

TO: Zoning Board of Adjustment  
FROM: Peter Stith, AICP, Planning Department  
DATE: October 14, 2020  
RE: Zoning Board of Adjustment October 20, 2020 Meeting

## **NEW BUSINESS**

1. 160 Rockland Street
2. 322 Lincoln Avenue
3. 121 Northwest Street
4. 266- 278 State Street & 84 Pleasant Street
5. 77 New Castle Avenue
6. 200 McDonough Street
7. 1338 Woodbury Avenue
8. 140 Edmond Avenue
9. 32 Boss Avenue
10. 56 Clinton Street
11. 542 State Street



## NEW BUSINESS

1.

Petition of **Kelly Dobben-Annis, Owner**, for property located at **160 Rockland Street** wherein relief is needed from the Zoning Ordinance to construct a 12' x 14' deck which requires the following: 1) A Variance from Section 10.521 to allow 30.5% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Map 129 Lot 01-01 and lies within the General Residence A (GRA) District.

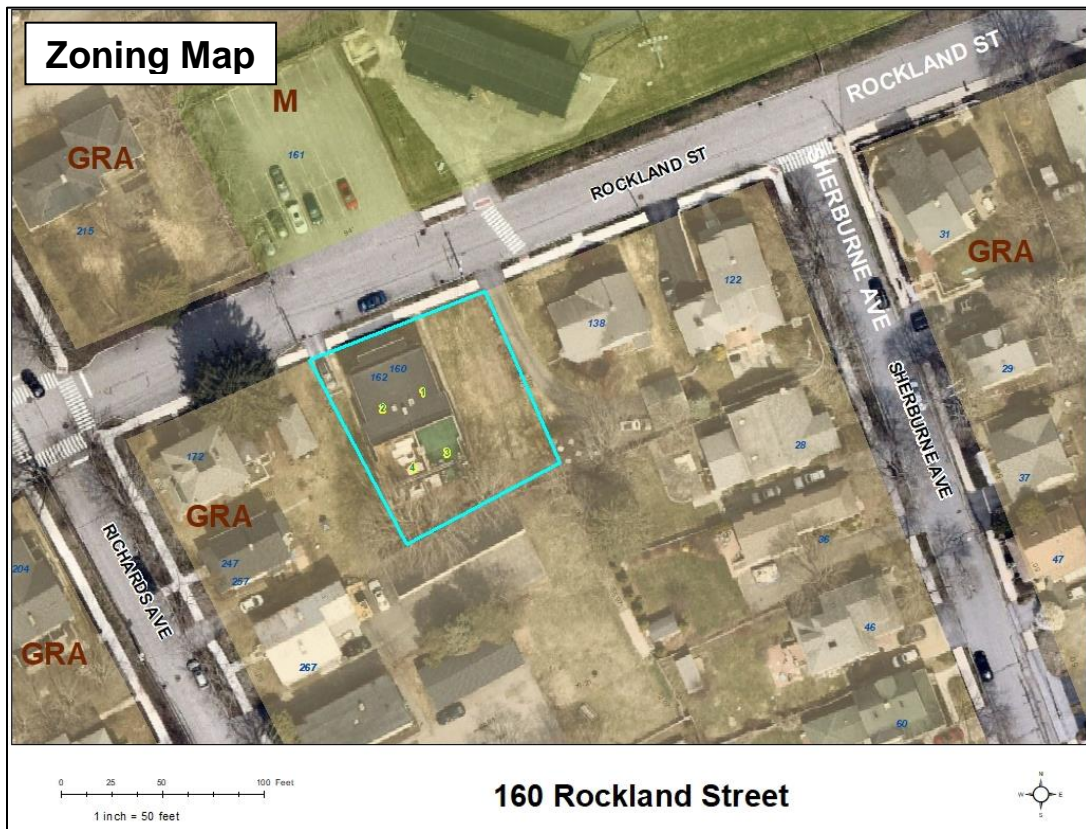
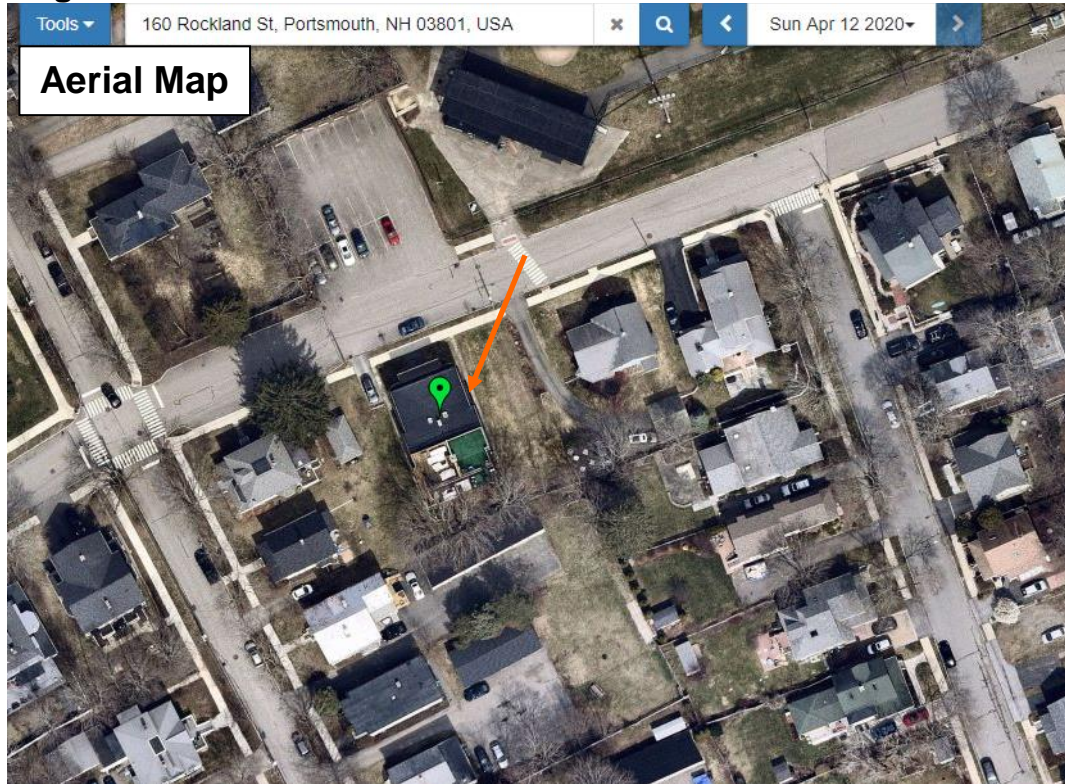
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Rear addition	Primarily Single Family
<u>Lot area (sq. ft.):</u>	9,600	9,600	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,800	4,800	7,500 min.
<u>Street Frontage (ft.):</u>	92	92	100 min.
<u>Lot depth (ft.):</u>	100	100	70 min.
<u>Primary Front Yard (ft.):</u>	7	44 (to deck)	15 min.
<u>Left Side Yard (ft.):</u>	36	22	10 min.
<u>Right Side Yard (ft.):</u>	4	4	10 min.
<u>Rear Yard (ft.):</u>	24	43 (to deck)	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	28	<b>30.5</b>	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking:</u>	1	1	1.3
<u>Estimated Age of Structure:</u>	1900	<b>Variance request shown in red.</b>	

### Other Permits/Approvals Required

None.

# Neighborhood Context



## Previous Board of Adjustment Actions

No BOA history found.

## Planning Department Comments

The property contains a two family dwelling and the applicant is proposing to add a 12' x 14' deck which will result in 30.5% building coverage where 25% is the maximum allowed.

## 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.*



2.

Petition of the **Amanda Telford Revocable Trust, Owner**, for property located at **322 Lincoln Avenue** wherein relief is needed from the Zoning Ordinance to demolish an existing structure and construct a new structure which requires the following: 1) Variances from Section 10.521 to allow a) 35.5% building coverage where 25% is the maximum allowed; b) a 3.5' right side yard where 10' is required; and c) a 13' rear yard where 20' is required. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 130 Lot 26 and lies within the General Residence A (GRA) District.

