

TO: Zoning Board of Adjustment
FROM: Peter Stith, AICP, Planning Department
DATE: April 13, 2022
RE: Zoning Board of Adjustment April 19, 2022

OLD BUSINESS

1. 0 Sims Avenue (11 Fletcher) – Request for Extension
2. 686 Maplewood Avenue – Request for Extension
- 3 & 4. Congress Street - Appeal of Administrative Decision/Variance – REQUEST TO POSTPONE

NEW BUSINESS

1. 32 Monteith Street
2. 212 Woodbury Avenue
3. 240 Hillside Drive
4. 138 Gates Street
5. 328 Aldrich Road
6. 635 Sagamore Avenue
7. 629 Broad Street

OLD BUSINESS

1.

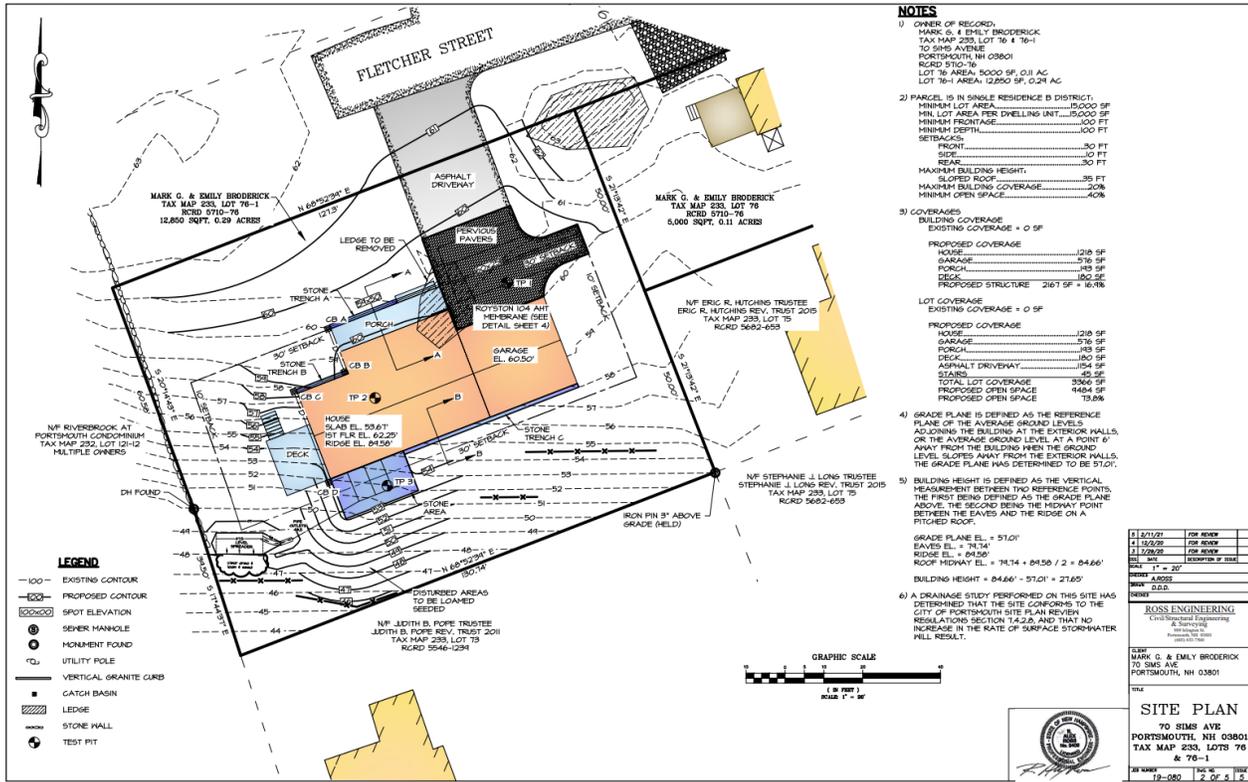
Petition of **Lancen & Sophie LaChance , Owners**, for property located on **Sims Avenue** wherein relief is needed from the Zoning Ordinance to construct a single family dwelling on a nonconforming lot which requires: 1) A Variance from Section 10.521 to allow the following: a) a lot area and lot area per dwelling unit of 12,850 square feet where 15,000 square feet is required for each; and b) 57 feet of continuous street frontage where 100 feet is required. Said property is shown on Assessor Map 233 Lot 76-1 and lies within the Single Residence B (SRB) District.

The above variances were granted on April 21, 2020 with the following stipulation:

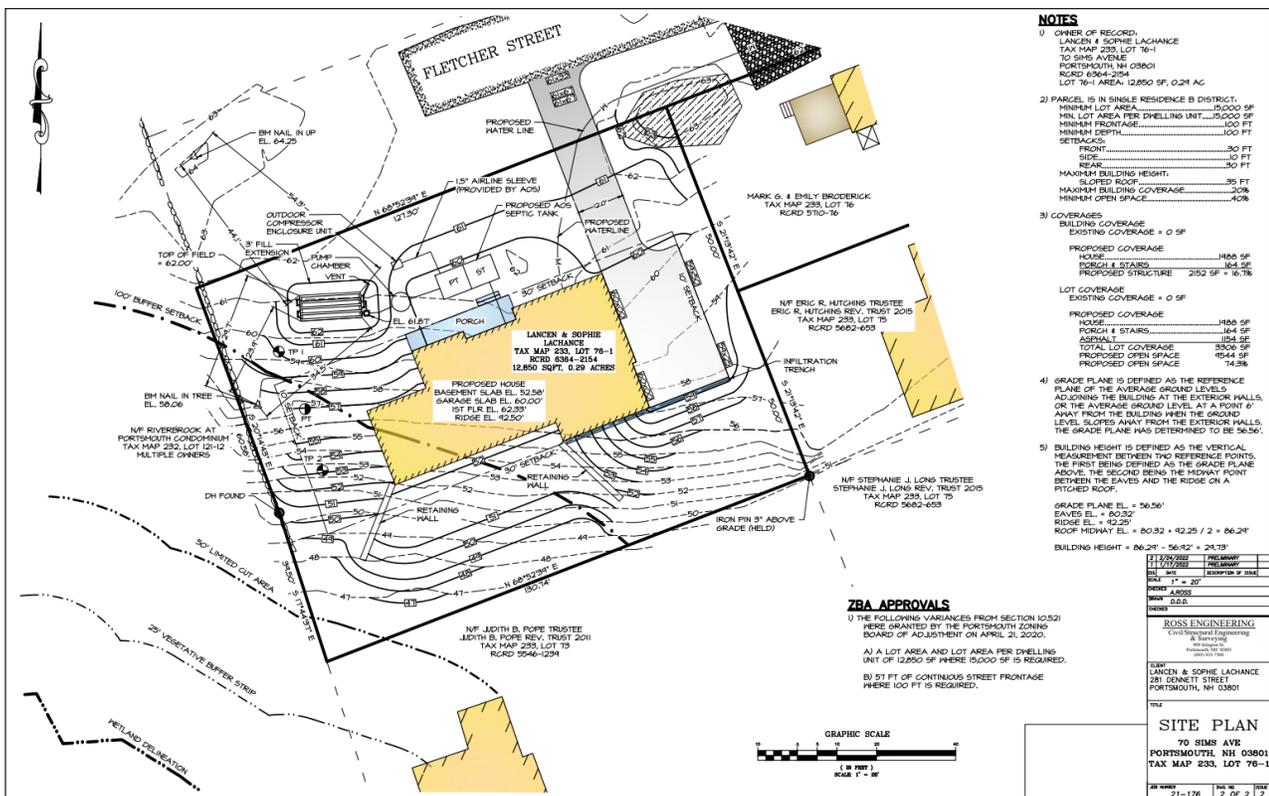
- 1) An engineered drainage and water runoff evaluation must be conducted for any proposed development of the lot and this evaluation must be approved by the Department of Public Works and the Inspection Department before granting a Building Permit.

