

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

7:00 PM Public Hearings begin

August 15, 2024

MEMBERS PRESENT: Rick Chellman, Chairman; Greg Mahanna, Vice Chair; Karen Conard, City Manager; Joseph Almeida, Facilities Manager; Beth Moreau, City Councilor; James Hewitt; Paul Giuliano; Andrew Samonas; Anthony Coviello; and William Bowen, Alternate

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ALSO PRESENT: Peter Stith, Planning Department Manager

MEMBERS ABSENT: None.

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Chair Chellman called the meeting to order at 7:00 p.m.

I. APPROVAL OF MINUTES

A. Approval of the July 18, 2024 Meeting Minutes.

*Mr. Giuliano moved to **approve** the July 18 minutes as submitted, seconded by Vice-Chair Mahanna. The motion **passed** unanimously, with Ms. Conard and Mr. Coviello recusing.*

II. DETERMINATIONS OF COMPLETENESS

SITE PLAN REVIEW

A. The request of **Christ Church Parish (Owner)**, for property located at **1035 Lafayette Road** requesting Site Plan Review Approval for construction of a 4-story, 44-unit multi-family residential building and construction of a 7-unit transitional housing addition. The project will include associated site improvements such as parking, pedestrian connections, access to public transportation, utilities, stormwater management, lighting, and landscaping. Said property is located on Assessor Map 246 Lot 1 and lies within the Gateway Center (G2) District. (LU-24-92)

*Councilor Moreau moved that the Board determine that Item A is complete according to the Site Plan Review Regulations (contingent on the granting of any required waivers under Section IV of the agenda) and to accept the application for consideration. Mr. Coviello seconded. The motion **passed** with all in favor.*

III. PUBLIC HEARINGS -- OLD BUSINESS

- A. The request of **Perkins Kwoka Joint Revocable Trust (Owner)**, for property located at **224 Broad Street, Unit 3** is requesting a Wetland Conditional Use Permit from Section 10.1017.50 for the replacement and expansion of an existing 192 sf sunroom and the demolition of a 286 sf rear deck, with new construction proposed for an addition of 384 sf to the existing sunroom, a new 367.5 sf rear deck and regrading of a portion of the site for the installation of a retaining wall and underdrain for stormwater control. The applicant is proposing to remove 491 sf of existing pavers and asphalt to be replaced with 401 sf of new pavers. This proposal includes the removal of the existing lawn to be replaced with a micro-clover seed mix, a planting plan, and a stone drip edge. Said property is located on Assessor Map 131Lot 13-3 and lies within the General Residence A (GRA) District. (LU-23-179)

Note: The following petition is out of sequence because the applicant was not present at first but appeared after New Business Petition A, 77 New Castle Avenue was heard.

SPEAKING TO THE PETITION

[Timestamp 21:54] The applicant Rebecca Perkins Kwoka was present to review the petition. She explained that she needed approval due to the change in the site plan and that they received approval from the Conservation Commission for the plantings and drainage. Mr. Samonas asked if the rest of the condominium owners approved. The applicant agreed.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAISNT THE PETITION

No one was present to speak, and Chair Chellman closed the public hearing.

DECISION OF THE BOARD

*Ms. Conard moved to **postpone** to the September meeting due to the applicant not being present. Vice-Chair Mahanna seconded. The motion **passed** with all in favor.*

*Mr. Coviello moved to reconsider after the applicant arrived at the meeting. Ms. Conard seconded. The motion **passed** with all in favor.*

*1) Councilor Moreau moved that the Board find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.50 of the Ordinance and adopt the findings of fact as presented. Ms. Conard seconded. The motion **passed** with all in favor.*

*2) Councilor Moreau moved that the Board grant the Conditional Use Permit as presented. Ms. Conard seconded. The motion **passed** with all in favor.*

IV. PUBLIC HEARINGS – NEW BUSINESS

- A. The request of **Elisabeth Blaisdell, Sheppard Houston and Charles Stewart (Owners)**, for property located at **77 New Castle Avenue** requesting a Conditional Use Permit from Section 10.814 for the conversion of an existing accessory structure into a Detached Accessory Dwelling Unit (DADU) that does not conform with the dimensional requirements of the Ordinance. Said property is located on Assessor Map 101 Lot 50 and lies within the General Residence B (GRB) and Historic Districts. (LU-24-126)

SPEAKING TO THE PETITION

[Timestamp 9:14] The applicant Elisabeth Blaisdell was present and explained that the structure was used as a home office and a guest house more recently and that she wanted to rent it as a DADU to friends who needed a place to stay during seasonal employment. She said there was plenty of parking for eight cars. She reviewed the criteria.

Vice-Chair Mahanna asked what the gross square footage was. Ms. Blaisdell said it was 592 square feet, with no second story on it. Mr. Bowen asked the applicant if she was familiar with the requirements for short term rentals and the fact that the DADU could not be used as an Airbnb. Ms. Blaisdell agreed. Councilor Moreau said a neighbor has a concern about the intensive use of the property as a dwelling unit vs. an office. Ms. Blaisdell said she did use it as a home office and would only rent it to friends who wanted seasonal workforce housing.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Chellman closed the public hearing.

DECISION OF THE BOARD

- 1) *Mr. Giuliano moved that the Board find that the Conditional Use Permit Application meets the requirements set forth in Section 10.814.62 of the Ordinance and adopt the findings of fact as presented. Mr. Almeida seconded. The motion **passed** with all in favor.*
- 2) *Mr. Giuliano moved that the Board grant the Conditional Use Permit with the following **conditions**:*
 - 2.1) *Documentation of the conditional use permit approval shall be recorded at the Rockingham County Registry of Deeds, together with an affidavit that either the principal dwelling unit or the accessory dwelling unit will be occupied by the owner of the dwelling as the owner's principal place of residence, as required by Section 10.814.22.*
 - 2.2) *A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner occupancy and principal*

residency requirements. Said certificate shall be issued by the Planning Department upon issuance of a certificate of occupancy by the Inspection Department. A certificate of use shall not be issued prior to recording of documentation as required by this Ordinance.

