



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

April 28, 2026

John W Mayer 2011 REVO Trust (50% INT)
John W Mayer Trustee
68 Cabot Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment Rehearing Request for property located at 238 Austin Street, Portsmouth NH 03801 (LU-26-33)

Dear Appellants:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **April 21, 2026**, considered the request for rehearing of 238 Austin Street, wherein permission was granted to allow the demolition of the existing structures, subdivide the lot and construct a new home on each lot which required the following for the Austin Street Lot: 1) Variance from Section 10.521 to allow a) 49.75 feet of frontage where 70 feet is required; and b) an 8.5 foot right side yard where 10 feet is required. The following was required for the Coffins Court Lot: 1) Variance from Section 10.521 to allow a) 2,884 sq. ft. of lot area where 3,500 sq. ft. is required, b) 2,884 sq. ft. of lot area per dwelling unit where 3,500 sq. ft. is required, c) a 5.5 ft. side yard where 10 feet is required; and d) an 18 foot rear yard where 20 feet is required.

As a result of said consideration, the Board voted to **deny** the request for rehearing, because the appellant failed to identify an error in procedure or law in the decision by the Board.

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: Shanti Wolph, Chief Building Inspector
Rosann Maurice-Lentz, City Assessor
Duncan MacCallum, Attorney
John Ragonese and Lynda Schmidt
Evan Baker and Laura Stewart
Keith and Cindy Smith
Lisa Paige Reyes
Chris Ward
R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PLLC
Monica F. Kieser, Hoefle, Phoenix, Gormley & Roberts, PLLC



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ZONING BOARD OF ADJUSTMENT

April 28, 2026

William and Virginia Osborn
28 Laurel Court
Portsmouth, New Hampshire 03801

RE: Board of Adjustment Request for property located at 133 Miller Avenue, Portsmouth NH 03801 (LU-26-21)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **April 21, 2026**, considered your application for the property located at 133 Miller Avenue whereas relief is needed to demolish the existing one-story garage and construct a new two-story attached garage which requires the following: 1) Variance from Section 10.521 to allow a) a 6-foot rear yard where 20 feet is required; and b) 3-foot left side yard where 10 feet is required. Said property is shown on Assessor Map 129 Lot 26 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **deny** Variance 1b, because it failed to observe the spirit of the Ordinance and failed to meet the hardship criteria. The Board voted to **grant** Variance 1a 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,

Beth Margeson, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor
Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts
Corey Colwell, TF Moran
Christian Perrson, Perrson Construction

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 4-21-2026

Property Address: 133 Miler Ave

Application #: LU-26-21

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.	NO	<ul style="list-style-type: none"> The purpose of setbacks was to preserve open space and air and light, and in this case, it would be a taller than existing structure within that setback and would block the southern exposure to a significant feature of the neighboring property, which required good lighting in order for it to continue to operate the way it did.
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>	<p>NO</p>	<ul style="list-style-type: none"> • It is a large property and there is room to consider other locations for that structure • The location was reasonable from an architectural standpoint, but there is no hardship of the property dictating that it must be placed that close to the side lot line, and it could achieve the same fair results for the owner for a more compliant conforming setback to the side lot line, so it failed on the hardship criteria.
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Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 4-21-2026

Property Address: 133 Miller Ave

Application #: LU-26-21

Decision: **Grant**

Findings of Fact:

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

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

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	YES	<ul style="list-style-type: none"> There is no public interest to be gained in not granting the variance for the rear yard setback. The structure is beautifully designed and fits architecturally with the rest of the neighborhood, and when completed, it will look wonderful and will not cause any safety issues.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> There is no public interest to be gained in not granting the variance for the rear yard setback. The structure is beautifully designed and fits architecturally with the rest of the neighborhood, and when completed, it will look wonderful and will not cause any safety issues.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • There is no gain to the public by denying the variance • The balance of interest is in the favor of the property owner.
<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 Board submitted into their record the public comment from Peter and Deborah Hayden of 205 Rockland Street that expressed various concerns related to the impact on their property, and the Board has evidence that those concerns were addressed.
<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 lot is an unusually large one and the location of the curb cut and the driveway limits the location of the garage. • Those are special conditions as well as the location of the house and the driveway. It would be reasonable to have a smaller setback. • There is not an architectural plan that would reasonably allow full conformance with a 20-ft setback on a rear yard and the garage.



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ZONING BOARD OF ADJUSTMENT

April 28, 2026

John C and Janice D Carpenter
2606 E Bay Drive NW
Gig Harbor, Washington 98355

RE: Board of Adjustment Request for property located at 614 Broad Street, Portsmouth NH 03801 (LU-26-24)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **April 21, 2026**, considered your application for the property located at 614 Broad Street whereas relief is needed to construct a front porch and rear addition to the primary dwelling, to demolish the existing detached garage and construct a new two-story garage with Accessory Dwelling Unit above which requires the following: 1) Variance from Section 10.521 to allow a) a 0.5 foot rear yard where 20 feet is required; b) 2.5 foot left side yard where 10 feet is required; and c) 34% building coverage where 25% is the maximum. Said property is shown on Assessor Map 221 Lot 54 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **grant** the request as presented with the following **conditions**:

1) The front porch shall not be enclosed and become part of an enclosed structure at a future date.

