

TO: Zoning Board of Adjustment  
FROM: Juliet Walker, Planning Department  
DATE: April 13, 2016  
RE: April 19, 2016 Zoning Board of Adjustment Meeting

## **INFORMATION ITEMS**

1. 375 Banfield Rd

## **OLD BUSINESS**

1. 56 Lois St
2. 2300 Lafayette Rd

## **NEW BUSINESS**

1. 514 Middle St (removed from agenda, Planning staff has determined this does not need to go before the Board for relief)
2. 462 Lincoln Ave #4
3. 1059 Banfield Rd
4. 209 Lafayette Rd
5. 165 Richards Ave
6. Lang Rd, Robert Ave, Anne Ave
7. 180 Wibird St



# INFORMATION

## Case #3-2

Petitioners:	Virginia Copeland c/o James R. Copeland, owners, Seacoast Roadside Services, applicant
Property:	378 Banfield Road, Unit E
Assessor Plan:	Map 266, Lot 7
Zoning District:	Industrial
Description:	Use a portion of the property as an impound lot.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Special Exception under Section 10.440, Use #11.40 to allow an impound lot in a district where the use is only allowed by Special Exception.

At the March 2016 meeting, the Board voted to **grant** a Special Exception petition as presented and advertised with the following stipulation and request for additional information.

### Stipulation:

- The 100 square foot area for the impound lot will be clearly delineated by a system of corner posts and chains or fencing so that is differentiated from the other uses on the lot.

### Other:

- Code Compliance Officials will review the entire lot for compliance with current codes and previously granted variances and stipulations and provide a report to the Planning Director, the City Manager and the Board of Adjustment at its next meeting.

Subsequent to the March meeting, City staff determined that certain representations made to the Board by the applicant were contradictory to the conditions existing on the property and, therefore, the Building Permit for this application has not been issued. A letter from the City's Zoning Officer is enclosed for the Board's reference and a report regarding general compliance on the property will be provided to the Board members at the meeting.



# OLD BUSINESS

## Case #6-6

Petitioners:	Estate of John F. Cronin III, Crystal Cronin, Administrator, owner and Michael Lefebvre, applicant
Property:	56 Lois Street
Assessor Plan:	Map 232, Lot 8
Zoning District:	Single Residence B
Description:	Create new lot for a single-family residence with 20' street frontage.
Requests:	1-year extension to Variance granted in June 2014 from Section 10.521 to allow continuous street frontage of 20'± where 100' is required.

### A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family Residential	Primarily single family residential
<u>Lot area:</u>	4.25 acres	15,000 sq. ft.
<u>Street Frontage:</u>	100'	100'
<u>Lot depth:</u>	>243'	100'
<u>Estimated Age of Structure:</u>	2001	

### B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family Residential	Primarily single family residential
<u>Lot area:</u>	3.2 acres	15,000 sq. ft.
<u>Street Frontage:</u>	20'	100'
<u>Lot depth:</u>	>100'	100'

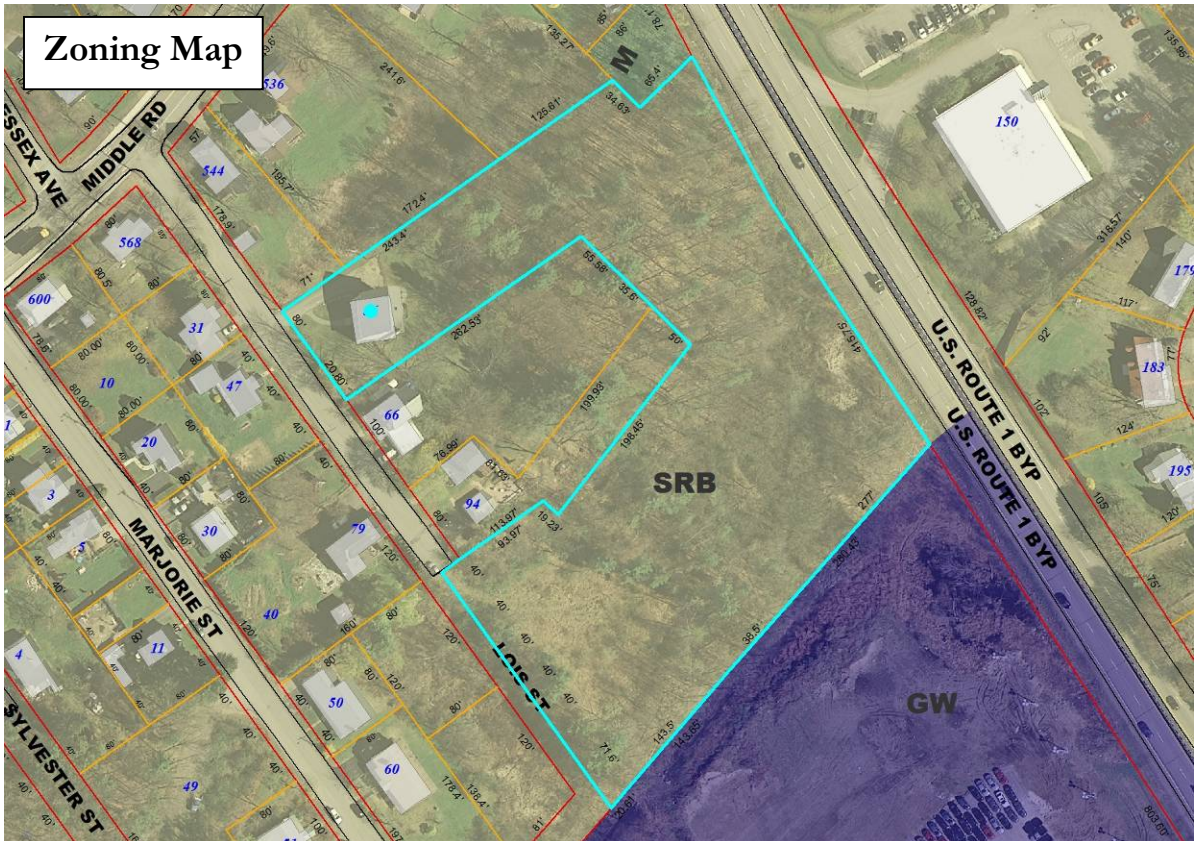
### C. Other Permits Required

- Planning Board -- Subdivision

Aerial Map



Zoning Map



### Case #3-3

Petitioner:	Bellwood Associates LTD Partnership, owner, Festival Fun Parks dba Water Country, applicant
Property:	2300 Lafayette Road
Assessor Plan:	Map 273, Lot 5
Zoning Districts:	Industrial
Description:	Construct six workers' dormitories and bath house.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance from Section 10.440 to allow six workers' dormitories and bath house where the use is not allowed by the Zoning Ordinance.

#### A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Water Park	Primarily industrial uses
<u>Lot area (sq. ft.):</u>	87,120	87,120 min.
<u>Street Frontage (ft.):</u>	>200	200 min.
<u>Lot depth (ft.):</u>	>200	200 min.
<u>Secondary Front Yard (ft.):</u>	>70	70 min.
<u>Rear Yard (ft.):</u>	>50	50 min.
<u>Building Coverage (%):</u>	<50	50 max.
<u>Open Space Coverage (%):</u>	>20	20 min.

