

**BOARD OF ADJUSTMENT MEETING
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

October 25, 2022

ACTION SHEET

MEMBERS PRESENT: Jim Lee, Vice Chair; David MacDonald; Beth Margeson; Paul Mannle; Phyllis Eldridge; Thomas Rossi; Jeffrey Mattson, Alternate

MEMBERS EXCUSED: None

ALSO PRESENT: Peter Stith, Planning Department

I. NEW BUSINESS

- A.** Rehearing of the Appeal of **Duncan MacCallum, (Attorney for the Appellants)**, of the July 15, 2021 decision of the Planning Board for property located at **53 Green Street** which granted the following: a) a wetlands conditional use permit under Section 10.1017 of the Zoning Ordinance; b) preliminary and final subdivision approval; and c) site plan review approval. Said property is shown on Assessor Map 119 Lot 2 and lies within the Character District 5 (CD5).

On the matter of standing, the Board voted determine the appellants do have standing to bring the appeal forward because some of the appellants have properties that border on the same estuary as the project borders on; estuaries are complex and delicate ecosystems, and this project involves activity within the 100-ft wetland setback, so it has the potential to damage or alter the state of the estuary, and because of this potential, the appellants have standing. It was conceded by the appellants that the issuance of a Wetland Conditional Use Permit was not properly before the Zoning Board, therefore Count #2 was removed from the appeal. A motion to grant the appeal for Count #1 and Count #3 failed on a 3-4 vote, therefore the appeal was denied. Board members in opposition stated they didn't believe that the Planning Board erred in applying Sections 10.5A46.10 and 10.5A46.20 and it was clear that the zoning ordinance allows for the overlay district to apply to the entire lot by virtue of Section 10.5A46.21.

II. OTHER BUSINESS

There was no other business.

III. ADJOURNMENT

The meeting adjourned at 10:05 p.m.