

CITY COUNCIL E-MAILS

Received: December 14, 2023 (after 9:00 a.m.) – December 18, 2023 (before 5:00 p.m.)

December 18, 2023 Council Meeting

ADDENDUM

**Submitted on Sun, 12/17/2023 - 23:26**

**Full Name**

Thomas Nies

**Email**

[tnies@aol.com](mailto:tnies@aol.com)

**Subject**

Proposed Revision To Historic Commission Powers and Duties

**Address**

419 Richards Avenue

**Message**

Councilors:

At your December 18, 2023 meeting you will consider a change to city ordinances that would restrict the Historic District Commission from reviewing solar panels. This is presumably in response to a recent HDC decision that prevented a homeowner from adding panels to the rear roof of a home because they would be visible from a side street. Clearly, this is a situation where policy guidance is needed from the Council.

While I understand the rationale for this change, I suggest the Council consider a different approach. Appropriate language could be inserted into the Zoning Ordinance, Section 10.633.20 (Exemptions from Certificate of Approval). It could be crafted to prevent conflicts with other parts of the ordinance and, if desired, to specify exemption criteria. For example: the proposed motion would appear to exempt even free-standing solar panels from HDC review, regardless of location, whereas the ordinance places restrictions where other electrical and mechanical equipment can be placed (see paragraph 9 of this section). I'm not an expert on the zoning ordinance and don't know if free-standing panels are already prevented by other sections of the ordinance, or if the Council may want to allow such structures in the historic district.

Thank you for considering my comments.

Tom Nies

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting.** Yes

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**Submitted on Mon, 12/18/2023 - 08:27**

**Full Name**

Gerald Duffy

**Email**

[gduffy44@gmail.com](mailto:gduffy44@gmail.com)

**Subject**

HDC and solar panels

**Address**

428 Pleasant St., Unit 3

**Message**

Dear Mayor and Councilors:

It is impressive that this Council has already indicated by its actions that it takes its role in fostering clean, green energy seriously. As it should. It has never been more obvious that human beings in general and communities in particular need to wean themselves off energy derived from burning fossil fuels as soon as possible. Thanks to Community Power, Portsmouth residents, if they wish, can already subscribe to 100% renewable energy. Making it easier for residents in our historic district to install solar arrays gives them an additional means to reduce their carbon footprint. The Historic District Commission plays a vital role in preserving the character of our town. However, I agree that in this case, the imperative to move as quickly as possible to renewable energy overrides debatable aesthetic considerations, especially in the context of a landscape containing many other ahistoric elements, such as large tangles of utility lines and poles. To continue its leadership in sustainability, Portsmouth must facilitate the generation of renewable energy by any means possible. If that means revising zoning ordinances or amending the charter of land use boards, then please proceed with a sense of urgency. Thank you for doing this.

Warm regards,

Gerald Duffy

Effie Malley

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting.** Yes

**Submitted on Mon, 12/18/2023 - 11:43**

**Full Name**

Cynthia Harriman

**Email**

[charriman@masongrant.com](mailto:charriman@masongrant.com)

**Subject**

amend HDC to allow solar panels

**Address**

57 South St

**Message**

Dear City Councilors,

This morning I read on Seacoast Online that Josh Denton and Rich Blalock are advocating that the City Council amend the HDC rules, taking away the HDC's review of solar panels.

I wholeheartedly support this initiative. I served on the HDC from mid-1980 to mid-1983, including a stint as chair of the HDC. In these early days of the HDC, the ordinance was designed (and passed by the voters) as a preservation ordinance – largely in reaction to repeated demolitions of buildings to make room for more parking lots.

It was not designed to be an arbiter of taste or a protector of property values. The original HDC Visual Guidelines said, for instance, that:

- reroofing is okay as long as there was no change in the roof plane (p. 27)
- “The HDC does not regulate the use of color because it does not permanently alter a building” (p. 28)
- wood clapboards are preferred, but vinyl or aluminum can be used (p. 30)
- there’s no need for approval for “storm doors and windows where no architectural features are altered.” (p.34)
- “The HDC ordinance and these guidelines are not designed to interrupt the process of alteration or to discourage individual expression.” (p. 34)

In 1979, at a public hearing held to discuss abolishing the infant HDC, Martha Clark – then a member of the HDC – said, “There has been some agreement that the line might be drawn at ‘irrevocable changes’ in buildings, but there is much disagreement on what constitutes ‘irrevocable changes’.” (Portsmouth Herald, 4/20/79).

