

**REGULAR MEETING
BOARD OF ADJUSTMENT
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

*Members of the public also have the option to join the meeting over Zoom
(See below for more details)**

7:00 P.M.

April 15, 2025

AGENDA

<p><u>PLEASE NOTE:</u> DUE TO THE LARGE VOLUME OF REQUESTS FOR APRIL, ITEMS (III.) K. THROUGH P. WILL BE HEARD AT THE APRIL 22, 2025 ZONING BOARD OF ADJUSTMENT MEETING.</p>

I. APPROVAL OF MINUTES

A. Approval of the March 18, 2025 meeting minutes.

II. OLD BUSINESS

A. **635 Sagamore Avenue** – Extension Request (LU-22-209)

B. **39 Dearborn Street** – Extension Request (LU-23-5)

III. NEW BUSINESS

A. The request of **Jason T. and Trisha Brewster (Owners)**, for property located at **121 Mechanic Street** whereas after-the-fact relief is required for a roof sign which requires the following: 1) Variance from Section 10.1240 to allow a roof sign where it is not an allowed sign type; and 2) Variance from Section 10.251 for an aggregate sign area of 191 s.f., which is greater than the maximum allowed. Said property is located on Assessor Map 103 Lot 31 and lies within the Waterfront Business (WB) and Historic Districts. (LU-25-5)

B. The request of **Mezansky Family Revocable Trust (Owners)**, for property located at **636 Lincoln Avenue** whereas relief is needed to demolish an existing detached garage and to

construct an addition which requires the following: 1) Variance from Section 10.521 to a) allow a 2 foot left side yard setback where 10 feet is required; b) allow a 16 foot rear yard setback where **20** feet is required; c) allow 29% building coverage where 25% is the maximum allowed; 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 148 Lot 17 and lies within the General Residence A (GRA) District. (LU-25-27)

- C. The request of **Dreyer Family Revocable Trust (Owners)**, for property located at **558 Islington Street** whereas relief is needed to allow a salon which requires the following: 1) Special Exception from Section 10.440, Use # 7.20 to allow a personal services use where it is allowed by Special Exception. Said property is located on Assessor Map 156 Lot 23 and lies within the Character District 4-L2 (CD4-L2) and Historic Districts. (LU-25-30)
- D. The request of **Freeze J. L. and Riecks J. D. Revocable Trust (Owners)** and **Kimberly Boualavong and Matthew Meyers (Applicants)**, for property located at **205 Bartlett Street** whereas relief is needed to allow a barbershop which requires the following: 1) Variance from Section 10.440, Use #7.20 to allow a personal services use where it is not allowed. Said property is located on Assessor Map 162 Lot 33 and lies within the General Residence A (GRA) District. (LU-25-31)
- E. The request of **Alexander Nancy H. Revocable Trust (Owners)**, for property located at **620 Peverly Hill Road** whereas relief is needed for a change of use to allow a health club that requires the following special exception from Section 10.440, Use #4.42 to allow a health club greater than 2,000 s.f. gross floor area. Said property is located on Assessor Map 254 Lot 6 and lies within the Industrial (I) District. (LU-25-33)
- F. **REQUEST TO POSTPONE** The request of **The Kane Company (Owners)**, for property located at **210 Commerce Way** whereas relief is needed to remove, replace and relocate an existing freestanding sign which requires the following: 1) Variance from Section 10.1253.10 for a freestanding sign to be setback 4 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-4; and lies within the Office Research (OR) District. **REQUEST TO POSTPONE** (LU-25-35)
- G. **REQUEST TO POSTPONE** The request of **The Kane Company (Owners)**, for property located at **170 and 190 Commerce Way** whereas relief is needed to remove, replace and relocate two existing freestanding signs which requires the following: 1) Variance from Section 10.1253.10 for two freestanding signs to be setback a) 2 feet and b) 10.5 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-2 and lies within the Office Research (OR) District. **REQUEST TO POSTPONE** (LU-25-42)
- H. **REQUEST TO POSTPONE** The request of **The Kane Company (Owners)**, for property located at **195 Commerce Way** whereas relief is needed to remove, replace and relocate an existing freestanding sign which requires the following: 1) Variance from Section 10.1253.10

for a freestanding sign to be setback 6 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-8 and lies within the Office Research (OR) District. **REQUEST TO POSTPONE (LU-25-43)**

- I. REQUEST TO POSTPONE** The request of **The Kane Company** (Owners), for property located at **215 Commerce Way** and **75 Portsmouth Boulevard** whereas relief is needed to remove, replace and relocate two existing freestanding signs which requires the following: 1) Variance from Section 10.1253.10 for two freestanding signs to be setback a) 1.5 feet and b) 9.5 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-8a and lies within the Office Research (OR) District. **REQUEST TO POSTPONE (LU-25-44)**

- J. REQUEST TO POSTPONE** The request of **The Kane Company** (Owners), for property located at **230 Commerce Way** whereas relief is needed to remove, replace and relocate an existing freestanding sign which requires the following: 1) Variance from Section 10.1253.10 for a freestanding sign to be setback 4 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-5 and lies within the Office Research (OR) District. **REQUEST TO POSTPONE (LU-25-45)**

THE FOLLOWING ITEMS WILL BE HEARD ON TUESDAY, APRIL 22, 2025

- K.** The request of **William J. Armstrong JR Revocable Trust** (Owners), for property located at **70 Stark Street** whereas relief is needed to construct a detached accessory workshop structure which requires the following: 1) Variance from Section 10.573.20 to permit a 10-foot rear yard where 20 feet is required. Said property is located on Assessor Map 159 Lot 50 and lies within the General Residence A (GRA) District. (LU-25-37)

- L.** The request of **Paul and Karolina Roggenbuck** (Owners), for property located at **2 Sylvester Street** whereas relief is needed to construct a second dwelling and associated driveway on the lot which requires the following: 1) Variance from Section 10.513 to allow more than one free-standing dwelling on a lot; 2) Variance from Section 10.1114.31 to allow a second driveway on the lot; and 3) Variance from Section 10.521 to allow a lot area per dwelling unit of 7,899 s.f. where 15,000 s.f. is required. Said property is located on Assessor Map 232 Lot 35 and lies within the Single Residence B (SRB) District. (LU-25-34)

- M.** The request of **Colbea Enterprises LLC** (Owners), for property located at **1980 Woodbury Avenue** whereas relief is needed to demolish and redevelop an existing gas station and convenience store which requires the following: 1) Special Exception from Section 10.440, Use #8.122 to allow a convenience goods 2 use with 24 hours per day operation; 2) Variance from Section 10.5B33.20 to allow for a front lot line build out of 0% where a minimum of 75% is required for a commercial building; 3) Variance from Section 10.5B34.60 to allow for a front setback from the lot line of 27 feet on Woodbury Avenue and 46 feet on Gosling Road where a maximum of 20 feet is required; 4) Variance from Section 10.5B83.10 to allow for parking

spaces to be located between the principal building and the street; 5) Variance from Section 10.835.32 to allow for drive-through lanes, bypass lanes and stacking lanes to be located within 13 feet of the property line where 30 feet is required; 6) Variance from Section 10.835.31 to allow outdoor service facilities to be located within 38 feet of a lot line where 50 feet is required. 7) Variance from Section 10.843.33 to allow for pump islands to be located within 28 feet of the lot lines where 40 feet is required; 8) Variance from Section 10.1251.10 to allow for an aggregate sign area of 454 s.f. where a maximum of 223.5 s.f. is allowed; 9) Variance from Section 10.1251.20 to allow a 134 s.f. freestanding sign where a maximum of 100 s.f. is allowed; 10) Variance from Section 10.1253.10 to allow for a freestanding sign at a) a height of 26.5 feet where a maximum of 20 feet is allowed and b) two freestanding signs at a setback of 3 feet where 10 feet is required; and 11) Variance from Section 1252.40 to allow illumination of a gas pump canopy area that shall not be included in the sign area where it is distinguished from the background only by color stripes. Said property is located on Assessor Map 239 Lot 11 and lies within the Gateway Corridor (G1) District. (LU-25-39)

- N.** The request of **Lonza Biologics** (Owners), for property located at **101 International Drive** whereas relief is needed to construct a canopy with supporting structure which requires relief from the following: 1) Variance from Section 304.04(c) of the Pease Development Ordinance to allow a canopy and supporting structures for an outdoor patio to be located within 70-feet of the front property line. Said property is located on Assessor Map 305 Lot 6 and lies within the Airport Business Commercial (ABC) District. (LU-25-47)
- O.** The request of **Adam and Reagan Ruedig** (Owners), for property located at **70 Highland Street** whereas relief is needed to demolish the existing garage and bulkhead and to construct a new detached garage and bulkhead which requires the following: 1) Variance from Section 10.521 to allow a) building coverage at 26% where a maximum of 25% is allowed; b) a 2 foot rear yard where 18 feet is required; c) a 2 foot right side yard setback 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 134 Lot 27 and lies within the General Residence A (GRA) District. (LU-25-40)
- P.** The request of **Jeannette MacDonald** (Owners), for property located at **86 Farm Lane** whereas relief is needed to subdivide the existing property into 3 separate lots. The proposed parent lot requires the following: 1) Variance from Section 10.521 to allow a) 28 foot rear yard setback where 30 feet is required; and b) 20 foot secondary front yard where 30 feet is required. Proposed lots 1 and 2 require the following: 2) Variance from Section 10.521 to allow a) 13,125 s.f. of lot area where 15,000 s.f. is required; b) 13,125 s.f. of lot area per dwelling unit where 15,000 s.f. is required; and c) 75 feet of continuous street frontage where 100 feet is required. Said property is located on Assessor Map 236 Lot 74 and lies within the Single Residence B (SRB) District. (LU-25-41)

IV. OTHER BUSINESS

V. ADJOURNMENT

**Members of the public also have the option to join this meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:*

https://us06web.zoom.us/webinar/register/WN_Px_ky9eqRnurSedEgqkVJQ

**MINUTES OF THE
BOARD OF ADJUSTMENT MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

March 18, 2025

MEMBERS PRESENT: Phyllis Eldridge, Chair; Beth Margeson, Vice Chair; David Rheame; Thomas Rossi; Paul Mannle; Jeffrey Mattson; and Thomas Nies

MEMBERS EXCUSED: Jody Record, Alternate

ALSO PRESENT: Jillian Harris, Planning Department

Chair Eldridge called the meeting to order at 7:00 p.m.

*Mr. Rossi moved to close the 6:30 non-public session, seconded by Mr. Nies. The motion **passed** unanimously, 7-0.*

*Mr. Rossi moved to seal the minutes, seconded by Mr. Nies. The motion **passed** unanimously, 7-0.*

*Vice-Chair Margeson moved to take New Business Item III.A, 92 Brewster Street, out of order for postponement, seconded by Mr. Mannle. The motion **passed** unanimously, 6-0, with Mr. Rheame recused.*

Chair Eldridge then read Item III.A into the record.

*Mr. Mannle moved to **postpone** Item III.A to the June meeting, seconded by Mr. Rossi, with the following **condition**:*

- 1) The application will be re-advertised at the expense of the applicant.*

Mr. Mannle said the petition was postponed due to a personal matter that the applicant had and thought it was a reasonable request.

*The motion **passed** unanimously, 6-0, with Mr. Rheame recused.*

I. APPROVAL OF MINUTES

- A. Approval of the February 19, 2025 site walk minutes.**

*Mr. Mattson moved to **approve** the minutes as presented, seconded by Mr. Nies. The motion **passed** unanimously, 4-0, with Mr. Rheaume recused and Chair Eldridge and Mr. Rossi abstaining.*

B. Approval of the February 19, 2025 meeting minutes.

Mr. Mattson asked that the word “though” be changed to “thought” in a sentence on page 7 so that the sentence now reads: He said allowing the 10.5-ft ceiling on the first floor was more favorable than requiring a higher first floor, and he also thought that allowing a duplex or rowhouse was good. Mr. Nies asked that the word “and” be changed to “but” in a sentence on page 7 so that the sentence now reads: Mr. Nies said the history of the zoning in that area was troublesome but that it wasn’t the Board’s job to resolve zoning problems or changes in zoning that did not happen. Mr. Nies asked that a sentence on page 7 with the phrase “had had” be changed to “had seen” so that the sentence now reads: He said it had been a complicated process and that the Board had seen multiple versions of the project.

*Mr. Mattson moved to **approve** the minutes as amended, seconded by Mr. Nies. The motion **passed** unanimously, 5-0, with Chair Eldridge and Mr. Rossi abstaining.*

II. OLD BUSINESS

- A. Rehearing** for the request of **PNF Trust of 2013, (Owner)**, for property located at **84 Pleasant Street and 266, 270, 278 State Street** originally heard on November 19, 2024. The project requested relief to merge the lots and construct a four-story mixed-use building. **As voted on at the February 19, 2025 meeting, the request for Variance 2(b) will be the only relief considered in the rehearing:** for a fourth story addition at 50 feet in height to the Church Street elevation where 3 full stories and a short fourth are allowed with 45 feet maximum height permitted. Said property is located on Assessor Map Lot Map 107 Lot 77, Map 107 Lot 78, Map 107 Lot 79, Map 107 Lot 80 and lies within the Character District 4 (CD4), Historic and Downtown Overlay Districts. (LU-24-195 and LU-24-219)

SPEAKING TO THE PETITION

[Timestamp 8:50] Attorney Chris Mulligan was present on behalf of PNF Trust, along with project architect Michael Keane (via Zoom). Attorney Mulligan said the project was a proposal to combine the four lots and redevelop them into a mixed-use building with commercial and residential uses. He noted that the applicant received approvals for a similar project in 2020 and that before the 2017 fire, there were 17 residential units spread among the properties, with no parking. He said their proposal included the replacement of the 17 units and the addition of 17 off-street parking spaces. He said they proposed to recreate the height and scale of the former Times building, but because of the unique elements of that building, the proposed building was higher than would be permitted under zoning. He said the goal was to sync up the story heights in the adjoined and adjacent lot buildings. He said it was a result of several sessions with the Historic District Commission (HDC) to create a structure that evoked the Times building. He said they proposed a 3-story building with a full 4th story stepped back on the Church Street elevation. He said they would be entitled to a short

fourth story if they used a mansard roof design, but the HDC was strongly opposed to the mansard roof. He said the proposed height was 50 feet where they would otherwise be entitled to 45 feet and that it would be stepped back from the outer perimeter of that portion of the building. He noted that there were several other substantial structures near the building. He said the Board granted variances back in November for everything but the penthouse, and other than minimal design changes, the application was essentially the same. He said they removed the windows on one of the elevations that faced a property line, as requested by the abutter Working Stiff Properties. He reviewed the criteria and said they would be met.

[Timestamp 26:19] Mr. Rheume said there were some changes to the November application because the penthouse was missing and there wasn't as much detail in the current application. He said on the November application there was a significant addition over the Louie's building that housed a number of mechanical systems and seemed to be reduced in height. Mr. Keane said they dropped the mechanical platform down to what was originally shown on the plan 4-5 years ago. Mr. Rheume asked if the new fourth story changed the square footage from what was on the November application, and if its distance from the adjacent property line of the next-door neighbor was unchanged. Mr. Keane said that building's footprint did not change and there was no setback on the interior lot line, but they were able to keep the wall on the Church Street elevation at 45 feet to provide guard rails and the lower stair unit. He said they set it back four feet to where they then added the full second story at the rear portion of that elevation. Mr. Rheume said most of the applicant's narrative was focused on the Church Street building, and he asked if the relief was necessary to construct that portion of the building. Attorney Mulligan said they were only talking about the Church Street elevation but that the Staff Report suggested that the Board should consider that the height of the Times building was presented at the existing 53 feet and thought it would be wise to reaffirm that 53-ft height for the recreated Times building. Vice-Chair Margeson asked if everything had already been demolished. Attorney Mulligan said the cinderblock building was still there but that they would demolish it. Vice-Chair Margeson said the relief was therefore for the new building and that the applicant wanted four stories and 50 feet because the HDC did not want a mansard roof on that particular building. Attorney Mulligan agreed. Vice-Chair Margeson asked if the yellow portion was the townhouse. Mr. Keane said it was the stepped-back portion of the fourth story that they were seeking relief for. Vice-Chair Margeson asked how necessary that was to harmonize with the recreation of the Times building. Attorney Mulligan said they needed the additional story to have the 17 units because their goal was to recreate the number of units that previously existed. Vice-Chair Margeson confirmed that the structure was part of the new cinderblock and would have no relation to the Times building.

[Timestamp 33:55] Mr. Nies asked why the HDC was comfortable with a mansard roof on State Street but not on Church Street. Attorney Mulligan said it was because that portion of the roof faced South Church and the HDC did not want to see a mansard roof in that proximity to a historic structure like that. Mr. Keane said State and Pleasant Streets were wider streets and were able to handle the mass better than Church Street, so the goal was to keep the elevation of the building down along that street. Mr. Mannle asked if the configuration for the 17 units was the same as the previous 17 units, as to how many one-bedrooms, two-bedrooms and so on. Attorney Mulligan said he didn't know. Mr. Mattson asked if there was a pass-through where there was a fire wall where the set-back fourth story met the Times building. Mr. Keane referred to the floor plans that

indicated the connection to the back side of the yellow portion and said there was a door that connects the two of them. He said all the properties would share the same infrastructure in terms of stairs and elevator access, so the floors had to line up to provide an accessible route. Mr. Rossi referred to the November discussion and asked if the yellow step-back portion of the structure was the location where the penthouse was envisioned. Attorney Mulligan said it was not because it would have been over the mansard roof on the State Street Side. Mr. Rossi said that height relief request was greater at 57 feet, so the present request was less than what was denied in November. Attorney Mulligan agreed and said it would not be as tall as South Church.

Chair Eldridge opened the public hearing.

SPEAKING IN FAVOR OR IN OPPOSITION TO THE PETITION

[Timestamp 41:55] Doug Green representing South Church asked what the setback's dimensions were and how far the yellow portion was set back from the edge of the building on each side. Mr. Keane said that at its closest point, it was 10.6 feet back from the Church Street property line to the yellow portion. On the internal lot line, he said they were at 45 feet and were set in four feet before going up to the 50 feet on the back portion of the building, and they were set in nine feet in the middle section of the building. Mr. Green asked how far the yellow portion was in from the Court Street side. Mr. Keane said the red portion of the building showed that the height was 45 feet and right on the property line. He said the yellow portion where the four windows were was set back four feet from the interior property line, and the section where the two windows were was set back nine feet from the interior lot line.

[Timestamp 45:10] Attorney Scott Hogan said he represented the appellant Working Stiff Properties. He said there were two issues when the Board granted a motion for rehearing Item 2B. One issue was when the Board discussed several variances together and did not articulate how they met each of the five variance criteria separately. He said the other issue was that, in the Board's original approval, it was stated that the penthouse on the Church Street side was not objectional and would not diminish the values of the surrounding properties. He said the applicant had to meet that criteria, particularly the height issue. He said the Board stated a concern from one of the abutters but said it was the downtown area and the space taken up was slightly larger than what is called for, and none of the relief asked for were things that would affect the abutter. He said that was the point of disagreement because the air and space affected his client. He said the Board was asked whether the relief was necessary but the Board had said that the applicant wanted the 17 units and the business plan they had. He said the Board also talked about what the HDC wanted. He said none of those issues were a basis for variance relief. He said the issues of height and mass were essential to the way Portsmouth had been building out for the last few years and the applicant had said they could comply, but if they did, their plan was better than complying. Attorney Hogan said that didn't meet the legal requirements.

[Timestamp 50:28] Barbara Jenny said she was the co-owner of Working Stiff Properties. She said she and her husband submitted an application for the request for the rehearing for Item 2B, and even though they paid the \$400 fee, they were not on the agenda to present and neither were the images. She said the February 19 meeting in the archives link showed their application and images, which

accurately showed the photoshopped height of the wall and existing conditions with the dormers on the third floor of her building. She said the applicant neglected to include that in their drawings. She said she appreciated that a portion was pulled back but said the height issue still remained. She said their dormer would be right up against that wall. She said the applicant could make the floors any height to line up with the Times building. She said the yellow portion was a distinct unit and if it were not there, it would not need an emergency door.

[Timestamp 54:15] Matthew Beebe said he was a co-owner of Working Stiff Properties and that he and his wife Barbara were responsible for the complete historic renovation of the other half of the historic block, so they had a vested interest in ensuring that what went up next to them would not diminish the quality of that work. He said they did not do any renovations to the single-story piece in the back because they wanted to see what would happen with the proposal. He said they were not arguing with any aspects other than the height approved five feet above what the ordinance allowed. He said the existing wall was 32-1/2 feet and the proposal was for another 18 feet. He said the architect didn't bother to show the dormers on that side of the building and would not show the dormer on that roof due to its proximity to the wall and the additional height. Chair Eldridge asked if the approved height of 45 feet was a meaningful difference. Mr. Beebe agreed and said the applicant was using the additional five feet to get the yellow portion on top of that section. Mr. Rossi asked the height of the dormers that Mr. Beebe was concerned about. Mr. Beebe said it was seven feet and that he did not know the height of the dormers from the ground.

[Timestamp 1:01:15] Verity Boyer of the Portsmouth Advocates said the Times building was an important part of Portsmouth and that its proposed reconstruction by the applicant offered a way to honor and preserve the building's legacy while supporting growth in the city. She asked that the Board grant the relief for 50 feet and four stories.

SPEAKING TO, FOR, OR AGAINST THE PETITION

[Timestamp 1:02:14] Attorney Scott Hogan representing the appellant said the applicant had not proven the hardship. He said when Attorney Mulligan was asked about the special conditions of the property were, he said they wanted 17 units and that they needed to integrate the lots and the buildings. Attorney Hogan said that was not a special condition. He said the Board previously denied Variance 2A based on the lack of hardship because there were no special conditions that drove the need. He said 'too many mansards' was not a basis for a variance request and that the desire to have the floors line up did not meet the burden of the criteria. He said the Board needed to deliberate each criteria requirement for Item 2B.

No one else spoke, and Chair Eldridge closed the public hearing.

DISCUSSION OF THE BOARD

[Timestamp 1:06:06] Vice-Chair Margeson said she was glad that the Board voted to rehear because her original vote was mistakenly predicated on the assumption that the fourth story was needed to recreate the Times building and that the other buildings originally did not have mansard roofs. She said the new construction would have mansard roofs and the feeling that the Church

Street elevation could not have a mansard roof was out of deference to the church. She said she didn't know if she agreed and wasn't sure that the fourth story was needed for the recreation of the Times building. She said she struggled with the real hardship. Mr. Mattson said if someone were walking down a narrower passageway and the top floor was set back, it would feel a lot less imposing than any roof that came up to the property line. He said the recreation of the Times building was a special condition of the property and that it was a unique building that set a lot of the heights, and there were also the elevator and stair access and egress to consider. He said the applicant did not need the fourth setback portion attached to the Times building but that he could see the logic of the fourth story being a way to keep the 17 units. He said the project would also complement the Working Stiff Properties building in terms of refilling out the block. He said the biggest potential issue was if the light would be blocked from the appellant's dormers on the one-story building but he thought any new construction would not do that. Mr. Mannle said he struggled with the application due to the 17 units. He said the Floros building and the fourth floor on the back of the Times building had changed. He said the applicant didn't know what was there before, and now there would be a bigger building, so the configuration for the new 17 units would not be the same and there would probably be more bedrooms because the units would be bigger. He said that wasn't a hardship. Mr. Mattson said 17 parking spots were added. Mr. Rheume said he was confused with the Board's obsession with the number of units because the applicant's proposal for the fourth story on the Church Street portion behind the Times building had not changed at all and was the exact size and location as presented before, which the Board had approved. He said the other concern was the appellant who said he didn't think the impacts to his property were properly reflected. Mr. Rheume said he thought the negative impacts to the abutter related to the three dormers on the back side of the existing State Street building and the loss of light and air. He said the applicant had the first 45 feet by right, and those were more impactful to any loss of light and air from the neighboring property than the fourth story the applicant would be allowed by right. He said he felt that the additional negative consequences to the abutter from the little section of a proposed addition were inconsequential, considering that it was a dormer and would not allow a lot of light anyway. He said all the previous arguments the Board had still applied, and what was unique about the Church Street section was partly the light and air for the neighboring properties, but he didn't see a negative impact. He referred to the view corridors being impacted and said one of the unique aspects of the Church Street side was the abutter's empty lot, but in that section, the sight lines were obscured by South Church and it was a very narrow street where one would not see the additional five feet in height while looking up the building. He said it would be perceived as a 3-story building. He said the State Street side was very set back from it and the mechanical unit platform had been lowered, so it would not give the impression of a very big building. He said what the applicant was asking for met all the criteria and should be granted.

[Timestamp 1:20:23] Mr. Nies said there were some special conditions to the property to consider. He said it was on a narrow street and was a very dense area. Outside of the lower building and the parking lot on Court Street, he said the entire lot was developed. He said the buildings came almost all the way up to the property line on the Church Street side, if not all the way to the property line. He said the fact that there was an interest in having a structure on State Street that tried to model a historic building and the applicant worked with the HDC to do it did create some things on the property. He said the applicant was trying to tie the buildings together, which made sense. He said

those were special conditions. He said there was also the question of whether those special conditions were enough to justify that strict adherence to the ordinance is necessary and met some benefit to the public, which was what he was wrestling with. He said it was hard to judge what the Pleasant Street elevation would look like from across the street. He noted that the drawing presented at the November meeting wasn't colored in and that it looked less obvious. He said he wanted to make sure that it wasn't just the color throwing him off and said it suddenly looked like it stood out from the Pleasant Street side. Vice-Chair Margeson said she was looking at it from the applicant's viewpoint and whether they demonstrated hardship for the fourth floor of the Church Street elevation on the new construction. She said she would defer to the HDC but did find the analysis a bit inconsistent in that the applicant decided to put a mansard roof where it wasn't before on the Pleasant Street and State Street elevations and not on Church Street. She said the fourth floor would be seen from the Treadwell House on Pleasant Street. Chair Eldridge said not having the mansard roof on that street made a lot of sense because it was such a narrow street and the style was different from the more industrial buildings.

DECISION OF THE BOARD

*Mr. Rheume moved to **grant** the variance request for Item 2B with the following **condition**:*

- 1. The presented height for both the Times Building and the addition on the Church St. elevation are affirmed as presented.*

Mr. Mattson seconded the motion.

[Timestamp 1:25:50] Mr. Rheume said it came down to what the Board was trying to accomplish with the fourth story and the additional height and creating uniformity and structures that did not have a negative appearance from a passerby standpoint. He said what was proposed complied with that. He said granting the variance would not be contrary to the public interest and would observe the spirit of the ordinance. He said the abutter said they owned a historic building on the block, but there were many blocks throughout downtown that has grown over the last 200 years, with historic structures abutting 19th, 20th, and 21st century buildings. He said the Board was looking at a request for a height variance of a specific portion of what was being developed. He said they recognized that the replica Times building was trying to recreate something from the late 1800s and early 1900s timeframe and that some of that could create some disparity between the older structures and the new ones. He said what was proposed for the Church Street structure was an allowed height, with the setback for the fourth story that was consistent with the Times building and overall consistent with new construction that would be expected in the area as allowed by the zoning ordinance and in character. He said it would not feel like a taller building to someone walking down Church Street. He said it would also allow the applicant to take advantage of some of that roof space for additional living area. He said substantial justice would be done due to the sight lines aspect of it and the unique replica Times building. He said it would be taller but would replace something that had been there for decades. Relating to the abutter's concern of light and air and the darkness on their dormers, he said the vast majority of what the applicant was allowed to do by right would create the most negative impact for the abutter, so the balancing test went to the applicant and their request for the additional height. He said granting the variance would not diminish the values of surrounding

properties because even though the set-back fourth story was somewhat higher than what was allowed, he did not think there was anything of such character that was different. He said there was a mixture of construction types and sizes of structures, and recreating the Times building was the right thing to do for the city. He said the hardship was the narrowness of the Church Street property and the distance away from State Street, which made the request a reasonable one within that context and allowed the applicant to take advantage of the extra height.

Mr. Mattson concurred and said the hardship, spirit of the ordinance, and essential characteristics were driving factors of the recreation of the Times building, which dictated a lot of the heights. He said a good portion of the yellow portion on Church Street attached to the Times building would be allowed by right and that the Board was just allowing the applicant to complete that story. He noted that the applicant was also trying to incorporate 17 parking spots that would greatly benefit the public by freeing up on-street parking spaces. Vice-Chair Margeson said one of the purposes and intents of the ordinance was to preserve and enhance the visual environment. She said new quarters were part of that and that, in terms of the Board's analysis, she would look at it from the Pleasant Street location as well. She said she would not support the motion because she did not see the hardship for the fourth floor, especially since the applicant could recreate the Times building without it.

