REGULAR MEETING
BOARD OF ADJUSTMENT
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE

7:00 P.M. **October 20, 2026**

AGENDA

Members of the public also have the option to join this meeting over Zoom; a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:

https://us06web.zoom.us/webinar/register/WN_F_Owmtg_Te-q2MOYBu1I3A

PLEASE NOTE: DUE TO THE LARGE VOLUME OF REQUESTS FOR OCTOBER, ITEMS (III. F. THROUGH M.) WILL BE HEARD AT THE OCTOBER 27, 2026 ZONING BOARD OF ADJUSTMENT MEETING.

I. APPROVAL OF MINUTES

A. Approval of the September 15, 2026 meeting minutes.

II. OLD BUSINESS

A. **WITHDRAWN** The request of **Hope for Tomorrow Foundation (Owner)**, for property located at **315 Banfield Road** whereas relief is needed to construct an addition to the existing school on the property, which requires the following: 1) Variance from Section 10.334 to allow the existing primary and secondary school use (Use #3.21) to be extended to another part of the remainder of the land. Said property is located on Assessor Map 266 Lot 5 and lies within the Industrial (I) District. (LU-26-41) **WITHDRAWN**

B. The request of **Ann Marie Wiley Revocable Trust (Owner)**, for property located at **64 Woodworth Avenue** whereas relief is needed to construct a side addition and front porch to the existing structure which requires the following: 1) Variance from Section 10.521 to allow a) 8.5 foot left yard where 10 feet are required, b) 2.5 foot front yard where 30 feet are required, and c) 26% building coverage where 20% is the maximum. Said property is located on Assessor Map 243 Lot 42 and lies within the Single Residence B (SRB) District. (LU-26-102)

C. **POSTPONED** The request of **Christopher H. Daniell (Owner)**, for property located at **50 Whidden Street** whereas relief is needed to construct a rear addition and cantilevered deck which requires the following: 1) Variance from Section 10.521 to allow a 9.5 foot rear yard where 25 feet are required. Said property is located on Assessor Map 102 Lot 66 and lies within the General Residence B (GRB) and Historic Districts. **POSTPONED** (LU-26-15)

D. **84 Pleasant Street** and **266, 270, 278 State Street** – Extension Request (LU-24-195)

E. The request of **Ben** and **Andrea St. Jean, Braden** and **Robyn Ferrari, Bob** and **Laura Gunning, Mike** and **Zoe Daboul, Tim** and **Kim Sullivan,** and **Jamie** and **Amy Baker** (**Appellants**), for appeal of the administrative decision of a zoning determination pertaining to the side and rear lot lines of the property for a proposed subdivision located at **58 Humphrey's Court.** The Board will be considering the remand from the court on the issue of the property's rear lot line. Said property is located on Assessor Map 101 Lot 47 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-165)

III. NEW BUSINESS

A. The request of **Islington Properties LLC (Owner)**, for property located at **369 Islington Street, Unit A** whereas relief is needed to convert a commercial unit to a residential unit which requires the following: 1) Variance from Section 10.5A41.10A to allow 918 square feet of lot area per dwelling unit where 3,000 square feet are required. Said property is located on Assessor Map 144 Lot 22-1 and lies within Character District 4-L2 (CD4-L2) and the Historic District. (LU-26-111)

B. The request of **100 C Albany ST LLC (Owner)**, for property located at **100 Albany Street, Unit C** whereas relief is needed to establish a dog grooming operation which requires the following: 1) Special Exception from Section 10.521 Use #7.30 to allow a pet grooming service in a zone where it is allowed by special exception. Said property is located on Assessor Map 146 Lot 24-3 and lies within Character District 4-L2 (CD4-L2). (LU-26-117)

C. The request of **Clever Beaumont Revocable Trust (Owner)**, for property located at **30 Salem Street** whereas relief is needed to remove the existing 5-foot fence and replace with a new 5-foot fence which requires the following: 1) Variance from Section 10.515.13 to allow a 5-foot fence in the front yard area. Said property is located on Assessor Map 144 Lot 35 and lies within the General Residence C (GRC) District. (LU-26-118)

D. The request of **Path Lab Inc C/O Labcorp (Owner),** and **Lilia Madden, PLLC (Applicant)**, for property located at **230 Lafayette Road, Unit 11D** whereas relief is needed to allow a medical office which requires the following: 1) Variance from Section 10.440 Use #6.20 to allow a medical office where the use is not allowed. Said property is located on Assessor Map 151 Lot 6-D11 and lies within the General Residence A (GRA) District. (LU-26-121)

E. The request of **Colbea Enterprises LLC (Owner),** for property located at **1980 Woodbury Avenue** whereas relief is needed for signage which requires the following: 1) Variance from Section 10.1251.10 to allow for aggregate sign area greater than the maximum of 1.5' per linear foot of the building frontage establishment; and 2) Variance from Section 10.1252.40 to allow illumination of lightbars as canopy sign background distinguished only by color stripes. Said property is located on Assessor Map 239 Lot 11 and lies within the Gateway Corridor (G1) District. (LU-25-163)

THE FOLLOWING ITEMS WILL BE HEARD ON TUESDAY, OCTOBER 27, 2026

F. The request of **Emilyn Anne** and **Eben Kennedy (Owners)**, for property located at **1490 Islington Street** whereas relief is needed for construction of an addition and renovation of a single-family residence with an accessory dwelling unit to a two-family residence, which requires the following: 1) Variance from Section 10.440 to allow a two-family dwelling in the SRB District. Said property is located on Assessor Map 233 Lot 108 and lies within the Single Residence B (SRB) District. (LU-26-126)

G. The request of **Nathan Alger (Owner)**, for property located at **104 Thornton Street** whereas relief is needed to demolish an existing carport and deck and construct an addition; and to permit after-the-fact installation of a fence, which requires the following: 1) 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; 2) Variance from Section 10.521 to a) allow a 4' rear yard setback where 20' is required, b) allow a 6' secondary front yard setback where 15' is required, c) to allow 44.5% building coverage where 25% is allowed; and 3) Variance from Section 10.515.13 to allow a fence exceeding 4' in height with a 0' front yard setback where 15' is required. Said property is located on Assessor Map 160 Lot 11 and lies within the General Residence A (GRA) District. (LU-26-120)

H. The request of **Schofield-Kanner Revocable Trust (Owners),** and **Cain Investments, LLC (Applicant)**, for property located at **0 Woodworth Avenue** whereas relief is needed to construct a new single-family residence on a vacant lot, which requires the following: 1) Variance from Section 10.521 to allow a) lot area of 3,440 SF where 15,000 SF is required, b) lot area per dwelling unit of 3,440 SF where 15,000 SF is required, c) 40 feet of contiguous street frontage where 100 feet is required, d) lot depth of 86 feet where 100 feet is required, e) a front yard setback of 17 feet where 30 feet is required, f) a rear yard setback of 10 feet where 30 feet is required, and g) a building coverage of 35% where 20% is allowed. Said property is located on Assessor Map 232 Lot 73 and lies within the Single Residence B (SRB) District. (LU-26-125)

I. The request of **Peters Family Trust (Owner)**, for property located at **54 Lincoln Avenue** whereas relief is needed to construct a second-floor accessory dwelling unit over an existing detached garage, which requires the following: 1) Variance from Section 10.521 to allow a) a rear yard setback of 10 feet where 20 feet is required; and b) building coverage

of 29% where 25% is allowed. Said property is located on Assessor Map 111 Lot 21 and lies within the General Residence A (GRA) District. (LU-26-124)

J. The request of **Michael** and **Stephanie Febonio (Owners)**, for property located at **9 Sheafe Street** whereas relief is needed to construct an 8-foot fence which requires the following: 1) Variance from Section 10.515.13 to allow an 8-foot fence in the secondary front yard. Said property is located on Assessor Map 107 Lot 13 and lies within Character District 4 (CD4) and the Historic District. (LU-26-123)

K. The request of **325 Corporate Drive II LLC C/O The Kane Company (Owners)**, for property located at **325 Corporate Drive** whereas relief is needed to install two wall signs and monument signage, which requires the following: 1) Variance from Section 306.01(d) of the Pease Development Ordinance to allow signs to exceed the maximum aggregate area of two (2) square feet of sign area for each linear foot of street frontage up to a maximum of 200 square feet. Said property is located on Assessor Map 318 Lot 2 and lies within the Airport Business Commercial (ABC) District. (LU-26-122)

L. The request of **Rocket Too Trust (Owner)**, for property located at **10 Merrimac Street** whereas relief is needed to reconstruct a porte-cochere which requires the following: 1) Variance from Section 10.521 to allow a) a rear yard setback of 10 feet where 20 feet is required; and b) building coverage of 26% where 25% is allowed. Said property is located on Assessor Map 129 Lot 17 and lies within the General Residence A (GRA) District. (LU-26-128)

IV. ADJOURNMENT

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MINUTES of the
BOARD OF ADJUSTMENT MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE

7:00 P.M. **September 15, 2026**

MEMBERS PRESENT: Beth Margeson, Chair; Jeffrey Mattson, Vice Chair; David Rheaume; Thomas Rossi; Thomas Nies; Robert Sullivan; Mike Lucas, Alternate

MEMBERS EXCUSED: None.

ALSO PRESENT: Stefanie Casella, Planning Department

Chair Margeson called the meeting to order at 7:00 p.m.

Mr. Rossi moved to suspend the rules in order to address the postponements, seconded by Mr. Nies. The motion passed unanimously, 7-0.

Chair Margeson stated that Old Business Petition A, 315 Banfield Road, was postponed to the October 20th meeting.

Chair Margeson read Old Business Petition B, 64 Woodworth Avenue, into the record.

Mr. Nies moved to postpone the petition to the October 20th meeting, seconded by Mr. Rheaume. The motion passed with all in favor, 7-0.

Chair Margeson recused herself and Vice Chair Mattson was Acting Chair. He read Petition III New Business A, 50 Whidden Street, into the record.

Mr. Rheaume moved to postpone the petition to the October 20th meeting, seconded by Mr. Nies.

Mr. Rheaume said the postponement was requested due to significant information that was provided the day before regarding the application and that one or more abutters also had concerns about the petition, and he thought the Board should have time to consider that information more thoroughly. He said the applicant's representative also requested more time to consider the information.

The motion passed with all in favor, 6-0, with Chair Margeson recused.

I. APPROVAL OF MINUTES [Timestamp 8:58]

A. Approval of the **August 18, 2026** meeting minutes.

Mr. Rheaume moved to approve the August 18 minutes with corrections. Mr. Nies seconded.

Mr. Rheaume said that the sentence in the second paragraph on page 4 should have the word "being" added. The sentence now reads: "Mr. Rheaume asked if there was anything in writing relating to the City regarding the street being a paper one."

Mr. Rheaume said the Chair's restated final motion at the end of page 7 was misplaced and should be stated at the top of page 6, replacing the amended motion. It now reads: "The amended motion was as follows: Mr. Sullivan moved to **postpone** the public hearing and request to the September 15th meeting so that the applicant can provide information on how and when driveway access will be provided to lot 233-135 and information on adopting the portion of Joffre Avenue to add square footage to the applicant's lot. Mr. Rheaume seconded the motion."

Mr. Nies said the word "length" in a sentence in the last paragraph on page 10 should be "lengthy". The sentence now reads: "He said he found it difficult to reconcile allowing an animated sign just because it was an upgrade, given the lengthy prior discussion and decision by the Planning Board several years before."

The motion passed with all in favor, 6-0, with Mr. Rossi abstaining.

B. Approval of the **August 25, 2026** meeting minutes. [Timestamp 11:58]

Mr. Rheaume moved to approve the August 25 minutes with corrections. Vice Chair Mattson seconded.

Mr. Rheaume said the top sentence on page 4 should read as follows: "He said none of the properties along West Road had all their parking behind them and not many properties complied with the parking being set back 50 feet as required." Further down on page 4, he said the sentence about the applicant's proposed uses being allowed by special exception should read as follows: "He said some of the applicant's proposed uses would be allowed by special exception and that outdoor dining was a permitted accessory use in the G1 and G2 Districts."

On page 5, second paragraph, the sentence " He said that Vice-Chair Mattson thought there was nothing de minimis about the requests, but Mr. Rheaume thought they were justified" should read as follows: "He said that Vice-Chair Mattson thought there was something de minimis about the requests, but Mr. Rheaume thought they were substantial but justified." Also on page 5, Mr. Rheaume said the sentence "He said what the applicant was asking for is a small portion of the property and said the physical constraints of the property would prevent further expansion" should be clarified and should read as follows: "He said what the applicant was asking for is outdoor dining on a small portion of the property and said the physical constraints of the property would prevent further expansion." The change was further discussed by Vice Chair Mattson. He agreed with Mr. Rheaume's change but noted that his earlier reference to de minimis really referred to the impact of the surrounding industrial uses as opposed to the requests themselves.

Mr. Nies said on page 2, the sentence "He said a place of assembly is allowed to have entertainment, comedy, or music but is not listed in the ordinance as an accessory use for a

restaurant" should read as follows: "He said a place of assembly is allowed to have entertainment, comedy, or music but they are not listed in the ordinance as an accessory use for a restaurant."

The motion passed with all in favor, 6-0, with Mr. Lucas abstaining.

II. OLD BUSINESS

A. POSTPONE The request of **Hope for Tomorrow Foundation (Owner)**, for property located at **315 Banfield Road** whereas relief is needed to construct an addition to the existing school on the property, which requires the following: 1) Variance from Section 10.334 to allow the existing primary and secondary school use (Use #3.21) to be extended to another part of the remainder of the land. Said property is located on Assessor Map 266 Lot 5 and lies within the Industrial (I) District. **POSTPONE** (LU-26-41)

The petition was postponed to the October 20th meeting.

B. REQUEST TO POSTPONE The request of **Ann Marie Wiley Revocable Trust (Owner)**, for property located at **64 Woodworth Avenue** whereas relief is needed to construct an addition to the existing structure which requires the following: 1) Variance from Section 10.521 to allow a) 8.5 foot left yard where 10 feet are required, and b) 26% building coverage where 20% is the maximum. Said property is located on Assessor Map 243 Lot 42 and lies within the Single Residence B (SRB) District. **REQUEST TO POSTPONE** (LU-26-102)

DECISION OF THE BOARD

The petition was postponed to the October 20th meeting.

C. The request of **Michael J Ferrelli (Owner)**, for property located at **0 Joffre Avenue and 18 Barberry Lane** whereas relief is needed to construct a single-family home on a vacant lot which requires the following: 1) Variance from Section 10.521 to a) allow for 0 feet of street frontage where 100 feet is required; b) allow for 12,185 square feet of lot area where 15,000 square feet is required; c) allow for 12,185 square feet of lot area per dwelling where 15,000 square feet is required; and 2) Variance from Section 10.1114.31 to allow for two driveways on a single lot where one is permitted. Said properties are located on Assessor Map 233, Lot 135 and Lot 131 and lie within the Single Residence B (SRB) District. (LU-26-92)

SPEAKING TO THE PETITION [Timestamp 20:02]

Attorney Derek Durbin was present on behalf of the owner Michael Ferrelli. He explained that his colleagues presented the application on August 18 but there was confusion expressed by the Board on the paper street and how legal access could be appropriately provided for the rear lot in the future, so the Board voted to postpone the hearing so that the applicant could provide more

information on how and when driveway access would be provided to Lot 233-135 and information on adopting the portion of Joffre Avenue to add square footage to the applicant's lot. He said he met with City Deputy Attorney Trevor McCourt and City Staff to discuss the Board's request for information. He said a question arose about how the Board verified that the city has no interest in the paper street. Related to legal access, he said he proposed in a letter submitted to the Board what he believed was a reasonable solution to any concerns that the relief for the rear lot could be granted by the Board but there could be a future question of access. He said he proposed two conditions for the Board's approval: 1) that an agreement, deed, covenant, or other written instrument of similar effect shall be approved by the city's Legal Department and recorded with the Registry of Deeds reserving the driveway access easement across the lot; and 2) the exact location and configuration of the driveway across that lot may be modified by the Department of Public Works. He said Attorney McCourt had asked to insert "or the Fire Department" prior to issuance of the driveway permit and that the applicant agreed to add it. Attorney Durbin said that was how they proposed to address the first item, a request for information to the Board. Relating to the second issue regarding the paper street on Joffre Avenue, he said the Board should have correspondence from the city that should resolve questions about the status of the paper street, and the city had not asserted any legal interest in the paper street. He said his letter also pointed out case law surrounding the issue. He said where there is not any specific grant, dedication, or acceptance of a streetway like this or it cannot be proven that the city has accepted it, the ownership resides to the center line of the abutting property owner's lot. He said his client does own to the center line of the paper street and that the land area was his. He said they applied in the manner they did, excluding that portion of the paper street, just out of an abundance of caution, but it did not take away from the fact that the lot is a 14,152-sf lot, so any future efforts to seek a release deed from the city would be merely for the purpose of clarifying title record of that land in the future. He said his client wanted to do that but had not done so yet and that he was not seeking any other dimensional relief that is not associated with the existing lot itself. He noted that the criteria was addressed at the prior meeting.

[Timestamp 26:25] Mr. Sullivan said that, regarding the access to the lot, the Board's concern was that upon granting the variances, one could acquire a building permit to build a house on that lot and yet there would still be at that time no access to the lot for the owner of the house. He asked if it would be acceptable to add the phrase "prior to the issuance of a building permit on this lot" to the end of that condition. Attorney Durbin agreed. Mr. Rheaume said some of the feedback that the Board preliminarily got from the Fire Department was that the proposed driveway should be 20 feet, recognizing that the current end of Barberry Lane is 16 feet. He said there was a steep turn getting into the driveway, so the concern was to be able to get fire apparatus up there. He asked Attorney Durbin to clarify that the current plan showed it as being a 20-ft wide driveway access. Attorney Durbin said the driveway was proposed to be 16 feet in width, but the scope of the easement area itself took grading into account, so the driveway with the paved portion would be 16 feet wide, with the easement being 20 feet. Mr. Rheaume said the new information provided by the applicant stated that the applicant not only has the right to access this lot but also has reasonable development expectations and is not seeking any dimensional relief distinct from the existing conditions of the lot. Mr. Rheaume said there was zero feet of frontage on any street with this lot and it was also undersized. He said Attorney Durbin made a compelling argument that it was just

under 1,500 sf. He asked about that statement in context of the zero feet of frontage where 100 feet is required. Attorney Durbin said it is a lot that was created by record with the presumption that there would be a street constructed across Joffre Avenue. He said that was never accomplished, but it did not take away from the fact that the lot of record was created. He said whether the city constructed the street or not was never within any of the surrounding landowners' control. He said it could be looked at as extreme relief for a zero-ft frontage but there is precedence throughout the city for that as well of for other paper streets, and it gets into questions of lot densities, which is one of the purposes behind frontage requirements. He said the other purpose is to provide sufficient access, which in this case is being accomplished through the driveway easement across the front lot. He said the other alternative was for the owner to assert his right in an easement by necessity, but the owner did not want to upset his neighbors. He said he believed that, regarding the frontage requirements, the spirit and intent were accomplished.

[Timestamp 32:25] Mr. Rheaume moved to suspend the rules and re-open the public hearing for the Board's continuation of discussion on this matter, seconded by Mr. Nies. The motion passed with all in favor, 7-0.

Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke. Chair Margeson closed the public hearing.

DECISION OF THE BOARD [Timestamp 33:38]

*Mr. Nies moved to **grant** the variances as requested and advertised, subject to two **conditions**:*

1) *An agreement, deed, covenant, or other written instrument of similar effect shall be approved by the city's Legal Department and recorded with the Registry of Deeds reserving a driveway access agreement across tax map 233 lot 131 to tax map 233 lot 135 prior to the issuance of a building permit for this lot; and*
2) *The exact location and configuration of the driveway across tax map 233 lot 131 to tax map 233 lot 135 may be modified by the Department of Public Works or the Fire Department prior to issuance of a driveway permit.*

Mr. Sullivan seconded and had nothing to add.

Mr. Nies said the lot is one that was on a street that was never adopted or accepted by the city and the city has no interest in it, so as a result, it has no street access. He said granting the variances would not be contrary to the public interest and would observe the spirit of the ordinance. He said there was no evidence that it will affect the health, safety or welfare of the neighborhood, have any negative effect on light and air, or alter the essential characteristics of the neighborhood. He said the proposed lot is undersized and that it remains to be seen exactly how much undersized it is for the

neighborhood, but there was a utility access on one side, so it would have no effect on anyone on that side. He said the lot has a paper street in front of it that may turn out to be properties owned by the owner but it does not have any effect on that side either. He said lot size was designed to prevent overcrowding, which would not happen in this case. He said the restriction on driveways, as pointed out, was that the requirement for street frontage is to help reduce and control lot density. He said that was not really an issue in this case, and there was no access to it. He said the restriction on the number of driveways also facilitates traffic flow and the streetscape. Due to where the two driveways will turn out to be, he said it is not an issue because Barberry Lane is there. He said granting the variance would do substantial justice, noting that he did not see any possible benefit to the public by denial, and there would be a significant loss to the applicant because he would not be able to develop his lot. He said granting the variances will not diminish the value of surrounding properties, noting that no evidence was present that it would. Relating to the hardship criteria, he said there are a few special conditions to the lot including that it was created prior to the adoption of the zoning ordinance, so it is an existing nonconforming lot with respect to size. He said the problem with street frontage is that the street that was planned was never accepted by the city and has never been built, and the city has no interest in it, so that leaves no access to the lot. He noted that the lot also abutted a utility right-of-way on one side. He said, given these special conditions that distinguish the property from other properties in the area, and owing to these conditions, there is no fair and substantial relationship between the purpose of the ordinance and its specific application to the property. Mr. Sullivan concurred and had nothing to add.

Mr. Rheaume said he still had a lot of reservations about the application. He said there was more to the 50-ft of frontage than just determining the streetscape. He said he did not think that the ordinance said anything about having zero feet and yet still considered something a buildable lot. He said in this case, there was a way out that would provide some street frontage and would be more honest in the sense that the easement going across the front lot really occupies a good portion of it. He said about 20 percent of the front lot is now burdened by a driveway that the owner is paying taxes on but will never get any benefit from because it is there to act as a substitute street and support the building of a structure on the lot behind it. He said a lot revision would provide two 15,000-sf lots with the added square footage allowed by the fact that the paper street does exist and there is additional square footage that would eliminate one of the two things the Board was providing some relief for. He said the other thing that would no longer be as significant would be the ability to have some level of frontage on a city street. He said he would support the motion, however, because he thought there was enough uniqueness. Mr. Rossi said he would not support the motion. He said the requested degree of relief on lot size is no longer justified now that the city has acknowledged that they have no ownership of what would have been the street that is a paper street and it is now part of the lot. He said he did not think the hardship was there to justify the specific degree of relief being requested for lot size.

The motion passed by a vote of 5-2, with Mr. Rossi and Chair Margeson voting in opposition.

D. The request of **Kathleen B. and Kent A. Logan, Susan E. Lassen, Scott A. Lupkas, and Guy D. and Elizabeth R. Spiers (Appellants)**, for **appeal of decision** of administrative

officials to classify the art studio attached to the side of the third dwelling unit as an R2 non-transient sleeping unit for property located at **28 Blossom Street**. Said property is located on Assessor Map 111 Lot 40 and lies within the General Residence B (GRB) and Historic Districts. (LU-26-114)

[Timestamp 45:11] Chair Margeson stated that the appeal was for an administrative code official and that the Board would review it as if they were the code official. She said the Chief Building Inspector Shante Wolph, Planning and Sustainability Director Peter Britz, and Deputy City Attorney Trevor McCourt were also present.

SPEAKING TO THE PETITION [Timestamp 48:40]

Attorney Robert Baker on behalf of the appellants was present. He stated that Chief Building Inspector Shanti Wolph issued a Notice of Determination declaring that the unit being used for sleeping and dwelling will be declared an R2 non-transient sleeping unit under the 2024 International Building Code. He said since 2023, the property owners had their adult son Christopher sleeping in the studio. He noted that 28 Blossom Street was an improved lot with a 2-family dwelling that received a variance in 1987 to authorize a third dwelling unit and convert a barn-like structure into an artist's studio. He said the appellants believed that Mr. Wolph created an ad hoc use under the ordinance to create a new use that does not exist under the current version of the zoning ordinance. He said the way to amend the zoning ordinance would be to file a formal amendment to be approved by the Board or to petition the City Council for an article to make the same amendment. He asked the Board to reverse the Chief Building Inspector's determination and to also determine that occupancy of the unit may not lawfully continue in its current form.

[Timestamp 51:51] Chair Margeson said the memo that the Board received identified a dwelling vs. a sleeping unit and that a dwelling unit includes a kitchen, cooking facilities, and so on. She said the unit in question did not have that, and she asked why Attorney Baker still thought that converted it into a dwelling. Attorney Baker said a dwelling unit is designed to house someone on a more permanent basis, and it seemed that because Christopher had slept in the studio since 2023, the unit did not quite match under the zoning ordinance what a dwelling unit consists of and the purpose of it, so in order to accommodate the conditions that would be necessary to issue a Certificate of Occupancy, Mr. Wolph reclassified it as a sleeping unit. Attorney Baker said they also believed that having an Accessory Dwelling Unit (ADU) is not permissible in this case because the owners do not live in the building and there has not been a special permit application applied for.

Mr. Rheaume asked Attorney Baker to elaborate more on Section I, the Statement of Standing, and the impacts made by Mr. Wolph's decision on the neighborhood character, on-street parking, density, and life safety in the General Residence B district. Attorney Baker asked that the Board just focus on the argument that it is an impermissible ad hoc creation of a permitted zoning use in the zoning ordinance and that he wanted to avoid issues that did not have to do with zoning regulations. Mr. Rossi said it was an interesting case because in essence, what the appellants were asserting is that there is an approved use of that space as an art studio. He said there are many other potential

uses that are not specifically mentioned in the zoning ordinance and that this use of the studio is perhaps one of those uses where someone sleeps in the studio. He said it seemed that, based on this assertion, there is a tacit assumption that once a use is permitted, in this case the use being an art studio, all other uses that are not specifically mentioned in the ordinance would be prohibited. He said he had a hard time seeing how it was a fair application of the zoning ordinance. Attorney Baker said sleeping and inhabiting a space is unique to the public's safety as well as the health and safety aspects of the zoning ordinance, so sleeping and inhabiting a space can and should get special consideration apart from other uses that might be permitted. Chair Margeson asked how making the studio into a non-transient sleeping unit made it a dwelling as defined in the zoning ordinance. Attorney Baker said a dwelling should be a situation where someone is using the accommodation for things like sleeping, cooking, and showering, but if there are not certain amenities provided in the dwelling unit, then it becomes an issue of public safety, and a Certificate of Occupancy could not be issued for that. He said the term 'sleeping unit' in a unique carve-out for something that does not exist under the zoning ordinance, which he further explained.

Mr. Nies referred to Section 10.434.40 that stated that if a use is not specified in the ordinance, it is prohibited. He said he would perhaps support Attorney Baker's argument that allowing someone to sleep in an art studio is prohibited. He said Section 10.811.50 stated that other accessory uses and access structures may be permitted if the code official determines that such uses and structures are customarily associated with and subordinate to a principal permitted use. He asked Attorney Baker how he proposed that the two be reconciled in relation to his comment because it seemed that the issue was a code official making a determination that the access use may be permitted because it is customarily associated with or subordinate to a principal use. Attorney Baker said the accessory use in this case could heavily imply that it is an accessory dwelling unit, which would be permitted if the owners lived in the unit, but they do not, so that use would not be permitted.

[Timestamp 1:04:13] Shanti Wolph (via Zoom) stated that this is a pre-existing residential multi-use space being used as an art studio or an overflow space. He said there was a complaint asserting that someone was living there, so he had to follow up on it because the previous use was never described as a dwelling unit. He said he went to the property on July 29 and saw that there were no smoke detectors and that the insulation was not covered, and there was no dresser, no bed, no closet, and no means of cooking. He said he wanted to ensure that the space was safe for whoever was using it. He said he returned on August 13 to make sure the issues were corrected, and he was satisfied that someone could get out safely if there were issues. He said in the past that an accessory use to a primary dwelling was like a shed, but in this case the primary dwelling is on a different parcel of land. He said the studio was not a commercial unit and not for rent and was being used by the family of the primary home. He said in his first letter, he classified it as an R2 non-transient sleeping unit because he wanted to find out how the use would be described from the building code perspective. He said his second letter was supplementary and got more into his wanting to ensure that he was not reclassifying the use but describing the use that he saw. He said in this case, the sleeping unit distinction is that the clarification is based on the specific use of the studio by the owner's son and that the studio does not contain the necessary living facilities. He said it is a residential use and not something that would be allowed in new construction.

Mr. Rheaume asked what the genesis was for Mr. Wolph getting involved and if there was a building permit requested by the homeowner. Mr. Wolph said he was a code enforcement officer as well and it was alleged that someone was living there, which would be a violation of the zoning and the building code because it was never qualified as an independent dwelling unit. Mr. Rheaume asked why adding a shower was considered if no one was living in the unit. Mr. Wolph said it was the definition of the R2 non-transient sleeping unit as defined in the International Building Code. He said the shower was not critical because the owner's son bathed in the primary house, but there used to be a shower in the unit at one time. Mr. Rheaume asked what the basis of adding the words "use limitation" was and for saying that the studio is approved only as an R2 non-transient sleeping unit and shall not be rented, lease, or otherwise used as an independent unit. Mr. Wolph said his job is not to change how the space is being used but only to describe it and make sure that whoever is staying there is safe. Mr. Rheaume asked how the letter was documented and filed so that it could be found again in the future. Mr. Wolph said the letter was in a hard file folder in the Planning Department and that it could also be electronically uploaded. He said it was kept in the same record-keeping manner as the decision by the Board of Adjustment.

[Timestamp 1:17:47] Planning and Sustainability Director Peter Britz reviewed the letter he sent to the Board and the statements made by Mr. Wolph. He said there were art supplies in the studio, so it was still being used as an art studio. He said there was no kitchen in the dwelling and no place for clothes, clothes washing, a bureau, and so on. He said the important thing was the lack of a kitchen, where one could cook their own food, so it would not rise to the level of a dwelling unit from a zoning standpoint. Mr. Rheaume asked what the involvement of the code enforcement officer was. Mr. Britz said Mr. Wolph was the code enforcement officer in this situation and that he or a Planning designee would the code enforcement officer in other situations. He said there was also a code enforcement officer in the Legal Department for zoning ordinance violations. Mr. Wolph said the Legal Department was fully aware of the case.

Mr. Nies said there were three examples of dwelling units in the zoning ordinance that do not have kitchens in them, like independent living units in retirement buildings that have access to common facilities with kitchens. Mr. Britz said those units were co-living shared units, but in this case there was no kitchen. It was further discussed. Mr. Rossi asked if there was a change in use if an artist decided to sleep in a space approved as an art studio. Mr. Britz said it would not because it was part of the process that an artist might have.

[Timestamp 1:23:53] The owner Hannah Burke said the studio was a small multi-use space that had been used in the same manner since the mid-1970s. She said it was originally meant as an art studio for her father but over the years it morphed in different ways and was used as needed for gatherings or for a family member who needed a space. She said her son had been there only intermittently and not for years and that it was not a permanent living situation for him. She said the studio was used as needed for his support and safety and that he ate and bathed at their house that was located seconds away around the corner. She said there were two apartments in the main house and a carriage house between the barn, which was a third rental unit. She said the art studio was in the

barn and that all the units were attached by external connections. She said the studio was still being used by her husband as an art studio.

Chair Margeson opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION [Timestamp 1:29:17]

Peter Carey said his house was about 50 yards from the back of the barn. He said it was not a dwelling unit under the code and it was not a use specifically allowed under the ordinance, so it had to be prohibited. He said Mr. Wolph bootstrapped the situation into an accessory use but tied it to a different property, which was not a precedent that should be established in Portsmouth.

Kathleen Logan of 21 Blossom Street said she knew the space was always used as an art studio but never knew that it was an overflow space for visitors to sleep in. She said she and other neighbors asked the code official and the police why the city allowed the Burkes to put their son in that space and that she was always told that it was not a problem. She said she and the other abutters did not know if the space was safe for the neighborhood.

No one else spoke, and Chair Margeson closed the public hearing.

[Timestamp 1:39:43] Mr. Rheaume said the Board was looking at it as a code official, and he asked if he had the authority to be able to make this determination regarding calling it an R2 non-transient sleeping unit. He said the appellant made a good point that it is not something in the zoning ordinance, so it came down to basically creating a use in the zoning ordinance that just isn't there, or trying to do something that our zoning ordinance should have but does not have. He said none of the Board's deliberations had anything to do with whether the use had been proper or what is going on or the conditions of who might be where. He said it really was an academic exercise of the Portsmouth code official who looked at something, wrote a letter, and said they would consider it this "thing", an R2 non-transient sleeping unit. He said it was derived out of the building code, which is separate from the zoning ordinance. He said he was more concerned with the conditions of approval that came out of what the code official did, which was basically saying that it needed a shower to satisfy hygiene requirements. He said that was sort of saying that changes had to be made to make it in compliance with the thing we are saying it is. He said his other concern was the term "use limitation", which to him implied something more toward a zoning use rather than something related to a configuration and all the things looked for from the code official in terms of safety. He said now the Board was discussing what seemed like stipulations or something that would be in the ordinance, like it shall not be rented, leased, or otherwise used as an independent dwelling unit. He said that was where it started to cross over into something that really is the purview of the zoning ordinance and the Board rather than simply an interpretation of how to make it an established use safe for carrying out the recognized implications of that use. Mr. Rossi agreed that the zoning official overstepped in trying to define a new use that is not in the zoning ordinance and would require deliberation in a different body to get it there, but at the same time he said it could be true as saying that the zoning official did not err in stating that the unit was not a dwelling unit and

therefore was not in compliance with what was approved for the use of the structure. He said he was reluctant to go down the road of prohibiting something that is not specifically prohibited as a use. Mr. Nies said he was struggling with the idea that there is an accessory use that does not appear to be an accessory use for the property it is on. He said the art studio is located on a property but it not being used by any of the residents on that property as their art studio. He said accessory uses are supposed to be associated with the principal use of the property, and he was not sure that was the case in this situation. Vice Chair Mattson said the principal use of the property is residential, so an art studio being an accessory use to that is allowed, but he agreed that the art studio is not on the property that the owner uses as a primary residence. It was further discussed. Chair Margeson said the issue before the Board was whether or not the changes convert the space from an art studio into something else, and she thought that something else is a dwelling and does not fit the definition of dwelling in the zoning ordinance. Mr. Rheaume said the code enforcement official put a label on it, the R2 non-transient sleeping unit, which was the whole point of writing the letter, and it was limited to the things one could and could not do with it, like not renting it out. He said that act of labeling it was critical. Vice Chair Mattson said the art studio is not a dwelling because it has no kitchen or access to a kitchen on the property, and he said there was no actual proof that it was being used as a dwelling. He asked what point sleeping there supposedly made it a dwelling. He said the main thing was that nothing had changed. He said there was an attempt to make a change to correct a perceived wrongdoing, but if there was no wrongdoing in the first place, no change would be needed related to zoning. He said the unit was not being allowed to be rented and was not a new condition that stepped into zoning ordinance territory. He said there was nothing that does not allow someone to sleep there, and whether or not it has a shower will still not make it a dwelling unit. Mr. Nies said he struggled with the accessory use issue. It was further discussed.

