SHEEHAN PHINNEY

Brian J. Bouchard, Esq.
Direct Dial: 603-627-8118
bbouchard@sheehan.com

Reply to: Portsmouth Office
145 Maplewood Ave., Suite 120
Portsmouth, NH 03801

October 29, 2026

Via Email and First Class Mail

City of Portsmouth Zoning Board of Adjustment
Attn: Beth Margeson, Chair
1 Junkins Avenue
Portsmouth, NH 03801

RE: Variance Application of Christopher H. Daniell — 50 Whidden Street, Portsmouth, NH (Tax Map 102, Lot 66) — LU-26-15

Dear Chair Margeson:

We are writing to withdraw our opposition to the above-referenced Variance Application of Christopher H. Daniell, which was submitted on September 14, 2026, based on changes to the design. The withdrawal is without prejudice.

Thank you.

Very truly yours,

/s/ Brian J. Bouchard

Brian J. Bouchard, Esq.

Encl.

cc: Stephen Erickson (email only)
Attorney Gamester (email only)

Brian J. Bouchard, Esq.
Direct Dial: 603-627-8118
bbouchard@sheehan.com

Reply to: Portsmouth Office
145 Maplewood Ave., Suite 120
Portsmouth, NH 03801

September 14, 2026

Via Electronic Filing

City of Portsmouth Zoning Board of Adjustment
Attn: Beth Margeson, Chair
1 Junkins Avenue
Portsmouth, NH 03801

RE: Opposition to Variance Application of Christopher H. Daniell — 50 Whidden Street, Portsmouth, NH (Tax Map 102, Lot 66) — LU-26-15

Dear Chair Margeson and Members of the Board:

This office represents Stephen Erickson, the owner of the property located at 38-40 Whidden Street, Portsmouth, New Hampshire, a direct abutter to the property at 50 Whidden Street (the "Subject Property"). We respectfully object to the Applicant's variance request, seeking relief from the rear yard setback requirements of Article 10.521 of the Portsmouth Zoning Ordinance in order to construct a second-story addition and cantilevered deck.

As set forth below, the proposed development will decimate Erickson's views of South Mill Pond, materially reducing the value and enjoyment of his property. The Application accordingly does not satisfy New Hampshire's five-part variance test under RSA 674:33, I(a)(2). The Board should deny the Application.

I. LEGAL STANDARD

New Hampshire imposes a strict five-part variance test. To receive a variance, an applicant must satisfy each part independently. That is, a strong showing in one part does not excuse noncompliance with another. The five parts are:

1. The variance will not be contrary to the public interest;
2. The spirit of the ordinance is observed;
3. Substantial justice is done;
4. The values of surrounding properties are not diminished; and
5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.

RSA 674:33, I(a)(2)(A)–(E)

The applicant bears the burden of proving each and every part. Garrison v. Town of Henniker, 154 N.H. 26, 30 (2006); Grey Rocks Land Trust v. Town of Hebron, 136 N.H. 239 (1992). Failure to establish even one part requires denial of the application.

A. THE PROPOSED VARIANCE WILL DIMINISH THE VALUES OF SURROUNDING PROPERTIES

The Applicant's claim that the proposed development "will not diminish the value of surrounding properties" is entirely unsupported and speculative. The Applicant has offered no expert testimony, appraisal, or market analysis to support this bare assertion.

Conversely, we have enclosed hereto the expert opinion of Travis Billingham, a licensed real estate broker with more than 25 years of experience, who also recently brokered the sale of waterfront property on South Mill Pond. Billingham's detailed analysis demonstrates that the proposed second-story addition and cantilevered deck at 50 Whidden Street will significantly obstruct views of South Mill Pond currently enjoyed from the stairwell, rear bedrooms, and attic area of Erickson's home. The proposed development will also severely compromise the natural light in the dining room and porch.