*The motion **passed** by a vote of 4-3, with Mr. Nies, Mr. Mannle, and Vice-Chair Margeson voting in opposition.*

III. NEW BUSINESS

- A. The request of **Harborside Property Management LLC (Owner)**, for property located at **92 Brewster Street** whereas relief is needed to demolish the existing structure and construct a single-family home with Accessory Dwelling Unit which requires the following: 1) Variance from Section 10.521 to allow a) 2,884 s.f. of lot area where 3,500 s.f. are required, b) 2,884 s.f of lot area per dwelling unit where 3,500 s.f. are required, c) 52.33 feet of continuous street frontage where 70 feet are required, d) 9.5 foot right side yard where 10 feet are required, and e) 10 foot rear yard where 20 feet are required. Said property is located on Assessor Map 138 Lot 54 and lies within the General Residence C GRC District. (LU-25-25)

DECISION OF THE BOARD

The petition was **postponed** to the June meeting.

- B. The request of **Rosa Z. Delisle and Paul R. Delisle Revocable Trust (Owners)**, for property located at **408 The Hill, #6-17, (Units 1-3)** whereas after the fact relief is needed for the expansion of the existing business into the remaining first floor units which requires the following: 1) Variance from Section 10.440, Use #7.20 to allow a personal services business to expand where it is not allowed; and 2) Variance from Section 10.331 to allow a nonconforming use to be extended, enlarged or changed where not in conformity of the

Ordinance. Said property is located on Assessor Map 118 Lot 26 and lies within the Character District 4-L1 CD4-L1), Historic and Downtown Overlay Districts. (LU-25-24)

SPEAKING TO THE PETITION

[Timestamp 1:43:48] Ashley Stearns, owner of Blush Skin & Soul Spa, was present and said her company had grown into a thriving business since 2017 and now employed ten professionals. She said it operated from 8 a.m. to 8:30 p.m. seven days a week by appointment only, which ensured a controlled flow of clients. She said the two other tenants on the first floor vacated their spaces during COVID, so she expanded her business to include those spaces but did not realize that additional permits were required until the NH Board of Esthetics did a routine inspection. She said there were no changes made to the space and no future changes were planned, and that there was sufficient parking for clients. She reviewed the criteria and said they would be met.

[Timestamp 1:50:25] Mr. Rheume asked how long the prior esthetic studio was in operation. Mr. Stearns said she thought it was a few years but wasn't sure. She said she did a tenant fit-up for that unit in 2017 that was approved. Mr. Rheume asked what other services in addition to her aesthetic services were offered. Ms. Stearns said she offered facials, bridal makeup, pedicures, and other personal care and beauty services. Mr. Rheume asked if Unit 2 was the original portion of the business, and Ms. Stearns agreed. Mr. Rheume confirmed that Units 1 and 3 were added and doubled the business, and he asked if the ten employees worked simultaneously in the three rooms. Ms. Stearns said only four people could serve four clients at a time, so certain employees had certain days off. Vice-Chair Margeson asked Ms. Harris how the company was allowed to be established in the first place. Ms. Harris said it was permitted as a change of ownership for an existing nonconforming use in Unit 2 in 2017. Mr. Rheume asked what happened to make Ms. Stearns realize there was relief needed for the expansion. Ms. Stearns said the NH State Esthetics stopped by unannounced and had seen her other space because there was a shared hallway with the two tenants upstairs, so they wanted her to apply for a second and third shop license. She said she then realized that she had to come before the Board for relief. Mr. Rheume asked Ms. Stearns if she would agree to a condition that everything had to be by appointment only, and Ms. Stearns said she would, noting that walk-ins were not allowed anyway.

Chair Eldridge opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Eldridge closed the public hearing.

DECISION OF THE BOARD

*Mr. Nies moved to **grant** the variance as presented and advertised, with the following **condition**:*

- 1. The business model will continue to be by appointment only.*

Mr. Rheume seconded the motion.

[Timestamp 1:55:50] Mr. Nies said granting the variance would not be contrary to the public interest because there would be no changes to the health, safety, and welfare in the neighborhood, traffic had been handled, and parking was available and would not increase. He said there would be no effect on light and air and no changes to the essential character of the neighborhood. He noted that most of the buildings in The Hill area had some sort of business on the first floor and apparently upstairs apartments. He said the spirit of the ordinance would be observed, noting that in the CD4L1 area, the zoning purpose was to promote walkable mixed-use development. He said it was a use that was not allowed by right but was not contrary to the objective of the zoning. He said other similar uses in the area with the same amount of traffic were a Pilates instructor, counselor services, and so on. He said granting the variance would do substantial justice because it would allow the operation to continue. He said it would be a loss to both the tenant and landlord that would exceed any possible benefit to the public if the ordinance were enforced. He said it would not diminish the values of surrounding properties, noting that no evidence was present that it would. He said it had existed in some form for some time and no one had complained. He said the special conditions was that the shop was located in a unique enclave near downtown Portsmouth in an area of relocated historic buildings and mixed uses as designated by zoning. He said that particular building had a number of small unit sizes that he was sure would limit the desirability for any commercial uses. He said owing to those conditions, there was no fair and substantial relationship to prohibit the use as required by the ordinance and to apply that to the property.

Mr. Rheume concurred. He said it was an after-the-fact variance, which was always concerning, but thought it was an honest mistake. He said the fact that the applicant was adding two more rooms to her business expansion had no malice to it and that the applicant was trying to make a good faith effort to rectify it. He thought a stipulation was important for the appointments. He said the ordinance's definition of personal services included accessory retail sales of products related to services offered and also to beauty shops, barber shops, nail and tanning salons, clothing rental, and so on, so it was a broad category of uses. He said it was only allowed in CD4L1 and by special exception in CD4L2 and most of the surrounding area of The Hill. He said The Hill was unique and had more of a neighborhood feel to it than the CD4L4 and L5. He said most of the businesses were by appointment and that the applicant's appointment model was consistent with the other uses allowed. He said the stipulation would ensure that it would be in keeping with the spirit of the ordinance and general characteristics of the neighborhood. He noted that there were broad personal services in CD4L2 that could include a lot of walk-up services, so the fact that the applicant had distinct services from that made him feel better.

*The motion **passed** by a vote of 5-2, with Vice-Chair Margeson and Mr. Rossi voting in opposition.*

III. OTHER BUSINESS

A. Zoning Board of Adjustment Rules and Regulations

[Timestamp 2:02:26] Deputy City Attorney Trevor McCourt was present. Ms. Harris said the changes came out of the September work session's notes and that she wanted to hear the Board's

comments on the changes as updated and to know if the Board wanted to make further changes before moving on to a public meeting in the future.

Mr. Nies referred to Item 6, Minimum Requirements for an Adequate Plan, and the indication that the drawings did not need to be made to scale, as requested by the code official. He asked if a code official determined that drawings be made to scale. Ms. Harris said it depended on the application's details. She said simple residential applications could have hand-drawn plans but something close to a property line would need scaled drawings. It was further discussed and suggested that the default wording say that the drawing should be "to scale" unless the code official determines otherwise. Attorney McCourt said he would discuss it with the Planning Department staff.

Mr. Nies said not everyone was comfortable electronically combining PDF files into one file and he thought that City Staff combined them. Ms. Harris said that the city asks the applicants to combine them into one file before submitting and assemble it in the order that they want it to be presented.

Mr. Nies referred to Item 7, the tie vote issue. He said if there was a motion to deny that failed on a tie vote and then a motion to approve that failed on a tie vote, the Board had not really made a decision. He said they were two votes that failed and asked how it could be concluded that the Board has denied the motion. It was further discussed. Attorney McCourt said the rules had to be looked at together – the new Rule 7, new Rule 8, and Rule 5 – and that they said four affirmative votes were needed for the motion to pass. He said there needed to be a procedure to figure out the reason why the motion did not pass. It was further discussed. Attorney McCourt said the new Rule 6 would say that if a motion to grant a variance, special exception, or appeal results in a tie vote, then the result is a denial, and an analysis of why the motion was denied should be provided. Mr. Rossi suggested a sentence that said "in the event of a failure to achieve approval, the Board will tell the applicant the reasons for the denial". Attorney McCourt said the phrase "to deny" could be struck and a new rule inserted that said the motion maker has to provide a rationale, and if there is an unsuccessful vote that leads to a denial or tie that leads to a denial, then the Chair has an obligation to solicit reasons the reasons why.

Mr. Nies referred to Miscellaneous Item No. 4. He said the Board only wanted one active application in front of them at the time. He said there was recently an instance where an application came back to the Board several times because the Board had requested that the applicant provide additional information to support it, but the applicant changed the application a second and third time. He said the Board had not allowed applicants to change their applications while in front of the Board, but he asked if the Board should allow the applicant to change it if the hearing is extended and all the Board wants is additional information. It was further discussed.

Mr. Nies asked if Item 5D was eliminated because the Chair never makes press release. Ms. Harris said it was old language that wasn't applicable anymore. Mr. Nies asked what the Board members should do if they were contacted by the press about a Board decision. Attorney McCourt said the City Staff should take care of it but that a person's ability to talk to the press could not be restricted. Vice-Chair Margeson said it was stated that "all press and radio releases are to made as recorded

within the minutes of the meeting and shall originate with the Chair”. Mr. Rheaume said that was before there were videos of all the meetings.

Mr. Nies said there wasn't a rule that said when or how the Board could submit suggestions to the Planning Department or City Council, so the Board did not do it. He said there should be a way to track comments and meet once a year to discuss whether the Board wants to relay anything to the Planning Department. He said the Miscellaneous Section would be a good spot to put that in. Ms. Harris said it could be part of the annual meeting when policy and procedures were discussed.

Mr. Rossi referred to Item 9, the applicant submitting a request to postpone. He asked if there was a way that the Board could get that information out to the public when it came so that the public didn't have to show up and then leave the meeting. Ms. Harris said they post an updated agenda with a request to postpone. Mr. Rossi said he noticed that the 48 hours was bracketed and asked if it meant that the applicant was required to submit the request within 48 hours' notice. Ms. Harris said the Planning Department could request 48 hours when Staff could approve a postponement. It was further discussed and decided that a notice submitted two business days before the meeting was a good way to phrase it. The terms “may” be postponed and “shall” be postponed were discussed. The Board decided to use the term “may”.

Vice-Chair Margeson asked Attorney McCourt if he was comfortable with the wording on Item 7 so that the Board did not have to solicit comment to decide whether they had jurisdiction. Attorney McCourt said the Board was not obligated to do so, and in a *Fisher v. Dover* issue, the review upon approval was *de novo*, so the applicant would have the right to make an argument before Superior Court. He said the Board could make it mandatory if they wanted to.

Mr. Nies said the City Council passed out a Volunteer Training Standards manual at the January meeting, and he asked when it would be implemented. Ms. Harris said she would find out. Mr. Rossi asked if the Board had new requirements for training. Attorney McCourt said it would be underway. Mr. Nies said it included an overview of ethics requirements, which was further discussed. Ms. Harris said the City Council passed a third reading on the changes to Articles 5 and 8. She distributed the changes and said she would provide the Board with updated links.

IV. ADJOURNMENT

The meeting adjourned at 9:46 p.m.

Submitted,

Joann Breault
BOA Recording Secretary



City of Portsmouth
Planning Department
1 Junkins Ave, 3rd Floor
Portsmouth, NH
(603)610-7216

MEMORANDUM

TO: Zoning Board of Adjustment
FROM: Jillian Harris, Principal Planner
Peter Stith, Planning Manager
DATE: April 9, 2025
RE: Zoning Board of Adjustment April 15, 2025

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

II. Old Business

- A. 635 Sagamore Avenue – Extension Request
- B. 39 Dearborn Street – Extension Request

III. New Business

- A. 121 Mechanic Street
- B. 636 Lincoln Avenue
- C. 558 Islington Street
- D. 205 Bartlett Street
- E. 620 Peverly Hill Road
- F. 210 Commerce Way - **REQUEST TO POSTPONE**
- G. 170 and 190 Commerce Way - **REQUEST TO POSTPONE**
- H. 195 Commerce Way - **REQUEST TO POSTPONE**
- I. 215 Commerce Way - **REQUEST TO POSTPONE**
- J. 230 Commerce Way - **REQUEST TO POSTPONE**

II. OLD BUSINESS

A. 635 Sagamore Avenue – Extension Request (LU-22-209)

Planning Department Comments

On May 16, 2023 the Board of Adjustment granted the following variances for the removal of existing structures and construction of 4 single family dwellings:

- 1) A Variance from Section 10.513 to allow four free-standing dwellings where one is permitted.
- 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 21,198 square feet per dwelling where 43,560 square feet is required.

The Board voted to grant the request with the following condition:

- 1) The design and location of the dwellings may change as a result of Planning Board review and approval.

The approvals listed above are scheduled to expire on May 16, 2025. The Ordinance allows for a one-time, one-year extension if the request is acted on prior to the expiration date. The applicant has requested an extension as a permit has not yet been obtained. A letter from the applicant and the 2023 letter of decision is included in the meeting packet. You can view the original application material at the following link:

https://files.portsmouthnh.gov/files/planning/apps/SagmaoreAve_635/635+Sagamore+Ave_boa_05162023.pdf

HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

ATTORNEYS AT LAW

127 Parrott Avenue | Portsmouth, NH, 03801
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

March 17, 2025

Uploaded to ViewPoint- 3/17/25
Hand Copy delivered 3/17/25

Phyllis Eldridge, Chair
Portsmouth Zoning Board of Adjustment
City Hall
1 Junkins Ave.
Portsmouth, NH 03801

Re: Request for one-year extension of zoning relief
635 Sagamore Development, LLC
635 Sagamore Rd., Portsmouth, NH 03801
LU-22 – 209

Dear Chair Eldridge and Zoning Board members:

On behalf of 635 Sagamore Development, LLC we hereby request, pursuant to Portsmouth Zoning Ordinance §10.236, a one-year extension of zoning relief issued on May 16, 2023.

EXHIBITS

1. 5/23/23 Zoning Board of Adjustment (“ZBA”) Notice of Decision (“NOD”)- Acknowledging relief granted on Tuesday, May 16, 2023 for variances to allow four freestanding dwellings where one is permitted (PZO §10.513), and lot area per dwelling unit of 21,198 s.f. or 43,560 s.f. is required (PZO §10.521).
2. 2/25/25 Portsmouth Planning Board NOD- Granting Conditional Site Plan approval on February 20, 2025 for the demolition of existing buildings and construction of 4 single family dwellings.

DANIEL C. HOEFLE	ALEC L. MCEACHERN	PETER V. DOYLE	STEPHEN H. ROBERTS 2007-2023
R. TIMOTHY PHOENIX	KEVIN M. BAUM	MONICA F. KIESER	OF COUNSEL:
LAWRENCE B. GORMLEY	JACOB J.B. MARVELLEY	STEPHANIE J. JOHNSON	SAMUEL R. REID
R. PETER TAYLOR	GREGORY D. ROBBINS	KAREN W. OLIVER	JOHN AHLGREN

Portsmouth Zoning Ordinance("PZO") Article 2§10.236 provides:

Variances... shall expire unless a building permit is obtained within a period of 2 years from the date granted. The board may, for good cause shown, extend such period by as much as one year if such extension is requested and acted upon prior to the expiration date. No other extensions may be requested. (emphasis added)

All required variances were issued by the ZBA on 5/16/23 (**Exhibit 1**), so would otherwise expire on 5/16/25. Following the Zoning Board approval, the owner proceeded to negotiate with the neighbors specific site-plan issues such as buffers, drainage, access. Additionally, the Owner permitted the City and contractors to use for about two (2) years the parcel as lay-down/staging area for the Sagamore Road sewer line replacement. Subsequently, the owner diligently pursued Site Review approval beginning with Technical Advisory Committee ("TAC") review on 4/2/24. Following several meetings up to the full, 2025 TAC recommended Site Plan approval on 11/5/24. This was followed by Planning Board Site Review Conditional Approval on February 20, 2025 (**Exhibit 2**).

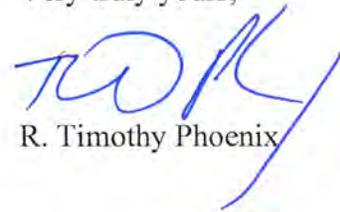
Under the above circumstances, the Owner/Applicant could not have pursued issuance of a building permit following the 5/16/23 granted variances until the Planning Board process is complete. While an approval, the Planning Board NOD was and remains conditional, subject to those requirements set forth in **Exhibit 2** which will take time to complete.

While zoning relief typically expires after 2 years, RSA§674:33,I-a provides that "no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance."(Emphasis added) As set forth above, the Planning Board's conditional approval was issued less than one month prior to the date of this letter. Since prospective conditions of approval must be met, the 6 month period will otherwise not run until such future date that the Planning Board approval reaches "resolution".

The Owner/Applicant believes that all conditions can be met in the building permit issued within one year of May 16, 2025. As such, despite the right to significantly extend the zoning relief expiration, the owner requests, and good cause clearly exist the ZBA to grant a one-year extension from May 16, 2025 to May 16, 2026.

We look forward to consideration of this request by the ZBA and its April 17, 2025 meeting.

Very truly yours,



R. Timothy Phoenix

RTP/msw
Encl.

cc: Client
Planning Department
Garrepy Planning



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 23, 2023

635 Sagamore Development, LLC
3612 Lafayette Rd Dept 4
Portsmouth, New Hampshire 03801

RE: **Board of Adjustment request for property located at 635 Sagamore Avenue (LU-22-209)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 16, 2023**, considered your application for the removal of existing structures and constructing 4 single family dwellings which requires the following: 1) A Variance from Section 10.513 to allow four free-standing dwellings where one is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 21,198 square feet per dwelling where 43,560 square feet is required. Said property is shown on Assessor Map 222 Lot 19 and lies within the Single Residence A (SRA) District. As a result of said consideration, the Board voted to **deny** the request initially because the proposed plan did not meet the hardship criteria. This motion failed. The Board then voted to **approve** the variances for the project as presented with the following **condition**:

The Board's decision may be appealed up to thirty (30) days after the vote. Please contact the Planning Department for more details about the appeals process.

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

Joseph Coronati, Jones & Beach
R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PLLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 5-16-2023

Property Address: 635 Sagamore Avenue

Application #: LU-22-209

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	YES	<ul style="list-style-type: none"> Having more conforming structures on the parcel is much better than the existing condition.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The SRA zone limits one dwelling unit per acre, and the applicant is asking for four units on nearly two acres, which would be directly across the street, the SRB zone. Comparing the four dwelling units at 21,200 square feet per unit to Tidewatch's 122 units at 19,300 square feet per unit, the project would be less dense.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The project would have no effect on anything across the street or at Tidewatch because one wouldn't even see the properties.

<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The project would have no effect on anything across the street or at Tidewatch because one wouldn't even see the properties. • The project would not alter the essential characteristics of the neighborhood because the large lot could not reasonably be subdivided based on its irregular shape and street frontage.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(a)The property has special Conditions that distinguish it from other properties in the area. AND (b)Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one. OR Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The property has special conditions of being an oversized lot for the area as well as an angled and elevated one, and only so much of it is usable. • Limiting the lot to a single-family home would be a hardship and four single-family units on nearly two acres was a more than reasonable use and a huge improvement to the existing property.

<p>Stipulations</p>
<p>1. <i>The design and location of the dwellings may change as a result of Planning Board review and approval.</i></p>



CITY OF PORTSMOUTH

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

PLANNING BOARD

February 25, 2025

635 Sagamore Development, LLC
3612 Lafayette Rd Dept 4
Portsmouth, New Hampshire 03801

RE: Site Plan Approval request for property located at 635 Sagamore Avenue, Portsmouth, NH (LU-22-209)

Dear Property Owner:

The Planning Board, at its regularly scheduled meeting of **Thursday, February 20, 2025**, considered your application for Site Plan Review Approval for the demolition of the existing structures and construction of 4 single family dwellings with associated site improvements. Said property is shown on Assessor Map 222 Lot 19 and lies within the Single Residence A (SRA) District. As a result of said consideration, the Board voted 1) that the Site Plan application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and to adopt the findings of fact as presented; and 2) to **grant** Site Plan approval with the following **conditions**:

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a building permit or the commencement of any site work or construction activity:

2.1) *The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

2.2) *The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site.*

2.3) *Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>*

2.4) *Key elevations should be added to the stone infiltration basins under the decks for Units 3 and 4. Add notes to the plan requiring inspection of the subgrade by the City to ensure that the design criteria is met.*

2.5) *The sitework details for both the sand absorption area and the infiltration stone underneath deck specify uncompacted in-situ soil or suitable backfill from subject parcel native material is placed beneath and adjacent to the systems. The Designer should provide gradation, compaction, and infiltration rate requirements for the placement of the fill adjacent,*

below and down gradient of the infiltration practice. The sand absorption area for unit 3 is in 5-foot fill section. The detail should include a minimum depth of native material below the treatment area as well as down gradient.

2.6) Trees to remain shall be clearly marked before site work can commence.

2.7) Developer shall pay \$20,900 to cover the cost of the installation of the fire hydrant extended to the site, which was installed exclusively for the benefit of this site.

2.8) Developer shall provide fair share contribution for catch basin installed up gradient to the Tidewatch intersection. The catch basin was installed partially for the benefit of this site. The fair share contribution is \$15,208.

2.9) Applicant will revise plan to create additional parking (at least room for 3 vehicles) northeast of unit 2.

2.10) Applicant will revise plan to add a 2-3% landing area for one vehicle at the entrance of the driveway while maintaining a transition to an 8% grade into the site.

2.11) Applicant will confirm landscaping at maturity along Sagamore Avenue will not impede sight distance.

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a certificate of occupancy and release of the surety:

2.12) The Engineer of Record shall submit a written report (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed to the approved plans and specifications and will meet the design performance;

2.13) A stormwater inspection and maintenance report shall be completed annually (or monthly as outlined in O & M manual) and copies shall be submitted for review.

2.14) The stormwater infrastructure shall be certified after 1 year with a sufficient bond (with an amount to be determined by DPW) to correct any deficiencies found at that time.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process.

This site plan approval shall not be effective until a site plan review agreement has been signed satisfying the requirements of Section 2.12 of the City's Site Review Approval Regulations.

Unless otherwise indicated above, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

The Planning & Sustainability Director must certify that all outstanding conditions of approval have been completed prior to issuance of a building permit unless otherwise indicated above.

This site plan approval shall expire unless a building permit is issued within a period of one (1) year from the date granted by the Planning Board unless an extension is granted by the Planning Board in accordance with Section 2.14 of the Site Review Regulations.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Planning Board Meeting website:

<https://www.cityofportsmouth.com/planportsmouth/planning-board/planning-board-archived-meetings-and-material>

The minutes and audio recording of this meeting are available by contacting the Planning & Sustainability Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Chellman". The signature is stylized with a large, sweeping initial "R" and a long horizontal line extending to the right.

Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector
Rosann Maurice-Lentz, City Assessor

Peter H. Rice, Director of Public Works
Joseph Coronati, Jones & Beach
R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PLLC

II. OLD BUSINESS

A. 39 Dearborn Street – Extension Request (LU-23-5)

Planning Department Comments

On May 23, 2023 the Board of Adjustment granted the following variances demolishing the existing shed and constructing 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

The approvals listed above are scheduled to expire on May 23, 2025. The Ordinance allows for a one-time, one-year extension if the request is acted on prior to the expiration date. The applicant has requested an extension as a permit has not yet been obtained. A letter from the applicant and the 2023 letter of decision is included in the meeting packet. You can view the original application material at the following link:

https://files.portsmouthnh.gov/files/planning/apps/DearbornSt_39/DearbornSt_39_BOA_05232023.pdf

COLBY T. GAMESTER

Attorney At Law

144 Washington Street
Portsmouth, New Hampshire 03801

(603)-427-0000
colby@gamesterlaw.com

March 19, 2025

HAND DELIVERED & VIA EMAIL

City of Portsmouth
Zoning Board of Adjustment
Attn: Phyllis Eldridge, Chair
1 Junkins Avenue
Portsmouth, NH 03801
slcasella@cityofportsmouth.com

**Re: Variance Application of Michiyo Bardong and Shawn Bardong
39 Dearborn Street, Portsmouth, NH - LU-23-5
Request for Extension**

Dear Chair Eldridge:

My office represents Michiyo Bardong and Shawn Bardong, record owners of the property located at 39 Dearborn Street (the "Property"). The Zoning Board of Adjustment (the "Board") granted variance relief for the Property at its regularly scheduled meeting on May 23, 2023. The specific relief is as detailed in the Board's Notice of Decision dated May 30, 2023, which is attached hereto.

Section 10.236 of the City of Portsmouth Zoning Ordinance states:

Variences and special exceptions shall expire unless a building permit is obtained within a period of two years from the date granted. The Board may, for good cause shown, extend such period by as much as one year if such extension is requested and acted upon prior to the expiration date. No other extensions may be requested.

After the May 2023 variance approval, the Bardongs then successfully obtained a Certificate of Approval from the Historic District Commission in June 2023. Since then, however, the Bardongs and their general contractor have been actively working through the additional hurdles and challenges this Property presents with respect to planning, engineering and construction.

In May 2024, the Bardongs' general contractor filed a building permit application for the project as presented to and contemplated by the Board and the HDC. In September, the Bardongs'

engineer opened land use application LU-24-181, as the Property sits within the 100 foot buffer and, thus, requires a Wetland Conditional Use Permit from the Planning Board.

The Bardongs recently received its Conservation Commission recommendation in December 2024. Currently, the Bardongs are working through the Ordinance's Floodplain District requirements with their general contractor, engineer, legal counsel, and City Planning Staff. As such, the Bardongs have not had the opportunity to appear before the Planning Board on its Wetland Conditional Use Permit application.

The Bardongs and their representatives have been actively pursuing the related and necessary land use approvals which will hopefully result in a building permit to construct the project pursuant to the variance relief received in May 2023, and, for and with good cause provided herein, respectfully request that this Board grant a one (1) year extension of the May 2023 variance approval.

Should there be any questions, comments or concerns regarding this request, then please do not hesitate to contact me.

Kindest Regards,



Colby T. Gamester, Esq.

Enclosure

Cc: file;

Shawn and Michiyo Bardong (via email)

Jeff Kisiel (via email)

Amy Dutton (via email)



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

May 30, 2023

Michiyo Bardong and Shawn Bardong
39 Dearborn Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 39 Dearborn Street. (LU-23-5)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, May 23, 2023**, considered your application for

demolishing the existing shed and constructing 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 shown on Assessor Map 140 Lot 3 and lies within the General Residence A (GRA) and Historic Districts. As a result of said consideration, the Board voted to

approve the request as presented and advertised.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

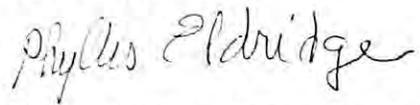
This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

<https://www.cityofportsmouth.com/planportsmouth/zoning-board-adjustment/zoning-board-adjustment-archived-meetings-and-material>

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

A handwritten signature in cursive script that reads "Phyllis Eldridge".

