

Dear Members of the Zoning Board of Adjustment,

I am writing to formally oppose the variance request submitted by Port Hunter LLC for 361 Miller Avenue. The application seeks both dimensional relief (reduced setbacks) and a use variance to allow professional office use in a residential (GRA) district where such use is not permitted.

Under New Hampshire law, the applicant must meet all five variance criteria. Based on the existing conditions of this property and the nature of the request, I do not believe these criteria are satisfied.

### **1. The variance will not be contrary to the public interest — NOT MET**

The proposed introduction of commercial office use into a residential neighborhood is contrary to the public interest as reflected in Portsmouth's zoning ordinance. The **General Residence A (GRA) district is intended to preserve residential character, maintain appropriate density, and avoid uses that introduce commercial traffic and activity.**

There are already clear indicators that the property is overburdened. **Vehicles are routinely parked on the front lawn due to insufficient on-site parking, and vehicles have been observed extending across the sidewalk when parked in the driveway.** This not only detracts from the character of the neighborhood but also creates **pedestrian safety hazards**, particularly for children, seniors, and those using strollers or mobility aids.

Blocking or obstructing a public sidewalk is generally not permitted and directly conflicts with public safety objectives. The presence of this condition demonstrates that the property cannot adequately support its current use.

Adding a professional office will increase:

- Vehicle trips (clients, employees, deliveries)
- Parking demand
- The likelihood of continued **sidewalk obstruction and unsafe conditions**

This is directly contrary to the public interest.

### **2. The spirit of the ordinance is observed — NOT MET**

The spirit of the ordinance is to:

- Maintain separation between residential and commercial uses
- Ensure adequate setbacks for light, air, and spacing

- Prevent overdevelopment of residential properties

This proposal undermines that intent by:

- Introducing a **non-permitted commercial use**
- Requesting **significant reductions in setbacks**
- Intensifying use on a property already demonstrating capacity issues

This is not a minor adjustment—it is a fundamental departure from the ordinance’s purpose.

### **3. Substantial justice is done — NOT MET**

The benefit to the applicant is outweighed by the negative impact on the surrounding neighborhood.

The applicant benefits from increased use and value of the property. Meanwhile, neighbors are already experiencing:

- Parking overflow onto the **front lawn**
- **Sidewalk obstruction from vehicles extending out of the driveway**
- Reduced safety and diminished neighborhood character

Granting this variance would exacerbate these issues, placing additional burden on the public for the benefit of a single property owner.

### **4. Property values of surrounding properties are not diminished — NOT MET**

The current conditions already negatively affect the appearance and function of the neighborhood.

The visible pattern of **cars parked on the lawn and blocking the sidewalk** creates:

- A perception of overcrowding and poor site management
- Reduced curb appeal
- Safety concerns that make the area less desirable

Expanding the use and intensity of the property will likely worsen these conditions and further impact surrounding property values.

### **5. Literal enforcement would result in unnecessary hardship — NOT MET**

The property is already in active residential use as a six-unit building and is capable of reasonable use without any variance.

There is no hardship arising from the land itself. Instead:

- The request is driven by a desire to **increase intensity and introduce a commercial use**
- Existing issues (including parking overflow onto the lawn and sidewalk obstruction) reflect **overuse of the property**, not hardship
- Any constraints are inherent to the lot and do not prevent reasonable residential use

Under New Hampshire law, hardship cannot be based on financial gain or convenience, nor can it be self-created.

### **Additional Considerations**

- **Documented Evidence of Overcapacity:** I have photographic evidence showing vehicles parked on the front lawn and extending across the sidewalk. These conditions clearly demonstrate that the property is already unable to support its current level of use.





- **Public Safety Concerns:** Sidewalk obstruction forces pedestrians into the street, creating a safety hazard. Any increase in use intensity will likely worsen this condition.
- **GRA District Intent:** The district is designed to support residential living. The addition of commercial office use, combined with reduced setbacks, directly conflicts with this intent.
- **Cumulative Impact and Precedent:** Granting both use and dimensional variances compounds the impact and sets a precedent for further erosion of residential zoning protections.
- **Self-Created Hardship:** The need for relief stems from the applicant's desire to intensify use on a constrained lot, not from any unique characteristic of the property.

## Conclusion

Because the proposal fails to meet multiple required variance criteria—including public interest, spirit of the ordinance, and unnecessary hardship—and because there is clear evidence that the property is already overburdened, I respectfully request that the Board deny this application.

Thank you for your time and consideration.

Sincerely,  
Tim O'Brien  
396 Miller Ave

-----Original Message-----

From: William & Sheila Taylor <billsheila87@gmail.com>

Sent: Monday, May 11, 2026 5:27 PM

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

Subject: May 19, 2026 hearing RE 53 McNabb Court

To Whom it may concern;

My name is William Taylor and with my wife Sheila Taylor, we own the property at 137 Elwyn Avenue that backs onto McNabb Court. 53 McNabb court is visible from our yard and from the living area of parts of our home.

We support the application to renovate and alter the home at 53 McNabb Court, including the required Variances from Section 10.521. The proposed changes are well considered and aligned with the modifications and upgrades that have been done to other homes in the vicinity, including ours.

We hope that the Board of Adjustment will approve the Variances associated with 53 McNabb Court so that the owners may proceed with the adjustments to their home that they desire.

Thank you.

William Taylor  
508-969-7500