

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: March 13, 2018
RE: Zoning Board of Adjustment March 20, 2018 Meeting

OLD BUSINESS

1. 201 Kearsarge Way
2. 64 Mt. Vernon

NEW BUSINESS

1. 99 Durgin Lane
2. 18 Monroe Street
3. 160-170 Union Street
4. 32 Baycliff Road
5. 89 Brewery Lane
6. 118 Elwyn Avenue

OLD BUSINESS

Case #2-10

Petitioners:	Richard Fusegni
Property:	201 Kearsarge Way
Assessor Plan:	Map 218, Lot 5
Zoning District:	Single Residence B (SRB)
Description:	Subdivide lot into two lots.
Requests:	<p>Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:</p> <ol style="list-style-type: none"> 1. A Variance from Section 10.521 for the following: a) to allow a lot area and lot area per dwelling unit of 7,834 s.f. where 15,000 s.f. is required; b) to allow 97.52' of continuous street frontage where 100' is required. (Requested but not needed – they meet the req. frontage) 2. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

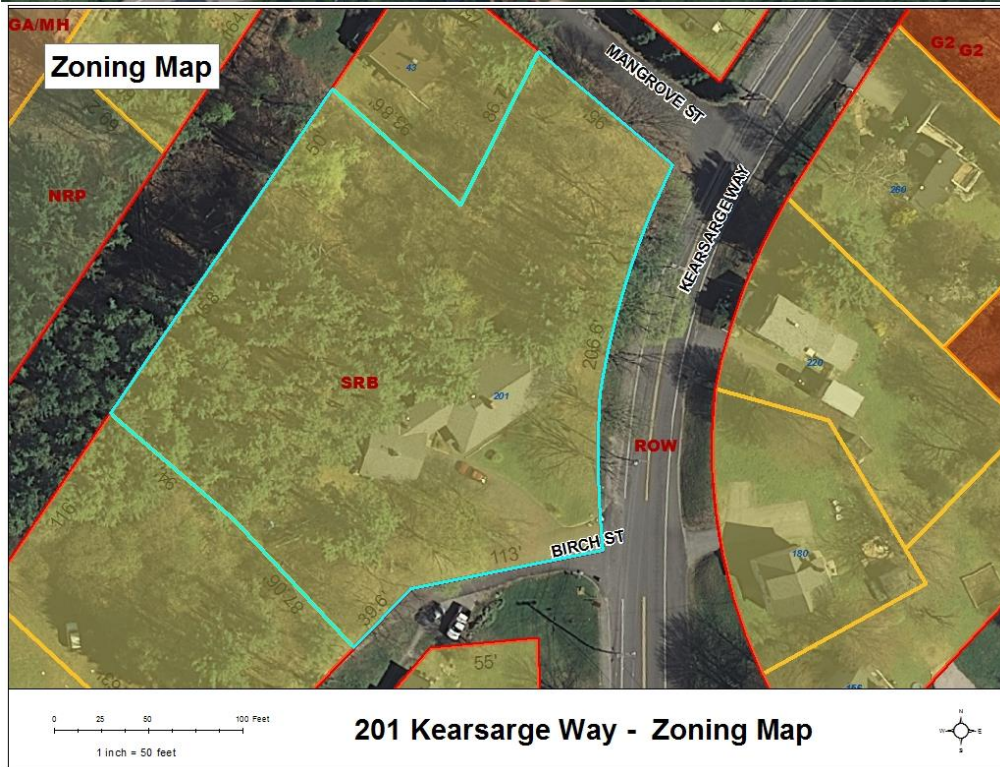
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Subdivide into two lots	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	54,897	Lot 1: 7,834 Lot 2: 47,062	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	54,897	Lot 1: 7,834 Lot 2: 47,062	15,000 min.
<u>Street Frontage (ft.):</u>	>200	Lot 1: >100 Lot 2: >100	100 min.
<u>Lot depth (ft.):</u>	>100	Lot 1: 100.24 Lot 2: >100	100 min.
<u>Primary Front Yard (ft.):</u>	18	18 (Lot 2)	30 min.
<u>Right Yard (ft.):</u>	>10	>10 (Lot 2)	10 min.
<u>Secondary Front Yard (ft.):</u>	15 (variance)		30 min.
<u>Left Yard (ft.):</u>	>10	>10 (Lot 2)	10 min.
<u>Rear Yard (ft.):</u>	>30	>30 (Lot 2)	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	>20	>20 (Lot 2)	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking</u>	0	ok	ok
<u>Estimated Age of Structure:</u>	1954	Variance request shown in red.	

Other Permits Required

Planning Board – Subdivision Approval.

Neighborhood Context



Previous Board of Adjustment Actions

June 21, 2016 – The Board **granted** a variance to construct a home on one lot of a three-lot subdivision with a front yard setback of 15' where 30' was required. The Board noted that the variance was specific to the presented lot.

Planning Department Comments

The received approval of three lot subdivision in 2017, but is now proposing to subdivide into two lots, which requires relief for the lot area and lot area per dwelling unit. The applicant has indicated it does not meet the frontage requirement. Frontage on a corner lot may extend around the corner, so Lot 1 actually meets the requirements of the ordinance and the relief for street frontage is not necessary.

