



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

## MEMORANDUM

TO: Zoning Board of Adjustment  
FROM: Jillian Harris, Principal Planner  
DATE: May 21, 2025  
RE: Zoning Board of Adjustment May 27, 2025

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

### **I. Old Business**

A. 636 Lincoln Avenue

### **II. New Business**

- A. 86 Farm Lane
- B. 505 U.S. Route 1 Bypass
- C. 205 Broad Street
- D. 911 South Street #3

## I. OLD BUSINESS

- A.** 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 12.5 foot rear yard setback where 20 feet is required; c) allow 39% 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)

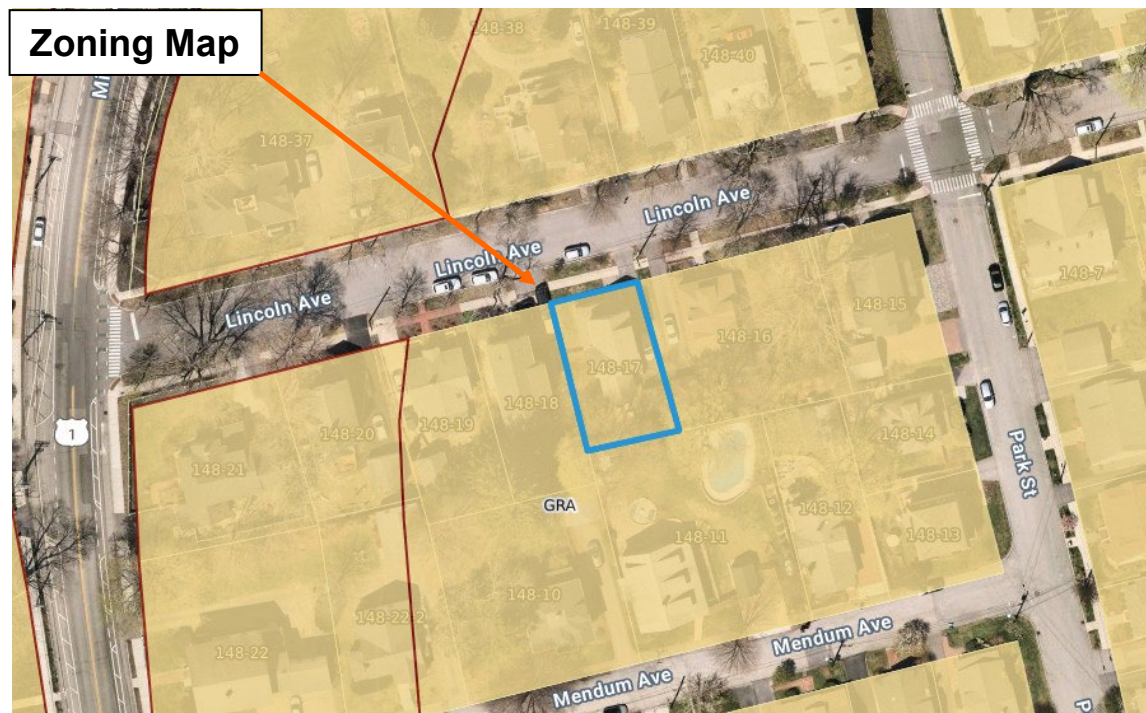
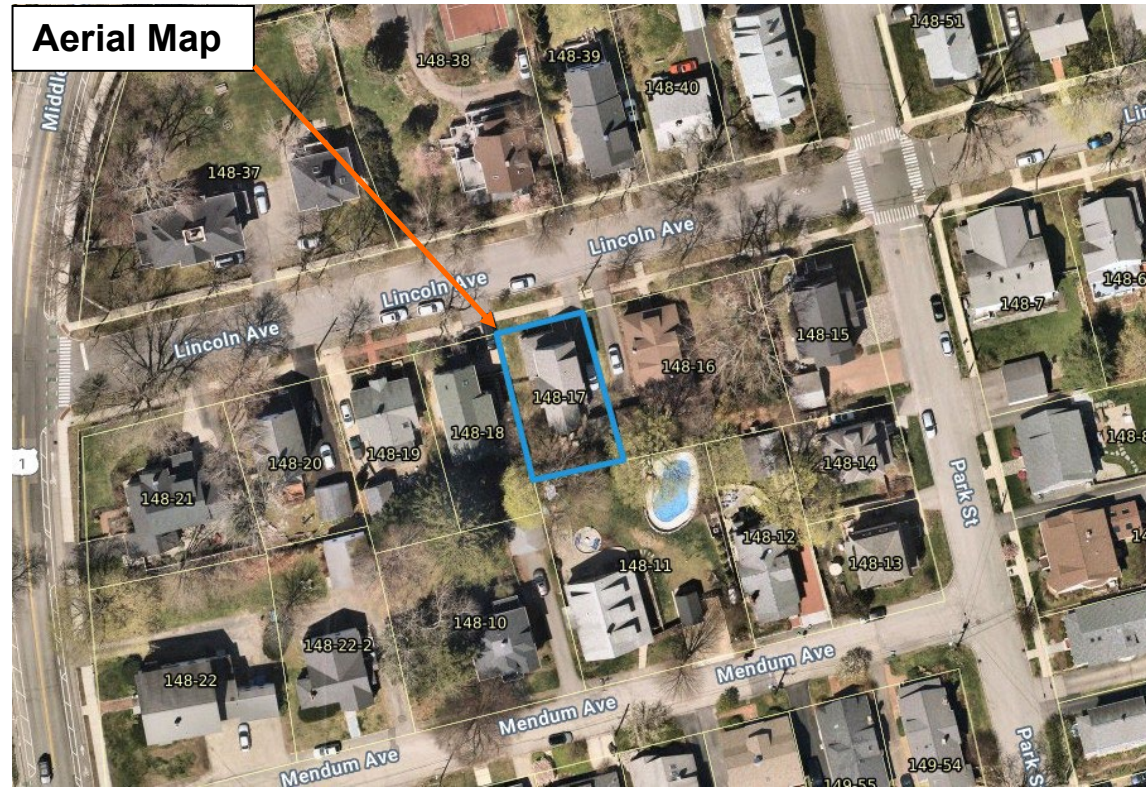
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Demo Garage and Construct Rear Addition to Primary	Primarily Residential
<u>Lot area (sq. ft.):</u>	4,250	4,250	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,250	4,250	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>	Primary Structure: 10.6	Primary:10.6 Addition: >10	10 min.
<u>Left Side Yard (ft.):</u>	Garage: 0	Addition:2	10 min.
<u>Rear Yard (ft.):</u>	Garage: 2 Primary: 22.8	Addition: 12.5	20 min.
<u>Building Coverage (%):</u>	36.3	39	25 max.
<u>Open Space Coverage (%):</u>	55	52	30 min.
<u>Parking</u>	<2	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, building coverage and for an extension/enlargement 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.



