

TO: Zoning Board of Adjustment  
FROM: Peter Stith, AICP, Planning Department  
DATE: May 11, 2021  
RE: Zoning Board of Adjustment May 18, 2021 Meeting

### **OLD BUSINESS**

1. 30 Spring Street
2. 180 Spaulding Turnpike
3. 1281 Islington Street

### **NEW BUSINESS**

1. 806 Route 1 Bypass
2. 1 Harding Road – Request to Postpone
3. 102 Martha Terrace
4. 29 Burkitt Street
5. 89 Sagamore Avenue
6. 581 Lafayette Road



## 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

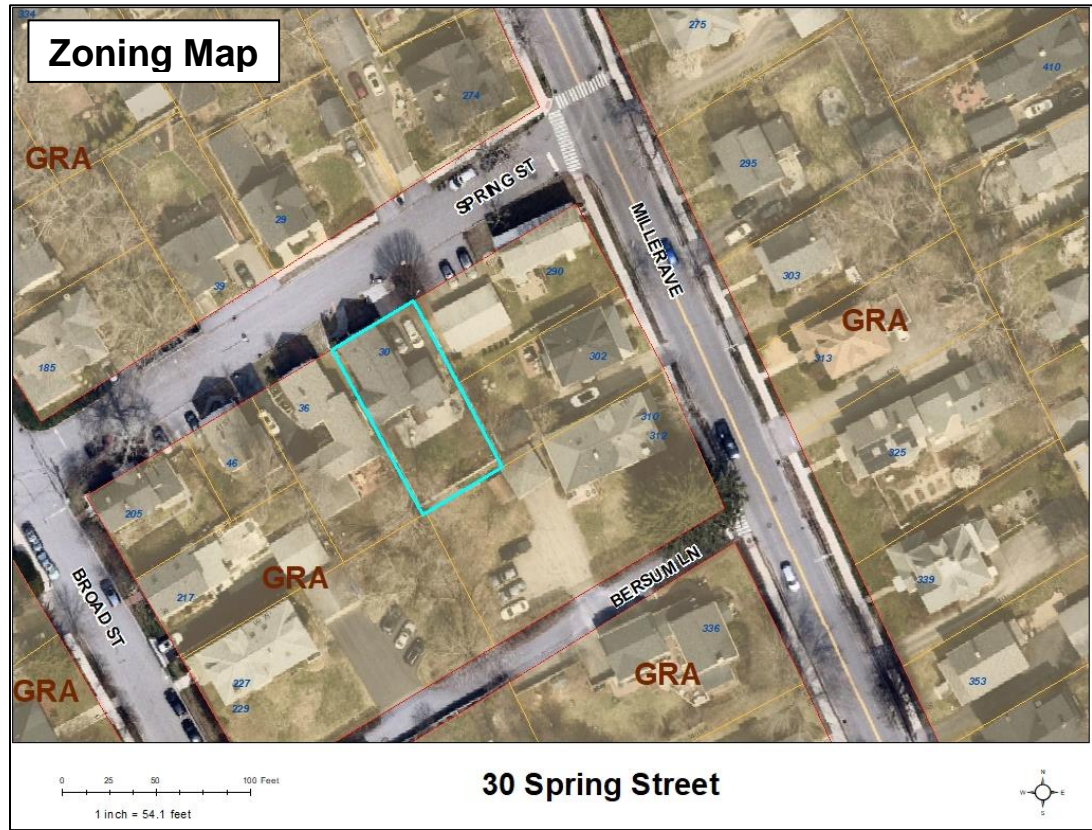
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Demo existing front entry/Construct new porch	Primarily residential uses
<u>Lot area (sq. ft.):</u>	4,953	4,953	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,953	4,953	7,500 min.
<u>Street Frontage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

### 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.*
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	<b>15</b>	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	<b>Variance request(s) shown in red.</b>	

