

Non-Conforming Business Use Bylaw



Non-Conforming Business Use Bylaw

- Our current process is flawed, a byproduct of zoning in 1938 that gave no consideration to the existing businesses operating in residential districts
- This zoning:
 - is about improving our process as much as it is about the zoning
 - is about reinvesting in existing businesses and creating amenities for the public, including alternative housing in some cases
 - **THIS IS ALL ABOUT PROCESS, COSTS, FAIRNESS AND ACHIEVING MANY OF THE FUNDAMENTALS OF MILTON'S MASTER PLAN**



Our Current Process

- Current zoning bylaws adopted 78 years ago in 1938
- Small businesses located in residential neighborhoods were simply overlaid with residential zoning with no consideration for their existing uses and became pre-existing, non-conforming uses
- Uses allowed to remain but any changes to the uses require approval of the Zoning Board of Appeal as a variance – an almost impossible legal task in Massachusetts – or required to spot-zone through the Town Meeting process



Master Plan

- Master Plan Purpose:
 - Protect, preserve, enhance quality and character of Milton
 - Guide future development
- Master Plan specifically recommends:
 - Address preexisting, non-conforming uses and dimensions
 - Consider eliminating the need for variances and spot zoning and have Special Permit process replace
 - Create buffer areas and mitigation measures where there is conflict with surrounding conforming uses
 - Provide small commercial uses in neighborhoods
 - Increase and expand the range of housing types; create smaller housing units
 - Streamline Permitting Process



Purpose

- Spur investment in small preexisting non-conforming business uses
- Provide amenities for neighborhoods
- Promote walkable neighborhoods
- Create alternative housing types
- Address environmental concerns
- Improve building facades and streetscapes
- Provide neighborhood Open Space
- Generate new tax revenue



What will this bylaw do?

- Proactively determines what Milton wants at its preexisting non-conforming site rather than having developers propose uses we need to react to
- Allows small businesses to improve and expand without incurring substantial at-risk costs that currently makes this kind of improvement infeasible
- Provides a viable economic opportunity for property owners outside of 40B
- Provides ability for Milton to regulate businesses in a consistent way, including off-street parking, refuse storage and set hours of operation
- Creates property buffers to abutting residential properties that in many cases don't exist today
- **DOES REQUIRE A SUBSTANTIAL PUBLIC SPECIAL PERMIT PROCESS**
 - Neighborhood process required
 - Project must not be adverse to neighborhood
 - Applies only to small neighborhood sites



Allowable Uses

- Any use allowed in a business district except for prohibited uses
- Open Space
- Dwellings as a secondary use on upper floors
 - May be condominium or rental units
 - May not be rented for less than 9 months
 - Must be at least 500 square feet
 - Must have an affordable housing component or contribution



Neighborhood Involvement

- A public meeting with neighbors is required prior to application
- Applicants must detail all expressed concerns and indicate how each will be responded to
- Planning Board Public Hearing on Special Permit is second opportunity to provide input on the public record and in front of elected officials rendering decision



What will this bylaw NOT do?

- Does not create business districts
- Does not permit specific projects
- Does not take away neighborhood input
- Does not **remove** process



Prohibited Uses

- Used car lots
- Motor vehicle dealerships
- Gasoline stations
- Car repair businesses
- Medical marijuana dispensaries
- Sexually-oriented businesses



DRAFT Changes since initial submission

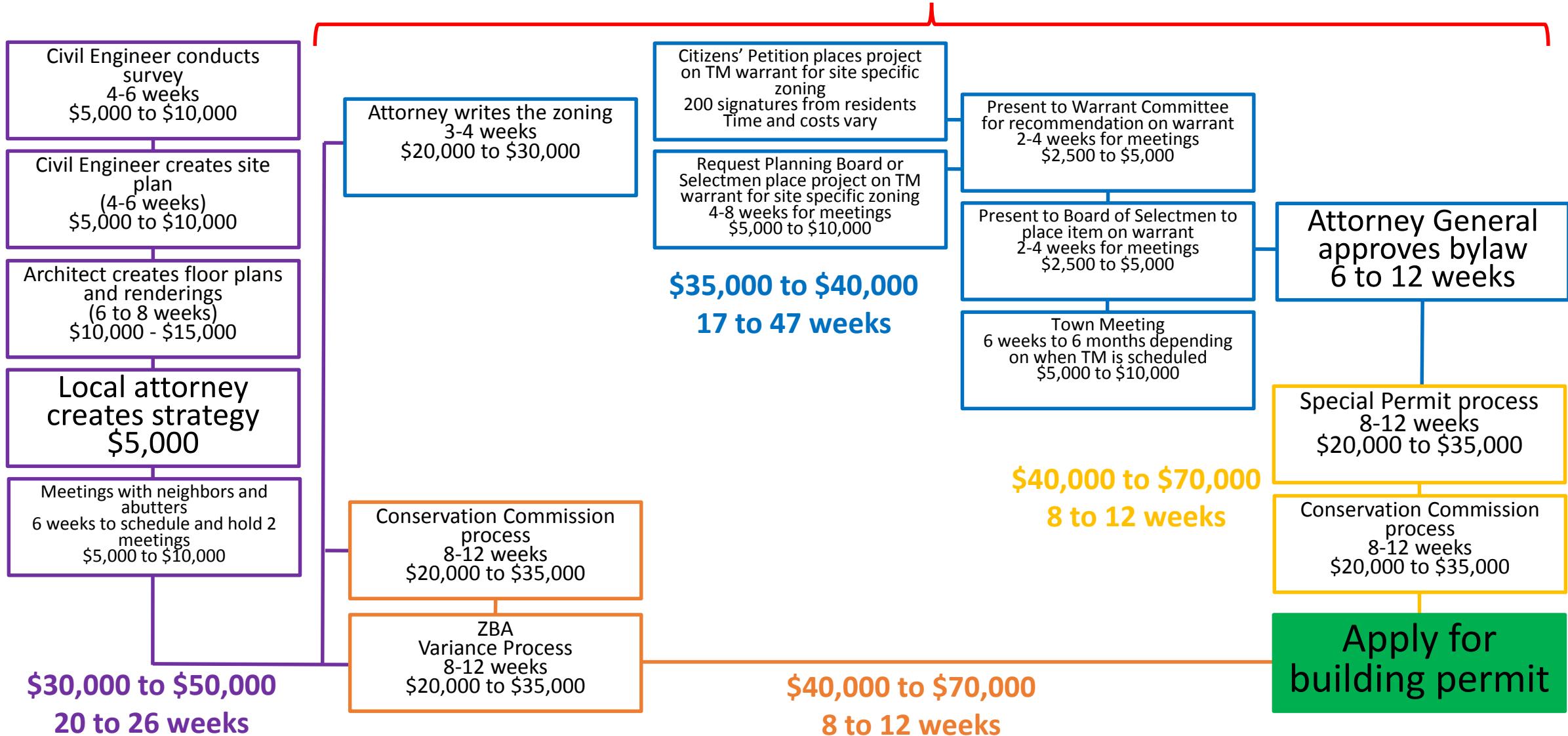
- Non-conforming business now referred to as “pre-existing”
- Non-conforming business use must comprise at least 51% of the uses on the lot based on square footage
- Not-for-profit and institutional uses are expressly excluded
- Home businesses subject to Section III.A.10 are expressly excluded
- Lots not more than 2.0 acres
- Lots can be expanded by 3x their existing square footage up to 40,000 SF. Lots over 40,000 SF cannot be expanded
- Special permits require applicants to achieve at least 5 of the stated purposes
- Height has been reduced to 35' for all uses and protrusions above the allowed height are limited to 10% of the roof area
- Individual buildings may not have a footprint above 12,500 SF
- No underground or structured parking is allowed



Location	Business Name	Description	Owner Name	Lot area (acres)	Permit notes
98 HOUSTON AV	TEDESCHI FOOD SHOPS, INC #310	convenience store in res district	TEDESCHI FOOD SHOPS, INC #310	0.08	Preexisting
330 PLEASANT ST	PLEASANT DELI MARKET	convenience store in res district	NITI CORP/PATEL, HITESH	0.10	Special permit for "additional facilities" granted July 1983 (possibly preexisting)
12 BRUSH HILL RD	MILTON YOGA	yoga studio in res district	MILTON YOGA	0.14	Preexisting, but various special permits and variances issued
191 BLUE HILLS PW	MILTON ORTHOPEDIC + SPORT	med office in res district	BOEGLIN, EUGENE JR	0.15	Various special permits (possibly preexisting?)
18 BRECK ST	DEL FAM ENTERPRISES INC	auto garage in res district	STEVEN L DELCONTE	0.17	-
2 REEDSDALE RD	PERSONALIZED PREVENTITIVE MEDI	med office in res district	DELANEY, RICHARD M	0.19	Probably preexisting, but special permit issued April 1981 to change from pharmacy to physician's office
7 PLEASANT ST	BENT`S	bakery in res district	DEVINE, CHRISTOPHER	0.21	Preexisting, but various special permits issued
6 SCHOOL ST	S.G. HARLOLD PLUMBING + HEATIN	plumbing biz in res district	S.G. HARLOLD PLUMBING + HEATIN	0.25	Special permit, issued Feb. 1979
131 -133 BROOK RD	CHRIS AUTO SERVICE, INC & MILTON FOOD MART	auto garage convenience store in res district	KARAKATSAN DIMITRIOS	0.26	Preexisting, but various special permits issued
475 ADAMS ST	OFFICE BUILDING	pro office near biz district		0.35	
487 ADAMS ST	OFFICE BUILDING	pro office near biz district	BENNET, MARK W	0.37	Variance
590 RANDOLPH AV	TEDESCHI FOOD SHOPS, INC #341	convenience store in res district	TEDESCHI FOOD SHOPS, INC #341	0.65	Various special permits (possibly preexisting?)
940 CANTON AV	BLUEHILL POWER EQUIPMENT, FRANNIE'S CORNER AND MILTON AUTO REPAIR	equipment, gas station and auto garage in res district	BLUEHILL POWER EQUIPMENT	0.82	Preexisting, but various special permits issued
919 BLUE HILL AV	COULTER LANDSCAPING	landscape biz in res district	COULTER LANDSCAPING	0.86	Special permit
480 ADAMS ST	OFFICE BUILDING	pro office near biz district	MAINSAIL ADVISORS SERVICES LLC	1.05	Variance
1126 RANDOLPH AV	EAGLE FARM & GREENHOUSE	landscape/market in res district	EAGLE FARM & GREENHOUSE	1.06	Various special permits
424 ADAMS ST	OFFICE BUILDING	pro office in res district	GOODE LAW REALTY OFFICE	1.62	Variance (previous nonconforming auto sales use)
487 BLUE HILLS PARKWAY	MCKEEN OIL	commercial in res district	PJD Realty Trust	1.95	Preexisting, but special permit issued to repair building
1094 BLUE HILL AVENUE	SOLIMANDO CONSTRUCTION	commercial in res district	Hemenway Pond Developers LLC	2.00	Preexisting, but various special permits issued

Current process to improve sites:

Each step in this section is contingent and could fail



Current process to improve sites:

Each step in this section is contingent and could fail

Civil Engineer conducts survey
4-6 weeks
\$5,000 to \$10,000

Civil Engineer creates site plan
(4-6 weeks)
\$5,000 to \$10,000

Architect creates floor plans and renderings
(6 to 8 weeks)
\$10,000 - \$15,000

Local attorney creates strategy
\$5,000

Meetings with neighbors and abutters
6 weeks to schedule and hold 2 meetings
\$5,000 to \$10,000

\$30,000 to \$50,000
20 to 26 weeks

Attorney writes the zoning
3-4 weeks
\$20,000 to \$30,000

Citizens' Petition places project on TM warrant for site specific zoning
200 signatures from residents
Time and costs vary

Request planning Board or Selectmen place project on TM warrant for site specific zoning
4-8 weeks for meetings
\$5,000 to \$10,000

Present to warrant committee for recommendation on warrant
2-4 weeks for meetings
\$2,500 to \$5,000

Present to Board of Selectmen to place item on warrant
2-4 weeks for meetings
\$2,500 to \$5,000

Attorney General approves bylaw
6 to 12 weeks

*** Variance law in Massachusetts makes it very difficult to get a variance, and if the variance is appealed in court, it will almost definitely not be upheld.**

\$40,000 to \$70,000
8 to 12 weeks

Conservation Commission
8 weeks
\$20,000 to \$35,000

ZBA
Variance
8 weeks
\$20,000 to \$35,000

\$40,000 to \$70,000
8 to 12 weeks

Apply for building permit

Current process to improve sites:

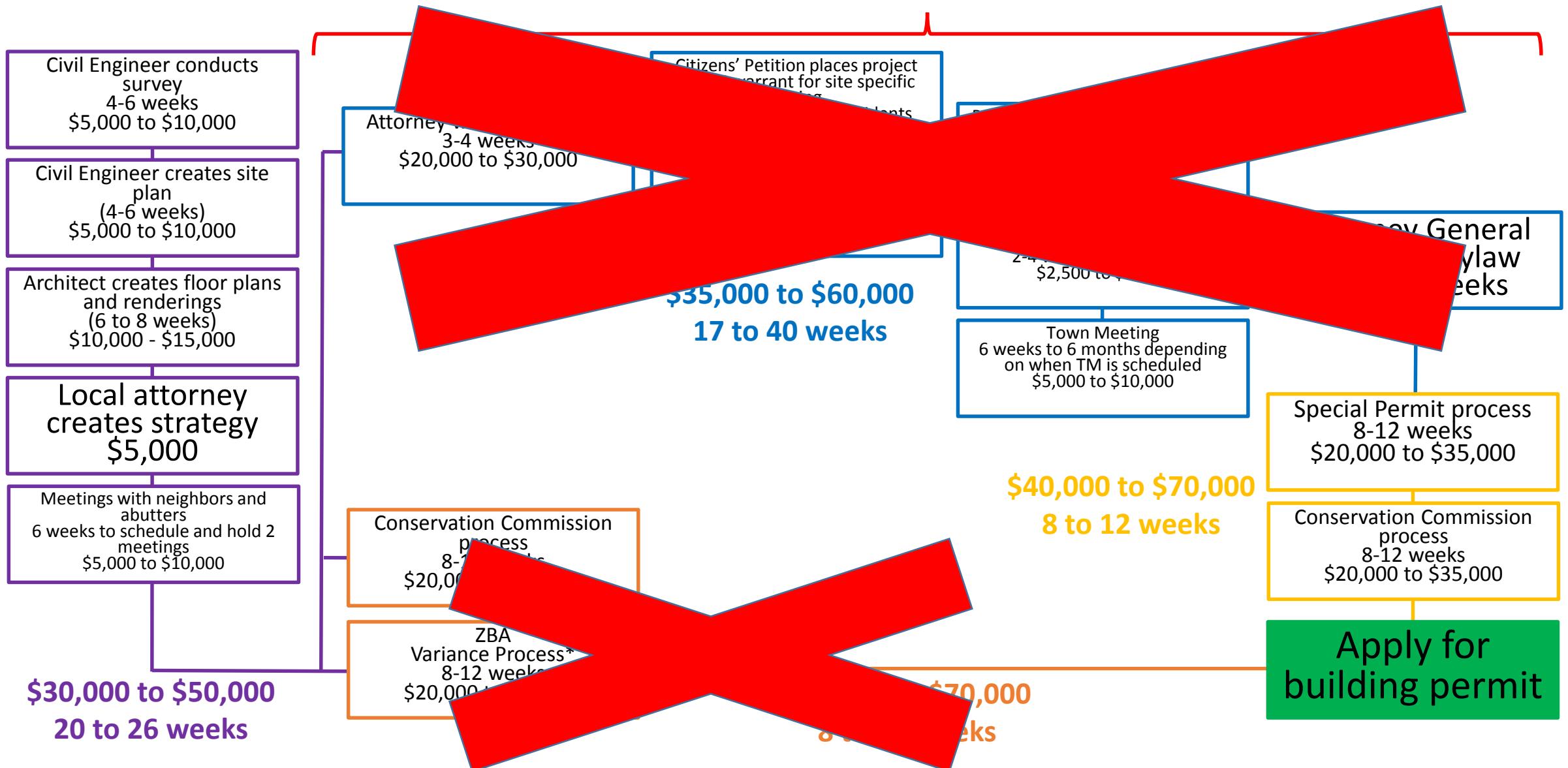
**TOWN MEETING PROCESS TO CREATE ZONING
AND SPECIAL PERMIT
\$105,000 to \$160,000 or more
52 to 96 weeks or more**

Sites of less than 2 acres can simply not make the economics of this additional basis work to justify improvements on a totally unpredictable process



