

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: June 20, 2017
RE: Zoning Board of Adjustment June 27, 2017 Meeting

OLD BUSINESS

1. None

NEW BUSINESS

1. 3612 Lafayette Rd.
2. 90 Cutts St.
3. 736 Middle St.
4. 129 Market St.
5. 46-64 Maplewood Ave.
6. 150 Spaulding Tpke.

Case #6-8

Petitioners: Regeneration Realty Trust, Jonathan Bobbett, Trustee
 Property: 3612 Lafayette Road
 Assessor Plan: Map 297, Lot 3
 Zoning District: Gateway (GW)
 Description: Increase interior office space by 1,330 square feet.
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:
 1. A Variance from Section 10.112.30 to allow 113 parking spaces where 116 are required.

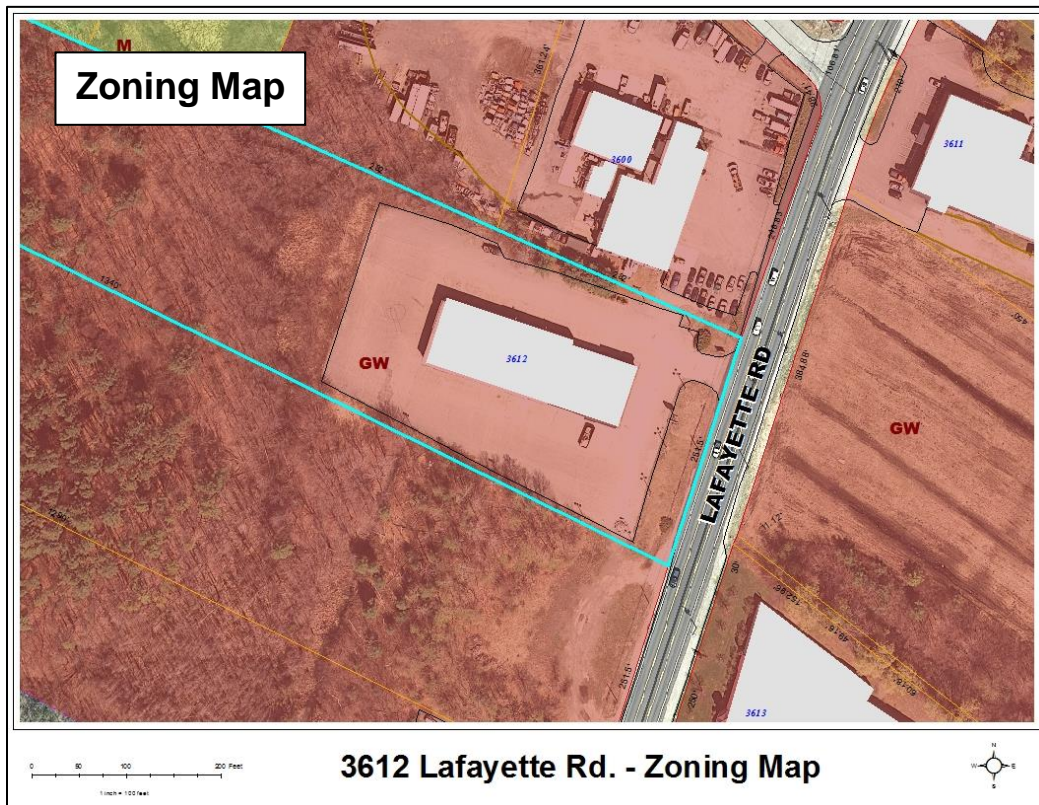
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Restaurant/Office space	Restaurant/Office Space	Primarily Mixed Uses
<u>Lot area (sq. ft.):</u>	294,181	294,181	43,560 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	NR	NR	NR min.
<u>Street Frontage (ft.):</u>	>200	>200	200 min.
<u>Lot depth (ft.):</u>	>100	>100	100 min.
<u>Primary Front Yard (ft.):</u>	>30	>30	30 min.
<u>Right Yard (ft.):</u>	>30	>30	30 min.
<u>Left Yard (ft.):</u>	>30	>30	30 min.
<u>Rear Yard (ft.):</u>	>50	>50	50 min.
<u>Height (ft.):</u>	<40	<40	40 max.
<u>Building Coverage (%):</u>	4.9	4.9	30 max.
<u>Open Space Coverage (%):</u>	77	77	20 min.
<u>Parking (# of spaces):</u>	113	113	116
<u>Estimated Age of Structure:</u>	1970	Variance request shown in red.	

Other Permits Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

March 17, 1987 – The Board **granted** a special exception to permit the establishment of an automobile dealership.

October 20, 1987 – The Board **granted** variances to allow the erection of 3 each free-standing and attached signs with various side and front yard setbacks totaling 214 s.f. of free-standing signage where 150 s.f. was the maximum allowed and aggregate signage of 287.5 s.f. where 200 s.f. was the maximum allowed.

