

III. NEW BUSINESS

- F. **REQUEST TO BE HEARD AT END OF MEETING** The request of **Scott Day and Marta Day (Owners)**, for property located at **18 Walden Street** whereas relief is needed to install a mechanical unit which requires a variance from Section 10.515.14 to allow a) 4 foot side yard where 10 feet is required; and b) 2 foot front yard where 10 feet is required. Said property is located on Assessor Map 101 Lot 20 and lies within the General Residence B (GRB) and Historic District. (LU-23-52) **REQUEST TO BE HEARD AT END OF MEETING**

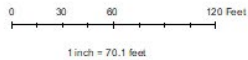
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family	Install Mechanical Unit	Primarily residential
<u>Lot area (sq. ft.):</u>	4,365	4,365	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,365	4,365	5,000 min.
<u>Lot depth (ft.):</u>	81	81	60 min.
<u>Street Frontage (ft.)</u>	50	50	80 min.
<u>Primary Front Yard (ft.):</u>	0	2 (Mechanical Unit)	5 min.
<u>Left Yard (ft.):</u>	6	4	10 min.
<u>Right Yard (ft.):</u>	>10	>10	10 min.
<u>Rear Yard (ft.):</u>	>30	>30	25 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	18	18	30 max.
<u>Open Space Coverage (%):</u>	>25	>25	25 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1780	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



18 Walden Street



Previous Board of Adjustment Actions

May 22, 1979 – The Board of Adjustment **granted** the application requesting variances from Article III Section 10-302 and Article IV, Section 10-401 to allow construction of a 10' x 15' open porch 14' from the right and 11' from the left property lines where 20' for each is required.

August 11, 1987 – The Board voted to **deny** the requests to allow:

- 1) an expansion of a non-conforming use, a single-family dwelling where no such expansion is allowed;
- 2) to allow the construction of a 298 s.f. addition onto an existing single-family dwelling with a 6'5" left yard and a 14' right yard where a minimum 20' yard for both is required and to allow a lot coverage of 27.12% in a district where a maximum of 20% lot coverage is allowed.

June 28, 1988 – The Board of Adjustment granted the application wherein the following were requested:

- 1) A Variance from Article IV, Section 10-401 (4) to allow the reframing of a 17' x 33' non-conforming single family home damaged by other causes (rot) to such an extent

that restoration will cost over 50% of the cost to produce a new and entire dwelling and shall not be rebuilt except in conformity with this ordinance.

2) A Variance from Article II, Section 10-206 (23)(a) to allow the reconstruction of a single-family dwelling in a district where single family dwellings are not permitted; and

3) A Variance from Article III, Section 10-302 to allow said reconstruction with the following;

- a) A front yard of -4' + where 20' is required and,
- b) A left yard of 4'+ where 20' side yard is required.

Planning Department Comments

**Please note the applicant has requested for their case to be heard at the end of the meeting due to a scheduling conflict. **

The applicant is requesting relief to install a mechanical unit within 10 feet of their boundary line. After submission, the applicant expressed the desire to modify the plan to locate the unit towards the rear of the house (southeast) rather than the front corner (northeast) as portrayed in the submitted plans.

Staff recommends the Board confirm the final location of the unit with the applicant and confirm the noticed variance requests are still applicable for the new location. Should a noticed variance request no longer be applicable, the Board should consider stating so in a motion for approval.

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.

**Scott and Marta Day
18 Walden Street
Portsmouth, NH 03801**

David Rheame, Chairman
Historic District Commission
1 Junkins Ave
Portsmouth, NH 03801

RE: Variance Application and HDC Building application

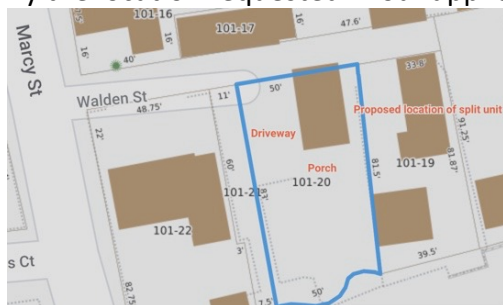
To permit the following: Installation of splits for air conditioning, with the outdoor unit being placed on the side of the house with a set back +/- 7 ft where 10 ft is required.

