



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 15, 2024  
RE: Zoning Board of Adjustment May 21, 2024

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The agenda items listed below can be found in the following analysis prepared by City Staff:

### II. Old Business

- A. 86 Haven Road – Request to Postpone
- B. 581 Lafayette Road – Request to Postpone
- C. 505 US Route 1 Bypass – Request to Withdraw

### III. New Business

- A. 137 Walker Bungalow Road
- B. 5 Cleveland Drive
- C. 15 Mariette Drive
- D. 1 Rockaway Street

## II. OLD BUSINESS

- A. The request of **Kerrin J. Parker Revocable Trust of 2012 (Owner)**, for property located at **86 Haven Road** whereas relief is needed to construct an addition to the existing structure which requires the following: 1) Variance from Section 10.521 to a) allow a 7.5 foot front yard where 10 feet is required by front yard averaging; b) to allow a building coverage of 26% where 20% is allowed; and 2) Variance from Section 10.321 to allow of nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 206 Lot 27 and lies within the Single Residence B (SRB) District. (LU-23-192)

### Existing & Proposed Conditions

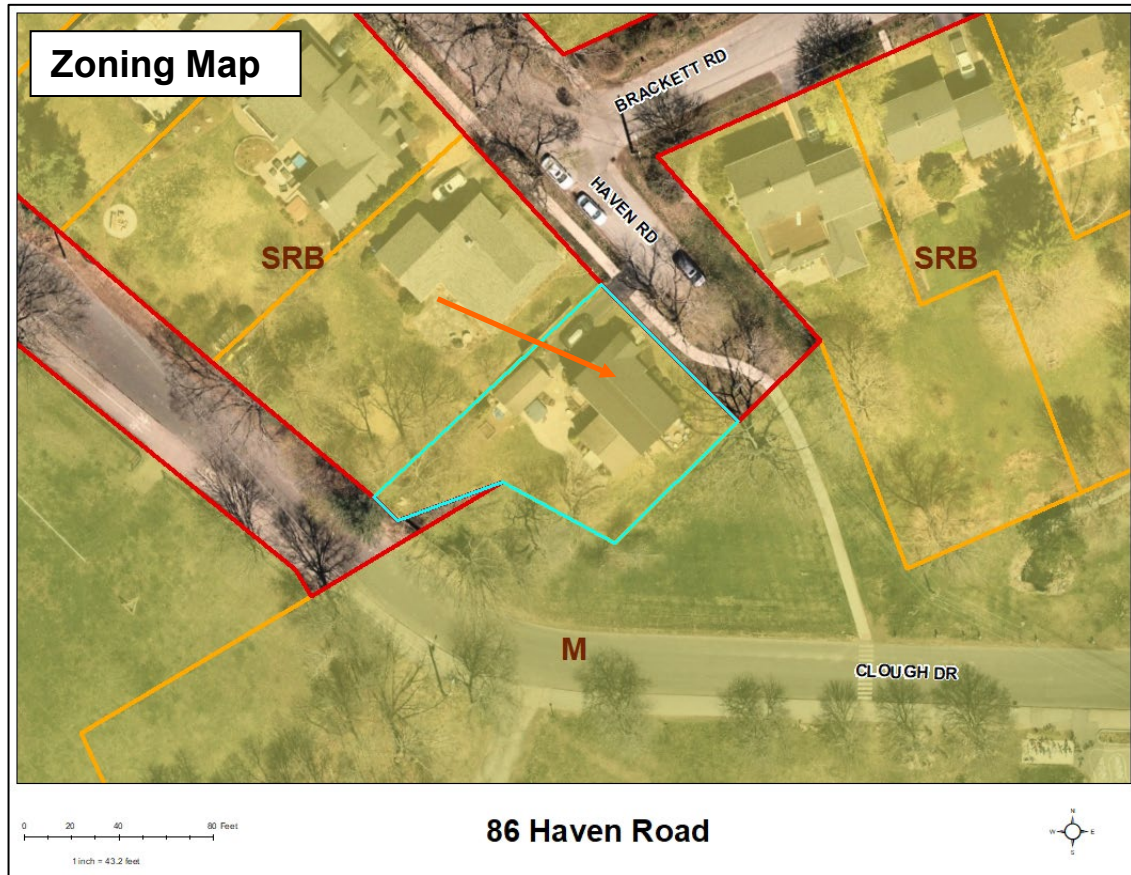
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family dwelling	*Second floor expansion and front deck addition	Primarily residential
<u>Lot area (sq. ft.):</u>	7,889	7,889	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,889	7,889	15,000 min.
<u>Street Frontage (ft.):</u>	86	86	100 min.
<u>Lot depth (ft.)</u>	72	72	100 min.
<u>Front Yard (ft.):</u>	12	7.5	10 (per 10.516.10) min.
<u>Left Yard (ft.):</u>	13	13	10 min.
<u>Right Yard (ft.):</u>	Garage: 1 House: 15	Garage: 1 House: 15	10 min.
<u>Rear Yard (ft.):</u>	20	20	30 min.
<u>Height (ft.):</u>	<35	25.5	35 max.
<u>Building Coverage (%):</u>	25	26	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1941	Variance request(s) shown in red.	

