

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

OLD BUSINESS

1. 75 Congress St
2. 250 Broad St

NEW BUSINESS

1. 43 Suzanne Dr
2. 4 Greenleaf Woods Dr
3. 161 Aldrich Rd
4. 17 Gardner St
5. 996 Maplewood Ave
6. 303 Islington St
7. 9 Post Rd
8. 678-688 Maplewood Ave

OLD BUSINESS

Case #4-9

Petitioner:	Michael De La Cruz
Property:	75 Congress Street (63 Congress Street)
Assessor Plan:	Map 117, Lot 5
Zoning District:	Character District 5, Downtown Overlay District
Description:	Construct five residential use dormers and one office use dormer, with walkways and decks. Restore pediments.
Requests:	<p>The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following:</p> <ol style="list-style-type: none"> 1. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, enlarged or structurally altered without conforming to the Ordinance. 2. A Variance from Section 10.5A43.31 and Section 10.5A21.22 to allow the following building heights where the maximum building heights allowed per Map 10.5A21B are 40' for a 2-3 stories height requirement area and 45' for a 2-3 stories (short 4th) height requirement area: <ol style="list-style-type: none"> a. 62'11"± for the proposed pediments; b. 65'11" ± for the proposed flat roofed office dormer onto existing sloped roof; and c. 58' 11" ± for the proposed residential dormers

Note: This petition was postponed from the May 17 and June 17, 2016 meetings and the requested relief in item #2 above has been revised and was re-noticed.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Retail and office uses	Mix of residential and commercial uses
<u>Principal Front Yard (ft.)</u>	0 +/-	0 max.
<u>Secondary Front Yard (ft.)</u>	0 +/-	0 max.
<u>Rear Yard (ft.)</u>	5 +/-	0 max.
<u>Front Lot Line Buildout (%)</u>	100	100 max.
<u>Building Block Length (ft.)</u>	133	250 max.
<u>Building Façade Modulation (ft.)</u>	<100	100 max.
<u>Entrance Spacing (ft.)</u>	>60	60 min.
<u>Building Coverage (%)</u>	95 +/-	95 max.
<u>Building Footprint (sq. ft.)</u>	15,000 +/-	15,000 max.
<u>Lot Area (sq. ft.)</u>	17,058	2,000 min.
<u>Open Space (%)</u>	5 +/-	5 min.
<u>Building Height (ft.)</u>	60'9"	40-45 max.
<u>Estimated Age of Structure:</u>	1879	

B. Proposed Changes

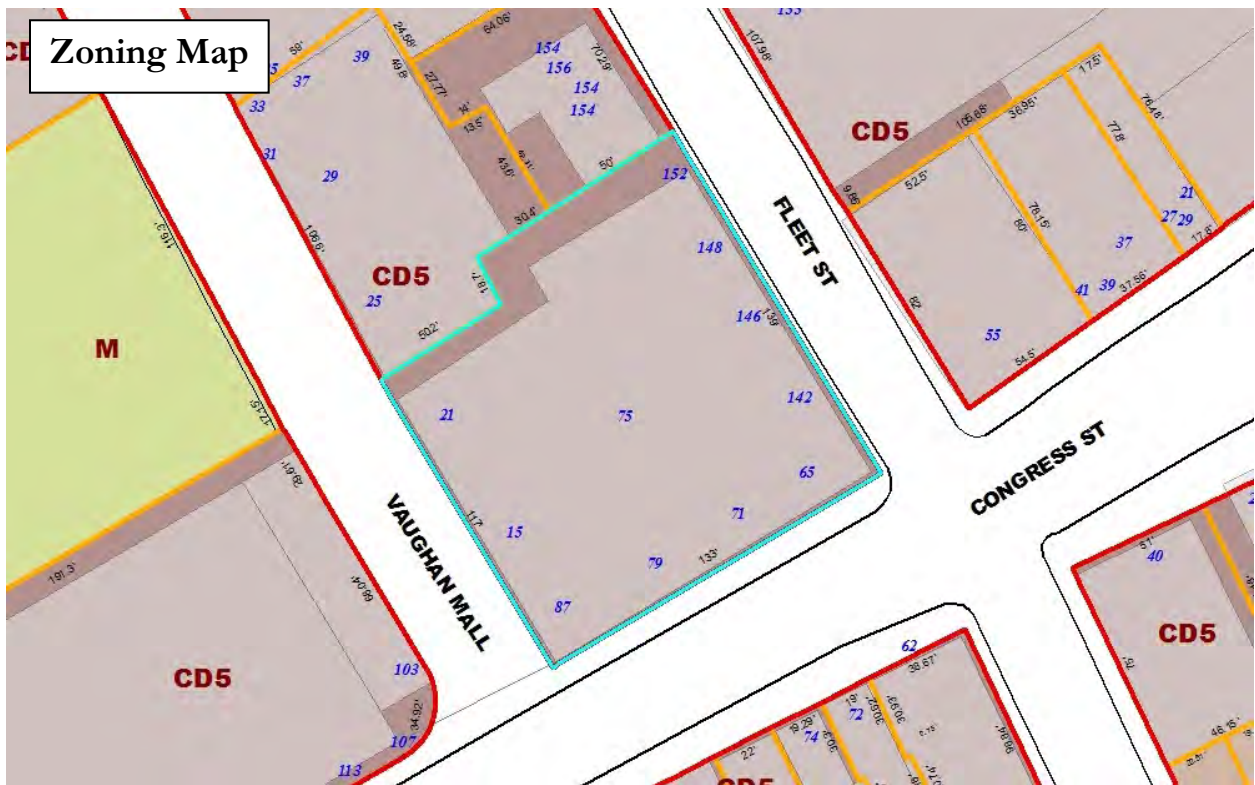
	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Retail, office, and residential	Mix of residential and commercial uses
<u>Building Height (ft.)</u>	58'11"-65'11"	40-45 max.

C. Other Permits Required

- Planning Board Site Plan Review
- Historic District Commission

D. Neighborhood Context





E. Previous Board of Adjustment Actions

February 28, 1984 – The Board **granted** a special exception to permit the elimination of required parking.

