

TO: Zoning Board of Adjustment  
FROM: Peter Stith, AICP, Planning Department  
DATE: June 9, 2020  
RE: Zoning Board of Adjustment June 16, 2020 Meeting

## **OLD BUSINESS**

1. 138 Maplewood Avenue
2. 268 Dennett Street - Withdrawn

## **NEW BUSINESS**

1. 105 Thornton Street
2. 1163 Sagamore Avenue Unit 20
3. 0 Falkland Way (off Albacore Way & Saratoga Way)
4. 115 Heritage Avenue
5. 77 Meredith Way



## OLD BUSINESS

1.

Petition of the **Donna Pantelakos Revocable Trust, Owner** for property located at **138 Maplewood Avenue** wherein relief is needed from the Zoning Ordinance to create a new dwelling unit by constructing a second floor addition over an existing garage which requires the following; 1) A Variance from Section 10.521 to allow: a) a lot area per dwelling unit of 2,616 where 3,000 is required; and b) a 1' right side yard where 5' is required. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 124 Lot 6 and lies within the Character District 4-L1 (CD4-L1) District.

### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two family	Garage addition/3 dwelling units	Primarily mixed residential uses
<u>Lot area (sq. ft.):</u>	7,850	7,850	3,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,925	<b>2,616</b>	3,000 min.
<u>Front Yard (ft.):</u>	0	0	15 max.
<u>Right Side Yard (ft.):</u>	1	<b>1</b>	5' min to 20' max.
<u>Left Side Yard (ft.):</u>	10	10	5' min to 20' max.
<u>Rear Yard (ft.):</u>	68	62	5 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u>	39	41	60 max.
<u>Open Space Coverage (%)</u>	32	32	25 min.
<u>Parking</u>	6	6	4
		<b>Variance request shown in red.</b>	

### Other Permits/Approvals Required

Historic District Commission  
 Planning Board/TAC – Site Review

## Neighborhood Context



## Previous Board of Adjustment Actions

No BOA history found.

## Planning Department Comments

The applicant is proposing to add a third dwelling unit to the property by constructing a second floor addition on the existing garage which includes a rear addition onto the garage. The garage sits approximately 1' from the property line on the right side. The applicant postponed in May to work with acquiring a no-build area from the adjacent property. The applicant has indicated they have a signed no-build area agreement with the abutter, but at the time on writing this staff report it was not available to staff.

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

1.

Petition of **Joseph & Jessica Denuzzio, Owners**, for property located at **105 Thornton Street** wherein relief is needed from the Zoning Ordinance to demolish existing greenhouse and construct new shed addition which requires the following: 1) A Variance from Section 10.521 to allow a) a 2' front yard where 15' is required; and b) 49% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 159 Lot 18 and lies within the General Residence A (GRA) District.

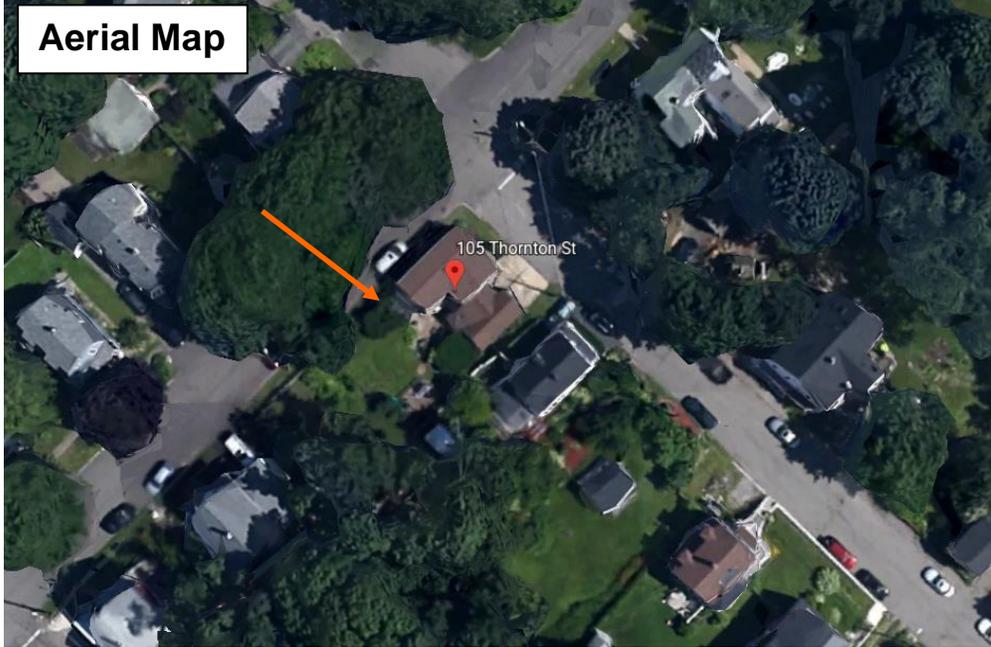
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Reconstruct attached shed	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	3,920	3,920	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,920	3,920	7,500 min.
<u>Street Frontage (ft.):</u>	126	126	100 min.
<u>Lot depth (ft.):</u>	50	50	70 min.
<u>Primary Front Yard (ft.):</u>	1 (house)	<b>2</b> (Shed)	15 min.
<u>Secondary Front Yard (ft.):</u>	+/-1	+/-1	15 min.
<u>Right Side Yard (ft.):</u>	30	30	10 min.
<u>Rear Yard (ft.):</u>	5	5	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	33*	<b>33*</b>	25 max.
<u>Open Space Coverage (%):</u>	65	65	30 min.
<u>Parking:</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1945	<b>Variance request shown in red.</b> *application indicated 49% but actual is approx. 33%.	

