



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

September 26, 2022

Joel St. Jean & Mariele Chambers  
283 South Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 108 Burkitt Street (LU-22-89)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, September 20, 2022**, considered your application for demolishing the existing garage and constructing a new 13' x 30' garage which requires the following: 1) A Variance from Section 10.573.20 to allow a 1 foot left side yard where 10 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 159 Lot 30 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **grant** the request with the enclosed Findings of Fact and stipulation below:

1. The left side yard shall be 2 feet.

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

Very truly yours,

Arthur Parrott, Chairman 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: September 20, 2022

Property Address: 108 Burkitt Street

Application #: LU-22-89

Decision: **Grant with Stipulations**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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>	The replacement of the garage in a residential area would not alter the essential character of the neighborhood or threaten the public's health, safety, or welfare. This application improves the setbacks from 0 to 2 feet.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>Yes</b>	
10.233.23 Granting the variance would do substantial justice.	<b>Yes</b>	There must be a benefit to the public which is outweighed by the loss to the applicant and the application would not result in any benefit to the public because it was just a garage.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	<b>Yes</b>	The replacement of an old dilapidated garage that created stormwater problems with a new functional garage that better serviced the house would enhance the values of surrounding properties.
10.233.25 Literal enforcement of the provisions of the Ordinance would result in an	<b>Yes</b>	The application of the side yard setback is reasonable with respect to this property.

<p>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>The proposed use is a reasonable one, a garage for a house in a residential area, and moving the garage would encroach on some part of the setback.</p>
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<b>Stipulations</b>
<p>1. <b>The left side yard shall be 2 feet.</b></p>



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## ZONING BOARD OF ADJUSTMENT

September 26, 2022

Joseph Ricci  
Ricci Construction CO, Inc.  
225 Banfield Rd.  
Portsmouth , New Hampshire 03801

**RE: Board of Adjustment rehearing for property located at 225 Banfield Road (LU-22-91)**

Dear Mr. Ricci:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, September 20, 2022**, considered your application for a variance to demolish the existing building and construction of a new 5 unit commercial building and 60 unit residential building with underground parking which requires the following: 1) A Variance from Section 10.440 to allow a 60 unit residential building where residential uses are not permitted in the Industrial district. Said property is shown on Assessor 254 Lot 1 and Map 266 Lot 1 and lies within the Industrial (I) District. As a result of said consideration, the Board voted to grant the request, however, the motion failed on a 2-4 vote. Those that voted against the motion stated the reasons why it did not meet the criteria as represented in the enclosed Findings of Fact.

The Board's decision may be appealed up to thirty (30) days after the vote. Please contact the Planning Department for more details about the appeals process.

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

Very truly yours,

Arthur Parrott, Chairman of the Zoning Board of Adjustment

cc:

Joseph Ricci  
John G. Cronin, Esquire, Cronin, Bisson & Zalinsky P.C.  
Jeffrey C. Christensen, Cleveland, Waters and Bass, P.A.

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: September 20, 2022

Property Address: 225 Banfield Rd.

Application #: LU-22-91

Decision: **Deny**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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>No</b>	The proposal would potentially threaten health, safety and welfare of the public, as stated in the letter from the Health Officer. The residential use is a conflict with the industrial zoning of the area and there are possible health consequences to people living in the building.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>No</b>	
10.233.23 Granting the variance would do substantial justice.		
10.233.24 Granting the variance would not diminish the values of surrounding properties.	<b>No</b>	Pike Industries, who made the case that if they sold to another owner for the same purpose (or similar industrial use), made the case that a potential buyer would see an apartment building next to the waste pits and would lower the offer substantially because they would be concerned about managing complaints and from nearby residents.
10.233.25 Literal enforcement of the provisions	<b>No</b>	There were no special conditions unique

<p>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>to this property. This property can continue to be used for industrial purposes. The applicant did not demonstrate the rest of the property could not be used for an industrial use.</p>
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## ZONING BOARD OF ADJUSTMENT

September 26, 2022

George Pappas  
170 Melbourne Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 170 Melbourne Street(LU22-151)**

Dear Mr. Pappas:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, September 20, 2022**, considered your application for the addition of a 12 x 12 shed which requires the following: 1) A Variance from Section 10.573.20 to allow an 8' left side yard where 10' is required. 2) A Variance from Section 10.571 to allow an accessory structure to be located in the front yard. 3) A Variance from Section 10.521 to allow 26% building coverage where 20% is the maximum allowed. Said property is shown on Assessor Map 140 Lot 3 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **grant** the request as presented with the enclosed Findings of Fact.

