

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: August 15, 2019
RE: Zoning Board of Adjustment August 27, 2019 Meeting

OLD BUSINESS

1. Case 7-2 27 Thaxter Road

NEW BUSINESS

1. Case 8-8 202 Court Street
2. Case 8-9 20 Taft Road
3. Case 8-10 3 Pleasant Street
4. Case 8-11 0 Daniel Street
5. Case 8-12 181 Hill Street

OLD BUSINESS

Case #7-2 ****THIS APPEAL WILL BE HEARD ON AUGUST 27, 2019****

Petition of **Kenneth K. and Deborah A. Jennings**, appellants regarding property located at **27 Thaxter Road** appealing a decision of the Portsmouth City Council to restore two involuntary merged lots at 27 Thaxter Road to their pre-merger status. Said property is shown on current Assessor Plan 166, Lot 39 and lies within the Single Residence B District.

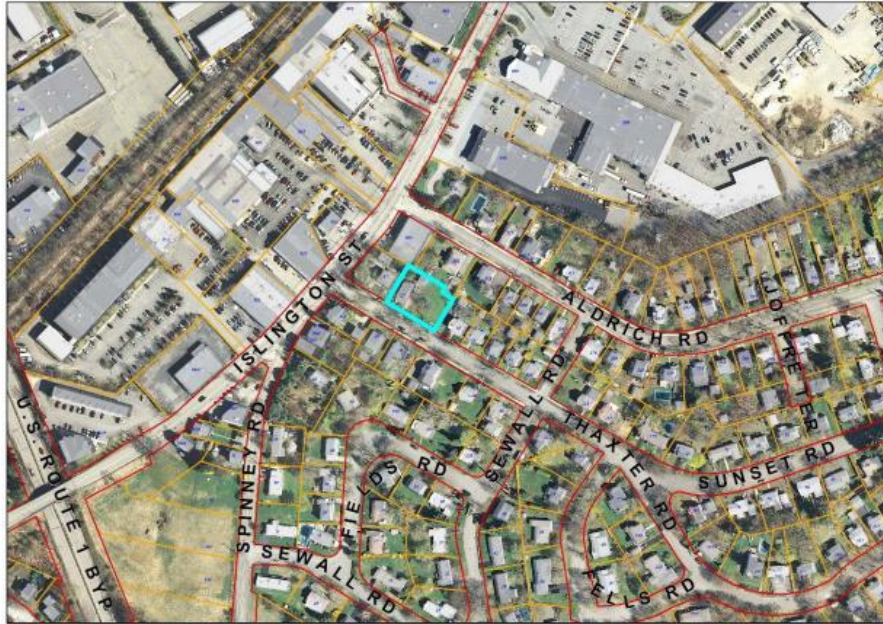
The decision made by City Council to restore an involuntary merged lot at 27 Thaxter Road is being appealed to the Board of Adjustment pursuant to RSA 676:5:

Appeals to the board of adjustment concerning any matter within the board's powers as set forth in RSA 674:33 may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

On May 20, 2019, City Council voted 6-3 to restore the two involuntary merged lots to their pre-merger status at the request of the current owner. Prior to voting on this request, City Council referred it to the Planning Board for a recommendation. The Planning Board recommended the lots be restored to their pre-merger status. Below is the staff memo to the Planning Board for your review.

VI. CITY COUNCIL REFERRAL – PUBLIC HEARING

- A. Request for restoration of involuntarily merged lots at 27 Thaxter Road, Assessor Map 166, Lot 39.**



Description

The parcel at 27 Thaxter Rd (Assessor Map 166, Lot 39) appears to have been created from 3 previous existing lots, which the owner's representative indicates were described in the City's tax records dating back to 1951. The owner is requesting that the lots be restored to their premerger status, former Lot 46 measuring 2,580 sq.ft. and former lots 44 and 45 measuring 5,000 sq.ft. severally. The 2,580 sq.ft. parcel (Lot 46 on the tax cards provided) fronts on Thaxter Rd and does not include any buildings, former lot 44 fronts on Thaxter Rd and includes the existing single family home and part of the detached garage. Former lot 45 includes part of the detached garage. This request is being made pursuant to RSA 674:39-aa, Restoration of Involuntarily Merged Lots.

Statutory Requirements

RSA 674:39-aa requires the City Council to vote to restore "to their premerger status" any lots or parcels that were "involuntarily merged" by municipal action for zoning, assessing, or taxation purposes without the consent of the owner. Unlike all other lot divisions, there is no statutory role for the Planning Board in this process, but the City Council is referring such requests to the Board for its review and report back.

The statute defines "voluntary merger" and "voluntarily merged" to include "any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line" (RSA 674:39-aa, I). It is therefore the City Council's responsibility to determine whether a merger was voluntary (i.e., requested by a lot owner) or involuntary (implemented by the City without the owner's consent). If the merger was involuntary, the Council must vote to restore the lots to their premerger status. Following such a vote, the City GIS and Assessing staff will update zoning and tax maps accordingly. It will then be up to the owner to take any further action to confirm the restoration to premerger status, such as recording a plan at the Registry of Deeds.

