

**APPLICATION OF THE KANE COMPANY**  
**COMMERCE WAY & PORTSMOUTH BOULEVARD**  
**TAX MAP 216, Lots 1-2, 1-4, 1-5, 1-8a, 1-8**

**APPLICANT'S NARRATIVE**

**I. THE PROPERTY:**

The applicant, The Kane Company, owns multiple commercial buildings located along Commerce Way, and Portsmouth Boulevard. Specifically, the buildings are located at 75 Portsmouth Boulevard, 170 Commerce Way, 190 Commerce Way, 195 Commerce Way, 210 Commerce Way, 215 Commerce Way and 230 Commerce Way.

The above-mentioned Commerce Way properties were built in the 1980's, however, 75 Portsmouth Boulevard was built in 2019. Both Commerce Way and Portsmouth Boulevard were originally private roads. The existing signs are old and violate the setbacks in the Portsmouth Zoning Ordinance (the, "Ordinance"). Tighe & Bond has prepared an overall sign location plan that depicts the locations of the existing signs.

The Applicant would like to update the existing signs to modernize them and increase visibility for the businesses located along Commerce Way and Portsmouth Boulevard. The signs will also be effective from a public safety standpoint by assisting fire and police in order to locate the existing buildings more easily. Lastly, effective signage is especially important to the future success of the commercial users along the public right of way.

The property is within the Office Research Zone and Sign District 4. The applicant proposes to replace the existing street signs as shown on the plans located along Commerce Way and Portsmouth Boulevard as depicted on sign exhibit prepared by Portsmouth sign company.

The new signs will be installed in the substantially the same location as the existing signs but due to existing setback violations, relief is needed from Section 10.1253.10 is required.

**II. CRITERIA:**

The applicant believes the within Application meets the criteria necessary for the Board to grant the requested variances.

**Granting the requested variance will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest.** The "public interest" and "spirit and intent" requirements are considered together pursuant to Malachy Glen

Associates v. Chichester, 152 NH 102 (2007). The test for whether or not granting a variance would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variance being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public.

In this case, were the variances to be granted, there would be no change in the essential characteristics of the neighborhood, nor would any public health, safety or welfare be threatened. This property has been home to various businesses since the 1980's and is within the zone where the existing uses are permitted by right.

The health, safety and welfare of the public will not be threatened, nor will the essential characteristics of the neighborhood change in any way by virtue of the replacement of the existing signs.

**Substantial justice would be done by granting the variance.** Whether or not substantial justice will be done by granting a variance requires the Board to conduct a balancing test. If the hardship upon the owner/applicant outweighs any benefit to the general public in denying the variance, then substantial justice would be done by granting the variance. It is substantially just to allow a property owner the reasonable use of his or her property. Commercial uses all over the City are under threat since the covid pandemic and the continuation of a business office park such as Commerce Way and Portsmouth Boulevard are vital to the future success of our City. Enhanced visibility of the commercial buildings along the public right of way is both necessary and desirable. The signs are tastefully designed and in no way promote the visual clutter the City's sign ordinance is meant to protect against.

It would be an injustice to the applicant to deny the variances here requested.

**The values of surrounding properties will not be diminished by granting the variance.** The surrounding properties and those in the vicinity will not be negatively affected in any way by this relief. The proposed signs will enhance the visibility of this site, which will decrease potential negative impacts on neighboring properties. Directing motorists to the appropriate commercial buildings requires more prominent and modern signage.

**There are special conditions associated with the property which prevent the proper enjoyment of the property under the strict terms of the zoning ordinance and thus constitute unnecessary hardship.** The property for which relief is sought is unique. It is a large business park located outside of the downtown proper, so adequate business signage is required to ensure future success of the businesses and also increase visibility from a public safety standpoint. Accordingly, prominent signage is appropriate for this location.

These are special conditions of the property which counsel for more prominent signage in order to secure and maintain effective and reasonable sight lines.

