

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: September 12, 2017
RE: Zoning Board of Adjustment September 19, 2017 Meeting

OLD BUSINESS

1. 180 Mirona Rd.
2. 217 Bartlett St.
3. Off Sylvester St. – Request for Re-hearing

NEW BUSINESS

1. 606 State St.
2. Off Sylvester St.
3. 321 Dennett St.
4. 411 South St.

OLD BUSINESS

Case #8-3

Petitioners: SLF Realty Group
Property: 180 Mirona Road
Assessor Plan: Map 253, Lot 2
Zoning District: Gateway District (GW)
Description: Replace an internally illuminated sign.
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:
1. A Variance from Section 10.1251.20 to allow a 112 ± s.f. free standing sign (including base) where 100 s.f. is the maximum.
2. A Variance from Section 10.1243 to allow a second free-standing sign on a lot where only one free-standing sign is permitted.
3. A Variance from Section 10.1281 to allow a nonconforming sign or sign structure to be altered, reconstructed or replaced without bringing the nonconforming sign into conformity with the Ordinance.

Existing & Proposed Conditions

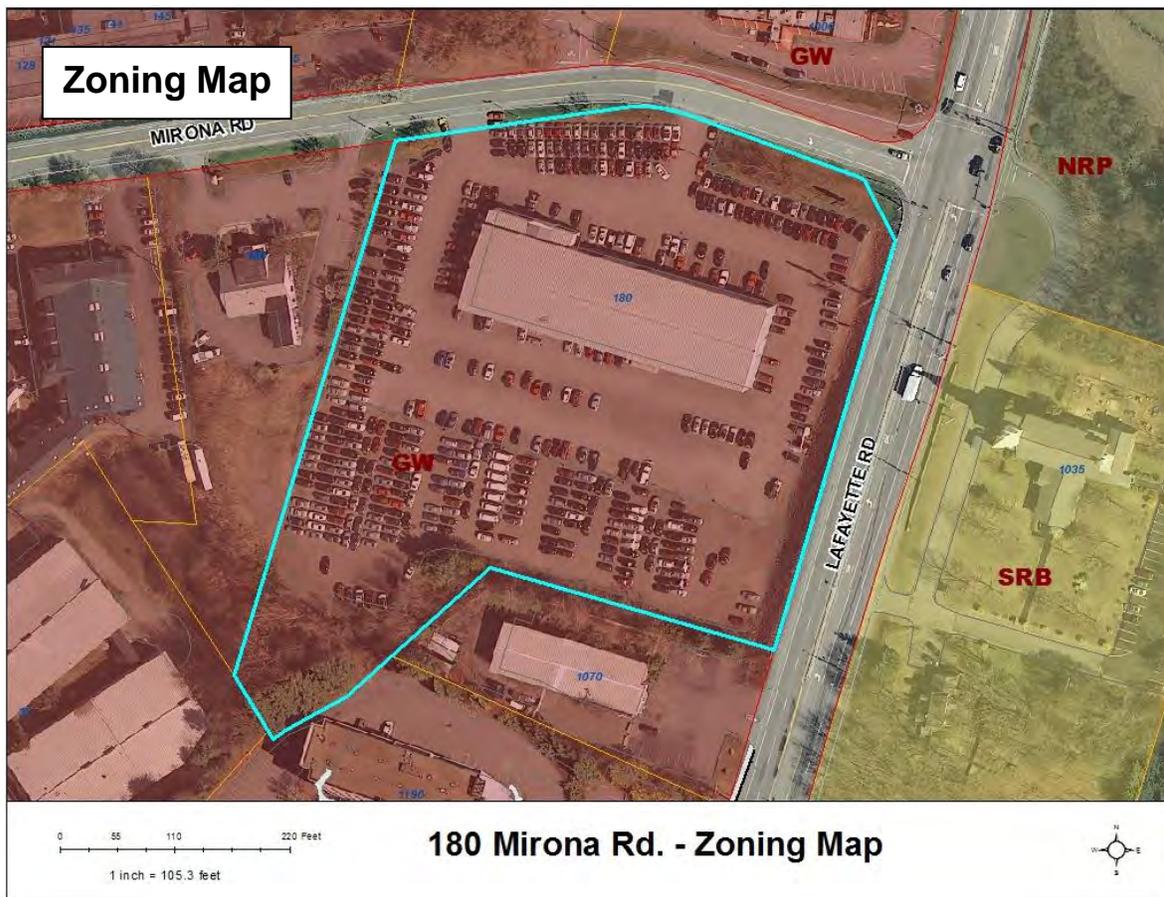
See sign permit application in file for existing and proposed sign dimensions.