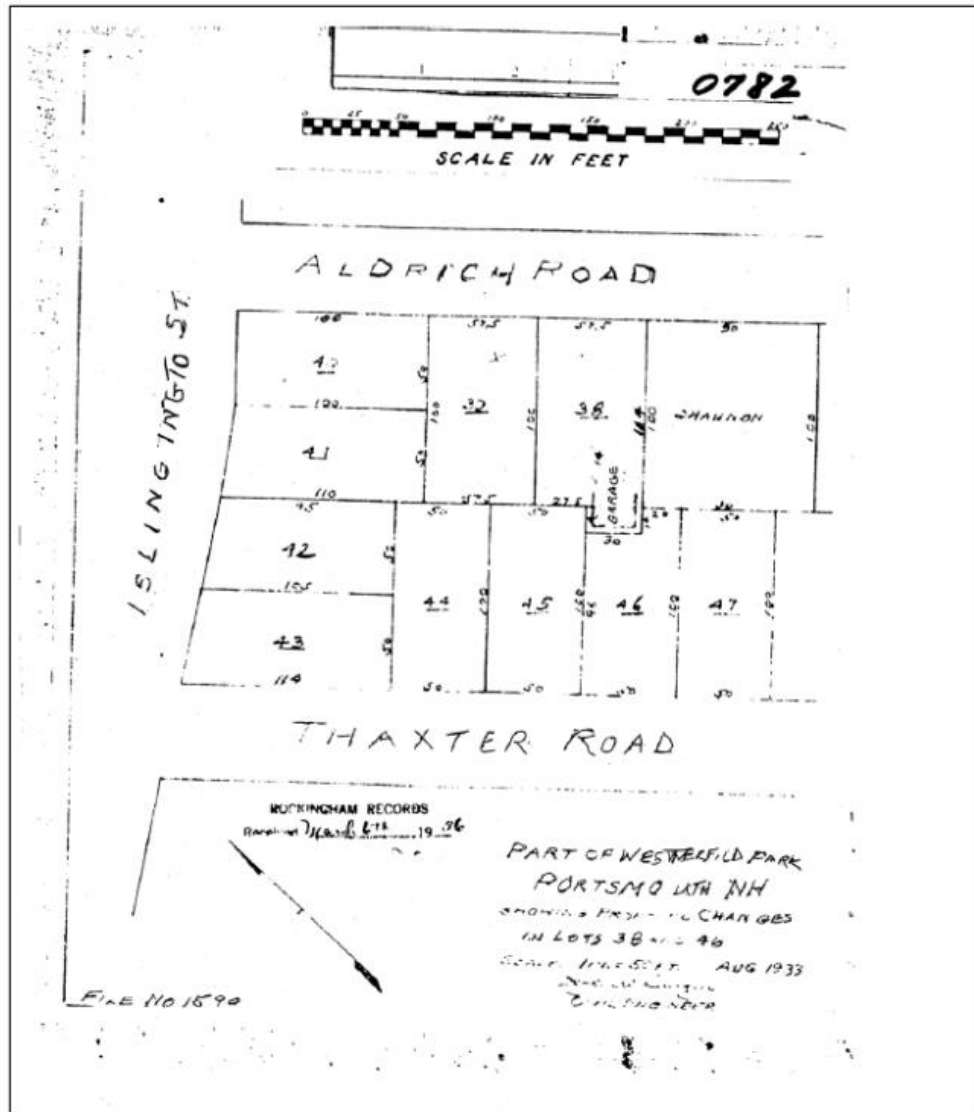
It is important to note that the granting of a request to restore lots to their premerger status does not mean that the resulting lots will be buildable or, if already developed, will conform to zoning. The statute states that "*The restoration of the lots to their premerger status shall not be deemed to cure any non-conformity with existing land use ordinances*" (RSA 674:39-aa, V). For example, the restored lots may not comply with current zoning requirements for lot area, frontage and depth, and the re-establishment of a lot line between any two premerger lots may introduce a new nonconformity with respect to maximum allowed building coverage or a minimum required side yard where a building already exists on one of the premerger lots. In such cases, the owner(s) of the applicable lot(s) would have to apply to the Zoning Board of Adjustment for the necessary variances to restore zoning compliance or to allow future development.

Analysis

While no original subdivision plan has been provided by the owner, a cursory review of the Rockingham County Registry of Deeds records by the Planning Department found a recorded deed (Book 0943, Page 0498) dated August 10, 1938 that described these lots as lots 44, 45 and a part of 46 as shown on a plan entitled "Plan of part of Westfield Park, drawn by John W. Durgin, C.E., dated August 1933 and recorded in Rockingham Records, Plat 25, Page 2". Further search of the County Records located the plan (#0782) dated August, 1933 which appear to show the lots referenced in the deed (See below). The lots described on these two documents from the Registry are also consistent with the dimensions provided in the tax cards provided by the owner in his request to restore the lots to their premerger status.

Planning Department Recommendation

Vote to recommend to the City Council to restore the three involuntarily merged lots at 27 Thaxter St to their premerger status.

