

TO: Zoning Board of Adjustment  
FROM: Peter Stith, AICP, Planning Department  
DATE: August 16, 2018  
RE: Zoning Board of Adjustment August 21, 2018 Meeting

## **NEW BUSINESS**

1. Case 8-1 674 Islington Street
2. Case 8-2 500 Market Street
3. Case 8-3 121 Corporate Drive
4. Case 8-4 307 Dennett Street
5. Case 8-5 460 Dennett Street
6. Case 8-6 1462 Islington Street
7. Case 8-7 129 Market Street
8. Case 8-8 1465 Woodbury Avenue
9. Case 8-9 65 Rogers Street
10. Case 8-10 11 Elwyn Avenue
11. Case 8-11 361 Islington Street

# NEW BUSINESS

## Case #8-1

Petitioners:	Islington Street LLC
Property:	674 Islington Street
Assessor Plan:	Map 155, Lot 3
Zoning Districts:	Character District 4-W (CD4-W), Historic District (HD)
Description:	Replace existing signage.
Requests:	<p>Variations and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance:</p> <ol style="list-style-type: none"> <li>1. A Variance from Section 10.1251.20 to allow four wall signs that each exceed 40 square feet.</li> <li>2. A Variance from Section 10.1261.30 to allow internal illumination in the Historic District.</li> <li>3. A Variance from Section 10.1251.10 to exceed the maximum aggregate signage available.</li> <li>4. A Variance from Section 10.1271 to allow signage where there is no frontage or public entrance.</li> </ol>

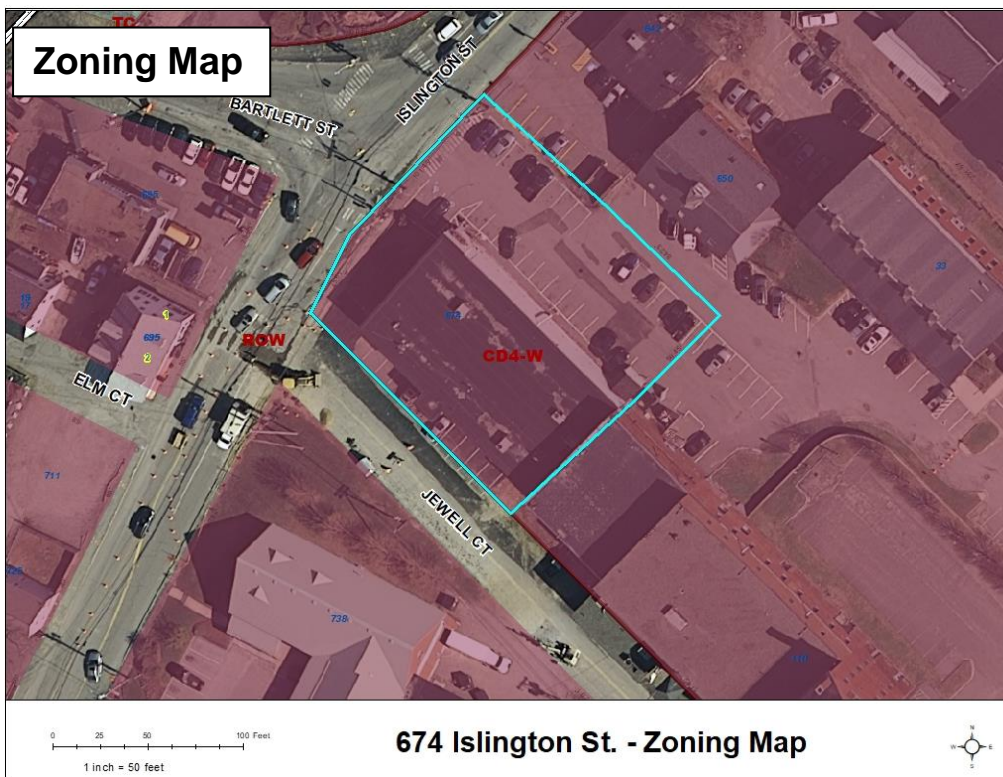
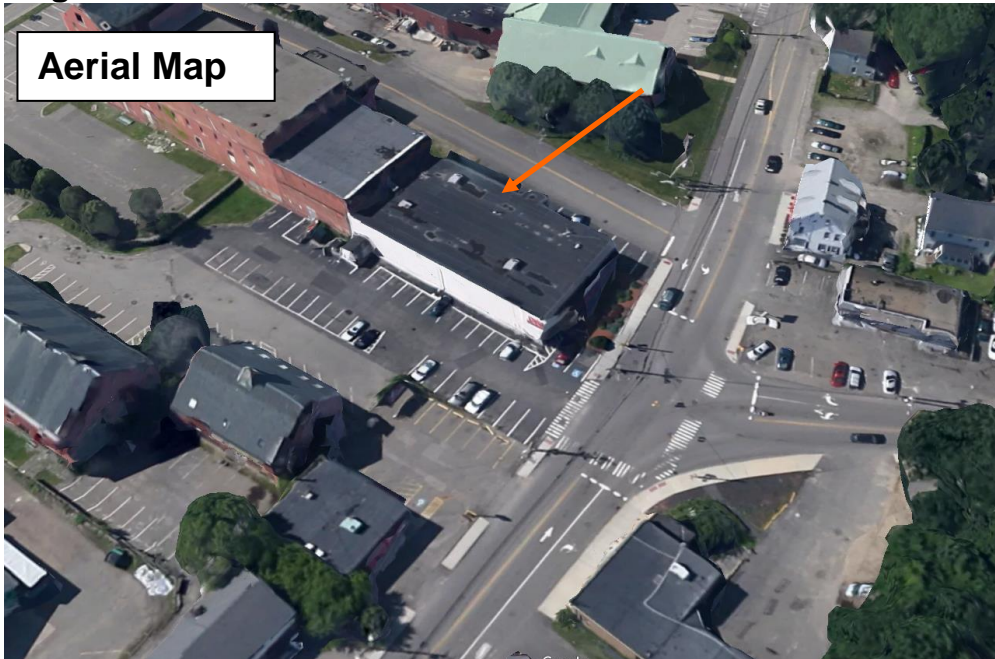
### Existing & Proposed Conditions

<u>Sign District 3</u>	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
Wall Sign 1	94 s.f.	<b>70.18 s.f.</b>	40 s.f. max
Wall Sign 2	102.33 s.f.	<b>74.43 s.f.</b>	40s.f. max
Wall Sign 3	94 s.f.	<b>70.18 s.f.</b>	40 s.f. max
Wall Sign (graphic on front window)	174.90	<b>174.90 s.f.</b>	40 s.f. max
<u>Estimated Age of Structure:</u> 1880		<b>Variance request shown in red.</b>	

### Other Permits/Approvals Required

Historic District Commission

## Neighborhood Context



## Previous Board of Adjustment Actions

November 20, 1979 – The Board **granted** a variance to allow a 12' x 12' rear addition to be used as an entryway and be located on the rear and side property lines, 10' and 15' respectively required.

March 19, 1991 - The Board **granted** a variance to allow the first floor to be used for a warehousing and distribution business with the **stipulation** that access be maintained on the south-easterly corner to the Albany Street Extension.

### **Planning Department Comments**

The subject property is the last lot located in the Historic District on Islington Street. Three of the proposed wall signs will have internal illumination, which is not permitted in the Historic District. While the proposed signs are smaller than the existing signs, they still exceed the maximum square footage of 40 square feet in this sign district for a wall sign. In addition, the wall signs facing Islington Street exceed the aggregate sign area allowed (150 s.f. allowed and 245 s.f. proposed).

### **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 #8-2**

Petitioners:	Noble Island Condominium Association, owner, William Buckley and Rebecca Gould, applicants
Property:	500 Market Street 9L/9R
Assessor Plan:	Map 120, Lot 2-9L & 9R
Zoning District:	Character District 4-L1 (CD4-L1), Historic District (HD)
Description:	Bed and Breakfast 1.
Requests:	Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including: 1. A Special Exception from Section 10.440 Use #10.21 to allow a Bed and Breakfast 1.

