



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

December 26, 2023

Jeff and Rhonda Caron  
325 Thaxter Road  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 1 Garden Street (LU-23-139)**

Dear Property Owners :

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, December 19, 2023**, considered your application for constructing an addition to the existing detached garage and create a second living unit on the property which requires the following: 1) Variance from Section 10.516.10 to allow a two (2) foot front yard where five and a half (5.5) feet is required; 2) Variance from Section 10.513 to allow two (2) free standing dwelling units where one (1) is allowed; and 3) 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 174 Lot 11 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **approve** the request with the following **condition**:

1) *The existing shed located over the western boundary line is relocated to sit entirely on the property and conform to Zoning requirements; OR be removed entirely.*

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 typed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Arilda Densch

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 12-19-2023

Property Address: 1 Garden Street

Application #: LU-23-139

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It 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 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>	<ul style="list-style-type: none"> <li>There are characteristics in the neighborhood indicating both structures are relatively modest and won't look unusual for the neighborhood.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"> <li>There are characteristics in the neighborhood indicating both structures are relatively modest and won't look unusual for the neighborhood.</li> <li>The purpose of the ordinance's provision of not allowing two freestanding dwellings on one lot was to prevent overcrowding, which wasn't an issue with the application because two structures already existed and the property is unique.</li> </ul>

10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>It will allow the applicant to make full use of the house and allow him to have his relatives live there. He said he did not think the public would have a detriment that would outweigh the benefit to the applicant.</li> </ul>
10.233.24 Granting the variance would not diminish the values of surrounding properties.	<b>YES</b>	<ul style="list-style-type: none"> <li>Most of the surrounding properties have various uses and the neighboring property is in support.</li> </ul>
<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>	<b>YES</b>	<ul style="list-style-type: none"> <li>The hardship is the unique location relative to the other propertiesThe nearby properties have multiple dwelling units on them that will lessen the impact. The request is reasonable and is just adding some additional dormering to an existing structure.</li> <li>The purpose of the ordinance’s provision of not allowing two freestanding dwellings on one lot was to prevent overcrowding, which wasn’t an issue with the application because two structures already existed and the property is unique.</li> </ul>

<b>Stipulations</b>
<p>1) 1. <i>The existing shed located over the western boundary line is relocated to sit entirely on the property and conform to Zoning requirements; OR be removed entirely.</i></p>



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

December 26, 2023

Anne Sullivan and Kathleen Sullivan  
166 Martha Terrace  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 166 Martha Terrace (LU-23-186)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, December 19, 2023**, considered your application for replacing the existing shed with a new shed which requires the following: 1) Variance from Section 10.521 to allow 21% building coverage where 10% is the maximum allowed. Said property is shown on Assessor Map 283 Lot 23 and lies within the Single Residence A (SRA) District. As a result of said consideration, the Board voted to **approve** 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: 12-19-2023

Property Address: 166 Martha Terrace

Application #: LU-23-186

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It 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 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>	<ul style="list-style-type: none"> <li>The area has 16 properties and it was all zoned SRA, which had a minimum lot of one acre. Only one house lot has the size of one acre out of the 16, and the remaining 15 lots had less than a half-acre.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"> <li>The area has 16 properties and it was all zoned SRA, which had a minimum lot of one acre. Only one house lot has the size of one acre out of the 16, and the remaining 15 lots had less than a half-acre.</li> </ul>
10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>The property isn't zoned properly</li> </ul>

<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• The surrounding properties all have similar conditions.</li> </ul>
<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><b>YES</b></p>	<ul style="list-style-type: none"> <li>• Literal enforcement of the provisions of the ordinance will result in an unnecessary hardship owing to the property's special conditions, which includes the ordinance being incorrect as it applies to the property.</li> </ul>





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## ZONING BOARD OF ADJUSTMENT

December 26, 2023

Go-Lo Inc. and James A. Labrie Revocable Trust of 1991  
PO Box 300  
Rye, New Hampshire 03870-0300

**RE: Board of Adjustment request for property located at 2059 Lafayette Road (LU-23-191)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, December 19, 2023**, considered your application for demolishing the existing structure and construct an eight (8) living unit building which requires the following: 1) Variance from Section 10.1113.20 to allow parking located closer to the street than the principal building in the secondary front yard; and 2) Variance from Section 10.521 to allow 3,430 square feet of lot area per dwelling unit where 7,500 square feet are required. Said property is shown on Assessor Map 268 Lot 13 and lies within the Mixed Residential Business (MRB) District. As a result of said consideration, the Board voted to **approve** 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,

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

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Derek Durbin, Attorney, Durbin Law Offices PLLC

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 12-19-2023

Property Address: 2059 Lafayette Road

Application #: LU-23-191

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It 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 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"> <li>The access from Lafayette Road will be moved and conform to the zoning.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> <li>The access from Lafayette Road will be moved and conform to the zoning.</li> </ul>
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> <li>The variances requested will result in a project that conforms to the surrounding residential use and provides the community with additional housing.</li> </ul>
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> <li>The Board had no evidence of that and it is a good development that the neighbors supported.</li> </ul>

<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>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• Specific application of the provisions of the ordinance would result in an unnecessary hardship because the property has special conditions by being MRB zoned, and given the zoning of the surrounding area, it makes the property special and distinguishes it from others in the area.</li> <li>• A fair and substantial relationship does not exist between the public purposes of the area and its application to the property.</li> <li>• It is difficult to make the property commercially viable, and trying to impose that on the property will make a hardship given the special condition of the unusual zoning for the parcel.</li> </ul>
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# CITY OF PORTSMOUTH

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## ZONING BOARD OF ADJUSTMENT

December 26, 2023

Jeffrey Suttie and Katherine Clarcq  
485 Lincoln Avenue  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 485 Lincoln Avenue (LU-23-195)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, December 19, 2023**, considered your application for extending the livable space of the primary structure into area that is currently a porch which requires the following: 1) Variance from Section 10.521 to allow a four (4) foot side yard where 10 is required; and 2) 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 134 Lot 49 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **approve** 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.

