

From: Johanna Holecy

Sent: Friday, December 12, 2025 11:12 AM

To: Planning - Info - Shr <Planning@portsmouthnh.gov>

Cc: Lily Glenn; Derek Durbin; Meme Wheeler; Mackenzie Jenkins

Subject: 636 Middle Road Comments for Board of Adjustment Meeting 121625

Johanna Holecy

636 Middle Road

Portsmouth, NH 03801

December 15, 2025

To the Zoning Board of Adjustment and Representatives of The Chase Home,

I am writing as an abutter to Chase Home property regarding the proposal for construction of a new building on the site. I want to begin by acknowledging both the organization's need for an updated facility and the importance of ensuring that programming for the youth continues without interruption. I also want to thank Chase Home for being consistently communicative throughout this process, including providing timely notices of abutter meetings and maintaining open lines of dialogue with neighbors. Your transparency and consideration are genuinely appreciated.

As I review the current proposal, I would like to respectfully raise a question about the decision to site the new building in a different location on the property rather than within or near the footprint of the existing structure. I understand that keeping programming onsite during construction is a priority. However, I would encourage further exploration of temporary off-site accommodation for the youth, which could potentially allow the existing building to be taken down first so the new facility could be built in its place.

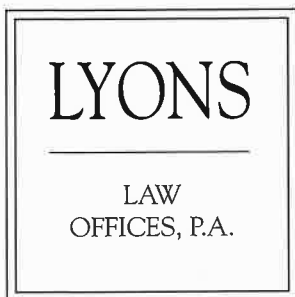
Constructing the new building in a different area of the property—rather than using the original footprint—has several long-term implications for the neighborhood. A relocated building may create ongoing disruption and alter the established spatial relationship between the Chase Home and abutting residences. Situating the building closer to neighboring properties would reduce the privacy currently experienced by both nearby residents and the youth living at the Chase Home. The existing building's location has long served to buffer activity and preserve mutual space; a shift in that placement could produce lasting changes that remain long after construction is complete.

I therefore respectfully inquire whether the proposed alternative location offers meaningful advantages over rebuilding on the original footprint, and whether those benefits outweigh the long-term neighborhood impacts. If temporary relocation of youth programming would allow for construction on the current building's site—with minimal interruption to services—it may provide a more balanced solution that supports the Chase Home's mission while also protecting the character and privacy of the surrounding community.

Thank you again for your continued engagement with abutters and for your thoughtful stewardship of this important project. I appreciate the opportunity to share these perspectives and look forward to ongoing dialogue as the planning process moves ahead.

Sincerely,

Johanna Holecy



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December 15, 2025

SUBMITTED VIA E-MAIL

Phyllis Eldridge, Chair
Zoning Board of Adjustment
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

RE: Chase Home/698 Middle Road – Request for Variances set out in Section 10.334 and Section 10.440 of the City of Portsmouth’s Zoning Ordinance

Dear Chair Eldridge,

I represent Taylor P. Andrews and Rosalie P. Andrews, who own property at 1 Sylvester Street, City of Portsmouth, County of Rockingham, State of New Hampshire (collectively, “Andrews”). This property directly abuts real property located at 698 Middle Road, City of Portsmouth, County of Rockingham, State of New Hampshire, and owned by Chase Home (“Chase Home”).

My clients are opposed to the Variances Application filed by the Chase Home as to the City of Portsmouth’s Zoning Ordinance Section 10.334, requesting an expansion of a nonconforming use; and Section 10.440, to allow for the construction of a new residential care structure.

The identity of any applicant, whether for-profit or not-for-profit is irrelevant in analyzing any application for Variance. Even a non-profit with a mission related to children, and with a well-known group of Trustees, must still meet all legal requirements as to the expansion and over-intensification of a nonconforming use, to say nothing for approval of a variance. Additionally, every property owner has the right, without prejudice, to protect their property and insist all legal and zoning standards are met relating to a nonconforming use.

The Chase Home is located in the Single Residence B (“SRB”) Zoning District and is nestled among single family residences as shown on a portion of Tax Map 232, Lot 45, attached hereto as **Exhibit 1**. The Andrews Lot is shown on the attached Tax Map as Lot 43. As a nonconforming use, the Chase Home consists of a 6,461 square foot building located on the back of the Lot and as close to the wetlands as possible. The existing building in its current location is screened from all residences in the area by woodlands and marsh. See **Exhibit 2**.