Drawing on local comparable sales data, Billingham shows that homes with clearly marketed water views in Portsmouth South End enjoy a time-adjusted median selling price of approximately $918 per square foot, while those without fall to $812 per square foot. Even a same-street comparison between 43 Whidden Street (marketed as having partial South Mill Pond views) and 28 Whidden Street (no marketed view) showed an approximately 8.6% value differential. What's more, 43 Whidden Street self-evidently has nowhere near the views of Erickson's property; any material reduction in views on Erickson's property will therefore have a larger reduction in value.

The proposed development will cause a ***material adverse market effect*** on Erickson's property at 38-40 Whidden Street. Under conservative assumptions, the indicated property value impact exceeds $100,000.

The New Hampshire Supreme Court has squarely held that evidence of obstructed views and diminished natural light supports denial of a variance on this criterion. In Devaney v. Windham, 132 N.H. 302 (1989), testimony showed that the applicant's construction "blocked a significant portion of [the abutter's] view of the water, blocked her view of sunsets and significantly decreased the amount of sunlight coming into her house." The Court held that "[t]his evidence reasonably supports a finding that granting the plaintiff a variance would result in a lessening of surrounding property values." Id. The facts here are materially indistinguishable: the proposed second-story addition and cantilevered deck will occlude Erickson's views of South Mill Pond, obstruct natural light, and diminish the market value of 38-40 Whidden Street. This criterion is not met.

B. THE APPLICANT HAS NOT DEMONSTRATED UNNECESSARY HARDSHIP

An "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area: (A) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (B) The proposed use is a reasonable one. The Application does not satisfy this standard. See RSA § 674:33.

The Subject Property is presently improved with a single-family residence and is being used as such. It is not vacant, undevelopable, or bereft of reasonable use. As expected, the Applicant cites the property's historic and non-conforming nature as a special condition. This is insufficient. Portsmouth South End is densely populated and many properties have non-conforming lot dimensions. Features that affect nearly every property in the area hardly qualify as "special." The Applicant cannot piggyback on existing nonconformities. Indeed, "[t]he policy of zoning law is to carefully limit the enlargement and extension of nonconforming uses. ***The ultimate purpose of zoning regulations contemplates that nonconforming uses should be reduced to conformity as completely and rapidly as possible***." Conforti v. City of Manchester, 141 N.H. 78, 81 (1996) (emphasis added).

Additionally, even if the Subject Property had "special conditions"—it does not—Portsmouth's setback requirements still serve an important purpose. Setbacks protect an abutter's light, air, privacy, and views—precisely the interests that would be harmed by the exacerbated encroachment. Here, the proposed variance would directly injure Erickson's private rights by obstructing views, blocking natural light, and diminishing his property value. Enforcement of the setback preserves those rights. Accordingly, a fair and substantial relationship remains between the rear yard setback requirements and their application to the Subject Property.

Finally, the Applicant has not proven that the proposed use is reasonable. Expanding an historic home from 1780 with a second-floor addition and cantilevered deck may *in some circumstances* be reasonable. It is not reasonable here. One side of Erickson's property already lacks off-street parking; the proposed development will take away a significant and enjoyable selling feature of his Property.

C. THE VARIANCE IS CONTRARY TO THE PUBLIC INTEREST AND INCONSISTENT WITH THE SPIRIT OF THE ORDINANCE

These two criteria are closely related and often analyzed together. See Harborside Assocs. v. Parade Residence Hotel, 162 N.H. 508, 514 (2011); Farrar v. City of Keene, 158 N.H. 684, 691 (2009). A variance is contrary to the public interest if it "unduly and in a marked degree conflict[s] with [the] ordinance such that it violates the ordinance's basic zoning objectives." Farrar, 158 N.H. at 691. This occurs when the proposed development either (1) would "alter the essential character of the neighborhood" or (2) would "threaten the public health, safety or welfare." Harborside Assocs., 162 N.H. at 514.