### Other Permits/Approvals Required

None.

# Neighborhood Context



105 Thornton Street



## Previous Board of Adjustment Actions

No BOA history found.

## **Planning Department Comments**

The applicant is proposing demolish the existing attached greenhouse and construct an attached shed in the same footprint. The application indicates a building coverage of 49% where 25% is the maximum allowed in the district. Without a surveyed plan for this project, the tax map and assessor's data was used to compute the coverage and setbacks. The setback on the site plan shows 2'4" for the shed, but the applicant is asking for a 2' front yard which will account for any discrepancies. The calculated building coverage based on the tax card resulted in approximately 32.5%, which is less than what was initially requested in the application. **If granted approval, staff would recommend the Board consider a stipulation that allows 33% building coverage.**



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.*

2.

Petition of **Timothy Whitaker, Owner**, for property located at **1163 Sagamore Avenue, Unit 20** wherein relief is needed from the Zoning Ordinance for construction of a 10' x 24' rear deck which requires the following: A Variance from Section 10.521 to allow a 7.5' rear yard where 15' is required. Said property is shown on Assessor Map 224 Lot 17-2 and lies within the Mixed Residential Office (MRO) District.

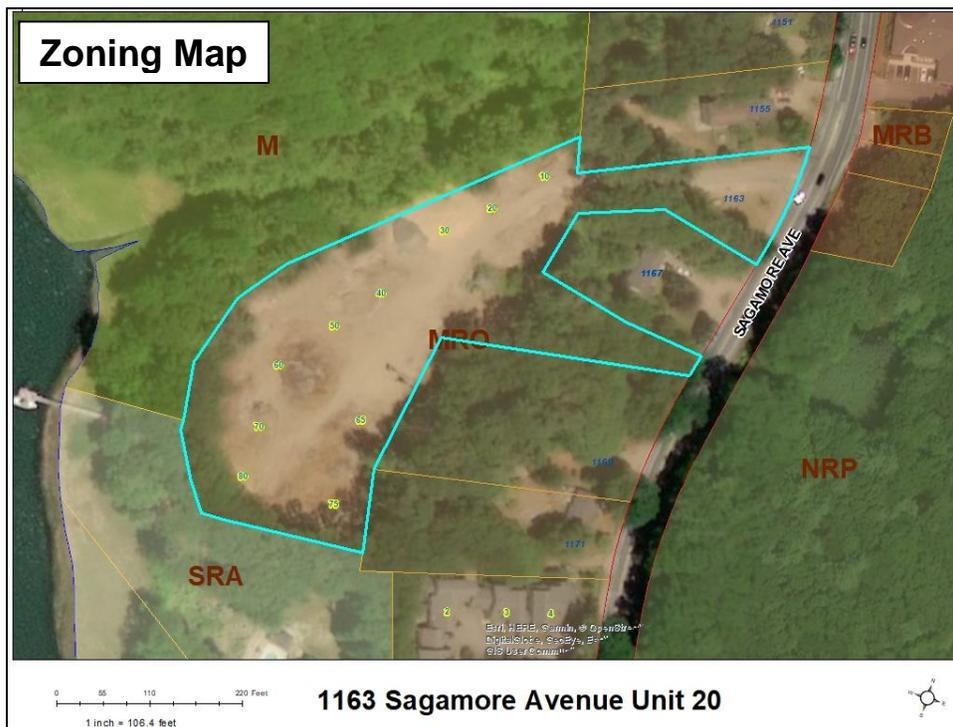
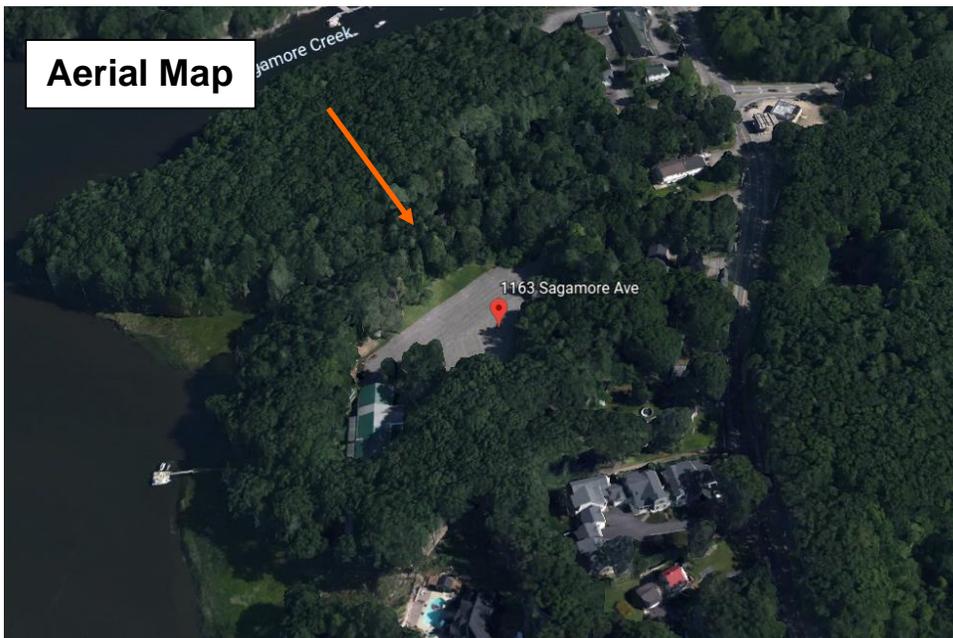
**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	10 SFD condos	Construct rear deck	Primarily mixed Residential Office
<u>Lot area (sq. ft.):</u>	146,510	146,510	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	14,651	14,651	7,500 min.
