

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: November 9, 2021 – *revised 11/16/21*
RE: Zoning Board of Adjustment November 16, 2021

OLD BUSINESS

1. 125 Elwyn Avenue
2. 134 Fairview Avenue
3. 52 Prospect Street
4. 93 Pleasant Street

NEW BUSINESS

1. 194 Madison Street
2. 15 Mt. Vernon Street
3. 45 Miller Avenue
4. 437 Lafayette Road

OLD BUSINESS

1.

Request of **Ashley Dickenson** and **Elyse Hambacher, (Owners)**, for the property located at **125 Elwyn Avenue** whereas relief is needed to demolish existing garage and rear addition on main structure and construct a new garage with dwelling unit above and reconstruct the rear addition on the main structure including two shed dormers which requires the following: 1) Variances from Section 10.521 to allow a) lot area per dwelling of 2,559 square feet where 7,500 is required; b) a 1' secondary front yard where 15' is required; c) a 5' left side yard where 10' is required; d) a 2' right side yard where 10' is required; and e) 39% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.513 to allow more than one free-standing dwellings on a lot. 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. Said property is shown on Assessor Map 112 Lot 47 and lies within the General Residence A (GRA) District.

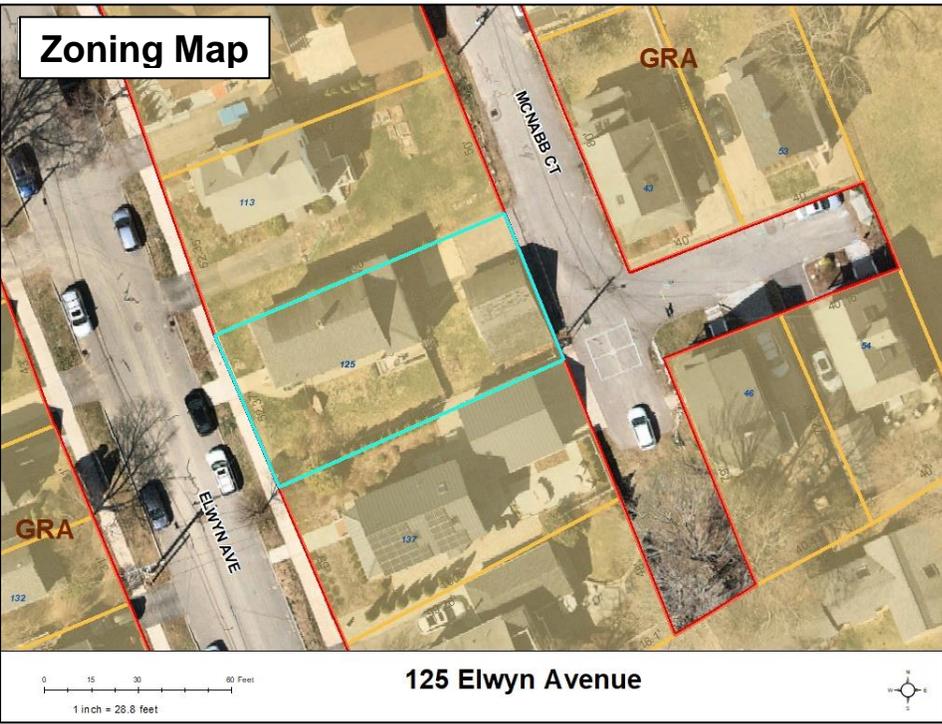
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Two family	Demo garage/build free-standing dwelling	Primarily residential uses
<u>Lot area (sq. ft.):</u>	5,118	5,118	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,559	2,559	7,500 min.
<u>Street Frontage (ft.):</u>	52	52	100 min.
<u>Lot depth (ft.):</u>	100	100	70 min.
<u>Primary Front Yard (ft.):</u>	14	14	15 min.
<u>Left Side (ft.):</u>	2'4"	5	10 min.
<u>Right Side (ft.):</u>	>10 (house) 2 (garage)	2 (new structure)	10 min.
<u>Secondary Front Yard (ft.):</u>	1(garage)	1 (new structure)	15 min.
<u>Height (ft.):</u>	<35	21 (new structure)	35 max.
<u>Building Coverage (%):</u>	34	39	25 max.
<u>Open Space (%):</u>	>30	>30	30 min.
<u>Parking</u>	3	4	3
<u>Estimated Age of Structure:</u>	1910	Variance request(s) shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The existing dwelling is a two-family and the applicant is proposing to demolish the existing garage and construct a new garage with a dwelling unit above and converting the main structure into a single-family dwelling. The new structure is considered a free standing dwelling, which requires a variance to allow more than one on a lot in the GRA. The applicant is proposing to remove the rear addition from the main dwelling and construct a new rear addition and reduce the encroachment into the left side yard. The applicant postponed the request due to minor revisions to the deck and mudroom on the main dwelling which resulted in a slight decrease in the building coverage from 39% to 38.3. If the Board grants approval, the following stipulation should be considered:

The maximum allowable building coverage shall be 38.5%.

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.

2.

Request of **C. P. Schoff & T. C. Revocable Trust, (Owner)**, for the property located at **134 Fairview Avenue** whereas relief is needed from the Zoning Ordinance to demolish existing dwelling and construct a new single-family dwelling which requires the following: 1) Variances from Section 10.521 to allow a) a lot area of 14,226 square feet where 15,000 is required; and b) a lot area per dwelling unit of 14,226 square feet where 15,000 is required. Said property is show on Assessor Map 220 Lot 63 and lies within the Single Residence B (SRB) District.

