

Meeting: Zoning Board of Adjustments

Date: February 19, 2025

RE: 361 Hanover St.

Dear Members of the Zoning Board of Adjustments,

February 16, 2025

Just as a point of reference, *the lowest Character District ground story minimum is 11'*, which can be found in CD4-L1/L2 Development Standards. One variance before this board is to lower the required minimum of CD5 from **12' to 10.5'**.

Essentially this development is asking to have all aspects of the Downtown Overlay District to be removed, except, the parking reduction. The requests are for: residential on the first floor, no commercial, lower the ground floor height, a rowhouse, a duplex and an apartment building. None of which are allowed in the Downtown Overlay District. Were these to be approved it would make sense to just **remove the Downtown Overlay District (DOD)** from this lot with stipulations on the building types. In other words everything goes including the parking reduction which comes with the DOD. *It seems like a lot of cherry picking is going on.*

Regarding the row house request for Building B, the length proposed is **82'**. There are two row houses almost 5 blocks from this development which were built around 1832. One is 63' long and one is 74'. The longer one is in front of the old shoe factory (Safeway Storage) and the shorter one is across from a 34' long single family home. Building B, the 82' long row house, is proposed across from a 32' long home. **The proposed variance for a row house (bldg B) could be approved with two stipulations: it not be any longer than 63' AND maintains the roof style presented. The same could be true for the approval of the apartment building(bldg D). The apartment building is proposed to be 72' long.** The longest apartment buildings that abut Building D (apartment building) are 38' long across the front. **The variance for the apartment building (bldg D) could be approved with a stipulation the maximum building length be 40' and NO Mansard Roof. Building C, the duplex, is presented with a maximum building length of 40' which could be approved with stipulations; that the length of 40' remains and it maintains the presented roof style.** Adding the stipulations on the maximum length and roof style to each type of building would be in keeping with the character of the neighborhood, which is the key definition of Character District.

The concerns neighbors presented have been the mansard roof on Building D, and the massing. By approving the building types with building length limits and roof styles it will help to reduce the massing and have the buildings along Rock and Hanover be more similar to the character of the neighborhood.

**Please approve the apartment building type with two stipulations, it can't have a mansard roof and the maximum building length be 40'. Approve the row house with the presented roof type and a maximum building length 63'. Approve the duplex with the maximum length of 40' and roof style presented. Approve Building A as presented with a mansard roof and no use of the North End Incentive District or a Penthouse as was declared at the last ZBA meeting by the development team.**

Thank you for your thorough review of this development!

Elizabeth Bratter, Property Owner

159 McDonough St

**From:** [Mark DeLorenzo](#)  
**To:** [Kimberli Kienja](#)  
**Subject:** Re: The latest submission this past Friday by John Bosen, esq., representing 361 Hanover St. (LU-24-196)  
**Date:** Monday, January 20, 2025 12:01:20 PM  
**Attachments:** [image001.png](#)

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You don't often get email from mark.delorenzo@ams-osram.com. [Learn why this is important](#)

Dear Kimberli,

Would you please be so kind as to forward this letter to the Zoning Board of Adjustment members in response to the latest submission this past Friday by John Bosen, esq., representing 361 Hanover St. (LU-24-196).

Dear Chair Eldredge and esteemed Board Members,

I am writing in regards to the Wednesday, January 22<sup>nd</sup>, 2025 meeting in regards to the latest documents submitted by the group representing **361 Hanover St.**

In their recently submitted packet, they claim that Building D is a "3 Story building with an attic", and show revised height elevations of their latest design of 45.5' to the roof, and a mid-height of the top floor of 40', allowing them to meet the Story and Height requirements for this lot- (3 Stories, 40' Max Height).

HOWEVER, I am challenging their design and definition, and whether it truly qualifies as an attic.

An Attic is defined as "**Attic- The interior part of a building contained within a gable, gambrel, or hip-roof mansard roof, or within a penthouse on a flat roof.**" - 15-6 Portsmouth Zoning Ordinance

Their drawing/design is NOT that of "a gable, gambrel, or hip-roof mansard roof, or within a penthouse on a flat roof.", therefore I view this design as out of scope, and not in meeting with their characterization of the height and # of stories of this building.

This design below is that of a Flat-Top Mansard Roof, and if the Board agrees (as it clearly does not come to a peak), then this building D is 45.5' in height, and 4 full stories, as Flat Top Mansard roofs are counted as Short Stories (and not Attics), and thus count as Full Stories. (15-38)

**Mansard roof-** A building with either a flat- or hip-topped mansard roof as follows:

(a) **Flat-topped mansard** Four sided flat-top mansard roof, characterized by one slope on each side of its sides, where the sloped roof may be punctured by dormer windows and higher roof surface is a flat roof.

(b) **Hip-topped mansard**

A roof characterized by two slopes on each side with the lower slope punctured by dormer windows. The upper slope of the roof may not be visible from street level when viewed from close to the building and the highest roof [sic] structure shall not be a flat roof as defined herein.

(Article 15 Definitions As Amended Through November 18, 2024. 15-26 & 27)





Sincerely,

Mark DeLorenzo  
349 Hanover St. Apt. 1  
Portsmouth NH 03801

**From:** [Mark DeLorenzo](#)  
**To:** [Kimberli Kienia](#)  
**Subject:** FW: Re: The latest submission this past Friday by John Bosen, esq., representing 361 Hanover St. (LU-24-196)  
**Date:** Tuesday, February 18, 2025 4:09:52 PM  
**Attachments:** [image001.png](#)

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Hello Kimberli,

I am not sure if the public commentary from the last meeting carries over to this new meeting, so I am resending my comments to the Zoning Board from before, in hopes they are read & added into record this time.

Best regards,

Mark DeLorenzo  
349 Hanover St. Apt. 1  
Portsmouth NH 03801

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**From:** Mark DeLorenzo  
**Sent:** Monday, January 20, 2025 12:01 PM  
**To:** [kkienia@cityofportsmouth.com](mailto:kkienia@cityofportsmouth.com)  
**Subject:** Re: The latest submission this past Friday by John Bosen, esq., representing 361 Hanover St. (LU-24-196)

Dear Kimberli,

Would you please be so kind as to forward this letter to the Zoning Board of Adjustment members in response to the latest submission this past Friday by John Bosen, esq., representing 361 Hanover St. (LU-24-196).

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(Article 15 Definitions As Amended Through November 18, 2024. 15-26 & 27)



Sincerely,

Mark DeLorenzo  
349 Hanover St. Apt. 1  
Portsmouth NH 03801

**From:** [Julienne Echavarri](#)  
**To:** [Planning - Info - Shr](#)  
**Subject:** Direct Abutters Concern with the Development on 361 Hanover  
**Date:** Tuesday, January 21, 2025 12:48:10 PM

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To Whom It May Concern:

I noticed that 361 Hanover is on the agenda for the meeting on Wed, January 22, 2025 and that the developer has added an updated packet that is very long, not giving us enough time to review before the meeting. However, after a quick review, I notice that my main concerns about parking, no traffic study and the main entrance being between Rock St and Pearl St (2 small streets) have not been addressed. I live on 34 Rock St and the increase in traffic of at least 40 cars a day will directly affect me and likely **decrease my property value**. The increase density zoning is for foundry place not for our neighborhood streets and yet the main entrance to a 40 unit development is through our streets which are not zoned for such high density. The main entrance to this high density development should be through foundry place which correlates with the zoning. I do not understand how this development can be approved this way, especially since our streets cannot meet the necessary standards for emergency services for a such high density development. Please consider rejecting the plans for this development until these issues have been addressed and the direct abutters concerns are taken into consideration.

Thank you,

Julienne Echavarri  
34 Rock St. Portsmouth

**From:** [Geri Gaeta](#)  
**To:** [Planning - Info - Shr](#)  
**Subject:** 361 Hanover Comments  
**Date:** Tuesday, February 18, 2025 3:04:57 PM

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You don't often get email from geri.gaeta@gmail.com. [Learn why this is important](#)

Hi there, I am writing to voice my concerns over granting variances to the 361 Hanover project for the following reasons:

- **Vehicular traffic-** Islington Creek neighborhood is full of narrow streets, often one-way, and we cannot afford the additional flow of traffic to accommodate 50+ parking spots in the garage parking lot. This lot is in the North End Incentive Overlay District and the owner is using this as a reason to allow an additional story; however, he is not being subject to the additional requirements of this ordinance because it does not suit his needs. The NEIOD provides that Foundry Place should be the main flow of traffic, just like every other new building going up on that street. We should not be allowing any *advantages* of the NEIOD unless we also plan to impose all of them, in particular, traffic flowing onto a main artery that was intended for it. I believe a traffic study was required- will this be published for the public to review?
- **Pedestrian traffic-** the driveway shown in the rendering shows no visibility when approaching the sidewalk, one that is a very common thoroughfare to get downtown.
- **Questionable common/green space provided per agreement-** the community space has not been shown in detail and seems questionable at best. To me, it seems that this is really just a chair or bench on a driveway that is already required to enter and exit the parking garage.

Thank you for your consideration-

Geri Gaeta  
91 Langdon St

Dear Zoning Board of Adjustment,

I am an abutter of the 361 Hanover Street – the “Heinemann” property. Overall, I am supportive of the current proposed development given the incorrect CD5 zoning our neighborhood is stuck with for this property. I ask that if you decide the requested variances meet the 5 criteria and justify approval, that you add conditions to your approval, as follows:

- (1) **Replace the Mansard Roofs on Buildings A & D with roof types in keeping with the neighborhood (gable, saltbox, or flat):** This property is in Character District 5 (CD5) and any new development should blend with the existing character of the neighborhood. Buildings A and D have Mansard roofs which are not found in our neighborhood whose homes predominantly have Gable Roofs, Saltbox, and a few Flat roofs. *Mansard roofs are out of character with our neighborhood and should not be permitted in this development.*
- (2) **Increase the Modulation of the Row House (Building B):** The row house being proposed is 82 feet long with no modulation. Row houses are not permitted in CD5. If you decide to allow this row house, then please require that there is significant modulation between the 4 units so it doesn't appear to be one single massive building.

I still have significant concerns regarding the massing and heights\* of the buildings (Building D in particular) which dwarf the small homes in our neighborhood as well as the location of the entrance on Hanover Street as the traffic study contained numerous significant errors invalidating the results. While these issues will be more directly addressed in the upcoming TAC meetings, these issues should still be considered relevant to the requested variances for this proposed development.

Thank you for your consideration of my requests for the addition of conditions should you approve the requested variances for this proposed development.

Respectfully,



Robin Husslage  
27 Rock Street  
Portsmouth

\*See attached “Building Heights of Abutting Properties” – HDC neglected to include many of our neighborhood properties in their included comparison, all of which are significantly shorter than the proposed buildings for 361 Hanover Street.