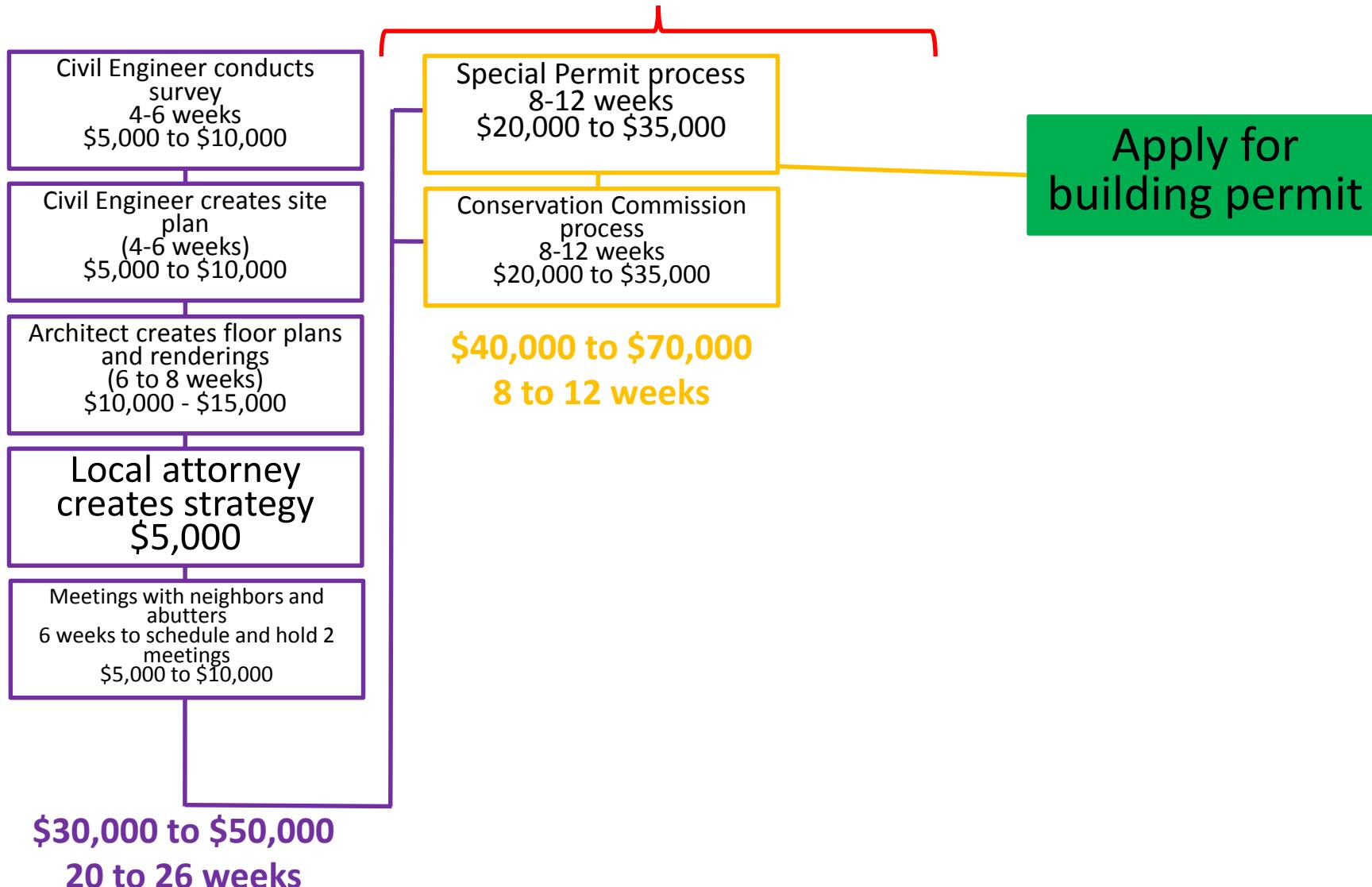
Current process to improve sites:

Each step in this section is contingent and could fail



Current process to improve sites:

Each step in this section is contingent and could fail



Proposed Process to get to Building Permit

SPECIAL PERMIT

\$70,000 to \$120,000

**(Savings of \$35,000 to
\$40,000)**

28 to 38 weeks

(Savings of 24 to 58 weeks)

- *Still expensive, time consuming and risky*
- *Will still require good projects, extensive process and give the neighbourhood and town plenty of power while making small projects economically feasible*

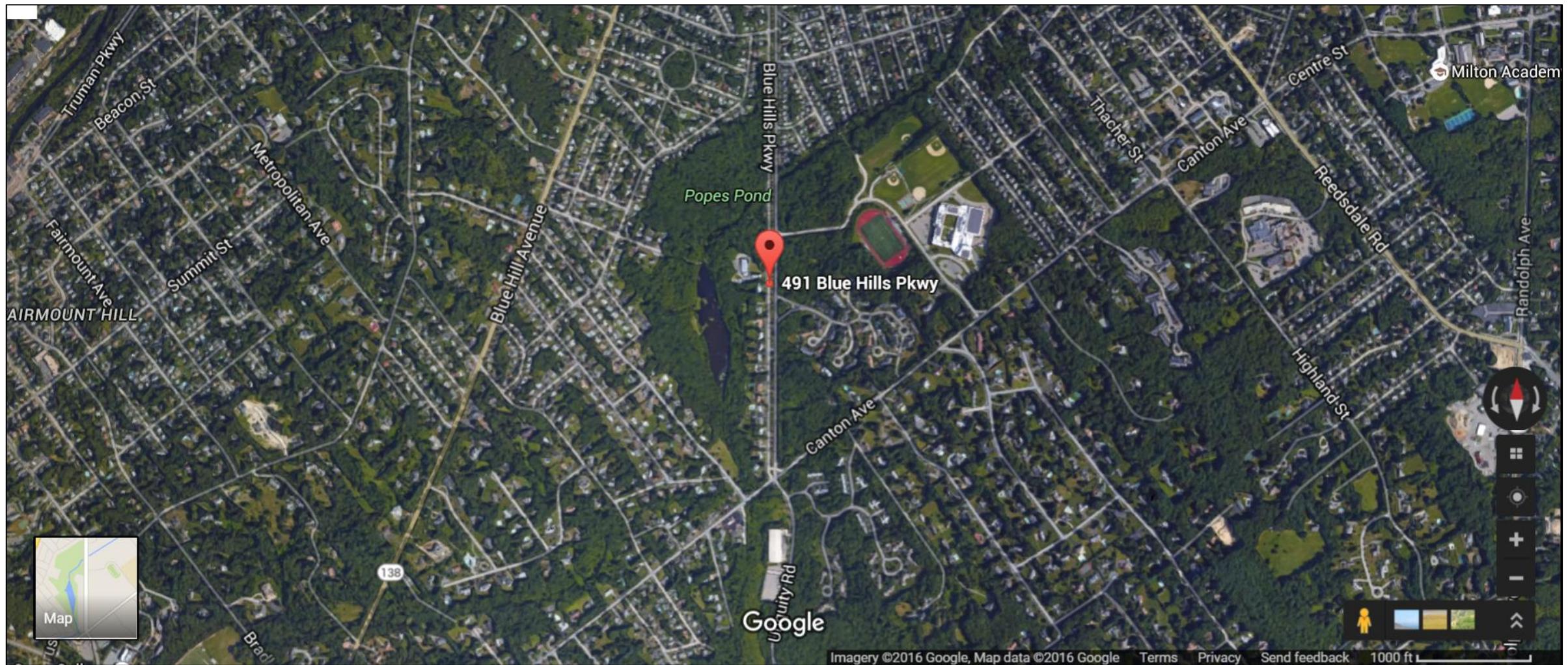


TEST FITS



Blue Hill Ice

487 Blue Hills Parkway



Blue Hill Ice
487 Blue Hills Parkway

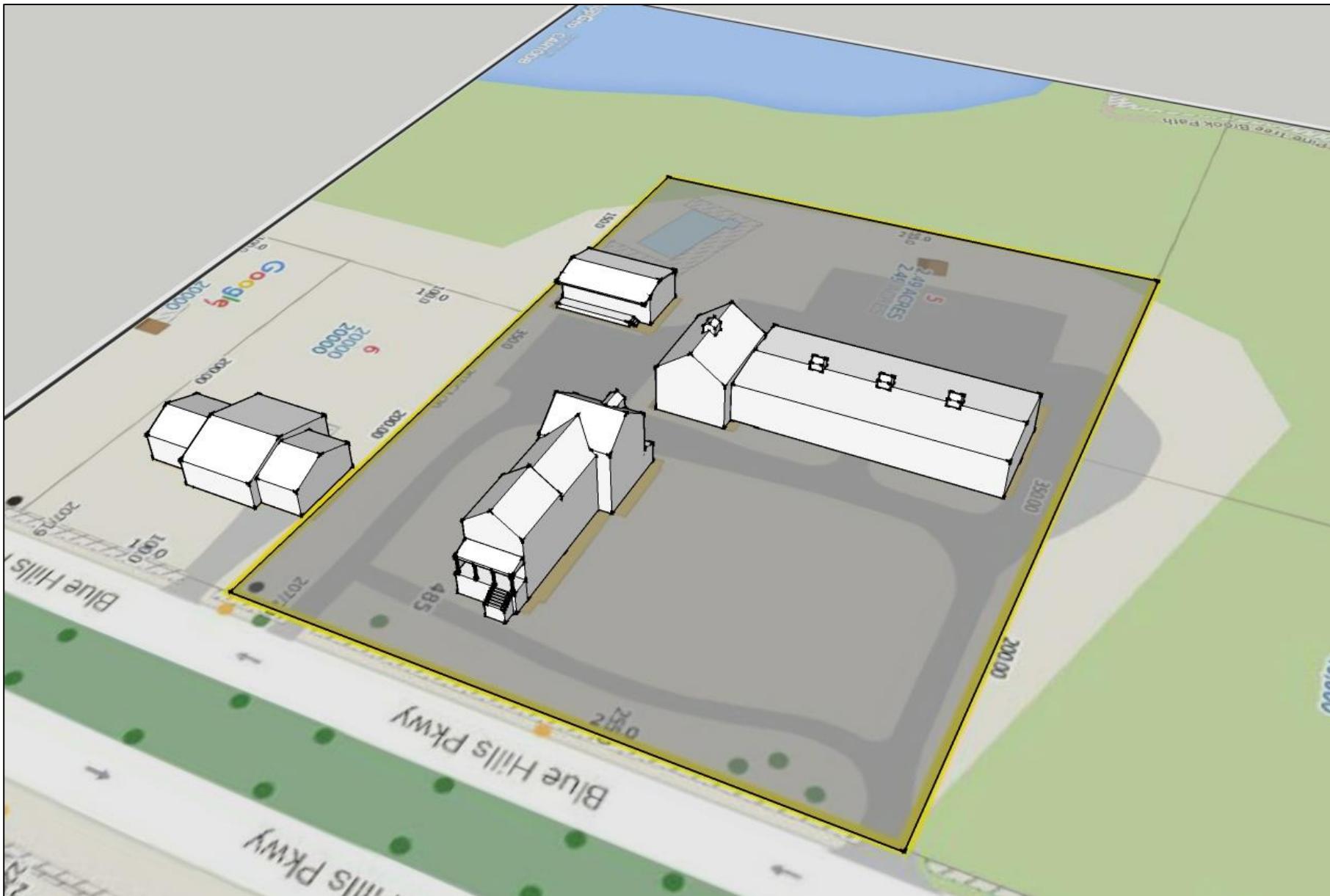


Blue Hill Ice
487 Blue Hills Parkway

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1st Floor Square Footage	Existing Square Footage
Lot Size	84,942	29,730	55,212	92	23,005	22,015
Expansion allowed in bylaw	84,942	29,730	55,212	92	23,005	22,015
Maximum build on expanded lot	~16,000 SF with 26 units on floors 2 and 3 and 103 parking spaces					
40(b)	161					