DECISION OF THE COMMISSION [Timestamp 1:57:01]

*Mr. Rossi moved to **deny** the appeal because the physical changes requested by the Code Official would not convert the space into something other than an art studio and there is nothing in those physical changes that is incompatible with the use of an art studio. Vice Chair Mattson seconded.*

Mr. Rossi referred to the first question as to whether the physical changes requested by the code official would convert the space into something other than the art studio. He said they do not because there is nothing in those physical changes that is incompatible with the approved use as an art studio, so there is no new use and no need to address the second question. Vice Chair Mattson concurred and had nothing to add.

Mr. Rheaume said he would not support the motion. He said the code enforcement officer classified the unit as an R2 non-transient sleeping unit, which was different than the art use. He said it met the first criteria because something did change there. Vice Chair Mattson said it was not a change regarding the zoning ordinance but was a building code classification with suggested changes to meet that classification.

The motion to deny passed by a vote of 5-2, with Mr. Rheaume and Mr. Nies voting in opposition.

III. NEW BUSINESS

A. REQUEST TO POSTPONE The request of **Christopher H Daniell (Owner)**, for property located at **50 Whidden Street** whereas relief is needed to construct a rear addition and cantilevered deck which requires the following: 1) Variance from Section 10.521 to allow a 9.5 foot rear yard where 25 feet are required. Said property is located on Assessor Map 102 Lot 66 and lies within the General Residence B (GRB) and Historic Districts. **REQUEST TO POSTPONE** (LU-26-15)

DECISION OF THE BOARD

The petition was postponed to the October 20th meeting.

IV. ADJOURNMENT

The meeting adjourned at 9:00 p.m.

Submitted,
Joann Breault
BOA Meeting Minutes Taker

II. OLD BUSINESS

A. **WITHDRAWN** The request of **Hope for Tomorrow Foundation (Owner)**, for property located at **315 Banfield Road** whereas relief is needed to construct an addition to the existing school on the property, which requires the following: 1) Variance from Section 10.334 to allow the existing primary and secondary school use (Use #3.21) to be extended to another part of the remainder of the land. Said property is located on Assessor Map 266 Lot 5 and lies within the Industrial (I) District. (LU-26-41) **WITHDRAWN**

Planning Department Comments

Applicant has withdrawn the application. A memo from Deputy City Attorney McCourt has been included in the meeting packet.

CITY OF PORTSMOUTH

Legal Department
Municipal Complex
1 Junkins Avenue
Portsmouth, New Hampshire 03801
tmccourt@portsmouthnh.gov
(603) 610-7234

Trevor P. McCourt
Deputy City Attorney

Date: October 13, 2026

To: Beth Margeson, Chair of the Zoning Board of Adjustment

From: Trevor P. McCourt, Deputy City Attorney

Re: 315 Banfield Road
Application of Hope for Tomorrow Foundation
LU-26-41

This memorandum follows several months where the Board has voted to continue a request for a variance from the Hope for Tomorrow Foundation (the "Foundation") for property located at 315 Banfield Road (the "Property"). By way of this application, the Foundation sought to expand nonconforming use by adding a library to the existing school on the Property. However, due tot eh enactment of RSA 674:76 and the execution of a land use agreement between the Foundation and the City, this application is no longer necessary and need not be heard on the merits. The use of the property is exempt from the Zoning Ordinance under RSA 674:76, and the City and the Foundation have entered into an agreement reflecting that resolution. The application may therefore be rejected as moot.

The Foundation operates Saint Patrick Academy, a Pre-K through Grade 8 Catholic school that occupies the entire property at 315 Banfield Road. It applied to the Board for a variance to expand the nonconforming use of the school. The Board continued that application pending resolution of the Foundation's assertion that the use is exempt from zoning regulation under RSA 674:76. That assertion has now been resolved by agreement between the City and the Foundation.

Effective July 1, 2022, RSA 674:76 provides that no zoning ordinance or site plan review regulation shall prohibit, regulate, or restrict the use of land or structures primarily used for religious purposes. The statute preserves only narrow, objective dimensional regulations. The statute postdates the nonconforming-use framework under which this application was originally filed.

This new law provides prospective relief from the terms of the Zoning Ordinance, and the nonconforming-use limitations the application sought to escape are themselves creatures of the Ordinance and RSA 674:19. Because RSA 674:76 removes a primarily religious use from the

reach of the Ordinance altogether, those use limitations do not constrain the property, and there is no restriction on the use for a variance to vary.

The City and the Foundation have also entered into an agreement under which the City acknowledges the exemption for so long as the property remains in religious use, and the Foundation has agreed to construct traffic-calming and public-safety improvements and to submit plans to the City on an ongoing basis for public-safety review and recordkeeping. That agreement resolves the matter that prompted the continuance.

Recommendation. Because the use of the property is exempt from the Zoning Ordinance under RSA 674:76, the requested variance is unnecessary, and the application is moot. No withdrawal has been filed. I therefore recommend that the Board deny the application without prejudice as moot and unnecessary, without reaching the merits of the variance criteria.

Nothing in this resolution waives the objective dimensional standards the statute still allows, the City's building, fire, life-safety, and other code authority, or the City's position should the property ever cease to be used primarily for religious purposes.

cc: Peter Britz, Director of Planning and Sustainability
Peter Stith, Assistant Planning Director
Stefanie Casella, Planner

DURBIN LAW

Derek R. Durbin, Esq.
603.287.4764
derek@durbinlawoffices.com

BY: VIEWPOINT & HAND DELIVERY

October 13, 2026

City of Portsmouth
Attn: Stefanie Casella, Planner
Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

RE: Variance Application of Hope for Tomorrow Foundation, Inc.
315 Banfield Road, Tax Map 266, Lot 5

Dear Stefanie,

An agreement has been reached between my client, Hope for Tomorrow Foundation, Inc., and the City, that no variance relief is needed for the proposed library addition at 315 Banfield Road. As such, my Client is hereby withdrawing its pending variance application with the Zoning Board of Adjustment. If you could please process the withdrawal and refund the $4,000.00 application fee at your earliest convenience, that would be greatly appreciated. The refund check may be sent directly to the school. Please do not hesitate to reach out to me with any questions.

Sincerely,

Derek R. Durbin, Esq.

II. OLD BUSINESS

B. The request of **Ann Marie Wiley Revocable Trust (Owner)**, for property located at **64 Woodworth Avenue** whereas relief is needed to construct a side addition and front porch to the existing structure which requires the following: 1) Variance from Section 10.521 to allow a) 8.5 foot left yard where 10 feet are required, b) 2.5 foot front yard where 30 feet are required, and c) 26% building coverage where 20% is the maximum. Said property is located on Assessor Map 243 Lot 42 and lies within the Single Residence B (SRB) District. (LU-26-102)

Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Residential	Construct an addition to the existing structure	Primarily Residential	
Lot area (sq. ft.):	5,541	5,541	15,000	min.
Lot Area per Dwelling Unit (sq. ft.):	5,541	5,541	15,000	min.
Primary Front Yard (ft.):	10.9	Front Porch: 2.5 Addition: 10.9	7.5 (front yard average) 30 (front yard)	min.
Secondary Front Yard (ft.):	12.5	12.5	10	min.
Left Side Yard (ft.):	20.8	8.5	10	min.
Rear Yard (ft.):	34.6	34.6	30	min.
Building Coverage (%):	20.3	26	20	max.
Open Space Coverage (%):	69.4	62.8	40	min.
Height (ft.):	20	20	35	max.
Estimated Age of Structure:	1932	Variance request(s) shown in red.		

Other Permits/Approvals Required

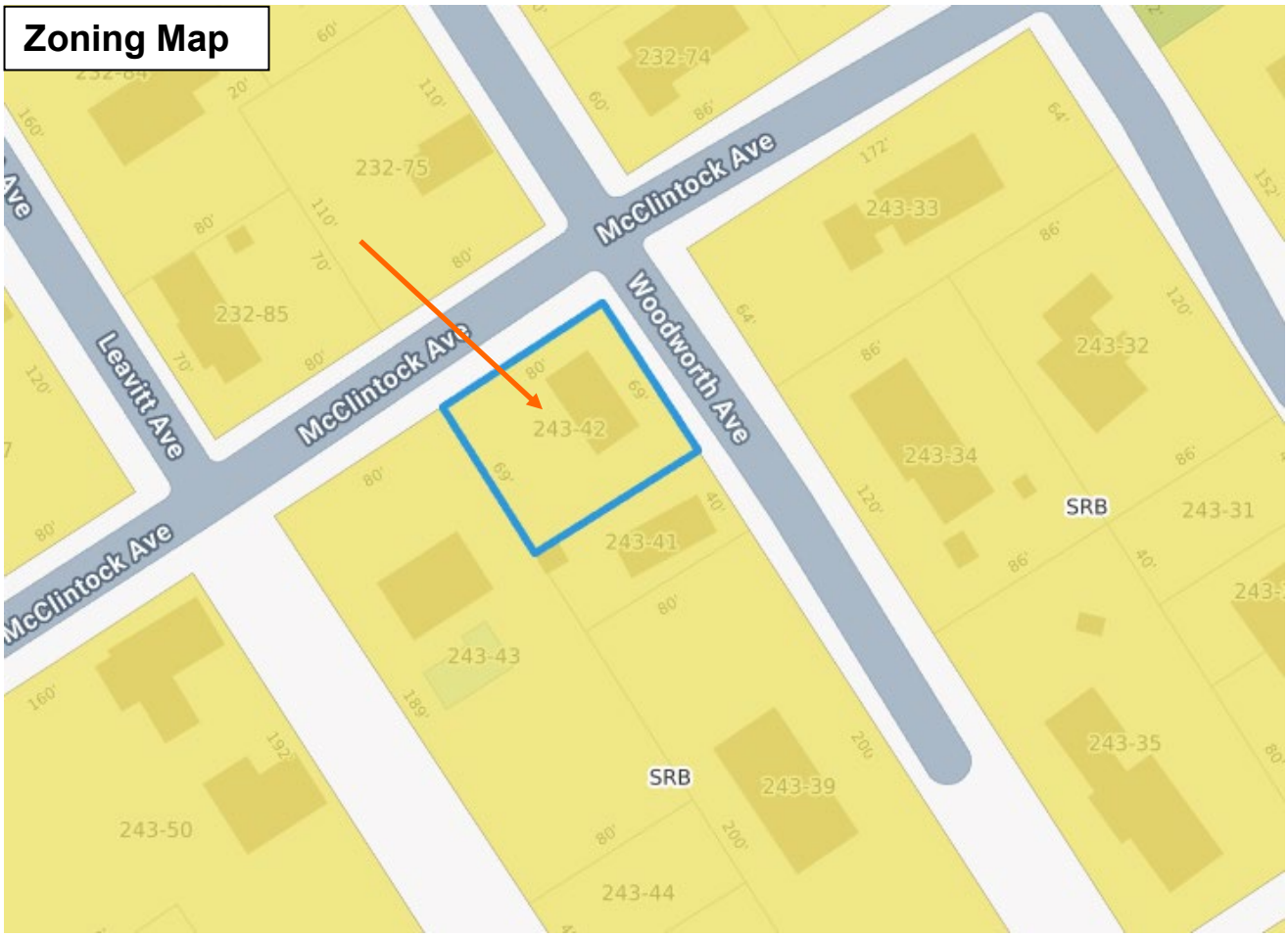
- Building Permit

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

No previous history found

Planning Department Comments

The applicant proposes to construct an addition to the left side of the existing home. Requested variances are left side and building coverage.

October 20, 2026 Update:
The applicant postponed from the September 2026 BOA meeting and has added additional relief for the front porch to the request. The application was readvertised to reflect this change.

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.

DTC Lawyers
Dedicated to Clients

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LIZABETH M. MACDONALD
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ROBERT M. DEROSIER
NICHOLAS R. AESCHLIMAN

September 30, 2026

Beth Margeson, Chair
Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

RE: **Ann Wiley (Applicant)**
64 Woodworth Avenue, Tax Map 243, Lot 42

Dear Chair Margeson and Board Members,

Please accept the Applicant's attached BOA submission for the property at 64 Woodworth Avenue. Included for your review and consideration are the following:

Exhibit 1: Narrative
Exhibit 2: Letter of Authorization
Exhibit 3: Building Permit Plan
Exhibit 4: Front Elevation and Floor Plan
Exhibit 5: Exterior Photographs
Exhibit 6: Abutter Letters of Support

The Applicant was granted a postponement last month and respectfully requests that you include this Submission on the agenda for the Board's October 20, 2026, meeting. Thank you, and please contact our office with any questions.

Yours truly,



Courtney P. Vaughan, Esq.
cvaughan@dtclawyers.com

Exhibit 1

APPLICATION OF ANN WILEY
64 Woodworth Ave, Portsmouth

Map 243, Lot 42

APPLICANT'S NARRATIVE

PROJECT SUMMARY

Subject property:	64 Woodworth Avenue, Portsmouth, NH
Applicant:	Ann Wiley, Owner of 64 Woodworth Avenue
Location:	64 Woodworth Avenue (SRB — Single Residence B District)
Relief Requested:	Variance from Section 10.521 — Table of Dimensional Standards to permit a left-side setback of 8.8 feet where 10 feet is required in order to construct a one-bedroom addition (not an accessory dwelling unit); a variance from Section 10.521 to permit a front setback with respect to the proposed porch of 2.9 feet where 30 feet is required; and a variance from that same Section 10.521 [again] to permit a proposed building coverage of 26%, where 20% is required.
Proposal:	The Applicant proposes a modest one-bedroom addition to the existing single-family home, increasing gross floor area from 982 square feet to 1,248 square feet (approximately a 20% increase). The addition will allow the homeowner to provide in-home care for her elderly father, who requires the additional living space. The Applicant also proposes to enlarge the existing front porch and stairs from 50 square feet to 103 square feet (proposed porch dimensions 8 x 12 feet). The enlarged front porch also allows for some seating and provides additional space for deliveries. The Application includes a site plan, scaled drawings, and four written letters of acknowledgment and support from immediate abutters.

VARIANCE CRITERIA

A. The Variance will not be contrary to public interest

The "public interest" and "spirit and intent" requirements are considered together pursuant to Malachy Glen Associates v. Chichester, 152 N.H. 102 (2007). The test is whether granting the variance would substantially alter the neighborhood's characteristics or threaten the health, safety, and welfare of the public. Granting the requested variance to permit the one-bedroom addition that results in a left side setback of 8.8 feet, a front setback of 2.9 feet where the porch will be located, and an increase in building coverage from 20% to 26% will not substantially alter the

characteristics of the neighborhood nor threaten public health, safety, or welfare. The proposal preserves the property's existing single-family residential use and scale, does not increase building height or intensity, and will not introduce new traffic, commercial activity, or other impacts that would undermine neighborhood character or municipal services. According to the NH Office of Planning and Development, the City adopted zoning in 1951. The house was constructed in 1932, nearly two decades before Portsmouth adopted zoning and like most homes in this established neighborhood, it has long been legally non-conforming. The proposed addition does not create any new dimensional impacts beyond those historically present and therefore does not injure the ordinance. The addition is modest in footprint and massing and will be constructed in a manner consistent with residential building standards, ensuring continued compliance with safety and health codes. This modest, proposed porch expansion likewise will not substantially alter neighborhood character or threaten public health, safety, or welfare.

B. The spirit of the ordinance is observed

Section 10.521's dimensional standards are intended to preserve light, air, privacy, and the residential character of neighborhoods by maintaining reasonable separation between structures. The proposed addition respects those objectives because it produces only a small, incremental change to the property's spatial relationships and does not materially reduce light, air, or privacy for neighboring lots; indeed, because the parcel is a corner lot, siting the addition on the opposite side further preserves the light, air, and privacy of the neighboring properties. Increasing the home from 982 square feet to 1,248 square feet (approximately a 20% increase) keeps the structure within the modest scale typical of the SRB district. The addition will match the existing home's scale and architectural character, will not increase the building height, and will not change the property's single-family use. The proposed enlargement of the front porch likewise respects these objectives, even though it reduces the front setback, and provides a reasonable residential amenity by allowing room for seating and space to receive deliveries. These factors demonstrate that the variance will not undermine the ordinance's purpose and that the spirit of the ordinance is preserved.

C. Substantial justice will be done

Substantial justice requires balancing the applicant's private loss if relief is denied against any public gain from strict enforcement. Denial would impose a significant personal and practical burden on the homeowner by preventing the creation of a safe, accessible living arrangement for her father and likely forcing either a more disruptive, costly alternative on the lot or relocation to institutional care. The public gains no meaningful benefit from denying this modest, well-designed addition because the project does not measurably harm public health, safety, or welfare, nor does it undermine the ordinance's objectives in any substantive way. The applicant has proactively engaged all immediate neighbors and obtained four written letters of acknowledgment and support, which are attached to this application; those abutter statements confirm that adjacent property owners do not perceive adverse impacts to privacy, light, or neighborhood character and therefore

reinforce that denying the variance would produce a private hardship without corresponding public advantage. On balance, granting the variance advances substantial justice by avoiding an inequitable private loss while producing no detriment to the public.

D. Surrounding property values will not be diminished

There is no credible basis to conclude that the proposed addition will diminish surrounding property values. The improvement is modest and sympathetic to the existing neighborhood fabric, enhancing the property's livability without altering its residential character. The SRB neighborhood features a pattern of modest renovations and additions; this project aligns with that pattern and will be executed with attention to design and materials that complement the block. The four abutter support letters further indicate that neighbors do not expect negative effects on the enjoyment or marketability of their properties. Given the limited scale of the addition, its compatibility with surrounding homes, and neighbor support, the evidence supports a finding that the requested relief will not reduce surrounding property values.

E. Literal enforcement of the ordinance results in unnecessary hardship

Literal enforcement of the 10-foot side setback, the front setback requirement, and the 20% building coverage requirement of Section 10.521 would result in unnecessary hardship under RSA 674:33, I(b), because special conditions of the property distinguish it from others in the district and make strict compliance inequitable. The parcel at 64 Woodworth Avenue is a modest SRB lot with an existing house footprint and site constraints that limit where an addition can be located without creating disproportionate impacts elsewhere on the lot; these physical circumstances are inherent to the lot and are not the product of the applicant's actions. Among these special conditions, 64 Woodworth Avenue is a corner lot, and this corner-lot condition—together with the need to preserve the family's privacy—requires that the addition be located on the opposite (left) side of the house, consistent with the left-side setback relief requested, because no comparable alternative location exists on the lot that would avoid the heightened exposure inherent to a corner parcel while still accommodating the intended use. The lot's modest area and the settled location of the existing house are unique conditions that leave no practical alternative location for these improvements. Measured facts in the record, most notably the existing building placement and the modest lot area, demonstrate that the property's configuration materially constrains expansion options. Applying the statutory two-part test, these special conditions support the first element: no fair and substantial relationship exists between the general public purposes of the 10-foot side setback, the front setback, and the 20% building coverage requirements and their specific application to this parcel. The ordinance's dimensional rules are intended to prevent overcrowding and to protect light, air, and privacy, but the proposed one-bedroom addition increases gross floor area from 982 to 1,248 square feet (~20%), does not increase building height, does not introduce a new use, and does not materially change the property's relationship to neighboring lots; under these site-specific facts, literal application of the side and front setback requirements does not advance the ordinance's public purposes in any meaningful way, particularly because the reduced

2.9-foot front setback results solely from the modest enlargement of the porch and stairs and, like the setback rule's purpose of preventing overcrowding and protecting light, air, and privacy, causes no overcrowding and no material loss of light, air, or privacy to neighboring lots. The second element of the primary test, reasonableness of the proposed use, is likewise satisfied: the addition is a customary, single-family residential improvement designed to allow the homeowner to care for her father at home, is proportionate in scale, and is compatible with the SRB neighborhood pattern.

If the Board finds the primary two-part showing incomplete, the statutory fallback also supports relief: owing to the property's special conditions, the parcel cannot be reasonably used in strict conformity with the ordinance, and a variance is therefore necessary to enable a reasonable use. Practical alternatives that would meet the side setback, the front setback, and the 20% building coverage standard would require either a substantially larger and more disruptive reconfiguration of the house and yard, a reduction in usable living space that would defeat the family care objective, or relocation of the family member to institutional care; outcomes that are impractical, inequitable, and contrary to the reasonable residential use the ordinance contemplates. The record further includes measured dimensions, scaled drawings, and neighborhood context that corroborate the lot's constrained nature, and the applicant's outreach (including four abutter letters of acknowledgment and support) confirms that the proposed minimal encroachment will not harm neighbors or the neighborhood's character. Because the special conditions of the property render strict enforcement inequitable, because literal application bears no fair and substantial relationship to the ordinance's purpose here, and because the proposed use is reasonable (and, alternatively, because strict conformity prevents reasonable use), literal enforcement would produce unnecessary hardship, and the requested variance is warranted under RSA 674:33, I(b).

CONCLUSION AND RELIEF REQUESTED

For the reasons set forth above, the proposed one-bedroom addition at 64 Woodworth Avenue satisfies the statutory variance criteria. The applicant respectfully requests that the Zoning Board grant a variance from Section 10.521 to permit the left side setback of 8.8 feet, a front setback of 2.9 feet, and a variance from that same section to allow for 26% building coverage, rather than the 20% required, and to allow construction of the described addition. The application package includes a site plan (Exhibit 3), front elevation and floor plan (Exhibit 4), an exterior photograph (Exhibit 5), and four abutter letters of acknowledgment and support demonstrating neighborhood acceptance (Exhibit 6).

Respectfully submitted,

September 30, 2026

By: C P Vaughan

Courtney P. Vaughan, Esq.

Exhibit 2

LETTER OF AUTHORIZATION

I, Ann Marie Wiley, Trustee of the Ann Marie Wiley Revocable Trust, owner of property depicted on Tax Map 243, Lot 42, located at 64 Woodworth Avenue, Portsmouth, New Hampshire, do hereby authorize James Gregoire, Littlewoods, LLC and Donahue, Tucker and Ciandella, PLLC, to execute any land use applications to the City of Portsmouth and to take any action necessary for the application and permitting process, including but not limited to, attendance and presentation at public hearings, of the said property.

Dated: 6/19/26

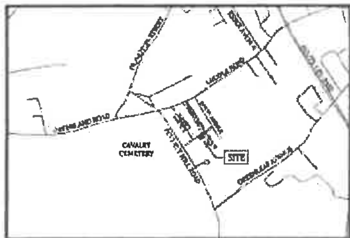
THE ANN MARIE WILEY REVOCABLE TRUST

Ann M Wiley

Ann Marie Wiley, Trustee

4923-5860-7286. v. 1

EXHBIT 3



LEGEND:

N/F	NOW OR FORMERLY
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
(box symbol)	ABUTTER TAX MAP & LOT NUMBER
(line)	BOUNDARY LINE
(dashed line)	BUILDING SETBACK LINE
○	IRON ROD/PIPE FOUND
●	IRON ROD SET
(line)	OVERHEAD ELECTRIC/WIRES
(line)	EDGE OF PAVEMENT (EP)
(symbol)	UTILITY POLE
WGV	WATER GATE VALVE
(symbol)	WATER SHUTOFF
E	ELECTRIC METER
(symbol)	CATCH BASIN
(symbol)	SEWER MANHOLE
(symbol)	SIGN
TYP.	TYPICAL
RAC	ROLLED ASPHALT CURB
LSA	LANDSCAPED AREA
TBR	TO BE REMOVED

OPEN SPACE CALCULATION (TO PROPERTY LINE):

EXISTING:
LAWN & LANDSCAPED AREAS (COMPLIANT WITH SECTION 10.515.20) - 3,728 S.F.
PATIO - 120 S.F.
TOTAL OPEN SPACE- 3,848 S.F. (PATIO IS 3.4% OF OPEN SPACE)
PERCENT OF LOT THAT IS OPEN SPACE - 69.4%

PROPOSED:
LAWN & LANDSCAPED AREAS (COMPLIANT WITH SECTION 10.515.20) - 3,361 S.F.
PATIOS & WALKS - 120 S.F.
TOTAL OPEN SPACE- 3,481 S.F. (PATIO IS 3.5% OF OPEN SPACE)
PERCENT OF LOT THAT IS OPEN SPACE - 62.8%

BUILDING COVERAGE CALCULATION (TO PROPERTY LINE):

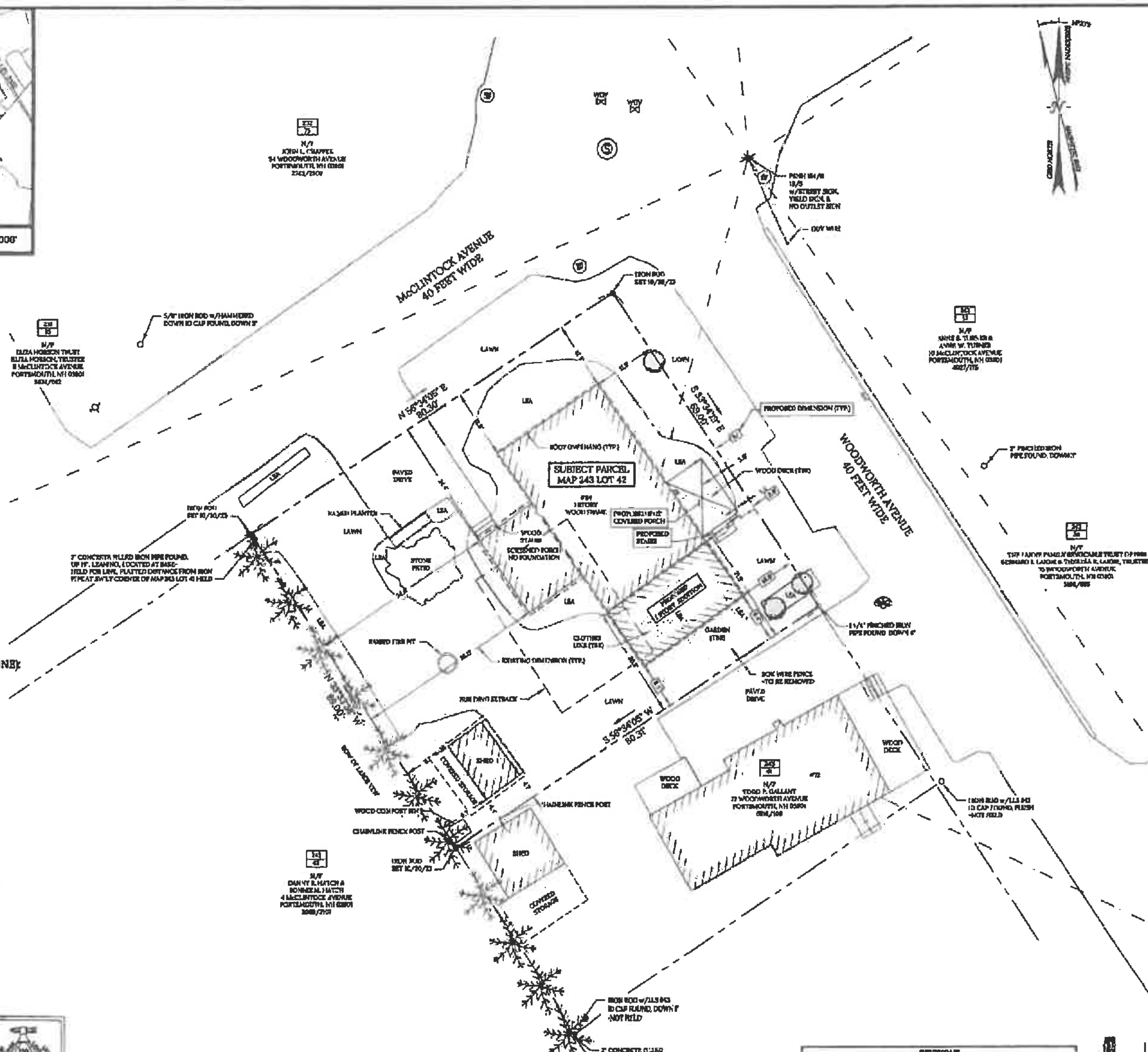
EXISTING:
HOUSE - 982 S.F.
DECK & STAIRS - 50 S.F.
SHED - 92 S.F.
TOTAL BUILDING COVERAGE- 1,124 S.F.
BUILDING COVERAGE PERCENTAGE- 20.3%

PROPOSED:
HOUSE - 1,248 S.F.
COVERED PORCH & STAIRS - 103 S.F.
SHED - 92 S.F.
TOTAL BUILDING COVERAGE - 1,443 S.F.
BUILDING COVERAGE PERCENTAGE- 26.0%

EXISTING & PROPOSED SETBACKS:

EXISTING:
FRONT (McCLINTOCK AVENUE) - 24.4 FEET (STAIRS), 12.5 FEET (HOUSE)
FRONT (WOODWORTH AVENUE) - 5.5 FEET (DECK), 10.8 FEET (HOUSE)
LEFT SIDE - 20.8 FEET (HOUSE), 4.4 FEET (SHED)
REAR - 34.6 FEET (HOUSE), 9.1 FEET (SHED)

PROPOSED:
FRONT (McCLINTOCK AVENUE) - 24.4 FEET (STAIRS), 12.5 FEET (HOUSE)
FRONT (WOODWORTH AVENUE) - 2.9 FEET (COVERED PORCH), 10.8 FEET (HOUSE)
LEFT SIDE - 8.8 FEET (HOUSE), 4.4 FEET (SHED)
REAR - 34.6 FEET (HOUSE), 9.1 FEET (SHED)



GRAPHIC SCALE

I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000.

PAUL A DOBBERSTEIN, LLS — DATE 5/20/2026

NOTES:

1) THE PURPOSE OF THIS PLAN IS TO SHOW A PROPOSED ADDITION AND COVERED PORCH ON ASSESSOR'S MAP 243 LOT 42 IN THE CITY OF PORTSMOUTH.

2) SUBJECT PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 243 AS LOT 42.

3) OWNERS OF RECORD:
THE ANN MARIE WILEY REVOCABLE TRUST OF 2025
ANN MARIE WILEY, TRUSTEE
64 WOODWORTH AVENUE
PORTSMOUTH, NH 03801
6685/1806
R.C.R.D. PLAN #00110 (LOTS 130 & 131)

4) SUBJECT PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP PANEL 33015C0270F. PANEL EFFECTIVE DATE JANUARY 29, 2021.

5) SUBJECT PARCEL AREA:
5,541 S.F.
0.1272 ACRES

6) SUBJECT PARCEL IS LOCATED IN THE SINGLE RESIDENCE B (SRB) ZONING DISTRICT AND IS SUBJECT TO THE FOLLOWING DIMENSIONAL REQUIREMENTS:

MINIMUM LOT SIZE		15,000 S.F.
FRONTAGE		100 FEET
DEPTH		100 FEET
SETBACKS	FRONT	30 FEET
	SIDE	10 FEET
	REAR	30 FEET
MAXIMUM BUILDING HEIGHT		35 FEET
MAXIMUM BUILDING COVERAGE		20%
MINIMUM OPEN SPACE		40%

7) BASIS OF BEARING & HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM NAD83(2011). BASIS OF HORIZONTAL DATUM IS POST-PROCESSED STATIC GNSS OBSERVATIONS.

8) PROPOSED ADDITION & COVERED PORCH FROM SKETCH BY LITTLEWOODS, LLC DATED MARCH 28, 2026.

9) SEE PLAN REFERENCE 1 FOR COMPLETE PROPERTY BOUNDARY INFORMATION.

PLAN REFERENCES:

1) STANDARD BOUNDARY SURVEY, OWNERS OF RECORD KENNETH B. GREENWOOD & ANN M. WILEY, ASSESSOR'S MAP 243 LOT 42, 64 WOODWORTH AVENUE, CITY OF PORTSMOUTH, ROCKINGHAM COUNTY, NEW HAMPSHIRE. PREPARED BY STAKE & STONES LAND SURVEYING, LLC. DATED OCTOBER 21, 2023. NOT RECORDED.

2) PROSPECT PARK ANNEX, PORTSMOUTH, NH OWNED BY LEAVITT, WOODWROTH AND SWEATT. PREPARED BY F.C. HOYT, CE. DATED JUNE 7, 1902. R.C.R.D. PLAN #00110.

3) PROSPECT PARK ANNEX NO. 2, PORTSMOUTH, NH OWNED BY LEAVITT, WOODWORTH AND SWEATT. PREPARED BY F.C. HOYT, CE. DATED JUNE 11, 1902. R.C.R.D. PLAN #00109.

4) PROSPECT PARK, PORTSMOUTH, NH OWNED BY LEAVITT, WOODWORTH & SWEATT. PREPARED BY JOHN N. McCLINTOCK, AMCE. DATED APRIL 17, 1902. R.C.R.D. PLAN #00172.

5) BOUNDARY PLAN, LAND OF MARK D. GREENLY, 84 WOODWORTH AVE, PORTSMOUTH, NEW HAMPSHIRE. TAX MAP 243 LOTS 39 & 40. PREPARED BY STEPHEN F. PERRON, LLS 843. DATED AUGUST 10, 1999. R.C.R.D. PLAN D-27496.

6) LOT ELIMINATION PLAN, PORTSMOUTH, N.H. FOR: MARVIN R. & FRANCES HOEMAN. PREPARED BY JOHN W. DURGIN ASSOCIATES, INC. DATED SEPTEMBER 20, 1984. R.C.R.D. PLAN D-13022.