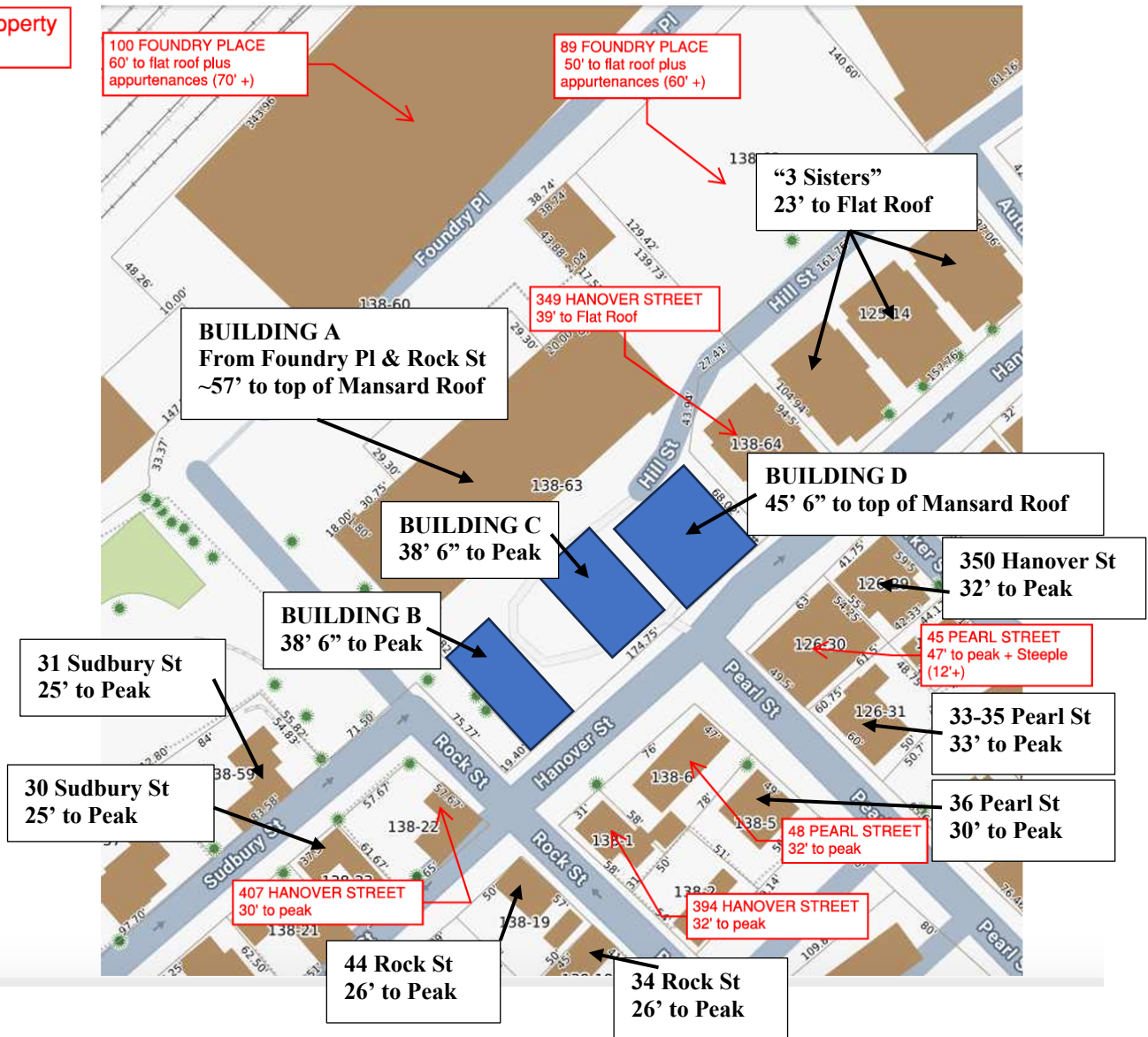


# BUILDING HEIGHTS OF ABUTTING PROPERTIES

Note: Red Box info provided by HDC, Developer of 361 Hanover Street

Black Box info provided by Neighborhood

Neighboring Property Heights



**From:** [Jonathan Paine](#)  
**To:** [Planning - Info - Shr](#)  
**Subject:** 361 Hanover  
**Date:** Tuesday, February 18, 2025 1:29:08 PM  
**Attachments:** [IMG\\_1138.png](#)

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I'm writing to oppose the variances requested for 361 Hanover.

### **Pedestrian Safety:**

The vehicular access is effectively a tunnel - a (maybe) 1' setback from sidewalk to building with zero SW corner visibility for a vehicle exiting. It's dangerous. Its proximity within 150' of a playground makes it terrifying as a parent in the neighborhood.

The developer's rendering (p17) shows a car's bumper just entering the sidewalk. How far onto the sidewalk will the bumper be before the driver can see the child I've added below? All the way to the street? (Also, what is that artifact in the rendering right where the child is? Is the sidewalk fenced?)





Short of a requirement for a vehicle gate at the entrance, I think the design is fundamentally too dangerous to proceed.

### **Spirit of the Zoning**

The vehicular access for this project should be onto Foundry Place in the present location of the Powerhouse building, which the developers are proposing subdividing off.

*The developers are actively choosing to divert the entirety of the traffic from a downtown-sized and zoned building that has existing frontage on a City Core Street into a neighborhood. They are choosing. They have existing access onto Foundry Place, which they are subdividing off.*

I'm confused why this hasn't been central to the discussion in the hearings. **This is plainly and unarguably against the spirit of the ordinance.** They are choosing to do this. You can't subdivide your own lot into hardship.

If the act of subdivision itself is against the spirit of the ordinance, the board would be correct to deny all variances regardless of their individual validity - because they are all based upon a subdivision that itself is against the spirit of the ordinance.

I've attached two photos at the end of my email: which one of these two locations looks more suited for 71 vehicles coming and going every day?

**In Summary:**

**Please deny the variances requested due to the subdivision being plainly against the spirit of the ordinance.** Downtown zoned density doesn't get to simply choose to dump all their traffic into a neighborhood. They are choosing. There is existing access onto Foundry Place.

However - given the extraordinarily dangerous nature of the design as presented, **I'd ask that, should you choose to approve the variances requested, please add a stipulation that the entrance have an automotive access gate w/ audible and visual alerts for pedestrians similar to those found in parking garages.**

I know that TAC will play a part, and TAC does really great work, but the design is too dangerous to assume TAC will get it right, when the ZBA can *make sure* to get it right, *right now*.

Sincerely,

Jonathan Paine and Geri Gaeta  
91 Langdon

**Photos:**

Powerhouse Building on the Developer's existing lot frontage on Foundry

Place. Note the curb cuts for the vehicle entrance to 99 Foundry Place condos foreground, left.



Vehicle exiting: child in blindspot





**From:** [Dayl Soule](#)  
**To:** [Planning - Info - Shr](#)  
**Subject:** 361 Hanover St variance request  
**Date:** Tuesday, January 21, 2025 4:25:53 PM

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I continue to object to the granting of variances for the 361 Hanover St. Project.

Some specific objections -

1. Bldg D is now measuring at 40' tall with a full height to roof top of 45'5". The average building height in the neighborhood is approximately 24' - as compiled by a neighbor previously. This, and Bldg A, at the same height will have these buildings towering over the rest of the neighborhood making them completely out of character in the neighborhood. A mansard roof design was turned down by this board a few months ago as being out of character, this denial should carry forward to these two mansard roofs.

Additionally, Bldg D will be built approximately 15' from 349 Hanover St and will completely block the light to the west side of that building and severely compromise privacy on that side; not to mention possible property value decreases because of the proximity of the new building.

2. There is a pending lawsuit concerning blocking access to the existing public right of way along the rear of the Hill-Hanover buildings and Hanover Place Condominiums (349 Hanover St). This access has been blocked with concrete pillars, "no thru traffic" signs, and various parked vehicles actively for at least the last year - prior efforts to block the access had been less intrusive. I have personally had considerable difficulty (and conversations) accessing my deeded parking adjacent to the 361 Hanover parking lot because my access to the "public" right of way has been compromised.

The 361 development plans have completely ignored this right of way and actually show Bldg D being built on top of it. - how can you build on top of a public right of way? I don't think that any variances to this design should be granted until this suit is resolved. Who knows if there will be building delays or stoppages that would add more inconvenience to the already inconvenience of living in a construction zone.

3. There are several discrepancies in the traffic study that don't reflect the current development design. The design also shows new sidewalks, pavement, and landscaping behind the existing building on property that, I believe, doesn't belong to the development (as shown on several drawings of the existing property). How can this happen - is that property going to change hands at some point?

There are more questions than answers, still, and I don't think this project is ready to move forward as currently presented.

Thank you for your consideration  
Dayl Soule  
349 Hanover St. #4

**From:** [Dayl Soule](#)  
**To:** [Planning - Info - Shr](#)  
**Subject:** 361 Hanover St variance request  
**Date:** Tuesday, February 18, 2025 1:35:11 PM

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I would like to submit a few more comments/observations regarding the new submission from Hanover Development.

Bldg A abuts Rock St, the rendering shows Rock St. flat back to Foundry St. It is not flat, it slopes down to Foundry, with a grade of approximately 2 - 4 ft back to Foundry St. It shows this building to be 48.5' to the top of the Mansard roof - various zoning height descriptions show a lot of ability to manipulate the stated height for zoning purposes depending on roof style, attic elements, etc. but, at the end of the day this building will stand, visually 48.5' plus the grade height of approximately 4' - so 52', close to 30' above the abutting houses on Rock St and approximately 16' above 349 Hanover - the current tallest building on Hanover.

This is a huge building which will loom over the abutters' homes - completely out of character with the neighborhood. And, as an aside, this board denied the variance request for 332 Hanover St. because it had a mansard roof and was "out of character" with the neighborhood.

Bldg D will be 45' 5' to the top of the Mansard roof and is to be built approximately 5' from the property line of 349 Hanover St; approximately 15' total from the 349 Hanover building which is approximately 39' high. It will also be built on the "right of way" that is a concern. Bldg D will completely block the light on that side of 349 Hanover and stand approximately 6' taller - any light that could sneak through towards the end of the day will be blocked by Bldg A.

Finally, the rendering showing the development from Hill St. shows an open drive with a car - there is no indication, with this open driveway, that the residents of 361 Hanover will be precluded from using the Hill St, private right of way - a serious concern for the Hanover-Hill buildings and our 349 Hanover building.

The development is nice, but huge and congested, and misses the mark on keeping the character and feel of the neighborhood. I would request denial of the variances requested.

