2024APR12pm01:32

The Commonwealth of Massachusetts TOWN OF LENOX

Filing fee is due with the petition. If hearing expenses exceed this amount the Zoning Board of Appeals will bill the petitioner.

The undersigned hereby petitions the Town of Lenox Zoning Board of Appeals for: A Special Permit for exception under the provisions of Section 5.3.3 of the Town of Lenox Zoning By-Law. A Variance from the following provisions of Section of the Town of Lenox Zoning By-Law. To permit the following use or activity (describe proposed use or activity): Proposed is an extension of the Pre-Existing Non-Conforming structure located at 25 Brunell Avenue. The existing parcel was created in 1946 as documented on "Layout of Westover" map by J.J. Horgan. The building was constructed in 1955 in conformance with following restrictions outlined in the Deed: "1. That not more than one single dwelling house shall be erected thereon. 2. That said dwelling shall not be nearer than twenty-five (25) feet from the street line on which said building shall front. 3. That said dwelling shall not be nearer than eight (8) feet from the side line of said lot." The Map and Deed referencing the map and parcel layout is attached. Proposed is 13'5 1/2"x13'9" (185.6 SF) Music Studio addition extend the east side of the building, with in the required yard. The new wall will be further away from the eastern property line then current conformance. Also proposed is 4'0"x7'8" Entry Foyer, that will extend toward the street into the front yard over the area currently occupied by the entry deck. The furthest extent of the new Entry Foyer will not violate the original 1955 restriction. The Architectural Drawings documenting the existing and proposed conditions are attached. For premises: Michael and Elen Zaretsky Owner of Record 25 Brunell Avenue Address 42-44-0 Map and Parcel R15 Zoned as 5008 Deed Reference Book 127 Page (This information is available from the Assessor's Office or townoflenox.com in the Property Assessments-Online Database section.) (Your signature here also acknowledges that you agree to pay all hearing expenses relative to this petition.) Michael and Elen Zaretsky 28 Rawson Road Brookline, MA 01246 Address (Mailing Address) Telephone Number 617.792.6557 Email address ezaretsky28@gmail.com

04.12.24

Date

06182009 rev.



ART FORMS ARCHITECTURE

Grigori Fateyev, RA Principal

email: gf@aformsa.com phone: 413.429.5302 web: aformsa.com

Zaretsky Residence 25 Brunell Avenue Lenox, MA 01230

ZONING BOARD OF APPEAL SPECIAL PERMIT APPLICATION 04.12.2024

PARCEL INFORMATION:

ID: **42-44-0**Lot size: **20,000** SF
Created in **1946**

B15 ZONING

BUILDING INFORMATION:

Built in 1955 1,314 SF footprint 2-stores 28 feet height

PRE-EXISITNG NON-CONFORMANCE:

Proposed is an extension of the Pre-Existing Non-Conforming structure located at 25 Brunell Avenue. The existing parcel was created in 1946 as documented on the "Layout of Westover" map by J.J. Horgan.

The building was constructed in 1955 in conformance with the following restrictions outlined in the Deed: "1. That not more than one single dwelling house shall be erected thereon. 2. That said dwelling shall not be nearer than twenty-five (25) feet from the street line on which said building shall front. 3. That said dwelling shall not be nearer than eight (8) feet from the sideline of said lot."

The above-listed restrictions are the same as (or more stringent) than dimensional requirements of 1941Zoning Bylaws in effect at the time the building was built. The Map and Deed referencing the map and parcel layout, as well as 1941 Bylaws are attached. The next editions of the Bylaws were adopted in 1959, four years after construction of the original building.

PROJECT DESCRIPTION:

Proposed is 13'5 1/2"x13'9" (185.6 SF) **Music Studio** addition extending the east side of the building, within the required yard. The new wall will be further away from the eastern property line than current non-conformance.

Proposed is 4'0"x7'8" **Entry Foyer**, that will extend toward the street into the front yard over the area currently occupied by the entry deck. The furthest extent of the new Entry Foyer will not violate the original 1955 restriction.

