

TO: Zoning Board of Adjustment  
FROM: Peter Stith, AICP, Planning Department  
DATE: May 17, 2022  
RE: Zoning Board of Adjustment May 24, 2022

## **NEW BUSINESS**

1. 225 Banfield Road
2. 219 Sagamore Road
3. 2454 Lafayette Rd, Unit 5
4. 650 Islington St, Unit C
5. 37 Orchard St
6. 114 Saratoga Way
7. 276 Aldrich Rd
8. 108 Burkitt Street – Request to Postpone
9. 81 Taft Road
10. 140 West Road



## NEW BUSINESS

1.

Request of **Joseph Ricci (Applicant)**, for property located at **225 Banfield Road** whereas relief is needed to demolish existing building and construct new 5 unit commercial building and 60 unit residential building with underground parking which requires the following: 1) A Variance from Section 10.521 to allow a 45 foot front yard where 70 feet is required. 2) A Variance from Section 10.440.1 to allow a 60 unit residential building where residential uses are not permitted in the Industrial district. Said property is located on Assessor Map 254 Lot 1 and lies within the Industrial (I) District.

### Existing & Proposed Conditions

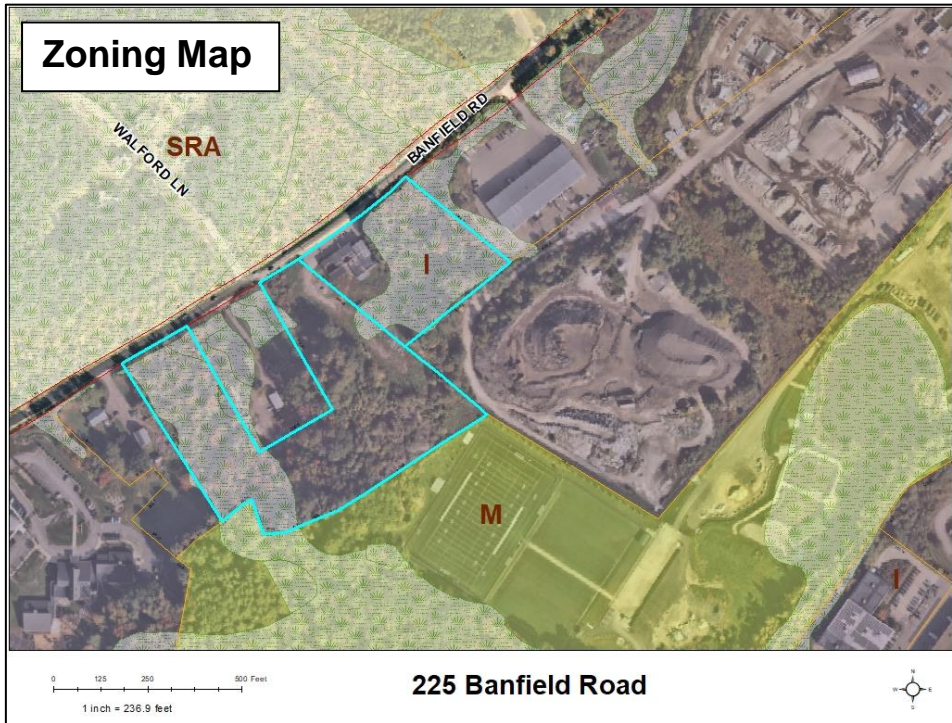
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial business	Demo existing/Merge lots & construct new industrial and <b>60 unit residential</b>	Primarily industrial uses
<u>Lot area (sq. ft.):</u>	9.76	9.76 acres	2 Acres min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	NA	NA	NA min.
<u>Lot depth (ft.):</u>	>200	>200	200 min.
<u>Street Frontage (ft.):</u>	>200	>200	200 min.
<u>Primary Front Yard (ft.):</u>	34.5'	<b>45</b>	70 min.
<u>Right Yard (ft.):</u>	10	>50	50 min.
<u>Left Yard (ft.):</u>	>50	>50	50 min.
<u>Rear Yard (ft.):</u>	>50	>50	50 min.
<u>Height (ft.):</u>	<70	<70	70 max.
<u>Building Coverage (%):</u>	<50	<50	50 max.
<u>Open Space Coverage (%):</u>	>20	>20	20 min.
<u>Parking:</u>		107*	107*
<u>Estimated Age of Structure:</u>	1962	<b>Variance request(s) shown in red.</b> *will be verified with tenants for commercial building	

### Other Permits/Approvals Required

Planning Board/TAC – Site Plan

Planning Board/Conservation Commission - Wetland Conditional Use Permit

### Neighborhood Context



## Previous Board of Adjustment Actions

No prior BOA history found.

## Planning Department Comments

The proposal includes merging two lots, demolishing the existing structure and constructing a new commercial building with 4 units and a 60 unit residential building. The property is zoned industrial, where residential uses are not permitted. The intent of the Industrial zone is *“to accommodate industrial, wholesale and storage uses whose operational and physical characteristics do not have detrimental impacts on surrounding areas”*. Permitted uses in the Industrial district include light industrial, food processing, and manufacturing. Adjacent uses include an asphalt plant and a welding business. The Community Campus property abuts the subject property to the east.

Although the applicant has proposed “economical housing”. This housing type should be differentiated from workforce housing which is defined below.

### Workforce housing unit

A housing unit which qualifies as “workforce housing” under RSA 674:58, IV, including:

- (a) housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the Portsmouth-Rochester HUD Metropolitan Fair Market Rent Area (HMFA) as published annually by the United States Department of Housing and Urban Development (HUD), or
- (b) rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the Portsmouth-Rochester HMFA as published annually by HUD. To qualify as a workforce housing unit under this Ordinance, the unit must be subject to enforceable restrictions as to price and occupancy, such as a recorded land lease or deed restriction, as determined by the Planning Board, in order to ensure its long-term availability and affordability. A workforce housing unit is a specific type of affordable unit as defined in this Ordinance. (See also: affordable unit.)

This project will need to go before the Conservation Commission as well as TAC and Planning Board and will likely see changes to the site plan and possibly building design and location. If the Board grants approval, Staff recommends the following for consideration:

**The building design, including size and scale, location and site layout may change subject to review and approval by the Conservation Commission and Planning Board.**

## 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.*

### **10.235 Certain Representations Deemed Conditions**

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

2.