## II. NEW BUSINESS

- A.** 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 lot 1 requires the following: 2) Variance from Section 10.521 to allow a) 10,664 s.f. of lot area where 15,000 s.f. is required; b) 10,664 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. Proposed lot 2 requires the following: 3) Variance from Section 10.521 to allow a) 11,250 s.f. of lot area where 15,000 s.f. is required; b) 11,250 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)

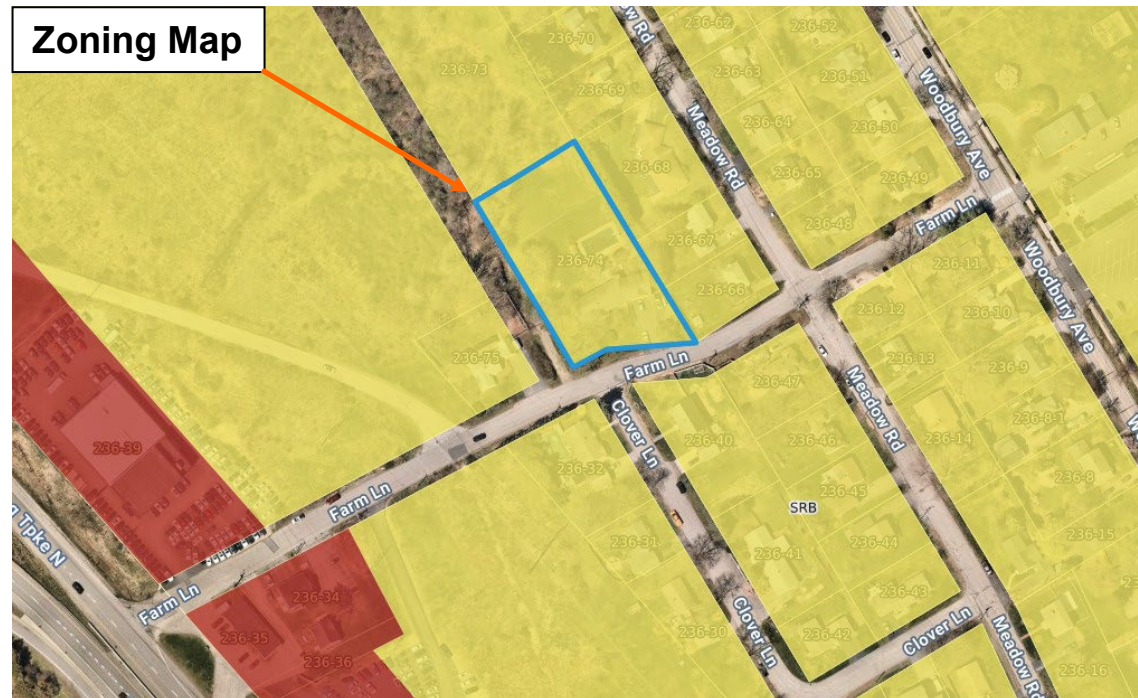
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Residential	3-lot Subdivision	Primarily Residential
<u>Lot area (sq. ft.):</u>	Parent Lot: 39,846	Parent Lot: 15,997 Lot 1: <b>10,664</b> Lot 2: <b>11,250</b>	15,000 min.
<u>Lot area per dwelling unit (sq. ft.):</u>	Parent Lot: 39,846	Parent Lot: 19,730 Lot 1: <b>10,664</b> Lot 2: <b>11,250</b>	15,000 min.
<u>Lot depth (ft.):</u>	>100	Parent Lot: 122 Lot 1: 150 Lot 2: 150	100 min.
<u>Street Frontage (ft.):</u>	162.3	Parent Lot: 162.3 Lot 1: <b>75</b> Lot 2: <b>75</b>	100 min.
<u>Primary Front Yard (Farm Ln) (ft.):</u>	>30	>30	30 min.
<u>Secondary Front Yard (Longmeadow Ln) (ft.):</u>	>30	<b>23</b>	30 min.
<u>Right Yard (ft.):</u>	9.9	9.9	10 min.
<u>Rear Yard (ft.):</u>	>30	<b>28</b>	30 min..
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	<20	18.5	20 max.
<u>Open Space Coverage (%):</u>	<30	64.3	30 min.
<u>Parking:</u>	>2	>2	2
<u>Estimated Age of Structure:</u>	1953	<b>Variance request(s) shown in red.</b>	

**Other Permits/Approvals Required**

- Subdivision and Site Plan Approval – TAC / Planning Board
- City Council Acceptance of ROW

