



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

December 20, 2024

361 Hanover Steam Factory LLC
361 Hanover Street
Portsmouth, New Hampshire 03801

**RE: Board Of Adjustment request for property located at 361 Hanover Street,
Portsmouth, NH (LU-24-196)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, December 17, 2024**, considered your application for expanding and renovating the existing commercial building and converting it to multi-family residential and to construct three new multi-family residential buildings which requires the following: 1) Variance from Section 10.642 to allow residential principal uses on the ground floor of the buildings; 2) Variance from Section 10.5A41 - Figure 10.5A41.10D to a) allow for "Apartment", "Rowhouse" and "Duplex" building types where they are not permitted; b) allow a ground floor height of 10.5 feet where 12 feet is required; and 3) Variance from Article 15 - Definition of Penthouse - to allow a penthouse with a setback of 8 feet from all roof edges where 15-20 feet is required and to allow no greater than 80% of the gross living area of the level of the floor below where 50% is the maximum. Said property is shown on Assessor Map 138 Lot 63 and lies within the Character District 5 (CD5) and Downtown Overlay District. As a result of said consideration, the Board voted to **postpone** the hearing and requested the applicant provide the following information for the January 22, 2025 meeting:

1. Plan and elevations of Building A;
2. Definitive number of stories in Building D;
3. Height elevations for all buildings;
4. Streetscape showing project next to 407 Hanover Street;
5. More information about the possible burial ground;
6. Clarity on the height of each story within each building ; and
7. Traffic study if it has been done already.

This matter will be placed on the agenda for the Board of Adjustment meeting scheduled for **Tuesday, January 22, 2025**. One (1) copy of any revised plans and/or exhibits must be filed in the Planning & Sustainability Department no later than **Thursday, January 2, 2025**.

Please remember you will be required to provide an electronic file (in a PDF format) of all plans and exhibits.

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:

John Bosen, DTC Law
John Chagnon, Ambit Engineering, Inc.



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ZONING BOARD OF ADJUSTMENT

December 20, 2024

Patrick and Wendy Quinn
124 Melbourne Street
Portsmouth, New Hampshire 03801

RE: Board of Adjustment Request for Property at 124 Melbourne Street, Portsmouth, NH (LU-24-202)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, December 17, 2024**, considered your application for constructing dormers onto the existing structure which requires the following: 1) Variance from Section 10.521 to allow a) 15 foot front yard where 30 feet is required; b) 20 foot secondary front yard where 30 feet is required; c) 7 foot left side yard where 10 feet is required; and 2) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 233 Lot 55 and lies within the Single Residence Business (SRB). As a result of said consideration, the Board voted to **grant** the request 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

Chris Mulligan, DTC Lawyers

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 12-17-2024

Property Address: 124 Melbourne Street

Application #: LU-24-202

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 historic structure was already within the setbacks, so the reason behind the variances was the location of the existing structure that could not be moved. It will not create any substantial light and space concerns.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The historic structure was already within the setbacks, so the reason behind the variances was the location of the existing structure that could not be moved. It will not create any substantial light and space concerns.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> There will be no loss to the public by adding the dormers and no impact on the surrounding houses. Any loss to the applicant would be unjust.

<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"> • The project will be an improvement to the house and give it more square footage and also increase its value.
<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 unique aspect of the property is that it has the specific variances related to adding height above an existing structure. • There will be no change to the setbacks as a result of granting the variances, and literally enforcing the code will prevent the expansion of the house. • It is an opportunity for the applicant to keep a historic and characteristically consistent structure in the neighborhood by doing an intelligent addition to it.



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ZONING BOARD OF ADJUSTMENT

December 20, 2024

Kent and Jennifer Bonniwell
108 Forest Street
Wellesley, Massachusetts 02481

RE: Board of Adjustment request for property at 332 Hanover Street, Portsmouth, NH 03801 (LU-24-211)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday December 17, 2024**, considered your application for demolishing the existing primary and accessory structure and constructing a 2-living unit structure which requires the following: 1) Variance from Section 10.5A41.10A to allow: a) 2,167 square feet of lot area per dwelling unit where 3,000 square feet is required; b) a secondary front yard of 17 feet where 12 feet is the maximum; and c) a finished floor surface 6.5 feet above the sidewalk grade where 36 inches is maximum. Said property is shown on Assessor Map 126 Lot 43 and lies within the Character District 4-L1 (CD4-L1). As a result of said consideration, the Board voted to invoke Fisher v. Dover, deciding the case law applied to the petition and declined to hear the petition. The Board determined that the application was not materially different from the previous application.

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:

Kevin Baum, Hoefle, Phoenix, Gormley & Roberts, PLLC



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ZONING BOARD OF ADJUSTMENT

December 20, 2024

Walter W. & Tamara A. Tate Revocable Family Trust
Walter & Tamara Tate
108 Burkitt Street
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment Request for Property at 108 Burkitt Street, Portsmouth, NH
(LU-24-203)**

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, December 17, 2024**, considered your application for constructing an addition above the existing enclosed porch and replacing a mechanical unit which requires the following: 1) Variance from Section 10.521 to allow a 4 foot right side yard where 10 feet is required; 2) Variance from Section 10.515.14 to install a mechanical unit 1 foot from the side property line whereas 10 feet is required; and 3) Variance from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance. Said property is shown on Assessor Map 159 Lot 30 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **grant** the request 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

