



City of Portsmouth
Planning Department
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MEMORANDUM

TO: Zoning Board of Adjustment
FROM: Jillian Harris, Principal Planner
Stefanie Casella, Planner
DATE: July 16, 2025
RE: Zoning Board of Adjustment July 22, 2025

The agenda items listed below can be found in the following analysis prepared by City Staff:

II. New Business

- A. 184 Madison Street
- B. 160 Essex Avenue
- C. 124 Heritage Avenue
- D. 52 Mendum Avenue
- E. 921 Islington Street

II. NEW BUSINESS

- A.** The request of **AAM Portsmouth Residences LLC C/O AAM 15 Management LLC (Owner)**, for property located at **184 Madison Street** whereas relief is needed for the addition of 22 parking spaces which requires the following: 1) Variance from Section 10.1113.20 to allow off-street parking to be located between the principal building and the street. Said property is located on Assessor Map 146 Lot 16 and lies within the General Residence C (GRC) District. (LU-25-83)

Existing & Proposed Conditions

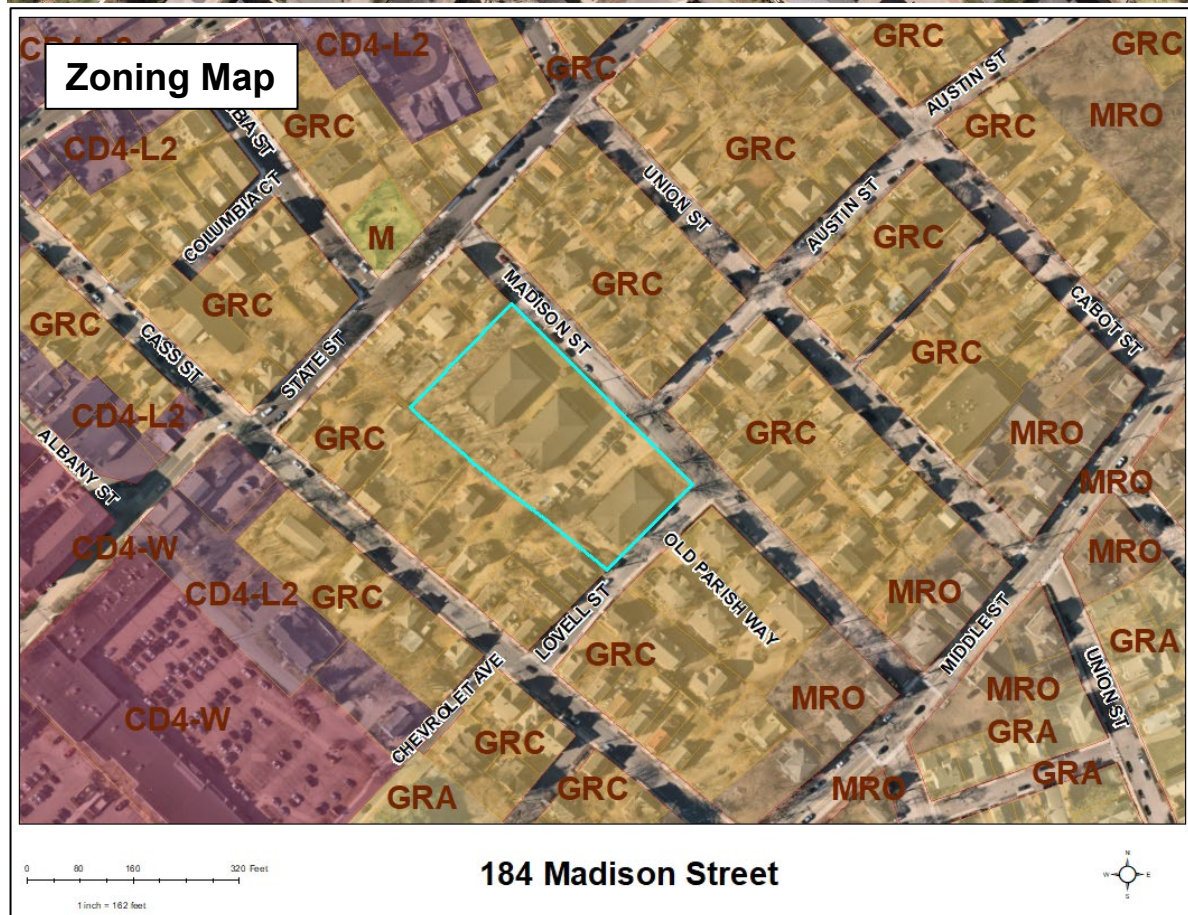
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	3 apartment buildings totaling 72 Units	Addition of 22 parking spaces	Primarily residential
<u>Open Space Coverage (%)</u> :	29.5	24.3	40 min.
<u>Parking:</u>	87	109	82 min.
<u>Estimated Age of Structure:</u>	1971	Variance request(s) shown in red.	