**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Condos/Business	<b>Bed &amp; Breakfast 1</b>	Primarily Mixed Uses
<u>Estimated Age of Structure:</u> 1982		<b>Special Exception request shown in red.</b>	

**Other Permits/Approvals Required**

None

# Neighborhood Context



## Previous Board of Adjustment Actions

August 21, 2008 – The Board **denied (failed to pass)** a request for signage for the complex (4 freestanding signs totaling 103 s.f. where 10 sf was allowed, 3 attached signs totaling 99 s.f. where 60 s.f. was allowed and 202 s.f. of aggregate signage where 75 s.f. was allowed).

January 20, 2009 – The Board **granted** the following signage for the complex: 100.19 of attached signage where 60 s.f. was allowed, 26.18 s.f. of freestanding signage where 10 s.f. was allowed, and 126.37 s.f. of aggregate signage where 75 s.f. was allowed.

## Planning Department Comments

The property consists of 25 condo units as well as the Chamber of Commerce and some other business uses. Some of the existing units also serve as offices for tenants. The applicants own two units that were connected in 2006. **The definition of a Bed and Breakfast is:**

***The provision of short-term lodging and breakfast within an owner-occupied dwelling. The capacity of dining facilities shall accommodate no more than 25 persons. A Bed and Breakfast 1 has between 1 and 5 guest rooms.***

The types of short term rental uses permitted in the zoning ordinance include bed and breakfast, boarding house, hotel/motel or inn. In this district, a Bed and Breakfast 1 or 2 is the only type of short term rental permitted and it requires a special exception.

## Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

1. *Standards as provided by this Ordinance for the particular use permitted by special exception;*
2. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
3. *No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;*
4. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
5. *No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and*
6. *No significant increase of stormwater runoff onto adjacent property or streets*

**Case #8-3**

Petitioners:	Pease Development Authority, owner, Wentworth-Douglass Hospital, applicant
Property:	121 Corporate Drive
Assessor Plan:	Map 303, Lot 8
Zoning District:	Pease Airport Business Commercial District
Description:	Install illuminated wall and monument signs.
Requests:	Variations and/or Special Exceptions necessary to grant the required relief from the Pease Zoning Ordinance including: 1. Variations from Section 306.01(d) to allow 391.7 square feet of sign area where 200 square feet per lot is the maximum.

**Existing & Proposed Conditions**

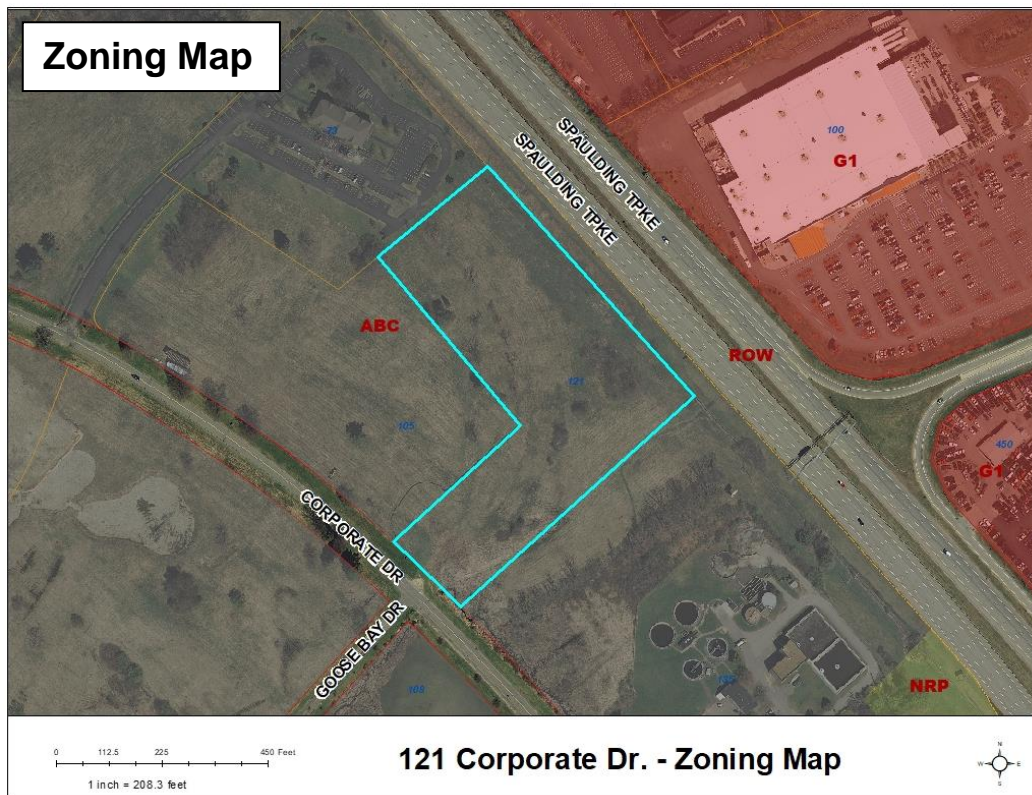
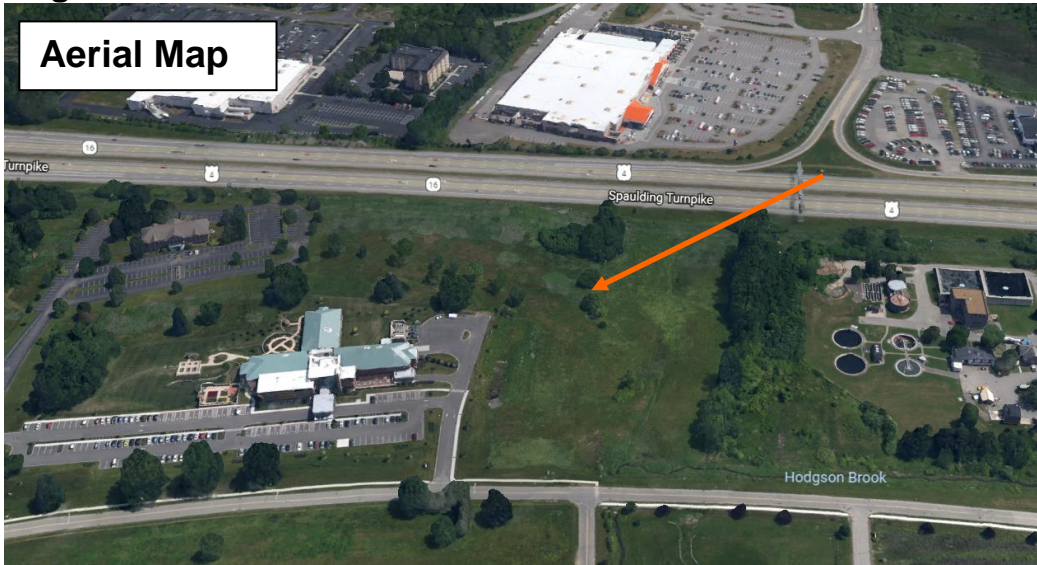
<u>Sign District 6</u>	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Wall Sign:</u>		319.20 s.f.	200 s.f. max per lot
<u>Monument sign:</u>		72.5 s.f	200 s.f. max per lot
<u>Total sign area:</u>		<b>391.7</b>	200 s.f. max per lot
		<b>Variance request shown in red.</b>	

**Other Permits/Approvals Required**

Pease Development Authority Board (See comments below)



## Neighborhood Context



## Previous Board of Adjustment Actions

No BOA history found.

## **Planning Department Comments**

The minutes of the Pease Development Authority (PDA) Board meeting on June 21, 2018 are provided in the applicant's packet. The PDA Board discussed the proposed signage and although there was concern about the size, the Board voted 5-2 to support the applicant's request to move forward to seek a variance.

