

TO: Zoning Board of Adjustment  
FROM: Peter Stith, AICP, Planning Department  
DATE: June 12, 2018  
RE: Zoning Board of Adjustment June 19, 2018 Meeting

## **OLD BUSINESS**

1. 160-168/170 Union Street – Request for Rehearing
2. 75 Congress

## **NEW BUSINESS**

1. 586 Woodbury Avenue
2. 177 Bartlett Street
3. 32 Union Street
4. 42 Hunking Street
5. 454 & 456 Middle Street

***THE FOLLOWING PETITIONS WILL BE HEARD ON TUESDAY, JUNE 26,  
2018***

6. 636 Middle Road
7. 64 & 74 Emery Street
8. 5 Simonds Road
9. 62 Woodbury Avenue
10. 185 Cottage Street
11. 54 Court Street
12. 21 Langdon Street

## OLD BUSINESS

### Case #3-3

Petitioners:	LCSG LLC, applicant
Property:	160 & 168-170 Union Street
Assessor Plan:	Map 135, Lots 29 & 30
Zoning District:	General Residence C (GRC)
Description:	Request for rehearing.
Requests:	A request for Rehearing has been made pursuant to RSA 677:2.

The Application for 160-170 Union was denied (3-3 vote) at the March 20, 2018 meeting. The applicant filed a request for a rehearing 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.

From the BOA Rules and Procedures VI (5):

**Granting a request for rehearing of a Variance or Special Exception requires a majority vote of the members present or voting in the case of a tie vote three (3) affirmative votes shall be required.**

## Case #5-9

Petitioners:	Michael De La Cruz
Property:	75 Congress Street
Assessor Plan:	Map 117, Lot 5
Zoning Districts:	Character District 5, Downtown Overlay District (DOD), Historic District (HD)
Description:	Basement parking.
Requests:	Variations and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance: 1. A Variance from Section 10.1114.20 to allow the following: a) eight parking spaces with less than the required dimensions and b) a 12'± wide maneuvering aisle where 14' is required.

### Existing & Proposed Conditions

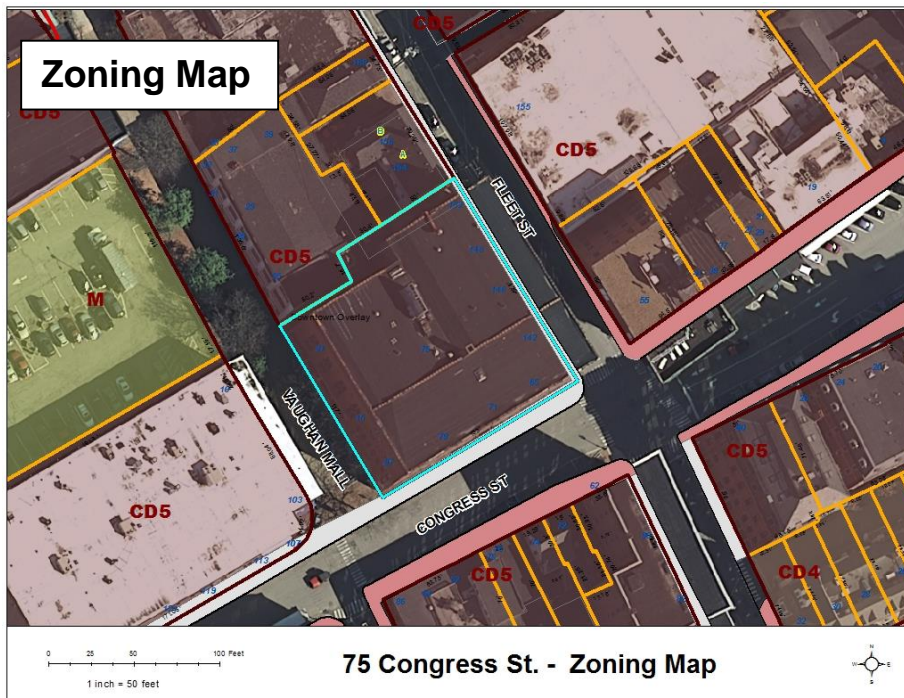
*See submission from applicant showing dimensions and layout of proposed parking area.*

### Other Permits Required

TAC, Planning Board – Site Review

### Neighborhood Context





### Previous Board of Adjustment Actions

February 28, 1984 – The Board **granted** a special exception to permit the elimination of required parking.

