

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: March 17, 2021
RE: Zoning Board of Adjustment March 23, 2021 Meeting

NEW BUSINESS

1. 80 Sapphire Street
2. 56 Dennett Street
3. 45 Gardner Street
4. 50 Cornwall Street
5. 64 Vaughan Street
6. 84 Rockland Street

NEW BUSINESS

1.

Petition of **Rita Abelson & Briana Spechuilli, Owners**, for property located at **80 Sapphire Street** whereas relief is needed from the Zoning Ordinance for a second floor addition on existing single family dwelling which includes the following: 1) Variances from Section 10.521 to allow: a) a 5 foot right side yard where 10 feet is required; and b) a 14 foot front 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 requirements of the Ordinance. Said property is shown on Assessor Map 220 Lot 43 and lies within the Single Residence B (SRB) District.

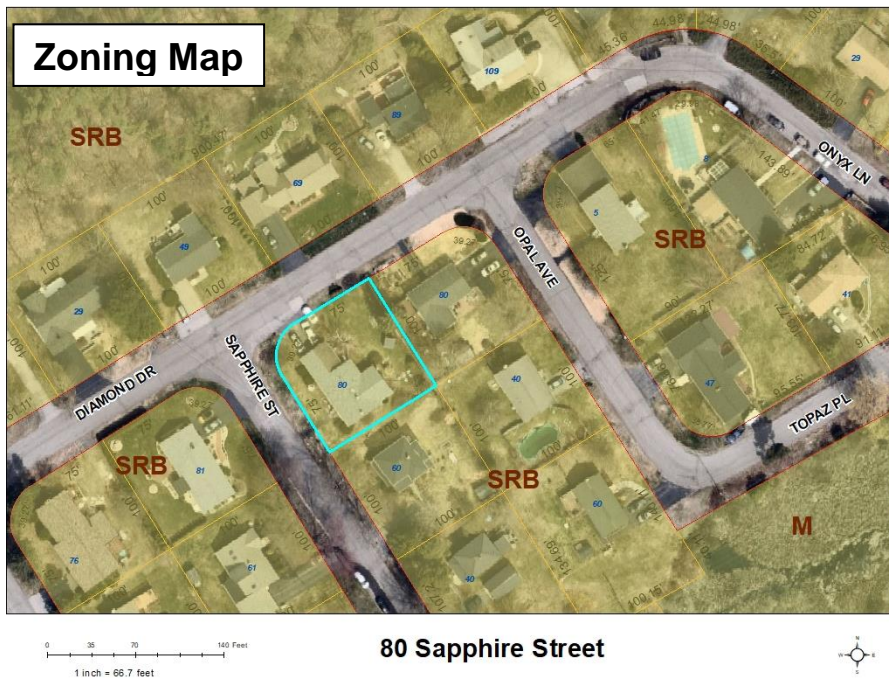
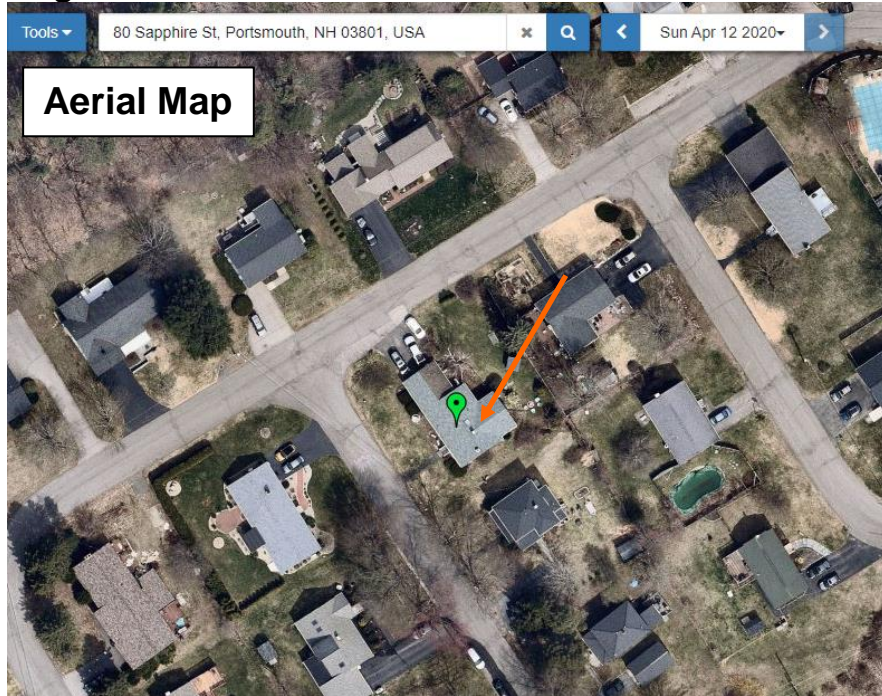
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Add second story addition	Primarily residential uses
<u>Lot area (sq. ft.):</u>	10,018	10,018	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	10,018	10,018	15,000 min.
<u>Street Frontage (ft.):</u>	189	189	100 min.
<u>Lot depth (ft.):</u>	100	100	100 min.
<u>Front Yard (ft.):</u>	20	14	30 min.
<u>Right Yard (ft.):</u>	5	5	10 min.
<u>Rear Yard (ft.):</u>	35	35	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	20	20	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1959	Variance request(s) shown in red.	