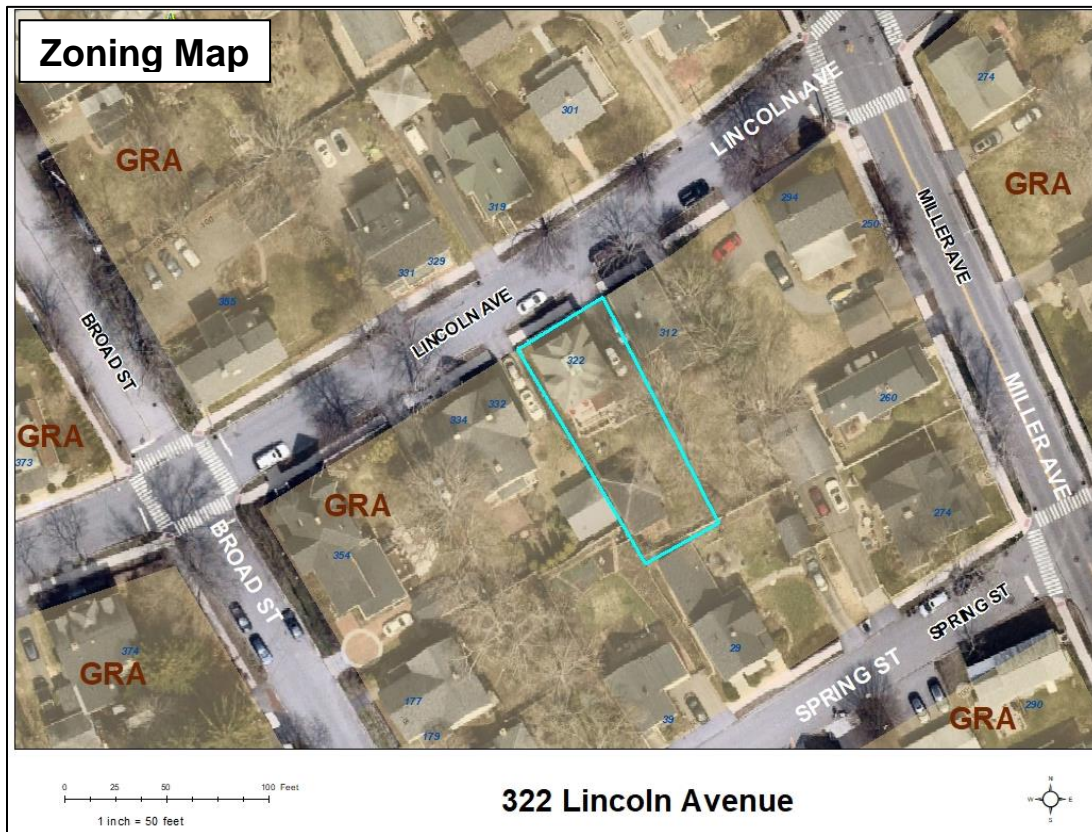
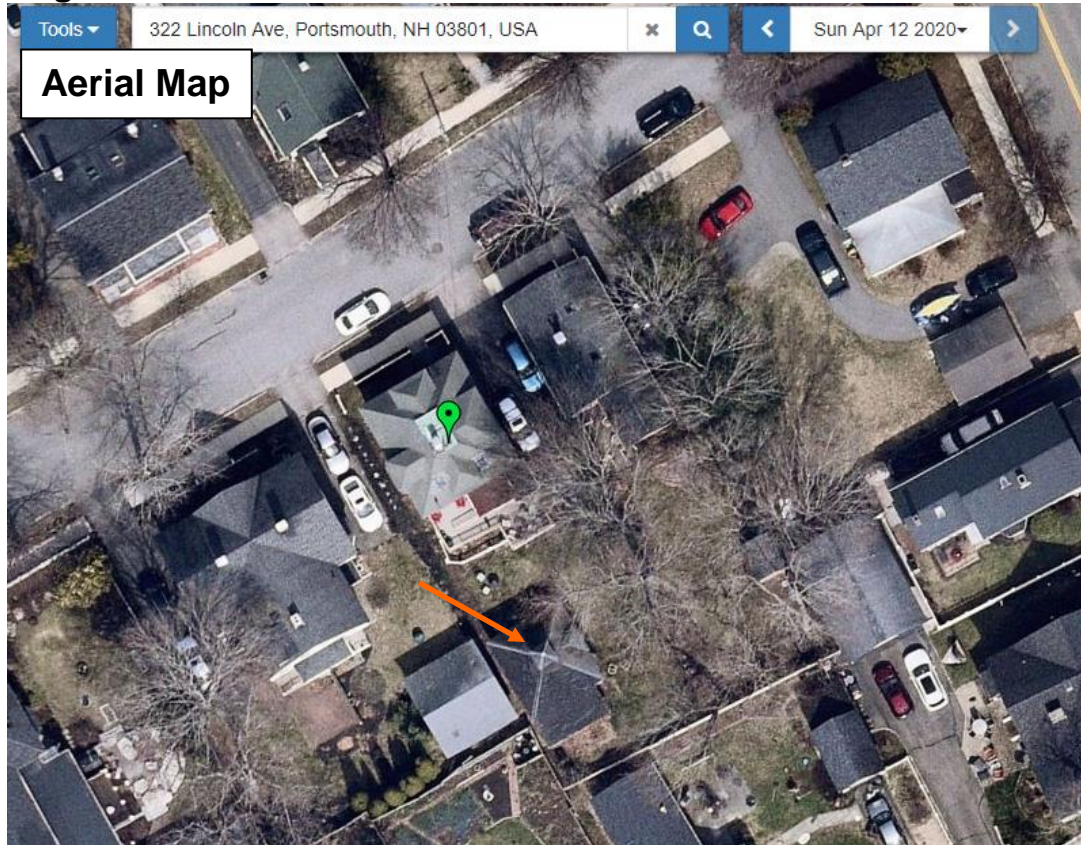
**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Reconstruct new accessory structure	Primarily residential
<u>Lot area (sq. ft.):</u>	5,378	5,378	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,378	5,378	7,500 min.
<u>Street Frontage (ft.):</u>	48	48	100 min.
<u>Lot depth (ft.):</u>	119	119	70 min.
<u>Primary Front Yard (ft.):</u>	6'10"	6'10"	15 min.
<u>Left Side Yard (ft.):</u>	17	17	10 min.
<u>Right Side Yard (ft.):</u>	2.5'	<b>3.5'</b>	10 min.
<u>Rear Yard (ft.):</u>	13	<b>13</b>	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	35	<b>35.5</b>	25 max.
<u>Open Space Coverage (%):</u>	51	51	30 min.
<u>Parking:</u>	2	2	1.3
<u>Estimated Age of Accessory Structure:</u>	100 years	<b>Variance request shown in red.</b>	

**Other Permits/Approvals Required**

None.

# Neighborhood Context





## Previous Board of Adjustment Actions

September 17, 1996 – The Board granted variances to allow a deck with a 5' right side yard where 10' is required and a building coverage of 29.2% where 25% is the maximum allowed.

## Planning Department Comments

The applicant is proposing to demolish the existing accessory structure that is in poor condition and construct a new structure, similar in design and location. The right side yard will improve slightly, by 1 foot, while the rear yard will stay the same as it is currently. The slight increase in footprint will increase the building coverage to 35.5% where 25% is the maximum allowed.

## 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.*



3.

Petition of **Andrea Ardito & Brad Lebo, Owners**, for property located at **121 Northwest Street** wherein relief is needed from the Zoning Ordinance to construct an attached screened porch which requires the following: 1) A Variance from Section 10.521 to allow a 13.5' rear yard where 20' is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 122 Lot 1 and lies within the General Residence A (GRA) District.

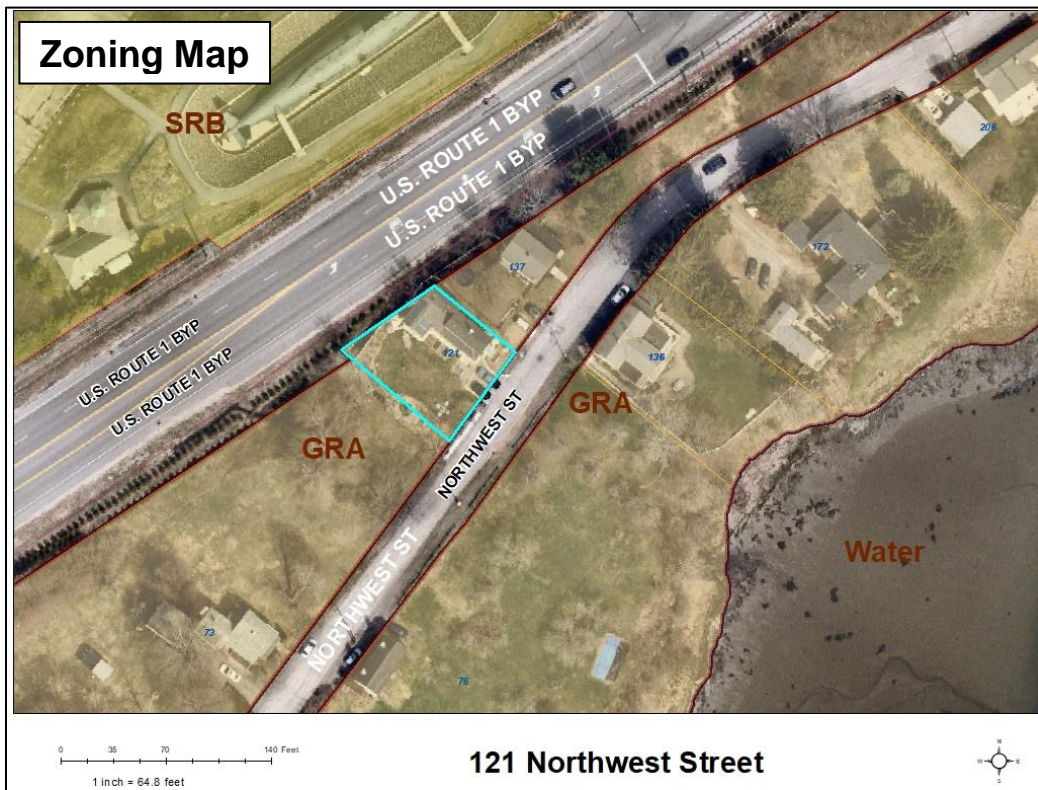
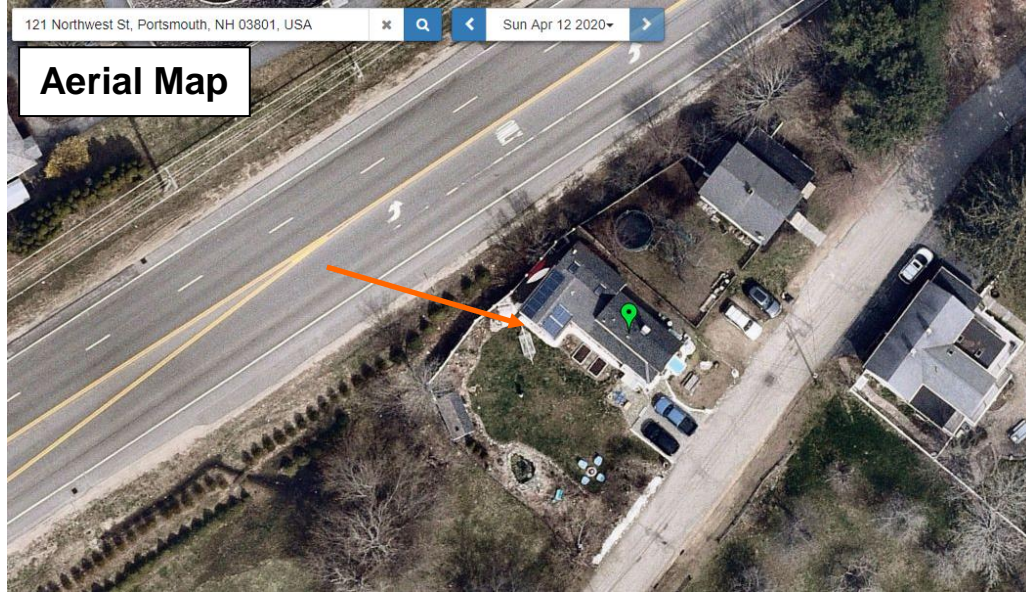
**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Construct attached porch	Primarily residential uses
<u>Lot area (sq. ft.):</u>	5,844	5,844	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,844	5,844	7,500 min.
<u>Street Frontage (ft.):</u>	74	74	100 min.
<u>Lot depth (ft.):</u>	91.5'	91.5'	70 min.
<u>Primary Front Yard (ft.):</u>	12	12	15 min.
<u>Left Side Yard (ft.):</u>	38	28	10 min.
<u>Right Side Yard (ft.):</u>	2'5"	2'5"	10 min.
<u>Rear Yard (ft.):</u>	4'7"	<b>13.5'</b>	20 min.
<u>Height (ft.):</u>	19.5'	19.5'	35 max.
<u>Building Coverage (%):</u>	22	24	25 max.
<u>Open Space Coverage (%):</u>	72	69	30 min.
<u>Parking:</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1855	<b>Variance request shown in red.</b>	

**Other Permits/Approvals Required**

HDC

# Neighborhood Context



## Previous Board of Adjustment Actions

August 1, 1955 – The Board denied a request to erect a commercial sign on the property.

