

TO: Zoning Board of Adjustment
 FROM: Peter Stith, AICP, Planning Department
 DATE: September 13, 2022
 RE: Zoning Board of Adjustment September 20, 2022

OLD BUSINESS

- 1. 266 State Street – Request for Extension
- 2. 108 Burkitt Street
- 3. 225 Banfield Road - Rehearing

NEW BUSINESS

- 1. 1344 – 1346 Islington Street
- 2. 130 Gates Street
- 3. 170 Melbourne Street
- 4. 75 Monroe Street
- 5. 3020 Lafayette Road
- 6. 11 Walden Street

FOLLOWING WILL BE HEARD ON SEPTEMBER 27, 2022

- 7. 127 Willard Street
- 8. 55 Aldrich Road
- 9. 42 Harvard Street
- 10. 44 Harding Road
- 11. 38 Thaxter Road
- 12. 325 Little Harbor Road
- 13. 74 Sunset Road
- 14. 324 Maplewood Avenue
- 15. 67 Ridges Court

OLD BUSINESS

1.

Request of **PNF Trust of 2013 and 282 Middle Street, LLC, Owners**, for properties located at **266, 270 & 278 State Street & 84 Pleasant Street**, wherein relief is needed from the Zoning Ordinance to merge four lots into one as part of a redevelopment project including a four-story addition onto the existing building at 84 Pleasant Street which requires the following: Variances from Section 10.5A41.10C to allow a) an entrance spacing greater than 50' where 50' is the maximum allowed; b) 100% building coverage where 90% is the maximum allowed; c) 0% open space where 10% is the minimum required; d) a 4-story, 45' tall building where 2-3 stories or a short 4th and 45' is the maximum allowed; e) less than 70% shopfront façade glazing where 70% is the minimum required and less than 20% other façade types where 20% is the minimum required; and f) to allow more than 20% of the ground floor use to be residential where 20% is the maximum allowed. Said properties are shown on Assessor Map 107 Lots 77, 78, 79 & 80 and lie within the Character District 4 (CD4) District.

The above referenced variances were granted on October 20, 2020 and a building permit has not been issued for the project. The applicant has submitted a request for an extension which the Ordinance allows for a one-time, one-year extension if the request is acted on prior to the expiration date.

2.

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	1	10
<u>Rear Yard (ft.):</u>	50	45	20 min.
<u>Height (ft.):</u>	8.5	12	35 max.
<u>Building Coverage (%):</u>	25	28	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

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. Since the initial submission, a survey has been completed and the proposed setback is 2 feet. If the Board grants approval, staff would recommend the following stipulation:

The left side yard shall be 2 feet.

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.

The request of **Jeffrey C. Christensen (Attorney for the Appellants)**, for property located at **225 Banfield Road** for a rehearing of the May 24, 2022 decision of the Zoning Board of Adjustment's granting of a request for variances to demolish the existing building and constructing a new 5 unit commercial building and 60 unit residential building with underground parking which requires the following: 1) A Variance from Section 10.440 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 Map 266 Lot 1 and lies within the Industrial (I) District.

Existing & Proposed Conditions

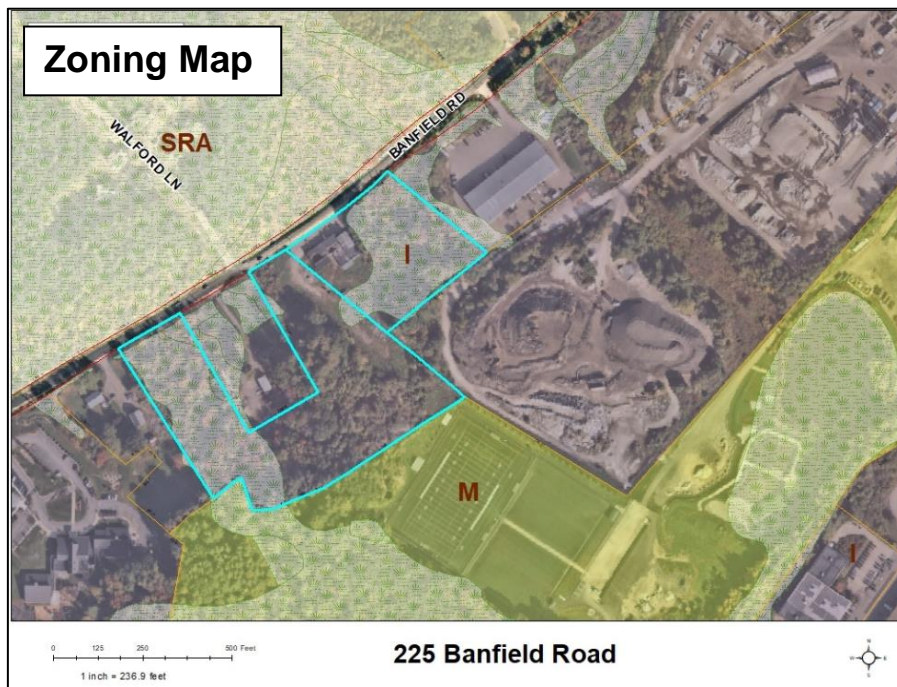
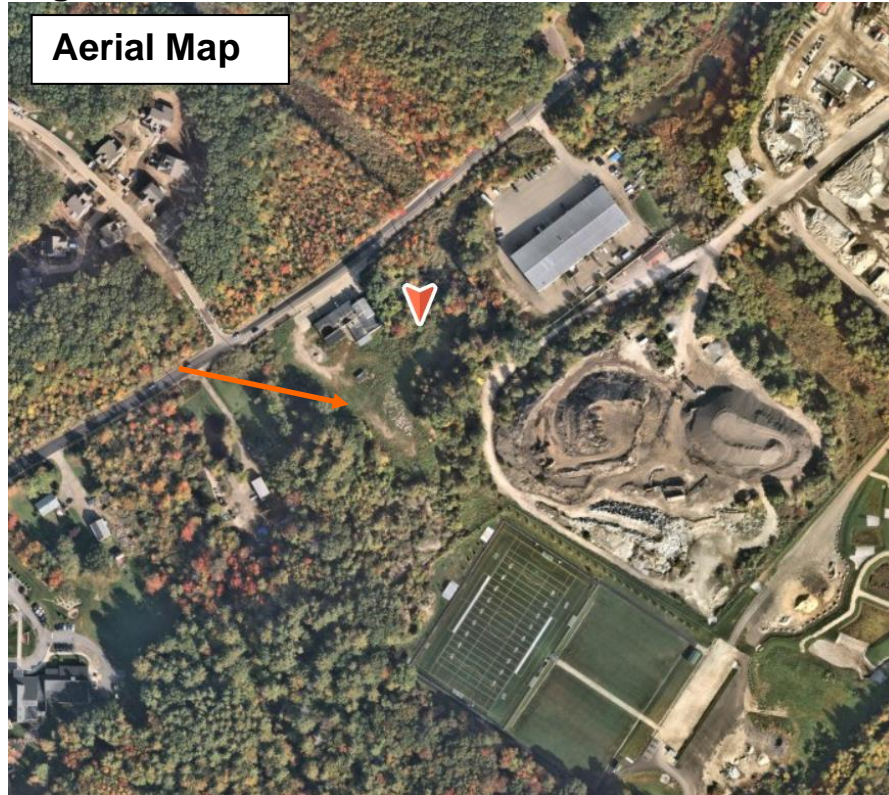
	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial business	Demo existing/Merge lots & construct new industrial and 60 unit residential	Primarily industrial uses
<u>Lot area (sq. ft.):</u>	9.76	9.76 acres	2 Acres min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	NA	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'	45 (granted in May)	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	Variance request(s) shown in red. *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