\* Relief needed to construct an addition to the already non-conforming primary structure that would further impact the non-conformity.

### Other Permits/Approvals Required

- Building Permit

### Neighborhood Context



## Previous Board of Adjustment Actions

**October 27, 1981** – the Board **granted** a variance to allow a 12' x 22' garage with a 1' Right Side yard where 10' is the minimum required.

**April 26, 1983** – the Board **granted** a variance to allow a variance from Article III, Section 10-302 to construct a 12' x 24' addition with a Front Yard of 19' where 30' is required and a Rear Yard of 29' where 30' is required.

**March 22, 2005** – the Board **granted** a variance to allow a variance from Article III Section 10-302(A) and Article IV, Section 10-401(A)(2)(c) to allow a 14' x 24' one story addition with a) a 20'8" rear setback for the addition and a 19'8" rear setback for the steps from the addition where 30' is the minimum required; and b) 25% building coverage where 20% is the maximum allowed.

**March 19, 2024** – The Board voted to **continue** the request a variance from Section 10.521 to a) allow a 9' front yard where 10' is required by front yard averaging; b) to allow a building coverage of 29% where 20% is allowed; and 2) Variance from Section 10.321 to allow of nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

**April 16, 2024** – The Board granted the applicants request for a one-month postponement to the May 21, 2024 meeting to gather additional information requested by the Board.

## Planning Department Comments

The applicant is requesting relief for the addition to the front of the primary structure. The proposed second floor conforms to minimum yard requirements and does not require relief; however the addition of the front porch will encroach into the front yard area and will increase the existing non-conforming building coverage.

At the March 19, 2024 BOA meeting, the Board closed the public hearing and voted to postpone the application, asking the applicant to come back with more information and specific details on property boundaries.

The applicant has submitted to the Board a stamped survey that represents a proposed setback of 7.7' in the front (which has been conservatively rounded to 7.5') and 26% building coverage. The request was readvertised per the BOA rules and regulations and the new front yard and building coverage were represented in this most recent advertisement and noticing. For reference, the original request was for a 9 foot front yard and 29% building coverage.

To accept and consider the new information, the Board must vote to suspend the rules and accept the new information prior to any presentation or discussion with the applicant. The Board should then reopen the public hearing prior to taking action on the application.

## 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.

## II. OLD BUSINESS

- B. The request of **Atlas Commons LLC (Owner)**, for property located at **581 Lafayette Road** whereas relief is needed for after-the-fact installation of an awning sign which requires the following: 1) Variance from Section 10.1251.20 to allow a 32 square foot awning sign whereas 20 square feet is allowed. Said property is located on Assessor Map 229 Lot 8B and lies within the Gateway Corridor (G1) District. (LU-24-1)

