

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: May 18, 2021
RE: Zoning Board of Adjustment May 25, 2021 Meeting

NEW BUSINESS

1. 114 Pine Street
2. 50 Mt. Vernon Street
3. 83 Richards Avenue
4. 165 Court Street
5. 230 Thornton Street
6. 139 Cass Street
7. 3548 Lafayette Road
8. 205 Broad Street

NEW BUSINESS

1.

Petition of **Daniel Marino, Owner**, for property located at **114 Pine Street** whereas relief is needed from the Zoning Ordinance to demolish the existing garage and construct two-story addition with one car garage which requires the following: 1) Variances from Section 10.521 to allow: a) an 8.5' right side yard where 10' is required; and b) a 6' front yard where 15' 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 162 Lot 28 and lies within the General Residence A (GRA) District.

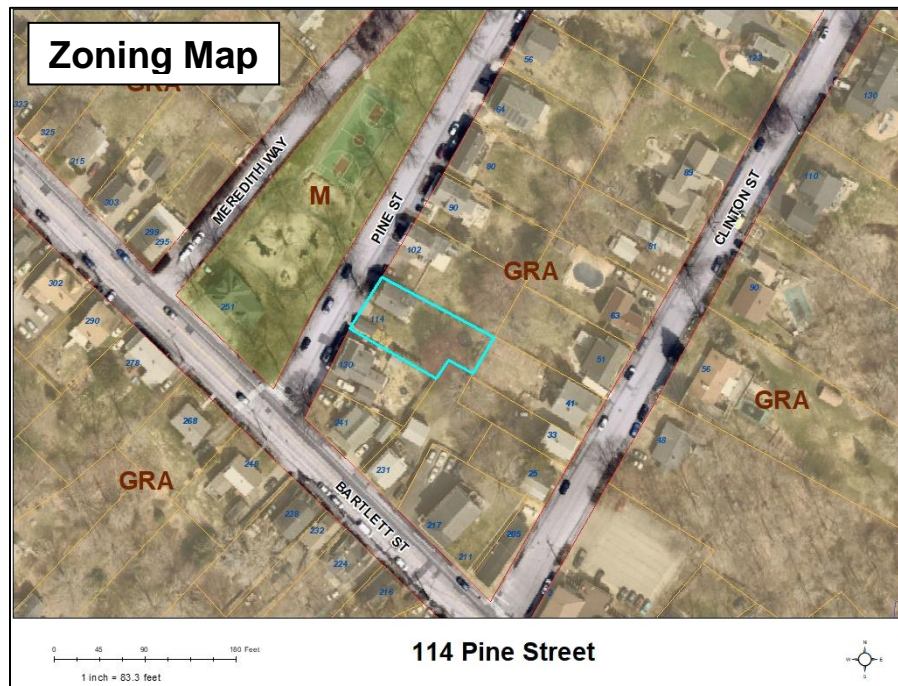
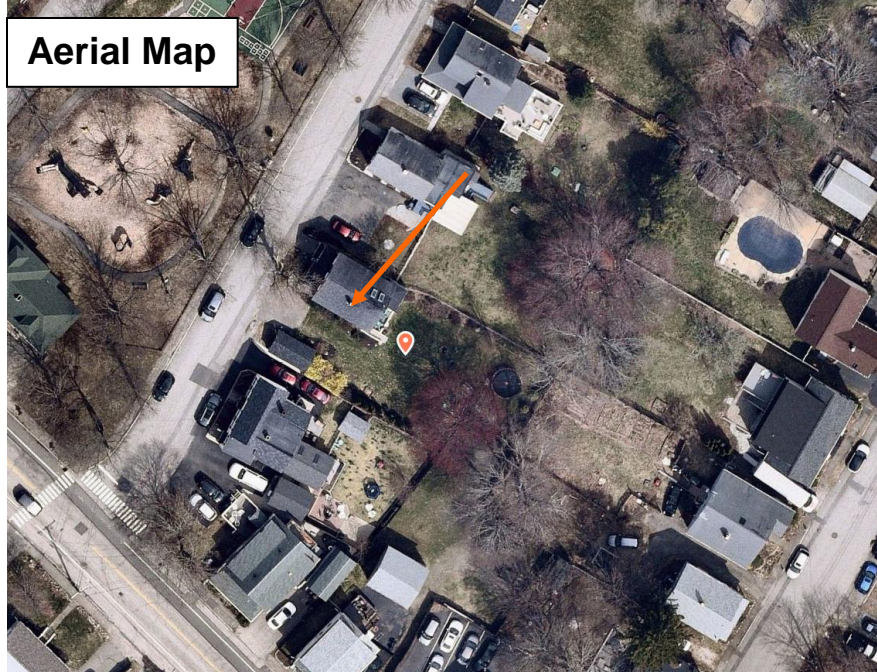
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Demo existing garage/Construct new garage/addition	Primarily residential uses
<u>Lot area (sq. ft.):</u>	7,133	7,133	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,133	7,133	7,500 min.
<u>Street Frontage (ft.):</u>	60	60	100 min.
<u>Lot depth (ft.):</u>	124	124	70 min.
<u>Front Yard (ft.):</u>	6	6	15 min.
<u>Right Yard (ft.):</u>	2	8.5'	10 min.
<u>Left Yard (ft.):</u>	2	2	10 min.
<u>Rear Yard (ft.):</u>	61	54.5	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	17	25	25 max.
<u>Open Space Coverage (%):</u>	80	72.5	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1902	Variance request(s) shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

