

June 21, 2024

Zoning Board of Adjustments
City of Portsmouth
1 Junkins Avenue
Portsmouth, New Hampshire 03801

RE: Board of Adjustments Hearing June 25, 2024
Petitioners: Liam Hoare and Reece C. Green
Property: 189 Wibird Street
Assessors Map 133, Lot 51
Zoning District: General Residence A
Description: Construction 1,366 square foot 3.5-story addition and decks
Request: Variance to allow 8.5' right yard where 10 feet is required (Section 10.521), and 2) allow nonconforming structure to be enlarged without conforming to the requirements of the ordinance (Section 10.321).

Dear Board Members:

My wife Kathy and I have lived at 199 Wibird Street for 27 years, and are direct abutters to the applicant's parcel. Our house is to the south, the direction in which they are seeking zoning relief from setback requirements. The applicant reached out to us proactively about their plans, and I have communicated my concerns regarding items that will have a direct impact on our adjacent residence. The applicant's site is unique and will be difficult to develop due to the grade of the adjacent sites and significant flooding that the lot currently experiences (see photos attached). If the proposed drainage functions as intended, it will be an improvement for the neighborhood.

The applicant has gone to great lengths to reach out and address our concerns. Therefore, I am okay with them encroaching on the 10' side setback and expanding the existing nonconforming structure, given the concessions that have been agreed to. An overview of my concerns and the applicant remedies are summarized below.

1. One of the most attractive features of the neighborhood between Union and Wibird Streets is the collective green space and canopy of trees that is shared by all the rear yards. The applicant's site at 189 Wibird Street experiences significant flooding/ponding several times annually and will require a fairly complex drainage system that ties into the city's storm drains on either Wibird or Union Street. I am concerned about the impact that the trenching and gravel required for drainage may have on the abutting trees that provide shade and privacy to our rear yards, as the area requiring drainage is loaded with tree roots. Some of the neighboring trees are massive and very old. If any of the neighboring trees die and/or fall due to compromised root systems resulting from the new construction and drainage, it would be an expense and danger for the adjacent homeowners. The applicant has assured me that their site contractor will make an effort to minimally impact the existing tree roots.
2. The applicant's home design includes a garage underneath the proposed addition. Given that the existing site is 4+/- feet below the grade of my driveway and the proposed 10' high basement garage will lower their grade an additional 5-6 feet, a steep slope will be created between the two lots. I am concerned about erosion of my existing driveway and garage, and the creation of a long and steep slope between the two properties. I expressed my concern that the original home design may result in dangerous and unstable slope. The applicant has agreed to backfill the south side of the garage between the two lots to minimize the slope and diminish the massing of the new addition.

Board of Adjustments
June 21, 2024

3. The original home design included a total of 13 new windows (in addition to 7 existing windows) along the south side of the residence. Given that the applicant is requesting a variance along our property line, I had requested that they reduce the number of windows, specifically the 6 double hung 1st floor windows, to help in preserving some of the privacy that we currently enjoy. The applicant has provided us with revised elevation plans that remove three of the 1st floor's double hung windows.
4. The site plan and home design drawings provided do not illustrate of the any outside mechanical systems, such as heat/pump condensing units which would be within the 10' setback if placed on the south side of the residence. The applicant has provided us with written confirmation that the condensing units will be placed at the rear (east) of the house and not along the south side of the residence.

I have attached some photos of the slope (between 189 and 199 Wibird), as well as the flooding at 189 Wibird Street in recent years to help illustrate the various points highlighted above. As previously noted, with the various concessions agreed to by the applicant, I am okay if the Board of Adjustments decides to grant zoning relief.

Please do not hesitate to contact me if you have any questions or comments.