Request of **Thomas Hammer (Applicant)**, for property located at **219 Sagamore Road** whereas relief is needed to demolish the existing garage and deck and construct new garage and entryway which requires the following: 1) A Variance from Section 10.521 to allow 30.5% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.573.20 to allow a 2.5 foot rear yard where 15 feet is required. 3) A Variance from Section 10.571 to allow an accessory structure to be located closer to a street than the principal structure. 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 located on Assessor Map 221 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: TABLE IS FOR PROPOSE LOT 1</u>	Single family	Demo garage and construct new garage	Primarily residential
<u>Lot area (sq. ft.):</u>	6,132	6,132	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	6,132	6,132	7,500 min.
<u>Lot depth (ft.):</u>	102	102	70 min.
<u>Street Frontage (ft.):</u>	60	60	100 min.
<u>Primary Front Yard (ft.):</u>	11	11	15 min.
<u>Left Yard (ft.):</u>	10	11	10 min.
<u>Right Yard (ft.):</u>	4	4	10
<u>Rear Yard (ft.):</u>	1	<b>2.5</b>	20 min.
<u>Height (ft.):</u>	,35	15 (garage)	35 max.
<u>Building Coverage (%):</u>	30.5	<b>30.5</b>	25 max.
<u>Open Space Coverage (%):</u>	40	42	30 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1925	<b>Variance request(s) shown in red.</b>	

**Other Permits/Approvals Required**

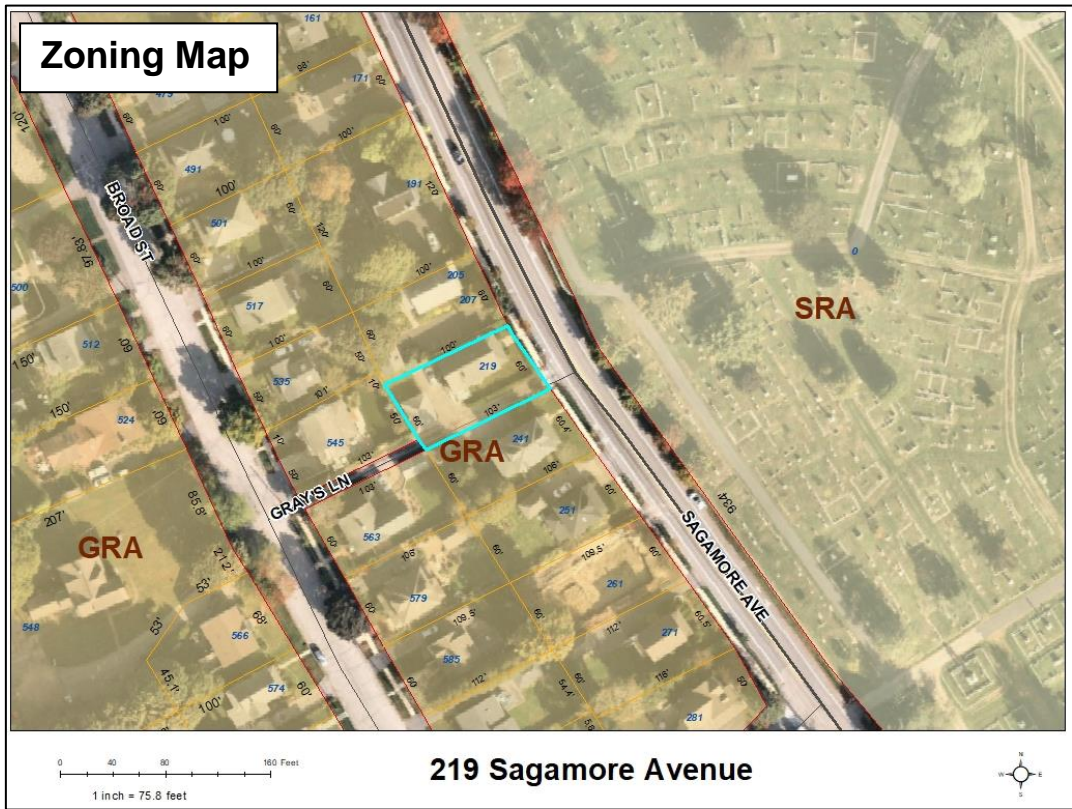
None.



### Neighborhood Context



**Aerial Map**





## Previous Board of Adjustment Actions

No prior BOA history found.

## Planning Department Comments

The applicant is proposing to demolish the existing garage and construct a new garage and new entry on the dwelling. The existing garage is nonconforming and the proposed garage will be slightly less nonconforming. The existing deck is being removed and new entry is proposed to be added along with a bulkhead.

## 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.*

## 10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.



3.

Request of **2422 Lafayette Road Associates LLC (Owner)**, for property located at **2454 Lafayette Rd, Unit 5** whereas relief is needed for a proposed veterinary urgent care clinic which requires the following: 1) A Special Exception from Section 10.440 Use #7.50 to allow a Veterinary Care use where the use is allowed by Special Exception. Said property is located on Assessor Map 273 Lot 3-5 and lies within the Gateway Corridor (G1) District.

