TO: Zoning Board of Adjustment
FROM: Juliet Walker, Planning Department
DATE: 10/20/2016
RE: October 25, 2016 Zoning Board of Adjustment Meeting

NEW BUSINESS

1. 1 & 3 Sheridan Ave
2. 3605 (3607) Lafayette Rd
3. 149 Cass St
4. Crescent Way
5. 2454 Lafayette Rd
6. 185 Cottage St

NEW BUSINESS

Case #10-9

Petitioner:	Elizabeth Pickford
Property:	1 Sheridan Avenue (1 & 3)
Assessor Plan:	Map 168, Lot 7
Zoning District:	General Residence A
Description:	Reconstruct and expand front porch.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed, enlarged or structurally altered except in conformity with the Ordinance. 2. A Variance from 10.521 to allow a 0'± front yard setback where 15' is required.

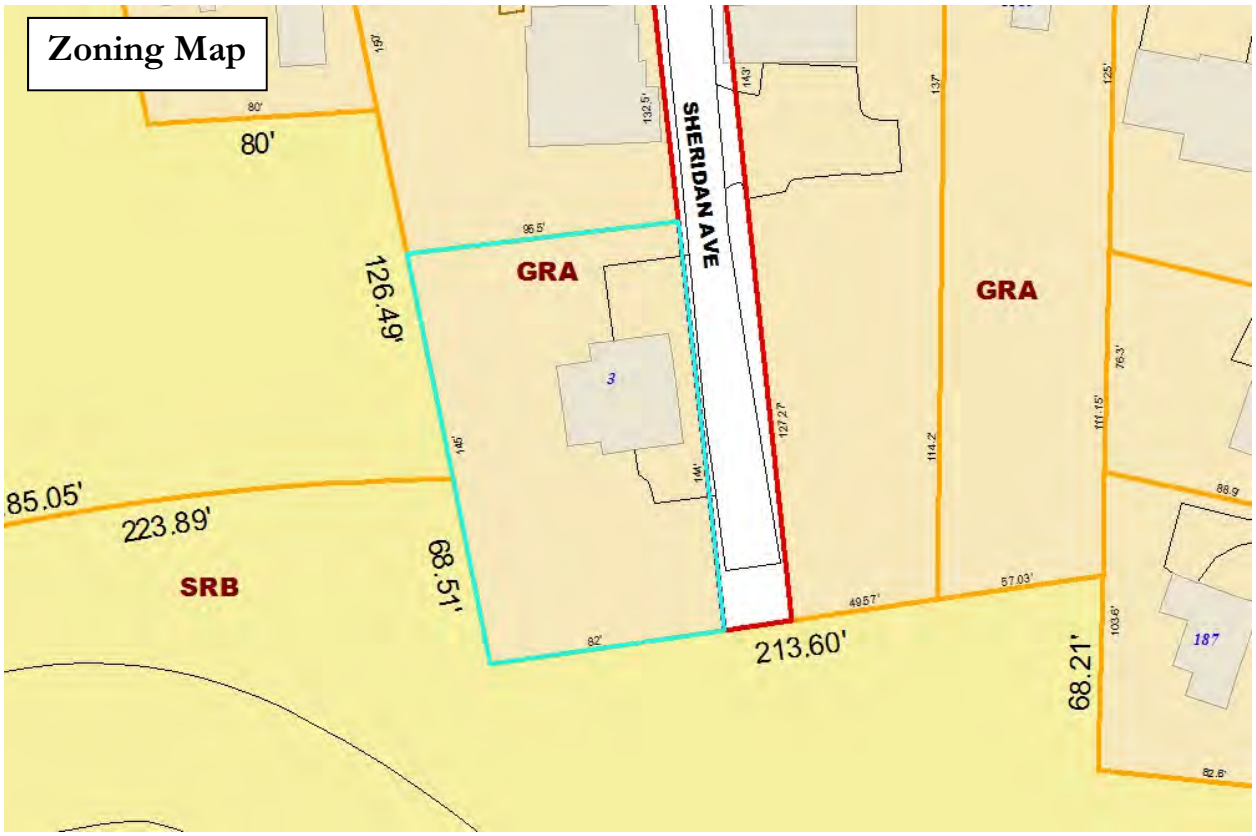
Existing Conditions and Proposed Changes

	Existing	Proposed	Permitted / Required
Land Use:	Two-family residence	No Change (NC)	Primarily residential uses
Lot area (sq. ft.):	12,719.5	NC	7,500 min.
Lot Area per Dwelling Unit (sq. ft.):	6,359.8	NC	7,500 min.
Street Frontage (ft.):	144	NC	100 min.
Lot depth (ft.):	88.8	NC	70 min.
Primary Front Yard (ft.):	0	0	15 min.
Right Yard (ft.):	>10	>10	10 min.
Left Yard (ft.):	>10	>10	10 min.
Rear Yard (ft.):	>20	NC	20 min.
Height (ft.):	32	14 (porch)	35 max.
Building Coverage (%):	10.7	11.8	25 max.
Open Space Coverage (%):	80.2	79.1	30 min.
Parking (# of spaces):	6	NC	4 min.
Estimated Age of Structure:	1905		

Other Permits Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No history found.