Other Permits Required

None.

Neighborhood Context





Previous Board of Adjustment Actions

November 16, 1993 – The Board granted a special exception to establish motor vehicle sales in an existing building with associated repair services, outdoor storage and display areas.

February 17, 1998 – The Board granted a variance to allow two attached signs (25.2 s.f. total) and one of 14 s.f. for a total aggregate on site of 251.2 s.f. where 200 s.f. was the maximum allowed.

Planning Department Comments

Per Section 10.243, only one freestanding sign is permitted per lot. The subject property has two freestanding signs and is proposing to reduce the size of one and replace the second. Nonconforming signs must be brought into conformance if altered, reconstructed, replaced or relocated, per Section 10.1281.

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 #8-7

Petitioners: Bartlett Street Condos LLC
 Property: 217 Bartlett Street
 Assessor Plan: Map 162, Lot 32
 Zoning District: General Residence A (GRA)
 Description: Replace demolished building with a single-family residence.
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:
 1. A Variance from Section 10.513 to allow more than one free standing dwelling on a lot.
 2. A variance from Section 10.521 to allow the following: a) a lot area per dwelling of 1,773± s.f. where 7,500 s.f. is required; b) a 3'± side yard setback where 10' is required; c) a 10'± front yard setback where 15' is required; d) continuous street frontage of 98.7'± where 100' is required; and e) a building coverage of 30.9% ± where 25% is the maximum allowed.

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	4 unit Multi-family	Construct new Single Family	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	8,666	8,666	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,166	1,773	7,500 min.
<u>Street Frontage (ft.):</u>	98.7	98.7	100 min.
<u>Lot depth (ft.):</u>	>70	>70	70 min.
<u>Primary Front Yard (ft.):</u>	5	10	30 min.
<u>Right Yard (ft.):</u>		3	10 min.
<u>Left Yard (ft.):</u>	>10	>10	10 min.
<u>Rear Yard (ft.):</u>	>20	>20	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	42	30.9**	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
			Variance request shown in red.

****denotes change from original ad**

Other Permits Required

Site Plan Review

Previous Board of Adjustment Actions

January 26, 2016: The Board **granted** a Special Exception to allow four dwelling units and variances to allow a lot area per dwelling unit of 2,237 s.f. where 7,500 is required and to allow an 18' maneuvering aisle where 24' is required with the stipulation that the existing concrete block building and connector will be removed prior to issuance of a certificate of occupancy for the four dwelling unit structure.

August 22, 2017 – A request requiring the following to replace a demolished building with a single-family residence was **postponed** to the September meeting: a) more than one free standing dwelling on a lot; b) a lot area per dwelling unit of 1,773 s.f. where 7,500 s.f. is required; c) a 3' right side yard setback where 10' is required; d) a 10' front yard setback where 15' is required; e) 98.7' continuous street frontage where 100' s required; and f) 35% building coverage where 25% is the maximum allowed.

Planning Department Comments

A building permit has been issued and construction is underway for the multi-family building. Regardless of the outcome of this petition, the stipulation still stands for removing the existing concrete building and connector prior to receiving a certificate of occupancy for the multi-family structure.

The application has submitted a revised plan which shows the proposed single-family as one story instead of two. The new drawing shows the front of the proposed dwelling farther away from the adjacent property, but still maintaining three feet from the side setback at the rear.

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 #9-3 (8-6)

Petitioners: Arne LLC
 Property: 0 Sylvester Street
 Assessor Plan: Map 232, Lots 43-1 & 43-2
 Zoning District: Single Residence B (SRB)
 Description: Merge two lots and construct a single-family home.
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:
 1. A Variance from Section 10.521 to allow the following: a) continuous street frontage of 80.64'± where 100'; b) a lot area and lot area per dwelling unit of 6,713± s.f. where 15,000 s.f. is required; c) a lot depth of 82.2'± where 100' is required; and d) a front yard setback of 21.7'± where 30' is required.

