



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

June 25, 2024

Kimberly Rosensteel and Timothy Sullivan
63 Humphreys Court
Portsmouth, New Hampshire 03801

RE: **Board of Adjustment request for property located at 63 Humphreys Court (LU-24-71)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 18, 2024**, considered your application for installing a mini-split air conditioning system, which requires the following relief: 1) Variance from Section 10.515.14 to install a mechanical unit 2.5 feet from the side property line whereas 10 feet is required. Said property is shown on Assessor Map 101 Lot 38 and lies within the General Residence B (GRB) and Historic Districts. As a result of said consideration, the Board voted to **grant** the request with the following staff **Condition**:

1. *The location of the unit may change as a result of the review and approval of the permit as long as it is consistent with the side setback, as depicted in the application materials.*

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

David Rheaume, Acting 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: 06-18-2024

Property Address: 63 Humphreys Court

Application #: LU-24-71

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 variance would not be contrary to the public interest and would observe the spirit of the ordinance. The applicant is doing his best to shield the unit from public view.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The variance would not be contrary to the public interest and would observe the spirit of the ordinance, regarding the best place to locate the unit and the unit having the least impact but still being of benefit. The request is minimal and the structure is already noncompliant.

10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> • It would do substantial justice and would not diminish the values of surrounding properties, as the neighbor has a similar unit.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> • It would do substantial justice and would not diminish the values of surrounding properties, as the neighbor has a similar unit. • The applicant found a location that would tuck the unit in and keep its visual aspect to a minimum
<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 does have special conditions, given what's already on the property. Those special conditions apply to nearly every property in the south end. • The lot is undersized and, based on the location of the structure of the property, those special conditions justify granting the variance given the two potential options for putting it on the side yard

Stipulations

1. The location of the unit may change as a result of the review and approval of the permit as long as it is consistent with the side setback, as depicted in the application materials.



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Department
1 Junkins Avenue
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ZONING BOARD OF ADJUSTMENT

June 25, 2024

Madeline Lockwood and Drew Morgan
42 Sewall Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 42 Sewall Road (LU-24-70)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 18, 2024**, considered your application for a second-story addition and construction of a front porch to the existing home, which requires the following relief: 1) Variance from Section 10.521 to a) allow a 20 foot front yard where 30 feet is required; b) to allow a building coverage of 21.5% where 20% is the maximum permitted; 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 170 Lot 13 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **grant** the request as presented with the following **condition**:

1. *The porch cannot be enclosed.*

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

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 06-18-24

Property Address: 42 Sewall Rd

Application #: LU-24-70

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 variances would not be contrary to the public interest and would observe the spirit of the ordinance, as stated with the stipulation and knowing that the ordinance is trying to prevent massing too close to the street.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The open porch observes 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 there would be no loss to the public that would counterbalance the potential loss to the applicant for not being able to proceed with the modification to their home.

<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 variances would not diminish the values of surrounding properties, and there were letters from the neighbors who believed that the renovation would be an upgrade for the neighborhood and would bring other properties greater value by improving the overall aesthetic of 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>	<p>YES</p>	<ul style="list-style-type: none"> • The property has special conditions that distinguish it from others in the area. The lot area is already noncompliant, therefore any addition to the footprint of the house is likely to go over the lot coverage percentage specified in the ordinance, and that is not a changeable condition for the property, so it is a hardship of the property. • The other special condition was the property's location, particularly to the house to the left property line that was angled away from the applicant's property, making the potential for obstructing sight lines from that neighboring property irrelevant and non-existing. • The use and the renovation including the stipulation are reasonable.

<p>Stipulations</p>
<p>1. <i>The porch cannot be enclosed.</i></p>



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ZONING BOARD OF ADJUSTMENT

June 25, 2024

Christopher Blaudschun and Katie Gilpatrick
411 Ocean Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 411 Ocean Road (LU-24-91)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 18, 2024**, considered your application for renovating the front façade of the existing house, including construction of new dormers, bay window skirting and a new front door portico, which requires the following: 1) Variance from Section 10.521 to allow an 11.5 foot front yard where 30 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 293 Lot 7 and lies within the Single Residence A (SRA) 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 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 on a white background.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Shannon Alther, Architect, TMS Architects

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 06-18-2024

Property Address: 411 Ocean Rd

Application #: LU-24-91

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 variances would not be contrary to the public interest, because the applicant was doing his best to make his front porch safer and more accessible for his children.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> Granting the variances would observe the spirit of the ordinance because the applicant was doing his best to make his front porch safer and more accessible for his children.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The SRA zone had a minimum of one acre, but the applicant's house was built prior to zoning, so no matter what the applicant did, he would have to come before the Board.

<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES</p>	<p>It 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>YES</p>	<ul style="list-style-type: none"> • A hardship did exist, especially for what the applicant wanted to do since his house was closer to Ocean Road than any of the surrounding ones. • The hardship includes the special conditions of the property being closer to Ocean Road. • The location of the home based on its historic nature was a hardship and the only way the applicant could change the front façade was to address the substantial structural issues of water damage and seepage.



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ZONING BOARD OF ADJUSTMENT

June 25, 2024

J W Seavey and Doty Seavy Trustees
Doty Seavey Family Revocable Trust
17 Whidden Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 17 Whidden Street (LU-24-85)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 18, 2024**, considered your application for constructing a fence 8 feet in height within the rear and side yards, which requires relief from the following: 1) Variance from Section 10.521 to a) allow a 0.5 foot rear yard where 25 feet is required; and b) to allow a 0.5 foot side yard where 10 feet is required. Said property is shown on Assessor Map 109 Lot 5 and lies within the General Residence B (GRB) and Historic Districts. As a result of said consideration, the Board voted to **postpone** the petition to the June 25, 2024 meeting.

This matter will be placed on the agenda for the Board of Adjustment meeting scheduled for **Tuesday, June 25, 2024**.

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:



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ZONING BOARD OF ADJUSTMENT

June 25, 2024

Dave Morgan
Lonza Biologics
230 Corporate Drive
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 101 International Drive (LU-23-108)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 18, 2024**, considered your application for add four (4) above ground storage tanks which requires relief from the following: 1) from Section 308.02(c) of the Pease Development Ordinance to allow an above ground storage tank (AST) exceeding a 2,000-gallon capacity per facility. Said property is shown on Assessor Map 305 Lot 6 and lies within the Airport Business Commercial (ABC) District. As a result of said consideration, the Board voted to **recommend to the Pease Development Authority** that the variance from their zoning provisions be granted for the application.

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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Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Neil Hansen, Tighe & Bond