

TO: Zoning Board of Adjustment
FROM: Stefanie Casella, Planning Department
DATE: March 21, 2023
RE: Zoning Board of Adjustment March 29, 2023

The agenda items listed below can be found in the following analysis prepared by City Staff:

II. NEW BUSINESS

- C. 55 Mangrove Street
- D. 74 Sunset Road
- E. 199 Clinton Street
- F. 196 Aldrich Road
- G. 411 The Hill #6-14
- H. 168 Lincoln Avenue
- I. 15 Lafayette Road
- J. 3 Walton Alley
- K. 4 Sylvester Street
- L. 9 Kent Street

II. NEW BUSINESS

- C. The request of **Michael Knight (Owner)**, for property located at **55 Mangrove Street** whereas relief is needed to replace existing 6 foot chain link fence with 8 foot cedar fence which requires the following: 1) A Variance from Section 10.515.13 to allow an 8 foot fence on the rear and side lot lines where a 6 foot maximum is allowed. Said property is located on Assessor Map 219 Lot 7 and lies within the Single Residence B (SRB) District. (LU-23-15)

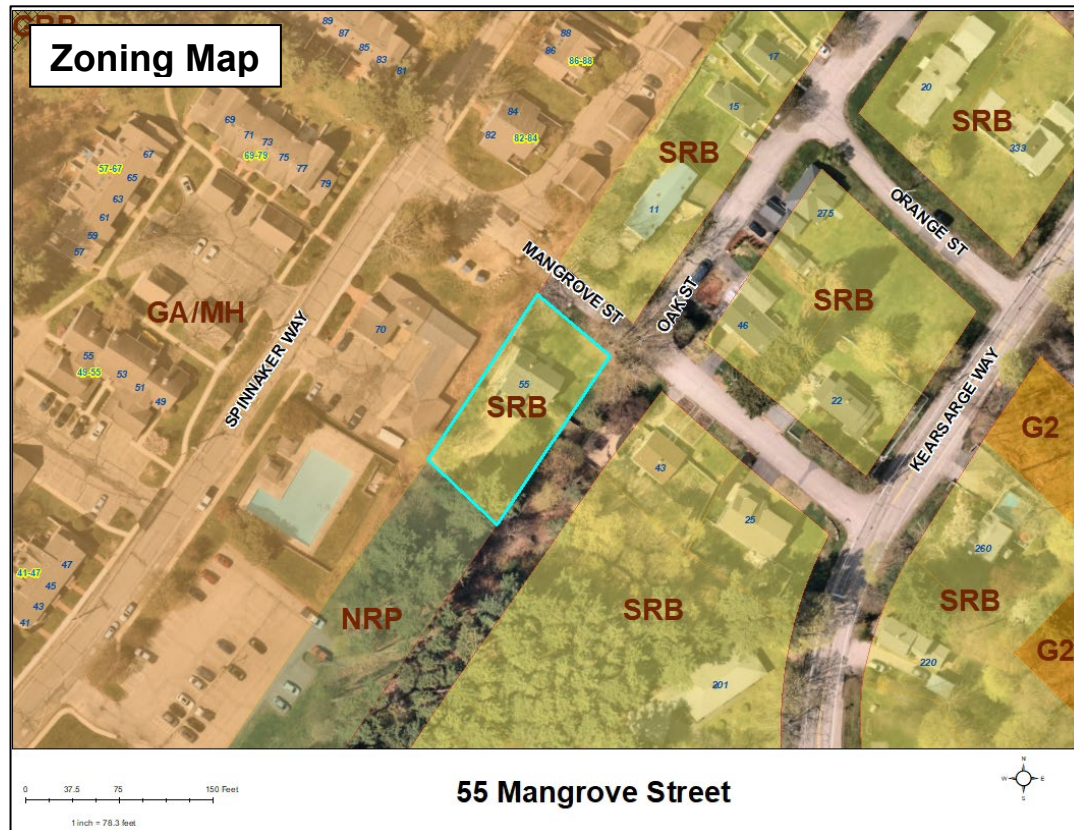
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	8-foot fence	Primarily residential
<u>Lot area (sq. ft.):</u>	9,583	9,583	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	9,583	9,583	15,000 min.
<u>Lot depth (ft.):</u>	162	162	100 min.
<u>Street Frontage (ft.):</u>	60	60	100 min.
<u>Primary Front Yard (ft.):</u>	37	37	30 min.
<u>Right Yard (ft.):</u>	8	8/0 (fence)	10 min.
<u>Left Yard (ft.):</u>	20	20/0 (fence)	10
<u>Rear Yard (ft.):</u>	82	82/0 (fence)	30 min.
<u>Height (ft.):</u>	<35	<35 8' (fence)	35 6' (fence) max.
<u>Building Coverage (%):</u>	14.5	14.5	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1958	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

April 26, 1988 – Relief from Zoning Ordinance including:

Variance from Article III, Section 10-302 requested to permit construction of a 10'x 21' deck and 7'x 8' landing with stairs with a 6' right yard in a district where a 10' yard is required.

Applicant **withdrew the request** in writing the night of the meeting.

Planning Department Comments

The applicant is requesting a variance to allow an 8 foot fence along the side and rear lot lines as shown in the highlighted plan in the application. Per Section 10.515.13, a 6-foot fence is the maximum allowed along the rear and side yard of any property.

10.515.13 Fences not over 4 feet in height shall be exempt from **front yard** requirements, and fences not over 6 feet in height shall be exempt from side and **rear yard** requirements.

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.