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,

Beth Margeson, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor
Derek Durbin, Durbin Law Offices

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 4-21-2026

Property Address: 614 Broad St

Application #: LU-26-24

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"> There is a large distance between the structure and any of the structures on the surrounding lots, so there was no real infringement on the free circulation of air and light on surrounding properties.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The variance request is compliant with the spirit of the ordinance in all major respects. The additional structure is within the allowed setback, which was the best that could be done in compliance with the spirit of the ordinance.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The Board is familiar with the street and could not imagine what public impact the variance would have that would be negative and most of the properties on the street have front porches, which would make

		<p>the home fit in better with the neighborhood.</p> <ul style="list-style-type: none"> • There would be no loss to the public that would outweigh any gain to the applicant.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> • The location of the garage is so well separated from the other structures that it will not have an impact on those properties, and the rest of the additional lot coverage happened within the setback requirements and will not impact the neighbors in any significant way.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	YES	<ul style="list-style-type: none"> • The hardship of the property is that the total square footage available to work within the lot is substantially lower than the square footage envisioned in the zoning for that area, which was 7500 square feet. • The lot is only 5,735 sf, and because of that, it is difficult to see how any additions and expansions to include ADUs or reasonable additional space would not create a problem with regard to lot coverage. Therefore, it is a hardship for the property that is worthy of consideration, particularly since a big portion of the variance, 4 percent out of the 10 percent, is related to the front porch that does not significantly block light or air circulation. It was very consistent with the rest of the neighborhood.

Stipulations

1. *The front porch shall not be enclosed and become part of an enclosed structure at a future date.*



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ZONING BOARD OF ADJUSTMENT

April 28, 2026

Anita Koury and Theodore Constantino
302 Miller Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment Request for property located at 302 Miller Avenue, Portsmouth NH 03801 (LU-26-32)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **April 21, 2026**, considered your application for the property located at 302 Miller Avenue whereas relief is needed to construct an addition to the existing garage, which requires the following: 1) Variance from Section 10.520 to allow a) 30% building coverage where 25% is maximum allowed; and 2) Variance from Section 10.573.20 to allow a 4 foot rear yard where 10 feet are required. Said property is shown on Assessor Map 130 Lot 11 and lies within the General Residence A (GRA) 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,

Beth Margeson, 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: 4-21-2026

Property Address: 302 Miller Avenue

Application #: LU-26-32

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 a small addition to an existing garage and it would not affect the health, safety, and welfare of the neighborhood. • Due to its location, the shed would not have any additional effect on light and air that the current garage did not already have, noting that it would be shorter than the existing garage and in the same location.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> • Many of the lots in that area had garages and many of them were within setbacks that were very close. • The existing garage was hardly noticeable to anyone driving down the street and the additional shed would not be seen by someone driving down the street because it

		might be partially blocked by the house.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> There is no benefit to the public by not granting the request and the applicant would suffer a loss if the variances were disapproved and would not have storage for yard implements and so on.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> No evidence was submitted that it would and there were no complaints or concerns expressed by the neighbors.
<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 relating to hardship included that the lot is undersized, which was not unusual in that part of town. There were several undersized lots, but coupled with the small size of the lot was the existing garage that was already located in the rear setback of the area. The existing garage was not big enough to store anything in. The shed was a reasonable accessory use to a home and there is no reason why the Board would insist on the strict application of the ordinance in this instance.



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ZONING BOARD OF ADJUSTMENT

April 28, 2026

Road to the West LLC
140 West Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment Request for property located at 140 West Road, Portsmouth NH 03801 (LU-26-34)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **April 21, 2026**, considered your application for the property located at 140 West Road whereas relief is needed to create an outdoor dining area, which requires the following: 1) Variance from Section 10.440 Use#19.50 to allow an outdoor dining or drinking area, as accessory use where it is not allowed. Said property is shown on Assessor Map 252 Lot 2-13 and lies within the Industrial (I) District. As a result of said consideration, the Board voted to **postpone** the request to the May 19 meeting.

This matter will be placed on the agenda for the Board of Adjustment meeting scheduled for **May 19, 2026**. One (1) copy of any revised plans and/or exhibits must be filed in the Planning & Sustainability Department no later than **Friday May 8, 2026**. Please remember you will be required to provide an electronic file (in a PDF format) of all plans and exhibits.

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:

John Bosen, Esq., DTC Lawyers
Courtney Vaughan, DTC Lawyers