## Neighborhood Context



## Previous Board of Adjustment Actions

- **June 25, 2024** - Subdivide the existing property into 3 separate lots. Proposed lots 1 and 2 require the following: 1) Variance from Section 10.521 to allow a) 0 feet of continuous street frontage where a 100 feet is required, b) 13,125 square feet of lot area per dwelling where 15,000 square feet are required; and 2) Variance from Section 10.512 to allow the creation of a lot without access to a public street or an approved private street for future construction of a structure. The proposed remaining parent lot requires the following: 1) Variance from Section 10.521 to allow a 14 foot rear yard where 30 feet is required. **Application was withdrawn by applicant.**
- **April 22, 2025** - 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. **Application was withdrawn by applicant.**

## Planning Department Comments

The applicant proposes to subdivide the existing 0.91 Acre property into 3 lots. The existing lots primary front yard is along Farm Lane and has a secondary front yard located along the portion of Longmeadow Lane that is currently shown as a paper street. The applicant proposes to construct a 22' wide paved street with a modified alignment that brings the right-of-way into a portion of the front two lots and closer to the existing residential structure. The proposed lot configuration and ROW requires relief for lot area, lot area per dwelling unit and frontage on the newly proposed back lots and for rear and secondary setbacks on the existing parent lot for the existing structure. Please note that the parcel numbers as labeled on the plan set have not been assigned by the assessor and are not to be considered final.

**If granted approval, staff recommends the following stipulations for consideration:**

- 1) **Approval is contingent upon Planning Board approval of the Subdivision and City Council acceptance of fee simple ownership of the new right-of-way area, as proposed.**
- 2) **The Subdivision layout may change as a result of TAC and Planning Board review if it does not increase the Zoning relief 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 **Giri Portsmouth 505 Inc (Owner)**, for property located at **505 US Route 1 Bypass** whereas relief is needed to develop additional parking and an Electric Vehicle Charging Station which requires the following: 1) Variance from Section 10.5B83.10 for off-street parking spaces to be located between the principal building and a street or within any required perimeter buffer area; 2) Variance from Section 10.1113.20 for off-street parking spaces located in a front yard, or between a principal building and a street (including on a corner lot). Said property is located on Assessor Map 234 Lot 5 and lies within the Gateway Corridor (G1) District. (LU-25-66)

