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OCT 30 2019

**Donahue Realty Trust, Daniel J. Donahue, Trustee  
Application for Variances**

BY: \_\_\_\_\_

**I. Introduction.**

The property subject to this application is located at 278 Ocean Road partially in Portsmouth and is depicted on the Portsmouth City Tax Maps as Map 282, Lot 3 (the "lot"). The lot consists of the portion of the premises which lies in Portsmouth, the rear portion of the premises lies in Greenland. The lot is currently vacant although it has an access driveway from Ocean Road to the rear portion of the premises currently leased by Boise Cascade. The lot also has a paved drive leading to an abandoned tennis court. The lot lying in Portsmouth is 38,942 sq. ft. The lot is located in a Single Residence (SRA) District. The lot has 210.55 feet of frontage on Ocean Road and lies on the west side of Ocean Road.

The purpose of this petition is to vary the terms of the zoning ordinance to allow for a change in use of the lot to tree screened storage of finished lumber. Boise Cascade will use adjacent land located in Greenland for the storage of finished grade lumber.

**II. The Applicant.**

The applicant, Daniel J. Donahue, Trustee of Donahue Realty Trust is the owner of the lot. Mr. Donahue is a long-time owner and operator of a facility at Freemans Point in Portsmouth. Boise Cascade is a national manufacturer and distributor of lumber. Boise currently receives railcar shipments of lumber to its Freemans Point facility and transfers the lumber for storage at its Greenland facility formerly known as New England Homes, Inc.

**III. The Project.**

The applicant proposes to lease the lot to Boise Cascade which will in turn screen, grade, and pave 26,400 sq. ft. of the lot for storage of finished grade lumber. There will be minimal increase in truck traffic to Ocean Road. The lot itself will be accessed from that portion of the premises which lies in Greenland. The lot will have an 1,812 square-foot buffer of trees with fencing along Ocean Road.

**IV. Request for a Dimensional and Use Variance**

1. The applicant requests a variance from section 10.440 Table of Uses: 13.30 wholesale lumber yards, 13.31 to permit a wholesale lumber yard in a residential district (SRA) where such a use is prohibited.
2. The applicant requests an allowance of open space of 35% where 50% is the minimum open space required in a single residence zone.

**V. Variance Criteria**

New Hampshire RSA 674:33, I (a)(2) and Section 10.233 of the Portsmouth Zoning Ordinance set forth five criteria upon which variances may be granted. The application of these criteria to the petition is discussed below:

*A. Granting of the variance will not be contrary to the public interest.*

To be contrary to the public interest or injurious to public rights, the variance must unduly and in a marked degree conflict with the objectives of the ordinance. The lumber storage facility will have very little activity and will be screened from public view from Ocean Road. The lot itself exists on the northerly end of Ocean Road which is currently populated with commercial uses. The portion of the premises which lies in Greenland will be used for storage consistent with the zoning in Greenland. The proposed use of the lot under all the circumstances is a reasonable use of this vacant lot. Because of its unique location it would be unreasonable to attempt to use it for single-family dwelling. The dimensional request to vary the 50% single-family open space requirement is also in the public interest. With the intended use a net increase of 25,097 sq. ft. to the existing impervious surface to accommodate the storage area is reasonable and consistent with the use variance.

*B. The spirit of the ordinance is observed.*

Reference is made to Harborside Associates, L. P. v. Parade Resident Hotel, LLC, 162 NH 508, 514 (2011). The spirit of the ordinance is observed when an otherwise difficult use, zoning is varied to allow a substantially passive commercial use in the neighborhood which is predominantly commercial westerly of Ocean Road.

*C. Substantial justice is consistent with granting the variances.*

A reasonable person looking at the existing and potential uses along the westerly side and northerly end of Ocean Road is required to conclude that the neighborhood will probably develop along the lines of the requested relief. There is very little incentive for a property owner in this neighborhood to attempt to develop isolated single-family residences. The applicant is seeking to make a reasonable use of the property that will be consistent both with existing zoning and foreseeable changes in the zone.

*D. The value of surrounding properties will not be diminished by granting the variances.*

The applicant submits that the existence of a properly screened lumber storage yard will have no negative effect on the value of surrounding properties on the westerly side of Ocean Road. For that matter the use of the lot is too distant from any use on the easterly side of Ocean Road to have any discernible effect on the value of the residences on the east side. No structure is proposed. The visual and sound impacts are negligible.

*E. There are special conditions associated with the lot which prevents the reasonable use of the property under the literal terms of the Zoning Ordinance which has resulted in an unnecessary hardship to the owner.*

The property is unique. It lies across the town boundary between Portsmouth and Greenland. On the Greenland side of the boundary which slopes diagonally across the lot the uses are all commercial or industrial. To the north side of the lot there is a vacant triangular parcel and the prevailing uses in the neighborhood of the lot on the westerly side of Ocean Road are commercial or industrial. These special conditions distinguish the lot from others in the vicinity.

**VI. Conclusion.**

The grounds for granting the use and dimensional variance are satisfied by this petition.