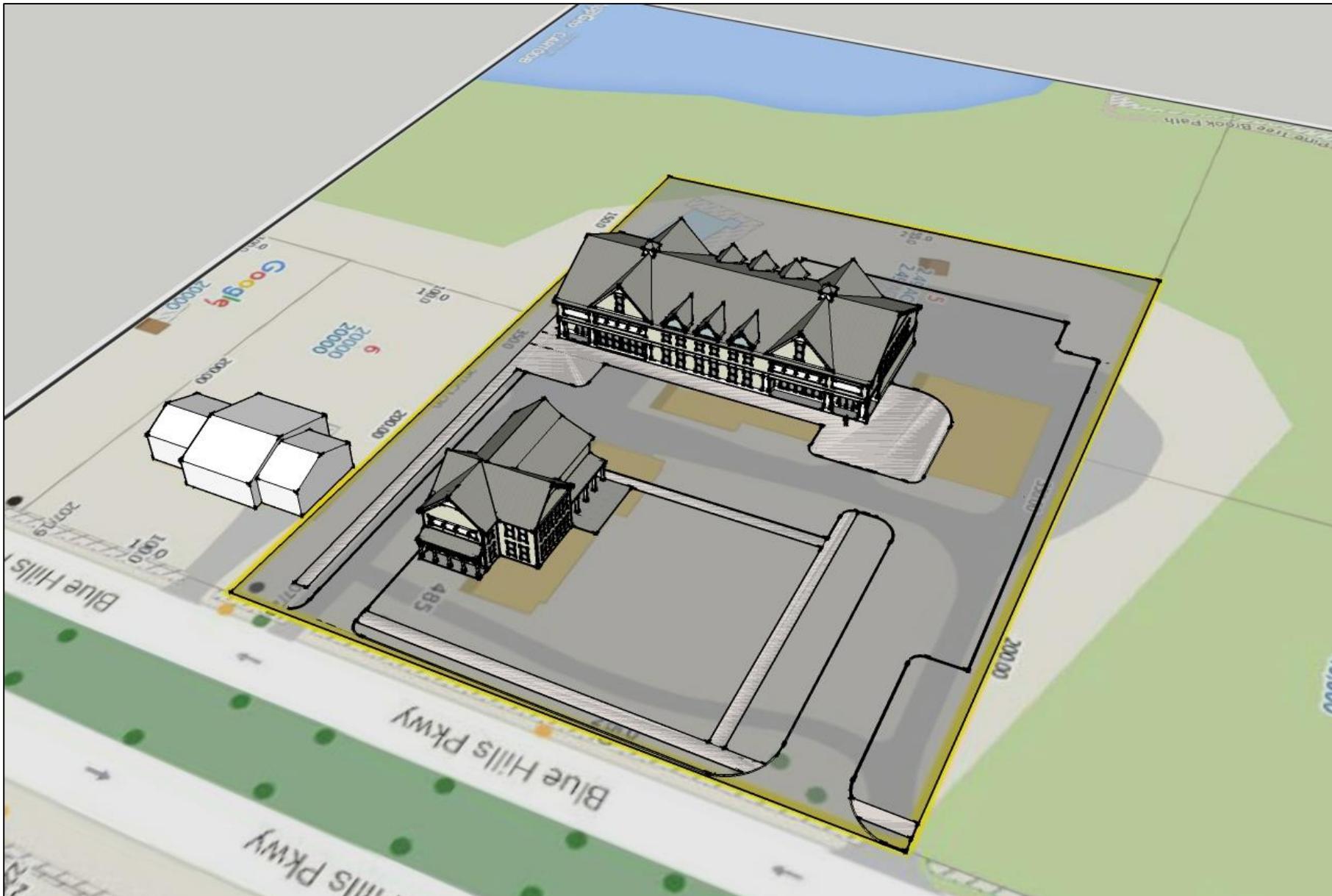
Blue Hill Ice

487 Blue Hills Parkway

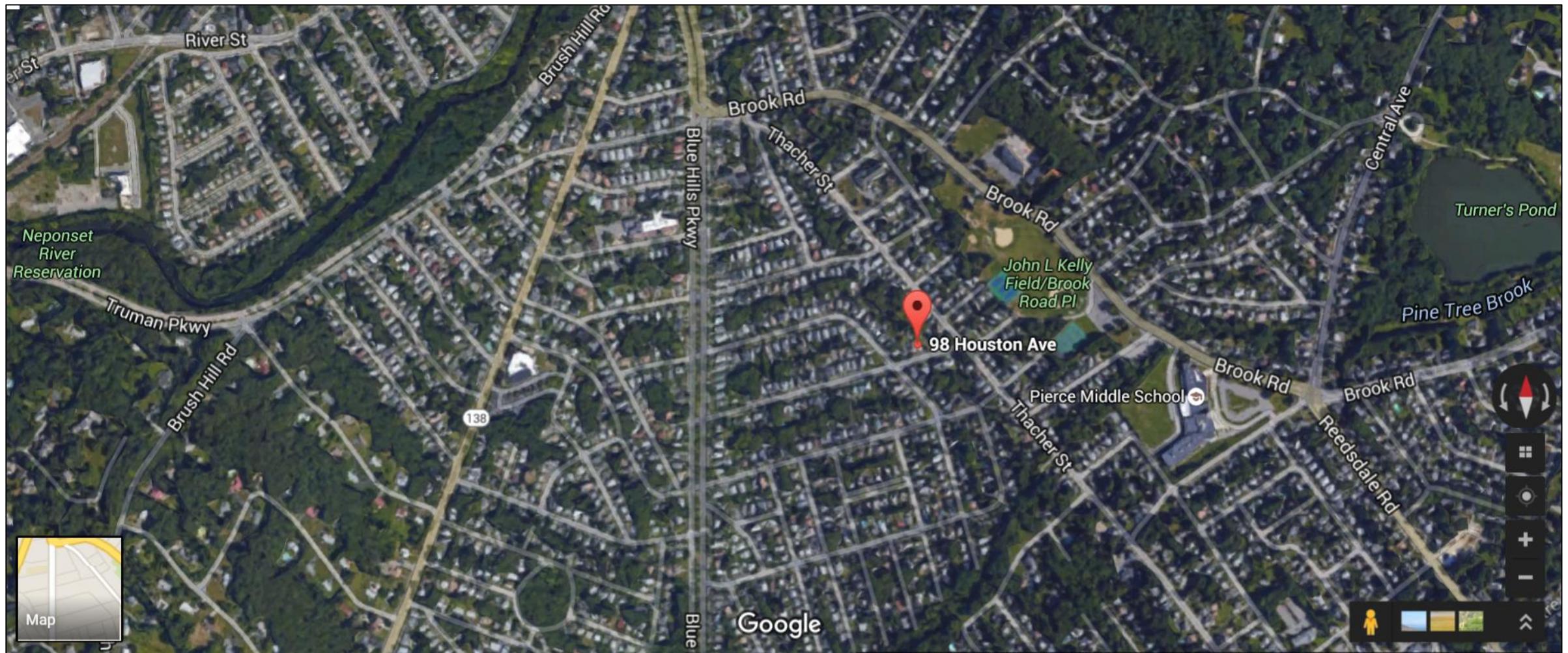


Blue Hill Ice

487 Blue Hills Parkway



Tedeschi's 98 Houston Avenue



Tedeschi's 98 Houston Avenue



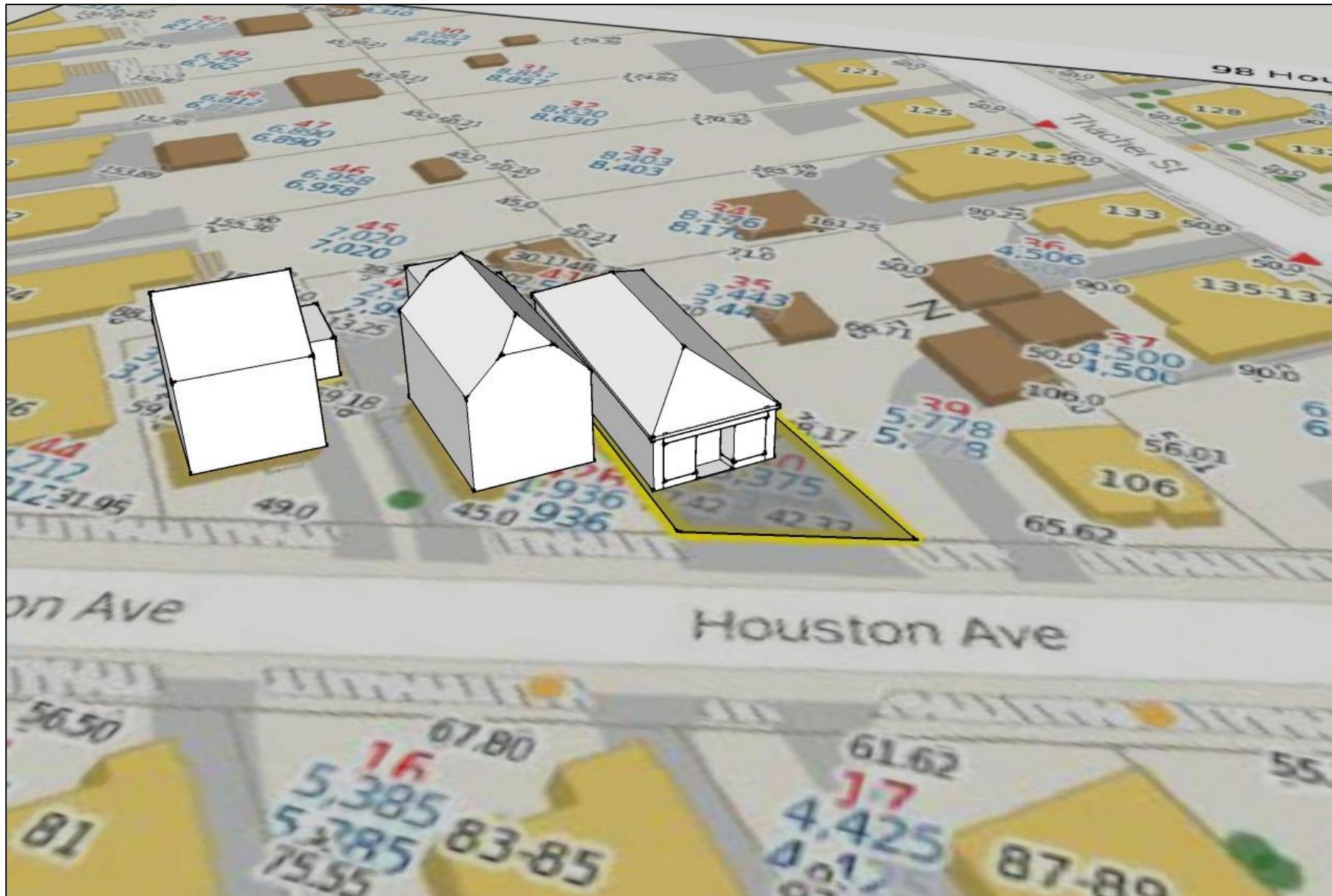
Tedeschi's
98 Houston Avenue

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1st Floor Square Footage	Existing Square Footage
Lot Size	3,375	1,181	2,194	4	914	1,714
Expansion allowed in bylaw	10,125	3,544	6,581	11	2,742	1,714
Maximum build on expanded lot	~1,900 SF 1st floor retail plus 3 units of residential above and 12 parks					
40(b)	19					