The additions will have exterior finish materials similar to the currently used materials in the existing building and matching in scale, quality and appearance the materials in the neighborhood.

There is no change to the number of bedrooms. There is no change in the overall height of the building.

The building is not located in The Historic District and is does not have any historic value.

The Architectural Drawings documenting the existing and proposed conditions are attached.

Special Permit form ZBA is required under Section 5.3.3. The excerpts from Section 5.3 of Lenox Bylaws is attached.

SUPPORTING DOCUMENTS ATTACHED:

- Zaretsky Deed; Page 2
- Deed Map "Layout of Westover" 1946
- 1941 Zoning Bylaws
- · Section 5.3 of Current Bylaws
- List of abutters
- Architectural Documents

All of said boundaries are determined by the Court to be located as shown on plan 1808-B, drawn by J.J. Horgan, Civil Engineer, dated November 10, 1947 as approved by the Court, filed in the Land Registration Office, a copy of a portion of which is filed with Certificate 1896. ZARETSKY DEED; PAGE 2

Said Parcel is subject to the restrictions that no part of any building erected thereon shall be within 25 feet of any street line or within 12 feet of any property line.

Being the same premises described in Certificate of Title No. 4797 registered in Book 21, Page 475 of the Land Court Records for the Middle Registry District of Berkshire County.

PARCEL 2:

Beginning at an iron pipe in the southerly line of Brunell Avenue at the northwest corner of the premises to be conveyed;

thence southerly along the easterly line of Lot #15 as shown on a Plan entitled "Layout of Westover" owned by Albert and Julia Brunell, June, 1946, Scale 1 inch equals 40 feet, J.J. Hogan, Engineer, (Recorded in Berkshire Middle District Registry of Deeds in Drawer 202) two hundred (200) feet to an iron pipe;

thence easterly along the southerly line of Lot #14 on said Plan fifty-five and thirty-nine one-hundredths (55.39) feet to a point;

thence North 130 41' East seventy and thirtyseven one-hundredths (70.37) feet to a stone bound;

thence South 87° 32° 45" East twenty-nine and forty-eight one-hundredths (29.48) feet to a point;

thence North 13° 11' 30" East one hundred thirty-one and eighty-nine one-hundredths (131.89) feet to an iron pipe in the southerly line of Brunell Avenue;

thence westerly along said southerly line of Brunell Avenue one hundred (100) feet to the place of beginning.

Meaning and intending to convey and hereby conveying Lot 14B as shown on the above described plan.

Subject to an easement for sewer pipes granted to the Town of Lenox by deed of Clementina Furniss dated September 1, 1893, and recorded in the Berkshire Middle District Registry of Deeds in Book 284, Page 559. (Common Records)

Subject to an easement to the Southern Berkshire Power and Electric Company by Albert R. Brunell and Julia T. Brunell dated June 21, 1954 and recorded in said Registry of Deeds in Book 611, Page 480. (Common Records)

Subject to an easement deed to the New England Telephone and Telegraph Company dated July 7, 1954 and recorded in said Registry in Book 618, Page 500.

Subject to the following restrictions:

- That not more than one single dwelling house shall be erected thereon.
- That said dwelling shall not be nearer than twenty-five (25) feet from the street line on which said building shall front.
- That said dwelling shall not be nearer than eight (8) feet from the side line of said lot.

Parcel 1 and Parcel 2 being the same premises conveyed to the mortgagors by deed of J. Robert Carr and Marian F. Carr dated June 15, 1976 and recorded in said Registry of Deeds in Book 974, Page 999&c and filed as Document Number 15614 noted on Certificate of Title Number 4820 which is recorded in Book 21, Page 533 in the Berkshire Middle District Registry of Deeds of the Land Court.

