



Town of Portsmouth
2200 East Main Road
Portsmouth, RI 02871

Zoning Board of Review APPLICATION

Hearing Date: _____

Continuance Date: _____

Applicant: _____

Owner: _____

Address: _____

Address: _____

Subject Premises:

Address: _____

Tax Assessor's Map: ____ Lot: ____

Zoning District: _____

Present Use of Premises: _____

Proposed Use of premises:

Zoning Ordinance Section:

Special Use Permit: _____

Dimensional Variance: _____

Relief Requested: Dimensional Variance

Special Use

Use Variance

Lot Size: _____sq. ft.

Lot Coverage _____sq. ft.

Lot Coverage _____%

Lot Coverage Variance Requested: _____%

Grounds for Variance:

Grounds for Special Use Permit:

Applicant: _____

Owner: _____

Print Name: _____

Print Name: _____

Telephone: _____

Telephone: _____

E-mail: _____

E-mail: _____

Zoning Board of Review Dimensional Variance

Zoning District: _____

Required Setbacks:

	R-10	R-20	R-30	R-40	R-60	C	TC	I-L/H
Front Yard	20 ft	30 ft	30 ft	30 ft	50 ft	30 ft	5 ft	60 ft
Rear Yard	20 ft	30 ft	30 ft	30 ft	50 ft	20 ft	20 ft	50 ft
Side Yard	10 ft	15 ft	20 ft	20 ft	50 ft	15 ft	15 ft	30 ft

_____ Yard Setback Location: _____ Setback Required: _____ Ft.
 Proposed Distance to the Property Line: _____ Ft. Variance Requested: _____ Ft.
 Proposed Use: _____

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 Proposed Distance to the Property Line: _____ Ft. Variance Requested : _____ Ft.
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 Proposed Distance to the Property Line: _____ Ft. Variance Requested: _____ Ft.
 Proposed Use: _____

Portsmouth Zoning Board of Review Lot Coverage

Existing:

	*Dimensions	Sq. Ft.		Dimensions	Sq. Ft.
House	_____	_____	Deck	_____	_____
	_____	_____		_____	_____
Garage	_____	_____	Bulkhead	_____	_____
	_____	_____	Stairs	_____	_____
	_____	_____		_____	_____
Porch	_____	_____	Shed	_____	_____
Subtotal		_____	Subtotal	_____	_____

Total Sq. Ft. _____

Lot Size _____

Existing Lot Coverage (Sq. Ft./Lot Size) _____%

Proposed Additions:

	*Dimensions	Sq. Ft.		Dimensions	Sq. Ft.
House	_____	_____	Deck	_____	_____
	_____	_____		_____	_____
Garage	_____	_____	Stairs	_____	_____
	_____	_____		_____	_____
Porch	_____	_____	Shed	_____	_____
Subtotal		_____	Subtotal	_____	_____
Structures to be Removed are Subtracted:				(_____)	(_____)

Total Additional Sq. Ft. _____

Proposed Additional Lot Coverage (Sq. Ft./Lot Size) _____%

Total Sq. Ft. Proposed (Existing Sq. Ft. + Proposed) _____

Proposed Lot Coverage (Proposed Sq. Ft./Lot Size) _____%

Variance Requested _____%

* Includes all Overhangs



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Rules for Filling Petitions and Appeals

NO Petition or Appeal will be accepted unless it contains the following:

1. **For a Variance**, no petition will be accepted if not accompanied with the following information:
 - a. **A site plan stamped by a R.I. Registered Engineer** which includes the following information:
 - i. Dimensions of Lot
 - ii. Diagram of all structures (include house, garages, deck, shed, pools, step/stairs)
 - iii. Dimensions of all structures
 - iv. Distances from structures to the lot lines (front, rear, sides)
 - v. Location of septic system
 - vi. Show street(s) location
 - vii. Indicate “North” arrow on the plan

2. **For A Special Use Permit**, no petition will be accepted if not accompanied with the following information:
 - a. **A site plan stamped by a R.I. Registered Engineer** which includes the following:
 - i. Both existing and proposed contours at two-foot intervals.
 - ii. Size and location of all underground utilities within and abutting the site.
 - iii. Location and width of all proposed vehicular and pedestrian interior ways.
 - iv. Location and number of parking spaces.
 - v. Location of all buildings by type.
 - vi. Location and type of all retention/erosion control areas.
 - vii. Show the proposed treatment of all open spaces.
 - viii. Location and type of exterior lighting.
 - ix. Building elevations and floor plans

