



City of Portsmouth
Planning Department
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Portsmouth, NH
(603)610-7216

MEMORANDUM

TO: Zoning Board of Adjustment
FROM: Stefanie Casella, Planner
DATE: May 18, 2023
RE: Zoning Board of Adjustment May 23, 2023

The agenda items listed below have been postponed from the May 16, 2023 meeting and can be found in the following analysis prepared by City Staff:

III. New Business

- C. 170 Aldrich Road
- D. 39 Dearborn Street
- E. 29 Spring Street
- F. 18 Walden Street (Request to Postpone to the end of the meeting)
- G. 686 Maplewood Avenue
- H. 3369 Lafayette Road
- I. 955 Woodbury Avenue
- J. 126 Burkitt Street

III. NEW BUSINESS

- C. The request of **Peter Gamble (Owner)**, for property located at **170 Aldrich Road** whereas relief is needed to demolish the existing garage and construct a new garage which requires the following: 1) Variance from Section 10.521 to allow a) 7 foot right side yard where 10 feet is required; and b) 23% building coverage where 20% is allowed. Said property is located on Assessor Map 153 Lot 21 and lies within the Single Residence B (SRB) District. (LU-23-47)

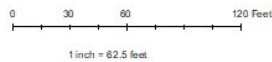
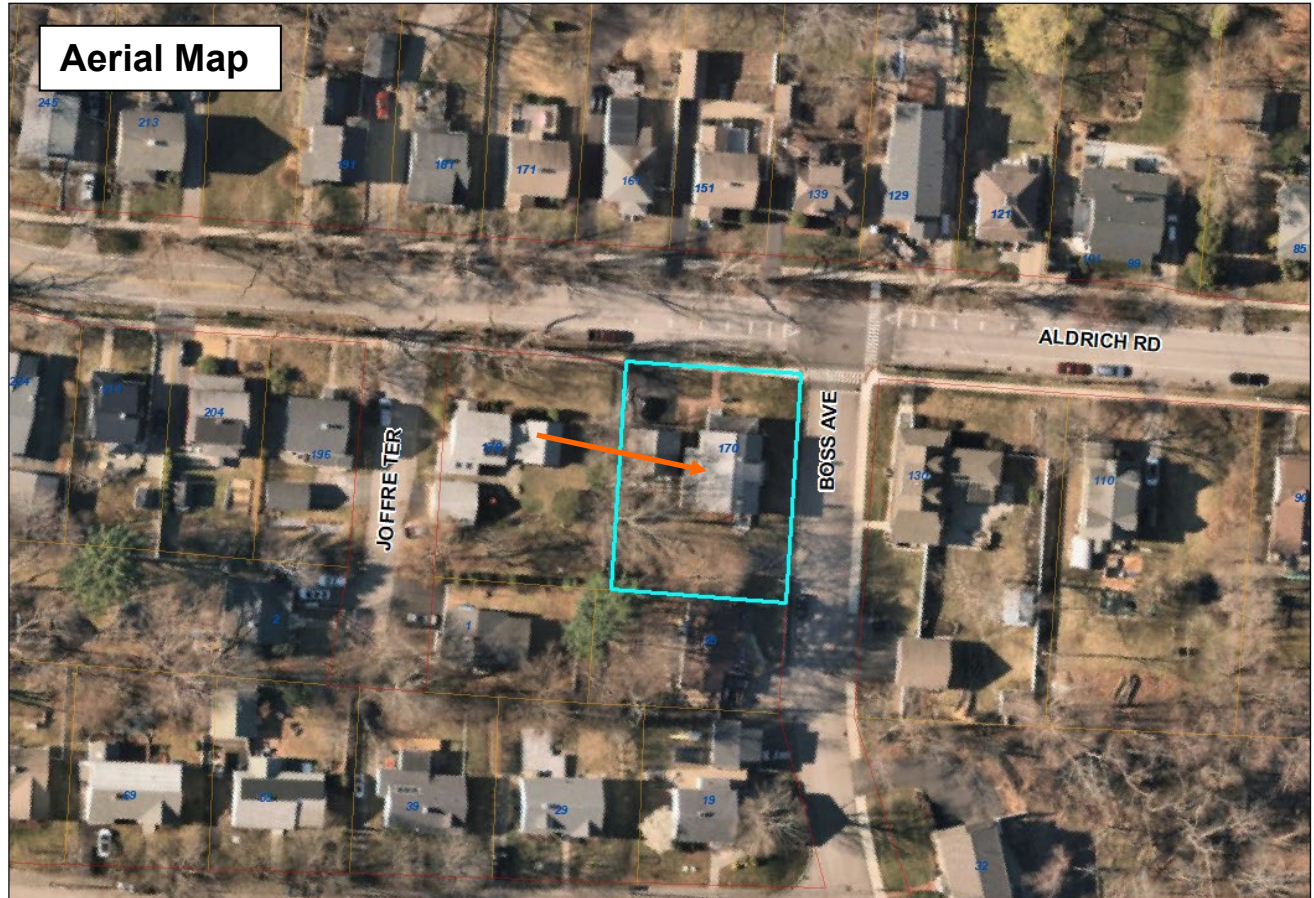
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family	Demo garage and construct new	Primarily residential
<u>Lot area (sq. ft.):</u>	10,912.5	10,912.5	1,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	10,912.5	10,912.5	1,500 min.
<u>Lot depth (ft.):</u>	120	120	100 min.
<u>Street Frontage (ft.)</u>	215	215	100 min.
<u>Primary Front Yard (ft.):</u>	22	22	30) min.
<u>Left Yard (ft.):</u>	15	15	10 min.
<u>Right Yard (ft.):</u>	7	7	10 min.
<u>Rear Yard (ft.):</u>	46	46	30 min.
<u>Height (ft.):</u>	<24	24	35 max.
<u>Building Coverage (%):</u>	20.6	23	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1930	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