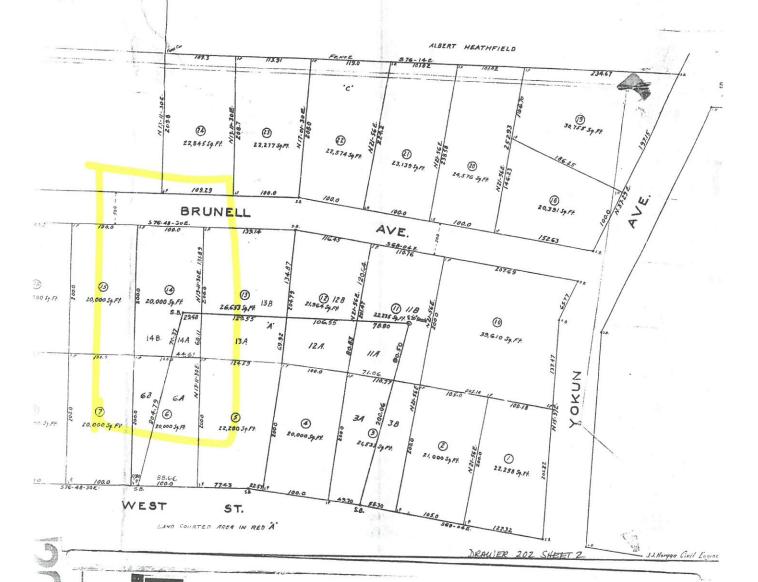
WESTOVER.

S 14-07W

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OWNED BY ALBERT & JULIA BRUNELL
JUNE 1946 SCALE | INCH = 40 FEET

JUNE 194



Zoning By-Law for the Town of Lenox, Massachusetts

of the Inhabitants of Lenox by dividing the Town into districts and regulating the use and construction of buildings and prunises with a view to encouraging the most appropriate use of land in the Town. A by-law to promote the health, safety, convenience and welfare

Section 1. Establishment of Districts

the Town Clerk, into four classes of districts: as shown on the Zoning Map dated January 18, 1941, and filed with Classes of Districts. The Town of Lenox is hereby divided

Educational Districts Residence Districts

divides any lot cristing at the time such by-law is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty test into the more restricted portion, provided the lot has frontage in the less restricted district Lots in Two Districts. Where a district boundary line

Section 2. Residence District Uses

no building or premises shall be used for any purpose except: In a residence district no building shall be erected or altered and

- Detached one-family dwelling.
- six rooms exclusive of halls and bathrooms at the time this by-law is adopted, provided such building is not enlarged. Two-family dwelling in any dwelling containing more than
- Municipal educational use.
- Farm, Poultry Farm, Garden or Nursery, selling only prod-uce or plants the major portion of which is raised on the premises, and excluding any use injurious, noxious or of-
- Professional offices in private residences
- œ Accessory use on the same lot with and customarily incident to any of the above permitted uses and not detrimental to a residential neighborhood. The term "Accessory Use" shall
- (a) A garage for or storage of more than four automobiles unless authorised by the Board of Appeals.
- 3 storage of more than two commercial automobiles, except on a farm:
- 0 than three months of any one year. the taking of more than four lodgers for a period of more
- occupation, and being such signs as are customary on any building used for the purposes permitted by this advertising signs, except those pertaining to the lease, sale or use of a lot or building on which they are placed, and not exceeding a total area of twelve square feet; bearing a name and the designation of any authorized than two square feet pertaining to the use there or be not more than two signs with a total area of not more provided that on a lot occupied by a dwelling there may
- Any of the following uses, provided it is not injurious, authorized by the Board of Appeals;
- e Alterations otherwise prohibited, of a dwelling, existing at the time this by-law is adopted, for two or more
- 3 Aviation field
- Cemeteries.
- Gravel, Loam, Sand or Stone Removal
- 300 0 Golf Club.

- Hospital, convalescent home, sanitarium, or institution ior philanthropic use.
- Ice harvesting and storage on the same premises. Municipal use.
- **998** Riding Stable.
- Ê Telephone exchange, not including a service station or outside storage of supplies.
- 9 Gift Shop
- 8 Private Club not conducted for profit and having not more than five sleeping rooms.
- ing more than three months of the year Dwelling, where more than four lodgers are taken dur-
- Apartment or Tenement House

9

Section 3. Educational District Uses

and no building or premises shall be used for any purpose except: In an Educational District no building shall be erected or altered Any use permitted in Residence Districts.