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- b. Written approval from the Director of the Department of Environmental Management if the proposal were to increase the sewage flow.
 - c. Written approval from the Portsmouth Fire Department.
- 3. List of abutters:** By name, address, map and lot numbers (include all parcels within 200 ft. of the subject property). Applicants are responsible for mailing out abutter notifications. Abutter notifications shall be mailed not less than 14 days prior to the meeting by way of first-class mail (RIGL 45-24-53A) Notification language will be provided to the applicant by the Planning Department.
- 4. Filing fee**
- 5. Return to:**
Planning Department
2200 East Main Road
Portsmouth, RI 02871
- 6.** When in the opinion of the Zoning Official the above-mentioned information is not relevant, the Zoning Official may waive the requirements.
- 7.** 9 applications and 1 digital copy sent to the Planning Department (alindo@portsmouthri.gov)

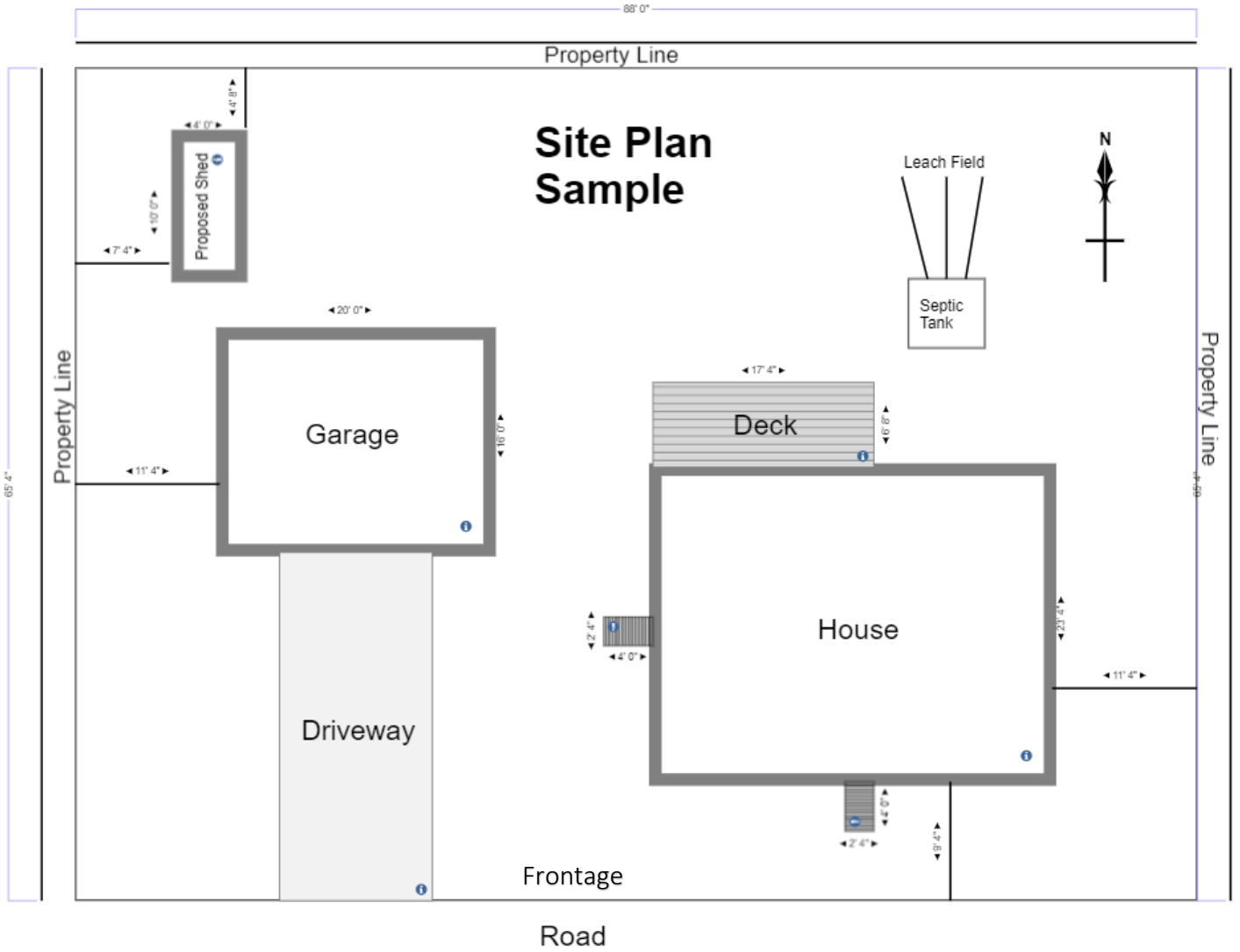
NOTE: It is strongly encouraged to submit any additional information that you believe is relevant to your petition, such as elevations, floor plans, septic design, and/or photographs of the subject site.