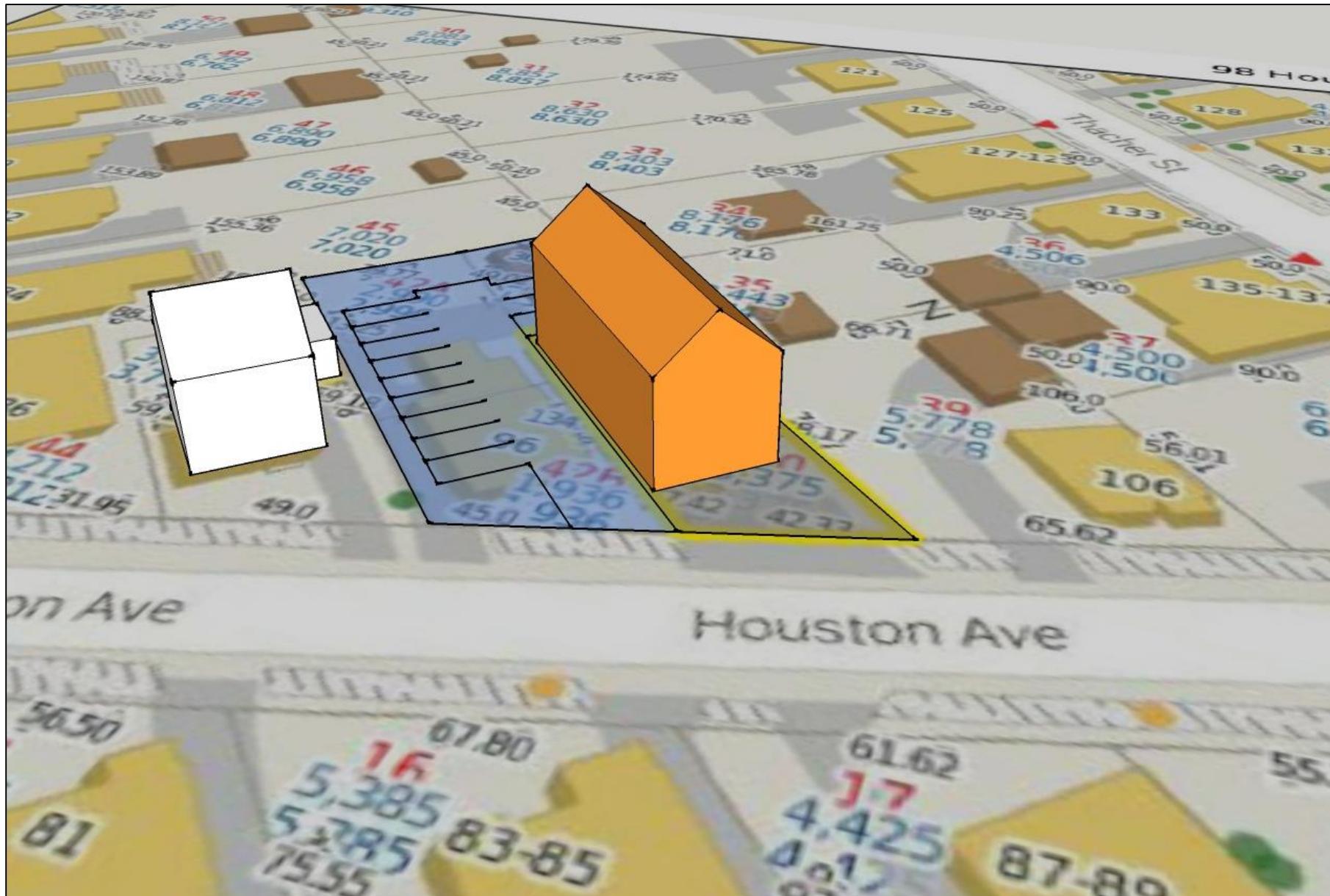
Tedeschi's 98 Houston Avenue



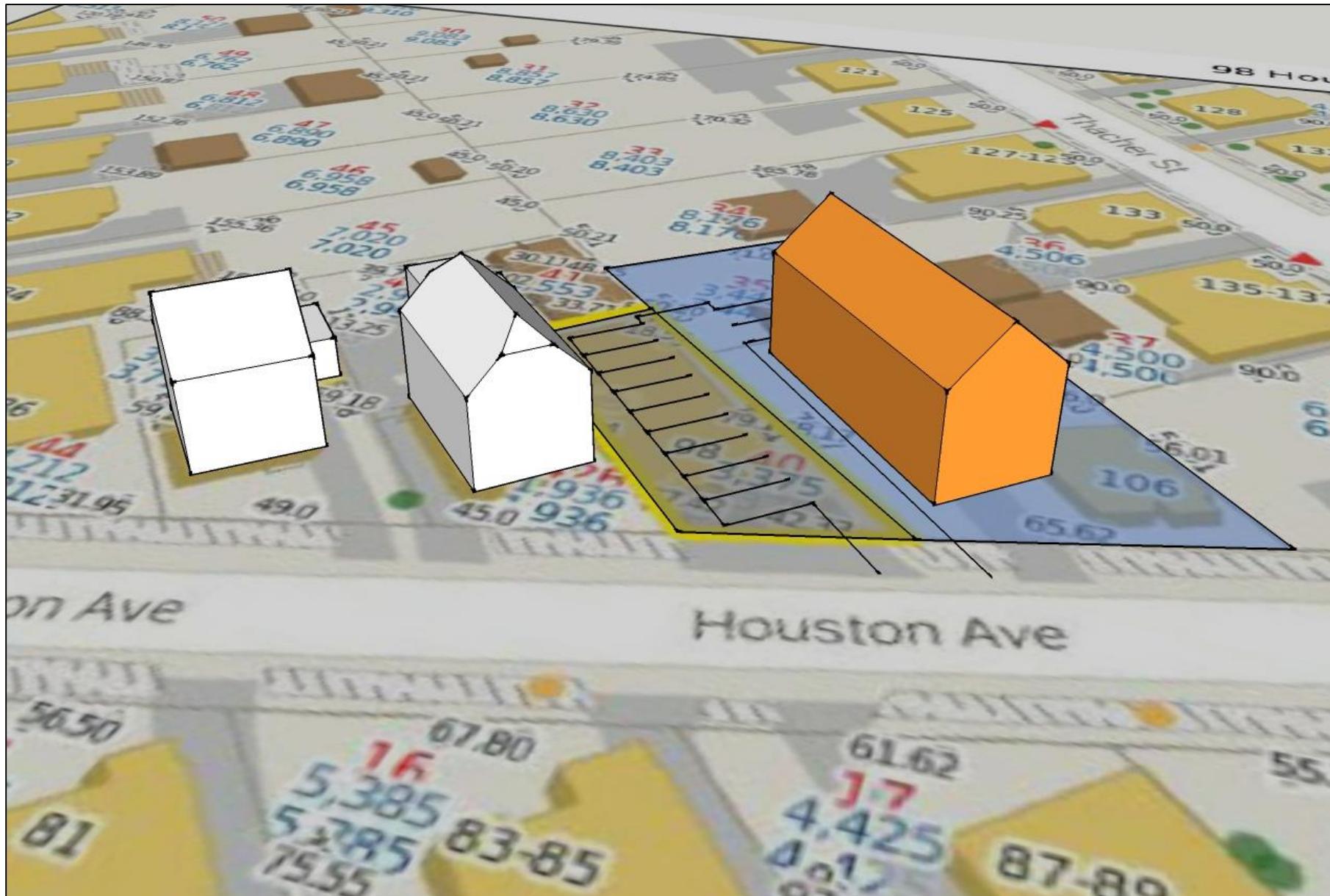
Tedeschi's 98 Houston Avenue



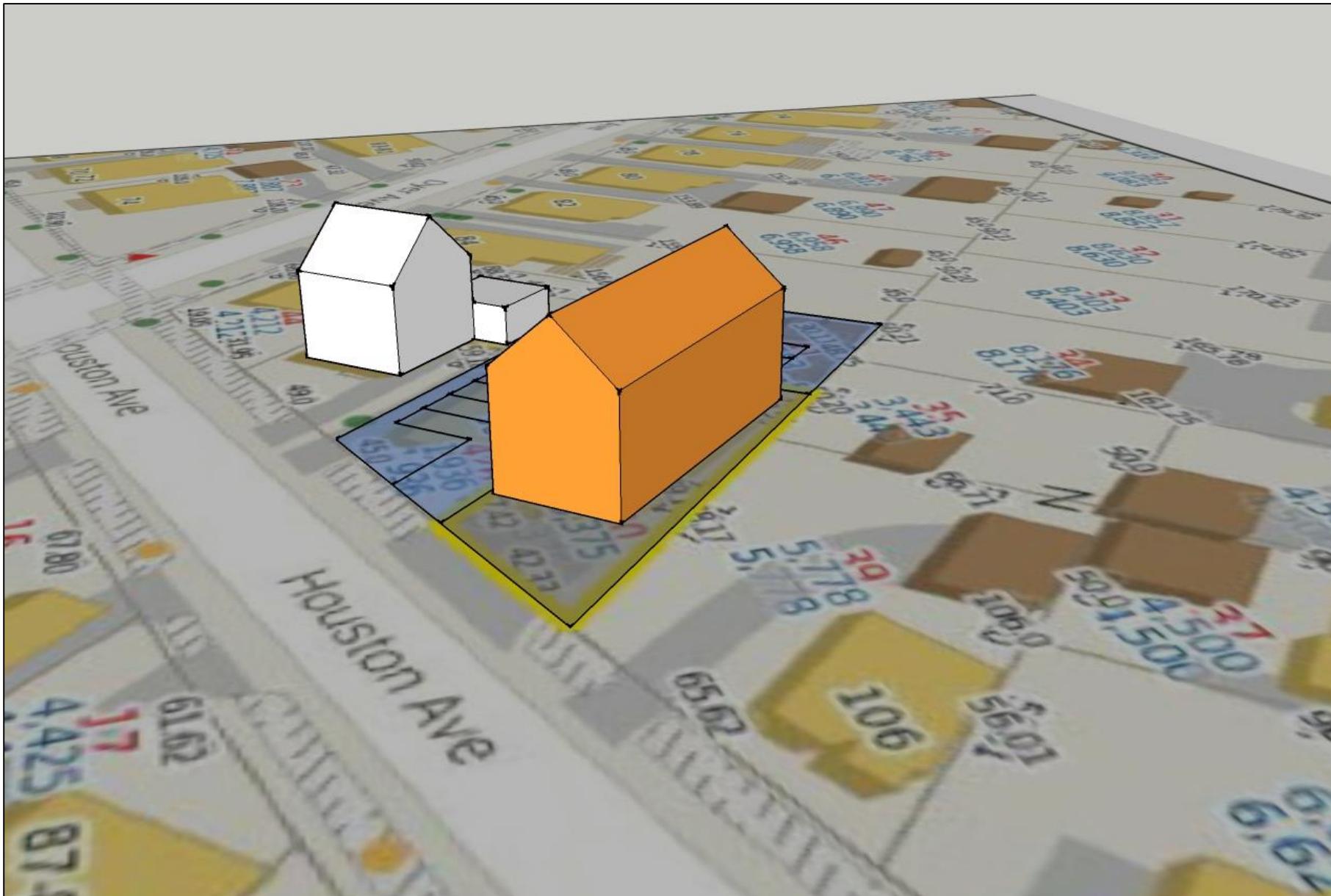
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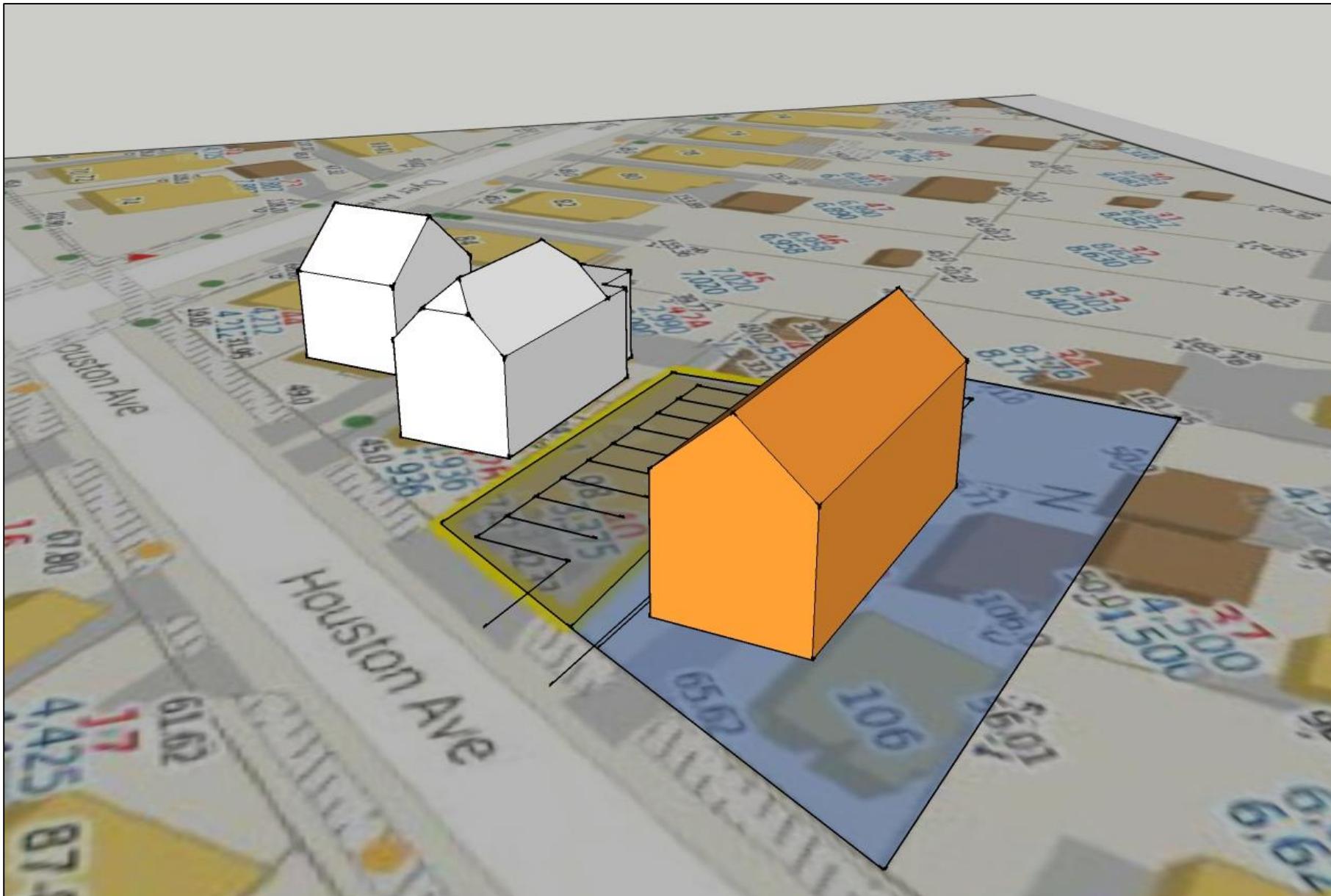
Tedeschi's 98 Houston Avenue



Tedeschi's 98 Houston Avenue

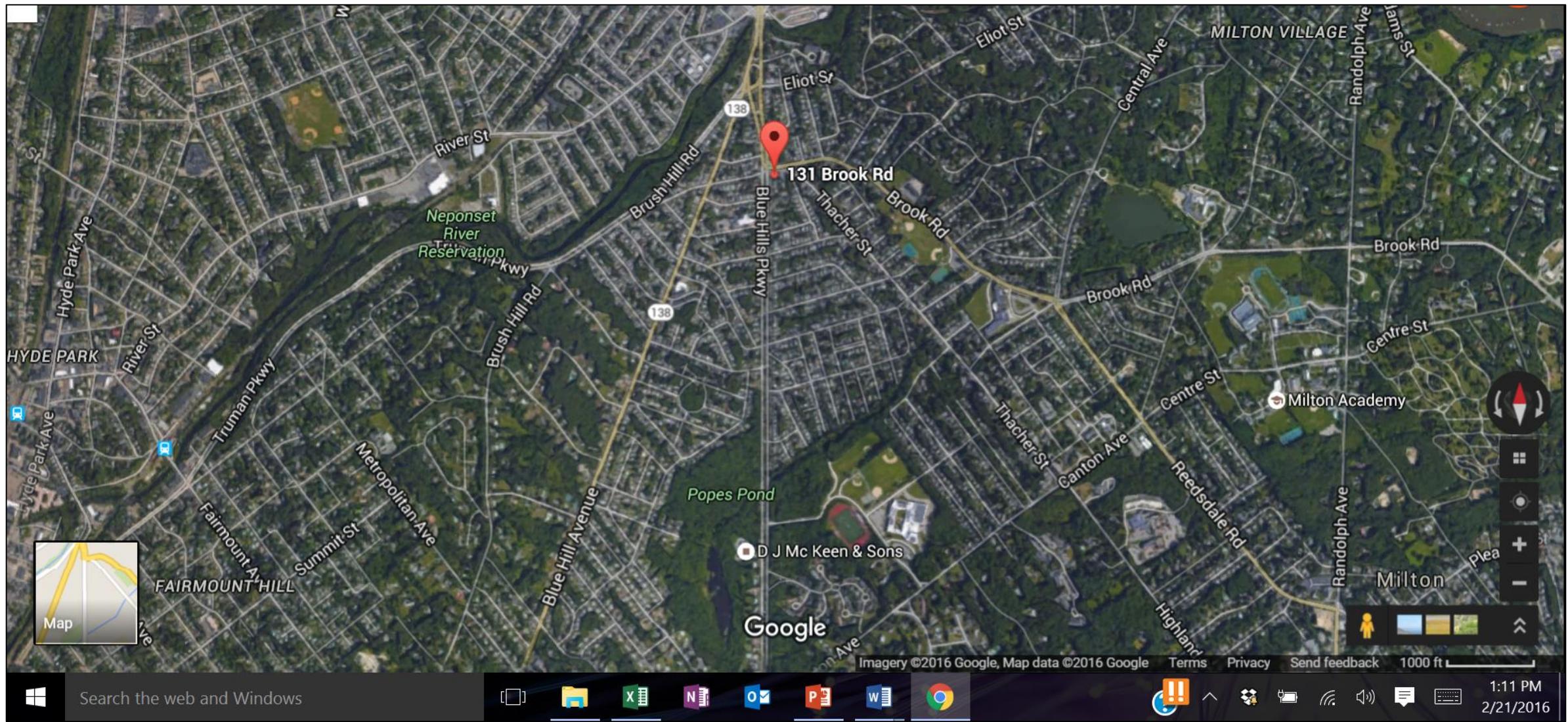


Tedeschi's 98 Houston Avenue



Milton Market and S&E Auto

131-133 Brook Road



Milton Market and S&E Auto

131-133 Brook Road

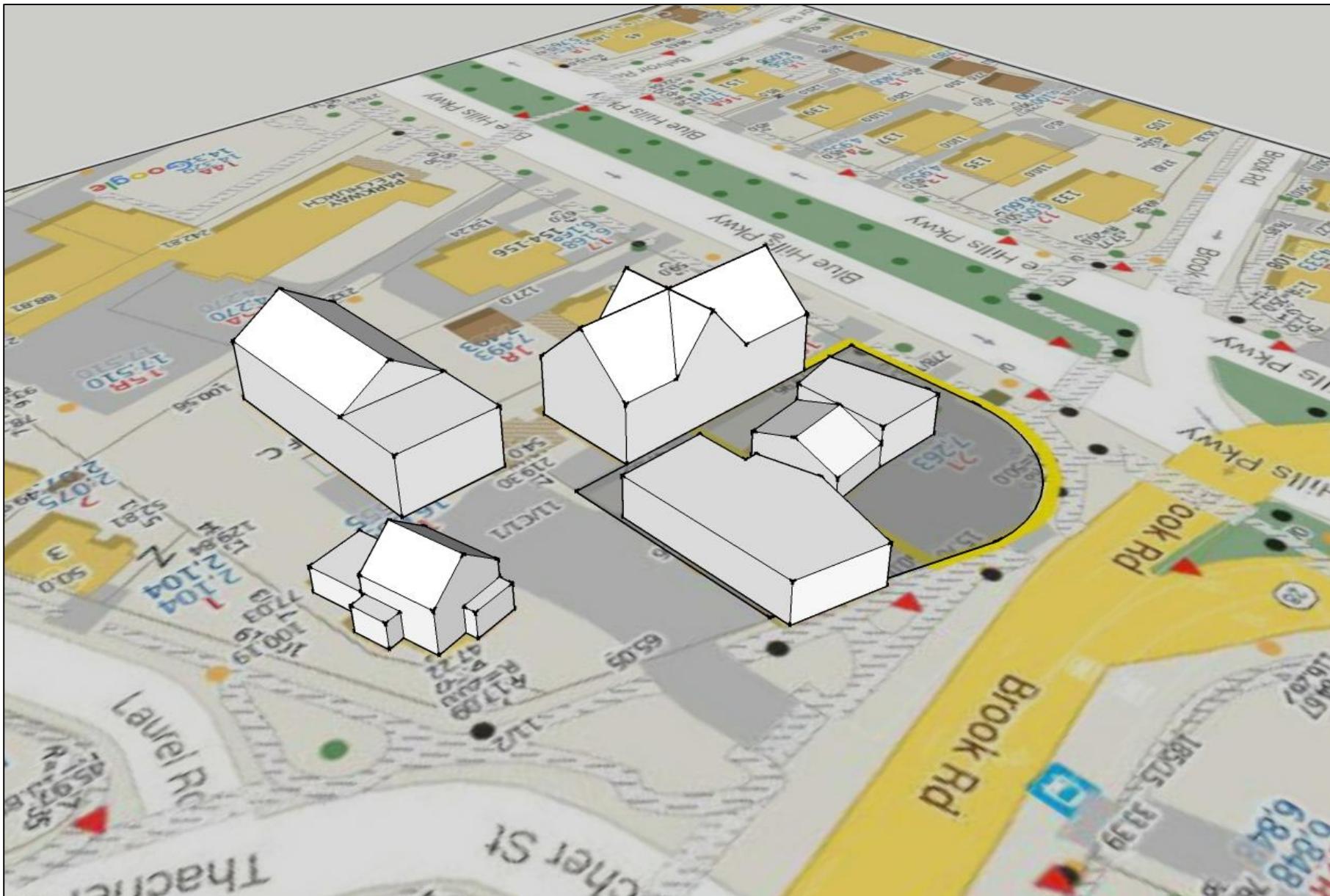


Milton Market and S&E Auto
131-133 Brook Road

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	11,260	3,941	7,319	12	3,050	3,196
Expansion allowed in bylaw	33,780	11,823	21,957	37	9,149	3,196
Maximum build on expanded lot	~6,333 SF of commercial with 10 residential units and 41 parking spaces					
40(b)	76					