BUILDING PERMIT PLAN

OWNER OF RECORD

THE ANN MARIE WILEY REVOCABLE TRUST OF 2025

ASSESSOR'S MAP 243 LOT 42
64 WOODWORTH AVENUE
CITY OF PORTSMOUTH
ROCKINGHAM COUNTY
NEW HAMPSHIRE

REVISIONS		
NO.	DESCRIPTION	DATE

Stake & Stones Land Surveying, LLC
229 S Main Street Newmarket, NH 03857
603.292.5747 www.sslsnh.com

FB 2 PG 7 | SCALE 1"=10' | MAY 15, 2026 | JOB #138.01



Property Information

Property ID	0243-0042-0000
Location	64 WOODWORTH AVE
Owner	WILEY ANN MARIE REV TR

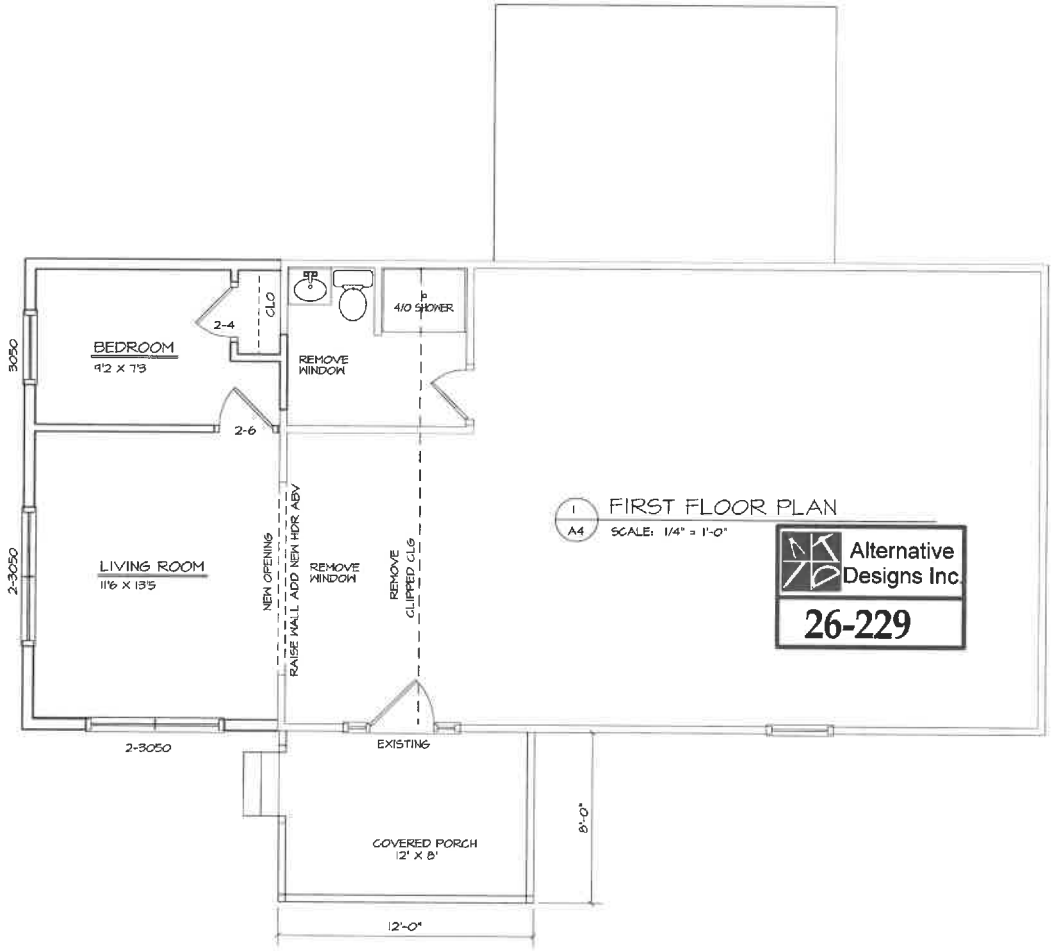
MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

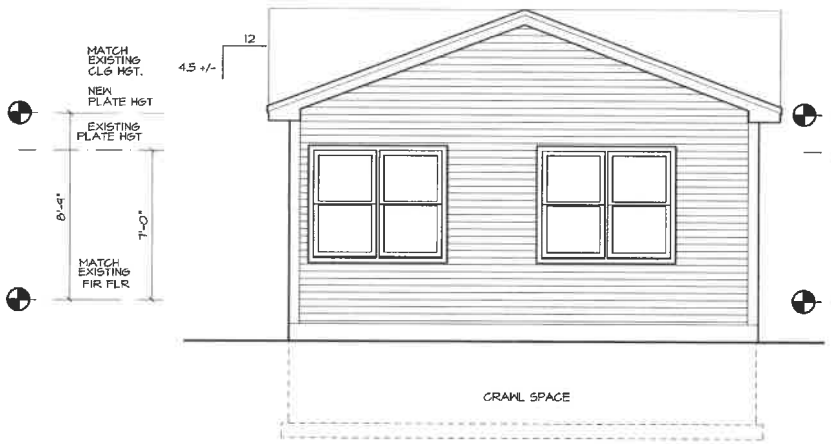
City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 03/06/2026

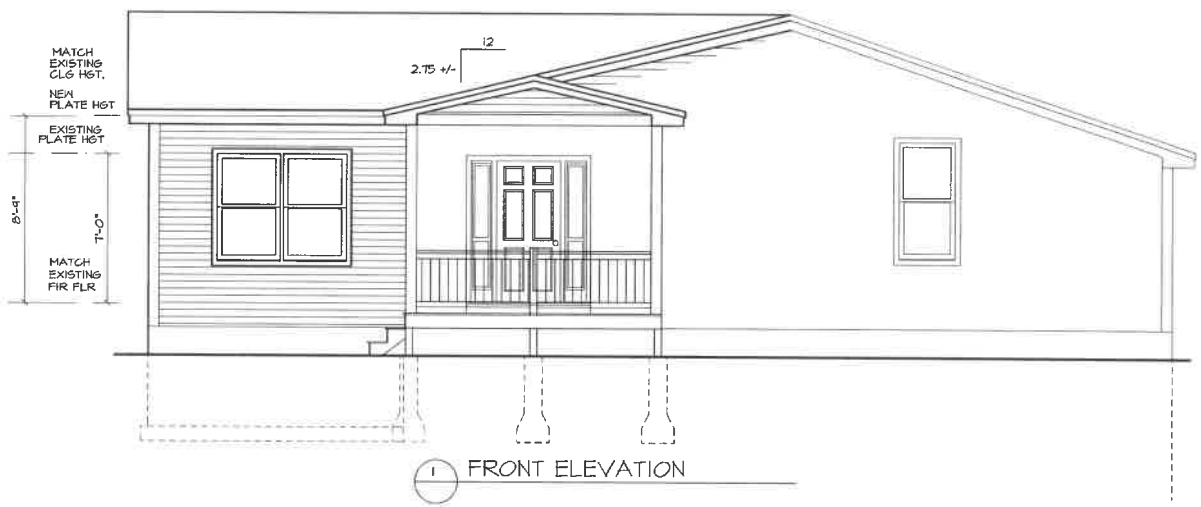
Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

EXHIBIT 4


BEDROOM
9'2 X 7'3
2-4
CLO
REMOVE WINDOW
4/0 SHOWER
2-6
3050
LIVING ROOM
11'6 X 13'5
2-3050
NEW OPENING
RAISE WALL ADD NEW HDR ABV
REMOVE WINDOW
REMOVE CLIPPED CLG
EXISTING
2-3050
COVERED PORCH
12' X 8'
8'-0"
12'-0"
1
A4
FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"
Alternative Designs Inc.
26-229



2 LEFT SIDE ELEVATION



1 FRONT ELEVATION

EXHIBIT 5

64 Woodworth Ave
External view



EXHIBIT 6

NEIGHBOR ACKNOWLEDGMENT OF PROPOSED HOME ADDITION

Date: 6/30/26

To Whom It May Concern:

I, Ted Gallant (Neighbor's Name), residing at 72 Woodworth Ave. (Neighbor's Address), acknowledge that I have been informed of the proposed addition to the residence located at:

64 Woodworth Avenue, Portsmouth, NH 03801

owned by **Ann Wiley**.

After reviewing the information provided regarding the proposed addition, I have no objection to or contest regarding the construction of the addition as proposed.

This acknowledgment is provided voluntarily and indicates that I do not oppose the proposed project. I understand that this statement does not waive any legal rights that may exist under applicable laws or regulations.

Signature: Ted Gallant

Date: 6/30/26

NEIGHBOR ACKNOWLEDGMENT OF PROPOSED HOME ADDITION

Date: 6-15-26

To Whom It May Concern:

I, Danny Hatch (Neighbor's Name), residing at 4 McClintock Ave (Neighbor's Address), acknowledge that I have been informed of the proposed addition to the residence located at:

64 Woodworth Avenue, Portsmouth, NH 03801

owned by **Ann Wiley**.

After reviewing the information provided regarding the proposed addition, I have no objection to or contest regarding the construction of the addition as proposed.

This acknowledgment is provided voluntarily and indicates that I do not oppose the proposed project. I understand that this statement does not waive any legal rights that may exist under applicable laws or regulations.

Signature:

Date: 6-18-26

NEIGHBOR ACKNOWLEDGMENT OF PROPOSED HOME ADDITION

Date: 6/18/2026

To Whom It May Concern:

I, Anne Turner (Neighbor's Name), residing at 10 McClintock Street/Ave (Neighbor's Address), acknowledge that I have been informed of the proposed addition to the residence located at:

64 Woodworth Avenue, Portsmouth, NH 03801

owned by **Ann Wiley**.

After reviewing the information provided regarding the proposed addition, I have no objection to or contest regarding the construction of the addition as proposed.

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Signature: Anne W. Turner

Date: 6/18/2026

NEIGHBOR ACKNOWLEDGMENT OF PROPOSED HOME ADDITION

Date: 6/19/26

To Whom It May Concern:

I, Eliza Hobson (Neighbor's Name), residing at 5 McClintock St. (Neighbor's Address), acknowledge that I have been informed of the proposed addition to the residence located at:

64 Woodworth Avenue, Portsmouth, NH 03801

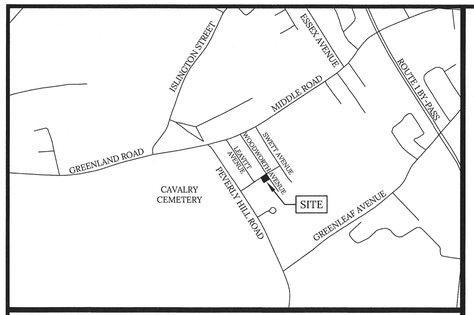
owned by **Ann Wiley**.

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Signature: Eliza Hobson

Date: 6/19/26



LOCATION MAP SCALE 1"=1,000'

LEGEND:

N/F	NOW OR FORMERLY
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
1 / 2	ABUTTER TAX MAP & LOT NUMBER
	BOUNDARY LINE
	BUILDING SETBACK LINE
	IRON ROD/PIPE FOUND
	IRON ROD SET
	OVERHEAD ELECTRIC/WIRES
	EDGE OF PAVEMENT (EP)
	UTILITY POLE
WGV	WATER GATE VALVE
	WATER SHUTOFF
E	ELECTRIC METER
	CATCH BASIN
S	SEWER MANHOLE
	SIGN
TYP.	TYPICAL
RAC	ROLLED ASPHALT CURB
LSA	LANDSCAPED AREA
TBR	TO BE REMOVED

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GRAPHIC SCALE

10 5 0 10 20 30 40 FEET
3 0 5 10 METERS

NOTES:

1) THE PURPOSE OF THIS PLAN IS TO SHOW A PROPOSED ADDITION AND COVERED PORCH ON ASSESSOR'S MAP 243 LOT 42 IN THE CITY OF PORTSMOUTH.

2) SUBJECT PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 243 AS LOT 42.

3) OWNERS OF RECORD:
THE ANN MARIE WILEY REVOCABLE TRUST OF 2025
ANN MARIE WILEY, TRUSTEE
64 WOODWORTH AVENUE
PORTSMOUTH, NH 03801
6685/1906
R.C.R.D. PLAN #00110 (LOTS 130 & 131)

4) SUBJECT PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP PANEL 33015C0270F. PANEL EFFECTIVE DATE JANUARY 29, 2021.

5) SUBJECT PARCEL AREA:
5,541 S.F.
0.1272 ACRES

6) SUBJECT PARCEL IS LOCATED IN THE SINGLE RESIDENCE B (SRB) ZONING DISTRICT AND IS SUBJECT TO THE FOLLOWING DIMENSIONAL REQUIREMENTS:

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	SIDE	10 FEET
	REAR	30 FEET
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MAXIMUM BUILDING COVERAGE		20%
MINIMUM OPEN SPACE		40%

7) BASIS OF BEARING & HORIZONTAL DATUM IS THE NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM NAD83(2011). BASIS OF HORIZONTAL DATUM IS POST-PROCESSED STATIC GNSS OBSERVATIONS.

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PLAN REFERENCES:

1) STANDARD BOUNDARY SURVEY, OWNERS OF RECORD KENNETH E. GREENWOOD & ANN M. WILEY, ASSESSOR'S MAP 243 LOT 42, 64 WOODWORTH AVENUE, CITY OF PORTSMOUTH, ROCKINGHAM COUNTY, NEW HAMPSHIRE. PREPARED BY STAKE & STONES LAND SURVEYING, LLC. DATED OCTOBER 21, 2023. NOT RECORDED.

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4) PROSPECT PARK, PORTSMOUTH, NH OWNED BY LEAVITT, WOODWORTH & SWEATT. PREPARED BY JOHN N. McCLINTOCK, AMCE. DATED APRIL 17, 1902. R.C.R.D. PLAN #00113.

5) BOUNDARY PLAN, LAND OF MARK D. GREENLY, 84 WOODWORTH AVE., PORTSMOUTH, NEW HAMPSHIRE, TAX MAP R43 LOTS 39 & 40. PREPARED BY STEPHEN P. PERRON, LLS 843. DATED AUGUST 10, 1999. R.C.R.D. PLAN D-27416.

6) LOT ELIMINATION PLAN, PORTSMOUTH, N.H. FOR: MARVIN R. & FRANCIS HOEMAN. PREPARED BY JOHN W. DURGIN ASSOCIATES, INC. DATED SEPTEMBER 20, 1984. R.C.R.D. PLAN D-13022.

I CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRAVERSE THAT EXCEEDS THE PRECISION OF 1:15,000.

STATE OF NEW HAMPSHIRE — No. 1000 — PAUL A. DOBBERSTEIN — LICENSED LAND SURVEYOR — SIGNATURE

PAUL A DOBBERSTEIN, LLS DATE 5/22/2026

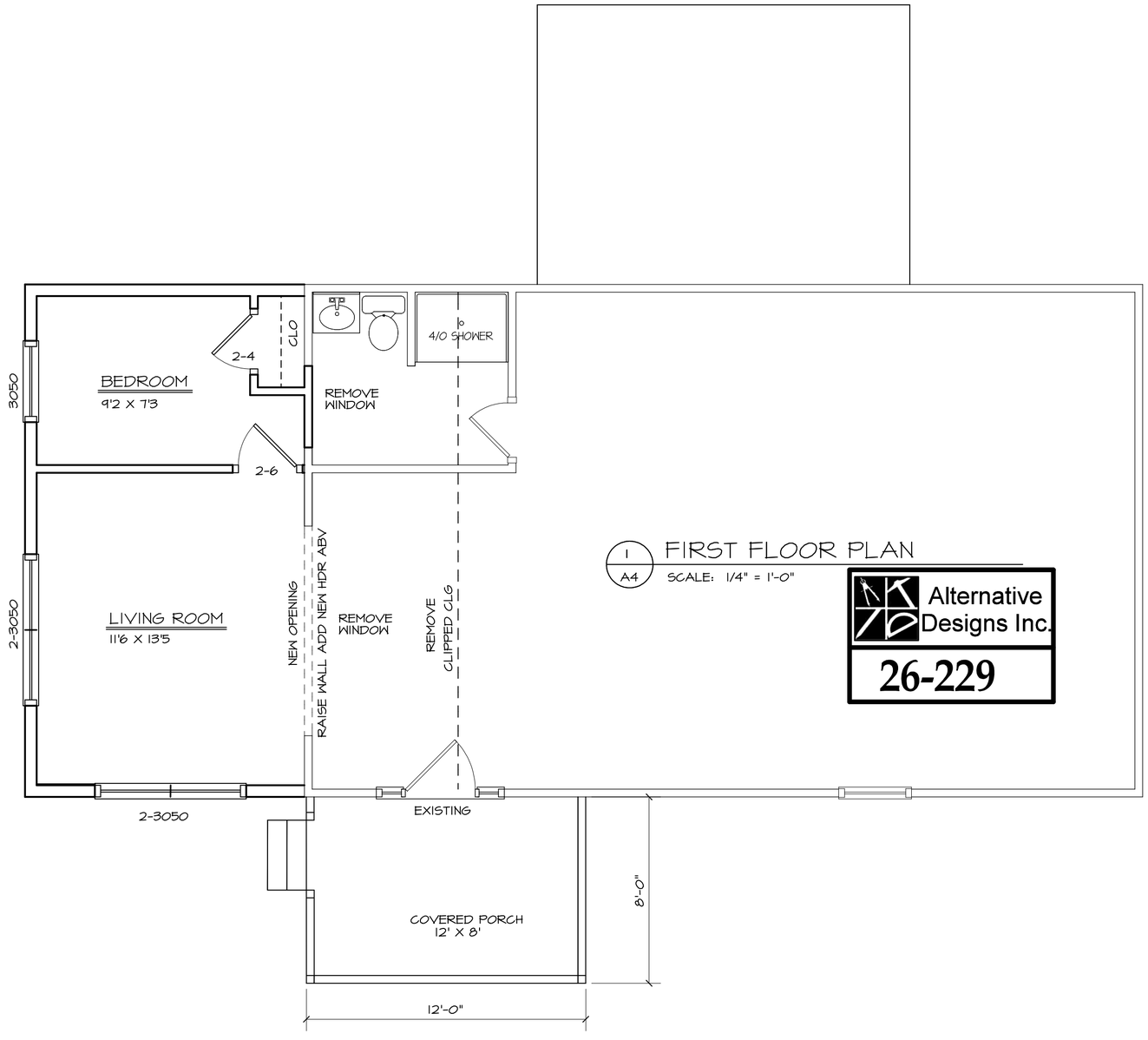
REVISIONS		
NO.	DESCRIPTION	DATE

BUILDING PERMIT PLAN

OWNER OF RECORD
THE ANN MARIE WILEY REVOCABLE TRUST OF 2025
ASSESSOR'S MAP 243 LOT 42
64 WOODWORTH AVENUE
CITY OF PORTSMOUTH
ROCKINGHAM COUNTY
NEW HAMPSHIRE

Stake & Stones Land Surveying, LLC
229 S Main Street Newmarket, NH 03857
603.292.5747 www.sslsnh.com

FB 2 PG 7 SCALE 1"=10' MAY 15, 2026 JOB #138.01

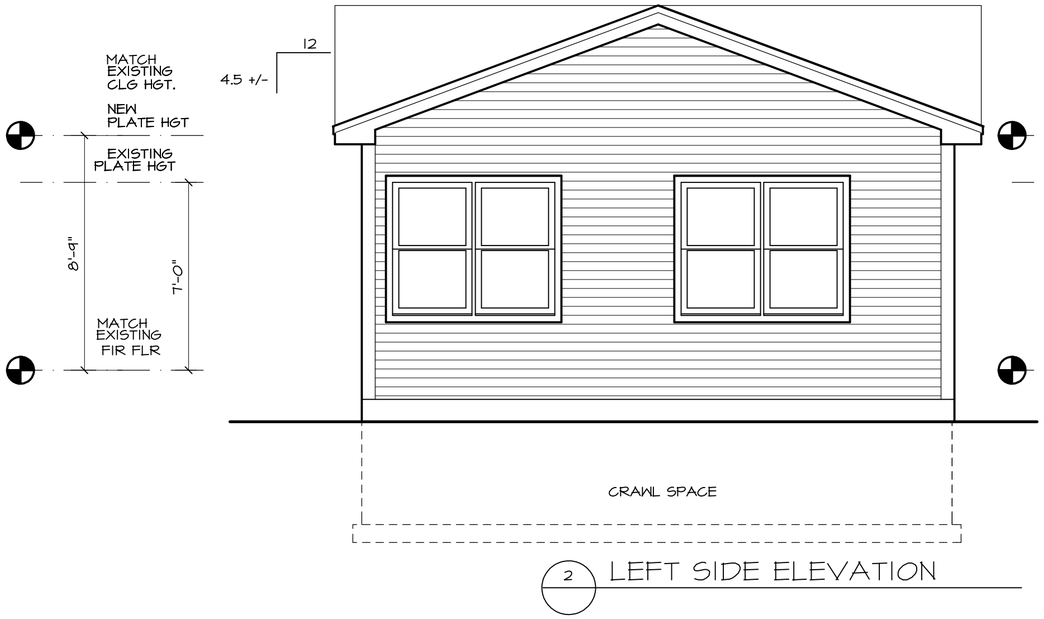


1 A4 FIRST FLOOR PLAN

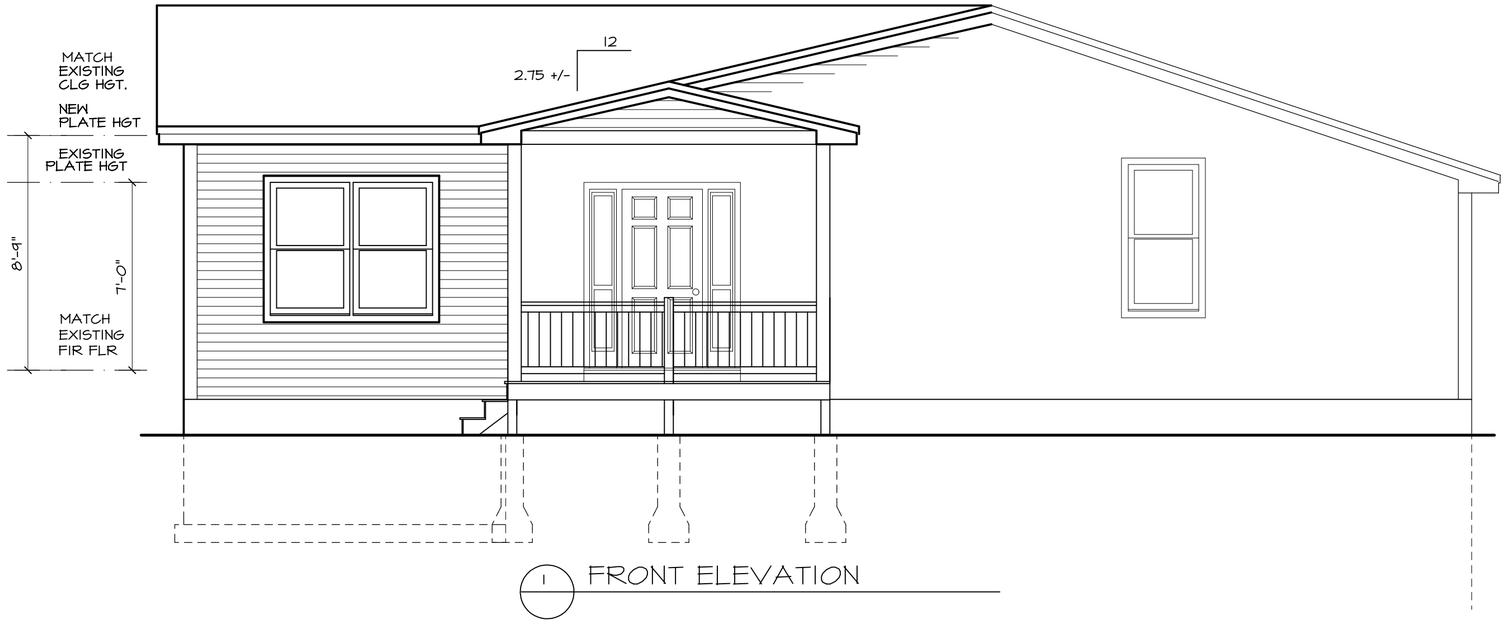
SCALE: 1/4" = 1'-0"

Alternative Designs Inc.

26-229



2 LEFT SIDE ELEVATION



1 FRONT ELEVATION

II. OLD BUSINESS

C. **POSTPONED** The request of Christopher H. Daniell (Owner), for property located at 50 Whidden Street whereas relief is needed to construct a rear addition and cantilevered deck which requires the following: 1) Variance from Section 10.521 to allow a 9.5 foot rear yard where 25 feet are required. Said property is located on Assessor Map 102 Lot 66 and lies within the General Residence B (GRB) and Historic Districts. **POSTPONED** (LU-26-15)

Planning Department Comments

The applicant has postponed to the November 2026 meeting.

COLBY T. GAMESTER

Attorney At Law

154 Maplewood Avenue
Portsmouth, New Hampshire 03801

(603)-427-0000
colby@gamesterlaw.com

October 6, 2026

SENT VIA EMAIL & VIA VIEWPOINT
City of Portsmouth – Zoning Board of Adjustment
Attn: Beth Margeson, Chair
c/o Stefanie Casella
1 Junkins Avenue
Portsmouth, NH 03801
slcasella@portsmouthnh.gov

Re: Variance Application of Christopher H. Daniell
50 Whidden Street, Portsmouth, NH (Tax Map 102, Lot 66)
LU-26-15

Dear Chair Margeson:

We respectfully request that the above referenced application, which was previously postponed to the Zoning Board's regularly scheduled October 20206 meeting, now be postponed and rescheduled to and for the Zoning Board's regularly scheduled meeting for November 2026.

This request is being made because my Client has undertaken a redesign of the proposed project and is still in the process of finalizing said redesign, as such, we will not have the updated information and materials to present at the October meeting.

What is important to note is that the redesign does not affect the underlying zoning relief that was previously requested, and which was stated in the legal notice. In preparation for the November meeting, we will timely submit an updated/supplemental narrative and updated elevations.

Should you, the Board, or the Planning Department have any questions regarding this request then please do not hesitate to contact me.

Kindest Regards,

Colby T. Gamester, Esq.

Cc: file; Client; Scott Simons; Scott Boudreau; Jay Lajuenesse; Brian J. Bouchard, Esquire (all via email only)

II. OLD BUSINESS

D. **84 Pleasant Street** and **266, 270, 278 State Street – Extension Request** (LU-24-195)

Planning Department Comments

The applicant is requesting an extension to the approvals granted by the Board on November 19, 2024 to merge the lots and construct a four-story mixed-use building which requires the following: 1) Variance from Section 10.5A41.10.C to allow a) 98% building coverage where 90% is maximum, b) 0% open space where 10% is minimum, and c) 53% shopfront façade glazing on Pleasant Street and 52% on State Street where 70% is the minimum required; 2) Variance from Section 10.5A21.B to allow a) 55 feet of building height where 47 feet is permitted with a penthouse, b) a fourth story addition at 50 feet in height to the Church street elevation where 3 full stories and a short fourth are allowed with 45 feet maximum height permitted; 3) Variance from Section 10.642 to allow 43% ground floor residential area where 20% is maximum.

To review the original application and decision please visit the following link: https://www.portsmouthnh.gov/planportsmouth/events/zoning-board-adjustment-meeting-74

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September 21, 2026

VIA VIEWPOINT & Hand Delivery

Beth Margeson, Chair
Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

Re: 266, 270, 278 State Street & 84 Pleasant Street
Tax Map 107, Lots 77 – 80
LU-24-195

Dear Ms. Margeson:

This office represents PNF Trust of 2013, the owner of the above-referenced property. At its November 19, 2024 meeting, the Board approved variances for the redevelopment project at the above-referenced property. The project required further Site Plan approval from the Planning Board, which was obtained, however, the applicant needs additional time to coordinate the resources needed to satisfy all conditions of approval. Additionally, as was contemplated when we were before the Historic District Commission, there are likely to be certain minor adjustments to the plans for which we will likely be seeking administrative approval from that Commission.

Accordingly, we hereby respectfully request a one-year extension of the variance approvals pursuant to Section 10.236 of the zoning ordinance.

Thank you for your attention.

Sincerely,

Christopher P. Mulligan

Christopher P. Mulligan

CPM/
cc: Peter Floros
Michael Keane

DANIEL C. HOEFLE | ALEC L. MCEACHERN | PETER V. DOYLE | MATTHEW J. COWAN
R. TIMOTHY PHOENIX | KEVIN M. BAUM | MONICA F. KIESER | STEPHEN H. ROBERTS In Memoriam
LAWRENCE B. GORMLEY | JACOB J.B. MARVELLEY | CHRISTOPHER P. MULLIGAN | OF COUNSEL:
R. PETER TAYLOR | GREGORY D. ROBBINS | STEPHANIE J. JOHNSON | SAMUEL REID & JOHN AHLGREN

II. OLD BUSINESS

E. The request of **Ben** and **Andrea St. Jean, Braden** and **Robyn Ferrari, Bob** and **Laura Gunning, Mike** and **Zoe Daboul, Tim** and **Kim Sullivan,** and **Jamie** and **Amy Baker** (**Appellants**), for appeal of the administrative decision of a zoning determination pertaining to the side and rear lot lines of the property for a proposed subdivision located at **58 Humphrey's Court.** The Board will be considering the remand from the court on the issue of the property's rear lot line. Said property is located on Assessor Map 101 Lot 47 and lies within the General Residence B (GRB) and Historic Districts. (LU-25-165)

Planning Department Comments

The December 16, 2025 decision was appealed to the Superior Court and a remand has been ordered for a decision on the property's rear lot line. The court decision and a memo from Deputy City Attorney McCourt is included in the meeting packet.

The original application materials and decision can be found at the following link: https://www.portsmouthnh.gov/planportsmouth/events/zoning-board-adjustment-46

CITY OF PORTSMOUTH

Legal Department
Municipal Complex
1 Junkins Avenue
Portsmouth, New Hampshire 03801
tmccourt@portsmouthnh.gov
(603) 610-7234

Trevor P. McCourt
Deputy City Attorney

Date: September 14, 2026

To: Beth Margeson, Chair, Zoning Board of Adjustment
Members of the Zoning Board of Adjustment

From: Trevor P. McCourt, Deputy City Attorney

Re: Snover Trust v. Portsmouth ZBA & St. Jean v. City of Portsmouth - Superior Court Order on Consolidated Land Use Appeals
Remand of Rear Lot Line Determination (58 Humphrey's Court)

On August 7, 2026, the Superior Court (Klass, P.J.) issued its order on the consolidated appeals arising from the Board's December 16, 2025 decisions concerning the Robert M. Snover Revocable Trust's property at 58 Humphrey's Court (the "Property"). The Clerk's notice of decision was sent to the parties on August 11, 2026. The Court's Order is attached.

I have deliberately held this report to the Board until the period for a further appeal to the New Hampshire Supreme Court had run. A party had thirty days from the Clerk's August 11 notice to appeal the Superior Court's order; that period has now passed. Waiting to advise the Board until the appeal window closed avoids the Board acting on a decision that could still have been altered on appeal, and confirms that the remand described below is now ripe for the Board to take up.

In its Order, the Court affirmed the Board's decision regarding lot area, and its denial of the request for a variance. However, the Court has remanded the issue of the rear setback to the Board for further findings. This memo summarizes the decision and explains what the Board is now required to do on remand.

II. Background

The Snovers sought to subdivide the Property into two lots. Before applying for subdivision approval, they obtained administrative determinations from the Director of Planning and Sustainability, Peter Britz regarding the Property's dimensional compliance. Director Britz concluded (1) that the roughly 163 square feet of the Property's northwest corner overlapped by the traveled way of Humphrey's Court was not part of the Property's "Lot Area," and (2) that the

rear lot line was a 10-foot line drawn from the rear corner, with the remaining boundaries treated as side lot lines.

Both the Snovers and a group of neighbors appealed those determinations to this Board, and the Snovers separately filed a variance application seeking relief from the frontage and lot-area minimums for the two proposed lots. At its December 16, 2025 meeting, the Board issued three decisions: it granted the Snover's appeal on lot size and found the Property to contain 10,005 square feet based on the deeds and surveys; it granted the neighbors' appeal insofar as it rejected Director Britz's rear-lot-line classification, but declined to determine what the correct rear (or side) lot lines were; and it denied the Trust's variance application, finding the Trust had not established unnecessary hardship. The Board denied both sides' motions for rehearing (also attached), and these appeals followed.

III. The Court's Decision

The Court's rulings break down as follows.

1. **Threshold motions (no effect on the Board).** The Court denied the neighbors' motion to add the Ferraris, Sullivans, and Bakers as plaintiffs, holding it had no jurisdiction over parties who did not file within RSA 677:4's thirty-day window. It also denied the City's and Trust's motion to dismiss the Gunnings, reasoning that although the Gunnings are not abutters, they were parties to the administrative appeal and therefore had standing under RSA 677:2 to seek rehearing and to appeal. The Court expressly noted these rulings do not affect the merits.

2. **Lot area definition - AFFIRMED.** The Court upheld the Board's determination that the Property contains 10,005 square feet, agreeing that lot area is measured by the deeded metes and bounds. It rejected the neighbors' argument that the paved corner should be excluded, reasoning that the paved portion is not a "public place" under the Ordinance.

3. **Variance denial - AFFIRMED.** The Court held the Board acted reasonably in finding no unnecessary hardship. It concluded the Property's frontage is not unique compared to other lots in the immediate area, and it declined to find that the Board gave improper weight to neighborhood opposition, reading the Board's discussion instead as concern for maintaining consistency with the neighborhood's conforming lots consistent with Ordinance Section 10.233.50.

4. **Rear lot line - REMANDED.** This is the only issue returned to the Board. The Court held that the Board erred by rejecting Director Britz's rear-lot-line interpretation while simultaneously declining to decide what the rear lot line actually is. The Court reasoned that leaving the question unanswered puts the Snovers in an untenable position, unable to determine its building envelope and setbacks, and that resolving such questions is the Board's statutory function under RSA 674:33, I(a)(1). The Court did not dictate a particular answer, it merely directed the Board to render a decision.

IV. The Remand

The Court has ordered that the Board must make an affirmative determination establishing the Property's rear lot line (and, by extension, the resulting side lot lines), supported by reasoning tied to the Ordinance's definitions.

V. Recommended Next Steps

With the appeal period now closed, the Superior Court's order is final as to every issue except the remanded rear-lot-line question, and the matter is ready for the Board to take up. I recommend City staff place it on an upcoming agenda as a remand for decision, with proper notice, and that the Board be prepared to adopt written findings identifying the front lot lines, the rear lot line, and the resulting side lot lines, with the supporting rationale. I have requested that Planning Staff include relevant documentation previously submitted to the Board and to the Court regarding the rear lot line definition.

The Board has closed the public hearing on this matter, and therefore I would recommend the Board not accept new information unless it schedules a new public hearing on the matter with appropriate notice.

cc: Peter Britz, Director of Planning and Sustainability
Stefanie Casella, Planner

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS. **SUPERIOR COURT**
NORTHERN DISTRICT

Robert M. Snover, Trustee, et al.

v.

City of Portsmouth Zoning Board of Adjustment

Docket No. 218-2026-CV-00239 and 218-2026-CV-00240

&

Benoit St. Jean, et al.

v.

City of Portsmouth

Docket No. 218-2026-CV-00241

ORDER

These consolidated land use appeals arise from a series of decisions made by the City of Portsmouth ("City") Zoning Board of Adjustment ("ZBA") relating to property owned by the Robert M. Snover Revocable Trust ("Trust"). (Doc. 1 (Compl.); Doc. 5 (Assented Mot. Consolidate).)[1] The Court held a hearing on the consolidated appeals on June 8, 2026. Upon consideration of the record, the parties' arguments, and the applicable law, the Court finds and rules as follows.