Planning Department Comments

The City tax map and existing edge of pavement indicate that the existing steps are within a few inches of the front lot line. As there is no way to confirm this without a lot survey, the relief was advertised as 0'. The applicant's intent is to expand the front porch to match the existing edge of the front steps and relocate the steps to the sides of the new porch.

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 #10-10

Petitioner:	Blueberry Lafayette Investors LLC & Edward Walsh, owners, Rose Steel, Inc., applicant
Property:	3605 Lafayette Road (3607)
Assessor Plan:	Map 298, Lot 2
Zoning District:	Gateway
Description:	Light manufacturing with related office.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance from Section 10.440 to allow a light manufacturing with accessory use in a district where the use is not allowed. 2. A Variance from the parking requirements as outlined in Section 10.1111 to allow a change of use that does not meet the requirements for design and location of off-street parking.

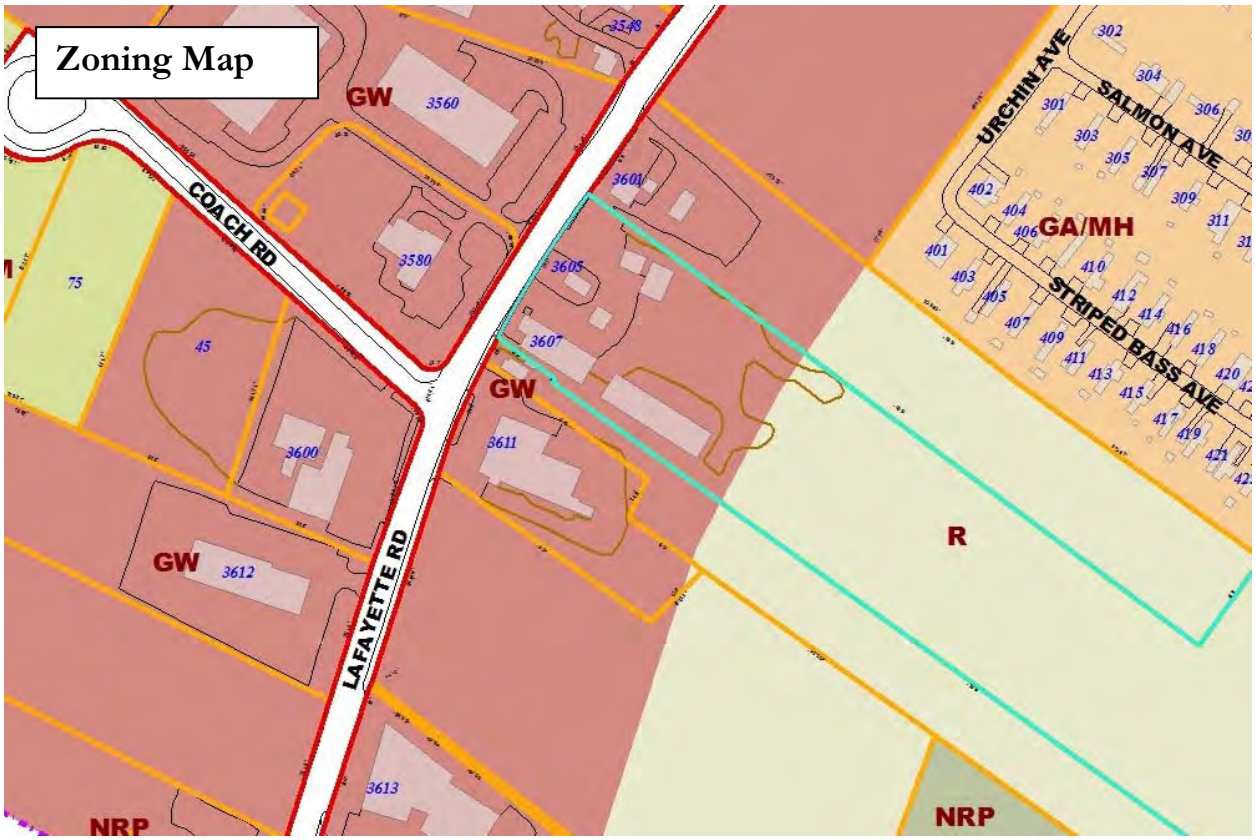
Existing Conditions and Proposed Changes

	Existing	Proposed	Permitted / Required	
Land Use:	Mix of commercial uses	Light manufacturing	Mix of commercial and residential uses	
Lot area (sq. ft.):	16.8 acres	No Change (NC)	2 acres	min.
Street Frontage (ft.):	297	NC	200	min.
Lot depth (ft.):	>100	NC	100	min.
Primary Front Yard (ft.):	25	NC	30	min.
Right Yard (ft.):	<30	NC	30	min.
Left Yard (ft.):	<30	NC	30	min.
Rear Yard (ft.):	>50	NC	50	min.
Building Coverage (%):	<30%	NC	30%	max.
Open Space Coverage (%):	>20%	NC	20%	min.
Parking (# of spaces):	53	NC	24	min.
Estimated Age of Structure:	1970s			

Other Permits Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

December 30, 1963 – The Board **denied** an extension of the commercial zone to a depth of 250 feet.

