

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: September 9, 2020
RE: Zoning Board of Adjustment September 15, 2020 Meeting

OLD BUSINESS

1. 145 Lang Road – Request for Extension

NEW BUSINESS

1. 5 Pamela Street
2. 78 Marne Avenue
3. 50 New Castle Avenue
4. 2222 Lafayette Road
5. 175 Grant Avenue
6. 36 Richards Avenue
7. 377 Maplewood Avenue
8. 553 Islington Street

OLD BUSINESS

1.

Petitioners:	Arbor View and The Pines LLC c/o Forest Properties Management Inc.
Property:	145 Lang Road
Assessor Plan:	Map 287, Lot 1
Zoning District:	Garden Apartment/Mobile Home Park District (GA/MH)
Description:	Construct two additional apartment buildings increasing total dwelling units to 186.
Requests:	Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including: <ol style="list-style-type: none">1. A Variance from Section 10.521 to allow a lot area per dwelling of 8,321± s.f. where 10,000 s.f. is required.2. A Variance from Section 10.522 to allow two new multifamily buildings with a maximum building length exceeding 160 feet.

The applicant has submitted request for an extension for the property above. Variances were granted on November 20, 2018 and the applicant has yet to obtain a building permit. The Ordinance allows for a one-time, one-year extension if the request is acted on prior to the expiration date.

NEW BUSINESS

1.

Petition of **Nathan & Stacey Moss, Owners**, for property located at **5 Pamela Street** wherein relief is needed from the Zoning Ordinance to construct a one-story rear addition which requires the following: 1) A Variance from Section 10.521 to allow 26% building coverage where 20% 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 292 Lot 119 and lies within the Single Residence B (SRB) District.

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Rear addition	Primarily Single Family
<u>Lot area (sq. ft.):</u>	11,326	11,326	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	11,326	11,326	15,000 min.
<u>Street Frontage (ft.):</u>	112	112	100 min.
<u>Lot depth (ft.):</u>	110	110	100 min.
<u>Primary Front Yard (ft.):</u>	30	30	30 min.
<u>Left Side Yard (ft.):</u>	25	23	10 min.
<u>Right Side Yard (ft.):</u>	22	5'	10 min.
<u>Rear Yard (ft.):</u>	46	35	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	24	26	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking:</u>	4	4	1.3
<u>Estimated Age of Structure:</u>	1957	Variance request shown in red.	

Other Permits/Approvals Required

None.

Planning Department Comments

The applicant is proposing a 12' x 20'6" rear addition that aligns with the left side of the house and will conform to the yard requirements for the district, however the building coverage will exceed the maximum, with a proposed coverage of 26%.

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.

2.

Petition of **Stephen & Bridget Viens, Owners**, for property located at **78 Marne Avenue** wherein relief is needed from the Zoning Ordinance to replace existing 1 car garage with new 2 car garage and mudroom which requires the following: 1) Variances from Section 10.521 to allow a) 27% building coverage where 25% maximum is allowed; b) a 9.5' secondary front yard where 15' is required; and c) an 11.5' rear yard where 20' 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. Said property is shown on Assessor Map 222 Lot 40 and lies within the General Residence A (GRA) District.

