



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 21, 2026
RE: Zoning Board of Adjustment October 27, 2026

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

- I. **Old Business**
 - A. 28 Blossom Street – Request for Rehearing

- II. **New Business**
 - A. 1490 Islington Street
 - B. 104 Thornton Street
 - C. 0 Woodworth Avenue
 - D. 54 Lincoln Avenue
 - E. 9 Sheafe Street
 - F. 325 Corporate Drive
 - G. 10 Merrimac Street

I. OLD BUSINESS

- A. Request for Rehearing** - The request of **Kathleen B. and Kent A. Logan, Susan E. Lassen, Scott A. Lupkas, and Guy D. and Elizabeth R. Spiers (Appellants)**, for appeal of decision of administrative officials to classify the art studio attached to the side of the third dwelling unit as an R2 non-transient sleeping unit for property located at **28 Blossom Street**. Said property is located on Assessor Map 111 Lot 40 and lies within the General Residence B (GRB) and Historic Districts. (LU-26-114)

Planning Department Comments

At the September 15, 2026 Board of Adjustment meeting, the Board considered the request of **Kathleen B. and Kent A. Logan, Susan E. Lassen, Scott A. Lupkas, and Guy D. and Elizabeth R. Spiers (Appellants)**, for appeal of decision of administrative officials to classify the art studio attached to the side of the third dwelling unit as an R2 non-transient sleeping unit for property located at **28 Blossom Street**.

The Board voted to **deny** the appeal because the physical changes requested by the Code Official would not convert the space into something other than an art studio and there is nothing in those physical changes that is incompatible with the use of an art studio.

A request for rehearing was filed within 30 days of the Board's decision. 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 original consideration of the case. The meeting materials can be referenced in September 15, 2026 meeting packet found at the following link:

<https://www.portsmouthnh.gov/planportsmouth/events/board-adjustment-21>

II. NEW BUSINESS

- A. The request of **Emilyn Anne** and **Eben Kennedy (Owners)**, for property located at **1490 Islington Street** whereas relief is needed for construction of an addition and renovation of a single-family residence with an accessory dwelling unit to a two-family residence, which requires the following: 1) Variance from Section 10.440 to allow a two-family dwelling in the SRB District. Said property is located on Assessor Map 233 Lot 108 and lies within the Single Residence B (SRB) District. (LU-26-126)

