

**MINUTES OF THE
BOARD OF ADJUSTMENT MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

May 19, 2026

MEMBERS PRESENT: Beth Margeson, Chair; Jeffrey Mattson, Vice-Chair; David Rheäume; Paul Mannle; Thomas Nies; Robert Sullivan

MEMBERS EXCUSED: Thomas Rossi; Mike Lucas, Alternate

ALSO PRESENT: Stefanie Casella, Planning Department

Chair Margeson called the meeting to order at 7:00 p.m. She said the applicant for Petition Old Business B, 140 West Road, withdrew his application, and Petition Old Business D, 34 Harvest Way, was postponed by the applicant to the June 16th meeting. She then asked for a motion to suspend the rules to take some items out of order.

Mr. Mannle moved to suspend the rules, seconded by Mr. Rheäume. The motion passed unanimously, 6-0.

Chair Margeson said the applicant for Old Business Petition A, 315 Banfield Rd, asked to postpone the petition to the June 16th meeting due to legal issues that were being worked out.

Mr. Sullivan moved to postpone Old Business Petition A, 315 Banfield Rd, to the June 16th meeting, seconded by Mr. Mannle. The motion passed unanimously, 6-0.

Chair Margeson said the applicant for New Business Petition A, 43 Austin Street, asked to postpone their petition until the June 16th meeting.

Mr. Mannle moved to postpone the petition to the June 16th meeting, seconded by Mr. Sullivan. The motion passed unanimously, 5-0, with Mr. Rheäume recused.

Chair Margeson said New Business Petition C, 134 Pleasant Street, would not be heard. She said the application was rejected by City Staff because an applicant could only have one application before the Board at one time.

I. APPROVAL OF MINUTES [Timestamp 5:20]

A. Approval of the March 31, 2026 Work Session minutes.

Mr. Nies moved to approve the March 31 Work Session minutes as amended. Mr. Rheäume seconded.

Mr. Nies suggested a few changes. He said Mr. Rossi's name should be replaced by Mr. Nies' name in the following sentence on page 3: "Mr. Rossi said de minimis changes came before the BOA and that he wasn't sure if it was a zoning issue as much as a Planning Department process issue." Mr. Nies said he, and not Mr. Rossi, made the comment. In the same paragraph, Mr. Nies said the word "he" in the sentence should be replaced by "Mr. Nies" because he made the comment and not Mr. Rossi as implied. The sentence was changed to read: "Mr. Nies said the ordinance did not state 25.0 percent lot coverage but said it was 25 percent lot coverage, so unless the last digit changed, it was not a change relevant to the ordinance." On page 6, Mr. Nies suggested adding a sentence after the following: "Attorney McCourt said it was being rolled out to new members as they were inducted on the boards but wasn't sure how that process was playing out in practice. He said he brought it to the attention of the Deputy City Manager". The added sentence reads: The new members on the BOA reported that they had not received the ethics training yet."

The motion passed unanimously, 6-0.

B. Approval of the April 21, 2026 meeting minutes.

Vice-Chair Mattson moved to approve the April 21 minutes as amended, seconded by Mr. Rheaume.

Mr. Nies said that in the top paragraph on page 8, the 3.1 acre lot should read as a 0.13 acre lot. Mr. Rheaume, who originally made the statement, agreed. The sentence was changed to read: "Mr. Rheaume said Exhibit A was submitted to give the Board an idea that the 0.13 acre lot was the smallest in the area." Mr. Rheaume noted a typo on page 4 in the last paragraph and said the word 'lo' should be 'lot'. The sentence was changed to read: "Mr. Rheaume said the proposed structure was a lot taller than the existing one and more intensive to maintain." He said the sentence on page 6 in the first paragraph: "He said he thought the 20-ft requirement was somewhat excessive and thought it should be something closer to 10 feet due to the sense that the property seemed like a side yard property" should be changed to read as follows: "He said he thought the 20-ft requirement was somewhat excessive and thought it should be something closer to 10 feet due to the sense that the setback seemed like a side yard for the property." The word "property" was changed to "setback" and the words "for the" were added at the end of the sentence before the word "property".

