



# CITY OF PORTSMOUTH

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

## **PLANNING BOARD**

October 25, 2023

Robert Graham  
Banfield Realty, LLC  
304 Maplewood Avenue  
Portsmouth, New Hampshire 03801

RE: Site Plan Review approval for property located at 375 Banfield Road (LU-20-259)

Dear Mr. Graham:

The Planning Board, at its regularly scheduled meeting of **Thursday, October 19, 2023**, considered your application for Site Plan review approval to demolish two existing commercial buildings and an existing shed and construct a 75,000 s.f. industrial warehouse building with 75 parking spaces as well as associated paving, stormwater management, lighting, utilities, and landscaping. Said property is shown on Assessor Map 266, Lot 7 and lies within the Industrial District (I). As a result of said consideration, the Board voted 1) to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented; and 2) to **grant** Site Plan Approval with the following **conditions**:

**Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a building permit or the commencement of any site work or construction activity:**

*2.1) The site plan, and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

*2.2) The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site.*

*2.3) Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit: <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>*

*2.4) DPW will review and approve the locations of domestic and fire service lines entering all buildings.*

*2.5) DPW shall review and approve the sewer connection.*

*2.6) A peer review of the traffic analysis will be provided and subject to acceptance by City staff.*

**Prior to the issuance of a Certificate of Occupancy or release of the bond:**

2.7) *The Engineer of Record shall submit a written report (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed to the approved plans and specifications and will meet the design performance.*

2.8) *Subject to written assurance and any required surety for performance provided to the Planning Board, the applicant shall conduct work in accordance with all requirements of the NHDES letter dated April 26, 2023, which includes investigation work in the proposed upland development areas, approval of an Activities and Use limitation and the completion of a remedial action implementation plan for the upland development area. In addition, as presented by the applicant, they shall continue their investigation of the lowland area, including full characterization of any reportable site contaminants in compliance with any and all remedial action plans or other permits from NHDES or the EPA.*

2.9) *The applicant shall meet with DPW and discuss the topic of signage and install any on-site signage DPW recommends related to truck traffic on Banfield Road.*

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.

This site plan approval shall not be effective until a site plan review agreement has been signed satisfying the requirements of Section 2.12 of the City's Site Review Approval Regulations.

Unless otherwise indicated above, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

The Planning Director must certify that all outstanding conditions of approval have been completed prior to issuance of a building permit unless otherwise indicated above.

This site plan approval shall expire unless a building permit is issued within a period of one (1) year from the date granted by the Planning Board unless an extension is granted by the Planning Board in accordance with Section 2.14 of the Site Review Regulations.

*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 Planning Board Meeting website:*

<https://www.cityofportsmouth.com/planportsmouth/planning-board/planning-board-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 black ink, appearing to read "Rick Chellman". The signature is stylized with a large, looping "R" and "C".

Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector  
Rosann Maurice-Lentz, City Assessor

Peter H. Rice, Director of Public Works

Joseph Coronati

# Findings of Fact | Site Plan Review

## City of Portsmouth Planning Board

Date: October 19, 2023

Property Address: 375 Banfield Rd

Application #: LU-20-259

Decision: **Approve with Conditions**

### 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.

Site Plan Regulations Section 2.9 Evaluation Criteria - in order to grant site plan review approval, the TAC and the Planning Board shall find that the application satisfies evaluation criteria pursuant to NH State Law and listed herein. In making a finding, the TAC and the Planning Board shall consider all standards provided in Articles 3 through 11 of these regulations.

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Standard/Criteria)	Supporting Information
1	Compliance with all City Ordinances and Codes and these regulations. <u>Applicable standards:</u>	Meets	Applicable standards: We have been through the TAC review process as well as third party review to make sure that the proposed development complies with the Zoning Ordinance and Site Plan Review Regulations. This project received TAC approval on June 6, 2023.
2	Provision for the safe development, change or expansion of use of the site.	Meets	We have designed the driveway as well as parking loading areas to safely accommodate Portsmouth's largest fire truck as well as the largest tractor-trailer anticipated to use the site; the WB-62. See sheets T1-T5 at the end of the plan set. Additionally, we made sure that there is adequate sight distance for vehicles leaving the site and driving along Banfield Road. See Sheets H1-H2. The building will be sprinklered and a new hydrant is

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Finding (Meets Standard/Criteria)	Supporting Information
			proposed for the development. The pavement is graded to drain, which will prevent icing during the winter. We have gone through TAC and additional state permitting to ensure that the development is safe.
<b>3</b>	Adequate erosion control and stormwater management practices and other mitigative measures, if needed, to prevent adverse effects on downstream water quality and flooding of the property or that of another.	<b>Meets</b>	<p>The stormwater management is designed to the standards of the City of Portsmouth as well as the more stringent standards of the NHDES Alteration of Terrain Bureau.</p> <p>Runoff from all proposed impervious surfaces will be treated post-construction and peak flow rates will be reduced in the post-construction condition compared with the existing condition. The stormwater management design was reviewed extensively by TAC and CMA Engineers to make sure that it complies with Section 7.6 of the Site Plan Review Regulations. Downstream water quality will be enhanced as currently runoff from impervious surface on the subject parcel is untreated, and the potential for flooding is mitigated as peak flows are reduced in the post-construction condition.</p> <p>Additional erosion control features include erosion control blankets, fiber berm for perimeter control, rip rap inlet and outlet protection aprons, and a stabilized construction entrance. This project will require a SWPPP, which entails at least biweekly inspections focusing on the stormwater management and erosion and sediment control features of the site during construction.</p>
<b>4</b>	Adequate protection for the quality of groundwater.	<b>Meets</b>	<p>Due to unique soil and groundwater conditions resultant to the historic uses of the site, the applicant hired Wilcox &amp; Barton to perform a site investigation in order to determine the appropriate steps to make the site safe for development.</p> <p>Wilcox &amp; Barton's recommendation was that all stormwater management practices need to be lined and</p>