The rear yard setback requirements of Article 10.521 serve fundamental purposes: protecting light, air, and privacy; preventing overcrowding; preserving open space; and, given the Subject Property's location on the South Mill Pond, protecting the wetland buffer and shoreland. The Applicant's own narrative concedes these purposes. The proposed variance, which would permit a rear yard setback of only 9.9 feet where 25 feet is required—a deviation of more than 60%—directly undermines these objectives.

While the Applicant characterizes the development as modest and confined to the existing footprint, this characterization is misleading. The proposed second-story addition adds an entirely new 12-by-12-foot living space with a new roofline, and the cantilevered deck projects 48 square feet beyond the existing footprint. These are not cosmetic changes. They substantially increase building mass in the most sensitive area of the lot—the rear yard abutting the South Mill Pond—and they obstruct sightlines, natural light, and open sky that contribute to the essential character of this historic waterfront neighborhood.

The South End of Portsmouth is characterized by modest, carefully scaled homes oriented toward the water, with views and openness that define the neighborhood's identity. A variance permitting a second-story vertical expansion and cantilevered deck that blocks an abutter's pond views alters that essential character. The Board should find that this criterion is not satisfied.

D. SUBSTANTIAL JUSTICE IS NOT DONE

The substantial justice criterion requires the Board to weigh the loss to the individual against the gain to the general public. Harborside Assocs., 162 N.H. at 508 ("[P]erhaps the only guiding rule on the substantial justice factor … is that any loss to the individual that is not outweighed by a gain to the general public is an injustice."); Malachy Glen Assocs. v. Town of Chichester, 155 N.H. 102 (2007).

The Applicant frames the analysis as though denial of the variance inflicts a total loss on the Applicant with no corresponding public benefit. But the balance must also account for the concrete, quantifiable loss that granting the variance imposes on Erickson. Here, the evidence demonstrates that granting the variance would cause a material financial loss. This is not speculative harm; a licensed broker's market analysis, based on local comparable sales and published economic research, supports it.

The Applicant is not without reasonable use of the Subject Property. The existing dwelling is a functional single-family home. The Applicant's desire to add 144 square feet of living space on the second floor and a 48 square foot deck—while understandable—does not outweigh the concrete financial harm that the development will impose on Erickson and the further erosion of setback requirements in Portsmouth's South End. Substantial justice is not served by granting a variance that enriches one property owner at the direct and demonstrable expense of the adjacent property owner.

II. CONCLUSION

For the foregoing reasons, the Applicant has failed to satisfy the statutory criteria for a variance under RSA 674:33. The proposed development would diminish surrounding property values, alter the essential character of this historic waterfront neighborhood, impose a concrete and quantifiable financial loss on Erickson, and is not justified by any unnecessary hardship.

The Board should deny the variance application.

Very truly yours,

/s/ Brian J. Bouchard

Brian J. Bouchard, Esq.

Encl.

cc: Stephen Erickson (email only)
Attorney Gamester (email only)

portside
REAL ESTATE GROUP

September 8, 2026

Dear Zoning Board of Adjustment,

I have worked as a Realtor for more than 25 years, licensed real estate broker in the State of New Hampshire since 2018, and have recently brokered the sale of waterfront property on South Mill Pond. In my experience, in addition to location and condition, buyers place value on views, open sky, and natural light. 38-40 Whidden currently sits one home back from South Mill Pond and these aforementioned amenities are a significant part of this property's appeal.

The proposed addition at 50 Whidden would negatively impact several of those sightlines and would also reduce natural light and the sense of openness in important living areas. In my opinion, that change would be impactful to potential buyers and would have a negative effect on the property's market value.

Visual Depictions

For a few years now, my team and I have been creating new construction renderings as part of our marketing services for our home builder clients. I took current photographs from the view locations in 40 Whidden, and have before/after photos that I have created to show the most accurate interpretation of the proposed addition to 50 Whidden, based on the elevations and floor plans that were provided to the city for the application. These are included for your review on the next page











Detrimental Impact

The proposed addition at 50 Whidden Street would significantly detract from the greatest feature of the property at 38–40 Whidden Street, which currently has South Mill Pond views from almost every room on **the #40 side of the property.** The home currently has water views from seven locations. Based on the plans and renderings I reviewed, **four** of those views would be eliminated or substantially obstructed. The impact would extend across all three levels of the home.

