



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

November 25, 2024

Hogswave LLC.
912 Sagamore Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 913 Sagamore Avenue, Portsmouth, NH (LU-24-141)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, November 19, 2024**, considered your application for demolishing the existing home and boathouse and constructing a new primary residential unit and boathouse with living unit above which requires the following: 1) Variance from Section 10.531 to allow 0 feet of frontage where 100 feet are required; 2) Variance from Section 10.334 to allow a nonconforming residential use to be extended into another part of the remainder of the lot; 3) Variance from Section 10.331 to allow a lawful nonconforming use to be extended or enlarged; and 4) Variance from Section 10.440 to allow a single family dwelling where it is not permitted. Said property is shown on Assessor Assessor Map 223 Lot 27 and lies within the Waterfront Business (WB).

As a result of said consideration, the Board voted to to **grant** the variances for the petition as presented and advertised, with the following **condition**:

1) The property owner shall continue to operate a waterfront business on the property and no additional residences shall be allowed.

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 Chagnon, Project Manager, Haley Ward

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 11-19-2024

Property Address: 913 Sagamore Avenue

Application #: LU-24-141

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 is an unusual lot and access to the lot is constrained. It already has a residence and other waterfront businesses have residences. • It is an interesting situation where the residences, even though not permitted, complement the zoning of the Waterfront Business and are not detrimental to the Waterfront Business portion with the dock and renting out the slips.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> • The spirit of the ordinance is observed by the owner's intent to continue to operate a small-scale waterfront business on the lot, so it will maintain waterfront business properties that promote waterfront activities. • It is an interesting situation where the residences, even though not

		permitted, complement the zoning of the Waterfront Business and are not detrimental to the Waterfront Business portion with the dock and renting out the slips.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Substantial justice will be done for the owner and there is no benefit to the public by denying the variances. It is presently a lot that, while zoned Waterfront Business, does not have a significant waterfront business on it, so it will at least maintain a waterfront business there.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> Several of the abutters have sent letters of support.
<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 has several special conditions, including that access to the lot is very limited. There is no substantial relationship between the purposes of the ordinance and the lot and enforcing them on the lot.

Stipulations

- The property owner shall continue to operate a waterfront business on the property and no additional residences shall be allowed.*



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

November 26, 2024

Northeast Credit Union Attn: Accounting
PO Box 1240
Portsmouth, New Hampshire 03802

**RE: Board of Adjustment Request for Property Located at 100 Borthwick Avenue,
Portsmouth NH (LU-24-193)**

Dear :

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, November 19, 2024**, considered your application for establishing an Ambulatory Surgical Center which requires the following: 1) Special Exception according to Section 10.440 to allow an Ambulatory Surgical Center where one is allowed by Special Exception. Said property is shown on Assessor Map 259 Lot 15 and lies within the Office Research (OR) 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,

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 | Special Exception

City of Portsmouth Zoning Board of Adjustment

Date: 11-19-2024

Property Address: 100 Borthwick Avenue

Application #: LU-24-193

Decision: **Grant**

Findings of Fact:

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

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

Special Exception Review Criteria: Section 10.232.20	Finding	Relevant Facts
10.232.21 Standards as provided by this Ordinance for the particular use permitted by special exception;	Yes	<ul style="list-style-type: none"> The use is allowed by special exception. The overarching consideration is that this is an application to allow a medical use in an area along the street where medical practices and facilities are common and are the predominant usage in the area.
10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.	Yes	<ul style="list-style-type: none"> There will be no hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials because it is the type of activity occurring in the area on a regular basis and will not present any new hazards to the street or neighborhood.

<p>10.233.23 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;</p>	<p>Yes</p>	<ul style="list-style-type: none"> • There will be no detriment to property values since it is a medical facility in an area predominantly utilized for various medical practices.
<p>10.233.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;</p>	<p>Yes</p>	<ul style="list-style-type: none"> • An adequate traffic study was submitted in support of the application.
<p>10.233.25 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and</p>	<p>Yes</p>	<ul style="list-style-type: none"> • There will be no excessive demand on municipal services because it is not a large facility and will not create fire hazards, water use, or waste generation outside of what would already be occurring in the nearby hospital.
<p>10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.</p>	<p>Yes</p>	<ul style="list-style-type: none"> • There will be no significant increase in stormwater runoff, particularly with the use of greenspace to offset the canopy.