II. NEW BUSINESS

- D. The request of **John T McDonald III** and **Mary R McDonald (Owners)**, for property located at **74 Sunset Road** whereas relief is needed for an addition of a chimney bump out which requires the following: 1) Variances from Section 10.521 to allow a) a 6.5 foot left yard where 10 feet is required; and b) 26.6% building coverage where 20% is required. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be expanded, reconstructed, or enlarged without conforming to the requirements of the Ordinance. Said property is located on Assessor Map 153 Lot 14 and lies within the Single Residence B (SRB) District. (LU-22-182)

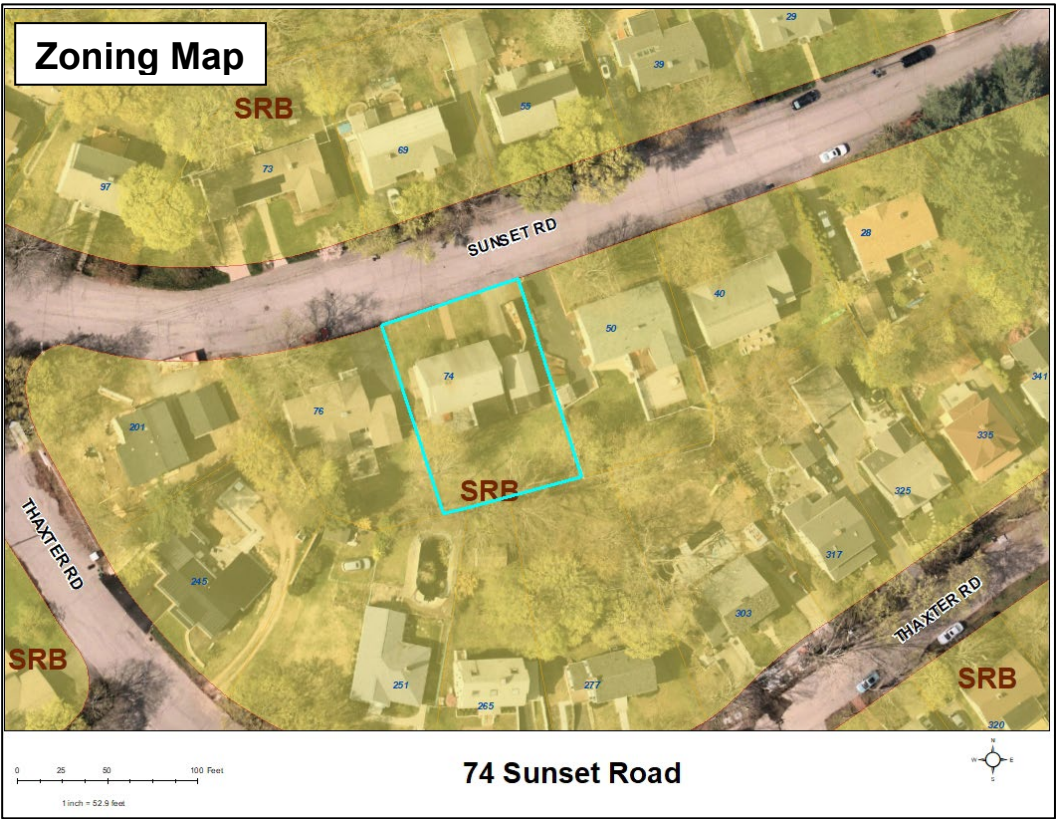
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Single family	New front porch And connector to garage	Primarily residential
<u>Lot area (sq. ft.):</u>	8,936	8,936	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,936	8,936	15,000 min.
<u>Lot depth (ft.):</u>	110	110	100 min.
<u>Street Frontage (ft.):</u>	80	80	100 min.
<u>Primary Front Yard (ft.):</u>	24	16* prior variance granted	30 min.
<u>Right Yard (ft.):</u>	9	6.5	10 min.
<u>Left Yard (ft.):</u>	8	8	10
<u>Rear Yard (ft.):</u>	41	41	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	23	26.6 (26.5 previously approved)	20 max.
<u>Open Space Coverage (%):</u>	66	64	40 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1959	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

September 27, 2022 – Relief from Zoning Ordinance including:

- 1) Variances from Section 10.521 to allow a) a 16 foot front yard where 30' is required; and b) 26.5% building coverage where 20% is required.
- 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be expanded, reconstructed or enlarged without conforming to the requirements of the Ordinance.

Board voted to **grant** the request as presented.

Planning Department Comments

As shown in the history above, the applicant was before the Board this past summer with a proposal to improve the and expand the existing structure. During the construction and inspection process it was discovered that a portion of the addition was not in compliance with plans approved by the BOA at the September 27, 2022 meeting. The applicants latest request will rectify this error.

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.

II. NEW BUSINESS

- E. The request of **Katherine L Cook (Owner)**, for property located at **199 Clinton Street** whereas relief is needed to demolish the existing dwelling and construct a new single-family dwelling which requires the following: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling unit of 4,917 where 7,500 is required for each; b) 54 feet of frontage where 100 feet is required; c) a 4 foot front yard where 15 feet is required; d) a 9 foot right side yard where 10 feet is required; and e) 28% building coverage where 25% is the maximum allowed. Said property is located on Assessor Map 159 Lot 26 and lies within the General Residence A (GRA) District. (LU-23-23)