The Proposal before the Board, as demonstrated on **Exhibit 3**, calls for the construction of a new 18,211 square foot building, two new parking areas, sidewalks and other improvements. This would result in a building approximately three times larger than the existing nonconforming use. The massing of this new dramatically expanded nonconforming use is demonstrated by **Exhibit 4**, which is the existing Chase Home, compared to **Exhibit 5**, which is the new proposed building. It is also significant to note that in its Application, the Chase Home indicates, at this time, it does not yet know what it is going to do with the existing building. This certainly gives the Andrews pause (as it should this Board) that there may be a nonconforming use with buildings containing 24,672 square feet.

As noted, the Proposal also calls for the construction of two new parking lots and sidewalks, all of which are an extensive and unreasonable expansion of the nonconforming use. Lighting will need to be installed in the parking lots, along the new buildings and sidewalks.

Perhaps the most dramatic depiction of the extreme over-intensification of the Chase Home Lot is demonstrated by **Exhibit 6**. The area in which the nonconforming use is to be unreasonably expanded is depicted in green, which will result in the wooded area before deforested and the new building, parking lots, and sidewalks clearly visible from the single family residences, which must be protected in an SRB District.

There is a proposal and attempt to buffer the Andrews Lot with some arborvitaes. Clearly, given the extreme over-intensification of this nonconforming use, including the sizing and massing of the 18,221 square foot building directly behind the Andrews Property, along with parking lots, will overwhelm any attempt to screen the Andrews Property from this Project.

The Board of Adjustment, under New Hampshire law, must apply the Substantial Change Doctrine when analyzing an expansion of a nonconforming use. The expansion is only permitted if the Proposal does not constitute a substantial change in the nature or degree of the nonconforming use. When the proposed expansion increases the intensity, volume, or external impacts of the use in a manner that is more detrimental to the surrounding neighborhood, it must be denied. The Applicant carries the burden of demonstrating that the enlargement does not intensify the nonconformity, does not create additional adverse effects, and does not amount to a new or different use.

The New Hampshire Supreme Court in *Seabrook v. Tra-sea Corp*, 119 NH 937 (1979) found that a lawful nonconforming use may be continued but may not be expanded if the expansion constitutes a substantial change in the nature or degree of the use. In *New London Land Use Ass'n v. New London Zoning Bd. of Adjustment*, 130 NH 510 (1988), the Court made it clear the Board of Adjustment's inquiry must focus on whether the Proposal increases the intensity or nonconforming use in a way that is more detrimental to the neighborhood. Finally, in *Hampton v. Brust*, 122 NH 463 (1982), the Court made it clear the burden is on the Applicant to show the proposed expansion does not materially intensify or alter the existing nonconformity.

Based on the facts set out above, there is no escaping that the Chase Home Proposal materially and significantly increases the intensity of the nonconforming use. Because the Proposal involves both relocation and material increase in bulk, intensity and operational impact, it constitutes a substantial change in the degree of the nonconforming use and must therefore be denied, regardless of the criteria necessary to establish a variance.

It should also be noted that the Zoning Ordinance in Section 10.321 that a lawful nonconforming building or structure may be maintained or repaired but not extended, reconstructed, or enlarged unless such extension, reconstruction, or enlargement conforms to all the regulations of the district in which it is located.

Furthermore, Section 10.331 provides a lawful, nonconforming use may continue but may not be extended, enlarged, or changed except in conformity with this Ordinance.

Finally, at issue in this Application, Section 10.334 provides a nonconforming use of land may not be extended into any part of the remainder of a lot of land. Clearly, the Zoning Ordinance makes it clear a massive over-intensification, as proposed herein, of a nonconforming use is not permissible. If this over-intensification was allowed, as proposed in this Application, it would in essence render the provisions of the Zoning Ordinance dealing with nonconforming uses meaningless and open the floodgates for other such Applications.