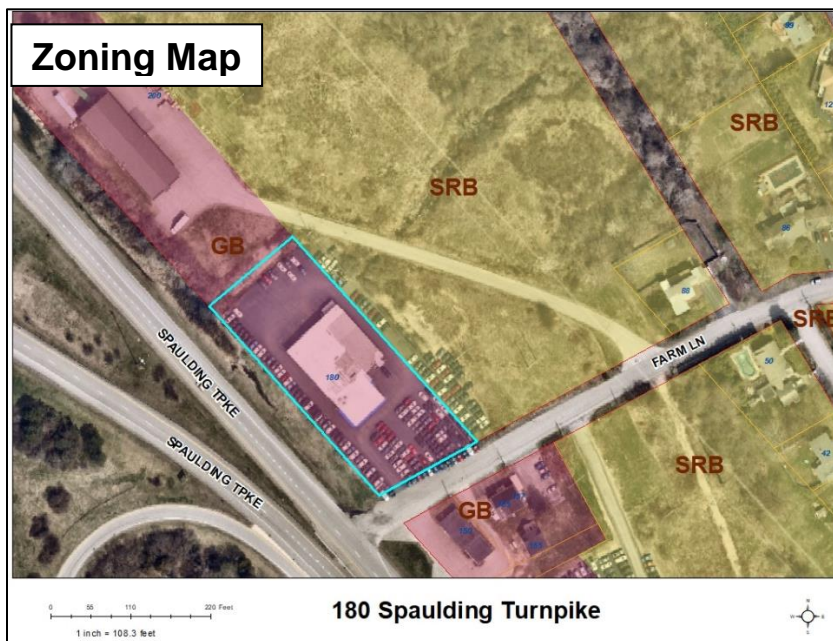
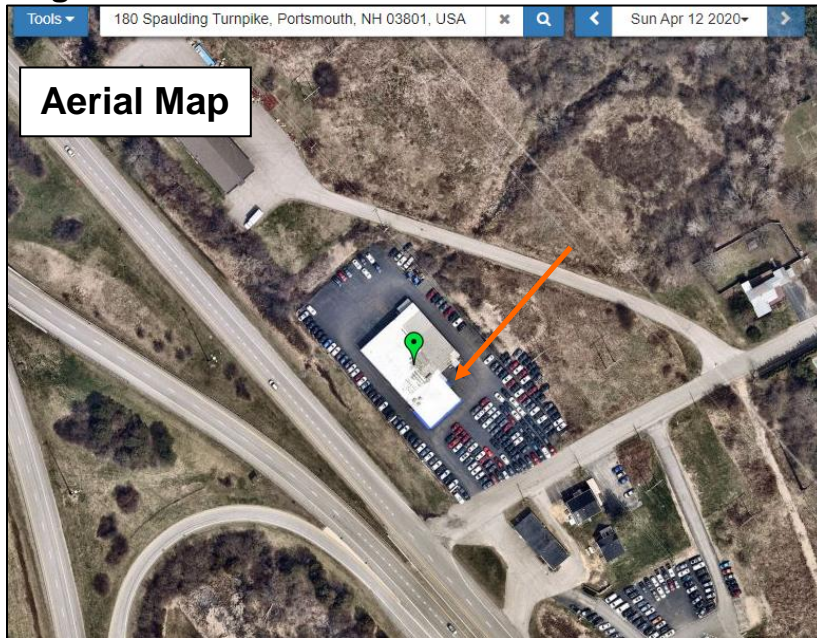
**Other Permits/Approvals Required**

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.*
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 **John & Chelsea Chapin, Owners**, for property located at **1281 Islington Street** whereas relief is needed from the Zoning Ordinance for the keeping of chickens 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 permitted by Special Exception. Said property is shown on Assessor Map 233 Lot 120 and lies within the Single Residence B (SRB) District.

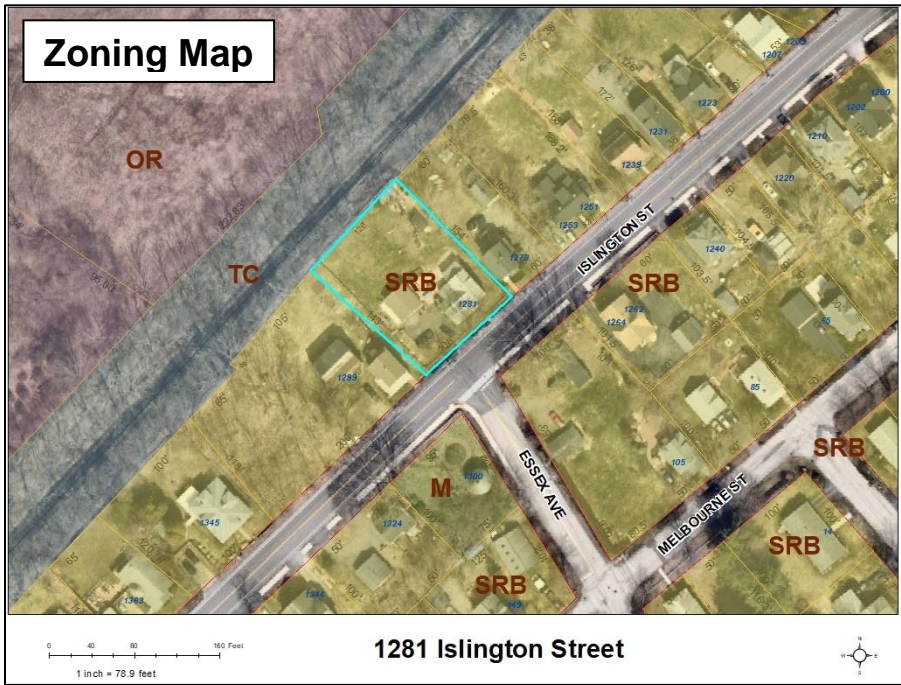
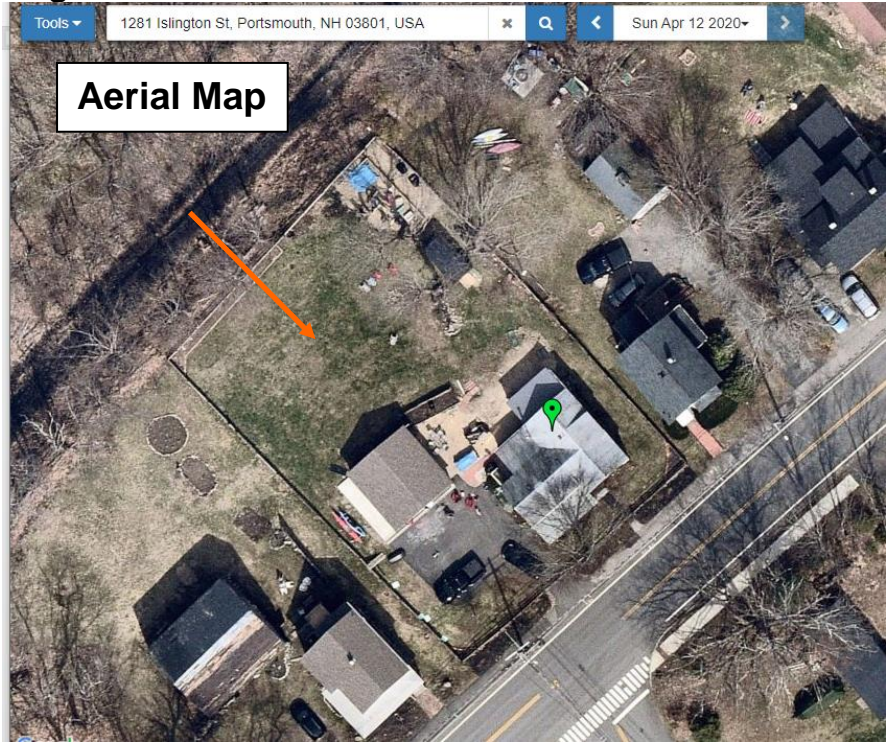
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	<b>Keeping of chickens</b>	Primarily Single-family Uses
<u>Lot area (sq. ft.):</u>	15,681	15,681	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	15,681	15,681	15,000 min.
<u>Street Frontage (ft.):</u>	106	106	100 min.
<u>Lot depth (ft.):</u>	148	148	100 min.
<u>Primary Front Yard (ft.):</u>	8	8	30 min.
<u>Left Yard (ft.):</u>	20	20	10 min.
<u>Right Yard (ft.):</u>	15	15	10 min.
<u>Rear Yard (ft.):</u>	68	5 (coop)	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>	1900	<b>Special Exception 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 requesting a special exception to have up to 6 hens. If the Board grants the request, the following stipulation should be considered.