October 21, 1997 - The Board **granted** 1) a Variance from Article II, Section 10-206(12) to allow a second cab to be stored on the property with associated office and hours exceeding those that are allowed by Special Exception: and, 2) a Variance from Article

II, Section 10-206(32)(a) to allow the outdoor storage of more than one commercial vehicle where such storage is limited to no more than one vehicle.

September 16, 1997 - The Board **granted** a request for a Rehearing on October 21, 1997.

August 19, 1997 - The board **denied** 1) a Variance from Article II, Section 10-206(12) to allow a second cab to be stored on the property with associated office and hours exceeding those that are allowed by Special Exception: and, 2) a Variance from Article II, Section 10-206(32)(a) to allow the outdoor storage of more than one commercial vehicle where such storage is limited to no more than one vehicle. (*The board found that to allow this business in a residential area would cause a diminution in property values to the adjacent properties. We concluded that all the criteria had not been met to grant the request*)

Planning Department Comments

The applicant is proposing to demolish the existing garage and construct a two-story addition with one car garage. The application states a 6.4' front yard but 6' was advertised, which will allow for some flexibility if the variances are granted. The resulting building coverage will be just at the maximum allowed.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*

AND

- (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*

OR

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

2.

Petition of **Susan Alex Living Trust, Owner**, for property located at **50 Mt. Vernon Street** whereas relief is needed from the Zoning Ordinance to add dormers to the existing garage and create accessory dwelling unit on the second floor which requires the following: 1) Variances from Section 10.521 to allow a) a 7' left side yard where 10' is required; and b) a 5.5' rear yard where 25' is the minimum 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 111 Lot 29 and lies within the General Residence B (GRB) District.

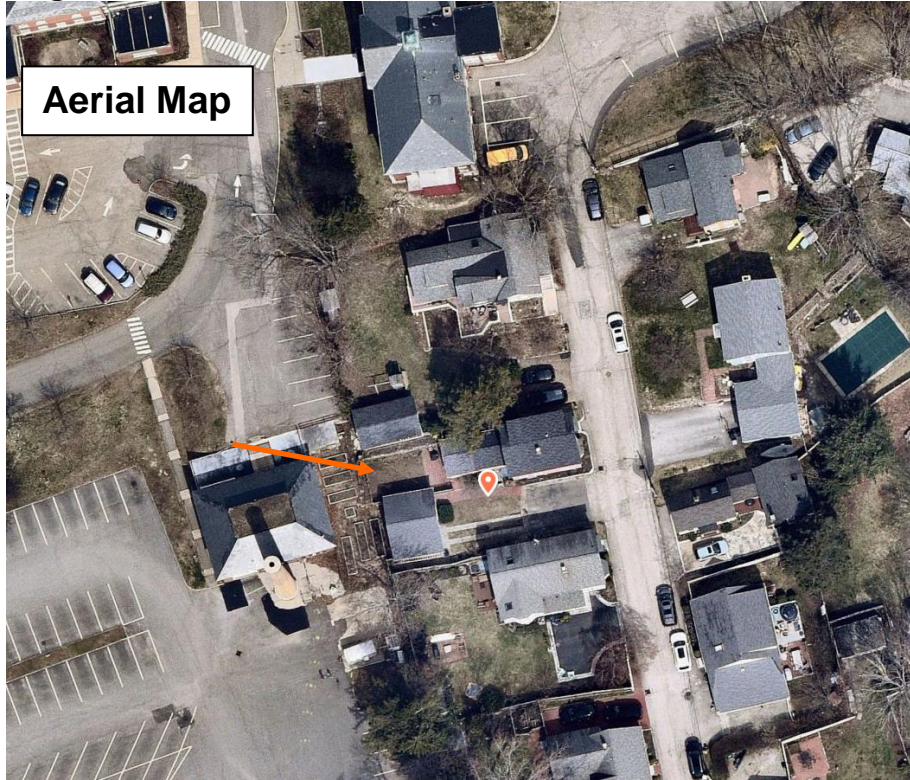
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Singel family	Convert garage into DADU	Primarily residential uses
<u>Lot area (sq. ft.):</u>	5,250	5,250	5,000 min.
<u>Lot area per dwelling (sq. ft.):</u>	5,250	5,250	5,000
<u>Street Frontage (ft.):</u>	57.46	57.46	80 min.
<u>Lot Depth (ft.):</u>	92	92	60
<u>Front Yard (ft.):</u>	3	3	5 min.
<u>Right Yard (ft.):</u>	24 (garage)	24 (garage)	10 min.
<u>Left Yard (ft.):</u>	7 (garage)	7 (garage)	10 min.
<u>Rear Yard (ft.):</u>	5.5 (garage)	5.5 (garage)	25 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	27	27	30 max.
<u>Open Space Cov. (%):</u>	62	62	25 min.
<u>Parking</u>	4	4	3
<u>Estimated Age of Structure:</u>	1870 (house)	Variance request(s) shown in red.	