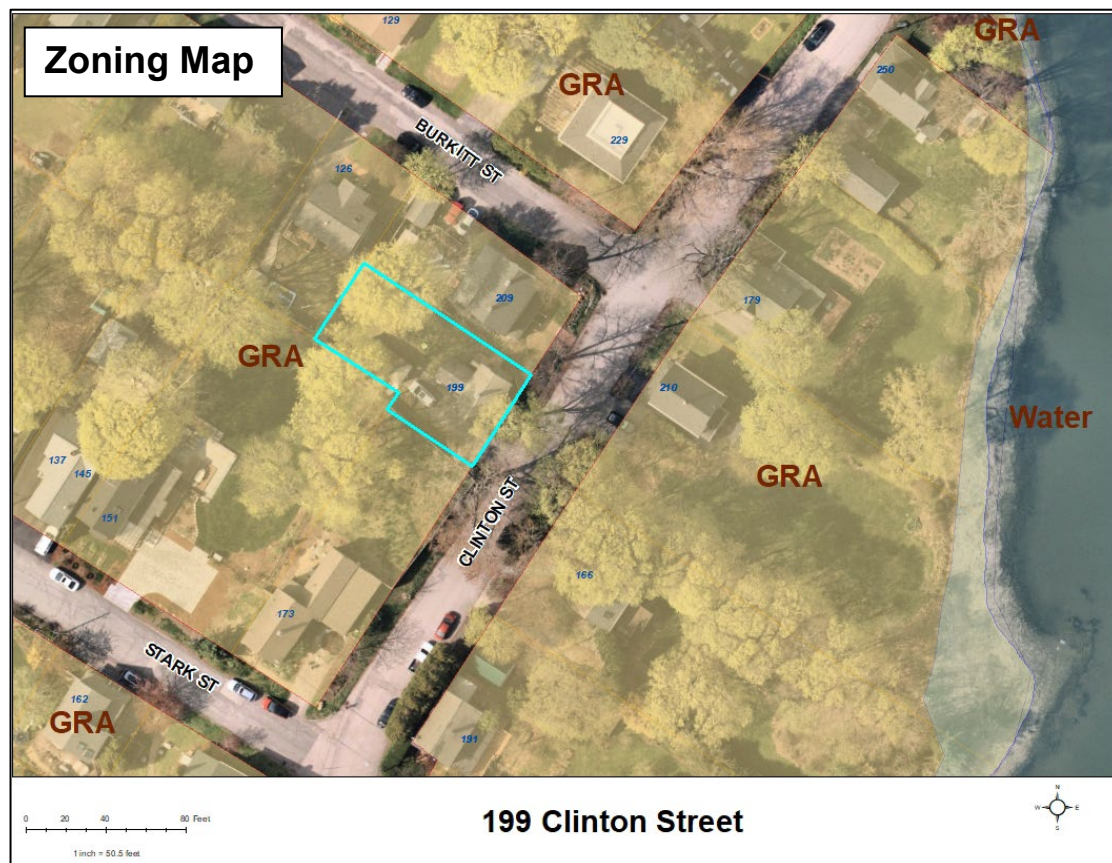
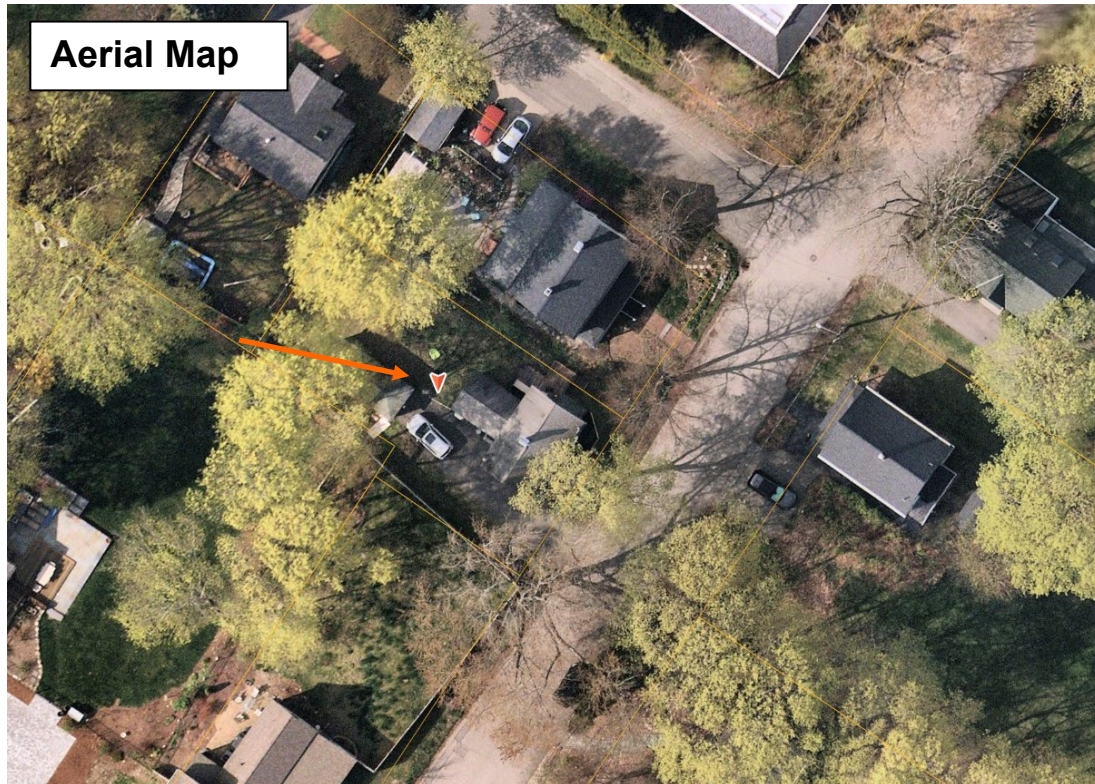
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Demo existing/construct new dwelling	Primarily residential uses
<u>Lot area (sq. ft.):</u>	4,917	4,917	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,917	4,917	7,500 min.
<u>Street Frontage (ft.):</u>	54	54	100 min.
<u>Lot depth (ft.):</u>	100	100	70 min.
<u>Front Yard (ft.):</u>	5	4	15 min.
<u>Left Yard (ft.):</u>	15.5	17	10 min.
<u>Right Yard (ft.):</u>	2	9	10 min.
<u>Rear Yard (ft.):</u>	>20	>20	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	22	28	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1880	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Demo/Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant is proposing to demolish the existing single living unit structure and replace it with a new single living unit structure. The existing lot is non-conforming which requires lot specific dimensional variances when a primary structure is removed and replaced on a non-conforming site. In this case these variances include lot area, lot area per dwelling unit, and street frontage. The remaining requested variances are more specific to the placement and size of the new structure on the 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.*