August 30, 1988 – The Board **determined**, as required by the Zoning Ordinance, that the number of parking spaces required for Antioch College of N. E. was 1 space for every 4 students and 1 space for each professor/teacher.

December 13, 1988 – The Board **granted** a school not to exceed four classrooms.

July 18, 2006 – the Board **tabled** to August an Appeal of an Administrative Decision of the Code Official involving the interpretation of the Ordinance as requiring a variance for an existing 10' wide accessway to a below grade parking garage to continue where a 24' wide accessway was required for a two-way accessway.

August 22, 2006 – The Board failed to pass a motion to grant the Appeal so the Appeal was **denied**.

April 26, 2016 – The Board **postponed** a request to construct five residential use dormers and one office dormer with walkways and decks and to restore pediments and allow the following building heights where the maximum allowed are 40' for a 2-3 stories height requirements area and 45' for a 2-3 stories (short 4th) height requirement area: 62'11" for the proposed pediments, 65'6" for the proposed office dormer, and 58'11" for the proposed residential dormers.

May 17, 2016 – The Board **postponed** the petition to the June meeting so that additional information requested to the Board could be provided. The requested building heights were revised as follows:

62'11" for the proposed pediments (no change), 64'6" for the proposed office dormer, and 60'5" for the proposed residential dormers.

June 21, 2016 – The Board **postponed** the petition to the July meeting with a final revision to the requested building heights as follows: 62'11" for the proposed pediments (no change), 64'6" for the proposed office dormer, and 60'5" for the proposed residential dormers.

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 #6-12

Petitioner:	Beth P. Griffin Revocable Trust of 2011, Beth P. Griffin, Trustee
Property:	250 Broad Street
Assessor Plan:	Map 131, Lot 10
Zoning District:	General Residence A
Description:	Second floor addition and relocation of barn/office/rec. room.
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"> 1. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, enlarged or structurally altered except in conformity with the Ordinance. 2. A Variance from Section 10.521 to allow a right side yard setback of 3.09'± for the barn/office and 4.05'± for the second story addition where 10' is required.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family residence	Primarily single family residential
<u>Lot area (sq. ft.):</u>	11,025	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	11,025	7,500 min.
<u>Street Frontage (ft.):</u>	55.05	100 min.
<u>Lot depth (ft.):</u>	200	70 min.
<u>Primary Front Yard (ft.):</u>	<15	15 min.
<u>Right Yard (ft.):</u>	1.29	10 min.
<u>Left Yard (ft.):</u>	>10	10 min.
<u>Rear Yard (ft.):</u>	>20	20 min.
<u>Height (ft.):</u>	<35	35 max.
<u>Building Coverage (%):</u>	19.80%	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>Right Yard (ft.):</u>	3.09, 4.05	10 min.
<u>Left Yard (ft.):</u>	>10	10 min.
<u>Rear Yard (ft.):</u>	>20	20 min.
<u>Height (ft.):</u>	<35	35 max.
<u>Building Coverage (%):</u>	23.95	25 max.
<u>Open Space Coverage (%):</u>	>30	30 min.

C. Other Permits Required

None.

D. Neighborhood Context



E. Previous Board of Adjustment Actions

May 13, 1986 – The Board **granted** a variance to construct an 18' x 24' rear addition with a 7' side yard where 10' was required. The variance was granted with the stipulation that the existing barn must be demolished as presented.

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

 - (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.*

NEW BUSINESS

Case #7-1

Petitioners:	Sarah J. Duddy & Gregory J. Vaillancourt
Property:	43 Suzanne Drive
Assessor Plan:	Map 292, Lot 70
Zoning District:	Single Residence B
Description:	Raising chickens.
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 #17.20 to allow the keeping of chickens where the use is allowed by Special Exception.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family residential	Primarily single family uses
<u>Lot area (sq. ft.):</u>	10,454.40	15,000 min.
<u>Primary Front Yard (ft.):</u>	>30	30 min.
<u>Right Yard (ft.):</u>	>10	10 min.
<u>Left Yard (ft.):</u>	>10	10 min.
<u>Rear Yard (ft.):</u>	>30	30 min.
<u>Building Coverage (%):</u>	10.2	20 max.
<u>Open Space Coverage (%):</u>	>40	40 min.

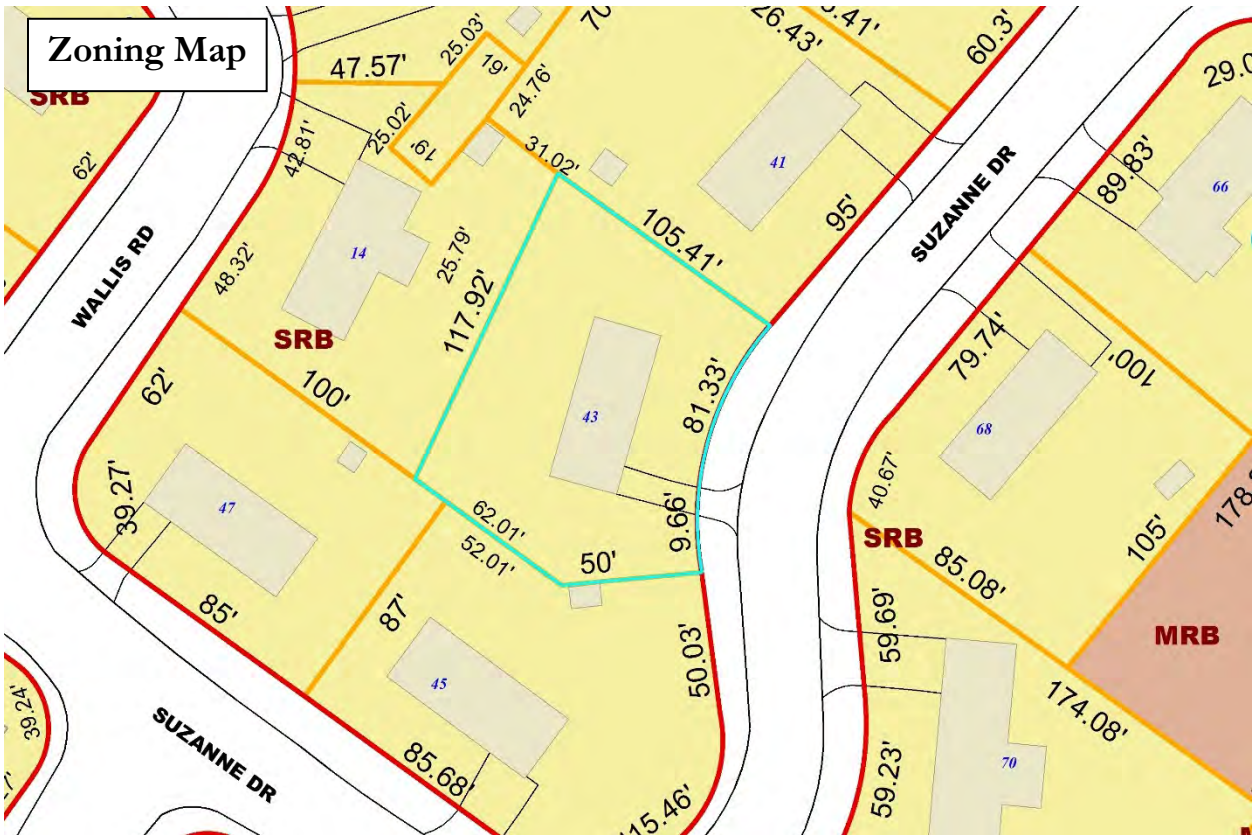
B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Keeping of chickens	Primarily single family uses
<u>Building Coverage (%):</u>	11.7	20 max.

