

TO: Zoning Board of Adjustment  
FROM: Peter Stith, AICP, Planning Department  
DATE: January 9, 2019  
RE: Zoning Board of Adjustment January 15, 2019 Meeting

## **NEW BUSINESS**

1. Case 1-1 127 Crescent Way
2. Case 1-2 11 Meeting House Hill Road
3. Case 1-3 21 Langdon Street
4. Case 1-4 620 Peverly Hill Road

## NEW BUSINESS

### Case #1-1

Petitioners:	Katherine Leigh
Property:	127 Crescent Way
Assessor Plan:	Map 212, Lot 152
Zoning District:	General Residential B (GRB)
Description:	Install stand-alone generator.
Requests:	<p>Variations and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:</p> <p>1. A Variance from Section 10.515.14 to allow a 4.3'± right side yard where 10' is required.</p>

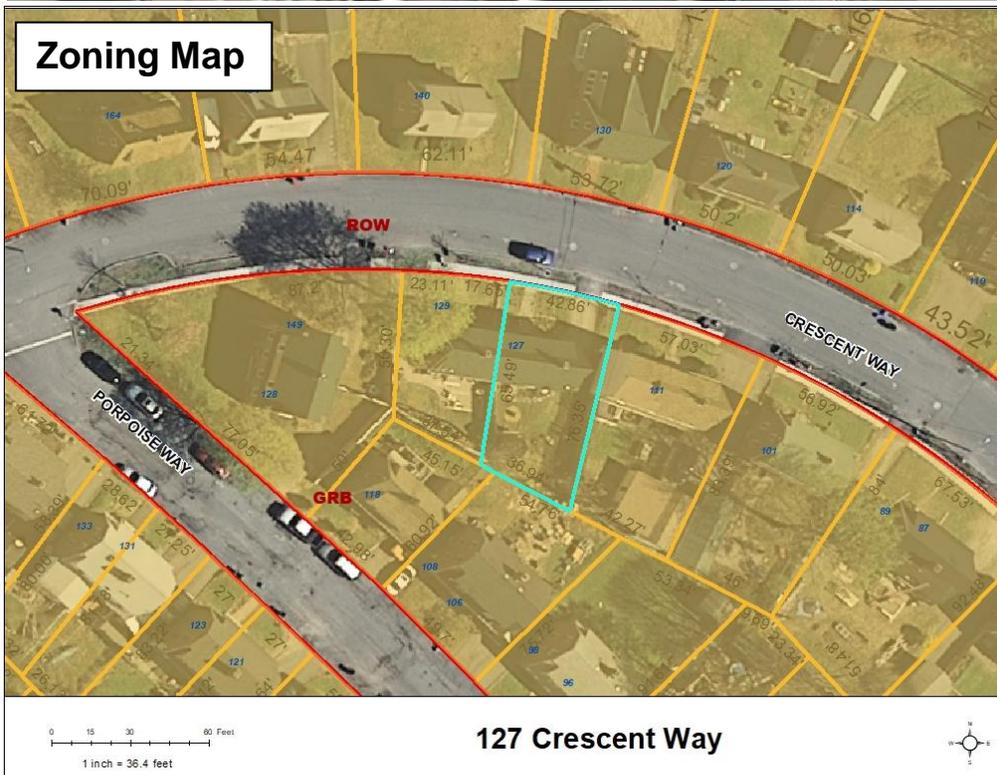
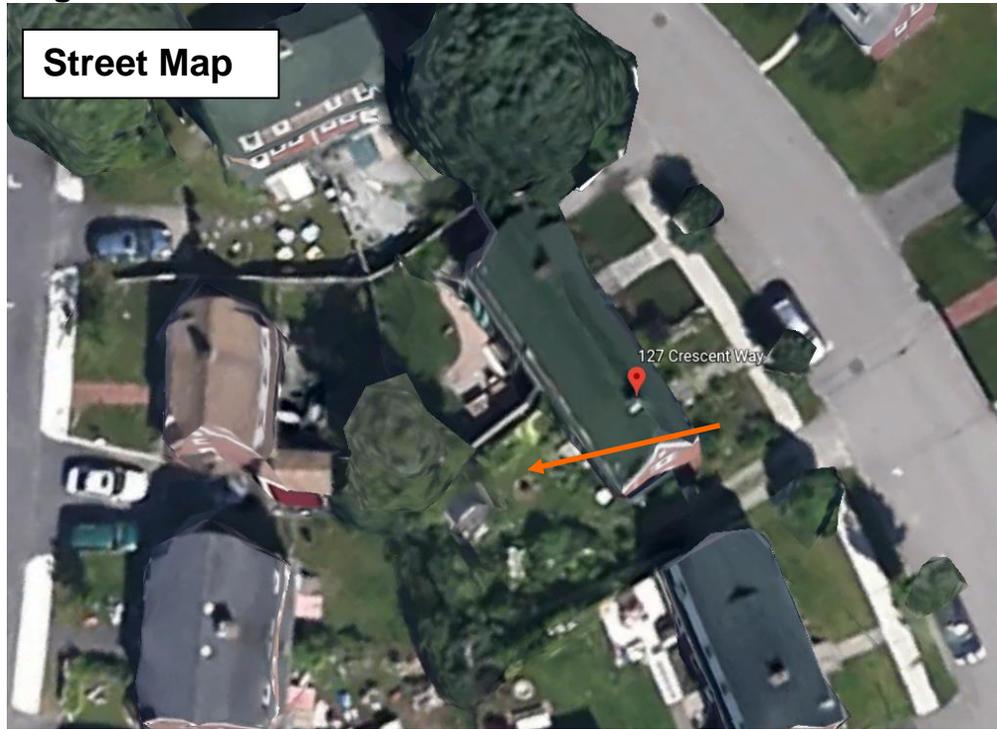
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Generator	Primarily residential uses
<u>Lot area (sq. ft.):</u>	2,613	2,613	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,613	2,613	5,000 min.
<u>Street Frontage (ft.):</u>	42	42	80 min.
<u>Lot depth (ft.):</u>	71	71	60 min.
<u>Primary Front Yard (ft.):</u>	16	16	5 min.
<u>Left Yard (ft.):</u>	16	16	10 min.
<u>Right Yard (ft.):</u>	0 (house)	<b>4.3' (generator)</b>	10 min.
<u>Rear Yard (ft.):</u>	35	24	25 min.
<u>Height (ft.):</u>	<35	33" generator	35 max.
<u>Building Coverage (%):</u>	20	21	30 max.
<u>Open Space Coverage (%):</u>	70	70	25 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1917	<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 applicant is proposing to install a generator behind the existing house. The property is located in Atlantic Heights, where many of the duplex structures have the property line going through the two units. Most of the properties have fences and in some instances each unit has a fence, creating a double fenced area, and this property is one of those. The applicant has measured from their fence to the generator to determine the setback of 4.3' or 52 inches. The image below show a close up of the property. There appears to be a space between the fence at 127 Crescent and the property line, making the actual location of the generator farther away from the side yard than what is requested.

