



# CITY OF PORTSMOUTH

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

## **ZONING BOARD OF ADJUSTMENT**

August 27, 2024

Martha & Brian Ratay  
457 Broad Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 0 Broad Street, Portsmouth, NH (LU-24-119)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 20, 2024**, considered your application for constructing a primary structure and detached garage on a vacant lot which requires the following: 1 ) Variance from Section 10.521 to allow a) 6,101 square feet of lot area where 7,500 is required, b) 6,101 square feet of lot area per dwelling unit where 7,500 is required, c) 60 feet of street frontage where 100 feet are required, d) 31% building coverage where 25% is allowed, e) 5 foot right side yard where 10 feet are required, and f) 2 foot rear yard where 20 feet are required. Said property is shown on Assessor Map 221 Lot 96 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: 8-20-2024

Property Address: 0 Broad Street

Application #: LU-24-119

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 purpose of the zone is to promote the development of moderate-to-high density single-family housing.</li> <li>The Broad Street neighborhood's character is very tangible and what is proposed would fit within that character not only architecturally but also in spacing, density of the other development in the area, and the fact that it will continue to be single family dwelling.</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 purpose of the zone is to promote the development of moderate-to-high density single-family housing.</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>• There is some merit to the tax history argument, where a property owner has paid tax on a lot over a period of time and the city considers it a buildable lot.</li> </ul>
<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p><b>YES</b></p>	<ul style="list-style-type: none"> <li>• The Board noted all the letters of support from the neighbors.</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 has a unique aspect relating to the garage on the neighboring lot that impinged on the property and because of that, the request for lot coverage made it appear as a higher number and it really was due to the garage structure.</li> </ul>



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## ZONING BOARD OF ADJUSTMENT

August 27, 2024

C/O Portsmouth Chevrolet  
Meadowbrook Inn Corp  
549 Route 1 Bypass  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 549 RT 1 Bypass,  
Portsmouth, NH (LU-24-113)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 20, 2024**, considered your application for constructing a 4-story hotel with 116 rooms with requires the following: 1) Special Exception from Section 10.440 use #10.40 to allow a hotel or motel with up to 125 rooms; and 2) Variance from Section 10. 5B41.80 to allow 7.85% community space where 10% is required . Said property is shown on Assessor Map 234 Lot 51 and lies within the Gateway Corridor (G1) District. As a result of said consideration, the Board voted to 1) **deny** the variance request because the petition failed to prove it would observe the spirit of the ordinance and there was an unnecessary hardship; and 2) to **deny** the special exception request because the petition failed to prove there would be no creation of a traffic safety hazard or substantial increase in the level of traffic congestion in the vicinity.

The Board's decision may be appealed up to thirty (30) days after the vote. Please contact the Planning & Sustainability Department for more details about the appeals process.

The minutes and audio recording of this meeting are available by contacting the Planning & Sustainability Department.

Very truly yours,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

James Scully  
J. Corey Caldwell, TF Moran

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 8-20-2024

Property Address: 549 US Route 1 Bypass

Application #: LU-24-113

Decision: **Deny**

### 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.		
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>NO</b>	<ul style="list-style-type: none"> <li>• The property was recently rezoned but it was part of a vision that the city was trying to create in the area, like the walkability and requiring these properties to be more integrated into the community.</li> <li>• There were opportunities to use this property in a more community manner to help support the area as opposed to it remaining as a general business and a sterile strip along the Route One Bypass.</li> <li>• There is no reason why the applicant couldn't make the ten percent if there was another</li> </ul>

		<p>proposed use or a reconfiguration of what would be done there.</p> <ul style="list-style-type: none"> <li>The proposed community space is basically what is left over, and a 30-ft wide green border with a split rail fence running down the middle of it bordering a traffic circle is not viable community space.</li> </ul>
10.233.23 Granting the variance would do substantial justice.		
10.233.24 Granting the variance would not diminish the values of surrounding properties.		
<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>NO</b>	<ul style="list-style-type: none"> <li>The applicant said the hardship is due to the wetlands, but the Board thought it was being driven by the intensity of the existing and proposed uses of the property.</li> </ul>