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Amy Dutton, Amy Dutton Home

III. NEW BUSINESS

- A. The request of **Jason T. and Trisha Brewster (Owners)**, for property located at **121 Mechanic Street** whereas after-the-fact relief is required for a roof sign which requires the following: 1) Variance from Section 10.1240 to allow a roof sign where it is not an allowed sign type; and 2) Variance from Section 10.251 for an aggregate sign area of 191 s.f., which is greater than the maximum allowed. Said property is located on Assessor Map 103 Lot 31 and lies within the Waterfront Business (WB) and Historic Districts. (LU-25-5)

Existing & Proposed Conditions

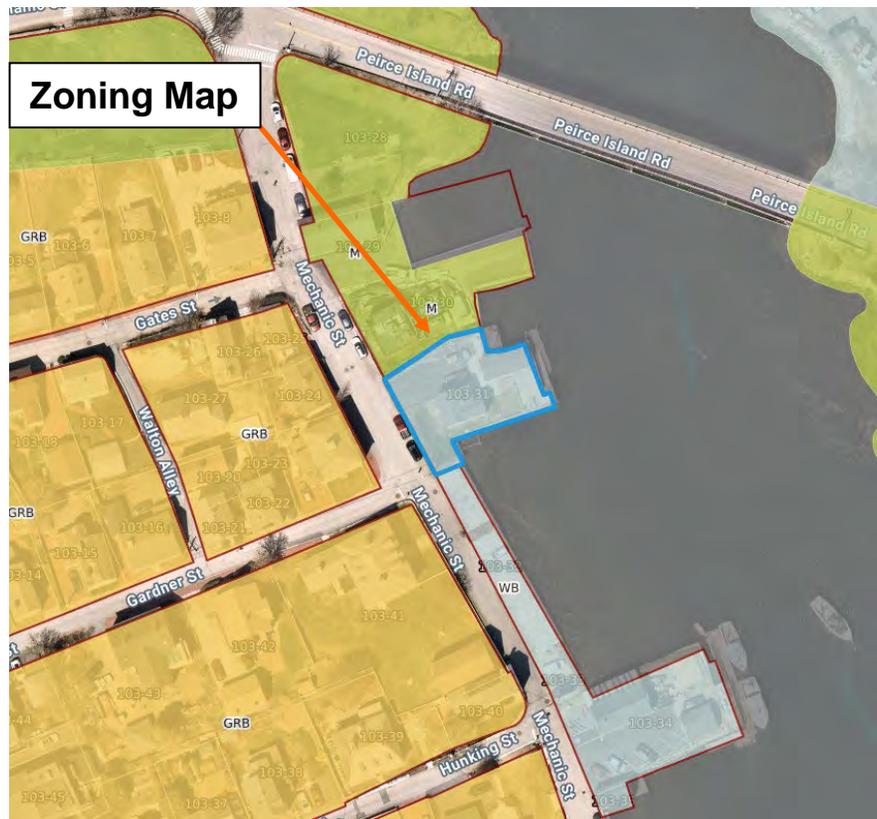
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Mixed-Use	Roof Sign*	Primarily Commercial
<u>Lot area (SF):</u>	6,534	6,534	20,000 Min.
<u>Building frontage (Ft.):</u>	Bait Shop: 16	Bait Shop: 16	NR
<u>Wall Sign (SF)</u>	11	11	16 Max.
<u>Roof Sign (SF)</u>	180	180*	Not Permitted
<u>Aggregate Sign area (SF)</u>	191	191	16 Max.
		Variance request(s) shown in red.	

*A roof sign is not a permitted sign type in Sign District 2 per Section 10.1241

Other Permits/Approvals Required

- Historic District Commission Approval
- Sign Permit

Neighborhood Context



Previous Board of Adjustment Actions

- **December 17, 1975** – Request to allow to extend existing workshop an additional 12' onto existing wharf, extending an existing nonconforming setback(s). The Board voted to **grant** the request with no stipulations.
- **November 18, 1986** – 1) a Variance from Article III, Section 10-302 to allow the construction of a 8' x 14' building for the retailing of lobsters with a 9' side yard and a 1' rear yard where a minimum side and rear yards of 20 ft. are required; and, 2) a Variance from Article IX, Section 10-906 to permit the use of a 14 s.f. free-standing sign located 2' from the front and side yards where a minimum of 35 ft. to all yards is required. The Board voted to **grant** the request with no stipulations.
- **January 22, 2014** – A Variance from Section 10.321 to allow a lawful nonconforming building to be extended or enlarged without conforming to the requirements of the Ordinance. A Variance from Section 10.531 to allow a right side yard setback of 7'10" ± where 30' is the minimum required. The Board voted to **grant** the request as advertised and presented.

Planning Department Comments

The applicant owns and operates Brewster's Bait and Tackle at 121 Mechanic Street. In October 2024 the applicant painted "Bait and Ice" on one side of the roof of the bait shop. As this constitutes a sign, the applicant is required to obtain a sign permit and to meet sign regulations for the Waterfront Business (WB) and Historic Districts, in which the property is located. The applicant is requesting relief for an after-the-fact roof sign (180 SF) as painted letters on the roof where it is not a permitted sign type in sign district 2 and an aggregate sign area that is greater than the maximum permitted for 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

 - (a) *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.

ADDENDUM TO APPLICATION FOR SIGN VARIANCE
City of Portsmouth Zoning Ordinance
Article 12, Section 10.1240

I. Introduction.

The Applicant owns and operates Brewster's Bait & Tackle located at 121 Mechanic Street. Brewster's Bait & Tackle has provided a service to boaters, fishermen and fisherwomen, from near and far, for over sixty-four (64) years, by selling bait, tackle, boating supplies and ice. While some customer traffic comes and goes on foot, the majority of customers arrive by boat.

In October 2024, the Applicant painted "BAIT & ICE" on one side of the roof of the bait shop, the side facing the Pierce Island bridge. (See photo A attached.) The Applicant was unaware that this display constituted a "sign" for purposes of Article 12, Section 10.1240 of the City's zoning ordinance. Nevertheless, upon receiving notice from the City that a variance from the Zoning Ordinance was required, the Applicant began the application process.

The display is clearly visible from the Pierce Island bridge. This was intentional. Boaters, namely fishermen and fisherwomen, launch their boats at the public dock at Pierce Island and many of them are from out-of-town. They would not know of the availability of bait, tackle and/or ice before heading out on the water without this display. Boaters would not necessarily travel past Brewster's Bait and Tackle by car as Mechanic Street is not the thoroughfare to Pierce Island, and they would only see the display and know of the bait shop from the bridge.

The display is not visible from Marcy Street. The display is not visible from Prescott Park. (See attached photo B.) The display is not visible at all from the south side of Mechanic Street. (See attached photo C.) It's barely visible from the north side of Mechanic Street, although a stopped traveler at the intersection of Mechanic Street and Pierce Island Road can make out the word "BAIT" on the sign but only with considerable effort. (See attached photo D.) The display is certainly not visible from the neighbors' homes. The only way it is visible is if it is seen from the Pierce Island bridge or by boat as you travel upriver (coming from the Memorial Bridge by water toward the back channel).

The display is tasteful. It was professionally painted. It is not illuminated. It is not offensive. It does not protrude out from the roof. It is angled upward, so again, it cannot be seen from the streets or sidewalks (other than the Pierce Island bridge).

The display enhances Portsmouth's longstanding traditions of being a fishing town, having a working port, and emphasizing the benefits of being located on the Piscataqua River. It is a reminder of the City's heritage and history.

Indeed, there is a history of roof-top displays in the south end of Portsmouth. For many years, Lacava's Wharf which was located next door to Brewster's Bait and Tackle displayed the word, "LOBSTER" on its roof during the 1970s, 1980s and 1990s. This display was also exclusively seen by boaters traveling the Piscataqua River and fishermen/women who drove over the Pierce Island bridge.

II. Written Description of Request.

1. The Applicant is entitled to a variance from the sign prohibition under Article 12, Section 10.1240.

(a) The Applicant has the right to a reasonable use of his property, considering the unique setting of the property in its environment.

Here, the structure containing the display in question is located on the water and it is tucked into the water side of the property off the street. (See Image attached as E.) It is unlike all surrounding properties – in that it's a wooden frame bait shop. It's not a home, it's not a garage, it's not a shed. It has water access allowing boaters to dock up, ascend to the wharf, and enter the bait shop. It's unique characteristics distinguish it from all surrounding properties.

(b) No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property.

The zoning ordinance is intended to protect the health, safety and general welfare of the City and its residents. Enforcement of the sign ordinance in such a way as to prohibit this roof display would have no bearing or relationship to any health, safety or general welfare issues. To the extent the Article 12, Section 10.1240 - Sign Ordinance – is intended to prevent unsightly, distracting or distasteful signage, the proposed display is invisible to the public, except for travelers on the Pierce Island bridge. It is no more distracting than other landmarks in the south end. Finally, it's very tastefully and thoughtfully presented.

Further, the proposed display enhances the cultural and historic fabric of this City and, in particular, the south end community. It's one remaining reminder that Portsmouth has always taken pride in being a vibrant, fishing City with an active waterfront, a working port and recreational waterfront activities.

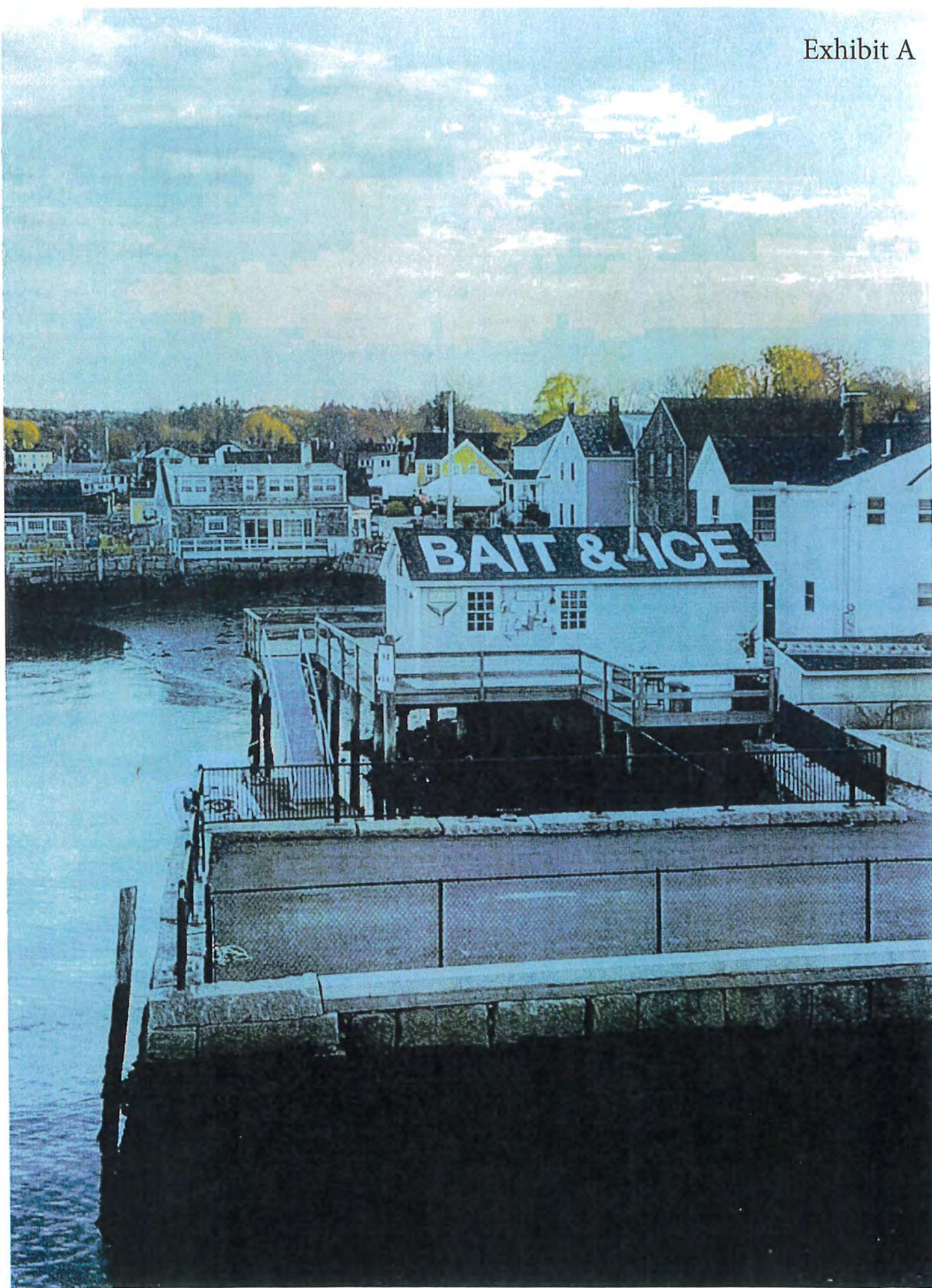
(c) A variance in this instance would not injure public or private rights of others.

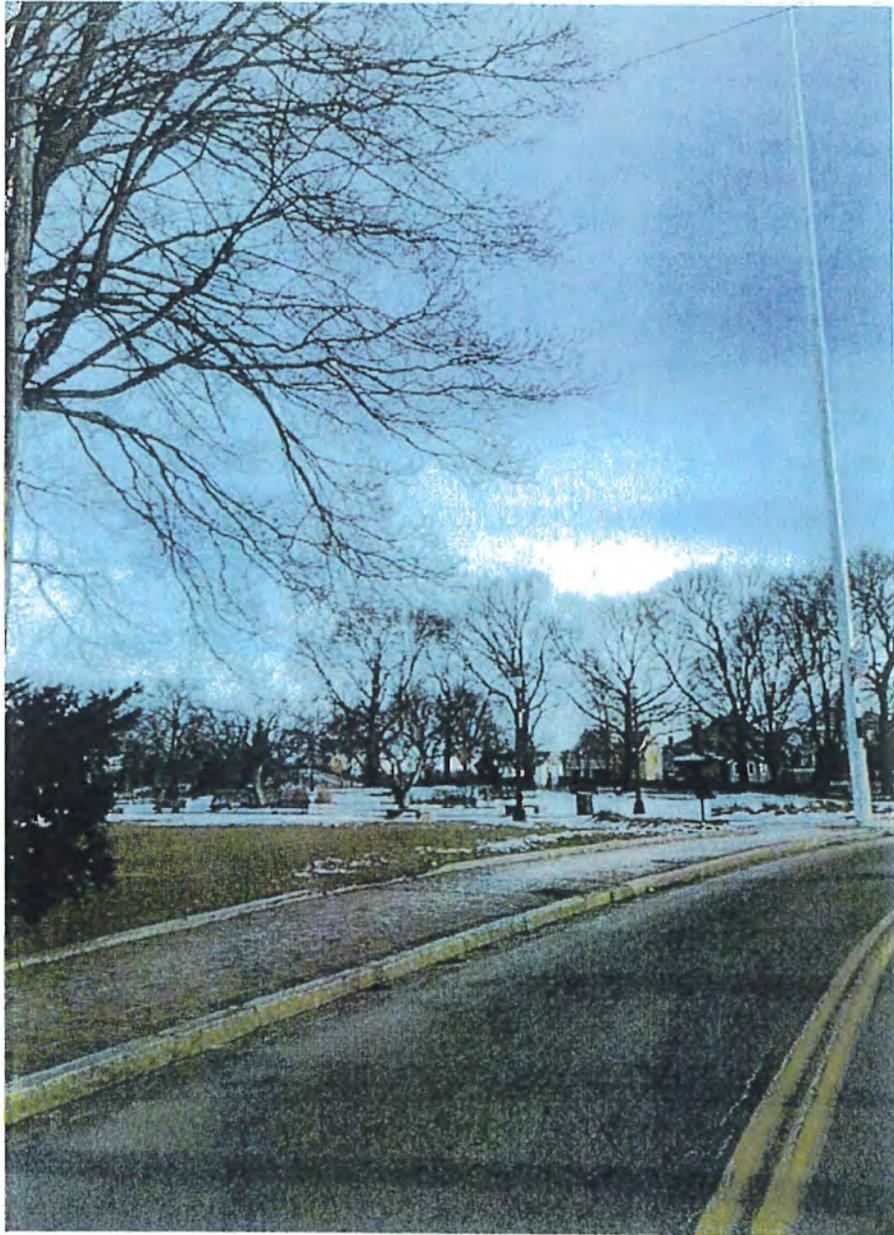
There is no evidence that the proposed display would cause any harm to the public or private rights of others. Property values will not suffer (in fact, they may be enhanced), sight lines are not interrupted, there is no illumination, and there is no sound. In fact, there may not be a single home on Mechanic Street or the surrounding area that can see the roof display unless they go for a walk over the Pierce Island bridge.

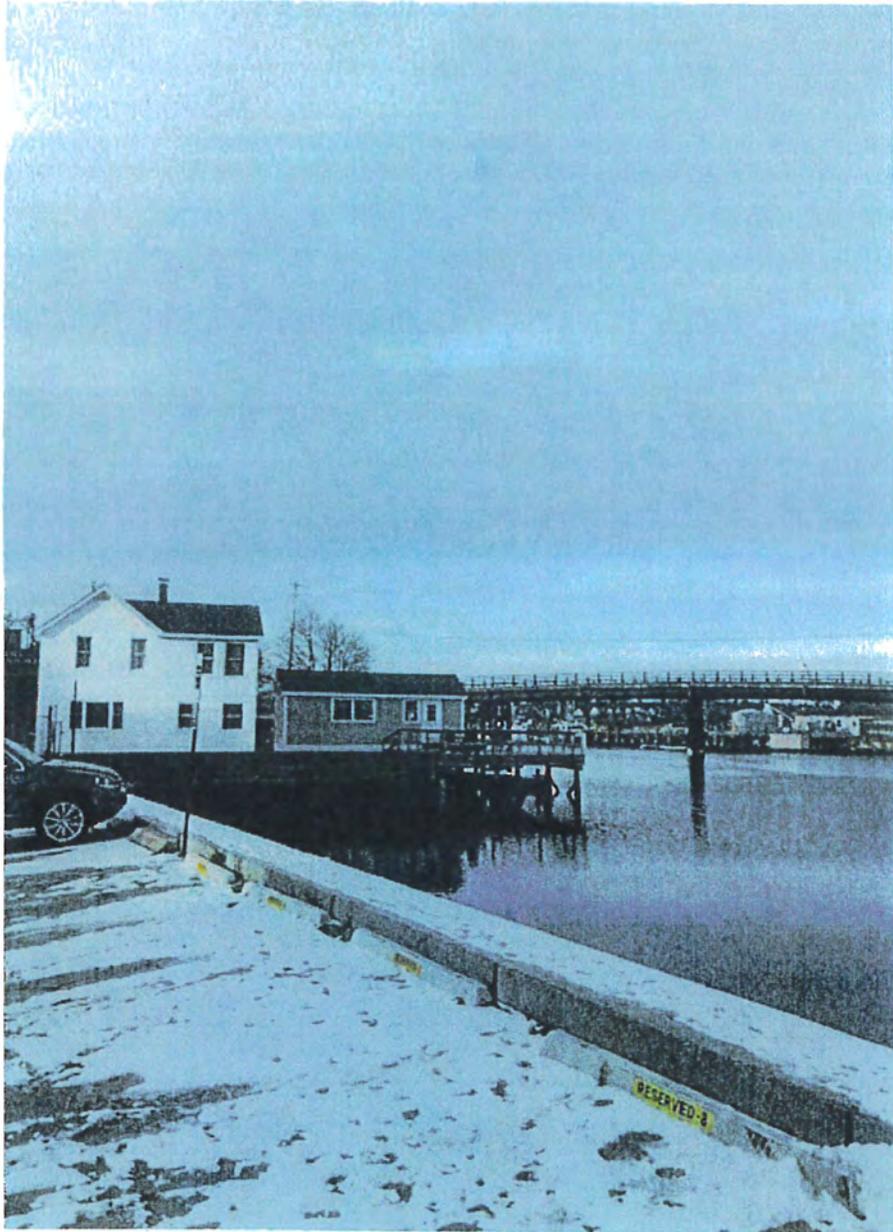
By signing this application below, I, as the owner of the property under review, give my endorsement of this application.

Property Owner or Authorized Signature:		Date Signed:	1/17/25
5. Applicant Certification			
By signing this application below, I hereby attest to the truth and accuracy of all facts and information presented with this application.			
Applicant Signature:		Date Signed:	1/17/25

Variance Application

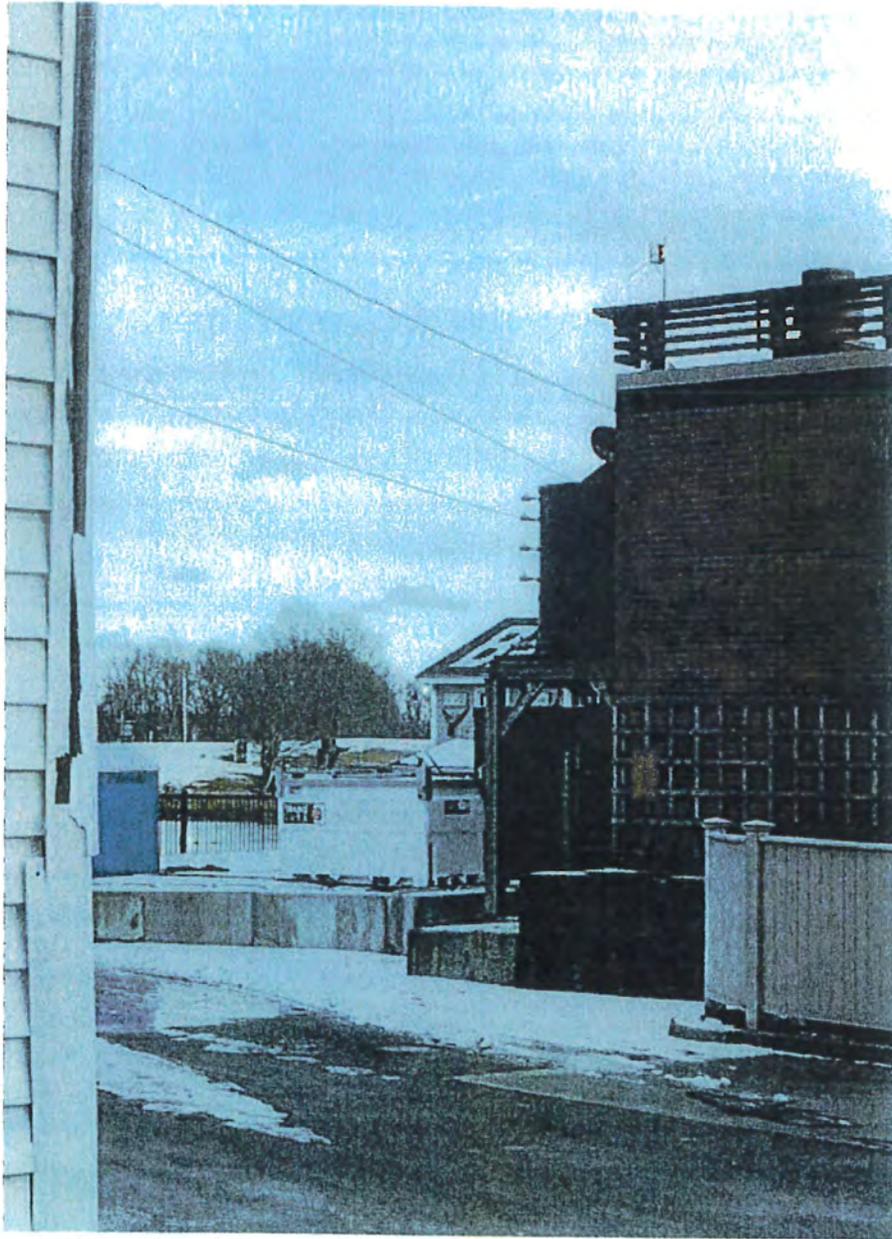












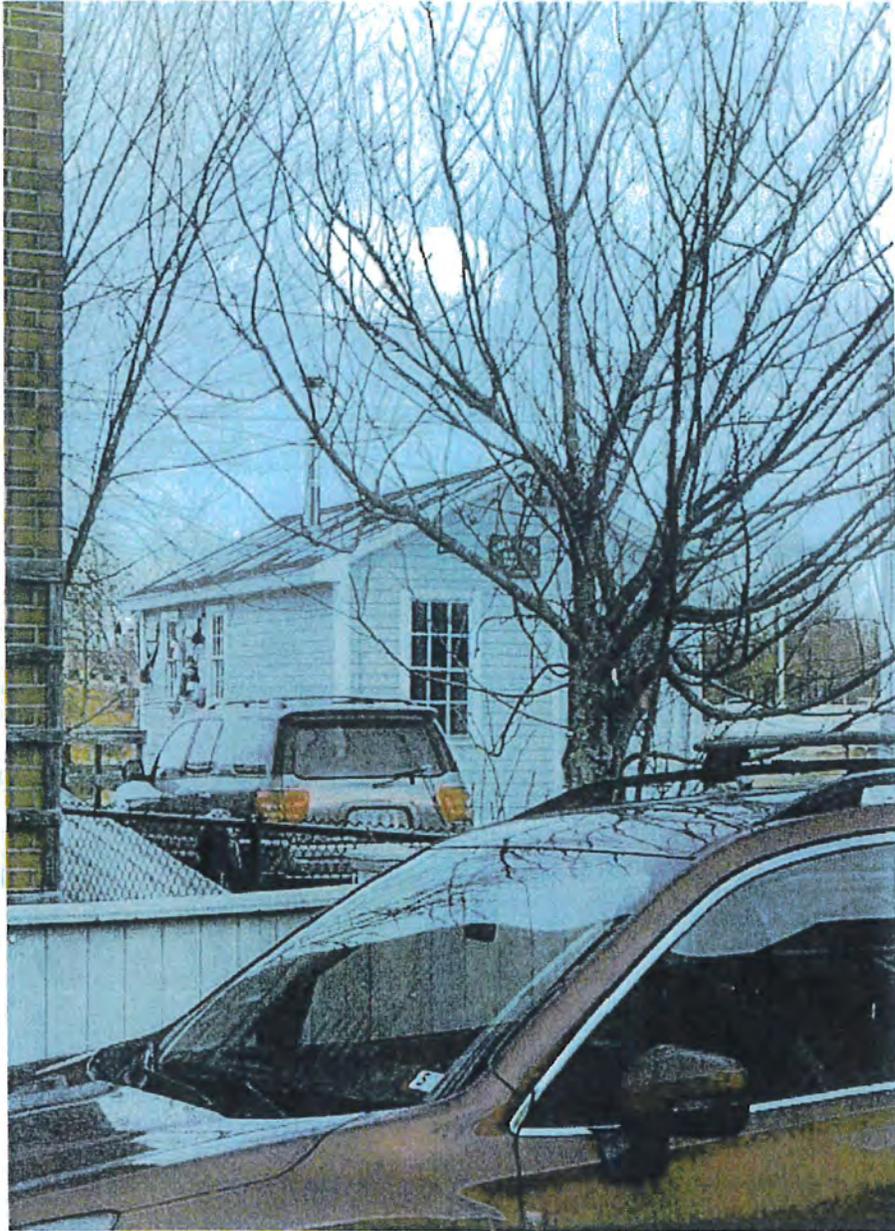
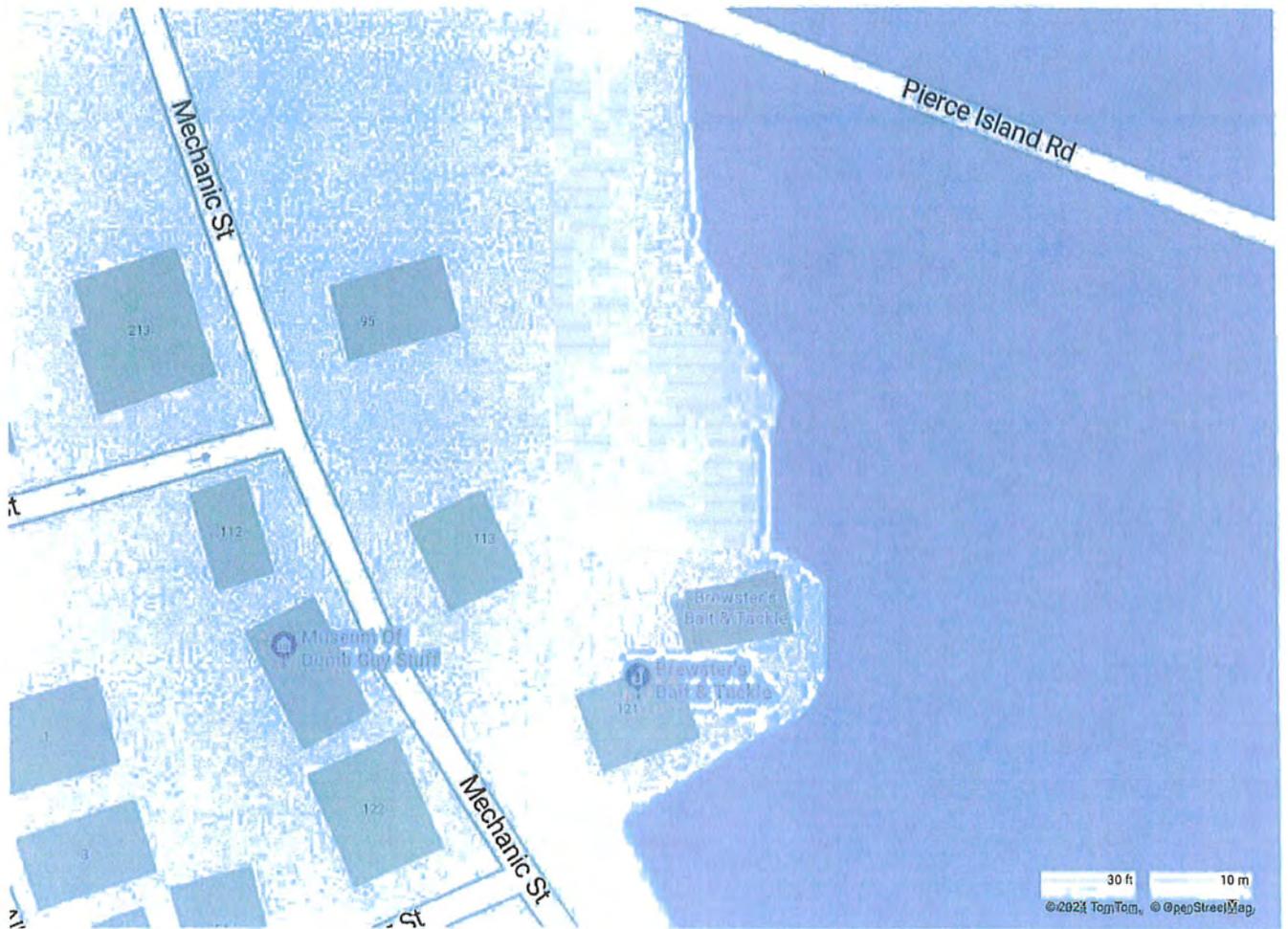