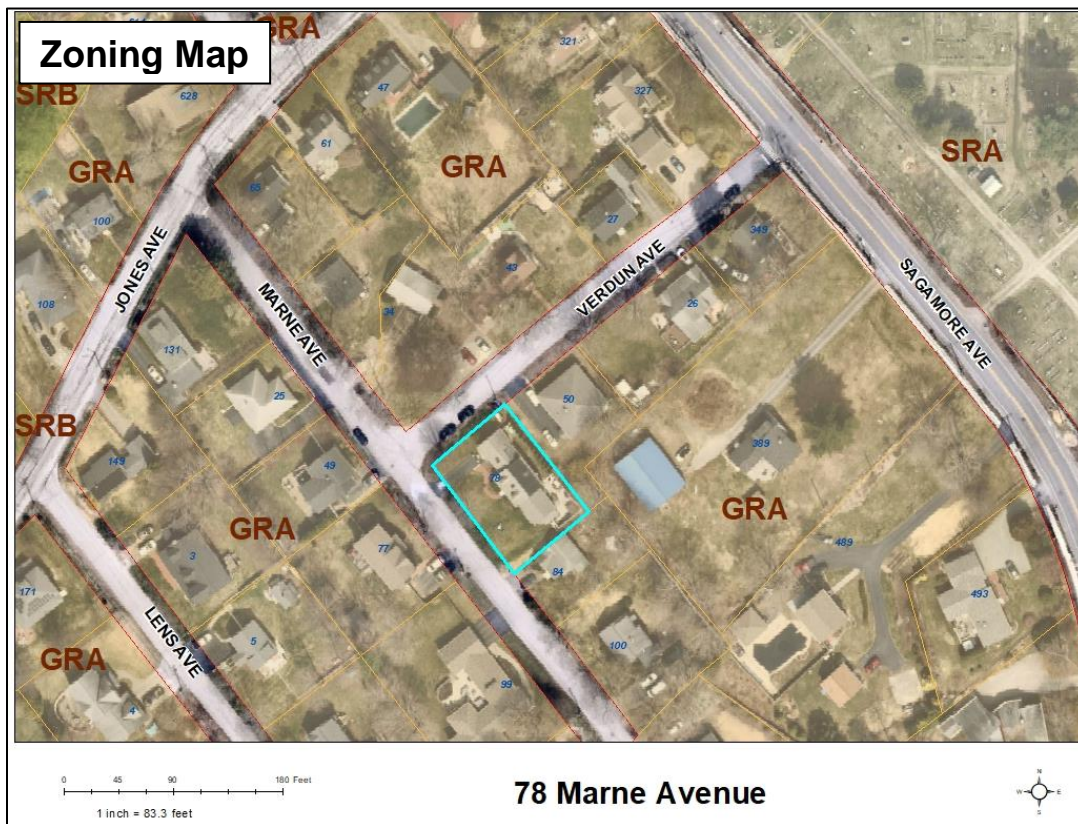
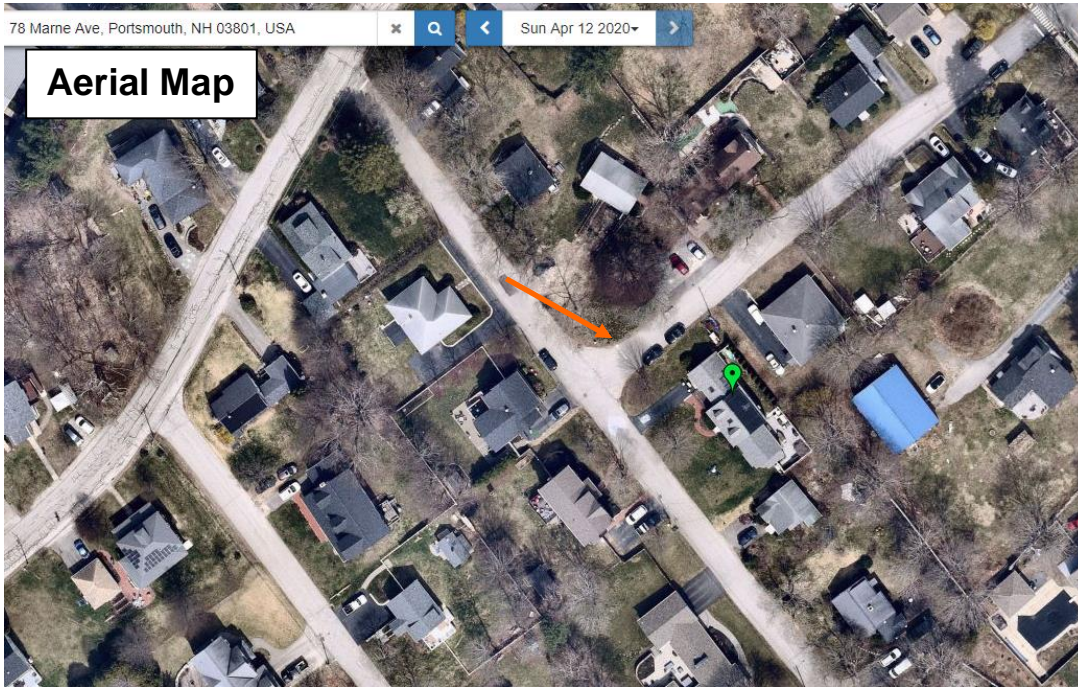
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Replace 1 car garage with 2 car garage	Primarily residential
<u>Lot area (sq. ft.):</u>	8,858	8,858	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,858	8,858	7,500 min.
<u>Street Frontage (ft.):</u>	190	190	100 min.
<u>Lot depth (ft.):</u>	77	77	70 min.
<u>Primary Front Yard (ft.):</u>	30	30	15 min.
<u>Secondary Front Yard (ft.):</u>	15	9.5'	15 min.
<u>Right Side Yard (ft.):</u>	11	11	10 min.
<u>Rear Yard (ft.):</u>	11.8'	11.5'	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	24	27	25 max.
<u>Open Space Coverage (%):</u>	61	55	30 min.
<u>Parking:</u>	4	4	1.3
<u>Estimated Age of Structure:</u>	1950	Variance request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

June 28, 2016 – The Board **granted** the following variances as presented and advertised:

1. Section 10.321 to allow a nonconforming building or structure to be extended, enlarged or structurally altered except in conformity with the ordinance; and,
2. Section 10.521 to allow a rear yard setback of 15.9'± where 20' is required.

