



City of Portsmouth
Planning Department
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MEMORANDUM

TO: Zoning Board of Adjustment
FROM: Jillian Harris, Principal Planner
DATE: *Revised* April 22, 2025
RE: Zoning Board of Adjustment April 22, 2025

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

I. Old Business

- A. 84 Pleasant St – Second Request for Rehearing

II. New Business

- A. 70 Stark Street
- B. 2 Sylvester Street
- C. 1980 Woodbury Ave
- D. 101 International Drive
- E. 70 Highland Street
- F. 86 Farm Lane - **WITHDRAWN**

I. OLD BUSINESS

- A. Second request of **Working Stiff Properties, LLC** for property located at 84 Pleasant Street and 266, 270, 278 State Street to rehear the granted Variance from the March 18, 2025 BOA meeting.

Planning Department Comments

At the November 19, 2024 Board of Adjustment meeting the Board considered the request of **PNF Trust of 2013, (Owner)**, for property located at **84 Pleasant Street and 266, 270, 278 State Street** whereas relief is needed to merge the lots and construct a four-story mixed-use building which requires the following: 1) Variance from Section 10.5A41.10.C to allow a) 98% building coverage where 90% is maximum, b) 0% open space where 10% is minimum, and c) 53% shopfront façade glazing on Pleasant Street and 52% on State Street where 70% is the minimum required; 2) Variance from Section 10.5A21.B to allow a) 55 feet of building height where 47 feet is permitted with a penthouse, b) 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; 3) Variance from Section 10.642 to allow 43% ground floor residential area where 20% is maximum.

*The Board voted to **grant** the variances as presented and advertised for Variance No. 1 in its entirety, Variance No. 3 in its entirety, and Variance 2(b) only. The Board voted to **deny** the request for variance No. 2(a).*

A request for rehearing was granted at the February 19, 2025 meeting to hear Variance 2(b) only: 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.

*The Board voted to **grant** the variance as presented 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.

A second request for rehearing was filed within 30 days of the Board's decision and therefore the request has been placed on the next scheduled meeting for April 22, 2025. If the Board votes to grant the request, a hearing will be scheduled for next month's Board meeting or at another time to be determined by the Board.

The decision to grant or deny a rehearing request must occur at a public meeting, but this is not a public hearing. The Board should evaluate the information provided in the request and make its decision based upon that document. The Board should grant the rehearing request if a majority of the Board is convinced that some error of procedure or law was committed during the March 18, 2025 consideration of the case.

The March 18, 2025 rehearing application can be referenced at the following link:

https://files.portsmouthnh.gov/files/planning/apps/PleasantSt_84/84_PleasantSt_Rehearing_BOA_03192025.pdf

The past application can be referenced in the November 19, 2024 meeting packet found at the following link: https://files.cityofportsmouth.com/agendas/2024/BOA/11-19-2024%20Meeting/11-19-2024_BOA_Packet.pdf

II. NEW BUSINESS

- A. 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)