May 24, 2022 - Relief from Zoning Ordinance including:

September 20, 2022 Meeting

Demolishing the existing building and constructing a 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 to allow a 60 unit residential building where residential uses are not permitted in the Industrial district. Said property is shown on Assessor 254 Lot 1 and Map 266 Lot 1 and lies within the Industrial (I) District.

The Board voted to 1) **grant** Variance #1; and 2) **grant** Variance #2 with the following stipulation:

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

July 19, 2022 – The Board **granted** a rehearing on the above matter.

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.

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. The original approval included the following stipulation:

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.

At the July meeting, the Board granted the rehearing request submitted by Pike Industries. The appellants are not challenging the front yard variance, only the approval of the residential use on the property. If the Board upholds the original decision, the following should be considered as stipulations:

- 1. Move the residential building to the front of the property, using the 45 foot front yard setback previously granted.**
- 2. Require opaque vegetative screening along the property line between the subject property and Pike Industries to be reviewed and approved by the Planning Department.**

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.

NEW BUSINESS

1.

The request of **Jessica Tia Nashahl (Owner)**, for property located at **1344 and 1346 Islington Street** whereas relief is needed to construct a new deck and add detached garage which requires the following: 1) Variances from Section 10.521 to allow: a) a 28' rear yard for the deck where 30' is required; b) a 2' left side yard where 10' is required for the garage; and c) a Variance from Section 10.521 to allow 30% building coverage where 20% is the maximum allowed. Said property is located on Assessor Map 233 Lot 98 and lies within the Single Residence B (SRB) district.

