

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: April 14, 2021
RE: Zoning Board of Adjustment April 20, 2021 Meeting

OLD BUSINESS

1. 53 Austin Street – Request for Extension

NEW BUSINESS

1. 143 Gates Street
2. 30 Spring Street – Request to Postpone
3. 180 Spaulding Turnpike – Request to Postpone
4. 41 Salter Street
5. 70 Sheffield Road
6. 1281 Islington Street
7. 262-264 South Street
8. 205 Wibird Street
9. 49 Hunking Street
10. 97 Meredith Way
11. 800 Islington Street

OLD BUSINESS

1.

Petitioners:	Frank AJ Veneroso & Roslyn Weems
Property:	53 Austin Street
Assessor Plan:	Map 127, Lot 26
Zoning District:	General Residential C (GRC)
Description:	Proposed Inn.
Requests:	Variations and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including: 1. A Variance from Section 10.440, Use #10.30 to allow an Inn where the use is not permitted in the district.

The variance above was granted on April 16, 2019 with the stipulation that the number of sleeping rooms be limited to eight, including those located in the existing three apartments and main dwelling unit. The applicant has submitted a request for a one year extension. The Ordinance allows for a one-time, one-year extension.

NEW BUSINESS

1.

Petition of the **Carol Elliott Revocable Trust of 2011, Owner**, for property located at **143 Gates Street** whereas relief is needed from the Zoning Ordinance to remove existing shed and replace with new 10' x 12' shed which requires the following: 1) Variances from Section 10.573.20 to allow a) a rear yard of 3 feet where 8.5 feet is required; b) a right side yard of 15.5 inches where 8.5 feet is required; and c) a left side yard of 15.5 inches where 8.5 feet 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 103 Lot 99 and lies within the General Residence B (GRB) District.

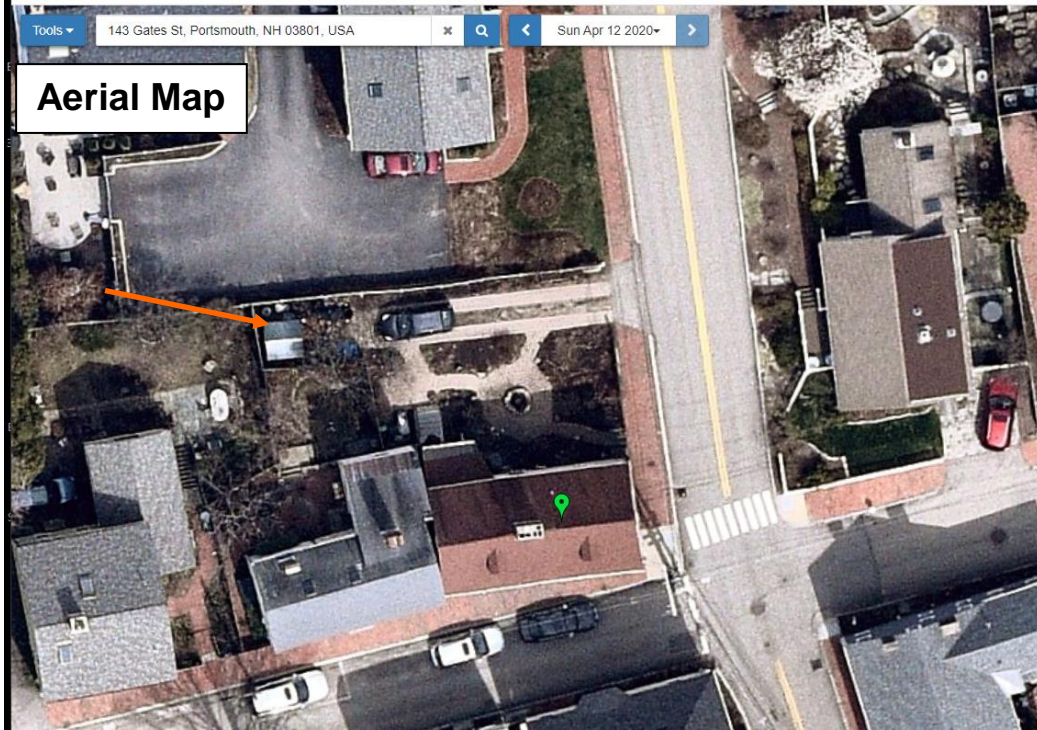
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Replace existing shed with new shed	Primarily residential uses
<u>Lot area (sq. ft.):</u>	3,049	3,049	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,049	3,049	5,000 min.
<u>Street Frontage (ft.):</u>	98	98	80 min.
<u>Lot depth (ft.):</u>	>60	>60	60 min.
<u>Front Yard (ft.):</u>	0	0	5 min.
<u>Right Yard (ft.):</u>	3	15.5"	10 (8.5 shed) min.
<u>Left Yard (ft.):</u>	2	15.5"	10 (8.5 shed) min.
<u>Rear Yard (ft.):</u>	2	3	25 (8.5 shed) min.
<u>Height (ft.):</u>	7	8.5'	35 max.
<u>Building Coverage (%):</u>	33	35*	30 max.
<u>Open Space Coverage (%):</u>	>25	>25	25 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1770	Variance request(s) shown in red. *Not advertised	

Other Permits/Approvals Required

HDC

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing to demolish the existing shed and replace it with a slightly larger shed. The lot is oddly shaped, and the existing shed is tucked into a location on the lot that is slightly over 12.5' wide that is surrounded by fencing on all three sides. The existing building coverage is over the maximum allowed and the resulting building coverage will be 35% where 30 is the maximum. This was not advertised for relief from building coverage. If the Board grants approval the following stipulation should be considered:

The allowable building coverage shall be 35%.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
- Planning Department Comments* 2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