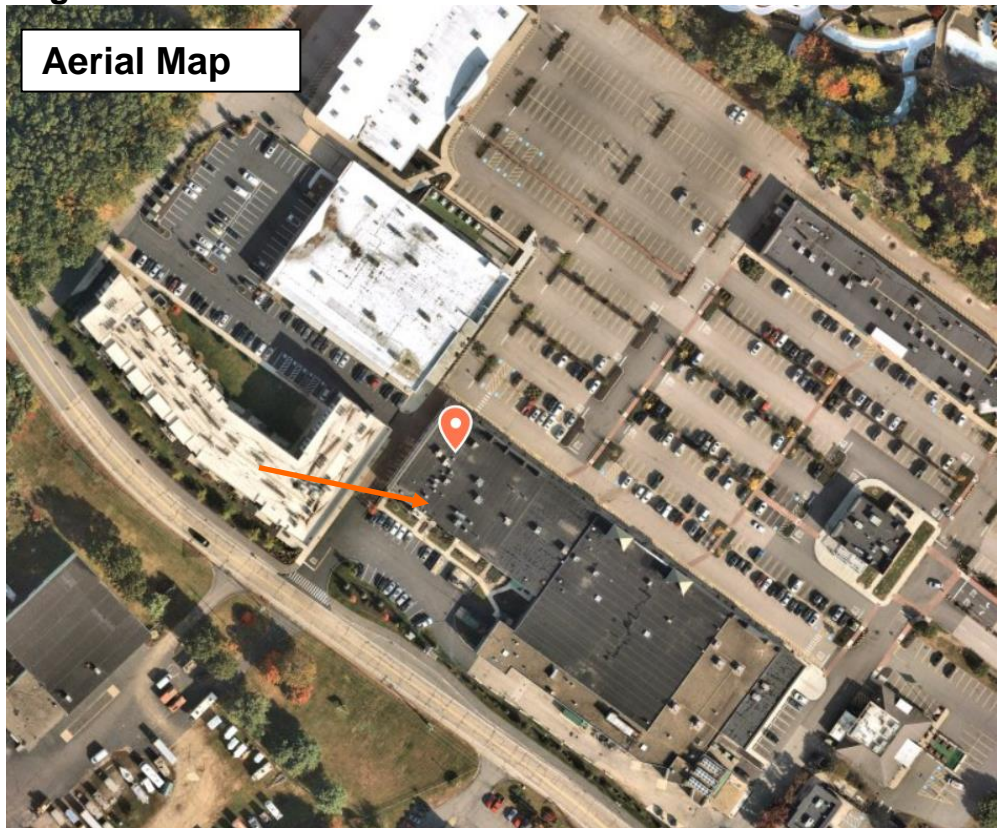
**Existing & Proposed Conditions**

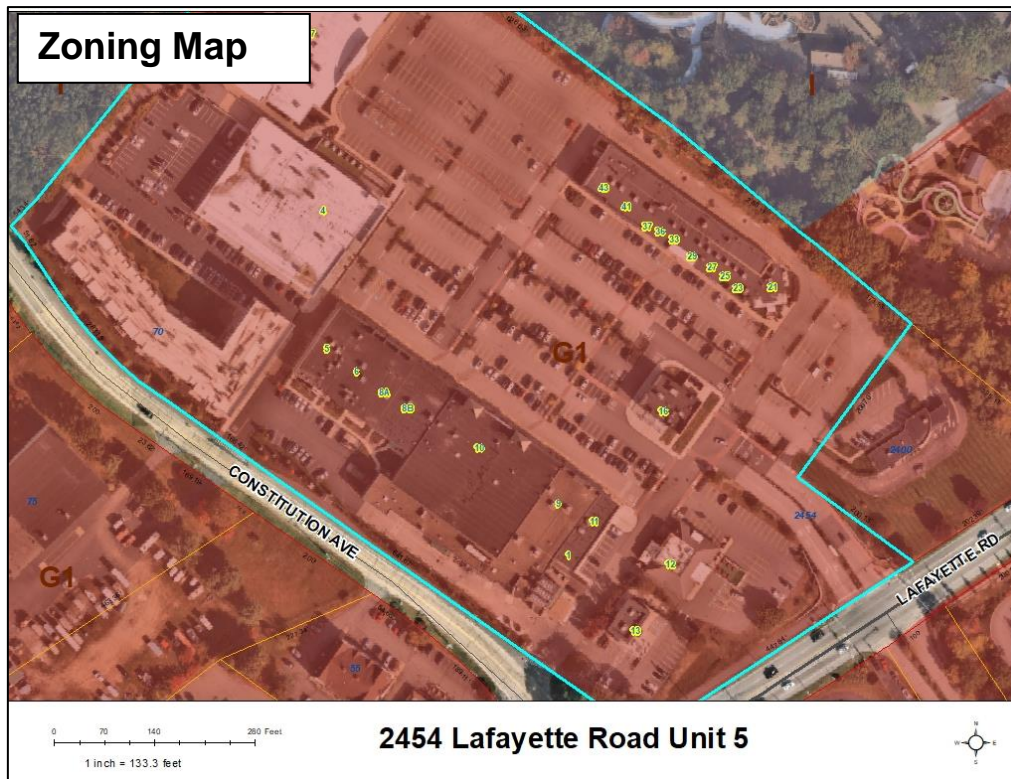
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Mixed Use	<b>Veterinary Care</b>	Primarily mixed use
<u>Parking:</u>	791	8 (for use)	8 (for vet use)
<u>Estimated Age of Structure:</u>	1980	<b>Special Exception request(s) shown in red.</b>	

**Other Permits/Approvals Required**

None.

**Neighborhood Context**





### Previous Board of Adjustment Actions

March 18, 1997 – Relief from Zoning Ordinance including:

1. Variance from Article XII, Section 10-1201(A)(1) to allow required parking to be relocated onto an abutting lot by easement as part of the relocation of ingress/egress to the property

The Board voted the request be **granted** as advertised and presented with the following stipulation:

- Approvals are received from Traffic and Safety, Technical Advisory Committee and the Planning Board as well as a signed agreement for the offsite parking spaces be obtained from the two parties involved and presented to the Planning Department.

March 23, 2004 – the Board granted a variance to allow a 75' front yard where 105' is the minimum required. The Board denied a Special Exception to allow a 2,400± s.f. car wash in a district where such use is allowed by Special Exception.

April 21, 2009 – The Board granted a variance to allow 731 parking spaces to be provided where 1,090 parking spaces are required in conjunction with renovations to the existing shopping center.

September 15, 2009 – The Board granted variances to allow the following the following:

- A primary free standing sign of 350 s.f. where 150 s.f. is allowed;
- A sign 17'10" in height where 25' is the maximum allowed;
- Two additional signs at the primary entrance where they are not allowed;

- The placement of structures within the right-of-way along Route 1 with a setback of 20' where 105' is required;
- The placement of a structure within the right-of-way along Route 1 with a setback of 50' where 105' is required.

The variances were granted with the stipulation that there be no lettering on the two stone walls at the main entryway, which were solely approved as an architectural element.

July 24, 2012 – The Board granted a variance to allow 859 parking spaces where 457 parking spaces are required and 503 parking spaces are the maximum allowed.

October 15, 2013 – The Board granted a variance to install a 225 s.f. sign on a cinema parapet where 100 s.f. is the maximum sign area allowed for a parapet sign.

August 18, 2015 – The Board granted variances to allow the following: (a) required offstreet parking spaces (for an existing parking area) to be located between a principal building and a street; and (b) a front yard setback of 151' where 90' was the maximum allowed (measured from the centerline of Lafayette Road).

October 25, 2016 – The Board granted variances to allow the following signage: a) a sign on a façade of a building that does not face a street and where no public entrance exists; b) two directional signs each 7s.f. in area where 4 s.f. is the maximum allowed; c) 2 free-standing pre-order menu boards where they were not visible from a public right-of-way; and d) an existing non-conforming pylon sign to be modified without bringing it into conformance.