A drainage plan was provided and approved by DPW based on the original house design. Since then, the lot has changed ownership and the new owners have modified the house design which will require an updated drainage plan. It is the understanding of staff that a revised drainage evaluation is being worked on for the revised design of the house from what was previously before the Board. Below is a comparison of what was originally approved vs what is proposed. If the Board grants the extension, staff would recommend the Board acknowledging the change and affirming the original stipulation requiring the drainage evaluation prior to the issuance of a building permit.

Original:



Proposed:



April 19, 2022 Meeting

2.

Request of the **Islamic Society of the Seacoast Area, Owner**, for property located at **686 Maplewood Avenue** wherein relief is needed from the Zoning Ordinance to construct a 4,000± s.f. building to house a religious place of assembly which includes the following: 1) A Special Exception under Section 10.440, Use #3.11 to allow a religious place of assembly in a district where the use is only allowed by Special Exception; and 2) A Variance from Section 10.521 to allow 47'± of continuous street frontage where 100' is required. Said property is shown on Assessor Map 220 Lot 90 and lies within the Single Residence B (SRB) District.

The above requests were granted on April 21, 2020. Original approval for the same requests were granted in 2017 and a subsequent 1 year extension in 2019 that expired on February 21, 2020. The applicant came back before the Board in April of 2020 and is now seeking a one-year extension, which if granted, would expire on April 21, 2023.

3.

REQUEST TO POSTPONE

Request of **Francis X. Bruton, (Attorney for Appellants)**, for Appeal of Administrative decision that the merged lot at **1 Congress** is not subject to the height allowances (2 stories, 4th short, 45 feet in height) pursuant to Map 10.5A21B and as permitted pursuant to Section 10.5A21.22(a) & (c) of the Zoning Ordinance. Said property is shown on Assessor Map 117 Lot 14 and lies within Character District 4 (CD-4), Character District 5 (CD-5) and the Historic District.

The appellants are appealing an administrative decision made by the Planning Director with regard to the proposed development on the recently merged parcels at 1 Congress Street. Below is the email from the Planning Director to the applicant stating that Section 10.5A21.22(c) does apply to this portion of the property and a variance is needed to allow the additional story and height. Additionally, a sketch showing how the height would be applied to this portion, showing the 50 foot setback from both High Street and Haven Court. The original request for the variance is the second item on the agenda and will be heard if the appeal is denied. If the appeal is granted, the applicant should withdraw the variance request, as it will not be needed if the decision of the Planning Director is overturned.

 Reply
  Reply All
  Forward


 Wed 2/23/2022 3:14 PM
Beverly M. Zendt
RE: 1 Congress Street

To FX Bruton; Nicholas J. Cradnell
 Cc Mark McNabb; Peter M. Stith

 Message
  RE: Tax Map 117, Lot 15 and Tax Map 117, Lot 14 Case: LU-22-12 (282 KB)

 Exhibit 1 - 1 Congress Street.pdf (532 KB)

Good afternoon,

In response to your subsequent request for further consideration of our interpretation of Section 10.5A21.22 – Building Height Standards - and the applicability of the Building Height Standards shown under Map 10.5A21B to your client's merged lot at 1 Congress Street, we continue to conclude that your characterization of the current ownership status of Haven Court – being a private way owned in fee by your client with no public interest in property - as well as your interpretation of how the building height standards are applied on a "corner" or "through lots" to be incorrect.

As shown on the "Verra Plan" (11/22/05) that you provided, portions of Haven Court appear to be owned in fee by the city and it is unclear whether the area labelled as a "private way" on the plan is accurate. Map 10.5A21B shows the building height standards for both High Street and the full length of Haven Court. As such, the application of the building height standards are based on the "front lot line(s)", "street" or "water body" that fronts along the property. The Zoning Ordinance defines a "front lot line" follows:

Lot line, front

A boundary of lot that separates the lot from a street or public place. In the case of a corner lot or waterfront lot, the front lot line shall be the line bordering the street on which the lot has its address. A corner lot or a through lot shall have two front lot lines.

Given we believe that your client's merged lot fronts on three public streets, we agree that Section 10.5A21.22(C) allows for an increase in building height on the merged lot but importantly, it also restricts the increased height allowance to areas more than 50 feet from a front lot line(s). Thus, as shown in the attached Exhibit, a dimensional variance would be required for any increase in the maximum building height within 50 feet of High Street or Haven Court.

In closing, even if Haven Court was deemed not to qualify as a "street" or "public place", thereby potentially nullifying its building height designation on Map 10.5A21B, the presence of the lower height standard along High Street would still prevent a new building from being taller than 3 stories or 40' within 50 feet of High Street due to the corner lot provisions of the definition of front lot line stated above. Thus, regardless of the ownership status of Haven Court, we continue to support the need for a dimensional variance for your proposed project as currently designed.

Please contact me if I can provide any additional information.

Best Regards,

Beverly Mesa-Zendt AICP
Director | Planning Department
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

☎ **(603) 610-7216**

✉ Bmz@cityofportsmouth.com

📍 [Planning Department | City of Portsmouth](#)



Exhibit A – 1 Congress Street Project – Maximum Building Height (# Stories / Feet)*

**Assumes Haven Court qualifies as a public street or public place*

4. REQUEST TO POSTPONE

Request of **One Market Square LLC (Owner)**, for the property located at **1 Congress Street** whereas relief is needed to construct a 3 story addition with a short 4th story and building height of 44'-11" which requires the following: 1) A Variance from Section 10.5A.43.31 and Map 10.5A21B to allow a 3-story addition with a short 4th and building height of 44'-11" where 2 stories (short 3rd) and 40' is the maximum allowed. Said property is shown on Assessor Map 117 Lot 14 and lies within Character District 4 (CD-4), Character District 5 (CD-5) and the Historic District.