2.3) The certificate of use shall be renewed annually upon submission of such documentation as the Planning Department may require to verify continued compliance with the standards of this Section. Failure to comply with this requirement shall be deemed a violation of the ordinance and may be enforced as provided in Article 2.

*Mr. Almeida seconded. The motion **passed** with all in favor.*

B. The request of **Flipping Bergers, LLC (Owner)**, for property located at **1 Sagamore Grove** requesting a Wetland Conditional Use Permit from Section 10.1017.50 for the demolition of the existing dwelling and construction of a new single-family dwelling with attached garage, walkway, patio, driveway and the removal of an existing septic tank. The proposed impervious surface within the wetland buffer will be 2,376 sf and will be 40' from the wetland edge. The applicant is proposing a permeable driveway, walkway and patio, a stone drip edge, a vegetated swale in the front lawn, the restoration of the 25' vegetated buffer on site and additional wetland buffer plantings. Said property is located on Assessor Map 201 Lot 8 and lies within the Single Residence B (SRB) District. (LU-24-100)

SPEAKING TO THE PETITION

[Timestamp 27:23] Project engineer Eric Weinrieb and the applicant Brett Berger were present. Mr. Weinrieb said they wanted to replace the existing house with a more compact one, build a new driveway, and restore most of the lawn to a natural vegetated state. He reviewed the stormwater management treatment and explained why the project met the criteria.

[Timestamp 31:20] Vice-Chair Mahanna asked how the applicant would justify a significant increase of the building coverage in the 100-ft setback. Mr. Weinrieb said if the house were re-occupied it would connect to a municipal system. He said they were converting 27 percent of the lot into a natural state, increasing the natural buffer, and removing construction debris in the back. Vice-Chair Mahanna asked why the applicant couldn't just go up instead of increasing the footprint. Mr. Weinrieb said they were going up and only increasing the footprint modestly. He said the proposed house was 1,700 sf including the garage and that initially it was supposed to be larger but was made more compact and a little taller. Vice-Chair Mahanna said the impervious surfaces were increasing from 1,616 sf to 2,376 sf and asked why there was more impervious surface in the buffer. Mr. Weinrieb said those were considered impervious by the lot coverage but not by the treatment. Vice-Chair Mahanna said he still wasn't comfortable with it.

[Timestamp 35:16] Mr. Hewitt said the applicant's memo indicated that the existing septic tank was being removed, and he asked if it currently had sewer. Mr. Weinrieb agreed. He said Mr. Berger installed his own pump system and connected it to the City's system when he built the house. Mr. Samonas noted the recent completion of the front condo building and asked if any drainage treatment was added to Sagamore Grove itself. Mr. Weinrieb said there was not because the driveway pitched down toward the garage and the drain went into the City's system,

and the permeable pavement above that all infiltrated, so there was no closed drainage that ran in the direction of the property. Mr. Coviello asked if a new property owner would have the right to rebuild the home that was on the footprint there now. Mr. Stith said they would need a variance because it encroached on the front setback. He said they could keep the structure and fix it, but they could not increase the nonconformity or footprint. Mr. Coviello asked if the applicant would be mandated to put in a new driveway. Mr. Stith said they could use the existing gravel driveway. Chair Chellman asked what the numbers were regarding the existing impervious coverage vs. what was proposed. He also suggested having a workshop soon about some zoning amendments, particularly the way the wetland permits are handled in the City and didn't necessarily fit with the current language. Mr. Weinreib said the open space defined the driveway and patio, even though they were permeable and not open space. He said they were going to 12,709 sf from 13,219 sf, which was mainly due to the driveway.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Chellman closed the public hearing.

DECISION OF THE BOARD

- 1) *Mr. Coviello moved that the Board find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.50 of the Ordinance and adopt the findings of fact as presented. Ms. Conard seconded. The motion **passed** with all in favor.*
- 2) *Mr. Coviello moved that the Board grant the Conditional Use Permit with the following **conditions**:*
 - 2.1) *In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers where applicable.*
 - 2.2) *The final letter of decision from the Planning Board shall be placed with the deed and recorded at the registry of deeds to ensure that all future property owners are aware of the stipulations associated with this Wetland Conditional Use Permit.*
 - 2.3) *All fertilizers to be used on the property, if any, shall be slow-release fertilizers.*
 - 2.4) *A visual buffer shall be placed along the edge of the naturalized restoration area to deter disturbance within the buffer (i.e. boulders, shrubbery).*

Ms. Conard seconded. Vice-Chair Mahanna said he would not support the motion because it was an increase in square footage and in impervious surface and it was right next to the creek. There was further discussion. [Timestamp 44:19]

*The motion **passed** by a vote of 8-1, with Vice-Chair Mahanna voting against the motion.*

- C. The request of **Samuel Holman** and **Kristina Schneider Holman (Owners)**, for property located at **271 Lafayette Road** requesting a Conditional Use Permit from Section 10.814 for the construction of a new Detached Accessory Dwelling Unit (DADU). Said property is located on Assessor Map 230 Lot 18 and lies within the Single Residence B (SRB) District. (LU-24-138)

SPEAKING TO THE PETITION

[Timestamp 47:22] The applicant Kristina Schneider Holman was present, along with project engineer Jeff Mattson. She said she and her husband wanted to build a DADU for family and friends. She said the neighbors to the right approved the project as well as the manager of the cemetery easement. She described the project in detail.