# Findings of Fact | Special Exception

## City of Portsmouth Zoning Board of Adjustment

Date: 8-20-2024

Property Address: 549 US Route 1 Bypass

Application #: LU-24-113

Decision: **Deny**

### 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 Special Exception:

Special Exception Review Criteria: Section 10.232.20	Finding	Relevant Facts
10.232.21 Standards as provided by this Ordinance for the particular use permitted by special exception;		
10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.		
10.233.23 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;		



<p>10.233.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;</p>	<p><b>No</b></p>	<ul style="list-style-type: none"> <li>• There would be an increase in the level of traffic and the applicant failed to provide the Board with information on that.</li> <li>• Saying that there would not be any traffic impact didn't cut it</li> </ul>
<p>10.233.25 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and</p>		
<p>10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.</p>		



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## ZONING BOARD OF ADJUSTMENT

August 27, 2024

Bert & Daisy Wortel  
501 Calatrava Court  
Coral Gables , Florida 33143

**RE: Board of Adjustment request for property located at 245 Marcy Street,  
Portsmouth, NH (LU-24-131)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 20, 2024**, considered your application for removing the existing 6-foot fence and replace with a new 6 foot fence which requires the following: 1) Variance from Section 10.515.13 to allow a 6 foot fence in the front yard area where 4 feet is allowed. Said property is shown on Assessor Map 103 Lot 13 and lies within the General Residence B (GRB) and Historic Districts. As a result of said consideration, the Board voted to to **deny** the request because the petition failed to prove that it would observe the spirit of the ordinance.

The Board's decision may be appealed up to thirty (30) days after the vote. Please contact the Planning & Sustainability Department for more details about the appeals process.

The minutes and audio recording of this meeting are available by contacting the Planning & Sustainability Department.

Very truly yours,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 8-20-2024

Property Address: 245 Marcy Street

Application #: LU-24-131

Decision: **Deny**

### 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.		
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>NO</b>	<ul style="list-style-type: none"> <li>• The purpose of the ordinance is to prevent a walled-off feel for people who are walking in areas that are ones the city wants pedestrians to feel comfortable in, and this was one such area. It did not comply with the spirit of the ordinance to have a 6-ft fence there.</li> <li>• The barrier-like feeling is exactly what is happening with the property now, and to allow it to continue, especially in that area, was very much against the ordinance.</li> </ul>

<p>10.233.23 Granting the variance would do substantial justice.</p>		
<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>		
<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>		



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## **ZONING BOARD OF ADJUSTMENT**

August 27, 2024

Thomas Kressler & Lisa Lapriore  
34 Garfield Road  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 34 Garfield Road,  
Portsmouth, NH (LU-24-134)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 20, 2024**, considered your application for constructing a single-story addition to the front of the existing home which requires the following: 1) Variance from Section 10.521 for a) 24% building coverage where 20% is allowed; and b) a 24.5-foot front yard where 30 feet is required; 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 268 Lot 84 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". 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

Richard Rousseau, Kalil & LaCount

# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 8-20-2024

Property Address: 34 Garfield Road

Application #: LU-24-134

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 will protrude on the front a bit beyond what is allowed and a bit closer than some of the other properties.</li> <li>There is enough variety across the neighborhood and the addition's modest nature and its extension into the front yard will not be excessive and will look natural and not violate the essential characteristics of the neighborhood.</li> </ul>
10.233.22 Granting the variance would observe the spirit of the Ordinance.	<b>YES</b>	<ul style="list-style-type: none"> <li>The addition will protrude on the front a bit beyond what is allowed and a bit closer than some of the other properties.</li> <li>There is enough variety across the neighborhood and the addition's modest nature and its extension into the front yard will not be</li> </ul>

		excessive and will look natural and not violate the essential characteristics of the neighborhood.
10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>• The ordinance didn't want to overburden the property with lots of taller structures.</li> <li>• It is a two percent variation in the total coverage and some of the other elements are also modest.</li> <li>• The front setback is modest overall to the width and the imposition of the setback request, so nothing in the public purpose would outweigh the benefit that the applicant would get from the master suite.</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>• Having a small addition in the front yard is a residential use, so it would be consistent and would not negatively impact surrounding property values.</li> <li>• 38 Garfield Street had about the same setback and the siting of the small addition screened by the trees would be unnoticeable</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 property is substantially smaller than the ones envisioned for the zone and has setbacks that are envisioned for a bigger lot that hemmed the structure in.</li> </ul>