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 12-17-2024

Property Address: 108 Burkitt Street

Application #: LU-24-203

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"> • There is no evidence that it will alter the essential characteristics of the neighborhood because it is a residential area and would stay a residential area. • It will have no effect on the public's health, safety, and welfare or the light and air of any neighbors. • The condenser's location will be in the same place as the current mechanicals, which has not caused any problems before.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> • There is no evidence that it will alter the essential characteristics of the neighborhood because it is a residential area and would stay a residential area. • It will have no effect on the public's health, safety, and welfare

		<p>or the light and air of any neighbors.</p> <ul style="list-style-type: none"> The condenser's location will be in the same place as the current mechanicals, which has not caused any problems before.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> There will be no benefit to the public by denying the variances, and the loss to the applicant if denied will be substantial because he would lose considerable utility of the house.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> There is no evidence that it will have any impact on the values and might increase them.
<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 property has special conditions of being an undersized lot for the zone and having the existing structure on one side of the lot, which put it off center. The requested variances will not enlarge the footprint of the house and will just add onto the house to make it more usable. There was no fair and substantial relationship between the purpose of the ordinance's provision and its specific application to the property, and there was no reason to deny the variances. The size of the proposed addition is very modest and will just go up to the top to the current existing story.



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ZONING BOARD OF ADJUSTMENT

December 20, 2024

Kathryn and Bryn Waldwick
43 Cornwall Street, Apt 8
Portsmouth, New Hampshire 03801

**RE: Board of Adjustment Request for Property at 30 Parker Street, Portsmouth, NH
(LU-24-205)**

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, December 17, 2024**, considered your application for installing two mechanical units which requires the following: 1) Variance from Section 10.515.14 to install a mechanical unit with a) a 5 foot right side setback where 10 is required and b) a 0.5 foot rear yard setback where 10 is required; and 2) Variance from Section 10.515.14 to install a mechanical unit with a) a 2 foot right side yard setback where 10 is required and b) a 2 foot rear yard setback where 10 is required. Said property is shown on Assessor Map 126 Lot 27 and lies within the General Residence C (GRC). As a result of said consideration, the Board voted to **grant** the request 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:

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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 printed name.

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: 12-17-2024

Property Address: 30 Parker Street

Application #: LU-24-205

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 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 heat pump condensers are a modest imposition because they are very quiet and not noticeable. The proposed location is the most reasonable one on the property.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> The heat pump condensers are a modest imposition because they are very quiet and not noticeable. The proposed location is the most reasonable one on the property.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> It will benefit the owner without any detriment to the public or other individuals.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<ul style="list-style-type: none"> The property will be improved.

<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</p> <p>(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</p> <p>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 are its irregular lot shape and the fact that it is already undersized in one of the smallest lot size zones. • Adding the mechanical units within the yard setbacks in the fenced-in rear area will be reasonable and there will be no fair and substantial relationship between the general public purpose of the ordinance's provision and the specific application of that provision to the property.
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ZONING BOARD OF ADJUSTMENT

December 20, 2024

Chris G. & Lisa Alexandropoulos
3168 Lafayette Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment Request for Property at 3168 Lafayette Road, Portsmouth, NH (LU-24-207)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, December 17, 2024**, considered your application for establish a tattoo studio which requires the following: 1) Variance from Section 10.440, Use # 7.20 to allow a personal service use where it is not allowed. Said property is shown on Assessor Map 292 Lot 150 and lies within the Single Residence business (SRB). As a result of said consideration, the Board voted to **grant** the request 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:

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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: 12-17-2024

Property Address: 3168 Lafayette Rd

Application #: LU-24-207

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"> It will be consistent with the overall character of the neighborhood because most of the Lafayette Rd properties are business related. It would be in keeping with the long-time use of the parcel.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<ul style="list-style-type: none"> It will be consistent with the overall character of the neighborhood because most of the Lafayette Rd properties are business related. It would be in keeping with the long-time use of the parcel.
10.233.23 Granting the variance would do substantial justice.	YES	<ul style="list-style-type: none"> The applicant will use the structure in the same business manner, even though the nature of the business is different. The business will be oriented toward Lafayette Rd and not to the residences behind it, and the abutters felt that they were more part of the Maple Haven community anyway. The balancing test is the interests of the surrounding neighbors and the City as a whole and the applicant's intent to make use of the

		modest facility.
<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"> • The business will be in character with the overall feel of the Lafayette Rd area and will not negatively impact any of the surrounding properties. • Some of the concerns from the condo residents were unfounded because it is not a pedestrian traffic oriented type of business. People would go for their art treatments and then drive away. The entryways into the condo complex were quite a distance away on Ocean Road, and if there was excessive traffic or a need for parking, it would not go around the corner into the condo complex
<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"> • There are several things about the property and the proposed use that are unique. The property was carved off a larger property that did have a residential use on it with the intent that it was designed to be front-facing on Lafayette Rd, which was far more business oriented and only had a few pockets of residential. • The building is uniquely sited up against Lafayette Road and most of the residences were set much farther back from the road. The structure is designed around a business use in mind and had a successful business for many years. • What is unique about the property that distinguished it from others in the zone is that it is a very small parcel caved out of a larger parcel with a clear intent to be a business oriented toward Lafayette Rd, and the use is a reasonable one. The business' intensity could not be that great because it would be limited by the property's size and the structure. • The lot narrows going backwards and a house could not fit into that lot and be a residential use.