

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: June 8, 2021
RE: Zoning Board of Adjustment June 15, 2021 Meeting

OLD BUSINESS

1. 30 Spring Street
2. 180 Spaulding Turnpike
3. 1 Harding Road
4. 3458 Lafayette Road

NEW BUSINESS

1. 901 Maplewood Avenue
2. 53 Green Street
3. 379 New Castle Avenue
4. 150 Daniel Street
5. 39 Pickering Street

OLD BUSINESS

1.

Petition of **John McMahon & Jessica Kaiser, Owners**, for property located at **30 Spring Street** whereas relief is needed from the Zoning Ordinance to remove existing front entry and construct new front porch which requires the following: 1) Variances from Section 10.521 to allow a) a 5 inch front yard where 15 feet is required; b) a 4 foot right side yard where 10 feet is required; and c) 29% building coverage where 25% 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 130 Lot 13 and lies within the General Residence A (GRA) District.

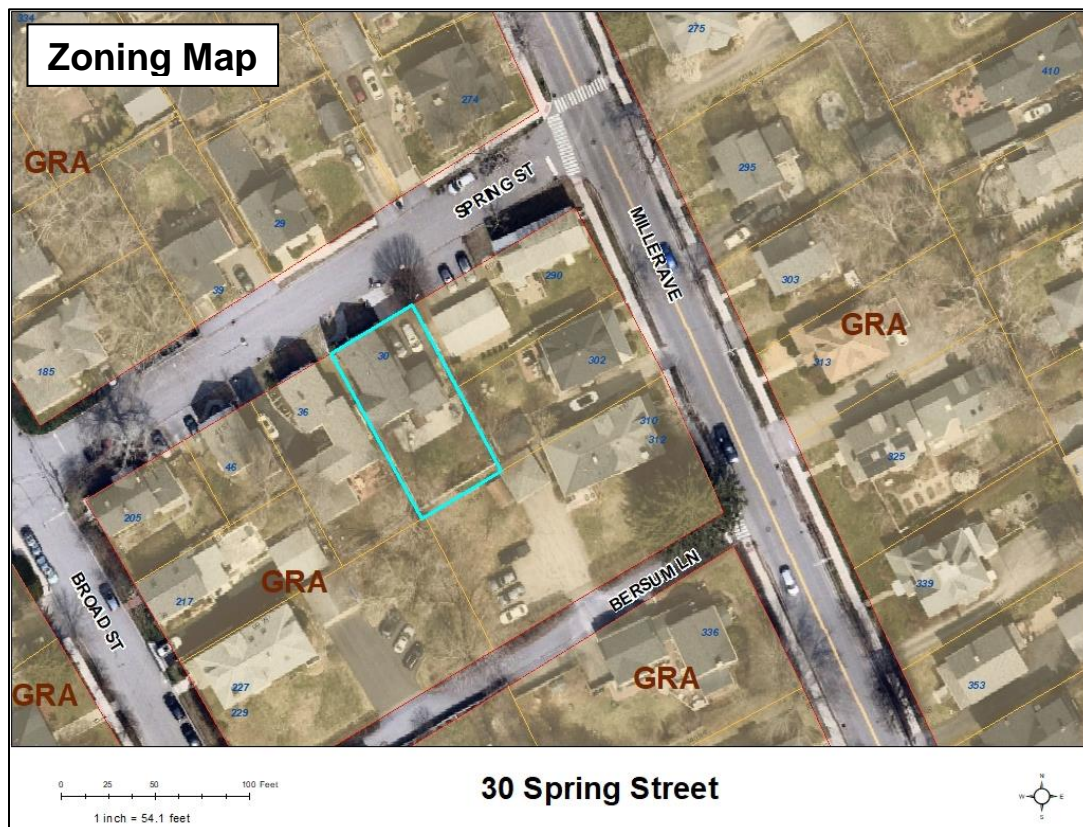
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Demo existing front entry/Construct new porch	Primarily residential uses
<u>Lot area (sq. ft.):</u>	4,953	4,953	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,953	4,953	7,500 min.
<u>Street Frontage (ft.):</u>	50	50	100 min.
<u>Lot depth (ft.):</u>	100	100	70 min.
<u>Front Yard (ft.):</u>	4.1'	5"	15 min.
<u>Right Yard (ft.):</u>	0.4'	4'	10 min.
<u>Left Yard (ft.):</u>	7'4"*	7'4"	10 min.
<u>Rear Yard (ft.):</u>	40+	40+	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	27	29	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1900	Variance request(s) shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

December 16, 2003 – The Board granted variances from Article III, Section 10-302(A) and Article IV, Section 10-40(A)(2)(c) to allow the following:

A 2' x 8' bay window to the front with a 4'1" front yard setback where 15' is the minimum required. An 18' x 22' 1 ½ story garage with second floor living space having a 7'4" left side yard where 10' is the minimum required. A 6' x 12' deck creating 30.4% building coverage where 25% is the maximum allowed.

November 17, 2020 – The Board granted variances from Section 10.521 to allow the following:

28.5% building coverage where 25% is the maximum allowed; a 0 foot front yard where 15' is required and a 4' side yard where 10 feet is required. (Original request was for a 0' side yard and the Board stipulated that the allowable side yard shall be 4 feet)

Planning Department Comments

The applicant was before the Board in November 2020 with a request to extend the porch to the right side yard property line, however the Board stipulated the right side shall be 4 feet instead of the requested 0'. The applicant is now requesting to construct a new porch across the front of the house extending towards the left side property line. A 0' front yard variance was granted in November 2020, however the new proposal states the front yard will be 5 inches from the property line.

