

TO: Zoning Board of Adjustment
FROM: Juliet Walker, Planning Department
DATE: 9/15/2016
RE: Zoning Board of Adjustment Meeting

OLD BUSINESS

1. 12 Woodbury Ave
2. 127 & 137 High St

NEW BUSINESS

1. 390 New Castle Ave
2. 389 Lincoln Ave
3. 25 Hawthorne St
4. 6 Dwight Ave
5. 806 Route 1 Bypass
6. 147 Martha Terrace
7. 1 Marjorie St

OLD BUSINESS

Case #8-3

Petitioners:	Abigail Kell Sutcliffe, owner, Fred Kell, applicant
Property:	12 Woodbury Avenue
Assessor Plan:	Map 163, Lot 9
Zoning District:	General Residence A
Description:	Add rear porch.
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 10.321 to allow a nonconforming building or structure to be extended, reconstructed, enlarged or structurally altered except in conformity with the Ordinance. 2. A Variance from Section 10.521 to allow 55.94%± building coverage where 25% is the maximum allowed.

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>	1,306.80	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	1,306.80	7,500 min.
<u>Street Frontage (ft.):</u>	18.5	100 min.
<u>Lot depth (ft.):</u>	57.5	70 min.
<u>Primary Front Yard (ft.):</u>	<15	15 min.
<u>Right Yard (ft.):</u>	<10	10 min.
<u>Left Yard (ft.):</u>	<10	10 min.
<u>Rear Yard (ft.):</u>	24	20 min.
<u>Building Coverage (%):</u>	50.58%	25% max.
<u>Estimated Age of Structure:</u>	1911	

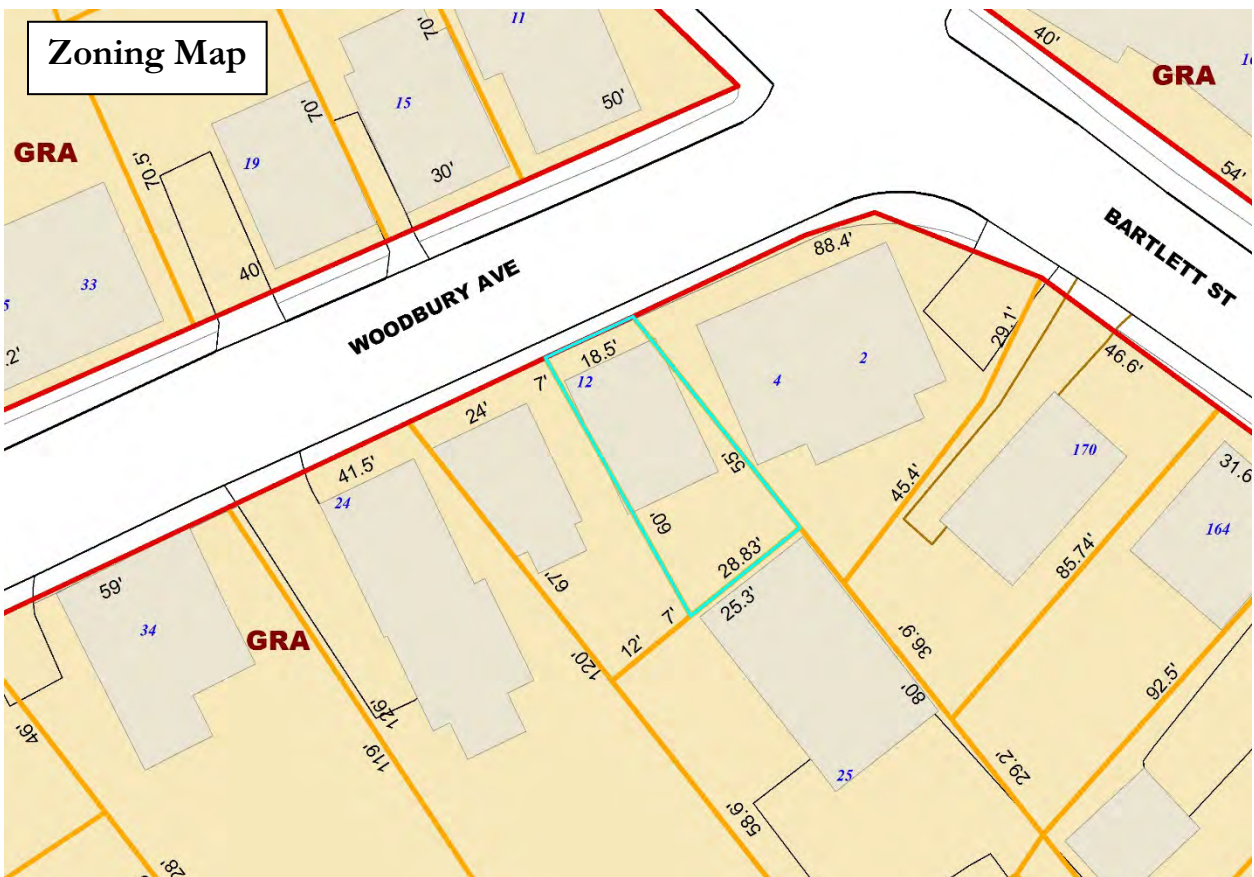
Proposed Changes

	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Right Yard (ft.):</u>	7	5 (per 10.516.40) min.
<u>Left Yard (ft.):</u>	5	5 (per 10.516.40) min.
<u>Rear Yard (ft.):</u>	12.5	10 (per 10.516.40) min.
<u>Height (ft.):</u>	<4 (new deck)	35 max.
<u>Building Coverage (%):</u>	55.94%	25% max.

Other Permits Required

Planning Board – Wetland Conditional Use Permit

Neighborhood Context



Previous Board of Adjustment Actions

No history found.

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 #8-8

Petitioners:	James C. Lucy Revocable Living Trust, James C. & Kimberley A. Lucy, Trustees
Property:	127 & 137 High Street
Assessor Plan:	Map 118, Lots 20 & 21
Zoning District:	CD4-L1 and Downtown Overlay Districts
Description:	Construct two-family dwelling unit with parking underneath.
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 Sections 10.5A41.10A & 10.5A43.31 to allow a three-story building where up to a two-story building is the maximum permitted. 2. Variances from Section 10.5A41.10A to allow the following: <ol style="list-style-type: none"> (a) A minimum lot area per dwelling unit of 1,200± s.f. where 3,000 s.f. is required. (b) A duplex building type where duplexes are not permitted in the Downtown Overlay District. (c) The minimum ground story to be 8'8"± in height where 11' is required. 3. A Variance from Section 10.1114.20 to allow a 20'± maneuvering aisle where 24' is required.