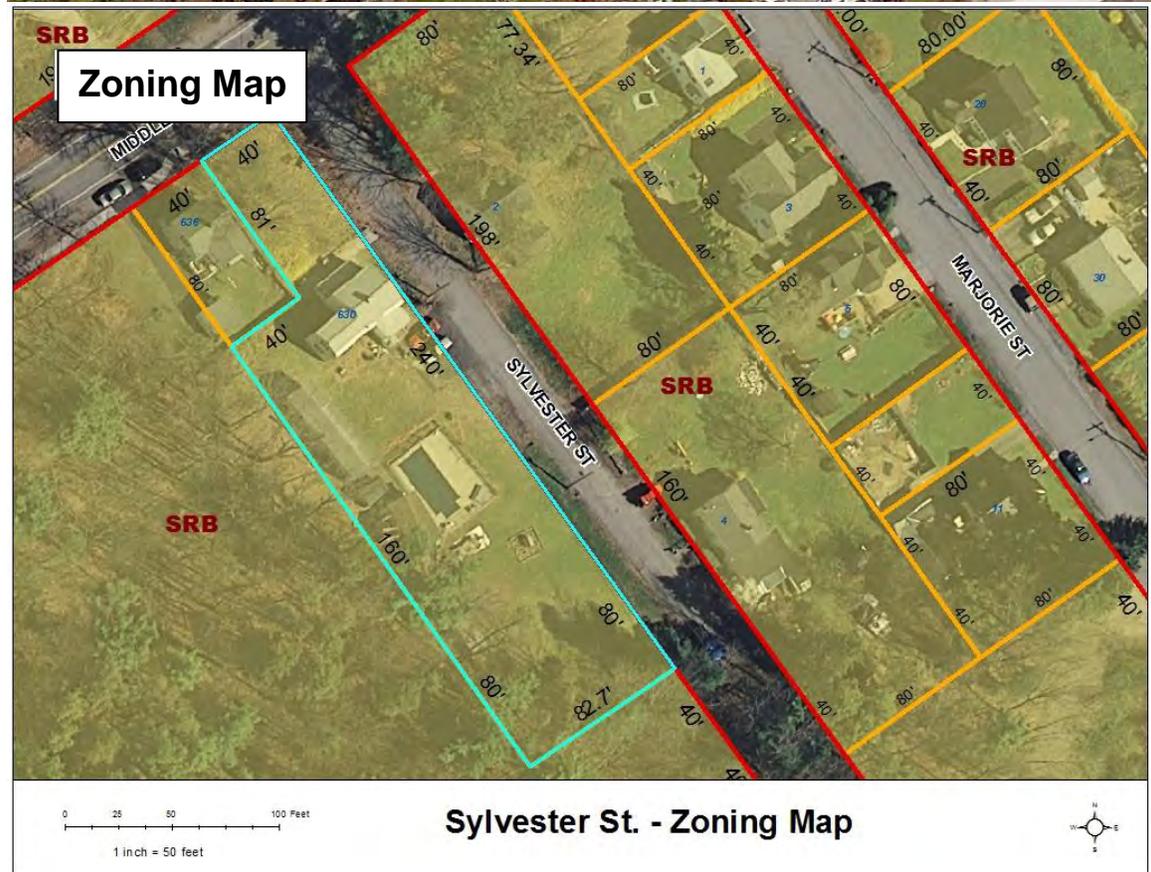
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant	Single Family	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>		6,713	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>		6,713	15,000 min.
<u>Street Frontage (ft.):</u>		80.84	100 min.
<u>Lot depth (ft.):</u>	>100	82.20	100 min.
<u>Primary Front Yard (ft.):</u>	5	21.7	30 min.
<u>Right Yard (ft.):</u>	>10	13	10 min.
<u>Left Yard (ft.):</u>	13	16	10 min.
<u>Rear Yard (ft.):</u>	>30	31	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	<20	19.3	20 max.
<u>Open Space Coverage (%):</u>	>40	73.3	40 min.
<u>Estimated Age of Structure:</u>	1893		Variance request shown in red.