Factual Background

The following facts are drawn from the certified record ("CR") that was filed in the case. (Doc. 8.) The Trust owns certain property located at 58 Humphrey's Court in

[1] The Court cites to Docket No. 00239 unless otherwise noted.

This is a Service Document For Case: 218-2026-CV-00239
Hillsborough Superior Court Northern District
8/11/2026 8:50 AM

Portsmouth ("Property"). CR 45. Presently, a single-family structure exists on the Property. The Property's frontage is bounded on two sides by Humphrey's Court, paved as a curve along the Property's front lot line. CR 103. This results in the traveled portion of Humphrey's Court overlapping with approximately 163 square feet of the Property's northwest corner. See CR 103, 108.

In 2025, the Trust sought to subdivide the Property into two parcels. See CR 103; see also Figure 1.

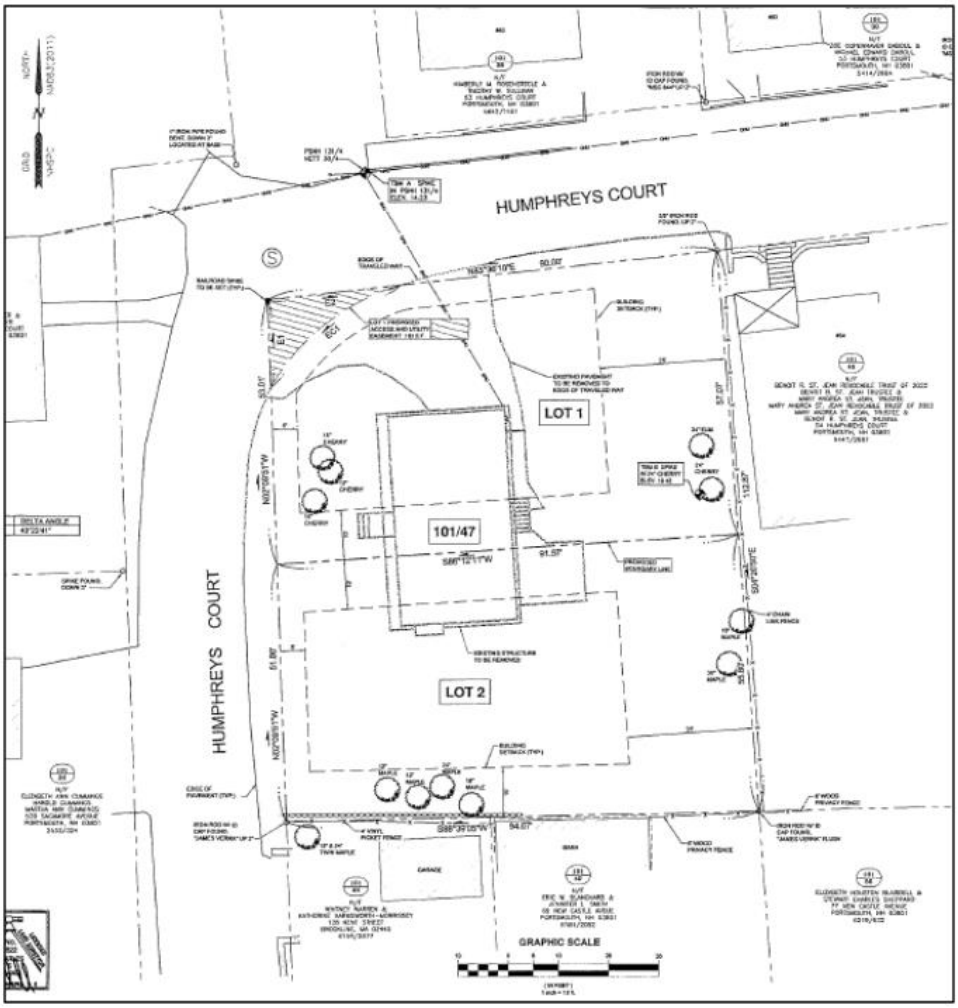


Figure 1: the Trust's proposed subdivision plan (from CR 121)

Prior to seeking subdivision approval, the Trust requested an administrative determination from the City's Planning Director, Peter Britz, related to the Property's

dimensional compliance. See CR 103-104. Director Britz determined that the area of the Property covered by the traveled way of Humphrey's Court was not part of the Property's "Lot Area" as defined by the City's zoning ordinance ("Ordinance"), "because it is not part of the useable lot for this parcel as defined by the zoning ordinance." CR 103. Director Britz reached this conclusion based on his interpretation of the Ordinance's definition of a rear lot line, with the following articulated rationale:

> In this case, the rear lot line is the area that comes to a point at the opposite side of the lot from the curve. (The area shown on the Haley ward plan as EC1). Using the Zoning Ordinance interpretation of rear lot lines in the case of a lot which comes to a point for the rear lot line, a line 10 feet in length drawn from the rear corner shall serve as the rear lot line. All other portions of the lot (not fronting Humphreys Ct) are determined to be side yards.

CR 103-104.

The Trust appealed Director Britz's decision to the ZBA pursuant to RSA 676:5 and Section 10.629.10 of the Ordinance. The Trust requested the ZBA to determine that the Property had 10,005 square feet of lot area as described by the Property's deed. CR 100-102. The Trust also filed a Variance Application ("Application") with the ZBA to allow (1) approximately 51.8 feet of continuous street frontage where 80 feet is required for the proposed Lot 2; and (2) a lot area of 4,840 square feet where 5,000 square feet is required for the proposed Lot 1. CR 112, 109-133.

Neighbors of the Property also appealed Director Britz's determination.[2] The neighbors agreed with Director Britz's decision that the Property lacked sufficient land area to create two conforming house lots. The neighbors took issue, however, with Director Britz's classification of the side and rear lot lines. CR 160. The neighbors also disagreed with Director Britz's determination that the rear lot line was a 10-foot line drawn from the rear corner, and that the remaining lines are side lot lines. Instead, the neighbors contend that under the Ordinance's definition, the rear lot lines are those "opposite and most distant from the front lot line," as highlighted in red on Figure 3. See CR 161.

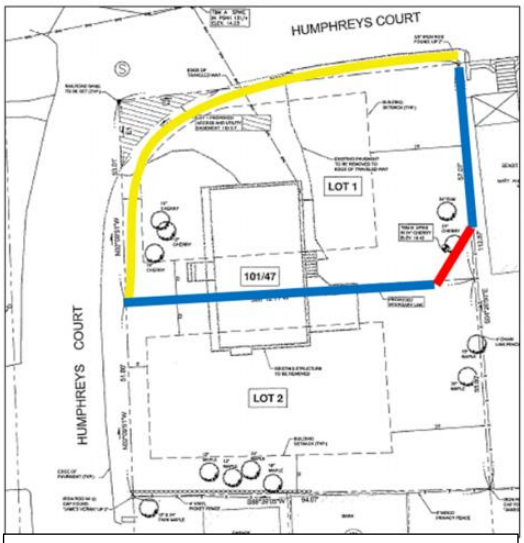


Figure 2: Director Britz's lot line classification (from CR 160). The rear lot line is highlighted red; the side lot lines are highlighted blue.

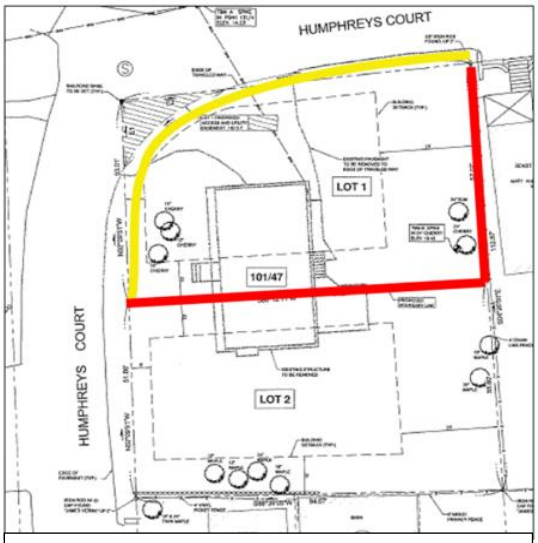


Figure 3: The neighbors' interpretation of the ordinance (from CR 160). The rear lot lines are highlighted red.

The ZBA considered the parties' appeals at its December 16, 2025 meeting.

[2] The appealing neighbors included Benoit and Andrea St. Jean (abutters), Robert and Laura Gunning, Braden and Robyn Ferrari, Tim and Kim Sullivan, and Jamie and Amy Baker (collectively, the "neighbors"). CR 159-63. Only the St. Jeans and the Gunnings filed the complaint in Docket 241, and they now move to add the other neighbors as plaintiffs in Docket 241. (See Doc. 3 in Docket 241 (Mot. Amend).) The City moves to dismiss the Gunnings, (see Doc. 6 in Docket 241), and objects to the St. Jeans' and Gunnings' motion to amend to include the additional neighbors, (see Doc. 7 in Docket 241.) The Trust joins the City in its motions and objections. (Doc. 7.)

There, the ZBA accounted for the following definitions within the Ordinance:

> **Lot area[:]** The total horizontal area included within the property lines.
>
> **Lot line[:]** A property line bounding a lot[.]
>
> **Lot line, front[:]** A boundary of lot that separates the lot from a public place. A corner lot, through lot or a waterfront lot shall have multiple front lot lines. In the case of a corner lot, through lot or a waterfront lot, the principal front yard shall be the line bordering a public place on which the lot has its address as defined by the City.
> **…**
>
> **Lot line, rear[:]** A boundary of a lot that is opposite and most distant from the front lot line. If the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.
>
> **Lot line, side[:]** Any boundary of a lot that is not a front lot line or a rear lot line.

CR 216, 220. The ZBA granted the neighbors' appeal regarding Director Britz's classification of the rear lot line for the Property's proposed subdivision but ultimately made no determination on the classification of the side or rear lot lines. CR 241-42.

At the same time, the ZBA granted the Trust's appeal of Director Britz's lot-size finding and determined that, based on the Property's deeds and the surveys, the Property's lot size was 10,005 square feet. CR 265. The ZBA denied, however, the Trust's Application after concluding that the Trust failed to establish the unnecessary-hardship criterion in its variance request. CR 244, 268-69. In reaching this decision, the ZBA also considered Ordinance section 10.233.50, which provides

> [w]here this Ordinance contains a more stringent requirement or higher standard than is reflected by existing conditions, it shall be deemed that the intent of the Ordinance is to promote compliance with such requirement or conformance to such standard rather than a continuation of existing conditions.

The Trust and the neighbors both moved for rehearing. The Trust requested a

rehearing regarding the ZBA's denial of the Application and the ZBA's rear lot line determination. CR 35. The neighbors moved for a rehearing for the ZBA to reconsider the Property's lot-size. CR 2-5. The ZBA denied the parties' rehearing requests. CR 81-83. These appeals followed.

Standard of Review

"The superior court's review in zoning cases is limited." Kalil v. Town of Dummer Zoning Bd. of Adjustment, 155 N.H. 307, 309 (2007). When evaluating an appeal to the superior court, "the burden of proof shall be upon the party seeking to set aside any order or decision of the zoning board of adjustment . . . to show that the order or decision is unlawful or unreasonable." RSA 677:6. Upon review, "the trial court must treat all factual findings . . . as *prima facie* lawful and reasonable, and may not set them aside, absent errors of law, unless it is persuaded by a balance of probabilities on the evidence before it that the ZBA decision is unreasonable." 1808 Corp. v. Town of New Ipswich, 161 N.H. 772, 775 (2011). This review "is not to determine whether [the Court] agrees with the [ZBA]'s findings, but to determine whether there is evidence upon which they could have been reasonably based." Dietz v. Town of Tuftonboro, 171 N.H. 614, 618 (2019) (quotation omitted).

Analysis

Before reaching the merits of the parties' land use appeals, the Court addresses two outstanding motions: the St. Jeans' and Gunnings' motion to amend their complaint by adding additional neighbors as plaintiffs, and the City's motion to dismiss the Gunnings.

The St. Jeans and the Gunnings move to add Braden and Robyn Ferrari, Tim and Kim Sullivan, and Jamie and Amy Baker to their complaint. (See Doc. 3 (Mot. Amend) in Docket 241; Doc. 4 (Proposed Am. Compl.) in Docket 241.) The City and the Trust object, asserting that RSA 677:4's strict filing deadlines divest the Court of subject matter jurisdiction over any new plaintiffs. (Doc. 7 (Obj. to Mot. to Amend) ¶¶ 4-5 in Docket 241; Doc. 7 (Trust's Concurrence to Mot. Dismiss & Concurrence to Obj. to Mot. Amend).) The City also contends that the Ferraris are not a "person aggrieved" under RSA 677:4. (Doc. 7 ¶¶ 6-13 in Docket 241.) The City similarly asserts that the Gunnings are neither "abutters" under RSA 672:3, nor were they parties to the ZBA proceedings, and should thus be dismissed for lack of standing. (See Doc. 6 in Docket 241; see also Doc. 7.)

In 2024, the Legislature amended RSA 677:2. The statute previously permitted "any person directly affected" to move for rehearing of a ZBA's decision. See RSA 677:2 (2009). The statute now limits motions for rehearing to "any party to the action or proceedings, or an abutter," defined as "any person whose property . . . adjoins or is directly across the street or stream of the applicant . . . ." See RSA 677:2 (2024); see also RSA 672:3 (defining "Abutter").

As it concerns the City's and the Trust's motion to dismiss, the record supports the finding that the Gunnings are not abutters to the Property. Compare CR 194 (Abutter Spreadsheet) with CR 208-209 (Certified Routing Card). That said, however, the Gunnings were technically parties to the neighbors' administrative appeal of Director Britz's decision. See CR 159 (listing Bob and Laura Gunning as appellants to Director Britz's zoning determination). Under the plain language of RSA 677:2, the Gunnings had

standing to move for a rehearing following the ZBA's December 16, 2025 meeting. Because the Gunnings had standing to move for a rehearing, they likewise have standing to appeal the ZBA's opinion to the superior court. See RSA 677:4 (permitting a party entitled to request a rehearing under RSA 677:2 to appeal a ZBA's decision to the superior court).

As to the pending motion to add additional neighbors as plaintiffs, the Court concludes that those individuals did not timely appeal the ZBA's decisions and, thus, the Court has no jurisdiction over their claims. As articulated by the City, RSA 677:4 imposes a strict thirty-day appeal window. Failure to appeal within those thirty days divests the Court of subject matter jurisdiction. See Radziewicz v. Town of Hudson, 159 N.H. 313, 317 (2009) ("Compliance with [RSA 677:4's] thirty-day filing deadline was a necessary prerequisite to establishing jurisdiction in the superior court. Because the petitioners' appeal was not filed within thirty days, the superior court never had jurisdiction, and could not rely upon [a court rule defining filing timelines] to establish jurisdiction that did not exist in the first instance.") As such, the Court must reject the effort to add neighbors as parties to the appeal, after-the-fact.

Accordingly, the Court DENIES the St. Jeans' and the Gunnings' motion to amend, (see Doc.3 in Docket 241), and DENIES the City's and Trust's motion to dismiss, (see Doc. 6 in Docket 241, Doc. 7 in Docket 239.) As a practical matter, the Court notes that its ultimate determination to the merits of these appeals is unaffected by these threshold motions.

I. The Administrative Appeals

Beginning with the administrative appeals, the neighbors appeal the ZBA's

interpretation of the term "lot area" and argue that the ZBA erred when it included the paved northwest corner of the Property as part of such term. (See Doc. 4 in Docket 241.) For its part, the Trust appeals the ZBA's decision to overturn Director Britz's rear lot line determination and asserts that the ZBA's decision to decline to decide what constitutes the Property's rear lot line was unreasonable and unlawful. (See Doc. 1.)

The interpretation of a zoning ordinance is a question of law that the court reviews *de novo*. Harrington v. Town of Warner, 152 N.H. 632, 634 (2008). Because the traditional rules of statutory construction generally govern the Court's review of a zoning ordinance, the Court's interpretation of the words and phrases of the Ordinance will be construed according to the common and approved usage of the language. See Duffy v. City of Dover, 149 N.H. 178, 181 (2003). The Court, thus, looks to the Ordinance's definitions in its review of the ZBA's interpretation of "Lot Area" and "Rear Lot Line."

First, the Court determines that the ZBA correctly interpreted "Lot Area" under the Ordinance. The Ordinance defines lot area as "[t]he total horizontal area included within the property lines[.]" Ordinance § 10.1530. Although the Ordinance does not define "property lines," the Ordinance defines a "lot" as a "single parcel of land in the same ownership throughout as shown or defined on a recorded instrument or defined by metes and bounds." Id. In reaching its decision, the ZBA calculated the Property's lot area according to the Property's deeded boundaries. Taking this latter definition into account, the Court determines that the ZBA properly considered the Property's metes and bounds to determine the lot area.

Moreover, the Court is not persuaded by the neighbors' argument that the Ordinance's definition of "Lot Line, Front" precludes the inclusion of the Property's

metes and bounds in determining its lot area. The Ordinance defines a front lot line as a "boundary of a lot that separates the lot from a public place." Ordinance § 10.1530. The Ordinance defines a "public place" as a "streetway, park, pedestrian alleyway, or community space that provides public access." Id. Of these, the most fitting description for the Property's paved corner is a streetway; the Ordinance defines "street" as a "thoroughfare or roadway which is either . . . formally accepted by the City" or "shown on a subdivision plan approved by the Planning Board[.]" Id. Neither definition is applicable here. Although the Property's northwest corner is paved under Humphrey's Court, the record reflects that the City does not own this paved portion. CR 261-265. The Property's paved corner is thus not best considered to be a "public place" under the Ordinance in this context. The ZBA therefore appropriately determined that the Property's deed description established the lot's area. Accordingly, the Court AFFIRMS the ZBA's decision as to the Property's lot size.

The Court next considers the ZBA's decision concerning the Property's rear lot line. As explained above, the ZBA determined that Director Britz's determination was incorrect but declined to reach a decision establishing the Property's rear lot line. In failing to reach a decision, the Court determines that the ZBA erred. Although the ZBA did not believe it was necessary to reach the issue because it denied the Trust's Application, the Court disagrees. As the Trust points out, it is now in a position of not knowing the scope of their building envelope or building setback. Practically, this leaves the Trust in an exceptionally untenable position. It is the ZBA's role to "[h]ear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance[.]" RSA

674:33, I(a)(1) (emphasis added). See also Ordinance, § 10.230 (powers of the ZBA). Moreover, at a general level, it is the function of a municipality to assist its citizens in interpreting the Ordinance. See Carbonneau v. Town of Rye, 120 N.H. 96, 99 (citing N.H. Const. pt. I, art. 1). Thus, the Court concludes that the ZBA acted unreasonably by rejecting Director Britz's interpretation while at the same time refusing to make a decision on the question. The Court therefore REMANDS this issue to the ZBA with instructions to render a decision.

II. The Trust's Variance Application

Finally, the Court addresses whether the ZBA erred in denying the Trust's request for variances. In order for a ZBA to approve a variance application, an applicant must meet five statutory criteria: (1) "[t]he variance will not be contrary to the public interest"; (2) "[t]he spirit of the ordinance is observed"; (3) "[s]ubstantial justice is done"; (4) "[t]he values of surrounding properties are not diminished"; and (5) "[l]iteral enforcement of the provisions of the ordinance would result in an unnecessary hardship." RSA 674:33, I(a)(2).

Here, the ZBA found that the Trust failed to establish the unnecessary-hardship criterion. CR 244. The ZBA did not reach the other statutory criteria.

> "[U]nnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area: (A) [n]o fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (B) [t]he proposed use is a reasonable one.

RSA 674:33, I(b)(1). "This factor requires that the property be burdened by the zoning restriction in a manner that is distinct from other similarly situated property." Harrington v. Town of Warner, 152 N.H. 74, 81 (2005). That burden must be "a result of specific

conditions of the property and not the area in general" and cannot "arise as a result of the zoning ordinance's equal burden on all property in the district." Garrison v. Town of Henniker, 154 N.H. 26, 32-33 (2006). "In addition, the burden must arise from the property and not from the individual plight of the landowner." Harrington, 152 N.H. at 81.

Here, the ZBA found that there was nothing "unique about the [P]roperty that differentiates it from the other properties in the immediate area surrounding it[.]" CR 269. The ZBA therefore did "not get to the other aspects of hardship that mostly revolve around reasonable use." CR 269. Although the Trust pointed to other lots with preexisting nonconforming frontages, the ZBA reasoned that the Ordinance specifically speaks to when there is "a requirement that is more stringent than existing condition, the goal is to . . . move toward those more stringent conditions." CR 269.

Based on the record before it, the Court does not find that the ZBA acted unreasonably or unlawfully when it determined that the Trust failed to establish an unnecessary hardship. The general purposes for minimum frontage requirements are to prevent overcrowding and to provide safe access for emergency vehicles. See Hannigan v. City of Concord, 144 N.H. 68, 76 (1999). The record supports a finding that a fair and substantial relationship exists between preventing overcrowding and subdividing the Property, as a subdivision would result in another house and driveway on Humphrey's Court. See RSA 674:33, I(b)(1); CR 266-268. For example, at the December 16th meeting, Mr. St. Jean said that "the proposed two houses would box his house in." CR 266. Additionally, other neighbors expressed concerns of decreased visibility resulting from the proposed construction of two houses closer to the front property line. CR 267.

The Trust argues that the Property's 194.81 feet of continuous frontage which binds the Property's two sides is especially unique. They contend that the conflict between the Ordinance, which permits subdivision if a Property is 10,000 square feet or larger, and Section VI.2.A of the Subdivision Regulations, which requires a property's side lines to be "at right angles to straight street lines or radial to curved street lines" where practicable, "creates the most prominent special condition of the Property . . . such that there is no fair and substantial relationship between the general purposes of frontage restriction and its application to the [P]roperty." See Doc. 1 ¶¶ 24–37. The Court, however, disagrees and determines that this asserted hardship arises "as a result of the zoning ordinance's equal burden on all property in the district." See Garrison, 154 N.H. at 32-33. Maps of the neighborhood in the record support the ZBA's position that the Property is not unique in its size. See CR 210-211. Specifically, Lots 101-36, 101-37, and 101-45, all on Humphrey's Court, show similar or larger square footage and similar frontage. See CR 210-211. Lot 101-36—located kitty-corner to the Property—is also bound by streets on two sides and has over 200 feet of frontage. CR 210-211. The record therefore supports the ZBA's finding that the Property's frontage is not unique from other properties in the immediate area. See CR 244.

The Court also disagrees with the Trust's assertion that the deliberations reveal that the ZBA's denial turned on the improper weight given to neighborhood opposition. The Trust points to a ZBA member's explanation that, "given the choice between a conforming lot being subdivided into two nonconforming lots against the neighborhood, he would go with the neighborhood." Doc. 11 ¶ 85–97; CR 269. The Court does not construe this statement as giving undue weight to neighborhood opposition, but instead,

giving weight to the neighborhood's composition, that is, the intent to maintain the neighborhood's conforming lots. In denying the variance, the ZBA correctly observed the Ordinance's intent "to promote compliance" with more stringent requirements than what is reflected by existing conditions. Ordinance § 10.233.50. Furthermore, the Court finds it difficult to reconcile this section of the Ordinance with the Trust's argument that the length of the Property's street frontage creates a hardship necessitating a variance to permit lots with less street frontage. See Doc. 11 ¶ 78.

Accordingly, the Court concludes that the Trust has failed to establish that the ZBA acted unreasonably or unlawfully when it denied the Application. See RSA 677:6. The Court therefore AFFIRMS that decision by the ZBA.

Conclusion

For the above reasons, the Court DENIES the neighbors' Motion to Amend and DENIES the City's motion to dismiss. The Court AFFIRMS the ZBA's decision as to the Property's lot size. The Court AFFIRMS the ZBA's decision to deny the Trust's Application. Finally, the Court REMANDS the issue of the Property's rear lot line to the ZBA for consideration consistent with this decision.

SO ORDERED.

Date: August 7, 2026

Michael A. Klass
Presiding Justice

Clerk's Notice of Decision
Document Sent to Parties
on 08/11/2026

III. NEW BUSINESS

A. The request of **Islington Properties LLC (Owner)**, for property located at **369 Islington Street, Unit A** whereas relief is needed to convert a commercial unit to a residential unit which requires the following: 1) Variance from Section 10.5A41.10A to allow 918 square feet of lot area per dwelling unit where 3,000 square feet are required. Said property is located on Assessor Map 144 Lot 22-1 and lies within Character District 4-L2 (CD4-L2) and the Historic District. (LU-26-111)

Existing & Proposed Conditions

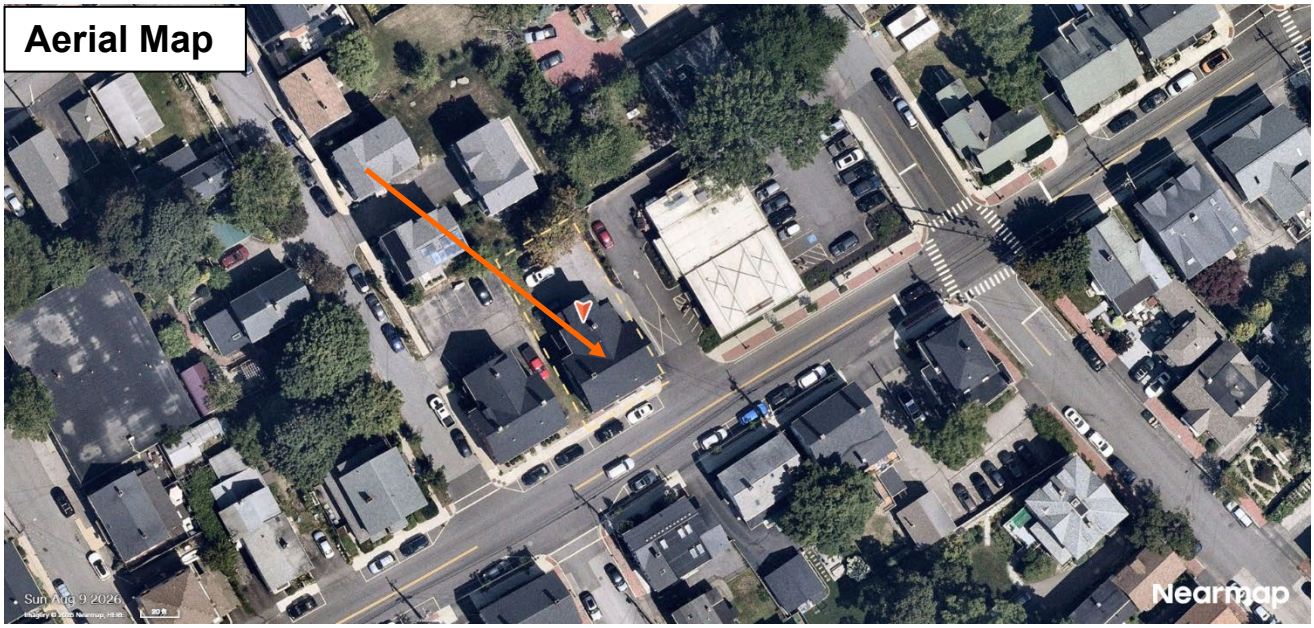
	Existing	Proposed	Permitted / Required
Land Use:	Multi-family Residential	Convert a commercial space to residential	Mixed
Lot area (sq. ft.):	4,591	4,591	3,000 min.
Lot Area per Dwelling Unit (sq. ft.):	1,147.75	918	3,000 min.
Parking Spaces	Onsite:4 Offsite: 2	Onsite:4 Offsite: 2	6
Estimated Age of Structure:	1880	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Historic District Commission Approval
- Site Review Approval – Technical Advisory
- Building Permit

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

July 22, 1976 – The Board voted to **deny** the request to paint advertising signage on both sides of the existing structure where the sign area permitted in the Ordinance is exceeded.

August 12, 1976 – **Granted a rehearing** for the decision made on July 22, 1976.

August 24, 1976 – The Board **rescinds the vote to grant the rehearing** made on August 12, 1976 and the motion to rehear the issue is denied.

July 19, 2011 - The Board **granted** the request to convert 2 commercial units to residential which required the following: 1) Variance from Section 10.521 to allow a lot area per dwelling nit of 918 sf where 7,500 per dwelling unit is required, and 2) Variance from Section 10.1112.30 (1) to allow conversion to residential units without the required parking.

No building permit was pulled and the relief expired.

Planning Department Comments

The applicant is proposing to convert the commercial unit on the property to residential which will total 5 residential units on the lot. There will be no exterior changes, with the exception of the parking reconfiguration and striping. Applicant is proposing to reconfigure parking with 4 spots onsite and 2 deeded spots on the adjacent lot.

On July 16, 2024, the Board approved the neighboring 1st floor unit at 371 Islington, Unit A for residential conversion with relief granted for lot area per dwelling unit. This does not appear in the previous BOA actions section because it is listed as a different address.

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.

Presenter:
Scott Rafferty
Owner of Islington Properties LLC
369 Islington Street, Suite A, Portsmouth, NH 03801

INTRODUCTION

Islington Properties LLC is asking for the following variance to be granted in order to change a 727 sq ft commercial unit with a full unfinished basement to a residential one bedroom, one bathroom apartment.

This building has been located on Islington Street for over 100 years. Suite A has long operated as a retail space; formerly as a computer repair shop, as a clothing store, and most recently as a showroom, and retains the attractive storefront character associated with that history. However, enforcement of current parking requirements has made continued retail use impractical and has significantly limited the ability to sell or lease the space for commercial purposes.

We believe that converting the space to residential use is a thoughtful and practical form of adaptive reuse that will allow this historic building to remain occupied, maintained, and productive. Although the property does not meet the current minimum lot-area requirement, the building and lot have existed in their present configuration for generations without creating adverse impacts. Open Concepts respectfully requests the variance necessary to make this conversion possible while preserving the building's established character and contributing positively to the surrounding neighborhood.

The variance being sought is regarding the below Sections of the Zoning Ordinances:

- *SECTION 10.5A41: Development Standards* - Development, structures and lots within Character districts (CD4-L2) shall comply with the applicable general description and standards set forth in Figures 10.5A41.10A-D (Development Standards) and elsewhere in Article 5A. Minimum lot area per dwelling unit is 3,000SF.

Islington Properties LLC is asking that 918SF per dwelling unit be allowed. This would be no more or less than what currently exists.

10.233.21 The variance will not be contrary to the public interest

The variance will not be contrary to the public interest. The existing exterior site dimensions of the property and structure would not be changed.

10.233.22 The spirit of the Ordinance will be observed

The spirit of the Ordinance will be observed to turn unit 369A from a commercial condominium

unit to a residential condominium unit. The space will not be altering the front of the existing structure on the outside, leaving the current building facade unchanged. There are already four(4) residential units at this location, and adding one more does not negatively impact the abutters or surrounding properties as it would demand less parking than the current use. Also the proposed unit would be a one bedroom apartment making the impact to utilities minimal. The current ordinance allows residential uses in this district, CD4-L2.

10.233.23 Substantial justice will be done

By converting this unit into a residential space it will provide additional housing in a location where mixed use is allowed. The space will be put to better use by becoming a housing option in an area where there are limited options open for rent or purchase. The Association speaks in favor of allowing this change, as it would minimize daily activity around the property and relieve current parking demands.

10.233.24 The values of surrounding properties will not be diminished

The values of the surrounding properties will not be diminished because there are already four(4) residential units in the building offering higher resale values than the subject commercial unit. Also, the area already has several residential properties surrounding the subject unit. The Association itself is also made up of a majority of residential uses, 4 out of the 5. As for parking, each residential unit will have one (1) off street parking space. Removing this commercial unit would relieve parking pressures for both the Association and surrounding properties.

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

Enforcement of the provisions of the Ordinance would cause unnecessary hardship because having a business come in to use the space would result in the parking situation continuing to be a challenge. The average retail business to use this unit would need a demand for about 3+ parking spaces daily. If the unit was to stay commercial a change of use permit would be needed, meaning no commercial use would meet current parking requirements. A one bedroom apartment, under 750 sq ft, would need one parking space regularly, which is currently provided by the Association. For each residential unit there is one(1) parking space to be used. There are 6 total off street spots. Each unit has one(1) spot with an additional shared guest spot for the use of the Association. Changing the unit from commercial to residential will help with the limited parking available. The Association has been notified and votes in favor to change this to residential.

Currently there are six(6) off street parking spots as part of the Islington Place Condominium Association

Current Units to meet today's zoning regulations(5 total):

1. *369A*, 727 sq ft, commercial **subject property** (1 per 300 SF required) - 2.5 spaces required
2. *369B*, 816 sq ft, residential - 1.3 spaces required
3. *371A*, 676 sq ft, residential - 1.0 spaces required
4. *371B*, 816 sq ft, residential - 1.3 spaces required
5. *373*, 1280 sq ft, residential - 1.3 spaces required

Total spaces required = 7.4 (rounds up to 8 spaces required for the site)

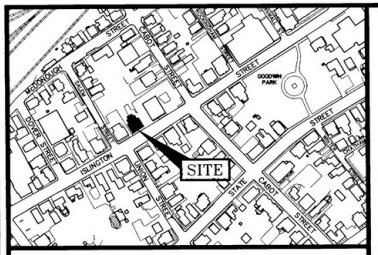
Proposed Units(5 total):

1. *369A*, 727 sq ft, commercial **subject property** - 1 space required (for residential conversion)
2. *369B*, 816 sq ft, residential - 1.3 spaces required
3. *371A*, 676 sq ft, residential - 1.0 spaces required
4. *371B*, 816 sq ft, residential - 1.3 spaces required
5. *373*, 1280 sq ft, residential - 1.3 spaces required

Total spaces required = 5.9 (rounds up to 6 spaces required for the site)

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2005 AUG 11 PM 12:11 050083



LOCATION MAP 1" = 200'

LEGEND:

N/F	NOW OR FORMERLY
RP	RECORD OF PROBATE
RCRD	ROCKINGHAM COUNTY REGISTRY OF DEEDS
11/20	MAP 11/LOT 21
RR SPK FND	RAILROAD SPIKE FOUND / SET
IR FND	IRON ROD FOUND / SET
IP FND	IRON PIPE FOUND / SET
DH FND	DRILL HOLE FOUND / SET
BND w/DH	BOUND WITH DRILL HOLE
ST BND w/DH	STONE BOUND WITH DRILL HOLE
OHW	OVERHEAD ELECTRIC/WIRES
EP	EDGE OF PAVEMENT (EP)
LCA	LIMITED COMMON AREA (LCA) BOUNDARY
	UTILITY POLE
	WATER SHUT OFF/CURB STOP

I, JOHN R. CHAGNON, LICENSED LAND SURVEYOR, HEREBY CERTIFY:

A) THAT THIS SITE PLAN ACCURATELY DEPICTS THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS SHOWN HEREON, SPECIFICALLY UNITS 369A, 369B, 371A, 371B & 373, AND

B) THAT SAID UNITS 369A, 369B, 371A, 371B & 373 HAVE BEEN SUBSTANTIALLY COMPLETED, AND

C) THAT THIS PLAN COMPLIES WITH THE PROVISIONS OF RSA 356-B : 20.