1. **Dining room and screen porch:** The dining room looks through the screen porch toward the pond. The proposed addition would block the western sightline and reduce natural light inside and on the porch. Because the porch roof already shades the other windows, this western exposure is particularly important to the room.

2. **Second-floor stair landing:** At the top of the stairs, the rear bedroom window provides an elevated view over the existing low shed roof. The proposed addition would rise directly into that view, replacing water and open sky with the side of the new structure.
3. **Second-floor bedroom and workspace:** The western window in the rear bedroom provides one of the home's best pond views and is a natural location for a desk or sitting area. The proposed addition would largely eliminate that view.
4. **Third-floor attic:** The semi-finished attic offers future living or office potential. Its elevated pond view contributes to that potential and would also be directly affected by the height of the proposed addition.

Water views significantly increase a property's value, depending on the extent of those views. A broad ocean view could increase a property's value by 100%. In the South End of Portsmouth, the views are generally not so breathtaking, but they can and do significantly contribute to a property's value.

The most significant impact would be noticeable in the dining room, screen porch, the southern bedroom, and the attic area. Some front-hall and southern sightlines are expected to remain. For that reason, I am not treating the proposal as a total loss of all water views.

Market evidence

My analysis used the public listing remarks to distinguish prominent water views from seasonal or limited glimpses and from properties where no on-site water view was promoted. To be fair, I also considered differences in finished area, bedrooms, bathrooms, location, renovation and condition, garages, and off-street parking to the extent those characteristics were available in the MLS data. Since 5 years is a longer-than-typical time frame for real estate value comparisons, I used published value trends for Portsmouth to adjust values, as water view properties in this area are not very common for this area and time frame.

I have included two examples that stand out as significant, given what is at stake:

1. A particularly relevant same-street example is 43 Whidden Street, which was marketed as having partial South Mill Pond views. Its time-adjusted selling price was approximately $967 per square foot, compared with approximately $890 per square foot for 28 Whidden Street, whose listing did not market an on-site water view. That

represents an approximately 8.6% difference. Although 43 Whidden was a comp-only sale and the properties are not identical, this comparison provides useful corroborating evidence that even partial pond views contribute measurable value

2. Another example is 199 Gates Street, which was marketed as having water views from every bedroom, along with views from its porch and primary bathroom. Its time-adjusted price was approximately $1,034 per square foot, compared with approximately $817 per square foot for 333 Marcy Street, a similarly sized property with no marketed on-site water view. This was an approximately 27% difference, although renovation, parking, and exact location also contributed to the respective prices.

It should be noted that the water views from 38-40 Whidden are self-evidently superior–in terms of distance to the water, sight lines, and serenity–to those in the above examples, and likely contribute a higher premium relative to overall property value.

The local data confirms that buyers recognize and pay for prominent water views, although no individual sale is a perfect match. Among reasonably sized properties, homes with clearly marketed water views had a time-adjusted median selling price of approximately $918 per square foot, compared with approximately $812 per square foot for properties without a marketed on-site view—an unadjusted difference of about 13%. **With its above average water views, the value-add for 38-40 Whidden Street is surely higher.**

The City of Portsmouth assessed the entire 38–40 Whidden parcel at $1,095,600 as of April 1, 2024. I'm using a conservative value of $1,148,400, which is the midpoint of the city appraisal amount adjusted for appreciation, and Zillow's current market value estimate of $1,185,500.

Anticipated Loss in Property Value

The local sales data is helpful, but it cannot isolate a precise view premium for this property. Portsmouth South End homes differ substantially in renovation level, condition, parking, garage capacity, size, location, and historic character. Those factors were considered in my review.

