

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: May 13, 2019
RE: Zoning Board of Adjustment May 21, 2019 Meeting

OLD BUSINESS

1. Case 4-1 14 Mt. Vernon Street
2. Case 4-2 299 Vaughan Street

NEW BUSINESS

1. Case 5-1 3 Hancock Street
2. Case 5-2 170 Mechanic Street
3. Case 5-3 1847 Lafayette Road
4. Case 5-4 319 Vaughan Street
5. Case 5-5 56 Middle Street
6. Case 5-6 419 Richards Avenue
7. Case 5-7 30 Walden Street

OLD BUSINESS

Case #4-1

Petitioners:	Donna L. Acox
Property:	14 Mt. Vernon Street
Assessor Plan:	Map 111, Lot 26
Zoning District:	General Residential B (GRB)
Description:	6 x 12 shed.
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 10.573.10 to allow a 1.5' right side yard where 5' is required. 2. A Variance from Section 10.521 to allow the following: a) 38%± building coverage where 30% is the maximum allowed; and b) to allow 22%± open space where 25% is the minimum required.

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	6x12 shed	Primarily residential uses
<u>Lot area (sq. ft.):</u>	2,252	2,252	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,252	2,252	5,000 min.
<u>Street Frontage (ft.):</u>	27	27	80 min.
<u>Lot depth (ft.):</u>	76	76	60 min.
<u>Primary Front Yard (ft.):</u>	0 (house)	>50	5 min.
<u>Right Yard (ft.):</u>	3 (house)	1.5' (shed)	5 (shed) min.
<u>Left Yard (ft.):</u>	6.5 (house)	>10 (shed)	5 (shed) min.
<u>Rear Yard (ft.):</u>	30 (house)	10	5 (shed) min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	34	38	30 max.
<u>Open Space Coverage (%):</u>	25	22	25 min.
<u>Parking</u>	1	1	1.3
<u>Estimated Age of Structure:</u>	1918	Variance request shown in red.	

Other Permits/Approvals Required

HDC – Administrative Approval granted in April 2018

Neighborhood Context



Previous Board of Adjustment Actions

December 15, 2009 – The Board **granted** variances for the following to construct a new home: a) to allow a home on a 2,252 s.f. lot where 5,000 s.f. is required; b) to allow 39% lot coverage where 30% is the maximum allowed; c) to allow a left side setback of 7' and a right side setback of 3'6" where 10' was required for each; and d) to allow a front yard setback of 0' where 5' was required.

April 16, 2019 – The Board voted to postpone the petition to the May 21, 2019 meeting.

Planning Department Comments

The applicant received administrative approval from the HDC in April of 2018, but failed to obtain a building permit and additional land use review/approval. As a result, the applicant proceeded to have the shed installed earlier this year and is now seeking after the fact variances for the right side yard, building coverage and open space. The lot is a small, compact property with little room behind the house. There is a large bricked area in the back and what open space exists, consists of terraces and a small garden. The shed was placed on an area that is adjacent to the fence on the right side of the property. The existing house exceeds the allowable building coverage by 4% and the addition of the shed increases coverage to 38% and the open space drops from 25% to 22%.

The property was granted relief in 2009 for construction of the existing dwelling. In reviewing the file, the building coverage calculation was in error, using 882 square feet as the footprint instead of the actual 774 square feet. This equated to a coverage of 39%, when the actual coverage was 34%.

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 #4-2

Petitioners:	Vaughan Street Hotel LLC
Property:	299 Vaughan Street
Assessor Plan:	Map 124, Lot 10
Zoning District:	Character District 5 (CD5), Historic District (HD), Downtown Overlay District (DOD)
Description:	Signage and lighting for a hotel.
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 10.1251.20 for Signs #1 and #2 to allow two wall signs (124± s.f. and 70± s.f.) where 40 s.f. is the maximum allowed for an individual wall sign 2. A Variance from Sections 10.1271.10 and 10.1271.20 for Sign #5 to allow a sign on an exterior wall that does not face a street and is on the side of the building without a public entrance. 3. A Variance from Section 10.1261.30 for Sign #2 to allow internal illumination where only external illumination is allowed for signs in the Historic District. 4. A Variance from Section 10.1144.63 for Accent Light #1 to allow lights above the height of 25' on the building surface. 5. A Variance from Section 10.1144.60 to allow a luminaire to be attached at 32'9"± above grade where the maximum height allowed is 20' above grade.

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u> Sign District 3	Hotel	Primarily mixed uses
<u>Wall Sign:</u>	124 s.f.	40 s.f. max
<u>Wall Sign:</u>	70 s.f.	40 s.f. Max
<u>Street Frontage (ft.):</u>	Green St: 173 Vaughan St: 236	2 s.f. per linear foot
<u>Secondary Front Yard (ft.):</u>	16'	12 max.
<u>Max Luminaire Height (ft.):</u>	32'9"	20' max.
<u>Max. Accent Luminaire Height:</u>	65	25' max.
<u>Total Sign Aggregate:</u>	287 s.f.	818 s.f.
<u>Illumination Type:</u>	Internal	External
	Variance request shown in red.	

Other Permits/Approvals Required

HDC

Neighborhood Context



Previous Board of Adjustment Actions

February 27, 2018 – The Board **granted** a variance to allow vehicles to enter and leave a parking space by passing over another parking space or requiring the moving of another vehicle.