The PDA has its own land use and zoning regulations and is exempt from the City's regulations ordinance. For certain parcels in Pease, variance requests are sent to the City for a recommendation from the BOA. A motion to approve or deny will be a recommendation and the recommendation will become an approval by the PDA Board after 14 days unless the applicant or PDA Board member requests a hearing (see Part 317.03(f) below).

The Chapter in the Pease Land Use Controls regarding the process for a variance is below. Part 317.03(c) states the BOA will use apply the standards in Part 317.01(c) in its review of the application. These standards are attached hereto under Review Criteria.

(a) For parcels located within the Industrial Zone, Business and Commercial Zone, Natural Resource Protection Zone or portions of the Airport Industrial Zone not acquired by the Pease Development Authority pursuant to Section 13(g) of the Surplus Property Act, requests for a variance from the provisions of this zoning rule shall be referred to the zoning board of adjustment for the municipality in which the parcel is situated for administration in accordance with the provisions of this section.

(b) Applications for a variance for parcels referred to in Subsection (a) shall be filed with the Pease Development Authority Building Inspector on forms prescribed by the Board and referred to the applicable zoning board of adjustment.

(c) The zoning board of adjustment to which the application for a variance has been referred shall, in its review of the request, apply the substantive provisions of this Chapter.

(d) Recommendations to the Board regarding requests for a zoning variance shall be made by the applicable zoning board of adjustment within sixty (60) days of referral. Notice of the recommendation shall be provided to the applicant and the Board within 48 hours of the decision.

(e) The recommendation of the applicable zoning board of adjustment shall be forwarded to the Board along with a written report detailing the reasons for any recommendation for denial or approval with conditions.

(f) A recommendation of the applicable zoning board of adjustment shall be deemed a final decision of the Board upon the expiration of fourteen (14) days from the date of notice, unless the applicant/developer or a member of the Board requests a hearing by the Board.

(g) Where a hearing has been requested, the Board shall conduct a hearing and render a final decision on the variance request within thirty (30) days.

(h) At the discretion of the Board the time period for rendering a final decision may be extended an additional thirty (30) days, or such additional time as may be consented to by the applicant.

(i) The Board may approve, conditionally approve or deny the application notwithstanding the recommendation of the applicable zoning board of adjustment. In the case of denial of any application by the Board or where the Board elects not to follow the recommendation of the applicable zoning board of adjustment, the ground(s) for such action shall be stated in writing.

## Review Criteria

This application must meet the criteria for a **variance** of Part 317.01(c) of the Pease Land Use Controls below.

### **PART 317. VARIANCES FROM ZONING PROVISIONS**

#### 317.01 General Provisions

- (a) Requests for a variance from the provisions of this zoning rule shall be filed with the Pease Development Authority Building Inspector on forms prescribed by the Board.
- (b) Applications for zoning variance approval shall set forth the specific provision of the rule or regulation involved and reasons why a variance should be granted.
- (c) A variance shall not be approved or recommended for approval unless it is in harmony with the general purpose and intent of these regulations and meets the following criteria:
  - (1) No adverse effect or diminution in values of surrounding properties would be suffered.
  - (2) Granting the variance would be of benefit to the public interest.
  - (3) Denial of the variance would result in unnecessary hardship to the person seeking it.
  - (4) Granting the variance would be substantial justice.
  - (5) The proposed use would not be contrary to the spirit of this zoning rule.
- (d) Reasonable conditions necessary to meet one or more of the standards in subsection (c) above may be attached to approval of a variance.

## Case #8-4

Petitioners: Travis J. Lavoie and Ariana L. Odom-Truelson  
 Property: 307 Dennett Street  
 Assessor Plan: Map 160, Lot 41  
 Zoning District: General Residence A (GRA)  
 Description: Demo existing barn with attached garage with living space.  
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:  
 1. Variances from Section 10.521 to allow a 5.6'± 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.

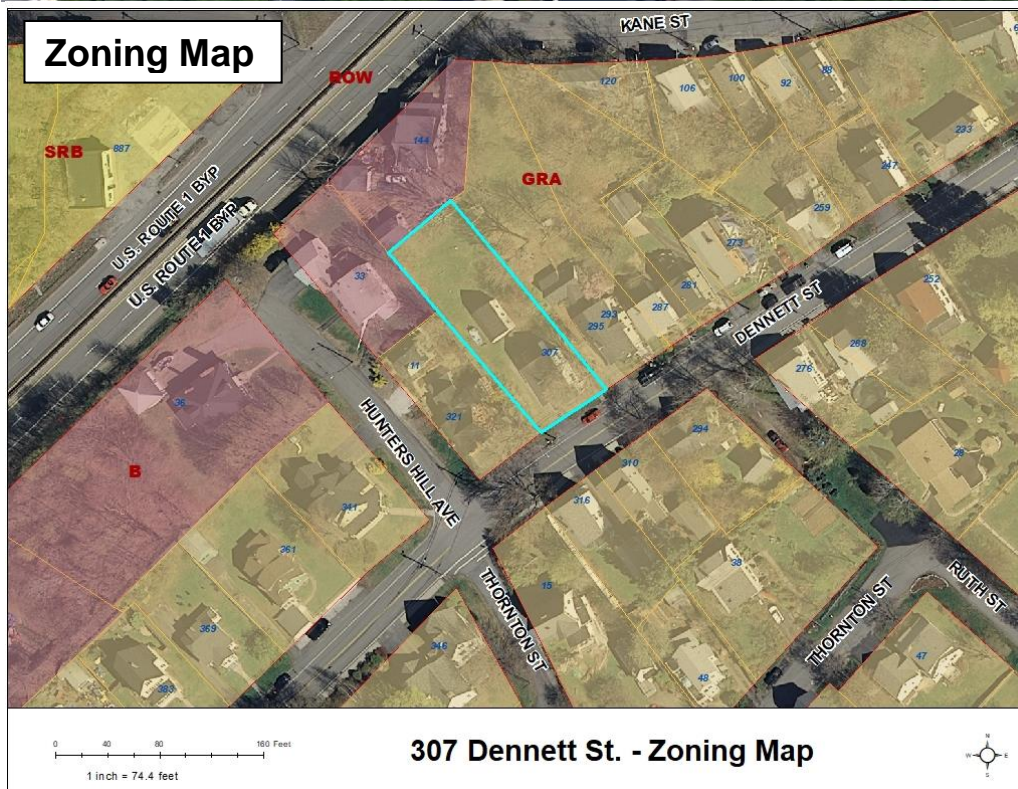
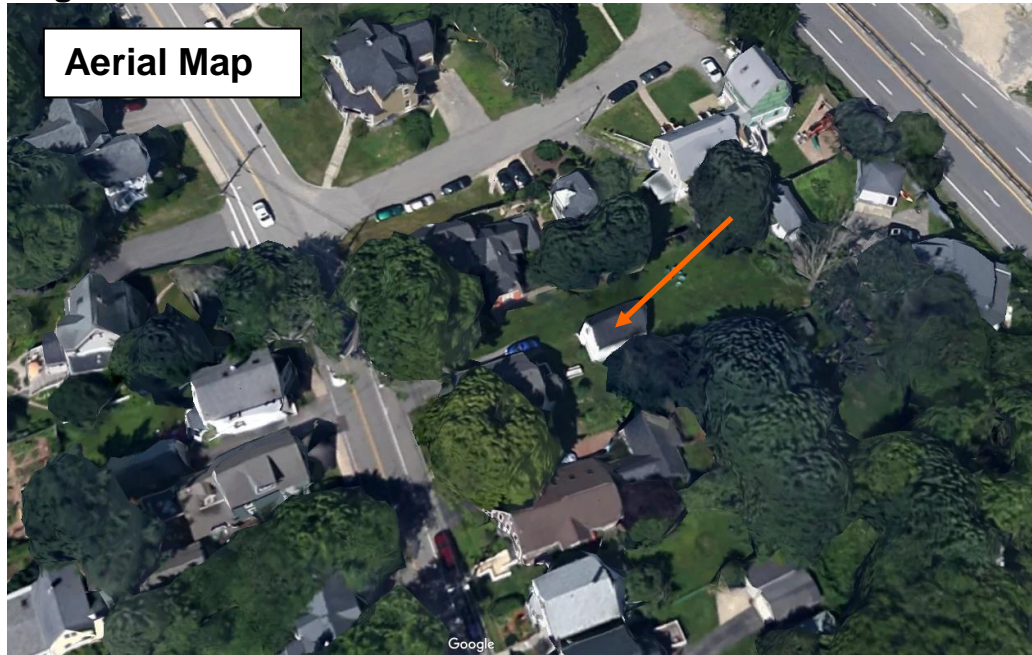
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Garage addition	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	11,288	11,288	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	11,288	11,288	7,500 min.
<u>Street Frontage (ft.):</u>	59.89	59.89	100 min.
<u>Lot depth (ft.):</u>	186.14	187.09	70 min.
<u>Primary Front Yard (ft.):</u>	9.5	9.5	15 min.
<u>Left Yard (ft.):</u>	>10	30 (garage)	10 min.
<u>Right Yard (ft.):</u>	7	<b>5.6</b>	10 min.
<u>Rear Yard (ft.):</u>	90 (barn)	127 (garage)	20 min.
<u>Height (ft.):</u>	<35	30	35 max.
<u>Building Coverage (%):</u>	44	13	25 max.
<u>Open Space Coverage (%):</u>	>30	80	30 min.
<u>Parking</u>	ok	ok	
<u>Estimated Age of Structure:</u>	1890 - house	<b>Variance request shown in red.</b>	