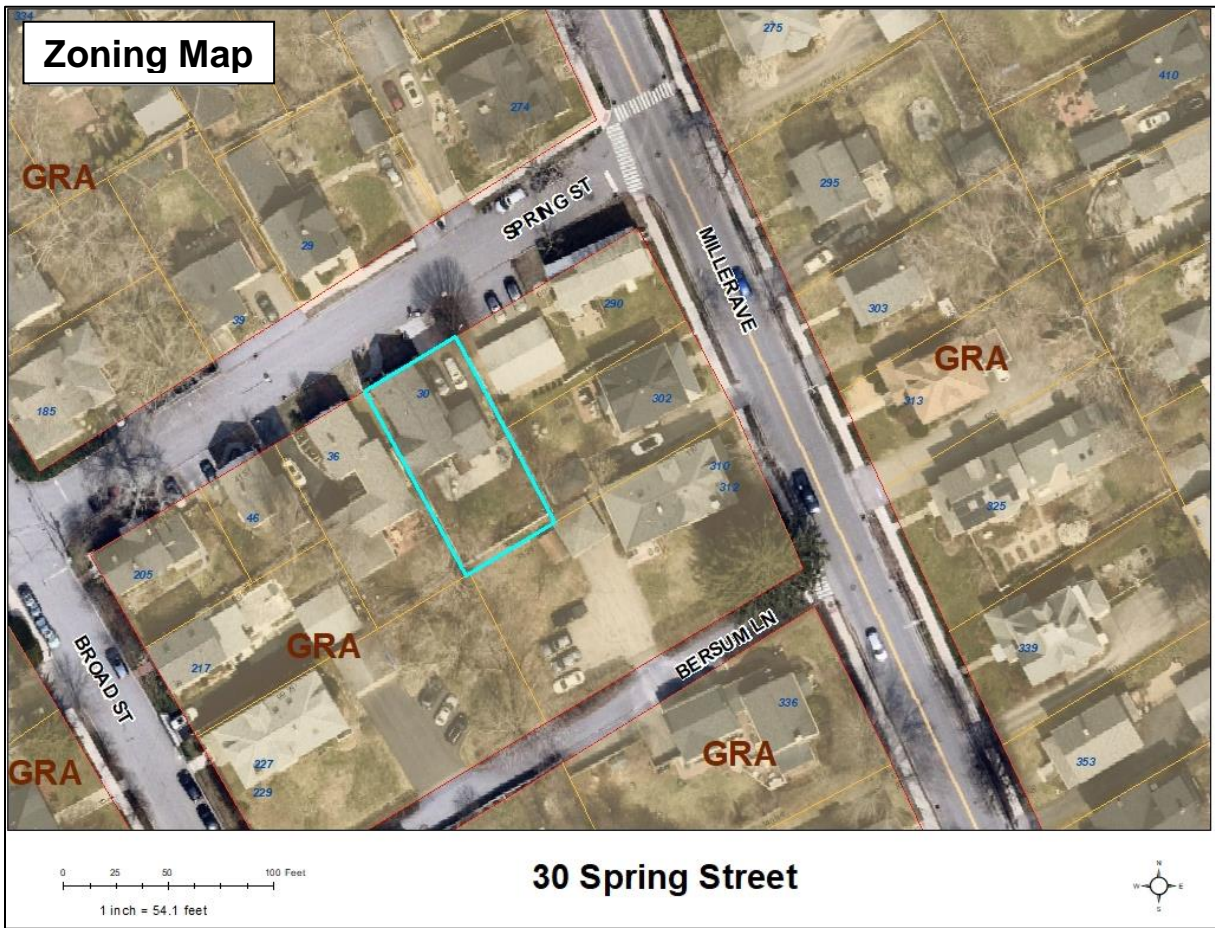
 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

2. Request to Postpone

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.



3. *Request to Postpone*

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. Said property is shown on Assessor Map 236 Lot 39 and lies within the General Business (GB) District.

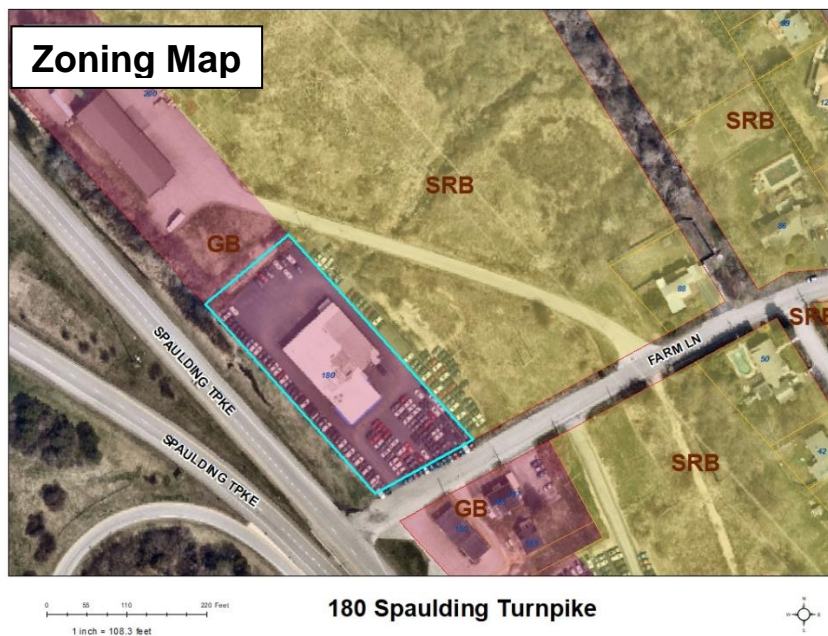
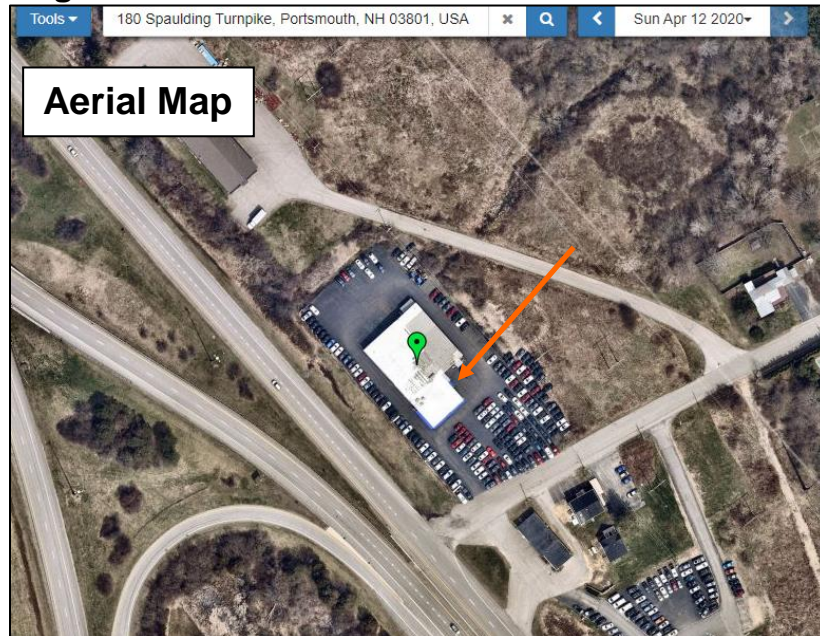
Existing & Proposed Conditions

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

Other Permits/Approvals Required

TAC/Planning Board – Site Plan Review

Neighborhood Context



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 sign 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.

March 21, 2000 – 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

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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.

September 19, 1995 – 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.

June 24, 1986 - the Board **denied** a Variance to allow the construction of a 10' x 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, larger 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 new parking located in the front yard and in front of the building will require a variance and the applicant has requested to postpone so that variance can be properly noticed.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

4.

Petition of **Michael & Arna Lewis, Owners**, for property located at **41 Salter Street** whereas relief is needed from the Zoning Ordinance to construct a second story addition over existing first floor which requires the following: 1) Variances from Section 10.530 to allow a) a 23 foot front yard where 30 feet is required; b) a 2 foot left side yard where 30 feet is required; and c) a 13 foot right side yard where 30 feet 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 Ordinance. Said property is shown on Assessor Map 102 Lot 30 and lies within the Waterfront Business (WB) District.

