



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

July 23, 2024

Dawn P. Sirois
485 Ocean Road
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 485 Ocean Road,
Portsmouth, NH (LU-24-103)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 16, 2024**, considered your application for demolishing the existing rear deck and constructing a new screened in porch which requires the following: 1) Variance from Section 10.521 to allow 14% building coverage where 10% is allowed; and 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 283 Lot 32 and lies within the Single Residence A (SRA) 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 Planning Board 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 "Beth Margeson".

Beth Margeson, Vice 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: 7-16-2024

Property Address: 485 Ocean Road

Application #: LU-24-103

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 will be no impact on the safety or general wellbeing of the public in making the minor change in the lot coverage.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> There will be no impact on the safety or general wellbeing of the public in making the minor change in the lot coverage.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> There will be no conceivable loss to the general public by replacing the current structure with the new structure, which is behind the main house, not visible from the road, and approximately the same size as the existing structure.

<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"> • There will be no real change of any substance to the current condition, and the values of the surrounding properties were based on the current condition of the 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 lot is a sub-sized one and any change short of completely demolishing and eliminating the structure and replacing it with something else would be out of conformance.



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ZONING BOARD OF ADJUSTMENT

July 23, 2024

Avi Magidoff
133 Pearson Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 133 Pearson Street (LU-24-107)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 16, 2024**, considered your application for constructing a car port which requires the following: 1) Variance from Section 10.573.20 to allow a 4 foot side yard where 8.5 feet is required. Said property is shown on Assessor Map 232 Lot 102 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 Planning Board 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,

Beth I Margeson

Beth Margeson, Vice 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: 7-16-24

Property Address: 133 Pearson Street

Application #: LU-23-107

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 proposed use will not conflict with the explicit or implicit purpose of the ordinance and will not alter the essential characteristics of the neighborhood, threaten public health, safety, or welfare, or injure public rights. • It is a minor request for an open car port that follows the purpose of the ordinance.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> • The proposed use will not conflict with the explicit or implicit purpose of the ordinance and will not alter the essential characteristics of the neighborhood, threaten public health, safety, or welfare, or injure public rights. • It is a minor request for an open car port that follows the purpose of the ordinance.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The benefit to the applicant will not be outweighed by any harm to the general public or other individuals. • The car port on the dead end street will be far away from any neighboring properties and will have a minimal visual change.
<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"> • There was no expert testimony to suggest otherwise. • The applicant showed that other garages in the neighborhood had not been harmful to 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>	<p>YES</p>	<ul style="list-style-type: none"> • There is no fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property, and the proposed use is a reasonable one. • It is a reasonable request to have an open car port in a driveway, and the unique aspect of the property is that it is on a dead end street, with minimal street frontage, and the side yard butted up against a very large church property. • The purpose of the side yard is to preserve light, and privacy would be maintained.



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ZONING BOARD OF ADJUSTMENT

July 23, 2024

Bruce R Carll
0 Melbourne Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 0 Melbourne Street (LU-24-109)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 16, 2024**, considered your application for constructing a single residential unit on a vacant and undersized lot which requires the following: 1) Variance from Section 10.521 to allow a) 6,197 sf of lot area where 15,000 sf are required, b) 6,197 sf of lot area per dwelling unit where 15,000 sf are required, and c) 50 ft of frontage where 100 ft are required. Said property is shown on Assessor Map 233 Lot 54 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **grant** the request with the following **condition**:

1) The design and orientation of the home and driveway may change as a result of the building permit review and approval.

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 Planning Board 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,

A handwritten signature in cursive script, appearing to read "Beth Margeson".

Beth Margeson, Vice Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Christopher P Mulligan, Attorney Bosen & Associates, P.L.L.C.