### Other Permits/Approvals Required

None

## Neighborhood Context



## Previous Board of Adjustment Actions

No BOA history found.

## Planning Department Comments

The existing house is currently nonconforming, having a right side yard of approximately 7 feet. The proposed attached garage will intensify the nonconformity, with a proposed 5.6' right side yard. The applicant has stated the space above the garage will be used for additional living space for the family. Although it should not have any bearing on this petition, the City's official zoning map has this parcel entirely in the GRA zone and not split zoned. At one time this may have been the case, but as far back as 2005, the entire parcel has been zoned GRA.

## 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 #8-5

Petitioners:	Stefanie A. Flavin & Brendan D. Flavin
Property:	460 Dennett Street
Assessor Plan:	Map 160, Lot 24
Zoning District:	General Residence A (GRA)
Description:	Garage and mudroom 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"> <li>1. A Variance from Section 10.521 to allow the following: a) a 5'± secondary front yard where 15' is required; b) a 16' rear yard where 20' is required; c) a 6' right side yard where 10' is required; and d) 49% building coverage where 25% is the maximum allowed.</li> <li>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.</li> </ol>

### Existing & Proposed Conditions

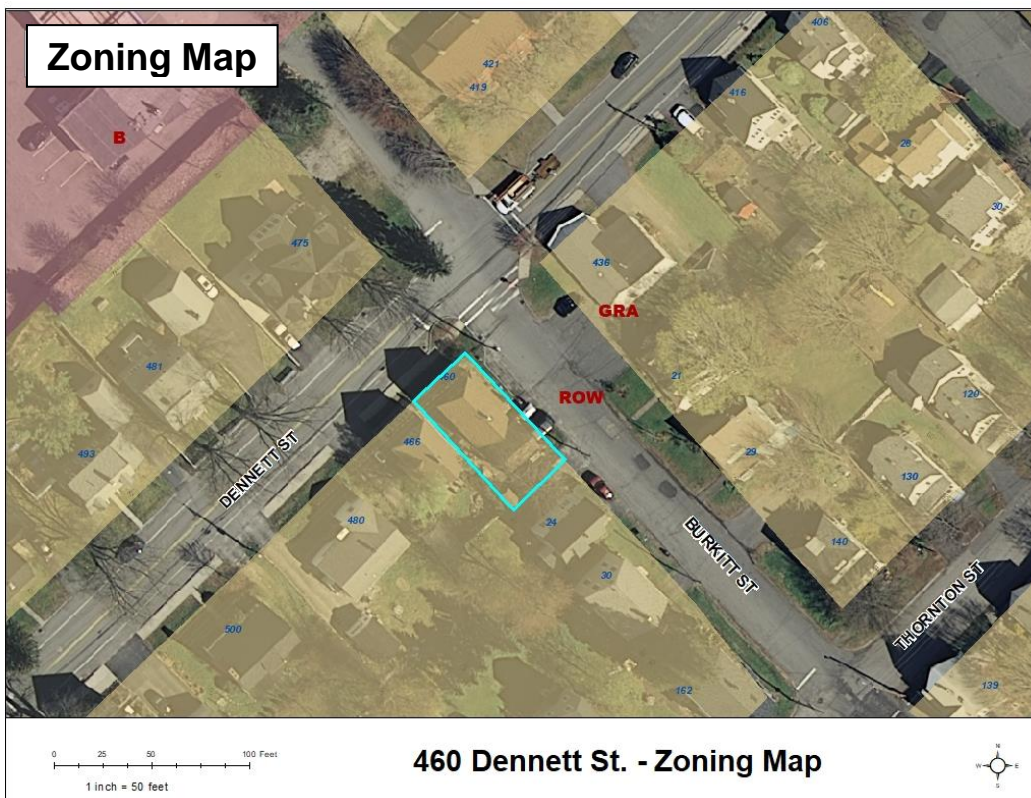
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Garage addition	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	2,700	2,700	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,700	2,700	7,500 min.
<u>Street Frontage (ft.):</u>	111	111	100 min.
<u>Lot depth (ft.):</u>	75	75	70 min.
<u>Primary Front Yard (ft.):</u>	4	4	15 min.
<u>Secondary Front Yard (ft.):</u>	5	<b>5</b>	15 min.
<u>Right Yard (ft.):</u>	5	<b>6</b>	10 min.
<u>Rear Yard (ft.):</u>	17	<b>16</b>	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	44	<b>49</b>	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	ok	ok	
<u>Estimated Age of Structure:</u>	1900	<b>Variance request shown in red.</b>	

### Other Permits/Approvals Required

None.



# Neighborhood Context



## Previous Board of Adjustment Actions

August 28, 1984 – The Board **granted** variances to allow an 18' x 20' x 14'6" high garage with a 0' left yard where 14'6" was required and 44% building coverage where 20% was the maximum allowed. The variances were granted with the **stipulations** that the existing shed be removed and that there be a minimum 4' side yard.

## Planning Department Comments

The existing 1900's home is currently nonconforming with respect to both front yards and the right side yard. A variance was granted in 1984 to allow 44% building coverage and also stipulated that a 4' side yard be maintained. The building envelope shown on the site plan depicts a small rectangle in the center of the lot roughly 11' x 40' or 440 square feet, which makes it difficult to comply with the dimensional requirements in this district.