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Fee Schedule

Single-Family Dwelling & Duplex	\$150.00 (includes recording fee)
Commercial	\$225.00 plus \$100.00 per 1,000 sq. ft. floor space
Multi-Family, Nursing Home	\$225.00 plus \$100.00 per unit
Hotel & Motel	\$225.00 plus \$150.00 per unit
Appeals	\$150.00 (includes recording fee)
Zoning Certificate	\$100.00

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RULES OF PROCEDURE OF THE
PORTSMOUTH, RHODE ISLAND BOARD OF REVIEW

Pursuant to the authority and direction of Section 45-24-56, General Laws of Rhode Island, the Board of Review of the Town of Portsmouth, Rhode Island, adopts the following rules of procedure to be used in connection with zoning petitions and appeals:

1. All petitions for dimensional or use variances, requests for special use permits, and appeals of the decisions of the Planning Board and/or the Planning Department shall be filed in accordance with the application procedures established in the Portsmouth Zoning Ordinance. All required documents shall be submitted to the Planning Department by the Friday after the third Thursday of preceding month.
2. The Planning Department shall cause notice of appeals and petitions to be given by publication as required by the General Laws and Rhode Island and by mail to the owners of all property abutting the property that is the subject of the appeal or petition by regular United States mail, postage prepaid.
3. The Board of Review shall meet on the third Thursday of each month. Special meetings may be called by the Chairman or by vote of the board. Regular meetings may be canceled by vote of the board.
4. Petitions and appeals are heard in the order in which they are received in the Planning Department, beginning with those involving residential property and then proceeding to those involving multi-family and commercial property.
5. All persons appearing before the Board of Review shall have the right to be represented by an attorney. However, no person shall be required to have an attorney. If the appellant or petitioner does not appear personally or by an attorney, he may designate in writing some person to present his appeal or petition to the board. The board will hear the petitioner or appellant or his representative and his witnesses and will then hear abutters and interested parties and their witness. Parties may present additional exhibits during the hearing to clarify, support, or refute testimony.
6. Formal written motions and other pleadings shall not be required.
7. Witnesses presenting testimony about factual matters shall be sworn. Persons desiring to present only argument need not be sworn.
8. Proceedings shall be informal, but orderly. A person presenting a petition or claiming an appeal shall have the burden of convincing the board that he is entitled to the relief sought. All people appearing in favor or in opposition to a petition or appeal shall be given a fair opportunity to be heard.
9. Objections to evidence shall be decided by the Chairman. Any board member may seek a decision by the whole board on any ruling by the chairman.
10. Courtroom rules of evidence do not apply. However, irrelevant evidence shall be excluded.

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11. The board may receive written comments from persons not in attendance at the hearing. They shall be given such weight as is appropriate.
12. A petitioner may not significantly alter the plan submitted with his petition during the hearing.
13. A petitioner or appellant may request a continuance if he is unable to be present because of unforeseen circumstances or if he is unable to present information which the board requires to make a decision, and which was not anticipated at the time the petition was submitted. Only two such continuances will be allowed.
14. The board will decide all requests for permission to withdraw and will decide whether withdrawal is to be allowed with prejudice or without prejudice. If permission to withdraw without prejudice is granted, the petitioner may resubmit the same or another petition at any time.
15. At the close of the hearing of each petition the board will render a decision. The board shall cause its decisions to be reduced to writing. The original shall be filed with the zoning officer. A copy shall be sent to the petitioner or appellant and to any attorney appearing before the board. The prevailing party shall be responsible to see to the recording of the decision in the land evidence records of the Town of Portsmouth and its posting in the office of the town clerk. Once the decision has been recorded and any necessary state approvals have been received, a party requiring a building permit may obtain the same.
16. All records, including exhibits submitted and decisions of the board, shall be filed in the office of the Planning Department, Portsmouth Town Hall, 2200 East Main Road, Portsmouth, Rhode Island. Correspondence to the Board of Review may be addressed to that office.