Sincerely,

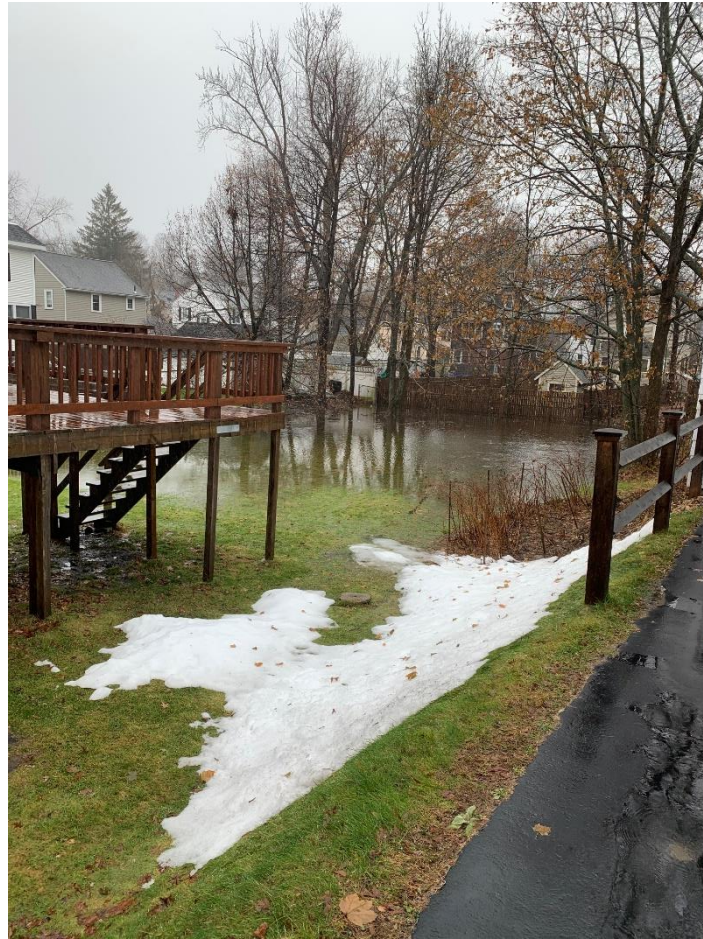


Stephen J. Bergeron
199 Wibird Street
(603) 502-6339

Exhibit – View of grade change/slope between 189 and 199 Wibird St.



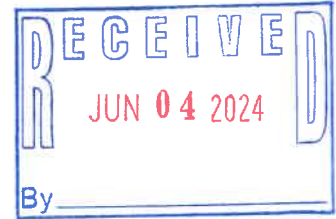
Exhibit – Photos of 189 Wibird Street Rear Yard Following Different Periods of Heavy Rains. View of grade change/slope between 189 and 199 Wibird St.







Ronald & Mary Pressman
449 Court Street
Portsmouth, NH 03801



City of Portsmouth
Zoning Board of Adjustment
1 Junkins Avenue, 3rd Floor
Portsmouth, New Hampshire 03801

June 3rd, 2024

RE: 461 Court Street, Map 105 Lot 7
2-Story Addition at Rear or Residence with Porch

Dear Chair & Board Members,

We are writing in opposition to the above-referenced request for relief from Portsmouth Zoning Ordinance. We are the owners of the residential property located at 449 Court Street which is the property neighboring property the applicants. We have reviewed the proposed development of the rear of the applicant's lot and assessed the impact of this large expansion on surrounding properties, including ours.

We have owned 449 Court Street since 2019 and enjoyed its wonderful location in the heart of Portsmouth. We have highly valued the Portsmouth Planning Board approach encouraging development and redevelopment to maintain and preserve the character and charm of the downtown. One element of that charm are the view lines and light from the water, parks and streetscapes that so many homes cherish.

We purchased 449 Court Street in 2019 because of its location in the heart of downtown Portsmouth, its proximity to Strawberry Banke and Prescott Park and the wonderful, filtered views from our kitchen, living room and bedrooms of the water and park. Our home orients toward the water and as such faces the side of 461 Court Street. That said, we have sight lines to the water and park from most of our rooms including the kitchen, dining area and bedroom via a "green" corridor running behind 461 Court Street toward the park. While this is partially obstructed by the neighbor's trees in the Summer, this corridor provides wonderful light during the Fall, Winter and Spring seasons.

Over the past five years, our filtered views toward the water and park have been increasingly obstructed by two large trees owned by 461 Court Street. The planned two-story addition to 461 Court Street would completely obliterate the view line from our kitchen, dining area and bedroom toward the park and water. Worse, it would likely result in turning our home view into something akin to an alley, dark and unattractive.