### Existing & Proposed Conditions

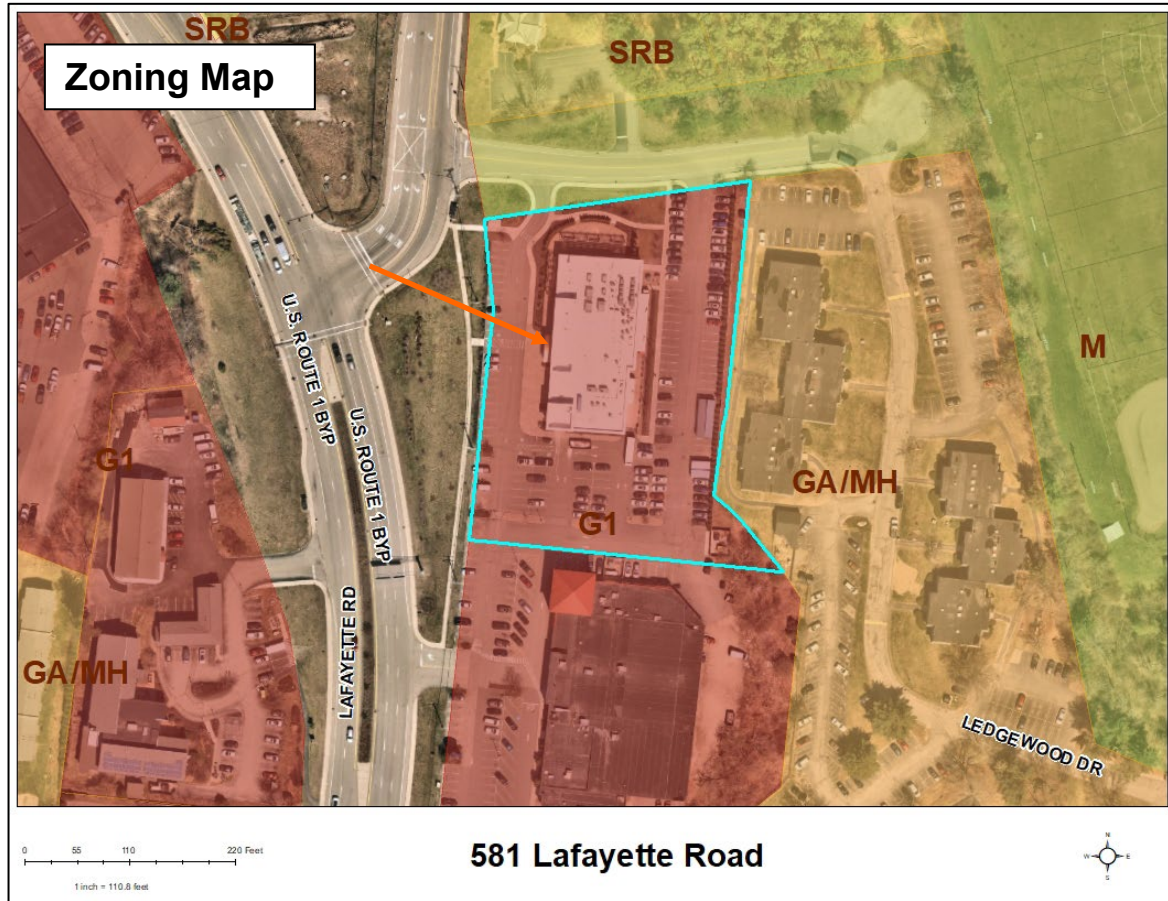
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial	Commercial	Mixed-Use Corridor
<u>Awning Sign Area (sq. ft.):</u>	32	32	20 max
<u>Northern facing façade building frontage(ft.):</u>	90	90	
<u>Western facing façade building frontage (ft.):</u>	125	125	
<u>Northern facing façade sign area (sq. ft.)</u>	75	75	135 max.
<u>Western facing façade sign area (sq. ft.):</u>	58.2	58.2	187.5 max.
<u>Estimated Age of Structure:</u>	1972	Variance request(s) shown in red.	

### Other Permits/Approvals Required

- Sign Permit



### Neighborhood Context



## Previous Board of Adjustment Actions

**September 22, 2015** - The Board **approved** the following to allow a restaurant with associated parking:

1. A Special Exception under Section 10.440, Use #9.52 to allow a restaurant with 492 seats where 250 to 500 seats are allowed by Special Exception.
2. A Variance from 10.593.10 to allow a restaurant to be located 92.1' from a residential district where 200' is required.
3. A Variance from 10.531 to allow 16.5% open space where 11% exists and 20% is required.
4. A Variance from Section 10.1112.50 to allow 154 off-street parking spaces where 184 exist and 132 are the maximum allowed.
5. A Variance from Section 10.1113.20 to allow parking in the front yard or between a building and a street for 34 spaces where 38 exist and 0 spaces are permitted.
6. A Variance from 10.1113.10 to allow 28 existing and 30 proposed off-street parking spaces to be partially located on a lot separate from that of the principal use.
7. A Variance from Section 10.1114.21 to allow 10 off-street parking spaces to be 17.5' in length where 19' is required.
8. A Variance from 10.1124.20 to allow off-street loading or maneuvering areas to be 87.7' from an adjoining Residential or Mixed Residential District where 100' is required.

**May 18, 2021** - The Board granted the request to add an indoor golf simulators in an existing restaurant which required the following: 1) A Special Exception from Section 10.440 Use #4.30 to allow an indoor recreation use where the use is permitted by Special Exception.

## Planning Department Comments

The applicant is requesting relief to appropriately permit an awning sign that has already been installed at the front entrance on the western facing facade.

The property is located in Sign District 5 (Section 10.232) which allows a maximum awning sign area of 20 square feet (Section 10.1251.20). The awning sign in need of relief is 32 square feet.

Maximum aggregate sign area allowed in Sign district 5 is 1.5 square feet per linear foot of building frontage (Section 10.1251). The western façade measures 125 feet, which gives the applicant a maximum of 187.5 square feet of aggregate sign area on that side of the building. The addition of the awning sign brings the total aggregate sign area on the western facing façade to 58.2 square feet.