August 30, 1988 – The Board **determined**, as required by the Zoning Ordinance, that the number of parking spaces required for Antioch College of N. E. was 1 space for every 4 students and 1 space for each professor/teacher.

December 13, 1988 – The Board **granted** a request for a school not to exceed four classrooms.

July 18, 2006 – the Board **tabled** to August an Appeal of an Administrative Decision of the Code Official involving the interpretation of the Ordinance as requiring a variance to allow the continuance of an existing 10' wide accessway to a below grade parking garage to continue where a 24' wide accessway was required for a two-way accessway.

August 22, 2006 – The Board **failed to pass** a motion to grant the Appeal so the Appeal was **denied**.

April 26, 2016 – The Board **postponed** a request to construct five residential use dormers and one office dormer with walkways and decks and to restore pediments and allow the following building heights where the maximum allowed are 40' for a 2-3 story height requirement area and 45' for a 2-3 story (short 4th) height requirement area: 62'11" for the proposed pediments, 65'6" for the proposed office dormer, and 58'11" for the proposed residential dormers.

May 17, 2016 – The Board **postponed** the petition to the June meeting so that additional information requested to the Board could be provided. The requested building

heights were revised as follows: 62'11" for the proposed pediments (no change), 64'6" (a change) for the proposed office dormer, and 60'5" (a change) for the proposed residential dormers.

June 21, 2016 – The Board **postponed** the pending petition to the July meeting with a final revision to the requested building heights as follows: 62'11" for the proposed pediments (no change), 64'6" for the proposed flat roofed office dormer onto existing sloped roof, and 60'5" for the proposed residential dormers.

July 19, 2016 – The Board **granted** the petition with these final building heights: a) 62'11" for the proposed pediments (no change); b) 65'11" for the proposed flat roofed office dormer onto existing sloped roof (a change); and c) 58'11" for the proposed residential dormers (a change).

December 19, 2017 – A petition to construct 15 residential units with no off-street parking spaces to be provided where off-street parking spaces are required was **withdrawn**.

February 27, 2018 – The Board **granted** a variance to allow no off-street parking spaces to be provided where off-street parking spaces were required for the construction of 15 residential units.

### **Planning Department Comments**

The applicant was granted a variance on February 27, 2018 to provide no off-street parking for the additional residential units, resulting in no parking requirements for this property. It seems difficult to identify a hardship for relief from the dimensional requirements for the parking spaces that are proposed because of the recent variance granted earlier this year. It appears that fewer spaces could be created that comply with the dimensional standards in the ordinance. If approved, this will go through site review with TAC and the Planning Board. The Board may refer this to TAC prior to making a decision if needed.

### **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.*

## NEW BUSINESS

### Case #6-1

Petitioners:	Richardson Family Trust of 2016, Justin Richardson, Trustee
Property:	586 Woodbury Avenue
Assessor Plan:	Map 236, Lot 2
Zoning District:	Single Residence B (SRB)
Description:	Keeping of farm animals (chickens).
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"> <li>1. A Special Exception from Section 10.440, Use #17.20 to allow the keeping of farm animals where the use is allowed by special exception.</li> <li>2. A Variance from Section 10.573.20 to allow a 5.7 rear yard.</li> </ol>