June 18, 2019 - The Board granted special exceptions to allow the following: a) from Section 10.440, Use #9.12 to allow a nightclub or bar with an occupant load from 250 to 500 where the use is only allowed by special exception; and b) from Section 10.440, Use #4.20 to allow an indoor amusement use where the use is only allowed by special exception. With the following stipulation:

- A suitable barrier will be provided around the outdoor seating area to protect it from vehicular traffic.

August 17, 2021 – Relief from Zoning Ordinance including:

1. A Variance from Section 10.1530 to allow an automated teller machine (ATM) as defined in this section to be a freestanding structure and not located on the outside of a building, or in an access-controlled entrance to a building, or within a principal use in a building.

The Board voted to **deny** the request as submitted.

### **Planning Department Comments**

The applicant is proposing a veterinary care facility in Unit 5, which is located at the end of the building that contains McKinnon's. The applicant has submitted a concept plan for the layout that may change based on code requirements during the building permit review process. No exterior changes are proposed, only interior fit-up.



## **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.*

### **10.235 Certain Representations Deemed Conditions**

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

4.

Request of **Nicole Giusto (Applicant)**, and **Cooper Malt LLC (Owner)**, for property located at **650 Islington St, Unit C** whereas relief is needed for a proposed veterinary care clinic which requires the following: 1) A Special Exception from Section 10.440 Use #7.50 to allow a Veterinary Care use where the use is allowed by Special Exception. Said property is located on Assessor Map 155 Lot 5-C1 and lies within the Character District 4-W (CD4-W) and the Historic District.

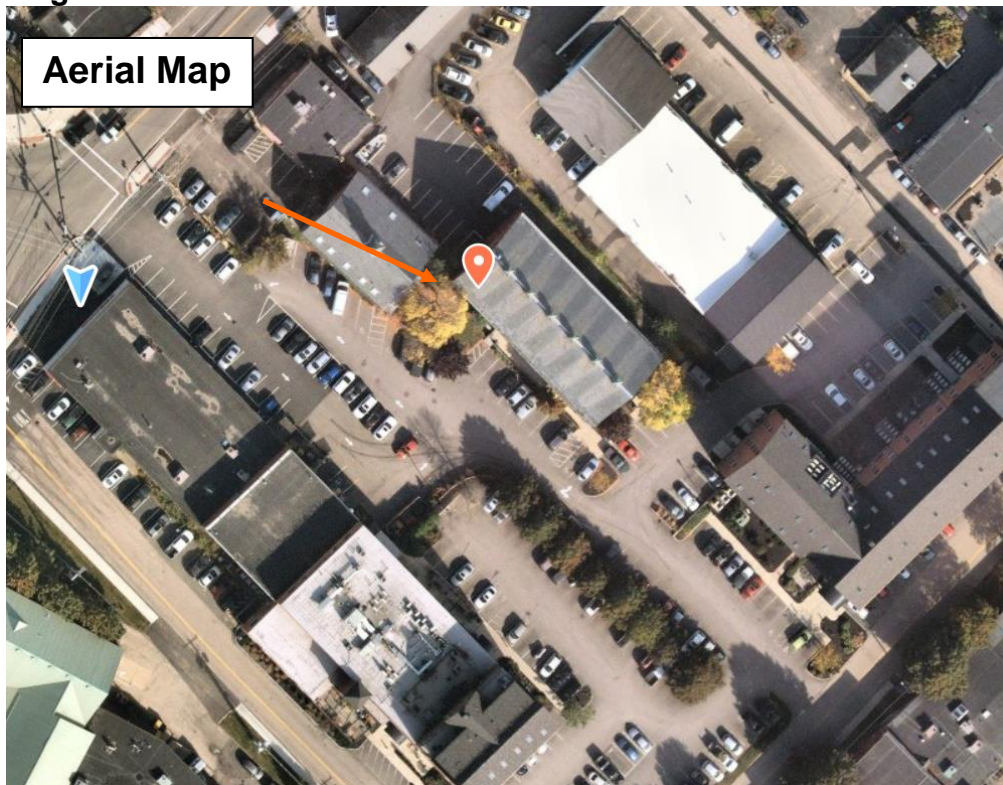
**Existing & Proposed Conditions**

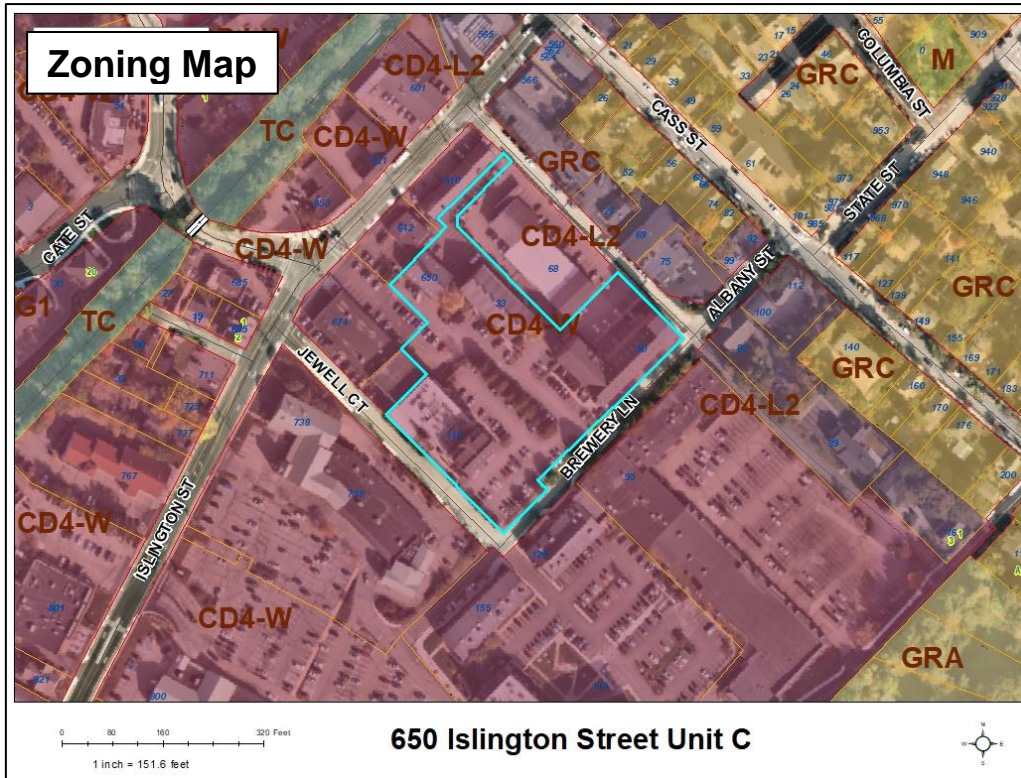
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	<b>Veterinary Care</b>	Primarily mixed residential
<u>Parking:</u>	205 (on site)	6+	6 (for the use)
<u>Estimated Age of Structure:</u>	1884	<b>Special Exception request(s) shown in red.</b>	

**Other Permits/Approvals Required**

None.

