



CITY OF PORTSMOUTH

Planning & Sustainability
Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

January 29, 2024

Giri Portsmouth 505 Inc.
2300 CROWN COLONY DR STE 203
QUINCY, MASSACHUSETTS 02169

RE: Board of Adjustment request for property located at 505 US Route 1 BYP (LU-23-199)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, January 23, 2024**, considered your application for demolishing the existing structure and constructing a new hotel with a drive thru restaurant which requires the following: 1) Special Exception from 10.440 Use #10.40 hotel where it is permitted by Special Exception; 2) Variance from Section 10.1113.20 to allow parking spaces between the principal building and a street; 3) Variance from Section 10.1113.41 for parking located 1 foot from the lot line where 40 feet is required; 4) Variance from Section 10.575 to allow dumpsters to be located 1 foot from the lot line where 10 feet is required; 5) Variance from Section 10.835.32 to allow 1 foot between the lot line and drive-thru and bypass lanes where 30 feet is required for each; and 6) Variance from Section 10.835.31 to allow 37 feet between the menu and speaker board and the front lot line where 50 feet is required. Said property is shown on Assessor Map 234 Lot 5 and lies within the General Business (GB) District. As a result of said consideration, the Board voted to **deny** the request for the 5 variances as the positioning of the parking up against the street would not observe the spirit of the ordinance and would be contrary to the public interest, and the applicant did not prove that the unique characteristics of the property were a hardship.

The Board's decision may be appealed up to thirty (30) days after the vote. Please contact the Planning & Sustainability Department for more details about the appeals process.

The minutes and audio recording of this meeting are available by contacting the Planning & Sustainability Department.

Very truly yours,

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc:

John K. Bosen, Attorney, Bosen and Associates PLLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 1-23-2024

Property Address: 505 US Route 1 Bypass

Application #: LU-23-199

Decision: **Deny**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.		
10.233.22 Granting the variance would observe the spirit of the Ordinance.	NO	<ul style="list-style-type: none"> • At some point the Master Plan wanted to put new structures on old properties, and it was the kind of look it wanted for the next generation of buildings in that area. What is being asked for is not trying to respect what was coming out of the Master Plan in terms of positioning the building. • There is an opportunity to move the building farther away from the brook, but it is being driven by the presence of the Starbucks • The spirit of the ordinance did not want the same cookie-cutter look, and it didn't want the parking between the building and the

		street or pressed up against the street. There isn't a lot of distance between the edge of the property line and Coakley Road.
10.233.23 Granting the variance would do substantial justice.		
10.233.24 Granting the variance would not diminish the values of surrounding properties.		
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(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.</p>	NO	<ul style="list-style-type: none"> The applicant said the hardship is the small lot with a brook running through it, but it does not correlate to the degree of variances that the applicant is asking for, which are variances that are tied to the desire to have everything the applicant wanted on the lot. The Board looks at the unique characteristics of the property, not what the applicant's economics are. There are opportunities to rework the application and perhaps keep Starbucks and be a better project in terms of the Master Plan and the ordinance.



CITY OF PORTSMOUTH

Planning & Sustainability
Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

January 29, 2024

William C. Giles Revocable Trust
375 Coolidge Drive
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 375 Coolidge Drive (LU-23-200)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, January 23, 2024**, considered your application for after-the-fact construction and demolition of existing decks, which requires the following: 1) Variance from Section 10.521 to allow: a) a 17 foot rear yard where 30 feet is required, and b) building coverage of 22.5% where 20% is the maximum allowed; and 2) Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 268 Lot 41 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **grant** the request as presented and advertised with the following **condition**:

1) The approval shall be predicated on the Planning Staff confirming that the 2-story garage has the proper history to it with regard to BOA actions taken in 2002.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning & Sustainability Department for more details about the appeals process.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

<https://www.cityofportsmouth.com/planportsmouth/zoning-board-adjustment/zoning-board-adjustment-archived-meetings-and-material>

The minutes and audio recording of this meeting are available by contacting the Planning & Sustainability Department.

Very truly yours,

A handwritten signature in cursive script that reads "Phyllis Eldridge".