### Existing & Proposed Conditions

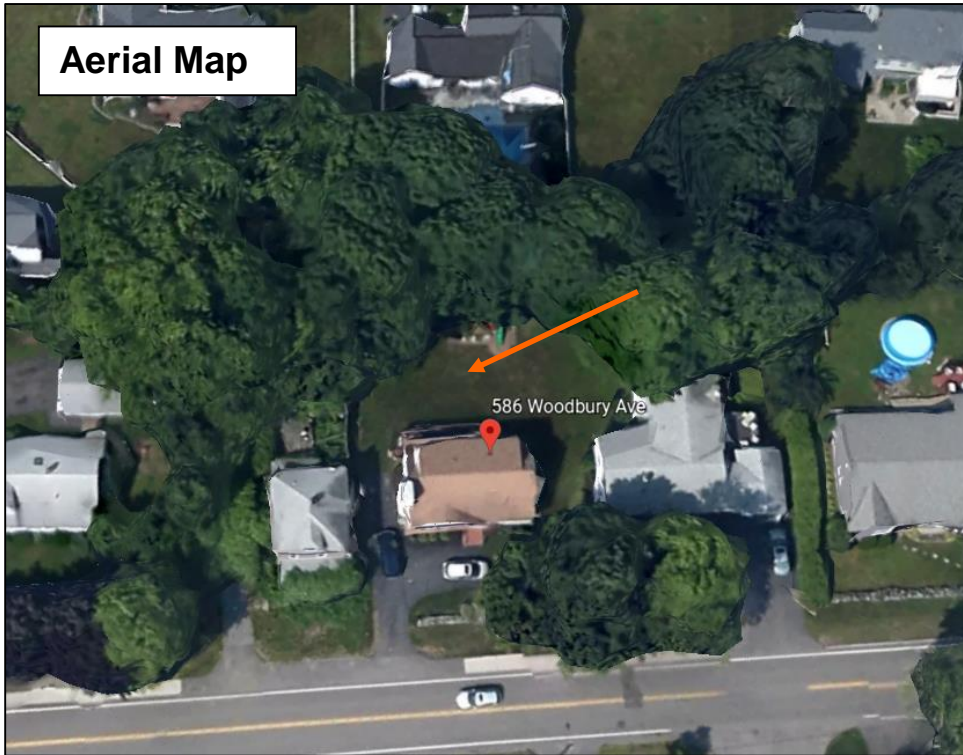
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Chicken enclosure	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	9,147	9,147	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	9,147	9,147	15,000 min.
<u>Street Frontage (ft.):</u>	75	75	100 min.
<u>Lot depth (ft.):</u>	125	125	100 min.
<u>Primary Front Yard (ft.):</u>	>30	>30	30 min.
<u>Right Yard (ft.):</u>	>10	>10	10 min.
<u>Left Side Yard (ft.):</u>	>10	>10	10 min.
<u>Rear Yard (ft.):</u>	>30	<b>5.7 (accessory)</b>	10 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	<20	<20	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	ok	ok	Ok
<u>Estimated Age of Structure:</u>		<b>Variance request shown in red.</b>	

### Other Permits Required

None.



# Neighborhood Context



## Previous Board of Adjustment Actions

April 16, 1985 – The Board **tabled** to the May meeting a request to allow a 12'4" x 18'4" garage with a 7' left yard where 12' was required. The petition was tabled for clarification of dimensions.

May 8, 1985 – The Board **denied** a petition, tabled at the previous meeting and amended to a 12' x 18' garage with a 7' left yard where 17' was required.

## Planning Department Comments

The site plan submitted states a building coverage of 27.5%, however this calculation includes all impervious area and the actual building coverage is less than the 20% maximum.

## 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.*

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 #6-2

Petitioners:	Myles S. Bratter
Property:	177 Bartlett Street
Assessor Plan:	Map 158, Lot 9
Zoning District:	General Residence A (GRA)
Description:	Convert existing commercial space into residential for a total of 5 dwelling units.
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"> <li>1. A Variance from Section 10.440, Use #1.52 to allow five dwelling units where five dwelling units are not allowed.</li> <li>2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,899 s.f. where 7,500 s.f. per dwelling unit is required.</li> </ol>