To avoid needless and ultimately subjective judgements about what is – and is not – appropriate for the ever-changing modern world, the HDC ordinance should be updated to clarify its key role of preventing irrevocable changes. As long as an historic building itself remains intact, elements that subsequent owners can remove – clearly revocable additions such as an EV charger, an AC condenser, solar panels, a storm door, a fence – should be explicitly permitted. Especially those that serve a greater community good, such as solar panels.

My husband and I have lived at 57 South Street, in what’s now the Historic District, for 47 years. We love our neighborhood and are grateful that the HDC has played a key role in preserving buildings. We urge the Portsmouth City Council to support the initiative to remove solar panels from the purview of the HDC – and once that is done, to consider further updates to clarify the HDC’s role.

Best regards,

Cynthia Harriman

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting.** Yes

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**Submitted on Mon, 12/18/2023 - 11:57**

**Full Name**

Donald Stickney

**Email**

[donaldstickney@gmail.com](mailto:donaldstickney@gmail.com)

**Subject**

246 Jones Ave Scrapyard

**Address**

213 Jones Ave

**Message**

Hello Council Members, My name is Donald Stickney. lifelong Portsmouth resident and Jones ave resident since 2008. It’s very unfortunate I have to send this message today, if the scrapyard at 246 Jones Ave was operated in a historically consistent manner I wouldn’t have to.

After communication with the owner and staff of the scrapyard yielded no improvement I have followed the process for reporting credible zoning issues to city staff since 2019. The impact has only gotten worse.

For many years a scrap metal facility has operated from Jones ave as a nonconforming use in our residential neighborhood. The facility was historically operated with care and respect for neighbors. The previous land owner lived directly across the street and was vigilant to minimize the impact on abutters. In 2014 it was determined the site should be paved Including ~25,000 square feet in the wetland buffer. During the process there was discussion about the site runoff and soil separator outfall going In directly into the wetlands, the facility is in

an environmentally sensitive area. Meeting notes from 2014 indicate no discussion regarding the impact the paving would have on noise levels from the facility, this is a miss given the volume of unnatural noise abutters currently experience. 10.331 A lawful nonconforming use may continue, but may not be extended, enlarged or changed except in conformity with this Ordinance.

In 2017 the land and business were sold to Mr. MacDonald a charismatic, likable seacoast resident, and contractor for the City of Portsmouth. The property use changes were immediately felt by residents. Vehicles from Mr MacDonald's construction business were now using the property day and night for a variety of construction and snow removal related activities.

After years of additional uses, the increase in intensity, dramatic increases in heavy truck traffic, and being woken up all hours of the night the impact became unbearable in February of 2019 when an industrial rock crusher was run for two weeks creating noise comparable to a fighter jet during takeoff. This was the tipping point where I and others on the street were no longer willing to ignore the extension, enlargement, and addition of nonconforming uses in our neighborhood with no due process for abutters. I have provided video to the zoning enforcement officer, the planning department, and the city council documenting the issues I am outlining here today. The response from city staff has been dismissive, residents have been left to feel we shouldn't trust our daily experience, or what we see and hear.

Here are the issues:

Continual violations from the state for not abiding by the terms of the facility license

Oil spills

Fire

Processing construction waste through our neighborhood

Loudly tearing apart whole vehicles on the site

Loud equipment being run prior to 7am at the property

Loud vehicles leaving the property prior to 7am

Snow removal operations from jones ave for other properties

Vacuum truck operations from jones ave for other properties

Dump truck operations not related to scrap metal

Dropping and slamming dumpsters

Constantly dropping massive metal items into dumpsters with noise so loud it shakes abutting homes

Excavation and filling in the Wetland Buffer Zone

Storing the excavated materials from the current city project in the wetland buffer extending the lot use