**Neighborhood Context**





### Previous Board of Adjustment Actions

No prior BOA history found.

### Planning Department Comments

The applicant is seeking to add a veterinary care facility to the property which consists of mixed uses among several buildings. The use requires a special exception in the CD4-W zone. The applicant has provided information about the proposed business for typical hours of operation and parking requirements for the use. Only interior changes will be made to the unit.

### 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.*

### **10.235 Certain Representations Deemed Conditions**

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.





5.

Request of **Thomas and Lindsey Vickery (Owners)**, for property located at **37 Orchard Street** whereas relief is needed for a proposed addition which requires the following: 1) A Variance from Section 10.521 to allow 26.5% building coverage where 25% is the maximum allowed. Said property is located on Assessor Map 149 Lot 9 and lies within the General Residence A (GRA) District.

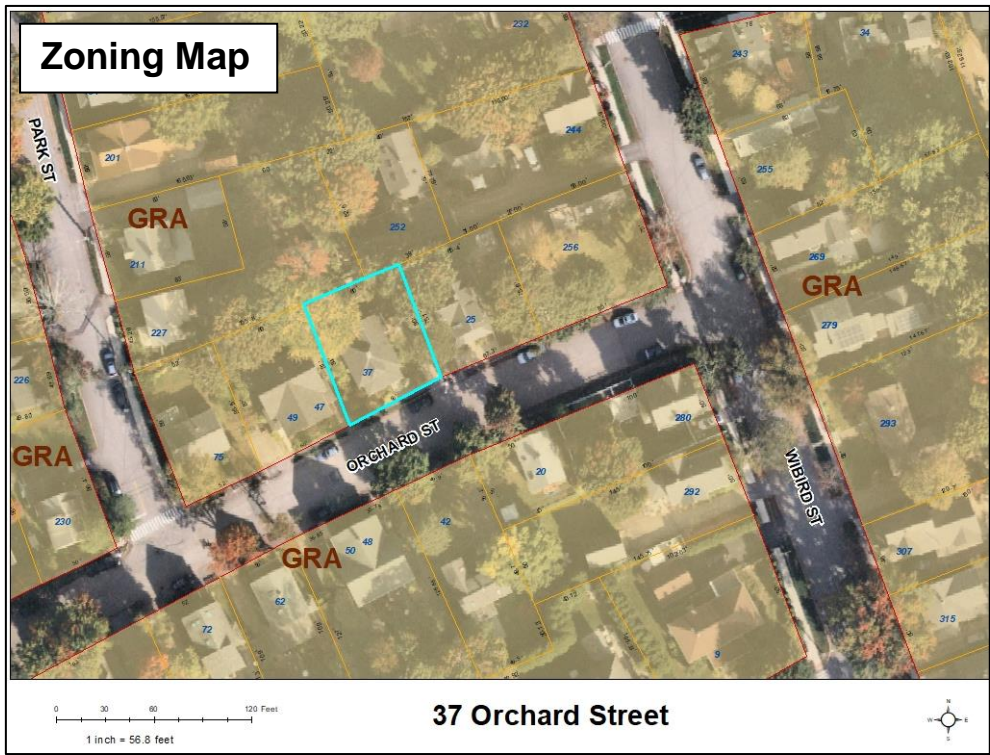
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Addition	Primarily residential
<u>Lot area (sq. ft.):</u>	4,791	4,791	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,791	4,791	7,500 min.
<u>Lot depth (ft.):</u>	82	82	70 min.
<u>Street Frontage (ft.):</u>	60	60	100 min.
<u>Primary Front Yard (ft.):</u>	6	6	15 min.
<u>Right Yard (ft.):</u>	18	11	10 min.
<u>Left Yard (ft.):</u>	11	11	10
<u>Rear Yard (ft.):</u>	29	29	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	23	<b>26.5</b>	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1905	<b>Variance 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 add on to the existing dwelling which will result in 26.5% building coverage where 25% is the maximum allowed. All other dimensional requirements are in compliance with the Ordinance.

## 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.*

## 10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.



6.

Request of **London Bridge South Inc. (Owner)**, for the property located at **114 Saratoga Way** whereas relief is needed to amend a previously approved application to merge two lots and demo existing structures in order to construct a 4 unit multi family dwelling which requires the following: 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,736 square feet where 5,000 square feet is the minimum required; and 2) A Special Exception from Section 10.440 Use #1.51 to allow 4 dwelling units where the use is allowed by a special exception. Said property is shown on Assessor Map 212 Lot 112 and lies within the General Residence B District.