March 23, 2010 – The Board granted variances to allow an addition with an 8' rear yard setback where 20' is required and to allow the expansion of a nonconforming structure.

## Planning Department Comments

The applicant is proposing to add an attached screened porch onto the existing dwelling. The rear yard abuts the Route 1 Bypass, where the requested relief is proposed. All other dimensional requirements will be in compliance with the proposed addition. Approval from the HDC is required if the variance is granted.

## 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.*



4.

Petition of **PNF Trust of 2013 and 282 Middle Street, LLC, Owners**, for properties located at **266, 270 & 278 State Street & 84 Pleasant Street**, wherein relief is needed from the Zoning Ordinance to merge four lots into one as part of a redevelopment project including a four-story addition onto the existing building at 84 Pleasant Street which requires the following: Variances from Section 10.5A41.10C to allow a) an entrance spacing greater than 50' where 50' is the maximum allowed; b) 100% building coverage where 90% is the maximum allowed; c) 0% open space where 10% is the minimum required; d) a 4-story, 45' tall building where 2-3 stories or a short 4th and 45' is the maximum allowed; e) less than 70% shopfront façade glazing where 70% is the minimum required and less than 20% other façade types where 20% is the minimum required; and f) to allow more than 20% of the ground floor use to be residential where 20% is the maximum allowed. Said properties are shown on Assessor Map 107 Lots 77, 78, 79 & 80 and lie within the Character District 4 (CD4) District.

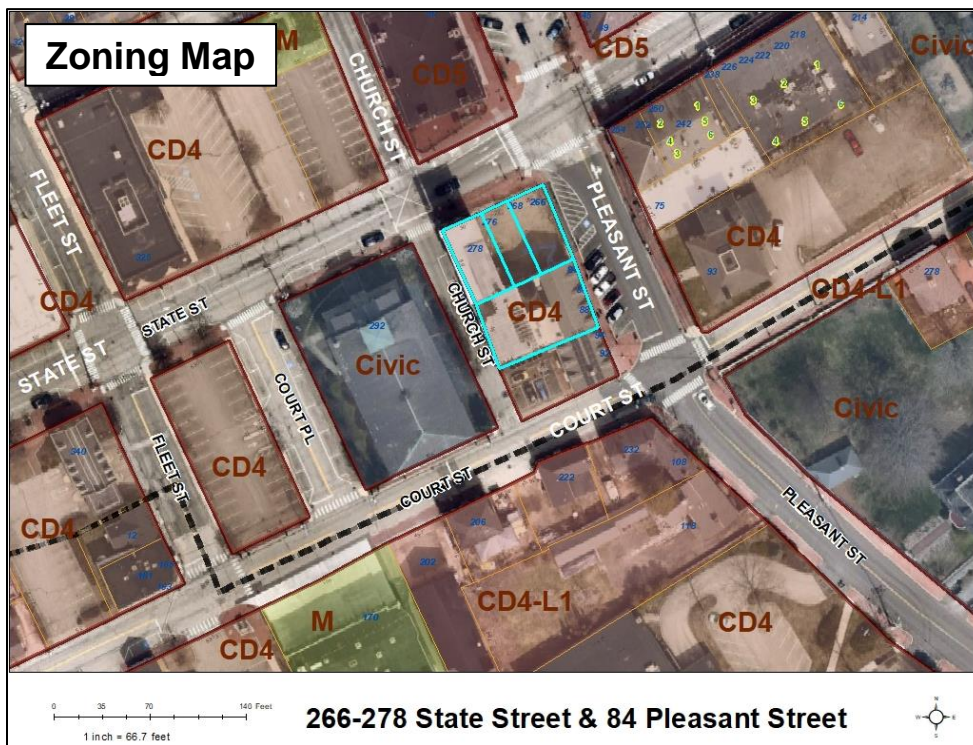
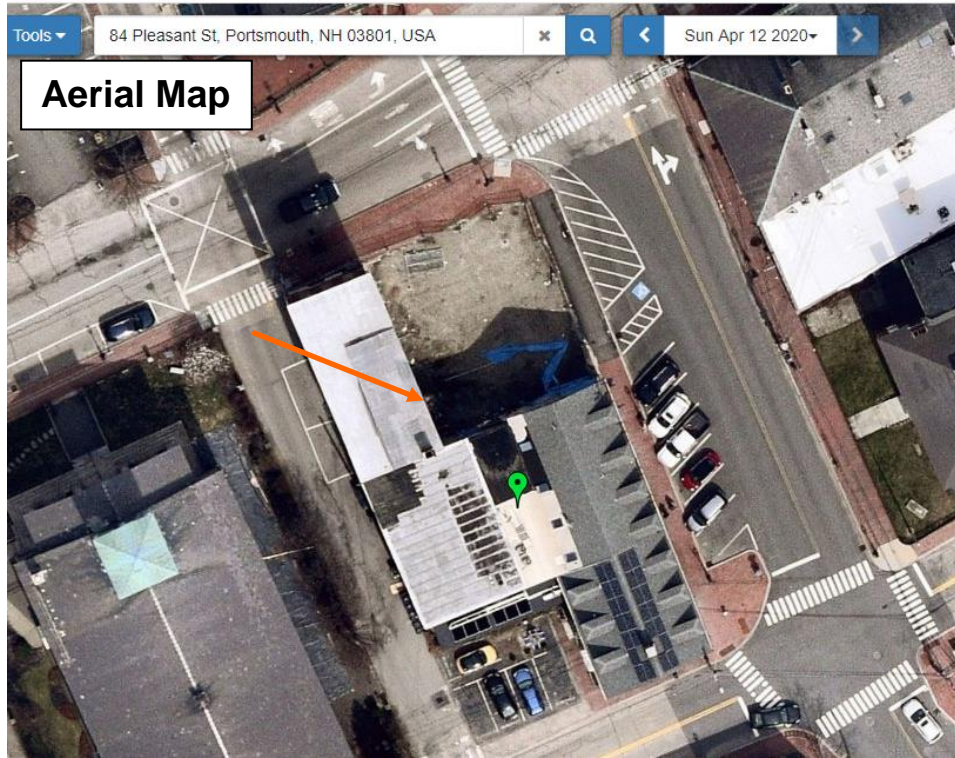
**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant	Merge lots for mixed use development	Primarily mixed uses
<u>Lot area (sq. ft.):</u>	1,458 1,440 1,518 3,866	8,447 (merged)	NR
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	NA	~17 units	NR
<u>Secondary Front Yard:</u>	NA	0	15 max
<u>Primary Front Yard (ft.):</u>	NA	0	10 max
<u>Right Side Yard (ft.):</u>	NA	0	NR
<u>Max. Entrance Spacing (ft.):</u>	NA	<b>57</b>	50
<u>Ground Floor Use:</u>	NA	<b>23% Residential</b>	20% max. residential
<u>Height (ft.):</u>	NA	<b>45' 4<sup>th</sup> story</b>	2-3 Stories (short 4 <sup>th</sup> )
<u>Building Coverage (%):</u>	NA	<b>100</b>	90
<u>Open Space Coverage (%):</u>		<b>0</b>	10
<u>Façade Glazing:</u>	NA	<b>Less than 70%</b>	70% min.
<u>Shopfront:</u>		<b>Less than 20%</b>	20% min. to 50% max.
<u>Other Facades</u>			
<u>Parking</u>		TBD	TBD
		<b>Variance request shown in red.</b>	

## Other Permits/Approvals Required

Planning Board – Site Review; Possible CUP for Parking  
HDC

## Neighborhood Context





## **Previous Board of Adjustment Actions**

May 28, 2019 – The Board granted the following variances for **266, 270 & 278 State Street**:

- Section 10.5A43.31 to allow a 55' height where 45' is the maximum allowed for 2-3 stories.
- To allow a structure to be designated as a penthouse without meeting the 15' setback from the edge of the roof as outlined in the definition of a penthouse.
- Section 10.5A41.10C to allow 93% building coverage where 90% is the maximum allowed and a 3' rear setback from the lot line at the center building where 5' is the minimum required.

These variances were granted with the following stipulation:

With the granting of the variance for building coverage, 7% open space is allowed.

November 21, 2017 – The Board denied the appeal of an HDC decision to issue a demolition permit with the following stipulation:

- The Board stipulates that the applicant work with the Historic District Commission to arrive at a mutually agreeable plan for the property. The Board further stipulates that any reconstruction of the existing building must, at a minimum, fully preserve the State Street side façade and the Church Street side façade of the existing building.

August 20, 2013 – The Board granted a special exception to allow a religious place of assembly at 84 Pleasant Street.

November 21, 2017 – The Board granted the following variances for **84 Pleasant Street**:

- Section 10.5A41.10C to allow the following: a) 0% open space where 10% is required; and b) 100% building coverage where 90% is the maximum allowed.
- Section 10.1111.10 to allow a change in the use or intensification of use in an existing building or structure without providing off-street parking.
- Section 10.1111.20 to allow a use that is nonconforming as to the requirements for off-street parking to be enlarged or altered without providing off-street parking for the original building, structure or use and all expansions, intensifications or additions.
- Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

## **Planning Department Comments**

As part of the ongoing redevelopment of this block, the applicant has purchased 84 Pleasant Street and incorporated it into the project. The proposal is to merge the four

lots into one and incorporate the 84 Pleasant Street building into the project. The proposed new lot, in conjunction with the proposed development, will result in 100% coverage and 0% open space. As stipulated in the denial of the HDC appeal in 2017, the project must preserve the Church Street façade of the Times building. This portion does not meet the required 50 foot minimum for entrance spacing and the applicant is requesting a variance from this requirement.

The height limit is 2-3 stories and 45' tall and a short story is permitted. What is proposed is not considered a short fourth, but a full story because it is not a mansard roof nor is it 20% shorter than the story below, thus a variance is needed for the fourth story.