C. Other Permits Required

None.

D. Neighborhood Context



E. Previous Board of Adjustment Actions

No history found.

F. Planning Department Comments

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

G. Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

1. *Standards as provided by this Ordinance for the particular use permitted by special exception;*
2. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
3. *No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;*
4. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
5. *No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and*
6. *No significant increase of stormwater runoff onto adjacent property or streets.*

Case #7-2

Petitioners:	Green Leaves Holdings LLC, owner, Portsmouth Believers Church, Inc., applicants
Property:	4 Greenleaf Woods Drive #101
Assessor Plan:	Map 243, Lot 6-A101
Zoning District:	Gateway
Description:	Religious services in a building with office uses.
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 3.11 to allow a religious place of assembly where the use is allowed by Special Exception.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Mix of office uses	Mix of commercial and multi-family residential uses
<u>Lot area (sq. ft.):</u>	735,379.92	43,560 min.

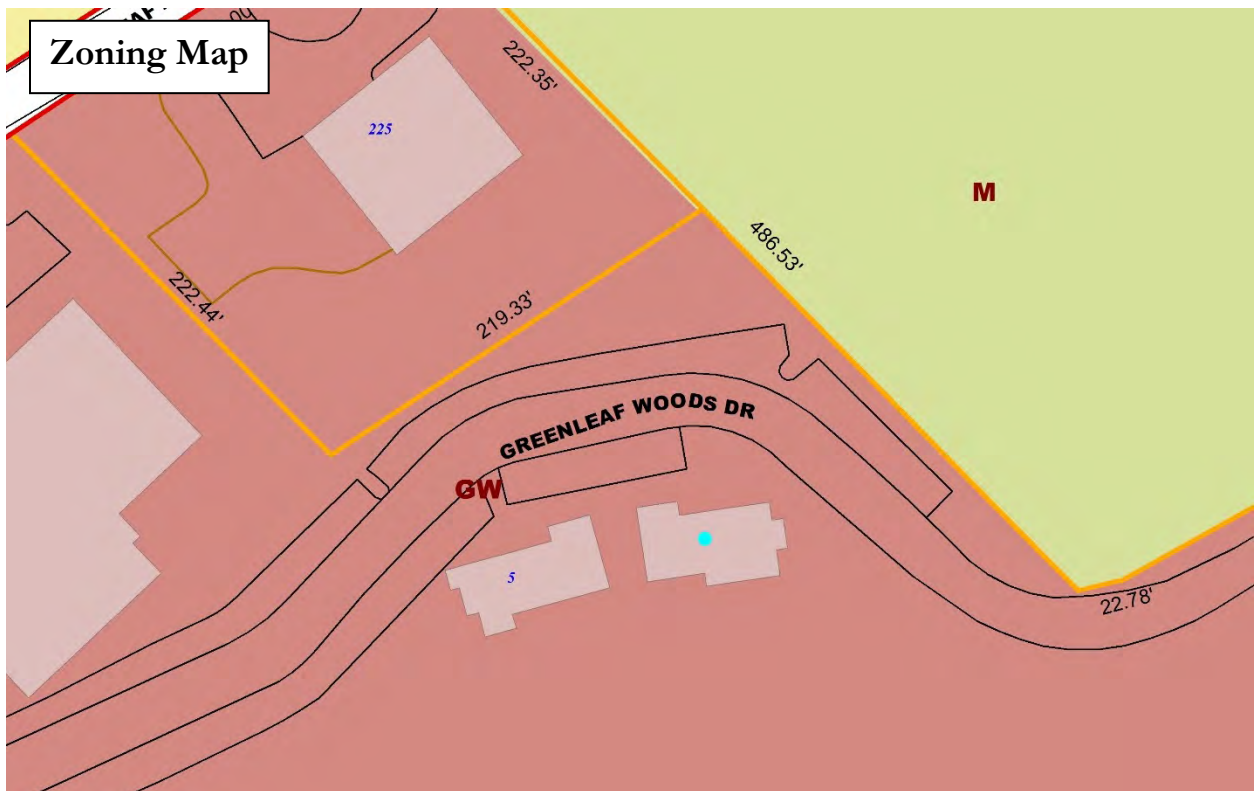
B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Religious place of assembly	Mix of commercial and multi-family residential uses
<u>Parking (# of spaces):</u>	110	<110 min.

C. Other Permits Required

None.

D. Neighborhood Context



E. Previous Board of Adjustment Actions

No history found.

