

August 25, 2023

Phyllis Eldridge, Chair
Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

RE: 70 Maplewood Ave: North End Mural (Not a Sign) Variance Application

Dear Chair Eldridge and Board Members:

The applicant requests variances from Sections 10.1251.20 and 10.1251.30 and 10.1253.10 of the City of Portsmouth’s Zoning Ordinance for signage.

This application is for a proposed history themed mural on a transform screen/fence, not a sign, at 70 Maplewood Avenue.

Please consider the information included below when evaluating the merits of this request.

Respectfully,

Terrence Parker, terra firma landscape architecture

Property: 70 Maplewood Ave | Assessor Map: 125 | Lot 17-3

Property: CD5-L2 | Historic District

Sign District: 3

Variances: **1) From Section 10.1251.20:**

- **Max Allowed** sign area for individual signs = 20 sf
- **Proposed** Individual Mural Area:
 - o Mural with Text = 48 sf

Exceeds sign ordinance by 28 sf

2) From Section 10.1251.30

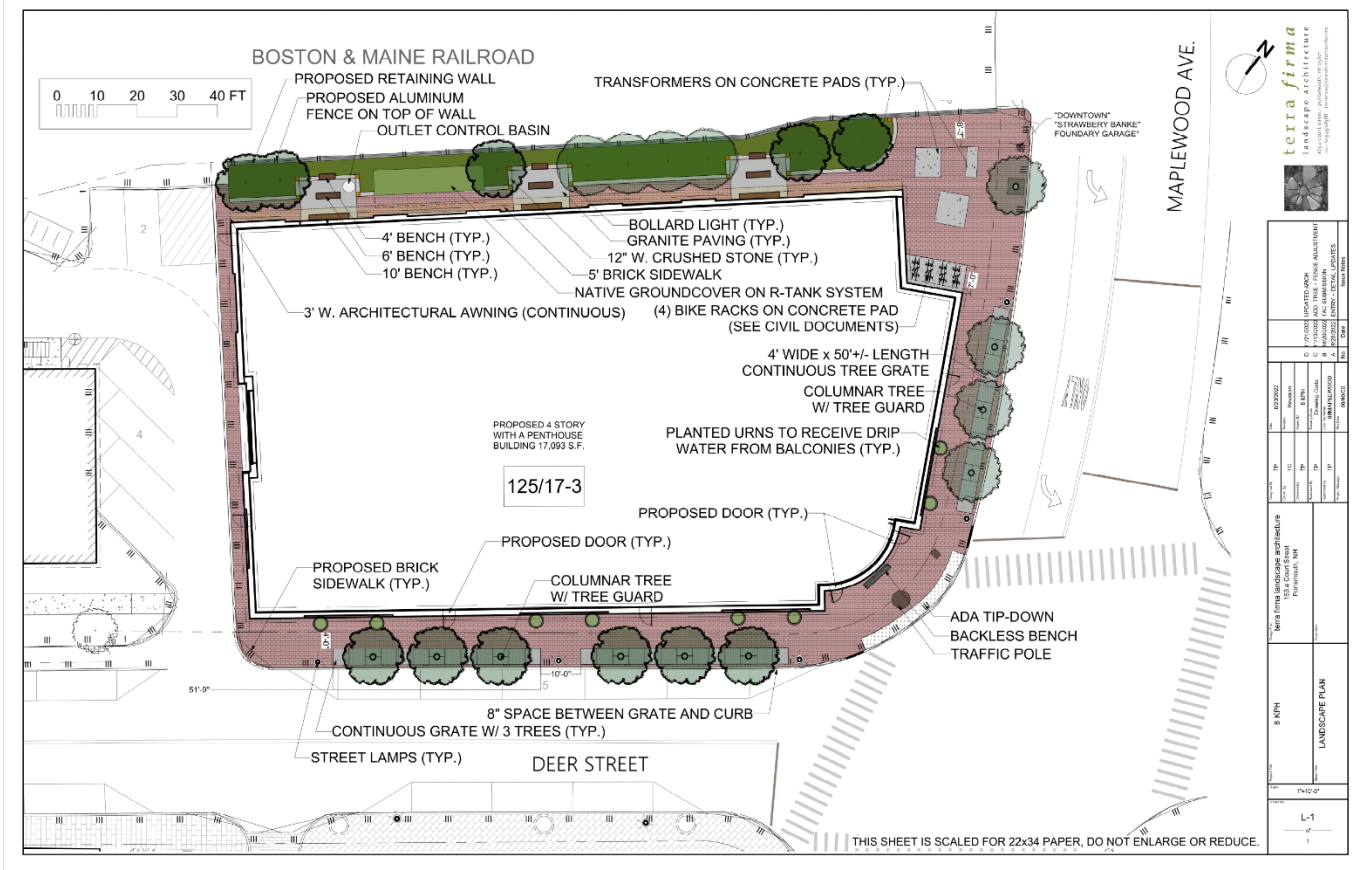
“A freestanding sign can only be located where there is a driveway.”