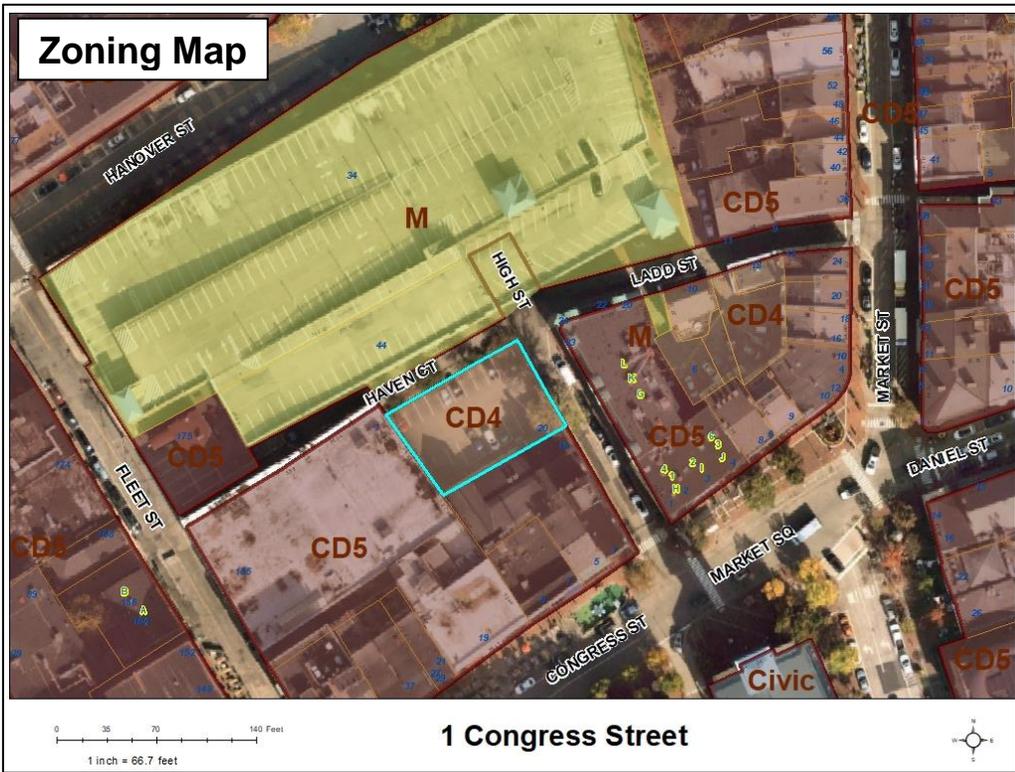
Existing & Proposed Conditions

TABLE IS FOR CD4 ZONING	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Mixed use/parking lot	4 story addition	Primarily mixed uses
<u>Primary Front Yard (ft.):</u>	NA	1'6"	15 max.
<u>Right Yard (ft.):</u>	NA	15	NR
<u>Left Yard (ft.):</u>	NA	0	NR
<u>Rear Yard (ft.):</u>	NA	10	Greater of 5' from rear lot line or 10' from CL of alley min.
<u>Height (ft.):</u>	NA	3 stories (short 4th), 44'-11"	2-3 stories, 40' max.
<u>Building Coverage (%):</u>	0	67	90 max.
<u>Open Space Coverage (%):</u>		32	10 min.
<u>Parking:</u>	18	19	4 space credit for Residential/ 0 required for commercial use in DOD
<u>Estimated Age of Structure:</u>	1800	Variance request(s) shown in red.	

Other Permits/Approvals Required

Planning Board/TAC – Site Review and Conditional Use Permit for Parking
Historic District Commission

Neighborhood Context



Previous Board of Adjustment Actions

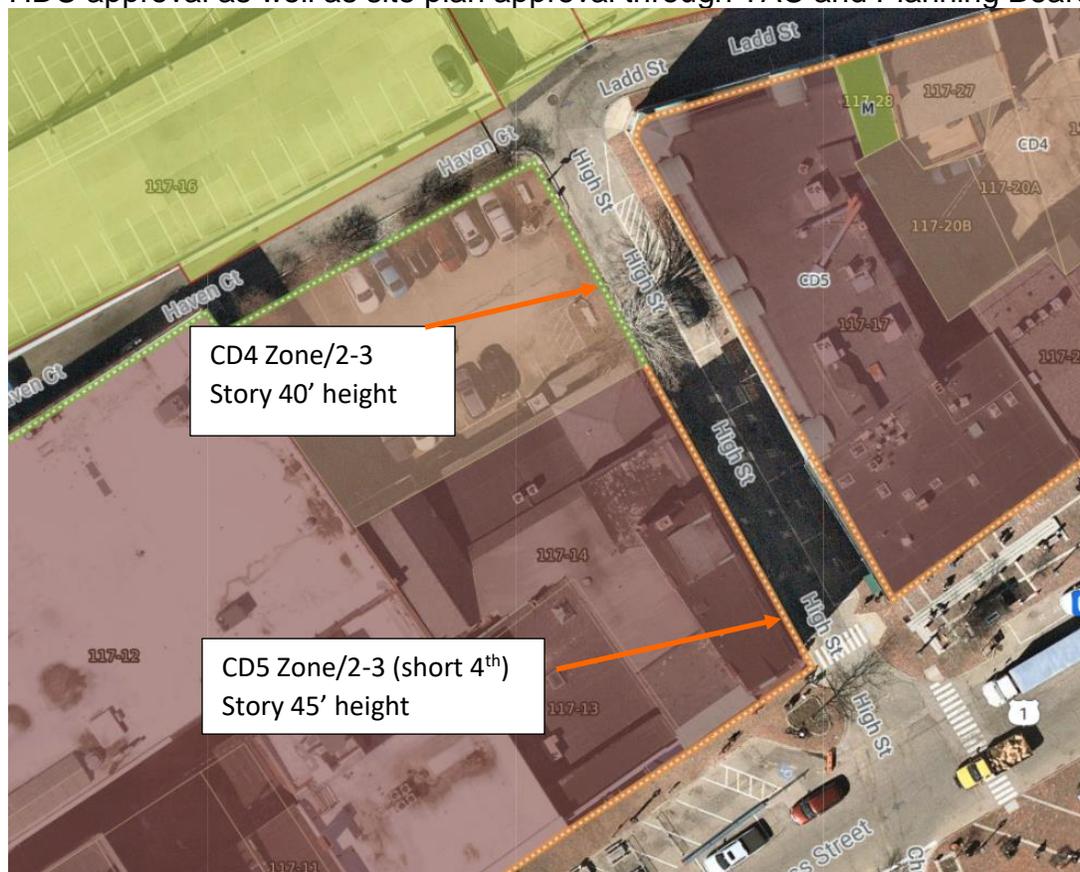
March 29, 2012 – Relief from Zoning Ordinance including:

