



CITY OF PORTSMOUTH

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

ZONING BOARD OF ADJUSTMENT

January 30, 2023

Ashley and Robert T Blackington
65 Mendum Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 65 Mendum Avenue (LU-22-241)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, January 24, 2023**, considered your application for constructing an addition to the existing primary structure which requires 1) Variance from Section 10.531 to allow a 7 foot setback where 10 feet is required. Said property is shown on Assessor Map 148 Lot 11 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **grant** the variance as presented.

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 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 Department.

Very truly yours,

A handwritten signature in black ink, reading "Phyllis Eldridge". The script is cursive and fluid, with the first name "Phyllis" and last name "Eldridge" clearly distinguishable.

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: 01-24-2023

Property Address: 65 Mendum Avenue

Application #: LU-22-192

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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	The addition will not be visible to the public from behind the house.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<p>The addition will not increase the nonconforming setback that is already there. It will still be nonconforming by 3 feet but it is a small request.</p> <p>The purpose of the setbacks is to avoid overcrowding neighboring properties with excessive massing, and since it is set back farther than the existing wall of the main structure, it is not an issue and thought it does observe the spirit of</p>

		the ordinance as intended.
10.233.23 Granting the variance would do substantial justice.	YES	The simple addition will provide better access to the backyard.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	Granting the variance will not diminish the values of surrounding properties because the addition will be useful and likely increase property values.
<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	<p>The only logical place for the added access is in the back.</p> <p>The location of the bulkhead makes it not possible to the addition within the setback specified by the ordinance.</p>



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ZONING BOARD OF ADJUSTMENT

January 30, 2023

Lucky Thirteen Properties, LLC
PO BOX 300
Rye, NH 03870

RE: Board of Adjustment request for property located at 147 Congress Street (LU-22-192)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, January 24, 2023**, considered your application for expanding the existing structure which requires 1) Variance from Section 10.5A41.10D to allow 2% open space where 5% is required. Said property is shown on Assessor Map 126, Lot 4 and lies within the Character District 5 (CD5), Downtown Overlay and Historic Districts. As a result of said consideration, the Board voted to **grant** the variance as presented.

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 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,

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Phyllis Eldridge, Chair of the Zoning Board of Adjustment

cc: Shanti Wolph, Chief Building Inspector

Rosann Maurice-Lentz, City Assessor

Derek Durbin, Durbin Law Offices PLL

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 01/24/2023

Property Address: 147 Congress Street

Application #: LU-22-192

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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	There is public interest in improving the streetscape along Maplewood Avenue and attempting to create more of a connection with passersby in that area.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	<p>The five percent open space was probably not being reflected by any of the other properties along that area of Congress Street and all the buildings are built out to the maximum extremes.</p> <p>The applicant's property is not built out completely to the property line and there were places that the public could access and still have a sense of freedom.</p>

		This district and the downtown in general is desirable to have the lots fully built out and to promote the pedestrian experience.
10.233.23 Granting the variance would do substantial justice.	YES	<p>It will allow the applicant to make full use of the square footage created by the oddity of Maplewood Avenue cutting through after buildings were taken down. There is public interest in not having that additional three percent of open space when there would still be sidewalks.</p> <p>Nothing will be gained by the public in preventing the applicant from trying to create the new building that would outweigh any benefit that the public would get.</p>
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	<p>It is an area of relatively small lots with open space in a downtown area that is built out to the property lines and probably wouldn't be perceived at all.</p> <p>The overall increase and improvement of the property and the ability to make Maplewood Avenue more pedestrian friendly would only enhance the desired nightlife that drew most people to that area of downtown.</p>
<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</p>	YES	<p>The existing building was on an oddly-shaped lot and the applicant was trying to make use of that lot but with it came architectural hindrances, like the HDC insisting on rounded canopies to reflect the rounded nature of the lot.</p>

variance is therefore necessary to enable a reasonable use of it.		
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CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
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Hampshire 03801
(603) 610-7216

ZONING BOARD OF ADJUSTMENT

January 30, 2023

Timothy and Rebecca OBrien
396 Miller Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 396 Miller Avenue (LU-22-211)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, January 24, 2023**, considered your application for creating a second driveway which requires 1) Variance from Section 10.1114.31 to allow two driveways where only one per lot is permitted. Said property is shown on Assessor Map 131 Lot 24 and lies within the General Residence A (GRA) District. As a result of said consideration, the Board voted to **grant** the variance as presented.

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 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,

A handwritten signature in black ink, reading "Phyllis Eldridge". The script is cursive and fluid, with the first name "Phyllis" and last name "Eldridge" clearly distinguishable.

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: 1/24/2024

Property Address: 396 Miller Avenue

Application #: LU-22-211

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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 / NO	The public interest was supported by the traffic considerations that the board discussed as well as the safety considerations.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES / NO	Granting the variance would promote the public interest with regard to traffic safety in that stretch of Miller avenue.
10.233.23 Granting the variance would do substantial justice.	YES / NO	The benefit to the applicant would not be outweighed by any harm to the public, and denying the application would not result in any benefit to the public and in fact would eliminate a potential safety benefit to the public.