Finally, it is clear the proposed addition to 461 Court Street would negatively impact the value of our property and perhaps others surrounding this property. While it has been concerning to look out upon ever encroaching trees, it is an entirely different scenario to have the primary view line of our home face a solid brick wall extending from our kitchen and dining area in the rear of our home all the way to the front living area of our house.

I understand that the Board will consider whether granting the relief requested by the applicant will diminish the value of surrounding homes and properties. Our property value will clearly be negatively impacted by the proposed addition. We have received advice from local realtors confirming our concern. As such, we respectfully request the Portsmouth Zoning Board to decline this request for relief from the Zoning ordinance.

We will try to attend Zoning meetings taking up this matter and represent our view in person and hope this will be of value to the Zoning Board. We note that there has been a request to Postpone review of this matter and that it will not be taken up at the upcoming June 5th Historic Commission meeting. In the event this matter is brought forward again, we thought best to record our view now.

Thanks much for your attention.

Sincerely,

A handwritten signature in green ink that reads "Ron & Mary Pressman". The signature is written in a cursive style with a large initial "R" and "M".

Ron & Mary Pressman
Residents, 449 Court Street

KEANE, MACDONALD & DONOHUE

A PROFESSIONAL CORPORATION • ATTORNEYS AT LAW

June 24, 2024

BY EMAIL

Zoning Board of Adjustment
Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

RE: Objection to Application of Jerry & Eloise Karabelas (the "Application")
for 461 Court Street (Tax Map 105/Lot 7) (the "Property")

Dear Chair & Zoning Board Members:

Please be advised that Keane, Macdonald & Donohue, PC has been engaged by Russell & Sprague, LLC ("R&S") relative to the above referenced Application to be heard by the Zoning Board of Adjustment at its meeting on June 25, 2024. R&S is a direct abutter to the Property referenced above because it owns the property located at 46 State Street (including units #1E, #1W, #2 & #3) (the "R&S Property"). Based on the information provided in the Application, the Application fails to satisfy the criteria for a granting variance and should be denied.

The Property is owned by Jerry and Eloise Karabelas (the "Applicants") and is an existing non-conforming property.

The R&S Property is located behind the Applicants' Property and is a residential space that includes a small backyard area at the rear of the property as well as an outside living space on a 2nd floor deck. The house on the R&S Property has windows that face the rear of the property and overlook the backyard. Included with this letter are several pictures which show the view from the second and third floor windows and from the deck as well as a letter from Jim Giampa, a realtor with Carey & Giampa, who has many years of experience in real estate. In his letter Jim highlights how rare outdoor living space is in downtown Portsmouth and that R&S paid a premium for such space as part of the purchase price for the R&S Property. He further opines that if the proposed addition to the Property is constructed it will negatively affect the current value of the R&S Property.

We have reviewed the Application and concluded that it fails to satisfy the five criteria that must be satisfied before the Zoning Board of Adjustment may grant relief. As outlined below, the Application does not satisfy any of the five criteria and therefore the Applicants' request for relief should be denied.

Public Interest & Spirit of the Ordinance.

The Application is contrary to the public interest because the relief requested expands the nonconformity of the Property located in the Historic District by significantly increasing the size of the house by roughly forty percent. Section 10.321 of the Portsmouth Zoning Ordinance (the “Ordinance”) prohibits the extension or enlargement of a nonconforming building, which prohibition is not addressed by the Applicants in the Application. Furthermore, such a large addition will require the removal of old, established trees and virtually all of the green space on the Property and it will block the flow of air and light that currently filters through the open space to the surrounding properties. The request for relief does not satisfy the language or satisfy the language or spirit of the Ordinance.

In addition, Section 10.630 of the Ordinance applies to the Historic District and seeks to preserve the architectural and historic resources of Portsmouth. The objectives of Section 10.630 are outlined in Section 10.631.20 and include to “preserve the integrity of the Historic District”, and to “maintain the special character of the Historic District as reflected in the scale, mass, location and style of the buildings.” The Property is unique in that it is a half-house and that element of character will be lost on the northwest corner of the existing structure. Further the scale and mass of the house will be significantly increased in a manner that appears inconsistent with the objectives of the City in maintaining the Historic District.

Diminution of Value of Surrounding Property.