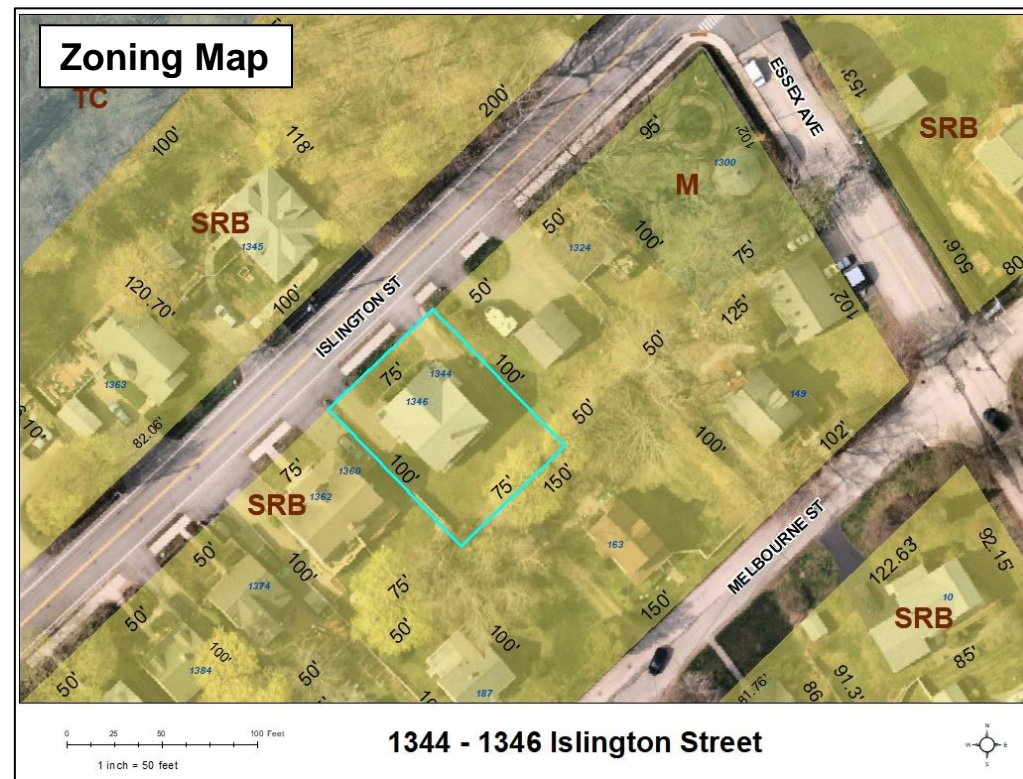
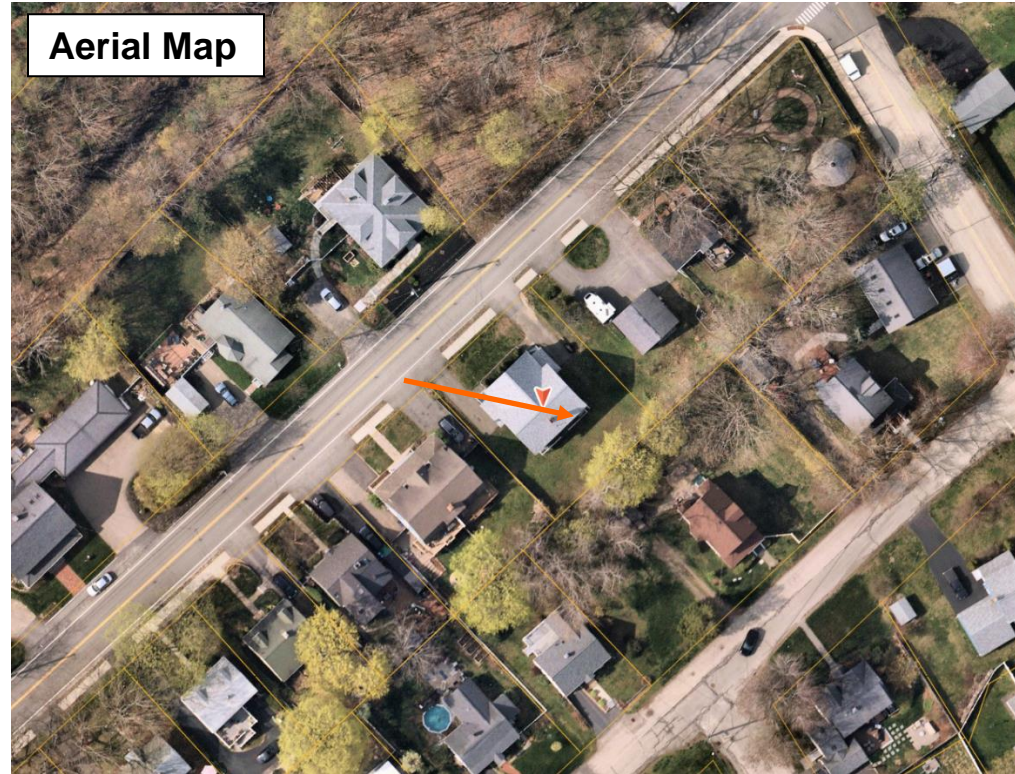
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two family	New deck and detached garage	Primarily residential uses
<u>Lot area (sq. ft.):</u>	7,500	7,500	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,750	3,750	15,000 min.
<u>Lot depth (ft.):</u>	100	100	100 min.
<u>Street Frontage (ft.):</u>	75	75	100 min.
<u>Primary Front Yard (ft.):</u>	23	23	30 min.
<u>Right Yard (ft.):</u>	12	11	100 min.
<u>Left Yard (ft.):</u>	20	2	10 min.
<u>Rear Yard (ft.):</u>	36	28	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	20	30	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking:</u>	4	4	3
<u>Estimated Age of Structure:</u>	1910	Variance request(s) shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The application is seeking relief to add a rear deck and a detached garage, which will result in 30% building coverage where 20% is the maximum. Both new structure will need setback relief, the deck will encroach 2 feet into the required 30 foot rear yard and the garage is proposed to be located 2 feet off of the left side yard. At 7,500 square feet, the lot is half the size of what is required for the SRB zone, making it challenging to comply with the dimensional standards based on a 15,000 square foot 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.*
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.

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2.

The request of **Martin Hanssmann (Owner)**, for property located at **130 Gates Street** whereas relief is needed to add an HVAC unit which requires the following: 1) A Variance from Section 10.515.14 to allow a 3' setback where 10' is required. Said property is located on Assessor Map 103 Lot 55 and lies within the General Residence B (GRB) and Historic districts.