Thank you for your consideration,  
Dayl Soule  
349 Hanover St. #4

**From:** [MV](#)  
**To:** [Planning - Info - Shr](#)  
**Subject:** Neighbor input: 361 Hanover Steam Factory request  
**Date:** Tuesday, February 18, 2025 11:11:45 AM

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February 18, 2025

Zoning Board of Adjustment

City of Portsmouth

1 Junkins Ave. Portsmouth NH 03801

361 Hanover Steam Factory LLC request for relief to expand and renovate property at 361 Hanover St.

Dear members of the board,

After reviewing the latest plans submitted by those representing the 361 Hanover project and speaking with neighbors I would like to register my disapproval – particularly with Building D. At more than 45 feet tall and 4 stories (counting the “attic” living space and non-compliant roof), Building D would be larger than any other building and out of character for a residential neighborhood of single-family homes and small apartment buildings. Additionally, it appears there will be no outlet at the end of Hill St. and little room to maneuver parked cars from parking spots on the Hill St. side of 349 Hanover St. Please reject the current project iteration.

Thank you.

Regards,

Mark Vangel

Direct abutter

349 Hanover St. #5 Portsmouth, NH 03801



30 Parker Street  
Portsmouth, NH 03801

January 20, 2025

Zoning Board of Adjustment  
Planning & Sustainability Department  
City of Portsmouth  
1 Junkins Avenue, 3rd Floor  
Portsmouth NH 03801

Re: 361 Hanover Street Development

Dear Zoning Board of Adjustment Members:

As abutters to the proposed development at 361 Hanover Street, we have similar thoughts to our previous letters and request that the variances be denied (more information to our reasoning can be found in the appendix.) We also have new concerns over the conflicting and/or incorrect information in the applicant's new January packet and request the Zoning Board, at a minimum, postpone this vote until it is corrected given the legally binding nature of an application.

**Conflicting and/or Incorrect Information in the Packet:**

- **Whether or not there is a penthouse.** In some parts of the application, the applicant says they have removed their request for a penthouse and states that building A will be 3 stories plus an attic (which will function like a fourth floor). However, on [page 14](#) and [page 52](#) of the application, the height is still listed as four stories plus a penthouse.
- **The total number of units included.** This new design appears to have 40 units total (but it remains ambiguous given the conflicting information on page 14 and page 52 for the height and number of floors of this building).
- **The number of parking spots included as well as if there are any removal of street spots for this development.** Per information on [page 16](#) of the application, there are 42 parking spots in the garage (though 24 of those are tandem spaces). In past discussions, there was mention of 68 parking spots, but that is not officially captured in the application or plans. On [page 20](#) of the application (in the traffic report) they state "on-site parking will be provided for 60 vehicles." It is hard to know how much parking there will be.
- **If there will be removal of street spots for this development.** It is also ambiguous if the development will cause the removal of existing street parking spots on Rock Street (particularly those across from Rock Street park) and Hanover Street (there is currently street parking across the street from the Heinemann building).
- **Incorrect street width measurements in the traffic study.** Rock Street is a one way road with parking on one side and is only approximately 18 feet wide on the portion between Islington Street and Hanover Street (where vehicles would be accessing this

development). The study on [page 22](#) states about Rock Street “The one-way roadway segment is approximately 28-feet in width with on-street parking along one side.”

- **The traffic study uses an incorrect development entrance as part of its measurements.** The traffic study assumes the entrance to this development is directly across from Pearl Street. On [page 48](#), it states “by way of a new driveway that will intersect the south side of Hanover Street approximately 60 feet east of Rock Street.” However, the drawings for this project show the entrance between Rock Street and Pearl Street. How does moving the entrance affect traffic flow, congestion, and the safety and sight lines?
- **The Traffic Study incorrectly cites Foundry Place as an access point.** Per the traffic report on pages [20 and 48](#) “Access to the Project site will be provided by way of Rock Street and Foundry Place, and by way of a new driveway that will intersect the south side of Hanover Street approximately 60 feet east of Rock Street.” We would love for this development to use Foundry as the point of access, but the developer has stated time and again this is infeasible. How can the traffic report be valid if it is incorrectly citing usage of Foundry place?

*Note: It is our understanding that the request for the penthouse variance has been withdrawn. This and other information above is based on the information gleaned from the application packet posted on the city website. The neighborhood, to the best of our knowledge, has not been engaged by the development team any time between now and the last ZBA meeting on December 17, 2024.*

As acknowledged in previous letters, we believe the “Alternative CUP Plan” being presented by Hampshire Development Corp (HDC) has some merits. We also acknowledge that since December, the application packet has had more information added to it, including an HDC-commissioned traffic study (albeit one that contains errors and inconsistencies), additional (though not all) requested renderings, and some more background information on a potential burial ground. However, we still believe it does not go far enough to address the issues raised in the initial round of feedback for this project back in May 2024, as well as issues raised by the public in the November and December ZBA public comment sections. While it is difficult to tell what the current plan is given the errors and inconsistencies cited above, we still think the “Alternative CUP Plan” remains inconsistent to public interest and will diminish property values and reduce quality of life for others living nearby in the neighborhood (see Appendix for our more detailed explanation of why we think this is.)

Thank you for your time and your service to the city and its residents.

Sincerely,  
Kathryn “Kate” Waldwick  
Bryn Waldwick

## APPENDIX

The key reasons we believe this design is contrary to public interest and diminish property values are the following:

**I. The increased density and therefore traffic afforded by allowing residential on the first floor (similar to CD4-L1 and GRC zoning) while still leveraging the density of CD-5, is inconsistent with public interest due to safety issues**

As mentioned in previous letters, we are parents of young children, so traffic and safety continue to be our top concern. While we agree the first floors should not be used for commercial space, the lack of sufficient parking spots and increased traffic for the new residences on the ground floor will exacerbate existing parking issues in the neighborhood. It is also ambiguous if the development will cause the removal of existing street parking spots on Rock Street (particularly those across from Rock Street park) and Hanover Street (there is currently street parking across the street from the Heinemann building).

This design continues to leverage Hanover Street and other quiet side streets as the main vehicular access to this development. It's notable that even though this lot is zoned as CD5, the streets the developer is planning to use to service this building (Hanover, Rock, Pearl, Parker) are NOT CD5 zoned - they are quiet residential side streets not designed to handle this type of volume. This lot had been zoned as CD-5 with the idea that it would be part of the downtown overlay district, and therefore leverage Foundry for vehicular access. Having a development of CD-5 proportions (it appears to be at least 40 units) leveraging quiet residential streets for vehicular access will irrevocably change the character of having quiet, safe streets to push strollers, ride bikes with our children, etc.

Lack of parking leads to distracted drivers whizzing by and circling in a rushed, frantic manner (we already see this in the neighborhood). This new design appears to have 40 units total (but it remains ambiguous given the conflicting information on [page 14](#) and page 52 for the height and number of floors of this building). The total number of parking spots included for all the buildings does not appear to be listed. Per information on [page 16](#) of the application, there are 42 parking spots in the garage (though 24 of those are tandem spaces). In past discussions, there was mention of 68 parking spots, but that is not officially captured in the application or plans so it is hard to know how much parking there will be. It is also unclear if the new development will remove existing street parking spots from Hanover and Rock Streets.

The parking study also assumes that the entrance to this development is across from Pearl Street. However, the entrance has since been moved to between Rock and Pearl Street. We question the accuracy of this study given that.

**II. The building heights are out of character with our neighborhood, do not meet the goals of a character district, and diminish property values. We would like to see these building heights lowered**

The 361 Hanover lot is zoned as CD5, which is a character district. Per [Article 5A](#) in Portsmouth's Zoning Ordinance, the key purpose and intent of all character districts is to "encourage development that is compatible with the established character of its surroundings and consistent with the City's goals for the preservation or enhancement of the area." Neither plan proposed by the developer meets these goals. In the "Alternative CUP Plan" the heights and aesthetics of Buildings A and D are actively hostile to the established character of the neighborhood.

**Building D** will be a full story taller than any other building on Hanover Street. The developer is calling this three stories plus an attic. It appears there would be four floors of residential living, so calling this an attic feels disingenuous. Additionally, past precedent by the ZBA indicates this design is not in keeping with character of the neighborhood. On October 15th, 2024, a Mansard style building at 332 Hanover Street (which was a whole story shorter than the proposed building D), had its variances denied due to the design and scale of the building not being in character with the neighborhood. Given this, building D should also be considered out of character with the neighborhood given it is larger and taller than the original proposed design at 332 Hanover Street.

**Building A's** height continues to be ambiguous. In some parts of the application, the applicant says they have removed their request for a penthouse and states that building A will be 3 stories plus an attic (which will function like a fourth floor). However, on [page 14 and page 52](#) of the application, the height is still listed as four stories plus a penthouse. Given the legally binding nature of an application, we have deep concerns over this inconsistency. We cannot have a supportive viewpoint if we don't even know how tall the building will be

30 Parker Street  
Portsmouth, NH 03801

February 17, 2025

Zoning Board of Adjustment  
Planning & Sustainability Department  
City of Portsmouth  
1 Junkins Avenue, 3rd Floor  
Portsmouth NH 03801

Re: 361 Hanover Street Development

Dear Zoning Board of Adjustment Members:

As abutters to the proposed development at 361 Hanover Street, we request that the variances be denied unless substantial conditions are placed with the variances. While there is still outstanding information missing (including a traffic study that is for the actual proposed design), we believe from what we have seen in the most recent application that this design is inconsistent to public interest, will diminish property values and reduce quality of life for others living nearby in the neighborhood (discussed in Section 1). It will create a development precedent that will ricochet through the neighborhood for years to come and will cause irreparable harm to the safety and character of our neighborhood (Section 2). Allowing these variances to go through without very strict stipulations and conditions attached to them would place the needs of the developer above the needs of our historic, quiet, residential neighborhood.

## Section 1: Safety and Character Issues with the Proposed Design

- **This plan fails to address key traffic and safety issues *and* an accurate traffic study for the actual proposed design was never provided.**
  - **Continued Safety and Traffic Concerns:** As parents of young children, the safety issues caused by increased traffic and parking demand have been and continue to be our top concern. The plan proposed in this February application actually exacerbates these issues by increasing the density and number of units from the developer's vested plan (36→40/48 units) and decreasing the parking (72 →71 parking spots). It's notable that even though this lot is zoned as CD5, the streets the developer is planning to use to service this building (Hanover, Rock, Pearl, Parker) are NOT CD5 zoned - they are quiet residential side streets not designed to handle this type of volume.
  - **Lack of Traffic Study for the Proposed Design:** This February application does NOT include any traffic study. The January application only included a traffic study for a different design (and that traffic study was riddled with major errors, including listing incorrect entrance points and assuming the usage of Foundry

Place.) From our understanding, it was stipulated in the December 17, 2024 ZBA meeting ([action sheet](#)) that the applicant needed to provide a traffic study for their *actual* proposed design.