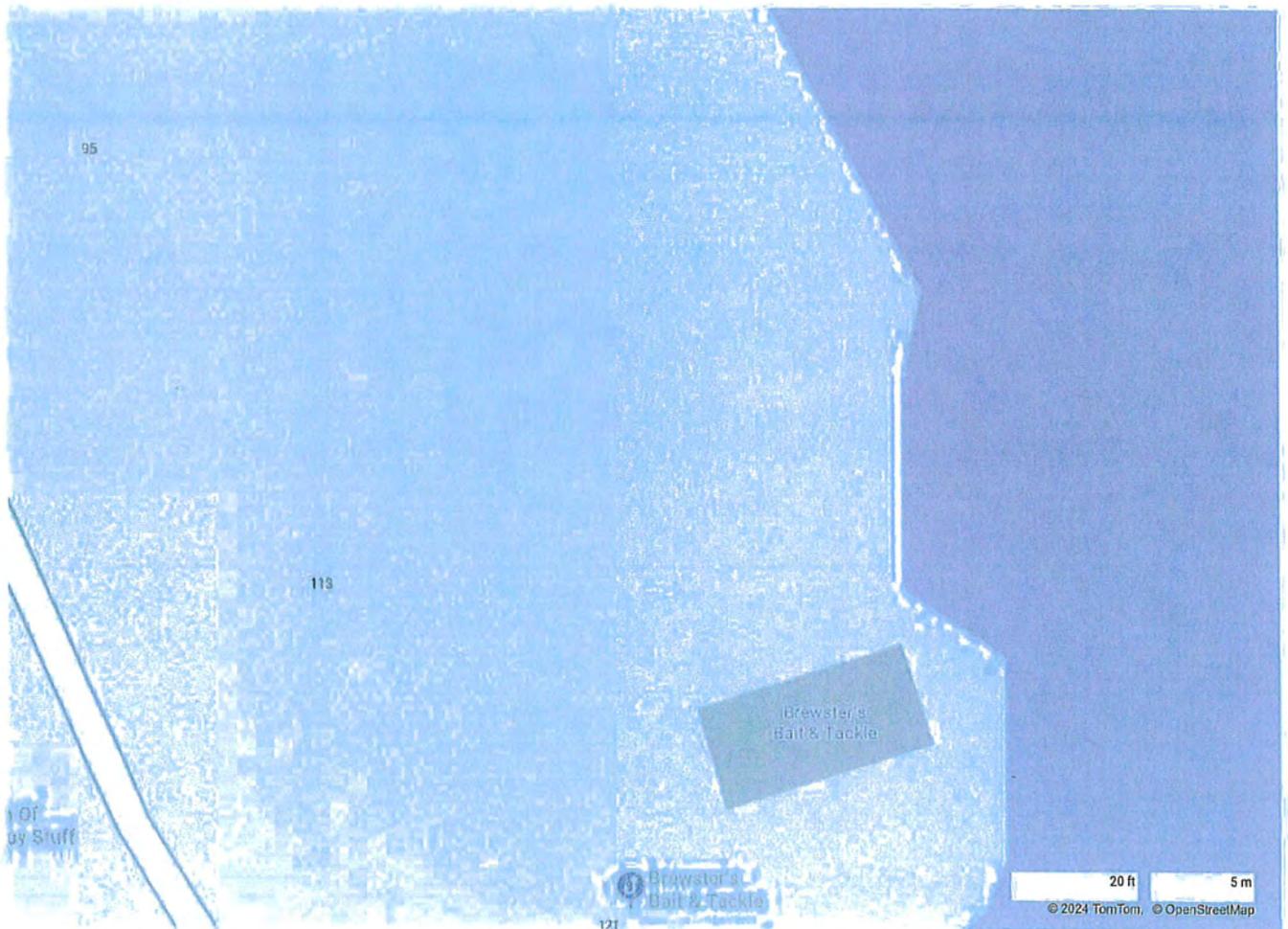
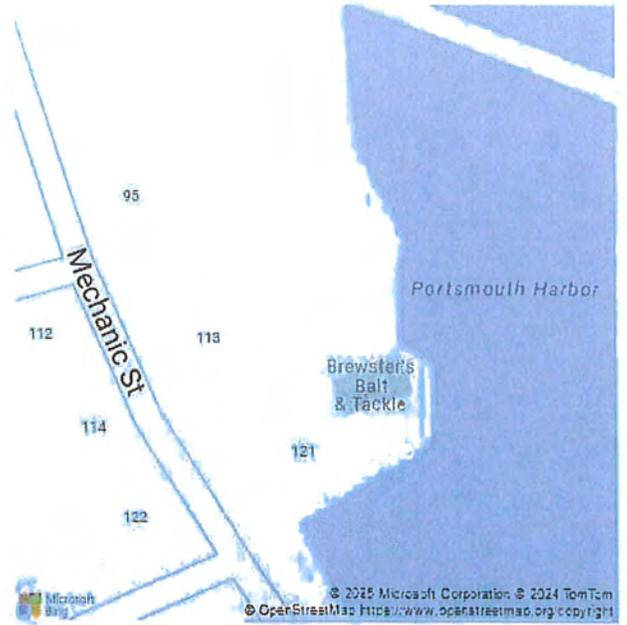
Exhibit E

bing maps

Notes



Notes



SUPPLEMENTAL VARIANCE APPLICATION
121 Mechanic Street
Portsmouth, N.H.

The Board should approve this variance request because it meets all five (5) criteria for a variance as follows:

1. Section 10.233.21 The variance will not be contrary to the public interest.

The display on the property is not contrary to the public interest. It does not protrude from the building, it does not interfere with foot or motor traffic in the neighborhood, it is professionally displayed and maintained, it is not illuminated or distracting, it does not contain offensive, insulting or unreasonable language, and it faces the Piscataqua River, not the neighbors, so it is subtle and primarily hidden from the general public.

2. Section 10.233.22 The spirit of the ordinance will be observed.

The spirit of the City's sign ordinance is to "maintain and enhance the character of the City's neighborhoods and to protect the public from potentially hazardous and distracting displays." (See, City of Portsmouth Zoning Ordinance, Article 12, FAQ's.)

The neighborhood is not affected by the display on the roof of the property because it is barely visible. Moreover, the sign enhances the history and character of the neighborhood which has historically involved a working port, commercial fishing port and recreational activities. Not only is there nothing hazardous or distracting about the display, but the display is barely visible to the neighborhood and meant to be seen by water traffic and motor vehicle traffic over the Pierce Island bridge only.

3. Section 10.233.23 Substantial justice will be done.

Substantial justice will be done because this is a reasonable, practical and simple means of identifying the bait and tackle business on the property. It serves to notify a limited population of customers and the public; a specific group that puts in their watercraft directly across the river.

4. Section 10.233.24 The values of surrounding properties will not be diminished.

The surrounding properties are not impacted in any way by the display on the roof of the property. The display is barely visible from Mechanic Street, and not visible at all from most angles, including from Prescott Park.

5. Section 10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

A hardship exists because the property consists of special conditions – it is a historic waterfront property that for over sixty-four (64) years has contained a bait and tackle business catering to fishermen and fisherwomen traveling primarily by boat. The business is located directly across the river from the public boat launch, which caters to the very same group of people needing bait and supplies on the water.

The ordinance exists to protect the City's neighborhoods from hazardous and distracting displays. It was not enacted with the goal of restricting roof displays geared toward water traffic. The sign is a reasonable extension of the existing, small business and is professionally and tastefully done. The public should, and most likely will, support this sign as a reminder of the City's heritage and history.

For all of these reasons, this Board should authorize the variance as requested.

Date: 2/19/25



Philip L. Pettis, Esq., duly authorized
Boynton, Waldron, PA
82 Court Street
Portsmouth, NH 03801
(603) 436-4010

SECOND SUPPLEMENT TO VARIANCE APPLICATION

121 Mechanic Street

Portsmouth, N.H.

April 1, 2025

At the City's Request, the applicant submits the following information:

1. The original online application contained the best available estimates of the dimensions of the sign. Since then, the Owner has taken measurements and they are, as follows:

Roof: 32'w x 9'h

Rooftop Letters: 29.166'w x 6.166' h

Total Square Footage: 179.84 sq ft

2. There are four other, existing "signs" on/around the building. They are:

"RENT A POLE": 2.25'w x .75'h (1.6875 sq ft) (See Ex. A)

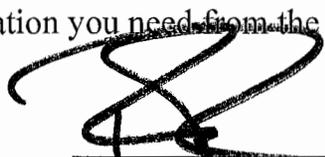
"GO FISHING": 2.25'w x .75'h (1.6875 sq ft) (See Ex. A)

"BREWSTER'S BAIT AND TACKLE (east side)": 2'h x 1.833 w (3.666 sq ft) (Ex. B)

"BREWSTER'S BAIT AND TACKLE (west side)": 2'h x 1.833 w (3.666 sq ft) (Ex. C)

Please advise if there is any further information you need from the Applicant. Thank you.

Date: April 1, 2025



Philip L. Pettis, Esq., duly authorized
Boynton, Waldron, PA
82 Court Street
Portsmouth, NH 03801
(603) 436-4010

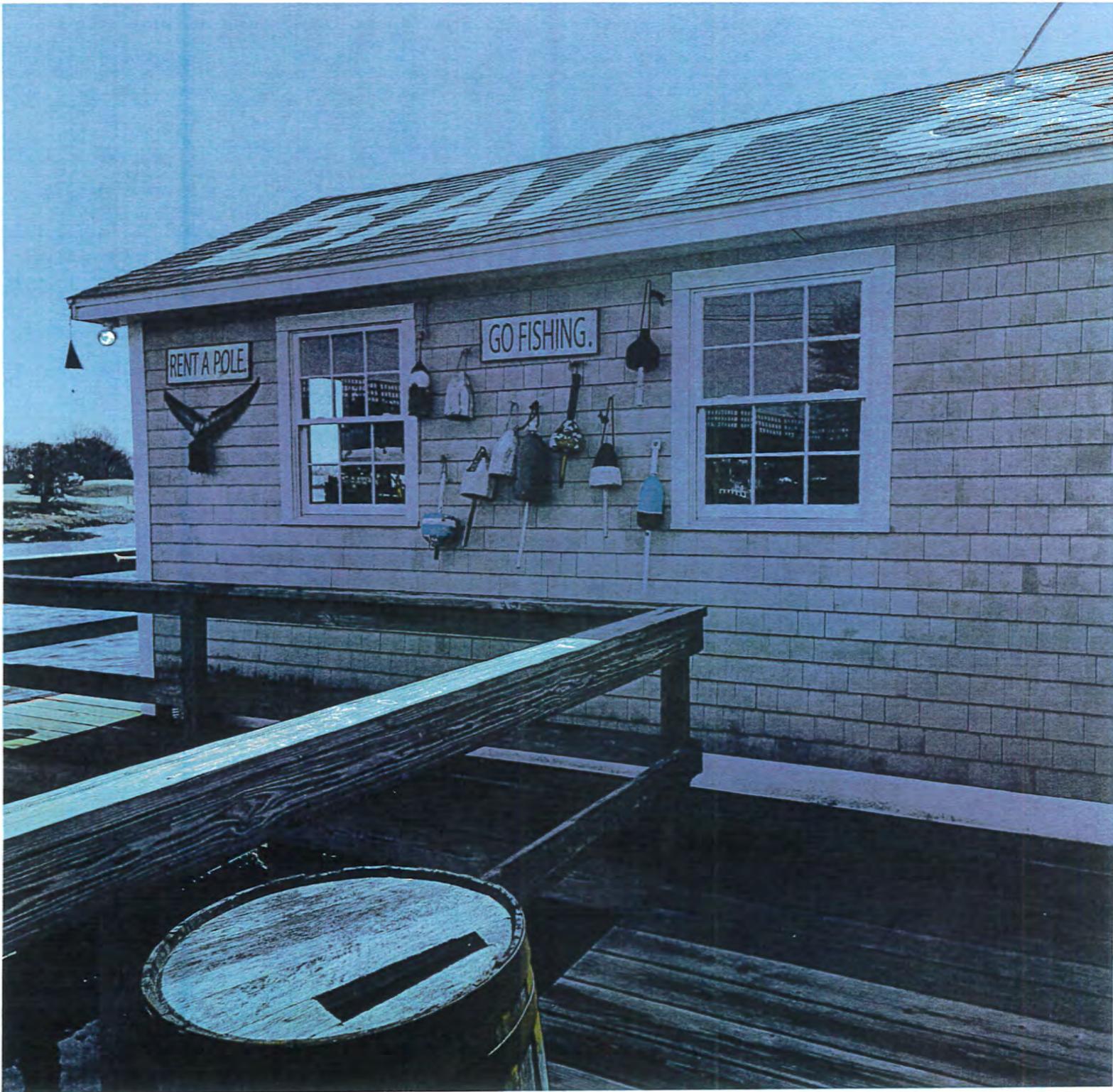
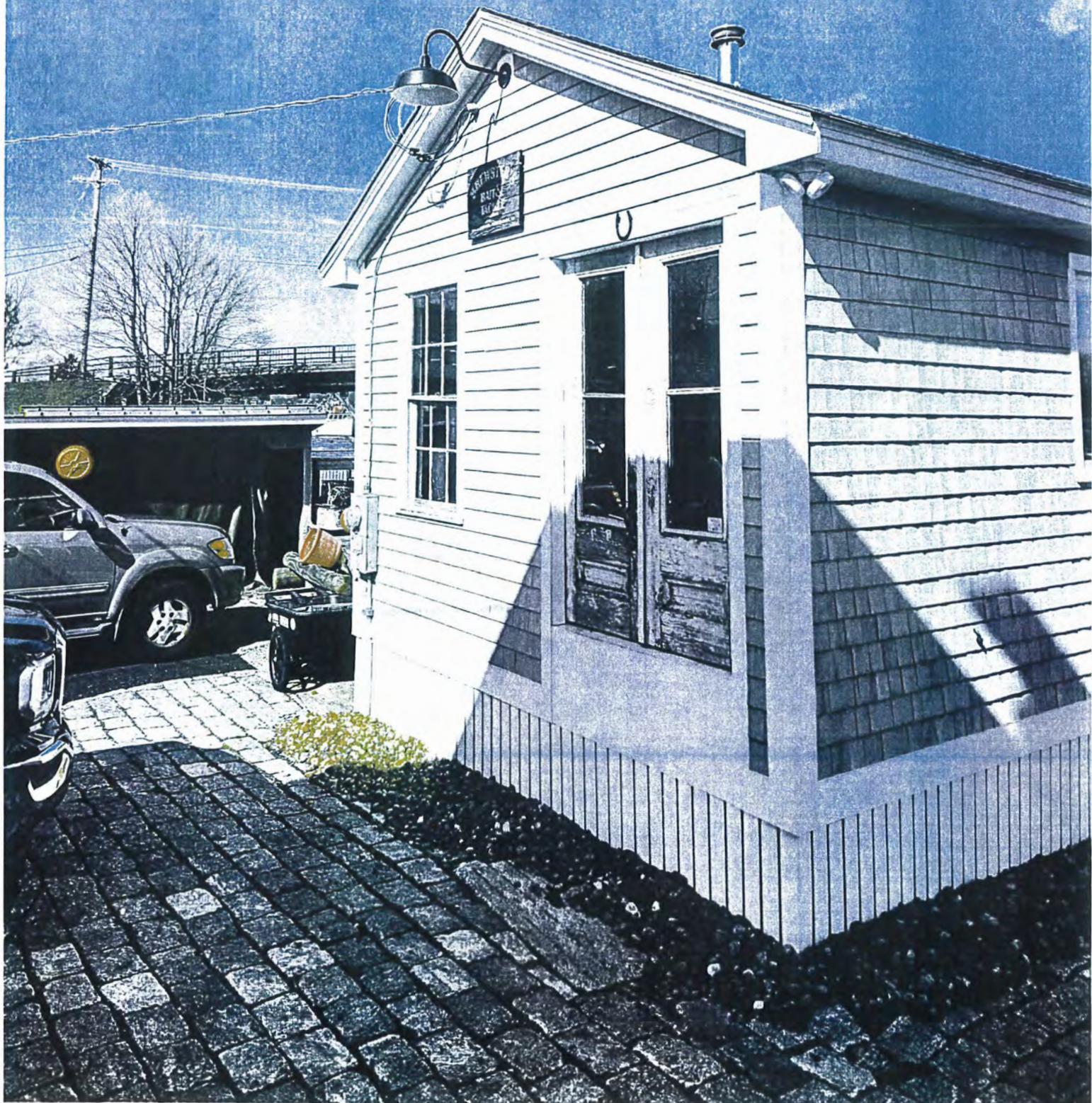


Exhibit A

BREWSTER'S
BAIT & TACKLE
SINCE 1961
BACK CHANNEL - PORTSMOUTH, NH





III. NEW BUSINESS

B. The request of **Mezansky Family Revocable Trust (Owners)**, for property located at **636 Lincoln Avenue** whereas relief is needed to demolish an existing detached garage and to construct an addition which requires the following: 1) Variance from Section 10.521 to a) allow a 2 foot left side yard setback where 10 feet is required; b) allow a 16 foot rear yard setback where 20 feet is required; c) allow 29% building coverage where 25% is the maximum allowed; 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 148 Lot 17 and lies within the General Residence A (GRA) District. (LU-25-27)

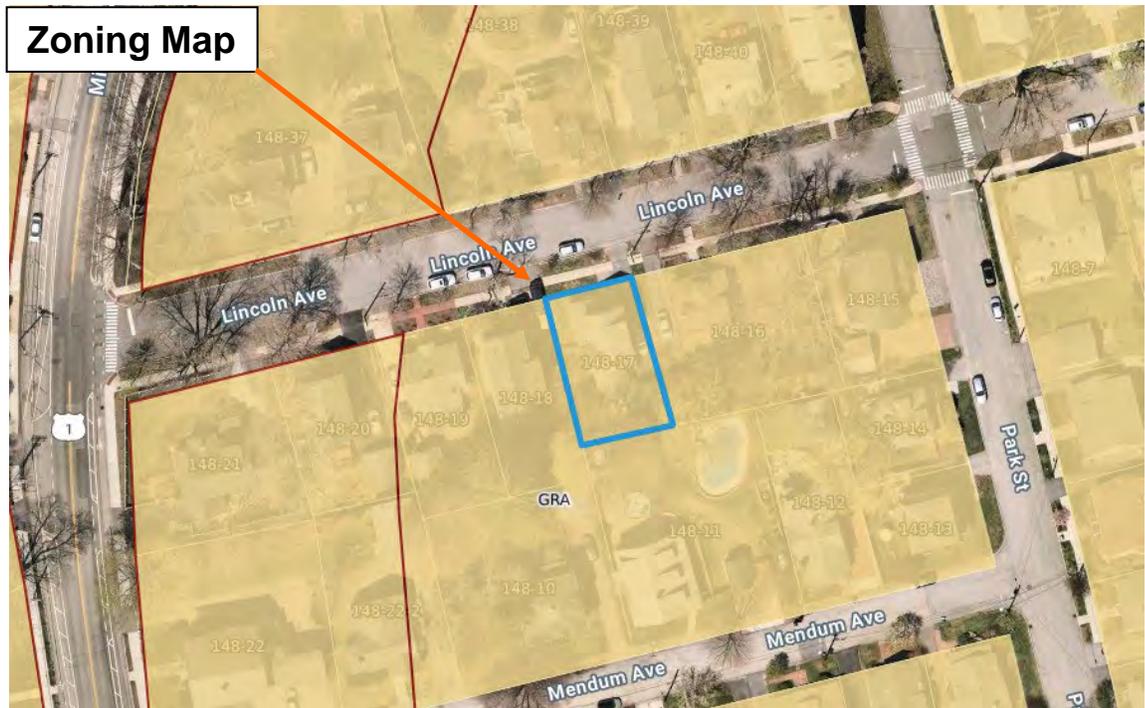
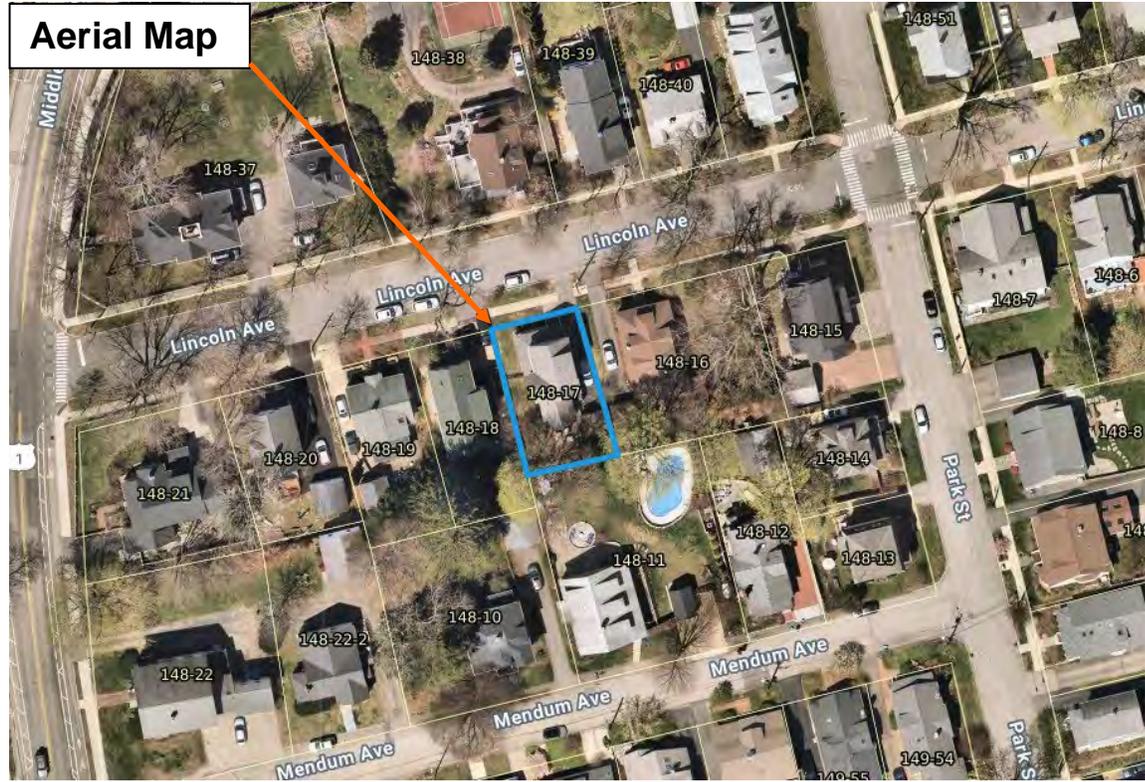
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Construct rear addition	Primarily Residential
<u>Lot area (sq. ft.):</u>	5,669	5,669	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,669	5,669	7,500 min.
<u>Lot depth (ft.):</u>	85	85	100 min.
<u>Street Frontage (ft.):</u>	50	50	70 min.
<u>Front Yard (ft.):</u>	10	10	15 min.
<u>Right Side Yard (ft.):</u>	15	House:15 Addition: >10	10 min.
<u>Left Side Yard (ft.):</u>	Garage: 0	Addition:2	10 min.
<u>Rear Yard (ft.):</u>	House: 30	Addition: 16	20 min.
<u>Building Coverage (%):</u>	27.2	29	25 max.
<u>Open Space Coverage (%):</u>	63	64	30 min.
<u>Parking</u>	3	2	2
<u>Estimated Age of Structure:</u>	1913	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

- **October 16, 2012** - A Variance from Section 10.321 and Section 10.324 to allow a lawful nonconforming building to be extended or enlarged in a manner that is not in conformity with the Zoning Ordinance. A Variance from Section 10.521 to allow a building coverage of 38.4%± where 36.8%± exists and 25% is the maximum allowed. The Board voted to **grant** the request as advertised and presented.

Planning Department Comments

The applicant is requesting to demolish an existing detached garage and to construct a one-story addition to the existing home to expand the living area. The addition is proposed to blend with the design of the primary structure and will require relief for rear and side yard setbacks, in addition to extension of an existing non-conforming structure.

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.

**Portsmouth, NH - Board of Adjustment
636 Lincoln Ave. – Request for Variance**

Date: 03.03.25

Revised from submitted application 02.20.25 on Viewpoint.

Chairman of the Board of Adjustment
C/O Planning Department City of Portsmouth
1 Junkins Ave.
Portsmouth, NH 03801

RE: Request for variance of setbacks on both the left and rear property lines as well as lot coverage relief of 28.9% where 25% is allowed.

To The Board of Adjustment Members,

Please find this statement addressing the requirements for a variance on the proposed project located at 636 Lincoln Ave.

Overview:

The existing single-family structure was purchased by Michael and Samantha Mezansky July of 2021 as a home to raise a family in and be part of our community. They now have two children and are indeed actively involved in pre-school, friends and family who live locally. We are proposing an addition to the house to make it more family friendly for modern living. The addition will include a mudroom entry, bathroom and a playroom off the kitchen that can double as a guest space.

Per Section 10.322 – In order to comply to current build codes, we are not able to build the structure without expanding the gross footprint. We are proposing removing an existing dilapidated garage that sits on the left property line and just off the rear property line. Then we would add a structure two feet off the left property line and 16'-3" off the back property line to make the addition less non-conforming than existing conditions.

Per Section 10.322 – We are proposing that the addition will be single story with a hip roof to balance the front porch design and stay lower than the previous addition off the back roofline, thus, keeping the main ridge height as the highest roof plane. The current property is 27.2% lot coverage and we are requesting 28.9% lot coverage where 25% is allowed.

Keeping in mind the 5 Criteria:

Per Section 10.322.21 – *The new structure would be in staying within the character of the neighborhood.*

- The houses in the neighborhood are a mix of New Englanders, Bungalows, Multi-family, Victorians and Four Squares. This variety is what creates a beautiful and unique Portsmouth. Many of the houses in the neighborhood have done additions that are similar in function and design to this proposed project.

Per Section 10.322.22 – *It would improve the safety and health of the homeowners and the neighborhood.*

- Currently, the garage is not only an eyesore but is unsafe for the kids to be in. It is built out of cinderblock and has a definitive mold / must issue. Granting the variance would observe the spirit of the Ordinance.

Per Section 10.322.23 – *Substantial justice is done.*

- No harm will be done to the neighborhood or community should this application be granted.

Per Section 10.233.24 – *The value of the surrounding properties is not diminished.*

- The neighborhood would improve with this proposed structure introduced into the neighborhood. Over the last ten years, a lot of work has been done to the houses in this neighborhood and they will be joining the ranks of updated homes bringing them into modern family living.

Per Section 10.233.25 – *Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.*

- The lot is a modest .13 acre and the homeowners need to make every square inch work for them with two small children. Right now, the garage is not part of that equation, so they are willing to forgo a garage and trade that footprint for living space.
- The existing home is a series of defined rooms. With this addition we are proposing a plan that creates an updated floor plan for family living while still being able to work from home.
- We have explored doing an addition off to the right side of the property, but the proximity to that neighbor felt invasive given the interior layout of both homes, the design was out of balance with the existing home design and the driveway is currently located on the left side of the property and they really need a mudroom directly off the parking area.