F. Planning Department Comments

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

G. Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

1. *Standards as provided by this Ordinance for the particular use permitted by special exception;*
2. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
3. *No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;*
4. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
5. *No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and*
6. *No significant increase of stormwater runoff onto adjacent property or streets.*

Case #7-3

Petitioner:	Sachiko Akiyama
Property:	161 Aldrich Road
Assessor Plan:	Map 153, Lot 32
Zoning District:	Single Residence B
Description:	Add second story to existing garage.
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"> 1. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, enlarged or structurally altered except in conformity with the Ordinance. 2. A Variance from Section 10.521 to allow a 71" ± left side yard setback where 10' is required. 3. A Variance from Section 10.521 to allow a 14'± rear yard setback where 30' is required.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family residence	Primarily Single Family residences
<u>Lot area (sq. ft.):</u>	9,583.20	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	9,583.20	15,000 min.
<u>Street Frontage (ft.):</u>	50	100 min.
<u>Lot depth (ft.):</u>	188	100 min.
<u>Primary Front Yard (ft.):</u>	>30	30 min.
<u>Right Yard (ft.):</u>	>10	10 min.
<u>Left Yard (ft.):</u>	71"	10 min.
<u>Rear Yard (ft.):</u>	14	30 min.
<u>Height (ft.):</u>	1 story	35 max.
<u>Building Coverage (%):</u>	17	20 max.
<u>Open Space Coverage (%):</u>	>40	40 min.
<u>Parking (# of spaces):</u>	4	2 min.
<u>Estimated Age of Structure:</u>	1928	

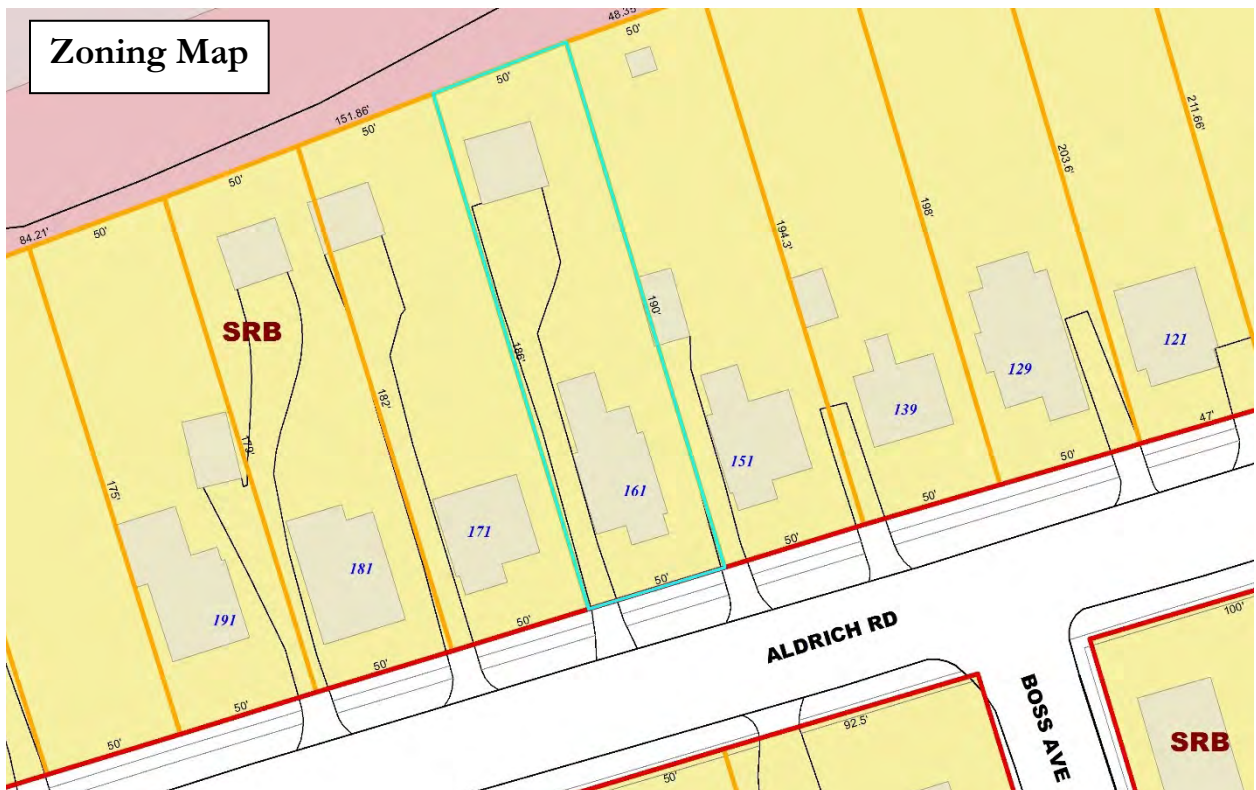
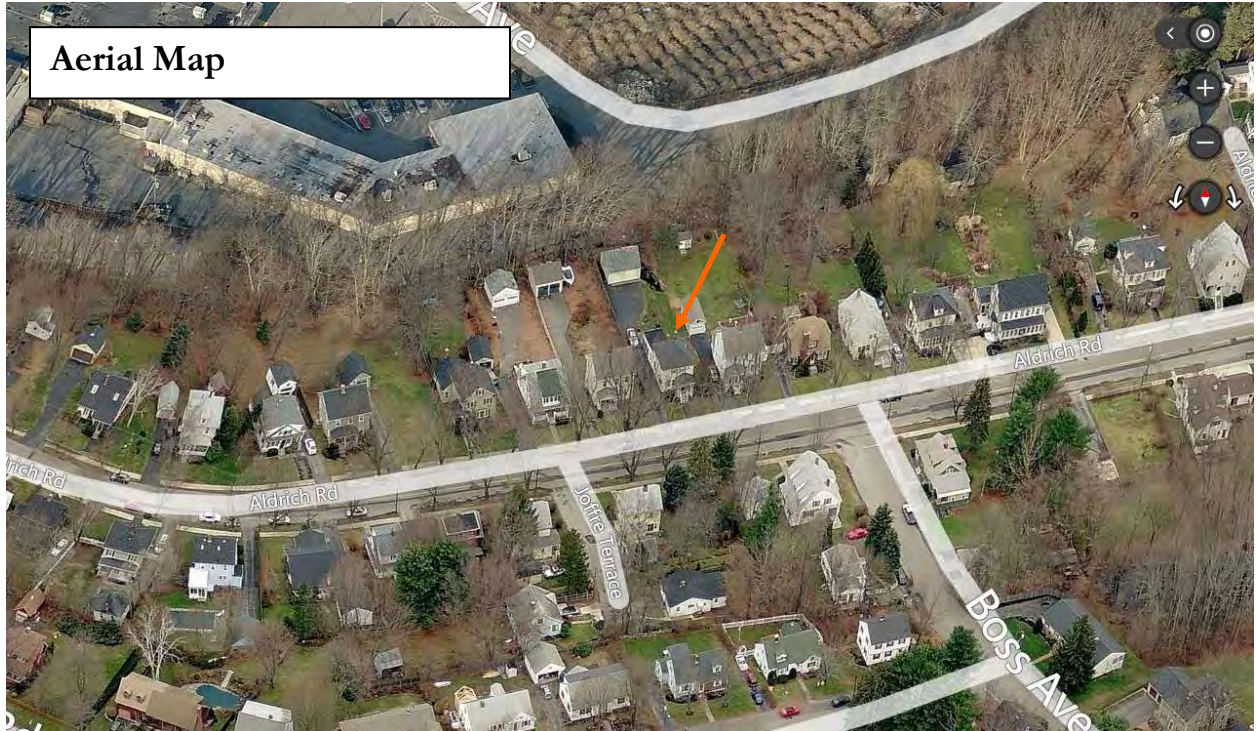
B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Right Yard (ft.):</u>	>10	10 min.
<u>Left Yard (ft.):</u>	71"	10 min.
<u>Rear Yard (ft.):</u>	14	30 min.
<u>Height (ft.):</u>	2 stories	35 max.