- **This design is out of character for our historic neighborhood**
  - **The height and density of buildings A, B, and D are grossly out of character with the development that surrounds them.** They loom over surrounding existing structures. Additionally, buildings B & D leverage Mansard roofs, which are nowhere to be found on Hanover or Rock Street.
  - **Building B has no modulation** which is out of character with the small colonial homes across from which it sits.
  - **Height Measurement Methodology:** We find it questionable that the method the applicant used for measuring the height of their own building (the elevation midway between the level of the eaves) is different from the method used for measuring neighboring buildings (height to the peak). This discrepancy in measurements can be found on page 3 and 36 of the application. This is misleading math as it is not comparing “apples to apples”.
- **It remains ambiguous where the potential additional 8 units would be in this design and how that could affect building heights.** The floor plans submitted by the applicant only go up to 40 units. Where will the other 8 be placed?

*More information on issues discussed in Section 1 and conditions we would like to see placed with the variances can be found in the Appendix of our letter*

## Section II: Setting Precedent for Future Development

**Granting these variances as is would set development precedent that will irrevocably change the historic character of the neighborhood and create mal incentives to maintain historic homes.** One of our main concerns with a project out of proportion with surrounding properties being developed is the way the Board of Adjustment uses existing construction as precedent for approving future projects. These precedents could create mal incentives for maintaining historic homes and instead incentivize building taller, new structures to compete with behemoth new buildings that tower over existing ones. Islington Creek is part of the [Portsmouth National Historic District](#) (note that this district is separate and distinct from Portsmouth's Local Historic District). We can see a future where multiple more projects are created that use these new heights as a precedent, and the neighborhood ends up with owners of any remaining historical homes having a far reduced experience on their property, including but not limited to:

- Less light and airflow
- Less of a neighborhood feel walking out your front door and strolling in the vicinity
- Views of Portsmouth's beauty blocked or demolished in the case of surrounding architecture, and
- Decreased privacy with other buildings looking down into their windows.

This will incentivize more and more owners to abandon their historic properties and the neighborhood (and the city) will lose one of the main reasons people want to move here in the first place.

## Conclusion

We remain hopeful that thoughtful development can occur that does not jeopardize the safety and character of our neighborhood. However, the current design needs too much material change to meet the goals of a Character District and the North End Vision Plan's goals of being "respectful and sensitive to the surrounding context." As citizens, we have provided feedback in what is now four separate ZBA letters and welcome the opportunity to have our feedback meaningfully incorporated by the development team. We believe this current design will do irreparable harm to the neighborhood safety and character, and we cannot endorse it as is.

Thank you for your time and your service to the city and its residents.

Sincerely,  
Kathryn "Kate" Waldwick  
Bryn Waldwick

# APPENDIX

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- I. Safety Issues (Page 4)
- II. Buildings are out of character with the neighborhood (Page 5)
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  - B. Building A (Page 6)
  - C. Building B (Page 9)
- III. Conflicting and/or Incorrect Information in the February Application and January Application Traffic Study (Page 11)

The key reasons we believe this design is contrary to public interest and diminish property values are the following:

- I. The increased density and therefore traffic afforded by allowing residential on the first floor (similar to CD4-L1 and GRC zoning) while still leveraging the density of CD-5, is inconsistent with public interest due to safety issues**

As mentioned in previous letters, we are parents of young children, so traffic and safety continue to be our top concern. While we agree the first floors should not be used for commercial space, the lack of sufficient parking spots and increased traffic for the new residences on the ground floor will exacerbate existing parking issues in the neighborhood. It is also ambiguous if the development will cause the removal of existing street parking spots on Rock Street (particularly those across from Rock Street park) and Hanover Street (there is currently street parking across the street from the Heinemann building).

This design continues to leverage Hanover Street and other quiet side streets as the main vehicular access to this development. It's notable that even though this lot is zoned as CD5, the streets the developer is planning to use to service this building (Hanover, Rock, Pearl, Parker) are NOT CD5 zoned - they are quiet residential side streets not designed to handle this type of volume. This lot had been zoned as CD-5 with the idea that it would be part of the downtown overlay district, and therefore leverage Foundry for vehicular access. Having a development of CD-5 proportions (it appears to be at least 40 units, upwards of 48) leveraging quiet residential streets for vehicular access will irrevocably change the character of having quiet, safe streets to push strollers, ride bikes with our children, etc.

Lack of parking leads to distracted drivers whizzing by and circling in a rushed, frantic manner (we already see this in the neighborhood). This new design appears to have 40-48 units total. The most recent application indicates on [page 1](#) that there are 71 spots, but where those spots lie is ambiguous. Per information on [page 31](#) of the application, there are 42 parking spots in the garage (though 24 of those are tandem spaces). It is unclear where the remaining 29 lie. It is also unclear if the new development will remove existing street parking spots from Hanover and Rock Streets.



The parking study also assumes that the entrance to this development is across from Pearl Street. However, the entrance has since been moved to between Rock and Pearl Street. We question the accuracy of this study given that.

**Conditions Requested:** We would like to see reduced density (through reduced building height and number of units) that is more in line with the character of the neighborhood and addresses the top concerns that had been brought up by neighbors during May's public hearing at the Planning Board. We would like to see a design that has at least two spots per unit and also uses Foundry Place for vehicular access. We would also like to see an accurate traffic study done for this design.

**II. The building heights are out of character with our neighborhood, do not meet the goals of a character district, and diminish property values. We would like to see these building heights lowered**

The 361 Hanover lot is zoned as CD5, which is a character district. Per [Article 5A](#) in Portsmouth's Zoning Ordinance, the key purpose and intent of all character districts is to "encourage development that is compatible with the established character of its surroundings and consistent with the City's goals for the preservation or enhancement of the area." Neither plan proposed by the developer meets these goals. The heights and aesthetics of Buildings A, B, and D are actively hostile to the established character of the neighborhood.

**A. Building D**

**Building D** will be a full story taller than any other building on Hanover Street. The developer is calling this three stories plus an attic. It appears there would be four floors of residential living, so calling this an attic feels disingenuous. Looking at the image on [page 17](#) speaks for itself of how much this would loom over everything else on Hanover Street. The only comparable building to this structure is all the way over in Portwalk place.



**Figure 1:** Building D (and even Buildings B & C) loom large over anything else on Hanover Street. The next comparable building is all the way over in Portwalk Place. Source: [Page 17](#)

## B. Building A

Building A's height is actually more ambiguous than it appears at first glance. While the new renderings show it only being four stories, the application states that there will be between 40-48 units. Where those additional 8 units come from is actually not covered in any of the applicant's floor plans. From past applications, it seems the developer has a plan to apply for a future CUP in order to add an additional story onto this building (hence how it goes from 40→48 units). But again, where these 8 units will go is not actually listed.

While this building looks like only four stories now, the possibility of it becoming five stories remains given the current application. Given the legally binding nature of an application, we have deep concerns over the lack of certainty on the number of units, as that will directly affect our light and green space. We cannot have a supportive viewpoint if we don't even know how tall the building will be and how many units there will be.

Building A is proposed to be comparable to the parking garage and other buildings along Foundry Place (and potentially taller if the developer builds 48 units after getting a conditional use permit). This building is further from downtown and closer to two story residential homes and a public park than other buildings along Foundry, so it is confusing that the height would not offer a transition to the park, residential homes, and 1 story, CD5 zoned blacksmith shop.

***Again, if the CUP is approved to build 48 units, it could actually lead to this building being taller than the parking garage and neighboring building.***

The out of character nature of this building adversely affects the quality of the greenspace for all our neighbors in Islington Creek. Few homes in Islington Creek have yards, so Rock Street Park

is the only green space many of us have. This structure would loom over the park blocking sky views, increase flooding in the park and surrounding streets, potentially create wind tunnels and diminish the open-air feeling the park provides so many of us. Also, from the park one is able to clearly see one of the most iconic buildings not just in Islington Creek, but all of Portsmouth: The Pearl. In Figure 3, one can imagine how much the sky and views would be blocked with a towering 4 story, 48.5 ft tall building there (again, this could be even taller).



**Figure 2:** Current view from Rock Street Park. Note one can see the Pearl and residential homes.





**Figure 2:** One can imagine the irrevocable change to the neighborhood and quality of greenspace if a towering 48.5+ feet 4 story building were next to the park. If the developer applies for a CUP to make the development 48 units and 5 stories, this would be even taller





**Figure 4:** Another view showing how close the proposed 4 or 5-story Building A would be to residential homes and the loss of privacy. Even the proposed townhomes in Building B are significantly taller than the colonial houses across the street and would create a boxed in feel.

### **C. Building B**

Building B lies along Rock Street which is mainly GRC zoned and has small, short colonial homes. Building B would be significantly taller, causing a loss of privacy (Figure 5). The lack of any modulations would create a boxed-in, closed off feeling that does not match the modulations of the homes across the street from it. (Figures 4, 6)





**Figure 5:** Building B is significantly taller than the colonial homes across Rock & Hanover Streets. Source: [Page 14](#)



**Figure 6:** Building B is significantly wider than the colonial homes from which it is across the street, creating a boxed in feeling. No other homes on Rock Street are anywhere near as wide. Source: [Page 18](#)

**Condition Requested:** We would like to see Building A provide a graceful transition from the four story heights of the other buildings on Foundry Place to the parks, residences, and one story industrial buildings (and certainly not be taller than the parking garage). We would like it stipulated that if the developer increases the number of units through a CUP, then the variances

would be voided. We would like to see the *height to the peak* of Building D not exceed the height of any existing residential building on Hanover Street (the current tallest residential building is 349 Hanover Street). Lastly, we would want to see a reduction in height of Building B to match the homes across the street from which it lies and enforced modulations to ensure it does not have a long boxed in feel without any light or sight lines.

### **III. Conflicting and/or Incorrect Information in the February Application and January Application Traffic Study**

- **The total number of units included.** This new design appears to have 40 units total but also states it could go up to 48.
- **Where the 71 parking spots will be located and if/how they are acquiring those spots.** Per information on [page 31](#) of the February application, there are 42 parking spots in the garage (though 24 of those are tandem spaces). In the application, they list 71 spots parking spots, but where the remaining 29 spots are is not officially captured in the application or plans. On [page 20](#) of the January application (in the traffic report) they state “on-site parking will be provided for 60 vehicles.” It seems they are assuming they will be able to take current city public parking for their development.
- **If there will be removal of street spots for this development.** It is also ambiguous if the development will cause the removal of existing street parking spots on Rock Street (particularly those across from Rock Street park) and Hanover Street (there is currently street parking across the street from the Heinemann building).
- **The grade of the lot is not accurately rendered.** The most obvious discrepancy is the relative height of the existing building (to become Building A) and the public parking spots along Rock Street pictured on [Page 18](#). It is very possible there are other discrepancies beyond this glaring departure from the existing lot.
- **Incorrect street width measurements in the traffic study.** Rock Street is a one way road with parking on one side and is only approximately 18 feet wide on the portion between Islington Street and Hanover Street (where vehicles would be accessing this development). The study on [page 22](#) of the January application states about Rock Street “The one-way roadway segment is approximately 28-feet in width with on-street parking along one side.”
- **The traffic study uses an incorrect development entrance as part of its measurements.** The traffic study assumes the entrance to this development is directly across from Pearl Street. On [page 48](#) of the January application, it states “by way of a new driveway that will intersect the south side of Hanover Street approximately 60 feet east of Rock Street.” However, the drawings for this project show the entrance between Rock Street and Pearl Street. How does moving the entrance affect traffic flow, congestion, and the safety and sight lines?
- **The traffic study incorrectly cites Foundry Place as an access point.** Per the traffic report on pages [20 and 48](#) of the January application “Access to the Project site will be provided by way of Rock Street and Foundry Place, and by way of a new driveway that will intersect the south side of Hanover Street approximately 60 feet east of Rock Street.” We would love for this development to use Foundry as the point of access, but the

developer has stated time and again this is infeasible. How can the traffic report be valid if it is incorrectly citing usage of Foundry place?