JOHN R. CHAGNON, LLS #738

11/2/05
DATE

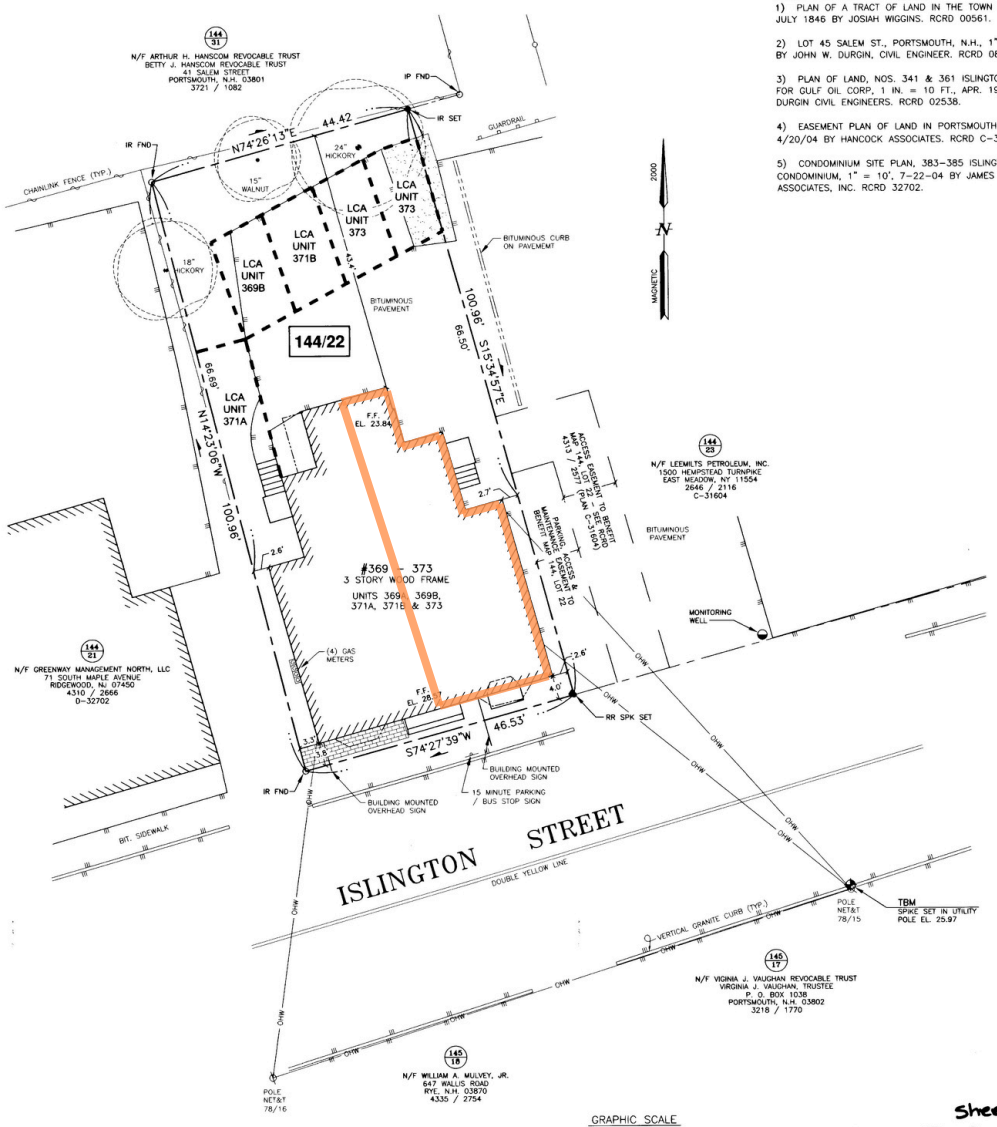
THIS PLAN IS A CONDOMINIUM INSTRUMENT UNDER RSA CHAPTER 356-B AND IS NOT A SUBDIVISION OF LAND.

I CERTIFY THAT THIS SURVEY PLAT IS NOT A SUBDIVISION PURSUANT TO THIS TITLE AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW WAYS ARE SHOWN.

JOHN R. CHAGNON, LLS #738

11/2/05
DATE

STATE OF NEW HAMPSHIRE No. 738 JOHN R. CHAGNON SIGNATURE LICENSED LAND SURVEYOR



GRAPHIC SCALE

10 5 0 5 10 15 20 25 30 35 40 FEET
3 2 1 0 5 10 METERS

PLAN REFERENCES:

1) PLAN OF A TRACT OF LAND IN THE TOWN OF PORTSMOUTH, JULY 1846 BY JOSIAH WIGGINS. RCRD 00561.

2) LOT 45 SALEM ST., PORTSMOUTH, N.H., 1" = 20'±, DEC. 1938 BY JOHN W. DURGIN, CIVIL ENGINEER. RCRD 0889.

3) PLAN OF LAND, NOS. 341 & 361 ISLINGTON ST., SURVEYED FOR GULF OIL CORP, 1 IN. = 10 FT., APR. 1956 BY JOHN W. DURGIN CIVIL ENGINEERS. RCRD 02538.

4) EASEMENT PLAN OF LAND IN PORTSMOUTH, N.H., 1" = 20', 4/20/04 BY HANCOCK ASSOCIATES. RCRD C-31604.

5) CONDOMINIUM SITE PLAN, 383-385 ISLINGTON STREET CONDOMINIUM, 1" = 10', 7-22-04 BY JAMES VERRA and ASSOCIATES, INC. RCRD 32702.

AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

NOTES:

1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSORS MAP 144 AS LOT 22.

2) OWNER OF RECORD:
GHAMAMI REVOCABLE TRUST OF 2005
238 PARSONS ROAD
RYE, N.H. 03870
4517 / 1608

3) PARCEL IS NOT IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PANEL 33015C0259E, EFFECTIVE MAY 17, 2005.

4) EXISTING LOT AREA:
4,591 S.F.
0.1054 AC.

5) PARCEL IS LOCATED IN THE MIXED RESIDENTIAL BUSINESS & HISTORIC A DISTRICTS.

6) THE PURPOSE OF THIS PLAN IS TO SHOW A 5 UNIT CONDOMINIUM ON THE PROPERTY AS PROVIDED IN RSA 356: B-20.

7) DATUM: MEAN SEA LEVEL
BENCHMARK: SPIKE SET IN POLE NET&T 78/15 (PSNH 2/21). ELEVATION: 25.97

8) OFFSETS SHOWN HEREON ARE PERPENDICULAR TO BOUNDARY LINES AND ARE TO THE FACE OF THE BUILDING.

9) SEE AGREEMENT OF LICENSE AT RCRD 1427 / 41 AND TERMINATION, REVOCATION AND CANCELLATION OF AGREEMENT OF LICENSE AT RCRD 4414 / 2034.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	11/2/05

REVISIONS

CONDOMINIUM SITE PLAN
369 - 373 ISLINGTON STREET CONDOMINIUM
TAX MAP 144 LOT 22
FOR
THE GHAMAMI REVOCABLE TRUST
369 - 373 ISLINGTON STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

SCALE: 1" = 10' OCTOBER 2005

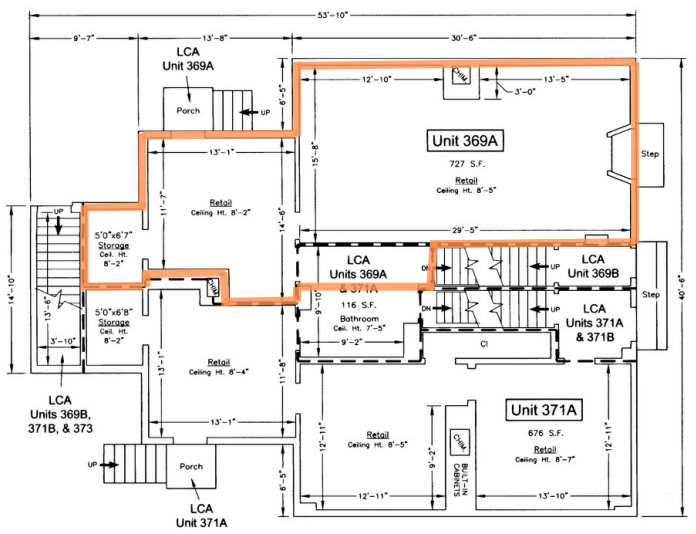
FB 102 PG 51 1491

Sheet 1 of 2

D-34059

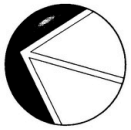
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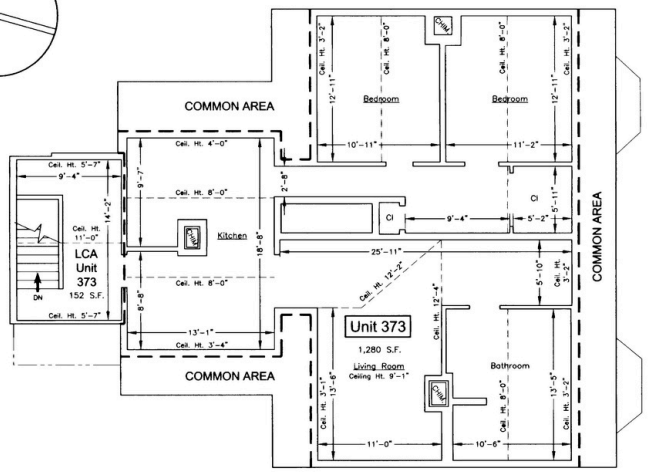
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FIRST FLOOR
F.F. ELEVATION 28.56

ISLINGTON STREET





THIRD FLOOR
F.F. ELEVATION 48.36

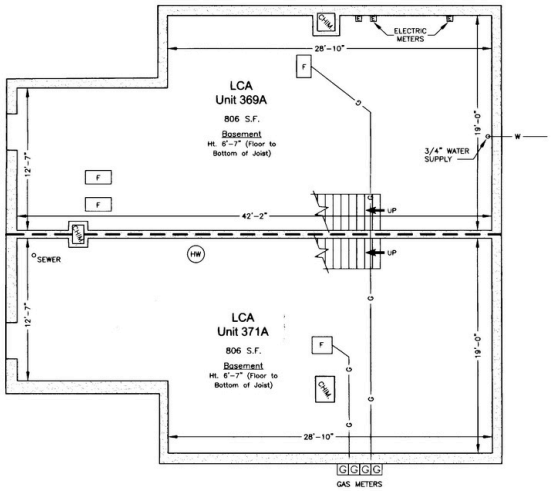
ISLINGTON STREET

UNIT AREAS:

UNIT 369A:	727 S.F.
UNIT 369B:	816 S.F.
UNIT 371A:	676 S.F.
UNIT 371B:	816 S.F.
UNIT 373:	1,280 S.F.

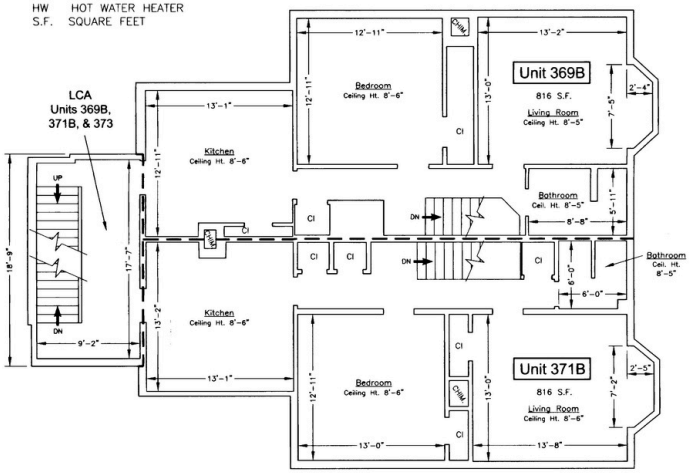
LEGEND:

LCA	LIMITED COMMON AREA
CA	COMMON AREA
CL	CLOSET
W	WASHER
D	DRYER
F	FURNACE
HW	HOT WATER HEATER
S.F.	SQUARE FEET



BASEMENT
F.F. ELEVATION 21.06

ISLINGTON STREET



SECOND FLOOR
F.F. ELEVATION 39.06

ISLINGTON STREET

GRAPHIC SCALE
3/16" = 1'-0"
1 0 5 10 15 20 25 FEET
1 0 5 METERS

sheet 2 of 2
D-34059

AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

NOTES:

1) UNIT AREAS ARE CALCULATED FROM OUTSIDE FACE OF WALL TO CENTERLINE OF WALL.

2) ALL DIMENSIONS ARE TO THE NEAREST INCH.

3) DATUM:
USGS MEAN SEA LEVEL, NGVD 1929.
BENCHMARK: SPIKE SET IN POLE NET&T 78/15
(PSNH 2/21) ELEVATION: 25.97

STATE OF NEW HAMPSHIRE
JOHN R. CHAGNON No. 7651
LICENSED PROFESSIONAL ENGINEER

I, JOHN R. CHAGNON, PROFESSIONAL ENGINEER, HEREBY CERTIFY:

A) THAT THIS FLOOR PLAN ACCURATELY DEPICTS THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS SHOWN HEREON, SPECIFICALLY UNITS 369A, 369B, 371A, 371B, & 373, AND

B) THAT SAID UNITS 369A, 369B, 371A, 371B, & 373 HAVE BEEN SUBSTANTIALLY COMPLETED, AND

C) THAT THIS PLAN COMPLIES WITH THE PROVISIONS OF RSA 356-B : 20.

JOHN R. CHAGNON, PE #7651 — DATE 11/2/05

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	11/2/05

REVISIONS

CONDOMINIUM FLOOR PLAN
369 - 373 ISLINGTON STREET CONDOMINIUM
TAX MAP 144 LOT 22
FOR
THE GHAMAMI REVOCABLE TRUST
369 - 373 ISLINGTON STREET
CITY OF PORTSMOUTH
COUNTY OF ROCKINGHAM
STATE OF NEW HAMPSHIRE

SCALE: 3/16" = 1' — OCTOBER 2005

FB 102 PG 51 — 1491

M:\Jobs\JN1400s\jn1490s\JN1491\1491PLANS\1491C01.dwg, CONDO_FLOOR_PLAN

Printed from Internet for on 3/18/2016



STREET VIEW



STREET VIEW



SIDE VIEW



SIDE VIEW

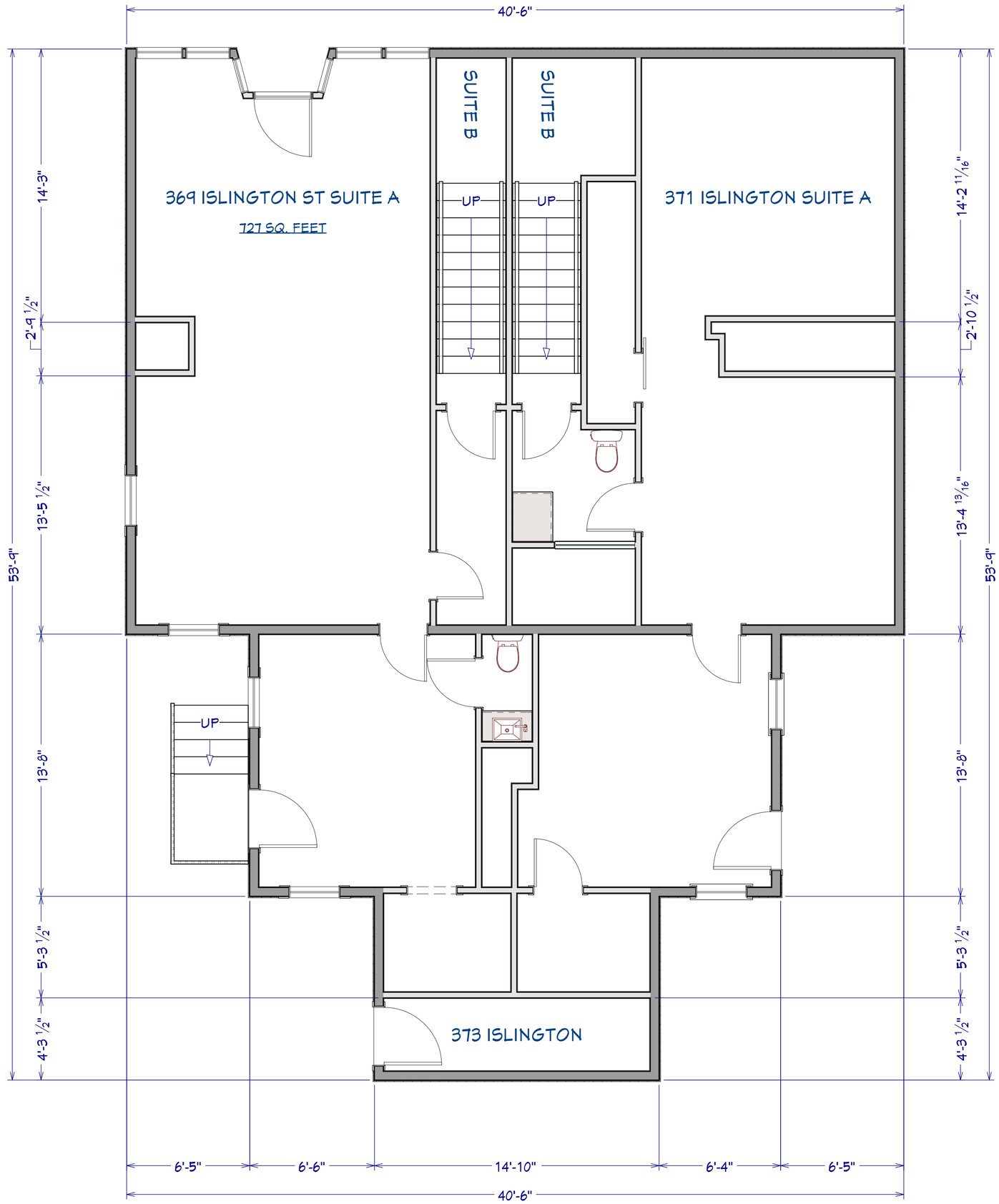


PARKING ACCESS



PARKING

EXISTING FLOOR PLAN



NO.	DESCRIPTION	BY	DATE
00	PROPOSAL	JDA	7/27/26

SHEET TITLE: EXISTING PLAN VIEW

PROJECT NAME: 369 ISLINGTON ST SUITE A REMODEL

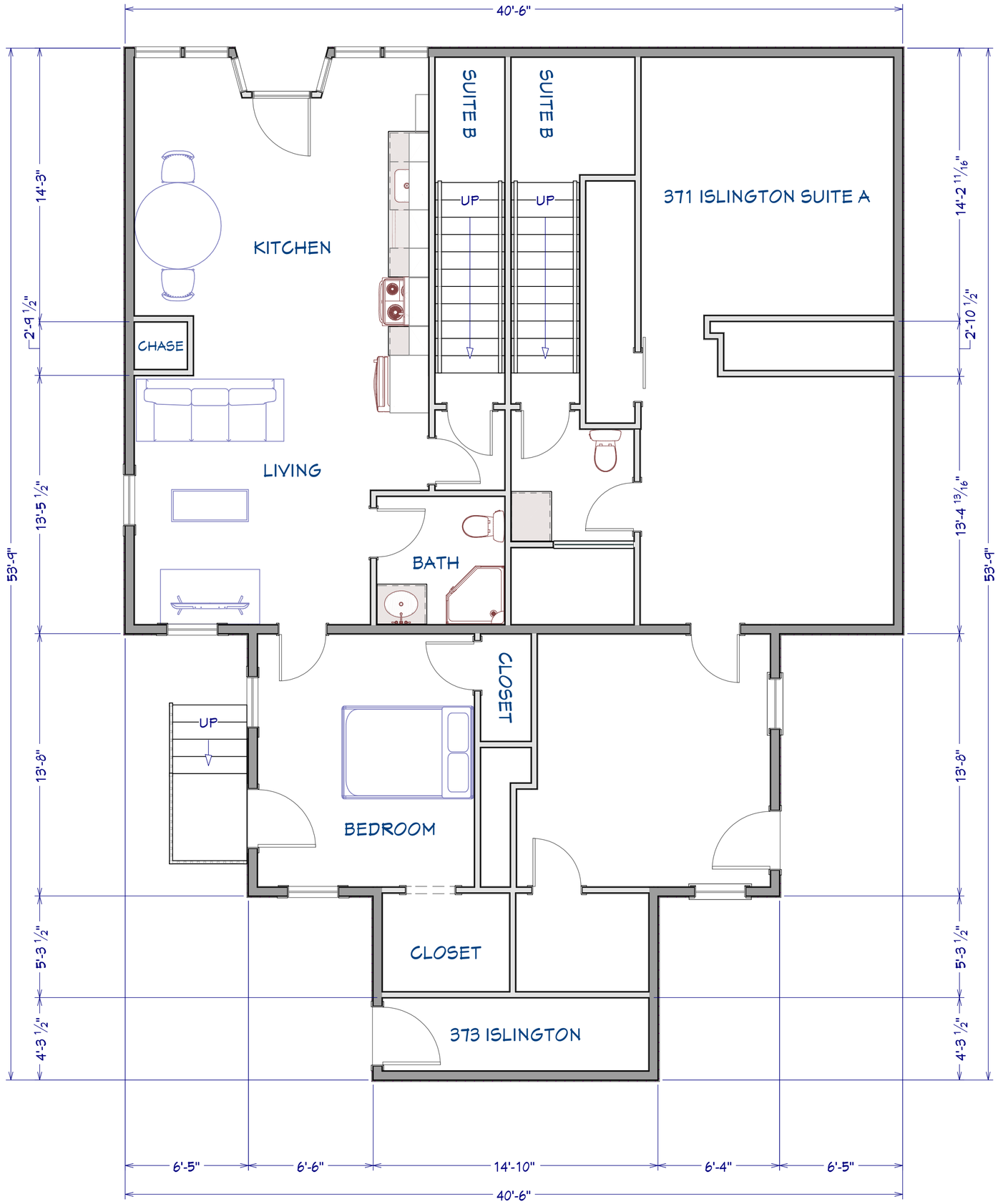
DRAWINGS PROVIDED BY: OPEN CONCEPTS KITCHENS & BATHS

DATE: 7/27/2026

SCALE: 1/4" = 1'-0"

SHEET: A-1

PROPOSED FLOOR PLAN



NO.	DESCRIPTION	BY	DATE
00	PROPOSAL	JDA	7/27/26

SHEET TITLE: PROPOSED PLAN VIEW

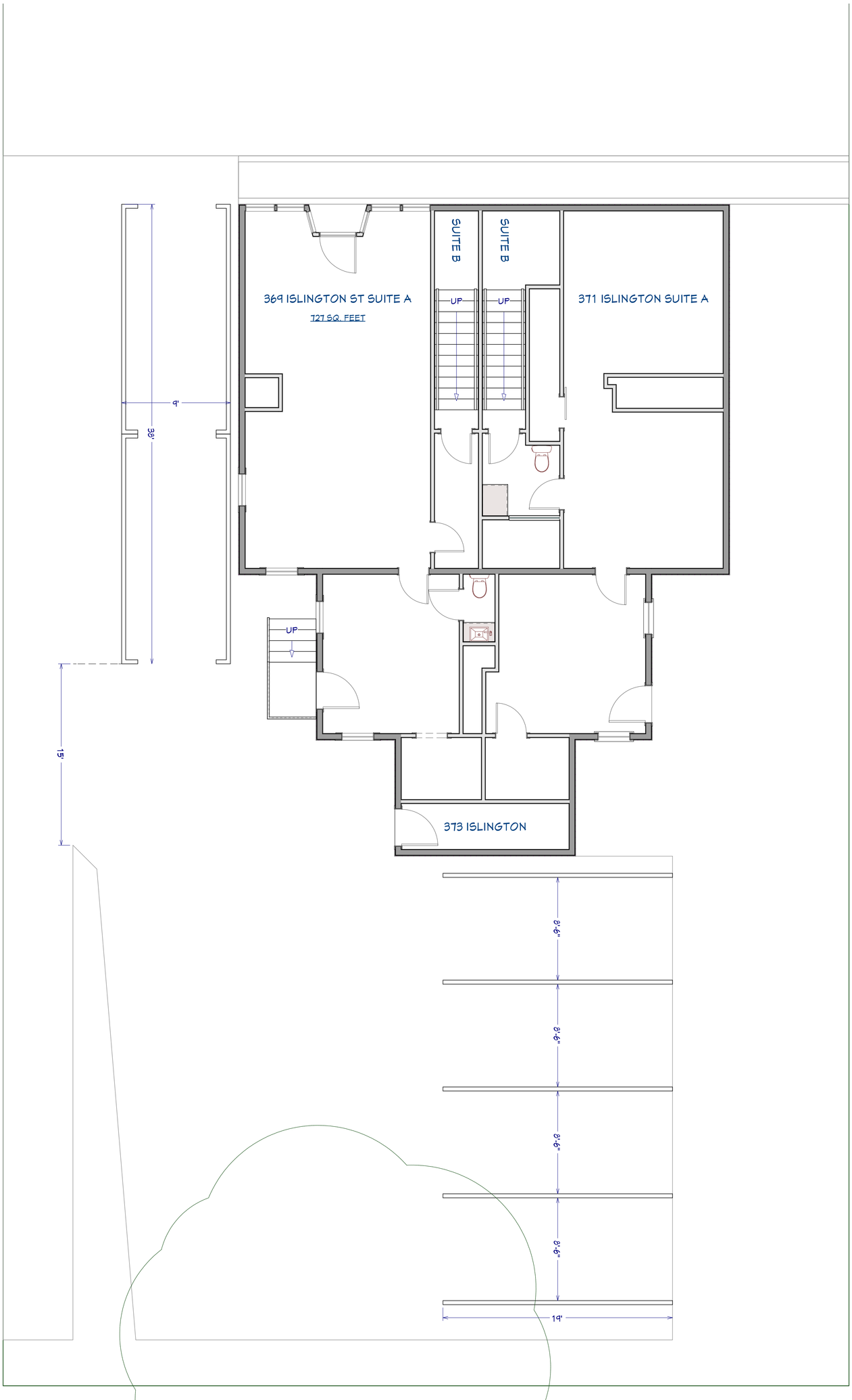
PROJECT NAME: 369 ISLINGTON ST SUITE A REMODEL

DRAWINGS PROVIDED BY: OPEN CONCEPTS KITCHENS & BATHS

DATE: 7/27/2026

SCALE: 1/4" = 1'-0"

SHEET: A-2



SHEET:	SCALE:	DATE:	DRAWINGS PROVIDED BY:	PROJECT NAME:	SHEET TITLE:
A-1	1/4" = 1'-0"	8/4/2026	OPEN CONCEPTS KITCHENS & BATHS	369 ISLINGTON SUITE A PARKING PLAN	SITE PLAN

NO.	DESCRIPTION	BY	DATE
00	PROPOSAL	JDA	8/4/26
01	REVISION	JDA	8/6/26

III. NEW BUSINESS

B. The request of **100 C Albany ST LLC (Owner)**, for property located at **100 Albany Street, Unit C** whereas relief is needed to establish a dog grooming operation which requires the following: 1) Special Exception from Section 10.521 Use #7.30 to allow a pet grooming service in a zone where it is allowed by special exception. Said property is located on Assessor Map 146 Lot 24-3 and lies within Character District 4-L2 (CD4-L2). (LU-26-117)

Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required
Land Use:	Retail	*Establish a dog grooming operation	Mixed Use
Estimated Age of Structure:	1962	Relief request(s) shown in red.	

*Use allowed by special exception

Other Permits/Approvals Required

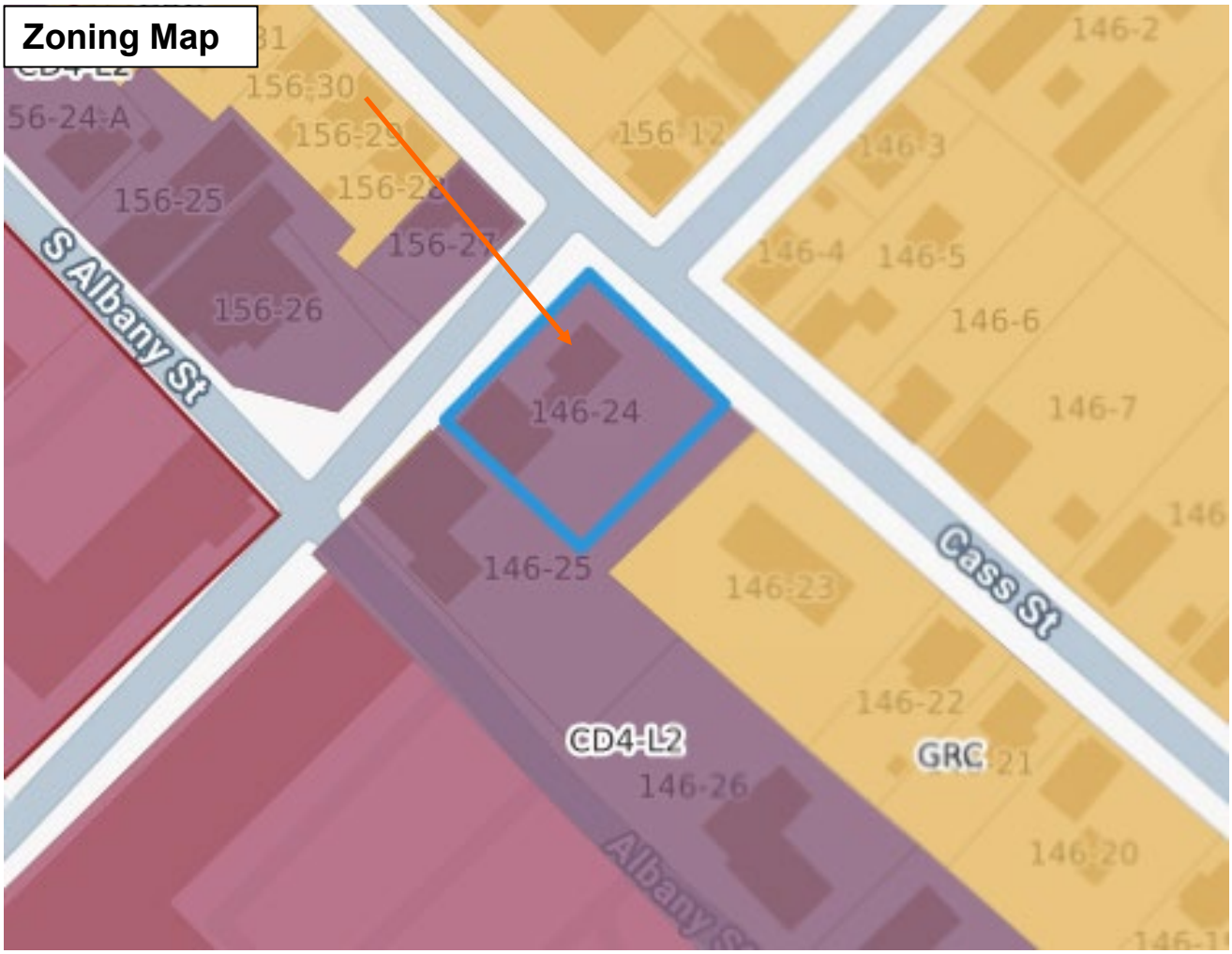
- Building Permit

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

March 17, 1987 – The Board **granted** the request to for a Variance from Article II, Section 10-206 to allow the construction of a new 2nd and 3rd floor (onto an existing building) in order to create two new dwelling units in a district whe the construction of dwelling units is now allowed.

September 20, 2011 – The Board **granted** the request for a Variance for the reconditioning and protection services for motor vehicles and a Special Exception for the same serves for home goods for the building identified on the City of Portsmouth tax card as 100 Albany St #C, Map 146, Lot# 124-003. The variance and special exception are granted with the following stipulations:

1. All the work is to be conducted inside the building; and
2. All water is to be contained on site and not allowed to drain into the City stormwater system.

Planning Department Comments

The applicant is proposing to establish a dog grooming service at the property address in question. The property consists of 2 buildings with a mix of residential and commercial units and parking in the rear of the property off Cass Street.

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.

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.

RECEIVED
SEP 14 2026
By 11:21am

City of Portsmouth

Attn: Stefanie Casella, Planner

Zoning Board of Adjustment

1 Junkins Ave

Portsmouth, NH 03801

Re: Variance or Special Application of 100 C Albany St, LLC

100 C Albany St (Unit 1)

Portsmouth, NH 03801

Dear Stefanie,

The purpose of this Variance or Special Exception Application is for the Special Exception of a pet groomer, Your Pet's Peeve, to occupy the above captioned space. I would point out that this pet groomer has been in operation directly across the street at 99 Albany St since 1989, and under the present ownership since 2003. They are moving due to necessity as their current building is being sold. Accordingly, this will create little, if any, change to the neighborhood.

Attached are the following:

1. Analysis Criteria (from section 10.232.20 of the Zoning Ordinance.)
2. Site layout. Map showing 100 Albany St. 100 Albany St and 112 Cass St make up the Mitrook Ice House Condominium Association. The parking for the association is located behind both buildings and is accessed from Cass St. 10 spaces per site diagram.
3. Photos of 100 Albany St and surrounding buildings.
4. Notification to the unit owners of the Mitrook Ice House Condominium Association.

Please let me know if further information is necessary. Thanks.

Sincerely,

Jonathan S. Wilson
100 C Albany St , LLC
39 Tansy Ave
Stratham, NH 03885

Zoning Ordinance

10.232.20 Special exceptions shall meet all of the following standards:

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

All known standards are met. Regarding noise, only one dog will be groomed at a time and dogs making excessive noise will be discontinued as customers. No kennel or boarding.

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

There are no flammable or combustible liquids, materials used in the dog grooming operation. There are no explosive materials or toxic chemicals used in the operation.

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

Your Pet's Peeve has been part of this neighborhood for over 30

years with no such issues to date.