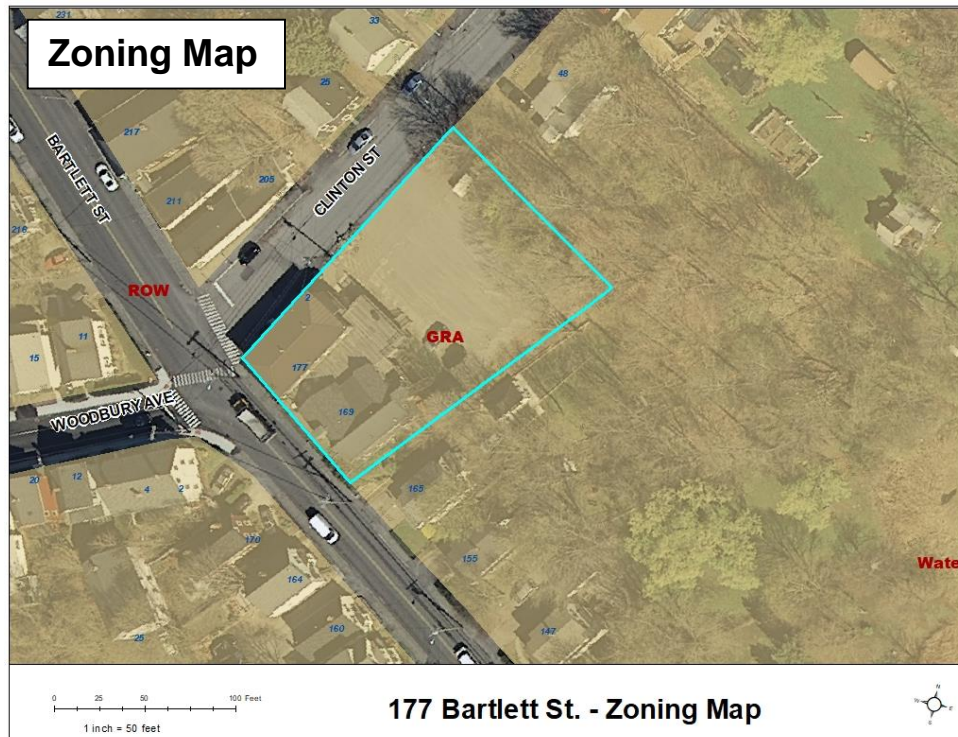
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	One-story addition	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	19,497	19,497	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,874	<b>3,899</b>	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>	5	5	15 min.
<u>Right Yard (ft.):</u>	3	3	10 min.
<u>Secondary Front Yard (ft.):</u>	9	9	15 min.
<u>Rear Yard (ft.):</u>	>20	>20	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	31	31	25 max.
<u>Open Space Coverage (%):</u>	18	18	30 min.
<u>Parking</u>	Ok	ok	
<u>Estimated Age of Structure:</u>	1900	<b>Variance request shown in red.</b>	

### Other Permits Required

Planning Board – Site Review.

## Neighborhood Context



## Previous Board of Adjustment Actions

May 21, 1996 – The Board **granted** variances to allow the following: a) expansion of a nonconforming business by extending the parking spaces lot into an area of the lot not currently being used for parking; b) parking spaces that back out into the street; and c) the construction of

a 6' solid fence where an 8' solid fence was required. The variances were granted with the following **stipulations**: 1) parking spaces #6 and #7 to be eliminated and the area used for a loading area; 2) a 6' fence to be erected starting 5' from Clinton Street running along the rear property line, then turning and running along the side line to the rear of the building; and 3) the proposed head-in parking to be 5' deeper on the lot.

October 16, 1996 - The Board **denied** (failed to pass a motion to grant) a request to allow the previously required 6' fence along the side property line to be eliminated, thus denying the request.

Subsequent to the above, a **notice of violation** was issued February 12, 1997 for failure to install the above fence and other violations. Further legal correspondence in 1997 re. need for fence eliminated as property line eliminated by a lot consolidation as well as traffic issues by abutters.

April 15, 1997 – The Board **voted to hold a public hearing** with abutters concerning a request to amend application approval given at the May 21, 1996 meeting to remove stipulation that a 6' fence along the side property line be eliminated.

June 17, 1997 – No letter of decision in file. A copy of Minutes of the June meeting in file indicates the following: A **motion made, seconded and passed** to remove the previous stipulation that a fence be erected between Lots #8 and #9 be removed (as the fence would at that time would be placed down the middle of the property due to changes after the May 21, 1996 meeting). The motion was passed with the following **stipulations**: a) that appropriate signage be added to distinguish commercial from residential parking; b) that the dumpster be screened from the residential area; and c) that a 6' high solid fence be erected along the rear property line and the side property line between lots #9 and #10.