Proposed: The proposed mural is not a sign but rather a mural fence designated and approved by the HDC to screen the view of one of the existing electrical utility boxes, therefore, it must be located where the utilities are and can't be where the driveway is proposed.

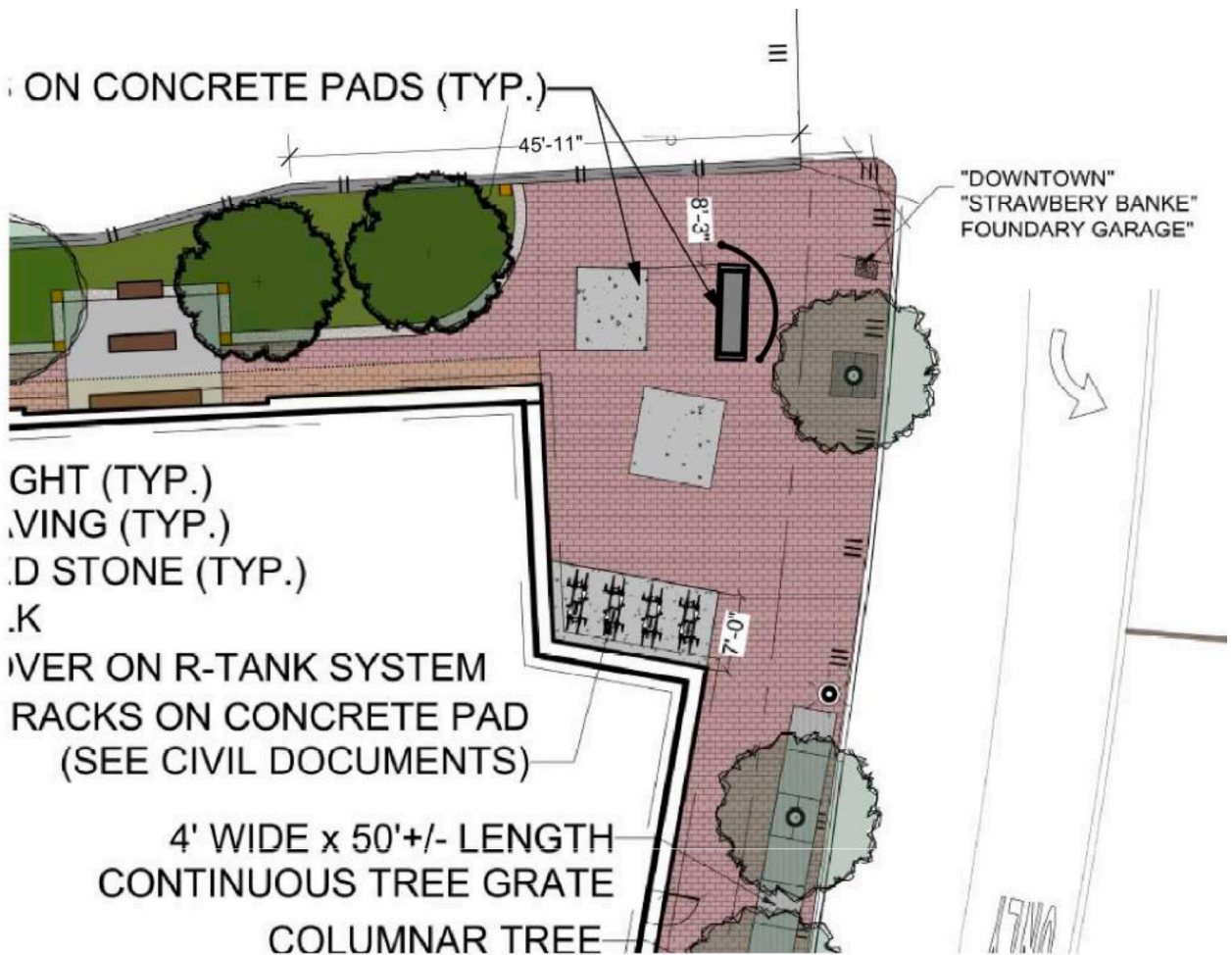
3) From Section 10.123.10

“Setback for a sign is 5’ from the property line.”

Proposed: The proposed mural screen fence is located within the 5’ setback because the electrical utility box is located approximately