December 18, 1990 – The Board **granted** a variance to permit a dwelling unit in a district where dwelling units were not allowed with the **stipulation** that the unit not be used as a general rental unit or become a condominium.

September 19, 1995 – The Board **granted** a special exception to allow a car wash in an existing automobile sales and service facility as an accessory use to the business.

February 20, 1996 – The Board **denied** a request to allow the use of a 35' high inflatable gorilla as a special events sign for 14 nonconsecutive days in a three month period where only one 7 day period in there months was allowed.

March 19, 1996 – The Board **denied** a request for a rehearing of the above.

April 23, 1996 – The Board **denied** a request to allow the use of a special events sign (inflatable gorilla) for 7 nonconsecutive days where only 8 consecutive days were allowed.

April 15, 2008 – The Board **granted** a special exception to allow the repair of school buses inside the existing building.

April 28, 2009 – the Board **granted** a variance to allow the outdoor display and sales of play systems for children where they were not allowed. The request was granted with the **stipulation** that the display area would be at least 50' from the front property line and at least 40' from the left side property line.

May 21, 2013 – The Board **granted** a variance to allow no additional off-street parking spaces to be provided where 9 off-street parking spaces were required for a 936 s.f. patio.

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 #6-9

Petitioners: Revision Development, LLC
 Property: 90 Cutts Street
 Assessor Plan: Map 209, Lot 19
 Zoning District: General Residence A (GRA)
 Description: Demo existing dwelling and construct new two-family dwelling.
 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 12.5'± foot rear setback where 20' is required.
 2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 6,005 s.f. where 7,500 s.f. is required.

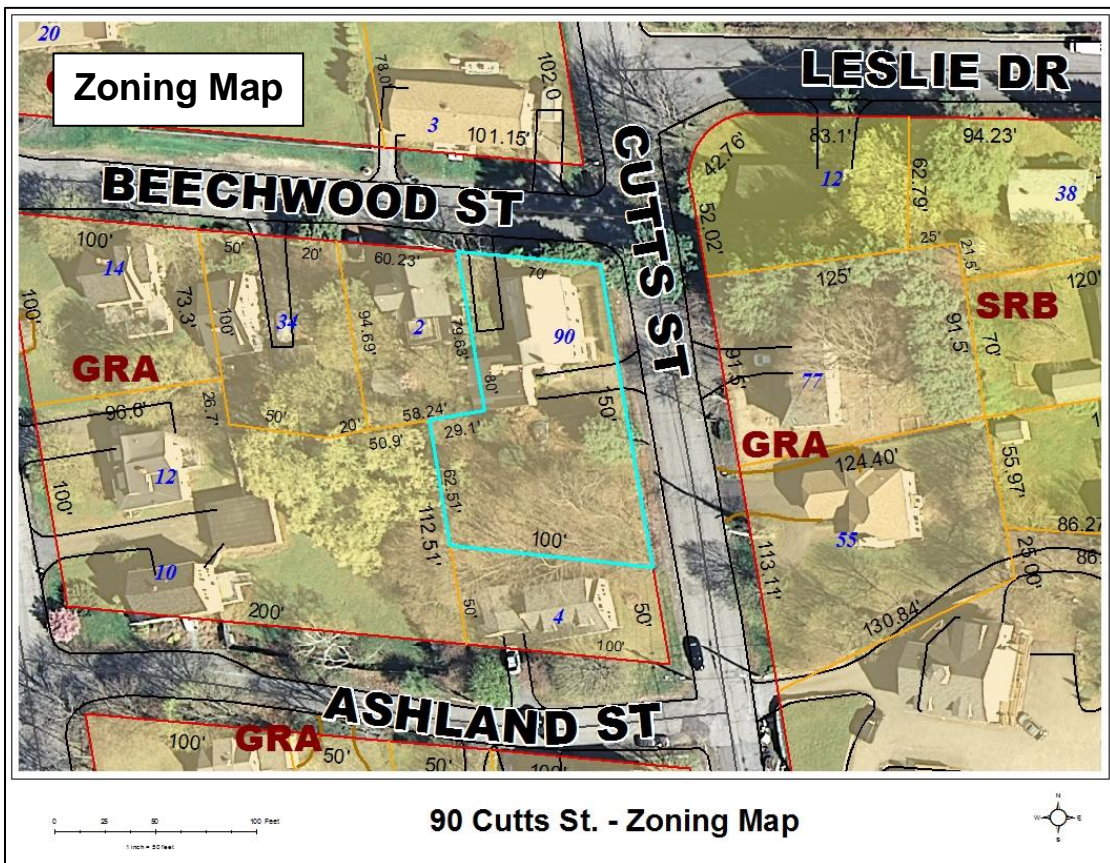
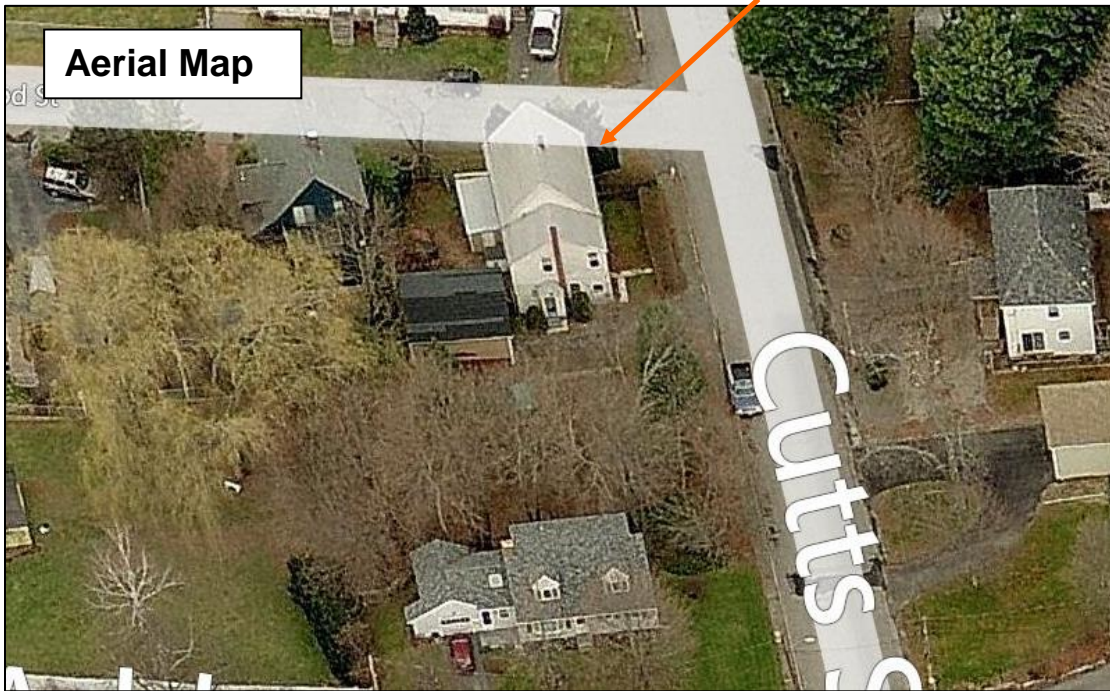
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family	Two Family	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	12,011	12,011	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	12,011	6,005	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>	11	15.2	15 min.
<u>Secondary Front Yard (ft.):</u>	5.9	23.7	15 min.
<u>Left Yard (ft.):</u>	>10	>10	10 min.
<u>Rear Yard (ft.):</u>	21.9	12.5	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	15.3	25	25 max.
<u>Open Space Coverage (%):</u>	78.3	68.4	30 min.
<u>Estimated Age of Structure:</u>	1931	Variance request shown in red.	

