

TO: Zoning Board of Adjustment  
FROM: Peter Stith, AICP, Planning Department  
DATE: June 15, 2021  
RE: Zoning Board of Adjustment June 22, 2021 Meeting

## **NEW BUSINESS**

1. 12 South Street
2. 124 Heritage Avenue
3. 222 Cass Street
4. 32 Rockingham Avenue
5. 256 Wibird Street
6. 648 Lincoln Avenue
7. 35 Whipple Court
8. 82 Cass Street
9. 650 Maplewood Avenue
10. 668 Middle Street
11. 428 US Route 1 Bypass
12. 960 Sagamore Avenue
13. 322 Islington Street
14. 105 Bartlett Street - Appeal



## NEW BUSINESS

1.

Petition of **William T. and Susan Manfull, Owners**, for the property located at **12 South Street** whereas relief is needed from the Zoning Ordinance to construct a one-story rear addition which requires the following: 1) Variances from Section 10.521 to allow a) 39.5% building coverage where 30% is required; b) a 2' left side yard where 10' is required; and c) a 16' rear yard where 25' is required. 2) A Variance from Section 10.321 to allow a nonconformist 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 42 and lies within the General Residence B (GRB) District.

### Existing & Proposed Conditions

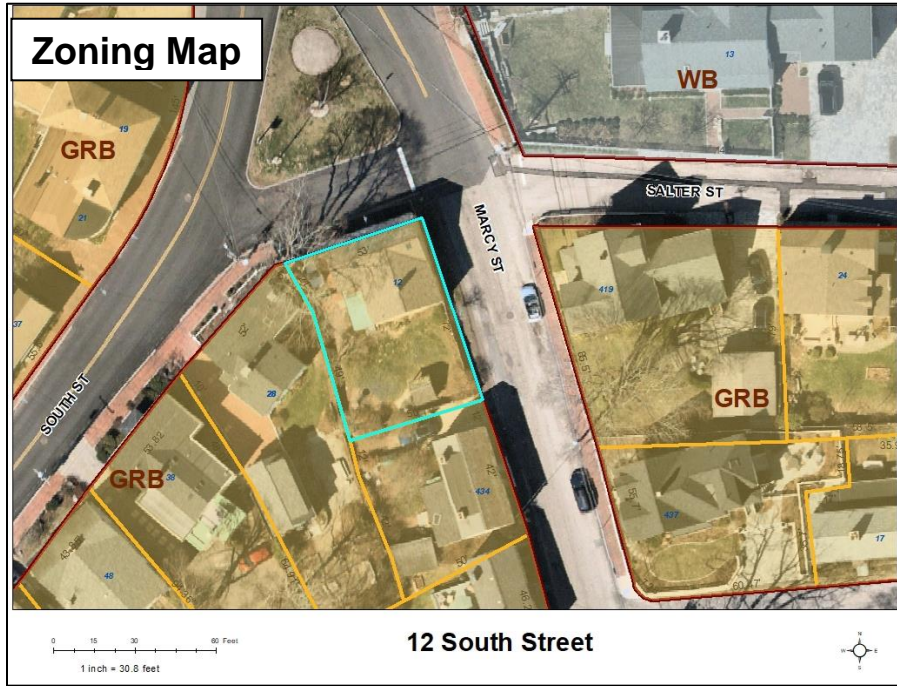
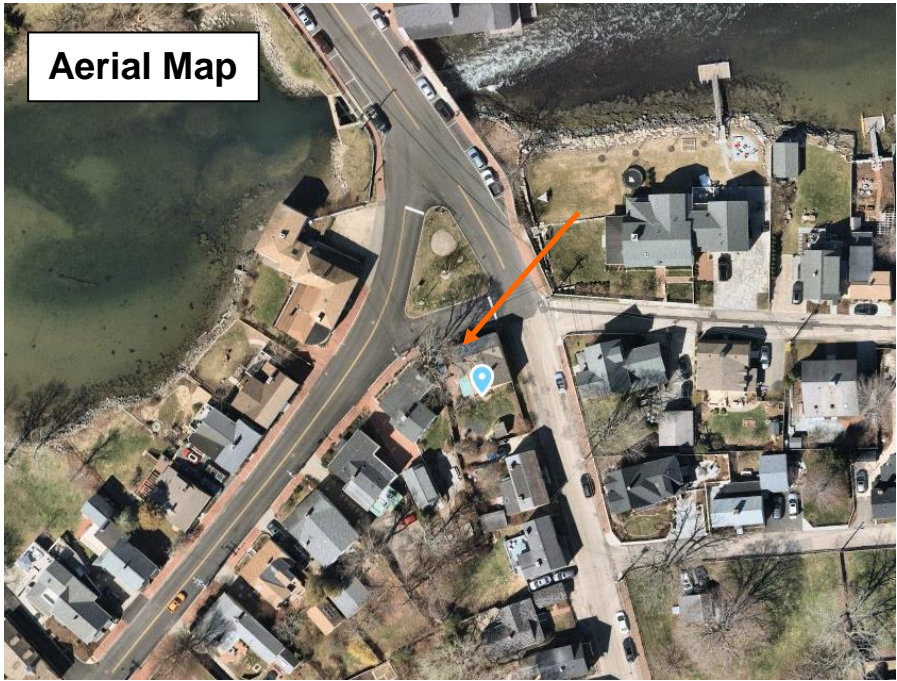
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	1 story rear addition	Primarily residential uses
<u>Lot area (sq. ft.):</u>	3,795	3,795	5,000 min.
<u>Street Frontage (ft.):</u>	3,795	3,795	5,000 min.
<u>Front Yard (ft.):</u>			5 min.
<u>Secondary Front Yard (ft.):</u>	2.6	<b>2</b>	5 min.
<u>Right Yard (ft.):</u>	13	13	10 min.
<u>Rear Yard (ft.):</u>	36	<b>16</b>	25 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	32	<b>39.5</b>	30 max.
<u>Open Space Coverage (%):</u>	50	65	25 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1740	<b>Variance request(s) shown in red.</b>	

### Other Permits/Approvals Required

HDC



### Neighborhood Context



## Previous Board of Adjustment Actions

May 16, 1995 – The Board granted the following variances:

- Article IV, Section 10-402(1) to allow construction on an 8' by 8' one story shed creating a 4' side yard where 10' is required; and
- Article III, Section 10-302 to allow building coverage of 39.8% in a district where 20% is the maximum allowed.

## Planning Department Comments

The applicant is proposing to add a one-story rear addition onto the existing home which will increase the already nonconforming building coverage and encroach into the rear yard as well as secondary front yard. The applicant's application stated a left side yard variance was required and that was included in the legal notice. However, the 2' variance is for the secondary front yard on Marcy Street. The yard requirement in the GRB is 5 feet for the secondary front as opposed to the side yard, which is 10 feet. If the Board grants approval, the following stipulation should be considered:

**To allow a 2' secondary front yard where 5 feet is 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.*

2.

Petition of **One Twenty Four Group LLC, Owner** for the property located at **124 Heritage Avenue** whereas relief is needed from the Zoning Ordinance for change of use to a laboratory which requires the following: 1) A Special Exception from Section 10.440, Use #14.61 to permit a Biological or Chemical Laboratory - Not Marine Dependent where the use is allowed by Special Exception. Said property is shown on Assessor Map 284 Lot 8 and lies within the Industrial (I) District.