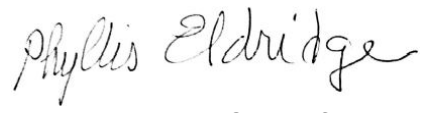
This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

*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: 12-19-2023

Property Address: 485 Lincoln Avenue

Application #: LU-23-195

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It 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 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>	<ul style="list-style-type: none"> <li>Granting the variances will not be contrary to the public interest or present any health, safety, or welfare problems for the public, and the spirit of the ordinance will be observed.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"> <li>Granting the variances will not be contrary to the public interest or present any health, safety, or welfare problems for the public, and the spirit of the ordinance will be observed.</li> </ul>
10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>There will be no loss to anyone in the area that will outweigh the loss and inconvenience to the property owners if they weren't allowed to proceed with their project.</li> </ul>

<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• Granting the variances will not diminish the values of abutting surrounding properties.</li> </ul>
<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><b>YES</b></p>	<ul style="list-style-type: none"> <li>• There is no real relationship between what is being done and the purpose of the ordinance.</li> </ul>





# CITY OF PORTSMOUTH

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

## **ZONING BOARD OF ADJUSTMENT**

December 26, 2023

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

**RE: Board of Adjustment request for property located at 168 Lincoln Avenue (LU-23-196)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, December 19, 2023**, considered your application for demolishing the detached garage and constructing an addition to the primary structure that includes an attached garage which requires the following: 1) Variance from Section 10.521 to allow a) eight and a half (8.5) foot front yard where 15 is required, b) seven (7) foot right yard where ten (10) feet is required, and c) 33% building coverage where 25% is the maximum allowed; and 2) 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 113 Lot 6 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **approve** 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 typed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Derek Durbin, Attorney, Durbin Law Offices PLLC

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 12-19-2023

Property Address: 168 Lincoln Avenue

Application #: LU-23-196

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It 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 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>	<ul style="list-style-type: none"> <li>The requested variances are not contrary to the public interest because the public interest does not manifest and the zoning ordinance doesn't deal with the bulky issue, and the public interest allowed for small dimensional setback items.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"> <li>The requested variances are not contrary to the public interest because the public interest does not manifest and the zoning ordinance doesn't deal with the bulky issue, and the public interest allowed for small dimensional setback items.</li> </ul>

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• It is difficult to find a new house, so justice is serviced by allowing the applicant to continue to reside in his house and to make necessary changes to support his family.</li> </ul>
<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• There are competing assessments from a realtor and her spouse and from a neighbor, so since the Board has evidence from both sides, it came down in favor of a neutral.</li> </ul>
<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><b>YES</b></p>	<ul style="list-style-type: none"> <li>• It is hard in the current real estate market to find a larger home to accommodate a family. The zoning ordinance is only minimally different from what is being asked for, and special circumstances existed and the purpose is a reasonable one.</li> <li>• The actual yard setback is for the one-story porch and the hardship was the undersized lot.</li> <li>• It is also a corner lot, so that creates special conditions where there is no fair and substantial relationship to the property.</li> </ul>



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

December 26, 2023

Paula J. Reid 2003 Revocable Trust  
410 Richards Avenue  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 410 Richards Avenue (LU-23-198)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, December 19, 2023**, considered your application for demolishing and removing the existing detached garage and constructing a new detached garage and associated drainage improvements, which requires the following: 1) Variance from Section 10.521 to permit a) 3.5 foot right side yard where 10 feet is required, and b) 30% building coverage where 25% is the maximum allowed; and 2) 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 112 Lot 10 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **approve** the requested variances from Section 10.521 and acknowledge that the request does not require relief from Section 10.321.

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 typed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Christopher A Wyskiel, Attorney, Wyskiel, Boc, Tillinghast and Bolduc P.A.

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 12-19-2023

Property Address: 410 Richards Avenue

Application #: LU-23-198

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It 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 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"> <li>It is in the public interest to deal with drainage, given the climate changes.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> <li>The Board didn't think the minor variation in lot coverage was outside of it and that adding a garage is like what every other property in the neighborhood did.</li> </ul>
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> <li>The property owner will avoid an issue that has arisen and there is no contrary interest in preserving the zoning ordinance for the property without the variance granted.</li> </ul>
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> <li>The neighbor has said it is a fine change and there is no evidence that it will diminish anyone's property value in the immediate area.</li> </ul>

<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>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• The property has special conditions of drainage issues and the garage is a hazard because the walls aren't straight, and the specific application of the ordinance provisions to the property will result in an unnecessary hardship.</li> </ul>
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