**The use is a reasonable use.** The uses proposed are permitted within this district and are compatible with the surrounding retail and commercial enterprises.

**There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property.** The purpose of the sign ordinance is to maintain and enhance the character of the city's commercial districts and to protect the public from hazardous and distracting displays. Section 10.1211. Neither of the proposed new signs do anything to distract from the character of this district and there is nothing hazardous or distracting about them. There is no fair and substantial relationship between these purposes and this property.

### **III. Conclusion.**

For the foregoing reasons, the applicant respectfully requests the Board grant the variances as requested and advertised.

Respectfully submitted,

Dated: March 3, 2025

By: John K. Bosen  
John K. Bosen, Esquire

### **Owner / Applicant Letter of Authorization**

This letter is to authorize Tighe & Bond (Civil Engineer) to represent and submit on behalf of The Kane Company (Owner/Applicant) applications and materials in all site design and permitting matters for the for the proposed signage project located along Commerce Way and Portsmouth Boulevard in Portsmouth, New Hampshire on parcels of land identified as Tax Map 216, Lots 1-1, 1-2, 1-4, 1-5, 1-8a, 1-8, 1-9, 1-10. This authorization shall relate to those activities that are required for local, state and federal permitting for the above project and include any required signatures for those applications.

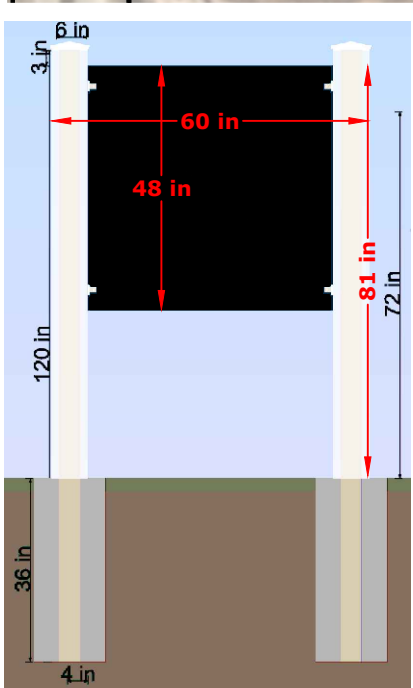
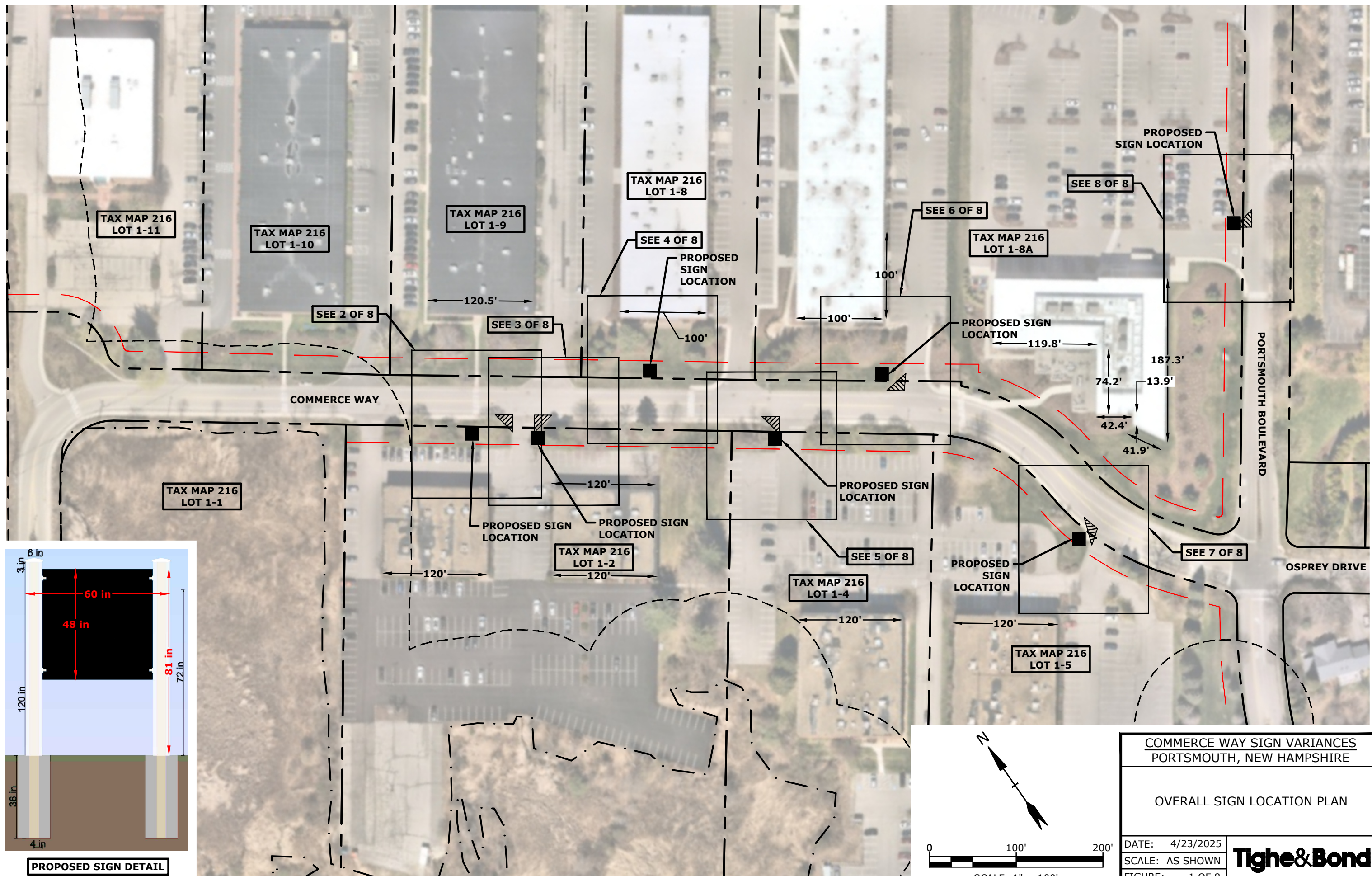
  
