

III. NEW BUSINESS

- E. The request of **Thomas Rooney (Owner)**, for property located at **29 Spring Street** whereas relief is needed to install two mechanical units in the rear of the primary structure which require the following 1) Variance from Section 10.515.14 to allow a) 7-foot side yard where 10 feet is required; and b) 4 foot rear yard where 10 is required. Said property is located on Assessor Map 130 Lot 21 and lies within the General Residence A (GRA) District. (LU-23-55)

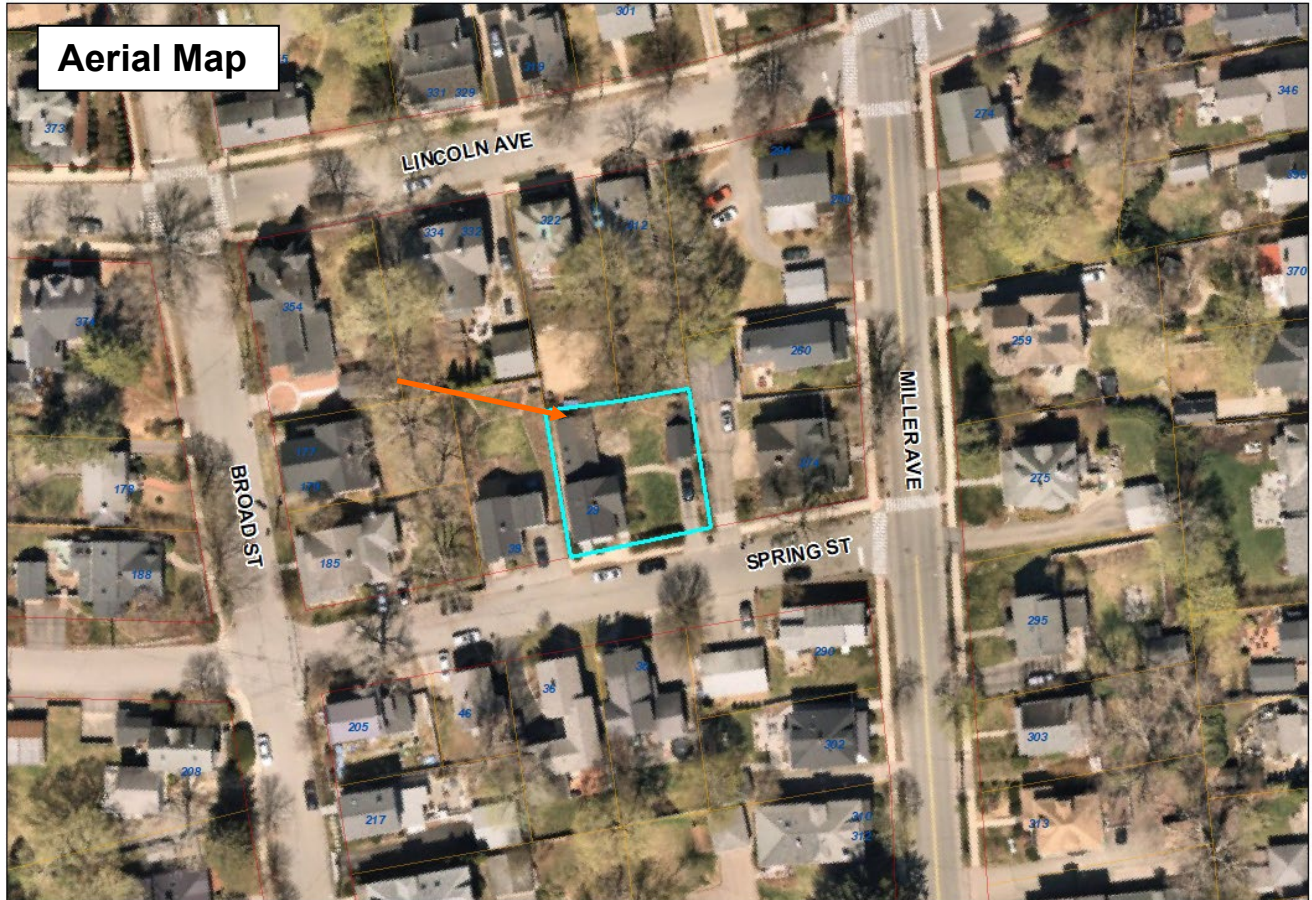
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Installation of 2 mechanical units	Primarily residential
<u>Lot area (sq. ft.):</u>	6,547.5	6,547.5	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	6,547.5	6,547.5	7,500 min.
<u>Lot depth (ft.):</u>	80	80	70 min.
<u>Street Frontage (ft.)</u>	79	79	100 min.
<u>Primary Front Yard (ft.):</u>	5	5	15 min.
<u>Left Yard (ft.):</u>	6 (primary structure)	7 (mechanical units)	10 min.
<u>Right Yard (ft.):</u>	2	2	10 min.
<u>Rear Yard (ft.):</u>	6	4	10 min.
<u>Height (ft.):</u>	35	35	35 max.
<u>Building Coverage (%):</u>	28	28	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1910	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



