



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

April 22, 2024

Chinburg Development, LLC
3 Penstock Way
Newmarket, New Hampshire 03857

RE: Board of Adjustment request for property located at 6 Boyd Road (LU-24-23)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, April 16, 2024**, considered your application for demolishing the existing structure and constructing a new primary dwelling which requires the following: 1) Variance from Section 10.521 to allow a) 6,703 square feet of lot area where 7,500 square feet are required; b) 6,703 square feet of lot area per dwelling unit where 7,500 square feet are required; c) 85 feet of frontage where 100 feet are required; and d) 68 feet of lot depth where 70 feet are required. Said property is shown on Assessor Map 175 Lot 13 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **grant** the request as presented and advertised.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning & Sustainability 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 & Sustainability 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

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 4-16-2024

Property Address: 6 Boyd Road

Application #: LU-24-23

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"> • There is no apparent impact on the public interest with regard to safety or even creating a more overcrowded condition within the neighborhood. • There is nothing in the petition that flies against the general character of the area.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> • There is no apparent impact on the public interest with regard to safety or even creating a more overcrowded condition within the neighborhood. • There is nothing in the petition that flies against the general character of the area.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • Even though there is a feeling among some of the abutters that they were losing a piece of history, it is really not what is being considered by the Board unless it was part of the Historic District. • There were no comments that there would be any substantial loss to the public that would outweigh the rights of the owner to build on the property as they saw fit.
<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES</p>	<ul style="list-style-type: none"> • Most of the surrounding properties were the condo units which were the immediate abutters, and there were no apparent impacts on those. The condos were all owned by the same person, and in this case it is relevant because it is believed that the owner would not change the lot in a manner that would reduce the value of his other holdings in the neighborhood.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The property's hardship is its preexisting lack of conformity with the variances being requested, i.e. the depth, the frontage, and the total lot area. • There was nothing the owner of the lot could have done to increase the street frontage as a result of the condo development next to it, which led to the hardship.



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ZONING BOARD OF ADJUSTMENT

April 22, 2024

Chinburg Development, LLC
3 Penstock Way
Newmarket, New Hampshire 03857

RE: Board of Adjustment request for property located at 216 Woodbury Avenue (LU-24-24)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, April 16, 2024**, considered your application for demolishing the existing structure and constructing a new primary dwelling which requires the following: 1) Variance from Section 10.521 to allow 66 feet of frontage where 100 feet are required. Said property is shown on Assessor Map 175 Lot 3 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to to **grant** the request as presented and advertised.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning & Sustainability 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 & Sustainability 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
Jacob Gould, Chinburg Development, LLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 4-16-2024

Property Address: 216 Woodbury Avenue

Application #: LU-24-24

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"> The lot is in a zone where the use is the correct one and the proposed single family residence would replace the existing single family residence, so there would be no change in serving the public interest with the new structure v. the one that was currently there.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The lot is in a zone where the use is the correct one and the proposed single family residence would replace the existing single family residence, so there would be no change in serving the public interest with the new structure v. the one that was currently there.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> The lot will be used in the exact manner in which the variance is being proposed and will continue to be proposed, so there will be no loss to the public by continuing that use.
<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES</p>	<ul style="list-style-type: none"> The applicant's property is abutted on one side by a hotel and on the other side by the same owner's property, so it is illogical to assume that the proposed redevelopment of the lot will diminish the value of either the hotel or the property owned by the same person on the other side of the lot.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<p>YES</p>	<ul style="list-style-type: none"> The special condition of the property is that it is bounded on two sides by developed lots and the side lot lines cannot be moved without bringing some other property equally out of conformance, therefore the 68-ft front lot line is unalterable in any way that would bring the lot in conformance for this purpose. The hardship is the nature of the property and the lot that can not be altered to come into full compliance with the ordinance for the already existing use, so it is unreasonable to apply the ordinance's strict requirements for continuing this use.