As noted above, the enclosed letter from Carey & Giampa highlights the negative impact the proposed addition would have on the value of the R&S Property. A substantial factor in R&S’s decision to purchase the R&S Property was the view from the windows, as well as the ability to enjoy the outdoor living space. As stated in the letter, R&S paid a premium for the outdoor living space and the ability to enjoy that space will be diminished by the location, size and scale of the proposed addition. The proximity of the back of the proposed addition to the R&S Property will impact views from the backyard, the deck and from the rear windows. Further the proposed size and location of the addition will result in the loss of valuable well-established trees which currently provide attractive privacy screening between the properties from Spring through Fall, a period of time that people tend to be outside when possible. In fact, there will be no privacy screening and the windows in the proposed addition will be 21’ closer to the R&S Property than those existing today.

The enclosed pictures and plan submitted with the Application demonstrate the current view from the R&S Property and one can imagine how things will change if the proposed addition is constructed. The proposed construction will have a significant impact on the R&S Property. The heightened roofline will block air and light, as well as impact views. The location of a new deck on the addition will remove a certain element of privacy as those on the deck will have views directly into the R&S Property, especially when the trees are bare. There is no question that the approval of the Application will negatively impact the value of my client’s property.

Unnecessary Hardship.

The Application fails to articulate how the Property creates a hardship that is not self-created by the Applicant. As stated in the case Garrison v. Town of Henniker, “The burden must ‘arise from the property and not from the individual plight of the landowner’....” (907 A.2d 948, 952, 154 N.H. 26 (2006)). The Application seeks to address the hardship due to the narrow boundary on the right side of the Property, but it does not address any “special conditions” that would allow such an expansion of a nonconforming building. The Ordinance imposes no special or unique burden on the Property that interferes with the Applicants’ reasonable use of the Property.

Substantial Justice.

Granting the Application would be inconsistent with the Ordinance and would result in harm to the historic character of the Property and would adversely affect surrounding properties, including the R&S Property.

The Application fails to satisfy the necessary justice criteria for approval. In light of the above, on behalf of R&S, we respectfully request that the Application be denied.

Sincerely,

Douglas W. Macdonald, Esq.

Douglas W. Macdonald, Esq.

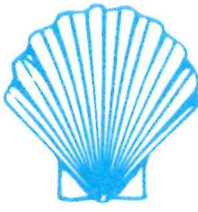
Enclosures

CC: Client









Carey & Giampa

R E A L T O R S

655 Wallis Road • Rye, New Hampshire 03870

City of Portsmouth
Zoning Board of Adjustment
1 Junkins Ave, 3rd Floor
Portsmouth, New Hampshire 03801

May 31, 2024

**RE: 461 Court Street, Map 105 Lot 7
2-Story Addition at Rear of Residence with Porch**

Dear Madam Chair & Board Members,

I am writing in support of Russell & Sprague LLC's opposition to the above-referenced request for relief from the Zoning Ordinance. Russell & Sprague, LLC ("R&S") owns the residential property located at 46 State Street which abuts the applicant's property to the rear. I have reviewed the applicant's proposed development of the rear of the lot and have concerns regarding how the proposed large expansion at 461 Court Street will impact surrounding properties.

I have been a realtor in NH for many years and I am very familiar with the quality of the houses surrounding the R&S property, as well as those located in area and along the seacoast in general. Further my involvement in real estate has long enough for me to understand the housing market and what impacts the value of a home.

I have reviewed the applicant's plans in detail and, in my professional opinion, believe that the proposed addition will have a significant negative impact on the R&S property and the other properties located near-by, particularly the properties abutting the applicant's property to the rear. The proposed 2-story addition will adversely impact the R&S property, which when purchased had valuable elements including the ability to enjoy the second-floor deck at the back of the home. Furthermore, those attractive elements were incorporated into the purchase price when R&S purchased its property, and if the proposed 2-story addition is constructed that value will be adversely affected, outdoor living space in Portsmouth is rare, so it demands a premium, which R&S certainly paid

I understand that the Board will consider whether granting the relief requested by the applicant will diminish the value of the surrounding homes and properties, and based on my experience I believe the project will significantly diminish the values of the surrounding properties, and primarily the R&S property given its location directly behind the property.

Thank you for your consideration of this matter.

Jim Giampa
Broker/Owner

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