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Colby Gamester, Attorney, Gamester Law Office

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 1-23-2024

Property Address: 375 Coolidge Drive

Application #: LU-23-200

Decision: **Grant with condition**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	YES	<ul style="list-style-type: none"> • Back decks are common and there is no public interest that would be of concern. • The deck is hidden from the road and the relief being requested indicates that it is already an existing protrusion off the back of the house that goes into the rear yard setback, so the applicant isn't asking for anything more than that. • It is more reasonable than trying to create a much larger deck that expanded further back.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> • Back decks are common and there is no public interest that would be of concern. • The deck is hidden from the road and the relief being requested indicates that it is

		<p>already an existing protrusion off the back of the house that goes into the rear yard setback, so the applicant isn't asking for anything more than that.</p> <ul style="list-style-type: none"> • It is more reasonable than trying to create a much larger deck that expanded further back.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> • From the perspective of the neighbors, there is no general purpose of the public interest that would outweigh the applicant's ability to create the deck, which is their only option for outdoor recreation in the back of their property.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> • The deck is a modest one. • The request is small in terms of 1-2 percent of the coverage requirement.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(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.</p>	YES	<ul style="list-style-type: none"> • The hardship is that the current house is pushed all the way back to the 30-ft setback line and any attempt to use the backyard for recreational purposes will require relief. • The property's sloping condition and the nature of the surrounding properties also make the request not excessive in terms of its impact. • It meets the hardship criteria and adding an outdoor living space on the back side of the property is a reasonable use.

Stipulations

1. The approval shall be predicated on the Planning Staff confirming that the 2-story garage has the proper history to it with regard to BOA actions taken in 2002.



CITY OF PORTSMOUTH

Planning & Sustainability
Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

January 29, 2024

Jewell Court Properties LLC
30 Spring Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 33 Jewell Court Unit S1 (LU-23-205)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, January 23, 2024**, considered your application for establishing an event venue serving up to 250 people which requires a Special Exception from Section 10.440, Use # 9.42 where it is permitted by Special Exception. Said property is shown on Assessor Map 155 Lot 5-S1 and lies within the Character District 4-W (CD4W). As a result of said consideration, the Board voted to **grant** the special exception.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning & Sustainability Department for more details about the appeals process.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

<https://www.cityofportsmouth.com/planportsmouth/zoning-board-adjustment/zoning-board-adjustment-archived-meetings-and-material>

The minutes and audio recording of this meeting are available by contacting the Planning & Sustainability Department.

Very truly yours,

Phyllis Eldridge

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

John K. Bosen, Attorney, Bosen and Associates PLLC

Findings of Fact | Special Exception

City of Portsmouth Zoning Board of Adjustment

Date: 1-23-2024

Property Address: 33 Jewell Court, Unit S1

Application #: LU-23-205

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Special Exception:

Special Exception Review Criteria: Section 10.232.20	Finding	Relevant Facts
10.232.21 Standards as provided by this Ordinance for the particular use permitted by special exception;	Yes	<ul style="list-style-type: none"> The use is allowed by special exception.
10.232.22 No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.	Yes	<ul style="list-style-type: none"> It is a dense intermingling of entertainment, hospitality, and residential use. Allowing the special exception will not have a detrimental impact on surrounding properties, particularly since a sound study was performed that addressed the one potential concern with noise level.
10.233.23 No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking areas, accessways, odor, smoke, gas,	Yes	<ul style="list-style-type: none"> The parking will be contained to the condo association, so there is really no impact on the general public. Allowing the special exception will not have a detrimental impact on surrounding properties, particularly

dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials;		since a sound study was performed that addressed the one potential concern with noise level.
10.233.24 No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity;	Yes	<ul style="list-style-type: none"> • The shuttle service will transport lots of people with a smaller number of vehicles. • It is a congested traffic area but the applicant stated that they will require the use of either a valet or shuttle service parking.
10.233.25 No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection and schools; and	Yes	<ul style="list-style-type: none"> • No changes are being done to the building externally.
10.232.26 No significant increase of stormwater runoff onto adjacent property or streets.	Yes	<ul style="list-style-type: none"> • No changes are being done to the building externally.



CITY OF PORTSMOUTH

Planning & Sustainability
Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

January 29, 2024

Tamrah Rouleau and Jeremy Rouleau
159 Madison Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for 159 Madison Street (LU-23-201)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, January 23, 2024**, considered your application for constructing a third floor addition to the existing structure which requires the following: 1) Variance from Section 10.521 to allow an 8 foot left side yard where 10 feet is required; and 2) Variance from Section 10.321 to allow a nonconforming structure or building to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 145 Lot 54 and lies within the General Residence C (GRC) District. As a result of said consideration, the Board voted to **grant** the variances as presented and advertised.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning & Sustainability Department for more details about the appeals process.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

<https://www.cityofportsmouth.com/planportsmouth/zoning-board-adjustment/zoning-board-adjustment-archived-meetings-and-material>

The minutes and audio recording of this meeting are available by contacting the Planning & Sustainability Department.