- Private educational system use
- Any other use necessary to maintain a private educational the neighborhood, and only if authorized by the Board of system, provided it is not injurious, nonious or offensive to

Section 4. Business District Uses

no building or premises shall be used for any purpose except: In a Business District no building shall be erected or altered and

- Any use permitted in a residence district.
- Filling Station or garage, only on approval of the Board of Appeals.
- Municipal use
- Newspaper or job printing.
- Office or bank.
- Place of amusement or assembly. Restaurant or hotel.
- of which are to be sold at retail by the manufacturer to the Rotail business, service or public utility not involving manufacture on the premises except of products the major portion provided further that not more than five
- 9 Sign advertising goods or services offered by an occupant of the premises for sale, hire or use

operatives shall be employed in such manufacture.

Section 5. Industrial District Uses

and no building or premises shall be used for any purpose injurious, nozious, or offensive to a neighborhood by reason of the emission of odors, fumes, dust, smoke, vibration, or noise or other causs. In an industrial district no building shall be erected or altered

Section 6. Non-Conforming Uses

- not been discontinued for a period of one year. this by-law or any amendment thereto is adopted, may be continued although such building or use does not conform to the provisions or use of a building or premises or part thereof existing at the time Appeals be extended throughout such premises, provided such use has thereof, and such building or use may on approval of the Board Continuation of Non-Conforming Uses. Any lawful building
- Change of Non-Conforming Uses. The Board of ppeaks may permit any non-conforming use to be changed to any enflect objectionable to a neighborhood use not substantially different in character or more detripital

1. In a Residence District no building or readable etsucall be exceeded or placed within twenty feet of a street line unless it determined that the line of home to the street that the line of home to

Section 7. Area Regulations

- adopted is less than twenty feet from the street line, and no building of accessory use or farm or poultry farm building other than a dwelling, or readside stand, or private garage, shall be built within sixty
- eighb feet of a side lot line except a one story building of accessory use 2. In a Residence District no building shall be erected within
- building may be erected on any lot which, at the time this by-law building to b.ed where the lot is narrowest; provided that one the lot width in such case to be measured through that part of the seventy-five hundred square feet, or less than seventy-five feet wide, uso, shall be erected in a residence district on a lot containing less than adopted, either is separately owned or contains five thousand square 8. Lot Size. No building, except one story buildings of accessory
- distant from their point of intersection, or in the case of a rounded commer the point of intersection of their tangents, no structure other intersecting streets and a line joining points on such lines fifteen than a building and no foliage shall be maintained between a height their ourb grades. three and one-half feet and a height eight feet above the plane through 4. Comer Clearance. Within the area formed by the lines of
- Appurkensat Open Space. No yard or other open space required for a building by this by law shall during the existence of such a building be occupied by or counted as open space for another building
- steps, eaves, cornices, window alls, or belt courses into any required yard. 6. Projections. Nothing herein shall prevent the projection

- and showing separately each open space appurtenant thereto. men, with the Planning Board acting in an advisory capacity. They shall issue no permit for the crection or alteration of any building, or showing the lot, the area and location of which justify the building, not in all respects in conformity with the provisions of this by-law. With each application for a permit to build there shall be filed a plan part thereof, plans and specifications and intended use of which are Enforcement. This by-law shall be enforced by the Select-
- which the premises, or the building upon being sufficiently completed to comply with the provisions and regulations relating thereto, may or shall have certified on the building permit, specifying the use or the open spaces pertaining to which are in anyway reduced, shall be used until the Selectman shall have issued a certificate of openpancy Certification of Occupancy. No premises or building or part thereof hereafter ereated or altered wholly or partly in use or attucture
- or use injurious, noxious, offensive, or detrimental to a neighborhood each case and that it shall prescribe appropriate conditions and safeguards land, and conserving property values, that it shall permit no building convenience and welfare, encouraging the most appropriate use of it shall give due consideration to promoting the public health, safety, manner prescribed in said section and subject always to the rule that shall act on all matters within its jurisdiction under this by-law in the Thirty of Chapter Forty of the General Laws, as amended, which members and one associate member appointed as provided in Section Board of Appeals. There shall be a Board of Appeals of three
- stitute a separate offence. Penalty. Any person, firm or corporation violating any of the provisions of this by-law shall be fixed not more than twenty dollars for each offence. Each day that willful violation continues shall con-
- emul say by-law, rule, regulation, or permit, provided that, unless specifically excepted, where this by-law is more stringent it shall 5. Other regulations. This by-law shall not interfere with
- by-isw shall not invalidate any other section or provision hereof. 6. Validity. The invalidity of any section or provision of this

