

Top: Lot 117-5



Bottom: Haven Court



**RE: 1 Congress St- Lot 117-15 (Haven Court)**

**Meeting: ZBA February 23, 2022**

Page numbers are taken from the “attachments” lists, not from the “packet”.

*Please review the tax map pictures at the beginning.*

Dear Members of the Zoning Board of Adjustments,

February 19, 2022

**Green heights vs the orange heights:**

Mapgeo shows a lot of “green” in the downtown area. MOST of Lot 117-15 fronts on Haven Court which is all green heights. The variance is for this lot. The request is to take an open parking lot with trees, a public seating area abutted by a relatively new looking 2 story building and replace it with a 4 story building. Haven Court’s height is “green”, 2-3 story-40’, including Newbury’s. The existing seating area makes one wonder if it was added as part of a zoning or HDC requirement. This corner of Haven Ct and High St provides a breath of fresh air in this area with 3 story buildings.

The current abutting building appears to be about 2 stories 20’ (yellow house next to parking lot). The new structure being presented would increase the height to 4 story 47’. This is technically a 47’ increase from the parking lot. It is about a 15’ to 25’ increase from the yellow building and the others on Haven Court.

**The massing plans presented do NOT seem to show Haven Court.** The buildings along Haven Court appear to be 2- 3 story, maybe 25’ -30’ tall. The Hanover Garage drops down to 3 story parallel to them.

The other thing which is NOT shown, for the proposed height of the building, is how much grade will be needed to move the building to the edge of Haven Court and put in underground parking. There seems to be quite an incline on Lot 117-15.

Currently both lots (117-14 and 117-15) **are about 6969.6 sf** (0.16 acres). The restoration (3280sf) is only for half of the existing building on Lot 117-14 and remaining 3/4ths of the proposed combined lot is presented as new (8720 sf).

**Definition of a short 4th:**

The zoning height for Lot 117-14 is 2-3 story with a SHORT 4th. *This is being asked for Lot 117-15.* Plan A0.4 (pg 26) does NOT list the height for the proposed 4th floor. **A “short story” by definition is 20% shorter than the story below.** Plan A0.3 (pg 25) does NOT show the height of the story below (3rd story). IF all the stories are the same (11’) to meet zoning for a “short” 4th, it should be no higher than 8’ 8”. This proposed floor is shown as residential.

There is a separate roof plan A0.5 (pg 27). The flat roof (no slope) height is listed as 46’ 10”. Plan C3, shows the ground floor at 13’ and the second floor at 11’. Looking at the roof plan, there appear to be some structures which are as high as 55’, which are allowed with specific criteria. **10.5A43.32** states: “All roof appurtenances and other features that exceed the allowed building height for the zoning district shall not exceed 33 percent of the total roof area of the structure and, except for elevators and stair towers, shall be set back at least 10 feet from any edge of the roof.”. Page one of this application states they plan to construct an elevator. It is hard to tell from the roof plans what the various high roof structures are or whether they meet the requested height regulation changes.

**Observations regarding orange heights in the same block as Lot 117-14, Congress St:**

Looking at the Plan A0.2 (pg 9) and comparing it to Plan A2.2 North side of Congress St (pg 16) and then looking at Plan A0.4 (pg 26), it is evident that the Zoning height of 2-3 Story with a short 4th, maximum 45’ *was likely put there in error*. The only building in that entire block which seems to meet that criteria is 55 Congress Street. *All the other existing structures seem to be in 2-3 story 40’ range, in this presented “orange” height area along this block.* It may be listed as orange but its existing heights are really green.

What is before this board is to allow Lot 117-15 be changed from the “green” height of 2 -3 story-40’ to the “orange” height of 2-3 story with a short 4th-45’, NOT found on Haven Court where the largest frontage(106’) of this lot requesting the variance is. All of Haven Court is “green”, 2-3 story-40’.

