



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

July 1, 2024

J W Seavey and Doty Seavey Trustees  
Doty Seavey Family Revocable Trust  
17 Whidden Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 17 Whidden Street,  
Portsmouth, NH (LU-24-85)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 25, 2024**, considered your application for constructing a fence 8 feet in height within the rear and side yards, which requires relief from the following: 1) Variance from Section 10.521 to a) allow a 0.5 foot rear yard where 25 feet is required; and b) to allow a 0.5 foot side yard where 10 feet is required. Said property is shown on Assessor Map 109 Lot 5 and lies within the General Residence B (GRB) and Historic Districts. 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

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 6-25-2024

Property Address: 17 Whidden Street

Application #: LU-24-85

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	<b>YES</b>	<ul style="list-style-type: none"> <li>The public interest as expressed in the zoning ordinance with regard to fences is really to prevent the creation of unsightly fences along streetways and walkways that substantially block the view of the property from the street and instead create an unsightly wall. That is not the case with this application because, due to the location of the fence, it is between the property and a very busy parking lot, and therefore there is really no loss to the public interest.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"> <li>The public interest as expressed in the zoning ordinance with regard to fences is really to prevent the creation of unsightly fences along streetways and walkways that substantially block the view of the</li> </ul>

		property from the street and instead create an unsightly wall. That is not the case with this application because, due to the location of the fence, it is between the property and a very busy parking lot, and therefore there is really no loss to the public interest.
10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>The homeowner is suffering a notable loss of privacy being next to a very busy commercially utilized parking lot that no longer has any effective shielding between the applicant's property and the parking lot, so there's a great deal of value to the homeowner to do this. He said there would be no loss to the adjacent property or the public in creating this fence, therefore substantial justice is achieved.</li> </ul>
10.233.24 Granting the variance would not diminish the values of surrounding properties.	<b>YES</b>	<ul style="list-style-type: none"> <li>The Board had the attestation by the Wentworth property owners that they were fine with it. If anyone were to be impacted by the fence, Wentworth would be the property most directly affected.</li> </ul>
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<b>YES</b>	<ul style="list-style-type: none"> <li>There must be some unique aspect of the property that makes the particulars of the zoning ordinance regarding the fence height and location not applicable in this case, and the unique aspect of this property is its very close proximity to a commercial parking lot.</li> </ul>



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

July 1, 2024

Jay Anthony Clark and James A Link  
64 Haven Rd  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 64 Haven Road, Portsmouth, NH(LU-22-121)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 25, 2024**, considered your application for construction of a shed and after-the-fact construction of an addition to the primary structure which requires the following: 1) Variance from Section 10.521 to allow a 4 foot left side yard where 10 feet is required; 2) Variance from Section 10.515.14 to allow a 4 foot setback for 2 mechanical units where 10 feet is required for each; 3) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance; 4) Variance from Section 10.573.20 to allow a 5 foot side yard where 10 feet is required; and 5) A Variance from Section 10.571 to allow an accessory structure to be located closer to the street than the principal building. Said property is shown on Assessor Map 206 Lot 30 and lies within the Single Residence B (SRB) 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".

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Brendan McNamara

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 6-25-2024

Property Address: 64 Haven Road

Application #: LU-22-121

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	<b>YES</b>	<ul style="list-style-type: none"> <li>• The Board is dealing with a very minor change from an application that was previously approved and that is driven by an updated understanding of the lot lines and the fact that the lot setbacks have changed by less than one foot in any direction.</li> <li>• As much as the property had already received a granting of the variance for this construct in the past, there is no loss to the public interest in continuing to honor that variance, even in spite of the small change in lot line clearance.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"> <li>• The Board is dealing with a very minor change from an application that was previously approved and that is driven by an updated understanding of the lot lines and</li> </ul>