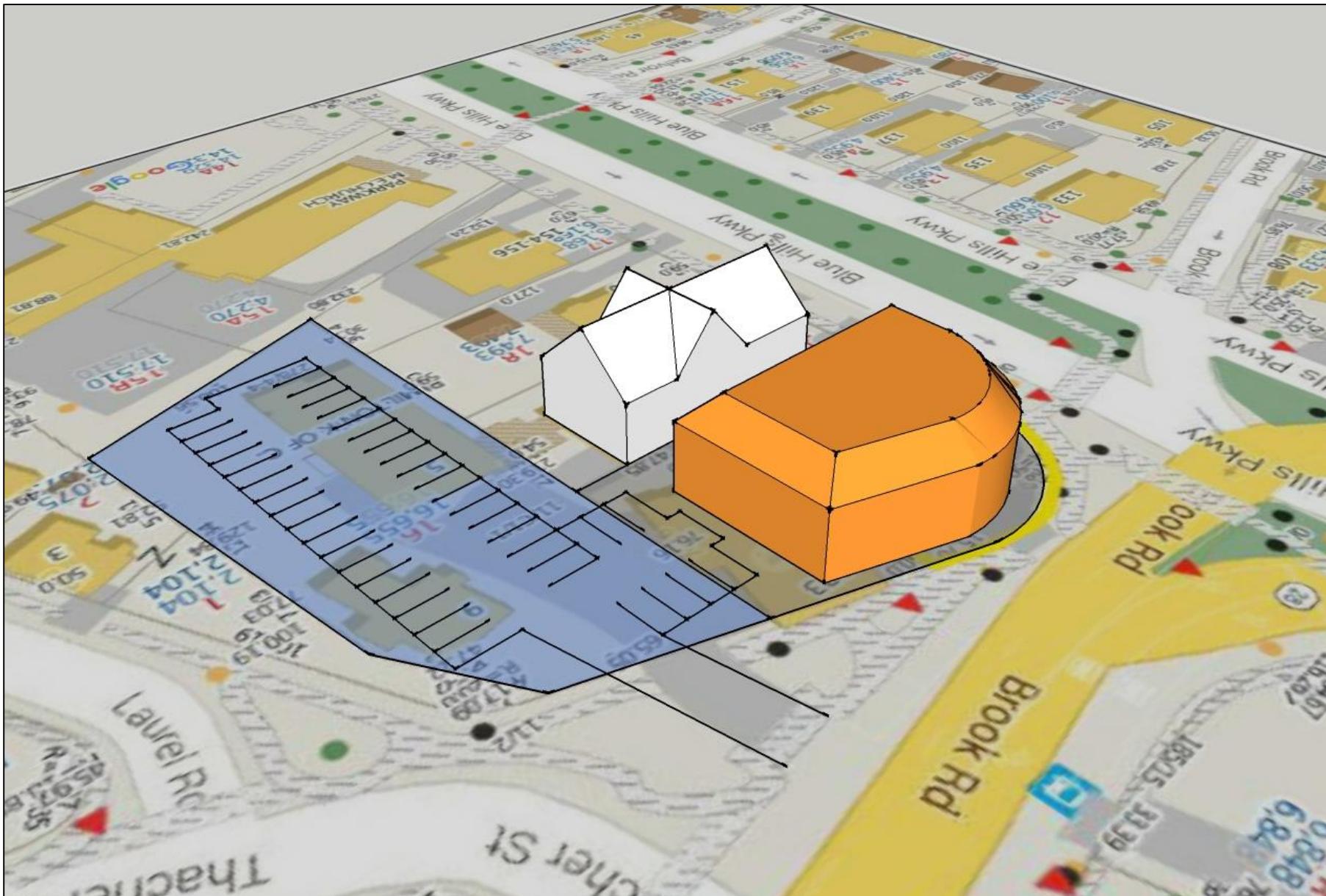
Milton Market and S&E Auto

131-133 Brook Road



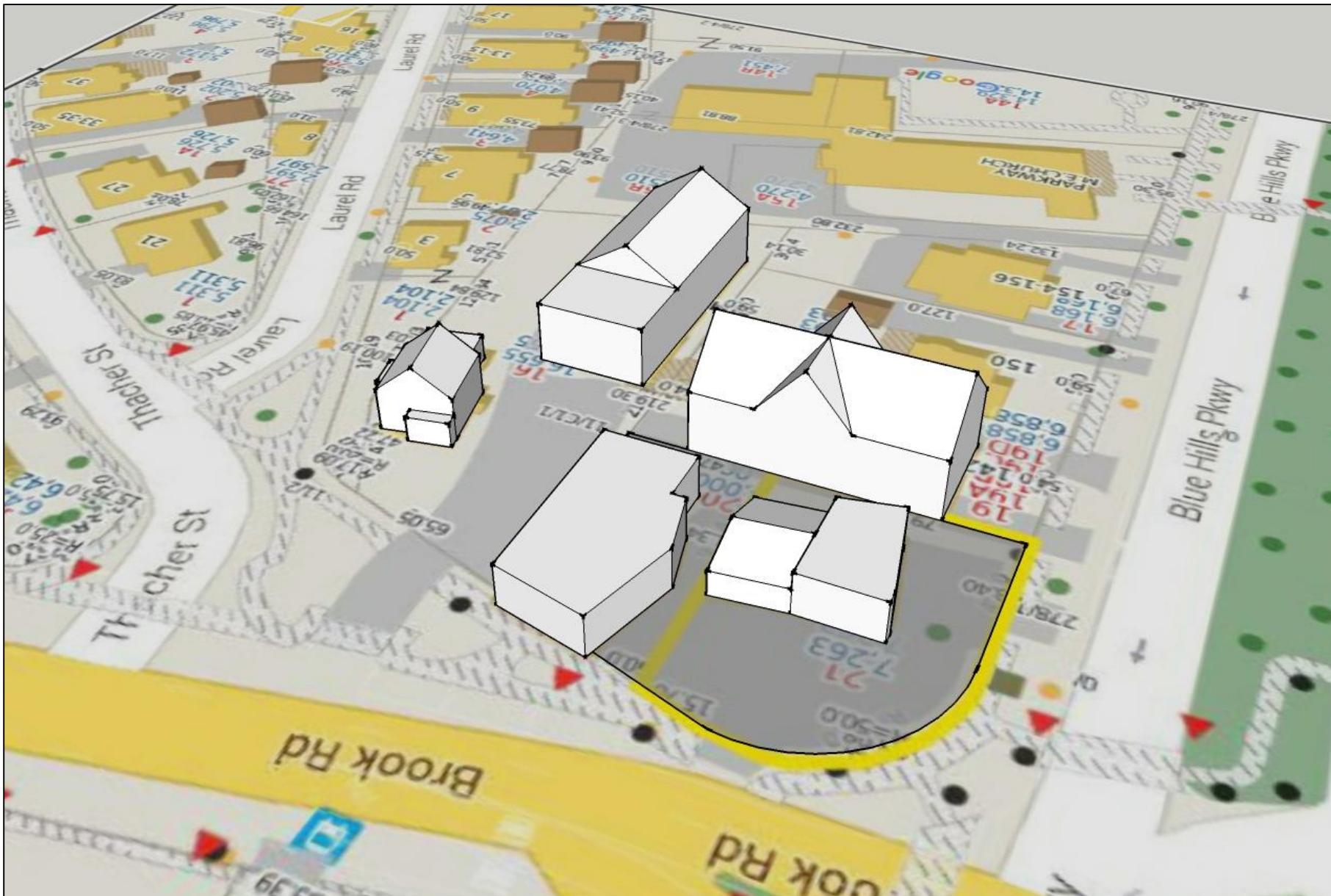
Milton Market and S&E Auto

131-133 Brook Road



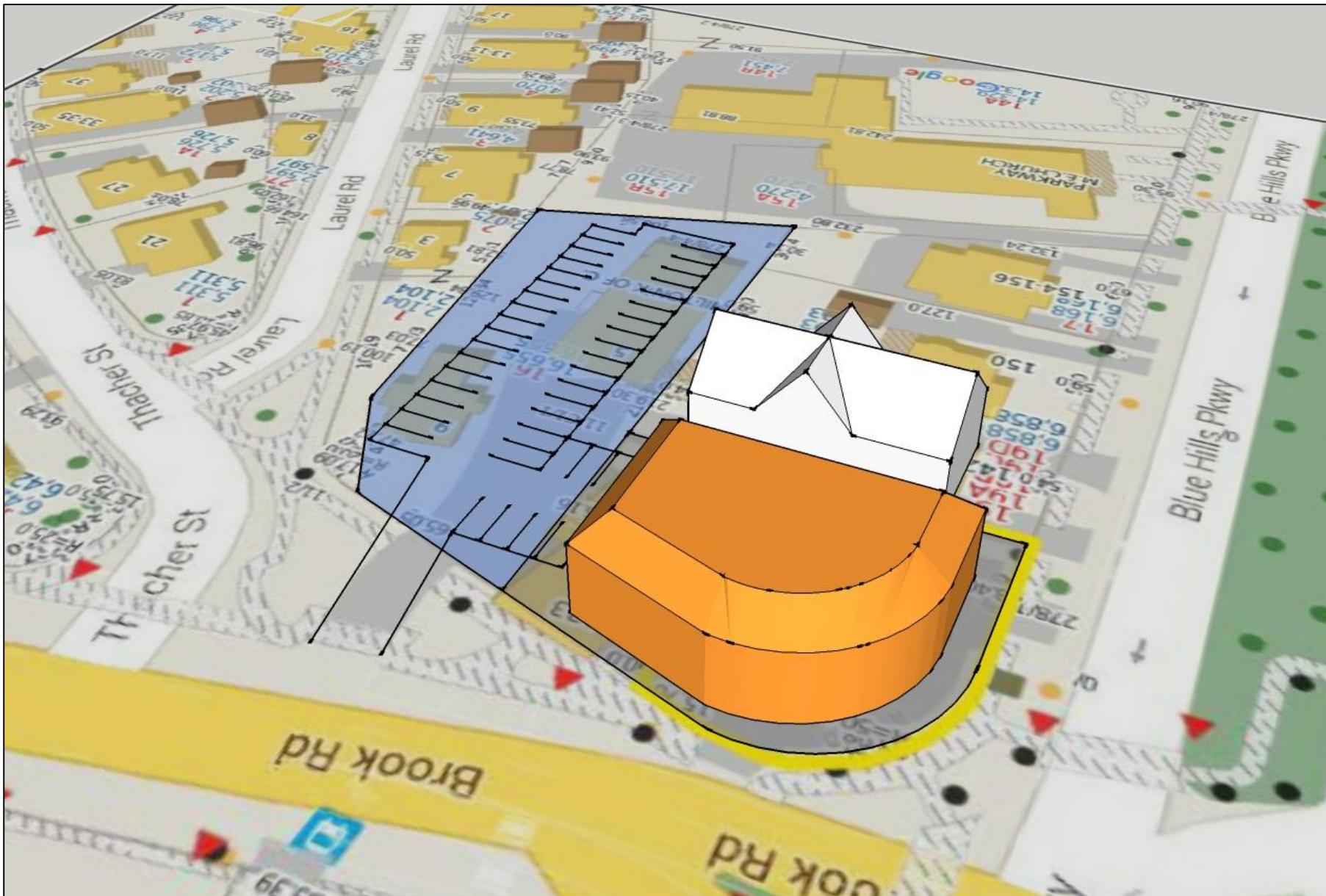
Milton Market and S&E Auto

131-133 Brook Road

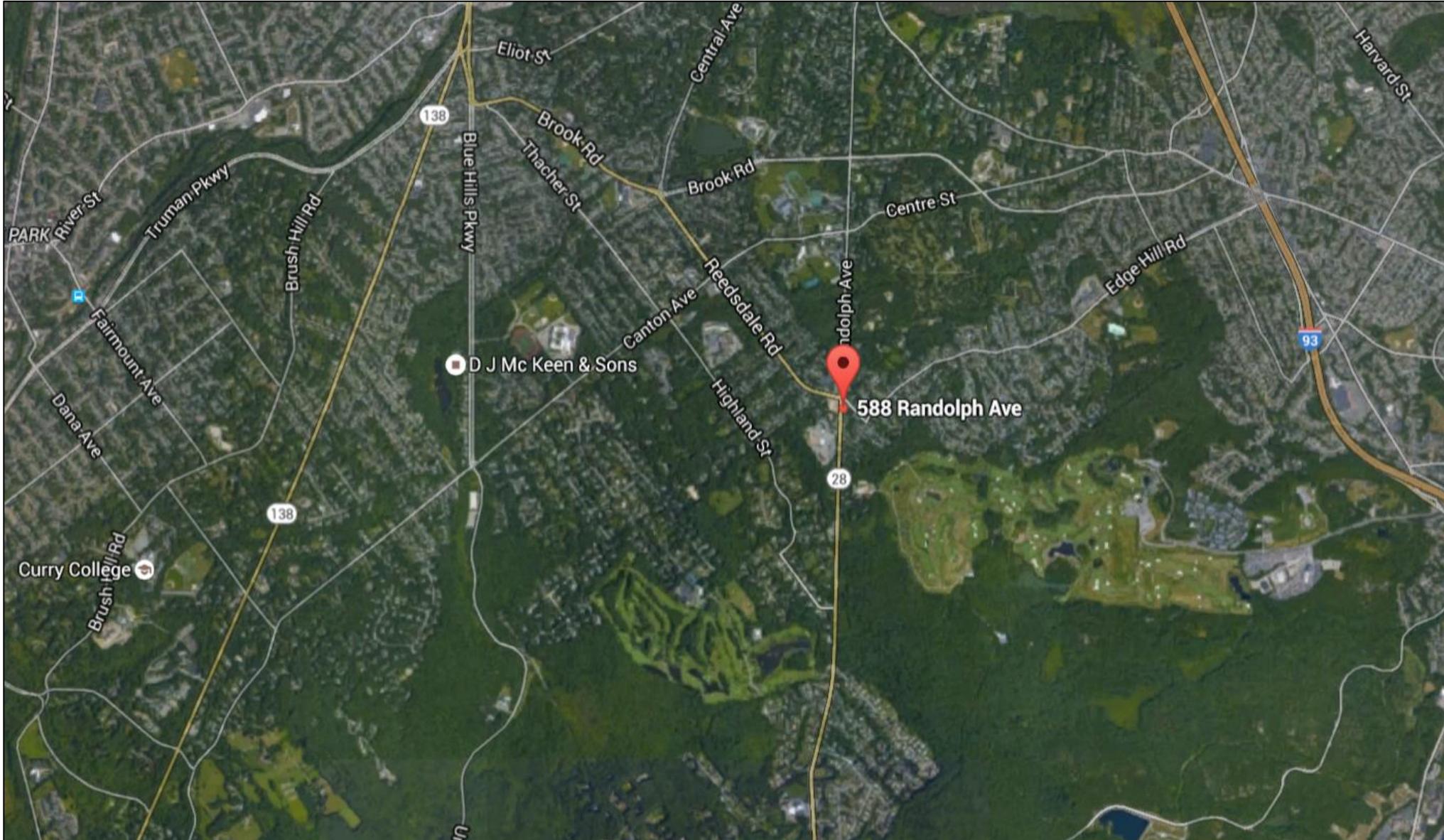


Milton Market and S&E Auto

131-133 Brook Road



Tedeschi's 588 Randolph Avenue



Tedeschi's 588 Randolph Avenue



Tedeschi's
588 Randolph Avenue

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	28,514	9,980	18,534	31	7,723	3,952
Expansion allowed in bylaw	40,000	14,000	26,000	43	10,833	3,952
Maximum build on expanded lot	~7,500 SF of commercial with ~12 residential units and ~48 parking spaces					
40(b)	76					

Tedeschi's 588 Randolph Avenue

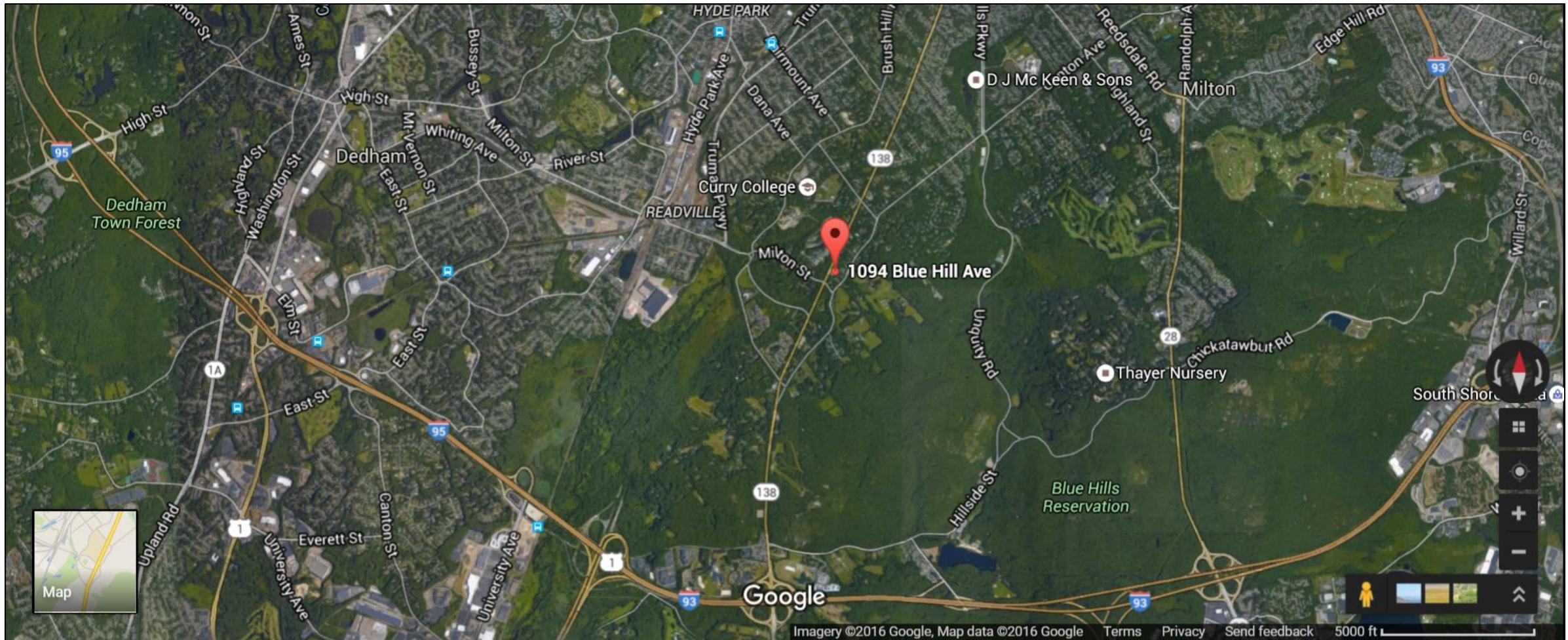


Tedeschi's 588 Randolph Avenue



Solimando Construction

1094 Blue Hill Avenue



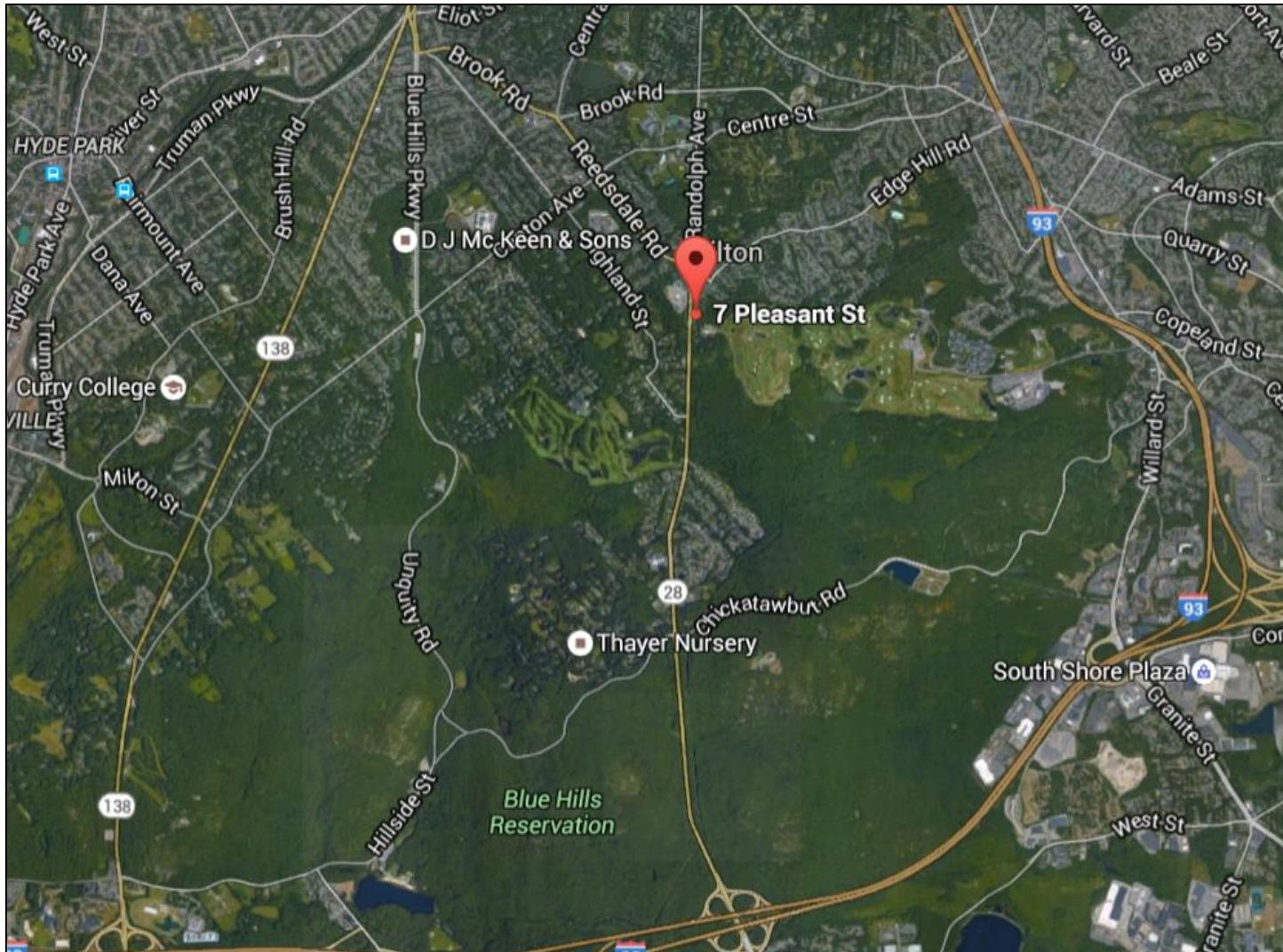
Solimando Construction
1094 Blue Hill Avenue



