BOARD OF ADJUSTMENT PORTSMOUTH, NEW HAMPSHIRE

Remote Meeting Via Zoom Conference Call

Register in advance for this meeting: https://zoom.us/webinar/register/WN-u3ovnCCPRhm2S0b5FiTgsA

You are required to register to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. Public comments can be emailed in advance to planning@cityofportsmouth.com. For technical assistance, please contact the Planning Department by email (planning@cityofportsmouth.com) or phone (603) 610-7216.

Per NH RSA 91-A:2, III (b) the Chair has declared the COVID-19 outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2021-06, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

7:00 P.M. May 18, 2021

AGENDA

I. APPROVAL OF MINUTES

A) Approval of the minutes of the meetings of April 20, 2021.

II. OLD BUSINESS

- A) Petition of **John McMahon & Jessica Kaiser**, **Owners**, for property located at **30 Spring Street** whereas relief is needed from the Zoning Ordinance to remove existing front entry and construct new front porch which requires the following: 1) Variances from Section 10.521 to allow a) a 5 inch front yard where 15 feet is required; b) a 4 foot right side yard where 10 feet is required; and c) 29% building coverage where 25% 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 130 Lot 13 and lies within the General Residence A (GRA) District.
- B) Petition of **Spaulding Group, LLC, Owner**, for property located at **180 Spaulding Turnpike** whereas relief is needed from the Zoning Ordinance to for the partial demolition of the existing showroom and construction of new showroom which requires the following: 1) A Variance from Section 10.531 to allow a 15 foot rear yard where 50 feet is required. 2) A Variance from Section 10.591 to allow a structure to be setback 15 feet from a

parcel in a Residential district where 100 feet is required. 3) A Variance from Section 10.592.20 to allow the sale, rental, leasing, distribution and repair of vehicles be located adjacent to a Residential district where a minimum of 200 feet is required. 4) A Variance from Section 10.321 to allow a nonconforming building or structure to extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. 5) A Variance from Section 10.1113.20 to allow seven off-street parking spaces to be located in the front yard and between the principal building and a street where parking spaces are not allowed. Said property is shown on Assessor Map 236 Lot 39 and lies within the General Business (GB) District.

C) Petition of **John & Chelsea Chapin, Owners**, for property located at **1281 Islington Street** whereas relief is needed from the Zoning Ordinance for the keeping of chickens which requires the following: 1) A Special Exception from Section 10.440 Use #17.20 to allow the keeping of farm animals where the use is permitted by Special Exception. Said property is shown on Assessor Map 233 Lot 120 and lies within the Single Residence B (SRB) District.

III. PUBLIC HEARINGS – NEW BUSINESS

- A) Petition of **Rigz Enterprises LLC**, **Owner**, and **Dennis Stoddard**, **Applicant** for property located at **806 US Route 1 Bypass** whereas relief is needed from the Zoning Ordinance to Replace existing freestanding sign with new free standing sign which requires the following: 1) A Variance from Section 10.1253.10 to allow a 1' front and a 1' side yard setback for a freestanding sign where 20' is required for each. Said property is shown on Assessor Map 161 Lot 43 and lies within the Business (B) District.
- B) Petition of **Arun Naredla, Owner**, for property located at **1 Harding Road** whereas relief is needed from the Zoning Ordinance to construct a 6' tall fence within the front yard which requires the following: 1) A Variance from Section 10.515.13 to allow a 6' tall fence within the front yard where a 4' tall fence is the maximum allowed. Said property is shown on Assessor Map 247 Lot 45 and lies within the Single Residence B (SRB) District. **REQUEST TO POSTPONE**
- C) Petition of **The Edmunds Shirley A Revocable Trust of 2000, Owner**, and **Tatum Brown**, **Applicant** for property located at **102 Martha Terrace** whereas relief is needed from the Zoning Ordinance for the keeping of chickens which requires the following: 1) A Special Exception from Section 10.440 Use #17.20 to allow the keeping of farm animals where the use is permitted by special exception. Said property is shown on Assessor Map 283 Lot 27 and lies within the Single Residence A (SRA) District.
- D) Petition of **Thomas M. Penaskovic and Emily B. Penaskovic, Owners**, for property located at **29 Burkitt Street** whereas relief is needed from the Zoning Ordinance to demolish existing rear deck and construct two-story addition which requires the following: 1) Variances from Section 10.521 to allow a) a 9' left side yard where 10' is required; and b) 26% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.515.14 to allow an 8' setback where 10' is required for a condenser. 3) An after-the-fact variance from Section 10.515.14 to allow a 6' setback where 10' is required for a condenser.

- 4) 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 160 Lot 19 and lies within the General Residence A (GRA) District.
- E) Petition of Brian J. Wazlaw Revocable Trust of 2006 and Roxanne R. Wazlaw Revocable Trust of 2006, Owners, and Brian Wazlaw, Applicant for property located at 89
 Sagamore Avenue whereas relief is needed from the Zoning Ordinance to remove existing 8' x 12' shed and replace with new 8' x 12' shed in the same location which requires the following: 1) Variance from Section 10.521 to allow 29.5% building coverage where 25% is the maximum allowed 2) A Variance from Section 10.573.10 to allow a 1.5' side setback where 5' is required. 3) A Variance from Section 10.321 to allow a non-conforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 221 Lot 28 and lies within the General Residence A (GRA) District.
- F) Petition of **OMJ Realty LLC, Owner**, for property located at **581 Lafayette Road** whereas relief is needed from the Zoning Ordinance to add indoor golf simulators in an existing restaurant which requires the following: 1) A Special Exception from Section 10.440 Use #4.30 to allow an indoor recreation use where the use is permitted by Special Exception. Said property is shown on Assessor Map 229 Lot 8B and lies within the Gateway (G1) District.

IV. OTHER BUSINESS

V. ADJOURNMENT

TO: Zoning Board of Adjustment

FROM: Peter Stith, AICP, Planning Department

DATE: May 11, 2021

RE: Zoning Board of Adjustment May 18, 2021 Meeting

OLD BUSINESS

- 1. 30 Spring Street
- 2. 180 Spaulding Turnpike
- 3. 1281 Islington Street

NEW BUSINESS

- 1. 806 Route 1 Bypass
- 2. 1 Harding Road Request to Postpone
- 3. 102 Martha Terrace
- 4. 29 Burkitt Street
- 5. 89 Sagamore Avenue
- 6. 581 Lafayette Road

OLD BUSINESS

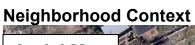
1.

Petition of **John McMahon & Jessica Kaiser, Owners**, for property located at **30 Spring Street** whereas relief is needed from the Zoning Ordinance to remove existing front entry and construct new front porch which requires the following: 1) Variances from Section 10.521 to allow a) a 5 inch front yard where 15 feet is required; b) a 4 foot right side yard where 10 feet is required; and c) 29% building coverage where 25% 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 130 Lot 13 and lies within the General Residence A (GRA) District.

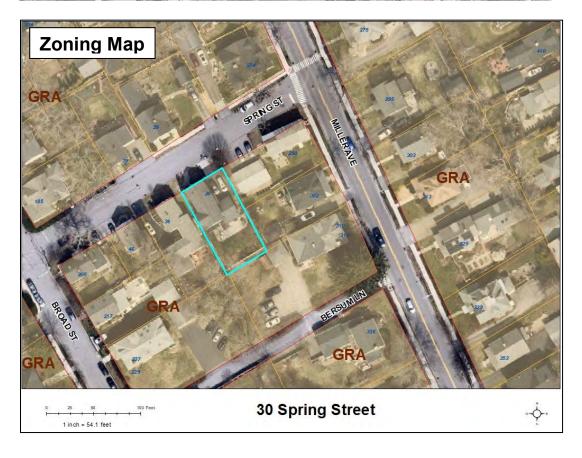
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Single family	Demo existing front entry/Construct new porch	Primarily residential uses	
Lot area (sq. ft.):	4,953	4,953	7,500	min.
Lot Area per Dwelling Unit (sq. ft.):	4,953	4,953	7,500	min.
Street Frontage (ft.):	50	50	100	min.
Lot depth (ft.):	100	100	70	min.
Front Yard (ft.):	4.1'	5"	15	min.
Right Yard (ft.):	0.4'	4'	10	min.
Left Yard (ft.):	7'4"*	7'4"	10	min.
Rear Yard (ft.):	40+	40+	20	min.
Height (ft.):	<35	<35	35	max.
Building Coverage (%):	27	29	25	max.
Open Space Coverage (%):	>30	>30	30	min.
<u>Parking</u>	2	2	2	
Estimated Age of Structure:	1900	Variance request(s)	shown in red.	

Other Permits/Approvals Required None.







Previous Board of Adjustment Actions

<u>December 16, 2003</u> – The Board granted variances from Article III, Section 10-302(A) and Article IV, Section 10-40(A)(2)(c) to allow the following:

A 2' x 8' bay window to the front with a 4'1" front yard setback where 15' is the minimum required. An 18' x 22' 1 $\frac{1}{2}$ story garage with second floor living space having a 7'4" left side yard where 10' is the minimum required. A 6' x 12' deck creating 30.4% building coverage where 25% is the maximum allowed.

November 17, 2020 – The Board granted variances from Section 10.521 to allow the following:

28.5% building coverage where 25% is the maximum allowed; a 0 foot front yard where 15' is required and a 4' side yard where 10 feet is required. (Original request was for a 0' side yard and the Board stipulated that the aallowable side yard shall be 4 feet)

Planning Department Comments

The applicant was before the Board in November 2020 with a request to extend the porch to the right side yard property line, however the Board stipulated the right side shall be 4 feet instead of the requested 0'. The applicant is now requesting to construct a new porch across the front of the house extending towards the left side property line. A 0' front yard variance was granted in November 2020, however the new proposal states the front yard will be 5 inches from the property line.

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 <u>special conditions</u> 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**

<u>Owing to these special conditions</u>, 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.

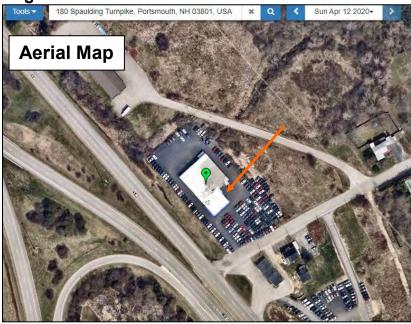
Petition of **Spaulding Group**, **LLC**, **Owner**, for property located at **180 Spaulding Turnpike** whereas relief is needed from the Zoning Ordinance to for the partial demolition of the existing showroom and construction of new showroom which requires the following: 1) A Variance from Section 10.531 to allow a 15 foot rear yard where 50 feet is required. 2) A Variance from Section 10.591 to allow a structure to be setback 15 feet from a parcel in a Residential district where 100 feet is required. 3) A Variance from Section 10.592.20 to allow the sale, rental, leasing, distribution and repair of vehicles be located adjacent to a Residential district where a minimum of 200 feet is required. 4) A Variance from Section 10.321 to allow a nonconforming building or structure to extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. 5) A Variance from Seciont 10.1113.20 to allow seven off-street parking spaces to be located in the front yard and between the principal building anda street where parking spaces are not allowed. Said property is shown on Assessor Map 236 Lot 39 and lies within the General Business (GB) District.

Existing & Proposed Conditions

Existing & Proposed	Conditions			
	<u>Existing</u>	<u>Proposed</u>	Permitted / Required	
<u>Land Use</u> :	Auto	New showroom	Primarily commercial	
	dealership	addtion	uses	
Lot area (sq. ft.):	54,384	54,384	43,560	min.
Street Frontage (ft.):	54,384	54,384	200	min.
Front Yard (ft.):	39	39	30	min.
Right Yard (ft.):	95	95	30	min.
Left Yard (ft.):	100	100	30	min.
Rear Yard (ft.):	15	15	50	min.
Height (ft.):	17	25	60	max.
Building Coverage	21.5	26	30	max.
<u>(%):</u>				
Open Space	3	3	20	min.
Coverage (%):				
<u>Parking</u>	30	37	37	
Estimated Age of	1975	Variance request	(s) shown in red.	
Structure:		·	• •	

Other Permits/Approvals Required

TAC/Planning Board – Site Plan Review





Previous Board of Adjustment Actions

November 20, 2001 – The Board granted Variances from Section 10-908 Table 14 to allow a 105 s.f. free standing internally lit sing 29'10" high where 20' is the maximum height allowed, creating a 0' front setback where 20' is the minimum allowed and a 48 s.f. free standing sign internally lit creating a 0' front setback where 20' is the minimum allowed.

<u>March 21, 2000</u> – the Board **denied** a Variance to construct a 45' x 94' two story addition after the demolition of the existing showroom: a Variance to allow: a) a 38'+ front yard where 70' is

the minimum required and b) a 15'± rear yard where 50' is the minimum required, a Variance to allow said addition 15'± from property zoned residentially where 100' is the minimum required; and, a Variance to allow said addition to be built within 100' of property zoned residentially without providing screening.

<u>September 19, 1995</u> – the Board **granted** a Variance to allow the installation of a vinyl awning projecting 4' on side of sales showroom creating a 36' front yard setback where 70' is required with the **stipulation** there be no increase in the total signage allowed.

November 18, 1986 - the Board **granted** a Special Exception to permit the construction of a 4' x 12' addition onto an existing automobile dealership for use as a waiting room; and, a Variance to permit the addition to be located less than 100' from residentially zoned property where a minimum distance of 100' is required.

<u>June 24, 1986</u> - the Board **denied** a Variance to allow the construction of a $10' \times 20'$ shed with a front yard of 30' where a 70' front yard is required; however, the Board **granted** a Special Exception to permit said addition to be placed onto a motor vehicles sales facility.

Planning Department Comments

The applicant is proposing to demolish the existing showroom and construct a new, two-story showroom. As the proposed use will be expanded on the site with the additional square footage of the structure, variances from Section 10.591 and 10.592.20 are needed as the property abuts the SRB zone. A similar variance request was denied in 2000 as shown in the history above. The applicant's representative discusses why Fisher v. Dover does not apply in this case due to changes in the law regarding hardship criteria. The plan shows 7 new parking spaces located in the front yard and in front of the building which are currently used for vehicle storage. The conversion to official parking spaces triggers the need for a variance from this provision.

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 <u>special conditions</u> 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**

<u>Owing to these special conditions</u>, 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.

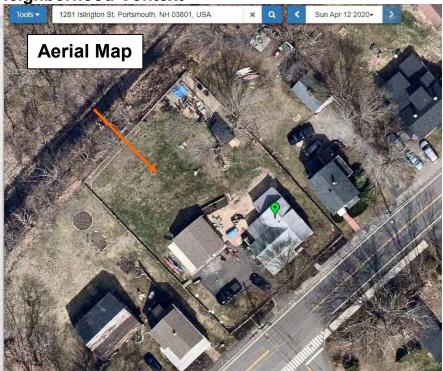
Petition of **John & Chelsea Chapin, Owners**, for property located at **1281 Islington Street** whereas relief is needed from the Zoning Ordinance for the keeping of chickens which requires the following: 1) A Special Exception from Section 10.440 Use #17.20 to allow the keeping of farm animals where the use is permitted by Special Exception. Said property is shown on Assessor Map 233 Lot 120 and lies within the Single Residence B (SRB) District.

Existing & Proposed Conditions

	Existing	Proposed	Permitted /	
	0: 1	17	Required	
Land Use:	Single-	Keeping of	Primarily Single-	
	family	chickens	family Uses	
Lot area (sq. ft.):	15,681	15,681	15,000	min.
Lot Area per Dwelling Unit	15,681	15,681	15,000	min.
(sq. ft.):				
Street Frontage (ft.):	106	106	100	min.
Lot depth (ft.):	148	148	100	min.
Primary Front Yard (ft.):	8	8	30	min.
Left Yard (ft.):	20	20	10	min.
Right Yard (ft.):	15	15	10	min.
Rear Yard (ft.):	68	5 (coop)	30	min.
Building Coverage (%):	<20	<20	20	max.
Open Space Coverage	>40	>40	40	min.
<u>(%):</u>				
Estimated Age of	1900	Special Exception request shown in red.		
Structure:			-	

Other Permits/Approvals Required

None.





Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is requesting a secial exception to have up to 6 hens. If the Board grants the request, the following stipulation should be considered.

That there be no more than 6 chickens and no roosters.

Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

- 1. Standards as provided by this Ordinance for the particular use permitted by special exception;
- 2. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;
- 3. No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;
- 4. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;
- 5. No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and
- 6. No significant increase of stormwater runoff onto adjacent property or streets.

NEW BUSINESS

1.

Petition of **Rigz Enterprises LLC**, **Owner**, and **Dennis Stoddard**, **Applicant** for property located at **806 US Route 1 Bypass** whereas relief is needed from the Zoning Ordinance to Replace existing freestanding sign with new free standing sign which requires the following: 1) A Variance from Section 10.1253.10 to allow a 1' front and a 1' side yard setback for a freestanding sign where 20' is required for each. Said property is shown on Assessor Map 161 Lot 43 and lies within the Business (B) District.

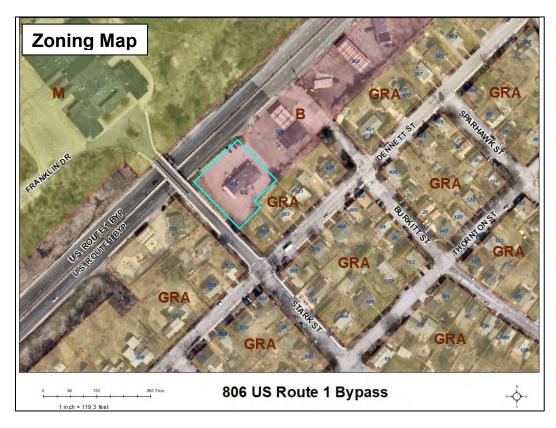
Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Retail/Sign District 4	Retail/ Sign District 4	Primarily commercial uses	
Lot area (sq. ft.):	21,780	21,780	20,000	min.
Street Frontage (ft.):	147	147	100	min.
Lot depth (ft.):	152	152	80	min.
Sign Area (sq. ft.)	75	64	100	
Sign Height (ft.)	11'8"	95"	20	
Front Yard (ft.):	1	1	20 (sign)	min.
Side Yard (ft.)	1	1	20 (sign)	
		Variance request	(s) shown in red.	

Other Permits/Approvals Required

None.





Previous Board of Adjustment Actions

September 21, 2004 - The Board approved the following:

1 a Variance from Article XII, Section 10-1204 Table 15 is requested to allow 37 parking spaces to be provided where 58 parking spaces are required,

2) a Variance from Article XII, Section 10-1201(A)(3)(d)(1) to allow parking within 50' of a residential district and no screening to be provided.

<u>August 18, 2015</u> – The Board approved the following to expand first floor to 5,150 sq. ft. of retail space and construct second floor for office space.

- 1. A Variance from Section 10.1113.20 to allow 9 parking spaces to be located within the required front yard and between the principal building and the street;
- 2. A Variance from Section 10.1112.30 to allow 26 fully available parking spaces and 2 restricted parking spaces where 28 are required and to allow parking 6.5' from a residential zone where 50' is required.
- 3. A Variance from Section 10.1113.41 to allow parking 0' from the front lot line where 20' is required;
- 4. A Variance from Section 10.1113.43 to not provide landscaping and screening within the front setback.

The following changes to the request were made:

- The request for 26 available parking spaces and 2 restricted parking spaces is not required and is withdrawn.
- The Variance to allow parking 6.5' from a residential zone is granted from Section 10.1113.30, not Section 10.1112.30.

The following Stipulation was included:

The applicant must work with the Planning Board, through the site plan review process, to improve the fencing along the southeast property line so that it will provide an effective buffer to mitigate the light and sound reaching surrounding properties, and to prevent pedestrian access through or along the fencing.

October 18, 2016 – The Board approved the following to allow a second free-standing sign on a lot.

- 1. A Variance from Section 10.1243 to allow two free-standing signs on a lot where only one free-standing sign is allowed.
- 2. A Variance from Section 10.1253.10 to allow a 4'± setback from the front lot line where 20' is the minimum required.
- 3. A Variance from Section 10.1251.20 to allow a sign area for a free-standing sign of 120± s.f. where 100 s.f. is the maximum sign area allowed.
- 4. A Variance from Section 10.1253.10 to allow a 12'± setback from the front lot line where 20' is the minimum required.

Planning Department Comments

The applicant is proposing to replace the existing free-standing sign with a new one in the same location, which is essentially on the front and side property lines. The developed parcel consists of parking spaces and the business structure. The proposed sign is slightly smaller than the existing sign and complies with all other dimensional

requirements for free standing signs in the sign district. To adhere to the required setback would place the sign in the middle of the parking lot.

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.
- The "unnecessary hardship" test:
 (a) The property has <u>special conditions</u> 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**

<u>Owing to these special conditions</u>, 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.

.

Request to Postpone

Petition of **Arun Naredla, Owner**, for property located at **1 Harding Road** whereas relief is needed from the Zoning Ordinance to construct a 6' tall fence within the front yard which requires the following: 1) A Variance from Section 10.515.13 to allow a 6' tall fence within the front yard where a 4' tall fence is the maximum allowed. Said property is shown on Assessor Map 247 Lot 45 and lies within the Single Residence B (SRB) District.

Existing & Proposed Conditions

2.

	Existing	Proposed	Permitted / Required	
Land Use:	Single-	6 foot fence	Primarily Single-	
Lot area (sq. ft.):	family 15,058	in front yard 15,058	family Uses 15,000	min.
Lot Area per Dwelling Unit	15,058	15,058	15,000	min.
(sq. ft.):	·			
Street Frontage (ft.):	248	248	100	min.
Lot depth (ft.):	100	100	100	min.
Primary Front Yard (ft.):	30	30	30	min.
Secondary Front Yard (ft.):	32	32	30	min.
Right Yard (ft.):	60	60	10	min.
Rear Yard (ft.):	20	20	30	min.
Building Coverage (%):	13	13	20	max.
Open Space Coverage	>40	>40	40	min.
<u>(%):</u>				
Estimated Age of Structure:	1970	Variance reques	st shown in red.	





May 18, 2021 Meeting

Other Permits/Approvals Required

None.

Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing a 6 foot tall fence in the front yard along Elwyn Road. Consulting with staff at DPW, this proposal may create more issues with sight lines at the already challenging intersection of Harding Road and Elwyn Road. This was conveyed to the applicant and at this time they have submitted a request to postpone to confer with City staff about options for their property.

Review Criteria

AND

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
- 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 <u>special conditions</u> that distinguish it from other properties in the area.
 - (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

<u>Owing to these special conditions</u>, 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 **The Edmunds Shirley A Revocable Trust of 2000, Owner**, and **Tatum Brown, Applicant** for property located at **102 Martha Terrace** whereas relief is needed from the Zoning Ordinance for the keeping of chickens which requires the following: 1) A Special Exception from Section 10.440 Use #17.20 to allow the keeping of farm animals where the use is permitted by special exception. Said property is shown on Assessor Map 283 Lot 27 and lies within the Single Residence A (SRA) District.

Existing & Proposed Conditions

	Existing	Proposed	Permitted /	
			<u>Required</u>	
Land Use:	Single-	Keeping of	Primarily Single-	
	family	chickens	family Uses	
Lot area (sq. ft.):	10,018	10,018	43,560	min.
Lot Area per Dwelling Unit	10,018	10,018	43,560	min.
(sq. ft.):				
Street Frontage (ft.):	190	190	150	min.
Lot depth (ft.):	100	100	200	min.
Primary Front Yard (ft.):	25	25	30	min.
Left Yard (ft.):	15	7 (coop)	20/ 5(coop)	min.
Rear Yard (ft.):	46	7 (coop)	40/ 5 (coop)	min.
Building Coverage (%):	<10	<10	10	max.
Open Space Coverage	>50	>50	50	min.
<u>(%):</u>				
Estimated Age of	1965	Special Excepti	on request shown in r	ed.
Structure:			•	

Other Permits/Approvals Required None.





Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is requesting a secial exception to have up to 6 hens. If the Board grants the request, the following stipulation should be considered.

That there be no more than 6 chickens and no roosters.

Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

- 1. Standards as provided by this Ordinance for the particular use permitted by special exception;
- 2. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;
- 3. No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;
- 4. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;
- 5. No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and
- 6. No significant increase of stormwater runoff onto adjacent property or streets

4.

Petition of **Thomas M. Penaskovic and Emily B. Penaskovic, Owners**, for property located at **29 Burkitt Street** whereas relief is needed from the Zoning Ordinance to demolish existing rear deck and construct two-story addition which requires the following: 1) Variances from Section 10.521 to allow a) a 9' left side yard where 10' is required; and b) 26% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.515.14 to allow an 8' setback where 10' is required for a condenser. 3) An after-the-fact variance from Section 10.515.14 to allow a 6' setback where 10' is required for a condenser. 4) 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 160 Lot 19 and lies within the General Residence A (GRA) District.

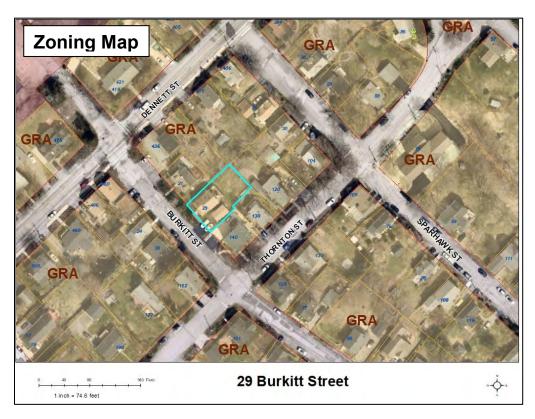
Existing & Proposed Conditions

Existing & Proposed Conditions					
	Existing	Proposed	Permitted /		
	<u>.</u>		Required		
Land Use:	Single-	Second story rear	Primarily		
	family	addition/condenser	Residential Uses		
		units			
Lot area (sq. ft.):	4,792	4,792	7,500	min.	
Lot Area per Dwelling	4,792	4,792	7,500	min.	
Unit (sq. ft.):					
Street Frontage (ft.):	57	57	100	min.	
Lot depth (ft.):	91	91	70	min.	
Primary Front Yard	6	6	15	min.	
<u>(ft.):</u>					
Left Yard (ft.):	9	9 (addition)	10	min.	
		8 (new mini split)			
		6 (existing mini			
		split)			
Right Yard (ft.):	3	3	10	min.	
Rear Yard (ft.):	>20	>20	20	min.	
Height (ft.):	<35	<35	35	max.	
Building Coverage (%):	28.93*	26 (advertised)	25	max.	
		28.93 (actual)			
Open Space Coverage	>30	>30	30	min.	
<u>(%):</u>					
Parking:	2	2	2		
Estimated Age of	1900	Variance request sh	own in red.		
Structure:		*Approved in 2016			
	1				

Other Permits/Approvals Required

None.