April 16, 2019 – The Board voted to table the petition to the May 21, 2019 meeting.

Planning Department Comments

The AC Hotel is currently under construction and the requested relief is for the proposed signage and lighting on the building. Two of the signs exceed the maximum size allowed for a wall sign, and Sign #5 is proposed to be on an exterior wall that does not face a public street and does not have a public entrance. While the applicant has a different opinion of Section 10.1271, staff has interpreted this section to be able to place a wall sign on a building, the side of the building must be on a street or have a public entrance on that side. The illumination on the building is considered signage and the zoning ordinances limits how high accent lighting and luminaires can be located on a building.

UPDATE: At the time of writing the staff report, no supplemental information has been submitted for this petition. The applicant's representative plans on submitting additional information to be included in your packet.

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 #5-1

Petitioners: James Dinulos Revocable Trust of 2013, Owners, James G & Paulette A Dinulos, Trustees
 Property: 3 Hancock Street
 Assessor Plan: Map 103, Lot 85
 Zoning District: Mixed Residential Office (MRO)
 Description: Install condenser.
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:
 1. A Variance from Section 10.515.14 to allow a condenser unit to be 7'± from the right side yard where 10' is required.

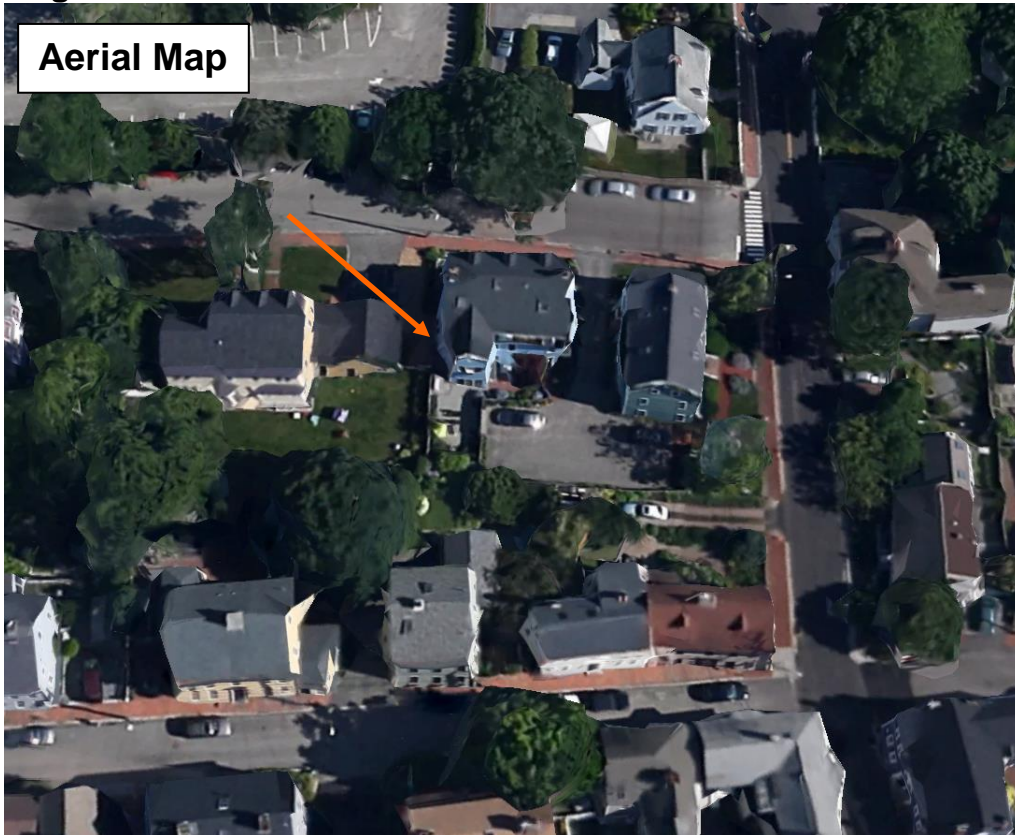
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	AC Unit	Primarily mixed residential
<u>Lot area (sq. ft.):</u>	10,159	10,159	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,386	3,386	7,500 min.
<u>Lot depth (ft.):</u>	87	87	80 min.
<u>Street Frontage (ft.):</u>	113	113	100 min.
<u>Primary Front Yard (ft.):</u>	7 (house)	>30 (ac unit)	5 min.
<u>Left Yard (ft.):</u>	65 (house)	108 (ac unit)	10 min.
<u>Right Yard (ft.):</u>	5 (house)	7 (ac unit)	10 min.
<u>Rear Yard (ft.):</u>	40 (house)	>40 (ac unit)	15 min.
<u>Height (ft.):</u>	<40	31 in. (ac unit)	40 max.
<u>Building Coverage (%):</u>	23	23	40 max.
<u>Open Space Coverage (%):</u>	54	54	25 min.
<u>Estimated Age of Structure:</u>	1986	Variance shown in red.	

Other Permits/Approvals Required

HDC

Neighborhood Context



Previous Board of Adjustment Actions

September 16, 1986 – The Board **denied** a request for a special exception to install a free-standing sign where free-standing signs were only allowed in the district by special exception.

December 17, 1991 – The Board **denied** a request to convert the existing structure from residential and business office use to all business office use that would result in the utilization of 6,012 s.f. of floor area for a permitted use where no more than 5,000 s.f. gross floor area in any structure(s) on a lot may be denoted to a permissible use; and also **denied** a request to reduce the required 31.5 parking spaces to the six parking spaces existing on the lot considering the availability of public parking spaces within 500' of the proposed use.

