

April 28, 2021

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

RE: 165 Court Street – Sign Variance Application

Dear Chair Rheaume and Board Members:

The applicant requests variances from Sections 10.1251.10 and 10.1251.20 of the City of Portsmouth's Zoning Ordinance for the proposed mural (signage) at 165 Court Street. Please consider the information included below when evaluating the merits of this request.

Property: 165 Court Street | Assessor Map: 116 | Lot 27

Property: CD4 | Historic District

Sign District: 3

- Variances:**
- 1) From Section 10.1251.10:
 - **Max Allowed** aggregate sign area shall be no greater than (2) x Frontage
 - $96'-0'' \times 2 = \underline{192 \text{ sf}}$
 - **Existing** Aggregate Sign Area = 53 sf
 - **New** Aggregate Sign Area = 162 sf
 - **Total New** Aggregate Sign Area = 215 sf
 - 2) From Section 10.1251.20:
 - **Max Allowed** sign area for individual signs = 40 sf
 - **Proposed** Individual Sign Areas:
 - Ruth Blay Figure and Text = 140 sf
 - History Text = 10 sf
 - History Through Art = 9 sf
 - Credits and Info = 3 sf

3) From Section 10.1242:

- Each side of a building facing a street may have one wall sign above the ground floor

4) From Section 10.1271:

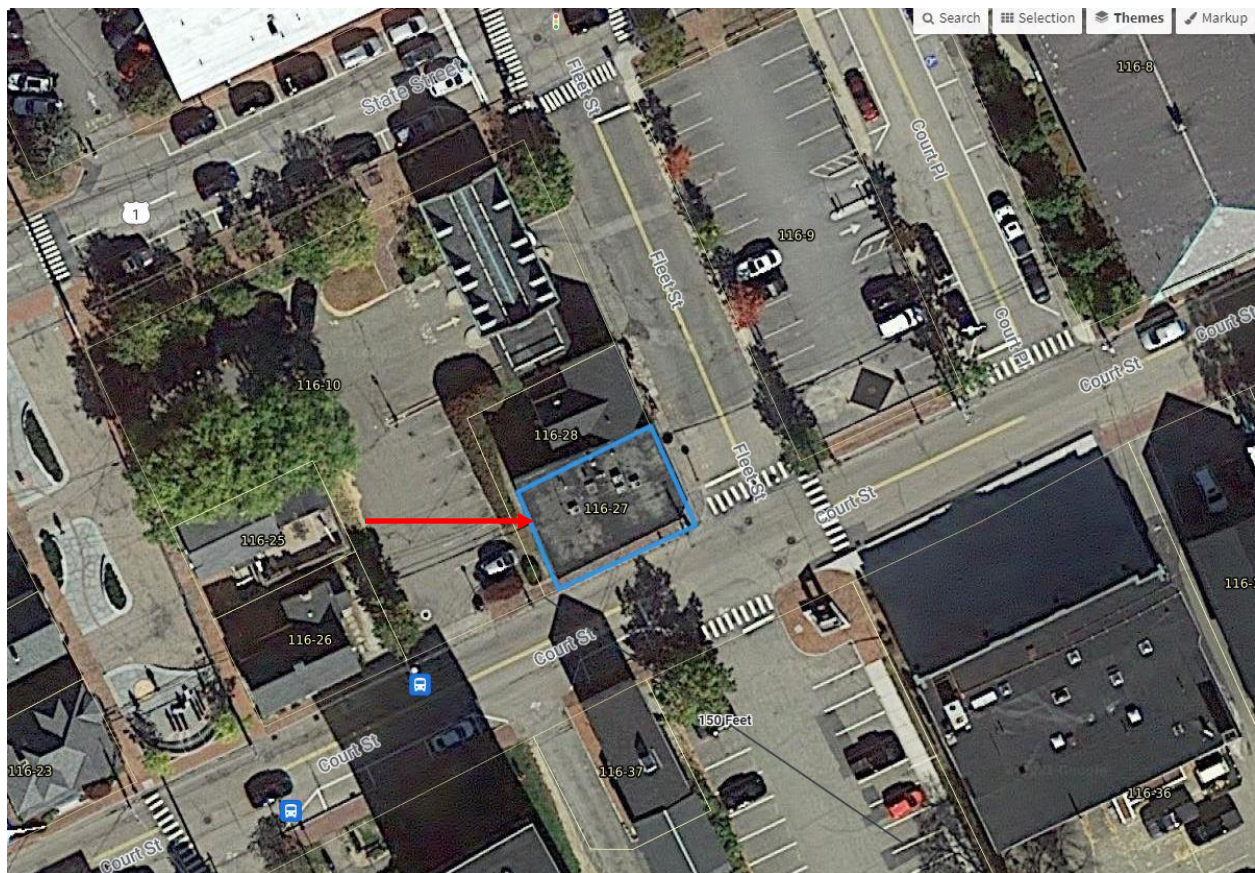
- To allow signs on a side of a building that does not face a street or does not have a public entrance

