

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

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

7:00 PM Public Hearings begin

April 17, 2025

MEMBERS PRESENT: Rick Chellman, Chairman; Anthony Coviello, Vice-Chair; Karen Conard, City Manager; Joseph Almeida, Facilities Manager; Beth Moreau, City Councilor; Members Paul Giuliano, Andrew Samonas, William Bowen, and Alternate Frank Perier

ALSO PRESENT: Peter Stith, Planning Department Manager

MEMBERS EXCUSED: Ryann Wolf

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Chair Chellman called the meeting to order at 7:00 p.m. Alternate Frank Perier took a voting seat in Ms. Wolf's absence.

I. APPROVAL OF MINUTES

- A. Approval of the **March 20, 2025** meeting minutes
- B. Approval of the **March 27, 2025** Work Session minutes

*Mr. Giuliano moved to **approve** both sets of minutes as presented, seconded by Mr. Samonas. The motion **passed** with all in favor.*

II. PUBLIC HEARINGS -- OLD BUSINESS

- A. The request of **96 State Street LLC (Owner)** for property located at **96 State Street** requesting a parking Conditional Use Permit from Section 10.1112.14 to allow zero (0) parking spaces where thirty (30) are required. Said property is located on Assessor Map 107 Lot 52 and lies within the Character District 4 (CD-4) and Historic District. (LU-25-28)

SPEAKING TO THE PETITION

[Video timestamp 7:26] Attorney Darcy Peyser was present on behalf of the applicant. She said they no longer proposed the small addition for the second and third floors of a portion of the building and that all the renovations would be in the interior. She said the request was for a Conditional Use Permit for less parking spaces because of the change in use to residential on the second floor. She reviewed the criteria and said they would be met.

[Timestamp 13:22] Vice-Chair Coviello asked if there was a reduction in the amount of residents in the units. Attorney Peyser agreed and said there would be a four-bedroom unit on the third floor, and the two-bedroom unit on the second floor would remain. Mr. Samonas verified that the applicant would not pursue any additional changes to the structure in the future. Chair Chellman confirmed that the outside of the building would not change and that there would be no expansion to the existing footprint.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

[Timestamp 16:06] Attorney Chris Mulligan was present on behalf of abutter Karen Bouffard of 100 State Street. He said Ms. Bouffard's building was a unique, award-winning one that required a high level of scrutiny when changes were about to happen in the neighborhood. He said if the Board were going to grant the Conditional Use Permit for parking based on the applicant's representations, he asked that conditions be placed on it, including a condition that the addition that was originally presented not be built for at least five years. He said they would like the occupancy limited to two residents per bedroom, given that the representation had been that either the owner or restaurant workers would occupy one of the apartments. In the event of future construction, he asked that there be a construction management mitigation plan process put in place for 96 State Street so that Ms. Bouffard's home would be properly protected. He said there were questionable assertions in the parking demand analysis that the Board received. He said the analysis relied entirely on the work product of the architect, and the engineer who signed it took the information directly from the architect's review of the property, so he thought it was suspect that the engineer who prepared the analysis did not review the property itself. He said one of the uses in the plans seemed to have changed because the basement's kitchen prep area was converted to a kitchen storage area, which changed the amount of parking that would be required to be allocated to that area. To obtain a Conditional Use Permit for parking, he said the applicant had to provide permanent evidence-based measures to reduce the parking demand, but that his client had just seen speculative statements that the demand would go down based on the use.

[Timestamp 21:14] Attorney Peyser said they were not seeking to tie the approval to conditions about who is living there, nor did they need to. She said the conditions of approval had to be reasonably related to the standards and criteria for the approval set forth in the ordinance, and in that instance it was the areas specific for a parking Conditional Use Permit that were based on square footage of the space and the use. She said to tie the approval to a condition unrelated to a specific criteria such as who is living there and how many tenants can be in a building when the calculation is made based off square footage of a dwelling unit is irrelevant to that criteria and would go beyond what is required by the ordinance. She said the use can't be expanded any further without a Conditional Use Permit. She said the owner intended to reside in the building and let her employees live there if she were able to. Regarding the demand analysis relying on the architect's calculations, she said there is no criteria in the ordinance that requires the engineer to visit the site. She said they can rely on the architect's calculations based on building square footage. She said it was common practice to calculate it via the CAD drawings, which they submitted. As far as the drawings regarding the change from the kitchen prep area to the kitchen

storage area, she said that was a clarification made by the owner based on the use of that space. She said it was used as storage for kitchen equipment and was done at the clarification of the owner. Regarding the permanent evidence-based measures, she said there was a similar application for 111 State Street a few years ago where the applicant received almost identical relief and relied on their own parking demand analysis and the reduction to a less intensive use, which was classified as a permanent evidence-based measure and was approved.