0 30 60 120 Feet
1 inch = 65.1 feet

29 Spring Street



Previous Board of Adjustment Actions

April 21, 1974 – The Board granted a variance to construct a porch approximately 13' x 13' onto the existing building.

August 30, 2002 – The Board granted a variance to allow a 4' x 17' addition to the right side of the dwelling creating 25.7% building coverage where 25% is the maximum allowed.

April 29, 2003 – The Board granted a variance to allow a 5' x 14' porch to the right side of dwelling and expand the front entry to 5' x 7' creating 28.8% building coverage where 25% was the maximum allowed.

Planning Department Comments

The applicant is requesting relief for the installation of two mechanical units in the rear of the primary structure.

Staff acknowledge the notice of this project erred in describing the location of the two mechanical units. As the rear and side yard dimensions are the same as advertised, Staff believe the description is sufficient for the desired location as long as a motion for approval includes the correct location.

If the Board wishes to approve the variance requests, staff recommend the motion and condition as listed below or similar language.

Sample Motion: Approve the variances with the following condition:

1. Both mechanical units are located in the rear of the primary structure as indicated in the applicants submission materials.

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.

29 Spring Street

Map Lot 130-21

To permit the following:

- The installation of two new heat pump outdoor units both with a rear setback of +/- 6 feet where 10 feet is required and one with a 7 foot left side yard setback where 10 feet is required.

The property owner declares that:

- The house is positioned on this lot with rear and left side setbacks of approximately 6' with a solid fence at the property lines. Positioning the outdoor heat pump units on the right rear of the property would result in it being adjacent to the patio and near the fence gate. The desired locations shown cannot be seen by abutters as it will be below the 5' foot fencing and while within the setback, the unit will be more than 50' from any neighboring dwelling units. The location shown is also out of any public view as it will be screened by the fence and the house.

Criteria for the Variance:

1. The Variances are not contrary to the public interest in that this location will have no public view of the heat pump unit, screened by a 5' fence and more than 50' from abutters' dwelling units.
2. The Variances are consistent with the spirit of the ordinance as noted in Item 1.
3. Substantial justice will be done, as this work will allow the upgrade of the existing mechanical systems without impacting the neighborhood.
4. This Variances will not diminish the value of surrounding properties as the units are not visible to abutters or to the street.
5. The special condition of this property is the existing non-conforming Rear and Side Setback (structure near property lines), and location of units on right side would be adjacent to patio and visible to abutters and from street. Locating units on the left side of the property would also be within the setback and visible to the abutters.

4/23/23, Tom and Dani Rooney



Site plan for 29 Spring Street.



Rear of property showing approximate location of heat pump units, below fence line.