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.

II. NEW BUSINESS

- F. **REQUEST TO POSPONE** The request of **Joshua Wyatt** and **Erin Hichman (Owners)**, for property located at **196 Aldrich Road** whereas relief is needed to demolish existing garage and construct new garage and construct new addition over existing side porch which requires the following: 1) Variances from Section 10.521 to allow a) a secondary front yard of 3 feet where 30 feet is required; b) a 6 foot rear setback where 10 feet 7 inches is required; c) 23% building coverage where 20% is the maximum allowed. 2) A Variance from Section 10.571 to allow and accessory structure to be 10 feet from the front lot line and located in the front yard. 3) 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 153 Lot 25 and lies within the Single Residence B (SRB) District. (LU-23-24)
- REQUEST TO POSPONE**

Planning Department Comments

Applicant has requested to postpone consideration due to a new survey of the property that was recently conducted and brought forward new information. Applicant would like to submit updated materials and has requested to be considered at the April 18, 2023 Board of Adjustment meeting.

II. NEW BUSINESS

- G.** The request of **Colmax LLC (Owner)**, for property located at **411 The Hill #6-14 (411 Deer Street)** whereas relief is needed to convert building into a single family dwelling which requires the following: 1) A Variance from Section 10.642 to allow residential use on the ground floor in the Downtown Overlay District where is not permitted. 2) A Variance from Section 10.5A41.10A to allow a house in the Downtown Overlay District where it is not permitted. Said property is located on Assessor Map 118 Lot 26-1 and lies within the Character District 4-L1 (CD4-L1) in the downtown Overlay District. (LU-23-21)

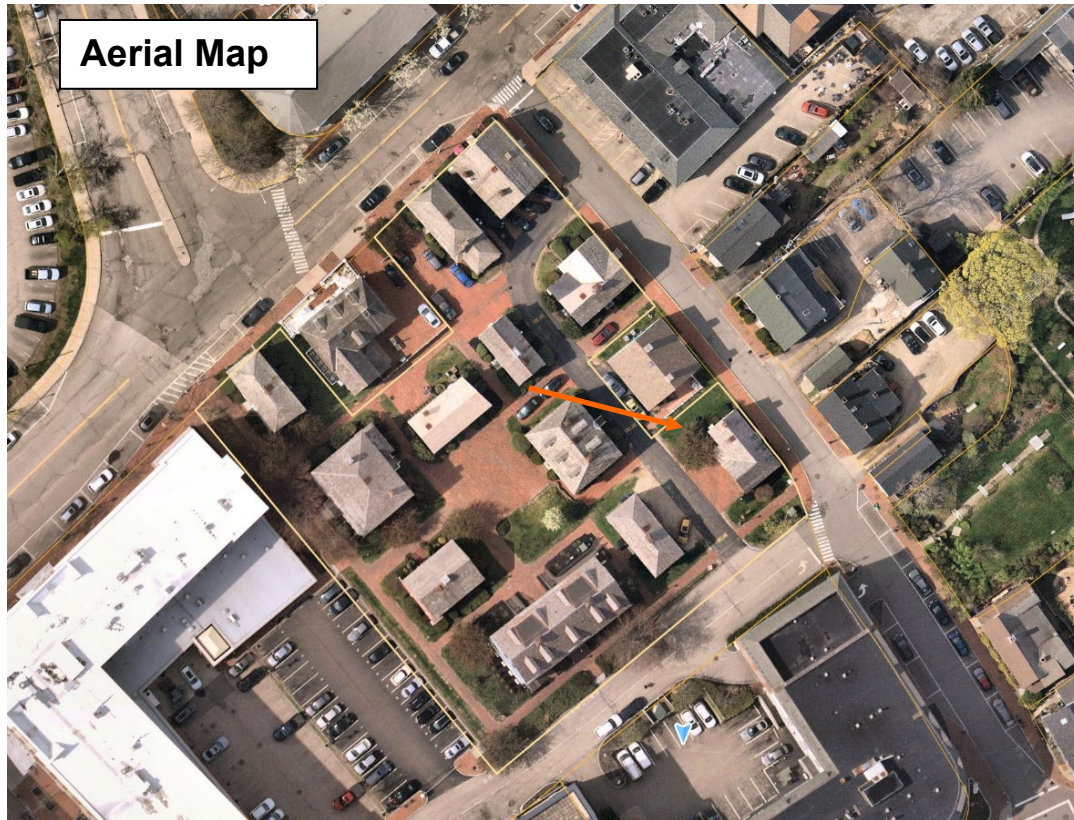
Existing & Proposed Conditions

	<u>Existing/</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Office	Single Family	Primarily Mixed Use
<u>Lot area (acres):</u>	52,272	52,272	3,000 min.
<u>Lot area/dwelling (ft.):</u>	7,467	6,534	3,000 min.
<u>Primary Front Yard (ft.):</u>	1.5	1.5	15 max.
<u>Left Yard (ft.):</u>	26	26	5 – 20 max.
<u>Right Yard (ft.):</u>	20	20	5- 20 max.
<u>Rear Yard (ft.):</u>	200	200	Greater or 5 ft. from lot line or 10 ft from CL of alley
<u>Height (ft.):</u>	<35	<35	35
<u>Open Space Coverage (%)</u>	>25	>25	25 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1750	Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit
- Historic District Commission (if necessary)