Other Permits Required

None.

Neighborhood Context



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.

Case #6-10

Petitioners: Charles A. & Patricia Corlin Family IV Trust, Charles A. Corlin, Trustee
 Property: 736 Middle Street
 Assessor Plan: Map 148, Lot 24
 Zoning District: General Residence A (GRA)
 Description: Construction of new deck.
 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 a 2'± left side yard setback where 10' is required and an 8'± right side yard setback where 10' is required.
 2. A Variance from Section 10.321 to allow a nonconforming building to be reconstructed or enlarged without conforming to the requirements of the ordinance.

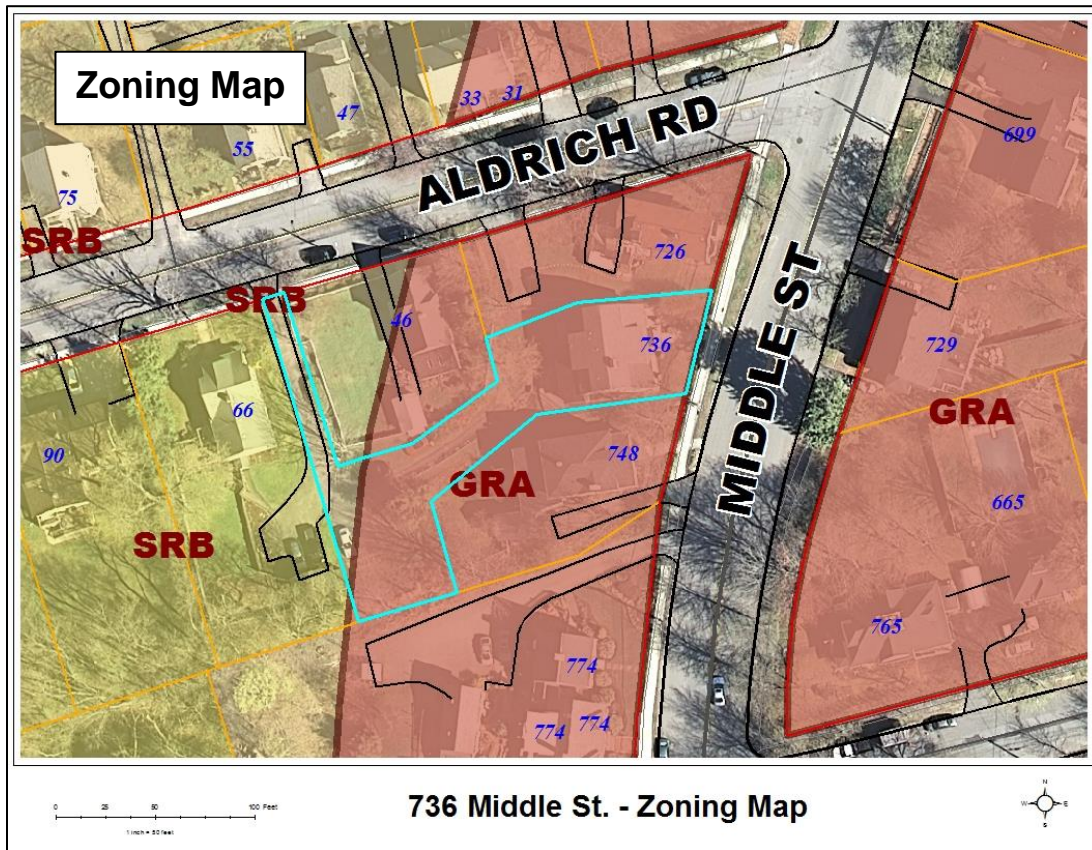
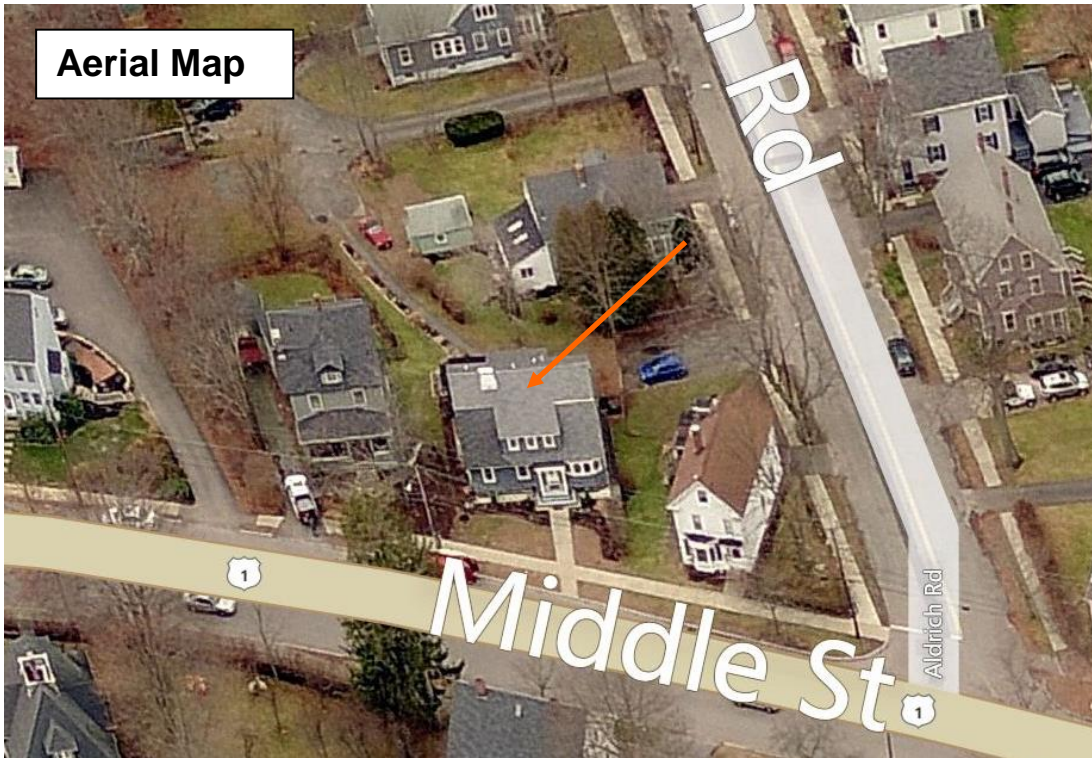
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family	Single Family	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	11,325.60	11,325.60	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,662.80	5,662.80	7,500 min.
<u>Street Frontage (ft.):</u>	52	52	100 min.
<u>Lot depth (ft.):</u>	>100	>100	70 min.
<u>Primary Front Yard (ft.):</u>	14	14	15 min.
<u>Right Yard (ft.):</u>	8	8	10 min.
<u>Left Yard (ft.):</u>	5	2	10 min.
<u>Rear Yard (ft.):</u>	>20	>20	20 min.
<u>Height (ft.):</u>	24	<35	35 max.
<u>Building Coverage (%):</u>	18.5	23	25 max.
<u>Open Space Coverage (%):</u>	>40	>40	30 min.
<u>Estimated Age of Structure:</u>	1915	Variance request shown in red.	