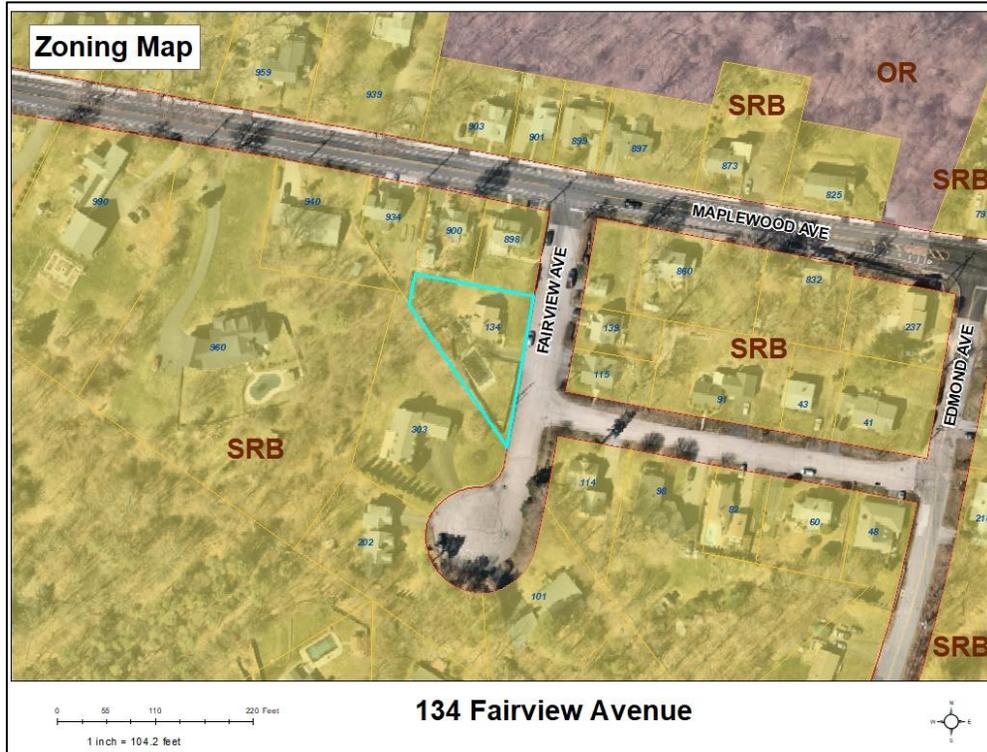
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Demo existing/construct new single family	Primarily residential uses
<u>Lot area (sq. ft.):</u>	14,226	14,226	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	14,226	14,226	15,000 min.
<u>Street Frontage (ft.):</u>	169	169	100 min.
<u>Lot depth (ft.):</u>	166	166	100 min.
<u>Front Yard (ft.):</u>	27	20*	30 (11 per averaging) min.
<u>Left Yard (ft.):</u>	50		10 min.
<u>Right Yard (ft.):</u>	24	15	10 min.
<u>Rear Yard (ft.):</u>	74	74	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u> :	<20	15	20 max.
<u>Open Space Coverage (%)</u> :	>40	>40	40 min.
<u>Parking</u>	2	4	2
<u>Estimated Age of Structure:</u>	1954	Variance request(s) shown in red. *per Section 10.516.10 average front yard is 11 feet	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing to demolish the existing house and pool and construct a new single family dwelling. The existing lot is less than the 15,000 required for the SRB district, thus the need for variances for lot area and lot area per dwelling unit.

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.

3.

Request of **Malloy Revocable Trust, (Owner)**, for the property located at **52 Prospect Street** whereas relief is needed from the Zoning Ordinance to demolish existing rear addition and construct a 2-story rear addition which requires the following: 1) Variances from Section 10.521 to allow a) a 1.5' left side yard where 10' is required; and b) 30.5% building coverage where 25% is the maximum allowed. 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. Said property is show on Assessor Map 141 Lot 13 and lies within the General Residence A (GRA) and Historic Districts.