The shopfront façades are along State and Pleasant Street and other façade types apply Church Street. The applicant has outlined the proposed façade percentages in the application, showing the proposed percentages for both types.

### **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.*
- Planning Department Comments* 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.*

5.

Petition of the **Elisabeth Blaisdell Revocable Trust, Owner**, for property located at **77 New Castle Avenue**, wherein relief is needed from the Zoning Ordinance to install a mini-split unit which requires the following: 1) A Variance from Section 10.515.14 to allow a 2' side yard setback where 10' is required. Said property is shown on Assessor Map 101 Lot 50 and lies within the General Residence B (GRB) District.

**Existing & Proposed Conditions**

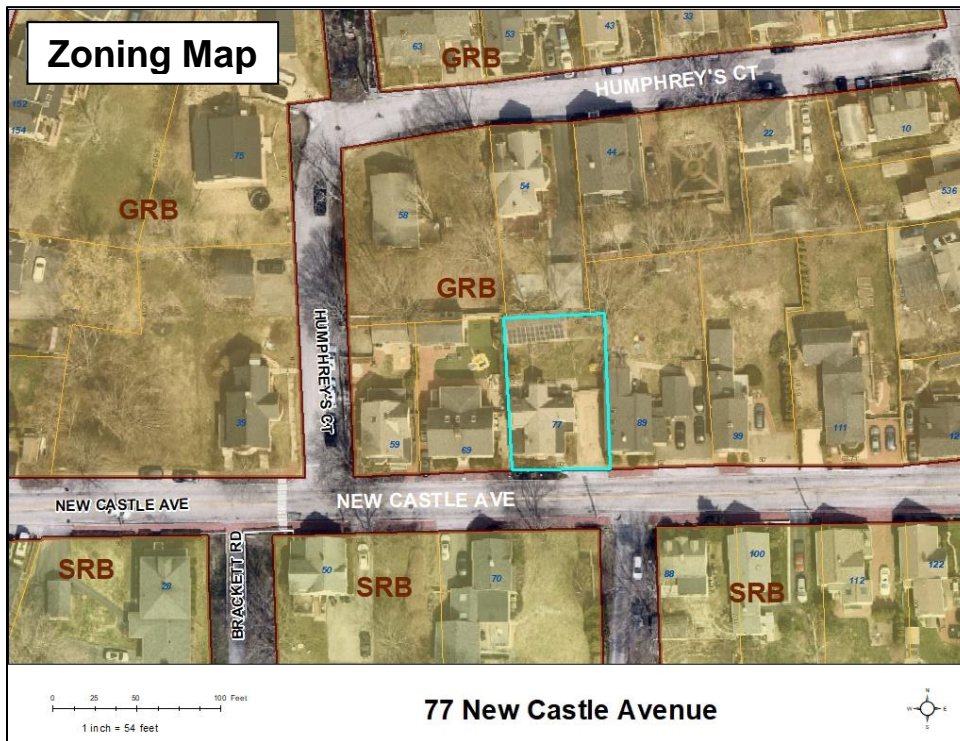
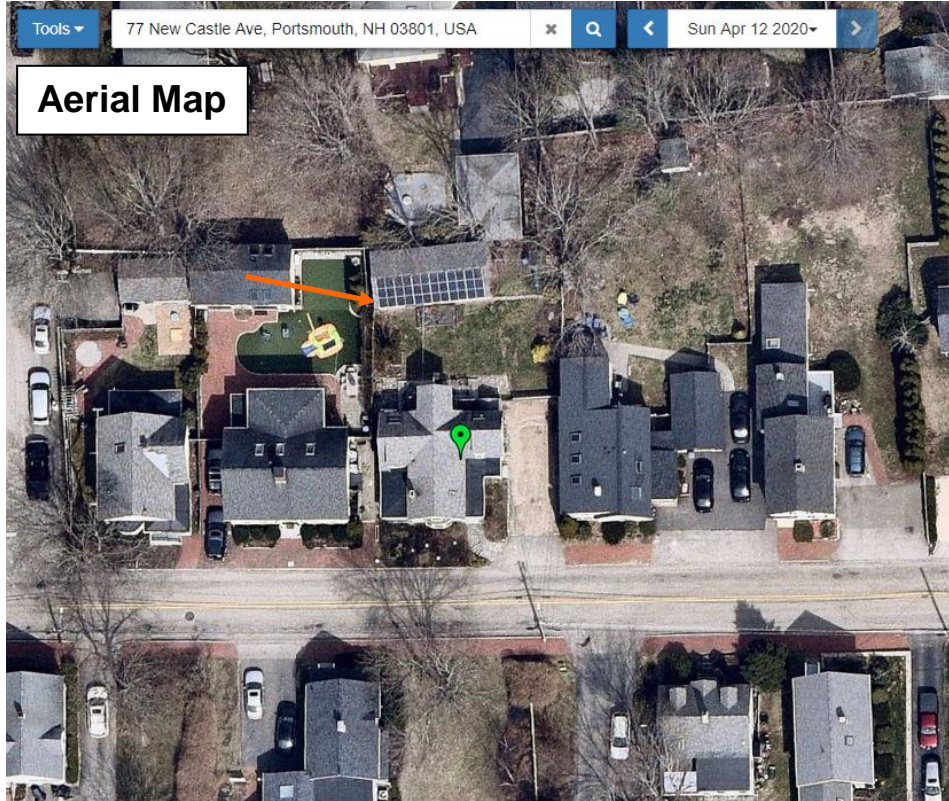
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Add Mini Split	Primarily Single Family
<u>Lot area (sq. ft.):</u>	6,098	6,098	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	6,098	6,098	5,000 min.
<u>Street Frontage (ft.):</u>	60	60	80 min.
<u>Lot depth (ft.):</u>	100	100	60 min.
<u>Primary Front Yard (ft.):</u>	6 (house)	6 (house)	5 min.
<u>Left Side Yard (ft.):</u>	4 (garden shed)	<b>2</b> (Mini split)	10 min.
<u>Right Side Yard (ft.):</u>	22 (garden shed)	22 (garden shed)	10 min.
<u>Rear Yard (ft.):</u>	3 (garden shed)	3 (garden shed)	25 min.
<u>Building Coverage (%):</u>	30	30	30 max.
<u>Open Space Coverage (%):</u>	>25	>25	25 min.
<u>Parking:</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	2013 (garden shed)	<b>Variance request shown in red.</b>	

**Other Permits/Approvals Required**

HDC



# Neighborhood Context



## Previous Board of Adjustment Actions

September 17, 2013 - The Board denied the following variances:

- Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, enlarged or structurally altered in a manner that is not in conformity with the Ordinance.
- Sections 10.572 and 10.521 to allow a left side yard of 1.5'± where 10' is the minimum required for an accessory structure.
- Sections 10.573.20 and 10.521 to allow a rear yard setback of 3'± where 15' is the minimum required for an accessory structure.

October 22, 2013 – The Board granted the following variances:

- Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, enlarged or structurally altered in a manner that is not in conformity with the Ordinances.
- Sections 10.572 and 10.521 to allow a left side yard setback of 3.0'± for the barn where 10' is the minimum required for an accessory structure.
- Sections 10.573.20 and 10.521 to allow a rear yard setback of 3'± for the barn where 10.5' is the minimum required for an accessory structure.

## Planning Department Comments

The applicant is proposing to add an HVAC unit to the accessory structure in order to convert a portion to a home office. The existing structure received variances as shown in the history above.

## 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.*

6.

Petition of **Gregory & Elizabeth LaCamera, Owners**, for property located at **200 McDonough Street**, wherein relief is needed from the Zoning Ordinance to demolish the existing structure and construct a new single family dwelling which requires the following: 1) Variance from Section 10.521 to allow: a) a lot area and lot area per dwelling unit of 2,588 square feet where 3,500 is required for each; b) 39.5% building coverage where 35% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 144 Lot 29 and lies within the General Residence C (GRC) District.