Respectfully submitted,

Daniel J. Donahue, Trustee  
Donahue Realty Trust

By its attorney,

*/s/ Paul McEachern*

Paul McEachern

### 278 Ocean Road



**Property Information**

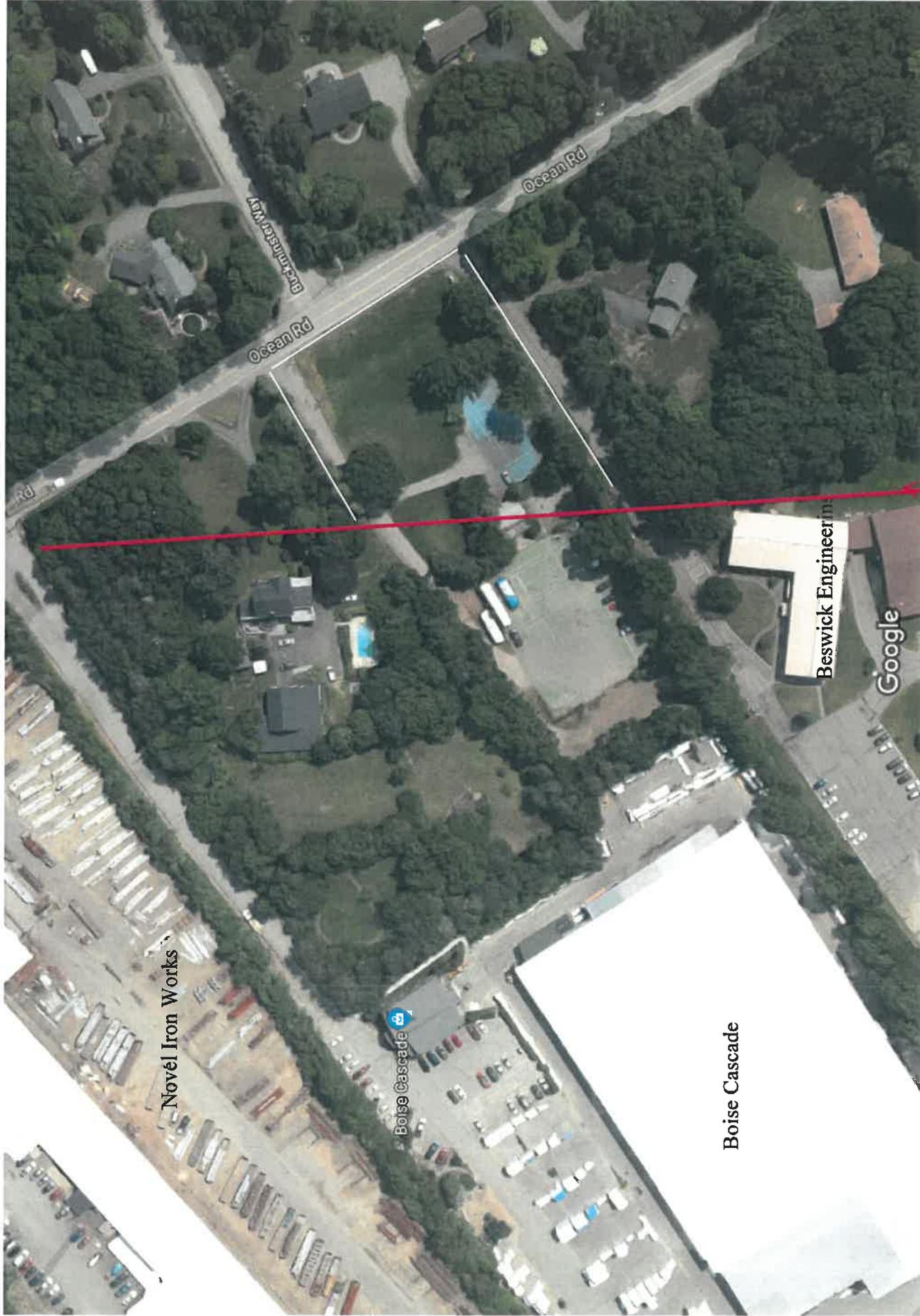
**Property ID** 0282-0003-0000  
**Location** 272 OCEAN RD  
**Owner** DONAHUE REALTY TRUST



**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 4/1/2019  
Data updated 7/17/2019



Imagery ©2019 Google, Imagery ©2019 Maine GeoLibrary, Maxar Technologies, USDA Farm Service Agency, Map data ©2019 100 ft