Other Permits Required

None

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

On August 22, 2017, the Board granted the request for the variances described above with the exception of the front setback. The applicant has filed a request for a rehearing, specifically to reconsider the stipulation for site plan review, within 30 days of the Board's decision and the Board must consider the request at the next scheduled meeting. The Board must vote to grant or deny the request or suspend the decision pending further consideration. If the Board votes to grant the request, the rehearing will be scheduled for the next month's Board meeting or at another time to be determined by the Board.

The decision to grant or deny a rehearing request must occur at a public meeting, but this is not a public hearing. The Board should evaluate the information provided in the request and make its decision based upon that document. The Board should grant the rehearing request if a majority of the Board is convinced that some error of procedure or law was committed during the original consideration of the case.

The applicant has also submitted a new variance request for relief from the rear setback instead of the front setback.

NEW BUSINESS

Case #9-1

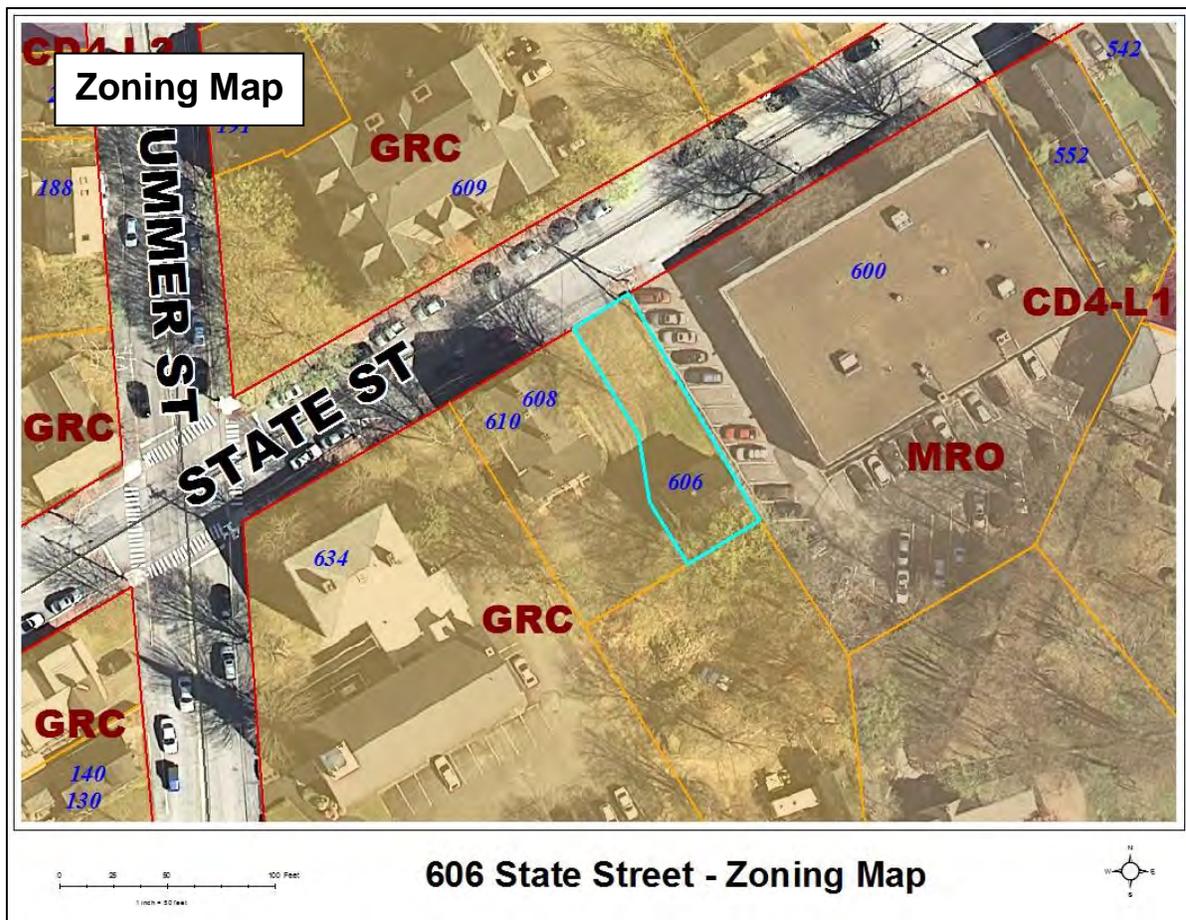
Petitioners:	Melissa A. Raffoni Revocable Trust of 2011, Melissa Raffoni, Trustee
Property:	606 State Street
Assessor Plan:	Map 127, Lot 21
Zoning District:	General Residence C (GRC)
Description:	Constructed third floor wall extension.
Requests:	Variations and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including: <ol style="list-style-type: none">1. A Variance from Section 10.521 to allow a 4'± right side yard where 10' is required.2. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