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 7-16-2024

Property Address: 0 Melbourne Street

Application #: LU-24-109

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 structure will be a single family home, like the others in the neighborhood, and there are various designs that were developed over a century. • There are some similar sized lots in the neighborhood in terms of overall square footage and there is not believed to be any real threat to the public's health, safety and welfare. • All the setbacks would be met.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> • The structure will be a single family home, like the others in the neighborhood, and there are various designs that were developed over a century. • There are some similar sized lots in the neighborhood in terms of overall square footage and there is

		<p>not believed to be any real threat to the public's health, safety and welfare.</p> <ul style="list-style-type: none"> • All the setbacks would be met. • Granting the variances will observe the spirit of the ordinance and keep it a single family residential area.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> • Without the approved variances, the property would be basically unusable for its primary use as a residence.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> • There is little evidence presented that would prove that granting the variances would do so and that two realtors said that was unlikely.
<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 special condition of the lot is that it was a small lot for the zoning area, and without the variances, it could not be used to put in a single family residence. • The proposed structure fit, and owing to the special conditions of the property, the lot could not be reasonably used in strict conformance with the ordinance.

Stipulations

1. The design and orientation of the home and driveway may change as a result of the building permit review and approval.



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ZONING BOARD OF ADJUSTMENT

July 23, 2024

C/O The Kane Company
231 Corporate Drive, LLC
210 Commerce Way, Suite 300
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 231 Corporate Drive,
Portsmouth, NH (LU-24-114)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 16, 2024**, considered your application for add a fenced area between the building and the front lot line, for the use associated with dog walking which requires the following: 1) from Section 305.02(a) of the Pease Development Ordinance for an accessory use located in the front yard and: 2) from Section 304.04(c) of the Pease Development Ordinance for being located within 70 feet of the front lot line. Said property is shown on Assessor Map 314 Lot 2 and lies within the Airport Business Commercial (ABC) District. As a result of said consideration, the Board voted to recommend to the **Pease Development Authority** that the variances from their Zoning provisions be granted for the application.

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/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,

Beth Margeson, Vice Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

John K. Bosen, Esq., Bosen & Associates, P.L.L.C.

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment – PEASE

Date: 7-16-2024

Property Address: 231 Corporate Drive

Application #: LU-24-114

Decision: **Recommend Approval**

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:

Part 317.01(c) Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
1. No adverse effect or diminution in values of surrounding properties would be suffered.	Yes	<ul style="list-style-type: none">It is in the commercial district and the actual proposal barely impedes on the front yard setback and is just a fenced-in area for walking dogs, so there is no reason to believe it will affect the property values.
2. Granting the variance would be in the public interest.	Yes	<ul style="list-style-type: none">It will allow the building's occupant to better serve the public with this use.
3. Denial of the variance would result in unnecessary hardship to the person seeking it.	Yes	<ul style="list-style-type: none">The property is surrounded by a wetland buffer and the building exists as it does, so the mild encroachment on the front yard setback is required.
4. Granting the variance would be substantial justice.	Yes	<ul style="list-style-type: none">The benefit to the applicant is not outweighed by any potential harm to the general public, and the proposed use is not contrary to the spirit of the zoning rule.It is a veterinary clinic proposing an

		area to walk dogs that are in and out of the ICU, so it is not contrary to the spirit.
5. The proposed use would not be contrary to the spirit of this zoning rule.	Yes	<ul style="list-style-type: none"> • The benefit to the applicant is not outweighed by any potential harm to the general public, and the proposed use is not contrary to the spirit of the zoning rule. • It is a veterinary clinic proposing an area to walk dogs that are in and out of the ICU, so it is not contrary to the spirit.



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ZONING BOARD OF ADJUSTMENT

July 23, 2024

132 Chapel St. LLC

PO BOX 366
North Berwick, Maine 03906

**RE: Board of Adjustment request for property located at 132 Chapel Street,
Portsmouth, NH (LU-24-115)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 16, 2024**, considered your application for converting an existing commercial building back to a single residential unit which requires the following: 1) Variance from Section 10.440 Use #1.10 to allow a single family dwelling where it is not permitted; 2) Variance from Section 10.5A41.10C to allow a House building type where it is not permitted; and 3) Variance from Section 10.642 to allow a residential use on the ground floor where is it not permitted. Said property is shown on Assessor Map 106 Lot 6 and lies within the Character District 4 (CD4) and Historic District and the Downtown Overlay District (DOD). 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 Planning Board Meeting website:

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Very truly yours,

A handwritten signature in cursive script that reads "Beth Margeson".