Planning Department Comments

The applicant is proposing to install an air conditioning unit and cannot meet the 10 foot setback requirement for the unit. The proposed location seems appropriate as it will be tucked into a corner and behind a fence, not visible from the street.

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 #5-2

Petitioners: Hunking Holdings, LLC
 Property: 170 Mechanic Street
 Assessor Plan: Map 102, Lot 7
 Zoning District: General Residential B (GRB)
 Description: Construct rear addition and detached garage.
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:

1. A Variance from Section 10.573.20 to allow a 5'± rear yard where 14' is required.
2. A Variance from Section 10.521 to allow a rear yard of 7.9'± for an addition and 9'± for a bulkhead where 25' is required for each.
3. A Variance from Section 10.571 to allow an accessory structure to be closer to a street than the principal building.
2. A Variance from Section 10.321 to allow a nonconforming structure or building be expanded, reconstructed or enlarged without conforming to the requirements of the ordinance.

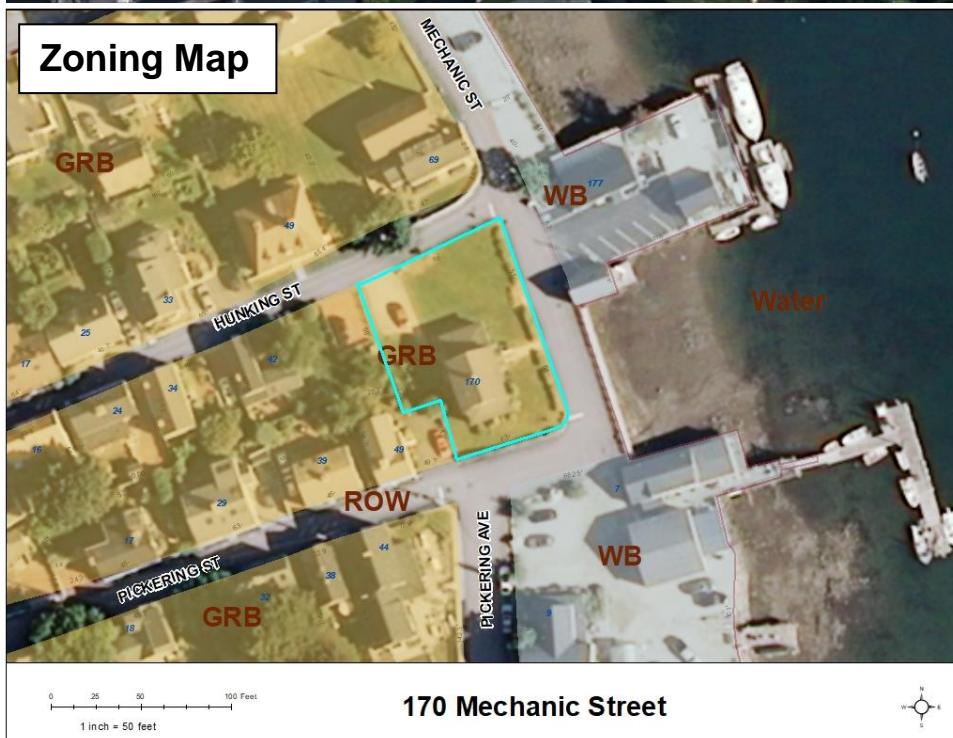
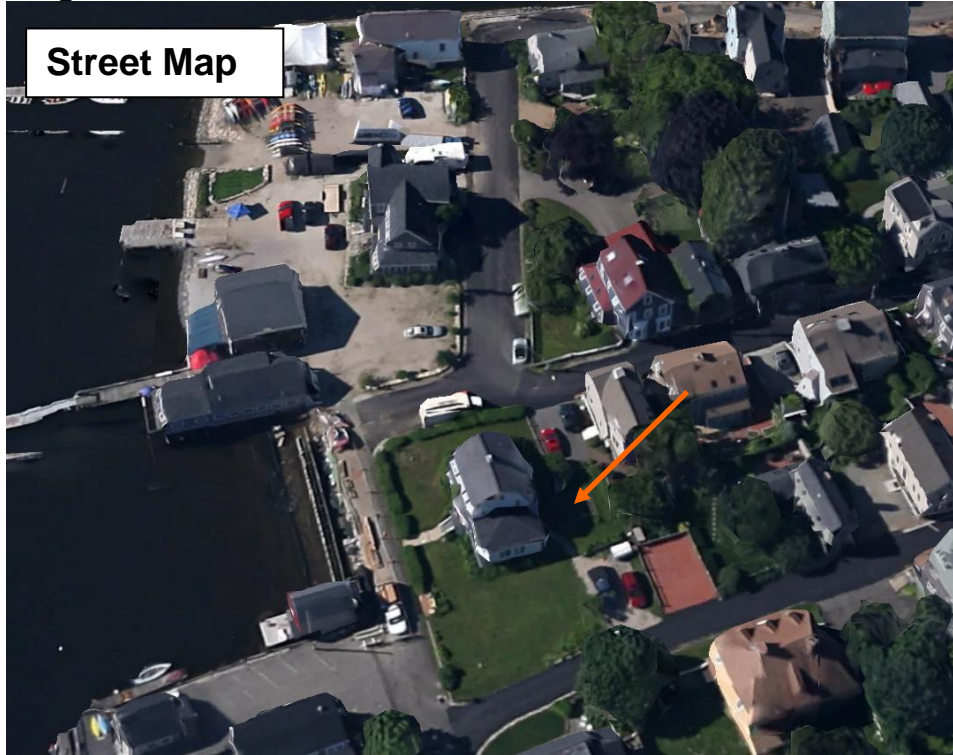
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Detached garage and rear addition	Primarily residential uses
<u>Lot area (sq. ft.):</u>	8,680	8,680	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,680	8,680	5,000 min.
<u>Street Frontage (ft.):</u>	271	271	80 min.
<u>Lot depth (ft.):</u>	75	75	60 min.
<u>Mechanic Front Yard (ft.):</u>	21	19	5 min.
<u>Hunking Front Yard (ft.):</u>	46 (house)	22 (garage)*	5 min.
<u>Pickering Front Yard (ft.):</u>	17 (house)	17 (house)	5 min.
<u>Rear Yard (ft.):</u>	7.9	5 (garage) 7.9 (addition) 9 (bulkhead)	14 (garage) 25 (addition) min.
<u>Height (ft.):</u>	<35	14 (garage)	35 max.
<u>Building Coverage (%):</u>	<25	<25	30 max.
<u>Open Space Coverage (%):</u>	>30	>30	25 min.
<u>Parking</u>	Ok	Ok	1.3
<u>Estimated Age of Structure:</u>	1933	Variance request shown in red. *Closer to street than principal structure.	