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 #2-11

Petitioners:	Cyrus Lawrence Gardner Beer, owner
Property:	64 Mt. Vernon Street
Assessor Plan:	Map 111, Lot 30
Zoning District:	General Residence B (GRB)
Description:	Construct a chicken coop and keep six chickens.
Requests:	Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including: 1. A Variance from Section 10.440, Use #17.20 to allow the keeping of farm animals where the use is not allowed. 2. A Variance from Section 10.573.10 to allow an accessory structure 3'± from the rear property line where 5' is required.

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single Family	Single Family/Chicken Coop	Primarily Single Family
<u>Lot area (sq. ft.):</u>	7,840	7,840	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,840	7,840	5,000 min.
<u>Street Frontage (ft.):</u>	90	90	80 min.
<u>Lot depth (ft.):</u>	98	98	60 min.
<u>Primary Front Yard (ft.):</u>	0 (house)	>80 (coop)	5 min.
<u>Left Yard (ft.):</u>		>5	5 (accessory) min.
<u>Right Yard (ft.):</u>		>5	5 (accessory) min.
<u>Rear Yard (ft.):</u>		3	5 (accessory) min.
<u>Height (ft.):</u>		<10	35 max.
<u>Building Coverage (%):</u>	<30	<30	30 max.
<u>Open Space Coverage (%):</u>	>25	>25	25 min.
<u>Parking (# of spaces):</u>			2 min.
<u>Estimated Age of Structure:</u>	1812	Variances shown in red.	

Other Permits Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

Planning Department Comments

The subject property is adjacent to City Hall and is unique in that it backs up to a high wall next to a parking area for city employees. The proposed location of the coop will likely have no impact on the abutting property due to the wall.

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 #3-1

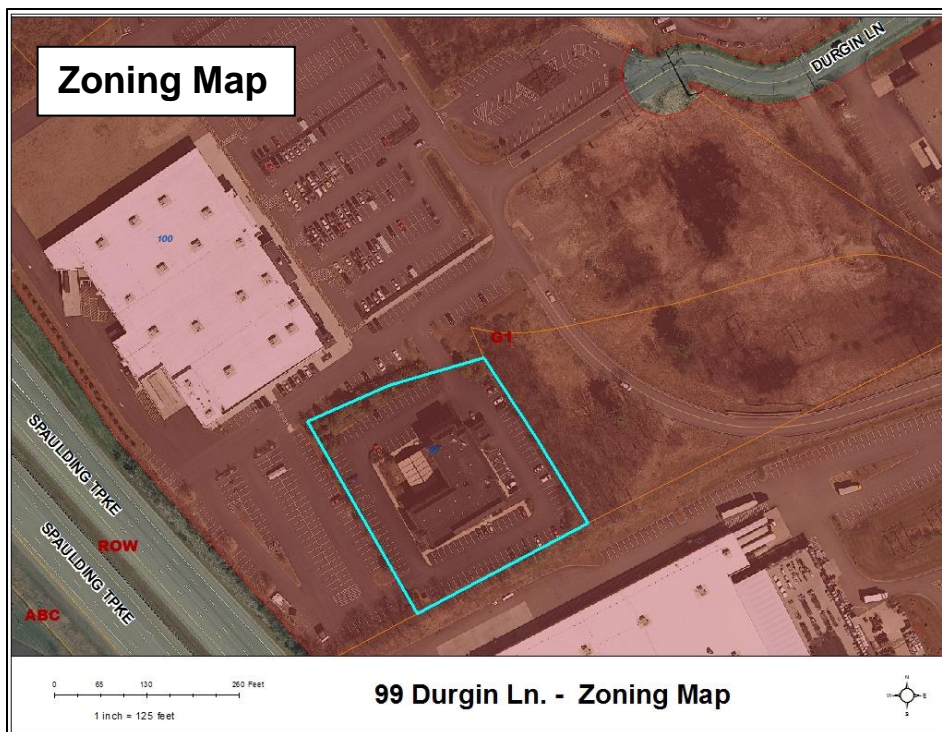
Petitioners:	Giri Dover LLC, owners
Property:	99 Durgin Lane
Assessor Plan:	Map 239, Lot 15
Zoning District:	Gateway Mixed Use Corridor (G1)
Description:	Install accent lighting on existing hotel.
Requests:	Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including: <ol style="list-style-type: none">1. A Variance from Section 10.1271 to allow signage where signage is not allowed.2. A Variance from Section 10.1251.10 to allow signage where there is no aggregate signage available.3. A Variance from Section 10.1251.20 to allow a) canopy signs greater than 20 s.f. and b) to allow wall sign greater than 200 s.f.4. A Variance from Section 10.1242 to allow more than one wall sign above the first floor on three sides of the building that do not have a street façade.

Other Permits Required

None

Neighborhood Context





Previous Board of Adjustment Actions

April 20, 1999 – The Board **granted** a variance to allow a 74.58 s.f. attached sign creating 242 s.f. of attached signage where 200 s.f. was the maximum allowed and also **granted** a variance for aggregate signage with the **stipulation** that the attached sign be reduced from 74 s.f. to 62 s.f., reducing the total aggregate signage from 242 s.f. to 230 s.f. where 200 s.f. was the maximum allowed.