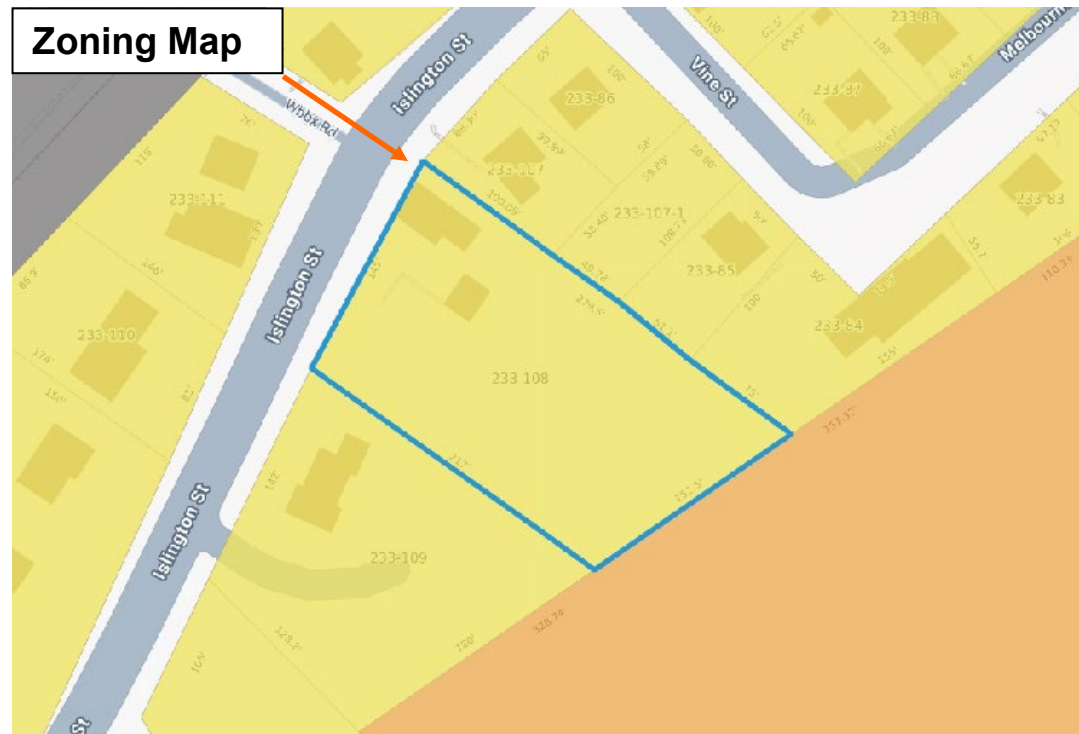
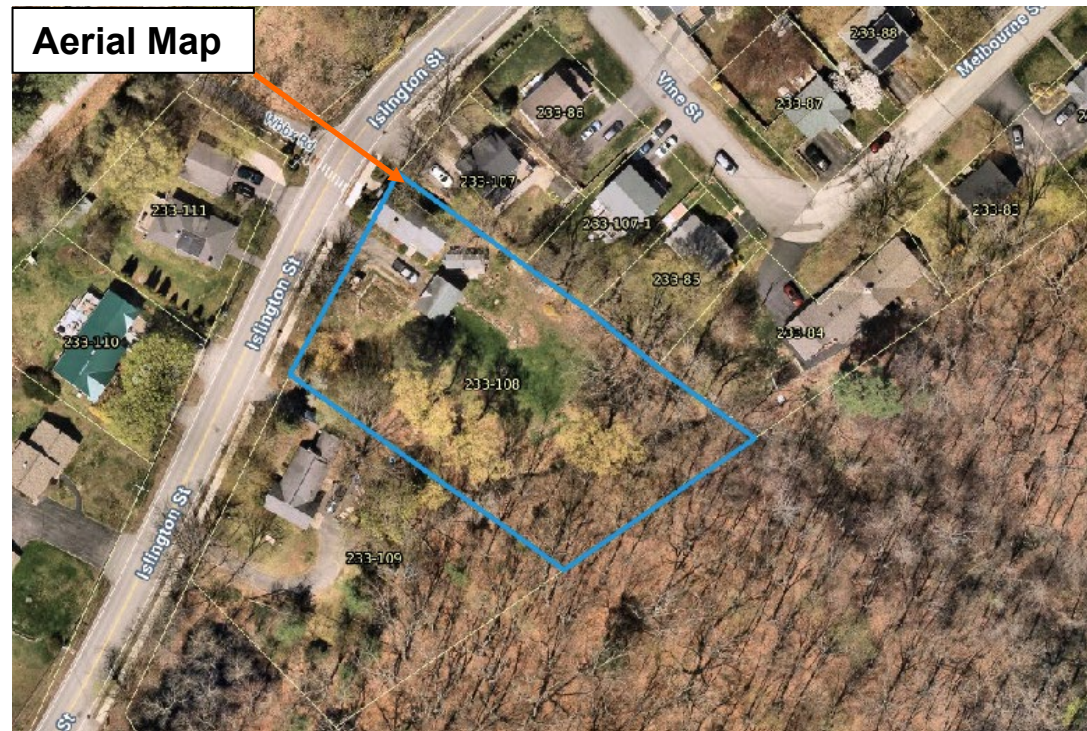
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family with an ADU	Two-family residence with addition	Primarily Residential
<u>Lot area (sq. ft.):</u>	36,590	36,590	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	36,590	18,295	15,000 min.
<u>Frontage (ft.):</u>	145	145	100 min.
<u>Depth (ft.):</u>	248	248	100 min.
<u>Front Yard (ft.):</u>	5	5	30 min.
<u>Right Side Yard (ft.):</u>	Barn: 79 House: 114	Barn: 79 House: 114	10 min.
<u>Left Side Yard (ft.):</u>	12	12	10 min.
<u>Rear Yard (ft.):</u>	176	151	30 min.
<u>Building Coverage (%):</u>	4	5	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Height (ft.):</u>	30	30	35 max.
<u>Parking</u>	6	6	1
<u>Estimated Age of Structure:</u>	1893	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

- **July 18, 2017** - A Variance from Section 10.521 to allow a 5' front yard setback for an existing structure where 30' is required. The Board voted to **grant** the request as presented and advertised.