**That there be no more than 6 chickens and no roosters.**

## 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.*



## NEW BUSINESS

1.

Petition of **Rigz Enterprises LLC, Owner**, and **Dennis Stoddard, Applicant** for property located at **806 US Route 1 Bypass** whereas relief is needed from the Zoning Ordinance to Replace existing freestanding sign with new free standing sign which requires the following: 1) A Variance from Section 10.1253.10 to allow a 1' front and a 1' side yard setback for a freestanding sign where 20' is required for each. Said property is shown on Assessor Map 161 Lot 43 and lies within the Business (B) District.

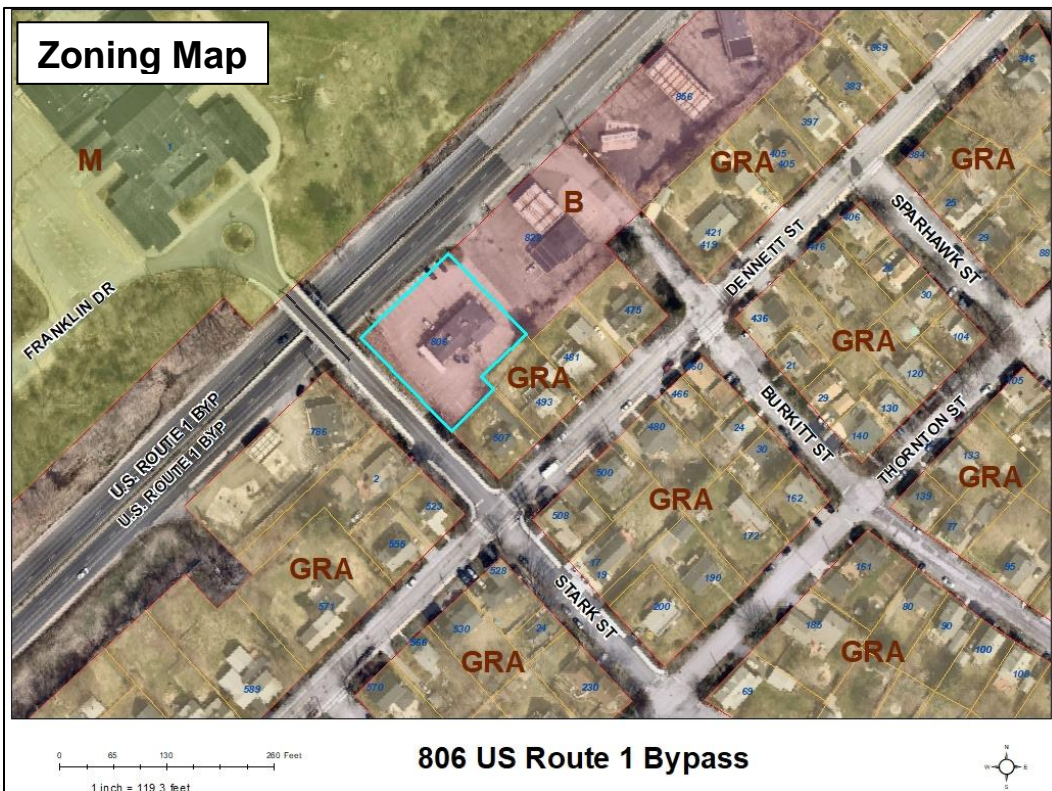
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Retail/Sign District 4	Retail/ Sign District 4	Primarily commercial uses
<u>Lot area (sq. ft.):</u>	21,780	21,780	20,000 min.
<u>Street Frontage (ft.):</u>	147	147	100 min.
<u>Lot depth (ft.):</u>	152	152	80 min.
<u>Sign Area (sq. ft.)</u>	75	64	100
<u>Sign Height (ft.)</u>	11'8"	95"	20
<u>Front Yard (ft.):</u>	1	<b>1</b>	20 (sign) min.
<u>Side Yard (ft.)</u>	1	<b>1</b>	20 (sign)
		Variance request(s) shown in red.	