Existing Conditions

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Single and 3-family homes	Mix of residential and office uses
<u>Lot Area (sq. ft.)</u>	Lot 21 – 3,049 Lot 20 – 3,920	3,000
<u>Lot Area per Dwelling Unit (sq. ft.)</u>	Lot 21 – 1,016 Lot 20 – N/A	3,000
<u>Estimated Age of Structure:</u>	1860 and 1820	

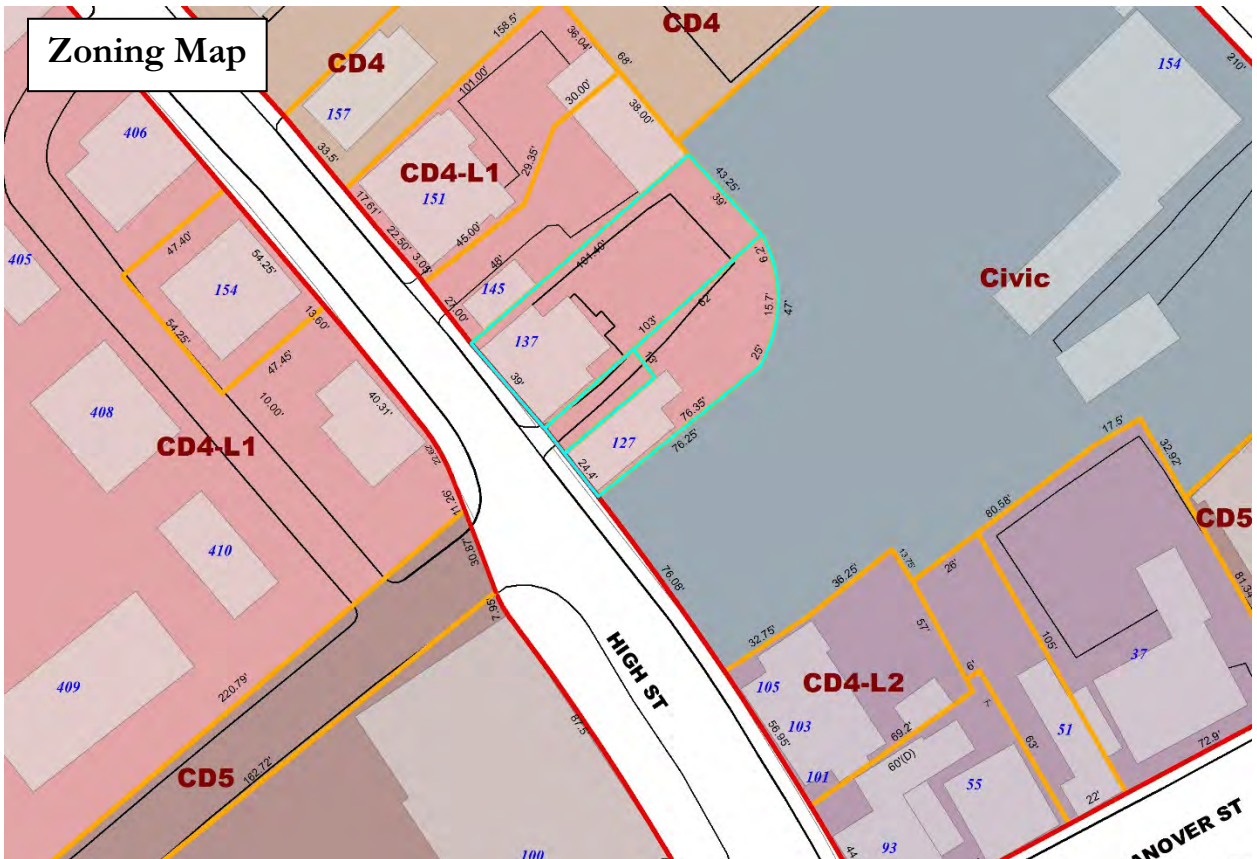
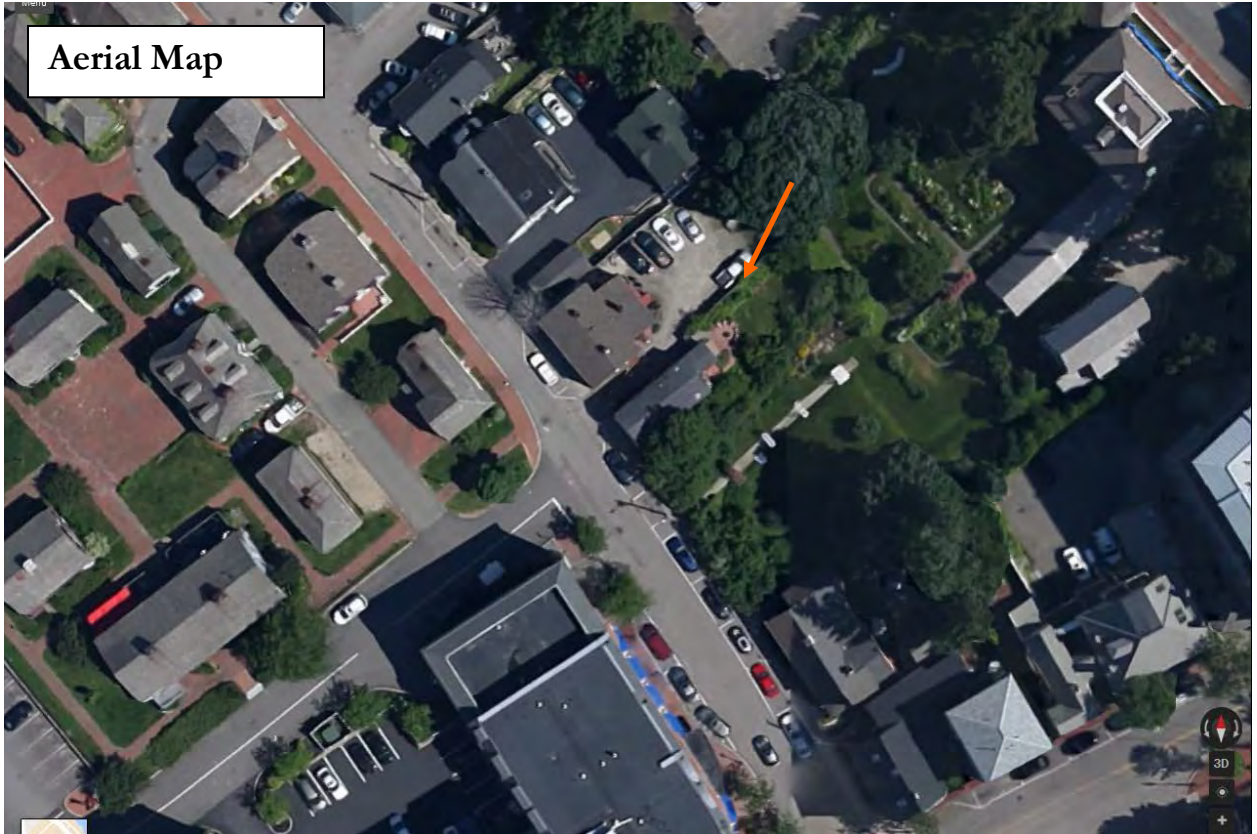
Proposed Changes

	<u>Existing</u>	<u>Permitted / Required</u>
<u>Land Use</u>	Merge existing lots, add 2-unit multi-family dwelling	Mix of residential and office uses
<u>Lot Area (sq. ft.)</u>	7,248	3,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.)</u>	1,200	3,000 min.
<u>Building Height (ft.)</u>	Three-story	Two-story max.