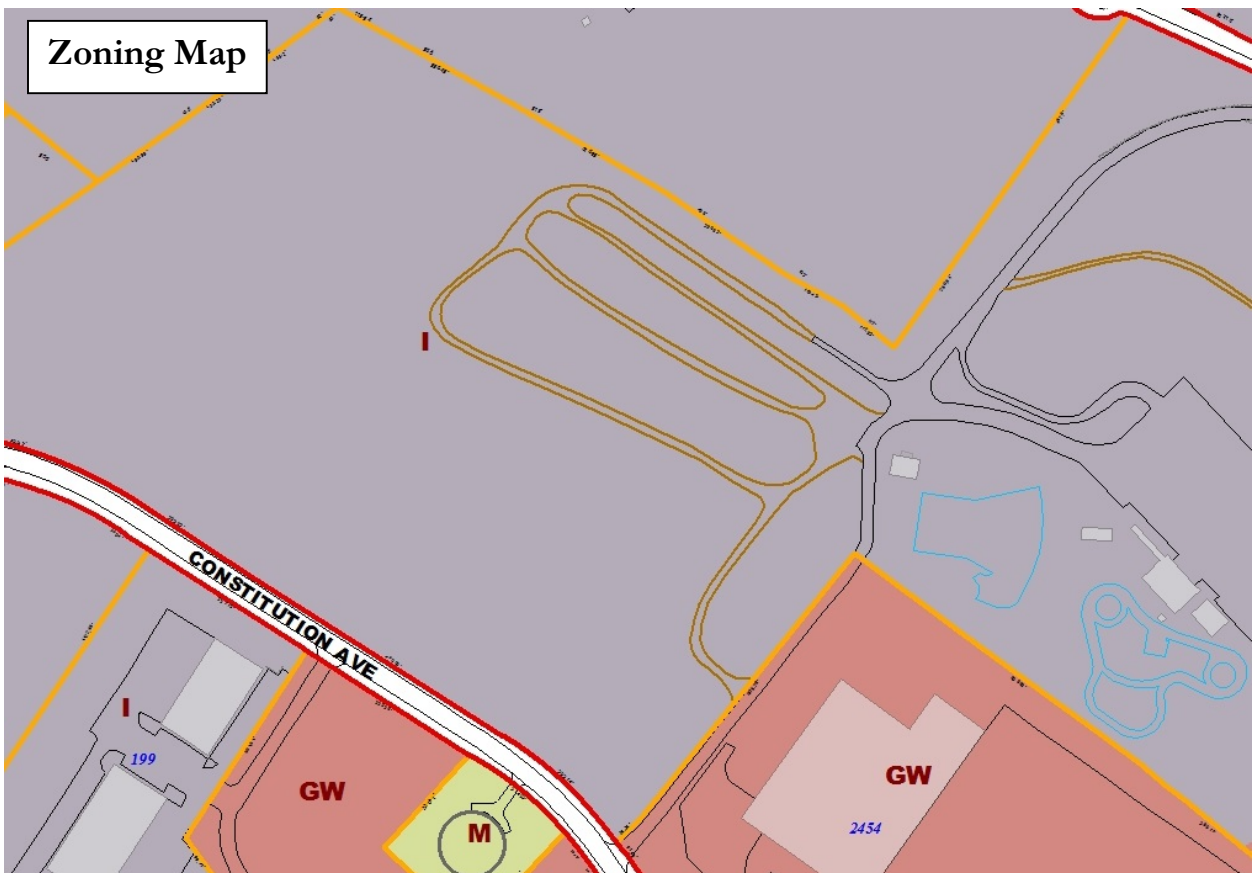
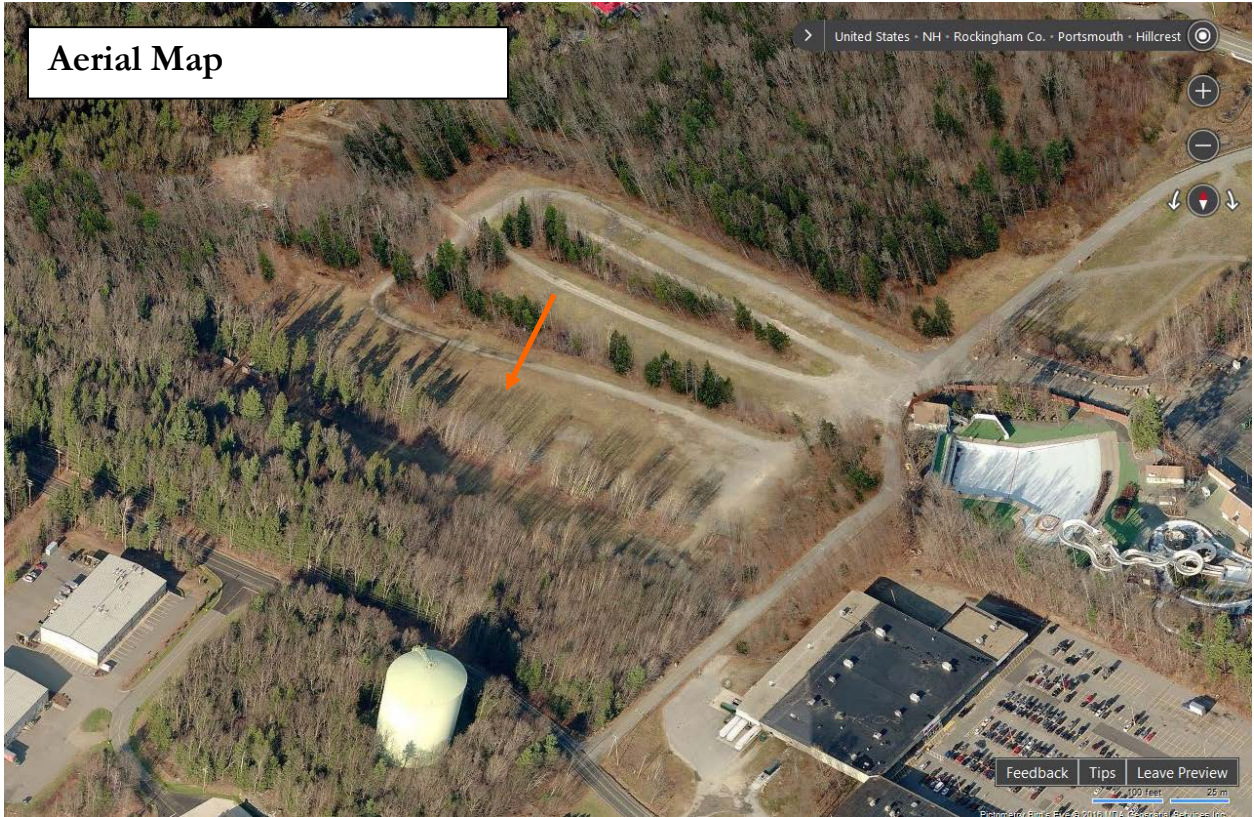
#### B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Workers' dormitories and bath house	Primarily industrial uses
<u>Secondary Front Yard (ft.):</u>	70	70 min.
<u>Rear Yard (ft.):</u>	>50	50 min.
<u>Height (ft.):</u>	13	70 max.
<u>Building Coverage (%):</u>	<50	50 max.
<u>Open Space Coverage (%):</u>	>20	20 min.
<u>Parking (# of spaces):</u>	13	min.

#### C. Other Permits Required

Planning Board Site Plan Review

## D. Neighborhood Context





## E. Previous Board of Adjustment Actions

May 8, 1984 – The Board **denied** a 190 sf free-standing sign where a maximum of 150 sf is allowed and a 12' front yard, 35' required.