C. Other Permits Required

None.

D. Neighborhood Context



E. Previous Board of Adjustment Actions

June 19, 1973 – The Board **denied** a request to allow a carpentry business (home occupation in the garage).

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 #7-4

Petitioners:	Thunderbolt Realty Trust of 2011 c/o Alison Jewett
Property:	17 Gardner Street
Assessor Plan:	Map 103, Lot 14
Zoning District:	General Residence B
Description:	Reconstruct rear additions.
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"> 1. Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed, enlarged or structurally altered except in conformity with the Ordinance. 2. Variances from Section 10.521 to allow the following: <ol style="list-style-type: none"> a) A front yard setback of 4'10" ± where 5' is required; b) A left side yard setback of 1" ± where 10' is required; c) A rear yard setback of 9'2" ± where 25' is required; and d) Building coverage of 40.2%± where 30% 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>	2,690	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,690	5,000 min.
<u>Street Frontage (ft.):</u>	34	80 min.
<u>Lot depth (ft.):</u>	68	60 min.
<u>Primary Front Yard (ft.):</u>	4'-10"	5 min.
<u>Right Yard (ft.):</u>	13'-9"	10 min.
<u>Left Yard (ft.):</u>	1"	10 min.
<u>Rear Yard (ft.):</u>	9'-2"	25 min.
<u>Building Coverage (%):</u>	35.6	30 max.
<u>Open Space Coverage (%):</u>	>25	25 min.
<u>Parking (# of spaces):</u>	2	2 min.
<u>Estimated Age of Structure:</u>	1782	

B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Right Yard (ft.):</u>	13'-9"	10 min.
<u>Left Yard (ft.):</u>	1"	10 min.
<u>Rear Yard (ft.):</u>	9'-2"	25 min.
<u>Height (ft.):</u>	21'-7"	35 max.
<u>Building Coverage (%):</u>	40.3	30 max.
<u>Open Space Coverage (%):</u>	>25	25 min.

C. Other Permits Required

- Historic District Commission

D. Neighborhood Context



E. Previous Board of Adjustment Actions

May 18, 1999 – The Board **granted** a variance to allow the reconstruction of two existing additions with the following: a) a 10' rear yard where 25' was required; b) a 6' left side for the 16' x 14' addition where 10' was required; and c) a 1' left side for the 11.5' x 8.6' addition where 10' was required.

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 #7-5

Petitioners:	Carol I. Cooper, owner, Lorax Sustainable Development, LLC, applicant
Property:	996 Maplewood Avenue
Assessor Plan:	Map 219, Lot 4
Zoning District:	Single Residence B
Description:	Construct five free-standing dwellings.
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 more than one free-standing dwelling on a lot.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant	Primarily single family residential
<u>Lot area (sq. ft.):</u>	113,485.00	15,000 min.
<u>Street Frontage (ft.):</u>	139	100 min.
<u>Lot depth (ft.):</u>	>100	100 min.