Other Permits/Approvals Required

Planning Board – Conditional Use Permit for DADU
 Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

August 18, 1998 - The Board **granted** 1) a Variance from Article III, Section 10-302(A) to allow a 20' x 24' garage/shop with; a) a 2' rear yard where 25' is the minimum required and b) a 6' side yard where the minimum required is 10'; and, 2) a Variance from Article III, Section 10-302(A) to allow a 12'x 20' porch with a 5' right side yard where 10' is the minimum required; and, 3) a Variance from article III, Section 10-302(A) to allow 32.3% building coverage where 30% is the maximum allowed.

Planning Department Comments

The applicant is proposing to add dormers onto the existing garage and create a Detached Accessory Dwelling Unit (DADU) on the second floor. The existing garage is non-conforming to both side and rear yard requirements, so any expansion requires variances. The applicant will need a Conditional Use Permit from the Planning Board as well as HDC approval. The site plan shows a condenser on the back of the garage that does not comply with the 10 foot setback for such units and would require a separate variance if it cannot be moved to a compliant location. If the Board grants approval, the following stipulation should be considered:

The applicant must apply for a separate variance for the condenser in the proposed location.

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 **Katrina Carye, Owner**, for property located at **83 Richards Avenue** whereas relief is needed from the Zoning Ordinance to add a 6' x 7' free-standing sauna which requires the following: 1) A Variance from Section 10.521 to allow 35% building coverage where 25% is the maximum allowed. Said property is shown on Assessor Map 128 Lot 7 and lies within the General Residence A (GRA) District.

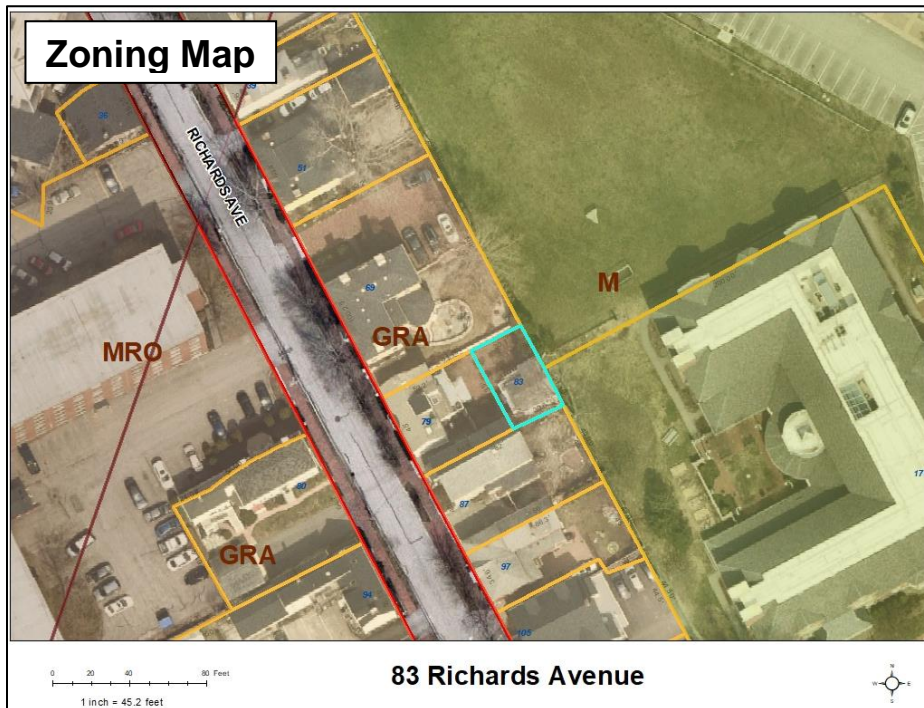
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Free-standing sauna	Primarily Single-family Uses
<u>Lot area (sq. ft.):</u>	1,307	1,307	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	1,307	1,307	7,500 min.
<u>Street Frontage (ft.):</u>	0	0	100 min.
<u>Lot depth (ft.):</u>	30	30	70 min.
<u>Primary Front Yard (ft.):</u>	10	18	15 min.
<u>Left Yard (ft.):</u>	25	10	10 (5 sauna) min.
<u>Right Yard (ft.):</u>	0	>10	10 (5 sauna) min.
<u>Rear Yard (ft.):</u>	0.5'	5 (sauna)	20 (5 sauna) min.
<u>Building Coverage (%):</u>	32	35	25 max.
<u>Open Space Coverage (%):</u>	68	65	30 min.
<u>Estimated Age of Structure:</u>	1880	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 requesting a variance from the building coverage requirement to place a free-standing sauna on the subject property. The applicant owns 79 Richards and 83 Richards. 83 Richards has no frontage and is located behind 79 Richards. The required setback is 5 feet, which can be met on the sides and rear yards. The existing coverage exceeds the 30% maximum and the addition of the sauna will increase it to 35%.