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

DECISION OF THE BOARD

*Vice-Chair Coviello moved to **suspend** the rules to allow the project's engineer Eric Weinrieb to speak. Ms. Conard seconded. The motion **passed** with all in favor.*

[Timestamp 25:53] Project engineer Eric Weinrieb said he prepared the April 4 document and that they relied on the design of the architect to provide them with the areas of the building. Vice-Chair Coviello asked if Mr. Weinrieb stamped the document as a professional engineer. Mr. Weinrieb agreed.

*1) Mr. Giuliano moved that the Board find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1112.14 of the Ordinance and adopt the findings of fact as presented. Councilor Moreau seconded. The motion **passed** with all in favor.*

[Timestamp 27:40] Chair Chellman asked if those findings included the fact that there would be no external change to the building. Mr. Giuliano agreed and said that any of the changes that the abutter was concerned about would come before the Board and the HDC. The Board further discussed whether the expansion of the use would trigger the application to return to the Board.

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

III. PUBLIC HEARINGS – NEW BUSINESS

A. 361 Hanover Steam Factory, LLC (Owner) for property located at **361 Hanover Street** requesting Design Review for the construction of new residential buildings along Hanover Street and the renovation of the existing building with associated site improvements. Said property is located on Assessor Map 138 Lot 63 and lies within the Character District 5 (CD5), Downtown Overlay District (DOD), and North End Incentive Overlay District (NEIOD). (LUPD-25-2)

Mr. Samonas and Councilor Moreau recused themselves from the petition.

SPEAKING TO THE PETITION

[Timestamp 34:40] Attorney John Bosen was present on behalf of the applicant, with John Forsley of Hampshire Development and project engineer John Chagnon. Attorney Bosen said

that based on feedback from the Board, the City, and the abutters, the building was redesigned and there was a new plan. He said they received a variance to remove the first-floor commercial use and now had 40 units. He said if approved, they would submit the plan to the Technical Advisory Committee (TAC), where most of the abutters' concerns would be addressed.

[Timestamp 38:43] Project engineer John Chagnon noted that the Board of Adjustment had months of deliberation for the design variances. He reviewed the site plan and design review requirements. He said access would be provided to the Hill/Hanover Condominiums. He said the total number of parking spaces would be 72 and would include four visitor spaces. He said the project included sidewalks and landscaped areas where the sidewalk would not exceed 50 percent of the open space area, so it would meet the open space requirement. He reviewed the landscape design plan, noting that the Trees and Greenery Committee said the plantings were appropriate for the location. He said an Adopt-A-Spot program would also be used between the site and Rock Street. He said traffic generation and trip assignments were submitted and that the Traffic Memorandum would be fully vetted at TAC.

[Timestamp 51:55] Chair Chellman said he felt that there was more than enough to begin the debate on the application. He verified that the new design would supersede the prior one. Vice-Chair Coviello asked the applicant to review the history of the easement, noting that there was a lot of correspondence from the abutters about it. Attorney Bosen discussed the two properties that Attorney Lyons represented, and he showed the access point to Hanover Street. He said it had enough room for vehicles and emergency equipment and that the right-of-way would be unimpeded and would provide access to the condo association. Under the access agreement, he said that everyone who had the right to the access would continue to have that right. Chair Chellman asked if the Last Chance Garage access would also be over the relocated easement, and Attorney Bosen agreed. Mr. Bowen said it would be more helpful if the applicant had the drawings of the property as it was going to be prepared and not the way it was today. Attorney Bosen showed where the accessways would be.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

[Timestamp 1:03:15] Attorney John Lyons representing the Harbor Place Condo Association and Hill/Hanover said it was the first time the applicant had admitted that there was a right-of-way across their property. He said there was also a deeded right-of-way running along the easterly side of the parking lot. He said the applicant was trying to split the Hill Street Condominium members and the Hill/Hanover principals. He said the Harbor Place Condo Association arose out of the deed with Hill/Hanover. He said the site plan that created the Kearsage Mill Condo Association indicated that there is an easement to the Hill/Hanover Group LLC. He said the issues raised in his suit would directly affect the Board's ultimate approval.

