



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
DATE: October 23, 2025
RE: Zoning Board of Adjustment October 28, 2025

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

I. Old Business

A. 28 Whidden Street

II. New Business

A. 134 Pleasant Street

B. 62 McKinley Road

C. 180 Islington Street

D. 250 McKinley Road

E. 204 Aldrich Road

F. 0 – 12 Ruth Street

I. OLD BUSINESS

- A. The request of **Charlie Neal and Joe McCarthy (Owners)**, for property located at **28 Whidden Street** whereas relief is needed to construct an addition to the rear of the structure which requires the following: 1) Variance from Section 10.521 to allow a) 42% building coverage where 30% is allowed, b) 11 foot rear yard where 25 feet are 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 102 Lot 64 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-127)

Existing & Proposed Conditions

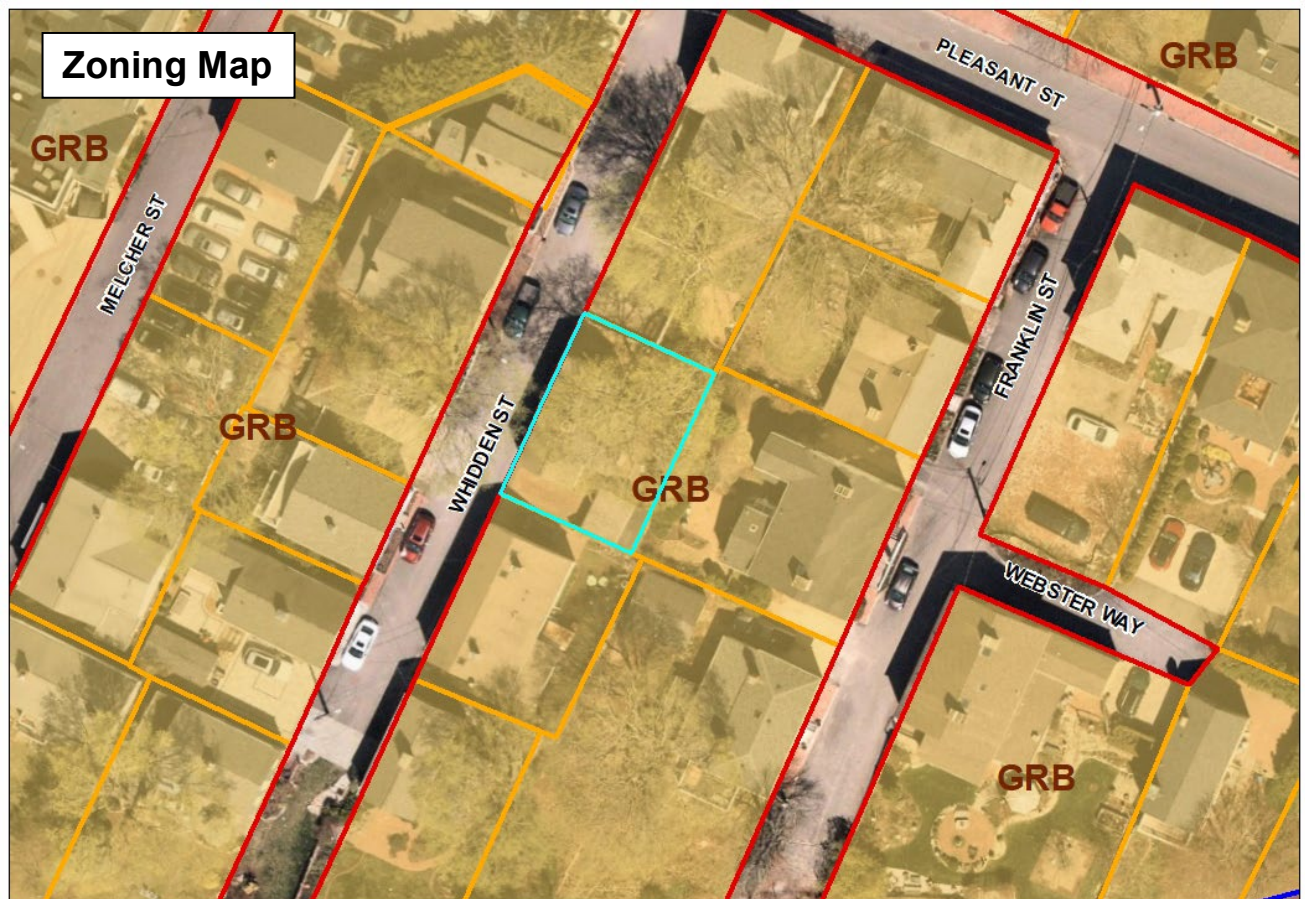
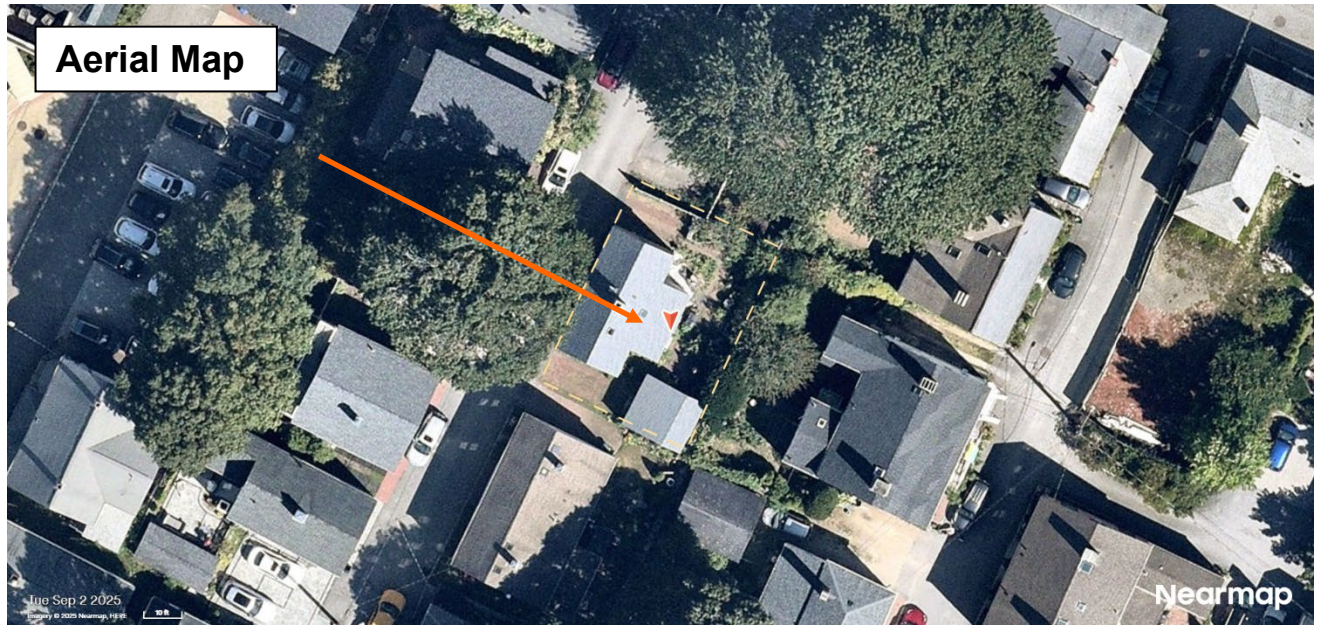
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	*Construct addition at rear of structure	Mixed-Use
<u>Lot area (sq. ft.):</u>	2,613.6	2,613	5,000 min.
<u>Front Yard (ft.):</u>	0	0	5 min.
<u>Left Yard (ft.):</u>	15	23 feet to addition	10 min.
<u>Right Yard (ft.):</u>	8	15'11" to addition	10 min.
<u>Rear Yard (ft.):</u>	16	11	25 min.
<u>Building Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	37.7	42	30 max.
<u>Open Space Coverage (%):</u>	36	33	25 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1780	Variance request(s) shown in red.	