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 **KWA LLC, Owner**, for property located at **165 Court Street** whereas relief is needed from the Zoning Ordinance to install signage which requires the following: 1) A Variance from Section 10.1251.10 to exceed the maximum allowed aggregate sign area. 2) A Variance from Section 10.1251.20 to allow a 140 square foot wall sign where 40 square feet is the maximum. 3) A Variance from Section 10.1242 to allow more than one wall sign above the ground floor. 4) A Variance from Section 10.1271 to allow signs on a side of a building that does not face a street or have a public entrance. Said property is shown on Assessor Map 116 Lot 27 and lies within the Character District 4 (CD4).

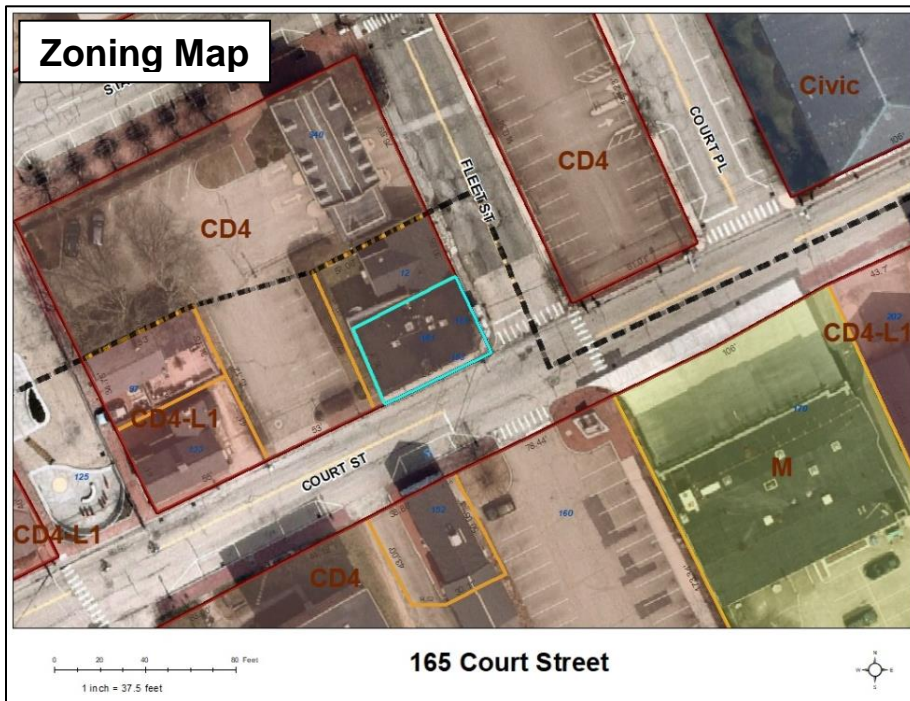
Existing & Proposed Conditions

	<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>Aggregate Sign Area (sq. ft.):</u>	53	215	192 max.
<u>Wall Sign Area (sq. ft.):</u>		140	40 max.
<u>Signs above ground floor:</u>		2	1 Max.
		Variance request(s) shown in red.	

Other Permits/Approvals Required

Historic District Commisison

Neighborhood Context



Previous Board of Adjustment Actions

April 22, 2014 - (For Unit #165) The Board **granted** variances to allow a personal services use in a district where the use was prohibited and to allow a change to a personal service use without providing the required parking.

May 29, 2014 (Units 163A & B) The Board **granted** a variance to allow a change to a yoga studio use without providing the required parking.

September 24, 2019 - The board **denied** a Variance from 1) From Section 10.1242 to allow more than one sign above the ground floor on two facades. Said property is shown on Assessor map 116, Lot 27 and lies within the Character District 4. (*All the criteria necessary to grant a variance were not met and there are no special conditions of the property that distinguish it from others in the area such that literal enforcement of the ordinance would create a hardship. The property can be reasonably used in strict conformance with the ordinance.*)

Planning Department Comments

The applicant is proposing to add signage on a side of the building that does not face a street and does not have a public entrance. Four wall signs are proposed, one which exceeds the maximum square footage for a wall sign and two signs will be above the ground floor, where only one sign is allowed. Because variances are required for the signage, the applicant must also seek approval from the HDC.

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 **Deaglan K. McEachern and Lori McEachern, Owners**, for property located at **230 Thornton Street** whereas relief is needed from the Zoning Ordinance to add new deck and screened porch and replace roof on front porch and bump out which requires the following: 1) Variances from Section 10.521 to allow a) 4.5' front yard where 15' is required; b) a 3.5' secondary front yard where 15' is required; and c) 31.5% 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 161 Lot 8 and lies within the General Residence A (GRA) District.