April 29, 1975 – the Board **granted** a variance to construct a warehouse within 13' of the right side property line.

(The following two petitions were filed as 3607 Lafayette Road, a second address on the same lot as 3605 Lafayette Road).

February 18, 1997 – The Board **granted** a Variance to allow an existing 30' x 40' building to be used as an automobile repair facility with a 32' side yard where 50' is the minimum required and the use would require a Special Exception if all the criteria were met.

October 22, 1985 – The Board **granted** a variance to construct two 30' x 200' single-story storage buildings in a district where the use is not allowed. The request was granted with the stipulation that the maximum height of the storage buildings be 16' above grade.

September 25, 2012 – The Board **denied** a request for a special exception to allow outdoor storage of vehicles and a variance to allow a vehicle display area to be located 5' from the front property line.

November 20, 2012 – The Board **denied** a Request for Rehearing regarding the above.

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 #10-11

Petitioners:	Sherwood Rollins III Revocable Trust & Denise C. Rollins Revocable Trust
Property:	149 Cass Street
Assessor Plan:	Map 146, Lot 7
Zoning District:	General Residence C
Description:	Convert an accessory structure to a dwelling unit.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance from Section 10.521 to allow a right side yard setback of 3.6'± where 10' is required.

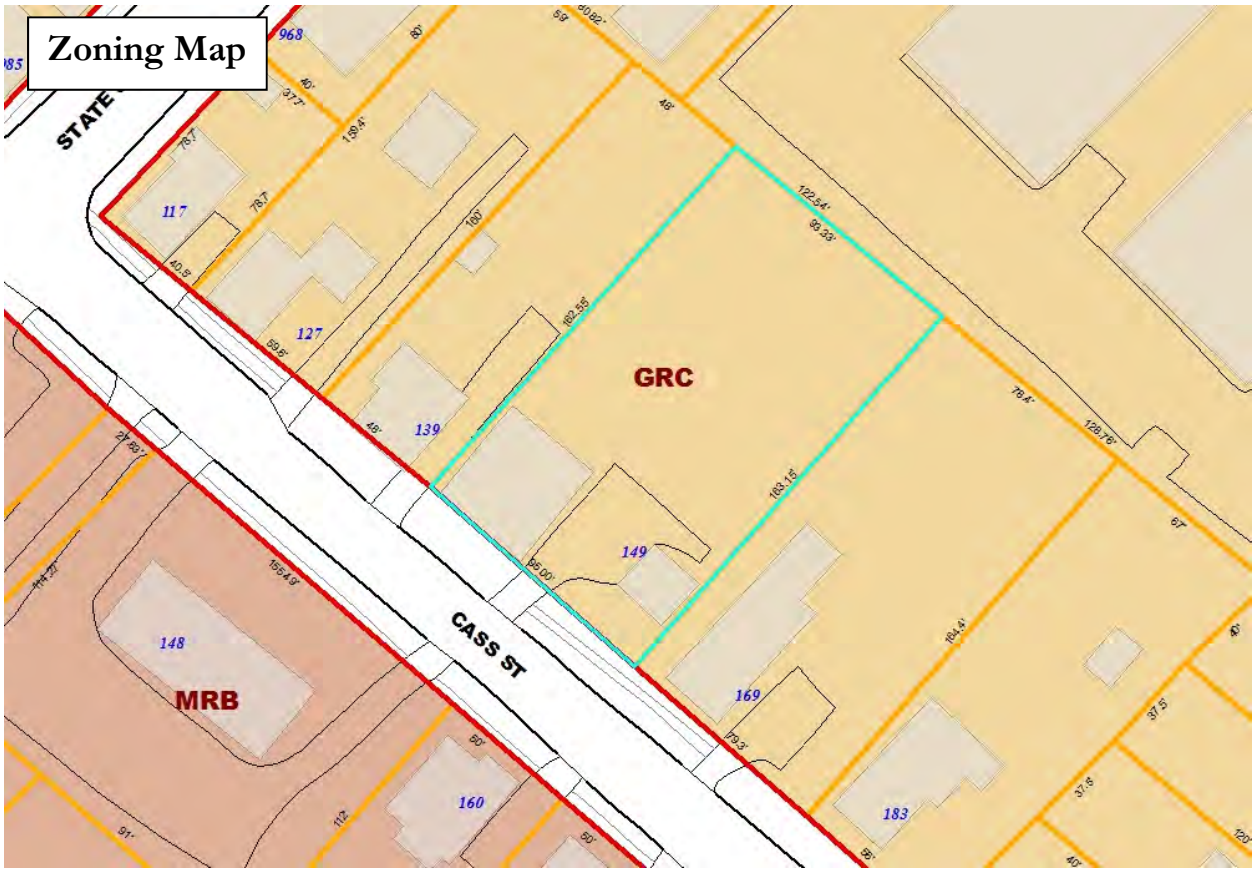
Existing Conditions

	Existing	Proposed	Permitted / Required
Land Use:	Single family with accessory structure	Second single family dwelling unit	Primarily residential uses
Lot area (sq. ft.):	15,325	No change (NC)	3,500 min.
Lot Area per Dwelling Unit (sq. ft.):	15,246	7,623	3,500 min.
Street Frontage (ft.):	95	NC	70 min.
Lot depth (ft.):	162	NC	50 min.
Primary Front Yard (ft.):	>5	>5	5 min.
Right Yard (ft.):	3.6	3.6	10 min.
Left Yard (ft.):	3.3	NC	10 min.
Rear Yard (ft.):	>20	>20	20 min.
Height (ft.):	<35	NC	35 max.
Building Coverage (%):	12.4	NC	35% max.
Open Space Coverage (%):	70.2	NC	20% min.
Parking (# of spaces):	4	NC	4 min.
Estimated Age of Structure:	1870		

Other Permits Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No history found.

Planning Department Comments

Although the applicant is not proposing any exterior modifications to the building in question, the conversion of an accessory structure (carriage house) to a principal structure (residence) means that the structure is no longer grandfathered for the nonconforming right side yard setback.

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 #10-12

Petitioners:	Melanie R. Burger & Xavier H. Asbridge
Property:	Crescent Way (also Falkland Way)
Assessor Plan:	Map 212, Lot 111
Zoning District:	General Residence B
Description:	Construct a two-story residence.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. Variances from Section 10.521 to allow the following: a) Minimum lot area and minimum lot area per dwelling unit of 4,336 s.f±. where 5,000 s.f. is required for each; b) A 37.8'± lot depth where a minimum lot depth of 60' is required; c) A rear yard setback of 15'± where 25' is required.