## 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 #8-6

Petitioners:	Amanda R. Blanchette
Property:	1462 Islington Street
Assessor Plan:	Map 233, Lot 86
Zoning District:	Single Residence B (SRB)
Description:	Attached garage with living space above.
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 10.521 to allow the following: a) a 10'± rear yard where 30' is required; b) a 3'± right side yard where 10' is required; c) 26% building coverage where 20% is the maximum allowed.</li> <li>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. .</li> </ol>

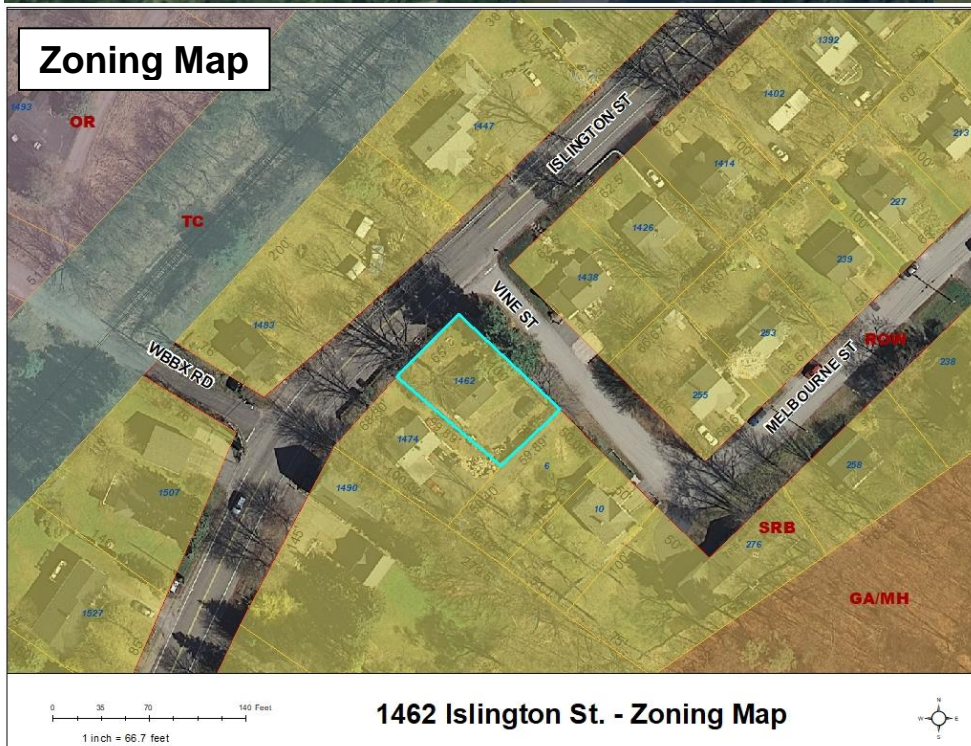
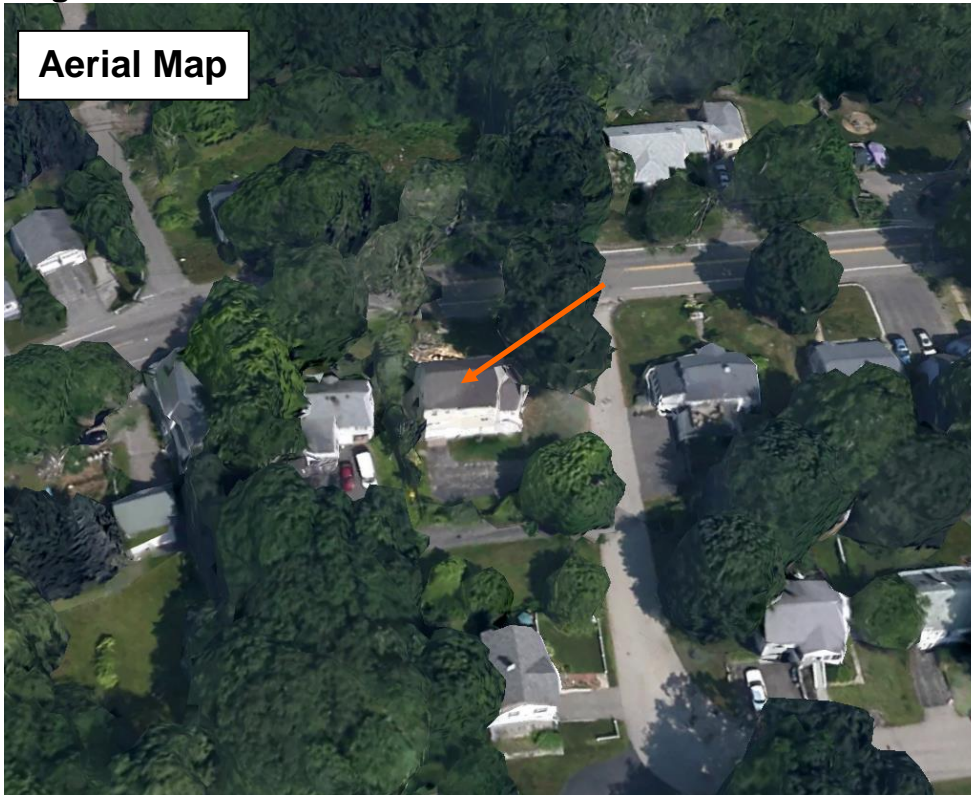
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Garage addition with living space above	Primarily Single Family
<u>Lot area (sq. ft.):</u>	6,245	6,245	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	6,245	6,245	15,000 min.
<u>Street Frontage (ft.):</u>	>100	>100	100 min.
<u>Lot depth (ft.):</u>	100	100	100 min.
<u>Primary Front Yard (ft.):</u>	28	No change	30 min.
<u>Secondary Front Yard (ft.):</u>	12	>30 (garage)	30 min.
<u>Right Yard (ft.):</u>	6	<b>3</b>	10 min.
<u>Rear Yard (ft.):</u>	>30	<b>10</b>	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	17	<b>26</b>	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	ok	ok	ok
<u>Estimated Age of Structure:</u>	1966 org. 2012 – renovation	<b>Variance request shown in red.</b>	

### Other Permits/Approvals Required

None.

## Neighborhood Context



## Previous Board of Adjustment Actions

No BOA history found.

## Planning Department Comments

The existing home is currently nonconforming, encroaching into the primary and secondary front yards as well as the right side yard. The proposed garage addition will increase the building coverage to 26%. The original house was constructed in 1966 and a total renovation with second story addition was completed in 2012. The property is constrained by having three sides with 30' setbacks, limiting the buildable area on the lot. The proposed space above the garage is additional living space. The site plan only shows the 10' rear yard, but the proposed garage will also encroach into the right side yard approximately 7'.

## 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:	Shipwatch Condominium Association, owner and 51 Ceres LLC, applicant
Property:	129 Market Street, Unit A
Assessor Plan:	Map 106, Lot 35-A
Zoning District:	Character District-5 (CD5), Historic District (HD), Downtown Overlay District (DOD)
Description:	Live work unit.
Requests:	Variations and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including: 1. A Variance from Section 10.1112.311 to allow 0 parking spaces where 1 is required.

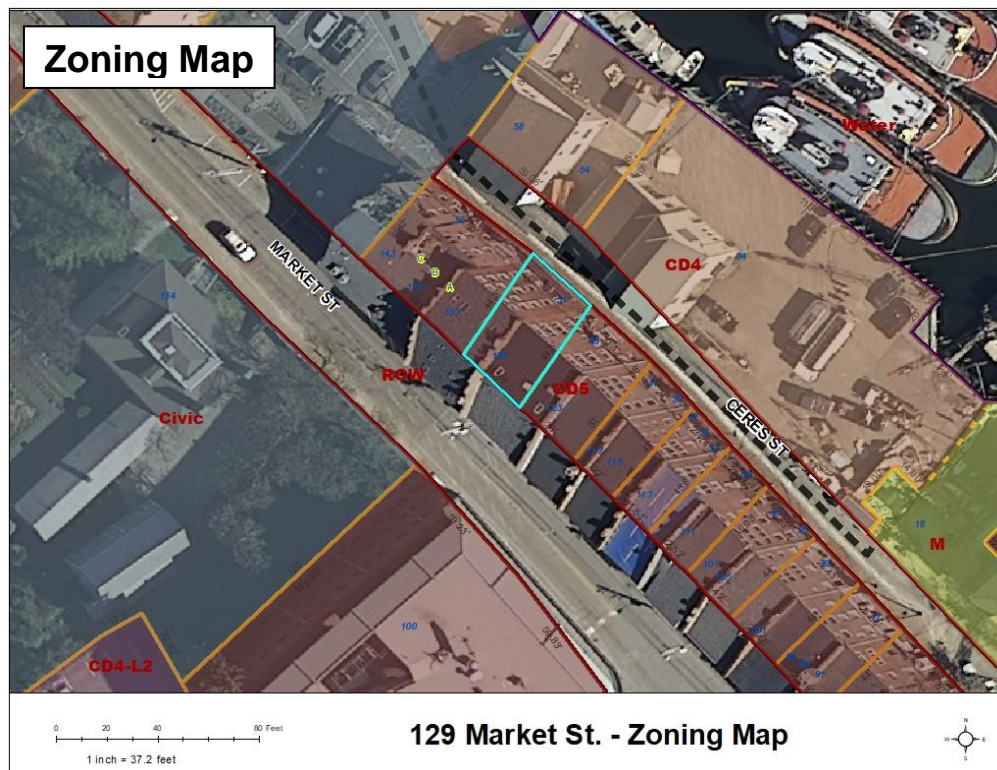
**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted/Required</u>
<u>Land Use:</u>	Office space	Live/work unit	Mixed Use
Parking (# of spaces)	0	0	1 space for a dwelling 500 - 750 s.f.