<p>10.233.24 Granting the variance would not diminish the values of surrounding properties.</p>	<p>YES / NO</p>	<p>Granting the variance would not diminish the values of surrounding properties, the board was not presented with anyone from the neighborhood who made a claim that the project would infringe upon their property values.</p>
<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>	<p>Literal enforcement of the ordinance would result in unnecessary hardship, noting that the hardship of the property was the unusual size of it and the fact that along that stretch of road, one would normally see an additional driveway in that amount of frontage.</p>



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1 Junkins Avenue
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Hampshire 03801
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ZONING BOARD OF ADJUSTMENT

February 1, 2023

Karen Bouffard Revocable Trust
PO BOX 1167
Portsmouth, New Hampshire 03802

RE: Board of Adjustment request for property located at 114 Maplewood Avenue (LU-22-256)

Dear Property Owner:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, January 24, 2023**, considered your application for the installation of a A/C Condenser Unit which requires the following 1) Variance from section 10.515.14 to allow a 2 foot setback where 10 feet is required. Said property is shown on Assessor Map 124 Lot 4 and lies within the Character District 4-L1 (CD4-L1) and Historic District. As a result of said consideration, the Board voted to **grant** the variance as presented.

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 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,

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

Anne Whitney Architect

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 1/24/2024

Property Address: 114 Maplewood Avenue

Application #: LU-22-256

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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	Granting the variance would not be contrary to the public interest as the public will have no interest in seeing the back side of the house.
10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	The lot was nonconforming and would be less nonconforming, and it would do substantial justice.
10.233.23 Granting the variance would do substantial justice.	YES	The lot was nonconforming and would be less nonconforming, and it would do substantial justice.

10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	Granting the variance would not diminish the values of surrounding properties and that it could only enhance those values.
<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	The property had special conditions, given the location of the building and owing to those special conditions a fair and substantial relationship did not exist between the general public purpose of the ordinance and its specific application. He said it was probably the only place to put the condenser unit, and given the nature of what is currently behind the project, it is a great location.



CITY OF PORTSMOUTH

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ZONING BOARD OF ADJUSTMENT

January 30, 2023

Thomas E, Marybeth B, James B, and Meegan C Reis
305 Peverly Hill Road
Portsmouth, New Hampshire 03801

RE: Board of Adjustment request for property located at 305 Peverly Hill Road (LU-22-251)

Dear Property Owners:

The Zoning Board of Adjustment, at its regularly scheduled meeting of **Tuesday, January 24, 2023**, considered your application for renovating the existing primary dwelling into a two unit dwelling and to construct a new single unit dwelling which requires the following 1) Variance from Section 10.440 Use #1.30 to allow a two unit dwelling in the SRB District. 2) Variance from Section 10.513 to allow more than one free standing dwelling on a lot in the SRB District. Said property is shown on Assessor Map 255 Lot 5 and lies within the Single Residence A (SRA); Single Residence B (SRB) and Natural Resource Protection (NRP) District. As a result of said consideration, the Board voted to **grant** the variances as presented with the following **condition**:

1.) *No more than 3 dwelling units will be permitted on the lot.*

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 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 Department.

Very truly yours,

A handwritten signature in cursive script that reads "Phyllis Eldridge". The signature is written in dark 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

Sharon Cuddy Somers; Donahue, Tucker & Ciandella, PLLC

Findings of Fact | Variance

City of Portsmouth Zoning Board of Adjustment

Date: 1/24/2024

Property Address: 305 Peverly Hill Road

Application #: LU-22-251

Decision: **Grant**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I 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 the 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	The huge lot is contained in the Single Residence A and Single Residence B District and the restriction is for no more than one dwelling per lot and no more than two dwelling units, per Section 10.440.130 in the board's table of uses, to prevent excessive congestion and density. The applicant has a huge lot, and the buildable part of the lot is only 2.1 acres, but the total lot is 39.7 acres with the conservation easement part taken into account. It is in the Single Residence A and Single Residence B District but there are no nearby neighbors, so the excessive density of the lot will not actually alter the essential character of the neighborhood.

10.233.22 Granting the variance would observe the spirit of the Ordinance.	YES	The huge lot is contained in the Single Residence A and Single Residence B District and the restriction is for no more than one dwelling per lot and no more than two dwelling units, per Section 10.440.130 in the board's table of uses, to prevent excessive congestion and density. The applicant has a huge lot, and the buildable part of the lot is only 2.1 acres, but the total lot is 39.7 acres with the conservation easement part taken into account. It is in the Single Residence A and Single Residence B District but there are no nearby neighbors, so the excessive density of the lot will not actually alter the essential character of the neighborhood.
10.233.23 Granting the variance would do substantial justice.	YES	Substantial justice will be done because the benefit to the applicant would not be outweighed by any harm to the general public or other individuals. The farm is on a huge lot that wasn't really in a neighborhood <i>per se</i> , so there will not be any harm to the general public by granting the variance.
10.233.24 Granting the variance would not diminish the values of surrounding properties.	YES	The values of surrounding properties will not be diminished, and the board did not get testimony as to that, but using common sense, the addition of the second unit and the construction of a freestanding single unit will not harm the surrounding properties, especially given how far away they were from the subject property.
<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</p>	YES	Literal enforcement of the ordinance would result in unnecessary hardship, as hardship refers to the property's special conditions that distinguishes it from others in the area and there was no fair and substantial relationship between the general public purpose of the ordinance provisions and the special application of that provision to the property, and the proposed use is a reasonable one. This is truly a case where there were special conditions – a farm that has 39.7 acres in

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.		Single Residence A and Single Residence B zones. There is no fair and substantial relationship between not allowing the addition of the second unit to the existing structure and the new construction of the freestanding single unit applied to that property.
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Stipulations
<i>1. No more than three dwelling units will be allowed on the lot.</i>