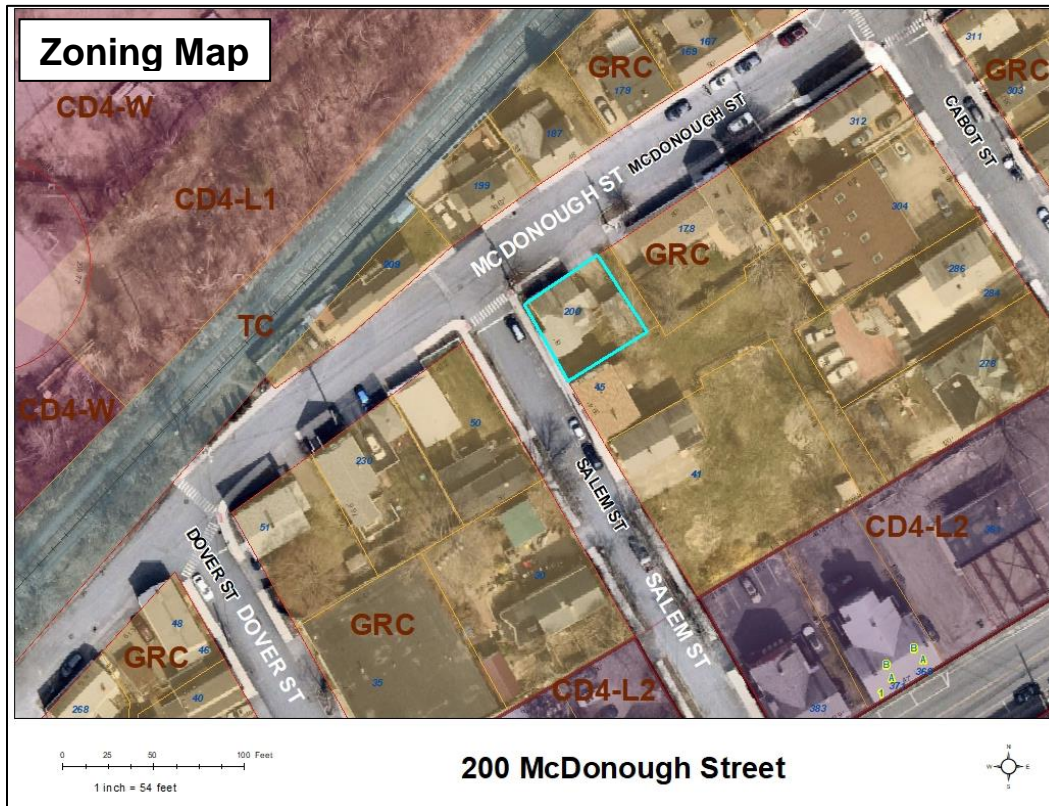
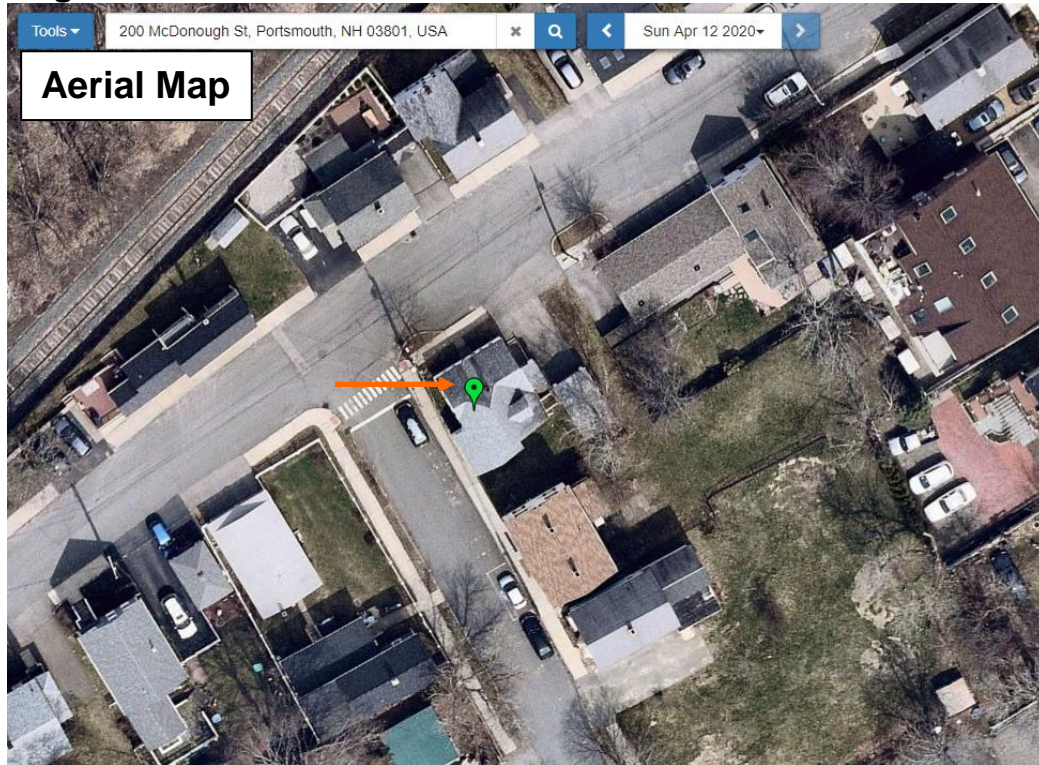
**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Demo existing and construct new dwelling	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	2,588	<b>2,588</b>	3,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,588	<b>2,588</b>	3,500 min.
<u>Street Frontage (ft.):</u>	100	100	70 min.
<u>Lot depth (ft.):</u>	52	52	50 min.
<u>Primary Front Yard (ft.):</u>	1.45'	1	0.5' per Section 10.516.10 min.
<u>Secondary Front Yard (ft.):</u>	0	1	0.5' per Section 10.516.10 min.
<u>Left Side Yard (ft.):</u>	1.5	10	10 min.
<u>Rear Yard (ft.):</u>	5.8'	20	20 min.
<u>Height (ft.):</u>	<30	33	35 max.
<u>Building Coverage (%):</u>	46	<b>39.5</b>	35 max.
<u>Open Space Coverage (%):</u>	28	50	20 min.
<u>Parking:</u>	2	2	1.3
<u>Estimated Age of Structure:</u>		Variance requests shown in red.	

**Other Permits/Approvals Required**

None.

# Neighborhood Context





## Previous Board of Adjustment Actions

May 24, 2016 – The Board denied the following variances requested to build a single family home on a pre-existing nonconforming lot:

- To allow a nonconforming building or structure to be reconstructed except in conformity with the Ordinance;
- To allow a structure obstructing visibility on a corner lot between the heights of 2.5' and 10' above the edge of pavement grades within the area outlined in the Ordinance;
- To allow a) a secondary front yard setback of 1.2'± where 5' was required; b) a 1.8'± left side yard setback where 10 was required; and c) 44.4%± building coverage where 35% was the maximum allowed.

June 28, 2016 – The Board granted the following variances:

- Section 10.321 to allow a nonconforming building or structure to be reconstructed except in conformity with the Ordinance.
- Section 10.516.30 to allow a structure obstructing visibility to be erected on a corner lot between the heights of 2.5' and 10' above the edge of pavement grades within the area outlined in the Ordinance.

## Planning Department Comments

The applicant is proposing to demolish the existing structure and construct a new single family dwelling. The lot is nonconforming to lot area and lot area per dwelling unit. The proposed new dwelling will conform to all dimensional requirements except building coverage and the applicant is seeking relief for that requirement. The front setback can be reduced per Section 10.516.10 for front yard alignments. This allows the new structure to be closer to the corner and comply with the side and rear yards.

## 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.*



7.

Petition of the **Woodbury Avenue Cooperative, Inc., Owner**, for property located at **1338 Woodbury Avenue**, wherein relief is needed from the Zoning Ordinance to demolish the existing structures and replace them with 6 new mobile home units which requires the following: 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,480 square feet where 7,500 square feet per dwelling is required. 2) A Variance from Section 10.334 to allow a lawful nonconforming use to be extended, enlarged or changed except in conformity with the Ordinance. Said property is shown on Assessor Map 237 Lot 70 and lies within the Mixed Residential Business (MRB) District.

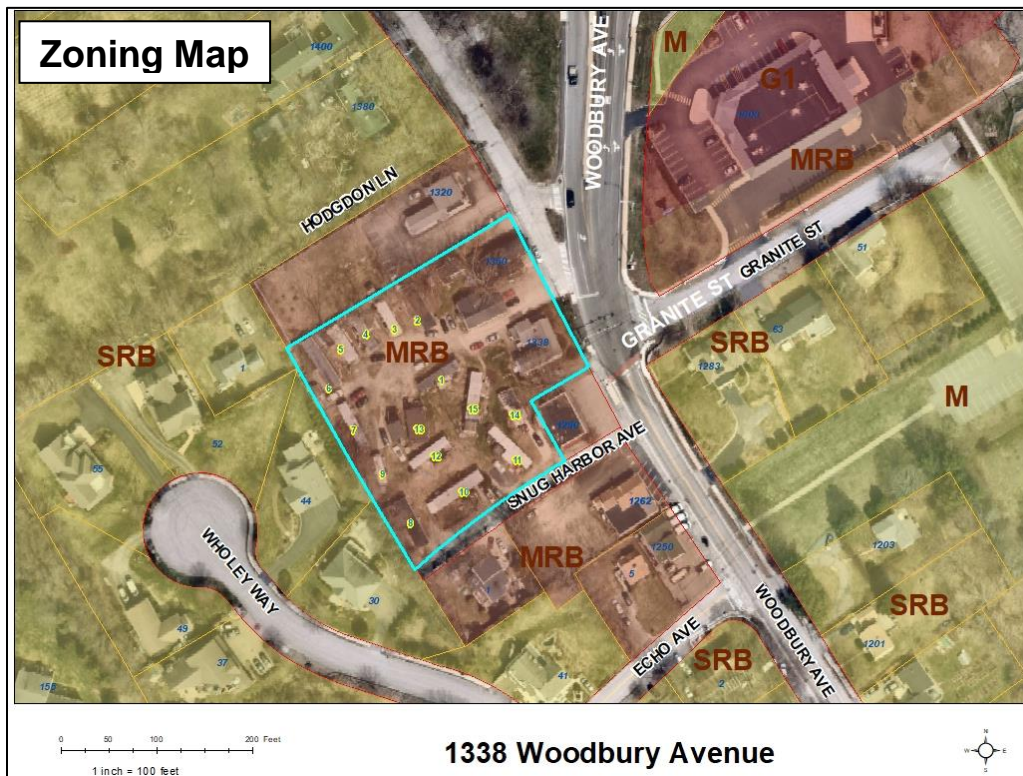
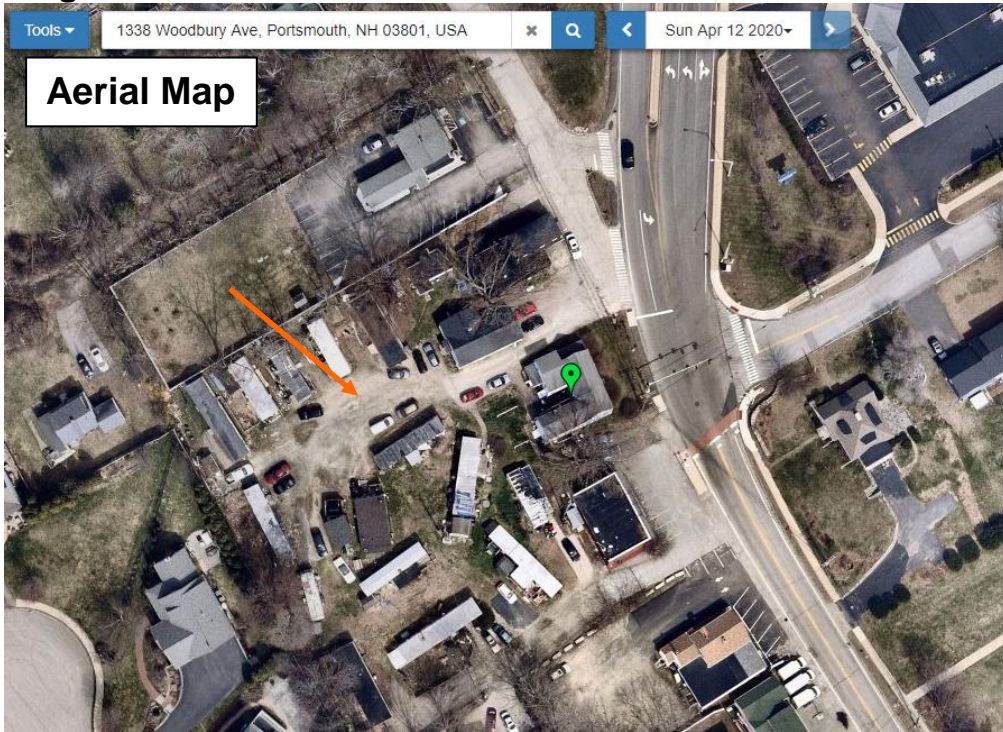
**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Mobile homes	6 new Single mobile homes	Primarily Mixed Uses
<u>Lot area (sq. ft.):</u>	66,121	66,121	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,480	<b>3,480</b>	7,500 min.
<u>Street Frontage (ft.):</u>	>100	>100	100 min.
<u>Lot depth (ft.):</u>	>80	>80	80 min.
<u>Primary Front Yard (ft.):</u>	>5	>5	5 min.
<u>Right Yard (ft.):</u>	10	10	10 min.
<u>Left Yard (ft.):</u>	>10	>10	10 min.
<u>Rear Yard (ft.):</u>	>15	>15	15 min.
<u>Height (ft.):</u>	<35	<35	40 max.
<u>Building Coverage (%):</u>	23	21.2	40 max.
<u>Open Space Coverage (%):</u>	52	52	25 min.
		<b>Variance request shown in red.</b>	

**Other Permits/Approvals Required**

Planning Board – Site Plan Review

## Neighborhood Context



## Previous Board of Adjustment Actions

May 25, 2004 - The Board **granted** a variance to replace a pre-existing non-conforming trailer that was claimed to be unsafe with a newer trailer of the same size.