170 Aldrich Road



Previous Board of Adjustment Actions

September 5, 1978 – The Board of Adjustment granted the application to construct a garage on a lot whose frontage is 50' where 100' is required and whose area is 6,000 s.f. where 20,000 s.f. is required.

Planning Department Comments

The applicant is requesting relief to demolish the existing garage and construct a new garage with a slightly larger footprint. The existing garage received variances for construction in 1978 when there were two separate lots. The properties have since been merged to create one lot which explains the discrepancy in the sought dimensional relief.

Variance 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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

III. NEW BUSINESS

- D. The request of **Shawn Bardong and Michiyo Bardong (Owner)**, for property located at **39 Dearborn Street** whereas relief is needed to demolish the existing shed and construct a two-story addition which requires the following: 1) Variance from Section 10.521 to allow a) 5 foot front yard where 15 feet is required; and b) 2 foot right side yard where 10 feet is required. 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed, or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 140 Lot 3 and lies within the General Residence A (GRA) and Historic District. (LU-23-5)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Expansion of livable space	Primarily residential
<u>Lot area (sq. ft.):</u>	11,236	11,236	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	11,236	11,236	7,500 min.
<u>Lot depth (ft.):</u>	60	60	70 min.
<u>Street Frontage (ft.)</u>	19	19	100 min.
<u>Primary Front Yard (ft.):</u>	5	5	15 min.
<u>Left Yard (ft.):</u>	114	114	10 min.
<u>Right Yard (ft.):</u>	2	2	10 min.
<u>Rear Yard (ft.):</u>	2	2	20 min.
<u>Height (ft.):</u>	22.5	24.5	35 max.
<u>Building Coverage (%):</u>	13	17.2	25 max.
<u>Open Space Coverage (%):</u>	>50	>50	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1700	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit
- HDC

Neighborhood Context



0 25 50 100 Feet
1 inch = 58.4 feet

39 Dearborn Street



Previous Board of Adjustment Actions

August 26, 2008 – The Board **postponed** to September the request to construct a 7'10" by 13'9" shed which required the following relief:

- 1) 4'± left side yard setback where 10' was required; and
- 2) 65'± setback to salt water marsh or mean high water line where 100' was required.