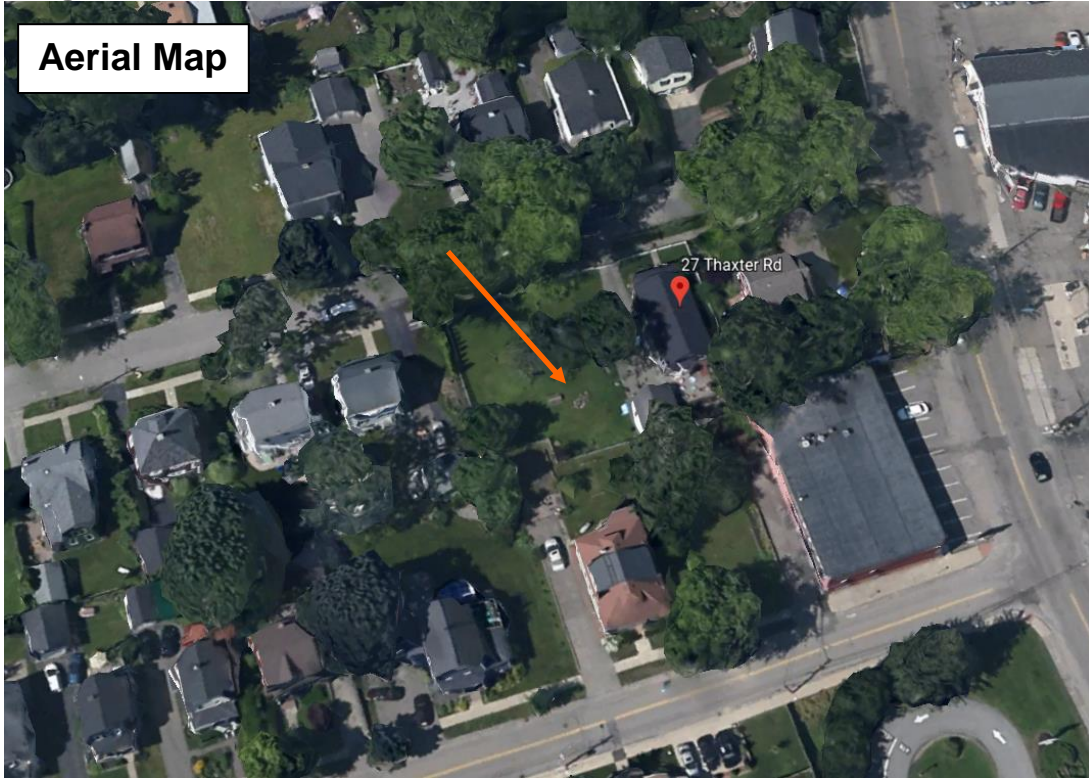


Other Permits/Approvals Required

None.

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

May 25, 2004 The Board **granted** variances to allow the separation of two lots in common ownership with lot 52 having 10,475 s.f. and lot 39 having 12,580 s.f. where the minimum lot area was 15,000. The variances were granted with the stipulations that a) the curb cut be located on Thaxter Road; and b) there is no intent to stipulate how the house was oriented.

February 15, 2011. The Board granted variances (for Lot 39) to allow a 9' left side yard where 10' was required and a 26' rear yard here 30' was required and the expansion of a nonconforming structure in order to construction an addition on the rear and right side of the existing structure.

July 16, 2019 – The Board voted to **postpone** to the August 20, 2019 meeting an Appeal of a decision of the Portsmouth City Council to restore two involuntary merger lots. (With 4 sitting members, a request was made to **postpone** hearing the appeal to the August 27, 2019 meeting)

674:39-aa Restoration of Involuntarily Merged Lots. –

I. In this section:

(a) "Involuntary merger" and "involuntarily merged" mean lots merged by municipal action for zoning, assessing, or taxation purposes without the consent of the owner.

(b) "Owner" means the person or entity that holds legal title to the lots in question, even if such person or entity did not hold legal title at the time of the involuntary merger.

(c) "Voluntary merger" and "voluntarily merged" mean a merger under RSA 674:39-a, or any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line.

II. Lots or parcels that were involuntarily merged prior to September 18, 2010 by a city, town, county, village district, or any other municipality, shall at the request of the owner, be restored to their premerger status and all zoning and tax maps shall be updated to identify the premerger boundaries of said lots or parcels as recorded at the appropriate registry of deeds, provided:

(a) The request is submitted to the governing body prior to December 31, 2021.

(b) No owner in the chain of title voluntarily merged his or her lots. If any owner in the chain of title voluntarily merged his or her lots, then all subsequent owners shall be estopped from requesting restoration. The municipality shall have the burden of proof to show that any previous owner voluntarily merged his or her lots.

III. All decisions of the governing body may be appealed in accordance with the provisions of RSA 676.

IV. Any municipality may adopt local ordinances, including ordinances enacted prior to the effective date of this section, to restore previously merged properties that are less restrictive than the provisions in paragraph I and II.

V. The restoration of the lots to their premerger status shall not be deemed to cure any non-conformity with existing local land use ordinances.