*Relief needed to construct parking spaces between the principal structure and the street

Other Permits/Approvals Required

- Site Review – TAC and Planning Board
- Parking Conditional Use Permit – TAC and Planning Board

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history was found.

Planning Department Comments

The applicant is requesting relief for the addition of 11 tandem parking aisles totaling 22 parking spaces.

The minimum number of parking spaces required is 82 with the maximum number allowed to be 99. A Parking Conditional Use Permit (CUP) is required to allow more than 120% of the minimum parking requirement (Section 10.1112.51 of the Zoning Ordinance)

The middle group of parking spaces is shown to be slightly over the lot line. If the request is approved, staff recommend the Board add the following stipulations or similar:

1. Applicant will relocate parking spaces to be completely on the property
2. The location and orientation of the parking spaces may change as needed during the TAC and Planning Board review.

Variance 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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

II. NEW BUSINESS

B. The request of **Shannon M. & Stephen E. Parsons (Owners)**, for property located at **160 Essex Avenue** whereas relief is needed to demolish the existing garage and construct a new 2 bay, 2 story garage which requires the following: 1) Variance from Section 10.521 to a) allow a 7 foot right side yard where 10 feet are required, b) allow a 17 foot front yard where 30 feet are required, and c) allow a 28.5% building coverage where 20% is maximum allowed; and 2) 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 located on Assessor Map 233 Lot 63 and lies within the Single Residence B (SRB) District. (LU-25-92)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family residence	*Construct new attached garage	Primarily residential
<u>Lot area (sq. ft.):</u>	10,000	10,000	15,000 min.
<u>Front Yard (ft)</u>	20	17	30 min.
<u>Rear Yard (ft.):</u>	45	36	30 min.
<u>Right Yard (ft.):</u>	19	7	10 min.
<u>Left Yard (ft.):</u>	23	23	10 min.
<u>Height (ft.):</u>	19	27	35 max.
<u>Building Coverage (%):</u>	12.6	28.5	20 max.
<u>Open Space Coverage (%):</u>	75.6	64.3	40 min.
<u>Parking:</u>	>2	>2	2 min.
<u>Estimated Age of Structure:</u>	1956	Variance request(s) shown in red.	

* Relief needed to construct an addition to the already non-conforming primary structure that would further impact the non-conformity.

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history was found.

Planning Department Comments

The applicant is requesting relief to construct a new attached garage which will further impact the existing right and front yard areas, and create a new non-conforming building coverage.

Variance 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.*

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

II. NEW BUSINESS

- C. The request of **One Twenty Four Group Inc (Owner)**, for property located at **124 Heritage Avenue** whereas relief is needed to establish a batting instruction facility greater than 2,000 s.f. of GFA which requires the following: 1) Special Exception from Use # 4.42 to allow a health club, yoga studio, martial arts school, of similar use with more than 2,000 s.f. of GFA. Said property is located on Assessor Map 284 Lot 8 and lies within the Industrial (I) District. (LU-25-85)