Solimando Construction
1094 Blue Hill Avenue

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	87,120	30,492	56,628	94	23,595	2,914
Expansion allowed in bylaw	87,120	30,492	56,628	94	23,595	2,914
Maximum build on expanded lot	With parking restriction, can have 17,000 SF 1st floor retail plus 28 units of residential above and 110 parks					
40(b)	165					

Bent's 7 Pleasant Street



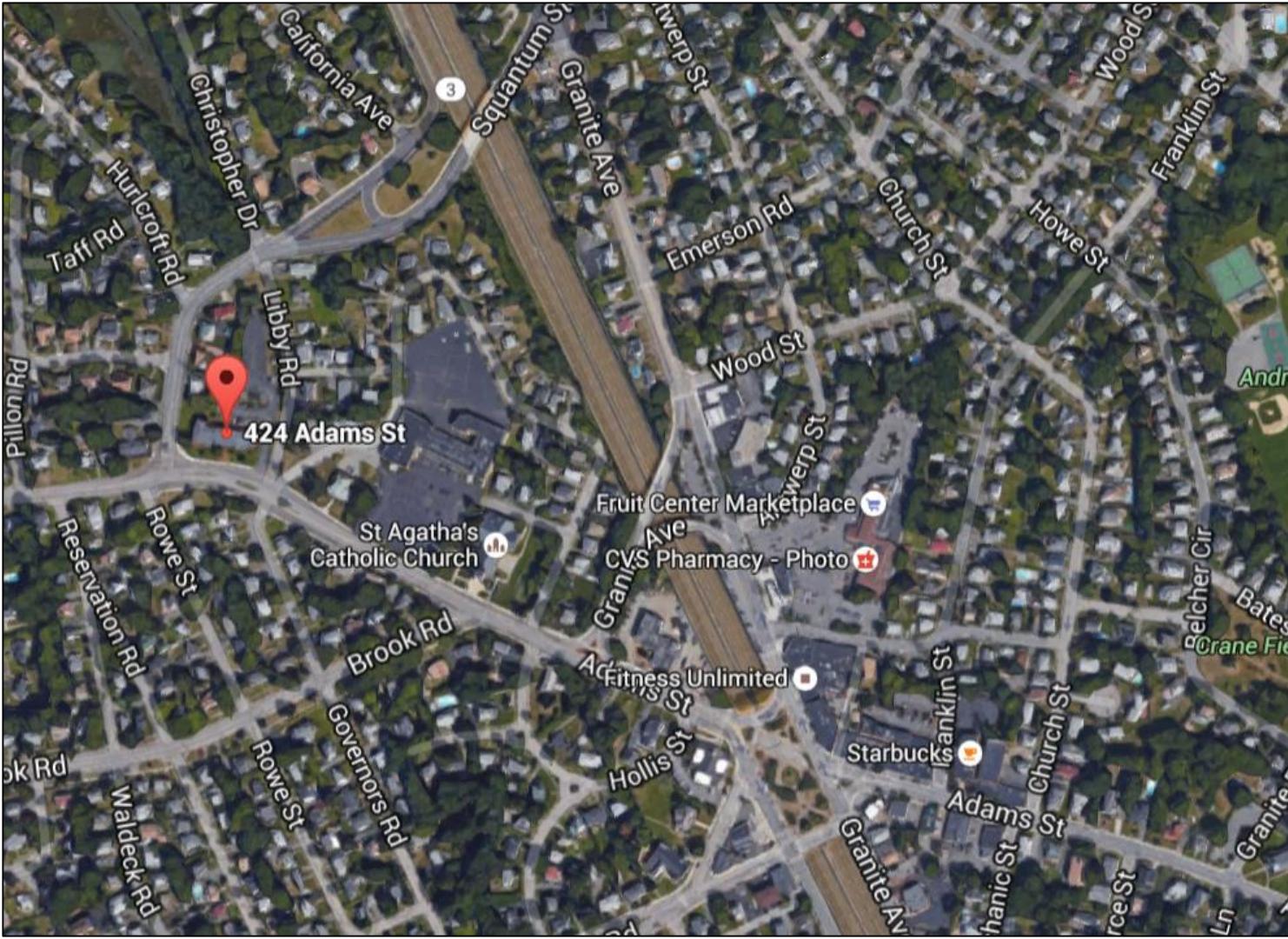
Bent's 7 Pleasant Street



Bent's
7 Pleasant Street

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	9,340	3,269	6,071	10	2,530	9,081
Expansion allowed in bylaw	28,020	9,807	18,213	30	7,589	9,081
Maximum build on expanded lot	~5,250 SF of commercial with 8 residential units and 33 parking spaces					
40(b)	53					

Office condos 424 Adams Street



Office condos
424 Adams Street

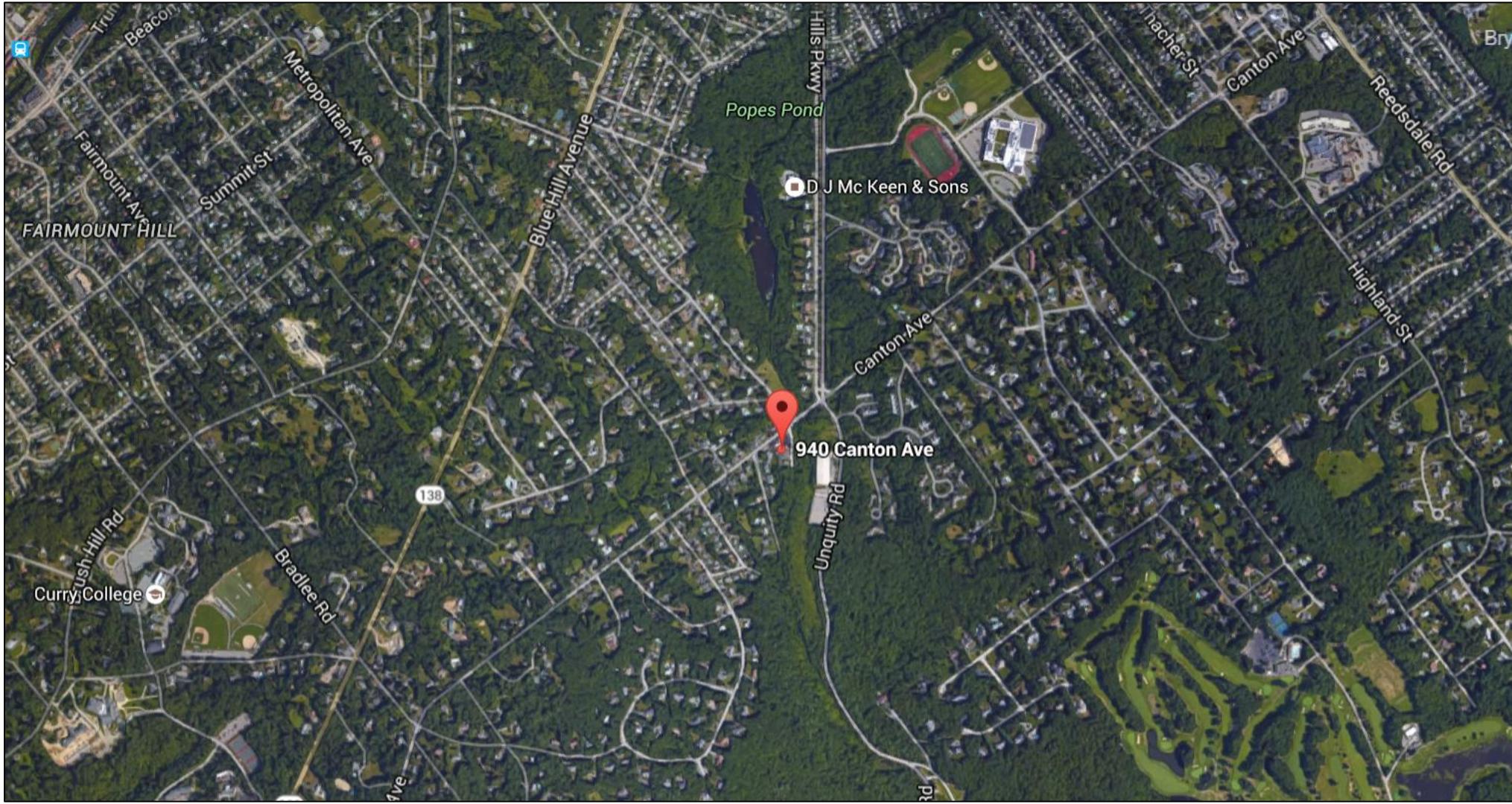


Office condos
424 Adams Street

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	70,510	24,679	45,832	76	19,096	21,300
Expansion allowed in bylaw	70,510	24,679	45,832	76	19,096	21,300
Maximum build on expanded lot	~13,220 SF of commercial with 21 residential units and 84 parking spaces					
40(b)	134					

Milton Power

940 Canton Avenue



Milton Power

940 Canton Avenue

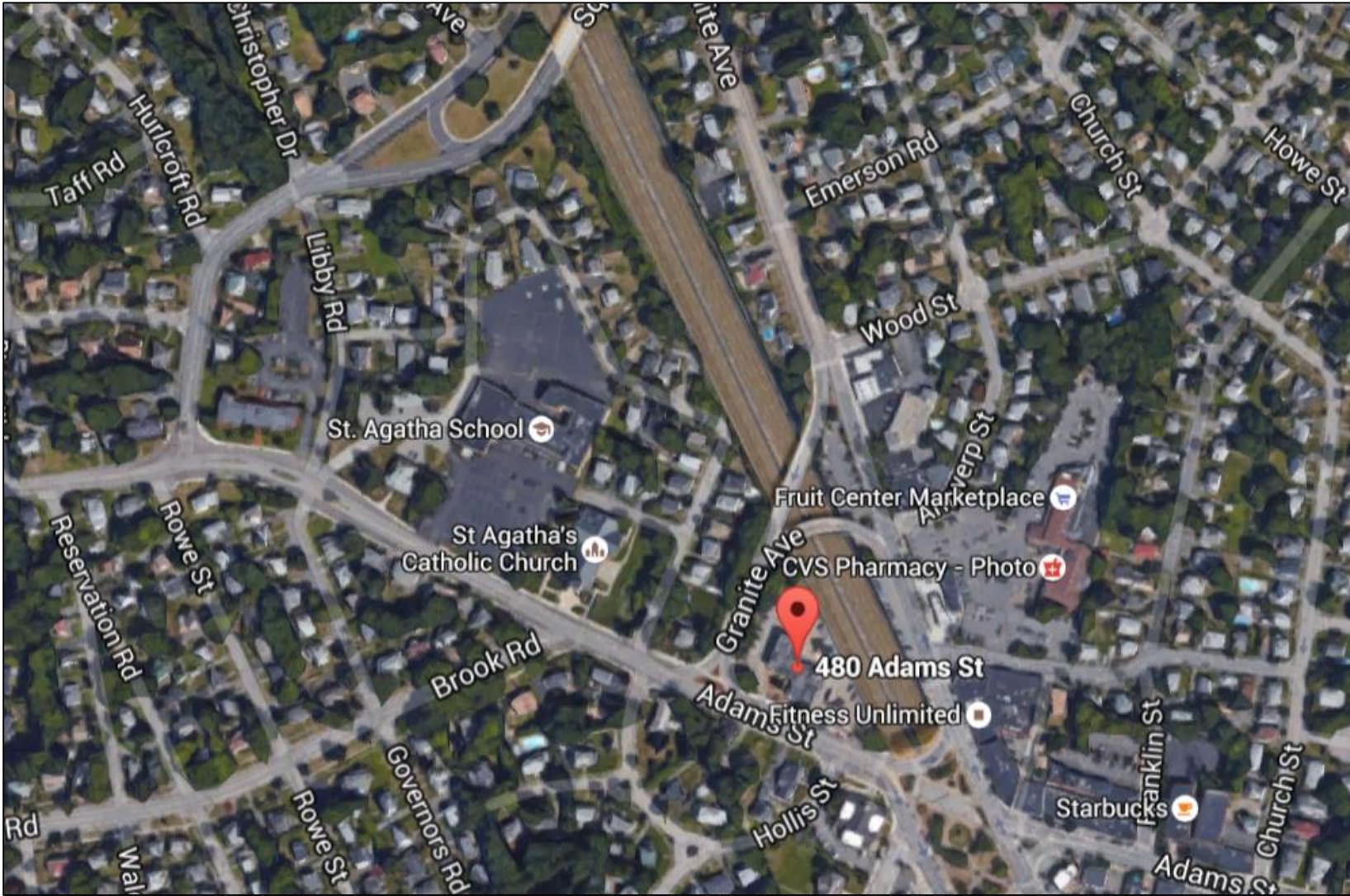


Milton Power
940 Canton Avenue

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1st Floor Square Footage	Existing Square Footage
Lot Size	35,860	12,551	23,309	39	9,712	6,640
Expansion allowed in bylaw	40,000	14,000	26,000	43	10,833	6,640
Maximum build on expanded lot	7,500 SF 1st floor retail plus 12 units of residential above and 48 parks					
40(b)	76					