[Timestamp 48:58] Councilor Moreau asked why the garage was being placed up against the setback line but still have parking in between when there seemed to be other places to park cars. Ms. Schneider Holman said the property was wide and then got very narrow, and she wanted a deck in the back and a nice area to look out on from the kitchen. Mr. Mattson said the portion that might look like parking was really for just turning around. Councilor Moreau said the garage seemed to be deep enough for four cars, and the ADU was larger than what the ordinance allows. She asked what the justification was. Mr. Mattson said the floor plan showed that a good portion of the back was for an office and the stairs to get up to the ADU, and the ADU itself would be in the allowable square footage. He read the updated project narrative into the record. Mr. Almeida asked why the lot with the cemetery on it was not buildable. Mr. Mattson said the ordinance stated that there had to be a certain distance from a cemetery so that new construction is allowed. He said the property was also narrow, with minimal street frontage. It was further discussed.

[Timestamp 58:47] Mr. Hewitt verified that there was an existing house and garage, the garage was on the south side of the property and would be torn down, and the new structure would be built on the north side with a 1,000 sf footprint. Mr. Mattson said the footing for the whole structure would be 1,106 square feet. Mr. Hewitt asked if there was any hardship preventing the applicant from complying with the requirement of 750 sf for the ADU foundation. Mr. Mattson said instead of being a garage with an ADU above it, it would have to be a garage and another structure with an ADU not attached and then it could be 745 square feet. He said they thought it made more sense aesthetically to have a garage with a space above it. Mr. Hewitt asked why a 750 sf garage with a 750sf ADU above it couldn't be built. Mr. Mattson said stairs were necessary. He said the owner worked from home and wanted a separate office. He said the one new structure would accomplish many of the applicant's desires instead of multiple separate structures. He said they thought about having a smaller dormer but the result would have been 2-story structure because a full height wall was needed for multiple rooms. Vice-Chair Mahanna asked if there was anything wrong with the existing garage. Mr. Mattson said it wasn't in a suitable condition to put cars in there and was in the way of the proposed deck. Mr. Almeida said the proposal was more conforming because the current garage was over the setback line. Chair Chellman said the ADU portion of the new building was a clever way to consolidate things into one structure, as opposed to constructing two buildings on site. Mr. Hewitt said the ADU rules anticipated that scenario and that the intent was to strictly limit the foundation to 750 sf so that

people could not put extra uses on it. Councilor Moreau agreed. Mr. Mattson said they could remove the trim on the gable end but then it would be more like a salt box style with two different pitched rooflines. It was further discussed.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Pat Roe (no address given) distributed a document to the Board. She said she was one of the caretakers of the Langdon Cemetery that was a private one that some of her family were buried in. She said her side was the left side of 271 Lafayette Road and that the cemetery was maintained by herself and her son. She asked where the snow would go. She said she didn't want two parking spots right next to her property line and thought the building seemed big.

Jeffrey Cooper of 227 Park Street asked why the office couldn't go into the main house. He said there was room on the main house for a dormer to accommodate the office on the main floor.

Brian McCarthy of 243 Lafayette Road said he owned the house on the other side of the cemetery parcel. He said the dormer would look out over his back yard and porch and he would see the two cars parked on the cemetery line. He said the proposed structure was big and thought there were alternatives. He said he was also concerned about water runoff.

Second Round of Speakers

No one else spoke, and Chair Chellman closed the public hearing.

DECISION OF THE BOARD

1) *Ms. Conard moved that the Board find that the Conditional Use Permit Application meets the requirements set forth in Section 10.814.62 of the Ordinance and adopt the findings of fact as presented. Mr. Samonas seconded. The motion **passed** with all in favor.*

2) *Ms. Conard moved to find that the Board grant the following **modifications**:*

2.1) *Modification from Section 10.814.434 to allow a building footprint of 1,106 square feet.*

2.2) *Modification from Section 10.814.435 to allow 1,785 square feet gross floor area for the building containing the DADU.*

2.3) *Modification from Section 10.814.436 to allow a roof dormer to occupy 82% of the roof plane.*

Mr. Giuliano seconded.

[Timestamp 1:13:50] There was further discussion. Ms. Conard said the Board could support both attached and detached ADUs. She said she understood that they had waivers to the rules and

thought this was a thoughtful application of that and encouraged more of it. Vice-Chair Mahanna said he thought the three requests were excessive. He noted that there was additional space in the garage that they would be torn down. Mr. Samonas said the Board spent considerable time setting the thresholds and that he did not want to set a new precedent for those thresholds. He said he thought the structure was a bit big and that the applicant could return with some edits. Councilor Moreau said she was part of a lot of discussions pertaining to the ADU changes and knew that the building footprint decided on was to ensure that there weren't giant buildings. She said the proposal looked much better than the existing house. She said placing the DADU far enough back so that it wasn't close to the main house might be okay. She said the gross floor area of the building containing the ADU was big, but as long as the square footage of the ADU stayed under 750 sf, she didn't have a problem with it, although she wished it could be pulled back farther or the dormers could be switched to the other side. She said some reworking of it to make the neighbors happy could be done, but she didn't have an issue moving it forward. Mr. Giuliano said it was a nonconforming piece of property and would never be anything else. He said the applicant was asking for modifications that were not part of the original intent for the DADU limits that were set. He said there was more work that could be done to make it more conforming, so he would not support the motion. Mr. Hewitt said he did not see a hardship because the applicant could do an office in the house, and the DADU's foundation did not have to be so big. He said it would set a dangerous precedent. Mr. Coviello said he could approve it if the pavement to the left of the main drive was removed and the roofline was narrowed so that the dormers faced away from the abutters. Mr. Almeida said he was in support but would like adjustments made that would minimize privacy concerns. He said a much larger building of a different use could be constructed on the lot as well, however. Mr. Hewitt said it wasn't the size but the concept of using the ADU rules to get another use. Chair Chellman said the proposal was better than having two buildings that created the same uses on the property. He said hardship was not a requirement for the Board, noting that if an applicant had a deep lot with unique conditions, there was a rationale whereby the Board could look at it differently. Mr. Stith said the applicant could not return for a year if the Conditional Use Permit was denied. It was further discussed. Mr. Almeida said he wanted to give the applicant the chance to make modifications to minimize the structure slightly. Ms. Conard said she would withdraw her motion, and Mr. Giuliano agreed.