Introduction

165 Court Street is located at the intersection of Fleet Street and Court Street just southwest of the Fire Station and across the street from the PHA – Margeson Apartments. The two-story building contains a mix of (4) retail and office spaces with associated signage for each business. The owner of the building, Todd Adelman of KWA LLC, has been working with a local nonprofit group “Friends of Ruth Blay, Inc” to bring awareness to some of the many prominent women of Portsmouth’s storied history. The first of these women is Ruth Blay (1737-1768). Ruth, a 31-year-old teacher from South Hampton, was tried, convicted, and publicly hanged for concealing the body of her illegitimate baby. She was the last female executed in New Hampshire.

A mural is being proposed at the southwest wall of the 165 Court Street building. The mural will contain a unique artist’s rendering of Ruth Blay with associated title, historical facts, design credits, and a “History Through Art” tag intended to identify and link together this installation with other future murals focused on a variety of Portsmouth women.

The Portsmouth Zoning Ordinance categorizes murals as signage, and the crux of these variance requests revolves around complying with the required dimensional standards for signage within Sign District 3 and the location of the mural not being located on a wall that has street frontage. The Ordinance’s stated purpose is to “...*maintain and enhance the character of the city’s commercial districts and residential neighborhoods and to protect the public from hazardous and distracting displays.*” Although the proposed mural does not meet all of the dimensional and location requirements of the signage ordinance it has been purposely and thoughtfully designed to meet the intent of the ordinance’s purpose. Please refer to the following pages for artist’s renderings, relevant project info, and variance criteria.



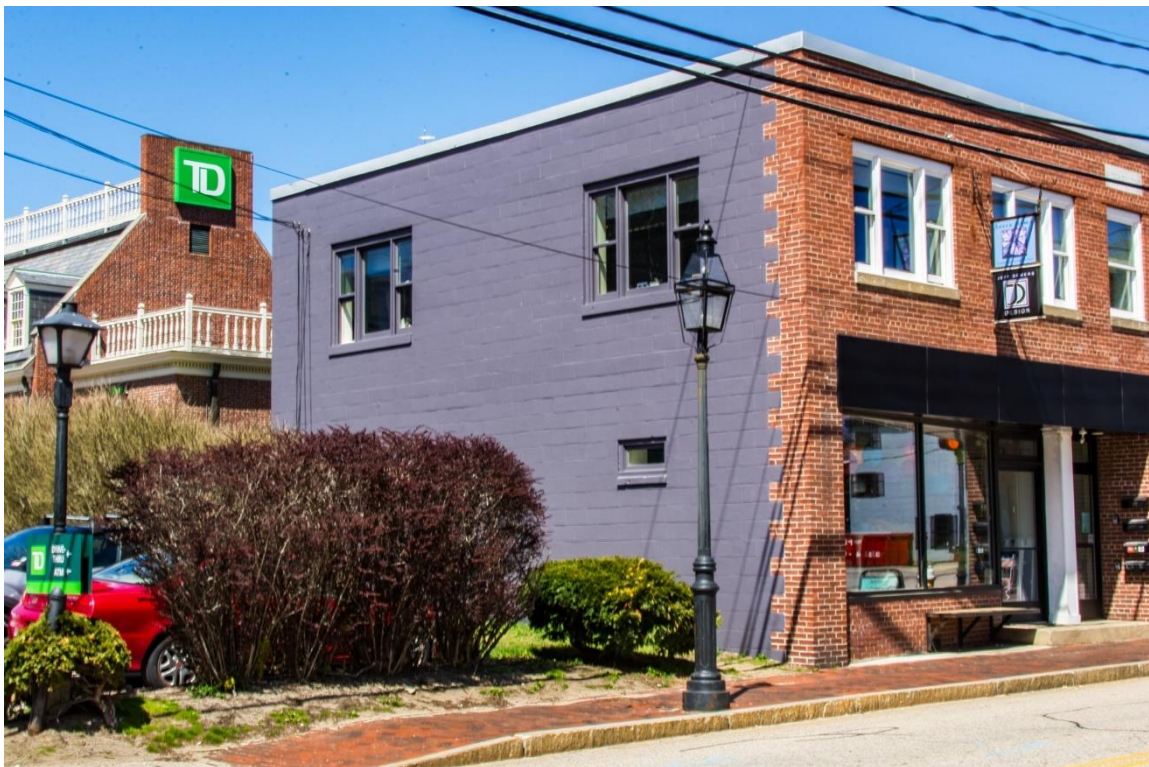
Aerial View



View from Fire Station



View Down Court Street from the Southwest



Mural Wall (Southwest Wall)



Ruth Blay Mural

Photographic Vinyl
163 Court Street: West Wall



Sketch for Ruth Blay Mural

Ruth Blay Mural Text

Project Tag: *History Through Art*

Mural Title: Remembering Ruth Blay, 1737-1768

Teacher; Seamstress; Unwed Mother

History

In 1768, Ruth Blay, a 31-year-old teacher from South Hampton, was tried, convicted, and publicly hanged for concealing the body of her illegitimate baby.