Planning Department Comments

The applicant is proposing to demolish the existing attached one car garage and construct a new attached two car garage with a mudroom. The corner lot has two front yards, with the secondary front located on Verdun Avenue, where the driveway is located. The lot size exceeds the minimum required for the district, however the location of the house is setback well beyond the front yard requirement of 15 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 **Timothy & Alexandra Lieto, Owners**, for property located at **50 New Castle Avenue** wherein relief is needed from the Zoning Ordinance to construct a two-story rear addition which requires the following: 1) A Variance from Section 10.521 to allow a 22' rear yard where 30' 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. Said property is shown on Assessor Map 101 Lot 33 and lies within the Single Residence B (SRB) District.

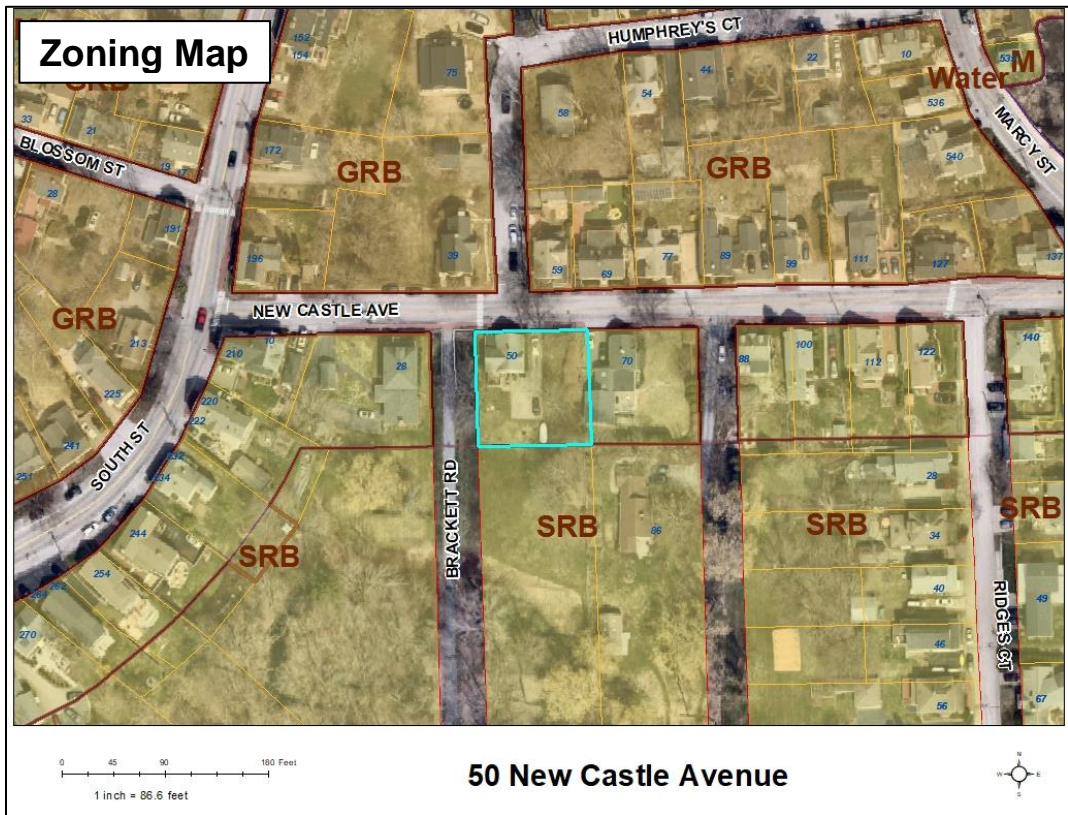
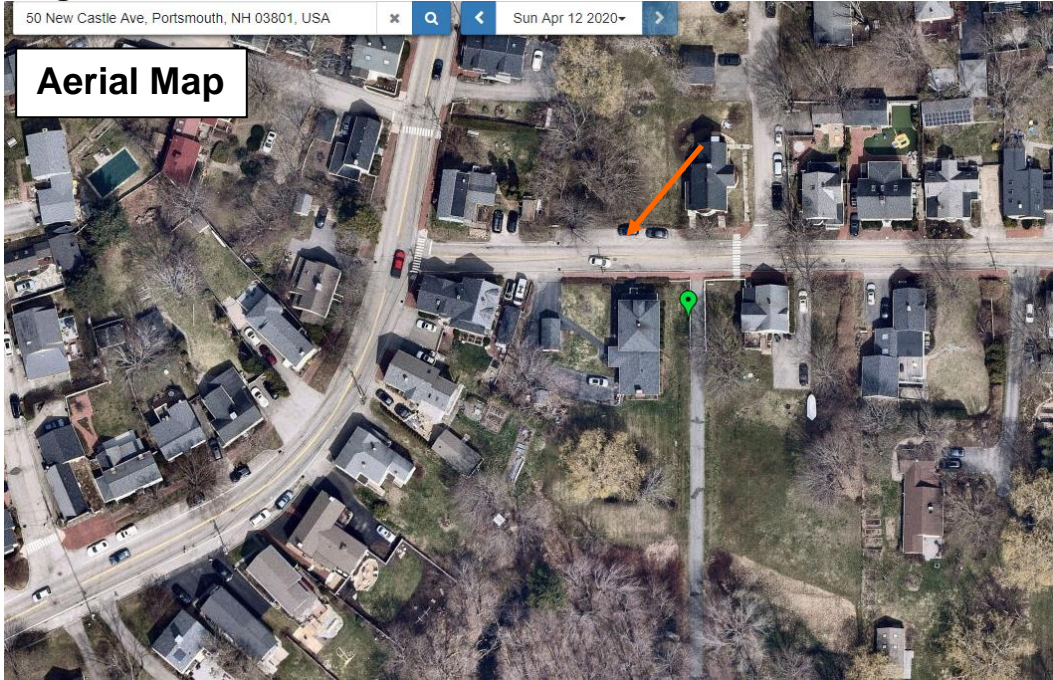
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	2-story Rear addition	Primarily Single Family
<u>Lot area (sq. ft.):</u>	9,583	9,583	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	9,583	9,583	15,000 min.
<u>Street Frontage (ft.):</u>	97	97	100 min.
<u>Lot depth (ft.):</u>	100	100	100 min.
<u>Primary Front Yard (ft.):</u>	8'6"	8'6"	30 min.
<u>Left Side Yard (ft.):</u>	50'8"	50'8"	10 min.
<u>Right Side Yard (ft.):</u>	11'3"	11'3"	10 min.
<u>Rear Yard (ft.):</u>	56'9"	22	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	11.4	19	20 max.
<u>Open Space Coverage (%):</u>	65	49	40 min.
<u>Parking:</u>	5	5	1.3
<u>Estimated Age of Structure:</u>	1900	Variance request shown in red.	