VI. Municipalities shall post a notice informing residents that any involuntarily merged lots may be restored to premerger status upon the owner's request. Such notice shall be posted in a public place no later than January 1, 2012 and shall remain posted through December 31, 2016. Each municipality shall also publish the same or similar notice in its 2011 through 2015 annual reports. **Source.** 2011, 206:4, eff. July 24, 2011. 2016, 327:2, eff. Aug. 23, 2016.

Case #8-8

Petition of **202 Court Street Property Group LLC** for property located at **202 Court Street** for renovation of existing structure and conversion from a mixed use building to a multi-family residence wherein the following variances are required: a) from Section 10.515.14 to allow a 3' setback from the rear property line where 10' is required for a mechanical system; b) from Section 10.515.14 to allow an 8.4' setback from the left property line where 10' is required for a mechanical system; c) from Section 10.5A44.31 to permit parking spaces that are not located at least 20' behind the façade of a principal building; d) from Section 10.5A41.10A to allow a minimum lot area per dwelling unit of 1,705 s.f. where 3,000 s.f. is required; e) from Section 10.1114.32(a) to allow vehicles entering and leaving parking spaces to pass over another parking space or require the movement of another vehicle; and f) from Section 10.1114.32(b) to allow vehicles to back into or from a public street or way. Said property is shown on Assessor Plan 116, Lot 35 and lies within Character District 4L-1.

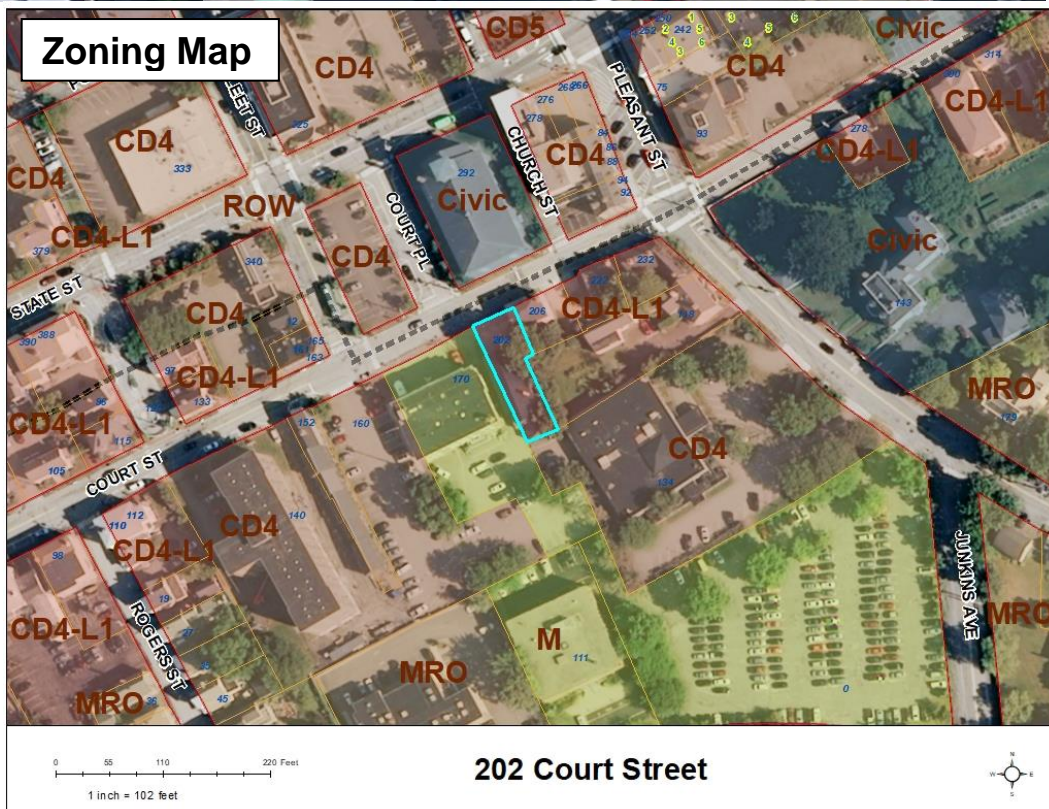
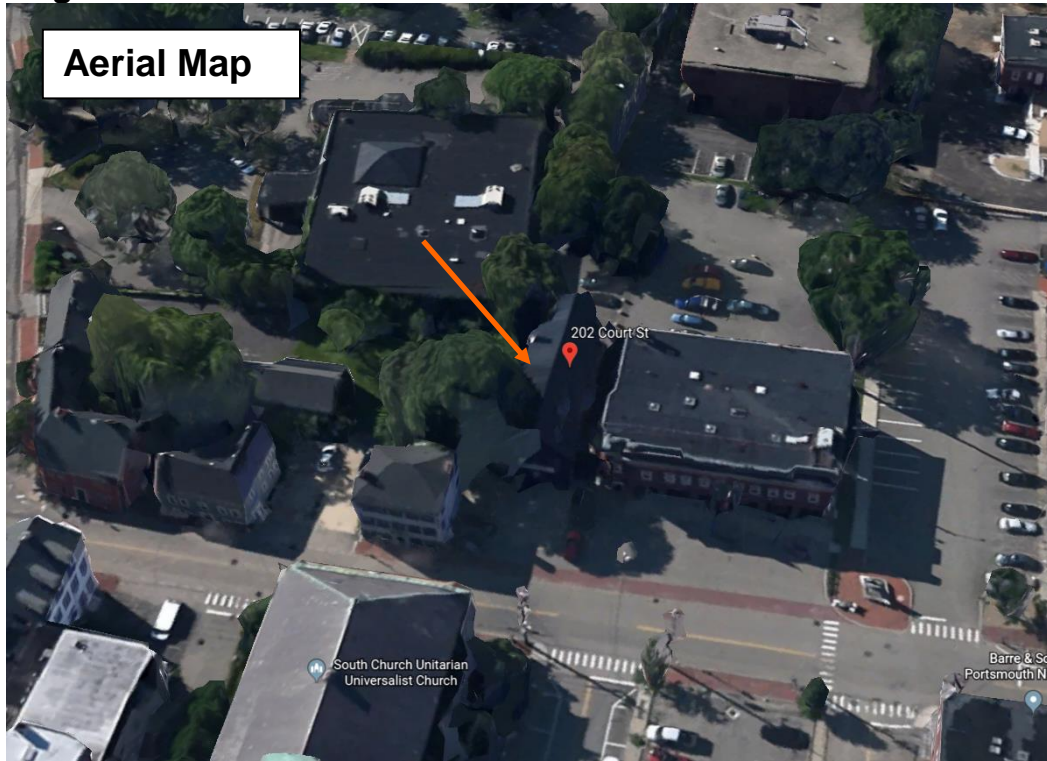
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant/old firehouse	Three condos	Primarily mixed use
<u>Lot area (sq. ft.):</u>	5,115	5,115	3,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,115	1,705	3,000 min.
<u>Street Frontage (ft.):</u>	45.5	45.5	100 min.
<u>Lot depth (ft.):</u>	154	154	100 min.
<u>Primary Front Yard (ft.):</u>	30	30	15 max.
<u>Right Yard (ft.):</u>	~1	~1	5 ft. to 20 max.
<u>Left Yard (ft.):</u>	>10	8.4' (mech.)	10 (for mechanical unit)
<u>Rear Yard (ft.):</u>	>30	3' (mech.)	10 (for mechanical unit)
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	12	12	20 max.
<u>Open Space Coverage (%):</u>			40 min.
<u>Parking</u>		8	4
<u>Estimated Age of Structure:</u>	1900	Variance request shown in red. *Will need parking CUP for providing less than required.	