### Existing & Proposed Conditions

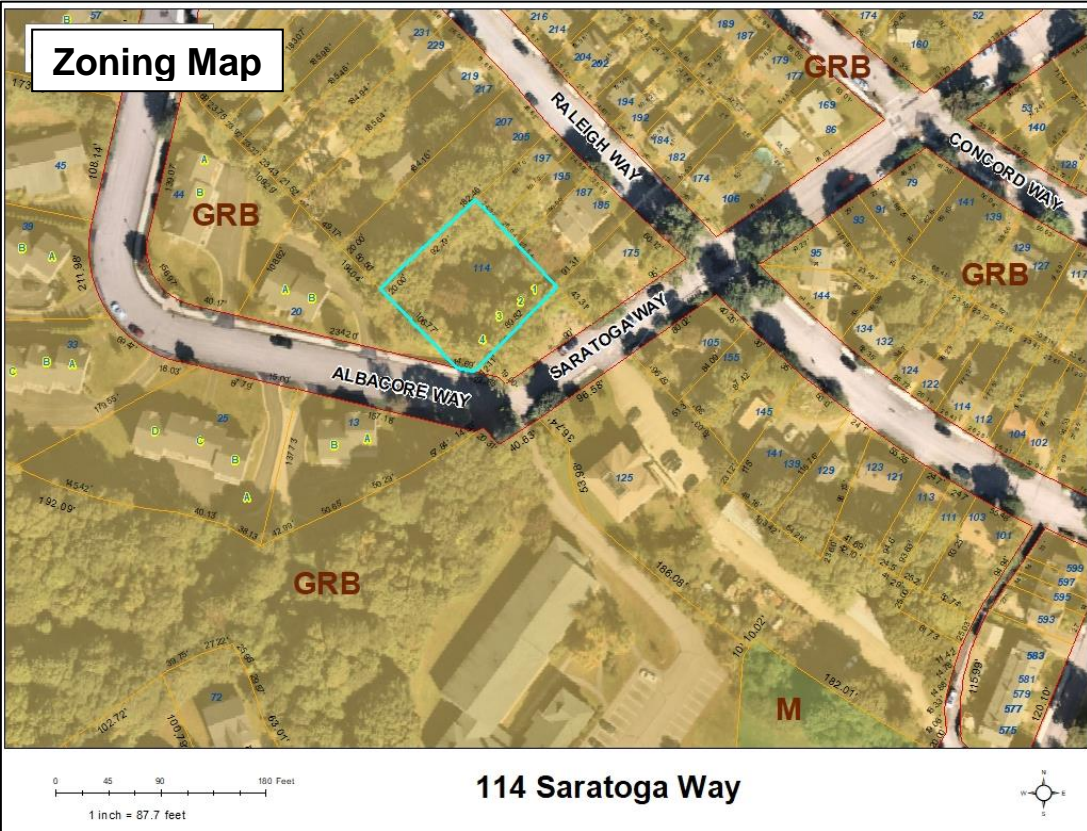
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two lots	Construct <b>4 unit dwelling</b>	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	11,681; 3,263	14,944	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	NA	<b>3,736</b>	5,000 min.
<u>Street Frontage (ft.):</u>	90	90	80 min.
<u>Lot depth (ft.):</u>	91	>100	60 min.
<u>Primary Front Yard (ft.):</u>	10	12	5 min.
<u>Right Side Yard (ft.):</u>	50	>10	10 min.
<u>Left Side Yard (ft.):</u>	50	10	10 min.
<u>Rear Yard (ft.):</u>	60	>25	25 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	3	28	30 max.
<u>Open Space Coverage (%):</u>	88	45	25 min.
<u>Parking:</u>	NA	8	6
	<b>Variance/Special Exception requests shown in red.</b>		

### Other Permits/Approvals Required

Planning Board – Amended Site Plan



### Neighborhood Context





## Previous Board of Adjustment Actions

June 16 2020 – Relief from Zoning Ordinance including:

- 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,736 square feet where 5,000 square feet is the minimum required
- 2) A Special Exception from Section 10.440 Use #1.51 to allow 4 dwelling units where the use is allowed by a special exception.

The Board voted the request be **granted** as presented and advertised

## Planning Department Comments

The above approvals were granted in June 2020. The new owner made considerable design changes to the four unit structure from what was originally presented to the Board in 2020. The applicant was advised to come back before the Board to amend the original approval with the changes. The site plan changes will need to be submitted to the Planning Director as an amended site plan approval request. Below are the original elevation plans that were presented and approved by the Board.



The image below shows the new elevations and changes from the original above.



## 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.*

### **10.235 Certain Representations Deemed Conditions**

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.





7.

Request of **Katherine Nolte and Angela Davis (Owners)**, for property located at **276 Aldrich Road** whereas relief is needed to remove existing mudroom and construct covered front porch which requires the following: 1) Variances from Section 10.521 to allow a) 33% building coverage where 20% is the maximum allowed; b) 7.5 foot left side yard where 10 feet is required; and c) 7.5 foot secondary front yard where 30 feet 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 located on Assessor Map 166 Lot 14 and lies within the Single Residence B (SRB) District.

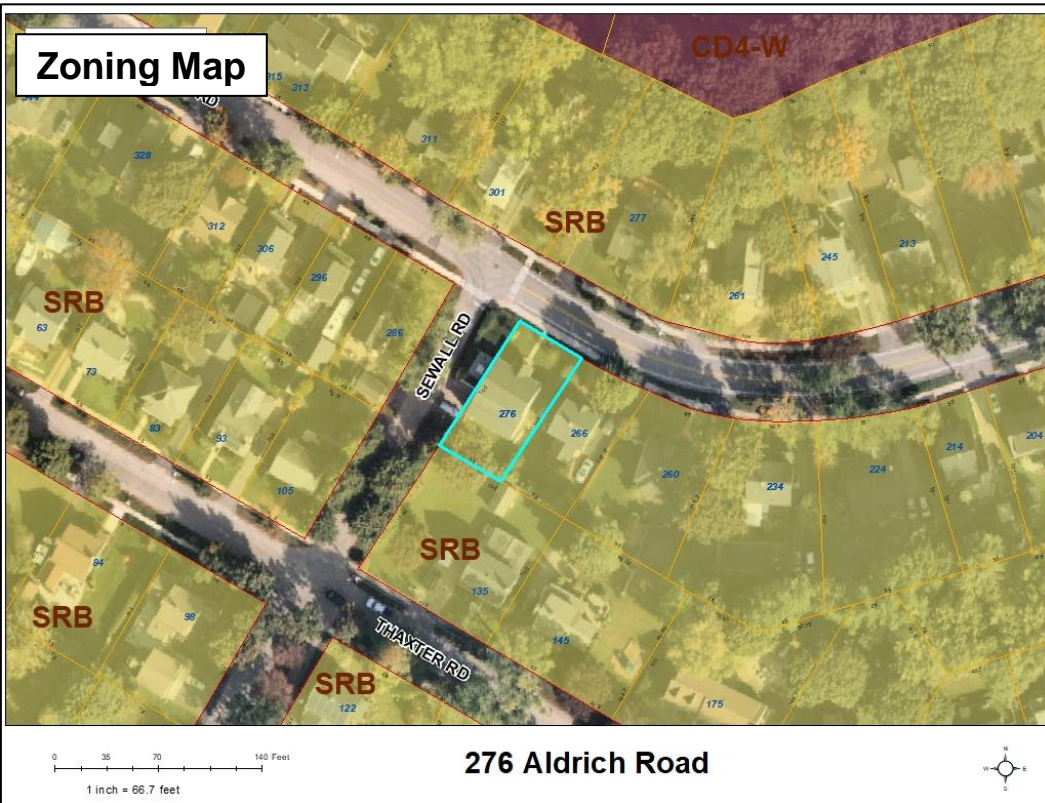
### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Add front porch	Primarily single residence
<u>Lot area (sq. ft.):</u>	4,792	4,792	15,000 min.
<u>Lot area per dwelling (sq. ft.):</u>	4,792	4,792	15,000 min.
<u>Lot depth (ft.):</u>	100	100	100 min.
<u>Street Frontage (ft.):</u>	150	150	100 min.
<u>Primary Front Yard (ft.):</u>	25	25	30 min.
<u>Secondary Front Yard (ft.):</u>	7.5	<b>7.5'</b>	30 min.
<u>Left Yard (ft.):</u>	7.5	<b>7.5'</b>	10
<u>Rear Yard (ft.):</u>	26	26	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	30	<b>33</b>	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1910	<b>Variance request(s) shown in red.</b>	

### Other Permits/Approvals Required

None.

