

January 8, 2024

Micah Warnock, Chair Town of Durham  
Michael Behrendt, Durham Town Planner  
8 Newmarket Road Durham, NH 03 824

Re: Property: Schoolhouse Lane, Durham, NH 03824, Map 108, Lot 73-1  
Applicants: M.D. Shaad Mahmud and Erika Nauman Gaillat  
Proposal: Construction of a 3-story, 4-unit multi-family residential building

Dear Chair Warnock and Mr. Behrendt:

The residents of Old Landing Road and of the General John Sullivan House, Durham's only National Historic Landmark, read with great disappointment the request for variance proposed by MD Shaad Mahmud and Erika Nauman Gaillat ("Applicants"). We urge the planning board to deny the variances proposed and strongly disagree with the arguments presented by Hoefle, Phoenix, Gormley & Roberts, PLLC. Please also note that this law firm currently represents an owner of an abutting property, which is a direct conflict and contrary to its other client's interests.

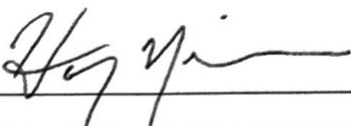
Denying a variance does not equate to an unconstitutional taking of property rights. The concept of "taking" under the Fifth Amendment implies significant deprivation of all viable use of the land, which is not the case here. Zoning laws and regulations are established to balance individual property rights with the community's welfare, and they are a lawful exercise of a municipality's power. Denying a variance that contradicts established zoning does not deprive the property owner of all reasonable uses of their property, especially since the land was purchased with knowledge of its zoning and the character of the neighborhood. Moreover, the slippery slope argument applies — if this rationale were accepted, it could lead to widespread rezoning, undermining the integrity and character of the entire neighborhood and surrounding neighborhoods. The owner's rights to develop the property are still intact within the bounds of existing zoning regulations. Furthermore, the ordinance does not "create" a hardship to the Applicant, however, the variance would create a hardship to the resident owners on Old Landing Road. All properties on Old Landing Road, from 6 Old Landing to the last property at 17 Old Landing, are owner occupied. The proposed variance would allow a non-confirming apartment building on a piece of land less than half the size required.

We respectfully request you consider the following when reviewing the application:

1. **Pre-existing Knowledge of Zoning and Neighborhood Character:** The Applicants were aware of the residential zoning and the presence of Tideline and other rental units before purchasing their house and subdivided land, indicating an understanding of the existing neighborhood dynamics.
2. **Incompatibility with Residential Zoning:** The proposed three-story, four-unit, multi-family residences contradicts the residential zoning regulations, which are in place to maintain neighborhood character.
3. **Impact on Surrounding Neighborhoods and Durham's Historic District:** The development's scale and design are not in harmony with the surrounding areas rich history and smaller, two-story homes, some of which are in a historical district, potentially undermining the area's historical value. The area will be forever changed in a negative manner with the proposed development.
4. **Exacerbation of Water Runoff Issues and Environmental Impact:** the larger structure on a smaller lot could worsen water runoff and environmental concerns for the surrounding neighborhoods.
5. **Increased Density on a Smaller Lot:** The request to build on a smaller lot than normally allowed leads to potential overcrowding and strains local infrastructure.
6. **Adverse Effect on Property Values:** The uncharacteristic size and density of the development could negatively impact the property values in the neighborhood.
7. **Violation of Community Trust and Expectations:** The development goes against prior assurances - given by planning authorities to abutting property owners during the subdivision process - regarding single-family home development, breaking community trust.
8. **Loss of Privacy and Noise Concerns:** The proximity and height of the new development could result in a loss of privacy and increased noise for existing residents.
9. **Inadequate Justification for Variance:** The existence of a local business, like a food truck park or other rental units, does not fundamentally alter the character of the neighborhood to justify such a significant variance.

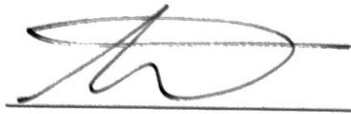
We urge the planning board to reject the variances proposed by the Applicants.

Respectfully,



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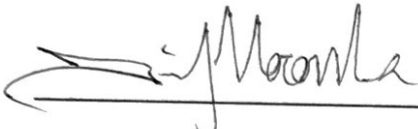
HOLLY NEIWEEM, 13 OLD LANDING ROAD



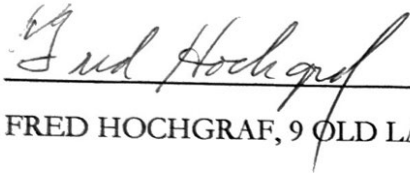
KATHERINE SCHUITEN, 14 OLD LANDING ROAD



ERIN GUYOTTE, 14 OLD LANDING ROAD



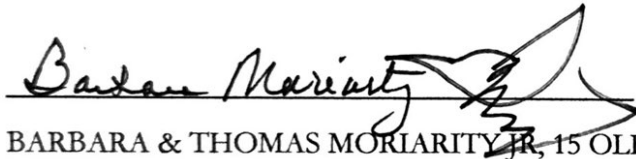
TIMOTHY NORONHA, 11 OLD LANDING RD, DURHAM, NH 03824



FRED HOCHGRAF, 9 OLD LANDING ROAD




MARK & BETH NOVAK, 7 OLD LANDING ROAD



BARBARA & THOMAS MORIARITY JR, 15 OLD LANDING ROAD



JAMES & DEBORAH MUNSEY, 17 OLD LANDING ROAD



JOAN BIGWOOD OSBORN, GENERAL SULLIVAN HOUSE, 21 NEWMARKET ROAD  
+ JEFFREY SCOTT OSBORN

Elizabeth Linsky  
ELIZABETH LINSKY, 10 OLD LANDING ROAD