The property owner declares that: The small lot with existing structures and site improvements has few locations to locate the required split unit. Moving it an additional two feet from the property line cannot be achieved due to the exterior of the home being there. The location is out of any public view, screened by a fence, but could be seen by our neighbors.

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 split unit, it will be fenced in from the abutter's driveway, and possibly seen by one neighbor. This neighbor has been notified of this addition and is in agreement with this update.
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 system without impacting the neighborhood.
4. This variance will not diminish the value of surrounding properties.
5. The special condition of this property is the existing non-conforming side setback and room for this unit cannot be created without removal/change of exterior home structure.

Furthermore, we would like to identify alternative possible locations for the split unit, and establish why the location requested in our application is the only feasible one.



(Exhibit 1)

As you can see in Exhibit 1, there is no option to put the split unit off the side of the house on Walden Street as the home sits directly on the property line and the unit would be in the street. There is no structural way we would be able to place the split unit on the driveway side of the house, without removing granite landscaping. Another option would be under the porch, and we were informed this could create a safety issue. We had standing water under our porch from tidal storms this past winter, and continue to get standing water with extremely high tides. As you can see in the photos below, our contractor showed the under-deck option, but strongly advised against it. This leaves the only option being on the right side of the home, as indicated in Exhibit 1. Our gas is located on this side of the house, and the proposed A/C unit will be in a safe distance away from the gas line.

Proposal from contractor:

4/11/23, 8:07 PM

Proposal

 East Coast HVAC

CALL US TODAY
(603) 430-9414

Your Proposal Option 1

Scott Day

Address: 18 Walden Street Portsmouth, NH 03801

Phone: (303) 818-2323

Email: scottday1033@gmail.com

Consultation Code: ENGVACGRL

Date Presented: Mar 8, 2023

Date Accepted: Mar 15, 2023

Presented by: Josh Davis

Phone: (603) 430-9414

Email: joshd@eastcoasthvac.com

About Us

We are a family-owned and operated company that was established in 1986. We specialize in the sales, service and installation of residential and light commercial heating and air conditioning systems including Mitsubishi Electric Ductless (<https://eastcoasthvac.com/ductless-heating-air-conditioning/>). Our technicians are factory trained and certified specialists in the HVAC field and specialists with a variety of furnace and boiler repair experience. We stand behind everything we do with warranties to ensure that you're never left without assistance. Our promise is to provide you with the highest quality service and installation at guaranteed competitive prices with superior post-project service. That's why we are one of the most recognized HVAC companies in the Greater Seacoast area of New Hampshire and Southern Maine. Don't pay more than necessary for your heating and air conditioning needs, call East Coast and Pay Fair.



Fully licensed, insured, and here for you 24/7!!

PROPOSAL NOTE

****EXCLUDES ELECTRICAL UPGRADE PRICING****

Our electrician would need to be involved on the proper set up that will allow you to power this equipment safely. I do not know what the overall final pricing will be, on top of this cost. let me be clear again, i do not think changing the panel to one with more space solves your electrical issues. I think this stems from not having a large enough

service to the home. Adding in another double pole 25amp breaker (this system) will cause even more issues without some sort of change.

<https://app.oncallair.com/#/view/accepted/13b7cb6c090ae835bc8496d960be43efccc90a0096d532deb6f30f994ca4fd86/655/767505/2214365>

1/5

Master bedroom: 6,000 btu wall mount

Nursery: 6,000 btu wall mount

First Floor: 12,000 btu wall mount

System

Mitsubishi MXZ Ductless 2 Ton

Subtotal: **\$14,300.00**
See total investment below

EQUIPMENT

1 ITEMS



Category: Outdoor Unit

Name: Mitsubishi Ductless M-Series Multi-Zone (3) Outdoor Heat Pump Unit 24K BTU

Number:

INCLUDES

4 ITEMS



Category:Mitsubishi Wall Mounted M-Series GL Models (Heat Pump) / Quantity: 1

Name: Mitsubishi Ductless M-Series 12000 Btu Heat Pump Wall Mounted (Matches MUZ-GL)

Number:



Category:Mitsubishi Wall Mounted M-Series GL Models (Heat Pump) / Quantity: 2

Name: Mitsubishi Ductless M-Series 6000 Btu Heat Pump Wall Mounted (Matches MUZ-GL)

Number:



Category:Services / Quantity: 1

Name: 100% Satisfaction Guarantee

Number:



Category:Services / Quantity: 1

Name: Mitsubishi Elite Diamond Contractor & 12-Year Warranty

Number:

WHAT YOU'LL GET

31 ITEMS

2.5 Day Installation - Your system will take us roughly 2.5 days to complete!

Condenser Mount: We will help you choose the best mounting option for the outdoor unit. The two most commonly used are a foundation wall mount, or a pad and stand set on crushed stone. Either way, our main goal is to make the outdoor installation professional and clean.

Ductless (Small AMP) Power Up Level 1 - Our licensed electricians will run a new and complete line voltage feed from your existing electrical panel, to your new outdoor unit. This includes everything needed, right from the breaker, to an outdoor rated disconnect switch, and into the unit itself. BONUS! We include a surge protector with every installation, to protect your Mitsubishi investment during power spikes or outages. This line item DOES NOT include any upgrades to your existing electrical services, or existing electrical panel(s). Any service upgrades or sub-panels that are including in your pricing, will be included as a separate line item in the installation items. **Please note that ALL Ductless installations in the State of NH require switches at the indoor unit!!**

Ductless Drainage: Your system will produce water in the summer, as it dehumidifies and cools off the home. Each one of your indoor heads comes equipped with the proper drainage, which is generally a combination of plastic corrugated and PVC piping. Quantity: 3

Ductless Unit Line Set Installation Per 10FT Quantity: 16

Our Installations always include the required town permitting and inspection fees, so you can rest assured that you are safe and compliant.

System Pressure Testing & Evac Pump Down - We take our AC lines seriously! Your pricing includes an industry standard dry nitrogen pressure-test of the line sets, and an evacuation and pump down process that will leave your lines as clean and dry as physically possible. This sets your system up for success in the long-term, with lines that are tight and free of refrigerant leaks.

White Fortress Enclosure 3.5" (Per 10FT) - To keep the exterior impact to a minimum, we will hide your lines in a decorative enclosure, that can also be painted to match the home. Our installers are always as creative as possible, to keep these lines neat and clean. Quantity: 7

INVESTMENT DETAILS

Sale Price	\$14,300.00
DISCOUNT	
Spring Time Promotion: Multi Zone Heat Pump	- \$500.00
Total Investment	\$13,800.00
The Total Investment is the total cost of the goods and services described in this proposal	
CUSTOMER DIRECT REBATE	
NH SAVES: MXZ3C24NA (Standard Heat Pump)	- \$450.00
Net Investment	\$13,350.00
The Net Investment After All Rebates reflects total cost after rebates that are fulfilled directly by the customer	

PAYMENT TERMS

If a financing option is selected, there will be no deposit required, as the transaction will be handled by Synchrony Financial.

If a cash, check, or credit card will be used for payment, a 50% Deposit required. Remaining balance due upon completion.