1. Variance from Section 10.1115.20 and the requirements of 10.1115.30 to allow no off-street parking spaces to be provided where 1 space per 100 s.f. Gross Floor Area is required.
2. Special Exception under Section 10.1113.112 to allow 6 off-street parking spaces to be provided on another lot in the same ownership and within 300' of the property line of the lot in question.

The Board voted to **grant** the Variance as presented. With the granting of the Variance the Board determined the Special Exception would not be required.

Planning Department Comments

The applicant is seeking to merge the two properties and construct a 3-story addition with a short 4th, which requires a variance to do so. The two parcels are zoned differently, one CD4 and one CD5 and both have separate height requirements as shown on the map below. All other dimensional requirements are met with the proposal. The project will need HDC approval as well as site plan approval through TAC and Planning Board.



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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

NEW BUSINESS

1.

The request of **Charles Dudas (Owner)**, for property located at **32 Monteith Street** whereas relief is needed for demolition of existing shed and construction of a 2-story attached garage with accessory dwelling unit which requires the following: 1) Variance from Section 10.521 to allow an 8' right side yard where 10' is required. Said property is shown on Assessor Map 143 Lot 22 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	Attached garage w/ ADU	Primarily residential uses
<u>Lot area (sq. ft.):</u>	30,644	30,644	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	30,644	30,644	7,500 min.
<u>Lot depth (ft.):</u>	140	140	70 min.
<u>Street Frontage (ft.):</u>	312	312	100 min.
<u>Primary Front Yard (ft.):</u>	6	13	15 (6 per front yard averaging) min.
<u>Right Yard (ft.):</u>	32	8	10 min.
<u>Left Yard (ft.):</u>	170	170	10 min.
<u>Rear Yard (ft.):</u>		129	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	5	7	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking:</u>	4	4	3
<u>Estimated Age of Structure:</u>	1900	Variance request(s) shown in red.	

Other Permits/Approvals Required

Planning Board – CUP for Accessory Dwelling Unit

Wetland Conditional Use Permit – Granted June 18, 2020; extension granted June 23, 2021

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is seeking relief to add a new attached garage with accessory dwelling unit above. The garage will encroach into the right side yard 2', thus the requested variance. The property is over 30,000 square feet in size where only 7,500 is required, however the majority of it is encumbered by the 100 wetland buffer, including most of the house.

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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

2.

Request of **Frederick J. Baily III (Owner)**, for the property located at **212 Woodbury Avenue** whereas relief is needed for a lot line adjustment on four lots to create 3 conforming lots with the existing dwelling and demolition of one existing dwelling and construction of 2 duplexes and 4 single family dwellings on one lot which requires the following: 1) Variance from Section 10.513 to allow more than one free-standing principal structure on a lot Said property is shown on Assessor Map 175 Lot 1 and lies within the General Residence A (GRA) District.

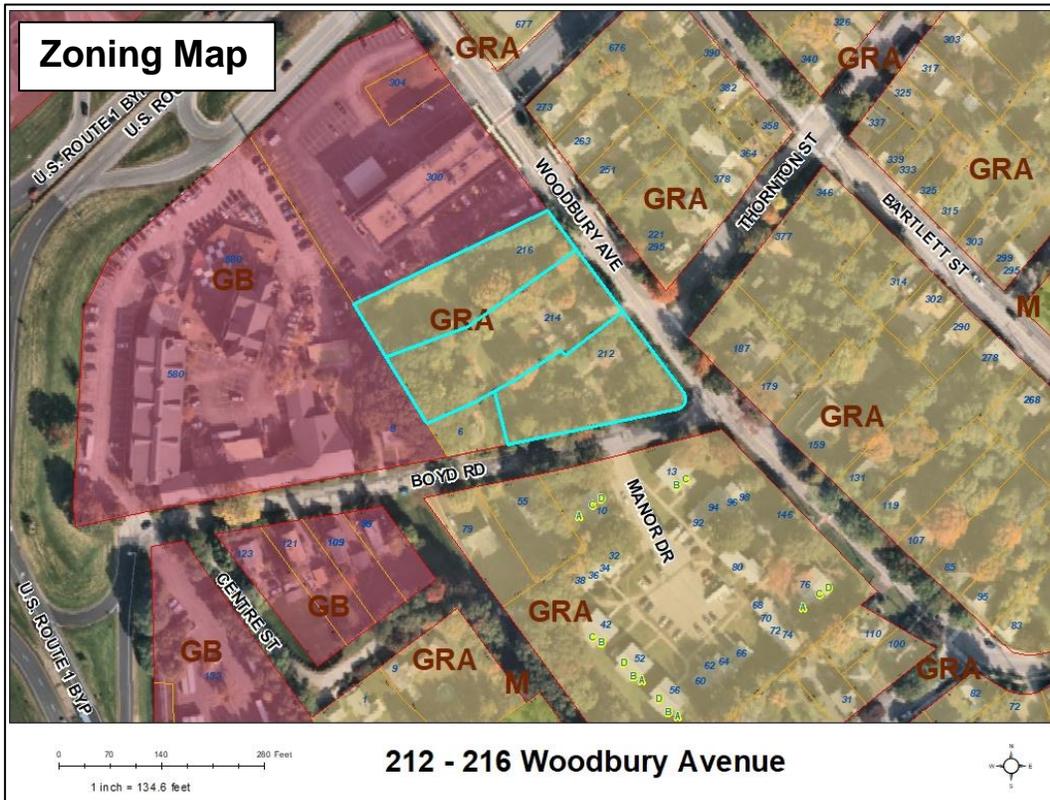
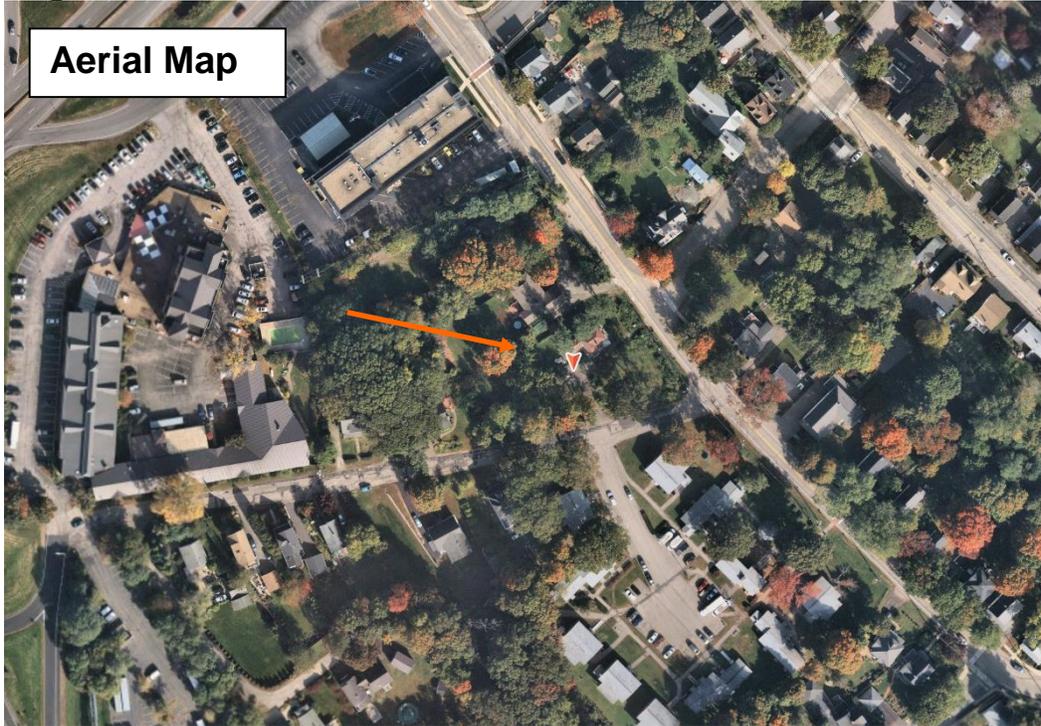
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use: TABLE IS FOR PROPOSE LOT 1</u>	Single family	Construct 2, two-family/ 4 single family dwellings on one lot	Primarily residential
<u>Lot area (sq. ft.):</u>	26,012	60,025	7,500 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	26,012	7,503	7,500 min.
<u>Lot depth (ft.):</u>	>200	>200	70 min.
<u>Street Frontage (ft.):</u>	>400	382	100 min.
<u>Primary Front Yard (ft.):</u>	36	15	15 min.
<u>Secondary Front Yard (ft.):</u>	16	32	15 min.
<u>Side Yard (ft.):</u>	20	10	10
<u>Rear Yard (ft.):</u>	>120	20	20 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	<25	20.5	25 max.
<u>Open Space Coverage (%):</u>	>30	61	30 min.
<u>Parking:</u>	4	16	13
<u>Estimated Age of Structure:</u>	1870	Variance request(s) shown in red.	

