



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

February 4, 2025

Michele Kathryn Arbour & Jeffrey M. Mattson
86 Emery Street
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment Request for Property at 86 Emery Street, Portsmouth, NH
(LU-24-215)**

Dear Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, January 28, 2025**, considered your application for constructing a firewood shed which requires the following: 1) Variance from Section 10.571 to allow an accessory structure to be located closer to the street than the primary structure. Said property is shown on Assessor Map 220 Lot 87-1 and lies within the Single Residence B (SRB). As a result of said consideration, the Board voted to **grant** the request as presented and advertised.

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

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

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

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

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

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

Very truly yours,

Phyllis Eldridge

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 1-28-2025

Property Address: 86 Emery Street

Application #: LU-24-215

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"> • It will not affect the health, safety, and welfare of the neighborhood nor will it affect light and air. • The shed structure is very low and complied with all height requirements.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> • It will not affect the health, safety, and welfare of the neighborhood nor will it affect light and air. • The shed structure is very low and complied with all height requirements. • The ordinance is designed in part to prevent clutter in front of buildings, and even though the yard is a secondary front one, it is not really in front of the building but is on the side

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • There is no benefit to the public by denying the variance, and the applicant will have a less useful firepit if denied, so granting the variance will do substantial justice.
<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 is no evidence that there will be any effect on surrounding property values because the structure is a small one for storage of firewood and on a large lot.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The hardship is the lot's special conditions of having an unusual shape and a very short frontage along the street, technically giving it a secondary front yard. • The main building is close to 100 feet from the street and the proposed structure is 75 feet away and on the side of the building and would be almost unnoticeable from Myrtle Street. • Because of the special conditions of the property, there does not appear to be a fair and substantial relationship between the purpose of the ordinance as specifically applied to the property and the request.



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ZONING BOARD OF ADJUSTMENT

February 4, 2025

909 West End LLC
3 Penstock Way
Newmarket, New Hampshire 03857

RE: Board of Adjustment Request for Property at 909 Islington Street, Portsmouth, NH (LU-24-221)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, January 28, 2025**, considered your application for allowing a restaurant which requires the following: 1) Special Exception from Section 10.440, Use # 9.42 to allow a Restaurant with an occupant load from 50 to 250 people where it is allowed by Special Exception. Said property is shown on Assessor Map 172 Lot 7 and lies within the Character District 4-W (CD4-W). As a result of said consideration, the Board voted to **grant** the special exception as presented and advertised.

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

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

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

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

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

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

Very truly yours,

A handwritten signature in cursive script that reads "Phyllis Eldridge".

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Findings of Fact | Special Exception

City of Portsmouth Zoning Board of Adjustment

Date: 1-28-2025

Property Address: 909 Islington Street

Application #: LU-24-221

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;	Yes	<ul style="list-style-type: none"> The use is allowed by special exception. The internal and likely external occupancy load will be well within the 50-250 person limit.
10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.	Yes	<ul style="list-style-type: none"> There is nothing about the restaurant use especially in that quasi-industrial/commercial zone that will present an unusual hazard to the public related to any of those concerns.
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,	Yes	<ul style="list-style-type: none"> There is nothing to indicate that it will be a concern because most of the restaurant use would be internal to the modest space it would occupy.

heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;		
10.233.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;	Yes	<ul style="list-style-type: none"> • There have been numerous buildings in the area before and since, and there is nothing to indicate that the restaurant use will be more intensive than other uses in the area that will result in an unusual amount of traffic. • The area sees a decent amount of residential traffic as well as commercial and industrial traffic.
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	Yes	<ul style="list-style-type: none"> • It is a restaurant use and will need some of the services, but a restaurant use does not have excessive demands on any of those services.
10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.	Yes	<ul style="list-style-type: none"> • The use will be in a highly paved area and no impervious surfaces will be made pervious.



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ZONING BOARD OF ADJUSTMENT

February 4, 2025

Gary B. Dodds, Trustee
Gary B. Dodds Revocable Trust
300 Sagamore Road
Rye, New Hampshire 03870

**RE: Board of Adjustment Request for Property at 294 Lincoln Ave, Portsmouth, NH
(LU-24-225)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, January 28, 2025**, considered your application for demolishing the two existing detached garages and constructing a new attached garage which requires the following: 1) Variance from Section 10.521 to allow 28% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Map 130 Lot 24 and lies within the General Residence A (GRA). As a result of said consideration, the Board voted to **grant** the request as presented and advertised, with the following **condition**:

1) *Note 10 from the site plan stating a “variance from Section 10.1114.32 (b) is required to exit parking by backing into or from a public street,” shall be removed.*

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

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

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

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

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

Very truly yours,

A handwritten signature in cursive script that reads "Phyllis Eldridge".