Other Permits/Approvals Required

None

Neighborhood Context



Previous Board of Adjustment Actions
No BOA history found.

Planning Department Comments

The applicant is proposing to add a second story addition to the right side of the existing dwelling. The house is currently nonconforming with respect of the right side yard and front yard. A new portico over the existing front steps is what is creating the need for the addition front yard encroachment.

Review Criteria

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

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

2.

Petition of the **Hoerman Family Revocable Trust of 2019, Owners**, for property located at **56 Dennett Street** whereas relief is needed from the Zoning Ordinance to install a condenser unit which requires the following: 1) A Variance from Section 10.515.14 to allow a 5 foot side setback where 10 feet is required. Said property is shown on Assessor Map 140 Lot 13 and lies within the General Residence A (GRA) District.

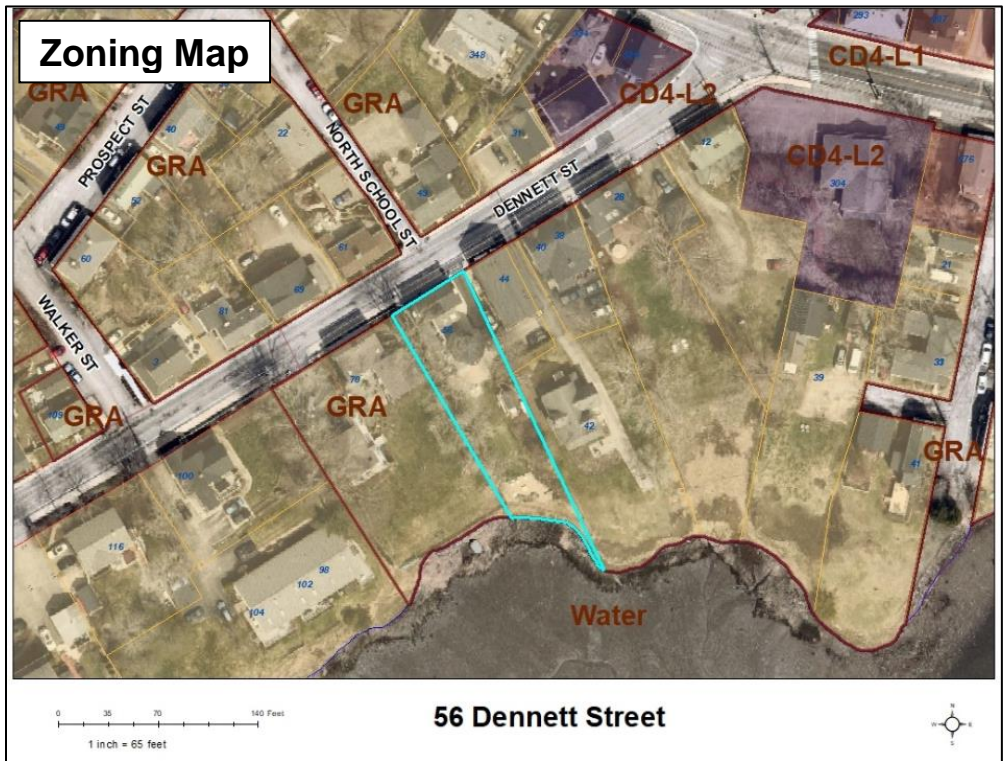
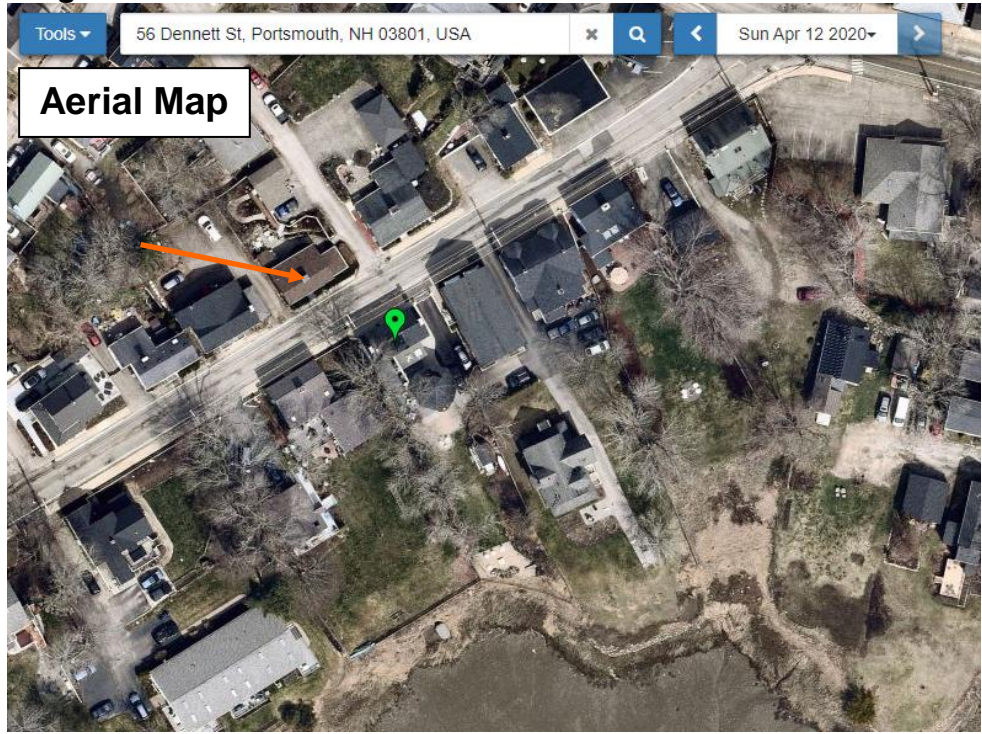
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	two family	Condenser unit	Primarily residential uses
<u>Lot area (sq. ft.):</u>	9,147	9,147	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	9,147	9,147	7,500 min.
<u>Street Frontage (ft.):</u>	59	59	100 min.
<u>Lot depth (ft.):</u>	197	197	70 min.
<u>Front Yard (ft.):</u>	1	1	15 min.
<u>Right Yard (ft.):</u>	6	5	10 min.
<u>Left Yard (ft.):</u>	10	10	10 min.
<u>Rear Yard (ft.):</u>	140	140	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	23	23	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Estimated Age of Structure:</u>	1730	Variance request(s) shown in red.	