February 18, 2025

Zoning Board of Adjustment  
Planning & Sustainability Department  
City of Portsmouth  
1 Junkins Avenue, 3rd Floor  
Portsmouth NH 03801

Re: 361 Hanover Street Development

Dear Zoning Board of Adjustment Members,

We live at 407 Hanover Street and are direct abutters to 361 Hanover Street. Our customary entrance and driveway are located on Rock Street, directly across from and facing the proposed rowhouse.

We dispute the applicant's characterization of our neighborhood and how it will be impacted by the proposed project, and urge this Board to cushion the inevitable harm to public safety, health and welfare that will arise from the development by conditioning any variances on explicit requirements/limitations to encourage development compatible with the established character of the neighborhood. We list our most pressing concern in section 1.

We neither support nor object to the current application and the public record should reflect why: we are being asked to do so under duress. In section 2, we describe this background, beginning with the broad public acknowledgment that 361 Hanover Street is improperly zoned. The City's four-year delay in scheduling a public meeting to debate a proposed zoning amendment for that lot allowed the applicant to lock in the improper zoning until May 16, 2025. As a result, the application is a "heads-I-win-tails-you-lose" proposal. Any outcome of this meeting will result in a development at 361 Hanover Street that negates the neighborhood's established character.

In section 3, we provide for the public record information about why we believe the City needs a reminder to protect the public interest. This criticism is not directed at any individual in particular, and certainly not at the Zoning Board. We recognize that City volunteers, employees and elected officials are good people doing hard jobs in difficult times.

And yet, the interests of the real residents who actually live in the real neighborhood in question have repeatedly fallen through the cracks. There is much talk of the need for more housing and we share that concern. But building a vast number of unaffordable units in a small historic neighborhood is a performative fools' errand that dilutes the public interest without meaningfully responding to the public's needs.

## **1. The Applicant's Characterization of the Islington Creek Neighborhood is Inaccurate; Substantial Justice and the Public Interest Require Explicit Conditions on Any Variance to Limit the Harm to Our Neighborhood**

The applicant's argument to support the variance requests is not premised on the notion that the project at issue will have no negative impact on property values or public health, safety and welfare. Instead, the argument is, "It could be worse." That's true, because the zoning is wrong.

Even so, the City is still obligated to ensure that any development is consistent with the essential character of the neighborhood, and here, the applicant's claim that this project will cause "no change" is inaccurate. Our neighborhood is not, as the applicant contends, an essentially urban neighborhood. It is entirely residential. It is also deeply historic. The Rock Street end of our neighborhood, in particular, is anchored by five (5) colonials that were built centuries ago, all clustered at the corner of Rock Street and Hanover.

Our primary concern is with the density of this project - 40- 48 living units is overly dense for our neighborhood and would not be permitted if the property had been properly zoned. This density will make our neighborhood unsafe. The applicant's traffic study appears to rely on some inaccurate premises and measurements. It is also incomplete, failing to mention in any way the hazards that increased traffic will bring to the intersection of Rock Street and Sudbury, where our driveway and the neighborhood park are located. Relying on an inaccurate and incomplete traffic study to evaluate public safety would be reckless.

We would like to see conditions that limit the density in a way that is commensurate with what would be allowed under proper zoning. Had we been afforded our right to publicly debate the zoning amendment in a timely manner - when it would have made a difference - we would have argued that the parking lot at 361 Hanover should be zoned CD4-L1 with no Overlays.

## **2. Why We Can Neither Support nor Object to the Applicant's "Heads-I-Win-Tails-You-Lose" Proposition**

Our neighborhood is in a strangle-hold. 361 Hanover Street, a peninsula sticking into our residential neighborhood, is zoned as CD5 Downtown Overlay/North End Overlay - the densest, most urban designation permitted under City ordinances. There's really no dispute that the City got the zoning wrong for 361 Hanover Street.<sup>1</sup>

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<sup>1</sup> On April 18, 2024, Hanover Development Corp. ("HDC") consultant Nick Cracknell stated at public hearing, "I'm not sure we [referring to the City Planning Department] got everything right [with the zoning of 361 Hanover Street]." Notably, the video of this meeting has been removed from the public record and the minutes of the April 18, 2024 meeting do not include this statement by Mr. Cracknell. (April 18, 2024 Planning Board Meeting at 41:35). On May 16, 2024, Attorney John Bosen, acting as the applicant's counsel, stated, "We're not convinced that this property aligns well with the requirements of the DOD given the high concentration of residential dwellings in the area." (May 16, 2024 Planning Board Meeting at 3:16:53.) That video remains available on the public record but Mr. Bosen's statement is not reflected in the meeting minutes. In an August 16, 2024 article in the Portsmouth Herald, the Mayor responded to questions about the City's failure to move the zoning amendment forward by saying "Things

Usually, when a lot is improperly zoned, the proper remedy is to *rezone* it.<sup>2</sup> That protects the public's interest in the integrity of City ordinances. Consistent with that premise, in January 2020, the Planning Board voted unanimously to hold a public hearing on a proposal to rezone 361 Hanover Street. But then four years went by with no hearing.

As a result, in April 2024, when the applicant was ready to develop 361 Hanover, they were able to quickly vest the admittedly improper zoning by presenting to the Planning Board a plan they call their “as-by-right-plan.” That plan complies with all aspects of the existing zoning and therefore requires no variances.

Then, in July, the applicant presented the Planning Board with a “new” plan, which is somewhat more palatable to the neighborhood but still incompatible with the existing character and still outside the bounds of what would be permissible if the property had been properly zoned. The new plan requires variances. Had the applicant presented the new plan as an application for design review in the first instance, it would have been denied and the zoning would not have vested.

That strategy allowed the applicant to vest the improper zoning and then seek variances from parts of that vested zoning which do not benefit them, while retaining the aspects of it that do benefit them. For instance, applicant seeks a variance to allow first floor residential use in the parking lot portion of the property, because commercial use will be less marketable. If the lot were properly zoned as CD4-1L, the requested residential use would be permitted – but the number of allowable units would be reduced to comply with the 3,000 square foot per unit limit.

It's the best of both worlds for the applicant, but our neighborhood loses heads or tails. If we object to the variances, and the applicant builds the massive “as of right plan,” our property value, air, light, safety and privacy will be negatively impacted. If we support the variances, and the applicant follows through with the “new” plan, our property value, air, light, safety and privacy will be negatively impacted.

### **3. The Public Interest Shouldn't Fall Through the Cracks or Be Forgotten**

#### *The Stalled Zoning Amendment*

The Mayor said the proposed zoning amendment for 361 Hanover Street “f[ell] through the cracks.” We think it's important to point out that this isn't the only time the public interest has dropped off the City's radar in connection with 361 Hanover Street.

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fall through the cracks.” <https://www.seacoastonline.com/story/news/2024/08/15/islington-creek-residents-say-city-ignored-their-pleas-for-zoning-help/74736330007/> See also video of October 16, 2025 Work Session, Mr. Wilson at 2:02, for further support that the zoning is admittedly improper.

<sup>2</sup> See *Rowe v. Town of North Hampton*, 131 N.H. 424, 429 (N.H. 1989)(Upholding denial of variance because the characteristics of the property “do not create an unnecessary hardship when the land could still be used for the purposes permitted by the zoning ordinance[.]” and noting that where the available uses are not actually sound uses, there “may be a deficiency in the ordinance.”)

*Unenforced License Agreement Deprived the Public of Free Parking in Our Neighborhood*

In June 2024, our neighborhood discovered that the City had had access to free public parking in the 361 Hanover Street lot for 18 years, but never told us about it. This came to our attention because the applicant's plan refers to a 2006 property licensing agreement ("the license") between the City and the owner<sup>3</sup> of 361 Hanover Street.

That license gave the owner of 361 Hanover exclusive use of a City-owned lot that adjoins their property. In exchange, the City was to receive an annual lump sum payment in an amount that "may be adjusted annually, if necessary to reflect the value of the licensed area at any given time." In 2006, the annual fair market value due under the license was assessed at \$500. More recently, according to Mr. Wilson, the property was assessed at \$500,000 in fee simple (which is not a direct comparison to the annual lump sum payment).

Also per this 2006 license, the building owner at 361 Hanover Street agreed to provide "eighteen (18) parking spaces on its property for use by members of the public during weekdays [between 6 p.m. and 8 a.m.] and at all times during the weekends." When we found out about this in June 2024, public parking in the 361 Hanover lot was metered parking. All of it. There was no free public parking at any time.

Our neighborhood brought this license to the City's attention in June. The City acknowledged that it had failed to enforce the license, to include failing to ensure the free public parking was permitted; allowing "double dipping" by the property owner, who was charging for the supposedly free parking; and failing to collect the annual fair market value lump sum payment. The parking meters were removed within 24 hours.

*No Response to Concerns About State Law Compliance*

The City's reaction to our questions about the possible presence of a burial ground at 361 Hanover Street also gives us pause. In April 2024, we notified the City that our personal historic research referred to an historic burial ground on the site of 361 Hanover. If sufficient evidence existed to support this, excavation for the proposed project could violate state law. RSA 289:3 (2024).

We thought it was important for the City to look into this. We aren't archeologists, historians or cemetery experts, and we don't know whether there actually is a burial ground. But the information we came across in a much-cited and well-respected compilation of local history refers to one. So we asked the question.

It was surprising that the City took no action to respond. In May, the Planning Board accepted design review, signaling that it had no concerns about the existing lot conditions, including the

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<sup>3</sup> Kearsarge Mill Unit Owners Association, a still-existing HOA, is the actual party to the license.

buildable area.<sup>4</sup> We asked about the possible burial ground and plans for complying with state law repeatedly in public and private meetings after this, to no avail.

Fortunately, in November 2024, someone with more gravitas at City Hall than we have asked the same question. Then the City sprang into action. Ultimately, available evidence failed to establish (or dispel) the existence of a burial ground – but that’s not the point. The point is that our neighborhood’s interests have fallen through the City’s cracks repeatedly and we don’t want it to happen again.

#### **4. Conclusion**

Our neighborhood has borne the brunt of heavy development. We have been largely supportive and cooperative. But enough is enough. The notion that ever-accelerating construction of prohibitively expensive residential units in our City furthers the public interest by providing needed housing for residents is ridiculous.