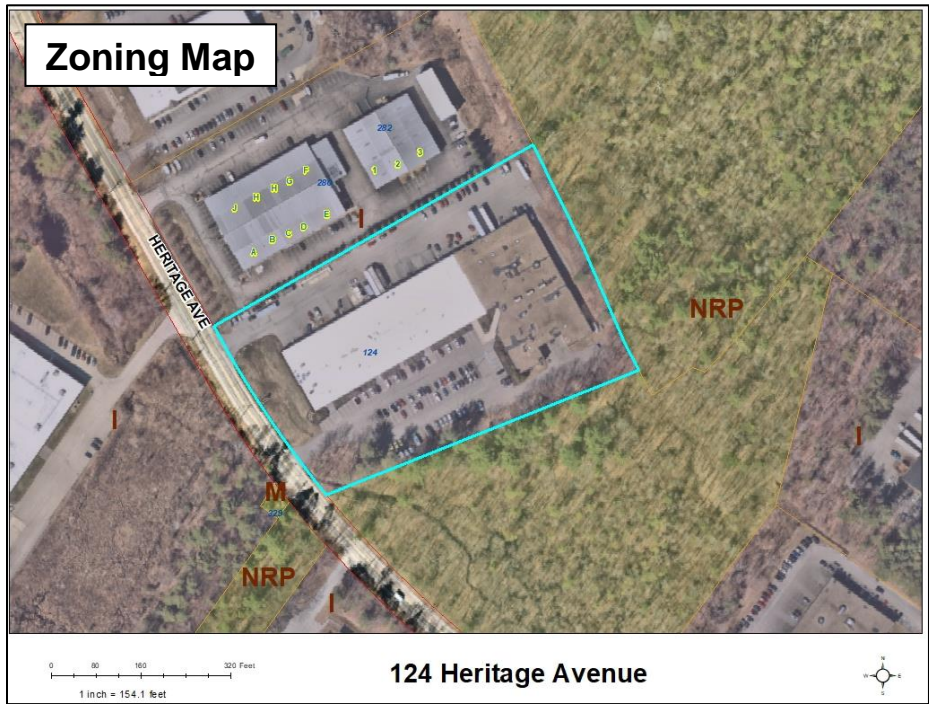
**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Office	<b>Chemical laboratory</b>	Primarily Industrial Uses
<u>Lot area (acres):</u>	5.78	5.78	2 acres min.
<u>Street Frontage (ft.):</u>	359	359	200 min.
<u>Lot depth (ft.):</u>	629	629	200 min.
<u>Primary Front Yard (ft.):</u>	70	70	70 min.
<u>Left Yard (ft.):</u>	100	100	50 min.
<u>Right Yard (ft.):</u>	66	66	50 min.
<u>Rear Yard (ft.):</u>	50	50	50 min.
<u>Building Coverage (%):</u>	31	31	50 max.
<u>Open Space Coverage (%):</u>	>20	>20	20 min.
<u>Estimated Age of Structure:</u>	1975	<b>Special Exception request shown in red.</b>	

**Other Permits/Approvals Required**

None.

### Neighborhood Context



### Previous Board of Adjustment Actions

October 19, 1999 – The Board granted the following variance:

- Article II, Section 10-209(30) to allow the manufacture of soups, chowders, sauces and related food products.



## Planning Department Comments

The applicant is proposing to occupy approximately 1,169 square feet of one of the units in the 78,000 square foot building to use it as a laboratory to study the composition of plastics in an effort to increase recycling. This use requires a special exception in the Industrial district. No exterior or site changes are proposed, only interior fit up of the space for the lab.

## 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.*



3.

Petition of **Alexandra Roberts and William E. Garrison III, Owners**, for the property located at **222 Cass Street** whereas relief is needed from the Zoning Ordinance to construct a 1-story mudroom addition over existing rear deck with new landing and steps which requires the following: 1) Variances from Section 10.521 to allow a) a 3.5' left side yard where 10' is required; and b) 42% building coverage where 35% 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 147 Lot 29 and lies within the General Residence C (GRC) District.

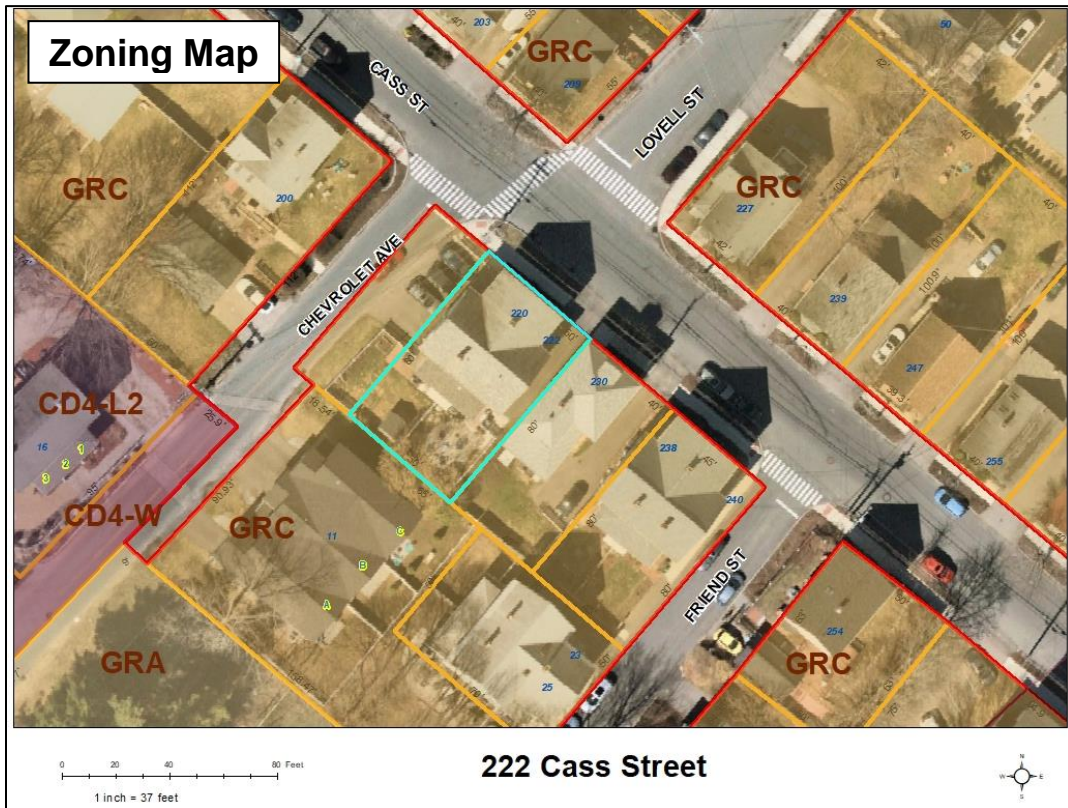
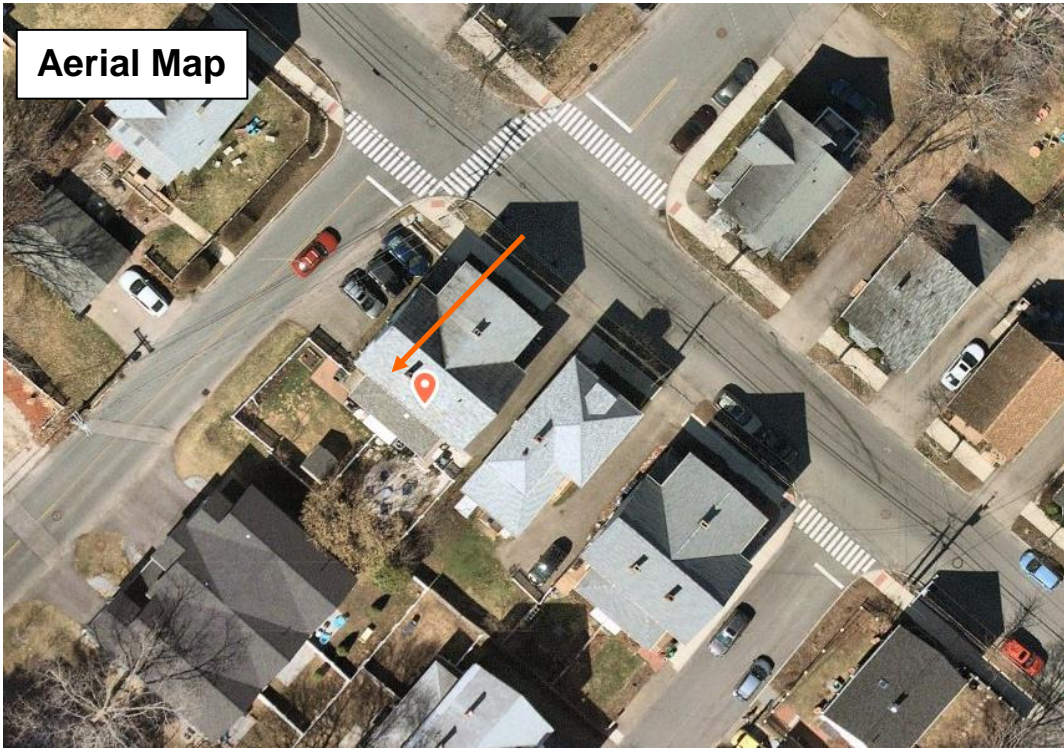
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family	Add rear mudroom	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	4,008	4,008	3,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,004	2,004	3,500 min.
<u>Street Frontage (ft.):</u>	50	50	70 min.
<u>Lot Depth (ft.):</u>	80	80	50 min.
<u>Primary Front Yard (ft.):</u>	4	4	5 min.
<u>Left Yard (ft.):</u>	7.6	<b>3.5</b>	10 min.
<u>Secondary Front Yard (ft.):</u>	6	6	5 min.
<u>Rear Yard (ft.):</u>	25	25	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	40.3	<b>42</b>	35 max.
<u>Open Space Coverage (%):</u>	>20	>20	20 min.
<u>Parking:</u>	4	4	3
<u>Estimated Age of Structure:</u>	1900	<b>Variance request shown in red.</b>	