### Other Permits/Approvals Required

None.

### Neighborhood Context





## Previous Board of Adjustment Actions

September 21, 2004 - The Board approved the following:

- 1 a Variance from Article XII, Section 10-1204 Table 15 is requested to allow 37 parking spaces to be provided where 58 parking spaces are required,
- 2) a Variance from Article XII, Section 10-1201(A)(3)(d)(1) to allow parking within 50' of a residential district and no screening to be provided.

August 18, 2015 – The Board approved the following to expand first floor to 5,150 sq. ft. of retail space and construct second floor for office space.

1. A Variance from Section 10.1113.20 to allow 9 parking spaces to be located within the required front yard and between the principal building and the street;
2. A Variance from Section 10.1112.30 to allow 26 fully available parking spaces and 2 restricted parking spaces where 28 are required and to allow parking 6.5' from a residential zone where 50' is required.
3. A Variance from Section 10.1113.41 to allow parking 0' from the front lot line where 20' is required;
4. A Variance from Section 10.1113.43 to not provide landscaping and screening within the front setback.

The following changes to the request were made:

- The request for 26 available parking spaces and 2 restricted parking spaces is not required and is withdrawn.
- The Variance to allow parking 6.5' from a residential zone is granted from Section 10.1113.30, not Section 10.1112.30.

The following Stipulation was included:

- The applicant must work with the Planning Board, through the site plan review process, to improve the fencing along the southeast property line so that it will provide an effective buffer to mitigate the light and sound reaching surrounding properties, and to prevent pedestrian access through or along the fencing.

October 18, 2016 – The Board approved the following to allow a second free-standing sign on a lot.

1. A Variance from Section 10.1243 to allow two free-standing signs on a lot where only one free-standing sign is allowed.
2. A Variance from Section 10.1253.10 to allow a 4'± setback from the front lot line where 20' is the minimum required.
3. A Variance from Section 10.1251.20 to allow a sign area for a free-standing sign of 120± s.f. where 100 s.f. is the maximum sign area allowed.
4. A Variance from Section 10.1253.10 to allow a 12'± setback from the front lot line where 20' is the minimum required.

## Planning Department Comments

The applicant is proposing to replace the existing free-standing sign with a new one in the same location, which is essentially on the front and side property lines. The developed parcel consists of parking spaces and the business structure. The proposed sign is slightly smaller than the existing sign and complies with all other dimensional

requirements for free standing signs in the sign district. To adhere to the required setback would place the sign in the middle of the parking lot.