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Finding (Meets Standard/Criteria)	Supporting Information
			<p>underdrained, with one ultimate outlet point in the southern corner of the developable area of the site close to the wetland edge.</p> <p>We have complied with these recommendations in the design of the site. Stormwater treatment is accomplished through the use of four lined and underdrained "Focal Point" biofiltration systems and a lined and underdrained Development Area Buffer in the northeast corner. Stormwater detention is accomplished through a lined underground "R-Tank" detention system. The final stormwater outfall will be in the southern corner of the developable area with a pipe outlet leading to a lined vegetated swale that will deposit runoff directly at the edge of the wetland, where the soils and groundwater were found by Wilcox and Barton to be relatively clean.</p> <p>The goal is to prevent contact between surface runoff and groundwater in the historically contaminated sections of the site. The stormwater management system has been designed specifically to meet this intent. This has been reviewed by the Portsmouth Technical Advisory Committee, CMA, and the NHDES Alteration of Terrain Bureau, all of whom signed off on the project. Finally, Wilcox and Barton prepared a Remedial Action Plan which was approved by EPA on March 28, 2023 and will be implemented during construction.</p>
5	Adequate and reliable water supply sources.	Meets	The proposed industrial warehouse building will have a potable water and fire suppression line from the existing main in Banfield Road, owned by the City of Portsmouth water department.
6	Adequate and reliable sewage disposal facilities, lines, and connections.	Meets	A septic system was designed for the proposed building. The septic design has been approved by NHDES (Approval for Construction #eCA2021102913). See Sheet S1 of the plan set.

	<b>Site Plan Review Regulations Section 2.9 Evaluation Criteria</b>	<b>Finding (Meets Standard/Criteria)</b>	<b>Supporting Information</b>
<b>7</b>	Absence of undesirable and preventable elements of pollution such as smoke, soot, particulates, odor, wastewater, stormwater, sedimentation or any other discharge into the environment which might prove harmful to persons, structures, or adjacent properties.	<b>Meets</b>	<p>See supporting information for Criteria #4 for information relative to protection of groundwater given the historic contamination on the site. In summary, all stormwater management practices will need to be lined and underdrained, and attenuated runoff will need to be discharged in a clean area of the site. Additionally, a Remedial Action Plan was developed by Wilcox &amp; Barton and has been approved by EPA. These features will mitigate the potential for movement of existing contaminants.</p> <p>Otherwise, all stormwater is being treated per the standards of the City of Portsmouth and the Alteration of Terrain Bureau, and the approved septic system includes a pre-treatment tank which helps to reduce the required size of the leach field and provides cleaner effluent.</p>
<b>8</b>	Adequate provision for fire safety, prevention and control.	<b>Meets</b>	We designed the driveway, parking area, and loading area to be able to safely accommodate the City of Portsmouth's largest fire truck. Additionally, a new fire hydrant is proposed, and the building will be sprinklered.
<b>9</b>	Adequate protection of natural features such as, but not limited to, wetlands.	<b>Meets</b>	We received a permit from NHDES (#2021-00240) to fill an isolated 1,910 S.F. wetland in the northern quadrant of the property. This is not large enough to require a local permit from the City of Portsmouth. Otherwise, all runoff from proposed impervious surfaces will be treated and peak flows will be reduced in the post-construction condition. Water reaching the wetlands will be clean per the standards of the City of Portsmouth and the NHDES Alteration of Terrain Bureau. This is an improvement on the existing condition where there are impervious surfaces whose runoff reaches the wetland untreated. 9.34 acres (64.6%) of the subject parcel will remain undisturbed post-construction.
<b>10</b>	Adequate protection of historical features on the site.		There are no known historical features on the site. We received signoff from the New

	<b>Site Plan Review Regulations Section 2.9 Evaluation Criteria</b>	<b>Finding (Meets Standard/Criteria)</b>	<b>Supporting Information</b>
		<b>Meets</b>  <b>Does Not Meet</b>	Hampshire Division of Historical Resources on February 19, 2021, confirming that the proposed development will not affect any known historic properties.
<b>11</b>	Adequate management of the volume and flow of traffic on the site and adequate traffic controls to protect public safety and prevent traffic congestion.	<b>Meets</b>	A Traffic Memorandum was prepared for this development by Stephen G. Pernaw & Company, Inc. After some clarification and revisions to the plans, this was approved by the Technical Advisory Committee. Our intersection sight distance profile on Sheet H1 confirms that there is at least 500' of sight distance from the driveway entrance, which exceeds the 321' for stopping sight distance and the 445' for intersection sight distance required by AASHTO. The site was designed for the largest trucks anticipated to use it and we have included textured paving in the proposed driveway to denote an area specifically for truck turning. A stop sign and stop bar will control the traffic entering Banfield Road. There is 86' of driveway from Banfield Road to the parking area, which provides adequate stacking distance for vehicles attempting to leave the site. There is more stacking room additionally available in the aisles of the parking lot.
<b>12</b>	Adequate traffic controls and traffic management measures to prevent an unacceptable increase in safety hazards and traffic congestion off-site.	<b>Meets</b>	This is satisfactorily answered with our supporting information for Criteria #11.
<b>13</b>	Adequate insulation from external noise sources.	<b>Meets</b>	This property is outside of the Highway Noise Overlay District and therefore no noise mitigation is required.
<b>14</b>	Existing municipal solid waste disposal, police, emergency medical, and other municipal services and facilities adequate to handle any new demands on infrastructure or services created by the project.	<b>Meets</b>	For solid waste disposal, dumpsters are provided in the loading area in the rear of the building. The truck turning plans confirm that the driveway and loading area have been designed for Portsmouth's largest fire engine, and therefore they are also adequate for ambulances and police vehicles. This has been reviewed and approved by the Technical Advisory Committee.