*Mr. Coviello moved to **continue** the application to the September meeting. Mr. Almeida seconded. The motion **passed** with all in favor.*

- D.** The request of **Matt Ball** and **Andrea Fershtam (Owners)**, for property located at **252 Wibird Street** requesting a Conditional Use Permit from Section 10.814 for the conversion of an existing accessory structure into a Detached Accessory Dwelling Unit (DADU) that does not conform with the dimensional requirements of the Ordinance. Said property is located on Assessor Map 149 Lot 12 and lies within the General Residence A (GRA) District. (LU-24-137)

SPEAKING TO THE PETITION

[Timestamp 1:30:20] Attorney Colby Gamester was present on behalf of the applicant along with the owners and their contractor Jay Lajeunesse. He explained why the property was unique and had an access easement. He said the ADU would be a studio apartment over a two-car garage

and would have 4-5 off street parking spaces. He said there two options for the structure, one with the gable trim and one without, and explained why.

[Timestamp 1:43:23] Councilor Moreau said there were concerns by the neighbors as to the overuse. She said her concern was whether there was enough room for travel, parking, and access to the garage for multiple vehicles for the house and ADU residents. Attorney Gamester said there was sufficient room in front of the garage and a parking space to the right of the porch. Councilor Moreau said the Board always ensured that there weren't windows on sides of property that would intrude into other properties. Attorney Gamester said they took that concern seriously and pointed out that there were houses on top of each other in that section of Wibird Street and it was common to look out a window and see someone's front and rear yards. He said it was a back lot, so the front setback was not the traditional one, and the garage had already been set back 24-25 feet from allowed. Mr. Giuliano said he didn't see any specific language in the deed pertaining to the easement that permits, limits or forbids it in any way. Attorney Gamester said the easement was created over 100 years ago and the survey was done 100 years later. He said in 2005, an easement deed was executed between the then owners of 252 and 244 Wibird Street. He said the access easement was 12 feet in width and further explained it.

[Timestamp 1:48:05] Chair Chellman said the plan showed only one dwelling and asked whether that was a limitation. Attorney Gamester said it was not but was an existing conditions plan with a 12-ft right-of-way imposed over to define the right-of-way, not to solidify what could or could not be there. Chair Chellman asked if the 2005 easement replaced the earlier one. Attorney Gamester said it always just referenced a 12-ft right-of-way on the southerly portion and was not a limitation. Mr. Coviello asked who the parking under the ADU would be dedicated to. Attorney Gamester said he wasn't sure but that there could be one for the ADU and one for the principal dwelling unit. Mr. Coviello asked if there was a limitation on street side parking. Attorney Gamester said he was not aware of one. Mr. Coviello said it was likely that two people would occupy that space. Attorney Gamester said they could park tandem. Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

[Timestamp 1:50:21] Doctor David Gray of 244 Wibird Street said he was against the proposal. He said the ordinance required the Planning Board to find that the proposed ADU would maintain a compatible relationship with the character of adjacent and neighboring properties in design, location, off street parking, and so on and would not significantly reduce the privacy of those properties. He said 252 Wibird was accessed via a shared driveway easement over his property and the contemplated use was a single family dwelling. He said an additional family using the driveway would exceed the scope of the easement and would also increase congestion. He said the proposed windows would look into his yard and his privacy would be further reduced by the constant ingress and egress of additional residents.

Elizabeth Bratter of 159 McDonough Street suggested that old-fashioned crank-up windows high up in the eaves would allow light in and not let people see out of them.

Jeffrey Cooper of 227 Park Street said he was the abutter at the rear of the building. He said he had not opposed the 2021 garage renovation because it was proposed to be a single-story structure, but when it went up it had a peak roof to a second-story height that loomed over his property. He said he was now faced with a new owner who wanted to expand the wall to accommodate an ADU. He said the ADU should be done without the existing structure.

Mary Elizabeth Mason of 25 Orchard Street said she was opposed to the petition due to privacy concerns. She said the proposed dormers would have an impact on her privacy, and in the future the property could have more people and more noise.

Attorney Gamester said the wall would be blank with no windows, and the cars would move through the easement. He said snow removal would be done by everyone. He said the easement was only 12 feet because years ago it was only used for accessing. He said the applicant would maintain the garage but needed to maximize the space, given where the stairs were located. He said they were not asking for anything bigger than the limits and that felt it was appropriate.

Second Round Speakers

Dr. Gray said three direct abutters were heard from who were strongly opposed. He said his wife was at home most days and heard the constant in-and-out traffic. He said Wibird Street was already congested and the increased use would cause more congestion.

No one else spoke, and Chair Chellman closed the public hearing.

DECISION OF THE BOARD

*1) Mr. Coviello moved that the Board find that the Conditional Use Permit Application meets the requirements set forth in Section 10.814.62 of the Ordinance and adopt the findings of fact as presented. Mr. Giuliano seconded. The motion **passed** with all in favor.*

*2) Councilor Moreau moved that the Board grant the following **modifications**:*

2.1) Modification from Section 10.814.422 to allow a DADU that is within the rear yard setback to have a window higher than 8 feet in height above grade facing the adjacent property.

2.2) Modification from Section 10.814.436 to allow the roof dormers to occupy more than 33% of the roof plane.