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.*
- Planning Department Comments 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 **Spaulding Group, LLC, Owner**, for property located at **180 Spaulding Turnpike** whereas relief is needed from the Zoning Ordinance to for the partial demolition of the existing showroom and construction of new showroom which requires the following: 1) A Variance from Section 10.531 to allow a 15 foot rear yard where 50 feet is required. 2) A Variance from Section 10.591 to allow a structure to be setback 15 feet from a parcel in a Residential district where 100 feet is required. 3) A Variance from Section 10.592.20 to allow the sale, rental, leasing, distribution and repair of vehicles be located adjacent to a Residential district where a minimum of 200 feet is required. 4) A Variance from Section 10.321 to allow a nonconforming building or structure to extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. 5) A Variance from Seciont 10.1113.20 to allow seven off-street parking spaces to be located in the front yard and between the principal building anda street where parking spaces are not allowed. Said property is shown on Assessor Map 236 Lot 39 and lies within the General Business (GB) District.

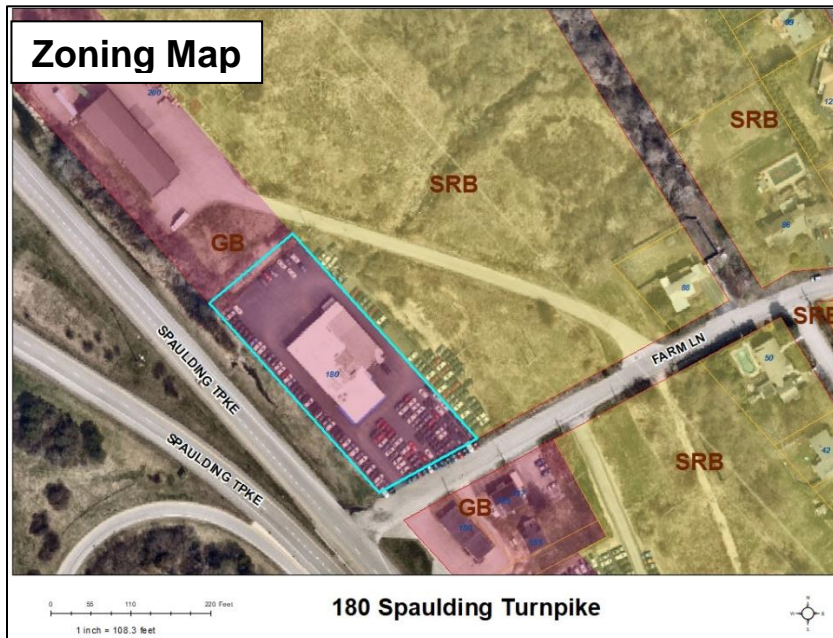
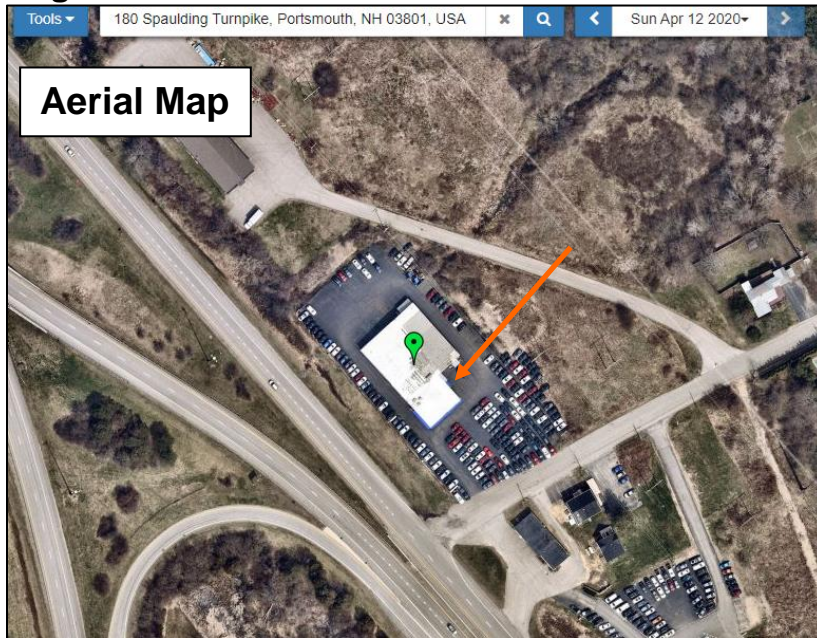
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Auto dealership	New showroom addition	Primarily commercial uses
<u>Lot area (sq. ft.):</u>	54,384	54,384	43,560 min.
<u>Street Frontage (ft.):</u>	54,384	54,384	200 min.
<u>Front Yard (ft.):</u>	39	39	30 min.
<u>Right Yard (ft.):</u>	95	95	30 min.
<u>Left Yard (ft.):</u>	100	100	30 min.
<u>Rear Yard (ft.):</u>	15	15	50 min.
<u>Height (ft.):</u>	17	25	60 max.
<u>Building Coverage (%)</u>	21.5	26	30 max.
<u>Open Space Coverage (%)</u>	3	3	20 min.
<u>Parking</u>	30	37	37
<u>Estimated Age of Structure:</u>	1975	Variance request(s) shown in red.	