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1 Junkins Avenue
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(603) 610-7216

ZONING BOARD OF ADJUSTMENT

November 26, 2024

PNF Trust of 2013 Peter Floros, Trustee
282 Middle Street
Portsmouth, New Hampshire 03801

RE: Board Of Adjustment Request for Property Located at 84 Pleasant Street and 266, 270, 278 State Street, Portsmouth, NH (LU-24-195)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, November 19, 2024**, considered your application for merging the lots and constructing a four-story mixed-use building which requires the following: 1) Variance from Section 10.5A41.10.C to allow a) 98% building coverage where 90% is maximum, b) 0% open space where 10% is minimum, and c) 53% shopfront façade glazing on Pleasant Street and 52% on State Street where 70% is the minimum required; 2) Variance from Section 10.5A21.B to allow a) 55 feet of building height where 47 feet is permitted with a penthouse, b) a fourth story addition at 50 feet in height to the Church street elevation where 3 full stories and a short fourth are allowed with 45 feet maximum height permitted; 3) Variance from Section 10.642 to allow 43% ground floor residential area where 20% is maximum. Said property is shown on Assessor Map 107 Lot 77 Map 107 Lot 78, Map 107 Lot79, Map 107 Lot 80 and lies within the Character District 4 (CD4), Historic and Downtown Overlay Districts. As a result of said consideration, the Board voted to to **grant** the variances as presented and advertised for **Variance No. 1 in its entirety, Variance No. 3 in its entirety, and Variance 2(b) only.**

The Board voted to **deny** the request for **variance No. 2(a)** because it fails the hardship criterion as there are no special conditions of the property that drive the need for a penthouse.

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, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor
Chris Mulligan, Bosen & Associates, PLLC
John Chagnon, Ambit Engineering

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 11-19-2024

Property Address: 84 Pleasant Street and 266, 270, and 278 State Street

Application #: LU-24-195

Decision: **Grant Requests 1, 3, and 2b**

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 application meets what the ordinance is trying to accomplish with the character districts. It makes sense that commercial uses are not wanted along Church Street, and the glazing seemed adequate.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The application meets what the ordinance is trying to accomplish with the character districts. It makes sense that commercial uses are not wanted along Church Street, and the glazing seemed adequate.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The most difficult issue is the four-story additional height of 50 feet but that it is mainly for the recreated Times Building and there is a desire to have that look retained from a historical standpoint.

<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 penthouse on the Church Street side isn't objectionable and will not diminish the values of surrounding properties. • There is a concern from one of the abutters, but it is the downtown area and the space taken up is slightly larger than what is called for. None of the things relief is being asked for are things that would affect the abutter.
<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 history of the lot and multiple lots coming together make sense and what is being asked for is not excessive. • There is really no value to the open space because the Board doesn't want to create anything on the Church Street façade that will draw people there, due to its narrow width and inaccessibility. • The façade glazing is a historic recreation and something the public wants. • The placement of the surrounding buildings and the overall view sheds are other unique characteristics of the property that allows the height variance requested on the Church Street side. It doesn't make sense to require commercial on the Church Street façade.

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 11-19-2024

Property Address: 84 Pleasant Street and 266, 270, and 278 State Street

Application #: LU-24-195

Decision: **Deny Request 2a**

Findings of Fact:

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

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

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.		
10.233.22 Granting the variance would observe the spirit of the Ordinance.		
10.233.23 Granting the variance would do substantial justice.		
10.233.24 Granting the variance would not diminish the values of surrounding properties.		

<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>	<p>NO</p>	<ul style="list-style-type: none"> • The rest of the variance requests were driven by a desire to be consistent and true to the original historic nature of what was there before. The penthouse is not part of that thinking and therefore failed because it does not represent a special condition of the property that drove the need for the penthouse.
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CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

November 26, 2024

James and Mallory B. Parkington
592 Dennett Street
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment Request for property Located at 592 Dennett Street,
Portsmouth, NH (LU-24-194)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, November 19, 2024**, considered your application for demolishing an existing shed and constructing a new 120 square foot shed which requires the following: 1) Variance from Section 10.573.20 to allow a 3 foot side setback where 10 feet is required; and 2) Variance from Section 10.521 to allow 26% building coverage where 25% is allowed. Said property is shown on Assessor Map 161 Lot 18 and lies within the General Residence A (GRA). 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,