Very truly yours,

Phyllis Eldridge

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 1-23-2024

Property Address: 159 Madison Street

Application #: LU-23-201

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	YES	<ul style="list-style-type: none"> The nature of the setbacks is to preserve light and air in surrounding properties. The building is already a tall, narrow, and deep structure, and whatever shade is cast on surrounding properties will not be any greater based on the small variances being requested.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The nature of the setbacks is to preserve light and air in surrounding properties. The building is already a tall, narrow, and deep structure, and whatever shade is cast on surrounding properties will not be any greater based on the small variances being requested.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • There will be no loss to the public that would outweigh the benefit to the applicant.
<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES / NO</p>	<ul style="list-style-type: none"> • The presented plan is consistent with what is in the neighborhood and will not have any detrimental impact on the surrounding properties and probably will enhance the values of the immediate neighboring properties
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(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.</p>	<p>YES / NO</p>	<ul style="list-style-type: none"> • The hardship is due to the special condition of the property having the exact footprint of floor plan for the third floor, and only a small portion of it required zoning ordinance relief. It already exists in the historic structure on the site and was the special condition that makes it reasonable to grant the variance. • It would be unreasonable to require that the addition on the third floor not be permitted to run along the current out line of the structure.



CITY OF PORTSMOUTH

Planning & Sustainability
Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

January 29, 2024

RIGZ Enterprises LLC
18 Dixon Lane
Derry, New Hampshire 03038

RE: Board of Adjustment request for property located at 822 US Route 1 Bypass (LU-23-209)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, January 23, 2024**, considered your application for demolishing the existing structure and constructing a new commercial building which requires the following: 1) Variance from Section 10.1113.20 to allow parking spaces between the principal building and a street; 2) Variance from Section 10.1113.41 for parking located 0 feet from the lot line where 20 feet is required. Said property is shown on Assessor Map 160 Lot 29 and lies within the Business (B) District. As a result of said consideration, the Board voted to **grant** the variances as presented and advertised.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning & Sustainability Department for more details about the appeals process.

Approvals may also be required from other City Commissions or Boards. Once all required approvals have been received, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

This approval shall expire unless a building permit is issued within a period of two (2) years from the date granted unless an extension is granted in accordance with Section 10.236 of the Zoning Ordinance.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Zoning Board of Adjustment Meeting website:

<https://www.cityofportsmouth.com/planportsmouth/zoning-board-adjustment/zoning-board-adjustment-archived-meetings-and-material>

The minutes and audio recording of this meeting are available by contacting the Planning & Sustainability Department.

Very truly yours,

A handwritten signature in cursive script that reads "Phyllis Eldridge". The signature is written in black ink and is positioned above the typed name.

Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Monica Kieser, Attorney, Hoefle, Phoenix, Gormley & Roberts, PLLC

Alex Ross, Engineer, Ross Engineering, LLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 1-23-2024

Property Address: 822 US Route 1 Bypass

Application #: LU-23-209

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, It now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

The proposed application meets/does not meet the following purposes for granting a Variance:

Section 10.233 Variance Evaluation Criteria	Finding (Meets Criteria)	Relevant Facts
10.233.21 Granting the variance would not be contrary to the public interest.	YES	<ul style="list-style-type: none"> Zero-ft setbacks are something that the Board looks at carefully. it is a significant change from what is being asked for but it makes sense to allow the parking to go up against the property line due to the unique site conditions and what was being driven with the need to honor the access rights to the neighboring property.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> Zero-ft setbacks are something that the Board looks at carefully. it is a significant change from what is being asked for but it makes sense to allow the parking to go up against the property line due to the unique site conditions and what was being driven with the need to honor the access rights to the neighboring property.

<p>10.233.23 Granting the variance would do substantial justice.</p>	<p>YES</p>	<ul style="list-style-type: none"> • There is nothing in the public interest that would outweigh the applicant's desire. Additional benefits to the public would be moving the building towards the back of the property.
<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES</p>	<ul style="list-style-type: none"> • It will be consistent with all the similar properties there and will create another small business on the property and will not overburden it by a one-story structure.
<p>10.233.25 Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.</p> <p>(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.</p>	<p>YES</p>	<ul style="list-style-type: none"> • The property's special conditions that drive the site plan are that the property is right up against a residential neighborhood and burdened by an easement for access as well as somewhat burdened by the perception that Burkitt Street runs up to the Route 1 Bypass. The applicant is trying to honor that. • The applicant is required to provide 18 parking spots, and the only realistic way to put them on the property is in the location shown and to provide the necessary back-out space that forces the parking spots right up along the property line.