**Other Permits/Approvals Required**

None

## Neighborhood Context



## Previous Board of Adjustment Actions

June 27, 2017 – (Unit C) – The Board **granted** a variance to allow no off-street parking spaces where 4 parking spaces were required in the conversion of office space in Unit C to two condominium units.

## Planning Department Comments

The applicant is proposing to convert 500 square feet of Unit A into living space and operate a business on the first floor. The parking requirements for a dwelling unit that is 500-750 square feet is 1 space. As shown on the zoning map above, the lots on this part of Market Street are completely covered by the structures that occupy them, leaving no area available for off-street parking. As noted in the history above, Unit C received a similar variance for parking in June of 2017.

## 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 #8-8

Petitioners:	Bromley Portsmouth LLC, RCQ Portsmouth LLC c/o Quincy & Co. Inc.
Property:	1465 Woodbury Avenue
Assessor Plan:	Map 216, Lot 3
Zoning District:	Gateway 1 District (G1)
Description:	Install wall sign.
Requests:	Variations 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 252± s.f. of walls signs where 200 s.f. is the maximum allowed.

### Existing & Proposed Conditions

Renovations are underway to divide the old Kmart space into two units. One of the units will be occupied by Burlington Coat.

<u>Sign District 4</u>	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
Wall Sign A	none	<b>252</b>	200 s.f. max
Wall Sign B	none	16	
Aggregate sign area = 1.5 x 199'11" (building frontage)		268	299'10.5"
<u>Estimated Age of Structure:</u> 1976		<b>Variance request shown in red.</b>	

### Other Permits Required

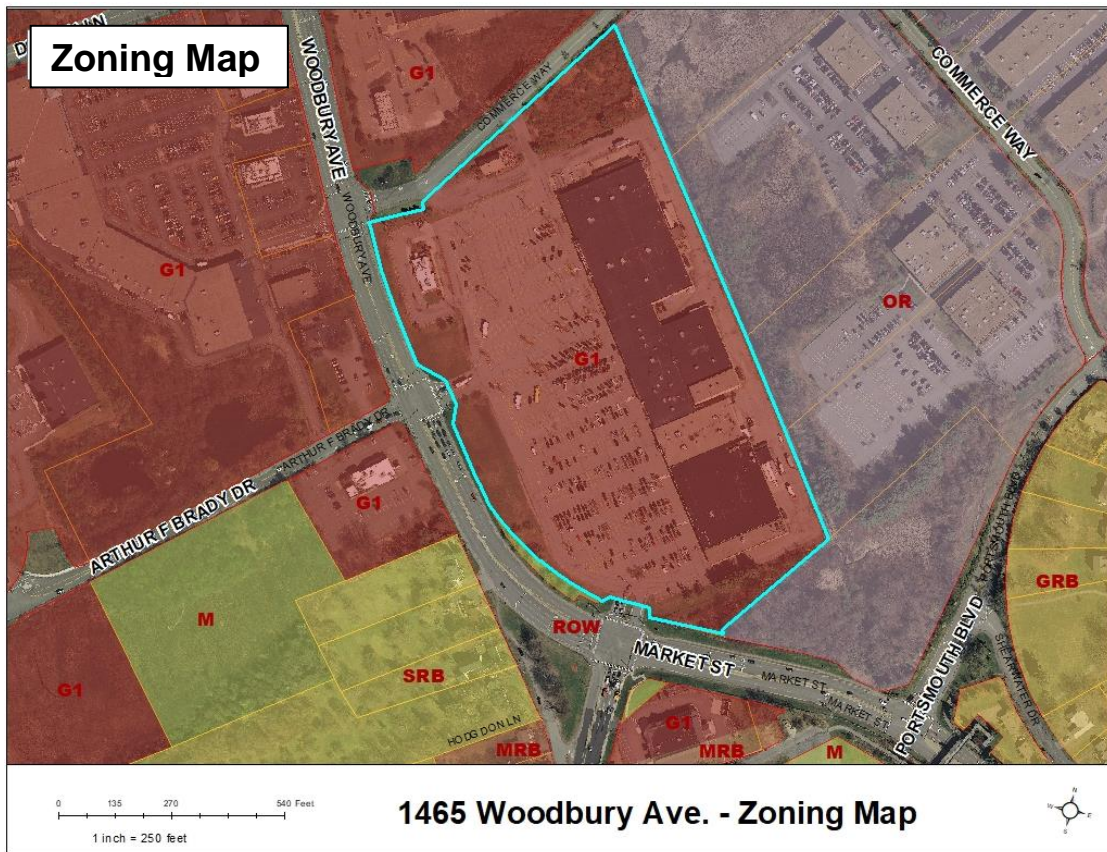
None

# Neighborhood Context

**Aerial Map**



**Zoning Map**



## Previous Board of Adjustment Actions

July 17, 2018 – The Board **granted** a variance to allow 230.7± s.f. of wall signage where 200 s.f. was the maximum allowed. The granted signage was reduced by a **stipulation** from the requested 246± s.f.

## Planning Department Comments

This petition was before the Board in July and a variance was granted for a 230.7 square foot wall sign (see history above). After the meeting, the applicant stated the size of the sign was not correct on the July application and that the actual size of the sign is 252 square feet, approximately 21 s.f. larger than what was approved in July. Combined with the other smaller sign, the total sign area is still less than the aggregate of 300 square feet allowed for this building.

## 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 #8-9

Petitioners: David Simpson and Janet Zerr  
 Property: 65 Rogers Street  
 Assessor Plan: Map 115, Lot 2  
 Zoning District: Mixed Residential Office District (MRO), Historic District (HD)  
 Description: Replace detached garage with attached garage 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 the following: a) a 4.5'± right side yard where 10' is required; and b) a 14.17'± rear yard where 15' 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.