Other Permits Required

Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found for 127 High Street.

The following is for 137-139 High Street:

October 24, 1989 – The Board failed to pass a motion to grant and thus **denied** a request to permit the conversion of an existing office structure to 4 dwelling units on a 4,791 s.f. lot where an 8,000 s.f. lot was required.

November 14, 1989 – The Board **granted** a variance to allow the conversion of an existing structure into 3 dwelling units on a 4,791 s.f. lot where an 8,000 s.f. lot was required.

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 #9-1

Petitioner:	393 New Castle Avenue LLC
Property:	390 New Castle Avenue
Assessor Plan:	Map 207, Lot 6
Zoning District:	Single Residence B
Description:	Raise existing structure 18" and convert to dwelling unit.
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, 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) 96'± continuous street frontage where 100' is required. b) A lot depth of 40'± where 100' is required. c) A rear yard setback of 2'± where 30' is required d) Lot area per dwelling unit of 3,580 sq. ft. where 15,000 is required <p><i>Note: Item d) was not included in the legal notice.</i></p>

Existing and Proposed Conditions

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	
<u>Land Use:</u>	Primarily single family residences	Accessory storage / garage	Single family residence	
<u>Lot area (sq. ft.):</u>	15,000	3,580	3,580	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	15,000	N/A	3,580	min.
<u>Street Frontage (ft.):</u>	100	96	96	min.
<u>Lot depth (ft.):</u>	100	40	40	min.
<u>Primary Front Yard (ft.):</u>	30	25	25	min.
<u>Right Yard (ft.):</u>	10	<10	>10	min.
<u>Left Yard (ft.):</u>	10	>10	>10	min.
<u>Rear Yard (ft.):</u>	30	2	2	min.
<u>Height (ft.):</u>	35	15	16.5	max.
<u>Building Coverage (%):</u>	20%	15.64	15.64	max.
<u>Open Space Coverage (%):</u>	40%	>40	>40	min.
<u>Parking (# of spaces):</u>	2	3	3	min.

Other Permits Required

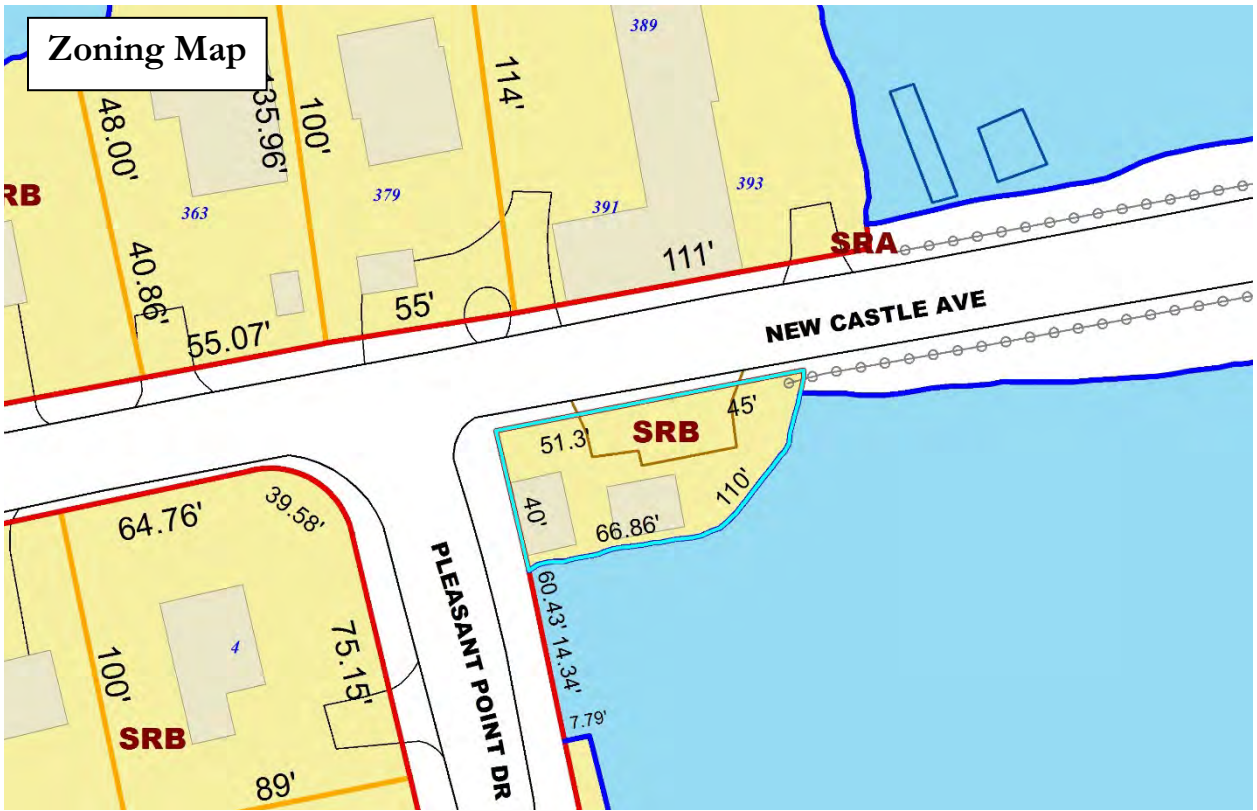
- Planning Board – Wetland Conditional Use
- Historic District Commission – Certificate of Approval

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

February 20, 1986 – A letter was sent to the owner of the property advising that the **use of the property as a residence was a violation** of City regulations. On March 27, 1986, the City Attorney outlined further action that might be taken if the use as a residence continued.

June 9, 1987 – The Board **denied** a request to establish a single family use in an existing structure on a 3,580 s.f. lot where the minimum lot area required was 20,000 s.f. and to allow a 49' lot depth where 80' was required.

May 21, 1996 - The Board **denied** a request to expand the use of a personal library by making interior changes including a bathroom in an existing building currently used for personal storage.