Dust storms from the site

Acrid smog from used oil burner on the property

Long term storage of non-operation vehicles on the property

Rocks and dirt falling from construction vehicles onto Jones Ave, degrading the street and creating safety issues

Erecting a freestanding sign where none are allowed and had not been for years

Using a junk car as a sign in the middle of a field

Storing a dilapidated construction trailer in plain sight for 2+ years

Creating unsafe conditions for the families that live on jones ave with dramatically increased traffic

300% increase in the volume of scrap coming through our neighborhood

The non-conforming use has been extended, enlarged and changed. The recent proposal to have a meeting directly with the owner was declined. After following enforcement process to no avail residents have been left with no choice and delivered a petition to the city to revoke the grandfathered non-conforming use given the inaction of the city to limit the impact to a reasonable level and enforce the zoning ordinances. The Staff of the City has not only failed to limit the impact of the non-conforming use occurring, they have directly supported the negative impact to residents. I ask you to take action and Preserve Jones Ave.

Here is a video summary of the issues we experience: <https://youtu.be/3ILBuOWOmkc>

Thank you,  
Donald Stickney

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting. Yes**

**Submitted on Mon, 12/18/2023 - 14:45**

**Full Name**

Kevin Beane

**Email**

[K.BEANE@COMCAST.NET](mailto:K.BEANE@COMCAST.NET)

**Subject**

Solar in the Historic District

**Address**

33-35 South Mill St

**Message**

I live on South Mill St within the Historic District and would like to voice my support for allowing solar energy systems within the. Historic District. I was turned down by the HDC last year when I submitted a proposal for solar panels on my south facing roof. Although I support the concept of having a Historic District I believe that the times dictate some flexibility when it comes to responsibly facing the very real effects of climate change and the potentially disruptive consequences of sea levels rising. Utility poles and power lines are arguably unsightly and certainly not the historic aesthetic that is espoused by the HDC. I pointed this out to the HDC at my hearing and although they said they support renewable energy, they don't want to have solar panels visible from the street. In my case, my proposal was the best and only practical location for solar panels on my property. Please consider supporting rule changes to the HDC to allow for solar energy systems. I believe that in the big picture it's the responsible thing to do. Thank you for your consideration. Sincerely,, Kevin Beane

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting.** Yes

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**Submitted on Mon, 12/18/2023 - 14:51**

**Full Name**

Rich DiPentima

**Email**

[rdipentima@gmail.com](mailto:rdipentima@gmail.com)

**Subject**

Solar panels in the HD

**Address**

16 Dunlin Way

**Message**

I support the motion of Councilors Blaylock and Denton to remove solar authority from the HDC. They have rejected permits that were not consistent with the HDC guidelines. Political considerations are being used to make decisions. The HDC has overstepped its authority and its own guidelines.

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting.** Yes

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**Submitted on Mon, 12/18/2023 - 14:58**

**Full Name**

Alexandra Scott

**Email**

[alyshields95@gmail.com](mailto:alyshields95@gmail.com)

**Subject**

Jones Ave "Lay down site" Neighborhood disruptions

**Address**

271 Sagamore Avenue

**Message**

Alexandra Scott

271 Sagamore Ave

Portsmouth, NH 03801

Dear Council Members,

I am writing with concern surrounding the scrap metal yard on Jones Ave being utilized as a "lay down site" for the city sewer project.

The site being utilized in this way has caused a significant increase in large truck traffic on the corner of Sagamore and Jones and along Jones Ave. There are a number of disturbances this utilization has caused our family, some of which being:

- The trucks make loud screeching brake noises right in front of our home each time a truck turns onto Jones Ave
- There have been a number of times the trucks have turned the corner and spilled dirt, rocks, debris etc. which causes other cars repeatedly driving over and therefore causes loud scraping noise and likely damage to roads/vehicles
- Our youngest child is 7 months old - and is frequently woken from sleep due to the loud brake noise
- I work from home and it is very disruptive and loud when I am working and in meetings

The largest concern I have though, more than the disturbances, is the safety of our kids due to this change in the use of our neighborhood.

With increased traffic of these very large construction vehicles, comes a large safety risk to our kids who walk, play, bike ride, etc. on the normally very calm and quiet streets.