Charlie Moreno of 50 Cornwall Street said the project did not plan for enough large trees, especially on Hanover Street. He said the tall building would change the look of the street. He

said the public had no access to the empty land behind the project, so he did not see much public benefit. He suggested making that land into a pocket park with access to the public.

Robin Husslage of 27 Rock Street said the traffic study was full of errors. She said the applicant had Rock Street as 28 feet wide but that it was not even 18 feet wide and it had parking on one side. She said the study did not include the traffic on Rock, Sudbury, and Pearl Streets. She asked that the Board postpone the design review until an accurate traffic study was submitted.

Nicole LaPierre of 44 Rock Street said there was a lack of green space and that the public land behind the development would not be accessed by the public. She agreed that the traffic study was inaccurate. She said the project should go through TAC first.

Peter Happny said Rock and Pearl Streets were small streets and did not need an increase in traffic, nor did Foundry Place. He said the traffic should come out onto Hanover Street.

Marcy Vaughan of 407 Hanover Street said the Board did not have enough information to accept the design review because they did not know what the buildable area was.

Mark DeLorenzo of 394 Hanover Street said the traffic study showed a fire truck careening through one of the parked cars that was missing from all the drawings, and no vehicles appeared in any parking spaces in the drawings. He said the deeded parking spaces also were not shown.

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

DECISION OF THE BOARD [Timestamp 1:21:47]

Mr. Giuliano said he supported the motion but noted that a vote to approve was not accepting the project but was saying that the Board had enough information to understand the project and the concerns. Chair Chellman said a lot of points raised that evening would be considered by TAC.

*Vice-Chair Coviello moved that the Board find the design review process complete. Ms. Conard seconded. The motion **passed** with all in favor, with Councilor Moreau and Mr. Samonas recused.*

- B.** The request of **David and Tracy Foster (Owners)** for property located at **200 FW Hartford Drive** requesting a Wetland Conditional Use Permit from Section 10.1017.50 for the removal of six trees within the 100' wetland buffer. Said property is located on Assessor Map 270 Lot 33 and lies within the Single Residence B (SRB) District. (LU-25-23)

SPEAKING TO THE PETITION

[Timestamp 1:24:08] The applicant Tracy Foster was present. She said half her house was located within the buffer and she wanted six trees removed. She said moss was growing over her roof and there was mold on the back of the house. She said she would replant six or more trees.

[Timestamp 1:27:30] Councilor Moreau asked if most of the trees were pines. Ms. Foster said they were pines except for two maple trees and that she would replace them with native bush with berries or maple trees. She noted that the Conservation Commission recommended all maple trees. Councilor Moreau said bushes sometimes got overgrown and became invasive if they were not maintained, which was the reason why the Conservation Commission did not want bushes. Chair Chellman said the Conservation Commission seemed to want more trees planted. He asked Ms. Foster if she would be willing to have more trees planted if she were to plant trees that did not grow as tall. Ms. Foster agreed. Vice-Chair Coviello asked if Ms. Foster had a certified arborist's report stating that the five other trees should be removed. Ms. Foster said she was told that the diseased tree had to be removed and that some other trees should be removed. Mr. Samonas said it would be helpful to have a planting plan associated with the request because the site was in a buffer and in a highly protected part of Portsmouth. Ms. Foster said she could not do that due to all the other vegetation. She said the Conservation Commission said it would be okay if the trees were planted away from her home. Chair Chellman asked if Ms. Foster would approve the City Arborist giving her six locations to plant six trees. Ms. Foster said she did not think it was worth the arborist's time or the City's time and money.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Nicole LaPierre of 43 Rock Street said she was in favor because the applicant was coming before the Board proactively to prevent trees from falling on her house.