Table 5.2 - Schedule of Uses

		R3A	R1A	R30	R15	СЗА	C1A	С	I	References
10	Privately owned garage for rental purposes	N	N	N	N	BA	BA	BA	Y	
11	An eating place which is accessory to a permitted use (such as a cafeteria for employee use)	N	N	N	N	BA	N	N	N	
12	Seasonal outdoor display	N	N	N	N	N	Y	BA	N	Section 8.5
13	Drive through facilities fast food & drive through facilities other	N	N	N	N	N	BA	N	N	Section 8.11
I.	Estate Preservation Area									
1	Estate Preservation Area	N	BA	N	N	N	N	N	N	Section 8.10
2	Estate Preservation Area Great Estate Inn	N	Y	N	N	N	N	N	N	Section 8.10
3	Estate Preservation Area Health Clinic	N	BA	N	N	N	N	N	N	Section 8.10
4	Estate Preservation Multifamily Use	N	BA	N	N	N	N	N	N	Section 8.10
J.	Marijuana Businesses									
1	Marijuana Retailer	N	N	N	N	BA	BA	N	N	Section 8.14
2	Marijuana Cultivator	N	N	N	N	BA	BA	N	BA	Section 8.14
3	Marijuana Product Manufacturer	N	N	N	N	BA	BA	N	BA	Section 8.14
4	Craft Marijuana Cooperative	N	N	N	N	BA	BA	N	BA	Section 8.14
5	Microbusiness	N	N	N	N	BA	BA	N	BA	Section 8.14
6	Marijuana Research Facility	N	N	N	N	BA	BA	N	BA	Section 8.14
7	Marijuana Laboratory (Independent Testing, Standards Testing)	N	N	N	N	BA	BA	N	BA	Section 8.14
8	Marijuana Transporter	N	N	N	N	BA	BA	N	BA	Section 8.14
9	Registered Medical Marijuana Dispensary	N	N	N	N	Y	Y	N	Y	Section 8.13
K.	Personal Wireless Services Facilities									
1	Collocation (unless the Collocation qualifies as an Eligible Facility)	BA	BA	BA	BA	ВА	BA	BA	BA	Section 8.18.5
2	New Tower Height and Setback	BA	BA	N	N	BA	BA	N	BA	Section 8.18.7
-	Substantial Change	BA	BA	BA	BA	BA	BA	BA	BA	Section 8.18.4.2
4	Eligible Facilities Request per 47 USC §1455	AA	AA	AA	AA	AA	AA	AA	AA	Section 8.18.9
Key	ey AA = Administrative Approval from the ZBA; BA = Special Permit; N = Not Permitted; Y = Permitted									

5.3. NONCONFORMING USES AND STRUCTURES

5.3.1. Applicability.

This Zoning Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, § 5 at which this Zoning Bylaw, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

5.3.2. Nonconforming Uses.

The Board of Appeals may grant a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

- 1. Change or substantial extension of the use; or
- 2. Change from one nonconforming use to another, less detrimental, nonconforming use.
- 5.3.3. Nonconforming Structures.

The Board of Appeals may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

- 1. Reconstructed, extended or structurally changed; or
- 2. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.
- 5.3.4. Variance Required.