	<b>Site Plan Review Regulations Section 2.9 Evaluation Criteria</b>	<b>Finding (Meets Standard/Criteria)</b>	<b>Supporting Information</b>
<b>15</b>	Provision of usable and functional open spaces of adequate proportions, including needed recreational facilities that can reasonably be provided on the site	<b>Meets</b>	As stated on Sheet C2, Note 2, 524,200 S.F. (82.4%) of the subject parcel will remain as open space post-construction. This far exceeds the 20% open spaces required by the Zoning Ordinance for the industrial zone.
<b>16</b>	Adequate layout and coordination of on-site accessways and sidewalks in relationship to off-site existing or planned streets, accessways, bicycle paths, and sidewalks.	<b>Meets</b>	The proposed driveway is parallel with Banfield Road and adequate sight distance is provided along Banfield Road. The driveway is located where it is partially for sight distance given the hill just to the north.
<b>17</b>	Demonstration that the land indicated on plans submitted with the application shall be of such character that it can be used for building purposes without danger to health.	<b>Meets</b>	The aforementioned Remedial Action Plan prepared by Wilcox & Barton and approved by EPA will be implemented. Additionally, we are proposing to line all stormwater management practices to prevent contact between surface runoff and groundwater. Therefore, the site can be used for building purposes.
<b>18</b>	Adequate quantities, type or arrangement of landscaping and open space for the provision of visual, noise and air pollution buffers.	<b>Meets</b>	As shown on Sheet L1, we are providing plantings that will aesthetically enhance the site and provide as much of a buffer as possible between the subject parcel, Banfield Road, and abutting properties. As much of the site as possible will remain wooded and we are providing new trees and shrubs where possible throughout the developed site.
<b>19</b>	Compliance with applicable City approved design standards.	<b>Meets</b>	The proposed development complies with the Site Plan Review Regulations and the Zoning Ordinance of the City of Portsmouth. TAC Approval was received on June 6, 2023.
	<b>Other Board Findings:</b>		



# CITY OF PORTSMOUTH

Planning Department  
1 Junkins Avenue  
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(603) 610-7216

## PLANNING BOARD

October 25, 2023

Robert Graham  
Banfield Realty, LLC  
304 Maplewood Avenue  
Portsmouth, New Hampshire 03801

RE: Preliminary & Final Subdivision for property located at 375 Banfield Road (LU-23-107)

Dear Mr. Graham:

The Planning Board, at its regularly scheduled meeting of Thursday, October 19, 2023, considered your application for Subdividing one lot into two lots to create the following: Proposed Lot 1 with 6.65 acres of lot area and 354 feet of street frontage and Proposed Lot 2 with 7.96 acres of lot area and 200 feet of street frontage. Said property is shown on Assessor Map 266 Lot 7 & 7-1 and lies within the Industrial (I) District. As a result of said consideration, the Board voted 1) to **grant** the requested waivers to the Subdivision Standards from Section IX.1 Improvements and Installation Bonds, and Section IX.2 Maintenance Bonds in accordance with the following:

*a) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations.*

The Board voted 2) to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented; *and* 3) to **grant** Preliminary and Final Subdivision Approval with the following **conditions**:

*3.1) The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

*3.2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*

*3.3) GIS data shall be provided to the Department of Public Works in the form as required by the City.*

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.

All conditions of subdivision approval, including recording of the plat as required by the Planning Department, shall be completed within six (6) months of the date of approval, unless an extension is granted by the Planning Director or the Planning Board in accordance

with Section III.E of the Subdivision Rules and Regulations. If all conditions have not been completed within the required time period, the Planning Board's approval shall be deemed null and void.

This subdivision approval is not final until the Planning Director has certified that the applicant has complied with the conditions of approval imposed by the Planning Board.

*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 Planning Board Meeting website:*

<https://www.cityofportsmouth.com/planportsmouth/planning-board/planning-board-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 black ink, appearing to read "Rick Chellman". The signature is stylized with a large, looping "R" and "C".

Rick Chellman, Chairman of the Planning Board

cc: Rosann Maurice-Lentz, City Assessor

Joseph Coronati, Jones & Beach Engineers

# Findings of Fact | Subdivision Rules and Regulations

## City of Portsmouth Planning Board

Date: 10/19/2023

Property Address: 375 Banfield Road

Application #: LU-23-107

Decision: Approve with Conditions

### 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.

	Subdivision Review Criteria	(Meets Standards/ Requirements)	
1	Subdivision Rules and Regulations III. D. 1 The Board shall act to deny any application which is not in compliance with Section IV or V as appropriate. <b>SECTION IV - REQUIREMENTS FOR PRELIMINARY PLAT</b>	Meets	All applicable standards of Section VI are met. No new streets are proposed.
2	<b>SECTION V - REQUIREMENTS FOR FINAL PLAT</b>	Meets	All applicable standards of Section V are met. No new streets are proposed.
3	<b>SECTION VI - GENERAL REQUIREMENTS</b>	Meets	The application has been reviewed by the Technical Advisory Committee (TAC) for conformance with the General Requirements. All applicable requirements of Section VI are met.  The application was recommended for approval on August 1, 2023 at the Technical Advisory Committee Meeting.