Ms. Conard seconded for purposes of discussion.

[Timestamp 2:04:55] Councilor said the modifications were great. She said the scenario to require a Conditional Use Permit was created so that neighbors could share their thoughts. She said it was a tight area and already well into all the setbacks, so she had a hard time expanding the building to be that close to all the abutting properties. She said legally she could see the argument as to why it wasn't a dormer, but the DADU was being expanded into a setback, so if it

were a house it would need a variance. She said it was an expansion of a nonconforming use and she would have a hard time supporting it. Ms. Conard said the zoning language was created to support ADUs. She said there would not be equitable solutions and there was no perfect site for the project. She said the neighborhood has the characteristics it had, regardless of whether the applicant did anything with the garage. She said the intent of the language was to create additional housing unit where appropriate. She said she thought the project was as thoughtful as it could be and that she would support it. Vice-Chair Mahanna agreed but said his challenge was that it was being vehemently opposed. He said the height of the building wasn't changing but the mass of the top of the building was. He said the neighbors to the left of the driveway would have windows looking down on them. He said the applicant did a great job of making the DADU into a small unit but he thought the applicant had to return with a better plan that adjusted it for the abutters. Mr. Giuliano said it looked a lot like an ADU to him but it had a deeded access. He said he did not see why the applicant could not do an ADU without needing the modifications. Mr. Almeida said he'd like to give the applicant a chance to address the issues and not have to wait a year to return. Mr. Samonas said the Board had to follow the ordinance. He said the driveway was a limited size with tandem sites and a two-car garage, and if the parking became more congested, the Board had to consider the driveway's capacity. He suggested placing a dormer on just one side overlooking the applicant's backyard. He said the existing garage could also be torn down and a smaller foundation built for the ADU. Mr. Coviello said he did not support the 8-ft wall but did support the roof dormer. Chair Chellman said he wanted to see clarification on the variance the neighbor Mr. Cooper spoke of about the garage. He said he was still stuck on the easement and whether it involved interaction with the neighbors who had a relationship with that easement. Mr. Bowen said any infill development in a compact environment would have interaction with neighbors and thought the Board had to do as much as they could to make that a positive interaction. He said the window issue could be solved so that it wasn't an imposition on the neighbors, but he was in support of the other aspects.

Councilor Moreau withdrew her motion, and Ms. Conard agreed.

Councilor Moreau moved to continue the petition to the September meeting, seconded by Ms. Conard. The motion passed with all in favor.

- E.** The request of **Christ Church Parish (Owner)**, for property located at **1035 Lafayette Road** requesting Conditional Use permits from Section 10.5B41.10 for a Development Site, from Section 10.5B72 for density bonus incentive for increased dwelling units per building and a Conditional Use Permit from Section 10.1112.14 to provide less than the required parking and Site Plan Review Approval for construction of a 4-story, 44-unit multi-family residential building to the south of the existing church building, conversion of the first-floor of the existing church into office space and construction of a 7-unit transitional housing addition. The lower level of the existing church will be renovated for the daycare and the church will be relocated to the existing rectory building on the site. The project will include associated site improvements such as parking, pedestrian connections, access to public transportation, utilities, stormwater management, lighting, and landscaping. Said property is located on Assessor Map 246 Lot 1 and lies within the Gateway Center (G2) District. (LU-24-92)

SPEAKING TO THE PETITION

[Timestamp 2:29:00] Executive Director of the Portsmouth Housing Authority (PHA) Craig Welch was present, along with his team. He said the project's main priority was to address housing affordability in Portsmouth.

[Timestamp 2:31:52] Bengé Ambrogi, CFO of the Episcopal Diocese of NH, said the property was currently underutilized and the Burying Ground was not highlighted or maintained well. He said the PHA and HAVEN were ideal partners who envisioned a community with many synergies. He said the community response was very positive.

[Timestamp 2:33:31] Project engineer Neil Hansen said permit would be needed, including three from the State for shoreland, sewer connection, and the driveway. He said they proposed to build a 4-story 44-unit residential building toward the middle of the site. He said the daycare would remain and would be renovated, and the transitional housing 7-unit building would be added onto the back corner of the church. He said the existing driveway would be maintained and the secondary entrance would be reconfigured to be a right-in only. He said an off-street Coast bus stop would be added. He said their traffic study found that the project would generate 78 additional trips in the morning peak hours, 91 in the afternoon peak hours, and 21 more trips during the Saturday peak hour, all of which were low-generation increases. He said they would maintain a 15-ft buffer around the stone wall of the Burying Ground and a 25-ft protective buffer around the unmarked burials. He reviewed the stormwater, utility, and lighting plans.

[Timestamp 2:40:27] Landscape architect Robbie Woodburn reviewed the landscape plan. She said they would also improve the cemetery.

[Timestamp 2:44:25] Project architect Sarah Hourihane reviewed the proposed building's design, shape, orientation, and fenestration and said there would be 44 units that included 33 one-bedrooms, nine two-bedrooms, and two 3-bedrooms. She said there would be two community spaces and a bike storage room. She reviewed the roof plan and solar array.

[Timestamp 2:49:55] Mr. Hansen reviewed the Conditional Use Permit criteria for the parking, the development site standards, and the density bonus. He said 20 percent of the units would be workforce housing and that they were also requesting a modification of standards.