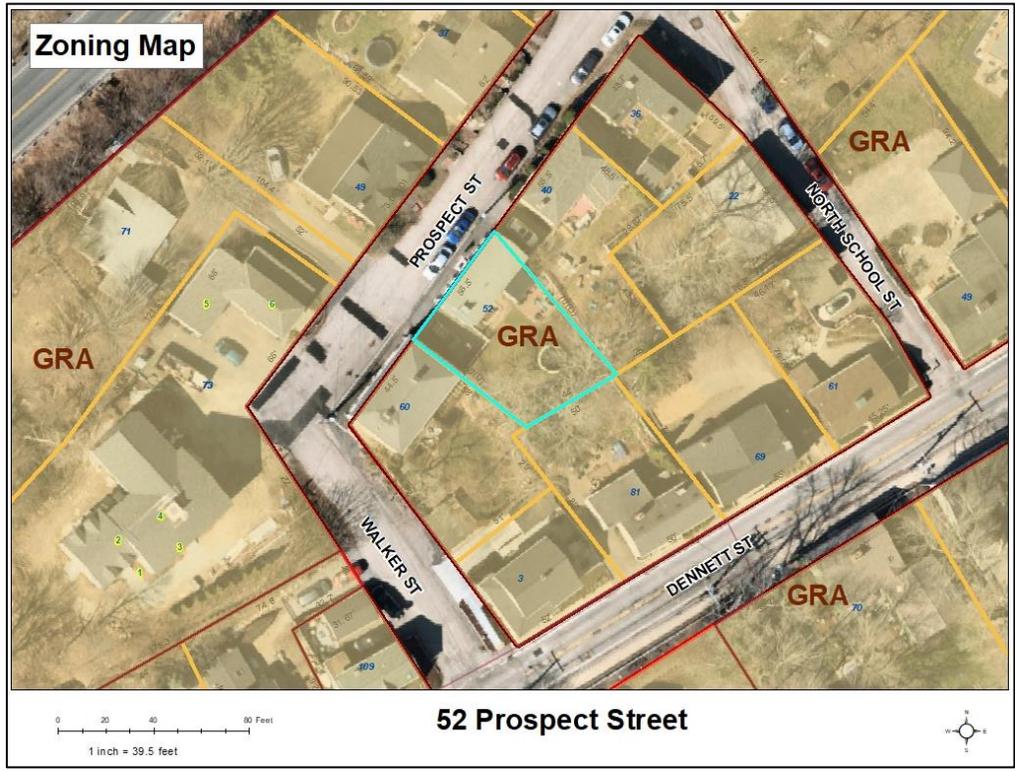
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	2-story rear addition	Primarily residential uses
<u>Lot area (sq. ft.):</u>	2,980	2,980	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,980	2,980	7,500 min.
<u>Street Frontage (ft.):</u>	56.5'	56.5'	100 min.
<u>Lot depth (ft.):</u>	60	60	70 min.
<u>Front Yard (ft.):</u>	0	0	15 min.
<u>Left Yard (ft.):</u>	0	1.5'	10 min.
<u>Right Yard (ft.):</u>	16	16	10 min.
<u>Rear Yard (ft.):</u>	44	37	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%)</u> :	26	30.5	25 max.
<u>Open Space Coverage (%)</u> :	58	53	30 min.
<u>Parking</u>	2	2	2
<u>Estimated Age of Structure:</u>	1830	Variance request(s) shown in red.	

Other Permits/Approvals Required

Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing demolish a one-story rear addition and construct a new, two-story addition. The existing rear left corner of the house sits on the property line and the stoop and stairs extend over the left side property line onto the adjacent property. The elements that extend over the lot line will be removed and the new addition will be constructed towards the interior of the lot and will result in an increase of 4.5% from the existing building coverage.

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.

4.

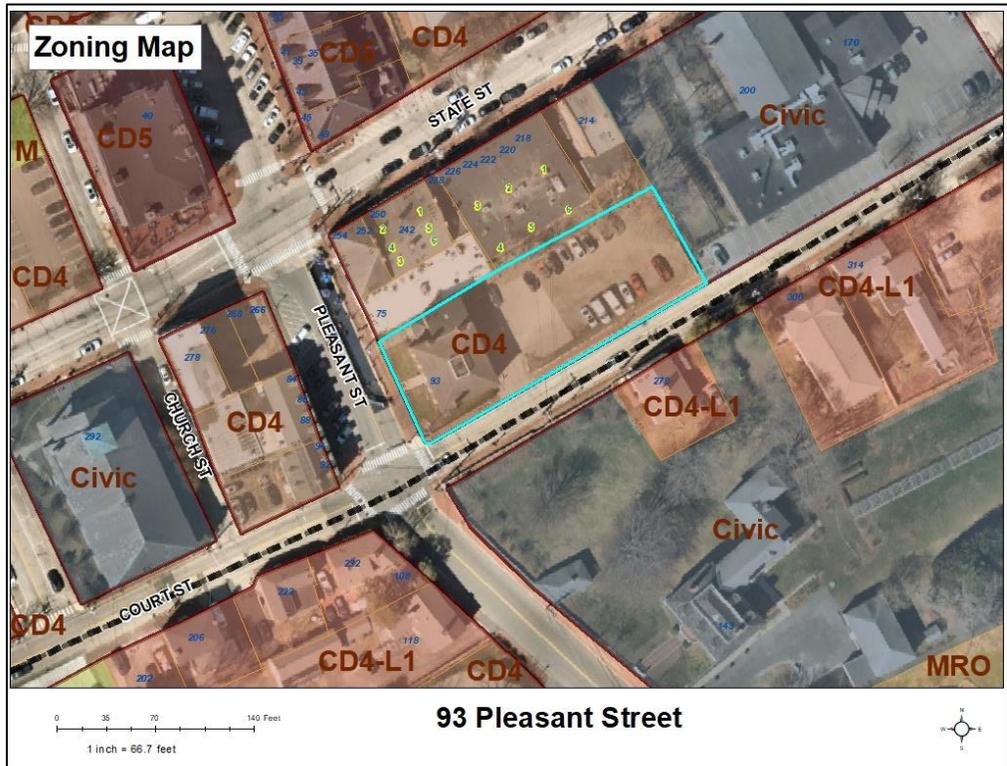
Request of **Dagny Taggart, LLC, (Owner)**, for the property located at **93 Pleasant Street** whereas relief is needed from the Zoning Ordinance for the redevelopment of existing 4-story structure and construction of new structure totaling 52 living units which requires the following: 1) Variances from Section 10.5A41.10C to allow a) a finished floor surface of the ground floor to be 60" where 36" is the maximum allowed; b) a ground story height of 10'6" where 12' is the minimum required; and c) to allow entrance spacing greater than 50' where 50' is the maximum. 2) A Variance from Section 10.5A41.10C & 10.642 (1) to allow residential uses on the ground floor where it is prohibited in the Downtown Overlay District. 3) A Variance from Section 10.5A44.35 to allow an above-ground portion of a parking structure without a liner building. Said property is show on Assessor Map 107 Lot 74 and lies within the Character District 4 (CD4), Historic and Downtown Overlay Districts.