Other Permits/Approvals Required

HDC

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant is proposing a large renovation which includes a two-story addition and rear deck. Most of the project complies with all dimensional requirements for the district, with the proposed deck being the only part that encroaches into the rear yard 8 feet. It appears the size could be reduced to comply with the yard requirements or come closer to compliance with a smaller square footage as it is hard to see the hardship for the deck.

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.

4.

Petition of **KSC, LLC, Owner, and Lafayette Animal Hospital, LLC, Applicant**, for property located at **2222 Lafayette Road** wherein relief is needed from the Zoning Ordinance to allow a Veterinary Clinic/Hospital which requires the following: 1) A Special Exception from Section 10.440 Use #7.50 to allow a Veterinary Care use where the use is allowed by Special Exception. Said property is shown on Assessor Map 267 Lot 2 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

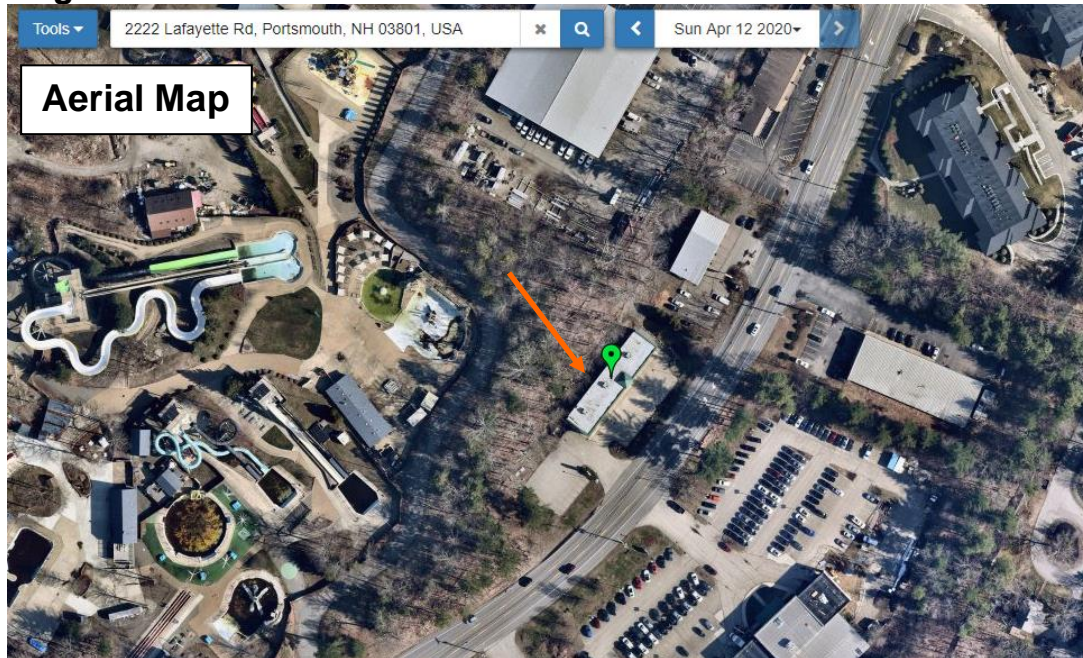
Existing & Proposed Conditions

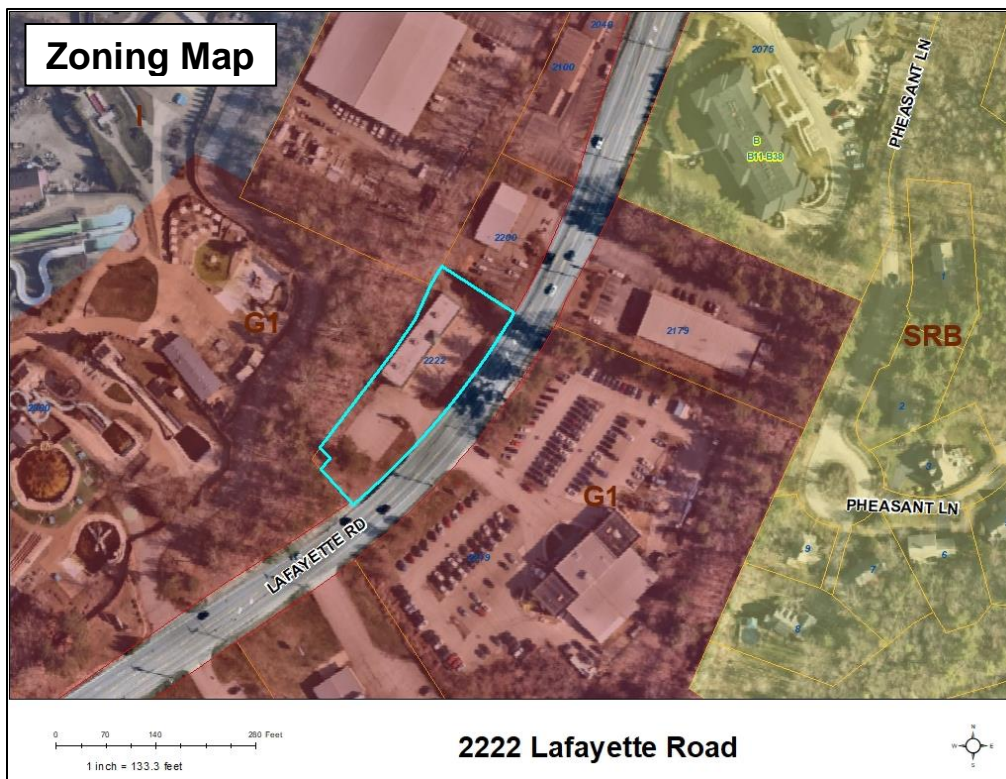
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant commercial	Veterinary Care	Primarily mixed uses
<u>Parking</u>	29	29	7
<u>Estimated Age of Structure:</u>	2004	Special Exception request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context





Previous Board of Adjustment Actions

February 19, 2020 – The Board **granted** the following special exception as presented:
 Section 10.440 Use #3.11 to allow a religious place of assembly where the use is permitted by special exception.

July 20, 2004 – The motion to grant the following request for a variance failed, therefore, the request was **denied**:
 Section 304(A) to allow an 8'x10' walk in cooler with a 13' rear yard where 50' is the minimum required.

Planning Department Comments

The applicant is proposing to relocate a veterinary office from 2059 Lafayette Road at the proposed location which requires a special exception. The applicant has indicated they will use 3,500 square feet of the building. For this square footage, 7 parking spaces are required for this use and the site has 29 existing spaces.

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.*

5.

Petition of **Kenton Slovenski, Owner**, for property located at **175 Grant Avenue** wherein relief is needed from the Zoning Ordinance to construct a two-story addition with an attached accessory dwelling unit which requires the following: 1) A Variance from Section 10.521 to allow a lot area of 13,950 square feet where 15,000 square feet is the minimum required. Said property is shown on Assessor Map 251, Lot 41 and lies within the Single Residence B (SRB) District

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	2-story addition With AADU	Primarily Single Family
<u>Lot area (sq. ft.):</u>	13,950	13,950	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	13,950	13,950	15,000 min.
<u>Street Frontage (ft.):</u>	90	90	100 min.
<u>Lot depth (ft.):</u>	155	155	100 min.
<u>Primary Front Yard (ft.):</u>	40	30	30 min.
<u>Left Side Yard (ft.):</u>	10	10	10 min.
<u>Right Side Yard (ft.):</u>	>10	>10	10 min.
<u>Rear Yard (ft.):</u>	>30	>30	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	12	13	20 max.
<u>Open Space Coverage (%):</u>	79	78	40 min.
<u>Parking:</u>	4	4	1.3
<u>Estimated Age of Structure:</u>	1957	Variance request shown in red.	

