

TO: Zoning Board of Adjustment
FROM: Juliet Walker, Planning Department
DATE: May 19, 2016
RE: May 24, 2016 Zoning Board of Adjustment Meeting

NEW BUSINESS

1. 6 Pine St
2. 4 McDonough St. #1
3. 346 Union St.
4. 605 Lafayette Rd
5. 319 Vaughan St
6. 334 Parrott Ave
7. 2 Greenleaf Woods Dr
8. 200 McDonough St
9. 1811 (1801) Woodbury Ave

NEW BUSINESS

Case #5-1

Petitioners:	Benjamin M. & Amanda J. Goss
Property:	6 Pine Street
Assessor Plan:	Map 159, Lot 47
Zoning District:	General Residence A
Description:	Extend previously granted variance.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: <ol style="list-style-type: none"> 1. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, enlarged or structurally altered except in conformity with the Ordinance. 2. A Variance from Section 10.521 to allow a 3'± right side yard setback where 10' is required.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family residence	Primarily residential uses
<u>Lot area (sq. ft.):</u>	6,621.12	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	6,621.12	7,500 min.
<u>Street Frontage (ft.):</u>	60	100 min.
<u>Lot depth (ft.):</u>	110	70 min.
<u>Primary Front Yard (ft.):</u>	6'-8"	15 min.
<u>Right Yard (ft.):</u>	10"	10 min.
<u>Secondary Front Yard (ft.):</u>	4'-5"	15 min.
<u>Rear Yard (ft.):</u>	66	20 min.
<u>Height (ft.):</u>	24	35 max.
<u>Building Coverage (%):</u>	21.11	25 max.
<u>Open Space Coverage (%):</u>	66.12	30 min.
<u>Parking (# of spaces):</u>	2	2 min.
<u>Estimated Age of Structure:</u>		

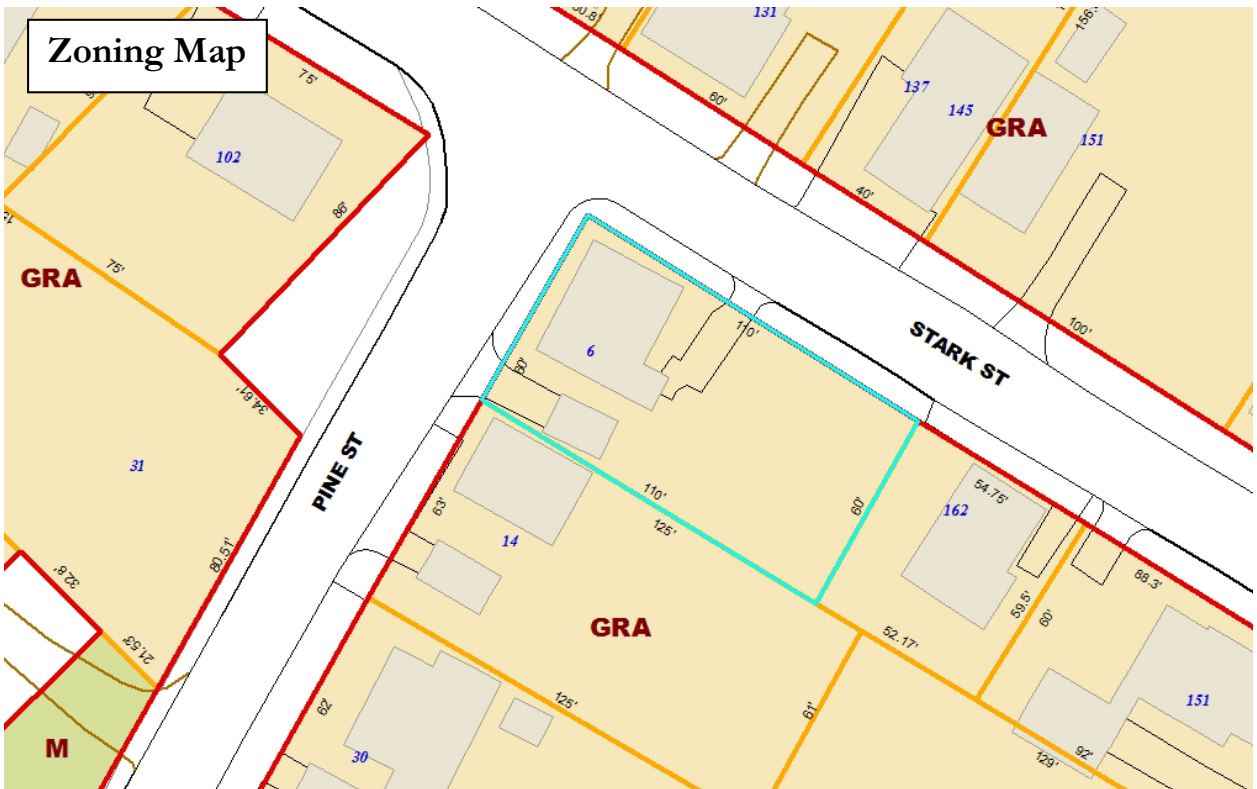
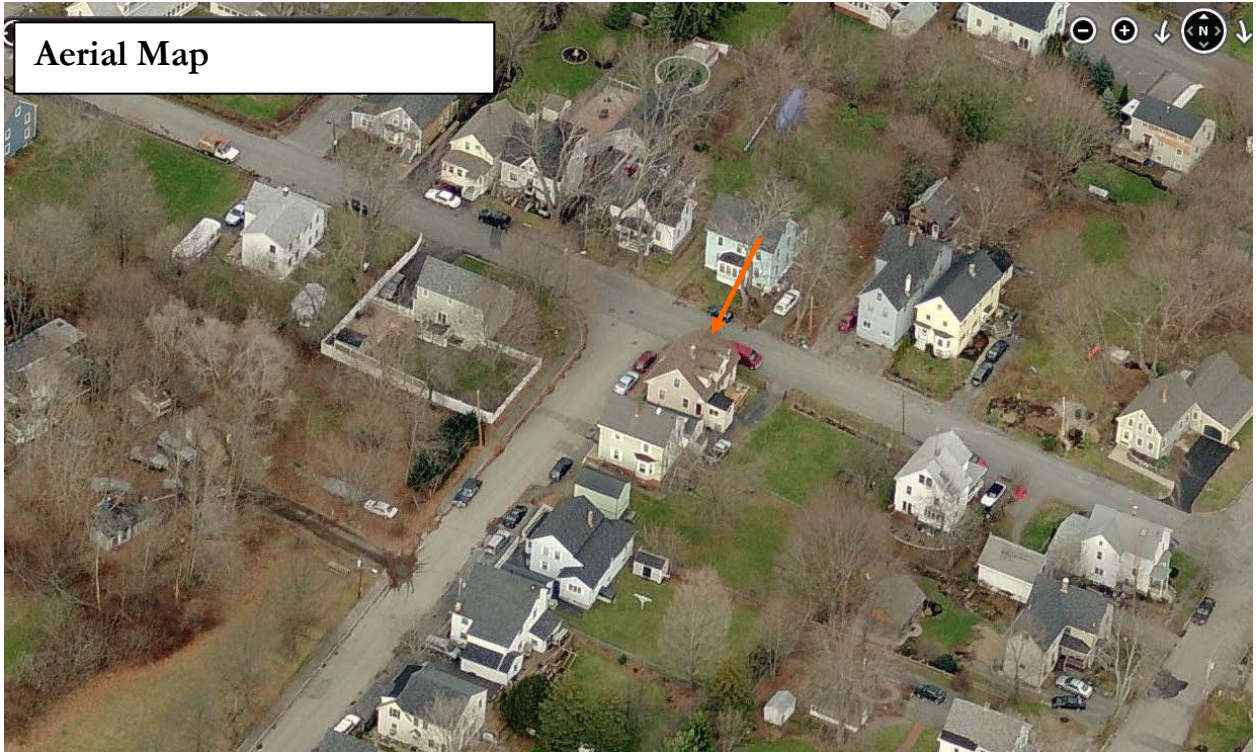
B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Right Yard (ft.):</u>	3'	10 min.
<u>Rear Yard (ft.):</u>	63	20 min.
<u>Height (ft.):</u>	24	35 max.
<u>Building Coverage (%):</u>	23.38%	25 max.
<u>Open Space Coverage (%):</u>	67.46%	30 min.