The applicant has indicated work was performed prior to seeking approvals, however the work has ceased until app permits and approvals have been granted.



## 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 #1-2

Petitioners:	Katherine Balliet & Carol Hollings, owners and Lisa Koppelman & Nicholas Cracknell, applicants
Property:	11 Meeting House Hill Road
Assessor Plan:	Map 103, Lot 59
Zoning District:	General Residence B (GRB)
Description:	Move one existing dwelling unit into a garage with added second story and connector to existing home.
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 5.5'± rear yard where 25' is required; and b) a 48% building coverage where 30% 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>

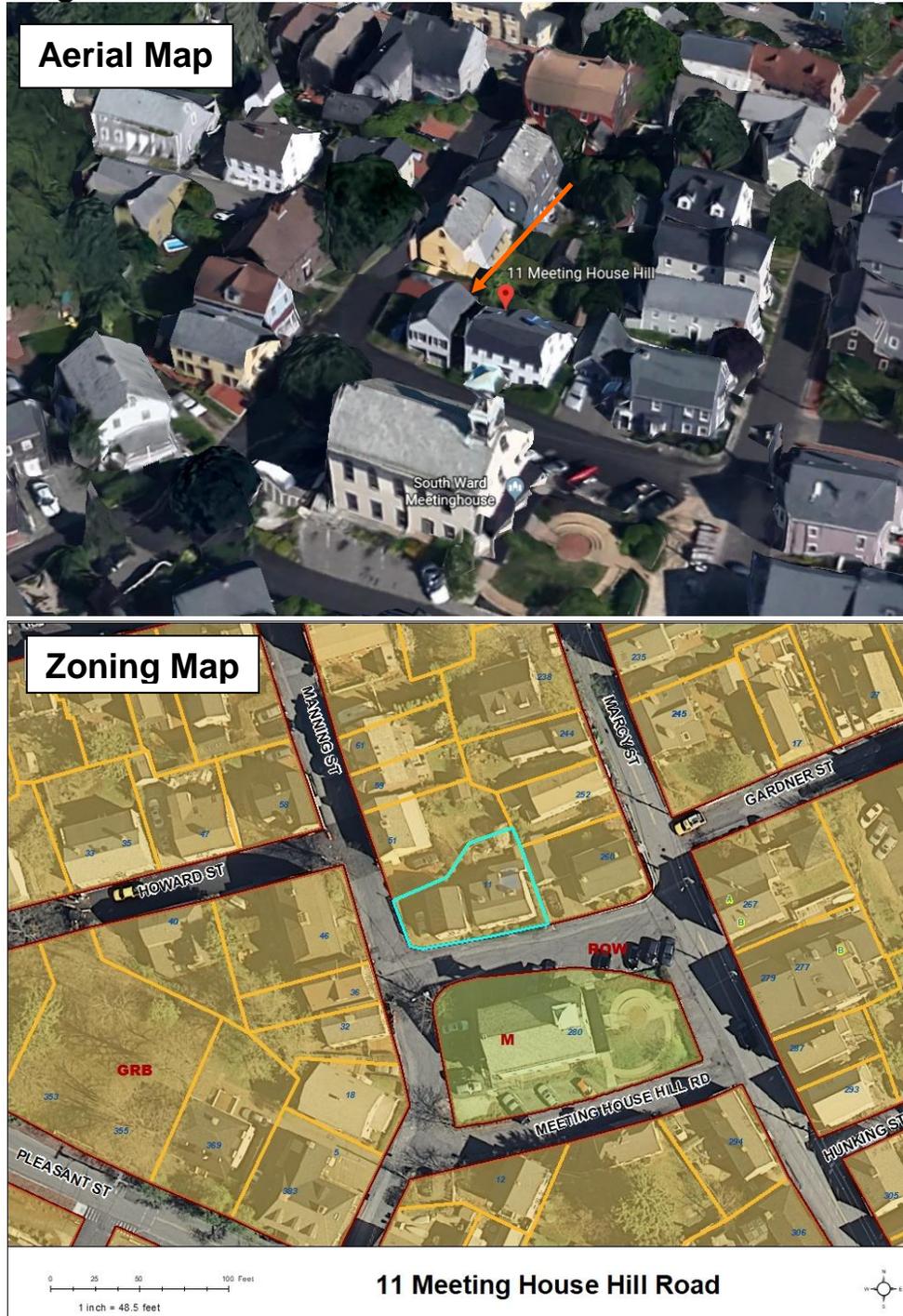
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family	Garage addition/move 1 DU into garage.	Primarily residential uses
<u>Lot area (sq. ft.):</u>	3,422	3,422	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	1,711	1,711	5,000 min.
<u>Street Frontage (ft.):</u>	78	78	80 min.
<u>Lot depth (ft.):</u>	44	44	60 min.
<u>Primary Front Yard (ft.):</u>	3'9"	3'1"*	5 (2.7*) min.
<u>Secondary Front Yard (ft.):</u>	17	7	5 min.
<u>Right Yard (ft.):</u>	0	0	10 min.
<u>Rear Yard (ft.):</u>	7'6"	<b>5'6"</b>	25 min.
<u>Height (ft.):</u>	19	26	35 max.
<u>Building Coverage (%):</u>	43	<b>48</b>	30 max.
<u>Open Space Coverage (%):</u>	57	49	25 min.
<u>Parking</u>	3	4	3
<u>Estimated Age of Structure:</u>	1900 (1790 house) 1981 (garage)	<b>Variance request shown in red.</b> *ok per Section 10.516.10 for Front Yard Alignments.	

## Other Permits/Approvals Required

HDC

### Neighborhood Context



### Previous Board of Adjustment Actions

January 6, 1981 – The Board **granted** variances to allow the following: a) construction of a two story garage with a 4' front, 10' rear and 7' right setbacks (21' required for all);

b) construction on a corner lot with a front setback of 4' and a left side setback of 10' where 10' was required; and c) 71.7% building coverage where 20% was allowed. The request was granted with the following **stipulations attached to a) and b)**: 1) the garage to be 16' from the left setback (Manning Street side); 2) the dimensions not to exceed 18' in width (Meeting House Hill side) and 24' in length (Manning Street side); and 3) the height not to exceed 18'. Building coverage (c) was granted with no stipulations.

### **Planning Department Comments**

The applicant has had one work session with the HDC and has provided additional information from the HDC work session as part of the application for this petition. It appears this lot was involuntarily merged and although it shows up on the tax maps as one lot, there are actually two deeds describing the two lots. The relief sought for the variances granted in 1981 reflect setbacks for the corner lot (43 Manning St), and not the larger, merged lot. The applicant is seeking relief based on the merged lot.