### Other Permits/Approvals Required

None.

# Neighborhood Context



## Previous Board of Adjustment Actions

No prior BOA history found.

## Planning Department Comments

The applicant is proposing to enclose an existing 44 square foot deck and add a small landing and steps to the rear of the dwelling. The existing coverage is nonconforming and the project will result in 42% coverage. The dwelling is located within the left side yard and the new landing will encroach into the side yard resulting in a 3.5' setback.

## 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 **Lisa, Gary and Joan Preston, Owners**, for the property located at **32 Rockingham Avenue** whereas relief is needed from the Zoning Ordinance to allow the keeping of pekin ducks which requires the following: 1) A Special Exception from Section 10.440, Use #17.20 to allow the keeping of farm animals where the use is allowed by Special Exception. Said property is shown on Assessor Map 235 Lot 2 and lies within the Single Residence B (SRB) District Existing & Proposed Conditions

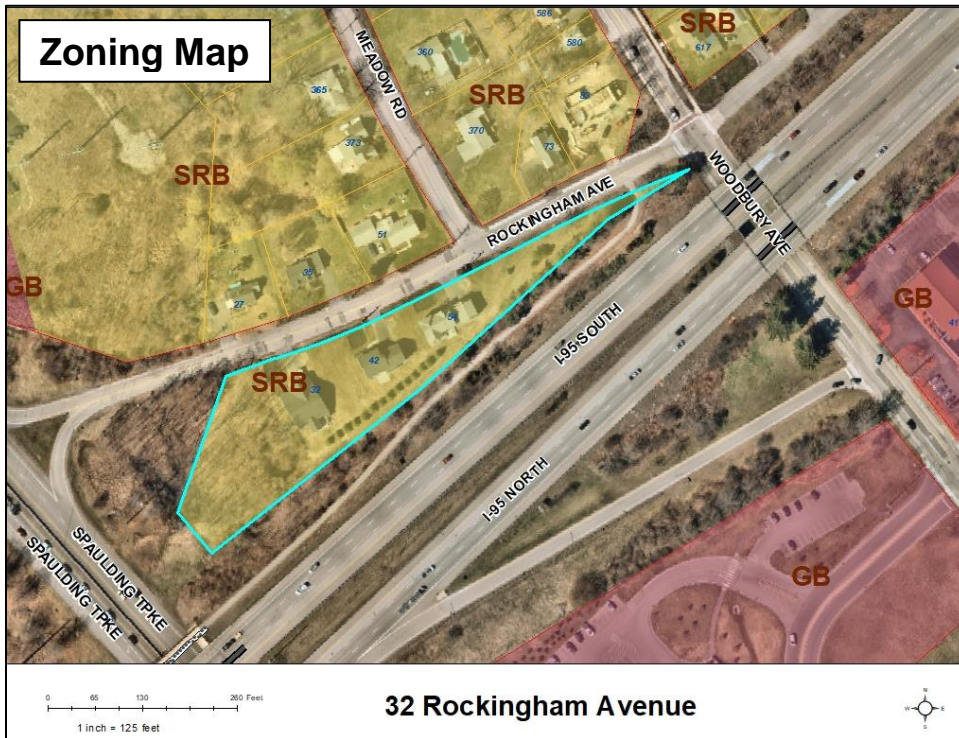
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	<b>Pekin Ducks</b>	Primarily Single-family Uses
<u>Lot area (sq. ft.):</u>	38,466	38,466	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	38,466	38,466	15,000 min.
<u>Street Frontage (ft.):</u>	196	196	100 min.
<u>Lot depth (ft.):</u>	>140	>140	100 min.
<u>Primary Front Yard (ft.):</u>	43	43	30 min.
<u>Left Yard (ft.):</u>	21.5	21.5	10 min.
<u>Right Yard (ft.):</u>	81	81	10 min.
<u>Rear Yard (ft.):</u>	40	40	30 min.
<u>Building Coverage (%):</u>	<20	<20	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Estimated Age of Structure:</u>	2020	<b>Special Exception request shown in red.</b>	

### Other Permits/Approvals Required

None.

### Neighborhood Context



### Previous Board of Adjustment Actions

October 18, 2016 – The board granted the following variance for Map 235/Lot 2, Sub lot 3:

*June 22, 2021 Meeting*



- Section 10.521 to allow lot depth of 61.84 for proposed lot 3 where 100' is required.

### **Planning Department Comments**

The applicant is proposing to have 4 ducks in a caged area on the property. Typically, the Board sees requests for chickens and stipulates the number and that there are no roosters. If granted approval, staff would recommend the Board consider limiting the number of ducks to 4 as presented by the applicant.

### **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 **David J. Hudlin, Owner**, for the property located at **256 Wibird Street** whereas relief is needed from the Zoning Ordinance to construct a detached garage which requires the following: 1) Variances from Section 10.521 to allow a) a 5' rear yard where 12.5' is required; and b) to allow 28% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.571 to allow an accessory structure to be located closer to the street than the principal building. Said property is shown on Assessor Map 149 Lot 11 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	Detached garage	Primarily residential uses
<u>Lot area (sq. ft.):</u>	6,534	6,534	7,500 min.
<u>Lot area per dwelling (sq. ft.):</u>	6,534	6,534	7,500 min.
<u>Street Frontage (ft.):</u>	165	165	100 min.
<u>Lot Depth (ft.):</u>	>70	>70	70
<u>Front Yard (ft.):</u>	10	10	15 min.
<u>Secondary Front Yard (ft.):</u>	49	15	15 min.
<u>Right Yard (ft.):</u>	2	2	10 min.
<u>Rear Yard (ft.):</u>	17	<b>5</b>	20/12.5 (garage) min.
<u>Height (ft.):</u>	<35	12.5 (garage)	35 max.
<u>Building Coverage (%):</u>	22.5	<b>28</b>	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1875	<b>Variance request(s) shown in red.</b>	

# Neighborhood Context



## Other Permits/Approvals Required

None.