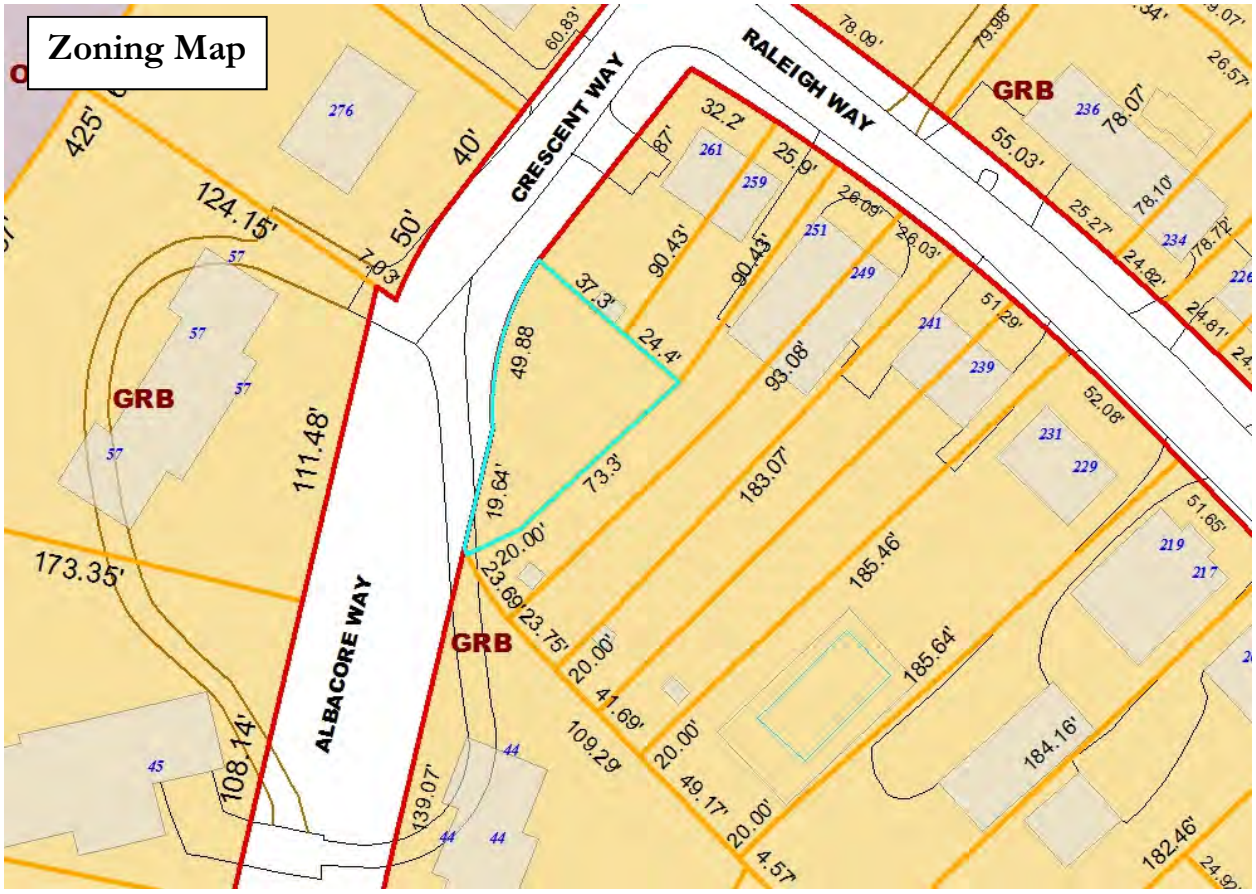
Existing Conditions

	Existing	Proposed	Permitted / Required	
Land Use:	Vacant	Single family residence	Primarily residential uses	
Lot area (sq. ft.):	4,336.00	NC	5,000	min.
Lot Area per Dwelling Unit (sq. ft.):	N/A	4,336	5,000	min.
Street Frontage (ft.):	109	NC	80	min.
Lot depth (ft.):	37.8	NC	60	min.
Primary Front Yard (ft.):	N/A	5.4	5	min.
Right Yard (ft.):	N/A	>10	10	min.
Left Yard (ft.):	N/A	10	10	min.
Rear Yard (ft.):	N/A	15	25	min.
Height (ft.):	N/A	<35	35	max.
Building Coverage (%):	N/A	27.4	30	max.
Open Space Coverage (%):	N/A	65.4	25	min.
Parking (# of spaces):	N/A	2	2	min.

Other Permits Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

No history found.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*

   (a)The property has special conditions that distinguish it from other properties in the area.

   AND

   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.

   OR

   Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Case #10-13