C. Other Permits Required

None.

D. Neighborhood Context



E. Previous Board of Adjustment Actions

February 16, 2016 – The Board **granted** variances to replace a garage and add a connecting mudroom with a 3'± right side yard setback where 10' was required.

F. Planning Department Comments

- ✓ Application meets submission requirements.
- ✓ Applicant has discussed project with Planning Department staff.

This is a modification to a previously approved variance -- increasing the total square footage of the addition by 3.5 sq. ft. and extending the improvements within the right side yard setback towards the front of the lot by 6".

G. 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.

Case #5-2

Petitioners:	Jesse T. Lore & Melissa Jones
Property:	4 McDonough Street #1
Assessor Plan:	Map 138, Lot 25-1
Zoning District:	General Residence C
Description:	Add rear shed dormer.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: <ol style="list-style-type: none"> 1. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, enlarged or structurally altered except in conformity with the Ordinance. 2. A Variance from Section 10.521 to allow a 17'± rear yard setback where 20' is required. 3. A Variance from Section 10.521 to allow a 0'± secondary front yard setback where 5' is required.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two residential units	Primarily residential uses
<u>Lot area (sq. ft.):</u>	3,049.20	3,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,049.20	3,500 min.
<u>Street Frontage (ft.):</u>	51.6	70 min.
<u>Lot depth (ft.):</u>	51	50 min.
<u>Primary Front Yard (ft.):</u>	2	5 min.
<u>Secondary Front Yard (ft.):</u>	0	10 min.
<u>Right Yard (ft.):</u>	15	10 min.
<u>Rear Yard (ft.):</u>	0	20 min.
<u>Height (ft.):</u>	33	35 max.
<u>Building Coverage (%):</u>	45.91%	35 max.
<u>Open Space Coverage (%):</u>	44.25%	20 min.
<u>Estimated Age of Structure:</u>	1840	

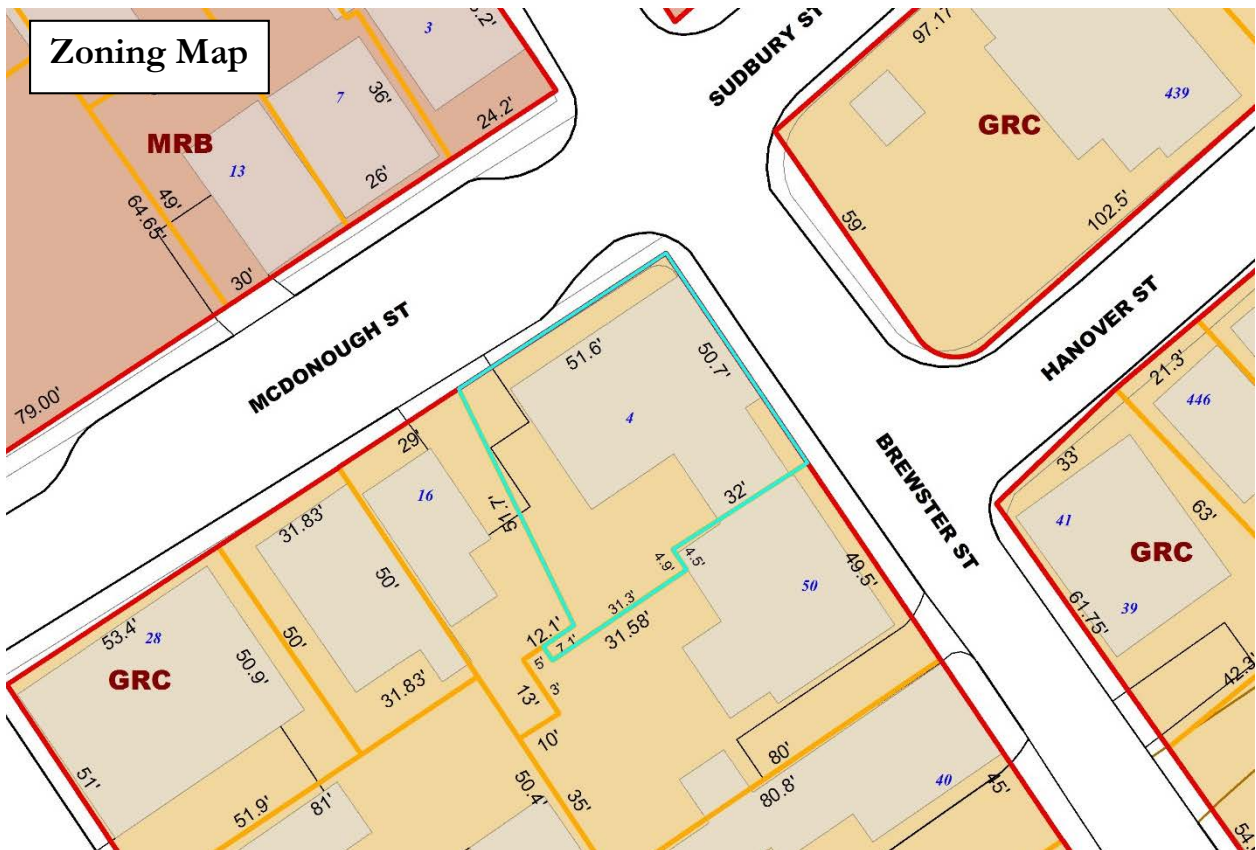
B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Primary Front Yard (ft.):</u>	>5	5 min.
<u>Secondary Front Yard (ft.):</u>	0	10 min.
<u>Rear Yard (ft.):</u>	17	20 min.

C. Other Permits Required

None.

D. Neighborhood Context



E. Previous Board of Adjustment Actions

No history found.

F. Planning Department Comments

- ✓ Application meets submission requirements.
- ✓ Applicant has discussed project with Planning Department staff.

G. 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.

Case #5-3

Petitioner:	Jeffrey N. & Elizabeth H. Dyer
Property:	346 Union Street
Assessor Plan:	Map 134, Lot 57-1
Zoning District:	General Residence A
Description:	Extend right side deck with stairs and add 3½'± x 12'± shed
Requests:	<p>The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:</p> <ol style="list-style-type: none"> 1. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, enlarged or structurally altered except in conformity with the Ordinance. 2. A Variance from Section 10.521 to allow a 2' right side yard setback for a deck and where 5' is required and 4.5'± right side yard setback for an accessory structure shed addition where 10' is required. 3. A Variance from Section 10.521 to allow 43.03%± building coverage where 25% is the maximum allowed. <p><i>Note: The required relief has been modified as shown above.</i></p>

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family residence	Primarily residential uses
<u>Lot area (sq. ft.):</u>	5,000	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,500	7,500 min.
<u>Street Frontage (ft.):</u>	50	100 min.
<u>Lot depth (ft.):</u>	100	70 min.
<u>Primary Front Yard (ft.):</u>	4.5	15 min.
<u>Right Yard (ft.):</u>	8'-3"	10 min.
<u>Left Yard (ft.):</u>	7	10 min.
<u>Rear Yard (ft.):</u>	28	20 min.
<u>Building Coverage (%):</u>	41.26	25 max.
<u>Open Space Coverage (%):</u>	58	30 min.
<u>Estimated Age of Structure:</u>	1880	