Previous Board of Adjustment Actions

October 20, 1992 – The Board **granted** a variance to allow a 6'x 17' addition onto an existing 10' x 17' shed with21.5% lot coverage where 20% was the maximum allowed.

October 18, 2016 – The Board **granted** a variance from 10.521 to allow a 3' ± right side yard setback where 10' is required, and a variance from 10.521 to allow 28.93% ± building coverage where 25% is the maximum allowed.

Planning Department Comments

The applicant is proposing to construct a two-story rear addition in the same footprint of the existing deck. In addition a mini-split is proposed on the left side for this space. There is an existing mini split that was issued a mechanical permit in 2019, however it was not reviewed for zoning compliance. Staff advised the applicant to include it as part of this request to seek after-the-fact approval for the existing mini-split to come into full compliance. The history shows an approval from 2016 that permitted 28.93% building coverage. The applicant indicated 26% with the current proposal, but has indicated this was an error in the application and the building coverage will not change rom what was granted in 2016. If granted approval the Board should consider one of the following stipulations:

- 1) The maximum building coverage shall not exceed what was approved in 2016.
- 2) The maximium allowed building coverage shall be 29%.

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 <u>special conditions</u> 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**

<u>Owing to these special conditions</u>, 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 Brian J. Wazlaw Revocable Trust of 2006 and Roxanne R. Wazlaw Revocable Trust of 2006, Owners, and Brian Wazlaw, Applicant for property located at 89 Sagamore Avenue whereas relief is needed from the Zoning Ordinance to remove existing 8' x 12' shed and replace with new 8' x 12' shed in the same location which requires the following: 1) Variance from Section 10.521 to allow 29.5% building coverage where 25% is the maximum allowed 2) A Variance from Section 10.573.10 to allow a 1.5' side setback where 5' is required. 3) A Variance from Section 10.321 to allow a non-conforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 221 Lot 28 and lies within the General Residence A (GRA) District.

Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Single family	Replace existing	Primarily	
		shed	residential uses	
Lot area (sq. ft.):	6,098	6,098	7,500	min.
Lot Area per Dwelling	6,098	6,098	7,500	min.
Unit (sq. ft.):				
Street Frontage (ft.):	60	60	100	min.
Lot depth (ft.):	101	101	70	min.
Front Yard (ft.):	25	25	15	min.
Right Yard (ft.):	10	10	10	min.
Left Yard (ft.):	1.5' (shed)	1.5' (shed)	10/ 5 (shed)	min.
Rear Yard (ft.):	20 (shed)	20 (shed)	20/ 5 (shed)	min.
Height (ft.):	<10	<10	35	max.
Building Coverage (%):	29	29	25	max.
Open Space	>30	>30	30	min.
Coverage (%):				
<u>Parking</u>	2	2	2	
Estimated Age of Structure:	1956	Variance request(s)	shown in red.	

Other Permits/Approvals Required

None.





Previous Board of Adjustment Actions

<u>August 20, 1991</u> – The Board **granted** a variance from Article III, Section 10-302 to allow the removal of an existing 288 s. f. rear deck to be replaced with a one story 14' x 16' (224 s. f.) kitchen/dining room addition at the rear of the existing residence and a 238 s. f. ell-shaped deck adjacent to the new addition creating a building/lot coverage of 26.3% where 20% is the maximum building/lot coverage allowed.

Planning Department Comments

The applicant is proposing to replace the exsiting 8x12 shed with a new 8x12 shed in the same location. The existing coverage is over the maximum allowed, but will remain the same with the new shed. The applicant has indicated in discussions with staff the approximate distance to the side property line is approximately 22". The legal notice advertised 1.5' which would allow for some flexibility 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):

- 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.
- The "unnecessary hardship" test:
 (a) The property has <u>special conditions</u> 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**

<u>Owing to these special conditions</u>, 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 **OMJ Realty LLC, Owner**, for property located at **581 Lafayette Road** whereas relief is needed from the Zoning Ordinance to add indoor golf simulators in an existing restaurant which requires the following: 1) A Special Exception from Section 10.440 Use #4.30 to allow an indoor recreation use where the use is permitted by Special Exception. Said property is shown on Assessor Map 229 Lot 8B and lies within the Gateway (G1) District.

Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required
Land Use:	Two-family	Indoor Recreation – golf	Primarily Mixed Uses
		simulators	
Lot area (sq. ft.):	98,881	98,881	NR min.
Street Frontage (ft.):	335	335	50 min.
Primary Front Yard (ft.):	58	58	0 -20 max
Left Yard (ft.):	30	30	10 min.
Right Yard (ft.):	>100	>100	10 min.
Rear Yard (ft)	82	82	15
Parking:	151	151	ok
	Special Exception request shown in re-		on request shown in red.

Other Permits/Approvals Required None.

Neighborhood Context

1 inch = 166.7 feet





581 Lafayette Road

Previous Board of Adjustment Actions

<u>September 22, 2015</u> - The Board approve the following to allow a restaurant with associated parking.

- 1. A Special Exception under Section 10.440, Use #9.52 to allow a restaurant with 492 seats where 250 to 500 seats are allowed by Special Exception.
- 2. A Variance from 10.593.10 to allow a restaurant to be located 92.1' from a residential district where 200' is required.
- 3. A Variance from 10.531 to allow 16.5% open space where 11% exists and 20% is required.
- 4. A Variance from Section 10.1112.50 to allow 154 off-street parking spaces where 184 exist and 132 are the maximum allowed.
- 5. A Variance from Section 10.1113.20 to allow parking in the front yard or between a building and a street for 34 spaces where 38 exist and 0 spaces are permitted.
- 6. A Variance from 10.1113.10 to allow 28 existing and 30 proposed off-street parking spaces to be partially located on a lot separate from that of the principal use.
- 7. A Variance from Section 10.1114.21 to allow 10 off-street parking spaces to be 17.5' in length where 19' is required.
- 8. A Variance from 10.1124.20 to allow off-street loading or maneuvering areas to be 87.7' from an adjoining Residential or Mixed Residential District where 100' is required.

Planning Department Comments

The applicant is proposing to add indoor golf simulators to the restaurant as part of a fitup of the former Tuscan Kitchen site. In the G1 district, a special exception is required for indoor recreation use. The right side portion of the building will be vacant for now.

Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

- 1. Standards as provided by this Ordinance for the particular use permitted by special exception;
- 2. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;
- 3. No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;
- 4. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;
- 5. No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and
- 6. No significant increase of stormwater runoff onto adjacent property or streets.

APPLICATION OF JESSICA KAISER and JOHN McMAHON 30 SPRING STREET, PORTSMOUTH Map 130, Lot 13

APPLICANT'S NARRATIVE

I. THE PROPERTY:

The applicants, Jessica Kaiser and John McMahon, own the single family residence located at 30 Spring Street, where they live with their three young children. They propose to add a covered farmers porch and second story bay window to the front of the dwelling. The porch would be aligned with the existing footprint of the house.

As a result of the pandemic, a covered porch is desirable as home deliveries are ever increasing, and a safe, sheltered space for such deliveries is needed. In addition, the porch will provide a sheltered environment from which the applicants may keep an eye on their young children when they play with their friends on Spring Street.

As this board is aware, recently the applicant unsuccessfully sought approvals for a covered porch which wrapped around the right side of the house and required side and front yard setback relief. Based on feedback from members of the board, the applicant has redesigned the porch so that there will be no additional side yard setback encroachment beyond the existing footprint of the house.

According to city tax records, the home was constructed in 1900. The existing attached garage was added 2004. The property is in the GRA zone and is non-conforming as to frontage, lot area, building coverage and front and side yard setbacks.

The dwelling's existing right side yard setback at its closest point is .4 feet. The front yard setback is 6.1 feet, however, what appears for all intents and purposes as the majority of the applicants' front lawn is in fact outside the boundary of their property. This is consistent all along this portion of Spring Street. The applicant has not calculated the applicable average front yard within 200 feet of the property to take advantage of the front yard exception for existing alignments contemplated by Section10.516.10, but it is assumed that this would create a minimum setback far less than 15 feet. We have submitted both the static and MapGeo tax maps for the board's consideration to obtain an understanding of the existing front yards on Spring Street. The current building coverage is 26.8%, where 25% is the maximum permitted.

The proposed porch would also fall within the 15 foot front yard setback and the 10 foot right side yard setback.

The proposed covered porch will be 5" from the front property line and 4' from the side property line. The steps down from the existing front door landing actually extend over the property line now and will do so with the proposed porch. It should be noted that the steps from the porch of the neighbor to the right and the house to the left

also extend past the property line, a condition that occurs in at least two other instances on Spring Street. The proposed porch would add 72 square feet of building coverage.

The applicants therefore need relief from Section 10.521 to permit a front yard setback of 5" where 15 feet is required, a side yard setback of 4 feet where 10 feet is required, and building coverage of 29% where 25 % is the maximum permitted.

II. CRITERIA:

The applicant believes the within Application meets the criteria necessary for the Board to grant the requested variances.

Granting the requested variance will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest. The "public interest" and "spirit and intent" requirements are considered together pursuant to Malachy Glen Associates v. Chichester, 152 NH 102 (2007). The test for whether or not granting a variance would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variance being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public.

The essentially residential characteristics of the neighborhood would not be altered by this project. The existing structure and lot are already non-compliant with front and side yard setback and building coverage requirements, as are most if not all of the properties on this section of Spring Street.

Were the variances to be granted, there would be no change in the essential characteristics of the neighborhood, nor would any public health, safety or welfare be threatened.

<u>Substantial justice would be done by granting the variance</u>. Whether or not substantial justice will be done by granting a variance requires the Board to conduct a balancing test. If the hardship upon the owner/applicant outweighs any benefit to the general public in denying the variance, then substantial justice would be done by granting the variance. It is substantially just to allow a property owner the reasonable use of his or her property.

In this case, there is no benefit to the public in denying the variances that is not outweighed by the hardship upon the owner.

The proposed porch will encroach into the front yard setback, however it is consistent with the look and feel of the neighborhood and is tastefully integrated to complement the existing dwelling. The side yard encroachment is consistent with the existing footprint of the main dwelling structure. Accordingly, the loss to the applicants

clearly outweighs any gain to the public if the applicants were required to conform to the ordinance.

The values of surrounding properties will not be diminished by granting the variance. The proposal will improve the streetscape along Spring Street and will increase the value of the applicants' property. The values of surrounding properties will not be negatively affected in any way.

There are special conditions associated with the property which prevent the proper enjoyment of the property under the strict terms of the zoning ordinance and thus constitute unnecessary hardship. The property is non-conforming as to frontage, lot area, lot area per dwelling, building coverage and setbacks. The dwelling is oriented well to the front of the property, although the paved portion of the Spring Street right of way is actually several feet further away from the dwelling.

<u>The use is a reasonable use</u>. The proposal is a residential use in a residential zone.

There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property. The purpose of the setback requirements is to provide sufficient access, light, air and privacy, and physical separation of properties. The porch will increase the front yard nonconformity, although the paved portion of the Spring Street right of way is actually several feet further away from the dwelling, so it will not conflict at all with the travelled way. The porch does not encroach into the side yard setback any more than the existing dwelling. The amount of additional building coverage proposed, 72 square feet, is minimal and not out of character for this neighborhood.

Accordingly, the relief requested here would not in any way frustrate the purpose of the ordinance and there is no fair and substantial relationship between the purpose of the setback requirements and their application to this property.

III. Conclusion.

For the foregoing reasons, the applicant respectfully requests the Board grant the variances as requested and advertised.

Respectfully submitted,

Dated: 3-10-2021 By: John K. Bosen, Esquire



City of Portsmouth, NH October 6, 2020
 Property Information

 Property ID
 0130-0013-0000

 Location
 30 SPRING ST

 Owner
 KAISER JESSICA D
 130-21 Spring St 130-20 Spring St 130-12 MAP FOR REFERENCE ONLY NOT A LEGAL DOCUMENT Spring St 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. Spring St Geometry updated 4/1/2019 Data updated 7/17/2019 130-14 (1A) Broadst 131-28 Bersum Ln 130-17 Bersum Ln 131-14 BersumLn 131-27 1" = 35 ft

30 Spring Street - Exterior Photos.



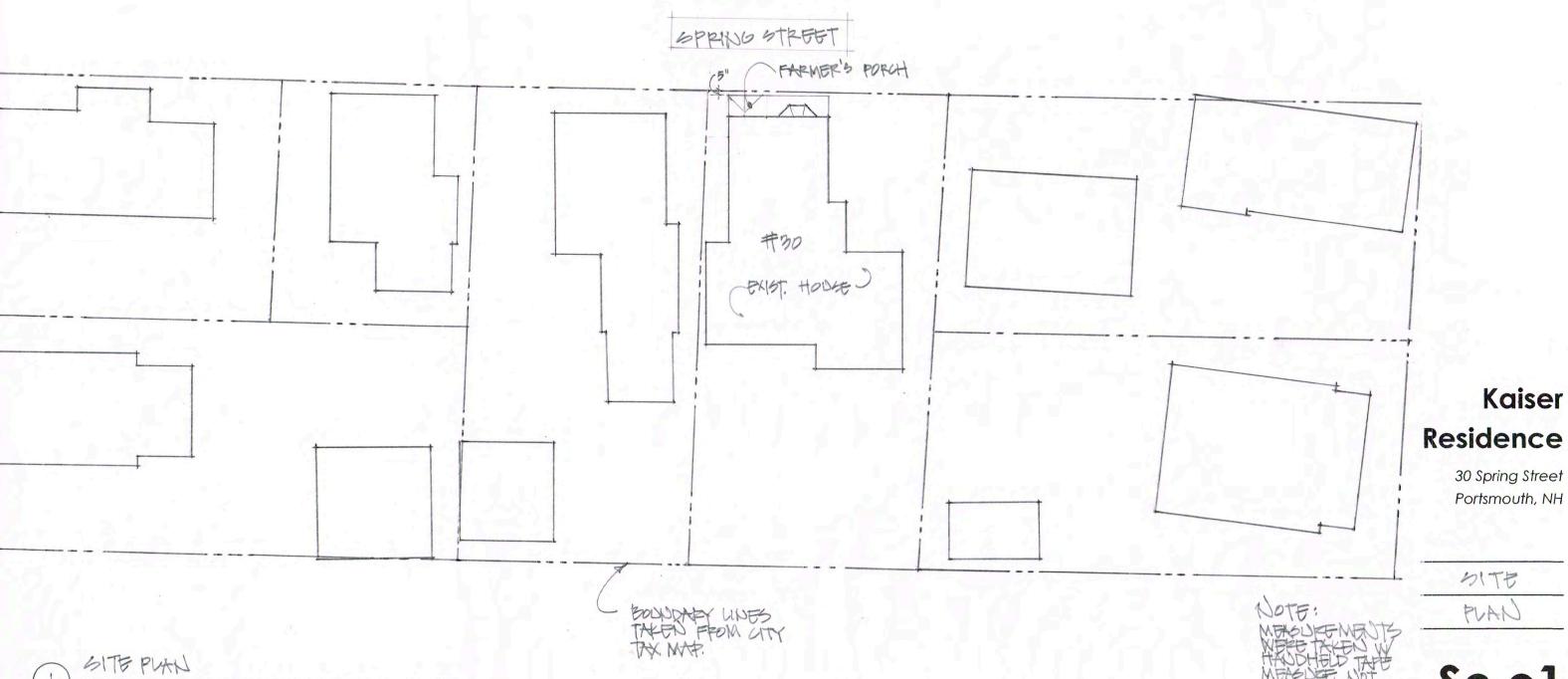






Here is a porch located 3 houses down from my house, on the corner of Spring St. and Lincoln St, that was approved for development in 2017. This porch is located closer to the road than the one we are proposing.





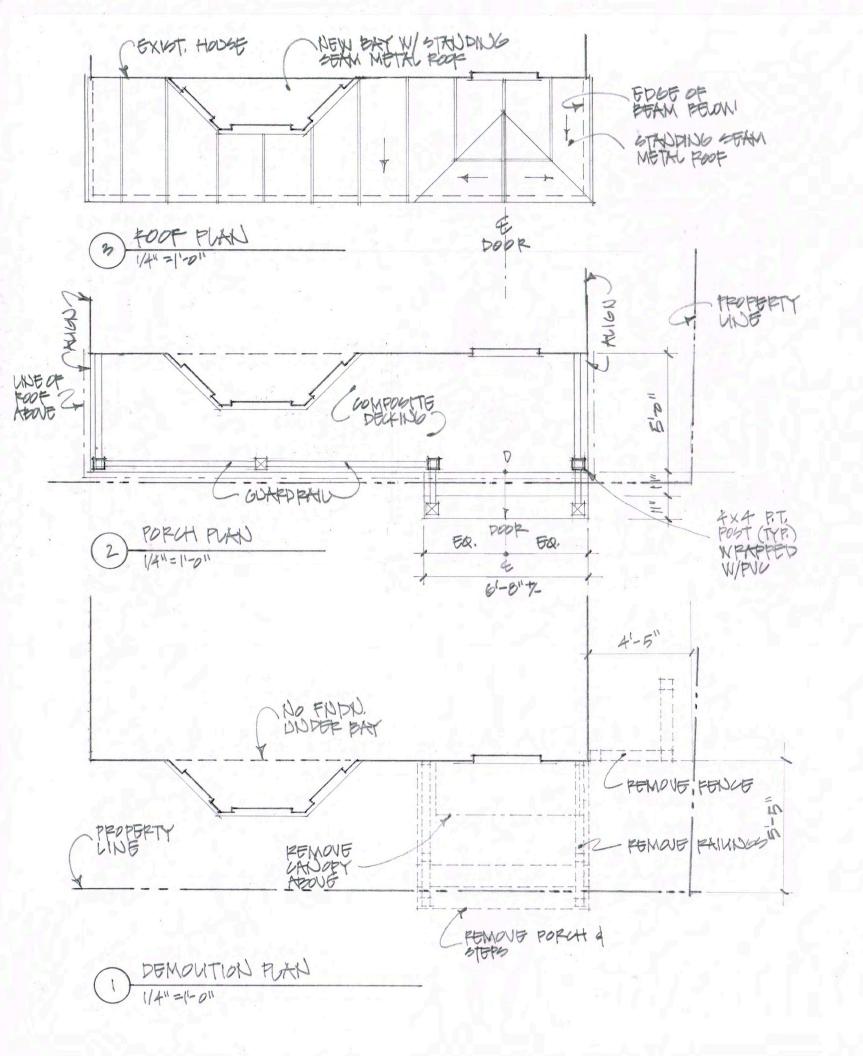
1" = 201

Kaiser

30 Spring Street Portsmouth, NH

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So.01 02.15.2021



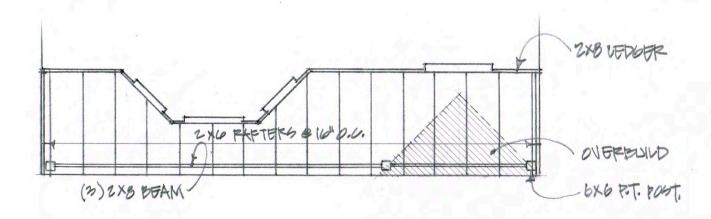


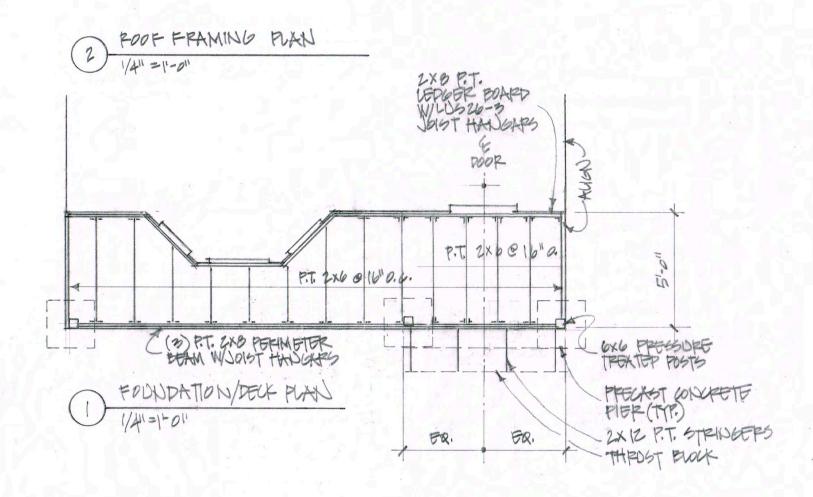
Kaiser Residence

30 Spring Street Portsmouth, NH

PEMOUTION, PORCH & FOOF PLANS

A1.01





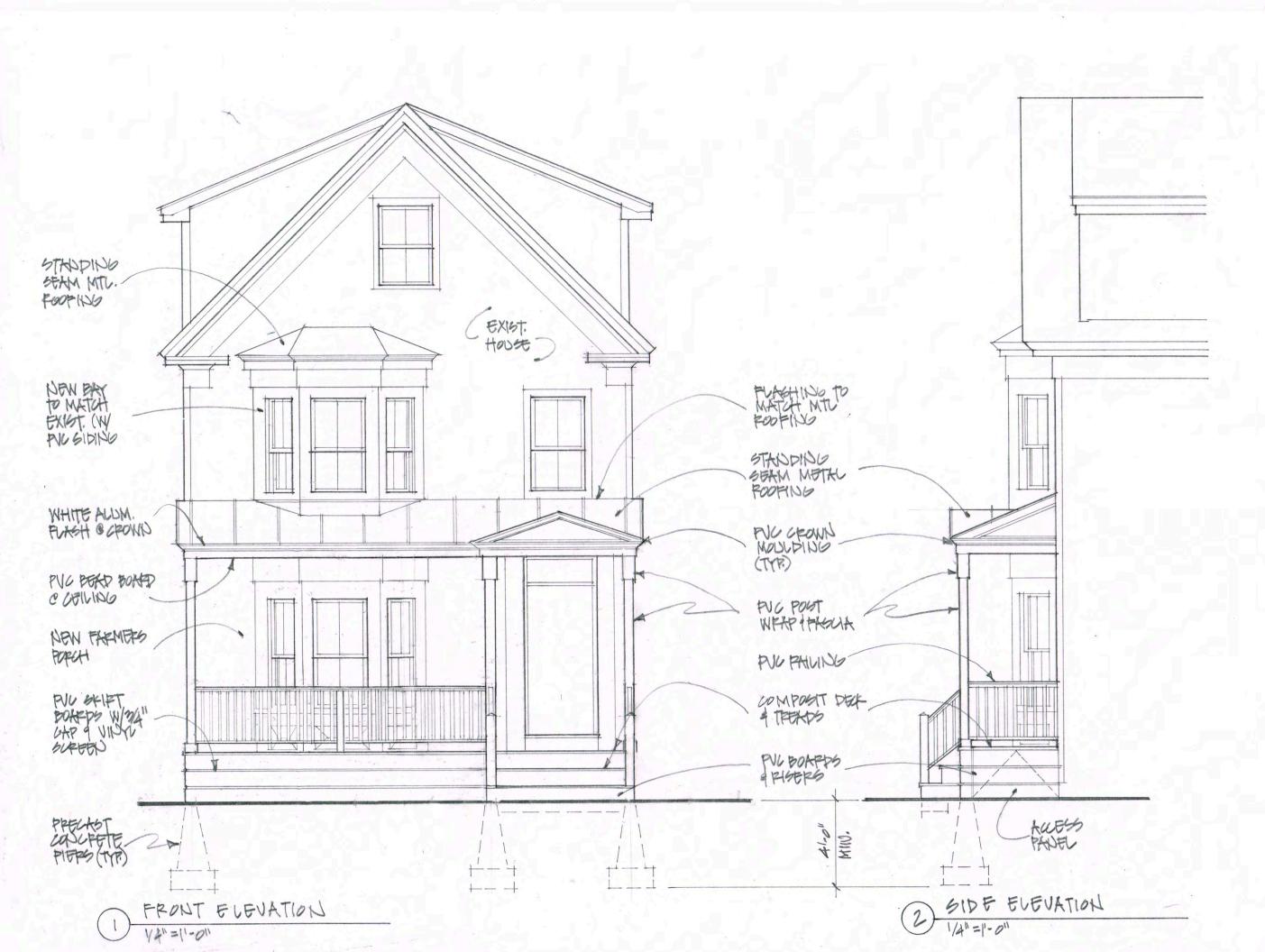


Kaiser Residence

30 Spring Street Portsmouth, NH

FOUNDATIONS FRAMING PLANS

\$1.01





Kaiser Residence

30 Spring Street Portsmouth, NH

ELEVATION

A2.01

PIERCE ATWOODS

MARK E. BELIVEAU

Pease International Tradeport One New Hampshire Avenue, #350 Portsmouth, NH 03801

P 603.373.2002 F 603.433.6372 C 603.969.6574 mbeliveau@pierceatwood.com pierceatwood.com

Admitted in: NH

March 16, 2021

Peter Stith, Principal Planner City of Portsmouth 1 Junkins Avenue Portsmouth, NH 03801

Re: Spaulding Group, LLC

180 Spaulding Turnpike

Portsmouth, NH Tax Map 236, Lot 39 Variance Application

Dear Peter:

On behalf of the Spaulding Group, LLC, please find the original and ten (10) copies of the following documents in support of the request for variances by Spaulding Group, LLC. A complete application has been uploaded to the City of Portsmouth's online application center. We request that the enclosed application be considered by the Zoning Board at its April 20, 2021 meeting.