	Subdivision Review Criteria	Finding (Meets Standards/ Requirements)	Supporting Information
4	SECTION VII - DESIGN STANDARDS	Meets	<p>Section VII is not applicable. No new development is proposed as part of this subdivision application. The proposed industrial warehouse building with associated parking and loading areas is part of a separate application.</p> <p>All applicable sections of the Subdivision Regulations are met except for IX.1 – Improvements and Installation Bonds and IX.2 – Maintenance Bonds, where we are seeking waivers for those specific requirements.</p>
5	<u>Other Board Findings:</u>		



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## **PLANNING BOARD**

October 25, 2023

Robert Graham  
Banfield Realty, LLC  
304 Maplewood Avenue  
Portsmouth, New Hampshire 03801

RE: Wetland CUP approval for property located at 375 Banfield Road (LU-20-259)

Dear Mr. Graham:

The Planning Board, at its regularly scheduled meeting of **Thursday, October 19, 2023**, considered your application for Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for 7,910 square feet of impact within the 100-foot wetland buffer for stormwater management in association with the proposed development. Said property is shown on Assessor Map 266, Lot 7 and lies within the Industrial District (I). As a result of said consideration, the Board voted 1) to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017 and to adopt the findings of fact as presented, and 2) to **grant** the Wetland Conditional Use permit with the following **condition**:

*2.1) Any areas left to naturally revegetate shall be loamed and seeded with a wildflower mix and monitored for invasive species, and their removal shall be done according to Article 10 Section 10.1018.23 of the zoning ordinance.*

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.

Unless otherwise indicated, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work. All conditions of approval must be completed prior to issuance of a building permit unless otherwise indicated.

This approval shall expire one year after the date of approval by the Planning Board unless a building permit is issued prior to that date. The Planning Board may grant a one-year extension of a conditional use permit if the applicant submits a written request to the Planning Board prior to the expiration date.

*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 Planning Board Meeting website:*

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Very truly yours,

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Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector  
Rosann Maurice-Lentz, City Assessor

Joseph Coronati

# Findings of Fact | Wetland Conditional Use Permit

## City of Portsmouth Planning Board

Date: October 19, 2023

Property Address: 375 Banfield Road

Application #: LU-23-107

Decision: **Approve with Conditions**

### 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.

In order to grant Wetland Conditional Use permit approval the Planning Board shall find the application satisfies criteria set forth in the Section 10.1017.50 (Criteria for Approval) of the Zoning Ordinance.

	<b>Zoning Ordinance Sector 10.1017.50 Criteria for Approval</b>	<b>Finding (Meets Criteria for Approval)</b>	<b>Supporting Information</b>
<b>1</b>	<i>1. The land is reasonably suited to the use activity or alteration.</i>	<b>Meets</b>	This proposal is for an industrial use within the industrial zone. The site is already developed and has been used for decades, and this development replaces the existing use with a conforming industrial warehouse & office building.
<b>2</b>	<i>2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.</i>	<b>Meets</b>	<p>In the existing condition, there is 3,350 SF of on-site impervious surface within the wetland buffer. In the proposed condition there will only be 85 SF of impervious surface within the wetland buffer associated with the development, and it will be in the right of way for the proposed driveway. In addition to this, we are proposing 7,910 SF of temporary impact, which is unavoidable for the proposed development.</p> <p>The driveway needs to be on the south side of the site due to sight distance concerns, which is what causes 85 SF of it to be within the buffer. The turning radii were specifically engineered for large trucks entering and leaving the site. The section of the driveway that is proposed within the wetland</p>



	Zoning Ordinance Sector 10.1017.50 Criteria for Approval	Finding (Meets Criteria for Approval)	Supporting Information
			<p>buffer needs to be there due to safety concerns. This is a substantial reduction from the 3,350 SF of impervious surface within the wetland buffer in the existing condition, and runoff from impervious surfaces reaches the wetland untreated in the existing condition. In the proposed condition, runoff from all impervious surfaces associated with the development will be treated to AOT standards.</p> <p>Due to historic contamination in the upland areas of the site, the ultimate stormwater discharge needs to be within the buffer as well. All stormwater BMPs will be lined and a lined vegetated swale will be constructed within the buffer to deposit treated and attenuated runoff directly at the edge of the wetland. This was determined to be the ideal location from an environmental standpoint due to the above-mentioned issues. The conservation commission and technical advisory committee have accepted this proposed outfall location as it is the only place where stormwater can safely be outletted on this particular site.</p> <p>Finally, a vegetated buffer for stormwater treatment is proposed within the wetland buffer. This is adjacent to the driveway, which needs to be in the south side of the site due to safety issues. There is no way to treat the runoff from the driveway that will not involve placing a stormwater management device in the buffer, and only the runoff from the driveway is being treated through this device. Water will pass through this area as a sheet flow rather than an erosive concentrated flow. The disturbance for this area is to install an underdrain and liner below the vegetated buffer, but once this is constructed it will be functionally similar to a natural meadow or forest area.</p>

	<b>Zoning Ordinance Sector 10.1017.50 Criteria for Approval</b>	<b>Finding (Meets Criteria for Approval)</b>	<b>Supporting Information</b>
<b>3</b>	<i>3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.</i>	<b>Meets</b>	In the existing condition, the soils and groundwater on site are contaminated, and water reaches the wetlands untreated. Where the disturbance to the wetland buffer with the exception of a small corner of the driveway is for the purpose of stormwater management only, this is a unique case in which buffer disturbance will only enhance wetland functional values. Stormwater will reach the wetland treated rather than untreated, and runoff will no longer pass over contaminated areas. We are reducing the impervious surface within the wetland buffer from 3,350 SF of parking and building area to 85 SF for the corner of the driveway radius.
<b>4</b>	<i>4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.</i>	<b>Meets</b>	We are proposing to disturb the buffer only to the extent that is absolutely necessary. The majority of the proposed buffer disturbance is within existing grassed area, and it is for the purpose of stormwater management.
<b>5</b>	<i>5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.</i>	<b>Meets</b>	This proposal is minimally impactful to the wetland buffer and it can be argued that it will enhance the value of the wetland as the stormwater reaching it will now be treated and the possibility of it crossing over contaminated areas will be mitigated.
<b>6</b>	<i>6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.</i>	<b>Meets</b>	While there will be disturbance within the 25' buffer strip, this is for the better as it enhance the quality of water reaching the wetland. The area that we are disturbing within the buffer strip for the swale is grass currently and will be returned to grass as soon as the swale is built.
<b>7</b>	<b><u>Other Board Findings:</u></b>		