Neighborhood Context



## Previous Board of Adjustment Actions

April 7, 1987 – Relief from Zoning Ordinance including:

- 1) a) Variance from Article III Section 10.302 to allow construction of a 16' x 34' addition to a single family home with a right yard of 7'6" and a left yard of 8'6" where right and left yards of 10' are required
- b) Variance from Article III Section 10.302 to permit a building lot coverage of 29% where a maximum lot coverage of 20% is allowed.

The Board voted the request be **granted** as presented

## Planning Department Comments

The applicant is seeking to remove the 8' x 10' mudroom and construct an 8' x 35' covered front porch along the entire front of the house. The house is nonconforming on the side and secondary front off of Sewall Road. The front yard is compliant per Section 10.516.10 for existing alignments of the averaging of houses within 200 feet on the same side of the street. The new porch will result in 33% building coverage where 20% is the maximum. The lot size is just under a third of what is required for the SRB district, making it difficult to comply with the 20% requirement.

## 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.*

## 10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.



8.

Request of **Joel St. Jean and Mariele Chambers (Owners)**, for property located at **108 Burkitt Street** whereas relief is needed to demolish existing garage and construct new 13' x 30' garage which requires the following: 1) A Variance from Section 10.573.20 to allow a 1 foot left side yard where 10 feet is required. 2) A Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 159 Lot 30 and lies within the General Residence A (GRA).

### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Demo garage/Construct new garage	Primarily single residence
<u>Lot area (sq. ft.):</u>	5,227	5,227	7,500 min.
<u>Lot area per dwelling (sq. ft.):</u>	5,227	5,227	7,500 min.
<u>Lot depth (ft.):</u>	50	50	70 min.
<u>Street Frontage (ft.):</u>	102	102	100 min.
<u>Primary Front Yard (ft.):</u>	6 (house) 30 (garage)	31	15 min.
<u>Right Yard (ft.):</u>	3	35 (garage)	10 min.
<u>Left Yard (ft.):</u>	0	<b>1</b>	10
<u>Rear Yard (ft.):</u>	50	45	20 min.
<u>Height (ft.):</u>	8.5	12	35 max.
<u>Building Coverage (%):</u>	25	<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>	1900	<b>Variance request(s) shown in red.</b>	

### Other Permits/Approvals Required

None.

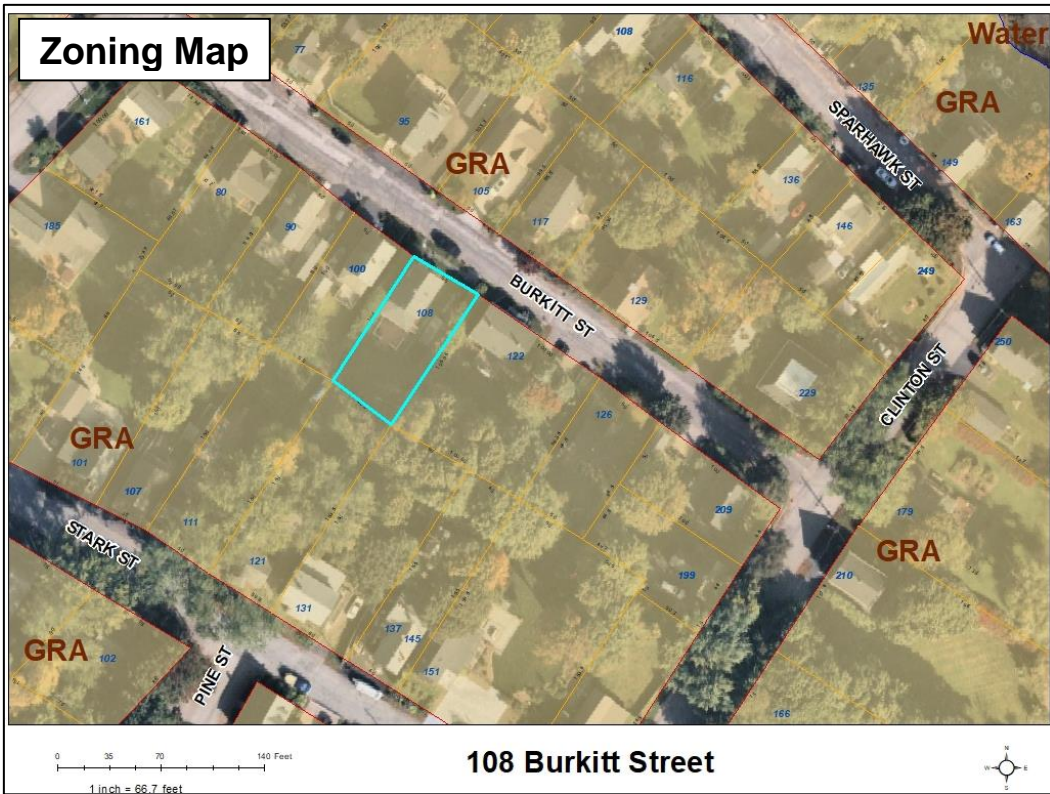


Neighborhood Context

Aerial Map



Zoning Map



## Previous Board of Adjustment Actions

No prior BOA history found.

## Planning Department Comments

The applicant is seeking to demolish the existing nonconforming garage and construct a new, 13' x 30' garage in approximately the same location, with a proposed 1 foot left side yard setback. The building coverage with the larger garage will increase to 28%, where 25% is the maximum allowed.

## Review Criteria

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

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

**AND**

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

**OR**

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

## 10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.



9.