[Timestamp 2:56:39] Mr. Samonas asked if there would be a playground or protected area for the daycare or the residents. Mr. Hansen said the daycare had dedicated playground space. He said the PHA building would have the outdoor patio garden space and could also use the Urban Forestry Center trails. Mr. Samonas noted that some of the units would have families and asked if there could be some secluded space for those residents. Mr. Hansen said they discussed it but space became a constraint. He said they had a giant rain garden in place of a potential playground that they could not avoid, but they would consider it in the future if the opportunity presented itself. Mr. Coviello asked about snow removal. Mr. Hansen said it was a tight site. He said the snow would be pushed off to the sides but there would be hauling involved. Mr. Coviello noted the daycare drop-off and pick-up and asked if vehicle traffic coming off Route

One and going to the left portion of the center drive was anticipated. Mr. Hansen said parents would physically bring their children into the building. He said the nearby parking spaces would be for the HAVEN office and the daycare. He said they were not allowed to have parking in front of the buildings in that zone, so all the parking was in the back. Mr. Coviello asked if the northbound entrance off Route One was a new proposed entrance. Mr. Hansen said it would be only an exit. Mr. Coviello asked about backups and drivers going the wrong way out. Mr. Hansen said there was a median preventing a left turn.

[Timestamp 3:02:13] Vice-Chair Mahanna asked if the PHA and the Urban Forestry Center had discussed an access point. Mr. Welch said there was talk about using resources from the Forestry Center for interior finishes and exterior amenities like benches or a timber-framed bus stop. He said some improved trail access would open up the trails to the back side of the Burying Ground and would be a nice amenity. He said there was currently a trail that went along the border. Mr. Almeida asked if there was waste management on the site. Mr. Hansen said there were two dumpsters that would be shared by both buildings and a trash truck would come in to pick up the trash and head out the same way. Mr. Hewitt said the parking count was for 83 spaces and asked if the applicant was confident that the Coast bus service would absorb 20 percent of the use for residential, office, day care, and church. Mr. Hansen said that was what the applicant was allowed under the ordinance. He said they followed up with the Division of Public Works and that those numbers plus the shared occupancy rates resulted in a lower parking number than the 83 spaces. Mr. Samonas asked whether the parents could go out toward the gravel section after they dropped off their kids. Mr. Hansen said the center driveway was a two-way one, so the parents would come in and out between the two buildings.

Note: At this point in the meeting at 10:00, Vice-Chair Mahanna moved to finish the application and split the agenda. Mr. Hewitt seconded. The motion failed.

Chair Chellman said he liked the second-floor community space for the residents and the outdoor space. He said he hoped the Burying Ground didn't become a big distraction because the parking was already full. He said the bike parking and maintenance area were amazing details. He suggested alternating the four oak trees in a row to oaks and maples.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

[Timestamp 31:05] HAVEN Executive Director Kathy Beebe said she was in support of the petition because it would address some of the critical needs facing the community in terms of affordable housing, child care, and domestic violence resources for those who needed it.

No one else spoke, and Chair Chellman closed the public hearing.

DECISION OF THE BOARD

- 1) Mr. Giuliano moved that the Board find that the Conditional Use Permit application meets the criteria set forth in Section 10.1112.14 and to adopt the findings of fact as presented. Mr. Coviello seconded. The motion **passed** with all in favor.
- 1) Mr. Giuliano moved that the Board grant the Conditional Use Permit. Ms. Conard seconded. The motion **passed** with all in favor.
- 1) Mr. Giuliano moved that the Board find that the Conditional Use Permit application meets the criteria set forth in Section 10.5B11 and 10.5B73 and to adopt the findings of fact as presented. Ms. Conard seconded. The motion **passed** with all in favor.
- 2) Mr. Giuliano moved that the Board grant modifications of standards from Section 10.5B41.81 to allow 0% community space where 20% is required. Ms. Conard seconded. The motion **passed** with all in favor.
- 3) Mr. Giuliano moved that the Board grant the Conditional Use Permit. Mr. Coviello seconded. The motion **passed** with all in favor.
- 1) Mr. Giuliano moved that the Board find that the Conditional Use Permit application meets the criteria set forth in Section 10.5B43.10 and to adopt the findings of fact as presented. Mr. Almeida seconded. The motion **passed** with all in favor.
- 2) Mr. Giuliano moved that the Board grant the conditional use permit for a Development Site subject to the requirements and conditions of site plan review approval. Mr. Almeida seconded. The motion **passed** with all in favor.
- 1) Mr. Giuliano moved that the Board find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented. Mr. Almeida seconded. The motion **passed** with all in favor.
- 2) Mr. Giuliano moved that the Board grant Site Plan approval with the following **conditions**:

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a building permit or the commencement of any site work or construction activity:

- 2.1) The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.
- 2.2) The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site.
- 2.3) Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit: <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>

2.4) *Applicant will coordinate with DPW the final sewer connection location on Lafayette Road.*

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a certificate of occupancy and release of the surety:

2.5) *The Engineer of Record shall submit a written report (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed to the approved plans and specifications and will meet the design performance;*

2.6) *A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted for review to the City's Stormwater Division/Public Works Department.*

*Ms. Conard seconded. The motion **passed** with all in favor.*

Note: At this point, Vice-Chair Mahanna left the meeting and Alternate Mr. Bowen took a voting seat for the rest of the evening.

F. The request of **Lonza Biologics (Owner)**, for property located at **101 International Drive** requesting Site Plan Approval from the Pease Development Authority (PDA) for the addition of two (2) industrial equalization (EQ) tanks and one (1) pump house located between the EQ Tanks that will include portions of the existing detention basin to be regraded. Installation of a new outlet structure to support the resized detention basin and a stormwater filtration system are proposed with this project. Said property is located on Assessor Map 305 Lot 6 and lies within the Airport Business Commercial (ABC) District. (LU-24-112)

SPEAKING TO THE PETITION

[Timestamp 3:23:43] Project engineer Neil Hansen was present on behalf of the applicant. He said the project was in support of the existing wastewater operations and that they wanted to construct two industrial equalization tanks and one pump house in a single concrete structure. He said they proposed to extend the concrete tanks off the back of the retaining wall, which would result in a slight reduction in volume in the existing retention basin. He said the project would also trigger the amendment of the existing alteration terrain permit, so they were required to treat 30 percent of the water quality flow for the entire watershed and would install an infiltration treatment unit for it. He said it would require a State wetland permit application.

