

TO: Zoning Board of Adjustment
FROM: Juliet Walker, Planning Department
DATE: 9/21/2016 (revised 9/27/2016)
RE: September 27, 2016 Zoning Board of Adjustment Meeting

OLD BUSINESS

1. 996 Maplewood Ave (request for rehearing)

NEW BUSINESS

1. 21 Brewster St
2. 9 Falkland Pl (withdrawn by Planning Department)
3. 557 State St
4. 246 Austin St
5. 23 Marston St
6. 315 Banfield Rd
7. 456 Sherburne St
8. 372 Wibird St
9. 34 Rock St

OLD BUSINESS

Case #8-5

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 three 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.

On August 16, 2016, the Board granted the variance noted above as requested by the applicant. The appellants have filed a request for a rehearing within 30 days of the Board's decision and the Board must consider the request at the next scheduled meeting. The Board must vote to grant or deny the request or suspend the decision pending further consideration. If the Board votes to grant the request, the rehearing will be scheduled for the next month's Board meeting or at another time to be determined by the Board.

The decision to grant or deny a rehearing request must occur at a public meeting, but this is not a public hearing. The Board should evaluate the information provided in the request and make its decision based upon that document. The Board should grant the rehearing request if a majority of the Board is convinced that some error of procedure or law was committed during the original consideration of the case.

NEW BUSINESS

Case #9-8

Petitioner:	Brian D. Hogan Revocable Trust of 2008, Brian D. Hogan, Trustee, owner, Mark McNally, applicant
Property:	21 Brewster Street
Assessor Plan:	Map 138, Lot 11
Zoning District:	General Residence C
Description:	Convert rooming house to 6-unit condominium structure with a 6-bay garage.
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 Special Exception under Section 10.440, Use #1.42 to allow six dwelling where this use is allowed by Special Exception. 2. 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. 3. Variances from Section 10.521 to allow the following: <ol style="list-style-type: none"> a) A lot area per dwelling unit of 1,386.33± s.f. where 3,500 s.f. is required; b) A 1.5'± right side yard setback where 10' is required; c) A 0.5'± rear yard setback where 20' is required; d) 50.01%± building coverage where 35% is the maximum allowed; e) 10.44%± open space where 20% is the minimum required. 4. A Variance from Section 10.1114.32(a) to allow vehicles entering and leaving parking spaces to pass over another parking space or require the movement of another vehicle.

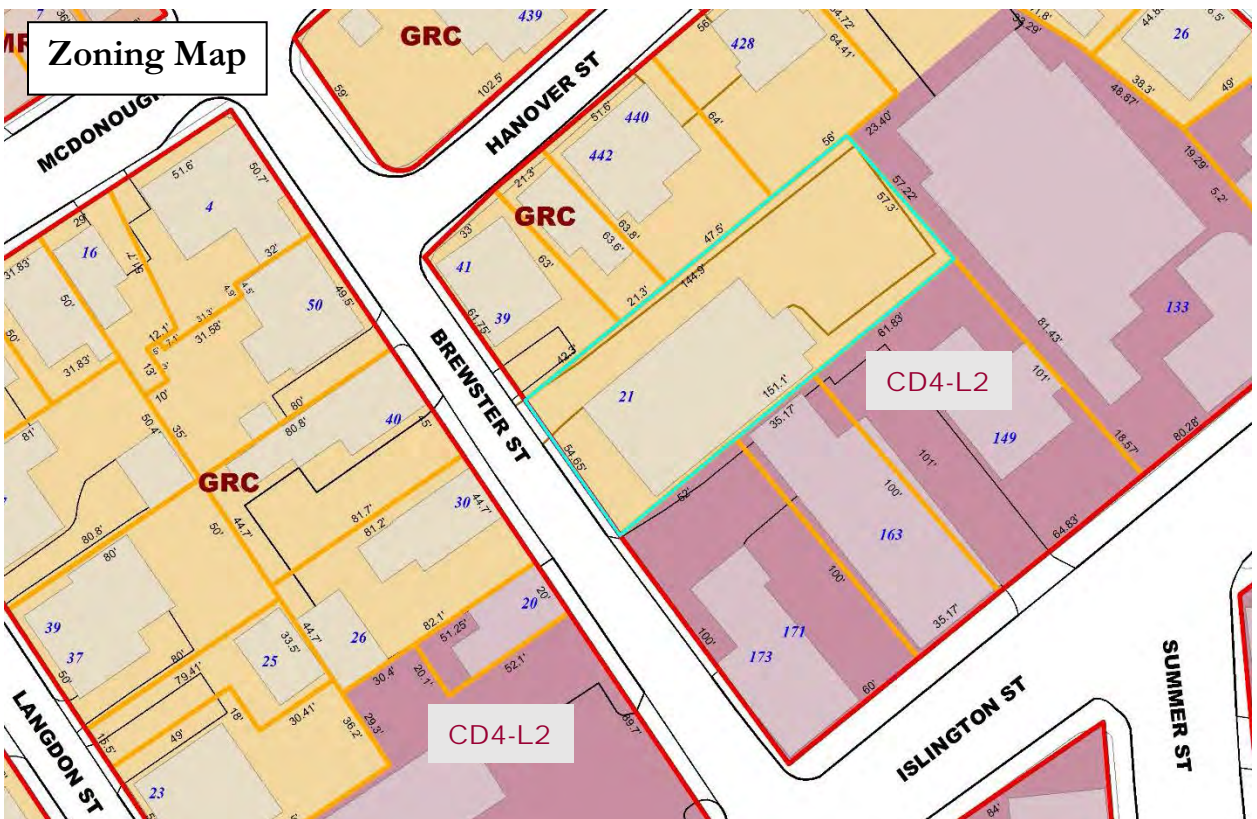
Existing Conditions and Proposed Changes