Other Permits/Approvals Required

Planning Board – CUP for AADU

Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The applicant is proposing a two-story addition to the dwelling which will be reconfigured to accommodate an attached accessory dwelling unit (AADU). Per Section 10.814.22 below, an AADU is allowed on a nonconforming lot if there is no increase in building height or footprint. Since the proposal increases both, and it is deficient for lot area the requested variance is necessary. The applicant will need to obtain a conditional use permit from the Planning Board for the AADU.

10.814.22 An **attached accessory dwelling unit** is permitted on existing **nonconforming lots** and within existing **nonconforming buildings** as long as there is no increase in **building height** or **building footprint** for any portion of the existing **building** and no increase to the nonconformity.

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.

6.

Petition of the **Rhonda Stacy-Coyle Revocable Trust, Owner**, for property located at **36 Richards Avenue** wherein relief is needed from the Zoning Ordinance to install a heat pump unit which requires the following: 1) A Variance from Section 10.521 to allow a 2' right side yard where 10' is required. Said property is shown on Assessor Map 136 Lot 14 and lies within the Mixed Residential Office (MRO) District.

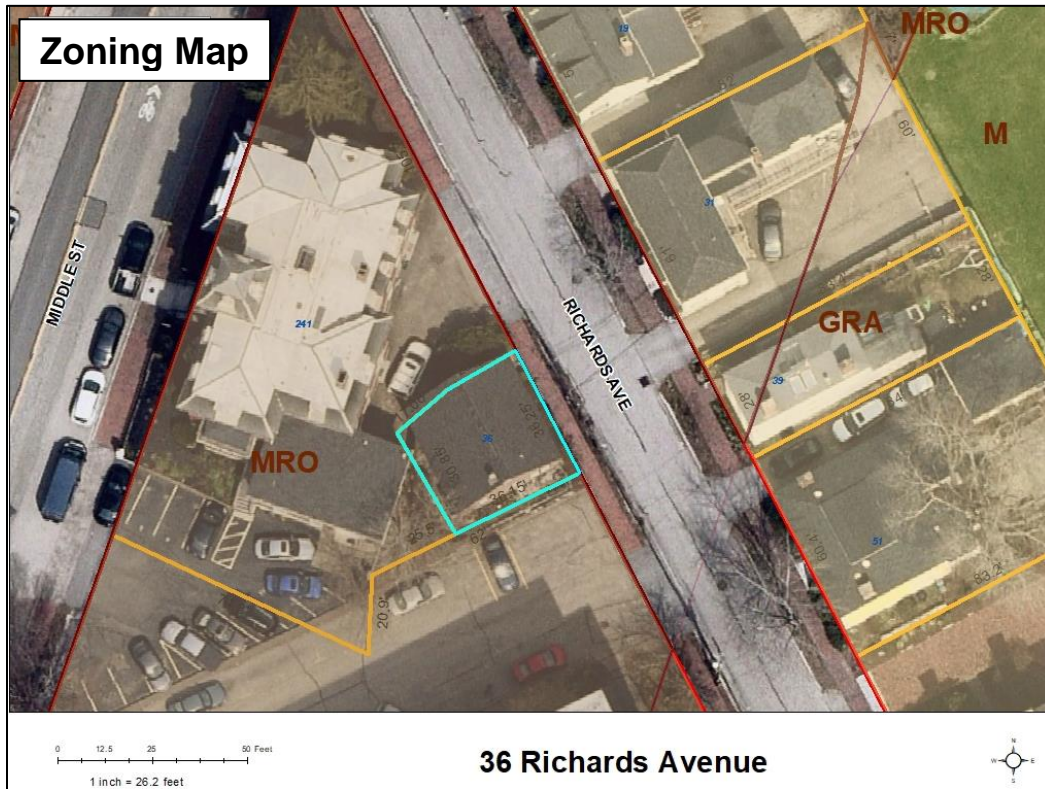
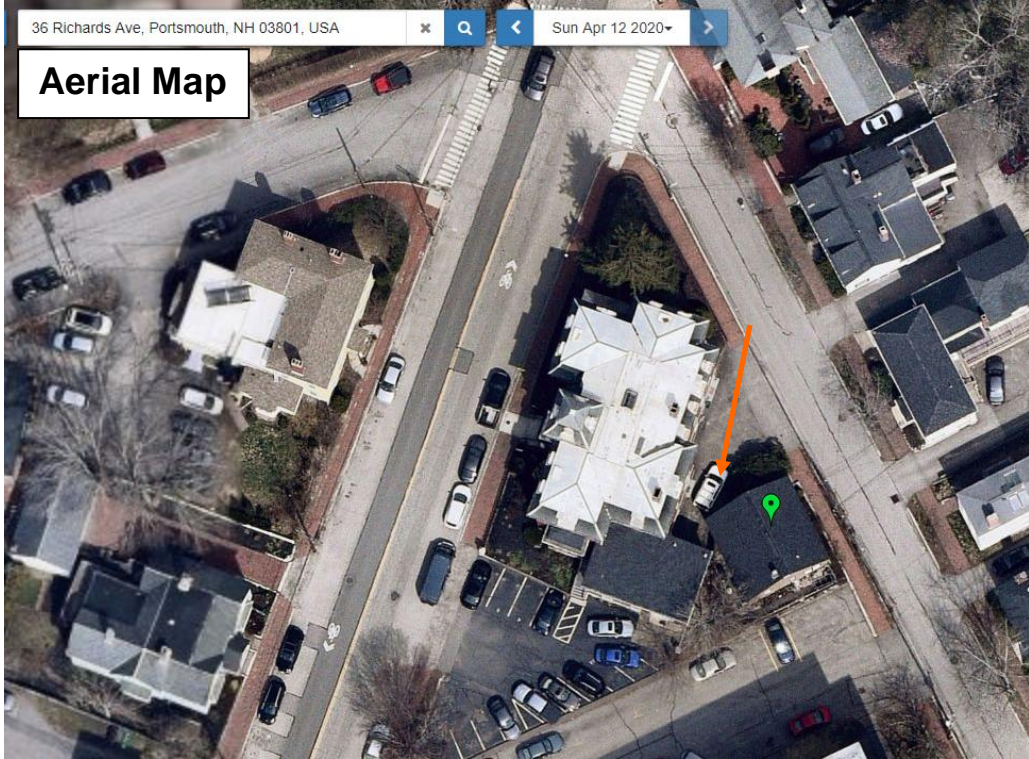
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Install heat pump	Mixed Residential and Office Uses
<u>Lot area (sq. ft.):</u>	1,306	1,306	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	1,306	1,306	7,500 min.
<u>Street Frontage (ft.):</u>	38	38	100 min.
<u>Lot depth (ft.):</u>	37	37	80 min.
<u>Primary Front Yard (ft.):</u>	~2.5	~2.5	5 min.
<u>Left Side Yard (ft.):</u>	~2	~2	10 min.
<u>Right Side Yard (ft.):</u>	~2	2 (unit)	10 min.
<u>Rear Yard (ft.):</u>	2.5*	2.5*/ 12 (unit)	15 min.
<u>Height (ft.):</u>	<40	<40	40 max.
<u>Building Coverage (%):</u>	68.5*	68.5	40 max.
<u>Open Space Coverage (%):</u>	.>25	>25	25 min.
<u>Parking:</u>	0	0	1.3
<u>Estimated Age of Structure:</u>	1930	Variance requests shown in red. *prior variance granted	