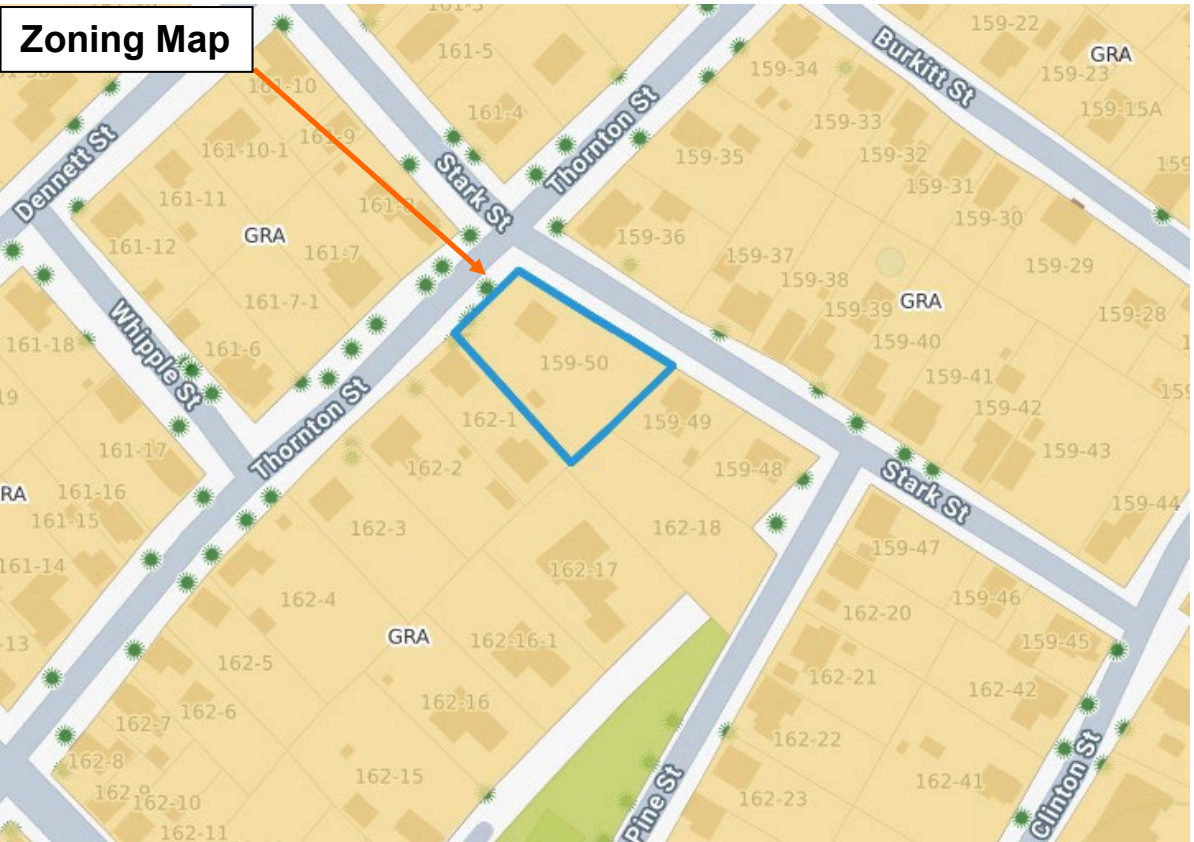
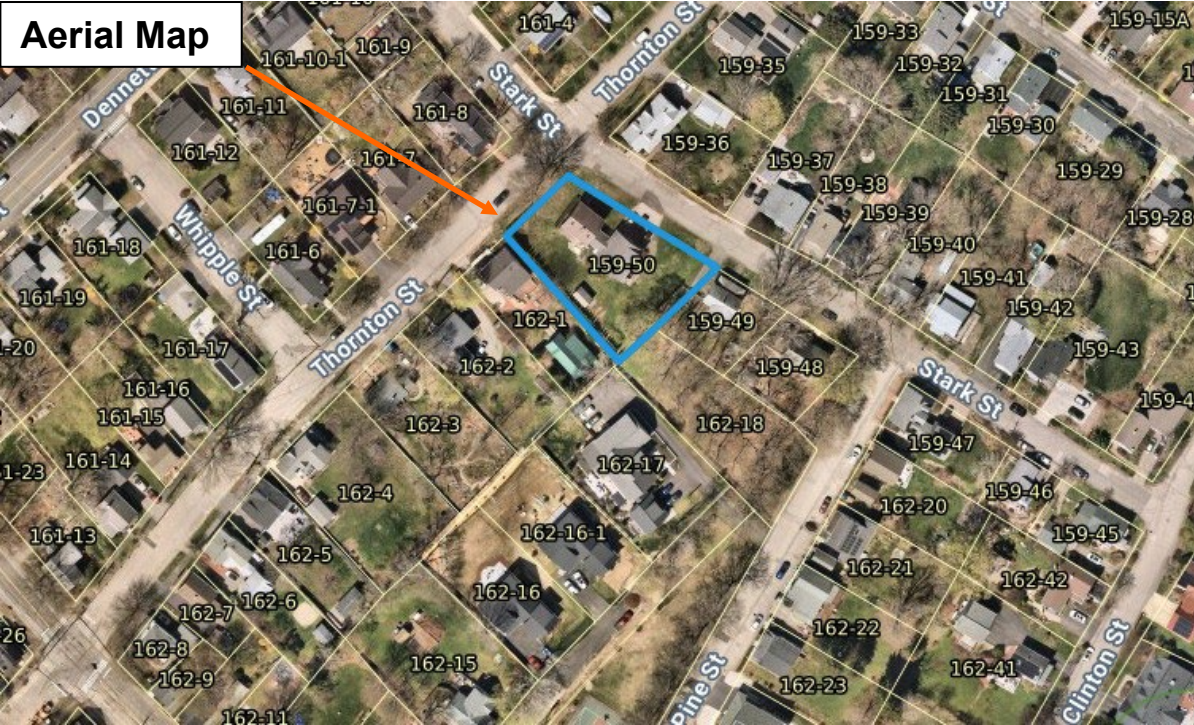
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	SF Residential	Construct detached accessory structure	Primarily residential
<u>Lot area (sq. ft.):</u>	14,729	14,729	7,500 min.
<u>Primary Front Yard (Stark St)(ft)</u>	11.7	11.7	15 min.
<u>Secondary Front Yard (Thornton St)(ft.):</u>	28.6	28.6	15 min.
<u>Left Yard (ft.):</u>	Primary Structure: 40	Accessory Structure: 10.5	10 min.
<u>Rear Yard (ft.):</u>	36.8	10	20 min.
<u>Height (ft.):</u>	Primary: 26.7	Accessory: 23	35 max.
<u>Building Coverage (%):</u>	18	22.5	25 max.
<u>Open Space Coverage (%):</u>	75.5	68.8	30 min.
<u>Parking:</u>	4	4	2 min.
<u>Estimated Age of Structure:</u>	1940	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit
- Site Plan Review

Neighborhood Context



Previous Board of Adjustment Actions

- No previous BOA history was found.