on the setback line and therefore to screen the utility box the mural fence must be within the setback. The Screen is still fully within the property line.



APPROVED LANDSCAPE PLAN



AREA BLOW-UP WITH DIMENSION

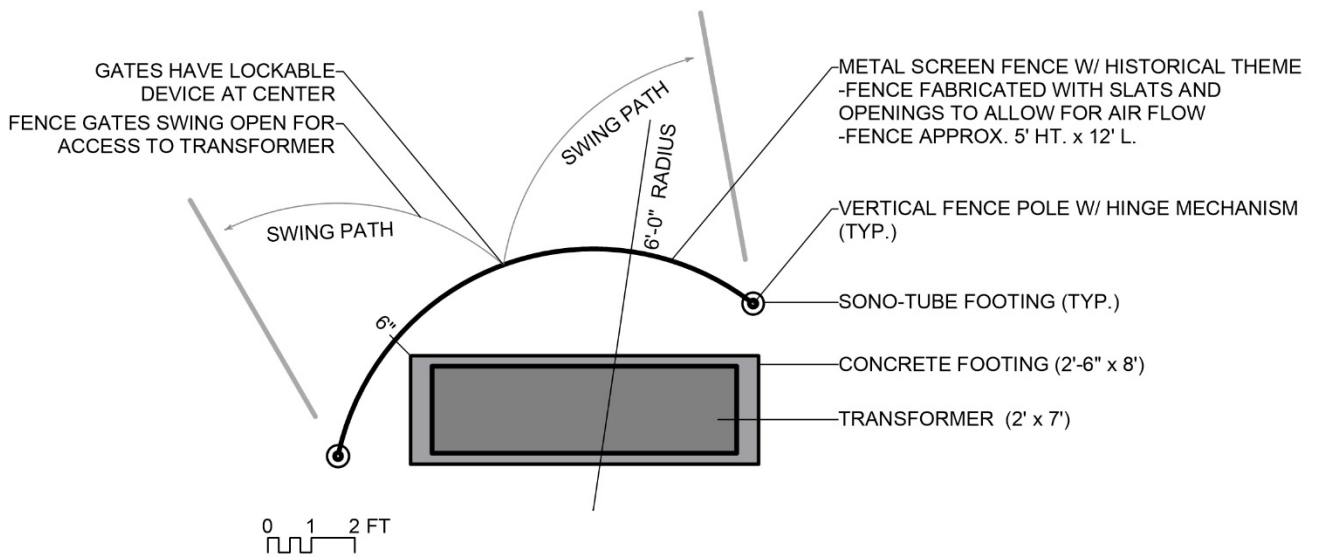
AREA BLOW-UP WITH DIMENSION



EXISTING SITE (VIEW FROM RAILROAD TRACKS)



GATE ELEVATION



GATE PLAN VIEW

Introduction

This mural fence located at 70 Maplewood Ave have been approved by the HDC as an Art History screen to screen an existing transformer.