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant is seeking to convert the existing structure from an office use to a single unit residential structure. Although a house is permitted in the CD4-L1 district, the Downtown Overlay prohibits the building type and only allows nonresidential uses on the first floor.

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.

II. NEW BUSINESS

- H. The request of **Mark N Franklin** and **Julie S Franklin (Owners)**, for property located at **168 Lincoln Avenue** whereas relief is needed for demolition of the existing detached garage and porch and construction of a new attached garage and wrap-around porch which requires the following: 1) Variances from Section 10.521 to allow a) a 7.5 foot front yard where 15 feet is required; b) a 9 foot secondary front yard where 15 feet is required; c) 38% 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 located on Assessor Map 113 Lot 6 and lies within the General Residence A (GRA) District. (LU-23-25)

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Demo garage/construct new garage and porch	Primarily residential
<u>Lot area (sq. ft.):</u>	5,925	5,925	7,500 min.
<u>Lot area per dwelling (sq. ft.):</u>	5,925	5,925	7,500 min.
<u>Lot depth (ft.):</u>	105	105	70 min.
<u>Street Frontage (ft.):</u>	163	163	100 min.
<u>Primary Front Yard (ft.):</u>	7.5	7.5	15 min.
<u>Secondary Front Yard (ft.):</u>	16.2	9	15 min.
<u>Right Yard (ft.):</u>	1.5 (garage) 8.8 (primary structure)	10 (garage) 8.8 (primary structure)	10 min.
<u>Rear Yard (ft.):</u>	1.7	20	20 min.
<u>Height (ft.):</u>	31.6	32.6	35 max.
<u>Building Coverage (%):</u>	33	38	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

- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

Applicant is proposing to remove the existing detached garage and back porch for the purpose of building a new attached garage and expanding the existing front porch. As this is a corner lot, there are two front yards, with the principal on Lincoln and the secondary front on Sherburne Ave. The new attached garage will conform to the yard requirements where the existing detached garage is nonconforming and located very close to the rear 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.

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.

II. NEW BUSINESS

- I. The request of **Murdock Living Trust (Owner)**, for property located at **15 Lafayette Road** whereas relief is needed to subdivide one lot into two lots which requires the following: 1) A Variance from Section 10.521 to allow 73.8 feet of continuous street frontage where 100 feet is required for the remainder lot. Said property is located on Assessor Map 152 Lot 2 and lies within the General Residence A (GRA) and Historic District. (LU-23-26)