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## ZONING BOARD OF ADJUSTMENT

August 27, 2024

Heritage NH, LLC  
953 Islington St, Unit 23D  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment Request for property located at 2800 Lafayette Rd,  
Portsmouth, New Hampshire (LU-24-128)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 20, 2024**, considered your application for a change of use for Unit 17 to a health club including the following special exception from Section 10.440, Use #4.42 to allow a health club greater than 2,000 s.f. of gross floor area. Said property is shown on Assessor Map 285 Lot 2 and lies within the Gateway Corridor (G1) 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

# Findings of Fact | Special Exception

## City of Portsmouth Zoning Board of Adjustment

Date: 8-20-2024

Property Address: 2800 Lafayette Road

Application #: LU-24-128

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 Special Exception:

Special Exception Review Criteria: Section 10.232.20	Finding	Relevant Facts
10.232.21 Standards as provided by this Ordinance for the particular use permitted by special exception;	<b>Yes</b>	<ul style="list-style-type: none"> <li>The use is allowed by special exception.</li> </ul>
10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.	<b>Yes</b>	<ul style="list-style-type: none"> <li>There is no evidence that there will be a hazard created due to toxic materials.</li> </ul>
10.233.23 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;	<b>Yes</b>	<ul style="list-style-type: none"> <li>It will just be another commercial activity.</li> </ul>

10.233.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;	<b>Yes</b>	<ul style="list-style-type: none"> <li>• There will be some traffic but most of the classes will be held after some of the other stores closed, so there is no indication that there will be a creation of a traffic or safety hazard.</li> </ul>
10.233.25 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and	<b>Yes</b>	<ul style="list-style-type: none"> <li>• The applicant will use the existing utilities,</li> </ul>
10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.	<b>Yes</b>	<ul style="list-style-type: none"> <li>• It is just an interior change that will pose no increase in stormwater runoff</li> </ul>



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## ZONING BOARD OF ADJUSTMENT

August 27, 2024

Paul Majcher & Mary Moloney Majcher  
84 Thaxter Rd  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 84 Thaxter Rd, Portsmouth New Hampshire (LU-24-135)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 20, 2024**, considered your application for constructing an attached garage and 1.5-story addition and to demolish an existing detached garage which requires the following: 1) Variance from Section 10.521 to a) allow 22% building coverage where 20% is allowed; b) allow a 15.5 foot front setback where 30 feet is required; 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 166 Lot 34 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to to **postpone** the application to the September 17th meeting.

This matter will be placed on the agenda for the Board of Adjustment meeting scheduled for **Tuesday, September 17, 2024**.

The minutes and audio recording of this meeting are available by contacting the Planning & Sustainability Department.

Very truly yours,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

Derek Durbin, Durbin Law Offices PLLC



# CITY OF PORTSMOUTH

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## ZONING BOARD OF ADJUSTMENT

August 27, 2024

Zeng Kevin Shitan Revocable Trust of 2017  
377 Maplewood Avenue  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 377 Maplewood Avenue, Portsmouth, NH (LU-24-133)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 20, 2024**, considered your application for demolishing the existing accessory building and constructing a new detached accessory dwelling unit which requires the following: 1) Variance from Section 10.521 to a) allow a building coverage of 37.5% where 25% is allowed; b) allow an open space of 24.5% where 30% is required; c) allow a secondary front yard setback of 6 feet where 10 feet is required; d) allow a left yard setback of 4.5 feet where 10 feet is required; e) allow a rear yard setback of 3 feet where 20 feet is required; 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 141 Lot 22 and lies within the General Residence A (GRA) and Historic Districts. As a result of said consideration, the Board voted to to **postpone** the application to the September 17th meeting.

This matter will be placed on the agenda for the Board of Adjustment meeting scheduled for **Tuesday, September 17, 2024**.

The minutes and audio recording of this meeting are available by contacting the Planning & Sustainability Department.