- 1) Variance Application
- 2) Landowner Letter of Authorization
- 3) Memorandum and Exhibits in support of Variances
- 4) Exhibits:
 - A. Ambit Engineering Plan Set, last revised February 23, 2021.
 - · Cover Sheet
 - Existing Conditions Plan
 - Variance Plan
 - B. ChangeUp, Inc. Plans (the Mazda design firm), dated February 2021.
 - · Exterior Rendering
 - Exterior Elevations
 - 1st Floor Plan
 - 2nd Floor Plan
 - C. Photographs of Existing Site Conditions.
 - D. Tax Map 236, Lot 39 (Seacoast Mazda Property).

Peter Stith, Principal Planner March 16, 2021 Page 2

- E. Photograph of Property taken March 4, 1961, Opening Day.
- F. Letter from Bow Street Commercial Brokerage dated February 22, 2021.

Please let me know if you have any questions or comments. Thank you.

Very truly yours,

Mark E. Beliveau

MEB/dls Enclosure

Cc: Timothy Ackerman, Spaulding Group, LLC

Ambit Engineering, Inc. Port One Architects

MEMORANDUM

TO:

City of Portsmouth Zoning Board of Adjustment ("ZBA")

FROM:

Mark E. Beliveau, Esq., Pierce Atwood LLP

Attorney for Spaulding Group, LLC (the "Applicant")

DATE:

March 16, 2021

RE:

Spaulding Group, LLC Application for Variances at 180 Spaulding Turnpike

(Map 236, Lot 39) (the "Application").

Dear Chairman Rheaume and Members of the Board:

On behalf of Timothy Ackerman, Manager and Member of Spaulding Group, LLC and owner of Seacoast Mazda, we are pleased to provide this Memorandum in support of the requested variances. The variances sought will allow for the following (i) the demolition of the Seacoast Mazda showroom and customer service area and their reconstruction within the existing footprint, (ii) the addition of a new second floor office and storage space over a portion of the showroom, and (iii) the expansion of the building to convert the existing outdoor customer service drive-up area to an indoor customer service and customer drive-in area. The proposed new showroom, customer service and customer drive-in areas will align with the front, side and rear of the current building and, thereby, maintain the same setbacks from property boundaries that exist today.

Included with this Memorandum are the following Exhibits:

- A. Ambit Engineering Plan Set, last revised February 23, 2021.
 - Cover Sheet
 - Existing Conditions Plan
 - Variance Plan
- B. ChangeUp, Inc. Plans (the Mazda design firm), dated February 2021.
 - Exterior Rendering
 - Exterior Elevations
 - 1st Floor Plan
 - 2nd Floor Plan
- C. Photographs of Existing Site Conditions.
- D. Tax Map 236, Lot 39 (Seacoast Mazda Property).
- E. Photograph of Property taken March 4, 1961, Opening Day.
- F. Letter from Bow Street Commercial Brokerage dated February 22, 2021.

I. Property Description

Spaulding Group, LLC is the owner of the property at 180 Spaulding Turnpike (the "Property"), the home of Seacoast Mazda. Tim Ackerman has owned and operated Seacoast Mazda at the Property for the past 18 years. An automobile dealership has continuously operated at the Property since March 4, 1961 when Seacoast Motors, Inc. opened with Volkswagen and Porsche dealerships. See Exhibit E. As you can observe from comparing the photographs of existing site conditions (Exhibit C) with the photo from 1961, the Property has changed little in 60 years. The Property is located within the General Business District ("GBD") and consists of 1.2485 acres. Sales and service of motor vehicles is permitted in the GBD.

The Property is improved with a single story building consisting of a small automobile showroom, offices and customer service area in the front and 10 automobile service bays in the rear. The parcel frontage is along the Spaulding Turnpike, with sidelines along Farm Lane and property of New England Marine and Industrial, Inc. ("NE Marine"), another commercial business. The rear property line also abuts the NE Marine property. A 300' wide Public Service Company of New Hampshire transmission line easement with multiple poles, towers and wires crosses the NE Marine property running parallel to the northeast boundary of Seacoast Mazda. The PSNH easement abuts the Property and encumbers the full width of the NE Marine property extending to the nearest residence on Farm Lane. This part of the NE Marine property is within the Single Residence B District ("SRB").

The Property is situated within a narrow strip of the GBD. In fact, the northeast boundary of the Property also serves as the common boundary for the GBD and SRB. As shown on the Existing Conditions Plan, the 100' setback for structures from the SRB and 30' front yard setback leaves approximately 20' of buildable area on the Property. As a result, if the building at the Property were to be reconstructed for practically any of the 41 permitted uses in the GBD, variances would be needed. Moreover, the 200' use setback from the SRB for the sale of motor vehicles consumes all of the Property extending into the Spaulding Turnpike.

II. Proposed Project

As a Mazda automobile dealer franchisee, Seacoast Mazda has been directed by Mazda North America to seek all the necessary approvals to build a new showroom and customer service area. While clean and well maintained, the existing showroom and customer service area are in need of updating to provide a more functional, efficient and welcoming space.

The proposed project involves demolishing the existing showroom, offices and service area and building a new showroom and connected customer service area within the existing footprint, adding a second floor over a portion of the showroom for offices and storage space and expanding the showroom to include an enclosed customer service and customer drive-in area. The enclosed customer service and customer drive-in area will be in the same location as the existing outdoor customer service drive-up area. The proposed new showroom, customer service and customer drive-in areas will align with the front, side and rear of the current building and thereby maintain the same setbacks from property boundaries that exist today. There will be no other changes to the Property. See Exhibits A and B for survey plans and design plans.

The proposed project will increase the footprint of the existing building by approximately 2,410 GSF. This increase is largely represented by the conversion of the existing outdoor customer service drive-up area to an indoor customer service and customer drive-in area. The proposed second floor office and storage space is approximately 1,710 GSF resulting in a total increase of 4,120 GSF. The estimated cost of construction is approximately \$2,500,000.

The height of the existing showroom from floor elevation is approximately 12'- 8". The height of the rear portion of the building from floor elevation is approximately 17'. The roof height of the proposed new two-story showroom will be approximately 25'-6". The roof height of the proposed one-story service wing will be approximately 18'. These heights are well below the maximum permitted structure height in the GBD of 60'.

Seacoast Mazda and its project team have worked hard to create a design that fits the Property, is attractive and results in functional and welcoming space that is consistent with modern standards.

III. Required Variances from Portsmouth Zoning Ordinance

- A variance from <u>Section 10.531</u> to allow a fifteen foot (15') rear yard setback where fifty feet (50') is required.
- A variance from <u>Section 10.591</u> to allow a structure to be setback fifteen feet (15') from a parcel in the SRB where one hundred feet (100') is required.
- A variance from <u>Section 10.592.20</u> to allow the sale, rental, leasing, distribution and repair of vehicles adjacent to the SRB where a minimum distance of two hundred feet (200') is required.
- A variance from <u>Section 10.321</u> to allow a nonconforming building to be extended, reconstructed or enlarged without conforming to the requirements of the Zoning Ordinance.

IV. Prior Application and Fisher v. Dover Analysis

In 2000, a prior owner of the Property applied to the ZBA for variances to construct improvements that were substantially similar to what is being proposed in the current Application. The earlier application was denied under the *Governor's Island Club v. Gilford* hardship standard which required that the applicant show a deprivation "so great as to effectively prevent the owner from making any reasonable use of the land." 124 N.H. 126, 130 (1983) (the "*Prior Application*").

It is well established in New Hampshire that successive variance proposals must show either (a) material changes in the proposed use of the land, or (b) material changes in the circumstances affecting the merits of the application. *Fisher v. City of Dover*, 120 N.H. 187

(1980). While the Applicant is not proposing a materially different project from that which was proposed in 2000, the law concerning variances has fundamentally changed since 2000, particularly concerning the unnecessary hardship standard, and the New Hampshire Supreme Court has found that this change in standard constitutes a "material change in circumstances affecting the merits of [an] application" requiring that a zoning board consider a subsequent variance application under the new law. *Brandt Development Co. of N.H. v. City of Somersworth*, 162 N.H. 553 (2011).

Ironically, just one year after the Prior Application was denied, the New Hampshire Court in *Simplex Technologies v. Town of Newington*, 145 N.H. 727 (2001), recognized that its restrictive approach to granting variances was contrary to the constitutional rights of property owners and overruled *Governor's Island*. In *Brandt*, the Court said that "*Simplex* established a new standard that is markedly more favorable to property owners seeking variances than was the standard under *Governor's Island*." *Brandt*, 162 N.H. at 597 (citing *Simplex*, 145 N.H. at 731-32).

Simplex was followed by *Boccia v. City of Portsmouth*, 151 N.H. 85 (2004), which made further significant changes to how "area" variances were to be determined.

Then, in 2010, the New Hampshire legislature established a uniform unnecessary hardship standard for both use and area variances that is substantially similar to the test the Court adopted in *Simplex*. Now, "unnecessary hardship" means that owing to special conditions of the property that distinguish it from other properties in the area (i) no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (ii) the proposed use is a reasonable one. RSA 674:33(I)(b)(1).

Thus, the unnecessary hardship standard under which this Application would be reviewed is materially and fundamentally different than the standard under which the Prior Application was denied. In *Brandt*, the Supreme Court confirmed that the doctrinal changes in the unnecessary hardship standard create a "reasonable possibility" of a different outcome for a zoning variance application, which is sufficient under *Fisher* to obtain a second review of a previously denied variance application. The Court further noted that, "Although the other four criteria of the variance test under RSA 647:33 have not changed to the same degree as the unnecessary hardship criterion, they have been refined and clarified since 1994", citing cases that were decided after 2000. *Brandt*, 162 N.H. at 559.

Based on the changes in the law concerning the unnecessary hardship standard and other criteria, there is a reasonable possibility of a different outcome for the Application and, pursuant to the Court's holding in *Brandt*, the ZBA should consider the Application.

Accordingly, the Applicant respectfully requests that the Zoning Board find that a material change of circumstances has occurred since the Prior Application and, therefore, will give the Application full consideration.

V. Five Criteria Must be Met to Obtain Approval of a Variance

An applicant seeking a variance must demonstrate that;

- (A) The variance will not be contrary to the public interest;
- (B) The spirit of the ordinance will be observed;
- (C) Substantial justice will be done:
- (D) The values of surrounding properties will not be diminished;
- (E) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

NH RSA 674:33(I)(a)(2). As set forth below, the Application meets each of the criteria for the approval of the variances.

- A. The variances are not contrary to the public interest; and
- B. The spirit of the Ordinance is observed.

The New Hampshire Supreme Court has observed that "[t]he requirement that the variance not be contrary to the public interest is related to the requirement that the variance be consistent with the spirit of the ordinance" and, therefore, the Court considers these criteria together. *Malachy Glen Assocs. v. Town of Chichester*, 155 N.H. 102, 105 (2007). The analysis of these criteria begins by examining the applicable ordinance. However, the Court has acknowledged that because 'the provisions of the ordinance represent a declaration of public interest, any variance would in some measure be contrary thereto." *Harborside Assocs. v. Parade Resident Hotel*, 162 N.H. 508, 514 (2011).

Accordingly, to determine whether a variance is not contrary to the public interest and is consistent with the spirit of the Ordinance, it must be determined whether granting the variance would "unduly and in a marked degree" conflict with the Ordinance such that "it violates the ordinance's basic zoning objectives." *Harborside Assocs. v. Parade Resident Hotel*, 162 N.H. 508, 514 (2011). Determining whether a variance violates the Ordinance's basic zoning objectives involves evaluating "whether granting the variance would alter the essential character of the neighborhood or threaten public health, safety or welfare." *Id.*

Granting the variances presented in the Application will neither alter the essential character of the neighborhood nor threaten public health, safety or welfare. The Property is located in the GBD where the sale of motor vehicles is permitted. In addition, the property abuts the Spaulding Turnpike and is surrounded by commercial uses. The GBD along the Spaulding Turnpike where the Property is located is heavily commercial and, as such, is consistent with the purpose of the GBD, which is "to provide for a wide range of retail and commercial uses in areas with excellent regional highway access." City of Portsmouth, N.H., Zoning Ordinance § 10.410.

The proposal of the Applicant is to continue the same permitted use that has been made of the Property for 60 years but conduct a much needed renovation of the showroom and customer service area working within the existing footprint, the addition of a second floor office and storage space over a portion of the showroom and expanding the showroom to include an enclosed customer service and customer drive-in area. These improvements will modernize the existing space allowing for a more functional and comfortable environment for employees and customers. Importantly, the improvements do not represent an expansion of operations. For example, the service bays will not be changing and neither will the vehicle display area.

Furthermore, the purpose and spirit of the setback provisions will be observed if the variances are granted. First, the new construction will not be any closer to property lines than what already exists at the Property. And, second, the existing transmission line easement creates a 310' setback of the Property from the nearest residence in SRB. As a result, in actuality, the required setbacks from the SRB for which we seek a variance are met and exceeded today and that will not change if the variances are granted.

C. Substantial justice will be done.

With respect to this criterion, the Court has said that "perhaps the only guiding rule . . . is that any loss to the individual that is not outweighed by a gain to the general public is an injustice." *Malachy*, 155 N.H. at 107 (citing 15 P. Loughlin, *New Hampshire Practice, Land Use Planning and Zoning*, § 24.11, at 308 (2000)).

The building at the Property is in need of renovation. Not granting the variances will result in a substantial loss for the Applicant especially in light of the fact that any attempt to reconstruct the building at the Property for any other permitted use in the GBA will also require variances. Plainly, the loss to the Applicant will not be outweighed by a gain to the general public. The general public gains nothing from keeping the Property in its current condition. Indeed, the general public will benefit from the increased property tax revenue that is realized as a result of the new construction.

Approving the variances will allow the Applicant to rehabilitate an out-of-date building and continue a business in more functional and comfortable space that has operated at the Property for 60 years. There is no benefit to the general public that outweighs the burden and hardship to the Applicant if the variances are denied. Approving the requested variances will achieve substantial justice.

D. Granting the variances will not diminish surrounding property values.

The proposed improvements will not diminish the value of surrounding properties. The Property is located in the GBD where the sale of motor vehicles is permitted. In addition, the property abuts the Spaulding Turnpike and commercial uses surround the Property. The GBD along the Spaulding Turnpike where the Property is located is heavily commercial and includes retail, hotels, restaurants and automobile dealerships. The use of the Property is consistent with

{P12935102.1.1.1.1}

the uses of other nearby properties within the GBD. The proposed improvements will not diminish the value of the surrounding commercial uses.

The nearest residential property is over 300 feet away. A substantial 300' wide Public Service Company of New Hampshire transmission line easement with numerous poles, towers and wires separates the Property from the residential homes on Farm Lane. Moreover, the proposed improvements do not represent an expansion of operations but only an opportunity to renovate a building that has not changed since it was built 60 years ago. We believe that the enclosure of the drive-up customer service area will be an added benefit as it will bring that transition area inside. In addition, the building will not be any closer to the lot line than the existing building. Furthermore, there is a limited amount of glass proposed for the right side of the building minimizing any new interior light that might be visible from enclosing the drive-up customer service area. In any event, the substantial distance that separates the Property from the nearest residential property provides a significant buffer. The exterior lighting for the Property will not change from what is present today.

In support of this criterion, the Applicant has provided the opinion of Margaret O'Brien, Principal Broker with Bow Street Commercial Brokerage. A copy is attached hereto as Exhibit F. Ms. O'Brien has worked as a commercial real estate broker in the Portsmouth area for more than 23 years. In her letter report, she cites to recent nearby strong residential sales of property that are closer to the Spaulding Turnpike and Port City Nissan than any residential properties are to Seacoast Mazda. Her professional opinion is that the proposed improvements will be viewed positively by both the commercial and residential marketplace and will in no way diminish surrounding property values.

E. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

An unnecessary hardship exists when "[o]wing to special conditions of the property that distinguish it from other properties in the area (A) no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property, and (B) the proposed use is a reasonable one. RSA 674:33(I)(b)(1).

The size and width of the Property are the special conditions that distinguish it from other properties in the area. The property is one of the smallest and most narrow strips of land among all of the commercially zoned properties in the GBD and other districts that exist along the Spaulding Turnpike from the Portsmouth Traffic Circle to the Newington town line.

These conditions that characterize 180 Spaulding Turnpike are compounded by the fact that the SRB district boundary is the northeast boundary of the Property resulting in setbacks that engulf the Property. A major mitigating factor, however, and the reason that no fair and substantial relationship exists between the purpose of the setbacks and their application to the Property, is the existence of the transmission line easement that encumbers the abutting SRB property for more than 300'. This easement has the effect of creating a buffer between the

commercially zoned Seacoast Mazda property and the residences on Farm Lane that is greater than the required setbacks. Accordingly, there is no reason to apply the literal requirements of the setbacks in question to the Property.

The Applicant's proposed use of the Property is reasonable. As stated above, motor vehicle sales and service is permitted in the GBD. The proposed new showroom, customer service area and customer service drive-in area will align with the front, side and rear of the current building and, as a result, maintain the same setbacks from property boundaries that exist today. The increased height of the showroom is well-below the allowed maximum height for structures. Significantly, any attempt to reconstruct the building at the Property for practically any other permitted use in the GBA will also require variances.

For these reasons, literal enforcement of the Ordinance would result in an unnecessary hardship to the Applicant under RSA 674:33(I)(b)(1).

VI. Conclusion

Based on all of the reasons discussed herein, the Applicant respectfully requests that the Zoning Board grant the variances. Thank you.

Respectfully submitted,

Spaulding Group, LLC

By:

Mark E. Beliveau, Esq.

Pierce Atwood LLP

1 New Hampshire Avenue, Suite 350

Portsmouth NH 03801

603-373-2002

mbeliveau@pierceatwood.com

SITE DEVELOPMENT SEACOAST MAZDA 180 SPAULDING TURNPIKE

OWNER AND APPLICANT:

SPAULDING GROUP, LLC

180 SPAULDING TURNPIKE PORTSMOUTH, N.H. 03801 TEL. (603) 436-6811

CIVIL ENGINEER & LAND SURVEYOR:

AMBIT ENGINEERING, INC.

200 GRIFFIN ROAD, UNIT 3 PORTSMOUTH, N.H. 03801 TEL. (603) 430-9282 FAX (603) 436-2315

ARCHITECT:

PORT ONE ARCHITECTS 959 ISLINGTON STREET

PORTSMOUTH, NH TEL. (603) 436-8891

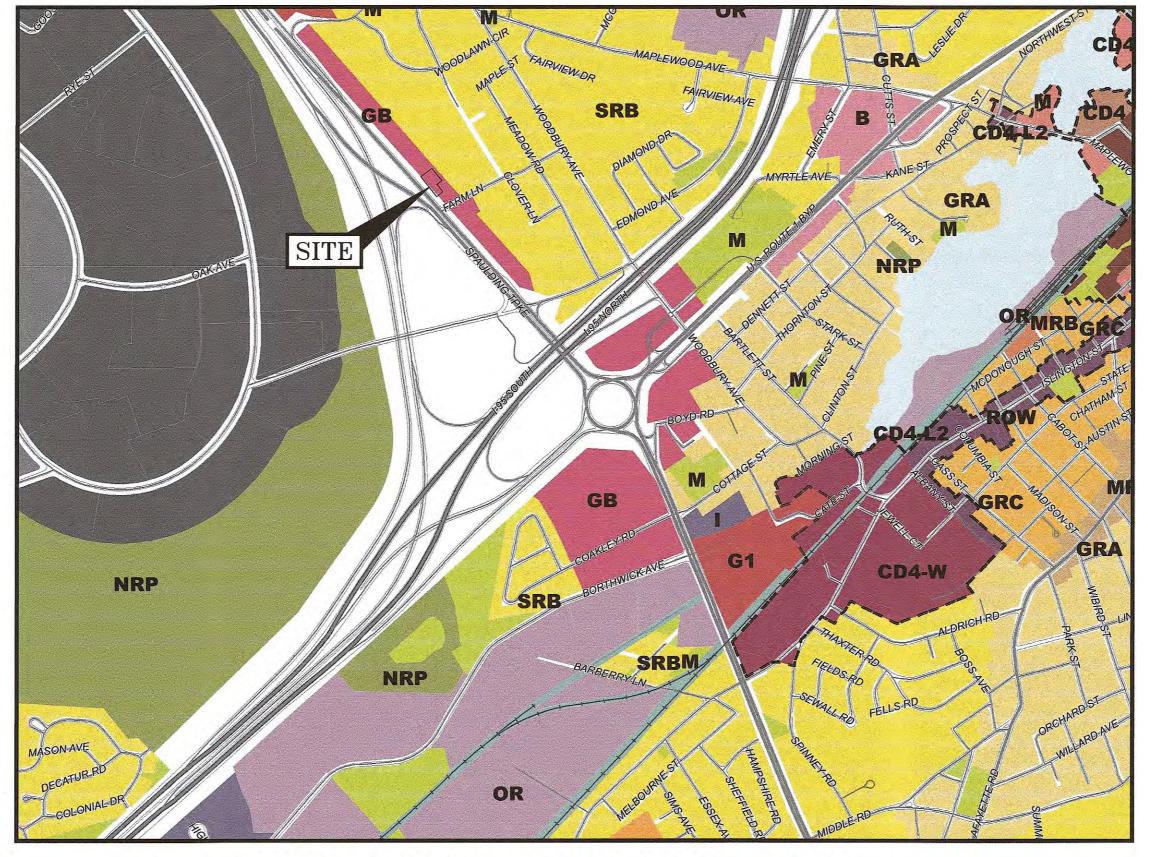
CORPORATE ARCHITECT:

CHANGE UP

2056 BYERS ROAD DAYTON, OH TEL. (844) 804-7700

Legend **Character Districts** Character-Based Zoning Area (Refer to Zoning Map Sheet 2 of 2 Character Districts Regulating Plan) **Residential Districts** SRA Single Residence A SRB Single Residence B GRA General Residence A GRB General Residence B GRC General Residence C GA/MH Garden Apartment/Mobile Home Park **Mixed Residential Districts** MRO Mixed Residential Office Mixed Residential Business **Gateway Corridor Gateway Center Business Districts** General Business Business Waterfront Business

PORTSMOUTH NEW HAMPSHIRE ZBA PLANS





PORTSMOUTH ZONING MAP

UTILITY CONTACTS

Tel. (603) 436-7708, Ext. 555.5678

ATTN: MICHAEL BUSBY, P.E. (MANAGER)

ELECTRIC:

EVERSOURCE

1700 LAFAYETTE ROAD

PORTSMOUTH, N.H. 03801

DWG No.

EXISTING CONDITIONS PLAN

SEWER & WATER: PORTSMOUTH DEPARTMENT OF PUBLIC WORKS

680 PEVERLY HILL ROAD PORTSMOUTH, N.H. 03801 Tel. (603) 427-1530 ATTN: JIM TOW

NATURAL GAS:

325 WEST ROAD PORTSMOUTH, N.H. 03801 Tel. (603) 294-5144 ATTN: DAVE BEAULIEU

COMMUNICATIONS: CONSOLIDATED COMMUNICATIONS JOE CONSIDINE 1575 GREENLAND ROAD GREENLAND, N.H. 03840 Tel. (603) 427-5525

CABLE: COMCAST 155 COMMERCE WAY PORTSMOUTH, N.H. 03801 Tel. (603) 679-5695 (X1037) ATTN: MIKE COLLINS

LEGEND:

Exhibt A

PROPOSED PROPERTY LINE CONTOUR SPOT ELEVATION UTILITY POLE WALL MOUNTED EXTERIOR LIGHTS TRANSFORMER ON CONCRETE PAD ELECTRIC HANDHOLD SHUT OFFS (WATER/GAS) GATE VALVE **HYDRANT** CATCH BASIN SEWER MANHOLE DRAIN MANHOLE TELEPHONE MANHOLE 14) PARKING SPACE COUNT PARKING METER PM LSA LANDSCAPED AREA TBD TBD TO BE DETERMINED CI CAST IRON PIPE COP COPPER PIPE DUCTILE IRON PIPE **PVC** POLYVINYL CHLORIDE PIPE RCP REINFORCED CONCRETE PIPE ASBESTOS CEMENT PIPE VITRIFIED CLAY PIPE EDGE OF PAVEMENT **ELEVATION** FF FINISHED FLOOR **INVERT** SLOPE FT/FT TEMPORARY BENCH MARK TBM TYP TYP **TYPICAL** WINDOW WELL

SITE DEVELOPMENT **SEACOAST MAZDA** 180 SPAULDING TURNPIKE PORTSMOUTH, N.H.