Other Permits/Approvals Required

TAC/Planning Board – Lot line adjustment/Site Plan Review

Neighborhood Context



Previous Board of Adjustment Actions

May 16, 2000 – The applicant **withdrew** an application for the following are request:

1) a Variance from Article III, Section 10-301(A)(2) to allow an apartment in the existing dwelling to be relocated to the detached garage, and 2) a Variance from Article II, Section 10-206(4) to allow the detached garage to be expanded by adding a second floor and constructing a 12' x 20' deck.

Planning Department Comments

The applicant is proposing to re-subdivide three lots and create 2 conforming lots on properties located at 214 and 216 Woodbury Ave. The existing lot at 212 Woodbury will be reconfigured to include the rear portions of 214 and 216 to create a 60,025 square foot lot, where the new development will be located. The proposal includes two duplexes and 4 single family dwellings, which will conform to dimensional regulations and lot are per dwelling unit, however only one principal structure is permitted on a lot, therefore the need for a variance to allow the 6 freestanding structures. The project will need to go through TAC and Planning Board for site plan review and re-subdivision.

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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

3.

Request of **Amanda Blanchette (Owner)**, for the property located at **240 Hillside Drive** whereas relief is needed to extend the existing deck which requires the following: 1) Variance from Section 10.521 to allow 22% building coverage where 20% is the maximum allowed. Said property is shown on Assessor Map 231 Lot 43 and lies within the Single Residence B (SRB) District.

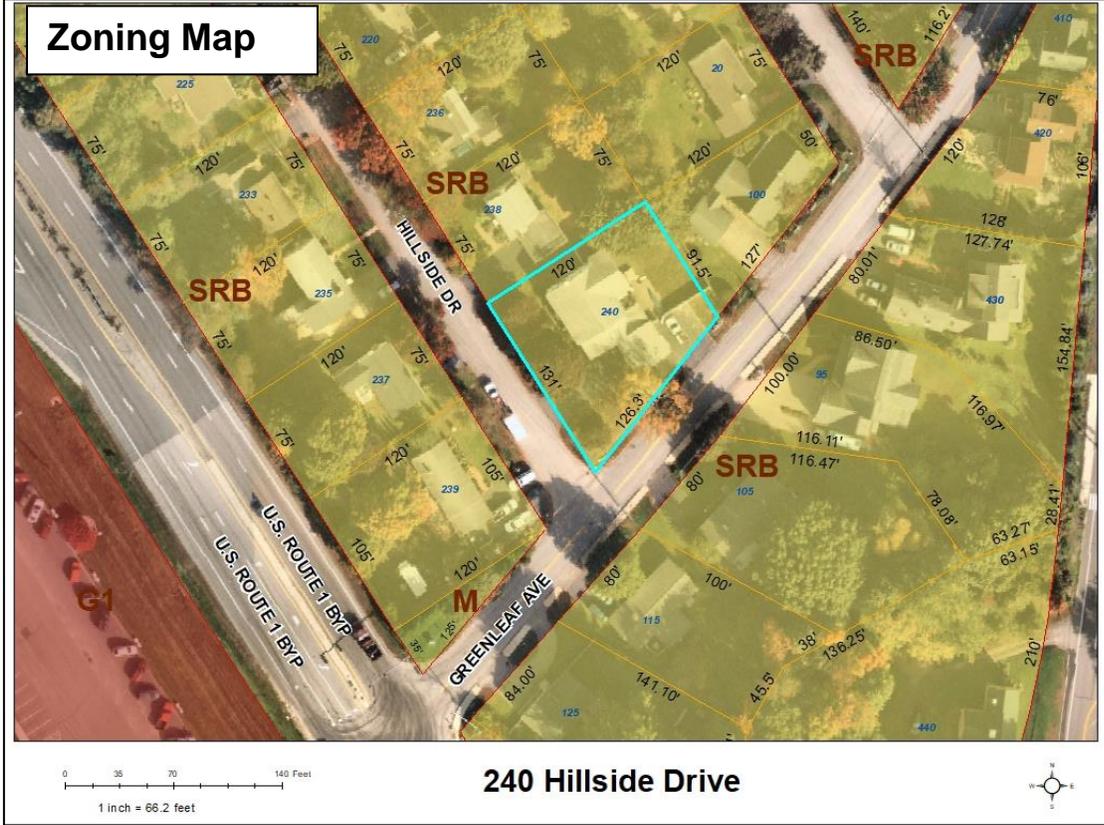
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Extend deck	Primarily residential
<u>Lot area (sq. ft.):</u>	2,625	2,625	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,625	2,625	15,000 min.
<u>Lot depth (ft.):</u>	120	120	100 min.
<u>Street Frontage (ft.):</u>	257	257	100 min.
<u>Primary Front Yard (ft.):</u>	33	33	30 min.
<u>Secondary Front Yard (ft.):</u>	10	10	30 min.
<u>Left Yard (ft.):</u>	11	11	10
<u>Rear Yard (ft.):</u>	30	30	30 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>		22	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking:</u>	4	4	2
<u>Estimated Age of Structure:</u>	1972	Variance request(s) shown in red.	