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.*

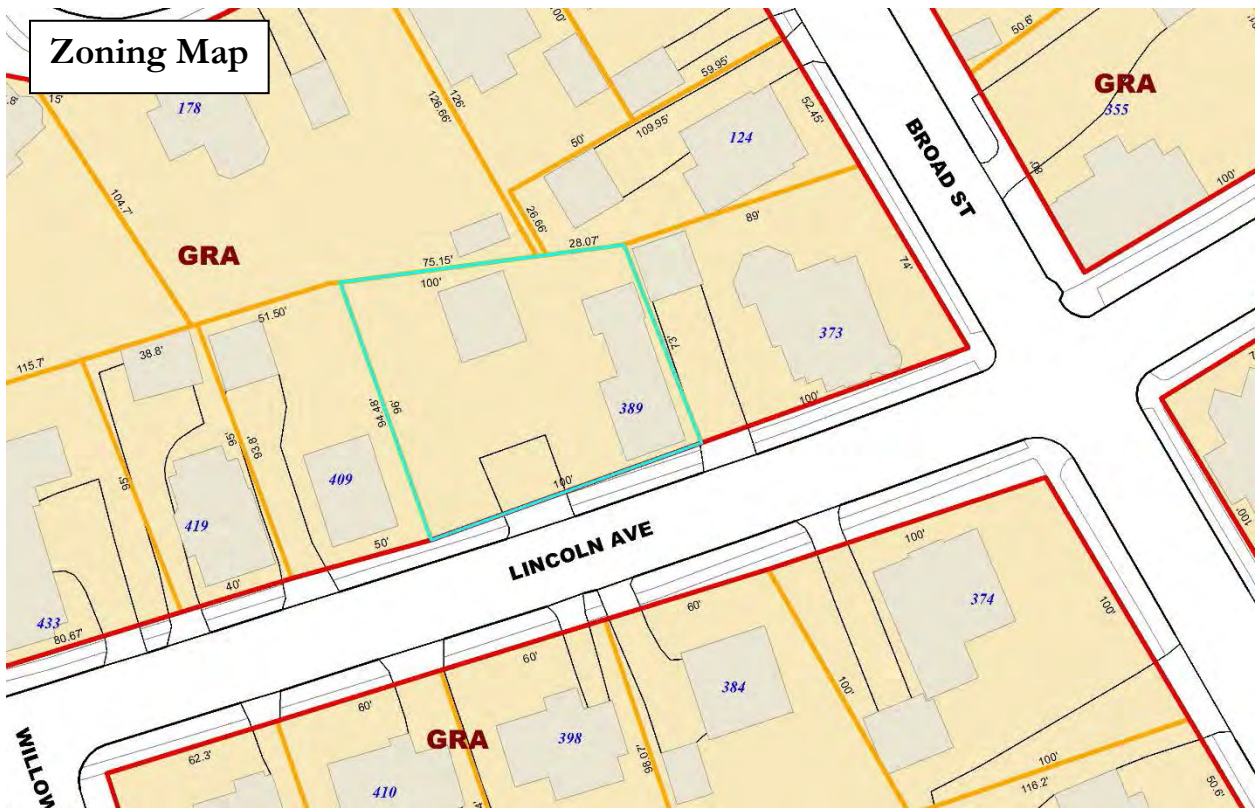
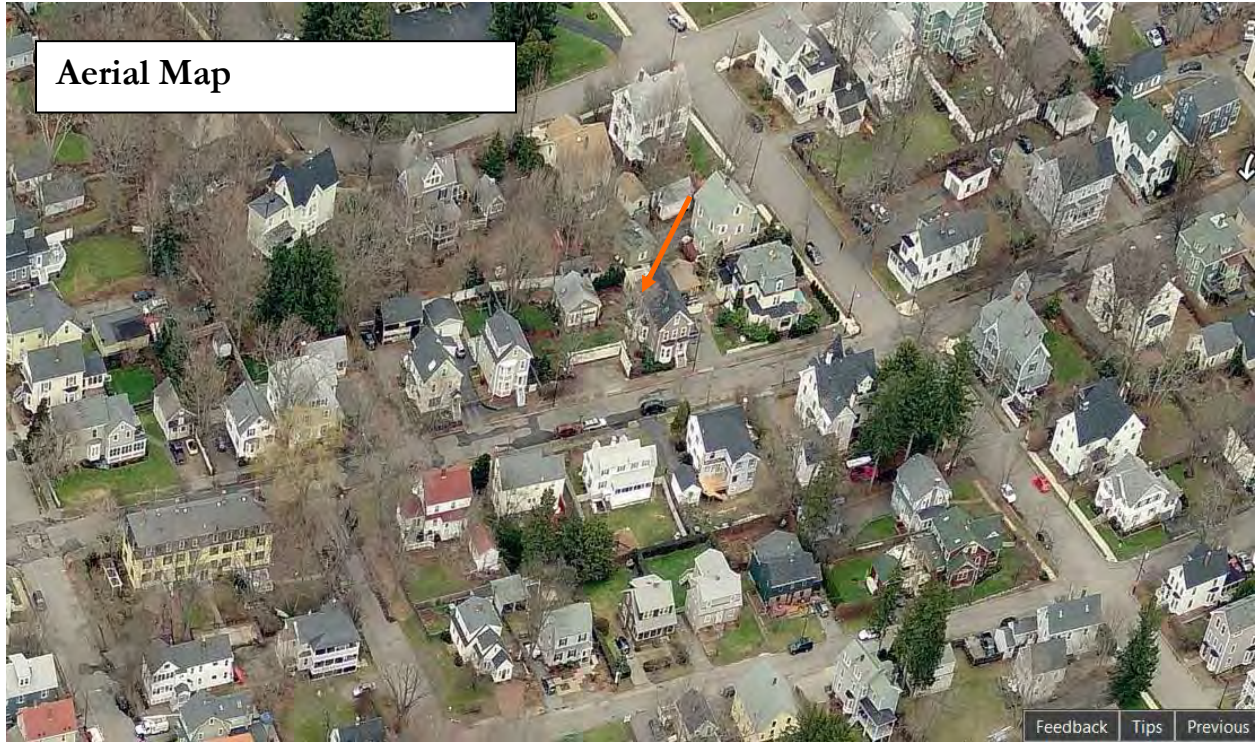
Case #9-2

Petitioners:	Gary M. & Marcia D. Baker
Property:	389 Lincoln Avenue
Assessor Plan:	Map 134, Lot 17
Zoning District:	General Residence A
Description:	Replace and expand rear deck.
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, reconstructed, enlarged or structurally altered except in conformity with the Ordinance. 2. A Variance from Section 10.521 to allow 32.3%± building coverage where 25% is the maximum allowed.