AMBIT ENGINEERING, INC. Civil Engineers & Land Surveyors 200 Griffin Road - Unit 3 Portsmouth, N.H. 03801-7114

PLAN SET SUBMITTAL DATE: 23 FEBRUARY 2021

Tel (603) 430-9282

INDEX OF SHEETS

VARIANCE PLAN

APPROVED BY THE PORTSMOUTH ZONING BOARD

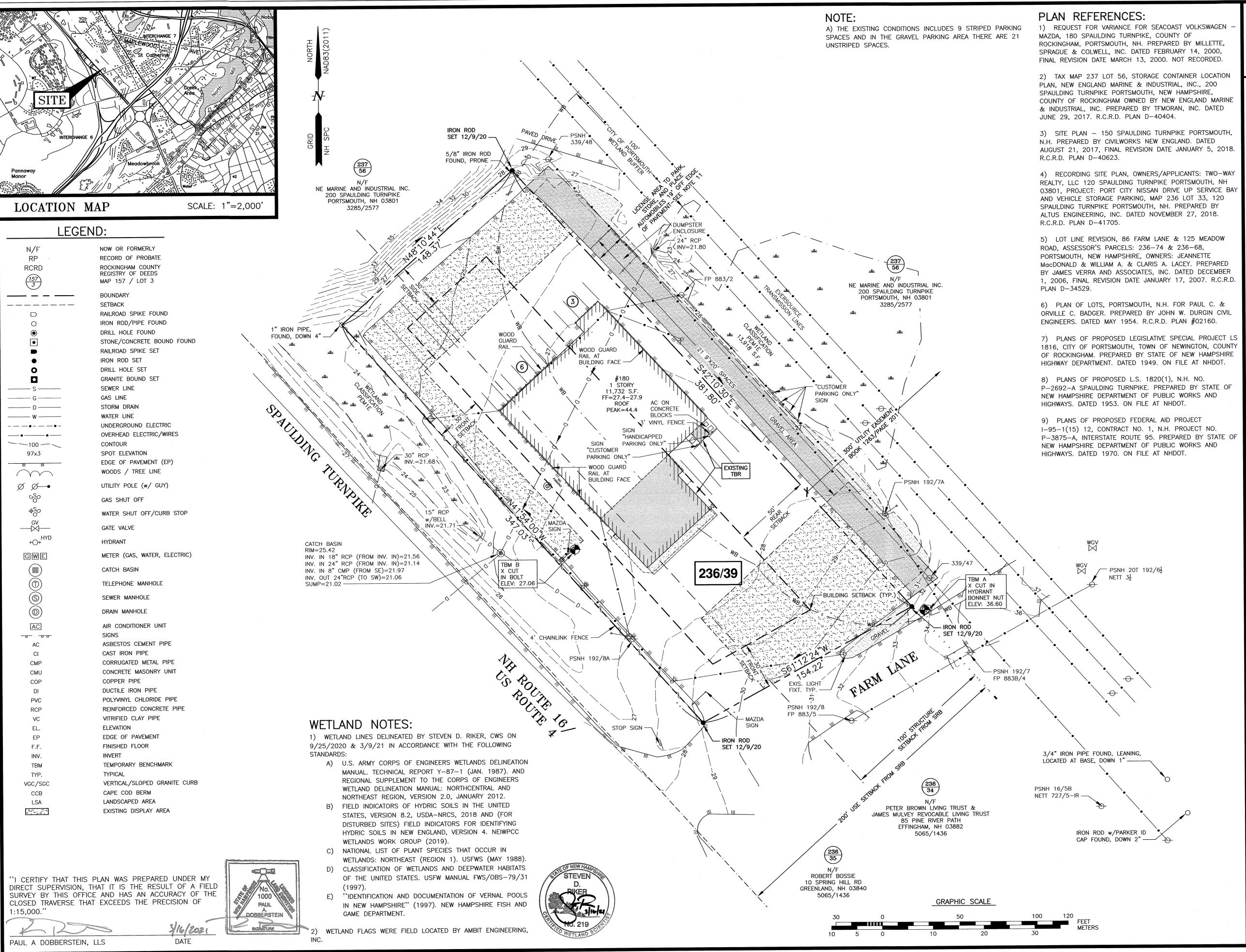
PORTSMOUTH APPROVAL CONDITIONS NOTE:

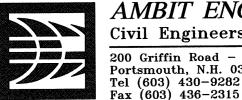
PORTSMOUTH SITE PLAN REVIEW REGULATIONS.

ALL CONDITIONS ON THIS PLAN SET SHALL REMAIN IN EFFECT IN

PERPETUITY PURSUANT TO THE REQUIREMENTS OF THE CITY OF

CHAIRMAN





AMBIT ENGINEERING, INC.

Civil Engineers & Land Surveyors

200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282

NOTES:

1) PARCEL IS SHOWN ON THE PORTSMOUTH ASSESSOR'S

TAX MAP 236 AS LOT 39.
2) OWNERS OF RECORD:

SPAULDING GROUP, LLC 180 SPAULDING TURNPIKE PORTSMOUTH, NH 03801 5886/1774 PLAN REFERENCE 1

3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0260F. EFFECTIVE 1/29/2021.

4) EXISTING LOT AREA: 54,384 S.F.

1.2485 ACRES

5) PARCEL IS LOCATED IN THE GENERAL BUSINESS (GB) ZONING DISTRICT.

6) DIMENSIONAL REQUIREMENTS: MIN. LOT AREA:

FRONTAGE:

SETBACKS:

FRONT

SIDE

SIDE

REAR

MAXIMUM STRUCTURE HEIGHT:

MAXIMUM BUILDING COVERAGE:

MINIMUM OPEN SPACE:

200 FEET

30 FEET

60 FEET

20%

43,560 SF

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON ASSESSOR'S MAP 236 LOT 39 IN THE CITY OF PORTSMOUTH.

8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS (±0.2').

9) PARCEL IS SUBJECT TO AN EASEMENT FOR INGRESS AND EGRESS FOR LAND NOW OF NEW ENGLAND MARINE AND INDUSTRIAL, INC. IN AS MUCH AS IT IS STILL IN EFFECT, LOCATION NOT PLOTTABLE. SEE R.C.R.D. 1566/184.

10) PARCEL IS SUBJECT TO A DRAINAGE AGREEMENT (R.C.R.D. 1564/229) & CONDITIONS AS MUCH AS THEY ARE STILL IN EFFECT (R.C.R.D. 1499/277).

11) LICENSE AREA FOR PARKING, STORAGE, AND PLACING AUTOMOBILES IS SHOWN PER PLAN REFERENCE 1 & R.C.R.D. PLAN D-40404. THE LICENSE AGREEMENT BETWEEN THE OWNERS OF PARCELS 237/56 AND 236/39 ALLOW FOR A 25' WIDE AREA TO PARK AND STORE VEHICLES. SEE CITY AGREEMENT TO LIMIT TO 19' FROM EDGE OF PAVEMENT.

SITE DEVELOPMENT SEACOAST MAZDA 180 SPAULDING TURNPIKE PORTSMOUTH, N.H.

3	ZONING SETBACKS, ADD'L WETLAND INFO	3/16/21	
2	ISSUED FOR APPROVAL	2/23/21	
1	SETBACK LINES	12/16/20	
0	ISSUED FOR COMMENT	12/5/20	
NO.	DESCRIPTION	DATE	
	REVISIONS		

SCALE: 1'=30'

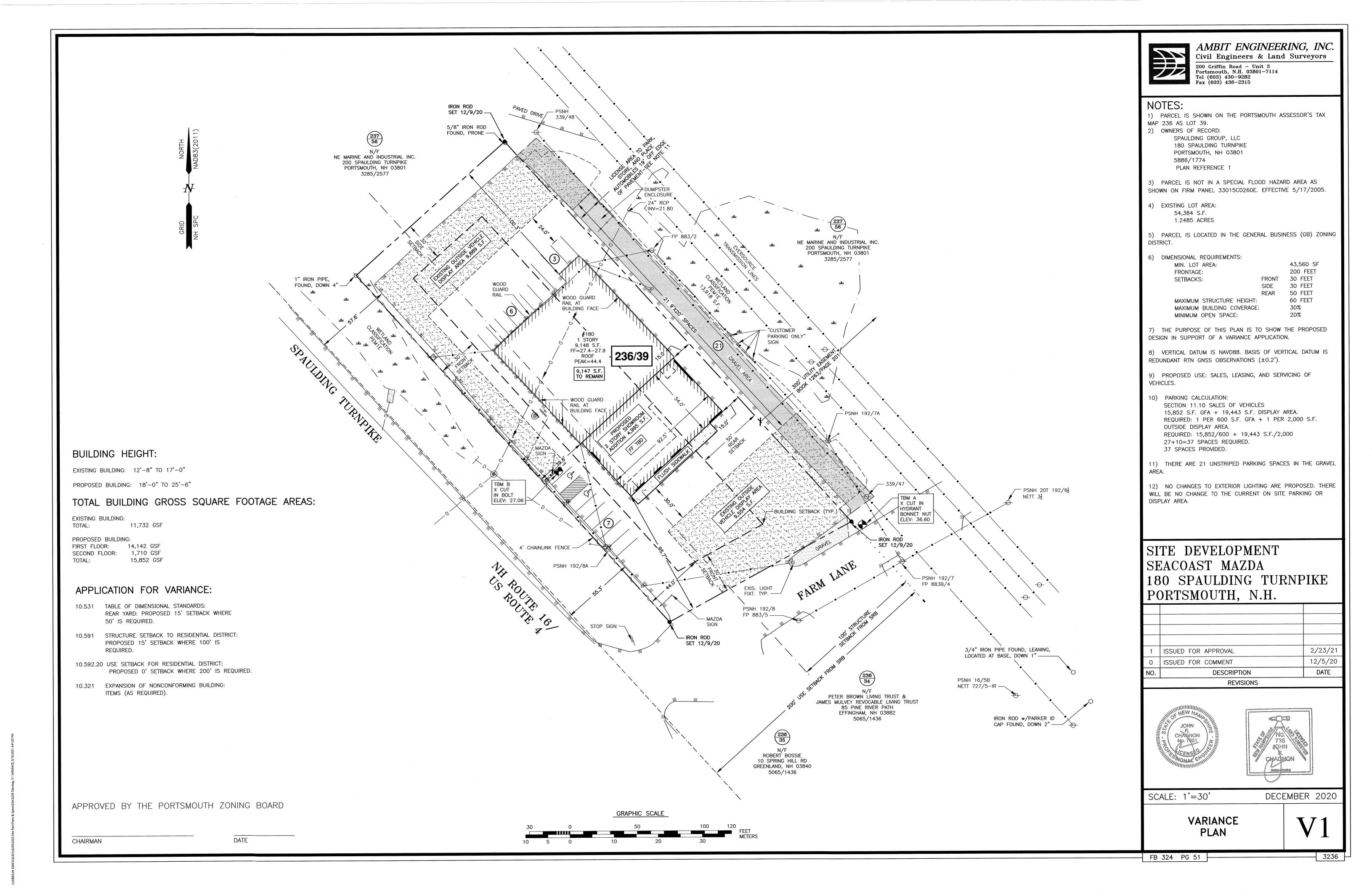
DECEMBER 2020

EXISTING CONDITIONS PLAN

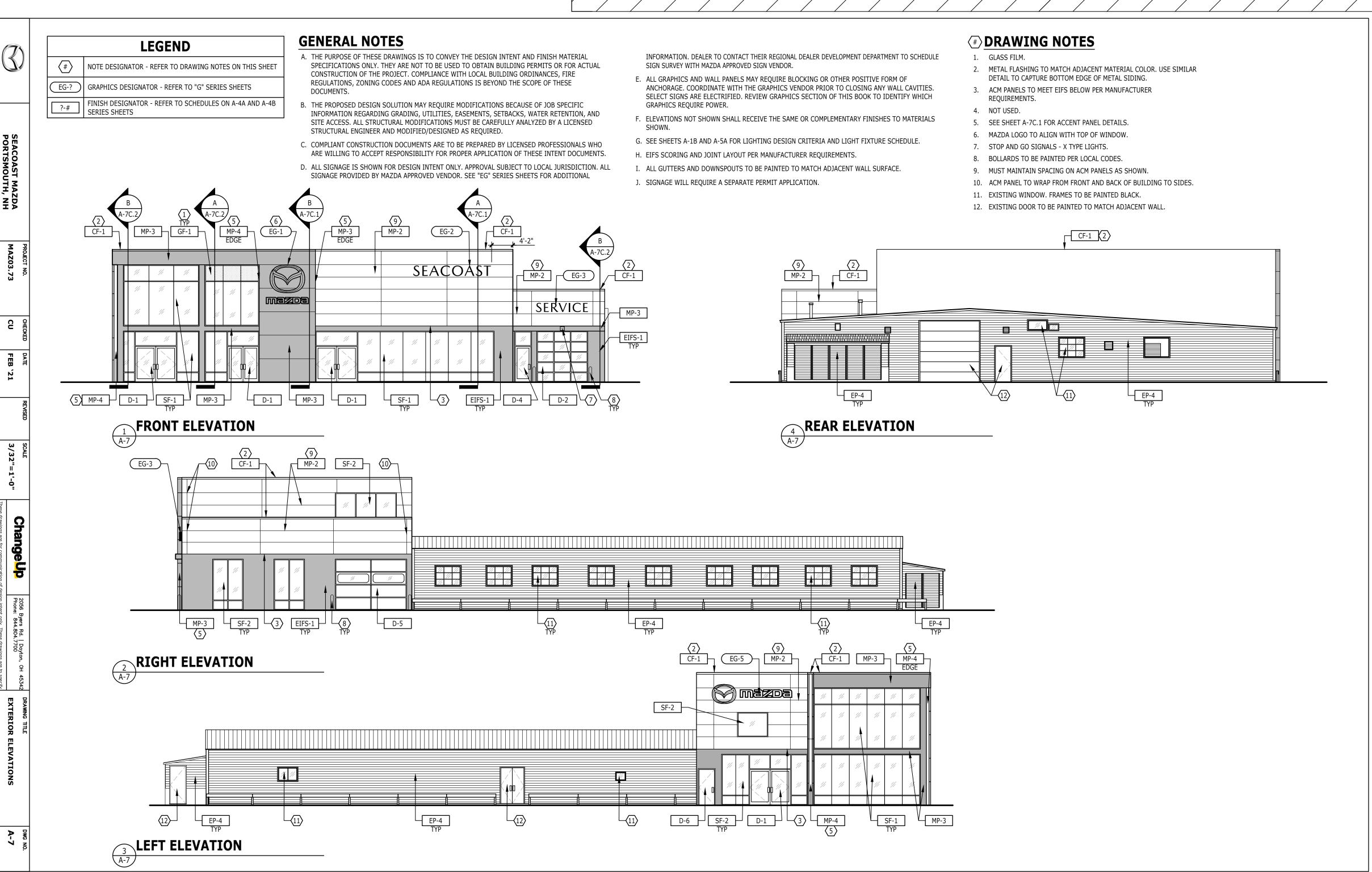
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FB 324 PG 51

3236







SEACOAST MAZDA PORTSMOUTH, NH

	LEGEND
#	NOTE DESIGNATOR - REFER TO DRAWING NOTES ON THIS SHEET
F-#	FIXTURE ITEM - REFER TO "F" SHEETS
FN-#	FURNITURE ITEM - REFER TO SHEET A-3
?-#	FINISH DESIGNATOR - REFER TO SCHEDULES ON A-4A AND A-4B SERIES SHEETS
_	NEW FULL HEIGHT PARTITIONS/WALLS
	LOW WALLS OR PARTITIONS
	EXISTING WALLS

GENERAL NOTES

- A. THE PURPOSE OF THESE DRAWINGS IS TO CONVEY THE DESIGN INTENT AND FINISH MATERIAL SPECIFICATIONS ONLY. THEY ARE NOT TO BE USED TO OBTAIN BUILDING PERMITS OR FOR ACTUAL CONSTRUCTION OF THE PROJECT. COMPLIANCE WITH LOCAL BUILDING ORDINANCES, FIRE REGULATIONS, ZONING CODES AND ADA REGULATIONS IS BEYOND THE SCOPE OF THESE DOCUMENTS.
- B. THE PROPOSED DESIGN SOLUTION MAY REQUIRE MODIFICATIONS DUE TO JOB SPECIFIC INFORMATION REGARDING GRADING, UTILITIES, EASEMENTS, SETBACKS, WATER RETENTION, AND SITE ACCESS. ALL STRUCTURAL MODIFICATIONS MUST BE CAREFULLY ANALYZED BY A LICENSED STRUCTURAL ENGINEER AND MODIFIED/DESIGNED AS REQUIRED.
- C. COMPLIANT CONSTRUCTION DOCUMENTS ARE TO BE PREPARED BY LICENSED PROFESSIONALS WHO ARE WILLING TO ACCEPT RESPONSIBILITY FOR PROPER APPLICATION OF THESE INTENT DOCUMENTS.
- D. BUILDING CONFIGURATION, ROOM SIZES AND SHAPES ARE ALL SHOWN FOR DESIGN INTENT PURPOSES AS A GUIDELINE ONLY. ALL CRITICAL DIMENSIONING SHALL BE PERFORMED BY A LICENSED PROFESSIONAL AS PART OF CONTRACT DOCUMENT PREPARATION.
- E. DEALER'S ARCHITECT TO CONTACT THE MAZDA AUTHORIZED SERVICE EQUIPMENT PROGRAM FOR ON-SITE DEALER CONSULTATION AND RECOMMENDED SPECIAL TOOLS AREA LAYOUT. PH: (877) 768-6657.
- F. FOR JEWEL BOX LIFT DISPLAY "FUSE DISCONNECT", DEALER'S ARCHITECT TO CONFIRM LOCAL CODE AND REQUIREMENTS.
- G. ARCHITECT AND GC TO CONFIRM THAT THERE ARE NO EXPOSED EXISTING CMU-1 WALLS IN ANY CUSTOMER CONTACT AREAS, FUR OUT WALLS WITH GYPSUM BOARD, AS APPLICABLE.

- STORAGE UNITS LAYOUT AND QUANTITY 2. BY OWNER.
- 3. LINE OF SOFFIT ABOVE.

DRAWING NOTES

- FEATURE WALL. SEE SHEET A-2C FOR DETAILS.
- REFER TO FURNITURE LAYOUT PLAN ON SHEET A-3.
- 6. LINE OF FASCIA ABOVE.
- FIRE RATED WALL FIRE SHUTTERS OR FIRE RATED WINDOW WALL MAY BE REQUIRED.
 - SERVICE BAY LIFT AND ALIGNMENT RACK LAYOUTS BY OWNER.
- NOT USED. 9.

NOT USED.

- 10. ELECTRIC WATER COOLER SUPPLY ONE FOR ADA ACCESSIBILITY.
- 11. OPTIONAL "EARLY BIRD" NIGHT DROP INTEGRATED INTO FACADE.
- 12. SUGGESTED STRUCTURAL COLUMN LAYOUT. ALL LAYOUTS TO BE CERTIFIED BY A LICENSED PROFESSIONAL.
- 13. PARTS DOOR.
- 14. NOT USED.
- 15. VEHICLE LOCATION MAINTAIN LOCATION.
- 16. LINE OF CANOPY ABOVE.
- 17. FLOOR FINISH TRANSITION. SEE SHEET A-4.1.
- 18. NOT USED.
- 19. TECH TOOL STORAGE CABINET BY OWNER.
- 20. CAR LIFT.
- 21. NOT USED.
- 22. DISPLAY LIFT RAILING/SLICK RAIL. PORTIONS OF RAIL MAY BE REMOVABLE TO FACILITATE SHOWROOM VEHICLE ACCESS.
- 23. NOT USED.
- 24. DEFINES SERVICE STALL AREA.
- 25. MOP SINK.
- 26. JEWEL BOX LIFT DISPLAY "FUSE DISCONNECT" RECOMMENDED LOCATION. SEE GENERAL NOTE "F".

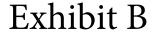
- 27. ARCHITECT TO CONFIRM ADA REQUIREMENTS FOR SERVICE ADVISOR COUNTER.
- 28. GC TO PROVIDE AND CONFIRM ADDITIONAL POWER/DATA CABLE FOR FUTURE MONITOR LOCATION (APPROX. 25'). EXACT LOCATION TBD. (SERVICE DRIVE)
- 29. (2) 55" TV/MONITORS. POWER/DATA TO BE
- AT 60" A.F.F. (CUSTOMER LOUNGE) 30. VIDEO MONITOR. CENTER OF MONITOR TO
- BE AT 72" A.F.F. (SERVICE WRITE-UP) 31. ALL CUSTOMER RESTROOMS TO HAVE RE STANDARD FINISHES PER DID.
- 32. FULL HEIGHT FRAMELESS GLASS PANELS. CHROME FINISH TRACK ON TOP AND BOTTOM AS REQUIRED. FILM APPLIED AT
- 33. SEE SHEET A-7C FOR ACCENT PANEL

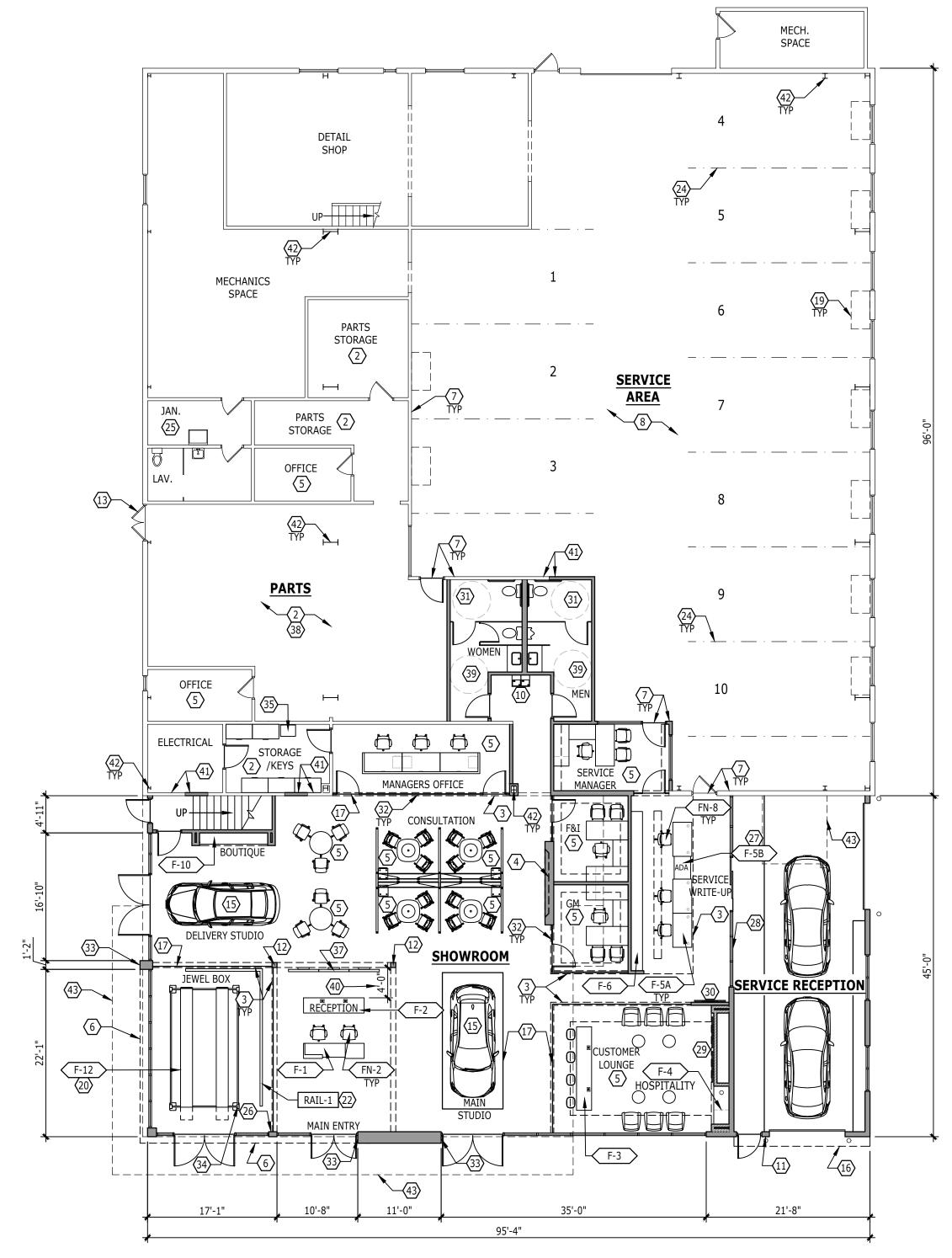
+36" A.F.F., TYP.

- DETAILS. 34. LOCATION OF POWER FOR BENDPAK LIFT IN JEWEL BOX. RIGHT SIDE JEWEL BOX (SHOWN) - UPPER RIGHT; LEFT SIDE
- JEWEL BOX LOWER LEFT.
- 35. KEY BOX.
- 36. NOT USED. 37. (9) MONITORS TO BE INSTALLED BEFORE INSTALLATION OF RECEPTION DESK.

RECOMMENDED: ADD PLYWOOD BACKING

- ON ENTIRE BACK WALL BEHIND (9) MONITORS.
- 38. AREA MUST BE EXCLUSIVE FOR MAZDA PARTS STORAGE. 39. BABY CHANGING TABLES IN RESTROOMS.
- 40. RECEPTION STATION TO BE PLACED 4'-0" IN FRONT OF (9) MONITORS SOFFIT
- 41. ALIGN WITH FACE OF EXISTING CONSTRUCTION.
- 42. EXISTING COLUMN. LICENSED PROFESSIONAL TO VERIFY EXACT LOCATION.
- 43. LINE OF EXISTING BUILDING/CANOPY TO BE DEMOLISHED.





SEACOAST MAZDA PORTSMOUTH, NH MAZ03.73

FEB **'21**

ChangeUp 3/32"=1'-0"

2056 Byers Rd. | Dayton, OH 45342 Phone: 844.804.7700

These drawings are for communication of design intent only. These drawings are to specify size, shape, color, features and proportions, and are not to be used as fabrication drawings.