Existing & Proposed Conditions

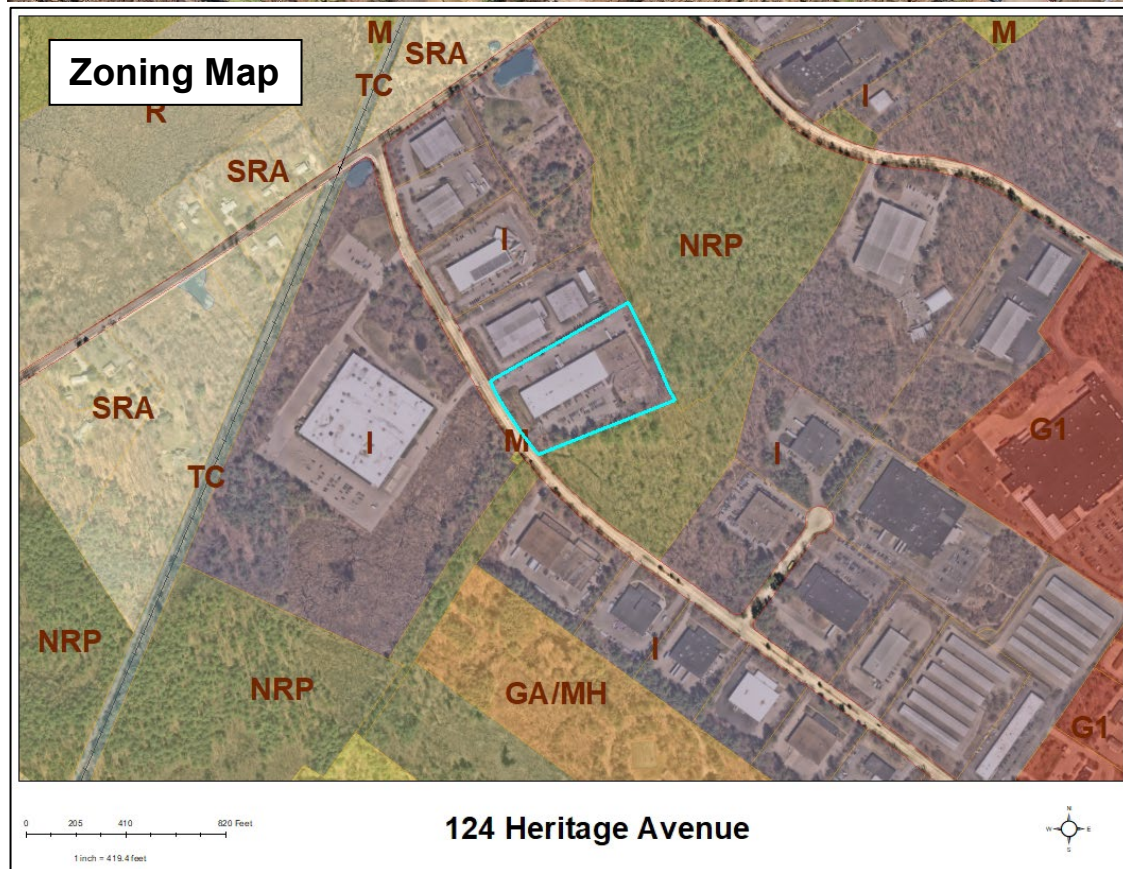
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Office and Warehouse	*Establish a batting instruction facility	Primarily residential
<u>Parking:</u>	180	180	
<u>Estimated Age of Structure:</u>	1975	Variance request(s) shown in red.	

*Use allowed by Special Exception under Use # 4.42

Other Permits/Approvals Required

- Tenant Fit Up/Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

October 19, 1999 – The Board **granted** a Special Exception as allowed in Article II, Section 10-209(30) to allow the manufacture of soups, chowders, sauces and related food products.

June 22, 2021 – The Board **granted** a change of use to a laboratory which required the following: 1) a Special Exception from Section 10.440, Use #14.61 to permit a Biological or Chemical Laboratory – Not Marine Dependent where the use is allowed by Special Exception.

Planning Department Comments

The applicant is requesting a special exception for use of a batting instruction facility. The applicant has provided a description of the business model for the Board to review.

Special Exception 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.*

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II. NEW BUSINESS

- D. The request of **Stephen W. Sanger Revocable Trust (Owner)**, for property located at **52 Mendum Avenue** whereas relief is needed for to construct an 11.25 s.f. addition to the left side of the structure which requires the following: 1) Variance from Section 10.521 to a) allow a 3 foot left side yard where 10 feet are required, b) allow 35% building coverage where 25% is maximum allowed; and 2) 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 located on assessor Map 149 Lot 58 and lies within the General Residence A (GRA) District. (LU-25-95)