Deposit	- \$6,900.00
Balance Due After Deposit	\$6,900.00

SIGNATURE



TERMS AND CONDITIONS

All work is to be completed in a workman like manner according to standard practices. Any alteration or changes from the

4/11/23, 8:07 PM

Proposal

above specifications involving extra work, materials or costs will be undertaken only upon a written change order and will become an extra charge over and above the payment terms set out herein. This proposal is subject to acceptance within 30 days and is void thereafter at the option of East Coast. Work will not begin until after the first payment called for above is made, and the commencement of work is further contingent upon strikes, accidents or delays beyond our control. The parties to this Contract agree that Jurisdiction as to any dispute in any way related to this Contract shall lie exclusively in the State of New Hampshire, Rockingham County. The parties further agree to submit any claim or claims in any way related to this Contract to binding arbitration before the American Arbitration Association in Rockingham County, New Hampshire, provided the parties may mutually agree to an alternate arbitrator or arbitrators. East Coast has the right to stop work if progress payments are not timely made and shall be entitled to recover all its Costs, Expenses, and Attorney Fees, in any way related to the enforcement of the terms of this Contract. Payments due and unpaid shall bear Interest from the date the payment was due at the rate of 18% per annum. You confirm your acceptance of the above Terms & Conditions and this proposal becomes a binding CONTRACT when you click on the above "Approve This Proposal Now." The above prices and conditions will also thereby be accepted. East Coast will be authorized to do the work as specified for the sums set out above. Payment will be made as outlined above.

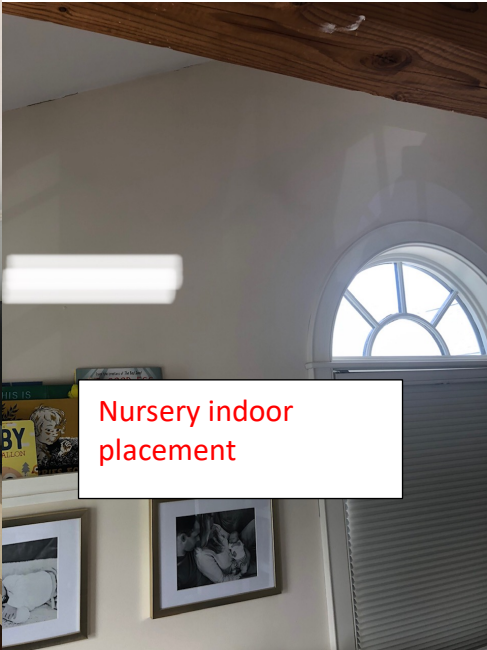
Nursery line set run to be as close to the side to hide as much as possible, can be painted to match.



*Bathroom unit will not be installed. Contactor drew this to show what it would look like.