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	office	Mixed-use development	Primarily mixed uses
<u>Lot area (sq. ft.):</u>	17,498	17,498	NR min.
<u>Front Yard (ft.):</u>	19	19	10 max.
<u>Left Yard (ft.):</u>	6"	5	NR max.
<u>Secondary Front Yard (ft.):</u>	9	6	15 max.
<u>Rear Yard (ft.):</u>	158	9	5 min.
<u>Height (ft.):</u>	35'9"	32'9"	35 max.
<u>Building Coverage (%)</u>	19	66	90 max.
<u>Open Space Coverage (%)</u>	14	27	10 min.
<u>Finished floor above sidewalk</u>	54	60"	36" max.
<u>Ground story height (ft):</u>	11'6"	10'8"	12 min.
<u>Entrance spacing (ft):</u>	—	95'	50 max.
<u>Parking</u>		18*	35
<u>Estimated Age of Structure:</u>	1818	Variance request(s) shown in red. *Applying CUP for reduced parking	

Other Permits/Approvals Required
Planning Board/TAC – Site Review/Parking CUP
Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

April 25, 1995 - The Board granted a Special Exception to erect a 40' x 100' temporary tent on May 25th – May 30th and August 17th – August 22nd to be used for an art and furniture auction with a stipulation that a \$500 bond be posted to the City for which event in May 1995 and again in August 1995 to ensure removal of the tents.

May 17, 1994 - The Board granted a Special Exception to erect a 40' x 100' tent on August 20 – August 27th to be used for an art and furniture auction with a stipulation that a \$500 bond be posted to the City to ensure the removal of the tents.

June 28, 1988 – The Board denied an appeal of the Historic District Commission decision pursuant to Article X, Section 10-1008 for the construction of a 9,000 square foot building on a lot 10,952 s.f.

Planning Department Comments

The applicant is proposing to redevelop the property which includes adding on an 8,150 square foot addition to the Treadwell Mansion to accommodate 44 micro unit apartments. The existing structure will have office space on the ground floor and 8 apartments in the upper floors for a total of 52 units when complete. The addition along Court Street will consist of residential units, including on the ground floor level, which is not allowed in the Downtown Overlay District (DOD). The applicant is seeking a parking conditional use permit to allow 18 spaces where 35 are required. The original application indicated one of the parking spaces would be located on the ground floor and the Ordinance requires a liner building along that portion, which is not proposed, thus the need for a variance. The proposed entrance has been relocated to where the current driveway is for the parking lot. A revised memo and site plan have been provided and the applicant has indicated additional parking spaces need relief including spaces 10, 11, 12 and the scooter space.

UPDATE: After further review of the revised changes to the entrance location, all of the parking will be located in the basement, more than 6 feet below the finished grade, therefore eliminating the need for relief from Section 10.5A44.35

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

1.

Request of **Richard E. Tully Revocable Trust and Madeline F. Tully Revocable Trust, (Owners)**, for the property located at **194 Madison Street** whereas relief is needed from the Zoning Ordinance to convert a single family dwelling into a two-family dwelling which requires the following: 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 1,219 square feet where 3,500 is required. Said property is shown on Assessor Map 146 Lot 17 and lies within the General Residence C (GRC) District.

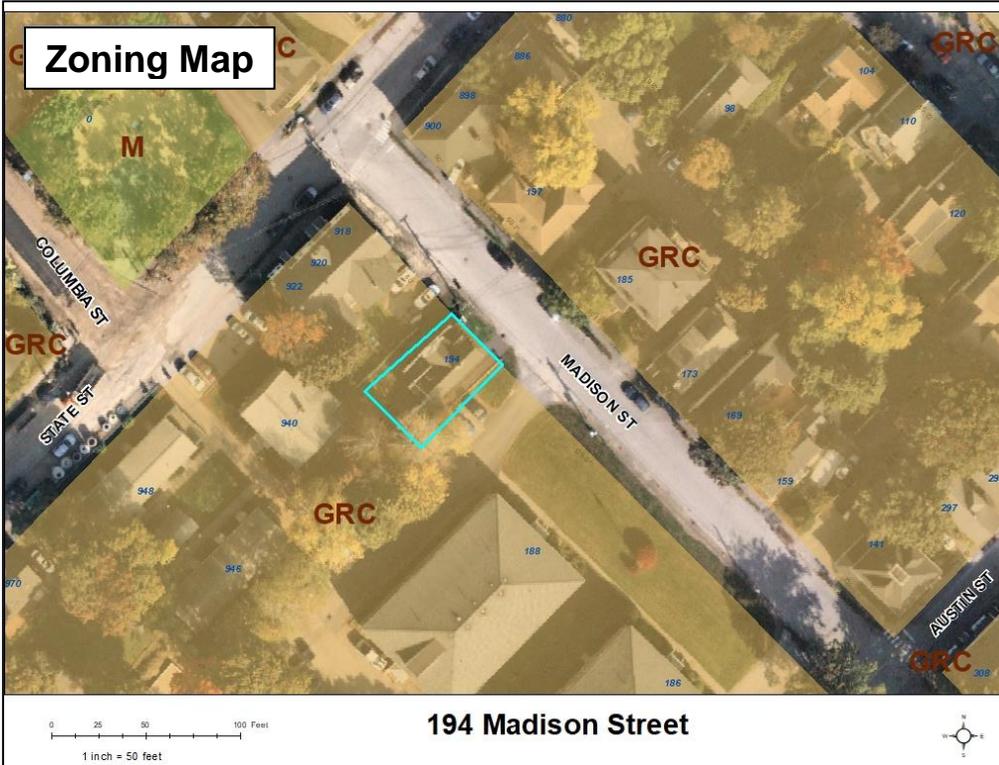
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Convert to two family	Primarily residential uses
<u>Lot area (sq. ft.):</u>	2,439	2,439	3,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,439	1,219	3,500 min.
<u>Street Frontage (ft.):</u>	38	38	70 min.
<u>Lot depth (ft.):</u>	61	61	50 min.
<u>Primary Front Yard (ft.):</u>	6	6	5 min.
<u>Left Side (ft.):</u>	0	0	10 min.
<u>Right Side (ft.):</u>	9	9	10 min.
<u>Rear Yard (ft.):</u>	1	1	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	38	38	35 max.
<u>Open Space (%):</u>	>20	>20	20 min.
<u>Parking</u>	4	4	3
<u>Estimated Age of Structure:</u>	1880	Variance request shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is seeking a variance to convert the dwelling into a two family. Initially, the applicant was going to seek a Special Exception under Section 10.812 which allows for the conversion of a dwelling existing on January 1, 1980 to be converted to more than one dwelling unit if it meets certain criteria including compliance with open space, maximum building coverage and off-street parking. If all the criteria were met, the lot area per dwelling unit could be reduced to 1,000 per unit in the GRC. Unfortunately, they do not comply with the maximum building coverage, thus the reason for requesting a variance for lot area per dwelling unit. The applicant states there are no exterior changes, only interior modifications for the conversion.

