

TO: Zoning Board of Adjustment
FROM: Juliet Walker, Planning Department
DATE: June 12, 2015
RE: June 16, 2015 Board of Adjustment Meeting

NEW BUSINESS

1. 53 Humphreys Ct
2. 599 Lafayette Rd
3. 140 Summer St
4. 683 State St
5. 687 Middle St
6. 39 Dearborn St (Dearborn Ln)
7. 101 International Dr
8. 336 Union St
9. 36 Richards Ave

NEW BUSINESS

Case #6-1

Petitioners:	Zoe Copenhaver Daboul & Michael Edward Daboul
Property:	53 Humphreys Court
Assessor Plan:	Map 101, Lot 39
Zoning District:	General Residence B
Description:	Install 13"± x 38" ± condenser unit.
Requests:	The Variances necessary to grant the required relief from the Zoning Ordinance, including the following: 1. Variances from Section 10.521 to allow the following: a) A 3'2" ± right side yard setback where 10' is required; b) Building coverage of 44.3%± where 42.8% was previously approved and 30% is the maximum allowed; c) Open space coverage of 35.7%± where 25% is the minimum required. NOTE: Variance c) above is not required.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family residential	Primarily residential uses
<u>Lot area:</u>	3,407 sq. ft.	5,000 sq. ft. min.
<u>Lot Area per Dwelling Unit:</u>	3,407 sq. ft.	5,000 sq. ft. min.
<u>Street Frontage:</u>	59'	80' min.
<u>Lot depth:</u>	56.5'	60' min.
<u>Front Yard:</u>	4' 9"	5' min. (previous variance granted)
<u>Left Yard:</u>	4' 3"	10' min. (previous variance granted)
<u>Right Yard:</u>	3' 1.5"	10' min. (previous variance granted)
<u>Rear Yard:</u>	2' 9"	25' min. (previous variance granted)
<u>Height:</u>	<35'	35' max.
<u>Building Coverage:</u>	43%	30% max. (previous variance granted)
<u>Open Space Coverage:</u>	37%	25% min.
<u>Parking:</u>	2	2 min.
<u>Estimated Age of Structure:</u>	1900	

B. Proposed Changes

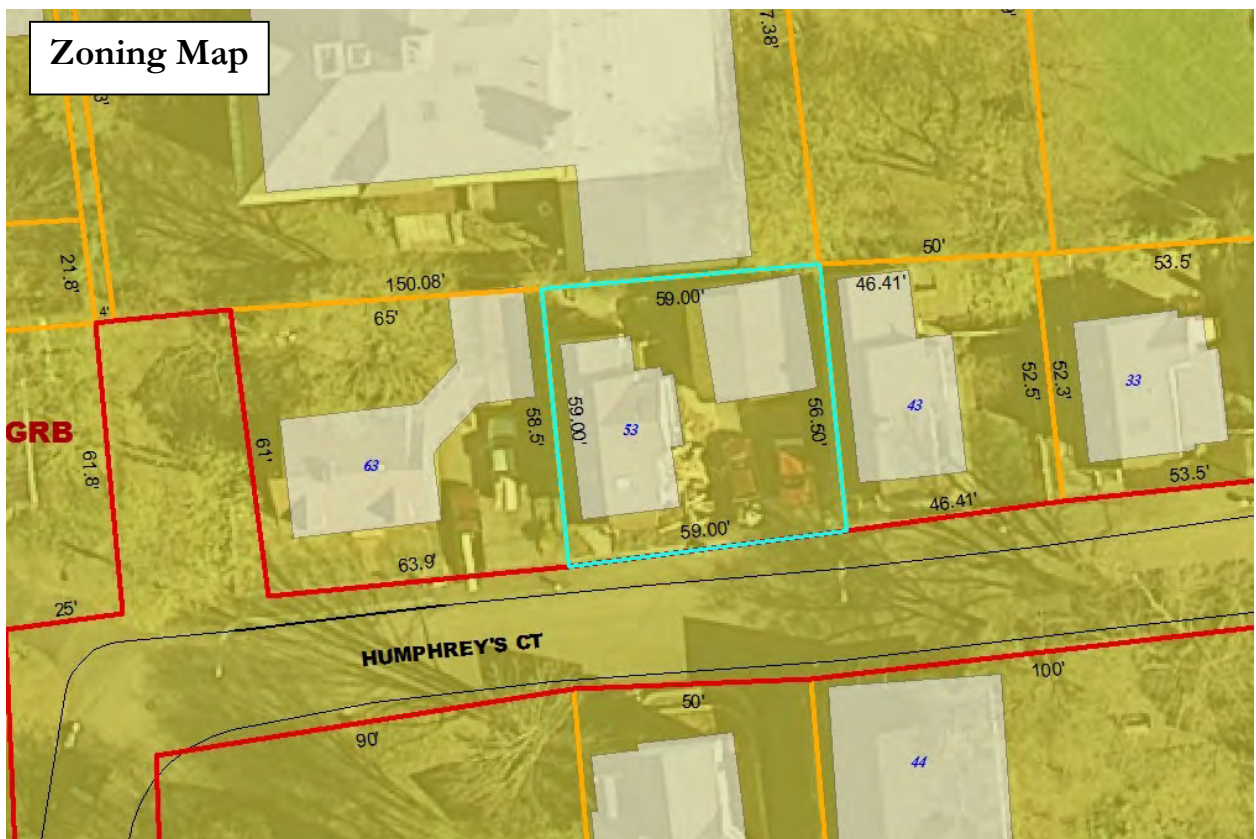
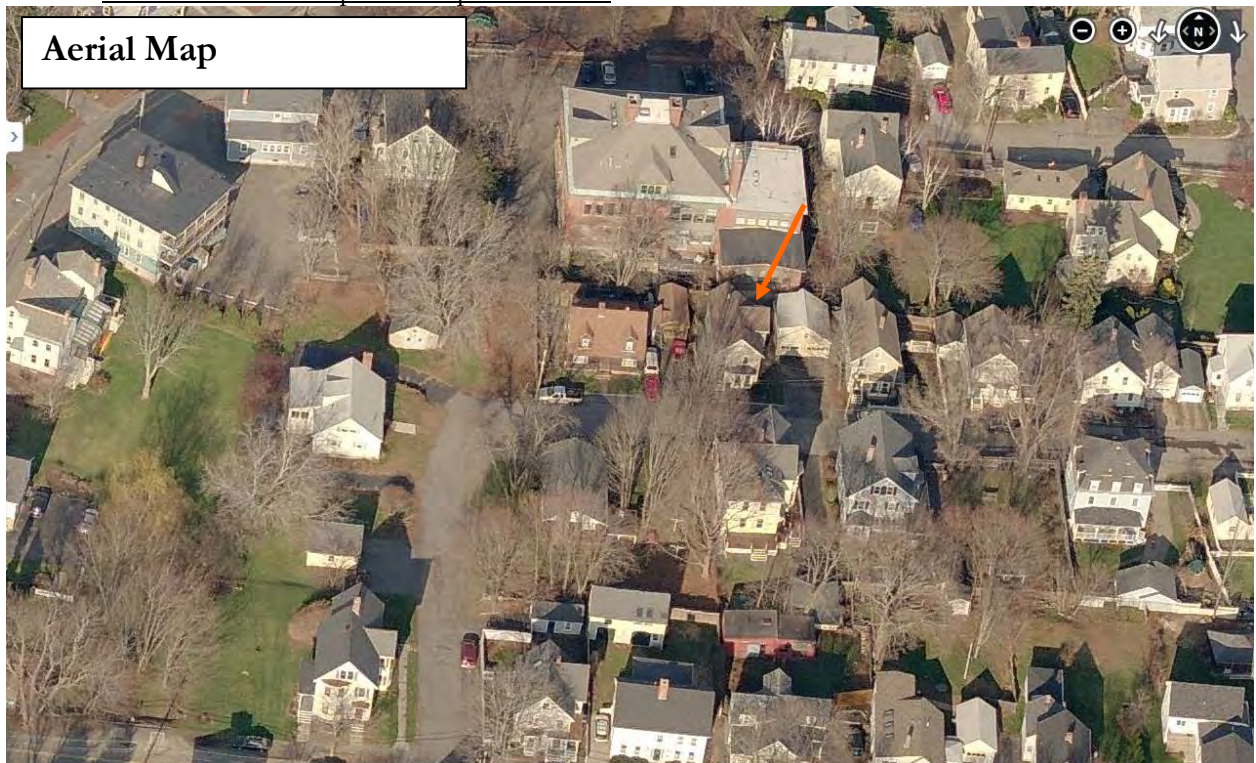
	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Left Yard:</u>	3' 2"	10' min.
<u>Height:</u>	45"	35' max.
<u>Building Coverage:</u>	44.3%	30% max.
<u>Open Space Coverage:</u>	36%	25% min.