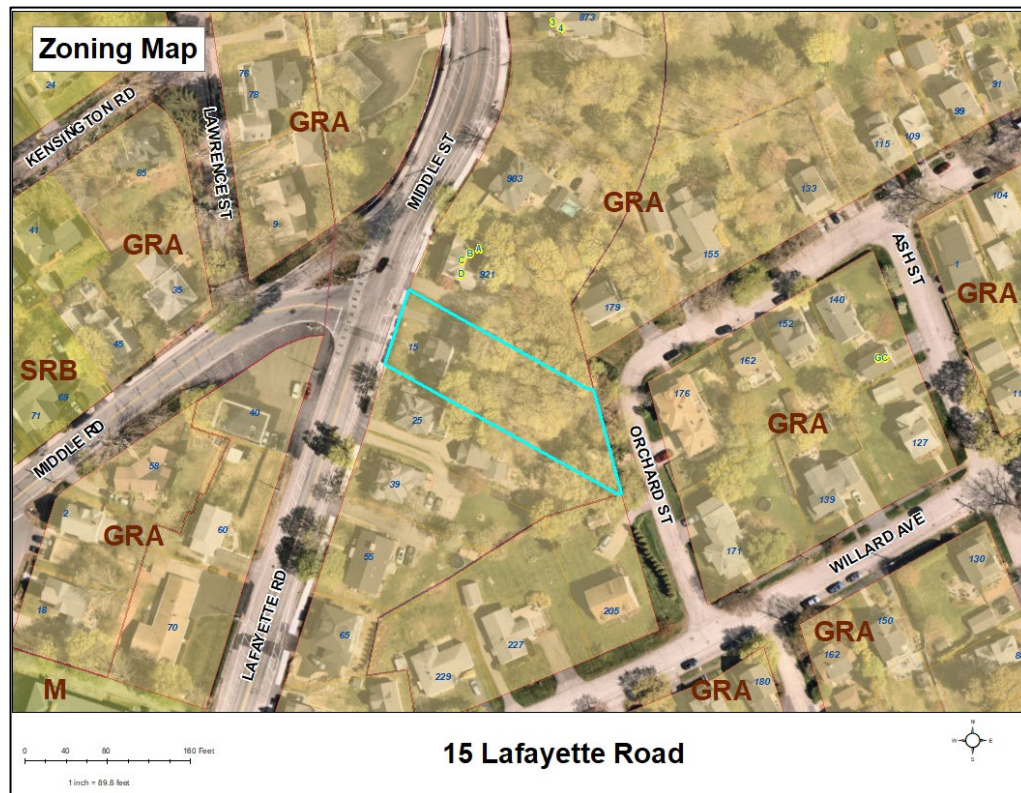
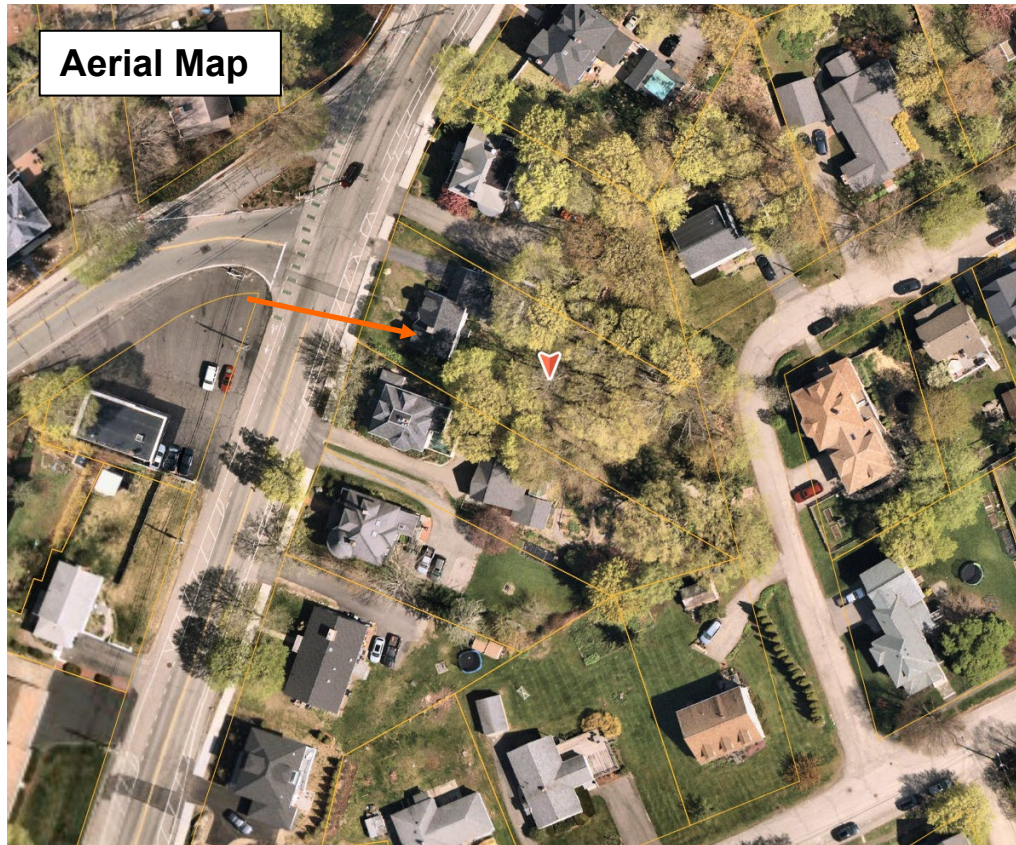
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>		<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Subdivide into 2 lots		Primarily residential
		Lot 1 (152-4)	Lot 2 (152-4-1)	
<u>Lot area (sq. ft.):</u>	17,301	9,126	8,172	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	17,301	9,126	8,172	7,500 min.
<u>Street Frontage (ft.):</u>	73.8	73.8	102.3	100 min.
<u>Lot depth (ft.)</u>	257	124.7	108.06	70 min.
<u>Front Yard (ft.):</u>	>15	>15	15	15 min.
<u>Left Yard (ft.):</u>	3.7	3.7	10	10 min.
<u>Right Yard (ft.):</u>	9	9	10	10 min.
<u>Rear Yard (ft.):</u>	>20	20	20	20 min.
<u>Height (ft.):</u>	<35	<35	N/A	35 max.
<u>Building Coverage (%)</u>	9.6	18.5	0	25 max.
<u>Open Space Coverage (%)</u>	>30	>30.7	100	30 min.
<u>Parking</u>	2	2	N/A	2
<u>Estimated Age of Structure:</u>	1942	Variance request(s) shown in red.		

Other Permits/Approvals Required

- TAC/Planning Board – Subdivision Approval

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant is requesting relief to subdivide the existing lot into two lots. The applicant has not yet proposed any construction on proposed lot 152-4-1 so the open space calculation is 100%, building coverage is 0%, and the building height and parking are not applicable. The proposed vacant lot shows a building envelope where a new dwelling could be built and conform to the zoning requirements without the need for relief.

Variance 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.

II. NEW BUSINESS

- J. The request of **Seacoast Management Consulting LLC (Owner)**, for property located at **3 Walton Alley** whereas relief is needed to add an AC unit and relocate landing and steps which requires the following: 1) A Variance from Section 10.515.14 to allow a 1 foot side setback where 10 feet is required. 2) A Variance from Section 10.521 to allow a) an 8.5 foot setback where 25 feet is required; and b) 38.5% building coverage where 30% is the maximum allowed. Said property is located on Assessor Map 103 Lot 20 and lies within the General Residence B (GRB) and Historic District. (LU-23-22)