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.

2.

Request of **Cyrus B. and Robin B. Noble, (Owners)**, for the property located at **15 Mount Vernon Street** whereas relief is needed from the Zoning Ordinance to addition over existing garage which requires the following: 1) Variances from Section 10.521 to allow a) a 2.5' front yard where 5' is required; b) an 8.5' right side yard where 10' is required; and c) a 20' rear yard where 25' 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. Said property is located on Assessor Map 111 Lot 33 and is located in the General Residence B (GRB) and Historic districts.

Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Addition over garage	Primarily residential uses
<u>Lot area (sq. ft.):</u>	3,920	3,920	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	3,920	3,920	5,000 min.
<u>Street Frontage (ft.):</u>	55	55	60 min.
<u>Lot depth (ft.):</u>	70	70	80 min.
<u>Primary Front Yard (ft.):</u>	2.5	2.5'	5 min.
<u>Left Side (ft.):</u>	13	13	10 min.
<u>Right Side (ft.):</u>	8.9	8.5'	10 min.
<u>Secondary Front Yard (ft.):</u>	20	20	25 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	36	36	30 max.
<u>Open Space (%):</u>	53	53	25 min.
<u>Parking</u>			
<u>Estimated Age of Structure:</u>	1800	Variance request(s) shown in red.	

Other Permits/Approvals Required

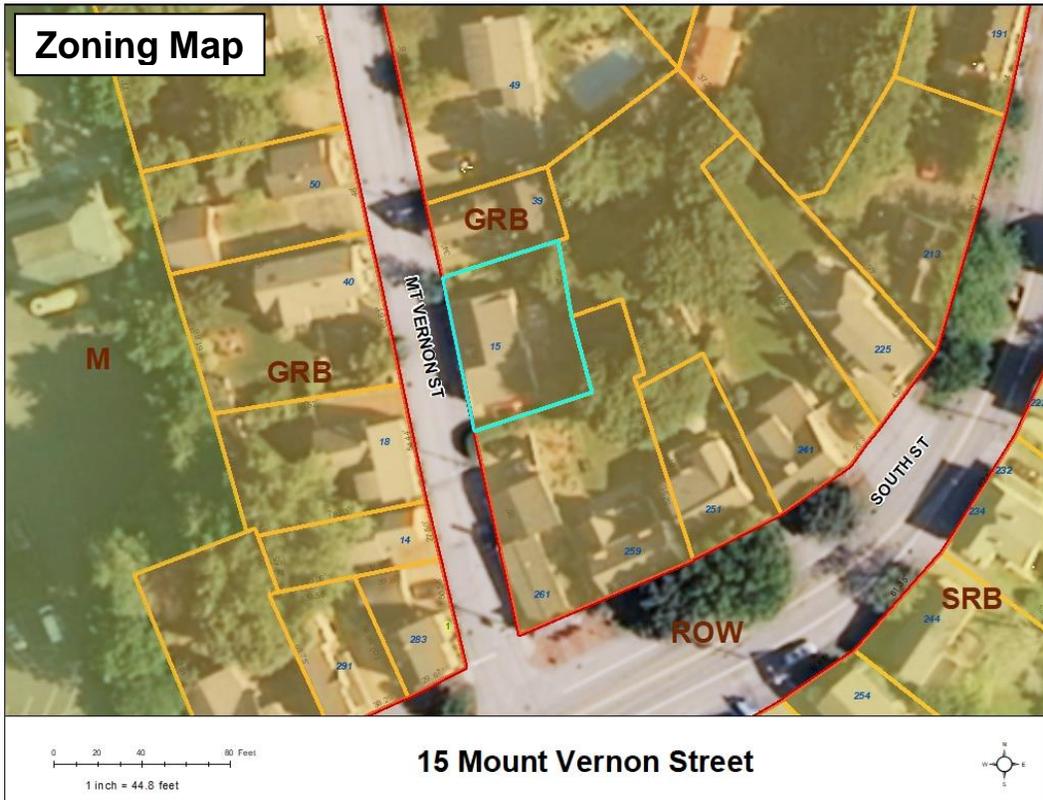
Historic District Commission

Neighborhood Context

Aerial Map



Zoning Map



Previous Board of Adjustment Actions

July 23, 2019 – The Board granted relief for allow an addition over the existing garage which required the following:

1. A Variance from Section 10.521 to allow the following: a) a 2.5' front yard where 5' is required; b) an 8.9' right side yard where 10' is required; and c) a 20' rear yard where 25' 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.