FURNITURE AND FIXTURE PLAN - FIRST FLOOR

A-2.1

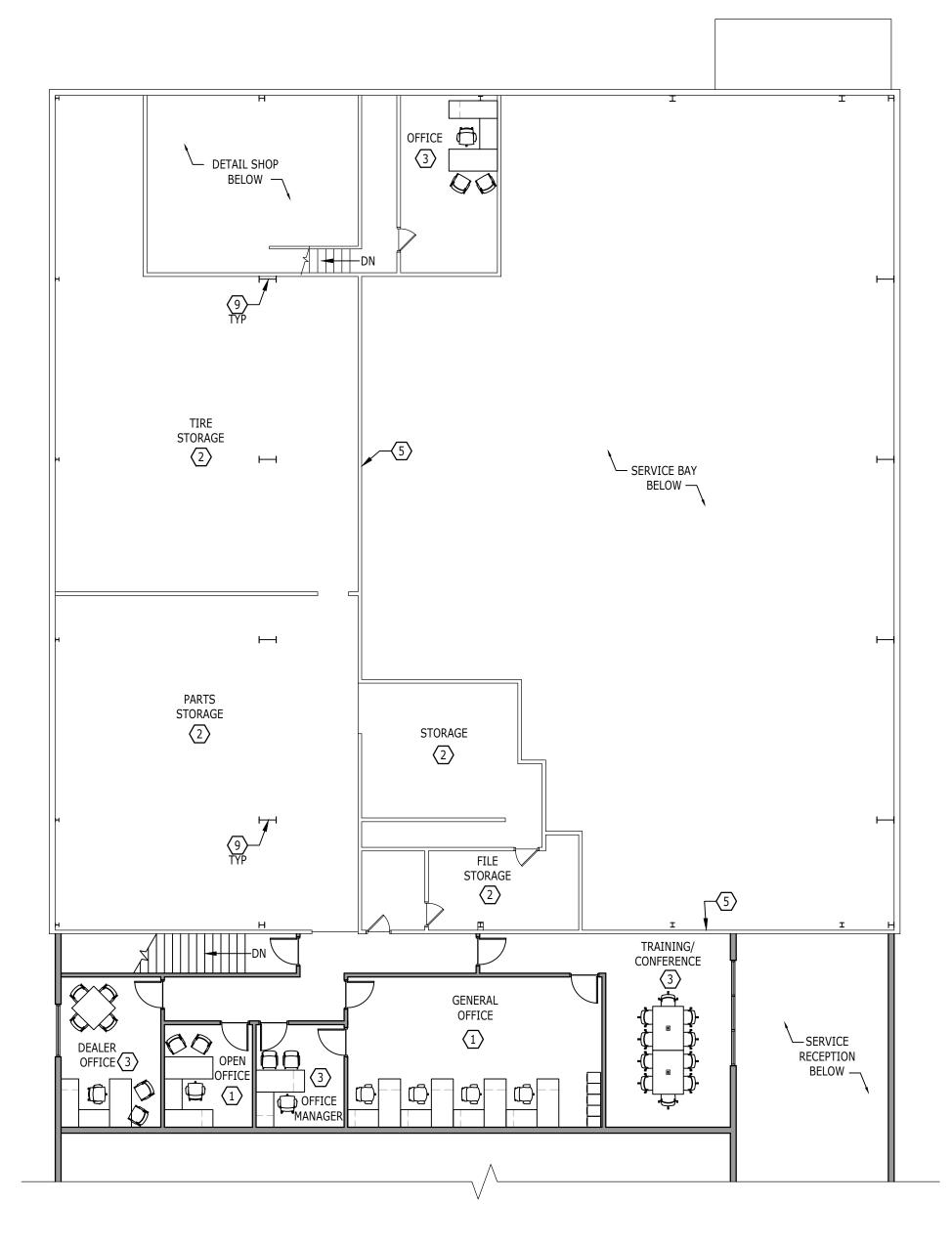
	LEGEND
#	NOTE DESIGNATOR - REFER TO DRAWING NOTES ON THIS SHEET
	NEW FULL HEIGHT PARTITIONS/WALLS
	EXISTING WALLS

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- E. DEALER'S ARCHITECT TO CONTACT THE MAZDA AUTHORIZED SERVICE EQUIPMENT PROGRAM FOR ON-SITE DEALER CONSULTATION AND RECOMMENDED SPECIAL TOOLS AREA LAYOUT. PH: (877) 768-6657.

DRAWING NOTES

- 1. OFFICE FURNISHING LAYOUT BY OWNER. ITEMS CAN BE SELECTED FROM SPECIFIED FURNITURE SYSTEM.
- 2. STORAGE UNITS LAYOUT AND QUANTITY BY OWNER.
- 3. REFER TO FURNITURE LAYOUT PLAN ON SHEET A-3.
- 4 NOT LISED
- 5. FIRE RATED SEPARATION WALL.
- 6. NOT USED.
- 7. NOT USED.
- 8. NOT USED.
- 9. EXISTING COLUMN. LICENSED PROFESSIONAL TO VERIFY EXACT LOCATION.



SEACOAST MAZDA PORTSMOUTH, NH PROJECT NO.

MAZ03.73

0. 7**3** FEB '21

CHECKED

CU

REVISED

SCALE Change Up

2056 Byers Rd. | Dayton, OH 45342 Phone: 844.804.7700

DRAWING TITLE

A-2.2

DWG NO.

Seacoast Mazda ZBA Application

Current Site Photos



Front Left



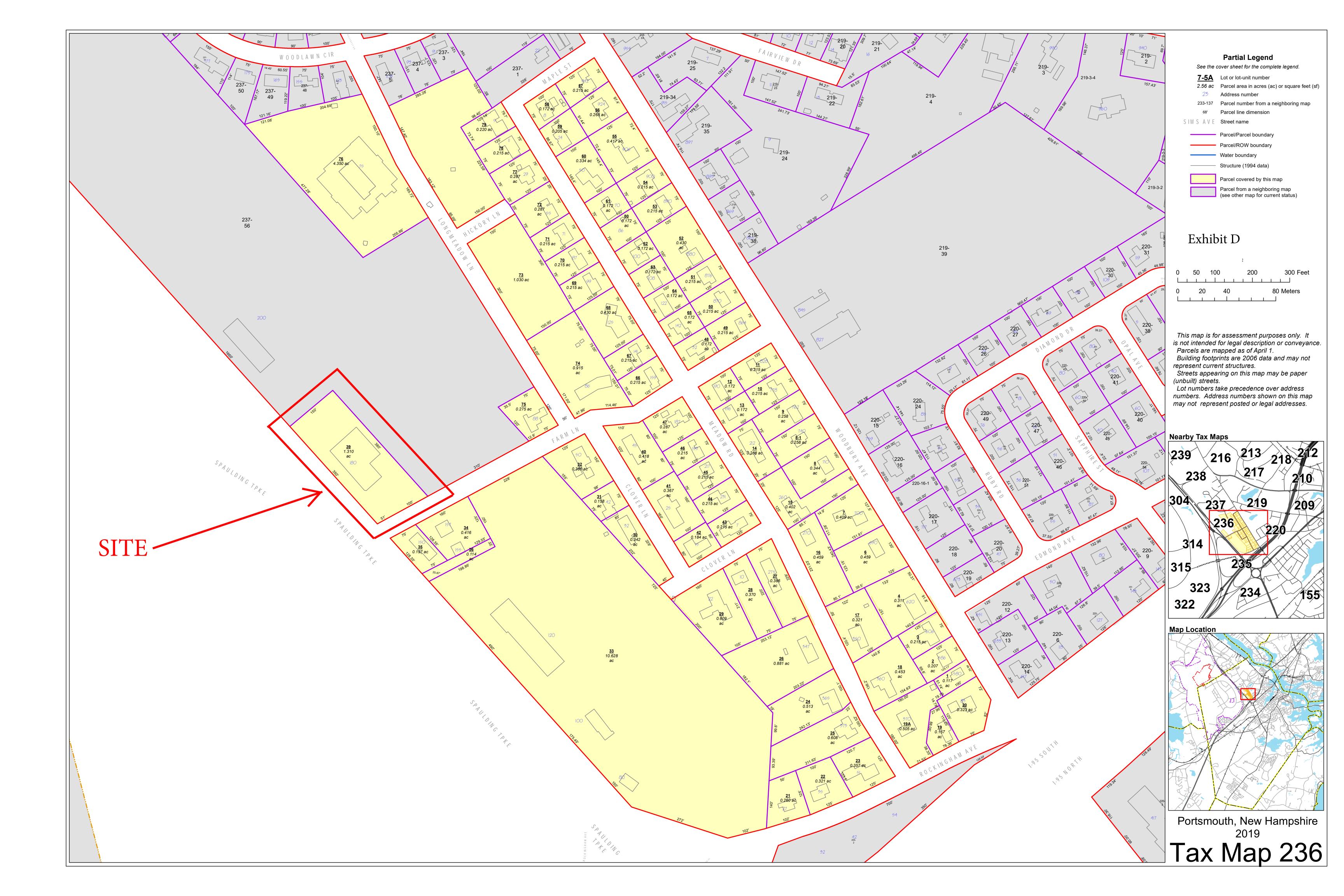
Front Right

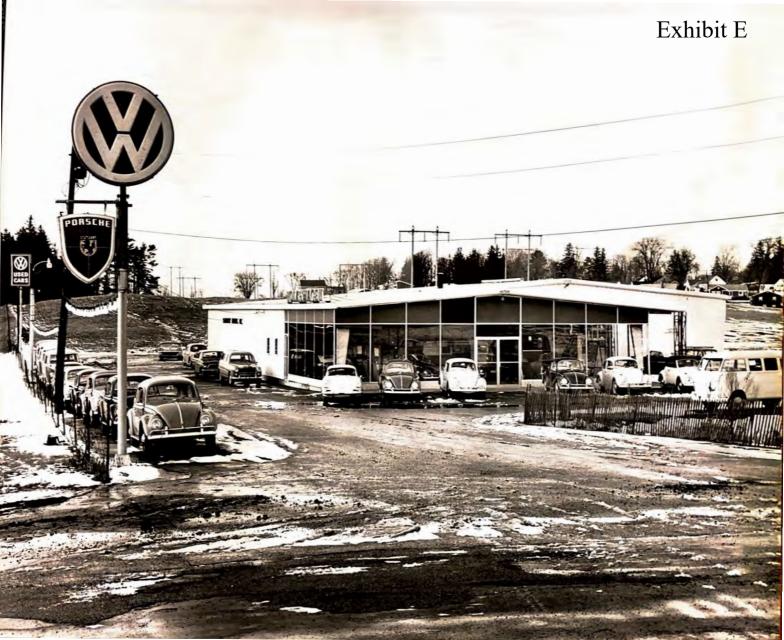


Rear Right



Rear Left







111 Bow Street
Portsmouth, NH 03801
603.427.0700
margaret@bowstcommercial.com

February 22, 2021

Chairman David Rheaume
City of Portsmouth
Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, New Hampshire 03801

Re: Variance Request – 180 Spaulding Turnpike

Dear Chairman Rheaume and Members of the Zoning Board,

I have been engaged by the Spaulding Group, LLC, owner of the property located at 180 Spaulding Turnpike with regard to the proposed improvements to the site and request for a variance. Mr. Tim Ackerman, Member of the Spaulding Group and owner of Seacoast Mazda, has asked me to provide my professional broker's opinion as to whether the proposed improvements to his existing auto dealership building would in any way diminish the surrounding property values.

I have been a commercial real estate broker in the seacoast New Hampshire market for over 23 years. I began my career in commercial real estate in 1998 with The Kane Company. Beginning In 2000, I worked for thirteen years as a Vice President/Partner of the CBRE | Portsmouth office. For the last seven years, I have owned my own commercial real estate firm in downtown Portsmouth, as Margaret O'Brien Realty and now Bow Street, LLC. During my career in the commercial real estate industry, I successfully completed transactions with total consideration in excess of \$600 Million. I have been a top performer in the New Hampshire commercial real estate market for many years. I specialize in office, industrial and retail leasing, property acquisition and disposition. In addition, having worked in the Portsmouth market for more than 20 years, I am very familiar with the impact of commercial development on the residential market.

In reviewing the proposed improvements to the Seacoast Mazda property, I have visited the site and reviewed the plans prepared by Ambit Engineering, dated February 2021 along with the Exterior Rendering and Exterior Elevations plans prepared by ChangeUp.

The Seacoast Mazda building is a 1960s vintage structure that has not seen any material improvement since it was constructed. The Seacoast Mazda property is over 300 feet from the nearest residential property and is flanked on both sides by commercial uses. The location of the property directly off the Spaulding Turnpike is and has always been a highly visible location for car dealerships, including the much larger Port City Nissan dealership and the Portsmouth Ford dealership. There is a substantial buffer between the subject property and the nearest residential properties that is afforded by the existence of significant electrical transmission lines. The front yard of the Seacoast Mazda property is on the side of the Spaulding Turnpike. The rear of the property abuts the New England Marine and Industrial property which has its access driveway off Farm Lane. The frontage of this property on Farm Lane is approximately 310 feet and at this location the property is fully encumbered by the transmission line easement which again creates a very significant buffer of the subject property to the nearest residences on Farm Lane and Meadow Road.

We recently saw the development by Green & Company of three new single-family residences at 32 and 42 and 54 Rockingham Avenue. These approx. 2700 +/- SF homes recently sold in February 2021 for \$645,000, \$639,000 and \$600,000 respectively. This development is adjacent to Port City Nissan and much closer to the Spaulding Turnpike than any residential properties are to the Seacoast Mazda dealership. The sale and value received for these properties was not adversely impacted by their proximity to Port City Nissan or the Spaulding Turnpike.

In my opinion, given the strong residential sales mentioned above, along with the fact that the improvements to the Seacoast Mazda building will be giving the property a much needed updating and refresh, the proposed improvements will certainly be viewed positively by both the commercial and residential marketplace and in no way would diminish the surrounding property values.

Please feel free to contact me directly if you have any follow up questions or concerns.

Sincerely,

Margaret O'Brien

Principal Broker

Bow St, LLC

111 Bow Street

Portsmouth, NH 03801

Office: 603-427-0700 Cell: 603-828-7245

margaret@bowstcommercial.com

Margaret O'Brien

ADDENDUM TO MEMORANDUM

TO: City of Portsmouth Zoning Board of Adjustment ("ZBA")

FROM: Mark E. Beliveau, Esq., Pierce Atwood LLP

Attorney for Spaulding Group, LLC (the "Applicant")

DATE: April 28, 2021

RE: Spaulding Group, LLC Application for Variances at 180 Spaulding Turnpike

(Map 236, Lot 39) (the "Application").

Dear Chairman Rheaume and Members of the Board:

Thank you for granting the Applicant's request to postpone the public hearing on this matter from April 20, 2021 until May 18, 2021. As mentioned, after further review of the plan it was determined that a variance from Section 10.1113.20 of the Portsmouth Zoning Ordinance (the "Zoning Ordinance") is needed to locate required off-street parking spaces in the front yard at 180 Spaulding Turnpike (the "Property").

This Addendum to Memorandum is intended to supplement the March 16, 2021 Memorandum and will address only the request for a variance from Section 10.1113.20. As a result, it will not repeat all of the background, facts and legal arguments in the earlier Memorandum but incorporates all such information herein by reference.

Included with this Addendum to Memorandum are the following revised Exhibits:

A. Ambit Engineering Plan Set, last revised April 27, 2021.

- · Cover Sheet
- Existing Conditions Plan
- Variance Plan

I. Proposed Location of Additional Parking

As described in the March 16, 2021 Memorandum, the Applicant proposes to demolish and reconstruct the Seacoast Mazda showroom and customer service area, and expand the building to include an indoor customer service drive-in. These improvements will be constructed within the footprint of the existing building and existing outdoor customer service drive-up area. The proposed new showroom, customer service and customer drive-in areas will align with the front, side, and rear of the current building and, thereby, maintain the same setbacks from Property boundaries that exist today. The overall gross floor area of the building will increase by 4,120 GSF. As a result, seven additional on-site parking spaces are necessary (the "Additional Parking").

The Applicant proposes to provide the Additional Parking along the fenced southern boundary of the Property. See Exhibit A. The Additional Parking will replace existing vehicle display area. This is an ideal location as it is very close to the entrance of the Property from Farm Lane and to the showroom, making for safe and convenient access.

The area proposed for the Additional Parking has been used for vehicle display since 1961 when Seacoast Motors, Inc. first opened for business at the Property. As a result, converting the area from vehicle display to striped parking will not represent a material change in use from the past 60 years.

Section 10.1113.20 of the Zoning Ordinance prohibits the location of off-street parking in "any required front yard." The front yard setback in the General Business Zoning District ("GBD") is 30'. The front yard of the Property is along the Spaulding Turnpike and, as such, includes the existing vehicle display area and proposed Additional Parking area. As a result, a variance from the terms of Section 10.1113.20 of the Zoning Ordinance is required in order for the Additional Parking to be located as proposed.

II. Required Variance from Portsmouth Zoning Ordinance

 A variance from <u>Section 10.1113.20</u> to allow seven required off-street parking spaces in the front yard of the Property where off-street parking is not allowed.

III. Five Criteria Must be Met to Obtain Approval of a Variance

An applicant seeking a variance must demonstrate that;

- (A) The variance will not be contrary to the public interest;
- (B) The spirit of the ordinance will be observed;
- (C) Substantial justice will be done;
- (D) The values of surrounding properties will not be diminished;
- (E) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

NH RSA 674:33(I)(a)(2). As set forth below, the Application meets each of the criteria for the approval of the parking location variance.

- The variance is not contrary to the public interest; and
- B. The spirit of the Ordinance is observed.

The New Hampshire Supreme Court has observed that "[t]he requirement that the variance not be contrary to the public interest is related to the requirement that the variance be

consistent with the spirit of the ordinance" and, therefore, the Court considers these criteria together. *Malachy Glen Assocs. v. Town of Chichester*, 155 N.H. 102, 105 (2007). The analysis of these criteria begins by examining the applicable ordinance. However, the Court has acknowledged that because 'the provisions of the ordinance represent a declaration of public interest, any variance would in some measure be contrary thereto." *Harborside Assocs. v. Parade Resident Hotel*, 162 N.H. 508, 514 (2011).

Accordingly, to determine whether a variance is not contrary to the public interest and is consistent with the spirit of the Ordinance, it must be determined whether granting the variance would "unduly and in a marked degree" conflict with the Ordinance such that "it violates the ordinance's basic zoning objectives." *Harborside Assocs. v. Parade Resident Hotel*, 162 N.H. 508, 514 (2011). Determining whether a variance violates the Ordinance's basic zoning objectives involves evaluating "whether granting the variance would alter the essential character of the neighborhood or threaten public health, safety or welfare." *Id.*

Granting the parking location variance presented in the Application will neither alter the essential character of the neighborhood nor threaten public health, safety or welfare. The proposed location for the Additional Parking has been used for vehicle display for the past 60 years. Converting a portion of the vehicle display area to Additional Parking will not be a significant change at the Property or even noticeable for most people. As a result, it will have no impact on the character of the neighborhood or threaten public health or safety. The proposed location for the Additional Parking will enhance site access and site safety. Putting the Additional Parking in close proximity to Farm Lane and the entrance to the building will reduce traffic movement at the Property and allow for easy access to the showroom.

Furthermore, the purpose and spirit of the parking location provision of the Zoning Ordinance will be observed if the variance is granted. There is a 55' wide natural buffer area between the proposed location for the Additional Parking and the Spaulding Turnpike edge of pavement. This has the effect of creating an open area almost double the size of the 30' front yard requirement. Moreover, the Additional Parking does not represent a new use within the front yard; it will simply replace existing vehicle display.

C. Substantial justice will be done.

With respect to this criterion, the Court has said that "perhaps the only guiding rule . . . is that any loss to the individual that is not outweighed by a gain to the general public is an injustice." *Malachy*, 155 N.H. at 107 (citing 15 P. Loughlin, *New Hampshire Practice*, *Land Use Planning and Zoning*, § 24.11, at 308 (2000)).

The building at the Property is in need of renovation and the addition of 4,120 GSF of floor area (requiring seven additional off-street parking spaces) will provide for more functional, efficient and productive space. Not granting the variance will result in a substantial loss for the Applicant especially in light of the fact that any attempt to reconstruct the building at the Property for any other permitted use in the GBD will also require variances. Plainly, the loss to the Applicant will not be outweighed by a gain to the general public. The general public gains nothing from keeping the Property in its current condition. Indeed, the general public will

benefit from the increased property tax revenue that is realized as a result of the new construction.

Approving the parking location variance will allow the Applicant to rehabilitate an outof-date building and continue a business in more functional and comfortable space that has operated at the Property for 60 years. There is no benefit to the general public that outweighs the burden and hardship to the Applicant if the variance is denied. Approving the requested variance will achieve substantial justice.

D. Granting the parking location variance will not diminish surrounding property values.

Providing seven parking spaces in place of vehicle display as proposed will not diminish the value of surrounding properties. Indeed, the proposed change will not be noticeable by most people passing by. The Property is located in the GBD where the sale of motor vehicles is permitted. In addition, the property abuts the Spaulding Turnpike and commercial uses surround the Property. The GBD along the Spaulding Turnpike where the Property is located is heavily commercial and includes retail, hotels, restaurants and automobile dealerships. The use of the Property and the proposed location of Additional Parking is consistent with the uses of other nearby properties within the GBD. The proposed location for the Additional Parking will not diminish the value of the surrounding commercial uses.

The nearest residential property is approximately 450 feet away from the proposed location for the Additional Parking. The change from vehicle display to the Additional Parking will have no impact whatsoever on nearby residential properties and not even be noticed by most people.

E. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

An unnecessary hardship exists when "[o]wing to special conditions of the property that distinguish it from other properties in the area (A) no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property, and (B) the proposed use is a reasonable one. RSA 674:33(I)(b)(1).

The size and width of the Property are the special conditions that distinguish it from other properties in the area. The Property is one of the smallest and most narrow strips of land among all of the commercially zoned properties in the GBD and other districts that exist along the Spaulding Turnpike from the Portsmouth Traffic Circle to the Newington town line.

These conditions that characterize the Property are significantly influenced by the fact that the Spaulding Turnpike lies at the southern boundary of the Property and the Single Residence B District ("SRB") abuts the northern boundary of the Property. No fair and substantial relationship exists between the purpose of the parking location requirement and its application to the Property due to the existence of the Spaulding Turnpike and the transmission

line easement that encumbers the abutting SRB property. There is a 55' buffer between the Property and the Spaulding Turnpike edge of pavement and more than 300' between the Property and the nearest residential property. These buffers have the effect of creating significant separation between the proposed location of the Additional Parking and the abutting uses; indeed these distances are greater than the applicable requirements in the Zoning Ordinance. Accordingly, there is no reason to apply the literal requirements of Section 10.1113.20 to the Property.

The Applicant's proposed location for the Additional Parking is reasonable. It is arguably the best location for the Additional Parking. It will enhance traffic flow at the Property, improve ingress and egress, allow for easy and safe access to the building and not have any impact on surrounding properties.

For these reasons, literal enforcement of the parking location requirement would result in an unnecessary hardship to the Applicant under RSA 674:33(I)(b)(1).

VI. Conclusion

Based on all of the reasons discussed herein, the Applicant respectfully requests that the Zoning Board grant a variance from Section 10.1113.20 of the Zoning Ordinance. Thank you.

Respectfully submitted, Spaulding Group, LLC

By: /

Mark E. Beliveau, Esq.

Pierce Atwood LLP

1 New Hampshire Avenue, Suite 350

liveau

Portsmouth NH 03801

603-373-2002

mbeliveau@pierceatwood.com

SITE DEVELOPMENT SEACOAST MAZDA 180 SPAULDING TURNPIKE

OWNER AND APPLICANT:

SPAULDING GROUP, LLC 180 SPAULDING TURNPIKE

PORTSMOUTH, N.H. 03801 TEL. (603) 436-6811

CIVIL ENGINEER & LAND SURVEYOR:

AMBIT ENGINEERING, INC.

PORTSMOUTH APPROVAL CONDITIONS NOTE:

PORTSMOUTH SITE PLAN REVIEW REGULATIONS.

ALL CONDITIONS ON THIS PLAN SET SHALL REMAIN IN EFFECT IN PERPETUITY PURSUANT TO THE REQUIREMENTS OF THE CITY OF

APPROVED BY THE PORTSMOUTH ZONING BOARD

200 GRIFFIN ROAD, UNIT 3 PORTSMOUTH, N.H. 03801 TEL. (603) 430-9282 FAX (603) 436-2315

ARCHITECT:

PORT ONE ARCHITECTS

959 ISLINGTON STREET PORTSMOUTH, NH TEL. (603) 436-8891

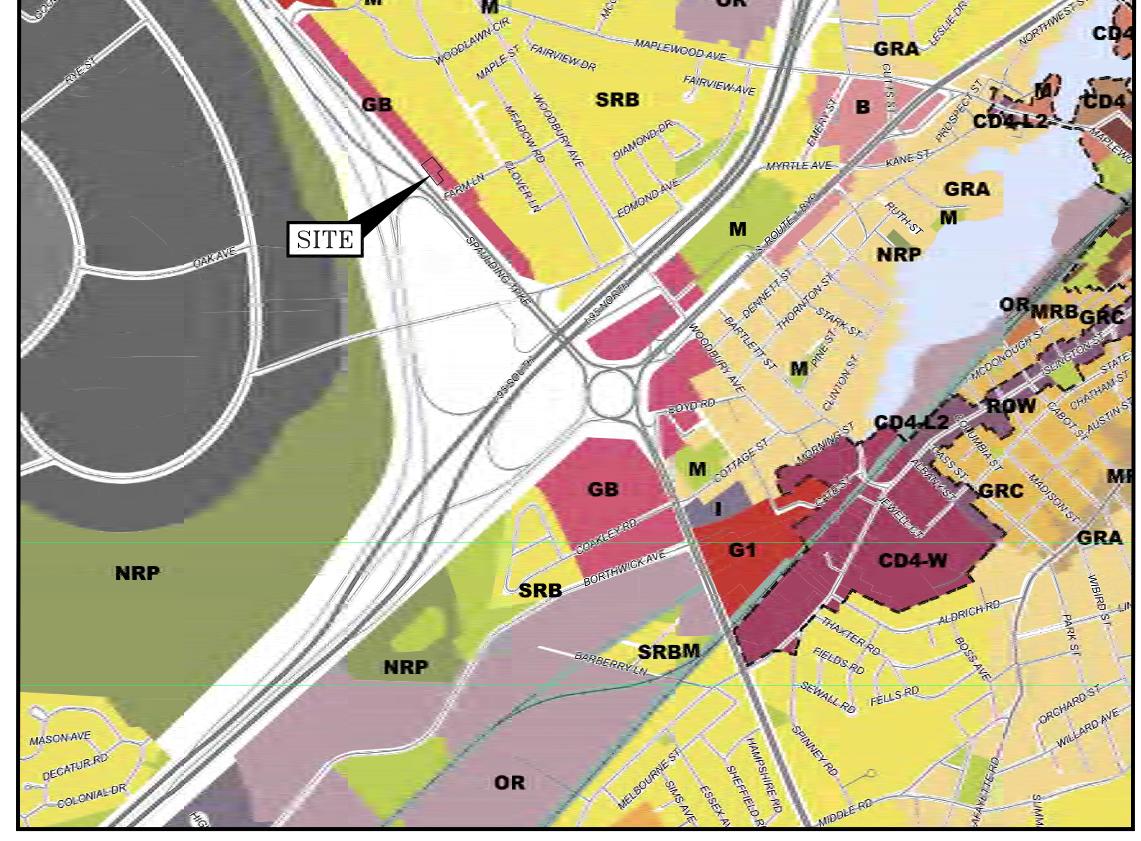
CORPORATE ARCHITECT:

CHANGE UP

2056 BYERS ROAD DAYTON, OH TEL. (844) 804-7700

Legend **Character Districts** Character-Based Zoning Area (Refer to Zoning Map Sheet 2 of 2 Character Districts Regulating Plan) **Residential Districts** SRA Single Residence A SRB Single Residence B GRA General Residence A General Residence B GRC General Residence C GA/MH Garden Apartment/Mobile Home Park Mixed Residential Districts MRO Mixed Residential Office Mixed Residential Business Gateway Corridor Gateway Center **Business Districts** General Business Business Waterfront Business

PORTSMOUTH NEW HAMPSHIRE ZBA PLANS





PORTSMOUTH ZONING MAP

UTILITY CONTACTS

C1 EXISTING CONDITIONS PLAN

VARIANCE PLAN

ELECTRIC: EVERSOURCE 1700 LAFAYETTE ROAD PORTSMOUTH, N.H. 03801 Tel. (603) 436-7708, Ext. 555.5678

ATTN: MICHAEL BUSBY, P.E. (MANAGER)

SEWER & WATER: PORTSMOUTH DEPARTMENT OF PUBLIC WORKS

680 PEVERLY HILL ROAD PORTSMOUTH, N.H. 03801 Tel. (603) 427-1530 ATTN: JIM TOW

NATURAL GAS: 325 WEST ROAD PORTSMOUTH, N.H. 03801 Tel. (603) 294-5144

ATTN: DAVE BEAULIEU

COMMUNICATIONS: CONSOLIDATED COMMUNICATIONS JOE CONSIDINE 1575 GREENLAND ROAD GREENLAND, N.H. 03840 Tel. (603) 427-5525

CABLE: COMCAST 155 COMMERCE WAY PORTSMOUTH, N.H. 03801 Tel. (603) 679-5695 (X1037) ATTN: MIKE COLLINS

LEGEND:

EXISTING	PROPOSED	
EXISTING S S SL G S SL W S SU WS SU UGE SU OHW 111 111 100 ST 97x3	PROPOSED S SL G D W WS UGE OHW UD 11111111111111111111111111111111111	PROPERTY LINE SETBACK SEWER PIPE SEWER LATERAL GAS LINE STORM DRAIN WATER LINE WATER SERVICE UNDERGROUND ELECTRIC OVERHEAD ELECTRIC/WIRES FOUNDATION DRAIN EDGE OF PAVEMENT (EP) CONTOUR SPOT ELEVATION
	<u> </u>	UTILITY POLE
-\\\\\\\\\\\\\\\\\\\\\\\	- → -	WALL MOUNTED EXTERIOR LIGHTS
		TRANSFORMER ON CONCRETE PAD
420 G20	450 G20	ELECTRIC HANDHOLD
	GV.	SHUT OFFS (WATER/GAS)
\bowtie	HYD	GATE VALVE
© CB	+++	HYDRANT
	CB CB	CATCH BASIN
(S)	SMH	SEWER MANHOLE
	DMH	DRAIN MANHOLE
	TMH	TELEPHONE MANHOLE
14)	14)	PARKING SPACE COUNT
PM		PARKING METER
LSA	\(\frac{\psi}{\psi}\)\(\psi\)\	LANDSCAPED AREA
TBD CI COP DI PVC RCP AC VC EP EL. FF INV S = TBM TYP W.W.	TBD CI COP DI PVC RCP - VC EP EL. FF INV S = TBM TYP W.W	TO BE DETERMINED CAST IRON PIPE COPPER PIPE DUCTILE IRON PIPE POLYVINYL CHLORIDE PIPE REINFORCED CONCRETE PIPE ASBESTOS CEMENT PIPE VITRIFIED CLAY PIPE EDGE OF PAVEMENT ELEVATION FINISHED FLOOR INVERT SLOPE FT/FT TEMPORARY BENCH MARK TYPICAL WINDOW WELL

SITE DEVELOPMENT SEACOAST MAZDA 180 SPAULDING TURNPIKE PORTSMOUTH, N.H.