### Existing & Proposed Conditions

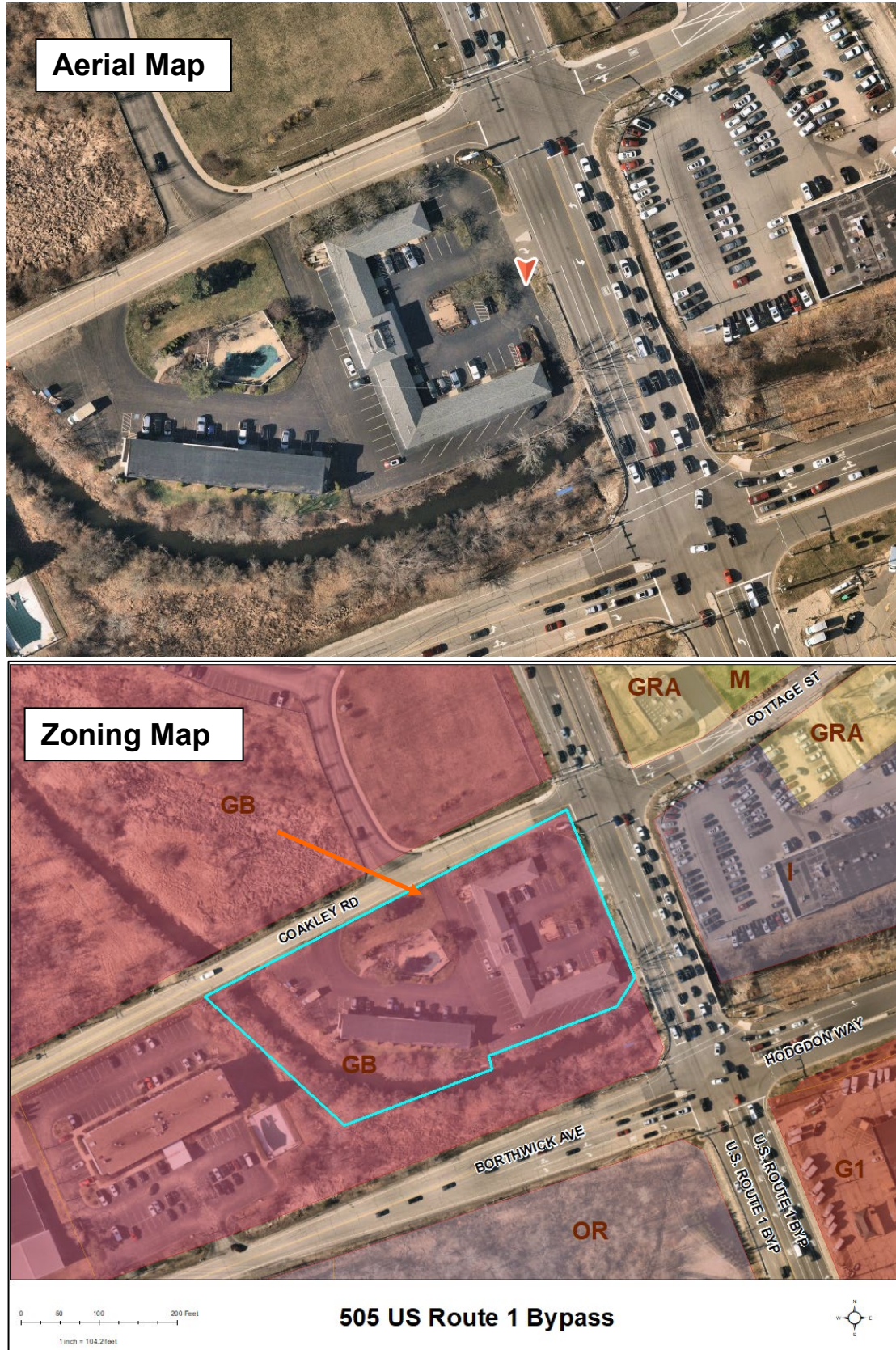
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Hotel	EV Parking* and Charging Equipment	Primarily Business
<u>Distance between EV Charging equipment and front lot line</u>	N/A	11	10 min.
<u>Parking</u>	57	64	70
<u>Estimated Age of Structure:</u>	1955	Variance request(s) shown in red.	

\*Relief needed for off-street parking spaces to be located between the principal building and the street or any required perimeter buffer area

### Other Permits/Approvals Required

- Conditional Use Permit (Planning Board)
- Site Review (TAC and Planning Board)
- Wetland Conditional Use Permit (Conservation Commission and Planning Board)