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

Other Permits/Approvals Required

- Building Permit
- Historic District Commission

Neighborhood Context



0 15 30 60 Feet
1 inch = 34.9 feet

28 Whidden Street



Previous Board of Adjustment Actions

- **December 16, 1986** – The Board **granted** a Variance from Article III, Section 10-302 is requested to allow the construction of a 68.5 s.f. rear addition with the following: a) a 17' rear yard where a rear yard of 25' is required; and b) building coverage of 37.8% where a maximum building coverage of 20% is allowed.
- **October 21, 2025** – The Board voted to postpone the applicants request to the October 28, 2025 meeting.

Planning Department Comments

The applicant is requesting relief to construct a 105 square foot addition to rear side of the 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.

II. NEW BUSINESS

- A.** The request of **Double Mc LLC (Owner)**, for property located at **134 Pleasant Street** whereas relief is needed for redevelopment of the existing commercial building and construction of horizontal and vertical building expansions for a mixed-use building with below-grade parking and the relocation of drive-through teller lanes, which requires the following: 1) Variance from Section 10.440, Use #19.40 for a drive-through facility as an accessory to a permitted principle use; and 2) Variance from Section 10.331 to change the location and use of the drive-through facility. Said property is located on Assessor Map 116 Lot 30 and lies within the Character District 4 (CD4) and Historic District. (LU-25-138)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial	Mixed-Use, Co-living, Retail & Office (bank), Drive-thru facility*	Mixed-use
<u>Lot area (sq. ft.):</u>	53,084	53,084	NR
<u>Setback Front – Principal (ft.)</u>	N/A	10	10 max.
<u>Side Yard (ft.)</u>	0	0 (north) >50 (south)	NR
<u>Rear Yard (ft.)</u>	N/A	>5	5 min.
<u>Front Lot Line Buildout (%):</u>	N/A	51	50 min.
<u>Ground Floor Area Per Use (SF)</u>	11,241	10,336 (Bank) 10,701 (Retail)	15,000 max
<u>Ground Floor Height (ft.)</u>	9.9	14.5	12 min
<u>Height (ft.)</u>	19.5	27.6	2 full stories max and short 3rd/ 35 feet
<u>Height with Penthouse (ft.):</u>	N/A	26.2	37 max.
<u>Height with Roof appurtenance (ft.)</u>	N/A	26.2	45 max.
<u>Building Coverage (%):</u>	21.2	42.8	90 max.
<u>Open Space Coverage (%):</u>	>10	>10	10 min.
<u>Estimated Age of Structure:</u>	1955	Variance request(s) shown in red.	

***Drive-through facility as an accessory use to a permitted principal use not permitted per Section 10.440, Use #19.40**

Other Permits/Approvals Required

- Building Permit
- Historic District Commission Approval
- Site Plan Review – Technical Advisory Committee and Planning Board
- Coliving Conditional Use Permit – Planning Board
- Parking Conditional Use Permit – Planning Board (as necessary)