August 15, 2000 – The Board **granted** a variance to allow associated parking for Botnay Bay Computers, Inc. to be located on a portion of the lot that was not previously used for nonresidential uses with the stipulation that the head-in parking on Clinton Street be changed to parallel parking or loading. The Board **denied** a request to allow Botnay Bay Computers to expand into 1,701 s.f. of currently unused residential space and to change the entrance to the rear of the building.

Subsequent to meeting, a letter dated August 31, 2000 to the City Council regarding proceedings at the August 15, 2000 meeting requesting it be read in an open council meeting.

September 19, 2000 – The Board **denied** a Request for Rehearing regarding the August 15, 2000 meeting.

March 9, 2001 – An appeal to the Superior Court was remanded back to the Board, in light of a Court ruling impacting the criteria considered in Board decisions, with the joint agreement of counsel for the appellant and counsel for the City.

May 15, 2001 – The Board **denied** a request to allow Botnay Bay Computers Inc. to expand into 1,701 s.f. of currently unused residential space and to change the entrance to the rear of the building.

June 26, 2001 – The Board **denied** (motion to grant failed to pass) a Request for Rehearing regarding the above.

Subsequent to above, an appeal was filed in Superior Court July 20, 2001 with additional correspondence between the parties. Documents in the file indicate the following: 1) January, 8, 2003 – Rockingham County Superior Court reversed the ZBA's decision and granted the petitioner's appeal with the practical effect of allowing Botnay Bay Computers in a residential zone to expand its commercial operation by 1,701 s.f. with some modifications to the building and parking; 2) The New Hampshire Supreme Court affirmed, by order received April 21, 2003, the decision of the Rockingham County Superior Court, which had been appealed by the City, granting zoning variances to the appellant. 3) A meeting was scheduled to be held April 29, 2003 for the Board to meet to vote on the remand from the Court.

April 29, 2003 – No letter of decision in file, but noted in Minutes for the Special meeting that, in view of the remand from the Court, the Board voted to **grant** the variances as presented and advertised (in 2001).

### **Planning Department Comments**

The parking area is not striped and the spaces are not delineated. Although it appears large enough to accommodate the uses on site, if the Board grants the request, a stipulation that the parking area be brought up to conformance with the parking standards in the zoning ordinance should be considered.

### **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 #6-3

Petitioners:	Francis T. Delbene and Gwyn M. Burdell
Property:	32 Union Street
Assessor Plan:	Map 145, Lot 29
Zoning District:	General Residence C (GRC)
Description:	Construct garage and carriage house with third dwelling unit.
Requests:	<p>Variations and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:</p> <p>1. Variations from Section 10.521 to allow the following: a) a lot area per dwelling unit of 1,887 where 3,500 s.f. is required; and b) a 6' rear yard where 20' is required.</p>