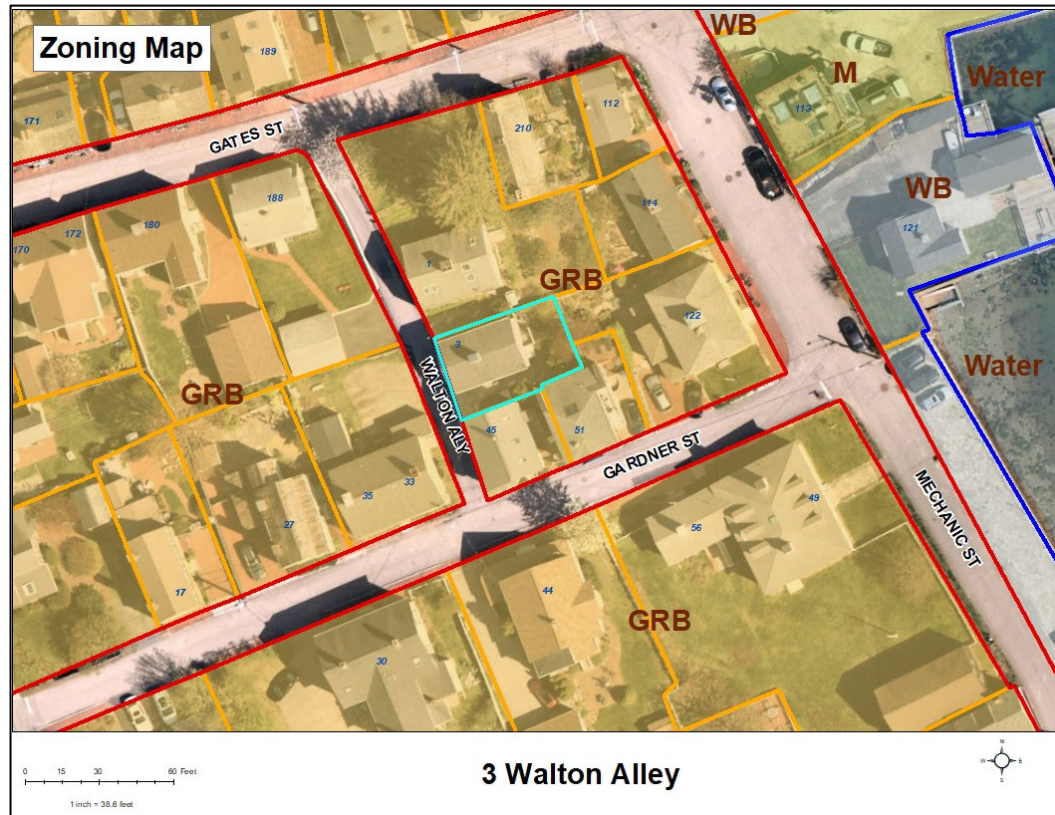
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Add AC unit and new landing & steps	Primarily residential
<u>Lot area (sq. ft.):</u>	1,746	1,746	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	1,746	1,746	5,000 min.
<u>Street Frontage (ft.):</u>	32.7	32.7	80 min.
<u>Lot depth (ft.):</u>	51	51	60 min.
<u>Front Yard (ft.):</u>	0	0	5 min.
<u>Left Yard (ft.):</u>	<1	1 (AC Unit)	10 min.
<u>Right Yard (ft.):</u>	3	3	10 min.
<u>Rear Yard (ft.):</u>	14	11.5 (advertised as 8.5)	25 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>		38.5	30 max.
<u>Open Space Coverage (%):</u>	<25	<25	25 min.
<u>Parking</u>	1	1	2
<u>Estimated Age of Structure:</u>		Variance request(s) shown in red.	

Other Permits/Approvals Required

- Building Permit
- Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

No previous BOA history found.

Planning Department Comments

The applicant has applied for the requested relief to install an AC mechanical unit and reconfigure the stairs to project perpendicular to the house.

The applicants' submission materials reflect the request of an 8.5 feet rear yard, but after further review by staff it was determined that only 11.5 feet is needed with the proposed dimensions of the structure. See below for corrected details.

- Primary structure sits 18.5 feet from the rear boundary line.
- Existing porch structure extends 4.5 feet from the primary structure creating an existing rear yard of 14 feet.
- Proposed porch structure will extend 8 feet from the primary structure creating an proposed rear yard of 11.5 feet.

As this updated dimension is lesser relief than the advertised dimension, staff recommends the below or a similar stipulation be included if the request is granted.

- ***The Board recognizes the advertised relief requested for the rear yard is in error and grant a 11.5 foot rear yard.***

Variance 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.

II. NEW BUSINESS

- K. The request of **Jared J Saulnier (Owner)**, for property located at **4 Sylvester Street** whereas relief is needed to subdivide one lot into two lots which requires the following: Proposed Lot 1: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 9,645 square feet where 15,000 is required for each; b) 80 feet of lot depth where 100 feet is required; and c) a 9 foot right side yard where 10 feet is required. Proposed Lot 2: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling unit of 6,421 square feet where 15,000 is required for each; b) 40 feet of street frontage where 100 feet is required; and c) 80 feet of lot depth where 100 feet is required. Said property is located on Assessor Map 232 Lot 36 and lies within the Single Residence B (SRB) District. (LU-23-27)