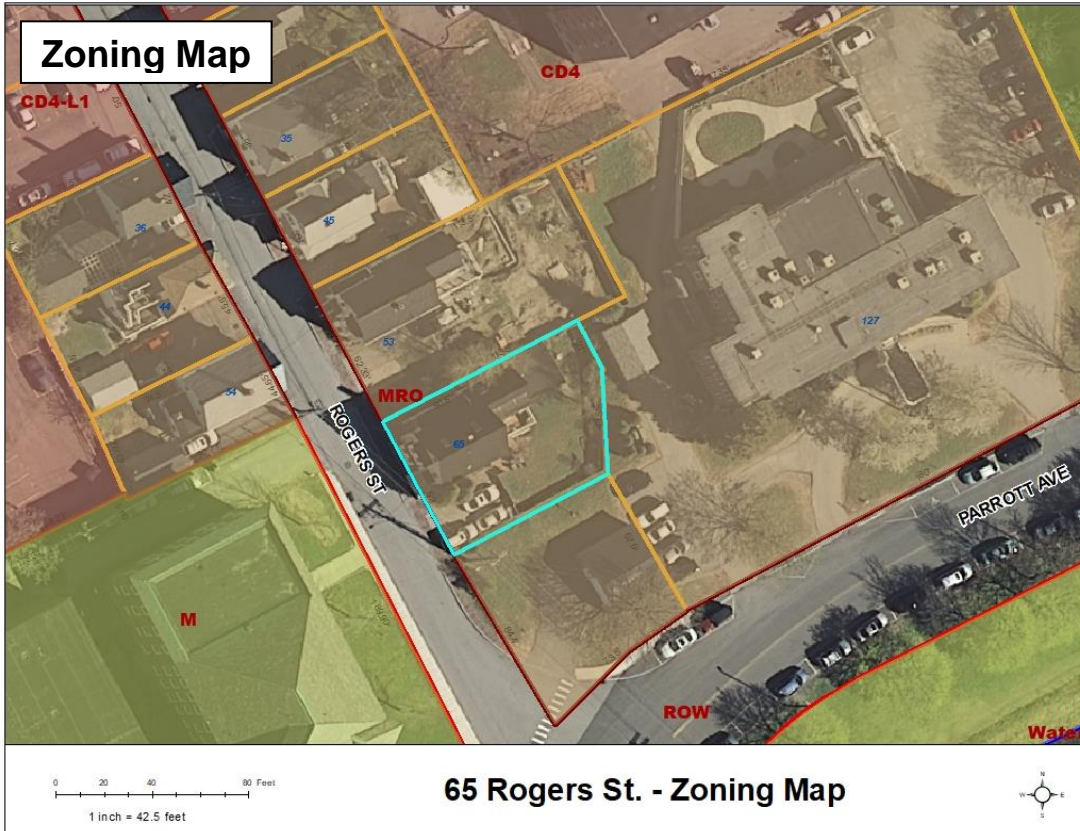
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Garage addition	Primarily mixed Uses
<u>Lot area (sq. ft.):</u>	5,663	5,663	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,663	5,663	7,500 min.
<u>Street Frontage (ft.):</u>	62	62	100 min.
<u>Lot depth (ft.):</u>	93	93	80 min.
<u>Primary Front Yard (ft.):</u>	2	2	5 min.
<u>Right Yard (ft.):</u>	27.5	27.5	10 min.
<u>Left Yard (ft.):</u>	1.5	4.5	10 min.
<u>Rear Yard (ft.):</u>	15.75	14.17	15 min.
<u>Height (ft.):</u>	<40	<40	40 max.
<u>Building Coverage (%):</u>	24	34	40 max.
<u>Open Space Coverage (%):</u>	70	44	25 min.
<u>Parking</u>	Ok	Ok	Ok
<u>Estimated Age of Structure:</u>	1880	Variance request shown in red.	

### Other Permits Required

Historic District Commission

# Neighborhood Context



## Previous Board of Adjustment Actions

August 17, 1999 – The Board **granted** a variance to reconstruct front steps as a side exit with a 0' front yard where 5' was required.

December 16, 2003 – The Board **granted** variances for an 18'6" x 21' one and a half story barn with second floor living space to the rear of the existing building with a 4' left side yard, 10' required.

## Planning Department Comments

The barn associated with the variances granted in 2003 was never constructed. The application is pending with the Historic District Commission.

## 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 #8-10

Petitioners: William Brinton Shone & Tatjana Tizzi Shone  
 Property: 11 Elwyn Avenue  
 Assessor Plan: Map 113, Lot 27  
 Zoning District: General Residence A District (GRA)  
 Description: Infill addition and dormer.  
 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) a 5'± right side yard where 10' is required; and b) a 40% building coverage where 25% is the maximum allowed.  
 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.

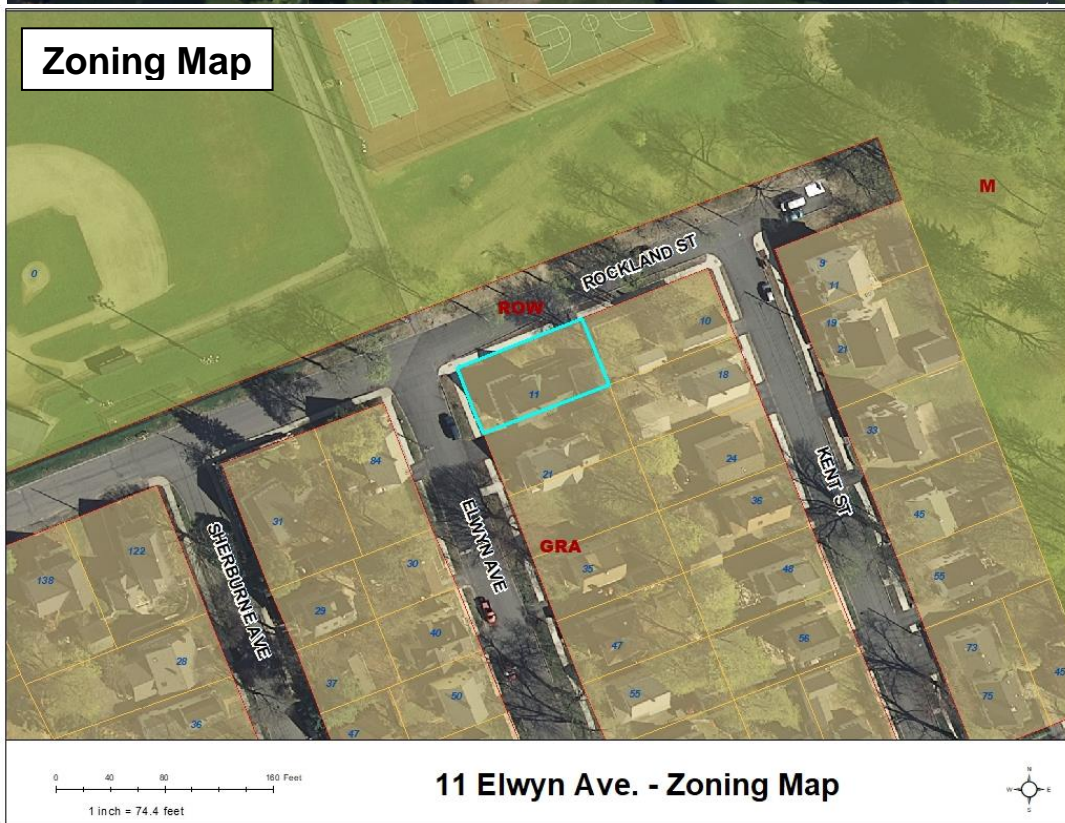
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Addition	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	5,000	5,000	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,000	5,000	7,500 min.
<u>Street Frontage (ft.):</u>	100	100	100 min.
<u>Lot depth (ft.):</u>	100	100	70 min.
<u>Primary Front Yard (ft.):</u>	22	22	15 min.
<u>Secondary Front Yard (ft.):</u>	14'9"	14'9"	15 min.
<u>Right Yard (ft.):</u>	5	5	10 min.
<u>Rear Yard (ft.):</u>	2	**	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	34	40	25 max.
<u>Open Space Coverage (%):</u>	34	40	30 min.
<u>Parking</u>	Ok	Ok	ok
<u>Estimated Age of Structure:</u>	1900	Variance request shown in red. ** variance needed for rear yard – see planning comments	

### Other Permits Required

None

## Neighborhood Context



## Previous Board of Adjustment Actions

No BOA history found.