C. Other Permits Required

- None

D. Neighborhood Context

- Surrounding Land Uses: Single family residential, multi-unit condominium building
- Public View of Proposed Improvements: Visible to direct abutters.



E. Previous Board of Adjustment Actions

August 17, 1993 – the Board **granted** a variance to allow a shed dormer on one-half of a garage roof where no increase may be made in the extent of a nonconforming use without Board approval.

February 17, 1998 – The Board **denied** a request to allow a 12' x 18' two-story addition with a 9' rear yard (25' required), a 4'10" left side yard (10' required), and building coverage of 41.3% where 30% is the maximum allowed.

February 16, 1999 – The Board **granted** a variance to allow a 9 s.f. addition to the 2nd and 3rd floors (a stairway serving a proposed 3rd floor dormer) creating a building coverage of 35% where 34.9% exists and 30% is the maximum allowed.

January 22, 2014 – The Board **granted** the following variances necessary to construct a rear addition and new front porch and replace the existing with an attached garage:

- a) To allow 42.8% building coverage where 30% was the maximum allowed;
- b) To allow a front yard setback of 4'9" where 5' was the minimum required;
- c) To allow a rear yard setback of 2'9" where 25' was the minimum required; and
- d) To allow a right side yard setback of 3'1.5" and a left side yard setback of 4'3" where 10' was the minimum required for both.

F. Planning Department Comments

The variance for open space originally included in the legal notice for this application is not required as the property satisfies the open space coverage requirement. The application meets the submission requirements and the applicant has discussed the project with Planning Department staff.

G. 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.*

Case #6-2

Petitioner:	599 Lafayette LLC
Property:	599 Lafayette Road
Assessor Plan:	Map 229, Lot 8
Zoning District:	Gateway
Description:	Install a transformer and generator. Construct an overhang over existing sidewalk.
Requests:	The Variances necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance from Section 10.531 to allow a left side yard setback of 15'± where 30' is required.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Shopping center	Mix of uses
<u>Lot area:</u>	206,006 sq. ft.	43,560 sq. ft. min.
<u>Street Frontage:</u>	519.5'	200' min.
<u>Lot depth:</u>	330.4'	100' min.
<u>Front Yard:</u>	140'	30' min.
<u>Left Yard:</u>	30'	30' min.
<u>Right Yard:</u>	30'	30' min.
<u>Rear Yard:</u>	55'	50' min.
<u>Height:</u>	<40'	40' max.
<u>Building Coverage:</u>	25.6%	30% max.
<u>Open Space Coverage:</u>	50%	20% max.
<u>Parking:</u>	291	176 min.
<u>Estimated Age of Structure:</u>	1972	

B. Proposed Changes

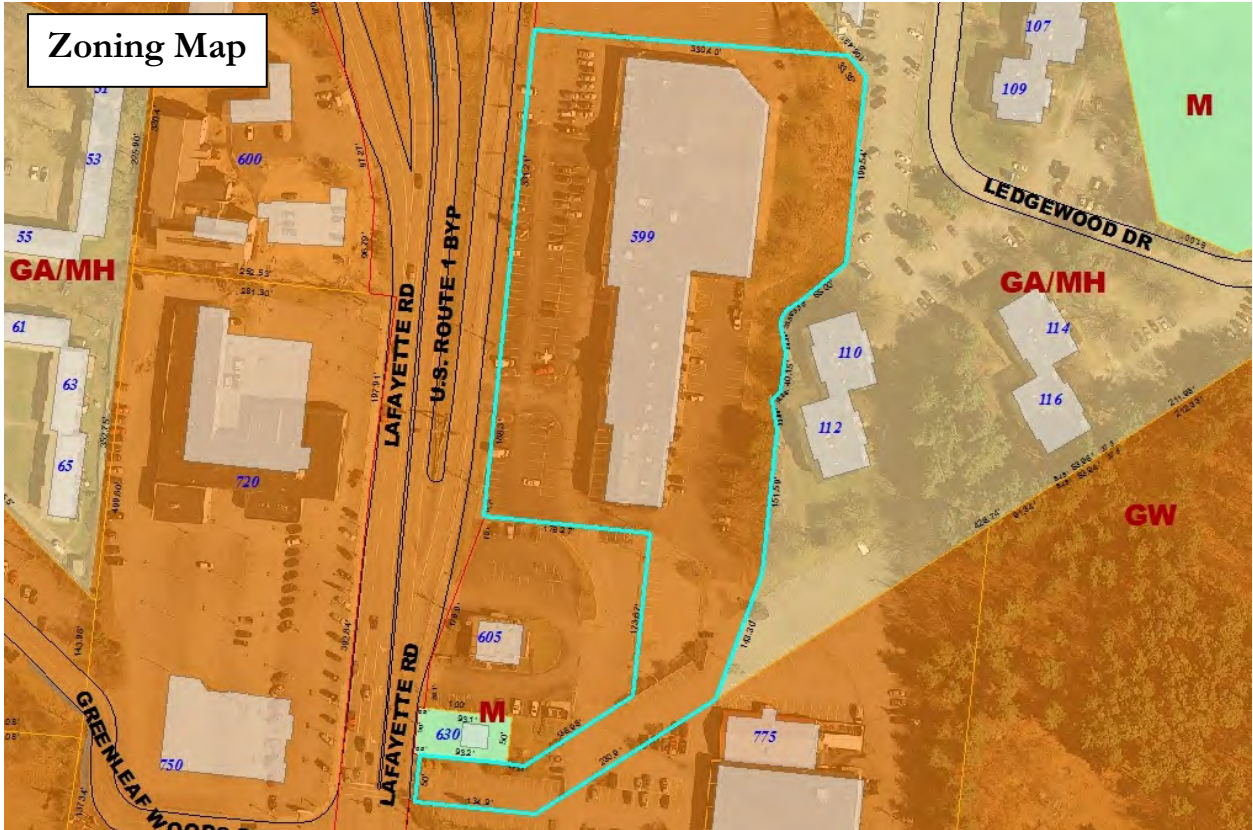
	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Urgent medical care walk-in center	Mix of uses
<u>Left Yard:</u>	15' (mechanical equip.), 24' (building entryway)	30' min.
<u>Height:</u>	4' (mechanical equip.), <40' building	40' max.
<u>Building Coverage:</u>	25.8%	30% max.
<u>Open Space Coverage:</u>	50%	20% max.
<u>Parking:</u>	289	176 min.