Previous Board of Adjustment Actions

- **January 24, 1984** – a Special Exception as allowed in Article XII, Section 10-1201 (d)(1) to permit a reduction/elimination of the required parking by considering the availability of public parking spaces within 500' of the proposed use for a proposed addition of 2,400 s.f. of floor space (for banking use) within an existing building with 33 parking spaces being presently provided where approximately 72 parking spaces would be required. The Board voted to **grant** the request as presented and advertised.
- **August 19, 1986** – A Special Exception as allowed in Article XII, Section 10-1201 (d)(1) is requested to permit the conversion of 4,480 square feet of existing attic and basement space into additional office space within an existing building creating the need for an additional 23 parking spaces for a total of 96 spaces required where 33 parking spaces are being provided. Said reduction is requested considering the availability of public parking space within 500 ft. of the side. The Board voted to **deny** the request.
- **September 16, 1986** – The Board **denied** a request for Rehearing of the August 19, 1986 decision. The matter was appealed to the Rockingham County Superior Court, and on November 9, 1987 Judge Vincent Dunn upheld the decision of the Board.
- **January 26, 1988** – a Special Exception in Article XII, Section 10-1201 (1)(d)(1), to permit the conversion of 2,180 s.f. of unused attic and basement space within the existing building (which will require eleven additional parking spaces) thereby to allow for reduction in the required parking of ninety spaces, with thirty-seven spaces being provided where the Board may allow either the reduction or elimination of the required parking in consideration of the availability of public parking spaces within 500' of the proposed use. The Board voted to **grant** the request as presented and advertised.
- **October 20, 1992** – 1) a Variance from Article IX, Section 10-906 to allow the installation of two attached signs with a total aggregate area of 206 s.f. in a district where 60 s.f. is the maximum attached sign allowed; 2) a Variance from Article IX, Section 10-906 to allow the installation of 8 directional free-standing signs with advertising and 1 pylon free-standing sign for a total aggregate area of 92.5 s.f. in a district where 12 s.f. is the maximum allowed; 3) a Special exception as allowed in Article IX, Section 10-906 to allow 9 free-standing signs in the Central Business District where such signs may be allowed by a Special Exception; and 4) a Variance from Article IX, Section 10-906 to allow a total aggregate area of 298.5 s.f. in a district where 75 s.f. is the maximum aggregate area allowed. The Board voted to **grant** Variance 1 and Special Exception 3 as presented and advertised. The Board voted to **deny** Variances 2 and 4. They found that all the criteria had not been met and that the request for signage was excessive and not warranted for this area of town. They concluded that there were other alternatives for the 8 directional signs without using the advertising.
- **May 19, 1998** – 1) a Variance from Article II, Section 10-207 (22)(c&f) to allow 12,715 s.f. of existing bank space to be converted to business and professional office use with the remaining 8,285 s.f. to be continued to be used for banking, 2) a Variance from Article XII,

Section 10-1204 Table 15 to allow 33 parking spaces to be provided where 84 parking spaces are required; and 3) a Variance from Article IX, Section 10-908 Table 14 to allow a) 6 s.f. to be added to an existing 6 s.f. nonconforming freestanding sign, and b) a total aggregate of 252 s.f. of signage where 75 s.f. is the maximum allowed and 246 s.f. exists. The Board voted to **grant** Variances 1 and 2 as presented and advertised. The Board voted to **deny** Variance 3. The Board felt the property was over signed as it exists. They concluded that the existing signage could be redesigned to allow the new tenant signage that would not require relief from the Ordinance.

Planning Department Comments

The site is currently a two-story, 11,000 SF commercial building for Citizens Bank. The applicant is proposing to redevelop the property to include a front addition for expansion of the bank footprint, added retail space, residential apartments and coliving with associated site improvements. The bank has two existing drive-through teller lanes that are proposed to be moved to the south side of the newly redeveloped building. Due to the changes to the site and the existing nonconforming use, the applicant is seeking relief from Table 10.440, Use #19.40 to permit a drive-through facility as an accessory to a permitted principal use.

If the Board decides to grant approval of the requested variance, staff recommends the following condition for consideration:

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

Variance Review Criteria

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

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

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 **Tyler Garzo (Owner)**, for property located at **62 McKinley Road** whereas relief is needed to construct a detached accessory dwelling unit which requires the following: 1) Variance from Section 10.1114.31 to allow a second driveway where only one is permitted. Said property is located on Assessor Map 268 Lot 26 and lies within the Single Residence B (SRB) District. (LU-25-136)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>	
<u>Land Use:</u>	Single-family residence	DADU and second driveway	Primarily residential	
<u>Lot area (sq. ft.):</u>	16,860	16,860	15,000	min.
<u>Lot area per dwelling unit (sq. ft.):</u>	16,860	16,860	15,000	min.
<u>Depth</u>	180	180	100	min.
<u>Front Yard (ft)</u>	26.25	26.25	30	min.
<u>Rear Yard (ft.):</u>	80	>30	30	min.
<u>Right Yard (ft.):</u>	>10	>10	10	max.
<u>Left Yard (ft.):</u>	Secondary Front:26.25	Secondary Front: 26.25	10	min.
<u>Building Coverage (%)</u> :	9	15	20	min.
<u>Open Space Coverage (%)</u> :	>40	>40	40	min.
<u>Parking:</u>	>2	4	4	min
<u>Estimated Age of Structure:</u>	1947	Variance request(s) shown in red.		