	<u>Permitted / Required</u>	<u>Existing</u>	<u>Proposed</u>	
<u>Land Use:</u>	Primarily residential uses	Rooming house	6 dwelling units	
<u>Lot area (sq. ft.):</u>	3,500	8,318	8,318	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,500	N/A	1,386	min.
<u>Street Frontage (ft.):</u>	70	54.6	NC	min.
<u>Lot depth (ft.):</u>	50	148	NC	min.
<u>Primary Front Yard (ft.):</u>	5	>5	>5	min.
<u>Right Yard (ft.):</u>	10	<10	1.5	min.
<u>Left Yard (ft.):</u>	10	>10	>10	min.
<u>Rear Yard (ft.):</u>	20	>20	0.5	min.
<u>Height (ft.):</u>	35	30	30	max.
<u>Building Coverage (%):</u>	35	36.79	50.01	max.
<u>Open Space Coverage (%):</u>	20	10.05	10.44	min.
<u>Parking (# of spaces):</u>	10		10	min.
<u>Estimated Age of Structure:</u>		1880		

Other Permits Required

Planning Board Site Plan Review

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.*

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 #9-9

Petitioner:	Patricia A. Monaco
Property:	9 Falkland Place #A1
Assessor Plan:	Map 212, Lot 26-1C
Zoning District:	Mixed Residence B
Description:	Massage Therapy Use.
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 #19.22 to allow a Home Occupation 2 where the use is allowed by Special Exception.

Note: This application has been withdrawn by the Planning Department. The Special Exception is not required, see comments below.

Planning Department Comments

After an additional review of this application, the Planning Department determined that we made an error and listed this property as being located in the General Residence B district. It is actual located primarily in the Mixed Residential Business (MRB) district where a home occupation 2 is permitted by right and, therefore, does not require a special exception. There is a small portion of the property located in the General Residence B district, which is why the error occurred. The applicant has been notified and no further action is required by the Board.

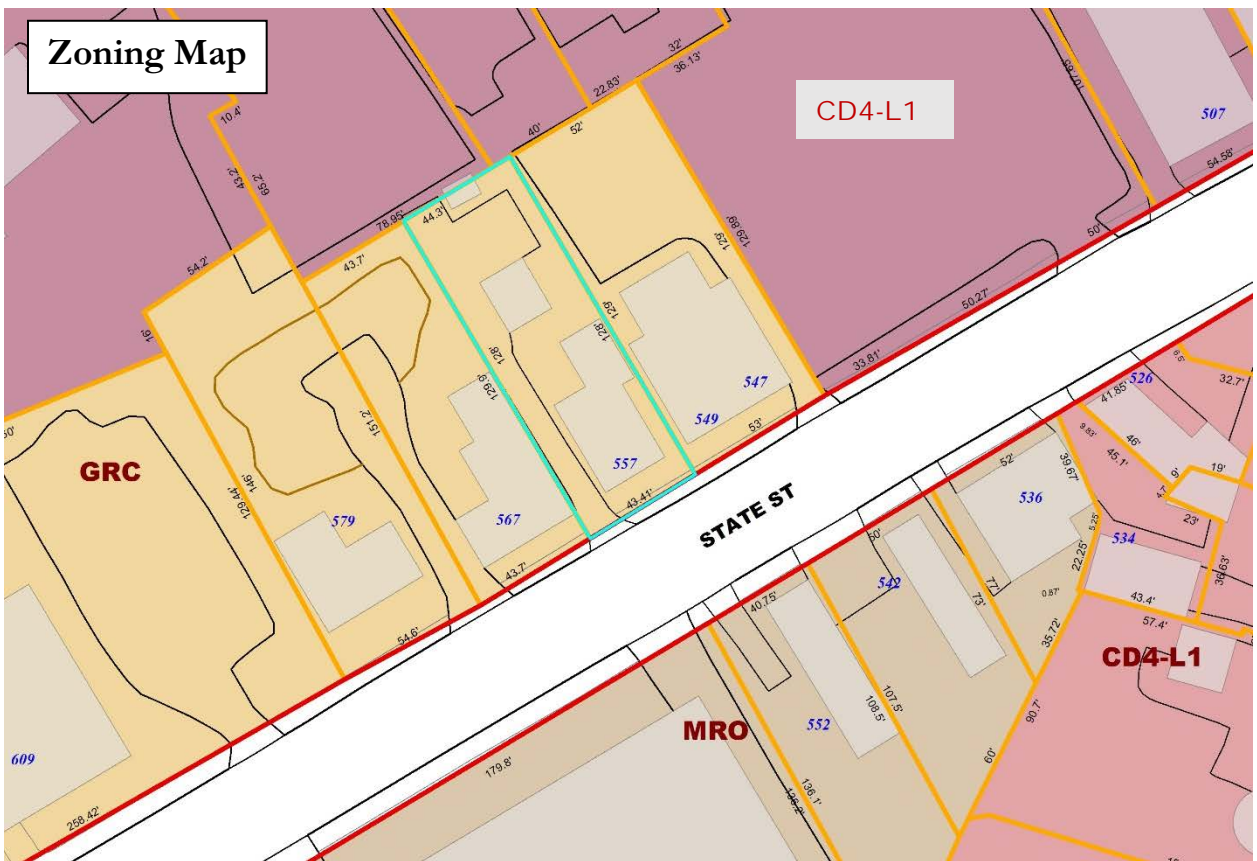
Case #9-10

Petitioners:	Harry S. Furman & Kathleen E. Straube
Property:	557 State Street
Assessor Plan:	Map 137, Lot 33
Zoning District:	General Residence C
Description:	Construct 160± s.f. second floor addition.
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, reconstructed, enlarged or structurally altered except in conformity with the Ordinance. 2. A Variance from 10.521 to allow a 0.8'± right side yard setback where 10' is required.