Petitioners:	2422 Lafayette Road Associates LLC c/o Waterstone Retail
Property:	2454 Lafayette Road
Assessor Plan:	Map 273, Lot 3
Zoning District:	Gateway, Sign District 5
Description:	Install wall and directional signs, a menu board and reconstruct a free-standing sign.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance from Section 10.1271.20 to allow a sign on a façade of a building that does not face a street and where no public entrance exists. 2. A Variance from Section 10.1222.20 to allow two directional signs each with a sign area of 7 s.f. where 4 s.f. is the maximum allowed per directional sign. 3. A Variance from Section 10.1243 to allow 2 free-standing pre-order menu boards to be erected which are not visible from a public right-of-way. 4. A Variance from 10.1281 to allow an existing non-conforming pylon sign to be modified without bringing it into conformance.

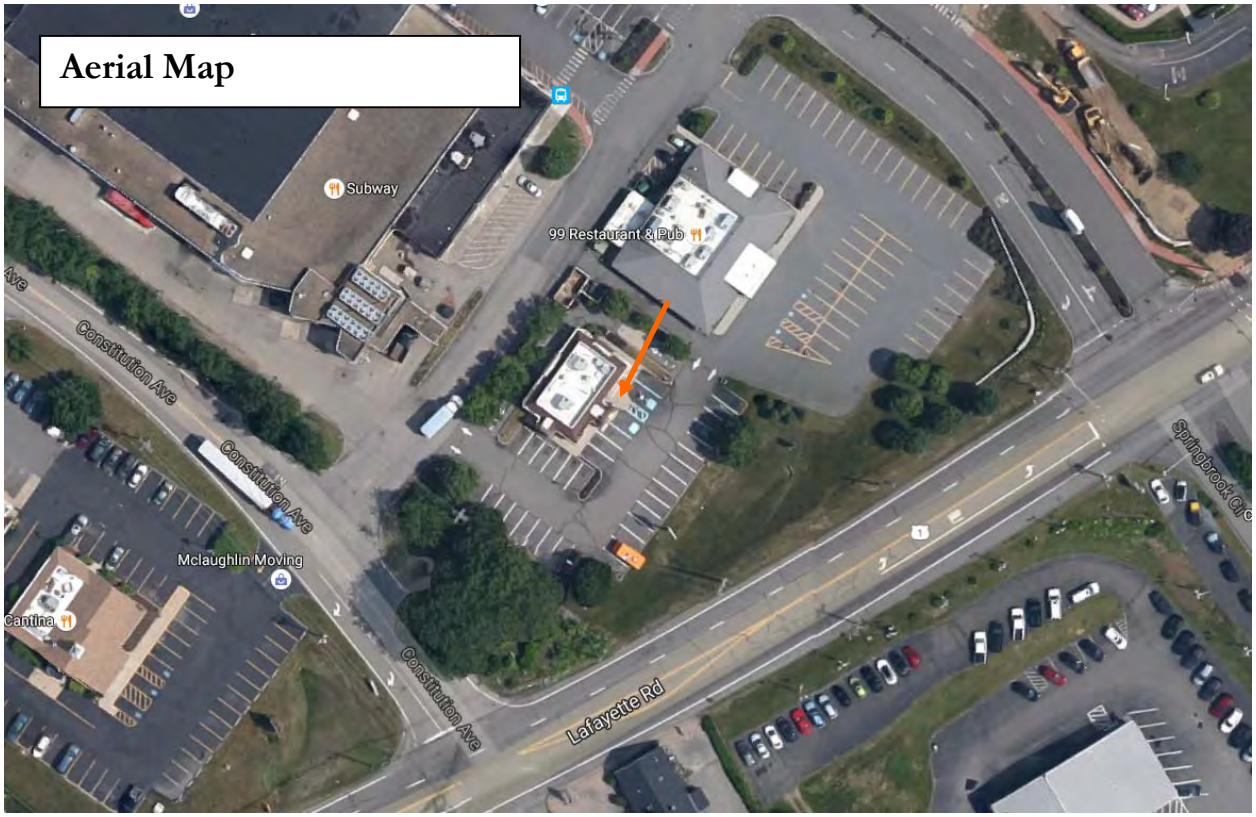
Existing Conditions and Proposed Changes