C. Other Permits Required

- Planning Board – Site Plan Review

D. Neighborhood Context

- Surrounding Land Uses: Commercial, apartment complex.
- Public View of Proposed Improvements: Visible from Lafayette Rd.



E. Previous Board of Adjustment Actions

August 26, 1975 – The Board **granted** an additional 124 s.f. of signage, for a total of 200 s.f. for the Peter Pan Pancake House, to be placed ½ the distance between the front property line and the building.

September 9, 1975 – A rehearing, requested by an abutter, was **granted** on the above decision.

September 30, 1975 – The rehearing was **withdrawn** at the request of the abutter after a compromise agreement on placement of the sign. The variance granted August 26, 1975 **was declared null and void**. The Board **granted** a variance to allow an additional 124 s.f. of signage for a total of 200 s.f. with up to 150 s.f. to be placed in the amended location as shown on the petition dated 9-9-75, 30' back from the front lot line, with the **stipulation** that all other signs in violation be removed.

February 18, 1986 – A request for variances to construct a 17,500 s.f. addition was **tabled** to the next meeting.

March 11, 1986 – The Board **granted** variances to a) construct a 17,500 s.f. addition with a 70' front yard; b) to eliminate the 2 loading berths required for this addition; and c) to allow an accessway in the rear 20' from an adjoining residential district.

July 21, 1992 – The Board **granted** a variance to allow 289 parking spaces where 305 parking spaces are required.

July 16, 1996 – The Board **granted** a variance to construct a 30' x 40' garage 50' from a property zoned residential, with the stipulation that the garage be used for applying vinyl lettering on vehicles and that there be no painting of signs in the garage area.

December 19, 2006 – The Board **granted** a variance to allow 2 existing signs (29 s.f. and 14 s.f.) and 1 proposed sign (17 s.f.) to be located above the level of the eaves on a vertical wall in front of a pitched roof.

April 21, 2008 – The Board **granted** a variance to allow 472.24 s.f. of attached signage where 404 s.f. of attached signage is allowed, with the following **stipulation**: that the granted signage will not exceed 425.74 s.f. to be placed entirely on the front of the building. The proposal to **place signage on the side of the building was denied** with the exception of 9 s.f. to be added to the front sign, “Travel & Insurance.”)

F. Planning Department Comments

This application meets the submission requirements and the applicant has discussed the application with Planning Department staff.

G. 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.

Case #6-3

Petitioner:	Mark D. Gray
Property:	140 Summer Street
Assessor Plan:	Map 137, Lot 2
Zoning District:	General Residence C
Description:	Construct 27'± long third floor dormer.
Requests:	The Variances necessary to grant the required relief from the Zoning Ordinance, including the following: <ol style="list-style-type: none"> 1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended or structurally altered without conforming to the requirements of the Ordinance. 2. A Variance from Section 10.521 to allow a 3.5'± right side yard setback where 10' is required.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family residential	Primarily residential uses
<u>Lot area:</u>	5,049 sq. ft.	3,500 sq. ft. min.
<u>Lot Area per Dwelling Unit:</u>	2,524 sq. ft.	3,500 sq. ft. min.
<u>Street Frontage:</u>	138.6'	70' min.
<u>Lot depth:</u>	106'	50' min.
<u>Front Yard:</u>	<5'	5' min.
<u>Left Yard:</u>	26'	10' min.
<u>Right Yard:</u>	3.5'	10' min.
<u>Rear Yard:</u>	<20'	20' min.
<u>Height:</u>	3 story	35' max.
<u>Building Coverage:</u>	34.6%	35% max.
<u>Open Space Coverage:</u>	>20%	20% min.
<u>Parking:</u>	2	2 min.
<u>Estimated Age of Structure:</u>	1900	

B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Front Yard:</u>	9'	5' min.
<u>Left Yard:</u>	3.5'	10' min.
<u>Rear Yard:</u>	30'	20' min.
<u>Height:</u>	3 story	35' max.

C. Other Permits Required

- None.

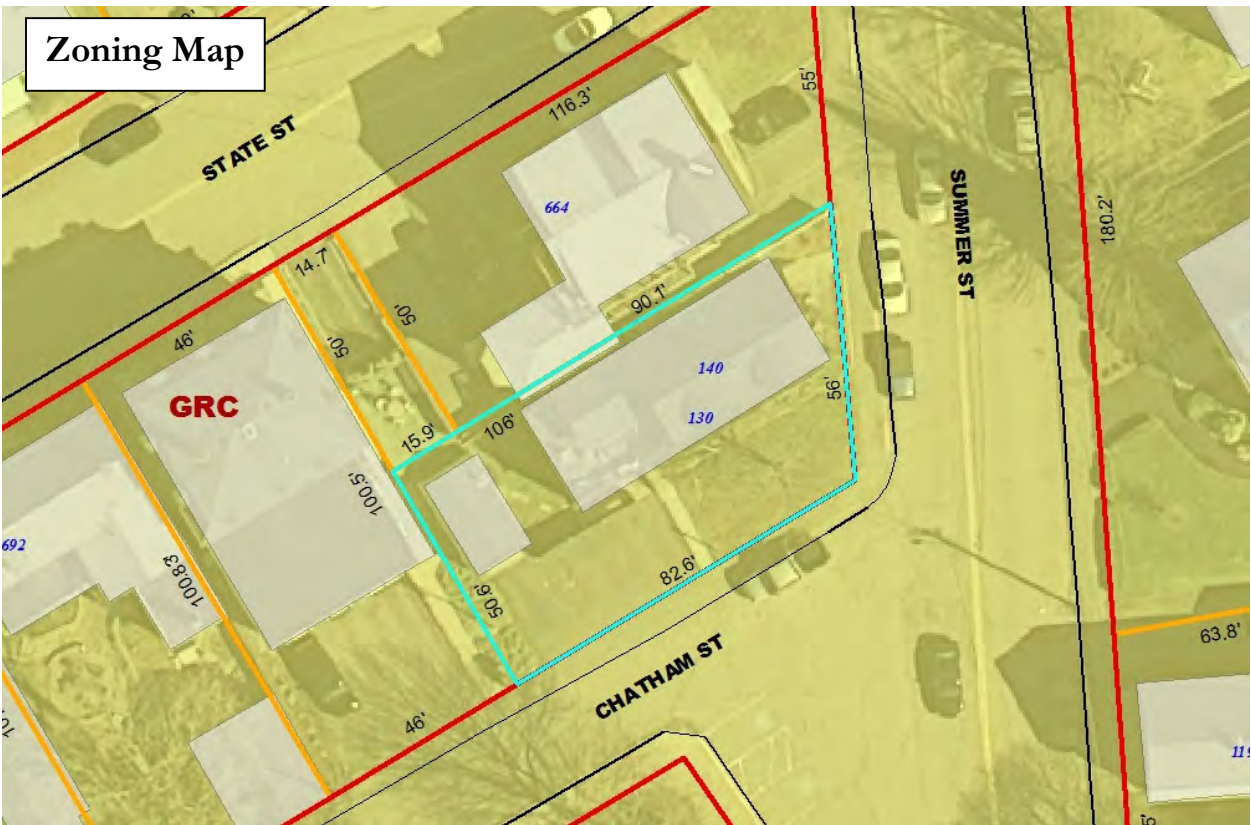
D. Neighborhood Context

- Surrounding Land Uses: Apartment building, mixed use, church
- Public View of Proposed Improvements: Visible from Summer St

Aerial Map (view from Summer St)



Zoning Map



E. Previous Board of Adjustment Actions

No BOA history found.