Planning Department Comments

The applicant is proposing accent lighting around the entrance canopy and below the cornice of the entire building. The property is located in Sign District 5 which permits an aggregate sign area of 1.5 times the building frontage. Building frontage is defined as follows:

Building frontage

The maximum horizontal width of the **ground floor** of a **building** that approximately parallels and faces a public **street** or right of way.

(a) Where an individual occupant's main entrance faces a **driveway** or **parking lot**, the width of the occupant's **ground floor** space facing the occupant's entrance shall be considered that occupant's separate and distinct **building frontage**.

(b) Where two or more **uses** occupy the **ground floor** of a **building**, the portion of the **building frontage** occupied by each **use** will be that **use's** separate and distinct **building frontage** for the purpose of calculating allowed **sign area**.

(c) A **corner lot** or **through lot** shall be considered to have a separate and distinct **building frontage** on each **street**.

The Hampton Inn fits under letter “a” in the definition. In Sign District 5, the maximum area for wall signs is 200 square feet and 20 square feet for canopy signs. The Hampton Inn has three wall signs located on the main building. The additional illumination will be considered a wall sign on the main building and a canopy sign on the canopy. In both cases, they exceed the maximum sign area allowed and on three sides of the main building there will be more than one wall sign above the first floor.

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 #3-2

Petitioners:	Cape Elizabeth Moss GST Exempt Trust F/B/O Keith Mariah Heriot, owner
Property:	18 Monroe Street
Assessor Plan:	Map 151, Lot 7
Zoning District:	General Residence A (GRA)
Description:	Construct two-story rear addition.
Requests:	Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including: 1. Variances from Section 10.521 that include the following: a) to allow a right side yard setback of 5'11"± where 10' is required and b) to allow a left side yard setback of 5'10" ± where 10' is required. 2. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

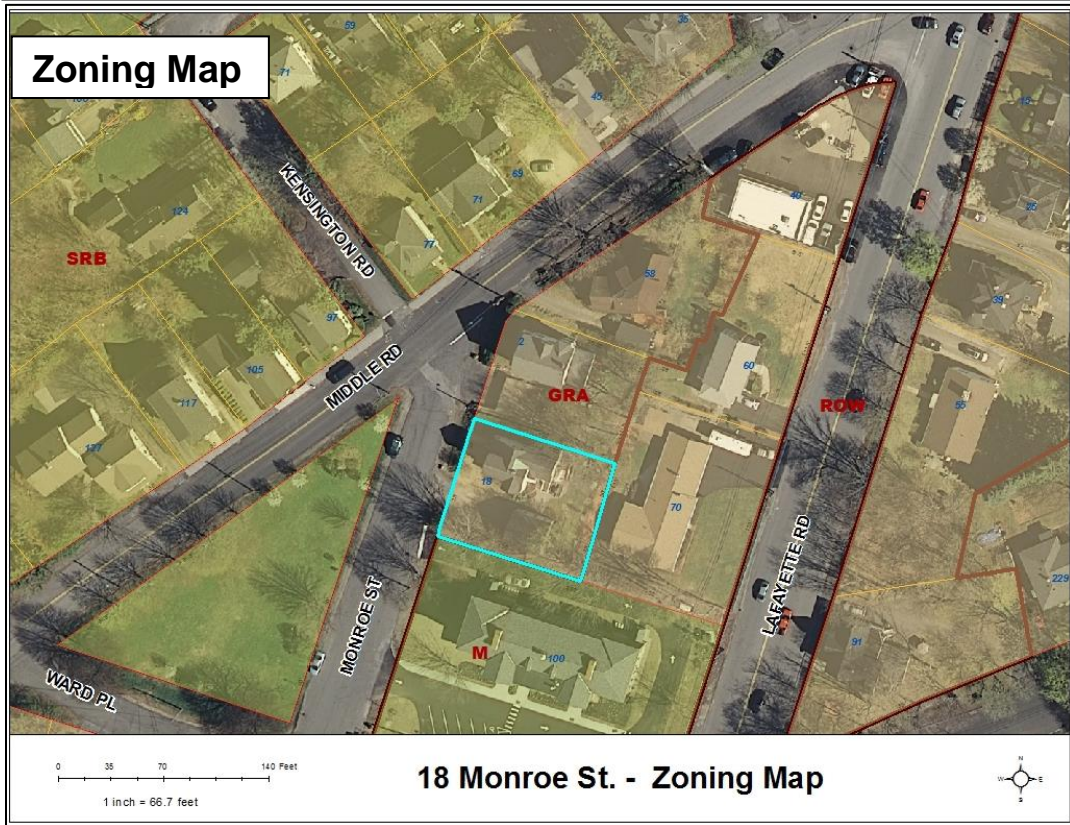
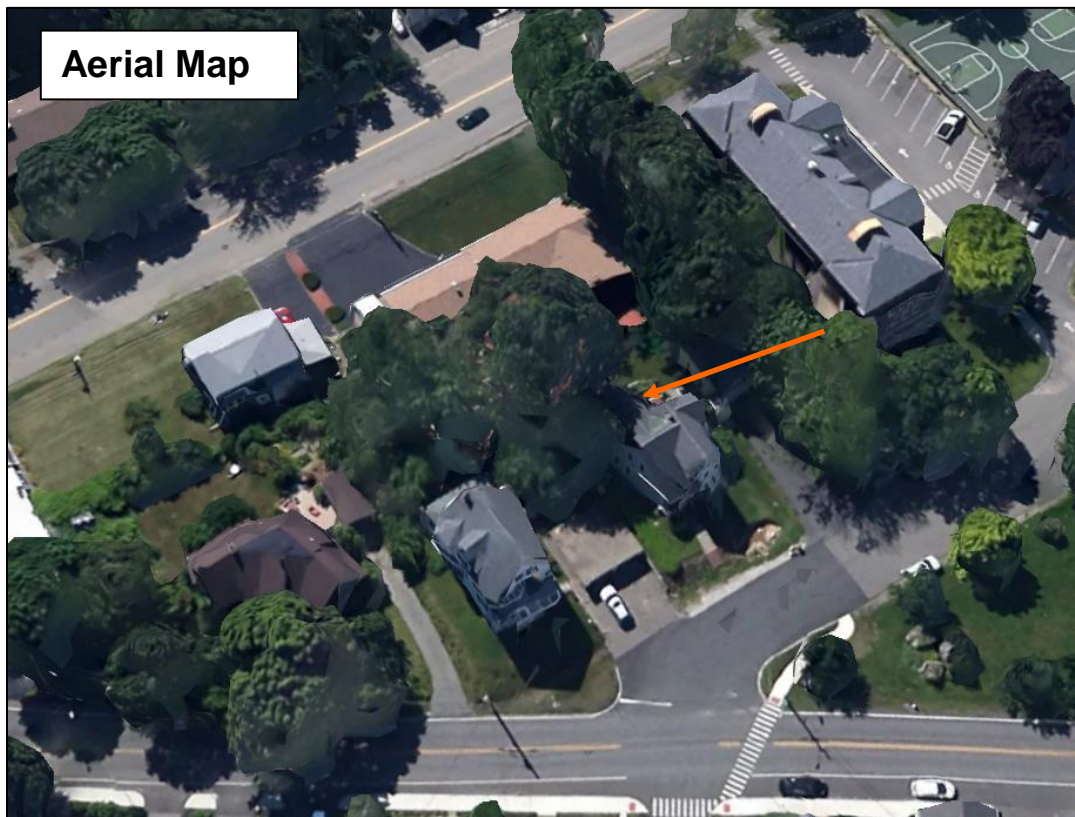
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Two-story addition	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	7,405	7,405	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,405	7,405	7,500 min.
<u>Street Frontage (ft.):</u>	75	75	100 min.
<u>Lot depth (ft.):</u>	100	100	70 min.
<u>Primary Front Yard (ft.):</u>	18	18	15 min.
<u>Right Yard (ft.):</u>	5'10"	5'11"	10 min.
<u>Left Side Yard (ft.):</u>	4"	5'10"	10 min.
<u>Rear Yard (ft.):</u>	25	25	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	20	25	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	ok	ok	ok
<u>Estimated Age of Structure:</u>	1894	Variance request shown in red.	