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

Very truly yours,

Jim Lee, Vice Chairman of the Zoning Board of Adjustment



9/26/22, 11:15 AM

about:blank

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: September 20, 2022

Property Address: 170 Melbourne St.

Application #: LU-22-151

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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>	The lot line clearance is consistent with the neighbor's shed, so it would not be contrary to the public interest or alter the essential character of the neighborhood and the spirit of the ordinance would be observed.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>Yes</b>	
10.233.23 Granting the variance would do substantial justice.	<b>Yes</b>	There is no benefit to the public that would outweigh the loss to the applicant if he were not allowed to have the shed.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	<b>Yes</b>	Granting the variances would not diminish the values of surrounding properties due to the consistency with the character of the rest of the neighborhood. Having a shed to keep equipment in instead of strewn about the yard would be good for the neighborhood.
10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.	<b>Yes</b>	There were special conditions, in particular the setback from Melbourne Street that diminished and changed some

<p>(a)The property has special Conditions that distinguish it from other properties in the area. AND</p> <p>(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</p> <p>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>of the clearance calculations and makes it appear that the shed is in the front yard when it really isn't, and that was a special condition that needed to be considered in terms of the equitable use of the property.</p>
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## ZONING BOARD OF ADJUSTMENT

September 26, 2022

Natan Aviezri Revocable Trust  
697 Sagamore Avenue  
Portsmouth, New Hampshire 03801

RE: **Board of Adjustment request for property located at 75 Monroe Street (LU-22-162)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, September 20, 2022**, considered your application for extend existing dormers on both sides of the house which requires the following: 1) Variances from Section 10.521 to allow a) an 11.5 foot rear yard where 20 feet is required; and b) a 5.5 foot side yard where 10 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance . Said property is shown on Assessor Map 168 Lot 27 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 enclosed Findings of Fact.

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

Very truly yours,

Arthur Parrott, Chairman of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Debra Klein

Monica Keiser, Esq., Hoefle, Phoenix, Gormley & Roberts, PLLC

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: September 20, 2022

Property Address: 75 Monroe St

Application #: LU-22-162

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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>	Granting the variances would not be contrary to the public interest or to the spirit of the ordinance because it is not introducing change other than a cosmetic change to the exterior.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>Yes</b>	
10.233.23 Granting the variance would do substantial justice.	<b>Yes</b>	There is no harm to the public by extending the dormers therefore nothing outweighs the loss to the applicant.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	<b>Yes</b>	The property and the revision was consistent with what is in the neighborhood and would be an improvement.
10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.	<b>Yes</b>	Literal enforcement would serve no purpose and would present a hardship to the enjoyment of the users.
(a)The property has special Conditions that		

<p>distinguish it from other properties in the area. AND</p> <p>(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</p> <p>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>		
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## ZONING BOARD OF ADJUSTMENT

September 26, 2022

Rob Currao  
3020 Lafayette Road  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 3020 Lafayette Rd (LU-22-158)**

Dear Mr. Currao:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, September 20, 2022**, considered your application for a proposed retail cabinetry outlet which requires the following: 1) A Special Exception from Section 10.440, Use #8.31 to allow retail sales conducted within a building which is permitted by special exception. Said property is shown on Assessor Map 292 Lot 152 and lies within the Mixed Residential Business (MRB) District. As a result of said consideration, the Board voted to **grant** the request as presented with the enclosed Findings of Fact.

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

Very truly yours,

Arthur Parrott, Chairman of the Zoning Board of Adjustment



cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Rob Currao, Cabinet Outlet, LLC

# Findings of Fact | Special Exception

## City of Portsmouth Zoning Board of Adjustment

Date: September 20, 2022

Property Address: 3020 Lafayette Road

Application #: LU-22-158

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the all conditions necessary to obtain final approval.

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

Special Exception Review Criteria: Section 10.232.20	Finding (Meets Criteria)	Relevant Facts
10.232.21 Standards as provided by this Ordinance for the particular use permitted by special exception;	<b>Yes</b>	Yes, it is permitted under Use 8.31 allowed for non-marine related retail services to be conducted in a mixed residential business zone.
10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.	<b>Yes</b>	Granting the special exception would reduce the potential.
10.233.23 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;	<b>Yes</b>	Going from retail convenience to a retail showroom. The MRB zone provides areas where there are a limited range of businesses, establishments and live-work units that can be located near or adjacent to residential developments.

10.233.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;	<b>Yes</b>	The proposal would pose no creation of a public safety hazard or traffic congestion as the building is in the corner and the parking lot was on the right.
10.233.25 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and	<b>Yes</b>	The proposal would use water, sewer and possibly waste disposal, which is standard for any house or retail building.
10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.	<b>Yes</b>	Would pose no increase in runoff or would be less than what was there now.