Other Permits/Approvals Required

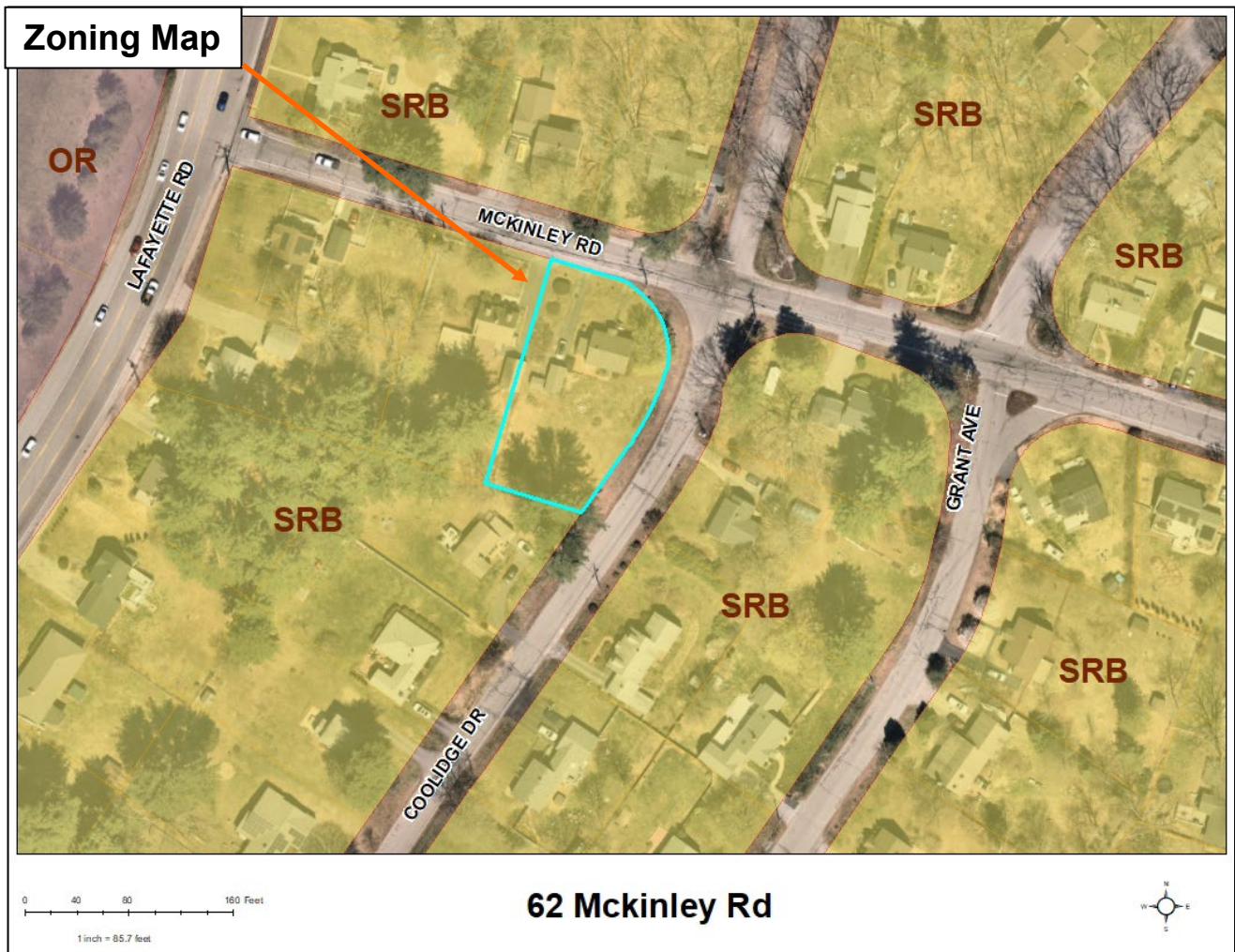
- Driveway Permit
- Building Permit

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

- **August 19, 2025** – to subdivide the existing lot into two lots and demolish and reconstruct the existing garage which requires the following: 1) Variance from Section 10.521 to allow a) 8,430 square feet of lot area for proposed lot 26 where 15,000 square feet are required, c) lot depth of 87 feet for proposed lot 26 where 100 feet are required, d) 13 foot rear yard area where 30 feet are required, e) 8,430 square feet of lot area for proposed lot 26-1 where 15,000 square feet are required, f) 8,430 square feet of lot area per dwelling unit for proposed lot 26-1 where 15,000 square feet are required, and g) lot depth of 88 feet where 100 feet are required. The Board voted to **deny** the request, as it failed the hardship criteria because there was nothing truly unique about the property that required the variance to allow the lot to be subdivided in order to enjoy the property or to be consistent with the characteristics of the surrounding lots.

Planning Department Comments

The applicant is requesting relief to add a second driveway to the property to access a proposed Detached Accessory Dwelling Unit.

Section 10.1114.31 of the [Zoning Ordinance](#) is provided below.

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

The relevant driveway language from Section 3.3 [General Accessway and Driveway Design](#) is provided below.

3.3.2 Accessway and Driveway Design and Location

...

3. Driveways shall be limited to one per lot.

Fisher vs. Dover

The applicant was before the Board on August 19, 2025 seeking relief from Section 10.521 to subdivide the existing lot into two lots and demolish and reconstruct the existing garage. The requested variances were denied at the August 19, 2025 meeting citing there was nothing truly unique about the property that required the variance to allow the lot to be subdivided in order to enjoy the property or to be consistent with the characteristics of the surrounding lots. The Board should consider whether it is appropriate to evoke Fisher vs Dover before the application is considered.

“When a material change of circumstances affecting the merits of the applications has not occurred or the application is not for a use that materially differs in nature and degree from its predecessor, the board of adjustment may not lawfully reach the merits of the petition. If it were otherwise, there would be no finality to proceedings before the board of adjustment,

the integrity of the zoning plan would be threatened, and an undue burden would be placed on property owners seeking to uphold the zoning plan.” Fisher v. Dover, 120 N.H. 187, (1980).