	Existing	Proposed	Permitted / Required
Individual Sign Area (sq. ft.)			
Wall Signs	Sign 1: 54.2 Sign 2: 54.2	Sign type B: 12.6 Sign type C: 19.6 each Sign type D: 7 each Sign type H: 35.25 each	200 max.
Freestanding Signs	97.7	Sign type I: 6.7 Sign type J: 22.9 Sign type L: 37.9	100 max.
Directional Signs		Sign type E: 2.6 Sign type F: 3.2 each	4 max.
Aggregate Sign Area (sq. ft.)	97.7	135.0 (excludes free-standing, directional, and internal signs)	135 max.
Height (ft)			
Freestanding Signs		Sign type I: 5 Sign type J: 5 Sign type L: 25	20 max.
Directional Signs		Sign type E: 4 Sign type F: 4 each	No requirement
Setback (ft)			
Freestanding Signs		>10	10 min.

Other Permits Required

None.

Neighborhood Context



Previous Board of Adjustment Actions

July 9, 1985 **-** the Board **denied** a request to allow the erection of a temporary 32 s.f. free-standing Developer's sign where a maximum of 6 s.f. free-standing Developer's sign is allowed.

October 1, 1985 **-** the Board **granted** a variance to allow the construction of a 44' x 50' structure for use as a office (walk-in health care) where professional offices are not an allowed use. The Board **denied** a request to allow said building to have a front yard of 91' where a minimum yard of 105' is required.

October 22, 1985 - the Board **denied** a request to allow the construction of a one-story 12,000 s.f. concrete block addition on the west side of an existing store (Rich's) with three loading berths and a trash compactor berth being provided where a minimum of seven loading berths are required.

January 5, 1988 – the **Board granted** a variance to allow the establishment of 22 on-site parking spaces where a minimum of 49 parking spaces are required.

April 16, 1991 - the Board **granted** a Special Exception to permit the establishment of a dry cleaning and laundry facility.

April 21, 1992 - the Board **granted** the following, as amended below: 1) a variance to allow 96 s.f. of attached signage on a proposed restaurant where 55 s.f. of attached sign area is the maximum allowed; 2) a variance to allow 148 s.f. of free-standing signage for a proposed restaurant, which when added to existing signage, would provide an aggregate total of 581 s.f. of free-standing signage where 150 s.f. is the maximum allowed; and, 3) a Variance to allow a total of 1,249 s.f. of aggregate signage where 1,020 s.f. is the maximum aggregate signage allowed with the following **stipulations**:

- Variance #1 to allow 66 s.f. of attached signage where 96 s.f. was requested;
- Variance #2 to allow 124 s.f. of free-standing signage where 148 s.f. was requested; and,
- Variance #3 to allow 1,192 s.f. of aggregate signage where 1,249 s.f. was requested.

July 15, 1997 – the Board **granted** a variance to allow "The Candle Mill", a retail/ manufacturing/ wholesale business to be located in the vacant space formerly occupied by Rich's Department store with the **stipulation** that the space be used for candle manufacturing for wholesale and retail purposes only.

February 15, 2000 – the Board **granted** a variance to allow: (a) 89.8 sf of attached signage where 85' is the maximum allowed; the Board **denied part b)** a 91.5 sf internally illuminated freestanding sign 20' in height and a 32.6' setback where the maximum allowed is a 25 sf monument 6' in height.

March 21, 2000 – the Board **denied** a request to allow a 59.75 sf internally illuminated freestanding sign 17' in height with a 32.6' setback where the maximum allowed is a 25 sf monument sign 6' in height.

May 16, 2000 – the Board **denied** a request to allow a 39.7 s.f. internally illuminated monument sign 23'9" in height, with a 32.6' front yard and closer than 200' to existing pylon signs where the maximum allowed is a 25 s.f. sign, 6' in height and 200' from existing pylon signs.

June 27, 2000 – the Board **granted** a variance to allow a 25 s.f. internally illuminated monument sign 10' in height closer than 200' to existing pylon signs where the maximum allowed is a sign 6' in height located at least 200' from existing signs.

March 23, 2004 – the Board **granted** a variance to allow a 75' front yard where 105' is the minimum required. The Board **denied** a Special Exception to allow a 2,400± s.f. car wash in a district where such use is allowed by Special Exception.

April 21, 2009 – The Board **granted** a variance to allow 731 parking spaces to be provided where 1,090 parking spaces are required in conjunction with renovations to the existing shopping center.

September 15, 2009 – The Board **granted** variances to allow the following the following:

- A primary free standing sign of 350 s.f. where 150 s.f. is allowed;
- A sign 17'10" in height where 25' is the maximum allowed;
- Two additional signs at the primary entrance where they are not allowed;
- The placement of structures within the right-of-way along Route 1 with a setback of 20' where 105' is required;
- The placement of a structure within the right-of-way along Route 1 with a setback of 50' where 105' is required.