June 26, 1984 – The Board **granted** a variance for a free-standing sign 20' from the front property line, 35' required.

October 1, 1985 – The Board **granted** variances to allow for the expansion in an industrial district of recreational facilities on the northerly portion of the lot where recreational facilities already exist in a district where outdoor recreation is not an allowed use; and to permit the increase in the extent of a nonconforming use of a structure or land for additional parking spaces where no such increase is permitted.

May 17, 1988 – The Board **granted** a variance to allow a 5,500 sf recreation/picnic facility adjoining an existing water recreation park in a district where such uses are not allowed with the stipulation that no outdoor lights be allowed.

April 18, 1989 – The Board **denied** a one year extension of time on the above variance.

September 18, 1990 – The Board **granted** variances to allow for the expansion of recreational facilities; to allow the creation of 7 additional acres of crushed stone for parking on the northerly portion of the same lot where recreational facilities already exist in a district where outdoor recreation is not an allowed use; and to permit the increase in the extent of a nonconforming use of a structure or land for said additions and crushed stone parking area where such increase is not permitted.

November 20, 1990 – The Board **granted** a Compliance Hearing.

April 18, 1995 – The Board **granted** a variance to allow an outdoor concert on August 25, 1995 from 6:00p.m. to 9:00 p.m. with associated admissions tent, musicians tent, stage with lighting and canopy and open air seating for 5,000 people in a district where such use is not allowed. The variance was granted with the stipulation that the Development Standards are adhered to, especially concerning noise.

March 19, 1996 – The Board **granted** a special exception to allow expansion of an outdoor recreation facility (water park) by constructing 2 slides with associated support structures and landing pool, kiddie pool, pirate ship, kiddie slides, restroom/snack bar building and filter/store building.

April 16, 1996 – The Board **granted** a special exception to allow a religious Crusade from June 2 through 9 of 2,500 to 3,000 people nightly between the hours of 7:30 p.m. and 9:30 p.m., including a tent, platform and meetings.

March 18, 1997 – The Board **granted** a special exception to allow an outdoor concert on June 15, 1997 (changed to June 14) for 3,000 to 5,000 people between the hours of 5:00 p.m. and 8:30 p.m., with a temporary stage, a tent for merchandise and an artist dressing room. The special exception was granted with the stipulation that the requirements in the Ordinance pertaining noise be adhered to and the noise not exceed 65 decibels at the property line.

July 28, 2009 – The Board **denied** a special exception to allow temporary structures on the property for up to 90 days and a variance to allow a nonconforming use of land to be extended into any part of the remainder of a lot of land.

April 19, 2011 – The Board **granted** a variance to allow the expansion of a nonconforming use by constructing a new building entrance and turnstile into the park.

October 18, 2011 – The Board **granted** variances to allow a new fun park attraction and to allow the expansion of a nonconforming use.

March 15, 2016 – The Board voted to **postpone** for further information a petition to construct six workers' dormitories and a bath house.

## F. Planning Department Comments

When this application was considered at the March 15th meeting, the Board voted to postpone the petition so that the applicant could respond to the comments from the Board and members of the public present at the meeting. The applicant has provided additional information to the Board in response to the issues raised.

## 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.*

# NEW BUSINESS

## Case #4-2

Petitioners:	Arieh Katz Revocable Trust & Pamela J. Katz Revocable Trust
Property:	462 Lincoln Avenue, #4
Assessor Plan:	Map 133, Lot 20-4
Zoning District:	General Residence A
Description:	Construct a 6.5'± x 16.75'± one-story addition and a 13.5'± x 20'± two story addition on the right side of the existing building.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: <ol style="list-style-type: none"> <li>1. A Variance from Section 10.521 to allow a 10.1'± secondary front yard setback where 15' is required.</li> <li>2. A Variance from Section 10.521 to allow 26.5%± building coverage where 25% is the maximum allowed.</li> </ol>

### A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	4-Unit Condo Complex	Primarily residential uses
<u>Lot area (sq. ft.):</u>	13,812	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,453	7,500 min.
<u>Street Frontage (ft.):</u>	138	100 min.
<u>Lot depth (ft.):</u>	100	70 min.
<u>Primary Front Yard (ft.):</u>	<15	15 min.
<u>Secondary Front Yard (ft.):</u>	>15	15 min.
<u>Secondary Front Yard (ft.):</u>	>15	15 min.
<u>Rear Yard (ft.):</u>	<20	20 min.
<u>Height (ft.):</u>	33	35 max.
<u>Building Coverage (%):</u>	23.7	25 max.
<u>Open Space Coverage (%):</u>	41.9	30 min.
<u>Parking (# of spaces):</u>	8	7 min.
<u>Estimated Age of Structure:</u>	1875	