Other Permits/Approvals Required

Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

(As 170 Mechanic Street)

January 16, 1996 – The Board granted a variance for a 2' x 5' mud room with an 8' rear yard where 25' was required.

March 18, 2003 – The Board granted a variance for a 3' x 5' one-story addition with an 8' rear yard where 25' was required.

May 17, 2005 – The Board denied a request to allow a room and bath to be used for a Bed and Breakfast in a single family dwelling where the use was not allowed and to allow a travel aisle less than 24' where 24' was required.

(As 49 Pickering Street)

August 16, 1994 - The Board granted variances for the demolition of a shed and part of a dwelling and construction of a 398 s.f. two story rear addition with a 6' left yard and a 4'6" right yard, 10' required for each; a 19'3" rear yard where 25' was required; and maintaining the existing 30.4% building coverage after the demolition and construction.

April 25, 1995 – The Board granted a variance to allow a decayed structure to be rebuilt in the same location and configuration as the existing structure.

(As 49 Pickering Street and 170 Mechanic Street)

May 22, 2018– The Board granted a variance in connection with a lot line revision to allow a 7.9' rear yard where 25' is required.

Planning Department Comments

The subject property has frontage on three streets. Mechanic Street is the primary front yard, making the property line opposite Mechanic the rear yard and the other two streets secondary front yards. The proposed location of the garage is behind the principal structure from Mechanic and Pickering, however it is closer to the street on the Hunking side, thus the need for a variance to allow an accessory structure to be closer to a street than the principal building. The detached garage rear yard is based on the height of the structure, in this case it is 14 feet instead of the 25 foot requirement. If the garage was attached to the house, the variance for being located in front of the principal structure would not be needed, however, the rear yard would increase from 14' for an accessory structure to 25' for a principal structure.

Variances were granted in May of 2018 for a lot line revision to allow a 7.9 rear yard for the existing dwelling. The proposed 30 s.f. addition will not encroach into the rear yard any more than the existing house but will increase the nonconformity within the rear yard.

If granted approval, staff would recommend the Board consider a stipulation that the rear yard for the garage is 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 #5-3

Petitioners:	Donald J. & Lauren E. Geoffrion
Property:	1847 Lafayette Road
Assessor Plan:	Map 268, Lot 1
Zoning District:	Single Residence B (SRB)
Description:	Construct 11' x 25' deck.
Requests:	Variations 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 22'± secondary front yard where yard where 30' is required.

