



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

March 2, 2023

Michiyo Bardong and Shawn Bardong
39 Dearborn Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 39 Dearborn Street. (LU-23-5)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, February 22, 2023**, considered your application for constructing a second story over the existing 1.5 story building, removing and expanding the front porch, and removing and expanding the existing mudroom on the eastern side of the structure which requires the following: 1) Variance from Section 10.521 to allow a) 2 foot rear yard where 20 feet is required; and b) 9 foot side yard where 10 feet is required. 2) Variance from Section 10.321 to allow the extension and enlargement of a non-conforming structure. Said property is shown on Assessor Map 140 Lot 3 and lies within the General Residence A (GRA) and Historic 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 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 Department.

Very truly yours,

A handwritten signature in cursive script that reads "Phyllis Eldridge". The signature is written in black ink and is positioned above the printed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Amy Dutton, Amy Dutton Home

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 2-22-2023

Property Address: 39 Dearborn Street

Application #: LU-23-5

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.	YES	<ul style="list-style-type: none"> • Vertical expansion of an existing structure using an existing foundation that's tight up against one corner of the proposed property will have minimal impacts on encroachment and noticeable changes from the public. • The total percentage of lot coverage is much smaller than required for the zoning area, the home is positioned from the 1800s and the property got formed around it, leaving tight setbacks, which is the most egregious aspect to it. • The property is well hidden from the public and it is a 7-ft change.

<p>10.233.22 Granting the variance would observe the spirit of the Ordinance.</p>	<p>YES</p>	<ul style="list-style-type: none"> • It is a significant change to the required setbacks but it is a very old home on an old property and predates the ordinance. • It isn't realistic for the applicant to put the expansion in any other location due to the foundation. • The two properties around it most affected by the setbacks have characteristics that make the light and air concerns less significant.
<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • In terms of the board's purview, there are no factors that outweighed the neighboring properties. Those properties also have tower structures and the applicant's property wasn't close to the side of the properties on Dearborn Street.
<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"> • An improvement would be a positive aspect, there isn't anything so egregious about what was proposed that it would have a negative impact on surrounding properties in terms of their values.
<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 main hardship is the foundation that went back a century or more before zoning existed, and the applicant is benefited by some of the unique nature of the surrounding properties, including their buildability and topography. • In the sense of the areas most affected by the vertical expansion, there are some things in favor that does distinguish the property from surrounding properties.



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ZONING BOARD OF ADJUSTMENT

March 2, 2023

Valway Living Trust and William P and Elizabeth Valway Trustees
51 Spinney Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 51 Spinney Road (LU-22-235)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, February 22, 2023**, considered your application for constructing a new detached garage which requires the following: 1) Variance from Section 10.573.20 to allow a) 4 foot side yard setback where 10 feet is required; and b) 4 foot rear yard setback where 10 feet is required. 2) Variance from Section 10.521 to allow 27% building coverage where 20% is required.

Said property is shown on Assessor Map 171 Lot 9 and lies within the Single Residence B (SRB) 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 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 Department.

Very truly yours,

Phyllis Eldridge

Phyllis Eldridge, 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: 02/22/2023

Property Address: 51 Spinney Road

Application #: LU-22-235

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.	YES	<ul style="list-style-type: none"> • The garage would be situated at the rear side of the property and won't be seen from a public standpoint. • The overall coverage, while somewhat higher than allowed by the ordinance, would be much smaller than what the ordinance envisioned compared to some of the neighbors' properties that have a fair amount of street frontage taken up by buildings with attached garages. • A passerby would not perceive the lot to be overburdened with too much structure, and there was positive reinforcement received from some of the abutters.

<p>10.233.22 Granting the variance would observe the spirit of the Ordinance.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The applicant's total building coverage even at 27 percent would be perceived as much less than what could be allowed with a much bigger lot. • There will be no negative impact on the neighbors' light and air.
<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The project will weigh in favor of the applicant. • There isn't enough weight to say that the applicant can't build the somewhat large square footage but not terribly high garage/storage area, so what the applicant is asking for is reasonable.
<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"> • Value of would probably increase because a garage is a highly sought-after amenity.
<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 property has characteristics relative to the others around it and that made for a hardship because the lot was smaller than what was expected by the zone and the 20 percent requirement for coverage envisioned a much larger lot. • Another hardship factor is the existing trees, which forced the garage backwards, and even if the applicant submitted a smaller plan from a footprint standpoint, it would probably still be shoved back toward the back property line. • The only sunlit space in the backyard for gardening and other activities would be negatively impacted if the garage were pushed ten feet away. • Making the garage smaller might help, but there isn't enough to say that pushing it away from that property line would really accomplish anything further than allowing the applicant the relief.



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ZONING BOARD OF ADJUSTMENT

March 2, 2023

Christian Paulsen and Anja Paulsen
55 Thornton Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 55 Thornton Street (LU-23-2)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, February 22, 2023**, considered your application for constructing a second story addition over the existing first floor which requires the following: 1) Variance from Section 10.521 to allow an 8.5 foot front yard setback where 15 feet is required. 2) Variance from Section 10.321 to allow the extension and enlargement of a non-conforming structure. Said property is shown on Assessor Map 193 Lot 19 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 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 Department.

Very truly yours,

Phyllis Eldridge

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Justin Marone, Marone Building Company

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 2-22-2023

Property Address: 55 Thornton Street

Application #: LU-23-2

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.	YES	<ul style="list-style-type: none"> The public will not be affected. There are 3 letters of support from direct abutters,
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The applicant has already redone some of the house and has a growing family.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> It would make the second-floor addition less nonconforming.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> It would be an improvement because it would be a bigger house with a brand new structure and would enhance the 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>YES</p>	<ul style="list-style-type: none"> • The applicant has a growing family and just wants to increase the size of his house, and the only thing holding him back is the setback rules, and the lot is already nonconforming.
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ZONING BOARD OF ADJUSTMENT

March 2, 2023

Sean Morin and Stacie Morin
67 Madison Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 67 Madison Street (LU-23-4)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, February 22, 2023**, considered your application for constructing a 122 square foot covered front porch which requires the following: 1) Variance from Section 10.521 to allow a) 3 foot front yard setback where 5 feet is required; and b) 36% building coverage where 35% is maximum allowed. 2) Variance from Section 10.321 to allow the extension and enlargement of a non-conforming structure. Said property is shown on Assessor Map 135 Lot 36 and lies within the General Residence C (GRC) 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 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:

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

Very truly yours,

Phyllis Eldridge

Phyllis Eldridge, 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: 2-22-2023

Property Address: 67 Madison Street

Application #: LU-23-4

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.	YES	<ul style="list-style-type: none"> The front porch is in the character of the neighborhood and will not conflict with the purpose of the ordinance.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The applicant is asking for a very small relief for the front yard setback, from 5 ft to 3 ft, and from 35 to 36 percent coverage.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The front of the house will be improved and more useful and would not be harmful to the public.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> The porch addition improvement would not change and might even increase the value of the home

		and 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>YES</p>	<ul style="list-style-type: none"> • The property has special conditions that distinguished it from others in the area, and owing to those special conditions, a fair and substantial relationship did not exist between the general public purposes of the ordinance provisions and their specific application to the property, and the proposed use is a reasonable one. • It is reasonable to have a front porch deep enough so that the small amount of relief asked for would make the porch more useful.