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 add condenser unit within the 10 foot required setback for such units. The lot exceeds the minimum requirement for lot area in the GRA, however the location of the dwelling is on the front lot line, where the lot width is only 59 feet and the existing house is 36 feet wide with the driveway located on the left side. This arrangement leaves little space to accommodate a mechanical unit without encroaching into the required setback.

Review Criteria

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

1. *Granting the variance would not be contrary to the public interest.*
- 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.

3.

Petition of the **Laura G. Koulet Revocable Trust of 2019, Owner**, for property located at **45 Gardner Street** whereas relief is needed from the Zoning Ordinance to install two mechanical units which requires the following: 1) A Variance from Section 10.515.14 to allow: a) a 6 foot rear yard setback; and b) an 8 foot side yard setback where 10 feet is required for both. Said property is shown on Assessor Map 103 Lot 21 and lies within the General Residence B (GRB) District.

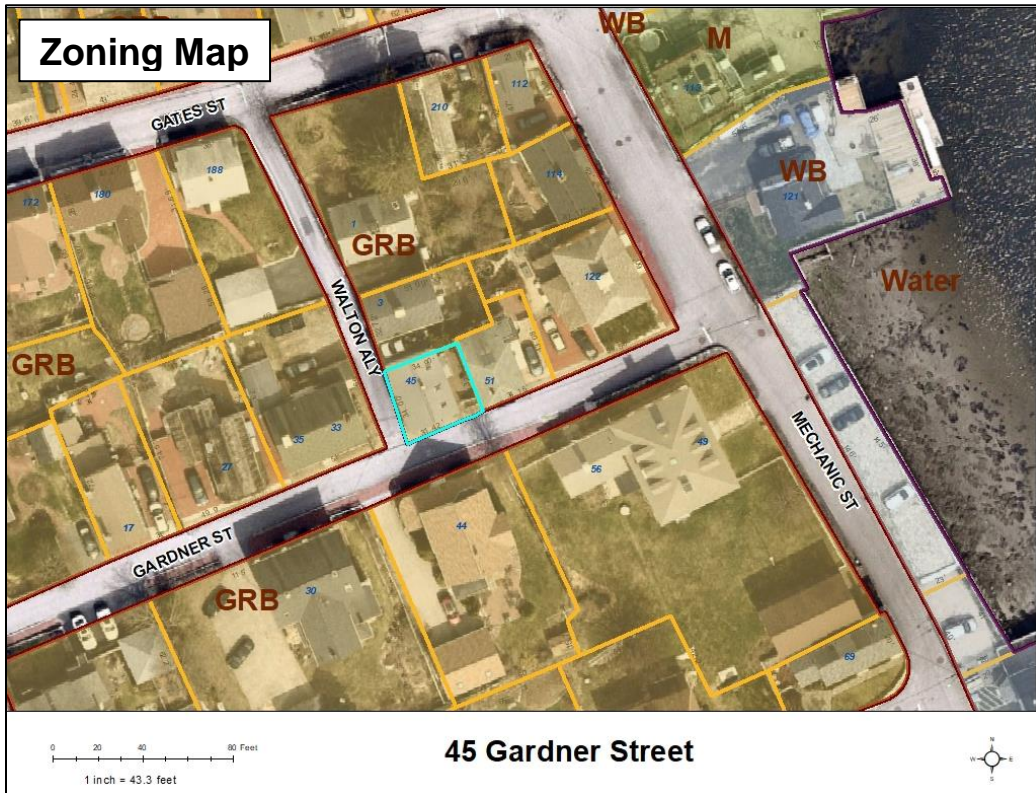
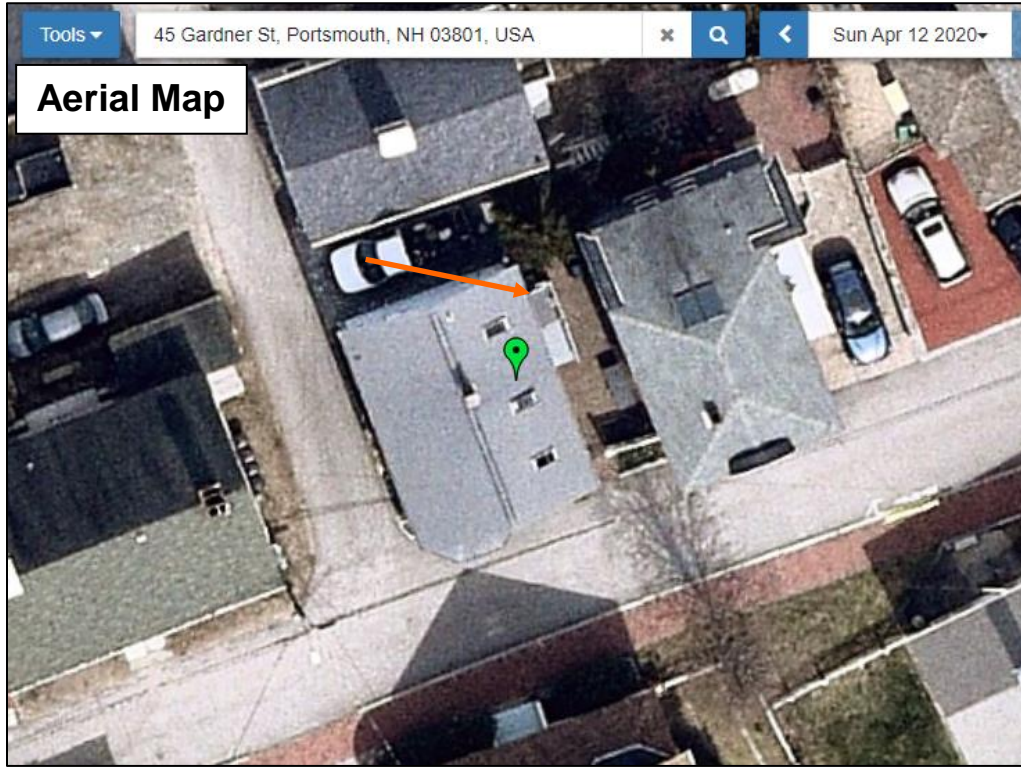
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Add two mechanical units	Primarily residential uses
<u>Lot area (sq. ft.):</u>	1,219	1,219	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	1,219	1,219	5,000 min.
<u>Street Frontage (ft.):</u>	65	65	80 min.
<u>Lot depth (ft.):</u>	32	32	60 min.
<u>Front Yard (ft.):</u>	1	1	5 min.
<u>Right Yard (ft.):</u>		8	10 min.
<u>Secondary Front Yard (ft.):</u>	1.1*	1.1*	10 min.
<u>Rear Yard (ft.):</u>	0	6	20 (10 AC unit) min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	54*	54*	30 max.
<u>Open Space Coverage (%):</u>	23*	23*	25 min.
<u>Estimated Age of Structure:</u>	1900	Variance request(s) shown in red. *Prior variances granted	

Other Permits/Approvals Required

HDC

Neighborhood Context



Previous Board of Adjustment Actions