Other Permits/Approvals Required

TAC/Planning Board – Site Plan Review

Neighborhood Context



Previous Board of Adjustment Actions

November 20, 2001 – The Board granted Variances from Section 10-908 Table 14 to allow a 105 s.f. free standing internally lit sign 29'10" high where 20' is the maximum height allowed, creating a 0' front setback where 20' is the minimum allowed and a 48 s.f. free standing sign internally lit creating a 0' front setback where 20' is the minimum allowed.

March 21, 2000 – the Board **denied** a Variance to construct a 45' x 94' two story addition after the demolition of the existing showroom: a Variance to allow: a) a 38'± front yard where 70' is

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the minimum required and b) a 15'± rear yard where 50' is the minimum required, a Variance to allow said addition 15'± from property zoned residentially where 100' is the minimum required; and, a Variance to allow said addition to be built within 100' of property zoned residentially without providing screening.

September 19, 1995 – the Board **granted** a Variance to allow the installation of a vinyl awning projecting 4' on side of sales showroom creating a 36' front yard setback where 70' is required with the **stipulation** there be no increase in the total signage allowed.

November 18, 1986 - the Board **granted** a Special Exception to permit the construction of a 4' x 12' addition onto an existing automobile dealership for use as a waiting room; and, a Variance to permit the addition to be located less than 100' from residentially zoned property where a minimum distance of 100' is required.

June 24, 1986 - the Board **denied** a Variance to allow the construction of a 10' x 20' shed with a front yard of 30' where a 70' front yard is required; however, the Board **granted** a Special Exception to permit said addition to be placed onto a motor vehicles sales facility.

Planning Department Comments

The applicant is proposing to demolish the existing showroom and construct a new, two-story showroom. As the proposed use will be expanded on the site with the additional square footage of the structure, variances from Section 10.591 and 10.592.20 are needed as the property abuts the SRB zone. A similar variance request was denied in 2000 as shown in the history above. The applicant's representative discusses why Fisher v. Dover does not apply in this case due to changes in the law regarding hardship criteria. The plan shows 7 new parking spaces located in the front yard and in front of the building which are currently used for vehicle storage. The conversion to official parking spaces triggers the need for a variance from this provision.

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.*
- Planning Department Comments 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**

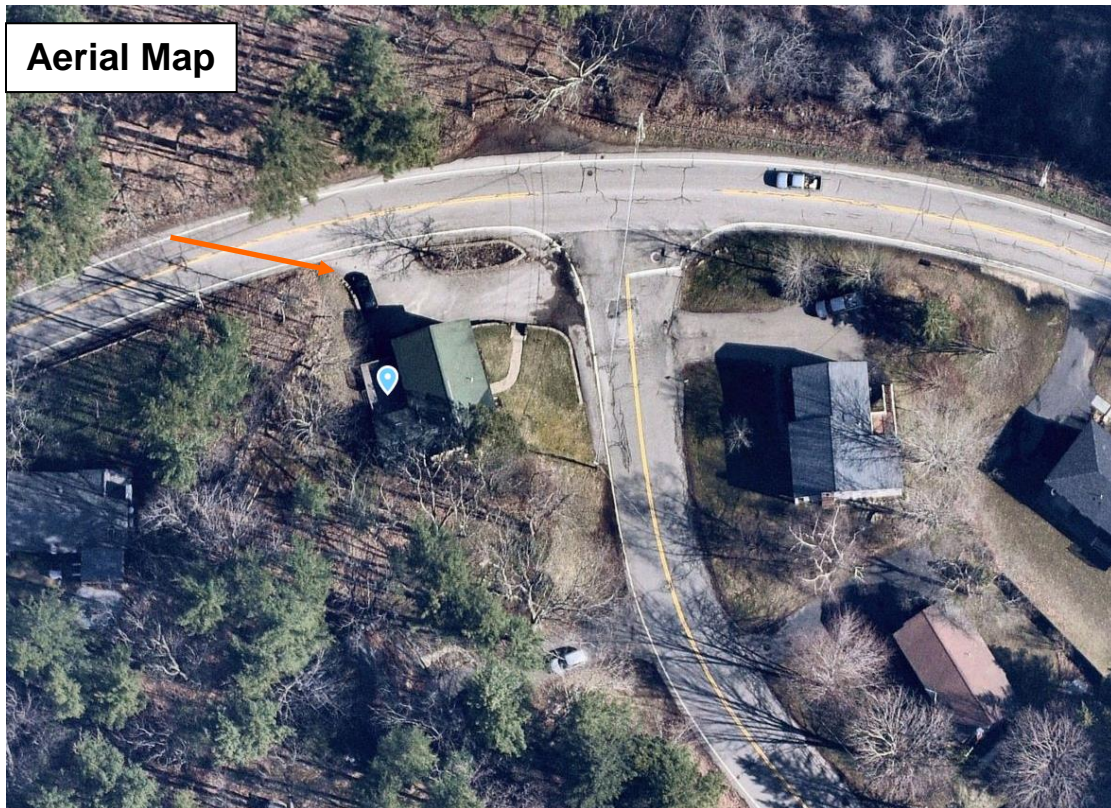
Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

3.