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

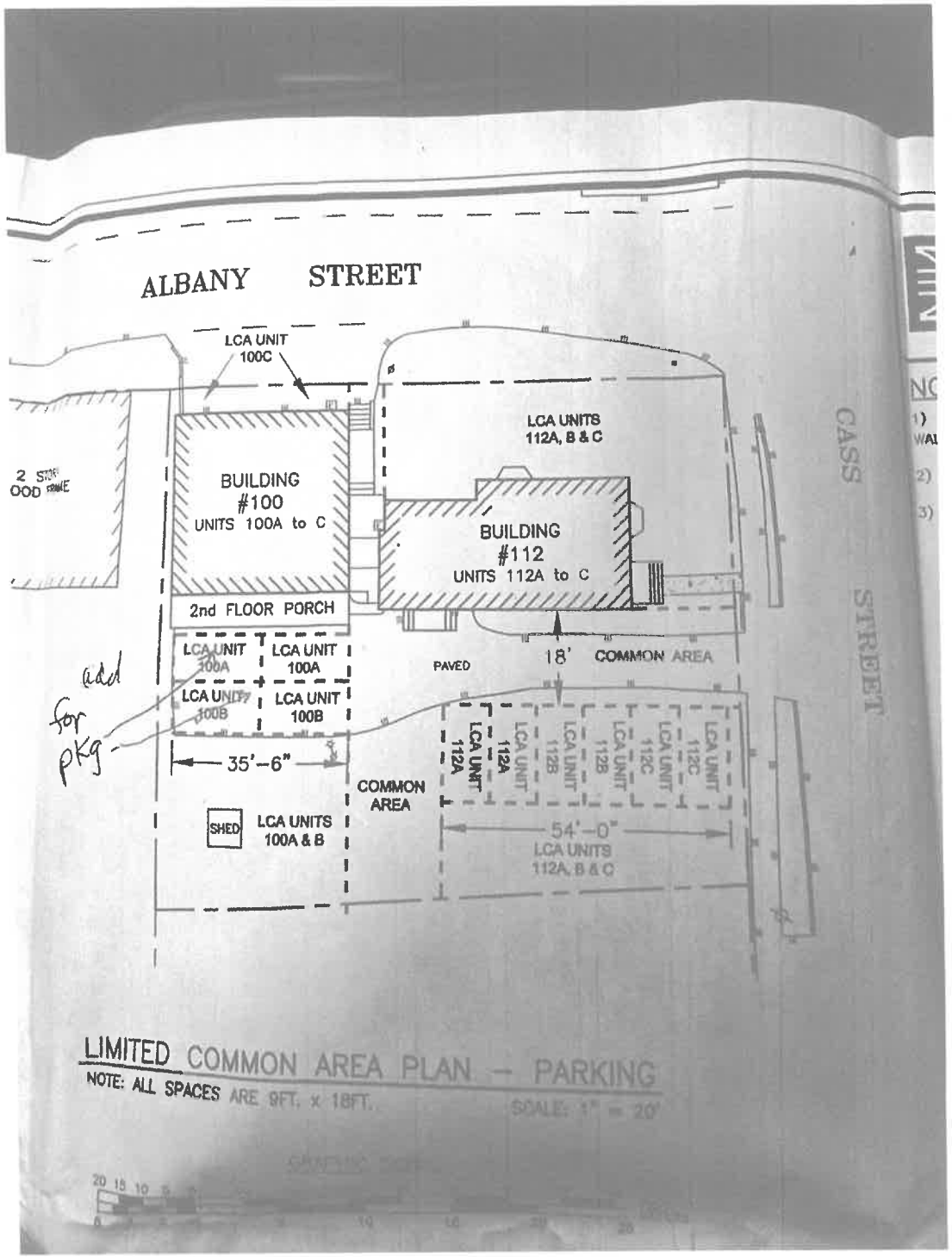
Increased traffic is not an issue. One customer at a time. Many customers are local and walk to the appointment.

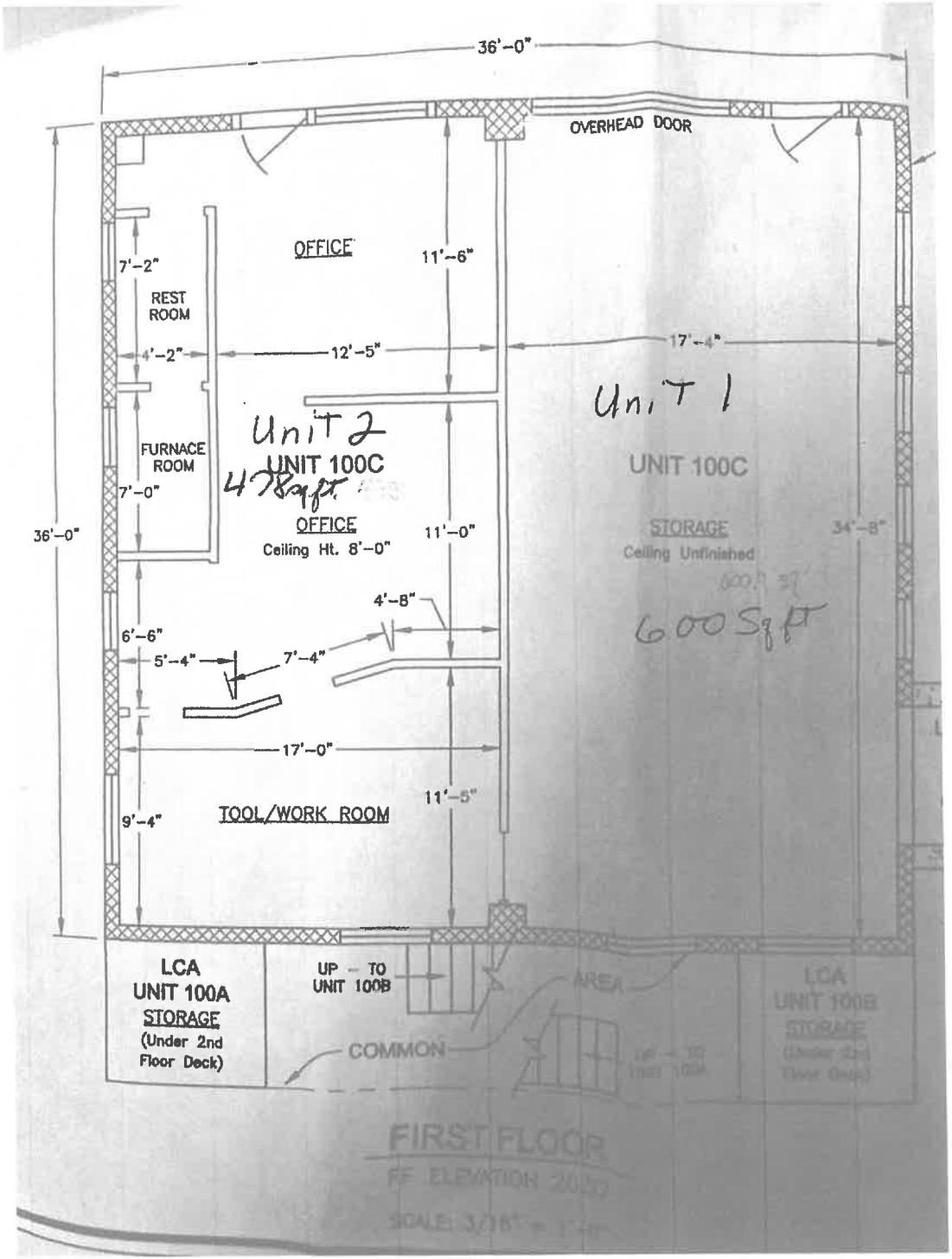
10.232.25 No excessive demand on municipal services, including but not limited to water, sewer, waste disposal, police and fire protection and schools; and

No issues.

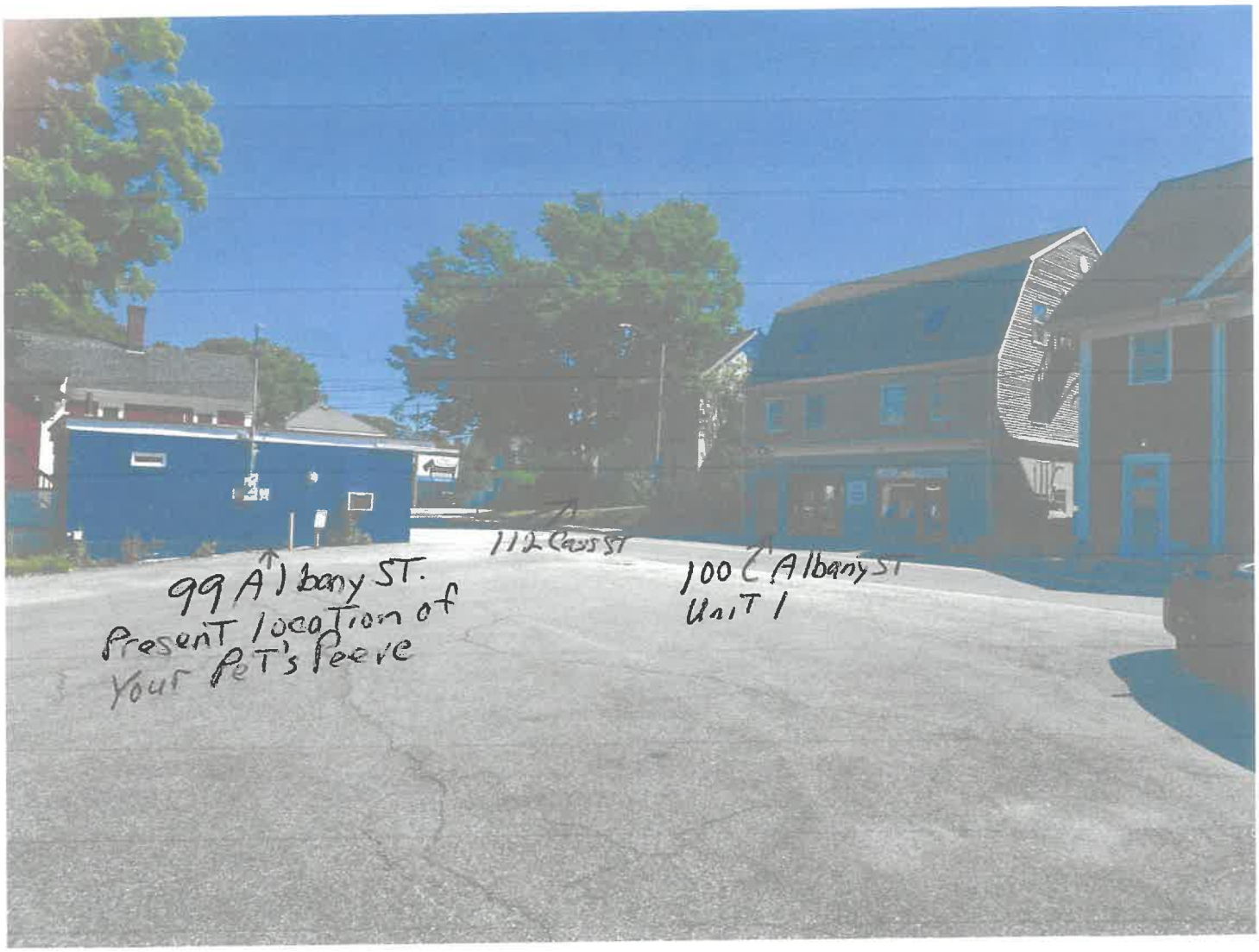
10.232.26 No significant increase in stormwater runoff onto adjacent property or streets.

No issues.


ALBANY STREET
CASS STREET
LCA UNIT 100C
LCA UNITS 112A, B & C
BUILDING #100 UNITS 100A to C
BUILDING #112 UNITS 112A to C
2nd FLOOR PORCH
LCA UNIT 100A
LCA UNIT 100A
LCA UNIT 100B
LCA UNIT 100B
PAVED
18' COMMON AREA
add for pkg
35'-6"
COMMON AREA
SHED
LCA UNITS 100A & B
LCA UNIT 112A
LCA UNIT 112A
LCA UNIT 112B
LCA UNIT 112B
LCA UNIT 112C
LCA UNIT 112C
54'-0"
LCA UNITS 112A, B & C
LIMITED COMMON AREA PLAN – PARKING
NOTE: ALL SPACES ARE 9FT. x 18FT.
SCALE: 1" = 20'


36'-0"
OVERHEAD DOOR
OFFICE
11'-6"
7'-2"
REST ROOM
4'-2"
12'-5"
17'-4"
Unit 2
UNIT 100C
478sqft
OFFICE
Ceiling Ht. 8'-0"
11'-0"
FURNACE ROOM
7'-0"
36'-0"
Unit 1
UNIT 100C
STORAGE
Ceiling Unfinished
34'-8"
600 Sqft
4'-8"
6'-6"
5'-4"
7'-4"
17'-0"
11'-5"
9'-4"
TOOL/WORK ROOM
LCA
UNIT 100A
STORAGE
(Under 2nd Floor Deck)
UP - TO UNIT 100B
COMMON
AREA
LCA
UNIT 100B
STORAGE
FIRST FLOOR
FF ELEVATION 20.50
SCALE: 3/16" = 1'-0"

RECEIVED
SEP 14 2026
By



100 Albany St



Property Information

Property ID	0146-0024-0003
Location	100 ALBANY ST #C
Owner	100 C ALBANY ST LLC

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 03/06/2026

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

JON WILSON <jonsw@comcast.net> 9/9/2026 10:04 AM

Zoning Special Exception-Pet Groomer @ 100 C Albany St

To sublimer@comcast.net <sublimer@comcast.net> • John Corgan <john.corgan@merck.com> • mkarpel177@gmail.com <mkarpel177@gmail.com> • becca.a.luz@gmail.com <becca.a.luz@gmail.com> • madrina137@yahoo.com <madrina137@yahoo.com>

Hello,
Now that I have all of the current owners and email addresses, you are being notified as fellow condo unit owners in the Mitrook Ice House Condominiums that I am applying for a Special Exception to the Portsmouth Zoning Ordinance. In general terms, we are located in Zone CD4-L2 which allows retail occupancies. A pet groomer is service occupancy which is a "permitted occupancy" under Article 4(7.30),but requires a Special Exception by the Portsmouth Planning Department. As part of the application, a condominium association must be notified and either approve or given the opportunity to voice concerns, objections, etc. This is your opportunity to hopefully voice your approval or let me know otherwise. I will assume no objections in the absence of a response by the date of the hearing, 10-16-26.
As mentioned previously, the proposed tenant is Your Pet's Peeve, which has operated across the street at 99 Albany St under the present ownership since 2003.They are moving as their present location is being sold.
Regarding noise, they only service one dog at a time. Any dog that makes excessive noise will be referred elsewhere. No kennel services. Hours are Tuesday-Friday,9-3, and Saturday, 10-3. Most customers are local with many walking to drop the pet off.
I have found Jennifer to be extremely conscientious and believe she will be an excellent tenant.
Please feel free to contact me with any questions, etc. Thanks.
Jon Wilson
100 C Albany St, LLC
603-479-4363

100 A Albany ST

Zoning Special Exception-Pet Groomer @ 100 C Albany St

JON WILSON <jonsw@comcast.net> 1:24 PM

To ROBERT WASON

Reply Forward Delete

Thanks, Robert !

> On 10/01/2026 1:14 PM EDT ROBERT WASON <sublimer@comcast.net> wrote:
>
> I approve
>
> > On 10/01/2026 12:48 PM EDT JON WILSON <jonsw@comcast.net> wrote:
> >
> > Hi Robert,
> > I have approvals from the other five unit owners. Any chance you could reply "I approve" to eliminate any issue. Thanks.
> > Jon Wilson
> > 100 C Albany St
> >
> > ---------- Original Message ----------
> > From: JON WILSON <jonsw@comcast.net>
> > To: sublimer@comcast.net, Corgan, John, mkarpel177@gmail.com, becca.a.luz@gmail.com, madrina137@yahoo.com
> > Date: 09/09/2026 10:04 AM EDT
> > Subject: Zoning Special Exception-Pet Groomer @ 100 C Albany St
> >
> > Hello,
> > Now that I have all of the current owners and email addresses, you are being notified as fellow condo unit owners in the Mitrook Ice House Condominiums that I am applying for a Special Exception to the Portsmouth Zoning Ordinance. In general terms, we are located in Zone CD4-L2 which allows retail occupancies. A pet groomer is service occupancy which is a "permitted occupancy" under Article 4(7.30),but requires a Special Exception by the Portsmouth Planning Department. As part of the application, a condominium association must be notified and either approve or given the opportunity to voice concerns, objections, etc. This is your opportunity to hopefully voice your approval or let me know otherwise. I will assume no objections in the absence of a response by the date of the hearing, 10-16-26.
> > As mentioned previously, the proposed tenant is Your Pet's Peeve, which has operated across the street at 99 Albany St under the present ownership since 2003.They are moving as their present location is being sold.
> > Regarding noise, they only service one dog at a time. Any dog that makes excessive noise will be referred elsewhere. No kennel services. Hours are Tuesday-Friday,9-3, and Saturday, 10-3. Most customers are local with many walking to drop the pet off. I have found Jennifer to be extremely conscientious and believe she will be an excellent tenant.
> > Please feel free to contact me with any questions, etc. Thanks.
> > Jon Wilson
> > 100 C Albany St, LLC

100 B Albany ST

Re: Occupancy change at 100 C Albany St

John Corgan <jcorgan@msn.com> 8/29/2026 8:09 PM

To JON WILSON, sublimer@comcast.net

Reply Forward Delete

Hi Jon, thanks for the details. No problem as far as I'm concerned.

John

From: JON WILSON <jonsw@comcast.net>
Sent: Saturday, 29 August 2026 17:11:27
To: sublimer@comcast.net <sublimer@comcast.net>; jcorgan@msn.com <jcorgan@msn.com>
Subject: Occupancy change at 100 C Albany St

Hi Robert & John,
One of the tenants in 100 C Albany St (Unit 1), Nest, is not renewing their lease effective 9-1-26. Word apparently travels fast and I have been approached by the dog groomer, Your Pet's Peeve, directly across the street. The building she has been in for 20 +/- years is being sold,and she is extremely interested in renting that space. I would point out the following:

1. Her hours would be 9-3. Tuesday - Friday. 10-3 Saturday.
2. No kennel services. Grooming only during stated hours.
3. She is very sensitive to noise issues. If any dog makes excessive noise, the customer will be directed elsewhere. They service only one dog at a time.
4. The majority of her customers are local with many walking to drop off.
5. Jennifer appears to be extremely conscientious, and I believe would be an excellent tenant. I intend to pursue approval through the City. My understanding through discussions with the City is that it is a permitted occupancy but requires application for Special Acceptance which is likely to be routine.

Please let me know if you have any questions. Thanks.
Jon Wilson
603-479-4363

Un.TA – 112 Cass ST.

Zoning Special Exception-Pet Groomer @ 100 C Albany St

JON WILSON <jonsw@comcast.net> 12:38 PM

To michael karpel

Reply Forward Delete

Thanks, Mike !

> On 10/01/2026 12:18 PM EDT michael karpel <mkarpel77@gmail.com> wrote:
>
> Hey Jon,
>
> I approve.
>
> Thanks,
> Mike
>
> On Wed, Sep 30, 2026 at 9:34 AM JON WILSON <jonsw@comcast.net> wrote:
>
> > Hi Michael,
> > Sorry to bother you again. Per below, the City is looking for approval by the condo association rather than simply notification. As our informal condo association has no president, I need indication of approval from the unit owners. If you could please respond to this email or the 9-9-16 email "I approve", it would be greatly appreciated. Please feel free to contact me with any questions. Thanks.
> > Jon Wilson
> > 100 C Albany St
> > 603-479-4363
> >
> > ---------- Original Message ----------
> > From: JON WILSON <jonsw@comcast.net>
> > To: "sublimer@comcast.net" <sublimer@comcast.net>, "Corgan, John" <john.corgan@merck.com>, "mkarpel177@gmail.com" <mkarpel177@gmail.com>, "becca.a.luz@gmail.com" <becca.a.luz@gmail.com>, "madrina137@yahoo.com" <madrina137@yahoo.com>
> > Date: 09/09/2026 10:04 AM EDT
> > Subject: Zoning Special Exception-Pet Groomer @ 100 C Albany St
> >
> > Hello,
> > Now that I have all of the current owners and email addresses, you are being notified as fellow condo unit owners in the Mitrook Ice House Condominiums that I am applying for a Special Exception to the Portsmouth Zoning Ordinance. In general terms, we are located in Zone CD4-L2 which allows retail occupancies. A pet groomer is service occupancy which is a "permitted occupancy" under Article 4(7.30),but requires a Special Exception by the Portsmouth Planning Department. As part of the application, a condominium association must be notified and either approve or given the opportunity to voice concerns, objections, etc. This is your opportunity to hopefully voice your approval or let me know otherwise. I will assume no objections in the absence of a response by the date of the hearing, 10-16-26.
> > As mentioned previously, the proposed tenant is Your Pet's Peeve, which has operated across the street at 99 Albany St under the present ownership since

Unit B - 112 Cass ST

Re: Zoning Special Exception-Pet Groomer @ 100 C Albany St

Becca Luz <becca.a.luz@gmail.com> 9/13/2026 8:43 AM

To JON WILSON

Reply Forward Delete

I approve
Becca Luz

> On Sep 11, 2026, at 3:42 PM, JON WILSON <jonsw@comcast.net> wrote:
>
> Hello,
> If I could get as many of you as possible to respond either "I approve" or "No objection", I would appreciate it. The City requested a letter from the Condo Association president, but to my knowledge we don't have one in our informal association. Your help is greatly

Unit C - 112 Cass ST

Occupancy change at 100 C Albany St

LT <madrina137@yahoo.com> 9/30/2026 9:49 AM

To jonsw@comcast.net

Reply Forward Delete

Hi Jon,
I'm sorry I haven't responded before, but I do approve.
Hope all goes well with this move for you.
Best,
Linda Thomsen
112 Cass St. Unit C

Yahoo Mail: Search, Organize, Conquer

> On Wed, Sep 30, 2026 at 9:08 AM, JON WILSON <jonsw@comcast.net> wrote:
>
> > Hi Linda,
> > I am sorry to bother you again. I sent an email to all of the unit owners in Mitrook Ice House Condominiums regarding my application to the City of Portsmouth for a pet groomer in unit 100 C Albany St. A letter of approval from the president of the condo association is typical, but we have no president in our informal association. Accordingly ,I have notified all of the unit owners. The City wants evidence of approval, not simply lack of objection.
> > Note Jennifer has been operating Your Pet's Peeve directly across the street from us for 23 years and that property is being sold.
> > Could you please respond to either this email or my 9-9-26 email "I approve".
> > If you have any questions, feel free to contact me. Greatly appreciated. Thanks!
> > Jon Wilson
> > 100 C Albany St
> > 603-479-4363
>
> > On 09/07/2026 3:03 PM EDT LT <madrina137@yahoo.com> wrote:
> >
> > Hi Jon,
> > Maeve was one of the previous owners of unit A.
> > My last name is Thomsen.
> > Thanks
> >
> > Yahoo Mail: Search, Organize, Conquer
> >
> > > On Mon, Sep 7, 2026 at 2:36 PM, JON WILSON <jonsw@comcast.net> wrote:
> > >
> > > > Hi Linda,
> > > > I emailed Becca and she advised that Unit A has also been sold to Michael Karpel.
> > > > So I have the ownership in 112 Cass St as follows:

III. NEW BUSINESS

C. The request of **Clever Beaumont Revocable Trust (Owner)**, for property located at **30 Salem Street** whereas relief is needed to remove the existing 5-foot fence and replace with a new 5-foot fence which requires the following: 1) Variance from Section 10.515.13 to allow a 5-foot fence in the front yard area. Said property is located on Assessor Map 144 Lot 35 and lies within the General Residence C (GRC) District. (LU-26-118)

Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required
Land Use:	Single-family Residential	*Install new fence	Primarily residential
Estimated Age of Structure:	1850	Variance request(s) shown in red.	

*Fences over 4 feet in height are not permitted in the front yard area

Other Permits/Approvals Required

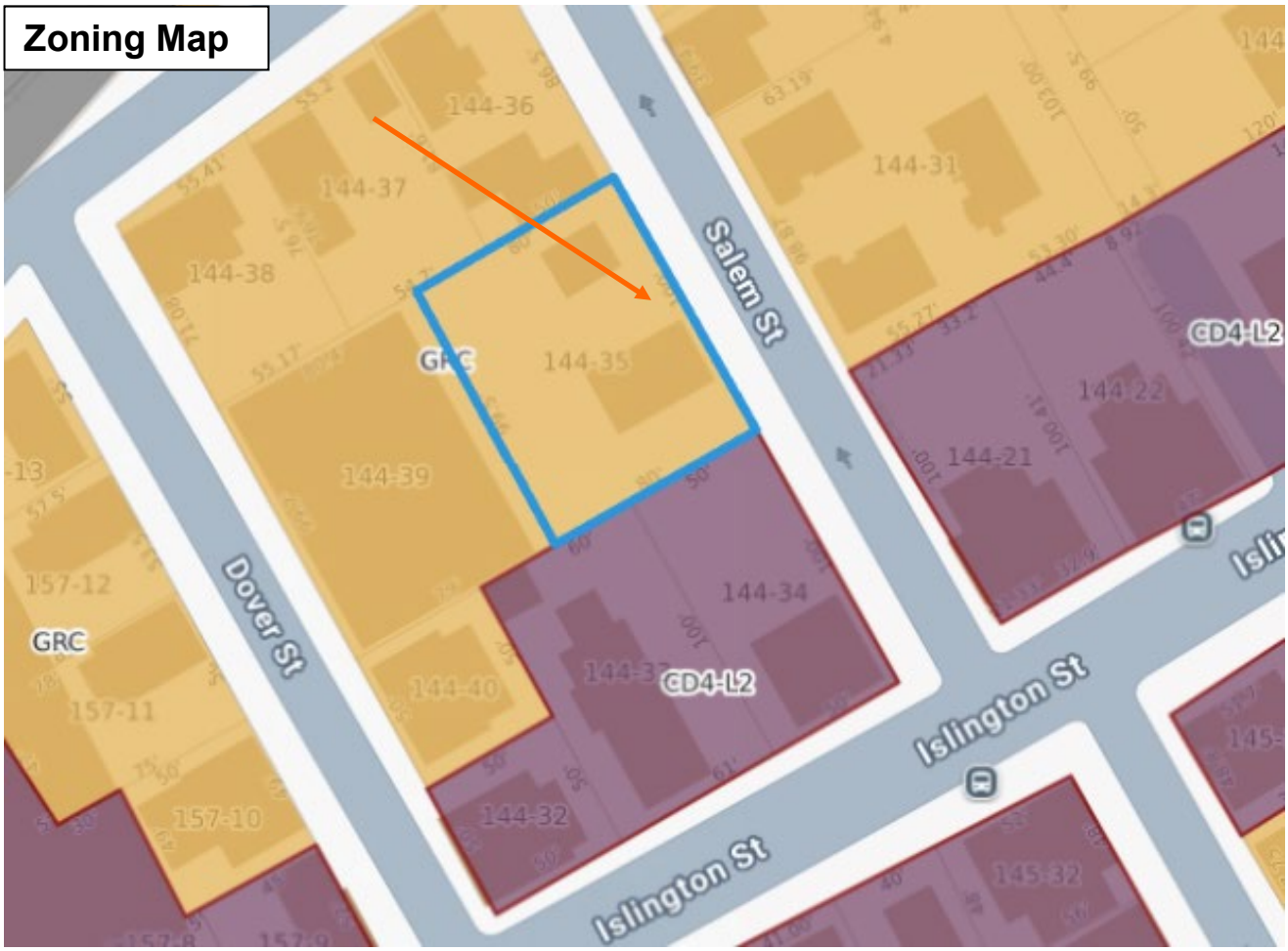
- N/A

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

No previous history found

Planning Department Comments

The applicant is proposing to remove the existing fence and replace it in kind which triggers conformance with Section 10.515.13. The applicant has provided details on the design of the fence including gated entry.

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.

30 Salem Street - Statement Supporting Front-Yard Setback Variance for Five-Foot Fence

We request a variance from Section 10.515.13 and the applicable front-yard setback requirement to permit the like-for-like replacement of all portions of the existing five-foot-high wooden fence located within the front-yard area at our home at 30 Salem Street. The requested relief includes the fence running generally along the Salem Street frontage and the short adjoining portions of the side fence runs located between the front lot line and the five-foot front-yard setback line, as shown on the revised variance plan. The replacement will be a cedar fence in the same location, at the existing five-foot height, and with substantially the same design.

Section 10.515.13 exempts fences no higher than four feet from front-yard requirements. Because the replacement fence will retain the existing five-foot height, the requested variance would permit all affected portions of the fence within the front-yard area to remain in their existing alignment rather than be relocated to meet the otherwise applicable five-foot front-yard setback. This request concerns only the portions of the five-foot fence located within the front-yard area, as depicted on the revised variance plan.

Purpose of Retaining the Existing Height and Location

The existing five-foot fence provides privacy, a clearly defined boundary, and an added measure of residential security. We estimate that it has occupied its current location for approximately twenty years. Our proposal would preserve its existing height, location, and general design.

Our home is situated in a railroad corridor and mixed-use neighborhood where people regularly pass through the area. The solid fence provides separation between this public activity and our private residential space. Retaining the existing five-foot height preserves a more substantial privacy screen and visible boundary than a four-foot replacement would provide.

We are two older women and visible members of the LGBTQ community, and we proudly display a pride flag at our home. The possibility of discriminatory harassment or targeted hostility contributes to our concern for personal safety. The existing fence provides reassurance and helps us feel secure and comfortable at home. We seek to preserve this established protection.

Relocating the affected portions of the fence to meet the applicable five-foot setback from the property line is not practicable throughout the front-yard area. The space available among the property line, house, driveway, sliding gate, established landscaping, gas meter, and enclosed outdoor areas varies along the frontage and adjoining side fence runs. Retaining the current fence alignment preserves the established relationship among these features and the use of the enclosed residential space.

1. The Variance Will Not Be Contrary to the Public Interest

The proposal is limited to replacing the affected portions of the existing fence within the front-yard area at their current height and location. It would maintain the established separation between private residential space and the public sidewalk without increasing the fence's height, extending its footprint, or changing the residential use of the property.

The replacement would retain the existing driveway opening, the fence's current relationship to the public sidewalk, and the existing connections between the frontage fence and the adjoining side fence runs. No change to the driveway access or existing fence alignment is proposed. The limited setback relief requested would therefore preserve, rather than materially alter, the established conditions within the front-yard area.

2. The Spirit of the Ordinance Will Be Observed

The requested relief is limited to permitting the existing five-foot fence within the front-yard area to remain in its established alignment. A like-for-like wooden replacement of substantially the same height, location, material, and design would preserve the existing appearance of the frontage and its relationship to the home, landscaping, and adjoining fence runs.

Preserving this established residential boundary is consistent with the Ordinance's purposes of protecting health, safety, general welfare, and neighborhood character. The proposal maintains the existing enclosure and access arrangement while permitting replacement of an aging wooden fence with a sound cedar fence.

3. Substantial Justice Will Be Done

Reducing the affected portions of the replacement fence to four feet would eliminate the need for setback relief, but it would also reduce the privacy and sense of security that the existing fence provides. Relocating the five-foot fence segments within the

front-yard area to meet the applicable setback would conflict with the constrained physical arrangement of portions of the property, require changes to existing features and fence connections, and compromise usable enclosed space.

Allowing the affected portions of the five-foot replacement fence to remain in their existing alignment throughout the front-yard area would preserve these residential benefits while maintaining the established dimensions and appearance of the enclosure. The loss to the property owners from reducing or relocating the affected fence segments would outweigh any public benefit obtained by requiring those changes under the particular conditions of this property.

4. The Values of Surrounding Properties Will Not Be Diminished

The proposed replacement would retain the existing fence's height, location, material, and general design. It would not create a larger enclosure, increase the extent of the dimensional relief, or introduce a different property use.

The proposal would replace an aging wooden fence with a sound cedar fence while preserving an established feature of the streetscape. The replacement would maintain the appearance and function of the existing residential boundary, and there is no reason to expect that it would diminish the values of surrounding properties.

5. Literal Enforcement Would Result in Unnecessary Hardship

The space available between the property boundary and the existing house, gas meter, driveway, sliding gate, landscaping, and enclosed outdoor areas varies throughout the front-yard area. The varying depth and constrained physical arrangement of the front-yard area constitute special conditions of this property. These conditions make it impracticable to establish a continuous and uniform fence alignment meeting the applicable five-foot setback without conflicting with existing features, disrupting the connections among the fence segments, or compromising usable enclosed space.

The sliding gate illustrates one such conflict. Its operating assembly includes two substantial galvanized steel posts embedded in the ground and associated hardware. Relocating this assembly would involve substantial work and could affect the paved driveway. The setback presents additional constraints elsewhere within the front-yard area, including where the frontage fence connects with the adjoining side fence runs. Retaining the existing fence alignment preserves the established enclosure, functioning gate, and use of the residential space.

These conditions must be considered together when applying the front-yard requirement to this property. Reducing the affected portions of the fence to four feet would diminish their established privacy and protective functions. Relocating the five-foot fence segments within the front-yard area to meet the applicable setback would disrupt the property's existing physical arrangement and reduce usable enclosed space. Given these special property conditions and the limited scope of the proposed replacement, no fair and substantial relationship exists between the general public purposes of the setback requirement and requiring the existing fence arrangement within the front-yard area to be altered at this property.

Replacing the affected portions of the existing residential fence like-for-like at the same five-foot height and location is a reasonable proposal. The requested variance would preserve the established enclosure and its residential function while limiting the relief to the portions of the five-foot fence located within the front-yard area, as depicted on the revised variance plan.