May 16, 2006 – the Board **granted** the following variance:

- Article III, Section 10-302(A) to allow a lot line revision between Lots 21 and 22 resulting in Lot 22 having the following: a) 1,346 square feet of lot area where 5,000 square feet is the minimum required, b) 34.15 feet of street frontage where 80 feet is the minimum required, c) a 1.1 foot left side yard where 10 feet is the minimum required, d) 23% open space where 25% is the minimum required, and, e) 54% building coverage where 30% is the maximum allowed.

July 21, 2009 – the Board **granted** the following variances:

- Article III, Section 10.302(A) and Article IV, Section 10-401(A)(2)(c) to allow the expansion of a nonconforming structure by creating a deck and steps with a side yard setback of 8 feet where a 10 foot side yard setback is required and a rear yard setback of 4 feet where a 25 foot rear yard setback is required.

Planning Department Comments

The applicant is proposing to add two condenser units under the existing porch. The history shows the prior variances granted for the deck and steps in 2009. Administrative Approval was granted by the HDC on February 3rd with the stipulation that BOA approval is required and that a screen must be added to the mini-split if no fencing exists along 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.*
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 **Cornwall Properties, LLC, Owner**, for property located at **50 Cornwall Street** whereas relief is needed from the Zoning Ordinance for partial demolition of existing structure and construction of new two-story rear addition to convert into two-family dwelling which requires the following: 1) Variances from Section 10.521 to allow a) a 1 foot right side yard where 10 feet is required; b) to allow 36.5% building coverage where 35% is the maximum allowed; and c) to allow a lot area per dwelling unit of 2,000 square feet where 3,500 per dwelling 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 144 Lot 2 and lies within the General Residence C (GRC) District.