Other Permits/Approvals Required

HDC – Admin. Approval

Neighborhood Context



Previous Board of Adjustment Actions

June 16, 2015 – The Board **granted** the following variances as presented and advertised:

1. Section 10.321 to allow a lawful nonconforming structure to be extended or structurally altered without conforming to the requirements of the Ordinance;
2. Section 10.521 to allow a 2.5'± rear yard setback where 15' is required; and,
3. Section 10.521 to allow 68.5%± building coverage where 40% is the maximum allowed.

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.

7.

Petition of the **Kevin Shitan Zeng Revocable Trust, Owner**, for property located at **377 Maplewood Avenue** wherein relief is needed from the Zoning Ordinance to demolish an accessory building and construct a new free standing dwelling which requires the following: 1) A Variance from Section 10.513 to allow more than one free standing dwelling on a lot. 2) Variances from Section 10.521 to allow: a) a lot area per dwelling unit of 2,638 square feet where 7,500 is the minimum required; b) 43% building coverage where 25% is the maximum allowed; c) a 4.5' secondary front yard where 15' is required; d) a 3' left side yard where 10' is required; and e) a 5.5' rear yard where 20' is required. 3) A Variance from Section 10.321 to allow a building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 141 Lot 22 and lies within the General Residence A (GRA) District.