Other Permits/Approvals Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

June 30, 1987 – The Board **denied** variances to to allow construction of a 24' x45' pool enclosure over existing pool with the following a) 15' rear yard where a 30' rear yard is required and b) building lot coverage of 24.97% where a maximum building lot coverage of 20% is allowed.

Planning Department Comments

The applicant is seeking to add an extension to an existing deck. The property had an in ground pool which has since been removed and the applicant is looking to extend the deck over part of the area where the pool was previously located. The additional decking will increase the building coverage slightly over the 20% maximum allowed to 22%.

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.

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Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

4.

Request of **Sandra L. Smith-Weise (Owner)**, for property located at **138 Gates Street** whereas relief is needed for construction of a one-story rear mudroom and 1/2 bath addition which requires the following: 1) Variance from Section 10.521 to allow 36% building coverage where 30% 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 shown on assessor Map 103 Lot 54 and lies within 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	Rear addition	Primarily residential
<u>Lot area (sq. ft.):</u>	2,439	2,439	5,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	2,439	2,439	5,000 min.
<u>Lot depth (ft.):</u>	63	63	60 min.
<u>Street Frontage (ft.):</u>	38	38	80 min.
<u>Primary Front Yard (ft.):</u>	0.8	0.8	5 min.
<u>Right Yard (ft.):</u>	11	12	10 min.
<u>Left Yard (ft.):</u>	1	1	10
<u>Rear Yard (ft.):</u>	25	25	25 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	30	36	30 max.
<u>Open Space Coverage (%):</u>	>40	>40	25 min.
<u>Parking:</u>	1	1	2
<u>Estimated Age of Structure:</u>	1750	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 seeking to add a small mudroom addition on the rear of the existing dwelling. The addition will result in just under 36% building coverage, where 30% is the maximum allowed. The addition does not encroach into any setbacks and there is almost double the amount of open space on the lot than what is required for the district, despite the small lot size.

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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

5.

Request of **Trisha and Kevin Anderson (Owners)**, for property located at **328 Aldrich Road** whereas relief is needed to demolish existing garage and construct new 12' x 16' shed which requires the following: 1) Variance from Section 10.573.20 to allow a 5' left side yard where 10' is required. Said property is shown on Assessor Map 166 Lot 49 and is located 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 shed/construct new shed	Primarily residential
<u>Lot area (sq. ft.):</u>	9,147	9,147	15,000 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	9,147	9,147	15,000 min.
<u>Lot depth (ft.):</u>	100	100	100 min.
<u>Street Frontage (ft.):</u>	90	90	100 min.
<u>Primary Front Yard (ft.):</u>	3 (house)	3 (house)	30 min.
<u>Right Yard (ft.):</u>	60 (shed)	73 (shed)	10 min.
<u>Left Yard (ft.):</u>	18 (shed)	5 (shed)	10
<u>Rear Yard (ft.):</u>	29 (shed)	29 (shed)	30 min.
<u>Height (ft.):</u>		10	35 max.
<u>Building Coverage (%):</u>	20	20	20 max.
<u>Open Space Coverage (%):</u>	>40	>40	40 min.
<u>Parking:</u>	2	2	2
<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 applicant is seeking demolish the existing shed that is in poor condition and construct a smaller shed, closer to the left side lot line. The new location will require a variance, as it is proposed to be 5 feet from the side yard where 10 is 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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

6.

Request of **635 Sagamore Development LLC (Owner)**, for property located at **635 Sagamore Avenue** whereas relief is needed to remove existing commercial structure and construct 5 new single-family dwellings which requires the following: 1) A Variance from Section 10.513 to allow 5 principal structures on a lot where only 1 is permitted. 2) A Variance from Section 10.521 to allow a lot area per dwelling unit of 22,389 square feet where 1 acre per dwelling is required. Said property is shown on Assessor Map 222 Lot 19 and lies within the Single Residence A (SRA) District