### **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.*

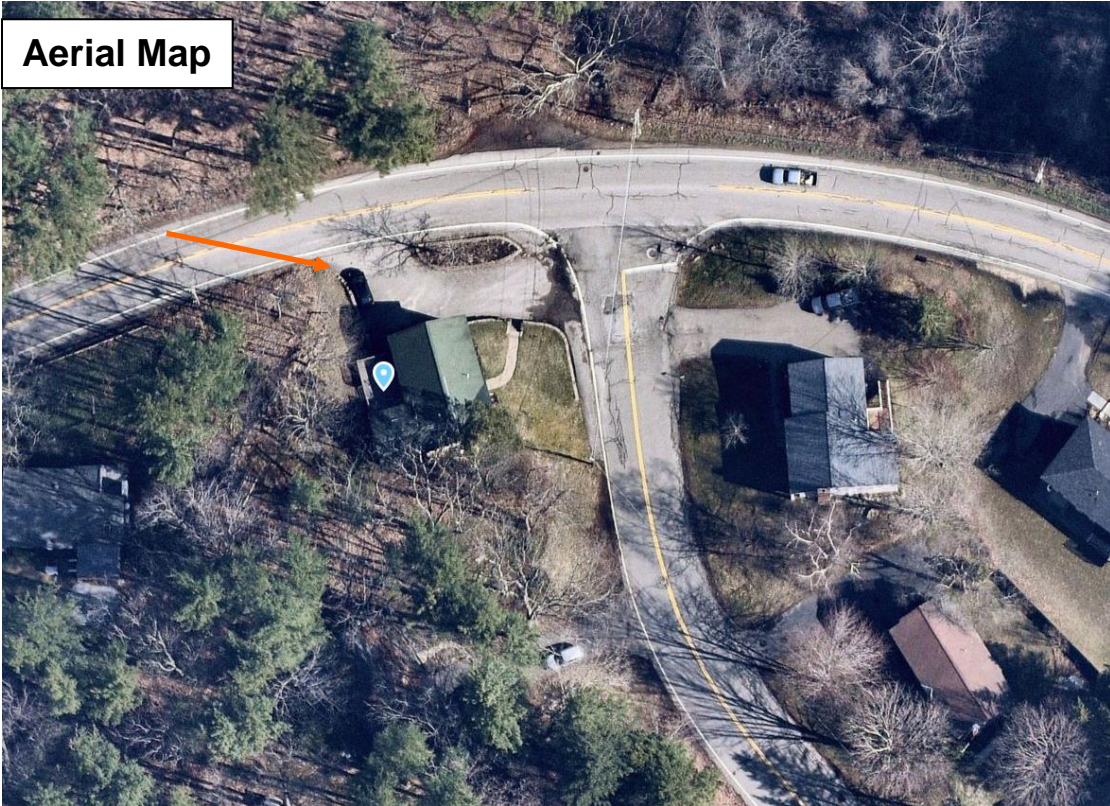
# Request to Postpone

2.

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	<b>6 foot fence in front yard</b>	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	<b>Variance request shown in red.</b>	



### 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.

### 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 **The Edmunds Shirley A Revocable Trust of 2000, Owner**, and **Tatum Brown, Applicant** for property located at **102 Martha Terrace** whereas relief is needed from the Zoning Ordinance for the keeping of chickens 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 permitted by special exception. Said property is shown on Assessor Map 283 Lot 27 and lies within the Single Residence A (SRA) District.

### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	<b>Keeping of chickens</b>	Primarily Single-family Uses
<u>Lot area (sq. ft.):</u>	10,018	10,018	43,560 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	10,018	10,018	43,560 min.
<u>Street Frontage (ft.):</u>	190	190	150 min.
<u>Lot depth (ft.):</u>	100	100	200 min.
<u>Primary Front Yard (ft.):</u>	25	25	30 min.
<u>Left Yard (ft.):</u>	15	7 (coop)	20/ 5(coop) min.
<u>Rear Yard (ft.):</u>	46	7 (coop)	40/ 5 (coop) min.
<u>Building Coverage (%):</u>	<10	<10	10 max.
<u>Open Space Coverage (%):</u>	>50	>50	50 min.
<u>Estimated Age of Structure:</u>	1965	<b>Special Exception request shown in red.</b>	

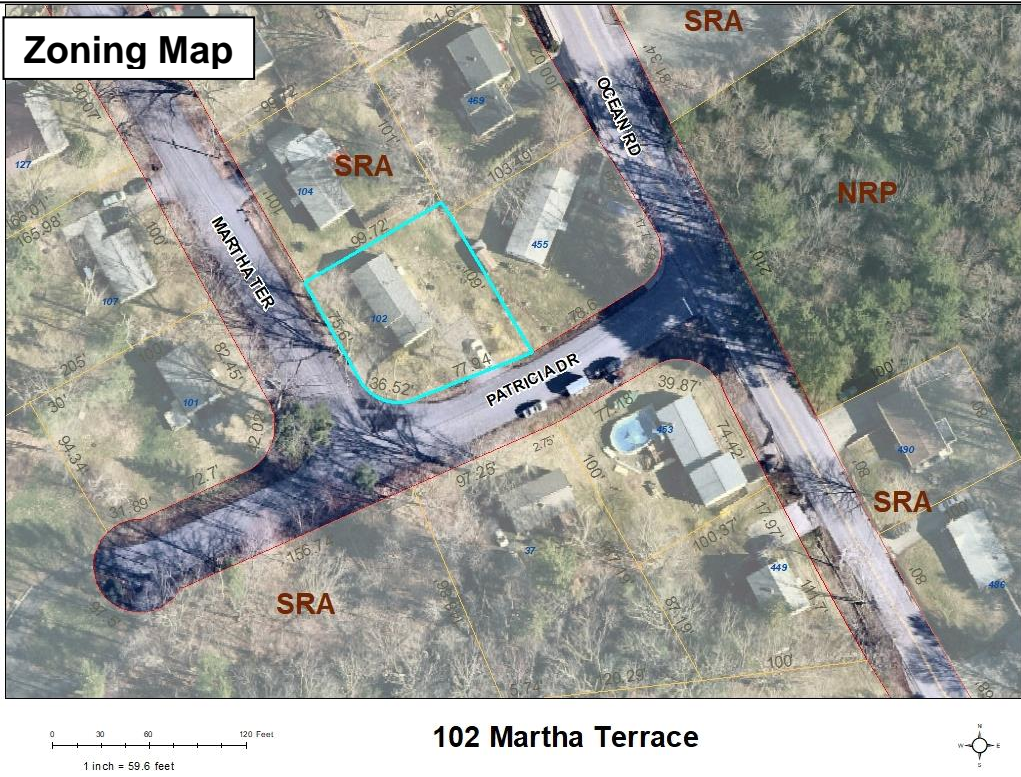
### Other Permits/Approvals Required

None.





### Neighborhood Context



## Previous Board of Adjustment Actions

No prior BOA history found.