## Previous Board of Adjustment Actions

September 15, 1998 – The Board granted the following variance:

- Article III, Section 10-302(A) to allow a 12' by 12' deck with a 14' rear yard where 20' is required.

## Planning Department Comments

The applicant is proposing to construct a detached garage. The property is a corner lot with the primary frontage on Wibird Street and the secondary off of Orchard, which is where the driveway is located and where the proposed garage will be located. Since the secondary front yard has the same requirements as the primary front yard, no accessory structure is allowed to be closer to the street or in front of the principal structure, thus the need for that variance, in addition to the building coverage and rear yard.

## 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 Peter Dawson Revocable Trust and The Karen G. Dawson Revocable Trust, Owners**, for the property located at **648 Lincoln Avenue** whereas relief is needed from the Zoning Ordinance for adding a second story addition which requires the following: 1) Variances from Section 10.521 to allow a) a 6.5' right side yard where 10' is required; and b) 34% building coverage where 25% 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 148 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	Second story additon	Primarily residential uses
<u>Lot area (sq. ft.):</u>	5,048	5,048	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,048	5,048	7,500 min.
<u>Street Frontage (ft.):</u>	50	50	100 min.
<u>Lot depth (ft.):</u>	103	103	70 min.
<u>Front Yard (ft.):</u>	5	5	15 min.
<u>Right Yard (ft.):</u>	5	<b>6.5</b>	10 min.
<u>Left Yard (ft.):</u>	14	13	10 min.
<u>Rear Yard (ft.):</u>	>20	>20	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u>	31	<b>34</b>	25 max.
<u>Open Space Coverage (%)</u>	>30	>30	30 min.
<u>Parking</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	1890	Variance request shown in red.	

### Other Permits/Approvals Required

None.

# Neighborhood Context





## Previous Board of Adjustment Actions

December 16, 1997 – The Board granted the following variance:

- Article III, Section 10-302(A) to allow an 8' by 20' family room addition and a 5' by 18' addition to enlarge the kitchen creating a 27.3% building coverage where 25% maximum is allowed.

April 21, 2015 – The Board granted the following variance:

- Section 10.521 to allow 30.4% building coverage where 25% maximum is allowed.

## Planning Department Comments

The applicant is requesting a variance to allow an increase in building coverage and additional encroachment into the right side yard for a proposed second story addition and side porch. The proposed second story addition will be extend out over the first floor an additional 2 feet into the right side yard.

## 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 **Marcella F. Hoekstra, Owners**, for the property located at **35 Whipple Court** whereas relief is needed from the Zoning Ordinance to construct a 4' x 17' 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 building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 260 Lot 98 and lies within the Single Residence B (SRB) District.

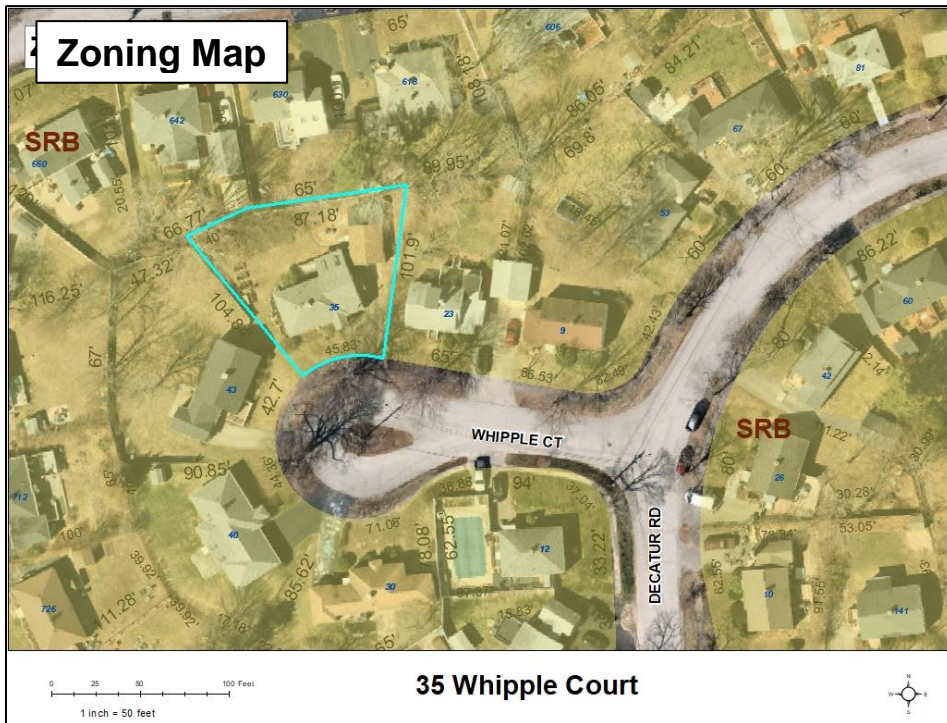
**Existing and Proposed Conditions**

	<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>	8,324	8,324	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,324	8,324	15,000 min.
<u>Street Frontage (ft.):</u>	45.83	45.83	100 min.
<u>Lot depth (ft.):</u>	103	103	100 min.
<u>Primary Front Yard (ft.):</u>	11	11	30 min.
<u>Left Yard (ft.):</u>	18.5	18.5	10 min.
<u>Right Yard (ft.):</u>	13	13	10 min.
<u>Rear Yard (ft.):</u>	>30	>30	30 min.
<u>Building Coverage (%):</u>	25	<b>26</b>	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking:</u>	2	2	1.3
<u>Estimated Age of Structure:</u>	940	<b>Variance request shown in red.</b>	

**Other Permits/Approvals Required**

None.

### Neighborhood Context



## Previous Board of Adjustment Actions

September 25, 1968 – The Board granted the following variance:

- Section 19-105 B to construct a 22' by 18 ' one car garage with 10' side yard and 17' rear yard

## Planning Department Comments

The applicant is proposing to a a small 68 square foot rear addition that will conform to all yard requirements, but will increase the already nonconforming building coverage from 25% to 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.*
- 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.*



8.

Petition of **Kevin M. Breen, Catherine Breen Stehman, and Christopher Breen, Owners**, for the property located at **82 Cass Street** whereas relief is needed from the Zoning Ordinance to install condenser unit which requires the following: 1) A Variance from Section 10.515.14 to allow a 7' side yard setback where 10' is required. Said property is shown on Assessor Map 156 Lot 28 and lies within the General Residence C (GRC) District.