AMBIT ENGINEERING, INC. Civil Engineers & Land Surveyors

200 Griffin Road - Unit 3 Portsmouth, N.H. 03801-7114 Tel (603) 430-9282

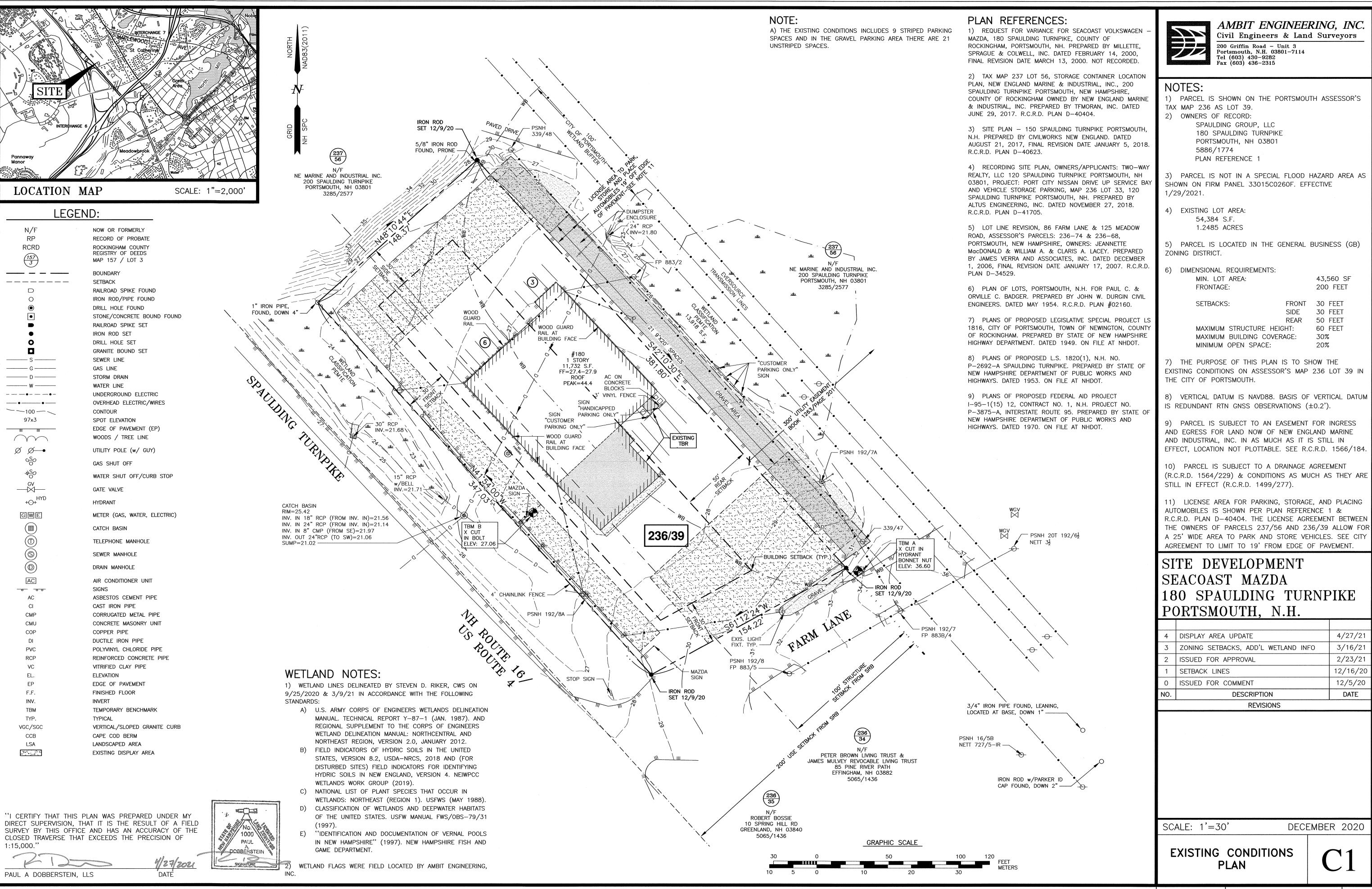
PLAN SET SUBMITTAL DATE: 27 APRIL 2021

INDEX OF SHEETS

DWG No.

CHAIRMAN

DATE





AMBIT ENGINEERING, INC.

Civil Engineers & Land Surveyors 200 Griffin Road - Unit 3 Portsmouth, N.H. 03801-7114 Tel (603) 430-9282

NOTES:

- 1) PARCEL IS SHOWN ON THE PORTSMOUTH ASSESSOR'S
- TAX MAP 236 AS LOT 39. 2) OWNERS OF RECORD:
 - SPAULDING GROUP, LLC
 - 180 SPAULDING TURNPIKE PORTSMOUTH, NH 03801 5886/1774 PLAN REFERENCE 1

Fax (603) 436-2315

- 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0260F. EFFECTIVE 1/29/2021.
- 4) EXISTING LOT AREA: 54,384 S.F. 1.2485 ACRES
- 5) PARCEL IS LOCATED IN THE GENERAL BUSINESS (GB) ZONING DISTRICT.
- 6) DIMENSIONAL REQUIREMENTS: MIN. LOT AREA:

MIN. LOT AREA: FRONTAGE:		43,560 SF 200 FEET
SETBACKS:	FRONT SIDE	30 FEET 30 FEET
MAXIMUM STRUCTURE	REAR HEIGHT:	50 FEET 60 FEET

- 30% MAXIMUM BUILDING COVERAGE: MINIMUM OPEN SPACE: 20% 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE
- EXISTING CONDITIONS ON ASSESSOR'S MAP 236 LOT 39 IN THE CITY OF PORTSMOUTH.
- IS REDUNDANT RTN GNSS OBSERVATIONS (±0.2'). 9) PARCEL IS SUBJECT TO AN EASEMENT FOR INGRESS
- AND INDUSTRIAL, INC. IN AS MUCH AS IT IS STILL IN EFFECT, LOCATION NOT PLOTTABLE. SEE R.C.R.D. 1566/184.
- 10) PARCEL IS SUBJECT TO A DRAINAGE AGREEMENT (R.C.R.D. 1564/229) & CONDITIONS AS MUCH AS THEY ARE STILL IN EFFECT (R.C.R.D. 1499/277).
- 11) LICENSE AREA FOR PARKING, STORAGE, AND PLACING AUTOMOBILES IS SHOWN PER PLAN REFERENCE 1 & R.C.R.D. PLAN D-40404. THE LICENSE AGREEMENT BETWEEN THE OWNERS OF PARCELS 237/56 AND 236/39 ALLOW FOR A 25' WIDE AREA TO PARK AND STORE VEHICLES. SEE CITY AGREEMENT TO LIMIT TO 19' FROM EDGE OF PAVEMENT.

SITE DEVELOPMENT SEACOAST MAZDA 180 SPAULDING TURNPIKE PORTSMOUTH, N.H.

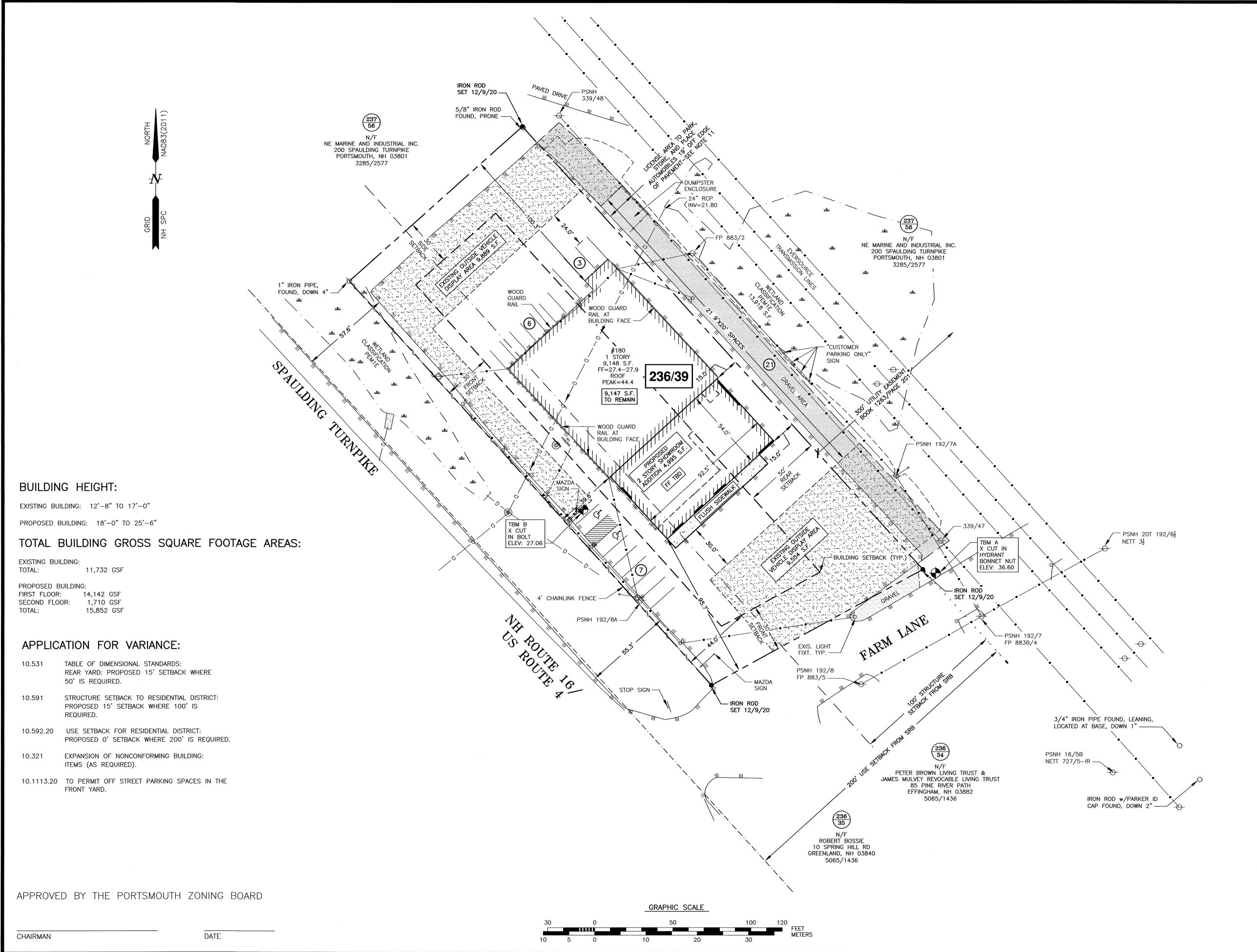
4	DISPLAY AREA UPDATE	4/27/21
3	ZONING SETBACKS, ADD'L WETLAND INFO	3/16/21
2	ISSUED FOR APPROVAL	2/23/21
1	SETBACK LINES	12/16/20
0	ISSUED FOR COMMENT	12/5/20
NO.	DESCRIPTION	DATE
	REVISIONS	

SCALE: 1'=30'

DECEMBER 2020

EXISTING CONDITIONS PLAN

FB 324 PG 51





AMBIT ENGINEERING, INC. Civil Engineers & Land Surveyors

200 Griffin Road - Unit 3 Portsmouth, N.H. 03801-7114 Tel (603) 430-9282 Fax (603) 436-2315

NOTES:

1) PARCEL IS SHOWN ON THE PORTSMOUTH ASSESSOR'S TAX MAP 236 AS LOT 39.
2) OWNERS OF RECORD:
SPAULDING GROUP, LLC
180 SPAULDING TURNPIKE
PORTSMOUTH, NH 03801
5886/1774

3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0260E. EFFECTIVE 5/17/2005.

4) EXISTING LOT AREA: 54,384 S.F. 1.2485 ACRES

PLAN REFERENCE 1

5) PARCEL IS LOCATED IN THE GENERAL BUSINESS (GB) ZONING DISTRICT.

6) DIMENSIONAL REQUIREMENTS:

MIN. LOT AREA: 43,560 SF FRONTAGE: 200 FEET SETBACKS: FRONT 30 FEET SIDE 30 FEET 50 FEET MAXIMUM STRUCTURE HEIGHT: 60 FEET MAXIMUM BUILDING COVERAGE: 30% MINIMUM OPEN SPACE: 20%

7) THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED DESIGN IN SUPPORT OF A VARIANCE APPLICATION.

8) VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS $(\pm 0.2')$.

9) PROPOSED USE: SALES, LEASING, AND SERVICING OF VEHICLES.

10) PARKING CALCULATION:
SECTION 11.10 SALES OF VEHICLES
15,852 S.F. GFA + 19,443 S.F. DISPLAY AREA.
REQUIRED: 1 PER 600 S.F. GFA + 1 PER 2,000 S.F.
OUTSIDE DISPLAY AREA.
REQUIRED: 15,852/600 + 19,443 S.F./2,000
27+10=37 SPACES REQUIRED.
37 SPACES PROVIDED.

11) THERE ARE 21 UNSTRIPED PARKING SPACES IN THE GRAVEL AREA.

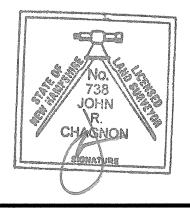
12) NO CHANGES TO EXTERIOR LIGHTING ARE PROPOSED. THERE WILL BE NO CHANGE TO THE CURRENT ON SITE PARKING OR DISPLAY AREA.

SITE DEVELOPMENT SEACOAST MAZDA 180 SPAULDING TURNPIKE PORTSMOUTH, N.H.

	DE 4010110	
NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	12/5/20
1	ISSUED FOR APPROVAL	2/23/21
2	ADD VARIANCE	4/27/21

REVISIONS





SCALE: 1'=30'

DECEMBER 2020

VARIANCE PLAN V1

FB 324 PG 51

3236

Land Use Permit (LU-21-60):
Application for use of land, 1281 Islington Street, for owning chickens including the erection of a chicken coop/shed.

1. Photo showing proposed location in the backyard.



2. Photo showing proposed shed design (will build from scratch but aesthetics will remain similar)



3. Proposed shed maximum dimensions as listed for chicken coop shown above



Proposed shed design will not exceed 10' in height and will likely be 7-8'

4. Map showing proposed location of chicken coop on property by former railroad tracks. Coop will be setback 5' from rear property line.



5. Special Exception standards:

10.232.20 Special exceptions shall meet all of the following standards:

10.232.21 Standards as provided by this Ordinance for the particular use permitted by special exception;

Response: No specific standards are detailed in the ordinance for farm animals.

10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;

Response: The owning of chickens will not result in any hazard to the public.

10.232.23 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;

Response:The values of the surrounding properties will not be impacted as we do not intend to place the coop near adjacent properties with single family residence. The coop will be on the back of the property adjacent to the old rail path.

10.232.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;

Response: Traffic is not impacted.

10.232.25 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and

Response: All waste is organic, and the chickens require minimal water usage.

10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.

Response: No impact to stormwater runoff.

10.232.30 Special exception approvals may be subject to appropriate conditions, including but not limited to the following:

10.232.31 Front, side and rear yards in excess of the minimum requirements of this Ordinance;

Response: N/A

10.232.32 Landscaping and/or screening of the premises from the street or adjacent property in excess of the minimum requirements of this Ordinance;

Response: N/A

10.232.33 Modification of the exterior features, buildings or other structures;

Response: N/A

10.232.34 Limitations on the size of buildings and other structures more stringent than the minimum or maximum requirements of this Ordinance;

Response: N/A

10.232.35 Limitations on the number of occupants and methods and times of operation; Article 2 Administration and Enforcement As Amended Through January 11, 2021 2-4

Response: N/A

10.232.36 Grading of the premises for proper drainage;

Response: N/A

10.232.37 Regulation of design of access drives, sidewalks, crosswalks and other traffic features;

Response: N/A

10.232.38 Off-street parking and loading spaces in excess of the minimum requirements of this Ordinance;

Response: N/A

10.232.39 Regulation of the number, size, lighting of signs more stringent than the requirements of the Ordinance; and

Response: N/A

10.232.39a Other performance standards.

Response: N/A

Thank you for your time in reviewing the following narrative and accompanying documents for a variance to allow a freestanding pylon sign at 806 US RT 1 Bypass, Portsmouth, NH 03801, on the site of The City Tobacco and Beverage Center.

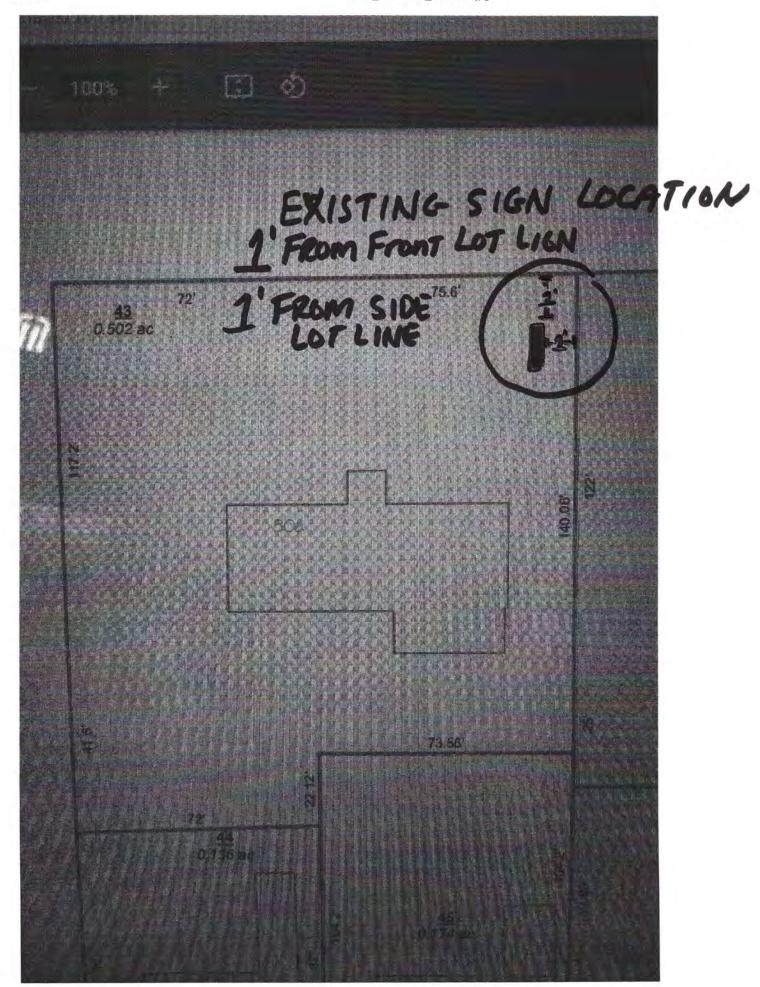
If allowed to replace the existing free standing pylon sign with our new sign in the same location, we do not believe that this will in any way be contrary to public interest. We believe this will have the opposite effect and be a welcome addition to the location. Removing the existing sign that is outdated and in somewhat disrepair and adding a new LED lit sign that is fully updated, accompanied by our fresh new landscaping ground cover will bring a cleaner, more modern, fresh look to the location.

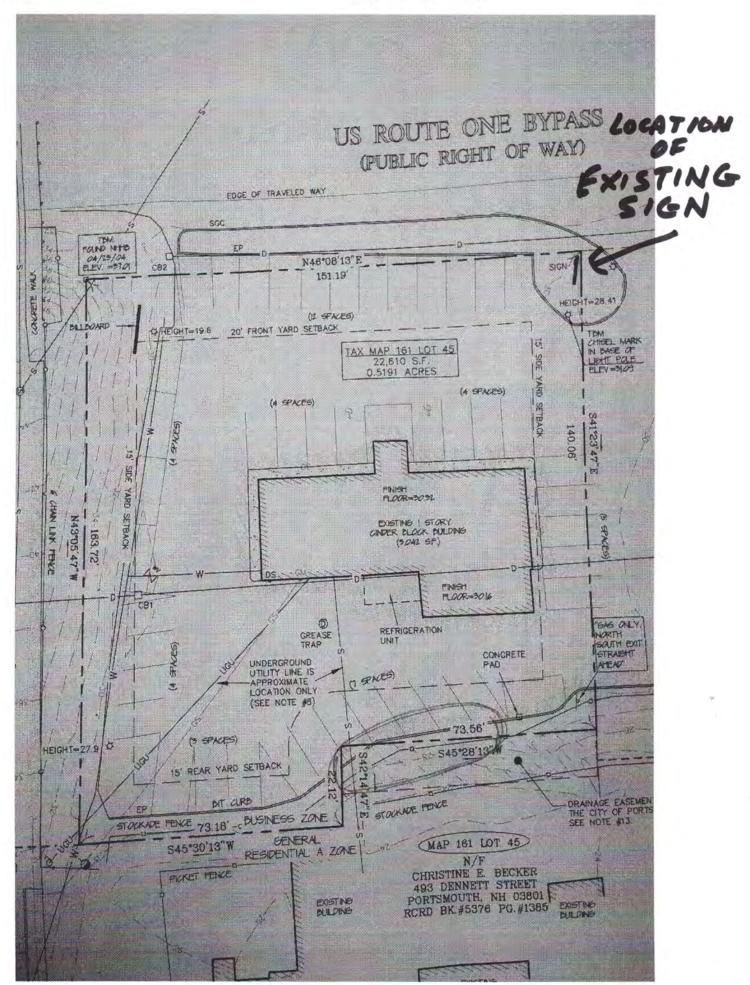
If allowed to replace the existing free standing sign with our new sign in the same location we believe all criteria will be met to honor the spirit of the ordinance, except the lot line set back. Having to follow the ordinance criteria including the lot line set back would put the location of the sign in what is currently a high traffic parking lot entrance.

If allowed to replace the existing free standing sign with our new sign in the same location we believe that substantial justice will be done. If not granted this variance, we will not be able to advertise our newest location adequately, thus we believe would result in lost revenue and in turn be an injustice to us as business owner/tax payer in Portsmouth.

If allowed to replace the existing free standing sign with our new sign in the same location we believe that it will not decrease the values of surrounding properties. Adding a fresh clean look to create a more desirable curb appeal in the area with a modern sign in place of the antiquated existing sign would possibly increase the surrounding property values.

In closing, if we are not granted this variance we believe we will experience an unnecessary hardship in the form of lost revenue from not being able to properly advertise our newest location. If not granted this variance, in order to be in compliance with the full criteria of the ordinance we will have to completely redesign our parking lot entrance and parking area. The scope of such a project would include, engineering design, drainage design, traffic flow design, realigning our parking spaces, electrical engineering to get power to the new location of the sign. All of these aspects would not only take an undetermined amount of time but be a substantial financial drain from our business. We can not be in strict conformance with the lot line set back criteria of the ordinance in order to allow reasonable use of our new free standing sign in the current location.