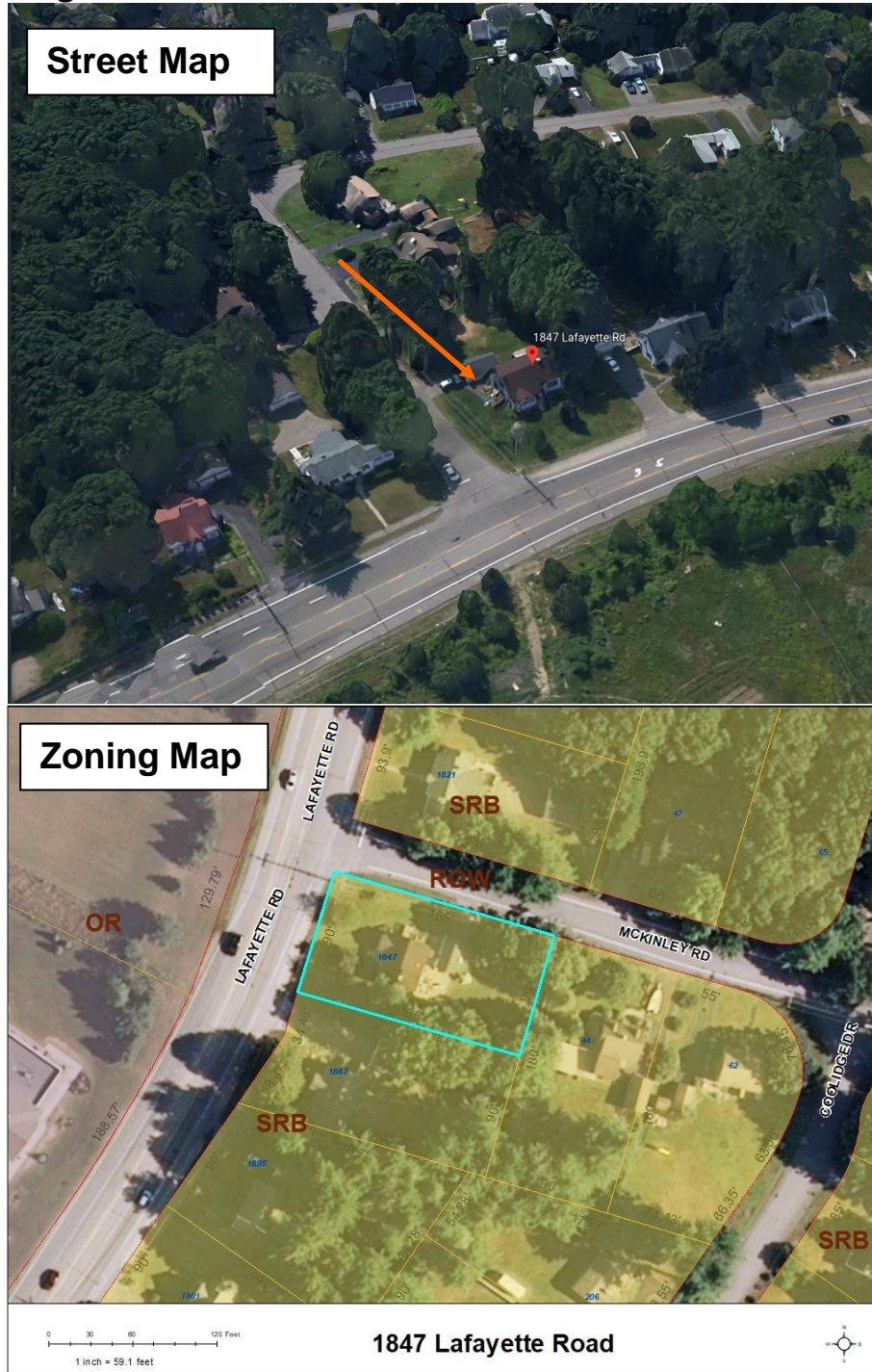
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Construct an 11' x 25' deck	Primarily single family
<u>Lot area (sq. ft.):</u>	14,810	14,810	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	14,810	14,810	15,000 min.
<u>Street Frontage (ft.):</u>	115	115	100 min.
<u>Lot depth (ft.):</u>	100	100	100 min.
<u>Primary Front Yard (ft.):</u>	44	48+ (deck)	30 min.
<u>Secondary Front Yard (ft.):</u>	22	22'	30 min.
<u>Right Yard (ft.):</u>	19	19	10 min.
<u>Rear Yard (ft.):</u>	85	85	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	11	11	20 max.
<u>Open Space Coverage (%):</u>	13	13	40 min.
<u>Parking</u>	2	2	1.3
<u>Year Built:</u>	1947	Variance request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The applicant is proposing to replace an existing deck with a slightly larger deck that will encroach into the secondary front yard approximately 8 feet. The property is a corner

lot, with frontage on Lafayette Road and McKinley Road, both requiring a 30 foot front yard.

If granted approval, staff would recommend the Board consider a stipulation that the secondary front yard is 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 #5-4

Petitioners:	319 Vaughan Street Center LLC, owner and 3S Artspace, applicant
Property:	319 Vaughan Street
Assessor Plan:	Map 124, Lot 9
Zoning District:	Character District 5 (CD5), Downtown Overlay District (DOD)
Description:	Summer Concert Series.
Requests:	Variations and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including: 1. A Special Exception from Section 10.440, Use #3.521 to allow an outdoor performance facility where the use is allowed by special exception. 2. A Variance from Section 10.592.10 to allow an outdoor performance facility use to be located 500' from a residential district.

Other Permits/Approvals Required

None.

Neighborhood Context





Previous Board of Adjustment Actions

May 24, 2016 – the Board granted a special exception to allow a date-specified series of outdoor concerts in a district where the use was only allowed by special exception and a variance to allow the use to be less than 500’ from a CD4-L1 District.

March 21, 2017 – The Board granted the same relief for a date-specified series of outdoor concerts for 2017.

May 22, 2018 – The Board granted a special exception and variance to allow an outdoor performance facility and that use to be located 500’ from a residential district. The relief was granted with stipulations limiting the approval to the following: a) the 2018 season to run from June 1, 2018 through September 30, 2018; b) 10 events during this period; and c) concerts beginning no earlier than 6:00 p.m. and ending no later than 9:00 p.m.

Planning Department Comments

The applicant has come before the Board the past three years with a similar application. The first two years the request was for specific dates for the concert series. Similar to last year’s request, the current petition is requesting an on-going approval, not limiting the number of events, but having a June 1st to October 1st timeframe to allow the events from 6 pm – 9 pm. Below is a map showing a 500’ radius from the parcel and the residential areas within that distance on Maplewood and Noble’s Island.