Other Permits Required

HDC approval May 10, 2017

Neighborhood Context



Previous Board of Adjustment Actions

October 18, 2016 – The Board postponed consideration of a request to construct a 24' x 24' detached garage and a 8' x 16' shed with a 3' right side yard for the shed where 10' was required and a 6' rear yard for a garage where 20' was required.

October 25, 2016 – The Board granted variances to allow the above request.

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 #6-11

Petitioners:	Charles W. Carrigan Living Revocable Trust 06, Charles W. Carrigan Trustee, owner, Kevin Foley, applicant
Property:	129 Market Street
Assessor Plan:	Map 106, Lot 35
Zoning District:	Character District 5 (CD5), Historic District (HD), Downtown Overlay District (DOD)
Description:	Convert office space in Unit C to two condo units.
Requests:	Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including: 1. A Variance from Section 10.1115.21 to allow 0 (zero) parking spaces where 4 are required.

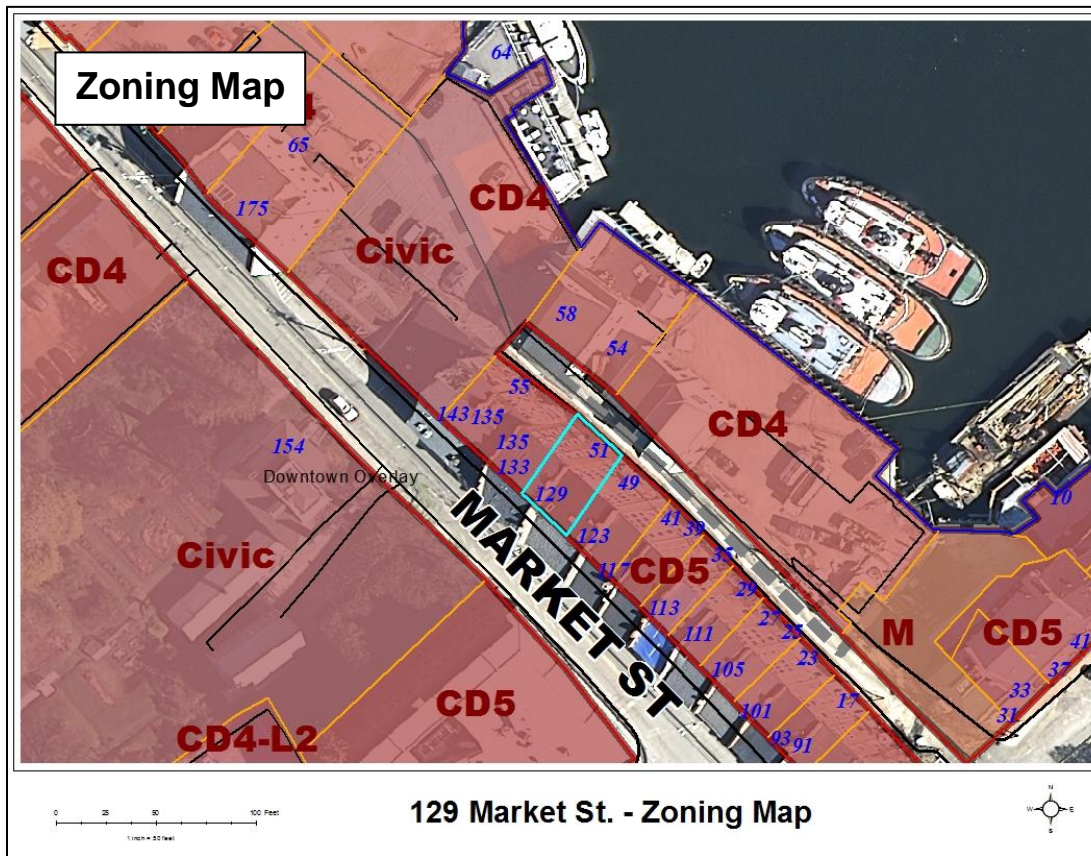
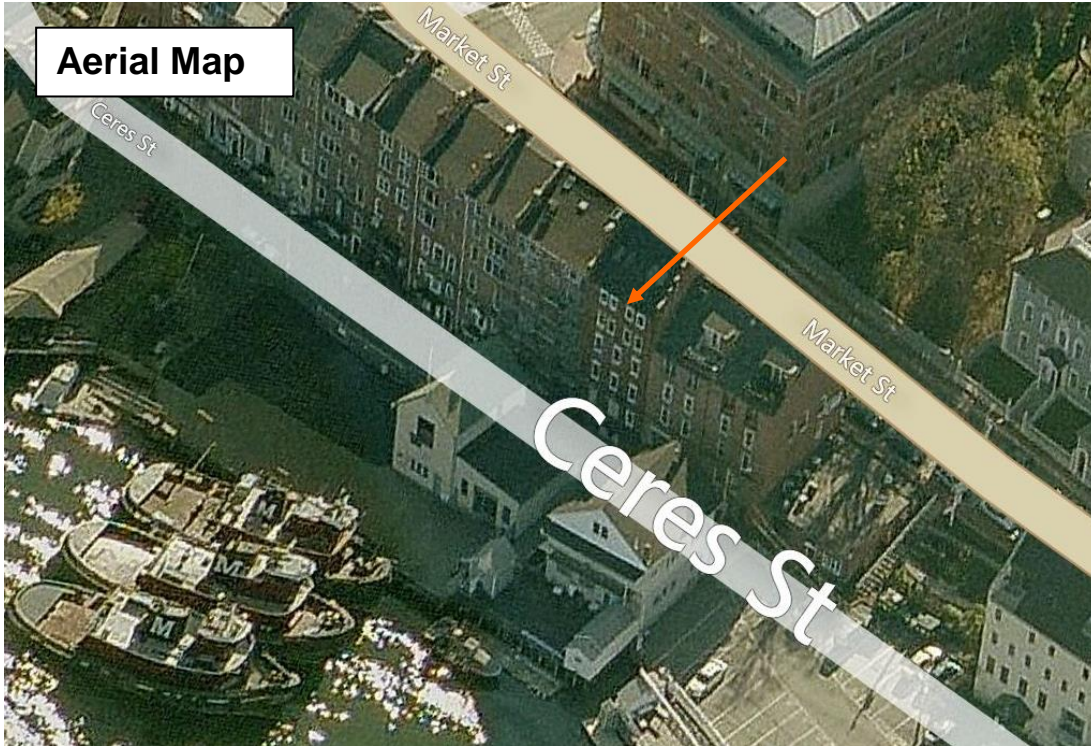
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted/ Required</u>
<u>Land Use:</u>	Office space	2 unit condo	Mixed Use
Parking (# of spaces)	0	0	4