Property Location and Boundaries



Property Information

Property ID	0144-0035-0000
Location	30 SALEM ST
Owner	CLEVER BEAUMONT REV TRUST

: Property Boundary

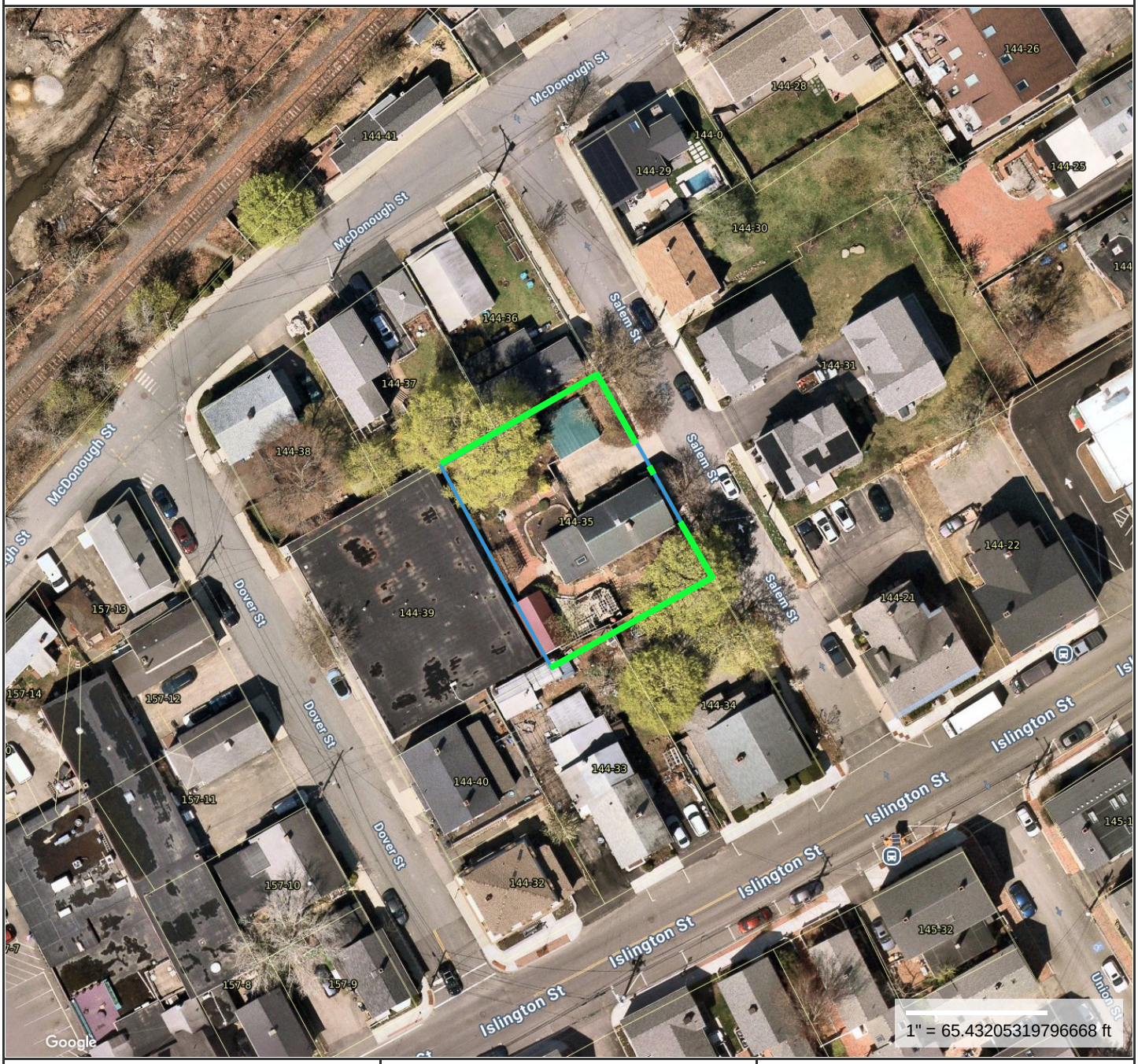
MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

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Geometry updated 09/15/2026

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

Location of Existing Wooden Fence



Property Information

Property ID	0144-0035-0000
Location	30 SALEM ST
Owner	CLEVER BEAUMONT REV TRUST

: Property Boundary

: Existing 5-Foot Wood Fence Along Property Boundary

MAP FOR REFERENCE ONLY
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Geometry updated 09/15/2026

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.

Variance Request Fence Location



Property Information

Property ID	0144-0035-0000
Location	30 SALEM ST
Owner	CLEVER BEAUMONT REV TRUST

: Property Boundary

: Front Yard 5 Foot Setback

: Existing 5-Foot Wood Fence Along Property Boundary

: Existing 5-Foot Wood Fence in Relief Area

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Geometry updated 09/15/2026

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.



Image illustrating the general style of the 5-foot high cedar colonial replacement fence that would be installed.



Our property frontage depicting existing 5-foot cedar fence and sliding gate.



Our property frontage depicting existing 5-foot cedar fence and sliding gate.



Existing 5-Foot cedar fence along our property frontage on the right side of our driveway.



Existing 5-Foot cedar fence along our property frontage on the left side of our house.



Steel sliding gate operating assembly for 5-foot cedar wooden gate.

III. NEW BUSINESS

D. The request of **Path Lab Inc C/O Labcorp (Owner),** and **Lilia Madden, PLLC (Applicant)**, for property located at **230 Lafayette Road, Unit 11D** whereas relief is needed to allow a medical office which requires the following: 1) Variance from Section 10.440 Use #6.20 to allow a medical office where the use is not allowed. Said property is located on Assessor Map 151 Lot 6-D11 and lies within the General Residence A (GRA) District. (LU-26-121)

Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required
Land Use:	Commercial	*Establish a medical office	Primarily residential
Estimated Age of Structure:	1969	Relief request(s) shown in red.	

*Medical offices are not permitted in the GRA District

Other Permits/Approvals Required

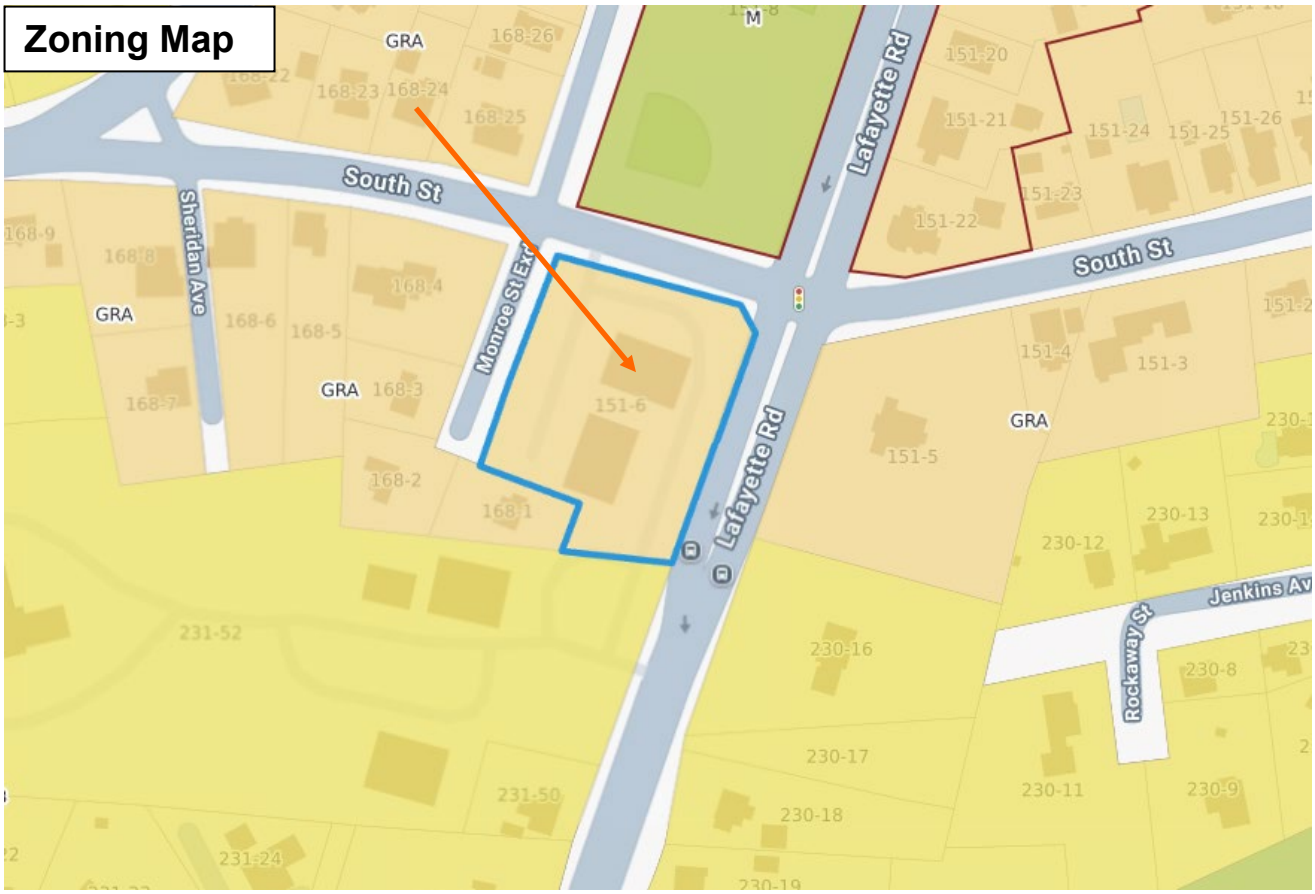
- Building Permit (Tenant Fit Up)

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

March 28, 1967 – The Board **granted** the request for the construction of a professional office building to include 8 professional office, a central pharmaceutical dispensary and clinical laboratory with the following stipulations:

1. Chains will be put across the entrance and exit upon closing;
2. The exit which is on Monroe St end of the proposed plan be eliminated and in its place greenery and shrubbery be placed on that particular corner;
3. Said shrubbery be at least 6 feet high, that an old tree presently on the property be removed and such shrubbery be placed along the back lot line; and
4. There will be no access and/or egress way allowed on South St and that such way be no more than 35 feet wide and no nearer than 40 feet from the Monroe St property lines.

February 26, 1985 – The Board considered the administrative appeal from the Building Inspectors decision that the applicant's proposed use does not constitute a professional office in a building where only professional offices are allowed. The Board voted that the Building Inspector's decision be **upheld.**

July 15, 2003 – The Board granted the following request: 1) Variance from Article II, Section 10-206 to allow Unit D12 to be used as a business office by Career Profiles (medical and general executive search company) in a district where such use was not allowed, and 2) Variance from Article XII, Section 10-1204 Table 15 to eliminate 1 required parking space for the proposed use where 246 parking spaces are provided onsite.

September 17, 2024 – The Board granted the request to establish a medical office in units 10 A and 10 B which require the following: 1) Variance from Section 10.440 Use #6.20 to allow a medical office use where it is not allowed.

Planning Department Comments

The applicant is proposing to establish a medical office in the existing building. The existing use in unit 11D is a clinical laboratory.

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.

Lilia Madden, PLLC
96 Osprey Drive
Portsmouth, NH 03801

September 18, 2026

Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

Subject: Request for Medical Office Variance

Dear Members of the Portsmouth Zoning Board of Adjustment,

I am respectfully requesting a variance to permit a medical office use for Unit 11D at 230 Lafayette Road in Portsmouth.

As communicated by the City, the property is located in the GRA District and the building is approved for professional office use, while my proposed use as a mental-health therapist is classified as a medical office and therefore requires a variance. The longtime owner of the condominium unit, Path Lab Incorporated (Labcorp), used the space for many decades as a clinical laboratory, providing in-person services to patients.

The proposed use is to provide psychotherapy as a Licensed Independent Clinical Social Worker (LICSW), conducted by appointment, in an office setting. There will be no expansion of the building or material exterior alterations. The surrounding offices in the building and broader professional park include numerous medical and mental-health professionals.

This request for a variance is justified on the following points:

1. Public Interest: The proposed use is a quiet, appointment-based psychotherapy practice and will not adversely affect the surrounding neighborhood or public. It is compatible with the existing professional and healthcare uses in Lafayette Professional Park, where other medical and mental-health professionals already practice. Allowing this use will maintain a consistent expectation for the buildings within the community, support the productive use of the existing space, and provide an additional mental-health resource to the community.

2. Spirit of the Ordinance: The variance would permit a medical office use within an existing professional office development without changing the physical character of the property. The proposed use is consistent with the unit's longstanding healthcare-related history and the current character of the surrounding development.

3. Substantial Justice: Granting the variance will allow the existing property to be used productively without imposing a meaningful burden on neighboring property owners or the public. The proposed use is consistent with other professional and healthcare uses already operating in the development.

4. Property Values: The proposed use will not diminish surrounding property values. There will be no expansion of the building or material alteration to its exterior, and the anticipated interior improvements will enhance the condition and functionality of the existing unit.

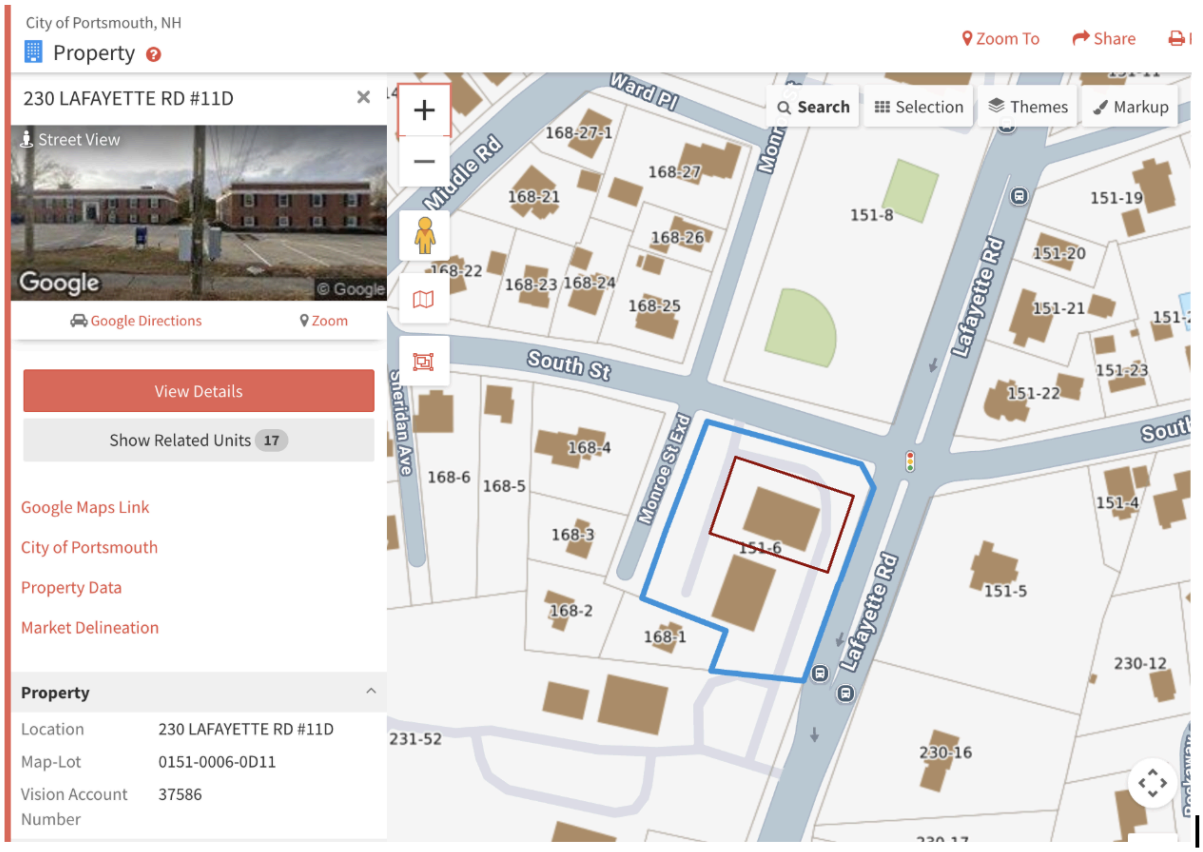
5. Unnecessary Hardship: Literal enforcement of the professional-office restriction would restrict this particular unit from being used for a quiet, appointment-based professional practice despite its longstanding healthcare-related history and the established presence of medical and mental-health professionals throughout the surrounding development. The requested variance would allow the existing unit to continue serving as a professional space in a manner consistent with its history, physical character, and surrounding uses.

For these reasons, I respectfully believe that the requested variance satisfies all five criteria and ask that the Board approve the application.

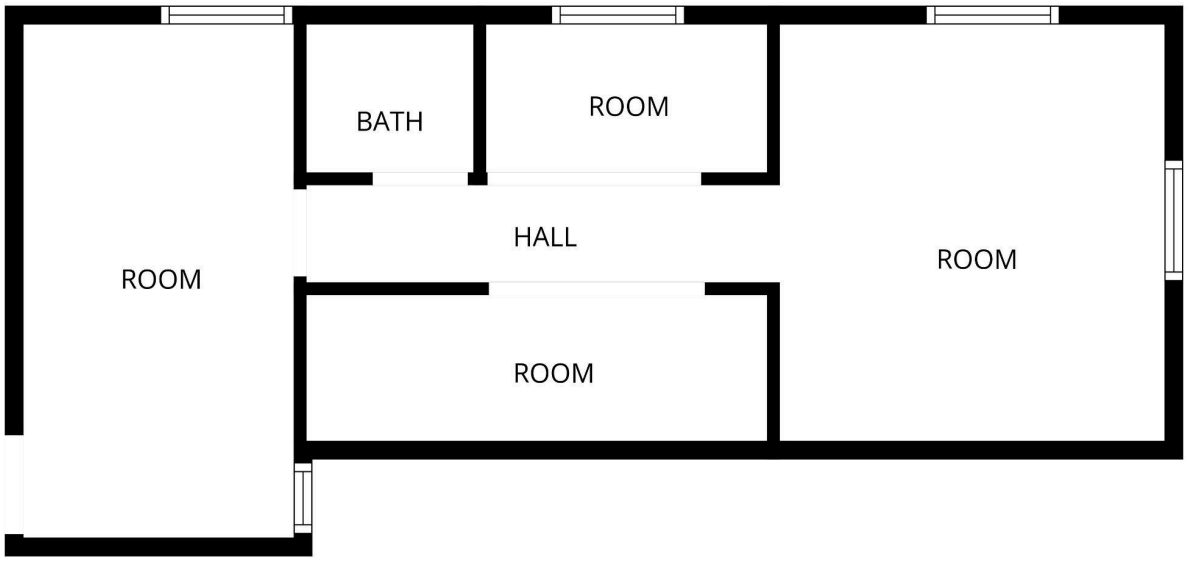
Thank you for your consideration.

Sincerely,

Lilia Madden - Lilia Madden, PLLC


City of Portsmouth, NH
Property
Zoom To
Share
230 LAFAYETTE RD #11D
Street View
Google
© Google
Google Directions
Zoom
View Details
Show Related Units 17
Google Maps Link
City of Portsmouth
Property Data
Market Delineation
Property
Location 230 LAFAYETTE RD #11D
Map-Lot 0151-0006-0D11
Vision Account Number 37586
Search
Selection
Themes
Markup
Ward Pl
Middle Rd
South St
Sheridan Ave
Monroe St Ext
Lafayette Rd
168-27-1
168-27
168-21
168-26
168-22
168-23
168-24
168-25
168-4
168-6
168-5
168-3
168-2
168-1
151-6
151-8
151-19
151-20
151-21
151-23
151-22
151-4
151-5
230-12
230-16
231-52





FLOOR PLAN CREATED BY CUBICASA APP. MEASUREMENTS DEEMED HIGHLY RELIABLE BUT NOT GUARANTEED.

OWNER AUTHORIZATION

To the City of Portsmouth, New Hampshire:

Path Lab Incorporated, a New Hampshire corporation ("**Owner**"), as owner of the real property commonly known as 230 Lafayette Road, Unit 11D, Portsmouth, New Hampshire (the "**Property**"), hereby authorizes Lilia Madden, PLLC, a New Hampshire professional limited liability company, which is the purchaser under that certain Purchase and Sale Agreement dated August 24, 2026, concerning the Property (the "**Buyer**"), and Buyer's employees, agents, consultants, attorneys, and other representatives, to act on Owner's behalf solely for the following limited purposes:

- Preparing, signing, submitting, and pursuing an application for a variance concerning the Property before the City of Portsmouth ("**City**"), including the Zoning Board of Adjustment; and
- Communicating with City staff and boards, submitting supporting materials, attending meetings and hearings, and taking other actions reasonably necessary to process such application.

This authorization is provided solely to establish Buyer's authority to submit and pursue the foregoing variance application. It does not authorize Buyer to convey, encumber, alter, or otherwise bind the Property or Owner, and it does not obligate Owner to incur any cost or expense. Any approval obtained through an application pursued under this authorization shall not obligate Owner to implement any condition or perform any approved work.

This authorization is effective as of the date below and shall automatically terminate upon the termination or expiration of the Purchase and Sale Agreement, unless Owner earlier revokes it in writing. The City may rely on this authorization until it receives written notice of its termination or revocation from Owner.

IN WITNESS WHEREOF, Owner has executed this Owner Authorization as of the date set forth below.

OWNER:

PATH LAB INCORPORATED, a New Hampshire corporation

By: Julie G. Schoenagel
Name: Julie Schoenagel
Title: Executive Director, Global Real Estate

Date: 09/21/2026



III. NEW BUSINESS

E. The request of **Colbea Enterprises LLC (Owner),** for property located at **1980 Woodbury Avenue** whereas relief is needed for signage which requires the following: 1) Variance from Section 10.1251.10 to allow for aggregate sign area greater than the maximum of 1.5' per linear foot of the building frontage establishment; and 2) Variance from Section 10.1252.40 to allow illumination of lightbars as canopy sign background distinguished only by color stripes. Said property is located on Assessor Map 239 Lot 11 and lies within the Gateway Corridor (G1) District. (LU-25-163)

Existing & Proposed Conditions

	Existing	Proposed	Permitted / Required
Land Use:	Gas Station/Convenience Store	*Add illuminated signage to canopy	Primarily Commercial
Aggregate Sign Area (sq. ft. per linear foot of bldg. frontage)	135.75 (Without canopy band)	789.39	240 max. (1.5/linear foot)
Estimated Age of Structure:	2026	Variance request(s) shown in red.	

*

Other Permits/Approvals Required

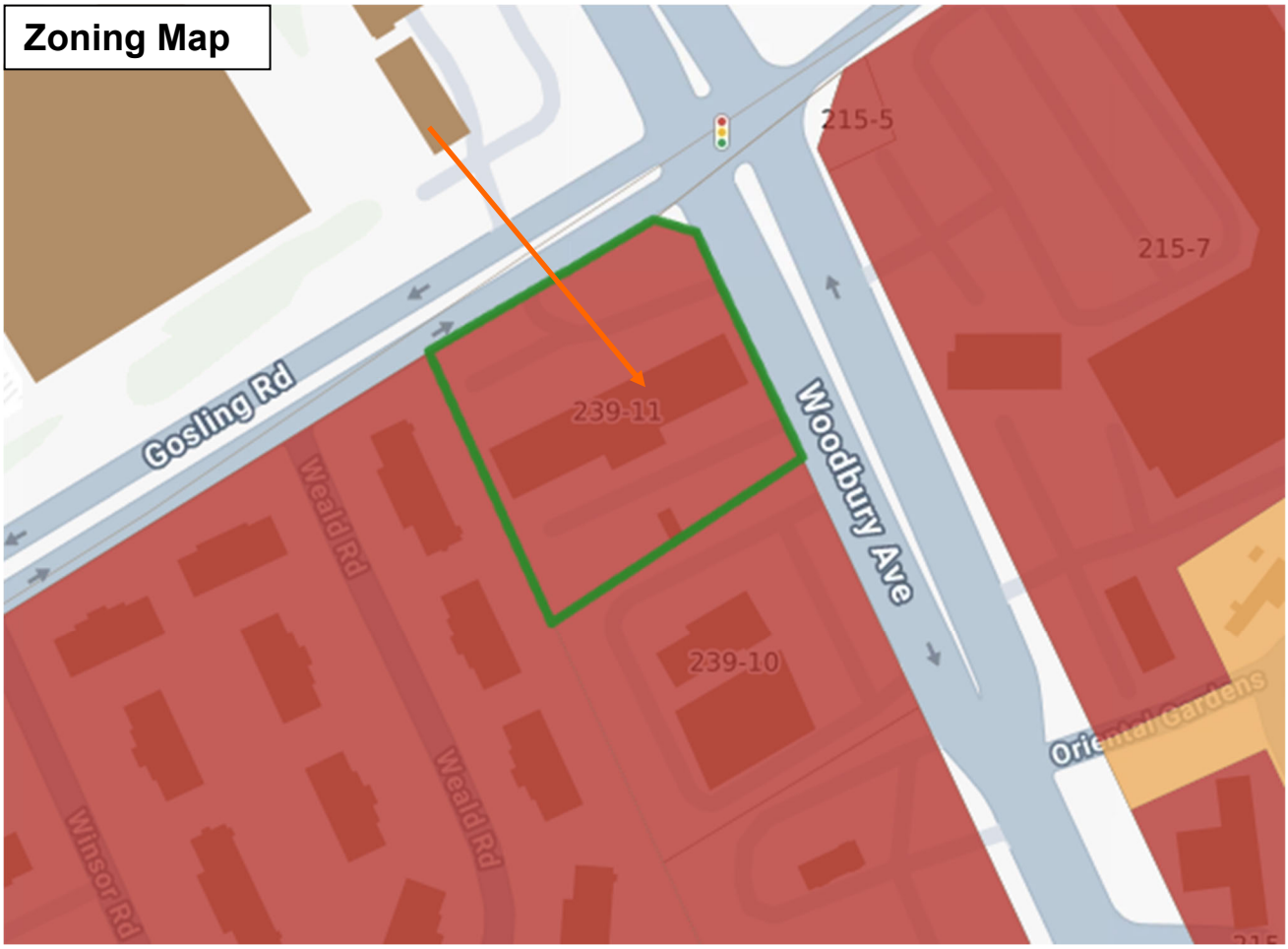
- Sign Permit

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

July 18, 1995 – 1) A Special Exception as allowed in Article II, Section 10-206(17) to construct an entire new gasoline service station facility with a 40' x 45' convenience store, a 36' x 175.85' canopy and a 10' x 24' storage building, and 2) a Variance from Article II, Section 10-302 to allow the canopy: a) a 67.3' front yard where 70' is the minimum required, b) a 14.3' right side yard where the minimum is 30', and; c) a 9.2' left yard where the minimum is 30', 3) a Variance from Article II, Section 10-402(1) to allow the storage building a 6' rear yard where 10' is the minimum required, 4) a Variance from Article II, Section 10-206 to allow the outdoor storage of two 1000 gallon propane tanks where such use is not allowed, and; 5) a Variance from Article IX, Section 10-901 to allow: a) a 72.3 s.f. freestanding sign at the corner of Gosling Road and Woodbury Avenue with a 10' setback where 35' is required, and; b) a 72.3 s.f. freestanding sign abutting Gosling Road on the right side of the property with 0' front and 25'± side yards where 35' is the minimum required.

The Board voted to **grant** the request for a Special Exception and Variances #2 and #3 as advertised and presented. The Board voted to **grant** the request for Variance #5 with the **stipulation**:

1. That the 72.3 s.f. freestanding sign abutting Gosling Road on the right of the property be maintained with a 5' front yard rather than a 0' front yard.

The Board voted to **deny** the request for Variance #4 as advertised and presented.

April 22, 2025 – The board voted to **grant** a Special Exception from Section 10.440, Use #8.122 to allow a convenience goods 2 use with 24 hours per day operation

July 15, 2025 - 1) Variance from Section 10.5B33.20 to allow for a front lot line build out of 0% where a minimum of 75% is required for a commercial building; 2) Variance from Section 10.5B34.60 to allow for a front setback from the lot line of 27 feet on Woodbury Avenue and 53.5 feet on Gosling Road where a maximum of 20 feet is required; 3) Variance from Section 10.5B83.10 to allow for parking spaces to be located between the principal building and the street; 4) Variance from Section 10.835.31 to allow outdoor service facilities to be located within 34.5 feet and 40.5 of a lot line where 50 feet is required; 5) Variance from Section 10.835.32 to allow for drive-through lanes, bypass lanes and stacking lanes to be located within 13 feet of the property line where 30 feet is required; 6) Variance from Section 10.843.33 to allow for pump islands to be located within 34.5 feet of the lot lines where 40 feet is required; 7) Variance from Section 10.1251.10 to allow for an aggregate sign area of 309 s.f. where a maximum of 223.5 s.f. is allowed; 8) Variance from Section 10.1251.20 to allow a 134 s.f. freestanding sign where a maximum of 100 s.f. is allowed; and 9) Variance from Section 10.1253.10 to allow for a freestanding sign at a height of 26.5 feet where a maximum of 20 feet is allowed. Said property is shown on Assessor Map 239 Lot 11 and lies within the Gateway Corridor (G1) District.

The Board voted to **grant** Variances 1, 2, 3, and 6 as presented and advertised only. The Board voted to **deny** Variances 4 and 5 as presented and advertised, because the request was not consistent with the spirit of the ordinance and failed to meet the hardship criterion.

The Board voted to **deny** Variances 7, 8, and 9 as presented and advertised, because the special conditions of the property don't support the variances, so it failed the hardship criterion.

February 18, 2026 – The Board granted the application for the property located at 1980 Woodbury Avenue whereas relief is needed to demolish and redevelop an existing gas station and convenience store which requires the following: 1) Special Exception from Section 10.440, Use #8.122 to allow a convenience goods 2 use with 24 hours per day operation; 2) Variance from Section 10.5B33.20 to allow for a front lot line build out of 0% where a minimum of 75% is required for a commercial building; 3) Variance from Section 10.5B34.60 to allow for a front setback from the lot line of 27 feet on Woodbury Avenue and 36.5 feet on Gosling Road where a maximum of 20 feet is required; 4) Variance from Section 10.5B83.10 to allow for parking spaces to be located between the principal building and the street; and 5) Variance from Section 10.843.33 to allow for pump islands to be located within 37 feet of the lot lines where 40 feet is required.

Planning Department Comments

The applicant is proposing to increase the amount of signage on the property by means of a lighting band around the canopy. Section 10.1252.40 outlines that all illuminated area shall be included in the sign area of a canopy sign. It provides an exception for *non-illuminated* areas that are distinguished from the background only by color stripes. The applicants request for relief is for the illuminated band along the background color stripes to be excluded from the sign area of the canopy sign. Staff advertised this project in the same way other gas station canopy signs have been advertised in the past.

For the Boards reference, section 10.1252.40 has been provided below.

10.1252.40 The sign area of a canopy sign shall include all text and symbols, whether or not illuminated, and all illuminated areas; but shall not include non-illuminated areas that are distinguished from the background only by color stripes

The applicant also requested relief from the following Sections of the Sign ordinance in two separate submissions, out of an abundance of caution:

Section 10.1251.10 – maximum aggregate sign area of 1.5 linear foot of building frontage per establishment.

Section 10.1251.20 – maximum sign area of 20 SF per canopy sign.

Staff notes that relief from these two sections of the Ordinance is unnecessary if the requested relief from 10.1252.40 is granted, as the illuminated color band will not count towards the canopy sign area. If the Board does not grant the variance from 10.1252.40, staff recommends the public hearing is continued to the November BOA meeting to allow for proper notice of both 10.1251.10 and 10.1251.20 and consideration of this separate submission.

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.

VARIANCE #2 from PZO 10.1251.10 and PZO Section 10.1252.40

Relief Requested

The Applicant (*Colbea, LLC)* request a variance from the ***Portsmouth Zoning Ordinance ("PZO") Section*** **PZO 10.1251.10**, to allow for a greater aggregate sign area than the maximum area of 1.5' per linear foot of the building frontage per establishment (Sign District #5). Under the PZO, 240 Square Feet ("SF") is allowed and the Applicant requests relief to allow for an aggregate sign area of 789.39 SF.

Acknowledging that the requested square footage seems quite high, the number is, nonetheless, deceiving for the reasons that follow and is being requested out of an abundance of caution.

The amount of requested square footage is due to calculating 'light spillage' from the colored areas of the Canopy Sign Area. Stated more particularly below, the light spillage will likely be less than what is being requested, however, it is nearly impossible to calculate the square footage when the 1" LED Red/Yellow Stripe ("Stripe(s)") is illuminated. Illuminating the Stripes is the impetus for this request. If the calculation were only based on the size of the 1" Stripe, the sign would otherwise comply with the PZO.

In fact, if the Applicant were to exclude the Stripe all together but calculate the aggregate signage of the pectens and, all other signage for the Property, the total aggregate signage would 135.75 SF, which is well below the allowed 240 SF.

Property Background/Facts

The Applicant is the owner of 90 Gosling Road (*formerly 1980 Woodbury Avenue*) in Portsmouth, NH, which is sometimes referred to as Tax Map 239, Lot 11 (the "Property").

The Property is zoned Gateway Corridor ("G1" (*a Mixed Residential District*)) and sits right on the border of Portsmouth and Newington, NH.

The Applicant has secured all permitting to begin construction of its own brand of fueling station, *Season's Corner Market*.

The Property is a corner lot with ingress/egress along both Gosling Road, as well as Woodbury Avenue.

Current Approved Sign Permit

The Applicant has secured a sign permit that is allowed under the PZO, however, for reasons stated below the approved signage is far larger and more intensive than what the Applicant would prefer and, consequently, the PZO permits the 'larger' ask but does not permit the preferred *smaller* ask.

Currently, the approved permit (*Permit attached as* Exhibit "A") allows the Applicant to have a Canopy sign that nets 142.75 SF that counts towards the total aggregate sign area for the Property.

The approved sign permit, includes 4 Pectens, as well as a total of 4 separate illuminated Stripes. *See* Exhibit "B" (*Sign Plan as currently allowed*). The Stripes are 'broken up' in order to comply with PZO's aggregate sign area requirement of a maximum of 240 SF. Likewise, to fill in the space between said breaks, additional Pectens were added (totaling 4), which also comply with the PZO.

The Applicant would prefer to have a longer contiguous Stripe, as well as only 2 Pectens. Thus, a less intensive sign. *See* Exhibit "C" (*Sign Plan as proposed*).

However, if the Stripe were permitted as the Applicant desires, the longest band would be 460.74 SF and the shorter band would be 192.90 SF, thus increasing the aggregate sign area to 789.39 SF[1] – even though this alternative plan equals 2 Pectens with 2 longer Stripes *v*. 4 Pectens with 4 broken up Stripes.

Furthermore, relief is also needed relative to the *illuminated area* as per PZO Section 10.1252.40 (Canopy Sign Area). The Stripe is illuminated and, thus, the City considers it part of the aggregate sign area. *See* Exhibit "D" (*Example of sign at night*).

Illumination is understandably difficult to measure. The Applicant has added a dimmer in an effort to reduce light 'spillage.' However, it is near impossible to measure the size – or the square footage – of ambient light and its spillage. Indeed, even as a layperson understands that light spillage is impacted by so many exterior factors such as cloud cover, sun/moon light, other signage light in the vicinity, street lights, etc.

Thus, the Applicant is requesting relief from having PZO Section 10.1252.40's provisions relative to "illuminated areas" being counted against any of the Canopy Sign Area's size calculations.

Variance Criteria

Portsmouth Zoning Ordinance ("PZO") Sections

PZO 10.1251.10 and PZO Section 10.1252.40

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

[1] This figure is conservatively based on calculating the entire face of the Fascia Board when illuminated.

The standard for prongs one and two of the variance criteria is whether the requested relief, if granted, will ***alter the essential character of the neighborhood*** or ***negatively impact the health, welfare, and safety of the surrounding area*** and ***mere conflict with the terms of the ordinance is insufficient*** as all variance requests are somewhat averse to an ordinance, hence why the relief is sought in the first instance. Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011).

Furthermore, it important to note that prong 1 is in the negative. That is to say that it does not require the Applicant to prove that the proposed use is IN the public interest, but only to prove that it is NOT CONTRARY TO the public interest.

Here, the immediate ask is to allow for a maximum aggregate sign area of 789.39 SF feet where 240 SF is allowed.

The surrounding area contains many commercial properties and, likewise, many signs. The proposed project contains within it several businesses such as the co-brand food/beverage service, fuel pumps, and a convenience store.

The proposed sign is the Applicant's standard sign.

The proposed sign will be appropriate for the Zone and it will not alter the overall esthetic of the area since the area is commercial. Moreover, the proposed sign herein will be a less intensive use than what is already permitted. *See* Exhibit "A."

Consequently, there is no reason to believe that by granting this variance it would *alter the essential character of the neighborhood* since a fueling station/convenience store has been in place for so many years and there are many large signs in the area.