## Planning Department Comments

The applicant is requesting a special exception to have up to 6 hens. If the Board grants the request, the following stipulation should be considered.

**That there be no more than 6 chickens and no roosters.**

## 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*

4.

Petition of **Thomas M. Penaskovic and Emily B. Penaskovic, Owners**, for property located at **29 Burkitt Street** whereas relief is needed from the Zoning Ordinance to demolish existing rear deck and construct two-story addition which requires the following: 1) Variances from Section 10.521 to allow a) a 9' left side yard where 10' is required; and b) 26% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.515.14 to allow an 8' setback where 10' is required for a condenser. 3) An after-the-fact variance from Section 10.515.14 to allow a 6' setback where 10' is required for a condenser. 4) 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 160 Lot 19 and lies within the General Residence A (GRA) District.

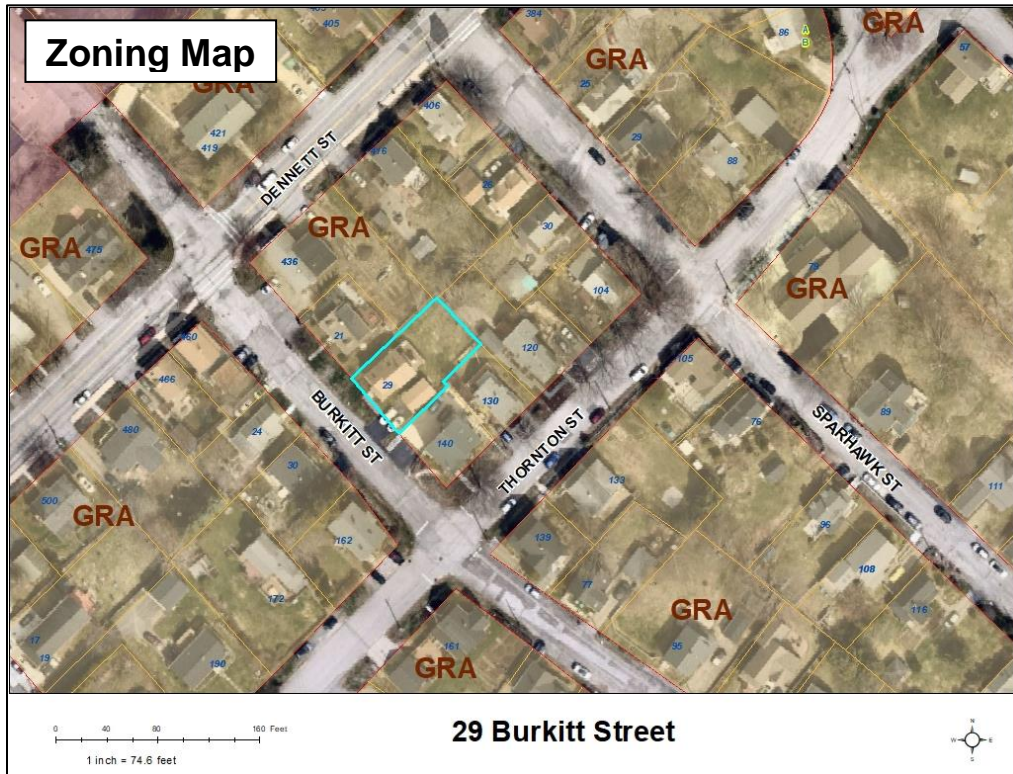
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Second story rear addition/condenser units	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	4,792	4,792	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,792	4,792	7,500 min.
<u>Street Frontage (ft.):</u>	57	57	100 min.
<u>Lot depth (ft.):</u>	91	91	70 min.
<u>Primary Front Yard (ft.):</u>	6	6	15 min.
<u>Left Yard (ft.):</u>	9	<b>9 (addition) 8 (new mini split) 6 (existing mini split)</b>	10 min.
<u>Right Yard (ft.):</u>	3	3	10 min.
<u>Rear Yard (ft.):</u>	>20	>20	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	28.93*	<b>26 (advertised) 28.93 (actual)</b>	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1900	<b>Variance request shown in red. *Approved in 2016</b>	

### Other Permits/Approvals Required

None.

### Neighborhood Context



## Previous Board of Adjustment Actions

October 20, 1992 – The Board **granted** a variance to allow a 6'x 17' addition onto an existing 10' x 17' shed with 21.5% lot coverage where 20% was the maximum allowed.

October 18, 2016 – The Board **granted** a variance from 10.521 to allow a 3' ± right side yard setback where 10' is required, and a variance from 10.521 to allow 28.93% ± building coverage where 25% is the maximum allowed.

## Planning Department Comments

The applicant is proposing to construct a two-story rear addition in the same footprint of the existing deck. In addition a mini-split is proposed on the left side for this space. There is an existing mini split that was issued a mechanical permit in 2019, however it was not reviewed for zoning compliance. Staff advised the applicant to include it as part of this request to seek after-the-fact approval for the existing mini-split to come into full compliance. The history shows an approval from 2016 that permitted 28.93% building coverage. The applicant indicated 26% with the current proposal, but has indicated this was an error in the application and the building coverage will not change from what was granted in 2016. If granted approval the Board should consider one of the following stipulations:

- 1) **The maximum building coverage shall not exceed what was approved in 2016.**
- 2) **The maximum allowed building coverage shall be 29%.**

## 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.*



5.