Existing and Proposed Conditions

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	
<u>Land Use:</u>	Primarily residential uses	Single family residence	No change (NC)	
<u>Lot area (sq. ft.):</u>	7,500	8,712	NC	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,500	8,712	NC	min.
<u>Street Frontage (ft.):</u>	100	100	NC	min.
<u>Lot depth (ft.):</u>	70	84	NC	min.
<u>Primary Front Yard (ft.):</u>	15	3	>15	min.
<u>Right Yard (ft.):</u>	10	1	NC	min.
<u>Left Yard (ft.):</u>	10	30	>10	min.
<u>Rear Yard (ft.):</u>	20 (10 for decks per 10.516.40)	13	14	min.
<u>Height (ft.):</u>	35	>35	2.5 (deck)	max.
<u>Building Coverage (%):</u>	25%	30.89	32.3	max.
<u>Open Space Coverage (%):</u>	30%	62.22	60.81	min.
<u>Parking (# of spaces):</u>	2	3	3	min.
<u>Estimated Age of Structure</u>		1900		

Neighborhood Context



Previous Board of Adjustment Actions

April 20, 1993 – The Board **granted** a special exception to allow the conversion of a 21' x 24' garage to an office/drafting area for a home occupation designing handbags to be produced off-site.

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.

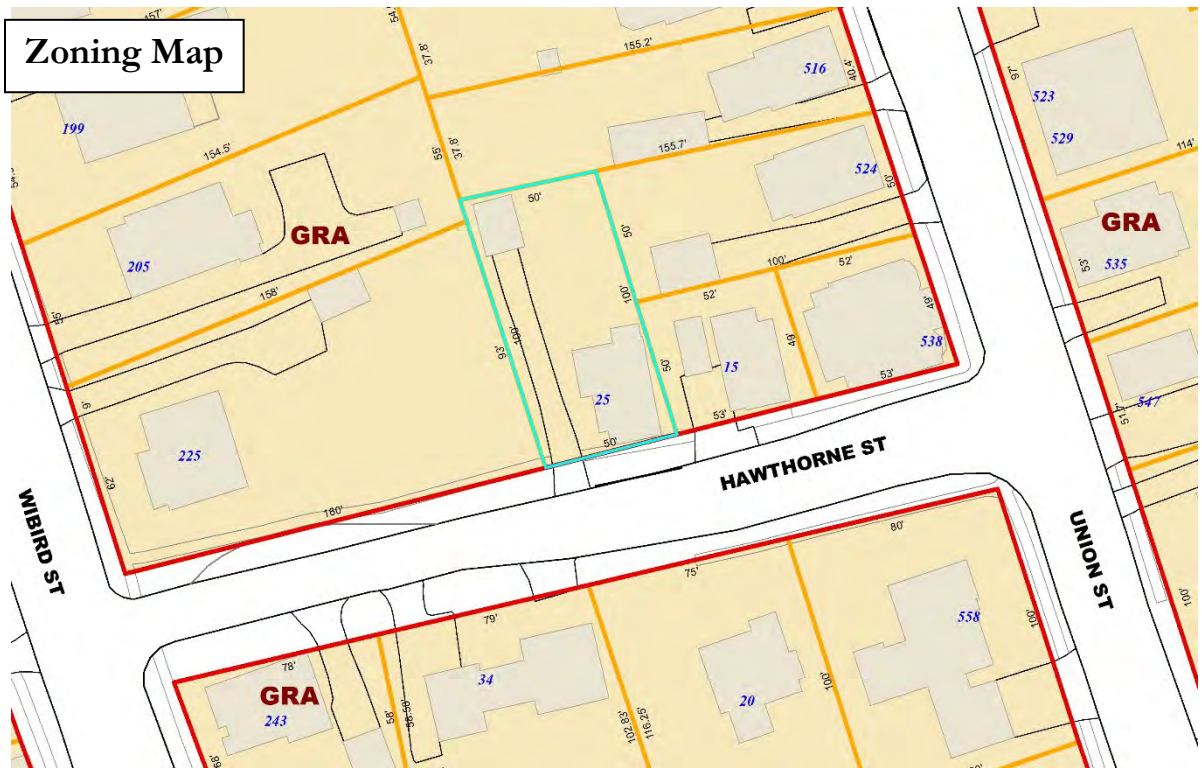
Case #9-3

Petitioners:	Robin M. Silva Revocable Living Trust, Robin M. Silva & Mark S. Anderson, Trustees.
Property:	25 Hawthorne Street
Assessor Plan:	Map 133, Lot 36
Zoning District:	General Residence A
Description:	Construct a 9.5'± x 20'± rear addition with a 5.5'± x 9.5'± side porch.
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, reconstructed, enlarged or structurally altered except in conformity with the Ordinance. 2. Variances from 10.521 to allow a 7'± right side yard setback where 10' is required.

Existing and Proposed Conditions

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	
<u>Land Use:</u>	Primarily residential uses	Single family residence	No change (NC)	
<u>Lot area (sq. ft.):</u>	7,500	5,489	NC	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,500	5,489	NC	min.
<u>Street Frontage (ft.):</u>	100	55.77	NC	min.
<u>Lot depth (ft.):</u>	70	100	NC	min.
<u>Primary Front Yard (ft.):</u>	15	8.3	NC	min.
<u>Right Yard (ft.):</u>	10	8	7	min.
<u>Left Yard (ft.):</u>	10	21.5	21	min.
<u>Rear Yard (ft.):</u>	20	57	53.5	min.
<u>Height (ft.):</u>	35	<35	16	max.
<u>Building Coverage (%):</u>	25	18.98	19.80	max.
<u>Open Space Coverage (%):</u>	30	64.44	63.62	min.
<u>Parking (# of spaces):</u>	2	2	2	min.
<u>Estimated Age of Structure</u>		1898		

Neighborhood Context



Previous Board of Adjustment Actions

No history found.

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.