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ZONING BOARD OF ADJUSTMENT

April 22, 2024

Cyrus Beers
64 Mount Vernon Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment Request for property located at 64 mount Vernon Street (LU-24-20)

Dear Mr. Beer:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, April 16, 2024**, considered your application for amend the Variances granted on March 19, 2024 for the demolition of the existing detached shed and construction of a new shed to include the following: 1) Variance from section 10.521 to allow a 2 foot side yard where 10 feet is required. Said property is shown on Assessor Map 111 Lot 30 and lies within the General Residence B (GRB) and Historic Districts. As a result of said consideration, the Board voted to to **grant** the variance for the petition as presented and advertised, with the following **condition**:

1. *The 2-ft side yard setback only pertains to the area of the jog.*

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 & Sustainability 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.

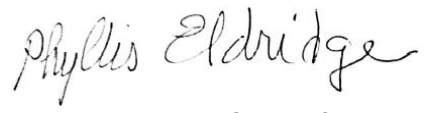
This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

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 & Sustainability 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: 4-16-2024

Property Address: 64 Mount Vernon Street

Application #: LU-24-20

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"> The Board often looks at side yard setbacks to preserve light, air, and space between properties, but the reality is that it is only for a shed in the back of the property and not for any kind of bigger structure, so the spirit and public interest or the ordinance were met.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The Board often looks at side yard setbacks to preserve light, air, and space between properties, but the reality is that it is only for a shed in the back of the property and not for any kind of bigger structure, so the spirit and public interest or the ordinance were met.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> The public will not lose by the granting of the variance for a minimal setback for a shed.
<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES</p>	<ul style="list-style-type: none"> The Board previously granted the setback for five feet and it is just a loss of another three feet, and the surrounding properties would not be harmed but in fact would gain by improvements to the applicant's property.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<p>YES</p>	<ul style="list-style-type: none"> The shed is an accessory structure to a house in a residential area and the property does have special conditions because the property's topography began to trend upward as one got further away from the side yard lot line, making it difficult to put the shed further in from the lot line.

<p>Stipulations</p>
<p>1. <i>The 2-ft side yard setback only pertains to the area of the jog.</i></p>



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ZONING BOARD OF ADJUSTMENT

April 22, 2024

Paul & Sandra OBrien, Trustees
OBrien Family Revocable Trust of 2018
20 Brigham Lane
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 3 Moebus Terrace (LU-24-40)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, April 16, 2024**, considered your application for demolishing the existing structure and constructing a new primary structure which requires the following: 1) Variance from Section 10.521 to allow a) 10,823 square feet of lot area where 15,000 square feet is required; and b) 10,823 square feet of lot area per dwelling unit where 15,000 square feet is required. Said property is shown on Assessor Map 207 Lot 21 and lies within the Single Residence B (SRB) . As a result of said consideration, the Board voted to to **grant** the request as presented and advertised.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning & Sustainability 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 & Sustainability 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: 4-16-2024

Property Address: 3 Moebus Terrace

Application #: LU-24-40

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"> The applicant made a good argument that there is an overall characteristic to the neighborhood. The subdivision was created, the same sized lots were created with homes placed on them, and the applicant was not proposing to do anything different by placing another single-sized family home on the lot and making it slightly more conforming. It will conform with the other setback requirements of the ordinance and retain the same use in a neighborhood designed around the size of the lot.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The applicant made a good argument that there is an overall characteristic to the neighborhood. The subdivision was created, the same sized lots were created with homes placed on them, and the applicant was not proposing to

		do anything different by placing another single-sized family home on the lot and making it slightly more conforming. It will conform with the other setback requirements of the ordinance and retain the same use in a neighborhood designed around the size of the lot.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The purpose of the ordinance in this case is to prevent overcrowding. The established neighborhood is designed around the applicant's sized lot and the applicant is not proposing to change any of that but simply wanted to take advantage of the allowed zoning characteristics of the lot and to build a new home within those characteristics.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> The applicant is building out and will be in conformance with the ordinance on a lot with similar characteristics to the other lots around it, so there is no reason to believe that it will negatively impact other property values.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	YES	<ul style="list-style-type: none"> The lot is substandard in terms of total square footage but it is representative of a little micro area, so it is not different than what the overall zoning objectives are. There are unique characteristics to the property relative to the overall expectations of the zone that it happens to lie in, which says it's not truly fair to apply the requirements of that zone for that zone on this particular parcel because of that fact. The applicant was not proposing to change the use of a single family home.