May 24, 2005 – The Board **granted** a variance to allow a 14' x 56' mobile home replacing a 10' x 56' mobile home destroyed by fire.

August 19, 2011 – The Board **granted** a variance to construct an 8' x 14' rear sunroom with a 12' rear yard setback, 15' required.

December 17, 2013 – The Board **granted** variances to allow a recreational vehicle to be used as a residence and to allow a lawful nonconforming use to be enlarged or changed without conforming to the requirements of the Ordinance. The variances were granted with the stipulation that they were granted for a one-year period from the date of the December meeting and would lapse if the recreational vehicle was not replaced by a manufactured housing structure by December 17, 2014.

September 26, 2017 – The Board took action on the following variances:

- Section 10.521 to allow (a) a lot area per dwelling unit of 3,149± s.f. where 7,500 s.f. is required **Granted**; and (b) to allow right side yard setbacks for the four manufactured home units respectively of 6.4'±, 7.3'±, 2.5'±, and 1.7'± where 10' is required **Not Granted**.
- Section 10.334 to allow a lawful nonconforming use to be extended, enlarged or changed except in conformity with the Ordinance. **Granted**

September 24, 2019 – The Board granted a one year extension of the above variances until September 26, 2020.

## **Planning Department Comments**

This property was before the Board in 2017 and received variances to begin improving the site as shown in the history above and subsequent extension in 2019 that expired on September 26, 2020. They are seeking a variance for lot area per dwelling unit and have included 2 additional new replacement mobile homes as part of this application.

## **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.*



8.

Petition of **Bacman Enterprises, Inc., Owner**, for property located at **140 Edmond Avenue**, wherein relief is needed from the Zoning Ordinance to redesign previously approved parking which requires the following 1) Variance from Section 10.1113.20 to allow off-street parking spaces to be located in the required front yard or between a principal building and the street. 2) Variance from Section 10.1114.32(a) to allow vehicles to enter and leave a parking area by backing out into or from a public street or way. 3) Variance from Section 10.1114.32(b) to allow vehicles to enter and leave each parking space without requiring the moving of any other vehicle. Said property is shown on Assessor Map 220 Lot 81 and lies within the Single Residence B (SRB) District.

**Existing & Proposed Conditions**

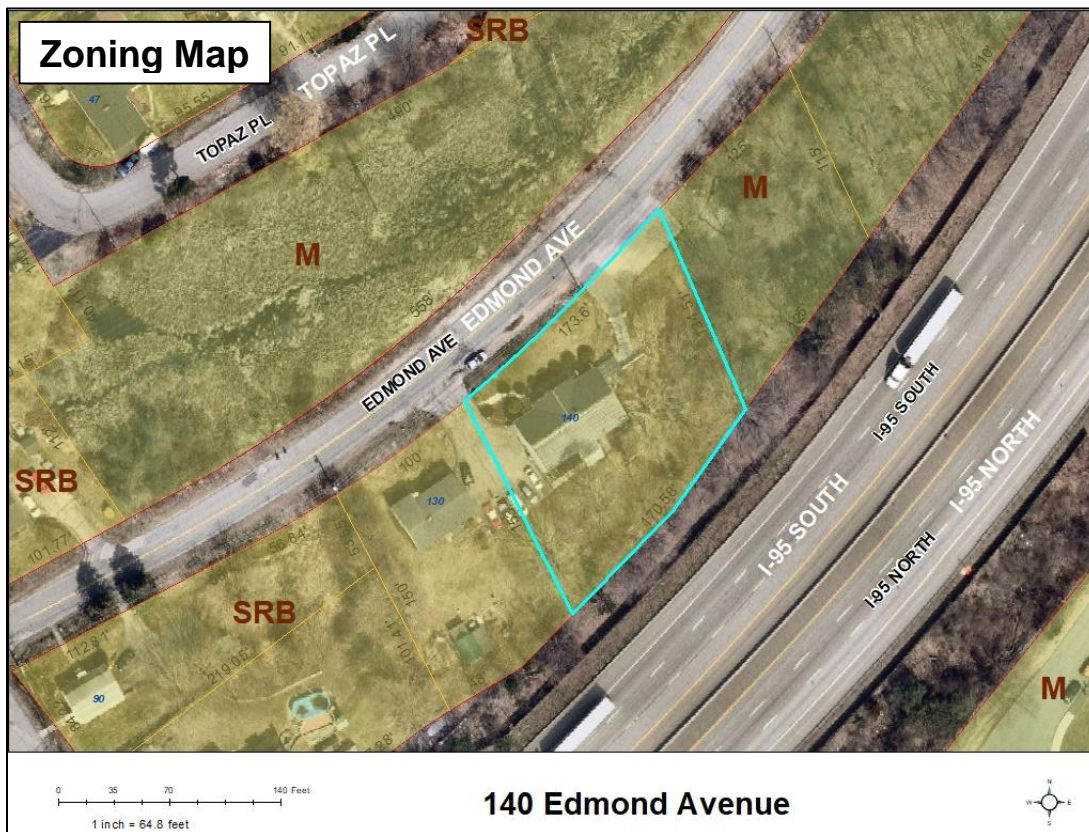
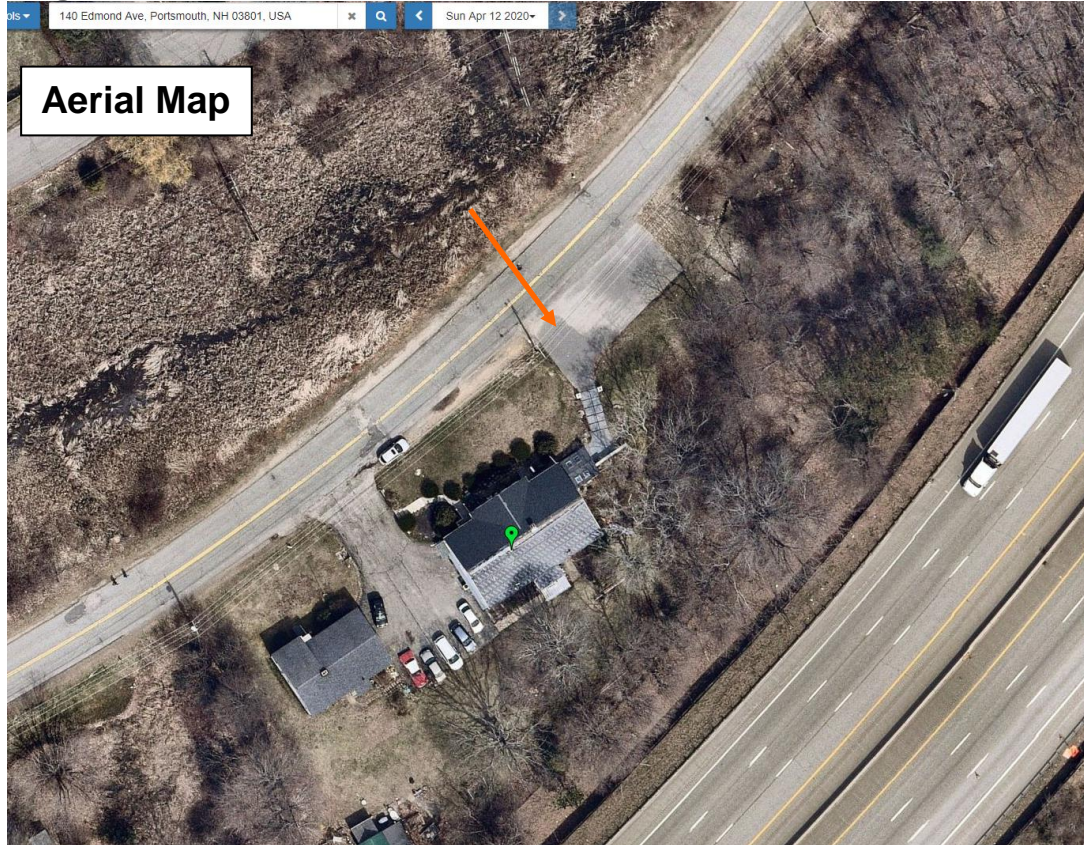
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family/ office	Two- family/medical office	Primarily Single Family
<u>Lot area (sq. ft.):</u>	23,176	23,176	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	11,588	11,588	15,000 min.
<u>Street Frontage (ft.):</u>	>100	>100	100 min.
<u>Lot depth (ft.):</u>	154	154	100 min.
<u>Primary Front Yard (ft.):</u>	>30	>30	30 min.
<u>Right Yard (ft.):</u>	>10	>10	10 min.
<u>Left Yard (ft.):</u>	>10	>10	10 min.
<u>Rear Yard (ft.):</u>	>30	>30	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	12	12	20 max.
<u>Open Space Coverage (%):</u>	71	71	40 min.
<u>Parking</u>	9	9*	12
<u>Estimated Age of Structure:</u>	1957	<b>Variance request shown in red.</b> *Will need parking CUP for providing less than required.	

**Other Permits/Approvals Required**

Planning Board/TAC – Site Review

Conservation Commission/Planning Board – Wetlands CUP

# Neighborhood Context





## **Previous Board of Adjustment Actions**

May 23, 1978 – the Board **granted** 300+ sf chiropractic office as part of a residence with the following stipulations:

- 5 parking spaces be established and kept separate from the existing driveway
- that the regularly scheduled office hours not include Saturday or Sunday.