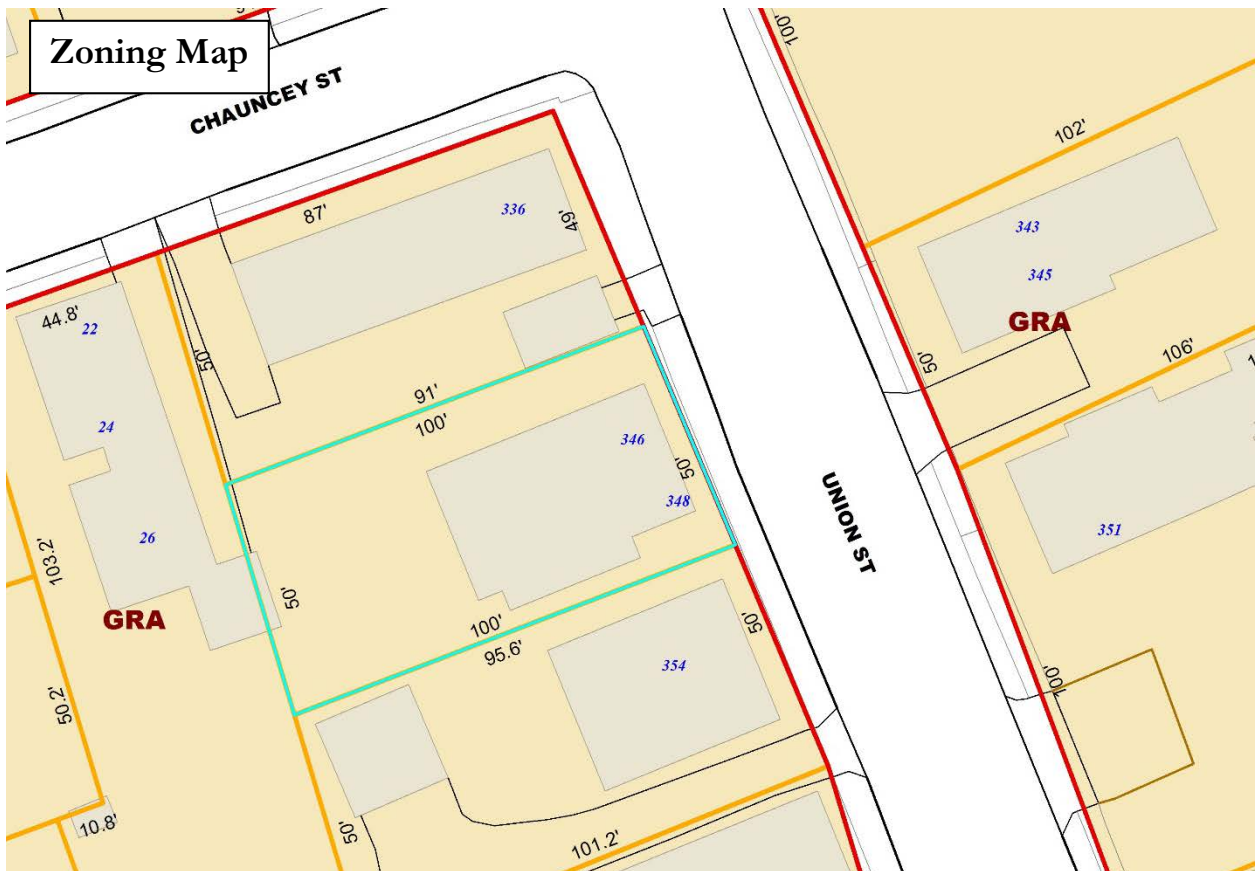
B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Right Yard (ft.):</u>	4.5 (shed addition) 2 (deck)	10 (shed addition) min. 5 (deck, per 10.516.40)
<u>Height (ft.):</u>	10 (shed addition) 18" (deck)	35 max.
<u>Building Coverage (%):</u>	43.03	25 max.
<u>Open Space Coverage (%):</u>	57	30 min.

C. Other Permits Required

None.

D. Neighborhood Context



E. Previous Board of Adjustment Actions

No history found.

F. Planning Department Comments

- ✓ Application meets submission requirements.
- ✓ Applicant has discussed project with Planning Department staff.

The legal notice for this application did not include the relief for the 2' right side yard setback for the deck, although the applicant included the deck and shed addition in the application submission. As the shed is attached to the house, it is not considered an accessory structure.

G. 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.*

Case #5-4

Petitioners:	Five Hundred Five Lafayette Road LLC
Property:	605 Lafayette Road
Assessor Plan:	Map 229, Lot 9
Zoning District:	Gateway
Description:	Replace one-story office building with two-story office/retail
Requests:	<p>The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:</p> <ol style="list-style-type: none"> 1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed, or changed except in conformity with the Ordinance. 2. A Variance from Section 10.1113.20 to allow required off-street parking spaces to be located between a principal building and a street. 3. A Variance from Section 10.1124.10 to allow a loading area to be located between a front property line and a building or structure. 2. A Variance from Section 10.1113.20 to allow off-street parking to be located in the required front yard. <p><i>Note: The required relief has been modified as indicated above.</i></p>

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Medical office	Mix of commercial and multi-family residential
<u>Lot area (sq. ft.):</u>	43,765.00	43,560 min.
<u>Street Frontage (ft.):</u>	214	200 min.
<u>Lot depth (ft.):</u>	176.3	100 min.
<u>Primary Front Yard (ft.):</u>	>30	30 min.
<u>Right Yard (ft.):</u>	>30	30 min.
<u>Left Yard (ft.):</u>	>30	30 min.
<u>Rear Yard (ft.):</u>	>50	50 min.
<u>Height (ft.):</u>	1-story	40 max.
<u>Building Coverage (%):</u>	5.44%	30 max.
<u>Parking (# of spaces):</u>	35	10 min.
<u>Estimated Age of Structure:</u>	1985	