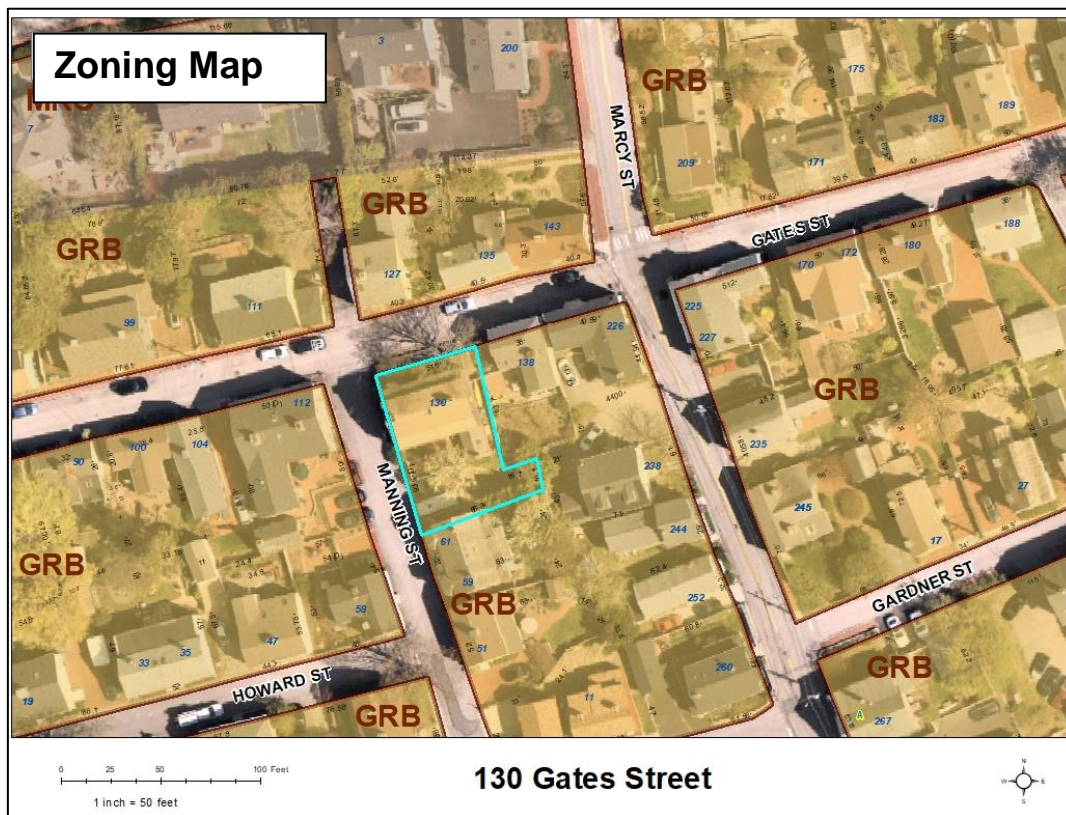
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	HVAC unit	Primarily residential uses
<u>Lot area (sq. ft.):</u>	4,356	4,356	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,356	4,356	5,000 min.
<u>Lot depth (ft.):</u>	63	63	60 min.
<u>Street Frontage (ft.):</u>	144	144	80 min.
<u>Primary Front Yard (ft.):</u>	8	8	5 min.
<u>Secondary Front Yard (ft.):</u>	2	2	5 min.
<u>Left Yard (ft.):</u>	6	3	10 min.
<u>Rear Yard (ft.):</u>	20	20	25 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u> :	32	32	30 max.
<u>Open Space Coverage (%)</u> :	>25	>25	25 min.
<u>Estimated Age of Structure:</u>	1730	Variance request(s) shown in red.	

Other Permits/Approvals Required

Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant proposing to add an HVAC unit that will be located on the left side of the house adjacent to an existing unit. The house is nonconforming to all setbacks and locating the unit in a conforming location would put it in the middle of the patio on the back of the house.

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.

The request of **George Pappas (Owner)**, for property located at **170 Melbourne Street** whereas relief is needed to add a 12 x 12 shed which requires the following: 1) A Variance from Section 10.573.20 to allow an 8' left side yard where 10' is required. 2) A Variance from Section 10.571 to allow an accessory structure to be located in the front yard. 3) A Variance from Section 10.521 to allow 26% building coverage where 20% is the maximum allowed. Said property is located on Assessor Map 233 Lot 69 and lies within the Single Residence B (SRB) district.

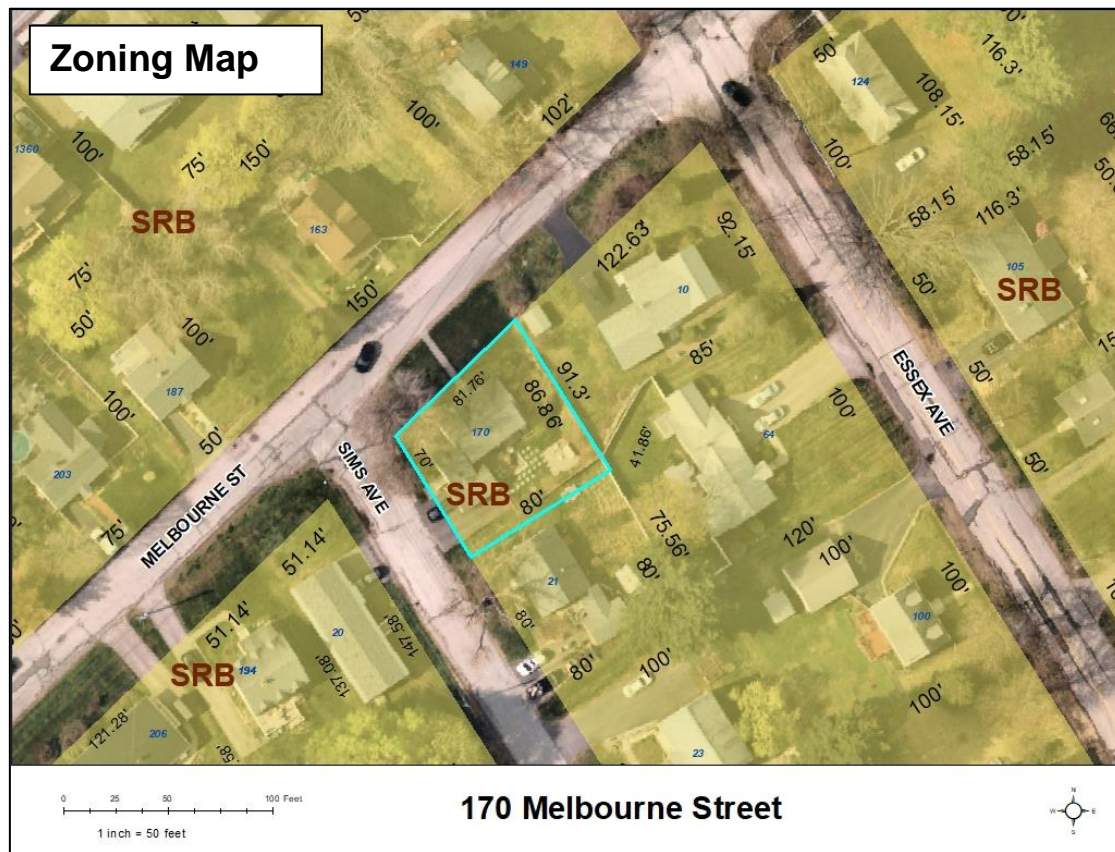
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Single family	shed	Primarily residential
<u>Lot area (sq. ft.):</u>	6,078	6,078	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	6,078	6,078	15,000 min.
<u>Lot depth (ft.):</u>	98	98	100 min.
<u>Street Frontage (ft.):</u>	151	151	100 min.
<u>Primary Front Yard (ft.):</u>	14	14	30 min.
<u>Secondary Front Yard (ft.):</u>	6	6	30 min.
<u>Left Yard (ft.):</u>	20	8	10
<u>Rear Yard (ft.):</u>	29	29	30 min.
<u>Height (ft.):</u>	<35	11 (shed)	35 max.
<u>Building Coverage (%):</u>	23	26	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1950	Variance request(s) shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