Petition of **Arun Naredla, Owner**, for property located at **1 Harding Road** whereas relief is needed from the Zoning Ordinance to construct a 6' tall fence within the front yard which requires the following: 1) A Variance from Section 10.515.13 to allow a 6' tall fence within the front yard where a 4' tall fence is the maximum allowed. Said property is shown on Assessor Map 247 Lot 45 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	6 foot fence in front yard	Primarily Single-family Uses
<u>Lot area (sq. ft.):</u>	15,058	15,058	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	15,058	15,058	15,000 min.
<u>Street Frontage (ft.):</u>	248	248	100 min.
<u>Lot depth (ft.):</u>	100	100	100 min.
<u>Primary Front Yard (ft.):</u>	30	30	30 min.
<u>Secondary Front Yard (ft.):</u>	32	32	30 min.
<u>Right Yard (ft.):</u>	60	60	10 min.
<u>Rear Yard (ft.):</u>	20	20	30 min.
<u>Building Coverage (%):</u>	13	13	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Estimated Age of Structure:</u>	1970	Variance request shown in red.	



Other Permits/Approvals Required

None.

Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing a 6 foot tall fence in the front yard along Elwyn Road. Consulting with staff at DPW, this proposal may create more issues with sight lines at the already challenging intersection of Harding Road and Elwyn Road. This was conveyed to the applicant and at this time they have submitted a request to postpone to confer with City staff about options for their property. The applicant met with City staff after the petition was postponed in May to discuss options. With consultation from DPW, the applicant has provided revised plans for the location for the 6' fence within the front yard which pushes it back from Elwyn Road and maintains a safe sight line for the intersection with Harding Road.

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.*
- Planning Department Comments 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 **Naveesha Hospitality, LLC, Owner**, for property located at **3548 Lafayette Rd** whereas relief is needed from the Zoning Ordinance for redevelopment of the property which includes demolishing some buildings and constructing 2 new multi-family structures which requires the following: 1) A Variance from Section 10.5B53.10 to allow new buildings to be constructed on a lot with existing non-conforming buildings, to be outside of the minimum and maximum front building setback if the 50% front lot line buildout has not been met. 2) A Variance from Section 10.5B22.40 to allow buildings to be constructed outside of the special setback from Lafayette Road which requires a 70' minimum and 90' maximum setback from the centerline of Lafayette Road. Said property is shown on Assessor Map 297 Lot 6 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>	Wren's Nest	Multifamily development	Primarily Mixed Uses
<u>Lot area (sq. ft.):</u>	162,967	162,967	162,967 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,938 (33)	2,173 (75 total)	20/acre min.
<u>Street Frontage (ft.):</u>	161	161	100 min.
<u>Front Lot line Buildout (%):</u>	34	34	50% min.
<u>Primary Front Yard (ft.):</u>	55	~310 (new)	70' min – 90' max
<u>Left Yard (ft.):</u>	6 (existing)	>15 (new)	15 min.
<u>Right Yard (ft.):</u>	5 (existing)	15 (new)	15 min.
<u>Rear Yard (ft.):</u>	>20	>20	20 min.
<u>Height (ft.):</u>	<50	<= 50 or 4 stories	50' or 4 stories max.
<u>Building Coverage (%):</u>	<50	15.8	50 max.
<u>Open Space Coverage (%):</u>	>50	50	20 min.
<u>Community Space (%):</u>	NA	10	10 min.
<u>Parking:</u>	~70	129	113
<u>Estimated Age of Structure:</u>	1938 - 1998	Variance request shown in red.	

Other Permits/Approvals Required

TAC/Planning Board – Site Plan Review

Neighborhood Context



Previous Board of Adjustment Actions

May 24, 1977 - The Board **granted** a Variance to extend a nonconforming use by adding eight additional units as a second story to existing structure, with additional setback Variance on side yard.

November 18, 1986 - The Board **denied** a Variance to convert an existing garage into two efficiency suites, to move and enlarge two existing motel units into two efficiency suites and to construct a 24' x 40' structure containing one two bedroom suite thereby creating 5 dwellings (for a total of 6 dwelling units) on a single lot in a residential district where only one dwelling unit is allowed per lot and a Variance to allow the expansion of a nonconforming use, an existing motel, in a residential district where motels are not an allowed use; and a Variance to allow a 376 s.f. addition to an existing garage with an 11' rear yard where a minimum 40' rear yard is required.

November 20, 1990 -The Board **granted** a Variance to permit a 66 s.f. addition to the front and a 743 s.f. addition to the side and rear of a single family dwelling with; a) the 66 s.f. addition having a 26' front yard; and, b) the 743 s.f. addition having a 39'6" front yard where a 105' front yard is required for both; and, a Variance to permit the 743 s.f. addition with a 17' left yard where a 20' left yard is required.

January 15, 1991 - The Board **denied** a Variance from to allow the reconstruction of a 1,602 s.f. two story single family dwelling with a 26' front yard where a 105' front yard is required and a 17' left yard where a 20' left yard is required; 2) a Variance to allow a 26' front yard where a 105' front yard is required; 3) a Variance to allow said re-construction to have a 17' left yard where a 20' left yard is required; and, 3) a Variance to allow the establishment of an 180 s.f. motel office in the single family dwelling for the existing motel.

March 19, 1991 - The Board **granted** 1) an Appeal of an Administrative Decision of the Building Inspector concerning the requiring of the applicant to obtain Variances from Article II, Section 10-205 and Article III, Section 10-302 in conjunction with his request to reconstruct a dwelling unit on a previously approved foundation instead of requiring only a Variance from Article IV, Section 10-401(4); and 2) a Variance from Article IV, Section 10-401(4) to permit the reconstructing of a dwelling unit on a previously granted footprint.