Other Permits Required

None

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The current use as office space does not require parking, but the proposed change of use to residential triggers the need for off-street parking.

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 #6-12

Petitioners:	Thirty Maplewood, LLC
Property:	46-64 Maplewood Avenue
Assessor Plan:	Map 125, Lot 2A
Zoning District:	Character District 4 (CD4), Historic District, Downtown Overlay District
Description:	Relief from parking requirements for proposed mixed use building.
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 10.1114.21 to allow one 8' x 19' parking space where 8.5' feet is required.2. A Variance from Section 10.1114.32(a) to allow ten (10) stacked parking spaces.

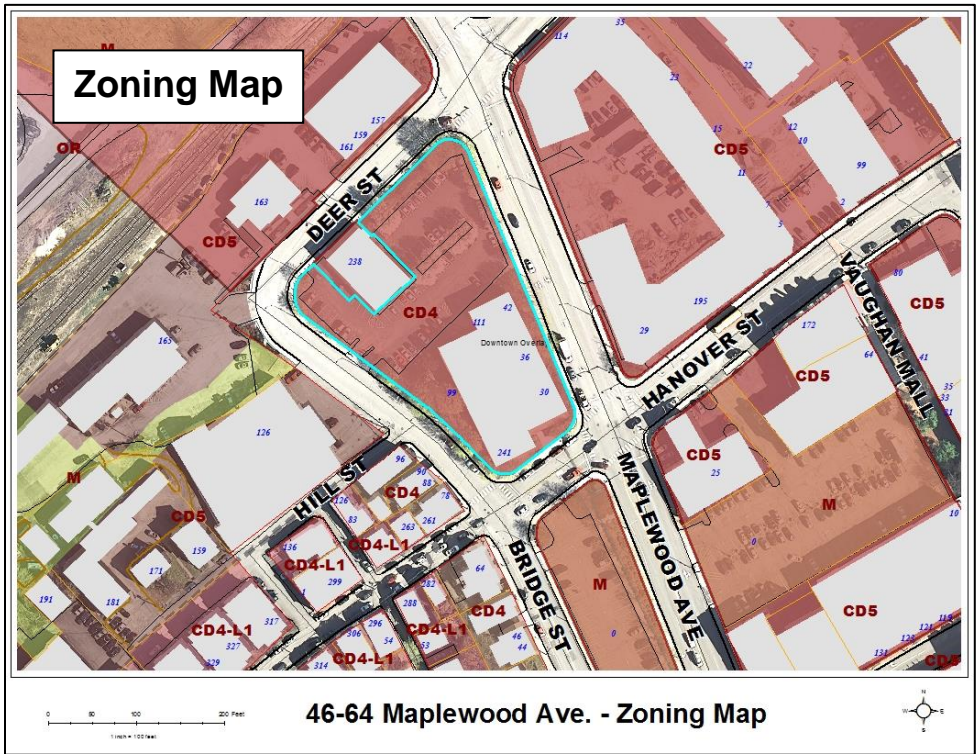
Existing & Proposed Conditions

The current use of this parcel is a surface parking lot. It was recently subdivided and now a mixed use building is proposed. The project is currently going through the site review process with the HDC and Planning Board. The standard parking dimensions are 8.5' wide by 19' long. The applicant is requesting relief from Section 10.1114.20 to allow one space to be 8' wide instead of the required 8.5'. Additionally, the request includes two rows of 10 stacked parking spaces which meet or exceed the dimensional requirements, but need relief from Section 10.1114.32(a) to allow them to be stacked.