Planning Department Comments

The applicant is requesting relief to construct a new detached accessory workshop structure. The new structure meets all requirements except for the rear yard setback and requires relief to be located 10 feet from the rear property line where 20 feet is required.

Variance Review Criteria

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

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*
AND
 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*
OR
Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

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

II. NEW BUSINESS

- B.** 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)

Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required
<u>Land Use:</u>	Residential	*Second Dwelling and second driveway	Primarily Residential
<u>Lot area (sq. ft.):</u>	15,798	15,798	15,000 min.
<u>Lot area per dwelling unit (sq.ft.):</u>	15,798	7,899	15,000 min.
<u>Primary Front Yard (Sylvester St) (ft.):</u>	Primary Structure: 0	Second Dwelling: 18	0 min. (per 0.516.10)
<u>Secondary Front Yard (Middle Rd) (ft.):</u>	Primary Structure: >30	Primary Structure: >30 Second Dwelling: >30	16.5 min. (per 10.516.10)
<u>Right Yard (ft.):</u>	Primary Structure: >10	Primary Structure: >10 Second Dwelling: 10.5	10 min.
<u>Rear Yard (ft.):</u>	Shed: 12	Shed: 12 Second Dwelling: 30	30 min.
<u>Height (ft.):</u>	Primary Structure: 27	Primary Structure: 27 Second Dwelling: 24	35 max.
<u>Building Coverage (%):</u>	10.2	18.1	20 max.
<u>Open Space Coverage (%):</u>	84	69	40 min.
<u>Parking:</u>	2	8	4
<u>Estimated Age of Structure:</u>	1934	Variance request(s) shown in red.	

***Relief needed for more than one free-standing dwelling on a lot per Section 10.513 and for more than one driveway on the lot per Section 10.1114.31**

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

- **September 16, 2014** – Appeal the action of the City Council in resolving that they did not have jurisdiction over the request of the property owners to restore involuntarily merged lots pursuant to RSA 674:39aa. The Board voted to **grant** the Appeal.
- **November 18, 2014** – Subdivide one lot into two. Proposed Lot One: Variances from Section 10.521 to allow the following: a) a lot area and lot area per dwelling unit of 10,183± s.f. where 15,000 s.f. is required; b) a right side yard setback for an existing structure of 2.9'± where 10' is required. Proposed Lot Two: Variances from Section 10.521 to allow the following: a) a lot area and lot area per dwelling unit of 5,609± s.f. where 15,000 s.f. is required; b) a lot depth of 79.94'± where 100' is required; c) continuous street frontage of 70.1'± where 100' is required. The Board voted to **deny** the petition as presented and advertised.

Planning Department Comments

The applicant is requesting to construct a second dwelling on the lot with a second driveway that will require relief for more than one freestanding dwelling on the lot, more than one driveway on the lot and a lot area per dwelling unit that is less than the required minimum.

Variance Review Criteria

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

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*
AND
 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*
OR
Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

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

II. NEW BUSINESS

C. 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)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Gas Station and Convenience Store	Gas Station and Convenience Store* Site Redevelopment	Mixed Uses
<u>Lot area (sq. ft.):</u>	38,399	38,399	10,000 min. (Sec. 10.5B42.40)
<u>Street Frontage (ft.):</u>	375.2	375.2	100 min. (Sec. 10.5B32.30)
<u>Lot depth (ft.):</u>	200	200	NR min.
<u>Front Yard (Woodbury Ave) (ft.):</u>	10.4	27	0-20 max.

<u>Secondary Front Yard (Gosling Rd.) (ft.)</u>	>20	46	0-20	max.
<u>Left Yard (ft.):</u>	>10	34.8	10	min.
<u>Rear Yard (ft.):</u>	13	40.5	15	min.
<u>Height (ft.):</u>	18.4	28.8	40	max.
<u>Building Coverage (%):</u>	19.3	18.5	70	max.
<u>Building Footprint (SF):</u>	7,402	4,580	10,000	max
<u>Open Space Coverage (%):</u>	19	19.6	10	min.
<u>Front Lot Line Build Out (%)</u>	9	0	75	min.
<u>Facade Orientation</u>	Perpendicular	Parallel	Parallel	
<u>Drive-through, Bypass, Stacking Lanes setback (ft.)</u>	N/A	13	30	min.
<u>Outdoor Service Facilities setback (ft.)</u>	N/A	38	50	min.
<u>Pump Islands setback (ft.)</u>	23	28	40	min.
<u>Parking</u>	19	19**	12	min.
<u>Estimated Age of Structure:</u>	1995	Variance request(s) shown in red.		