The applicant has indicated the proposed rear yard is approximately 5 feet 6 inches on the site plan that was submitted. Since the site plan is not an official survey, the Board may want to consider a condition of approval that the rear yard is within a certain distance to specify a plus/minus range that would allow for some flexibility. This would prevent the applicant from having to come back to the Board if there is a minor discrepancy between the site plan submitted for this request and the as-built survey for the addition.

**If granted approval, Staff recommends consideration of a condition that would allow the rear yard to be within a certain distance as determined by the Board.**

### **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 #1-3

Petitioners: Neil Cohen  
 Property: 21 Langdon Street #23  
 Assessor Plan: Map 138, Lot 32  
 Zoning District: General Residence C (GRC)  
 Description: Demolish and reconstruct duplex structure.  
 Request: 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 lot area of 3,485 s.f. where 3,500 s.f. is required; b) a lot area per dwelling unit of 1,742 s.f. where 3,500 s.f. is required; c) continuous street frontage of 55.71' where 70' is required; d) 40% building coverage where 35% is the maximum allowed; e) a 0' front yard where 5' is required; f) a 6.4'± right side yard where 10' is required; and g) a 5.7' left 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.

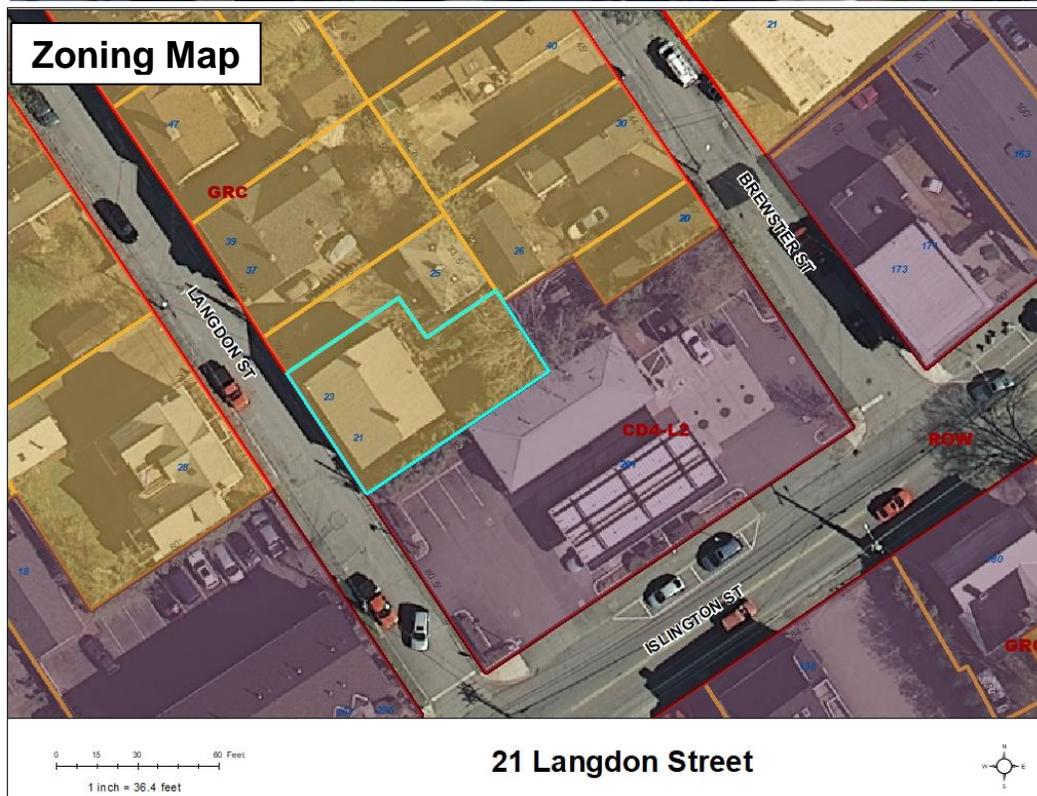
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family	Demo existing and reconstruct New two-family	Primarily residential uses
<u>Lot area (sq. ft.):</u>	3,485	<b>3,485</b>	3,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	1,7526	<b>1,742</b>	3,500 min.
<u>Street Frontage (ft.):</u>	55.71	<b>55.71</b>	70 min.
<u>Lot depth (ft.):</u>	79	79	70 min.
<u>Primary Front Yard (ft.):</u>	1'8"	<b>2.5' (0' advertised)</b>	5 min.
<u>Right Yard (ft.):</u>	3'4"	<b>6.4'</b>	10 min.
<u>Left Yard (ft.):</u>	10'	<b>5.7'</b>	10 min.
<u>Rear Yard (ft.):</u>	>20	>20	20 min.
<u>Height (ft.):</u>	32	32	35 max.
<u>Building Coverage (%):</u>	40	<b>40 (39.7 advertised)</b>	25 max.
<u>Open Space Coverage (%):</u>	40	34	30 min.
<u>Parking</u>	2	4	3
<u>Estimated Age of Structure:</u>	1910	<b>Variance request shown in red.</b>	