## Neighborhood Context



## Previous Board of Adjustment Actions

- January 25, 1983 – The Board **granted** a Variance to allow a free-standing sign 7' x 12', 30' in height to be erected 30' from the front property line where 35' is required, and 4' from the right-side property line where 35' is required with the following conditions:
  - 1) That the large lighted sign over the main part of the motel be removed
  - 2) That no other sign be put in that place; and
  - 3) That no signs be allowed on the pole but the 7' x 12' sign
- July 17, 2001 – The Board **granted** the following: A Variance from Article IX, Section 10-908 Table 14 to allow a 146 s.f. freestanding sign with a 6.6'± front yard set back where 20' is required; 8.2' right side yard setback where 20' are required; and a height of 30' where 20' is the maximum with the following conditions:
  - 1) That the message not be flashing or fast scrolling; and
  - 2) That the existing roof sign be removed; and
  - 3) That the application meets the approval of the Building Inspector
- January 23, 2024 – Demolishing the existing structure and constructing a new hotel with a drive thru restaurant which requires the following: 1) Special Exception from 10.440 Use #10.40 hotel where it is permitted by Special Exception; 2) Variance from Section 10.1113.20 to allow parking spaces between the principal building and a street; 3) Variance from Section 10.1113.41 for parking located 1 foot from the lot line where 40 feet is required; 4) Variance from Section 10.575 to allow dumpsters to be located 1 foot from the lot line where 10 feet is required; 5) Variance from Section 10.835.32 to allow 1 foot between the lot line and drive-thru and bypass lanes where 30 feet is required for each; and 6) Variance from Section 10.835.31 to allow 37 feet between the menu and speaker board and the front lot line where 50 feet is required. The Board voted to deny the request for the 5 Variances and postponed consideration of the Special Exception.
- February 21, 2024 – **The applicant withdrew the above application.**
- April 30, 2024 - Demolishing the existing structure and constructing a new hotel with a drive thru restaurant which requires the following: 1) Special Exception from 10.440 Use #10.40 hotel where it is permitted by Special Exception; 2) Variance from Section 10.835.32 to allow 5 feet between the lot line and drive-thru and bypass lanes where 30 feet is required for each; 3) Variance from Section 10.835.31 to allow 18 feet between the menu and speaker board and the front lot line where 50 feet is required; 4) Variance from Section 10.5B22.20 to allow up to 60 feet in building height within 50 feet of the street right-of-way line whereas up to 45 feet is permitted; 5) Variance from Section 10.5B34.70 to allow up to 60 feet in building height whereas 50 feet is permitted; 6) Variance from Section 10.5B34.60 to allow a 30 foot setback for a small commercial building whereas a maximum of 20 feet is permitted; 7)



Variance from Section 10.5B33.20 to allow less than 75 percent front lot line buildout whereas a minimum of 75 percent is required for commercial buildings. **Application was withdrawn by applicant.**

### **Planning Department Comments**

The project proposes the installation of four (4) EV charging stations, for a total of eight (8) charging spaces with one (1) ADA space in the existing parking lot of the Port Inn and Suites. The EV Chargers will be Level 3 chargers that will be publicly accessible for both hotel guests and the general public. The project will include EV Charging support equipment on a concrete pad. There will also be removal of a section of asphalt and stabilization of the area with grass near Hodgson Brook. The addition of the EV parking spaces requires relief for the parking to be located between the principal building and a street.

### **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

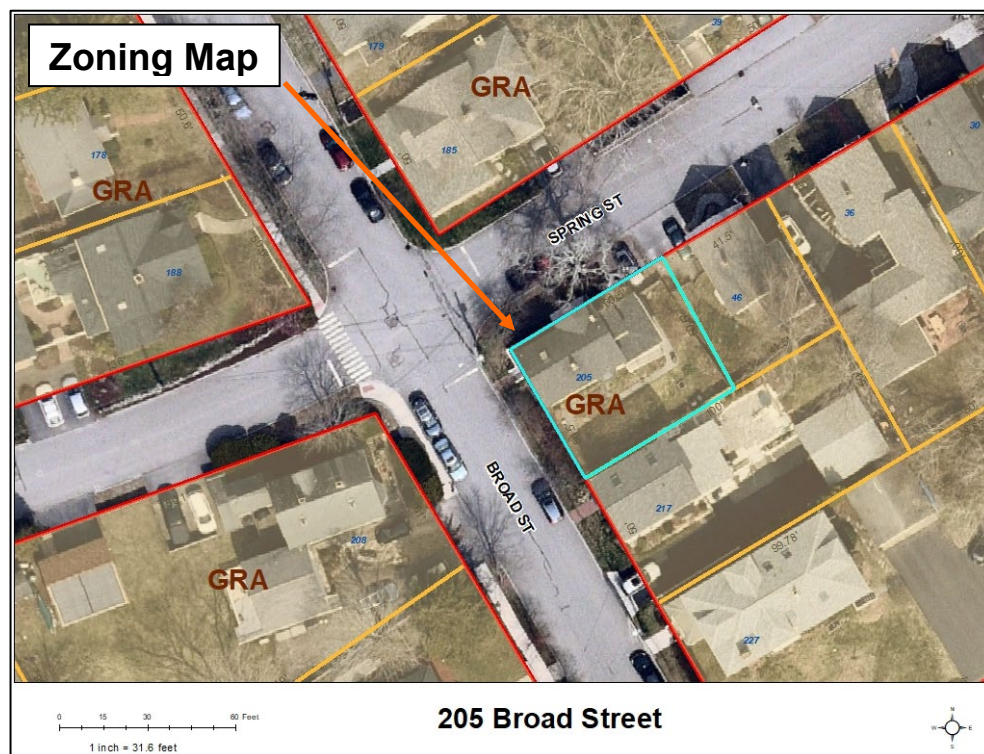
- C. The request of **Troy Allan & Colleen Elizabeth Blanchard (Owners)**, for property located at **205 Broad Street** whereas relief is needed to demolish an existing screened porch and construct an addition with a first floor deck which requires the following: 1) Variance from Section 10.521 to a) allow a front yard setback of 7 feet where 15 feet is required; b) allow a rear yard setback of 10 feet where 20 feet is required; c) allow building coverage of 46% where 25% is 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 130 Lot 16 and lies within the General Residence A (GRA) District. (LU-25-68)