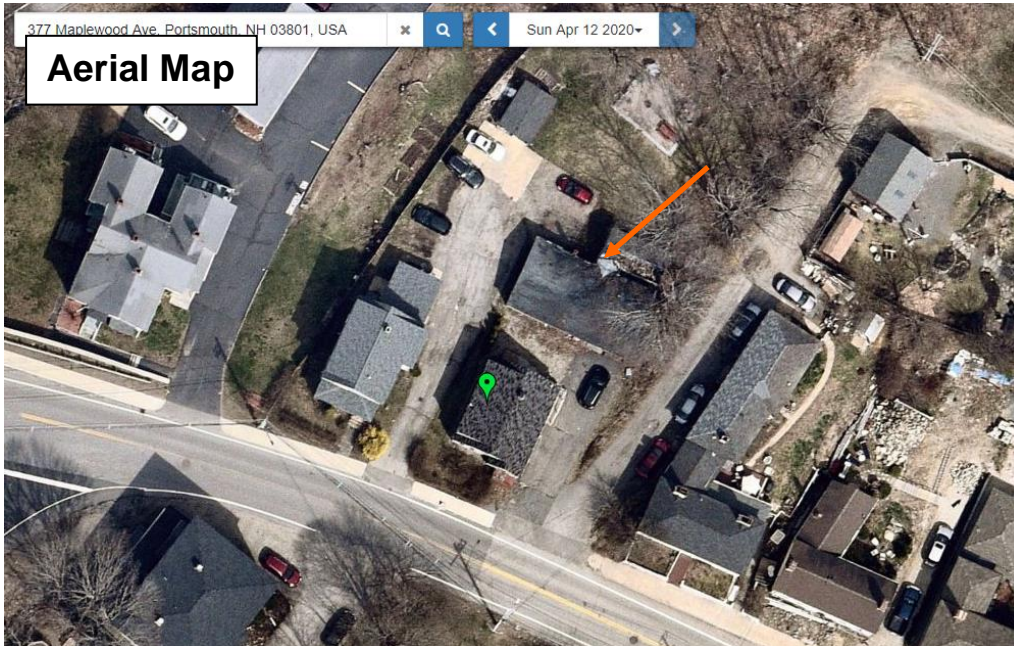
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Demo structure/construct new free-standing dwelling	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	5,277	5,277	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,277	2,638	7,500 min.
<u>Street Frontage (ft.):</u>	150	150	100 min.
<u>Lot depth (ft.):</u>	108	108	70 min.
<u>Primary Front Yard (ft.):</u>	68	>50	15 min.
<u>Secondary Front Yard (ft.):</u>	0	4.5'	15 min.
<u>Left Side Yard (ft.):</u>	2'11"	3'	10 min.
<u>Rear Yard (ft.):</u>	2'10"	5.5'	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	45	43	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking:</u>	3	3	3
<u>Estimated Age of Structure:</u>	1900s	Variance request shown in red.	

Other Permits/Approvals Required

HDC

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The applicant is proposing to demolish an existing structure and construct a new free-standing dwelling unit which will total 2 dwelling units on the lot. Per section 10.513 below, only one freestanding dwelling is allowed in the SRB district.

10.513 One Dwelling Per Lot

No more than one free-standing **dwelling** shall be built on any **lot** in a Rural, Single Residence A or B, or General Residence A or B district, except where specifically exempted by other provisions of this Ordinance.

The proposed new structure will be more conforming than the existing structure, however it will still encroach into the rear, left side and secondary front yards and building coverage will be reduced by approximately 2%, from 45% to 43% where 25% is the maximum allowed.

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.

8.

Petition of **553-559 Islington Street, LLC, Owner** for property located at **553 Islington Street** wherein relief is needed from the Zoning Ordinance to construct a rear addition in conjunction with reconfiguration of the existing six-unit apartment building which requires the following: 1) A Variance from Section 10.5A41.10A to a lot area per dwelling unit of 1,201 s.f. where 3,000 s.f. per dwelling is required; 2) A Variance from Section 10.5A41.10A to allow 19.5% open space where 25% is the minimum required; 3) A Variance from Section 10.5A41.10A to allow a ground story height of 10' 7.5" where 11' is required; 4) A Variance from Section 10.321 to allow a nonconforming building or structure to be enlarged, reconstructed or extended without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 157 Lot 3 and lies within the Character District 4-L2 (CD4-L2) District.

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	6 unit apartment building	Rear addition and reconfiguration of apartment building	Primarily mixed Uses
<u>Lot area (sq. ft.):</u>	7,207	7,207	3,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	1,201	1,201	3,000 min.
<u>Primary Front Yard (ft.):</u>	3	3	15 max.
<u>Left Side Yard (ft.):</u>	0	0	5 min to 20 max
<u>Rear Yard (ft.):</u>	48	48	Greater of 5 ft from lot line or 10 ft from center line of alley
<u>Min Ground story height (ft.):</u>	10' 7.5"	10' 7.5"	11 min.
<u>Building Coverage (%):</u>	28	35	60 max.
<u>Open Space Coverage (%):</u>	19	19.5	25 min.
<u>Parking:</u>	8	8*	9*
<u>Estimated Age of Structure:</u>	1900	Variance requests shown in red. *CUP required for less than required parking.	

Other Permits/Approvals Required

Planning Board/TAC – Site Review
HDC

Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The applicant seeks to construct a rear addition and reconfigure the layout of the six-unit apartment building which will expand the nonconforming use. No increase in the number of units is proposed, but because of the expansion of the use, a variance is required for the lot area per dwelling. The proposed addition will maintain the ground story height of the existing structure, which is less than the required 11 feet. This will require site review and HDC approval as well as a conditional use permit for providing less than the required parking. The applicant is providing 8 spaces where 9 are required.

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.