Signature

KEISEY KRAUS  
Print Name

3/7/25  
Date



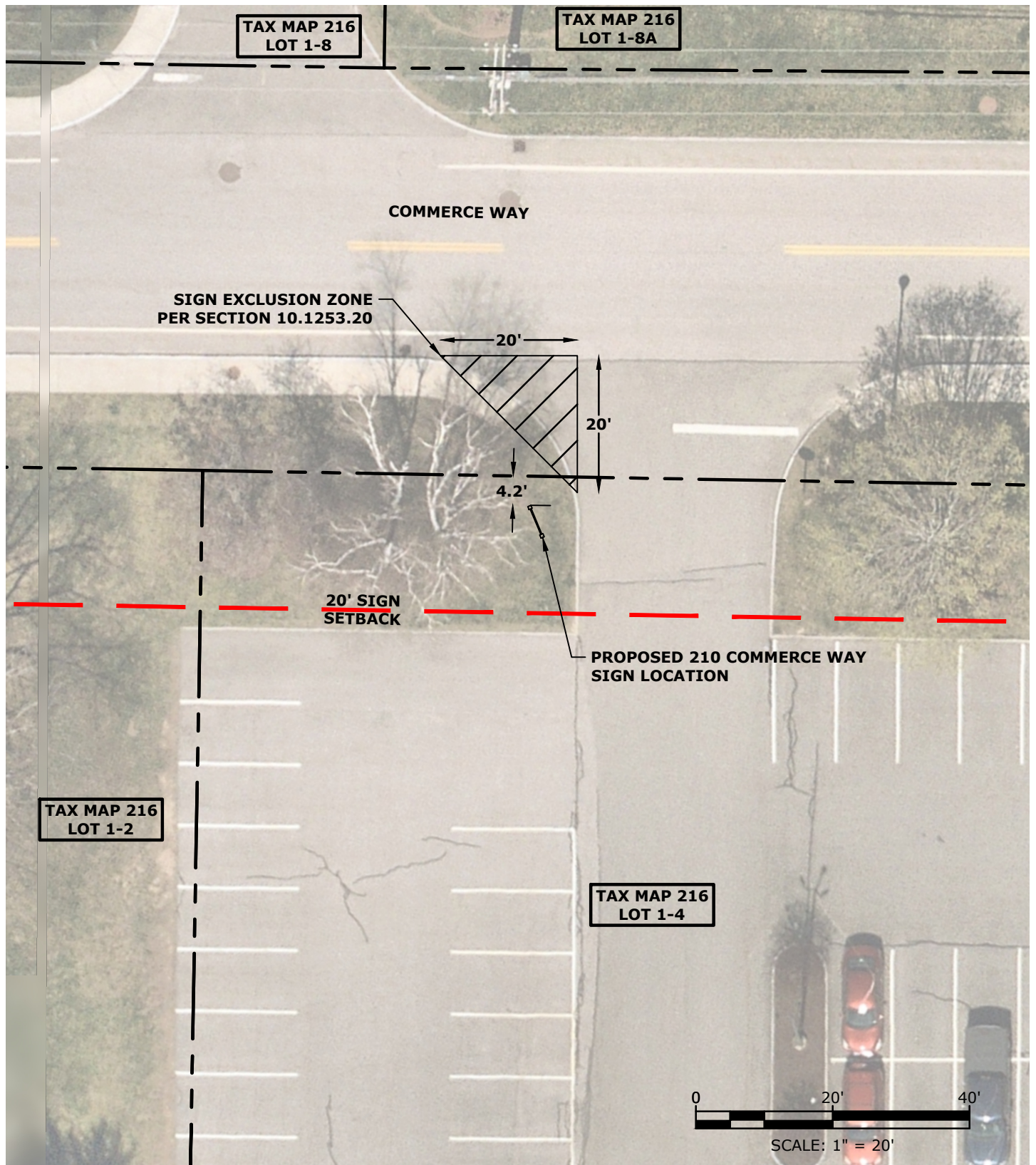
Apr 23, 2025-11:12am Plotted By: JBowman  
Tighe & Bond, Inc. F:\Projects\K\K0076 The Kane Company - General Proposals\0076-0064\_Commerce Way Signage Variance\Drawings\AutoCAD\Sheet\Commerce Way Sign Exhibit.dwg



PROPOSED SIGN DETAIL



Apr 23, 2025-11:13am Plotted By: J.Bowman  
Tighe & Bond, Inc. F:\Projects\K\K0076 The Kane Company - General Proposals\0076-0064 \_Commerce Way Signage Variance\Drawings\AutoCAD\Sheet\Commerce Way Sign Exhibit.dwg



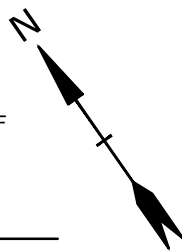
## SIGN DIMENSIONAL STANDARDS

### MAXIMUM ALLOWABLE SIGN AREA

1.5 SF PER LF OF BUILDING FRONTAGE      120 LF      180 SF

### PROPOSED SIGN AREA

FREESTANDING SIGN	5 FT x 4 FT	20 SF
EXISTING WALL SIGN		0 SF
TOTAL SIGN AREA		20 SF



## COMMERCE WAY SIGN VARIANCES PORTSMOUTH, NEW HAMPSHIRE

### 210 COMMERCE WAY SIGN LOCATION PLAN

DATE: 4/23/2025

SCALE: AS SHOWN

FIGURE: 5 OF 8

**Tighe&Bond**