F. Planning Department Comments

The application meets the submission requirements and the applicant has discussed this application with Planning Department staff.

G. 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.*

Case #6-4

Petitioner:	Lisa M. Zwalley Miller
Property:	683 State Street
Assessor Plan:	Map 137, Lot 12
Zoning District:	General Residence C
Description:	Approval of a seventh dwelling unit with related off-street parking.
Requests:	<p>The Variances and Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:</p> <ol style="list-style-type: none"> 1. A Special Exception under Section 10.440, Use #1.42 to allow seven dwelling units on the property where more than four units is allowed by Special Exception. 2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,717 s.f. ± where 3,500 s.f. is required. 3. Variance(s) from Section 10.1114 to allow off-street parking that does not comply with the design requirements of the Zoning Ordinance.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Six-unit apartment building	Primarily residential uses
<u>Lot area:</u>	12,197 sq. ft.	3,500 sq. ft. min.
<u>Lot Area per Dwelling Unit:</u>	2,033 sq. ft.	3,500 sq. ft. min.
<u>Street Frontage:</u>	103'	min.
<u>Lot depth:</u>	143'	min.
<u>Building Coverage:</u>	30% +/-	35% max.
<u>Open Space Coverage:</u>	>20%	20% min.
<u>Parking:</u>	6	10 min.
<u>Estimated Age of Structure:</u>	1830-1960	

B. Proposed Changes

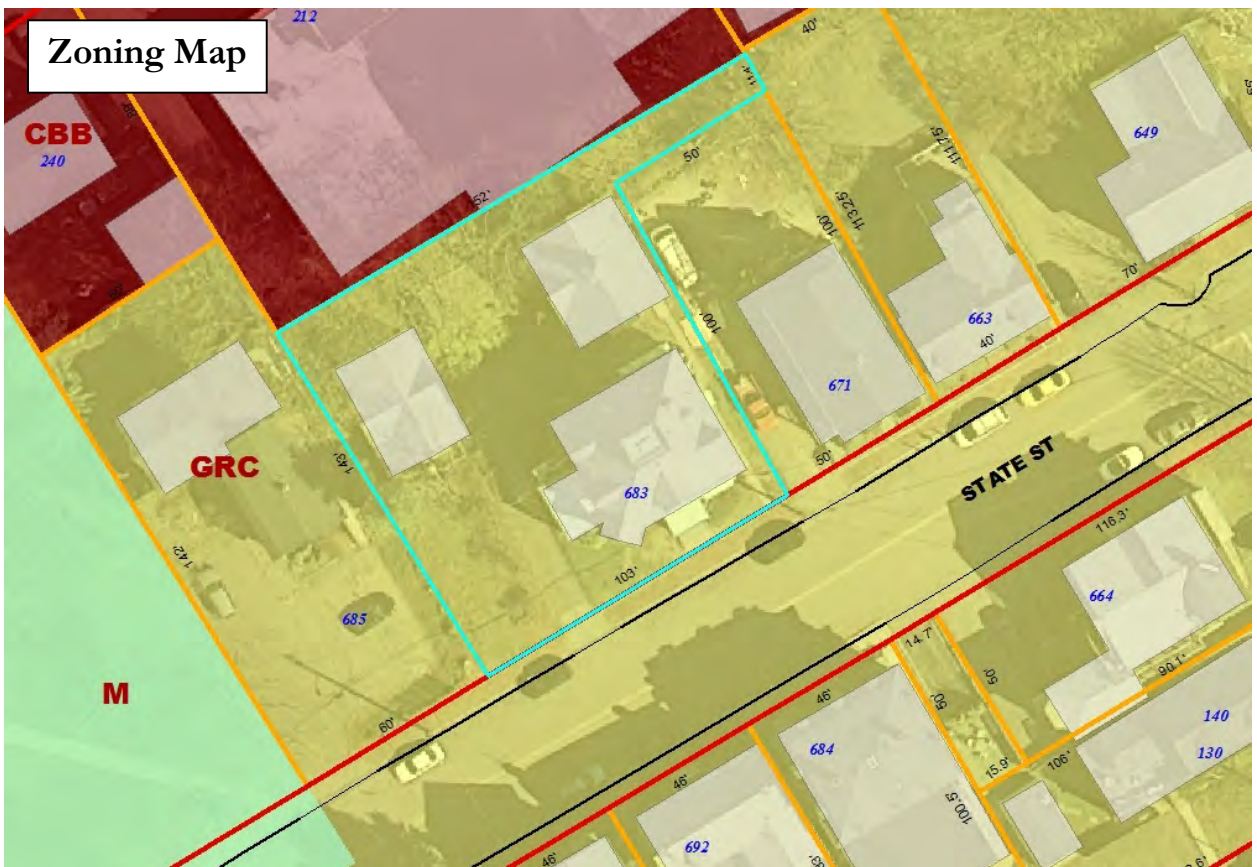
	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Seven-unit apartment building	Primarily residential uses
<u>Lot Area per Dwelling Unit:</u>	1,742 sq. ft.	3,500 sq. ft. min.
<u>Parking:</u>	13	12 min.

C. Other Permits Required

- None.

D. Neighborhood Context

- Surrounding Land Uses: Office building, two and three family residential, 4 to 8 unit apartment building, mixed use
- Public View of Proposed Improvements: No exterior improvements proposed except to parking spaces



E. Previous Board of Adjustment Actions

August 4, 1959 – The Board **granted** variance to construct a combination office and apartment building.

June 27, 1978 – The Board **granted** a Special Exception to convert a single family residence to 4 apartments with the **stipulation** that the petitioner adhere to the plan that was submitted to the Board.

September 1, 1987 – The Board **granted** a variance to allow the conversion of an existing barn with exterior changes in a district where no exterior changes are allowed.

August 11, 1987 – The Board **granted** a Special Exception to permit the conversion of an existing barn into a duplex, creating six dwelling units on the lot.

January 31, 1989 (reconvened from January 24, 1989) – The Board **denied** the following without prejudice as there was no one present to speak to the petition: a request to allow the conversion of an existing barn into a 2-family residence with exterior changes creating six dwelling unit son the lot where conversion of such structures does not allow exterior changes to the building except for egress.

March 28, 1989 – The Board **granted** a variance to allow the request that was denied without prejudice on January 31, 1989. The variance was granted with the **stipulation** that 9 parking spaces be provided and that parking space #1 on the plan be moved to another location eliminating the need for piggy-back parking.

F. Planning Department Comments

This application is for retroactive approval of an existing 7th unit. This application meets the submission requirements. The applicant has discussed this application with Planning Department staff. The property currently appears to be in violation of the 1989 stipulation.