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

DECISION OF THE BOARD [Timestamp 1:36:47]

- 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** 8-1, with Vice-Chair Coviello voting against.*
- 2) Councilor Moreau moved that the Board grant the Conditional Use Permit with the following **conditions**:*
 - 2.1) Applicant shall monitor the success of proposed seeded areas and prepare a memo to be sent to the Portsmouth Planning & Sustainability Department annually for the first two years after planting/seeding. If, after two years, the seeded areas show a survival rate of less than 80%, applicant will replant/reseed.*
 - 2.2) Applicant shall provide a report back to the Planning and Sustainability Department one year after the proposed landscaping area has been planted, demonstrating at least an 80% survival rate of new plantings within the wetland buffer.*

2.3) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall permanently install wetland boundary markers, which may be purchased through the City of Portsmouth Planning & Sustainability Department. Markers are to be placed along the 25' vegetative buffer at 50-foot intervals and must be installed prior to the start of any construction.

Ms. Conard seconded the motion.

Councilor Moreau said she was in favor of getting rid of trees that might interfere with the house and liked that the Conservation Committee gave Ms. Foster the flexibility to do so. She said Ms. Foster could also get help from the City Arborist. Vice-Chair Coviello said he knew the neighborhood well and that a lot of the homes had the same situation. He said a clearer standard was needed and thought it would be a burden on the arborist if suddenly the other homes requested the same thing. He said the Board had never seen a Conservation Commission report like that and that he was taken aback by the implication that it seemed to say to just approve it.

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

- C. The request of **Rainboth Revocable Trust (Owner)** for property located at **56 Ridges Court** requesting a Wetland Conditional Use Permit in accordance with Section 10.1017.50 to merge three lots and construct an addition and deck on the existing dwelling for a proposed permanent buffer impact of 2,653 square feet. Applicant is proposing stormwater improvements and partial revegetation of the wetland buffer as part of this project. Said property is located on Assessor Map 207 Lot 63 and lies within the Single Residence B (SRB) District. (LU-25-13)

SPEAKING TO THE PETITION

[Timestamp 1:40:30] Attorney Chris Mulligan was present on behalf of the applicant, with project engineer Eric Weinrieb and owner Michael Rainboth. Attorney Mulligan said the main lot was almost entirely within the 100-ft wetlands buffer and that the project would pull a significant amount of the existing built environment farther away from the wetlands resource that the buffer was intended to protect and would result in a decrease in the amount of impervious surface. He said the driveway would be moved farther away from the wetlands resource. Mr. Weinrieb reviewed the history of the property. He said he received a second opinion that confirmed the wetland delineation and that there would be no flood zone issues. He said Ridges Court was narrow and had no turnaround, and by putting the house back, they could create a driveway that would allow emergency vehicles to turn around. He said they would raise the shed, remove the garage and a lot of the parking, and move everything closer to the road. He discussed the water runoff, drainage, and infiltration. He noted that they went before the Conservation Commission twice and would create a 25-ft buffer around the wetland that would be mowed twice a year. He said the packet addressed all the criteria.

[Timestamp 1:50:50] Mr. Bowen noted that there was a letter from a Joe Noel, a certified wetland scientist, directed to Mr. Weinrieb that stated that, due in part to the deck expansion, there would be a net increase in the impermeable area, but that Mr. Weinrieb said it would be a

reduction in the net impermeable area. Mr. Weinrieb said Mr. Noel prepared his initial report when the project did their initial submission, and the deck was larger and did not include permeable pavement in the wetland buffer. He said that flipped the ratio and that the project did not have Mr. Noel revise his report. Mr. Bowen asked if the report was outdated. Mr. Weinrieb said only because the site was made better by reducing some of the impervious areas. Mr. Samonas asked if the project considered using a pervious pavement or asphalt composition in the driveway area. Mr. Weinrieb said because the traditional pavement was outside the wetland buffer and because of the way the site was graded, they felt that they had the best option. He highlighted where the water flowed and how it circulated through the site.