## 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.

## II. OLD BUSINESS

- C. **REQUEST TO WITHDRAW** The request of **Giri Portsmouth 505 Inc. (Owner)**, for property located at **505 US Route 1 Bypass** whereas relief is needed to demolish the existing structure and construct a new hotel with a drive thru restaurant which requires the following: 1) Special Exception from 10.440 Use #10.40 hotel where it is permitted by Special Exception; 2) Variance from Section 10.835.32 to allow 5 feet between the lot line and drive-thru and bypass lanes where 30 feet is required for each; 3) Variance from Section 10.835.31 to allow 18 feet between the menu and speaker board and the front lot line where 50 feet is required; 4) Variance from Section 10.5B22.20 to allow up to 60 feet in building height within 50 feet of the street right-of-way line whereas up to 45 feet is permitted; 5) Variance from Section 10.5B34.70 to allow up to 60 feet in building height whereas 50 feet is permitted; 6) Variance from Section 10.5B34.60 to allow a 30 foot setback for a small commercial building whereas a maximum of 20 feet is permitted; 7) Variance from Section 10.5B33.20 to allow less than 75 percent front lot line buildout whereas a minimum of 75 percent is required for commercial buildings. Said property is located on Assessor Map 234 Lot 5 and lies within the Gateway Neighborhood Corridor (G1) District. (LU-24-44) **REQUEST TO WITHDRAW**

### Planning Department Comments

The applicant is requesting to withdraw the request that was noticed and advertised.

**III. NEW BUSINESS**

- A.** The request of **Ryan Leibundgut (Owner)**, for property located at **137 Walker Bungalow Road** whereas relief is needed to demolish the front deck and construct a new deck on the front of the existing home which requires the following: 1) Variance from Section 10.521 to allow a 20 foot front yard where 30 feet is required; 2) Variance from Section 10.321 to allow of nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 202 Lot 4 and lies within the Single Residence B (SRB) (LU-24-10)

**Existing & Proposed Conditions**

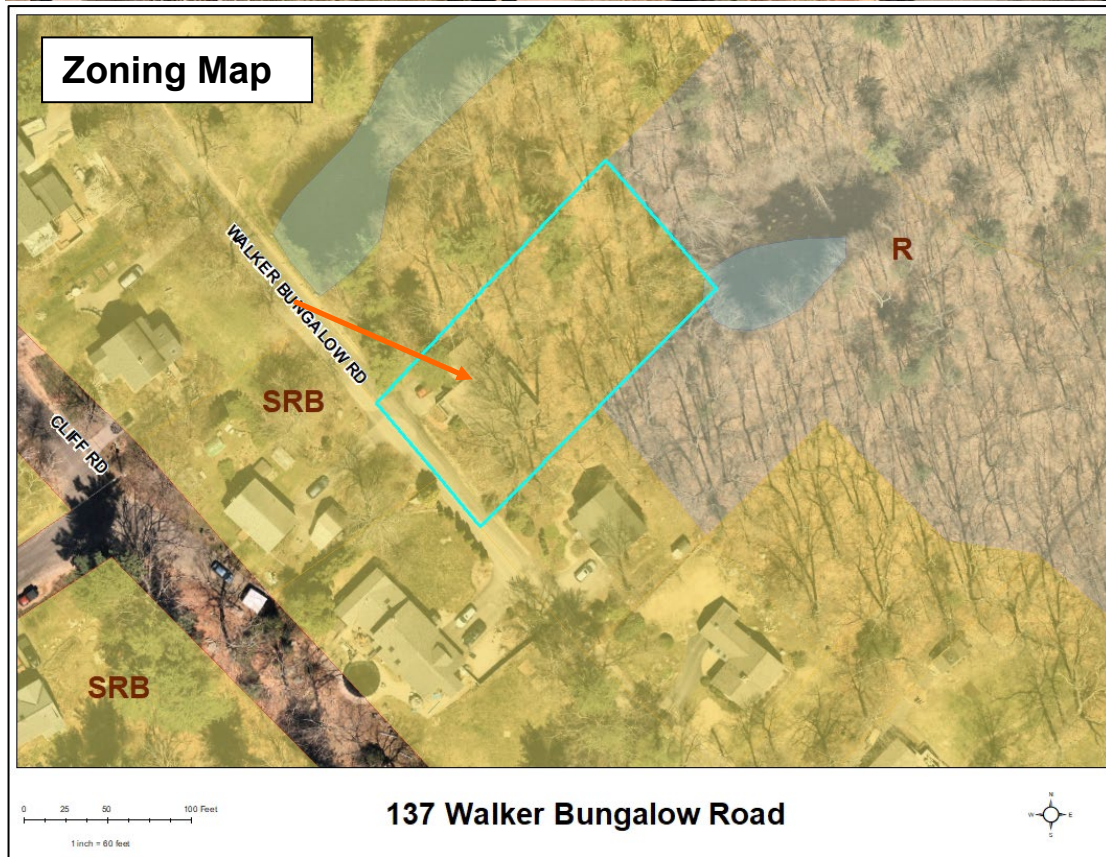
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family dwelling	<b>*Demolish the existing front deck and construct a new deck</b>	Primarily residential
<u>Lot area (sq. ft.):</u>	20,037.6	20,037.6	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	20,037.6	20,037.6	15,000 min.
<u>Street Frontage (ft.):</u>	100	100	100 min.
<u>Lot depth (ft.)</u>	200	200	100 min.
<u>Front Yard (ft.):</u>	20	<b>20</b>	30 min.
<u>Left Yard (ft.):</u>	6 (garage) >20 (existing porch)	6 (garage) >20 (proposed porch)	10 min.
<u>Right Yard (ft.):</u>	21	21	10 min.
<u>Rear Yard (ft.):</u>	125	125	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	10.4	11.2	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1957	<b>Variance request(s) shown in red.</b>	