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Second story rear addition	Primarily waterfront business Uses
<u>Lot area (sq. ft.):</u>	3,178	3,178	20,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,178	3,178	20,000 min.
<u>Street Frontage (ft.):</u>	30	30	100 min.
<u>Lot depth (ft.):</u>	105	105	100 min.
<u>Primary Front Yard (ft.):</u>	15	23 (addition)	30 min.
<u>Left Yard (ft.):</u>	2	2	30 min.
<u>Right Yard (ft.):</u>	2	13 (addition)	30 min.
<u>Rear Yard (ft.):</u>	50	50	20 min.
<u>Height (ft.):</u>	18	18	35 max.
<u>Building Coverage (%):</u>	30	30	30 max.
<u>Open Space Coverage (%):</u>	>20	>20	20 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1820	Variance request shown in red.	

Other Permits/Approvals Required

HDC

Neighborhood Context



Previous Board of Adjustment Actions

April 17, 2001 - the Board **granted** a variance to allow an existing single family dwelling (16' x 26', 13' x 17' and 8' x 13') to be moved back 15' from the front property line, maintaining the existing 1' left side yard and the 2' right yard, with the **stipulation** the Historic District Commission workout delineation between the driveways.

June 6, 2001 - the **Historic District Commission denied** the proposal to move the single family dwelling back 15' to provide two parking spaces.

July 11, 2001 - the **Historic District Commission granted** a Request for Rehearing.

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August 1, 2001 - the **Historic District Commission** held a re-hearing and **denied** the request.

August 21, 2001 - the Board **granted** the applicant's request to appeal the decision of the Historic District Commission, made at their June 6, 2001 and August 1, 2001 meetings.

September 18, 2001 - the Board **granted** the applicant's appeal and overturned the Historic District Commission's decision at their June 6, 2001 and August 1, 2001 meetings;

November 20, 2001 - the Board **denied** the Request for a Rehearing made by abutters Joan Davis and Charles Allard of 35 Salter Street.

November 12, 2002 - Order from Rockingham County Superior Court, affirming Board's decision.

April 15, 2003 – the Board approved the delineation between the driveways thus satisfying the Board's previous stipulation with the stipulation:

That the left side of the property be delineated the same as the right side, with an 8' section of fence along the property line, perpendicular to Salter Street without the 4' section along Salter Street.

May 20, 2003 - the Board **denied** the "Appeal of Zoning Board Decision" made by abutters Joan Davis and Charles Allard of 35 Salter Street.

May 16, 2006 – the Board **concurred** the that previously approved Variances should still be granted considering more accurate survey information. [Exhibit #1]

April 17, 2007 – The Board upheld the City's decision to issue Building Permit 12454 as a result of an Administrative Appeal by an abutter that further Variances and HDC approvals were required and that Permits had expired.

Planning Department Comments

The applicant a second story addition above the existing one-story section of the house with no increase in footprint. The setback variances are for the portions of the addition that are being expanded upward. The applicant has had one work session with the HDC and if the variances are granted, will proceed with a public hearing before the HDC.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*

5. The “unnecessary hardship” test:

(a) The property has special conditions that distinguish it from other properties in the area.

AND

(b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.

OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

5.

Petition of the **Prendergast Family Revocable Trust of 2012, Owner**, for property located at **70 Sheffield Road** whereas relief is needed from the Zoning Ordinance to Construct an 8' x 22' farmers porch which requires the following: 1) An after-the-fact Variance from Section 10.521 to allow a rear yard of 28 feet where 30 feet is required for an existing deck. 2) A Variance from Section 10.521 to allow a 20 foot front yard where 30 feet is required. 3) A Variance from Section 10.521 to allow 25% building coverage where 20% is the maximum allowed. 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 233 Lot 46 and lies within the Single Residence B (SRB) District.

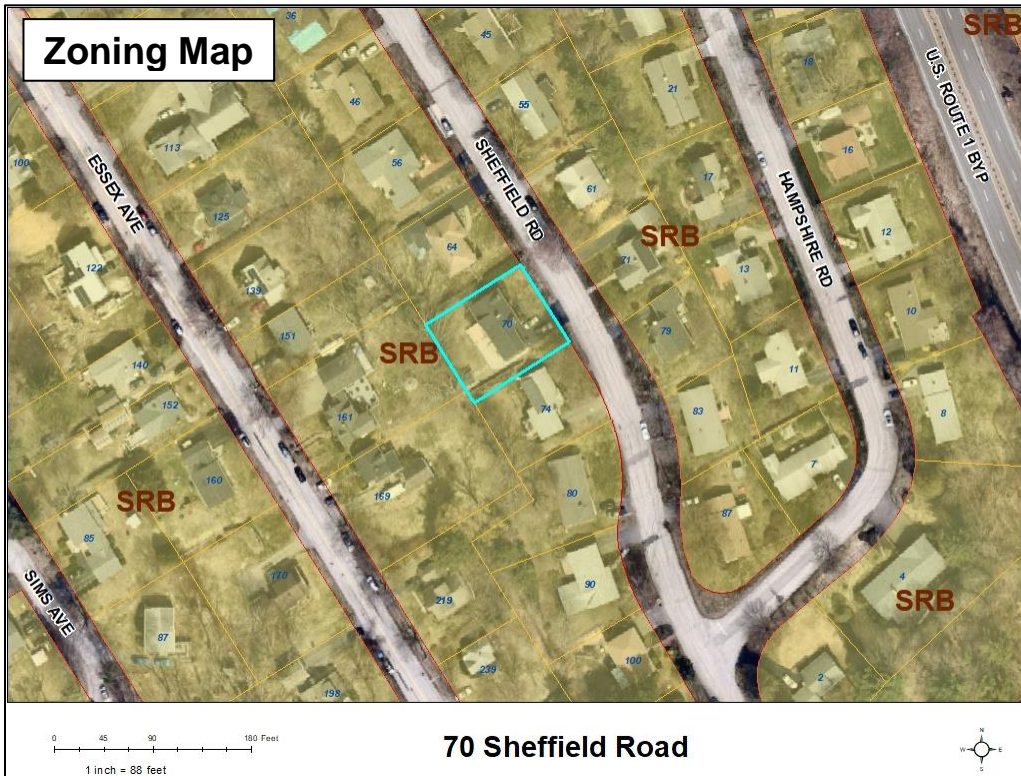
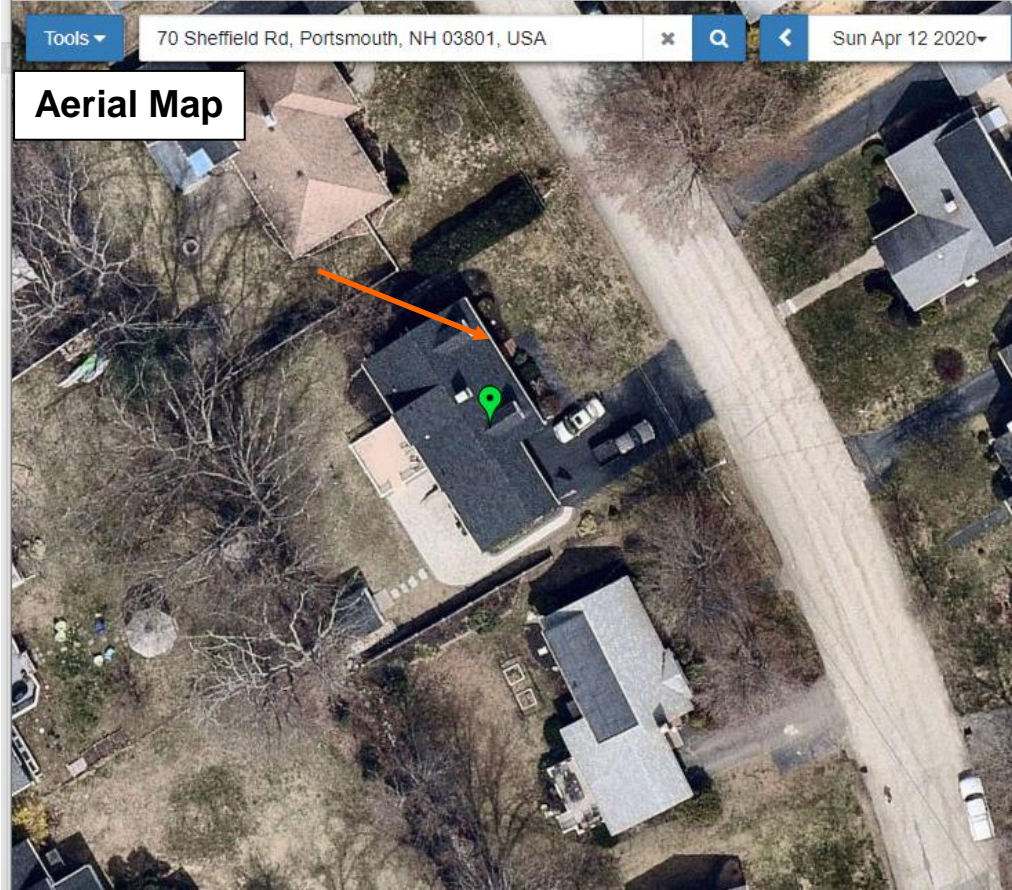
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Farmer's porch	Primarily residential uses
<u>Lot area (sq. ft.):</u>	8,712	8,712	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,712	8,712	15,000 min.
<u>Street Frontage (ft.):</u>	85	85	100 min.
<u>Lot depth (ft.):</u>	102	102	100 min.
<u>Front Yard (ft.):</u>	27	20	30 min.
<u>Right Yard (ft.):</u>	13	13	10 min.
<u>Left Yard (ft.):</u>	12	12	10 min.
<u>Rear Yard (ft.):</u>	28	28*	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	20	25 (22 actual)	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1956	Variance request(s) shown in red. *deck height is less than 18" and permit was issued in 2013 for deck.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing to add a new farmer's porch on the front of the house and is also requesting after-the-fact approval for a rear deck that was constructed and encroaches into the rear yard by 2 feet. Staff confirmed with the applicant a permit was issued in 2013 and the height of the deck is actually less than 18" so it does not need to comply with setbacks and is not counted towards building coverage and thus does not need an after-the-fact variance. Removing the deck from the building coverage calculation, the proposed coverage with the farmer's porch will be 22%. If granted approval, staff would recommend the Board consider the following stipulation:

The allowable building coverage shall be 22%.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

6.

Petition of **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.

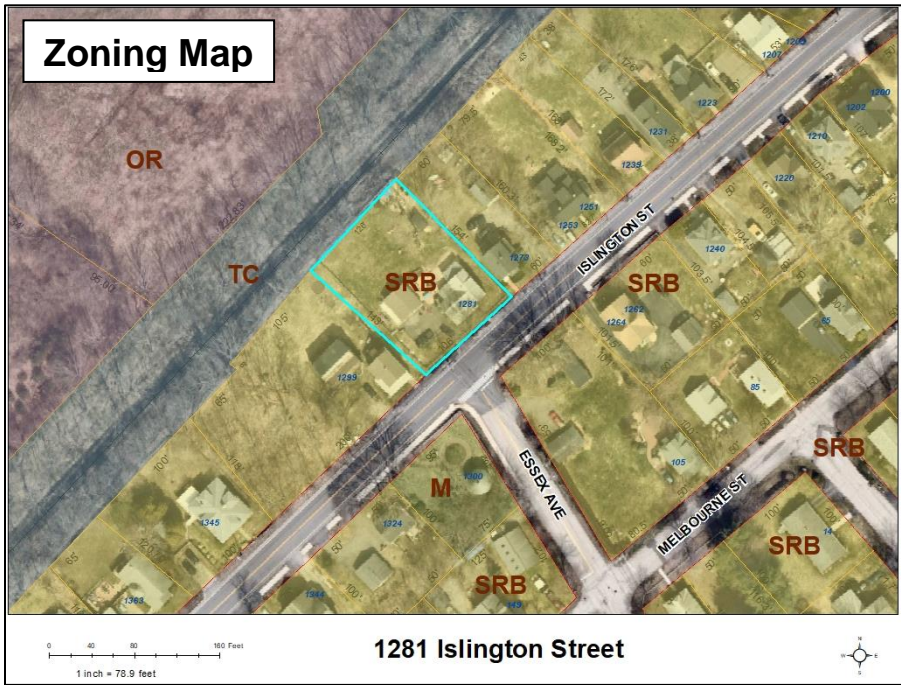
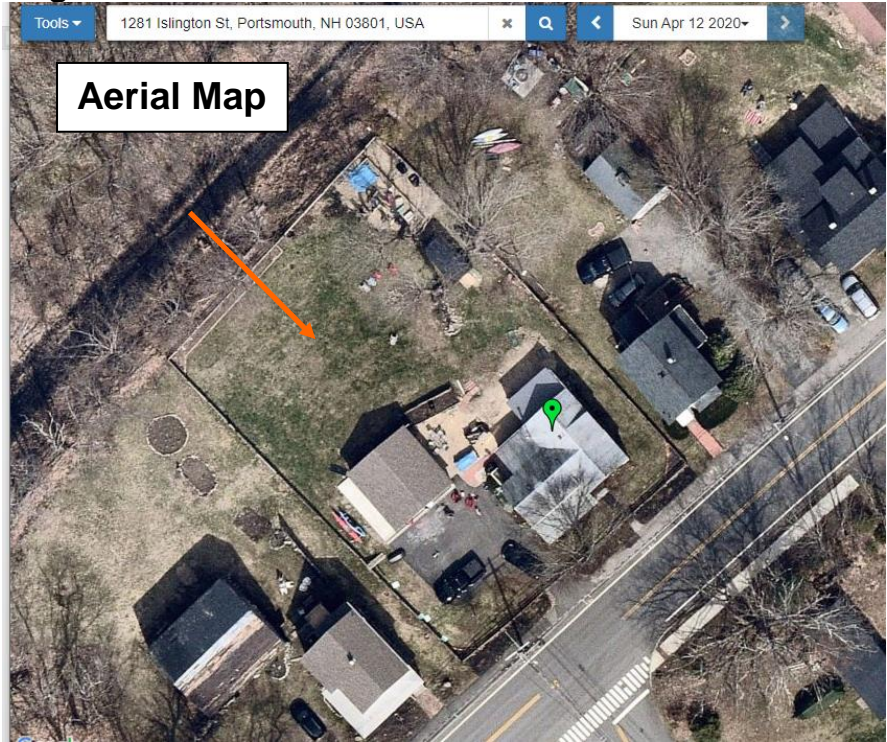
Existing & Proposed Conditions

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

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is requesting a special 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

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
 2. *Granting the variance would observe the spirit of the Ordinance.*
 3. *Granting the variance would do substantial justice.*
 4. *Granting the variance would not diminish the values of surrounding properties.*
 5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*
 - AND**
 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*
- OR**
- Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.*

7.