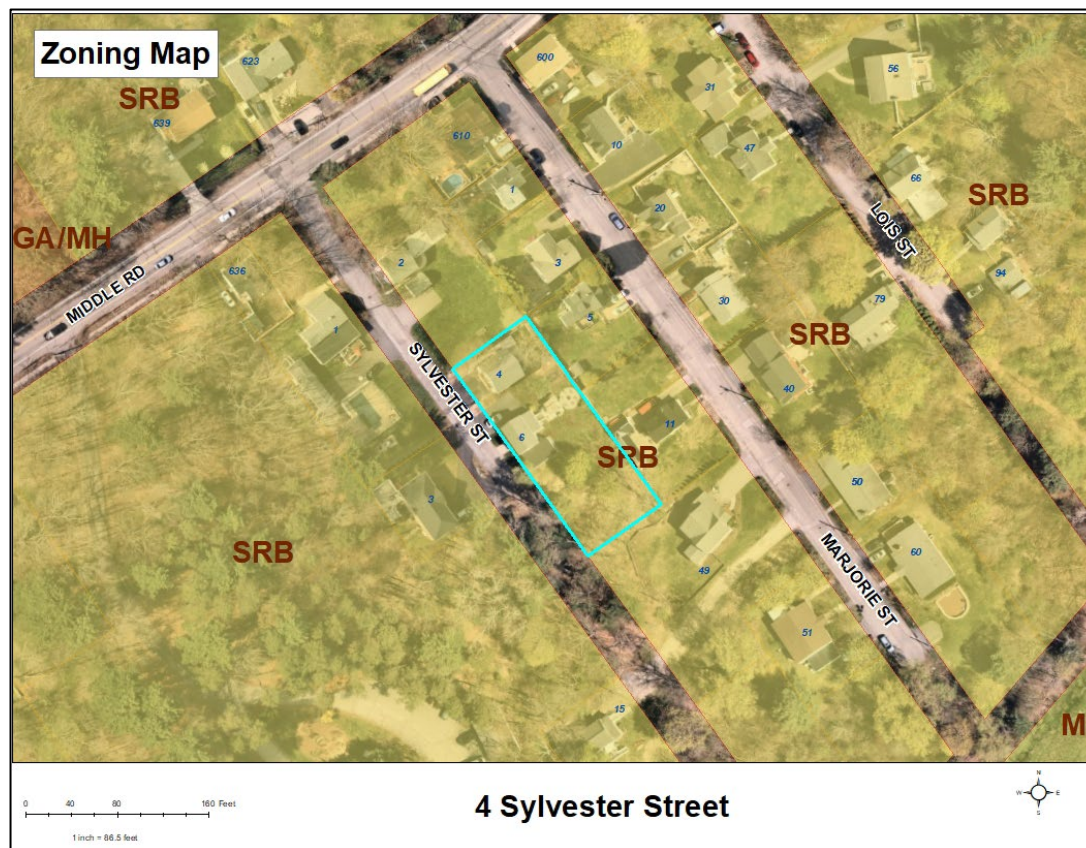
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>		<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	2 lot subdivision		Primarily single family
		Lot 1 (232-36)	Lot 2	
<u>Lot area (sq. ft.):</u>	16,067	9,645	6,421	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	16,067	9,645	6,421	15,000 min.
<u>Street Frontage (ft.):</u>	200	120	40	100 min.
<u>Lot depth (ft.)</u>	80	80	80	100 min.
<u>Front Yard (ft.):</u>	7.9	7.9	30	30 min.
<u>Left Yard (ft.):</u>	9.7	9.7	10	10 min.
<u>Right Yard (ft.):</u>	>10	9	10	10 min.
<u>Rear Yard (ft.):</u>	33.9	33.9	30	30 min.
<u>Height (ft.):</u>	21.75	21.75	N/A	35 max.
<u>Building Coverage (%)</u> :	11%	18.5	0	20 max.
<u>Open Space Coverage (%)</u> :	78.8	67.2	100	40 min.
<u>Parking</u>	2	2	N/A	2
<u>Estimated Age of Structure:</u>		Variance request(s) shown in red.		

Other Permits/Approvals Required

- TAC/Planning Board – Subdivision Approval
- Building Permit

Neighborhood Context



Previous Board of Adjustment Actions

April 18, 2017 – Relief from Zoning Ordinance to Keep 4 chickens in a 4' x 6' coop.

Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including a Special Exception under Section 10.440, Use #17.20 to allow the keeping of farm animals in a district where it is only allowed by Special Exception. The Board voted to **grant** the petition as presented and advertised **with the following stipulations**: The number of chickens will be limited to four with no roosters.

Planning Department Comments

The applicant is requesting relief to subdivide the existing lot into two lots with dimensions as stated in the conditions table. 40 feet of frontage is requested for lot 2 as the applicant is proposing to extend the road to the mid-point of proposed lot 2, not the entire length of the lot.

Applicant has not yet proposed any construction on proposed lot 2 so the open space calculation is 100%, building coverage is 0%, and the building height and parking is not applicable. A narrow building envelope is shown on the proposed plan that would accommodate a small dwelling.

Variance 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.

II. NEW BUSINESS

- L. **REQUEST TO POSTPONE** The request of **Cynthia Austin Smith** and **Peter (Owners)**, for property located at **9 Kent Street** whereas relief is needed to demolish the existing two-family and construct a single-family dwelling which requires the following: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling of 5,000 square feet where 7,500 square feet is required for each; b) 53% building coverage where 25% is the maximum allowed; c) a 4.5 foot rear yard where 20' is required; d) a 0.5 foot side yard where 10 feet is required; e) a 0 foot front yard where 11 feet is allowed under Section 10.516.10; and f) a 9.5 foot secondary front yard where 13 feet is allowed under Section 10.516.10. 2) A Variance from Section 10.515.14 to allow a 1.5 foot setback for a mechanical unit where 10 feet is required. Said property is located on Assessor Map 113 Lot 42 and lies within the General Residence A (GRA) District. (LU-23-28) **REQUEST TO POSTPONE**

Planning Department Comments

The applicant has requested to postpone due to a member of the project team being unavailable to present at the rescheduled meeting. The applicant is requesting postponement to the April 18, 2023 Board of Adjustment meeting.