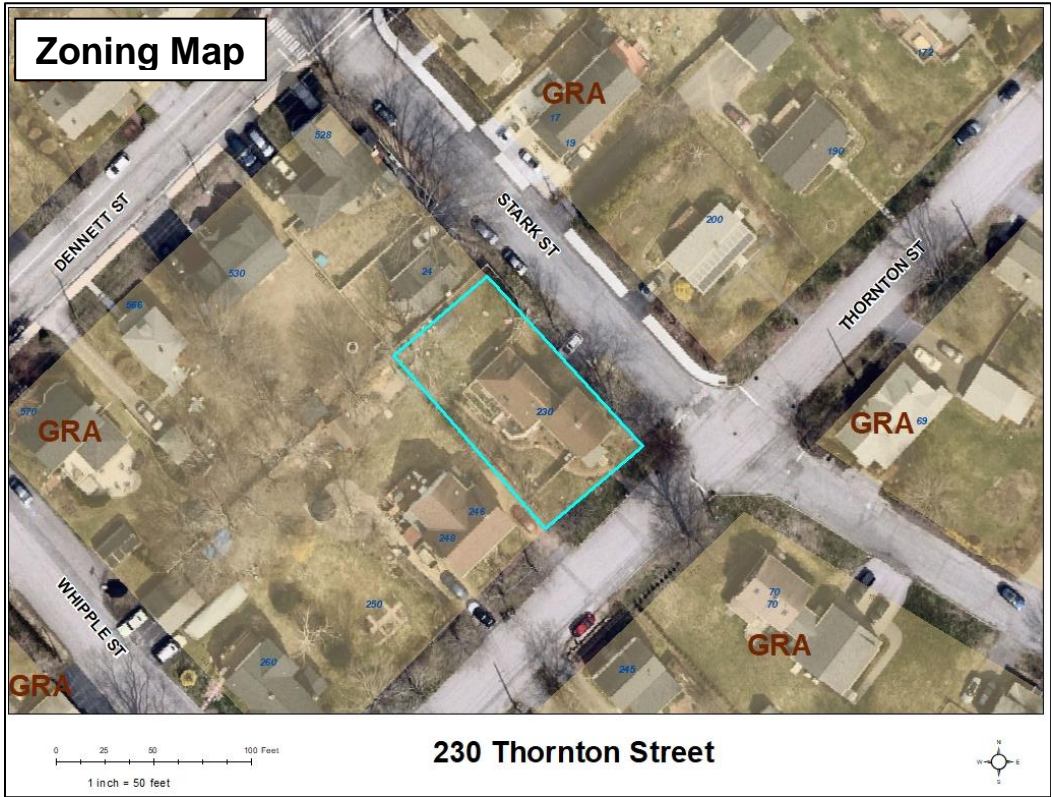
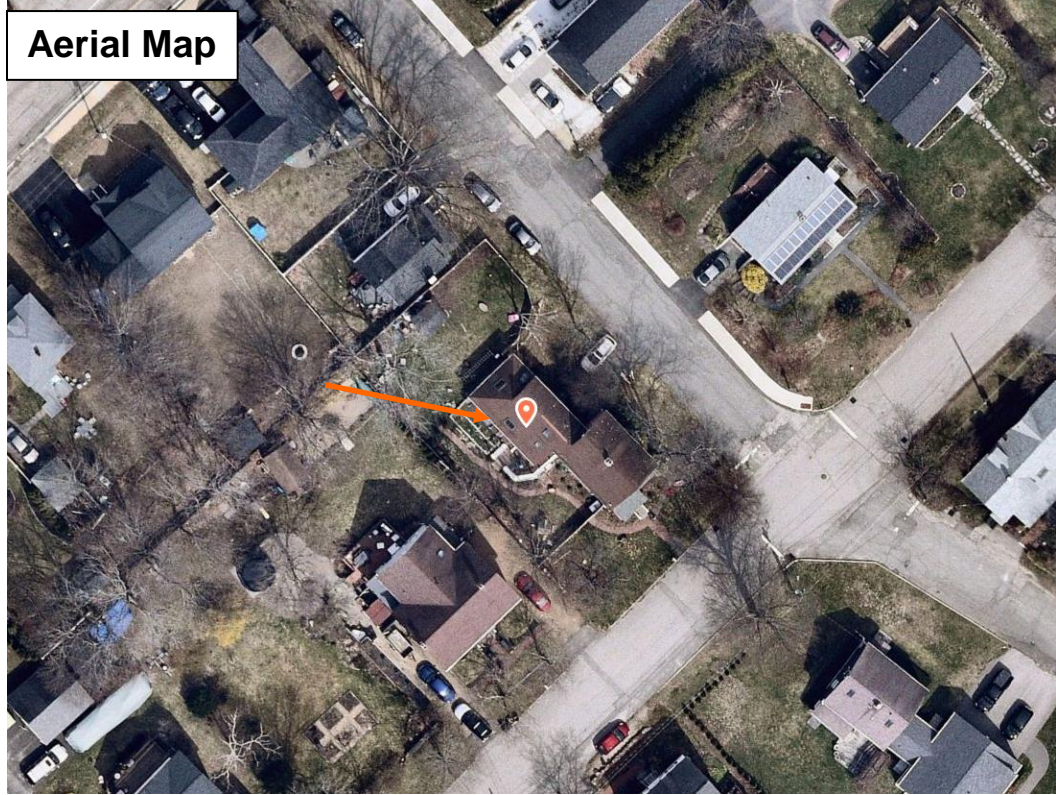
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	New deck and porch	Primarily Single-family Uses
<u>Lot area (sq. ft.):</u>	7,405	7,405	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,405	7,405	7,500 min.
<u>Street Frontage (ft.):</u>	179	179	100 min.
<u>Lot depth (ft.):</u>	118	118	70 min.
<u>Primary Front Yard (ft.):</u>	4.5	4.5	15 min.
<u>Secondary Front Yard (ft.):</u>	3.5	3.5	15 min.
<u>Left Yard (ft.):</u>	25	14	10 min.
<u>Rear Yard (ft.):</u>	41	41	20 min.
<u>Building Coverage (%):</u>	24.7	31.5	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Estimated Age of Structure:</u>	1900	Variance request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