Other Permits Required

Planning Board - Site Plan Review
Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

As 30 Maplewood:

May 26, 1981 – The Board acknowledged a **withdrawal**, made at the meeting, of a request regarding the number, size and location of free-standing signs.

June 16, 1981 – The Board **granted** variances to allow two free-standing signs where one was allowed and for each sign to be 60 s.f. in area where 12 s.f. was allowed with the **stipulation** that the area per sign be 32 s.f., for a total s.f. of free-standing signage of 64 s.f.

As 30-46 Maplewood Avenue:

June 21, 2016 – The Board **granted** variances to allow a surface parking lot as a principal use where the use was not allowed and a parking lot that did not comply with the requirements of the Ordinance.

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 #6-13

Petitioners:	Peter Brown Living Trust, James A. Mulvey Revocable Living Trust, Peter Brown and James A. Mulvey, Trustees and Robert J. Bossie Revocable Trust, Robert J. Bossie, Trustee, owners, and Paul Holloway, applicant
Property:	150 Spaulding Turnpike, 155 & 157 Farm Lane, Farm Lane (no number)
Assessor Plan:	Map 236, Lots 34, 35 & 36
Zoning District:	General Business (GB)
Description:	Change of use to convert building into auto sales office and inspection station and demo two structures on adjacent lot to allow for new vehicle storage as a principal use.
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 10.592.20 to allow storage and sales of vehicles within 200' of a Residential Zone. 2. A Variance from Section 10.440 Use 20.61 to allow outdoor storage of vehicles as a principal use. 3. A Variance from Section 10.843.21 to allow parking and outdoor storage of vehicles 15' from a street right of way where 40' is required. 4. A Variance from Section 10.581 to allow the sale of used motor vehicles on a nonconforming lot of less than 2 acres. 5. A Variance from Section 10.311 to allow the storage of vehicles on a nonconforming lot of less than 1 acre.