**\*Relief needed to construct an addition to the already non-conforming primary structure that would further impact the non-conformity.**

**Other Permits/Approvals Required**

- Wetland Conditional Use Permit (Conservation Commission and Planning Board)
- Building Permit

### Neighborhood Context





## Previous Board of Adjustment Actions

**February 15, 1994** – The Board granted the variance from Article III, Section 1—302 to allow the construction of a 3' x 19' handicapped ramp from front door to driveway with a 17' front yard where a 30' front yard is required.

## Planning Department Comments

The applicant is requesting relief for demolition of the existing front porch and construction of a new front porch that will span the length of the front of the primary structure. The existing deck is 105 square feet and the new deck will be 273 square feet.

There is a wetland in the rear of the property and the proposed work is located within the 100-foot wetland buffer area. The applicant will be required to obtain a wetland conditional use permit which requires review by the Conservation Commission and approval by the Planning Board.

## 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

- B. The request of **John C. Wallin and Jeanine M. Girgenti (Owners)**, for property located at **5 Cleveland Drive** to amend the Variances granted on July 18, 2023 to install a 6 foot fence along the primary and secondary front of the property to include the following: 1) Variance from Section 10.515.13 to allow a 6 foot fence to be installed on top of a 3.5 foot tall retaining wall to create a total structure height of 9.5 feet where 4 feet is allowed. Said property is located on Assessor Map 247 Lot 74 and lies within the Single Residence B (SRB) District. (LU-23-92)

#### Existing & Proposed Conditions

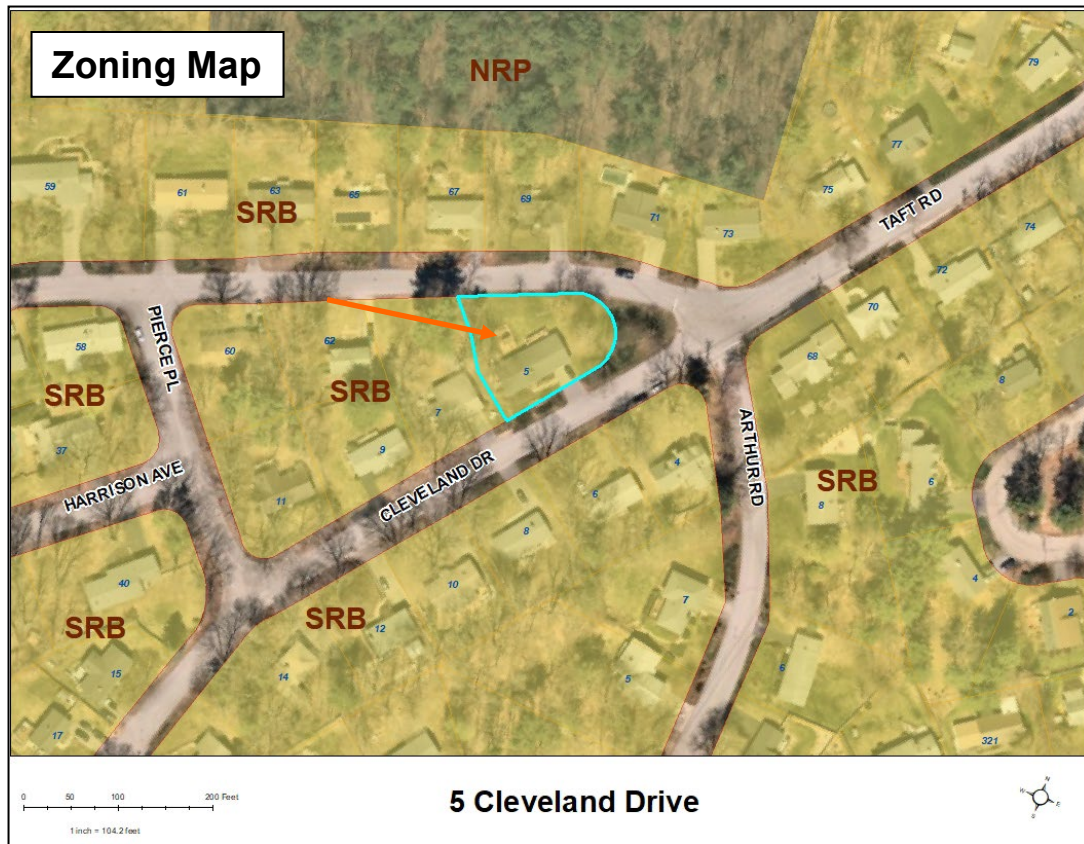
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	*Installation of 6 foot fence on top of a 3.5 foot wall	Primarily residential
<u>Lot area (sq. ft.):</u>	13,095	13,095	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	13,095	13,095	15,000 min.
<u>Lot depth (ft.):</u>	105	105	100 min.
<u>Street Frontage (ft.)</u>	>200	>200	100 min.
<u>Primary Front Yard (Cleveland Dr) (ft.):</u>	20	20	30 min.
<u>Left Yard (ft.):</u>	15	15	10 min.
<u>Secondary Front Yard (Taft Rd) (ft.):</u>	30 (Primary Structure)	12 (Fence) 30 (Primary Structure)	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	18	18	20 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1962	Variance request(s) shown in red.	