Other Permits Required

None

Neighborhood Context





Previous Board of Adjustment Actions

November 22, 2016 – The Board **granted** variances to expand the height of the third floor with front rear dormers with a 4’ right side yard and a 5’ left side yard where 10’ was required for each; a rear yard of 3.5’ where 20’ was required, and a nonconforming building or structure to be extended or enlarged without conforming to the Ordinance. The variances were granted with the **stipulation** that the rear yard relief will be amended to allow, if necessary for reconstruction, the rear stairs to extend into the year yard setback to a maximum 6” from the rear property line with that allowable extension applicable only to the stairs.

June 20, 2017 – The Board **granted** variances to construct a spiral staircase to access a roof deck including the following: a) to allow a 3.5’ rear yard setback where 20’ was required; and b) to allow a nonconforming building to be extended, enlarged or structurally altered without conforming to the Ordinance.

Planning Department Comments

This property is before the Board because of an extension that was constructed in the setback that was not part of the prior approval. While this may seem minor, it is still an encroachment into the right yard setback the Board did not previously approve.

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 #9-2

Petitioners:	Arne LLC
Property:	0 Sylvester Street
Assessor Plan:	Map 232, Lots 43-1 & 43-2
Zoning District:	Single Residence B (SRB)
Description:	Merge two lots and construct a single-family home.
Requests:	Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including: 1. A Variance from Section 10.521 to allow a rear yard setback of 22.1'± where 30' is required.

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant	Single Family	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>		6,713	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>		6,713	15,000 min.
<u>Street Frontage (ft.):</u>		80.84	100 min.
<u>Lot depth (ft.):</u>	>100	82.20	100 min.
<u>Primary Front Yard (ft.):</u>	5	30	30 min.
<u>Right Yard (ft.):</u>	>10	13	10 min.
<u>Left Yard (ft.):</u>	13	16	10 min.
<u>Rear Yard (ft.):</u>	>30	22.1	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	<20	19.3	20 max.
<u>Open Space Coverage (%):</u>	>40	73.3	40 min.
<u>Estimated Age of Structure:</u>	1893		Variance request shown in red.