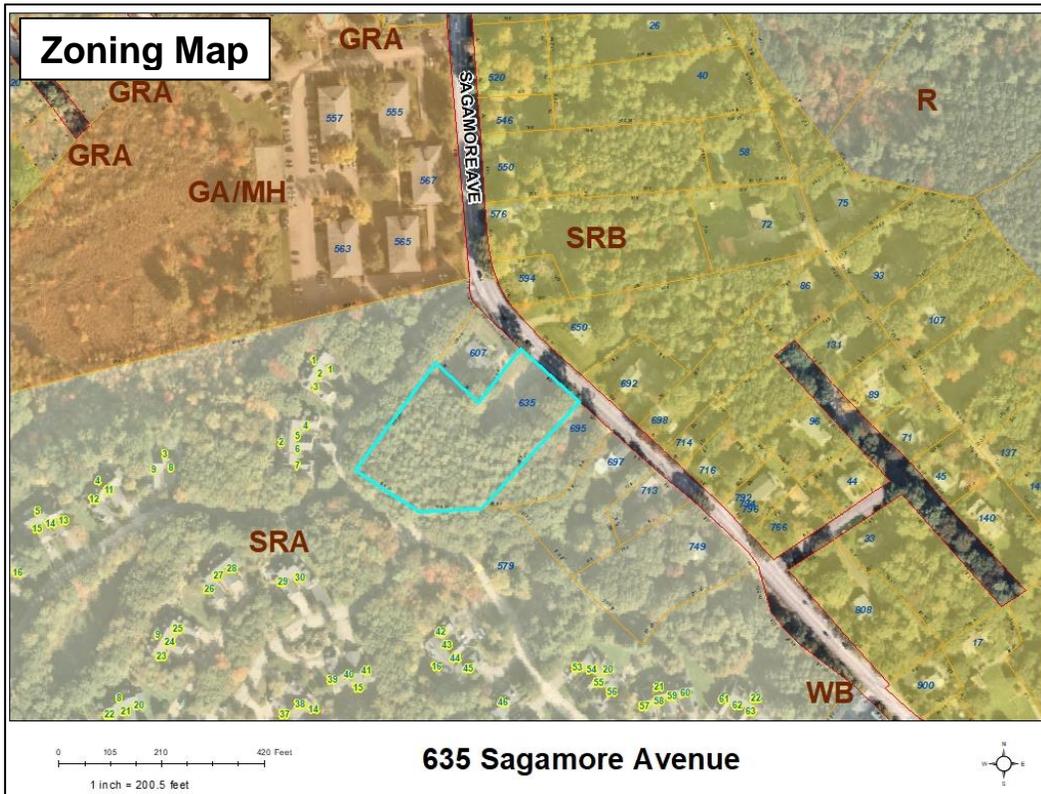
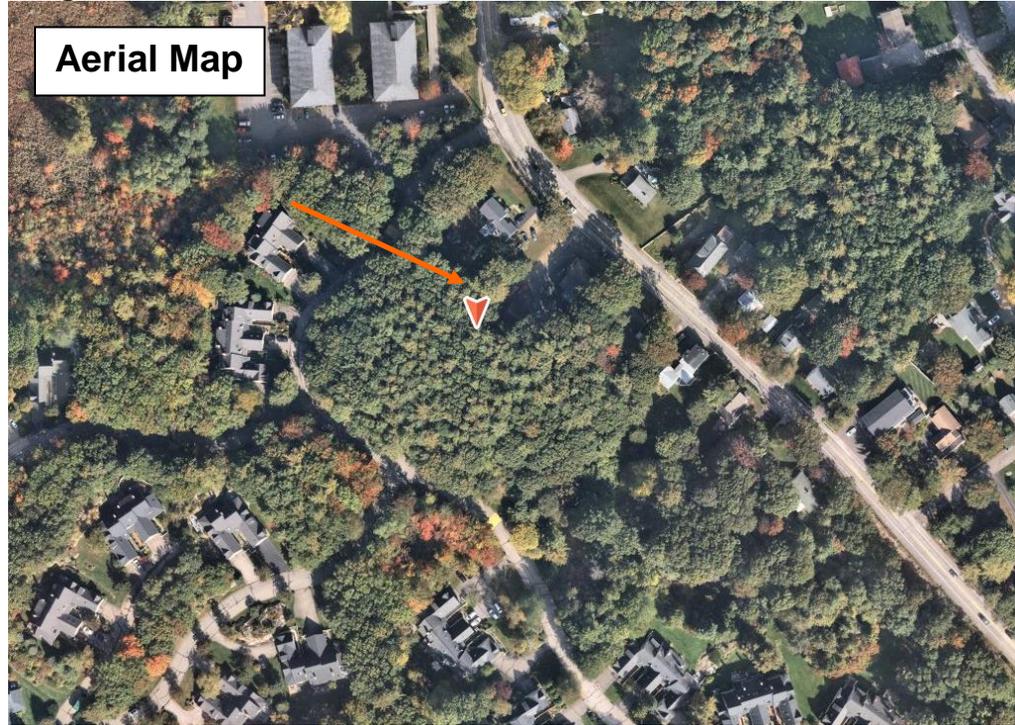
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Commercial w/ 1 apartment	5 single family dwellings	Primarily residential
<u>Lot area (sq. ft.):</u>	84,795	84,795	43,560 min.
<u>Lot Area per Dwelling Unit (sq. ft.):</u>	84,795	16,959	43,560 min.
<u>Lot depth (ft.):</u>	358	358	200 min.
<u>Street Frontage (ft.):</u>	160	160	150 min.
<u>Primary Front Yard (ft.):</u>	28	>30	30 min.
<u>Right Yard (ft.):</u>	60	>20	20 min.
<u>Left Yard (ft.):</u>	30	21	20
<u>Rear Yard (ft.):</u>	219	>40	40 min.
<u>Height (ft.):</u>	<35	<35	35 max.
<u>Building Coverage (%):</u>	4	9.6	10 max.
<u>Open Space Coverage (%):</u>	>50	78	50 min.
<u>Parking:</u>	4+	20	8
<u>Estimated Age of Structure:</u>	1950	Variance request(s) shown in red.	

Other Permits/Approvals Required

TAC/Planning Board – Site Plan Review

Neighborhood Context



Previous Board of Adjustment Actions

No prior BOA history found.

Planning Department Comments

The applicant is proposing to demolish the existing structures and construct 5 free standing single family dwellings. The SRA zone requires 1 acre per dwelling unit and only allows 1 principal structure on a single lot. With 5 dwellings, the proposed lot area per dwelling will be 16,959, where 43,560 is required. With the exception of the density, all other dimensional requirements are in compliance with the proposed layout. This will require site plan review before TAC and Planning Board if the variances are granted.

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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.

7.

Request of **Savannah Mary Fodero and Tyler Jacob Forthofer (Owners)**, for property located at **629 Broad Street** whereas relief is needed for upward expansion of existing garage which requires the following: 1) Variance from Section 10.521 to allow a 2' front yard where 15' 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 shown Assessor Map 221 Lot 13 and lies within the General Residence A (GRA) District.