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) *Vice-Chair 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. Mr. Almeida seconded. The motion **passed** 8-0, with Mr. Bowen abstaining.*
- 2) *Vice-Chair Coviello moved that the Board grant the Conditional Use Permit with the following **conditions**:*
 - 2.1) *The wetland resource shall no longer be mowed.*
 - 2.2) *The property owner shall agree to mowing the 25' vegetated no-cut buffer no more than twice per year. Mowing cannot occur during the nesting bird season (April to July). Owners must abide by best management practices for mowing a sensitive wetland buffer.*
 - 2.3) *In accordance with Section 10.1018.40 of the Zoning Ordinance, owner shall permanently install wetland boundary markers, which may be purchased through the City of Portsmouth Planning & Sustainability Department. Markers are to be placed along the 25' vegetated buffer at 50-foot intervals and must be installed prior to the start of any construction.*
 - 2.4) *Owners shall permanently install markers such as boulders in between the proposed trees to be planted along the wetland edge. This physical barrier shall serve as a deterrent to mowing. Plans must be updated to show proposed location and marker type.*
 - 2.5) *A maintenance plan for the property shall be included as part of this project for the purpose of educating current and future property owners. This plan shall address proper long-term maintenance of the permeable pavers and the swale, City cutting regulations within*

the wetland and wetland buffer, and mowing restrictions for this property (including best management practices for mowing of a wetland meadow buffer).

*Mr. Almeida seconded. The motion **passed** 8-0, with Mr. Bowen abstaining.*

D. REQUEST TO POSTPONE The request of **Aviation Avenue Group (Owner)** and **Kane Management Group LLC (Applicant)** for property located at **100 New Hampshire Avenue** requesting Amended Site Plan approval to modify a prior condition of approval. Said property is located on Assessor Map 308 Lot 1 and lies within the Pease Industrial (PI) District. **REQUEST TO POSTPONE (LU-22-210)**

DECISION OF THE BOARD

*Ms. Conard moved that the Board grant the applicant's request to **postpone** to the May meeting. Vice-Chair Coviello seconded. The motion **passed** with all in favor.*

E. REQUEST TO POSTPONE The request of **909 West End LLC (Owner)** for property located at **909 Islington St** requesting a Conditional Use Permit in accordance with Section 10.1112.62 to allow 114 parking spaces where 115 are required. Said property is located on Assessor Map 172 Lot 7 and lies within the Character District 4 (CD-4). **REQUEST TO POSTPONE (LU-24-221)**

DECISION OF THE BOARD

*Ms. Conard moved that the Board grant the applicant's request to **postpone** to the May meeting. Vice-Chair Coviello seconded. The motion **passed** with all in favor.*

F. The request of Kent and Jennifer Bonniwell (Owner) for property located at **332 Hanover Street** requesting Conditional Use Permit from Section 10.814 for construction of a new single-family dwelling containing an Attached Accessory Dwelling Unit. Said property is located on Assessor Map 126 Lot 43 and lies within the Character District 4-L1 (CD-4-L1) District. (LU-25-52)

SPEAKING TO THE PETITION

[Timestamp 1:58:53] Project architect Mark Gianniny representing the owners was present to speak to the petition, along with the owner, architect Richard Desjardins, Attorney Chris Mulligan, and Ben Chandonnet of Stiletto Construction. Mr. Gianniny reviewed the petition and gave a brief history of the project. He said they were denied variances by the BOA due to the hardship for the density request but that the current application was a fully conforming one for both the single-family home and the ADU. He noted that the lot currently had a demolition permit for the existing single-family home. He said the site was unique because it was bordered by streets on three sides. He reviewed the setbacks, the curb cut, and the changing grade. He showed contextual photos that had similar design elements to what was proposed. He reviewed the architectural site plan. He said the ADU would be under 750 square feet and would have one bedroom with a shared kitchen/living room and a bath. He said six parking spaces would be

provided. He discussed the elevations and said the building height would be 29'2", well below the maximum of 40 feet. He said the project met the requirements for the character district.

[Timestamp 2:16:53] Attorney Mulligan noted that the basis of a neighbor's opposition was primarily a dislike of the size, mass, and scale of the project as proposed, but he pointed out that the size, mass, and scale were regulated by the zoning ordinance's dimensional standards, all of which the applicant met. He said another argument was that, to get a Conditional Use Permit, the applicant was required to pass a standard in Section 243 of the general Conditional Use Permit in the ordinance. He said there was a provision in Section 243.30 stating that, where specific standards or criteria are set forth in the ordinance for a particular use permitted by a Conditional Use Permit, those standards and criteria shall apply in lieu of the general standards in Section 10.243. He said the opposition that the Board got that cited the failure to comply with the requirements of Section 10.243 was misplaced. He said the requirements the applicant needed to comply with were found in Section 814.64 and that they complied with that section in its entirety, so the project should be approved on that basis.