\*Installation of a fence structure higher than 4 feet in the front yard area requires relief from Section 10.515.13.

#### Other Permits/Approvals Required

- Building Permit

### Neighborhood Context





## Previous Board of Adjustment Actions

**February 20, 2001** – The Board **denied** the application for a Variance from Article II, Section 10-206(12) and Article XII, Section 10-1201(A)(3)(a)(3&4) to allow 200+ s.f. in an existing single family dwelling to be used for a nail salon with the existing driveway being provided for parking, having vehicles park one behind another and back out onto the street.

**July 18, 2023** – The Board **granted** the request to install a 6-foot fence along the primary and secondary front of the property which required a Variance from Section 10.515.13 to allow a 6-foot fence where 4 feet is allowed.

## Planning Department Comments

The applicant is requesting to amend the previously granted variance for a 6-foot fence in the secondary front yard of the property. The original variance request was heard and granted at the July 18, 2023 BOA meeting where it was presented that the fence would serve the purpose of enclosing the inground pool. During pool construction a retaining wall was added to the scope of work. The inspection department put a hold on work until the proper building code requirements could be met for the retaining wall and notified planning staff of the change. The addition of the 3.5 foot retaining wall underneath the 6-foot fence creates a total height of 9.5 feet in a front yard setback area.

The new scope of work is both different and higher than what was originally approved. Height is measured from the lowest reference point, either original grade or finished grade to the highest reference point. Please see relevant definition from the [Zoning Ordinance](#) below.

### **Structure** *(including roof structure)*

*Any production or piece of work, artificially built up or composed of parts and joined together in some definite manner. Structures include, but are not limited to, buildings, fences over 4 feet in height, signs, and swimming pools. (See also: temporary structure.)*

### **Structure height**

*See building height.*

### **Building height**

*The greatest vertical measurement between the lower and upper reference points as defined below. This measurement shall be the building height for the purposes of the Ordinance.*

- (a) For buildings located outside the urban districts, the lower reference point shall be the average existing grade or average finished grade, whichever is lower, measured along the perimeter of the entire building. For buildings located inside the urban districts the lower perimeter of the reference point shall be established from the average existing grade or average finished grade, whichever is*



*lower, along street-facing façade of all lot lines adjoining a public place. In the case of a corner lot, through lot or waterfront lot the provisions of Section 5A.21.21 shall apply. The vertical distance between the lower and upper reference points shall not exceed the maximum number of stories or building height. ...*

**Average existing grade**

*For all buildings located outside the urban districts, the average existing grade shall be the average ground levels adjoining the building at all exterior walls measured every five feet around the perimeter of the building. For all buildings located inside the urban districts, the average existing grade shall be the average existing ground level measured every five feet along the street-facing façade of all lot lines adjoining a public place. (See also: building height.)*

**Average finished grade**

*For all buildings located outside the urban districts the average finished grade shall be the average ground levels adjoining the building at all exterior walls measured every five feet around the perimeter of the building. For all buildings located inside the urban districts, the average finished grade shall be the average finished ground level measured every five feet along street-facing façade of all lot lines adjoining a public place. (See also: building height.)*

**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**

- C. The request of **Edmund R. St. Pierre (Owner)**, for property located at **15 Mariette Drive** whereas relief is needed to create a second driveway in front of the existing garage which requires the following: 1) Variance from Section 10.1114.31 to allow two driveways on a single lot where only one is allowed per section 3.3.2.3 of the Site Review Regulations. Said property is located on Assessor Map 292 Lot 167 and lies within the Single Residence B (SRB) District. (LU-24-57 )