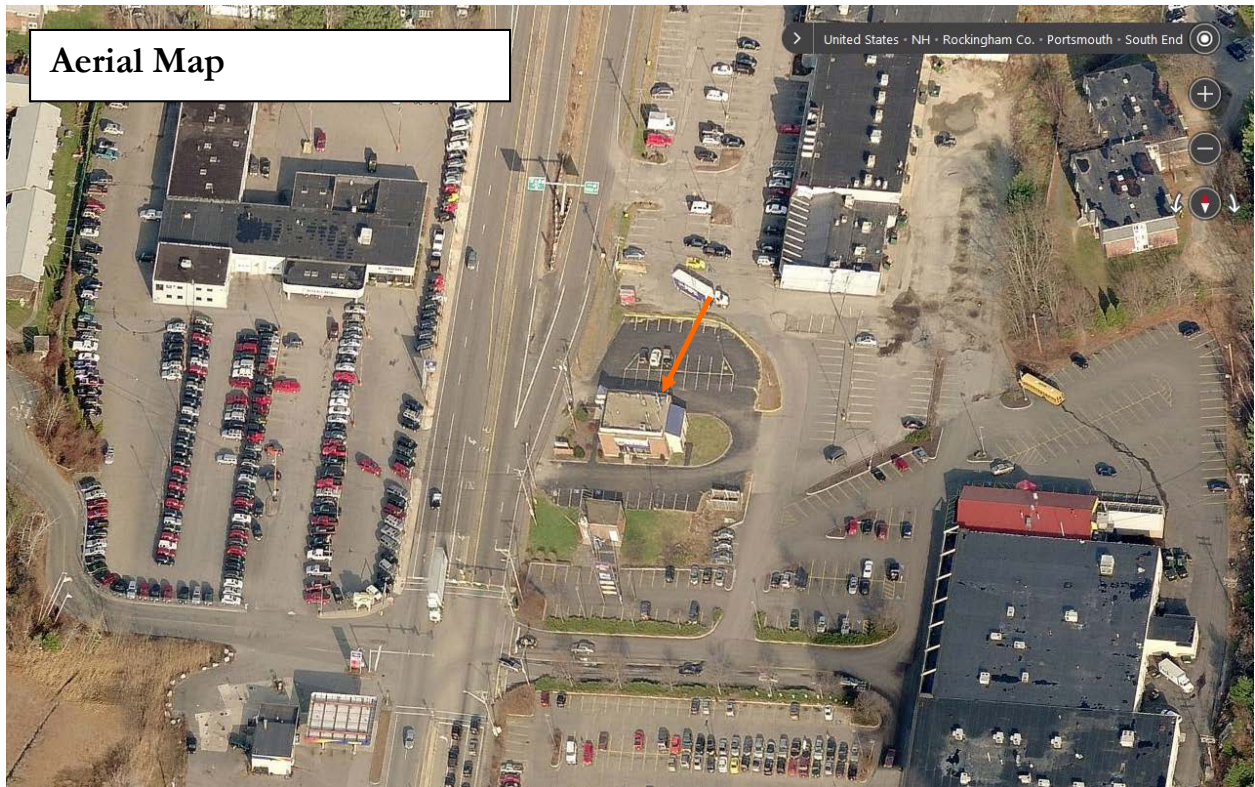
B. Proposed Changes

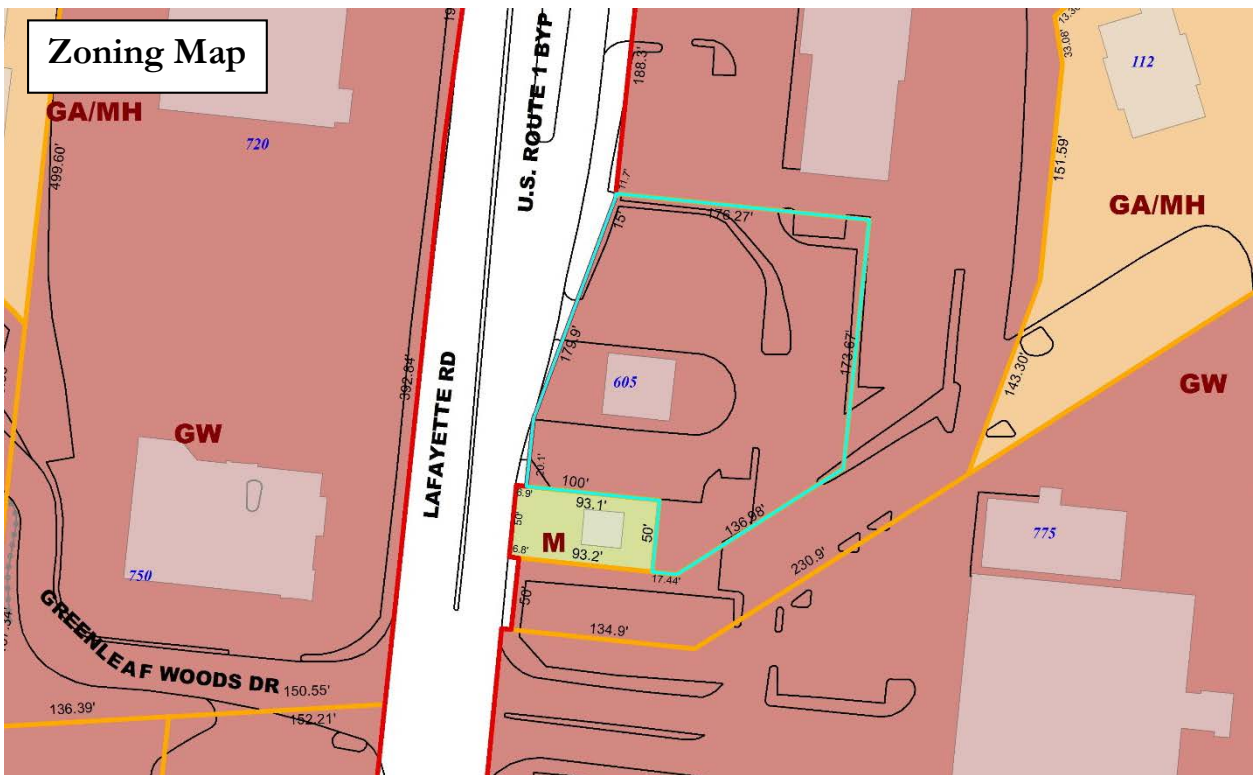
	<u>Proposed</u>	<u>Permitted / Required</u>	
<u>Land Use:</u>	Medical office and retail	Mix of commercial and multi-family residential	
<u>Primary Front Yard (ft.):</u>	>30	30	min.
<u>Right Yard (ft.):</u>	>30	30	min.
<u>Left Yard (ft.):</u>	>30	30	min.
<u>Rear Yard (ft.):</u>	>50	50	min.
<u>Height (ft.):</u>	<40	40	max.
<u>Building Coverage (%):</u>	16.12%	30	max.
<u>Open Space Coverage (%):</u>	27.70%	20	min.
<u>Parking (# of spaces):</u>	56	56	min.

C. Other Permits Required

Planning Board Site Plan Review

D. Neighborhood Context





E. Previous Board of Adjustment Actions

No history found.

F. Planning Department Comments

- ✓ Application meets submission requirements.

The City's Gateway District provides for redevelopment along existing developed commercial corridors in a manner that, among other objectives, enhances visual character and environmental quality and promotes pedestrian circulation. One of the standards provided in the zoning ordinance to support these objectives is prohibiting parking between the buildings and the street. This not only improves the visual character of the corridor, but also creates a more pedestrian friendly streetscape. Many of the properties located in the Gateway District were developed prior to the current zoning and therefore the layout of the buildings and the site often do not meet the stated objectives. However, when properties are redeveloped, particularly when that redevelopment includes a complete reconstruction of the existing buildings and overall site modifications, this presents an opportunity to bring properties into closer conformance with the stated purpose of the District. In this case, the Lens Doctors site is one of the few properties in this location that does not currently have parking in front of the building. ~~While the proposed redevelopment of this site presents an opportunity to increase the overall conformance with the stated purpose of the Gateway District, the proposal is actually adding a new nonconformity by placing parking in front of the building.~~ Subsequent to the initial staff report, the applicant has clarified that this application does not actually propose to put parking or loading between the building and the street. One of the parking spaces will be located in the front yard, but it will not be located between the building and the street. While there is still zoning relief required, it is less relief than what was initially presented.

G. 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.

Case #5-5

Petitioners:	319 Vaughan Street Center LLC
Property:	319 Vaughan Street
Assessor Plan:	Map 124, Lot #9
Zoning District:	CD5, Downtown Overlay District, and Historic District
Description:	Summer outdoor concert series.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Special Exception under Section 10.440, Use #3.521 to allow a series of outdoor concerts in a district where the use is only allowed by Special Exception. 2. A Variance under Section 10.592.1 to allow this use to be less than 500' from a CD4-L1 District. <i>Note: The required relief has been modified as shown above.</i>

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Performance and gallery space, restaurant	Mix of residential and commercial uses
<u>Lot area (sq. ft.):</u>	15,246	2,000 min.