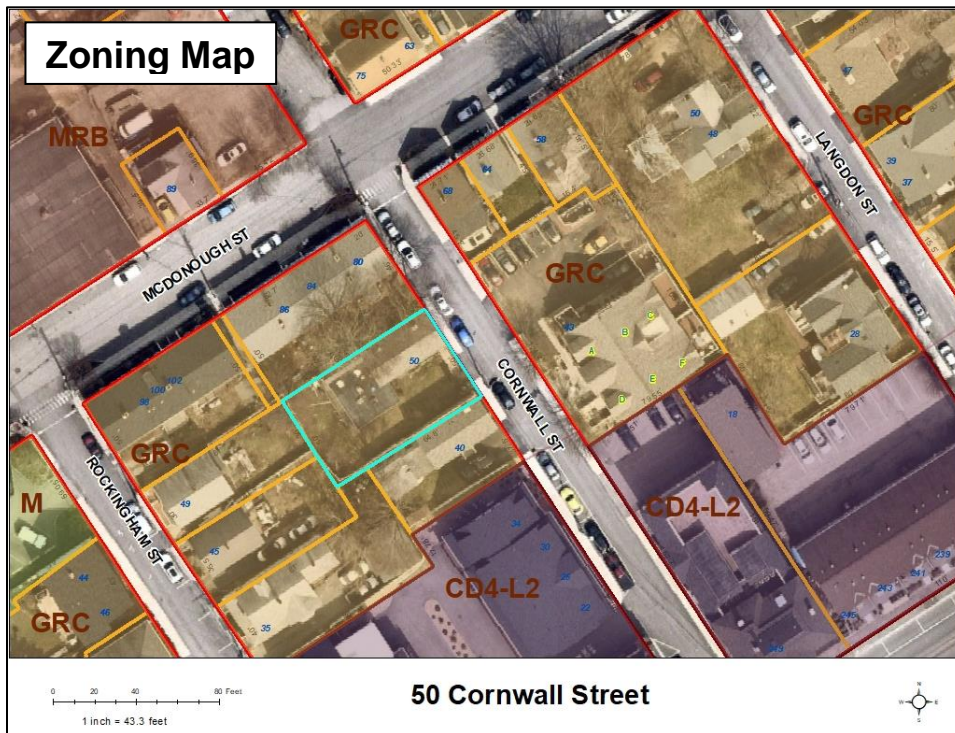
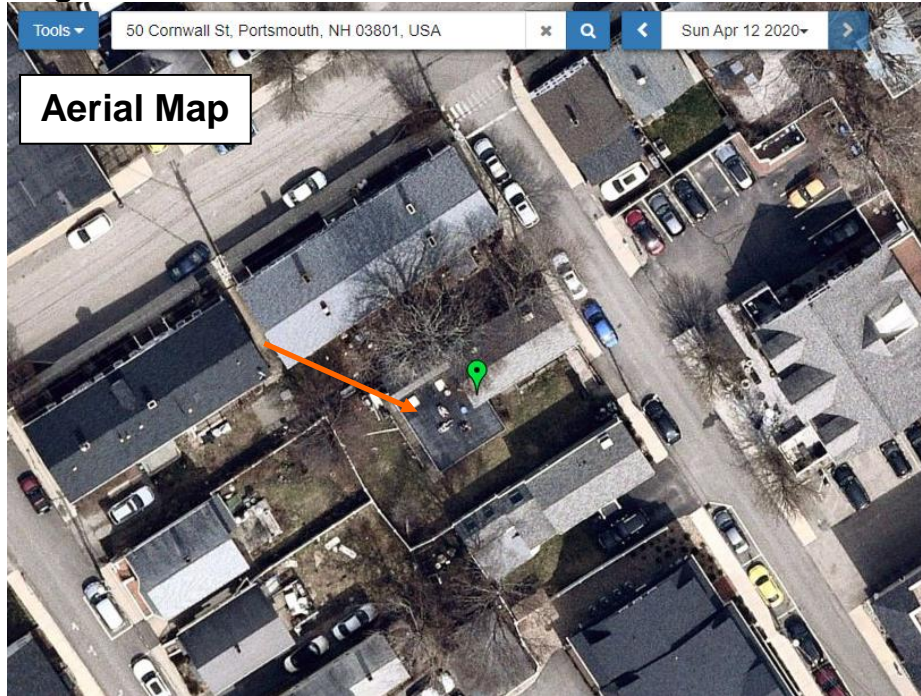
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	New 2 story rear addition/convert to 2 family	Primarily residential uses
<u>Lot area (sq. ft.):</u>	4,000	4,000	3,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,000	2,000	3,500 min.
<u>Street Frontage (ft.):</u>	50	50	70 min.
<u>Lot depth (ft.):</u>	80	80	50 min.
<u>Front Yard (ft.):</u>	2	2	5 min.
<u>Right Yard (ft.):</u>	1	1	10 min.
<u>Left Yard (ft.):</u>	15	15	10 min.
<u>Rear Yard (ft.):</u>	22	22	20 min.
<u>Height (ft.):</u>	28	32	35 max.
<u>Building Coverage (%):</u>	36.3	36.5	35 max.
<u>Open Space Coverage (%):</u>	57	40	20 min.
<u>Parking</u>	0	3	3
<u>Estimated Age of Structure:</u>	1820	Variance request(s) shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The applicant is proposing to demolish the 1980s rear addition and construct a two-story rear addition and convert the structure into a two-family dwelling. The proposal maintains the existing right yard alignment of 1 foot and slightly increases the already nonconforming building coverage. In addition, converting to a two family on a 4,000 square foot lot requires a variance for lot area per dwelling, where 3,500 square feet per dwelling is the minimum.