Petition of **262-264 South Street Condos, LLC, Owner**, for property located at **262-264 South Street** whereas relief is needed from the Zoning Ordinance to add 2 condenser units which requires the following: 1) Variances from Section 10.515.14 to allow a) a 4 foot left side setback and b) to allow a 3 foot side setback where 10 feet is required for each. Said property is shown on Assessor Map 111 Lot 05-02 and lies within the Single Residence B (SRB) District.

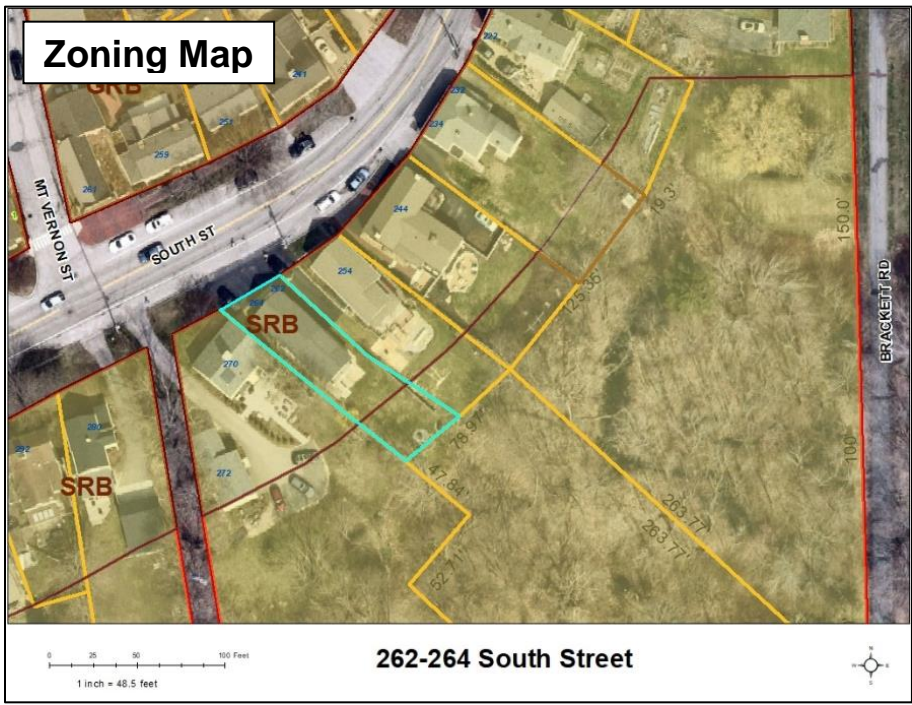
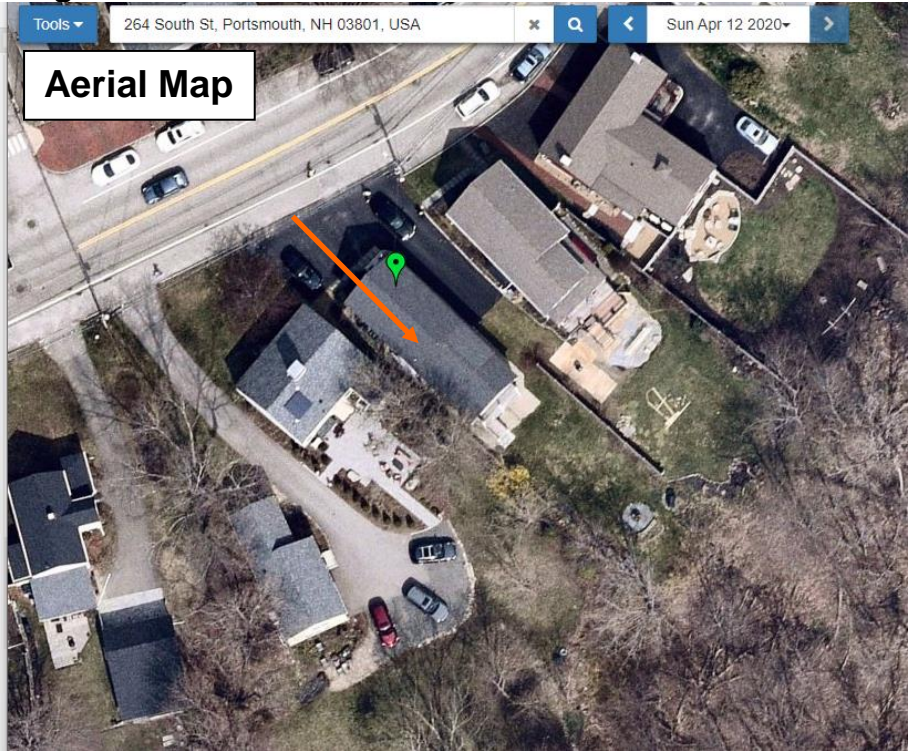
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family	Add 2 condensers	Primarily Single-family Uses
<u>Lot area (sq. ft.):</u>	4,356	4,356	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,178	2,178	15,000 min.
<u>Street Frontage (ft.):</u>	39	39	100 min.
<u>Lot depth (ft.):</u>	130	130	100 min.
<u>Primary Front Yard (ft.):</u>	16	16	30 min.
<u>Left Yard (ft.):</u>	4,7	3,4	10 min.
<u>Right Yard (ft.):</u>	4	4	10 min.
<u>Estimated Age of Structure:</u>	1900	Variance request shown in red.	

Other Permits/Approvals Required

HDC

Neighborhood Context



Previous Board of Adjustment Actions

October 15, 2013 – The Board granted the following variances from Section 10.521 to a rear two-story stairs/landing and deck and add a front dormer.
A 3.5 foot right side yard where 10 feet is required and 27% building coverage where 20% is the maximum allowed. Variance from Section 10.321 to allow a nonconforming structure or building

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to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

Planning Department Comments

The applicant is proposing to add two condenser units, one for each of the dwelling units on the property. The lot is narrow and with the existing structure located less than 10 feet from both the left and right side yards. The applicant is proposing to locate both units on the left side of the structure.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
- Planning Department Comments* 2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*
 - AND**
 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*
 - OR**
 - Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.*

8.

Petition of **Michael & Deborah McNeilly, Owners**, for property located at **205 Wibird Street** whereas relief is needed from the Zoning Ordinance to remove an existing 8' x 10' shed and replace with a new 10' x 12' shed which requires the following: 1) A Variance from Section 10.573.20 to allow a 4 foot side setback where 9 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 133 Lot 53 and lies within the General Residence A (GRA) District.