Concealment was punishable by death by hanging, unless the woman could prove the baby was stillborn. In Blay's final words, written on the eve of her execution, she maintained the child was stillborn, which she could have proven had she been properly advised by her lawyer.

She, and other women before her, were victims of their gender, class, social status, the mores of the time and harsh provincial law.

The last woman executed in New Hampshire, Ruth Blay's body lies buried in an unmarked grave in what is now South Street Cemetery.

- Carolyn Marvin, Historian

Author of *Hanging Ruth Blay, an Eighteenth Century Tragedy*, The History Press, 2010

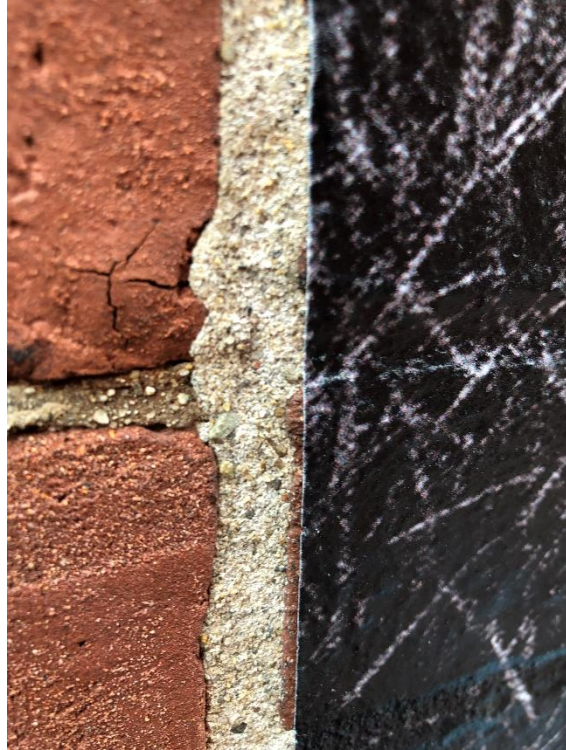
Materials

The existing grey painted wall at the southwest of the building will act as a subdued background color for the mural renderings and text.

The entirety of the mural itself (rendering, title, text, etc.) will be printed on an adhesive vinyl material similar to a few comparable murals in the downtown area.



Murals on Commercial Alley with Similar Material



Edge of Vinyl at Brick Mortar Joint



Profile of Brick and Mortar Joints Viewed Through Vinyl Material

Variance Criteria

1. The variance is not contrary to the public interest.
2. The spirit of the ordinance is observed.
 - Eclectic mixed-use neighborhood surrounded by office, retail, municipal and residential uses
 - Variety of signage, graphics, statues, and memorials in the immediate area (Fire Station and African Burial Grounds memorials)
 - Enhances the character of the city by promoting its rich history
 - Location not on street frontage does not create a hazard or distraction
 - Size of mural does not create a hazard or distraction as the design is subdued in its color scheme and content
3. Substantial justice is done.
 - There is no obvious harm to the public that would be created by the installation of this mural (see above comments for 1. and 2.)
 - There would be a benefit to the public due to the educational components of the mural and its tasteful design
4. The values of surrounding properties are not diminished.
 - This is a mixed-use neighborhood with an abundance of signage, colorful graphics, statues, memorials, etc.
 - The addition of this mural into the neighborhood context would not alter or diminish the property values within the surrounding neighborhood
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:

- a. There is no fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property; and
- b. 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.

- Building location at the intersection of two downtown streets having wall frontage with a third wall of the building abutting a bank driveway and parking lot - to the observer/passersby that would be experiencing this mural the driveway feels and acts as a third street, but the building does not get the benefit of the additional frontage with its sign area tabulations
- The purpose of the mural is to be viewed and be comprehensible from the public way – due to the southwest wall's proximity to Court Street the proposed mural exceeds the required sign area with the implicit goal of achieving that purpose
- Rate of travel on Court Street is slow by nature, and the mural is tasteful in design and color selection – this creates a situation where a sign that is larger than allowed does not create a hazardous or distracting experience to those that are passing by
- The proposed use is reasonable and fits harmoniously with the surrounding context