If the Board considers granting a more permanent approval, conditions to consider include the following: limiting the number of events, hours of operation and timeframe (June 1 – October 1).

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 #5-5

Petitioners:	56 Middle Street LLC
Property:	56 Middle Street
Assessor Plan:	Map 126, Lot 19
Zoning District:	Character District 4-Limited (CD4-L1), Historic District (HD), Downtown Overlay District (DOD)
Description:	Convert to a duplex and construct rear addition.
Requests:	<p>Variations and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:</p> <ol style="list-style-type: none"> 1. A Variance from Section 10.5A41.10A to allow a building footprint of 2,646± s.f. where 2,500 s.f. is the maximum allowed. 2. A Variance from Section 10.5A41, Figure 10.5A41.10A and Section 10.5A43.60 & Figure 10.5A43.60 to allow a duplex in the Downtown Overlay District where it is not permitted. 3. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

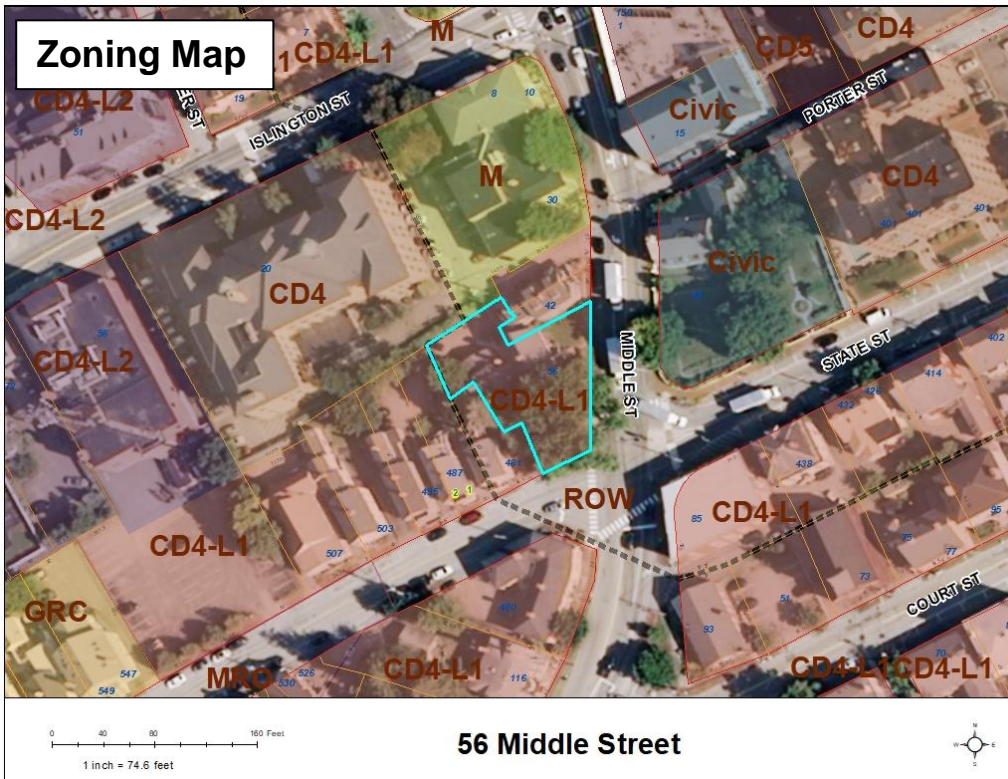
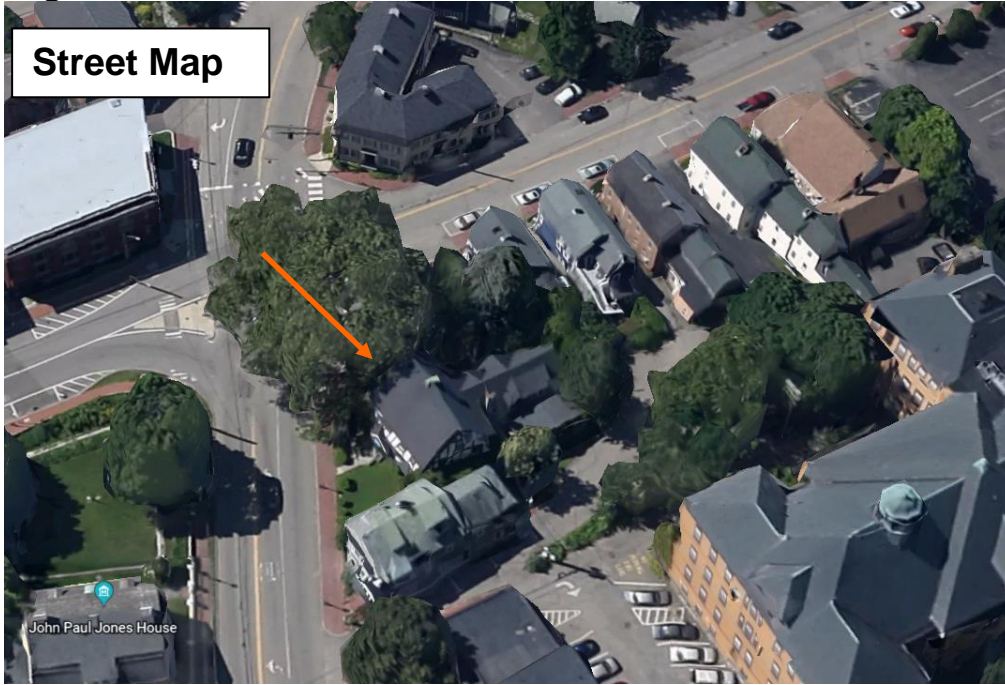
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	office	duplex	Primarily mixed uses
<u>Lot area (sq. ft.):</u>	10,266	10,266	3,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	10,266	5,133	3,000 min.
<u>Max Block Length:</u>	52	52	80 max.
<u>Primary Front Yard (ft.):</u>	14	14	15 max.
<u>Right Side Yard (ft.):</u>	34	17	5 ft. – 20 ft. max
<u>Rear Yard (ft.):</u>	1.7'	1.7'	Greater of 5 ft. from rear or 10 ft. from alley
<u>Height (ft.):</u>	<40	<40	40 max.
<u>Building Footprint:</u>	2,281	2,646	2,500 max.
<u>Building Coverage (%):</u>	22	26	60 max.
<u>Open Space Coverage (%):</u>	35	32	25 min.
<u>Ground story height</u>	10.5	12 -13 (addition)	11
<u>Parking</u>		4+	3
<u>Estimated Age of Structure:</u>	1910	Variance request shown in red.	