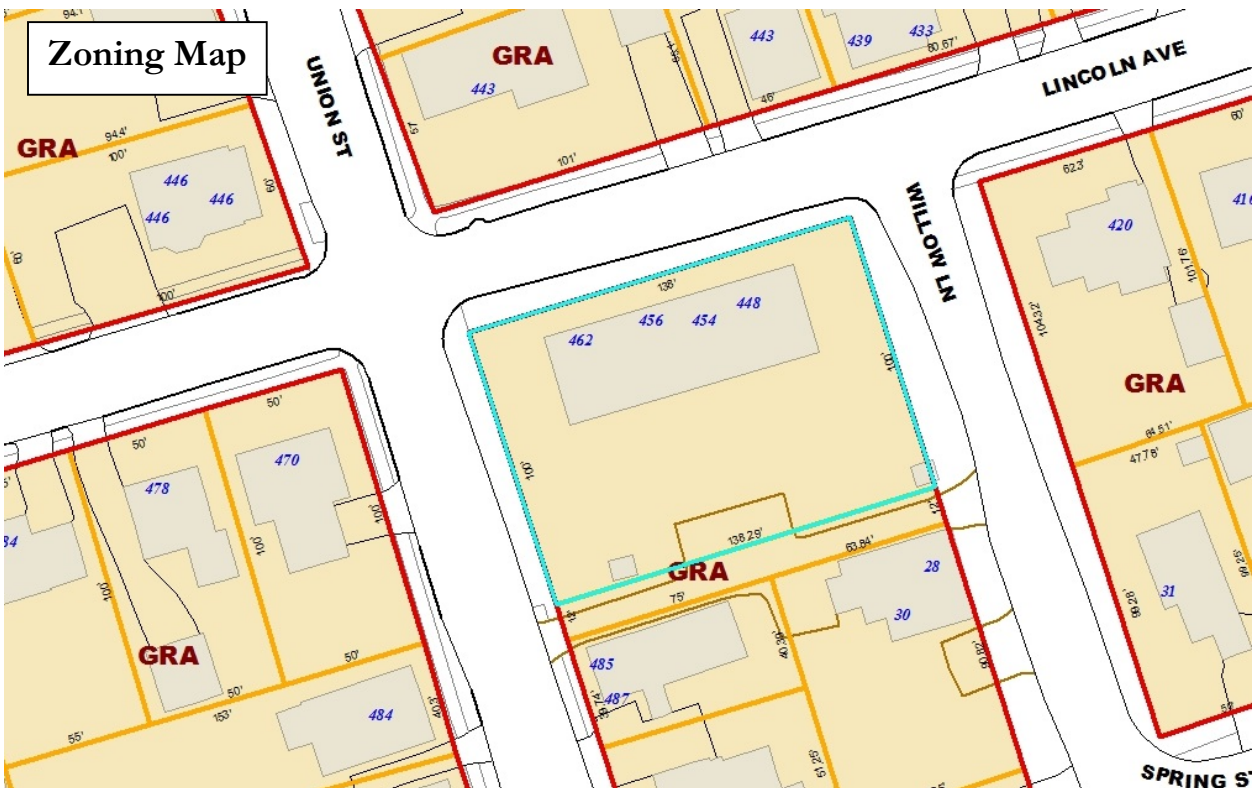
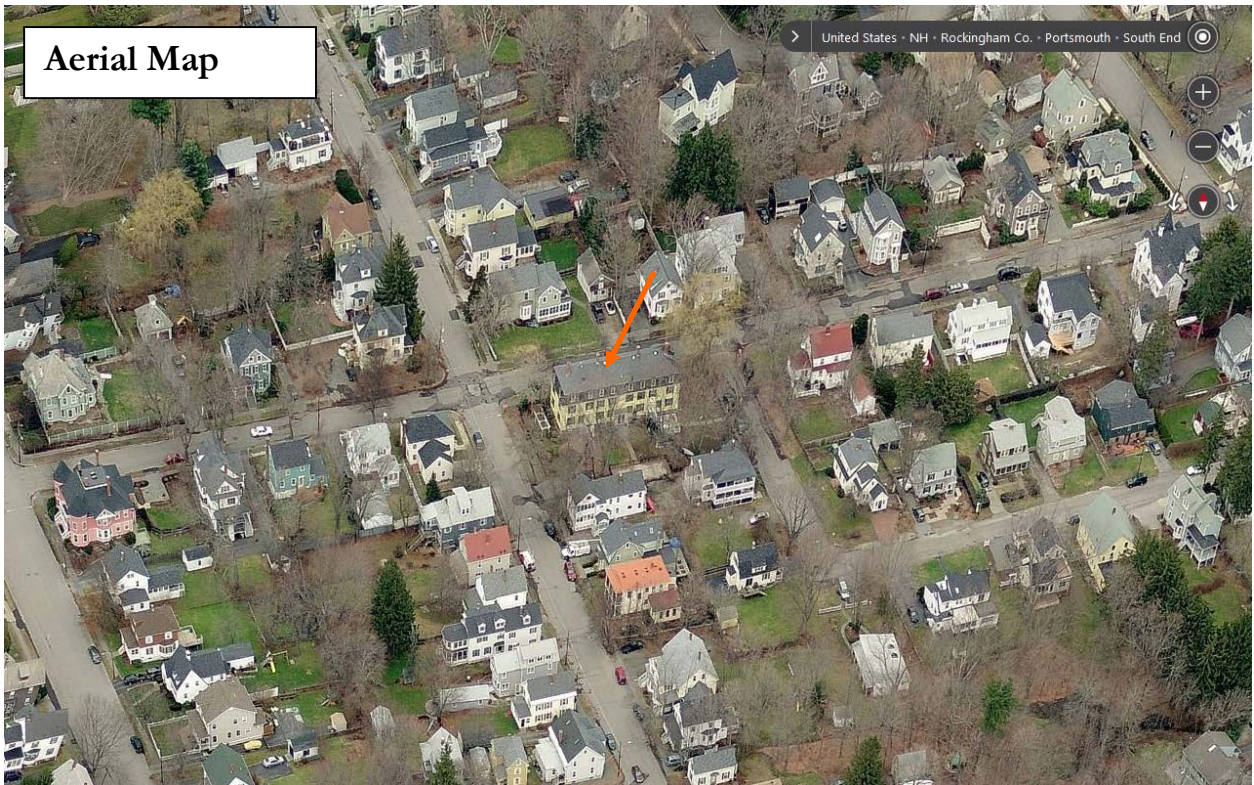
### B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Addition to 1 condominium unit	Primarily residential uses
<u>Primary Front Yard (ft.):</u>	15.6	15 min.
<u>Secondary Front Yard (ft.):</u>	10.1	15 min.
<u>Secondary Front Yard (ft.):</u>	>15	15 min.
<u>Rear Yard (ft.):</u>	57.6	20 min.
<u>Height (ft.):</u>	24	35 max.
<u>Building Coverage (%):</u>	26.5	25 max.
<u>Open Space Coverage (%):</u>	44.6	30 min.

### C. Other Permits Required

None.

### D. Neighborhood Context



## E. Previous Board of Adjustment Actions

No BOA history found.

## F. Planning Department Comments

- ✓ Application meets 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.*



## Case #4-3

Petitioners:	Daniel F. Ryan III & Annette M. Ryan Irrevocable Trusts, Daniel F. Ryan III & Annette M. Ryan, Trustees
Property:	1059 Banfield Road
Assessor Plan:	Map 294, Lot 4
Zoning District:	Single Residence A
Description:	Construct a 16'± x 12'± deck and stairs along a 15'± diameter above ground pool.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance from Section 10.521 to allow 12.09%± building coverage where 10% is the maximum allowed.

### A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family residential	Primarily single family residential
<u>Lot area (sq. ft.):</u>	17,000	43,560 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	17,000	43,560 min.
<u>Street Frontage (ft.):</u>	100	150 min.
<u>Lot depth (ft.):</u>	170	200 min.
<u>Front Yard (ft.):</u>	44	30 min.
<u>Right Yard (ft.):</u>	9'8"	20 min.
<u>Left Yard (ft.):</u>	30'7"	20 min.
<u>Rear Yard (ft.):</u>	40	40 min.
<u>Building Coverage (%):</u>	9.78	10 max.
<u>Open Space Coverage (%):</u>	84.53	50 min.
<u>Parking (# of spaces):</u>	4	2 min.
<u>Estimated Age of Structure:</u>	1960	