Additionally, because the Applicant is not able to satisfy the Substantial Change Doctrine, the request for the Variances must fail. However, even if the criteria to establish a variance as to Sections 10.334 and 10.440 was at issue, the Applicant would fail as follows:

- a. The Application for Variances is clearly contrary to the spirit and intent of the Ordinance as set out above, specifically allowing a substantial change that increases the intensity of a nonconforming use in the SRB District inherently violates the spirit and intent of the Ordinance in a marked degree. See *Chester Rod & Gun Club Inc. v. Town of Chester*, 152 NH 577 (2005). This Application specifically subverts the purpose of the SRB designation to maintain a low-density residential character (*15 Land Use Planning and Zoning* § 24.12).
- b. The Variances will be contrary to the public interest in that it allows for a massive over-intensification of an existing nonconformance in an SRB District designated to maintain a low density residential character.
- c. The value of surrounding properties, and particularly the Andrews Property, will be diminished. See the letters from Cathy Youngs; Maureen Carey; and Christine Linden, all attached as **Exhibit 7**, which clearly indicate that the value of the Andrews Property will be diminished. Rosalie Powell Andrews is a real estate agent and has also submitted a letter of opinion, attached as **Exhibit 8**, setting out the value of her Lot will be diminished.

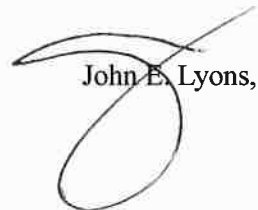
- d. Substantial justice will not be done as the over-intensification will substantially, significantly, and negatively impact the value of the Andrews Property.
- e. There is no unnecessary hardship as there is a fair and substantial relationship between the general public purposes of the Ordinance's provisions at issue and the Application of that provisions to the Property at issue when specifically dealing with an over-intensification of a nonconforming use. Additionally, the proposed use and over-intensification are not reasonable for the reasons set out above.

Based on all the above, Andrews respectfully requests this Board to deny the Application for Variances as filed by the Chase Home. Both Counsel herein and the Andrews will be present at the Board Hearing to set out in further detail why the Application fails to meet New Hampshire's Substantial Change Doctrine and if necessary why the variance criteria have not been met related to this request.

This letter and attached materials are being submitted in opposition of the Application for Variances as to the Project and owned by Chase Home.

Thank you to you and the Board for your consideration regarding this matter.

Very truly yours,


John E. Lyons, Jr., Esq.