### Existing & Proposed Conditions

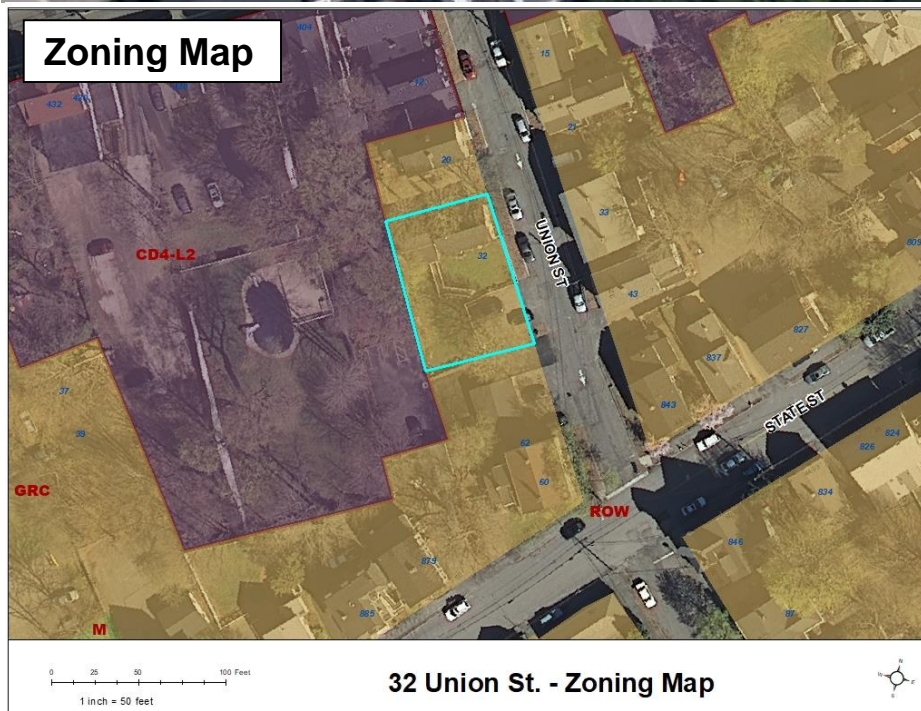
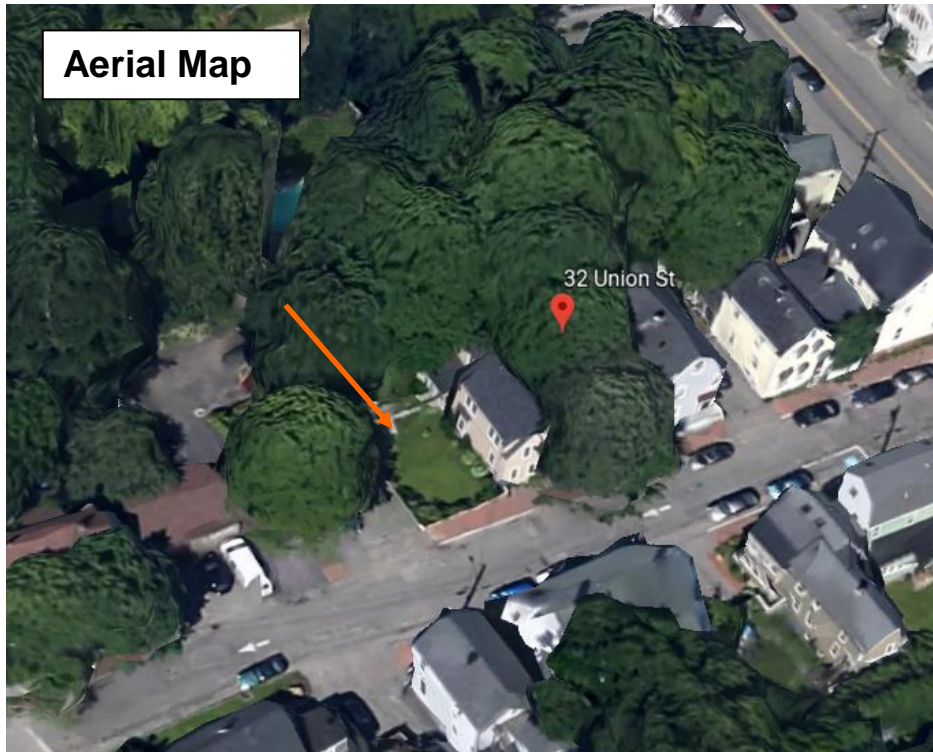
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family	Carriage house/garage	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	5,663	5,663	3,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,832	<b>1,887</b>	3,500 min.
<u>Street Frontage (ft.):</u>	89	89	70 min.
<u>Lot depth (ft.):</u>	62	62	50 min.
<u>Primary Front Yard (ft.):</u>	3	>5	5 min.
<u>Right Yard (ft.):</u>	3 (existing)	>10 (carriage)	10 min.
<u>Left Yard (ft.):</u>	>10	10	10 min.
<u>Rear Yard (ft.):</u>	6	<b>6 (carriage)</b>	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	20	34	35 max.
<u>Open Space Coverage (%):</u>	69	38	20 min.
<u>Parking</u>	ok	5	4
<u>Estimated Age of Structure:</u>	1890 (existing house)	<b>Variance request shown in red.</b>	

### Other Permits Required

Planning Board – Site Review.