# CITY OF PORTSMOUTH

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

## **PLANNING BOARD**

October 26, 2023

Jeffrey & Melissa Foy  
67 Ridges Court  
Portsmouth, New Hampshire 03801

RE: Wetland Conditional Use Permit for property located at 67 Ridges Court (LU-22-199)

Dear Property Owners:

The Planning Board, at its regularly scheduled meeting of **Thursday, October 19, 2023**, considered your application for a Wetland Conditional Use Permit from Section 10.1017 of the Zoning Ordinance for the construction of a new addition, a re-configuration of the existing driveway utilizing pervious pavers, installation of three rain gardens, and construction of stone steps. The project proposes a decrease of 479 sf of impervious surface and is proposing 2,010 sf of permanent impacts and 1,056 sf of temporary impacts. The impacts would be offset by the various buffer plantings to be planted within the 25' vegetated buffer as well as the installation of rain gardens to help control and filter storm-water runoff from the property. Said property is shown on Assessor Map 207 Lot 59 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted 1) to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.60 and to adopt the findings of fact as presented, *and* 2) to **grant** the Wetland Conditional Use permit with the following **conditions**:

*2.1) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install at least 3 permanent wetland boundary markers during project construction in the locations discussed with the Conservation Commission. These can be purchased through the City of Portsmouth Planning and Sustainability Department.*

*2.2) Applicant shall provide a report on the success of the rain garden plantings one year after planting has occurred to the City of Portsmouth Planning & Sustainability Department. If they have not achieved at least an 80% success rate then the applicant will replant.*

*2.3) The applicant and property owners shall follow NOFA standards for organic land care for lawn maintenance. Please visit <https://nofa.organiclandcare.net/homeowner-resources/> for details.*

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.

Unless otherwise indicated, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work. All conditions of

approval must be completed prior to issuance of a building permit unless otherwise indicated.

This approval shall expire one year after the date of approval by the Planning Board unless a building permit is issued prior to that date. The Planning Board may grant a one-year extension of a conditional use permit if the applicant submits a written request to the Planning Board prior to the expiration date.

*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 Planning Board Meeting website:*

<https://www.cityofportsmouth.com/planportsmouth/planning-board/planning-board-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 black ink, appearing to read "Rick Chellman". The signature is stylized with a large, looping "R" and "C".

Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector  
Rosann Maurice-Lentz, City Assessor

R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PLLC  
John Chagnon, Ambit Engineering  
Steven Riker, CWS, Ambit Engineering

# Findings of Fact | Wetland Conditional Use Permit

## City of Portsmouth Planning Board

Date: October 19, 2023

Property Address: 67 Ridges Court

Application #: LU-22-199

Decision: **Approve with Conditions**

### 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 all conditions necessary to obtain final approval.

In order to grant Wetland Conditional Use permit approval the Planning Board shall find the application satisfies criteria set forth in Section 10.1017.50 (Criteria for Approval) of the Zoning Ordinance.

	<b>Zoning Ordinance Sector 10.1017.50 Criteria for Approval</b>	<b>Finding (Meets Criteria for Approval)</b>	<b>Supporting Information</b>
<b>1</b>	<i>1. The land is reasonably suited to the use activity or alteration.</i>	<b>Meets</b>	Currently the area that will receive the addition is impervious asphalt. The new addition will not impact the amount of impervious on the site and will increase the infiltration of stormwater with the conversion of the driveway from impervious to a new porous driveway and the adjacent rain garden system which will also help mitigate roof runoff.
<b>2</b>	<i>2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.</i>	<b>Meets</b>	Given that a majority of the property is within the buffer, there is no other reasonable location for the garage addition. It will be placed in an area that is already impervious surface within the buffer and will be removing a large portion of the current impervious asphalt in favor of a porous driveway.

	<b>Zoning Ordinance Sector 10.1017.50 Criteria for Approval</b>	<b>Finding (Meets Criteria for Approval)</b>	<b>Supporting Information</b>
<b>3</b>	<i>3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.</i>	<b>Meets</b>	This project is within the 100' buffer of a tidal wetland. The wetland edge currently includes salt marsh species which are to be further buffered with the applicant's landscaping plan which includes additional salt marsh grasses along with both native and non-native plants to further protect the resource. The applicant is also proposing to remove invasive burning bush species.
<b>4</b>	<i>4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.</i>	<b>Meets</b>	This project is not proposing any construction within the 25' vegetative buffer but will be enhancing the buffer with various plantings which will add an additional 5 feet of buffering to the wetland edge.
<b>5</b>	<i>5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.</i>	<b>Meets</b>	This application proposes a new attached garage with a new porous driveway, the expansion of the rear deck and roof, the installation of new stone steps, a stone patio, and three rain gardens. According to the applicant, this project will result in a net loss of approximately 479 sf of impervious surface across the property, which should create a positive impact on the wetland resource. The applicant has shown a mitigation plan that will work to offset the impacts of the new addition by capturing and filtering stormwater before it reaches the salt marsh species and wetland resource.
<b>6</b>	<i>6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.</i>	<b>Meets</b>	As stated above, new buffer plantings are to be added to the vegetative buffer strip which should help the buffer continue to protect the tidal wetland resource.
<b>7</b>	<b><u>Other Board Findings:</u></b>		



# CITY OF PORTSMOUTH

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

## PLANNING BOARD

October 26, 2023

Caleb E. Ginsberg and Samantha L. Ginsberg  
303 Bartlett Street  
Portsmouth, New Hampshire 03801