JEL/dhb
Enclosures

EXHIBIT 1

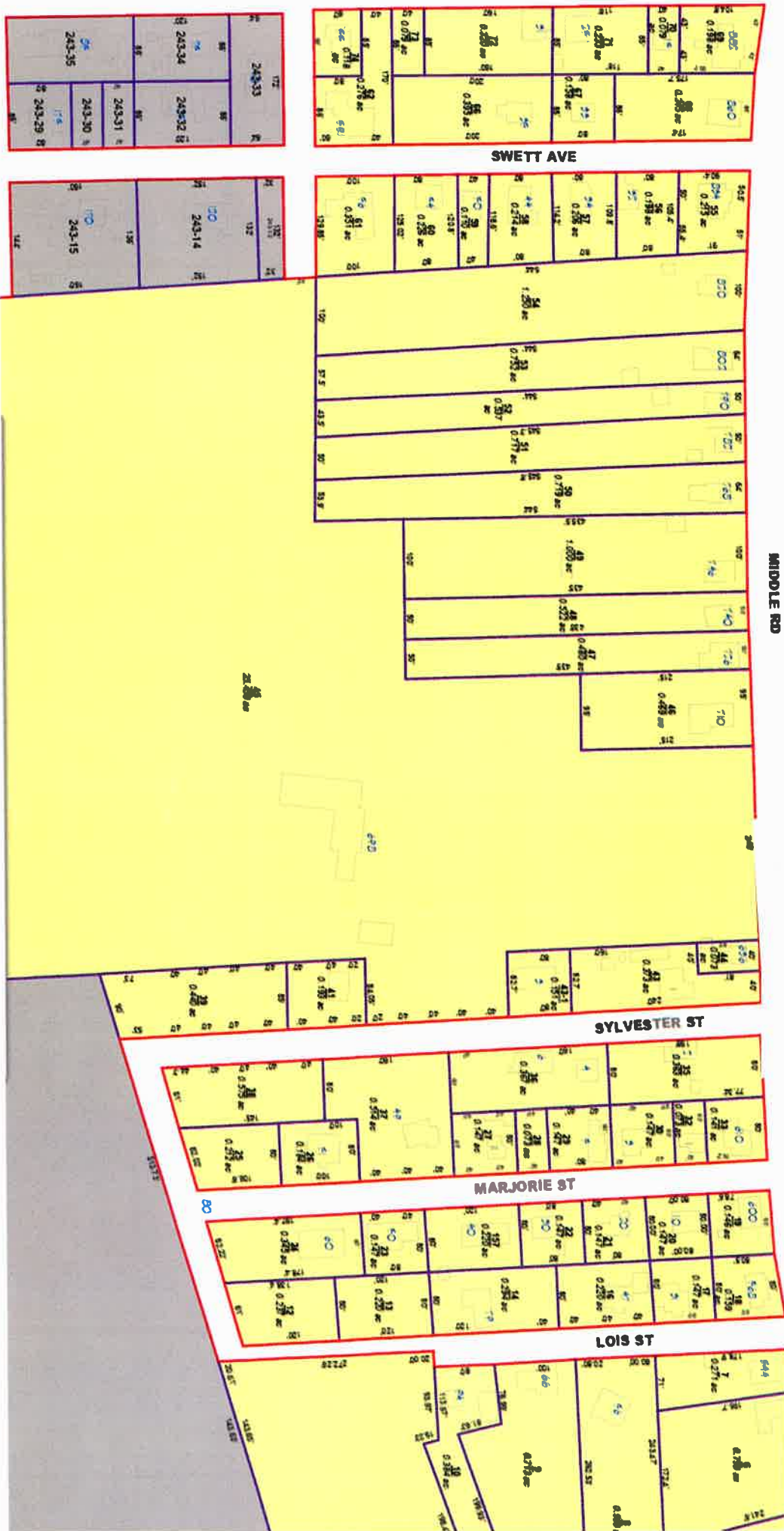


EXHIBIT 2

[illegible]

EXHIBIT 3

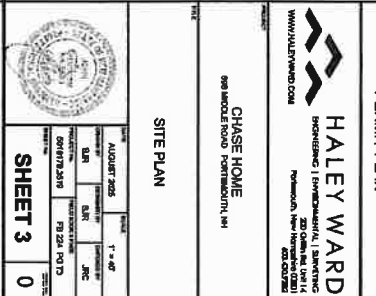


EXHIBIT 4

CHASE HOME FOR CHILDREN EXISTING BUILDING



EXHIBIT 5



HE CHASE HOME
A Division of CHASE REAL ESTATE

THE CHASE HOME - CONCEPT /

ISO PERSPECTIVE

/ 11.04.2025

Shaping the Exceptional

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MAUGEL
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ARCHITECTS