Similarly, given that the same use has been active on this Property for so many years there is no reason to suspect or to conclude that an approval would *negatively impact the health, welfare,*

and safety of the surrounding area. Indeed, there is simply no evidence to point to that would suggest the public is at any risk.

Moreover, this ask is only in *mere conflict* with the PZO.

2. <u>If the variance were granted, the spirit of the ordinance would be observed because</u>:

As a matter of law, the analysis for both prongs one and two of the Variance criteria are the same. As such, the Applicant incorporates and repeats the narrative of Prong 1 (above) and reiterates the same for Prong 2. <u>Harborside Associates, L.P. v. Parade Residence Hotel, LLC</u>, 162 N.H. 508 (2011).

3. <u>Granting the variance would do substantial justice because</u>:

Perhaps the only guiding rule [on this standard] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. <u>Malachy Glen Assocs. v. Town of Chichester</u>, 155 N.H. 102, 109 (2007).

Here, the loss to the Applicant in not approving this variance would far outweigh any benefit to the general public.

The ask here results in a slightly larger Canopy Sign Area that, likewise, adds to the overall aggregate sign area – despite that the proposal is more subdued than what is approved.

The proposed Canopy Sign will help bring in customers to the Property and it will not obstruct any views and/or sightlines.

If denied, the public gains nothing, as this Proposal will be less intensive than what is already permitted.

4. **<u>If the variance were granted, the values of the surrounding properties would not be diminished because</u>:**

The surrounding area is zoned to allow for the fueling station and there has been a convenience store in site for decades and, moreover, there is another convenience store/fueling station directly across the street on the Newington side of Gosling Road. As such, this is an appropriate use for the area.

Very plainly, there is no evidence to suggest that granting this relief would negatively impact the surrounding property values.

5. **<u>Unnecessary Hardship</u>:**

"Hardship," under NH RSA 674:33, I (b) (1) (A) and (B) is a straight forward three step analyses;

a. What are the special conditions of the property, if any;
b. 'No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property,' **<u>which can be said another way that if the variance is granted *would it unreasonably frustrate the purpose ordinance*</u>**; and,
c. Is the proposed use reasonable?

First, the special conditions (a) are satisfied due to the small size of the Property and the use that has historically existed at this location for decades.

The Property is a corner lot that is well suited for the in/out traffic that is inherit of a fueling station/convenience store.

What is being proposed is less intensive than what the Applicant is already permitted to do and furthermore, there is no objective manner to measure the ambient light from the illuminated Stripe. As such, the PZO's objective measurement requirement as to illuminated areas resulting in light spillage, in essence, becomes the hardship.

To the extent that any residential areas will be impacted by the Proposal there is already adequate screening. This Property is quite literally the Gateway from Newington into Portsmouth and is surrounded by several other commercial properties that would be expected to be in the vicinity of a fueling station.

Next is (b), whether "[n]o fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property." *See* NH RSA 674:33, *et seq*. Or, again, if the variance is granted will it ***unreasonably frustrate the purpose of the PZO***.

The purpose and goals of the applicable ordinance is to ensure that signage does not get too large, too many, too unsightly, or cause any too many distractions.

Here, recognizing that a request for 789.39 SF would appear to be a large ask, the extra square footage, the signage will not be abnormally large in comparison to many signs in the area. Furthermore, the proposal will appear smaller than what is approved even if the technical SF measures greater than what is allowed. We contend the sign will be attractive as the Applicant has several similar businesses located throughout New England.

Overall, we contend that what the Applicant is asking for with respect to this relief will not unreasonably frustrate the purpose of the PZO and is, indeed, appropriate for a fueling station.

Lastly (c), the proposed use for the Property is for a fueling station and the applicable Zone allows for that use and, to the extent further relief is needed for the convenience store piece, such a use has been present for so long that the proposed use is reasonable.

Exhibit "A"

City of Portsmouth
Sign Permit

Inspection Department
1 Junkins Avenue
Portsmouth, NH 03801
603-610-7243

Permit Number:
SIGN-26-47
Date of Issue:
September 11, 2026
Expires:
September 11, 2027

Owner: COLBEA ENTERPRISES LLC
Applicant: Megan Monday
Contractor: , Advanced Signs **Phone #:**
Location: 1980 WOODBURY AVE
Description of Project:
Signage for Shell "Seasons" Gas Station & Convenience Store, 1980 Woodbury Avenue

Signage to Include:

Install Seven (7) Signs as per plan by TFM, Labeled Sign Plan Proposed Gas Station & Convenience Store, 1980 Woodbury Avenue, dated November 17, 2025, REV 4: 3/11/2026. **(Total SF of 13 Signs= 195.8)**

Sign A: New Monument Sign: Install One (1) Internally Illuminated 78" x 96-3/8" "Shell Logo, Seasons Logo and digital pricing section as per plan by Federal Heath, labeled Shell- 1980 Woodbury Ave, Sheet S-1 & S-2, dated 23Mar26, REV D- 04JUN26. (first foot of monument sign not included in sign area) **(52.17 SF)**

Sign C: New Wall Sign: Install One (1) Internally Illuminated 288" (W) x 42" (H) Wall Sign "SEASONS" Logo used as "O" **(84 SF)**

Sign D: New Wall Sign: Install One (1) Non-Illuminated, 188" (W) x 10-5/8" (H) "Corner Market" **(13.83 SF)**

Sign E: New Wall Sign: Install One (1) Internally Illuminated 85" (W) x 30" (H) "Co-Brand Sign" **(17.70 SF)**

Sign F: New Canopy Signs: See revised renderings for updated measurements

- Install four (4) Internally Illuminated 37.38" (H) x 34.76" (W) " Pecten Sign" "Shell Logo" (**9.1 SF) (Total of 4= 36.4SF)**
- Install two (2) Internally Illuminated 3" (H) x 70' 1" (W) Red/Yellow Stripes **(17.52 SF) (Total of 2 = 35.04 SF)**
- Install two (2) Internally Illuminated 3" (H) x 40' 1" (W) **(3.34 SF) (Total of 2 = 6.68 SF)**

Sign G: New Wall Sign: Install One (1) Non-Illuminated 6" (H) x 51" (W) "Welcome" **(2.13SF)**

Monument and wall signage for rebuild of gas station/c-store for Colbea Enterprises

Total Sign Area: 195.8
Total Number of New Signs: 13

Sign Type(s):

- Free-Standing
Wall / Attached
Wall / Attached
Wall / Attached
Canopy
Canopy
Wall / Attached
Canopy
Canopy
Canopy
Canopy
Canopy
Canopy

Remarks:

-

The PERMIT HOLDER has read this permit, the permit application, and the Building Official's marked-up plans and agrees to perform the work authorized including any conditions or requirements indicated thereon; and any stipulations imposed by a Land Use Board in conjunction with the project.

Code Official:

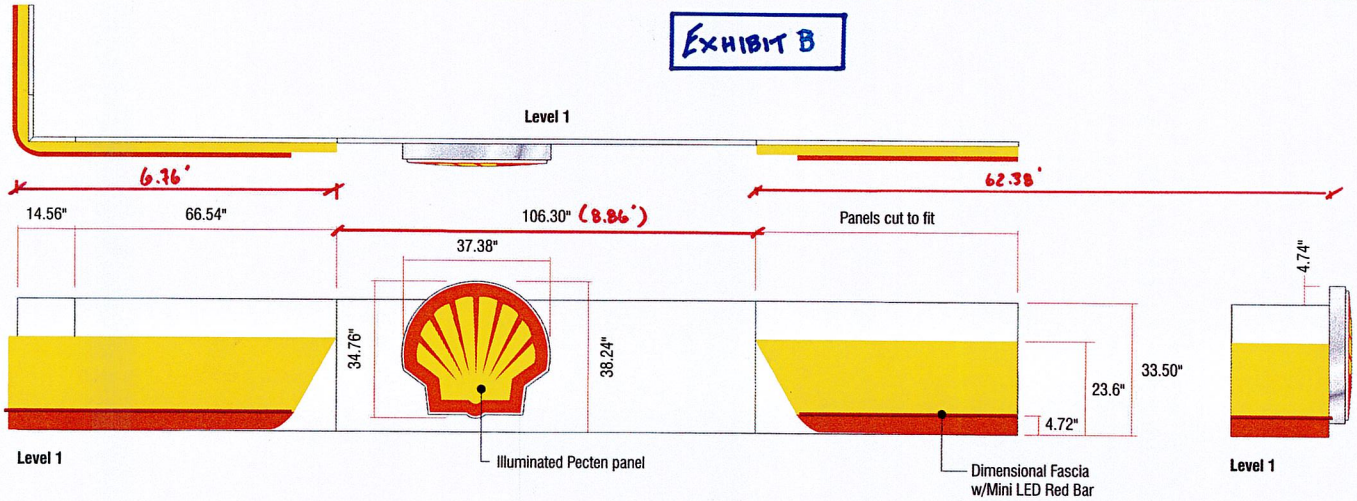
Paul Garand

This is an e-permit. To learn more, scan this barcode or

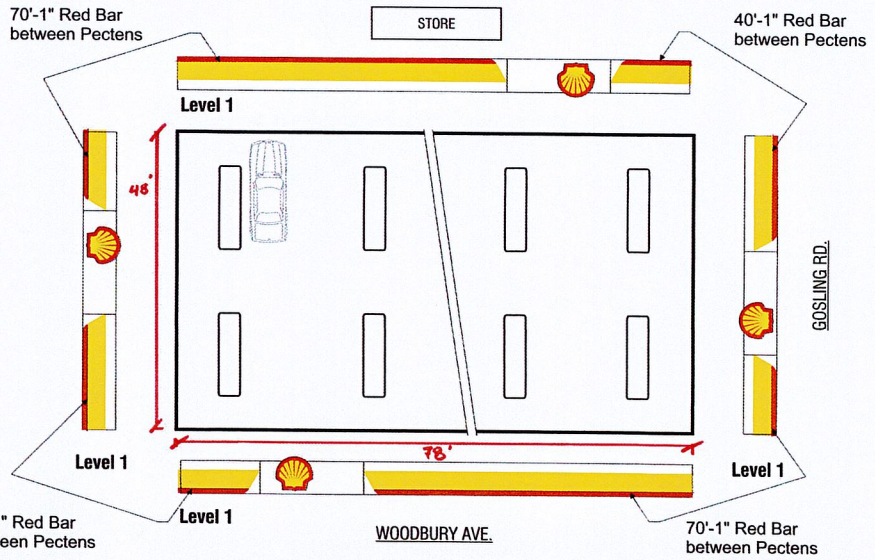
visit portsmouthnh.viewpointcloud.com/#/records/100469

Exhibit "B"

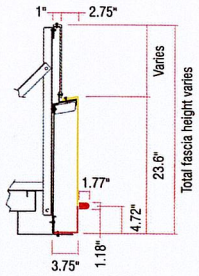
EXHIBIT B



Note: Red Bar to be dimmed 50% such that 3" of canopy fascia is illuminated



NO EXISTING PHOTO PROVIDED



Shell MVI Canopy Fascia - 48' X 78' X 33-1/2"HT Fascia

EXISTING

PROPOSED

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Office Locations:
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Cincinnati - Westerville - Knoxville - Tunica
Atlanta - Tampa - Daytona Beach - Winter Park

Shell
MVI

Project / Location: 1980 WOODBURY AVE. PORTSMOUTH, NH

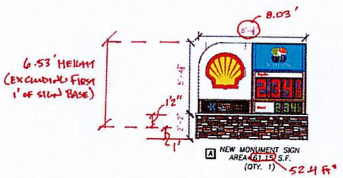
Project Manager: Nancy Vidrine
Drawn By: Brenda Lammers
PRO DESIGN: SV20260214.E

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ALL ELECTRICAL SIGNS ARE TO COMPLY WITH U.L. 48 AND ARTICLE 600 OF THE N.E.C. STANDARDS, INCLUDING THE PROPER GROUNDING AND BONDING OF ALL SIGNS.

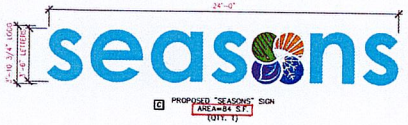
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Exhibit "C"

EXHIBIT C



52.4 FT²



Note: Monument sign not included in aggregate sign area per Article 12

PROPOSED SIGN SCHEDULE

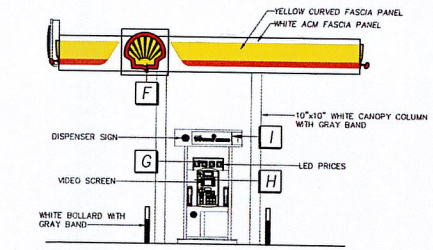
MARK	DESCRIPTION	SIZE	AREA (SF)	QUAN.	SIZE (SF)	ILLUMINATION	REMARKS	TYPE
		FREESTANDING SIGNS						
A	NEW MONUMENT SIGN	7'-7⅞" X 8'-0⅜"	61.15	1	52.4	INT	NEW	GROUND
	TOTAL FREESTANDING SIGNAGE: 52.4 S.F. (EXCLUDING FIRST 1' OF SIGN BASE)							
		WALL SIGNS						
C	"SEASONS" SIGN	24' X 3'-6"	84	1	84	INT	NEW	WALL
D	"CORNER MARKET" SIGN	15'-8" X 0'-10⅝"	13.95	1	13.95	NON	NEW	WALL
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F	PECTEN SIGN	4' X 4'	9	2	18	INT	NEW	WALL
G	"WELCOME" SIGN	6" X 4'-3"	2.1	1	2.1	NON	NEW	WALL
	TOTAL WALL SIGNAGE: 135.75 S.F. (NOT INCLUDING CANOPY BAND - SEE BELOW)							

APPROVED CANOPY BAND: (2) 70'1" BANDS x 3" HEIGHT = 35.04 FT² (17.52 FT² EACH), AND (2) 40'1" BANDS x 3" HEIGHT = 20.04 FT² (10.02 FT² EACH)
TOTAL WALL SIGNAGE WITH CANOPY BAND IS 190.83 FT²

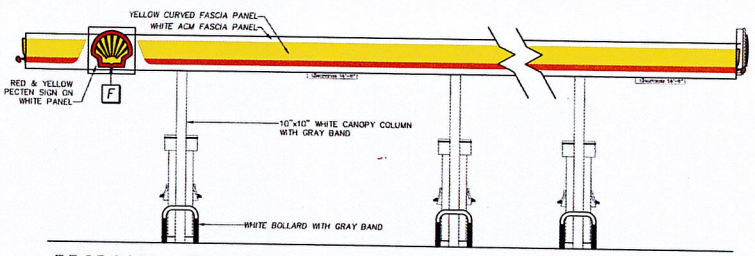
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165.14' x 2.79' (ENTIRE HEIGHT OF FASCIA BOARD) = 460.74 FT², PLUS
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TOTAL WALL SIGNAGE WITH REQUESTED CANOPY BAND (CONSERVATIVELY ASSUMING IT ILLUMINATES ALL OF FASCIA BOARD) = 789.39 FT²

ALLOWABLE AGGREGATE SIGN AREA: 1.5 x BUILDING FRONTAGE
- 1.5 x 110' (WOODBURY AVE FRONTAGE) + 1.5 x 50' (LOOSLEY ROAD FRONTAGE)
- 240 S.F. ALLOWED



PROPOSED SOUTH CANOPY ELEVATION
SCALE: 3/16"=1'-0"



PROPOSED WEST CANOPY ELEVATION
SCALE: 3/16"=1'-0"

TAX MAP 239 LOT 11
SIGN PLAN
PROPOSED GAS STATION & CONVENIENCE STORE
1980 WOODBURY AVENUE
PORTSMOUTH, NEW HAMPSHIRE
OWNED BY
COLBEA ENTERPRISES, LLC

SCALE: NTS
NOVEMBER 17, 2025

REV.	DATE	DESCRIPTION	BY
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3	3/6/2026	REVISED PER MIDAS FUELING REQUIREMENTS	JKC
2	2/3/2026	REVISED PER ADDRESS CHANGE REQUEST	JKC
1	12/22/2025	REVISED PER TAC COMMENTS	JKC

Seacoast Division
TFM
Civil Engineers
Structural Engineers
Traffic Engineers
Land Surveyors
Landscape Architects
Scientists
170 Commerce Way, Suite 102
Portsmouth, NH 03801
Phone (603) 431-2222
Fax (603) 431-0910
www.tfmoran.com

DES.	JKC	FB
CK.	CRR	CADFILE: 46077-16_SIGN

46077.16

C-13

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Not plan is not effective unless signed by a duly authorized officer of TFMoran, Inc.

Mar 24, 2026 - 11:06am
F:\MSC Projects\46077 - Woodbury Ave, Portsmouth\46077-16 Colbea Ent LLC- 1980 Woodbury Ave, Portsmouth, NH\Design\PRODUCTION DRAWINGS\46077-16_Sign.dwg

Exhibit "D"


seasons
corner • market
seasons
3.63
3.73
4.63
4.73

VARIANCE #1 from PZO 10.1252.20 and PZO Section 10.1252.40

Relief Requested

The Applicant (*Colbea, LLC)* request a variance from the ***Portsmouth Zoning Ordinance ("PZO") Section* 10.1252.20**, to allow for a greater aggregate Canopy sign area than 20 Square Feet (SF), where the PZO limits the square footage of a Canopy sign area in (*Sign District #5*) to 20 SF.

Relief is also need from ***PZO Section 10.1252.40***, which defines the sign area of a canopy sign to "…include all text and symbols, whether or not illuminated, ***and all illuminated areas***; but shall not include non-illuminated areas that are distinguished from the background only by color stripes." (emphasis added).

Property Background/Facts

The Applicant is the owner of 90 Gosling Road (*formerly 1980 Woodbury Avenue*) in Portsmouth, NH, which is sometimes referred to as Tax Map 239, Lot 11 (the "Property").

The Property is zoned Gateway Corridor ("G1" (*a Mixed Residential District*)) and sits right on the border of Portsmouth and Newington, NH.

The Applicant has secured all permitting to begin construction of its own brand of fueling station, *Season's Corner Market*.

The Property is a corner lot with ingress/egress along both Gosling Road, as well as Woodbury Avenue.

Current Approved Sign Permit

The Applicant has secured a sign permit that is allowed under the PZO, however, for reasons stated below the approved signage is far larger and more intensive than what the Applicant would prefer and, consequently, the PZO permits the 'larger' ask but does not permit the preferred *smaller* ask.

Currently, the approved permit (*Permit attached as* Exhibit "A") allows the Applicant to have a Canopy sign with:

- Four (4) Internally Illuminated 37.38" (H) x 34.76" (W) "Pecten Sign" "Shell Logo" (**9.1 SF) (Total of 4= 36.4SF)**
- Two (2) Internally Illuminated 3" (H) x 70' 1" (W) Red/Yellow Stripes **(17.52 SF) (Total of 2 = 35.04 SF)**
- Two (2) Internally Illuminated 3" (H) x 40' 1" (W) **(3.34 SF) (Total of 2 = 6.68 SF)**

In sum, the terms of the above sign permit, as applied to the Canopy sign, include 4 Pectens, as well as a total of 4 separate illuminated Red/Yellow Stripes ("Stripe(s)"). *See* Exhibit "B" (*Sign Plan as currently allowed*). The Stripes are 'broken up' in order to comply with PZO's requirement of a maximum of 20 SF – as each Stripe is less than 20 SF. Likewise, to fill in the space between said breaks, additional Pectens were added (totaling 4), which also comply with the PZO.

The Applicant would prefer to have a longer contiguous Stripe, as well as only 2 Pectens. Thus, a less intensive and seemingly smaller sign. *See* Exhibit "C" (*Sign Plan as proposed*).

However, if the Stripe were permitted as the Applicant desires, the longest band would be 460.74 SF and the shorter band would be 192.90 SF, thus exceeding the required 20 SF – even

though this alternative plan equals 2 Pectens with 2 longer Stipes *v*. 4 Pectens with 4 broken up Stripes.

Furthermore, relief is also needed relative to the *illuminated area* as per PZO Section 10.1252.40 (Canopy Sign Area). The Stripe is illuminated and, thus, the City considers it part of the Canopy Sign Area. *See* Exhibit "D" (*Example of sign at night*).

Illumination is understandably difficult to measure. The Applicant has added a dimmer in an effort to reduce light 'spillage.' However, it is near impossible to measure the size – or the square footage – of ambient light and its spillage. Indeed, even as a layperson understands that light spillage is impacted by so many exterior factors such as cloud cover, sun/moon light, other signage light in the vicinity, street lights, etc.

Thus, the Applicant is requesting relief from having PZO Section 10.1252.40's provisions relative to "illuminated areas" being counted against any of the Canopy Sign Area's size calculations.

Variance Criteria

Portsmouth Zoning Ordinance ("PZO") Sections

PZO 10.1252.20 and PZO Section 10.1252.40

1. Granting the variance would not be contrary to the public interest because:

The standard for prongs one and two of the variance criteria is whether the requested relief, if granted, will ***alter the essential character of the neighborhood*** or ***negatively impact the health, welfare, and safety of the surrounding area*** and ***mere conflict with the terms of the ordinance is insufficient*** as all variance requests are somewhat averse to an ordinance, hence why the relief

is sought in the first instance. Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508 (2011).

Furthermore, it important to note that prong 1 is in the negative. That is to say that it does not require the Applicant to prove that the proposed use is IN the public interest, but only to prove that it is NOT CONTRARY TO the public interest.

Here, the immediate ask is to allow for the Canopy Sign Area, specifically, the Stripe to exceed the allowable 20 SF. Furthermore, to waive PZO Section 10.1252.40's provisions relative to "illuminated areas" as being counted against any of the Stripe's size calculations because there is no way to accurately measure ambient light against a square footage requirement as to the applicable area. Again, the net result if relief is granted, is a less intensive sign.

The surrounding area contains many commercial properties and, likewise, many signs. The proposed project contains within it several businesses such as the co-brand food/beverage service, fuel pumps, and a convenience store.

The proposed signage is the Applicant's standard sign.

The proposed sign will be appropriate for the Zone and it will not alter the overall esthetic of the area since the area is commercial. Moreover, the proposed sign herein will be a less intensive use than what is already permitted. *See* Exhibit "A" and Exhibit "B."

Consequently, there is no reason to believe that by granting this variance it would *alter the essential character of the neighborhood* since a fueling station/convenience store has been in place for so many years and there are many commercial signs in the area.

Similarly, given that the same use has been active on this Property for so many years there is no reason to suspect or to conclude that an approval would *negatively impact the health, welfare,*

and safety of the surrounding area. Indeed, there is simply no evidence to point to that would suggest the public is at any risk.

Moreover, this ask is only in *mere conflict* with the PZO.

2. <u>If the variance were granted, the spirit of the ordinance would be observed because</u>:

As a matter of law, the analysis for both prongs one and two of the Variance criteria are the same. As such, the Applicant incorporates and repeats the narrative of Prong 1 (above) and reiterates the same for Prong 2. <u>Harborside Associates, L.P. v. Parade Residence Hotel, LLC</u>, 162 N.H. 508 (2011).

3. <u>Granting the variance would do substantial justice because</u>:

Perhaps the only guiding rule [on this standard] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. <u>Malachy Glen Assocs. v. Town of Chichester</u>, 155 N.H. 102, 109 (2007).

Here, the loss to the Applicant in not approving this variance would far outweigh any benefit to the general public.

The ask here is fairly minimal – to allow for a slightly larger Canopy Sign Area – despite that the proposal is more subdued than what is approved.

The proposed Canopy Sign will help bring in customers to the Property and it will not obstruct any views and/or sightlines.

If denied, the public gains nothing, as this Proposal will be less intensive than what is already permitted.

4. **<u>If the variance were granted, the values of the surrounding properties would not be diminished because</u>:**

The surrounding area is zoned to allow for the fueling station and there has been a convenience store in site for decades and, moreover, there is another convenience store/fueling station directly across the street on the Newington side of Gosling Road. As such, this is an appropriate use for the area.

Very plainly, there is no evidence to suggest that granting this relief would negatively impact the surrounding property values.

5. **<u>Unnecessary Hardship</u>:**

"Hardship," under NH RSA 674:33, I (b) (1) (A) and (B) is a straight forward three step analyses;

a. What are the special conditions of the property, if any;
b. 'No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property,' **<u>which can be said another way that if the variance is granted *would it unreasonably frustrate the purpose ordinance*</u>**; and,
c. Is the proposed use reasonable?

First, the special conditions (a) are satisfied due to the small size of the Property and the use that has historically existed at this location for decades.

The Property is a corner lot that is well suited for the in/out traffic that is inherit of a fueling station/convenience store.

What is being proposed is less intensive than what the Applicant is already permitted to do and furthermore, there is no objective manner to measure the ambient light from the illuminated Stripe.

To the extent that any residential areas will be impacted by the Proposal there is already adequate screening. This Property is quite literally the Gateway from Newington into Portsmouth and is surrounded by several other commercial properties that would be expected to be in the vicinity of a fueling station.

Next is (b), whether "[n]o fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property." *See* NH RSA 674:33, *et seq*. Or, again, if the variance is granted will it ***unreasonably frustrate the purpose of the PZO***.

The purpose and goals of the applicable ordinance is to ensure that signage does not get too large, too many, too unsightly, or cause any too many distractions.

Here, despite the request for extra Canopy Sign square footage, the sign will not be abnormally large in comparison to many signs in the area. In fact, as has been stated, it will appear to be smaller with only 2 Pectens (as opposed to 4 Pectens) and the Stripe will be contiguous rather than broken up in 4 sections.

Overall, we contend that what the Applicant is asking for with respect to this relief will not unreasonably frustrate the purpose of the PZO and is, indeed, appropriate for a fueling station.

Lastly (c), the proposed use for the Property is for a fueling station and the applicable Zone allows for that use and, thus, the proposed use is reasonable.

Exhibit "A"

City of Portsmouth
Sign Permit

Inspection Department
1 Junkins Avenue
Portsmouth, NH 03801
603-610-7243

Permit Number:
SIGN-26-47
Date of Issue:
September 11, 2026
Expires:
September 11, 2027

Owner: COLBEA ENTERPRISES LLC
Applicant: Megan Monday
Contractor: , Advanced Signs **Phone #:**
Location: 1980 WOODBURY AVE
Description of Project:
Signage for Shell "Seasons" Gas Station & Convenience Store, 1980 Woodbury Avenue

Signage to Include:

Install Seven (7) Signs as per plan by TFM, Labeled Sign Plan Proposed Gas Station & Convenience Store, 1980 Woodbury Avenue, dated November 17, 2025, REV 4: 3/11/2026. **(Total SF of 13 Signs= 195.8)**

Sign A: New Monument Sign: Install One (1) Internally Illuminated 78" x 96-3/8" "Shell Logo, Seasons Logo and digital pricing section as per plan by Federal Heath, labeled Shell- 1980 Woodbury Ave, Sheet S-1 & S-2, dated 23Mar26, REV D- 04JUN26. (first foot of monument sign not included in sign area) **(52.17 SF)**

Sign C: New Wall Sign: Install One (1) Internally Illuminated 288" (W) x 42" (H) Wall Sign "SEASONS" Logo used as "O" **(84 SF)**

Sign D: New Wall Sign: Install One (1) Non-Illuminated, 188" (W) x 10-5/8" (H) "Corner Market" **(13.83 SF)**

Sign E: New Wall Sign: Install One (1) Internally Illuminated 85" (W) x 30" (H) "Co-Brand Sign" **(17.70 SF)**

Sign F: New Canopy Signs: See revised renderings for updated measurements

- Install four (4) Internally Illuminated 37.38" (H) x 34.76" (W) " Pecten Sign" "Shell Logo" (**9.1 SF) (Total of 4= 36.4SF)**
- Install two (2) Internally Illuminated 3" (H) x 70' 1" (W) Red/Yellow Stripes **(17.52 SF) (Total of 2 = 35.04 SF)**
- Install two (2) Internally Illuminated 3" (H) x 40' 1" (W) **(3.34 SF) (Total of 2 = 6.68 SF)**

Sign G: New Wall Sign: Install One (1) Non-Illuminated 6" (H) x 51" (W) "Welcome" **(2.13SF)**

Monument and wall signage for rebuild of gas station/c-store for Colbea Enterprises

Total Sign Area: 195.8
Total Number of New Signs: 13

Sign Type(s):

- Free-Standing
Wall / Attached
Wall / Attached
Wall / Attached
Canopy
Canopy
Wall / Attached
Canopy
Canopy
Canopy
Canopy
Canopy
Canopy

Remarks:

-

The PERMIT HOLDER has read this permit, the permit application, and the Building Official's marked-up plans and agrees to perform the work authorized including any conditions or requirements indicated thereon; and any stipulations imposed by a Land Use Board in conjunction with the project.

Code Official:

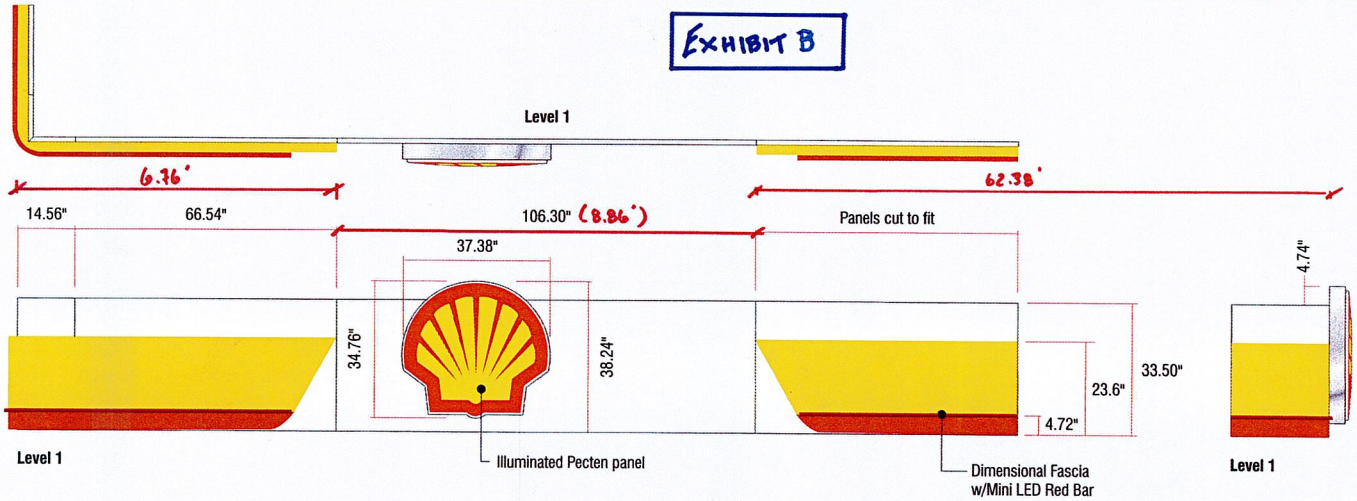
Paul Garand

This is an e-permit. To learn more, scan this barcode or

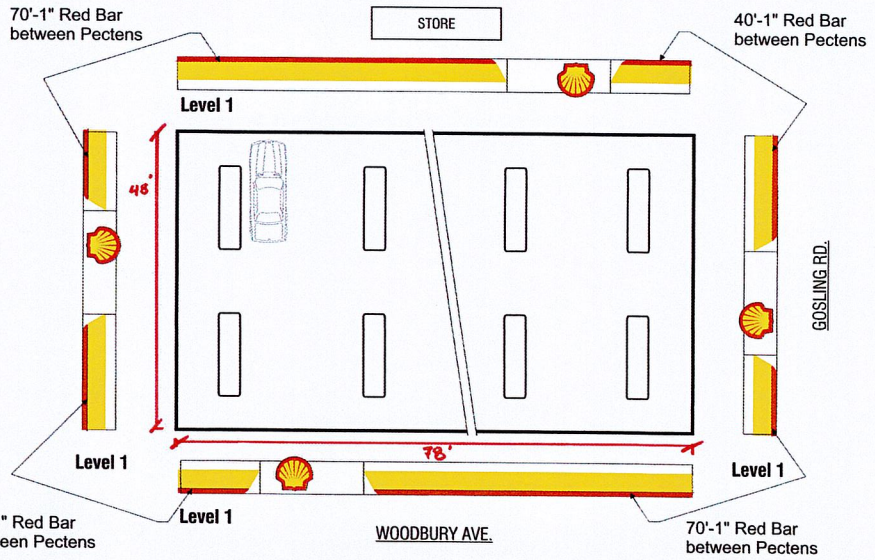
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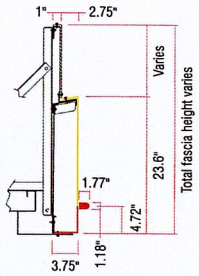
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Note: Red Bar to be dimmed 50% such that 3" of canopy fascia is illuminated



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Shell
MVI

Project / Location: 1980 WOODBURY AVE. PORTSMOUTH, NH

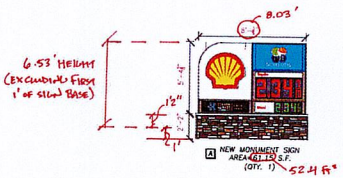
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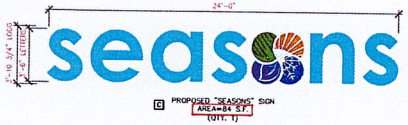
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Exhibit "C"

EXHIBIT C



52.4 FT²



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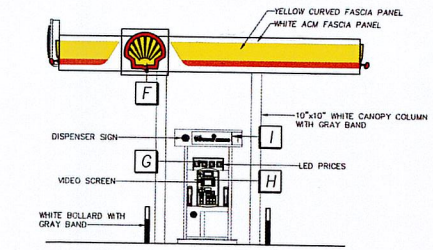
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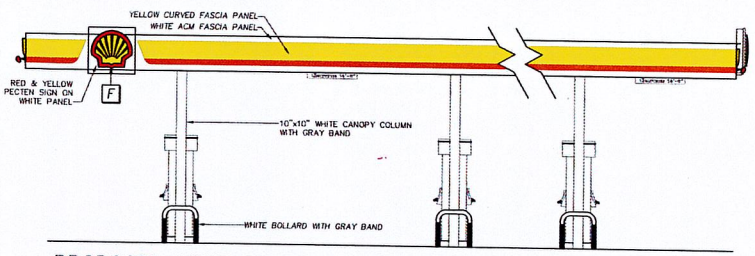
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- 240 S.F. ALLOWED



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SCALE: 3/16"=1'-0"



PROPOSED WEST CANOPY ELEVATION
SCALE: 3/16"=1'-0"

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SIGN PLAN
PROPOSED GAS STATION & CONVENIENCE STORE
1980 WOODBURY AVENUE
PORTSMOUTH, NEW HAMPSHIRE
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COLBEA ENTERPRISES, LLC

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Landscape Architects
Scientists
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Portsmouth, NH 03801
Phone (603) 431-2222
Fax (603) 431-0910
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Mar 24, 2026 - 11:06am
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Exhibit "D"


seasons
corner • market
seasons
3.63
3.73
4.63
4.73