To view the August 19, 2025 proposal please see the meeting packet at the following link (page 192-207): https://files.cityofportsmouth.com/agendas/2025/BOA/08-19-2025+meeting/8-19-2025+BOA+Packet_rev.pdf

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 **ZJBV Properties LLC (Owner)** and **Jason Michalak (Applicant)**, for property located at **180 Islington Street** whereas relief is needed to establish a personal service use for a tattoo studio which requires the following: 1) Special Exception from Section 10.440 Use #7.20 to allow a personal service use. Said property is located on Assessor Map 137 Lot 19 and lies within the Character District 4-L2 (CD4-L2) and Historic District. (LU-25-137)

Existing & Proposed Conditions

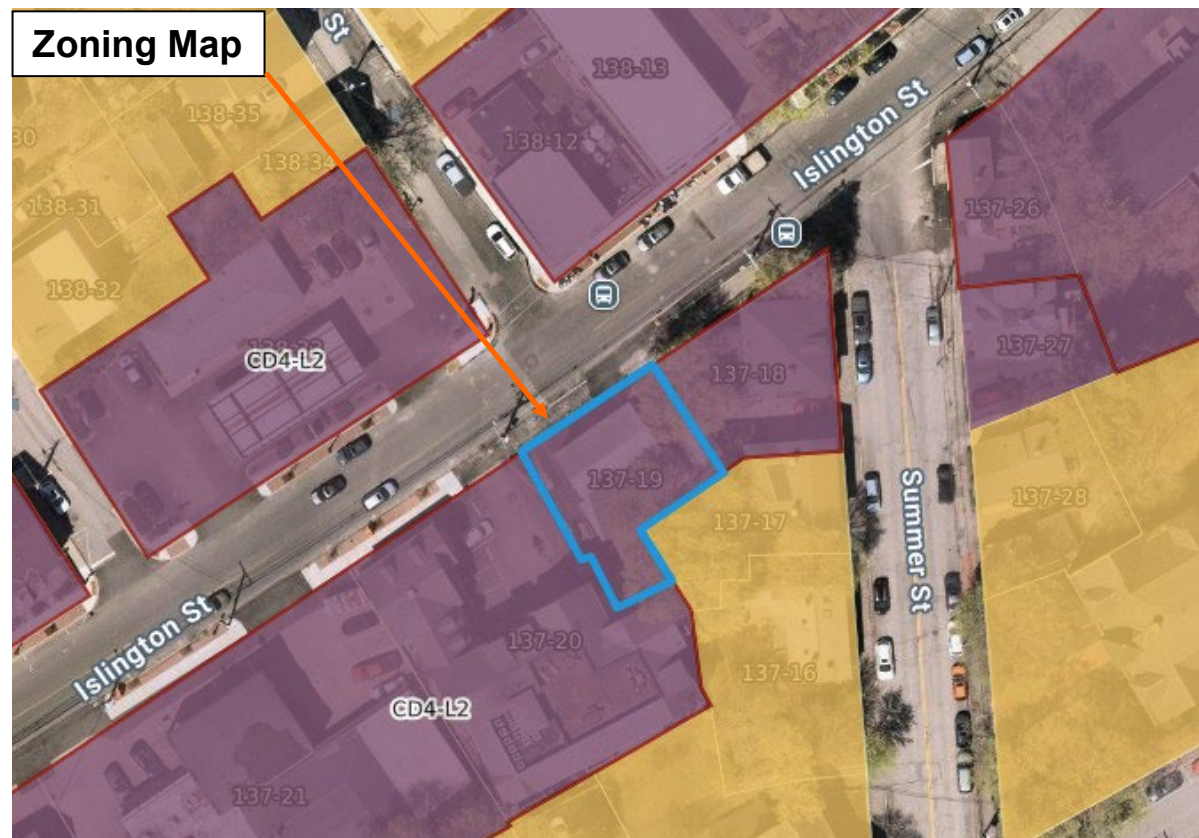
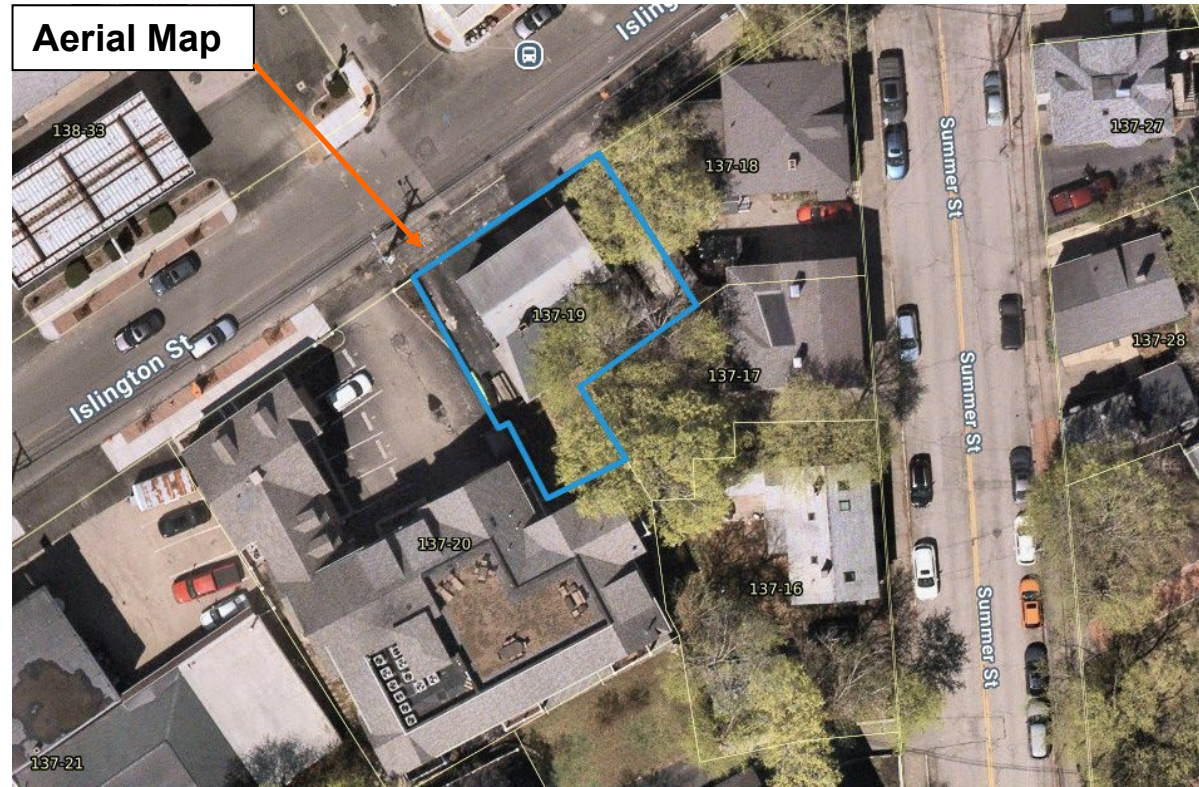
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	2 Commercial Units, 1 Residential Unit	Personal Service Use (Allowed by Special Exception)	Mixed residential and commercial uses
<u>Unit #1 Area (sq. ft.)</u>	1200	1200	
<u>Parking (Spaces)</u>	0	0	7 (1 per 400 SF)*
<u>Estimated Age of Structure:</u>	1840	Special Exception request(s) shown in red.	