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Add 1-story addition and deck	Primarily residential uses
<u>Lot area (sq. ft.):</u>	3,025	3,025	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,025	3,025	7,500 min.
<u>Street Frontage (ft.):</u>	110	110	100 min.
<u>Lot depth (ft.):</u>	60	60	70 min.
<u>Front Yard (ft.):</u>	5	5	15 min.
<u>Secondary Front Yard (ft.):</u>	0	7	15 min.
<u>Right Yard (ft.):</u>	25	11	10 min.
<u>Rear Yard (ft.):</u>	12.3'	10	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u>	35.5	46	25 max.
<u>Open Space Coverage (%)</u>	>30	51.7	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1900	Variance request(s) shown in red.	

### Other Permits/Approvals Required

- Building Permit

## Neighborhood Context



## Previous Board of Adjustment Actions

- **October 16, 1996** - The board **granted** a Variance from Article III, Section 10-32(A) to allow a 10'6" x 5'6" two story addition, a 21' x 8' deck and an 11' x 5'6" deck with: a) an 11'6" rear yard set back where 20' is the minimum required; and b) a building coverage of 34.2% where 25% is the maximum allowed.
- **January 21, 1997** - The Board **granted** a request to amend a previously approved deck by adding a roof over the deck, with the stipulation that the deck cannot be further enclosed without receiving additional approval from this board.
- **May 25, 2021** – Enclosing an existing porch and add dormers which requires the following: 1) Variances from Section 10.521 to allow a) a 5' primary front yard where 15 feet is required; and b) a 0' secondary front yard where 15 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 Board voted to **grant** the request with the following **conditions**:
  - 1) That the current building coverage be recognized as 35-1/2 percent, based on the survey.

## Planning Department Comments

The applicant is proposing to demolish an existing screened porch and to construct an attached garage addition with basement living space and first floor living space and a deck above. The proposed addition requires relief for front and rear setbacks, expansion of a nonconforming structure and building coverage.

## 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 **Wendy M Freedman (Owner)**, for property located at **911 South Street #3** whereas relief is needed to demolish an existing deck and construct a 100 s.f. addition which requires the following: 1) Variance from Section 10.521 to allow a side yard setback of 5 feet 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 132 Lot 19 C and lies within the General Residence A (GRA) District. (LU-25-59)

