



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

March 20, 2025

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

RE: Board Of Adjustment Request for Rehearing Property Located at 84 Pleasant Street and 266, 270, 278 State Street, Portsmouth, NH (LU-24-195) (LU-24-219)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **March 18, 2025**, considered your application for Rehearing for the request of PNF Trust of 2013, (Owner), for property located at 84 Pleasant Street and 266, 270, 278 State Street originally heard on November 19, 2024. The project requested relief to merge the lots and construct a four-story mixed-use building. As voted on at the February 19, 2025 meeting, the request for Variance 2(b) will be the only relief considered in the rehearing: for 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. Said property is shown on Assessor Map 107 Lot 77 Map 107 Lot 78, Map 107 Lot 79, 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 **approve** the request as presented with the following **condition**:

1) The presented height for both the Times Building and the addition on the Church St. elevation are affirmed as presented.

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

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

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

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

<https://www.cityofportsmouth.com/planportsmouth/zoning-board-adjustment/zoning-board-adjustment-archived-meetings-and-material>

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

Very truly yours,

A handwritten signature in cursive script that reads "Phyllis Eldridge".

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: 03-18-2025

Property Address: 84 Pleasant St

Application #: LU-24-195

Decision: **Grant**

Findings of Fact:

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

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

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	YES	<ul style="list-style-type: none"> • Granting the variance would not be contrary to the public interest because the Board was looking at a request for a height variance of a specific portion of what was being developed. The Board recognizes that the replica Times building was trying to recreate something from the late 1800s and early 1900s timeframe and some of that could create some disparity between the older structures and the new ones. • It would not feel like a taller building to someone walking down Church Street. • It would also allow the applicant to take advantage of some of that roof space for additional living area.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> • What is proposed for the Church Street structure was an allowed height, with the setback for the fourth story that was consistent with the Times building and overall consistent

		<p>with new construction that would be expected in the area as allowed by the zoning ordinance and in character.</p> <ul style="list-style-type: none"> The essential characteristics are driving factors of the recreation of the Times building, which dictate the heights.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Substantial justice would be done due to the sight lines aspect and the unique replica Times building. It would be taller but would replace something that had been there for decades. Relating to concerns of light and air and darkness, the vast majority of what the applicant was allowed to do by right would create the most negative impact for the abutter, so the balancing test goes to the applicant and their request for the additional height.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> Granting the variance would not diminish the values of surrounding properties because even though the set-back fourth story is somewhat higher than what is allowed, there isn't anything of such character that is different. There is a mixture of construction types and sizes of structures, and recreating the Times building is the right thing to do for the city.
<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 conditions are that it is on a narrow street and a very dense area. Outside of the lower building and the parking lot on Court Street, the entire lot is developed. The buildings come almost all the way up to the property line on the Church Street side, if not all the way to the property line. The recreation of the Times building dictates a lot of the heights. The hardship is the narrowness of the Church Street property and the distance away from State Street, which makes the request a reasonable one and allows the applicant to take advantage of extra height.



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ZONING BOARD OF ADJUSTMENT

March 20, 2025

Rosa Z. Delisle and Paul R. Delisle Revocable Trust
20 Leighton Road
Dover, New Hampshire 03820

RE: Board of Adjustment Request for property located at 408 The Hill, #6-17, (Units 1-3), Portsmouth NH 03801 (LU-25-24)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **March 18, 2025**, considered your application for the property located at 408 The Hill, #6-17, (Units 1-3) whereas after the fact relief is needed for the expansion of the existing business into the remaining first floor units which requires the following: 1) Variance from Section 10.440, Use #7.20 to allow a personal services business to expand where it is not allowed; and 2) Variance from Section 10.331 Action Sheet, Board of Adjustment Meeting, March 18, 2025 Page 3 to allow a nonconforming use to be extended, enlarged or changed where not in conformity of the Ordinance. Said property is shown on Assessor Map 118 Lot 26 and lies within the Character District 4-L1 (CD4-L1), Historic, and Downtown Overlay Districts. As a result of said consideration, the Board voted to **approve** the request as presented with the following **condition**:

1) The business model will continue to be by appointment only.

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,

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

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 03-18-2025

Property Address: 408 The Hill, #6-17 (Units 1-3)

Application #: LU-25-24

Decision: **Grant**

Findings of Fact:

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

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

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	YES	<ul style="list-style-type: none"> Granting the variance would not be contrary to the public interest because there would be no changes to the health, safety, and welfare in the neighborhood, traffic has been handled, and parking is available and would not increase. There would be no effect on light and air and no changes to the essential character of the neighborhood. Most of the buildings in The Hill area have some sort of business on the first floor and upstairs apartments.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> In the CD4L1 area, the zoning purpose is to promote walkable mixed-use development. It is a use that is not allowed by right but is not contrary to the objective of zoning. Other similar uses in the area with the same amount of traffic include a Pilates instructor, counselor services, and so on.

		<ul style="list-style-type: none"> The Hill is unique and has more of a neighborhood feel to it than the CD4L4 and 5, most of the businesses are by appointment and the applicant's appointment model is consistent with the other uses allowed.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Granting the variance would do substantial justice because it would allow the operation to continue. It would be a loss to both the tenant and landlord that would exceed any possible benefit to the public if the ordinance were enforced.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> It would not diminish the values of surrounding properties, because there is no evidence that it would. It has existed in some form for some time and no one has complained.
<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 conditions are that the shop is in a unique enclave near downtown Portsmouth in an area of relocated historic buildings and mixed uses as designated by zoning. That particular building has a number of small unit sizes that would limit the desirability for any commercial uses. Owing to those conditions, there is no fair and substantial relationship to prohibit the use as required by the ordinance and to apply that to the property.