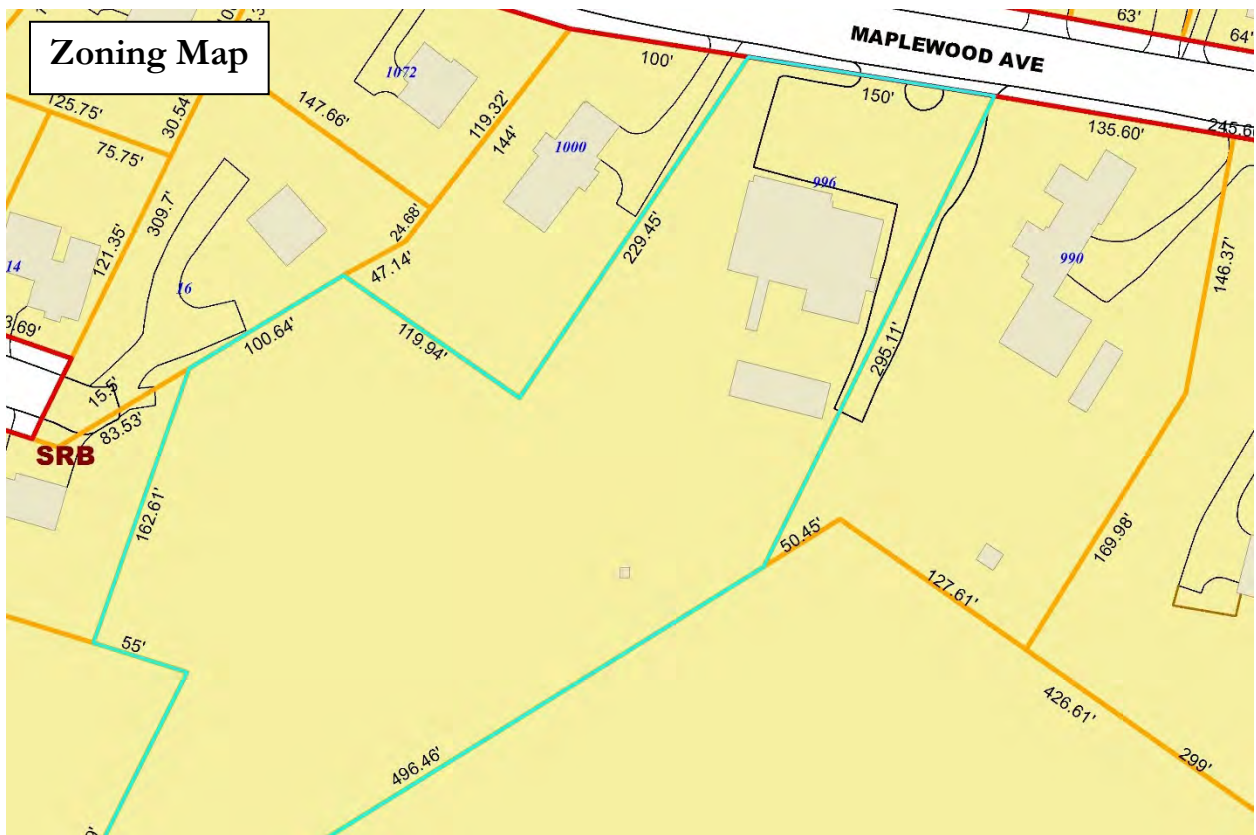
B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	5 single family homes	Primarily single family residential
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	22,697	15,000 min.
<u>Primary Front Yard (ft.):</u>	>30	30 min.
<u>Right Yard (ft.):</u>	>10	10 min.
<u>Left Yard (ft.):</u>	>10	10 min.
<u>Rear Yard (ft.):</u>	>30	30 min.
<u>Height (ft.):</u>	<35	35 max.
<u>Building Coverage (%):</u>	<20	20 max.
<u>Open Space Coverage (%):</u>	81.1	40 min.
<u>Parking (# of spaces):</u>	10	10 min.

C. Other Permits Required

- Planning Board Site Plan Review
- Planning Board Conditional Use Permit (Wetlands)

D. Neighborhood Context



E. Previous Board of Adjustment Actions

November 12, 1985 - The Board **granted** a Special Exception to allow construction of a greenhouse adjacent to an existing business.

May 27, 1997 - The board **denied** a request to allow the sale of wedding apparel and formal wear in a grandfathered floral shop and to allow the expansion of a nonconforming retail floral business by selling wedding apparel and formal wear.

June 17, 1997 - The Board **denied** a request for rehearing regarding the above.

February 15, 2005 - The Board **denied** a request to allow a 4,944 s.f. chiropractic office on the first floor and one apartment on the second floor with associated parking where the current use was a retail florist.

June 28, 2005 - The Board **denied** a request to allow six dwelling units (a 4-unit and a 2-unit building) where only one dwelling per lot was allowed.

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 #7-6

Petitioner:	303 Islington Street LLC
Property:	303 Islington Street
Assessor Plan:	Map 144, Lot 11
Zoning District:	CD4-L2
Description:	Maintain existing parking in rezoned district.
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"> 1. A Variance from Section 10.5A44.31 to allow an off-street parking area to be located less than 20' behind the façade of a principal building. 2. A Variance from Sections 10.5A43.50 and 10.5A44.32 to allow parking lots and loading areas without being screened from the street by a building or streetscreen.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Office space and 1 residential unit	Mix of residential and commercial uses
<u>Principal Front Yard (ft.)</u>	<15	0/15 min./max.
<u>Secondary Front Yard (ft.)</u>	<12	0/12 min./max.
<u>Left Side Yard (ft.)</u>	>5, <20	5/20 min./max.
<u>Rear Yard (ft.)</u>	>5	5 min.
<u>Building Coverage (%)</u>	<60	60 max.
<u>Building Footprint (sq. ft.)</u>	<2,500	2,500 max.
<u>Lot Area (sq. ft.)</u>	4,792	3,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.)</u>	4,792	3,000 min.
<u>Estimated Age of Structure:</u>	1880	

B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>	
<u>Land Use</u>	Office space with 4 residential units	Mix of residential and commercial uses	
<u>Principal Front Yard (ft.)</u>	<15	0/15	min./max.
<u>Secondary Front Yard (ft.)</u>	0	0/12	min./max.
<u>Left Side Yard (ft.)</u>	9	5/20	min./max.
<u>Rear Yard (ft.)</u>	>5	5	min.
<u>Building Coverage (%)</u>	<60	60	max.
<u>Building Footprint (sq. ft.)</u>	<2,500	2,500	max.
<u>Lot Area per Dwelling Unit (sq. ft.)</u>	1,198	1,198 (previous variance)	min.
<u>Parking (# of spaces)</u>	8	8 (previous variance)	min.

C. Other Permits Required

- Historic District Commission
- Planning Board Site Plan Review

D. Neighborhood Context



E. Previous Board of Adjustment Actions

October 28, 1975 – a petition for a variance to permit insufficient parking for a restaurant was withdrawn. (subsequent agreement between the City and owner on parking spaces, dated November 19, 1975).

June 27, 1978 – the Board **denied** a request to allow two dental offices and parking on an adjacent lot leased to the applicant.

July 18, 1978 – the Board **granted** a rehearing on the above request.

August 15, 1978 – the Board **granted** a request to allow the location of two dental offices, with 10 parking spaces where 12½ were required.

July 22, 2004 – the Board **granted** a variance to allow a reduced sign of 38” x 30” (38” x 42” requested) for a grandfathered professional office in a residential district.