The Portsmouth Zoning Ordinance categorizes murals as signage, and the crux of this variance request revolves around two elements: one, this is a screen fence requested by the HDC and as such is not intended as a sign, and two, complying with the required dimensional standards for signage within Sign District 3 ought not to apply because the utility transformer is an existing condition and screening that utility requires that the dimensional criteria to be waived.

The owners of the property, EightKph, are fully funding the fabrication of this mural fence as part of the on-going mural project called "History Through Art" which seeks to bring awareness to the important contributions of people from all walks of life that are under-appreciated in our culture. This mural recognizes the contributions of the community activist Rose Fiandaca during the mid 1900's and the early maritime history of this property then known as the site of the Underwood rope walk. The mural consists of images from these eras and a historic map.

This mural is proposed to be placed just off the sidewalk to screen existing utility transformers and further identifies the entrance to a public pocket park behind the new building.

This mural offers no distraction to drivers (is not lit internally or externally) on Maplewood Avenue and is strictly an art project designed for the benefit of the general public dedicated to the North End in which it stands. It also offers no connection to, or promotion of any business in the proposed building.

The Ordinance's stated purpose is to *"...maintain and enhance the character of the city's commercial districts and residential neighborhoods and to protect the public from hazardous and distracting displays."* Although the proposed mural fence does not meet all the dimensional and location requirements of the signage ordinance it has been purposely and thoughtfully designed to meet the intent of the ordinance's purpose. Please refer to the following pages for artist's renderings, relevant project info, and variance criteria.



Site Location from Tax Map

Mural Fence Text:

The Evolving History of the North End:

Near this site was the ropewalk, a long, covered lane where hemp and yarn were spindled and twined into cordage and rigging for Portsmouth's shipyards. John Underwood's ropewalk was later superseded by the railroads in the 1800's. A century later, Rose Fiandaca, 1893-1980, a Sicilian immigrant, pictured with her husband and sons, was a midwife and a prominent community leader in and beyond Portsmouth's vibrant Italian North End, which was demolished in 1969 as an Urban Renewal project. Rose lived near the railroad station, learned English at the movies and as one of the first to have a telephone she became a critical voice for other immigrants. Her many descendants remember Rose as a bastion of strength and compassion in her family, neighborhood, and city.



Materials

The mural image will be printed as a polyvinyl graphic mounted on a two-dimensional metal plate with cut-outs to create dimensional variation. Material will be similar to the image below.



Mural on Court Street with Similar Material

Variance Criteria

1. The variance is not contrary to the public interest.
2. The spirit of the ordinance is observed.
 - Eclectic mixed-use neighborhood surrounded by office, retail, municipal and residential uses.
 - Variety of signage, graphics, statues, and memorials in the immediate commercial area
 - Enhances the character of the region by promoting its rich history.
 - Location not on street frontage does not create a hazard or distraction.
 - Size of mural does not create a hazard or distraction as the design is subdued in its color scheme and content.
3. Substantial justice is done.
 - There is no obvious harm to the public that would be created by the installation of this mural (see above comments for 1. and 2.)
 - There would be a benefit to the public due to the educational components of the mural and its tasteful design.
4. The values of surrounding properties are not diminished.
 - This is a mixed-use neighborhood with an abundance of signage, colorful graphics, statues, memorials, etc.
 - The addition of this mural into the neighborhood context would not alter or diminish the property values within the surrounding neighborhood.
5. Literal enforcement of the ordinance would result in unnecessary hardship. Unnecessary hardship means:
Because of special conditions of the property that distinguish it from other properties in the area:

- a. There is no fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property;
and
- b. The proposed use is a reasonable one.

Alternatively, unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance.

- The purpose of the mural is to be viewed and be comprehensible from the public way – due to the size of the utilities screened, the proposed mural must exceed the required sign area with the implicit goal of achieving its purpose to screen the utilities.
- Rate of travel on Maplewood Avenue is modest and the mural is well off the roadway and tasteful in design and color selection – this creates a situation where a sign that is larger than allowed does not create a hazardous or distracting experience to those that are passing by.
- The proposed use is reasonable and fits harmoniously with the surrounding context.