<u>Street Frontage (ft.):</u>	192	192	100 min.
<u>Lot depth (ft.):</u>	430	430	80 min.
<u>Primary Front Yard (ft.):</u>	240	240	5 min.
<u>Left Side Yard (ft.):</u>	14	>10	10 min.
<u>Right Side Yard (ft.):</u>	>10	>10	10 min.
<u>Rear Yard (ft.):</u>	15	<b>7.5</b>	15 min.
<u>Height (ft.):</u>	<40	<40	40 max.
<u>Building Coverage (%):</u>	12	12	40 max.
<u>Open Space Coverage (%):</u>	>25	>25	25 min.
<u>Parking:</u>	ok	Ok	Ok
<u>Estimated Age of Structure:</u>	2018	<b>Variance request shown in red.</b>	

**Other Permits/Approvals Required**

No prior pertinent BOA history found.

**Neighborhood Context**



**Previous Board of Adjustment Actions**

No BOA history found.

**Planning Department Comments**

The property consists of 10 individual single family homes in a condominium development that was recently completed. The applicant is proposing to construct a

deck off the back of his unit which would encroach into the rear yard. The house was constructed just off the rear yard setback line at 17.5 feet.

### **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.*

3.

Petition of **Raleigh Way Holding Group, LLC, Owner**, for property located at **0 Falkland Way (off Albacore and Saratoga Way)** wherein relief is needed from the Zoning Ordinance to merge two lots and demo existing structures in order to construct a 4 unit multi family dwelling which requires the following: 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,736 square feet where 5,000 square feet is the minimum required; and 2) A Special Exception from Section 10.440 Use #1.51 to allow 4 dwelling units where the use is allowed by a special exception. Said property is shown on Assessor Map 212 Lot 112 and lies within the General Residence B (GRB) District.