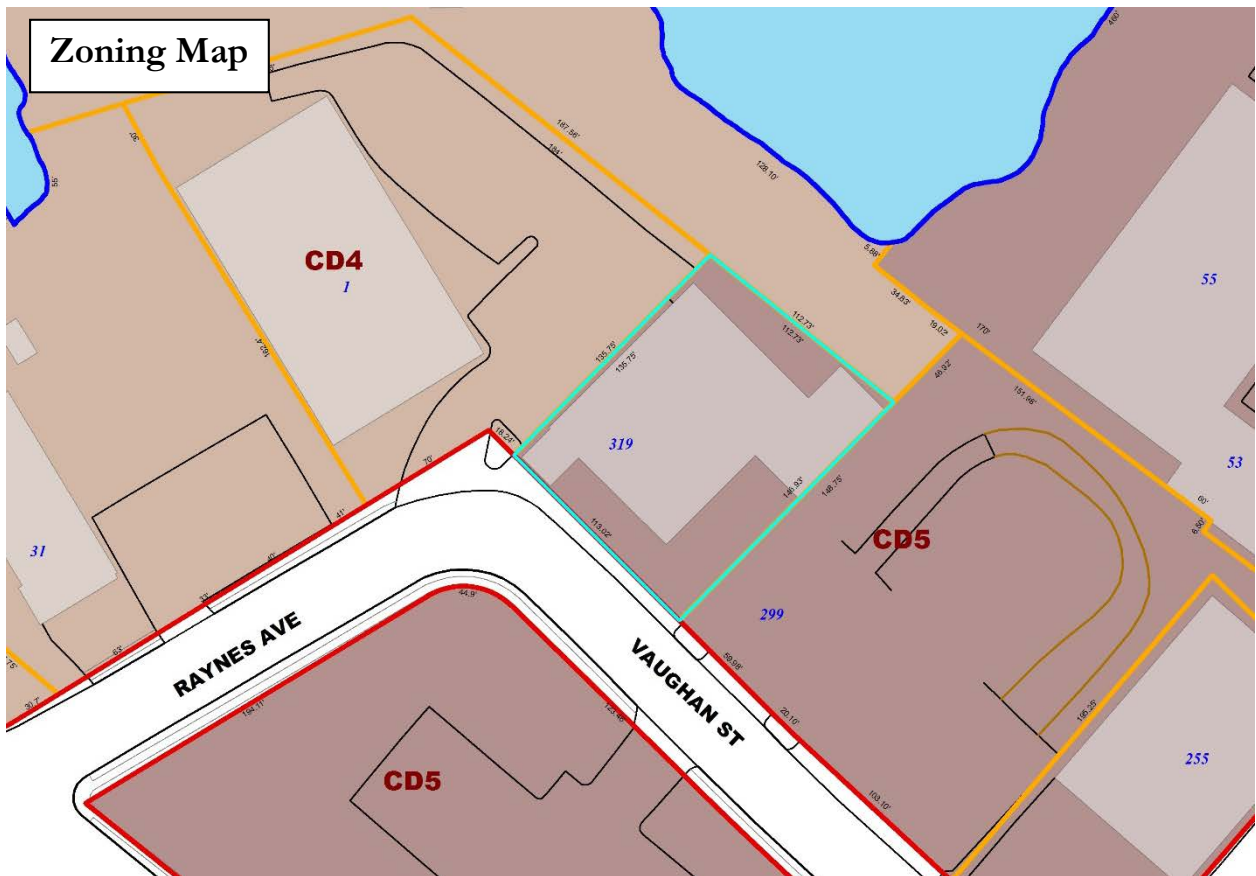
B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Summer outdoor concert series	Mix of residential and commercial uses

C. Other Permits Required

None.

D. Neighborhood Context



E. Previous Board of Adjustment Actions

March 28, 1978 – The Board **granted** a variance to construct a 30'± x 60'± addition to the main building with a 4'± right side setback and a 3'± rear setback where 50' was required.

August 22, 1989 – The Board **denied** a request for a special exception to allow the operation of a 7,700 s.f. 2nd floor night club for 700 patrons where 77 parking spaces were required with none provided.

F. Planning Department Comments

- ✓ Application meets submission requirements.
- ✓ Applicant has discussed project with Planning Department staff.

The requested relief is only for the 2016 summer season, with the specific dates provided in the application. If the applicant determines that they would like to continue this use in the future, they would have to reapply to the Board.

Standards provided in the Ordinance for this use include:

10.592.10	Minimum of 500' from the lot to any residential or mixed residential district
10.822.10	Use shall not be located in a required yard area.
10.861 and 10.862	Hours of operation shall be limited to 4pm to 11pm (or unless otherwise determined by the special exception approval)

The application is in compliance with all of these standards.

In addition, when there are pending zoning amendments that have been posted for second notice, any applications must comply with BOTH the pending and existing zoning. The following pending amendment also applies to this application.

10.592.10 Minimum of 500' from the lot to any Character District 4-L1

The application is located approximately 325' from the CD4-L1 District, so it does not meet this standard. Additional relief is required for this application as indicated above.

G. 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.*

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.

Case #5-6

Petitioners:	334 Parrott Avenue, LLC
Property:	334 Parrott Avenue
Assessor Plan:	Map 129, Lot 37
Zoning District:	General Residence A
Description:	Construct attached garage and addition with second dwelling unit.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance from Section 10.521 to allow a lot area per dwelling unit of 6,326.5± s.f. where 7,500 s.f. is required.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family residence	Primarily residential uses
<u>Lot area (sq. ft.):</u>	12,653	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	12,653	7,500 min.
<u>Street Frontage (ft.):</u>	53	100 min.
<u>Lot depth (ft.):</u>	151	70 min.
<u>Primary Front Yard (ft.):</u>	0.6	15 min.
<u>Right Yard (ft.):</u>	9.9	10 min.
<u>Left Yard (ft.):</u>	16.7	15 min.
<u>Rear Yard (ft.):</u>	100	20 min.
<u>Height (ft.):</u>	32	35 max.
<u>Building Coverage (%):</u>	9.5	25 max.
<u>Open Space Coverage (%):</u>	72.1	30 min.
<u>Parking (# of spaces):</u>	2	2 min.
<u>Estimated Age of Structure:</u>	1900	

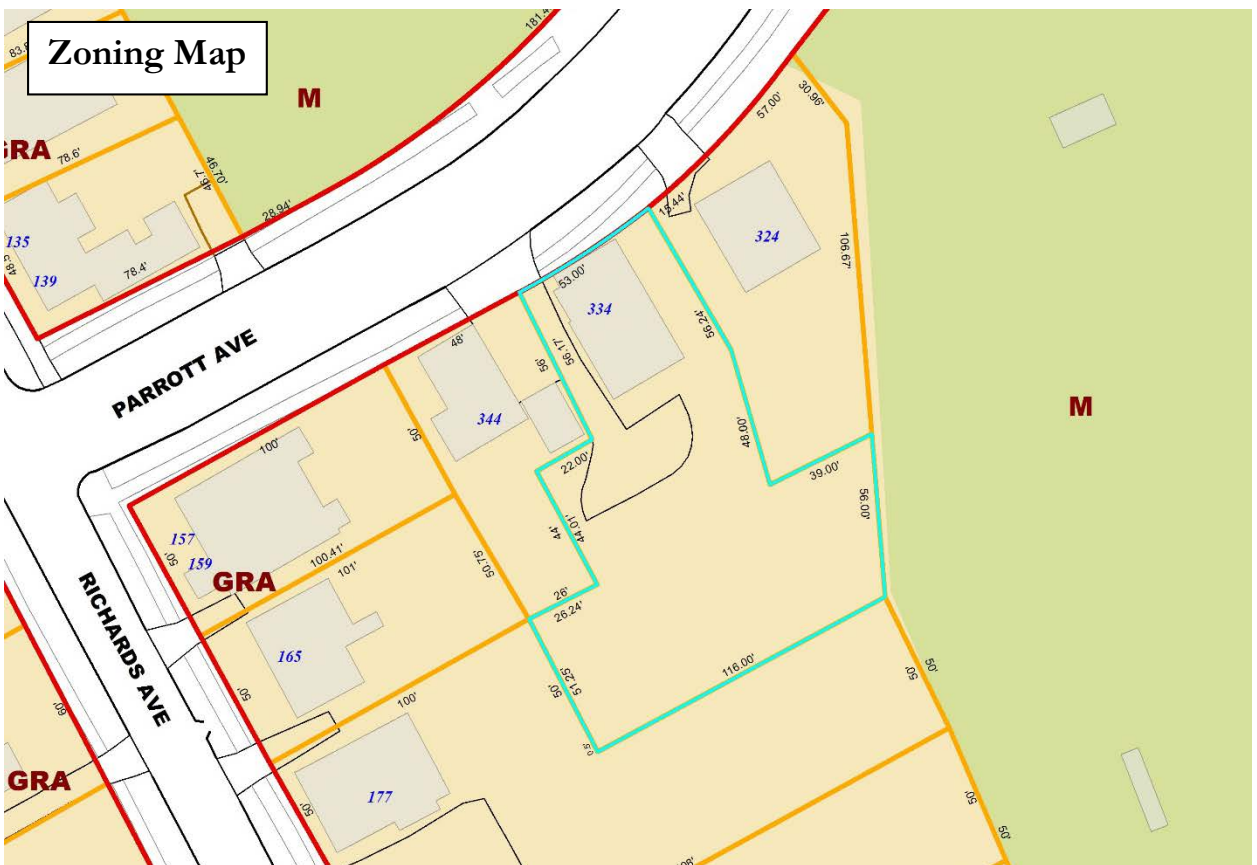
B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-Family Residence	Primarily residential uses
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	6,326.50	7,500 min.
<u>Right Yard (ft.):</u>	13.2	10 min.
<u>Left Yard (ft.):</u>	10.3	15 min.
<u>Rear Yard (ft.):</u>	>20	20 min.
<u>Height (ft.):</u>	21	35 max.
<u>Building Coverage (%):</u>	16.7%	25 max.
<u>Open Space Coverage (%):</u>	68.0%	30 min.
<u>Parking (# of spaces):</u>	4	4 min.