Phyllis Eldridge

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Derek Durbin, Durbin Law Offices, PLLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 11-19-2024

Property Address: 592 Dennett Street

Application #: LU-24-194

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"> This represents maintaining the status quo on the property by replacing an older shed with a new one. The changes in building coverage are de minimis and the rear yard setback is not changing from the existing conditions. No aspect will be contrary to the public interest and there will be no new hazards, traffic situations, and so on that will be considered detrimental to the public interest.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> This represents maintaining the status quo on the property by replacing an older shed with a new one. The changes in building coverage are de minimis and the rear yard setback is not changing from the existing conditions.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • Since there will be no impact on the public, and any loss to the applicant will not be outweighed by a loss to the public.
<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The shed won't be visible to the surrounding properties and it will abut against an encroaching garage on the neighboring 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 special condition of the property is the fact that the shed will not really be visible from Whipple or Dennett Streets. That special condition made the changes acceptable.



CITY OF PORTSMOUTH

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ZONING BOARD OF ADJUSTMENT

November 26, 2024

Stephen A. & 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, November 19, 2024**, considered your application for constructing a new single-family dwelling which requires the following: 1) Variance from Section 10.628.20 to allow an unfinished basement to be constructed at a flood elevation of 5.75 ft. where 10 feet is required, and 5.75 ft. exists. 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 **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:

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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: 11-19-2024

Property Address: 43 Holmes Court

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 variances are related to Section 10.692.2 a, b, and c, which really spoke to whether the variance will create any exposure to the public for additional expenses or changes in floodplain or increase the risk of flooding to surrounding properties. There is nothing in the proposal that did that, so Sections 10.233.21 and .22 of the ordinance are satisfied, in addition to the treatment of 10.629.20.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The variances are related to Section 10.692.2 a, b, and c, which really spoke to whether the variance will create any exposure to the public for additional expenses or changes in floodplain or increase the risk of flooding to

		surrounding properties. There is nothing in the proposal that did that, so Sections 10.233.21 and .22 of the ordinance are satisfied, in addition to the treatment of 10.629.20.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> • There will be no impact on surrounding properties, and the property owners have taken pains to make the project as unobtrusive as possible to surrounding properties, like the view of the water and so on. • There will be no loss to the public that will outweigh the benefit to the property owners in replacing a dilapidated property that needs to be replaced.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> • Granting the variances will not diminish the values of the surrounding properties and there will be no creation of additional hazards. The basement will be invisible to the surrounding properties and, since the owners have chosen not to solve the problem by increasing the height of the building, there will be no conceivable impact on 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 (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 special condition, in this case, is the overlapping mosaic of regulations and requirements, some of which are shifting during the lifespan of the project being conceived, that made it very difficult to come up with alternatives that could be stable throughout the lifetime of the planning and construction process. That is a condition that weighs into this particular requirement for a zoning variance on this property.



CITY OF PORTSMOUTH

Planning &
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ZONING BOARD OF ADJUSTMENT

November 26, 2024

361 Hanover Steam Factory LLC
361 Hanover Street
Portsmouth, New Hampshire 03801

**RE: Board Of Adjustment request for property located at 361 Hanover Street,
Portsmouth, NH (LU-24-196)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, November 19, 2024**, considered your application for expanding and renovating the existing commercial building and convert it to multi-family residential and to construct three new multi-family residential buildings which requires the following: 1) Variance from Section 10.642 to allow residential principal uses on the ground floor of the buildings; 2) Variance from Section 10.5A41 - Figure 10.5A41.10D to a) allow for "Apartment", "Rowhouse" and "Duplex" building types where they are not permitted; b) allow a ground floor height of 10.5 feet where 12 feet is required; and 3) Variance from Article 15 - Definition of Penthouse - to allow a penthouse with a setback of 8 feet from all roof edges where 15-20 feet is required and to allow no greater than 80% of the gross living area of the level of the floor below where 50% is the maximum. Said property is shown on Assessor Map 138 Lot 63 and lies within the Character District 5 (CD5) and Downtown Overlay District. As a result of said consideration, the Board voted to **postpone** the request to the December 17, 2024 meeting.

This matter will be placed on the agenda for the Board of Adjustment meeting scheduled for **Tuesday, December 17, 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:

John Bosen, DTC Law
John Chagnon, Ambit Engineering, Inc.