August 17, 2004 - the Board **denied** variances to allow the entire lower level of the 2,300± sf building to be used as a chiropractic office and to allow the additional required parking to back out onto the street and park one behind another.

September 28, 2004 - the Board **denied** a Request for Rehearing. The owner subsequently appealed the denial to the Superior Court and there was an Administrative Inspection with the City Attorney, the Chief Planner, the Chief Building Inspector and the petitioner's reference to the plan submitted by the Petitioner on April 20, 2005.

May 17, 2005 – (This meeting was preceded by a hearing in Superior Court with a subsequent Order to Bacman Enterprises regarding a new application to be submitted and surveyed site plan) The Board **granted** variances to allow the entire lower level to be used as a chiropractic office where a 300s.f. office and 5 parking spaces had been approved in 1978 in a district where the use was not allowed and to allow required parking to back out onto the street and park one behind another. The variances were subject to the **stipulations** that an engineered site plan, including parking spaces conforming in size and location as depicted on the plan be provided and that the property must meet current codes as referenced in the staff memorandum to the board.

August 16, 2005 – The Board **accepted** an engineered site plan submitted for approval as stipulated in the granting of the variances at the May 17, 2005 meeting.

April 18, 2006 – The Board granted a variance extension through May 16, 2007.

June 23, 2019 – The Board voted to grant variances as follows:

- Section 10.333 to allow a nonconforming use to be extended into other parts of the building;
- Section 10.1113.20 to allow off-street parking spaces to be located in the required front yard or between a principal building or the street; and
- Section 10.1114.32 to allow vehicles to enter or leave a parking area by backing out, into or from a public street or way.

## **Planning Department Comments**

The Board granted variances on July 23, 2019 as shown in the history and in the applicant's narrative related to extending the medical office use and for off-street parking. The applicant is currently going through the site review process with the Technical Advisory Committee (TAC). The off street parking parallel with Edmond Ave was discussed and the Committee advised the applicant to try to accommodate more

spaces in the parking area and eliminate the parallel parking on Edmond Ave. Because of the revised layout, the applicant must seek the same variances that were granted in 2019 as well as from Section 10.1114.32(b) to allow tandem parking.

### **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.*

Petition of **Karen & Rick Rosania, Owners**, for property located at **32 Boss Avenue**, wherein relief is needed from the Zoning Ordinance to add a second story to an existing dwelling and enclose rear deck which requires the following: 1) A Variance from Section 10.521 to allow a 14' front yard where 30' is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 153 Lot 5 and lies within the Single Residence B (SRB) District.

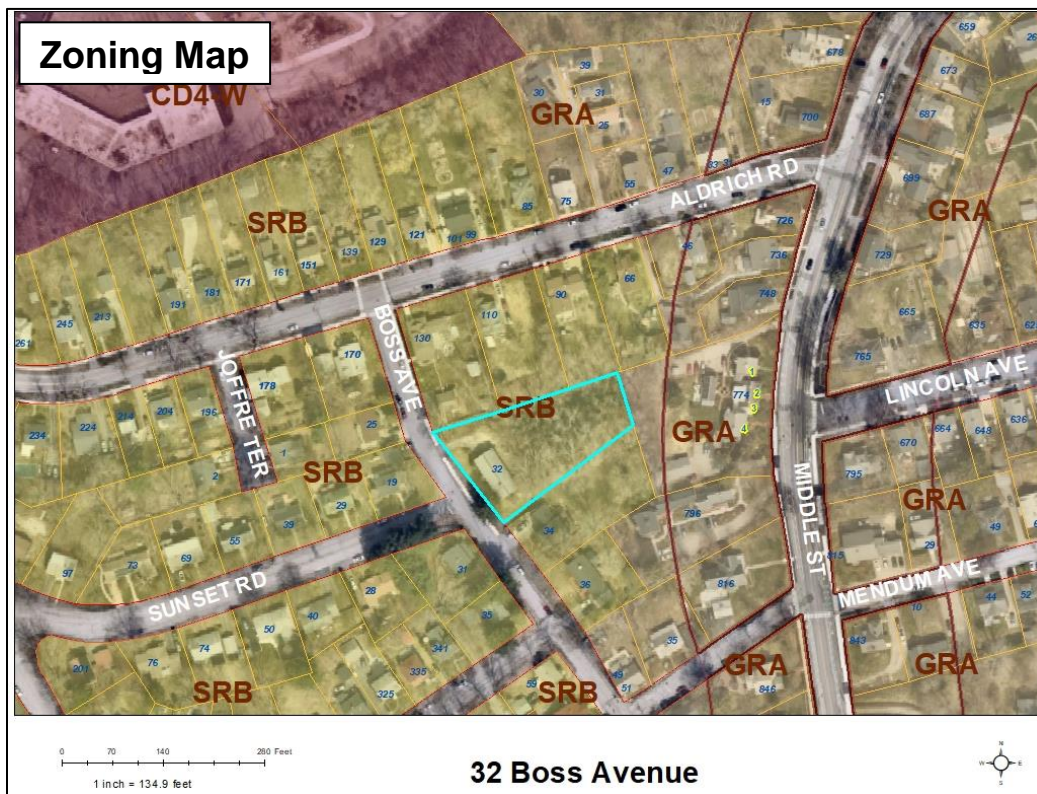
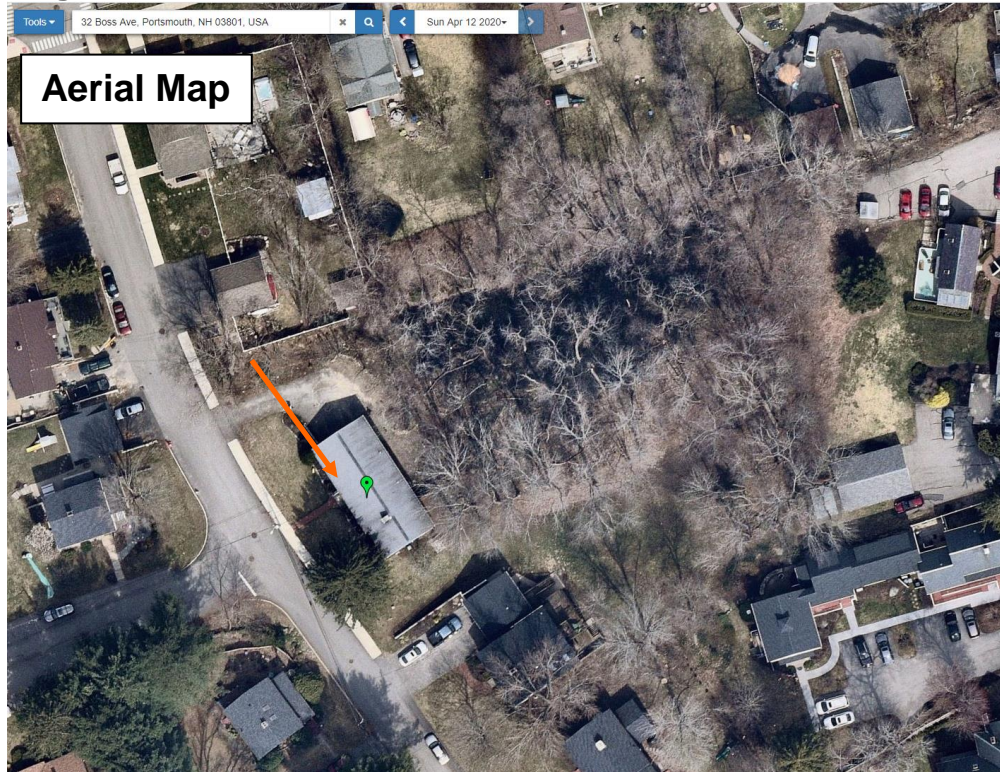
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	2 <sup>nd</sup> story addition	Primarily Single Family
<u>Lot area (sq. ft.):</u>	27,178	27,178	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	27,178	27,178	15,000 min.
<u>Street Frontage (ft.):</u>	155	155	100 min.
<u>Lot depth (ft.):</u>	269	269	100 min.
<u>Primary Front Yard (ft.):</u>	18	<b>14</b>	30 min.
<u>Right Yard (ft.):</u>	20	20	10 min.
<u>Left Yard (ft.):</u>	58	58	10 min.
<u>Rear Yard (ft.):</u>	191	191	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	>20	>20	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1960	<b>Variance request shown in red.</b>	

### Other Permits/Approvals Required

Planning Board/CC – Wetland CUP (Determination pending)

# Neighborhood Context



## Previous Board of Adjustment Actions

No BOA history found.

## Planning Department Comments

The applicant seeks to construct a second story onto the existing dwelling and enclose a rear deck. The house is situated towards the front of the property due to wetlands that are located in the center of the lot. The existing house is 18 feet from the front lot line and the addition call for a front portico that will encroach an additional 4 feet, creating a 14 foot front setback. The front yard averaging provision does not help in this case, as the average is greater than the existing setback.

## 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.

Petition of **Lori Sarsfield, Owner**, for property located at **56 Clinton Street**, wherein relief is needed from the Zoning Ordinance for the addition of attached one car garage which requires the following: 1) A Variance from Section 10.521 to allow a 5' right side yard where 10' is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 158 Lot 6 and lies within the General Residence A (GRA) District.