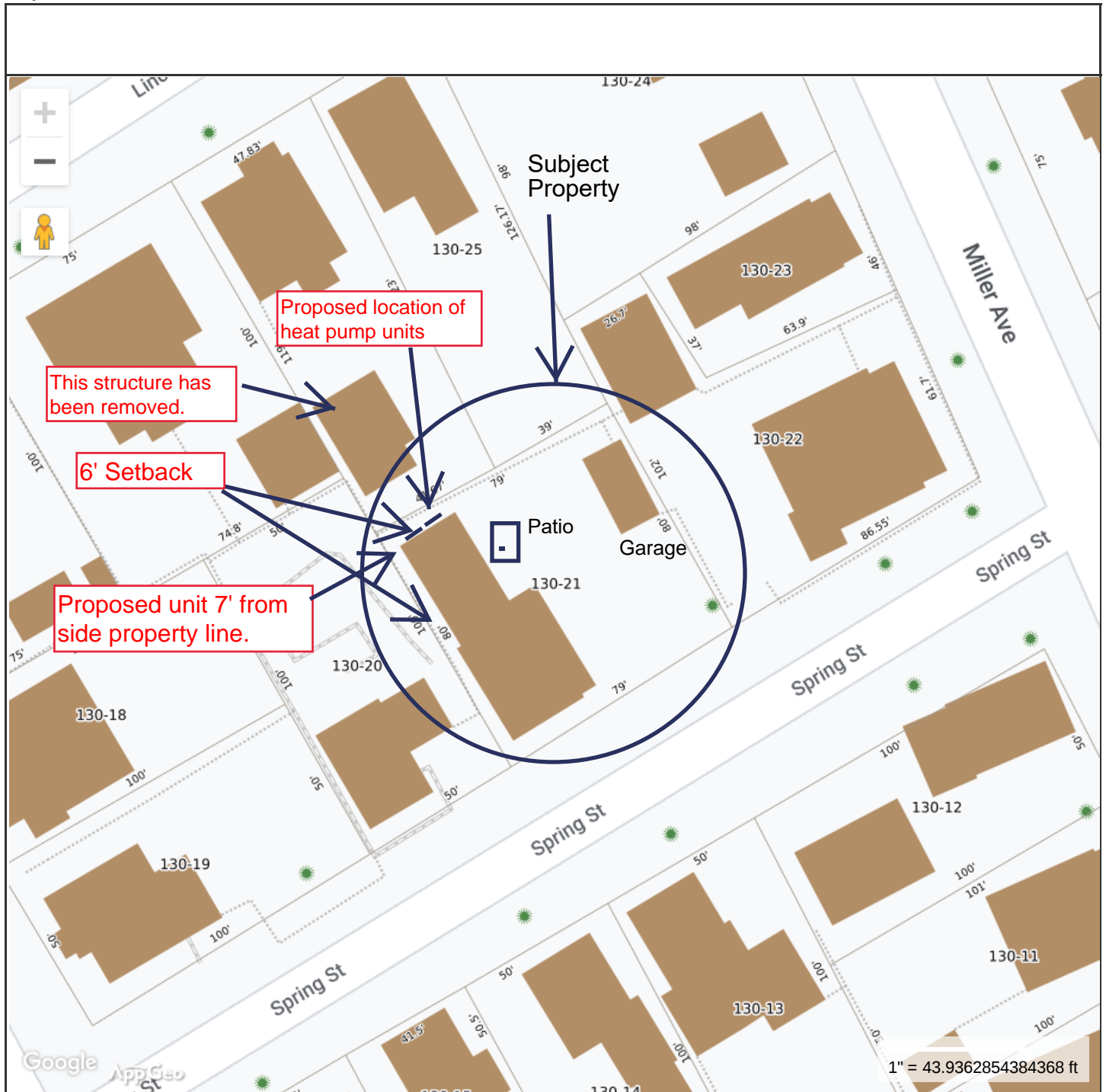
Example heat pump outdoor unit, 22" high with 24" inch stand. Total height 46" or 3' 10".



Side view of property indicating that alternate location for heat pump unit would be adjacent to patio and near fence gate.



View from rear abutter's property, indicating that heat pump unit will be below fence line.



**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 09/21/2022
Data updated 3/9/2022

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

29 Spring Street

Map Lot 130-21

Addendum to Application # LU-23-55

Additional specifications of the heat pump outdoor mechanical unit.

Mitsubishi 6,000 BTU H2i Outdoor Ductless Heat Pump Condenser

Model: MUZ-FS06NA-U1 Item Number: 110933



Not For Individual Sale

Specification Highlights

Condition	New ⓘ
Weight	82 Pounds ⓘ
Type	Outdoor Condenser
Product Line	M-Series

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Dimensions

Maximum Line Length	65 Feet
Gas Connection Size	3/8 Inch
Liquid Connection Size	1/4 Inch
Product Height	21 5/8 Inches
Product Width	31 1/2 Inches
Product Depth	11 1/4 Inches
Product Weight	82 Pounds
Shipping Weight	89 Pounds