The variances were granted with the **stipulation** that there be no lettering on the two stone walls at the main entryway, which were solely approved as an architectural element.

July 24, 2012 – The Board **granted** a variance to allow 859 parking spaces where 457 parking spaces are required and 503 parking spaces are the maximum allowed.

October 15, 2013 – The Board **granted** a variance to install a 225 s.f. sign on a cinema parapet where 100 s.f. is the maximum sign area allowed for a parapet sign.

August 18, 2015 – the Board **granted** variances to allow the following: (a) required off-street parking spaces (for an existing parking area) to be located between a principal building and a street; and (b) a front yard setback of 151' where 90' was the maximum allowed (measured from the centerline of Lafayette Road).

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 #10-14

Petitioners:	Colman C. Garland, owner, R and D Resources 2, LLC, applicant
Property:	185 Cottage Street
Assessor Plan:	Map 174, Lot 14-A
Zoning District:	General Residence A
Description:	Construct a restaurant with a drive-through.
Requests:	The Variances and/or Special Exceptions necessary to grant the required relief from the Zoning Ordinance, including the following: 1. A Variance from Section 10.440 to allow a fast food restaurant in a district where the use is not allowed. 2. A Variance from Section 10.1112.30 to allow 23 parking spaces to be provided where 33 parking spaces are required. 3. A Variance from Section 10. 1113.20 to allow off-street parking spaces to be located in a required front yard or between a principal building and a street.

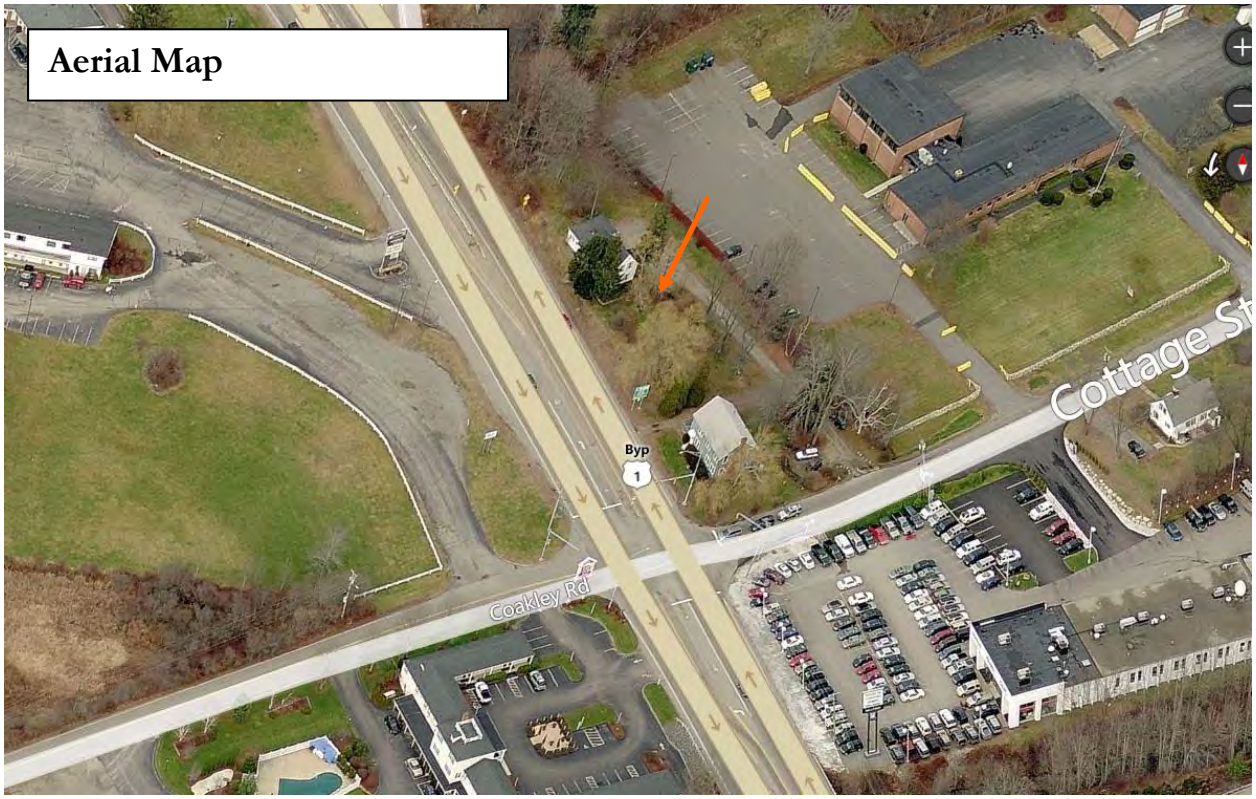
Existing Conditions and Proposed Changes