Existing Conditions and Proposed Changes

	<u>Permitted / 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>	3,500	5,695.00	NC	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,500	5,695.00	NC	min.
<u>Street Frontage (ft.):</u>	70	43.9	NC	min.
<u>Lot depth (ft.):</u>	50	127.5	NC	min.
<u>Primary Front Yard (ft.):</u>	5	7.9	>5	min.
<u>Right Yard (ft.):</u>	10	0.6	0.8	min.
<u>Left Yard (ft.):</u>	10	13.5	>10	min.
<u>Rear Yard (ft.):</u>	20	0	>20	min.
<u>Height (ft.):</u>	35	17.5	24.5	max.
<u>Building Coverage (%):</u>	35	58.02	NC	max.
<u>Open Space Coverage (%):</u>	20	>20	NC	min.
<u>Parking (# of spaces):</u>	4	4	4	min.
<u>Estimated Age of Structure:</u>		1836		

Neighborhood Context



Previous Board of Adjustment Actions

September 20, 1988 – The Board **denied** a request to allow a 320 s.f. addition to an existing home with a 0' right yard where a 6'7±" right yard was required.

September 28, 1993 – The Board **granted** variances to allow the following: (1) the conversion of a two story 16' x 20' barn to a second residence with exterior changes to the structure where no exterior modifications were allowed; and (2) to allow the placement of an 8.5' x 12' garden shed with a 1'2" rear yard where 10' 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.*

Case #9-11

Petitioner:	Michael F. McNeilly, owner, Alden Properties, LLC, applicant
Property:	246 Austin Street
Assessor Plan:	Map 135, Lot 63
Zoning District:	General Residence C
Description:	Vertical expansion of existing two-family dwelling.
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 lot area per dwelling unit of 653.40± s.f. where 3,500 s.f. is required.

Planning Department Comments

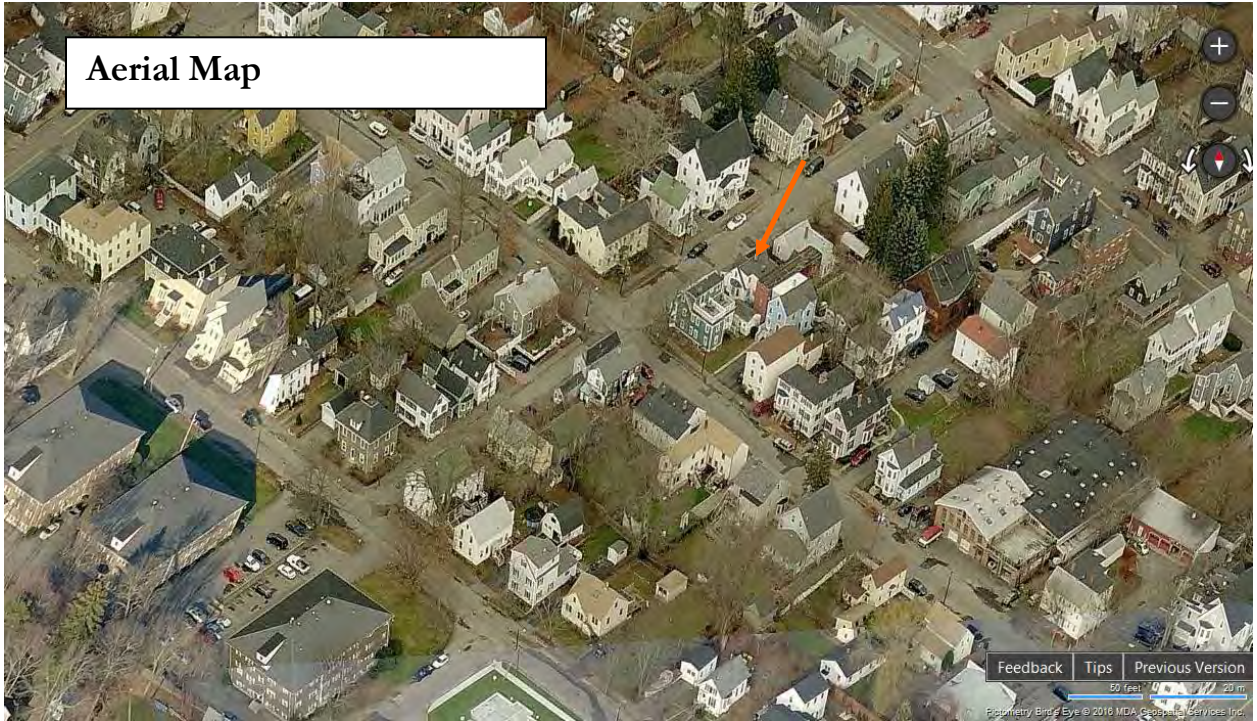
Due to a Planning Department error, the advertised legal notice incorrectly represented the relief required for this application. Lot area per dwelling unit (as noted above) is not required as this is a legal nonconforming two-family dwelling and no change of use or increase in density is being proposed. The relief that is required -- for an upward expansion within the required yards -- was not included in the legal notice, although it was accurately portrayed in the applicant's application materials. We have also realized that one of the direct abutter notices was sent out a day later than what is required by statute.

Given those two errors, the Planning Department recommended that the applicant postpone this application to next month's meeting so that proper noticing can occur.