**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two lots	Construct <b>4 unit dwelling</b>	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	11,681; 3,263	14,944	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	NA	<b>3,736</b>	5,000 min.
<u>Street Frontage (ft.):</u>	90	90	80 min.
<u>Lot depth (ft.):</u>	91	>100	60 min.
<u>Primary Front Yard (ft.):</u>	10	12	5 min.
<u>Right Side Yard (ft.):</u>	50	>10	10 min.
<u>Left Side Yard (ft.):</u>	50	10	10 min.
<u>Rear Yard (ft.):</u>	60	>25	25 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	3	28	30 max.
<u>Open Space Coverage (%):</u>	88	45	25 min.
<u>Parking:</u>	NA	8	6
	<b>Variance/Special Exception requests shown in red.</b>		

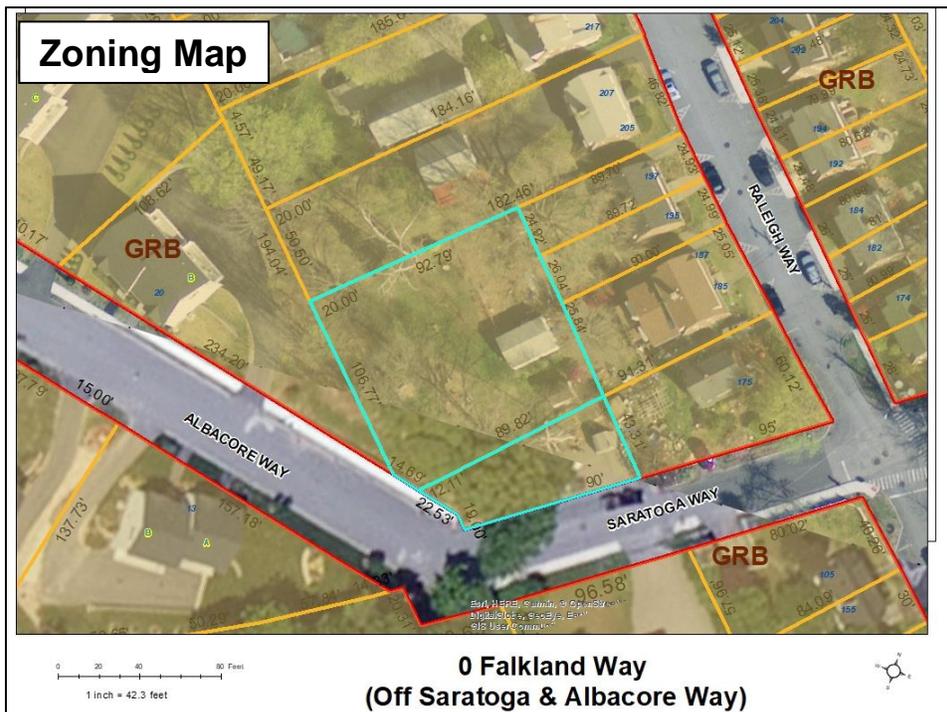
**Other Permits/Approvals Required**

TAC/Planning Board – Site Review

**Neighborhood Context**



**Aerial Map**



**Previous Board of Adjustment Actions**

No BOA history found.

**Planning Department Comments**

The applicant is proposing to merge the two lots, demolish the existing structure and construct a 4 unit multi family dwelling, which is permitted in this district by Special Exception. The proposed lot will be over 14,944 square feet where the district minimum is 5,000, resulting in a proposed lot area per dwelling unit of 3,736 square feet. The proposed building conforms to all other dimensional

requirements of the zoning district. If approved, site plan review will be required for this project.

### **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.*



4.

Petition of **RKW Investment Properties, LLC, Owner**, for property located at **115 Heritage Avenue** wherein relief is needed from the Zoning Ordinance to allow a place of assembly which requires the following: 1) A Variance from Section 10.440 Use #3.10 to allow a place of assembly where the use is not permitted in the district. Said property is shown on Assessor Map 285 Lot 5-1 and lies within the Industrial (I) District.