Office building

480 Adams Street



Office building 480 Adams Street

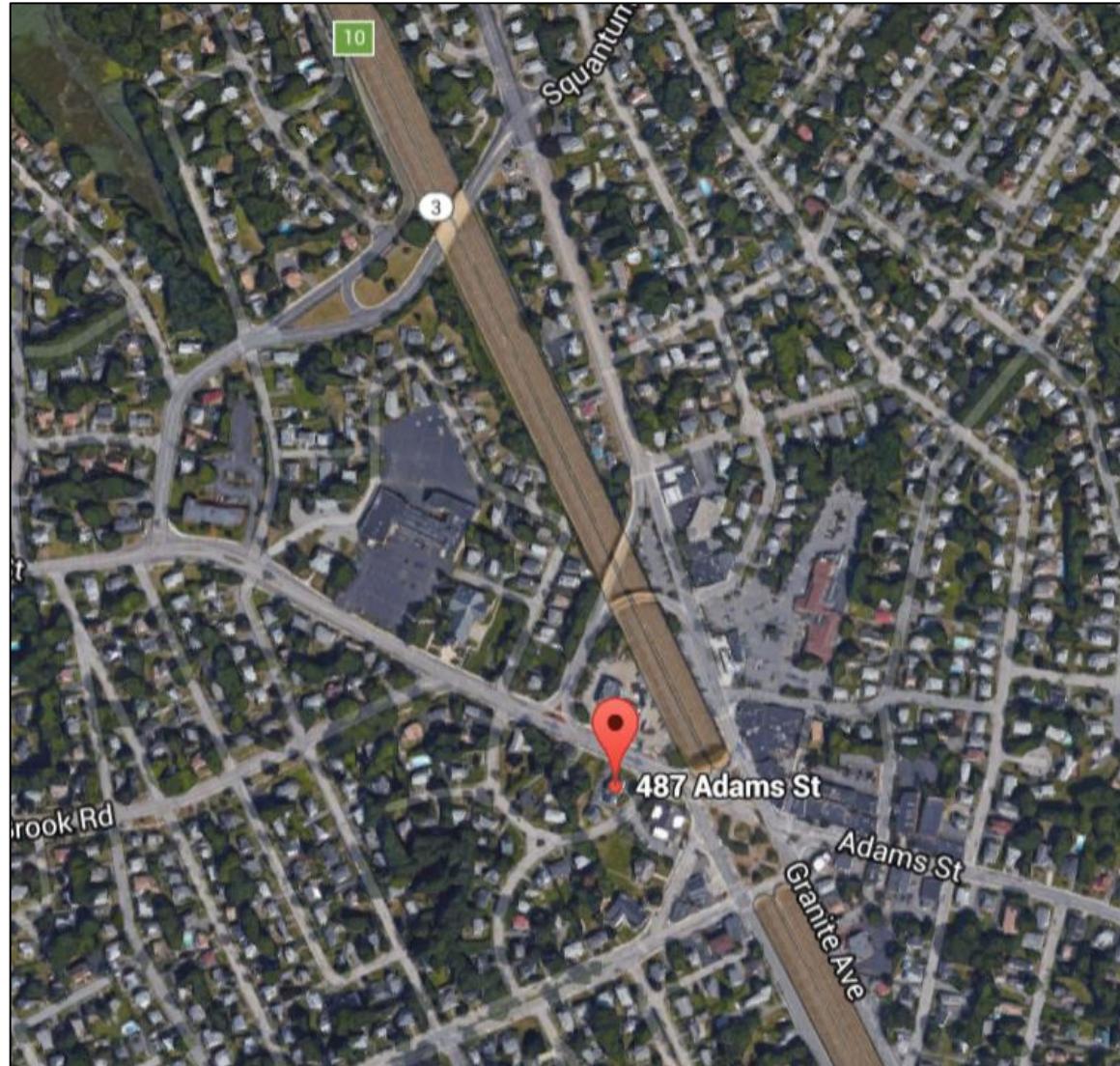


Office building
480 Adams Street

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	45,726	16,004	29,772	50	12,384	22,953
Expansion allowed in bylaw	45,726	16,004	29,772	50	12,384	22,953
Maximum build on expanded lot	~8,550 SF of commercial with 13 residential units and 55 parking spaces					
40(b)	87					

Office building

487 Adams Street



Office building
487 Adams Street

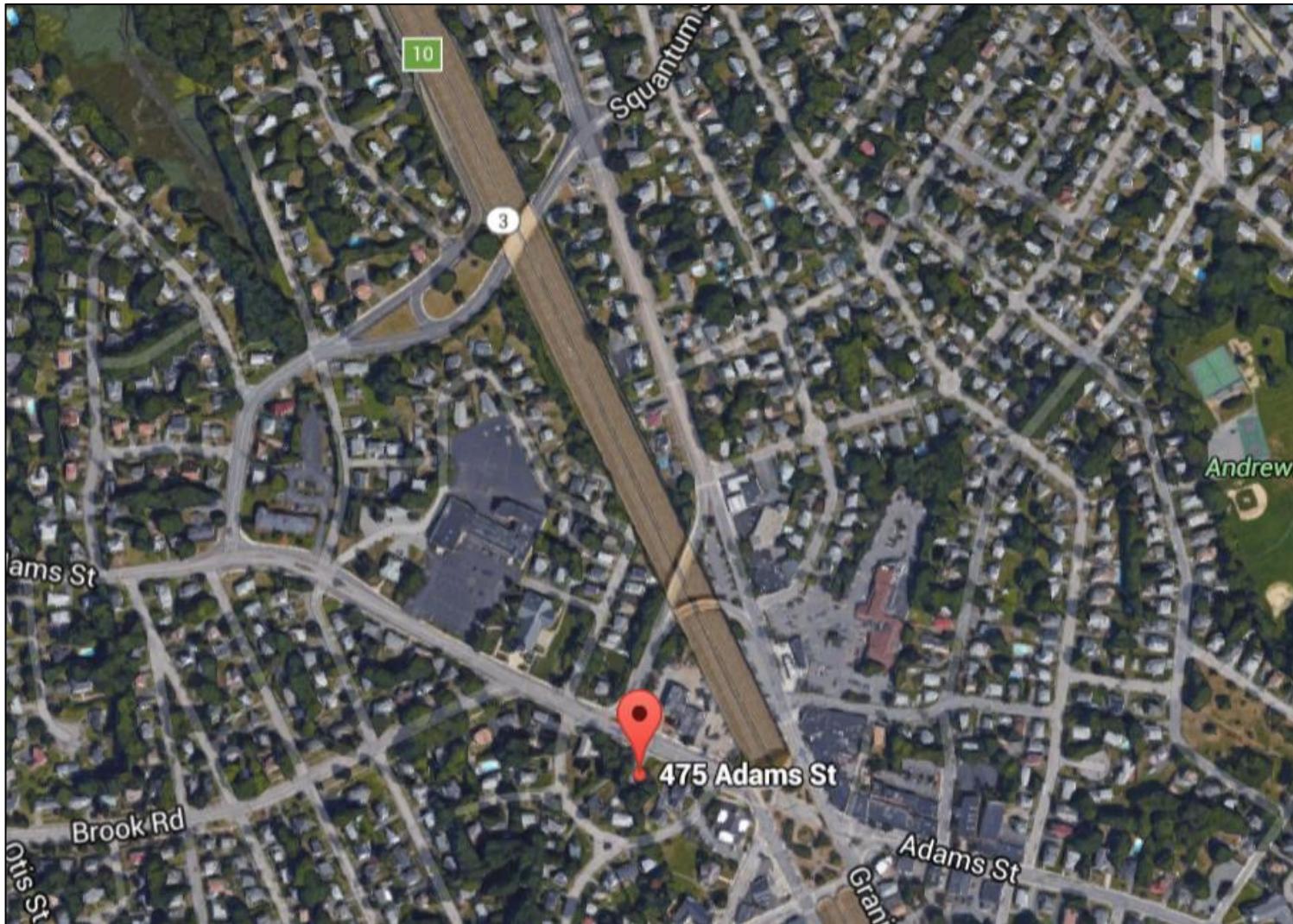


Office building
487 Adams Street

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	16,030	5,611	10.420	17	4,341	4,691
Expansion allowed in bylaw	40,000	14,000	26,000	43	10,833	4,691
Maximum build on expanded lot	~7,500 SF of commercial with ~12 residential units and ~48 parking spaces					
40(b)	76					

Office building

475 Adams Street



Office building
475 Adams Street

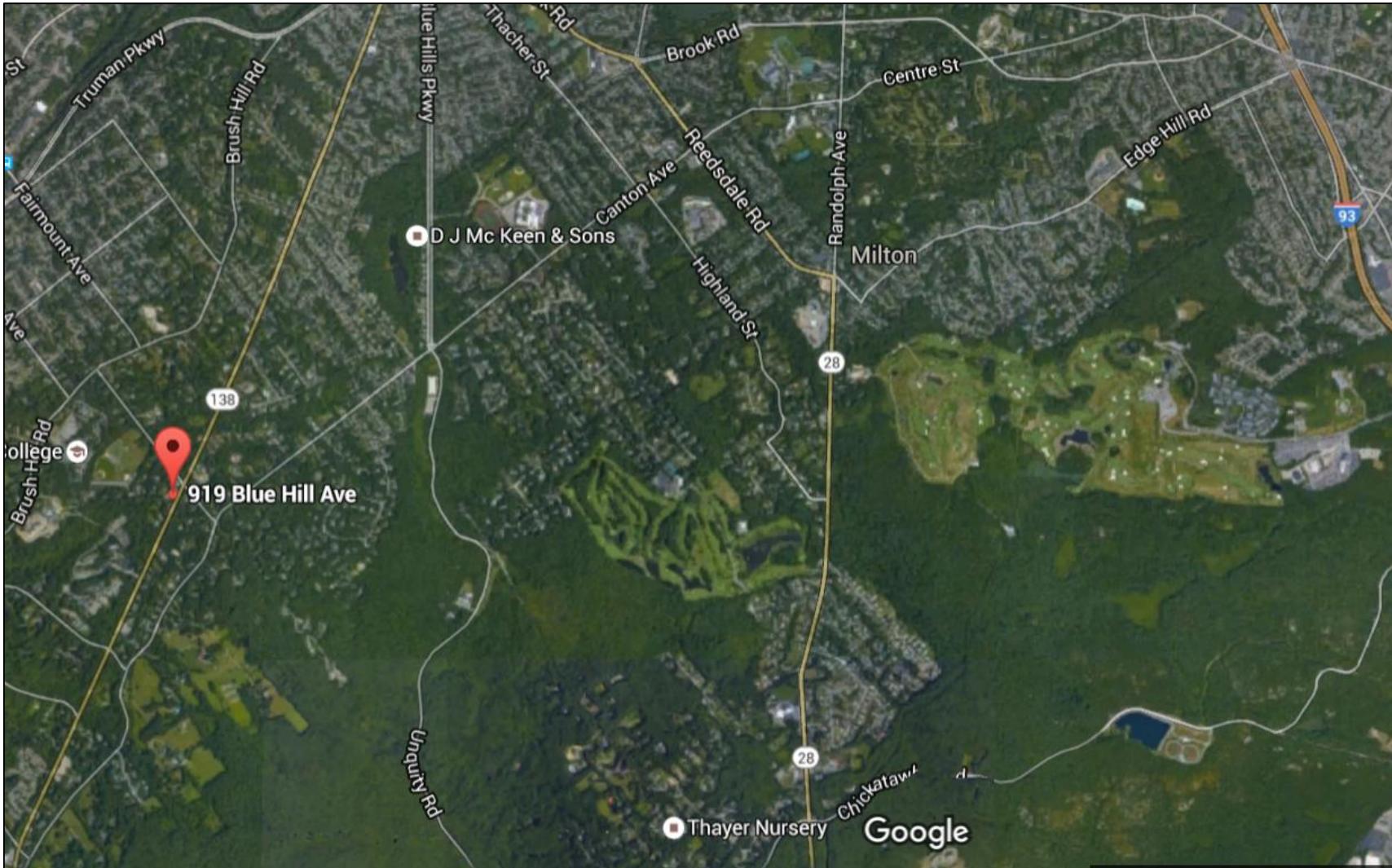


Office building
475 Adams Street

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	15,027	5,322	9,885	16	4,119	~17,000
Expansion allowed in bylaw	40,000	14,000	26,000	43	10,833	~17,000
Maximum build on expanded lot	~7,500 SF of commercial with ~12 residential units and ~48 parking spaces					
40(b)	76					

Coulter

919 Blue Hill Avenue



Coulter
919 Blue Hill Avenue

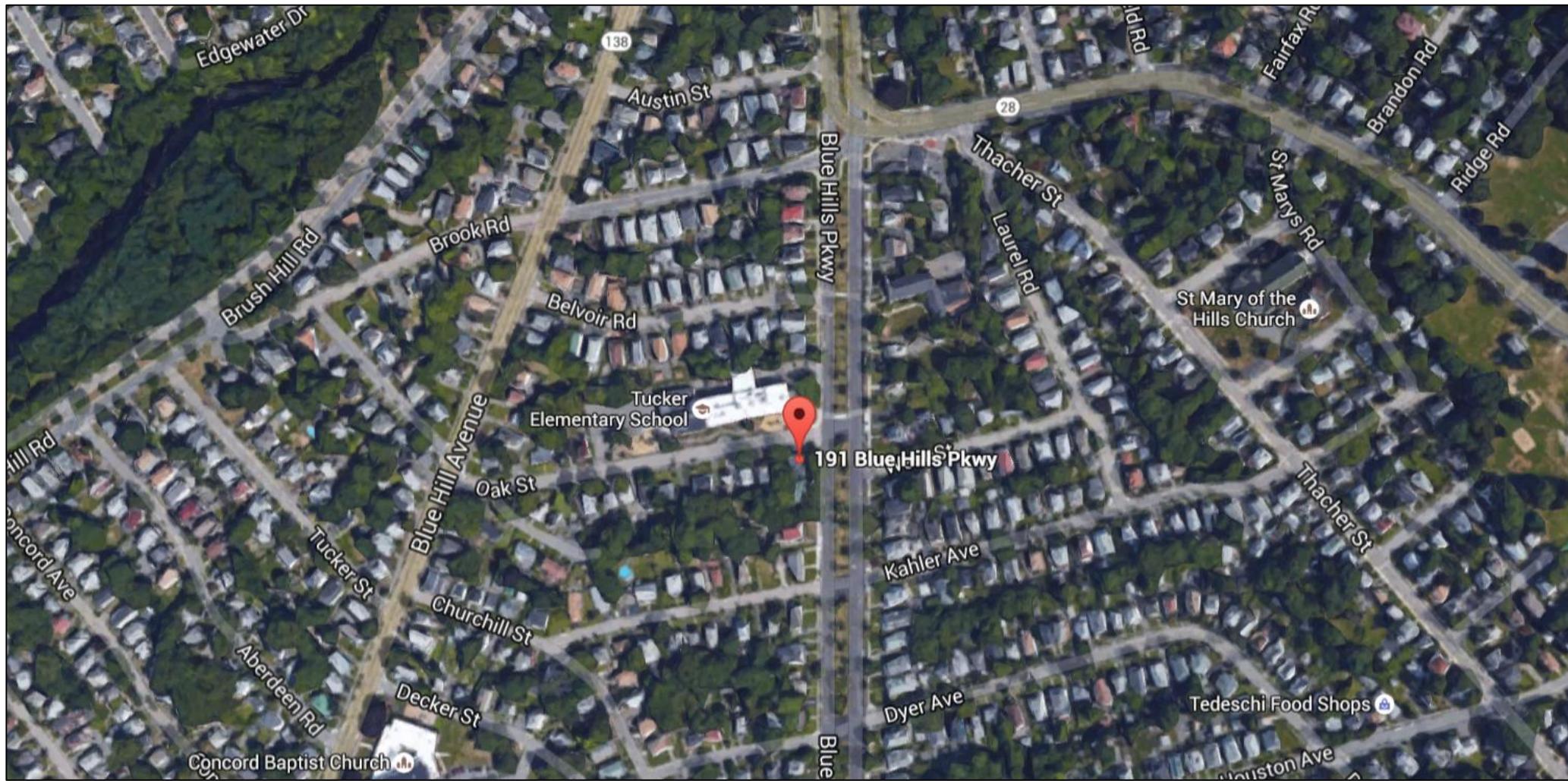


Coulter
919 Blue Hill Avenue

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	37,287	13,050	24,237	40	10,099	~6,000
Expansion allowed in bylaw	40,000	14,000	26,000	43	10,833	~6,000
Maximum build on expanded lot	~7,500 SF of commercial with ~12 residential units and ~48 parking spaces					
40(b)	76					