September 20, 2022 Meeting

Previous Board of Adjustment Actions

Jan 20 2004 – Relief from Zoning Ordinance including:

A Variance from Article III, Section 10-302(A) is requested to allow a 7' x 12' one story addition creating 22.4% building coverage where 20% is the maximum allowed.

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

Planning Department Comments

The applicant is proposing a 12 x 12 shed to the left of the dwelling where it would be 8 feet from the lot line where 10 is required. It will be setback from the front of the house 2 feet, however it will be located in the front yard, where accessory structures are not permitted. As stated in the history above, relief was granted for building coverage in 2004 to exceed the 20% maximum. The addition of the shed will result in 26% coverage.

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.

4.

The request of **Debra Klein and Natan Aviezri Revocable Trust (Applicant and Owner)**, for property located at **75 Monroe Street** whereas relief is needed to extend existing dormers on both sides of the house which requires the following: 1) Variances from Section 10.521 to allow a) an 11.5 foot rear yard where 20 feet is required; and b) a 5.5 foot side yard where 10 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 168 Lot 27 and lies within the General Residence A (GRA) district.

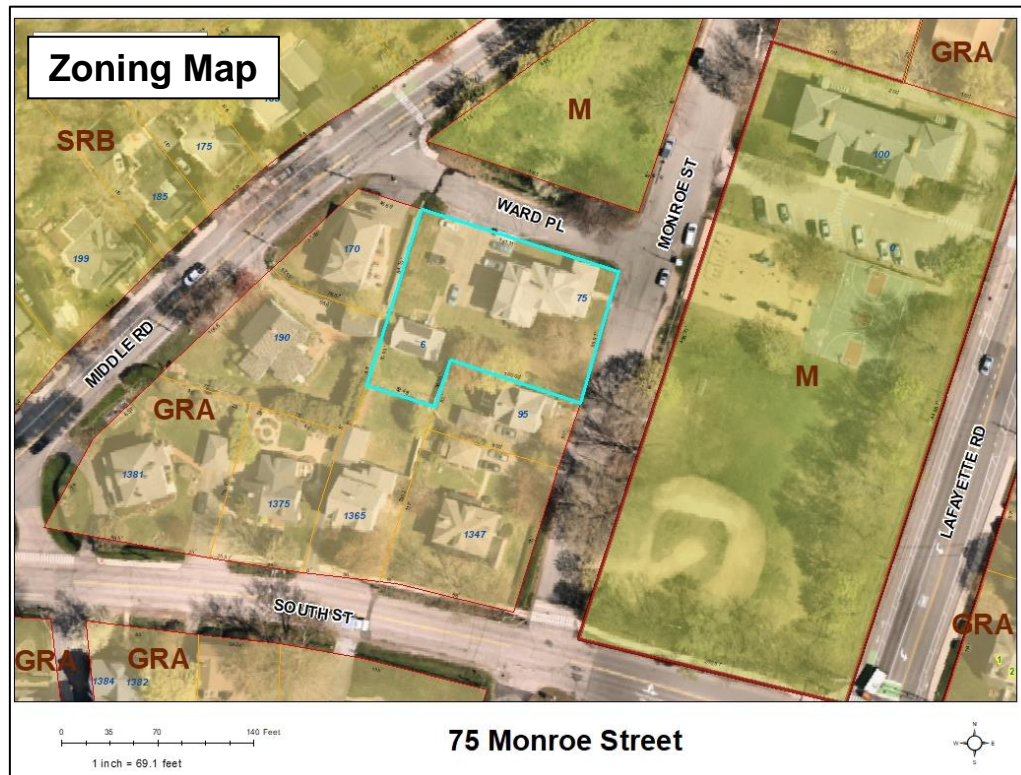
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use</u>		Extend front and rear dormers	Primarily residential
<u>Lot area (sq. ft.):</u>	16,964	16,964	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,120	2,120	7,500 min.
<u>Lot depth (ft.):</u>	150	150	70 min.
<u>Street Frontage (ft.):</u>	299	299	100 min.
<u>Primary Front Yard (ft.):</u>	11	11	15 min.
<u>Secondary Front Yard (ft.):</u>	4	4	15 min.
<u>Left Yard (ft.):</u>	5.5	5.5	10
<u>Rear Yard (ft.):</u>	11.5	11.5	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	16	16	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking:</u>	12	12	11
<u>Estimated Age of Structure:</u>	1920	Variance request(s) shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

February 16, 2016 – Relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.521 to allow a lot area of 6,022± s.f. where 7,500 s.f. is required.
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 6,022± s.f. where 7,500 s.f. per dwelling unit is required.
3. A Variance from Section 10.521 to allow continuous street frontage of 93.6'± where 100' of continuous street frontage is required.