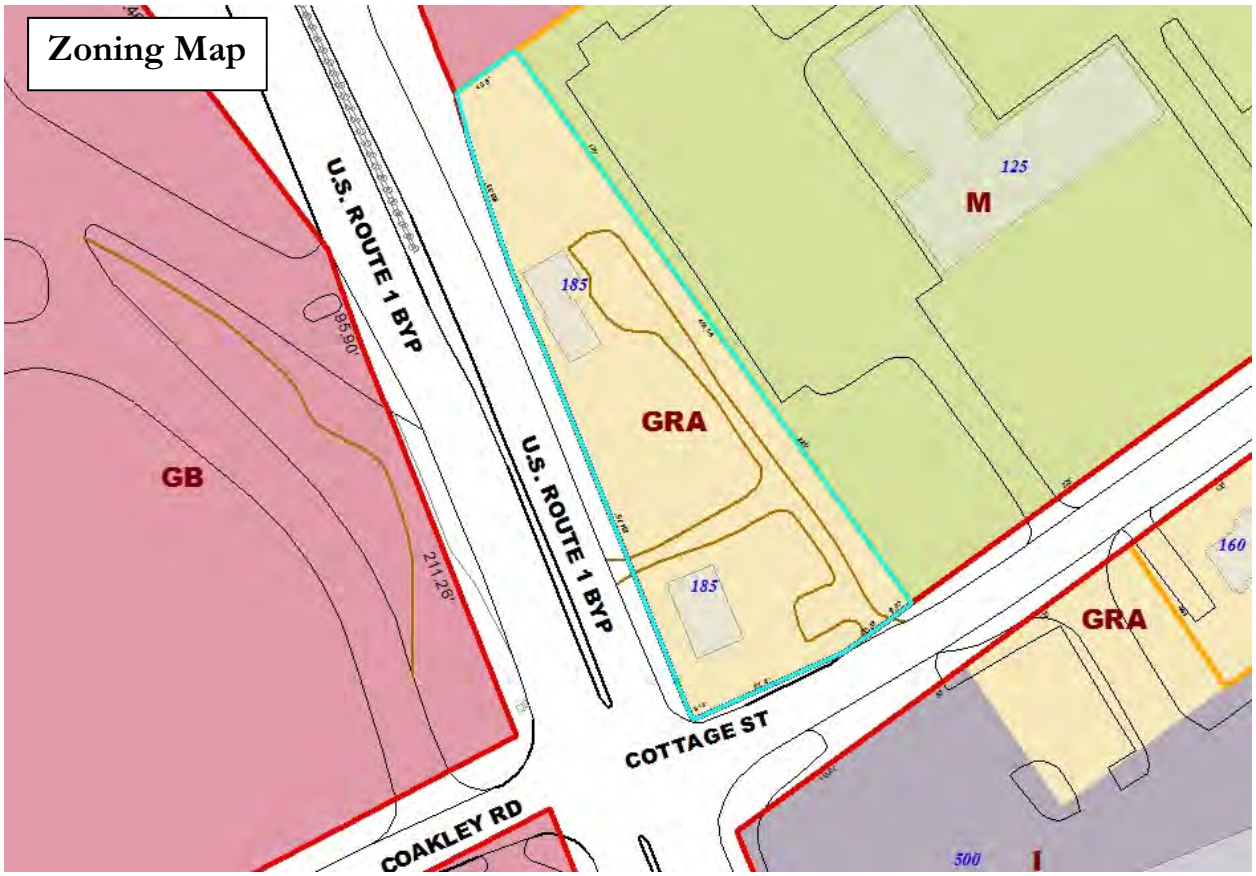
	Existing	Proposed	Permitted / Required
Land Use:	Two residential dwellings (3 total units)	Take-out restaurant with drive through	Primarily residential uses
Lot area (sq. ft.):	38,768	38,768.00	7,500 min.
Lot Area per Dwelling Unit (sq. ft.):	12,922.7	N/A	7,500 min.
Street Frontage (ft.):	>100	>100	100 min.
Lot depth (ft.):	60	60	70 min.
Primary Front Yard (ft.):	>15	41	15 min.
Secondary Front Yard (ft.):	<15	35	15 min.
Right Yard (ft.):	>10	47	10 min.
Rear Yard (ft.):	>20	>20	20 min.
Height (ft.):	<35	18	35 max.
Building Coverage (%):	<25	8.6%	25 max.
Open Space Coverage (%):	>30	>30%	30 min.
Parking (# of spaces):		23	33 min.
Estimated Age of Structure:	1880 and 1956		

Other Permits Required

Planning Board Site Plan Review

Neighborhood Context





Previous Board of Adjustment Actions

No history found.

Review Criteria

This application must meet all five of the statutory tests for a **variance** (see Section 10.233 of the Zoning Ordinance):

1. *Granting the variance would not be contrary to the public interest.*
2. *Granting the variance would observe the spirit of the Ordinance.*
3. *Granting the variance would do substantial justice.*
4. *Granting the variance would not diminish the values of surrounding properties.*
5. *The "unnecessary hardship" test:*

   (a)The property has special conditions that distinguish it from other properties in the area.

   AND

   (b) Owing to these special conditions, a fair and substantial relationship does not exist between the general public purposes of the Ordinance provision and the specific application of that provision to the property; and the proposed use is a reasonable one.

   OR

   Owing to these special conditions, the property cannot be reasonably used in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of it.