Planning Department Comments

The applicant proposes constructing a one-story addition to the rear of the home and to convert the use from a single-family with an attached ADU to a two-family residence. The previous property owner received approval for an ADU on the first floor and the primary unit to be on the second floor. The proposed first floor unit will not comply with the 750 SF size requirement for an ADU with the proposed addition and therefore the applicant proposes to convert the use to a two-family and to occupy the first-floor unit.

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 **Nathan Alger (Owner)**, for property located at **104 Thornton Street** whereas relief is needed to demolish an existing carport and deck and construct an addition; and to permit after-the-fact installation of a fence, which requires the following: 1) 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; 2) Variance from Section 10.521 to a) allow a 4' rear yard setback where 20' is required, b) allow a 6' secondary front yard setback where 15' is required, c) to allow 44.5% building coverage where 25% is allowed; and 3) Variance from Section 10.515.13 to allow a fence exceeding 4' in height with a 0' front yard setback where 15' is required. Said property is located on Assessor Map 160 Lot 11 and lies within the General Residence A (GRA) District. (LU-26-120)

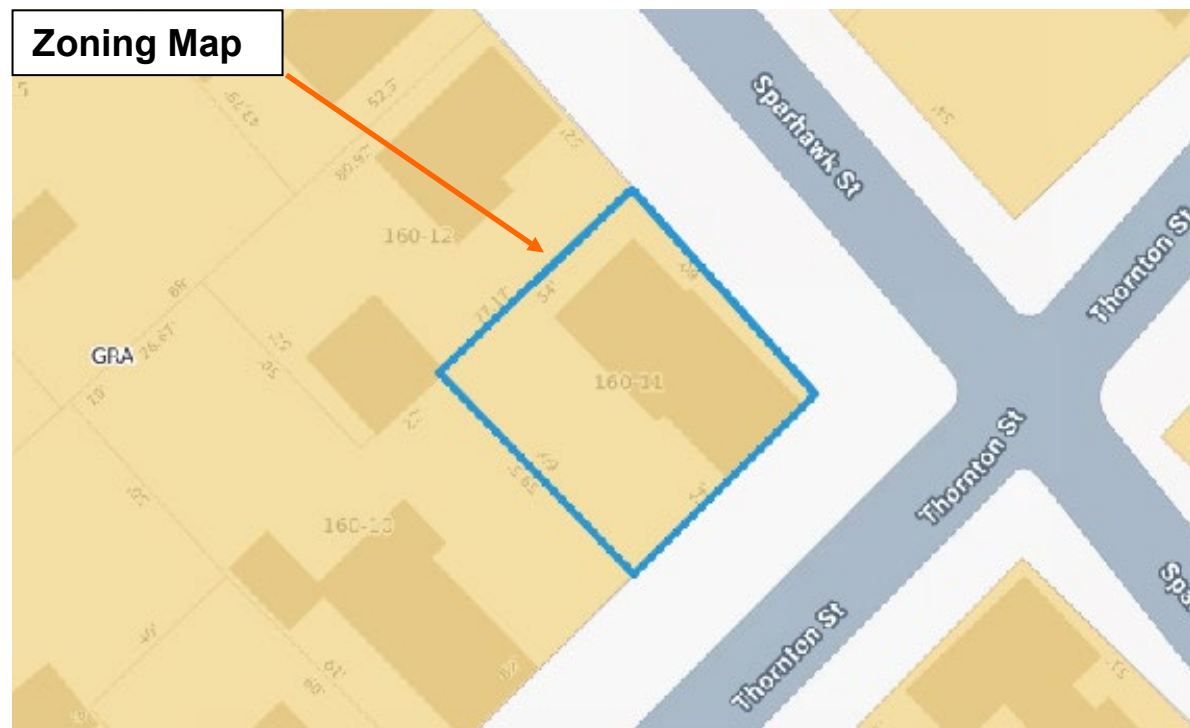
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-Family Residential	*Demo carport and deck and construct addition. Permit after-the-fact fence installation.	Primarily Residential
<u>Lot area (sq. ft.):</u>	3,181	3,181	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,181	3,181	7,500 min.
<u>Frontage (ft.):</u>	112	112	100 min.
<u>Depth (ft.):</u>	59.5	59.5	70 min.
<u>Front Yard (ft.):</u>	3	3	15 min.
<u>Secondary Front Yard (ft.):</u>	5.5	6	15 min.
<u>Left Side Yard (ft.):</u>	20	12	10 min.
<u>Rear Yard (ft.):</u>	5.5	4	20 min.
<u>Building Coverage (%):</u>	41.8	44.5	25 max.
<u>Open Space Coverage (%):</u>	63.9	56.2	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Estimated Age of Structure:</u>	1920	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