Planning Department Comments

The above variances were granted on July 23, 2019 and expired this past July without obtaining a building permit or requesting an extension. The property has since come under new ownership and the new owners were unaware the variances had expired. They wish to build what was originally approved and are seeking the same relief that was granted in 2019 which includes an upward expansion above the garage and along the back of the house within the existing footprint. The existing house encroaches into the front, right side and rear yards, requiring relief for the proposed addition. There will be no increase in footprint. An 8.9 foot right yard variance was granted previously, however the legal notice states and 8.5' right side yard to account for a plus/minus and allow for some flexibility, but no changes have been made to the design from what was originally presented in 2019.

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.

3.

Request of **Monarch Family Trust of 2018, (Owner)**, for the property located at **45 Miller Avenue** whereas relief is needed from the Zoning Ordinance for an addition of a covered front porch and conversion of existing balcony into enclosed bathroom which requires the following: 1) Variances from Section 10.521 to allow a) an 8' left side yard where 10' is required; and b) 28% building coverage where 25% is the maximum allowed. 2) A Variance from Section 10.321 to allow a nonconforming building or structure to be expanded, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on assessor Map 129 Lot 21 and lies within the General Residence A (GRA) district.

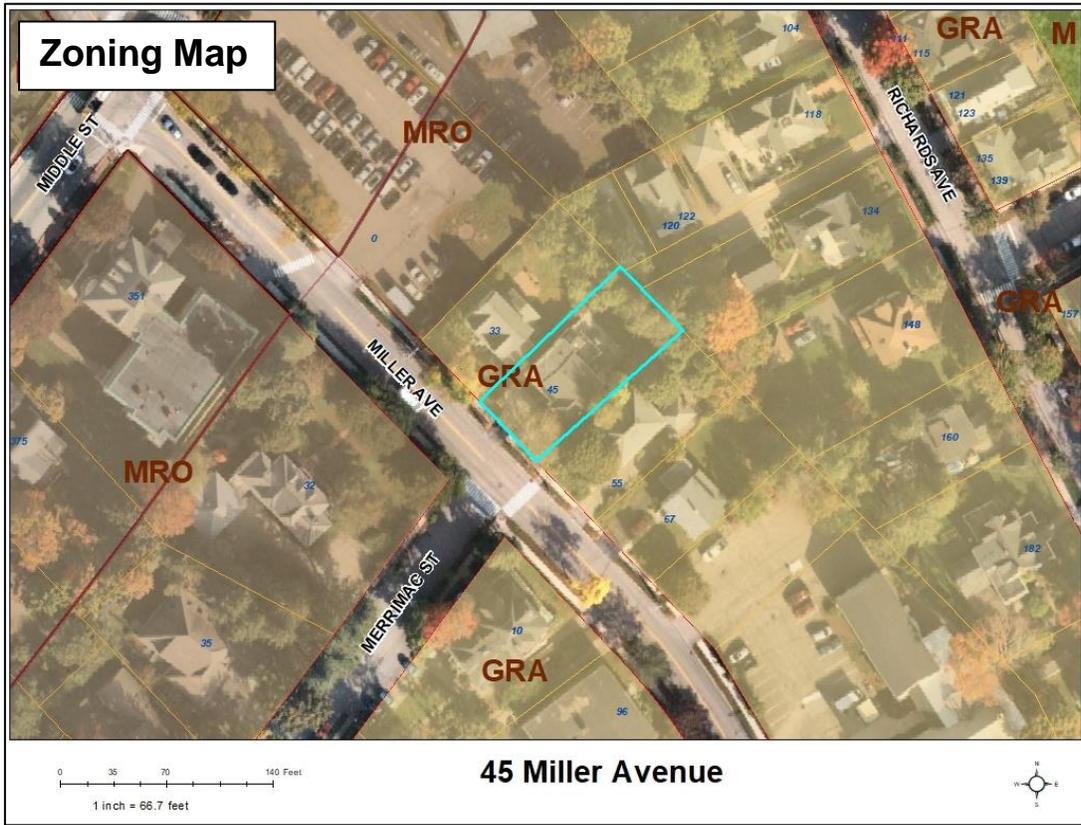
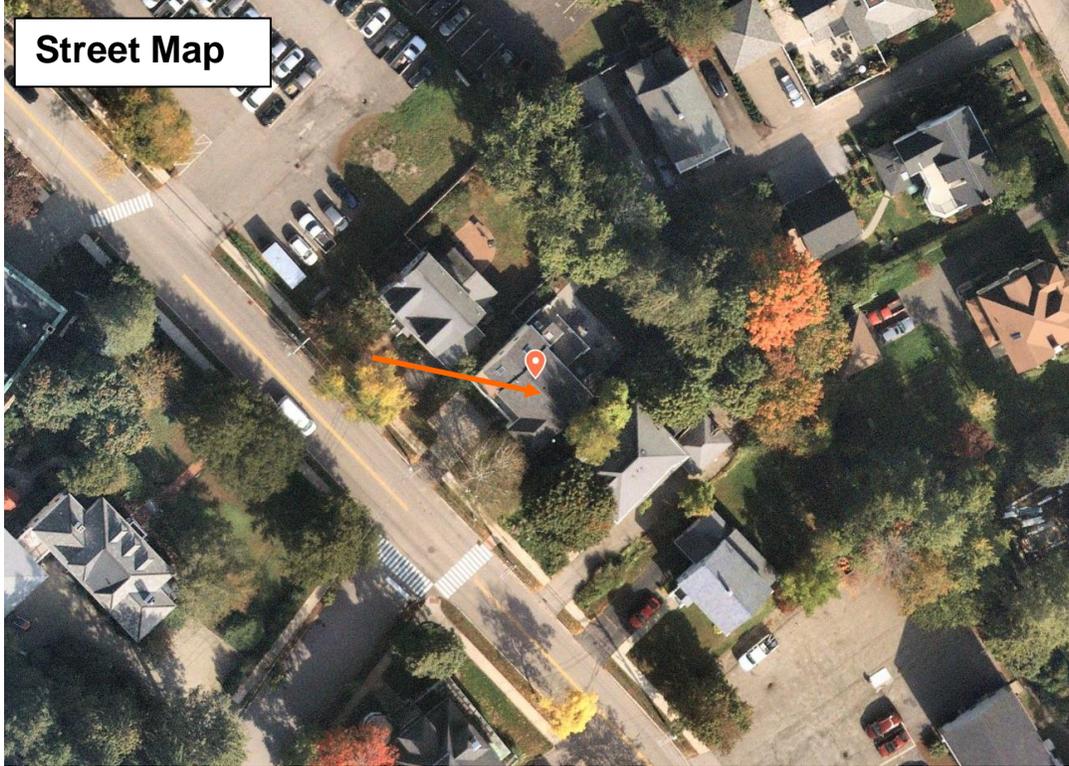
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single-family	Covered front porch/enclose balcony for bathroom	Primarily residential
<u>Lot area (sq. ft.):</u>	7,239	7,239	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	7,239	7,239	7,500 min.
<u>Lot depth (ft.):</u>	127	127	70 min.
<u>Street Frontage (ft.):</u>	55	55	100 min.
<u>Primary Front Yard (ft.):</u>	24'10"	24'10"	15 min.
<u>Left Yard (ft.):</u>	8	8	10 min.
<u>Right Yard (ft.):</u>	7	7	10
<u>Rear Yard (ft.):</u>	56'10"	56'10"	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	25.7	28	25 max.
<u>Open Space Coverage (%):</u>	76	72	30 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1938	Variance request(s) shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