# Neighborhood Context



## Previous Board of Adjustment Actions

No BOA history found.

## Planning Department Comments

This will require site plan review because it will result in 3 or more dwelling units.

## 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 #6-4

Petitioners: Linda Preble McVay & John Frank McVay  
 Property: 42 Hunking Street  
 Assessor Plan: Map 102, Lot 8  
 Zoning District: General Residence B (GRB)  
 Description: Construct a 420 s.f. one-story addition.  
 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 10' rear yard 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.

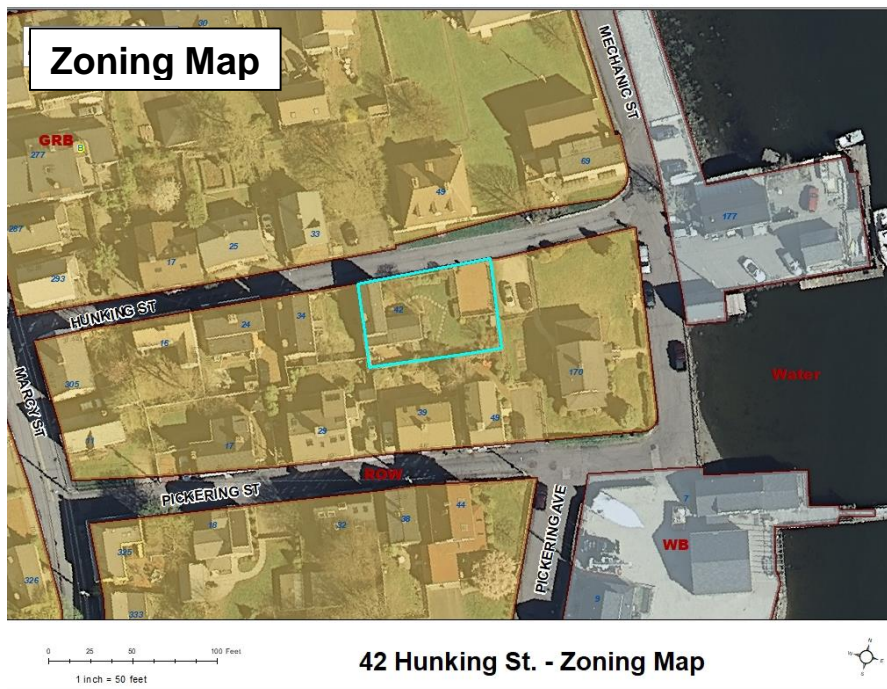
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Rear addition	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	4,139	4,139	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,139	4,139	5,000 min.
<u>Street Frontage (ft.):</u>	89	89	70 min.
<u>Lot depth (ft.):</u>	62	62	50 min.
<u>Primary Front Yard (ft.):</u>	0	12'7" (addition)	5 min.
<u>Right Yard (ft.):</u>	0 (existing)	0	10 min.
<u>Left Yard (ft.):</u>	>10	>10	10 min.
<u>Rear Yard (ft.):</u>	12	<b>10 (addition)</b>	25 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	18	28	30 max.
<u>Open Space Coverage (%):</u>	>25	>25	25 min.
<u>Parking</u>	ok	ok	ok
<u>Estimated Age of Structure:</u>	1750	<b>Variance request shown in red.</b>	

### Other Permits Required

HDC

## Neighborhood Context



## Previous Board of Adjustment Actions

August 20, 1991 – The Board **granted** a variance to construct an 8' x 10'10" one story addition to a single family dwelling with a 13' rear yard where 25' was required.

September 15, 1998 – The Board **granted** variances for a 14' x 20' one story addition replacing a 12.5' x 12 addition by allowing the following: a) a 13' rear yard where 25' was required; and b) the expansion of a nonconforming dwelling.