September 16, 2008 – the above petition was **postponed** to October.

October 21, 2008 – The above petition was **amended** as follows and **postponed** to the November 18, 2008 meeting:

- 1) 5'± front setback where 15' was required was added

November 18, 2008 – The above petition was **withdrawn** by the applicant.

March 17, 2015 – The Board **postponed** the petition to construct a 100 s.f. shed in the front yard and an 8' x 13' single story addition, as well as adding shed dormers was to the April meeting.

April 21, 2015 – The Board **granted** variances for the above petition, with the shed reduced to 12' x 18'. Which required the following relief

- 1) a 5' front yard where 15' was required;

- 2) a 5' right side yard where 10' was required;
- 3) a 3' rear yard where 20' was required and
- 4) an accessory structure to be located in a required front yard.

The variances were **granted with stipulations** regarding the following:

- a) the dimensions, construction and uses of the granted accessory structure;
- b) no flood lights on the accessory structure;
- c) the creation of an approximate 2,018 s.f. View Easement Area with specified components, rules regarding trees and vegetation, and removal of a utility trailer; and
- d) the review of the Planning Department, prior to issuance of a building permit, of the final building and site plans and determination that the plans and elevations were in compliance with the stipulations.

August 27, 2019 – The Board voted to **granted** the following variance for the installation of a wall mounted outdoor AC condenser:

- 1) To allow a 2'6" right side setback where 10' is required.

February 22, 2023 – The Board **granted** the application for constructing a second story over the existing 1.5 story building, removing, and expanding the front porch, and removing and expanding the existing mudroom on the eastern side of the structure which requires the following:

- 1) Variance from Section 10.521 to allow
 - a) 2 foot rear yard where 20 feet is required
 - b) 9 foot side yard where 10 feet is required
- 2) Variance from Section 10.321 to allow the extension and enlargement of a non-conforming structure.

Planning Department Comments

The applicant is requesting relief to remove the existing accessory structure and construct an addition to the primary structure.

The applicant had previously obtained relief for this project in February however, after further review by the Historic District Commission, the applicant is now proposing a new design which requires different relief.

Variance 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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

III. NEW BUSINESS

- E. The request of **Thomas Rooney (Owner)**, for property located at **29 Spring Street** whereas relief is needed to install two mechanical units in the rear of the primary structure which require the following 1) Variance from Section 10.515.14 to allow a) 7-foot side yard where 10 feet is required; and b) 4 foot rear yard where 10 is required. Said property is located on Assessor Map 130 Lot 21 and lies within the General Residence A (GRA) District. (LU-23-55)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Installation of 2 mechanical units	Primarily residential
<u>Lot area (sq. ft.):</u>	6,547.5	6,547.5	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	6,547.5	6,547.5	7,500 min.
<u>Lot depth (ft.):</u>	80	80	70 min.
<u>Street Frontage (ft.)</u>	79	79	100 min.
<u>Primary Front Yard (ft.):</u>	5	5	15 min.
<u>Left Yard (ft.):</u>	6 (primary structure)	7 (mechanical units)	10 min.
<u>Right Yard (ft.):</u>	2	2	10 min.
<u>Rear Yard (ft.):</u>	6	4	10 min.
<u>Height (ft.):</u>	35	35	35 max.
<u>Building Coverage (%):</u>	28	28	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1910	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



0 30 60 120 Feet
1 inch = 65.1 feet

29 Spring Street



Previous Board of Adjustment Actions

April 21, 1974 – The Board granted a variance to construct a porch approximately 13' x 13' onto the existing building.

August 30, 2002 – The Board granted a variance to allow a 4' x 17' addition to the right side of the dwelling creating 25.7% building coverage where 25% is the maximum allowed.

April 29, 2003 – The Board granted a variance to allow a 5' x 14' porch to the right side of dwelling and expand the front entry to 5' x 7' creating 28.8% building coverage where 25% was the maximum allowed.

Planning Department Comments

The applicant is requesting relief for the installation of two mechanical units in the rear of the primary structure.