*Special Exception required for Convenience Goods 2 use 24 hours per day in the G1 District

** Variance from Section 10.5B83.10 to allow for parking spaces to be located between the principal building and the street

Signs Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Building Frontage (ft.):</u>	210	149	
<u>Wall Sign (SF)</u>	N/A	118.1	200 max.
<u>Freestanding Sign (SF)</u>	N/A	134	100 max.
<u>2nd Freestanding Sign (SF)</u>	N/A	61.2	75 (on different street from primary driveway) max.
<u>Freestanding Sign Setback (ft.)</u>	N/A	3	10 min.

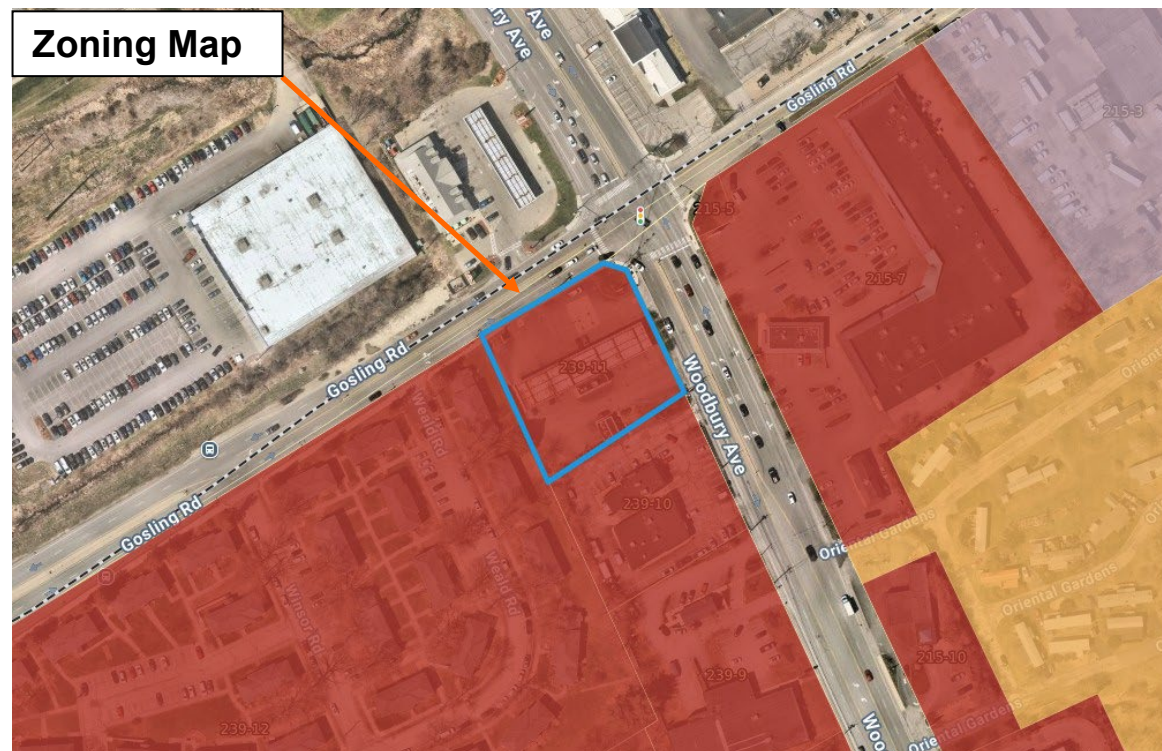
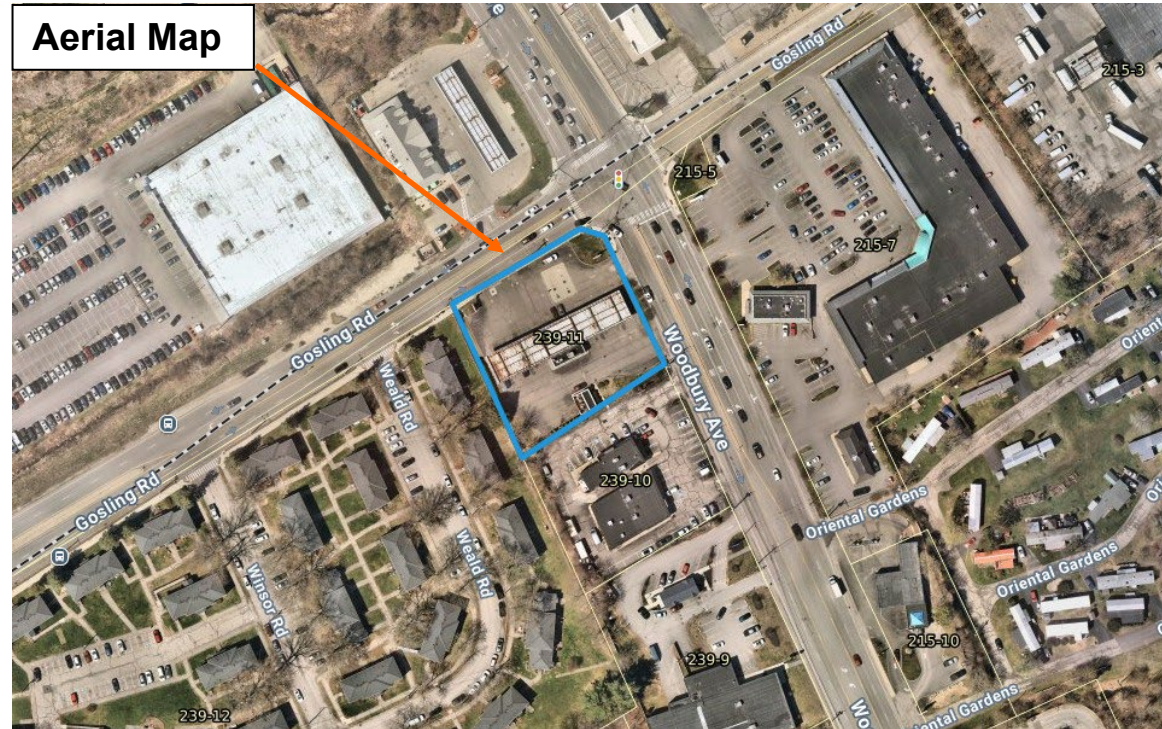
<u>2nd Freestanding Sign Setback (ft.)</u>	N/A	3	10 (on different street from primary driveway) min.
<u>Freestanding Sign Height (ft.)</u>	N/A	26.5	20 max.
<u>2nd Freestanding Sign Height (ft.)</u>	N/A	8	15 (on different street from primary driveway) max.
<u>Canopy Sign (SF)</u>	N/A	16 (x 5)***	20 max.
<u>Aggregate Sign area (SF)</u>	N/A	454	223.5 (1.5x bldg. frontage) max.
		Variance request(s) shown in red.	

