



# CITY OF PORTSMOUTH

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

## **ZONING BOARD OF ADJUSTMENT**

January 30, 2026

Rich Rigazio  
RIGZ Enterprises LLC  
18 Dixon Lane  
Derry, New Hampshire 03038

**RE: Board of Adjustment Request for property located at 822 US Route 1 Bypass,  
Portsmouth NH 03801 (LU-25-179)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **January 27, 2026**, considered your application for the property located at 822 US Route 1 Bypass whereas relief is needed to place a new sign on an existing pole which requires the following: 1) Variance from Section 10.1253.10 to allow a sign setback of 2.5 feet from a lot line where 20 feet are required. Said property is shown on Assessor Map 160 Lot 29 and lies within the Business and General Residence A (GRA) 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.

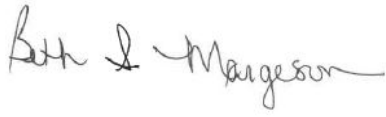
This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

*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:*

<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 black ink, reading "Beth Margeson". The signature is written in a cursive style with a large, stylized "B" and "M".

Beth Margeson, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Dennis Stoddard, The City Tobacco and Beverage Center

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 1/27/2026

Property Address: 822 US Route 1 Bypass

Application #: LU-25-179

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"><li>The sign pole was already in the location and there was previously a sign there for several years.</li></ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"><li>The purpose of the ordinance is to not have signs so imposing on the street that they interfered with traffic safety. The sign will not alter the essential characteristics of the neighborhood that has multiple gas stations and signs and will not threaten the public's health, safety, or welfare.</li></ul>
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"><li>The benefit to the applicant will not be outweighed by any potential harm to the public.</li><li>The Board did acknowledge that there could be some concerns from the public by the illumination of the signs at night, but the</li></ul>

		<p>variance is not regarding that and is only related to the sign's location relative to the property line. Forcing the applicant to put the sign somewhere else could harm the general public even more.</p>
10.233.24 Granting the variance would not diminish the values of surrounding properties.	<b>YES</b>	<ul style="list-style-type: none"> <li>• Allowing the variance will be less impactful to the residential neighborhood on Dennett Street.</li> </ul>
<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>	<b>YES</b>	<ul style="list-style-type: none"> <li>• The special conditions of the property that distinguished it from others in the area is that the sign pole is already in that location.</li> <li>• The property's frontage is a one-way lane of travel and someone has to go under a bridge as they approached the property, so allowing the sign to be closer to the street would allow it to be read from vehicles sooner.</li> <li>• It is a special condition of the property, in combination with the existing sign pole being there, and that the proposed use is a reasonable one and consistent with that type of business.</li> </ul>



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## **ZONING BOARD OF ADJUSTMENT**

January 30, 2026

Three Hundred Seventy One Lowell Avenue Realty LLC  
TMK Lavergne LLC  
95 Webster Avenue  
Pelham, New Hampshire 03076

**RE: Board of Adjustment Request for property located at 1303 Woodbury Avenue,  
Portsmouth NH 03801 (LU-25-174)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **January 27, 2026**, considered your application for the property located at 1303 Woodbury Avenue whereas relief is needed for a change of use from retail to medical office and striping on existing pavement for additional parking which requires the following: 1) Variance from Section 10.5B83.10 to locate parking between the principal building and the street; 2) Variance from Section 10.1113.20 to locate parking between the principal building and the street; and 3) Variance from Section 10.1113.31 to permit parking within 100 feet of a residential zone. Said property is shown on Assessor Map 217 Lot 1 and lies within the Gateway Corridor (G1) District. As a result of said consideration, the Board voted to **grant** the request as presented with the following **conditions**:

1) The hours of use for the striped 10 parking spots added by this variance shall be limited from 6 am to 7 pm.

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 dark ink, appearing to read "Beth I Margeson". The signature is fluid and cursive, with the first name "Beth" and last name "Margeson" clearly legible, and a middle initial "I" in between.

Beth Margeson, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Convenient MD

Chris Mulligan, Hoefle, Phoenix, Gormley & Roberts

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 1-27-2026

Property Address: 1303 Woodbury Ave

Application #: LU-25-174

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.	<b>YES</b>	<ul style="list-style-type: none"><li>Although the site is within the 100-ft buffer, it is clearly 70-80 feet from any of the residential properties. The neighborhood's health, safety or welfare will not be affected, nor light and air, and it will not alter the essential characteristics of the neighborhood.</li><li>It is an unusual lot due to its location and is isolated from other commercial properties by the highway.</li></ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"><li>A buffer is provided between the parking and the residential lots and is close to 80 feet to the residential properties.</li></ul>

10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>There will be no benefit to the public that will outweigh the loss to the applicant by denying the variances. It will either require additional impervious surfaces, which would be a harm to the public in order to accommodate the increased parking needs, or it will bar the use of the building for this type of facility, which would be a loss to the owner or applicant.</li> </ul>
10.233.24 Granting the variance would not diminish the values of surrounding properties.	<b>YES</b>	<ul style="list-style-type: none"> <li>There is no evidence that granting the variances will diminish the values of surrounding properties. It has been a commercial use for a long time.</li> </ul>
<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>	<b>YES</b>	<ul style="list-style-type: none"> <li>The property has special conditions, including that it is an existing commercial property in a Gateway Overlay District, which is not unusual, but it has roads on three sides and is isolated from the rest of the District by a major highway, and it also abuts a residential district.</li> <li>It is an existing structure that has a loading zone, which provides a logical way to increase parking.</li> <li>The roads on three sides limits where parking could be placed, so that justified having it between a road and a building.</li> <li>Owing to these special conditions, there is no fair and substantial relationship between the purpose of the ordinance and its specific application to the property.</li> </ul>

### Stipulations

- The hours of use for the striped 10 parking spots added by this variance shall be limited from 6 am to 7 pm.*



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## ZONING BOARD OF ADJUSTMENT

January 30, 2026

Bretta Heilbut  
21 Elwyn Avenue  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment Request for property located at 21 Elwyn Avenue,  
Portsmouth NH 03801 (LU-25-176)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **January 27, 2026**, considered your application for the property located at 21 Elwyn Avenue whereas relief is needed to demolish the existing one-story detached garage and construct a new two-story garage which requires the following: 1) Variance from Section 10.521 to allow a) a 6 foot left side yard where 10 feet is required, b) a 5 foot rear yard where 19 feet is required; and c) 34.5% Building Coverage where 25% is allowed. Said property is shown on Assessor Map 113 Lot 28 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **deny** the request as presented and advertised because it is not consistent with the spirit and intent of the Ordinance and failed to meet the hardship criteria.

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,

Beth Margeson, Chair of the Zoning Board of Adjustment

cc:

Derek R. Durbin, Durbin Law Offices

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 1-27-2026

Property Address: 21-Elwyn Avenue

Application #: LU-25-176

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.		
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>NO</b>	<ul style="list-style-type: none"><li>The ordinance is trying to keep garage structures in the area to a minimal size, and there is enough of a characteristic established to indicate that there is a strong correlation in this neighborhood that says that this type of construction and these types of setbacks and garages of this size are a character of the neighborhood and in keeping with the neighborhood.</li></ul>
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 (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>	<b>NO</b>	<ul style="list-style-type: none"> <li>• The petition failed the hardship criteria and what is unique about the property.</li> <li>• There are several other undersized lots in the area and the setbacks are being encroached upon in new ways. There is not sufficient uniqueness about the scenario.</li> <li>• The applicant is asking for a substantial increase in vertical height and does not have enough justification for it.</li> </ul>