- **July 25, 1967** – Construct a patio whose roof would be on posts located 7’7” from rear lot line. The Board voted to **grant** the request as presented and advertised.

Planning Department Comments

The applicant is proposing to demo the existing carport and to construct a one-car garage with living space above. In addition, the applicant proposes to demo the existing deck and replace it with a two-story addition.

The applicant is also seeking after-the-fact relief for the existing fence in the primary front yard of the property. The fence was installed in 2022 under a misunderstanding of the permitting requirements with the City.

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 **Schofield-Kanner Revocable Trust (Owners)**, and **Cain Investments, LLC (Applicant)**, for property located at **0 Woodworth Avenue** whereas relief is needed to construct a new single-family residence on a vacant lot, which requires the following: 1) Variance from Section 10.521 to allow a) lot area of 3,440 SF where 15,000 SF is required, b) lot area per dwelling unit of 3,440 SF where 15,000 SF is required, c) 40 feet of contiguous street frontage where 100 feet is required, d) lot depth of 86 feet where 100 feet is required, e) a front yard setback of 17 feet where 30 feet is required, f) a rear yard setback of 10 feet where 30 feet is required, and g) a building coverage of 35% where 20% is allowed. Said property is located on Assessor Map 232 Lot 73 and lies within the Single Residence B (SRB) District. (LU-26-125)

Existing & Proposed Conditions

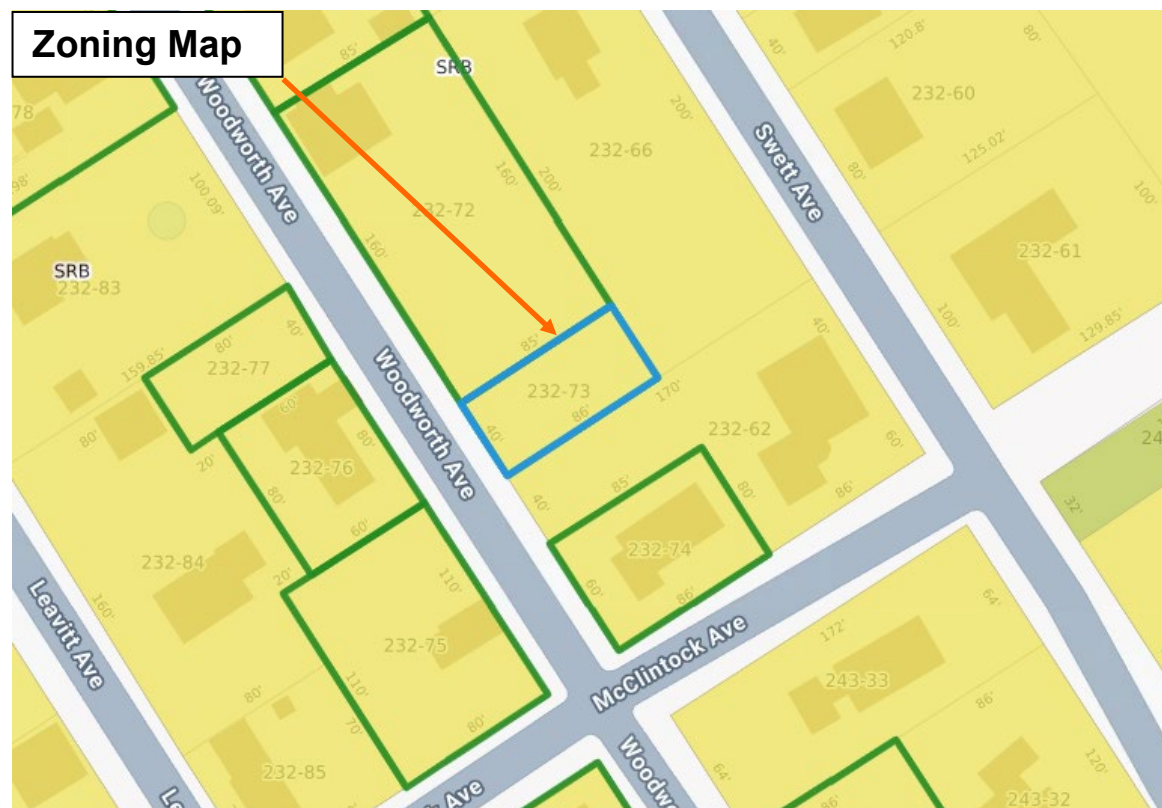
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant lot	Single-family	Primarily Residential
<u>Lot area (sq. ft.):</u>	3,440	3,440	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,440	3,440	15,000 min.
<u>Frontage (ft.):</u>	40	40	100 min.
<u>Depth (ft.):</u>	86	86	100 min.
<u>Front Yard (ft.):</u>	N/A	17	30 min.
<u>Right Side Yard (ft.):</u>	N/A	10	10 min.
<u>Left Side Yard (ft.):</u>	N/A	10	10 min.
<u>Rear Yard (ft.):</u>	N/A	8*	30 min.
<u>Building Coverage (%):</u>	N/A	35	20 max.
<u>Open Space Coverage (%):</u>	100	61	40 min.
<u>Height (ft.):</u>	N/A	<35	35 max.
<u>Parking</u>	0	1	1
<u>Estimated Age of Structure:</u>	N/A	Variance request(s) shown in red.	