Other Permits Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

June 20, 2000 – The Board **granted** a variance to allow a 22' x 25' one story garage with a 3.4' right side yard where 10' was required.

Planning Department Comments

Although a variance was granted for the garage location in 2000, the proposal to attach the garage to the principal dwelling will create one principal structure on the lot and therefore it must meet the principal setbacks. The existing garage appears to have been built farther from the side property line than was proposed and granted in 2000. Staff would point out that the proposed building coverage is maxed out and any future structures would exceed building coverage and would require relief from the BOA.

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 #3-3

Petitioners: LCSG LLC, applicant
Property: 160 & 168-170 Union Street
Assessor Plan: Map 135, Lots 29 & 30
Zoning District: General Residence C (GRC)
Description: Merge two lots into one with four dwelling units in three buildings.
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:
1. A Variance from Section 10.521 to allow the following: a) a lot area per dwelling unit of 2,363± s.f. where 3,500 s.f. is required; b) a right side yard setback of 5'± where 10' is required; c) a left side yard setback of 5'4"± where 10' is required; and d) a rear yard setback of 8'6"± where 20' is required.

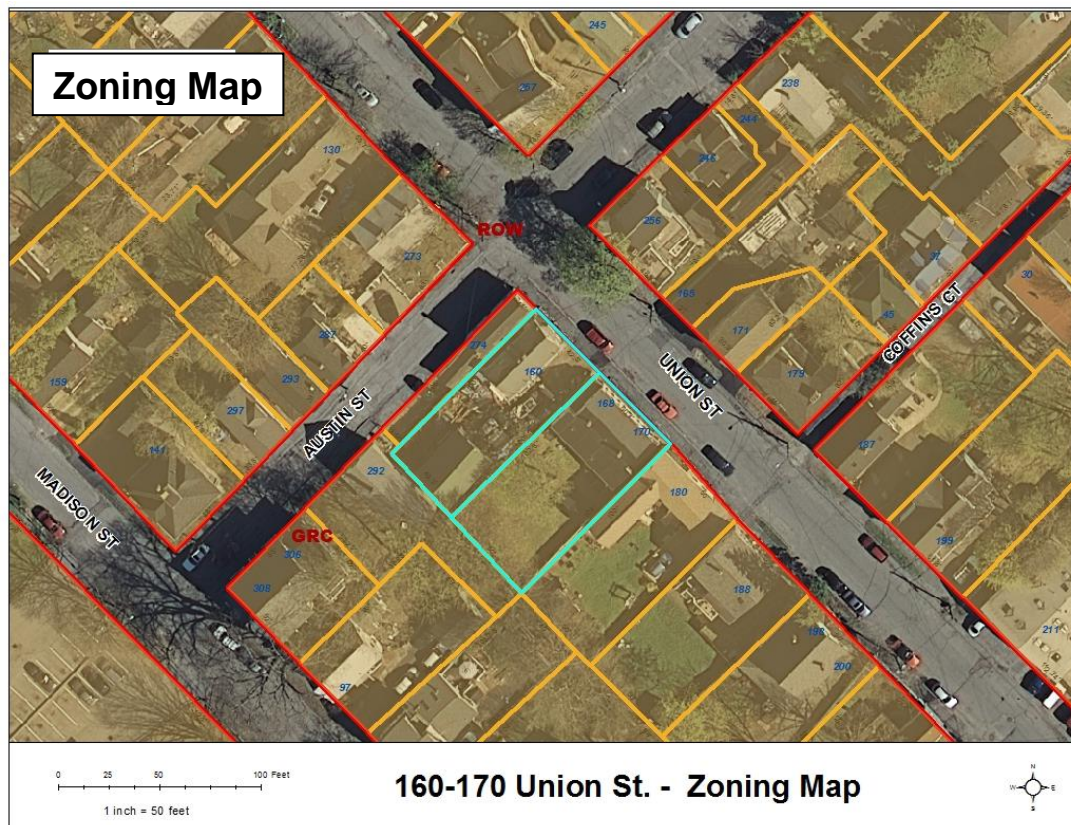
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family/duplex	Merge lots with four dwellings	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>		9,452	3,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>		2,363	3,500
<u>Street Frontage (ft.):</u>	42.5/50.7	93.2	70 min.
<u>Lot depth (ft.):</u>	100	102	50 min.
<u>Primary Front Yard (ft.):</u>	1'3"	1'3"	5 min.
<u>Right Side Yard (ft.):</u>	3	5	10 min.
<u>Left Yard (ft.):</u>	5'4"	5'4"	10 min.
<u>Rear Yard (ft.):</u>	3'6"	8'6"	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>		34	35 max.
<u>Open Space Coverage (%):</u>		30	20 min.
		Variance request shown in red.	

Other Permits Required

Planning Board – Site Review

Neighborhood Context



Previous Board of Adjustment Actions

November 22, 2016 – The Board **denied** a petition to allow the following: a) 10 dwelling units where 8 dwelling units were the maximum allowed; b) 945 s.f. lot area per dwelling unit where 3,500 s.f. was required; c) 15 off-street parking spaces to be provided for 10 residential units where 16 were required; d) off-street parking spaces with dimensions of 8.1' x 18' where 8.5' x 19' were required; and e) a 22' wide maneuvering aisle where 24' was required.

February 21, 2017 – The Board **denied** a petition to construct two (2) three-unit dwellings on a combined lot requiring the following variances: a) a lot area per dwelling unit of 1,575 s.f. where 3,500 s.f. was required; 15.3% open space where 20% was required; and ten off-street parking spaces to be provided where 12 spaces were required

Planning Department Comments

As referenced in the history above, this property has been before the Board with proposals for 10 and 6 dwelling units, respectively. Both proposals were previously denied and the current proposal consists of a total of four dwelling units in three freestanding buildings. The proposal also merges two lots into one. The project is located outside of the Historic District and the construction materials are not specified at this time. The proposed front yard setback is permitted per Section **10.516.10 Front Yard Exception for Existing Alignments**.

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 #3-4

Petitioners: Terrence H. Allen and Andrea B. Allen
Property: 32 Baycliff Road
Assessor Plan: Map 207, Lot 43
Zoning District: Single Residence B (SRB)
Description: Replace existing garage.
Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:
1. a) A Variance from Section 10.521 to allow the following: a) a 1'6" right side yard setback where 10' is required; b) a 7'6" secondary front yard setback where 30' is required; and c) 31% building coverage where 20% is the maximum.
2. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