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 **64 Vaughan Mall, LLC, Owner**, for property located at **64 Vaughan Street** whereas relief is needed from the Zoning Ordinance for the addition of a fourth story as part of redevelopment of the existing structure which requires the following: 1) A Variance from Section 10.5A41.10D to allow a secondary front yard of 50.2 feet where 5 feet is the maximum. 2) A Variance from Section 10.5A41.10D to allow a building height of 52.5 feet and four stories where 40 feet and three stories is the maximum allowed. Said property is shown on Assessor Map 126 Lot 1 and lies within the Character District 5 (CD5) District.

Existing & Proposed Conditions

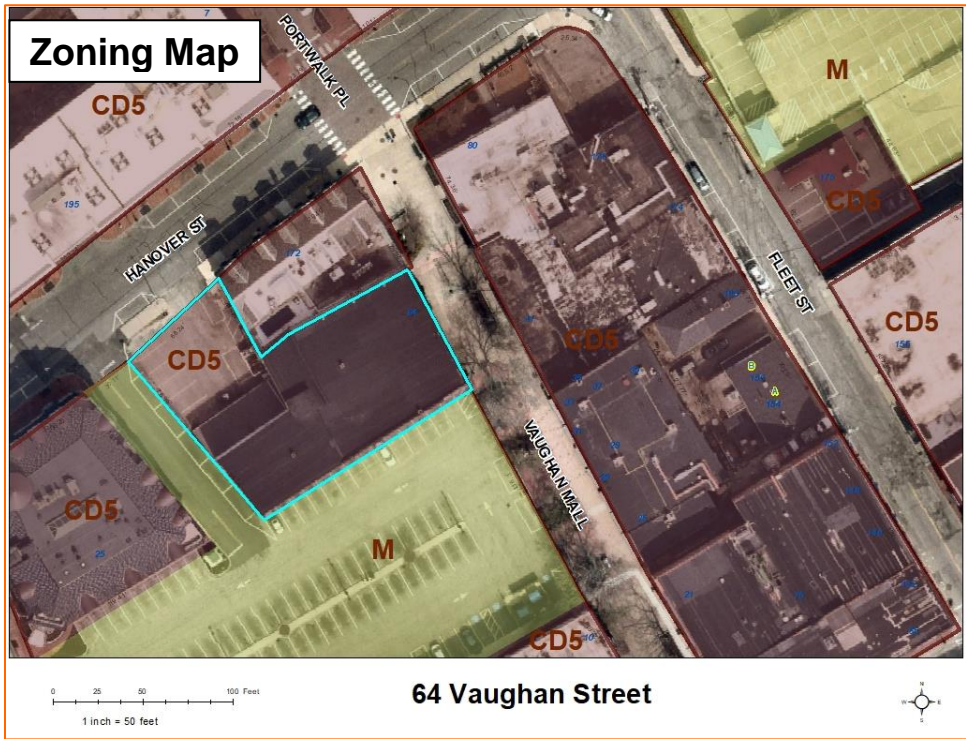
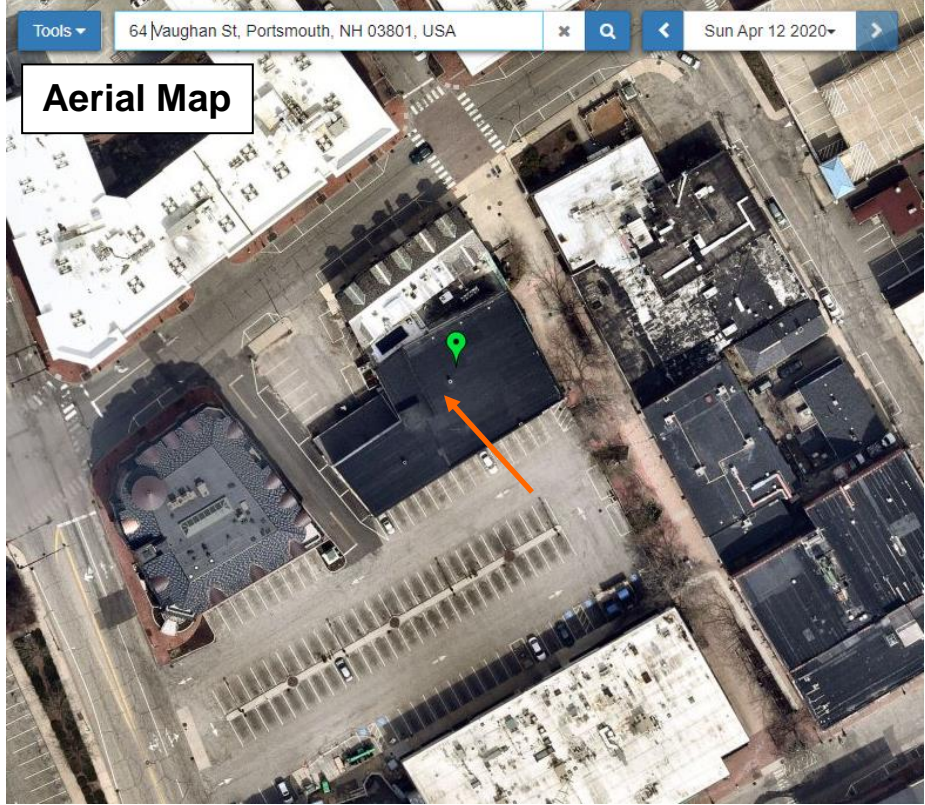
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>	
<u>Land Use:</u>	Vacant	mixed use	Primarily mixed uses	
<u>Lot area (sq. ft.):</u>	14,097	14,097	NR	min.
<u>Front Lot Line Buildout (%)</u> :	100	100	80%	min.
<u>Front Yard (ft.):</u>	4.3	4.3	5	max.
<u>Right Yard (ft.):</u>	0	0	NR	min.
<u>Secondary Front Yard (ft.):</u>	58.1	50.2	5	max.
<u>Height (ft.):</u>	40' and 3 stories	52.5 and 4 stories	3 Stories or 40'	max.
<u>Building Coverage (%)</u> :	70	75.7	95	max.
<u>Open Space Coverage (%)</u> :	0	13.9	5	min.
<u>Parking</u>	7	20	14	
<u>Estimated Age of Structure:</u>	1870	Variance request(s) shown in red.		