June 16, 1992 - The Board **granted** a Variance to allow the installation of an additional 12 s.f. internally illuminated freestanding sign to an existing nonconforming 56 s.f. free-standing sign for an aggregate sign area of 68 s.f., and with a 13' front yard in a residential district where freestanding signs are not allowed with the **stipulation** the existing 1' s.f. AAA sign be removed before installing the 12' s.f. AAA sign.

June 20, 1995 – The Board **granted** a Variance to allow a new 91 s.f. free standing sign to replace the existing 70 s.f. free standing sign in the same location.

September 21, 1999 – The Board **granted** a Variance to allow a 3,840 s.f. two story building to be constructed in the same location as an existing 6 unit motel building which

is being demolished for use as an indoor swimming pool and other indoor recreation uses on the 1st floor and three motel units on the 2nd floor

November 20, 2001 – The Board **granted** a Variance to allow an existing building to be converted into a restaurant with a bar area and dance floor and 28 new parking spaces in a district where such use is not allowed with the **stipulation** that the trailer be removed from the property before a Building Permit can be issued.

April 16 2002 (Reconvened on April 23, 2002) – The board granted a Variance from article XII, Section 10-1201 (A)(2) to allow 20' and 22' maneuvering aisles where 24' is the minimum required for two way traffic.

Planning Department Comments

The applicant is proposing to redevelop the property into units spread throughout the existing structures and two new apartment buildings. Some existing structures will be demolished to make room for one of the new buildings. The property is located in the Gateway-1 district which allows for a general residential development site with a density of 20 dwelling units per acre. For new buildings constructed on existing nonconforming sites where the front lot line buildout has not been met, the new buildings must be placed within the lot line buildout area. Additionally, there is a special setback on Lafayette Road where new structures must be placed. The property is oddly shaped with a somewhat bottleneck shape that widens as it goes back from Lafayette Road. Both new structures are proposed to be constructed towards the back of the property, where there is more space to site new buildings. The front lot line buildout area is constrained with existing entrance, parking and two structures.

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.*
- Planning Department Comments 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, **Lisa Shawney Revocable Trust, Owner**, and **Lisa Shawney, Applicant** for property located at **901 Maplewood Avenue** whereas relief is needed from the Zoning Ordinance to construct second story addition over existing one-story addition which requires the following: 1) Variances from Section 10.521 to allow a) a 6' right side yard where 10' is required; and b) a 27.5' 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 219 Lot 58 and lies within the Single Residence B (SRB) District.

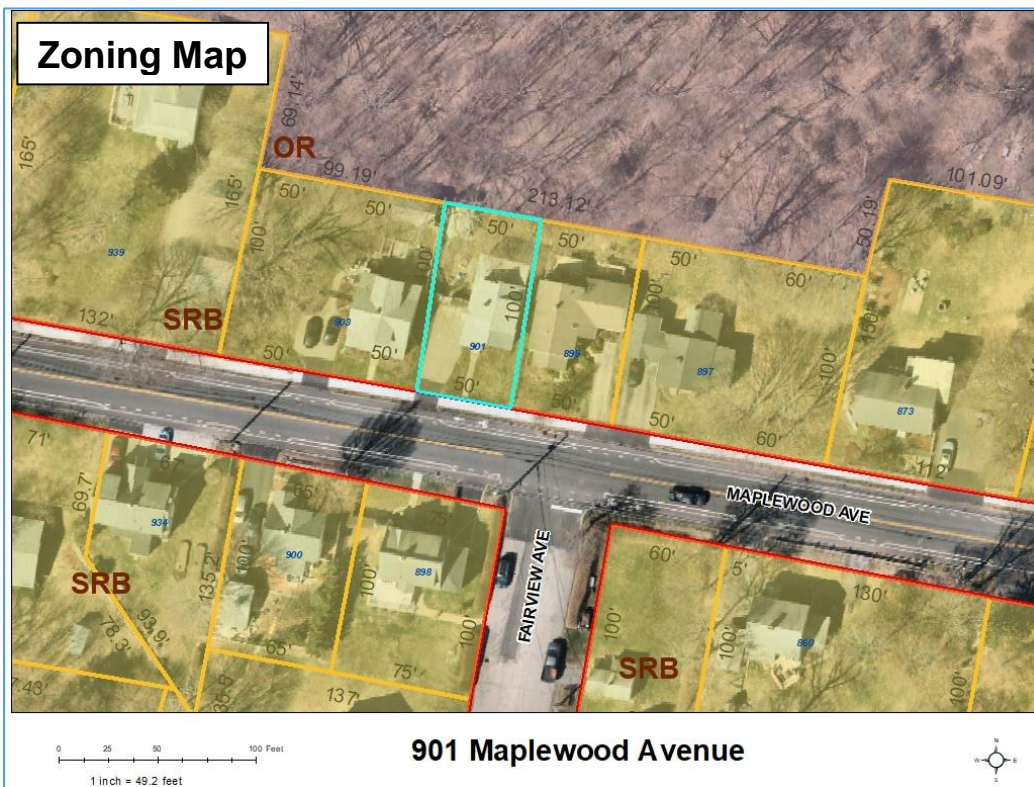
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Rear addition	Primarily Single-family Uses
<u>Lot area (sq. ft.):</u>	4,984	4,984	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,984	4,984	15,000 min.
<u>Street Frontage (ft.):</u>	50	50	100 min.
<u>Lot depth (ft.):</u>	100	100	100 min.
<u>Primary Front Yard (ft.):</u>	26.5	26.5	30 min.
<u>Left Yard (ft.):</u>	>10	>10	30 min.
<u>Right Yard (ft.):</u>	6	6	10 min.
<u>Rear Yard (ft.):</u>	27.3	27.5	30 min.
<u>Building Coverage (%):</u>	23.4	23.4	20 max.
<u>Open Space Coverage (%):</u>	53	53	40 min.
<u>Estimated Age of Structure:</u>	1930	Variance request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



June 15, 2021 Meeting

Previous Board of Adjustment Actions

April 22, 1986 – The Board granted the following variance:

- Article III, Section 10-302 to construct a 12' by 24' single story addition to an existing single family dwelling with the following:
 - o a) a right yard of 7.5' where 10' is required;
 - o b) a rear yard of 27' where 30' is required; and
 - o c) building coverage of 20.16% where no more than 20% is allowed.