Existing Conditions and Proposed Changes

	<u>Permitted / Required</u>	<u>Existing</u>	<u>Proposed</u>	
<u>Land Use:</u>	Primarily residential uses	Two-family dwelling	No Change (NC)	
<u>Lot area (sq. ft.):</u>	3,500	1,306.80	NC	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,500	1,306.80	653.40	min.
<u>Street Frontage (ft.):</u>	70	35.93	NC	min.
<u>Lot depth (ft.):</u>	50	37	NC	min.
<u>Primary Front Yard (ft.):</u>	5	0	0	min.
<u>Right Yard (ft.):</u>	10	3.75	3.75	min.
<u>Left Yard (ft.):</u>	10	2.6	2.6	min.
<u>Rear Yard (ft.):</u>	20	2	2	min.
<u>Height (ft.):</u>	35	22	32	max.
<u>Building Coverage (%):</u>	35	67.61	NC	max.
<u>Open Space Coverage (%):</u>	20	>20	NC	min.
<u>Parking (# of spaces):</u>	4	0	0	min.
<u>Estimated Age of Structure:</u>		1900		

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 #9-12

Petitioners:	Jennifer L. Bell & Harold G. Beresin
Property:	23 Marston Avenue
Assessor Plan:	Map 150, Lot 3
Zoning District:	General Residence A
Description:	Construct a 12'± x 25.5'± rear addition and attached 24'± x 17'± 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, reconstructed, enlarged or structurally altered except in conformity with the Ordinance. 2. A Variance from Section 10.521 to allow a 7'3" ± left side yard setback where 10' is required.

Existing Conditions and Proposed Changes

	<u>Permitted / 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	7,405.20	NC	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,500	7,405.20	NC	min.
<u>Street Frontage (ft.):</u>	100	59	NC	min.
<u>Lot depth (ft.):</u>	70	123	NC	min.
<u>Primary Front Yard (ft.):</u>	15	<15	>15	min.
<u>Right Yard (ft.):</u>	10	33	10	min.
<u>Left Yard (ft.):</u>	10	4.5	7'3"	min.
<u>Rear Yard (ft.):</u>	20	5	48	min.
<u>Height (ft.):</u>	35	2.5 stories	1.5 story	max.
<u>Building Coverage (%):</u>	25%	16.04%	21.53%	max.
<u>Open Space Coverage (%):</u>	30%	76.77%	65.78%	min.
<u>Parking (# of spaces):</u>	2	3	3	min.
<u>Estimated Age of Structure:</u>		1910		

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 #9-13

Petitioners:	Foundation for Seacoast Health, owner, Hope for Tomorrow Foundation, applicant
Property:	315 Banfield Road
Assessor Plan:	Map 266, Lots 4 (portion), 5 & 6
Zoning District:	Industrial
Description:	Construct and operate a K-8 Elementary School.
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 10.440.3.21 to allow a primary or secondary school in a district where the use is not permitted.

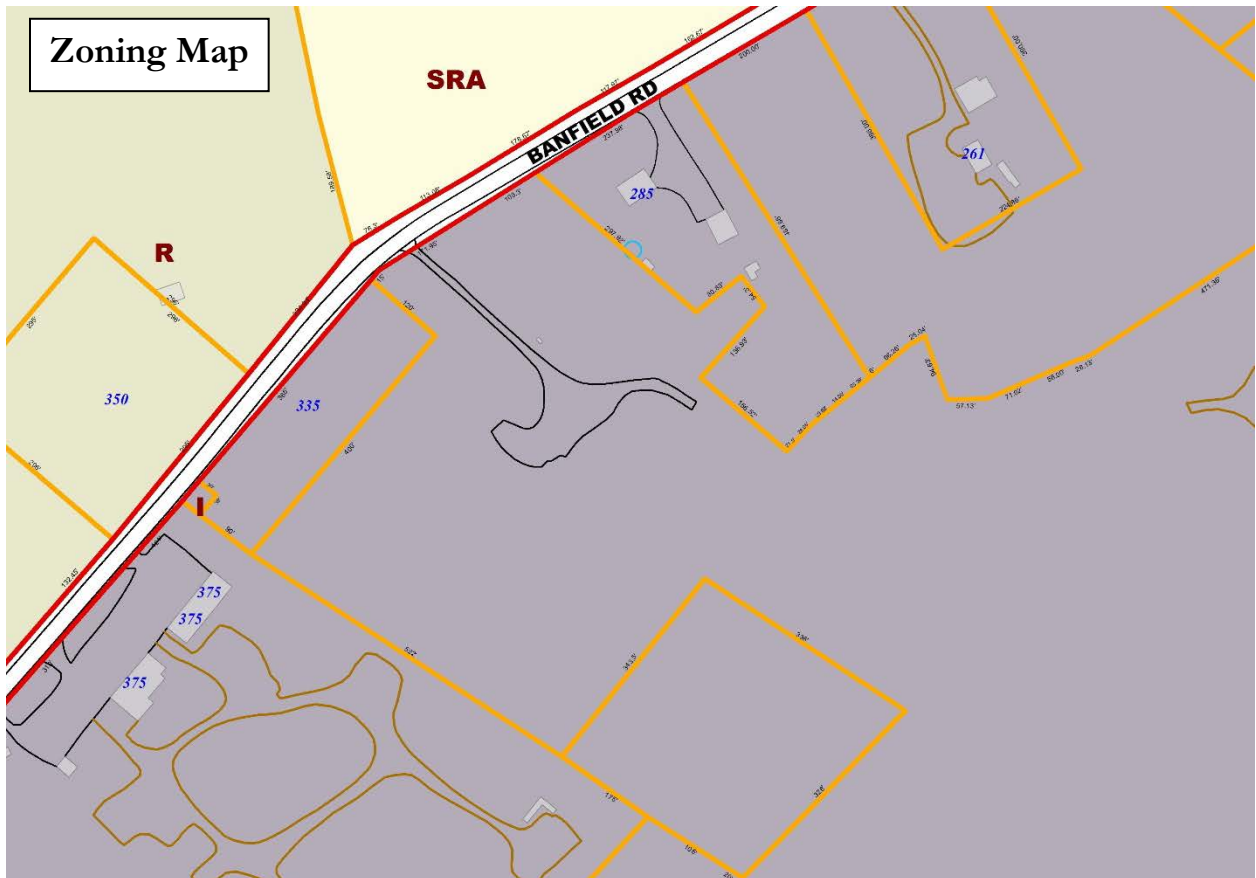
Existing Conditions and Proposed Changes