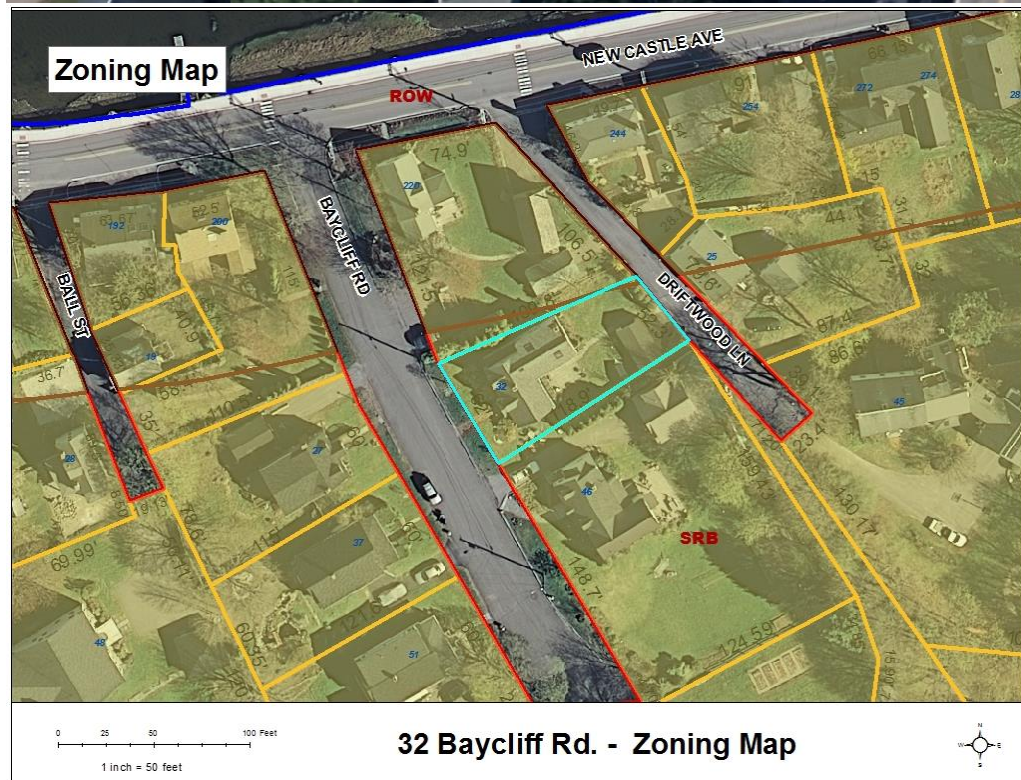
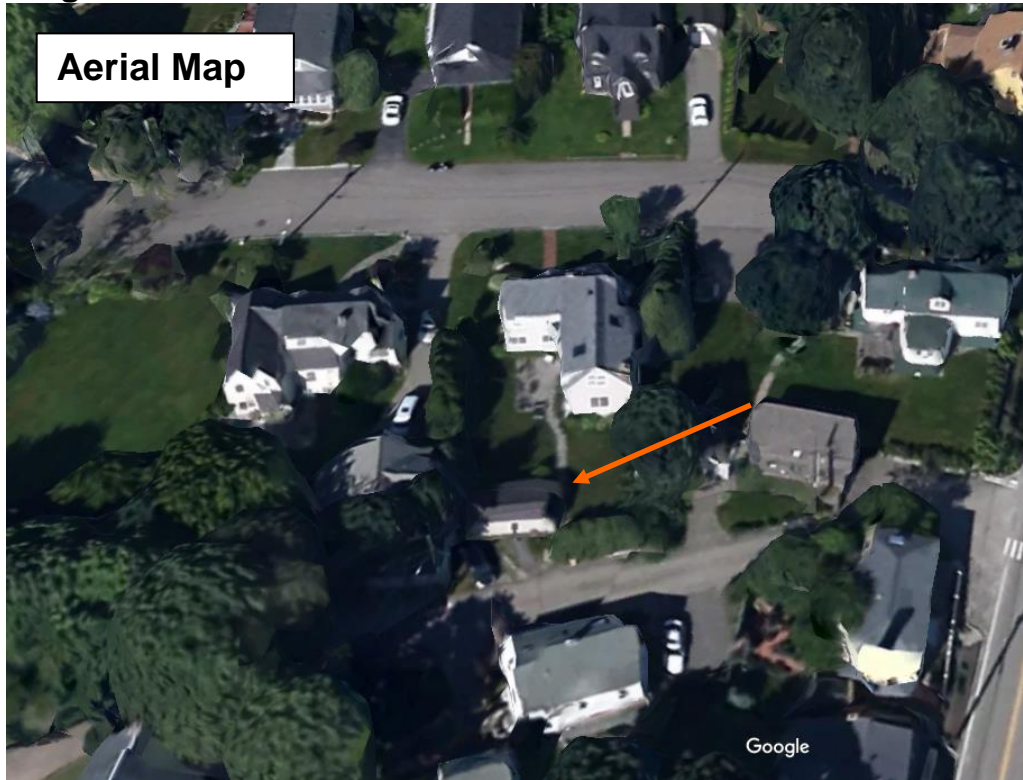
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Demo/build new garage	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	6,534	6,534	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	6,534	6,534	15,000 min.
<u>Street Frontage (ft.):</u>	114	114	100 min.
<u>Lot depth (ft.):</u>	169	169	100 min.
<u>Primary Front Yard (ft.):</u>	16	86	30 min.
<u>Right Yard (ft.):</u>	1'6"	1'6"	10 min.
<u>Secondary Front Yard (ft.):</u>	7'6"	7'6"	30 min.
<u>Left Yard (ft.):</u>	8	26'6"	10 min.
<u>Height (ft.):</u>	<35	16	35 max.
<u>Building Coverage (%):</u>	26	31	20 max.
<u>Open Space Coverage (%):</u>	71	69	40 min.
<u>Parking</u>	0	ok	ok
<u>Estimated Age of Structure:</u>	1964	Variance request shown in red.	