Planning Department Comments

The applicant is proposing to add a second story over the one-story addition on the rear of the house within the existing footprint. As shown in the history above, the single story addition received variances in 1986. The applicant recently surveyed the property, and has provided more accurate data for measurements and lot area, which likely explain the discrepancies for the proposed right yard and existing building coverage. The applicant notes the rear yard is 27.3' however the legal notice stated 27.5'. If granted approval the Board should consider the following stipulations:

The rear yard encroachment extends no further than what currently exists.

The maximum allowed building coverage shall be 23.5%

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.*
- Planning Department Comments 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.

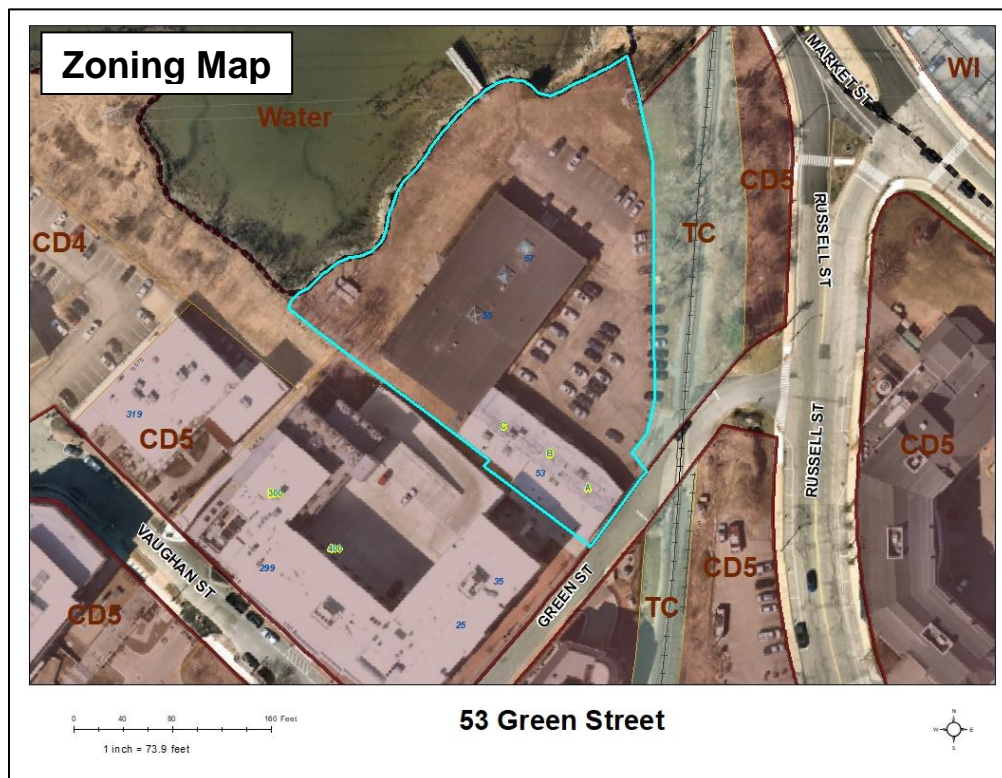
2.

Petition of **Stone Creek Realty, Owner**, for property located at **53 Green Street** whereas relief is needed from the Zoning Ordinance for the demolition of an existing building and construction of a 5-story mixed-use building which requires the following: 1) A Variance from Section 10.5A41.10D to allow 42.89% front lot line buildout where 80% is required. Said property is shown on Assessor Map 119 Lot 2 and lies within the Character District 4 (CD4) and Character District 5 (CD5) Districts.

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	commercial	Mixed use development	Primarily Mixed Uses
<u>Lot line buildout (%):</u>		42.89	80 min.
<u>Community Space (sq.ft.):</u>		28.5	20 min.
<u>Primary Front Yard (ft.):</u>	<5	16	5 max.
<u>Rear Yard (ft.):</u>	>5	>5	5 min.
<u>Height (ft.):</u>		<60'/5 stories	60'/5 stories max.
<u>Building Coverage (%):</u>	<95	38	95 max.
<u>Open Space Coverage (%):</u>	>5	35	5 min.
		Variance request shown in red.	

Neighborhood Context



Other Permits/Approvals Required

Planning Board

Conservation Commission

Historic District Commission

June 15, 2021 Meeting

Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing a mixed use development and is currently going through the land use approval process with the other land use boards as outlined in the applicant's narrative. The district requires a front lot line buildout of 80%. Due to the configuration of the development and the shape of the lot, the applicant is proposing a front lot line buildout of just under 43%. All other zoning requirements are in compliance with the proposed development.