*Legal notice included the applicant's request for a 10' rear setback in submittal materials. Applicant updated the application after the deadline to include a request for an 8' rear setback.

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous history found.

Planning Department Comments

The property is currently a vacant lot of record shown on the 1902 subdivision plan for “Prospect Park” as lot 73. The applicant proposes to construct a single-family home on the lot and is seeking relief for dimensional requirements in the SRB District.

Fisher vs. Dover

The applicant cites a variance application filed in 2009 by a different applicant involving the subject property and an adjacent lot that were under common ownership. The narrative outlines that the applicant sought to merge the two properties and re-subdivide them into two new lots of different configurations. One of the proposed lots needed a variance for lot area while the other required variances for lot area, depth and frontage. The applicant notes that the Board voted to deny the variances on the basis of the “public interest” and “unnecessary hardship” criteria had not been met because the subdivision proposal would result in two non-conforming lots.

Staff cannot locate any files in regard to this application, though the Board can 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).

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 **Peters Family Trust (Owner)**, for property located at **54 Lincoln Avenue** whereas relief is needed to construct a second-floor accessory dwelling unit over an existing detached garage, which requires the following: 1) Variance from Section 10.521 to allow a) a rear yard setback of 10 feet where 20 feet is required; and b) building coverage of 29% where 25% is allowed. Said property is located on Assessor Map 111 Lot 21 and lies within the General Residence A (GRA) District. (LU-26-124)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-Family Residential	Construct second-story detached ADU over existing garage	Primarily Residential
<u>Lot area (sq. ft.):</u>	5,663	5,663	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,663	5,663	7,500 min.
<u>Front Yard (ft.):</u>	Garage: >15	DADU: >15	15 min.
<u>Right Yard (ft.):</u>	>10	>10	15 min.
<u>Left Side Yard (ft.):</u>	13	13	10 min.
<u>Rear Yard (ft.):</u>	14	10	20 min.
<u>Building Coverage (%):</u>	27	29	25 max.
<u>Open Space Coverage (%):</u>	44.9	43.5	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Estimated Age of Structure:</u>	1910	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

- **February 3, 2015** – Construct a 7' x 14' rear addition and a 6' x 8'8" front addition with stairs. Add dormers and construct a 20' x 22' garage. 1) Variance from Section 10.521 to allow a lawful nonconforming structure to be extended, reconstructed or structurally altered without conforming to the requirements of the Ordinance. 2) A Variance from Section 10.521 to allow the following: a) a front yard setback of 12'2" where 15' is required; b) a right side yard setback of 2'10" where 10' is required; c) 26.3% building coverage where 25% is the maximum allowed. The Board voted to **grant** the request as presented and advertised.