Other Permits Required

Planning Board/TAC – Site Review

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The applicant is proposing to convert the building into three condo units and the renovation includes new mechanical units on the left side of the building located within the 10' setback from the side and rear property lines. Aside from the lot area per dwelling variance, the other variances are related to parking. The Character Districts require parking to be located at least 20 feet behind any façade of a principal building and the applicant is proposing to have parking located between the building and Court Street. The parking spaces inside the garage will be stacked and will require moving a vehicle or passing over another space to maneuver. For one and two family dwellings, this is permitted, but since the project contains 3 units, this is not allowed. There is a one car garage in the rear which will require the vehicle to back into or from the right of way between the subject property and the Fire Station.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (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.

Case #8-9

Petition of **Shannon Leah Harrington** and **James St. Pierre** for property located at **20 Taft Road** for the addition of stairs to an existing deck and a new lower deck wherein the following variances are required: a) from Section 10.521 to allow a 4' rear yard where 30' is required; b) from Section 10.521 to allow 28% building coverage where 20% is the maximum allowed; and c) from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance. Said property is shown on Assessor Plan 268, Lot 91 and lies within the Single Residence B District.

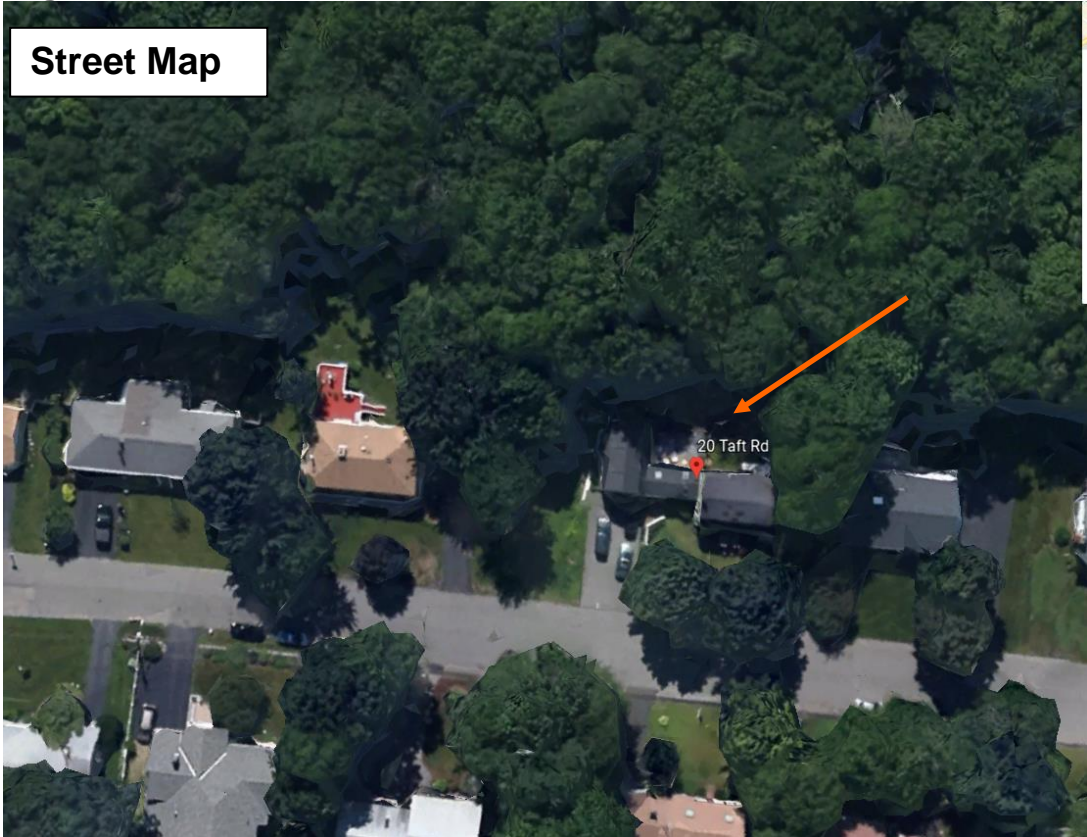
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Deck	Primarily single-family uses
<u>Lot area (sq. ft.):</u>	10,366	10,366	10,366 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	10,366	10,366	10,366 min.
<u>Street Frontage (ft.):</u>	60	60	100 min.
<u>Lot depth (ft.):</u>	87	87	100 min.
<u>Primary Front Yard (ft.):</u>	22	22	30 min.
<u>Secondary Front Yard (ft.):</u>	11.5	40 (deck)	30 min.
<u>Right Yard (ft.):</u>	22 (house)	36 (to pool)	10 min.
<u>Rear Yard (ft.):</u>	30 (existing deck)	4' (deck)	30 min.
<u>Height (ft.):</u>	32	52" (deck)	35 max.
<u>Building Coverage (%):</u>	24	28	20 max.
<u>Open Space Coverage (%):</u>	72	68.5	40 min.
<u>Parking</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1979	Variance request shown in red.	

Other Permits/Approvals Required

Planning Board/Conservation Commission – Wetlands CUP

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The applicant is seeking relief to construct an additional deck adjacent to an existing pool. The proposed deck will be 4 feet from the rear property line and will connect to an existing 18' x 24' deck. The additional square footage will increase the building coverage to 28%. Inspection records show there used to be a rectangular 12' x 24' pool that was permitted in the 80's. There are no records of any permit for the existing pool or when it was installed. It appears the intent of the new deck is to provide access to the pool and the size of the deck could be reduced to be in line with the pool and still serve the same purpose, which would result in less building coverage and a greater setback from the rear property line. The property is completely within the 100' buffer and will require a wetlands CUP for the proposed deck.

If granted approval, staff would recommend the Board consider a stipulation that reduces the size of the deck to be in line with the pool.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
 - (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.

Case #8-10

Petition of **Dagny Taggart LLC** for property located at **3 Pleasant Street** to demolish a portion of the rear of the building and construct an area along the rear of the building with access components to facilitate handicap access, and an elevator, wherein the following variance is required: a) from Section 10.5A41 and Figure 10.5A41.10D to allow a 0' rear yard where 5' is required. Said property is shown on Assessor Plan 107, Lot 31 and lies within Character District 5 and the Downtown Overlay District.