Sincerely,

Sean Caughran  
Marcie Vaughan  
407 Hanover Street

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<sup>4</sup> In May 2024, when it accepted the project to design review, the Planning Board admonished the developer to bring an archeologist onsite for excavation. But state law prohibits excavation within 25 feet of a known burial ground. RSA 289:3 (2024). An archeologist would be too little, too late.

Dear Zoning Board of Adjustments Members,

I am a direct abutter to 361 Hanover. I remain deeply concerned with the HDC's application. At the last meeting regarding the proposed construction, I raised my questions regarding the grading on Rock Street on the side of the old Heiniman building. This appears to remain unaddressed and unclear with the HDC's current application. See Please photos below:

### Rendering vs Reality



There is a retaining wall which is very inconsistent with their rendering. The old Heiniman building does not sit flat on the street. There is also an incline up to the parking lot. What does this mean for the grading on Rock Street? It is not clear. Grading is a serious issue that can affect surrounding homes.

There are other issues of concern as well. A valid traffic study was something you (the ZBA) asked HDC to provide during the December meeting in their application. They have failed to meet this condition given this current application does not have a valid traffic study for the actual design they are proposing. As well, the last one contained numerous errors and assumed usage of Foundry place. The density of the construction is of particular concern because we all know the property was miszoned as CD-5 and our tiny narrow streets can not handle that volume. Below is a photo I took this morning. The winter weather has been a timely reminder of how difficult navigating these streets actually is. The addition of up to 96 cars (40-48 units) and their guests to these streets does not seem feasible without pedestrian safety issues and substantially altering the characteristics of



a residential neighborhood. Where there is currently a stop sign, will there be a traffic light?! The massing and exiting of traffic not on to Foundry (which was originally the intent of anything built abutting the garage) does impact the values of surrounding properties.



As well, the application has inconsistencies in how HDC represents height for their own buildings vs. neighboring buildings. They are not making a clear comparison. For the neighboring building heights, they use "to the peak" to measure. For theirs, they use the halfway to the roofline definition. This makes the neighboring buildings seem taller than they are, and theirs seem shorter than they really are. This is deceiving. It states on page 4-5 of their application, "as what is proposed is consistent with the mass and scale of neighboring buildings". I remain steadfast in my belief that this proposed construction will dwarf old residential homes which surround the property in the majority of directions.

There is also the ongoing issue with the mansard roof. Are builders held to the same standard as residents (322 Hanover)? Mansard roofs are out of character with the neighborhood.

The last point I would appreciate you indulging me in is this: Yes, there was an original design for this property. I do not believe that design is viable for the builder or residents. There has always been this looming threat (my words) that if you don't support design B, you will suffer the wrath of A. Again, this option is really not viable for anyone so I ask that you please look at the current plan without holding that as a factor.

Thank you for your consideration,

Nicole LaPierre (direct abutter, 44 Rock Street)







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February 14, 2025

**SUBMITTED ONLINE VIA CITY OF PORTSMOUTH – OPENGOV PORTAL**

Phyllis Eldridge, Chair  
Zoning Board of Adjustment  
City of Portsmouth  
1 Junkins Avenue  
Portsmouth, NH 03801

**RE: Application of 361 Hanover Steam Factory LLC (“Owner”), and Hampshire Development Corporation LLC (“Applicant”), for Property located at 361 Hanover Street**

Dear Chair Eldridge,

As you know, I represent Hill-Hanover Group LLC (“Hill-Hanover”). Hill-Hanover is providing you with this letter in opposition to the Variances as requested by 361 Hanover Steam Factory LLC as the Owner, and Hampshire Development Corporation LLC as the Applicant (collectively, “361 Hanover”) for Property located at 361 Hanover Street. My client’s opposition is specifically related to, but not limited to, the requested Variance from Section 10.5A41-Figure 10-5A41.10D to a) allow for “Apartment,” “Rowhouse,” and “Duplex” building types where they are not permitted; and b) allow a ground floor height of 10.5 feet where 12 feet is required.

I attach a color copy of Figure # 7 which is included in the 361 Hanover Application that was submitted to the Zoning Board of Adjustment (the “ZBA”). Hill-Hanover is an abutter to the 361 Hanover Property. Hill-Hanover owns the three (3) buildings located on Lot 125-14 as shown on Figure # 7. These 3 buildings are located on Hanover Street and abut a private Right of Way in the back known as Hill Street. The Right of Way known as Hill Street is also shown on Figure # 7 and runs from the 361 Hanover Property, behind the 3 buildings owned by Hill-Hanover, to Autumn Street. The Right of Way then continues to Bridge Street. The Hill Street Right of Way is narrow. My client’s tenants also have the legal right to park their personal vehicles along this private Right of Way.

On page 27 of its Application, 361 Hanover specifically states, “Although the Property has its legal frontage on Hanover Street, it has a Right-of-Way to access Hill Street (a private way).”

Steve Wilson, the Principal of 361 Hanover, has also represented to the Technical Advisory Committee for the City of Portsmouth that he has the right to use the private Right of Way known as Hill Street.

I next attach a color copy of the 361 Hanover Site Plan included as part of its Application submitted to the ZBA. The Site Plan indicates the existing Building "A" will contain thirty-four (34) Units. The Rowhouse identified as Building "B" will contain four (4) Units. The Duplex identified as Building "C" will contain two (2) Units. The Apartment Building identified as Building "D" will contain eight (8) Units.

Based on the above, 361 Hanover is unable to meet the necessary criteria to satisfy its request for the Variance referenced above. Specifically, the values of surrounding properties will be diminished by granting the Variance. Use of the private, narrow Right of Way by ingress and egress by the 34 Units proposed in Building "A," the 4 Rowhouse Units identified in Building "B," the 2 Duplex Units identified in Building "C," and the 8 Apartment Units identified in Building "D," will, without question, diminish the value of my client's Property. Simply put, the use of this Right of Way as a thoroughfare essentially from Bridge Street to the 361 Hanover Property will certainly diminish the value of my client's Property. Additionally, the Unit owners in my client's 3 Buildings already legally park along the private Right of Way known as Hill Street. Continued back-and-forth traffic would cause significant issues along this private Right of Way. It is also likely that residents of the new 361 Hanover Development and/or their guests will attempt to park along the private Right of Way, which will further diminish the value of my client's Property.

Granting the requested Variance will be contrary to the spirit and intent of the Zoning Ordinance and will be contrary to the public interest. In this regard, if the Variance was granted, it would substantially alter the characteristics of the neighborhood and threaten the health, safety, and welfare of the public. Allowing the excessive traffic over and through the private Right of Way, known as Hill Street, would alter the character of the neighborhood and clearly threaten the health, safety and welfare of anyone who has the legal right to use Hill Street. To open up the private Right of Way, known as Hill Street, as a thoroughfare from Bridge Street, past Autumn Street, along the back of my client's Property, to the proposed 361 Hanover Development, would clearly be contrary to the spirit and intent of the Zoning Ordinance and clearly contrary to the public interest. Using Hill Street as a thoroughfare would also threaten the health, safety and welfare of the public, including my client.

Additionally, 361 Hanover cannot satisfy the criteria that substantial justice would be done by granting the requested Variance. To meet this criteria, 361 Hanover would have to prove that it is suffering a hardship that outweighs any overall benefit to the general public in denying the

Variance. By granting the Variance and then allowing the use of the private Right of Way known as Hill Street as a thoroughfare from Bridge Street to the 361 Hanover Development, containing a new Rowhouse, Duplex and Apartment Building, which are not allowed, would be a significant detriment to the general public far outweighing any claims by 361 Hanover that substantial justice would be done by granting the Variance. My client would also point out that 361 Hanover could legally move forward by simply developing the existing Mill Building identified as Building "A."

There are no special conditions associated with the Property which prevent the proper enjoyment of the Property under the strict terms of the Zoning Ordinance and thus constitute unnecessary hardship. 361 Hanover clearly has the right to develop the existing Building "A" and develop 34 Units within that Building. The front parking area could remain as parking and could be used as the access into the Development. Over intensifying the use of the Property by building the proposed Rowhouse, Duplex, and Apartment Building in the area of the existing parking lot, resulting in funneling vehicles in-and-out of the private Right of Way known as Hill Street, has no relationship to any special condition which prevents the proper enjoyment of the Property under the strict terms of the Zoning Ordinance.

Finally, 361 Hanover cannot meet its burden to show that there is no fair and substantial relationship between the purpose of the Zoning Ordinance as it is applied to this particular Property. The purpose of the Zoning Ordinance in preventing rowhouses, duplexes, and apartments is intended to prevent the over intensification of the Property to the detriment of abutters and other neighbors. Accordingly, there is a fair and substantial relationship between the purpose of the Zoning Ordinance as it is applied to this particular Property. As a result, 361 Hanover's Application for a Variance relief should be denied.

As I am sure the ZBA knows, the Property owned by 361 Hanover is in fact a condominium unit, Unit # A, within the Kearsarge Mill Condominiums ("KMC"). I attach for the edification of the ZBA a copy of the Amended Site Plan for KMC prepared by Kimball Chase in 2007 and recorded in the Rockingham County Registry of Deeds as Plan # D-34716. It should be noted that the private Right of Way known as Hill Street is depicted on this Amended Site Plan and is shown to extend through the 361 Hanover Property, over the existing parking lot, to Hanover Street. This Right of Way is located specifically in the area where 361 Hanover intends to construct the Apartment Building identified as Building "D." I would also reference Easement Note # 2 on the Amended Site Plan which states, "A blanket access easement shall be granted by Kearsarge Mill Condominium Association to Hill-Hanover Street to allow access from the Hill-Hanover Group's Property over the parking area of Kearsarge Mill Condominium to Hanover Street and Hill Street."

For all the reasons set out above, my client, Hill-Hanover Group LLC, respectfully requests that the ZBA deny the above referenced Variances as requested by 361 Hanover. In the alternative, any Variance granted by the ZBA should be conditioned upon a prohibition that 361 Hanover may not use the private Right of Way known as Hill Street for access to and from the 361 Hanover Property.

Thank you to you and the Board for your consideration regarding this matter.

Very truly yours,

HILL-HANOVER GROUP LLC

By and through its attorney,

A handwritten signature in dark ink, appearing to read "John E. Lyons, Jr.", is written over a faint, circular embossed seal. The signature is fluid and cursive.

John E. Lyons, Jr., Esq.