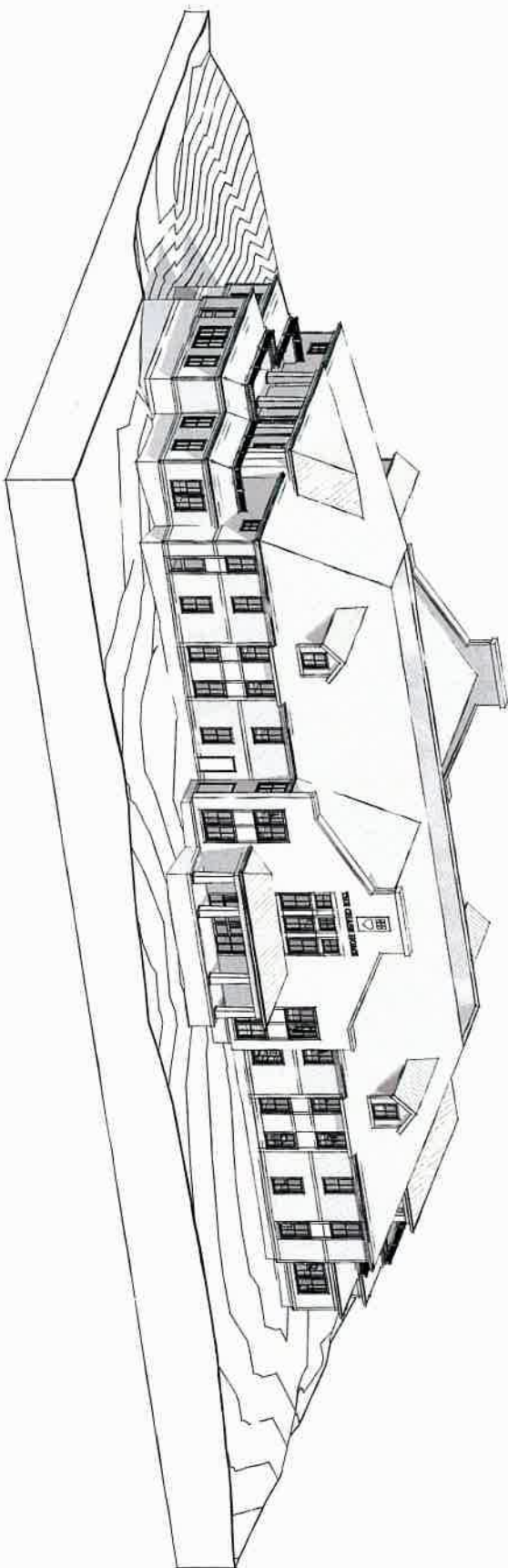


EXHIBIT 6

EXHIBIT 7

Letter to the City of Portsmouth Zoning Board of Adjustment. Real Estate Marketability concerns for property located at 1 Sylvester St. Portsmouth.

Dear Honorable Board of Adjustment Members.

My name is Cathy Youngs I am successful Real Estate Agent with well over 40 years of experience selling homes in the Portsmouth area. I work for Century 21 Real Estate. I am also a Portsmouth NH native.

I am offering my professional real estate opinion regarding the proposed New Chase Home Building located at 698 Middle Rd.

What stands out is the marketability of the homes on the right hand side of Sylvester St especially 1 Sylvester St. Although it is not shown in any pictures or diagrams it is in extremely close proximity to that home.

Real Estate agents are required to disclose facts about the home.

In New Hampshire, sellers and their agents must disclose known, material facts affecting property value, like major defects or environmental hazards, but disclosing a new home BUT IN THIS CASE A NON RESIDENTIAL BUILDING being built next door is less about a defect and more about a potential change in neighborhood character or views, which a seller should reveal as a "material fact" or use the standard disclosure form for, as it affects value and enjoyment, preventing future lawsuits. Real estate agents must also disclose actual knowledge of such conditions, making transparency crucial.

Key NH Disclosure Requirements:

- **Material Facts:** Sellers must disclose known material facts that affect the property's value or the buyer's decision.
- **Seller Disclosure Form:** This standard questionnaire asks about property conditions, but also allows space for notes on anything else relevant.
- **Agent's Duty:** Agents must disclose any material physical, regulatory, or environmental conditions they know about before an offer.

Applying This to a New Build Next Door:

- **Is it a "Material Fact"?** Yes, a large new construction next door significantly changes the property's enjoyment, privacy, light, and value.
- **What to Disclose:**
 - The fact that construction is happening.
 - Any known details about the new home (size, proximity, potential disruption).

Letter to the City of Portsmouth Zoning Board of Adjustment
Re: Marketability and Value Impact – 1 Sylvester Street, Portsmouth NH

Dear Honorable Members of the Board,

My name is Maureen Carey. I am a licensed Real Estate Broker, real estate professional and licensed Appraiser with over 50 years of experience in residential valuation and brokerage in the Portsmouth market. I am submitting this letter to provide a professional opinion regarding the marketability impacts associated with the proposed new Chase Home building at 698 Middle Road.

Marketability Impact on 1 Sylvester Street

Based on accepted appraisal and brokerage standards, the proposed structure will have a measurable adverse impact on the marketability of 1 Sylvester Street. The lot is in extremely close proximity to the new institutional building, although this relationship is not fully shown in the submitted diagrams. The introduction of a large non-residential structure at this distance represents a significant change to the immediate neighborhood environment.

Material Fact Disclosure Requirements

Under New Hampshire law, sellers and real estate agents must disclose known material facts that could influence a buyer's decision or affect property value. A substantial new non-residential building directly adjacent to a single-family home is considered a material fact because it affects:

- Privacy
- Use and enjoyment
- Views and visual exposure
- Noise, traffic, and perceived activity levels
- Long-term marketability

The change from a building previously set hundreds of feet back from Middle Road to one that will be visually prominent from the street and adjacent properties represents a material alteration to the neighborhood character.

Impact on Buyer Perception and Value

Properties abutting institutional uses typically experience:

- Reduced buyer demand
- Longer marketing times
- Increased need for price concessions
- Overall downward pressure on market value

These effects are documented in valuation practice and are consistent with buyer behavior in residential neighborhoods experiencing adjacent non-residential expansion.