With all due respect to the board, we request that you grant this variance for the Mezansky family.

Respectfully submitted,

Amy Dutton
Amy Dutton Home

9 Walker Street
Kittery, Maine 03904
amy@amyduttonhome.com
207-337-2020

PHOTOS OF PROPERTY:

FRONT ELEVATION:



FRONT LEFT SIDE:



FRONT RIGHT SIDE:



BACK RIGHT SIDE:

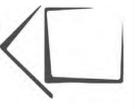


GARAGE FRONT:



GARAGE RIGHT SIDE:





Revision Table	
Number	Description

OVERVIEW

CLIENT:
MEZANSKY RESIDENCE
 636 Lincoln Ave
 Portsmouth, NH 03801

CONTACT:
 ABRIGO HOME
 PO BOX 1564
 PORTSMOUTH, NH 03801
 207.345.6050

DATE:

2/24/2025

COPYRIGHT © ABRIGO HOME 2022

SCALED FOR:
24" X 36"

SCALE:

SEE SCALE ON DRAWINGS

SHEET:

0-1

OVERVIEW

SCALE: NTS

Layout Page Table		
Label	Page Number	Title
O-1	1	OVERVIEW
S-1	2	SITE PLAN
G-1	3	GENERAL NOTES
G-2	4	GENERAL NOTES
G-3	5	GENERAL NOTES
R-1	6	RENOVATION PLAN
A-1	7	FOUNDATION
A-2	8	FIRST FLOOR
A-3	9	SECOND FLOOR
A-4	10	ELEVATIONS
A-5	11	ELEVATIONS
A-6	12	ELEVATIONS

@AMY DUTTON HOME
 DRAWINGS USED EXPRESSIVELY FOR
 DESIGN ONLY FOR NOTED CLIENT. ALL
 STRUCTURAL ENGINEERING PROVIDED BY
 OTHER.

Building contractor / home owner to review and verify all
 dimensions, specs and connections before construction
 begins.
 ELECTRICAL SYSTEM CODE: IEC 2017
 MECHANICAL SYSTEM CODE: IMC 2015
 PLUMBING SYSTEM CODE: 2021 Uniform Plumbing Code

DIM DISCLAIMER

**BUILDING CONTRACTOR/HOME OWNER
 TO REVIEW AND VERIFY ALL DIMENSIONS,
 SPECS, AND CONNECTIONS BEFORE
 CONSTRUCTION BEGINS.**

CALCULATIONS

ZONING MAXIMUMS:

front setback: 15'
 rear setback: 20'
 side setbacks: 10'
 lot coverage: 25%

EXISTING CONDITIONS:

LOT SIZE: 0.13 ACRES
 FRONT/REAR HEIGHT:
 31.7' EXISTING RIDGE HT FROM FRONT GRADE
 24' 6" EXISTING RIDGE HT FROM BACK GRADE
 LIVABLE SF: **2,402 SF**
 FIRST FLOOR 966 SF (675 + 241)
 SECOND FLOOR 430 SF (675 + 255)
 TREE QUARTER STORY 506 SF
 GROSS SF: **4,115 SF**
 FIRST FLOOR 966 SF
 SECOND FLOOR 430 SF
 TREE QUARTER STORY 675 SF
 BASEMENT 711 SF
 CRAWL SPACE 255 SF
 PORCH (246 + 24) 270 SF
 GARAGE 308 SF
 AREA OF FOOTPRINT: **1,544 SF**
 First Floor (966sf) + Porch (270sf) + Garage (308sf)

EXISTING SETBACKS:

FRONT: 10'
 REAR: 2'
 LEFT: 0'
 RIGHT: 15'

EXISTING LOT COVERAGE: **27.2%**
 EXISTING PARCEL AREA: 5,669 SF

PROPOSED CONDITIONS:

FRONT/REAR HEIGHT:
 14' PROPOSED RIDGE HT FROM FRONT GRADE
 14' PROPOSED RIDGE HT FROM BACK GRADE
 LIVABLE SF: **2,753 SF**
 FIRST FLOOR 1,317 SF (966 + 351)
 SECOND FLOOR 430 SF
 TREE QUARTER STORY 506 SF
 GROSS SF: **4,592 SF**
 FIRST FLOOR 1,317 SF
 SECOND FLOOR 430 SF
 TREE QUARTER STORY 675 SF
 BASEMENT 1,092 SF (711 + 351)
 CRAWL SPACE 255 SF
 FRONT PORCH 246 SF
 BACK AND ENTRY PORCH 77 SF
 AREA OF FOOTPRINT: **1,640 SF**

PROPOSED SETBACKS:

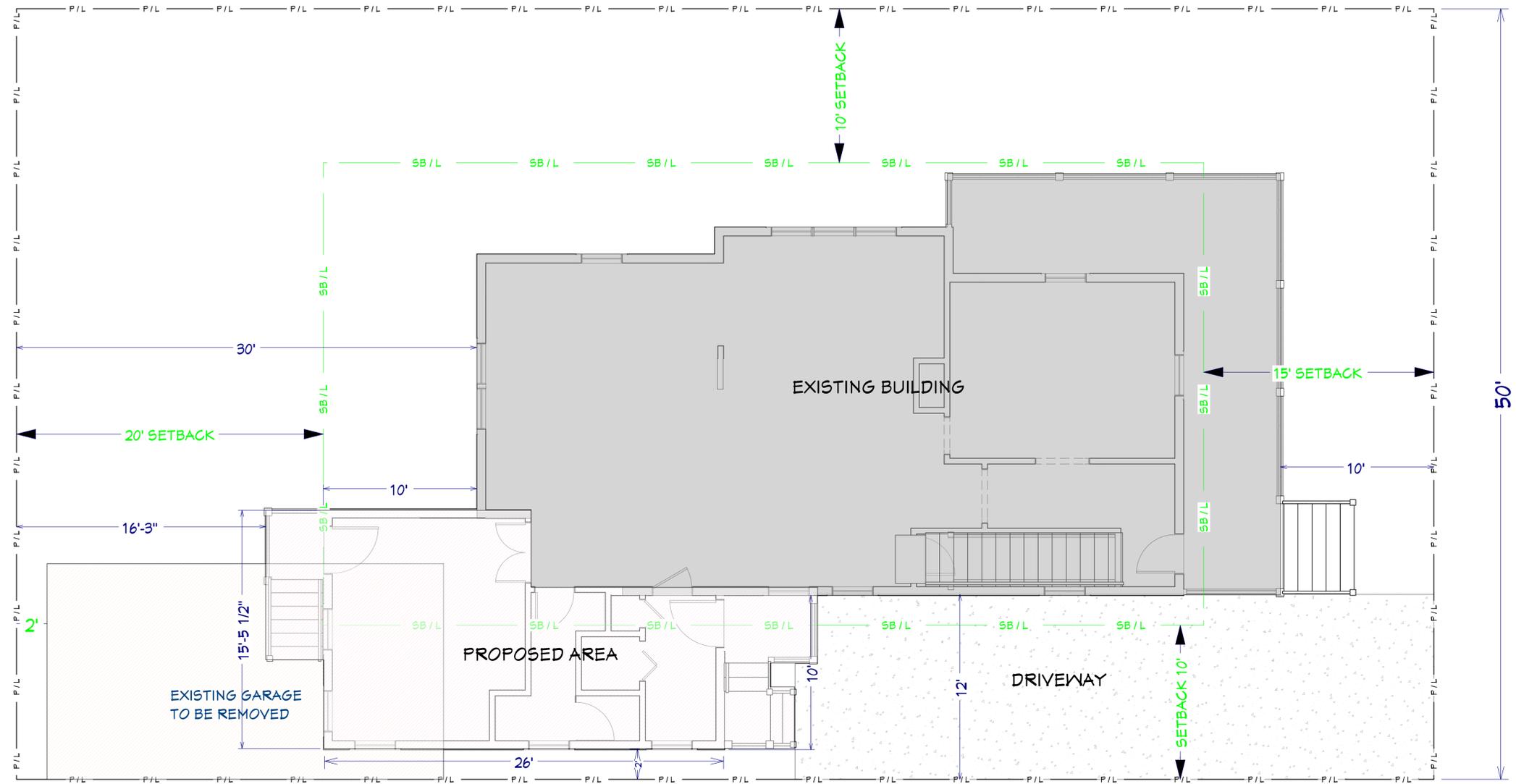
FRONT: 10'
 REAR: 16'
 LEFT: 2'
 RIGHT: 15'

PROPOSED LOT COVERAGE: **28.9%**
 EXISTING PARCEL AREA: 5,669 SF

DRIVEWAY: 482 SF

CAD BLOCK GUIDE

- EXISTING FOOTPRINT (1,236 SQFT)
- EXISTING GARAGE TO BE REMOVED (308 SF)
- PROPOSED ADDITION (428 SQFT)
LIVING: 351 SF + PORCHES (77 SF)

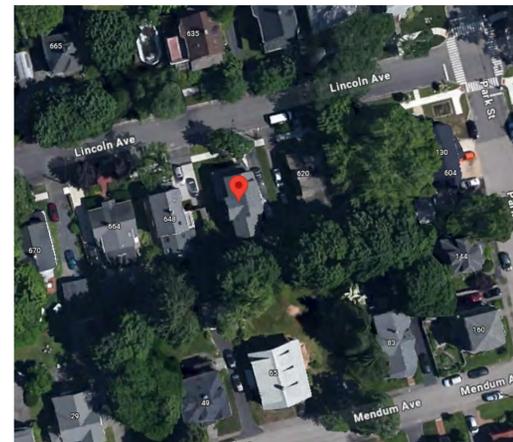


PLOT PLAN

SCALE: 1/4" = 1'-0"



SITE LOCATION



MAP VIEW

MEASUREMENTS PROVIDED BY CITY OF PORTSMOUTH, MAP GEO



SITE PLAN



EXISTING CONDITION PHOTO



Revision Table

Number	Date	Description

SITE PLAN

CLIENT:
MEZANSKY RESIDENCE
 636 Lincoln Ave
 Portsmouth, NH 03801

CONTACT:
 ABRIGO HOME
 PO BOX 1564
 PORTSMOUTH, NH 03801
 207.345.6050

DATE:

2/24/2025

COPYRIGHT © ABRIGO HOME 2022

SCALED FOR:
24" X 36"

SCALE:

SEE SCALE ON DRAWINGS

SHEET:

S-1

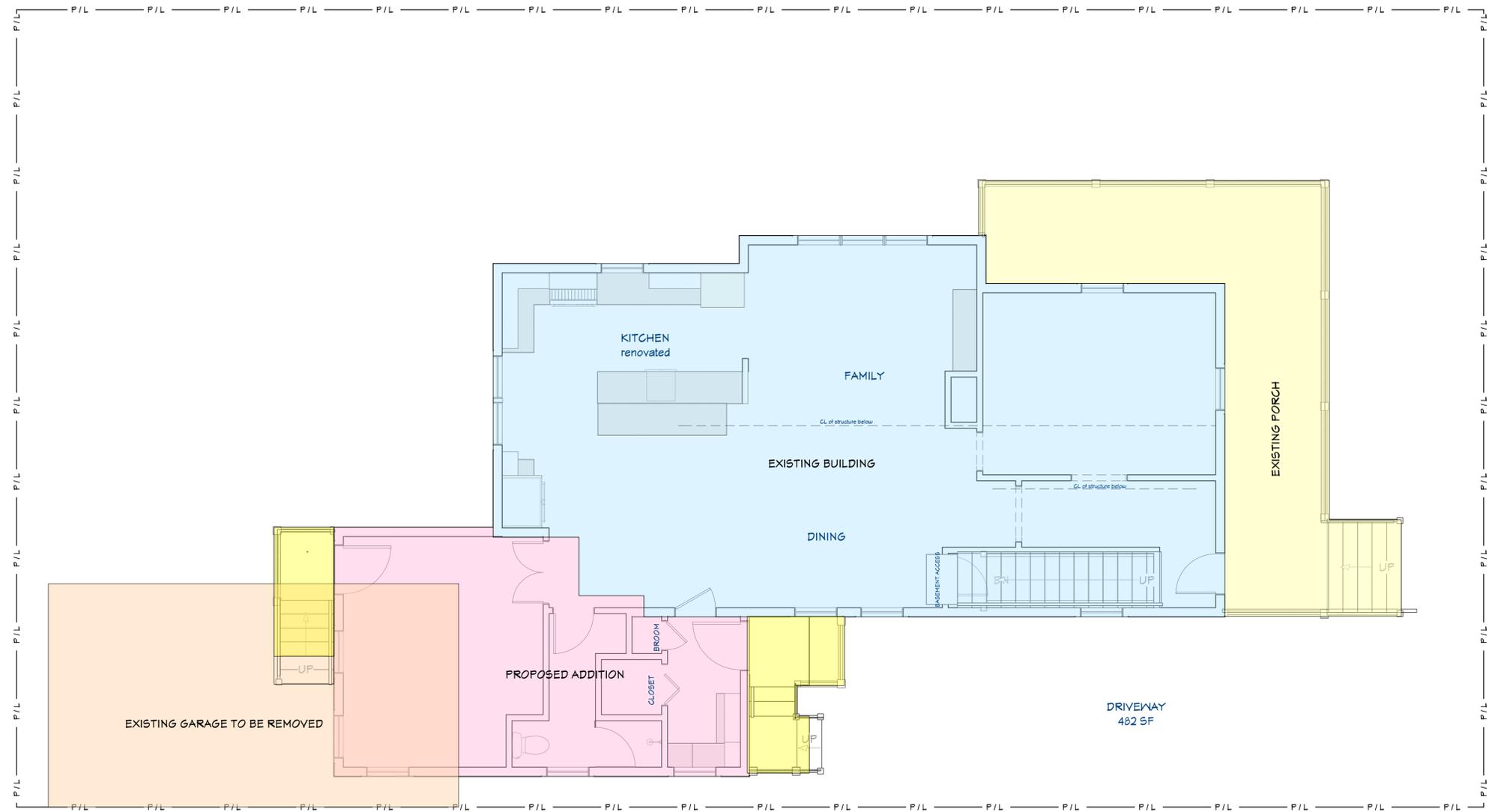
DEMOLITION NOTES

GENERAL NOTES

1. PROVIDE SELECTIVE DEMOLITION TO REMOVE EX. FLOOR, WALLS, CEILING, WINDOWS AND ROOF SYSTEMS IDENTIFIED. CONFIRM EXACT LOCATION W/ DESIGNER AND CIVIL ENGINEER PRIOR TO SELECTIVE DEMOLITION COMMENCEMENT. CONSULT WITH DESIGN PROFESSIONAL FOR ALL REQUIRED TEMPORARY SHORING AND SUPPORTS.
2. CUT EXISTING FOUNDATION TO LOCATION IDENTIFIED AND PREPARE FOR NEW FOUNDATION WALL.
3. EXISTING FOUNDATION WALL TO BE CUT AND REMAIN IN PLACE. REMOVE SILL PLATES OR OTHER LUMBER AND CUT BACK ANCHOR BOLTS TO TOP OF WALL. FILL VOID WITH SAND AND/ OR SOILS CONSISTENT WITH SURROUNDING MATERIALS.

CAD BLOCK GUIDE

- EXISTING FOOTPRINT (966 SQFT)
- EXISTING FRONT PORCH (246 SQFT)
- EXISTING GARAGE TO BE REMOVED (308 SQFT)
EXISTING BACK PORCH TO BE REMOVED (24 SQ FT)
- PROPOSED ADDITION (351 SQFT)
- PROPOSED NEW PORCHES (11 SQ FT)



RENOVATION PLAN

SCALE: 1/4" = 1'-0"



Revision Table	
Number	Date

RENOVATION PLAN

CLIENT:
MEZANSKY RESIDENCE
 636 Lincoln Ave
 Portsmouth, NH 03801

CONTACT:
 ABRIGO HOME
 PO BOX 1864
 PORTSMOUTH, NH 03801
 207.345.6050

DATE:

2/24/2025

COPYRIGHT © ABRIGO HOME 2022

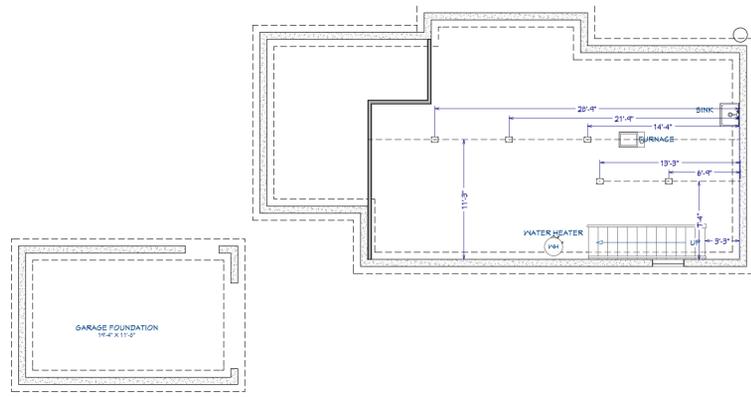
SCALED FOR:
24" X 36"

SCALE:

SEE SCALE ON DRAWINGS

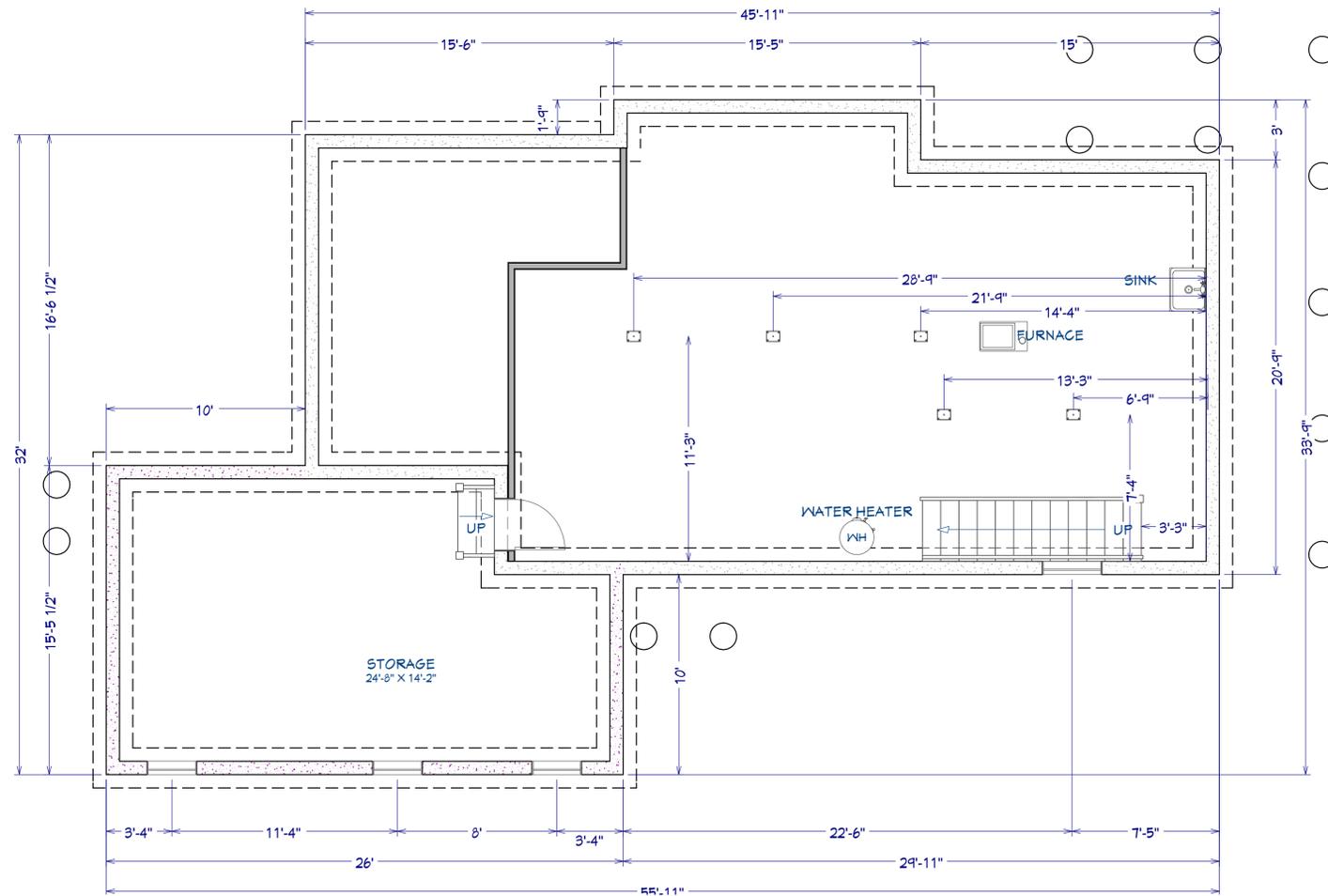
SHEET:

R-1



EXISTING FOUNDATION PLAN

SCALE: 1/8" = 1'-0"



PROPOSED FOUNDATION PLAN

SCALE: 1/4" = 1'-0"



Revision Table	
Number	Date

FOUNDATION

CLIENT:
MEZANSKY RESIDENCE
 636 Lincoln Ave
 Portsmouth, NH 03801

CONTACT:
 ABRIGO HOME
 PO BOX 1564
 PORTSMOUTH, NH 03801
 207.345.6050

DATE:

2/24/2025

COPYRIGHT © ABRIGO HOME 2022

SCALED FOR: 24" X 36"

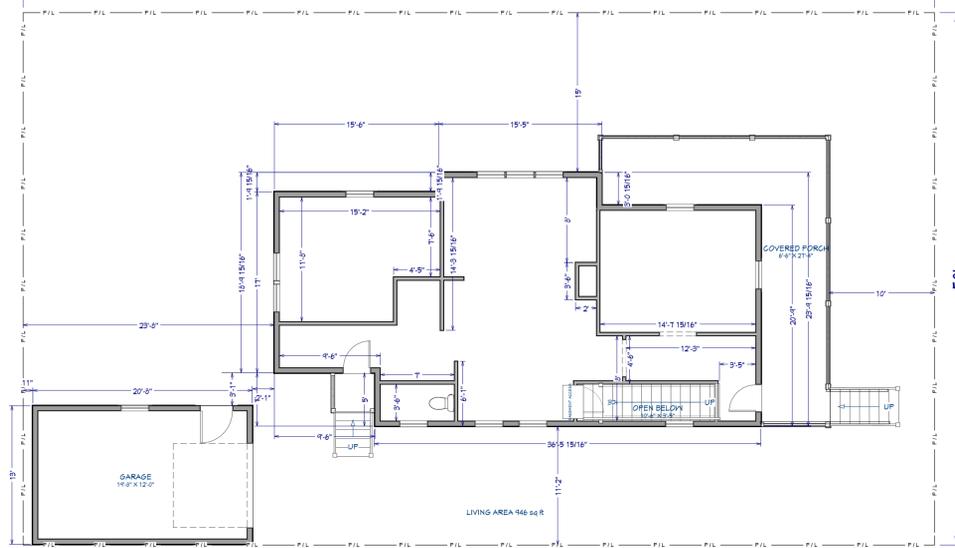
SCALE:

SEE SCALE ON DRAWINGS

SHEET:

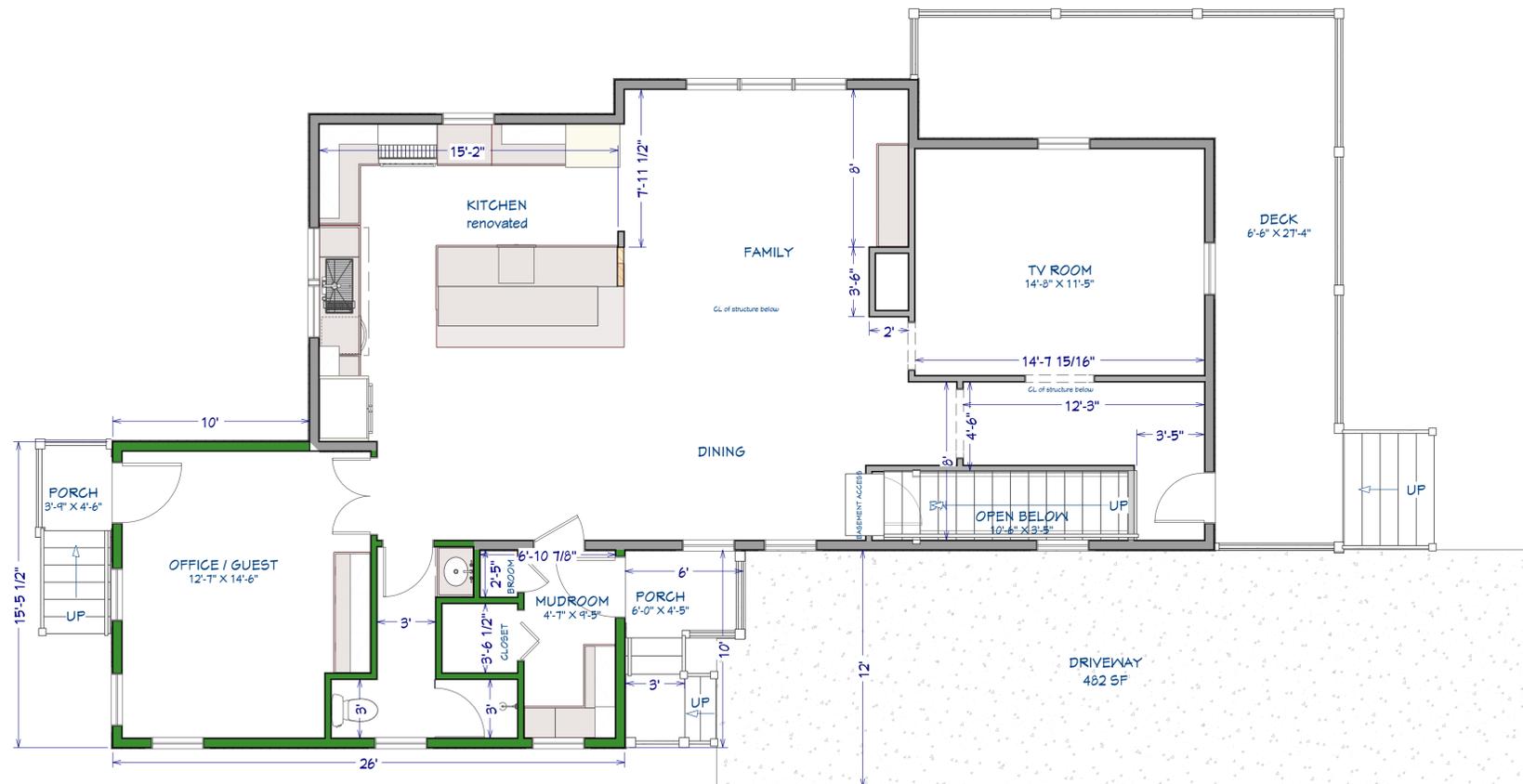
A-1

WALL SCHEDULE		
2D SYMBOL	WALL TYPE	TOTAL LENGTH
	NEW SIDING-6	103'-0 5/8"
	NEW INTERIOR-4	46'-3 5/16"
	SIDING-6	446'-3"
	INTERIOR-4	210'-5 3/8"
	NEW 8" CONCRETE STEM WALL	61'-5 1/16"
	INTERIOR RAILING	97'-8 11/16"
	GLASS SHOWER	11'-5 1/4"
	DEMO INTERIOR-4	1'-11 7/8"
	EXISTING 8" CONCRETE STEM WALL	138'



EXISTING FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0"



PROPOSED FIRST FLOOR PLAN

SCALE: 1/4" = 1'-0"

WALL SCHEDULE

2D SYMBOL	WALL TYPE	TOTAL LENGTH
	NEW, SIDING-6	103'-8 5/8"
	NEW, INTERIOR-4	46'-3 5/16"
	SIDING-6	446'-3"
	INTERIOR-4	210'-5 3/8"
	NEW 8" CONCRETE STEM WALL	61'-5 1/16"
	INTERIOR RAILING	97'-8 11/16"
	GLASS SHOWER	11'-5 1/4"
	DEMO, INTERIOR-4	1'-11 7/8"
	EXISTING 8" CONCRETE STEM WALL	138'



Revision Table	
Number	Date

FIRST FLOOR

CLIENT:
MEZANSKY RESIDENCE
 636 Lincoln Ave
 Portsmouth, NH 03801

CONTACT:
 ABRIGO HOME
 PO BOX 1564
 PORTSMOUTH, NH 03801
 207.345.6050

DATE:

2/24/2025

COPYRIGHT © ABRIGO HOME 2022

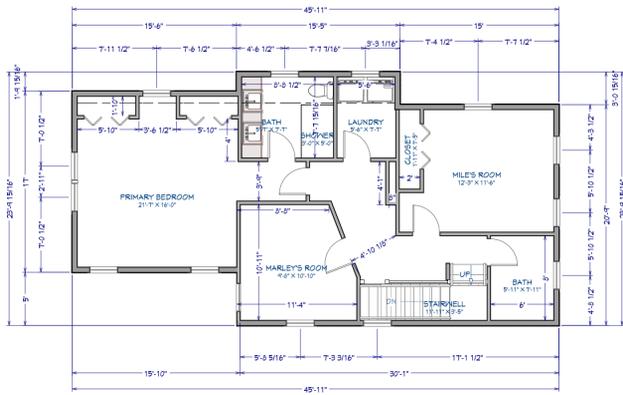
SCALED FOR:
24" X 36"

SCALE:

SEE SCALE ON DRAWINGS

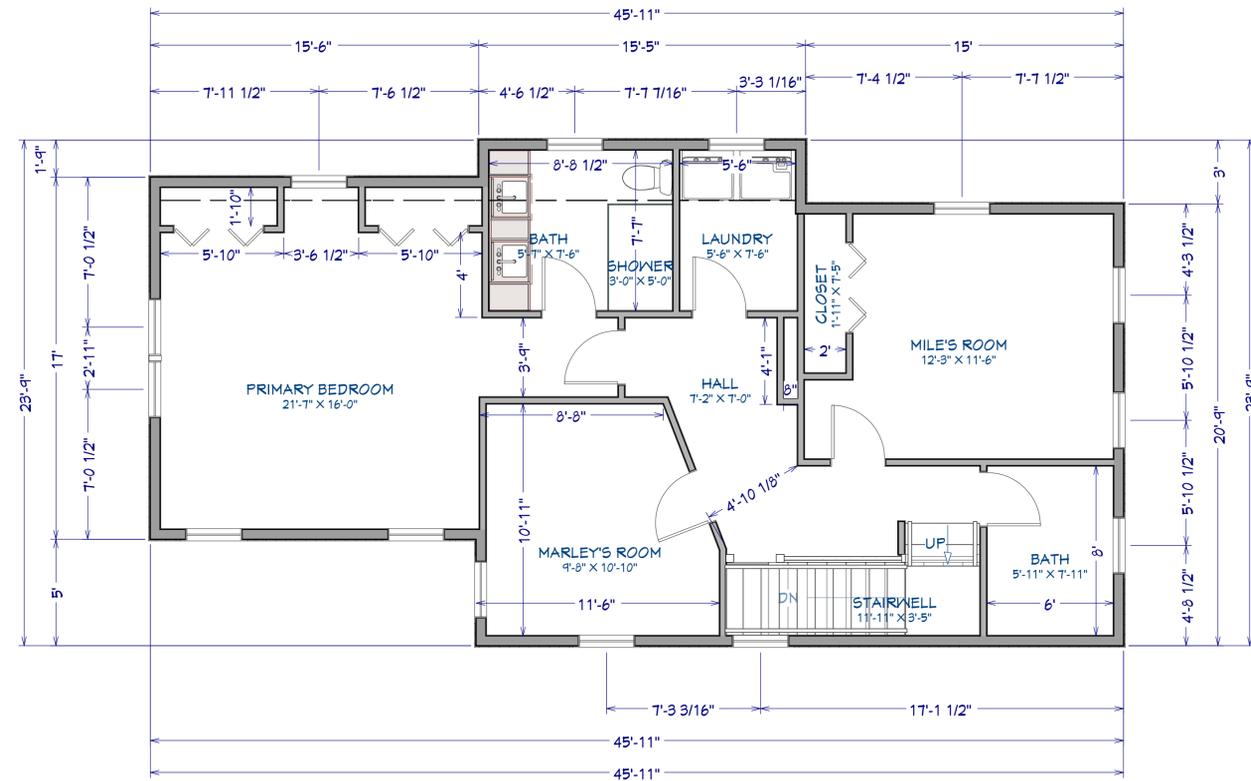
SHEET:

A-2



EXISTING SECOND FLOOR PLAN

SCALE: 1/8" = 1'-0"



SECOND FLOOR PLAN REMAIN AS IS

SCALE: 1/4" = 1'-0"

WALL SCHEDULE

2D SYMBOL	WALL TYPE	TOTAL LENGTH
	NEW SIDING-6	103'-8 5/8"
	NEW INTERIOR-4	46'-3 5/16"
	SIDING-6	446'-3"
	INTERIOR-4	210'-5 3/8"
	NEW 8" CONCRETE STEM WALL	61'-5 1/16"
	INTERIOR RAILING	97'-8 11/16"
	GLASS SHOWER	11'-5 1/4"
	DEMO INTERIOR-4	1'-11 7/8"
	EXISTING 8" CONCRETE STEM WALL	138'



Revision Table	Description
Number	Date

SECOND FLOOR

CLIENT:
MEZANSKY RESIDENCE
 636 Lincoln Ave
 Portsmouth, NH 03801

CONTACT:
 ABRIGO HOME
 PO BOX 1564
 PORTSMOUTH, NH 03801
 207.345.6050

DATE:

2/24/2025

COPYRIGHT © ABRIGO HOME 2022

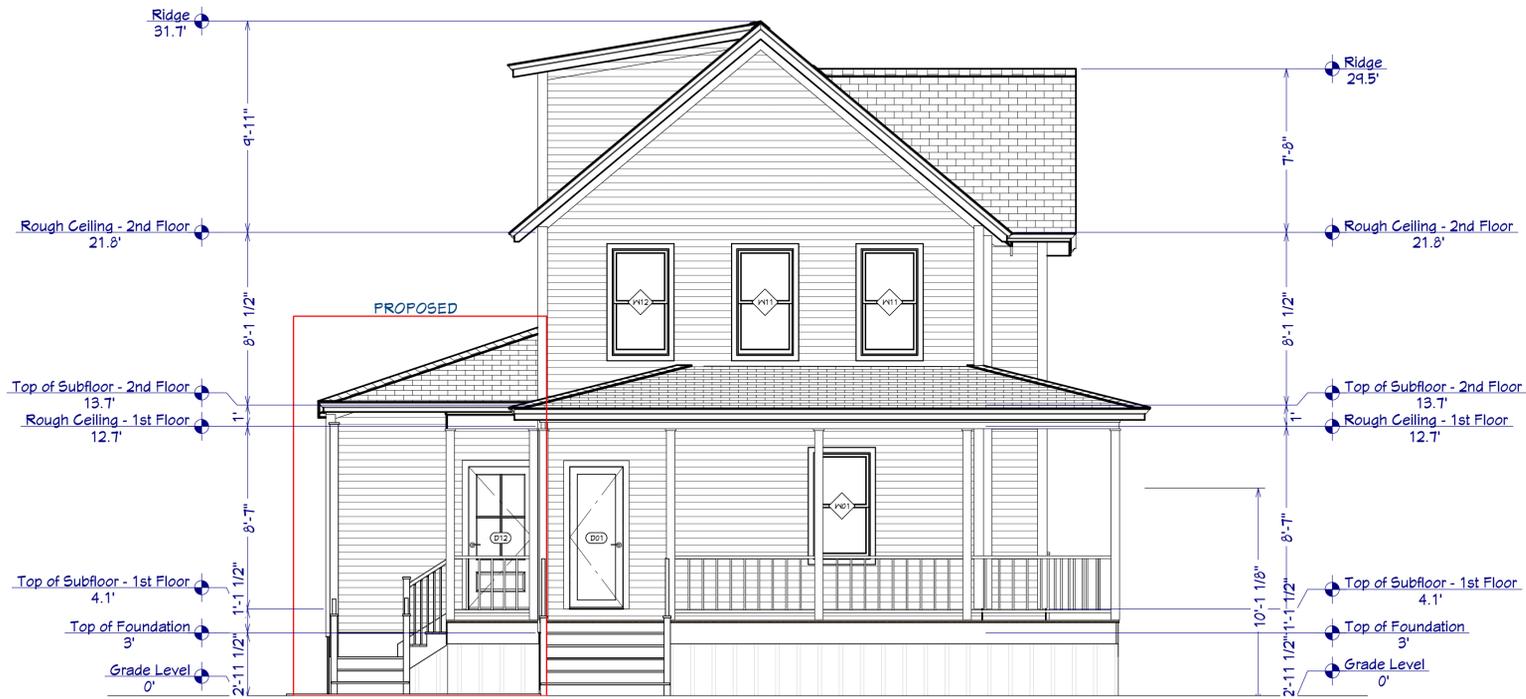
SCALED FOR:
24" X 36"

SCALE:

SEE SCALE ON DRAWINGS

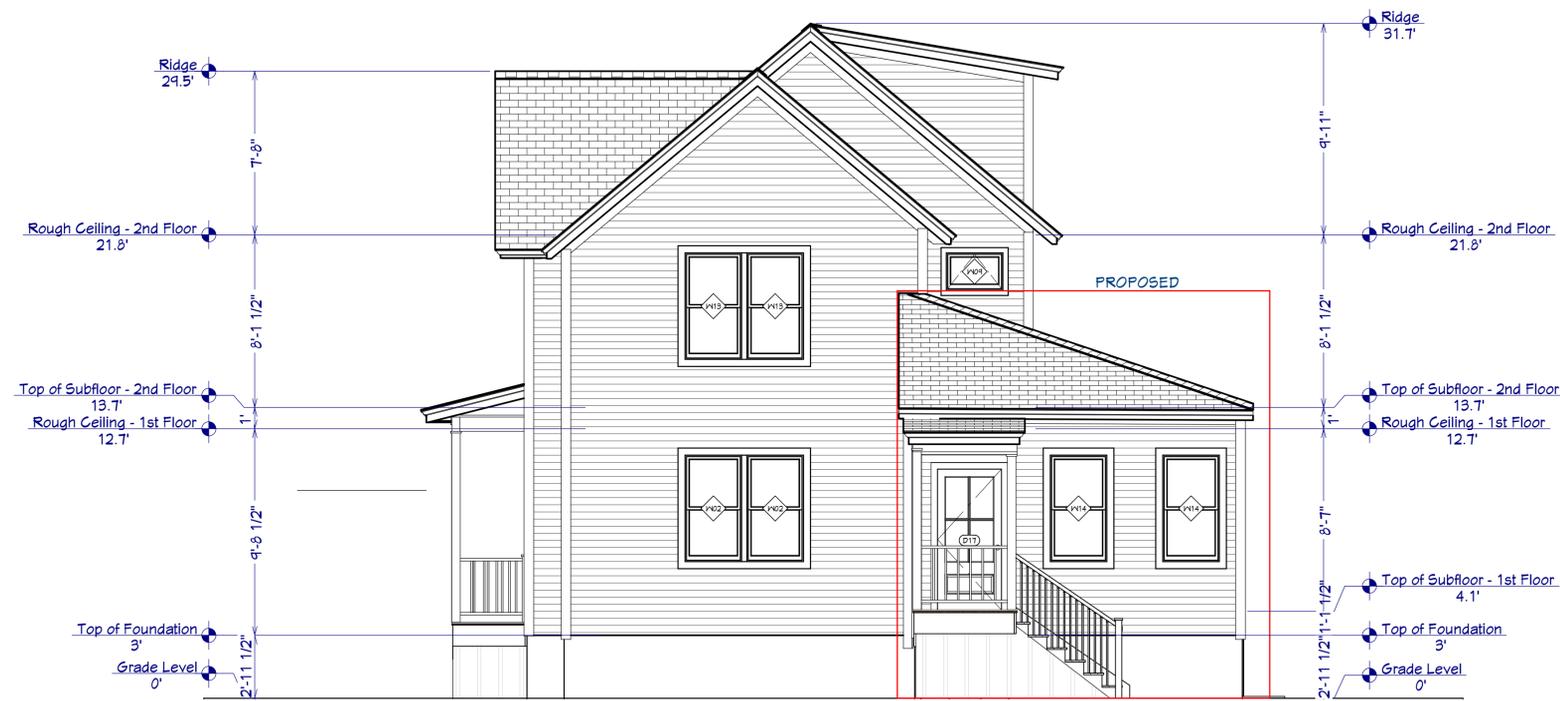
SHEET:

A-3



PROPOSED FRONT ELEVATION

SCALE: 1/4" = 1'-0"



PROPOSED REAR ELEVATION

SCALE: 1/4" = 1'-0"



EXISTING FRONT VIEW



EXISTING FRONT ELEVATION

SCALE: 1/8" = 1'-0"



EXISTING REAR VIEW



EXISTING REAR ELEVATION

SCALE: 1/8" = 1'-0"



Revision Table
Number | Date | Description

Number	Date	Description

ELEVATIONS

CLIENT:
MEZANSKY RESIDENCE
636 Lincoln Ave
Portsmouth, NH 03801

CONTACT:
ABRIGO HOME
PO BOX 1564
PORTSMOUTH, NH 03801
207.345.6050

DATE:

2/24/2025

COPYRIGHT © ABRIGO HOME 2022

SCALED FOR:
24" X 36"

SCALE:

SEE SCALE ON DRAWINGS

SHEET:

A-4

ELEVATIONS

SCALE: 1/4" = 1'-0"



EXISTING RIGHT ELEVATION | SIDE VIEW

SCALE: 1/8" = 1'-0"



EXISTING RIGHT SIDE

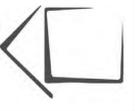


PROPOSED RIGHT ELEVATION | SIDE VIEW

SCALE: 1/4" = 1'-0"

ELEVATIONS

SCALE: 1/4" = 1'-0"



Revision Table		
Number	Date	Description

ELEVATIONS

CLIENT:
MEZANSKY RESIDENCE
 636 Lincoln Ave
 Portsmouth, NH 03801

CONTACT:
 ABRIGO HOME
 PO BOX 1564
 PORTSMOUTH, NH 03801
 207.345.6050

DATE:

2/24/2025

COPYRIGHT © ABRIGO HOME 2022

SCALED FOR:
 24" X 36"

SCALE:

SEE SCALE ON DRAWINGS

SHEET:

A-5



EXISTING LEFT ELEVATION | SIDE VIEW

SCALE: 1/8" = 1'-0"



EXISTING LEFT SIDE



PROPOSED LEFT ELEVATION | SIDE VIEW

SCALE: 1/4" = 1'-0"

ELEVATIONS

SCALE: 1/4" = 1'-0"



Revision Table	
Number	Date

ELEVATIONS

CLIENT:
MEZANSKY RESIDENCE
 636 Lincoln Ave
 Portsmouth, NH 03801

CONTACT:
 ABRIGO HOME
 PO BOX 1564
 PORTSMOUTH, NH 03801
 207.345.6050

DATE:

2/24/2025

COPYRIGHT © ABRIGO HOME 2022

SCALED FOR:
24" X 36"

SCALE:

SEE SCALE ON DRAWINGS

SHEET:

A-6

March 24, 2025

Phyllis Eldridge, Chair
Zoning Board of Adjustment
Portsmouth Planning Department
1 Junkins Ave.
Portsmouth, NH 03801

Dear Members of the Zoning Board of Adjustment,

We are writing today to support the request of Samantha and Michael Mezansky, 636 Lincoln Ave., to remove their existing garage and add an addition per architectural plans created by Amy Dutton and shared with us on March 22.

As the Mezansky's next door neighbor, we will be most impacted by the construction since the exterior renovations will be on our side of their house. We were pleased to see the design is in keeping with the character of our early 1900s neighborhood and that the old garage will be torn down. Since the new structure will be moved off the property line, we'll have better access to the side of our garage. Our homes are situated a block of many nonconforming lots and we would support the granting of a variance to allow the Mezansky renovation project to go forward.

Sincerely,

Handwritten signatures of Mitchell Shuldman and Diane Schaefer in black ink.

Mitchell Shuldman & Diane Schaefer
620 Lincoln Ave.
Portsmouth, NH 03801
603-828-9364
Dschaefer7@comcast.net
mshuldman@comcast.net

Portsmouth, NH Board of Adjustment
Neighbor Letter in Support of Addition by Homeowner

Date: March 24, 2025

Chairman of the Board of Adjustment
C/O Planning Department City of Portsmouth
1 Junkins Ave.
Portsmouth, NH 03801
Planning@cityofportsmouth.com

To The Chairman of the Board of Adjustment,

Please find this letter in support of the removal of the existing garage and proposed addition to 636 Lincoln Ave.

Keeping in mind the 5 Criteria:

1. The new structure would be staying within the character of the neighborhood.
2. It would improve the safety and health of the neighbors.
3. It would eliminate a dangerous existing structure due to poor building practices.
4. The surrounding properties would improve because they are willing to move the structure away from property lines.
5. The lot is small and non-conforming. Conforming to setbacks is not possible in order to create a viable project for their growing young family.

We encourage the Portsmouth Board of Adjustment to grant the variance to the Mezansky Residence.

Submitted respectfully,



Karen Dawson
648 Lincoln Ave.
Portsmouth, NH 03801

Portsmouth, NH Board of Adjustment
Neighbor Letter in Support of Addition by Homeowner

Date: March 24, 2025

Chairman of the Board of Adjustment
C/O Planning Department City of Portsmouth
1 Junkins Ave.
Portsmouth, NH 03801
Planning@cityofportsmouth.com

To The Chairman of the Board of Adjustment,

Please find this letter in support of the removal of the existing garage and proposed addition to 636 Lincoln Ave.

Keeping in mind the 5 Criteria:

1. The new structure would be staying within the character of the neighborhood.
2. It would improve the safety and health of the neighbors.
3. It would eliminate a dangerous existing structure due to poor building practices.
4. The surrounding properties would improve because they are willing to move the structure away from property lines.
5. The lot is small and non-conforming. Conforming to setbacks is not possible in order to create a viable project for their growing young family.

We encourage the Portsmouth Board of Adjustment to grant the variance to the Mezansky Residence.

Submitted respectfully,



Craig Steigerwalt
625 Lincoln Ave.
Portsmouth, NH 03801

III. NEW BUSINESS

C. The request of **Dreyer Family Revocable Trust (Owners)**, for property located at **558 Islington Street** whereas relief is needed to allow a salon which requires the following: 1) Special Exception from Section 10.440, Use # 7.20 to allow a personal services use where it is allowed by Special Exception. Said property is located on Assessor Map 156 Lot 23 and lies within the Character District 4-L2 (CD4-L2) and Historic Districts. (LU-25-30)

Existing & Proposed Conditions

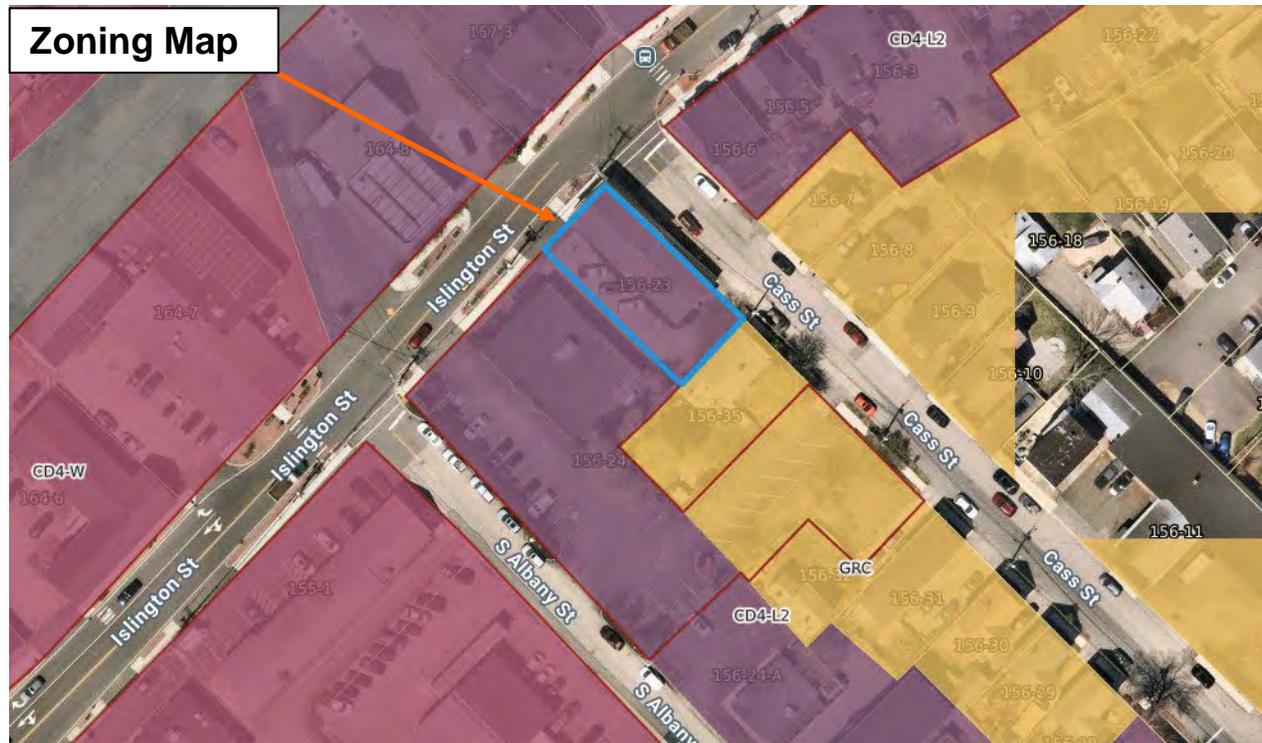
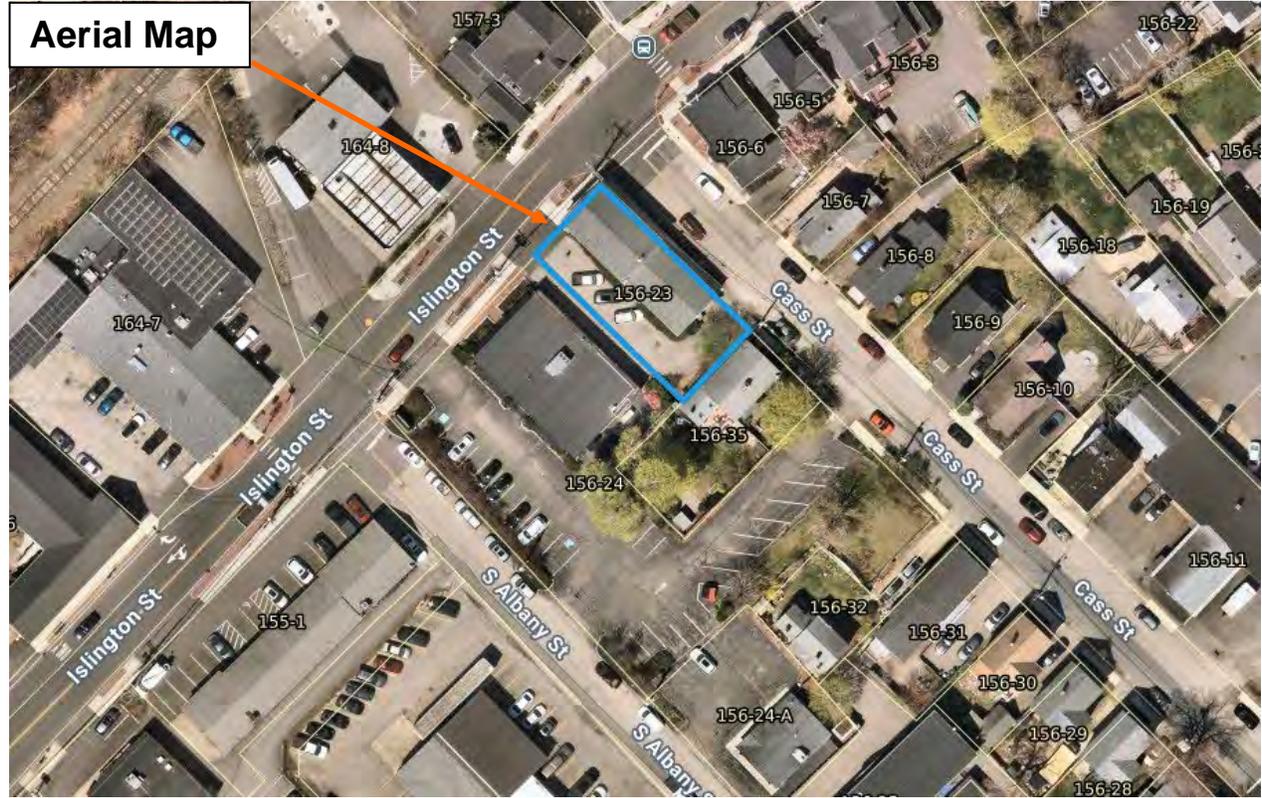
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	2 Commercial Units, 2 Residential Units	<i>*Salon (Allowed by Special Exception)</i>	Mixed residential and commercial uses
<u>Unit Area (sq. ft.)</u>	1000	1000	NR
<u>Parking (Spaces)</u>	10	10	Residential (2 Units): 3 Personal Svc (2 Units @1000SF): 5 (1 per 400 s.f.GFA) Total: 8
<u>Estimated Age of Structure:</u>	1920	<i>Special Exception request(s) shown in red.</i>	

**Salon is considered a “personal services” use that is allowed by Special Exception in the CD4-L2*

Other Permits/Approvals Required

- Building Permit (Tenant Fit-Up)
- Sign Permit

Neighborhood Context



Previous Board of Adjustment Actions

- No previous BOA history was found.

Planning Department Comments

The applicant is requesting to establish a salon at 558 Islington Street, a first floor commercial unit in a mixed-use building with a main address of 562 Islington Street. Salons are considered a “personal service” under the Zoning Ordinance and are allowed by Special Exception in the CD4-L2 district. There are currently 10 on-site parking spaces and the proposed mix of uses on-site requires 8 spaces.