## Other Permits/Approvals Required

None.

## Neighborhood Context



## Previous Board of Adjustment Actions

June 26, 2018 – The Board **granted** a variance to allow a driveway (second on lot) that does not meet the standards for “General Access and Driveway Design.”

## Planning Department Comments

As indicated by the history above, the applicant received a variance for a second driveway in June 2018. At that time the applicant had planned to renovate the structure while maintaining the frame, with the exception of the alteration to accommodate the second driveway. According to the applicant, that plan is no longer feasible and the existing structure is proposed to be demolished and reconstructed, thus the need for the requested variances. Demolishing the building will eliminate the nonconforming status and this is why the variances for the lot nonconformities are also needed. The original front steps encroached into the city right of way and the proposed footprint pushes the structure back so the front steps will be located on the property and not on the sidewalk. Pushing the building back to the proposed location will encroach into the left side yard, but it creates a less nonconforming situation in the front yard and provides more space along the sidewalk.

The dimensional setback requests are very specific and the Board may want to consider allowing for a plus/minus range to account for any discrepancies with what is presented in the petition and the as-built survey for the foundation.

**If granted approval, Staff recommends consideration of a condition that the front yard is 2’6” and not 0’ as advertised and the side yards are within a certain distance as determined by the Board to account for a plus/minus range.**

## 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 #1-4

Petitioners:	Nancy H. Alexander Revocable Trust, Nancy H. Alexander, Trustee, owner and Rumble Tumble, LLC, applicant
Property:	620 Peverly Hill Road
Assessor Plan:	Map 254, Lot 6
Zoning District:	Industrial District (I)
Description:	Children's gym.
Requests:	<p>Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:</p> <p>1. A Special Exception from Section 10.440, Use #4.42 to allow a health club more than 2,000 s.f. gross floor area where the use is only allowed by special exception.</p>

### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Convert acc. structure to dwelling	Primarily water related businesses
<u>Lot area (sq. ft.):</u>	68,825	68,825	87,120 (2 ac.) min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	NA	NA	NA min.
<u>Lot depth (ft.):</u>	130	130	200 min.
<u>Street Frontage (ft.):</u>	190	190	200 min.
<u>Primary Front Yard (ft.):</u>	80	80	70 min.
<u>Left Yard (ft.):</u>	50	50	50 min.
<u>Right Yard (ft.):</u>	50	50	50 min.
<u>Rear Yard (ft.):</u>	68	68	50 min.
<u>Height (ft.):</u>	<35	<35	70 max.
<u>Building Coverage (%):</u>	22	22	50 max.
<u>Open Space Coverage (%):</u>	>20	>20	20 min.
<u>Parking</u>	60	60	53
<u>Estimated Age of Structure:</u>	2000		

### Other Permits/Approvals Required

None.

## Neighborhood Context



## Previous Board of Adjustment Actions

September 19, 2000 – The Board **granted** a variance to allow parking 31' from the front property line where 50' was required.

May 27, 2008 – The Board **denied** a request, postponed from the first meeting on May 20<sup>th</sup>, to allow a private school for grades 6 through 12 in a district where such use was not allowed.

August 21, 2012 – The Board **granted** a special exception to allow a martial arts studio to operation in 2,000+ s.f. gross floor area and a variance to allow 69 parking spaces for the property where 80 parking spaces were required.

### **Planning Department Comments**

A special exception was granted in 2012 for to allow a martial arts studio. In addition, a variance was granted to allow less than the required parking, 69 spaces where 80 were required. The applicant has indicated there are only 60 spaces that exist (have been properly striped). When a change of use occurs, the off-street parking requirements for all uses (existing and proposed) must be verified. The parking requirements for the uses in the building, including the proposed use, is 53 spaces. The parking standards have changed since the 2012 variance, requiring less parking and the existing parking provided satisfies all of the uses associated with this property.

### **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.*