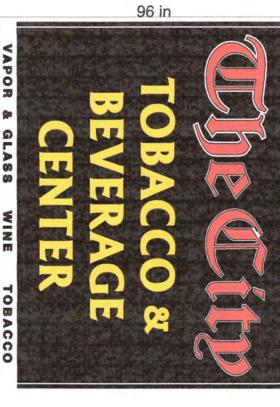




PREMIUM CIGARS LOTTO CRAFT BEE!

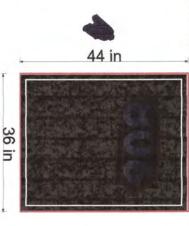


PREMIUM CIGARS LOTTO CRAFT BEER



& GLASS WINE TOBACCO

VAPOR & GLASS WINE TOBACCO





REVISION:

All orders over \$250 include 3 revisions only. Additional revisions will be charged at All orders under \$250 include 1 revision only.

\$25 per revision.

PLEASE NOTE:

PortsmouthSign.com 603-436-0047

Designs are NOT actual size and color may

vary depending on printer and/or monitor.

12/6/2020

Standard vinyl & paint colors will be used. Custom colors and specific matches to PMS colors will be an additional fee. I have carefully I understand this Order Form is the final production order and replaces all previous drawings, notes and verbal instructions to this job. reviewed this form and verify that it contains all necessary specifications and represents my order. RETURN SIGNED TO: service@portsmouthsign.com

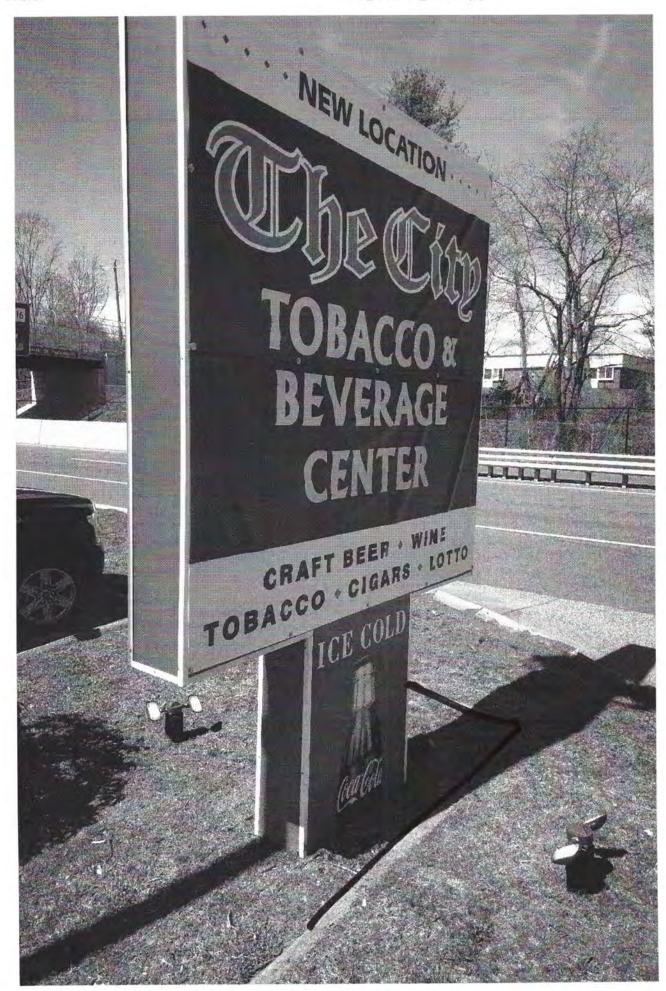
I authorize fabrication according to this approval.

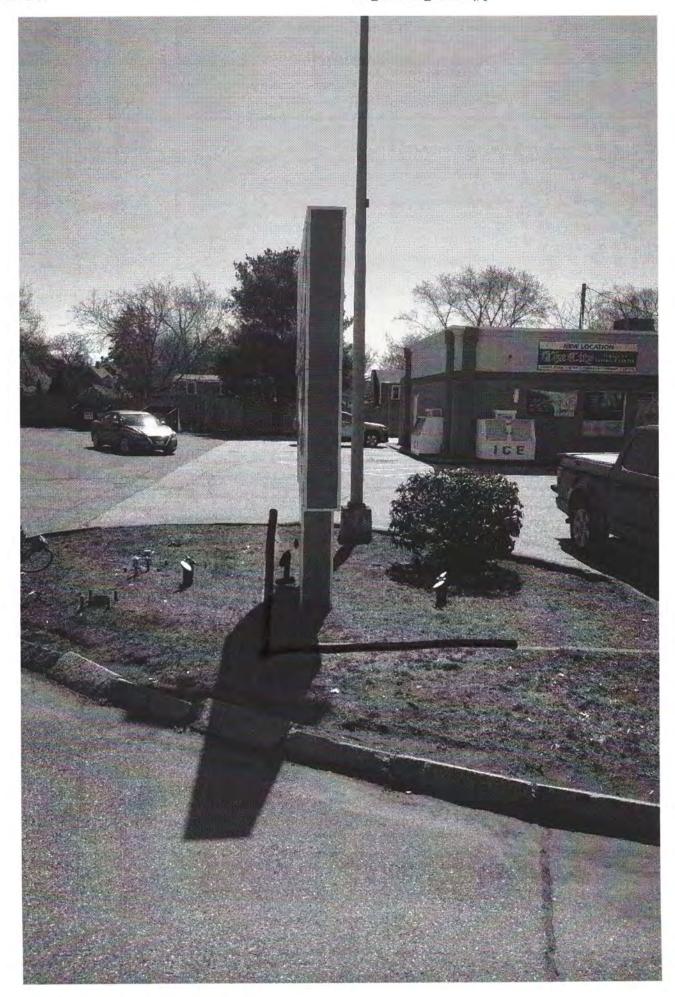
SIGNATURE:

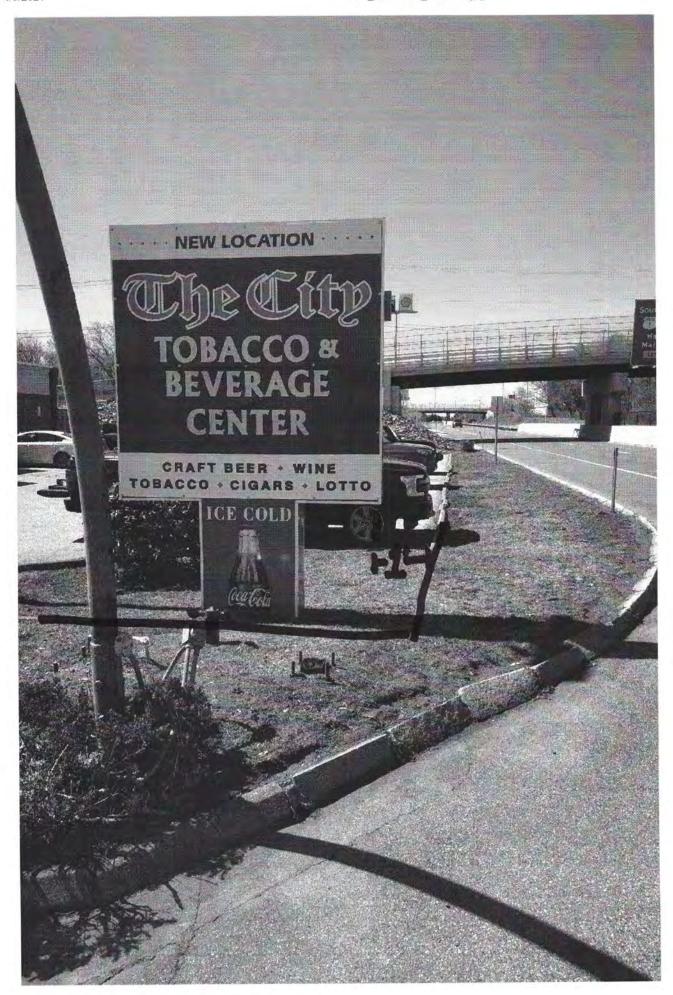
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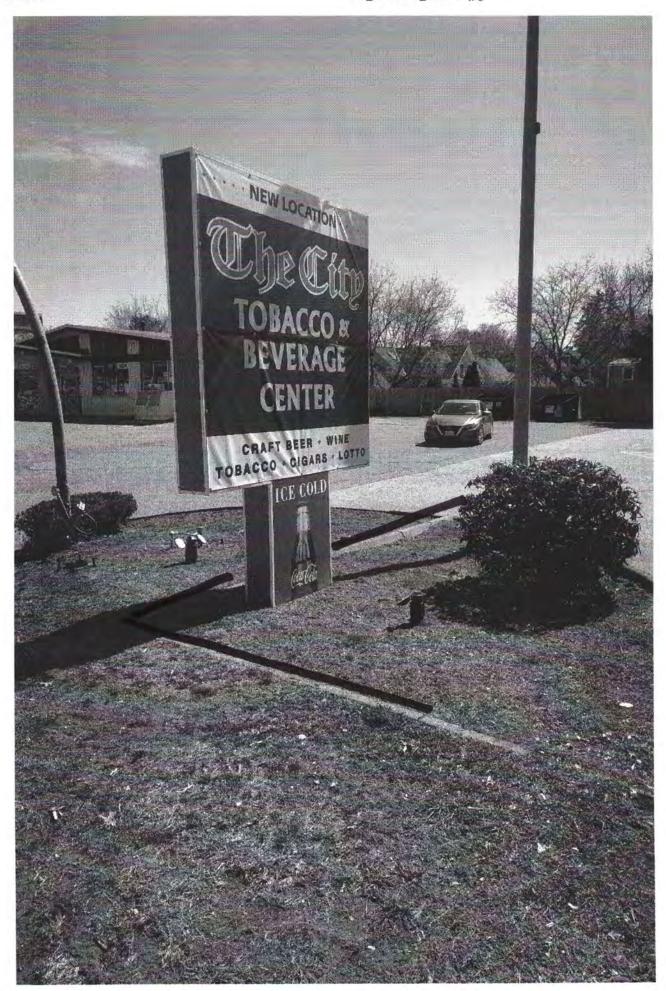
©COPYRIGHT 2020, BY PORTSMOUTH SIGN COMPANY. All designs and custom artwork remain the property of Portsmouth Sign Company until the order is complete and paid in full. SS D DS D Background Color: Vinyl Color:

Date:











* COST OF FREESTANDING-Pylon SIGN

Estimate #1104

3/11/2021

Prepared For:

The City - SV Port Inc Dennis Stoddard 806 US-1 Bypass Portsmouth, NH 03801

Phone: 603-671-0702

Alt. Phone:

Email: dennis1970vm@gmail.com

Prepared By:

Carrie

Portsmouth Sign Company 19 Nimble Hill Road Newington, NH 03801 USA

Phone: 603-436-0047

Alt. Phone:

Email: Carrie@portsmouthsign.com

Fax:

Description: Rt 1 Bypass lit signage

Estimated Time For Production:

30 working days

Fax:

Quantity	Description	Each	Total	Taxable
* 1	Free Standing Pylon 97" x 39" x14 Hinge double face cabinet, center pole match plate, lit with LEDs UL Listed	5,940.00	\$5,940.00	5,940
2	97" x 39" in Premium Vinyl Mounted on lit Cabinet Blackout Black with Red and Yellow Text	400.00	\$800.00	800
1	97" x 56" Galaxy Outdoor Electronic Message Center, GS6 Series, 15.85mm, Daktronics LED Message Board, double-sided	32,084.00	\$32,084.00	32,084
1	Steel Pole Fabrication 1/4" x 10" x 10" x 6' with 1" x 14" x 14" Base plate with 3/4 Holes	1,338.00	\$1,338.00	1,338
1	Poured Foundation with Anchor Bolts	2,500.00	\$2,500.00	2,500
1	Channel Letters on Raceways Wine, Craft Beer, Lotto, Tobacco	14,595.00	\$14,595.00	
	Channel Letters on Roof Brackets The City Tobacco & Beverage Center			
1	Permit Aquisition for all signage	300.00	\$300.00	
8	Install for all signage	X 165.00	\$1,320.00	1,320
		Subtotal Total	\$58,877.00 \$58,877.00	43,982

Terms: This estimate good for 30 days. 50% deposit due on signing, 50% due on installation.





reopose o Sign W EXISTING SIGN IN SAME LOCATION



REVISION:

\$25 per revision. Additional revisions will be charged at All orders over \$250 include 3 revisions only. All orders under \$250 include 1 revision only.

PLEASE NOTE:

PortsmouthSign.com 603-436-0047

SS D DS D

Designs are NOT actual size and color may vary depending on printer and/or monitor. SIGNATURE:

03/06/2021

Standard vinyl & paint colors will be used. Custom colors and specific matches to PMS colors will be an additional fee. I have carefully I understand this Order Form is the final production order and replaces all previous drawings, notes and verbal instructions to this job. reviewed this form and verify that it contains all necessary specifications and represents my order.

RETURN SIGNED TO: carrie@portsmouthsign.com

l authorize fabrication according to this approval.

©COPYRIGHT 2020, BY PORTSMOUTH SIGN COMPANY. All designs and custom artwork remain the property of Portsmouth Sign Company until the order is complete and paid in full Materials: Background Color: Vinyl Color:

Date:

Other:

HP Int I

8

REQUEST FOR VARIANCE (6'FENCE)

Arun and Sally Naredla

1 Harding Rd, Portsmouth NH 03801

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unne	ecessary hardship	9
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T.	NCICICILC	

1. Labeled Photos

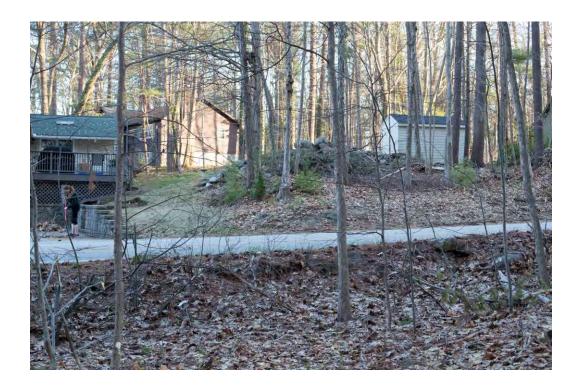
1.1 Picture showing a view from our driveway to Elwyn Rd



1.2 Picture showing a view from our backyard



1.3 Picture showing a view from Urban Forestry trail to our property



1.4 Picture showing another view from Urban Forestry trail into our property



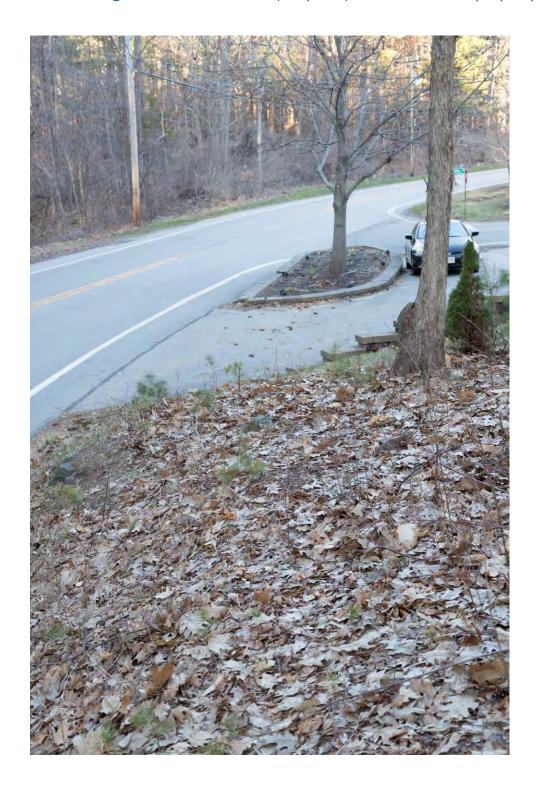
1.5 Picture showing a view from gated entrance of Urban Forestry into our property; a lot of cars park near the gate



 $1.6\,\mathrm{Picture}$ showing another view from our driveway to Elwyn Rd



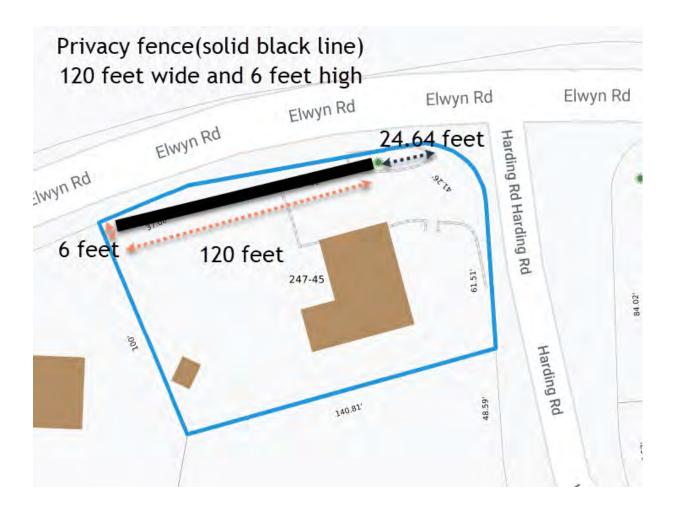
1.7 Picture showing a view of East Bound (Elwyn Rd) from back of our property



1.8 Picture showing a view of West Bound (Elwyn Rd) from the intersection of Elwyn and Harding Rd



2. Detailed schematic drawing of the plan



Request for Variance - 1 Harding Rd (Naredla)

3. Written statement

Written statement with this application explaining how the request complies with the requirements of the Zoning Ordinance as provided in Article 2 (Section 10.233.20 for Variances, Section 10.232.20 for Special Exceptions) [1]

Our request for a 6' high fence along Elwyn road will primarily serve to diminish the noise from vehicle (motorcycles and cars) traffic on Elwyn Rd, provide better safety for our backyard and driveway, and promote privacy. Currently, there are two openings to our driveway: one on Elwyn Rd and one on Harding Rd. Many cars use our driveway as a turnaround spot and we have also had cars run into the island located in the center of our driveway. The fence will serve to block off this second entrance to promote privacy and safety in our driveway as well as discourage drivers from using our driveway as a turnaround or cut-through.

3.1 10.233.21 The variance will not be contrary to the public interest

This request for a 6' high fence will not be contrary to the public interest. There are no houses located across Elwyn Rd from the proposed fence, only the trails of the Urban Forestry Center. Therefore, the fence will not be obstructing the view of any neighbors nor will it create an eye sore as there are no neighbors across the road from the proposed fence. We can provide a written statement of support from our neighbors located immediately West of our property, as they are aware of and in support of this proposed fence.

3.2 10.233.22 The spirit of the ordinance will be observed

Additionally, we are aware that the two corner lot properties on the corner of Elwyn and Taft Rds, one block west of our house, also have 6' high fences along the Elwyn Rd sides of both their properties. We are confident that such fences are acceptable by those living in our neighborhood as well as necessary for the promotion of privacy, safety, and diminishing noise from Elwyn Rd.

We are aware of the requirements set forth in article 10.516.30, which discusses corner lot vision obstructions. We plan to build the fence in such a way that it will not obstruct sight lines from the stop sign at the intersection of Elwyn and Harding Rds. We will take any suggestions from the planning board in order to ensure the continued safety of this intersection.

3.3 10.233.23 Substantial justice will be done

The fence will serve to diminish noise from motorcycles and cars, block off our second entrance to promote privacy and safety in our driveway as well as discourage drivers from using our driveway as a turnaround or cut-through.

3.4 10.233.24 The values of surrounding properties will not be diminished

We believe that a 6' high fence along the side of our property would not diminish property values of the surrounding houses. As mentioned above, there are no residential

Request for Variance - 1 Harding Rd (Naredla)

properties across the street from the proposed fence; therefore, our fence would not create a barrier between properties nor would it obstruct anyone's view or create a potential eye sore.

3.5 10.233.25 Literal enforcement of the provisions of the ordinance would result in unnecessary hardship

We are requesting a 6' high fence as opposed to the ordinance-mandated 4' high requirement for three primary reasons. First, the additional height of the fence will provide improved noise cancellation from the traffic on Elwyn Rd. Second, it would improve privacy for our driveway and backyard. Finally, the higher fence would promote better safety, particularly for children playing in the backyard or driveway.

4. Reference

[1] http://files.cityofportsmouth.com/files/planning/zoning/ZoningOrd-191216.pdf

Members of the Board of Adjustment,

My name is Tatum Brown, myself and my husband, Alec Brown (tenants of 102 Martha Terrace, Portsmouth, NH, as of June 1, 2021), with permission from the owner, Shirley Edmunds, are seeking a special exception to keep chickens on the property.

The seeking of special exception and this application complies with the city's SRA zoning ordinance under Section 10.440, Table of Uses, 17.20 Keeping of Farm Animals.

Special Exception Criteria:

Section 10.232.20

Special exceptions shall meet all of the following standards:

10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials; There are no risks of fire, explosion, or toxic materials associated with chickens and/or their coop. There is no power or lighting in the coop.

10.232.23 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials; With only 6 hens the coop is relatively small. The equipment for keeping chickens, feed and pine shavings for coop will be kept inside the house basement. The chickens are hens and make minimal noise, no crowing. There will be no odor from the coop as it is cleaned weekly. All structures, accessways, and buildings will remain unchanged. The coop will sit atop the lawn.

10.232.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity; **There are no traffic changes associated with the coop or chickens.** 10.232.25 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; **There will be no excessive demand on municipal services.** 6 chickens drink >1 gallon of water per day.

10.232.26 No significant increase of stormwater runoff onto adjacent property or streets. **There** are no changes to stormwater runoff associated with the coop or chickens.

Proposed Coop Location:

The coop, see photo below, will be 76in tall x 46in wide x 72in long. The coop includes a run, thus the chickens will be contained at all times.

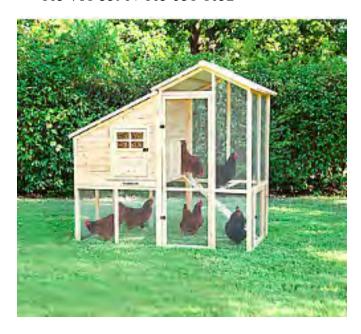
The location of the coop will be the back corner of the property, see photo below, it will be off property lines by approx. 7ft. This space is currently empty lawn space.

The Chickens:

The 6 chickens, Peep, Penny, Big Red, Brown, Shadow, and Dixie are 1 year-old hens. We do not have, nor wish to have a rooster. They are well loved pets, and respond by name.

Please reach out with any questions or concerns. Thank you for your time and consideration.

Best,
Tatum and Alec Brown (project representatives)
tatumb393@gmail.com
603-781-3390 / 603-531-1032











Peep, the buff orpington hen, and our daughter.

29 Burkitt St (FRONT)



Variances in question for this project:

New Proposed addition - Lot Coverage- the variance will be equivalent to the current 26 % coverage that we have including the deck. However, Ive been told that after tear down of the deck, we then need re-approval to go back to that same coverage. We are minimizing impact by staying in the current footprint and not asking for more lot coverage than that of our current structures.

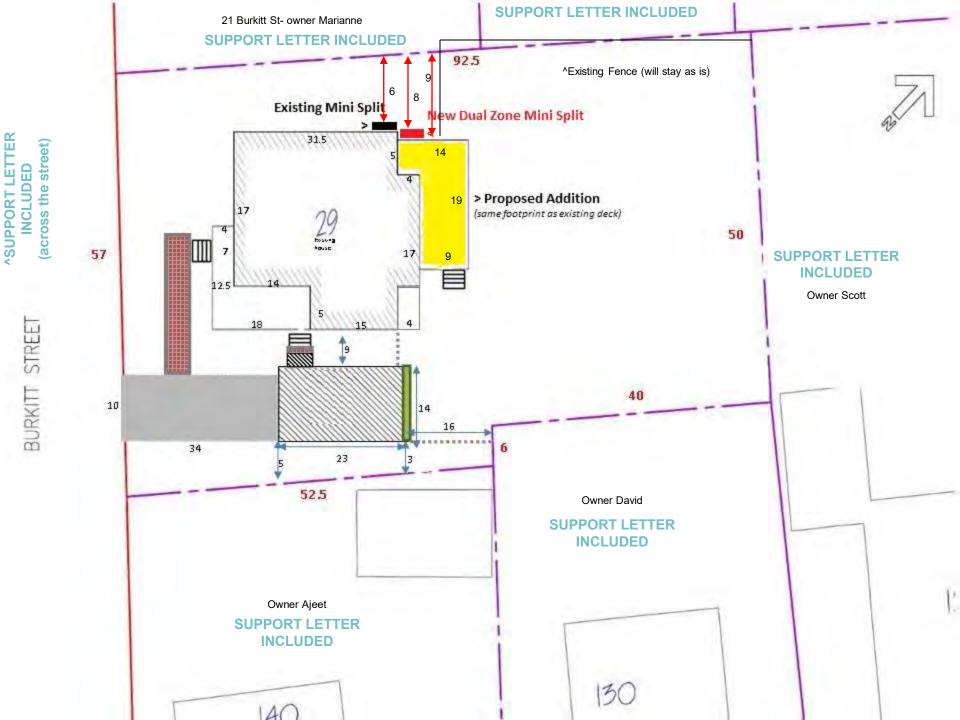
New proposed addition - Mini Split Location within sideline setback- the new dual zone mini split would sit 8 feet from the abutting lot line and has been fully approved by the abutting neighbors.