Other Permits/Approvals Required

Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

August 31, 1965 – The Board granted a variance to use the premises for professional offices with the present dental office to remain unchanged.

December 18, 2018 – The Board granted variances to allow the following to restore property to a single family home: a) a residential principal use on the found floor of a building; b) a 1.7' rear yard where 5' was required; and c) the reconstruction of a lawful nonconforming structure.

Planning Department Comments

In December of 2018, this applicant was granted variances listed above for a rear yard and to allow residential use on the ground floor. The current proposal is to convert the main dwelling into a duplex with another addition that will increase the building footprint to 2,646 square feet where 2,500 is the maximum in this district. The CD4-L1 allows duplexes, however since this property is in the Downtown Overlay District, a duplex is not permitted.

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 #5-6

Petitioners:	Thomas A. Nies Revocable Trust of 2010 (50% Int.), Thomas A. and Denise M. Nies, Trustees
Property:	419 Richards Avenue
Assessor Plan:	Map 112, Lot 20
Zoning District:	General Residence A (GRA)
Description:	Demo existing and construct new garage.
Requests:	<p>Variations and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:</p> <ol style="list-style-type: none"> 1. A Variance from Section 10.521 to allow a 6.5'± right side yard where 10' is required. 3. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

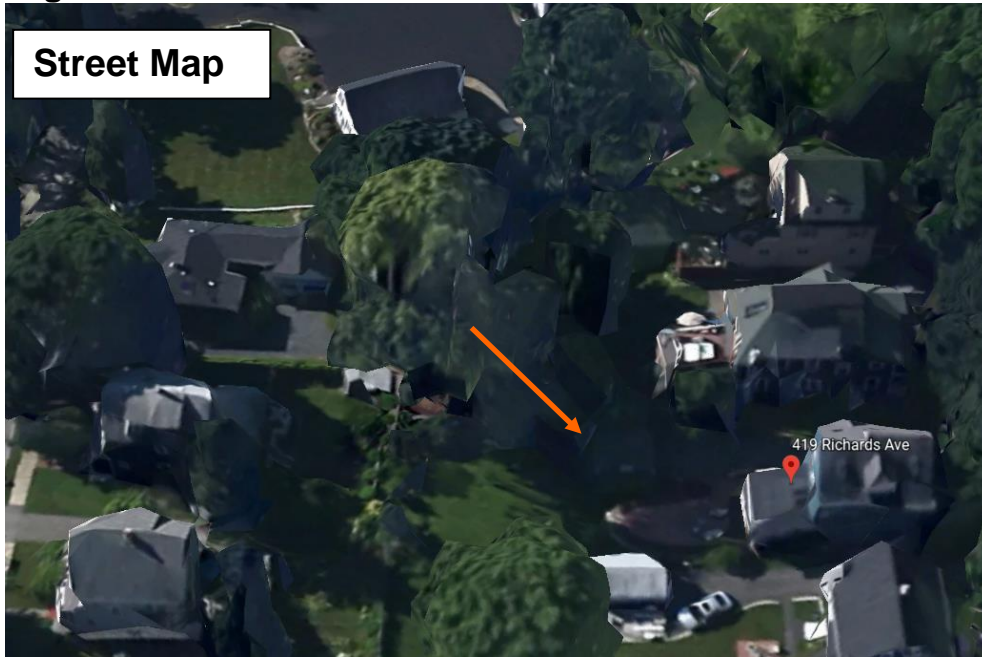
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Replace Garage	Primarily mixed residential
<u>Lot area (sq. ft.):</u>	8,500	8,500	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,500	8,500	7,500 min.
<u>Lot depth (ft.):</u>	170	170	70 min.
<u>Street Frontage (ft.):</u>	50	50	100 min.
<u>Primary Front Yard (ft.):</u>	97	95 (garage)	15 min.
<u>Left Yard (ft.):</u>	29	29 (garage)	10 min.
<u>Right Yard (ft.):</u>	8	6.5 (garage)	10 min.
<u>Rear Yard (ft.):</u>	58	50 (garage)	20 min.
<u>Height (ft.):</u>	<35	12	35 max.
<u>Building Coverage (%):</u>	17	19	25 max.
<u>Open Space Coverage (%):</u>	61	58	30 min.
<u>Estimated Age of Structure:</u>	1900 (house)	Variance shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

June 28, 2011 – The Board granted variances to construct a 10' x 18'4" rear addition with a 6' left side yard, 10' required, and to allow the expansion of a nonconforming structure.