## Planning Department Comments

The applicant is proposing a renovation of the 1900's home which involves connecting the existing house and garage with a new addition and addition of a dormer to the back of the house that is within the right side yard. The improvements will increase the building coverage to 40% where 34% exists and 25% is the maximum allowed. The connection to the garage includes a roof that will partially be located within the rear setback. This request was not on the application, nor was it in the legal advertisement. The applicant wishes to proceed with what was submitted, and has indicated they will file for a separate variance for the rear yard for the September 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 #8-11**

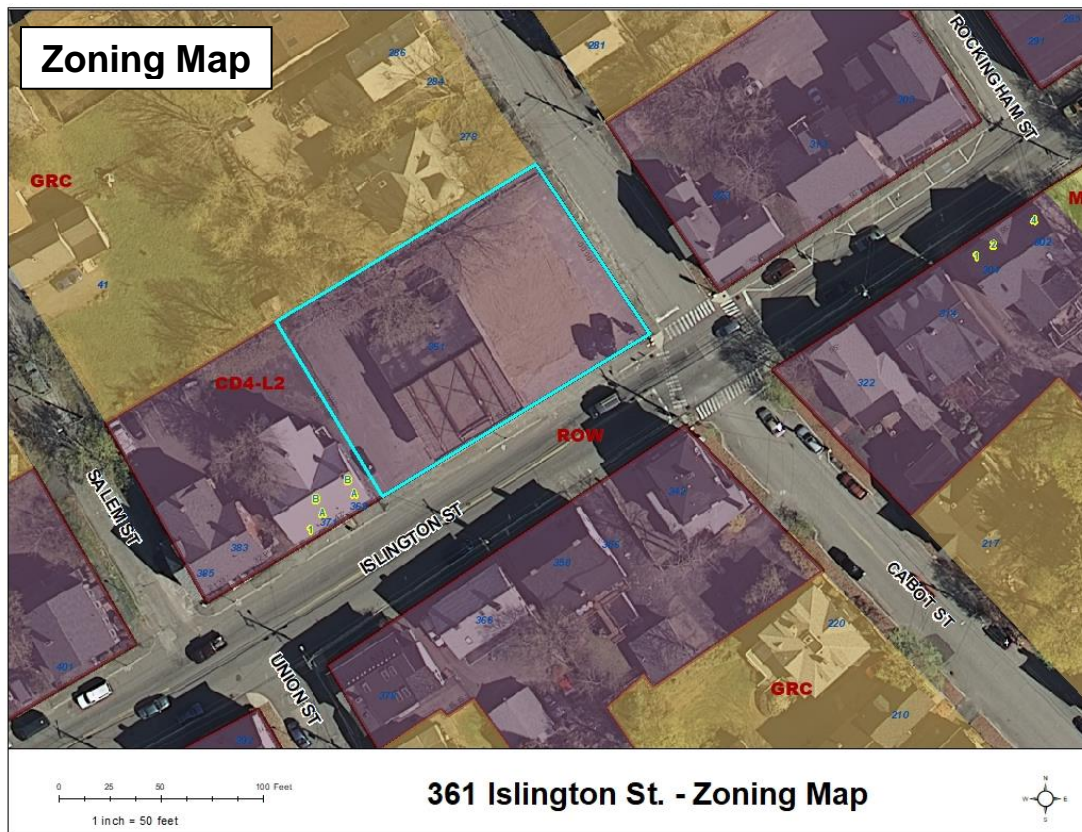
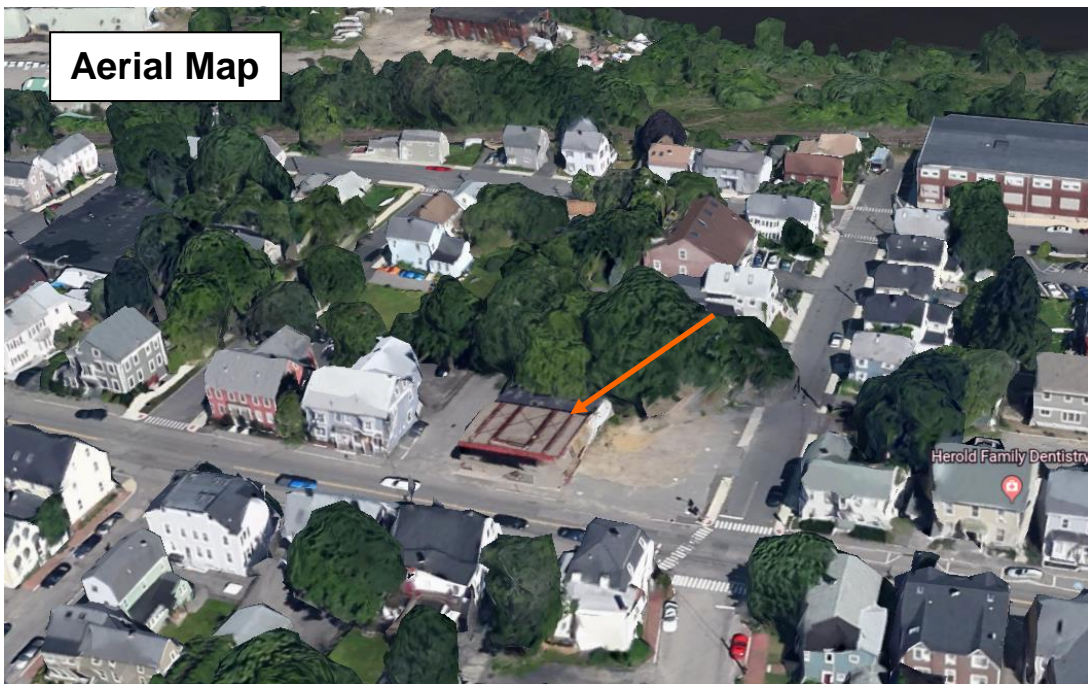
Petitioners:	Lucky Thirteen Properties LLC, owner, Opendell journey LLC, applicant
Property:	361 Islington Street
Assessor Plan:	Map 144, Lot 23
Zoning District:	Character District 4-L2 (CD4-L2), Historic District (HD)
Description:	Operate a food truck style restaurant.
Requests:	Variations and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including: 1. A Variance from Section 10.440 to operate a food truck style establishment.

**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant gas station	<b>Food-truck style establishment</b>	Primarily Mixed Uses
<u>Estimated Age of Structure:</u>	1850	Variance request shown in red.	

**Other Permits/Approvals Required**

Amended Site Plan  
Historic District



### Previous Board of Adjustment Actions

January 30, 1956 – The Board **granted** a request to erect a filling station.

February 19, 2002 – The Board **denied** a request to allow a Ryder Truck renting facility with three trucks on display where the use was not allowed and to allow a nonconforming accessory use in addition to the existing nonconforming use.

May 28, 2013 – A petition to construct a multi-use building with first floor Laundromat and second floor office space within a building footprint of 3,030± s.f. was **withdrawn** by the applicant.

August 19, 2014 - The Board **granted** a variance to allow the detailing of automobiles in a district where the use was not allowed.

December 19, 2017 – The Board **granted** the following variances to convert an existing building plus small addition to restaurant use: a) a secondary front yard of 66', 12' maximum permitted; b) a 30' left side yard, 20' maximum permitted; c) 14.9% open space, 25% required; d) shopfront façade glazing of 47% where 70% is minimum required; e) off-street parking to be located in a required front yard between principal building and street and to be located less than 20' behind the façade of a principal building; and f) to allow a nonconforming building to be extended, reconstructed or enlarged without conforming to requirements of Ordinance.

### **Planning Department Comments**

The zoning ordinance does not have a specific use for food trucks. The closest use is a fast food restaurant or a take-out restaurant, both of which are not permitted in this district. Amended site plan approval would be required if the variance is granted. The applicant has indicated they will operate seasonally (April 1 – December 1) and hours of operation (11 am - 8 pm on weekdays and 11 am – 10 pm on weekends), which could be stipulations of approval if the variance is granted. No changes to the existing structure on the lot are planned at this time. The proposed truck will be parked onsite in front of the garage bays and hook up to existing electric and water. The existing bathroom will be available for customers.

### **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.*