Having limited local data, I wanted to review published information from credible sources as well. I found many studies referencing additional value that having a water view can bring to a property. I reference a study published by The Federal Home Loan Mortgage Corporation (Freddie Mac). Freddie Mac's March 2022 research[1] provides a useful independent benchmark.

[1] Freddie Mac, Sea Level Rise and Impact on Home Prices in Coastal Florida, Research Note, March 16, 2022.

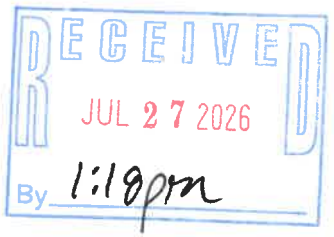
Using a hedonic model and roughly 258,000 coastal Florida transactions, the study reported an 11% sale-price premium for water views such as ponds, bays, and lakes.

My professional opinion is that the proposed addition would cause a material adverse market effect on 38-40 Whidden Street. I cannot offer an exact percentage or dollar amount at this stage, but do feel that the conservative figures are probably on the lighter side. My initial opinion after seeing the loss of views caused by the addition would be a negative impact to the property value in excess of $100,000. The Board can nevertheless consider the likely market harm when evaluating the proposed variance and local impact.

Respectfully submitted,

Travis Billingham
Broker / Realtor
Portside Real Estate Group

July 23, 2026



Stefanie Casella
Planning and Sustainability Department
City Hall
1 Junkins Ave, 3rd Floor
Portsmouth, NH 03801

Stefanie:

I (we) am/are writing on behalf of 50 Whidden Street owner, Christopher Daniell, who is in the process of constructing an addition atop the existing footprint of his home. I (we) understand the plans call for an additional 400 square feet be added to the backside of his 1600 square foot home and that the project is anticipated to take 3-4 months.

As planned and contracted, construction will be performed by River Branch Builders, whose organization has been given excellent reviews and whose office is located on Islington Street.

I (we) have known Chris and his partner Margaret for many years. I (we) feel that the two of them will be considerate of the neighbors during the building process. Interactions with them in the past have always been neighborly and positive. We recognize that the architecturally designed addition will be in keeping with the structural modifications, additions and upgrades to homes on our street, and in our neighborhood, which have occurred since the late 1700's. The Historic District Commission approval of the project gives weight to, and validates, the design.

I (we) understand the street facing appearance of 50 Whidden will not change and that this was a factor in the HDC's support of the project.

I (we) appreciate being asked to comment on the project and approve of the undertaking.

Rich Mayhew
53 Whidden ST

John W. Seavey
17 Whidden Street
Portsmouth, NH 03801

RECEIVED
JUL 27 2026
By 1:19pm

July 23, 2026

Stefanie Casella
Planning & Sustainability Department
City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Dear Stefanie:

We are writing in support of Christoher Daniell's addition to his home at 50 Whidden Street. Whidden Street consists of nine close homes on a dead-end street. We own and live at 17 Whidden Street. One thing to know about our street is that all permanent residents/owners are very close. We have multiple block parties during the year to celebrate various events. We all get along and feel lucky we live on Whidden Street. We have known Christoper since he purchased his house. He and Margaret are among the Whidden Street block party participants as well as everyone else on the street except one absentee owner/ renter who lives in one of his rental units for a couple months in the summer.

We understand the extent of the request for an addition. Having been inside the house, we also understand the rationale for the project. We also understand that the Historical District Commission has given its approval for the project and that it will not change the appearance of the front of the house on Whidden Street. Chris has been diligent about the upkeep of the property. In July they were on the South End Garden tour.

As owners & residents of Whidden Street, we support Christopher Daniell's construction of the addition.