Other Permits Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

December 18, 2001 – The Board **granted** variances to allow the following: a) an 8' x 10'4" 1½ story right side addition with a 15'8" front yard where 30' was required; b) a 10'6" x 24'3" 2-story rear addition with an 8' left side yard where 10' was required (addition included a 3'x 5' right side entry) and c) 25.8% building coverage where 20% was the maximum allowed

December 20, 2010 – The Board **denied** a request to construct a front entryway with a 16' front yard where 30' was required and 28% building coverage where 20% was the maximum allowed.

May 20, 2014 – The Board **granted** a petition to replace the front entry with a 5' x 8' covered landing with a front yard of 6' where 17' was required under Section 10.516.10 and 26.4% building coverage where 20% was the maximum allowed.

Planning Department Comments

This property is a through lot, and therefore has front yard requirements on two side. The applicant has indicated in the application that relief is needed from the rear yard setback. Since this is a through lot, there is no rear yard, and the relief needed is from the secondary front yard setback. The numbers are correct, but the referenced setback should be the secondary front yard. The history of this property shows the prior requests and all have three have requested relief from building coverage due to the size of the property. The variance granted in 2014 permitted a building coverage of approx. 26%.

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 #3-5

Petitioners: Barbara R. Frankel, owner
 Property: 89 Brewery Lane
 Assessor Plan: Map 141, Lot 36
 Zoning District: Character District 4-L2 (CD4-L2)
 Description: Demo existing structure and construct assisted living home.
 Requests: Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including:
 1. A Variance from Section 10.5A41.10A to allow the following: a) a principal front yard setback of 76'± where 15' is the maximum allowed; b) a right side yard of 37'± where a 5' minimum to 20' maximum is required; c) a front lot line buildout of 50%± where 60% minimum to 80% maximum is required; d) a minimum ground story height of 10' where 11' is required; e) a façade glazing of 13% where 20-40% is required; and f) **a building footprint of 3,146 s.f. where 2,500 s.f. is the maximum(this last item was not advertised).**
 2. A Variance from Section 10.5A44.31 to allow off-street parking spaces to be located less than 20' behind the façade of a principal building.

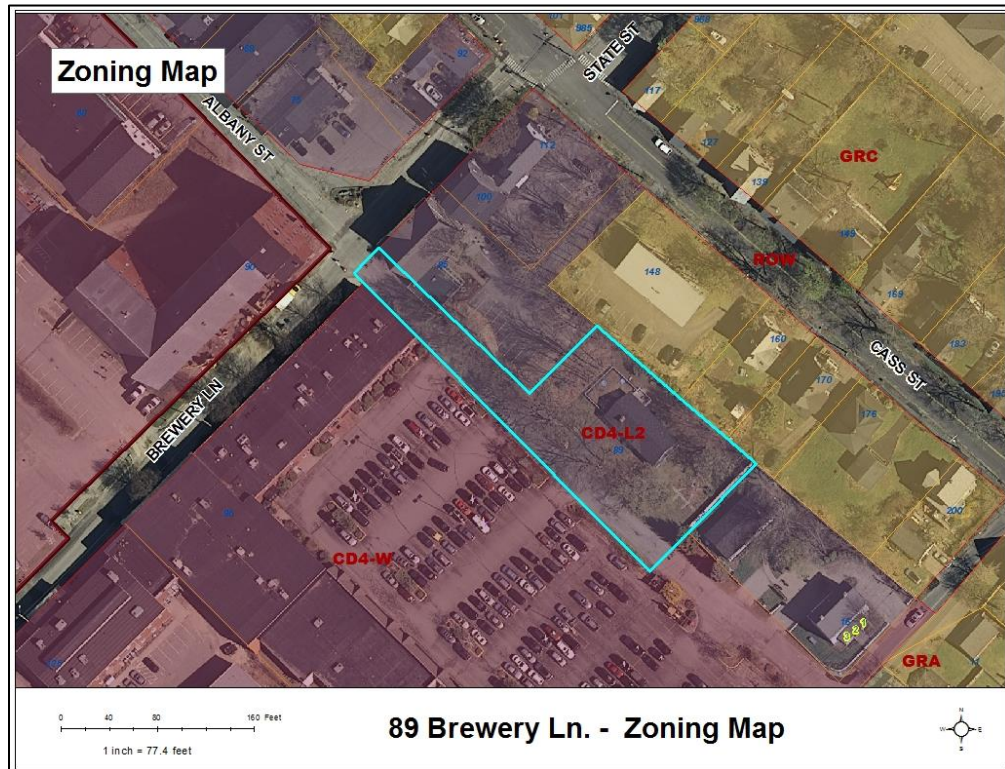
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Construct assisted living home	Primarily Mixed Use
<u>Lot area (sq. ft.):</u>	25,466	25,466	3,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	25,466	5,093	3,000 min.
<u>Front Lot line buildout:</u>	39	50	60 – 80 %
<u>Façade Glazing:</u>	2	13	20-40%
<u>Maximum Front Yard:</u>	62	76	15 max.
<u>Right Yard (ft.):</u>	67	37	5-20 min./max.
<u>Left Yard (ft.):</u>	12	13	5-20 min./max.
<u>Rear Yard (ft.):</u>	>5	>5	5 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	6	14	60 max.
<u>Open Space Coverage (%):</u>	>25	>25	25 min.
<u>Max. Building Footprint</u>	1,475	3,146	2,500
<u>Min. Ground Story Height</u>	9	9.67	11
<u>Parking</u>		4	3
<u>Off-Street parking location</u>		0'	20 ft. behind any facade
		Variance request shown in red.	