Except as provided in subsection 5.3.5 below with regard to single and two-family residential structures, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, shall require the issuance of a variance from the Board of Appeals; provided, however, the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a special permit from the Board of Appeals.

5.3.5. Nonconforming Single-Family and Two-Family Residential Structures.

Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure as long as such addition does not increase the gross floor area of the original structure by more than 50 percent:

- 1. Alteration to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements,
- 2. Alteration to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements.
- Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements.

If the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

5.3.6. Abandonment or Non-Use.

A nonconforming use or structure which has been abandoned or not used for a period of two years

shall lose its protected status and be subject to all of the provisions of this Zoning Bylaw; provided, however, that such use or structure may be restored to its protected status by special permit from the Board of Appeals.

5.3.7. Reconstruction after Catastrophe or Demolition.

Any nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions:

- 1. Reconstruction of said premises shall commence within two years after such catastrophe or demolition.
- 2. Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, shall be only as great in volume or area as the original nonconforming structure.
- 3. In the event that the proposed reconstruction after demolition would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) exceed applicable requirements for yards, setback, and/or height or (c) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board of Appeals prior to demolition.
- 4. In the event of a bona fide catastrophe, one may apply for a special permit from the Board of Appeals to allow for reconstruction that would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) exceed applicable requirements for yards, setback, and/or height or (c) cause the structure to be located other than on the original footprint. One must apply for the special permit within 24 months of the date of the catastrophe.
- 5.3.8. Reversion to Nonconformity.

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

SECTION 6. DIMENSIONAL REQUIREMENTS

6.1. GENERAL REQUIREMENTS

No building or structure shall be constructed nor shall any existing building or structure be enlarged or altered except in conformance with the Table of Dimensional Requirements as to lot coverage, lot area, land area per dwelling unit, lot width, front, side and rear setbacks, and maximum height of structures except as may otherwise be provided elsewhere herein.

6.1.1. Table of Dimensional Requirements

Districts	Residential				Co	Industrial		
Requirements	R-3A	R-IA	R-30	/R-15	C-3A	C-IA	С	1
1. Minimum lot area	3 acres	1 acre	30,000 SF	15,000 SF	3 acres	1 acre	5,000 SF	2 acres
2. Minimum lot frontage	200'	150'	125'	85 '	300'	200'	75'	200'
Minimum lot width at building setback line	200'	150'	125'	85'	300'	200'	(6.1.10)	200'
4. Minimum setbacks:							-	
A. Building or structure (6.1.6)								
-Street Line	50'	35'	35'	35'	75'(6.1.11)	50'	(6.1.10)	50'
-Lot line	30'	25'	20'	20'	30'	30'	(6.1.10)	25'
-District Boundary Line (6.1.7)	30'	25'	20'	20'	50'	50'	(6.1.10)	50'
B. Sign Setback					35'	30'	(6.1.10)	30'
C. Parking Area Setback					30'	30'	(6.1.10)	30'
5. Maximum Building or structure height and stories (6.1.8)				ed in Section es shall be tv	6.1.8, the max o.	ximum h	eight shall t	oe 35' and
6. Maximum building coverage	10%	20%	20%	20%	20%	30%	75%	35%

Table 6.1.1- Table of Dimensional Requirements

6.1.2. Computation

- 1. The land and yard areas required for any new building or use shall not include any land or area required by any other building or use to fulfill these zoning requirements.
- 2. Land within the lines of a street on which a lot abuts shall not be counted as part of such lot for the purpose of meeting the area requirements of this Bylaw even though the fee to such land may be in the owners of abutting lots.

6.1.3. Multiple Buildings.

If more than one building (other than a one-, two-, or three-car garage, a tool shed, a greenhouse or a cabana) is lawfully placed on any lot in single or common ownership, the distance between the nearest parts of such buildings shall be not less than 20 feet.

6.1.4. Land Divided by Town Line.

When a lot is situated in part in the Town of Lenox and in part in the adjacent municipality, the provisions of this Bylaw shall be applied to the portion of such lot in Lenox in the same manner as if the entire lot were situated in Lenox.