Other Permits/Approvals Required

HDC

Planning Board/TAC – Site Review

Neighborhood Context



Previous Board of Adjustment Actions

October 4, 1977 – the Board **granted** the following:

- To construct a storage and loading addition to existing building with a single story, where two stories are required for new construction in the Central Business District.

Planning Department Comments

The applicant is proposing to renovate and convert the existing structure into a mixed use building which includes adding small addition on the front, a recessed fourth story and underground parking in the existing basement. The maximum height for this area is 3 stories or 40' and the applicant is proposing a fourth story and a building height of 52.5 feet. The front addition will not comply with the maximum front yard in this zone, thus relief is needed for that requirement. If the variances are denied, the applicant has a design that complies with zoning and has indicated they would pursue.

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 **SAI Builders, Owners**, for property located at **84 Rockland Street** whereas relief is needed from the Zoning Ordinance for partial demolition of existing home to allow the addition of dormers and a two-story garage addition which requires the following: 1) Variances from Section 10.521 to allow: a) a 4 foot secondary front yard where 15 feet is required; b) an 8 foot primary front yard where 15 feet is required; and c) 27% building coverage where 25% is the maximum allowed. 2) 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 113 Lot 26 and lies within the General Residence A (GRA) District.

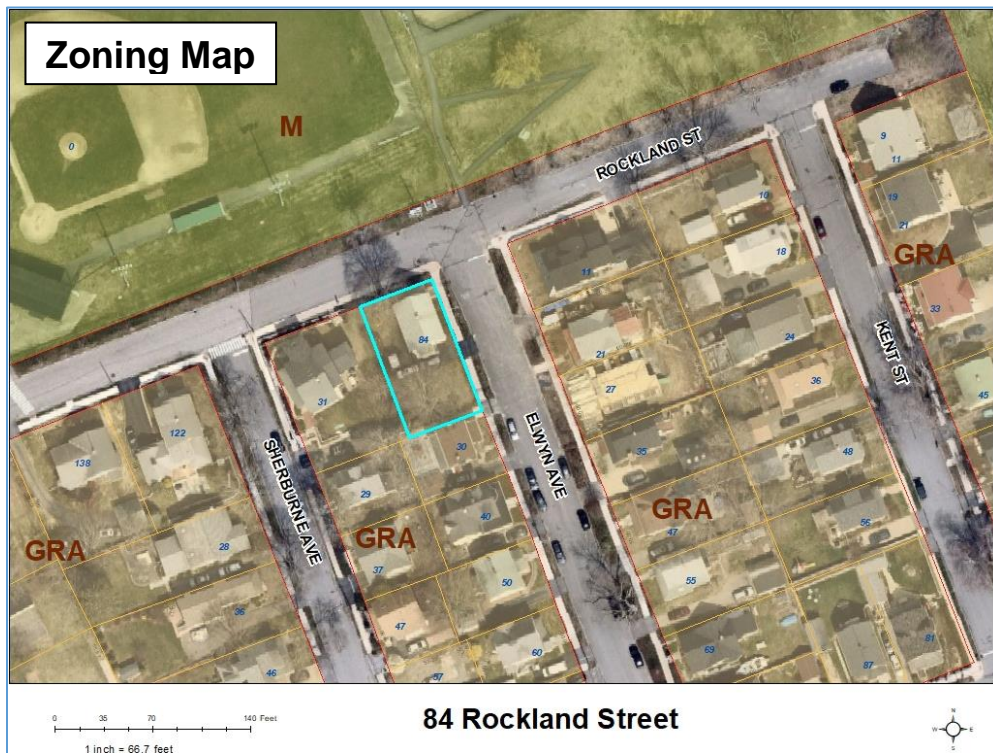
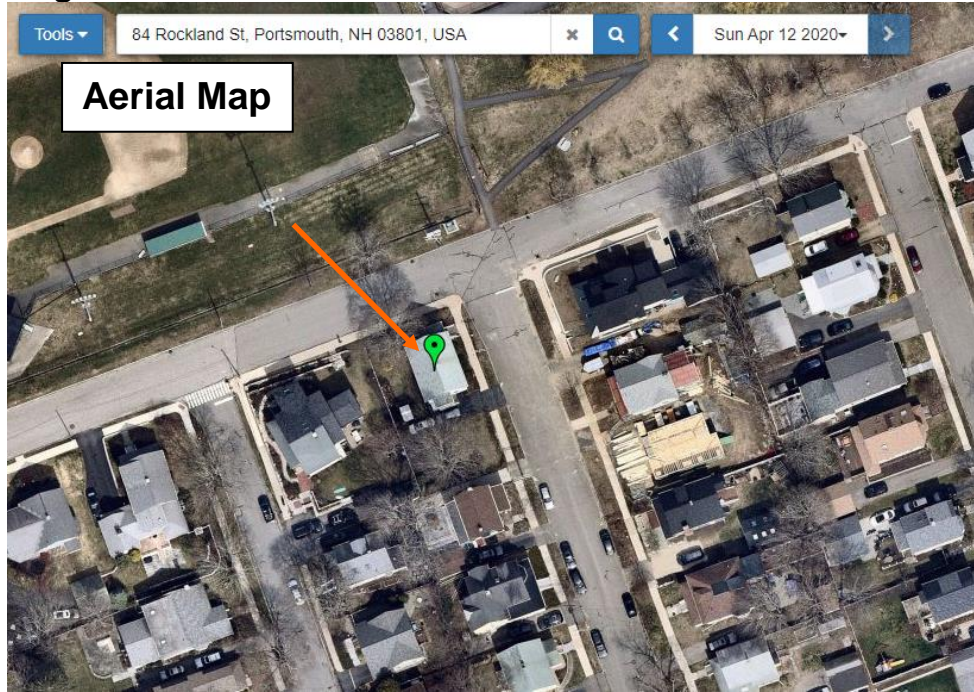
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Partial Demo /construct new garage addition	Primarily Single-family Uses
<u>Lot area (sq. ft.):</u>	5,492	5,492	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,492	5,492	7,500 min.