Milton Orthopedic

191 Blue Hills Parkway



Milton Orthopedic

191 Blue Hills Parkway

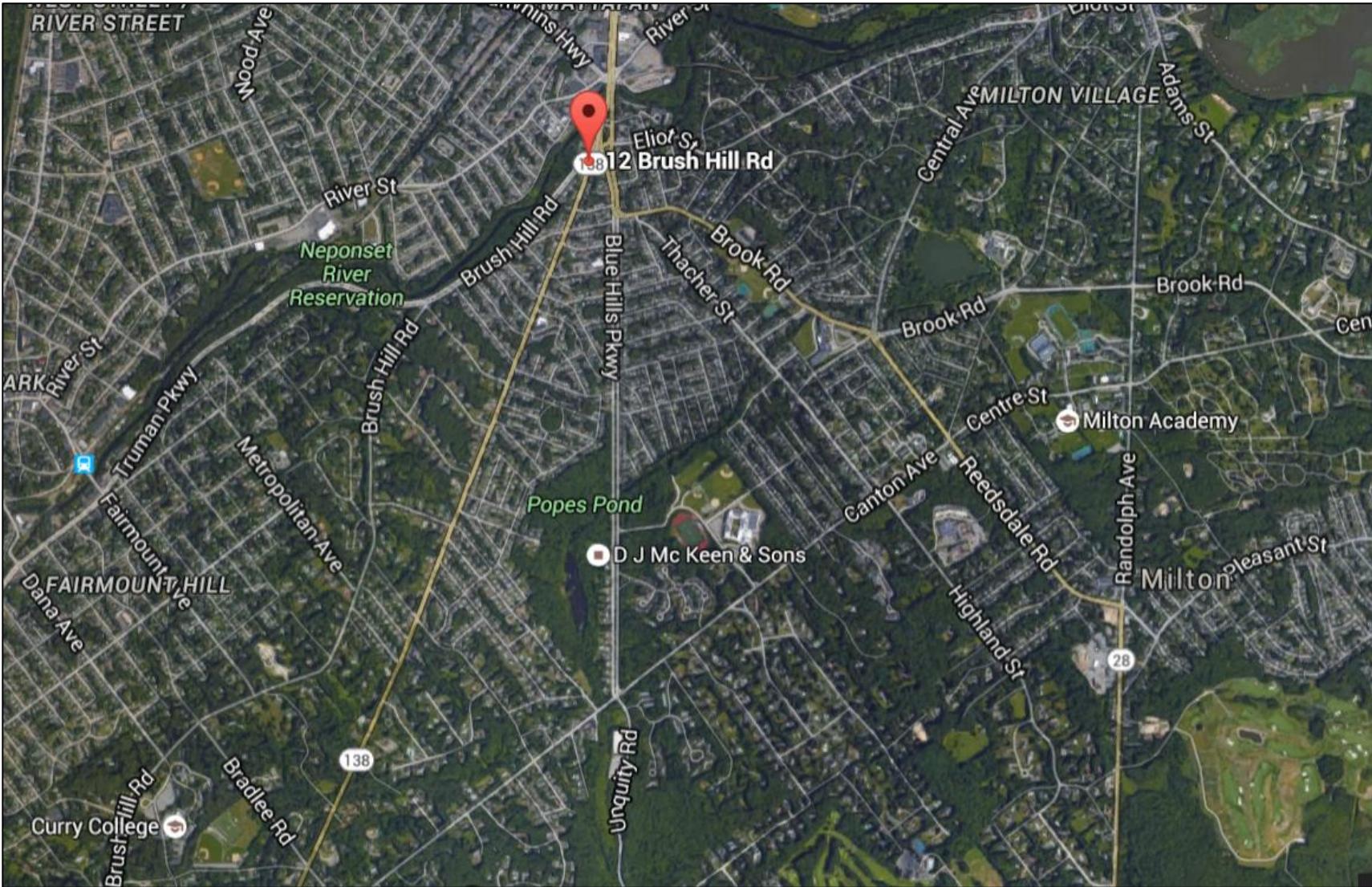


Milton Orthopedic
191 Blue Hills Parkway

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	6.401	2,240	4,161	7	1,734	2,800
Expansion allowed in bylaw	19,203	6,721	12,482	21	5,201	2,800
Maximum build on expanded lot	~3,600 SF of commercial with ~6 residential units and ~24 parking spaces					
40(b)	36					

Milton Yoga

12 Brush Hill Road



Milton Yoga

12 Brush Hill Road

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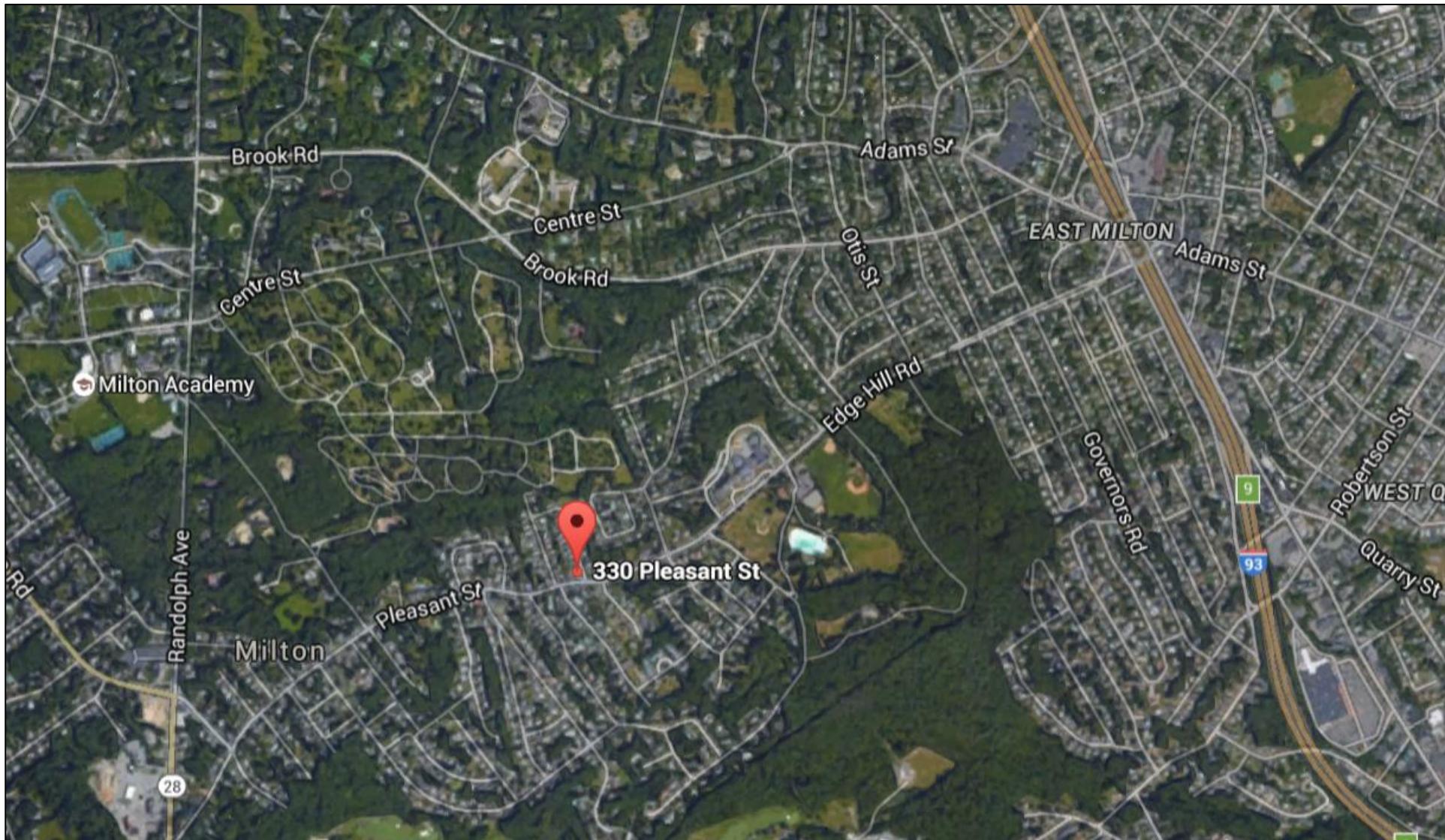


Milton Yoga
12 Brush Hill Road

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	6,011	2,104	3,907	7	1,628	6,732
Expansion allowed in bylaw	18,033	6,312	11,721	20	14,884	6,732
Maximum build on expanded lot	~3,880 SF of commercial with ~5 residential units and ~22 parking spaces					
40(b)	34					

Pleasant Deli Market

330 Pleasant Street



Pleasant Deli Market

330 Pleasant Street

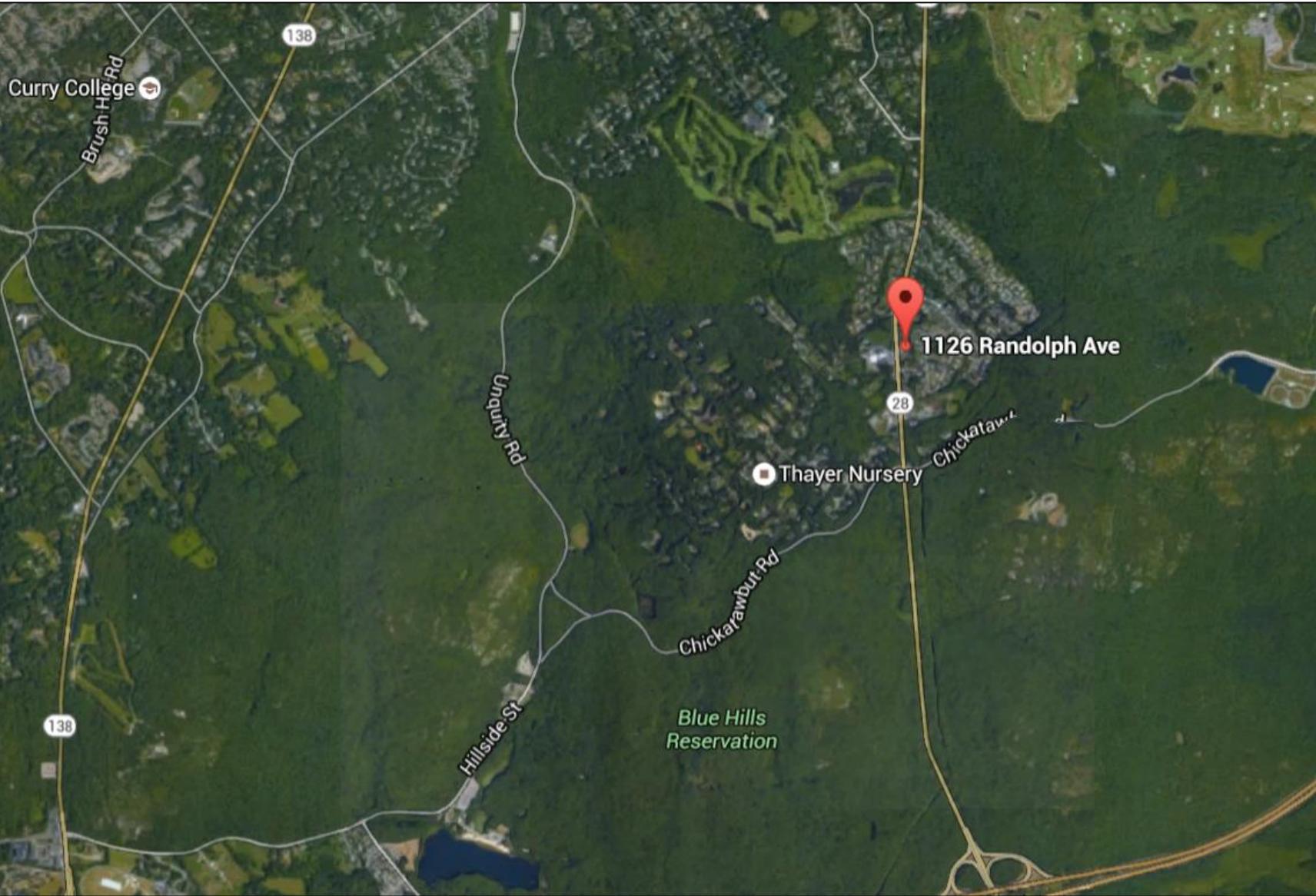


Pleasant Deli Market
330 Pleasant Street

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	4,567	1,598	2,969	5	1,237	2,096
Expansion allowed in bylaw	13,701	4,795	8,906	15	3,711	2,096
Maximum build on expanded lot	~2,570 SF of commercial with ~4 residential units and ~16 parking spaces					
40(b)	76					

Eagle Farm

1126 Randolph Avenue



Eagle Farm
1126 Randolph Avenue

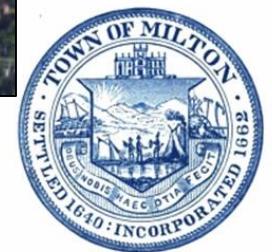
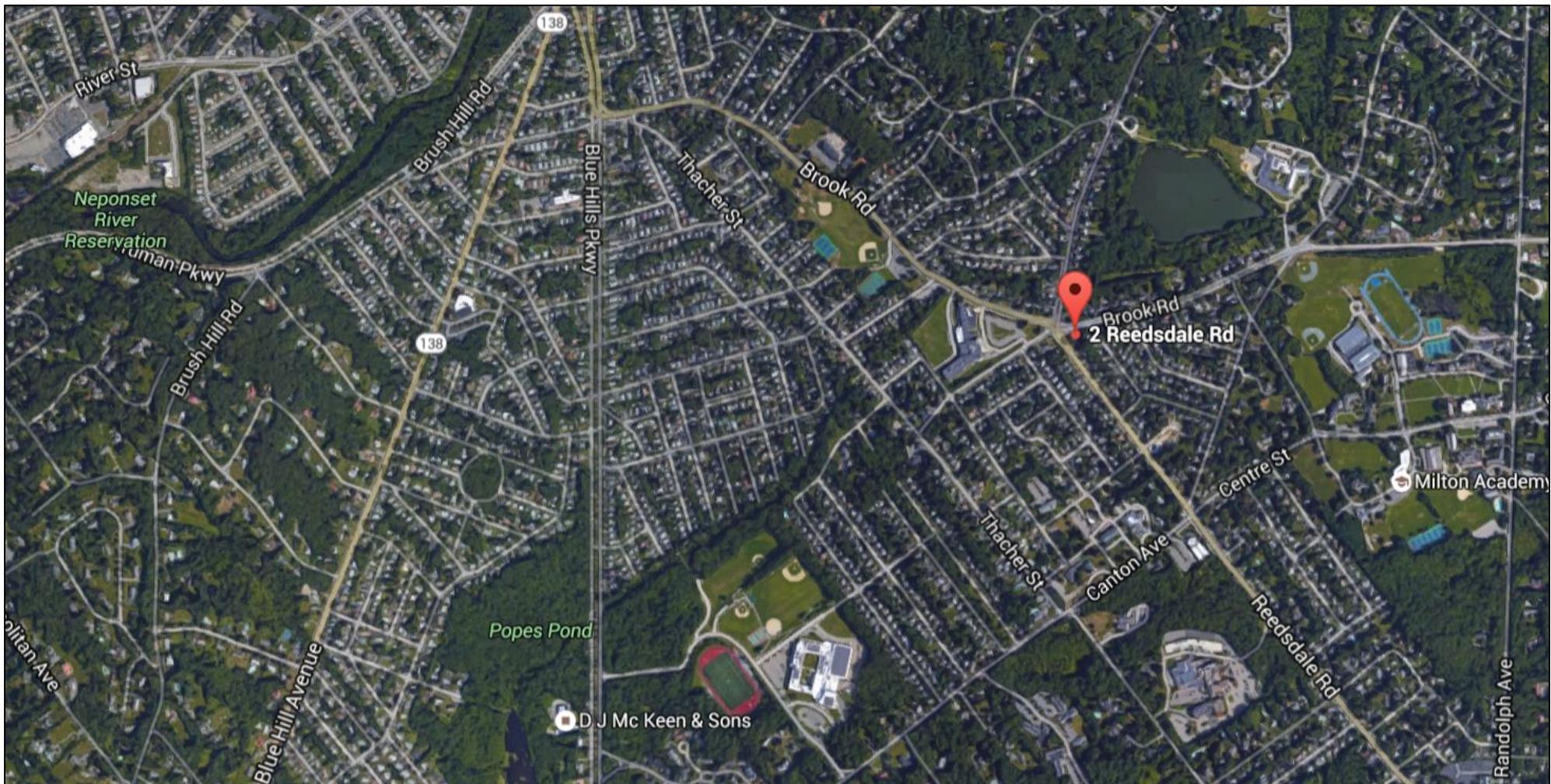


Eagle Farm
1126 Randolph Avenue

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	46,247	16,186	30,061	50	12,525	~3,000
Expansion allowed in bylaw	46,247	16,186	30,061	50	12,525	~3,000
Maximum build on expanded lot	~8,670 SF of commercial with ~14 residential units and ~55 parking spaces					
40(b)	88					

Personalized Preventative Medicine

2 Reedsdale Road



Personalized Preventative Medicine

2 Reedsdale Road



Personalized Preventative Medicine
2 Reedsdale Road

	SF	Open Space Required	Buildable Area	Parking Spaces	Allowed 1 st Floor Square Footage	Existing Square Footage
Lot Size	8,329	2,915	5,414	9	2,256	1,527
Expansion allowed in bylaw	24,987	8,745	16,242	27	6,767	1,527
Maximum build on expanded lot	~4,685 SF of commercial with ~7 residential units and ~30 parking spaces					
40(b)	47					

Case Study – Thayer Nursery

- Process: December 2013 to May 2014 (6 months)
- Attorneys: \$43,000
- Engineering: \$6,000
- Fed Ex: \$250
- Photography: \$1,000
- Landscape Plan: \$2,500



Case Study – Woodmere at Brush Hill

- Process: February 2014 to December 2014 (11 months)
- Attorneys: \$12,000
- Engineering, Architecture and Landscaping: \$25,000