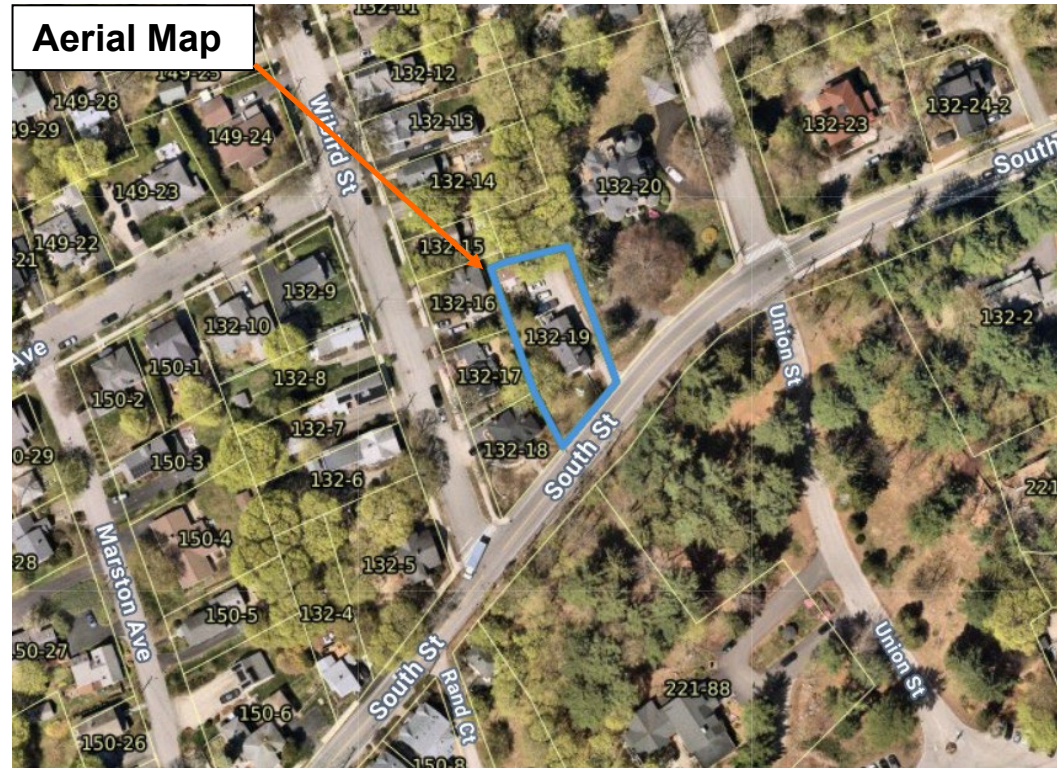
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family Condo	Addition	Primarily Residential
<u>Lot area (sq. ft.):</u>	11,550	11,550	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	11,550	11,550	7,500 min.
<u>Lot depth (ft.):</u>	154	154	100 min.
<u>Street Frontage (ft.):</u>	85	85	70 min.
<u>Front Yard (ft.):</u>	>15	>15	15 min.
<u>Right Side Yard (ft.):</u>	>10	>10	10 min.
<u>Left Side Yard (ft.):</u>	3	Addition: 5	10 min.
<u>Rear Yard (ft.):</u>	Existing Dwelling: 5	5	20 min.
<u>Building Coverage (%):</u>	20.7	21.6	25 max.
<u>Open Space Coverage (%):</u>	63.7	62.8	30 min.
<u>Parking</u>	>6	>6	6
<u>Estimated Age of Structure:</u>	1900	Variance request(s) shown in red.	

### Other Permits/Approvals Required

- Building Permit

## Neighborhood Context



## Previous Board of Adjustment Actions

- **May 7, 1985** – A Variance from Article II, Section 10-205(3)(b)(1) to allow the conversion of a barn to one dwelling unit with exterior changes being proposed where no exterior changes except for egress are allowed. The Board voted to grant the request with the following conditions:
  - 1) That windows be placed only on the southernly and easterly sides of the barn.

## Planning Department Comments

The applicant is requesting to remove an existing deck and to construct a 10' x 10' 1-story addition in its place for additional living space. The applicant is requesting relief for side yard setback and expansion of a nonconforming 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**

  - (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.