**Existing & Proposed Conditions**

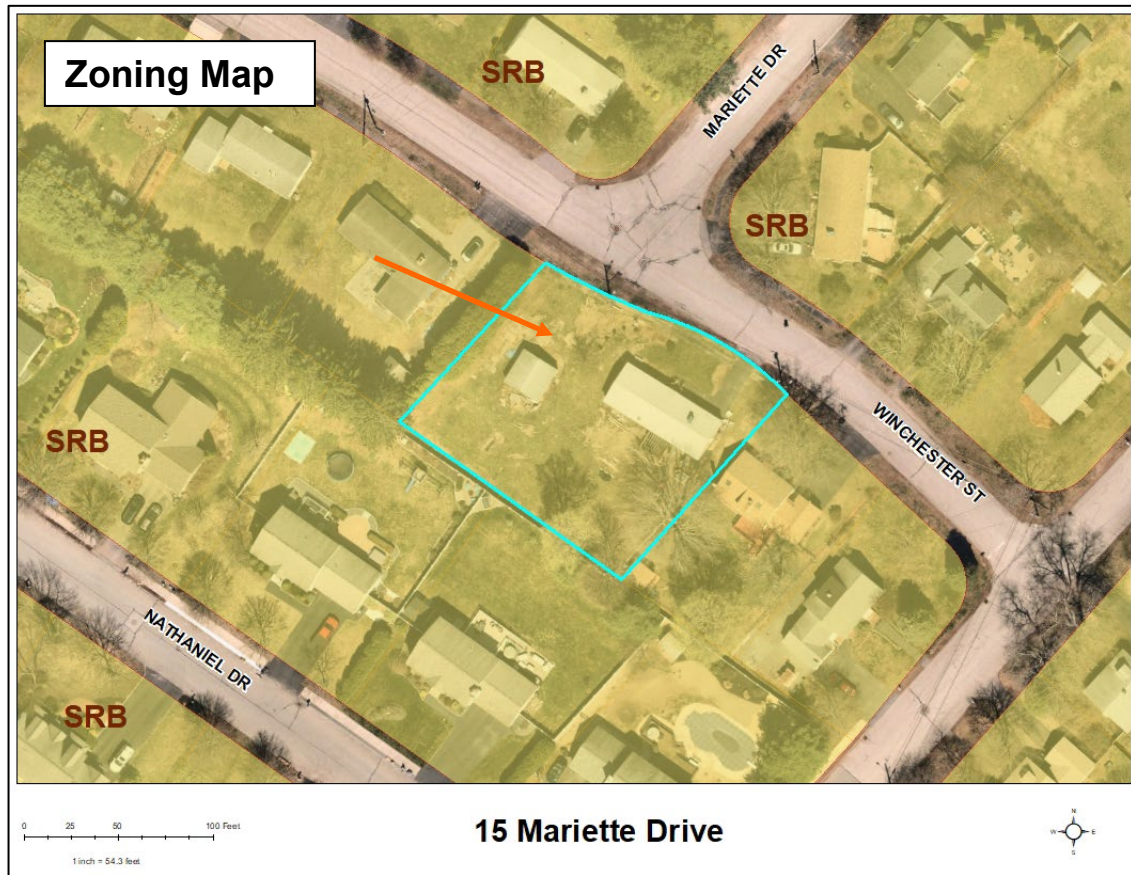
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family dwelling	*Construct a second driveway to detached garage	Primarily residential
<u>Lot area (sq. ft.):</u>	17,424	17,424	15,000 min.
<u>Street Frontage (ft.):</u>	147	147	100 min.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1956	Variance request(s) shown in red.	

\*Section 10.1114.31 of the Zoning Ordinance refers to the Site Review regulations where driveways are limited to one per lot.

**Other Permits/Approvals Required**

- Driveway Permit

### Neighborhood Context





## Previous Board of Adjustment Actions

No previous history found.

## Planning Department Comments

The applicant is requesting relief to construct a second driveway. The second driveway will be used to access a detached garage which sits in an area of land that was previously a paper street.

Please see [Zoning Ordinance](#) Section 10.1114.30 below.

### **10.1114.30 Vehicular Circulation**

**10.1114.31** *Access to and egress from all parking areas shall be only via driveways which meet the standards for “General Accessway and Driveway Design” in the Site Plan Review Regulations*

The applicant had originally prepared two driveway designs for staff to review. In consulting with Eric Eby, city traffic engineer, Plan A was the preferred driveway orientation and is the proposal that is currently before the Board. See message for Eric Eby below.