Existing & Proposed Conditions

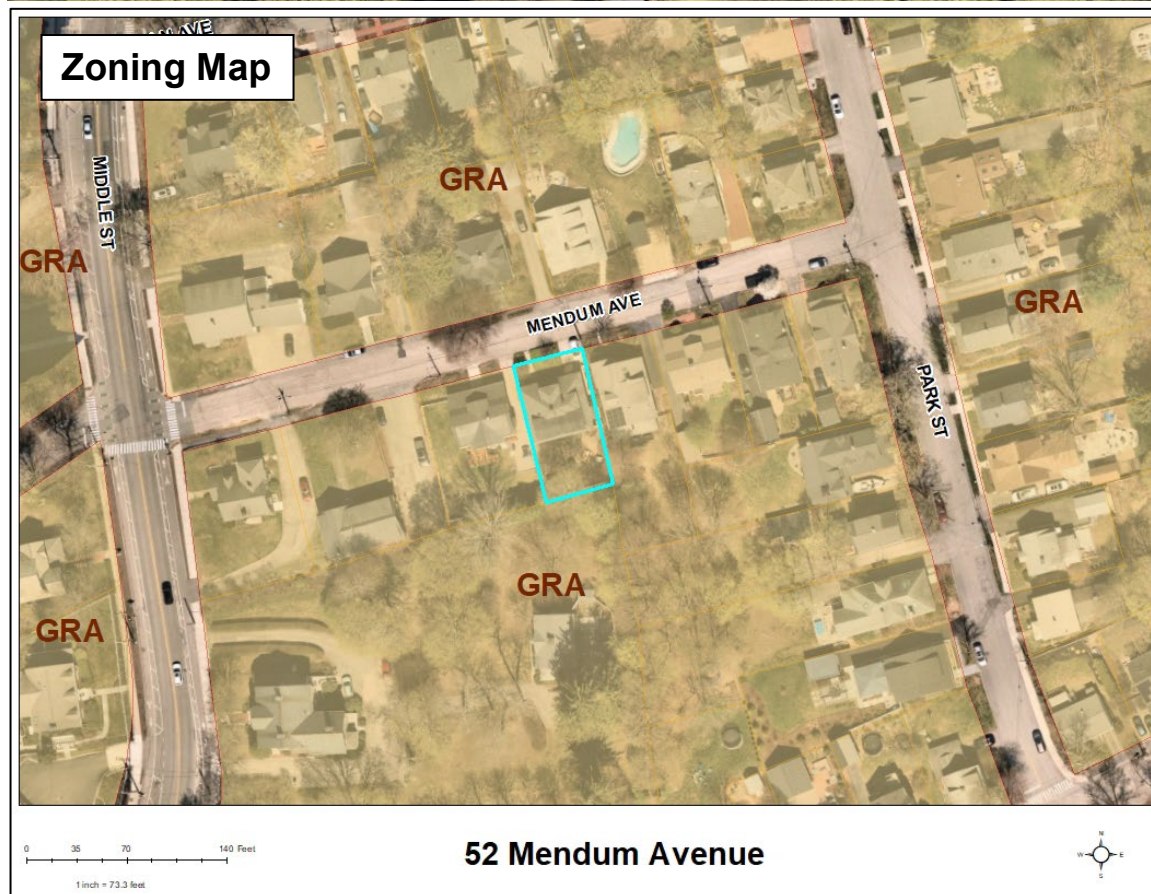
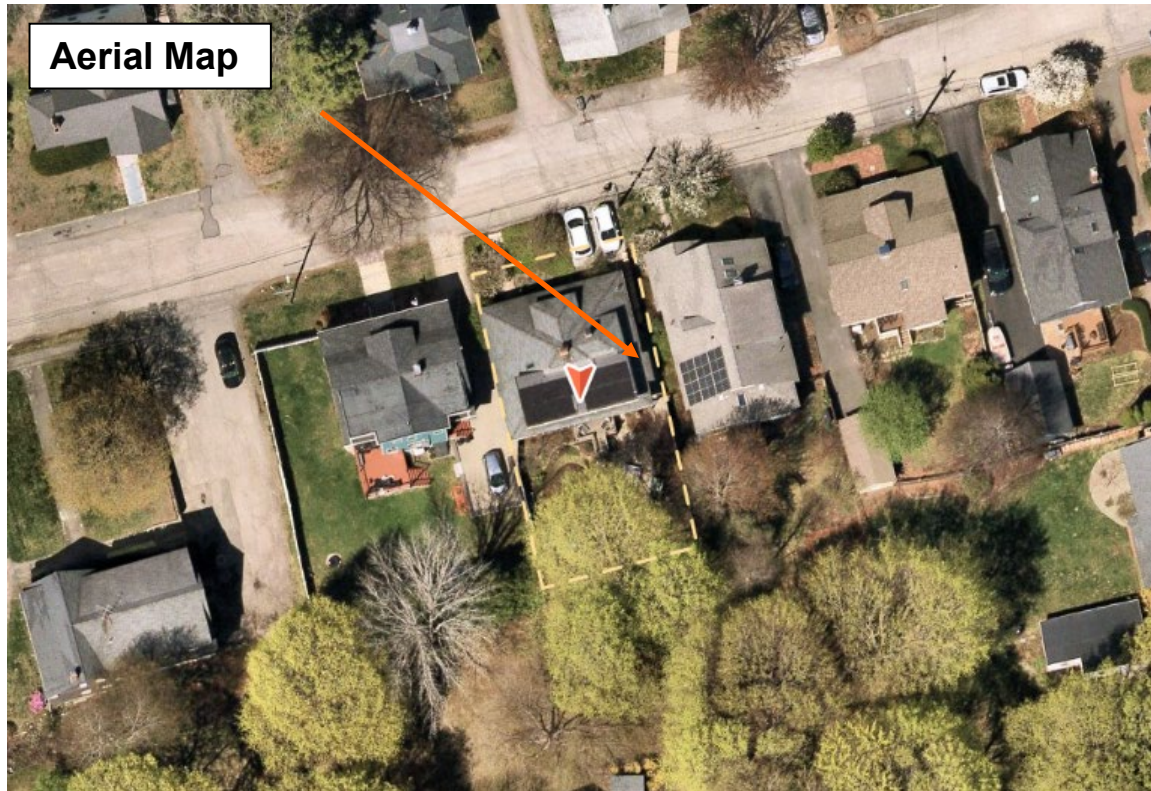
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family residence	*11.25 s.f. addition	Primarily residential
<u>Lot area (sq. ft.):</u>	4,791.6	4,791.6	7,500 min.
<u>Primary Front Yard (ft)</u>	16.5	16.5	15 min.
<u>Rear Yard (ft.):</u>	43	43	20 min.
<u>Right Yard (ft.):</u>	3	3	10 min.
<u>Left Yard (ft.):</u>	3	3	10 min.
<u>Height (ft.):</u>	35	35	35 max.
<u>Building Coverage (%):</u>	35	35	25 max.
<u>Open Space Coverage (%):</u>	54	54	30 min.
<u>Parking:</u>	>2	>2	2 min.
<u>Estimated Age of Structure:</u>	1914	Variance request(s) shown in red.	