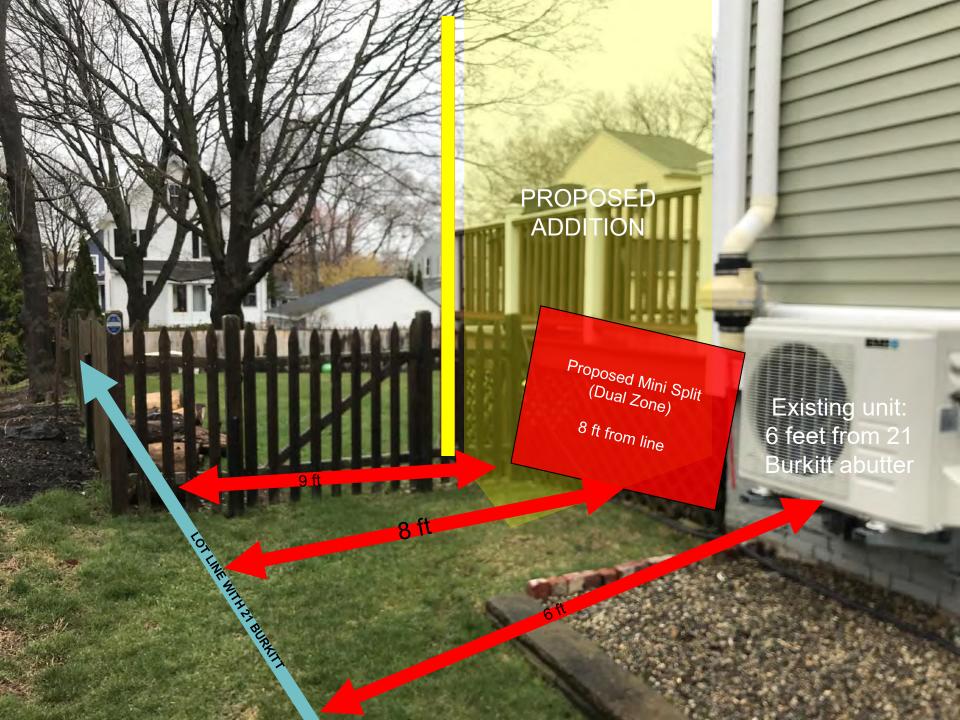
"After the fact" existing Mini Split location within sideline setback- we have a preexisting mini split that I am informed was not approved as it was before the code changed. The project for that was fully approved and Peter suggested we ask for an "after the fact" variance for the existing mini split shown in the pictures. The existing unit sits at just 6 feet from the lot line and has been fully approved by the abutting neighbors

Description of Proposed Project

upon approval, we would like to remove the existing deck, which is not attached to the house. We would then like to dig roughly 4 feet down into the ground to enable a full slab floor with frost wall foundation. This foundation would join to the existing rock/brick foundation of the main house, but we do not plan to connect any doorways in through that existing foundation, at this time. We would have a legal sized opening that meets easement standard, which would be a metal rollup door at ground level on the exterior. This would have a ramp leading down into the new basement structure. On top of that foundation, we would build two stories up, with connection into the existing house via an existing doorway that currently leads onto the deck, and two windows on the second floor, which would become doors. These three openings are the only connections into the current house. As you will see by the plans for the first floor, we will build around the existing bump out. On the second level, access will be via a new hallway created by cutting the existing bedroom in half. This new hall would lead to the new rear bedroom on the second floor of the proposed structure. The new proposed addition would have a shed style metal roof that would terminate, at the highest point, just under the third-floor bath window that is pre-existing. For heating and cooling, a new dual zone mini split would be attached to the exterior of the house, on the west side facing 21 Burkitt st. This would be located near the existing mini split that we currently have for our third-floor master suite, built in 2017.

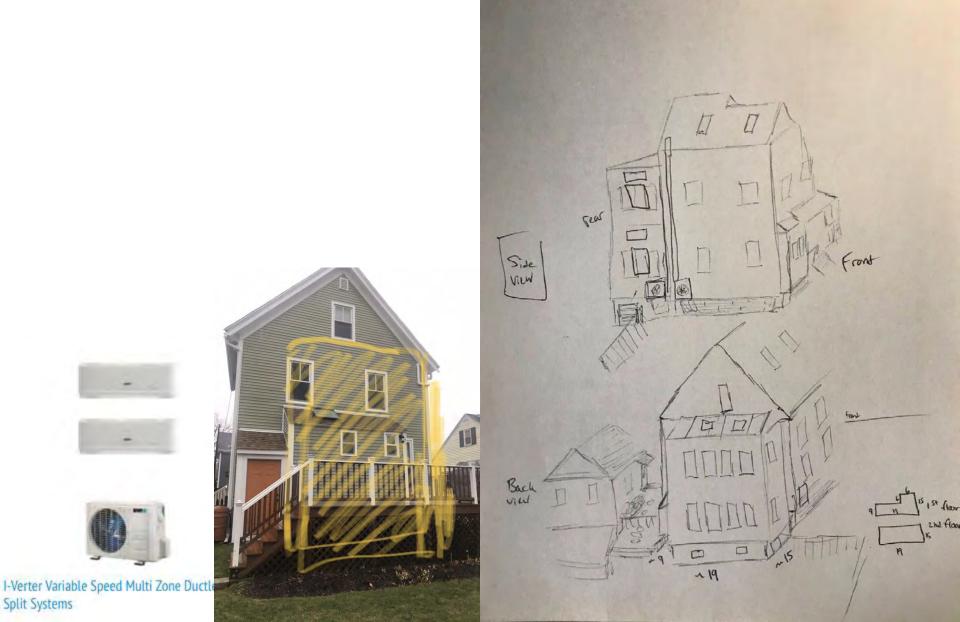
Requirement	Explanation	Justification
1.The variance is not contrary to the public interest2.The spirit of the ordinance is observed	The proposed use must not conflict with the explicit or implicit purpose of the ordinance, and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."	The variance is not contrary to public interest. The location on my property conforms to many other single family homes in the area and does not create any detriment to public health, safety, or welfare, or otherwise injure "public rights." The spirit of the ordinance has been observed. The purpose of the ordinance is not to deter type of application.
3.Substantial justice is done	The benefit to the applicant should not be outweighed by harm to the general public or to the other individuals.	The benefit to me is not outweighed by harm to the general public because there is no harm to the general public or to the other individuals. I have the support of all surrounding neighbors as shown in the attached support letters.
4.The values of surrounding properties are not diminished	Expert testimony on this question is not conclusive, but cannot be ignored. The board may also consider other evidence of the effect on property values, including personal knowledge of the members themselves.	The values of surrounding properties will not be diminished. Many other similar properties have additions and home values have generally increased in the surrounding area. If anything, this added structure is an improvement and should increase the value of the surrounding properties as well as mine. I have had comps run against the new proposed square footage of my house to prove that my investment will be returned in the event of a future sale.
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: 1.There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property; AND	The applicant must establish that the property is burdened by the zoning restriction in a manner that is distinct from other similarly situated property. 1. Determine the purpose of the zoning restriction in question. The applicant must establish that, because of the special conditions of the property, the restriction as applied to the property does not serve that purpose in a "Fair and substantial" way. 2. The applicant must establish that the special conditions	Because of the special conditions of the property that distinguish it from other properties in the area: 1. There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property; AND 2. The proposed use is a reasonable one. The property boundary line between 21 Burkitt st and 29 Burkitt angles towards 29 Burkitt as it runs from back yard to front street, unfavorably. This causes the 10 foot sideline setback to be just inside
2. 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.	of the property cause the proposed use to the reasonable. The use must not alter the essential character of the neighborhood. As an alternative to A and B, the applicant can satisfy the unnecessary hardship requirement by establishing that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance. If there is any reasonable use that is permitted under the ordinance, this alternative is not available.	the limit for the structure, at 9 feet. The new mini split would be 1 foot inside of that since it bumps out from the building. The existing mini split is 6 feet, but has been in place for a few years and was an approved project prior to that approval requirement. Overall lot coverage will remain constant after removal of the existing deck and replacement of the new foundation footprint. I am doing my best to fit the proposed structure in a reasonable way, by reusing the same footprint. The addition will match the design features of the existing home and aspects of my surrounding neighbors to maintain the atmosphere of the community. This addition would allow me to have the same benefits that other homes already enjoy with larger footage for raising my young family.



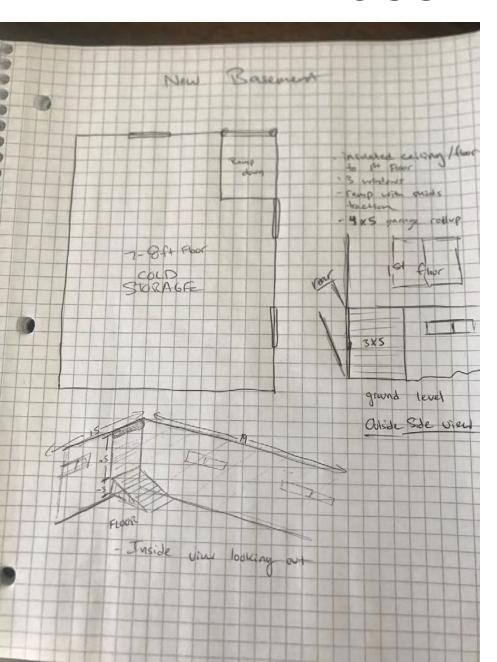


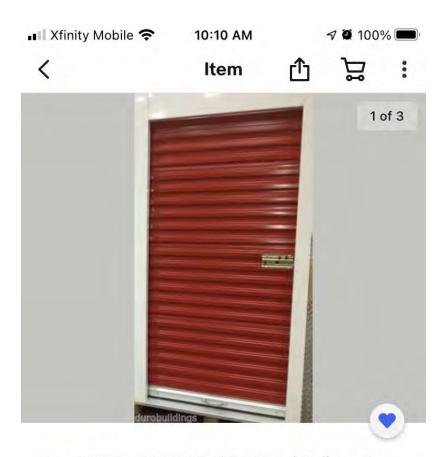


Exterior Proposed Addition



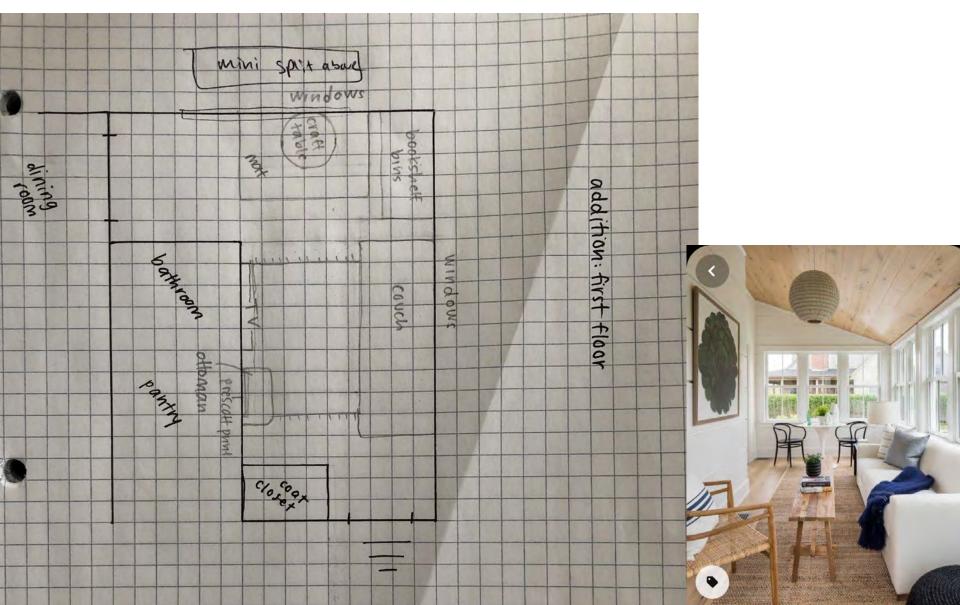
Basement





DuroSTEEL JANUS 3'x6'8" Metal Roll-up Door 650 Storage Series & Hardware DiRECT

1st Floor



Mini sper above Shelving CLOSET wa Le Vant ceiling to BUT 08 SCOPE window becomes dow Dresser BED BOOK CASE signt Stand CLOSET becomes closet OFFICE BEDroom Structure NE existing house

2nd Floor

April 21, 2021

Our neighbor, Mr Thomas Penascovic of 29 Burkitt St, is interested inputting a two story addition in the spot of his existing rear deck space, adjacent to my property line. He has asked if we have any objection to this and if I can support him as he seeks a variance for this project. I have reviewed his plans and the placement of the proposed new structure and have found no objection. I am extending my support to his efforts.

Sincerely,

Marianne Jarirk

21 Burkitt St. Portsmouth

(617-429-0920

April 20, 2021

To Members of the Zoning Board of Adjustment, City of Portsmouth:

My name is David Loehwing, and I live at 130 Thornton Street in Portsmouth. My property line abuts 29 Burkitt Street, where our neighbor Mr. Thomas Penaskovic is interested in putting a two story addition in the spot of his existing rear deck space.

Mr. Penaskovic has asked if we have any objection to his planned two story addition and if we can support him as he seeks a variance for this project. We have reviewed his plans and the placement of the proposed new structure and have found no objection and would like to extend our support to his efforts.

Sincerely,

David Loehwing 130 Thornton Street Portsmouth, NH 03801 603-427-0062 To Members of the Zoning Board of Adjustment, City of Portsmouth:

Our neighbor, Mr. Thomas Penaskovic of 29 Burkitt Street, is interested in putting a two story addition in the spot of his existing rear deck space, adjacent to our property line. He has asked if we have any objection to this and if we can support him as he seeks a variance for this project. We have reviewed his plans and the placement of the proposed new structure and have found no objection. We wholeheartedly would like to extend our support to his efforts.

Sincerely,

Karin Allard

24 Burkitt Street, Portsmouth

cell: 603-289-4000

Jon Allard

24 Burkitt Street, Portsmouth

cell: 617-947-2458

April 19, 2021

Dear Members of the Zoning Board of Adjustment, City of Portsmouth:

I recently learned that our neighbor, Thomas Penaskovic of 29 Burkitt Street is interested in putting a two-story addition in place of his existing rear deck, that would be adjacent to our property line.

He has asked if we have any objection to this and if we can support him as he seeks a variance for this project.

We have reviewed his plans and the placement of the proposed new structure. We have no objection and would like to extend our support to his efforts.

Sincerely,

Scott McDermott

120 Thornton Street Portsmouth 603-531-8001 April 26, 2021

To Members of the Zoning Board of Adjustment, City of Portsmouth:

Our neighbor, Mr. Thomas Penaskovic, of 29 Burkitt Street, is interested in putting a two story addition in the spot of his existing rear deck space, that would be adjacent to our property line. He has asked if we have any objection to this and if we can support him as he seeks a variance for this project. We have reviewed his plans and the placement of the proposed new structure and have found no objection and would like to extend our support to his efforts.

Sincerely,

Ajeet Jai Singh 140 Thornton Street Portsmouth, NH 03801

508-688-9491

TO: Zoning Board of Adjustment

FM: Brian Wazlaw 89 Sagamore Ave.

RE: Replacement of current shed

Compliance with Article 2 - Section 10.233.20

Compliance with Article 2 - Section 10.233.20

1) 10.233.21 The variance will not be contrary to the public interest;

I am replacing the current shed with a shed of the exact same size and style. The shed will be in the exact same location. The current shed has been in existence since 1985.

2) 10.233.22 The spirit of the Ordinance will be observed;

There is no change in the size or location. The current shed needs to be replaced due to age and condition.

3) 10.233.23 Substantial justice will be done

Since I do not have a garage, it is my main storage area for my generator, lawnmower, snowblower, garden tools, lawn furniture, bikes. and trash containers.

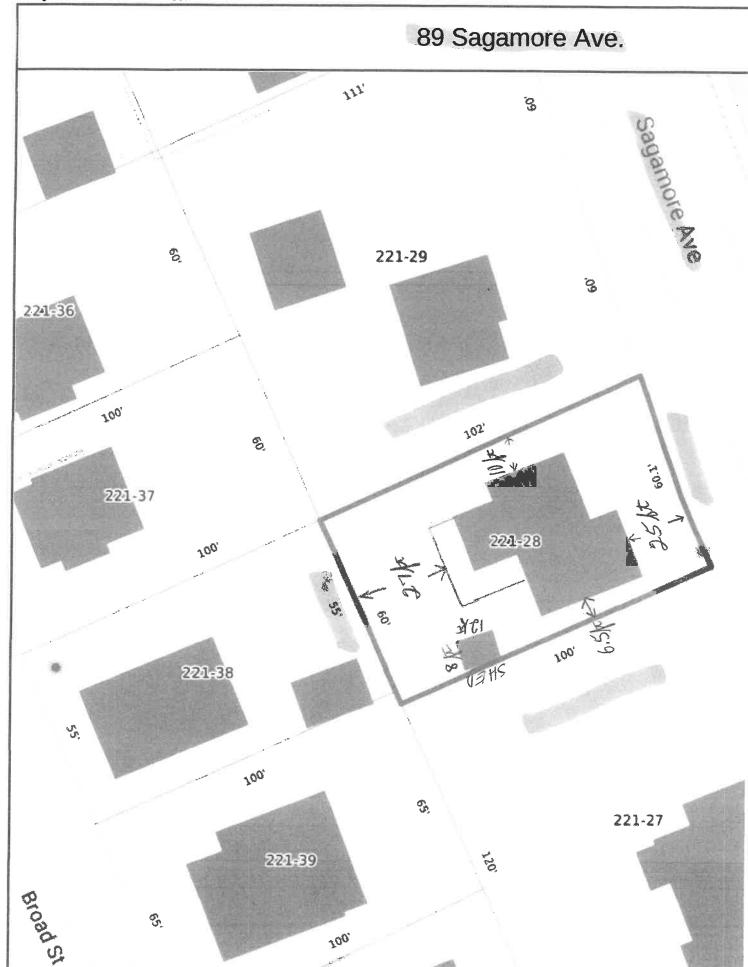
4) 10.233.24 The values of surrounding properties will not be diminished; and

A shed currently exists and will be replaced with a shed of the same size, style, and exact same location.

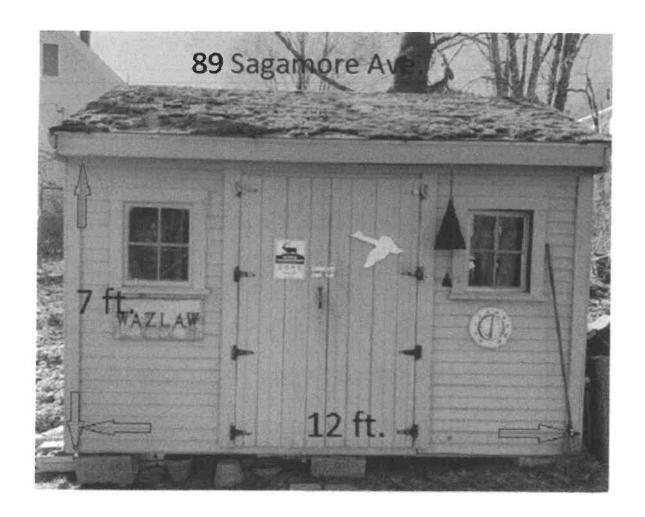
4) 10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

I am 73 years old and have lived at 89 Sagamore Ave. since 1984. The shed is my main storage area, and "I really need it."

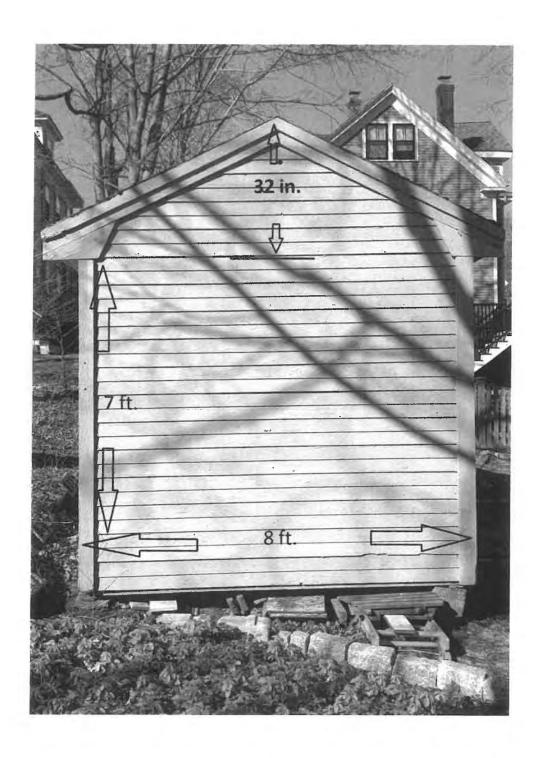
Buan Wanlaw



EXISTING SHED



EXISTING SHED



89 SAGAMORE AVE

32 A R

1 = 2 pt

SIDE WEW "NEW"

89 SAGAMORE AVE. 12 fc "NEW" April 26, 2021

David Rheaume, Chairman Zoning Board of Adjustment City of Portsmouth 1 Junkins Avenue Portsmouth, NH 03801

RE: Request for Special Exception 581 Lafayette Road

Dear Chairman,

I am writing on behalf of NNE Hospitality to request a special exception to allow the proposed indoor recreational use at 581 Layfayette road in the G1 zone. The use of this existing facility will be a bar and restaurant that includes 5 indoor golf simulators. The restaurant is a permitted used in this zone, while the golf simulators are considered an indoor recreation use allowed by special exception.

10.232.21 The proposed indoor recreational use meets the standards as provided by this Ordinance for the particular use permitted by special exception (10.440.4.30).

10.232.22 The use will have no hazard to the public or adjacent property on account of potential fire, explosion, or release of toxic materials.

10.232.23 The use will have no detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.

10.232.24 The proposed will have no creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity. The level of use should be less than the former restaurant.

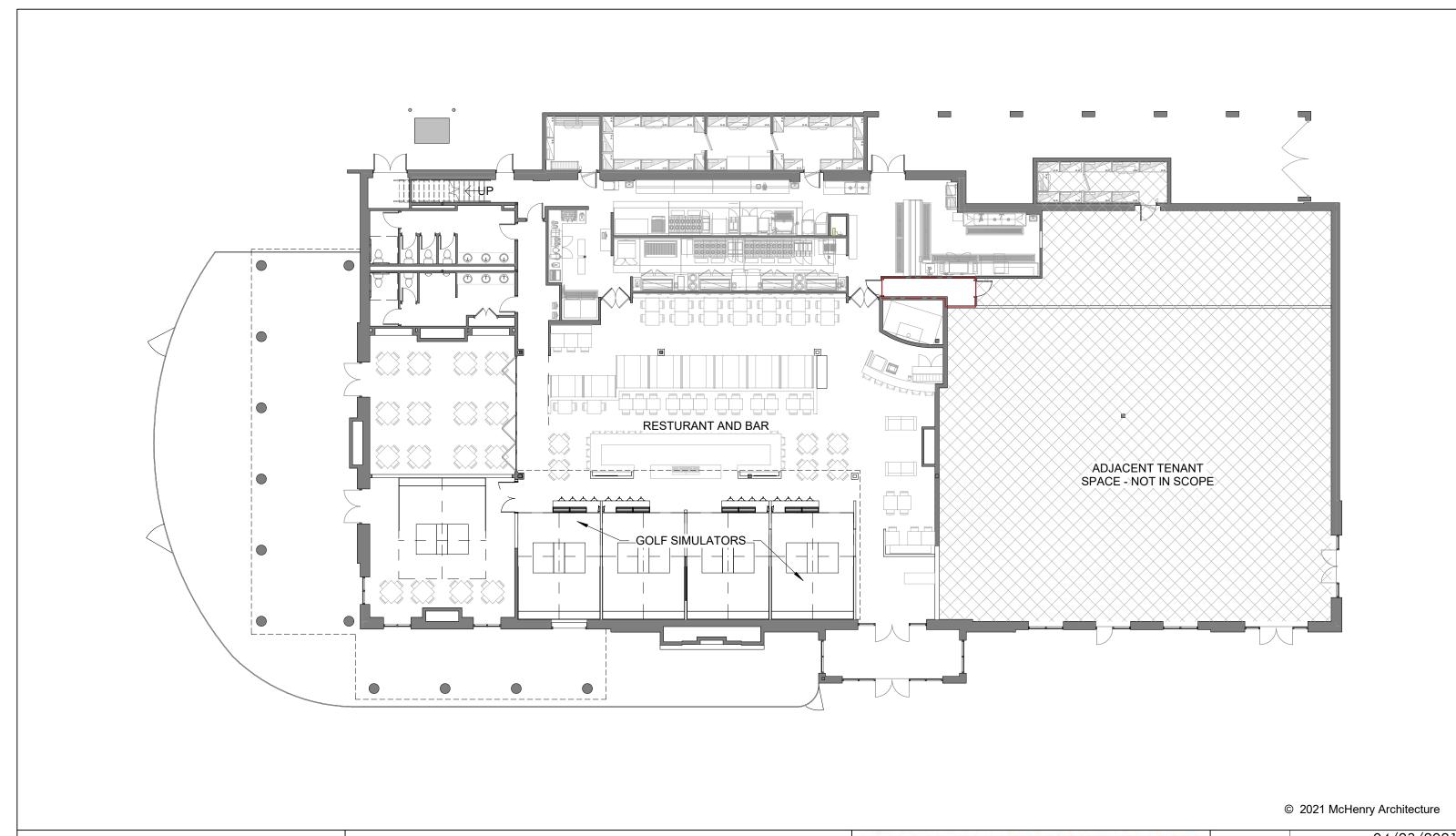
10.232.25 There will be no excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools. The number of seating in the dining and bar area has been reduced from the former restaurant at this location.

10.232.26 There will be no increase of stormwater runoff onto adjacent property or streets. There will be no change to the footprint of the building or property site plan.

Thank you for your consideration.

Sincerely,

Mark R. Gianniny, AIA Senior Associate



THE TOUR

581 LAFAYETTE ROAD
PORTSMOUTH, NH 03801

FLOOR PLAN

McHENRY ARCHITECTURE

4 Market Street A 1

04/23/2021 McHA: RD Scale: 1/16" = 1'-0"

Portsmouth, New Hampshire



FRONT SIM 2/3
12" = 1'-0"



2 FRONT (SIM 5) 12" = 1'-0"



352 Tomahawk Dr. Maumee, Oh 43537 800.445.GOLF 419.482.9096 aboutgolf.com

PROJECT:

The Tour Indoor Golf Center (5 SIMS) aG widescreen™ DESIGN DRAWINGS 581 Lafayette Rd. Portsmouth, NH 03801

3Trak®:

ISU

IMAGE SIZE:

16:10 ASPECT RATIO IMAGE SIZE - SEE ELEVATIONS

RENDERINGS

SCALE: 12" = 1'-0"

SALES ORDER: 02924

DATE: 04/14/2021

DRAWN BY: TLF

GN101