August 31, 1982 - The board **denied** a Variance from Article IV, section 10-402(1) to allow construction of a two story 23' x 30' accessory building approximately 20' in height for use as studio and storage with a rear yard of 8' and a right side yard of 3' where a distance of approximately 20' is required.

September 21, 1982 - The board **denied** a rehearing of the petition (*Above*)

January 3, 1989 - The board **granted** a Variance from Article II, Section 10-205 (3) (a) to allow the conversion of a garage, which was built after the passage of the Ordinance, to a 2 bedroom apartment with exterior changes in a district where the conversions of structures built after the passage of this Ordinance are not permitted.

Planning Department Comments

The applicant is proposing to add a screened porch and additional deck space on the left side of the existing house. The project includes a new roof on the front porch and bump out, which are both nonconforming to the front yard requirements. The proposed square footage will increase the building coverage just over 31%. The applicant indicates it will be approximately 31.04%, however the legal notice stated 31.5% which would allow flexibility to account for any discrepancies if the variances are 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 **Todd E. Hedges Revocable Trust, Owner**, for property located at **139 Cass Street** whereas relief is needed from the Zoning Ordinance to construct a two-car garage with apartment above which requires the following: 1) A Variance from Section 10.521 to allow a 10' rear yard where 20' is required. Said property is shown on Assessor Map 146 Lot 6 and lies within the General Residence C (GRC) District.