This summer our older kids set up lemonade stands at the end of Jones Ave by Sagamore and we did not feel comfortable leaving them for even a second due to the very large trucks making the turn onto our road every few minutes.

Bike riding is normally very easy and practical to do in our neighborhood - but this has become burdensome and dangerous due to the large construction vehicles constantly coming up and down the road. The vehicles are not only abnormally large for the residential streets, but they kick up rocks and leave dust and exhaust in their wake which is dangerous and unenjoyable for those wishing to enjoy the neighborhood.

There are many children who live on Sagamore, Jones, Broad St. etc. who should be able to play and enjoy their neighborhood. There is a reasonable amount of risk expected when you walk, bike, play etc in our busy town of course, but our kids have grown up with a reasonable expectation that this neighborhood is relatively low on traffic (Jones is a dead end) and the speed, size and frequency of these trucks have introduced an absolute danger to the kids that live and play here.

I do not think that our residential neighborhood is an appropriate site for this business or use. I hope that the city council will seriously consider finding a more appropriate location for this activity.

Thank you very much for time and consideration,  
Alexandra Scott

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting. Yes**

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**Submitted on Mon, 12/18/2023 - 15:10**

**Full Name**

Martin Ryan

**Email**

[mlr10000@yahoo.com](mailto:mlr10000@yahoo.com)

**Subject**

Proposed Ordinance to Allow Unrestricted Solar Panels Throughout Historic District

**Address**

221 Woodbury Ave

**Message**

Dear Mayor & City Council:

I was extremely disappointed to learn from the local newspaper, that an ordinance is being proposed to remove solar panels from the purview of the Historic District Commission. Over the last few years, any engaged member of the public, would have witnessed the diligent, decision-making process the commission undertakes when reviewing an application that includes the installation of solar panels. The commission takes its role in protecting the city's historic character very seriously. It also, recognizing that Portsmouth is a living, active community and any hardships that an applicant possess, should and has been considered. Our goal is to manage change and get to a positive outcome for the applicant and the city as a whole. If the City Council were to look at the track record over the last few years, they will see that the HDC has reviewed over a dozen applications that have included solar panels. Of those applications, several have been approved or approved with stipulations. Each application is uniquely different but is typically judged based on National Park Service's technical preservation guidance, which states, "Solar panels installed on a historic property in a location that cannot be seen from the ground will generally meet the Secretary of the Interior's Standards for Rehabilitation". There have been applications that have come before the HDC which were rejected because the installation was judged to be generally damaging to the home and the surrounding neighborhood. All of these applications, approved or rejected, are a matter of public record and should be studied buy the city council before considering any major changes in policy.

To remove this aspect of the HDC's duties is to ask, how much of the character of historic Portsmouth would the council like to surrender to solar installation contractors? Can we image what rows of high tech, glass panels will do to the historic character of an 18th century colonial home or to the neighborhoods? Would we consider solar panels on the roof of the North Church, The Warner House, The Moffatt Ladd House or the John Paul Jones House? Think about what is being suggested. Would a structure in the historic district, that has a slate or wood shingled roof be allowed to have that roof removed and asphalt shingles placed so that solar panels could be installed?

This year, 2023 marks the 400th anniversary of the Portsmouth's founding. Over the last four centuries, the city has experienced growth and change, yet we are extremely fortunate that much of the heritage of this community still present. The City of Portsmouth is nationally recognized for its rich history and the preservation of its built environment. I can't think of anything more reckless than this proposed ordinance or to suggest that the city remove the careful consideration and protection provided by the Historic District Commission.

Some will say, we need to put solar panels on the roofs of our homes because the planet is warming, and the seas are rising. We have heard these numerous predictions of catastrophe for the last 50 years. We can put solar panels on every square inch of Portsmouth, and no one can guarantee that the planet won't warm one or two degrees over the next 100 years. But one thing we can be certain of, if this ordinance is passed that City of Portsmouth will most definitely lose its most valuable resource, and that is its historic integrity.

Respectfully,

Martin Ryan

Member of the Historic District Commission

**Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting.** Yes

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