Petition of **Brian J. Wazlaw Revocable Trust of 2006** and **Roxanne R. Wazlaw Revocable Trust of 2006, Owners**, and **Brian Wazlaw, Applicant** for property located at **89 Sagamore Avenue** whereas relief is needed from the Zoning Ordinance to remove existing 8' x 12' shed and replace with new 8' x 12' shed in the same location which requires the following: 1) Variance from Section 10.521 to allow 29.5% building coverage where 25% is the maximum allowed 2) A Variance from Section 10.573.10 to allow a 1.5' side setback where 5' is required. 3) A Variance from Section 10.321 to allow a non-conforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 221 Lot 28 and lies within the General Residence A (GRA) District.

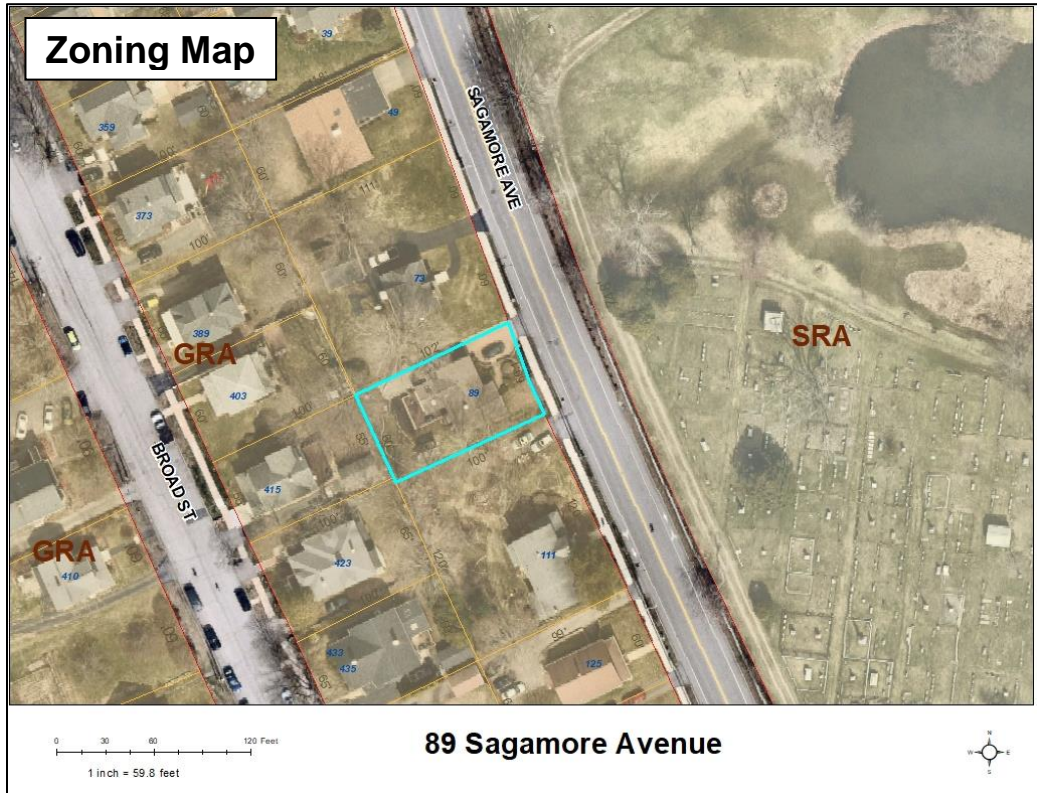
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Replace existing shed	Primarily residential uses
<u>Lot area (sq. ft.):</u>	6,098	6,098	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	6,098	6,098	7,500 min.
<u>Street Frontage (ft.):</u>	60	60	100 min.
<u>Lot depth (ft.):</u>	101	101	70 min.
<u>Front Yard (ft.):</u>	25	25	15 min.
<u>Right Yard (ft.):</u>	10	10	10 min.
<u>Left Yard (ft.):</u>	1.5' (shed)	<b>1.5'</b> (shed)	10/ 5 (shed) min.
<u>Rear Yard (ft.):</u>	20 (shed)	20 (shed)	20/ 5 (shed) min.
<u>Height (ft.):</u>	<10	<10	35 max.
<u>Building Coverage (%):</u>	29	<b>29</b>	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1956	<b>Variance request(s) shown in red.</b>	

### Other Permits/Approvals Required

None.

# Neighborhood Context





## Previous Board of Adjustment Actions

August 20, 1991 – The Board **granted** a variance from Article III, Section 10-302 to allow the removal of an existing 288 s. f. rear deck to be replaced with a one story 14' x 16' (224 s. f.) kitchen/dining room addition at the rear of the existing residence and a 238 s. f. ell-shaped deck adjacent to the new addition creating a building/lot coverage of 26.3% where 20% is the maximum building/lot coverage allowed.

## Planning Department Comments

The applicant is proposing to replace the existing 8x12 shed with a new 8x12 shed in the same location. The existing coverage is over the maximum allowed, but will remain the same with the new shed. The applicant has indicated in discussions with staff the approximate distance to the side property line is approximately 22". The legal notice advertised 1.5' which would allow for some flexibility if the variance is granted.