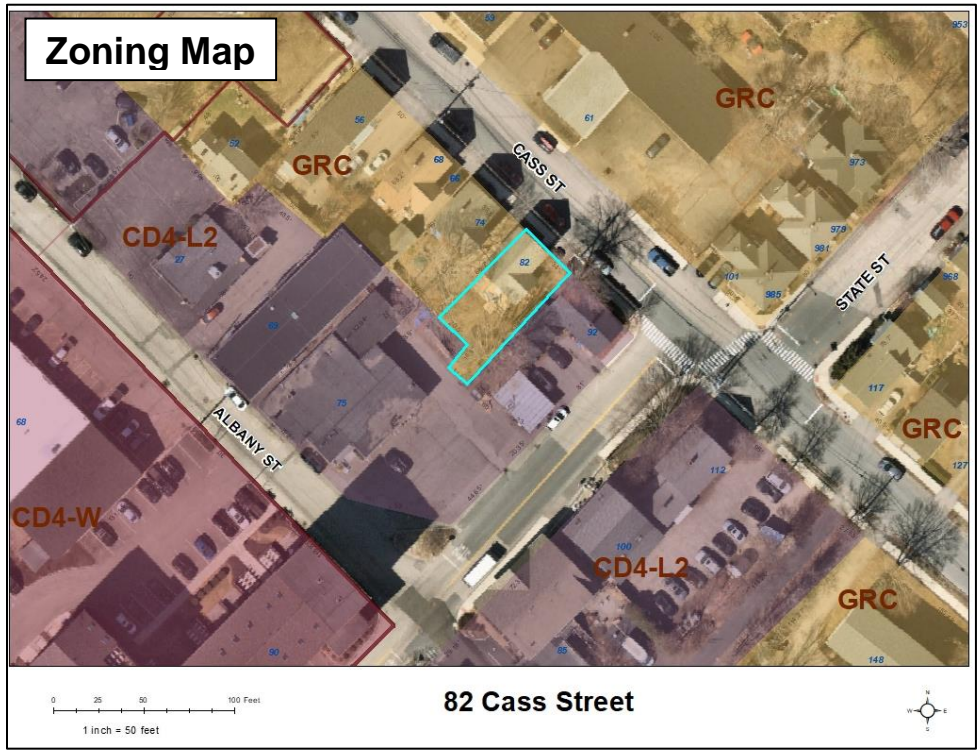
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Add condenser	Primarily residential uses
<u>Lot area (sq. ft.):</u>	2,614	2,614	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,614	2,614	5,000 min.
<u>Street Frontage (ft.):</u>	34	34	80 min.
<u>Lot depth (ft.):</u>	76	76	60 min.
<u>Front Yard (ft.):</u>	~2	~2	5 min.
<u>Right Yard (ft.):</u>	0	<b>7</b>	10 min.
<u>Left Yard (ft.):</u>	10	10	10 min.
<u>Rear Yard (ft.):</u>	25	25	25 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u>	33	33	30 max.
<u>Open Space Coverage (%)</u>	>25	>25	25 min.
<u>Estimated Age of Structure:</u>	1882	Variance request shown in red.	

### Other Permits/Approvals Required

None.

### Neighborhood Context





## Previous Board of Adjustment Actions

No prior BOA history found.

## Planning Department Comments

The applicant is proposing to add a condenser unit to the rear of the house but the proposed location will not comply with the required 10 foot setback for such units, thus the request for relief from this section.

## 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.*



9.

Petition of **Bucephalus LLC, Owners**, for the property located at **650 Maplewood Avenue** whereas relief is needed from the Zoning Ordinance for a change of use to allow motorcycle sales which requires the following: 1) A Special Exception from Section 10.440, Use #11.10 to allow the sales, renting or leasing of motorcycles where the use is permitted by Special Exception. 2) A Variance from Section 10.592.20 to allow the proposed use to be located adjacent to a Residential district where 200 feet is required. 3) A Variance from Section 10.843.21 to allow areas for parking, outdoor storage and outdoor display of vehicles or equipment to be setback less than 40 feet from the street right-of-way where 40 feet is required. Said property is shown on Assessor Map 220 Lot 88 and lies within the Business (B) District.

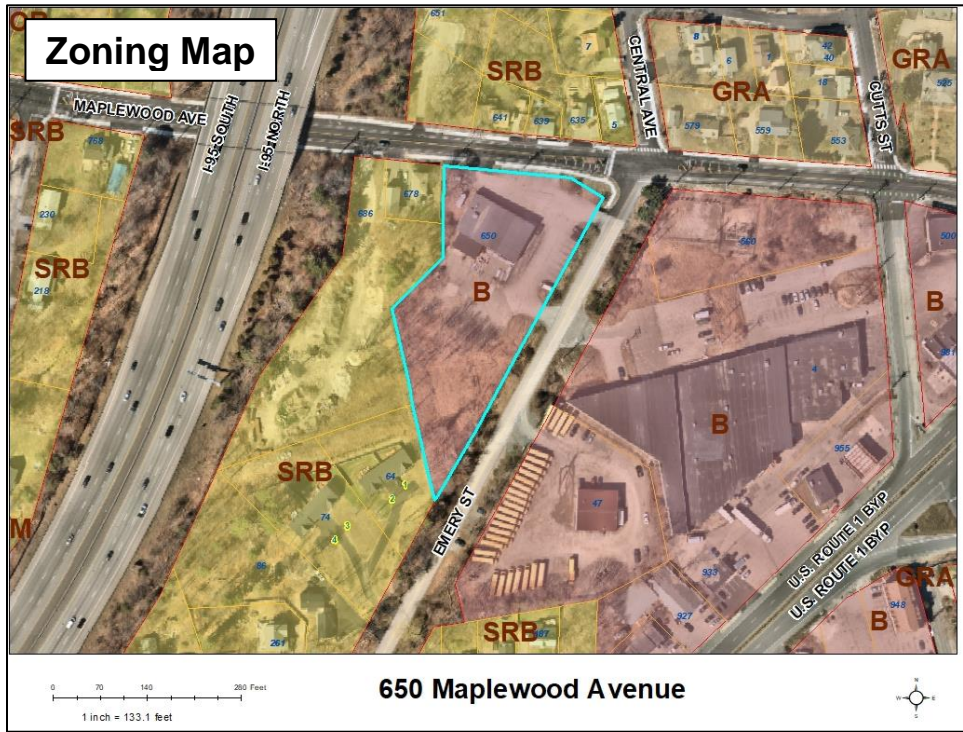
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	business	<b>Motorcycle sales, renting or leasing</b>	Primarily business uses
<u>Lot area (sq. ft.):</u>	74,923	74,923	20,000 min.
<u>Use Setback from Right of Way (ft.):</u>	<40	<b>&lt;40</b>	40 min.
<u>Use setback from Residential District (ft.):</u>	0	<b>0</b>	200 min.
<u>Lot depth (ft.):</u>	>80	>80	80 min.
<u>Front Yard (ft.):</u>	37	37	20 min.
<u>Right Yard (ft.):</u>	15	15	15 min.
<u>Left Yard (ft.):</u>	62	62	15 min.
<u>Rear Yard (ft.):</u>	150	150	15 min.
<u>Height (ft.):</u>	<50	<50	50 max.
<u>Building Coverage (%)</u> :	10	10	35 max.
<u>Open Space Coverage (%)</u> :	>15	>15	15 min.
<u>Parking</u>	28	28	<20
<u>Estimated Age of Structure:</u>	1970	<b>Variance/Special Exception request(s) shown in red.</b>	

### Other Permits/Approvals Required

None.

### Neighborhood Context



### Previous Board of Adjustment Actions

No prior BOA history found.

## Planning Department Comments

The applicant is proposing to relocate their business from Cate Street to the subject property which is located in the Business district where the use is permitted by Special Exception. No exterior changes or additions are proposed to the existing structure. The property is adjacent to a residential district, which requires relief from Section 10.592.20 to allow the use to be less than 200 feet from a residential district. The use has additional standards in the Ordinance under Section 10.843.21 that requires parking areas to be located forty feet away from a right of way at a minimum.

## 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.*



10.

