



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

March 28, 2023

Aviation Avenue Group, LLC
Pease Development Authority
80 Rochester Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 80 Rochester Avenue (LU-22-210)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, March 21, 2023**, considered your application for constructing an advanced manufacturing facility which requires the following: 1) Variance from Article 304.03 (e) to allow a 28 foot rear yard where 50 feet is required. Said property is shown on Assessor Map 308 Lot 1 and lies within the Pease Industrial (PI) District. As a result of said consideration, the Board voted to recommend approval to the Pease Development Authority.

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".

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Craig Langton, Tighe & Bond

John Bosen, Bosen & Associates

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment – PEASE

Date: March 21, 2023

Property Address: 80 Rochester Avenue

Application #: LU-22-210

Decision: **Recommend Approval**

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:

Part 317.01(c) Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
1. No adverse effect or diminution in values of surrounding properties would be suffered.	Yes	<ul style="list-style-type: none">The parcel is in the industrial zone and manufacturing use is permitted.
2. Granting the variance would be if benefit to the public interest.	Yes	<ul style="list-style-type: none">The lot is currently vacant and will be developed for an advanced manufacturing facility that will bring productive and good-paying jobs.
3. Denial of the variance would result in unnecessary hardship to the person seeking it.	Yes	<ul style="list-style-type: none">The petition went through the Technical Advisory Committee (TAC) and due to the wetlands, buffers, large right-of-way and utilities on the street, it resulted in pushing the building back and now met the required variance.
4. Granting the variance would be substantial justice.	Yes	<ul style="list-style-type: none">Denying the variance will not outweigh any benefit to the public.
5. The proposed use would not be contrary to the spirit of this zoning rule.	Yes	<ul style="list-style-type: none">The parcel is in the industrial zone and manufacturing use was permitted.



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ZONING BOARD OF ADJUSTMENT

March 28, 2023

The Griffin Family Corporation
11 COURT ST STE 100
EXETER, New Hampshire 03833

RE: Board of Adjustment request for property located at 738 Islington Street (LU-23-8)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, March 21, 2023**, considered your application for allowing a veterinary clinic which requires the following: 1) Special Exception from Section 10.440, Use #7.50 to allow a veterinary clinic where the use is permitted by Special Exception. Said property is shown on Assessor Map 154 Lot 13 and lies within the Character District 4-W (CD4W) District. As a result of said consideration, the Board voted to grant the special exception, with the following condition:

1) Clinic treatment is limited to dogs, cats, and other small animals.

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,

A handwritten signature in cursive script that reads "Phyllis Eldridge".

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Nicole Giusto, DVM

R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PLLC

Findings of Fact | Special Exception

City of Portsmouth Zoning Board of Adjustment

Date: March 21, 2023

Property Address: 738 Islington Street Unit 1B

Application #: LU-23-8

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 (Circle One)	Relevant Facts
10.232.21 Standards as provided by this Ordinance for the particular use permitted by special exception;	Yes	<ul style="list-style-type: none">The use is allowed by special exception.
10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.	Yes	<ul style="list-style-type: none">A veterinary practice is very limited in those areas and any toxic materials will be extremely limited in nature.
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;	Yes	<ul style="list-style-type: none">A veterinary practice is very limited in those areas and any toxic materials will be extremely limited in nature.It will pose no detriment to property values in the vicinity or change in the essential character of the area like odors, smoke, dust, other pollutants, gas, noise, glare, heat vibration, unsightly storage of equipment, and so on.

10.233.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;	Yes	<ul style="list-style-type: none"> There are a number of parking lots nearby but the small size of the unit is minimal compared to the other uses around it.
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	Yes	<ul style="list-style-type: none"> A veterinary clinic will not create any significant impact on those services.
10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.	Yes	<ul style="list-style-type: none"> No increase of stormwater runoff onto adjacent properties or streets, noting that the existing property performs satisfactorily in those areas.

Stipulations

1. *Clinic treatment is limited to dogs, cats, and other small animals.*



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ZONING BOARD OF ADJUSTMENT

March 28, 2023

William Camarda
809 State Street
Portsmouth, New Hampshire 038010

RE: Board of Adjustment request for property located at 809 State Street (LU-23-6)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, March 21, 2023**, considered your application for extending the existing deck which requires the following: 1) Variances from Section 10.521 to allow a) a 10 foot rear yard where 20 feet is required; and b) 46% building coverage where 35% is the maximum allowed. 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 145 Lot 11 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:

<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

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: March 21, 2023

Property Address: 809 State Street

Application #: LU-23-6

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">No one was present to speak against the petition
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none">Outside space is important, especially for a young family.The small increase of building coverage from 42 to 46 percent isn't a big ask.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none">It will not diminish the values of surrounding properties but would enhance them as well as the applicant's property.

<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"> • Normally a deck addition went closer to the rear but the applicant's is going towards the side and more to the inner portion of the parcel. • The deck is moving toward the center of the lot and will not impact the surrounding neighbors or be perceived by anyone passing by.
<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 neighborhood is the more dense area of State Street.



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ZONING BOARD OF ADJUSTMENT

March 28, 2023

Nissley LLC
513 Marcy Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 915 Sagamore Avenue (LU-22-229)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, March 21, 2023**, considered your application for demolishing the existing building and constructing new mixed-use building which requires the following: 1) A Variance from Section 10.440 to allow a mixed-use building where residential and office uses are not permitted. 2) A Variance from Section 10.1113.20 to allow parking to be located in the front yard and in front of the principal building. 3) A Variance from Section 10.1114.31 to allow 2 driveways on a lot where only one is allowed. Said property is shown on Assessor Map 223 Lot 31 and lies within the Waterfront Business (WB) District. As a result of said consideration, the Board voted to deny the request as it failed to meet the criteria set forth in 10.233.22 because the proposal did not demonstrate that removing the use of a waterfront business would be keeping with the spirit of the ordinance; and failed to meet criteria set forth in 10.233.25 because the proposal did not demonstrate enough of a hardship to prove the property was unique to others in the Waterfront Business District.

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,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

Derek Durbin, Durbin Law Offices PLL

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: March 21, 2023

Property Address: 915 Sagamore

Application #: LU-22-229

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.		
10.233.22 Granting the variance would observe the spirit of the Ordinance.	NO	<ul style="list-style-type: none">Applicant did not demonstrate that removing the use of a waterfront business would be in keeping with the spirit of the ordinance.
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>	NO	<ul style="list-style-type: none"> <i>The proposal did not demonstrate enough of a hardship to prove the property was unique to others in the Waterfront Business District.</i>