Sincerely,

John W. Seavey

Bruce A. Doty

From: Ed Hibbard
Sent: Friday, July 24, 2026 5:07 PM
To: Stefanie L. Casella <SLCasella@portsmouthnh.gov>
Subject: Christopher Daniell 50 Whidden Street

We understand that the HDC is considering the application of Christopher Daniell for the construction of an addition to his residence at 50 Daniell Street. We are neighbors at 19 Whidden Street and have reviewed the architectural design for this project. We are pleased to support this project and highly recommend its approval.

Ed Hibbard
Former member and past president of Portsmouth Advocates

Maija Hibbard
Former Commissioner of the HDC

Sent from my iPhone

From: Ed Hibbard
Sent: Friday, July 24, 2026 5:16 PM
To: Stefanie L. Casella <SLCasella@portsmouthnh.gov>
Subject: Christopher Daniell 50 Whidden Street

Correction: 50 Whidden Street

Ed Hibbard Former alternate

Sent from my iPhone

From: Evan Young
Sent: Monday, July 27, 2026 10:08 AM
To: Stefanie L. Casella <SLCasella@portsmouthnh.gov>
Subject: 50 Whidden St Addition

Stefanie,

I am writing on behalf of 50 Whidden Street owner Christopher Daniell, who is in the process of constructing an addition within the existing footprint of his home. I own and have made my primary residence at 43 Whidden St, directly across the street. I understand the plans call for an additional 400 square feet be added to the backside of his 1,600 square foot home and that the project is anticipated to take 3-4 months.

I have known Chris and his partner Margaret for several years. I feel that the two of them will be considerate of the neighbors during the building process. Interactions with them in the past have always been neighborly and positive, an experience that even extended to a period in which he was my landlord for a short time in 2022. I recognize that the architecturally designed addition will be in keeping with the structural modifications, additions and upgrades to homes on our street, and in our neighborhood, which have occurred since the late 1700's. The Historic District Commission approval of the project gives weight to, and validates, the design. I understand the street facing appearance of 50 Whidden will not change and that this was a factor in the HDC's support of the project.

I appreciate being asked to comment on the project and approve of the undertaking. I can be reached at this address or by phone at the number in my signature.

Thanks,
Evan Young
Chief Financial Officer
(603) 502-4691
TALON



Received
JUL 29 2026
By _____

37 Franklin St.
Portsmouth, NH 03801

7/27/2026

Stefanie Casella
Planning and Sustainability Dept.
City Hall
1 Junkins Ave, 3rd Floor
Portsmouth, NH 03801

RE: Proposed renovation at 50 Whidden St.

Dear Ms Casella:

My family has owned and occupied the property directly behind 50 Whidden St since the 1940s. Over the decades we have seen many changes and updates to the home on Whidden St. In my opinion the proposed renovation is consistent with and a logical progression of the improvements made in the past. As I'm sure you know, these are very old homes which require, from time to time, alterations so as to better serve the needs of those who inhabit them today.

Consequently I want to state for the record that I have no objection to the renovation presently under review.

Sincerely,

Tomas Johnson
37 Franklin St.

RECEIVED
AUG 05 2026
By 12:18pm

July 23, 2026

Stefanie Casella
Planning and Sustainability Department
City Hall
1 Junkins Ave, 3rd Floor
Portsmouth, NH 03801

Stefanie:

I (we) am/are writing on behalf of 50 Whidden Street owner, Christopher Daniell, who is in the process of constructing an addition atop the existing footprint of his home. I (we) understand the plans call for an additional 400 square feet be added to the backside of his 1600 square foot home and that the project is anticipated to take 3-4 months.

As planned and contracted, construction will be performed by River Branch Builders, whose organization has been given excellent reviews and whose office is located on Islington Street.

I (we) have known Chris and his partner Margaret for many years. I (we) feel that the two of them will be considerate of the neighbors during the building process. Interactions with them in the past have always been neighborly and positive. We recognize that the architecturally designed addition will be in keeping with the structural modifications, additions and upgrades to homes on our street, and in our neighborhood, which have occurred since the late 1700's. The Historic District Commission approval of the project gives weight to, and validates, the design.