C. Other Permits Required

None.

D. Neighborhood Context



E. Previous Board of Adjustment Actions

(As 334 Parrott Avenue)

August 16, 1994 – The Board **granted** a variance to allow the construction of a 26'± x 32'± two story rear addition (garage first floor and living space second floor with a 3'± left yard and a 13'± right yard where 14.5' was required for each.

September 16, 1994 – a Request for Rehearing by an abutter to the property was **withdrawn** after meetings with the property owners.

September 27, 1994 – The Board **granted** variances to allow the construction of a 26'± x 26'± three story rear addition (garage on first floor and living space on second and third floors, expanding a nonconforming use of a structure and to allow the addition with a 5'± left yard and a 13'± right yard where 14.5' is required for each.

(As 324 & 334 Parrott Avenue)

May 15, 2012 – In connection with a petition regarding 324 Parrott Avenue to convert a single family to a multi-family dwelling with a two-car garage, a request was also made to allow a shared accessway serving 324 and 334 Parrott Avenue. The request was **granted with the stipulation** that prior to commencement of construction on 324 Parrott Avenue, a final draft of the property deeds and proposed access easement would be submitted to the City Attorney for review and approval.

April 16, 2013 – The Board voted to **grant** a one-year extension of the variances granted at the above meeting through May 15, 2014.

F. Planning Department Comments

- ✓ Application meets submission requirements.
- ✓ Applicant has discussed project with Planning Department staff.

G. 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.*

Case #5-7

Petitioner:	KLDay Realty LLC
Property:	2 Greenleaf Woods Drive, Ste 102
Assessor Plan:	Map 243, Lot 6-E102
Zoning District:	Gateway
Description:	Religious services in a building with office uses.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Special Exception under Section 10.440, Use #3.11 to allow a religious place of assembly in a district where the use is only allowed by Special Exception.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Mix of office uses	Mix of commercial and multi-family residential uses
<u>Lot area (sq. ft.):</u>	735,379.92	43,560 min.

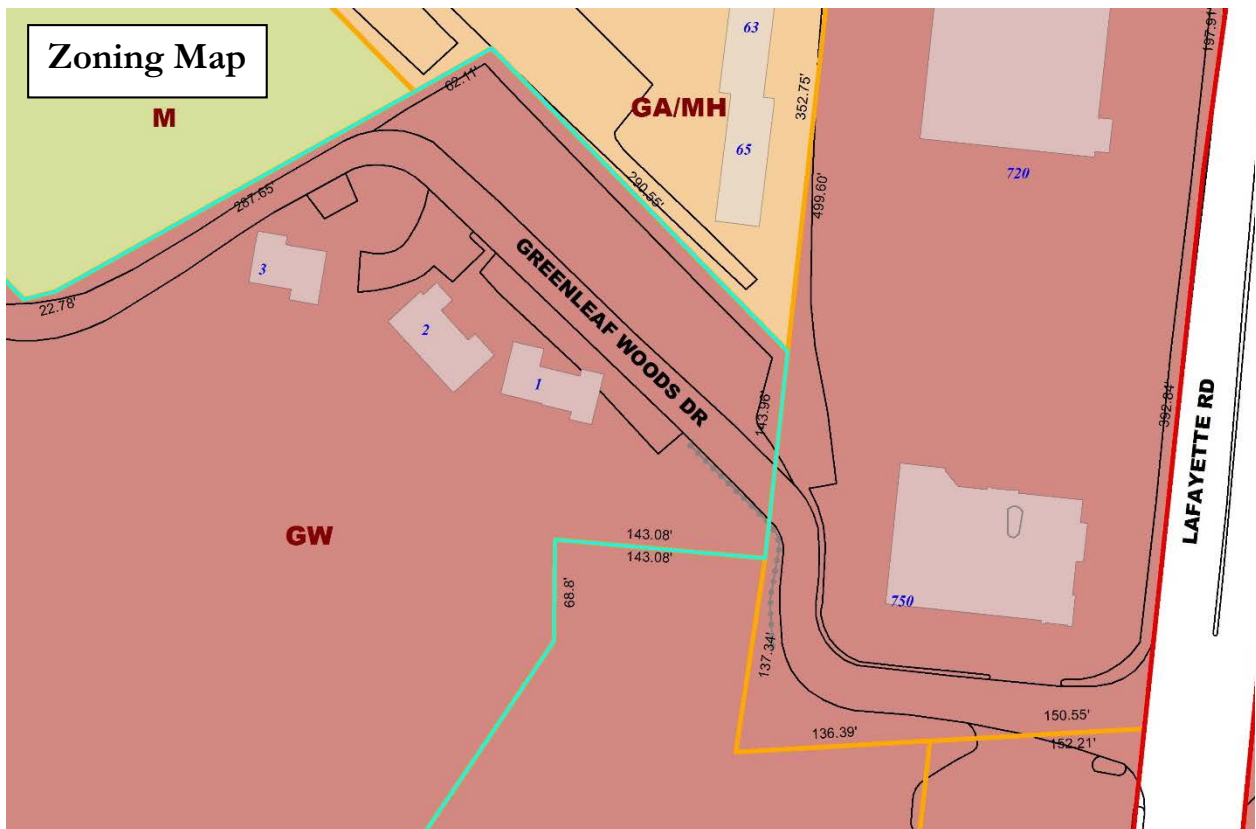
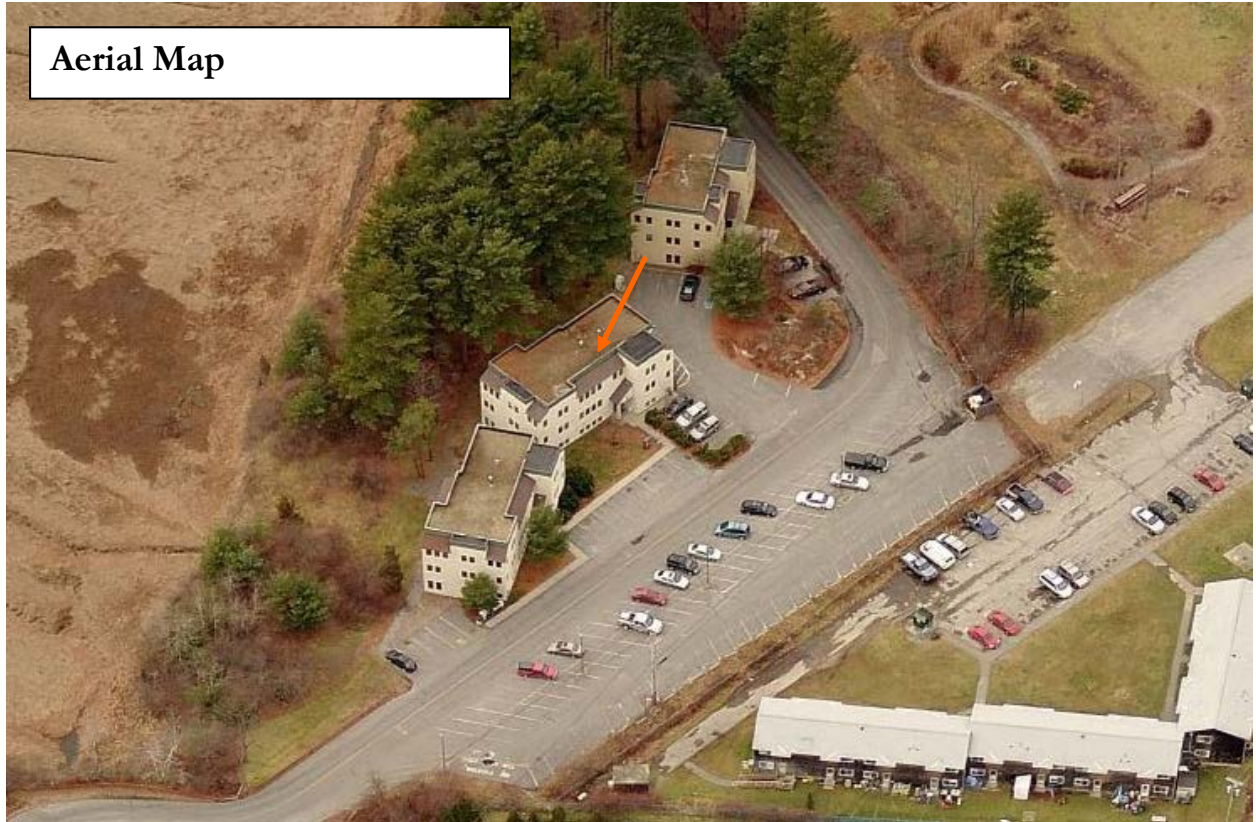
B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Religious place of assembly and office space	Mix of commercial and multi-family residential uses
<u>Parking (# of spaces):</u>	110	<110 min.