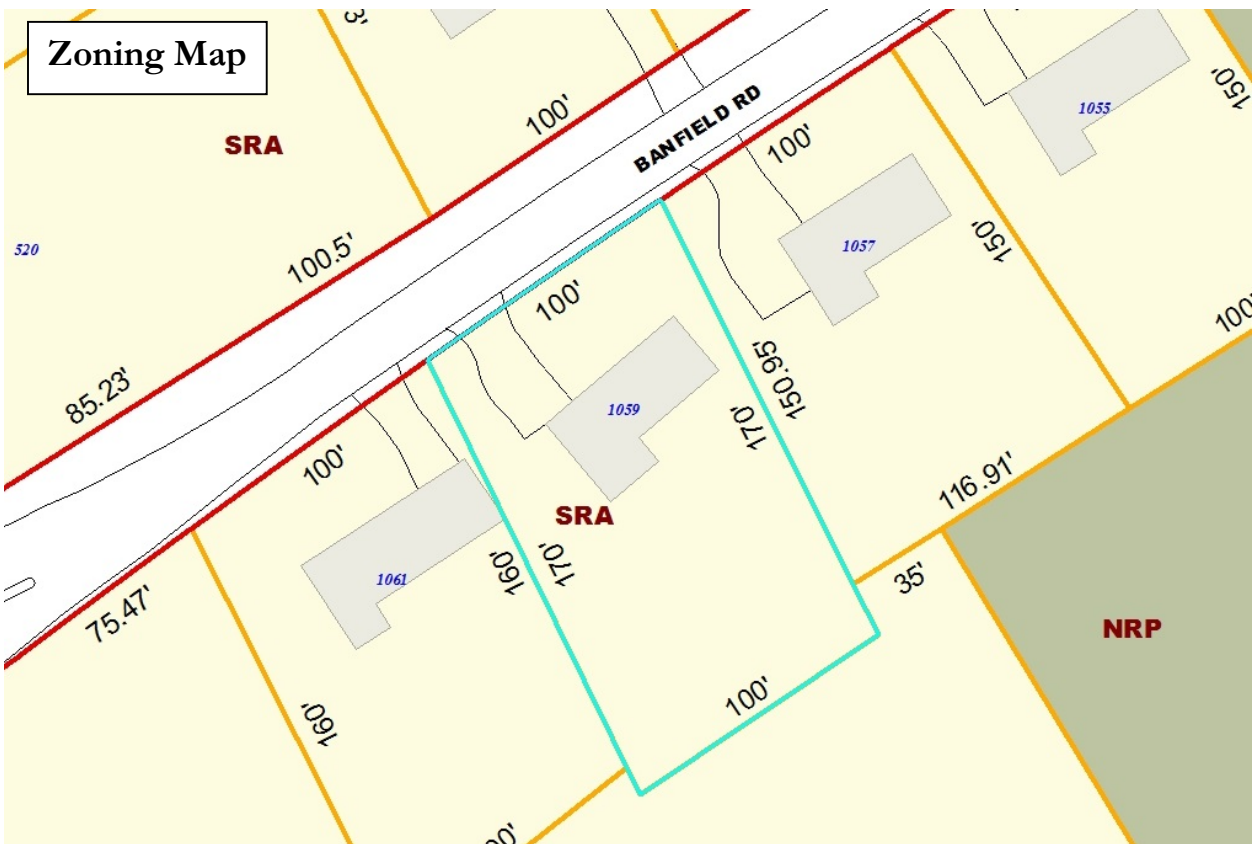
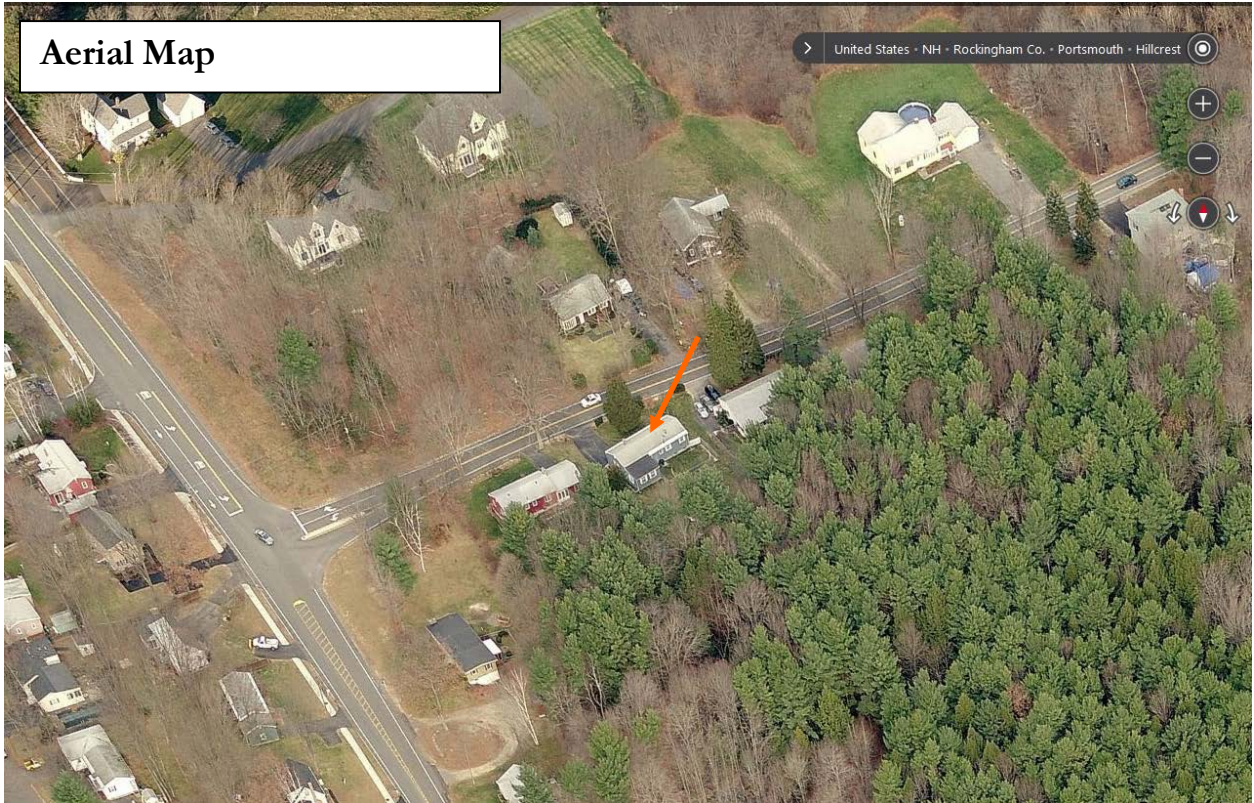
### B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Rear Yard (ft.):</u>	30	40 min.
<u>Height (ft.):</u>	4'4"	35 max.
<u>Building Coverage (%):</u>	12.09	10 max.
<u>Open Space Coverage (%):</u>	82.22	50 min.

### C. Other Permits Required

None.

## D. Neighborhood Context





## E. Previous Board of Adjustment Actions

No BOA history found.

## F. Planning Department Comments

- ✓ Application meets submission requirements.
- ✓ Applicant has discussed 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 #4-4

Petitioners:	Christiana M. Dadamo Rev.Tr., Christiana M. Dadamo, Trustee, owner, Thomas M. Varley, Trustee of the Thomas M. Varley Rev.Tr. & Heidi G. Varley, Trustee of the Heidi G. Varley Rev. Tr., applicants.
Property:	209 Lafayette Road
Assessor Plan:	Map 151, Lot 5
Zoning District:	General Residence A
Description:	Construct a second free-standing dwelling.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance from Section 10.513 to allow a second free-standing dwelling to be built on a lot.

### A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family Residential	Primarily residential uses
<u>Lot area (sq. ft.):</u>	55,129.54	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	55,129.54	7,500 min.
<u>Street Frontage (ft.):</u>	197.4	100 min.
<u>Lot depth (ft.):</u>	212	70 min.
<u>Primary Front Yard (ft.):</u>	71.3	15 min.
<u>Secondary Front Yard (ft.):</u>	55.6	10 min.
<u>Right Yard (ft.):</u>	120	10 min.
<u>Rear Yard (ft.):</u>	44	20 min.
<u>Building Coverage (%):</u>	9.51	25 max.
<u>Open Space Coverage (%):</u>	77.80	30 min.
<u>Parking (# of spaces):</u>	4	2 min.
<u>Estimated Age of Structure:</u>	1900	