*Plan A, with the driveway coming out directly into the intersection, would be the better of the two. While not desirable to have vehicles backing into an intersection, these are low volume streets and this condition already exists at other intersections in the neighborhood. There is a catch basin there that he will have to account for when constructing a driveway.*

## 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

- D. The request of **Elizabeth M. and Torben O. Arend (Owners)**, for property located at **1 Rockaway Street** whereas relief is needed to construct a porch and mudroom onto the front of the existing structure which requires the following: 1) Variance from Section 10.521 to allow a 24 foot front yard where 30 feet is required. Said property is located on Assessor Map 230 Lot 11 and lies within the Single Residence B (SRB) District. (LU-24-46)

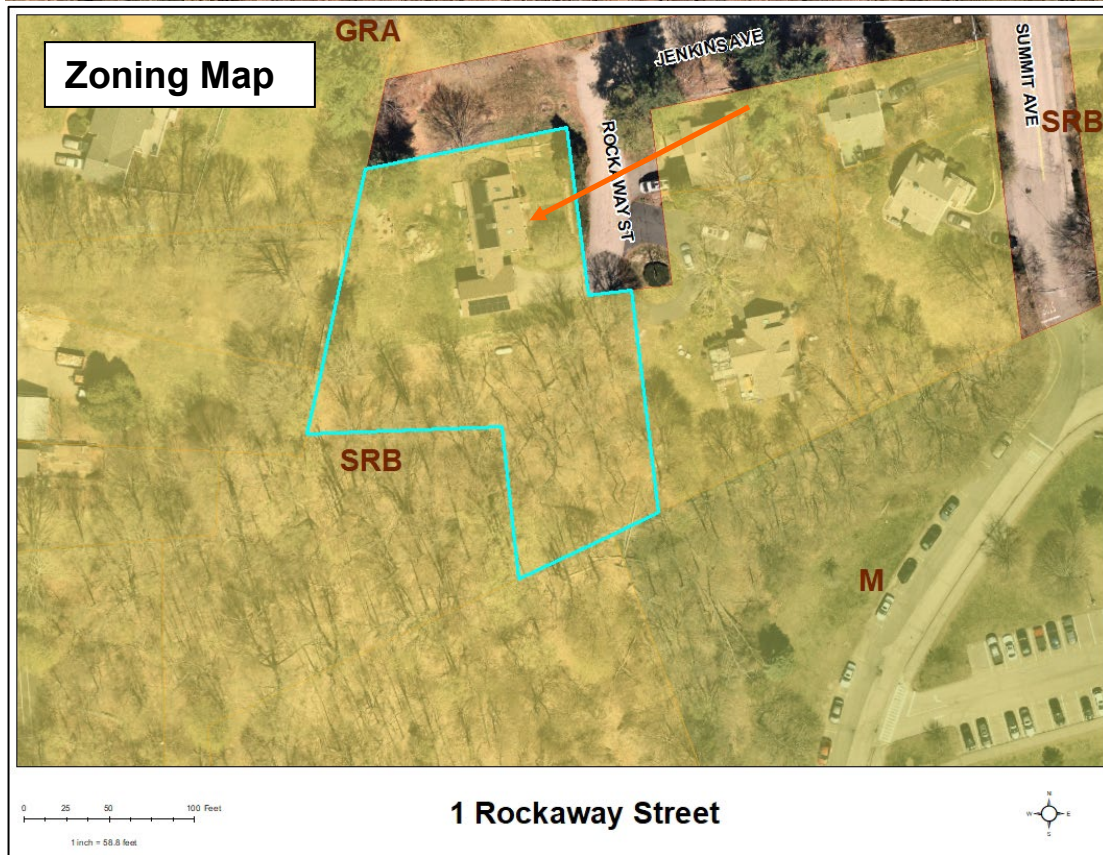
#### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family dwelling	*Construct an addition and front porch to the front of the primary structure	Primarily residential
<u>Lot area (sq. ft.):</u>	31,363	31,363	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	31,363	31,363	15,000 min.
<u>Street Frontage (ft.):</u>	100	100	100 min.
<u>Lot depth (ft.):</u>	121	121	100 min.
<u>Front Yard (ft.):</u>	30	24	30 min.
<u>Left Yard (ft.):</u>	>10	>10	10 min.
<u>Right Yard (ft.):</u>	20	20	10 min.
<u>Rear Yard (ft.):</u>	>40	>40	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	6.5	7	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1933	Variance request(s) shown in red.	

#### Other Permits/Approvals Required

- Building Permit

### Neighborhood Context



## Previous Board of Adjustment Actions

No previous history found.

## Planning Department Comments

The applicant is requesting relief to construct a front porch addition which will consist of a 6' by 9' 6" mudroom and a 6' by 19' 6" covered porch. This addition is proposed to be located 24 feet from the front lot line.

## 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.