The motion passed unanimously, 6-0.

C. Approval of the April 28, 2026 meeting minutes.

Mr. Nies moved to approve the April 28 minutes with as amended. Mr. Rheaume seconded.

Mr. Nies said the first condition in the motion on page 5 should read: "The special exception is vested without issuance of a building permit because it was not needed for the construction of an accessory structure of the size proposed." The word "accessory" replaced the word "exterior".

The motion passed unanimously, 6-0.

II. OLD BUSINESS

- A. REQUEST TO POSTPONE** The request of **Hope for Tomorrow Foundation (Owner)**, for property located at **315 Banfield Road** whereas relief is needed to construct an addition to the existing school on the property, which requires the following: 1) Variance from Section 10.334 to allow the existing primary and secondary school use (Use #3.21) to be extended to another part of the remainder of the land. Said property is located on Assessor Map 266 Lot 5 and lies within the Industrial (I) District. **REQUEST TO POSTPONE (LU-26-41)**

DECISION OF THE BOARD

Mr. Sullivan moved to postpone Old Business Petition A, 315 Banfield Rd, to the June 16th meeting, seconded by Mr. Mannle. The motion passed unanimously, 6-0.

- B. WITHDRAWN** The request of **Road to the West, LLC (Owner)**, for 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 located on Assessor Map 252 Lot 2-13 and lies within the Industrial (I) District. **WITHDRAWN (LU-26-34)**

The petition was withdrawn by the applicant.

- C.** The request of **Port Hunter LLC (Owner)**, for property located at **361 Miller Avenue** whereas relief is needed to construct a detached garage with a professional office space on the second floor, which requires the following: 1) Variance from Section 10.573.20 to allow a) 6 foot side yard where 10 feet are required, and b) 10 foot rear yard where 20 feet are required; and 2) Variance from Section 10.440 Use #5.10 to allow a professional office use where it is not permitted. Said property is located on Assessor Map 131 Lot 33 and lies within the General Residence A (GRA) District. (LU-25-76)

SPEAKING TO THE PETITION [Timestamp 15:04]

Attorney Colby Gamester was present on behalf of the applicant and asked that the petition be postponed to the June 16th meeting because the applicant could not be present that night due to an illness in the family.

DECISION OF THE BOARD

Mr. Sullivan moved to postpone the petition to the June 16th meeting, seconded by Mr. Nies. The motion passed unanimously, 6-0.

- D. POSTPONE TO JUNE** The request of **Lonza Biologics INC (Owner)**, for property located at **34 Harvest Way** whereas relief is needed to install two illuminated wall signs and one illuminated monument sign, which requires relief from the following: 1) from Section 306.01(d) of the Pease Development Ordinance to allow signs to exceed a maximum aggregate area of two (2) square feet of sign area for each linear foot of street frontage up to a maximum of 200 square feet. Said property is located on Assessor Map 305 Lot 5 and lies within the Airport Business Commercial (ABC) District. **POSTPONE TO JUNE (LU-26-12)**

The petition was postponed by the applicant to the June 16th meeting.

III. NEW BUSINESS

- A. REQUEST TO POSTPONE** The request of **Portsmouth Historical Society (Owner)**, for property located at **43 Austin Street** whereas relief is needed to convert a single-family home to an office use which requires the following: 1) Variance from Section 10.440 (Use #5.10) to allow professional office space where it is not permitted. Said property is located on Assessor Map 127 Lot 27 and lies within the General Residence C (GRC) and Historic Districts. **REQUEST TO POSTPONE (LU-26-43)**

DECISION OF THE BOARD

Mr. Mannle moved to postpone the petition to the June 16th meeting, seconded by Mr. Sullivan. The motion passed unanimously, 5-0, with Mr. Rheume recused.