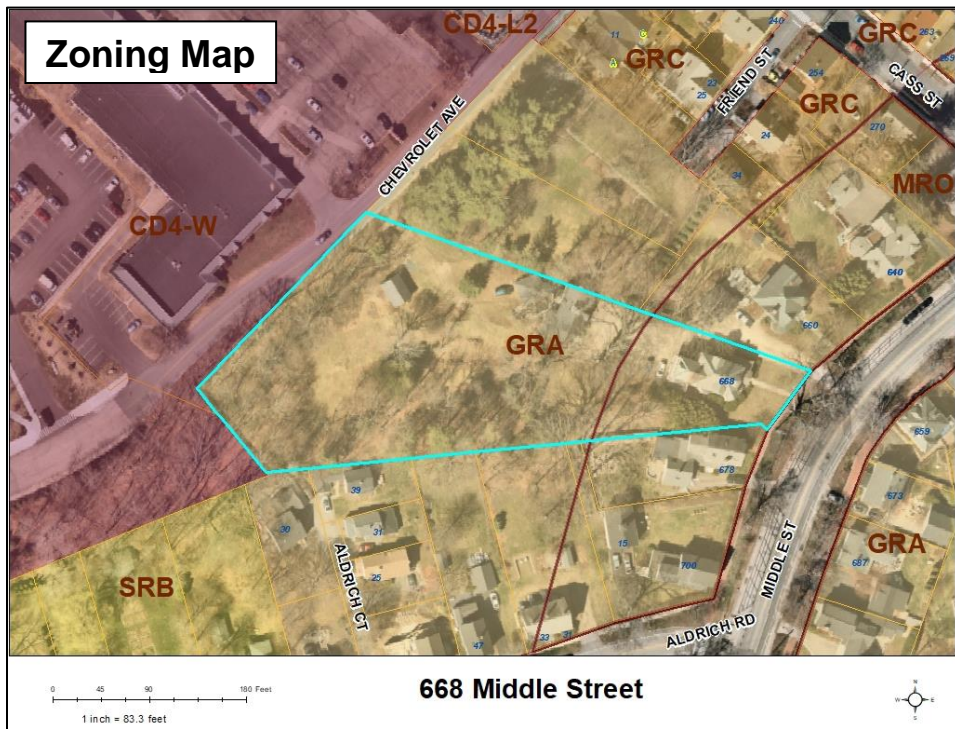
Petition of **The Elizabeth B. Larsen Trust of 2012, Owner**, for the property located at **668 Middle Street** whereas relief is needed from the Zoning Ordinance to subdivide lot into three lots which requires the following: 1) A Variance from Section 10.521 to allow 114' and 100' of frontage on a private way where 100' of frontage on a formally accepted street or other road approved by the Planning Board and constructed to City subdivision standards is required. 2) A Variance from Section 10.521 to allow 69.83' of frontage on Middle Street where 100 feet is required. 3) A Variance from Section 10.512 to allow construction of a structure on a lot with access to a private right of way. Said property is shown on Assessor Map 147 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>	Multi-family	Subdivide into 3 lots Lot 1 Lot 2 Lot 3			Primarily residential uses	
<u>Lot area (sq. ft.):</u>	81,050	18,646	18,756	43,644	7,500	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	20,262	18,646	18,756	14,548	7,500	min.
<u>Street Frontage (ft.):</u>	69.83	<b>114</b>	<b>100</b>	<b>69</b>	100	min.
<u>Lot depth (ft.):</u>	>70	>70	>70	>70	70	min.
<u>Front Yard (ft.):</u>	>15	>15	>15	>15	15	min.
<u>Right Yard (ft.):</u>	10/2	>10	>10	10/2	10	min.
<u>Left Yard (ft.):</u>	>10	>10	>10	>10	10	min.
<u>Rear Yard (ft.):</u>	>20	>20	>20	>20	20	min.
<u>Height (ft.):</u>	<35	<35	<35	<35	35	max.
<u>Building Coverage (%):</u>	<25	<25	<25	<25	25	max.
<u>Open Space Coverage (%):</u>	>30	>30	>30	>30	30	min.
<u>Parking</u>	7	ok	ok	7	6 (for existing units)	
<u>Estimated Age of Structure:</u>	1892/1900	<b>Variance request(s) shown in red.</b>				

**Other Permits/Approvals Required**  
TAC and Planning Board - Subdivision

### Neighborhood Context





## Previous Board of Adjustment Actions

April 27, 2004 – The Board granted the following variances:

- Article III, Section 10-301(A)(2) to allow conversion of the existing freestanding carriage house with new additions into a dwelling unit in a district where all dwellings are to be located in the same building; and
- Article III, Section 10-302(A) and Section 10-401(A)(2)(c) to allow a 22' by 22' one story attached garage with a 4' right side yard where 10' is required.
- Article III, Section 10-302(A) to allow a chimney on the right side of the carriage house to be converted to a single family dwelling with a 2' right side yard where 10' is required.

## Planning Department Comments

The applicant is proposing to subdivide the existing lot containing four dwelling units within 2 structures into 3 lots, with the existing structures remaining on the lot fronting on Middle Street. The two new lots will front on Chevrolet Avenue, which is not a public street, but a private way. The portion of Chevrolet Avenue that meets Cass Street is public, but the rest of it is private, therefore does not count as frontage per the Ordinance. Because it is a private way, in order to build on the lot, a variance is needed from Section 10.512, but at this time, no structures are planned with this proposal, just the subdivision.

## 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.*



11.

Petition of **Cate Street Development LLC, Owner**, for the property located at **428 US Route 1 Bypass** whereas relief is needed from the Zoning Ordinance to replace two existing free-standing signs with new signs for a mixed-use development which requires the following: 1) A Variance from Section 10.1251.20 to allow a 388.5 square foot sign where 100 square feet is the maximum allowed. 2) A Variance from Section 10.1251.20 to allow a 60 square foot secondary sign where 40 square feet is the maximum allowed. Said property is shown on Assessor Map 172 Lot 1 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

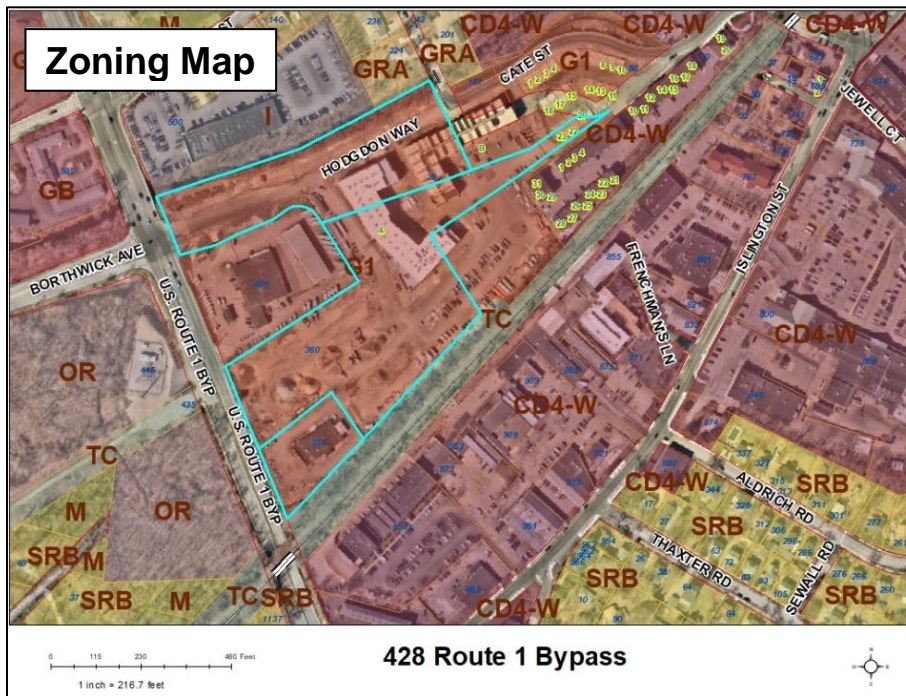
**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Mixed use/Sign District 5	New signage	Primarily mixed uses
<u>Freestanding Sign area (sq. ft.):</u>		<b>388.5</b>	100 max.
<u>Secondary freestanding sign(sq ft.):</u>		<b>60</b>	40 max.
<u>Sign Height(ft.):</u>		14'6" main sing/ 12' secondary	20 main sign/ 12 secondary sign max.
		<b>Variance request(s) shown in red.</b>	

**Other Permits/Approvals Required**

None.