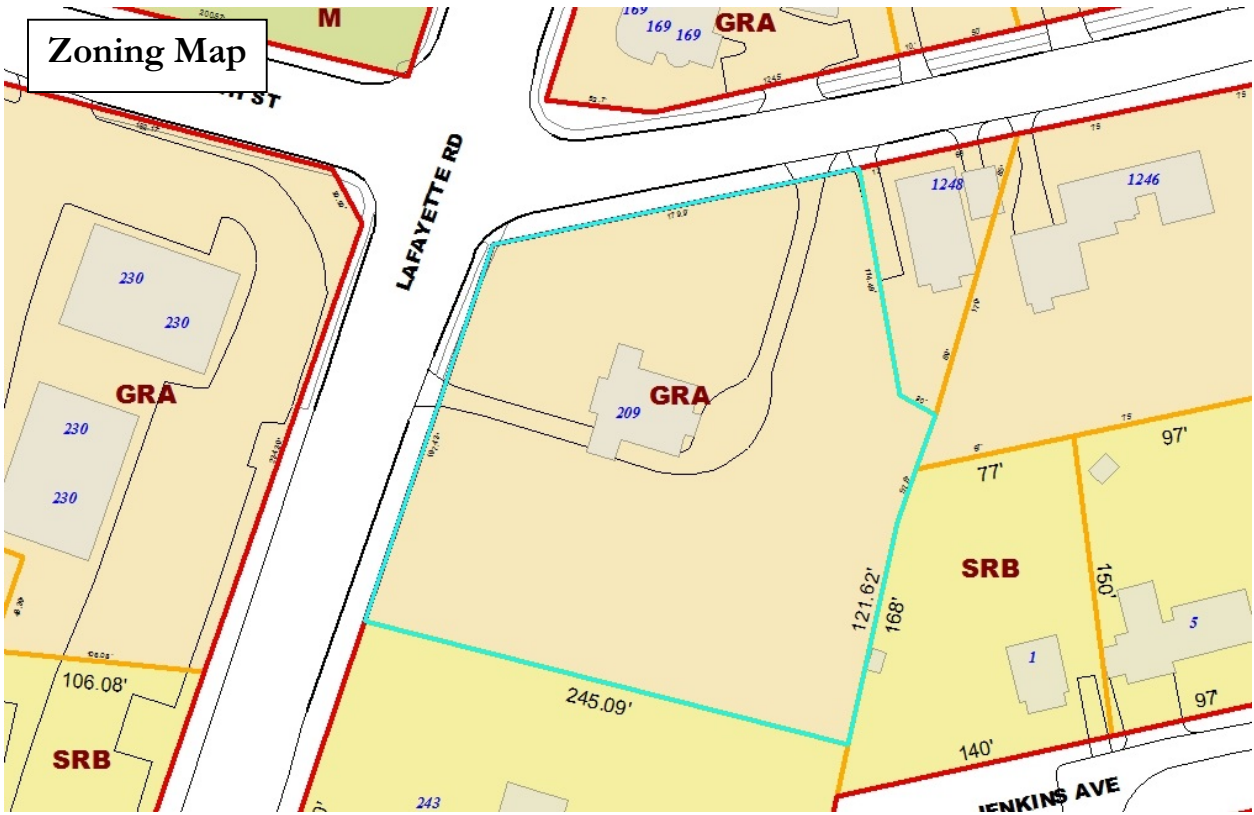
### B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Second free-standing dwelling unit	Primarily residential uses
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	27,564.50	7,500 min.
<u>Right Yard (ft.):</u>	101	10 min.
<u>Rear Yard (ft.):</u>	>20	20 min.
<u>Height (ft.):</u>	16'7"	35 max.
<u>Building Coverage (%):</u>	12.47	25 max.
<u>Open Space Coverage (%):</u>	74.60	30 min.
<u>Parking (# of spaces):</u>	6	2 min.

### C. Other Permits Required

None.

## D. Neighborhood Context



## E. Previous Board of Adjustment Actions

No BOA history found.

## F. Planning Department Comments

- ✓ Application meets 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.*



## Case #4-5

Petitioners: Walter A. Hale IV & Lisa Marcucci Hale  
 Property: 165 Richards Avenue  
 Assessor Plan: Map 129, Lot 40  
 Zoning District: General Residence A  
 Description: Raise and keep chickens.  
 Requests: The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:  
 1. A Variance from Section 10.440, Use #17.20 to allow the keeping of chickens where the keeping of farm animals is not allowed.  
 2. *A Variance from Section 10.521 to allow building coverage of 27.5% where 27.1% exists and 25% is the maximum allowed.*

*Note: Variance #2 was not included in the legal notice for this applicant.*

### A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family Residential	Primarily residential uses
<u>Lot area (sq. ft.):</u>	5,227.20	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	5,227.20	7,500 min.
<u>Street Frontage (ft.):</u>	50	100 min.
<u>Lot depth (ft.):</u>	100	70 min.
<u>Front Yard (ft.):</u>	10	15 min.
<u>Right Yard (ft.):</u>	1	10 min.
<u>Left Yard (ft.):</u>	15	10 min.
<u>Rear Yard (ft.):</u>	36	20 min.
<u>Building Coverage (%):</u>	27.1	25 max.
<u>Open Space Coverage (%):</u>	>30	30 min.
<u>Parking (# of spaces):</u>	2	2 min.
<u>Estimated Age of Structure:</u>	1900	

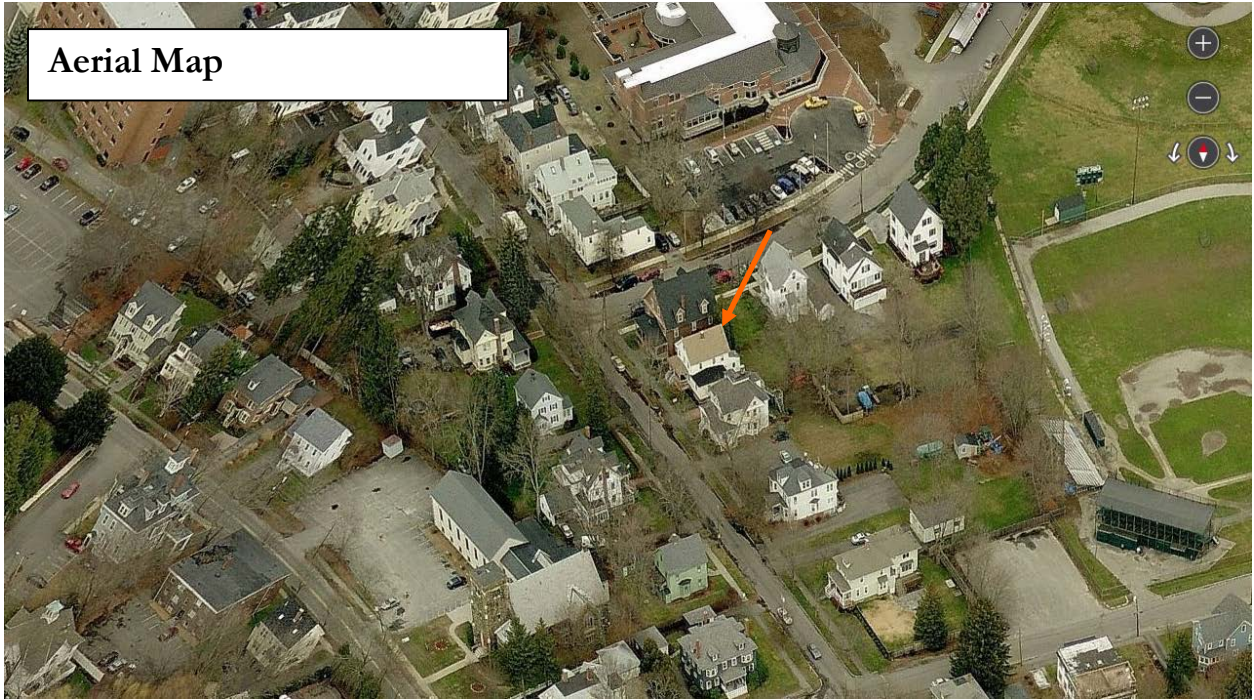
### B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Keeping of chickens	Primarily residential uses
<u>Right Yard (ft.):</u>	>10	10 min.
<u>Left Yard (ft.):</u>	10	10 min.
<u>Rear Yard (ft.):</u>	>20	20 min.
<u>Height (ft.):</u>	6	35 max.
<u>Building Coverage (%):</u>	27.5	25 max.
<u>Open Space Coverage (%):</u>	>30	30 min.