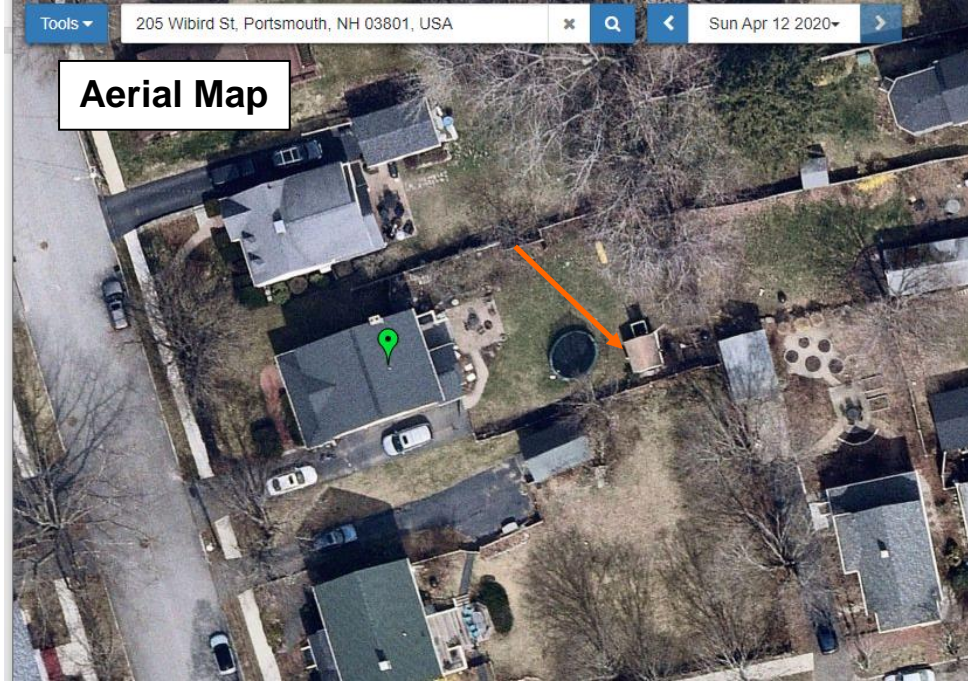
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Replace existing shed with new shed	Primarily Single-family Uses
<u>Lot area (sq. ft.):</u>	8,712	8,712	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,712	8,712	7,500 min.
<u>Street Frontage (ft.):</u>	55	55	100 min.
<u>Lot depth (ft.):</u>	156	156	70 min.
<u>Primary Front Yard (ft.):</u>	31	31	15 min.
<u>Left Yard (ft.):</u>	30	28 (shed)	10 min.
<u>Right Yard (ft.):</u>	4 (shed)	4 (shed)	10 min.
<u>Rear Yard (ft.):</u>	16	16	20 min.
<u>Height (ft.):</u>		9 (shed)	35 max.
<u>Building Coverage (%):</u>	15.8	16	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1995	Variance request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing to remove the existing shed and replace with a slightly larger shed, increasing from 80 square feet to 120 square feet. The new shed will be located in the same footprint of the existing shed and the additional square footage will extend into the lot and not encroach further into the setbacks.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
 2. *Granting the variance would observe the spirit of the Ordinance.*
 3. *Granting the variance would do substantial justice.*
 4. *Granting the variance would not diminish the values of surrounding properties.*
 5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*
 - AND**
 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*
- OR**
- Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.*

9.

Petition of **Tobias Lear House Historic Inn, LLC, Owner and Stephen Foster, Applicant**, for property located at **49 Hunking Street** whereas relief is needed from the Zoning Ordinance to install a fence greater than 4 feet in height within the front yard which requires the following: 1) A Variance from Section 10.515.13 to allow a fence taller than 4 feet in height to be located within the front yard where 4 feet is the maximum height allowed. Said property is shown on Assessor Map 103 Lot 39 and lies within the General Residence B (GRB) District.

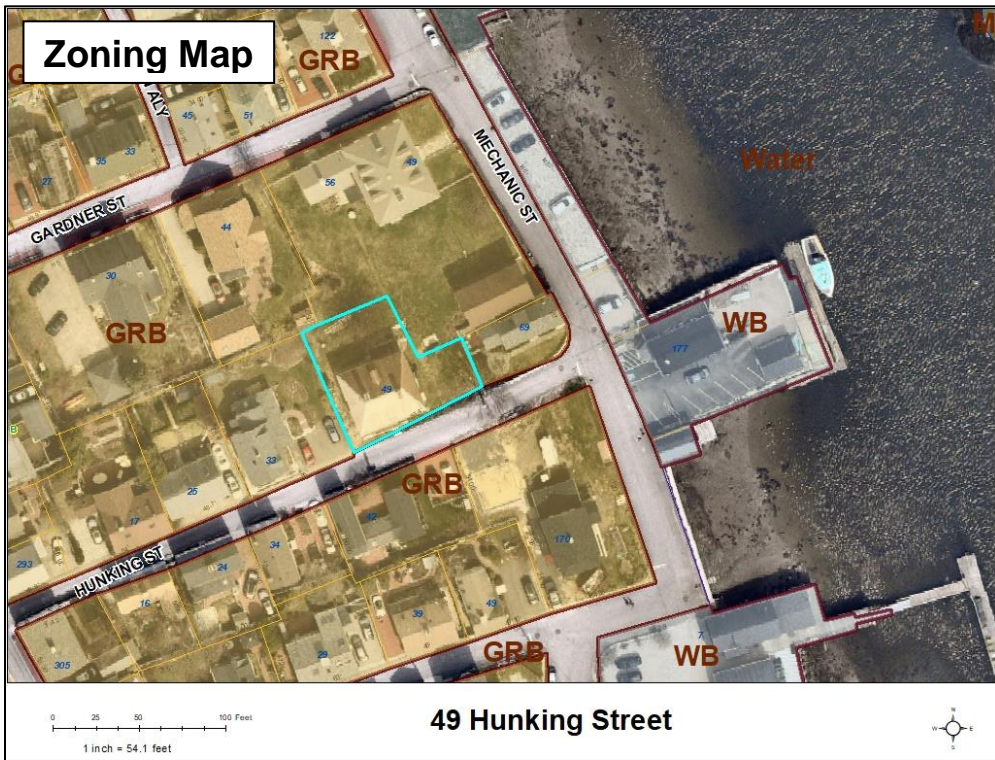
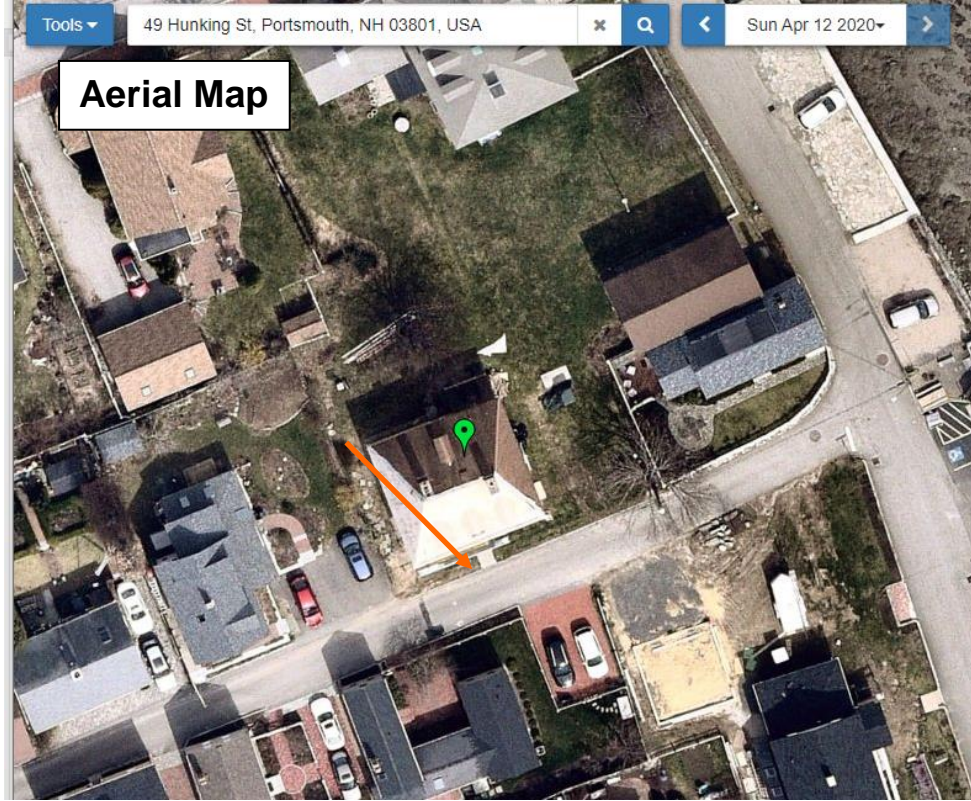
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Inn	Install fence over 4' in height	Primarily Single-family Uses
<u>Street Frontage (ft.):</u>	115	115	80 min.
<u>Lot depth (ft.):</u>	100	100	60 min.
<u>Primary Front Yard (ft.):</u>	5	5	5 min.
<u>Left Yard (ft.):</u>	7	7	10 min.
<u>Right Yard (ft.):</u>	6	6	10 min.
<u>Rear Yard (ft.):</u>	30	30	25 min.
<u>Height (ft.): (Fence)</u>	NA	4'6" - 6'	4' (front yard), 6' (side yard) max.
:		Variance request shown in red.	