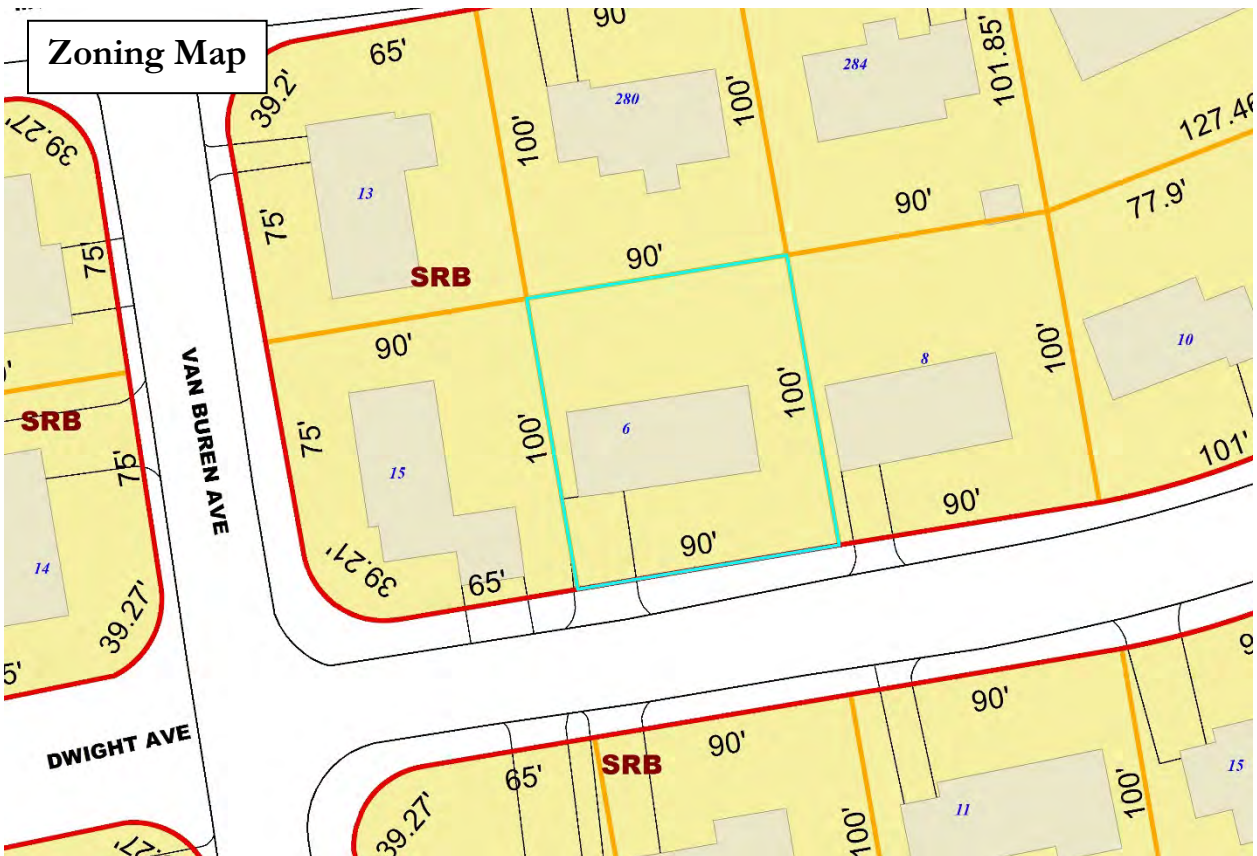
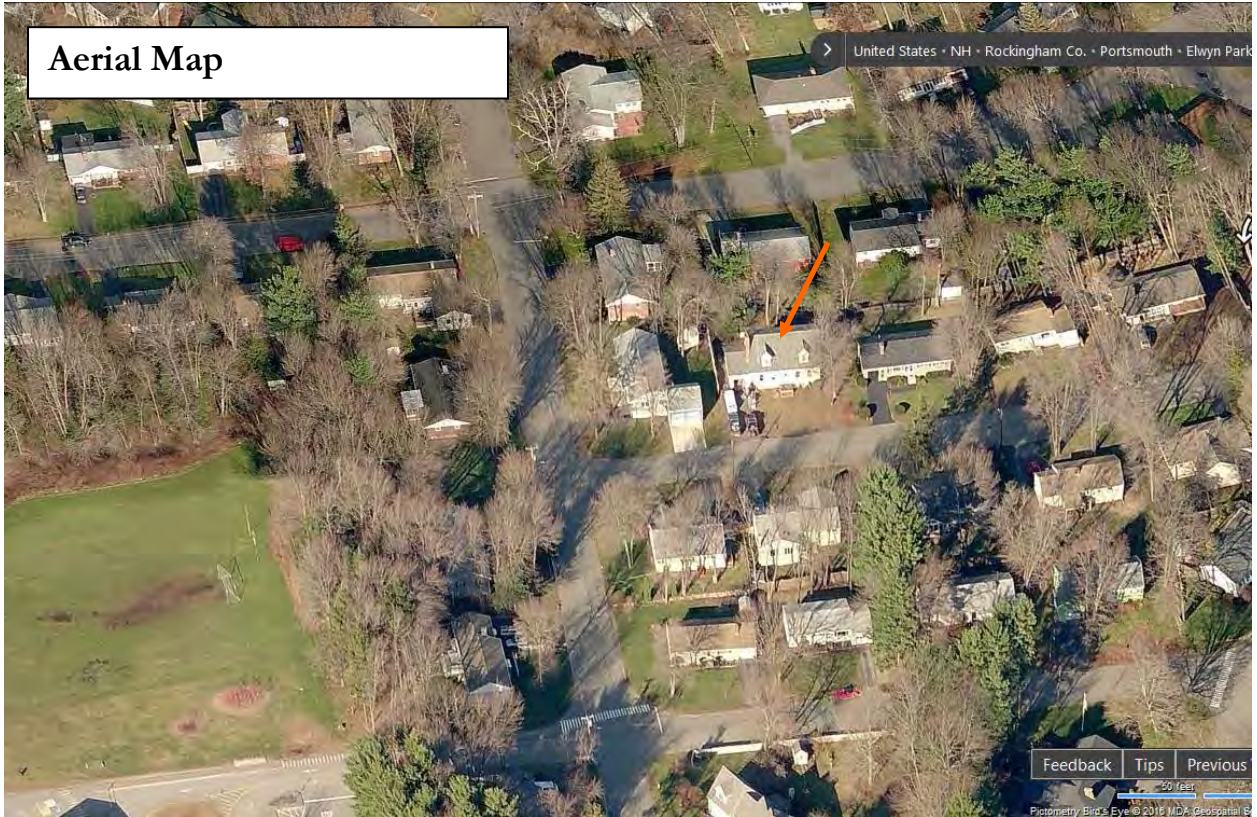
Case #9-4

Petitioners:	Thomas J. & Christine W. Casa
Property:	6 Dwight Avenue
Assessor Plan:	Map 250, Lot 53
Zoning District:	Single Residence B
Description:	Construct a 12'± x 30'± rear deck.
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 21.33% building coverage where 20% is the maximum allowed.

Existing and Proposed Conditions

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	
<u>Land Use:</u>	Primarily single family residences	Single family residence	No Change (NC)	
<u>Lot area (sq. ft.):</u>	15,000	9,000	NC	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	15,000	9,000	NC	min.
<u>Street Frontage (ft.):</u>	100	90	NC	min.
<u>Lot depth (ft.):</u>	100	100	NC	min.
<u>Primary Front Yard (ft.):</u>	30	32	NC	min.
<u>Right Yard (ft.):</u>	10	20	25	min.
<u>Left Yard (ft.):</u>	10	10	35	min.
<u>Rear Yard (ft.):</u>	30	42	30	min.
<u>Height (ft.):</u>	35	<35	4	max.
<u>Building Coverage (%):</u>	20%	17.33%	21.33%	max.
<u>Open Space Coverage (%):</u>	40%	75.56%	71.56%	min.
<u>Estimated Age of Structure</u>		1959		

Neighborhood Context



Previous Board of Adjustment Actions

No history found.