Special Exception Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

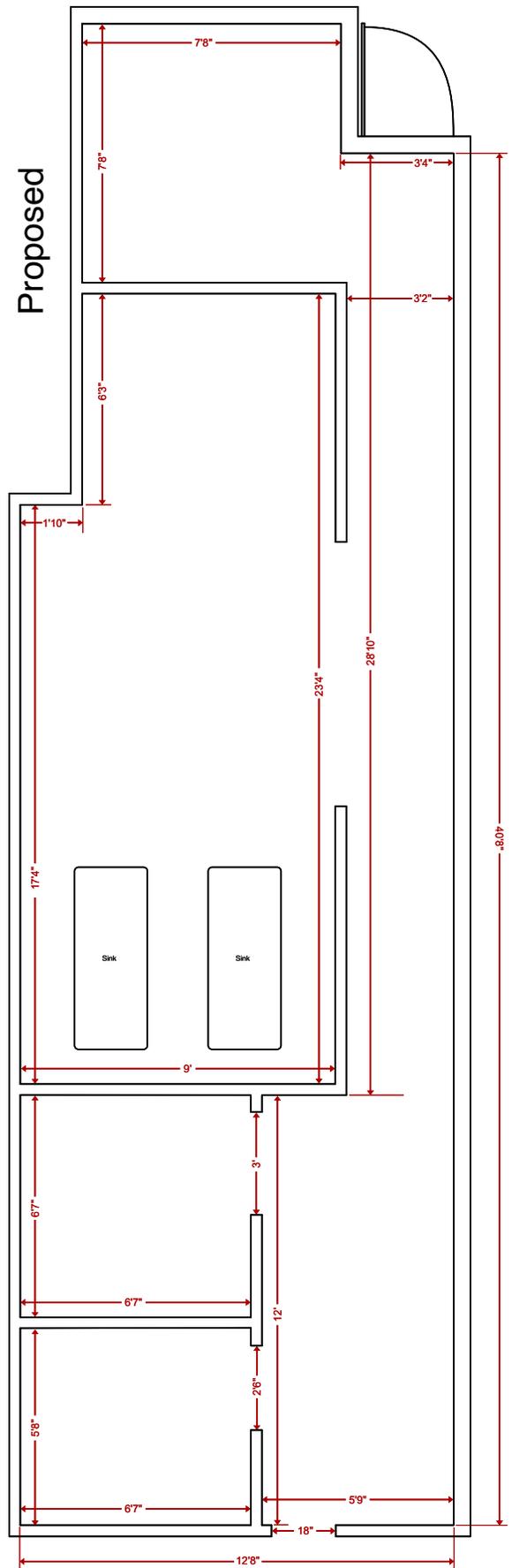
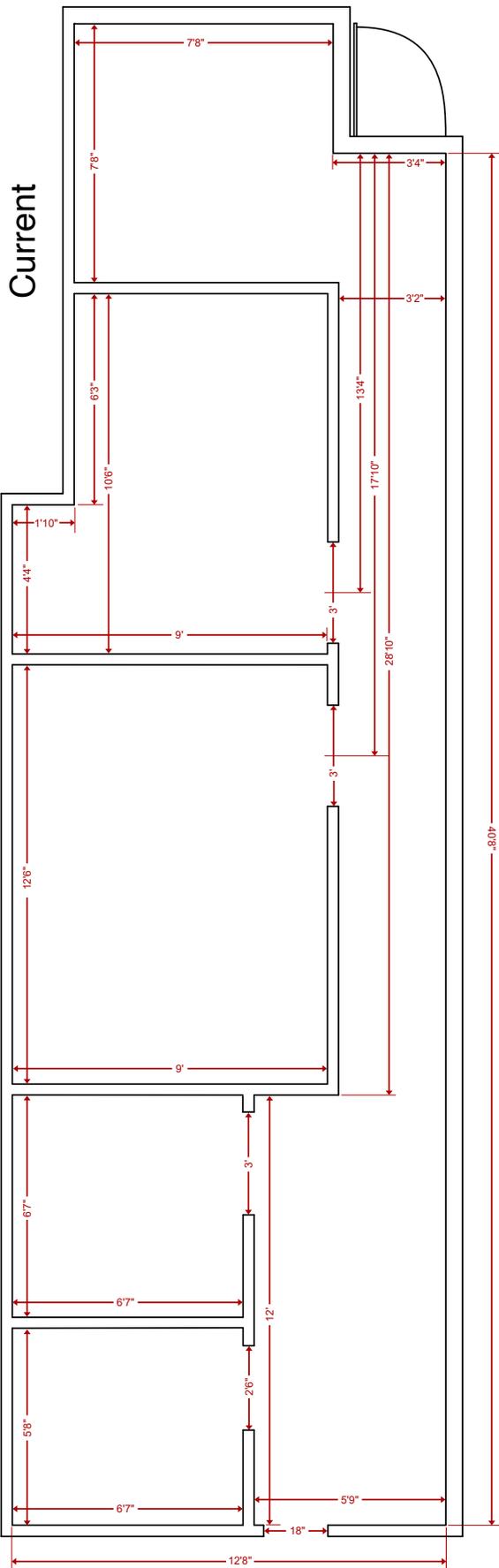
1. *Standards as provided by this Ordinance for the particular use permitted by special exception;*
2. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
3. *No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;*
4. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
5. *No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and*
6. *No significant increase of stormwater runoff onto adjacent property or streets.*

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.

Velvet Vine Salon Floor Plan

Scale: 1" = 5'



Lot Lines for 562 Islington Street and 566 Islington Street, Portsmouth, NH

Address:

558 Islington St.
Portsmouth, NH 03801

Tenant Name:

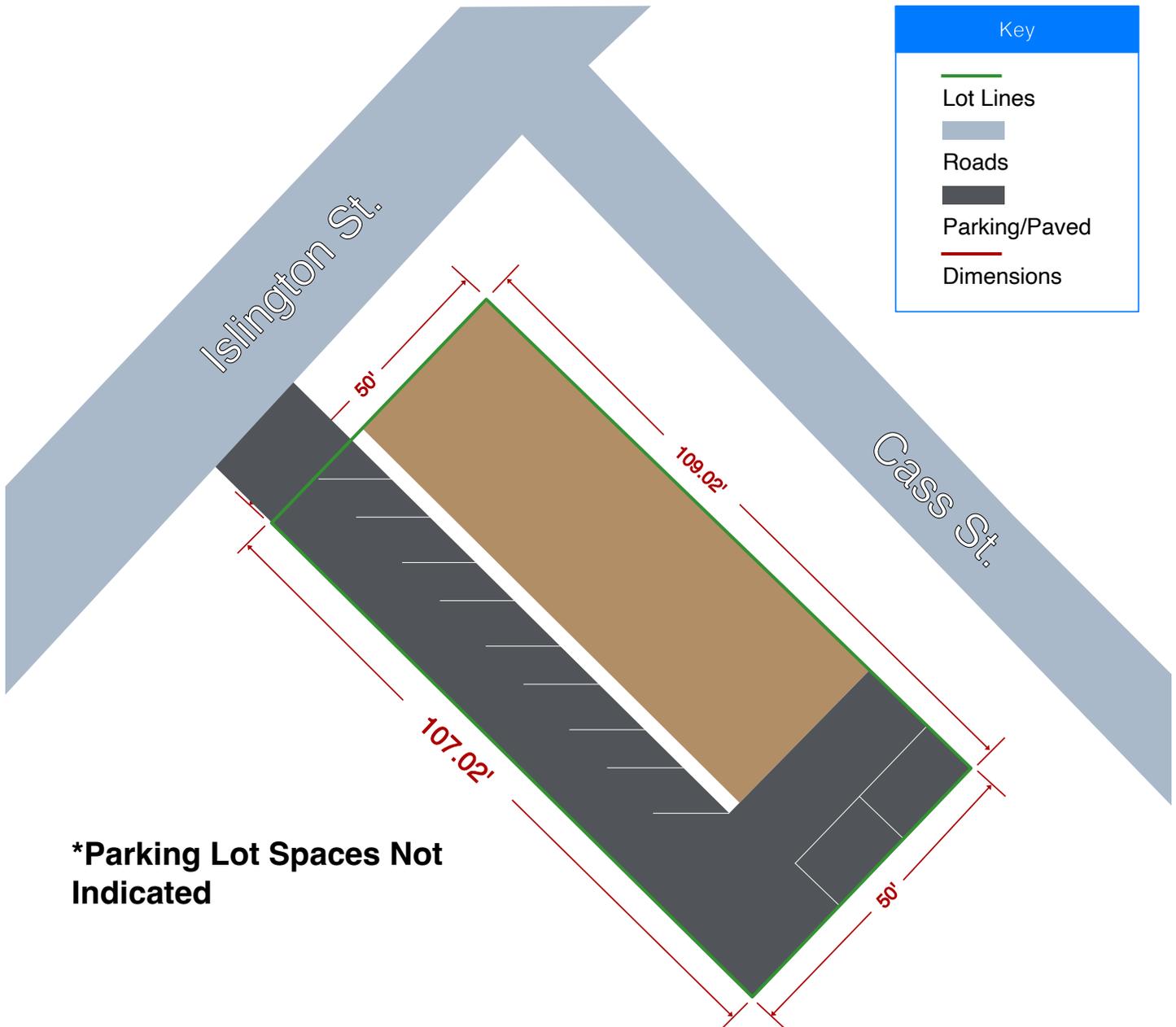
Erica Perkins

Building Owner Name:

Robertina Dreyer

Title of Petition:

Special Exception



Lot Lines for 562 Islington Street and 566 Islington Street, Portsmouth, NH

556 + 562 Islington Lot Lines Satellite View



556 Islington Lot Lines Satellite View



Rear From Cass St.



562 Islington Lot Lines Satellite View



Front Right From Islington St.



Front Left From Islington St.



Confirmation of Permission for Driveway Use – 566 Islington Street

This document serves to confirm that the owner of 566 Islington Street has granted permission for the shared use of a portion of their property where it overlaps with 562 Islington Street for parking purposes. This agreement allows vehicles to utilize this section of their lot line as part of our parking arrangement.

I am presenting this information in support of our request for the Special Exception Land Use Permit, as this shared use plays an integral role in our site's parking functionality. Thank you.

List of All Uses on 558 Islington Street (562 Islington Street) (No floor plan)

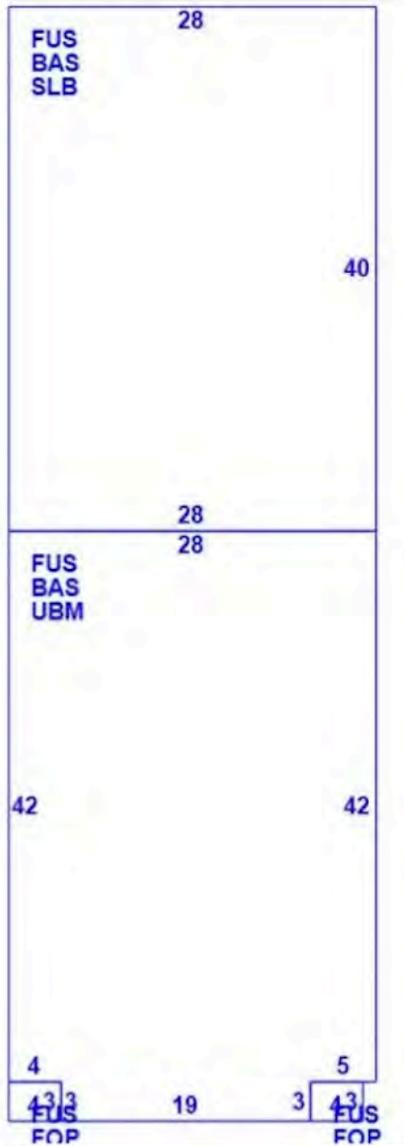
2 Residential units

- Upstairs front apartment (1000 sq ft)
- Upstairs rear apartment (1000 sq ft)

2 Commercial units (1000 sq ft each unit)

- Higgys Barbershop (1000 sq ft)
- Proposed Velvet Vine (1000 sq ft)

Building Layout



Building Sub-Areas (sq ft)		Legend	
Code	Description	Gross Area	Living Area
FUS	Upper Story, Finished	2,377	2,377
BAS	First Floor	2,353	2,353
FOP	Porch, Open	24	0
SLB	Slab	1,120	0
UBM	Basement, Unfinished	1,233	0
		7,107	4,730

Velvet Vine Salon- Special Exception Application

Submitted to: Portsmouth Zoning Board

Date: March 19th, 2025

Property Address: 558 Islington Street Portsmouth, NH

Applicant: Erica Perkins

Property Owner: Robertina Dreyer

1. Project Narrative

Project Introduction

The proposed Velvet Vine is a low-toxic focused salon specializing in natural textured hair while providing a luxurious and relaxing client experience. Our approach prioritizes high-quality hair care in a serene, intimate setting, ensuring personalized attention for each client.

The location at 558 Islington Street is ideal for Velvet Vine Salon due to its inviting curb appeal, highlighted by a spacious storefront window that enhances the inviting atmosphere. The property offers many amenities, including its own parking lot with two dedicated parking spots and free parking on Cass Street and further up on Islington Street, making it accessible for clients who drive in. With its central location, clients who live downtown and in the West End can easily walk to the destination as well. The natural light from the northwest window creates a bright environment, perfectly complementing the salon's focus on relaxation and wellness. Additionally, with a business model centered around having one to two clients at a time, the salon naturally integrates into the neighborhood's walkable, community-oriented setting.

2. Analysis Criteria

2.1 Compliance with Ordinance Standards (10.232.21)

Velvet Vine meets all zoning ordinance requirements for a special exception. The salon is permitted within the existing zoning district, and the proposed use aligns with the city's requirements for the district it is in.

2.2 No Hazard to Public or Adjacent Property (10.232.22)

The project has been designed to eliminate risks related to fire, explosion, or toxic materials. No hazardous material will be stored or used on-site.

2.3 No Detriment to Property Values or Neighborhood Character (10.232.23)

This project will enhance rather than detract from the neighborhood's character and property value:

Noise level is minimum to none

The storefront window will be tastefully designed

No outdoor lighting that would create glare to passing cars

2.4 No Traffic Safety Hazards or Excessive Congestion (10.232.24)

The dedicated parking lot with 2 designated spots for the salon and close street parking will not disrupt the flow of traffic on any nearby street. Additionally, with only one to two clients in the salon at one time, there is no hazard to traffic or excessive congestion with the designated 2 parking spots for the salon. Also to add, about a quarter of clients will walk to the salon for their appointment, freeing up more space. With each diagonal space measuring at 8.5x19 there are 8 spaces available on the side of the building and 2 tandem spaces in the back of the building measuring at 8.5x20. With that being said there is only one car for each resident which means there will always be empty spaces within the lot.

2.5 No Excessive Demand on Municipal Services (10.232.25)

The salon will not create an excessive burden on city services. With low client volume, the salon will have minimal impact on water sewer usage, waste disposal, and public safety resources. Also, parking demand will be easily accommodated by on-site parking lot and nearby free parking, ensuring no strain on city infrastructure.

2.6 No Significant Increase in Stormwater Runoff (10.232.26)

Velvet Vine Salon will not contribute to a significant increase in stormwater runoff, as no major exterior modifications or expansions to the building or pavement are planned. The existing drainage infrastructure at 558 Islington Street is sufficient to manage normal rainfall and the salons operations will not add any water-intensive processes that could impact water runoff levels.

Conclusion

Velvet Vine Salon is a thoughtfully designed salon that aligns with the character and needs of the community. The focus on natural textured hair, personalized client experiences, and a tranquil atmosphere ensures that the business integrates seamlessly into the neighborhood. The salon's small-scale operations, efficient use of existing infrastructure, and minimal impact on municipal services, traffic, and stormwater runoff demonstrate the commitment to responsible business practices.

With its ideal location at 558 Islington Street, ample parking availability, and accessibility for both walking and driving clients, Velvet Vine Salon will be a valuable addition to the area. I respectfully request approval of this special exception application and look forward to contributing positively to the community.

Erica Perkins

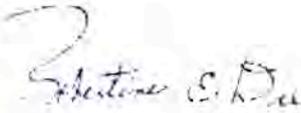
(603)988-6664

Erica@Velvetvine.Salon

City of Portsmouth Board of Adjustment Application

To whom it may concern,

I, Robertine Dreyer, as the legal owner of the property located at **558 Islington Street, Portsmouth, NH**, hereby authorize **Erica Perkins/Velvet Vine Salon**, to submit an application for a **Special Exception Land Use Permit** to the city of Portsmouth Board of Adjustment.



Date: 5-11-25

III. NEW BUSINESS

D. The request of **Freeze J. L. & Riecks J. D. Revocable Trust (Owners)** and **Kimberly Boualavong** and **Matthew Meyers (Applicants)**, for property located at **205 Bartlett Street** whereas relief is needed to allow a barbershop which requires the following: 1) Variance from Section 10.440, Use #7.20 to allow a personal services use where it is not allowed. Said property is located on Assessor Map 162 Lot 33 and lies within the General Residence A (GRA) District. (LU-25-31)

Existing & Proposed Conditions

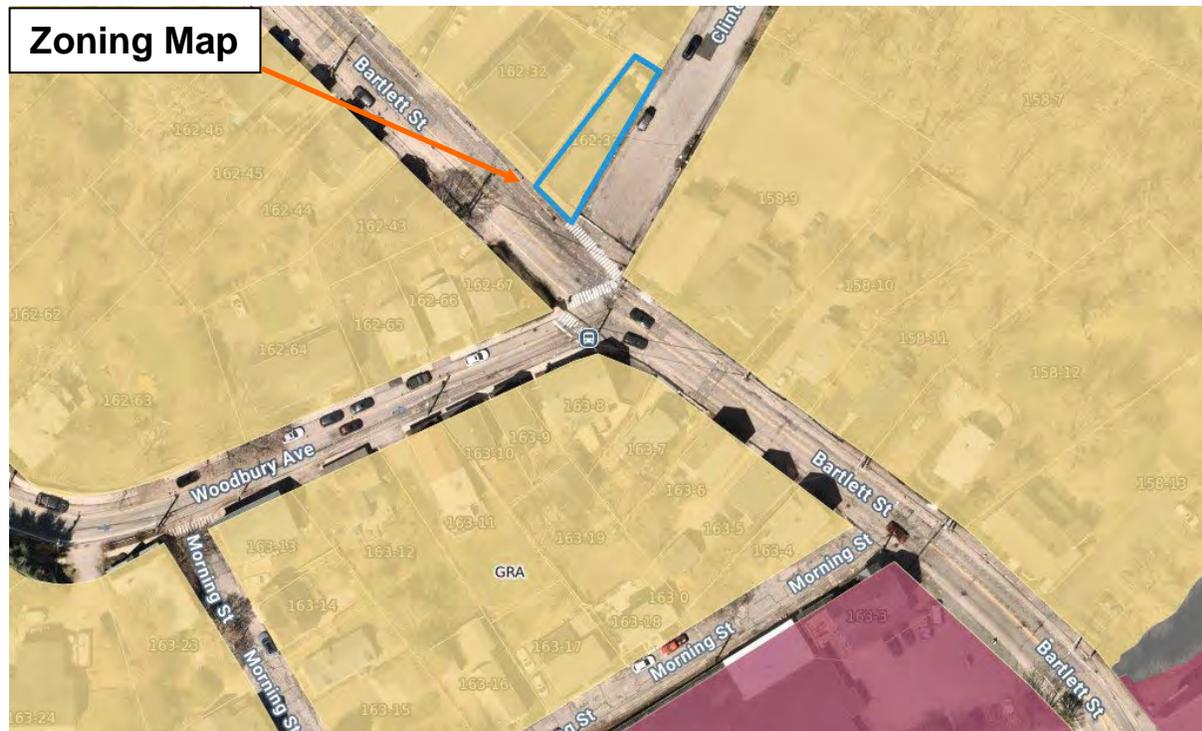
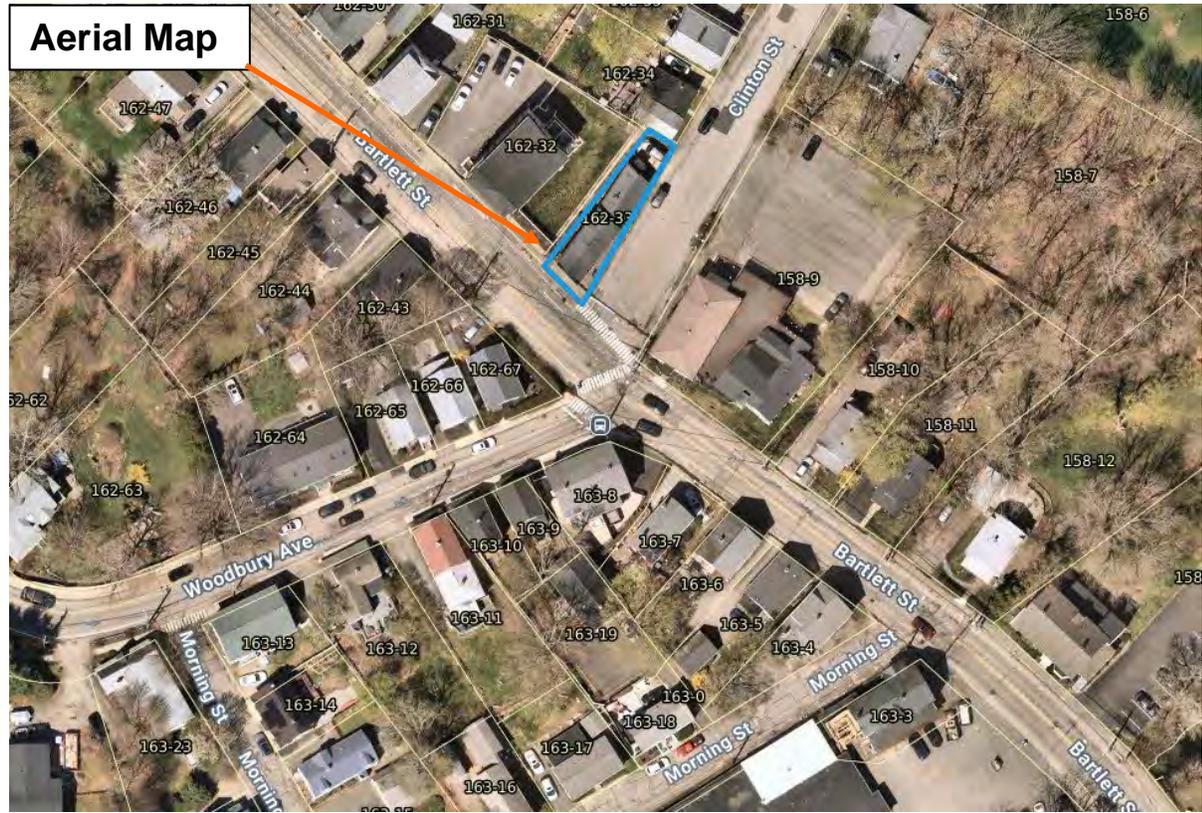
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	1 Commercial Unit, 1 Residential Unit	*Barbershop	Primarily Residential
<u>Units Area (sq. ft.)</u>	275	275	
<u>Parking (Spaces)</u>	2	2	2
<u>Estimated Age of Structure:</u>	1910	Variance request(s) shown in red.	

*Barbershop is considered a “personal services” use that is not a permitted use in GRA

Other Permits/Approvals Required

- Building Permit (Tenant Fit-Up)

Neighborhood Context



Previous Board of Adjustment Actions

- **August 18, 1998** – 1) A Variance from Article II, Section 10-206 to allow a 442.6 s.f. take out only restaurant in the former Reyes Upholstery Shop (282.6 s.f.) and a portion of the existing dwelling unit (160 s.f.); and 2) a Variance from Article XII, Section 10-1204 Table 15 to allow no parking for the take out restaurant where 4 parking spaces are required. Application was **withdrawn** by applicant.
- **September 21, 1999** – A Variance Article IV, Section 10-401(A)(1)(b) to allow a 6' x 9'6" walk-in closet in the apartment to be converted into an office for the upholstery shop. The Board voted to **grant** the petition as presented and advertised with a **stipulation**:
 - That the area for the office remain an office and not be used for other aspects of the business.
- **April 29, 2014** – A Variance from Section 10.440, Use #6.20 to allow a medical office where the use is prohibited in this district. A Variance from Sections 10.1111.10 and 10.1112.30 to allow no off-street parking spaces to be provided where 2 off-street parking spaces are required. The Board voted to **grant** the petition as presented and advertised with a **stipulation**:
 - That the regular hours of operation will be limited to 20 hours per week.

Planning Department Comments

The applicant is seeking a variance to permit a personal service use for a barbershop in an existing commercial unit at 205 Bartlett St. There is also an existing residential apartment in the rear unit of the existing mixed-use building. The front unit has historically been a non-conforming commercial use with the most recent tenant being permitted as medical office use. The commercial and residential units each require 1 parking space and there are 2 parking spaces at the rear of the lot.

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.

**The Blind Finch
Barbershop
205 Bartlett Street**

Applicants:

Kim Boualavong & Matthew Meyers

Owner authorization

March 8, 2025

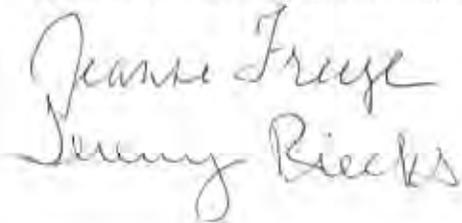
To Whom It May Concern,

We, Jeanne Freeze and Jeremy Riecks, the legal owners of the property at 205 Bartlett Street, Portsmouth, NH grant permission to Kim Boualavong and Matthew Meyers to use the premises for commercial purposes as a barbershop.

This authorization grants them permission to move forward with a variance application to continue to use our property as a commercial space. A barber shop is in keeping with the buildings' history, as it was Rogers Barber shop in the 1960's.

Sincerely,

Jeanne Freeze and Jeremy Riecks

Handwritten signatures of Jeanne Freeze and Jeremy Riecks. The signature for Jeanne Freeze is written in a cursive style, and the signature for Jeremy Riecks is also in cursive, positioned below the first signature.

Application for The Blind Finch

205 Bartlett Street

This application is requesting a zoning variance to open The Blind Finch Barbershop at 205 Bartlett Street. The applicants, Kim Boualavong and Matthew Meyers, are the tenants of this property.

The Blind Finch is a community-focused barbershop offering a welcoming space for the neighborhood to get great haircuts, wholesome conversations, and lasting friendships. We want to build relationships and support the local community in whatever ways we can.

Barbershops have long been hubs of gathering and conversation, sharing local news and history. We aim to uphold this tradition—whether for a quick hello or a fresh haircut for life’s big moments. As a 2 chair barbershop, we’re committed to staying small to provide high quality, personalized service to our clients.

The property at 205 Bartlett Street is in a GRA zoning district, but has primarily been used as a commercial space with its last tenant being West End Eyecare and prior to that, Creek Hill Upholstery. This space has a history of being used commercially despite its location in a residential neighborhood. A pre-inspection by the Inspection department was completed on March 3, 2025 and no major issues were identified.

If approved, our barbershop will bring:

- **Convenience** — a reliable, high-quality barbershop right in the neighborhood
- **Community connection** — a space where people come together, whether for a quick trim or great conversation
- **Aesthetic improvement** — a well-maintained business instead of an empty space/storefront

Analysis Criteria

We believe our application meets the criteria necessary for the Board to grant the requested variance:

- **The variance will not be contrary to the public interest;**
- **The spirit of the Ordinance will be observed**

The proposed Barbershop does not conflict with the explicit or implicit purpose of the ordinance. Using this property as a barbershop will not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or injure "public rights". As barbershops are regulated and required to pass inspection by the Board of Barbering, Cosmetology, and Esthetics, we believe there is no threat to public health, safety or welfare.

- **Substantial justice will be done**

There is no harm to the general public or to other individuals. As a 2 chair, appointment-driven barbershop, the likelihood of enormous foot traffic or client traffic would be low. The shop will operate during reasonable hours as to not disrupt the neighborhood.

- **The values of surrounding properties will not be diminished**

Opening a barbershop in this location would not diminish the value of surrounding properties, but rather add an amenity to those in the neighborhood. This property has been primarily used as a commercial space and a barbershop would continue to enrich the neighborhood.

- **Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

The property is burdened by the existing zoning restrictions in that it has been used primarily as a commercial space. In this neighborhood, other properties are already used as residences with a kitchen and full bathroom. This property cannot reasonably be used as a residence, for which it is currently zoned for, in its current state as there is no kitchen or full bathroom. To make it livable as a residence would require unnecessary hardship.

History of property

1923	Retail Grocer: Connor, John T. Co. 205 Bartlett Street & 181 Congress Street
1930 -	First National Stores Inc., gros.
1950	Effie's Yarn Shop
1952-1957	vacant
1959	Roger P. Emard
1961	Roger's Barber Shop 3 Clinton Street apartment built by Roger P. Emard
1965	Renter: Mrs Mary Mortimer
1967	Renter: Mrs Joyce V. Katatsanos
1968-1971	Roger P. Emard
1972	Elton Taylor
1973-1974	Verna Mackenzie
1976	Church/ Emanuel Church of Christ
1977	Rafael Reyes

Additional business information

Operating model

The Blind Finch will operate as an appointment-driven barbershop, meaning appointments will be preferred and walk-ins are taken on an availability basis.

Hours of operation

Our hours of operation will be reasonable as to not disrupt the neighborhood. We anticipate having the following hours:

Sunday & Monday: closed

Tuesday - Friday: 9:00am - 6:00pm

Saturday: 9:00am - 2:00pm

Parking

The parking requirement as defined by the City of Portsmouth is met for this property.

Barbers and clients on site

We will operate as a 2 chair barbershop. The shop will contain 2 barber stations and have 2 barbers working at a time. The most people we would expect to have in the shop are 6: 2 barbers working, 2 clients getting services done, and 2 clients waiting to have services done.

Services offered

As a traditional barbershop, we will offer:

- Haircuts
- Skin fades
- Beard trims
- Hot lather shaves

Pre-inspection Notes

A pre-inspection was done on March 3, 2025 by the City of Portsmouth Inspection Department and Fire Department by suggestion of the Planning Department.

No major issues were pointed out.