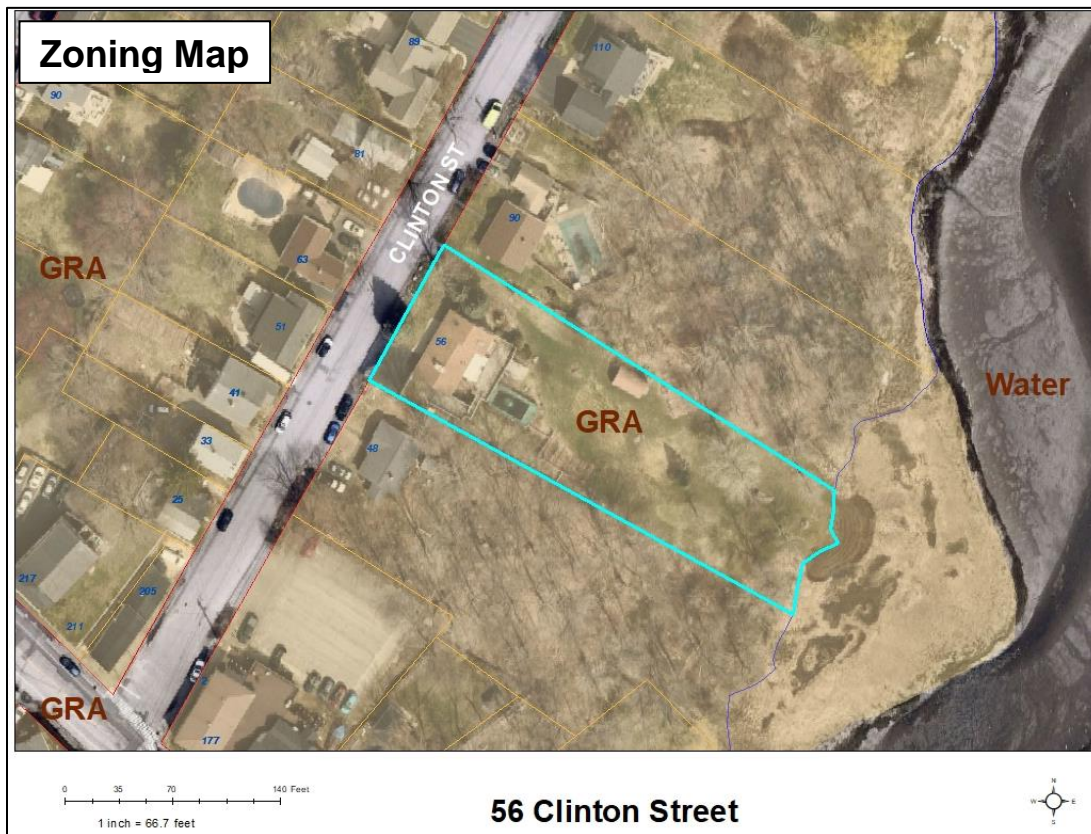
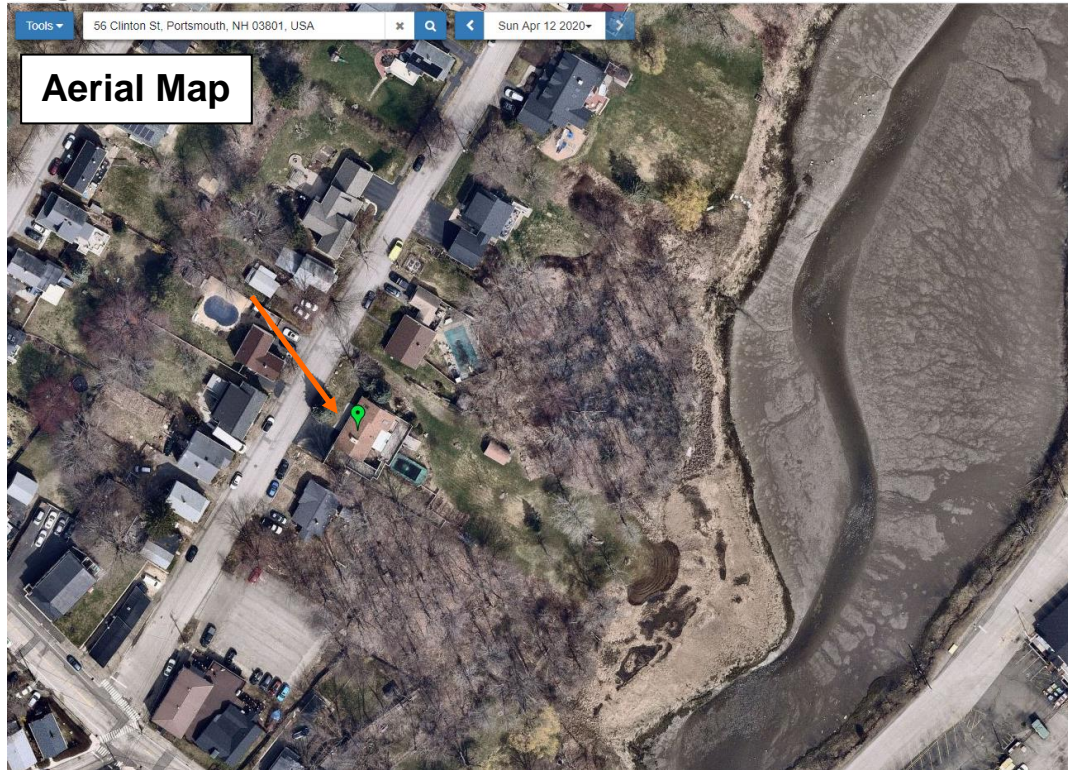
**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Construct attached 1 car garage	Primarily residential uses
<u>Lot area (sq. ft.):</u>	28,348	28,348	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	28,348	28,348	7,500 min.
<u>Street Frontage (ft.):</u>	100	100	100 min.
<u>Lot depth (ft.):</u>	308	308	70 min.
<u>Primary Front Yard (ft.):</u>	31	27	15 min.
<u>Left Side Yard (ft.):</u>	30	30	10 min.
<u>Right Side Yard (ft.):</u>	7'7"	<b>5</b>	10 min.
<u>Rear Yard (ft.):</u>	221	221	20 min.
<u>Height (ft.):</u>	17	19	35 max.
<u>Building Coverage (%):</u>	6.5	9	25 max.
<u>Open Space Coverage (%):</u>	81	81	30 min.
<u>Parking:</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1945	<b>Variance request shown in red.</b>	

**Other Permits/Approvals Required**

None.

# Neighborhood Context



## Previous Board of Adjustment Actions

No BOA history found.

## Planning Department Comments

The applicant seeks to construct a rear addition and add a one car garage on the right side of the house. The garage addition will encroach into the side yard 5 feet, where it is currently 7'7". All other dimensional requirements are in compliance with the lot and structure.

## 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.*



11.

Petition of **Matthew & Sarah Currid, Owners**, for property located at **542 State Street**, wherein relief is needed from the Zoning Ordinance to convert a single-family dwelling into a two-family with new 10' x 18' two-story deck which requires the following: 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 2,175 square feet where 7,500 square feet per dwelling is required. Said property is shown on Assessor Map 127 Lot 18 and lies within the Mixed Residential Office (MRO) District.

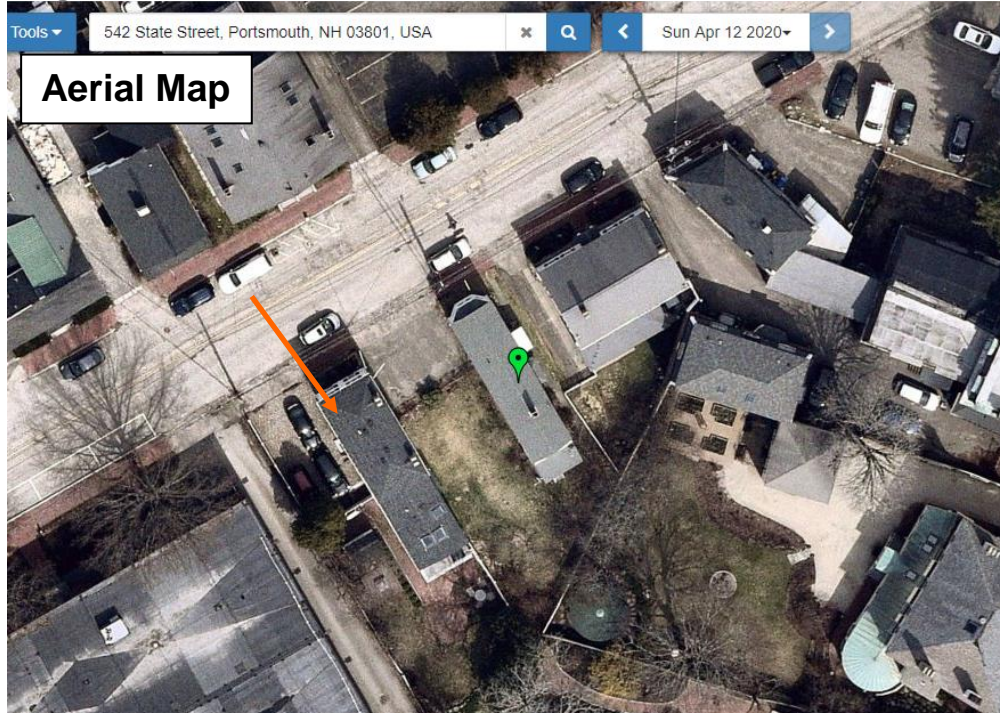
**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Convert to two family	Primarily Single Family
<u>Lot area (sq. ft.):</u>	4,612	4,612	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,612	<b>2,175* (2,306 actual)</b>	7,500 min.
<u>Street Frontage (ft.):</u>	50	50	100 min.
<u>Lot depth (ft.):</u>	107	107	80 min.
<u>Primary Front Yard (ft.):</u>	5	5	5 min.
<u>Left Side Yard (ft.):</u>	7	7	10 min.
<u>Right Side Yard (ft.):</u>	30	20	10 min.
<u>Rear Yard (ft.):</u>	21	21	15 min.
<u>Height (ft.):</u>	22	22	40 max.
<u>Building Coverage (%):</u>	18	22	40 max.
<u>Open Space Coverage (%):</u>	58	54	25 min.
<u>Parking:</u>	3	3	1.3
<u>Estimated Age of Structure:</u>	1840	Variance request shown in red. *Indicated in application and legal notice	

**Other Permits/Approvals Required**

None

# Neighborhood Context



## Previous Board of Adjustment Actions

No BOA history found.

## Planning Department Comments

The applicant seeks to convert the existing single family into a two family dwelling and add a second story deck with egress. The applicant could seek the conversion to a two-family under Section 10.812, which allows a dwelling existing prior to January 1, 1980 to be converted to a multifamily dwelling, however the addition of the deck precludes them from using this provision in the Ordinance. In the MRO, the lot area per dwelling unit can be reduced to 1,500 square feet if there are no exterior changes except for minimum egress, and the lot conforms to open space building coverage and provides the required parking. The addition of the two-story deck is an exterior change that exceeds the minimum egress, therefore the conversion to a two family must comply with the 7,500 square feet per dwelling unit.

The applicant initially stated the lot area per dwelling unit would be 2,175 square feet, and this is what was advertised. However, the lot size is 4,612 which would result in a lot area per dwelling unit of 2,306. If the Board grants approval of the request, the approval should note the correct square footage for the lot area per dwelling unit as 2,306.

## 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.*