Other Permits/Approvals Required

HDC – approved by Administrative Approval on March 3, 2021

Neighborhood Context



Previous Board of Adjustment Actions

April 23, 2019 – The Board granted a Variance from Section 10.440 to allow an Inn in a district where the use is not allowed including the following: a 5.7’ right side yard where 10’ is required. A Variance from Section 10.321 to allow a nonconforming structure or building. The following stipulations were part of the approval:

- The use as an Inn will be limited to a maximum of two bedrooms.
- If the Inn is not owner-occupied, a full-time caretaker will be provided when guests are present. Said caretaker must be located on-site or on an abutting property to manage the Inn and serve as a contact for any concerns of neighbors.

Planning Department Comments

The applicant is proposing to add fencing to the property that will be vary in height across the front yard from . A fence only up to four feet in height is allowed in the front yard and up to 6 feet in the side and rear yards. The applicant was before the HDC on March 3 and received approval for the fence design.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
 2. *Granting the variance would observe the spirit of the Ordinance.*
 3. *Granting the variance would do substantial justice.*
 4. *Granting the variance would not diminish the values of surrounding properties.*
 5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*
 - AND**
 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*
- OR**
- Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.*

10.

Petition of **David & Jennifer Chapnick, Owners**, for property located at **97 Meredith Way** whereas relief is needed from the Zoning Ordinance to allow the keeping of chickens which requires the following: 1) A Variance from Section 10.440 Use #17.20 to allow the keeping of farm animals where the use is not permitted. Said property is shown on Assessor Map 162 Lot 15 and lies within the General Residence A (GRA) District.

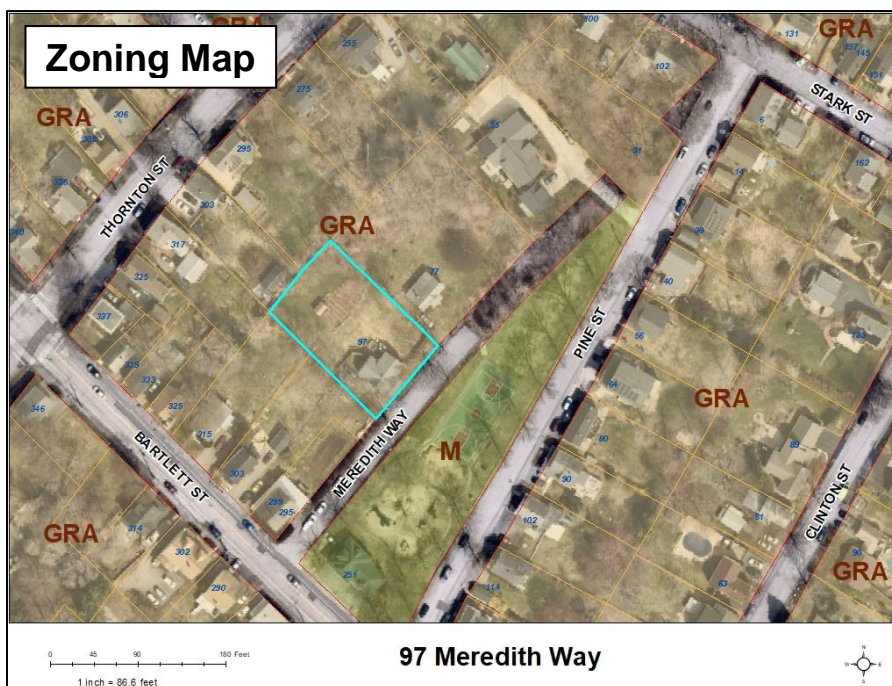
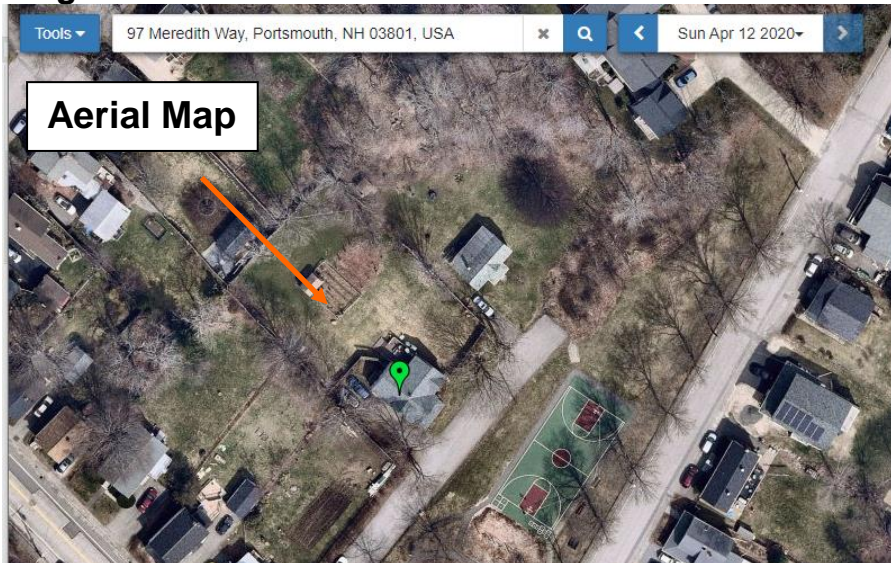
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Keeping of chickens	Primarily Single-family Uses
<u>Lot area (sq. ft.):</u>	15,246	15,246	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	15,246	15,246	7,500 min.
<u>Street Frontage (ft.):</u>	100	100	100 min.
<u>Lot depth (ft.):</u>	154	154	70 min.
<u>Primary Front Yard (ft.):</u>	0	0	15 min.
<u>Left Yard (ft.):</u>	20	50 (coop)	10 min.
<u>Right Yard (ft.):</u>	40	45 (coop)	10 min.
<u>Rear Yard (ft.):</u>	100	25 (coop)	20 min.
<u>Building Coverage (%):</u>	6.5	6.5	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Estimated Age of Structure:</u>	1850	Variance request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing to have up to 6 hens on the property. If the Board grants approval, staff would recommend considering the following stipulation:

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

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

11.