***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.

Other Permits/Approvals Required

- TAC / Planning Board Site Plan Review
- Planning Board - Conditional Use Permit (Motor Vehicle Service Station and Drive-through Uses)
- Sign Permit

Neighborhood Context



Previous Board of Adjustment Actions

- **July 18, 1995** – 1) A Special Exception as allowed in Article II, Section 10-206(17) to construct an entire new gasoline service station facility with a 40' x 45' convenience store, a 36' x 175.85' canopy and a 10' x 24' storage building, and 2) a Variance from Article II, Section 10-302 to allow the canopy: a) a 67.3' front yard where 70' is the minimum required, b) a 14.3' right side yard where the minimum is 30', and; c) a 9.2' left yard where the minimum is 30', 3) a Variance from Article II, Section 10-402(1) to allow the storage building a 6' rear yard where 10' is the minimum required, 4) a Variance from Article II, Section 10-206 to allow the outdoor storage of two 1000 gallon propane tanks where such use is not allowed, and; 5) a Variance from Article IX, Section 10-901 to allow: a) a 72.3 s.f. freestanding sign at the corner of Gosling Road and Woodbury Avenue with a 10' setback where 35' is required, and; b) a 72.3 s.f. freestanding sign abutting Gosling Road on the right side of the property with 0' front and 25'± side yards where 35' is the minimum required. The Board voted to **grant** the request for a Special Exception and Variances #2 and #3 as advertised and presented. The Board voted to **grant** the request for Variance #5 with the **stipulation**:
 - That the 72.3 s.f. freestanding sign abutting Gosling Road on the right of the property be maintained with a 5' front yard rather than a 0' front yard.

The Board voted to **deny** the request for Variance #4 as advertised and presented.

Planning Department Comments

The applicant is requesting to redevelop the existing gas station and convenience store site at the intersection of Woodbury Ave. and Gosling Rd. on the Newington town line. The proposed Convenience Goods 2 use operating 24 hours per day requires a Special Exception and the proposed Motor Vehicle Service Station and Drive-through Facility uses require a Conditional Use Permit from the Planning Board. The proposed project is to construct a single-story, 4,580 s.f. convenience store with drive-thru and four fueling islands and requires relief from several dimensional requirements as proposed. The applicant is also proposing replacement of all signage on the property as part of the redevelopment and is seeking relief from Article 12 for the proposed sign package.

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.*

Variance Review Criteria

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

- 1. Granting the variance would not be contrary to the public interest.*
- 2. Granting the variance would observe the spirit of the Ordinance.*
- 3. Granting the variance would do substantial justice.*
- 4. Granting the variance would not diminish the values of surrounding properties.*
- 5. The “unnecessary hardship” test:*
 - (a) The property has special conditions that distinguish it from other properties in the area.*

AND

 - (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

 - Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.*

10.235 Certain Representations Deemed Conditions

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

II. NEW BUSINESS

- D. 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))

Existing & Proposed Conditions

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Patio Canopy	Business, com. & trade related enterprises
<u>Front Setback (ft.)</u>	45	70
	Variance request(s) shown in red.	