Very truly yours,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

Derek Durbin, Durbin Law



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

August 27, 2024

KR Investments, LLC  
273 Corporate Dr, Suite 150  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 271 Sagamore Ave,  
Portsmouth, NH (LU-24-136)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 20, 2024**, considered your application for demolishing the existing house and constructing a new house with an attached garage which requires the following: 1) Variance from Section 10.521 to allow a) 28% building coverage where 25% is allowed; b) lot area of 6,880 s.f. where 7,500 s.f. is required; c) lot area per dwelling unit of 6,880 s.f. where 7,500 s.f. is required; and d) a continuous lot frontage of 60.08 feet where 100 feet is required. Said property is shown on Assessor Map 221 Lot 15 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

Francis X. Bruton, Bruton & Berube, PLLC



# Findings of Fact | Variance

## City of Portsmouth Zoning Board of Adjustment

Date: 8-20-2024

Property Address: 271 Sagamore Avenue

Application #: LU-24-136

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>• It is a buildable lot and had a house on it for a long time, and it is the same as many other properties in the neighborhood that have houses on them that will not change the fundamental characteristics in that sense.</li> <li>• Regarding the coverage, the applicant got a similar amount of relief for an expansion of an existing home before.</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 project will continue the current rhythm of the street and will be fully compliant with all the other setback requirements.</li> <li>• The lot is oddly shaped but the house will face in the same direction as the other homes and it will be more conforming by removing the separate garage</li> </ul>

		and using a slightly longer building to put an integrated garage into.
10.233.23 Granting the variance would do substantial justice.	<b>YES</b>	<ul style="list-style-type: none"> <li>• It is a modest increase in total coverage of three percent, and the balance weighed in favor of the applicant. It is not the imposition of the change in size but it is that three additional percent beyond what is allowed by right.</li> <li>• The applicant could add onto the original house but was proposing to demolish the house and replace it with the same encroachment.</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 will be a single-family home in a district of single-family homes and most of the addition would be in the rear of the property. It will look the same from the front and will become more compliant with the setbacks, so it will increase the values.</li> <li>• That area of Sagamore Avenue is very walkable and the design of the new structure will fit right into the neighborhood and would not diminish anyone's enjoyment of the walkable streetscape.</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 conditions of the property relative to the zone it is in are that the lot is smaller by about eight percent than what the zone requires. The applicant is asking for an additional three percent of coverage and some of that is for a patio. The property will not be overburdened by the additional percent of coverage. It is a reasonable request within those confines and will improve the overall compliance with the zoning ordinance.</li> </ul>



# CITY OF PORTSMOUTH

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

## ZONING BOARD OF ADJUSTMENT

August 27, 2024

Maxico, LLC  
865 Islington Street  
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 865 Islington Street  
Portsmouth, NH 03801 (LU-24-139)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, August 20, 2024**, considered your application for change of use to an instructional studio including the following special exception from Section 10.440, Use #4.42 to allow an instructional studio greater than 2,000 s.f. gross floor area. Said property is shown on Assessor Map 172 Lot 11 and lies within the Character District 4-W (CD4-W). 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 | Special Exception

## City of Portsmouth Zoning Board of Adjustment

Date: 8-20-2024

Property Address: 865 Islington Street

Application #: LU-24-139

Decision: **Grant**

### Findings of Fact:

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

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

Special Exception Review Criteria: Section 10.232.20	Finding	Relevant Facts
10.232.21 Standards as provided by this Ordinance for the particular use permitted by special exception;	<b>Yes</b>	<ul style="list-style-type: none"><li>The use is allowed by special exception.</li></ul>
10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.	<b>Yes</b>	<ul style="list-style-type: none"><li>Reasonable measures of safety are being taken.</li></ul>
10.233.23 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;	<b>Yes</b>	<ul style="list-style-type: none"><li>It will fit into the neighborhood and will be near the Button Factory and other studios.</li></ul>

10.233.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;	<b>Yes</b>	<ul style="list-style-type: none"> <li>• There will be some additional traffic but not a substantial increase or a hazard.</li> </ul>
10.233.25 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and	<b>Yes</b>	<ul style="list-style-type: none"> <li>• It will be all internal changes.</li> </ul>
10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.	<b>Yes</b>	<ul style="list-style-type: none"> <li>• It will be all internal changes.</li> </ul>