Planning Department Comments

The applicant proposes to construct a 443 SF detached ADU as a second story addition to the existing detached garage. The construction will include a rear stairwell for access. The proposal requires rear setback and building coverage relief for the addition.

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 Michael and Stephanie Febonio (Owners), for property located at **9 Sheafe Street** whereas relief is needed to construct an 8-foot fence which requires the following: 1) Variance from Section 10.515.13 to allow an 8-foot fence in the secondary front yard. Said property is located on Assessor Map 107 Lot 13 and lies within Character District 4 (CD4) and the Historic District. (LU-26-123)

Existing & Proposed Conditions

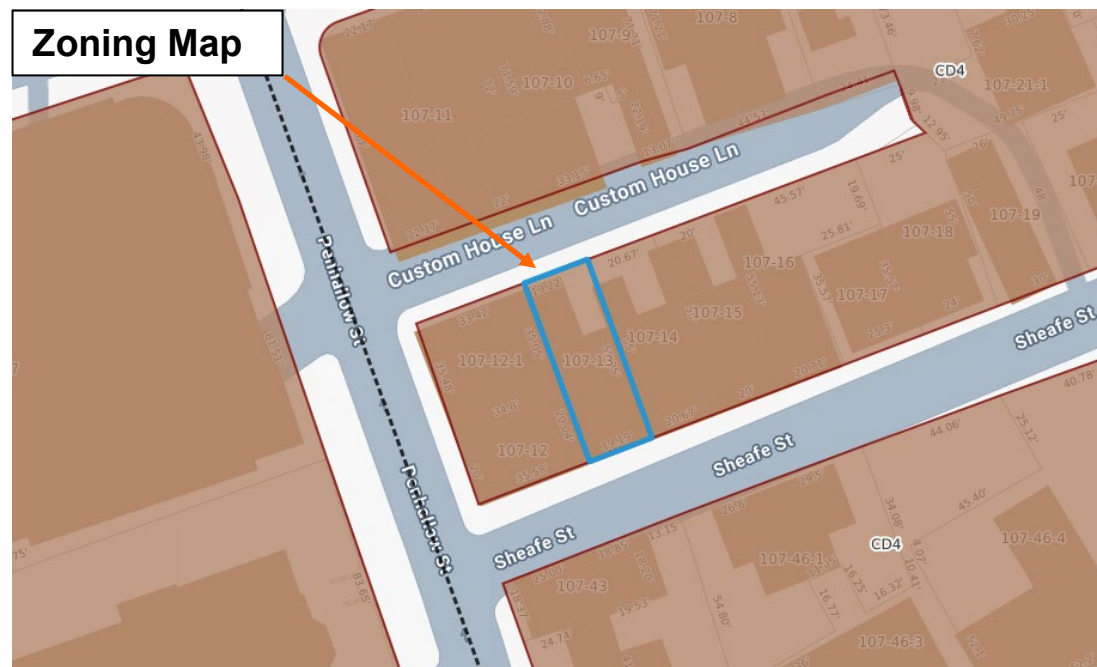
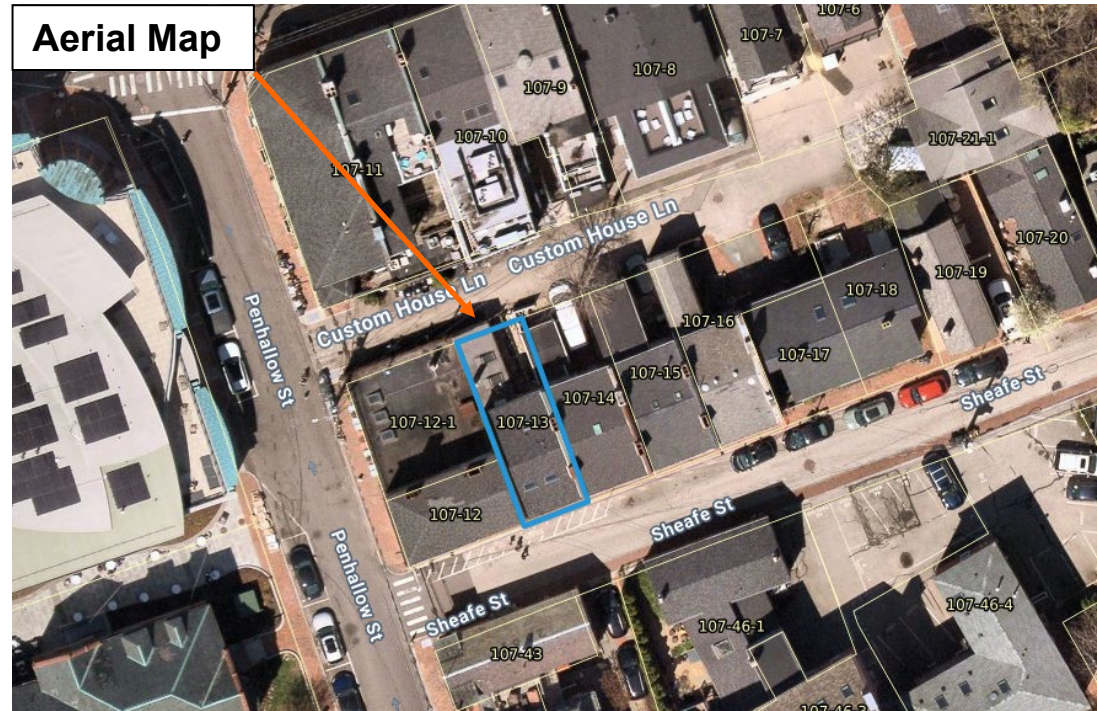
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	SF Residence	8-foot fence*	Mixed Use
<u>Front Yard (Sheafe) ft:</u>	0	0	15 max.
<u>Secondary Front Yard (Custom House Ln) ft:</u>	0	0*	12 max.
<u>Side Yard (ft.):</u>	0	0	5-20 max.
<u>Rear Yard (ft.):</u>	N/A	N/A	5 (lot line) min. 10 (alley centerline) min.
<u>Open Space (%):</u>	25	25	25 min.
<u>Estimated Age of Structure:</u>	1817	Variance request(s) shown in red.	