Other Permits Required

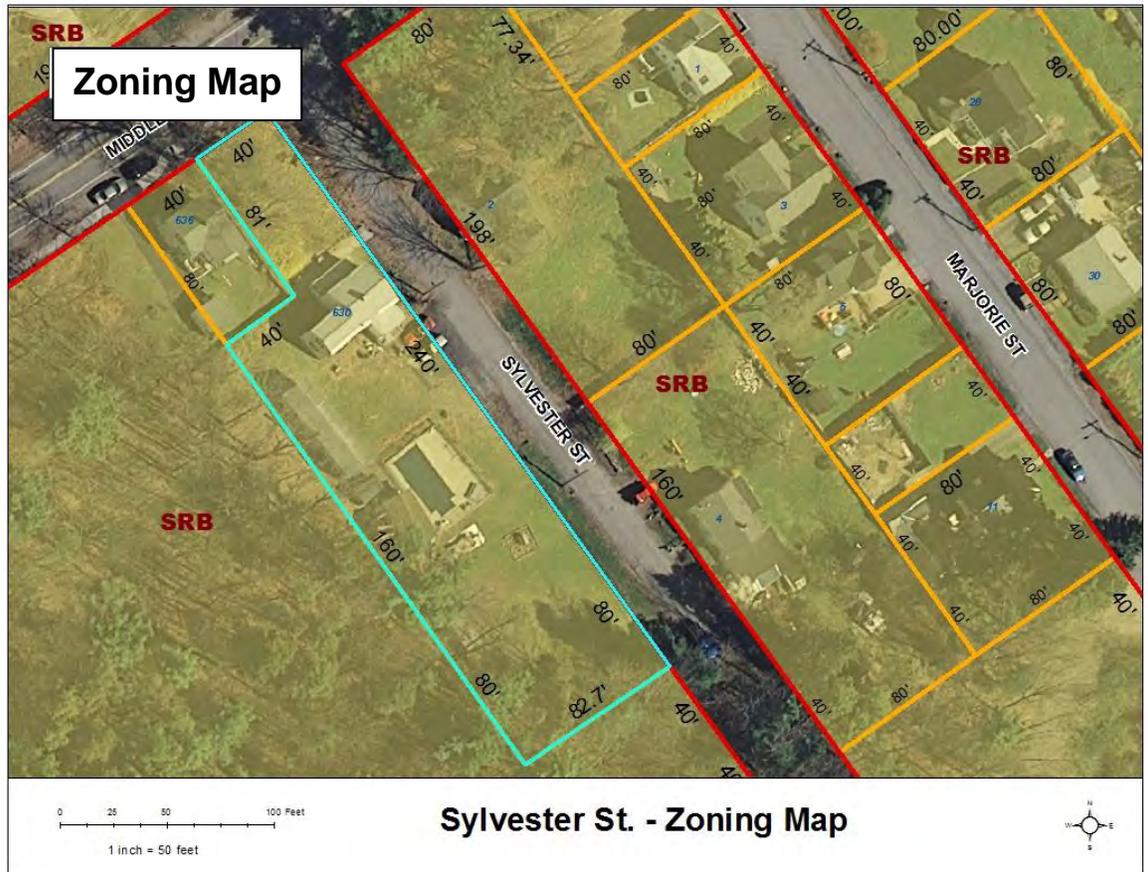
None

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

August 22, 2017 – The Board **granted** the following variances necessary to construct a single-family home on two merged lots: a) continuous street frontage of 80.84' where 100' was required; b) a lot area and lot area per dwelling unit of 6,713 sf. where 15,000 s.f. was required; and c) lot depth of 82.2' where 100' was required. The Board **denied** the request for a front yard setback of 21.7' where 30' was required.

Planning Department Comments

On August 22, 2017, the Board granted relief for lot frontage, lot depth and minimum lot size and denied a request to encroach into the front yard setback. The applicant is now proposing to encroach into the rear setback approximately 7.9 feet in order to address concerns presented at the meeting.

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 #9-4

Petitioners: Matthew Nolte, owner, Matthew & Kerry Nolte, applicants
 Property: 321 Dennett Street
 Assessor Plan: Map 160, Lot 40
 Zoning District: General Residence A (GRA)
 Description: Relocation of second dwelling unit into a separate structure.
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:

1. A Variance from Section 10.513 to allow a second free-standing dwelling on a lot where only one free-standing dwelling is allowed
2. A Variance from Section 10.521 to allow the following: (a) a 5.75'± secondary front yard setback (Hunter Hill) where 15' is required; (b) a 9'6" ± rear yard setback (Dennett Street) where 20' is required; and (c) lot area per dwelling unit of 3,705± sf. where 7,500 s.f. is required.
3. A Variance from Section 10.1111.20 to allow a use that is nonconforming with respect to off-street parking to be enlarged or altered without complying with the off-street parking requirements.
4. A Variance from Section 10.1112.30 to allow 0 legally conforming off-street parking spaces where four (4) are the minimum required.