# Neighborhood Context



## Previous Board of Adjustment Actions

September 10, 1985 – The Board granted the following special exception with stipulations:

- Article II, Section 10-207(8) to allow heavy equipment and heavy vehicle distribution and sales in the southerly half of an existing one-story structure.
  - o Stipulations:
    - A \$15,000 bond be posted to ensure that the parking are be paved and lined in accordance with the plan filed with the Planning Department; and
    - No parking be allowed beyond the parking spaces as delineated on the plan in front of the W.T.A. Bingo building and the Route 1 By-Pass.

August 22, 1989 – The Board denied the following variance:

- Article IX Section 10-906 to allow the erection of a 4' by 13' free-standing sign with 0' setback for the front property line in a zone where free-standing signs shall have a minimum of 35' front setback
  - o Rehearing request was considered and denied at September 12, 1989 Board meeting.

October 3, 1989 – The Board granted the following variance:

- Article III, Section 10-302 to allow the construction of a 16' by 22' canopy 30' from the left of the lot line where 50' is required

November 14, 1989 – The Boards granted the following variance:

- Article IX, Section 10-906 to permit the erection of a 52 s.f. free standing sign with an 8' front yard where a 35' front yard is required.

April 19, 1994 - The Board granted the following variances:

- Article II, Section 10-207 to convert 1920 s.f. of space formerly occupied by a catering service to Bingo Hall usage for a total of 8,870 s.f. for the bingo hall; and
- Article IV, Section 10-401(5) to allow the expansion of a nonconforming use of a structure where no increase in the extent of a nonconforming use of a structure may be made without Board approval.

April 18, 1995 – The Board granted the following special exception and stipulation:

- Article II, Section 10-207(11) for the erection of a 40' by 120' tent to the rear of the building for three days, May3, 1995 to May 5, 1995 for the purpose of a fundraising event for hunger relief where temporary structures may be allowed by special exception provided a bond is posted to insure their removal.
  - o Stipulation
    - \$100.00 bond be posted to the City to ensure the removal of the tent.

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

- Article IV, Section 10-401(5) to allow a two story 40'50' addition to an existing Function/Bingo Hall where no expansion on a nonconforming use is allowed.

July 21, 2015 – The Board granted the following variance:

- Section 10.440 to allow a dog daycare and boarding facility in a district where this use is not permitted.

### **Planning Department Comments**

The applicant is proposing to add new signage for the mixed use development that is currently under construction. Two freestanding signs are proposed on the Route 1 Bypass. Because the site has more than one driveway, a second free-standing sign is allowed, but is restricted to an area of 40 square feet and 12 feet in height. The applicant is proposing a 60 square foot sign, 12 feet in height for this sign. The main sign will exceed the 100 square foot requirement, with a proposed sign area of 388.5 square feet and a height of 14.5' where 20 feet 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.*
- 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.*

*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.*

12.

Petition of **Wentworth Corner LLC, Owners**, for the property located at **960 Sagamore Avenue** whereas relief is needed from the Zoning Ordinance to demolish existing structures and construct an 8 unit residential building which requires the following: 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 5,360 square feet where 7,500 square feet is required. 2) A Variance from Section 10.1114.31 to allow two driveways on a lot where one driveway is permitted. Said property is shown on Assessor Map 201 Lot 2 and lies within the Mixed Residential Business (MRB) District.

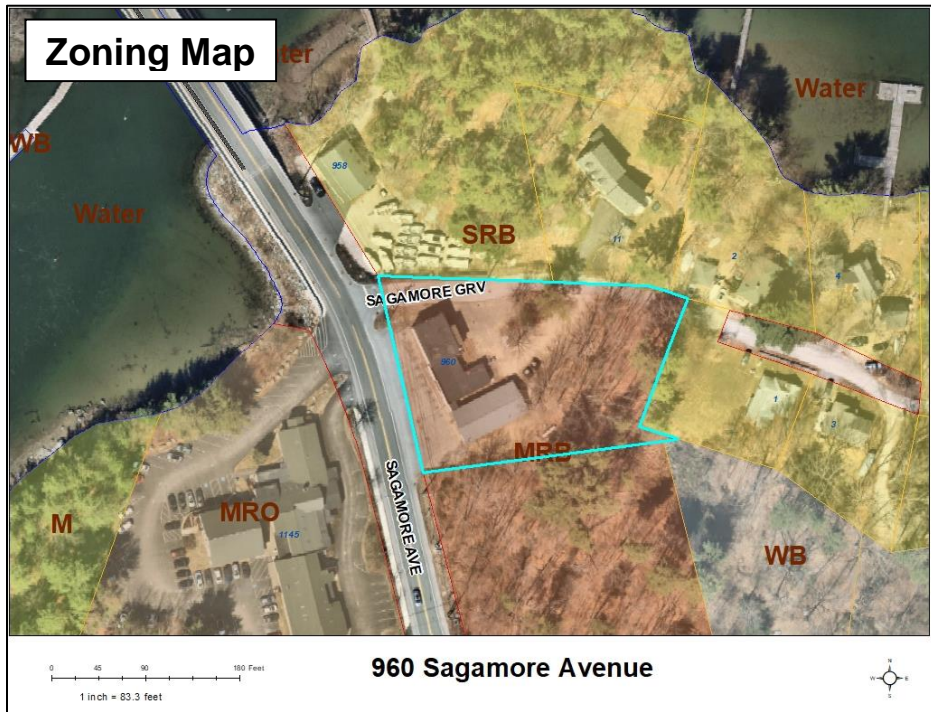
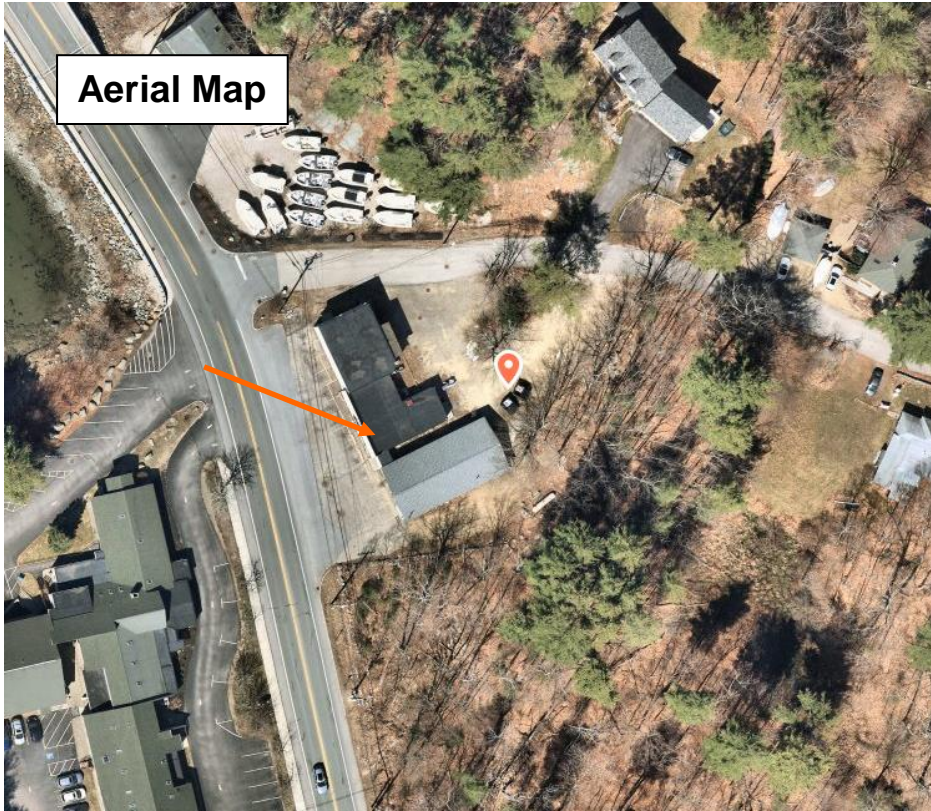
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Restaurant	Construct 8-unit dwelling	Primarily business/residential uses
<u>Lot area (sq. ft.):</u>	42,930	42,930	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	NA	<b>5,360</b>	7,500 min.
<u>Street Frontage (ft.):</u>	194	194	100 min.
<u>Lot depth (ft.):</u>	212	212	80 min.
<u>Front Yard (ft.):</u>	17	18	5 min.
<u>Secondary Front Yard (ft.):</u>	>5	>5	10 min.
<u>Right Yard (ft.):</u>	21	11	10 min.
<u>Rear Yard (ft.):</u>	107	105	15 min.
<u>Height (ft.):</u>	22	<40	40 max.
<u>Building Coverage (%)</u>	11	20	40 max.
<u>Open Space Coverage (%)</u>	45	57.5	25 min.
<u>Parking</u>	15	25	11
<u>Estimated Age of Structure:</u>	1970	<b>Variance request(s) shown in red.</b>	