Staff acknowledge the notice of this project erred in describing the location of the two mechanical units. As the rear and side yard dimensions are the same as advertised, Staff believe the description is sufficient for the desired location as long as a motion for approval includes the correct location.

If the Board wishes to approve the variance requests, staff recommend the motion and condition as listed below or similar language.

Sample Motion: Approve the variances with the following condition:

1. Both mechanical units are located in the rear of the primary structure as indicated in the applicants submission materials.

Variance 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

 - (c) *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.*

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Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

III. NEW BUSINESS

- F. **REQUEST TO BE HEARD AT END OF MEETING** The request of **Scott Day and Marta Day (Owners)**, for property located at **18 Walden Street** whereas relief is needed to install a mechanical unit which requires a variance from Section 10.515.14 to allow a) 4 foot side yard where 10 feet is required; and b) 2 foot front yard where 10 feet is required. Said property is located on Assessor Map 101 Lot 20 and lies within the General Residence B (GRB) and Historic District. (LU-23-52) **REQUEST TO BE HEARD AT END OF MEETING**

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family	Install Mechanical Unit	Primarily residential
<u>Lot area (sq. ft.):</u>	4,365	4,365	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,365	4,365	5,000 min.
<u>Lot depth (ft.):</u>	81	81	60 min.
<u>Street Frontage (ft.)</u>	50	50	80 min.
<u>Primary Front Yard (ft.):</u>	0	2 (Mechanical Unit)	5 min.
<u>Left Yard (ft.):</u>	6	4	10 min.
<u>Right Yard (ft.):</u>	>10	>10	10 min.
<u>Rear Yard (ft.):</u>	>30	>30	25 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	18	18	30 max.
<u>Open Space Coverage (%):</u>	>25	>25	25 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1780	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



18 Walden Street

Previous Board of Adjustment Actions

May 22, 1979 – The Board of Adjustment **granted** the application requesting variances from Article III Section 10-302 and Article IV, Section 10-401 to allow construction of a 10' x 15' open porch 14' from the right and 11' from the left property lines where 20' for each is required.

August 11, 1987 – The Board voted to **deny** the requests to allow:

- 1) an expansion of a non-conforming use, a single-family dwelling where no such expansion is allowed;
- 2) to allow the construction of a 298 s.f. addition onto an existing single-family dwelling with a 6'5" left yard and a 14' right yard where a minimum 20' yard for both is required and to allow a lot coverage of 27.12% in a district where a maximum of 20% lot coverage is allowed.

June 28, 1988 – The Board of Adjustment granted the application wherein the following were requested:

- 1) A Variance from Article IV, Section 10-401 (4) to allow the reframing of a 17' x 33' non-conforming single family home damaged by other causes (rot) to such an extent

that restoration will cost over 50% of the cost to produce a new and entire dwelling and shall not be rebuilt except in conformity with this ordinance.

2) A Variance from Article II, Section 10-206 (23)(a) to allow the reconstruction of a single-family dwelling in a district where single family dwellings are not permitted; and

3) A Variance from Article III, Section 10-302 to allow said reconstruction with the following;

- a) A front yard of -4' + where 20' is required and,
- b) A left yard of 4'+ where 20' side yard is required.

Planning Department Comments

**Please note the applicant has requested for their case to be heard at the end of the meeting due to a scheduling conflict. **

The applicant is requesting relief to install a mechanical unit within 10 feet of their boundary line. After submission, the applicant expressed the desire to modify the plan to locate the unit towards the rear of the house (southeast) rather than the front corner (northeast) as portrayed in the submitted plans.

Staff recommends the Board confirm the final location of the unit with the applicant and confirm the noticed variance requests are still applicable for the new location. Should a noticed variance request no longer be applicable, the Board should consider stating so in a motion for approval.

Variance 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.