The Board had no questions. Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Chellman closed the public hearing.

DECISION OF THE BOARD

1) *Councilor Moreau moved that the Board recommend Amended Site Plan Approval to the PDA Board with the following **condition**:*

1.1) The applicant shall clean the drainage swale from Goose Bay to Corporate and on Corporate Drive.

*Mr. Coviello seconded. The motion **passed** with all in favor.*

G. The request of **231 Corporate Drive LLC (Owner)**, for property located at **231 Corporate Drive** requesting Site Plan Review Approval from the Pease Development Authority (PDA) for the construction of a 2,340 sf addition for a linear accelerator vault to support the veterinary hospital. The project includes removal of a row of parking which will reduce overall impervious surface impacts within the wetland buffer by approximately 8,801 sf. The project consists of associated site improvements such as lighting, landscaping, and stormwater management that will include stormwater treatment via a Contech Jellyfish unit to treat the proposed pavement section and building addition. Said property is located on Assessor Map 314 Lot 2 and lies within the Airport Business Commercial (ABC) District. (LU-24-114)

SPEAKING TO THE PETITION

[Timestamp 3:28:00] Project engineer Neil Hansen was present on behalf of the applicant. He said the project was for the addition of a one-story linear accelerator vault on the rear corner of the building. He said they also reconfigured the northern half of the parking lot to reduce it to a single double-loaded row of parking and would remove the rest of the pavement into the wetland buffer to the north and restore the northern half site of it.

The Board had no questions, and Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Chellman closed the public hearing.

DECISION OF THE BOARD

*1) Councilor Moreau moved that the Board recommend Amended Site Plan Approval to the PDA Board. Mr. Coviello seconded. The motion **passed** with all in favor.*

V. PRELIMINARY CONCEPTUAL CONSULTATION

A. The request of **Wenberry Associates LLC (Owners), and One Market Square (Applicant)**, for property located at **21 Congress Street, 1 Congress Street, and 15 Congress Street**. The project is a combination of the previously approved project located at 1 Congress Street and property located at 15 Congress Street. The proposal includes a lot line adjustment with the City, merging the subject lots into one, and re-developing the combined lot as a Mixed Use Building. Said properties are located on

Assessor Map 117 Lot 12, Map 117 Lot 14 and lies within the Character District 5 (CD-5) District. (LUPD-24-6)

SPEAKING TO THE PETITION

[Timestamp 3:31:01] Project engineer John Chagnon was present on behalf of the applicant, along with the Principal of One Market Square Mark McNabb, project architect Tracy Kozak, landscape architect Terrence Parker, and McNabb Development representative Marie Bodie. Mr. Chagnon said they proposed to expand the One Congress Street project to include property at 15 Congress Street, also known as 21 Congress Street. He said 15 Congress Street was under a sales agreement to be sold to One Market Square LLC, who wanted to combine the two parcels in one and update the One Congress Street project and make interior and exterior changes to create the one large building of 36,083 sf on a combined lot. He said they would need Conditional Use Permits for the building size and supplied parking. He reviewed the plan set, the lot line adjustment plan, and the zones. He said the plan for 15 Congress Street was to also create co-living on the upper floors, which introduced the concept of co-living as a use to the City and might involve a potential zoning change to allow co-living in the CD4 and CD5 Districts. He said they proposed assigning a space within the Hanover Garage to be repurposed as a community trash and storage room. He said the basement parking plan had two parking spaces added, and the 25 spaces would service the One Congress Street building.

[Timestamp 3:43:13] Architect Tracy Kozak said the building would not be much bigger and there would be green room space on the roof, with a solar array and mechanical equipment. She said the building's shell would remain and they would create a new retail story at the bottom of the grade from High Street that sloped down to Fleet Street, improve the alleyway by allowing balconies and daylight, and open the end of the alley up with glass and doors into the back of the restaurant. She said the small penthouse addition would be for the residents.

[Timestamp 3:49:04} Landscape architect Terrence Parker reviewed the landscape plan. He discussed the greenspace and lighting and said there would be a sculpture at the Fleet Street entrance like an archway and perhaps a minor wall at the Gilley's Diner parking lot.

[Timestamp 3:52:22] Mr. McNabb said if they weren't successful in getting the zoning change for co-living, they would do micro apartments in the J.J. Newbury building upper floors instead. He explained why co-housing was beneficial. Relating to parking, he said 90 percent of downtown buildings were built on the lot line, did not have the ability to add parking spaces, or did not meet the zoning ordinance for parking, so there was a built-in hardship. He said co-living would be a new zone that would primarily address single resident occupancies but would not prohibit families. He said the units would be furnished, there would be no security deposits, and the utilities would be bundled.

[Timestamp 3:58:55] Mr. Coviello asked if there would be two keys, one to get into the unit and one for the bedroom. Mr. McNabb agreed. Mr. Coviello asked how many bedrooms per kitchen there would be. Mr. McNabb said he had not done that planning because he didn't know if they could get an ordinance change. He said otherwise, there would be a mix of everything including