The Board **granted** variances to allow the construction of a single family home and garage on two re-merged lots with a lot area and lot area per dwelling unit of 6,022± s.f. (7,500s.f. required) and 93.6'± continuous street frontage (100' required). The Board requested that the Planning Board in their review specify the location of the driveway cut.

April 26, 2016 – Relief from the Zoning Ordinance, including the following:

1. A Variance from Section 10.521 to allow a lot area of 5,954± s.f. where 7,500 s.f. is required.
2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 5,954± s.f. where 7,500 s.f. per dwelling unit is required.
3. A Variance from Section 10.521 to allow continuous street frontage of 85.59'± where 100' of continuous street frontage is required.

The Board voted to **postpone** the petition to the May 17, 2016 meeting at your request, with less than six voting members present providing just cause under the Board of Adjustment Rules and Regulations to grant the request.

May 17, 2016 – Relief from the Zoning Ordinance, as listed for April 26, 2016 meeting:

The Board determined that the modification to the variances granted at the February 16, 2016 meeting was slight so that the variances as currently presented and advertised should be **granted**.

Planning Department Comments

The applicant is seeking to extend existing dormers on the front and rear of the dwelling that has access off of Ward Place. The dormer extensions will not encroach beyond the existing wall plane of the dwelling. The 1920s structure is tucked into a narrow portion of the lot where it is nonconforming to both the side and rear yard. Although the structure faces and has access off of Ward Place, the principal front is off of Monroe and the rear yard is opposite the lot line with the address, or the Monroe Street lot 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.

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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.

The request of **Rob Currao (Applicant)**, and **Bursaws Pantry LLC (Owner)**, for property located at **3020 Lafayette Rd** whereas relief is needed for a proposed retail cabinetry outlet which requires the following: 1) A Special Exception from Section 10.440, Use #8.31 to allow retail sales conducted within a building which is permitted by special exception. Said property is located on Assessor Map 292 Lot 152 and lies within the Mixed Residential Business (MRB) district.