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Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings,

structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

III. NEW BUSINESS

- G. The request of **The Islamic Society of the Seacoast Area ISSA (Owner), and Chinburg Development, LLC (Applicant)**, for property located at **686 Maplewood Avenue** whereas relief is needed to construct four (4) duplexes and one (1) single living unit to create a total of nine (9) living units which requires the following: 1) Variance from Section 10.440, Use # 1.30 to permit four (4) two-family unit structures where they are not permitted, 2) Variance from Section 10.513 to permit five (5) free standing buildings with dwellings where not more than one is permitted, 3) Variance from Section 10.520 to allow a) 6,975 square feet of lot area per dwelling unit where 15,000 square feet is required; and b) 47 feet of frontage where 100 feet is required. Said property is located on Assessor Map 220 Lot 90 and lies within the Single Residence B (SRB) District and the Highway Noise Overlay District. (LU-23-57)

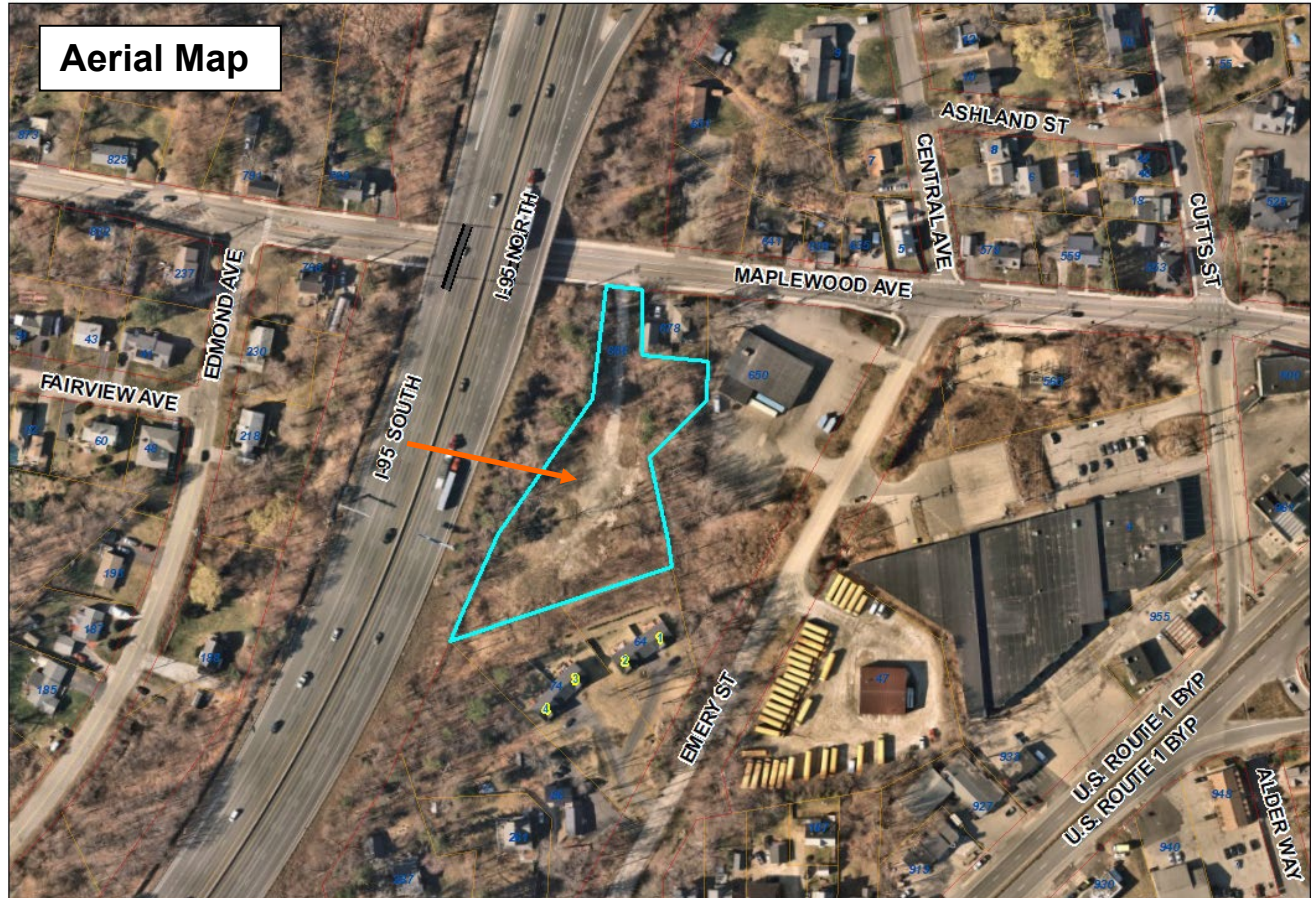
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Undeveloped Lot	Construct one single family home and 4 duplexes	Primarily residential
<u>Lot area (sq. ft.):</u>	62,776	62,776	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	0	6,975	15,000 min.
<u>Lot depth (ft.):</u>	>100+	>100	100 min.
<u>Street Frontage (ft.)</u>	47	47	100 min.
<u>Primary Front Yard (ft.):</u>	30	30	30 min.
<u>Left Yard (ft.):</u>	10	10	10 min.
<u>Right Yard (ft.):</u>	10	10	10 min.
<u>Rear Yard (ft.):</u>	40	40	30 min.
<u>Height (ft.):</u>	n/a	<35	35 max.
<u>Building Coverage (%):</u>	0	12.3	20 max.
<u>Open Space Coverage (%):</u>	100	60.5	40 min.
<u>Parking</u>	0	20	8
		Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit
- Site Plan Review – TAC and Planning Board
- Conditional Use Permit for a Noise Sensitive Land Use in the HNOD – Planning Board.