Some answers may be needed to move forward with this request: **actual massing along Haven Court, grade, the park/seating area’s origin, how tall will the 3rd story be, how short will the 4th story be, how tall will the building at the top of the 4th story be, identity of the structure on the roof.**

It seems a little ironic that in this application building height and building expansion are being sought, which usually come with a requirement to add community, green or open space; in this case it comes with the removal of such.

Respectfully,

Elizabeth Bratter  
159 McDonough St  
Property Owner

**From:** [Kimberli Kienia](mailto:Kimberli.Kienia)  
**To:** [Kimberli Kienia](mailto:Kimberli.Kienia)  
**Subject:** FW: 1 Congress Street variance request  
**Date:** Wednesday, February 9, 2022 10:38:14 AM

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**From:** Peter Egelston [<mailto:peter@portsmouthbrewery.com>]  
**Sent:** Wednesday, February 9, 2022 10:27 AM  
**To:** Planning Info <[Planning@cityofportsmouth.com](mailto:Planning@cityofportsmouth.com)>; Peter M. Stith <[pmstith@cityofportsmouth.com](mailto:pmstith@cityofportsmouth.com)>  
**Cc:** Joanne Francis <[joanne@portsmouthbrewery.com](mailto:joanne@portsmouthbrewery.com)>; Karen Conard <[kconard@cityofportsmouth.com](mailto:kconard@cityofportsmouth.com)>  
**Subject:** 1 Congress Street variance request

Good morning,

I am in receipt of an abutters' notice pertaining to the February 15, 2022, Board of Adjustment meeting. The project of which I have been notified is the request by One Market Square LLC for zoning relief to enable the construction at 1 Congress Street of a three story addition with a short 4th story and building height of 44'-11".

I would like to put on record my strong opposition to this request. I can't imagine any hardship that would justify the granting of the requested zoning variances. The building's tax card indicates that it is over two hundred years old. No doubt it has been modified numerous times over its lifetime. However, zoning ordinances exist today to guide such modifications, to protect neighbors, and to help maintain a city's character. The fact that the proposed modification requires zoning relief puts up a huge red flag with respect to its likely impact on the property's neighborhood - Market Square, the very heart of downtown Portsmouth. The proposed modification is elective - it does not have to be done to maintain the viability of the property. There is no reason for the Board of Adjustment to grant the requested variances.

Granting this relief would also set a terrible precedent for the City's historic downtown, as it would encourage developers to propose nonconforming modifications to historic buildings wherever they see a potential for profit.

Lastly, a major construction project in the center of town, one that is likely to take place at precisely the same time the City garage is undergoing renovation, coming hard on the heels of several other major downtown construction projects (not to mention a worldwide pandemic), is certainly going to adversely impact the economy of the immediate neighborhood. I understand that this does not pertain to the matter of zoning relief, but it should be mentioned nonetheless.

Thank you for your attention in this matter.

Regards,

Peter Egelston  
Owner of 48-56 Market Street

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**Peter Egelston, President**

**[Portsmouth Brewery](#)**

56 Market Street, Portsmouth NH 03801

(603) 431-1115 x241

"Everyone is entitled to his own opinion, but not his own facts."

Daniel Patrick Moynihan

**From:** [Susan Manfull](#)  
**To:** [Planning Info](#)  
**Subject:** Support of BOA request by Ted Stiles at 28 South Street  
**Date:** Monday, February 14, 2022 9:55:03 AM

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Dear Members of the Portsmouth City Planning Department:

We are writing in support of the proposed additions to the property owned by Theodore M. Stiles at 28 South Street. We live next door at 12 South Street and, therefore, have a vested interest in the proposed additions and required variances.

We have reviewed the schematic design sketches put forth by architect Anne Whitney and wholeheartedly support these plans. We cannot foresee any drawbacks to the property or the neighborhood. In fact, moving the side door to the rear will provide greater privacy for each of us which, as much as we like our neighbors Ted Stiles and Joan Boyd, is a welcome feature.

Please approve their request to add two rear additions to their home.

Thank you.

Sincerely,

Susan and William Manfull

12 South Street

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**Susan Newman Manfull, PhD**

H | 603 430-8694

M | 603 828-1766