



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

February 24, 2025

361 Hanover Steam Factory LLC
361 Hanover Street
Portsmouth, New Hampshire 03801

**RE: Board Of Adjustment Request for Property Located at 361 Hanover Street,
Portsmouth, NH (LU-24-196)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, February 19, 2025**, considered your application for expanding and renovating the existing commercial building and converting it to multi-family residential and to construct three new multi-family residential buildings which requires the following: 1) Variance from Section 10.642 to allow residential principal uses on the ground floor of the buildings; 2) Variance from Section 10.5A41 - Figure 10.5A41.10D to a) allow for "Apartment", "Rowhouse" and "Duplex" building types where they are not permitted; and b) allow a ground floor height of 10.5 feet where 12 feet is required. Said property is shown on Assessor Map 138 Lot 63 and lies within the Character District 5 (CD5) and Downtown Overlay District. As a result of said consideration, the Board voted to **grant** the request with the following **condition**:

1) The design and location of the buildings may change as a result of Planning Board 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:

<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

John Bosen, DTC Law

John Chagnon, Ambit Engineering, Inc.

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 02-19-2025

Property Address: 361 Hanover St.

Application #: LU-24-196

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 is residential multi-family homes, and it would not alter the essential character of the neighborhood, threaten the public's health, safety or welfare, or otherwise injure public rights.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The proposed massing, dimensions, heights, and lengths are allowed by right. Referring to the essential character of the neighborhood, there was another home in the area with a height of its original form being restructured and there are plenty of duplexes within 100 feet of the proposed duplex.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> Granting the variances would do substantial justice because the benefit to the applicant would not be outweighed by any harm to the general public or other individuals and the project would benefit both the applicant and the neighborhood.

<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 values of surrounding properties would not be diminished. There had been no expert testimony but in general, new construction with parking fetched a premium, especially that close to downtown. It would be a better use for the property than a parking lot and having residential homes next to other residential homes would not diminish 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"> • It is a reasonable use to add residential to a residential neighborhood instead of commercial. • It does not make sense to have commercial on the property. • Regarding the other two variances about the height of the first floor, allowing it to be less tall was beneficial. The taller height of the first floor was due to the commercial aspect. The parcel is on the periphery of the transitions to the GRC district that has duplexes and rowhouses. • The property's special conditions are that it is an abnormally large lot that has development potential because it is underutilized with the vast surface parking area, and the large existing building is a unique aspect.



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

February 24, 2025

Millport Inc
3 Penstock Way
Newmarket, New Hampshire 03857

RE: Board of Adjustment Request for Property at 1001 Islington Street, Portsmouth, NH (LU-24-209)

Dear Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, February 19, 2025**, considered your application for a change of use to extend the existing health club into the adjacent unit wherein relief is required from the Zoning Ordinance 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 172 Lot 4 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 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

Kyle Bowser, Chinburg Properties, Inc.

Findings of Fact | Special Exception

City of Portsmouth Zoning Board of Adjustment

Date: 02-19-2025

Property Address: 1001 Islington Street

Application #: LU-24-209

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"> Granting the special exception would pose no hazard to the public or adjacent properties on account of fire, explosion, or release of toxic materials. The nature of the business indicated that none of those would be a concern.
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"> The applicant's request was just an expansion of an existing use that has proven to be very compatible with the residential uses. The scale of the building and the size of the structure would

<p>heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;</p>		<p>not change, and the applicant was simply occupying more of it.</p> <ul style="list-style-type: none"> • There would be sufficient parking to meet all the requirements for both uses. Accessways, odors, smoke, gas, dust, noise, glare, heat, vibration, or unsightly outdoor storage of vehicles or equipment were not concerns.
<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>Yes</p>	<ul style="list-style-type: none"> • The increase in size of a relatively modest business on a relatively busy road that had all kinds of similar businesses and residential and light industrial uses and the small increase in potential clients for the space would not cause a traffic concern. The area sees a decent amount of residential traffic as well as commercial and industrial traffic.
<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>Yes</p>	<ul style="list-style-type: none"> • There would be no excessive demand on municipal services including but not limited to water, sewer, waste disposal, police and fire protection, and schools due to the nature of the business.
<p>10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.</p>	<p>Yes</p>	<ul style="list-style-type: none"> • Granting the special exception would pose no significant increase in stormwater runoff onto adjacent properties or streets because the proposed structure was the same as what was there.



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

February 24, 2025

Paula J. Reid, Trustee
Paula J. Reid Revocable Trust of 2003
410 Richards Avenue
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment request for property located at 410 Richards Ave,
Portsmouth, NH (LU-25-11; LU-25-10)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Wednesday, February 19, 2025**, considered your application for an equitable waiver for the construction of a garage which requires the following: 1) Equitable waiver for an accessory structure with a 3-foot left side yard where 3.5 feet was previously granted. Said property is shown on Assessor Map 112 Lot 10 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **grant** the request for an equitable waiver with the following **condition**:

1) This approval will correct the relief granted for the left side yard where it was noted as the right side yard in the December 19, 2023 variance 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:

<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, 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

Findings of Fact | Equitable Waiver

City of Portsmouth Zoning Board of Adjustment

Date: 02-19-2025

Property Address: 410 Richards Ave.

Application #: LU-25-10

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.

RSA 674:33-a: Equitable Waiver of Dimensional Requirement

I. When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA 674:16, the zoning board of adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the board makes all of the following findings:

Equitable Waiver of Dimensional Requirement Criteria:	Finding (Circle One)	Relevant Facts
(a) That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;	Yes	<ul style="list-style-type: none"> The violation was not noticed or discovered by an owner, former owner, owner's agent or representative, or municipal official until after a structure violation had been completed.
(b) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;	Yes	<ul style="list-style-type: none"> It came about from some confusion that wasn't fully understood about where the foundation should have been placed, but it did end up to be slightly off. The violation was not an outcome of ignorance of the law or ordinance, or misrepresentation or bad faith on the part of any owner or representative but was instead

		<p>a good-faith error in measurements or calculations made by an owner, agent or representative.</p> <ul style="list-style-type: none"> • It was a case of tight measurements and tolerances, and in the process a slightly misaligned foundation was placed. It was not an attempt to create a larger structure or do something nefarious.
<p>c) That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and</p>	Yes	<ul style="list-style-type: none"> • The physical or dimensional violations do not constitute a public or private nuisance nor diminish the values of other properties in the area, nor interfere with the adverse effect of any future uses of any such properties. • It was a few inches off and although it did put it a little closer to the abutter, it would not make a substantial difference.
<p>(d) That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.</p>	Yes	<ul style="list-style-type: none"> • Due to the degree of past construction or investment made and ignorance of the facts constituting the violation, the correction far outweighed any public benefit to be gained. After the foundation was created, the survey was performed and the error was discovered, resulting in a substantial completion of the project, and trying to correct that would not be worth the imposition onto the property owner.

II. In lieu of the findings required by the board under subparagraphs I(a) and (b), the owner may demonstrate to the satisfaction of the board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.

Equitable Waiver of Dimensional Requirement Criteria:	Finding (Circle One)	Relevant Facts
--	--------------------------------	-----------------------

<p>II. It has been demonstrated to the board that the violation has existed for 10 or more years or more, and no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.</p>		<ul style="list-style-type: none"> • N/A
<p>c) That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and</p>		<ul style="list-style-type: none"> • N/A
<p>(d) That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.</p>		<ul style="list-style-type: none"> • N/A