## 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 **OMJ Realty LLC, Owner**, for property located at **581 Lafayette Road** whereas relief is needed from the Zoning Ordinance to add indoor golf simulators in an existing restaurant which requires the following: 1) A Special Exception from Section 10.440 Use #4.30 to allow an indoor recreation use where the use is permitted by Special Exception. Said property is shown on Assessor Map 229 Lot 8B and lies within the Gateway (G1) District.

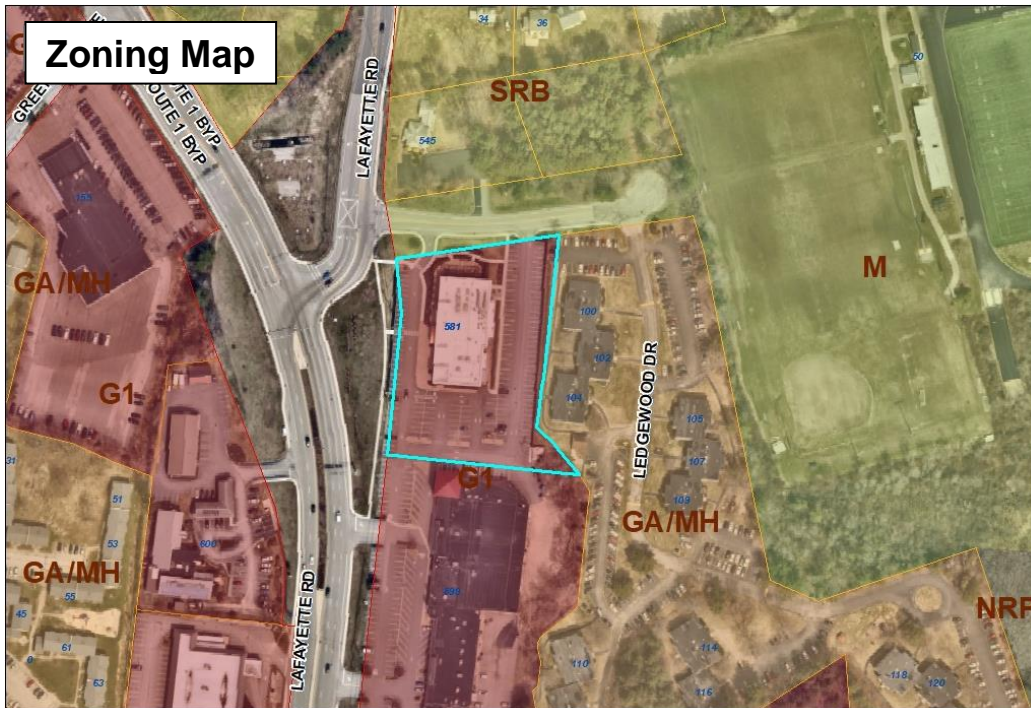
**Existing & Proposed Conditions**

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family	<b>Indoor Recreation – golf simulators</b>	Primarily Mixed Uses
<u>Lot area (sq. ft.):</u>	98,881	98,881	NR min.
<u>Street Frontage (ft.):</u>	335	335	50 min.
<u>Primary Front Yard (ft.):</u>	58	58	0 -20 max.
<u>Left Yard (ft.):</u>	30	30	10 min.
<u>Right Yard (ft.):</u>	>100	>100	10 min.
<u>Rear Yard (ft)</u>	82	82	15
<u>Parking:</u>	151	151	ok
		Special Exception request shown in red.	

**Other Permits/Approvals Required**

None.

# Neighborhood Context



0 90 180 360 Feet  
1 inch = 166.7 feet

**581 Lafayette Road**



## Previous Board of Adjustment Actions

September 22, 2015 - The Board approve the following to allow a restaurant with associated parking.

1. A Special Exception under Section 10.440, Use #9.52 to allow a restaurant with 492 seats where 250 to 500 seats are allowed by Special Exception.
2. A Variance from 10.593.10 to allow a restaurant to be located 92.1' from a residential district where 200' is required.
3. A Variance from 10.531 to allow 16.5% open space where 11% exists and 20% is required.
4. A Variance from Section 10.1112.50 to allow 154 off-street parking spaces where 184 exist and 132 are the maximum allowed.
5. A Variance from Section 10.1113.20 to allow parking in the front yard or between a building and a street for 34 spaces where 38 exist and 0 spaces are permitted.
6. A Variance from 10.1113.10 to allow 28 existing and 30 proposed off-street parking spaces to be partially located on a lot separate from that of the principal use.
7. A Variance from Section 10.1114.21 to allow 10 off-street parking spaces to be 17.5' in length where 19' is required.
8. A Variance from 10.1124.20 to allow off-street loading or maneuvering areas to be 87.7' from an adjoining Residential or Mixed Residential District where 100' is required.

## Planning Department Comments

The applicant is proposing to add indoor golf simulators to the restaurant as part of a fit-up of the former Tuscan Kitchen site. In the G1 district, a special exception is required for indoor recreation use. The right side portion of the building will be vacant for now.

## 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.*