Beth Margeson, Vice 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: 7-16-2024

Property Address: 132 Chapel Street

Application #: LU-24-115

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 neighborhood is like a micro hood and Chapel Street has the feel of a more residential area than other areas of the Downtown Overlay District. It was in keeping with the overall character and is clearly an original single family home that was awkwardly converted to an office space and was no longer a saleable point anymore.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> In this case, the building looks like a single family home and completely different than anything around it in a micro hood with residential uses, and it is a reasonable use of the property to be completely residential.

10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Substantial justice will be done because of the benefit to the applicant and there is no concern that the public going past the building would question why the building didn't have offices.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> The conversion will not negatively impact all the new properties being developed in full compliance with the zoning.
<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 tiny and has an old structure in an area where the zoning thought of new structures as repurposing many structures that traditionally had a business front to them.

Stipulations
1.
2.
3.
4.



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ZONING BOARD OF ADJUSTMENT

July 23, 2024

C/O The Kane Company
231 Corporate Drive, LLC
210 Commerce Way, Suite 300
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 231 Corporate Drive,
Portsmouth, NH (LU-24-114)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 16, 2024**, considered your application for add a fenced area between the building and the front lot line, for the use associated with dog walking which requires the following: 1) from Section 305.02(a) of the Pease Development Ordinance for an accessory use located in the front yard and: 2) from Section 304.04(c) of the Pease Development Ordinance for being located within 70 feet of the front lot line. Said property is shown on Assessor Map 314 Lot 2 and lies within the Airport Business Commercial (ABC) District. As a result of said consideration, the Board voted to recommend to the **Pease Development Authority** that the variances from their Zoning provisions be granted for the application.

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,

Beth Margeson, Vice Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

John K. Bosen, Esq., Bosen & Associates, P.L.L.C.

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment – PEASE

Date: 7-16-2024

Property Address: 231 Corporate Drive

Application #: LU-24-114

Decision: **Recommend Approval**

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:

Part 317.01(c) Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
1. No adverse effect or diminution in values of surrounding properties would be suffered.	Yes	<ul style="list-style-type: none">It is in the commercial district and the actual proposal barely impedes on the front yard setback and is just a fenced-in area for walking dogs, so there is no reason to believe it will affect the property values.
2. Granting the variance would be if benefit to the public interest.	Yes	<ul style="list-style-type: none">It will allow the building's occupant to better serve the public with this use.
3. Denial of the variance would result in unnecessary hardship to the person seeking it.	Yes	<ul style="list-style-type: none">The property is surrounded by a wetland buffer and the building exists as it does, so the mild encroachment on the front yard setback is required.
4. Granting the variance would be substantial justice.	Yes	<ul style="list-style-type: none">The benefit to the applicant is not outweighed by any potential harm to the general public, and the proposed use is not contrary to the spirit of the zoning rule.It is a veterinary clinic proposing an

		area to walk dogs that are in and out of the ICU, so it is not contrary to the spirit.
5. The proposed use would not be contrary to the spirit of this zoning rule.	Yes	<ul style="list-style-type: none"> • The benefit to the applicant is not outweighed by any potential harm to the general public, and the proposed use is not contrary to the spirit of the zoning rule. • It is a veterinary clinic proposing an area to walk dogs that are in and out of the ICU, so it is not contrary to the spirit.



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

July 23, 2024

Katherine Ann Bradford 2020 Revocable Trust

172 Gates Street
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 170-172 Gates Street,
Portsmouth, NH (LU-24-116)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 16, 2024**, considered your application for demolishing the existing garage and the small rear addition, and constructing a new garage in the same location as the existing garage and construct a side entryway roof which requires the following: 1) Variance from Section 10.521 to allow a) 45% building coverage where 30% is required, and b) 0 foot right side yard where 10 feet is required; 2) Variance from Section 10.573.20 to allow a 0 foot rear yard where 10.5 feet is required; 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. Said property is shown on Assessor Map 103 Lot 19 and lies within the General Residence B (GRB) 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 Planning Board 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 "Beth Margeson".

Beth Margeson, Vice 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: 7-16-2024

Property Address: 170 Gates Street

Application #: LU-24-116

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 proposed use will not conflict with the ordinance nor alter the essential character of the neighborhood, nor threaten the public's health, safety, or welfare or injure other public rights.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The proposed use will not conflict with the ordinance nor alter the essential character of the neighborhood, nor threaten the public's health, safety, or welfare or injure other public rights.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> There will be no benefit to the public that will result in denying the variance and that it will be detrimental to the property owner.