	<u>Permitted / Required</u>	<u>Proposed</u>
<u>Land Use:</u>	Primarily Industrial uses	K-8 Elementary School
<u>Lot area (sq. ft.):</u>	87,120	466,092 min.
<u>Street Frontage (ft.):</u>	200	365 min.
<u>Lot depth (ft.):</u>	200	>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>	50	>50 min.
<u>Height (ft.):</u>	70	<70 max.
<u>Building Coverage (%):</u>	50%	5.39% max.
<u>Open Space Coverage (%):</u>	20%	>20% min.
<u>Parking (# of spaces)</u>	0.3 per student rated capacity	TBD

Other Permits Required

Planning Board Site Plan Review and Subdivision

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.*

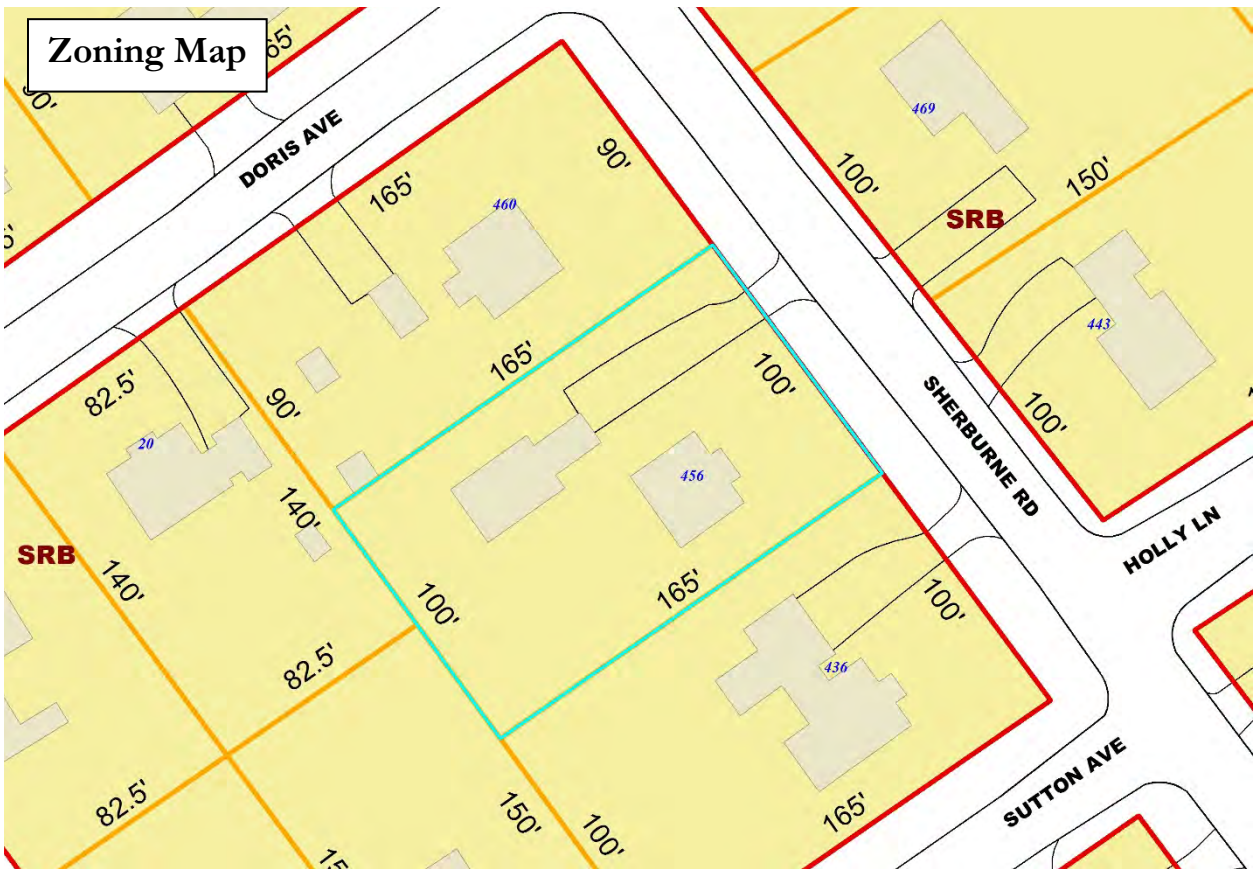
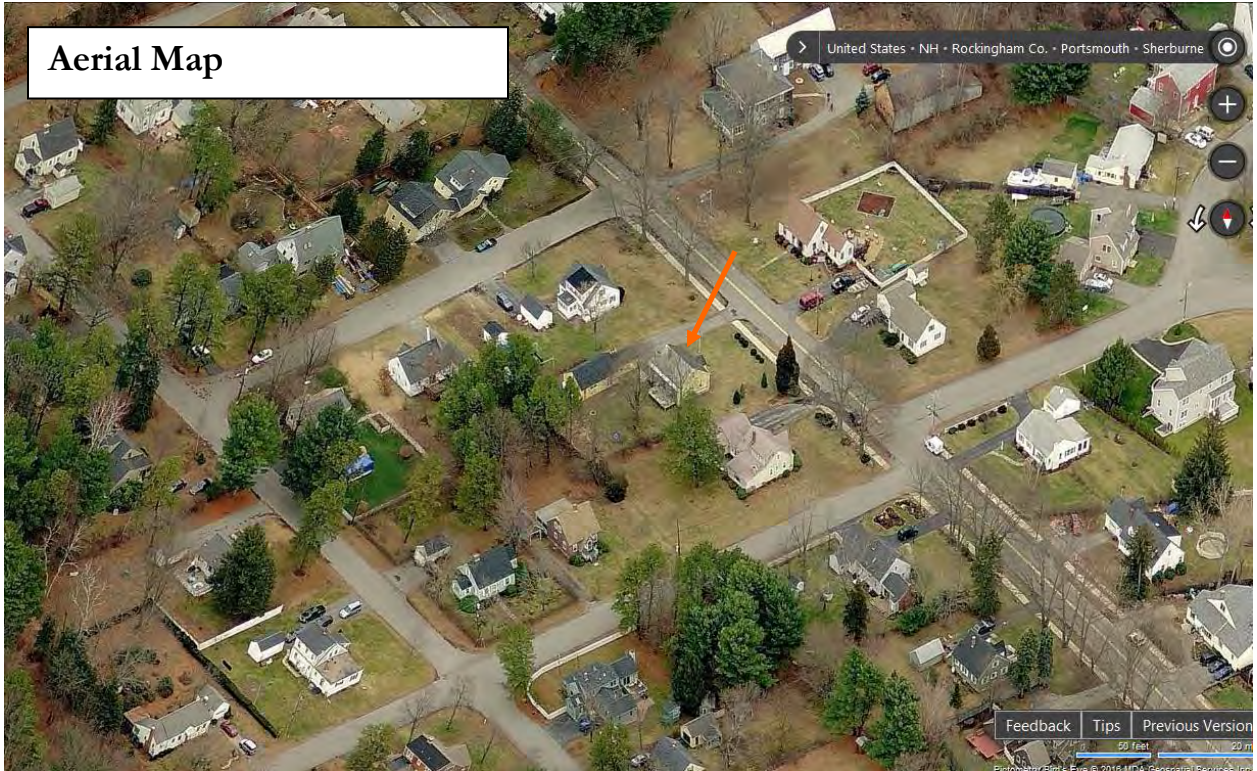
Case #9-14

