, considered your application for amending a Variance granted on December 20, 2022 to demolish the existing dwelling and construct a new single-family dwelling which requires the following: 1) Variance from Section 10.531 to allow a 16 foot front yard where 30 feet is required. Said property is shown on Assessor Map 101 Lot 14 and lies within the Waterfront Business (WB) 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 & 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:

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

Very truly yours,

Phyllis Eldridge

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Brendan McNamara, Residential Design

Derek Durbin, Durbin Law Offices, PLLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-28-2024

Property Address: 43 Holmes Ct

Application #: LU-22-227

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 lot, although zoned in waterfront business, is not able to be utilized that way because it is landlocked and there is no good way to get ingress and egress to the property for anything that comes in off the Piscataqua River, so even though the Waterfront Business zoning reflects a legitimate public interest, granting the variance in this case would not be contrary to the public interest because the lot could not be used in that manner anyway.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The lot, although zoned in waterfront business, is not able to be utilized that way because it is landlocked and there is no good way to get ingress and egress to

		the property for anything that comes in off the Piscataqua River, so even though the Waterfront Business zoning reflects a legitimate public interest, granting the variance in this case would not be contrary to the public interest because the lot could not be used in that manner anyway.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Because the lot currently and has for centuries been used as a residential lot, there would be no loss to the public by continuing that use that would outweigh the loss to the applicant by insisting that the use be changed.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> The additional one foot moving closer to the front property line has an impact only on 39 Holmes Court, which is owned by the same owner who attests that moving the structure one foot closer to 39 Holmes Court would not have a deleterious impact on the value of that 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>	YES	<ul style="list-style-type: none"> The property itself has many hardships including the landlocked nature of the lot and the fact that there isn't enough room to solve the problems presented by the NHDES in their request to get a foot farther away from the water line. The neighboring property at 39 Holmes Court is right up against the property line and in the GRC, so the setback would be five feet vs. the required 30 feet of the Waterfront Business zone. If the property was zoned as a residential parcel and not as a waterfront business parcel, it would be allowed to be much closer.



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ZONING BOARD OF ADJUSTMENT

May 31, 2024

366 Broad Street, LLC
937 Ocean Blvd
Rye, New Hampshire 03870

RE: Board of Adjustment request for property located at 366 Broad Street, Portsmouth, New Hampshire (LU-24-75)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 28, 2024**, considered your application for demolishing the existing multi-family and single-family dwellings and accessory structure and reconstructing four single-family dwelling units, which requires the following: 1) Variance from Section 10.513 to allow more than one dwelling per lot. Said property is shown on Assessor Assessor Map 221 Lot 68 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **deny** the request because the proposal would be contrary to the public interest, did not observe the spirit of the ordinance, and did not illustrate unnecessary hardship.

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:

Joseph Coronati, Jones & Beach Engineers, PLLC
John Bosen, Attorney, Bosen & Associates, PLLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-28-2024

Property Address: 366 Broad St

Application #: LU-24-75

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"> It is not consistent with the characteristics of the neighborhood and would alter those fundamental characteristics of the neighborhood, per Sections 10.233.21 and .22 of the ordinance.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	NO	<ul style="list-style-type: none"> There is a reason why the ordinance states that there would be one dwelling unit on a property and the Board has to be careful about allowing exceptions. Allowing multiple units on a single property and putting four houses in each corner of the property goes against everything the ordinance is trying to accomplish.

<p>10.233.23 Granting the variance would do substantial justice.</p>		
<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 (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>NO</p>	<ul style="list-style-type: none"> • There are no special conditions owing to the property that would cause a hardship. Given the nature of the neighborhood on that side of the street, the applicant's lot was not much different than any lot on that side, and placing four single houses on the lot would change the neighborhood's character.



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ZONING BOARD OF ADJUSTMENT

May 31, 2024

Victoria Willingham and Robert Bowser
692 State Street
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment Request for property located at 692 State Street,
Portsmouth, New Hampshire (LU-24-67)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 28, 2024**, considered your application for the following: 1) Variance from Section 10.515.14 to install a mechanical unit 3 feet from the side property line whereas 10 feet is required. Said property is shown on Assessor Map 137 Lot 6 and lies within the General Residence C (GRC) 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 & 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:

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

Very truly yours,

Phyllis Eldridge

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: 5-28-2024

Property Address: 692 State St

Application #: LU-24-67

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 proposed location for the generator is behind the residence and will not be observable or heard from the street, so there is no public interest to be had by denying the variance.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> It would not be contrary to the public interest and would observe the spirit of the ordinance.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Substantial justice would be done because having the generator located behind the home would not cost the public anything, so there would be no loss to the public that would be considered as a counterbalance to the loss of the applicant should the variance be denied.

<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"> • There is evidence that the nearby property owner saw no diminution in the value of his property by the generator's installation.
<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 property's hardship is the narrow and deep nature of the lot and the location of the house. There are safety considerations with regard to the location of the generator and it makes no sense to put the generator in the middle of the yard far from the house. Special conditions like the shape of the house, the location of the windows and the ingress and egress, and the location relative to the property lines weighed in favor of approving the application and locating the generator in the proposed spot. • Putting the unit at the back of the house would not be in any light or air areas.