[Timestamp 2:19:38] Councilor Moreau said there was a 5-ft difference between the living room and kitchen to the bedroom. She asked if the garage space was on one level with the bedroom, if everything else was five feet lower, and if there was a basement. Mr. Gianniny agreed and said the plan was to have a partial basement under the ADU. Councilor Moreau asked if the parking spot behind the ADU garage would be used just by the ADU resident, and Mr. Gianniny agreed. Chair Chellman asked if the garage was heated. Mr. Gianniny said they did not plan to heat it. Chair Chellman asked why the two garage entrances were the interior connection between the primary house and the ADU. Mr. Gianniny said it was a convenient place to provide privacy between the two units and that the residents could go through the garage to get to the main house or the ADU. Chair Chellman said he had a hard time calling the door an interior door because it was in a garage. Mr. Giuliano said it met the zoning ordinance. Councilor Moreau said it was a State requirement. It was further discussed. Councilor Moreau said an unfinished basement would be the equivalent of unheated space. Mr. Samonas asked how wide the deck would be. Mr. Gianniny said it would be 7'x20', including the hipped roof around the perimeter with a short railing. Mr. Samonas said the privacy concerns on Parker and Hanover Streets should be taken into consideration, and he asked why the deck had to be in that location. Mr. Gianniny said they moved the building away from the property line and the second floor had the deck elevated above the first-story windows of the abutter. He said instead of an open railing, they would have a hipped roof going up three feet, with a 1-ft railing on top of it, which would provide additional screening. Mr. Giuliano asked how someone would get into the stairwell. Mr. Gianniny said there was an exterior door at the bottom of the stair.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

[Timestamp 2:28:50] Laura Hardy of 324 Hanover Street said she was the abutter on the other side whose primary concern was the height. She said the height and scale should support the character of the surroundings, but the proposed structure would have a different kind of roof and

would be much higher than her home. She said it could set a precedent and that she worried about her property's value. She asked why the deck had to be across from her second-floor bedroom windows. She said she was also worried about the impact of the taller structure on her solar panels. She asked that a shadow study be done to see what that impact would be.

Bryn Waldwick of 30 Parker Street said the building was too tall and would affect the nearby houses as well as the future development in the neighborhood. He said the structure would be seven feet taller than his house and the house next door.

Nicole LaPierre of 44 Rock Street said the retaining wall in front of the building looked like it was at street level due to the way the applicant rendered it. She said the project would set a precedent for a 3-story mansard roof on Hanover Street that would loom over its neighbors and that it was aesthetically offensive. She asked that the Board deny the request.

Robin Husslage of 27 Rock Street said the home's height and massing were out of character with the neighborhood and that the lot's grade and the mansard roof made the structure more than 39 feet above the level of Hanover Street. She said the floor heights were dramatically different proportionally to all the other houses. She said the design review should be rejected.

Kent Bonniwell, owner of the property, said they met the requirements of the ordinance and planned to put a privacy wall on the porch.

Second Round Speakers

(Timestamp 2:42:16] Attorney Mulligan said the project met every dimensional and aesthetic requirement within that character district. He said if it were simply a single-family residence, it could be built by right as presented. He said the fact that his client was looking to get an ADU, which was required to be permitted in a single-family zone under State law, was not an opportunity to spot zone the property so that it looked like all its neighbors. He said the Board just needed to review the ADU criteria in Section 814.62 and determine that the project met the criteria and should be approved.

Bryn Waldwick said the building's second floor started at 17 feet above Hanover Street, which was the big difference that neighbors saw. He said there were tradeoffs that could be made to make the top of the building closer to the tops of the neighborhood buildings.

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

DECISION OF THE BOARD

[Timestamp 2:46:25] Mr. Giuliano said he wasn't crazy about the solar panels next door that would be impacted by additional height, but without the ADU, the building as presented would be built. Chair Chellman said he was still troubled by the interior door.