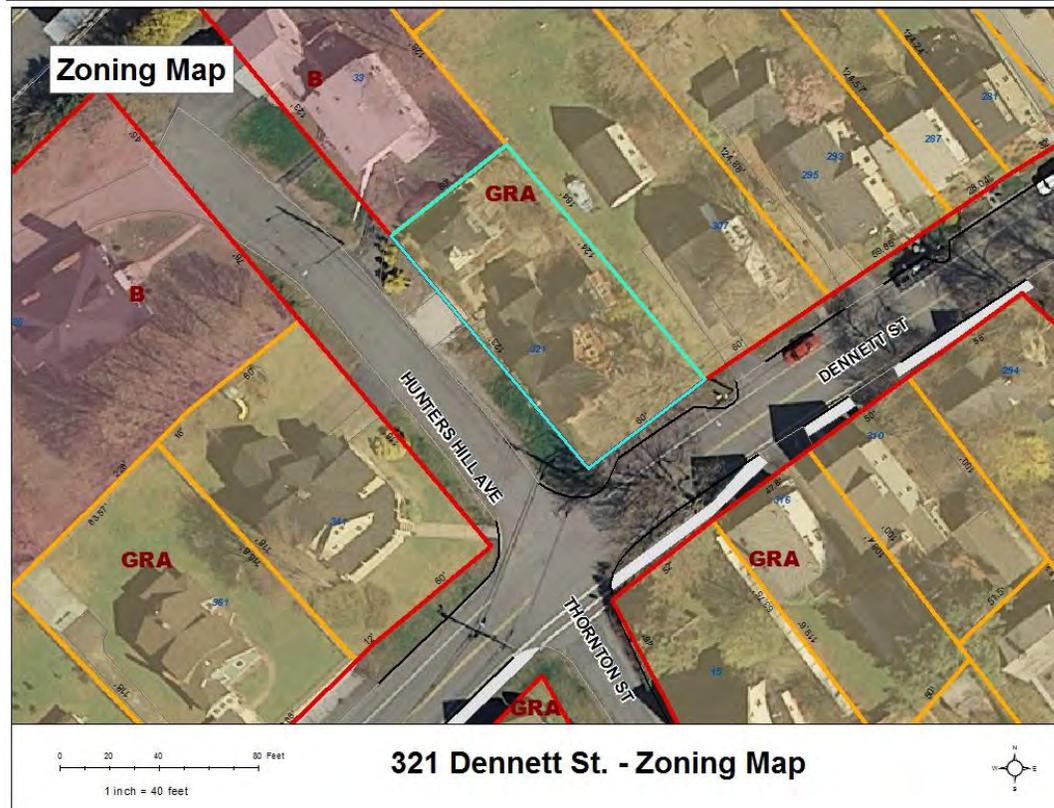
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family	Relocate one DU to carriage house	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	7,410	7,410	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,705	3,705	7,500 min.
<u>Street Frontage (ft.):</u>	>100	>100	100 min.
<u>Lot depth (ft.):</u>	>70	>70	70 min.
<u>Primary Front Yard (ft.):</u>	>15	>15	15 min.
<u>Right Yard (ft.):</u>	>10	>10	10 min.
<u>Secondary Front Yard (ft.):</u>	5.75	5.75	15 min.
<u>Rear Yard (ft.):</u>	9.6	9.6	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	26.8	26.8	25 max.
<u>Open Space Coverage (%):</u>	59.7	59.7	30 min.
<u>Parking</u>	0	0	4
<u>Estimated Age of Structure:</u>	2002	Variance request shown in red.	

Other Permits Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

October 7, 1980 – The Board **granted** a Special Exception to allow the conversion of a single-family dwelling to two apartments.

October 15, 2002 – The Board **granted** variances to allow a 16' x 23' accessory building with a full basement with the following: a) a 9'6" rear yard where 10' was required; 26.6% building coverage where 25% was the maximum allowed; and a real estate appraisal business in 368 s.f. of the building where only 300 s.f. was allowed for a Home Occupation I. The request was granted with the **stipulation** that the owners adhere to the requirements of Home Occupation I (other than the maximum s.f. as 368 s.f. was allowed by the granted variance) as follows:

- No nonresident employees;
- No deliveries for such use;
- No signage;
- No client, vendor or general public to visit the home occupation; and
- No outdoor storage of materials or product.

Planning Department Comments

The principal structure on this lot is a two family dwelling and the applicant is proposing to relocate one of the dwelling units into an existing accessory structure and convert the main house into a single family unit. Through the Conditional Use Permit process, this structure could be converted into a garden cottage under Section 10.815 without having to seek variances. They would have to ask the Planning Board for modifications for parking and for the size of the unit because it exceeds 600 square feet if they went that route, but the applicant has chosen to seek relief through the BOA for a second dwelling.

There appears to be no area on the property to provide any off-street parking. The current parking area used by the owners is actually in the right of way.