July 18, 1995 – The Board **granted** a variance to allow a 12' x23' addition over a one- story family room with a 9' side yard and a height of more than 30' in a district where the permitted side yard was 15' (one half of the building height).

October 16, 2002 – The Board **granted** a variance to allow a 9' x 17' one story addition to the dining room with an 8' right side yard where 10' was required.

July 20, 2010 – The Board **denied** a request to construct a new garage on a diagonally attached piece of land.

September 21, 2010 – The Board voted that Fisher v. Dover did not apply to the petition and **granted** variances to allow the replacement of an existing garage on the same footprint with a 4'8" left side yard and 6'2" right side yard where 10' was required and to allow the expansion of a lawful nonconforming structure and changing of a lawful nonconforming use.

September 18, 2018 – The Board **granted** a request to construct basement and rear house access structures and expand an existing deck.

Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance including the following variance:

a) from Section 10.521 to allow 28%± building coverage where 25% is the maximum allowed.

Planning Department Comments

The applicant is proposing add a front covered porch and enclose an existing balcony as part of a renovation that will add an upstairs bathroom. The existing dwelling is nonconforming to both side yards and building coverage. The existing coverage is just over the 25% maximum and the requested relief is for 28% as stated in the narrative, however the plan shows a proposed coverage of 27.5%.

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.

4.

Request of **Artwill, LLC, (Owner)**, for the property located at **437 Lafayette Road** whereas relief is needed from the Zoning Ordinance for a proposed four (4) lot subdivision which requires the following: 1) Variances from Section 10.521 to allow a) 60.6' of continuous street frontage where 100' is required for proposed Lot 3; and b) 67.2' of continuous street frontage where 100' is required for proposed Lot 4. Said property is shown on Assessor Map 229 Lot 1 and lies within the Single Residence B (SRB) District.