* Relief needed to construct an addition to the already non-conforming primary structure that would further impact the non-conformity.

Other Permits/Approvals Required

- Building Permits

Neighborhood Context



Previous Board of Adjustment Actions

March 16, 1999 – The Board **granted** a Variance from Article III, Section 10-302(A) to allow a 10' x 12' screened porch with a 7' left side yard where 10' is the minimum required.

August 16, 2011 – The Board **voted** to grant the following variances to construct a 12'6" x 5'6" rear deck and 4' x 4' stairs. Variance from Section 10.321 to allow the expansion of a nonconforming structure. Variance from Section 10.521 to allow a building coverage of 30%± where 25% is the maximum allowed.

Planning Department Comments

The applicant is requesting relief for the addition of 11.25 square feet. The existing and proposed conditions table shows the same calculation for building coverage and open space. This is due to rounding as the change is 0.3%.

Variance 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.

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II. NEW BUSINESS

- E.** The request of **Ampet Inc (Owner)**, for property located at **921 Islington Street** whereas relief is needed for the demolition of the existing structure and the construction of a new building to be used for a restaurant which requires the following: 1) Variance from Section 10.575 to allow a dumpster to be located within 20 feet of a Residential or Mixed Residential zoned lot or within 10 feet of any lot line; and 2) Variance from Section 10.1113.20 to allow off-street parking to be located between the principal building and the street. Said property is located on Assessor Map 172 Lot 10 and lies within the Character District 4-W (CD4-W). (LU-25-96)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant Gas Station	*Construct restaurant and associated parking	Mixed Use
<u>Distance between dumpsters and residential or mixed residential zone</u>	n/a	5	20 mini
<u>Parking:</u>	n/a	14	14 (per min. 10.1112.321)
<u>Estimated Age of Structure:</u>	1960	Variance request(s) shown in red.	