G. 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

 - (c) *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.*

Case #6-5

Petitioners:	William T. & Annelise Ellison
Property:	687 Middle Street
Assessor Plan:	Map 148, Lot 34
Zoning District:	General Residence A
Description:	Replace existing garage with a 24'± x 30'± structure.
Requests:	The Variances necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance from Section 10.521 to allow a 0'± right side yard setback where 10' is required.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family residential	Primarily residential uses.
<u>Lot area:</u>	8,320 sq. ft.	7,500 sq. ft. min.
<u>Lot Area per Dwelling Unit:</u>	8,320 sq. ft.	7,500 sq. ft. min.
<u>Street Frontage:</u>	80'	100' min.
<u>Lot depth:</u>	101'	70' min.
<u>Front Yard:</u>	<15'	15' min.
<u>Left Yard:</u>	>10'	10' min.
<u>Right Yard:</u>	0'	10' min.
<u>Rear Yard:</u>	>20'	20' min.
<u>Building Coverage:</u>	15.3%	25% max.
<u>Open Space Coverage:</u>	>30%	30% min.
<u>Parking:</u>	2	2 min.
<u>Estimated Age of Structure:</u>	1860	

B. Proposed Changes

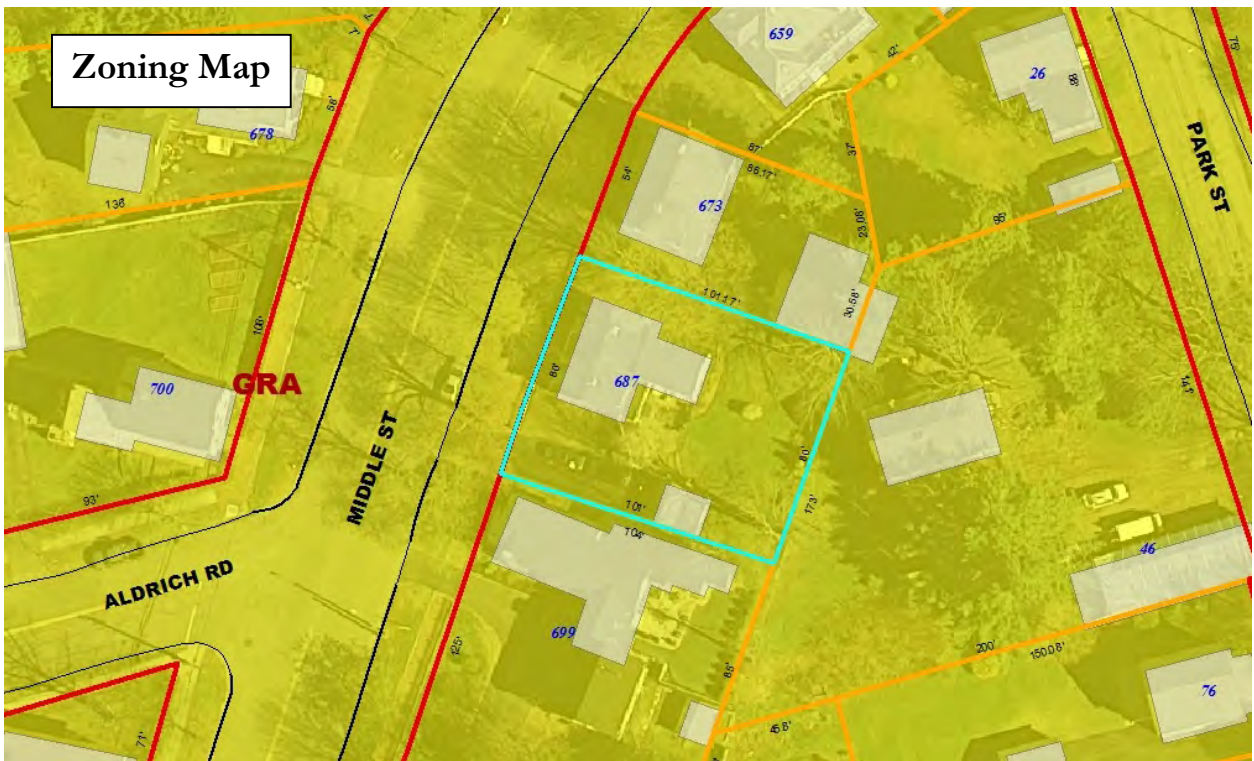
	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Right Yard:</u>	0'	10' min.
<u>Height:</u>	23'	35' max.
<u>Building Coverage:</u>	20.8%	25% max.
<u>Open Space Coverage:</u>	>30%	30% min.

C. Other Permits Required

- Historic District Commission – Certificate of Approval

D. Neighborhood Context

- Surrounding Land Uses: Single family residential, 3-family condominium
- Public View of Proposed Improvements: Visible from Middle St



E. Previous Board of Adjustment Actions

No BOA history found.

F. Planning Department Comments

The application meets the submission requirements. The applicant has indicated that the existing shed will be demolished and the proposed garage will be built at the same location on a larger footprint.

G. 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.*

Case # 6-6

Petitioners:	Michael Brandzel & Helen Long
Property:	39 Dearborn Street (Dearborn Lane)
Assessor Plan:	Map 140, Lot 3
Zoning District:	General Residence A
Description:	Construct a rear shed dormer and single story addition.
Requests:	The Variances necessary to grant the required relief from the Zoning Ordinance, including the following: <ol style="list-style-type: none"> 1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended or structurally altered without conforming to the requirements of the Ordinance. 2. A Variance from Section 10.521 to allow a 3'± rear yard setback where 20' is required for a 14'± extension of a previously approved rear dormer and for a 6'± x 15'± single story addition.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family residential	Primarily residential uses.
<u>Lot area:</u>	11,236 sq. ft.	7,500 sq. ft. min.
<u>Lot Area per Dwelling Unit:</u>	11,236 sq. ft.	7,500 sq. ft.min.
<u>Street Frontage:</u>	20'	100' min.
<u>Lot depth:</u>	62'	70' min.
<u>Front Yard:</u>	25'	15' min.
<u>Left Yard:</u>	90'	10' min.
<u>Right Yard:</u>	4'	10' min.
<u>Rear Yard:</u>	3'	20' min.
<u>Height:</u>	<35'	35' max.
<u>Building Coverage:</u>	12.3%	25% max.
<u>Open Space Coverage:</u>	75.5%	30% min.
<u>Parking:</u>	5	2 min.
<u>Estimated Age of Structure:</u>	1700	