C. Other Permits Required

None.

D. Neighborhood Context



E. Previous Board of Adjustment Actions

No history found.

F. Planning Department Comments

- ✓ Application meets submission requirements.
- ✓ Applicant has discussed project with Planning Department staff.

G. 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.*

Case #5-8

Petitioners:	CSS Realty Trust, Christopher D. McInnis, Trustee, owner, White Acquisitions LLC, applicant
Property:	200 McDonough Street
Assessor Plan:	Map 144, Lot 29
Zoning District:	General Residence C
Description:	Single family home on pre-existing nonconforming lot.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: <ol style="list-style-type: none"> 1. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or structurally altered except in conformity with the Ordinance. 2. A Variance from Section 10.516.30 to allow a structure obstructing visibility to be erected on a corner lot between the heights of 2.5' and 10' above the edge of pavement grades within the area outlined in the Ordinance. 3. Variances from Section 10.521 to allow the following: <ol style="list-style-type: none"> a) A secondary front yard setback of 1.2'± where 5' is required; b) A 1.8' left side yard setback where 10'± is required; and c) 44.4%± building coverage where 35% is the maximum allowed.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family residence	Primarily residential uses
<u>Lot area (sq. ft.):</u>	2,588	3,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,588	3,500 min.
<u>Street Frontage (ft.):</u>	50	70 min.
<u>Lot depth (ft.):</u>	51	50 min.
<u>Primary Front Yard (ft.):</u>	1.45	5 min.
<u>Secondary Front Yard (ft.):</u>	0	5 min.
<u>Left Yard (ft.):</u>	1.52	10 min.
<u>Rear Yard (ft.):</u>	5.84	20 min.
<u>Height (ft.):</u>	<30	35 max.
<u>Building Coverage (%):</u>	46.8	35 max.
<u>Open Space Coverage (%):</u>	27.9	20 min.
<u>Parking (# of spaces):</u>	2	2 min.
<u>Estimated Age of Structure:</u>	1900	

B. Proposed Changes

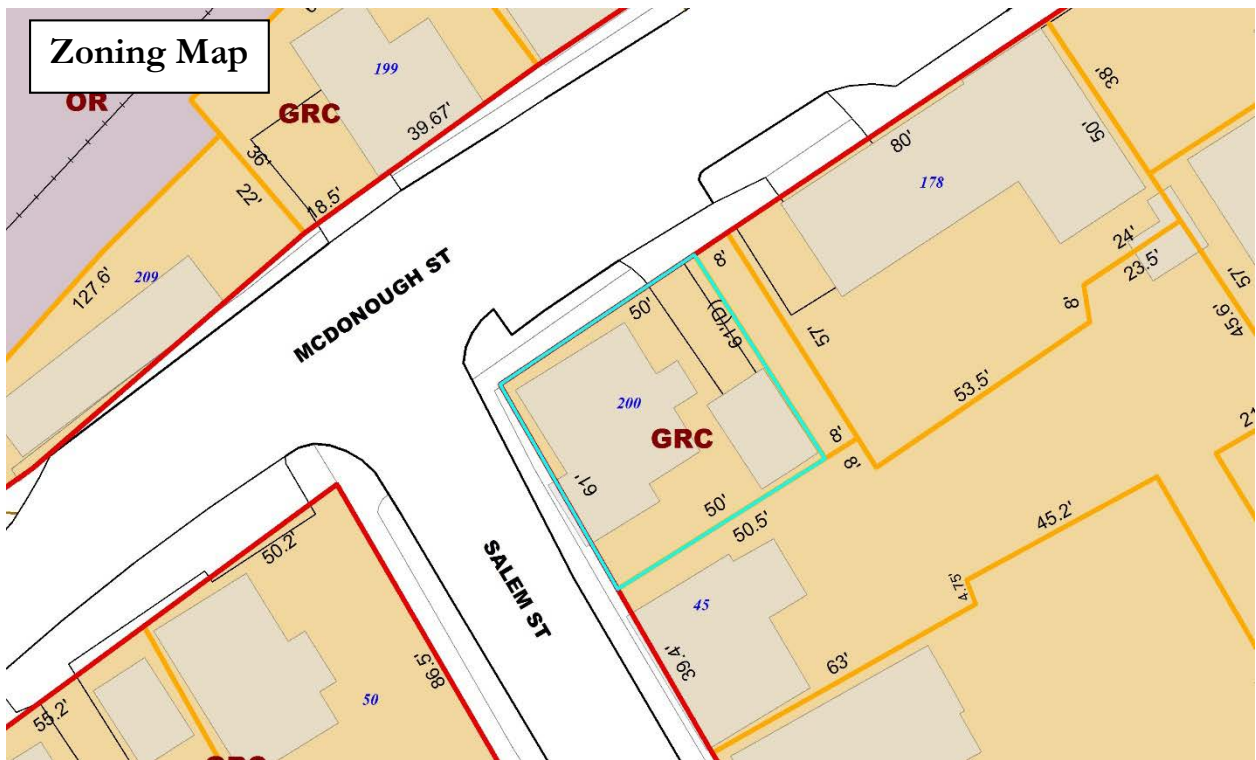
	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Primary Front Yard (ft.):</u>	5.3	5 min.
<u>Secondary Front Yard (ft.):</u>	1.2	5 min.
<u>Left Yard (ft.):</u>	1.8	10 min.
<u>Rear Yard (ft.):</u>	20	20 min.
<u>Height (ft.):</u>	35	35 max.
<u>Building Coverage (%):</u>	44.44	35 max.
<u>Open Space Coverage (%):</u>	46.40	20 min.
<u>Parking (# of spaces):</u>	2	2 min.

C. Other Permits Required

None.

D. Neighborhood Context





E. Previous Board of Adjustment Actions

No history found.

F. Planning Department Comments

- ✓ Application meets submission requirements.
- ✓ Applicant has discussed project with Planning Department staff.

G. Review Criteria

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

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

AND

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

OR

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

Case #5-9

Petitioners:	Cole BJ Portfolio II LLC & BJ's Wholesale Prop Tax DPT C2
Property:	1811 Woodbury Avenue
Assessor Plan:	Map 215, Lot 14
Zoning District:	General Business
Description:	Install second free-standing sign.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance from Section 10.1240 to allow a second free-standing sign on a lot.