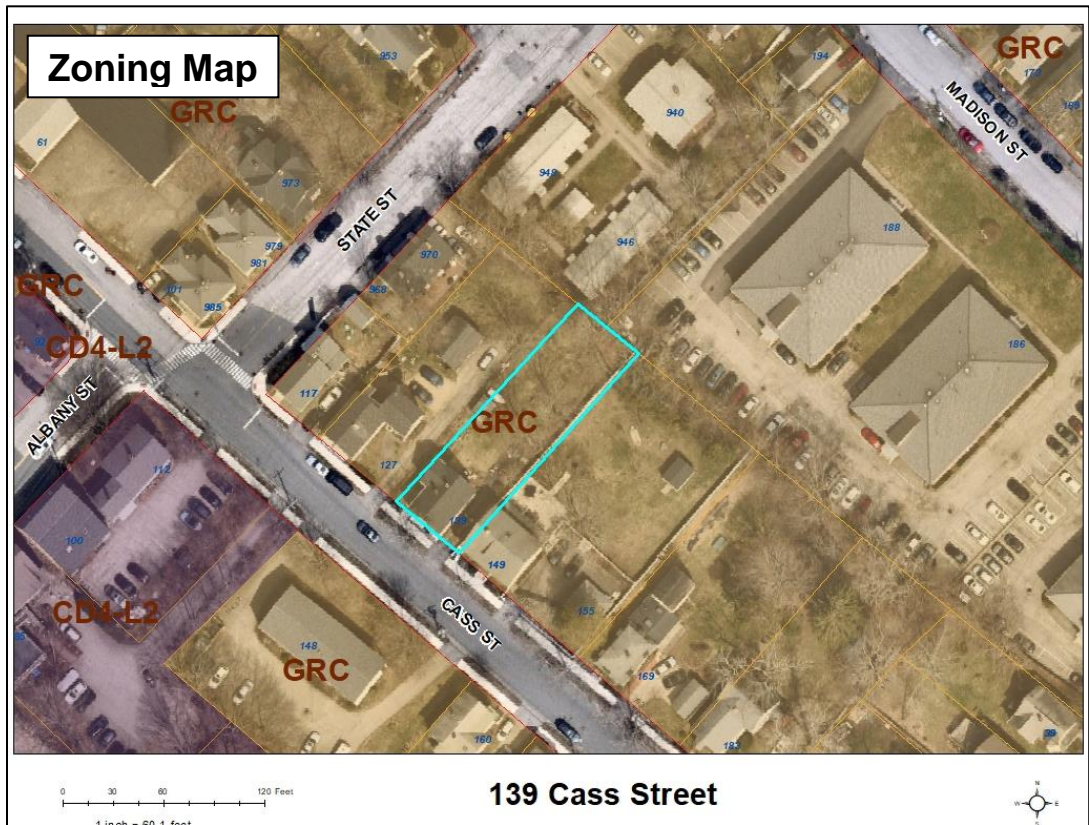
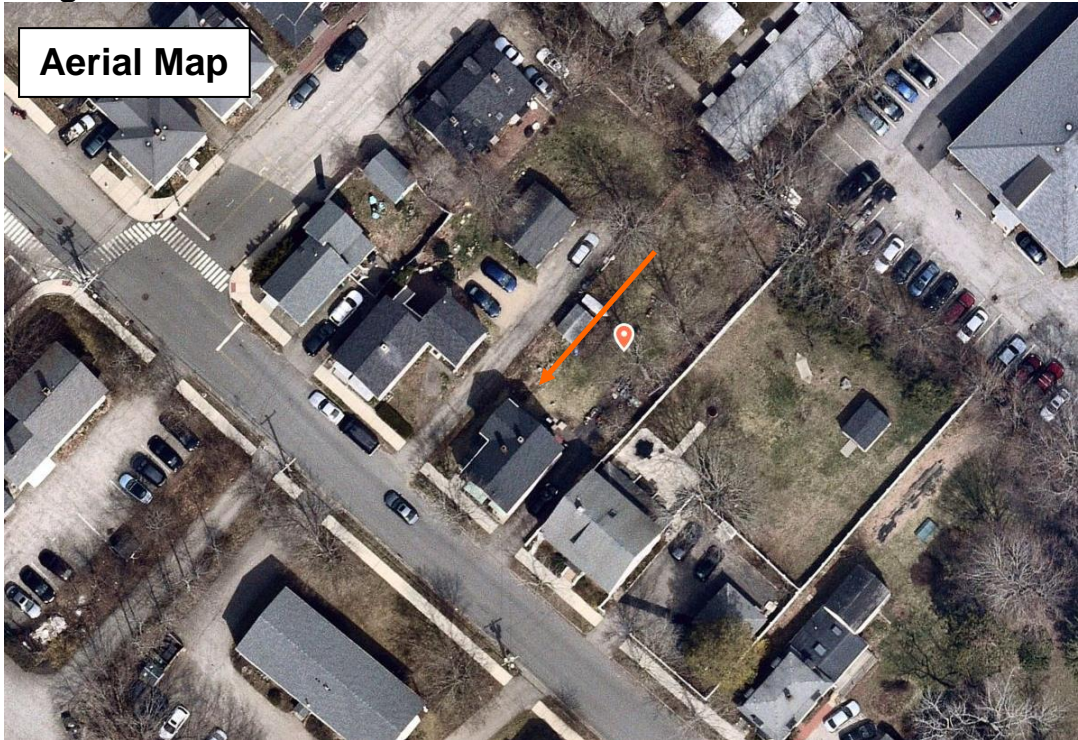
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Singel family	Construct two car garage with apartment above	Primarily residential uses
<u>Lot area (sq. ft.):</u>	7,650	7,650	3,500 min.
<u>Lot area per dwelling (sq. ft.):</u>	3,825	3,825	3,500
<u>Street Frontage (ft.):</u>	48	48	70 min.
<u>Lot depth (ft.):</u>	159	159	50
<u>Front Yard (ft.):</u>	0.3' (house)	~122 (garage)	5 min.
<u>Right Yard (ft.):</u>	7 (house)	10 (garage)	10 min.
<u>Left Yard (ft.):</u>	>10	10 (garage)	10 min.
<u>Rear Yard (ft.):</u>	100 (house)	10	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	19.6	29	35 max.
<u>Open Space Coverage (%):</u>	57	42.5	20 min.
<u>Parking</u>	4	4	3
<u>Estimated Age of Structure:</u>	1890	Variance request(s) 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 construct a new garage with a dwelling unit on the second floor. A second principal structure and dwelling unit are permitted in the GRC zoning district and the lot area per dwelling unit as well as all other dimensional requirements are compliant with the proposal. It appears there is adequate space to comply with the rear yard, based on the depth of the lot. The parking and driveway would have to be shifted closer to the existing dwelling in order to meet the 20 foot rear yard, but it appears that could be achieved and still provide enough space for parking and maneuvering.

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 **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	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.

February 19, 1991 - The Board **denied** a Request for a Rehearing.

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.