B. Proposed Changes

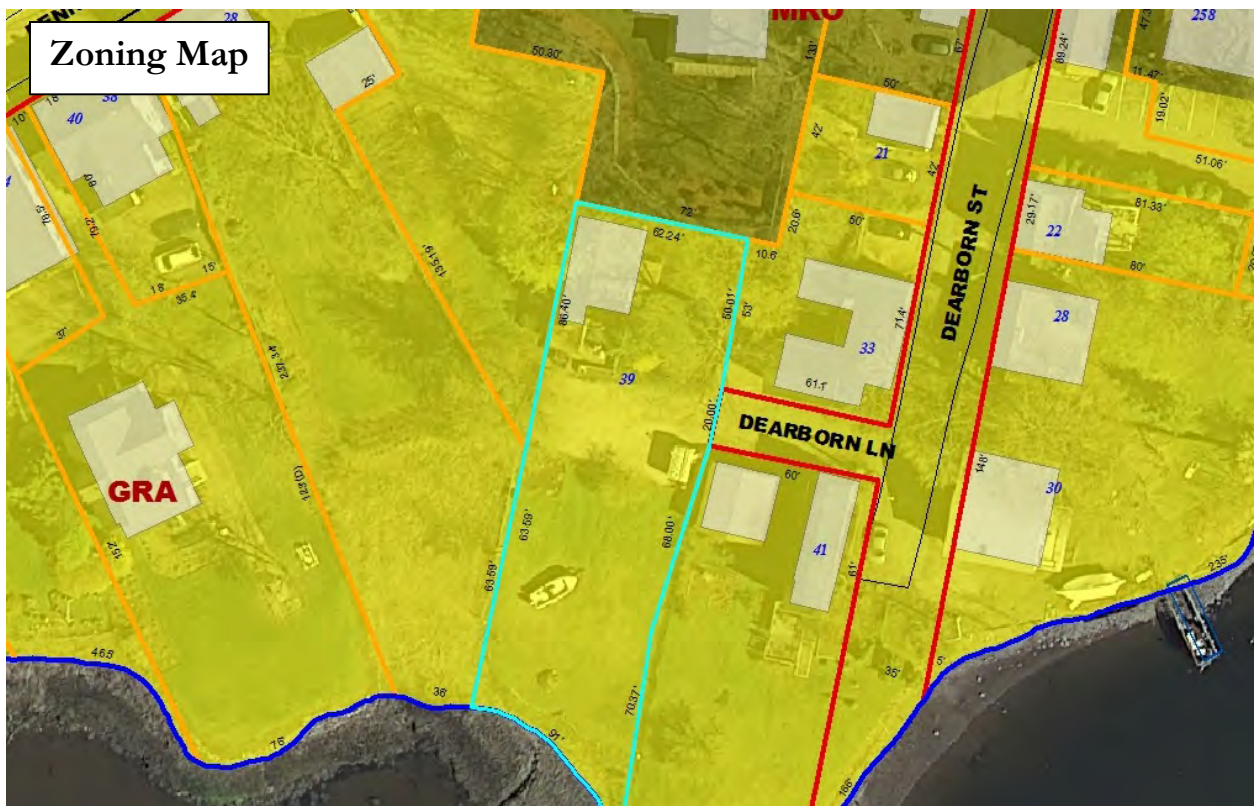
	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Right Yard:</u>	4' (to dormer)	10' min.
<u>Rear Yard:</u>	3' (to dormer)	20' min.
<u>Height:</u>	<35'	35' max.
<u>Building Coverage:</u>	12.3%	25% max.
<u>Open Space Coverage:</u>	72.3%	30% min.

C. Other Permits Required

- Historic District Commission Certificate of Approval

D. Neighborhood Context

- Surrounding Land Uses: Single family and two-family residential, general office building, 4-8 unit apartment building
- Public View of Proposed Improvements: Visible to direct abutters and from North Mill Pond



E. Previous Board of Adjustment Actions

August 26, 2008 – The Board **postponed** to September a request for a 7'10" ± x 13'9" ± shed with a 4'± left side yard setback where 10' was required and a 65'± setback to salt water marsh or mean high water line where 100' was required.

September 16, 2008 – the above petition was **postponed** to October.

October 21, 2008 – The above petition was **amended** as follows and **postponed** to the November 18, 2008 meeting: The request for a variance for a 4'± left side yard setback was removed and a request for a 5'± front setback where 15' was required was added.

November 18, 2008 – The above petition was **withdrawn** by the applicant.

March 17, 2015 – The Board **postponed** to April a request to construct a 100 s.f. shed in the front yard, an 8'x13' single story addition and dormers with a front yard setback of 5' where 15' was required, a right side yard setback of 4' where 10 was required and a 3' rear yard setback where 20' was required. Also requested were the following: a) A Variance to allow an accessory structure to be located in a required front yard, and b) a Variance to allow extension or reconstruction of a lawful nonconforming structure without conforming to the requirements of the Ordinance.

April 21, 2015 – The Board **granted** the following variances to construct a 12' x 18' shed in the front yard and an 8' x 13' single story addition, plus adding shed dormers: 1) To allow a nonconforming structure to be extended, reconstructed or structurally altered without conforming to the requirements of the Ordinance; 2) To allow a) a front yard setback of 5' where 15' was required; b) a right side yard setback of 4' where 10' was required; and c) a rear yard setback of 3' where 20' was required.; 3) To allow an accessory structure to be located in a required front yard.

The variances were granted with the following **stipulations**:

1. The proposed accessory structure shall be no larger than 12 x 18 feet (216 SF) and shall be no taller at the ridge line than 12 feet in height. It shall have hinged doors as shown in the application and lighting that will prevent spillover to 31 Dearborn Street. No dormers or skylights shall be added to the roof of the accessory structure and the eastern and northern elevations shall have no windows installed. The exterior siding for the accessory structure shall be either wood clapboard siding or shingles.
2. The accessory structure shall only be used for such uses as the storage of bikes, garden tools, lawn equipment, materials, and other related items and not used for any use that would require mechanical power equipment.
3. There shall be no flood lights located on the eastern façade of the existing structure or the proposed accessory structure.
4. A View Easement Area, of approximately 2,018 SF+/- in area as shown in the application, shall be conveyed to the property located at 31 Dearborn Street and recorded at the Rockingham Registry of Deeds prior to issuance of a Building Permit. Except for egress to and from 39 Dearborn Lane within the existing 20 foot driveway at the end of Dearborn Lane, such View Easement Area shall remain, in perpetuity, in an open and natural state, free from all temporary or permanent structures, boats, equipment, vehicular parking or storage, or any other similar obstructions of the view to the North Mill Pond. Additionally, no trees shall be planted within the View Easement Area and all vegetation shall be maintained to a height of no more than four (4) feet.

5. Prior to the issuance of the building permit the existing 7'x13' utility trailer will be removed from the View Easement Area.
6. Prior to issuance of a Building Permit, the Planning Department shall review the final building and site plans and determine that the plans and elevations are in compliance with these stipulations.

F. Planning Department Comments

This application meets the submission requirements and the applicant has discussed this application with the Planning Department staff. This is a modification to a previously approved project. A new application is required because this represents an expansion within the setback from what was previously approved. The shed is not changing and the alterations in the right side yard setback will be slightly less than what was originally proposed. The only expansion is within the rear yard setback. The Board should confirm that the stipulations attached to the previous approval should also be carried forward to this variance request where applicable.

G. 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.*

Case #6-7

Petitioner:	Lonza Biologics, Inc.
Property:	101 International Drive
Assessor Plan:	Map 305, Lot 6
Zoning District:	Airport Business Commercial
Description:	Install two new generators and construct above ground storage tanks.
Requests:	Review and recommend the following Variance from the Pease Development Authority Zoning Ordinance: 1. A Variance from Section 308.02 (c) to allow above ground storage tanks (AST) exceeding 2,000 gallon capacity for two existing and two proposed generators.