Petition of **Griffin Family Corp., Owner, and Hannaford Supermarket, Applicant**, for property located at **800 Islington Street** whereas relief is needed from the Zoning Ordinance to replace existing wall sign with new sign and add additional wall sign which requires the following: 1) A Variance from Section 10.1251.20 to allow an 86.21 square foot wall sign where 40 square feet is the maximum allowed in Sign District 3. 2) A Variance from Section 10.1271.10 to allow a wall sign on a side of a building that does not face a street or have a public entrance. Said property is shown on Assessor Map 154 Lot 1 and lies within the Commercial District 4-W (CD4-W) District.

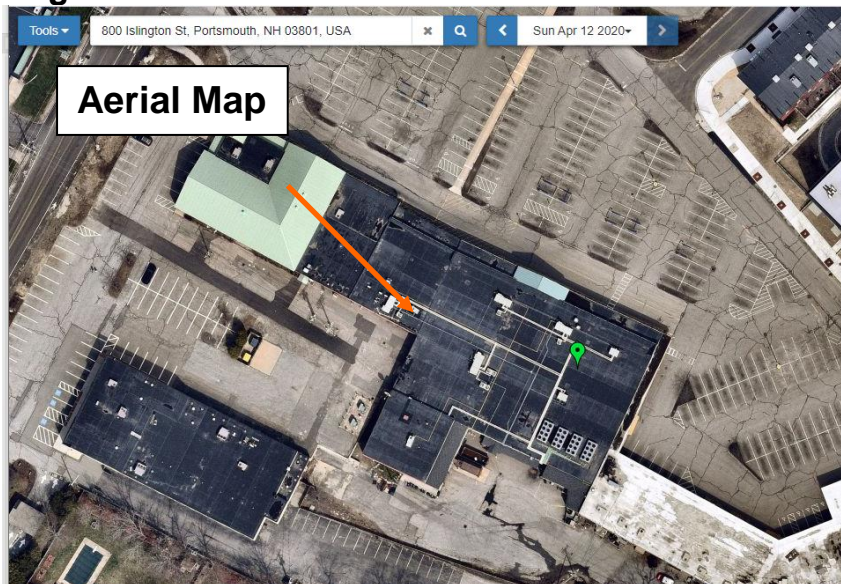
Existing & Proposed Conditions

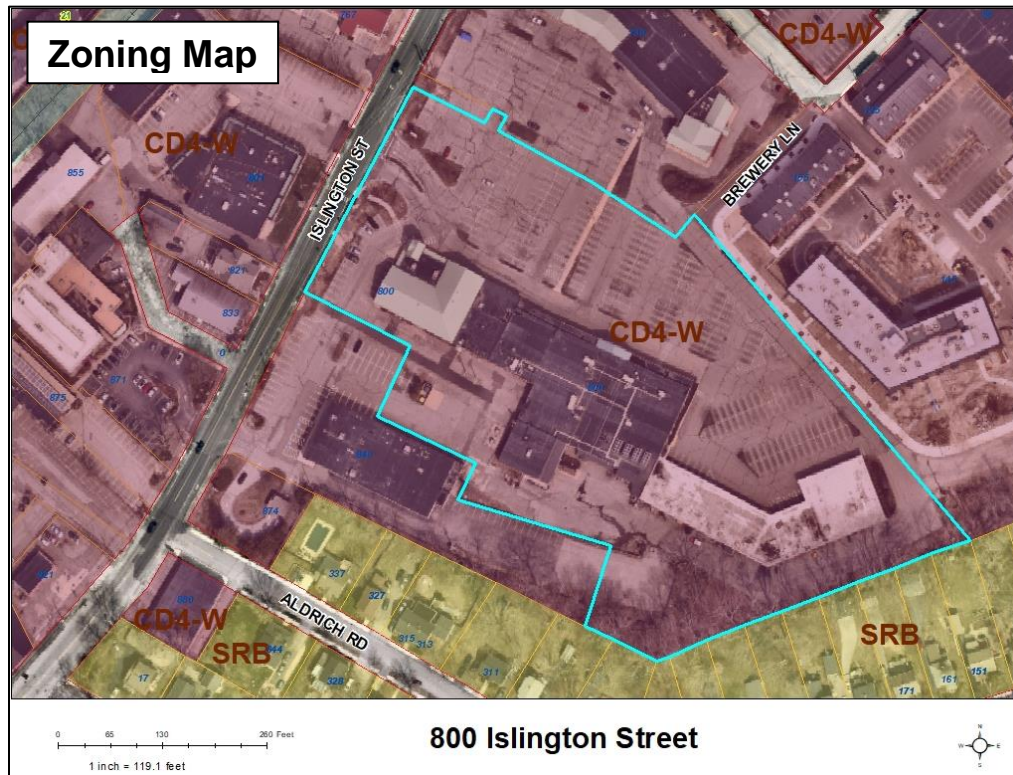
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial	Signage	Primarily mixed Uses
<u>Wall Sign (sq. ft.):</u>	77.25	86.21	40 max.
		Variance request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context





Previous Board of Adjustment Actions

February 19, 2008 – The Board granted a Variance from Section 10-208(54)(b) to allow a 12' x 20' exterior produce cooler to be temporarily located during internal renovations of the grocery store.

April 18, 1995 – the Board **granted** a Special Exception to allow the erection of a 50' x 150' tent for a Home Show for 5 days with the **stipulation** that a \$100.00 bond be posted to ensure removal of the tent.

November 9, 1982 – the Board **granted** a Special Exception to place a temporary 8' x 40' one story storage trailer behind the building with a **stipulation** that the placement not exceed 90 days from the date of the meeting.

Planning Department Comments

The applicant is seeking relief to replace an existing wall sign with a new sign that exceeds the maximum sign area allowed for such sign. Additionally, the store is providing a pickup location for pre-ordered groceries and is proposing a wall sign at this location. After further review, staff agrees that this location does face Islington Street and does not need a variance from Section 10.1271.10 and the only relief needed at this time is for the new wall sign. An earlier version of the sign application had this sign in a different location that did not comply with this section.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
- Planning Department Comments* 2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*
 - AND**
 - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR
Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.