Neighborhood Context



686 Maplewood Avenue

Previous Board of Adjustment Actions

February 21, 2017 – The Board **granted** a special exception and a variance to allow the following:

- 1) a Special Exception from Section 10.440 to allow a religious place of assembly in a district where the use is only allowed by special exception.
- 2) a Variance from Section 10.521 to allow 47'± of continuous street frontage where 100' is required.

February 25, 2019 – The Board **granted** a 1-year extension of the variance and special exception, to expire on February 21, 2020.

April 7, 2020 – The Board **postponed** the request (to the April 21, 2020 meeting) for relief needed from the Zoning Ordinance to construct a 4,000± s.f. building to house a religious place of assembly which includes the following:

- 1) A Special Exception under Section 10.440, Use #3.11 to allow a religious place of assembly in a district where the use is only allowed by Special Exception; and
- 2) A Variance from Section 10.521 to allow 47'± of continuous street frontage where 100' is required.

April 21, 2020 – The Board voted to **grant** the variance and special criteria as presented.

Planning Department Comments

The applicant is requesting relief for the construction of 5 total buildings on the existing vacant parcel. The buildings will include four (4) two-unit structures and one (1) single-unit structure.

The parcel is located within the Highway Noise Overlay District (HNOD), making development subject to a Conditional Use Permit and additional site review requirements per section 10.670 of the [Zoning Ordinance](#).

Variance 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

 - (c) *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.*

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

III. NEW BUSINESS

- H. The request of **Carl Krukoff (Owner)**, for property located at **3360 Lafayette Road** whereas relief is needed to convert a two bay garage into a third living unit which requires the following: 1) Variance from 10.521 to allow 8,002.5 square feet per dwelling unit where 15,000 square feet is required, 2) Variance from 10.331 to allow a non-conforming use to be extended or enlarged without conforming to the requirements of the Zoning Ordinance, 3) Variance from section 10.440 Use #1.51 to allow three (3) dwelling units where one (1) is permitted. Said property is located on Assessor Map 297 Lot 12 and lies within the Single Residence B (SRB) District. (LU-23-59)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family	Create a 3rd dwelling unit	Primarily residential
<u>Lot area (sq. ft.):</u>	24,007.5	24,007.5	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	12,003.75	8,002.5	15,000 min.
<u>Lot depth (ft.):</u>	>190	>190	100 min.
<u>Street Frontage (ft.)</u>	>300	>300	100 min.
<u>Primary Front Yard (ft.):</u>	>30	>30	30 min.
<u>Secondary Front Yard (ft.):</u>	20	20	30 min.
<u>Right Yard (ft.):</u>	20	20	10 min.
<u>Rear Yard (ft.):</u>	>100	>100	30 min.
<u>Height (ft.):</u>	35	35	35 max.
<u>Building Coverage (%):</u>	8	8	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	3	4	4
<u>Estimated Age of Structure:</u>	1936	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit
- Site Plan Review – TAC and Planning Board
- Parking Conditional Use Permit if required parking can not be satisfied - TAC and Planning Board