I (we) understand the street facing appearance of 50 Whidden will not change and that this was a factor in the HDC's support of the project.

I (we) appreciate being asked to comment on the project and approve of the undertaking.

JOSEPH MCCARTHY
CHARLES NEAL

28 Whidden Street

Good morning –

Included is a sample letter to Stefanie Casella at the City of Portsmouth Planning and Sustainability Department.

Please feel free to simply sign it, modify it or write a completely alternate version. I have also included a stamped envelope addressed to Stefanie.

As some of you know from experience, receiving approval from the HDC can be a long and winding road. Add to that the wetlands and/or shoreland approval, and the permitting process is an undertaking unto itself.

Soliciting input from neighbors is part of the requisite process for the approval – thank you very much for supporting us and our endeavor.

Your help is very much appreciated

Chris

August 3, 2026

Dear Ms. Stefanie Casella,

We wanted to write on behalf of our neighbor Chris Daniell, and the addition project that he plans on constructing once all permits are in place. We fully support his plans and we know that he and his partner, Margaret, will be considerate of the historic nature of our street. Chris and Margaret are excellent neighbors in that they are thoughtful of the needs of others, quiet, helpful and kind. Chris has shared his plans with us and we believe the addition will be very much in keeping with the current late 1700s architecture.

Thank you for allowing us to share our sincere support of this project at 50 Whidden Street!

Sincerely,

Christine Zeuder / John F. Thorn

37 Whidden St.
Portsmouth, NH

From: Ed Hibbard
Sent: Saturday, September 12, 2026 2:45 PM
To: Stefanie L. Casella <SLCasella@portsmouthnh.gov>

To whom it may concern,

We are residents at 19 Whidden Street and are familiar with the proposed addition to the property of Chris Daniel. Please be advised that we are in favor of the proposed addition and ask that you grant the application as presented.

Thank you,

Ed & Maija Hibbard

Sent from my iPhone

11/8/26
Docket No. 2026-4

Response to the Motion for a Rehearing and the Appellant's Brief

Let us not be mistaken that this entire matter has nothing to do with a zoning issue, but is one of many ongoing attempts of malicious harassment by Kathy Logan. This matter is a clear case of discrimination against our son who has struggled with a medical condition. Their Attorney in fact, brings up information that is discriminatory against our son and has nothing to do with a zoning issue. *(C-15) In the Motion for a Rehearing. Under *C-16 their Attorney further elaborates on his desire to enter information he believes is accurate and again has nothing to do with a zoning issue. Please be clear of the fact that if the Appellant's were to get the "relief" they seek, our son would sleep at 161 South Street and continue to spend other waking hours in the studio space. He would be "sleeping" on either one side of Logan's property, or the other, as her house is sandwiched between our two properties.

The attack on Inspector Wolph and the sequence of events is misleading and irrelevant. Inspector Wolph was professional and unbiased in his findings.

After clarification of the facts:

- The studio space has been used in the same manner for over five decades.
- There does not exist a kitchen, shower or separate bedroom space.
- Our son utilizes our home as his primary residence, showering, eating and keeping his clothing at 161 South Street.
- The studio provides an opportunity for him to have some autonomy and quiet space to retreat to. This is essential to his well being.
- Inspector Wolph proved complete due diligence in his decision by reaching out to the ICC to further confirm his findings in a situation that was unique. A time was then made for an inspection of the space.

The two items that needed to be addressed were:

- Bluetooth smoke/carbon monoxide detectors were to be installed on each of the two floors.
- The hard insulation that had previously been installed had some minor edges that needed to be taped and sealed.

Both items were addressed and Inspector Wolph came by for a follow up inspection to confirm this.

*The issue of a shower being installed will be completed once this matter is fully resolved. The space has been prepared for the re-installation of a shower, where there had been one previously removed. The lack of a shower is NOT a safety issue.