Request of **Thomas J. and Angela Mita (Owners)**, for property located at **81 Taft Road** whereas relief is needed to construct a 235 square foot addition which requires the following: 1) A Variance from Section 10.521 to allow a 17.5 foot secondary front yard where 30 feet 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 located on Assessor Map 247 Lot 87 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	Addition	Primarily single residence
<u>Lot area (sq. ft.):</u>	8,765	8,765	15,000 min.
<u>Lot area per dwelling (sq. ft.):</u>	8,765	8,765	15,000 min.
<u>Lot depth (ft.):</u>	93	93	100 min.
<u>Street Frontage (ft.):</u>	179	179	100 min.
<u>Primary Front Yard (ft.):</u>	22	22	30 min.
<u>Secondary Front Yard (ft.):</u>	20	<b>17.5</b>	30 min.
<u>Left Yard (ft.):</u>	9	9	10
<u>Rear Yard (ft.):</u>	45	34	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	18	20	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1961	<b>Variance request(s) shown in red.</b>	

### Other Permits/Approvals Required

Planning Board/Conservation Commission – Wetland CUP

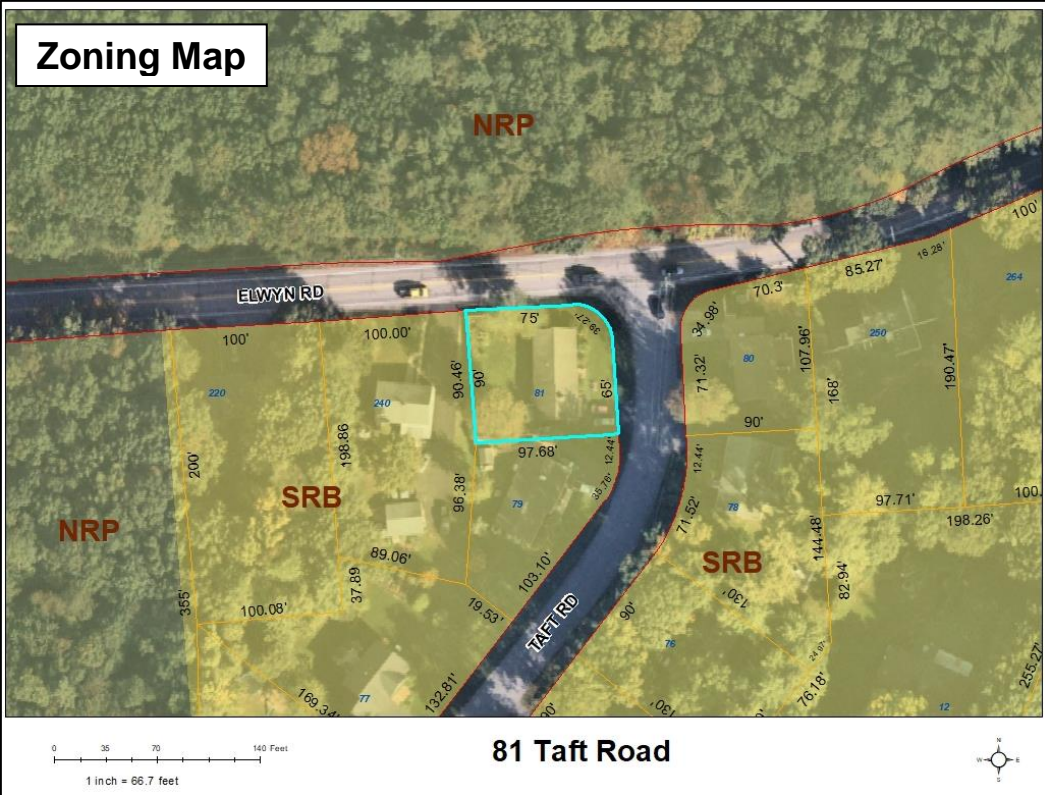


### Neighborhood Context

**Aerial Map**



**Zoning Map**





## Previous Board of Adjustment Actions

No prior BOA history found.

## Planning Department Comments

The applicant is seeking to add a rear addition on the existing dwelling. The lot is a corner lot with frontage on Taft Road and secondary frontage on Elwyn Road. A 30 foot front yard is required for both fronts and the proposed addition will encroach into the front yard on the Elwyn Road side. As proposed, the project will comply with all other dimensional requirements of the SRB zone. The applicant has applied to the Conservation Commission and Planning Board for a Wetland CUP for a portion of the addition that encroaches into the 100' wetland buffer.

## 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.*

## 10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.



10.

Request of **Christopher Mulligan (Applicant)**, and **One Hundred Forty West Road Condos (Owner)**, for property located at **140 West Road** whereas relief is needed to convert existing structure into a private indoor recreation facility which requires the following: 1) A Variance from Section 10.440 Use #4.30 to allow and indoor recreation use where the use is not permitted. 2) A Variance from Section 10.1113.41 to allow parking to be located 2 feet from the front lot line where 50 feet is required. Said property is located on Assessor Map 252 Lot 2-13 and lies within the Industrial (I) District.

### Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant building	<b>Private Indoor Recreation</b>	Primarily Industrial Use
<u>Lot area (sq. ft.):</u>	2 acres	2 acres	2 Acres min.
<u>Lot depth (ft.):</u>	409	409	200 min.
<u>Street Frontage (ft.):</u>	558	558	200 min.
<u>Primary Front Yard (ft.):</u>	>70	>70	70 min.
<u>Secondary Front Yard (ft.):</u>	>70	>70	70 min.
<u>Right Yard (ft.):</u>	>50	>50	50
<u>Rear Yard (ft.):</u>	>50	>50	50 min.
<u>Height (ft.):</u>	30	30	70 max.
<u>Building Coverage (%):</u>	20	21	50 max.
<u>Open Space Coverage (%):</u>	31	23	20 min.
<u>Parking:</u>	102	124	1 per 4 person max. occupancy
<u>Estimated Age of Structure:</u>	1989	<b>Variance request(s) shown in red.</b>	

### Other Permits/Approvals Required

Planning Board – Amended Site Plan

### Neighborhood Context

**Aerial Map**



**Zoning Map**



## Previous Board of Adjustment Actions

October 22, 2013 – Relief from Zoning Ordinance including:

- 1) Special Exception under Section 10.440, Use # 4.42 to allow a health club in a district where this use is allowed by Special Exception

The Board voted the request be **granted** as advertised and presented with the following stipulation:

- Parking spaces on the property will be laid out to meet the dimensional requirements outlined in Section 10.1114 of the Zoning Ordinance

November 19, 2013 – Relief from Zoning Ordinance including:

- 1) Variance from Section 10.1112.30 to allow 103 parking spaces where 72 exist and 145 required

The Board voted the request be **granted** as presented and advertised.

## Planning Department Comments

The former Blitz trampoline park used to be located in this building. The new owner is proposing a private indoor recreation facility for members only. The application shows various activities that will be available to members at the facility. The property is in the Industrial district where this use is not permitted. The project includes adding parking in the front and reconfiguring some of the spaces, thus the need for relief from Section 10.1113.41 to allow parking in the front 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.*

## 10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.