Petitioners:	Daniel P. & Eileen M. Doyon
Property:	456 Sherburne Road
Assessor Plan:	Map 261, Lot 20
Zoning District:	Single Residence B
Description:	Convert existing accessory structure into a second 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 10.513 to allow a second free-standing dwelling on a lot where only one free-standing dwelling is allowed. 2. A Variance from Section 10.521 to allow a lot area per dwelling unit of 8,276.40± s.f. where 15,000 s.f. per dwelling unit is required.

Existing Conditions and Proposed Changes

	<u>Permitted / Required</u>	<u>Existing</u>	<u>Proposed</u>	
<u>Land Use:</u>	Primarily single family uses	Single family residence	Conversion to 2 nd free-standing dwelling	
<u>Lot area (sq. ft.):</u>	15,000	16,552.80	No Change (NC)	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	15,000	16,552.80	8,276.40	min.
<u>Street Frontage (ft.):</u>	100	100	NC	min.
<u>Lot depth (ft.):</u>	100	165	NC	min.
<u>Primary Front Yard (ft.):</u>	30	>30	NC	min.
<u>Right Yard (ft.):</u>	10	>10	NC	min.
<u>Left Yard (ft.):</u>	10	>10	NC	min.
<u>Rear Yard (ft.):</u>	30	>30	NC	min.
<u>Height (ft.):</u>	35	<35	NC	max.
<u>Building Coverage (%):</u>	20	<20	NC	max.
<u>Open Space Coverage (%):</u>	40	>40	NC	min.
<u>Parking (# of spaces):</u>	4	2	4	min.

Neighborhood Context



Previous Board of Adjustment Actions

No history found.

Planning Department Comments

The applicant's submission mentions additional relief requests for the Table of Uses (10.440) and Vehicular Circulation (10.1114.32). The first is not required because the Planning Department considers the use as two single family dwellings on one lot. Single family uses are allowed in this district. The relief requested from 10.513 addresses the proposal to allow more than one free-standing dwelling on one lot. Single and two-family dwellings are exempt from the requirements of 10.1114.32.

The applicant refers to the potential for consideration of the "Alternative Hardship Test". This is a reference to a provision in the state statute that is otherwise referred to as a Disability Variance. Though not included in the Portsmouth Zoning Ordinance, RSA 674:33 V(b) provides that a variance may be granted without a finding of unnecessary hardship "when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises." In this situation, the Board is allowed to limit the duration of the variance to the time that the person has a continuing need to use the premises (thus the variance does not necessarily run with the land).