### C. Other Permits Required

None.

## D. Neighborhood Context





## E. Previous Board of Adjustment Actions

September 25, 2012 – The Board **granted** variances necessary to construct a 2-story rear addition, including 2' left side yard setback and 31% building coverage.

## F. Planning Department Comments

- ✓ Application meets submission requirements.
- ✓ Applicant has discussed project with Planning Department staff.

Based on new information about an existing shed provided by the applicant, the existing building coverage on this property is actually 27.1%, therefore, though a small addition and not a permanent structure, the chicken coop will increase an existing nonconformity on the lot. The Board granted building coverage relief for a previous application in 2012, however that application was never acted on and therefore that approval has now expired.

## 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**

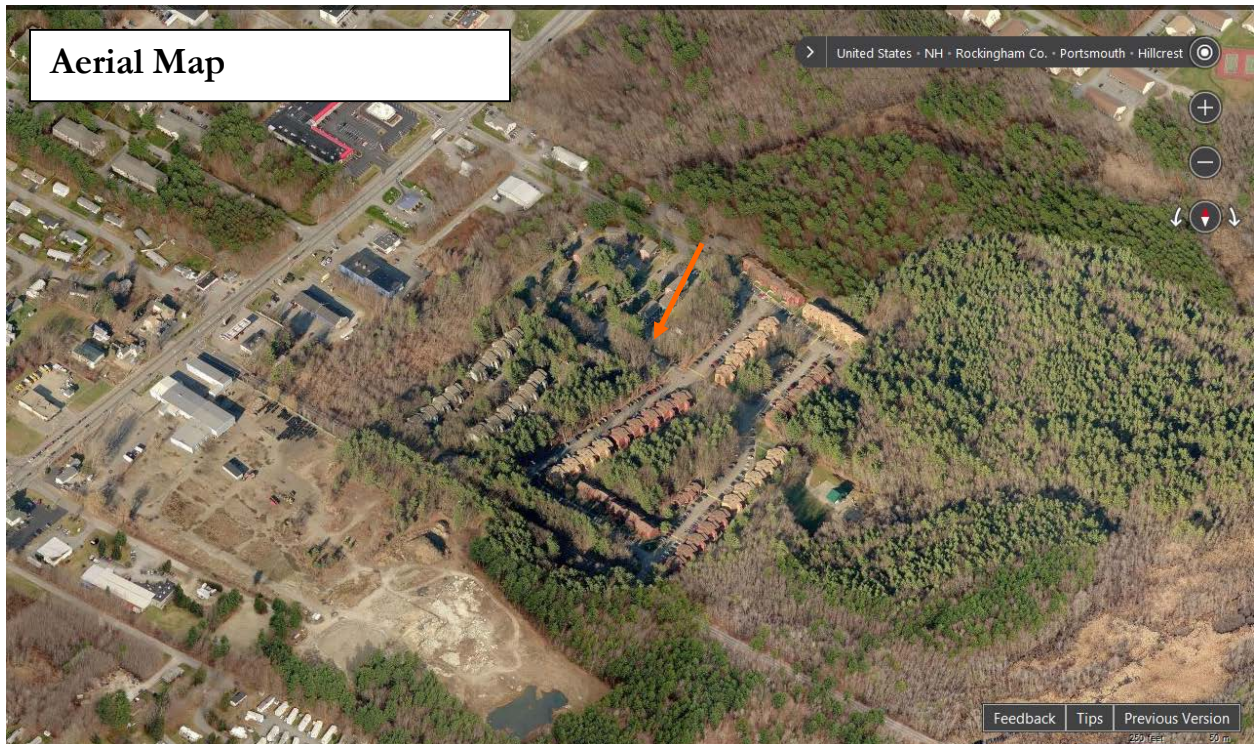
  - (b) *Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.*
- OR**
- Owing to these special conditions,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

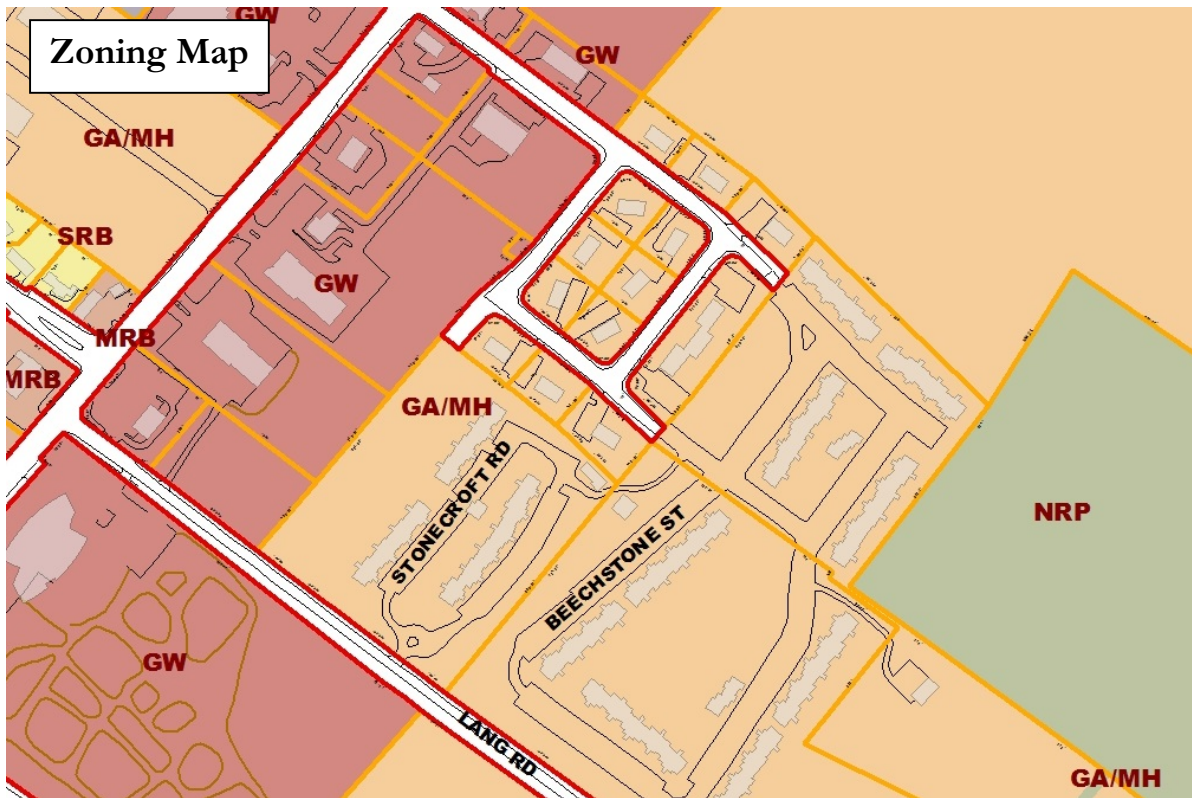


## Case #4-6

Petitioners:	Branford Holding, LLC, owner, Forest Properties, applicant
Property:	Lang Road, Robert Avenue, Anne Avenue
Assessor Plan:	Map 287, Lots 1 and 1-A & Plan 286, Lots 3 and 24
Zoning District:	Garden Apartment/Mobile Home Park
Description:	Install six free-standing signs on two contiguous lots.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: <ol style="list-style-type: none"><li>1. A Variance from Section 10.1241 and Section 10.1251.20 to allow the following freestanding signs in a district where free-standing signs are not allowed:<ol style="list-style-type: none"><li>a) an 8'± x 1.9'± post-mounted sign</li><li>b) a 3.5'± x 3'± post-mounted sign</li><li>c) a 3'± x 3'± post-mounted sign</li><li>d) a 4.3'± x 1'± boulder-mounted sign</li><li>e) a 5.75'± x 1.6'± boulder-mounted sign</li><li>f) a 6.1'± x 1.3'± boulder-mounted sign</li></ol></li><li>2. A Variance from Section 10.1243 to allow more than one freestanding sign on a lot.</li></ol>