September 18, 2007 – The Board **granted** a special exception to allow a financial and a law office in space used by a dental office and a variance to allow 5 existing parking spaces to be provided where 10 were required with the stipulation that the Public Works Department would define the delineation between the parking lot and the sidewalk.\

April 22, 2014 – The Board **granted** a special exception to allow conversion of a building existing on January 1, 1980 to four dwelling units with less than the required lot area per dwelling unit. The Board **granted** variances to allow the following: 1) A dwelling existing on January 1, 1980 to be converted to additional dwelling units without complying with the minimum open space, maximum building coverage and off-street parking requirements (This request was added to the original requests postponed at the March 18, 2014 meeting.); 2) A change of use that provides 8 off-street parking spaces where 12 were required; and 3) Off-street parking spaces and accessways that do not comply with the off-street parking dimensional requirements.

December 2, 2014 – The Board **granted** variances to allow the conversion of three office units to dwelling units with renovations to front and right side dormers, balconies over front windows and a 27’ x 19’ second floor rear addition with the following: a) a lot area per dwelling unit of 1, 198 s.f., 3,500 s.f. required; b) a front yard setback of 3’1” 5’ required; and c) a left side yard setback of 9’ and a right side yard setback of 0’ where 10’ are required for both.

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 #7-7

Petitioners:	1987 Tamposi Limited Partnership, owner, Key Collision Center of Portsmouth, LLC, applicant.
Property:	9 Post Road
Assessor Plan:	Map 284, Lot 11
Zoning District:	Industrial
Description:	Auto body repair facility with existing parking areas.
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"> 1. A Special Exception under Section 10.440, Use #11.20 to allow a motor vehicle repair use in a district where the use is allowed by Special Exception. 2. A Special Exception under Section 10.440, Use #20.61 to allow outdoor storage of vehicles in a district where the use is allowed by Special Exception. 3. A Variance from Section 10.843.21 to allow outdoor storage or display areas for vehicles to be set back less than 50' from the street right-of-way and from all lot lines. 4. A Variance from Section 10.1114.21 to allow parking spaces and accessways that do not meet the dimensional requirements for off-street parking. 5. A Variance from Section 1114.32(a) to allow vehicles to enter and leave parking spaces by passing over any other parking space or requiring the moving of any other vehicle. 6. A Variance from Section 10.1114.41 to allow no provision of a 5' wide pedestrian path throughout the site connecting adjacent streets, accessways, sidewalks and parking areas to the entrances to all structures. 7. A Variance from Section 10.1124.10 to allow loading areas to be located between the front property line and any building or structure or in a required side or rear yard.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Manufacturing	Primarily industrial uses
<u>Lot area (sq. ft.):</u>	4.75 acres	2 acres min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>		NA min.
<u>Street Frontage (ft.):</u>	918	200 min.
<u>Lot depth (ft.):</u>	375	200 min.
<u>Primary Front Yard (ft.):</u>	>70	70 min.
<u>Right Yard (ft.):</u>	>50	50 min.
<u>Left Yard (ft.):</u>	>50	50 min.
<u>Rear Yard (ft.):</u>	>160	50 min.
<u>Height (ft.):</u>	17	70 max.
<u>Building Coverage (%):</u>	12	50 max.
<u>Open Space Coverage (%):</u>	70	20 min.

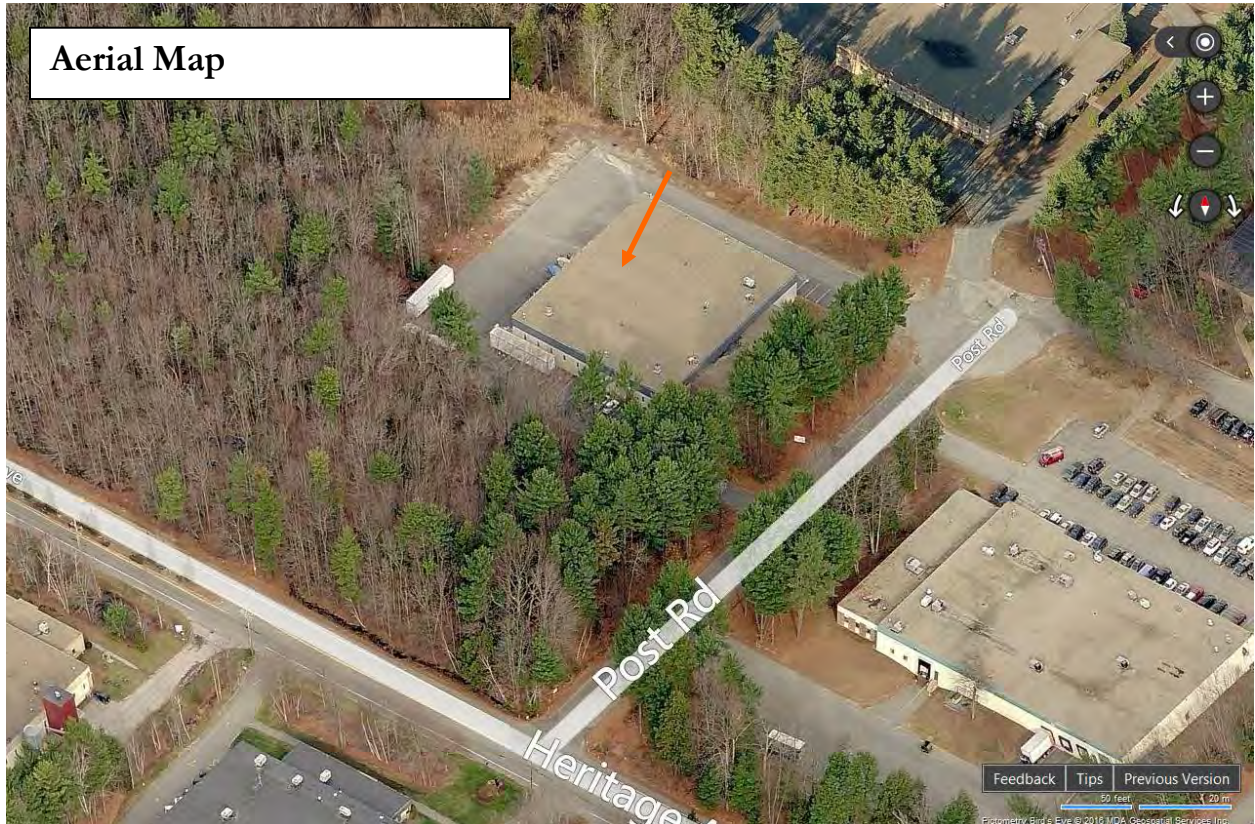
B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Auto body repair	Primarily industrial uses
<u>Parking (# of spaces):</u>	69	68 min.