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.*
- Planning Department Comments 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 **Todd and Jan Peters, Owners**, for property located at **379 New Castle Avenue** whereas relief is needed from the Zoning Ordinance for installation of new heat pump and after-the-fact variance for existing heat pump which requires the following: 1) A Variance from Section 10.515.14 to allow an 8' setback where 10' is required and to allow the proposed unit to be closer to the street than the principal structure. 2) An after-the-fact Variance from Section 10.515.14 to allow an 8' setback where 10' is required and to allow the existing unit to be closer to the street than the principal structure. Said property is shown on Assessor Map 207 Lot 4 and lies within the Single Residence B (SRB) District.

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Partial demo and reconstruction	Primarily residential uses
<u>Lot area (sq. ft.):</u>	8,744	8,744	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,744	8,744	15,000 min.
<u>Street Frontage (ft.):</u>	55	55	100 min.
<u>Lot depth (ft.):</u>	112	112	100 min.
<u>Front Yard (ft.):</u>	>30	>30	30 min.
<u>Right Yard (ft.):</u>	6	6	10 min.
<u>Left Yard (ft.):</u>	11	11 8 (new unit) 8 (existing)	10 min.
<u>Rear Yard (ft.):</u>	>30	>30	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	21.5	22*	20 max.
<u>Open Space Coverage (%):</u>	66	66	40 min.
<u>Parking</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1850	Variance request shown in red.	

Other Permits/Approvals Required HDC

Neighborhood Context



Previous Board of Adjustment Actions

December 28, 2004 – The Board granted the following variance:

- Article IV, Section 10-402(B) to allow a 10'8" by 16' one story garage with an 14.3' Front yard where 30' is required.

November 16, 2004 – The board denied the following variance:

- Article IV, Section 10-402(B) to allow a 10'8" by 16' one story garage with an 8' front yard where 30' is required.

May 17, 2016 – The Board granted the following variances:

- Section 10.521 to allow a front yard setback of 7.25' where 30' is required.
- Section 10.521 to allow 20.6% building coverage where 20% maximum is allowed.
- Section 10.571 to allow an accessory building to be located in the required front yard.

Planning Department Comments

The applicant is requesting a variance to allow a condenser within the required 10 foot setback to the accessory building that was granted relief in 2016. There is an existing condenser that was installed in 2019 that did not receive zoning clearance for the location and as part of this request, the applicant is seeking an after-the-fact variance for that condenser.

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.*
- Planning Department Comments 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.

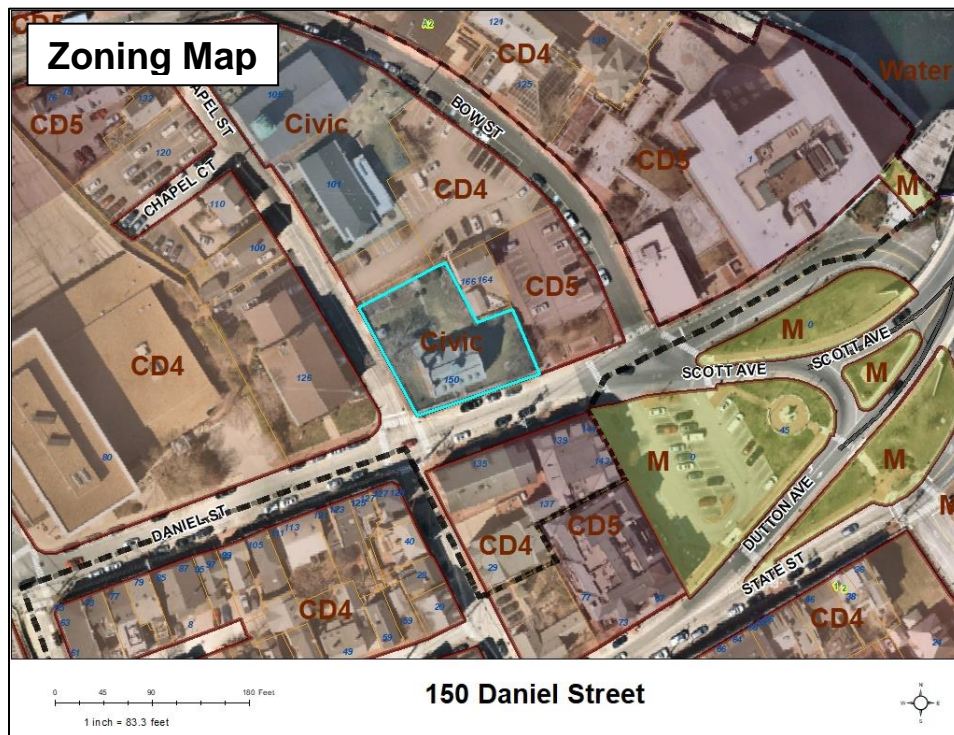
Petition of **Warner House Associates, Owner**, for property located at **150 Daniel Street** whereas relief is needed from the Zoning Ordinance to install condenser unit on the back of new Carriage House which requires the following: 1) A Variance from Section 10.515.14 to allow a 3' setback where 10' is required. Said property is shown on Assessor Map 106 Lot 58 and lies within the Civic District.

Other Permits/Approvals Required

HDC

Neighborhood Context





Previous Board of Adjustment Actions

April 5, 2000 - The Board granted the following variance:

- Article III, Section 10-304(B) to allow a 6' by 6' garden tool shed 11' in height where height of 20' is required.

Planning Department Comments

The applicant is proposing to build a carriage house and will have a condenser unit at the back which will not meet the required 10 foot setback for mechanical units.

