

# HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

ATTORNEYS AT LAW

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August 20, 2020

## HAND DELIVERED

David Rheaume, Chair  
Portsmouth Zoning Board of Adjustment  
City Hall  
1 Junkins Avenue  
Portsmouth, NH 03801

Re: Request for Extension of Zoning Relief granted 11/20/18  
Arbor View & the Pines, LLC  
145 Lang Rd., Portsmouth, NH 03801, Permit Number 34605  
Assessor's Map 287, Lot 1  
Zoning District: Garden Apartment/Mobile home park  
Description: Add to apartment buildings with a total of 186 dwelling units on the property

Dear Chair Rheaume and Zoning Board members;

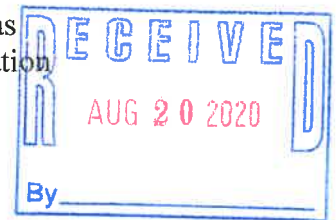
On behalf of Arbor View & the Pines, LLC, and Forest Properties Management, Inc., we hereby respectfully submit this request for a one-year extension of the zoning relief granted by the ZBA on November 20, 2018:

- a) Section 10.52 to allow a lot area per dwelling unit of 8321 ft. were 10,000 ft. is required
- b) Section 10.522 to allow 2 new multifamily dwellings with a maximum building length exceeding 160 feet.

Attached for your review is the November 26, 2018 Notice of Decision identifying the granted relief.

Portsmouth Zoning Ordinance Section 10.236 provides that zoning approvals expire within 2 years unless a building permit is obtained:

"The board may, for good cause shown, extend such period by as much as one year if such extension is requested and acted upon prior to the expiration date. No other extensions may be requested."



DANIEL C. HOEFLE	R. PETER TAYLOR	KEVIN M. BAUM	ERICA A. DUMORE
R. TIMOTHY PHOENIX	JOHN AHLGREN	GREGORY D. ROBBINS	OF COUNSEL:
LAWRENCE B. GORMLEY	KIMBERLY J.H. MEMMESHEIMER	MONICA F. KIESER	SAMUEL R. REID
STEPHEN H. ROBERTS	MATTHEW G. STACHOWSKE	SAMUEL HARKINSON	

Good cause is shown in that its request is made based primarily upon the complications and uncertainties from the COVID-19 pandemic, causing the postponement of construction on the project. The intent is to proceed with the project and begin construction within the one-year extension. Please note that pending before the Portsmouth Planning Board is a request for one-year extension of Site Plan and Wetlands Conditional Use Permit granted by the Planning Board on August 15, 2019.

Please let me know if you have any questions or comments.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'RTP', is written over the typed name.

R. Timothy Phoenix

RTP/msw  
Encl.

cc: Juliet T.H. Walker, Planning Director  
Cory Belden, Altus Engineering  
Arbor View & the Pines, LLC



# CITY OF PORTSMOUTH

Community Development Department  
(603) 610-7281

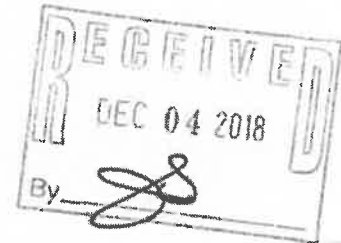
Planning Department  
(603) 610-7216

## PLANNING DEPARTMENT



November 26, 2018

Arbor View & The Pines, LLC  
145 Lang Road  
Portsmouth, New Hampshire 03801



Re: Property at 145 Lang Road, Permit #34605  
Assessor Plan 287, Lot 1

Dear Applicants:

The Board of Adjustment at its regular meeting on November 20, 2018 completed its consideration of your application described as follows:

### Application:

3) Case 11-3

Petitioners: Arbor View and The Pines LLC c/o Forest Properties Management Inc.  
Property: 145 Lang Road  
Assessor Plan: Map 287, Lot 1  
Zoning District: Garden Apartment/Mobile Home Park  
Description: Add two apartment buildings for a total of 186 dwelling units on the property.  
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variances:  
a) from Section 10.521 to allow a lot area per dwelling unit of 8,321± s.f. where 10,000 s.f. is required; and  
b) from Section 10.522 to allow two new multifamily dwellings with a maximum building length exceeding 160 feet.

### Action:

The Board voted to **grant** the petition as presented and advertised.

### Review Criteria:

The petition was granted for the following reasons:

- Granting the variances will not be contrary to the public interest and the spirit of the ordinance will be observed. The proposed new buildings will be in keeping with those that are existing so that the character of the neighborhood will not be altered. There is no evidence that the public health, safety or welfare will be threatened. Residential uses create fewer traffic issues than businesses and residents of the new buildings can access a traffic light at Roberts Avenue in lieu of using the more heavily traveled Lang Road. Further, the Technical Advisory Committee and Planning Board will consider traffic and potential storm water runoff during site plan review.
- Granting the variances will result in substantial justice as there is no gain to the public that would outweigh the loss to the applicant if the petition were denied.
- The proposed buildings are appropriate to the site and will be located behind existing structures, set off from neighboring properties and not within the sight lines of those properties, so that the value of surrounding properties will not be diminished.
- Literal enforcement of the ordinance would result in unnecessary hardship due to special conditions of the property which include substantial wetland that is not developable so that there is no fair and substantial relationship between the general purposes of the ordinance and their specific application to the property. The proposed use is a reasonable one as parking has been provided for the additional units and smaller buildings already on the property have not damaged the surrounding wetlands or buffer.

As provided for in NH RSA Chapter 677, the Board's decision may be appealed 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 Department for more details about the appeals process. Construction drawings or sketches must be reviewed and approved by the Building Inspector prior to the issuance of a building permit. Approvals by other land use boards may also be required prior to the issuance of a building permit.

The minutes and tape recording of the meeting may be reviewed in the Planning Department.

Very truly yours,



David Rheume, Chairman  
Board of Adjustment

mek

c: Robert Marsilia, Chief Building Inspector  
Roseann Maurice-Lentz, City Assessor  
Forest Properties Management, Inc.  
R. Timothy, Esq.