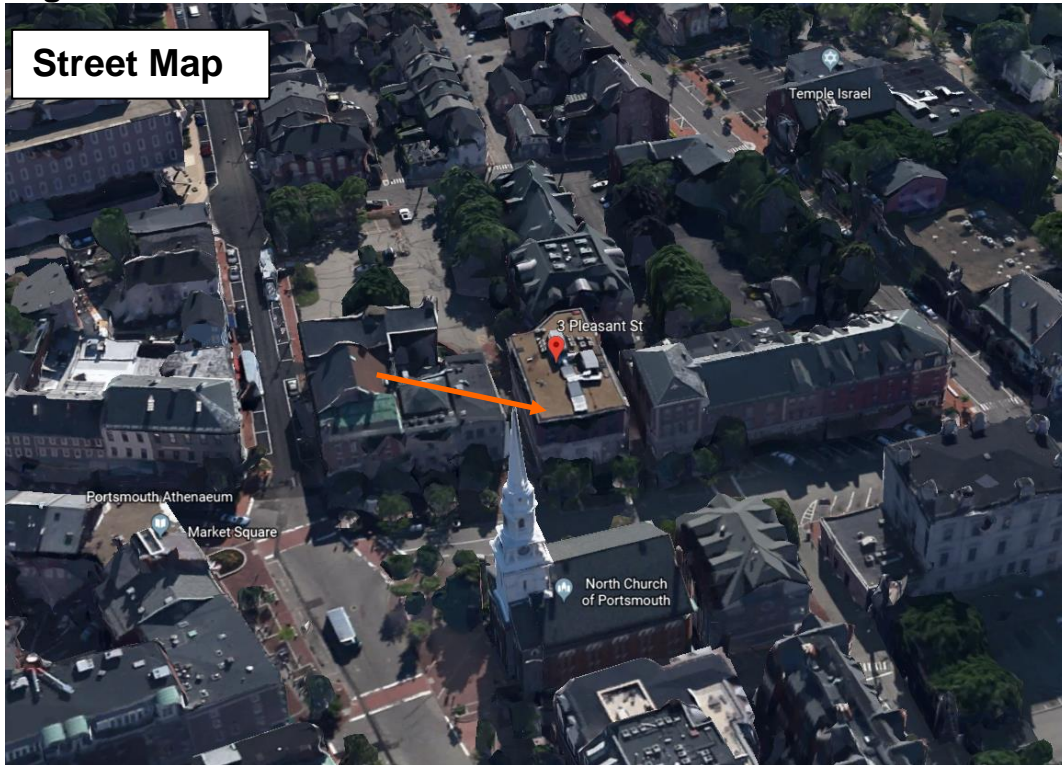
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial	Mixed-use	Primarily mixed-use
<u>Lot area (sq. ft.):</u>	8,867	8,867	8,867 min.
<u>Primary Front Yard (ft.):</u>	5	5	5 max.
<u>Left Yard (ft.):</u>	17	17	NR
<u>Right Yard (ft.):</u>	17	17	NR
<u>Rear Yard (ft.):</u>	0	0	5 min.
<u>Height (ft.):</u>	39	40.6	55* with incentive max.
<u>Building Coverage (%):</u>	50	54	95 max.
<u>Open Space Coverage (%):</u>	<5	>5*	5 min.
<u>Parking</u>	0	0	NR
<u>Estimated Age of Structure:</u>	1931	Variance shown in red. *Project will create community space along both sides of building that will count towards open space.	

Other Permits/Approvals Required

Planning Board/TAC – Site Review
 Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

August 22, 1989 – (as 1-5 Pleasant Street) – The Board **granted** a replacement of a free-standing sign in a public right-of-way in front of the lot now known as 3 Pleasant Street.

Planning Department Comments

The applicant is proposing to construct a rear addition to accommodate better access to the building, including a new elevator and handicap access. In addition to rear addition, a new short fourth story is proposed to be added to the building. The rear addition will be essentially on the lot line at the closest point.