Neighborhood Context



0 45 90 180 Feet
1 inch = 93.5 feet

3360 Lafayette Road



Previous Board of Adjustment Actions

No previous history found

Planning Department Comments

The applicant is requesting relief to construct a new living unit to create a total of three units within the existing home. The applicant is not proposing exterior work at this time and all construction will take place within the existing building footprint.

The applicant has not provided a parking plan with their submission. The Board may want to consider asking the applicant how they plan to manage parking.

Variance 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.

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Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

III. NEW BUSINESS

- I. The request of **John Heath and Michael Meserve (Owners)**, for property located at **955 Woodbury Avenue** whereas relief is needed to construct a shed which requires a Variance from Section 10.571 to allow an accessory structure to be located closer to a street than the principal building. Said property is located on Assessor Map 219 Lot 33 and lies within the Single Residence B (SRB) District. (LU-23-56)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Install a shed closer to a street than the primary structure	Primarily residential
<u>Lot area (sq. ft.):</u>	26,190	26,190	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	26,190	26,190	15,000 min.
<u>Lot depth (ft.):</u>	137	137	100 min.
<u>Street Frontage (ft.)</u>	331	331	100 min.
<u>Primary Front Yard (ft.):</u>	0	0	30 min.
<u>Left Yard (ft.):</u>	>30	>30	10 min.
<u>Right Yard (ft.):</u>	>30	>30	10 min.
<u>Rear Yard (ft.):</u>	>45	45	30 min.
<u>Shed Height (ft.):</u>	n/a	8.1	35 max.
<u>Building Coverage (%):</u>	9.4	10	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1800	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



0 30 60 120 Feet
1 inch = 70.1 feet

955 Woodbury Avenue



Previous Board of Adjustment Actions

No previous history found

Planning Department Comments

The applicant is requesting relief to install a shed. This application is before the Board due to the proposed location of the shed and it's proximity to Fairview Dr. See Section 10.571 of the Zoning Ordinance below.

10.571 *No accessory building, structure or use shall be located in any required front yard, or closer to a street than the principal building.*

Variance 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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

III. NEW BUSINESS

- J. The request of **Shantar Zuidema and Abby Zuidema (Owners)**, for property located at **126 Burkitt Street** whereas relief is needed to demolish the existing 10 foot by 16 foot deck and replace with a 6 foot by 4 foot enclosed porch which requires the following: 1) Variance from Section 10.521 to allow a 6 foot right side yard where 10 feet is required, and 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 159 Lot 28 and lies within the General Residence A (GRA) District. (LU-23-61)