micro apartments, and no more than 6-10 rooms that would flank a common area. He said some units would have a private sink or bathroom, which would all depend on the layout. Mr. Coviello asked about rental rates. Mr. McNabb said they had not established rental rates but believed they would be much cheaper than normal due to the stripping of amenities including parking. Mr. Coviello referred to the 12-14 feet of grade that would be dropped and asked if the applicant planned to confirm that both the visitors parking garage and the J.J. Newbury garage would have no foundation issues. Mr. McNabb said he met with the City and the garage was close to the depth that was needed. He said the J.J. Newbury basement level went down to almost the bottom of that, so they would have a little undermining of that as well. Mr. Samonas said he was excited about the new reimagined opportunity for housing but was concerned about the hedging plan for micro apartments and didn't want the idea to be that the building could not be developed without the co-living zoning change. Mr. McNabb agreed and said that was why he quantified that they could do micro apartments. He said both options were on the table. Mr. Samonas said there were redevelopment opportunities related to office or function space. Mr. McNabb explained why he would not build office space on the property. Mr. Samonas said furnished units with nightly rentals might lend themselves to a hospitality style use. Mr. McNabb said that was the reason a co-living ordinance had to be drafted in such a way that a hotel would not be proposed. He said most of the units would be two-year leases to individuals but he wanted the option to have shorter terms for people who needed them. It was further discussed. Mr. Samonas asked if it would be difficult to repurpose the space if approval was given for co-living and it did not succeed. Mr. McNabb said it was a time-proven product across the nation. He said it would also be a balance of a mix of micro apartments, co-living, etc. so he was not concerned about the repurposing it. Chair Chellman said the language had to be fine-tuned and didn't think it was ready to go to the City Council. He said co-living was an exciting idea that needed feedback.

[Timestamp 4:15:44] Councilor Moreau said she was not against co-living but had heard concerns from residents about a frat house atmosphere. She asked how it would be ensured that management and safety were done right. Mr. Giuliano said the lush roof scape was very attractive and looked more like it was luxury housing than affordable housing. He said an analogy was made to college dorm living but said dorms had management and college students had meal service, transportation, and support services. He said what was missing in downtown Portsmouth was essential services for residents, and a car was necessary to get to a grocery store or pharmacy. Mr. McNabb said he knew the co-living aspect could be ahead of its time, and that was why he thought micro apartments would work on the property. He said there were people who didn't drive for various reasons and he did not want to exclude that segment and just assume that everyone had a car. Mr. Almeida asked if the lighting would continue down Newbury Way. Mr. McNabb agreed. Mr. Almeida asked what the maximum number of people housed would be. Mr. McNabb said he didn't have the numbers yet but thought there would be 35 units if they were all micro apartments and co-housing would be twice that. He said the One Congress Street would be full market rates.

[Timestamp 4:24:09] Mr. Bowen said the project was being placed in the most expensive real estate in the City, and he asked if it would be better to be in more outlying areas where it was less expensive and had parking. Mr. McNabb said downtown was always a high density use and that it was a one-mile walking distance from just about everything people needed. He thought the

farther one got outside of downtown, the more difficult it was for people who don't drive. He said the only place he did not support the lack of parking was where it could not be created, which was downtown, so it didn't matter to him that the area had the most expensive real estate. He said he would rather make it accessible to everyone. Chair Chellman asked Mr. McNabb if he would participate in a workshop, and Mr. McNabb agreed.

VII. CITY COUNCIL REFERRALS

A. Letter from Mark McNabb, One Market Square, LLC - Haven Court Changes
[Timeline 4:30:06] Chair Chellman said there might be a slightly different way of doing it technically but with the same result and that he had no trouble supporting it. He thought it could be done as an agreement instead of a swap and could be more permanent. He recommended that the issue be resolved to the satisfaction of the Legal Department and Mr. McNabb. He referred to SRA 472 and it was further discussed.

1) Ms. Conard moved that the Board recommend to City Council to move forward with the appropriate legal vehicle as agreed upon by the applicant and the City's Legal Department. Mr. Coviello seconded. The motion passed with all in favor.

B. Letter from residents of Islington Creek regarding zoning of 361 Hanover Street

Chair Chellman said he wanted to see the zoning issue addressed in the workshop. He said he wanted to bundle the Board's zoning amendments and suggested that the workshop be held before the Board's second September meeting.

Councilor Moreau moved that the Board schedule a work session to discuss potential zoning amendments on or before their second meeting in September. Mr. Coviello seconded. The motion passed with all in favor.

C. CIP Meeting – August 19, 2024 City Council

Chair Chellman said the Board was invited to talk to the City Council about the CIP Plan and that the meeting would take place at 6:00 p.m.

VIII. OTHER BUSINESS

A. 1 Raynes Avenue - requesting a 1-Year extension to the Site Plan Review, Parking and Wetland Conditional Use approvals set to expire on September 15, 2024.

Councilor Moreau moved that the Board grant a one-year extension of the Planning Board Approval of the Site Plan and Conditional Use Permits to September 15, 2025. Ms. Conard seconded.

Mr. Hewitt said he would not support the motion because he had asked about the status of four contaminated sites on the property and never heard back. Mr. Stith said he would send out the judge's ruling to the Planning Board members the following week.

*The motion **passed** by a vote of 8-1, with Mr. Hewitt voting against the motion.*

- B. 53 Green Street** – requesting a 1-Year extension to the Site Plan and Wetland Conditional Use Permit approvals; and a second 6-month extension to the Subdivision approval set to expire on September 29, 2024.

*Mr. Coviello moved that the Board grant a one-year extension to the Planning Board Approval of the Site Plan and Conditional Use permit to September 29, 2025, and a second six-month extension for the Subdivision to March 29, 2025. Mr. Almeida seconded. The motion **passed** by a vote of 8-1, with Mr. Hewitt abstaining.*

C. Chairman Updates and Discussion Items

This was not further discussed.

D. Co-living Zoning Amendment

This was discussed earlier.

E. Board Discussion of Regulatory Amendments, Master Plan Scope, and Other Matters

Chair Chellman said the Downtown Overlay District parking came up as part of the parking study. He said he thought the wetlands special use permit issues would be an easy change.

IX. ADJOURNMENT

The meeting adjourned at 11:40 p.m.

Respectfully submitted,

Joann Breault
Planning Board Recording Secretary