<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 surrounding properties might be improved because the decrepit garage would be replaced by a new structure.
<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 lot is very small and there is no other location to put a garage. • It is noted that the applicant pointed out that the lot is tiny but would be more compliant with the ordinance by the change.



CITY OF PORTSMOUTH

Planning & Sustainability
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1 Junkins Avenue
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ZONING BOARD OF ADJUSTMENT

July 23, 2024

Kenneth Racicot and Kelly Ann Racicot

34 Marne Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 34 Marne Avenue, Portsmouth, NH (LU-24-66)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 16, 2024**, considered your application for constructing a shed behind the primary structure which requires the following: 1) Variance from Section 10.573.20 to allow a 5 foot side yard where 10 feet is required. Said property is shown on Assessor Map 222 Lot 33 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 Planning Board 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,

Beth I Margeson

Beth Margeson, Vice 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: 7-16-2024

Property Address: 34 Marne Avenue

Application #: LU-24-66

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 are several outbuildings in the neighborhood and the applicant has a modest home on a modest parcel and simply wants to have the same conveniences that some of the neighbors enjoyed, so it is consistent with the neighborhood. • The applicant only needed under nine feet of setback, and he was asking to be four feet closer at five feet, so it would not make a substantial difference. • It is a modest shed and not a taller structure, so it would have only a modest impact in terms of light and air.

<p>10.233.22 Granting the variance would observe the spirit of the Ordinance.</p>	<p>YES</p>	<ul style="list-style-type: none"> • There are several outbuildings in the neighborhood and the applicant has a modest home on a modest parcel and simply wants to have the same conveniences that some of the neighbors enjoyed, so it is consistent with the neighborhood. • The applicant only needed under nine feet of setback, and he was asking to be four feet closer at five feet, so it would not make a substantial difference. • It is a modest shed and not a taller structure, so it would have only a modest impact in terms of light and air.
<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The shed will be hidden in the back yard and consistent with the neighborhood. • There is no general public purpose that will outweigh the applicant's desire to preserve the little bit of backyard he has.
<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"> • It is a good quality shed and will not have negative impacts on surrounding properties and might even improve them a bit.
<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 is unique in that it has a pork chop shape to it, which restricts the area in the backyard where an outbuilding accessory structure could be placed. • The applicant is trying to preserve as much of the back area as possible yet still has the convenience of a shed. • It is a reasonable use that is consistent with the neighborhood and is allowed by the ordinance.



CITY OF PORTSMOUTH

Planning & Sustainability
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1 Junkins Avenue
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ZONING BOARD OF ADJUSTMENT

July 23, 2024

Lindsay Floryan and Brian Collier
493 Dennett Street
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property 493 Dennett Street, Portsmouth, NH
(LU-24-78)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, July 16, 2024**, considered your application for constructing an 8 foot fence which requires the following: 1) Variance from Section 10.515.13 to allow an 8 foot fence where 6 feet is the maximum. Said property is shown on Assessor Map 161 Lot 45 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 Planning Board 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,

Beth I Margeson

Beth Margeson, Vice 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: 7-16-2024

Property Address: 493 Dennett Street

Application #: LU-24-78

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 general intention of the fence ordinance and height restrictions is to prevent presenting a closed-off appearance from the street view into various properties. Since the fence ran in-between two properties and is not visible from the street, it will not conflict with the spirit of the ordinance and would not be contrary to the public interest because it would not really be visible from the street.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The general intention of the fence ordinance and height restrictions is to prevent presenting a closed-off appearance from the street view into various properties. Since the fence ran in-between two properties and is not visible from the street, it will not conflict with

		the spirit of the ordinance and would not be contrary to the public interest because it would not really be visible from the street.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> There will be no real impact or loss to the public by approving the variance, and the loss to the applicant will be the loss of the opportunity to maintain privacy and separation between her property and the adjacent one.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> Normally there would be concern about an 8-ft fence separating the two properties, except that the neighbor approved of it, so the board did not see any diminution of property values.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	YES	<ul style="list-style-type: none"> The property has special conditions that distinguish it from others in the area due to the slope and nature of the backyards. A higher than 6-ft fence is required in order to maintain the desired level of privacy and containment of the animals between yards.