The International Code Council (ICC), the organization that develops the model codes adopted by NH as part of the State Building Code; concluded upon review of the facts, that the space qualifies as an **R-2 non-transient sleeping unit.**

Section 104.2.4 of the NH Building Code provides an alternative approval path:

104.2.4 Modifications. Where there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, provided that the building official shall first find that one or more special individual reasons make the strict letter of this code impractical, and that the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, accessibility, life and fire safety or structural requirements. The details of the written request for and action granting modifications shall be recorded and entered in the files of the department of building safety.

We ask for the relentless harassment by Kathy Logan towards our family end here. This is a straight forward situation concerning a space our family has owned for decades and has been used in a similar manner for an equal amount of time. We pay enormous property taxes to this City and it is unconscionable that we should not be able to continue the use of the studio space for the needs of our family.

Sincerely,

Hannah and Paul Burke

9/14/26

Response to: **Notice of Appeal and Statement of Grounds**

Statement of Standing:

1) There is no relevancy to any change in neighborhood character.
2) We have space for six or more vehicles in our parking area. We have two vehicles that consistantly park in the driveway. On occasion there is one other tenant that parks a single car. We have a tenant in one unit who does not own a car. Therefore parking is NOT an issue on our property.
3) A singular person who spends time on our Blossom Street property, in conjunction with our home around the corner, does not constitute adding to the "density" of the area.
4) Unclear how "life safety" is involved. The studio space has been inspected by the Chief Building Inspector.

Our property at 28 Blossom Street has been owned by my family since the mid 1970's. The barn space, which became my father's studio, has been used in the exact same manner for all of these decades. It has been a safe space for family and friends when needed, as well as for art, study, gatherings, and general respite.

It is crucial to point out that this is NOT about a code concern, but another of over 13 attempts by Kathy Logan to maliciously harrass our family, son and our tenants over the last several years. This time she has assembled a "small mob" to support her actions. Simple proof of the above statement is made through the fact that if we were to lose in support of the "mob", that our son (who is clearly being discriminated upon), would then sleep in our property on the other side of Kathy Logan and spend much of his time at the studio. Literally he would be on one side or the other of Kathy Logan's property and the difference to her and the "mob", would be what?

Sincerely,

Paul and Hannah Burke

From: Scott Lupkas
Sent: Monday, September 14, 2026 2:52 PM
To: Planning - Info - Shr <Planning@portsmouthnh.gov>
Cc: Kathleen Logan; Sooky Lassen; Peter Carey
Subject: Written comment for September 15 Board of Adjustment hearing — 28 Blossom Street

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Dear Members of the Board of Adjustment:

I live at 33 Blossom Street and am one of the neighbors appealing the City's determinations concerning 28 Blossom Street. I cannot attend the hearing, but I fully support our written appeal. I ask the Board to **reverse and vacate both the July 23 and August 6 determinations**.

The issue is more than what to call a room. A former artist's studio is now being used for sleeping at a property approved for three residential units. The City's designation of the space as an "R-2 non-transient sleeping unit" does not answer the basic zoning question: **What permits a separate sleeping arrangement there?** A building-code label cannot, by itself, establish that the use is allowed under the zoning ordinance.

The suggested connection to 161 South Street does not answer that question either. As our appeal explains, 161 South Street is a separate, non-contiguous property. An arrangement between occupants of two properties should not be the basis for approving a use at 28 Blossom Street that could remain after either property changes hands.

I am also concerned that the determinations leave important questions unanswered about density, parking, safety, and the approvals required in the Historic District. These are substantive issues for the Board to address openly, with notice to neighbors. They should not be bypassed through an administrative classification.

I ask the Board to vacate the determinations and require the owner to seek the necessary zoning and other City approvals before this sleeping use is authorized. I also ask the City to address the separate shed and occupancy concerns identified in our appeal through its enforcement process.

Please include this statement in the hearing record. Thank you for considering the appeal on its merits.

Regards,

Scott A. Lupkas
33 Blossom Street
Portsmouth, NH