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.

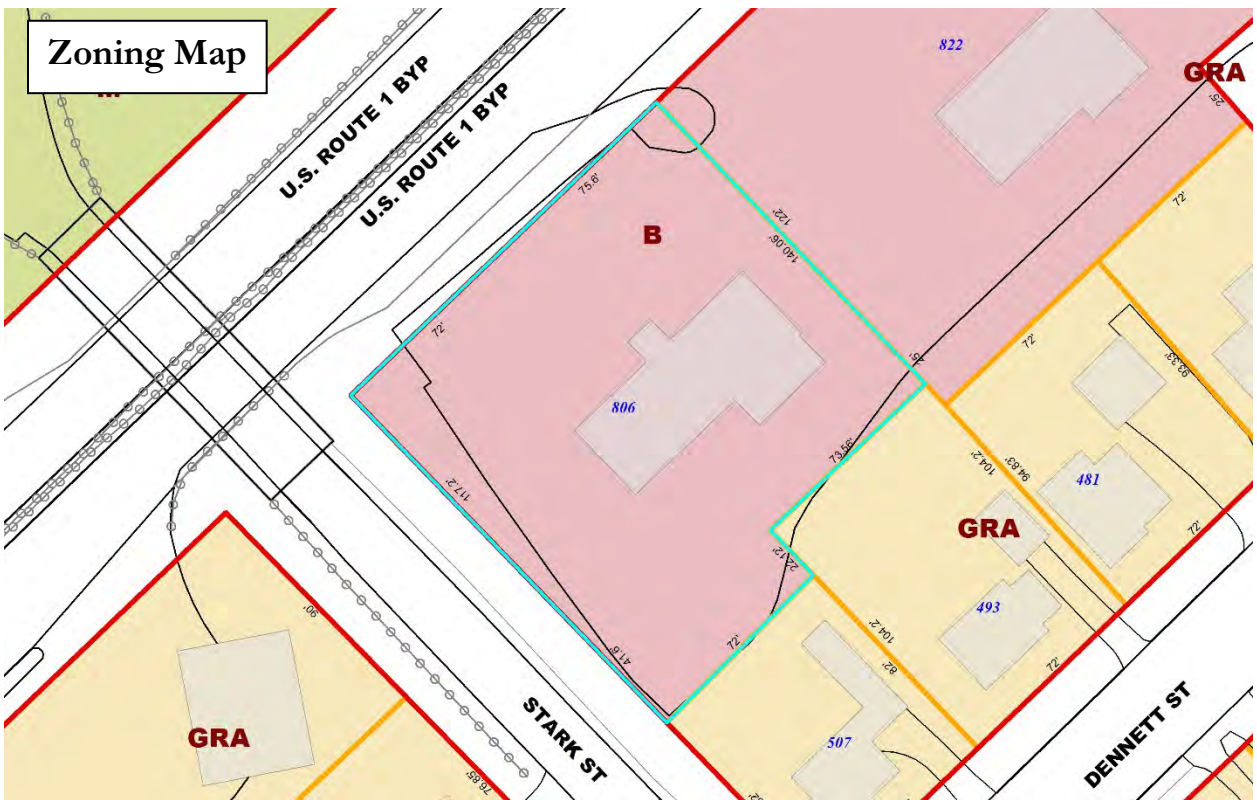
Case #9-5

Petitioner:	Amba Realty LLC
Property:	806 Route One By-Pass
Assessor Plan:	Map 161, Lot 43
Zoning District:	Business
Description:	Allow a second free-standing sign on a lot.
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 10.1243 to allow two free-standing signs on a lot where only one free-standing sign is allowed. <u>Sign One (left side of lot)</u> 2. A Variance from Section 10.1253.10 to allow a 4'± setback from the front lot line where 20' is the minimum required. <u>Sign Two (right side of lot)</u> 3. A Variance from Section 10.1251.20 to allow a sign area for a free-standing sign of 120± s.f. where 100 s.f. is the maximum sign area allowed. 4. A Variance from Section 10.1253.10 to allow a 12'± setback from the front lot line where 20' is the minimum required.

Proposed Conditions

	<u>Required</u>	<u>Proposed</u>
Freestanding Signs		
Setback (ft)	20	Sign 1: 4 min. Sign 2: 12
Area (sq. ft.)	100	Sign 1: 64 max. Sign 2: 120
Height (ft)	20	Sign 1: 12 max. Sign 2: 20

Neighborhood Context



Previous Board of Adjustment Actions

August 21, 1990 – The Board **granted** a variance to allow an 8' x 12' refrigerator and a 6' x 6' freezer at the rear of the existing restaurant with a 40' rear yard setback where 50' was required.

December 20, 1994 – The Board **granted** a variance to allow a 10' x 10' one-story entryway with a 52' front setback where 70' was required.

April 25, 1995 – The Board **granted** variances to allow the following: 1) an 12' x 36' storage addition with a 20' side yard where 30' was required and a 36' rear yard where 50' was required; and 2) said addition to be constructed 36' from property used and zoned residential where a 100' setback was required. The variances were granted with the **stipulation** that there be no exterior storage on the property other than what was existing.

June 22, 2004 – The Board **granted** a variance to allow 37 parking spaces to be provided where 58 spaces were required.

July 20, 2004 – The Board **granted** a rehearing on the above petition.

September 21, 2005 – The Board **granted** a variance, based on a newly submitted application, to allow 37 parking spaces where 58 were required and to allow parking within 50' of a residential district with no screening provided.

July 28, 2015 – At the reconvened July meeting, the Board **postponed** to the following month a request to expand the first floor in the existing structure to 5,150 s.f. of retail space and construct a second floor for office space requiring the following variances: 1) to allow 9 parking spaces located within the required front yard and between the principal building and the street; 2) to allow 26 fully available parking spaces and 2 restricted parking spaces where 28 were required and parking 6.5' from a residential zone where 50' was required; (3) to allow parking 0' front he front lot line where 20' was required; and (4) to allow no provision of landscaping and screening within the front setback.

August 18, 2015 – The Board **granted** a request to expand the first floor in the existing structure to 5,150 s.f. of retail space and construct a second floor for office space requiring the following variances: 1) to allow 9 parking spaces located within the required front yard and between the principal building and the street; 2) to allow parking 6.5' from a residential zone where 50' was required; (3) to allow parking 0' front he front lot line where 20' was required; and (4) to allow no provision of landscaping and screening within the front setback. *Stipulation:* That the applicant work with the Planning Board, through the site plan review process, to improve fencing along the southeast property line so that an effective buffer would be provided to mitigate the light and sound reaching surrounding properties and to prevent pedestrian access through or along the fencing.