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.*

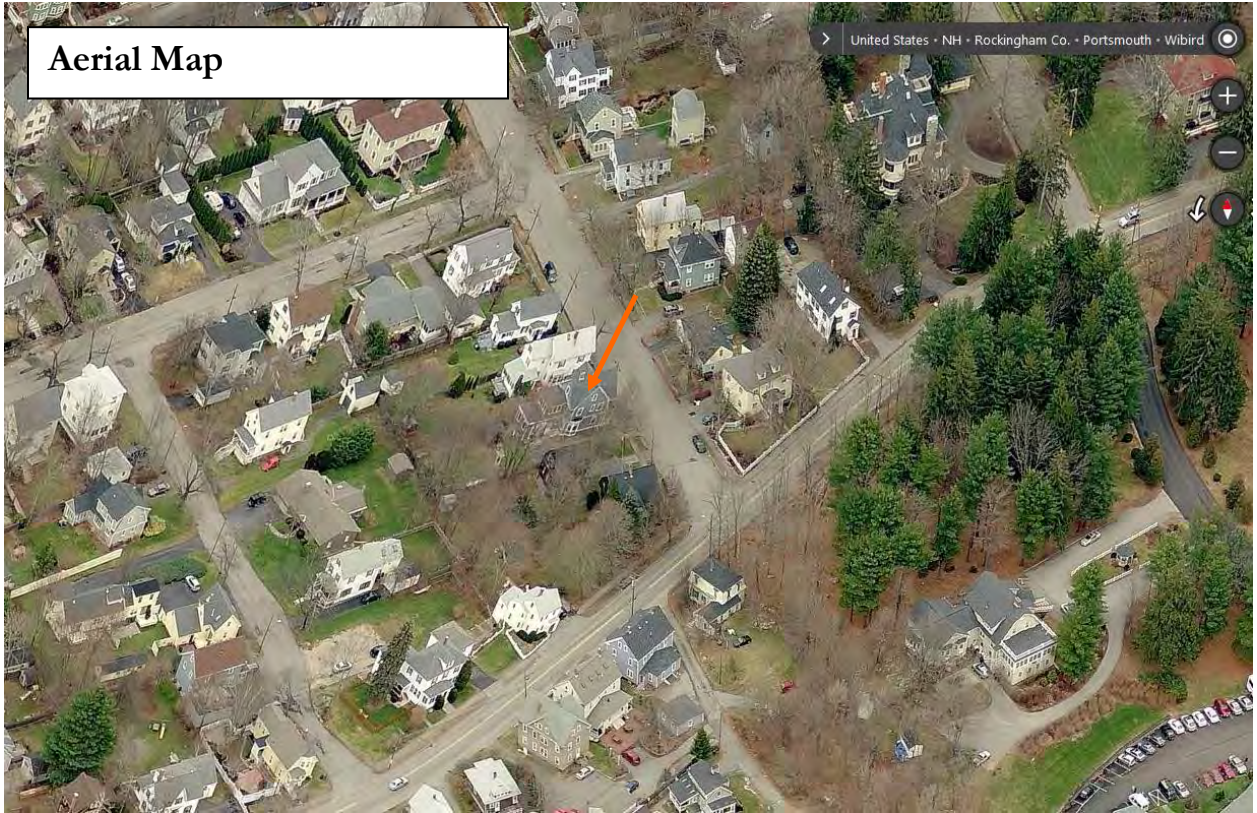
Case #9-15

Petitioners:	Justice C. Rines & Thea E. Murphy
Property:	372 Wibird Street
Assessor Plan:	Map 132, Lot 6
Zoning District:	General Residence A
Description:	Replace attached one-car garage/living space with a two-car garage/living space.
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 10.521 to allow a 1.43'± right side yard setback where 10' is required.

Existing Conditions and Proposed Changes

	<u>Permitted / 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	7,590	NC	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,500	7,590	NC	min.
<u>Street Frontage (ft.):</u>	100	50	NC	min.
<u>Lot depth (ft.):</u>	70	145	NC	min.
<u>Primary Front Yard (ft.):</u>	15	0	NC	min.
<u>Right Yard (ft.):</u>	10	2.61	1.43	min.
<u>Left Yard (ft.):</u>	10	>10	>10	min.
<u>Rear Yard (ft.):</u>	20	>15	>15	min.
<u>Height (ft.):</u>	35	30	20.5	max.
<u>Building Coverage (%):</u>	25%	20.82%	23.47%	max.
<u>Open Space Coverage (%):</u>	30%	67.58%	59.39%	min.
<u>Parking (# of spaces):</u>	2	1	2	min.