*Parking CUP granted in 2024 for 0 spaces where 9 spaces are required based on 2 spaces for the residential unit and 7 spaces for 1,916 SF retail space (1 per 300 SF), rounded to 9 spaces out of an abundance of caution.

Other Permits/Approvals Required

- Tenant Fit-up/Building Permit
- Sign Permit

Neighborhood Context



Previous Board of Adjustment Actions

- **September 29, 1970** – to recommence operation of kennel in single family dwelling unit at 180 Islington Street. The Board voted to **deny** the request.
- **October 27, 1970** – a Rehearing in regards to a decision rendered by the Board of Adjustment on September 29, 1970 wherein it denied the petitioner's request for permission to recommence operation of kennel in single family dwelling unit at 180 Islington Street. The Board voted to **deny** the request for Rehearing.

Planning Department Comments

The applicant is requesting to establish a tattoo studio in one of the two first-floor commercial units at 180 Islington St. This use is considered a "personal service" under the Zoning Ordinance and is allowed by Special Exception in the CD4-L2 district. The property owner received a Parking CUP in 2024 for 0 spaces where 9 are required. There is an existing paved parking area in the front and side of the building, but it does not meet dimensional requirements for parking. The parking requirement for the proposed use is 1 per 400SF which is less than what was considered for a retail use in the space (1 per 300SF) and therefore meets the CUP that was previously granted.

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.

II. NEW BUSINESS

- D.** The request of **Christopher J and Rachel A Delisle (Owners)**, for property located at **250 McKinley Road** whereas relief is needed to construct a second story addition to the primary structure which requires the following: 1) Variance from Section 10.521 to allow a) 23 foot front yard where 30 feet are required, b) 0 foot right side yard where 10 feet is required; and 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 250 Lot 117 and lies within the Single Residence B (SRB) District. (LU-25-139)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Second Story Addition to Primary Structure*	Primarily Residential
<u>Lot area (sq. ft.):</u>	9,147	9,147	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	9,147	9,147	15,000 min.
<u>Lot depth (ft.):</u>	100	100	100 min.
<u>Street Frontage (ft.):</u>	90	90	100 min.
<u>Front Yard (ft.):</u>	23	23	30 min.
<u>Right Side Yard (ft.):</u>	0	0	10 min.
<u>Left Side Yard (ft.):</u>	22	22	10 min.
<u>Rear Yard (ft.):</u>	38	41	30 min.
<u>Building Coverage (%)</u> :	21	19.4	20 max.
<u>Open Space Coverage (%)</u> :	72	74	40 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1958	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Wetland CUP / Planning Board
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

- No previous BOA history.

Planning Department Comments

The applicant is requesting relief to remove an existing sunroom addition and construct a second story addition to the existing primary structure. The existing structure is non-conforming for setbacks and therefore requires relief for the addition within the front and side yards.

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

- E. The request of **Nuchow Hartzell Family Trust (Owner)**, for property located at **204 Aldrich Road** whereas relief is needed to construct an addition and ramp to the primary structure which requires the following: 1) Variance from Section 10.521 to allow a) 3 foot right side yard where 10 feet is required, b) 7 foot left side yard where 10 feet is required, c) 31% building coverage where 20% 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 153 Lot 26 and lies within the Single Residence B (SRB) District. (LU-25-140)