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 #9-5

Petitioners:	Paul Lanzoni, owner, Paul & Janice Lanzoni, applicants
Property:	411 South Street
Assessor Plan:	Map 112, Lot 55
Zoning District:	General Residence A (GRA)
Description:	Attached garage with accessory dwelling unit and hallway addition.
Requests:	<p>Variations and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:</p> <ol style="list-style-type: none"> 1. A Variance from Section 10.521 to allow the following: (a) a rear yard setback of 6.5'± where 20' is required; and (b) a building coverage of 26.4% ± where 25% is required. 2. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

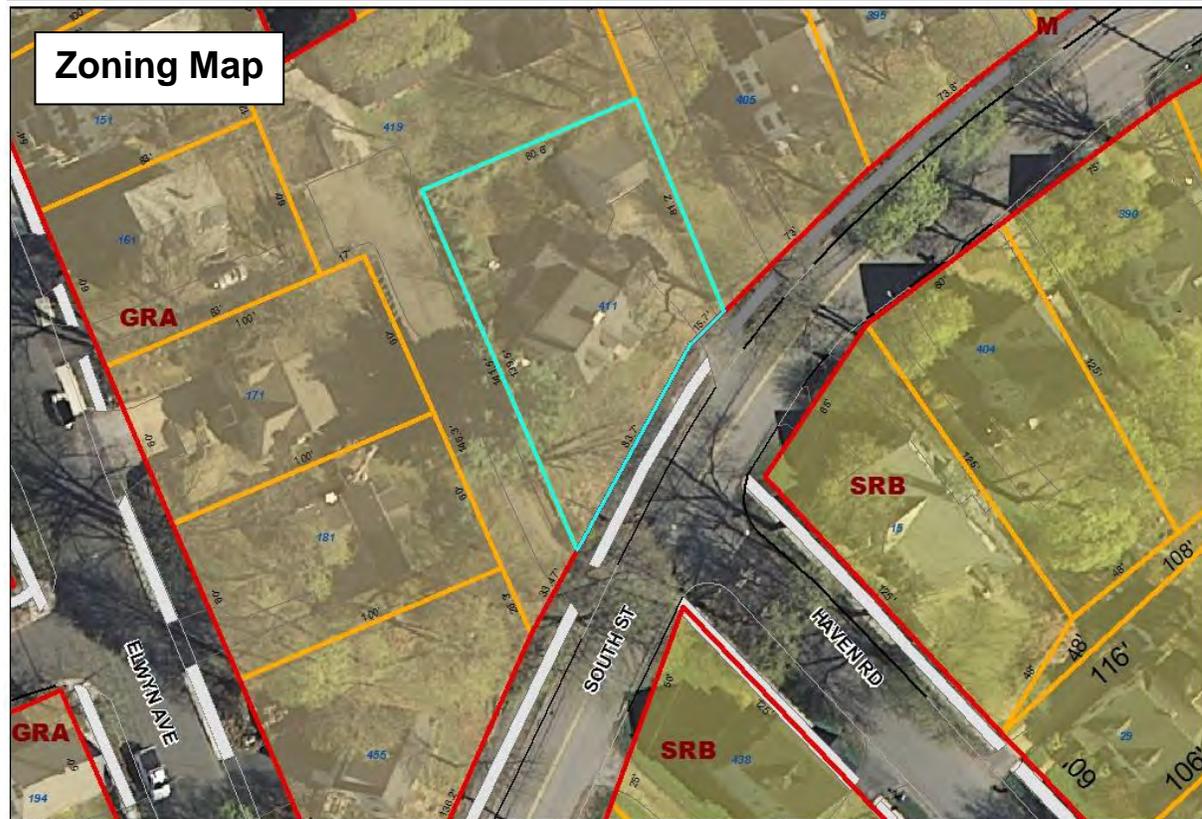
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family	Garage addition w/ AADU	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	8,581	8,581	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,581	8,581	7,500 min.
<u>Street Frontage (ft.):</u>	ok	ok	100 min.
<u>Lot depth (ft.):</u>	ok	ok	70 min.
<u>Primary Front Yard (ft.):</u>	>15	>15	15 min.
<u>Right Yard (ft.):</u>	6	10	10 min.
<u>Left Yard (ft.):</u>	>10	>10	10 min.
<u>Rear Yard (ft.):</u>	6.2	6.5	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	23.8	26.4	25 max.
<u>Open Space Coverage (%):</u>	39.6	37.3	30 min.
<u>Estimated Age of Structure:</u>	1955	Variance request shown in red.	

Other Permits Required

None.

Neighborhood Context



411 South St. - Zoning Map

Previous Board of Adjustment Actions

No BOA history found.

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.