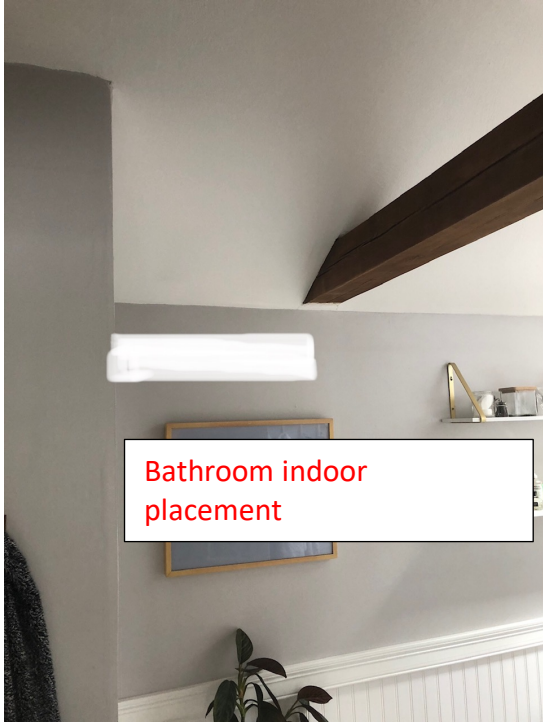
Living room placement



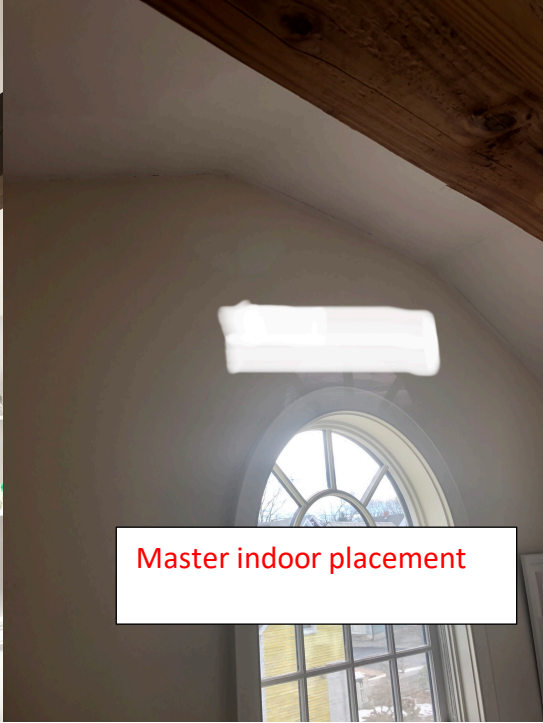
Nursery indoor placement



Living room exterior piping



Bathroom indoor placement



Master indoor placement

Scott and Marta Day
18 Walden Street
Portsmouth, NH 03801

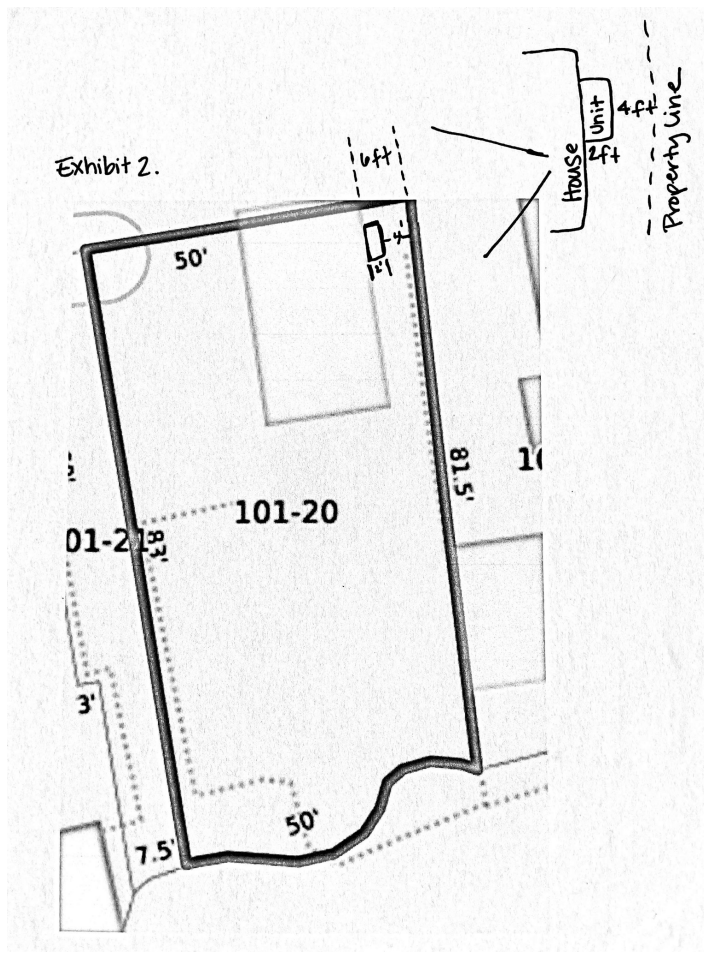
David Rheaume, Chairman
Historic District Commission
1 Junkins Ave
Portsmouth, NH 03801

RE: ADDENDUM Variance Application and HDC Building application

To permit the following: Installation of splits for air conditioning, with the outdoor unit being placed on the side of the house with a set back +/- 6 ft where 10 ft is required.

We were asked to provide information regarding the number of condensers and a site map of the condenser location. Please see below.

Exhibit 2



As indicated in our original application, there is only one feasible and safe location for the condenser to be located, which is on the side of the house (see site plan). The house is +/- 6 ft from the property line. With the installation of the condenser, the set-back will be +/- 4 (the unit is 2 ft wide). There will only be one condenser installed.

Photo included below is the type of installation East Coast is planning on the side of the house.

