

BY: VIEWPOINT & HAND DELIVERY

January 15, 2026

City of Portsmouth
Attn: Stefanie Casella, Planner
Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

RE: RSA 677:2 Motions for Rehearing
Case: LU-25-165
Property: 58 Humphry's Court, Tax Map 101, Lot 47
Owners: Robert M. Snover, Darcy Davidson, Trustees of the Robert M. Snover
Revocable Trust

Dear Stefanie,

Enclosed, please find two separate RSA 677:2 Motions for Rehearing pertaining to the above referenced property and land use application. The first is an appeal of the ZBA's decision to deny the Applicant's frontage variance. The second relates to the ZBA's decision to approve the Appeal of an Administrative decision filed by the abutters' attorney pertaining to the rear lot line of the subject property.

Copies of both Motions for Rehearing are being delivered to the Planning Department today. Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,



Derek R. Durbin, Esq.

**CITY OF PORTSMOUTH
ZONING BOARD OF ADJUSTMENT**

RSA 677:2 MOTION FOR REHARING

Robert M. Snover, Darcy Davidson
Trustees of the Robert M. Snover Revocable Trust
(Owners/Appellants)

**58 Humphry's Court,
Portsmouth, NH 03801
Tax Map 101, Lot 47**

LU-25-165

NOW COME, Robert M. Snover and Darcy Davidson (individually and collectively the “Applicant”) by and through their attorneys, Durbin Law Offices, PLLC, pursuant to RSA 677:2, to request a rehearing of the Portsmouth Zoning Board of Adjustment’s (“ZBA”) December 16, 2026 decision, granting the Appeal of the Administrative Decision of a zoning determination pertaining to the side and rear lot lines of the property for a proposed subdivision located at 58 Humphrey’s Court (the “Property”), and in support thereof state as follows:

GROUND FOR REHEARING

Contrary to the written Notice of Decision issued by the City, the Board did not agree with the Appellants’ interpretation of what constitutes the rear lot line(s). It merely determined that it did not agree with the Planning Director’s interpretation of what constitutes the rear lot line(s) of the Property. The Notice of Decision should be clarified to reflect the true nature of the Board’s decision, or the Board should grant the request for rehearing and reconsider the Appeal.

Regardless of the above, as set forth below, the Applicant avers the Board erred in not upholding the Planning Director’s interpretation of “lot line, rear” and accordingly requests a rehearing of the Appeal.

REHEARING LEGAL STANDARD

Within thirty days after any...decision of the Zoning Board of Adjustment...any party to the action or proceedings,...may apply for rehearing in respect to any matter determined in the action...specifying in the motion for rehearing the grounds therefore; and the Board of Adjustment...may grant such rehearing if in its opinion good reason therefore is stated in the motion. RSA 677:2 (emphasis added).

A motion for rehearing...shall set forth fully every ground upon which it is claimed that the decision or order is complained of is unlawful or unreasonable. RSA 677:3.I.

The purpose of the statutory scheme is to allow the ZBA to have the first opportunity to pass upon any alleged errors in its decision so that the Court may have the benefit of the Board's judgment in hearing the appeal. Town of Bartlett Board of Selectmen v. Town of Bartlett Zoning Board of Adjustment, 164 N.H. 757 (2013). Rehearing is designed to afford local zoning boards of adjustment an opportunity to correct their own mistakes before appeals are filed with the courts. Fisher v. Boscawen, 121 NH 438 (1981).

ARGUMENTS IN SUPPORT OF REHEARING

Section 10.1530 of the Ordinance provides that a rear lot line is "[a] boundary of a lot that is opposite and most distant from the front lot line. If the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

With respect to the Applicant's Property, the street wraps around two sides of the Property. As such, there is no true rear boundary, only two sides. In cases like this, the Ordinance creates an artificial rear boundary line by drawing a line 10' in length opposite the front property line. In this instance, the southeast corner of the Property is the logical reference point for drawing the artificial 10' long rear lot line. The Board erred in failing to uphold the Planning Director's interpretation of the Ordinance. Accordingly, the Board should approve the foregoing rehearing request pursuant to RSA 677:2.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Derek R. Durbin', with a stylized, looping flourish at the end.

Derek R. Durbin, Esq.
144 Washington Street
Portsmouth, NH 03801
derek@durbinlawoffices.com