This project is part of a larger development that includes two adjacent parcels, 53 Daniel Street and 30 Penhallow. Combined, these properties exceed an acre of land and per Section 10.5A43.33 if 20% of the development is assigned as improved community space, an additional story in height up to 10 feet may be added. The applicant has had work sessions with the HDC.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (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.

Case #8-11

Petition of **Dagny Taggart, LLC** for property located at **0 (53) Daniel Street** for a five-story building with mixed commercial uses wherein variances from Section 10.5A41 & Figure 10.5A41.10C are required to allow the following: a) a building footprint up to 17,500 s.f. where 15,000 s.f. is the maximum allowed; and b) a 3' rear yard where 5' is required. Said property is shown on Assessor Plan 107, Lot 27 and lies within Character District 4 and the Downtown Overlay District.

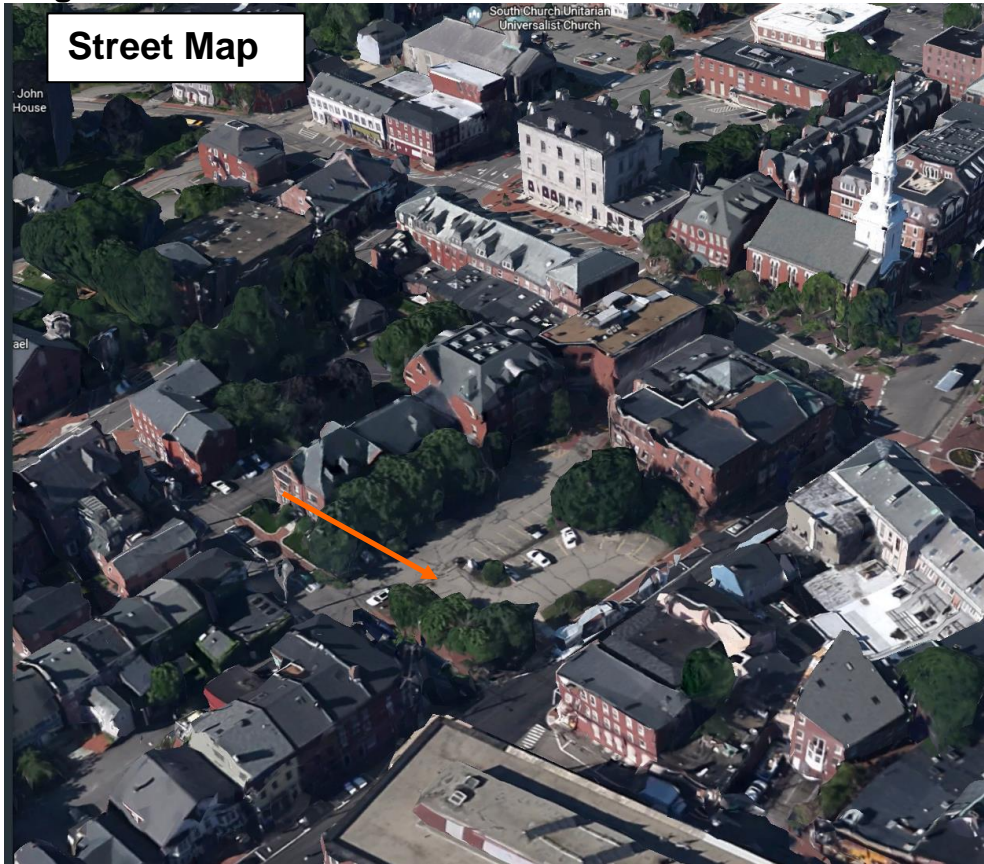
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Parking lot	Mixed Commercial building	Mixed Use
<u>Lot area (sq. ft.):</u>	23,279	23,279	NR min.
<u>Primary Front Yard (ft.):</u>	NA	<10	10 max.
<u>Secondary Front Yard (ft.):</u>	NA	<15	15 max.
<u>Rear Yard (ft.):</u>	NA	3	Greater of 5' from rear lot line or 10' from center of alley
<u>Height (ft.):</u>	NA	40'-7''*	2-3 Stories 40' max.
<u>Building Coverage (%):</u>	0	75	90 max.
<u>Open Space Coverage (%):</u>			10 min.
<u>Building Footprint:</u>	NA	17,500	15,000 max.
		Variance shown in red. *10.5A43.33 height incentive for providing 20% community space if development is at least 1 acre in size.	