Additional Risk Considerations

The presence of a pool at 1 Sylvester Street introduces an additional concern. When a residential pool is located next to a facility occupied by children, it may be

Introduce further buyer hesitation. This, too, must be disclosed and may require legal consultation by future buyers.

Conclusion

From a marketability and valuation standpoint, the proposed new building constitutes a substantial and adverse change to the residential setting. It will require mandatory disclosure under NH law, will materially affect buyer perception, and in my professional opinion will devalue the property at 1 Sylvester Street.

Sincerely,

A handwritten signature in cursive script, appearing to read "Maureen Carey".

Maureen Carey, Broker & Appraiser
Carey Associates, Appraising/Consulting, Ltd
603.944.7834
careyltd@rcn.com

To the Portsmouth Board of Adjustment,
Re:Marketability of 1 SYLVESTER ST PORTSMOUTH
Agent

My name is Christine Linden and I have been a Real Estate Agent serving the Seacoast NH area for many years

A nearby children's residential care facility **can shrink the buyer pool and increase time on market**, depending on how the building looks, its size, traffic, and its impact on neighborhood character.

How this usually plays out in NH:

1. Buyer perception drives impact.

Large, visible, or non-residential-looking buildings—especially as close as the new Chase Home Building—can raise concerns about traffic, lighting, noise, and privacy. This often reduces appeal.

2. Typical value effects:

Homes next to institutional buildings often **sell slower** and sometimes with **price sensitivity**.

3. Portsmouth specifics: large structure close to the lot line will still become a showing concern.

4. What determines the impact:

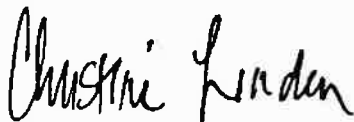
- How well the building blends in
- Activity level (staff, deliveries, outdoor use)
- Views from your yard/windows
- Privacy loss

5. How to protect value:

Bottom line:

The new facility will **narrow the buyer pool** and **make the sale somewhat more challenging**, depending on its size, visibility, and how institutional it appears.

Most Sincerely,



Christine Linden

Real Estate Agent Portsmouth, NH

EXHIBIT 8

ENGEL&VÖLKERS®

Letter to the Portsmouth Planning Board

Re: Objection to Chase Home A New Building and its Expansion – Adverse Impact on 1 Sylvester Street (Abutter)

To the Honorable Members of the Portsmouth Planning Board,

My name is **Rosalie Powell Andrews**, co-owner of **1 Sylvester Street**,. Born and brought up in Portsmouth and an **Associate Real Estate Broker with 35 years of experience** in New Hampshire residential valuation and neighborhood-market analysis. I am submitting this letter to formally object to the proposed new building of the Chase Home for Children.

This objection is based on **substantial adverse impacts to the property**, conflicts with **Portsmouth zoning criteria**, and predictable **diminution of property value** resulting from the proposed siting, scale, and intensity of the new building.

The Proposal Creates a Predictable and Measurable Diminution of Property Value

As a real estate broker with 35 years of experience, I am professionally obligated to note that the proposal will result in **property value impairment**, in conflict with zoning standards intended to preserve the reasonable value and use of surrounding properties.

The reasons are clear and consistent with accepted valuation practice:

Buyer Pool Reduction

Homes abutting large, non-residential structures attract fewer buyers. Reduced demand directly translates into reduced market value.

Loss of Privacy and Residential Character

The dominating presence of an institutional building so close to a lot line is a substantial negative factor in residential valuation.

Visual and Functional Impacts

Buyers strongly discount properties with:

- Overlooking windows
- Perceived activity
- Institutional visual character
- Loss of screening
- Increased traffic and noise

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Impairment of Marketability

Properties affected by these conditions typically:

- Take longer to sell
- Require price reductions
- Sell at a discount compared to similar homes without such adjacency

These impacts are **foreseeable, well-documented, and unavoidable** under the current plan. Therefore, the proposal fails the zoning requirement that development **not create undue adverse impacts on neighboring properties**, including their value.

I respect the mission of the Chase Home. However, the proposal, as submitted, does **not meet the standards required to protect abutters** in a single-family residential district. Buyers would have questions about approvals for other projects in and around the neighborhood. Presently The Chase Home is not noticeable from the street and most abutting properties, it is considered a reasonable distance consistent with residential protection. The new building will be seen from Middle Road.

Most Sincerely,



Rosalie Powell Andrews

Associate Broker

Engel & Voelkers Portsmouth