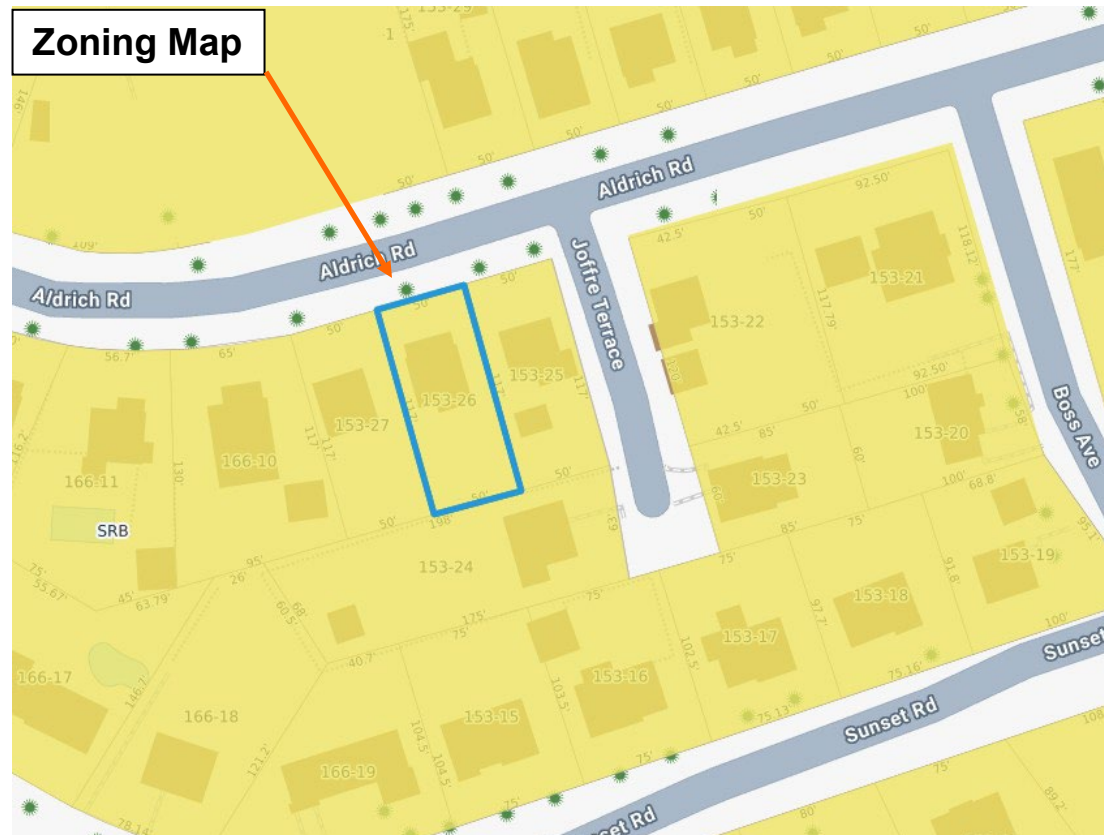
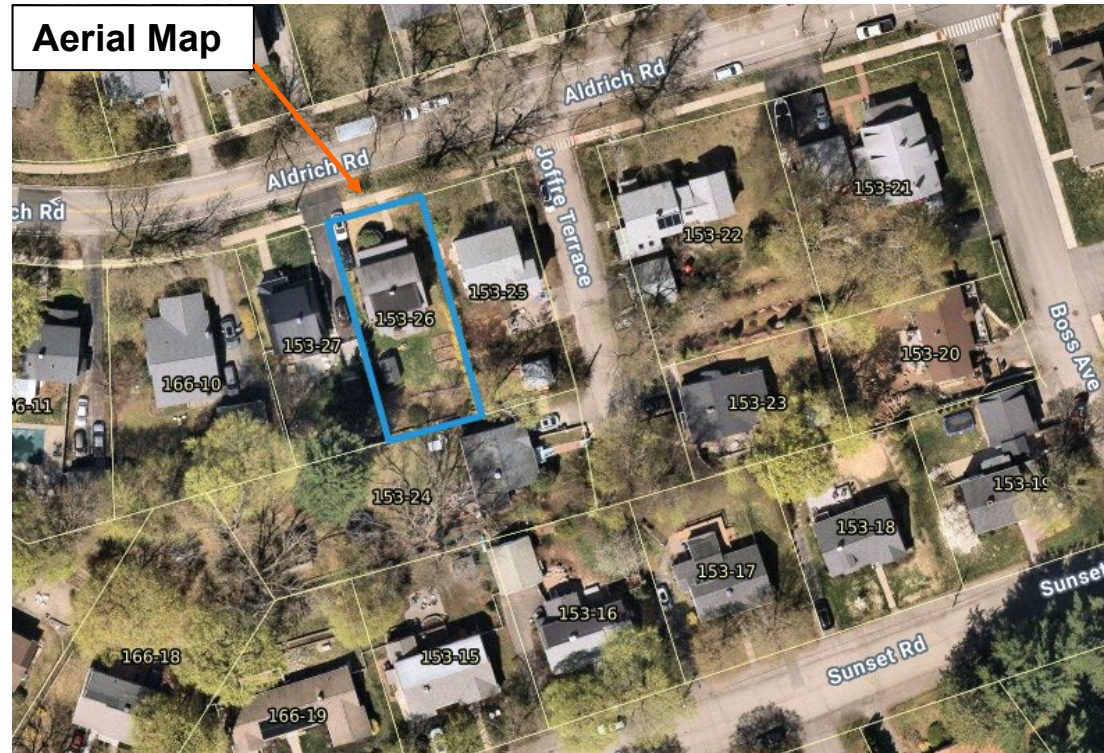
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Ramp and Addition to Primary Structure*	Primarily Residential
<u>Lot area (sq. ft.):</u>	5,703	5,703	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,703	5,703	15,000 min.
<u>Lot depth (ft.):</u>	114	114	100 min.
<u>Street Frontage (ft.):</u>	50	50	100 min.
<u>Front Yard (ft.):</u>	19	19	30 min.
<u>Right Side Yard (ft.):</u>	7	3	10 min.
<u>Left Side Yard (ft.):</u>	10.5	7	10 min.
<u>Rear Yard (ft.):</u>	48	30.5	30 min.
<u>Building Coverage (%):</u>	20	31	20 max.
<u>Open Space Coverage (%):</u>	73	61	40 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1928	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

- No previous BOA history.