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.*

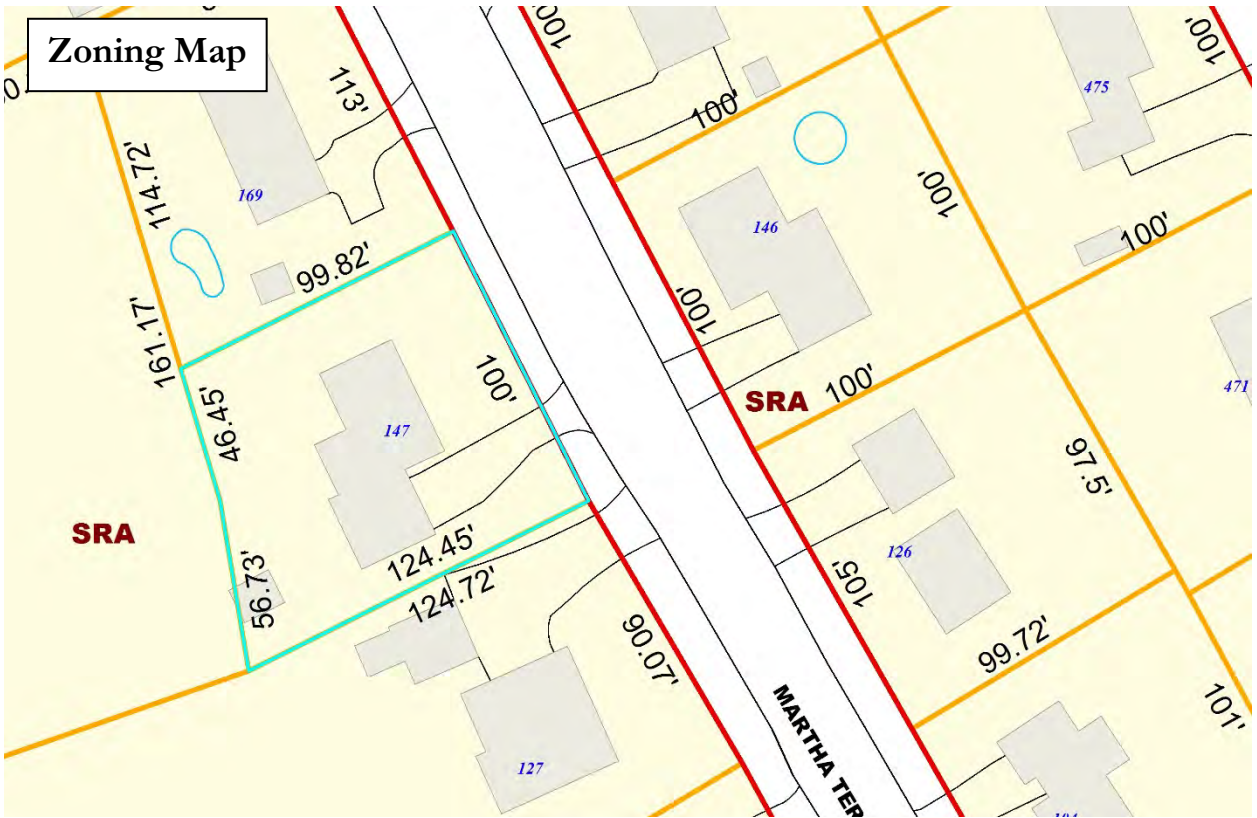
Case #9-6

Petitioners:	Cynthia Caldwell & Linda Petersen
Property:	147 Martha Terrace
Assessor Plan:	Map 283, Lot 8
Zoning District:	Single Residence A
Description:	Reconstruct and expand front entrance.
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, reconstructed, enlarged or structurally altered except in conformity with the Ordinance. 2. Variances from 10.521 to allow 19.3%± building coverage where 10% is the maximum allowed.

Existing and Proposed Conditions

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	
<u>Land Use:</u>	Primarily single family residences	Single family residence	No Change (NC)	
<u>Lot area (sq. ft.):</u>	43,560	11,051	NC	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	43,560	11,051	NC	min.
<u>Street Frontage (ft.):</u>	150	100	NC	min.
<u>Lot depth (ft.):</u>	200	112	NC	min.
<u>Primary Front Yard (ft.):</u>	30	>30	34	min.
<u>Right Yard (ft.):</u>	20	24.5	>20	min.
<u>Left Yard (ft.):</u>	20	36	>20	min.
<u>Rear Yard (ft.):</u>	40	27	NC	min.
<u>Height (ft.):</u>	35	25	14	max.
<u>Building Coverage (%):</u>	10%	18.28	19.30%	max.
<u>Open Space Coverage (%):</u>	50%	74.74	73.71%	min.
<u>Estimated Age of Structure</u>		1967		

Neighborhood Context



Previous Board of Adjustment Actions

August 23, 2005 – The Board **granted** variances to allow a 24' x 24' attached garage with a 10'4" left side yard, 20' required; a 27' 3/4" rear yard, 40' required; a 14' x 20' deck with a 27'6" rear yard, 40' required; and 19.9% building coverage, 10% maximum allowed.

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 #9-7

Petitioner:	Travis Therrien
Property:	1 Marjorie Street
Assessor Plan:	Map 232, Lot 32
Zoning District:	Single Residence B
Description:	Enclose existing nonconforming deck.
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, reconstructed, enlarged or structurally altered except in conformity with the Ordinance. 2. A Variance from Section 10.521 to allow a 3'± right side yard setback where 10' is required.

Existing and Proposed Conditions

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	
<u>Land Use:</u>	Primarily single family residences	Single family residence	No Change (NC)	
<u>Lot area (sq. ft.):</u>	15,000	3,315	NC	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	15,000	3,315	NC	min.
<u>Street Frontage (ft.):</u>	100	39	NC	min.
<u>Lot depth (ft.):</u>	100	85	NC	min.
<u>Primary Front Yard (ft.):</u>	30	18	18	min.
<u>Right Yard (ft.):</u>	10	3	3	min.
<u>Left Yard (ft.):</u>	10	4	23	min.
<u>Rear Yard (ft.):</u>	30	<9	>30	min.
<u>Height (ft.):</u>	35	25	16.5	max.
<u>Building Coverage (%):</u>	20%	19.91%	NC	max.
<u>Open Space Coverage (%):</u>	40%	71.40%	NC	min.
<u>Parking (# of spaces)</u>	2	2	NC	
<u>Estimated Age of Structure</u>		1930		

Neighborhood Context



Previous Board of Adjustment Actions

August 19, 1986 – The Board **granted** variances to allow a 6' x 8' x 8' high garden shed with a 1.5' rear yard and a 1.5' right side yard where 10' and 30' were respectively required.

February 19, 1991 – The Board **granted** variances to allow a 13' x 15' two-story addition to an existing single family dwelling with a 3' left yard, 10' required; a 25' front yard, 30' required; and 25% lot coverage, 20% the maximum allowed.

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.*