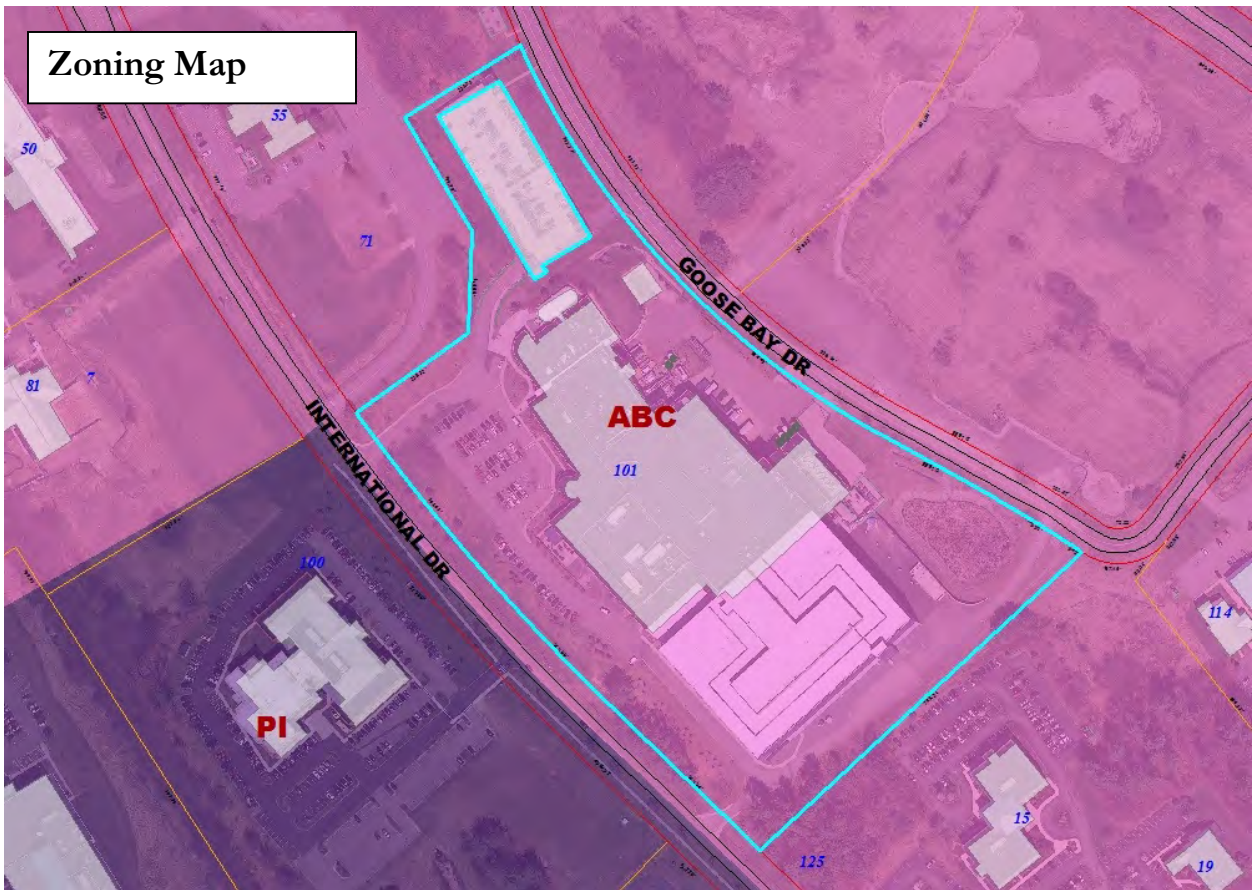
A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Office, research, manufacturing	Primarily business, commercial, and trade-related enterprises.
<u>Lot area:</u>	15 acres	5 acres min.
<u>Street Frontage:</u>	1,040'	200' min.
<u>Front Yard:</u>	118'	70' min.
<u>Left Yard:</u>	30'	30' min.
<u>Right Yard:</u>	99'	30' min.
<u>Rear Yard:</u>	52'	50' min.
<u>Height:</u>	86'	Based on FAA criteria

B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Above ground storage tanks with 3,640 gallon storage capacity	Above ground storage tanks not exceeding 2,000 gallon storage capacity

C. Neighborhood Context



D. Review Criteria

Variances requested in the Pease International Tradeport must meet the following criteria:

- *No adverse effect or diminution in values of surrounding properties would be suffered;*
- *Granting the variance would be of benefit to the public interest;*
- *Denial of the variance would result in unnecessary hardship to the person seeking it;*
- *Granting the variance would be substantial justice;*
- *The proposed use would not be contrary to the spirit of this zoning rule.*

Case #6-8

Petitioners:	Joseph & Lindsey B. Donohue
Property:	336 Union Street
Assessor Plan:	Map 134, Lot 58
Zoning District:	General Residence A
Description:	Convert single family dwelling to two dwelling units.
Requests:	The Variances necessary to grant the required relief from the Zoning Ordinance, including the following: <ol style="list-style-type: none"> 1. A Variance from Section 10.521 to allow a lot area per dwelling unit of 2,178 s.f. ± where 7,500 s.f. is required. 2. A Variance from Section 10.1112.30 to allow two off-street parking spaces to be provided where four off-street parking spaces are required.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family residential	Primarily residential uses
<u>Lot area:</u>	4,356 sq. ft.	7,500 sq. ft. min.
<u>Lot Area per Dwelling Unit:</u>	4,356 sq. ft.	4,356 sq. ft. min.
<u>Street Frontage:</u>	136'	100' min.
<u>Lot depth:</u>	87'	70' min.
<u>Front Yard:</u>	8'	15' min.
<u>Left Yard:</u>	2'	10' min.
<u>Right Yard:</u>	7'	10' min.
<u>Rear Yard:</u>	12'	20' min.
<u>Height:</u>	30'	35' max.
<u>Building Coverage:</u>	39.1%	25% max.
<u>Open Space Coverage:</u>	>30%	30% min.
<u>Parking:</u>	2	2 min.
<u>Estimated Age of Structure:</u>	1850	

B. Proposed Changes

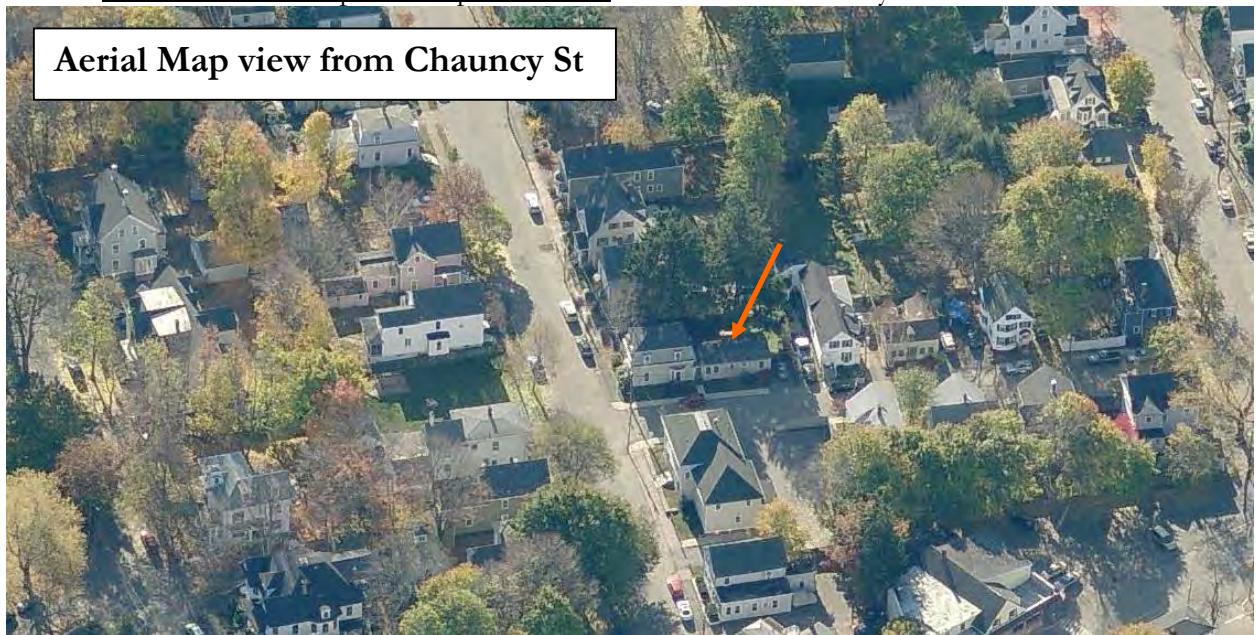
	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two-family residential	Primarily residential uses
<u>Lot Area per Dwelling Unit:</u>	2,178 sq. ft.	7,500 sq. ft. min.
<u>Rear Yard:</u>	10'	10' min. (per 10.516.40)
<u>Height:</u>	24''	35' max.
<u>Building Coverage:</u>	39.3%	25% max.
<u>Open Space Coverage:</u>	>30%	30% min.
<u>Parking:</u>	2	4 min.