		<p>the fact that the lot setbacks have changed by less than one foot in any direction.</p> <ul style="list-style-type: none"> <li>As much as the property had already received a granting of the variance for this construct in the past, there is no loss to the public interest in continuing to honor that variance, even in spite of the small change in lot line clearance.</li> </ul>
10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>The property owner invested substantial funds into constructing the addition as it had been previously approved, and therefore a reversal of that approval, or non-approval of this application, would have a substantial impact on the property owner and would need to be outweighed by a very substantial loss to the public should this project continue.</li> </ul>
10.233.24 Granting the variance would not diminish the values of surrounding properties.	<b>YES</b>	<ul style="list-style-type: none"> <li>The most affected abutter attested that there is no loss perceived to their property's value.</li> </ul>
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<b>YES</b>	<ul style="list-style-type: none"> <li>The special condition is that the house and its location predate the current zoning ordinance, and that is a special condition that really cannot be altered. The house is not exactly parallel with the lot lines, but that is just the way it is. Due to that special condition, the variance is required so that the property owner can proceed with any addition to the existing structure.</li> </ul>





# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

July 1, 2024

Liam Hoare and Reese C Green  
189 Wibird Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 189 Wibird Street, Portsmouth, NH (LU-24-98)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 25, 2024**, considered your application for demolishing the existing rear deck and constructing an addition and new deck at the rear of the structure which requires the following: 1) Variance from Section 10.521 to allow an 8.5 foot right yard where 10 feet is required; 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 133 Lot 51 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

Amy Dutton, Amy Dutton Home

Colby Gamester, Attorney, Gamester Law Offices

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 6-25-2024

Property Address: 189 Wibird Street

Application #: LU-24-98

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	<b>YES</b>	<ul style="list-style-type: none"> <li>• The applicant is well below the maximum lot coverage and that it is encouraging that the applicant worked diligently with the abutters to incorporate their comments and concerns and also appears to be working diligently in resolving water concerns.</li> <li>• The applicant has a good argument about the roof pitch lines and so on to help keep the back of the home symmetrical.</li> <li>• The real driver is the desire for the below-surface garage, which would have advantages for the applicant and the neighborhood.</li> <li>• The applicant made a good argument that the relief asked for is minor and consistent with the other homes in the neighborhood.</li> <li>• The applicant also made a good argument that all the new construction will</li> </ul>

		be toward the back end of the home and not widely visible to the streetscape, and due to the nature of the way it is planned, what would be visible will seem comfortable with the other homes in the neighborhood.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"> <li>• The applicant made a good argument that the relief asked for is minor and consistent with the other homes in the neighborhood.</li> <li>• The applicant also made a good argument that all the new construction will be toward the back end of the home and not widely visible to the streetscape, and due to the nature of the way it is planned, what would be visible will seem comfortable with the other homes in the neighborhood.</li> </ul>
10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>• There is nothing about enforcing the additional foot and a half of setback that would outweigh the benefits to the applicant or the general public in terms of the garage and the addition's floor layout.</li> </ul>
10.233.24 Granting the variance would not diminish the values of surrounding properties.	<b>YES</b>	<ul style="list-style-type: none"> <li>• It is a relatively minor encroachment and a tastefully designed addition, and the applicant has a desire to be a good steward to the property and the neighborhood, which all weighs in favor that property values will not be negatively affected.</li> </ul>
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<b>YES</b>	<ul style="list-style-type: none"> <li>• The applicant indicates that the original home predates zoning and is configured in such a way that it's to one side of the lot, and any logical building extension would require some level of relief. The relief requested is a reasonable one and is relatively small and consistent overall with the character of the neighborhood. It is a continuation of a single-family home by extending onto the existing home and continuing the streetscape that had been there for years.</li> </ul>



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

July 1, 2024

Argeris Karabelas and Eloise Karabelas  
461 Court Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 461 Court Street, Portsmouth, NH (LU-24-87)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 25, 2024**, considered your application for demolishing the rear 1-story portion of the existing structure and constructing a 2-story addition which requires the following: 1) Variance from Section 10.5A41.10A to allow a 1 foot side yard where a minimum of 5 feet is required; 2) Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 105 Lot 7 and lies within the Character District 4-L1 (CD4-L1) and Historic 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: 6-25-2024