C. Other Permits Required

- Planning Board Site Plan Review
- Planning Board Wetland Conditional Use Permit

D. Neighborhood Context





E. Previous Board of Adjustment Actions

No history found.

F. Planning Department Comments

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

G. Review Criteria

The application must meet all of the standards for a **special exception** (see Section 10.232 of the Zoning Ordinance).

1. *Standards as provided by this Ordinance for the particular use permitted by special exception;*
2. *No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials;*
3. *No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;*
4. *No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;*
5. *No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and*
6. *No significant increase of stormwater runoff onto adjacent property or streets.*

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 #7-8

Petitioners:	Airgead Realty Trust, Paul & Christopher D. McInnis, Trustees, owners, Sligo Realty Trust, applicant
Property:	678 (678-686) Maplewood Avenue
Assessor Plan:	Map 220, Lot 89
Zoning District:	Single Residence B
Description:	Construct warehouse with associated retail and office space on two lots proposed to be merged.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance under Section 10.440 to allow warehouse, office and retail uses in a district where these uses are not allowed.

A. Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Vacant lots	Primarily single family residences

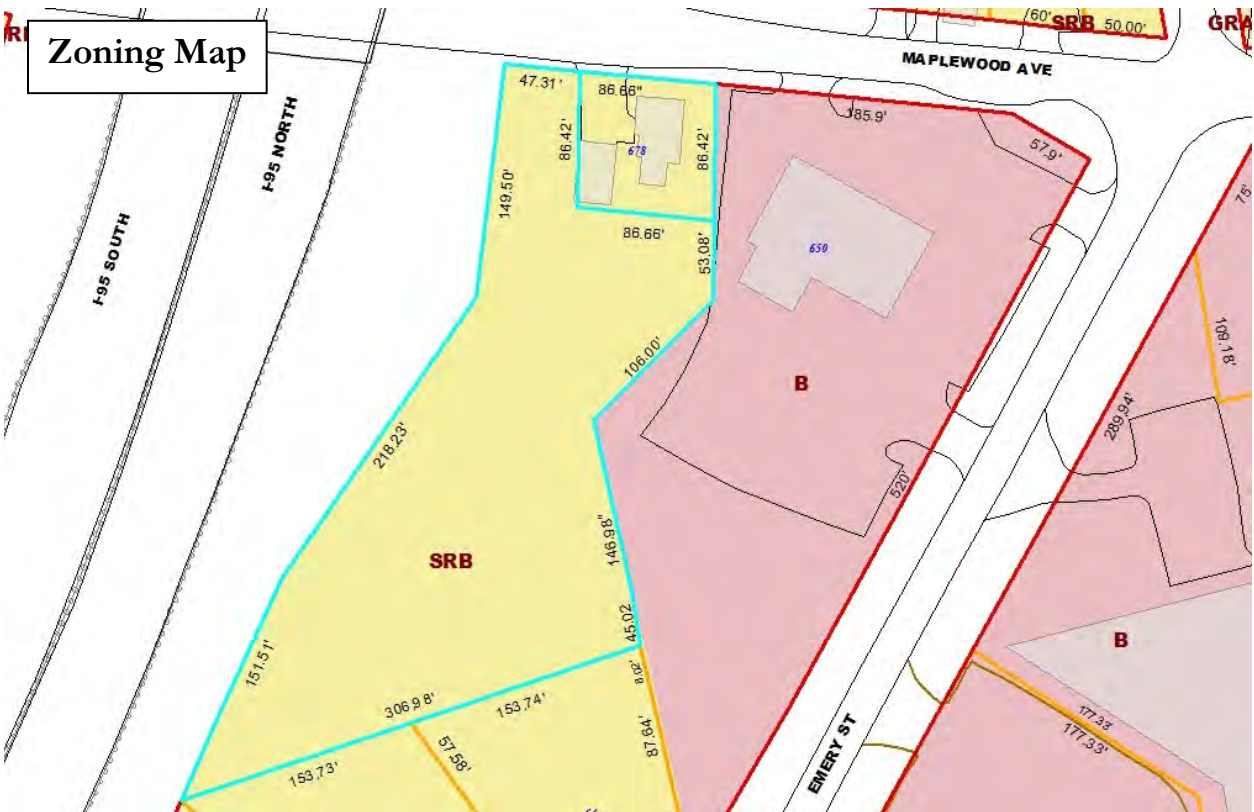
B. Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Warehouse with associated retail and office	Primarily single family residences
<u>Lot area (sq. ft.):</u>	70,220	43,560 min.
<u>Street Frontage (ft.):</u>	134	150 min.
<u>Lot depth (ft.):</u>	380	200 min.
<u>Primary Front Yard (ft.):</u>	30	30 min.
<u>Right Yard (ft.):</u>	10	20 min.
<u>Left Yard (ft.):</u>	10	20 min.
<u>Rear Yard (ft.):</u>	245.6	40 min.
<u>Height (ft.):</u>	30	35 max.
<u>Building Coverage (%):</u>	8.50	10 max.
<u>Open Space Coverage (%):</u>	57.40	50 min.
<u>Parking (# of spaces):</u>	13	13 min.

C. Other Permits Required

- Planning Board Site Plan Review

D. Neighborhood Context



E. Previous Board of Adjustment Actions

April 10, 1979 – The Board **granted** a variance to allow the conversion of the second floor of an existing garage into an apartment.

February 16, 2016 – The Board **denied** a request to construct townhouses and an apartment building on two merged lots which required variances for the following: 1) to allow multi-family dwellings containing 30 dwelling units where only a single family dwelling is allowed; 2) to allow two free-standing dwellings on a lot where only one free-standing dwelling is allowed; 3) to allow a lot area per dwelling unit of 2,341 s.f. where 15,000 s.f. is required; 4) to allow a structure height of 48' where 35' is the maximum allowed; 5) to allow parking where vehicles entering or leaving a parking space must pass over another space or require the moving of another vehicle; and 6) to allow off-street parking spaces to be located between a principal building and the street.

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

 - (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.*