Other Permits/Approvals Required

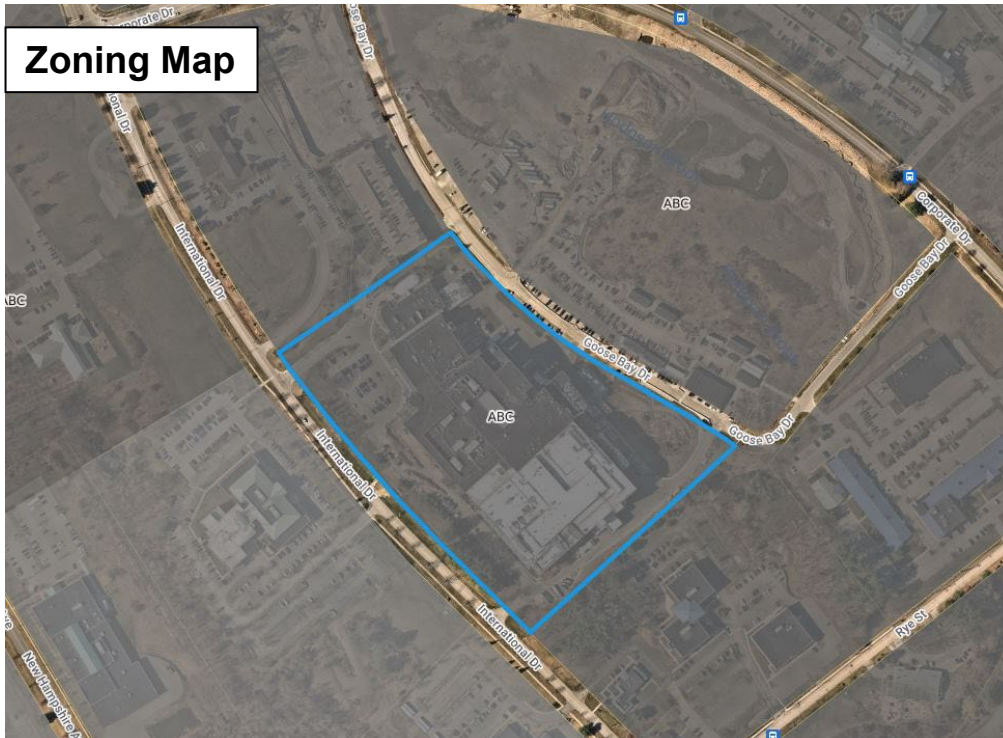
- Pease Development Authority (PDA)

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

December 15, 1998 – The Board **granted a variance** pursuant to the PDA regulations to allow 5 loading docks to be provided where 13 loading docks were required for the 130,000 s.f. expansion of the facility.

February 20, 2001 – The Board **recommended approval** to the Pease Development Authority that a variance be granted to allow 5 loading docks where 28 loading docks are required.

June 16, 2015 – The Board **recommended approval** to the Pease Development Authority of a variance to allow above ground storage tanks exceeding 2,000 gallon capacity for two existing and two proposed generators. The recommendation was given with a request to provide information on the life span of the above ground tanks.

May 28, 2019 - The Board **recommended approval** to the Pease Development Authority of a variance to allow above ground storage tanks exceeding 2,000 gallon capacity.

July 27, 2021 - The Board **recommended approval** to the Pease Development Authority to allow an above ground storage tank (AST) exceeding 2,000 gallon capacity per facility. Said property is shown on Assessor Map 305 Lot 6 and lies within the Airport Business Commercial (ABC) District.

August 16, 2022 - The Board **recommended approval** to the Pease Development Authority for the addition of a 372 square foot wall sign which will result in 487.5 square feet of total sign area which requires the following: 1) A Variance from Section 306.01(d) to allow 487.5 square feet of total sign area where 200 square feet is the maximum allowed per lot. No additional BOA history found.

June 18, 2024 – The Board **recommended approval** to the Pease Development Authority to add four (4) above ground storage tanks which requires relief from the following: 1) Section 308.02 (c) of the Pease Development Ordinance to allow an above ground storage tank (AST) exceeding 2,000 gallons capacity per facility.

Planning Department Comments

The application was before the Pease Development Authority (PDA) Board meeting on March 11, 2025 and the PDA Board voted to support the applicant's request to move forward to seek a variance.

The PDA has its own land use and zoning regulations and is exempt from the City's regulations ordinance. For certain parcels in Pease, variance requests are sent to the City for a recommendation from the BOA. A motion to approve or deny will be a recommendation

and the recommendation will become an approval by the PDA Board after 14 days unless the applicant or PDA Board member requests a hearing (see Part 317.03(f) below).

The Chapter in the Pease Land Use Controls regarding the process for a variance is below. Part 317.03(c) states the BOA will apply the standards in Part 317.01(c) in its review of the application. These standards are attached hereto under Review Criteria.