***Relief needed to construct parking facility between principle building and the street**

Other Permits/Approvals Required

- Site Review – TAC Planning Board
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

July 17, 1990 – The Board voted to **postpone** the request to resolve the outstanding sign violation on the property which requires a Variance from Article II, Section 10-207 to permit a 480 s.f. snackshop in an existing gasoline station in a district where retail sales are not allowed.

August 21, 1990 – The Board **granted** a Variance from Article II, Section 10-207 to permit a 480 s.f. snackshop in an existing gasoline station in a district where retail sales are not allowed.

May 19, 1998 – The Board **granted** a Variance from Article II, Section 10-208(36) to allow the replacement of new dispensing islands in the same nonconforming location (17'6"± from the front property line) where dispensing islands are required to be a minimum of 40' from all property lines.

August 18, 1998 – The Board **denied** the following: 1) a Variance from Article II, Section 10-208(36) to allow 702 s.f. within an existing nonconforming gas station to be used for the repair of automobiles; and 2) a Variance from Article IV, Section 10-401(A)(1)(b) to allow the automotive repair within an existing gas station that does not meet the requirements for such facility.

September 15, 1998 – The Board **granted the request for rehearing** of the petition denied at the August 18, 1998 BOA meeting. Rehearing scheduled for the October 20, 1998 meeting.

October 20, 1998 – The Board **denied** the following: 1) a Variance from Article II, Section 10-208(36) to allow 702 s.f. within an existing nonconforming gas station to be used for the repair of automobiles; and 2) a Variance from Article IV, Section 10-401(A)(1)(b) to allow the automotive repair within an existing gas station that does not meet the requirements for such facility.

January 16, 2001 – The Board **granted** the following: 1) a Variance from Article II, Section 10-208(36) to allow automotive repair within an existing gas station that does not meet the requirements for such a facility, and 2) a Variance from Article IV, Section 10-401(A)(1)(h) to allow a nonconforming gas station to be used for repair of vehicles. The request granted with the following conditions:

- 1) That the hours of operation for repairing automobiles will be Monday through Friday from 8:00 am to 5:00 pm and on Saturday from 8:00 am to 12:00 noon;
- 2) That motor vehicle repairs will be conducted inside the service bays;
- 3) That there will be no additional neon signs;
- 4) That motor vehicles awaiting repairs or awaiting pick-up after repairs will be parked on the right rear side of the building and will not be parked on the left side of the building;
- 5) That motor vehicles awaiting repair which will need to remain overnight will either be parked in the service bays or be parked on the right rear side of the service station;
- 6) That no motor vehicles will be sold on the premises;
- 7) That no unregistered vehicles will remain on the property; and,

- 8) That prior to the opening of the service bays, the building will be inspected for safety violations.

June 17, 2008 – The Board heard the request for the following: 1) a Variance from Article II, Section 10-208(24) to allow outdoor storage of automobile parts inside a proposed 6' stockade fence and 2) to amend a 17 January 01 BOA stipulation of approval to allow the hours of operation for automobile repairs to be 8 am to 6 pm Monday through Friday and 8 am to 5 pm on Saturday.

The Board voted to **deny** part 1) of the petition as it was not environmentally sound practice to store auto parts outdoors. There was too much of a chance that residue, particularly on an impervious surface, would be released into storm water. There were other reasonably feasible options that the applicant could pursue.

The Board voted to **grant** part 2) of the request as presented and advertised.

Planning Department Comments

The applicant is requesting relief for locations of the proposed dumpster and parking spaces. The use is allowed by right and the project will need to go through Site Review before a demolition or building permit is issued. Staff recommend a the following stipulation, or similar, if the Board approves the request:

The location and orientation of the dumpster may change as a result of Site Review but it cannot be located closer to the lot line than what is presented.

Variance 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

 - (c) *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.*

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