Planning Department Comments

The applicant is requesting relief to construct an addition and ramp to the primary structure to renovate the existing home for ADA accessibility. The existing structure is non-conforming for setbacks and requires relief for the additions in the right and left side yards and for additional building coverage over the maximum 20% that is 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.*
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 - (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. The request of **Trenton and Denise Sensiba (Owners)**, for property located at **0 and 12 Ruth Street** whereas relief is needed for a lot line adjustment which requires the following: 1) Variance from Section 10.521 for 20.66 feet of frontage on Map 143 Lot 16 where 100 feet is required. Said property is located on Assessor Map 143 Lots 16 and 9-1 and lies within the General Residence A (GRA) District. (LU-25-118)

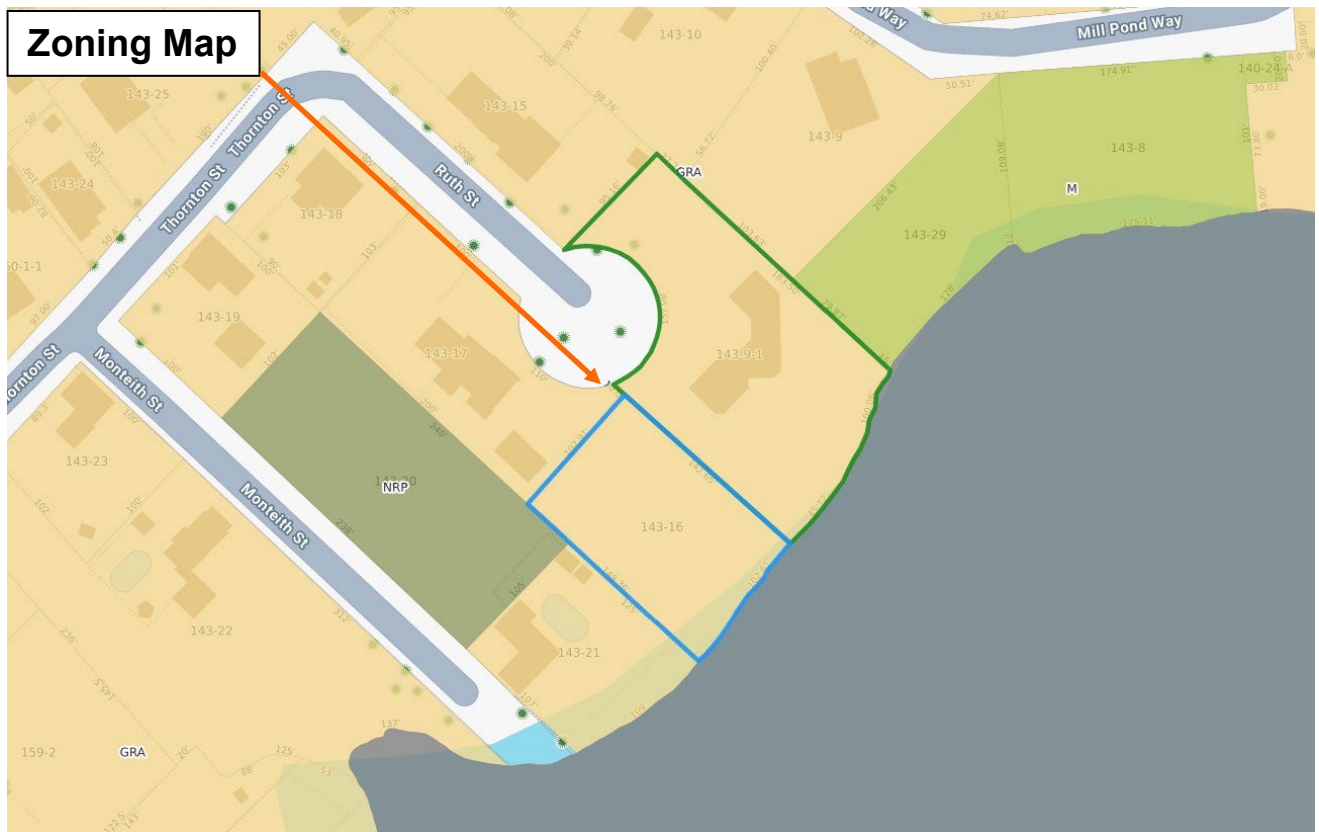
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Lot Line Adjustment	Primarily Residential
<u>Lot area (sq. ft.):</u>	12 Ruth St: 29,500 0 Ruth St: 16,022	12 Ruth St: 28,613 0 Ruth St: 16,909	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	12 Ruth St: 29,500 0 Ruth St: 16,022	12 Ruth St: 28,613 0 Ruth St: 16,909	7,500 min.
<u>Lot depth (ft.):</u>	12 Ruth St: 152 0 Ruth St: 147	12 Ruth St: 152 0 Ruth St: 107	70 min.
<u>Street Frontage (ft.):</u>	12 Ruth St: 145 0 Ruth St: 0.66	12 Ruth St: 125 0 Ruth St: 20.66	100 min.
<u>Front Yard (ft.):</u>	12 Ruth St: 29	12 Ruth St: 29	15 min.
<u>Right Side Yard (ft.):</u>	12 Ruth St: 34.6	12 Ruth St: 14.6	10 min.
<u>Left Side Yard (ft.):</u>	12 Ruth St: 13.96	12 Ruth St: 13.96	10 min.
<u>Secondary Front Yard (Waterfront) (ft.):</u>	12 Ruth St: 52.5	12 Ruth St: 52.5	15 min.
<u>Building Coverage (%):</u>	12 Ruth St: 9.4	12 Ruth St: 9.7	25 max.
<u>Open Space Coverage (%):</u>	12 Ruth St: 79.2	12 Ruth St: 78.5	30 min.
<u>Parking</u>	>2	>2	2
<u>Estimated Age of Structure:</u>	1990	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Subdivision/LLA Approval – Technical Advisory Committee and Planning Board
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

- No previous BOA history.

Planning Department Comments

The applicant is the current property owner of two lots at 12 Ruth Street (Map 143, Lot 9-1) and 0 Ruth Street (Map 143, Lot 16) and is proposing a lot line adjustment to transfer an 887 SF parcel (A) from 12 Ruth Street to 0 Ruth Street. The Lot Line Adjustment will increase existing frontage on the 0 Ruth Street parcel from 0.66 ft. to 20.66 ft and requires relief from the 100 ft. frontage requirement in the GRA District.

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

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