Zoning Relief 101

If you are reading this document, you have been told by the Building Inspector/Zoning Official that you must apply to the Zoning Board of Review for a dimensional variance and/or a **Special Use Permit** in order to proceed with your improvement project. Per **Article II, Section B** of the Portsmouth Zoning Ordinance, a dimensional variance is defined as:

“Permission to depart from the dimensional requirements of a zoning ordinance, where the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations.....”

If your lot is considered a Substandard Lot of Record (which means it was created before the Zoning Ordinance was adopted and it is smaller than your Zoning District allows), you have also been told you are required to apply for an abbreviated version of a Special Use Permit per Article VI, Section A of the Zoning Ordinance.

In simplest terms, when the Zoning Board of Review is granting you a dimensional variance per **Article VI, Section D** of the Portsmouth Zoning Ordinance, it is giving you official permission to depart from one or more provisions of the land use regulations for your Zoning District. You are asking for relief from the strict standards of the law. In order for the Board to grant you this relief you must make the case to the Board’s satisfaction that due to some unique characteristic of your property, strict enforcement of the provisions of the ordinance would deny you the use of your property in the same way as others in your Zoning District are using their property. In other words, due to a unique characteristic of your property, you have a **hardship** and there is no other reasonable alternative to you enjoying a legally permitted use of your property (say, a deck) unless the dimensional variance is granted.

What is your hardship? In order to determine whether you should be granted relief from the strict provisions of the law, this is the first and most important question the Zoning Board will ask you. Your hardship could be many things. It could be that:

- a) your lot is oddly or irregularly shaped;
- b) some unique topographic feature is getting in the way of what you propose to do;
- c) your lot is undersized for its Zoning District, or;
- d) your existing structure is set on the lot in a unique and difficult position.

Your hardship cannot be based on:

- a) primarily your desire to realize greater financial gain; or
- b) the result of any prior action on your part.

In your presentation before the Zoning Board, you must be prepared to describe in detail what your **hardship** is and why you should be given relief from the law. The Zoning Board cannot grant you relief from the provisions of the law without hearing this testimony from you.

In addition to providing a description of your hardship, you must demonstrate to the Zoning Board of Review’s satisfaction that:

- a) the hardship suffered by you in the enjoyment of your property if the dimensional variance is not granted will amount to more than a mere inconvenience; and,
- b) the relief to be granted is the least relief necessary.

These are important concepts, and the Zoning Board cannot grant relief from the law without their consideration. First, it cannot be merely inconvenience for you to remain in compliance with the law with what you propose to do; you must demonstrate there is no other reasonable alternative for what you propose to do without the granting of the relief. The distinction is important.

Second, you must demonstrate that what you are asking for is the least departure from the regulations necessary to do what you propose to do. Simply put, you cannot be asking for an 18' x 24' deck when a 12' x 18' deck is a reasonable alternative. The Zoning Board is looking to keep you in compliance with the Zoning Ordinance as much as possible and likely will not grant more relief than is necessary.

In summary, for the Zoning Board of Review to grant you a dimensional variance they must consider:

- a) **your detailed explanation of what your hardship is;**
- b) **whether or not granting the variance will be more than a mere inconvenience to you;**
- c) **whether what you are asking for is the least relief necessary.**

You must be prepared to give testimony to the Board's satisfaction regarding these three points.

In addition, if your lot is considered a Substandard Lot of Record, you are also applying for an abbreviated version of a Special Use Permit per **Article VI, Section A(4)** of the Zoning Ordinance. Per this section of the ordinance, in granting this form of Special Use Permit, the Zoning Board of Review, must consider whether granting the dimensional variance will:

- a) allow adequate space for fire protection;
- b) provide adequate light and air between buildings;
- c) alter the character of the neighborhood, or adversely affect neighboring properties;
- d) create lot coverage and setbacks less than the average of adjacent properties; or
- e) impose a substantial detriment to the public or the immediate neighbors.

You should be prepared to address each of these considerations as well as the considerations for the dimensional variance. In order for the Zoning Board to grant this abbreviated form of a Special Use Permit along with the dimensional variance, they must consider each of these in detail. As an example, you should be prepared to make statements to the Board such as, *"my project will allow adequate space for fire protection as shown here in my diagram.....,"* or *"my project will not impose a substantial detriment to the public or the immediate neighbors because....."*

One final tip: Please try to prepare as much of the above-described testimony in writing and submit it with your completed application. This will help streamline the process on the evening of the meeting by giving the Board a preview of what you propose to do and what you are going to say in support of your project.