Other Permits/Approvals Required

Planning Board/TAC – Site Review
 Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

July 15, 2008 – (as off Daniel Street) - The Board **granted** a variance to allow a prefabricated 4' x 6' metal and glass parking attendant booth less than 20' in height where a minimum of 20' in height was required for buildings.

Planning Department Comments

The applicant is proposing a new building where the current Bank of America parking lot exists at the corner of Penhallow and Daniel Street. This building is part of a development that includes 2 Pleasant and 30 Penhallow Street. The applicant has indicated they may not need the requested building footprint size, but in order to plan accordingly, has asked for the 17,500 s.f. footprint. The applicant has had 2 work sessions with the HDC.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (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.

Case #8-12

Petition of **Hill Hanover Group LLC** for property located at **0 Hanover Street (aka 181 Hill Street)** for construction of a six story 60' hotel with interior parking wherein the following variances are required: a) from Section 10.5A43.31 and Section 10.5A46.10 to allow a six-story 60-foot tall building where a five-story, 60-foot tall building is permitted; b) from Section 10.1114.21 to allow 54 valet-only parking spaces using a two-car lift system where 10 spaces do not meet the parking depth requirements; and c) from Section 10.1114.32(a) to permit a valet-only lift system which requires passing over another parking space or moving another vehicle where both requirements are prohibited. Said property is shown on Assessor Plan 138, Lot 62 and lies within Character District 5.

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant	120 Room Hotel	Mixed use
<u>Lot area (sq. ft.):</u>	22,538	22,538	NR min.
<u>Max front yard:</u>	NA	16*	5 max.
<u>Side Yard (ft.):</u>	NA	>5	NR min.
<u>Rear Yard (ft.):</u>	NA	16	10 min.
<u>Height (ft.):</u>	NA	6-story , 60' building	2-4 stories, 50 ft. max. Plus 1 story up to 10' w/ Incentive
<u>Building Coverage (%):</u>	0	65	95 max.
<u>Open Space Coverage (%):</u>	100	6	5 min.
<u>Parking:</u>	NA	86	86
		Variance shown in red. *Providing 16' sidewalk per height incentive.	

Other Permits/Approvals Required

Planning Board/TAC – Site Review

Neighborhood Context

Street Map



Zoning Map



181 Hill Street

Previous Board of Adjustment Actions

June 15, 1993 (as 181 Hill Street) – The Board **granted** a variance to allow the conversion of 2100 s.f. of office space into a one bedroom apartment with adjacent carpentry workshop.

Planning Department Comments

The subject property is Lot 6 of the Deer Street development and was originally approved in 2017 as a 62 ft. four-story mixed-use building. Although structures are shown in the images above, the property is currently vacant. The applicant is now proposing a hotel instead of the previously approved mixed-use building and is seeking relief to allow a six-story, 60 ft. tall building. The property is located in the North-End Incentive District (NEID) which allows an additional story up to 10 feet. The height area for this property is 2-4 stories up to 50 feet. In order to receive the increased height in the NEID, the applicant must provide a wide sidewalk in front of the facade that must be at least 10 feet in width with an additional 2 feet per story above three feet. Since the proposal is for a six-story building, the sidewalk must be 16 feet wide.

The applicant has stated the need for the additional story is to provide above ground parking due to the inability to provide underground parking because of groundwater levels and existing ledge. All of the interior parking will be valet only and will utilize a lift system for 54 spaces, 10 of which do not meet the depth requirements of the ordinance. The lift system will require vehicles to pass over another parking space or will require vehicles to be moved in order to leave the space, which is not permitted.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (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.