- B.** The request of **Alexandre T and Lauren M LePage (Owners)**, for property located at **53 McNabb Court** whereas relief is needed to demolish the existing rear porch and construct an addition and construct a new front porch which requires the following: 1) Variance from Section 10.521 to allow a) 30.5% building coverage where 25% is allowed, b) 8 foot left yard where 10 feet are required, c) 6 foot right yard where 10 feet are required. Said property is located on Assessor Map 112 Lot 57 and lies within the General Residence A (GRA) District. (LU-26-50)

SPEAKING TO THE PETITION [Timestamp 16:57]

The applicant Alex LePage was present. He noted that the petition was originally approved in January but that his builder revised the plans, causing some items to go farther into the setback. He reviewed the changes, noting that the enlarged front porch was farther into the original right setback. He said the left yard stairs were revised and needed an 8.5-ft setback. He said the right side porch setback changed and needed a variance because it was now 8.5 ft from the right property line. He said the building coverage increased to 30.1 percent but was closely in line with the rest of the neighbors. He reviewed the criteria and said they would be met.

The Board had no questions. Chair Margeson opened the public hearing.

SPEAKING IN FAVOR OF THE PETITION [Timestamp 22:20]

Julie Robb of 405 South Street said she was the right-side abutter. She said her only concern was that the applicant's front porch had changed. She said cars generally were parked there and next to her access fence and that they were also near a fire hydrant. She said the applicant did not have a very big house, however, and everyone in the neighborhood had expanded their houses. She said the applicant was willing to work with the neighbors and that the petition should be approved.

SPEAKING IN OPPOSITION OR SPEAKING TO, FOR, OR AGAINST THE PETITION

No one else spoke, and Chair Margeson closed the public hearing. She noted that the Board received three letters from neighbors in support of the petition.

DECISION OF THE BOARD [Timestamp 24:00]

Mr. Nies moved to grant the variance for the application as presented and advertised. Mr. Mannle seconded.

Mr. Nies commented that the changes for the application that was approved earlier in the year were very minor, so he was drawing a lot on the rationale that was used for that application. He said granting the variances will not be contrary to the public interest and will observe the spirit of the ordinance. He said the changes will make the house much more livable and will not affect the health, safety, and welfare of the neighborhood or have a real effect on light and air. He noted that there was a large lot next to the applicant's property and that its light and air would not be affected. He said granting the variance will not alter the essential characteristics of the neighborhood. He said it was an interesting court in which all four houses were similar in design and had similar porches and additions in the back. He said the applicant's house would fit in better with the neighborhood after the changes were made. He said substantial justice would be done, noting that he would be hard-pressed to identify any benefit to the public by denial that would outweigh any loss to the applicant by not approving the usability of the applicant's house. He said granting the variance would not diminish the values of surrounding properties, noting that no evidence was presented that it would. He said no abutters had objected to the proposal or indicated concerns about their property values being diminished. He said the special conditions that distinguished the property from many others in the area included that the lot was very small for the zoning area and was in an unusual location. He said there were not many little courts like that in Portsmouth, and the additional changes would not be visible from the nearest major street, Lincoln Avenue. He said the house itself was relatively small by today's standards. He said it is situated on the property near the front property line and near the righthand side property line, which created some of the issues involved. He said owing to those special conditions, there is no fair and substantial relationship between the purpose of the ordinance and its specific application to the property. He said it is a reasonable use of the property to make a better home for the family. Mr. Mannle concurred and had nothing to add.

The motion passed unanimously, 6-0.

- C. The request of **Double Mc LLC (Owner)**, for property located at **134 Pleasant Street** whereas relief is needed to alter the existing drive-through facility which requires the following: 1) Variance from Section 10.334 to allow a drive-through use (Use # 19.40) to be extended to another part of the remainder of the land. Said property is located on Assessor Map 116 Lot 30 and lies within Character District 4 (CD4) and the Historic District. (LU-25-138)

The application was not heard because it was rejected by City Staff because an applicant could only have one application before the Board at one time.

IV. ADJOURNMENT

The meeting adjourned at 7:27 p.m.

Submitted,

Joann Breault
BOA Meeting Minutes Taker