Property Address: 461 Court Street

Application #: LU-24-87

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	<b>YES</b>	<ul style="list-style-type: none"> <li>The addition on the back end of the house would be largely unseen by most of the public, and the Board is really concerned with only a small portion of the addition and its impact on the surrounding properties, so in that sense it was consistent.</li> <li>It is continuing with the existing structure line and actually moves in slightly and is also slightly more relief than the principal structure relative to the property line, so in those terms, nothing asked for would look unusual or would alter the neighborhood's characteristics and is in keeping with what the Board tries to do with light and air, especially with respect to the common passageway.</li> </ul>

<p>10.233.22 Granting the variance would observe the spirit of the Ordinance.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• The addition on the back end of the house would be largely unseen by most of the public, and the Board is really concerned with only a small portion of the addition and its impact on the surrounding properties, so in that sense it was consistent.</li> <li>• It is continuing with the existing structure line and actually moves in slightly and is also slightly more relief than the principal structure relative to the property line, so in those terms, nothing asked for would look unusual or would alter the neighborhood's characteristics and is in keeping with what the Board tries to do with light and air, especially with respect to the common passageway.</li> </ul>
<p>10.233.23 Granting the variance would do substantial justice.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• It would do substantial justice, which is a balancing test of the applicant's desire to create a few feet of wide strip on their addition vs. what the general public would have for potential concerns. It is an addition in the back end and a modest request that is just adding a small amount of additional size to the addition and is nothing that the general public will have an objection to.</li> </ul>
<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• There has been some indication that it will, but in specific reference to what is being asked for relief for the specific portion and not with regards to the entire addition, there is nothing where the addition being slightly closer to the passageway will negatively affect those property values.</li> </ul>
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• The biggest factor is the common passageway and that the whole area affects the passageway. The applicant gave the sense that they are being respectful of the passageway, and the jog creates the tight spot at the back end of the addition and the applicant's imposition on the passageway is not significant. It gives the property a unique set of circumstances</li> </ul>



<p>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>relative to the other properties that the zoning ordinance should not be strictly applied in this case. It will be a reasonable use because it will continue an expansion of an existing single-family use with a very minor impact relative to what is being asked for in terms of relief.</p> <ul style="list-style-type: none"> <li>• The Board has a letter from a realtor in town that says he believes the relief requested by the applicant will significantly diminish the values of the surrounding properties, based on his experience. That is the one thing the Board has in evidence about value, and in terms of the Board's deliberations, the Board did not think it was very particular or gave them appraised values and did not rise to the level of specificity that the Board would have to take cognizance of under the zoning law.</li> </ul>
--	--	---



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

July 1, 2024

Tyler and Susan Moore  
26 Harding Road  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 26 Harding Road,  
Portsmouth, NH (LU-24-96)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, June 25, 2024**, considered your application for constructing a shed at the rear of the property which requires the following: 1) Variance from Section 10.521 to allow 29% building coverage where 20% is the maximum permitted. Said property is shown on Assessor Map 247 Lot 16 and lies within the Single Residence B (SRB) 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,

*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: 6-25-2024

Property Address: 26 Harding Road

Application #: LU-24-96

Decision: **Grant**

### Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	<b>YES</b>	<ul style="list-style-type: none"> <li>The applicant demonstrated that it would remove lawn equipment from the lawn and put it in the shed.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"> <li>The spirit would not significantly be violated by the one percent coverage difference.</li> </ul>
10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>The applicant made a reasonable case why having a shed on the property would help her and there was no indication that it would harm anyone else.</li> </ul>
10.233.24 Granting the variance would not diminish the values of surrounding properties.	<b>YES</b>	<ul style="list-style-type: none"> <li>There is no evidence that it would have any impact at all on surrounding properties.</li> </ul>

<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• The property is special because it backs up onto undeveloped woods, and because of that, literal enforcement of the ordinance to preserve a lot coverage ratio that is only minimally affected by the shed seems like an unnecessary hardship on the owner. Due to those special conditions, a fair and substantial relationship does not exist between the general public purpose of the ordinance and its coverage ratio requirements and the special application of that provision to the property.</li> </ul>
--	-------------------	--