**Town line, approx.**

10/25/2018

**Google Maps** 278 Ocean Road - Street View from Ocean Road



Image capture: Oct 2017 © 2019 Google

<----- South to Lafayette Road

Westerly view

North to Route 33 ----->

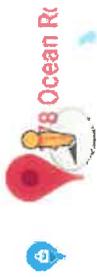
10/25/2019

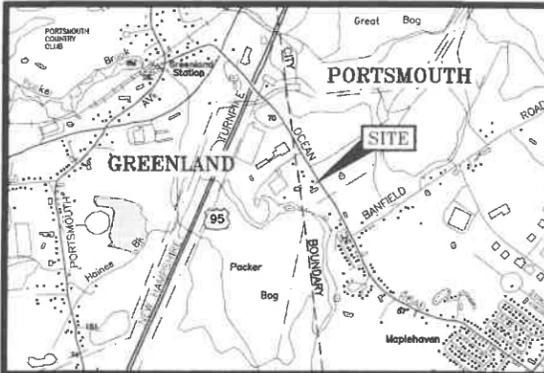
Portsmouth, New Hampshire



Street View - Oct 2017

Portsmouth  
Rd





**IMPERVIOUS SURFACE (PORTSMOUTH AREA)**  
 PORTSMOUTH AREA: 38,942 S.F.  
 EXISTING: 14,624 S.F.: 37.6%  
 PROPOSED: 25,097 S.F.: 65.0%

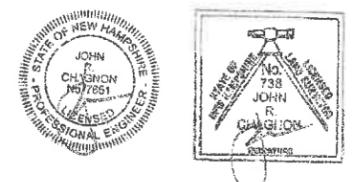
- LEGEND:**
- N/F NOW OR FORMERLY
  - RP RECORD OF PROBATE
  - RCRD ROCKINGHAM COUNTY
  - RR SPK RAILROAD SPIKE
  - MAP 11/LOT 21
  - IR FND IRON ROD FOUND
  - IP FND IRON PIPE FOUND
  - IR SET IRON ROD SET
  - 1 1 FOOT EXIST CONTOUR
  - 5 5 FOOT EXIST CONTOUR
  - 32 PROPOSED CONTOUR
  - — PROPERTY LINE
  - — EDGE OF PAVEMENT (EOP)
  - — TOWN LINE
  - SILTSOXX
  - X X TO BE REMOVED (TBR) AREA

**AMBIT ENGINEERING, INC.**  
 Civil Engineers & Land Surveyors  
 200 Griffin Road - Unit 3  
 Portsmouth, N.H. 03801-7114  
 Tel (603) 430-9282  
 Fax (603) 438-2318

- NOTES:**
- 1) PARCEL IS SHOWN ON THE TOWN OF GREENLAND ASSESSOR'S MAP R-20 AS LOT 5 & ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 282 AS LOT 3.
  - 2) OWNER OF RECORD: DONAHUE REALTY TRUST DANIEL J. DONAHUE, TRUSTEE 10 SHEPHERDS LANE NORTH HAMPTON, NH 03862 5815/809
  - 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANELS 33015C0265E & 33015C0270E, EFFECTIVE MAY 17, 2005.
  - 4) EXISTING LOT AREA:  
 TOTAL AREA 89,709 S.F. 2.0594 AC.  
 AREA IN GREENLAND 50,767 S.F. 1.1654 ACRES  
 AREA IN PORTSMOUTH 38,942 S.F. 0.8940 ACRES
  - 5) PORTSMOUTH PARCEL IS LOCATED IN SINGLE RESIDENCE A (SRA) DISTRICT. DIMENSIONAL REQUIREMENTS:  
 MIN. LOT AREA: 1 AC.  
 FRONTAGE: 150 FT.  
 DEPTH: 200 FT.  
 SETBACKS: FRONT: 30 FT.  
 SIDE: 20 FT.  
 REAR: 40 FT.  
 MAXIMUM STRUCTURE HEIGHT: 35 FT.  
 MAXIMUM BUILDING COVERAGE: 10%  
 MINIMUM OPEN SPACE: 50%
  - 7) VERTICAL DATUM IS MEAN SEA LEVEL - NAVD83. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GPS OBSERVATIONS (±0.2').
  - 8) THE PURPOSE OF THIS PLAN IS TO SHOW A PROPOSED CHANGE OF USE ON PORTSMOUTH TAX MAP 282, LOT 3.
  - 9) FEATURES IN GREENLAND AREA FROM PRIOR SURVEY.

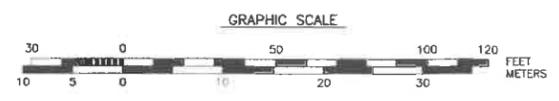
**PROPOSED CHANGE IN USE 278 OCEAN ROAD PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
1	ISSUED FOR APPROVAL	10/24/19
0	ISSUED FOR CONCEPT	8/26/19



**VARIANCES**  
 REQUESTED VARIANCES:  
 1) SECTION 10.440 TABLE OF USES: 13.30 WHOLESALE LUMBER YARDS 13.31 TO PERMIT A WHOLESALE LUMBER YARD IN A RESIDENTIAL DISTRICT (SRA) WHERE SUCH A USE IS PROHIBITED.  
 2) TO ALLOW OPEN SPACE OF 35.0% WHERE 50% IS THE MINIMUM REQUIRED.

APPROVED BY THE PORTSMOUTH ZONING BOARD  
 CHAIRMAN \_\_\_\_\_ DATE \_\_\_\_\_



SCALE: 1" = 30' AUGUST 2019

VARIANCE APPLICATION **C1**

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