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.*

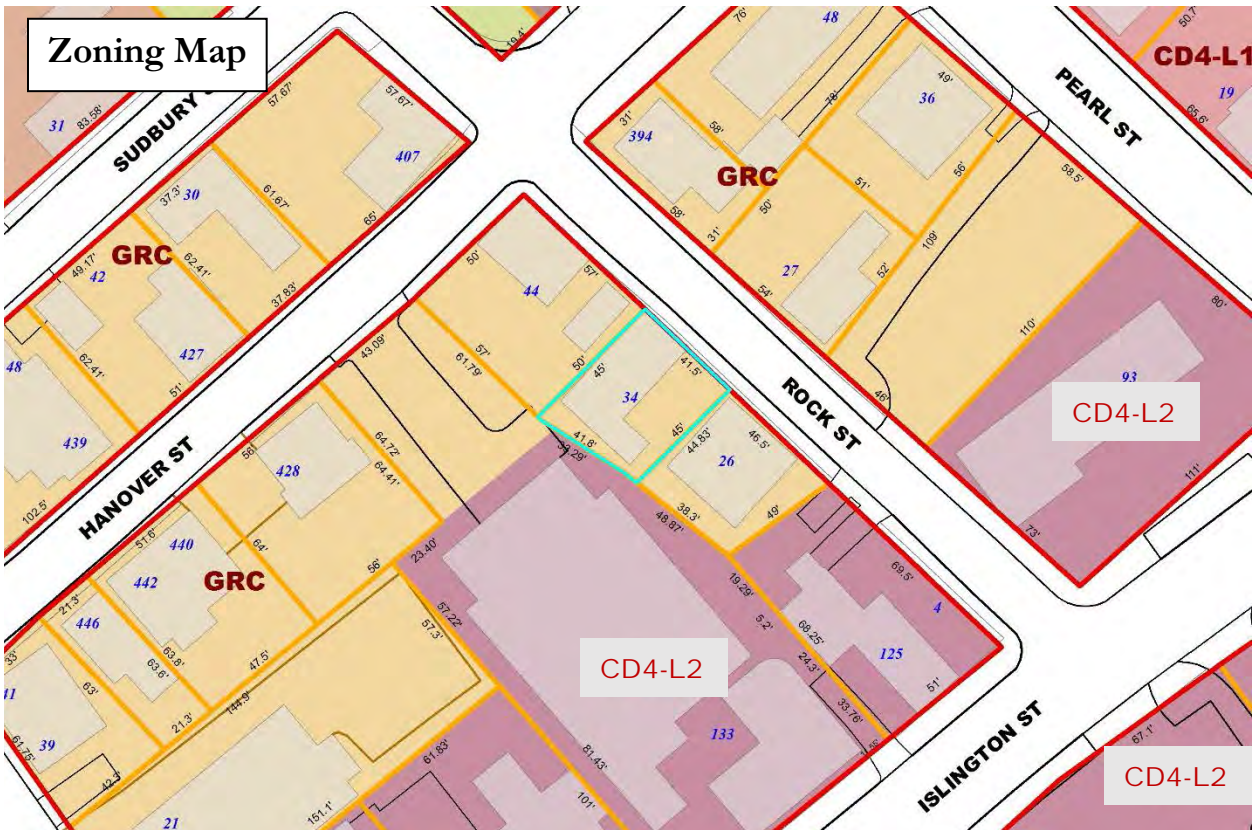
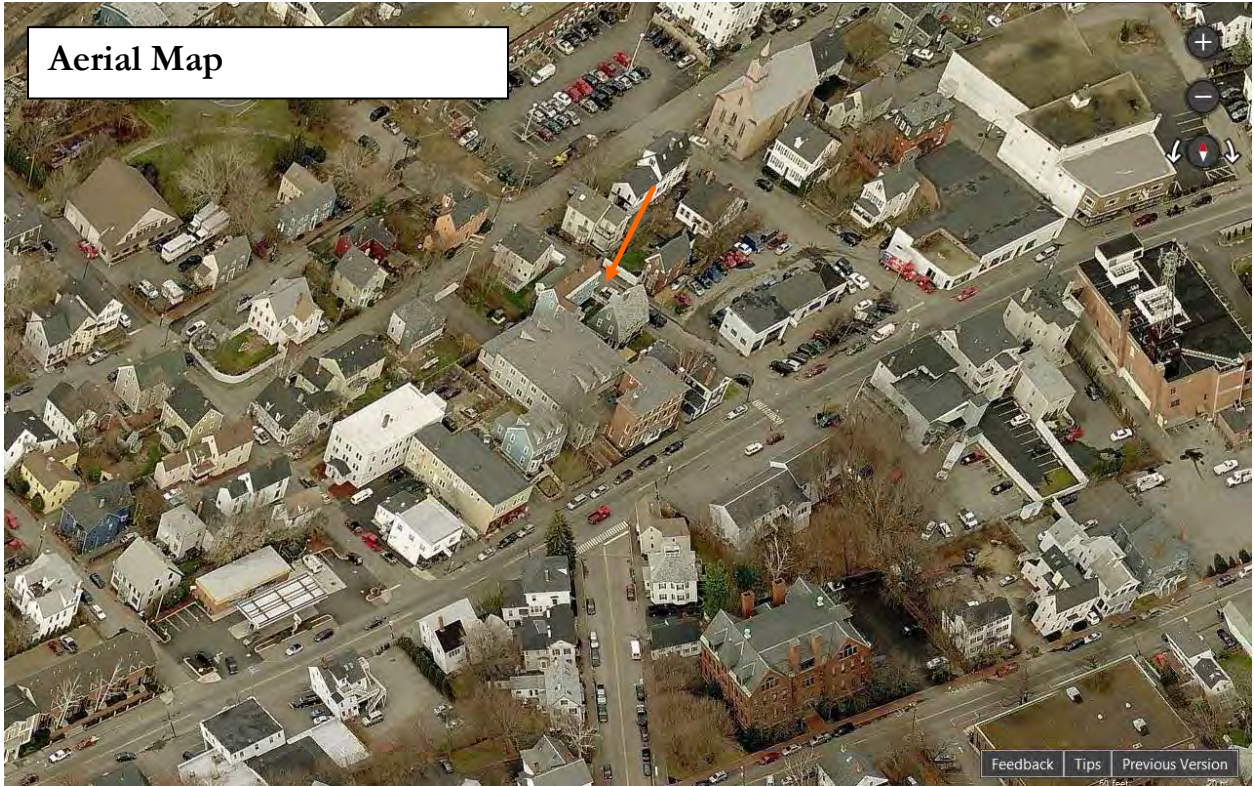
Case #9-16

Petitioners:	Ballard B. & Shirley M. Mattingly
Property:	34 Rock Street
Assessor Plan:	Map 138, Lot 18
Zoning District:	General Residence C
Description:	Replace an 8.5'± x 14'± left rear addition with a 12'± x 14'± structure.
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) An 8'5" ± left side yard setback where 10' is required; b) A 2'10"± rear yard setback where 20' is required; and c) 53.28%± building coverage where 35% is the maximum allowed.

Existing Conditions and Proposed Changes

	<u>Permitted / 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>	3,500	1,873.08	NC	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,500	1,873.08	NC	min.
<u>Street Frontage (ft.):</u>	70	41.5	NC	min.
<u>Lot depth (ft.):</u>	50	45	NC	min.
<u>Primary Front Yard (ft.):</u>	5	0	NC	min.
<u>Right Yard (ft.):</u>	10	0	NC	min.
<u>Left Yard (ft.):</u>	10	<10	8'5"	min.
<u>Rear Yard (ft.):</u>	20	3	2'10"	min.
<u>Height (ft.):</u>	35	25	23	max.
<u>Building Coverage (%):</u>	35%	51.04%	53.28%	max.
<u>Open Space Coverage (%):</u>	20%	48.96%	27.50%	min.
<u>Parking (# of spaces):</u>	2	0	2	min.
<u>Estimate Age of Structure</u>		1850		

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.*