* Variance from Section 10.515.13 to allow an 8-foot fence in the secondary front yard.

Other Permits/Approvals Required

- Historic District Commission Admin Approval granted 9/9/26
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant proposes to install an 8-foot privacy fence to the rear of the structure abutting Custom House Lane. The property is a through-lot with frontage on both Sheafe Street and Custom House Lane and therefore the application requires relief for a fence taller than 4' in the front yard.

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.

II. NEW BUSINESS

- F. The request of **325 Corporate Drive II LLC C/O The Kane Company (Owners)**, for property located at **325 Corporate Drive** whereas relief is needed to install two wall signs and monument signage, which requires the following: 1) Variance from Section 306.01(d) of the Pease Development Ordinance to allow signs to exceed the maximum aggregate area of two (2) square feet of sign area for each linear foot of street frontage up to a maximum of 200 square feet. Said property is located on Assessor Map 318 Lot 2 and lies within the Airport Business Commercial (ABC) District. (LU-26-122)

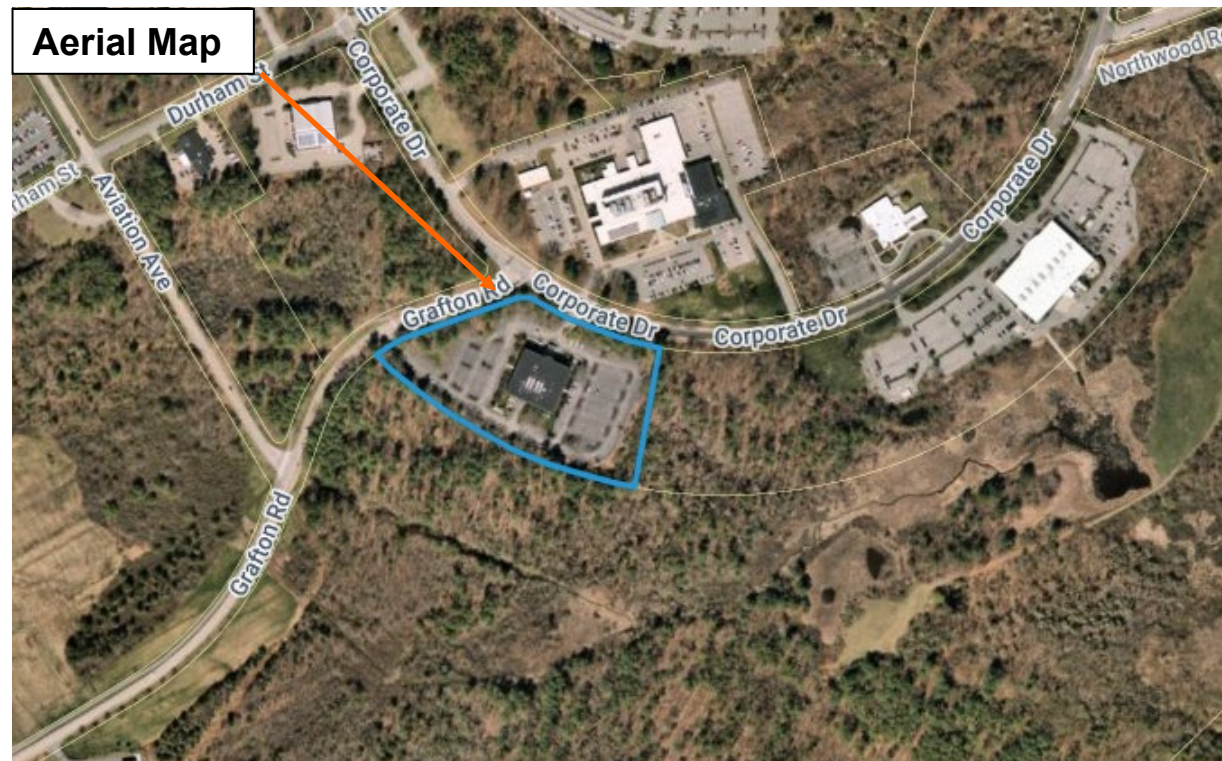
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial	Install 2 new wall signs and monument signage	Mixed Use
Aggregate Sign Area (sq. ft)	102.52	293.52	200 max.
<u>Estimated Age of Structure:</u>	2000	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Sign Permit

Neighborhood Context



Previous Board of Adjustment Actions

- **October 17, 2000** – to allow two loading docks where ten loading docks are required. The Board voted to **recommend approval** as presented and advertised.

Planning Department Comments

The application was before the Pease Development Authority (PDA) Board meeting on August 18, 2026 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.

60

- (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

58

- (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

G. The request of **Rocket Too Trust (Owner)**, for property located at **10 Merrimac Street** whereas relief is needed to reconstruct a porte-cochere which requires the following: 1) Variance from Section 10.521 to allow a) a rear yard setback of 10 feet where 20 feet is required; and b) building coverage of 26% where 25% is allowed. Said property is located on Assessor Map 129 Lot 17 and lies within the General Residence A (GRA) District. (LU-26-128)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Multi-Family Residential	Reconstruct port-cochere	Primarily Residential
<u>Lot area (sq. ft.):</u>	12,412	12,412	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	1,551.5	1,551.5	7,500 min.
<u>Front Yard (ft.):</u>	4.5	4.5	15 min.
<u>Secondary Front Yard (ft.):</u>	12.3	12.3	15 min.
<u>Right Yard (ft.):</u>	>10	>10	15 min.
<u>Rear Yard (ft.):</u>	22	10	20 min.
<u>Building Coverage (%):</u>	24	26	25 max.
<u>Open Space Coverage (%):</u>	51	51	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Estimated Age of Structure:</u>	1890	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant proposes to reconstruct the port-cochere that was demolished by the previous property owner. The reconstruction of a non-conforming structure requires relief for rear yard setback and building coverage on the lot.

Variance Review Criteria

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

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

AND

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

OR

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.