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Eric Weinrieb, Altus Engineering

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 1-28-2025

Property Address: 294 Lincoln Avenue

Application #: LU-24-225

Decision: **Grant**

Findings of Fact:

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

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

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	YES	<ul style="list-style-type: none"> The Board is trying to not put an excessive number of very large amounts of additional structure on it. The applicant is allowed to have most of this and the section added on is relatively modest. Even with the height associated with some of the major section of the garage, it will not unduly impact the neighboring properties for light and air.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The Board is trying to not put an excessive number of very large amounts of additional structure on it. The applicant is allowed to have most of this and the section added on is relatively modest. Even with the height associated with some of

		the major section of the garage, it will not unduly impact the neighboring properties for light and air.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> There is nothing with the nature of the relief asked for that the general public has a greater benefit than the applicant would.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> One of the current garages is dilapidated and the other was temporary. The new garage will look like a continuation of the well-designed house.
<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 hardship is that the applicant has a somewhat larger lot that gave it more room on either side, with a continuous drive around it that created the two curb cuts. The garages would be positioned so that it is possible for people to back out within the property. A small amount of relief was being asked for and the use is a reasonable one.

Stipulations

1. Note 10 from the site plan stating a "variance from Section 10.1114.32 (b) is required to exit parking by backing into or from a public street," shall be removed.



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Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

February 4, 2025

Treadwell LLC
10 Pleasant Street, Suite 300
Portsmouth, New Hampshire 03801

RE: Board of Adjustment Request for Property located at 93 Pleasant Street, Portsmouth, NH (LU-24-216)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday January 28, 2025**, considered your application for permitting the provision of required parking spaces to be located on a separate lot in the same ownership within 300 feet of the property line of the lot in question, which requires the following: 1) Special Exception from Section 10.1113.112 to allow five (5) of the required parking spaces to be located at 134 Pleasant Street, Map 116, Lot 30. Said property is shown on Assessor Map 107 Lot 74 and lies within the Character District 4 (CD4), Historic, and Downtown Overlay Districts. As a result of said consideration, the Board voted to **grant** the special exception with the following **conditions**:

- 1.) The final parking agreement will be submitted to the Planning and Legal Department for review and approval; and,*
- 2) There is adequate parking remaining on the alternate lot per the requirements of the use, to be determined by Planning Staff.*

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

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

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

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

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

Very truly yours,

A handwritten signature in cursive script that reads "Phyllis Eldridge".

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Findings of Fact | Special Exception

City of Portsmouth Zoning Board of Adjustment

Date: 1-28-2025

Property Address: 93 Pleasant Street

Application #: LU-24-216

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;	Yes	<ul style="list-style-type: none"> The use is allowed 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.	Yes	<ul style="list-style-type: none"> There is the provision of having five cars parked in a lot across the street, so there would be none of that.
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;	Yes	<ul style="list-style-type: none"> Having five parking spaces at the Citizens Bank property did not touch on any of those areas.

10.233.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;	Yes	<ul style="list-style-type: none"> It is a very minor request of five parking spots in an area that has a municipal parking lot with significant traffic going around it. The movement of five cars in one day would not really impinge on it and the people who parked in those spaces would be walking to the hotel.
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	Yes	<ul style="list-style-type: none"> There will be no excessive demand on municipal services including but not limited to water, sewer, waste disposal, police and fire protection, and schools.
10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.	Yes	<ul style="list-style-type: none"> The parking lot is already built.

Stipulations
1. <i>The final parking agreement will be submitted to the Planning and Legal Department for review and approval, and;</i>
2. <i>There is adequate parking remaining on the alternate lot per the requirements of the use, to be determined by Planning Staff.</i>



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ZONING BOARD OF ADJUSTMENT

February 4, 2025

Martin Husslage
446 Central Road
Rye, New Hampshire 03870

**RE: Board of Adjustment Request for Property at 48 Langdon Street, Unit 50,
Portsmouth, NH (LU-24-227)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday January 28, 2025**, considered your application for demolishing the existing dwelling and accessory structure, subdividing the property from one lot into two, and constructing a single-family structure with attached Accessory Dwelling Unit on one lot and a two-family attached dwelling on the second lot. The project requires the following: 1) Variance from Section 10.521 to allow 2,832 square feet per dwelling unit for the proposed two-family dwelling lot where 3,500 square feet per dwelling unit is required. Said property is shown on Assessor Map 138 Lot 47 and lies within the General Residence C (GRC). As a result of said consideration, the Board voted to **deny** the request because the application failed to prove there was a hardship or special conditions that distinguished the property from others in the area.

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:

R. Timothy Phoenix, HPGR Law
Corey Coldwell, TF Moran

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 1-28-2025

Property Address: 48 Langdon Street

Application #: LU-24-227

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.		<ul style="list-style-type: none"> • • •
10.233.22 Granting the variance would observe the spirit of the Ordinance.		<ul style="list-style-type: none"> • • •
10.233.23 Granting the variance would do substantial justice.		<ul style="list-style-type: none"> • • •
10.233.24 Granting the variance would not diminish the values of surrounding properties.		<ul style="list-style-type: none"> • • •

<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</p> <p>(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</p> <p>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>NO</p>	<ul style="list-style-type: none"> • The lot area is 3500 square feet minimum and the applicant would not need a variance if he built a single-family home on Lot A. • The Board's purview is to see whether there is a hardship, and the applicant did not demonstrate that he could not build a single-family on Lot A and therefore would not need a variance for the lot area. • The property is slightly smaller than what is required under the ordinance for a duplex for two residences, and is not significantly different than any other property in the area.
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