## 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 #6-5

Petitioners:	Steven DeSantis, Allen Jeffries, Tia Spagnuolo, and the Solano Group LLC
Property:	454 & 456 Middle Street
Assessor Plan:	Map 135, Lots 43, 43-1 & 43-2
Zoning District:	Mixed Residential Office District (MRO)
Description:	Install 2 HVAC condensers.
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"> <li>1. A Variance from Section 10.515.14 to allow a 3' left side yard and a 3' right side yard where 10' is required for mechanical systems.</li> </ol>

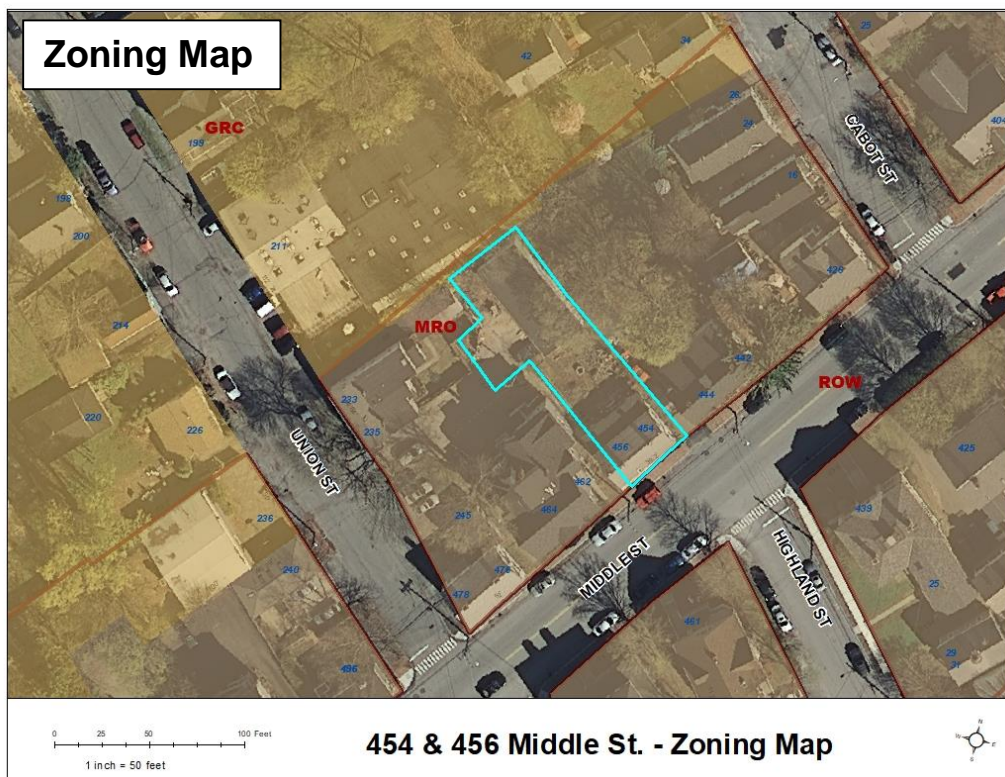
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family	2 condensers	Primarily Mixed Uses
<u>Lot area (sq. ft.):</u>	6,475	6,475	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,237	3,237	7,500 min.
<u>Street Frontage (ft.):</u>	39	39	100 min.
<u>Lot depth (ft.):</u>	>80	>80	80 min.
<u>Primary Front Yard (ft.):</u>	0	0	5 min.
<u>Right Yard (ft.):</u>	0 (existing)	<b>3 (condenser)</b>	10 min.
<u>Left Yard (ft.):</u>	>10	<b>3 (condenser)</b>	10 min.
<u>Rear Yard (ft.):</u>	>15	>15	15 min.
<u>Height (ft.):</u>	<35	<35	40 max.
<u>Building Coverage (%):</u>	<40	<40	40 max.
<u>Open Space Coverage (%):</u>	>25	>25	25 min.
<u>Parking</u>	ok	ok	ok
<u>Estimated Age of Structure:</u>	1830	<b>Variance request shown in red.</b>	

### Other Permits Required

HDC

# Neighborhood Context



## Previous Board of Adjustment Actions

No BOA history found.

## Planning Department Comments

The applicants are proposing two condensers, one on each side of the house to serve the respective unit. There are two locations proposed, the preferred location is 3' from the property line (advertised) and the secondary location is approximately 4' from the property line.

## 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.*