Other Permits Required

Planning Board – Site Plan Review.

Neighborhood Context



Previous Board of Adjustment Actions

July 18, 2015 – The Board **postponed** a request to remove the existing structure and construct a 2-story assisted living home with a 3,450 s.f. footprint which required a special exception to allow an assisted living home and a variance to allow 30' of street frontage where 100' was required.

August 18, 2015 – The Board **granted** the required relief outlined above.

July 18, 2017 – The Board **granted** a one-year extension of the above special exception and variance through August 18, 2018.

Planning Department Comments

This project was before the Board in 2015 and since the original approval was granted, the zoning district changed from Mixed Residential Business to CD4-L2 and the project does not comply with the new zoning district. The Board granted a one-year extension last July for the original variance and special exception. This project needs site plan review and approval.

The variance request for the building footprint was not advertised, therefore it cannot be acted on. The other requests were advertised which gave the overall summary and scale of the project. It is up to the Board to determine if this can be acted on or if it should be tabled until the building footprint can be advertised. The Board could act on all of the other requests at this meeting and in April act on the request for the building footprint. The other option would be to table the entire petition until April, unless the Board feels it can act as advertised and presented.

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 #3-6

Petitioners:	Tara F. Trafton Hamblett Revocable Trust 2003, Tara F. Trafton Hamblett, Trustee
Property:	118 Elwyn Avenue
Assessor Plan:	Map 112, Lot 45
Zoning District:	General Residence A (GRA)
Description:	Reconstruct a rear deck.
Requests:	Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including: 1. A Variance from Section 10.521 to allow a 6' right side yard setback where 10' is required. 2. A Variance from Section 10.521 to allow a building coverage of 27% where 25% is the maximum allowed. 3. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended reconstructed or enlarged without conforming to the requirements of the Ordinance.

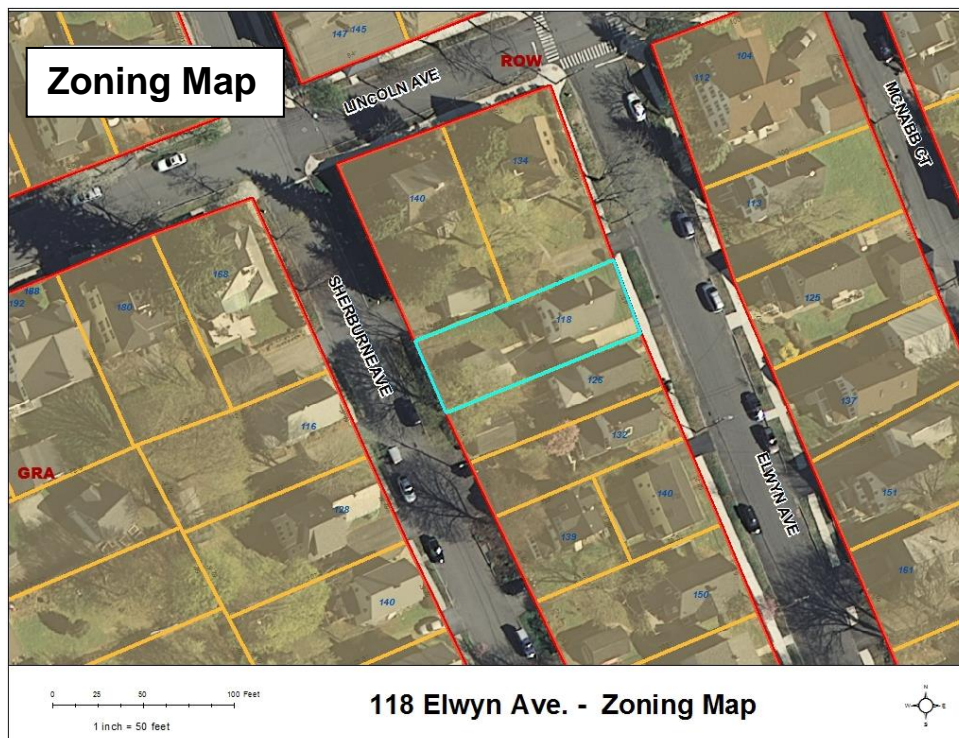
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Demo/build new deck	Primarily Residential Uses
<u>Lot area (sq. ft.):</u>	4,791	4,791	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	4,791	4,791	7,500 min.
<u>Street Frontage (ft.):</u>	43	43	100 min.
<u>Lot depth (ft.):</u>	114	114	70 min.
<u>Primary Front Yard (ft.):</u>	14	14	15 min.
<u>Right Yard (ft.):</u>	5	6	10 min.
<u>Left Yard (ft.):</u>	11	11	10 min.
<u>Rear Yard (ft.):</u>	>20	>20	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	26	27	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking</u>	0	ok	ok
<u>Estimated Age of Structure:</u>	1915	Variance request shown in red.	

Other Permits Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No BOA history found.

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- 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.*