#### EXHIBITS

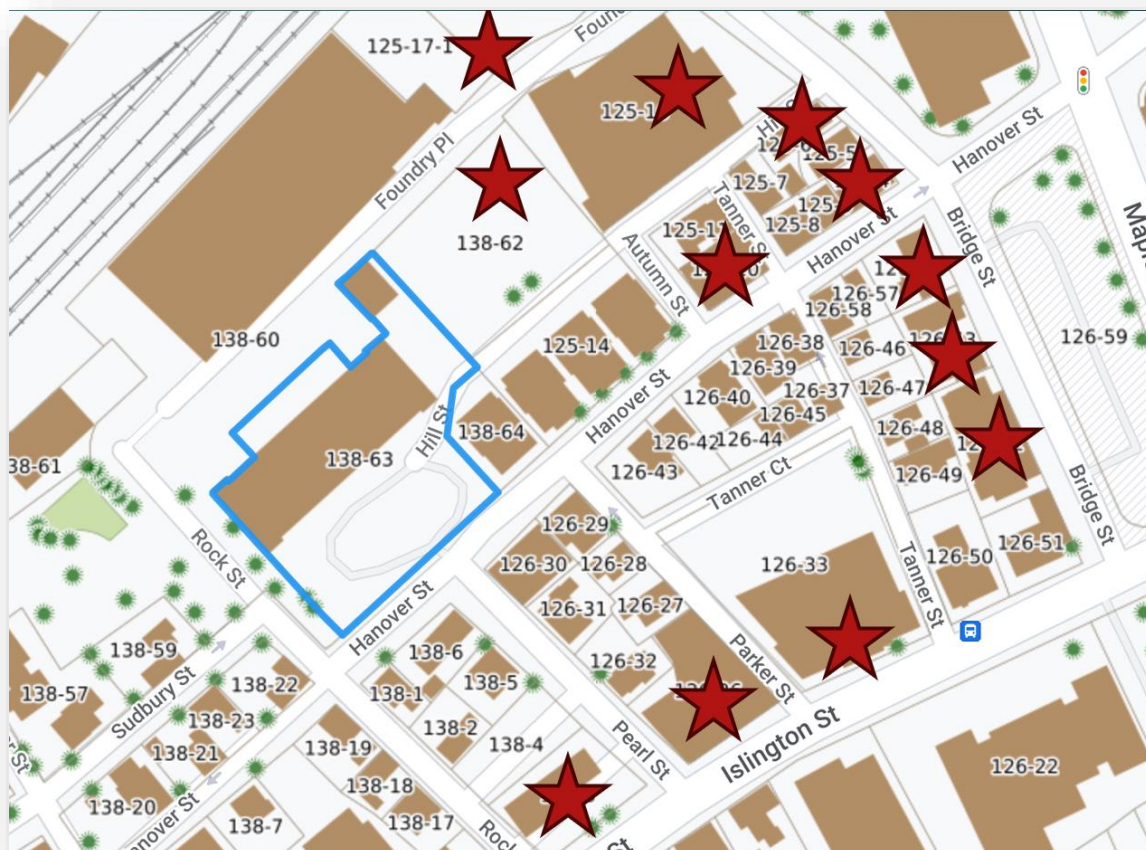
- 1) *Figure 7 – Properties with Existing Ground-Floor Commercial Uses, excerpt from 361 Hanover’s Application to the ZBA*
- 2) *Site Redevelopment 361 Hanover Street, Portsmouth, N.H., “ZBA ‘Preferred Plan’ Building B, C, D Floor plans,” excerpt from 361 Hanover’s Application to the ZBA*
- 3) *Amended Site Plan, Kearsarge Mill Condominiums, Prepared by Kimball Chase, 2007, Recorded at the RCRD at PLAN # D-34716*

CC: John K. Bosen, Esq  
Bruce Sommer  
Jeff Sabin

building. Importantly, the 6 level (64') Foundry Place municipal parking structure, shown on Figure 6, is located direct adjacent to the existing building on 361 Hanover Street.

To the south, and southwest, the existing land use pattern is represented by multi-family structures built in the late 19<sup>th</sup> century. Additionally, the former Pearl Church is located directly across the site, and it is a two-story, wood frame building that is approximately 40 feet in height. To the east, the land use pattern is characterized with 2 – 3-story wood frame multi-family historic structures. These structures were built in the mid- to late-19<sup>th</sup> century, have a relatively high building coverage and limited open space due to parking being added over time behind and between the structures.

Although the Downtown Overlay District (the “DOD”) includes 361 Hanover Street it is important to acknowledge that there are no other properties fronting on Hanover Street included in the DOD. This is likely a result of the DOD following the property lines of the entire parcel as no properties are split zoned in the North End. Additionally, no other parcel in the North End spans the land area between Foundry Place and Hanover Street. Under the Zoning Ordinance, the DOD requires ground-floor commercial uses within all buildings with the intention to activating the street edge and enhance the pedestrian experience.

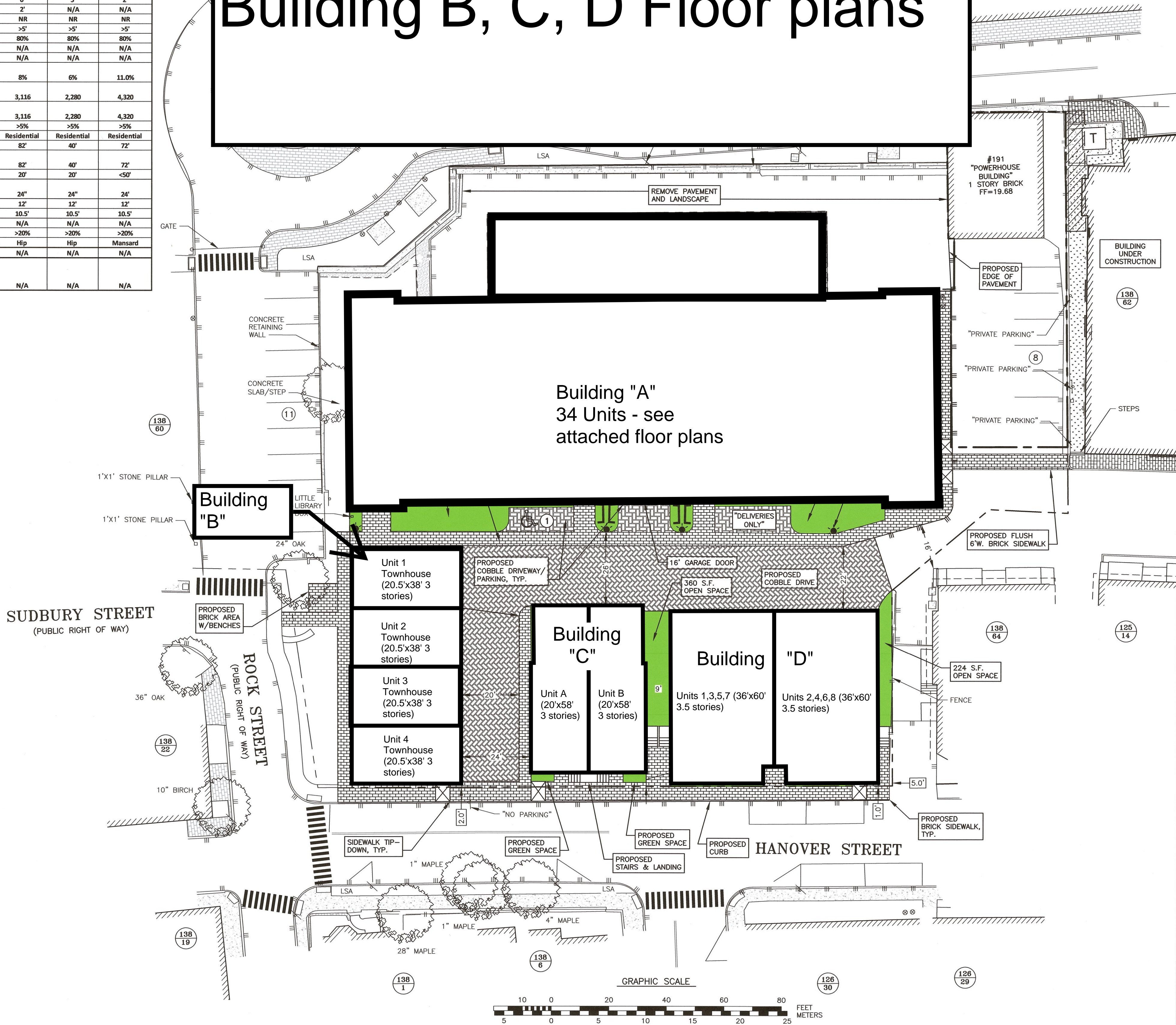




ZONING DEVELOPMENT STANDARD - CUP PLAN						
CDS: CHARACTER DISTRICT 5, DOD: DOWNTOWN OVERLAY DISTRICT						
	REQUIRED	EXISTING	PROPOSED - Building A	PROPOSED - Building B	PROPOSED - Building C	PROPOSED - Building D
Height	2-3 stories 40'	2 stories / 18' +/-	4 stories w/ penthouse 52'	3 stories / 36'	3 stories / 36'	3 1/2 stories / 40'
Penthouses	may exceed bldg height by 2'	N/A	Yes (75% Habitable Space / 8' Setback)	N/A	N/A	N/A
Roof appurtenance	may exceed bldg height by 10'	<10'	<10'	No	No	<10'
Facade Types		N/A	N/A	N/A	N/A	N/A
Building Types	commercial, live-work, mixed use, flex space & community.	Commerical	Apartment	Rowhouse	Duplex	Apartment
Front (principle) max	5	99'	99'	0'	5'	2'
Front (secondary) max	5	0'	0'	2'	N/A	N/A
Side	NR	NR	NR	NR	NR	NR
Rear yard	5'	0'	0'	>5'	>5'	>5'
Front lotline buildout	80% min	100%	100%	80%	80%	80%
Lot area (sf)	NR	N/A	N/A	N/A	N/A	N/A
LOT area per dwelling	NR	N/A	N/A	N/A	N/A	N/A
Building coverage, maximum	95%	38%	47%	8%	6%	11.0%
Maximum building footprint	20,000	14,808	18,082	3,116	2,280	4,320
Ground floor area per use, max	15,000	14,808	<15,000	3,116	2,280	4,320
Open space, minimum	5%	<5%	>5%	>5%	>5%	>5%
Permitted uses		Commercial	Residential	Residential	Residential	Residential
Block length, max (ft)	225	205'	205'	82'	40'	72'
Facade modulation length, max (ft)	100	205	205	82'	40'	72'
Entrance spacing, max (ft)	50	>50'	50	20'	20'	<50'
Floor height above sidewalk, max	36"	0'	0'	24"	24"	24"
Ground story height, min	12'	10'	10'	12'	12'	12'
Second story height, min	10'	10'	10.5'	10.5'	10.5'	10.5'
Glazing, shopfront, min	70%	N/A	N/A	N/A	N/A	N/A
Glazing, other	20%-50%	>20%	>20%	>20%	>20%	>20%
Roof types	flat, gable, hip, gambrel, mansard	Flat	Flat	Hip	Hip	Mansard
Community Space	>10% or 3,852 SF (1,926 SF as pervious)	N/A	4,250 SF +/- (12%)	N/A	N/A	N/A
Workforce Housing Units	If rental units =10% of total units. 10% of 36 = 3.4 Units = 3 Units	N/A	3 Workforce Housing Units Floor 1 = 1 Unit Floor 2 = 2 Units	N/A	N/A	N/A
Shaded Boxes = Zoning Relief Required						