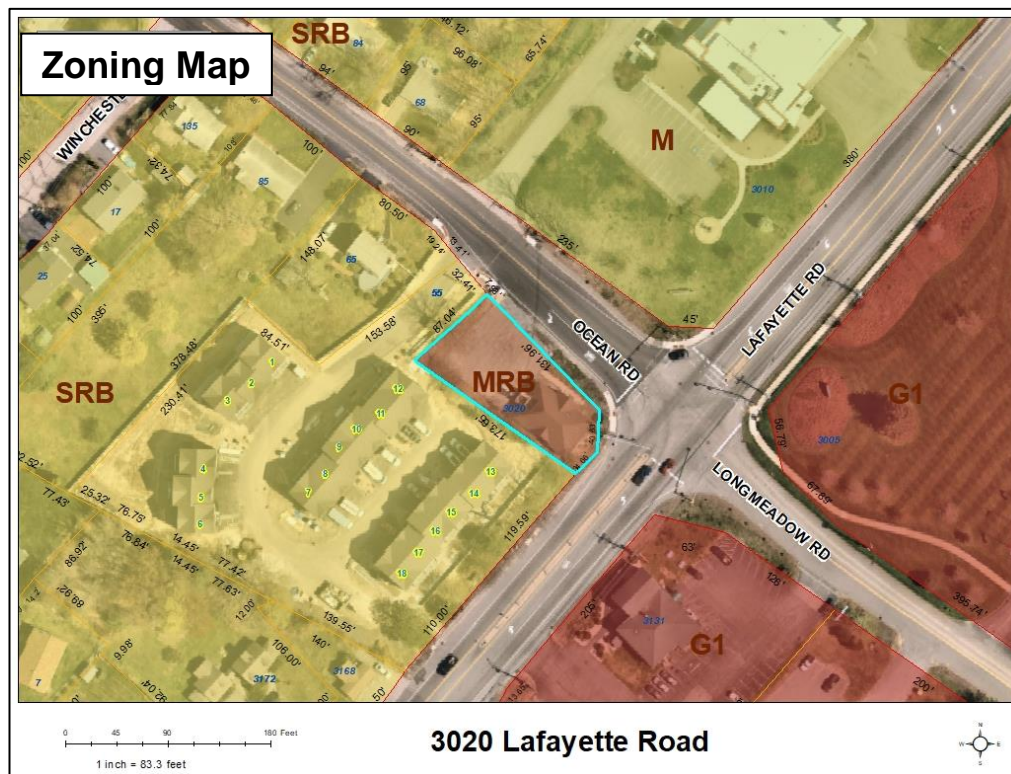
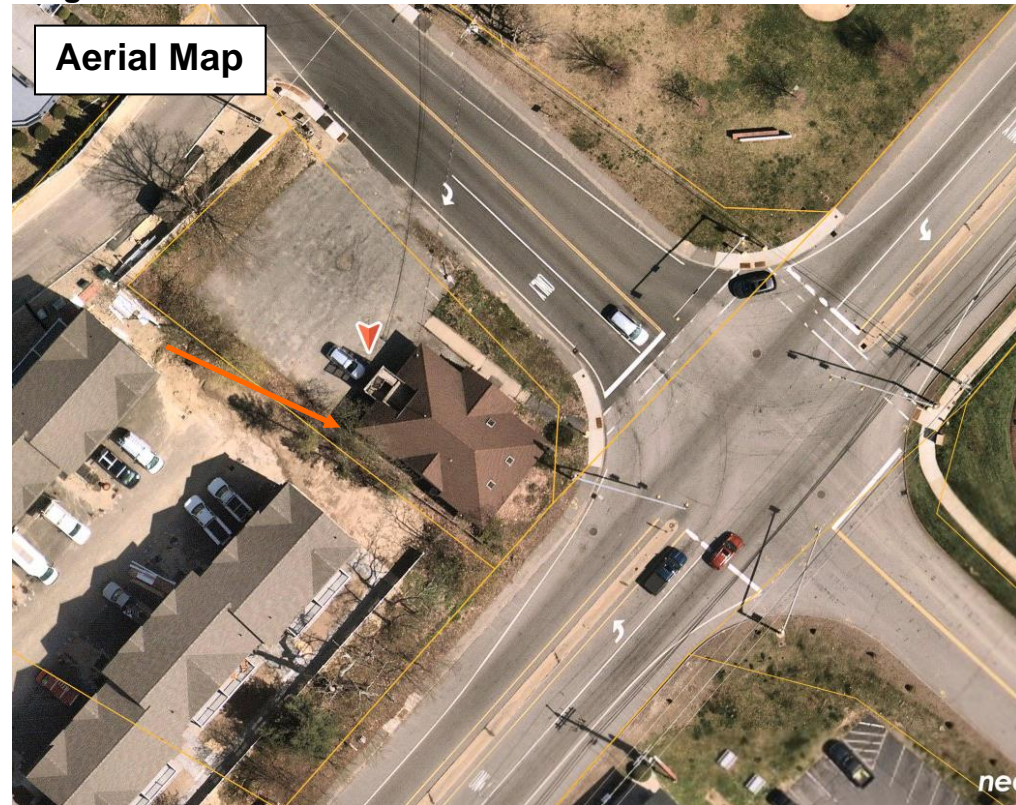
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant business with single-family above	Retail sales/cabinet outlet 1st floor	Primarily Mixed Uses
<u>Lot area (sq. ft.):</u>	11,815	11,815	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	11,815	11,815	7,500 min.
<u>Street Frontage (ft.):</u>	>100	>100	100 min.
<u>Lot depth (ft.):</u>	>80	>80	80 min.
<u>Primary Front Yard (ft.):</u>	54	54	80 (center Rt. 1) min.
<u>Secondary Front Yard (ft.):</u>	>5	>5	5 min.
<u>Left Yard (ft.):</u>	5.5	5.5	10 min.
<u>Rear Yard (ft.):</u>	>15	>15	15 min.
<u>Height (ft.):</u>	<40	<40	40 max.
<u>Building Coverage (%):</u>	18.5	19.2	40 max.
<u>Open Space Coverage (%):</u>	32.5	38.5	25 min.
<u>Parking</u>	13	13	13
<u>Estimated Age of Structure:</u>	1985	Special Exception request shown in red.	

Other Permits/Approvals Required

None

Neighborhood Context



Previous Board of Adjustment Actions

No December 18, 1984 – The Board **granted** variances to allow the following:

- 1) A 10' front yard where a 105' minimum yard was required for front yards abutting Lafayette Road;
- 2) A 10' left yard and a 19' right yard where 20' was required; and
- 3) The construction of a second floor apartment in a proposed two-story building where only conversions to existing structures for a residential use were allowed.

June 24, 1986 – The Board **granted** variances to allow the following:

- 1) A 10' front yard where a 105' minimum yard was required for front yards abutting Lafayette Road;
- 2) A 10' left yard and a 19' right yard where 20' was required; and
- 3) The construction of a second floor apartment in a proposed two-story building where only conversions to existing structures for a residential use were allowed. (Note: No indication in the file regarding action following the first approval in 1984.)

October 20, 1987 – The Board **granted** a variance to permit the establishment of a 5' left side yard (due to a surveyor's error) in conjunction with a new structure where a 10' yard had been permitted by a previous variance.

March 15, 1988 – The Board **granted** variances to allow two attached signs totaling 43 s.f. and one 28 s.f. free-standing sign where free-standing signs were not allowed for a total of 71 s.f. of aggregate signage where 30 sf. was the maximum allowed.

August 30, 1988 – The Board **denied** a request to allow the construction of an exterior staircase on the south side of the building (for access to a dwelling unit) with a 2' left side yard where 30' was required.

January 21, 2003 – The Board **granted** a variance to allow an existing 2,111 s.f. Convenience Goods I

store to be changed to a 2,111 s.f. Convenience Goods II store to allow the sale of prepared food for consumption off the premises where the maximum area for the latter was 2,000 s.f. The variance was granted with the stipulation that there would be no grilling or frying of prepared food on the premises.

January 20, 2004 – The Board **granted** a one-year extension of the above variance.