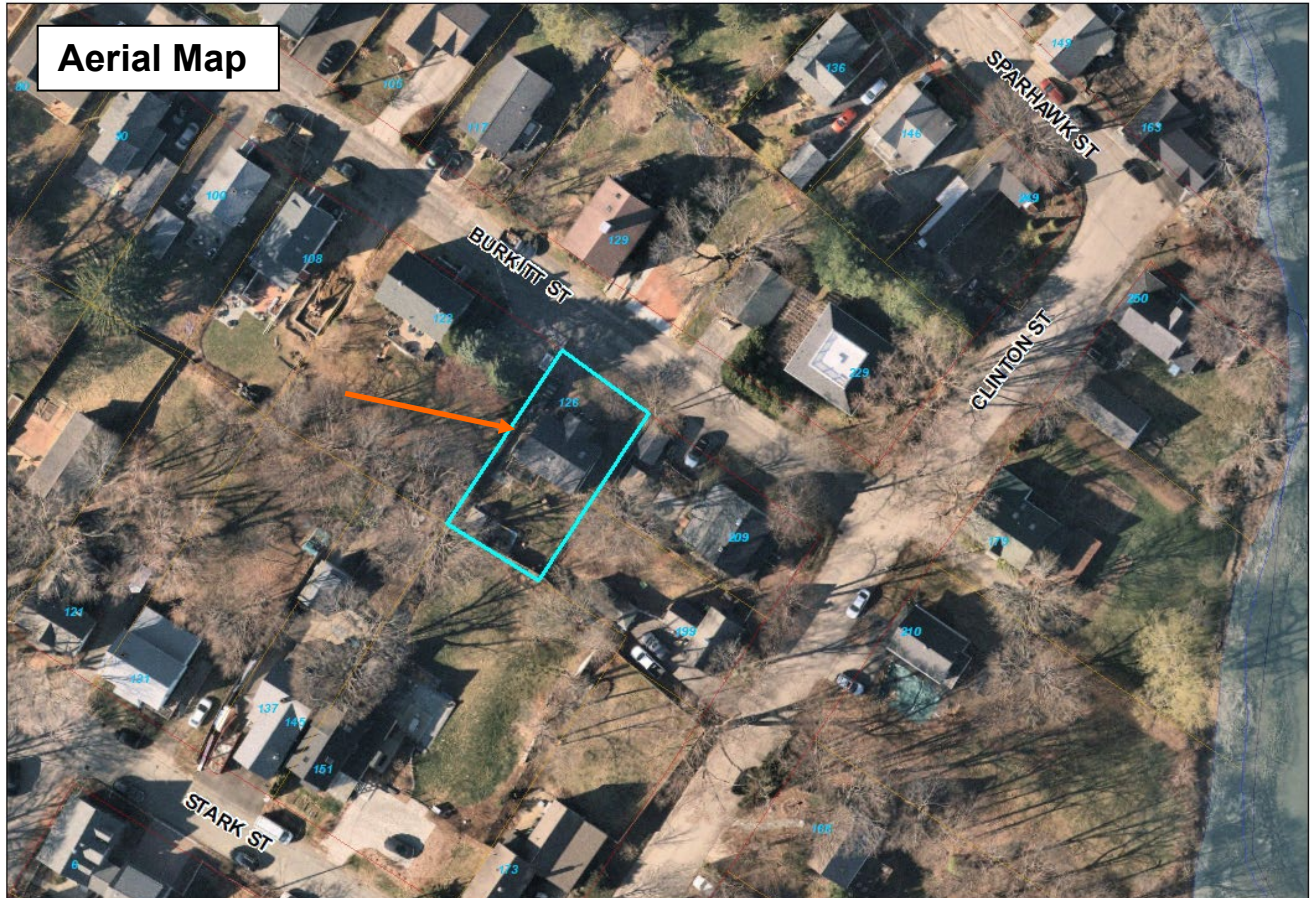
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Demolish existing porch and construct new	Primarily residential
<u>Lot area (sq. ft.):</u>	4,801.5	4,801.5	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,801.5	4,801.5	7,500 min.
<u>Lot depth (ft.):</u>	94.5	94.5	70 min.
<u>Street Frontage (ft.)</u>	50	50	100 min.
<u>Primary Front Yard (ft.):</u>	18	18	15 min.
<u>Left Yard (ft.):</u>	10	10	10 min.
<u>Right Yard (ft.):</u>	6	6	10 min.
<u>Rear Yard (ft.):</u>	35	38	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	20.5	18	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1976	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



0 25 50 100 Feet
1 inch = 56.6 feet

126 Burkitt Street



Previous Board of Adjustment Actions

No previous BOA history found

Planning Department Comments

The applicant is proposing to remove the existing rear deck and side entrance deck and to only reconstruct and enclose the side deck portion only. Applicant is not proposing to replace the rear deck at this time and is reducing the overall building coverage on the property.

Variance 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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.