# ZBA "Preferred Plan"

## Building B, C, D Floor plans



HALEY WARD

ENGINEERING | ENVIRONMENTAL | SURVEYING

200 Griffin Rd. Unit 14  
Portsmouth, New Hampshire 03801  
603.430.9282

WWW.HALEYWARD.COM

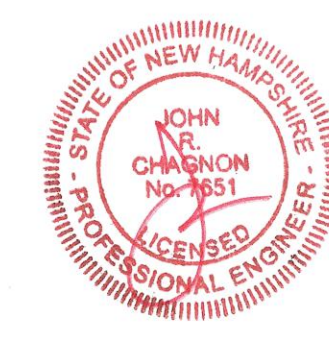
- NOTES:
- PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 138 AS LOT 63.
  - APPLICANT:  
361 HANOVER STEAM FACTORY, LLC  
41 INDUSTRIAL DRIVE UNIT 20  
EXETER, N.H. 03833
  - PARCEL IS NOT IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PANEL 33015C0259F. JANUARY 29 2021.
- PROPOSED LOT AREAS:
- LOT 138/63  
38,528 S.F.±  
0.8845 AC
- LOT 138/63-1  
4,717 S.F.  
0.1083 AC
- PARCEL IS LOCATED IN CHARACTER DISTRICT 5 (CD5), NORTH END INCENTIVE OVERLAY, AND DOWNTOWN OVERLAY DISTRICT.
- DIMENSIONAL REQUIREMENTS:  
\*SEE PORTSMOUTH ZONING ORDINANCE AND TABLE.
- MINIMUM LOT AREA: NR  
SETBACKS:  
FRONT: 5 FEET (MAXIMUM)  
SIDE: NR  
REAR: 5 FEET  
MAXIMUM BUILDING COVERAGE: 95%  
MINIMUM OPEN SPACE: 5%
- THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED SITE DEVELOPMENT ON ASSESSOR'S MAP 138 LOT 63.
  - VERTICAL DATUM IS NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GNSS OBSERVATIONS.
  - PROPOSED USE: 48 RESIDENTIAL DWELLING UNITS

### SITE REDEVELOPMENT

#### 361 HANOVER STREET

#### PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
1	REVISED LAYOUT	7/3/24
0	ISSUED FOR COMMENT	6/12/24

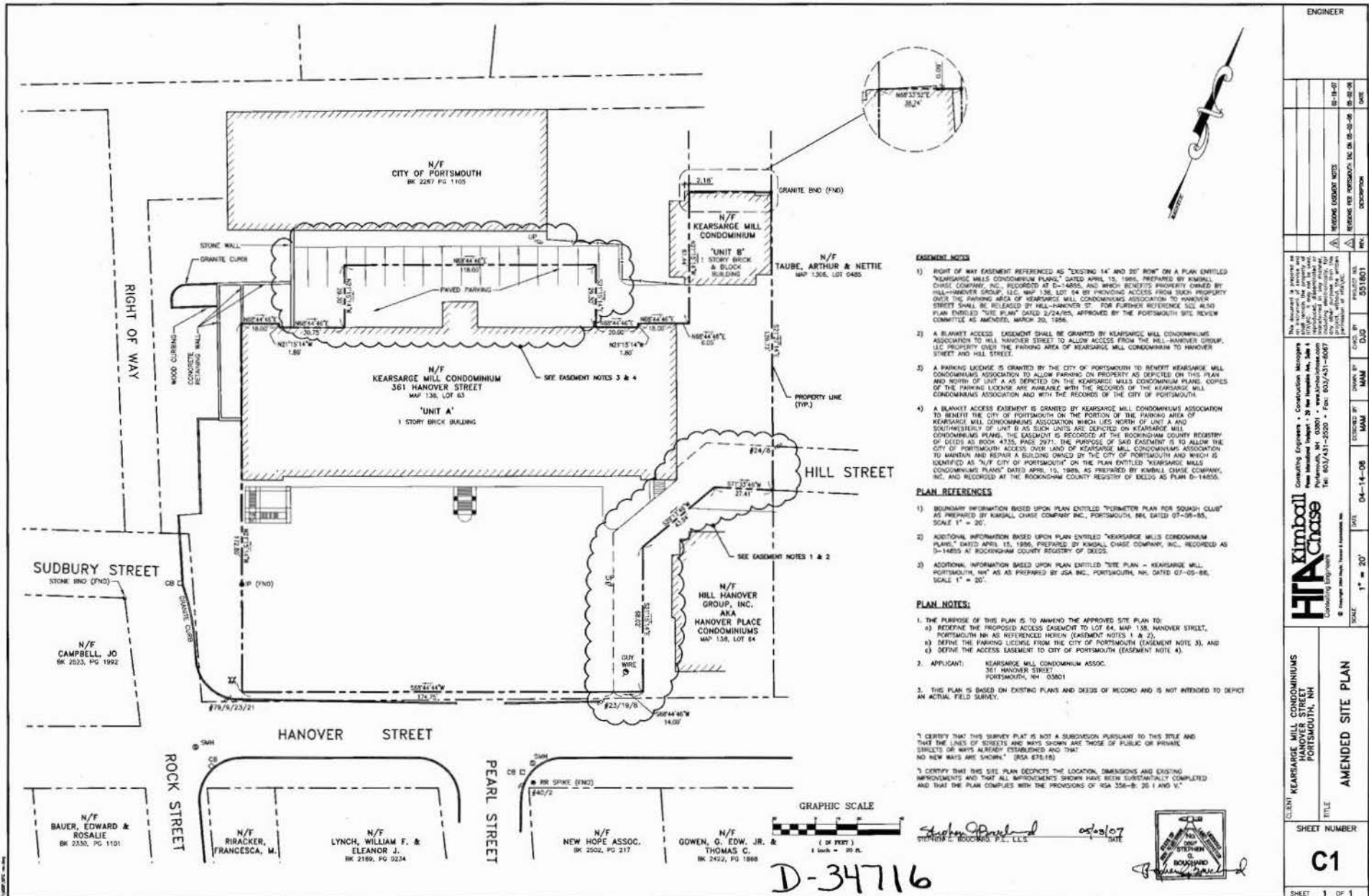


SCALE: 1"=20' JANUARY 2024

SITE PLAN

C3





Portsmouth, NH - Board of Adjustment  
410 Richards Ave – Variance and Equitable Waiver

Date: 02.18.25

Chairman of the Board of Adjustment  
C/O Planning Department City of Portsmouth  
1 Junkins Ave.  
Portsmouth, NH 03801

To The Board of Adjustment Members,

Please find this statement addressing the requirements for a variance and equitable waiver for Paula Reid, 410 Richards Ave.

**Overview:**

We are the direct abutters located at 420 Richards Ave and would like to respectfully express concern to the Board of Adjustment about the variance and equitable waiver application for 410 Richards Ave as follows:

- Granting this approval would set precedent for granting a second variance on the same application and an equitable waiver when they do not meet the requirements.
- The applicant poured the foundation and never had it certified or inspected; contrary to standard building practice in the City of Portsmouth. The foundation measures 4" wider than what was approved.
- The applicant proceeded forward with construction of the structure and built it 4" wider than what was approved, with the excess width of the garage being located in the setback zone as opposed to being closer to her house.
- The roof structure is 9" wider on each side than was approved, resulting in additional water being transported closer to our property.

We will not be attending the BOA meeting on February 19, 2025. We do, however, want to express our concerns and trust that the board will make the right decision that we will ultimately respect.

### **VARIANCE:**

We request to deny the variance for 410 Richards Ave. because it does not meet the criteria.

Per Section 10.322.21 – *Granting the variance would not be contrary to public interest.* We all have the right to take care of water problems but not at the expense of other people's property. The roof overhang is now only 19" from our fence while it was drawn with a 9" roof overhang. We will take on more water with this roof overhang and new location of the garage.

Per Section 10.322.22 – *Granting the variance would observe the spirit of the Ordinance.* Yes, it is true that several houses on Richards Ave have detached garages but what the Attorney Wyskiel fails to show you is that every single property that he showed you with a garage has larger lots ranging from .15-.20 ac while 410 Richards Ave is .14 ac.

Per Section 10.322.23 – *Granting the variance would do substantial justice.* Setting this kind of precedent would only create more havoc in these tight neighborhoods where people should be living respectfully with each other instead of encroaching more on abutter's property.

Per Section 10.233.24 – *Granting the variance would not diminish the values of the surrounding properties.* A large garage will certainly increase 410 Richard Ave's property value while diminishing our property value. What the Attorney Wyskiel states that they are seeking a "minor" relief (inches) but what is in fact 5.68 square feet of area in the setback zone.

Per Section 10.233.25 – *Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.* There is no hardship here. The pre-existing garage was old but was in good condition and had been renovated in 2019. It is the choice of the homeowner to hire who they trust to do the work correctly. A landscaping company was hired to pour the foundation. Once the foundation was poured, of course it was measured before and during construction. Measuring is the essence of building. To continue to build is deceitful and unprofessional.

## **EQUITABLE WAIVER**

The application for an Equitable Waiver of Dimensional Requirement should also be denied because it does not meet the requirements.

Many times, Attorney Wyskiel states that they had a difficult time working on a tight lot. Quite simply there are two solutions:

1. Hire the surveyor to come pin the property line and four corners of the garage so that accuracy is assured.
2. Build a smaller garage away from the property line.

410 Richards Ave project does not qualify for this waiver because they do not meet the requirements:

- a) The violation was noticed and yet construction continued. Clearly, taking a tape measure to a foundation and discovering that it is 4" wider than it should be the point where construction should have stopped and this application filed.
- b) The violation was a result wanting a walkway and a detached oversized garage. A standard one car garage is 12' x 24'. They have built a 13'- 6 1/2" x 27'-3" garage. This oversized garage just simply doesn't fit on the property, hence the difficulty that they had building this structure. We are submitting a photo of the back corner of our fence with the pin on the outside of the fence.
- c) The physical violation constitutes a private nuisance and diminishes the property value of our property. Attorney Wyskiel states that 4" cannot be visually noticed. But that is not the point. The garage and roofline most accurately IS closer to the structure of our home.
- d) The financial burden is not our concern here. The fact that they continued to build the structure without proper approvals and submission of proper paperwork to the city only shows the intention of everyone involved in the project.

It is our recommendation that the city holds the homeowner of 410 Richards Ave to the original variance.

Respectfully submitted,

Amy E. Dutton  
Brook D. Murphy  
420 Richards Ave.

**PHOTOS OF PROPERTY:**  
**FRONT ELEVATION w/ dimensions:**



**PROPERTY LINE:**