### Other Permits/Approvals Required

TAC, Planning Board and Conservation Commission

# Neighborhood Context





## Previous Board of Adjustment Actions

August 16, 2011 – The Board granted the following special exception:

- Use #7.20 (personal services) under Section 10.440

## Planning Department Comments

The applicant is proposing to demolish the existing structures and construct an 8 unit dwelling which will require a variance for lot area per dwelling unit. Five units are permitted by right per the lot size. The redevelopment of the property will have two driveways, where only one is allowed per lot, thus the need for a request for a variance. The project will need to go through site review with the TAC and the Planning Board and will need to get a wetlands CUP because there is some work and encroachment into the buffer area.

## 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.*



13.

Petition of **Stephen G. Bucklin LLC, Owners**, for the property located at **322 Islington Street** whereas relief is needed from the Zoning Ordinance to request to amend variances that were granted to move an existing carriage house to a new foundation and add a one-story connector to the existing house by removing the stipulation that required a signed letter of approval from the property's rear neighbor. Said property is shown on Assessor Map 145 Lot 3 and lies within the Character District 4-L2 (CD4-L2) District.

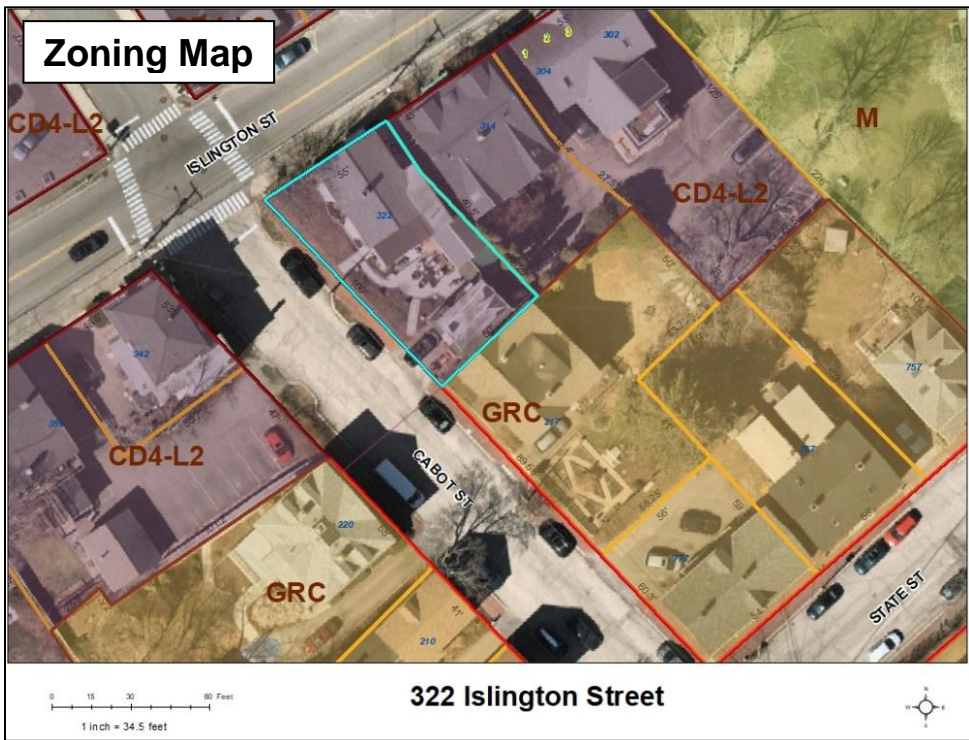
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	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	<b>2</b>	10 min.
<u>Left Yard (ft.):</u>	40	38	10 min.
<u>Rear Yard (ft.):</u>	2	<b>2</b>	25/ 10 (shed) min.
<u>Height (ft.):</u>	8	10	35 max.
<u>Building Coverage (%):</u>	39	<b>40.5</b>	30 max.
<u>Open Space Coverage (%):</u>	>25	>25	25 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1999	<b>Variance request(s) shown in red.</b>	

### Other Permits/Approvals Required

Historic District Commisison

### Neighborhood Context



## **Previous Board of Adjustment Actions**

February 26, 2019 – The Board approved the following variances:

- From Section 10.5A41.10A to allow a 1' rear yard where 5' is required and to allow a 2' left side yard where 5' is required.
- From Section 10.321 to allow a nonconforming building or structure to be expanded, reconstructed or enlarged without conforming to the requirements of the Ordinance.

With the following stipulations:

- A signed letter of approval from the property's rear neighbor (Virginia Swift, 217 Cabot Street) is to be submitted. The letter should contain Structural Details and Methods, certified by a licensed structural engineer describing how the proposed new foundation of the Carriage House at 322 Islington Street will be constructed in a manner so as not to cause any damage or detriment to the existing stone foundation at 217 Cabot Street.
- Included as part of this document will be a Site Plan of the area between the (2) structures showing grading, drainage and the nature of materials used.

January 19, 2021 - The Board granted a one year extension of the above variances to expire on February 26, 2022.

## **Planning Department Comments**

The applicant is requesting the Board remove the first stipulation that was part of the approval in 2019, shown in the history above, due to the inability to get sign off on the project from the neighbor.



14

Appeal of **Duncan MacCallum (Attorney for the Appellants)** of the April 15, 2021 decision of the Planning Board for property located at **105 Bartlett Street** which granted the following: a) a wetlands conditional use permit under Section 10.1017 of the Zoning Ordinance; b) a parking conditional use permit under Section 10.1112 of the Ordinance; c) site plan review approval; and d) approval of lot line revision. Said properties are shown on Assessor Map 157 Lot 1 and Lot 2 and Assessor Map 164 Lot 1 and 4-2 and lie within the Character District 4-W (CD4-W) and Character District 4-L1 (CD4-L1) Districts.

A separate memo will be provided to the Board in advance of the hearing on the appeal.