### A. Neighborhood Context





## E. Previous Board of Adjustment Actions

In October 1980, 64 acres were rezoned to Garden Apartment, then sub-divided to create the lots as they exist today.

July 19, 1983 – The Board **granted** variances to allow 2,870 s.f. of lot area per family and to allow portions of two lots to be retained by the applicant as open space.

February 24, 2004. -- The Board **granted** variances to allow construction of a 35.5' x 45' one story building with basement and a 10' right side yard where 25' was required and to allow the building to be used for a real estate management office in a district where the use was not allowed.

December 21, 2004 – The Board **granted** a variance to allow the manager's apartment to be used as a real estate rental management office with the **stipulation** that the granting of a previous variance to allow the construction of a building on the Stonecroft property (a separate lot) be vacated.

## F. Planning Department Comments

- ✓ Application meets submission requirements.
- ✓ Applicant has discussed 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 #4-7

Petitioners:	Stewart Whitney & Haiyan Chao Whitney
Property:	180 Wibird Street
Assessor Plan:	Map 148, Lot 1-1
Zoning District:	General Residence A
Description:	Construct two second story decks.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance from Section 10.521 to allow 30.3%± building coverage where 25% is the maximum allowed.

### A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family residence	Primarily Residential uses
<u>Lot area (sq. ft.):</u>	8,287.00	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	8,287.00	7,500 min.
<u>Street Frontage (ft.):</u>	57.52	100 min.
<u>Lot depth (ft.):</u>	147.1	70 min.
<u>Front Yard (ft.):</u>	15	15 min.
<u>Right Yard (ft.):</u>	19	19 (per previous variance stipulation) min.
<u>Left Yard (ft.):</u>	10	10 min.
<u>Rear Yard (ft.):</u>	47.5	20 min.
<u>Height (ft.):</u>	<35	35 max.
<u>Building Coverage (%):</u>	24.7%	25 max.
<u>Open Space Coverage (%):</u>	60.8%	30 min.
<u>Parking (# of spaces):</u>	2	2 min.
<u>Estimated Age of Structure:</u>	2015	

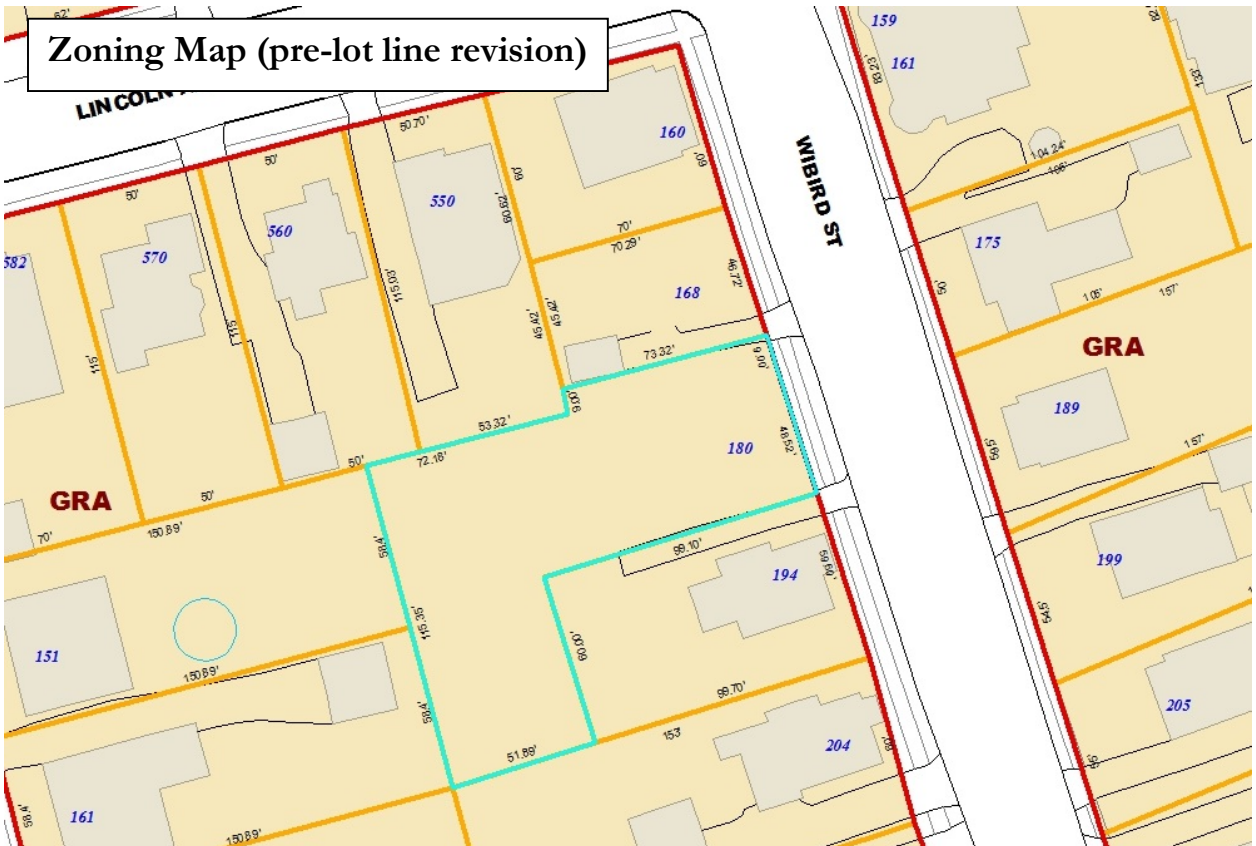
### B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Right Yard (ft.):</u>	>10 (rear deck) >19 (side deck)	10 and 19 min.
<u>Rear Yard (ft.):</u>	36.25	20 min.
<u>Height (ft.):</u>	16	35 max.
<u>Building Coverage (%):</u>	30.3	25 max.
<u>Open Space Coverage (%):</u>	57.1	30 min.

### C. Other Permits Required

Planning Board Site Plan Review

## D. Neighborhood Context





## E. Previous Board of Adjustment Actions

August 19, 2014 (as 194 Wibird Street, Lot 148/1) – The Board **granted** a variance to allow continuous street frontage of 57.52 where 100' was required when creating a new lot for the purpose of constructing a single-family residence. Stipulations included that the application be submitted to Planning Board for site plan review approval and that the right side yard setback be a minimum of 19' for the first 73.37' of the lot line extending from the edge of the street.

## F. Planning Department Comments

- ✓ Application meets 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.*