<u>Street Frontage (ft.):</u>	154	154	100 min.
<u>Lot depth (ft.):</u>	100	100	70 min.
<u>Primary Front Yard (ft.):</u>	8	8	15 min.
<u>Secondary Front Yard (ft.):</u>	3	4	10 min.
<u>Right Yard (ft.):</u>	25	20	10 min.
<u>Rear Yard (ft.):</u>	48	33	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	20	27	25 max.
<u>Open Space Coverage (%):</u>	70	68	30 min.
<u>Parking:</u>	2	1	2
<u>Estimated Age of Structure:</u>	1920	Variance request shown in red.	

Other Permits/Approvals Required

CUP for parking (if 2 spaces are not provided)

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing to demolish the existing front porch and rear addition and construct a new rear two-story addition with one car garage and add dormers to the existing main structure. In addition, a new front porch and one-story addition will be added on the Rockland Street side of the house. The applicant has determined the average front yard is 8.75 feet for dwellings within 200 feet of the subject house, however the proposed front secondary front yard is 4 feet, so Section 10.516.10 does not help the applicant in this instance. The proposed renovation will result in 26.7% building coverage per the application, however the legal notice indicated 27% to allow a plus/minus to account for any discrepancies with the project. Similarly, the two front yard requests in the application are 4.3 and 8.1 feet and the legal notice indicated 4 feet and 8 feet, which again, if granted approval, would allow for a plus/minus to account for any discrepancies.

With the addition of the garage, it appears only one conforming off-street parking space will be provided, where 2 currently exist. If this is the case, a parking CUP will be required if the applicant cannot provide 2 off-street parking spaces. At the writing of this staff report, it was undetermined if that was the case.

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.