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.*
- Planning Department Comments 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.

June 15, 2021 Meeting

5.

Petition of **William H. and Barbara Ann Southworth, Owners**, for property located at **39 Pickering Street** whereas relief is needed from the Zoning Ordinance to replace existing 8' x 8' shed with a 10' x 12' shed which requires the following: 1) Variances from Section 10.521 to allow a) a 2' rear yard where 10' is required; b) a 2' right side yard where 10' is required; and c) 40.5% building coverage where 30% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 102 Lot 5 and lies within the General Residence B (GRB) District.

Existing & Proposed Conditions

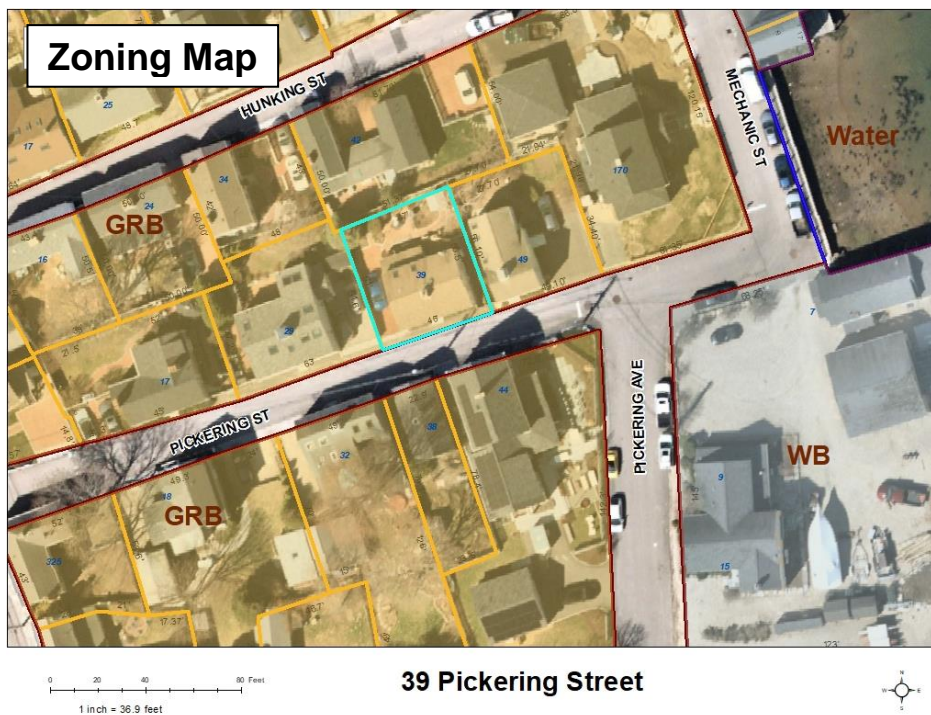
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Replace existing shed	Primarily residential uses
<u>Lot area (sq. ft.):</u>	2,476	2,476	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,476	2,476	5,000 min.
<u>Street Frontage (ft.):</u>	46	46	80 min.
<u>Lot depth (ft.):</u>	55	55	60 min.
<u>Front Yard (ft.):</u>	0	0	5 min.
<u>Right Yard (ft.):</u>	2	2	10 min.
<u>Left Yard (ft.):</u>	40	38	10 min.
<u>Rear Yard (ft.):</u>	2	2	25/ 10 (shed) min.
<u>Height (ft.):</u>	8	10	35 max.
<u>Building Coverage (%)</u>	39	40.5	30 max.
<u>Open Space Coverage (%)</u>	>25	>25	25 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1999	Variance request(s) shown in red.	

Other Permits/Approvals Required

Historic District Commisison

June 15, 2021 Meeting

Neighborhood Context



Previous Board of Adjustment Actions

March 26, 1985 – The Board granted the following variances:

- The construction of a two story addition at the rear of an existing home with a right yard of 18' where 20' is required

June 15, 2021 Meeting

- The increase in the extent of a nonconforming use of a residential structure or land where no increase in the extent of a nonconforming use of a residential structure of land is allowed.

September 15, 1992 – The Board granted the following variance:

- The construction of a one story 7' by 16' three story porch at the rear of the house with a) a 3' right yard where 10' is required; and 2) a lot coverage of 35.6% where maximum 20% is allowed.

July 18, 1995 – The Board granted the following variance:

- The construction of a 6' by 7' shed: a) creating 3' right side and 2' rear yard where 10' is minimum required; and b) a building cover of 37.6% where the maximum allowed is 20%.

July 15, 1997 - The Board granted the following variance:

- The construction of a one story 6' by 8' addition to the left rear of an existing building with a 20'5" rear yard where 25' is the minimum required; and , a variance to allow structural changes to a nonconforming structure by the demolition of a 5' by 24' portion of the existing structure resulting in 36.1% coverage where the existing is 37% and the maximum allowed is 30%.

April 20, 1999 – The board granted a request to amend the previously approved application

May 18, 1999 and reconvened on May 25, 1999 – The board granted the following variance:

- Article III, Section 10-302(A) to allow the reconstruction of a single family dwelling in exactly the same size and location.

Planning Department Comments

The applicant is proposing to replace the existing shed with a slightly larger 10 x 12 shed, maintaining the existing side and rear setbacks and the new square footage of the shed will be located towards the interior of the lot. The resulting coverage will be increase to 40.5% from the existing 39%.

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.