317.03 Zoning Variances Referred to Local Municipalities for Administration

(a) For parcels located within the Industrial Zone, Business and Commercial Zone, Natural Resource Protection Zone or portions of the Airport Industrial Zone not acquired by the Pease Development Authority pursuant to Section 13(g) of the Surplus Property Act, requests for a variance from the provisions of this zoning rule shall be referred to the zoning board of adjustment for the municipality in which the parcel is situated for administration in accordance with the provisions of this section.

(b) Applications for a variance for parcels referred to in Subsection (a) shall be filed with the Pease Development Authority Building Inspector on forms prescribed by the Board and referred to the applicable zoning board of adjustment.

(c) The zoning board of adjustment to which the application for a variance has been referred shall, in its review of the request, apply the substantive provisions of this Chapter.

(d) Recommendations to the Board regarding requests for a zoning variance shall be made by the applicable zoning board of adjustment within sixty (60) days of referral. Notice of the recommendation shall be provided to the applicant and the Board within 48 hours of the decision.

(e) The recommendation of the applicable zoning board of adjustment shall be forwarded to the Board along with a written report detailing the reasons for any recommendation for denial or approval with conditions.

(f) A recommendation of the applicable zoning board of adjustment shall be deemed a final decision of the Board upon the expiration of fourteen (14) days from the date of notice, unless the applicant/developer or a member of the Board requests a hearing by the Board.

(g) Where a hearing has been requested, the Board shall conduct a hearing and render a final decision on the variance request within thirty (30) days.

(h) At the discretion of the Board the time period for rendering a final decision may be extended an additional thirty (30) days, or such additional time as may be consented to by the applicant.

(i) The Board may approve, conditionally approve or deny the application notwithstanding the recommendation of the applicable zoning board of adjustment. In the case of denial of any application by the Board or where the Board elects not to follow the recommendation of the applicable zoning board of adjustment, the ground(s) for such action shall be stated in writing.

Review Criteria

This application must meet the criteria for a **variance** of Part 317.01(c) of the Pease Land Use Controls below.

PART 317. VARIANCES FROM ZONING PROVISIONS

317.01 General Provisions

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- (a) Requests for a variance from the provisions of this zoning rule shall be filed with the Pease Development Authority Building Inspector on forms prescribed by the Board.
- (b) Applications for zoning variance approval shall set forth the specific provision of the rule or regulation involved and reasons why a variance should be granted.
- (c) A variance shall not be approved or recommended for approval unless it is in harmony with the general purpose and intent of these regulations and meets the following criteria:
 - (1) No adverse effect or diminution in values of surrounding properties would be suffered.
 - (2) Granting the variance would be of benefit to the public interest.
 - (3) Denial of the variance would result in unnecessary hardship to the person seeking it.
 - (4) Granting the variance would be substantial justice.
 - (5) The proposed use would not be contrary to the spirit of this zoning rule.
- (d) Reasonable conditions necessary to meet one or more of the standards in subsection (c) above may be attached to approval of a variance.

II. NEW BUSINESS

- E. 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)