RE: Preliminary and Final Subdivision approval request for property located at 303 Bartlett Street (LU-23-120)

Dear Property Owners:

The Planning Board, at its regularly scheduled meeting of Tuesday, October 19 2023, considered your application for Preliminary and Final Subdivision approval for a lot line relocation between Tax Map 162 Lot 13 and Lot 14 where a separate parcel was discovered between the two lots and is proposed to be divided between Lot 13 and 14 as follows: Lot 13 increasing in size from 4,906 square feet and 36 feet of frontage to 6,665 square feet and 37 feet of frontage. Lot 14 increasing in size from 4,802 square feet and 192 feet of frontage to 8,640 square feet and 217 feet of frontage. Said property is shown on Assessor Map 162 Lot 13 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted 1) to **grant** the requested waivers to the Subdivision Standards from Section VI.5 Driveways, VI.6 Drainage Improvements, Section VI.7 Municipal water service, Section VI.8 Municipal sewer service, Section VI.9 Installation of utilities, Section VI.14 Erosion and Sedimentation Control, Section IX.1 Improvements and Installation Bonds, and Section IX.2 Maintenance Bonds.

*Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.*

And, the Board voted 2) to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented; and 3) to **grant** Preliminary and Final Subdivision Approval with the following **conditions**:

*3.1) The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

*3.2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*

*3.3) GIS data shall be provided to the Department of Public Works in the form as required by the City.*

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.

All conditions of subdivision approval, including recording of the plat as required by the Planning Department, shall be completed within six (6) months of the date of approval, unless an extension is granted by the Planning Director or the Planning Board in accordance with Section III.E of the Subdivision Rules and Regulations. If all conditions have not been completed within the required time period, the Planning Board's approval shall be deemed null and void.

This subdivision approval is not final until the Planning Director has certified that the applicant has complied with the conditions of approval imposed by the Planning Board.

*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 Planning Board Meeting website:*

<https://www.cityofportsmouth.com/planportsmouth/planning-board/planning-board-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 black ink, appearing to read "Rick Chellman". The signature is fluid and cursive, with the first name "Rick" written in a smaller, more legible script than the last name "Chellman".

Rick Chellman, Chairman of the Planning Board

cc: Rosann Maurice-Lentz, City Assessor

R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PLLC  
Alex Ross, Ross Engineering



# Findings of Fact | Subdivision Rules and Regulations

## City of Portsmouth Planning Board

Date: 10/19/2023

Property Address: 295-299 & 303 Bartlett Street

Application #: LU-23-120 LLR

Decision: **Approve with Conditions**

### 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 all conditions necessary to obtain final approval.

	Subdivision Review Criteria	Finding (Meets Standards/ Requirements)	Supporting Information
1	Subdivision Rules and Regulations III. D. 1 The Board shall act to deny any application which is not in compliance with Section IV or V as appropriate. <b>SECTION IV - REQUIREMENTS FOR PRELIMINARY PLAT</b>	Meets	Plan submitted 7/26/2023, revised 9/1/2023 creates no new lots & cures a long-standing title defect. Both lots are increased in size and frontage and ZBA approved new structure within the setback to proposed lot line.
2	<b>SECTION V - REQUIREMENTS FOR FINAL PLAT</b>	Meets	No new lots are proposed. The LLA Plan contains the information required by the applicable provisions of Section V including depiction of the lot line to be abandoned and proposed with the area of land to be transferred/added to each lot. ZBA has also approved new structure within the setback to the proposed lot line.
3	<b>SECTION VI - GENERAL REQUIREMENTS</b>	Meets	TAC Review is not required per Subdivision Regulation Section 3.B.1 m; however Planning Staff reviewed the application for conformance with the General Requirements.

	Subdivision Review Criteria	Finding (Meets Standards/ Requirements)	Supporting Information
4	SECTION VII - DESIGN STANDARDS	Meets	Section VII Design Standards do not apply to the even exchange of land between these two lots because no new lots are created.
5	<u>Other Board Findings:</u>		



# CITY OF PORTSMOUTH

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

## **PLANNING BOARD**

October 26, 2023

Coventry Realty, LLC  
3 Pleasant St. 4th Floor  
Portsmouth, New Hampshire 03801

RE: Parking CUP for property located at 111 State Street (LU-22-125)

Dear Owners:

The Planning Board, at its regularly scheduled meeting of Thursday, October 19, 2023, considered your application for a parking Conditional Use Permit under Section 10.1112.14 to allow zero (0) parking spaces where 48 are required. Said property is shown on Assessor Map 107 as Lot 50 and lies within the Character District 4 (CD4) and Historic Districts. As a result of said consideration, the Board voted 1) to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1112.14 and to adopt the findings of fact as presented; *and* 2) to **grant** the conditional use permit as presented.

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.

Unless otherwise indicated above, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work. All stipulations of approval must be completed prior to issuance of a building permit unless otherwise indicated above.

This approval shall expire unless a building permit is obtained within a period of one year from the date granted, unless otherwise stated in the conditions of approval. The Planning Board may, for good cause shown, extend such period by as much as one year if such extension is requested and acted upon prior to the expiration date. No other extensions may be requested.

*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 Planning Board Meeting website:*

<https://www.cityofportsmouth.com/planportsmouth/planning-board/planning-board-archived-meetings-and-material>

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Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Chellman". The signature is fluid and cursive, with the first name "Rick" written in a smaller, more legible script than the last name "Chellman", which is more stylized and elongated.

Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector  
Rosann Maurice-Lentz, City Assessor

Tracy Kozak, AIA, Arcove Architects  
Frances X. Bruton, Bruton & Berube, PLLC  
John Chagnon, Ambit Engineering, Inc.