**Existing & Proposed Conditions**

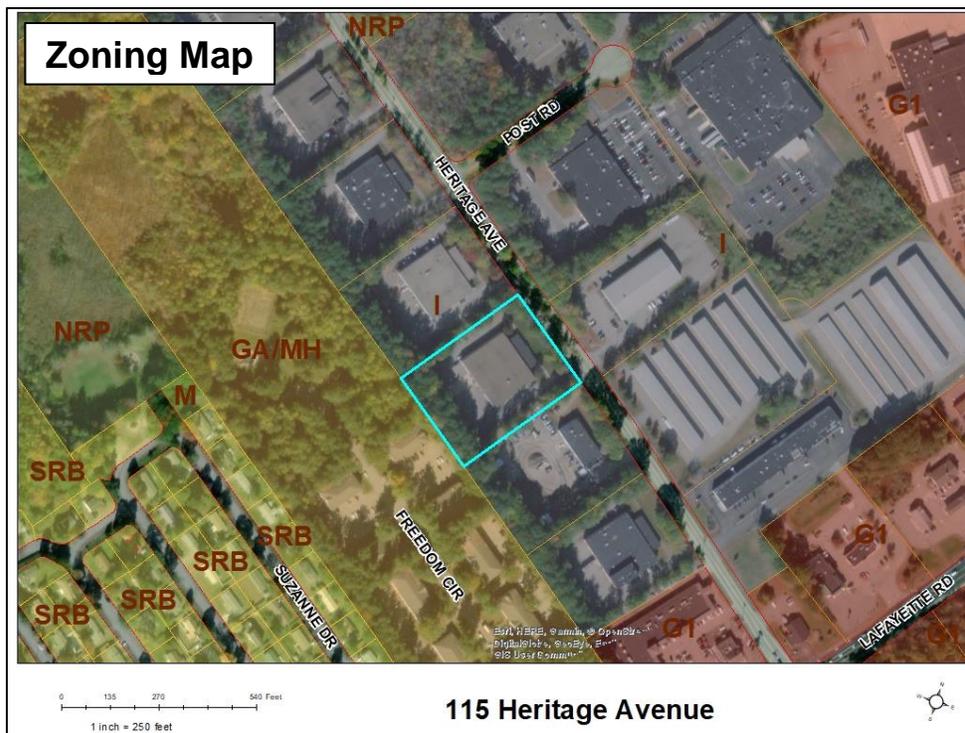
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant building	<b>Religious place of assembly</b>	Primarily industrial uses
<u>Parking</u>			TBD
<u>Estimated Age of Structure:</u>		<b>Special Exception request shown in red.</b>	

**Other Permits/Approvals Required**

None.

**Neighborhood Context**





### Previous Board of Adjustment Actions

February 15, 2011 – Variance granted from Section 10.592 of the Zoning Ordinance to permit a food processing facility within 500’ of a residential district. This request was approved with the following stipulations:

- The applicant shall not store any materials outdoors;
- The applicant shall not operate the machinery while the rear doors are opened; and,
- The operation is limited to dry food missing and packaging. No other processing is allowed.

### Planning Department Comments

The Salvation Army recently was before the Board and received approval for a place of assembly at 2222 Lafayette Road, however that arrangement fell through and they are seeking approval to locate on the subject property. A place of assembly is not a permitted use in any district and is allowed by special exception in some districts. In the Industrial district, it is not a permitted use. The Salvation Army ultimately wants to find a permanent location, and the proposal is for the subject property to be an interim location. They are proposing to use only 3,000 square feet of the building for this use.

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.*

5.

Petition of **Karen Dufour, Owner**, for property located at **77 Meredith Way** wherein relief is needed from the Zoning Ordinance to subdivide one lot into two lots which requires the following: A Variance from Section 10.521 to allow 0' of continuous street frontage for both lots where 100' is required for each. Said property is shown on Assessor Map 162 Lot 16 and lies within the General Residence A (GRA) District.