Things to take note of that will be addressed prior to opening are:

- Fire extinguisher will be in a visible and accessible area;
- Exit sign will be updated or replaced with a new battery;
- Smoke detector will be updated to a combination Smoke and Carbon Monoxide detector



Clinton St

Clinton St

Clinton St

Bartlett St

162-36

162-35

162-34

162-33

162-32

162-31

162-30

Bartlett St

Bartlett St

Bartlett St

E

163-8

162-67

162-66

162-65

New Ave

162-44

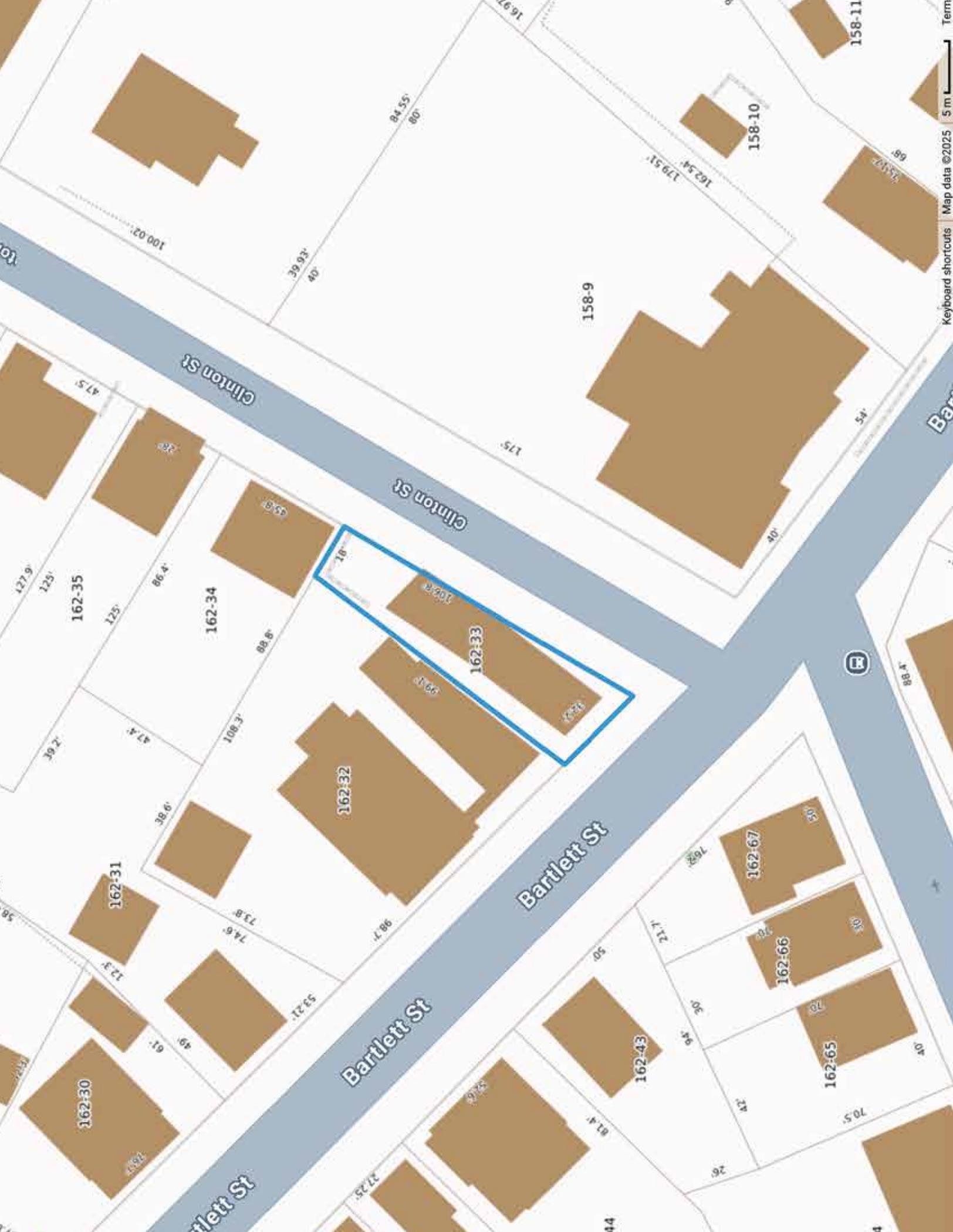
162-43

162-64

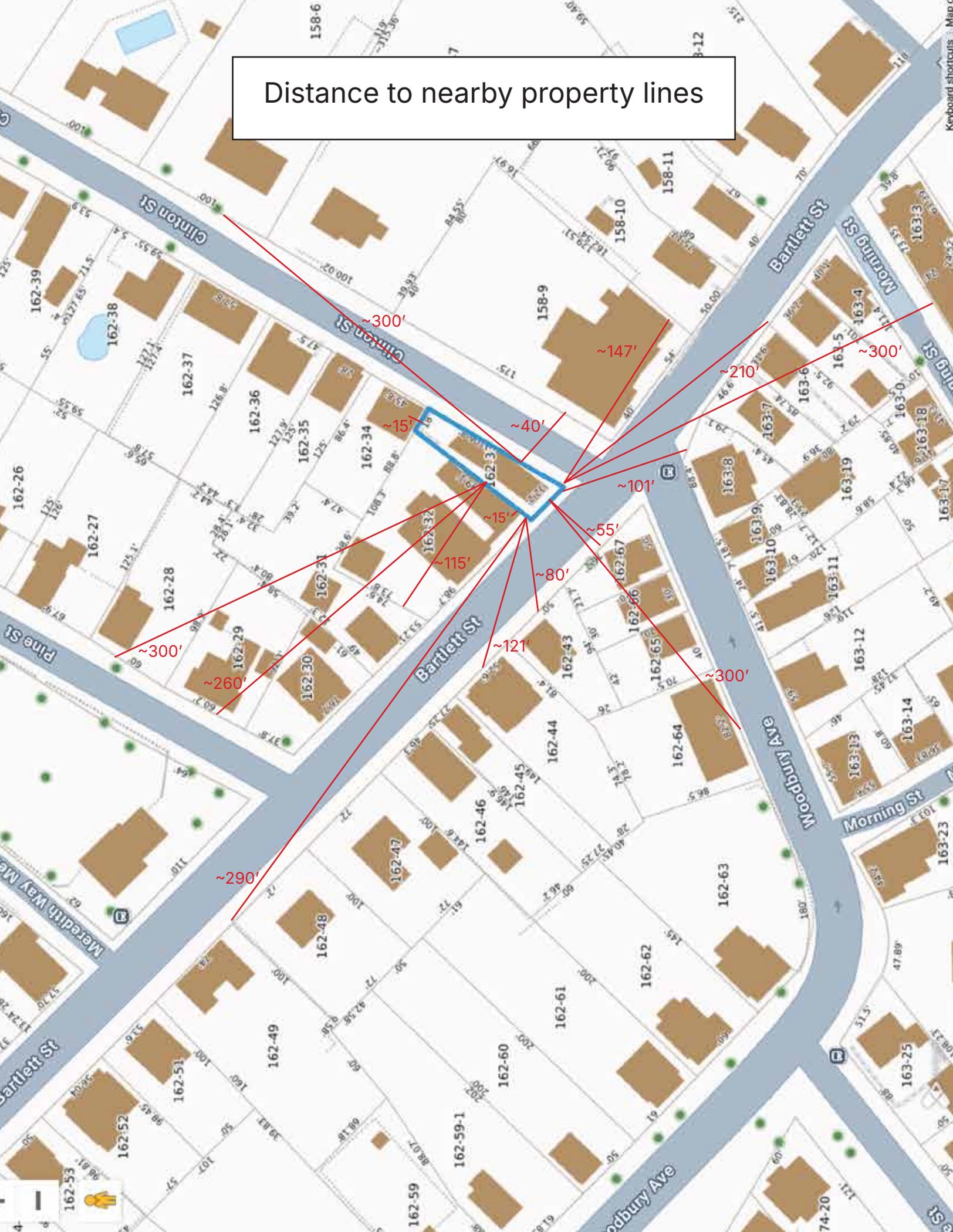
158-10

158-9

158-11



Distance to nearby property lines



Off Street Parking Dimensions



Front of building, 205 Bartlett Street



Bartlett Street going toward Islington St



Bartlett Street going toward Thornton St
View from Woodbury Ave/Bartlett St intersection



15.6
205 BARTLETT ST.
↓

SHOP

15.6 x 16

WC 3x6
WALK-IN CLOSET
9.6 x 6

W/D
BATH
15.6 x 5

KITCHEN

DINING
15.6 x 31

LIVING

BEDROOM
15 x 12.5

70'5"

7
CLINTON ST.
↑

15

III. NEW BUSINESS

E. The request of **Alexander Nancy H. Revocable Trust (Owners)**, for property located at **620 Peverly Hill Road** whereas relief is needed for a change of use to allow a health club that requires the following special exception from Section 10.440, Use #4.42 to allow a health club greater than 2,000 s.f. gross floor area. Said property is located on Assessor Map 254 Lot 6 and lies within the Industrial (I) District. (LU-25-33)

Existing & Proposed Conditions

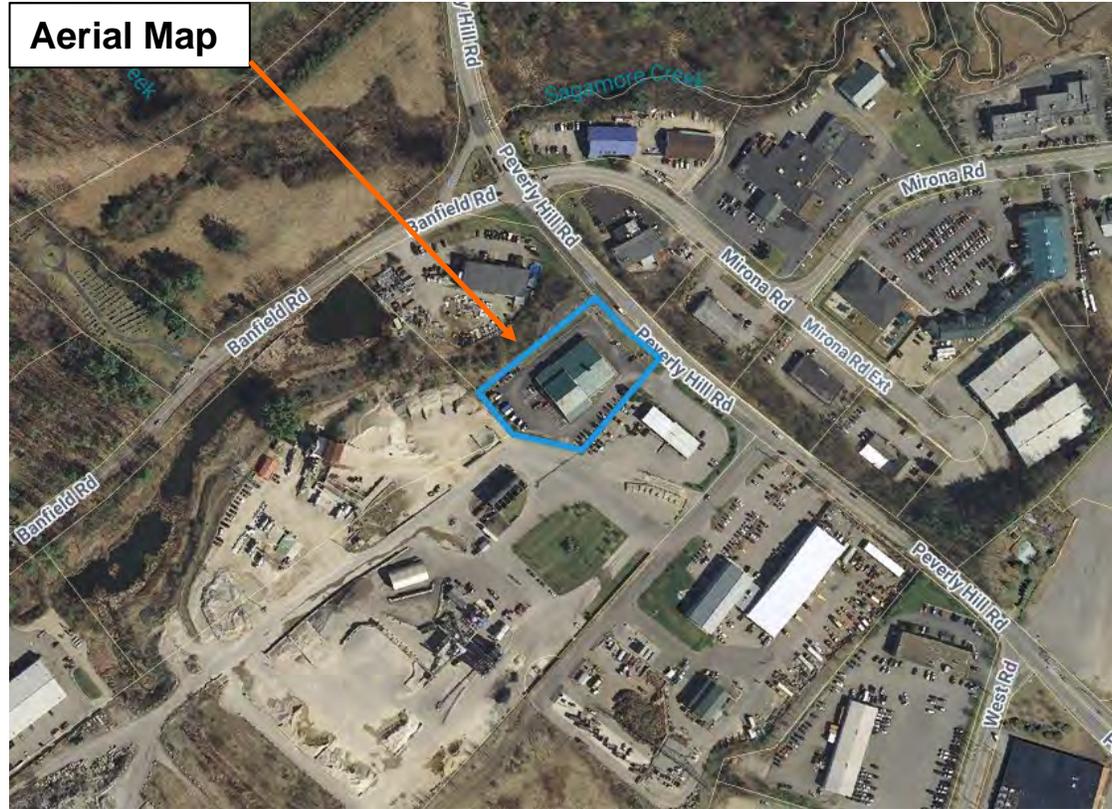
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Health Club / Commercial / Industrial	*Convert Unit to Health Club >2,000 sq.ft. GFA	Primarily Industrial
<u>Units Area (sq. ft.)</u>	<u>Existing Health Clubs:</u> 4,500 <u>Warehouse/Distribution:</u> <i>Apria Healthcare:</i> 3,200 <i>Johnson Paint:</i> 6,550 <u>Retail:</u> 1,450	Proposed Health Club: 4,000	
<u>Parking</u>	60	60	Warehouse/Distribution: 5 Retail: 5 Existing Health Clubs: 18 Proposed Health Club: 16 Total: 44
		SE request(s) shown in red.	

*Special Exception for a health club use greater than 2,000 SF GFA

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

- **September 19, 2000** – A variance from Article XII, Section 10-1201(f)(2) to allow parking 31' from the front property line where 50' is the minimum setback required. The Board voted to **grant** the request as advertised and presented.
- **May 27, 2008** – A Variance from Article II, Section 10-209 was requested to allow a private school for grades 6 through 12 in a district where such use is not allowed. The Board voted to **deny** the petition as presented and advertised.
- **August 21, 2012** – A Special Exception under Section 10.440, Use # 4.42 to allow operation of a 2,000+ s.f. gross floor area martial arts studio. A Variance from Section 10.1112.30 (4) to allow 69 parking spaces for the property where 80 parking spaces are required. The Board voted to **grant** the petition as presented and advertised.
- **January 15, 2019** – Special Exception, use a portion of the property for a children's gym - Section 10.440, Use # 4.42 - Health club, yoga studio, martial arts school, or similar use more than 2,000 sq. ft. where the use is only allowed by special exception. The Board voted to **grant** the petition as presented and advertised.
- **June 18, 2019** – Special Exception under Section 10.440, Use #4.40 to allow a yoga studio up to 2,000 s.f. of gross floor area in the Industrial District. The Board voted to **grant** the petition as presented and advertised.

Planning Department Comments

The applicant is requesting a special exception to convert the existing vacant commercial space into a health club. The 4,000 SF unit was previously approved for a kids play gym in 2019, although the applicant at that time did not pursue tenancy after the approval. The conversion requires a special exception for a gym space larger than 2,000 Square feet in the Industrial District.

Special Exception Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

1. *Standards as provided by this Ordinance for the particular use permitted by special exception;*
2. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
3. *No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;*

4. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
5. *No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and*
6. *No significant increase of stormwater runoff onto adjacent property or streets.*

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.



March 11, 2025

To the City of Portsmouth – Planning Board:

We respectfully submit the following narrative to the Zoning Board of Portsmouth to address the Special Exception criteria for the proposed opening of a new health club (*dba 'Gym One'*) in the industrial zone located at 620 Peverly Hill Road, 1st Floor, Portsmouth, NH 03801.

Our vision is to provide the City of Portsmouth and surrounding communities with a health club that offers a modern, efficient, and clean space so that community members can fit exercise into their busy lives.

With this, we guarantee the following:.

Standard	Applicant Response
10.232.21 Standards as provided by this Ordinance for the particular use permitted by special exception;	Section 10.440, Use #4.42 is permitted in an industrial zone by Special Exception
10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;	The proposed use of the existing enclosed space as a health club poses no fire, explosion or toxic material release hazards to the public or adjacent property because that is not in the nature of the health club business. All necessary permits and inspections will be obtained to ensure compliance with the City of Portsmouth.
10.232.23 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;	Gym One's proposed use of the existing enclosed interior space will not change the appearance of the physical, exterior building. The building currently has two similar health club offerings on the 2 nd floor (Portsmouth Akido, a martial arts dojo, and High Definition Fitness). The surrounding area has various retail locations, so a health club such as Gym One will fit well and compliment the area's characteristics. As a result, using the interior space as a health club will not pose a detriment to property values in the vicinity or change the essential characteristics of the area due to parking, smoke, other pollutants or unsightly outdoor storage.
10.232.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;	With 60 parking spaces available at the site, there is sufficient parking for the current tenants as well as Gym One members. Also, the hours of operation for the current tenants at 620 Peverly Hill road and Gym One will have very limited overlap. Therefore, there will be no traffic safety hazards or substantial increases in the level of traffic congestion in the vicinity.



<p>10.232.25 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and</p>	<p>Gym One will function similar to Akido and High Definition (other health clubs) currently existing in the building and will not create an excessive demand on municipal services.</p>
<p>10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.</p>	<p>Gym One will not increase storm water runoff because it will not be changing the footprint of the existing exterior structure.</p>

Within the building’s history there have been several exceptions approved by the City of Portsmouth for health clubs:

- 2019 – High Definition Fitness LLC requested and was approved for exception and currently occupies space on the 2nd floor of the building
- 2019 – Rumble Tumble LLC, a kids' play gym requested and was approved for exception however, the business chose not to relocate to the space
- Pre-2019 – Akido Portsmouth, a martial arts health club was approved for exception and currently occupies space on the 2nd floor of the building

Please see additional details included in the following appendix pages providing amplifying information on the proposed opening of the new health club.

We sincerely appreciate your time taken to review this application and look forward to presenting the case to the board on April 15th, 2025.

Thank you,



Troy Collins (*dba Gym One*)

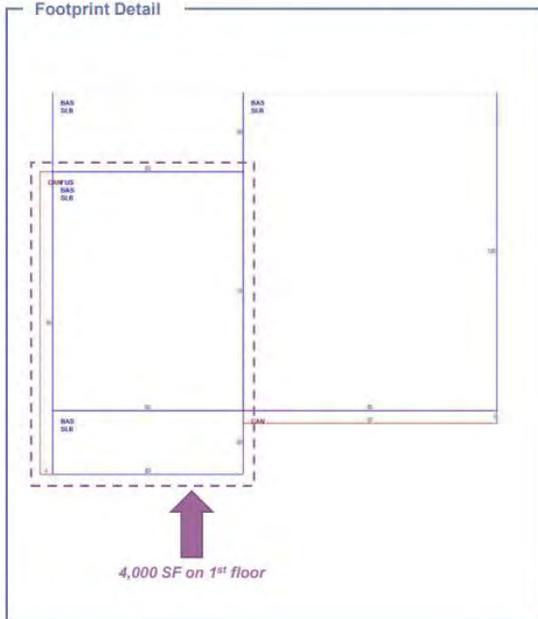


Appendix

Building Introduction – 620 Peverly Hill Road, Portsmouth NH

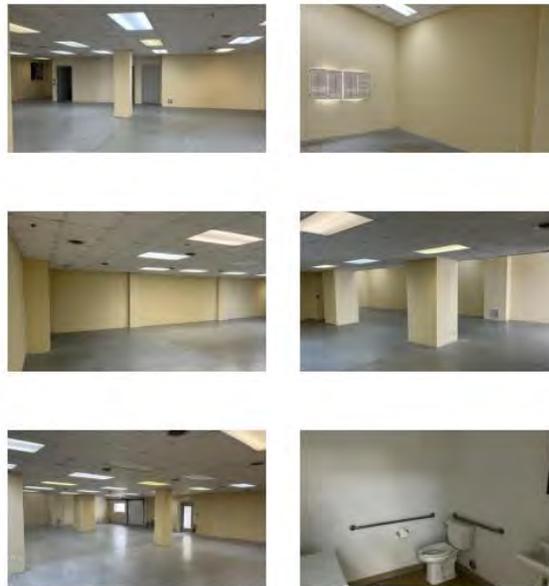
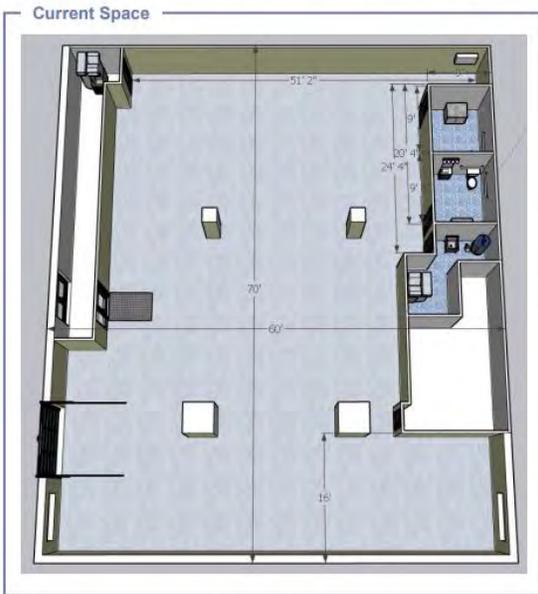
4,000 SF on the first floor of 620 Peverly Hill Road for a new health club

- Main building tenant is Johnson Paint (formerly A&M Paint) a local family business for +65 years
- Other building tenants (3) include Apria Healthcare (1st floor), and two health clubs on the 2nd floor, Portsmouth Aikido, a martial arts dojo, and High Definition Yoga. The building has 60 parking spaces and is zoned for Industrial activity



Existing Fit Up – 4,000 SF on the 1st Floor of 620 Peverly Hill Rd

- Space has a sealed rubberized (grey / blue) coating over a poured concrete slab floor
- Two existing bathrooms in the back right of the space, with one ADA toilet, one sink and one small vanity cabinet in each
- Back wall partitions space with Apria Healthcare and right-facing walls partition the space with Johnson Paint
- The floor areas colored white (top left, and mid-right) are not included in the 4,000 SF space. These spaces house stair and elevator access to the two health clubs upstairs, Portsmouth Akido and High Definition Yoga



Shower Install – New 4,000 SF Health Club

Existing Bathrooms

- Two existing ~9ft by ~10ft bathrooms are located in the back left area of the space. Each bathroom has one ADA toilet, one ADA sink, and one small vanity cabinet
- The combined existing bathrooms occupy a total of ~182 SF
- Below the bathrooms, there is an existing utility closet with one (of two) HVAC units, mop sink, and hot water heater
- The utility closet and existing bathrooms will not be modified, excluding the installation of a new hot water heater as the existing hot water heater is over 10 years old



Shower Installation

- All necessary permits and inspections will be obtained to ensure compliance with the City of Portsmouth
- Bob Hart of Hart Plumbing and Heating is contracted to perform all plumbing work, as he and his team has a long history of strong cooperation and with the City of Portsmouth, and consistently produces a high quality and exemplary finished product
- Shower installation includes constructing a 10' by 24' area, forming a 37" hallway along the existing bathrooms. The 10' by 24' area would house a small closet for a pump, with the remainder of the area holding two separate shower spaces
- Existing ADA unisex bathrooms are left unmodified
- A water fountain will be installed for health club member use



Updated Flooring – New 4,000 SF Health Club

Existing Flooring

- Space has a sealed rubberized (grey / blue) coating over a poured concrete slab floor
- Two existing bathrooms in the back (right) of the space
- The floor areas colored white (top left, and mid-right) are not included in the 4,000 SF space. These spaces house stair and elevator access to the two health clubs upstairs, Portsmouth Akido and High Definition Yoga

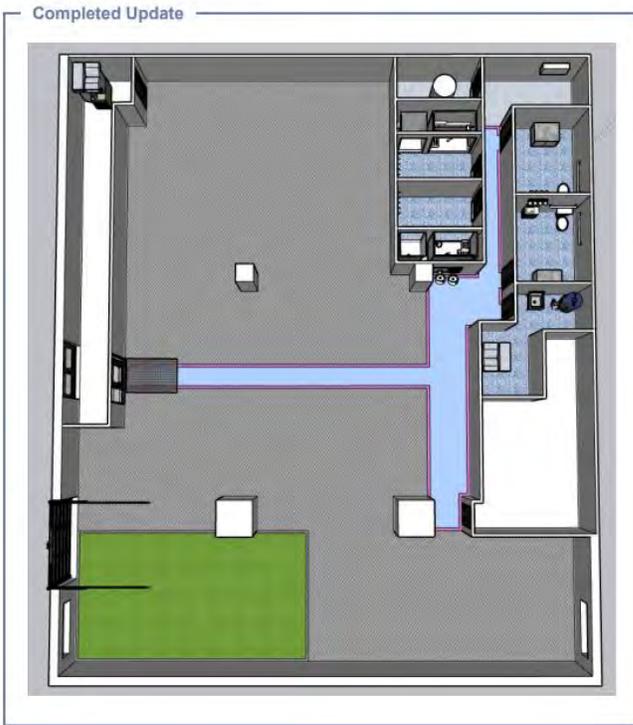


Updated Flooring

- All necessary permits and inspections will be obtained to ensure compliance with the City of Portsmouth
- The update flooring consists of installing ½" rubberized flooring over the existing finished concrete for exercise spaces, a small indoor turf area (bottom left corner), and refinished / updated weatherized coating over member walkways leading from the health club entrance toward the bathroom areas and emergency exit



Finished Health Club – New 4,000 SF Health Club



Furniture & Fixture Summary

Health club includes:

Main entrance

- Keyless entry, floor mats, clean towels
- Main entrance and exit will be door on the left side of the building, which opens out to the rear parking area
- Emergency egress on the right side of building
- 24 / 7 monitoring

Member Bathroom Area

- Two unisex ADA compliant bathrooms (unchanged from current building fit up)
- Two shower / changing areas with ADA compliant shower
- New water heater
- Water fountain

Exercise Area

- Small indoor turf area for body weight exercises

III. NEW BUSINESS

F. REQUEST TO POSTPONE The request of **The Kane Company (Owners)**, for property located at **210 Commerce Way** whereas relief is needed to remove, replace and relocate an existing freestanding sign which requires the following: 1) Variance from Section 10.1253.10 for a freestanding sign to be setback 4 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-4; and lies within the Office Research (OR) District. (LU-25-35) **REQUEST TO POSTPONE**

Planning Department Comments

The applicant has requested postponement of this item to the May 20, 2025 BOA Meeting for more time to provide a complete application package. Please see the letter from the applicant's representative dated April 8, 2025, as provided.

K0076
April 8, 2025

Mr. Peter Britz, Director of Planning and Sustainability
City of Portsmouth
Department of Planning and Sustainability
1 Junkins Avenue
Portsmouth, New Hampshire 03801

Re: **Signage Variance Permit Application – Request to Postpone
Commerce Way & Portsmouth Boulevard
Tax Map 216, Lots 1-2, 1-4, 1-5, 1-8a, 1-8, Portsmouth, NH**

Dear Peter:

On behalf of The Kane Company, we respectfully request to postpone the Zoning Board of Adjustment (PB) meeting scheduled for April 15, 2025, for the above referenced projects to the May 20, 2025 meeting.

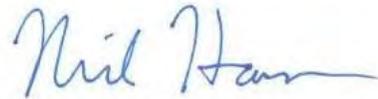
If you have any questions, please contact me by phone at (603) 294-9213 or by email at nahansen@tighebond.com.

Sincerely,

TIGHE & BOND, INC.



Patrick M. Crimmins, PE
Vice President



Neil A. Hansen, PE
Project Manager

Copy: The Kane Company

III. NEW BUSINESS

G. REQUEST TO POSTPONE The request of **The Kane Company** (Owners), for property located at **170 and 190 Commerce Way** whereas relief is needed to remove, replace and relocate two existing freestanding signs which requires the following: 1) Variance from Section 10.1253.10 for two freestanding signs to be setback a) 2 feet and b) 10.5 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-2 and lies within the Office Research (OR) District. (LU-25-42) **REQUEST TO POSTPONE**

Planning Department Comments

The applicant has requested postponement of this item to the May 20, 2025 BOA Meeting for more time to provide a complete application package. Please see the letter from the applicant's representative dated April 8, 2025, as provided.

III. NEW BUSINESS

H. REQUEST TO POSTPONE The request of **The Kane Company** (Owners), for property located at **195 Commerce Way** whereas relief is needed to remove, replace and relocate an existing freestanding sign which requires the following: 1) Variance from Section 10.1253.10 for a freestanding sign to be setback 6 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-8 and lies within the Office Research (OR) District. (LU-25-43) **REQUEST TO POSTPONE**

Planning Department Comments

The applicant has requested postponement of this item to the May 20, 2025 BOA Meeting for more time to provide a complete application package. Please see the letter from the applicant's representative dated April 8, 2025, as provided.

III. NEW BUSINESS

- I. **REQUEST TO POSTPONE** The request of **The Kane Company** (Owners), for property located at **215 Commerce Way** and **75 Portsmouth Boulevard** whereas relief is needed to remove, replace and relocate two existing freestanding signs which requires the following: 1) Variance from Section 10.1253.10 for two freestanding signs to be setback a) 1.5 feet and b) 9.5 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-8a and lies within the Office Research (OR) District. (LU-25-44) **REQUEST TO POSTPONE**

Planning Department Comments

The applicant has requested postponement of this item to the May 20, 2025 BOA Meeting for more time to provide a complete application package. Please see the letter from the applicant's representative dated April 8, 2025, as provided.

III. NEW BUSINESS

- J. REQUEST TO POSTPONE** The request of **The Kane Company** (Owners), for property located at **230 Commerce Way** whereas relief is needed to remove, replace and relocate an existing freestanding sign which requires the following: 1) Variance from Section 10.1253.10 for a freestanding sign to be setback 4 feet from the front property line where 20 feet is required. Said property is located on Assessor Map 216 Lot 1-5 and lies within the Office Research (OR) District. (LU-25-45) **REQUEST TO POSTPONE**

Planning Department Comments

The applicant has requested postponement of this item to the May 20, 2025 BOA Meeting for more time to provide a complete application package. Please see the letter from the applicant's representative dated April 8, 2025, as provided.