February 19, 2008 – The Board **granted** a variance to allow what had been requested and granted at the

January 21, 2003, extended for one-year and allowed to lapse. (As 3110 and 3020 Lafayette Road)

April 18, 2017 – The Board **postponed** a request to construct a retail facility of up to 15,000 s.f. with

drive-through window and lanes requiring the following: a) a special exception to allow a retail use; and variances to allow b) off-street parking to be located in a front yard or between a principal building and a street; c) a drive-through facility to be located within 100' of a residential district and within 50' of a lot line; d) drive-through lanes to be located within

50' of a residential district and within 30' of a lot line; and e) a building, structure or parking area to be located 65' from the centerline of Lafayette Road where 80' is required.

May 16, 2017 – The Board **denied** the above petition

January 17, 2018 - The Board voted to **grant** the following petition as presented and advertised.

Relief from the Zoning Ordinance including:

1. A Variance from Section 10.521 to allow a) a 3,938± s.f. lot area per dwelling unit where 7,500 s.f. is required; and b) to allow a 5.5'± left side yard setback where 10' is required.
2. A Variance from Section 10.533 to allow a building or structure to be located 54'± from the centerline of Lafayette Road where a minimum of 80' is required.

Planning Department Comments

The applicant is proposing a retail sales business for a cabinetry outlet at this location. There is an existing apartment on the second floor and the retail portion will be on the first floor. The applicant is proposing to make aesthetic and code updates to the building and property as part of the business.

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.

6.

The request of **Judith A. Mraz Revocable Trust (Owner)**, for property located at **11 Walden Street** whereas relief is needed to install a heat pump which requires the following:
 1) A Variance from Section 10.515.14 to allow a 1 foot rear yard setback and a 1.5 foot side yard setback where 10 feet is required for each. Said property is located on Assessor Map 101 Lot 17 and lies within the General Residence B (GRB) and Historic districts.

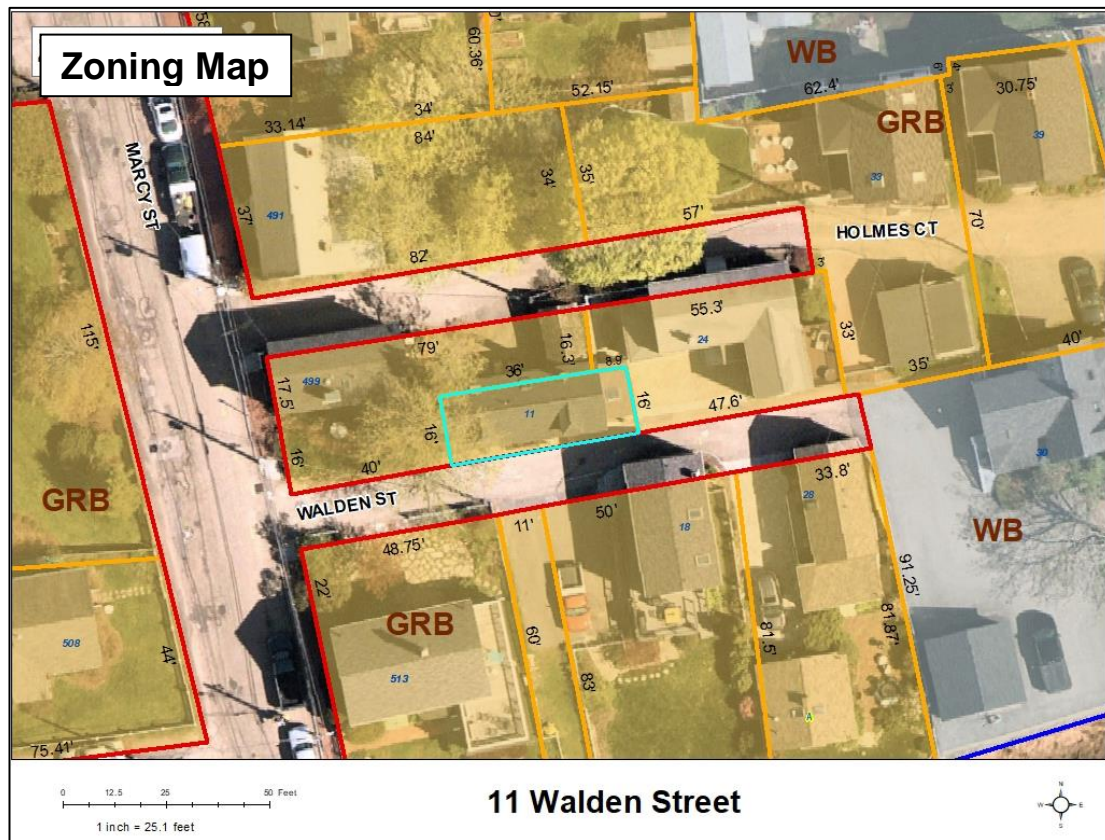
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	HVAC unit	Primarily residential uses
<u>Lot area (sq. ft.):</u>	752	752	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	752	752	5,000 min.
<u>Lot depth (ft.):</u>	16	16	60 min.
<u>Street Frontage (ft.):</u>	46	46	80 min.
<u>Primary Front Yard (ft.):</u>	0	0	5 min.
<u>Right Yard (ft.):</u>	0	0	5 min.
<u>Left Yard (ft.):</u>	1	1.5	10 min.
<u>Rear Yard (ft.):</u>	1	1	10 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u> :	87	87	30 max.
<u>Open Space Coverage (%)</u> :	13	13	25 min.
<u>Estimated Age of Structure:</u>	1780	Variance request(s) shown in red.	

Other Permits/Approvals Required

Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is to add an attached HVAC unit to the left side of the house where relief is needed for side and rear yard setbacks. The house nearly covers the entire lot, with a small area of open space on the left side. Any other location on the house would likely create a situation where the unit would be on the property line, if not over it.

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.