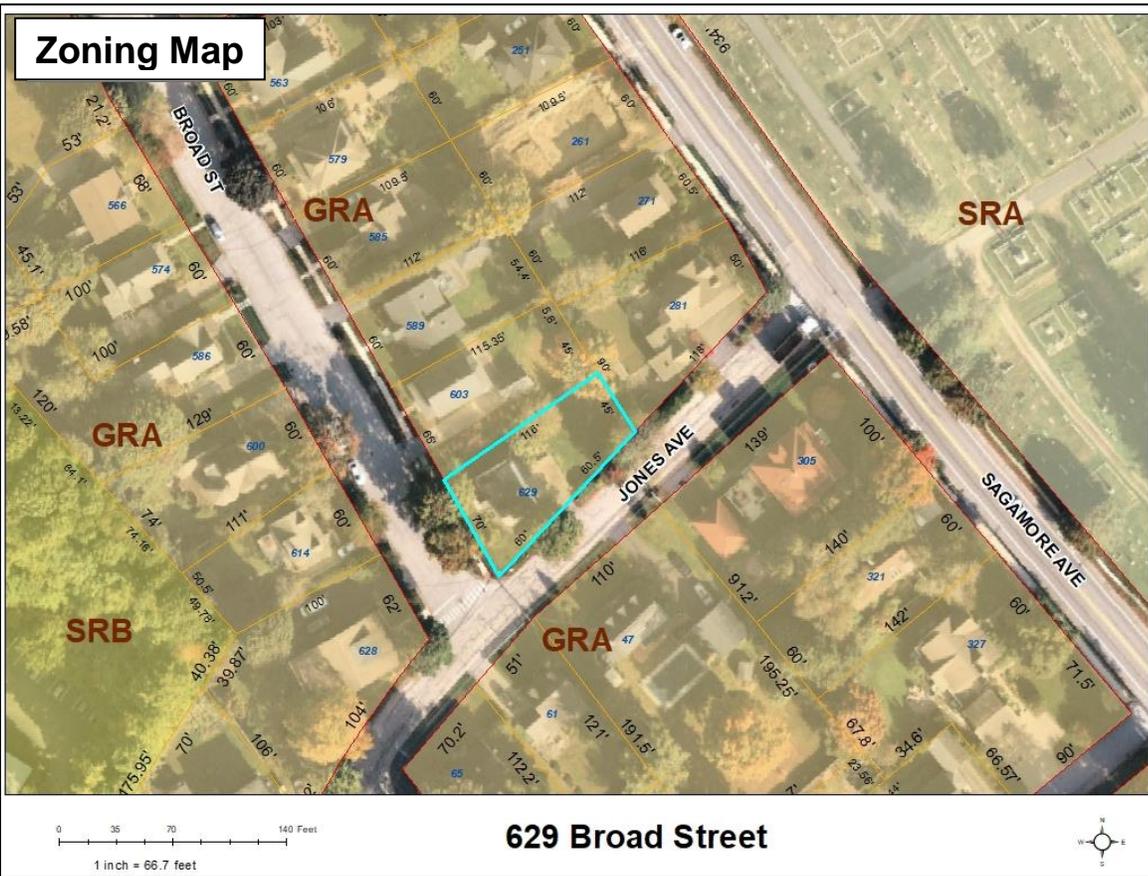
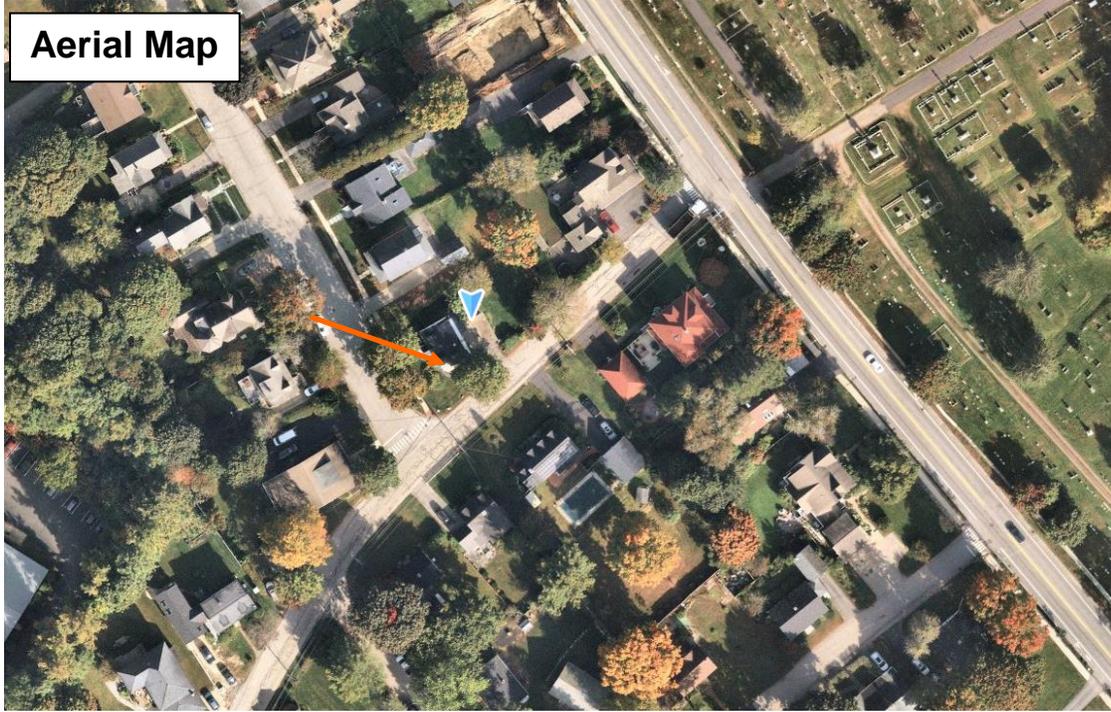
Existing & Proposed Conditions

	<u>Existing</u>	<u>Proposed</u>	<u>Permitted / Required</u>
<u>Land Use:</u>	Single family	Upward expansion	Primarily single residence
<u>Lot area (sq. ft.):</u>	6,586	6,586	7,500 min.
<u>Lot area per dwelling (sq. ft.):</u>	6,586	6,586	7,500 min.
<u>Lot depth (ft.):</u>	116	116	70 min.
<u>Street Frontage (ft.):</u>	190	190	100 min.
<u>Primary Front Yard (ft.):</u>	12	12	15 min.
<u>Secondary Front Yard (ft.):</u>	2	2	15 min.
<u>Left Yard (ft.):</u>	11	11	10
<u>Rear Yard (ft.):</u>	52	52	20 min.
<u>Height (ft.):</u>	8 (garage)	12 (garage)	35 max.
<u>Building Coverage (%):</u>	24	24	25 max.
<u>Open Space Coverage (%):</u>	>30	>30	30 min.
<u>Parking:</u>	2	2	2
<u>Estimated Age of Structure:</u>	1958	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 applicant is seeking to increase the height of the existing garage, which currently has a flat roof. The proposal will increase the height from 8' feet to 12'. The lot is a corner lot, having frontage on Broad Street and Jones Avenue and the house is situated at the front of the lot with the existing garage having only a 2' setback on Jones Avenue. The upward expansion increases the nonconformity of the structure, thus the need for the requested variance.

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.

10.235 Certain Representations Deemed Conditions

Representations made at public hearings or materials submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking or uses which are subject to regulations pursuant to Subsection 10.232 or 10.233 shall be deemed conditions upon such special exception or variance.