A. Existing Conditions

Land Use:	Wholesale store and gas station
Lot area (sq. ft.):	12.25 acres
Store Front Linear Frontage (ft):	300
Estimated Age of Structure:	1993

Signs:

	Qty.	S.F. (S.F.)	Ht. (Ft.)	Ltg.**	Being Removed?
Wall / Attached	1	110.0	n/a	I/F	No
	1	73.0	n/a	I/F	No
	1	69.3	n/a	I/F	No
	3	14.5	n/a	I/F	No
	3	40.1	n/a	I/F	No
Free- Standing	1	113.1	30.8	I/F	No
	1	74.3	20.0	I/F	Yes
	1	11.3	20.0	I/F	Yes

** Ltg.: I/F=Internal/Florescent

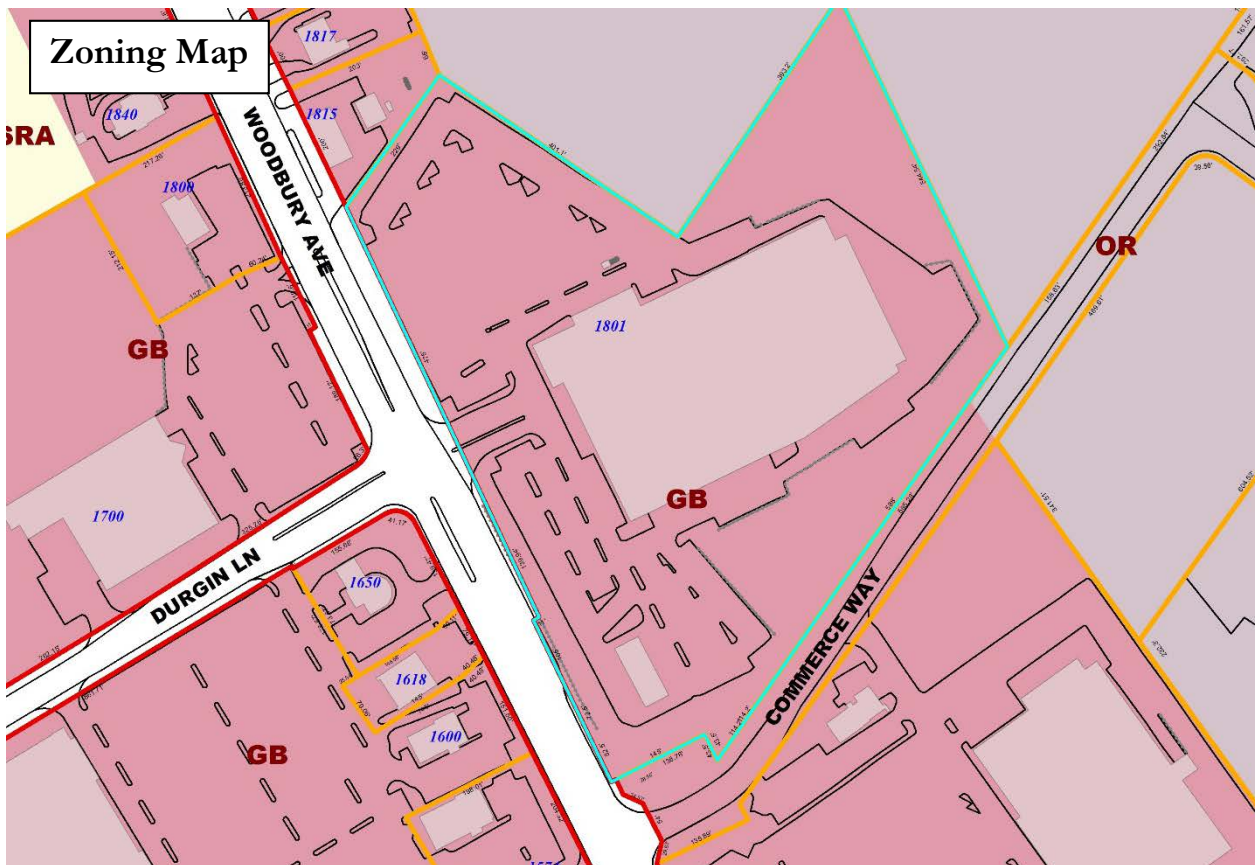
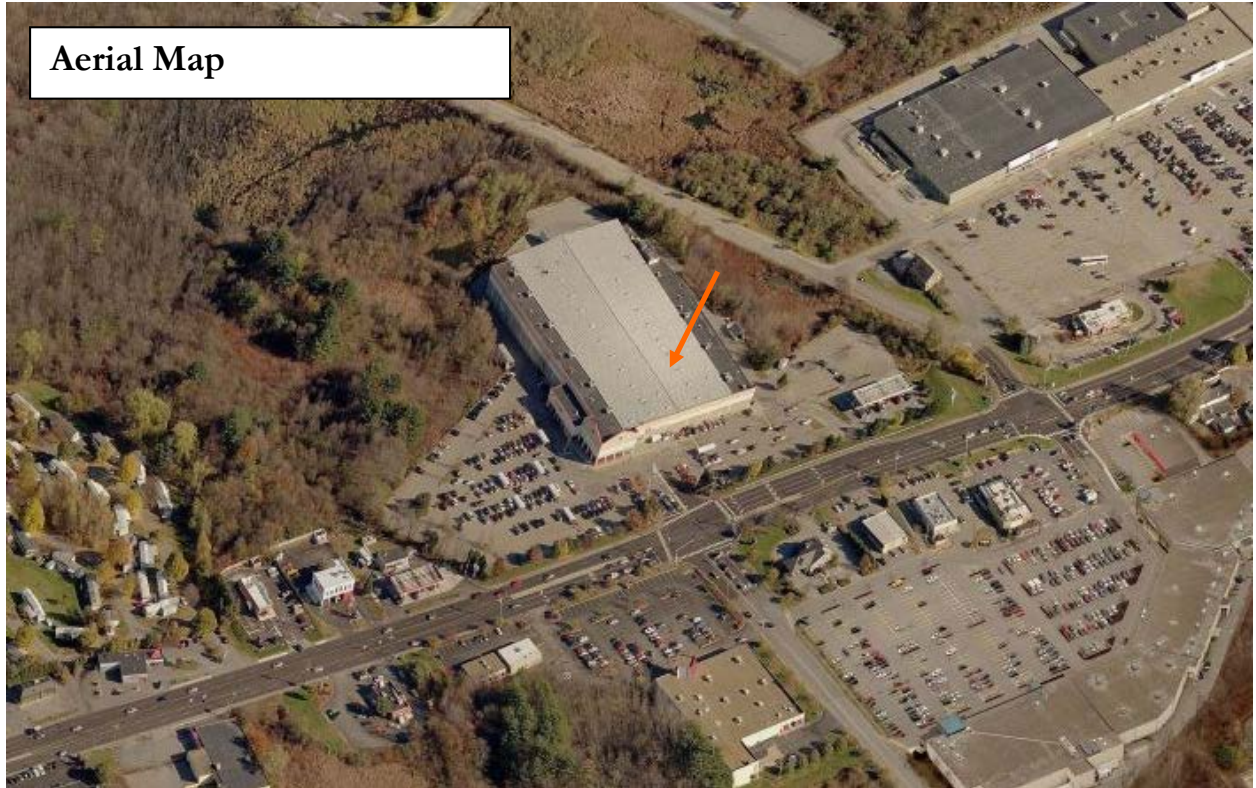
B. Proposed Changes

	Qty.	S.F. (S. F.)	Ht.* (Ft.)	Ltg.**
Free- Standing	1	87.5	21.0	LED

C. Other Permits Required

None.

D. Neighborhood Context



E. Previous Board of Adjustment Actions

August 19, 1997 – The Board **granted** a variance to allow the outdoor storage of a 1000 gallon propane tank for filling customer owned tanks where outdoor storage is not allowed.

February 17, 1998 – The Board **tabled** to March a request for a canopy over a gasoline fueling station wit a 35'± side yard where 50' was required.

March 17, 1998 – The Board failed to pass a motion to grant a Special Exception and thus **denied** a request to construct a 24'± x 149'± canopy with a 4'8" ± x 9'8" ± kiosk for a gasoline station. The Board denied as moot a variance to allow a 35'± side yard where 50' was required if the canopy and kiosk had been granted.

April 21, 1998 – The Board **granted** a Special Exception to allow an automobile gasoline station with a 4'8" ± x 9'8" ± kiosk, a 36'± x 92'± canopy and two underground fuel tanks with six dispensing islands.

May 20, 2003 – The Board **granted** a Special Exception to allow a motor vehicle repair garage with the stipulation that inoperable vehicles or parts thereof would not be parked or stored outside.

F. Planning Department Comments

- ✓ Application meets submission requirements.
- ✓ Applicant has discussed project with Planning Department staff.

G. 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.*