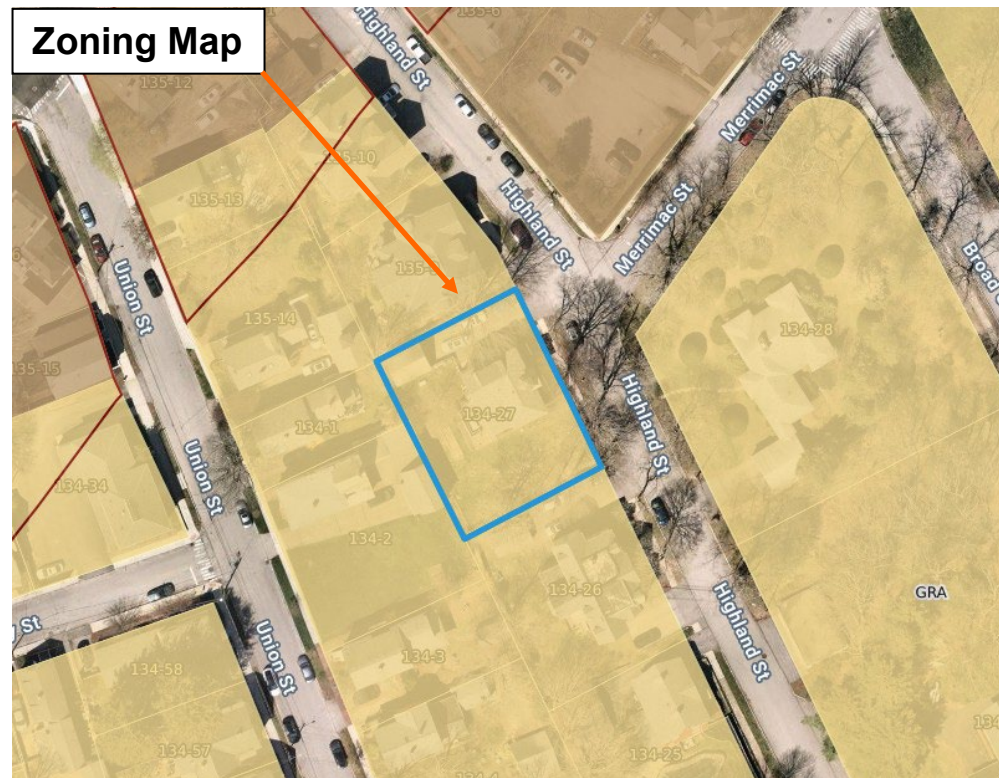
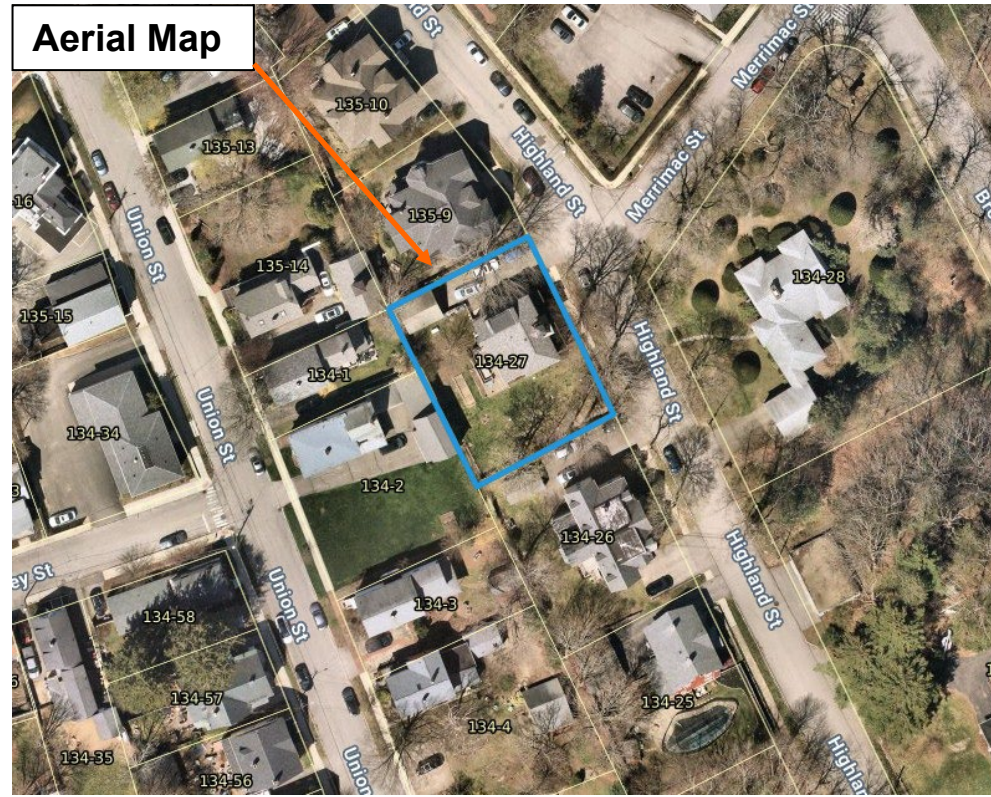
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Demo and reconstruct detached garage	Primarily Residential
<u>Lot area (sq. ft.):</u>	10,350	10,350	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	10,350	10,350	7,500 min.
<u>Lot depth (ft.):</u>	90	90	100 min.
<u>Street Frontage (ft.):</u>	115	115	70 min.
<u>Front Yard (ft.):</u>	10	10	15 min.
<u>Right Side Yard (ft.):</u>	Garage: 2	Garage: 2	10 min.
<u>Left Side Yard (ft.):</u>	>10	>10	10 min.
<u>Rear Yard (ft.):</u>	Garage: 2	Garage: 2	18 min. (10.573.20)
<u>Building Coverage (%):</u>	22.9	26	25 max.
<u>Open Space Coverage (%):</u>	62.5	57.9	30 min.
<u>Parking</u>	>2	>2	2
<u>Estimated Age of Structure:</u>	1874	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

- **March 18, 1975** – To use the premises at 70 Highland Street for two professional offices. The Board voted to **deny** the petition as presented and advertised.

Planning Department Comments

The applicant is requesting to demolish an existing detached garage and to construct a slightly larger new two-car detached garage. The garage is designed to give more length and space to fit modern vehicles and will require relief for rear and side yard setbacks, in addition to extension of an existing non-conforming structure. In addition to replacing the garage, the property owners would like to rebuild an existing bulkhead that accesses the basement at the rear of the house. The applicant also requests relief for building coverage greater than the maximum permitted.

Variance Review Criteria

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

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*
AND
 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*
OR
Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

10.235 Certain Representations Deemed Conditions

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

II. NEW BUSINESS

F. WITHDRAWN The request of **Jeannette MacDonald** (Owner), 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) 23-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) **WITHDRAWN**

Planning Department Comments

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