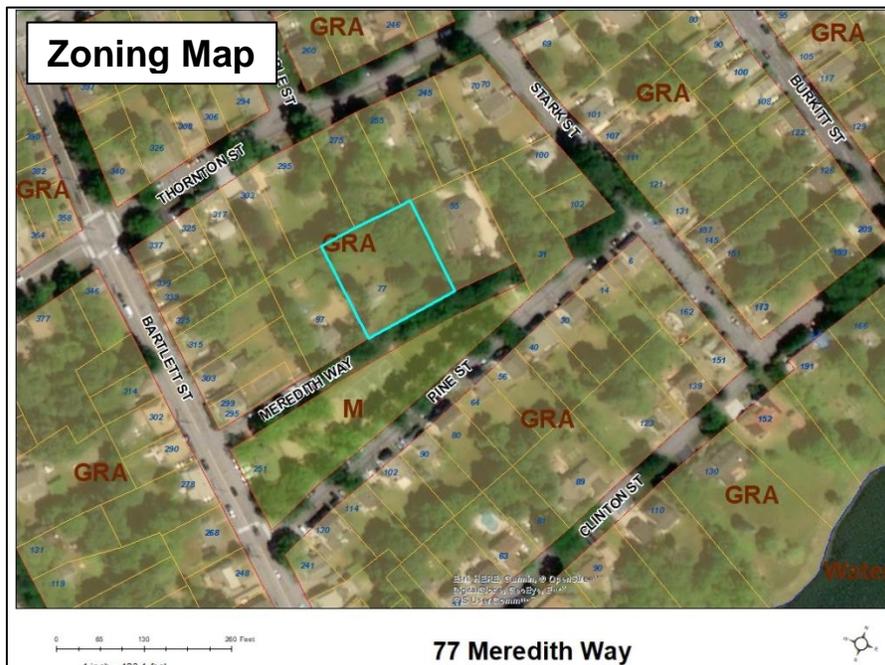
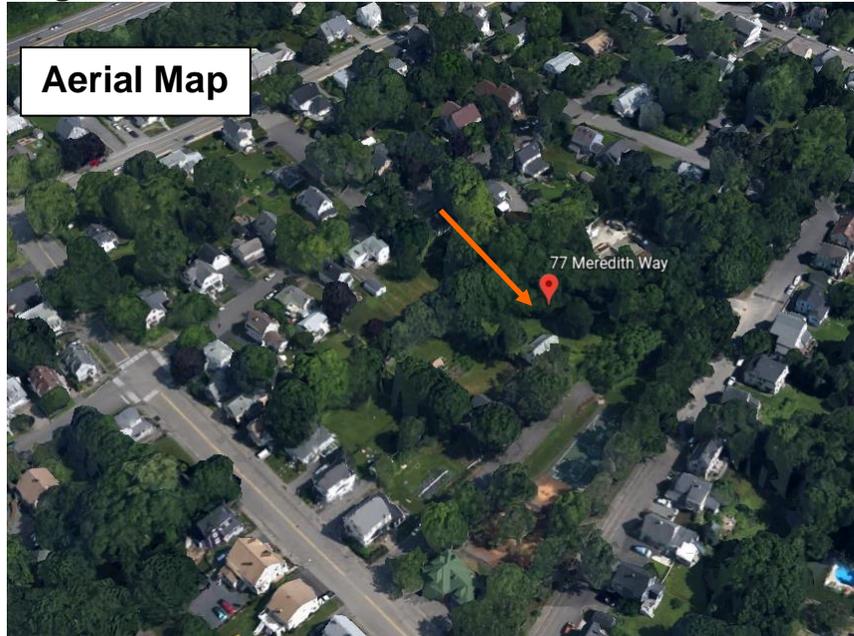
**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>		<u>Permitted / Required</u>	
<u>Land Use:</u>	Single family on one lot	Subdivide into two lots		Primarily Residential Uses	
<u>Lot area (sq. ft.):</u>	22,500	11,250	11,250	7,500	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	22,500	11,250	11,250	7,500	min.
<u>Street Frontage (ft.):</u>	30*	0	0	100	min.
<u>Lot depth (ft.):</u>	150	150	150	70	min.
<u>Primary Front Yard (ft.):</u>	29	29	NA	15	min.
<u>Right Side Yard (ft.):</u>	100	29	NA	10	min.
<u>Left Side Yard (ft.):</u>	11	11	NA	10	min.
<u>Rear Yard (ft.):</u>	94	94	NA	20	min.
<u>Height (ft.):</u>	<35		NA	35	max.
<u>Building Coverage (%):</u>	5	10	0	25	max.
<u>Open Space Coverage (%):</u>	90	85	100	30	min.
<u>Parking:</u>	Ok	ok	Ok	1.3	
<u>Estimated Age of Structure:</u>	1870	Variance requests shown in red.			

**Other Permits/Approvals Required**

TAC/Planning Board – Subdivision approval

## Neighborhood Context



## Previous Board of Adjustment Actions

No prior BOA history found.

## Planning Department Comments

The applicant is proposing to subdivide the existing lot into two lots. The existing lot contains a dwelling and a portion of the lot has minimal frontage on Meredith Way. The applicant is requesting relief for 0 feet of frontage on both lots as precautionary

measure. Otherwise, both lots will meet or exceed dimensional requirements for the district and the new vacant lot will have sufficient area to construct a dwelling.

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.*