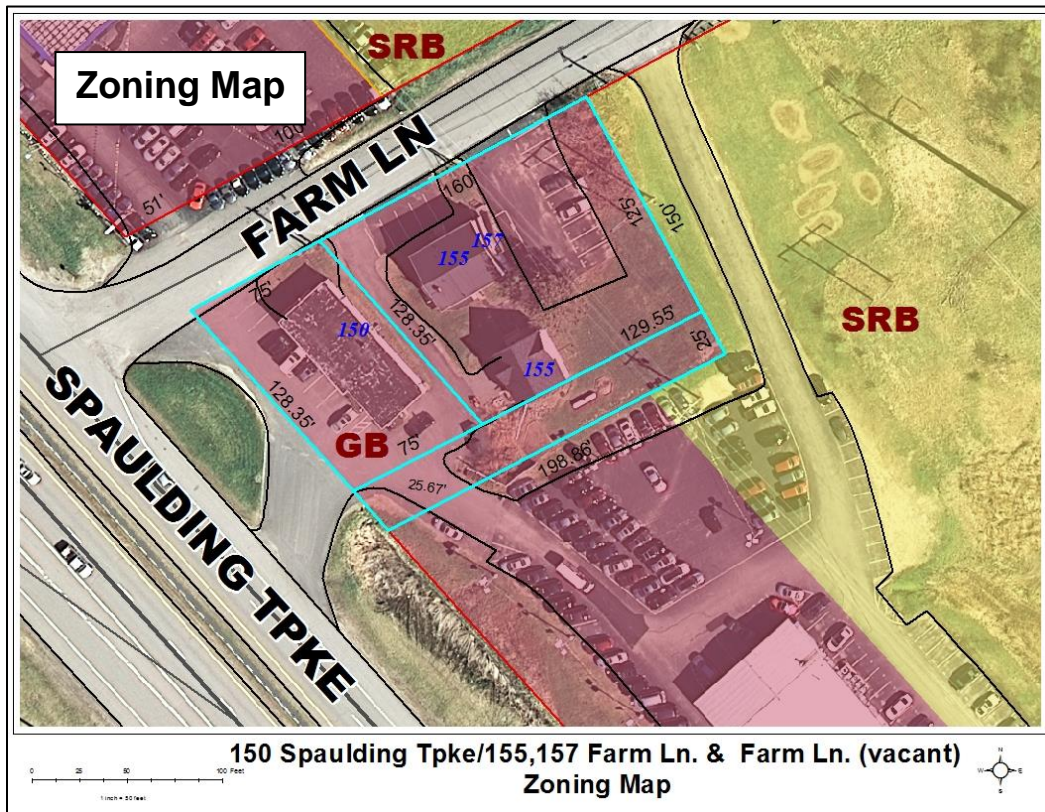
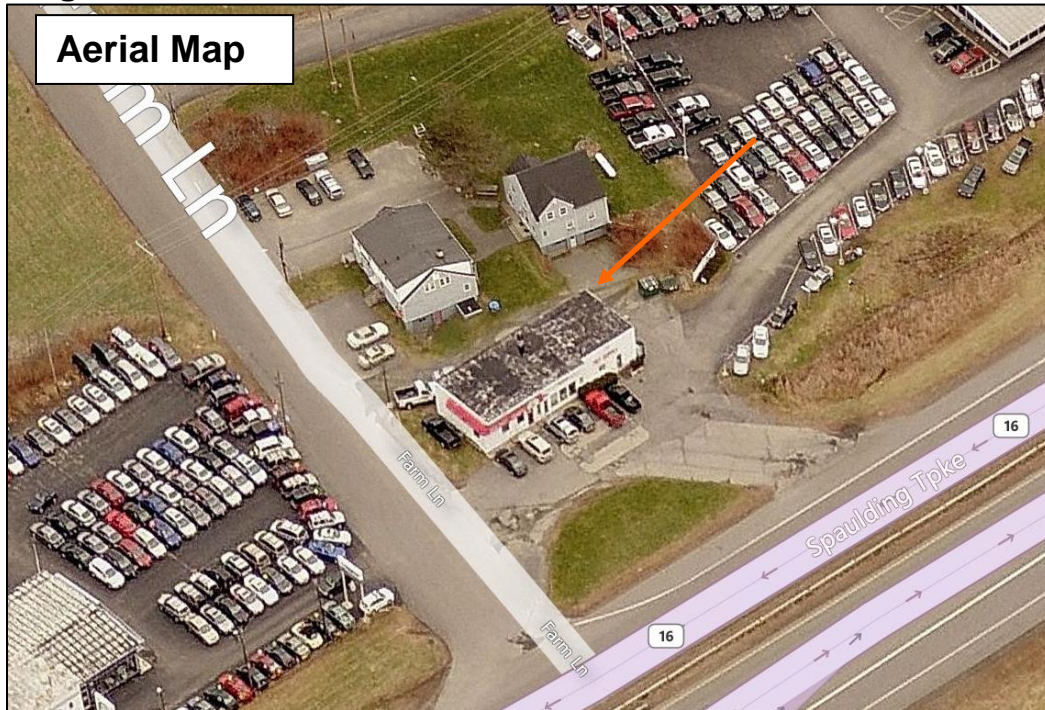
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>	
<u>Land Use:</u>	Single Family	Single Family	Primarily Residential Uses	
<u>Lot area (sq. ft.):</u>	10,454.40	10,454.40	15,000	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	10,454.40	10,454.40	15,000	min.
<u>Street Frontage (ft.):</u>	70	No Change(NC)	100	min.
<u>Lot depth (ft.):</u>	>100	NC	100	min.
<u>Primary Front Yard (ft.):</u>	28	28	30	min.
<u>Right Yard (ft.):</u>	3	3	10	min.
<u>Left Yard (ft.):</u>	9	9	10	min.
<u>Rear Yard (ft.):</u>	86	86	30	min.
<u>Height (ft.):</u>		15.5	35	max.
<u>Building Coverage (%):</u>	16.66	16.05	20	max.
<u>Open Space Coverage (%):</u>	71.48	72.09	40	min.

Other Permits Required

Planning Board – Wetland Conditional Use, Site Plan Review

Neighborhood Context



Previous Board of Adjustment Actions

As Farm Lane, unassigned number and 157 Farm Lane:

July 15, 1980 (corner Farm Lane & Spaulding Tpk). The Board **granted** a variance to allow the construction of a 30' x 30' addition 5' from the rear lot line where 50' was required with the **stipulation** that the addition be completed within 90 days from the meeting date, boats be removed from Farm Lane property, and storage of materials in the second building cease.

As 150 Spaulding Turnpike:

May 24, 1954 – The Board **granted** a request to construct a gasoline filling station.

January 31, 1968 – The Board **denied** a request to install a 30' x 8' single face painted sign and an electric clock at the right rear of a service station.

Planning Department Comments

Outdoor storage of machinery, equipment and vehicles, not marine dependent (Use 20.61) is allowed by Special Exception as Accessory Storage in this district. The proposal by the applicant to use Lot 34 solely for this purpose would make this a principal use, thus requiring a variance instead of an exception.

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.