# Findings of Fact | Parking Conditional Use Permit

## City of Portsmouth Planning Board

Date: October 19, 2023

Property Address: 111 State Street

Application #: 22 - 125

Decision: ☐ **Approve**

### 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 all conditions necessary to obtain final approval.

### Parking Conditional Use Permit

10.1112.14 The Planning Board may grant a conditional use permit to allow a building or use to provide less than the minimum number of off-street parking spaces required by Section 10.1112.30, Section 10.1112.61, or Section 10.1115.20, as applicable, or to exceed the maximum number of off-street parking spaces allowed by Section 10.1112.51.

	Parking Conditional Use Permit 10.1112.14 Requirements	Finding (Meets Criteria/Requirement)	Supporting Information
1	10.1112.141 An application for a conditional use permit under this section shall include a parking demand analysis, which shall be reviewed by the City's Technical Advisory Committee prior to submission to the Planning Board, demonstrating that the proposed number of off-street parking spaces is sufficient for the proposed use.	Meets	The proposed change of use results in an overall reduction in parking needs for the site and introduces no increased parking impacts to the site or area. The new proposed uses bring the required parking of the site into greater conformance with the parking requirements. While the two added dwelling units represent an expanded use of residential on the site (requiring 4 spaces) the restaurant space is being reduced. The TAC Committee reviewed the application.
2	10.1112.142 An application for a conditional use permit under this section shall identify permanent evidence-based measures to reduce parking demand, including but not limited to provision of rideshare/microtransit services or bikeshare station(s)	Meets	The property is one block from the Memorial Bridge public parking lot and there is on-street parking in the vicinity. There are additional private surface lots within walking distance that provide additional parking, if necessary. The property is very close to the Downtown Overlay District; where 4 residential spaces would be automatically waived.

	<b>Parking Conditional Use Permit 10.1112.14 Requirements</b>	<b>Finding (Meets Criteria/Requirement)</b>	<b>Supporting Information</b>
	servicing the property, proximity to public transit, car/van-pool incentives, alternative transit subsidies, provisions for teleworking, and shared parking on a separate lot subject to the requirements of 10.1112.62.		The property has easy pedestrian and bicycle access to a variety of services and attractions in the Downtown. Long term storage of vehicles in off-site locations, for residential use, is a possible alternative. Added Bicycle Racks are being provided.
<b>3</b>	10.1112.143 The Planning Board may grant a conditional use permit only if it finds that the number of off-street parking spaces required or allowed by the permit will be adequate and appropriate for the proposed use of the property. In making this determination, the Board may accept, modify or reject the findings of the applicant's parking demand analysis.	<b>Meets</b>	The proposed change of use results in an overall reduction in parking needs for the site and introduces no increased parking impacts to the site or area. While the two added dwelling units represent an expanded use of residential on the site, the restaurant space is being reduced lowering overall parking demand. The parking demand analysis indicates a peak period demand reduction of 25 parking spaces.
<b>4</b>	10.1112.144 At its discretion, the Planning Board may require more off-street parking spaces than the minimum number requested by the applicant or may allow fewer spaces than the maximum number requested by the applicant.	<b>Meets</b>	The site has always operated without the benefit of full on-site parking and has no location on site to provide the required parking. In this case, a reasonable application of the non-conforming requirements might apply with the redevelopment as below grade nor surface parking can be integrated into the site. Residential parking demand is highest at night when the most parking spaces are available. Restaurant parking demand peaks during times of least parking availability.
<b>5</b>	<b><u>Other Board Findings:</u></b>		
<b>6</b>	<b><u>Additional Conditions of Approval:</u></b>		



# CITY OF PORTSMOUTH

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

## PLANNING BOARD

October 26, 2023

Marcella F. Hoekstra  
35 Whipple Court  
Portsmouth, New Hampshire 03801

RE: Conditional Use Permit request for DADU for property located at 35 Whipple Court (LU-23-147)

Dear Property Owner:

The Planning Board, at its regularly scheduled meeting of Thursday, October 19, 2023, considered your application for Conditional Use Permit Approval as permitted under Section 10.814 to allow a Detached Accessory Dwelling Unit. Said property is shown on Assessor Map 260 Lot 98 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted 1) to find that the Conditional Use Permit application meets the criteria set forth in Section 10.814.62 and to adopt the findings of fact as presented; *and* 2) to **grant** the Conditional Use Permit with a modification to the requirement set forth in Section 10.814.26 to not require an additional parking space for the DADU and to approve the Conditional Use Permit with the following **condition**:

*2.1) In accordance with [Sec. 10.814.70] of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of [Sec. 10.814], including the owner-occupancy requirement, and shall renew the certificate of use annually.*

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.

Unless otherwise indicated above, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work. All stipulations of approval must be completed prior to issuance of a building permit unless otherwise indicated above. **Prior to issuance of a building permit, this letter of decision shall be recorded at the Rockingham Registry of Deeds.**

A certificate of use issued by the Planning Department is required to verify compliance with the standards of the approval, including the owner-occupancy and principal residence requirements. Said certificate shall be issued by the Planning Department upon issuance of a certificate of occupancy by the Inspection Department and is required to be renewed annually.

This approval shall expire unless a building permit is obtained within a period of one year from the date granted, unless otherwise stated in the conditions of approval. The Planning Board may, for good cause shown, extend such period by as much as one year if such extension is requested and acted upon prior to the expiration.

*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 Planning Board Meeting website:*

<https://www.cityofportsmouth.com/planportsmouth/planning-board/planning-board-archived-meetings-and-material>

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Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Chellman". The signature is stylized with a large, sweeping initial "R" and a long, horizontal flourish extending to the right.

Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector  
Rosann Maurice-Lentz, City Assessor

Monica F. Kieser, Attorney  
R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PLLC



# Findings of Fact | Accessory Dwelling Unit

## City of Portsmouth Planning Board

Date: 10/12/2023

Property Address: 35 Whipple

Application #: LU

Decision: **Approve with Conditions**

### 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 all conditions necessary to obtain final approval.

Zoning Ordinance -10.814.62: Before granting a conditional use permit for an attached or detached ADU, the Planning Board shall make the following findings:

	Section 10.814.62	Finding (Meets Requirement/ Criteria)	Supporting Information
1	10.814.621 The ADU complies with all applicable standards of this Section 10.814 or as may be modified by the conditional use permit.	Meets	Proposal is to create an ADU in an existing garage on a nonconforming lot. The nonconforming location of the garage in the side and rear setbacks was approved by the ZBA, which granted an equitable waiver on 9/26/2023.
2	10.814.622 Exterior design of the ADU is architecturally consistent with or similar in appearance to the existing principal dwelling on the lot.	Meets	The garage has existed for decades so is established in the neighborhood.
3	10.814.623 The site plan provides adequate and appropriate open space and landscaping for both the ADU and the principal dwelling and complies with the off-street parking requirements of Section 10.814.26.	Meets	Appropriate open space exists as shown on the plan. Given the small size of the ADU (353 sf), a waiver to permit 2 parking spaces where 3 are required is appropriate.
4	10.814.624 The ADU will maintain a compatible relationship with the character of adjacent and neighborhood properties in terms of location, design, and off-street parking layout, and will not significantly reduce the privacy of adjacent properties.	Meets	The accessory structure already exists and is compatible with the character of the neighborhood. A waiver from the parking requirements is appropriate. Many abutters support the proposal.
5	<b><u>Other Board Findings:</u></b>		





# CITY OF PORTSMOUTH

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

## PLANNING BOARD

October 26, 2023

William & Katja Becker  
26 Walker Bungalow Road  
Portsmouth, New Hampshire 03801

RE: Preliminary & Final Subdivision Approval for property located at 40 & 26 Walker Bungalow Road (LU-23-137)

Dear Property Owners:

The Planning Board, at its regularly scheduled meeting of Thursday, October 19, 2023, considered your application for Preliminary and Final Subdivision approval for a lot line relocation to remove the encroachment of a driveway and retaining wall as follows: Tax Map 222 Lot 5-1 consisting of 53,970 square feet of lot area, increasing in frontage from 140. feet to 160.17 feet with no change in lot area. Tax Map 222 Lot 5-2, consisting of 37,637 square feet, decreasing in frontage from 120.17 feet to 100 feet, with no change in lot area. Said property is shown on Assessor Map 222 Lot 5-1 and Map 222 Lot 5-2 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted 1) to grant the requested waivers to the Subdivision Standards from Section VI.3 Streets, Section VI.4 Curbing, VI.5 Driveways, VI.6 Drainage Improvements, Section VI.7 Municipal water service, Section VI.8 Municipal sewer service, Section VI.9 Installation of utilities, Section VI.14 Erosion and Sedimentation Control, Section IX.1 Improvements and Installation Bonds, and Section IX.2 Maintenance Bonds.

*Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulation*

And, the Board voted 2) to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented; and 3) to **grant** Preliminary and Final Subdivision Approval with the following **conditions**:

*3.1) The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

*3.2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*

*3.3) GIS data shall be provided to the Department of Public Works in the form as required by the City.*

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.

All conditions of subdivision approval, including recording of the plat as required by the Planning Department, shall be completed within six (6) months of the date of approval, unless an extension is granted by the Planning Director or the Planning Board in accordance with Section III.E of the Subdivision Rules and Regulations. If all conditions have not been completed within the required time period, the Planning Board's approval shall be deemed null and void.

This subdivision approval is not final until the Planning Director has certified that the applicant has complied with the conditions of approval imposed by the Planning Board.

*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 Planning Board Meeting website:*

<https://www.cityofportsmouth.com/planportsmouth/planning-board/planning-board-archived-meetings-and-material>

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Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Chellman". The signature is stylized with a large, looping "R" and "C".

Rick Chellman, Chairman of the Planning Board

cc: Rosann Maurice-Lentz, City Assessor

# Findings of Fact | Subdivision Rules and Regulations

## City of Portsmouth Planning Board

Date: 10/12/2023

Property Address: 26 Walker Bungalow Rd & 40 Walker Bungalow Rd

Application #: LU-23-137

Decision: **Approve with Conditions**

### 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 all conditions necessary to obtain final approval.

	Subdivision Review Criteria	Finding (Meets Standards/ Requirements)	Supporting Information
1	Subdivision Rules and Regulations III. D. 1 The Board shall act to deny any application which is not in compliance with Section IV or V as appropriate. <b>SECTION IV - REQUIREMENTS FOR PRELIMINARY PLAT</b>	Meets	No new lots are created. The 8/30/2023 Application includes an LLA Plan which depicts an even exchange of land between the two lots curing an encroachment of the driveway and retaining wall by placing both entirely on Lot 5-1. As proposed, each lot complies with the requirements for lot size and frontage.
2	<b>SECTION V - REQUIREMENTS FOR FINAL PLAT</b>	Meets	No new lots are proposed. The LLA Plan contains the information required by the applicable provisions of Section V including depiction of the lot line to be abandoned and proposed with the area of land to be transferred/added to each lot.
3	<b>SECTION VI - GENERAL REQUIREMENTS</b>	Meets	TAC Review is not required per Subdivision Regulations Section III B.1; however, Planning Staff reviewed the application for conformance with the General Requirements.
4	<b>SECTION VII - DESIGN STANDARDS</b>	Meets	Section VII Design Standards do not apply to the even exchange of

	Subdivision Review Criteria	Finding (Meets Standards/ Requirements)	Supporting Information
			land between these two lots because no new lots are created and no site work is proposed.
5	<u>Other Board Findings:</u>		