Planning Department Comments

The applicant is proposing to replace the existing garage with a slightly larger garage that will accommodate a single car.

If granted approval, staff would recommend the Board consider a stipulation that the right yard is 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 #5-7

Petitioners:	Gail H. Sanders Revocable Trust of 1998, Gail H. sanders, Trustee
Property:	30 Walden Street
Assessor Plan:	Map 101, Lot 18
Zoning District:	Waterfront Business District (WB), Historic District (HD)
Description:	Replace existing deck.
Requests:	<p>Variations and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:</p> <ol style="list-style-type: none"> 1. A Variance from Section 10.521 to allow a 5'± left side yard where 30' is required. 2. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended, reconstructed or enlarged without conforming to the requirements of the ordinance.

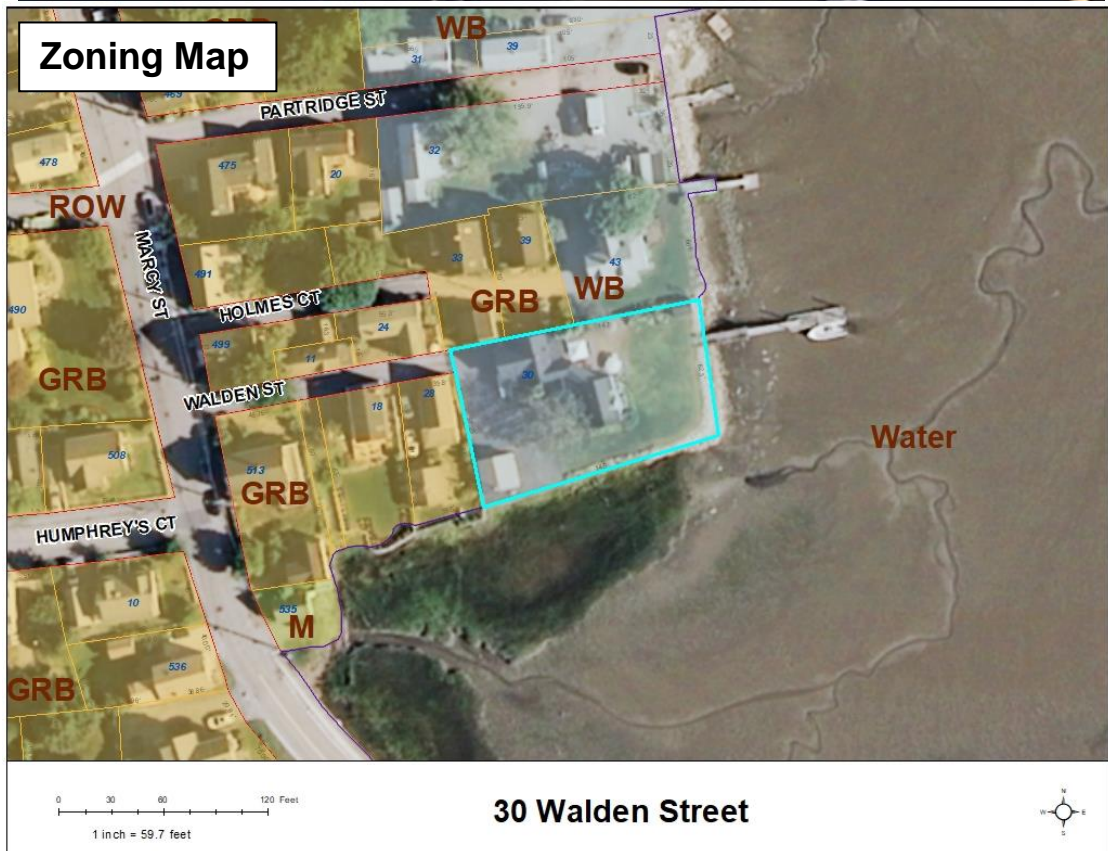
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Reconstruct deck	Primarily water dependent uses
<u>Lot area (sq. ft.):</u>	12,632	12,632	20,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	12,632	12,632	NR min.
<u>Lot depth (ft.):</u>	146	146	100 min.
<u>Street Frontage (ft.):</u>	91	91	100 min.
<u>Primary Front Yard (ft.):</u>	28	28	30 min.
<u>Left Yard (ft.):</u>	1 (house)	5 (deck)	30 min.
<u>Right Yard (ft.):</u>	24	24	30 min.
<u>Rear Yard (ft.):</u>	50+	50	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	14	14	30 max.
<u>Open Space Coverage (%):</u>	>20	>20	20 min.
<u>Estimated Age of Structure:</u>	1880	Variance shown in red.	

Other Permits/Approvals Required

Historic District Commission (approved on October 3, 2018)

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history was found.

Planning Department Comments

The applicant is proposing to reconstruct the existing deck with a smaller set of stairs to access the rear yard. HDC approval was granted last October for the design. The Waterfront Business district side yard requirement is 30 feet. The location of the house is essentially on the left property line, thus the need for a variance to construct anything off the rear of the house.

If granted approval, staff would recommend the Board consider a stipulation that the left yard is 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.