At the writing of this report, the applicant has not provided elevations or floor plans, so staff would suggest the Board consider postponing the petition to the June meeting, so that additional information can be provided. This information is required as part of the submission requirements and was expected to be provided for the Board to review, thus the recommendation to postpone at this time.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
 2. *Granting the variance would observe the spirit of the Ordinance.*
 3. *Granting the variance would do substantial justice.*
 4. *Granting the variance would not diminish the values of surrounding properties.*
 5. *The “unnecessary hardship” test:*
 - (a) *The property has special conditions that distinguish it from other properties in the area.*
- AND**

(b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.

OR

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

8.

Petition of **Troy Allan Blanchard and Colleen Elizabeth Blanchard, Owners**, for property located at **205 Broad Street** whereas relief is needed from the Zoning Ordinance to enclose an existing porch and add dormers which requires the following: 1) Variances from Section 10.521 to allow a) a 5' primary front yard where 15 feet is required; and b) a 0' secondary front yard where 15 feet is required. 2) 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 16 and lies within the General Residence A (GRA) District.

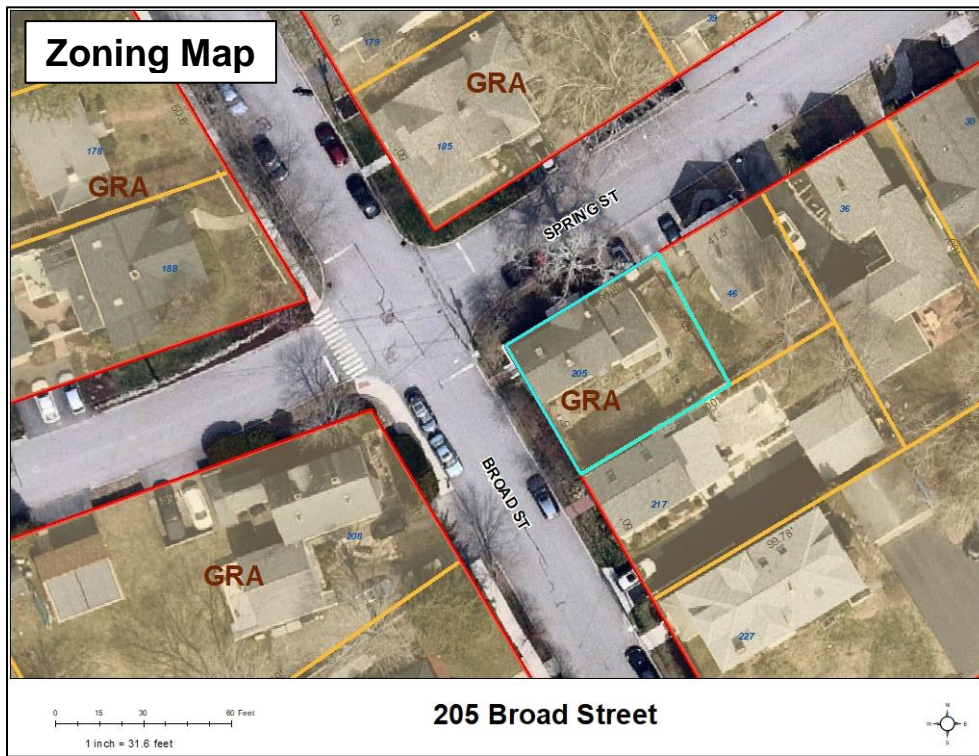
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Add dormers/enclose porch	Primarily residential uses
<u>Lot area (sq. ft.):</u>	3,025	3,025	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,025	3,025	7,500 min.
<u>Street Frontage (ft.):</u>	110	110	100 min.
<u>Lot depth (ft.):</u>	60	60	70 min.
<u>Front Yard (ft.):</u>	0	5	15 min.
<u>Secondary Front Yard (ft.):</u>	0	0	10 min.
<u>Right Yard (ft.):</u>	25	25	10 min.
<u>Rear Yard (ft.):</u>	12.3'	12.3'	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u>	35.4	35.4	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

October 16, 1996 - The board **granted** a Variance from Article III, Section 10-32(A) to allow a 10'6" x 5'6" two story addition, a 21' x 8' deck and an 11' x 5'6" deck with: a) an 11'6" rear yard set back where 20' is the minimum required; and b) a building coverage of 34.2% where 25% is the maximum allowed.

January 21, 1997 - The Board **granted** a request to amend a previously approved deck by adding a roof over the deck, with the stipulation that the deck cannot be further enclosed without receiving additional approval from this board.

Planning Department Comments

The applicant is proposing add dormers and enclose an existing porch, both of which are within the primary and secondary front yards of this corner lot. Variances were granted in 1996 for building coverage and an addition. No change in footprint is planned with the proposed work, only an upward expansion for the dormers and enclosing the front porch. The discrepancy in the building coverage from what was granted in 1996 and the current plan, is likely due to the survey that is part of the current application versus the tax map that was used in the 1996 application. If granted approval, the Board may want to consider a stipulation clarifying the actual building coverage as noted on the survey.

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.