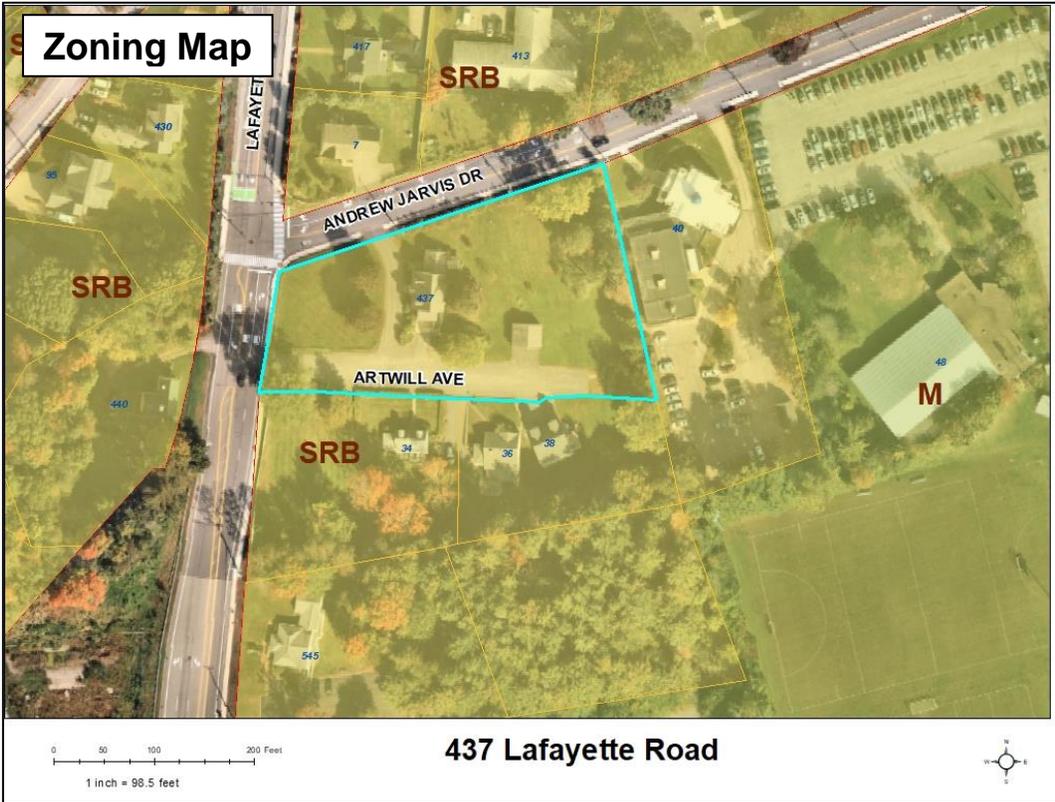
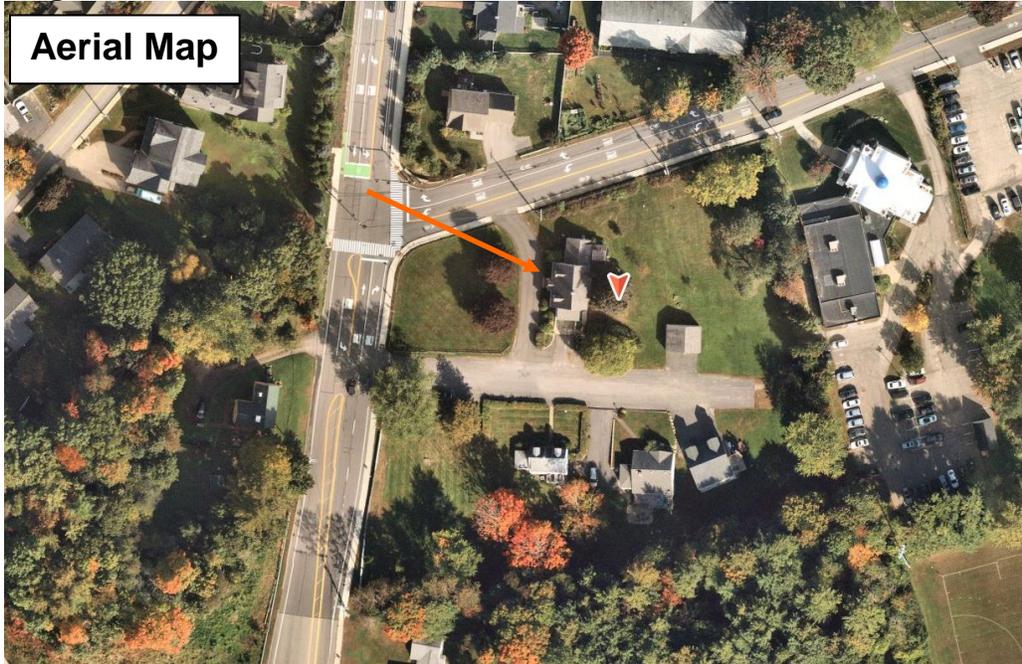
Existing & Proposed Conditions

	Existing	Proposed				Permitted / Required	
		1	2	3	4	Primarily residential uses	
<u>Land Use:</u>	Single family	4 lot subdivision				Primarily residential uses	
<u>Lot area (sq. ft.):</u>	65,568	15,630	15,951	15,049	18,938	15,000	min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	65,568	15,630	15,951	15,049	18,938	15,000	min.
<u>Street Frontage (ft.):</u>	461	234	100.5	60.6	67.2	100	min.
<u>Lot depth (ft.):</u>	392	117	177	184.5	210	100	min.
<u>Primary Front Yard (ft.):</u>	146	NA	29.97*	NA	NA	30	min.
<u>Left Side (ft.):</u>		NA	10	NA	NA	10	min.
<u>Right Side (ft.):</u>	76	NA	29	NA	NA	10	min.
<u>Rear Yard (ft.):</u>	172	NA	76	NA	NA	30	min.
<u>Height (ft.):</u>	<35	NA	<35	NA	NA	35	max.
<u>Building Coverage (%):</u>	4.4	0	14.5	0	0	20	max.
<u>Open Space (%):</u>	>40	>40	>40	>40	>40	40	min.
<u>Parking</u>	4	4	NA	NA	NA	2	
<u>Estimated Age of Structure:</u>	1937	Variance request(s) shown in red. *see staff comments					

Other Permits/Approvals Required

TAC/Planning Board – Subdivision/Site Review

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is seeking variances for frontage on two proposed lots in a four lot subdivision of the subject property. The applicant states this was part of a subdivision shown on a plan from 1958 but has since been treated as one lot. In an effort to make the lots more conforming to the current zoning, all of the proposed lots will exceed the 15,000 square foot minimum for lot area. The existing dwelling will remain on proposed lot 2 and conform to all dimensional requirements, however the new principal front will be located off of Andrew Jarvis. The survey shows the front yard setback as 29.97 feet where 30 feet is required. This was not included as a variance request, and if granted approval, staff would recommend the Board acknowledge the nonconformity with the front yard for lot 2 for the existing structure.

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.