C. Other Permits Required

- None.

D. Neighborhood Context

- Surrounding Land Uses: Two and three-family residential, mixed use, single family residential
- Public View of Proposed Improvements: Visible from Chauncey St



E. Previous Board of Adjustment Actions

February 18, 1997 – the Board **granted** variances to allow the construction of a 425 s.f., irregularly shaped one-story addition with a 7' side yard where 10' was required and a 10' rear yard where 20' was required and 35.3% building coverage where 25% was the maximum allowed. The variances were granted with the **stipulation** that the dwelling remain as a single family residence.

F. Planning Department Comments

In addition to what was advertised in the legal notice, this project will require the following relief for the addition of the door and stairs to access the second unit. An additional variance is required from Section 10.521 to allow:

- A building coverage of 39.3% where 25% is the maximum allowed.

The applicant is providing additional materials at the meeting clarifying where the parking is located for the current and proposed use. There is one space in the garage and the second space will be in the driveway on the rear of the lot next to the proposed second unit.

The applicant has recently had the lot surveyed and determined that the existing rear yard setback is actually 12' rather than 10' as originally presented. The applicant will bring additional materials to the meeting clarifying the existing and proposed rear yard setback.

Although the existing space is fit out as a separate unit (with kitchen, sleeping, and bathroom facilities), it does not have a separate entrance and therefore is not technically considered a second dwelling unit by the City.

G. 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

 - (b) *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.*

Case #6-9

Petitioner:	Rhonda E. Stacy-Coyle Revocable Trust, Rhonda E. Stacy-Coyle, Trustee
Property:	36 Richards Avenue
Assessor Plan:	Map 136, Lot 14
Zoning District:	Mixed Residential Office
Description:	Construct 2.5'± deep x 4'± wide rear gabled roof.
Requests:	The Variances necessary to grant the required relief from the Zoning Ordinance, including the following: <ol style="list-style-type: none"> 1. A Variance from Section 10.321 to allow a lawful nonconforming structure to be extended or structurally altered without conforming to the requirements of the Ordinance. 2. A Variance from Section 10.521 to allow a 2.5'± rear yard setback where 15' is required. 3. A Variance from Section 10.521 to allow 68.5%± building coverage where 40% is the maximum allowed.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family residential	Mix of office and residential uses
<u>Lot area:</u>	1,306 sq. ft.	7,500 sq. ft. min.
<u>Lot Area per Dwelling Unit:</u>	1,306 sq. ft.	7,500 min.
<u>Street Frontage:</u>	36'	100' min.
<u>Lot depth:</u>	36'	80' min.
<u>Front Yard:</u>	4'	5' min.
<u>Left Yard:</u>	1'	10' min.
<u>Right Yard:</u>	6.5'	10' min.
<u>Rear Yard:</u>	5.1'	15' min.
<u>Height:</u>	18.5'	40' max.
<u>Building Coverage:</u>	67.8%	40% max.
<u>Open Space Coverage:</u>	32%	25% min.
<u>Parking:</u>	0	2 min.
<u>Estimated Age of Structure:</u>	1930	

B. Proposed Changes

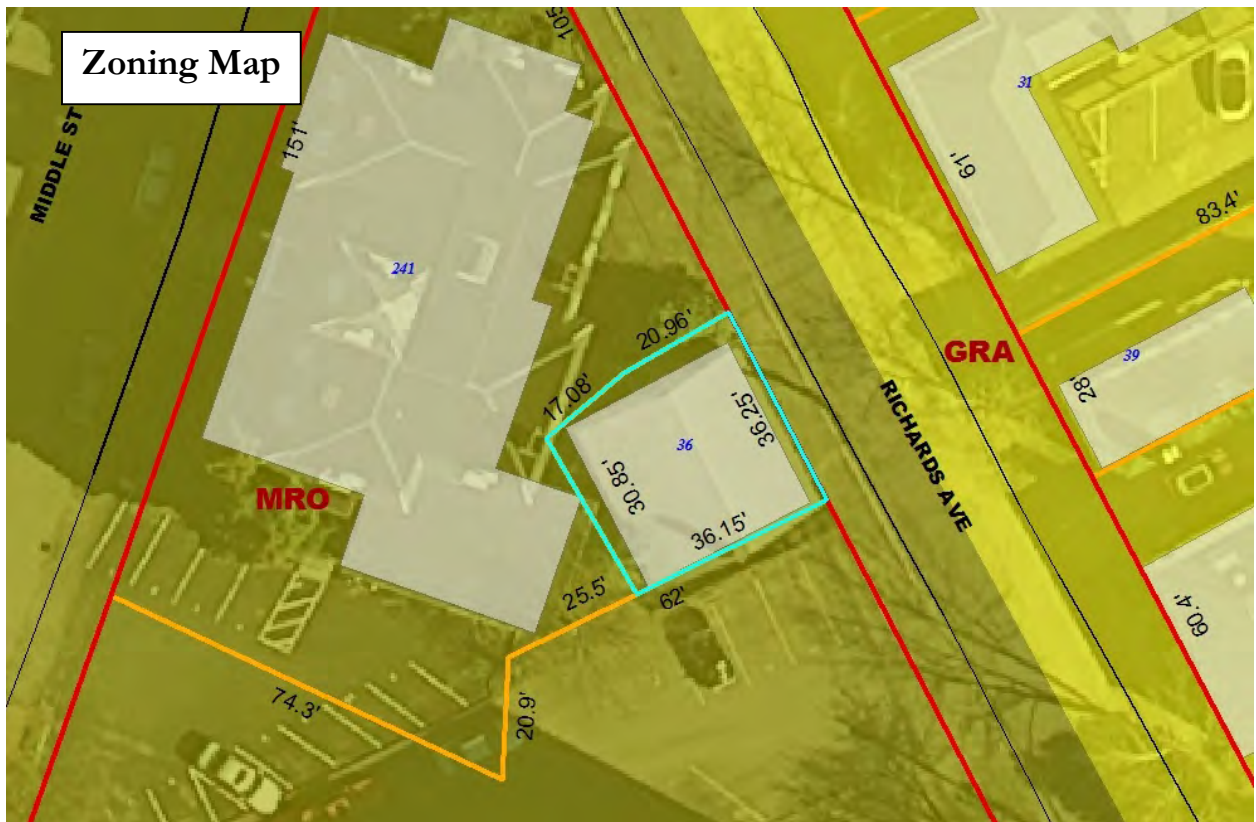
	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Rear Yard:</u>	2.5'	10' min. (per 10.516.40)
<u>Building Coverage:</u>	68.5%	40% max.
<u>Open Space Coverage:</u>	31%	25% min.

C. Other Permits Required

- Historic District Commission – Certificate of Approval

D. Neighborhood Context

- Surrounding Land Uses: Multi-unit apartment building, Housing Authority property, single family residential
- Public View of Proposed Improvements: Visible to direct abutters



E. Previous Board of Adjustment Actions

No BOA history found.

F. Planning Department Comments

The variance relief for the projection into the required yard should be different from what was advertised in the legal notice. The required relief is from Section 10.516.40 which addresses porticos that are less than 20 square feet in area. The rear yard requirement for a portico according to this Section of the Ordinance is 10'. The application meets the submission requirements.

G. 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.*