



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

April 4, 2023

Katherine L Cook
199 Clinton Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 199 Clinton Street (LU-23-23)

Dear Ms. Cook:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, March 29, 2023**, considered your application for demolishing the existing dwelling and constructing a new single-family dwelling which requires the following: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling unit of 4,917 where 7,500 is required for each; b) 54 feet of frontage where 100 feet is required; c) a 4 foot front yard where 15 feet is required; d) a 9 foot right side yard where 10 feet is required; and e) 28% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Map 159 Lot 26 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to grant the variances 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 29, 2023

Property Address: 199 Clinton Street

Application #: LU-23-23

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">• Health, safety, and welfare of the public were considered.• There will be no losers, only winners.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none">• Health, safety, and welfare of the public were considered.• The goal is to keep Portsmouth nice and make it a place where people are happy living and raising their families.• The essential character of the neighborhood, and the variances that are all related to the lot size, coverage, and setbacks. They are the same as the existing footprint.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The board had to weigh the benefit to the applicant, which would not be outweighed by any harm to the public because the only potential harm was not only the loss of the structure but how much that truly was harmful to the public vs. the issues associated with the structural issues of the existing building. • The applicant and the neighborhood residents would have what people came to Portsmouth for and it would help everyone and hurt no one.
<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"> • The new home would be code compliant, so granting the variances would not diminish the values of surrounding properties. • The values of surrounding properties is likely to go up.
<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"> • It is a very small nonconforming lot and the proposal would actually improve the side yard setback and the very minimal changes to the front yard and lot coverage. • There is no entryway on Clinton Street and that it would be difficult to have one on the front of the existing home. • It will be a reasonable use because it will still be a single-family dwelling and the purpose of the setbacks would still be met.



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1 Junkins Avenue
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Hampshire 03801
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ZONING BOARD OF ADJUSTMENT

April 4, 2023

Colmax LLC (Owner)
1 Old Dover Road, Suite 2
Rochester, New Hampshire 03867

RE: Board of Adjustment Request for property located at 411 the Hill #6-14/ 411 Deer Street (LU-23-21)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, March 29, 2023**, considered your application for converting the building into a single family dwelling which requires the following: 1) A Variance from Section 10.642 to allow residential use on the ground floor in the Downtown Overlay District where is not permitted. 2) a Variance from Section 10.5A41.10A to allow a house in the Downtown Overlay District where it is not permitted. Said property is shown on Assessor Map 118 Lot 26-1 and lies within the Character District 4-L1 (CD4-L1) in the downtown Overlay District. As a result of said consideration, the Board voted to grant the variances with the following conditions:

1.) The house shall be restored as a single-family home; and 2.) The historic features described on pages 3 and 6 of the application and contained in Figures 1 through 5 shall be required from the applicant.

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 dark 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 29, 2023

Property Address: 411 The Hill #6-14 (411 Deer St)

Application #: LU-23-21

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's health, safety and welfare will not be affected and the essential character of the neighborhood will not change due to the existence of the buildings across the street that were residential and zoned in the same way.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none">The public's health, safety and welfare will not be affected and the essential character of the neighborhood will not change due to the existence of the buildings across the street that were residential and zoned in the same way.

10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> There will be a benefit to both the applicant and the public, and the benefit to the public will be that a historic building in a historic area will be preserved.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> The Board had not received evidence of how the proposal would affect them and it is safe to assume that the building's restoration as a single-family home would not diminish surrounding property 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>	YES	<ul style="list-style-type: none"> The property did have special conditions because it was part of a historic area. The Hill was created in the 1970s with the purpose of preserving those buildings, and that owing to that special condition, a fair and substantial relationship did exist between having residential or business use on the ground floor.

Stipulations

- The house shall be restored as a single-family home; and*
- The historic features described on pages 3 and 6 of the application and contained in Figures 1 through 5 shall be required from the applicant.*



CITY OF PORTSMOUTH

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1 Junkins Avenue
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ZONING BOARD OF ADJUSTMENT

April 4, 2023

Mark N. and Julie S. Franklin
168 Lincoln Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 168 Lincoln Avenue (LU-23-25)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, March 29, 2023**, considered your application for demolishing the existing detached garage and porch and constructing a new attached garage and wrap-around porch which requires the following: 1) Variances from Section 10.521 to allow a) a 7.5 foot front yard where 15 feet is required; b) a 9 foot secondary front yard where 15 feet is required; c) 38% building coverage where 25% 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 113 Lot 6 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to deny the request because it failed to meet the criteria set forth in 10.233.22 as the spirit and intent of the ordinance was to avoid overcrowding and overbulking of lots; and failed to meet criteria set forth in 10.233.24 as there was evidence submitted from A Land Realty saying the proposal would have a negative impact on the value of the abutting property.

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:

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: March 29, 2023

Property Address: 168 Lincoln Avenue

Application #: LU-23-25

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">Granting the variance will not observe the spirit of the ordinance because the spirit and intent of the ordinance is to avoid overcrowding and overbulking of the lot.
10.233.23 Granting the variance would do substantial justice.		
10.233.24 Granting the variance would not diminish the values of surrounding properties.	NO	<ul style="list-style-type: none">Granting the variance will diminish the values of surrounding properties, noting that the board had evidence submitted in the form of a letter from A land realtor saying that the proposal will have a negative impact on the abutting property at 180 Lincoln Avenue.

<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</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

April 4, 2023

Seacoast Management Consulting LLC
330 Billerica Road
Chelmsford, Massachusetts 01824

RE: Board of Adjustment request for property located at 3 Walton Alley (LU-23-22)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, March 29, 2023**, considered your application for adding an AC unit and relocating landing and steps which requires the following: 1) A Variance from Section 10.515.14 to allow a 1 foot side setback where 10 feet is required. 2) A Variance from Section 10.521 to allow a) an 8.5 foot setback where 25 feet is required; and b) 38.5% building coverage where 30% is the maximum allowed. Said property is shown on Assessor Map 103 Lot 20 and lies within the General Residence B (GRB) and Historic District. As a result of said consideration, the Board voted to grant the variances with an 11.5 foot rear yard setback, noting that the variance was advertised as an 8.5 ft. rear yard setback but was actually a more conforming 11.5 ft. rear yard setback.

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". The ink is dark and the signature is fluid, with a long, sweeping tail on the "e".

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 29, 2023

Property Address: 3 Walton Aly

Application #: LU-23-22

Decision: **Grant**

Variances granted with an 11.5 foot rear yard setback, noting that the variance was advertised as an 8.5 ft. rear yard setback but was actually a more conforming 11.5 ft. rear yard setback.

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 proposed use will not conflict with the purpose of the ordinance and will not alter the essential characteristics of the neighborhood nor threaten the public's health, safety, or welfare or injure public rights.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none">The proposed use will not conflict with the purpose of the ordinance and will not alter the essential characteristics of the neighborhood nor threaten the public's health, safety, or welfare or injure public rights.

10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Adding an AC unit to improve the applicants living conditions would not outweigh any potential harm to the general public
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> The addition of the AC unit will be a small change and if anything, will improve the value of the applicant's property and not affect surrounding ones
<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>	YES	<ul style="list-style-type: none"> The proposed use is a reasonable one and the hardship is due to the small lot size and the location of the existing home and structures that left no other location for the AC unit to be added.

Stipulations

1. *Variances granted with an 11.5 foot rear yard setback, noting that the variance was advertised as an 8.5 ft. rear yard setback but was actually a more conforming 11.5 ft. rear yard setback.*