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

2) Ms. Conard 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.

There was further discussion. Councilor Moreau said the only reason the request was before the Board was to approve the ADU, which met all the ADU criteria. She said she had no concern about the interior door because the Board allowed one in a basement and a basement was similar to a garage. She said it was not in the Board's purview to change the massing and height. She said the applicant was creative in bringing the front door down close to the street and being able to fit in a basement. Mr. Samonas said it was in the Board's purview because there was some subjectivity in the Conditional Use Permit that allowed the Board to consider the neighborhood, particularly the neighborhood values and character and being in a character district. He said the potential of adverse value on a neighboring property was worth considering. Mr. Almeida said it was a well-designed building that fit within the neighborhood and met all the requirements.

The motion **passed** with all in favor.

V. DESIGN REVIEW

A. 361 Hanover Street - Design Review (See above)

VI. CITY COUNCIL REFERRALS

A. **Zoning Amendments** – Hill/Hanover Street area, Downtown Overlay District & North End Incentive Overlay District

[Timestamp 3:00:17] Mr. Stith reminded the Board that after the March 27 work session, they were going to prepare maps showing what was proposed in January 2020 for this area, and that the Board also wanted to see what it would look like if certain parcels went to CD4-W, so maps were provided showing the January 2020 recommendation, with the addition of 66 Rock Street. He said it was proposed that 66 Rock Street go from CD5 to CD4, that the front half of #61 Hanover Street go from CD5 to CD4-1, that the back half go from CD5 to CD4, and that 89 Foundry Place and 126 Bridge Street go from CD5 to CD4. He said the second map showed what the properties would look like going to CD4-W, and what would stay the same would be the front half of 361 Hanover going to CD4-L1. He said the maps showed what it would look like if those changes were recommended and how it would relate to the CD4-W district. He said City Staff recommended the original recommendation from January 2020. He said if it went to CD4-W, it would make 89 Foundry Place nonconforming and would likely make 361 Hanover Street nonconforming.

[Timestamp 3:03:21] Chair Chellman asked if the concerns of the neighbors were eating and drinking establishments. Mr. Stith said they were intensive uses and that it was currently permitted up to 500. He said it was not permitted in CD4-L1, and in CD4-W it was permitted up to 50 occupants and up to 250 occupants with a special exception. It was further discussed. Mr. Stith said 89 Foundry Place was under construction and was approved with an incentive to get extra height through the current zoning, but it would immediately be made nonconforming. He said the way the current zoning came about was the Master Plan process for the North End. It was further discussed. Councilor Moreau said if the recommendation was CD4 and the Board was asked to do CD4-W, then CD4 would be noncompliant because it was similar in everything but building coverage. She said if it was built out to CD5, it would be nonconforming at CD4 and not much more nonconforming at CD4-W. Chair Chellman said the Board could wait for the Master Plan recommendation. Ms. Conard said she had trouble voting for or taking an action that would immediately make those parcels nonconforming. She said people already thought the City's zoning was overly complex, so simplifying it through the Master Plan Process would allow them to come up with zoning that would work with the neighbors and incorporate what they wanted to see. The timeline for the Master Plan and doing rezoning was discussed. Chair Chellman said there would be a work session with City Staff and the Master Plan consultant in May to get things started. Vice-Chair Coviello suggested waiting for more information. Councilor Moreau said it had been put off for too long. It was further discussed.

*Councilor Moreau moved to go past 10:00, seconded by Ms. Conard. The motion **passed** with all in favor.*

*Vice-Chair Coviello moved that the Board not recommend any changes and address this during the Master Plan process. Ms. Conard seconded. The motion **passed** 8-1, with Councilor Moreau voting against.*

VII. OTHER BUSINESS

A. Chairman updates and discussion items

There was no discussion.

B. Board discussion of Regulatory Amendments, Master Plan Scope and other matters

Chair Chellman said any member willing to be part of a Master Plan subcommittee could email him and Mr. Stith so that it could be discussed at the workshop.

VIII. ADJOURNMENT

The meeting adjourned at 10:41 p.m.

Submitted,

Joann Breault
Planning Board Meeting Minutes Taker